

11509

I N   A S S E M B L Y

June 18, 2010

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Introduced by COMMITTEE ON RULES -- (at request of M. of A. Magnarelli)  
-- read once and referred 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.  
25    S 3. Paragraph (f) of subdivision 1 of section 3455 of the public  
26    health law is relettered paragraph (g) and a new paragraph (f) is added  
27    to read as follows:

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

LBD14710-07-0

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