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

5288

2009-2010 Regular Sessions

I N A S S E M B L Y

February 11, 2009

Introduced by M. of A. MENG, PHEFFER, DelMONTE, GREENE, SPANO -- Multi-Sponsored by -- M. of A. WEISENBERG -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation creating the new offenses of criminal sale of a controlled substance resembling candy and criminal sale of marihuana resembling candy, and providing for penalties therefor

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

Section 1. The penal law is amended by adding two new sections 220.44-a and 221.56 to read as follows:

S 220.44-A CRIMINAL SALE OF A CONTROLLED SUBSTANCE RESEMBLING CANDY.

1. A PERSON IS GUILTY OF CRIMINAL SALE OF A CONTROLLED SUBSTANCE RESEMBLING CANDY WHEN HE OR SHE KNOWINGLY AND UNLAWFULLY SELLS A CONTROLLED SUBSTANCE IN VIOLATION OF SECTION 220.31 OF THIS ARTICLE, AND:

A. SUCH CONTROLLED SUBSTANCE HAS BEEN DESIGNED, MANUFACTURED, ALTERED, OR FORMULATED TO TASTE OR SMELL LIKE CANDY; OR

B. SUCH CONTROLLED SUBSTANCE HAS BEEN PACKAGED AS, REPRESENTED OR MARKETED TO BE, OR OTHERWISE APPEARS TO BE CANDY.

2. AS USED IN THIS SECTION, "CANDY" MEANS ANY CANDY, CANDY PRODUCT OR CONFECTIONARY, INCLUDING, BUT NOT LIMITED TO, HARD CANDY, JELLIES, GUMS, MARSHMALLOW CANDIES, FONDANT, LICORICE, SPUN CANDY, CHEWING GUM, SWEETENED LIQUIDS, WATER ICES, AND CANDY COATED POPCORN, NUTS OR FRUIT.

3. A. CRIMINAL SALE OF A CONTROLLED SUBSTANCE RESEMBLING CANDY IN VIOLATION OF SECTION 220.31 OR 220.34 OF THIS ARTICLE IS A CLASS B FELONY.

B. CRIMINAL SALE OF A CONTROLLED SUBSTANCE RESEMBLING CANDY IN VIOLATION OF SECTION 220.39 OF THIS ARTICLE IS A CLASS A-II FELONY.

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

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C. CRIMINAL SALE OF A CONTROLLED SUBSTANCE RESEMBLING CANDY IN VIOLATION OF SECTION 220.41 OR 220.43 OF THIS ARTICLE IS A CLASS A-I FELONY.

S 221.56 CRIMINAL SALE OF MARIHUANA RESEMBLING CANDY.

1. A PERSON IS GUILTY OF CRIMINAL SALE OF MARIHUANA RESEMBLING CANDY WHEN HE OR SHE KNOWINGLY AND UNLAWFULLY SELLS MARIHUANA IN VIOLATION OF THE PROVISIONS OF ARTICLE 221 OF THIS CHAPTER, AND:

A. SUCH MARIHUANA HAS BEEN DESIGNED, ALTERED, OR FORMULATED TO TASTE OR SMELL LIKE CANDY; OR

B. SUCH MARIHUANA HAS BEEN PACKAGED AS, REPRESENTED OR MARKETED TO BE, OR OTHERWISE APPEARS TO BE CANDY.

2. AS USED IN THIS SECTION, "CANDY" MEANS ANY CANDY, CANDY PRODUCT OR CONFECTIONARY, INCLUDING, BUT NOT LIMITED TO, HARD CANDY, JELLIES, GUMS, MARSHMALLOW CANDIES, FONDANT, LICORICE, SPUN CANDY, CHEWING GUM, SWEETENED LIQUIDS, WATER ICES, AND CANDY COATED POPCORN, NUTS OR FRUIT.

3. A. CRIMINAL SALE OF MARIHUANA RESEMBLING CANDY IN VIOLATION OF SECTION 221.35 OF THIS ARTICLE IS A CLASS A MISDEMEANOR.

B. CRIMINAL SALE OF MARIHUANA RESEMBLING CANDY IN VIOLATION OF SECTION 221.40 IS A CLASS E FELONY.

C. CRIMINAL SALE OF MARIHUANA RESEMBLING CANDY IN VIOLATION OF SECTION 221.45 IS A CLASS D FELONY.

D. CRIMINAL SALE OF MARIHUANA RESEMBLING CANDY IN VIOLATION OF SECTION 221.50 IS A CLASS C FELONY.

E. CRIMINAL SALE OF MARIHUANA RESEMBLING CANDY IN VIOLATION OF SECTION 221.55 IS A CLASS B FELONY.

S 2. This act shall take effect on the first of November next succeeding the date upon which it shall have become a law.