STATE OF NEW YORK

2744

2017-2018 Regular Sessions

IN SENATE

January 17, 2017

Introduced by Sen. GOLDEN -- 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 certain controlled substance offenses

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

Section 1. Subdivision 7 of section 220.00 of the penal law, 1 as amended by chapter 664 of the laws of 1985, is amended to read as 2 3 follows: 4 7. "Narcotic drug" means any controlled substance listed in schedule 5 I(b), I(c), II(b) or II(c) other than methadone or heroin. § 2. The opening paragraph and subdivision 8 of section 220.06 of the б 7 penal law, the opening paragraph as amended by chapter 75 of the laws of 8 1995, subdivision 8 as added by chapter 264 of the laws of 2003, are 9 amended and a new subdivision 9 is added to read as follows: 10 A person is quilty of criminal possession of a controlled substance in the fifth degree when he or she knowingly and unlawfully possesses: 11 8. one or more preparations, compounds, mixtures or substances 12 containing gamma hydroxybutyric acid, as defined in paragraph four of 13 subdivision (e) of schedule I of section thirty-three hundred six of the 14 15 public health law, and said preparations, compounds, mixtures or 16 substances are of an aggregate weight of twenty-eight grams or more [-]: 17 or 9. one or more preparations, compounds, mixtures or substances 18 containing heroin, and said preparations, compounds, mixtures or 19 20 substances are of an aggregate weight of five hundred milligrams or 21 more. 22 § 3. The opening paragraph and subdivision 15 of section 220.09 of the 23 penal law, the opening paragraph as amended by chapter 75 of the laws of

24 1995 and subdivision 15 as added by chapter 264 of the laws of 2003, are 25 amended and two new subdivisions 16 and 17 are added to read as follows:

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

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A person is quilty of criminal possession of a controlled substance in 1 2 the fourth degree when he or she knowingly and unlawfully possesses: 3 15. one or more preparations, compounds, mixtures or substances containing gamma hydroxybutyric acid, as defined in paragraph four of 4 5 subdivision (e) of schedule I of section thirty-three hundred six of the б public health law, and said preparations, compounds, mixtures or 7 substances are of an aggregate weight of two hundred grams or more [-]: 8 or 9 16. one or more preparations, compounds, mixtures or substances 10 containing heroin, its salts, isomers or salts of isomers and said prep-11 arations, compounds, mixtures or substances are of an aggregate weight 12 of one gram or more; or 17. one or more preparations, compounds, mixtures or substances 13 14 containing two or more controlled substances, their salts, isomers or 15 salts of isomers, and said preparations, compounds, mixtures or 16 substances are of an aggregate weight of three grams or more. 17 § 4. The opening paragraph and subdivision 13 of section 220.16 of the 18 penal law, as amended by chapter 75 of the laws of 1995, are amended and two new subdivisions 14 and 15 are added to read as follows: 19 20 A person is guilty of criminal possession of a controlled substance in 21 the third degree when he or she knowingly and unlawfully possesses: 22 13. phencyclidine and said phencyclidine weighs one thousand two 23 hundred fifty milligrams or more [-]; or 24 14. one or more preparations, compounds, mixtures or substances 25 containing heroin, its salts, isomers or salts of isomers and said prep-26 arations, compounds, mixtures or substances are of an aggregate weight 27 <u>of two grams or more; or</u> 28 15. one or more preparations, compounds, mixtures or substances containing two or more controlled substances, their salts, isomers or 29 salts of isomers, and said preparations, compounds, mixtures or 30 31 substances are of an aggregate weight of six grams or more. § 5. Subdivision 7 of section 220.18 of the penal law, as amended by 32 33 chapter 75 of the laws of 1995, is amended and two new subdivisions 8 34 and 9 are added to read as follows: 35 7. methadone and said methadone weighs two thousand eight hundred 36 eighty milligrams or more[+]; or 37 8. one or more preparations, compounds, mixtures or substances 38 containing heroin, its salts, isomers or salts of isomers and said preparations, compounds, mixtures or substances are of an aggregate weight 39 40 of five grams or more; or 41 9. one or more preparations, compounds, mixtures or substances 42 containing two or more controlled substances, their salts, isomers or 43 salts of isomers, and said preparations, compounds, mixtures or 44 substances are of an aggregate weight of thirty-six grams or more. § 6. Subdivision 2 of section 220.21 of the penal law, as amended by 45 46 chapter 75 of the laws of 1995, is amended and two new subdivisions 3 47 and 4 are added to read as follows: 48 2. methadone and said methadone weighs five thousand seven hundred 49 sixty milligrams or more[+]; or 3. one or more preparations, compounds, mixtures or substances 50 51 containing heroin, its salts, isomers or salts of isomers and said prep-52 arations, compounds, mixtures or substances are of an aggregate weight 53 of twenty-five grams or more; or

54 <u>4. one or more preparations, compounds, mixtures or substances</u> 55 <u>containing two or more controlled substances, their salts, isomers or</u> 56 <u>salts of isomers, and said preparations, compounds, mixtures or</u>

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1 A person is quilty of criminal injection of a narcotic drug when he 2 or she knowingly and unlawfully possesses a narcotic drug other than fentanyl and he or she intentionally injects by means of a hypodermic 3 4 syringe or hypodermic needle all or any portion of that drug into the 5 body of another person with the latter's consent. б Criminal injection of a narcotic drug is a class E felony. 7 § 11. The penal law is amended by adding a new section 220.47 to read 8 as follows: 9 § 220.47 Criminal injection of heroin or fentanyl. A person is guilty of criminal injection of heroin or fentanyl when he 10 11 or she knowingly and unlawfully possesses heroin or fentanyl and he or she intentionally injects by means of a hypodermic syringe or hypodermic 12 13 needle all or any portion of that drug into the body of another person 14 with the latter's consent. 15 Criminal injection of heroin or fentanyl is a class C felony. 16 § 12. Section 220.60 of the penal law, as amended by chapter 276 of 17 the laws of 1973 and subdivisions (e) and (f) as amended and subdivisions (g) and (h) as added by chapter 394 of the laws of 1974, 18 is amended to read as follows: 19 20 § 220.60 Criminal possession of precursors of controlled substances. 21 A person is quilty of criminal possession of precursors of con-22 trolled substances when, with intent to manufacture a controlled substance unlawfully, he or she possesses at the same time: 23 24 (a) carbamide (urea) and propanedioc and malonic acid or its deriva-25 tives; or 26 (b) ergot or an ergot derivative and diethylamine or dimethylformamide 27 or diethylamide; or (c) phenylacetone (1-phenyl-2 propanone) and hydroxylamine or ammonia 28 29 or formamide or benzaldehyde or nitroethane or methylamine. 30 (d) pentazocine and methyliodide; or 31 (e) phenylacetonitrile and dichlorodiethyl methylamine or dichlor-32 odiethyl benzylamine; or 33 (f) [diephenylacetonitrile] diphenylacetonitrile and dimethylaminoiso-34 propyl chloride; or 35 (g) piperidine and cyclohexanone and bromobenzene and lithium or 36 magnesium; or 37 2, 5-dimethoxy benzaldehyde and nitroethane and a reducing agent: (h) 38 or 39 (i) acetic anhydride and sodium carbonate and ammonium chloride. 40 Criminal [prossession] possession of precursors of controlled substances is a class E felony. 41 42 § 13. Subdivision 1 of section 230.34 of the penal law as added by chapter 74 of the laws of 2007, is amended to read as follows: 43 44 1. unlawfully providing to a person who is patronized, with intent to 45 impair said person's judgment: (a) a narcotic drug or a narcotic prepa-46 ration; (b) concentrated cannabis as defined in paragraph (a) of subdivision four of section thirty-three hundred two of the public health 47 law; (c) methadone; [er] (d) gamma-hydroxybutyrate (GHB) or flunitrazep-48 an, also known as Rohypnol; or (e) heroin; 49 § 14. This act shall take effect on the first of November next 50 51 succeeding the date on which it shall have become a law.