S T A T E O F N E W Y O R K

7081--A

I N S E N A T E

March 11, 2010

Introduced by Sen. FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to prohibiting the sale or distribution of products containing a synthetic cannabinoid

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The general business law is amended by adding a new section 391-q to read as follows:

S 391-Q. SALE OR DISTRIBUTION OF PRODUCTS CONTAINING A SYNTHETIC CANNABINOID. 1. FOR THE PURPOSES OF THIS SECTION, "SYNTHETIC CANNABINOID" SHALL MEAN ANY OF THE FOLLOWING CHEMICAL COMPOUNDS:

(A) CP 47.497 AND HOMOLOGUES: 2-[(1R,3S)-3-HYDROXYCYCLOHEXYL] -5-(2-METHYLOCTAN-2-YL)PHENOL);

(B) HU-210: [(6AR, 10AR)-9-(HYDROXYMETHYL)-6,6-DIMETHYL-3- (2-METHYLOCTAN-2-YL)-6A,7,10, 10A-TETRAHYDROBENZO[C] CHROMEN-1-OL)];

(C) HU-211: (DEXANABINOL, (6AS, 10AS)-9-(HYDROXYMETHYL) -6,6-DIMETHYL-3-(2-METHYLOCTAN-2-YL)-6A,7,10, 10A-TETRAHYDROBENZO[C] CHROMEN-1-OL);

(D) JWH-O18: 1-PENTYL-3-(1-NAPHTHOYL)INDOLE; OR

(E) JWH-O73: 1-BUTYL-3-(1-NAPHTHOYL)INDOLE.

2. NO PERSON, FIRM, CORPORATION, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY OR OTHER ENTITY SHALL SELL, OFFER TO SELL OR GIVE AWAY, AS EITHER A RETAIL OR WHOLESALE PROMOTION, ANY PRODUCT, WHICH CONTAINS A SYNTHETIC CANNABINOID, WHICH MAY ALSO BE REFERRED TO AS K2, SPIKE 99, YUCATAN FIRE, SPICE, GENIE OR ZOHAI, EXCEPT AS AUTHORIZED BY SUBDIVISION THREE OF THIS SECTION.

3. NOTHING IN THIS SECTION SHALL APPLY TO NONPRESCRIPTION OVER-THE-COUNTER DRUGS APPROVED OR REGULATED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION.

4. ANY PERSON, FIRM, CORPORATION, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY OR OTHER ENTITY THAT VIOLATES THE PROVISIONS OF THIS SECTION BY SELLING, OFFERING TO SELL OR GIVING AWAY AS EITHER A RETAIL

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

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OR WHOLESALE PROMOTION ANY PRODUCT WHICH CONTAINS A SYNTHETIC CANNABINOID, SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS PER VIOLATION, RECOVERABLE IN AN ACTION BY ANY ENFORCEMENT AUTHORITY DESIGNATED BY A MUNICIPALITY OR POLITICAL SUBDIVISION OF THE STATE.

5. IT SHALL BE A DEFENSE THAT ANY PERSON, FIRM, CORPORATION, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY OR OTHER ENTITY THAT SOLD, OFFERED FOR SALE OR GAVE AWAY AS EITHER A RETAIL OR WHOLESALE PROMOTION ANY PRODUCT WHICH CONTAINS A SYNTHETIC CANNABINOID, DID NOT HAVE KNOWLEDGE THAT IT WAS A PRODUCT CONTAINING A SYNTHETIC CANNABINOID, IF SUCH KNOWLEDGE WAS NOT REASONABLY DISCOVERABLE.

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