

7542--A

I N S E N A T E

April 20, 2010

Introduced by Sen. VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law and public health law, in relation to criminal possession and unlawful sale of embalming fluid

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The penal law is amended by adding a new section 220.78 to
2 read as follows:

3 S 220.78 CRIMINAL POSSESSION OF EMBALMING FLUID.

4 1. A PERSON IS GUILTY OF CRIMINAL POSSESSION OF EMBALMING FLUID WHEN
5 HE OR SHE POSSESSES EMBALMING FLUID WITH EITHER THE INTENT TO USE SUCH
6 EMBALMING FLUID OR KNOWLEDGE THAT SOME OTHER PERSON INTENDS TO USE SUCH
7 EMBALMING FLUID FOR PURPOSES OF HUMAN INGESTION OR INHALATION.

8 2. FOR PURPOSES OF THIS SECTION, "EMBALMING FLUID" MEANS ANY CHEMICAL
9 OR SUBSTANCE MANUFACTURED PRIMARILY FOR USE BY LICENSED FUNERAL DIREC-
10 TORS, UNDERTAKERS OR EMBALMERS, OR REGISTERED RESIDENTS, TO PREPARE,
11 DISINFECT OR PRESERVE, EITHER HYPODERMICALLY, ARTERIALLY OR BY ANY OTHER
12 RECOGNIZED MEANS THE BODY OF A DECEASED PERSON FOR BURIAL, CREMATION OR
13 OTHER FINAL DISPOSITION.

14 CRIMINAL POSSESSION OF EMBALMING FLUID IS A CLASS A MISDEMEANOR.

15 S 2. Section 3400 of the public health law is amended by adding a new
16 subdivision (l) to read as follows:

17 (L) "EMBALMING FLUID" MEANS ANY CHEMICAL OR SUBSTANCE MANUFACTURED
18 PRIMARILY FOR USE BY LICENSED FUNERAL DIRECTORS, UNDERTAKERS OR EMBAL-
19 MERS, OR REGISTERED RESIDENTS, TO PREPARE, DISINFECT OR PRESERVE, EITHER
20 HYPODERMICALLY, ARTERIALLY OR BY ANY OTHER RECOGNIZED MEANS THE BODY OF
21 A DECEASED PERSON FOR BURIAL, CREMATION OR OTHER FINAL DISPOSITION.

22 S 3. Section 3455 of the public health law is amended by adding a new
23 subdivision 1-a to read as follows:

24 1-A. BEING A FUNERAL DIRECTOR, UNDERTAKER OR EMBALMER, OR REGISTERED
25 RESIDENT, KNOWINGLY GIVES, SELLS, PERMITS TO BE SOLD, OFFERS FOR SALE OR
26 DISPLAYS FOR SALE, OTHER THAN FOR PURPOSES WITHIN THE GENERAL SCOPE OF

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 THEIR ACTIVITIES AS A LICENSED FUNERAL DIRECTOR, UNDERTAKER OR EMBALMER,
2 OR REGISTERED RESIDENT, EMBALMING FLUID TO ANOTHER PERSON WITH ACTUAL
3 KNOWLEDGE THAT SUCH OTHER PERSON IS NOT A LICENSED FUNERAL DIRECTOR,
4 UNDERTAKER OR EMBALMER, OR REGISTERED RESIDENT, OR ENTITY AUTHORIZED TO
5 PERFORM EMBALMING ACTIVITIES UNDER SECTION THIRTY-FOUR HUNDRED TWENTY OF
6 THIS ARTICLE OR ACTIVITIES DESCRIBED IN ARTICLE FORTY-TWO OF THIS CHAP-
7 TER; OR

8 S 4. This act shall take effect on the one hundred eightieth day after
9 it shall have become a law.