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

4085

2013-2014 Regular Sessions

I N A S S E M B L Y

January 30, 2013

Introduced by M. of A. O'DONNELL, FARRELL -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to criminal diversion of prescription medications and prescriptions, establishing the offense of fraudulent prescription, dispensing and procurement of non-controlled substance prescription medications and devices, and establishing the offense of unlawful possession of non-controlled substance prescription medications and devices

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

Section 1. Section 178.00 of the penal law, as added by chapter 81 of the laws of 1995, is amended to read as follows:

S 178.00 Criminal diversion of prescription medications and prescriptions; definitions.

The following definitions are applicable to this article:

1. "Prescription medication or device" means any article for which a prescription is required in order to be lawfully sold, delivered or distributed by any person authorized by law to engage in the practice of the profession of pharmacy.

2. "Prescription" means a direction or authorization by means of a written prescription form, ELECTRONIC PRESCRIPTION or an oral prescription which permits a person to lawfully obtain a prescription medication or device from any person authorized to dispense such prescription medication or device.

3. "PRESCRIPTION FORM" MEANS AN OFFICIAL STATE PRESCRIPTION FORM AUTHORIZED BY A STATE FOR USE BY HEALTH PRACTITIONERS AUTHORIZED TO WRITE PRESCRIPTIONS.

4. "Criminal diversion act" means an act or acts in which a person knowingly:

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

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(a) transfers or delivers, in exchange for anything of pecuniary value, a prescription medication or device with knowledge or reasonable grounds to know that the recipient has no medical need for it; or

(b) receives, in exchange for anything of pecuniary value, a prescription medication or device with knowledge or reasonable grounds to know that the seller or transferor is not authorized by law to sell or transfer such prescription medication or device; or

(c) RECEIVES, IN EXCHANGE FOR ANYTHING OF PECUNIARY VALUE, A PRESCRIPTION MEDICATION OR DEVICE, PRESCRIPTION, OR PRESCRIPTION FORM FROM A LAW ENFORCEMENT OFFICER ACTING IN AN UNDERCOVER CAPACITY OR HIS OR HER AGENT, BELIEVING OR HAVING REASONABLE GROUND TO BELIEVE THAT THE OFFICER OR HIS OR HER AGENT IS SOMEONE WHO IS NOT AUTHORIZED BY LAW TO SELL OR TRANSFER SUCH PRESCRIPTION MEDICATION OR DEVICE, PRESCRIPTION, OR PRESCRIPTION FORM; OR

(D) transfers or delivers a prescription OR PRESCRIPTION FORM in exchange for anything of pecuniary value; or

[(d)] (E) receives a prescription OR PRESCRIPTION FORM in exchange for anything of pecuniary value.

S 2. Paragraph (c) of subdivision 1 of section 178.05 of the penal law, as added by chapter 81 of the laws of 1995, is amended and two new paragraphs (d) and (e) are added to read as follows:

(c) a person acting in good faith WHO IS seeking [treatment for a medical condition or assisting another person to obtain treatment for a medical condition] TO OBTAIN A PRESCRIPTION, PRESCRIPTION MEDICATION OR DEVICE THAT HAS BEEN LAWFULLY PRESCRIBED TO HIM OR HER, AND FOR WHICH HE OR SHE HAS A MEDICAL NEED; OR

(D) A PERSON ACTING IN GOOD FAITH, WHO REASONABLY BELIEVES THAT HE OR SHE IS ASSISTING ANOTHER PERSON TO OBTAIN A PRESCRIPTION, PRESCRIPTION MEDICATION OR DEVICE THAT HAS BEEN LAWFULLY PRESCRIBED TO THAT OTHER PERSON; OR

(E) A DULY REGISTERED MANUFACTURER OR WHOLESALER OF DRUGS, AS DEFINED IN ARTICLE ONE HUNDRED THIRTY-SEVEN OF THE EDUCATION LAW, ACTING IN GOOD FAITH IN THE LAWFUL COURSE OF HIS OR HER BUSINESS.

S 3. Section 178.10 of the penal law, as added by chapter 81 of the laws of 1995, is amended to read as follows:

S 178.10 Criminal diversion of prescription medications and prescriptions in the [fourth] FIFTH degree.

A person is guilty of criminal diversion of prescription medications and prescriptions in the [fourth] FIFTH degree when he or she commits a criminal diversion act.

Criminal diversion of prescription medications and prescriptions in the [fourth] FIFTH degree is a class A misdemeanor.

S 4. Section 178.15 of the penal law, as added by chapter 81 of the law of 1995, is amended to read as follows:

S 178.15 Criminal diversion of prescription medications and prescriptions in the [third] FOURTH degree.

A person is guilty of criminal diversion of prescription medications and prescriptions in the [third] FOURTH degree when he or she:

1. commits a criminal diversion act, and the value of the benefit exchanged is in excess of one thousand dollars; or

2. commits the crime of criminal diversion of prescription medications and prescriptions in the [fourth] FIFTH degree, and has previously been convicted of [the crime of criminal diversion of prescription medications and prescriptions in the fourth degree] AN OFFENSE DEFINED IN THIS ARTICLE; OR

3. COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE FIFTH DEGREE ON TWO OR MORE OCCASIONS OVER A THIRTY-FIVE DAY PERIOD.

Criminal diversion of prescription medications and prescriptions in the [third] FOURTH degree is a class E felony.

S 5. Section 178.20 of the penal law, as added by chapter 81 of the laws of 1995, is amended to read as follows:

S 178.20 Criminal diversion of prescription medications and prescriptions in the [second] THIRD degree.

A person is guilty of criminal diversion of prescription medications and prescriptions in the [second] THIRD degree when he or she:

1. commits a criminal diversion act, and the value of the benefit exchanged is in excess of three thousand dollars; OR

2. COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE FIFTH DEGREE ON FOUR OR MORE OCCASIONS OVER A THIRTY-FIVE DAY PERIOD; OR

3. COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE FIFTH DEGREE, AND IS:

(A) A PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE A PRESCRIPTION; OR

(B) A PHARMACIST OR OTHER PERSON AUTHORIZED TO DISPENSE PRESCRIPTION MEDICATIONS AND DEVICES.

Criminal diversion of prescription medications and prescriptions in the [second] THIRD degree is a class D felony.

S 6. Section 178.25 of the penal law, as added by chapter 81 of the laws of 1995, is amended to read as follows:

S 178.25 Criminal diversion of prescription medications and prescriptions in the [first] SECOND degree.

A person is guilty of criminal diversion of prescription medications and prescriptions in the [first] SECOND degree when he or she:

1. commits a criminal diversion act, and the value of the benefit exchanged is in excess of fifty thousand dollars; OR

2. COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE FIFTH DEGREE ON SIX OR MORE OCCASIONS OVER A THIRTY-FIVE DAY PERIOD; OR

3. COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE FIFTH DEGREE ON TWO OR MORE OCCASIONS OVER A NINETY DAY PERIOD, AND IS:

(A) A PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE A PRESCRIPTION; OR

(B) A PHARMACIST OR OTHER PERSON AUTHORIZED TO DISPENSE PRESCRIPTION MEDICATIONS AND DEVICES.

Criminal diversion of prescription medications and prescriptions in the [first] SECOND degree is a class C felony.

S 7. The penal law is amended by adding a new section 178.30 to read as follows:

S 178.30 CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE FIRST DEGREE.

A PERSON IS GUILTY OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE FIRST DEGREE WHEN HE OR SHE COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS OR PRESCRIPTIONS IN THE FIFTH DEGREE ON FIVE OR MORE OCCASIONS OVER A NINETY DAY PERIOD, AND IS:

(A) A PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE A PRESCRIPTION; OR

(B) A PHARMACIST OR OTHER PERSON AUTHORIZED TO DISPENSE PRESCRIPTION MEDICATIONS AND DEVICES.

CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE FIRST DEGREE IS A CLASS B FELONY.

S 8. The penal law is amended by adding a new article 179 to read as follows:

ARTICLE 179

FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES

SECTION 179.00 DEFINITIONS.

179.05 FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE THIRD DEGREE.

179.10 FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND DEGREE.

179.15 FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIRST DEGREE.

S 179.00 DEFINITIONS.

THE FOLLOWING DEFINITIONS ARE APPLICABLE TO THIS ARTICLE:

1. "PRESCRIPTION MEDICATION OR DEVICE" MEANS ANY ARTICLE FOR WHICH A PRESCRIPTION IS REQUIRED IN ORDER TO BE LAWFULLY SOLD, DELIVERED OR DISTRIBUTED BY ANY PERSON AUTHORIZED BY LAW TO ENGAGE IN THE PRACTICE OF THE PROFESSION OF PHARMACY.

2. "PRESCRIPTION" MEANS A DIRECTION OR AUTHORIZATION BY MEANS OF A WRITTEN PRESCRIPTION FORM, AN ELECTRONIC PRESCRIPTION OR AN ORAL PRESCRIPTION WHICH PERMITS A PERSON TO LAWFULLY OBTAIN A PRESCRIPTION MEDICATION OR DEVICE FROM ANY PERSON AUTHORIZED TO DISPENSE SUCH PRESCRIPTION MEDICATION OR DEVICE.

3. "CONTROLLED SUBSTANCE" MEANS ANY SUBSTANCE LISTED IN SCHEDULE I, II, III, IV OR V OF SECTION THIRTY-THREE HUNDRED SIX OF THE PUBLIC HEALTH LAW OTHER THAN MARIHUANA, BUT INCLUDING CONCENTRATED CANNABIS AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION FOUR OF SECTION THIRTY-THREE HUNDRED TWO OF SUCH LAW.

4. "DISPENSING" AND "DISPENSES" REFER TO THE DISPENSING OF A PRESCRIPTION MEDICATION OR DEVICE FROM OR WITHIN A PHARMACY, HOSPITAL, PHYSICIAN'S OFFICE, CLINIC OR OTHER PHARMACEUTICAL OR MEDICAL FACILITY.

S 179.05 FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE THIRD DEGREE.

A PERSON IS GUILTY OF FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE THIRD DEGREE WHEN HE OR SHE:

1. ISSUES A WRITTEN, ELECTRONIC OR ORAL PRESCRIPTION FOR A NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATION OR DEVICE, AND IS NOT A DULY LICENSED PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE SUCH PRESCRIPTION; OR

2. DISPENSES A NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATION OR DEVICE, WITH KNOWLEDGE OR REASONABLE GROUNDS TO KNOW THAT:

(A) THE PERSON FOR WHOM THE MEDICATION OR DEVICE HAS BEEN PRESCRIBED HAS NO MEDICAL NEED FOR SUCH MEDICATION OR DEVICE; OR

(B) NO PRESCRIPTION FOR SUCH MEDICATION OR DEVICE WAS ISSUED BY A DULY LICENSED PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE SUCH PRESCRIPTION; OR

(C) THE PRESCRIPTION FOR SUCH MEDICATION OR DEVICE WAS FORGED; OR

(D) THE PRESCRIPTION FOR SUCH MEDICATION OR DEVICE WAS ISSUED BY A DULY LICENSED PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE SUCH PRESCRIPTION WHO WAS ACTING OTHER THAN IN GOOD FAITH IN THE LAWFUL COURSE OF HIS OR HER PROFESSIONAL PRACTICE; OR

3. PRESENTS OR SUBMITS A PRESCRIPTION FOR A NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATION OR DEVICE TO, OR RECEIVES A NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATION OR DEVICE FROM, A DULY LICENSED PHARMACIST OR OTHER PERSON AUTHORIZED TO DISPENSE SUCH PRESCRIPTION MEDICATION OR DEVICE, WITH KNOWLEDGE OR REASONABLE GROUNDS TO KNOW THAT:

(A) THE PERSON FOR WHOM THE MEDICATION OR DEVICE HAS BEEN PRESCRIBED HAS NO MEDICAL NEED FOR SUCH MEDICATION OR DEVICE; OR

(B) THE PRESCRIPTION FOR SUCH MEDICATION OR DEVICE WAS NOT ISSUED BY A DULY LICENSED PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE SUCH PRESCRIPTION; OR

(C) THE PRESCRIPTION FOR SUCH MEDICATION OR DEVICE WAS FORGED; OR

(D) THE PRESCRIPTION FOR SUCH MEDICATION OR DEVICE WAS ISSUED BY A DULY LICENSED PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE SUCH PRESCRIPTION WHO WAS ACTING OTHER THAN IN GOOD FAITH IN THE LAWFUL COURSE OF HIS OR HER PROFESSIONAL PRACTICE.

FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE THIRD DEGREE IS A CLASS D FELONY.

S 179.10 FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND DEGREE.

A PERSON IS GUILTY OF FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND DEGREE WHEN HE OR SHE:

1. BEING A DULY LICENSED PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE A PRESCRIPTION, ISSUES A WRITTEN, ELECTRONIC OR ORAL PRESCRIPTION FOR A NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATION OR DEVICE, OR DISPENSES A NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATION OR DEVICE:

(A) WITH KNOWLEDGE OR REASONABLE GROUNDS TO KNOW THAT THE PERSON FOR WHOM THE PRESCRIPTION IS ISSUED, OR TO WHOM THE MEDICATION IS DISPENSED, HAS NO MEDICAL NEED FOR THE MEDICATION OR DEVICE THAT IS BEING PRESCRIBED; OR

(B) OTHER THAN IN GOOD FAITH IN THE LAWFUL COURSE OF HIS OR HER PROFESSIONAL PRACTICE; OR

2. BEING A DULY LICENSED PHARMACIST OR OTHER PERSON AUTHORIZED TO DISPENSE A PRESCRIPTION MEDICATION OR DEVICE, DISPENSES A NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATION OR DEVICE:

(A) WITH KNOWLEDGE OR REASONABLE GROUNDS TO KNOW THAT:

(I) THE PERSON FOR WHOM THE MEDICATION OR DEVICE HAS BEEN PRESCRIBED HAS NO MEDICAL NEED FOR SUCH MEDICATION OR DEVICE; OR

(II) THE PRESCRIPTION FOR SUCH MEDICATION OR DEVICE WAS NOT ISSUED BY A DULY LICENSED PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE SUCH PRESCRIPTION; OR

(III) THE PRESCRIPTION FOR SUCH MEDICATION OR DEVICE WAS FORGED; OR

(IV) THE PRESCRIPTION FOR SUCH MEDICATION OR DEVICE WAS ISSUED BY A DULY LICENSED PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE SUCH PRESCRIPTION WHO WAS ACTING OTHER THAN IN GOOD FAITH IN THE LAWFUL COURSE OF HIS OR HER PROFESSIONAL PRACTICE; OR

(B) OTHER THAN IN GOOD FAITH, IN THE COURSE OF HIS OR HER LAWFUL PROFESSIONAL PRACTICE.

FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND DEGREE IS A CLASS C FELONY.

S 179.15 FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIRST DEGREE.

A PERSON IS GUILTY OF FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIRST DEGREE WHEN HE OR SHE, BEING EITHER A DULY LICENSED PHYSICIAN OR OTHER PERSON AUTHORIZED TO ISSUE A PRESCRIPTION, OR A DULY LICENSED PHARMACIST OR OTHER PERSON AUTHORIZED TO DISPENSE A PRESCRIPTION MEDICATION OR DEVICE, COMMITS THE CRIME OF FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND DEGREE ON TWO OR MORE OCCASIONS WITHIN A NINETY DAY PERIOD.

FRAUDULENT PRESCRIPTION, DISPENSING AND PROCUREMENT OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIRST DEGREE IS A CLASS B FELONY.

S 9. Title M of the penal law is amended by adding a new article 219 to read as follows:

ARTICLE 219

UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES

SECTION 219.00 DEFINITIONS.
219.05 LIMITATIONS ON APPLICATION OF ARTICLE.
219.10 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIFTH DEGREE.
219.15 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE FOURTH DEGREE.
219.20 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE THIRD DEGREE.
219.25 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND DEGREE.
219.30 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIRST DEGREE.

S 219.00 DEFINITIONS.

THE FOLLOWING DEFINITIONS ARE APPLICABLE TO THIS ARTICLE:

1. "PRESCRIPTION MEDICATION OR DEVICE" MEANS ANY ARTICLE FOR WHICH A PRESCRIPTION IS REQUIRED IN ORDER TO BE LAWFULLY SOLD, DELIVERED OR DISTRIBUTED BY ANY PERSON AUTHORIZED BY LAW TO ENGAGE IN THE PRACTICE OF THE PROFESSION OF PHARMACY.

2. "PRESCRIPTION" MEANS A DIRECTION OR AUTHORIZATION BY MEANS OF A WRITTEN PRESCRIPTION FORM, AN ELECTRONIC PRESCRIPTION OR AN ORAL PRESCRIPTION WHICH PERMITS A PERSON TO LAWFULLY OBTAIN A PRESCRIPTION MEDICATION OR DEVICE FROM ANY PERSON AUTHORIZED TO DISPENSE SUCH PRESCRIPTION MEDICATION OR DEVICE.

3. "CONTROLLED SUBSTANCE" MEANS ANY SUBSTANCE LISTED IN SCHEDULE I, II, III, IV OR V OF SECTION THIRTY-THREE HUNDRED SIX OF THE PUBLIC HEALTH LAW OTHER THAN MARIHUANA, BUT INCLUDING CONCENTRATED CANNABIS AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION FOUR OF SECTION THIRTY-THREE HUNDRED TWO OF SUCH LAW.

4. THE VALUE OF A PRESCRIPTION MEDICATION OR DEVICE SHALL BE EQUIVALENT TO THE FAIR MARKET VALUE OF SUCH MEDICATION OR DEVICE ON THE LAWFUL RETAIL MARKET, AT ABOUT THE TIME AND PLACE THAT THE CRIME IS COMMITTED.

S 219.05 LIMITATIONS ON APPLICATION OF ARTICLE.

THE PROVISIONS OF THIS ARTICLE RESTRICTING THE UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES SHALL NOT APPLY:

1. TO COMMON CARRIERS OR TO WAREHOUSEMEN, WHILE ENGAGED IN LAWFULLY TRANSPORTING OR STORING SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES, OR TO ANY EMPLOYEE OF THE SAME ACTING WITHIN THE SCOPE OF HIS OR HER EMPLOYMENT; OR

2. TO PUBLIC OFFICERS OR THEIR EMPLOYEES IN THE LAWFUL PERFORMANCE OF THEIR OFFICIAL DUTIES REQUIRING THE POSSESSION OR CONTROL OF SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES; OR

3. TO TEMPORARY INCIDENTAL POSSESSION BY EMPLOYEES OR AGENTS OF PERSONS LAWFULLY ENTITLED TO POSSESS SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES, OR BY PERSONS WHOSE POSSESSION IS FOR THE PURPOSE OF AIDING PUBLIC OFFICERS IN PERFORMING THEIR OFFICIAL DUTIES; OR

4. TO A DULY LICENSED PHYSICIAN, DULY LICENSED PHARMACIST OR OTHER PERSON AUTHORIZED TO POSSESS OR DISPENSE SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES, ACTING IN GOOD FAITH IN THE LAWFUL COURSE OF HIS OR HER PROFESSION; OR

5. TO TEMPORARY INCIDENTAL POSSESSION BY A PERSON ACTING IN GOOD FAITH WHO REASONABLY BELIEVES THAT HE OR SHE IS ASSISTING ANOTHER PERSON TO OBTAIN A NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATION OR DEVICE THAT HAS BEEN LAWFULLY PRESCRIBED TO THAT OTHER PERSON.

S 219.10 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIFTH DEGREE.

A PERSON IS GUILTY OF UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIFTH DEGREE WHEN SUCH PERSON KNOWINGLY POSSESSES ONE OR MORE NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS OR DEVICES WHICH WERE NOT LAWFULLY PRESCRIBED TO HIM OR HER, UNDER CIRCUMSTANCES EVINCING AN INTENT TO SELL THE SAME; AND

1. THE AGGREGATE VALUE OF SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES EXCEEDS TWO HUNDRED DOLLARS; OR

2. HE OR SHE POSSESSES TWENTY OR MORE PILLS, TABLETS OR CAPSULES OF SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES.

UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIFTH DEGREE IS A CLASS A MISDEMEANOR.

S 219.15 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE FOURTH DEGREE.

A PERSON IS GUILTY OF UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE FOURTH DEGREE WHEN HE OR SHE KNOWINGLY AND UNLAWFULLY POSSESSES ONE OR MORE NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES WHICH WERE NOT LAWFULLY PRESCRIBED TO HIM OR HER; AND

1. THE AGGREGATE VALUE OF SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES EXCEEDS FIVE HUNDRED DOLLARS; OR

2. HE OR SHE POSSESSES FIFTY OR MORE PILLS, TABLETS OR CAPSULES OF SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES; OR

3. HE OR SHE POSSESSES A NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATION OR DEVICE WITH AN INTENT TO SELL IT; OR

4. HE OR SHE COMMITS THE CRIME OF UNLAWFUL POSSESSION OF NON-CONTROLLED PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIFTH DEGREE, AND HAS PREVIOUSLY BEEN CONVICTED OF AN OFFENSE DEFINED IN THIS ARTICLE.

UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE FOURTH DEGREE IS A CLASS E FELONY.

S 219.20 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE THIRD DEGREE.

A PERSON IS GUILTY OF UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE THIRD DEGREE WHEN HE OR SHE KNOWINGLY AND UNLAWFULLY POSSESSES ONE OR MORE NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES WHICH WERE NOT LAWFULLY PRESCRIBED TO HIM OR HER; AND

1. THE AGGREGATE VALUE OF SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES EXCEEDS FIFTEEN HUNDRED DOLLARS; OR

2. HE OR SHE POSSESSES ONE HUNDRED FIFTY OR MORE PILLS, TABLETS OR CAPSULES OF SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES.

UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE THIRD DEGREE IS A CLASS D FELONY.

S 219.25 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND DEGREE.

A PERSON IS GUILTY OF UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND DEGREE WHEN HE OR SHE KNOWINGLY AND UNLAWFULLY POSSESSES ONE OR MORE NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES WHICH WERE NOT LAWFULLY PRESCRIBED TO HIM OR HER; AND

1. THE AGGREGATE VALUE OF SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES EXCEEDS TEN THOUSAND DOLLARS; OR

2. HE OR SHE POSSESSES ONE THOUSAND OR MORE PILLS, TABLETS OR CAPSULES OF SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES.

UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND DEGREE IS A CLASS C FELONY.

S 219.30 UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIRST DEGREE.

A PERSON IS GUILTY OF UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIRST DEGREE WHEN HE OR SHE KNOWINGLY AND UNLAWFULLY POSSESSES ONE OR MORE NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES WHICH WERE NOT LAWFULLY PRESCRIBED TO HIM OR HER; AND

1. THE AGGREGATE VALUE OF SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES EXCEEDS ONE HUNDRED THOUSAND DOLLARS; OR

2. HE OR SHE POSSESSES TEN THOUSAND OR MORE PILLS, TABLETS OR CAPSULES OF SUCH NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES.

UNLAWFUL POSSESSION OF NON-CONTROLLED SUBSTANCE PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIRST DEGREE IS A CLASS B FELONY.

S 10. This act shall take effect on the ninetieth day after it shall have become a law.