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I N S E N A T E

May 23, 2014

Introduced by Sens. BOYLE, BALL, BONACIC, FELDER, GALLIVAN, GOLDEN, GRIFFO, HANNON, LANZA, LARKIN, LITTLE, MARCELLINO, MARCHIONE, MARTINS, MAZIARZ, NOZZOLIO, O'MARA, RANZENHOFER, RITCHIE, ROBACH, 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 the transport of an opiate controlled substance

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

1 Section 1. Section 220.00 of the penal law is amended by adding a new
2 subdivision 21 to read as follows:

3 21. "OPIATE CONTROLLED SUBSTANCE" MEANS ANY SUBSTANCE LISTED IN SCHED-
4 ULE I, II, III, IV OR V OF SECTION THIRTY-THREE HUNDRED SIX OF THE
5 PUBLIC HEALTH LAW THAT IS CLASSIFIED AS EITHER AN OPIATE OR OPIUM DERIV-
6 ATIVE UNDER SUCH LAW.

7 S 2. The penal law is amended by adding two new sections 220.80 and
8 220.85 to read as follows:

9 S 220.80 TRANSPORT OF AN OPIATE CONTROLLED SUBSTANCE IN THE SECOND
10 DEGREE.

11 A PERSON IS GUILTY OF TRANSPORT OF AN OPIATE CONTROLLED SUBSTANCE IN
12 THE SECOND DEGREE WHEN HE OR SHE UNLAWFULLY TRANSPORTS AN OPIATE
13 CONTROLLED SUBSTANCE ANY DISTANCE GREATER THAN FIVE MILES WITHIN THE
14 STATE OR FROM ONE COUNTY WITHIN THE STATE TO ANOTHER COUNTY WITHIN THE
15 STATE, FOR HIS OR HER OWN PERSONAL USE.

16 TRANSPORT OF AN OPIATE CONTROLLED SUBSTANCE IN THE SECOND DEGREE IS A
17 CLASS E FELONY.

18 S 220.85 TRANSPORT OF AN OPIATE CONTROLLED SUBSTANCE IN THE FIRST
19 DEGREE.

20 A PERSON IS GUILTY OF TRANSPORT OF AN OPIATE CONTROLLED SUBSTANCE IN
21 THE FIRST DEGREE WHEN HE OR SHE UNLAWFULLY TRANSPORTS AN OPIATE
22 CONTROLLED SUBSTANCE ANY DISTANCE GREATER THAN FIVE MILES WITHIN THE
23 STATE OR FROM ONE COUNTY WITHIN THE STATE TO ANOTHER COUNTY WITHIN THE
24 STATE.

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

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1 IT SHALL BE A DEFENSE TO THE CRIME OF TRANSPORT OF AN OPIATE
2 CONTROLLED SUBSTANCE IN THE FIRST DEGREE THAT THE OPIATE CONTROLLED
3 SUBSTANCE TRANSPORTED WAS EXCLUSIVELY FOR THE DEFENDANT'S OWN PERSONAL
4 USE. NOTHING CONTAINED IN THIS PARAGRAPH SHALL CONSTITUTE A DEFENSE TO A
5 PROSECUTION FOR, OR PRECLUDE A CONVICTION OF, TRANSPORT OF AN OPIATE
6 CONTROLLED SUBSTANCE IN THE SECOND DEGREE OR ANY OTHER CRIME.
7 TRANSPORT OF AN OPIATE CONTROLLED SUBSTANCE IN THE FIRST DEGREE IS A
8 CLASS B FELONY.
9 S 3. This act shall take effect on the ninetieth day after it shall
10 have become a law.