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

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I N S E N A T E

May 23, 2014

Introduced by Sens. ROBACH, BALL, BOYLE, FELDER, GALLIVAN, GOLDEN, GRIFFO, HANNON, LANZA, LARKIN, LITTLE, MARCELLINO, MARCHIONE, MARTINS, MAZIARZ, NOZZOLIO, O'MARA, RANZENHOFER, RITCHIE, SAVINO, SEWARD, VALESKY, YOUNG -- 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 homicide by sale of an opiate controlled substance

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 a new subdivision 21 to read as follows:

21. "OPIATE 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 THAT IS CLASSIFIED AS EITHER AN OPIATE OR OPIUM DERIVATIVE UNDER SUCH LAW.

S 2. The penal law is amended by adding a new section 125.24 to read as follows:

S 125.24 HOMICIDE BY SALE OF AN OPIATE CONTROLLED SUBSTANCE.

A PERSON IS GUILTY OF HOMICIDE BY SALE OF AN OPIATE CONTROLLED SUBSTANCE WHEN ONE UNLAWFULLY TRANSPORTS BY IMPORTING INTO THE STATE OR TRANSPORTING WITHIN THE STATE FROM ONE COUNTY INTO ANOTHER, OR UNLAWFULLY SELLS AS DEFINED BY SUBDIVISION ONE OF SECTION 220.00 OF THIS CHAPTER, AN OPIATE CONTROLLED SUBSTANCE AS DEFINED BY SUBDIVISION TWENTY-ONE OF SECTION 220.00 OF THIS CHAPTER, AND SUCH OPIATE CONTROLLED SUBSTANCE CAUSES THE DEATH OF ANOTHER.

IT SHALL BE A DEFENSE TO HOMICIDE BY SALE OF AN OPIATE CONTROLLED SUBSTANCE THAT THE DEFENDANT JOINTLY AND SIMULTANEOUSLY ACQUIRED AND POSSESSED SUCH OPIATE CONTROLLED SUBSTANCE FOR JOINT USE WITH THE DECEASED, WITH THE INTENT TO JOINTLY INJECT, INHALE OR OTHERWISE INGEST SUCH OPIATE CONTROLLED SUBSTANCE.

HOMICIDE BY SALE OF AN OPIATE CONTROLLED SUBSTANCE IS A CLASS A-I FELONY.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.

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