

STATE OF NEW YORK

5039

2019-2020 Regular Sessions

IN ASSEMBLY

February 6, 2019

Introduced by M. of A. QUART -- read once and referred to the Committee on Codes

AN ACT to amend the administrative code of the city of New York, the general business law, the penal law, and the vehicle and traffic law, in relation to the criminal sale of a controlled substance in or near school grounds; and to repeal section 220.44 of the penal law and section 317 of the highway law relating thereto

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

1 Section 1. Section 220.44 of the penal law is REPEALED.
2 § 2. Section 317 of the highway law is REPEALED.
3 § 3. Subparagraph i of paragraph 7 of subdivision a of section 9-131
4 of the administrative code of the city of New York, as amended by chap-
5 ter 189 of the laws of 2018, is amended to read as follows:
6 i. a felony defined in any of the following sections of the penal law:
7 120.01, 120.02, 120.03, 120.04, 120.04-a(4), 120.05, 120.06, 120.07,
8 120.08, 120.09, 120.10, 120.11, 120.12, 120.13, 120.18, 120.25, 120.55,
9 120.60, 120.70, 121.12, 121.13, 125.10, 125.11, 125.12, 125.13, 125.14,
10 125.15, 125.20, 125.21, 125.22, 125.25, 125.26, 125.27, 125.40, 125.45,
11 130.25, 130.30, 130.35, 130.40, 130.45, 130.50, 130.53, 130.65,
12 130.65-a, 130.66, 130.67, 130.70, 130.75, 130.80, 130.85, 130.90,
13 130.95, 130.96, 135.10, 135.20, 135.25, 135.35, 135.50, 135.65(2)(b),
14 140.17, 140.25, 140.30, 145.12, 150.05, 150.10, 150.15, 150.20, 160.05,
15 160.10, 160.15, 195.07, 195.08, 195.17, 215.11, 215.12, 215.13, 215.15,
16 215.16, 215.17, 215.51, 215.52, 220.18, 220.21, 220.28, 220.41, 220.43,
17 ~~220.44,~~ 220.48, 220.77, 230.05, 230.06, 230.19, 230.25(2), 230.30,
18 230.32, 230.33, 230.34, 230.34-a, 235.22, 240.06, 240.55, 240.60,
19 240.61, 240.62, 240.63, 240.75, 241.05, 255.26, 255.27, 260.25, 260.32,
20 260.34, 263.05, 263.10, 263.11, 263.15, 263.16, 263.30, 265.01-a,
21 265.01-b, 265.02(2) through (8), 265.03, 265.04, 265.08, 265.09, 265.10,
22 265.11, 265.12, 265.13, 265.14, 265.16, 265.17, 265.19, 265.35(2),

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

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1 270.30, 270.35, 405.16(1), 405.18, 460.22, 470.21, 470.22, 470.23,
2 470.24, 490.10, 490.15, 490.20, 490.25, 490.30, 490.35, 490.37, 490.40,
3 490.45, 490.47, 490.50, or 490.55;

4 § 4. Subparagraph i of paragraph 6 of subdivision a of section 14-154
5 of the administrative code of the city of New York, as amended by chap-
6 ter 189 of the laws of 2018, is amended to read as follows:

7 i. a felony defined in any of the following sections of the penal law:
8 120.01, 120.02, 120.03, 120.04, 120.04-a(4), 120.05, 120.06, 120.07,
9 120.08, 120.09, 120.10, 120.11, 120.12, 120.13, 120.18, 120.25, 120.55,
10 120.60, 120.70, 121.12, 121.13, 125.10, 125.11, 125.12, 125.13, 125.14,
11 125.15, 125.20, 125.21, 125.22, 125.25, 125.26, 125.27, 125.40, 125.45,
12 130.25, 130.30, 130.35, 130.40, 130.45, 130.50, 130.53, 130.65,
13 130.65-a, 130.66, 130.67, 130.70, 130.75, 130.80, 130.85, 130.90,
14 130.95, 130.96, 135.10, 135.20, 135.25, 135.35, 135.50, 135.65(2)(b),
15 140.17, 140.25, 140.30, 145.12, 150.05, 150.10, 150.15, 150.20, 160.05,
16 160.10, 160.15, 195.07, 195.08, 195.17, 215.11, 215.12, 215.13, 215.15,
17 215.16, 215.17, 215.51, 215.52, 220.18, 220.21, 220.28, 220.41, 220.43,
18 ~~220.44,~~ 220.48, 220.77, 230.05, 230.06, 230.19, 230.25(2), 230.30,
19 230.32, 230.33, 230.34, 230.34-a, 235.22, 240.06, 240.55, 240.60,
20 240.61, 240.62, 240.63, 240.75, 241.05, 255.26, 255.27, 260.25, 260.32,
21 260.34, 263.05, 263.10, 263.11, 263.15, 263.16, 263.30, 265.01-a,
22 265.01-b, 265.02 (2) through (8), 265.03, 265.04, 265.08, 265.09,
23 265.10, 265.11, 265.12, 265.13, 265.14, 265.16, 265.17, 265.19,
24 265.35(2), 270.30, 270.35, 405.16(1), 405.18, 460.22, 470.21, 470.22,
25 470.23, 470.24, 490.10, 490.15, 490.20, 490.25, 490.30, 490.35, 490.37,
26 490.40, 490.45, 490.47, 490.50, or 490.55;

27 § 5. Subdivision 13 of section 89-f of the general business law, as
28 added by chapter 336 of the laws of 1992, is amended to read as follows:

29 13. "Serious offense" shall mean any felony involving the offenses
30 enumerated in the closing paragraph of this subdivision; a criminal
31 solicitation of or a conspiracy to commit or an attempt to commit or a
32 criminal facilitation of a felony involving the offenses enumerated in
33 the closing paragraph of this subdivision, which criminal solicitation,
34 conspiracy, attempt or criminal facilitation itself constitutes a felony
35 or any offense in any other jurisdiction which if committed in this
36 state would constitute a felony; any offense in any other jurisdiction
37 which if committed in this state would constitute a felony provided that
38 for the purposes of this article, none of the following shall be consid-
39 ered criminal convictions or reported as such: (i) a conviction for
40 which an executive pardon has been issued pursuant to the executive law;
41 (ii) a conviction which has been vacated and replaced by a youthful
42 offender finding pursuant to article seven hundred twenty of the crimi-
43 nal procedure law, or the applicable provisions of law of any other
44 jurisdiction; or (iii) a conviction the records of which have been
45 sealed pursuant to the applicable provisions of the laws of this state
46 or of any other jurisdiction; and (iv) a conviction for which other
47 evidence of successful rehabilitation to remove the disability has been
48 issued.

49 Felonies involving: assault, aggravated assault and reckless endanger-
50 ment pursuant to article one hundred twenty; vehicular manslaughter,
51 manslaughter and murder pursuant to article one hundred twenty-five; sex
52 offenses pursuant to article one hundred thirty; unlawful imprisonment,
53 kidnapping or coercion pursuant to article one hundred thirty-five;
54 criminal trespass and burglary pursuant to article one hundred forty;
55 criminal mischief, criminal tampering and tampering with a consumer
56 product pursuant to article one hundred forty-five; arson pursuant to

1 article one hundred fifty; larceny and offenses involving theft pursuant
2 to article one hundred fifty-five; offenses involving computers pursuant
3 to article one hundred fifty-six; robbery pursuant to article one
4 hundred sixty; criminal possession of stolen property pursuant to arti-
5 cle one hundred sixty-five; forgery and related offenses pursuant to
6 article one hundred seventy; involving false written statements pursuant
7 to article one hundred seventy-five; commercial bribing and commercial
8 bribe receiving pursuant to article one hundred eighty; criminal imper-
9 sonation and scheme to defraud pursuant to article one hundred ninety;
10 bribery involving public servants and related offenses pursuant to arti-
11 cle two hundred; perjury and related offenses pursuant to article two
12 hundred ten; tampering with a witness, intimidating a victim or witness
13 and tampering with physical evidence pursuant to article two hundred
14 fifteen; criminal possession of a controlled substance pursuant to
15 sections 220.06, 220.09, 220.16, 220.18 and 220.21; criminal sale of a
16 controlled substance pursuant to sections 220.31, 220.34, 220.39,
17 220.41[~~r~~] and 220.43 [~~and 220.44~~]; criminal sale of marijuana pursuant
18 to sections 221.45, 221.50 and 221.55; riot in the first degree, aggra-
19 vated harassment in the first degree, criminal nuisance in the first
20 degree and falsely reporting an incident in the second or first degree
21 pursuant to article two hundred forty; and crimes against public safety
22 pursuant to article two hundred sixty-five of the penal law.

23 § 6. Subdivision 21 of section 10.00 of the penal law, as added by
24 chapter 1 of the laws of 2013, is amended to read as follows:

25 21. "Drug trafficking felony" means any of the following offenses
26 defined in article two hundred twenty of this chapter: violation of use
27 of a child to commit a controlled substance offense as defined in
28 section 220.28; criminal sale of a controlled substance in the fourth
29 degree as defined in section 220.34; criminal sale of a controlled
30 substance in the third degree as defined in section 220.39; criminal
31 sale of a controlled substance in the second degree as defined in
32 section 220.41; criminal sale of a controlled substance in the first
33 degree as defined in section 220.43; [~~criminal sale of a controlled~~
34 ~~substance in or near school grounds as defined in section 220.44;~~]
35 unlawful manufacture of methamphetamine in the second degree as defined
36 in section 220.74; unlawful manufacture of methamphetamine in the first
37 degree as defined in section 220.75; or operating as a major trafficker
38 as defined in section 220.77.

39 § 7. Subparagraph (i) of paragraph (a) of subdivision 2 of section
40 70.70 of the penal law, as amended by section 21 of part AAA of chapter
41 56 of the laws of 2009, is amended to read as follows:

42 (i) for a class B felony, the term shall be at least one year and
43 shall not exceed nine years, except that for the class B felony of crim-
44 inal sale of a controlled substance [~~in or near school grounds as~~
45 ~~defined in subdivision two of section 220.44 of this chapter or~~] on a
46 school bus as defined in subdivision seventeen of section 220.00 of this
47 chapter or criminal sale of a controlled substance to a child as defined
48 in section 220.48 of this chapter, the term shall be at least two years
49 and shall not exceed nine years;

50 § 8. Subdivision 8 of section 220.34 of the penal law, as amended by
51 chapter 264 of the laws of 2003, is amended to read as follows:

52 8. a controlled substance in violation of section 220.31 of this arti-
53 cle, when such sale takes place upon the grounds of a child day care or
54 educational facility under circumstances evincing knowledge by the
55 defendant that such sale is taking place upon such grounds. [~~As used in~~
56 ~~this subdivision, the phrase "the grounds of a child day care or educa-~~

~~1 tional facility" shall have the same meaning as provided for in subdivi-~~
~~2 sion five of section 220.44 of this article.]~~

3 For the purposes of this
4 subdivision, a rebuttable presumption shall be established that a person
5 has knowledge that they are within the grounds of a child day care or
6 educational facility when notice is conspicuously posted of the presence
7 or proximity of such facility; or

8 § 9. Paragraph (b) of subdivision 4 of section 509-cc of the vehicle
9 and traffic law, as amended by chapter 400 of the laws of 2011, is
10 amended to read as follows:

11 (b) The offenses referred to in subparagraph (ii) of paragraph (a) of
12 subdivision one and paragraph (b) of subdivision two of this section
13 that result in permanent disqualification shall include a conviction
14 under sections 100.13, 105.15, 105.17, 115.08, 120.12, 120.70, 125.10,
15 125.11, 130.40, 130.53, 130.60, 130.65-a, 135.20, 160.15, 220.18,
16 220.21, 220.39, 220.41, 220.43, ~~220.44,~~ 230.25, 260.00, 265.04 of the
17 penal law or an attempt to commit any of the aforesaid offenses under
18 section 110.00 of the penal law, or any offenses committed under a
19 former section of the penal law which would constitute violations of the
20 aforesaid sections of the penal law, or any offenses committed outside
21 this state which would constitute violations of the aforesaid sections
22 of the penal law.

§ 10. This act shall take effect immediately.