

STATE OF NEW YORK

197

2023-2024 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 4, 2023

Introduced by M. of A. MAGNARELLI, BARCLAY, COOK, SIMON, PEOPLES-STOKES, OTIS, WOERNER, JEAN-PIERRE -- read once and referred to the Committee on Health

AN ACT to amend the public health law, the penal law and the general business law, in relation to synthetic cannabinoids, synthetic cannabinoid analog and substituted cathinones and prohibiting the production and sale thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 3302 of the public health law is amended by adding
2 three new subdivisions 42, 43 and 44 to read as follows:

3 42. "Synthetic cannabinoid" means any chemical compound that is chemi-
4 cally synthesized and:

5 (a) has been demonstrated to have a binding activity at one or more
6 cannabinoid receptors; or

7 (b) is a chemical isomer, salt or salt of an isomer of a compound that
8 has been demonstrated to have binding activity at one or more cannabi-
9 noid receptors; or

10 (c) has been designated in regulation by the commissioner as being a
11 synthetic cannabinoid or synthetic cannabinoid analog.

12 "Synthetic cannabinoid" does not include any product that has been
13 approved for medical use by the United States Food and Drug Adminis-
14 tration.

15 43. "Synthetic cannabinoid analog" means any chemical that is substan-
16 tially similar in chemical structure to a chemical compound that has
17 been determined to have binding activity at one or more cannabinoid
18 receptors. It does not include any products that have been approved for
19 medical use by the United States Food and Drug Administration.

20 44. "Substituted cathinone" means any chemical compound that is chemi-
21 cally synthesized and:

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

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1 (a) is a compound listed in paragraph five, eight or nine of subdivi-
2 sion (f) of schedule I of section thirty-three hundred six of this arti-
3 cle, or

4 (b) has been designated in regulation by the commissioner as having a
5 chemical structure derivative of cathinone, or

6 (c) any compound, other than bupropion, that is structurally derived
7 from 2-amino-1-phenyl-1-propanone by modification in any of the follow-
8 ing ways:

9 (i) by substitution in the phenyl ring to any extent with alkyl,
10 alkoxy, alkylendioxy, haloalkyl, or halide substituents, whether or not
11 further substituted in the phenyl ring by one or more other univalent
12 substituents;

13 (ii) by substitution at the three-position with an alkyl substituent;

14 (iii) by substitution at the nitrogen atom with alkyl or dialkyl
15 groups, or by inclusion of the nitrogen atom in a cyclic structure.

16 § 2. Subdivision 5 of section 220.00 of the penal law, as amended by
17 chapter 92 of the laws of 2021, is amended to read as follows:

18 5. "Controlled substance" means any substance listed in schedule I,
19 II, III, IV or V of section thirty-three hundred six of the public
20 health law, and substituted cathinones as defined in section thirty-
21 three hundred two of the public health law.

22 § 3. The general business law is amended by adding a new section 399-
23 jj to read as follows:

24 § 399-jj. Sale of synthetic cannabinoid, synthetic cannabinoid analog
25 and substituted cathinone prohibited. 1. For purposes of this section,
26 "synthetic cannabinoid" means any substance defined by subdivision
27 forty-two or forty-three of section thirty-three hundred two of the
28 public health law and "substituted cathinone" means any substance
29 defined by subdivision forty-four of section thirty-three hundred two of
30 the public health law.

31 2. No person, corporation, partnership or limited liability company
32 shall knowingly sell or offer for sale any form of synthetic cannabi-
33 noid, substituted cathinone or any other substance intended to act as or
34 advertised as an alternative form of a controlled substance. No person,
35 corporation, partnership or limited liability company shall offer any
36 substance for sale where there has been an explicit or implied claim
37 made by the selling party that the substance sold will mimic or approxi-
38 mate the same effects of cannabinoid, synthetic cannabinoid, substituted
39 cathinone or any other substance intended to act as or advertised as an
40 alternative form of a controlled substance.

41 3. Whether a violation of this section has occurred is a question of
42 law for the court.

43 4. Whenever there shall be a violation of this section an application
44 may be made by the attorney general in the name of the people of the
45 state of New York to a court or justice having jurisdiction by a special
46 proceeding to issue an injunction, and upon notice to the defendant of
47 not less than five days, to enjoin and restrain the continuance of such
48 violation; and if it shall appear to the satisfaction of the court or
49 justice that the defendant has, in fact, violated this section, an
50 injunction may be issued by the court or justice, enjoining and
51 restraining any further violations, without requiring proof that any
52 person has, in fact, been injured or damaged thereby. In any such
53 proceeding the court may make allowances to the attorney general as
54 provided in paragraph six of subdivision (a) of section eighty-three
55 hundred three of the civil practice law and rules, and direct restitu-
56 tion. A violation of the provisions of this section shall be an offense

1 punishable by a penalty of five thousand dollars for each separate
2 violation. A violation of the provisions of this section after having
3 been previously convicted of such an offense within the previous five
4 years shall be a class A misdemeanor punishable by a fine of ten thou-
5 sand dollars for each separate violation. The penalties for any such
6 violation should include such an illegal sale that having been made to a
7 person under the age of eighteen shall be a class E felony as defined in
8 the penal law.

9 § 4. This act shall take effect immediately.