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

4438

2011-2012 Regular Sessions

I N A S S E M B L Y

February 3, 2011

Introduced by M. of A. AUBRY -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to a presumption of criminal possession of a controlled substance

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

Section 1. Subdivision 2 of section 220.25 of the penal law, as amended by chapter 341 of the laws of 1985, is amended to read as follows:

2. The presence of a narcotic drug, narcotic preparation, marihuana or phencyclidine in open view in a room, other than a public place, under circumstances evincing an intent to unlawfully mix, compound, package or otherwise prepare for sale such controlled substance is presumptive evidence of knowing possession thereof by each and every person PRESENT IN SUCH ROOM in close proximity to such controlled substance at the time such controlled substance was found; except that such presumption does not apply to any such persons if: (a) one of them, having obtained such controlled substance and not being under duress, is authorized to possess it and such controlled substance is in the same container as when he received possession thereof, or (b) one of them has such controlled substance upon his person.

S 2. This act shall take effect immediately.

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

LBD08359-01-1