

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:

1 Section 1. The penal law is amended by adding two new sections 222.11
2 and 222.26 to read as follows:

3 § 222.11 Restrictions on cannabis use; persons under age twenty-one.

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

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

15 § 222.26 Unlawful possession of cannabis; persons under age twenty-one.

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

21 2. Notwithstanding any contrary provision of law, violations of this
22 section shall be subject to a civil penalty not exceeding two hundred
23 fifty dollars, or an amount of community service not exceeding thirty
24 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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1 sections one hundred thirty-two and one hundred thirty-two-a of the
2 cannabis law.

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

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

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

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

16 5. Cannabis recovered from individuals who are found to be in
17 violation of this chapter may after notice and opportunity for a hearing
18 be considered a nuisance and shall be disposed of or destroyed;
19 provided, however, that cannabis recovered from individuals who are
20 found to be in violation of subdivision four of this section, or section
21 222.11 or 222.26 of the penal law shall be declared a nuisance and shall
22 be disposed of in accordance with the provisions of section one hundred
23 thirty-two-a of this article.

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

26 § 132-a. Penalties for violation of this chapter; persons under age
27 twenty-one. 1. (a) Notwithstanding any contrary provision of this arti-
28 cle or any other law, any person under the age of twenty-one found to be
29 in violation of subdivision four of section one hundred thirty-two of
30 this article or section 222.11 or 222.26 of the penal law may be
31 summoned before and examined by a court having jurisdiction of such
32 charge; provided, however, that nothing contained herein shall author-
33 ize, or be construed to authorize, a peace officer as defined in section
34 2.10 of the criminal procedure law or a police officer as defined in
35 subdivision thirty-four of section 1.20 of such law to arrest a person
36 who unlawfully possesses cannabis or cannabis products.

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

46 2. Whenever a peace officer as defined in section 2.10 of the criminal
47 procedure law or police officer as defined in subdivision thirty-four of
48 section 1.20 of the criminal procedure law shall observe a person under
49 twenty-one years of age openly in possession of cannabis, in violation
50 of section one hundred thirty-two of this article or section 222.11 or
51 222.26 of the penal law, such officer may seize such cannabis, and shall
52 deliver it to the custody of such officer's department.

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

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

11 § 5. This act shall take effect immediately.