STATE OF NEW YORK

2856

2019-2020 Regular Sessions

IN SENATE

January 30, 2019

Introduced by Sen. FLANAGAN -- 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 substances offenses

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

Section 1. Section 220.00 of the penal law is amended by adding a new subdivision 21 to read as follows:

21. "Knowingly" when used in connection with the offenses involving the possession or sale, or the attempt or conspiracy to possess or sell, a synthetic cannabinoid, synthetic cathinone, or a controlled substance analogue, shall not require knowledge by the defendant of the chemical structure of the substance, but rather, it is sufficient if:

(a) the defendant knew or should have known that the substance has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II of section thirty-three hundred six of the public health law; or

(b) the defendant represented or intended for the substance to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II of section thirty-three hundred six of the public health law.

§ 2. Subdivision 8 of section 220.06 of the penal law, as added by chapter 264 of the laws of 2003, is amended and a new subdivision 9 is added to read as follows:

8. one or more preparations, compounds, mixtures or substances containing gamma hydroxybutyric acid, as defined in paragraph four of subdivision (e) of schedule I of section thirty-three hundred six of the

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

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public health law, and said preparations, compounds, mixtures or substances are of an aggregate weight of twenty-eight grams or more[~~.~~]; or

9. one or more preparations, compounds, mixtures or substances containing a synthetic cannabinoid as defined in subdivision (g) of schedule I of section thirty-three hundred six of the public health law and said preparations, compounds, mixtures or substances are of an aggregate weight of one ounce or more.

§ 3. Subdivision 15 of section 220.09 of the penal law, as added by chapter 264 of the laws of 2003, is amended and a new subdivision 16 is added to read as follows:

15. one or more preparations, compounds, mixtures or substances containing gamma hydroxybutyric acid, as defined in paragraph four of subdivision (e) of schedule I of section thirty-three hundred six of the public health law, and said preparations, compounds, mixtures or substances are of an aggregate weight of two hundred grams or more[~~.~~]; or

16. one or more preparations, compounds, mixtures or substances containing a synthetic cannabinoid as defined in subdivision (g) of schedule I of section thirty-three hundred six of the public health law and said preparations, compounds, mixtures or substances are of an aggregate weight of four ounces or more.

§ 4. Subdivision 13 of section 220.16 of the penal law, as amended by chapter 75 of the laws of 1995, is amended and a new subdivision 14 is added to read as follows:

13. phencyclidine and said phencyclidine weighs one thousand two hundred fifty milligrams or more[~~.~~]; or

14. one or more preparations, compounds, mixtures or substances containing a synthetic cannabinoid as defined in subdivision (g) of schedule I of section thirty-three hundred six of the public health law and said preparations, compounds, mixtures or substances are of an aggregate weight of ten pounds or more.

§ 5. Subdivision 3 of section 220.34 of the penal law, as amended by chapter 537 of the laws of 1998, is amended and a new subdivision 10 is added to read as follows:

3. concentrated cannabis as defined in [~~paragraph (a) of~~] subdivision four of section thirty-three hundred two of the public health law; or

10. one or more preparations, compounds, mixtures or substances containing a synthetic cannabinoid as defined in subdivision (g) of schedule I of section thirty-three hundred six of the public health law and said preparations, compounds, mixtures or substances are of an aggregate weight of one ounce or more.

§ 6. Subdivision 9 of section 220.39 of the penal law, as added by chapter 410 of the laws of 1979, is amended and a new subdivision 10 is added to read as follows:

9. a narcotic preparation to a person less than twenty-one years old[~~.~~] ; or

10. one or more preparations, compounds, mixtures or substances containing a synthetic cannabinoid as defined in subdivision (g) of schedule I of section thirty-three hundred six of the public health law and said preparations, compounds, mixtures or substances are of an aggregate weight of sixteen ounces or more.

§ 7. This act shall take effect November 1, 2019.