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

2659

2009-2010 Regular Sessions

I N S E N A T E

February 26, 2009

Introduced by Sen. VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, the alcoholic beverage control law, the administrative code of the city of New York, the general city law, the general municipal law and the vehicle and traffic law, in relation to the unlawful sale of alcohol to an underage person

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

Section 1. Section 260.20 of the penal law, as amended by chapter 362 of the laws of 1992, is amended to read as follows:

S 260.20 Unlawfully dealing with a child in the first degree.

A person is guilty of unlawfully dealing with a child in the first degree when[:

1. He] HE OR SHE knowingly permits a child less than eighteen years old to enter or remain in or upon a place, premises or establishment where sexual activity as defined by article one hundred thirty, two hundred thirty or two hundred sixty-three of this chapter or activity involving controlled substances as defined by article two hundred twenty of this chapter or involving marihuana as defined by article two hundred twenty-one of this chapter is maintained or conducted, and he OR SHE knows or has reason to know that such activity is being maintained or conducted[; or

2. He gives or sells or causes to be given or sold any alcoholic beverage, as defined by section three of the alcoholic beverage control law, to a person less than twenty-one years old; except that this subdivision does not apply to the parent or guardian of such a person or to a person who gives or causes to be given any such alcoholic beverage to a person under the age of twenty-one years, who is a student in a curriculum licensed or registered by the state education department, where the tasting or imbibing of alcoholic beverages is required in courses that are part of the required curriculum, provided such alcoholic beverages

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

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are given only for instructional purposes during classes conducted pursuant to such curriculum.

It is no defense to a prosecution pursuant to subdivision two of this section that the child acted as the agent or representative of another person or that the defendant dealt with the child as such].

Unlawfully dealing with a child in the first degree is a class A misdemeanor.

S 2. The penal law is amended by adding a new section 260.22 to read as follows:

S 260.22 UNLAWFUL SALE OF ALCOHOL TO AN UNDERAGE PERSON.

A PERSON IS GUILTY OF UNLAWFUL SALE OF ALCOHOL TO AN UNDERAGE PERSON WHEN HE OR SHE GIVES OR SELLS OR CAUSES TO BE GIVEN OR SOLD ANY ALCOHOLIC BEVERAGE, AS DEFINED BY SECTION THREE OF THE ALCOHOLIC BEVERAGE CONTROL LAW, TO A PERSON LESS THAN TWENTY-ONE YEARS OLD; EXCEPT THAT THIS SECTION DOES NOT APPLY TO THE PARENT OR GUARDIAN OF SUCH A PERSON OR TO A PERSON WHO GIVES OR CAUSES TO BE GIVEN ANY SUCH ALCOHOLIC BEVERAGE TO A PERSON UNDER THE AGE OF TWENTY-ONE YEARS, WHO IS A STUDENT IN A CURRICULUM LICENSED OR REGISTERED BY THE STATE EDUCATION DEPARTMENT, WHERE THE TASTING OR IMBIBING OF ALCOHOLIC BEVERAGES IS REQUIRED IN COURSES THAT ARE PART OF THE REQUIRED CURRICULUM, PROVIDED SUCH ALCOHOLIC BEVERAGES ARE GIVEN ONLY FOR INSTRUCTIONAL PURPOSES DURING CLASSES CONDUCTED PURSUANT TO SUCH CURRICULUM. IT IS NO DEFENSE TO A PROSECUTION PURSUANT TO THIS SECTION THAT THE UNDERAGE PERSON ACTED AS THE AGENT OR REPRESENTATIVE OF ANOTHER PERSON OR THAT THE DEFENDANT DEALT WITH THE UNDERAGE PERSON AS SUCH.

UNLAWFUL SALE OF ALCOHOL TO AN UNDERAGE PERSON IS A CLASS A MISDEMEANOR.

S 3. Section 260.30 of the penal law, as added by chapter 600 of the laws of 1998, is renumbered section 260.40.

S 4. Subdivision 3 of section 105-c of the alcoholic beverage control law, as amended by chapter 274 of the laws of 2004, is amended to read as follows:

3. Prior to the retail sale of beer in bulk by the keg for off-premises consumption, the retail licensee shall cause the purchaser thereof to sign a statement promulgated by the authority attesting under the penalty of perjury the accuracy of the purchaser's name as shown on the identification label or tag, and that the purchaser will not allow consumption of any of the beer in the keg in violation of the provisions of sections sixty-five-a, sixty-five-b and sixty-five-c of this chapter, and section [260.20] 260.22 of the penal law. The licensee shall also record:

(a) the name and address of the purchaser;

(b) the identification card number from the purchaser's acceptable documentation of age as provided in paragraph (b) of subdivision one of section sixty-five-b of this chapter;

(c) the amount of the container deposit and the registration deposit;

(d) the date and time of the purchase; and

(e) the keg identification number required under subdivision two of this section.

S 5. Clause (v) of subparagraph (a) of paragraph 5 of subdivision a of section 20-361 of the administrative code of the city of New York is amended to read as follows:

(v) an offense within section 260.20 OR 260.22 of the penal law relating to unlawfully dealing with a child;

S 6. The closing paragraph of section 18-b of the general city law, as amended by chapter 680 of the laws of 1967, is amended to read as follows:

The admission of a child between eight and sixteen years of age to a theatre licensed under authority of a local law adopted pursuant to the provisions of this section, where such theatre complies with the terms of this section and of the license, shall not be deemed a violation of the provisions of section 260.20 OR 260.22 of the penal law.

S 7. The closing paragraph of section 121-b of the general municipal law, as amended by chapter 680 of the laws of 1967, is amended to read as follows:

The admission of a child between eight and sixteen years of age to a theatre licensed under authority of a local law or ordinance adopted pursuant to the provisions of this section, where such theatre complies with the terms of this section and of the license, shall not be deemed a violation of the provisions of section 260.20 OR 260.22 of the penal law.

S 8. Paragraph (c) of subdivision 4 of section 509-cc of the vehicle and traffic law, as amended by chapter 345 of the laws of 2007, is amended to read as follows:

(c) The offenses referred to in subparagraph (i) of paragraph (b) of subdivision one and subparagraph (i) of paragraph (c) of subdivision two of this section that result in disqualification for a period of five years shall include a conviction under sections 100.10, 105.13, 115.05, 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 125.13, 125.14, 125.40, 125.45, 130.20, 130.25, 130.55, 135.10, 135.55, 140.17, 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09, 220.16, 220.31, 220.34, 220.60, 221.30, 221.50, 221.55, 230.00, 230.05, 230.06, 230.20, 230.25, 230.30, 230.32, 235.05, 235.06, 235.07, 235.21, 240.06, 245.00, 260.10, [subdivision two of section 260.20 and sections] 260.22, 260.25, 265.02, 265.03, 265.08, 265.09, 265.10, 265.12, 265.35 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any similar offenses committed under a former section of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the aforesaid sections of the penal law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the penal law.

S 9. This act shall take effect immediately, provided, however, that the amendments to subdivision 3 of section 105-c of the alcoholic beverage control law made by section four of this act shall not affect the repeal of such section and shall be deemed repealed therewith.