

4281

2015-2016 Regular Sessions

I N   A S S E M B L Y

January 30, 2015

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Introduced by M. of A. SCHIMMINGER, MOYA, HEVESI -- Multi-Sponsored by  
-- M. of A. THIELE -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the alcoholic beverage control law, in  
relation to imposing additional fines when a person fails to pay his  
or her fines or fails to complete counseling or community service when  
mandated

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

1     Section 1. Section 221.05 of the penal law, as added by chapter 360 of  
2     the laws of 1977, is amended to read as follows:  
3     S 221.05 Unlawful possession of marihuana.  
4     1. A person is guilty of unlawful possession of marihuana when he OR  
5     SHE knowingly and unlawfully possesses marihuana.  
6     Unlawful possession of marihuana is a violation punishable only by a  
7     fine of not more than one hundred dollars. However, where the defendant  
8     has previously been convicted of an offense defined in this article or  
9     article [220] TWO HUNDRED TWENTY of this chapter, committed within the  
10    three years immediately preceding such violation, it shall be punishable  
11    (a) only by a fine of not more than two hundred dollars, if the defend-  
12    ant was previously convicted of one such offense committed during such  
13    period, and (b) by a fine of not more than two hundred fifty dollars or  
14    a term of imprisonment not in excess of fifteen days or both, if the  
15    defendant was previously convicted of two such offenses committed during  
16    such period.  
17    2. IN THE EVENT A PERSON WHO HAS BEEN CONVICTED OF UNLAWFUL POSSESSION  
18    OF MARIHUANA FAILS TO PAY SUCH FINE AS MAY BE SET BY THE COURT WITHIN  
19    ONE HUNDRED TWENTY DAYS AFTER THE DECISION OF THE COURT, THEN IN ADDI-  
20    TION TO SUCH FINE, THE COURT MAY IMPOSE AN ADDITIONAL FINE OF NOT MORE  
21    THAN TWO HUNDRED FIFTY DOLLARS.  
22    3. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, SECTION  
23    120.20 OF THE CRIMINAL PROCEDURE LAW SHALL APPLY IN THE EVENT A PERSON

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

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1 WHO HAS BEEN CHARGED WITH A VIOLATION OF THIS SECTION FAILS TO APPEAR  
2 BEFORE THE COURT ON THE DATE SET BY THE ACCUSATORY INSTRUMENT; ARTICLES  
3 FOUR HUNDRED TEN AND FOUR HUNDRED TWENTY OF THE CRIMINAL PROCEDURE LAW  
4 AND ARTICLE TWENTY OF THE JUDICIARY LAW SHALL APPLY IN THE EVENT A  
5 PERSON WHO HAS BEEN FOUND TO HAVE VIOLATED THIS SECTION FAILS TO PAY  
6 SUCH FINE AS MAY BE SET BY THE COURT WITHIN ONE HUNDRED TWENTY DAYS  
7 AFTER THE DECISION OF THE COURT.

8 S 2. Subdivision 3 of section 65-c of the alcoholic beverage control  
9 law, as amended by chapter 137 of the laws of 2001, is amended to read  
10 as follows:

11 3. (A) Any person who unlawfully possesses an alcoholic beverage with  
12 intent to consume may be summoned before and examined by a court having  
13 jurisdiction of that charge; provided, however, that nothing contained  
14 herein shall authorize, or be construed to authorize, a peace officer as  
15 defined in subdivision thirty-three of section 1.20 of the criminal  
16 procedure law or a police officer as defined in subdivision thirty-four  
17 of section 1.20 of such law to arrest a person who unlawfully possesses  
18 an alcoholic beverage with intent to consume. If a determination is made  
19 sustaining such charge the court may impose a fine not exceeding fifty  
20 dollars and/or completion of an alcohol awareness program established  
21 pursuant to section 19.25 of the mental hygiene law and/or an appropri-  
22 ate amount of community service not to exceed thirty hours.

23 (B) IN THE EVENT A PERSON WHO HAS BEEN DETERMINED TO HAVE UNLAWFULLY  
24 POSSESSED AN ALCOHOLIC BEVERAGE WITH INTENT TO CONSUME FAILS TO PAY SUCH  
25 FINE AS MAY BE SET BY THE COURT, OR COMPLETE AN ALCOHOL AWARENESS  
26 PROGRAM ESTABLISHED PURSUANT TO SECTION 19.25 OF THE MENTAL HYGIENE LAW  
27 AND/OR COMMUNITY SERVICE AS REQUIRED BY THE COURT WITHIN ONE HUNDRED  
28 TWENTY DAYS AFTER THE DECISION OF THE COURT, THEN IN ADDITION TO SUCH  
29 FINE, PROGRAM AND/OR COMMUNITY SERVICE, THE COURT MAY IMPOSE AN ADDI-  
30 TIONAL FINE OF NOT MORE THAN TWO HUNDRED FIFTY DOLLARS.

31 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,  
32 SECTION 120.20 OF THE CRIMINAL PROCEDURE LAW SHALL APPLY IN THE EVENT A  
33 PERSON WHO HAS BEEN ALLEGED TO HAVE VIOLATED THIS SECTION FAILS TO  
34 APPEAR BEFORE THE COURT ON THE DATE SET BY THE COURT; ARTICLES FOUR  
35 HUNDRED TEN AND FOUR HUNDRED TWENTY OF THE CRIMINAL PROCEDURE LAW AND  
36 ARTICLE TWENTY OF THE JUDICIARY LAW SHALL APPLY IN THE EVENT A PERSON  
37 WHO HAS BEEN FOUND TO HAVE UNLAWFULLY POSSESSED AN ALCOHOLIC BEVERAGE  
38 WITH INTENT TO CONSUME IN VIOLATION OF THIS SECTION FAILS TO PAY SUCH  
39 FINE AS MAY BE SET BY THE COURT, OR COMPLETE AN ALCOHOL AWARENESS  
40 PROGRAM ESTABLISHED PURSUANT TO SECTION 19.25 OF THE MENTAL HYGIENE LAW  
41 AND/OR COMMUNITY SERVICE AS REQUIRED BY THE COURT, WITHIN ONE HUNDRED  
42 TWENTY DAYS AFTER THE DECISION OF THE COURT.

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