

# STATE OF NEW YORK

4994

2021-2022 Regular Sessions

## IN ASSEMBLY

February 10, 2021

Introduced by M. of A. PAULIN, GALEF, CRUZ -- Multi-Sponsored by -- M. of A. SOLAGES -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to unconsented removal or tampering with a sexually protective device

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

1 Section 1. Subdivision 3 of section 130.20 of the penal law is renum-  
2 bered subdivision 4 and a new subdivision 3 is added to read as follows:

3 3. a. He or she engages in sexual intercourse, oral sexual conduct or  
4 anal sexual conduct with another person that was mutually agreed upon by  
5 the parties involved with the explicit understanding and knowledge that  
6 a sexually protective device would be used but (i) intentionally and  
7 without consent removes or tampers with such sexually protective device  
8 during sexual intercourse, oral sexual conduct or anal sexual conduct,  
9 in a manner likely to render such device ineffective for its common  
10 purpose; (ii) intentionally and without consent uses a sexually protec-  
11 tive device during sexual intercourse, oral sexual conduct or anal sexu-  
12 al conduct that he or she knows has been tampered with in a manner like-  
13 ly to render such device ineffective for its common purpose; or (iii)  
14 intentionally misleads the other person into believing that a sexually  
15 protective device was being used during sexual intercourse, oral sexual  
16 conduct or anal sexual conduct, and such sexually protective device was  
17 known by such other person to be either not used or inoperable.

18 b. For the purposes of this subdivision, a "sexually protective  
19 device" shall mean any one of the following intended to prevent pregnan-  
20 cy or sexually transmitted infection: male or female condom, spermicide,  
21 diaphragm, cervical cap, contraceptive sponge, dental dam, or another  
22 physical device; or

23 § 2. This act shall take effect on the first of November next succeed-  
24 ing the date on which it shall have become a law.

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

LBD02023-01-1