

5888

2015-2016 Regular Sessions

I N   S E N A T E

June 10, 2015

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

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, PSYCHIA-  
9 TRIST 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 CANNA-  
22 BINOID RECEPTOR TYPE 1 (CB1 RECEPTOR) AGONIST AS DEMONSTRATED BY BINDING  
23 STUDIES AND FUNCTION ASSAYS OR IS A STRUCTURAL ANALOG OR CHEMICAL DERIV-  
24 ATIVE 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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1 (I) 2-[(1R, 2R, 5R)-5-HYDROXY-2-(3-HYDROXYPROPYL) CYCLOHEX-  
2 YL]-5-(2-METHYLOCTAN-2-YL)PHENOL  
3 (II) 4-METHOXYPHENYL)-[2-METHYL-1-(2-MORPHOLIN-4-YLETHYL)INDOL-3-YL]  
4 METHANONE  
5 (III) [(3R)-5-METHYL-3-(MORPHOLIN-4-YLMETHYL)-2,  
6 3-DIHYDRO[1,4]OXAZINO[2,3,4-HI]INDOL-6-YL](NAPHTHALENE-1-YL)METHANONE  
7 (IV) (2-METHYL-1-PENTYL-1H-INDOL-3-YL)(NAPHTHALEN-1-YL)METHANONE  
8 (V) (2-METHYL-1-PROPYL-1H-INDOL-3-YL)(NAPHTHALENE-1-YL)METHANONE  
9 (VI) NAPHTHALEN-1-YL[1-(PEN-4-EN-1-YL)-1H-INDOL-3-YL]METHANONE  
10 (VII) 1-PENTYL-3-(4-ETHYL-1-NAPHTHOYL)INDOLE  
11 (VIII) 1-PENTYLINDOL-3-YL)NAPHTHALEN-1-YLMETHANE  
12 (IX) (1-PENTYL-1H-INDOL-3-YL)(4-PROPYLNAPHTHALEN-1-YL)METHANONE  
13 (X) 3-[(4-METHYL-1-NAPHTHALENY)METHYL]-1-PENTYL-1H-INDOLE  
14 (XI) 1-[(1E)-3-PENTYLINDEN-1-YLIDINE]METHYL)NAPHTHALENE  
15 (XII) 2-(2-METHYLPHENYL)-1-(1-PENTYL-1H-INDOL-E-YL)ETHANONE  
16 (XIII) 2-(3-METHOXYLPHENYL)-1-(1-PENTYLINDOL-3-YL)ETHANONE  
17 (XIV) (5-(2-FLUOROPHENYL)-1-PENTYLPYRROL-3-YL)-NAPHTHALEN-1-YLMETHANONE  
18 (XV) 1-PENTYL-3-(2-IODOBENZOYL)INDOLE  
19 (XVI) [1-[(1-METHYL-2-PIPERIDINYL)METHYL]-3-INDOLYL]-(1-NAPHTHALENYL)  
20 METHANONE  
21 (XVII) 1-[(N-METHYLPIPERIDIN-2-YL)METHYL]3-(ADAMAN-1-OYL)INDOLE  
22 (XVIII) (2-LODOPHENYL){1-[1-METHYLPIPERIDIN-2-YL)METHYL]-1H-INDOLE-3-YL}  
23 METHANONE  
24 (XIX) (1-PENTYL-1H-INDOL-3-YL)(2,2,3,3-TETRAMETHYLCYCLOPROPYL)METHANONE  
25 (XX) [1-(5-FLUOROPENTYL)-1H-INDOL-3-YL)]2,2,3,3-TETRAMETHYLCYCLOPROPYL)  
26 METHANONE  
27 UNLESS SPECIFICALLY EXEMPTED OR UNLESS LISTED IN ANOTHER SCHEDULE, OR  
28 APPROVED FOR USE BY THE FOOD AND DRUG ADMINISTRATION AS A LEGITIMATE  
29 PHARMACEUTICAL COMPOUND, ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION  
30 WHICH CONTAINS ANY QUANTITY OF THE ABOVE LISTED COMPOUNDS, OR WHICH  
31 CONTAINS THEIR SALTS, ISOMERS, AND SALTS OF ISOMERS WHENEVER THE EXIST-  
32 ENCE OF SUCH SALTS, ISOMERS, AND SALTS OF ISOMERS IS POSSIBLE WITHIN THE  
33 SPECIFIC CHEMICAL DESIGNATION OR CONTAINS A STRUCTURAL ANALOG OR CHEMI-  
34 CAL DERIVATIVE OF ANY OF THE LISTED COMPOUNDS.  
35 (B) "SUBSTITUTED CATHINONES" SHALL MEAN ANY SUBSTANCE THAT IS A STRUC-  
36 TURAL ANALOG CATHINONE INCLUDING ANY CHEMICAL DERIVATIVES OF CATHINONE  
37 WHICH BY DEFINITION HAS A STRUCTURAL SUBSTITUTION ON THE BENZENE RING OR  
38 ALIPHATIC CHAIN OR CONTAINS A STRUCTURAL ANALOG OR CHEMICAL DERIVATIVE  
39 OF ANY OF THE LISTED COMPOUNDS, AS FOLLOWS:  
40 (I) 4-METHOXYMETHCATHINONE  
41 (II) 3-FLUOROMETHCATHINONE  
42 (III) 4-FLUOROMETHCATHINONE  
43 (IV) 2-METHYLMETHCATHINONE  
44 (V) 3-METHYLMETHCATHINONE  
45 (VI) 2-ETHYLETHCATHINONE  
46 (VII) 3-ETHYLETHCATHINONE  
47 (VIII) 4-ETHYLETHCATHINONE  
48 (IX) 2-METHYLETHCATHINONE  
49 (X) 3-METHYLETHCATHINONE  
50 (XI) 4-METHYLETHCATHINONE  
51 (XII) 4-FLUOROETHCATHINONE  
52 (XIII) ETHYLMETHCATHINONE  
53 (XIV) B-KETO-METHYLBENZODIOXOLYLPENTANAMINE  
54 (XV) 2-(METHLAMINO)-1-PHENYLPENTAN-1-ONE  
55 (XVI) A-PYRROLIDINOPENTIOPHENONE  
56 (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

1 PHARMACEUTICAL COMPOUND, ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION  
2 WHICH CONTAINS ANY QUANTITY OF THE ABOVE LISTED COMPOUNDS, OR WHICH  
3 CONTAINS THEIR SALTS, ISOMERS, AND SALTS OF ISOMERS WHENEVER THE EXIST-  
4 ENCE OF SUCH SALTS, ISOMERS, AND SALTS OF ISOMERS IS POSSIBLE WITHIN THE  
5 SPECIFIC CHEMICAL DESIGNATION.

6 (F) UNCLASSIFIED STRUCTURALLY:

7 (I) DESOXYPIPADROL (2-DPMP)

8 (II) 3-METHOXY-PHENCYCLIDINE

9 (III) 4-METHOXY-PHENCYCLIDINE

10 (IV) METHOXETAMINE (KETAMINE ANALOG)

11 (V) (3-DIETHYLAMINO-2,2-DIMETHYLOPPROPYL)-4-AMINO BENZOATE

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

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

14 (G) ANY SUBSTANCE THAT INDUCES TOXIC EFFECTS INCLUDING BUT NOT LIMITED  
15 TO VOMITING, RAPID HEART RATE, HALLUCINATIONS, DELUSIONS AND/OR BABBL-  
16 ING.

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

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

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

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

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

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

42 S 3. This act shall take effect immediately.