

# 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:

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

3 § 220.70 Criminal possession of methamphetamine manufacturing material  
4 in the second degree.

5 A person is guilty of criminal possession of methamphetamine manufac-  
6 turing material in the second degree when he or she possesses a precur-  
7 sor, a chemical reagent or a solvent with the intent to use or knowing  
8 another intends to use such precursor, chemical reagent, or solvent to  
9 unlawfully produce, prepare or manufacture methamphetamine.

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

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

14 § 220.71 Criminal possession of methamphetamine manufacturing material  
15 in the first degree.

16 A person is guilty of criminal possession of methamphetamine manufac-  
17 turing material in the first degree when he or she commits the offense  
18 of criminal possession of methamphetamine manufacturing material in the  
19 second degree, as defined in section 220.70 of this article, and has  
20 previously been convicted within the preceding five years of criminal  
21 possession of methamphetamine manufacturing material in the second  
22 degree, as defined in section 220.70 of this article, or a violation of  
23 this section.

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

26 § 3. Section 220.73 of the penal law, as added by chapter 394 of the  
27 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.

LBD07057-01-7

1 § 220.73 Unlawful manufacture of methamphetamine in the third degree.

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

6 1. Two or more items of laboratory equipment and two or more precur-  
7 sors, chemical reagents or solvents in any combination; or

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

10 3. A precursor:

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

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

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

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

17 § 220.74 Unlawful manufacture of methamphetamine in the second degree.

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

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

25 2. Commits the crime of unlawful manufacture of methamphetamine in the  
26 third degree as defined in section 220.73 of this article and has previ-  
27 ously been convicted within the preceding five years of the offense of  
28 criminal possession of precursors of methamphetamine as defined in  
29 section 220.72 of this article, criminal possession of methamphetamine  
30 manufacturing material in the first degree as defined in section 220.71  
31 of this article, unlawful disposal of methamphetamine laboratory materi-  
32 al as defined in section 220.76 of this article, unlawful manufacture of  
33 methamphetamine in the third degree as defined in section 220.73 of this  
34 article, unlawful manufacture of methamphetamine in the second degree as  
35 defined in this section, or unlawful manufacture of methamphetamine in  
36 the first degree as defined in section 220.75 of this article.

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

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

41 § 220.75 Unlawful manufacture of methamphetamine in the first degree.

42 A person is guilty of unlawful manufacture of methamphetamine in the  
43 first degree when such person commits the crime of unlawful manufacture  
44 of methamphetamine in the second degree, as defined in subdivision one  
45 of section 220.74 of this article, after having previously been  
46 convicted within the preceding five years of unlawful manufacture of  
47 methamphetamine in the third degree, as defined in section 220.73,  
48 unlawful manufacture of methamphetamine in the second degree, as defined  
49 in section 220.74 of this article, or unlawful manufacture of methamphe-  
50 tamine in the first degree, as defined in this section.

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

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