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

6584

2009-2010 Regular Sessions

I N A S S E M B L Y

March 6, 2009

Introduced by M. of A. BURLING, RABBITT, TOWNSEND, SCOZZAFAVA, FINCH -- Multi-Sponsored by -- M. of A. ALFANO, BACALLES, BARCLAY, BARRA, CALHOUN, CONTE, CROUCH, ERRIGO, FITZPATRICK, GIGLIO, HAWLEY, KOLB, McDONOUGH, McKEVITT, MILLER, MOLINARO, OAKS, O'MARA, QUINN, RAIA, SAYWARD, SPANO, TEDISCO, WALKER -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the criminal procedure law, in relation to criminal diversion of prescription medications and prescriptions

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

Section 1. Subdivision 2 and the opening paragraph and paragraphs (a) and (b) of subdivision 3 of section 178.00 of the penal law, as added by chapter 81 of the laws of 1995, are amended to read as follows:

2. "Prescription" means a direction or authorization by means of a written prescription form or an oral prescription which permits OR PURPORTS TO PERMIT a person to lawfully obtain a prescription medication or device from any person authorized to dispense such prescription medication or device.

"Criminal diversion act" means an act, or acts CONSTITUTING A SYSTEMATIC COURSE OF CONDUCT, in which a person knowingly:

(a) transfers or delivers, in exchange for anything of pecuniary value, a prescription medication or device with [knowledge] BELIEF or reasonable grounds to [know] BELIEVE that the recipient has no medical need for it; or

(b) receives, in exchange for anything of pecuniary value, a prescription medication or device with [knowledge] BELIEF or reasonable grounds to [know] BELIEVE that the seller or transferor is not authorized by law to sell or transfer such prescription medication or device; or

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

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S 2. Section 178.00 of the penal law is amended by adding a new subdivision 4 to read as follows:

4. "VALUE OF THE BENEFIT EXCHANGED" MEANS THE VALUE OF THE PRESCRIPTION MEDICATION OR DEVICE IF PURCHASED LAWFULLY.

S 3. Section 178.10 of the penal law, as added by chapter 81 of the laws of 1995, is amended to read as follows:

S 178.10 Criminal diversion of prescription medications and prescriptions in the [fourth] FIFTH degree.

A person is guilty of criminal diversion of prescription medications and prescriptions in the [fourth] FIFTH degree when he or she commits a criminal diversion act.

Criminal diversion of prescription medications and prescriptions in the [fourth] FIFTH degree is a class A misdemeanor.

S 4. Section 178.15 of the penal law, as added by chapter 81 of the laws of 1995, is amended to read as follows:

S 178.15 Criminal diversion of prescription medications and prescriptions in the [third] FOURTH degree.

A person is guilty of criminal diversion of prescription medications and prescriptions in the [third] FOURTH degree when he or she:

1. commits a criminal diversion act, and the value of the benefit exchanged is in excess of one thousand dollars; or

2. commits the crime of criminal diversion of prescription medications and prescriptions in the [fourth] FIFTH degree, and has previously been convicted of [the crime of criminal diversion of prescription medications and prescriptions in the fourth degree.] ANY OFFENSE PURSUANT TO THIS ARTICLE; OR

3. COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE FIFTH DEGREE AND SUCH PERSON IS A DULY LICENSED PHARMACIST.

Criminal diversion of prescription medications and prescriptions in the [third] FOURTH degree is a class E felony.

S 5. Section 178.20 of the penal law, as added by chapter 81 of the laws of 1995, is amended to read as follows:

S 178.20 Criminal diversion of prescription medications and prescriptions in the [second] THIRD degree.

A person is guilty of criminal diversion of prescription medications and prescriptions in the [second] THIRD degree when he or she [commits]:

1. COMMITS a criminal diversion act, and the value of the benefit exchanged is in excess of three thousand dollars[.]; OR

2. COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE FOURTH DEGREE AND SUCH PERSON IS A DULY LICENSED PHARMACIST.

Criminal diversion of prescription medications and prescriptions in the [second] THIRD degree is a class D felony.

S 6. Section 178.25 of the penal law, as added by chapter 81 of the laws of 1995, is amended to read as follows:

S 178.25 Criminal diversion of prescription medications and prescriptions in the [first] SECOND degree.

A person is guilty of criminal diversion of prescription medications and prescriptions in the [first] SECOND degree when he or she:

1. commits a criminal diversion act, and the value of the benefit exchanged is in excess of fifty thousand dollars[.]; OR

2. COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE THIRD DEGREE AND SUCH PERSON IS A DULY LICENSED PHARMACIST.

Criminal diversion of prescription medications and prescriptions in the [first] SECOND degree is a class C felony.

S 7. The penal law is amended by adding a new section 178.30 to read as follows:

S 178.30 CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE FIRST DEGREE.

A PERSON IS GUILTY OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE FIRST DEGREE WHEN HE OR SHE:

1. COMMITS A CRIMINAL DIVERSION ACT AND THE VALUE OF THE BENEFIT EXCHANGED IS IN EXCESS OF ONE MILLION DOLLARS; OR

2. COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE SECOND DEGREE AND SUCH PERSON IS A DULY LICENSED PHARMACIST.

CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE FIRST DEGREE IS A CLASS B FELONY.

S 8. The penal law is amended by adding a new section 178.35 to read as follows:

S 178.35 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIFTH DEGREE.

A PERSON IS GUILTY OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIFTH DEGREE WHEN HE OR SHE KNOWINGLY POSSESSES ONE OR MORE OF THESE ITEMS UNDER CIRCUMSTANCES EVINCING THE INTENT TO ENGAGE IN A CRIMINAL DIVERSION ACT OR BELIEF THAT SUCH ITEMS WERE ACQUIRED IN ONE OR MORE CRIMINAL DIVERSION ACTS.

CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIFTH DEGREE IS A CLASS A MISDEMEANOR.

S 9. The penal law is amended by adding a new section 178.40 to read as follows:

S 178.40 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE FOURTH DEGREE.

A PERSON IS GUILTY OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE FOURTH DEGREE WHEN HE OR SHE:

1. KNOWINGLY POSSESSES CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS OR DEVICES AND THE AGGREGATE VALUE OF THE ITEMS SO POSSESSED, AS IF PURCHASED LAWFULLY, IS IN EXCESS OF ONE THOUSAND DOLLARS; OR

2. COMMITS THE CRIME OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIFTH DEGREE AND HAS PREVIOUSLY BEEN CONVICTED OF ANY CRIME SET FORTH IN THIS ARTICLE; OR

3. COMMITS THE CRIME OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIFTH DEGREE AND SUCH PERSON IS A DULY LICENSED PHARMACIST.

CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE FOURTH DEGREE IS A CLASS E FELONY.

S 10. The penal law is amended by adding a new section 178.45 to read as follows:

S 178.45 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE THIRD DEGREE.

A PERSON IS GUILTY OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE THIRD DEGREE WHEN HE OR SHE:

1. KNOWINGLY POSSESSES CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS OR DEVICES AND THE AGGREGATE VALUE OF THE ITEMS SO POSSESSED, AS IF PURCHASED LAWFULLY, IS IN EXCESS OF THREE THOUSAND DOLLARS; OR

2. COMMITS THE CRIME OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE FOURTH DEGREE AND SUCH PERSON IS A DULY LICENSED PHARMACIST.

CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE THIRD DEGREE IS A CLASS D FELONY.

S 11. The penal law is amended by adding a new section 178.50 to read as follows:

S 178.50 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND DEGREE.

A PERSON IS GUILTY OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND DEGREE WHEN HE OR SHE:

1. KNOWINGLY POSSESSES CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS OR DEVICES AND THE AGGREGATE VALUE OF THE ITEMS SO POSSESSED, AS IF PURCHASED LAWFULLY, IS IN EXCESS OF FIFTY THOUSAND DOLLARS; OR

2. COMMITS THE CRIME OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE THIRD DEGREE AND SUCH PERSON IS A DULY LICENSED PHARMACIST.

CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND DEGREE IS A CLASS C FELONY.

S 12. The penal law is amended by adding a new section 178.55 to read as follows:

S 178.55 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIRST DEGREE.

A PERSON IS GUILTY OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIRST DEGREE WHEN HE OR SHE:

1. KNOWINGLY POSSESSES CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS OR DEVICES AND THE AGGREGATE VALUE OF THE ITEMS SO POSSESSED, AS IF PURCHASED LAWFULLY, IS IN EXCESS OF ONE MILLION DOLLARS; OR

2. COMMITS THE CRIME OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND DEGREE AND SUCH PERSON IS A DULY LICENSED PHARMACIST.

CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIRST DEGREE IS A CLASS B FELONY.

S 13. The penal law is amended by adding a new section 178.60 to read as follows:

S 178.60 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES; REBUTTABLE PRESUMPTIONS.

1. A PERSON IS PRESUMED TO KNOWINGLY POSSESS CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES WHEN HE OR SHE POSSESSES SUCH ITEMS IN FIVE OR MORE PREVIOUSLY DISPENSED CONTAINERS WITH THE NAMES OF DIFFERENT PERSONS APPEARING ON SUCH CONTAINERS.

2. A PERSON IS PRESUMED TO KNOWINGLY POSSESS CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS OR DEVICES WHEN HE OR SHE POSSESSES SUCH ITEMS IN FIVE OR MORE CONTAINERS OTHER THAN THOSE IN WHICH HE OR SHE IS AUTHORIZED TO POSSESS PURSUANT TO SECTIONS SIXTY-EIGHT HUNDRED ELEVEN AND SIXTY-EIGHT HUNDRED FIFTEEN OF THE EDUCATION LAW.

S 14. Paragraph (a) of subdivision 1 of section 460.10 of the penal law, as separately amended by chapters 312 and 472 of the laws of 2008, is amended to read as follows:

(a) Any of the felonies set forth in this chapter: sections 120.05, 120.10 and 120.11 relating to assault; sections 125.10 to 125.27 relating to homicide; sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and 135.25 relating to kidnapping; section 135.35 relating to labor trafficking; section 135.65 relating to coercion; sections 140.20, 140.25 and 140.30 relating to burglary; sections 145.05, 145.10 and 145.12 relating to criminal mischief; article one hundred fifty relating to arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to

health care fraud; article one hundred sixty relating to robbery; sections 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of stolen property; sections 165.72 and 165.73 relating to trademark counterfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and 176.30 relating to insurance fraud; sections 178.20 [and], 178.25, AND 178.30 relating to criminal diversion of prescription medications and prescriptions; SECTIONS 178.40, 178.45, 178.50 AND 178.55 RELATING TO CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES; sections 180.03, 180.08, 180.15, 180.25, 180.40, 180.45, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.20, 200.22, 200.25, 200.27, 215.00, 215.05 and 215.19 relating to bribery; sections 187.10, 187.15, 187.20 and 187.25 relating to residential mortgage fraud, sections 190.40 and 190.42 relating to criminal usury; section 190.65 relating to schemes to defraud; sections 205.60 and 205.65 relating to hindering prosecution; sections 210.10, 210.15, and 215.51 relating to perjury and contempt; section 215.40 relating to tampering with physical evidence; sections 220.06, 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41, 220.43, 220.46, 220.55 and 220.60 relating to controlled substances; sections 225.10 and 225.20 relating to gambling; sections 230.25, 230.30, and 230.32 relating to promoting prostitution; section 230.34 relating to sex trafficking; sections 235.06, 235.07, 235.21 and 235.22 relating to obscenity; sections 263.10 and 263.15 relating to promoting a sexual performance by a child; sections 265.02, 265.03, 265.04, 265.11, 265.12, 265.13 and the provisions of section 265.10 which constitute a felony relating to firearms and other dangerous weapons; and sections 265.14 and 265.16 relating to criminal sale of a firearm; and section 275.10, 275.20, 275.30, or 275.40 relating to unauthorized recordings; and sections 470.05, 470.10, 470.15 and 470.20 relating to money laundering; or

S 15. Paragraphs (b) and (c) of subdivision 8 of section 700.05 of the criminal procedure law, paragraph (b) as amended by chapter 472 of the laws of 2008 and paragraph (c) as amended by chapter 394 of the laws of 2005, are amended to read as follows:

(b) Any of the following felonies: assault in the second degree as defined in section 120.05 of the penal law, assault in the first degree as defined in section 120.10 of the penal law, reckless endangerment in the first degree as defined in section 120.25 of the penal law, promoting a suicide attempt as defined in section 120.30 of the penal law, criminally negligent homicide as defined in section 125.10 of the penal law, manslaughter in the second degree as defined in section 125.15 of the penal law, manslaughter in the first degree as defined in section 125.20 of the penal law, murder in the second degree as defined in section 125.25 of the penal law, murder in the first degree as defined in section 125.27 of the penal law, abortion in the second degree as defined in section 125.40 of the penal law, abortion in the first degree as defined in section 125.45 of the penal law, rape in the third degree as defined in section 130.25 of the penal law, rape in the second degree as defined in section 130.30 of the penal law, rape in the first degree as defined in section 130.35 of the penal law, criminal sexual act in the third degree as defined in section 130.40 of the penal law, criminal sexual act in the second degree as defined in section 130.45 of the penal law, criminal sexual act in the first degree as defined in section 130.50 of the penal law, sexual abuse in the first degree as defined in section 130.65 of the penal law, unlawful imprisonment in the first

degree as defined in section 135.10 of the penal law, kidnapping in the second degree as defined in section 135.20 of the penal law, kidnapping in the first degree as defined in section 135.25 of the penal law, labor trafficking as defined in section 135.35 of the penal law, custodial interference in the first degree as defined in section 135.50 of the penal law, coercion in the first degree as defined in section 135.65 of the penal law, criminal trespass in the first degree as defined in section 140.17 of the penal law, burglary in the third degree as defined in section 140.20 of the penal law, burglary in the second degree as defined in section 140.25 of the penal law, burglary in the first degree as defined in section 140.30 of the penal law, criminal mischief in the third degree as defined in section 145.05 of the penal law, criminal mischief in the second degree as defined in section 145.10 of the penal law, criminal mischief in the first degree as defined in section 145.12 of the penal law, criminal tampering in the first degree as defined in section 145.20 of the penal law, arson in the fourth degree as defined in section 150.05 of the penal law, arson in the third degree as defined in section 150.10 of the penal law, arson in the second degree as defined in section 150.15 of the penal law, arson in the first degree as defined in section 150.20 of the penal law, grand larceny in the fourth degree as defined in section 155.30 of the penal law, grand larceny in the third degree as defined in section 155.35 of the penal law, grand larceny in the second degree as defined in section 155.40 of the penal law, grand larceny in the first degree as defined in section 155.42 of the penal law, health care fraud in the fourth degree as defined in section 177.10 of the penal law, health care fraud in the third degree as defined in section 177.15 of the penal law, health care fraud in the second degree as defined in section 177.20 of the penal law, health care fraud in the first degree as defined in section 177.25 of the penal law, robbery in the third degree as defined in section 160.05 of the penal law, robbery in the second degree as defined in section 160.10 of the penal law, robbery in the first degree as defined in section 160.15 of the penal law, unlawful use of secret scientific material as defined in section 165.07 of the penal law, criminal possession of stolen property in the fourth degree as defined in section 165.45 of the penal law, criminal possession of stolen property in the third degree as defined in section 165.50 of the penal law, criminal possession of stolen property in the second degree as defined by section 165.52 of the penal law, criminal possession of stolen property in the first degree as defined by section 165.54 of the penal law, trademark counterfeiting in the second degree as defined in section 165.72 of the penal law, trademark counterfeiting in the first degree as defined in section 165.73 of the penal law, forgery in the second degree as defined in section 170.10 of the penal law, forgery in the first degree as defined in section 170.15 of the penal law, criminal possession of a forged instrument in the second degree as defined in section 170.25 of the penal law, criminal possession of a forged instrument in the first degree as defined in section 170.30 of the penal law, criminal possession of forgery devices as defined in section 170.40 of the penal law, falsifying business records in the first degree as defined in section 175.10 of the penal law, tampering with public records in the first degree as defined in section 175.25 of the penal law, offering a false instrument for filing in the first degree as defined in section 175.35 of the penal law, issuing a false certificate as defined in section 175.40 of the penal law, CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE FOURTH DEGREE AS DEFINED IN SECTION 178.15 OF THE PENAL LAW, criminal

diversion of prescription medications and prescriptions in the [second] THIRD degree as defined in section 178.20 of the penal law, criminal diversion of prescription medications and prescriptions in the [first] SECOND degree as defined in section 178.25 of the penal law, CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE FIRST DEGREE AS DEFINED IN SECTION 178.30 OF THE PENAL LAW, CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE FOURTH DEGREE AS DEFINED IN SECTION 178.40 OF THE PENAL LAW, CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE THIRD DEGREE AS DEFINED IN SECTION 178.45 OF THE PENAL LAW, CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND DEGREE AS DEFINED IN SECTION 178.50 OF THE PENAL LAW, CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIRST DEGREE AS DEFINED IN SECTION 178.55 OF THE PENAL LAW, residential mortgage fraud in the fourth degree as defined in section 187.10 of the penal law, residential mortgage fraud in the third degree as defined in section 187.15 of the penal law, residential mortgage fraud in the second degree as defined in section 187.20 of the penal law, residential mortgage fraud in the first degree as defined in section 187.25 of the penal law, escape in the second degree as defined in section 205.10 of the penal law, escape in the first degree as defined in section 205.15 of the penal law, absconding from temporary release in the first degree as defined in section 205.17 of the penal law, promoting prison contraband in the first degree as defined in section 205.25 of the penal law, hindering prosecution in the second degree as defined in section 205.60 of the penal law, hindering prosecution in the first degree as defined in section 205.65 of the penal law, sex trafficking as defined in section 230.34 of the penal law, criminal possession of a weapon in the third degree as defined in subdivisions two, three and five of section 265.02 of the penal law, criminal possession of a weapon in the second degree as defined in section 265.03 of the penal law, criminal possession of a weapon in the first degree as defined in section 265.04 of the penal law, manufacture, transport, disposition and defacement of weapons and dangerous instruments and appliances defined as felonies in subdivisions one, two, and three of section 265.10 of the penal law, sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use of weapons as defined in subdivision two of section 265.35 of the penal law, relating to firearms and other dangerous weapons, or failure to disclose the origin of a recording in the first degree as defined in section 275.40 of the penal law;

(c) Criminal DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE FIFTH DEGREE AS DEFINED IN SECTION 178.10 OF THE PENAL LAW, CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIFTH DEGREE AS DEFINED IN SECTION 178.35 OF THE PENAL LAW, CRIMINAL possession of a controlled substance in the seventh degree as defined in section 220.03 of the penal law, criminal possession of a controlled substance in the fifth degree as defined in section 220.06 of the penal law, criminal possession of a controlled substance in the fourth degree as defined in section 220.09 of the penal law, criminal possession of a controlled substance in the third degree as defined in section 220.16 of the penal law, criminal possession of a controlled substance in the second degree as defined in section 220.18 of the penal law, criminal possession of a controlled substance in the first degree as defined in section 220.21 of the penal law, criminal sale of a controlled substance in the fifth degree as defined in section 220.31 of

the penal law, criminal sale of a controlled substance in the fourth degree as defined in section 220.34 of the penal law, criminal sale of a controlled substance in the third degree as defined in section 220.39 of the penal law, criminal sale of a controlled substance in the second degree as defined in section 220.41 of the penal law, criminal sale of a controlled substance in the first degree as defined in section 220.43 of the penal law, criminally possessing a hypodermic instrument as defined in section 220.45 of the penal law, criminal possession of methamphetamine manufacturing material in the second degree as defined in section 220.70 of the penal law, criminal possession of methamphetamine manufacturing material in the first degree as defined in section 220.71 of the penal law, criminal possession of precursors of methamphetamine as defined in section 220.72 of the penal law, unlawful manufacture of methamphetamine in the third degree as defined in section 220.73 of the penal law, unlawful manufacture of methamphetamine in the second degree as defined in section 220.74 of the penal law, unlawful manufacture of methamphetamine in the first degree as defined in section 220.75 of the penal law, unlawful disposal of methamphetamine laboratory material as defined in section 220.76 of the penal law, criminal possession of marihuana in the first degree as defined in section 221.30 of the penal law, criminal sale of marihuana in the first degree as defined in section 221.55 of the penal law, promoting gambling in the second degree as defined in section 225.05 of the penal law, promoting gambling in the first degree as defined in section 225.10 of the penal law, possession of gambling records in the second degree as defined in section 225.15 of the penal law, possession of gambling records in the first degree as defined in section 225.20 of the penal law, and possession of a gambling device as defined in section 225.30 of the penal law;

S 16. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.