

**STATE OF NEW YORK  
DEPARTMENT OF STATE**

**DETERMINATION**

*In the matter of the designation of “security guard” as an eligible profession for the purchase, sale, and use of body armor.*

Date of designation: July 6, 2022

Legal framework

To purchase or take possession of body armor in New York State, an individual or entity must be engaged or employed in an eligible profession.<sup>1</sup> Pursuant to Executive Law section 144-a, the Department of State (Department) has established criteria for eligible professions requiring the use of body armor, as such term is defined in subdivision 2 of section 270.20 of the Penal Law. Designation of an eligible profession must be supported by a finding that the duties of the profession may expose an individual engaged in such profession to serious physical injury that may be prevented or mitigated by the wearing of body armor.<sup>2</sup> The Department may add a profession to the list of eligible professions requiring the use of body armor.<sup>3</sup>

Findings of fact and analysis

The law implementing restrictions on the use of body armor in New York State<sup>4</sup> was enacted a few weeks after a deadly shooting incident at Tops Friendly Markets in Buffalo, New York, in which Aaron Salter, Jr., an on-duty security guard, was among the victims killed by an active shooter. Mr. Salter, Jr. was reported to have confronted the gunman inside the supermarket, whereupon the gunman returned fire, killing Mr. Salter, Jr.<sup>5</sup>

According to Section 89-f(6) of the General Business Law, “security guard” shall mean “a person, other than a police officer, employed by a security guard company to principally perform one or more of the following functions within the state:

- a. protection of individuals and/or property from harm, theft or other unlawful activity;
- b. deterrence, observation, detection and/or reporting of incidents in order to prevent any unlawful or unauthorized activity including but not limited to unlawful or unauthorized intrusion or entry, larceny, vandalism, abuse, arson or trespass on property;

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<sup>1</sup> New York Penal Law § 270.21.

<sup>2</sup> New York Executive Law § 144-a; 19 NYCRR §§ 905.3, 905.1(c), (f).

<sup>3</sup> 19 NYCRR §§ 905.2(a), 905.5(a).

<sup>4</sup> L.2022, ch.210, as amended by L.2022, ch.371, §§ 11-13.

<sup>5</sup> <https://www.cbsnews.com/news/aaron-salter-jr-security-guard-buffalo-shooting-victim/>

