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

5709--B

2013-2014 Regular Sessions

I N A S S E M B L Y

March 6, 2013

Introduced by M. of A. BRINDISI, ROBERTS, BORELLI, MONTESANO, NOJAY, GUNTHER, GRAF, LUPINACCI, CROUCH -- Multi-Sponsored by -- M. of A. BARCLAY, BRENNAN, COOK, DUPREY, McDONALD, MOSLEY, SIMANOWITZ, STEC -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to establishing the offense of criminal fortification of a drug house

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

Section 1. Section 220.00 of the penal law is amended by adding two new subdivisions 21 and 22 to read as follows:

21. "BUILDING," IN ADDITION TO ITS ORDINARY MEANING, INCLUDES ANY STRUCTURE, VEHICLE OR WATERCRAFT USED FOR OVERNIGHT LODGING OF PERSONS, OR USED BY PERSONS FOR CARRYING ON BUSINESS THEREIN, OR USED AS AN ELEMENTARY OR SECONDARY SCHOOL, OR AN INCLOSED MOTOR TRUCK, OR AN INCLOSED MOTOR TRUCK TRAILER. WHERE A BUILDING CONSISTS OF TWO OR MORE UNITS SEPARATELY SECURED OR OCCUPIED, EACH UNIT SHALL BE DEEMED BOTH A SEPARATE BUILDING IN ITSELF AND A PART OF THE MAIN BUILDING.

22. "FORTIFIED CONDITION" MEANS THE PRESENCE OF STEEL DOORS, WOODEN PLANKING, CROSS BARS, SURVEILLANCE SYSTEMS, DOGS, OR OTHER SIMILAR MEANS WHICH TEND TO PREVENT OR IMPEDE ENTRY TO A BUILDING.

S 2. The penal law is amended by adding two new sections 220.80 and 220.85 to read as follows:

S 220.80 CRIMINAL FORTIFICATION OF A DRUG HOUSE.

A PERSON IS GUILTY OF CRIMINAL FORTIFICATION OF A DRUG HOUSE WHEN, WITH INTENT TO IMPEDE, DETER OR DELAY LAWFUL ENTRY BY LAW ENFORCEMENT OFFICERS OR ANOTHER PERSON, HE OR SHE IS PRESENT IN AND/OR KNOWINGLY

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

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MAINTAINS A BUILDING IN A FORTIFIED CONDITION AND SUCH BUILDING IS BEING USED FOR THE PURPOSE OF MANUFACTURING, PACKAGING OR DISTRIBUTING CONTROLLED SUBSTANCES OR MARIHUANA.

CRIMINAL FORTIFICATION OF A DRUG HOUSE IS A CLASS D FELONY.

S 220.85 CRIMINAL FORTIFICATION OF A DRUG HOUSE; PRESUMPTION.

A PERSON WHO IS PRESENT IN AND/OR KNOWINGLY MAINTAINS A BUILDING IN A FORTIFIED CONDITION IN WHICH CONTROLLED SUBSTANCES OR MARIHUANA ARE PRESENT IS PRESUMED TO INTEND TO IMPEDE, DETER OR DELAY UNLAWFUL ENTRY BY LAW ENFORCEMENT OR ANOTHER PERSON.

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.