# STATE OF NEW YORK

3897

2019-2020 Regular Sessions

# IN SENATE

February 20, 2019

Introduced by Sen. RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Substance Abuse

AN ACT to amend the penal law and the alcoholic beverage control law, in relation to imposing additional fines when a person fails to pay his or her fines or fails to complete counseling or community service when mandated

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

Section 1. Section 221.05 of the penal law, as added by chapter 360 of the laws of 1977, is amended to read as follows:

§ 221.05 Unlawful possession of marihuana.

**1.** A person is guilty of unlawful possession of marihuana when he **or she** knowingly and unlawfully possesses marihuana.

Unlawful possession of marihuana is a violation punishable only by a fine of not more than one hundred dollars. However, where the defendant has previously been convicted of an offense defined in this article or article [~~220~~] **two hundred twenty** of this chapter, committed within the three years immediately preceding such violation, it shall be punishable (a) only by a fine of not more than two hundred dollars, if the defendant was previously convicted of one such offense committed during such period, and (b) by a fine of not more than two hundred fifty dollars or a term of imprisonment not in excess of fifteen days or both, if the defendant was previously convicted of two such offenses committed during such period.

**2. In the event a person who has been convicted of unlawful possession of marihuana fails to pay such fine as may be set by the court within one hundred twenty days after the decision of the court, then in addition to such fine, the court may impose an additional fine of not more than two hundred fifty dollars.**

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

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**3. Notwithstanding any other provision of law to the contrary, section 120.20 of the criminal procedure law shall apply in the event a person who has been charged with a violation of this section fails to appear before the court on the date set by the accusatory instrument; articles four hundred ten and four hundred twenty of the criminal procedure law and article twenty of the judiciary law shall apply in the event a person who has been found to have violated this section fails to pay such fine as may be set by the court within one hundred twenty days after the decision of the court.**

§ 2. Subdivision 3 of section 65-c of the alcoholic beverage control law, as amended by chapter 137 of the laws of 2001, is amended to read as follows:

3. **(a)** Any person who unlawfully possesses an alcoholic beverage with intent to consume may be summoned before and examined by a court having jurisdiction of that charge; provided, however, that nothing contained herein shall authorize, or be construed to authorize, a peace officer as defined in subdivision thirty-three of section 1.20 of the criminal procedure law or a police officer as defined in subdivision thirty-four of section 1.20 of such law to arrest a person who unlawfully possesses an alcoholic beverage with intent to consume. If a determination is made sustaining such charge the court may impose a fine not exceeding fifty dollars and/or completion of an alcohol awareness program established pursuant to section 19.25 of the mental hygiene law and/or an appropriate amount of community service not to exceed thirty hours.

**(b) In the event a person who has been determined to have unlawfully possessed an alcoholic beverage with intent to consume fails to pay such fine as may be set by the court, or complete an alcohol awareness program established pursuant to section 19.25 of the mental hygiene law and/or community service as required by the court within one hundred twenty days after the decision of the court, then in addition to such fine, program and/or community service, the court may impose an additional fine of not more than two hundred fifty dollars.**

**(c) Notwithstanding any other provision of law to the contrary, section 120.20 of the criminal procedure law shall apply in the event a person who has been alleged to have violated this section fails to appear before the court on the date set by the court; articles four hundred ten and four hundred twenty of the criminal procedure law and article twenty of the judiciary law shall apply in the event a person who has been found to have unlawfully possessed an alcoholic beverage with intent to consume in violation of this section fails to pay such fine as may be set by the court, or complete an alcohol awareness program established pursuant to section 19.25 of the mental hygiene law and/or community service as required by the court, within one hundred twenty days after the decision of the court.**

§ 3. This act shall take effect on the ninetieth day after it shall have become a law.