

# STATE OF NEW YORK

3518

2017-2018 Regular Sessions

## IN SENATE

January 24, 2017

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

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 § 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.

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

19 (21) Tetrahydrocannabinols. [~~Synthetic equivalents of the~~] The  
20 substances contained in the plant, or in the resinous extractives of  
21 cannabis, sp. and/or synthetic substances, derivatives, and their isom-  
22 ers with similar chemical structure and pharmacological activity such as  
23 the following:

24 △1 cis or trans tetrahydrocannabinol, and their optical isomers

25 △6 cis or trans tetrahydrocannabinol, and their optical isomers

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

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1 Δ<sup>3</sup>, 4 cis or trans tetrahydrocannabinol, and its optical isomers  
2 (since nomenclature of these substances is not internationally standard-  
3 ized, compounds of these structures, regardless of numerical designation  
4 of atomic positions covered).

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

7 (g) (1) Unless specifically excepted or unless listed in another sche-  
8 dule, any material, compound, mixture, or preparation that is not  
9 approved by the federal food and drug administration (FDA), and which  
10 contains any quantity of synthetic cannabinoids, or which contains any  
11 of its salts, isomers (whether optical, positional, or geometric), homo-  
12 logues (analogs), and salts of isomers and homologues (analogs), whenev-  
13 er the existence of such salts, isomers, homologues (analogs), and salts  
14 of isomers and homologues (analogs) is possible within the specific  
15 chemical designation.

16 (2) As used in this subdivision, the term "synthetic cannabinoids"  
17 means any chemical compound or synthetic equivalent that is a cannbinoid  
18 receptor type 1 (CB1 receptor) agonist as demonstrated by binding  
19 studies and functional assays within any of the follow structural class-  
20 es:

21 (i) 2-(3-Hydroxycyclohexyl)phenol with substitution at the 5-position  
22 of the phenolic ring by alkyl or alkenyl, whether or not substituted on  
23 the cyclohexyl ring to any extent;

24 (ii) 3-(1-Naphthoyl)indole or 3-(1-Naphthylmethane)indole by substi-  
25 tution at the nitrogen atom of the indole ring, whether or not further  
26 substituted on the indole ring to any extent, whether or not substituted  
27 on the naphthoyl or naphthyl ring to any extent;

28 (iii) 3-(1-Naphthoyl)pyrrole by substitution at the nitrogen atom of  
29 the pyrrole ring, whether or not further substituted in the pyrrole ring  
30 to any extent, whether or not substituted on the naphthoyl ring to any  
31 extent;

32 (iv) 1-(1-Naphthylmethylene)indene by substitution of the 3-position  
33 of the indene ring, whether or not further substituted in the indene  
34 ring to any extent, whether or not substituted on the naphthyl ring to  
35 any extent;

36 (v) 3-Phenylacetylindole or 3-Benzoylindole by substitution at the  
37 nitrogen atom of the indole ring, whether or not further substituted in  
38 the indole ring to any extent, whether or not substituted on the phenyl  
39 ring to any extent;

40 (vi) 5-(1,1-Dimethylheptyl)-2-[(~~1R,3S~~)-3-hydroxycyclohexyl]-phenol (CP  
41 47,497);

42 (vii) 5-(1,1-Dimethyloctyl)-2-[(~~1R,3S~~)-3-hydroxycyclohexyl]-phenol  
43 (Cannabicyclohexanol; CP 47,497 C8 homologue);

44 (viii) 1-Pentyl-3-(1-naphthoyl)indole (JWH-018; AM678);

45 (ix) 1-Butyl-3-(1-naphthoyl)indole (JWH-073);

46 (x) 1-Hexyl-3-(1-naphthoyl)indole (JWH-019);

47 (xi) 1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200);

48 (xii) 1-Pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250);

49 (xiii) 1-Pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH-081);

50 (xiv) 1-Pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122);

51 (xv) 1-Pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398);

52 (xvi) 1-(5-Fluoropentyl)-3-(1-naphthoyl)indole (AM2201);

53 (xvii) 1-(5-Fluoropentyl)-3-(2-iodobenzoyl)indole (AM694);

54 (xviii) 1-Pentyl-3-[(4-methoxy)-benzoyl]indole (SR-19; RCS-4);

55 (xix) 1-Cyclohexylethyl-3-(2-methoxyphenylacetyl)indole (SR-18;  
56 RCS-8);

(xx) 1-Pentyl-3-(2-chlorophenylacetyl)indole (JWH-203);  
(xxi) (1-Pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (UR-144);

(xxii) [~~1-(5-Fluoro-pentyl)-1H-indol-3-yl~~](2,2,3,3-tetramethylcyclopropyl)methanone (5-Fluoro-UR-144; XLR11); and  
(xxiii) N-(1-Adamantyl)-1-pentyl-1H-indazole-3-carboxamide (APINACA; AKB48).

(3) The term "synthetic cannabinoids" shall also include:

(i) (1-pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone, its optical, positional, and geometric isomers, salts and salts of isomers-7144 (Other names: UR-144, 1-pentyl-3-(2,2,3,3-tetramethylcyclopropyl)indole);

(ii) [~~1-(5-fluoro-pentyl)-1H-indol-3-yl~~](2,2,3,3-tetramethylcyclopropyl)methanone, its optical, positional, and geometric isomers, salts and salts of isomers-7011 (Other names: 5-fluoro-UR-144, 5-F-UR-144, XLR11, 1-(5-fluoro-pentyl)-3-(2,2,3,3-tetramethylcyclopropyl)indole);

(iii) N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers-7048 (Other names: APINACA, AKB48);

(iv) Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts and salts of isomers-7222 (Other names: PB-22; QUPIC);

(v) Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts and salts of isomers-7225 (Other names: 5-fluoro-PB-22; 5F-PB-22);

(vi) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers-7012 (Other names: AB-FUBINACA);

(vii) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers-7035 (Other names: ADB-PINACA);

(viii) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers-7031 (Other names: AB-CHMINACA);

(ix) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers-7023 (Other names: AB-PINACA); and

(x) [~~1-(5-fluoropentyl)-1H-indazol-3-yl~~](naphthalen-1-yl)methanone, its optical, positional, and geometric isomers, salts, and salts of isomers-7024 (Other names: THJ-2201).

§ 5. Section 220.00 of the penal law is amended by adding a new subdivision 21 to read as follows:

21. "Knowingly" when used in connection with the offenses involving the possession or sale, or the attempt or conspiracy to possess or sell, a synthetic cannabinoid, synthetic cathinone, or a controlled substance analogue, shall not require knowledge by the defendant of the chemical structure of the substance, but rather, it is sufficient if:

(a) the defendant knew or should have known that the substance has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II of section thirty-three hundred six of the public health law; or

(b) the defendant represented or intended for the substance to have a stimulant, depressant, or hallucinogenic effect on the central nervous

system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II of section thirty-three hundred six of the public health law.

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

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

9. one or more preparations, compounds, mixtures or substances containing a synthetic cannabinoid as defined in subdivision (g) of schedule I of section thirty-three hundred six of the public health law and said preparations, compounds, mixtures or substances are of an aggregate weight of one ounce or more.

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

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

16. one or more preparations, compounds, mixtures or substances containing a synthetic cannabinoid as defined in subdivision (g) of schedule I of section thirty-three hundred six of the public health law and said preparations, compounds, mixtures or substances are of an aggregate weight of four ounces or more.

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

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

14. one or more preparations, compounds, mixtures or substances containing a synthetic cannabinoid as defined in subdivision (g) of schedule I of section thirty-three hundred six of the public health law and said preparations, compounds, mixtures or substances are of an aggregate weight of ten pounds or more.

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

3. concentrated cannabis as defined in [~~paragraph (a) of~~] subdivision four of section thirty-three hundred two of the public health law; or

10. one or more preparations, compounds, mixtures or substances containing a synthetic cannabinoid as defined in subdivision (g) of schedule I of section thirty-three hundred six of the public health law and said preparations, compounds, mixtures or substances are of an aggregate weight of one ounce or more.

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

1 9. a narcotic preparation to a person less than twenty-one years  
2 old[~~-~~] ; 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 sixteen ounces or more.

8 § 11. This act shall take effect on the one hundred eightieth day  
9 after it shall have become a law; provided, however, that, notwithstand-  
10 ing the provisions of any law to the contrary, for ninety days after  
11 this act shall have become law, section 220.03, 220.06, 220.09, 220.16,  
12 220.18, 220.21, 221.05, 221.10, 221.15, 221.20, 221.25 or 221.30 of the  
13 penal law shall not be enforced with regard to the possession of  
14 synthetic cannabinoids, as defined in section 3302 and section 3306 of  
15 the public health law, except that enforcement of such provisions of the  
16 penal law shall be allowed during this period with regard to the  
17 possession of substances containing more than two and one-half percent  
18 by weight of delta-9 tetrahydrocannabinol, or its isomer, delta-8 diben-  
19 zopyran numbering system, or delta-1 tetrahydrocannabinol or its isomer,  
20 delta 1(6) monoterpene numbering system.