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

1512

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. WRIGHT -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to jury consideration of lesser included offenses

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

Section 1. Subdivision 6 of section 300.50 of the criminal procedure law is renumbered subdivision 7 and a new subdivision 6 is added to read as follows:

6. WHENEVER THE COURT SUBMITS TWO OR MORE OFFENSES IN THE ALTERNATIVE PURSUANT TO THIS SECTION, AND THE JURY COMMUNICATES TO THE COURT THAT IT IS UNABLE TO AGREE UPON A VERDICT WITH RESPECT TO THE GREATEST OFFENSE, AND THE COURT CONCLUDES THAT SUCH AGREEMENT IS UNLIKELY WITHIN A REASONABLE TIME, THE COURT MAY INSTRUCT THAT THE JURY MAY GO ON TO CONSIDER LESSER INCLUDED OFFENSES OF THAT COUNT. IF THE COURT SO INSTRUCTS THE JURY, IT MUST ALSO INSTRUCT THE JURY THAT IF THE DEFENDANT IS CONVICTED OF ANY SUCH LESSER INCLUDED OFFENSE, THE DEFENDANT CANNOT BE RETRIED FOR THE GREATEST OFFENSE.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.

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

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