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

4175

2015-2016 Regular Sessions

I N A S S E M B L Y

January 29, 2015

Introduced by 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:

Section 1. The penal law is amended by adding a new section 220.66 to read as follows:

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

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

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

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

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

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(I) 2-[(1R, 2R, 5R)-5-HYDROXY-2-(3-HYDROXYPROPYL) CYCLOHEX-YL]-5-(2-METHYLOCTAN-2-YL)PHENOL
(II) 4-METHOXYPHENYL)-[2-METHYL-1-(2-MORPHOLIN-4-YLETHYL)INDOL-3-YL] METHANONE
(III) [(3R)-5-METHYL-3-(MORPHOLIN-4-YLMETHYL)-2, 3-DIHYDRO[1,4}OXAZINO[2,3,4-HI]INDOL-6-YL](NAPHTHALENE-1-YL)METHANONE
(IV) (2-METHYL-1-PENTYL-1H-INDOL-3-YL)(NAPHTHALEN-1-YL)METHANONE
(V) (2-METHYL-1-PROPYL-1H-INDOL-3-YL)(NAPHTHALENE-1-YL)METHANONE
(VI) NAPHTHALEN-1-YL[1-(PEN-4-EN-1-YL)-1H-INDOL-3-YL)METHANONE
(VII) 1-PENTYL-3-(4-ETHYL-1-NAPHTHOYL)INDOLE
(VIII) 1-PENTYLINDOL-3-YL)NAPTHALEN-1-YLMETHANE
(IX) (1-PENTYL-1H-INDOL-3-YL)(4-PROPYLNAPHTHALEN-1-YL)METHANONE
(X) 3-[(4-METHYL-1-NAPHTHALENY)METHYL]-1-PENTYL-1H-INDOLE
(XI) 1-([(1E)-3-PENTYLINDEN-1-YLIDINE]METHYL)NAPHTHALENE
(XII) 2-(2-METHYLPHENYL)-1-(1-PENTYL-1H-INDOL-E-YL)ETHANONE
(XIII) 2-(3-METHOXYLPHENYL)-1-(1-PENTYLINDOL-3-YL)ETHANONE
(XIV) (5-(2-FLUOROPHENYL)-1-PENTYLPYRROL-3-YL)-NAPHTHALEN-1-YLMETHANONE
(XV) 1-PENTYL-3-(2-IODOBENZOYL)INDOLE
(XVI) [1-[(1-METHYL-2-PIPERIDINYL)METHYL]-3-INDOLYL]-(1-NAPHTHALENYL) METHANONE
(XVII) 1-[(N-METHYLPIPERIDIN-2-YL)METHYL]3-(ADAMAN-1-OYL)INDOLE
(XVIII) (2-LODOPHENYL){1-[1-METHYLPIPERIDIN-2-YL)METHYL]-1H-INDOLE-3-YL} METHANONE
(XIX) (1-PENTYL-1H-INDOL-3-YL)(2,2,3,3-TETRAMETHYLCYCLOPROPYL)METHANONE
(XX) [1-(5-FLUOROPENTYL)-1H-INDOL-3-YL])2,2,3,3-TETRAMETHYLCYCLOPROPYL) METHANONE

UNLESS SPECIFICALLY EXEMPTED OR UNLESS LISTED IN ANOTHER SCHEDULE, OR APPROVED FOR USE BY THE FOOD AND DRUG ADMINISTRATION AS A LEGITIMATE PHARMACEUTICAL COMPOUND, ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION WHICH CONTAINS ANY QUANTITY OF THE ABOVE LISTED COMPOUNDS, OR WHICH 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 OR CONTAINS A STRUCTURAL ANALOG OR CHEMI-CAL DERIVATIVE OF ANY OF THE LISTED COMPOUNDS.

(B) "SUBSTITUTED CATHINONES" SHALL MEAN ANY SUBSTANCE THAT IS A STRUC-TURAL ANALOG CATHINONE INCLUDING ANY CHEMICAL DERIVATIVES OF CATHINONE WHICH BY DEFINITION HAS A STRUCTURAL SUBSTITUTION ON THE BENZENE RING OR ALIPHATIC CHAIN OR CONTAINS A STRUCTURAL ANALOG OR CHEMICAL DERIVATIVE OF ANY OF THE LISTED COMPOUNDS, AS FOLLOWS:

(I) 4-METHOXYMETHCATHINONE
(II) 3-FLUOROMETHCATHINONE
(III) 4-FLUOROMETHCATHINONE
(IV) 2-METHYLMETHCATHINONE
(V) 3-METHYLMETHCATHINONE
(VI) 2-ETHYLETHCATHINONE
(VII) 3-ETHYLETHCATHINONE
(VIII) 4-ETHYLETHCATHINONE
(IX) 2-METHYLETHCATHINONE
(X) 3-METHYLETHCATHINONE
(XI) 4-METHYLETHCATHINONE
(XII) 4-FLUOROETHCATHINONE
(XIII) ETHYLMETHCATHINONE
(XIV) B-KETO-METHYLBENZODIOXOLYLPENTANAMINE
(XV) 2-(METHLAMINO)-1-PHENYLPENTAN-1-ONE
(XVI) A-PYRROLIDINOPENTIOPHENONE
(XVII) 3,4-METHYLENEDIOXY-N-ETHYLCATHINONE

(XVIII) A-PYRROLIDINOPROPIOPHENONE
(XIX) 3,4-METHYLENEDIOXY-A PYRROLIDINOPROPIOPHENONE
(XX) (RS)-1-NAPHTHALEN-2-YL-2-PYRROLIDIN-1-YLPENTAN-1-ONE
UNLESS SPECIFICALLY EXEMPTED OR UNLESS LISTED IN ANOTHER SCHEDULE, OR APPROVED FOR USE BY THE FOOD AND DRUG ADMINISTRATION AS A LEGITIMATE PHARMACEUTICAL COMPOUND, ANY MATERIAL, COMPOUND, MIXTURE OR PREPARATION WHICH CONTAINS ANY QUANTITY OF THE ABOVE LISTED COMPOUNDS, OR WHICH CONTAINS THEIR SALTS, ISOMERS AND SALTS OF ISOMERS WHENEVER THE EXISTENCE OF SUCH SALTS, ISOMERS, AND SALTS OF ISOMERS IS POSSIBLE WITHIN THE SPECIFIC CHEMICAL DESIGNATION.

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

(I) 4-METHYLAMPHETAMINE
(II) 3-METHYLAMPHETAMINE
(III) 4-CHLOROAMPHETAMINE
(IV) 4-FLUOROAMPHETAMINE
(V) 2-(4-CHLORO-2,5-DIMETHOXYPHENYL)-N-[(2-METHOXYPHENYL)METHYL]ETHANAMINE
(VI) 2-(4-IODO-2,5-DIMETHOXYPHENYL)-N{(2-METHOXYPHENYL)METHYL}ETHANAMINE
(VII) 1-(6-BENZOFURANYL)-2-PROPANAMINE (MDA WITH A O>C RING SUBSTITUTE)

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

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

(I) TRIFLUROMETHYLPHENYLPIPERAZINE
(II) META-CHLOROPHENYLPIPERAZINE
(III) PARA-CHLOROPHENYLPIPERAZINE
(IV) PARA-FLUOROPHENYLPIPERAZINE
(V) 4-METHOXYPHENYLPIPERZINE
(VI) DIBENZYLPIPERAZINE

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

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

UNLESS SPECIFICALLY EXEMPTED OR UNLESS LISTED IN ANOTHER SCHEDULE, OR APPROVED FOR USE BY THE FOOD AND DRUG ADMINISTRATION AS A LEGITIMATE

PHARMACEUTICAL COMPOUND, ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION WHICH CONTAINS ANY QUANTITY OF THE ABOVE LISTED COMPOUNDS, OR WHICH CONTAINS THEIR SALTS, ISOMERS, AND SALTS OF ISOMERS WHENEVER THE EXISTENCE 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-PHENCYCLIDINE

(III) 4-METHOXY-PHENCYCLIDINE

(IV) METHOXETAMINE (KETAMINE ANALOG)

(V) (3-DIETHYLAMINO-2,2-DIMETHYLOPROPYL)-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.