S T A T E O F N E W Y O R K

5121

2009-2010 Regular Sessions

I N A S S E M B L Y

February 10, 2009

Introduced by M. of A. GIGLIO, KOLB, QUINN, BARRA, FINCH, BALL -- Multi-Sponsored by -- M. of A. BARCLAY, BURLING, CONTE, CROUCH, ERRIGO, McDONOUGH, McKEVITT, THIELE, TOWNSEND, WALKER -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to criminal possession of marihuana

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

Section 1. Section 221.10 of the penal law, as amended by chapter 265 of the laws of 1979, subdivision 2 as amended by chapter 75 of the laws of 1995, is amended to read as follows:

S 221.10 Criminal possession of marihuana in the fifth degree.

A person is guilty of criminal possession of marihuana in the fifth degree when he OR SHE knowingly and unlawfully possesses:

1. marihuana in a public place, as defined in section 240.00 of this chapter, and such marihuana is burning or open to public view; or

2. one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of more than twenty-five grams[.]; OR

3. ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES CONTAINING MARIHUANA IN OR NEAR SCHOOL GROUNDS AND THE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES ARE OF AN AGGREGATE WEIGHT OF NOT MORE THAN TWELVE GRAMS.

Criminal possession of marihuana in the fifth degree is a class B misdemeanor.

S 2. Section 221.15 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

S 221.15 Criminal possession of marihuana in the fourth degree.

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

LBD00680-01-9

A person is guilty of criminal possession of marihuana in the fourth degree when he OR SHE knowingly and unlawfully possesses:

1. one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of more than two ounces[.]; OR

2. ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES CONTAINING MARIHUANA IN OR NEAR SCHOOL GROUNDS AND THE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES ARE OF AN AGGREGATE WEIGHT OF MORE THAN TWELVE GRAMS.

Criminal possession of marihuana in the fourth degree is a class A misdemeanor.

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.