

STATE OF NEW YORK

50

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. QUART, EPSTEIN -- 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 Section 220.44 of the penal law is REPEALED.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 Section 317 of the highway law is REPEALED.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,

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

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1 265.11, 265.12, 265.13, 265.14, 265.16, 265.17, 265.19, 265.35(2),
2 270.30, 270.35, 405.16(1), 405.18, 460.22, 470.21, 470.22, 470.23,
3 470.24, 490.10, 490.15, 490.20, 490.25, 490.30, 490.35, 490.37, 490.40,
4 490.45, 490.47, 490.50, or 490.55;

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

8 i. a felony defined in any of the following sections of the penal law:

9 120.01, 120.02, 120.03, 120.04, 120.04-a(4), 120.05, 120.06, 120.07,
10 120.08, 120.09, 120.10, 120.11, 120.12, 120.13, 120.18, 120.25, 120.55,
11 120.60, 120.70, 121.12, 121.13, 125.10, 125.11, 125.12, 125.13, 125.14,
12 125.15, 125.20, 125.21, 125.22, 125.25, 125.26, 125.27, 125.40, 125.45,
13 130.25, 130.30, 130.35, 130.40, 130.45, 130.50, 130.53, 130.65,
14 130.65-a, 130.66, 130.67, 130.70, 130.75, 130.80, 130.85, 130.90,
15 130.95, 130.96, 135.10, 135.20, 135.25, 135.35, 135.50, 135.65(2)(b),
16 140.17, 140.25, 140.30, 145.12, 150.05, 150.10, 150.15, 150.20, 160.05,
17 160.10, 160.15, 195.07, 195.08, 195.17, 215.11, 215.12, 215.13, 215.15,
18 215.16, 215.17, 215.51, 215.52, 220.18, 220.21, 220.28, 220.41, 220.43,
19 ~~220.44,~~ 220.48, 220.77, 230.05, 230.06, 230.19, 230.25(2), 230.30,
20 230.32, 230.33, 230.34, 230.34-a, 235.22, 240.06, 240.55, 240.60,
21 240.61, 240.62, 240.63, 240.75, 241.05, 255.26, 255.27, 260.25, 260.32,
22 260.34, 263.05, 263.10, 263.11, 263.15, 263.16, 263.30, 265.01-a,
23 265.01-b, 265.02 (2) through (8), 265.03, 265.04, 265.08, 265.09,
24 265.10, 265.11, 265.12, 265.13, 265.14, 265.16, 265.17, 265.19,
25 265.35(2), 270.30, 270.35, 405.16(1), 405.18, 460.22, 470.21, 470.22,
26 470.23, 470.24, 490.10, 490.15, 490.20, 490.25, 490.30, 490.35, 490.37,
27 490.40, 490.45, 490.47, 490.50, or 490.55;

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

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

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

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

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

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

40 § 7. Subparagraph (i) of paragraph (a) of subdivision 2 of section
41 70.70 of the penal law, as amended by section 21 of part AAA of chapter
42 56 of the laws of 2009, is amended to read as follows:

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

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

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

~~this subdivision, the phrase "the grounds of a child day care or educational facility" shall have the same meaning as provided for in subdivision five of section 220.44 of this article.~~

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

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

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

§ 10. This act shall take effect immediately.