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I N   A S S E M B L Y

June 6, 2014

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Kearns) --  
read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to the criminalization of  
selling, using or possessing synthetic drugs

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 a new section 220.66 to  
2     read as follows:

3     S 220.66 CRIMINAL SALE, USE OR POSSESSION OF SYNTHETIC DRUGS AND OTHER  
4     SIMILAR COMPOUNDS.

5     A PERSON IS GUILTY OF THE CRIMINAL SALE, USE OR POSSESSION OF SYNTHETIC  
6     DRUGS AND OTHER SIMILAR COMPOUNDS WHEN THEY KNOWINGLY AND UNLAWFULLY  
7     SELL, USE AND/OR POSSESS ANY SYNTHETIC DRUG, UNLESS SUCH SYNTHETIC DRUG  
8     HAS BEEN EXPRESSLY PRESCRIBED TO SUCH PERSON BY A PHYSICIAN, PSYCHIATRIST  
9     OR PERSON OTHERWISE DULY LICENSED AND AUTHORIZED TO PRESCRIBE  
10    MEDICATION WITHIN NEW YORK STATE, AND AT THE TIME OF THE ALLEGED  
11    VIOLATION, THE PERSON IN POSSESSION OF THE SYNTHETIC DRUG IS ABLE TO  
12    PROVIDE WRITTEN PROOF TO THE LAW ENFORCEMENT OFFICER THAT THE SYNTHETIC  
13    DRUG WAS SO PRESCRIBED. EACH SUCH VIOLATION SHALL CONSTITUTE A SEPARATE  
14    AND DISTINCT OFFENSE. FOR PURPOSES OF THIS SECTION:

15    1. "SYNTHETIC DRUG" SHALL MEAN ANY PRODUCT, WHETHER DESCRIBED AS  
16    TOBACCO, POTPOURRI, HERBS, INCENSE, SPICE, AROMATIC, BATH SALTS,  
17    SYNTHETIC MARIJUANA, SYNTHETIC STIMULANT OR ANY COMBINATION THEREOF, AND  
18    WHETHER MARKETING FOR THE PURPOSE OF BEING INGESTED OTHERWISE MARKETING  
19    WHICH INCLUDES, BUT IS NOT LIMITED TO, ONE OR MORE OF THE FOLLOWING  
20    HALLUCINOGENIC SUBSTANCES:

21    (A) "SYNTHETIC CANNABINOIDS" SHALL MEAN ANY SUBSTANCE THAT IS A CANNABINOID  
22    RECEPTOR TYPE 1 (CB1 RECEPTOR) AGONIST AS DEMONSTRATED BY BINDING  
23    STUDIES AND FUNCTION ASSAYS OR IS A STRUCTURAL ANALOG OR CHEMICAL DERIVATIVE  
24    OF ANY LISTED COMPOUND, AS FOLLOWS:

25    (I) 2-[(1R, 2R, 5R)-5-HYDROXY-2-(3-HYDROXYPROPYL) CYCLOHEXYL]-5-(2-METHYLOCTAN-2-YL)PHENOL

26    (II) 4-METHOXYPHENYL)-[2-METHYL-1-(2-MORPHOLIN-4-YLETHYL)INDOL-3-YL]  
27    METHANONE  
28

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

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1 (III) [(3R)-5-METHYL-3-(MORPHOLIN-4-YLMETHYL)-2,  
2 3-DIHYDRO[1,4]OXAZINO[2,3,4-HI]INDOL-6-YL](NAPHTHALENE-1-YL)METHANONE  
3 (IV) (2-METHYL-1-PENTYL-1H-INDOL-3-YL)(NAPHTHALEN-1-YL)METHANONE  
4 (V) (2-METHYL-1-PROPYL-1H-INDOL-3-YL)(NAPHTHALENE-1-YL)METHANONE  
5 (VI) NAPHTHALEN-1-YL[1-(PEN-4-EN-1-YL)-1H-INDOL-3-YL]METHANONE  
6 (VII) 1-PENTYL-3-(4-ETHYL-1-NAPHTHOYL)INDOLE  
7 (VIII) 1-PENTYLINDOL-3-YL)NAPHTHALEN-1-YLMETHANE  
8 (IX) (1-PENTYL-1H-INDOL-3-YL)(4-PROPYLNAPHTHALEN-1-YL)METHANONE  
9 (X) 3-[(4-METHYL-1-NAPHTHALENY)METHYL]-1-PENTYL-1H-INDOLE  
10 (XI) 1-[(1E)-3-PENTYLINDEN-1-YLIDINE]METHYL)NAPHTHALENE  
11 (XII) 2-(2-METHYLPHENYL)-1-(1-PENTYL-1H-INDOL-E-YL)ETHANONE  
12 (XIII) 2-(3-METHOXYLPHENYL)-1-(1-PENTYLINDOL-3-YL)ETHANONE  
13 (XIV) (5-(2-FLUOROPHENYL)-1-PENTYLPYRROL-3-YL)-NAPHTHALEN-1-YLMETHANONE  
14 (XV) 1-PENTYL-3-(2-IODOBENZOYL)INDOLE  
15 (XVI) [1-[(1-METHYL-2-PIPERIDINYL)METHYL]-3-INDOLYL]-(1-NAPHTHALENYL)  
16 METHANONE  
17 (XVII) 1-[(N-METHYLPIPERIDIN-2-YL)METHYL]3-(ADAMAN-1-OYL)INDOLE  
18 (XVIII) (2-LODOPHENYL){1-[1-METHYLPIPERIDIN-2-YL)METHYL]-1H-INDOLE-3-YL}  
19 METHANONE  
20 (XIX) (1-PENTYL-1H-INDOL-3-YL)(2,2,3,3-TETRAMETHYLCYCLOPROPYL)METHANONE  
21 (XX) [1-(5-FLUOROPENTYL)-1H-INDOL-3-YL)]2,2,3,3-TETRAMETHYLCYCLOPROPYL)  
22 METHANONE  
23 UNLESS SPECIFICALLY EXEMPTED OR UNLESS LISTED IN ANOTHER SCHEDULE, OR  
24 APPROVED FOR USE BY THE FOOD AND DRUG ADMINISTRATION AS A LEGITIMATE  
25 PHARMACEUTICAL COMPOUND, ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION  
26 WHICH CONTAINS ANY QUANTITY OF THE ABOVE LISTED COMPOUNDS, OR WHICH  
27 CONTAINS THEIR SALTS, ISOMERS, AND SALTS OF ISOMERS WHENEVER THE EXIST-  
28 ENCE OF SUCH SALTS, ISOMERS, AND SALTS OF ISOMERS IS POSSIBLE WITHIN THE  
29 SPECIFIC CHEMICAL DESIGNATION OR CONTAINS A STRUCTURAL ANALOG OR CHEMI-  
30 CAL DERIVATIVE OF ANY OF THE LISTED COMPOUNDS.  
31 (B) "SUBSTITUTED CATHINONES" SHALL MEAN ANY SUBSTANCE THAT IS A STRUC-  
32 TURAL ANALOG CATHINONE INCLUDING ANY CHEMICAL DERIVATIVES OF CATHINONE  
33 WHICH BY DEFINITION HAS A STRUCTURAL SUBSTITUTION ON THE BENZENE RING OR  
34 ALIPHATIC CHAIN OR CONTAINS A STRUCTURAL ANALOG OR CHEMICAL DERIVATIVE  
35 OF ANY OF THE LISTED COMPOUNDS, AS FOLLOWS:  
36 (I) 4-METHOXYMETHCATHINONE  
37 (II) 3-FLUOROMETHCATHINONE  
38 (III) 4-FLUOROMETHCATHINONE  
39 (IV) 2-METHYLMETHCATHINONE  
40 (V) 3-METHYLMETHCATHINONE  
41 (VI) 2-ETHYLETHCATHINONE  
42 (VII) 3-ETHYLETHCATHINONE  
43 (VIII) 4-ETHYLETHCATHINONE  
44 (IX) 2-METHYLETHCATHINONE  
45 (X) 3-METHYLETHCATHINONE  
46 (XI) 4-METHYLETHCATHINONE  
47 (XII) 4-FLUROETHCATHINONE  
48 (XIII) ETHYLMETHCATHINONE  
49 (XIV) B-KETO-METHYLBENZODIOXOLYLPENTANAMINE  
50 (XV) 2-(METHLAMINO)-1-PHENYLPENTAN-1-ONE  
51 (XVI) A-PYRROLIDINOPENTIOPHENONE  
52 (XVII) 3,4-METHYLENEDIOXY-N-ETHYLCATHINONE  
53 (XVIII) A-PYRROLIDINOPROPIOPHENONE  
54 (XIX) 3,4-METHYLENEDIOXY-A PYRROLIDINOPROPIOPHENONE  
55 (XX) (RS)-1-NAPHTHALEN-2-YL-2-PYRROLIDIN-1-YLPENTAN-1-ONE

1 UNLESS SPECIFICALLY EXEMPTED OR UNLESS LISTED IN ANOTHER SCHEDULE, OR  
2 APPROVED FOR USE BY THE FOOD AND DRUG ADMINISTRATION AS A LEGITIMATE  
3 PHARMACEUTICAL COMPOUND, ANY MATERIAL, COMPOUND, MIXTURE OR PREPARATION  
4 WHICH CONTAINS ANY QUANTITY OF THE ABOVE LISTED COMPOUNDS, OR WHICH  
5 CONTAINS THEIR SALTS, ISOMERS AND SALTS OF ISOMERS WHENEVER THE EXIST-  
6 ENCE OF SUCH SALTS, ISOMERS, AND SALTS OF ISOMERS IS POSSIBLE WITHIN THE  
7 SPECIFIC CHEMICAL DESIGNATION.

8 (C) "SUBSTITUTED PHENETHYLAMINES" SHALL MEAN ANY SUBSTANCE THAT IS A  
9 STRUCTURAL ANALOG OF ANY PHENETHYLAMINE SCHEDULED IN THE PUBLIC HEALTH  
10 LAW, INCLUDING ANY CHEMICAL DERIVATIVES OF SCHEDULED PHENETHYALMINES  
11 WHICH BY DEFINITION HAS A STRUCTURAL SUBSTITUTION ON THE BENZENE RING OR  
12 ALIPHATIC CHAIN OR CONTAINS A STRUCTURAL ANALOG OF ANY OF THE LISTED  
13 COMPOUNDS, AS FOLLOWS:

- 14 (I) 4-METHYLAMPHETAMINE
- 15 (II) 3-METHYLAMPHETAMINE
- 16 (III) 4-CHLOROAMPHETAMINE
- 17 (IV) 4-FLUOROAMPHETAMINE
- 18 (V) 2-(4-CHLORO-2,5-DIMETHOXYPHENYL)-N-[(2-METHOXYPHENYL)METHYL]ETHANAMINE
- 19 (VI) 2-(4-iodo-2,5-DIMETHOXYPHENYL)-N{(2-METHOXYPHENYL)METHYL}ETHANAMINE
- 20 (VII) 1-(6-BENZOFURANYL)-2-PROPANAMINE (MDA WITH A O>C RING SUBSTI-  
21 TUTE)

22 UNLESS SPECIFICALLY EXEMPTED OR UNLESS LISTED IN ANOTHER SCHEDULE, OR  
23 APPROVED FOR USE BY THE FOOD AND DRUG ADMINISTRATION AS A LEGITIMATE  
24 PHARMACEUTICAL COMPOUND, ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION  
25 WHICH CONTAINS ANY QUANTITY OF THE ABOVE LISTED COMPOUNDS, OR WHICH  
26 CONTAINS THEIR SALTS, ISOMERS, AND SALTS OF ISOMERS WHENEVER THE EXIST-  
27 ENCE OF SUCH SALTS, ISOMERS, AND SALTS OF ISOMERS IS POSSIBLE WITHIN THE  
28 SPECIFIC CHEMICAL DESIGNATION.

29 (D) "SUBSTITUTED PHENYLPIPERAZINES" SHALL MEAN ANY SUBSTANCE THAT IS A  
30 CHEMICAL ANALOG OF BENZYLPIPERZINE OR ANY CHEMICAL DERIVATIVES OF  
31 BENZYLPIPERAZINE WHICH BY DEFINITION HAS A STRUCTURAL SUBSTITUTION ON  
32 THE BENZENE OR PIPERAZINE RING OR CONTAINS A STRUCTURAL ANALOG OF ANY OF  
33 THE LISTED COMPOUNDS, AS FOLLOWS:

- 34 (I) TRIFLUROMETHYLPHENYLPIPERAZINE
- 35 (II) META-CHLOROPHENYLPIPERAZINE
- 36 (III) PARA-CHLOROPHENYLPIPERAZINE
- 37 (IV) PARA-FLUOROPHENYLPIPERAZINE
- 38 (V) 4-METHOXYPHENYLPIPERZINE
- 39 (VI) DIBENZYLPIPERAZINE

40 UNLESS SPECIFICALLY EXEMPTED OR UNLESS LISTED IN ANOTHER SCHEDULE, OR  
41 APPROVED FOR USE BY THE FOOD AND DRUG ADMINISTRATION AS A LEGITIMATE  
42 PHARMACEUTICAL COMPOUND, ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION  
43 WHICH CONTAINS ANY QUANTITY OF THE ABOVE LISTED COMPOUNDS, OR WHICH  
44 CONTAINS THEIR SALTS, ISOMERS, AND SALTS OF ISOMERS WHENEVER THE EXIST-  
45 ENCE OF SUCH SALTS, ISOMERS, AND SALTS OF ISOMERS IS POSSIBLE WITHIN THE  
46 SPECIFIC CHEMICAL DESIGNATION.

47 (E) "SUBSTITUTED TRYPTAMINES" SHALL MEAN ANY SUBSTANCE THAT IS A  
48 STRUCTURAL ANALOG OF DIMETHYLTRYPTAMINE, OR PSILOCIN, (SCHEDULE I  
49 CONTROLLED SUBSTANCES) OR ANY CHEMICAL DERIVATIVE OF DEMETHYLTRYPTAMINE  
50 WHICH BY DEFINITION HAS A STRUCTURAL SUBSTITUTION ON THE INDOLE RING OF  
51 ALIPHATIC CHAIN OR CONTAINS A STRUCTURAL ANALOG OF 5-MEO-DALT.

52 UNLESS SPECIFICALLY EXEMPTED OR UNLESS LISTED IN ANOTHER SCHEDULE, OR  
53 APPROVED FOR USE BY THE FOOD AND DRUG ADMINISTRATION AS A LEGITIMATE  
54 PHARMACEUTICAL COMPOUND, ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION  
55 WHICH CONTAINS ANY QUANTITY OF THE ABOVE LISTED COMPOUNDS, OR WHICH  
56 CONTAINS THEIR SALTS, ISOMERS, AND SALTS OF ISOMERS WHENEVER THE EXIST-

ENCE OF SUCH SALTS, ISOMERS, AND SALTS OF ISOMERS IS POSSIBLE WITHIN THE SPECIFIC CHEMICAL DESIGNATION.

(F) UNCLASSIFIED STRUCTURALLY:

(I) DESOXYPIPADROL (2-DPMP)

(II) 3-METHOXY-PHENYCYCLIDINE

(III) 4-METHOXY-PHENYCYCLIDINE

(IV) METHOXETAMINE (KETAMINE ANALOG)

(V) (3-DIETHYLAMINO-2,2-DIMETHYLOPPROPYL)-4-AMINOBENZOATE

(VI) 5,6-METHYLENEDIOXY-2-AMINOINDANE

(VII) (5-LODO-2-AMINOINDANE) 5-iodo-2,3-dihydro-1H-inden-2-amine.

(G) ANY SUBSTANCE THAT INDUCES TOXIC EFFECTS INCLUDING BUT NOT LIMITED TO VOMITING, RAPID HEART RATE, HALLUCINATIONS, DELUSIONS AND/OR BABBLING.

2. "STRUCTURAL ANALOG" SHALL MEAN AN OPTICAL OR POSITIONAL ISOMER OF A CHEMICAL DERIVATIVE OF ANY DRUG LISTED IN SECTION THREE THOUSAND THREE HUNDRED SIX OF THE PUBLIC HEALTH LAW OR ANY OF THE SUBSTANCES SPECIFICALLY LISTED IN THIS SECTION, WITH THE EXCEPTION OF THOSE SUBSTANCES APPROVED BY THE FOOD AND DRUG ADMINISTRATION FOR USE AS PHARMACEUTICALS.

3. "CHEMICAL DERIVATIVE" SHALL MEAN A COMPOUND PRODUCED BY ADDING AN ELEMENT OR CHEMICAL GROUP TO THE RING OF ALIPHATIC CHAIN OF AN EXISTING CHEMICAL.

4. "ELEMENT" SHALL MEAN ANY SUBSTANCE IN THE PERIODIC TABLE OF ELEMENTS.

5. "CHEMICAL GROUP" SHALL MEAN A SMALL COMBINATION OF ELEMENTS.

CRIMINAL SALE, USE OR POSSESSION OF SYNTHETIC DRUGS AND OTHER SIMILAR COMPOUNDS IS A CLASS E FELONY.

S 2. Severability. If any provision of section 220.66 of the penal law as added by section one of this act or the application thereof to any person or circumstance shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any provision or the application of any part thereof to any other person or circumstance and to this end the provisions are hereby declared to be severable. Insofar as the provisions of section 220.66 of the penal law as added by section one of this act are inconsistent with the provisions of any other law, general, special or local, the provisions of section one of this act shall be controlling.

S 3. This act shall take effect immediately.