

STATE OF NEW YORK

738

2017-2018 Regular Sessions

IN SENATE

January 4, 2017

Introduced by Sen. ORTT -- read twice and ordered printed, and when printed to be committed 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
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-naphthalenyl)methyl]-1-pentyl-1H-indole

14 (xi) 1-[(1E)-3-pentylinden-1-ylidene]methyl)naphthalene

15 (xii) 2-(2-methylphenyl)-1-(1-pentyl-1H-indol-e-yl)ethanone

16 (xiii) 2-(3-methoxyphenyl)-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-iodophenyl){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

- 1 (xviii) a-Pyrrolidinopropiophenone
2 (xix) 3,4-Methylenedioxy-a pyrrolidinopropiophenone
3 (xx) (RS)-1-naphthalen-2-yl-2-pyrrolidin-1-ylpentan-1-one

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

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

- 17 (i) 4-Methylamphetamine
18 (ii) 3-Methylamphetamine
19 (iii) 4-Chloroamphetamine
20 (iv) 4-Fluoroamphetamine
21 (v) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine
22 (vi) 2-(4-iodo-2,5-dimethoxyphenyl)-N[(2-methoxyphenyl)methyl]ethanamine
23 (vii) 1-(6-Benzofuranyl)-2-propanamine (MDA with a O>C ring substi-
24 tute)

25 Unless specifically exempted or unless listed in another schedule, or
26 approved for use by the Food and Drug Administration as a legitimate
27 pharmaceutical compound, any material, compound, mixture, or preparation
28 which contains any quantity of the above listed compounds, or which
29 contains their salts, isomers, and salts of isomers whenever the exist-
30 ence of such salts, isomers, and salts of isomers is possible within the
31 specific chemical designation.

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

- 37 (i) Trifluoromethylphenylpiperazine
38 (ii) meta-Chlorophenylpiperazine
39 (iii) para-Chlorophenylpiperazine
40 (iv) para-Fluorophenylpiperazine
41 (v) 4-Methoxyphenylpiperazine
42 (vi) Dibenzylpiperazine

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

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

55 Unless specifically exempted or unless listed in another schedule, or
56 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-dimethylpropyl)-4-aminobenzoate

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

13 (vii) (5-Iodo-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 § 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 § 3. This act shall take effect immediately.