

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 consid-
eration of lesser included offenses

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

1 Section 1. Subdivision 6 of section 300.50 of the criminal procedure
2 law is renumbered subdivision 7 and a new subdivision 6 is added to read
3 as follows:
4 6. WHENEVER THE COURT SUBMITS TWO OR MORE OFFENSES IN THE ALTERNATIVE
5 PURSUANT TO THIS SECTION, AND THE JURY COMMUNICATES TO THE COURT THAT IT
6 IS UNABLE TO AGREE UPON A VERDICT WITH RESPECT TO THE GREATEST OFFENSE,
7 AND THE COURT CONCLUDES THAT SUCH AGREEMENT IS UNLIKELY WITHIN A REASON-
8 ABLE TIME, THE COURT MAY INSTRUCT THAT THE JURY MAY GO ON TO CONSIDER
9 LESSER INCLUDED OFFENSES OF THAT COUNT. IF THE COURT SO INSTRUCTS THE
10 JURY, IT MUST ALSO INSTRUCT THE JURY THAT IF THE DEFENDANT IS CONVICTED
11 OF ANY SUCH LESSER INCLUDED OFFENSE, THE DEFENDANT CANNOT BE RETRIED FOR
12 THE GREATEST OFFENSE.
13 S 2. This act shall take effect on the ninetieth day after it shall
14 have become a law.

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

LBD00231-01-9