STATE OF NEW YORK

7490

2023-2024 Regular Sessions

IN ASSEMBLY

May 25, 2023

Introduced by M. of A. GUNTHER -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to unlawful possession or sale of imitation drug paraphernalia

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

Section 1. The penal law is amended by adding a new section 220.57 to read as follows:

§ 220.57 Unlawful possession or sale of imitation drug paraphernalia.

1. A person is guilty of unlawful possession or sale of imitation drug paraphernalia when such person knowingly possesses, purchases, delivers, sells, or possesses with intent to sell or deliver any punch, die, plate, stone, pill press, tableting machine, encapsulating machine or any other equipment in order to print, imprint, or reproduce the trademark, trade name or other identifying mark, imprint or device of another or any likeness of any of the foregoing upon any substance or container or labeling thereof knowing, intending, or having reasonable cause to believe that it will be used to manufacture an imitation drug.

2. A regulated person may possess, purchase, deliver, sell, or possess with intent to deliver or sell a punch, die, plate, stone, pill press, tableting machine, encapsulating machine or any other equipment in order to print, imprint, or reproduce the trademark, trade name or other identifying mark, imprint or device of another or any likeness of any of the foregoing upon any substance or container or labeling thereof as part of a regulated transaction with a regular customer or regular importer if he or she is in compliance with 21 U.S.C. s. 830. For purposes of this subdivision, the terms "regulated person," "regulated transaction," "regular customer," and "regular importer" have the same meanings as provided in 21 U.S.C. s. 802.

3. As used in this section the term "imitation drug" means a substance, other than a drug, as defined in subdivision seven of section

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

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sixty-eight hundred two of the education law, that is not a drug, which by dosage unit appearance, including color, shape and size and by a representation is represented to be a drug. Evidence of representation that the substance is a drug may include but is not limited to oral or written representations by the manufacturer or seller, as the case may be, about the substance with regard to:

(a) its price, nature, use or effect as a drug; or

(b) its packaging in a manner normally used for drugs; or

(c) markings on the substance.

Unlawful possession or sale of imitation drug paraphernalia is a class A misdemeanor.

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