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I N S E N A T E

April 5, 2016

Introduced by Sen. GOLDEN -- 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 certain controlled substance offenses

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

1 Section 1. Subdivision 7 of section 220.00 of the penal law, as
2 amended by chapter 664 of the laws of 1985, is amended to read as
3 follows:

4 7. "Narcotic drug" means any controlled substance listed in schedule
5 I(b), I(c), II(b) or II(c) other than methadone OR HEROIN.

6 S 2. The opening paragraph and subdivision 8 of section 220.06 of the
7 penal law, the opening paragraph as amended by chapter 75 of the laws of
8 1995, subdivision 8 as added by chapter 264 of the laws of 2003, are
9 amended and a new subdivision 9 is added to read as follows:

10 A person is guilty of criminal possession of a controlled substance in
11 the fifth degree when he OR SHE knowingly and unlawfully possesses:

12 8. one or more preparations, compounds, mixtures or substances
13 containing gamma hydroxybutyric acid, as defined in paragraph four of
14 subdivision (e) of schedule I of section thirty-three hundred six of the
15 public health law, and said preparations, compounds, mixtures or
16 substances are of an aggregate weight of twenty-eight grams or more[.];
17 OR

18 9. ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES
19 CONTAINING HEROIN, AND SAID PREPARATIONS, COMPOUNDS, MIXTURES OR
20 SUBSTANCES ARE OF AN AGGREGATE WEIGHT OF FIVE HUNDRED MILLIGRAMS OR
21 MORE.

22 S 3. The opening paragraph and subdivision 15 of section 220.09 of the
23 penal law, the opening paragraph as amended by chapter 75 of the laws of
24 1995 and subdivision 15 as added by chapter 264 of the laws of 2003, are
25 amended and two new subdivisions 16 and 17 are added to read as follows:

26 A person is guilty of criminal possession of a controlled substance in
27 the fourth degree when he OR SHE knowingly and unlawfully possesses:

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

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15. one or more preparations, compounds, mixtures or substances containing gamma hydroxybutyric acid, as defined in paragraph four of subdivision (e) of schedule I of section thirty-three hundred six of the public health law, and said preparations, compounds, mixtures or substances are of an aggregate weight of two hundred grams or more[.]; OR

16. ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES CONTAINING HEROIN, ITS SALTS, ISOMERS OR SALTS OF ISOMERS AND SAID PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES ARE OF AN AGGREGATE WEIGHT OF ONE GRAM OR MORE; OR

17. ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES CONTAINING TWO OR MORE CONTROLLED SUBSTANCES, THEIR SALTS, ISOMERS OR SALTS OF ISOMERS, AND SAID PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES ARE OF AN AGGREGATE WEIGHT OF THREE GRAMS OR MORE.

S 4. The opening paragraph and subdivision 13 of section 220.16 of the penal law, as amended by chapter 75 of the laws of 1995, are amended and two new subdivisions 14 and 15 are added to read as follows:

A person is guilty of criminal possession of a controlled substance in the third degree when he OR SHE knowingly and unlawfully possesses:

13. phencyclidine and said phencyclidine weighs one thousand two hundred fifty milligrams or more[.]; OR

14. ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES CONTAINING HEROIN, ITS SALTS, ISOMERS OR SALTS OF ISOMERS AND SAID PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES ARE OF AN AGGREGATE WEIGHT OF TWO GRAMS OR MORE; OR

15. ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES CONTAINING TWO OR MORE CONTROLLED SUBSTANCES, THEIR SALTS, ISOMERS OR SALTS OF ISOMERS, AND SAID PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES ARE OF AN AGGREGATE WEIGHT OF SIX GRAMS OR MORE.

S 5. Subdivision 7 of section 220.18 of the penal law, as amended by chapter 75 of the laws of 1995, is amended and two new subdivisions 8 and 9 are added to read as follows:

7. methadone and said methadone weighs two thousand eight hundred eighty milligrams or more[.]; OR

8. ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES CONTAINING HEROIN, ITS SALTS, ISOMERS OR SALTS OF ISOMERS AND SAID PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES ARE OF AN AGGREGATE WEIGHT OF FIVE GRAMS OR MORE; OR

9. ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES CONTAINING TWO OR MORE CONTROLLED SUBSTANCES, THEIR SALTS, ISOMERS OR SALTS OF ISOMERS, AND SAID PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES ARE OF AN AGGREGATE WEIGHT OF THIRTY-SIX GRAMS OR MORE.

S 6. Subdivision 2 of section 220.21 of the penal law, as amended by chapter 75 of the laws of 1995, is amended and two new subdivisions 3 and 4 are added to read as follows:

2. methadone and said methadone weighs five thousand seven hundred sixty milligrams or more[.]; OR

3. ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES CONTAINING HEROIN, ITS SALTS, ISOMERS OR SALTS OF ISOMERS AND SAID PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES ARE OF AN AGGREGATE WEIGHT OF TWENTY-FIVE GRAMS OR MORE; OR

4. ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES CONTAINING TWO OR MORE CONTROLLED SUBSTANCES, THEIR SALTS, ISOMERS OR SALTS OF ISOMERS, AND SAID PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES ARE OF AN AGGREGATE WEIGHT OF ONE HUNDRED EIGHTY GRAMS OR MORE.

1 S 7. The opening paragraph and subdivision 9 of section 220.39 of the
2 penal law, the opening paragraph as amended by chapter 1051 of the laws
3 of 1973 and subdivision 9 as added by chapter 410 of the laws of 1979,
4 are amended and two new subdivisions 10 and 11 are added to read as
5 follows:

6 A person is guilty of criminal sale of a controlled substance in the
7 third degree when he OR SHE knowingly and unlawfully sells:

8 9. a narcotic preparation to a person less than twenty-one years
9 old[.]; OR

10 10. ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES
11 CONTAINING TWO OR MORE CONTROLLED SUBSTANCES, THEIR SALTS, ISOMERS OR
12 SALTS OF ISOMERS, AND SAID PREPARATIONS, COMPOUNDS, MIXTURES OR
13 SUBSTANCES ARE OF AN AGGREGATE WEIGHT OF EIGHT GRAMS OR MORE; OR

14 11. HEROIN.

15 S 8. The opening paragraph and subdivision 7 of section 220.41 of the
16 penal law, the opening paragraph as added by chapter 276 of the laws of
17 1973 and subdivision 7 as amended by chapter 75 of the laws of 1995, are
18 amended and two new subdivisions 8 and 9 are added to read as follows:

19 A person is guilty of criminal sale of a controlled substance in the
20 second degree when he OR SHE knowingly and unlawfully sells:

21 7. methadone and the methadone weighs three hundred sixty milligrams
22 or more[.]; OR

23 8. ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES
24 CONTAINING HEROIN, ITS SALTS, ISOMERS OR SALTS OF ISOMERS AND SAID PREP-
25 ARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES ARE OF AN AGGREGATE WEIGHT
26 OF FIVE GRAMS OR MORE; OR

27 9. ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES
28 CONTAINING TWO OR MORE CONTROLLED SUBSTANCES, THEIR SALTS, ISOMERS OR
29 SALTS OF ISOMERS, AND SAID PREPARATIONS, COMPOUNDS, MIXTURES OR
30 SUBSTANCES ARE OF AN AGGREGATE WEIGHT OF SIXTEEN GRAMS OR MORE.

31 S 9. Section 220.43 of the penal law, as amended by chapter 785 of the
32 laws of 1975, subdivisions 1 and 2 as amended by chapter 75 of the laws
33 of 1995, is amended to read as follows:

34 S 220.43 Criminal sale of a controlled substance in the first degree.

35 A person is guilty of criminal sale of a controlled substance in the
36 first degree when he OR SHE knowingly and unlawfully sells:

37 1. one or more preparations, compounds, mixtures or substances
38 containing a narcotic drug and the preparations, compounds, mixtures or
39 substances are of an aggregate weight of two ounces or more; or

40 2. methadone and the methadone weighs two thousand eight hundred
41 eighty milligrams or more; OR

42 3. ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES
43 CONTAINING HEROIN, ITS SALTS, ISOMERS OR SALTS OF ISOMERS AND SAID PREP-
44 ARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES ARE OF AN AGGREGATE WEIGHT
45 OF TWENTY-FIVE GRAMS OR MORE; OR

46 4. ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES
47 CONTAINING TWO OR MORE CONTROLLED SUBSTANCES, THEIR SALTS, ISOMERS OR
48 SALTS OF ISOMERS, AND SAID PREPARATIONS, COMPOUNDS, MIXTURES OR
49 SUBSTANCES ARE OF AN AGGREGATE WEIGHT OF FORTY GRAMS OR MORE.

50 Criminal sale of a controlled substance in the first degree is a class
51 A-I felony.

52 S 10. Section 220.46 of the penal law, as added by chapter 896 of the
53 laws of 1971, is amended to read as follows:

54 S 220.46 Criminal injection of a narcotic drug.

55 A person is guilty of criminal injection of a narcotic drug when he
56 OR SHE knowingly and unlawfully possesses a narcotic drug OTHER THAN

1 FENTANYL and he OR SHE intentionally injects by means of a hypodermic
2 syringe or hypodermic needle all or any portion of that drug into the
3 body of another person with the latter's consent.

4 Criminal injection of a narcotic drug is a class E felony.

5 S 11. The penal law is amended by adding a new section 220.47 to read
6 as follows:

7 S 220.47 CRIMINAL INJECTION OF HEROIN OR FENTANYL.

8 A PERSON IS GUILTY OF CRIMINAL INJECTION OF HEROIN OR FENTANYL WHEN HE
9 OR SHE KNOWINGLY AND UNLAWFULLY POSSESSES HEROIN OR FENTANYL AND HE OR
10 SHE INTENTIONALLY INJECTS BY MEANS OF A HYPODERMIC SYRINGE OR HYPODERMIC
11 NEEDLE ALL OR ANY PORTION OF THAT DRUG INTO THE BODY OF ANOTHER PERSON
12 WITH THE LATTER'S CONSENT.

13 CRIMINAL INJECTION OF HEROIN OR FENTANYL IS A CLASS C FELONY.

14 S 12. Section 220.60 of the penal law, as amended by chapter 276 of
15 the laws of 1973 and subdivisions (e) and (f) as amended and subdivi-
16 sions (g) and (h) as added by chapter 394 of the laws of 1974, is
17 amended to read as follows:

18 S 220.60 Criminal possession of precursors of controlled substances.

19 A person is guilty of criminal possession of precursors of con-
20 trolled substances when, with intent to manufacture a controlled sub-
21 stance unlawfully, he OR SHE possesses at the same time:

22 (a) carbamide (urea) and propanedioc and malonic acid or its deriva-
23 tives; or

24 (b) ergot or an ergot derivative and diethylamine or dimethylformamide
25 or diethylamide; or

26 (c) phenylacetone (1-phenyl-2 propanone) and hydroxylamine or ammonia
27 or formamide or benzaldehyde or nitroethane or methylamine.

28 (d) pentazocine and methyl iodide; or

29 (e) phenylacetone nitrile and dichlorodiethyl methylamine or dichlor-
30 odiethyl benzylamine; or

31 (f) [diephenylacetone nitrile] DIPHENYLACETONITRILE and dimethylaminoiso-
32 propyl chloride; or

33 (g) piperidine and cyclohexanone and bromobenzene and lithium or
34 magnesium; or

35 (h) 2, 5-dimethoxy benzaldehyde and nitroethane and a reducing agent;
36 OR

37 (I) ACETIC ANHYDRIDE AND SODIUM CARBONATE AND AMMONIUM CHLORIDE.

38 Criminal [possession] POSSESSION of precursors of controlled
39 substances is a class E felony.

40 S 13. Subdivision 1 of section 230.34 of the penal law as added by
41 chapter 74 of the laws of 2007, is amended to read as follows:

42 1. unlawfully providing to a person who is patronized, with intent to
43 impair said person's judgment: (a) a narcotic drug or a narcotic prepa-
44 ration; (b) concentrated cannabis as defined in paragraph (a) of subdi-
45 vision four of section thirty-three hundred two of the public health
46 law; (c) methadone; [or] (d) gamma-hydroxybutyrate (GHB) or flunitrazep-
47 an, also known as Rohypnol; OR (E) HEROIN;

48 S 14. This act shall take effect on the first of November next
49 succeeding the date on which it shall have become a law.