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

8838

I N A S S E M B L Y

(PREFILED)

January 4, 2012

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

AN ACT to amend the penal law, in relation to establishing the crime of criminal sale of a controlled substance in or near a methadone clinic

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

Section 1. The penal law is amended by adding a new section 220.44-a to read as follows:

S 220.44-A CRIMINAL SALE OF A CONTROLLED SUBSTANCE IN OR NEAR A METHADONE CLINIC.

A PERSON IS GUILTY OF CRIMINAL SALE OF A CONTROLLED SUBSTANCE IN OR NEAR A METHADONE CLINIC WHEN HE OR SHE KNOWINGLY AND UNLAWFULLY SELLS:

1. A CONTROLLED SUBSTANCE IN VIOLATION OF SECTION 220.21 OF THIS ARTICLE, WHEN SUCH SALE TAKES PLACE WITHIN TWO HUNDRED YARDS OF A METHADONE CLINIC; OR

2. A CONTROLLED SUBSTANCE IN VIOLATION OF ANY ONE OF SUBDIVISIONS ONE THROUGH SIX-A OR SUBDIVISION NINE OF SECTION 220.34 OF THIS ARTICLE, WHEN SUCH SALE TAKES PLACE WITHIN TWO HUNDRED YARDS OF A METHADONE CLINIC; OR

3. A CONTROLLED SUBSTANCE IN VIOLATION OF SECTION 220.39 OF THIS ARTICLE, WHEN SUCH SALE TAKES PLACE WITHIN TWO HUNDRED YARDS OF A METHADONE CLINIC; OR

4. A CONTROLLED SUBSTANCE IN VIOLATION OF SECTION 220.41 OF THIS ARTICLE, WHEN SUCH SALE TAKES PLACE WITHIN TWO HUNDRED YARDS OF A METHADONE CLINIC; OR

5. A CONTROLLED SUBSTANCE IN VIOLATION OF SECTION 220.43 OF THIS ARTICLE, WHEN SUCH SALE TAKES PLACE WITHIN TWO HUNDRED YARDS OF A METHADONE CLINIC.

6. FOR THE PURPOSES OF THIS SECTION, A REBUTTABLE PRESUMPTION SHALL BE ESTABLISHED THAT A PERSON HAS KNOWLEDGE THAT THEY ARE WITHIN THE GROUNDS OF A METHADONE CLINIC WHEN NOTICE IS CONSPICUOUSLY POSTED OF THE PRESENCE OR PROXIMITY OF SUCH FACILITY.

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

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7. FOR PURPOSES OF THIS SECTION, A "METHADONE CLINIC" SHALL MEAN A FACILITY ESTABLISHED FOR COUNSELING AND THE DISPENSING OF METHADONE TO INDIVIDUALS ADDICTED TO HEROIN OR OTHER OPIATES.

CRIMINAL SALE OF A CONTROLLED SUBSTANCE IN OR NEAR A METHADONE CLINIC IS A CLASS B FELONY.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.