STATE OF NEW YORK

7299

2023-2024 Regular Sessions

IN SENATE

May 19, 2023

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

AN ACT to amend the penal law, in relation to the unlawful purchase and sale of body armor

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

Section 1. Section 270.21 of the penal law, as amended by chapter 371 of the laws of 2022, is amended to read as follows:

§ 270.21 Unlawful purchase of body armor **in the second degree**.

A person is guilty of the unlawful purchase of body armor **in the second degree** when, not being engaged or employed in an eligible profession, they knowingly purchase or take possession of body armor, as such term is defined in subdivision two of section 270.20 of this article. This section shall not apply to individuals or entities engaged or employed in eligible professions, which shall include police officers as defined in section 1.20 of the criminal procedure law, peace officers as defined in section 2.10 of the criminal procedure law, [~~persons in military service in the state of New York or military or other service for the United States,~~] and such other professions designated by the department of state in accordance with section one hundred forty-four-a of the executive law. **As it relates to knowingly taking possession of body armor, this section shall not apply to persons in the military service for the state of New York or military or other service for the United States who are issued body armor as a requirement of such service. "Eligible professions" shall not include members of the unorganized militia as defined pursuant to subdivision two of section two of the military law.**

Unlawful purchase of body armor **in the second degree** is a class A misdemeanor [~~for a first offense and a class E felony for any subsequent offense~~].

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

LBD11123-01-3

§ 2. The penal law is amended by adding a new section 270.21-a to read as follows:

§ 270.21-a Unlawful purchase of body armor in the first degree.

A person is guilty of the unlawful purchase of body armor in the first degree when:

1. not being engaged or employed in an eligible profession, they knowingly purchase or take possession of body armor, as such term is defined in subdivision two of section 270.20 of this article. This section shall not apply to individuals or entities engaged or employed in eligible professions, which shall include police officers as defined in section 1.20 of the criminal procedure law, peace officers as defined in section 2.10 of the criminal procedure law, and such other professions designated by the department of state in accordance with section one hundred forty-four-a of the executive law. As it relates to knowingly taking possession of body armor, this section shall not apply to persons in the military service for the state of New York or military or other service for the United States who are issued body armor as a requirement of such service. "Eligible professions" shall not include members of the unorganized militia as defined pursuant to subdivision two of section two of the military law; and

2. has been convicted of the crime of unlawful purchase of body armor in the second degree within the previous ten years.

Unlawful purchase of body armor in the first degree is a class E felony.

§ 3. Section 270.22 of the penal law, as amended by chapter 371 of the laws of 2022, is amended to read as follows:

§ 270.22 Unlawful sale of body armor **in the second degree**.

A person is guilty of the unlawful sale of body armor **in the second degree** when they sell, exchange, give or dispose of body armor, as such term is defined in subdivision two of section 270.20 of this article, to an individual whom they know or reasonably should have known is not engaged or employed in an eligible profession, as such term is defined in section 270.21 of this article.

Unlawful sale of body armor **in the second degree** is a class A misdemeanor [~~**for the first offense and a class E felony for any subsequent offense**~~].

§ 4. The penal law is amended by adding a new section 270.22-a to read as follows:

§ 270.22-a Unlawful sale of body armor in the first degree.

A person is guilty of the unlawful sale of body armor in the first degree when:

1. they sell, exchange, give or dispose of body armor, as such term is defined in subdivision two of section 270.20 of this article, to an individual whom they know or reasonably should have known is not engaged or employed in an eligible profession, as such term is defined in section 270.21 of this article; and

2. they have been convicted of the crime of unlawful sale of body armor in the second degree within the previous ten years.

Unlawful sale of body armor in the first degree is a class E felony.

§ 5. This act shall take effect immediately.