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

6418--A

I N S E N A T E

(PREFILED)

January 6, 2010

Introduced by Sens. C. JOHNSON, ADAMS, AUBERTINE, FOLEY, FUSCHILLO, KLEIN, MORAHAN, ONORATO, RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to the sale of a controlled substance to a person which causes the death of such person or another person

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

Section 1. Subdivision 3 of section 125.15 of the penal law is amended and a new subdivision 4 is added to read as follows:

3. He OR SHE intentionally causes or aids another person to commit suicide[.]; OR

4. HE OR SHE, BEING EIGHTEEN YEARS OF AGE OR OLDER AND BEING PREVIOUSLY CONVICTED OF ONE OR MORE CRIMES UNDER ARTICLE TWO HUNDRED TWENTY OF THIS PART, KNOWINGLY SELLS FOR VALUE A CONTROLLED SUBSTANCE TO ANOTHER PERSON IN VIOLATION OF SECTION 220.31, 220.34, 220.39, 220.41, 220.43 OR 220.44 OF THIS PART THAT IS CONSUMED, INJECTED, INHALED OR INGESTED BY SUCH PERSON OR ANOTHER PERSON AND SUCH CONTROLLED SUBSTANCE CAUSES THE DEATH OF SUCH PERSON OR OTHER PERSON.

S 2. The penal law is amended by adding a new section 125.16 to read as follows:

S 125.16 MANSLAUGHTER IN THE SECOND DEGREE; SPECIAL PROVISIONS.

1. FOR PURPOSES OF SUBDIVISION FOUR OF SECTION 125.15 OF THIS ARTICLE, IT SHALL NOT BE A DEFENSE TO A PROSECUTION UNDER SUCH SUBDIVISION THAT:

A. THE DEFENDANT DID NOT INTEND TO CAUSE THE DEATH OF THE DECEDENT; OR

B. THE DECEDENT CAUSED HIS OR HER OWN DEATH BY HIS OR HER PURPOSEFUL, KNOWING, RECKLESS OR NEGLIGENT CONSUMPTION, INJECTION, INHALATION OR INGESTION OF SUCH CONTROLLED SUBSTANCE BY ANY MEANS OR BY SUCH DECEDENT'S CONSENT TO THE ADMINISTRATION OF SUCH CONTROLLED SUBSTANCE BY ANOTHER.

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

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2. NOTHING SET FORTH IN SUBDIVISION FOUR OF SECTION 125.15 OF THIS ARTICLE SHALL BE CONSTRUED TO PRECLUDE OR LIMIT IN ANY WAY THE PROSECUTION OF ANY OTHER CRIME SET FORTH IN THIS ARTICLE.

3. A CONVICTION UNDER SUBDIVISION FOUR OF SECTION 125.15 OF THIS ARTICLE SHALL NOT MERGE WITH A CONVICTION FOR ANY OTHER CRIME SET FORTH IN THIS CHAPTER.

S 3. Section 70.25 of the penal law is amended by adding a new subdivision 2-h to read as follows:

2-H. WHENEVER A PERSON IS CONVICTED OF MANSLAUGHTER IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION FOUR OF SECTION 124.15 AND ANY OTHER CRIME SET FORTH IN THIS CHAPTER THE SENTENCES MUST RUN CONSECUTIVELY.

S 4. Paragraph (c) of subdivision 1 of section 70.02 of the penal law, as amended by chapter 7 of the laws of 2007, is amended to read as follows:

(c) Class D violent felony offenses: an attempt to commit any of the class C felonies set forth in paragraph (b); reckless assault of a child as defined in section 120.02, assault in the second degree as defined in section 120.05, menacing a police officer or peace officer as defined in section 120.18, stalking in the first degree, as defined in subdivision one of section 120.60, MANSLAUGHTER IN THE SECOND DEGREE AS SET FORTH IN SUBDIVISION FOUR OF SECTION 125.15, rape in the second degree as defined in section 130.30, criminal sexual act in the second degree as defined in section 130.45, sexual abuse in the first degree as defined in section 130.65, course of sexual conduct against a child in the second degree as defined in section 130.80, aggravated sexual abuse in the third degree as defined in section 130.66, facilitating a sex offense with a controlled substance as defined in section 130.90, criminal possession of a weapon in the third degree as defined in subdivision five, six, seven or eight of section 265.02, criminal sale of a firearm in the third degree as defined in section 265.11, intimidating a victim or witness in the second degree as defined in section 215.16, soliciting or providing support for an act of terrorism in the second degree as defined in section 490.10, and making a terroristic threat as defined in section 490.20, falsely reporting an incident in the first degree as defined in section 240.60, placing a false bomb or hazardous substance in the first degree as defined in section 240.62, placing a false bomb or hazardous substance in a sports stadium or arena, mass transportation facility or enclosed shopping mall as defined in section 240.63, and aggravated unpermitted use of indoor pyrotechnics in the first degree as defined in section 405.18.

S 5. This act shall take effect September 1, 2010.