STATE OF NEW YORK

180--A

2017-2018 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2017

Introduced by Sens. MARCHIONE, CROCI, GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to criminal sale of a controlled substance upon the grounds of a drug or alcohol treatment center

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

Section 1. The penal law is amended by adding a new section 220.49 to read as follows:

§ 220.49 Criminal sale of a controlled substance upon the grounds of a drug or alcohol treatment center.

1. A person is guilty of criminal sale of a controlled substance upon the grounds of a drug or alcohol treatment center when he or she knowing and unlawfully sells a controlled substance:

(a) in violation of any one of subdivisions one through six-a of section 220.34 of this article, when such sale takes place upon the grounds of a drug or alcohol treatment center;

(b) in violation of any one of subdivisions one through eight of section 220.39 of this article, when such sale takes place upon the grounds of a drug or alcohol treatment center; or

(c) which is an opiate, as defined in section thirty-three hundred two of the public health law, unless such opiate is sold by a pharmacist or prescribed by a physician licensed under article one hundred thirty-seven or article one hundred thirty-one of the education law respectively.

2. For the purposes of this section, "upon the grounds of a drug or alcohol treatment center" means (a) in, on or within any building, structure, parking lot or land contained within the real property bound-

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

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ary line of any facility which provides chemical dependence services, as defined in subdivision fifty-five of section 1.03 of the mental hygiene law, or a methadone clinic, or (b) any area accessible to the public located within one thousand feet of the real property boundary line comprising any facility which provides chemical dependence services, as defined in subdivision fifty-five of section 1.03 of the mental hygiene law, or any methadone clinic, or any parked automobile or other parked vehicle located within one thousand feet of the real property boundary line comprising such a facility or methadone clinic. For the purposes of this section, "area accessible to the public" means sidewalks, streets, parking lots, parks, playgrounds, stores and restaurants.

3. For the purposes of this section, a rebuttable presumption shall be established that a defendant has knowledge that he or she is upon the grounds of a drug or alcohol treatment center when notice is conspicuously posted of the presence or proximity of a drug or alcohol treatment center or methadone clinic.

Criminal sale of a controlled substance upon the grounds of a drug or alcohol treatment center is a class B felony.

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