STATE OF NEW YORK

1582

2019-2020 Regular Sessions

IN SENATE

January 15, 2019

Introduced by Sen. GALLIVAN -- 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 unlawful possession of marihuana

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.

A person is guilty of unlawful possession of marihuana when he 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~~] **and shall be sentenced in accordance with the following:**

1. For a first violation, the court shall order payment of a fine of not more than one hundred dollars. Where a defendant is under the age of eighteen, the court shall order payment of a fine of not more than one hundred dollars or an appropriate amount of community service not to exceed twenty hours.

2. Where the defendant has previously been convicted of an offense defined in this article or article 220 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~~] **the court shall order payment of a fine of not more than two hundred dollars. Where a defendant is under the age of eighteen, the court shall order payment of a fine of not more than two**

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

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hundred dollars or an appropriate amount of community service not to exceed forty hours.

3. Where the defendant has previously been convicted of two offenses defined in this article or article two hundred twenty of this chapter, committed within the three years immediately preceding such violation, the court shall order payment of a fine of not more than two hundred fifty dollars or a term of imprisonment not in excess of fifteen days.

§ 2. This act shall take effect immediately.