



THE NEW YORK STATE
ASSOCIATION OF AUXILIARY POLICE

P.O. Box 351
Massapequa, NY 11758
(516) 795-4378

The Auxiliary Police Officer Protection Act A6973 & S4576

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STATUS:

A6973 Lentol Same as [S 4576](#) ADAMS
Penal Law

TITLE....Protects members of auxiliary police programs, traffic enforcement agent or public officer or public employee performing school safety or security duties

03/18/09 referred to codes

SUMMARY:

LENTOL, ROSENTHAL

Amd SS70.02, 120.05 & 120.08, Pen L

Establishes the same protection afforded to peace officers, police officers, firefighters, and emergency medical professionals to members of auxiliary police programs, traffic enforcement agents or public officers or public employees performing school safety or security duties.

CRIMINAL SANCTION IMPACT.

STATUS:

S4576 ADAMS Same as [A 6973](#) Lentol
Penal Law

TITLE....Protects members of auxiliary police programs, traffic enforcement agent or public officer or public employee performing school safety or security duties

04/24/09 REFERRED TO CODES

SUMMARY:

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STATE OF NEW YORK

4576

2009-2010 Regular Sessions

IN SENATE

April 24, 2009

Introduced by Sen. ADAMS -- 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 assault on a member of an auxiliary police program, a traffic enforcement agent or a public officer or public employee performing school safety or security duties, and technical corrections relating to assault on a firefighter or related personnel in a hospital emergency department, member of an auxiliary police program, traffic enforcement agent or public officer or public employee performing school safety or security duties

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

1 Section 1. This act shall be known and may be cited as the "auxiliary
2 police officer protection act".

3 § 2. Paragraph (b) of subdivision 1 of section 70.02 of the penal law,
4 as separately amended by chapters 764 and 765 of the laws of 2005, is
5 amended to read as follows:

6 (b) Class C violent felony offenses: an attempt to commit any of the
7 class B felonies set forth in paragraph (a); aggravated criminally
8 negligent homicide as defined in section 125.11, aggravated manslaughter
9 in the second degree as defined in section 125.21, aggravated sexual
10 abuse in the second degree as defined in section 130.67, assault on a
11 peace officer, police officer, [~~fireman~~ **firefighter**, emergency
12 medical services professional, **member of an auxiliary police program,**
13 **traffic enforcement agent or public officer or public employee perform-**
14 **ing school safety or security duties** as defined in section 120.08, gang
15 assault in the second degree as defined in section 120.06, burglary in
16 the second degree as defined in section 140.25, robbery in the second
17 degree as defined in section 160.10, criminal possession of a weapon in
18 the second degree as defined in section 265.03, criminal use of a
19 firearm in the second degree as defined in section 265.08, criminal sale
20 of a firearm in the second degree as defined in section 265.12, criminal

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

LBD09944-01-9



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1 sale of a firearm with the aid of a minor as defined in section 265.14,
2 soliciting or providing support for an act of terrorism in the first
3 degree as defined in section 490.15, hindering prosecution of terrorism
4 in the second degree as defined in section 490.30, and criminal
5 possession of a chemical weapon or biological weapon in the third degree
6 as defined in section 490.37.

7 § 3. Subdivision 3 of section 120.05 of the penal law, as amended by
8 chapter 45 of the laws of 2008, is amended to read as follows:

9 3. With intent to prevent a peace officer, a police officer, a fire-
10 fighter, including a firefighter acting as a paramedic or emergency
11 medical technician administering first aid in the course of performance
12 of duty as such firefighter, an emergency medical service paramedic or
13 emergency medical service technician, or medical or related personnel in
14 a hospital emergency department, a city marshal, a traffic enforcement
15 officer or traffic enforcement agent, a member of an auxiliary police
16 program organized and maintained by a state or local police department,
17 a public officer or public employee performing school safety or security
18 duties, from performing a lawful duty, by means including releasing or
19 failing to control an animal under circumstances evincing the actor's
20 intent that the animal obstruct the lawful activity of such peace offi-
21 cer, police officer, firefighter, paramedic, technician, city marshal,
22 traffic enforcement officer or traffic enforcement agent, medical or
23 related personnel in a hospital emergency department, member of an
24 auxiliary police program or public officer or public employee performing
25 school safety or security duties, he or she causes physical injury to
26 such peace officer, police officer, firefighter, paramedic, technician
27 or medical or related personnel in a hospital emergency department, city
28 marshal, traffic enforcement officer or traffic enforcement agent,
29 member of an auxiliary police program or public employee performing
30 school safety or security duties; or

31 § 4. Section 120.08 of the penal law, as added by chapter 632 of the
32 laws of 1996, is amended to read as follows:

33 § 120.08 Assault on a peace officer, police officer, [~~fireman-or~~] fire-
34 fighter, emergency medical services professional, member of
35 an auxiliary police program, traffic enforcement agent or
36 public officer or public employee performing school safety or
37 security duties.

38 A person is guilty of assault on a peace officer, police officer,
39 [~~fireman-or~~] firefighter, emergency medical services professional,
40 member of an auxiliary police program, traffic enforcement agent or
41 public officer or public employee performing school safety or security
42 duties when, with intent to prevent a peace officer, a police officer, a
43 [~~fireman~~] firefighter, including a [~~fireman~~] firefighter acting as a
44 paramedic or emergency medical technician administering first aid in the
45 course of performance of duty as such [~~fireman~~] firefighter, [~~or~~] an
46 emergency medical service paramedic [~~or~~], and emergency medical service
47 technician, a member of an auxiliary police program organized and main-
48 tained by a state or local police department, traffic enforcement agent
49 or a public officer or public employee performing school safety or secu-
50 rity duties, from performing a lawful duty, he or she causes serious
51 physical injury to such peace officer, police officer, [~~fireman~~] fire-
52 fighter, paramedic [~~or~~], technician, member of an auxiliary police
53 program, traffic enforcement agent or public officer or public employee
54 performing school safety or security duties.

55 Assault on a peace officer, police officer, [~~fireman-or~~] firefighter,
56 emergency medical services professional, member of an auxiliary police



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1 program, traffic enforcement agent or public officer or public employee
2 performing school safety or security duties is a class C felony.
3 § 5. This act shall take effect on the ninetieth day after it shall
4 have become a law.

SPONSORS MEMO:

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S4576

SPONSOR: ADAMS

TITLE OF BILL:

An act to amend the penal law, in relation to assault on a member of an auxiliary police program, a traffic enforcement agent or a public officer or public employee performing school safety or security duties, and technical corrections relating to assault on a firefighter or related personnel in a hospital emergency department, member of an auxiliary police program, traffic enforcement agent or public officer or public employee performing school safety or security duties

SUMMARY OF PROVISIONS:

This act shall be known as and may be cited as the "Auxiliary Police Officer Protection Act."

This bill would amend subdivision 3 of section 120.05 of the Penal Law to make it an assault in the second degree, a class D felony, to injure an auxiliary police officer, traffic enforcement agent (TEA) or school safety personnel with the intent to prevent such auxiliary police officer, TEA or school safety personnel from performing his or her duty. It would further amend section 120.08 of the Penal Law (with a technical amendment to Penal Law § 70.02) to make it a class C felony to seriously injure an auxiliary police officer, a TEA or school safety personnel with the intent to prevent such person from performing his/her duties.



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This bill also would make the following technical amendments:
(1) an amendment to Penal Law § 120.05(3) to include "medical or related personnel in a hospital emergency department in the clause relating to the releasing of or failure to control an animal, which was added by a 1998 amendment to section 120.05(3); and (2) amendments to Penal Law §§ 70.02(1) (b), 120.05(3) and 120.08 changing "fireman" to the gender-neutral "firefighter. "

REASONS FOR SUPPORT:

On March 14, 2007, the lives of two brave young New York City Police Department Auxiliary Police Officers were taken in a murderous rampage.

Auxiliary Police Officers Nicholas Pekearo and Eugene Marshalik died heroically, and their efforts probably prevented further death and injury from occurring.

Auxiliary police officers, TEAs, and school safety personnel put their lives on the line for the safety of the public daily. In order to do their jobs effectively, they must be reasonably assured that the law provides a deterrent to those who would commit criminal acts that could result in their death. It is not only the safety of these public servants at stake, but the welfare of our citizenry, since their safety and well-being depends upon the ability of these public servants to perform their duties unfettered by criminal acts of interference.

The Legislature took a monumental step forward when it passed legislation which became Chapter 632 of the Laws of 1996. This law created a new class C felony crime: assault on a peace officer, police officer, fireman or emergency medical services professional. A person is guilty of this crime when he or she causes serious physical injury to a peace officer, police officer, firefighter or emergency medical services professional with intent to prevent such civil servant from performing a lawful duty. With the enactment of Chapter 632, the Penal Law now provides enhanced assault charges against persons who cause either physical injury or serious physical injury to law enforcement officers and other emergency personnel by criminal acts of interference. This bill takes a logical and necessary step by extending the protection that already exists for police officers, peace officers, firefighters and emergency medical services professionals to auxiliary police officers, TEAs and school safety personnel.

The job of the TEA is to maintain the smooth flow of traffic by issuing summonses to vehicles parked illegally, and where required, by towing these vehicles. In 2006, 47 TEAs in the City of New York were assaulted and 79 were harassed. School



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safety personnel face similar abuse as they perform the important function of protecting our public schools. In 2006, in New York City alone, 108 school safety agents employed by the New York City Police Department were assaulted by members of the public and 195 were harassed.

The dangers faced by auxiliary police officers are somewhat different since their mission does not include taking the enforcement action that might provoke such a response. However, it is equally vital that they be protected by the changes that this bill offers because of their unique situation. The primary role of auxiliary police officers is to perform uniformed patrol, providing a visible and reassuring presence and assisting the Police Department in not only deterring crime but also reporting crime and quality of life violations when they observe them. They can easily be mistaken for police officers, and they are susceptible to attack while performing their duties, and therefore those who would attack them should receive the same level of penalty as those who would attack police officers.

This bill will send a strong message that those who impede lawful authority will be held liable for the results of their illegal conduct.

As law enforcement officers and those who work with them continue to make dramatic breakthroughs in reducing crime, it is important that our laws protect their safety in every possible way. This bill accomplishes that objective.

PRIOR LEGISLATIVE HISTORY:

A.8894 of 2007, A.6793 of 2009

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

This act shall take effect on the ninetieth day after it shall have become law.