STATE OF NEW YORK

4444

2023-2024 Regular Sessions

IN SENATE

February 8, 2023

Introduced by Sen. FERNANDEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law, in relation to prohibiting the use of certain chemical incapacitants by law enforcement agencies

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The executive law is amended by adding a new section 837-x to read as follows:

§ 837-x. Prohibit use of chemical incapacitants. 1. No law enforcement agency shall use any chemical incapacitant, except for pepper spray. Pepper spray shall be limited to liquid spray canisters of a volume no greater than 0.75 ounces, and shall not be used for crowd control purposes.

2. For the purposes of this section, the following terms shall have the following meanings:

(a) "Law enforcement agency" means any agency which is empowered by law to conduct an investigation or to make an arrest for a felony, and any agency which is authorized by law to prosecute or participate in the prosecution of a felony.

(b) "Chemical incapacitant" means the following, together or separately:

(i) Toxic chemicals and their precursors, except where intended for purposes not prohibited under this section, as long as the types and quantities are consistent with such purposes;

(ii) Munitions and devices, specifically designed to cause temporary pain, temporary irritation, temporary disruption of vital processes, temporary incapacitation, temporary disability, or permanent harm through the toxic properties of those toxic chemicals specified in subparagraph (i) of this paragraph, which would be released as a result of the employment of such munitions and devices;

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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(iii) Any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in subparagraph (ii) of this paragraph.

(c) "Toxic chemical" means any chemical which through its chemical action on biological processes can cause death, temporary pain, temporary irritation, temporary disruption of vital processes, temporary incapacitation, temporary disability, or permanent harm to humans or animals. This includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

(d) "Precursor" means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multicomponent chemical system.

(e) "Key component of binary or multicomponent chemical systems" (hereinafter referred to as "key component") means: the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system.

§ 2. This act shall take effect immediately.