

# STATE OF NEW YORK

8733

2017-2018 Regular Sessions

## IN ASSEMBLY

October 20, 2017

Introduced by M. of A. PAULIN, GALEF, MOSLEY, CROUCH -- Multi-Sponsored  
by -- M. of A. D'URSO, SOLAGES -- read once and referred to the  
Committee on Codes

AN ACT to amend the penal law, in relation to unconsented removal or  
tampering with a sexually protective device

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

Section 1. Subdivision 3 of section 130.20 of the penal law is renum-  
bered subdivision 4 and a new subdivision 3 is added to read as follows:

3. a. He or she engages in sexual intercourse, oral sexual conduct or  
anal sexual conduct with another person that was mutually agreed upon by  
the parties involved with the explicit understanding and knowledge that  
a sexually protective device would be used but (i) intentionally and  
without consent removes or tampers with such sexually protective device  
during sexual intercourse, oral sexual conduct or anal sexual conduct,  
in a manner likely to render such device ineffective for its common  
purpose; (ii) intentionally and without consent uses a sexually protec-  
tive device during sexual intercourse, oral sexual conduct or anal sexu-  
al conduct that he or she knows has been tampered with in a manner like-  
ly to render such device ineffective for its common purpose; or (iii)  
intentionally misleads the other person into believing that a sexually  
protective device was being used during sexual intercourse, oral sexual  
conduct or anal sexual conduct, and such sexually protective device was  
known by such other person to be either not used or inoperable.

b. For the purposes of this subdivision, a "sexually protective  
device" shall mean any one of the following intended to prevent pregnan-  
cy or sexually transmitted infection: male or female condom, spermicide,  
diaphragm, cervical cap, contraceptive sponge, dental dam, or another  
physical device; or

§ 2. This act shall take effect on the first of November next succeed-  
ing the date on which it shall have become a law.

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

LBD13477-01-7