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

5803

2013-2014 Regular Sessions

I N S E N A T E

June 15, 2013

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

AN ACT to amend the penal law, in relation to criminal possession of marihuana in the fifth degree

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

Section 1. Section 221.10 of the penal law, as amended by chapter 265 of the laws of 1979 and subdivision 2 as amended by chapter 75 of the laws of 1995, is amended to read as follows:

S 221.10 Criminal possession of marihuana in the fifth degree.

A person is guilty of criminal possession of marihuana in the fifth degree when he OR SHE knowingly and unlawfully possesses:

1. marihuana in a public place, as defined in section 240.00 of this chapter, and such marihuana is burning [or open to public view]; or

2. MARIHUANA IN A PUBLIC PLACE, AS DEFINED IN SECTION 240.00 OF THIS CHAPTER, AND SUCH MARIHUANA IS OPEN TO PUBLIC VIEW; OR

3. ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES CONTAINING MARIHUANA AND THE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES ARE OF AN AGGREGATE WEIGHT OF MORE THAN FIFTEEN GRAMS AND SUCH POSSESSION IS IN A PUBLIC PLACE, AS DEFINED IN SECTION 240.00 OF THIS CHAPTER, AND SUCH PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES ARE OPEN TO PUBLIC VIEW; OR

4. one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of more than twenty-five grams.

PROVIDED, HOWEVER, THAT A PERSON SHALL NOT BE GUILTY UNDER SUBDIVISION TWO OF THIS SECTION IF SUCH POSSESSION IS IN A CITY WITH A POPULATION OF MORE THAN ONE MILLION WHERE SUCH CITY, ACTING THROUGH ITS LEGISLATIVE BODY, HAS ADOPTED A LOCAL LAW, ORDINANCE OR RESOLUTION DEEMING SUCH POSSESSION TO BE A VIOLATION UNDER SECTION 221.05 OF THIS ARTICLE.

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

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Criminal possession of marihuana in the fifth degree is a class B misdemeanor.

S 2. This act shall take effect on the ninetieth day after this act shall have become a law.