

STATE OF NEW YORK

4760

2017-2018 Regular Sessions

IN ASSEMBLY

February 3, 2017

Introduced by M. of A. KEARNS -- Multi-Sponsored by -- M. of A. BARCLAY, BRABENEC, COLTON, CURRAN, DiPIETRO, GALEF, GIGLIO, GRAF, GUNTHER, HAWLEY, HOOPER, LAWRENCE, McDONALD, McDONOUGH, McLAUGHLIN, MONTESANO, OAKS, ORTIZ, PALMESANO, PICHARDO, RAIA, SKOUFIS, WOERNER -- 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 § 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 synthet-
6 ic 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 marketed for the purpose of being ingested otherwise marketed
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

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

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studies and function assays or is a structural analog or chemical derivative of any listed compound, as follows:

- (i) ~~2-[(1R, 2R, 5R)-5-hydroxy-2-(3-hydroxypropyl)-cyclohexyl]-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)naphthalen-1-ylmethane
- (ix) (1-Pentyl-1H-indol-3-yl)(4-propylnaphthalen-1-yl)methanone
- (x) 3-[(4-methyl-1-naphthalenyl)methyl]-1-pentyl-1H-indole
- (xi) 1-[(~~1E~~)-3-pentylinden-1-ylidene]methyl)naphthalene
- (xii) 2-(2-methylphenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone
- (xiii) 2-(3-methoxyphenyl)-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-iodophenyl){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 existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation or contains a structural analog or chemical derivative of any of the listed compounds.

(b) "substituted cathinones" shall mean any substance that is a structural 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

1 (xvi) a-Pyrrolidinopentiophenone

2 (xvii) 3,4-methylenedioxy-N-ethylcathinone

3 (xviii) a-Pyrrolidinopropiophenone

4 (xix) 3,4-Methylenedioxy-a pyrrolidinopropiophenone

5 (xx) (RS)-1-naphthalen-2-yl-2-pyrrolidin-1-ylpentan-1-one

6 Unless specifically exempted or unless listed in another schedule, or
7 approved for use by the Food and Drug Administration as a legitimate
8 pharmaceutical compound, any material, compound, mixture or preparation
9 which contains any quantity of the above listed compounds, or which
10 contains their salts, isomers and salts of isomers whenever the exist-
11 ence of such salts, isomers, and salts of isomers is possible within the
12 specific chemical designation.

13 (c) "substituted phenethylamines" shall mean any substance that is a
14 structural analog of any phenethylamine scheduled in the public health
15 law, including any chemical derivatives of scheduled phenethylamines
16 which by definition has a structural substitution on the benzene ring or
17 aliphatic chain or contains a structural analog of any of the listed
18 compounds, as follows:

19 (i) 4-Methylamphetamine

20 (ii) 3-Methylamphetamine

21 (iii) 4-Chloroamphetamine

22 (iv) 4-Fluoroamphetamine

23 (v) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine

24 (vi) 2-(4-iodo-2,5-dimethoxyphenyl)-N[(2-methoxyphenyl)methyl]ethanamine

25 (vii) 1-(6-Benzofuranyl)-2-propanamine (MDA with a O>C ring substi-
26 tute)

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.

34 (d) "substituted phenylpiperazines" shall mean any substance that is a
35 chemical analog of Benzylpiperazine or any chemical derivatives of
36 Benzylpiperazine which by definition has a structural substitution on
37 the benzene or piperazine ring or contains a structural analog of any of
38 the listed compounds, as follows:

39 (i) Trifluoromethylphenylpiperazine

40 (ii) meta-Chlorophenylpiperazine

41 (iii) para-Chlorophenylpiperazine

42 (iv) para-Fluorophenylpiperazine

43 (v) 4-Methoxyphenylpiperazine

44 (vi) Dibenzylpiperazine

45 Unless specifically exempted or unless listed in another schedule, or
46 approved for use by the Food and Drug Administration as a legitimate
47 pharmaceutical compound, any material, compound, mixture, or preparation
48 which contains any quantity of the above listed compounds, or which
49 contains their salts, isomers, and salts of isomers whenever the exist-
50 ence of such salts, isomers, and salts of isomers is possible within the
51 specific chemical designation.

52 (e) "substituted tryptamines" shall mean any substance that is a
53 structural analog of Dimethyltryptamine, or Psilocin, (Schedule I
54 Controlled Substances) or any chemical derivative of Demethyltryptamine
55 which by definition has a structural substitution on the indole ring of
56 aliphatic chain or contains a structural analog of 5-MeO-DALT.

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 (f) unclassified structurally:

9 (i) Desoxypipadrol (2-DPMP)

10 (ii) 3-methoxy-phencyclidine

11 (iii) 4-methoxy-phencyclidine

12 (iv) Methoxetamine (Ketamine Analog)

13 (v) (3-diethylamino-2,2-dimethylpropyl)-4-aminobenzoate

14 (vi) 5,6-Methylenedioxy-2-aminoindane

15 (vii) (5-Iodo-2-aminoindane) 5-iodo-2,3-dihydro-1H-inden-2-amine.

16 (g) Any substance that induces toxic effects including but not limited
17 to vomiting, rapid heart rate, hallucinations, delusions and/or babbl-
18 ing.

19 2. "structural analog" shall mean an optical or positional isomer of a
20 chemical derivative of any drug listed in section three thousand three
21 hundred six of the public health law or any of the substances specif-
22 ically listed in this section, with the exception of those substances
23 approved by the Food and Drug Administration for use as pharmaceuticals.

24 3. "chemical derivative" shall mean a compound produced by adding an
25 element or chemical group to the ring of aliphatic chain of an existing
26 chemical.

27 4. "element" shall mean any substance in the periodic table of
28 elements.

29 5. "chemical group" shall mean a small combination of elements.

30 Criminal sale, use or possession of synthetic drugs and other similar
31 compounds is a class E felony.

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

44 § 3. This act shall take effect immediately.