

NYS COPBA LEGISLATIVE DEPARTMENT 

LAWS OF NEW YORK, 2010

CHAPTER 491

1 AN ACT to amend the executive law, the criminal procedure law, the  
2 general business law and the public officers law, in relation to peace  
3 officer training; and repealing section 845-a of the executive law  
4 relating thereto

5  
6 Became a law September 17, 2010, with the approval of the Governor.  
7 Passed by a two-thirds vote.

8  
9 The People of the State of New York, represented in Senate and Assem-  
10 bly, do enact as follows:

11 Section 1. Section 845-a of the executive law is REPEALED.

12 § 2. Section 845 of the executive law, as added by chapter 482 of the  
13 laws of 1979, is amended to read as follows:

14 § 845. Central state registry of police officers and peace officers.  
15 1. The division shall collect information to maintain, on a current  
16 basis, a registry of all police officers and peace officers in the  
17 state. Such registry shall contain, with respect to each [police] offi-  
18 cer, his or her name, date of birth, social security number, rank or  
19 title, [department] employer, and [whether he is employed full-time or]  
20 [part-time] date of successful completion of training required by section  
21 2.30 of the criminal procedure law and section two hundred nine-q of the  
22 general municipal law.

23 2. Each head of a state or local agency, unit of local government,  
24 state or local commission, [or] public authority or other organization  
25 which employs police officers or peace officers shall transmit to the  
26 division, no later than the fifteenth day of January [~~, nineteen hundred~~]  
27 [~~eighty~~] annually, and in a form and manner prescribed by the division, a  
28 list containing the name of every police officer or peace officer  
29 employed by his or her agency, government, commission, authority or  
30 organization [on the first day of January, nineteen hundred eighty,]  
31 indicating with respect to each [police] officer his or her date of  
32 birth, social security number, rank or title, [department] employer, and  
33 whether he is employed full-time or part-time. [Each such head shall]  
34 [thereafter, no later than the tenth day of each January and July, trans-]  
35 [mit to the division a list of those police officers who have been]  
36 [appointed, have had a change of rank, or have ceased to serve in the]  
37 [preceding six calendar months and, in the instance of new appointees,]  
38 [shall include all the information required to be furnished in the]  
39 [initial listing.] In addition to such annual list, each such head, when-  
40 ever officers have been newly appointed or have ceased to serve, shall  
41 immediately transmit to the division, in a form and manner prescribed by  
42 the division, a list containing the names of such officers which, in the  
43 instance of new appointees, shall include all the information required  
44 to be furnished in the annual listing.

45 3. [~~Each such head shall have the option to enter into an agreement]~~  
46 [~~with the division whereby the required semi annual updating of registry]~~  
47 [~~information may be regularly done on a more frequent basis.]~~ The divi-  
48 sion shall establish rules and regulations to provide for a permanent  
49

50  
51 EXPLANATION--Matter in italics is new; matter in brackets [-] is old law  
52 to be omitted.

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2  
3 system of identification for each police and peace officer, which shall

4 include procedures for updating the registry upon an officer's failure  
 5 to complete required training within the time limitations established in  
 6 law or regulation.

7 4. Upon the failure or refusal to comply with the requirements of  
 8 subdivision two of this section, the commissioner may apply to the  
 9 supreme court for an order directed to the person responsible requiring  
 10 compliance. Upon such application the court may issue such order as may  
 11 be just, and a failure to comply with the order of the court shall be a  
 12 contempt of court and punishable as such.

13 5. The division shall cooperate with the division of state police in  
 14 making the information in the central registry of police and peace offi-  
 15 cers available for the purpose of verifying transactions involving  
 16 firearms.

17 § 3. Section 2.30 of the criminal procedure law, as added by chapter  
 18 843 of the laws of 1980, subdivision 1 as amended by chapter 766 of the  
 19 laws of 1989, the third undesignated paragraph of subdivision 1 as  
 20 amended by chapter 474 of the laws of 1991, subdivision 5 as added by  
 21 chapter 543 of the laws of 1987 and subdivision 6 as added by chapter  
 22 735 of the laws of 1988, is amended to read as follows:

23 § 2.30 Training requirements for peace officers.

24 1. Every peace officer in the state of New York ~~[, appointed after the]~~  
 25 ~~[effective date of this article, who works a full complement of hours]~~  
 26 ~~[which constitutes full-time employment for the officer's employer,]~~ must  
 27 successfully complete a training program, a portion of which shall be  
 28 prescribed by the municipal police training council and a portion of  
 29 which shall be prescribed by his or her employer ~~[, the state or local]~~  
 30 ~~[agency, unit of local government, state or local commission, or public]~~  
 31 ~~[authority or private organization that employs him].~~ The portion  
 32 prescribed by the municipal police training council shall be comprised  
 33 of subjects, and the hours each is to be taught, that shall be required  
 34 of all types or classes of peace officers. The hours of instruction  
 35 required by the municipal police training council shall not exceed  
 36 ~~[thirty five]~~ one hundred eighty, unless a greater amount is either  
 37 required by law or regulation, or is requested by the employer.

38 The segment prescribed by the employer for ~~[his]~~ its employees shall  
 39 be comprised of subjects, and the hours each is to be taught, relating  
 40 to the special nature of the duties of the peace officers employed by  
 41 ~~[him]~~ it provided, however, that when the subjects prescribed by the  
 42 employer are identical to the subjects in the training program required  
 43 by the municipal police training council, the employer shall not be  
 44 required to provide duplicate training for those subjects.

45 2. Each state or local agency, unit of local government, state or  
 46 local commission, or public authority, or public or private organization  
 47 which employs peace officers shall provide the training mandated by this  
 48 section, ~~[and transmit to the municipal police training council within]~~  
 49 ~~[six months after the effective date of this article the proposed train-]~~  
 50 ~~[ing program for peace officers, comprised of subjects required by the]~~  
 51 ~~[employer,]~~ the cost of which will be borne by the employer. ~~[The program]~~  
 52 ~~[shall.]~~

53 ~~[(a) List the subjects comprising the proposed curriculum and the]~~  
 54 ~~[number of hours each is to be taught,]~~

55 ~~[(b) List the proposed instructors for each subject with their quali-]~~  
 56 ~~[fications, and]~~

57 ~~[(c) Indicate the proposed location of the school.]~~

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2 ~~[In the reviewing of the employer's submission, the instructors must be]~~  
 3 ~~[found qualified by background and experience, and if so found, the]~~  
 4 ~~[course shall be certified by the municipal police training council. When]~~  
 5 ~~[the subjects prescribed by the employer are identical to the subjects in]~~

6 ~~[the training program required by the municipal police training council,]~~  
 7 ~~[the officer shall not be required to take duplicate training for those]~~  
 8 ~~[subjects. It is the responsibility of every employer to provide the]~~  
 9 ~~[training program certified by the municipal police training council.]~~  
 10 Each peace officer satisfactorily completing the course prescribed by  
 11 the municipal police training council shall be awarded a certificate by  
 12 the division of criminal justice services attesting to that effect, and  
 13 no person appointed as a peace officer ~~[after the effective date of this]~~  
 14 ~~[article]~~ shall exercise the powers of a peace officer, unless he or she  
 15 has received such certification within twelve months of appointment.

16 3. ~~[Where an employer has authorized a peace officer to carry or use a]~~  
 17 ~~[weapon during any phase of the officer's official duties, which consti-]~~  
 18 ~~[tutes on duty employment, the program shall include the same number of]~~  
 19 ~~[hours of instruction in deadly physical force and the use of firearms]~~  
 20 ~~[and other weapons as is required in the basic training program for]~~  
 21 ~~[police officers by the municipal police training council. The program]~~  
 22 ~~[shall include the information set forth in subdivision seven of section]~~  
 23 ~~[265.10 of the penal law.]~~ No employer shall allow any peace officer~~[7]~~  
 24 ~~[notwithstanding when the officer was appointed,]~~ it employs to carry or  
 25 use a weapon during any phase of the officer's official duties, which  
 26 constitutes on-duty employment, unless the officer has satisfactorily  
 27 completed a course of training approved by the municipal police training  
 28 council in the use of deadly physical force and firearms and other weap-  
 29 ons, and annually receives instruction in deadly physical force and the  
 30 use of firearms and other weapons as approved by the municipal police  
 31 training council. ~~[The course of training in the use of deadly physical]~~  
 32 ~~[force and firearms and other weapons shall be provided by the officer's]~~  
 33 ~~[employer, not later than six months from the date on which the officer]~~  
 34 ~~[was appointed, where the officer is authorized to carry a weapon pursu-]~~  
 35 ~~[ant to law.]~~

36 ~~[2.]~~ 4. Upon the failure or refusal to comply with the requirements of  
 37 ~~[subdivision one of]~~ this section, the commissioner of the division of  
 38 criminal justice services shall apply to the supreme court for an order  
 39 directed to the person responsible requiring compliance. Upon such  
 40 application, the court may issue such order as may be just, and a fail-  
 41 ure to comply with the order of the court shall be a contempt of court  
 42 and punishable as such.

43 ~~[3. Any individual who is a peace officer or a New York city special]~~  
 44 ~~[patrolman on the effective date of this article and has previously taken]~~  
 45 ~~[a formalized course of training while a peace officer or a New York city]~~  
 46 ~~[special patrolman, may apply, in writing, to the municipal police train-]~~  
 47 ~~[ing council for certification. The application shall be granted or]~~  
 48 ~~[denied for reasons specifically and concisely stated in writing, and if]~~  
 49 ~~[granted, the exact extent of any waiver of the training then presently]~~  
 50 ~~[required for new appointees shall be set forth. The certification shall]~~  
 51 ~~[be granted only if the municipal police training council determines that]~~  
 52 ~~[the course of training previously taken by the applicant is in substan-]~~  
 53 ~~[tial compliance with the training then presently required for new]~~  
 54 ~~[appointees.]~~

55 ~~[When an application is denied, it is the responsibility of the officer]~~  
 56 ~~[to obtain the training that is required in order to obtain certif-]~~  
 57 ~~[ication. When a peace officer meets the training requirements specified]~~

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2 ~~[herein, the division of criminal justice services shall issue that]~~  
 3 ~~[person a certificate attesting to the fact that he has satisfactorily]~~  
 4 ~~[completed the required training.]~~

5 4. ~~[Any peace officer appointed after the effective date of this arti-]~~  
 6 ~~[cle who normally works on a part time basis for less than the full]~~  
 7 ~~[complement of hours which would constitute full time employment for]~~

8 ~~[their position as determined by their employer, shall receive training]~~  
 9 ~~[which may, in whole or in part, be in service training. The portion of]~~  
 10 ~~[the training program required by the municipal police training council]~~  
 11 ~~[shall not exceed ten hours of instruction. The segment of the training]~~  
 12 ~~[program prescribed by the employer shall be comprised of subjects, and]~~  
 13 ~~[the hours each is to be taught, relating to the special nature of the]~~  
 14 ~~[duties of the peace officers employed by him. Every employer who employs]~~  
 15 ~~[part-time peace officers shall transmit to the municipal police training]~~  
 16 ~~[council within six months after the effective date of this article the]~~  
 17 ~~[proposed training program for its officers, in accordance with the]~~  
 18 ~~[procedure and requirements set forth in subdivision one of this section.]~~  
 19 ~~[Each peace officer satisfactorily completing the training requirements]~~  
 20 ~~[shall be issued a certificate by the division of criminal justice]~~  
 21 ~~[services attesting to that effect.]~~

22 5. Every employer of peace officers shall ~~[annually]~~ report to the  
 23 ~~[municipal police training council]~~ division of criminal justice  
 24 services, in such form and at such time as the ~~[council]~~ division may by  
 25 regulation require, the names ~~[and addresses]~~ of all peace officers who  
 26 have~~[, during the course of the year,]~~ satisfactorily completed any of  
 27 the training requirements prescribed by this section.

28 6. A certificate attesting to satisfactory completion of the training  
 29 requirements imposed under this section awarded to any peace officer by  
 30 the executive director of the municipal police training council pursuant  
 31 to this section shall remain valid:

- 32 (a) during the holder's continuous service as a peace officer; and
- 33 (b) for two years after the date of the commencement of an inter-  
 34 ruption in such service where the holder had, immediately prior to such  
 35 interruption, served as a peace officer for less than two consecutive  
 36 years; or
- 37 (c) for four years after the date of the commencement of an inter-  
 38 ruption in such service where the holder had, immediately prior to such  
 39 interruption, served as a peace officer for two consecutive years or  
 40 longer.

41 As used in this subdivision, the term "interruption" shall mean a  
 42 period of separation from employment as a peace officer by reason of  
 43 such officer's leave of absence, resignation or removal, other than  
 44 removal for cause.

45 § 4. Paragraph a of subdivision 2 of section 89-n of the general busi-  
 46 ness law, as added by chapter 336 of the laws of 1992 and such paragraph  
 47 as relettered by chapter 634 of the laws of 1994, is amended to read as  
 48 follows:

49 a. A security guard who has been or was previously employed as a peace  
 50 officer for eighteen months or more who exhibits a valid certificate  
 51 awarded pursuant to subdivision six of section 2.30 of the criminal  
 52 procedure law attesting to his or her satisfactory completion of the  
 53 training requirements imposed by section 2.30 of the criminal procedure  
 54 law shall be exempt from the requirements of paragraph c of subdivision  
 55 one of this section provided that such peace officer has completed a  
 56 course of firearms training approved by the municipal police training  
 57 council ~~[pursuant to the last paragraph of subdivision one of section]~~

2 ~~[2.30 of the criminal procedure law]~~ provided, however, that nothing in  
 3 this subdivision shall be deemed to authorize such guard to carry,  
 4 possess, repair or dispose of a firearm unless the appropriate license  
 5 therefor has been issued pursuant to section 400.00 of the penal law.

6 § 5. Subdivision 8 of section 92 of the public officers law, as  
 7 amended by chapter 336 of the laws of 1992, is amended to read as  
 8 follows:

9 (8) Public safety agency record. The term "public safety agency

10 record" means a record of the state commission of correction, the tempo-  
11 rary state commission of investigation, the department of correctional  
12 services, the division for youth, the division of parole, the crime  
13 victims board, the division of probation and correctional alternatives  
14 or the division of state police or of any agency or component thereof  
15 whose primary function is the enforcement of civil or criminal statutes  
16 if such record pertains to investigation, law enforcement, confinement  
17 of persons in correctional facilities or supervision of persons pursuant  
18 to criminal conviction or court order, and any records maintained by the  
19 division of criminal justice services pursuant to sections eight hundred  
20 thirty-seven, eight hundred thirty-seven-a, eight hundred thirty-sev-  
21 en-b, eight hundred thirty-seven-c, eight hundred thirty-eight, eight  
22 hundred thirty-nine, and eight hundred forty-five[, ~~and eight hundred~~  
23 ~~[forty-five-a]~~ of the executive law and by the department of state pursu-  
24 ant to section ninety-nine of the executive law.

25 § 6. This act shall take effect on the first of January next succeed-  
26 ing the date on which it shall have become a law, provided, however,  
27 that completion of the training program required by subdivision 1 of  
28 section 2.30 of the criminal procedure law as amended by section three  
29 of this act shall apply only to peace officers appointed on or after the  
30 effective date of this act, and provided further that peace officers  
31 appointed prior to the effective date of this act shall be subject to  
32 the training requirements in place at the time of their appointment.

33  
34 The Legislature of the STATE OF NEW YORK ss:

35 Pursuant to the authority vested in us by section 70-b of the Public  
36 Officers Law, we hereby jointly certify that this slip copy of this  
37 session law was printed under our direction and, in accordance with such  
38 section, is entitled to be read into evidence.

39  
40 MALCOLM A. SMITH  
41 Temporary President of the Senate

SHELDON SILVER  
Speaker of the Assembly

BILL NUMBER: A7957A

SPONSOR: Lentol

TITLE OF BILL: An act to amend the executive law, the criminal procedure law, the general business law and the public officers law, in relation to peace officer training; and repealing section 845-a of the executive law relating thereto

PURPOSE: This bill consolidates and streamlines the police officer and peace officer registries, and upgrades and clarifies minimum training requirements for peace officers.

SUMMARY OF PROVISIONS: Sections 1 and 2 of the bill consolidate the provisions regarding the peace officer and police officer registries by, respectively, repealing Executive Law §845-a and amending Executive Law §845.

Section 3 of the bill amends Criminal Procedure Law (CPL) §2.30 regarding peace officer training requirements and raises the maximum required training program from 35 hours to 180 hours.

Sections 4 and 5 of the bill amend General Business Law §89-n and Public Officers Law §92, respectively, to make conforming changes.

Section 6 of the bill provides that it shall take effect on the first January 1 following enactment, but that the enhanced training requirements shall apply only to peace officers appointed on or after the effective date of the act.

EXISTING LAW: Executive Law §845 contains provisions regarding the police officer registry and Executive Law §845-a contains provisions regarding the peace officer registry. While the sections are similar, they are not identical.

CPL §2.30(1) limits the length of the training program that can be prescribed by the Municipal Police Training Council, which all peace officers must successfully complete as a condition of their continued employment, to 35 hours. CPL 2.30(4) further limits the length of the training program for part-time peace officers to ten hours.

CPL 52.30(1) provides that an employer may not allow any peace officer to carry or use a weapon on-duty unless the officer has satisfactorily completed a course of training approved by the Municipal Police Training Council in the use of deadly physical force and firearms and other weapons, and annually receives instruction in deadly physical force and the use of firearms and other weapons as approved by the Council. In addition, peace officers exempt from the criminal responsibility imposed by Penal Law §265.01(1) for the possession of a firearm without a license must satisfactorily complete a course of training approved by the Municipal Police Training Council in the use of deadly physical force and firearms and other weapons, even if their employer does not allow them to carry a weapon on-duty.

LEGISLATIVE HISTORY: This is a new proposal. A similar proposal was submitted last year (departmental bill #289), and was introduced as S.7512/A.11540, but did not pass either house.

STATEMENT IN SUPPORT: The requirements of the police officer and peace officer registries, as set forth in Executive Law 5§845 and 845a, are similar, but not identical. This proposal will consolidate the requirements for each registry in section 845, thereby ensuring a consistent registry process for both classes of officers. Such standardization also will facilitate more efficient processing of the information by staff of the Division of Criminal Justice Services (the Division). The current peace officer training requirements were enacted in 1980. The environment in which peace officers carry out their functions, powers, and duties has changed drastically since that time, and the 35-hour limitation on training is now anachronistic. Peace officers are increasingly expected to enforce a variety of local and State laws. Peace officers are authorized to use force and make warrantless arrests and searches and, within their special duties, can be assigned to perform most of the same functions as police officers. But while police officers receive almost 500 hours of training and at least 160 hours of supervised field training, peace officer training is limited to 35 hours (ten hours in the case of a part-time peace officer) by CPL §2.30 (1) and (4). While peace officers do not necessarily require as much training as police officers, it is apparent that the current 35-hour and ten-hour training courses are grossly inadequate to prepare peace officers to safely carry out their functions.

Governor Paterson vetoed numerous bills conferring peace officer status on particular titles that were passed during the 2008 session, just as former Governor Spitzer had vetoed the vast majority of peace officer bills passed in 2007. Both Governors indicated their concern that the minimum training requirements for peace officers were not commensurate with the powers such officers are authorized to exercise. In 2007, former Governor Spitzer directed the Division to work with the Legislature and interested parties to develop legislation to address this deficiency. As a result, departmental bill #289 was introduced during the 2008 session, but did not pass. In his 2008 veto messages, Governor Paterson directed the Division to continue working to reach an agreement that would be acceptable to stakeholders on the issue of peace officer training. This proposal attempts to address the objections that were raised regarding departmental bill #289, and thereby carry out the Governor's directive.

This proposal would require peace officers to complete a training course prescribed by the Municipal Police Training Council consisting of no more than 180 hours. This is the number of hours of training reasonably needed for peace officers to exercise the powers enumerated in CPL 2.20. This will enhance public safety generally, protect peace officers, safety, and ensure that the Council is able to maintain the peace officer basic training course in a manner consistent with contemporary conditions. The bill also eliminates the limitation on part-time peace officer training. Peace officers possess the same powers and are responsible for the same duties regardless of whether they are employed full-time or part-time. There is no logical reason to provide a peace officer with reduced training merely because he or she works less than 40 hours per week. Moreover, there can be no question that the current limitation for part-time officers - a mere ten hours of training - is wholly insufficient, and places both the officer and the public at risk.

The proposal also would modify the current firearms training requirements for certain peace officers. Currently, peace officers may not carry a firearm on-duty unless they have successfully completed firearms training. In addition, however, peace officers exempt from the criminal responsibility imposed by Penal Law 5265.01(1) for the possession of a

firearm without a license must complete firearms training, even if their employer does not allow them to carry a weapon on-duty. See County of Orange v. Division of Criminal Justice Services, 3 A.D.3d 206 (3d Dept. 2003). Peace officers who are exempt from the criminal responsibility imposed by the Penal Law include, for example, probation officers and correction officers. See CPL 52.10(24), (25). Peace officers who are not exempt from criminal liability pursuant to the Penal Law, such as investigators designated by the State Inspector General, must obtain a license pursuant to Penal Law 5400.00 to carry or possess a firearm. See CPL 52.10(68). Firearms training is generally not required as a prerequisite for obtaining a firearm license pursuant to Penal Law 5400.00. Thus, the proposal would treat peace officers exempt from criminal responsibility under the Penal Law, but who are not allowed to carry a firearm on-duty, in a manner comparable to those who carry a firearm pursuant to a license issued under the Penal Law. For peace officers not permitted to carry firearms on-duty, such as many county correction officers and probation officers, the bill would allow their employers to avoid the cost of providing them with firearms training. The bill would thus eliminate a significant unfunded mandate currently borne by many county governments.

In recognition of the fact that the new requirements may have fiscal implications and/or other adverse impacts on some peace officer employers, the proposal would "grandfather" existing peace officers. Thus, the new training requirements would apply only to peace officers appointed on or after the effective date. Peace officers appointed prior to the effective date would continue to be subject to the training requirements in place at the time of their appointment.

BUDGET IMPLICATIONS: There may be increased costs to peace officer employers associated with enhanced training requirements, but these costs are not expected to be prohibitive. First, many employers of peace officers already provide training that is far in excess of the 35 hours specified in the current statute, and which is likely to be fully or nearly compliant with any new standards that would be set under the bill. For example, the Department of Correctional Services, which employs a large number of peace officers, already requires extensive training that is closely tailored to the specialized needs of the officers in that agency. Other employers which currently provide less rigorous training may face additional training costs that are necessary to achieve the intended goal of the bill. Yet even then, there will be no large initial cost burden, because any new training requirements will apply only to officers appointed subsequent to its effective date, and not to officers currently employed. Finally, there will be a cost savings associated with the elimination of firearms training for peace officers who are exempt from criminal responsibility imposed by the Penal Law for the possession of a firearm without a license, yet who are not authorized to carry on-duty.

EFFECTIVE DATE: This bill would become effective on the first January 1 following enactment, but the enhanced training requirements would apply only to peace officers appointed on or after such effective date.