

2836--C

2015-2016 Regular Sessions

I N S E N A T E

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Introduced by Sens. FLANAGAN, GALLIVAN, GOLDEN, LITTLE, MARCHIONE, MARTINS, RANZENHOFER, RITCHIE -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the penal law, in relation to controlled substances

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

1 Section 1. Subdivision 4 of section 3302 of the public health law, as
2 added by chapter 878 of the laws of 1972 and as renumbered by chapter
3 537 of the laws of 1998, is amended to read as follows:
4 4. "Concentrated Cannabis" means
5 [(a)] the separated resin, whether crude or purified, obtained from a
6 plant of the genus Cannabis[; or
7 (b) a material, preparation, mixture, compound or other substance
8 which contains more than two and one-half percent by weight of delta-9
9 tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran numbering
10 system, or delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) mono-
11 terpene numbering system].
12 S 2. Section 3302 of the public health law is amended by adding a new
13 subdivision 44 to read as follows:
14 44. "SYNTHETIC CANNABINOID" SHALL HAVE THE MEANING SET FORTH IN
15 SECTION THIRTY-THREE HUNDRED SIX OF THIS TITLE.

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

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1 S 3. Paragraph 21 of subdivision (d) of schedule I of section 3306 of
2 the public health law, as added by chapter 664 of the laws of 1985, is
3 amended by to read as follows:

4 (21) Tetrahydrocannabinols. [Synthetic equivalents of the] THE
5 substances contained in the plant, or in the resinous extractives of
6 cannabis, sp. and/or synthetic substances, derivatives, and their isom-
7 ers with similar chemical structure and pharmacological activity such as
8 the following:

9 /\1 cis or trans tetrahydrocannabinol, and their optical isomers
10 /\6 cis or trans tetrahydrocannabinol, and their optical isomers
11 /\3, 4 cis or trans tetrahydrocannabinol, and its optical isomers
12 (since nomenclature of these substances is not internationally standard-
13 ized, compounds of these structures, regardless of numerical designation
14 of atomic positions covered).

15 S 4. Schedule I of section 3306 of the public health law is amended by
16 adding a new subdivision (g) to read as follows:

17 (G) (1) UNLESS SPECIFICALLY EXCEPTED OR UNLESS LISTED IN ANOTHER SCHE-
18 DULE, ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION THAT IS NOT
19 APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION (FDA), AND WHICH
20 CONTAINS ANY QUANTITY OF SYNTHETIC CANNABINOIDS, OR WHICH CONTAINS ANY
21 OF ITS SALTS, ISOMERS (WHETHER OPTICAL, POSITIONAL, OR GEOMETRIC), HOMO-
22 LOGUES (ANALOGS), AND SALTS OF ISOMERS AND HOMOLOGUES (ANALOGS), WHENEV-
23 ER THE EXISTENCE OF SUCH SALTS, ISOMERS, HOMOLOGUES (ANALOGS), AND SALTS
24 OF ISOMERS AND HOMOLOGUES (ANALOGS) IS POSSIBLE WITHIN THE SPECIFIC
25 CHEMICAL DESIGNATION.

26 (2) AS USED IN THIS SUBDIVISION, THE TERM "SYNTHETIC CANNABINOIDS"
27 MEANS ANY CHEMICAL COMPOUND OR SYNTHETIC EQUIVALENT THAT IS A CANNBINOID
28 RECEPTOR TYPE 1 (CB1 RECEPTOR) AGONIST AS DEMONSTRATED BY BINDING
29 STUDIES AND FUNCTIONAL ASSAYS WITHIN ANY OF THE FOLLOW STRUCTURAL CLASS-
30 ES:

31 (I) 2-(3-HYDROXYCYCLOHEXYL)PHENOL WITH SUBSTITUTION AT THE 5-POSITION
32 OF THE PHENOLIC RING BY ALKYL OR ALKENYL, WHETHER OR NOT SUBSTITUTED ON
33 THE CYCLOHEXYL RING TO ANY EXTENT;

34 (II) 3-(1-NAPHTHOYL)INDOLE OR 3-(1-NAPHTHYLMETHANE)INDOLE BY SUBSTI-
35 TUTION AT THE NITROGEN ATOM OF THE INDOLE RING, WHETHER OR NOT FURTHER
36 SUBSTITUTED ON THE INDOLE RING TO ANY EXTENT, WHETHER OR NOT SUBSTITUTED
37 ON THE NAPHTHOYL OR NAPHTHYL RING TO ANY EXTENT;

38 (III) 3-(1-NAPHTHOYL)PYRROLE BY SUBSTITUTION AT THE NITROGEN ATOM OF
39 THE PYRROLE RING, WHETHER OR NOT FURTHER SUBSTITUTED IN THE PYRROLE RING
40 TO ANY EXTENT, WHETHER OR NOT SUBSTITUTED ON THE NAPHTHOYL RING TO ANY
41 EXTENT;

42 (IV) 1-(1-NAPHTHYLMETHYLENE)INDENE BY SUBSTITUTION OF THE 3-POSITION
43 OF THE INDENE RING, WHETHER OR NOT FURTHER SUBSTITUTED IN THE INDENE
44 RING TO ANY EXTENT, WHETHER OR NOT SUBSTITUTED ON THE NAPHTHYL RING TO
45 ANY EXTENT;

46 (V) 3-PHENYLACETYLINDOLE OR 3-BENZOYLINDOLE BY SUBSTITUTION AT THE
47 NITROGEN ATOM OF THE INDOLE RING, WHETHER OR NOT FURTHER SUBSTITUTED IN
48 THE INDOLE RING TO ANY EXTENT, WHETHER OR NOT SUBSTITUTED ON THE PHENYL
49 RING TO ANY EXTENT;

50 (VI) 5-(1,1-DIMETHYLHEPTYL)-2-[(1R,3S)-3-HYDROXYCYCLOHEXYL]-PHENOL (CP
51 47,497);

52 (VII) 5-(1,1-DIMETHYLOCTYL)-2-[(1R,3S)-3-HYDROXYCYCLOHEXYL]-PHENOL
53 (CANNABICYCLOHEXANOL; CP 47,497 C8 HOMOLOGUE);

54 (VIII) 1-PENTYL-3-(1-NAPHTHOYL)INDOLE (JWH-018; AM678);

55 (IX) 1-BUTYL-3-(1-NAPHTHOYL)INDOLE (JWH-073);

56 (X) 1-HEXYL-3-(1-NAPHTHOYL)INDOLE (JWH-019);

- 1 (XI) 1-[2-(4-MORPHOLINYL)ETHYL]-3-(1-NAPHTHOYL)INDOLE (JWH-200);
2 (XII) 1-PENTYL-3-(2-METHOXYPHENYLACETYL)INDOLE (JWH-250);
3 (XIII) 1-PENTYL-3-[1-(4-METHOXYNAPHTHOYL)]INDOLE (JWH-081);
4 (XIV) 1-PENTYL-3-(4-METHYL-1-NAPHTHOYL)INDOLE (JWH-122);
5 (XV) 1-PENTYL-3-(4-CHLORO-1-NAPHTHOYL)INDOLE (JWH-398);
6 (XVI) 1-(5-FLUOROPENTYL)-3-(1-NAPHTHOYL)INDOLE (AM2201);
7 (XVII) 1-(5-FLUOROPENTYL)-3-(2-IODOBENZOYL)INDOLE (AM694);
8 (XVIII) 1-PENTYL-3-[(4-METHOXY)-BENZOYL]INDOLE (SR-19; RCS-4);
9 (XIX) 1-CYCLOHEXYLETHYL-3-(2-METHOXYPHENYLACETYL)INDOLE (SR-18;
10 RCS-8);
11 (XX) 1-PENTYL-3-(2-CHLOROPHENYLACETYL)INDOLE (JWH-203);
12 (XXI) (1-PENTYL-1H-INDOL-3-YL)(2,2,3,3-TETRAMETHYLCYCLOPROPYL)METHANONE
13 (UR-144);
14 (XXII) [1-(5-FLUORO-PENTYL)-1H-INDOL-3-YL](2,2,3,3-
15 TETRAMETHYLCYCLOPROPYL)METHANONE (5-FLUORO-UR-144; XLR11); AND
16 (XXIII) N-(1-ADAMANTYL)-1-PENTYL-1H-INDAZOLE-3-CARBOXAMIDE (APINACA;
17 AKB48).
- 18 (3) THE TERM "SYNTHETIC CANNABINOIDS" SHALL ALSO INCLUDE:
19 (I) (1-PENTYL-1H-INDOL-3-YL)(2,2,3,3-TETRAMETHYLCYCLOPROPYL)METHANONE,
20 ITS OPTICAL, POSITIONAL, AND GEOMETRIC ISOMERS, SALTS AND SALTS OF ISOM-
21 ERS-7144 (OTHER NAMES: UR-144, 1-PENTYL-3-(2,2,3,3- TETRAMETHYLCYCLOPRO-
22 POYL)INDOLE);
23 (II) [1-(5-FLUORO-PENTYL)-1H-INDOL-3-YL](2,2,3,3-
24 TETRAMETHYLCYCLOPROPYL)METHANONE, ITS OPTICAL, POSITIONAL, AND GEOMETRIC
25 ISOMERS, SALTS AND SALTS OF ISOMERS-7011 (OTHER NAMES: 5-FLUORO-UR-144,
26 5-F-UR-144, XLR11, 1-(5-FLUORO-PENTYL)-3-
27 (2,2,3,3-TETRAMETHYLCYCLOPROPYL)INDOLE);
28 (III) N-(1-ADAMANTYL)-1-PENTYL-1H-INDAZOLE-3-CARBOXAMIDE, ITS OPTICAL,
29 POSITIONAL, AND GEOMETRIC ISOMERS, SALTS AND SALTS OF ISOMERS-7048
30 (OTHER NAMES: APINACA, AKB48);
31 (IV) QUINOLIN-8-YL 1-PENTYL-1H-INDOLE-3-CARBOXYLATE, ITS OPTICAL,
32 POSITIONAL, AND GEOMETRIC ISOMERS, SALTS AND SALTS OF ISOMERS-7222
33 (OTHER NAMES: PB-22; QUPIC);
34 (V) QUINOLIN-8-YL 1-(5-FLUOROPENTYL)-1H-INDOLE-3-CARBOXYLATE, ITS
35 OPTICAL, POSITIONAL, AND GEOMETRIC ISOMERS, SALTS AND SALTS OF ISOMERS-
36 7225 (OTHER NAMES: 5-FLUORO-PB-22; 5F-PB-22);
37 (VI) N-(1-AMINO-3-METHYL-1-OXOBUTAN-2-YL)-1-(4-FLUOROBENZYL)-1H- INDA-
38 ZOLE-3-CARBOXAMIDE, ITS OPTICAL, POSITIONAL, AND GEOMETRIC ISOMERS,
39 SALTS AND SALTS OF ISOMERS-7012 (OTHER NAMES: AB-FUBINACA);
40 (VII) N-(1-AMINO-3,3-DIMETHYL-1-OXOBUTAN-2-YL)-1-PENTYL-1H-INDAZOLE-3-
41 CARBOXAMIDE, ITS OPTICAL, POSITIONAL, AND GEOMETRIC ISOMERS, SALTS AND
42 SALTS OF ISOMERS-7035 (OTHER NAMES: ADB-PINACA);
43 (VIII) N-(1-AMINO-3-METHYL-1-OXOBUTAN-2-YL)-1-(CYCLOHEXYLMETHYL)-1H-
44 INDAZOLE-3-CARBOXAMIDE, ITS OPTICAL, POSITIONAL, AND GEOMETRIC ISOMERS,
45 SALTS, AND SALTS OF ISOMERS-7031 (OTHER NAMES: AB-CHMINACA);
46 (IX) N-(1-AMINO-3-METHYL-1-OXOBUTAN-2-YL)-1-PENTYL-1H-INDAZOLE-3-
47 CARBOXAMIDE, ITS OPTICAL, POSITIONAL, AND GEOMETRIC ISOMERS, SALTS, AND
48 SALTS OF ISOMERS-7023 (OTHER NAMES: AB-PINACA); AND
49 (X) [1-(5-FLUOROPENTYL)-1H-INDAZOL-3-YL](NAPHTHALEN-1-YL)METHANONE,
50 ITS OPTICAL, POSITIONAL, AND GEOMETRIC ISOMERS, SALTS, AND SALTS OF
51 ISOMERS-7024 (OTHER NAMES: THJ-2201).

52 S 5. Section 220.00 of the penal law is amended by adding a new subdi-
53 vision 21 to read as follows:

54 21. "KNOWINGLY" WHEN USED IN CONNECTION WITH THE OFFENSES INVOLVING
55 THE POSSESSION OR SALE, OR THE ATTEMPT OR CONSPIRACY TO POSSESS OR SELL,
56 A SYNTHETIC CANNABINOID, SYNTHETIC CATHINONE, OR A CONTROLLED SUBSTANCE

1 ANALOGUE, SHALL NOT REQUIRE KNOWLEDGE BY THE DEFENDANT OF THE CHEMICAL
2 STRUCTURE OF THE SUBSTANCE, BUT RATHER, IT IS SUFFICIENT IF:

3 (A) THE DEFENDANT KNEW OR SHOULD HAVE KNOWN THAT THE SUBSTANCE HAS A
4 STIMULANT, DEPRESSANT, OR HALLUCINOGENIC EFFECT ON THE CENTRAL NERVOUS
5 SYSTEM THAT IS SUBSTANTIALLY SIMILAR TO OR GREATER THAN THE STIMULANT,
6 DEPRESSANT, OR HALLUCINOGENIC EFFECT ON THE CENTRAL NERVOUS SYSTEM OF A
7 CONTROLLED SUBSTANCE IN SCHEDULE I OR II OF SECTION THIRTY-THREE HUNDRED
8 SIX OF THE PUBLIC HEALTH LAW; OR

9 (B) THE DEFENDANT REPRESENTED OR INTENDED FOR THE SUBSTANCE TO HAVE A
10 STIMULANT, DEPRESSANT, OR HALLUCINOGENIC EFFECT ON THE CENTRAL NERVOUS
11 SYSTEM THAT IS SUBSTANTIALLY SIMILAR TO OR GREATER THAN THE STIMULANT,
12 DEPRESSANT, OR HALLUCINOGENIC EFFECT ON THE CENTRAL NERVOUS SYSTEM OF A
13 CONTROLLED SUBSTANCE IN SCHEDULE I OR II OF SECTION THIRTY-THREE HUNDRED
14 SIX OF THE PUBLIC HEALTH LAW.

15 S 6. Subdivision 8 of section 220.06 of the penal law, as added by
16 chapter 264 of the laws of 2003, is amended and a new subdivision 9 is
17 added to read as follows:

18 8. one or more preparations, compounds, mixtures or substances
19 containing gamma hydroxybutyric acid, as defined in paragraph four of
20 subdivision (e) of schedule I of section thirty-three hundred six of the
21 public health law, and said preparations, compounds, mixtures or
22 substances are of an aggregate weight of twenty-eight grams or more[.];
23 OR

24 9. ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES
25 CONTAINING A SYNTHETIC CANNABINOID AS DEFINED IN SUBDIVISION (G) OF
26 SCHEDULE I OF SECTION THIRTY-THREE HUNDRED SIX OF THE PUBLIC HEALTH LAW
27 AND SAID PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES ARE OF AN
28 AGGREGATE WEIGHT OF ONE OUNCE OR MORE.

29 S 7. Subdivision 15 of section 220.09 of the penal law, as added by
30 chapter 264 of the laws of 2003, is amended and a new subdivision 16 is
31 added to read as follows:

32 15. one or more preparations, compounds, mixtures or substances
33 containing gamma hydroxybutyric acid, as defined in paragraph four of
34 subdivision (e) of schedule I of section thirty-three hundred six of the
35 public health law, and said preparations, compounds, mixtures or
36 substances are of an aggregate weight of two hundred grams or more[.];
37 OR

38 16. ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES
39 CONTAINING A SYNTHETIC CANNABINOID AS DEFINED IN SUBDIVISION (G) OF
40 SCHEDULE I OF SECTION THIRTY-THREE HUNDRED SIX OF THE PUBLIC HEALTH LAW
41 AND SAID PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES ARE OF AN
42 AGGREGATE WEIGHT OF FOUR OUNCES OR MORE.

43 S 8. Subdivision 13 of section 220.16 of the penal law, as amended by
44 chapter 75 of the laws of 1995, is amended and a new subdivision 14 is
45 added to read as follows:

46 13. phencyclidine and said phencyclidine weighs one thousand two
47 hundred fifty milligrams or more[.]; OR

48 14. ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES
49 CONTAINING A SYNTHETIC CANNABINOID AS DEFINED IN SUBDIVISION (G) OF
50 SCHEDULE I OF SECTION THIRTY-THREE HUNDRED SIX OF THE PUBLIC HEALTH LAW
51 AND SAID PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES ARE OF AN
52 AGGREGATE WEIGHT OF TEN POUNDS OR MORE.

53 S 9. Subdivision 3 of section 220.34 of the penal law, as amended by
54 chapter 537 of the laws of 1998, is amended and a new subdivision 10 is
55 added to read as follows:

1 3. concentrated cannabis as defined in [paragraph (a) of] subdivision
2 four of section thirty-three hundred two of the public health law; or
3 10. ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES
4 CONTAINING A SYNTHETIC CANNABINOID AS DEFINED IN SUBDIVISION (G) OF
5 SCHEDULE I OF SECTION THIRTY-THREE HUNDRED SIX OF THE PUBLIC HEALTH LAW
6 AND SAID PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES ARE OF AN
7 AGGREGATE WEIGHT OF ONE OUNCE OR MORE.

8 S 10. Subdivision 9 of section 220.39 of the penal law, as added by
9 chapter 410 of the laws of 1979, is amended and a new subdivision 10 is
10 added to read as follows:

11 9. a narcotic preparation to a person less than twenty-one years
12 old[.] ; OR

13 10. ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES
14 CONTAINING A SYNTHETIC CANNABINOID AS DEFINED IN SUBDIVISION (G) OF
15 SCHEDULE I OF SECTION THIRTY-THREE HUNDRED SIX OF THE PUBLIC HEALTH LAW
16 AND SAID PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES ARE OF AN
17 AGGREGATE WEIGHT OF SIXTEEN OUNCES OR MORE.

18 S 11. This act shall take effect on the one hundred eightieth day
19 after it shall have become a law; provided, however, that, notwithstand-
20 ing the provisions of any law to the contrary, for ninety days after
21 this act shall have become law, section 220.03, 220.06, 220.09, 220.16,
22 220.18, 220.21, 221.05, 221.10, 221.15, 221.20, 221.25 or 221.30 of the
23 penal law shall not be enforced with regard to the possession of
24 synthetic cannabinoids, as defined in section 3302 and section 3306 of
25 the public health law, except that enforcement of such provisions of the
26 penal law shall be allowed during this period with regard to the
27 possession of substances containing more than two and one-half percent
28 by weight of delta-9 tetrahydrocannabinol, or its isomer, delta-8 dibe-
29 zopyran numbering system, or delta-1 tetrahydrocannabinol or its isomer,
30 delta 1(6) monoterpene numbering system.