

1018

2015-2016 Regular Sessions

I N S E N A T E

January 8, 2015

Introduced by Sens. MONTGOMERY, HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the civil practice law and rules, the criminal procedure law and the executive law, in relation to the use in evidence of the fact of possession of a condom

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

1 Section 1. The civil practice law and rules is amended by adding a new
2 section 4519-a to read as follows:

3 S 4519-A. POSSESSION OF CONDOMS; RECEIPT INTO EVIDENCE. POSSESSION OF
4 A CONDOM MAY NOT BE RECEIVED IN EVIDENCE IN ANY TRIAL, HEARING OR
5 PROCEEDING PURSUANT TO SUBDIVISION ONE OF SECTION TWELVE AND ARTICLE TEN
6 OF THE MULTIPLE DWELLING LAW, SECTION TWELVE-A OF THE PUBLIC HEALTH LAW,
7 SECTION TWO HUNDRED THIRTY-ONE OF THE REAL PROPERTY LAW OR SUBDIVISION
8 FIVE OF SECTION SEVEN HUNDRED ELEVEN AND SECTION SEVEN HUNDRED FIFTEEN
9 OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW AS EVIDENCE OF PROSTITUTION,
10 PATRONIZING A PROSTITUTE, PROMOTING PROSTITUTION, PERMITTING
11 PROSTITUTION, MAINTAINING A PREMISES FOR PROSTITUTION, LEWDNESS OR
12 ASSIGNATION, OR MAINTAINING A BAWDY HOUSE.

13 S 2. The criminal procedure law is amended by adding a new section
14 60.47 to read as follows:

15 S 60.47 POSSESSION OF CONDOMS; RECEIPT INTO EVIDENCE.
16 EVIDENCE THAT A PERSON WAS IN POSSESSION OF ONE OR MORE CONDOMS MAY
17 NOT BE ADMITTED AT ANY TRIAL, HEARING OR OTHER PROCEEDING IN A PROSECUTION
18 FOR ANY OFFENSE, OR AN ATTEMPT TO COMMIT ANY OFFENSE, DEFINED IN
19 ARTICLE TWO HUNDRED THIRTY OR SECTION 240.37 OF THE PENAL LAW FOR THE
20 PURPOSE OF ESTABLISHING PROBABLE CAUSE FOR AN ARREST OR PROVING ANY
21 PERSON'S COMMISSION OR ATTEMPTED COMMISSION OF SUCH OFFENSE.

22 S 3. Section 841 of the executive law is amended by adding a new
23 subdivision 7-b to read as follows:

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

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1 7-B. TAKE SUCH STEPS AS MAY BE NECESSARY TO ENSURE THAT ALL POLICE
2 OFFICERS AND PEACE OFFICERS CERTIFIED PURSUANT TO SUBDIVISION THREE OF
3 THIS SECTION RECEIVE APPROPRIATE INSTRUCTION REGARDING THE EVIDENTIARY
4 PROHIBITION SET FORTH IN SECTION 60.47 OF THE CRIMINAL PROCEDURE LAW
5 RELATING TO THE INTRODUCTION OF CONDOMS INTO EVIDENCE IN CERTAIN CRIMI-
6 NAL PROSECUTIONS;

7 S 4. This act shall take effect on the first of November next succeed-
8 ing the date on which it shall have become a law.