STATE OF NEW YORK

2123

2017-2018 Regular Sessions

IN SENATE

January 12, 2017

Introduced by Sen. O'MARA -- 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 penalties for the crimes of criminal possession of methamphetamine manufacturing material and unlawful manufacture of methamphetamine

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 220.70 of the penal law, as added by chapter 394 of the laws of 2005, is amended to read as follows:

§ 220.70 Criminal possession of methamphetamine manufacturing material in the second degree.

A person is guilty of criminal possession of methamphetamine manufacturing material in the second degree when he or she possesses a precursor, a chemical reagent or a solvent with the intent to use or knowing another intends to use such precursor, chemical reagent, or solvent to unlawfully produce, prepare or manufacture methamphetamine.

Criminal possession of methamphetamine manufacturing material in the second degree is a class [~~A misdemeanor~~] **E felony**.

§ 2. Section 220.71 of the penal law, as added by chapter 394 of the laws of 2005, is amended to read as follows:

§ 220.71 Criminal possession of methamphetamine manufacturing material in the first degree.

A person is guilty of criminal possession of methamphetamine manufacturing material in the first degree when he or she commits the offense of criminal possession of methamphetamine manufacturing material in the second degree, as defined in section 220.70 of this article, and has previously been convicted within the preceding five years of criminal possession of methamphetamine manufacturing material in the second degree, as defined in section 220.70 of this article, or a violation of this section.

Criminal possession of methamphetamine manufacturing material in the first degree is a class [~~E~~] **D** felony.

§ 3. Section 220.73 of the penal law, as added by chapter 394 of the laws of 2005, is amended to read as follows:

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

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§ 220.73 Unlawful manufacture of methamphetamine in the third degree.

A person is guilty of unlawful manufacture of methamphetamine in the third degree when he or she possesses at the same time and location, with intent to use, or knowing that another intends to use each such product to unlawfully manufacture, prepare or produce methamphetamine:

1. Two or more items of laboratory equipment and two or more precursors, chemical reagents or solvents in any combination; or

2. One item of laboratory equipment and three or more precursors, chemical reagents or solvents in any combination; or

3. A precursor:

(a) mixed together with a chemical reagent or solvent; or

(b) with two or more chemical reagents and/or solvents mixed together.

Unlawful manufacture of methamphetamine in the third degree is a class [~~D~~] **C** felony.

§ 4. Section 220.74 of the penal law, as added by chapter 394 of the laws of 2005, is amended to read as follows:

§ 220.74 Unlawful manufacture of methamphetamine in the second degree.

A person is guilty of unlawful manufacture of methamphetamine in the second degree when he or she:

1. Commits the offense of unlawful manufacture of methamphetamine in the third degree as defined in section 220.73 of this article in the presence of another person under the age of sixteen, provided, however, that the actor is at least five years older than such other person under the age of sixteen; or

2. Commits the crime of unlawful manufacture of methamphetamine in the third degree as defined in section 220.73 of this article and has previously been convicted within the preceding five years of the offense of criminal possession of precursors of methamphetamine as defined in section 220.72 of this article, criminal possession of methamphetamine manufacturing material in the first degree as defined in section 220.71 of this article, unlawful disposal of methamphetamine laboratory material as defined in section 220.76 of this article, unlawful manufacture of methamphetamine in the third degree as defined in section 220.73 of this article, unlawful manufacture of methamphetamine in the second degree as defined in this section, or unlawful manufacture of methamphetamine in the first degree as defined in section 220.75 of this article.

Unlawful manufacture of methamphetamine in the second degree is a class [~~C~~] **B** felony.

§ 5. Section 220.75 of the penal law, as added by chapter 394 of the laws of 2005, is amended to read as follows:

§ 220.75 Unlawful manufacture of methamphetamine in the first degree.

A person is guilty of unlawful manufacture of methamphetamine in the first degree when such person commits the crime of unlawful manufacture of methamphetamine in the second degree, as defined in subdivision one of section 220.74 of this article, after having previously been convicted within the preceding five years of unlawful manufacture of methamphetamine in the third degree, as defined in section 220.73, unlawful manufacture of methamphetamine in the second degree, as defined in section 220.74 of this article, or unlawful manufacture of methamphetamine in the first degree, as defined in this section.

Unlawful [~~manufacturer~~] **manufacture** of methamphetamine in the first degree is a class [~~B~~] **A-I** felony.

§ 6. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.