

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

1963

2011-2012 Regular Sessions

I N S E N A T E

January 14, 2011

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

AN ACT to amend the penal law, in relation to establishing increased fines, treatment, and imprisonment for persons convicted of the sale or possession of controlled substances or marihuana, to amend the public health law, in relation to controlled substances, to amend the mental hygiene law, in relation to alcohol and substance abuse, to amend the criminal procedure law, in relation to possession of either controlled substances or marihuana and a firearm, and to amend the highway law, in relation to posting drug-free school zone signs

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

1 Section 1. Legislative intent. The legislature finds that the preva-
2 lence of illegal drug sales and use, particularly of the "crack" form of
3 cocaine, and the proliferation of crimes of violence and crimes against
4 property associated with drugs has become such a threat to the public
5 safety and welfare that an extraordinary effort on the part of state
6 government and its citizens is necessary to eliminate this danger. The
7 legislature further finds that a comprehensive approach to the problem,
8 paying attention to the needs of schools and treatment programs as well
9 as those of the police and the courts, is needed to ensure success. The
10 legislature also finds that additional sources of funding to support an
11 attack on drugs are needed and that it is more appropriate to place the
12 financial burden directly upon offenders themselves, through forfeiture
13 of crime-related assets and fines.

14 S 2. The penal law is amended by adding a new section 70.17 to read as
15 follows:

16 S 70.17 MANDATORY TERM OF IMPRISONMENT FOR POSSESSION OR SALE OF
17 CONTROLLED SUBSTANCES OR MARIHUANA WHILE IN POSSESSION OF A
18 FIREARM.

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

LBD06663-01-1

1 NOTWITHSTANDING THE PROVISIONS OF SECTION 70.25 OF THIS ARTICLE, ANY
2 PERSON WHO IS FOUND GUILTY OF OR PLEADS GUILTY TO A VIOLATION OF ARTICLE
3 TWO HUNDRED TWENTY OR TWO HUNDRED TWENTY-ONE OF THIS CHAPTER CONSISTING
4 OF THE FELONIOUS POSSESSION OR SALE OF A CONTROLLED SUBSTANCE OR MARI-
5 HUANA AND WHO POSSESSED A FIREARM, SHOTGUN, RIFLE, OR MACHINE-GUN, AS
6 DEFINED IN SECTION 265.00 OF THIS CHAPTER, WHILE COMMITTING SUCH CRIME
7 OR CRIMES, SHALL, IN ADDITION TO THE PENALTY PRESCRIBED BY ANY OTHER
8 PROVISION OF LAW, BE SENTENCED TO A MANDATORY TERM OF IMPRISONMENT WHICH
9 MUST BE FIXED AND SPECIFIED BY THE COURT IN THE SENTENCE OF NOT LESS
10 THAN FIVE YEARS NOR MORE THAN TEN YEARS, SUCH TERM TO RUN CONSECUTIVELY
11 WITH RESPECT TO ANY OTHER TERM THAT MAY BE IMPOSED BY THE COURT, AND
12 SUCH PERSON SHALL BE SUBJECT TO A FINE OF NOT LESS THAN TWENTY-FIVE
13 THOUSAND DOLLARS NOR MORE THAN FIFTY THOUSAND DOLLARS.

14 S 3. Section 80.00 of the penal law is amended by adding a new subdi-
15 vision 1-a to read as follows:

16 1-A. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF THIS
17 SECTION, A SENTENCE TO PAY A FINE FOR CONVICTION OF CRIMINAL SALE OF
18 MARIHUANA IN THE FIFTH DEGREE, CRIMINAL SALE OF MARIHUANA IN THE FOURTH
19 DEGREE, CRIMINAL SALE OF MARIHUANA IN THE THIRD DEGREE, CRIMINAL SALE OF
20 MARIHUANA IN THE SECOND DEGREE, CRIMINAL SALE OF MARIHUANA IN THE FIRST
21 DEGREE, CRIMINAL SALE OF A CONTROLLED SUBSTANCE IN THE FIFTH DEGREE,
22 CRIMINAL SALE OF A CONTROLLED SUBSTANCE IN THE FOURTH DEGREE, CRIMINAL
23 SALE OF A CONTROLLED SUBSTANCE IN THE THIRD DEGREE, CRIMINAL SALE OF A
24 CONTROLLED SUBSTANCE IN THE SECOND DEGREE, OR CRIMINAL SALE OF A
25 CONTROLLED SUBSTANCE IN THE FIRST DEGREE SHALL BE A SENTENCE TO PAY ANY
26 AMOUNT TO BE FIXED BY THE COURT, NOT TO EXCEED FIVE MILLION DOLLARS.

27 S 4. Subdivision 14 of section 220.00 of the penal law, as amended by
28 chapter 292 of the laws of 1994, is amended and a new subdivision 14-a
29 is added to read as follows:

30 14. "School grounds" means (a) in [or], on, or within any building,
31 structure, athletic playing field, playground, or land contained within
32 the real property boundary line of a public or private elementary, paro-
33 chial, intermediate, junior high, vocational, or high school, INCLUDING
34 ANY BUILDING UTILIZED FOR THE INSTRUCTION OF PERSONS LESS THAN NINETEEN
35 YEARS OF AGE OR FOR ORGANIZED SCHOOL-RELATED ACTIVITIES INVOLVING
36 PERSONS LESS THAN NINETEEN YEARS OF AGE, IN, ON, OR WITHIN ANY SCHOOL
37 BUS, OR WITHIN ONE THOUSAND FEET OF A SCHOOL BUS DISCHARGING PASSENGERS,
38 or (b) any area accessible to the public located within one thousand
39 feet of the real property boundary line comprising any such school or
40 any parked automobile or other parked vehicle located within one thou-
41 sand feet of the real property boundary line comprising any such school.
42 For the purposes of this section an "area accessible to the public"
43 shall mean sidewalks, streets, parking lots, parks, playgrounds, stores
44 and restaurants.

45 14-A. "PARK GROUNDS OR PLAYGROUNDS" MEANS IN, ON, OR WITHIN ANY BUILD-
46 ING OR STRUCTURE OR ANY FIELDS, LANDS, OR GROUNDS OWNED, LEASED, OR
47 MAINTAINED BY THE STATE OR ANY AGENCY OR MUNICIPALITY THEREOF OR BY ANY
48 NOT-FOR-PROFIT CORPORATION OR ELEEMOSYNARY INSTITUTION, CORPORATION, OR
49 ASSOCIATION FOR THE PURPOSES OF RECREATION OR LEISURE.

50 S 5. Section 220.00 of the penal law is amended by adding two new
51 subdivisions 21 and 22 to read as follows:

52 21. "DESIGNER DRUG" MEANS ANY SUBSTANCE, OTHER THAN A CONTROLLED
53 SUBSTANCE, THAT HAS A CHEMICAL STRUCTURE SUBSTANTIALLY SIMILAR TO THAT
54 OF A CONTROLLED SUBSTANCE LISTED IN SCHEDULE I OR II OF SECTION THIRTY-
55 THREE HUNDRED SIX OF THE PUBLIC HEALTH LAW OR THAT WAS SPECIFICALLY

DESIGNED TO PRODUCE AN EFFECT SUBSTANTIALLY SIMILAR TO THAT OF ANY CONTROLLED SUBSTANCE LISTED IN SUCH SCHEDULES.

22. "CRACK" MEANS CONCENTRATED COCAINE CONTAINING AT LEAST SEVENTY PERCENT PURE COCAINE.

S 6. The penal law is amended by adding a new section 220.22 to read as follows:

S 220.22 CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE IN OR NEAR SCHOOL GROUNDS, PARK GROUNDS, OR PLAYGROUNDS.

A PERSON IS GUILTY OF CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE IN OR NEAR SCHOOL GROUNDS, PARK GROUNDS, OR PLAYGROUNDS WHEN HE OR SHE KNOWINGLY AND UNLAWFULLY POSSESSES A CONTROLLED SUBSTANCE IN VIOLATION OF THIS CHAPTER AND SUCH POSSESSION TAKES PLACE UPON SCHOOL GROUNDS, PARK GROUNDS, OR PLAYGROUNDS.

A PERSON WHO VIOLATES THIS SECTION SHALL BE GUILTY OF:

1. A CLASS A-I FELONY WHEN THE UNDERLYING OFFENSE IS A CLASS A-II FELONY;

2. A CLASS A-II FELONY WHEN THE UNDERLYING OFFENSE IS A CLASS B FELONY;

3. A CLASS B FELONY WHEN THE UNDERLYING OFFENSE IS A CLASS C FELONY;

4. A CLASS C FELONY WHEN THE UNDERLYING OFFENSE IS A CLASS D FELONY;

5. A CLASS D FELONY WHEN THE UNDERLYING OFFENSE IS A CLASS E FELONY; AND

6. A CLASS E FELONY WHEN THE UNDERLYING OFFENSE IS A CLASS A MISDEMEANOR.

S 7. Section 220.25 of the penal law is amended by adding a new subdivision 3 to read as follows:

3. THE CRIMINAL POSSESSION OF A NARCOTIC DRUG, SEPARATELY PACKAGED INTO TEN OR MORE INDIVIDUAL CONTAINERS, IS PRESUMPTIVE EVIDENCE OF INTENT TO SELL SUCH NARCOTIC DRUG.

S 8. Subdivision 7 of section 220.34 of the penal law, as amended by chapter 436 of the laws of 2006, is amended to read as follows:

7. a controlled substance in violation of section 220.31 of this article, when such sale takes place upon school grounds, PARK GROUNDS, PLAYGROUNDS, or on a school bus; or

S 9. Subdivision 7 of section 220.41 of the penal law, as amended by chapter 75 of the laws of 1995, is amended and a new subdivision 8 is added to read as follows:

7. methadone and the methadone weighs three hundred sixty milligrams or more[.]; OR

8. ANY QUANTITY OF CRACK.

S 10. Section 220.44 of the penal law, as amended by chapter 289 of the laws of 1998, subdivisions 1 and 2 as amended by chapter 436 of the laws of 2006, is amended to read as follows:

S 220.44 Criminal sale of a controlled substance in or near school grounds, PARK GROUNDS, OR PLAYGROUNDS.

A person is guilty of criminal sale of a controlled substance in or near school grounds, PARK GROUNDS, OR PLAYGROUNDS when he OR SHE knowingly and unlawfully sells:

1. a controlled substance in violation of any one of subdivisions one through six-a of section 220.34 of this article, when such sale takes place upon school grounds, PARK GROUNDS, PLAYGROUNDS, or on a school bus; or

2. a controlled substance in violation of any one of subdivisions one through eight of section 220.39 of this article, when such sale takes place upon school grounds, PARK GROUNDS, PLAYGROUNDS, or on a school bus; or

1 3. a controlled substance in violation of any one of subdivisions one
2 through six of section 220.34 of this article, when such sale takes
3 place upon the grounds of a child day care or educational facility under
4 circumstances evincing knowledge by the defendant that such sale is
5 taking place upon such grounds; or

6 4. a controlled substance in violation of any one of subdivisions one
7 through eight of section 220.39 of this article, when such sale takes
8 place upon the grounds of a child day care or educational facility under
9 circumstances evincing knowledge by the defendant that such sale is
10 taking place upon such grounds.

11 5. For purposes of subdivisions three and four of this section, "the
12 grounds of a child day care or educational facility" means (a) in [or],
13 on, or within any building, structure, athletic playing field, a play-
14 ground or land contained within the real property boundary line of a
15 public or private child day care center as such term is defined in para-
16 graph (c) of subdivision one of section three hundred ninety of the
17 social services law, or nursery, pre-kindergarten or kindergarten, or
18 (b) any area accessible to the public located within one thousand feet
19 of the real property boundary line comprising any such facility or any
20 parked automobile or other parked vehicle located within one thousand
21 feet of the real property boundary line comprising any such facility.
22 For the purposes of this section an "area accessible to the public"
23 shall mean sidewalks, streets, parking lots, parks, playgrounds, stores
24 and restaurants.

25 6. For the purposes of this section, a rebuttable presumption [shall
26 be] IS HEREBY established that a person has knowledge that [they are] HE
27 OR SHE IS within the grounds of a child day care or educational facility
28 when notice is conspicuously posted of the presence or proximity of such
29 facility.

30 Criminal sale of a controlled substance in or near school grounds,
31 PARK GROUNDS, OR PLAYGROUNDS is a class B felony.

32 S 11. The penal law is amended by adding a new section 220.47 to read
33 as follows:

34 S 220.47 CRIMINAL SALE OF A CONTROLLED SUBSTANCE TO A MINOR.

35 A PERSON IS GUILTY OF CRIMINAL SALE OF A CONTROLLED SUBSTANCE TO A
36 MINOR WHEN HE OR SHE KNOWINGLY AND UNLAWFULLY SELLS A CONTROLLED
37 SUBSTANCE IN VIOLATION OF THIS CHAPTER TO A PERSON LESS THAN NINETEEN
38 YEARS OF AGE.

39 A PERSON WHO VIOLATES THIS SECTION SHALL BE GUILTY OF:

40 1. A CLASS A-I FELONY WHEN THE UNDERLYING OFFENSE IS A CLASS A-II
41 FELONY;

42 2. A CLASS A-II FELONY WHEN THE UNDERLYING OFFENSE IS A CLASS B FELO-
43 NY;

44 3. A CLASS B FELONY WHEN THE UNDERLYING OFFENSE IS A CLASS C FELONY;
45 OR

46 4. A CLASS C FELONY WHEN THE UNDERLYING OFFENSE IS A CLASS D FELONY.

47 S 12. The penal law is amended by adding five new sections 220.78,
48 220.79, 220.80, 220.85, and 220.90 to read as follows:

49 S 220.78 CRIMINAL POSSESSION OF A DESIGNER DRUG IN THE SECOND DEGREE.

50 A PERSON IS GUILTY OF CRIMINAL POSSESSION OF A DESIGNER DRUG IN THE
51 SECOND DEGREE WHEN HE OR SHE KNOWINGLY AND UNLAWFULLY POSSESSES ANY
52 AMOUNT OF A DESIGNER DRUG.

53 CRIMINAL POSSESSION OF A DESIGNER DRUG IN THE SECOND DEGREE IS A CLASS
54 C FELONY.

55 S 220.79 CRIMINAL POSSESSION OF A DESIGNER DRUG IN THE FIRST DEGREE.

1 A PERSON IS GUILTY OF CRIMINAL POSSESSION OF A DESIGNER DRUG IN THE
2 FIRST DEGREE WHEN HE OR SHE KNOWINGLY AND UNLAWFULLY POSSESSES ANY QUAN-
3 TITY OF A DESIGNER DRUG WITH INTENT TO SELL OR DISTRIBUTE THE SAME.

4 CRIMINAL POSSESSION OF A DESIGNER DRUG IN THE FIRST DEGREE IS A CLASS
5 B FELONY.

6 S 220.80 CRIMINAL SALE OF A DESIGNER DRUG.

7 A PERSON IS GUILTY OF CRIMINAL SALE OF A DESIGNER DRUG WHEN HE OR SHE
8 KNOWINGLY AND UNLAWFULLY SELLS OR OTHERWISE DISTRIBUTES A DESIGNER DRUG.

9 CRIMINAL SALE OF A DESIGNER DRUG IS A CLASS B FELONY.

10 S 220.85 CRIMINAL MANUFACTURE OF A DESIGNER DRUG.

11 A PERSON IS GUILTY OF CRIMINAL MANUFACTURE OF A DESIGNER DRUG WHEN HE
12 OR SHE KNOWINGLY AND UNLAWFULLY MANUFACTURES OR SYNTHESIZES ANY QUANTITY
13 OF A DESIGNER DRUG WITH THE INTENT TO SELL OR DISTRIBUTE THE SAME.

14 CRIMINAL MANUFACTURE OF A DESIGNER DRUG IS A CLASS B FELONY.

15 S 220.90 DEFENSES TO DESIGNER DRUG CRIMES.

16 IT SHALL BE A DEFENSE TO EACH AND EVERY CRIME LISTED IN SECTIONS
17 220.78, 220.79, 220.80, AND 220.85 OF THIS ARTICLE THAT:

18 1. SUCH PERSON WAS CONDUCTING LEGITIMATE AND LAWFUL MEDICAL RESEARCH
19 ACTIVITIES PURSUANT TO AN ORDER, DECISION, OR REGULATION PROMULGATED BY
20 THE STATE DEPARTMENT OF HEALTH OR THE FEDERAL FOOD AND DRUG ADMINIS-
21 TRATION; OR

22 2. SUCH PERSON MANUFACTURES OR DISTRIBUTES A SUBSTANCE IN CONFORMANCE
23 WITH THE PROVISIONS OF AN APPROVED NEW DRUG APPLICATION OR AN EXEMPTION
24 FOR INVESTIGATIONAL USE WITHIN THE MEANING OF SECTION FIVE HUNDRED FIVE
25 OF THE FEDERAL FOOD, DRUG AND COSMETIC ACT. FOR PURPOSES OF THIS
26 SECTION, SECTION FIVE HUNDRED FIVE OF THE FEDERAL FOOD, DRUG AND COSMET-
27 IC ACT SHALL BE APPLICABLE TO THE INTRODUCTION OR DELIVERY FOR INTRODUC-
28 TION OF ANY NEW DRUG INTO INTRASTATE, INTERSTATE, OR FOREIGN COMMERCE;
29 OR

30 3. SUCH PERSON MANUFACTURES, DISTRIBUTES, OR TRANSFERS ANY NONPRES-
31 CRPTION MEDICINES WHICH MAY BE SOLD WITHOUT A PRESCRIPTION AND WHICH
32 ARE PREPACKAGED FOR USE BY THE CONSUMER AND LABELED IN ACCORDANCE WITH
33 THE REQUIREMENTS OF THE STATUTES AND REGULATIONS OF NEW YORK AND THE
34 FEDERAL GOVERNMENT.

35 S 13. Section 3302 of the public health law is amended by adding a new
36 subdivision 6-a to read as follows:

37 6-A. "CRACK" MEANS CONCENTRATED COCAINE CONTAINING AT LEAST SEVENTY
38 PERCENT PURE COCAINE.

39 S 14. Paragraph 4 of subdivision (b) of schedule II of section 3306 of
40 the public health law, as added by chapter 664 of the laws of 1985, is
41 amended to read as follows:

42 (4) Coca leaves and any salt, compound, derivative, or preparation of
43 coca leaves, and any salt, compound, derivative, or preparation thereof
44 which is chemically equivalent or identical with any of these substances
45 including cocaine, CRACK, and ecgonine, their salts, isomers, and salts
46 of isomers, except that the substances shall not include decocainized
47 coca leaves or extraction of coca leaves, which extractions do not
48 contain cocaine or ecgonine.

49 S 15. The section heading and subdivisions 1 and 4 of section 3324 of
50 the public health law, the section heading and subdivision 4 as added by
51 chapter 878 of the laws of 1972 and subdivision 1 as amended by chapter
52 965 of the laws of 1974, are amended to read as follows:

53 Licenses to engage in research, instructional activities, and chemical
54 analysis relating to controlled substances AND DESIGNER DRUGS. 1. No
55 person within this state shall manufacture, obtain, possess, administer,
56 or dispense A DESIGNER DRUG, AS DEFINED BY SECTION 220.00 OF THE PENAL

1 LAW, OR a controlled substance for purposes of scientific research,
2 instruction, or chemical analysis without having first obtained a
3 license to do so from the department.

4 4. Licenses issued under this title shall be effective only for and
5 shall specify:

- 6 (a) the name and address of the licensee;
- 7 (b) the nature of the project or projects permitted by the license;
- 8 (c) the nature of the controlled substance or substances OR DESIGNER
9 DRUG OR DRUGS to be used in the project, by name if in schedule I, and
10 by name or schedule or both if in any other schedule;
- 11 (d) whether dispensing to human subjects is permitted by the license.

12 S 16. Section 3325 of the public health law, as added by chapter 878
13 of the laws of 1972, is amended to read as follows:

14 S 3325. Authority to issue licenses; applications. 1. Subject to
15 the provisions of this title, the commissioner is authorized to license
16 a person to manufacture, obtain and possess, dispense, and administer
17 DESIGNER DRUGS, AS DEFINED BY SECTION 220.00 OF THE PENAL LAW, OR
18 controlled substances for purposes of scientific research, chemical
19 analysis, or instruction.

20 2. A license or amendment of a license shall be issued by the depart-
21 ment unless the applicant therefor has failed to furnish a satisfactory
22 protocol pursuant to subdivision three of this section, or a satisfac-
23 tory statement pursuant to section [3326] THIRTY-THREE HUNDRED
24 TWENTY-SIX OF THIS ARTICLE, and proof that the applicant:

- 25 (a) and its managing officers are of good moral character;
- 26 (b) possesses or is capable of acquiring facilities, staff, and
27 equipment sufficient to carry on properly the proposed project detailed
28 in the protocol or statement accompanying the application;
- 29 (c) is able to maintain effective control against diversion of the
30 DESIGNER DRUGS OR controlled substances for which the license is sought;
- 31 (d) is able to comply with all applicable state and federal laws and
32 regulations relating to the DESIGNER DRUGS OR controlled substances for
33 which the license is sought.

34 3. An application for a license or for an amendment to a license
35 shall be accompanied by a detailed protocol setting forth:

- 36 (a) the nature of the proposed project;
- 37 (b) the proposed quantity or quantities of each DESIGNER DRUG OR
38 controlled substance involved;
- 39 (c) the qualifications and competence of the applicant to engage in
40 such project;
- 41 (d) specific provisions for the safe administration or dispensing of
42 DESIGNER DRUGS OR controlled substances to humans, if such is contem-
43 plated, and the proposed method of selecting humans; AND
- 44 (e) such other additional information as the commissioner may
45 require.

46 4. The application for a license pursuant to this title shall include
47 copies of all papers filed with the Bureau, the Federal Food and Drug
48 Administration, and any other governmental agency, whether state or
49 federal, in connection with the applicant's proposed project.

50 S 17. Section 3329 of the public health law, as added by chapter 878
51 of the laws of 1972, is amended to read as follows:

52 S 3329. Reports and records. 1. Persons licensed under this title
53 shall keep records showing the receipt, administration, dispensing, or
54 destruction of all DESIGNER DRUGS, AS DEFINED BY SECTION 220.00 OF THE
55 PENAL LAW, AND ALL controlled substances and maintain the records in

1 such manner and detail as the commissioner, by regulation, shall
2 require.

3 2. Persons licensed under this title shall submit reports to the
4 department summarizing the activity conducted under the license.
5 Included in such report shall be a detailed inventory of DESIGNER DRUGS
6 AND controlled substances, [and] an accounting for all such substances
7 received or disposed of during the period covered by the report, and
8 such other information as the commissioner shall, by regulation,
9 require. Such reports shall be filed with the department at such times
10 as the commissioner may require.

11 S 18. Subdivision 2 of section 3388 of the public health law, as
12 amended by chapter 843 of the laws of 1980, is amended to read as
13 follows:

14 2. Any vehicle, vessel, or aircraft which has been or is being used in
15 violation of subdivision one, except a vehicle, vessel, or aircraft used
16 by any person as a common carrier in the transaction of business as such
17 common carrier, shall be seized by any peace officer, acting pursuant to
18 his OR HER special duties, or police officer[,], and forfeited as herein-
19 after in this section provided. A vehicle, vessel, or aircraft is not
20 subject to forfeiture unless used in connection with acts or conduct
21 which would constitute EITHER a felony under article [220] TWO HUNDRED
22 TWENTY OR TWO HUNDRED TWENTY-ONE of the penal law OR A CRIME DEFINED IN
23 SUCH ARTICLE TWO HUNDRED TWENTY IN WHICH THE CONTROLLED SUBSTANCE IS A
24 NARCOTIC DRUG, AS DEFINED IN SUBDIVISION SEVEN OF SECTION 220.00 OF THE
25 PENAL LAW.

26 S 19. Subdivision (d) of section 19.07 of the mental hygiene law is
27 amended by adding a new paragraph 5 to read as follows:

28 (5) CREDENTIALING PROCEDURES SHALL INCLUDE PROCEDURES FOR GRANTING
29 TEMPORARY APPROVAL OF AN OPERATING CERTIFICATE FOR A PERIOD NOT EXCEED-
30 ING ONE HUNDRED TWENTY DAYS, IN THE EVENT OF A THREAT OR IMMINENT THREAT
31 OF A CATASTROPHIC OR EMERGENCY LOSS OF AVAILABLE SERVICES. SUCH TEMPO-
32 RARY APPROVAL MAY BE EXTENDED BEYOND ONE HUNDRED TWENTY DAYS AS DEEMED
33 NECESSARY BY THE COMMISSIONER, BUT NOT TO EXCEED MORE THAN AN ADDITIONAL
34 ONE HUNDRED TWENTY DAYS;

35 S 20. Subdivision 5 of section 220.10 of the criminal procedure law is
36 amended by adding a new paragraph (c-1) to read as follows:

37 (C-1) WHERE THE INDICTMENT CHARGES ONE OF THE FELONIES ENUMERATED IN
38 AND COMMITTED UNDER THE CIRCUMSTANCE LISTED IN SECTION 70.17 OF THE
39 PENAL LAW, THEN ANY PLEA OF GUILTY PURSUANT TO SUBDIVISION THREE OR FOUR
40 OF THIS SECTION MUST BE OR MUST INCLUDE AT LEAST A PLEA OF GUILTY TO A
41 FELONY.

42 S 21. Section 317 of the highway law, as added by chapter 356 of the
43 laws of 1996, is amended to read as follows:

44 S 317. Drug free school zone signs. 1. Any political subdivision of
45 the state having jurisdiction over any highway within school grounds, as
46 defined in subdivision fourteen of section 220.00 of the penal law,
47 [may, upon the request of the appropriate school authority,] AND ANY
48 PERSON CHARGED WITH THE DUTY OF MAINTAINING ANY SUCH HIGHWAY WITHIN SUCH
49 POLITICAL SUBDIVISION THAT IS WITHIN SUCH SCHOOL GROUNDS SHALL place[,]
50 OR cause to be placed[, or permit to be placed] within the right of way
51 of such highway signs indicating a drug free school zone. SUCH SIGNS
52 SHALL READ "DRUG FREE SCHOOL ZONE".

53 2. IT SHALL NOT BE RELEVANT TO THE IMPOSITION OF ENHANCED PUNISHMENT
54 PURSUANT TO ANY PROVISION OF THE PENAL LAW WHICH ENHANCES THE PUNISHMENT
55 FOR THE CRIMINAL SALE OR POSSESSION OF A CONTROLLED SUBSTANCE THAT A

1 DRUG FREE SCHOOL ZONE SIGN WAS NOT POSTED OR WAS POSTED IN A MANNER
2 INCONSISTENT WITH THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION.
3 S 22. This act shall take effect on the first of November next
4 succeeding the date on which it shall have become a law.