

ผนวก ข

กฎหมายประเทศสหรัฐอเมริกา

กฎหมายมลรัฐ New York

S 250.40 Unlawful surveillance; definitions.

The following definitions shall apply to sections 250.45, 250.50, 250.55 and 250.60 of this article:

1. "Place and time when a person has a reasonable expectation of privacy" means a place and time when a reasonable person would believe that he or she could fully disrobe in privacy.
2. "Imaging device" means any mechanical, digital or electronic viewing device, camera or any other instrument capable of recording, storing or transmitting visual images that can be utilized to observe a person.
3. "Sexual or other intimate parts" means the human male or female genitals, pubic area or buttocks, or the female breast below the top of the nipple, and shall include such part or parts which are covered only by an undergarment.
4. "Broadcast" means electronically transmitting a visual image with the intent that it be viewed by a person.
5. "Disseminate" means to give, provide, lend, deliver, mail, send, forward, transfer or transmit, electronically or otherwise to another person.
6. "Publish" means to (a) disseminate, as defined in subdivision five of this section, with the intent that such image or images be disseminated to ten or more persons; or
  - (b) disseminate with the intent that such images be sold by another person; or
  - (c) post, present, display, exhibit, circulate, advertise or allows access, electronically or otherwise, so as to make an image or images available to the public; or
  - (d) disseminate with the intent that an image or images be posted, presented, displayed, exhibited, circulated, advertised or made accessible, electronically or otherwise and to make such image or images available to the public.

7. "Sell" means to disseminate to another person, as defined in subdivision five of this section, or to publish, as defined in subdivision six of this section, in exchange for something of value.

#### S 250.45 Unlawful surveillance in the second degree.

A person is guilty of unlawful surveillance in the second degree when:

1. For his or her own, or another person's amusement, entertainment, or profit, or for the purpose of degrading or abusing a person, he or she intentionally uses or installs, or permits the utilization or installation of an imaging device to surreptitiously view, broadcast or record a person dressing or undressing or the sexual or other intimate parts of such person at a place and time when such person has a reasonable expectation of privacy, without such person's knowledge or consent; or

2. For his or her own, or another person's sexual arousal or sexual gratification, he or she intentionally uses or installs, or permits the utilization or installation of an imaging device to surreptitiously view, broadcast or record a person dressing or undressing or the sexual or other intimate parts of such person at a place and time when such person has a reasonable expectation of privacy, without such person's knowledge or consent; or

3. (a) For no legitimate purpose, he or she intentionally uses or installs, or permits the utilization or installation of an imaging device to surreptitiously view, broadcast or record a person in a bedroom, changing room, fitting room, restroom, toilet, bathroom, washroom, shower or any room assigned to guests or patrons in a motel, hotel or inn, without such person's knowledge or consent.

(b) For the purposes of this subdivision, when a person uses or installs, or permits the utilization or installation of an imaging device in a bedroom, changing room, fitting room, restroom, toilet, bathroom, washroom, shower or any room assigned to guests or patrons in a hotel, motel or inn, there is a rebuttable presumption that such person did so for no legitimate purpose; or

4. Without the knowledge or consent of a person, he or she intentionally uses or installs, or permits the utilization or installation of an imaging device to surreptitiously view, broadcast or record, under the clothing being worn by such person, the sexual or other intimate parts of such person.

Unlawful surveillance in the second degree is a class E felony.

#### S 250.50 Unlawful surveillance in the first degree.

A person is guilty of unlawful surveillance in the first degree when he or she commits the crime of unlawful surveillance in the second degree and has been previously convicted within the past ten years of unlawful surveillance in the first or second degree.

Unlawful surveillance in the first degree is a class D felony.

#### S 250.55 Dissemination of an unlawful surveillance image in the second degree.

A person is guilty of dissemination of an unlawful surveillance image in the second degree when he or she, with knowledge of the unlawful conduct by which an image or images of the sexual or other intimate parts of another person or persons were obtained and such unlawful conduct would satisfy the essential elements of the crime of unlawful surveillance in the first or second degree, intentionally disseminates such image or images.

Dissemination of an unlawful surveillance image in the second degree is a class A misdemeanor.

#### S 250.60 Dissemination of an unlawful surveillance image in the first degree.

A person is guilty of dissemination of an unlawful surveillance image in the first degree when:

1. He or she, with knowledge of the unlawful conduct by which an image or images of the sexual or other intimate parts of another person or persons were obtained and such unlawful conduct would satisfy the essential elements of the crime of unlawful surveillance in the first or second degree, sells or publishes such image or images; or
2. Having created a surveillance image in violation of section 250.45 or 250.50 of this article, or in violation of the law in any other jurisdiction which includes all of the essential

elements of either such crime, or having acted as an accomplice to such crime, or acting as an agent to the person who committed such crime, he or she intentionally disseminates such unlawfully created image; or

3. He or she commits the crime of dissemination of an unlawful surveillance image in the second degree and has been previously convicted within the past ten years of dissemination of an unlawful surveillance image in the first or second degree.

Dissemination of an unlawful surveillance image in the first degree is a class E felony.

#### S 250.65 Additional provisions.

1. The provisions of sections 250.45, 250.50, 250.55 and 250.60 of this article do not apply with respect to any: (a) law enforcement personnel engaged in the conduct of their authorized duties;

(b) security system wherein a written notice is conspicuously posted on the premises stating that a video surveillance system has been installed for the purpose of security; or

(c) video surveillance devices installed in such a manner that their presence is clearly and immediately obvious.

2. With respect to sections 250.55 and 250.60 of this article, the provisions of subdivision two of section 235.15 and subdivisions one and two of section 235.24 of this chapter shall apply.