

6761

I N   S E N A T E

February 3, 2010

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Introduced by Sen. STAVISKY -- read twice and ordered printed, and when printed to be committed 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:

1     Section 1. The penal law is amended by adding two new sections  
2     220.44-a and 221.56 to read as follows:  
3     S 220.44-A CRIMINAL SALE OF A CONTROLLED SUBSTANCE RESEMBLING CANDY.  
4     1. A PERSON IS GUILTY OF CRIMINAL SALE OF A CONTROLLED SUBSTANCE  
5     RESEMBLING CANDY WHEN HE OR SHE KNOWINGLY AND UNLAWFULLY SELLS A  
6     CONTROLLED SUBSTANCE IN VIOLATION OF SECTION 220.31 OF THIS ARTICLE,  
7     AND:  
8     A. SUCH CONTROLLED SUBSTANCE HAS BEEN DESIGNED, MANUFACTURED, ALTERED,  
9     OR FORMULATED TO TASTE OR SMELL LIKE CANDY; OR  
10    B. SUCH CONTROLLED SUBSTANCE HAS BEEN PACKAGED AS, REPRESENTED OR  
11    MARKETED TO BE, OR OTHERWISE APPEARS TO BE CANDY.  
12    2. AS USED IN THIS SECTION, "CANDY" MEANS ANY CANDY, CANDY PRODUCT OR  
13    CONFECTIONARY, INCLUDING, BUT NOT LIMITED TO, HARD CANDY, JELLIES, GUMS,  
14    MARSHMALLOW CANDIES, FONDANT, LICORICE, SPUN CANDY, CHEWING GUM, SWEET-  
15    ENED LIQUIDS, WATER ICES, AND CANDY COATED POPCORN, NUTS OR FRUIT.  
16    3. A. CRIMINAL SALE OF A CONTROLLED SUBSTANCE RESEMBLING CANDY IN  
17    VIOLATION OF SECTION 220.31 OR 220.34 OF THIS ARTICLE IS A CLASS B FELONY.  
18    NY.  
19    B. CRIMINAL SALE OF A CONTROLLED SUBSTANCE RESEMBLING CANDY IN  
20    VIOLATION OF SECTION 220.39 OF THIS ARTICLE IS A CLASS A-II FELONY.  
21    C. CRIMINAL SALE OF A CONTROLLED SUBSTANCE RESEMBLING CANDY IN  
22    VIOLATION OF SECTION 220.41 OR 220.43 OF THIS ARTICLE IS A CLASS A-I  
23    FELONY.  
24    S 221.56 CRIMINAL SALE OF MARIHUANA RESEMBLING CANDY.

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

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

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

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

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

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

14 B. CRIMINAL SALE OF MARIHUANA RESEMBLING CANDY IN VIOLATION OF SECTION  
15 221.40 IS A CLASS E FELONY.

16 C. CRIMINAL SALE OF MARIHUANA RESEMBLING CANDY IN VIOLATION OF SECTION  
17 221.45 IS A CLASS D FELONY.

18 D. CRIMINAL SALE OF MARIHUANA RESEMBLING CANDY IN VIOLATION OF SECTION  
19 221.50 IS A CLASS C FELONY.

20 E. CRIMINAL SALE OF MARIHUANA RESEMBLING CANDY IN VIOLATION OF SECTION  
21 221.55 IS A CLASS B FELONY.

22 S 2. This act shall take effect on the first of November next succeed-  
23 ing the date upon which it shall have become a law.