

657

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

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 KNOWINGLY POSSESSES EMBALMING FLUID WITH THE INTENT: (A) TO
6 USE SUCH EMBALMING FLUID FOR PURPOSES OF HUMAN INGESTION OR INHALATION;
7 OR (B) TO SELL SUCH EMBALMING FLUID TO ANOTHER PERSON UNDER CIRCUM-
8 STANCES EVINCING KNOWLEDGE THAT SUCH OTHER PERSON OR A THIRD PERSON
9 INTENDS TO USE SUCH EMBALMING FLUID FOR PURPOSES OF HUMAN INGESTION OR
10 INHALATION.

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

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

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

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

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

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1 S 3. Paragraph (f) of subdivision 1 of section 3455 of the public
2 health law is relettered paragraph (g) and a new paragraph (f) is added
3 to read as follows:
4 (F) BEING A FUNERAL DIRECTOR, UNDERTAKER OR EMBALMER, OR REGISTERED
5 RESIDENT, KNOWINGLY GIVE, SELL, PERMIT TO BE SOLD, OFFER FOR SALE OR
6 DISPLAY FOR SALE, OTHER THAN FOR PURPOSES WITHIN THE GENERAL SCOPE OF
7 THEIR ACTIVITIES AS A LICENSED FUNERAL DIRECTOR, UNDERTAKER OR EMBALMER,
8 OR REGISTERED RESIDENT, EMBALMING FLUID TO ANOTHER PERSON WITH ACTUAL
9 KNOWLEDGE THAT SUCH OTHER PERSON IS NOT A LICENSED FUNERAL DIRECTOR,
10 UNDERTAKER OR EMBALMER, OR REGISTERED RESIDENT, OR ENTITY AUTHORIZED TO
11 PERFORM EMBALMING ACTIVITIES UNDER SECTION THIRTY-FOUR HUNDRED TWENTY OF
12 THIS ARTICLE OR ACTIVITIES DESCRIBED IN ARTICLE FORTY-TWO OF THIS CHAP-
13 TER; OR
14 S 4. This act shall take effect on the one hundred eightieth day after
15 it shall have become a law.