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

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Cal. No. 135

2015-2016 Regular Sessions

I N A S S E M B L Y

January 20, 2015

Introduced by M. of A. LENTOL, CYMBROWITZ, GOTTFRIED, WEPRIN, ABINANTI -- read once and referred to the Committee on Codes -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading -- advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the criminal procedure law, the civil practice law and rules and the executive law, in relation to the possession of opioid antagonists

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

Section 1. Section 60.48 of the criminal procedure law is renumbered section 60.49 and a new section 60.48 is added to read as follows:

S 60.48 POSSESSION OF OPIOID ANTAGONISTS; RECEIPT INTO EVIDENCE.

1. EVIDENCE THAT A PERSON WAS IN POSSESSION OF AN OPIOID ANTAGONIST MAY NOT BE ADMITTED AT ANY TRIAL, HEARING OR OTHER PROCEEDING IN A PROSECUTION FOR ANY OFFENSE UNDER SECTIONS 220.03, 220.06, 220.09, 220.16, 220.18, OR 220.21 OF THE PENAL LAW FOR THE PURPOSE OF ESTABLISHING PROBABLE CAUSE FOR AN ARREST OR PROVING ANY PERSON'S COMMISSION OF SUCH OFFENSE.

2. FOR THE PURPOSES OF THIS SECTION, OPIOID ANTAGONIST IS DEFINED AS A DRUG APPROVED BY THE FOOD AND DRUG ADMINISTRATION THAT, WHEN ADMINISTERED, NEGATES OR NEUTRALIZES IN WHOLE OR IN PART THE PHARMACOLOGICAL EFFECTS OF AN OPIOID IN THE BODY AND SHALL BE LIMITED TO NALOXONE AND OTHER MEDICATIONS APPROVED BY THE DEPARTMENT OF HEALTH FOR SUCH PURPOSE.

S 2. The civil practice law and rules is amended by adding a new section 4519-a to read as follows:

S 4519-A. POSSESSION OF OPIOID ANTAGONISTS; RECEIPT INTO EVIDENCE. 1. POSSESSION OF AN OPIOID ANTAGONIST MAY NOT BE RECEIVED IN EVIDENCE IN ANY TRIAL, HEARING OR PROCEEDING PURSUANT TO SUBDIVISION ONE OF SECTION TWO HUNDRED THIRTY-ONE AND PARAGRAPH THREE OF SUBDIVISION B OF SECTION

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

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TWO HUNDRED THIRTY-THREE OF THE REAL PROPERTY LAW OR SUBDIVISION FIVE OF SECTION SEVEN HUNDRED ELEVEN AND SUBDIVISION ONE OF SECTION SEVEN HUNDRED FIFTEEN OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW AS EVIDENCE THAT THE BUILDING OR PREMISES ARE BEING USED FOR ILLEGAL TRADE, MANUFACTURE, OR OTHER ILLEGAL BUSINESS.

2. FOR THE PURPOSES OF THIS SECTION, OPIOID ANTAGONIST SHALL HAVE THE SAME MEANING AS SET FORTH IN SUBDIVISION TWO OF SECTION 60.48 OF THE CRIMINAL PROCEDURE LAW.

S 3. The executive law is amended by adding a new section 214-e to read as follows:

S 214-E. OPIOID ANTAGONIST AWARENESS. THE SUPERINTENDENT, IN COOPERATION WITH THE DEPARTMENT OF HEALTH AND THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, SHALL, FOR ALL MEMBERS OF THE DIVISION OF STATE POLICE: (1) DEVELOP, MAINTAIN AND DISSEMINATE APPROPRIATE INSTRUCTION REGARDING SECTION 60.48 OF THE CRIMINAL PROCEDURE LAW, AND (2) ESTABLISH AND IMPLEMENT WRITTEN PROCEDURES AND POLICIES IN THE EVENT A MEMBER OF THE DIVISION OF STATE POLICE ENCOUNTERS A PERSON WHO POSSESSES OPIOID ANTAGONISTS.

S 4. Section 841 of the executive law is amended by adding a new subdivision 7-b to read as follows:

7-B. TAKE SUCH STEPS AS MAY BE NECESSARY TO ENSURE THAT ALL POLICE OFFICERS AND PEACE OFFICERS CERTIFIED PURSUANT TO SUBDIVISION THREE OF THIS SECTION RECEIVE APPROPRIATE INSTRUCTION REGARDING SECTION 60.48 OF THE CRIMINAL PROCEDURE LAW RELATING TO THE INTRODUCTION OF OPIOID ANTAGONISTS INTO EVIDENCE IN CERTAIN CASES.

S 5. This act shall take effect on the sixtieth day after it shall have become a law and shall apply to all cases pending on and after such date.