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

1289--A

2009-2010 Regular Sessions

I N S E N A T E

January 28, 2009

Introduced by Sens. MONTGOMERY, BRESLIN, DUANE, KRUEGER, PERKINS, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil practice law and rules, the criminal procedure law and the executive law, in relation to the use in evidence of the fact of possession of a condom

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

Section 1. The civil practice law and rules is amended by adding a new section 4519-a to read as follows:

S 4519-A. POSSESSION OF CONDOMS; RECEIPT INTO EVIDENCE. POSSESSION OF A CONDOM MAY NOT BE RECEIVED IN EVIDENCE IN ANY TRIAL, HEARING OR PROCEEDING PURSUANT TO SUBDIVISION ONE OF SECTION TWELVE AND ARTICLE TEN OF THE MULTIPLE DWELLING LAW, SECTIONS TWELVE-A, TWENTY-THREE HUNDRED TWO AND TWENTY-THREE HUNDRED TWENTY OF THE PUBLIC HEALTH LAW, SECTION TWO HUNDRED THIRTY-ONE OF THE REAL PROPERTY LAW OR SUBDIVISION FIVE OF SECTION SEVEN HUNDRED ELEVEN AND SECTION SEVEN HUNDRED FIFTEEN OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW AS EVIDENCE OF PROSTITUTION, PATRONIZING A PROSTITUTE, PROMOTING PROSTITUTION, PERMITTING PROSTITUTION, MAINTAINING A PREMISES FOR PROSTITUTION, LEWDNESS OR ASSIGNATION, OR MAINTAINING A BAWDY HOUSE.

S 2. The criminal procedure law is amended by adding a new section 60.47 to read as follows:

S 60.47 POSSESSION OF CONDOMS; RECEIPT INTO EVIDENCE.

EVIDENCE THAT A PERSON WAS IN POSSESSION OF ONE OR MORE CONDOMS MAY NOT BE ADMITTED AT ANY TRIAL, HEARING OR OTHER PROCEEDING IN A PROSECUTION FOR ANY OFFENSE, OR AN ATTEMPT TO COMMIT ANY OFFENSE, DEFINED IN ARTICLE TWO HUNDRED THIRTY OR SECTION 240.37 OF THE PENAL LAW FOR THE

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

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PURPOSE OF ESTABLISHING PROBABLE CAUSE FOR AN ARREST OR PROVING ANY PERSON'S COMMISSION OR ATTEMPTED COMMISSION OF SUCH OFFENSE.

S 3. Section 841 of the executive law is amended by adding a new subdivision 7-b to read as follows:

7-B. TAKE SUCH STEPS AS MAY BE NECESSARY TO ENSURE THAT ALL POLICE OFFICERS AND PEACE OFFICERS CERTIFIED PURSUANT TO SUBDIVISION THREE OF THIS SECTION RECEIVE APPROPRIATE INSTRUCTION REGARDING THE EVIDENTIARY PROHIBITION SET FORTH IN SECTION 60.47 OF THE CRIMINAL PROCEDURE LAW RELATING TO THE INTRODUCTION OF CONDOMS INTO EVIDENCE IN CERTAIN CRIMINAL PROSECUTIONS;

S 4. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.