STATE OF NEW YORK

3295

2017-2018 Regular Sessions

IN ASSEMBLY

January 27, 2017

Introduced by M. of A. RAIA, CROUCH, FRIEND, PALMESANO, BRABENEC -- read once and referred 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:

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

21. "Opiate controlled substance" means any substance listed in schedule I, II, III, IV or V of section thirty-three hundred six of the public health law that is classified as either an opiate or opium derivative under such law.

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

§ 220.80 Transport of an opiate controlled substance in the second degree.

A person is guilty of transport of an opiate controlled substance in the second degree when he or she unlawfully transports an opiate controlled substance any distance greater than five miles within the state or from one county within the state to another county within the state, for his or her own personal use.

Transport of an opiate controlled substance in the second degree is a class E felony.

§ 220.85 Transport of an opiate controlled substance in the first degree.

A person is guilty of transport of an opiate controlled substance in the first degree when he or she unlawfully transports an opiate controlled substance any distance greater than five miles within the state or from one county within the state to another county within the state.

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

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It shall be a defense to the crime of transport of an opiate controlled substance in the first degree that the opiate controlled substance transported was exclusively for the defendant's own personal use. Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, transport of an opiate controlled substance in the second degree or any other crime.

Transport of an opiate controlled substance in the first degree is a class B felony.

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