

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 9*
PROPOSED COMMITTEE SUBSTITUTE S9-CSRK-2 [v.4]

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Short Title: Make Synthetic Cannabinoids Illegal.

(Public)

Sponsors:

Referred to:

January 31, 2011

A BILL TO BE ENTITLED

1
2 AN ACT TO ADD SYNTHETIC CANNABINOIDS TO THE LIST OF CONTROLLED
3 SUBSTANCES, WHICH MAKES THE UNLAWFUL POSSESSION, MANUFACTURE,
4 OR SALE OR DELIVERY OF SYNTHETIC CANNABINOIDS CRIMINAL OFFENSES
5 AND TO CREATE THE CRIMINAL OFFENSE OF TRAFFICKING IN SYNTHETIC
6 CANNABINOIDS.

7 Whereas, the General Assembly finds that there is a growing use of the unregulated
8 synthetic cannabinoids commonly known as K2 or synthetic marijuana; and

9 Whereas, preliminary studies indicate that synthetic cannabinoid substances
10 unregulated in North Carolina are from three to over 100 times more potent than THC, the
11 active ingredient found in marijuana; and

12 Whereas, many states have already included one or more of these chemical
13 compounds on schedules of controlled substances, but none of these chemicals are currently
14 listed on North Carolina's schedule of controlled substances; and

15 Whereas, synthetic cannabinoids are referred to as the new marijuana, and K2 is
16 gaining in popularity at an alarming rate among high school and college students and persons
17 on probation and parole; and

18 Whereas, while having the same or stronger physiological effects as high potency
19 marijuana, synthetic marijuana or K2 does not show a positive reading in a urinalysis test,
20 which adds to the desirability and increased growth among drug abusers and increases the
21 threat to public health and safety by avoiding detection; and

22 Whereas, the General Assembly should address the growing threat of synthetic
23 cannabinoids to the health, safety, and welfare of our citizens before the problem becomes
24 epidemic in the State of North Carolina; Now, therefore,
25 The General Assembly of North Carolina enacts:

26 **SECTION 1.** G.S. 90-94 reads as rewritten:

27 **"§ 90-94. Schedule VI controlled substances.**

28 This schedule includes the controlled substances listed or to be listed by whatever official
29 name, common or usual name, chemical name, or trade name designated. In determining that
30 such substance comes within this schedule, the Commission shall find: no currently accepted
31 medical use in the United States, or a relatively low potential for abuse in terms of risk to
32 public health and potential to produce psychic or physiological dependence liability based upon
33 present medical knowledge, or a need for further and continuing study to develop scientific
34 evidence of its pharmacological effects.



The following controlled substances are included in this schedule:

(1) Marijuana.

(2) Tetrahydrocannabinols.

(3) Synthetic cannabinoids. – Any material, compound, mixture, or preparation that is not listed as a controlled substance in Schedule I through V, is not an FDA approved drug, and contains any quantity of the following substances, their salts, isomers (whether optical, positional, or geometric), homologues, and salts of isomers an homologues, unless specifically excepted, whenever the existence of these salts, isomers, homologues, and salts of isomers and homologues is possible within the specific chemical designation:

a. Naphthoylindoles. Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Some trade or other names: JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, JWH-210, JWH-398, AM-2201, WIN 55-212.

b. Naphthylmethylindoles. Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent.

c. Naphthoylpyrroles. Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Another name: JWH-307.

d. Naphthylmethylindenes. Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent.

e. Phenylacetylindoles. Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Some trade or other names: SR-18, RCS-8, JWH-250, JWH-203.

f. Cyclohexylphenols. Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the

5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not substituted in the cyclohexyl ring to any extent. Some trade or other names: CP 47,497 (and homologues), cannabicyclohexanol.

g. Benzoylindoles. Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Some

trade or other names: AM-694, Pravadoline (WIN 48,098), RCS-4, 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-napthalenylmethanone. Some trade or other names: WIN 55,212-2.

i. (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl) - 6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol 7370. Some trade or other names: HU-210."

SECTION 2. G.S. 90-95(b) reads as rewritten:

"(b) Except as provided in subsections (h) and (i) of this section, any person who violates G.S. 90-95(a)(1) with respect to:

...

(2) A controlled substance classified in Schedule III, IV, V, or VI shall be punished as a Class I felon, except that the sale of a controlled substance classified in Schedule III, IV, V, or VI shall be punished as a Class H felon. The transfer of less than 5 grams of marijuana or less than 5 grams of a synthetic cannabinoid or any mixture containing such substance for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1)."

SECTION 3. G.S. 90-95(d) reads as rewritten:

"(d) Except as provided in subsections (h) and (i) of this section, any person who violates G.S. 90-95(a)(3) with respect to:

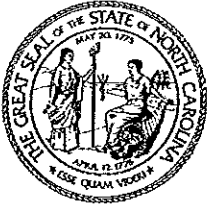
...

(4) A controlled substance classified in Schedule VI shall be guilty of a Class 3 misdemeanor, but any sentence of imprisonment imposed must be suspended and the judge may not require at the time of sentencing that the defendant serve a period of imprisonment as a special condition of probation. If the quantity of the controlled substance exceeds one-half of an ounce (avoirdupois) of ~~marijuana~~ marijuana, one-half of an ounce of a synthetic cannabinoid or any mixture containing such substance, or one-twentieth of an ounce (avoirdupois) of the extracted resin of marijuana, commonly known as hashish, the violation shall be punishable as a Class 1 misdemeanor. If the quantity of the controlled substance exceeds one and one-half ounces (avoirdupois) of ~~marijuana~~ marijuana, one and one-half ounces of a synthetic cannabinoid or any mixture containing such substance, or three-twentieths of an ounce (avoirdupois) of the extracted resin of marijuana, commonly known as hashish, or if the controlled substance consists of any quantity of synthetic tetrahydrocannabinols or tetrahydrocannabinols isolated from the resin of marijuana, the violation shall be punishable as a Class I felony."

SECTION 4. G.S. 90-95(h) is amended by adding a new subdivision to read:

1 "(1a) Any person who sells, manufactures, delivers, transports, or possesses in
2 excess of 35 grams of a synthetic cannabinoid or any mixture containing
3 such substance shall be guilty of a felony, which felony shall be known as
4 "trafficking in synthetic cannabinoids." The person shall be punished as a
5 Class F felon and shall be sentenced to a minimum term of 70 months and a
6 maximum term of 84 months in the State's prison and shall be fined not less
7 than fifty thousand dollars (\$50,000)."

8 **SECTION 5.** This act becomes effective April 1, 2011, and applies to offenses
9 committed on or after that date.



SENATE PCS 9: Make Synthetic Cannabinoids Illegal

2011-2012 General Assembly

Committee: Senate Judiciary II	Date: February 2, 2011
Introduced by: Sen. Brown	Prepared by: Hal Pell
Analysis of: PCS to First Edition S9-CSRK-2	Committee Counsel

SUMMARY: *This act would add synthetic cannabinoids to the list of controlled substances, making possession, manufacture, or the sale or delivery of these substances a criminal offense; the act also creates a trafficking offense. This act becomes effective April 1, 2011, and applies to offenses committed on or after that date.*

[As introduced, this bill was identical to H12, as introduced by Reps. Cleveland, Horn, McElraft, which is currently in House Health and Human Services, if favorable, Judiciary Subcommittee B, if favorable, Appropriations. The proposed committee substitute places synthetic cannabinoids into Schedule VI of the Controlled Substances Act; the filed bill placed it into Schedule I.]

BILL ANALYSIS:

Section 1:

The act adds synthetic cannabinoids to the substances listed under Schedule VI of the Controlled Substances Act. The current substances under Schedule VI are marijuana, and tetrahydrocannabinoids. By placing a substance in the schedule, criminal penalties attach to the possession, manufacture, sale or delivery, or trafficking of the substance.

Synthetic cannabinoids (SC) are defined in the act to include a serious of types of compounds. One problem for states desiring to make commercial products containing SC's illegal is how to "describe" the substance. In some instances, by narrowly defining the chemical structure, the legislation has left open "loopholes" for chemists. Changes are made in the molecular structure of the SC's to avoid categorization into a class which has been defined by law. Consequently, the act defines SC's into broad categories that have various chemical structures, but then includes "any compound" containing those base structures.

Section 2:

General Statute 90-95(a)(1) provides that it is unlawful to manufacture, sell or deliver, or possess with the intent to do any of the foregoing, a controlled substance. This section amends the penalty provision for the foregoing statute so that the transfer of less 5 grams of an SC is not a violation of G.S. 90-95(a)(1).

Section 3:

General Statute 90-95(a)(3) provides that it is unlawful to possess a controlled substance. This section amends the penalty provision for the foregoing statute so that the possession of more than one-half ounces of an SC is a Class 1 misdemeanor, and possession of more than one and one-half ounces is a Class I felony.

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Section 4:

General Statute 90-95(h) provides the penalties for trafficking in controlled substances. The act would amend the subsection to add a new subdivision that creates a "trafficking in synthetic cannabinoids" offense. A person that manufactures, delivers, transports, or possesses in excess of 35 grams of an SC, or any mixture containing such substance, is punishable as a Class F felon. The act would require a minimum active sentence of 70 months, and a maximum term of 84 month, in addition to a fine of no less than \$50,000.

EFFECTIVE DATE: The act becomes effective April 1, 2011, and applies to offenses committed on or after that date.

S9-SMRK-6(CSRK-2) v1

Conclusion