

STATE OF NEW YORK

2772

2023-2024 Regular Sessions

IN SENATE

January 24, 2023

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the cannabis law, the penal law, and the criminal procedure law, in relation to unlawful possession and sale of cannabis

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

1 Section 1. The opening paragraph of subdivision 4 of section 132 of
2 the cannabis law is amended to read as follows:

3 Any person under the age of twenty-one found to be in possession of
4 three ounces or less of cannabis or cannabis products who is not a
5 certified patient pursuant to article three of this chapter shall be in
6 violation of this chapter and shall be subject to the following penalty:

7 § 2. Paragraph (d) of subdivision 3 of section 222.05 of the penal
8 law, as added by chapter 92 of the laws of 2021, is amended to read as
9 follows:

10 (d) the possession of multiple containers of cannabis or concentrated
11 cannabis without evidence of [~~concentrated cannabis~~] possession in more
12 than the amounts authorized in this article;

13 § 3. The first undesignated paragraph of section 222.25 of the penal
14 law, as added by chapter 92 of the laws of 2021, is amended to read as
15 follows:

16 A person is guilty of unlawful possession of cannabis when he or she
17 knowingly and unlawfully possesses one or more preparations, compounds,
18 mixtures or substances containing cannabis and [~~such cannabis weighs~~]
19 said preparations, compounds, mixtures or substances are of an aggregate
20 weight of more than three ounces or concentrated cannabis and such
21 concentrated cannabis [~~weighs~~] has an aggregate weight of more than
22 twenty-four grams.

23 § 4. Subdivisions 1 and 2 of section 222.30 of the penal law, as added
24 by chapter 92 of the laws of 2021, are amended to read as follows:

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

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1 1. one or more preparations, compounds, mixtures or substances
2 containing cannabis and [~~such cannabis weighs~~] said preparations,
3 compounds, mixtures or substances are of an aggregate weight of more
4 than sixteen ounces; or

5 2. concentrated cannabis and such concentrated cannabis [~~weighs~~] has
6 an aggregate weight of more than five ounces.

7 § 5. Subdivisions 1 and 2 of section 222.35 of the penal law, as added
8 by chapter 92 of the laws of 2021, are amended to read as follows:

9 1. one or more preparations, compounds, mixtures or substances
10 containing cannabis and [~~such cannabis weighs~~] said preparations,
11 compounds, mixtures or substances are of an aggregate weight of more
12 than five pounds; or

13 2. concentrated cannabis and such concentrated cannabis [~~weighs~~] has
14 an aggregate weight of more than two pounds.

15 § 6. Subdivisions 1 and 2 of section 222.40 of the penal law, as added
16 by chapter 92 of the laws of 2021, are amended to read as follows:

17 1. one or more preparations, compounds, mixtures or substances
18 containing cannabis and [~~such cannabis weighs~~] said preparations,
19 compounds, mixtures or substances are of an aggregate weight of more
20 than ten pounds; or

21 2. concentrated cannabis and such concentrated cannabis [~~weighs~~] has
22 an aggregate weight of more than four pounds.

23 § 7. Subdivisions 1 and 2 of section 222.50 of the penal law, as added
24 by chapter 92 of the laws of 2021, are amended to read as follows:

25 1. he or she knowingly and unlawfully sells one or more preparations,
26 compounds, mixtures or substances containing cannabis and said prepara-
27 tions, compounds, mixtures or substances are of an aggregate weight of
28 more than three ounces [~~of cannabis~~] or concentrated cannabis with an
29 aggregate weight of more than twenty-four grams [~~of concentrated canna-~~
30 ~~bis~~]; or

31 2. being twenty-one years of age or older, he or she knowingly and
32 unlawfully sells or gives, or causes to be given or sold, cannabis or
33 concentrated cannabis to [~~a~~] another person and that person is less than
34 twenty-one years of age; except that in any prosecution under this
35 subdivision, it is a defense that the defendant was less than three
36 years older than the person under the age of twenty-one at the time of
37 the offense. This subdivision shall not apply to designated caregivers,
38 practitioners, employees of a registered organization or employees of a
39 designated caregiver facility acting in compliance with article three of
40 the cannabis law.

41 § 8. Subdivisions 1 and 2 of section 222.55 of the penal law, as added
42 by chapter 92 of the laws of 2021, are amended to read as follows:

43 1. he or she knowingly and unlawfully sells one or more preparations,
44 compounds, mixtures or substances containing cannabis and said prepara-
45 tions, compounds, mixtures or substances are of an aggregate weight of
46 more than sixteen ounces [~~of cannabis~~] or concentrated cannabis with an
47 aggregate weight of more than five ounces [~~of concentrated cannabis~~]; or

48 2. being twenty-one years of age or older, he or she knowingly and
49 unlawfully sells or gives, or causes to be given or sold, one or more
50 preparations, compounds, mixtures or substances containing cannabis and
51 said preparations, compounds, mixtures or substances are of an aggregate
52 weight of more than three ounces [~~of cannabis~~] or concentrated cannabis
53 with an aggregate weight of more than twenty-four grams [~~of concentrated~~
54 ~~cannabis~~] to [~~a~~] another person and that person is less than eighteen
55 years of age. This subdivision shall not apply to designated caregivers,
56 practitioners, employees of a registered organization or employees of a

1 designated caregiver facility acting in compliance with article three of
2 the cannabis law.

3 § 9. The first undesignated paragraph of section 222.60 of the penal
4 law, as added by chapter 92 of the laws of 2021, is amended to read as
5 follows:

6 A person is guilty of criminal sale of cannabis in the first degree
7 when he or she knowingly and unlawfully sells one or more preparations,
8 compounds, mixtures or substances containing cannabis and said prepara-
9 tions, compounds, mixtures or substances are of an aggregate weight of
10 more than five pounds [~~of cannabis~~] or concentrated cannabis with an
11 aggregate weight of more than two pounds [~~of concentrated cannabis~~].

12 § 10. The first undesignated paragraph of section 222.65 of the penal
13 law, as added by chapter 92 of the laws of 2021, is amended to read as
14 follows:

15 A person is guilty of aggravated criminal sale of cannabis when he or
16 she knowingly and unlawfully sells one or more preparations, compounds,
17 mixtures or substances containing cannabis [~~or concentrated cannabis~~
18 ~~weighing~~] and said preparations, compounds, mixtures or substances are
19 of an aggregate weight of one hundred pounds or more or concentrated
20 cannabis with an aggregate weight of one hundred pounds or more.

21 § 11. Subparagraph (ii) of paragraph (b) of subdivision 2 of section
22 440.46-a of the criminal procedure law, as added by chapter 92 of the
23 laws of 2021, is amended to read as follows:

24 (ii) If the petition meets the criteria in subparagraph [~~(i)~~] (ii) of
25 paragraph (a) of this subdivision, the court after affording the parties
26 an opportunity to be heard and present evidence, may substitute, unless
27 it is not in the interests of justice to do so, a conviction for an
28 appropriate lesser offense under article two hundred twenty-two of the
29 penal law.

30 § 12. This act shall take effect immediately and shall be deemed to
31 have been in full force and effect on and after March 31, 2021.