STATE OF NEW YORK

4702

2023-2024 Regular Sessions

IN SENATE

February 13, 2023

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

AN ACT to amend the penal law and the cannabis law, in relation to prohibiting the possession and use of cannabis by persons under the age of twenty-one

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 two new sections 222.11 and 222.26 to read as follows:

§ 222.11 Restrictions on cannabis use; persons under age twenty-one.

No person under the age of twenty-one years shall smoke, vape, ingest, consume or otherwise use cannabis or concentrated cannabis; provided, however, that the provisions of this section shall not apply to any person who is a certified patient pursuant to article three of the cannabis law.

Notwithstanding any contrary provision of law, violations of this section by persons under the age of twenty-one years shall be subject to a civil penalty not exceeding two hundred fifty dollars, or an amount of community service not exceeding thirty hours, or both such civil penalty and community service as provided in sections one hundred thirty-two and one hundred thirty-two-a of the cannabis law.

§ 222.26 Unlawful possession of cannabis; persons under age twenty-one.

1. A person is guilty of unlawful possession of cannabis when, being under the age of twenty-one years, such person knowingly possesses one or more preparations, compounds, mixtures or substances containing cannabis and such person is not a certified patient pursuant to article three of the cannabis law.

2. Notwithstanding any contrary provision of law, violations of this section shall be subject to a civil penalty not exceeding two hundred fifty dollars, or an amount of community service not exceeding thirty hours, or both such civil penalty and community service as provided in

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

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sections one hundred thirty-two and one hundred thirty-two-a of the cannabis law.

§ 2. Subparagraph (i) of paragraph (a) of subdivision 4 of section 132 of the cannabis law is amended and a new paragraph (d) is added to read as follows:

(i) The person shall be subject to a civil penalty of not more than two hundred fifty dollars, or an amount of community service not to exceed thirty hours, or both such civil penalty and community service, as provided in section one hundred thirty-two-a of this article. The civil penalty shall be payable to the office of cannabis management.

(d) The issuance of a summons by a court having jurisdiction of such violation as provided in section one hundred thirty-two-a of this article.

§ 3. Subdivision 5 of section 132 of the cannabis law is amended to read as follows:

5. Cannabis recovered from individuals who are found to be in violation of this chapter may after notice and opportunity for a hearing be considered a nuisance and shall be disposed of or destroyed; provided, however, that cannabis recovered from individuals who are found to be in violation of subdivision four of this section, or section 222.11 or 222.26 of the penal law shall be declared a nuisance and shall be disposed of in accordance with the provisions of section one hundred thirty-two-a of this article.

§ 4. The cannabis law is amended by adding a new section 132-a to read as follows:

§ 132-a. Penalties for violation of this chapter; persons under age twenty-one. 1. (a) Notwithstanding any contrary provision of this article or any other law, any person under the age of twenty-one found to be in violation of subdivision four of section one hundred thirty-two of this article or section 222.11 or 222.26 of the penal law may be summoned before and examined by a court having jurisdiction of such charge; provided, however, that nothing contained herein shall authorize, or be construed to authorize, a peace officer as defined in section 2.10 of the criminal procedure law or a police officer as defined in subdivision thirty-four of section 1.20 of such law to arrest a person who unlawfully possesses cannabis or cannabis products.

(b) Upon a determination sustaining any charge described in paragraph (a) of this subdivision, the court may impose a civil penalty not exceeding two hundred fifty dollars or an appropriate amount of community service not to exceed thirty hours or both such civil penalty and community service; provided, however, that no such determination shall qualify as a criminal accusation, admission of guilt, or a criminal conviction and shall in no way operate as a disqualification of any such person from holding public office, attaining public employment, or as a forfeiture of any right or privilege.

2. Whenever a peace officer as defined in section 2.10 of the criminal procedure law or police officer as defined in subdivision thirty-four of section 1.20 of the criminal procedure law shall observe a person under twenty-one years of age openly in possession of cannabis, in violation of section one hundred thirty-two of this article or section 222.11 or 222.26 of the penal law, such officer may seize such cannabis, and shall deliver it to the custody of such officer's department.

3. Notwithstanding any contrary provision of section one hundred thirty-two of this article or any other provision of law, cannabis seized pursuant to this section is hereby declared a nuisance. The official to whom the cannabis has been delivered shall, no earlier than three days

following the return date for initial appearance on the summons, dispose of or destroy the cannabis seized or cause it to be disposed of or destroyed. Any person claiming ownership of cannabis seized under this section may, on the initial return date of the summons or earlier on five days' notice to the official or department in possession of the cannabis, apply to the court for an order preventing the destruction or disposal of the cannabis seized and ordering the return of such cannabis. The court may order the cannabis returned if it is determined that return of the cannabis would be in the interest of justice or that the cannabis was improperly seized.

§ 5. This act shall take effect immediately.