



Senate

General Assembly

File No. 73

February Session, 2008

Senate Bill No. 295

Senate, March 20, 2008

The Committee on Transportation reported through SEN. DEFRONZO of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT PROVIDING PEACE OFFICER STATUS TO CERTAIN INSPECTORS OF THE DEPARTMENT OF MOTOR VEHICLES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (9) of section 53a-3 of the 2008 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective October 1, 2008*):

4 (9) "Peace officer" means a member of the Division of State Police
5 within the Department of Public Safety or an organized local police
6 department, a chief inspector or inspector in the Division of Criminal
7 Justice, a state marshal while exercising authority granted under any
8 provision of the general statutes, a judicial marshal in the performance
9 of the duties of a judicial marshal, a conservation officer or special
10 conservation officer, as defined in section 26-5, a salaried motor vehicle
11 inspector designated by the Commissioner of Motor Vehicles pursuant
12 to section 14-8, in the performance of the duties of an inspector, a
13 constable who performs criminal law enforcement duties, a special
14 policeman appointed under section 29-18, 29-18a or 29-19, an adult

15 probation officer, an official of the Department of Correction
16 authorized by the Commissioner of Correction to make arrests in a
17 correctional institution or facility, any investigator in the investigations
18 unit of the office of the State Treasurer or any special agent of the
19 federal government authorized to enforce the provisions of Title 21 of
20 the United States Code.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2008</i>	53a-3(9)
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TRA *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill would make various DMV inspectors eligible for “peace officer” status. This would result in no fiscal impact to the state since those inspectors who would be eligible for such status have already been through police training and are currently designated as hazardous duty special officers vested with arrest powers.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**SB 295*****AN ACT PROVIDING PEACE OFFICER STATUS TO CERTAIN INSPECTORS OF THE DEPARTMENT OF MOTOR VEHICLES.*****SUMMARY:**

This bill includes Department of Motor Vehicle (DMV) inspectors designated by the commissioner to enforce motor vehicle laws in the statutory definition of “peace officer” in the Penal Code. Currently, the following are considered peace officers under this definition:

1. members of the Division of State Police or an organized local police department;
2. a chief inspector or inspector of the Division of Criminal Justice;
3. judicial marshals performing their duties as such;
4. conservation officers or special conservation officers;
5. constables who perform criminal law enforcement duties;
6. Department of Corrections (DOC) officials authorized by the corrections commissioner to make arrests in a correctional institution or facility;
7. investigators in the investigations unit of the office of the State Treasurer;
8. special policemen appointed under the authority of the public safety commissioner to enforce laws on state property, to investigate public assistance fraud, or who are performing duties of policemen on property of utility companies, transportation companies, or any corporation owning or having

control of roads in any private residence park; and

9. any special federal agent authorized to enforce provisions of the food and drug laws.

By law, the motor vehicle commissioner, each deputy commissioner, and any salaried Motor Vehicle Department inspector the commissioner designates, when engaged in official duties, has the same authority to make arrests and issue citations anywhere in the state for motor vehicles violations that state and municipal police have in their respective jurisdictions (CGS § 14-8).

Under the bill, certain laws in the penal code that rely on this definition of peace officer would apply as well to DMV inspectors performing law enforcement duties. These include laws on justifiable use of force when making an arrest, failing to render assistance to a peace officer when requested or interfering with one performing duties, and assaulting a peace officer.

There are some laws outside the penal code that also refer to peace officers but the term is not defined in those laws and there is no explicit connection to the definition in the penal code. It may be possible that those laws could also be interpreted to apply to DMV inspectors, but this is not a certainty. One example is the law making it a class B misdemeanor to draw, exhibit, or brandish a facsimile of a firearm or simulate a firearm in the presence of a peace officer (CGS § 53-206c).

EFFECTIVE DATE: October 1, 2008

ARREST WITHOUT WARRANT OR COMPLAINT

By law, peace officers must arrest, without previous complaint or warrant, any person for any offense “in their jurisdiction” when the person is taken or apprehended in the act or on the speedy information of others (CGS § 54-1f). Because this law uses the penal code definition of peace officer, DMV inspectors would be included under this authority in their jurisdiction.

PENAL CODE LAWS APPLICABLE TO PEACE OFFICERS

Designation in the definition of peace officer brings the DMV inspectors under certain specific laws including those on:

1. justifiable use of physical or deadly force when making an arrest or preventing an escape,
2. assault on a peace officer,
3. interference with a peace officer performing duties, and
4. failure to assist a peace officer when requested.

BACKGROUND***When Peace Officers May Use Physical Force or Deadly Force***

A person is not justified in using physical force to resist arrest by a reasonably identifiable peace officer, whether the arrest is legal or not (CGS § 53a-23).

A peace officer is justified in using physical force, when and to the extent he reasonably believes it necessary, to (1) make an arrest or prevent an escape from custody, unless he knows that the arrest or custody is unauthorized, or (2) defend himself or another person from the use or imminent use of physical force while making or attempting to make an arrest or while preventing or attempting to prevent an escape (CGS § 53a-22(b)).

A peace officer is justified in using deadly physical force when he reasonably believes it is necessary to (1) defend himself or another person from the use or imminent use of deadly physical force and (2) arrest or prevent the escape from custody of someone whom he reasonably believes committed or attempted to commit a felony involving the infliction or threatened infliction of serious physical injury, and if, where feasible, he warned of his intent to use deadly physical force (CGS § 53a-22(c)).

The law exempts peace officers and civilians assisting them and acting under their direction and pursuant to law from the general duty

to retreat rather than use reasonable deadly physical force (CGS § 53a-19(b)).

The law exempts peace officers from the general duty to retreat rather than use reasonable physical force (CGS § 53a-19(b)).

Use of Physical and Deadly Physical Force When Assisting Peace Officers

By law, anyone directed by a peace officer to help make an arrest or prevent an escape from custody is justified in using reasonable physical force, when and to the extent necessary, to carry out the official's direction. Under the same circumstances, the person may use deadly physical force if (1) he believes it necessary to defend himself or another person from what he reasonably believes to be the use or imminent use of deadly physical force or (2) the official directed or authorized him to use deadly physical force, unless he knows that the official is not authorized to use such force under the circumstances.

Crimes Against Peace Officers

A person is guilty of interfering with an officer if he obstructs, resists, hinders, or endangers any peace officer or firefighter performing his duties. A person is guilty of failure to assist a peace officer when he refuses to help a peace officer who asks for help to perform his duties. Both crimes are class A misdemeanors, punishable by up to one year imprisonment, a fine of up to \$2,000, or both (CGS §§ 53a-167a & 167b).

A person commits assault of public safety or emergency medical personnel if he assaults a reasonably identifiable peace officer performing his duties, with intent to prevent him from performing them, by doing any of the following to him:

1. injuring;
2. throwing potentially damaging objects
3. using tear gas, Mace, or a similar agent;

4. throwing paint, dye, or any other offensive substance; or
5. throwing bodily fluid, such as feces, blood, or saliva.

Besides peace officers, this law applies to Department of Revenue Services special policemen, firefighters, emergency medical services personnel, emergency room doctors and nurses, DOC employees, members or employees of the Board of Pardons and Paroles, probation officers, Judicial Branch employees assigned to provide pretrial secure detention and programming services to juveniles accused of delinquency, employees of the Department of Children and Families assigned to provide direct services to children in the department's custody, employees of local police departments who provide security in the department's lockup, and active members of volunteer canine search and rescue teams.

This crime is a class C felony, punishable by up to 10 years imprisonment, a fine of up to \$10,000, or both.

COMMITTEE ACTION

Transportation Committee

Joint Favorable

Yea 33 Nay 0 (03/06/2008)