

Training with Live Victims in Fire Becomes Illegal in New York State

by Bradley M. Pinsky

On July 17, 2003, the governor signed into law, Executive Law Section 159-c-1. That section states:

1. In the training of fire-fighters under live fire conditions no person or persons shall play the role of a victim.
2. For purposes of this section, a live fire condition is any unconfined open flame or device that can propagate fire to a building, a training tower, an acquired structure or other combustible material.
3. A violation of this section shall be punishable by a civil penalty not to exceed one thousand dollars paid for by the fire department conducting such training.

§ 2. This act shall take effect immediately.

The justification of the law was stated as follows:

"Training under live fire conditions is acknowledged as an important part of fire fighter training. Recently there have been a number of incidents where having persons play victims in live fire situations has led to serious injury and even death. Most recently an Assistant Fire Chief in Oneida County was convicted of criminally negligent homicide for his conduct at a live fire training scene where a trainee playing a victim was killed. Two other trainees playing victims in that exercise suffered severe burns.

While recognizing the importance of live burn training, there is no justification for the use of any person as victim. The danger and potential consequences of that are unacceptable. The National Fire Protection Association Standards on Live Fire training expressly recommends that no person shall play the role in these situations. For the protection of all those who so selflessly protect us from fires, we must adopt this standard and expressly prohibit this dangerous activity."

The law provides a penalty of one thousand dollars by the fire department that conducts the training. However, it does not prevent the conviction of a person for criminally negligent homicide. Thus, while a civil penalty (fine) is most likely if there is no injury to a person posing as a victim, criminal penalties are still permissible for the death and even injury to such a person.