

# DISTRICT ATTORNEYS ASSOCIATION OF THE STATE OF NEW YORK



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May 25, 2010

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708 Legislative Office Building  
Albany, NY 12247

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907 Legislative Office Building  
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808 Legislative Office Building  
Albany, NY 12247

## **STRONG SUPPORT FOR S.4593-A (SCHNEIDERMAN)/A.5537-A (O'DONNELL)**

Dear Senator Sampson:

I write to express the District Attorneys Association of New York State's strong support for the above referenced bill which would clarify current law and aid law enforcement by repealing three subdivisions of Penal Law Section 240.35 governing loitering.

Two of the subdivisions, subdivisions three and seven, relating to loitering for the purpose of engaging in or soliciting particular sexual acts and loitering or sleeping in a transportation facility, have been held to be unconstitutional by the New York Court of Appeals in *People v. Uplinger*, 58 N.Y.2d 936 (1983) and *People v. Bright*, 71 N.Y. 2d 376 (1988) respectively. Subdivision one, which proscribes loitering for the purpose of begging was held unconstitutional in 1993 by the United States Court of the Appeals for the Second Circuit in *Loper v New York City Police Department*, 999 F.2d 699 (1993). While the Second Circuit's opinion does not bind New York courts, it does serve as persuasive authority.

By leaving these subdivisions in the Penal Law despite the fact that various courts have found them to be unconstitutional, New York creates a risk that police

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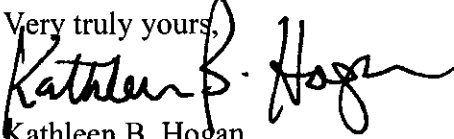
**DISTRICT ATTORNEYS ASSOCIATION OF THE STATE OF NEW YORK**

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May 25, 2010

officers will be confused as to the current state of the law and mistakenly issue summonses or make arrests under these provisions. Repeal of these sections, without renumbering the other sections, will help to eliminate any confusion and will complement educational and training efforts being made by police agencies across the State as to how loitering statutes may be properly enforced.

For these reasons, we join our colleagues in law enforcement in urging that this legislation be enacted into law.

Very truly yours,  
  
Kathleen B. Hogan  
President

Cc:  
Senators Martin J. Golden  
Senator Frank Padavan  
Senator Andrew J. Lanza  
Shelly Mayer  
Katherine Granger

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June 3, 2010

Senator Eric T. Schneiderman  
Chair of Codes  
708 Legislative Office Building  
Albany, NY 12247

Assemblywomen Michelle Schimel  
324 Legislative Office Building  
Albany, NY 12248

**STRONG SUPPORT FOR S.6005 (SCHNEIDERMAN)/A.6468 (Schimel)**

Dear Assemblywomen Schimel:

I am writing on behalf of the New York State District Attorney's Association in strong support of S.6005/A.6468-C, an act to amend the Penal Law in relation to requiring semi-automatic pistols manufactured or delivered to any licensed dealer in New York State to be capable of microstamping ammunition.

Microstamping is a simple technology that would give law enforcement an important tool to help investigate, arrest, and convict criminals who use semi-automatic handguns. As the gun is fired, information identifying the make, model and serial number of the gun is stamped onto the cartridges as numbers and letters. Microstamping technology puts more information into the hands of police early in an investigation.

In 2007 a staggering 21,780 violent crimes were committed in New York State. Yet perpetrators who use firearms often evade justice. Nationwide, year after year, only about 60% of homicide cases are cleared by arrest. Early leads in investigations are so important in the first crucial hours after a crime has been committed and this technology provides an easy to follow trail back to the owner of the weapon.

This significant new technology would thereby aid in the investigation of a crime scene as well as deter criminals from the negligent use of a firearm. We strongly urge that it be enacted into law.

Very truly yours,

Kathleen B. Hogan  
President