Model Novel Psychoactive Substances – Economic Sanctions Package

Contact information updated September 2018. For information about this document, please contact:

Jon Woodruff, Senior Legislative Attorney
National Alliance for Model State Drug Laws
Email: jwoodruff@namsdl.org
Phone: 703.836.7496

Headquarters Office:
National Alliance for Model State Drug Laws (NAMSDL)
1335 North Front Street, First Floor
Harrisburg, PA 17102-2629

Model Novel Psychoactive Substances – Economic Sanctions Package

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

Table of Contents

	3	Policy Statement
	5	Highlights
Part One	6	*Model Revocation or Suspension of Business License Act*
Section One		Court Recommendation
Section Two		Effect on Alcohol or Tobacco License
Section Three		Statutory Construction
Section Four		Severability Provision
Section Five		Effective Date
Part Two	9	*Model Injunctive and Other Equitable Relief Act*
Section One		Equitable Relief
Section Two		Statutory Construction
Section Three		Severability Provision
Section Four		Effective Date
Part Three	11	*Model Nuisance Abatement Act*
Section One		Finding of Drug-Related Nuisance
Section Two		Conviction for Novel Psychoactive Substance Offense
Section Three		Statutory Construction
Section Four		Severability Provision
Section Five		Effective Date
Part Four	13	*Model Mislabeled or Misbranded Products Act*
Section One		Definitions
Section Two		Seizure of Products
Section Three		Statutory Construction
Section Four		Severability Provision
Section Five		Effective Date
Appendix A	14	*Additional Model Language Which May Be Used by Municipalities and Counties*

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

Model Novel Psychoactive Substances Law – Economic Sanctions Package

Policy Statement

New novel psychoactive substances (also known as synthetic designer drugs) are being marketed and sold in cities, towns, and counties across the country. These substances are not necessarily controlled under federal or state law but are designed to mimic the effects of illegal drugs. These substances fall into one of several categories – synthetic cannabinoids, those substances that mimic or purport to mimic the effects of marijuana; substituted cathinones, those substances that mimic or purport to mimic the effects of cathinone and methcathinone based drugs; and other synthetic substances, a catchall category for those synthetics which may be hallucinogenic, narcotic, psychedelic, or stimulant substances and do not fall into one of the other two categories. These substances have been known to cause increased heart rate and increased blood pressure (which may lead to heart attacks and strokes, chest pains, nosebleeds, and sweating), agitation, anxiety, nausea, vomiting, tachycardia, tremors, seizures, hallucinations, paranoid behavior, and non-responsiveness.

In most cases, the chemicals that make up these substances are shipped into the United States from countries overseas, notably south and East Asian countries. Law enforcement has identified four main countries where novel psychoactive substances are synthesized – China, India, Korea, and Pakistan. They are easy to obtain via the internet, and are typically shipped directly to the distributor or ordered by the distributor or users via the internet.

Most retailers sell these products in small doses in foil packets which are designed to attract teenagers and young adults. Synthetic cannabinoids are typically leafy, while substituted cathinones and other synthetics take many forms – pill, capsule, crystal, powder, tablet, and even liquid – and are typically smoked, snorted, injected, or swallowed.

Federal and state legislatures have made efforts to schedule novel psychoactive substances. In response to those efforts, chemists immediately reconfigured the specific substances that were prohibited to produce "new" versions of these synthetic drugs. This was accomplished by altering the molecular architecture of the chemicals used in the products to produce a series of different compounds which are closely structurally related to the prohibited substances, but which are not listed in the state or federal schedules of controlled substances laws. The National Alliance for Model State Drug Laws has found that forty-seven (47) states and the District of Columbia have outlawed specific versions of synthetic marijuana, synthetic cathinones, or other novel psychoactive substances, but minor variations in the chemical composition of these products create similar drugs not prohibited by current legislation. In some cases, these manufacturers and/or distributors of these new products went so far as to claim on the packaging

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

that the products contained no prohibited chemicals or were in accordance with state and federal laws.

In 2010, the American Association of Poison Control Centers ("AAPCC") received 2,906 calls relating to exposures to synthetic marijuana and 304 calls relating to exposures to bath salts (substituted cathinones). In 2011, the AAPCC received 6,959 calls relating to exposures to synthetic marijuana and 6,138 calls relating to exposures to bath salts. Those numbers dropped significantly in 2012 with the AAPCC receiving 5,202 calls relating to exposures to synthetic marijuana and 2,655 calls relating to exposures to bath salts. As of October 31, 2013, the AAPCC has received 2,222 calls relating to exposures to synthetic marijuana and 833 calls relating to exposures to bath salts (substituted cathinones).

Novel psychoactive substances are cheap, easy to make, and return a high profit for manufacturers and distributors. One of the major issues with these drugs is the ease with which they can be purchased. Synthetic cannabinoids, substituted cathinones, and other synthetic substances are sold in convenience stores, gas stations, "head" shops, discount beer and tobacco shops, and on the internet. Typically, these substances are sold as herbal incense, bath salts, plant food, jewelry cleaner, iPod cleaner, scratch remover, and are labeled "not for human consumption."

Cities, counties, and states have taken steps to penalize those selling novel psychoactive substances, whether scheduled under the federal or state controlled substances act or not, by implementing certain sanctions which have an economic impact on the retailer, manufacturer, or distributor of these substances.

The Economic Sanctions Package follows the lead of those cities, counties, and states dedicated to removing novel psychoactive substances from retail stores and making access to such drugs more difficult. It incorporates several sanctions, including revocation or suspension of a merchant or retail license, fines for the sale of mislabeled or misbranded products, and implementation of nuisance laws to shut down retail stores selling novel psychoactive substances. It also incorporates several sections that may be added to a state's current Controlled Substances Act (CSA).

Although certain portions of the package are designed to be used in conjunction with one another, the Economic Sanctions Package is ultimately designed so that a state may opt to use one or more of the model laws included while choosing not to incorporate others that may not suit the state's needs.

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

Highlights of the Novel Psychoactive Substances Economic Sanctions Package

- Provides for the suspension or revocation of liquor, beer, wine, and tobacco licenses for violations.
- Provides for the seizure of any and all mislabeled/misbranded novel psychoactive substances.
- Provides that violations may result in the premises being declared a public or drug-related nuisance and includes provisions for abatement and suspension or revocation of certain licenses.
- Provides for the suspension or revocation of a retail merchant license or certificate.
- Provides for the imposition of a temporary restraining order, preliminary injunction, temporary forfeiture order, temporary closure order, or order of abatement for violations.
- Includes model language, including findings of fact, definitions, penalty provisions, etc., which may be used by municipalities and counties in addition to the other provisions of the economic sanctions package.

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

Part One. Novel Psychoactive Substances
Model Revocation or Suspension of Business License Act

Section One. Court Recommendation.

(a) The court shall recommend the suspension of a(n) [organization, person, business, place, establishment, or retail store]'s retail merchant license or certificate for a business location if the court finds that the [organization, person, business, place, establishment, or retail store] has committed a violation of [insert citation to offense involving sale of, offer to sell, or offer for sale of, distribution, delivery or storage of a novel psychoactive substance] at that business location. The recommended suspension may be for [insert three months, six months, one year, or other time period]. Notice of such suspension shall be sent to the [organization, person, business, place, establishment, or retail store]'s retail merchant address.

(b) The court shall recommend the permanent revocation of a [organization, person, business, place, establishment, or retail store]'s retail merchant license or certificate for a business location if the [organization, person, business, place, establishment, or retail store] is convicted [insert number] or more times of a violation of [insert citation to offense involving sale of, offer to sell, or offer for sale of, distribution, delivery or storage of a novel psychoactive substance] that occurred at that business location. Notice of such revocation shall be sent to the [organization, person, business, place, establishment, or retail store]'s retail merchant address, and the [organization, person, business, place, establishment, or retail store] will be given an opportunity to appeal such revocation pursuant to the [insert state name] Administrative Procedures Act.

(c) A court recommendation pursuant to Subsection (a) or (b) shall constitute grounds for the [insert appropriate state regulatory authority] to initiate proceedings to suspend or revoke the retail merchant license or certificate of a(n) [organization, person, business, place, establishment, or retail store] who is the subject of the recommendation.

Section Two. Effect on Alcohol or Tobacco License.

(a) Violation of [insert citation to offense involving sale of, offer to sell, or offer for sale of, distribution, delivery or storage of a novel psychoactive substance] by any [organization, person, business, place, establishment, or retail store] who has a license to sell (i) alcohol pursuant to [insert applicable section of the state code] or (ii) tobacco or tobacco products pursuant to [insert applicable section of the state code] shall constitute grounds for the [insert appropriate state regulatory authority] to initiate proceedings to suspend or revoke the alcohol or tobacco license of the [organization, person, business, place, establishment, or retail store] charged with the violation. For purposes of such proceedings, a violation of [insert citation to offense involving sale of, offer to sell, or offer for sale of a novel psychoactive substance] shall be construed as a violation of the licensure requirements and sale restrictions under [insert applicable sections of the state code] which may be prosecuted according to the applicable requirements of those sections. Regulatory action taken pursuant to this Section shall be in addition to any civil or criminal fine that may be imposed.

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

(b) Upon notice that a(n) [organization, person, business, place, establishment, or retail store] has been found to have maintained or conducted a drug-related nuisance pursuant to [insert equivalent to Model Nuisance Abatement Act, Section One], the [insert appropriate state regulatory authority] shall take action to revoke or suspend the [organization, person, business, place, establishment, or retail store]'s alcohol or tobacco license. Any suspension imposed for maintaining or conducting a drug-related nuisance shall be for a mandatory period of [insert 30, 60, or 90 days].

Section Three. Statutory Construction.

The provisions of this [Act] shall be liberally construed to effectuate its purposes, objectives, and policies. Remedies under this [Act] shall be supplemental and not mutually exclusive. They do not preclude and are not precluded by any other provision of law.

Section Four. Severability Provision.

If any provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

Section Five. Effective Date.

This [Act] shall be effective on [reference to normal state method of determination of the effective date] [reference to specific date].

COMMENT

THIS PART ONE IS TAKEN IN PART FROM THE CITY OF DEKALB, ILLINOIS MUNICIPAL CODE, SECTION 52.20-5. IT IS DESIGNED TO ALLOW THE SUSPENSION OR REVOCATION OF LICENSES TO SELL LIQUOR, BEER, WINE, OR TOBACCO FOR VIOLATIONS OF THIS SECTION, THE EFFECT OF WHICH IS TO IMPACT THE RETAIL STORE'S ABILITY TO EARN INCOME ON THOSE ITEMS FOR THE PERIOD OF THE SUSPENSION OR REVOCATION. ACCORDING TO LINDA RAY OF DEMAND MEDIA, CIGARETTE SALES ACCOUNTED FOR NEARLY 36% OF ALL SALES IN CONVENIENCE STORES FOR THE YEAR 2009 AND ARE THE SECOND-HIGHEST PROFIT PRODUCERS. "WHAT IS THE AVERAGE GROSS REVENUE OF A CONVENIENCE STORE?" *HOUSTON CHRONICLE*, 2010. BASED ON THOSE FIGURES, THE POSSIBILITY THAT A RETAIL MERCHANT'S TOBACCO LICENSE COULD BE SUSPENDED OR REVOKED COULD PROVIDE INCENTIVE FOR THE MERCHANT TO ABSTAIN FROM SELLING NOVEL PSYCHOACTIVE SUBSTANCES.

IT IS ALSO TAKEN IN PART FROM 2013 IN H.B. 1524 AND PROVIDES FOR THE TEMPORARY SUSPENSION OF A RETAIL MERCHANT LICENSE OR CERTIFICATE FOR A FIRST VIOLATION OF THIS ARTICLE, AND THE REVOCATION OF SUCH LICENSE OR CERTIFICATE FOR REPEATED VIOLATIONS.

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

REGARDING THE BRACKETED TERMS – [ORGANIZATION, PERSON, BUSINESS, PLACE, ESTABLISHMENT, OR RETAIL STORE] – EACH STATE SHOULD INSERT THE TERM OR TERMS WHICH WOULD GIVE EFFECT TO THE STATUTE.

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

Part Two. Novel Psychoactive Substances Model Injunctive and Other Equitable Relief Act

Section One. Equitable Relief.

(a) Pending a final decision in a civil or criminal case involving a violation of [insert citation to offense involving sale of, offer to sell, or offer for sale of, distribution, delivery or storage of a novel psychoactive substance], the court may issue:

(i) a temporary restraining order against any [organization, person, business, place, establishment, or retail store] involved in a violation of [insert citation to offense involving sale of, offer to sell, or offer for sale of, distribution, delivery or storage of a novel psychoactive substance];
(ii) a preliminary injunction against any [organization, person, business, place, establishment, or retail store] pending a final decision on a permanent injunction;
(iii) a temporary forfeiture order or closure order against any [organization, person, business, place, establishment, or retail store];
(iv) an order of abatement pursuant to [insert citation to applicable abatement procedures].

(b) Equitable relief granted pursuant to this Act shall be in addition to any criminal or civil remedies that may be available or imposed.

Section Two. Statutory Construction.

The provisions of this [Act] shall be liberally construed to effectuate its purposes, objectives, and policies. Remedies under this [Act] shall be supplemental and not mutually exclusive. They do not preclude and are not precluded by any other provision of law.

Section Three. Severability Provision.

If any provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

Section Four. Effective Date.

This [Act] shall be effective on [reference to normal state method of determination of the effective date] [reference to specific date].

COMMENT

THIS PART TWO IS TAKEN IN PART FROM 2013 IN H.B. 1524. THIS SECTION PROVIDES OPTIONS FOR JUDICIAL OFFICIALS TO ALLOW TEMPORARY MEASURES TO BE TAKEN AGAINST A PERSON OR ESTABLISHMENT PENDING A FINAL DECISION IN A CIVIL OR CRIMINAL CASE.

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

REGARDING THE BRACKETED TERMS – [ORGANIZATION, PERSON, BUSINESS, PLACE, ESTABLISHMENT, OR RETAIL STORE] – EACH STATE SHOULD INSERT THE TERM OR TERMS WHICH WOULD GIVE EFFECT TO THE STATUTE.

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

Part Three. Novel Psychoactive Substances Model Nuisance Abatement Act

Section One. Finding of Drug-Related Nuisance.

After notice and a hearing pursuant to [insert citation to state nuisance abatement procedures], a(n) [organization, person, business, place, establishment, or retail store] charged with [insert citation to offense involving sale of, offer to sell, or offer for sale of, distribution, delivery or storage of a novel psychoactive substance] may be found to have maintained or conducted a drug-related nuisance. Notice of such finding shall be sent to:

> (a) the [insert state regulatory authority for alcohol or tobacco license] to take action relating to the [organization, person, business, place, establishment, or retail store]'s alcohol or tobacco license in accordance with [insert state equivalent to Model Revocation or Suspension of Business License Act, Section Two]; and
>
> (b) the [insert state regulatory authority for business, housing or operational license] to take action relating to the [organization, person, business, place, establishment, or retail store]'s business, housing or operational license.

Section Two. Conviction for Novel Psychoactive Substance Offense.

A(n) [organization, person, business, place, establishment, or retail store] convicted of [insert citation to offense involving sale of, offer to sell, or offer for sale of, distribution, delivery or storage of a novel psychoactive substance] shall be deemed to have maintained or conducted a drug-related nuisance. The building, premises, furnishings, fixtures, equipment, moneys and any other real or personal property used in or to facilitate the offense(s) that constituted the drug-related nuisance are subject to seizure pursuant to [insert citation to applicable state seizure provisions].

Section Three. Statutory Construction.

The provisions of this [Act] shall be liberally construed to effectuate its purposes, objectives, and policies. Remedies under this [Act] shall be supplemental and not mutually exclusive. They do not preclude and are not precluded by any other provision of law.

Section Four. Severability Provision.

If any provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

Section Five. Effective Date.

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

This [Act] shall be effective on [reference to normal state method of determination of the effective date] [reference to specific date].

COMMENT

THIS MODEL ACT IS TAKEN IN PART FROM ALA. CODE ANN. § 6-5-155.1 AND TENN. CODE ANN. §§ 39-17-454 AND 29-3-101. SECTION ONE OF THIS PART IS INTENDED TO ALLOW NOTICE TO BE SENT TO THE RELEVANT LICENSING AUTHORITY OF A FINDING THAT A PERSON HAS BEEN FOUND TO HAVE MAINTAINED OR CONDUCTED A DRUG-RELATED NUISANCE. UPON RECEIPT OF SUCH NOTICE, THE LICENSING AUTHORITY SHALL TAKE ACTION RELATED TO ANY ALCOHOL, TOBACCO, BUSINESS, HOUSING, OR OPERATING LICENSES THE PERSON MAY HAVE.

SECTION TWO IS INTENDED TO PROVIDE SANCTIONS, NAMELY THE ABATEMENT OF SUCH PREMISES, AGAINST A PERSON WHO IS CONVICTED OF CERTAIN DRUG RELATED OFFENSES. THOSE SANCTIONS ARE INTENDED TO PROVIDE THE MOST IMPACT AGAINST THE FINANCIAL INTERESTS OF THE OWNER OF THE RETAIL STORE.

REGARDING THE BRACKETED TERMS – [ORGANIZATION, PERSON, BUSINESS, PLACE, ESTABLISHMENT, OR RETAIL STORE] – EACH STATE SHOULD INSERT THE TERM OR TERMS WHICH WOULD GIVE EFFECT TO THE STATUTE.

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

Part Four. Novel Psychoactive Substances Model Mislabeled or Misbranded Products Act

Section One. Definitions.

The following definitions shall apply to this [Act]:

(a) *Mislabeled/misbranded product containing a novel psychoactive substance* shall mean any product containing a novel psychoactive substance which violates the state or federal consumer protection act; state or federal Food, Drug, and Cosmetic Act; or state or federal laws or regulations regarding labeling of products, including, but not limited to, substances for which the label is in any way false or misleading; the label does not bear the name and place of business of the manufacturer, repackager, or distributor of the finished form of the substance; the label does not bear adequate directions for use; or the label does not bear adequate warnings against use.

(b) *Novel psychoactive substance/synthetic designer drug/synthetic substance* means a synthetic cannabinoid, substituted cathinone, other novel psychoactive substance, a product containing a novel psychoactive substance, a mislabeled/misbranded novel psychoactive substance, or a controlled substance analogue.

Section Two. Seizure of Products.

The sale, offer for sale, delivery, or distribution by any [organization, person, business, place, establishment, or retail store] of any misbranded or mislabeled product containing a novel psychoactive substance shall result in the seizure of the entire inventory of all such products.

COMMENT

THIS SECTION IS TAKEN IN PART FROM THE CITY OF DEKALB, ILLINOIS MUNICIPAL CODE, SECTION 52.20-5. THIS SECTION IS INTENDED TO PROVIDE AN AVENUE FOR LAW ENFORCEMENT AND REGULATORY AGENCIES TO SEIZE THE ENTIRE INVENTORY OF MISLABELED OR MISBRANDED PRODUCTS CONTAINING NOVEL PSYCHOACTIVE SUBSTANCES WITHOUT THE NECESSITY OF FILING FORMAL CRIMINAL CHARGES AGAINST AN INDIVIDUAL OR ESTABLISHMENT. THIS REMOVES THE PRODUCT FROM THE SALES STREAM AND IMPACTS THE FINANCIAL INTERESTS OF THE RETAIL STORE OWNER. IT IS INTENDED TO ALLOW LAW ENFORCEMENT OR REGULATORY AGENCIES TO SEIZE THE INVENTORY WITHOUT THE NECESSITY OF TESTING EACH INDIVIDUAL PRODUCT.

REGARDING THE BRACKETED TERMS – [ORGANIZATION, PERSON, BUSINESS, PLACE, ESTABLISHMENT, OR RETAIL STORE] – EACH STATE SHOULD INSERT THE TERM OR TERMS WHICH WOULD GIVE EFFECT TO THE STATUTE.

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

APPENDIX A
ADDITIONAL MODEL LANGUAGE WHICH MAY BE USED BY MUNICIPALITIES AND COUNTIES

Section One	10	Preamble
Section Two	12	Authority
Section Three	13	Legislative Findings of Fact
Section Four	13	Definitions
Section Five	22	Possession, Use, Sale, Distribution, or Delivery of Synthetic Substances or Controlled Substance Analogues
Section Six	23	Factors to Be Considered
Section Seven	24	Exemptions
Section Eight	25	Civil/Criminal Fines

Section One. Preamble.

WHEREAS, new herbal and/or chemical mixtures are being marketed and sold in [municipality or county] which are not necessarily controlled by federal or state law but which are designed and marketed to mimic the effects of illegal narcotics; and

WHEREAS, according to the Drug Enforcement Administration ("DEA"), synthetic cannabinoids, also known as "Spice" or "K2," are mixtures of herbs and spices that are typically sprayed with a synthetic compound chemically similar to THC, the psychoactive ingredient in marijuana. These products are available for purchase in various retail outlets, tobacco shops, head shops, and over the internet. The products are often marketed as "incense" that can be smoked. The produce sometimes resembles potpourri, but can also be found in liquid form to be smoked in electronic cigarettes or as a food "additive." These products produce psychological effects similar to those of marijuana, and include paranoia, panic attacks, and giddiness. The physiological effects include increased heart rate and increased blood pressure, agitation, anxiety, nausea, vomiting, tachycardia, tremors, seizures, hallucinations, paranoid behavior, and non-responsiveness. Long term physiological effects are unknown. The DEA has placed a number of synthetic cannabinoids into Schedule I (the class of substances that carry a high potential for abuse and have no currently accepted medical use) of the Controlled Substances Act (CSA), 21 USC §§ 801, et seq., finding that placement into Schedule I was necessary to prevent an imminent hazard to the public safety; and

WHEREAS, according to the DEA, substituted cathinones, also known as "bath salts," are chemicals that are synthetic derivatives of cathinones, a central nervous system stimulant. These products are available for purchase in various retail outlets, tobacco shops, head shops, and over the internet. These products are sold in powder, tablet, and capsule form, and are usually ingested by sniffing/snorting but can also be taken orally, smoked, or put into a solution and injected. These products can produce agitation, insomnia, irritability, dizziness, depression, paranoia, delusions, suicidal thoughts, seizures, and panic attacks. Users have also reported effects such as impaired perception of reality, reduced motor control, and decreased ability to think clearly. Cathinone derivatives act as central nervous system stimulants causing rapid heart

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

rate (which may lead to heart attacks and strokes, chest pains, nosebleeds, sweating, nausea, and vomiting). Drugs that have similar effects include amphetamines, cocaine, Khat, LSD, and MDMA. The DEA has placed a number of chemicals used to make bath salts into Schedule I of the CSA, finding that an order making possession or sale of these chemicals, or the products that contain them, was necessary to prevent an imminent hazard to the public safety; and

WHEREAS, in 2010, the American Association of Poison Control Centers ("AAPCC") received 2,906 calls relating to exposures to synthetic marijuana and 304 calls relating to exposures to bath salts. In 2011, the AAPCC received 6,959 calls relating to exposures to synthetic marijuana and 6,138 calls relating to exposures to bath salts. Those numbers dropped significantly in 2012 with the AAPCC receiving 5,202 calls relating to exposures to synthetic marijuana and 2,655 calls relating to exposures to bath salts. As of October 31, 2013, the AAPCC has received 2,222 calls relating to exposures to synthetic marijuana and 833 calls relating to exposures to bath salts; and

WHEREAS, the state legislature has passed legislation which added novel psychoactive substances to [State]'s controlled substances schedules; and

WHEREAS, in response to the efforts by federal and state legislators to outlaw the chemicals in synthetic cannabinoids, substituted cathinones, and other novel psychoactive substances, chemists immediately reconfigured the specific substances that were prohibited to produce "new" versions of these synthetic drugs. This was accomplished by altering the molecular architecture of the chemicals used in the products to produce a series of different compounds which are closely structurally related to the prohibited substances, but which are not listed in the state or federal schedules of controlled substances laws. The National Alliance for Model State Drug Laws has found that forty-seven (47) states and the District of Columbia have outlawed specific versions of synthetic marijuana, substituted cathinones, or other novel psychoactive substances, but minor variations in the chemical composition of these products create similar drugs not prohibited by current legislation. In some cases, these manufacturers and/or distributors of these new products went so far as to claim on the packaging that the products contained no prohibited chemicals or were in accordance with state and federal laws; and

WHEREAS, manufacturers of these products are unknown to the consumer, as the packaging does not reveal the name and location of the manufacturer or distributor as required by federal laws pertaining to the labeling of consumer commodities. Manufacturers and distributors have not obtained FDA approval of these products as a food product, diet, drug, dietary supplement, or other approved substance. Consumers suffering a reaction to or injury from these products have little chance of obtaining information concerning the contents of the product, as the identity and locations of the manufacturers are unknown; and

WHEREAS, although often marketed as "not for human consumption," or being labeled as otherwise innocuous products (i.e., plant food, incense, potpourri, iPod cleaner, etc.), these products are in fact designed and marketed to the buyer as products that act upon and affect the human body and its systems as a legal method to get high or achieve the effects of illicit drugs. As products intended to act upon the human body, these products are required by state

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

regulations to carry adequate directions for use and adequate warnings on their labels; instead, these products most often carry no warnings or directions at all, or are labeled with sham or misleading directions (i.e., "place caplet over doorway to enhance mood") in an attempt to avoid application of the regulations applicable to drug branding and labeling; and

WHEREAS, products containing synthetic stimulants are available and being marketed to young adults and children in [municipality or county] by their availability in small packages at convenience stores. Further, the names and packaging of these substances appear to be designed to appeal to children and young adults, and increased usage among high school youths is a concern for both law enforcement and the medical community. The University of Michigan Institute for Social Research in "Monitoring the Future, National Results on Adolescent Drug Use, Overview of Key Findings 2011" found that 11.4% of high school seniors indicated use of synthetic marijuana; and

WHEREAS, the proliferation and availability of these substances presents a threat to public safety, and enforcement of current state laws and regulations is not effective due to the chemical variation of the products and the difficulty in quickly analyzing the specific chemical makeup of the products; and

WHEREAS, the [municipal or county authority] finds that illicit novel psychoactive substances are distributed, labeled, and marketed in a way that poses dangerous consequences to the consumer; and

WHEREAS, the [municipal or county authority] deems it to be in the best interests of the citizens and residents to prohibit the possession, sale, use, and distribution of illicit novel psychoactive substances and misbranded drugs; further, the [municipal or county authority] finds it in the public interest to prohibit sale of drug paraphernalia to persons under the age of 18, and to prohibit a business from displaying drug paraphernalia to minors without the presence of a parent or guardian; and

WHEREAS, laws offering additional protections and/or duplicating state and federal regulations concerning misbranded drugs and mislabeled commodities are not preempted.

COMMENT

THE FOREGOING "WHEREAS" PARAGRAPHS ARE TAKEN IN PART FROM THE CITY OF DEKALB, ILLINOIS MUNICIPAL CODE, SECTION 52.20-5 AND THE PASCO COUNTY, FLORIDA COUNTY CODE OF ORDINANCES, SECTION 66-61.

Section Two. Authority.

This Ordinance is enacted pursuant to [statutory authority], and under the home rule powers of the [municipal or county], and in accordance with the proscriptions on local regulation imposed by the Fair Packaging and Labeling Act, 15 U.S.C. § 1461.

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

Section Three. Legislative Findings of Fact.

The foregoing WHEREAS clauses are hereby adopted as legislative findings of the [municipal or county authority] and are ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

COMMENT

LEGISLATIVE FINDINGS ARE USEFUL IN PROVIDING GUIDANCE TO INTERPRETING COURTS AND PUBLICIZING AND MEMORIALIZING THE GOALS AND OBJECTIVES OF THE [ACT]. *BLOCK V. HIRSCH*, 256 U.S. 13, 154 (1921) ("ENTITLED TO AT LEAST GREAT RESPECT").

Section Four. Definitions.

Definitions. For purposes of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

a. *Mislabeled/misbranded novel psychoactive substance* shall mean any novel psychoactive substance which violates the state or federal consumer protection act; state or federal Food, Drug, and Cosmetic Act; or state or federal laws or regulations regarding labeling of agricultural products, including, but not limited to, substances for which the label is in any way false or misleading; the label does not bear the name and place of business of the manufacturer, repackager, or distributor of the finished form of the substance; the label does not bear adequate directions for use; or the label does not bear adequate warnings against use.

b. *Other novel psychoactive substance/synthetic designer drug/other synthetic substance* means any compound that mimics the effects of any federally controlled Schedule I or II substance, including, but not limited to, any quantity of a natural or synthetic material, compound, mixture, preparation, substance, and their analogue (including salts, isomers, esters, ethers, and salts of isomers) containing substances which have a psychedelic/hallucinogenic or other effect on the central nervous system and/or brain, including, but not limited to:

    - 2,5-dimethoxy-amphetamine
    - 2,3-dihydro-1H-inden-2-amine
    - 2-fluoromethamphetamine
    - methoxyketamine
    - 2-(4-bromo-2,5-dimethoxyphenyl)ethanamine
    - 4-Chloro-2,5-dimethoxyphenethylamine
    - 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine
    - 4-Ethyl-2,5-dimethoxyphenethylamine
    - 2-(2,5-Dimethoxyphenyl)ethanamine
    - 4-Iodo-2,5-dimethoxyphenethylamine
    - 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

- 2,5-Dimethoxy-4-propylphenethylamine
- 2-(2,5-dimethoxy-4-(methylthio)phenyl)ethanamine
- 2-(10-Bromo-2,3,4,7,8,9-hexahydropyrano[2,3-g]chromen-5-yl)ethanamine
- 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4-yl)ethanamine
- 2-(7-Bromo-5-methoxy-2,3-dihydro-1-benzofuran-4-yl)ethanamine
- N-(2-Methoxybenzyl)-1-(8-bromo-2,3,6,7-tetrahydrobenzo[1,2-b:4,5-b']difuran-4-yl)-2-aminoethane
- 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine
- N-(2-methoxybenzyl)-1-[(7R)-3-bromo-2,5-dimethoxybicyclo[4.2.0]octa-1,3,5-trien-7-yl]methanamine
- 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine
- 2-(2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine
- N-(2-Hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine
- 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine
- 2,5-Dimethoxy-4-ethylthiophenethylamine
- 2,5-Dimethoxy-4-isopropylthiophenethylamine
- 2,5-Dimethoxy-4-(n)-propylthiophenethylamine
- 2-(4-trifluoromethyl-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine
- 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-fluorophenyl)methyl]ethanamine
- 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2,3-methylenedioxyphenyl)methyl]ethanamine
- 3-[1-(ethylamino)cyclohexyl]phenol
- 3-hydroxyphencyclidine
- 3-Methoxyeticyclidine
- 1-[1-(3-methoxyphenyl)cyclohexyl]-piperidine
- 2-(4-bromo-2,3,6,7-tetrahydrofurobensofuran-8-yl)-1-methyl-ethylamine
- 3-(2-Diethylaminoethyl)-1H-indol-4-yl acetate
- 4-acetoxy-N,N-dimethyltryptamine
- 4-acetoxy-N,N-dipropyltryptamine
- 4-Chlorophenylisobutylamine
- para-fluoroamphetamine
- 4-fluoromethamphetamine
- 4-Hydroxy-di-isopropyl-tryptamine
- 4-hydroxy-N-methyl-N-ethyltryptamine
- 3-(2-[Isopropyl(methyl)amino]ethyl)-1H-indol-4-ol
- (R)-3-(N-methylpyrrolidin-2-ylmethyl)-4-hydoxyindole
- 3-(2-[methyl(propyl)amino]ethyl)-1H-indol-4-ol
- 4-methoxy-N-methyl-N-isopropyltryptamine
- 4-Methoxyphencyclidine
- 4-Methyl-α-ethyltryptamine
- 4-methyl-a-pyrrolidinohexphenone
- 5-(2-Aminopropyl)benzofuran
- 5-(2-Aminopropyl)-2,3-dihydrobenzofuran

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

- 5-Iodo-2-aminoindane
- 5-methyl-ethylone
- 1-(5-methoxy-1H-indol-3-yl)propan-2-amine
- N,N-diallyl-5-methoxytryptamine
- N,N-Dethyl-5-Methoxytryptamine
- 5-methoxy-diisopropyltryptamine
- 5-methoxy-N,N-dimethyltryptamine
- N-[2-(5-methoxy-1H-indol-3-yl)ethyl]-N-propylpropan-1-amine
- N-[2-(5-methoxy-1H-indol-3-yl)ethyl]-N-methylpropan-2-amine
- (R)-3-(N-methylpyrrolidin-2-ylmethyl)-5-methoxyindole
- 6-(2-aminopropyl)benzofuran
- 6-(2-Aminopropyl)-2,3,-dihydrobenzofuran
- ((2-aminopropyl)benzofuran
- ((2-aminopropyl)-2,3-dihydrobenzofuran)
- 1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine
- Benzothiophenylcyclohexylpiperidine
- N,N-Diisopropyltryptamine
- 1,4-Dibenzylpiperazine
- 1,4-dibenzylpiperazine
- 2,5-Dimethoxy-4-bromoamphetamine
- 2,5-Dimethoxy-4-chloroamphetamine
- 2,5-dimethoxy-4-iodoamphetamine
- N,N-Dipropyltryptamine
- 2-(2-chlorophenyl)-2-(ethylamino)cyclohexanone
- Fluoroamphetamine
- Fluoromethamphetamine
- Para-fluorophenylpiperazine
- 7-hydroxymitragynine
- 1-(3-Chlorophenyl)piperazine
- N-(2-Methoxybenzyl)-2-(3,4,5-trimethoxyphenyl)ethanamine
- 1-(thiophen-2-yl)-2-methylaminopropane
- (RS)2-(3-methoxyphenyl)-2-(ethylamino)cyclohexanone
- N-methyltryptamine
- N-isopropyl-N-methyltryptamine
- Methyl-alpha-pyrrolidinohexiophenone
- N,N-dimethylamphetamine
- 3-[2-(1-Amino-1-methylethyl)-1-hydroxycyclohexyl]phenol
- 7-Bromo-5-(2-chlorophenyl)-1,3-dihydro-2H-1,4-benzodiazepin-2-one
- 1-(4-Methoxyphenyl)piperazine
- para-Methoxy-N-methylamphetamine
- 1-[4-(trifluoromethylphenyl)]piperazine
- 3-trifluoromethylphenylpiperazine

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

c. A *product containing a novel psychoactive substance/synthetic designer drug/synthetic substance* means any product containing a synthetic cannabinoid, substituted cathinone, or other novel psychoactive substance, as those terms are defined herein.

d. *Substituted cathinone* means any compound that mimics the effects of any federally controlled Schedule I substance such as cathinone, methcathinone, MDMA, and MDEA including, but not limited to, any quantity of a natural or synthetic material, compound, mixture, preparation, substance, and their analogue (including salts, isomers, and salts of isomers) containing substances which have a stimulant effect on the central nervous system, including, but not limited to:

- 2-diphenylmethylpyrrolidine
- 2-diphenylmethylpiperidine
- 2-fluoromethcathinone
- 3,4-dimethylmethcathinone
- 3-fluoromethcathinone
- 4-ethylmethcathinone
- 4-fluoromethcathinone
- 4-methyl-N-benzylcathinone
- 4-methyl-N-ethylcathinone
- 4-methylbuphedrone
- alpha-Pyrrolidinobutiophenone
- alpha-pyrrolidinopropiophenone
- alpha-Pyrrolidinopentiophenone
- 4-methylephedrone
- 2-(methylamino)-1-phenylbutan-1-one
- beta-Keto-N-methylbenzodioxolylpropylamine
- benzylpiperazine
- diphenyl-2-pyrrolidinyl-methanol
- (3-diethylamino-2,2-dimethylpropyl)-4-aminobenzoate
- 1-(Benzo[d][1,3]dioxol-5-yl)-2-(dimethylamino)butan-1-one
- dimethylethcathinone
- dimethylmethcathinone
- 2-(methylamino)-1-phenylpropan-1-one
- 2-ethylamino-1-phenyl-propan-1-one
- Ethylethcathinone
- Ethylmethcathinone
- 3,4-methylenedioxy-N-ethylcathinone
- beta-Keto-Ethylbenziodioxolylbutanamine
- Fluorococaine
- Fluoroethcathinone
- Fluoroisocathinone
- Fluoromethcathinone
- 3-methoxymethcathinone

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

- Isopentedrone
- 4-methyl-alpha-pyrrolidinopropiophenone
- Methylbuphedrone
- 1-methyl-4-benzylpiperazine
- 5,6-methylenedioxy-2-aminoindane
- 6,7-methylenedioxy-2-aminotetralin
- Dimethylone
- Methylenedioxymethcathinone
- 3,4-methylenedioxy-alpha-pyrrolidinobutiophenone
- 3,4-methylenedioxy-alpha-pyrrolidinopropiophenone
- 3,4-methylenedioxypyrovalerone
- Methylethcathinone
- 4-methylmethcathinone
- N,N-dimethylcathinone
- 4-methoxymethcathinone
- Methylmethcathinone
- 3,4-methylenedioxy-N-methylcathinone
- Methoxymethcathinone
- 4-methoxy-alpha-pyrrolidinopropiophenone
- 4-methyl-alpha-pyrrolidinobutyrophenone
- Naphthylpyrovalerone
- NRG-2
- 2-(methylamino)-1-phenyl-1-pentanone
- beta-Keto-N-methylbenzodioxolylpentanamine
- Any compound (not being bupropion …) structurally derived from 2-amino-1-phenyl-1-propanone by modification in any of the following ways, that is to say,
  (i) by substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylenedioxy, haloalkyl or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents;
  (ii) by substitution at the 3-position with an alkyl substituent;
  (iii) by substitution at the nitrogen atom with alkyl or dialkyl groups, or by inclusion of the nitrogen atom in a cyclic structure.

e. *Synthetic cannabinoid* means any laboratory-created compound that functions similar to the active ingredient in marijuana, tetrahydrocannabinol (THC), including, but not limited to, any quantity of natural or synthetic material, compound, mixture, preparation, substance, or their analogue (including isomers, esters, ethers, salts, and salts of isomers) containing a cannabinoid receptor agonist, including, but not limited to, the following:

Adamantoylindoles or adamantoylindazoles, including adamantyl carboxamide indoles and adamantyl carboxamide indazoles, or any compound structurally derived from 3-(1-adamantoyl) indole, 3-(1-adamantoyl)indazole, 3-(2-adamantoyl)indole, N-(1-adamantyl)-1H-indole-3-carboxamide, or N-(1-adamantyl)-1H-indazole-3-carboxamide by substitution at the nitrogen atom of the indole or indazole ring with alkyl, haloalkyl, alkenyl, cyanoalkyl, hydroxyalkyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the indole or indazole ring to any extent and whether or not substituted in the adamantyl ring to any extent, including, but not limited to, the following: 2NE1, 5F-AKB-48, AB-001, AKB-48, AM-1248, JWH-018 adamantyl carboxamide, STS-135.

Benzoylindoles - any compound structurally derived from a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl 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, including, but not limited to, the following: AM-630, AM-661, AM-679, AM-694, AM-1241, AM-2233, RCS-4, WIN 48,098 (Pravadoline).

Cyclohexylphenols - any compound structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring by alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the cyclohexyl ring to any extent, including, but not limited to, the following: CP 47,497, CP 55,490, CP 55,940, CP 56,667, cannabicyclohexanol.

Cyclopropanoylindoles – any compound structurally derived from 3-(cyclopropylmethanoyl)indole, 3-(cyclopropylmethanone)indole, 3-(cyclobutylmethanone)indole or 3-(cyclopentylmethanone)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the cyclopropyl, cyclobutyl, or cyclopentyl rings to any extent.

Naphthoylindoles – any compound structurally derived from 3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane by substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl group, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the naphthyl ring to any extent, including, but not limited to, the following: AM-678, AM-1220, AM-1221, AM-1235, AM-2201, AM-2232, EAM-2201, JWH-004, JWH-007, JWH-009, JWH-011, JWH-015, JWH-016, JWH-018, JWH-019, JWH-020, JWH-022, JWH-046, JWH-047, JWH-048, JWH-049, JWH-050, JWH-070, JWH-071, JWH-072, JWH-073, JWH-076, JWH-079, JWH-080, JWH-081, JWH-082, JWH-094, JWH-096, JWH-098, JWH-116, JWH-120, JWH-122, JWH-148, JWH-149, JWH-164, JWH-166, JWH-180, JWH-181, JWH-182, JWH-189, JWH-193, JWH-198, JWH-200, JWH-210, JWH-211, JWH-212, JWH-213, JWH-234, JWH-235, JWH-236, JWH-239, JWH-240, JWH-241, JWH-242, JWH-258, JWH-262,

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

JWH-386, JWH-387, JWH-394, JWH-395, JWH-397, JWH-398, JWH-399, JWH-400, JWH-412, JWH-413, JWH-414, JWH-415, JWH-424, MAM-2201, WIN 55,212.

Naphthoylnaphthalenes – any compound structurally derived from naphthalene-1-yl-(naphthalene-1-yl) methanone with substitutions on either of the naphthalene rings to any extent, including, but not limited to, the following: CB-13.

Naphthoylpyrroles - any compound structurally derived from 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring by alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl 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, including, but not limited to, the following: JWH-030, JWH-031, JWH-145, JWH-146, JWH-147, JWH-150, JWH-156, JWH-243, JWH-244, JWH-245, JWH-246, JWH-292, JWH-293, JWH-307, JWH-308, JWH-309, JWH-346, JWH-348, JWH-363, JWH-364, JWH-365, JWH-367, JWH-368, JWH-369, JWH-370, JWH-371, JWH-373, JWH-392.

Naphthylmethylindenes - any compound containing a naphthylideneindene structure or which is structurally derived from 1-(1-naphthylmethyl)indene with substitution at the 3-position of the indene ring by alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl 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, including, but not limited to, the following: JWH-171, JWH-176, JWH-220.

Naphthylmethylindoles – any compound structurally derived from an H-indol-3-yl-(1-naphthyl) methane by substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl 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, including, but not limited to, the following: JWH-175, JWH-184, JWH-185, JWH-192, JWH-194, JWH-195, JWH-196, JWH-197, JWH-199.

Phenylacetylindoles - any compound structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl 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, including, but not limited to, the following:

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

Cannabipiperidiethanone, JWH-167, JWH-201, JWH-202, JWH-203, JWH-204, JWH-205, JWH-206, JWH-207, JWH-208, JWH-209, JWH-237, JWH-248, JWH-249, JWH-250, JWH-251, JWH-253, JWH-302, JWH-303, JWH-304, JWH-305, JWH-306, JWH-311, JWH-312, JWH-313, JWH-314, JWH-315, JWH-316, RCS-8.

Quinolinylindolecarboxylates – any compound structurally derived from quinolin-8-yl-1H-indole-3-carboxylate by substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, benzyl, halobenzyl, alkenyl, haloalkenyl, alkoxy, cyanoalkyl, hydroxyalkyl, cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl)alkyl, (4-tetrahydropyran)alkyl, or 2-(4-morpholinyl)alkyl, whether or not further substituted in the indole ring to any extent, whether or not substituted in the quinoline ring to any extent, including, but not limited to, the following: BB-22, 5-Fluoro-PB-22, PB-22.

Tetramethylcyclopropanoylindoles – any compound structurally derived from 3-tetramethylcyclopropanoylindole, 3-(1-tetramethylcyclopropyl)indole, 3-(2,2,3,3-tetramethylcyclopropyl)indole or 3-(2,2,3,3-tetramethylcyclopropylcarbonyl)indole with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the tetramethylcyclopropanoyl ring to any extent, including, but not limited to, the following: 5-bromo-UR-144, 5-chloro-UR-144, 5-fluoro-UR-144, A-796,260, A-834,735, AB-034, UR-144, XLR11.

Tetramethylcyclopropane-thiazole carboxamides – any compound structurally derived from 2,2,3,3-tetramethyl-N-(thiazol-2-ylidene)cyclopropanecarboxamide by substitution at the nitrogen atom of the thiazole ring by alkyl, haloalkyl, benzyl, halobenzyl, alkenyl, haloalkenyl, alkoxy, cyanoalkyl, hydroxyalkyl, cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl)alkyl, (4-tetrahydropyran)alkyl, or 2-(4-morpholinyl)alkyl, whether or not further substituted in the thiazole ring to any extent, whether or not substituted in the tetramethylcyclopropyl ring to any extent, including: A-836,339.

Unclassified Synthetic Cannabinoids:

AM-087	(6aR,10aR)-3-(2-methyl-6-bromohex-2-yl)-6,6,9-trimethyl-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol
AM-356	(methanandamide) (5Z,8Z,11Z,14Z)-N-[(1R)-2-hydroxy-1-methylethyl]icosa-5,8,11,14-tetraenamide; OR arachidonyl-1'-hydroxy-2'-propylamide
AM-411	(6aR,10aR)-3-(1-adamantyl)-6,6,9-trimethyl-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol
AM-855	(4aR,12bR)-8-hexyl-2,5,5-trimethyl-1,4,4a,8,9,10,11,12b-octahydronaphtho[3,2-c]isochromen-12-ol
AM-905	(6aR,9R,10aR)-3-[(E)-hept-1-enyl]-9-(hydroxymethyl)-6,6-dimethyl-6a,7,8,9,10,10a-hexahydrobenzo[c]chromen-1-ol

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

AM-906	(6aR,9R,10aR)-3-[(Z)-hept-1-enyl]-9-(hydroxymethyl)-6,6-dimethyl-6a,7,8,9,10,10a-hexahydrobenzo[c]chromen-1-ol
AM-2389	(6aR,9R,10aR)-3-(1-hexyl-cyclobut-1-yl)-6a,7,8,9,10,10a-hexahydro-6,6-dimethyl-6H-dibenzo[b,d]pyran-1,9 diol
BAY 38-7271	(-)-(R)-3-(2-Hydroxymethylindanyl-4-oxy)phenyl-4,4,4-trifluorobutyl-1-sulfonate
CP 50,556-1	(Levonantradol) 9-hydroxy-6-methyl-3-[5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl]acetate; OR [(6S,6aR,9R, 10aR)-9-hydroxy-6-methyl-3-[(2R)-5-ph enylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl] acetate; OR [9-hydroxy-6-methyl-3-[5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10, 10a-octahydrophenanthridin-1-yl]acetate
HU-210	(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c] chromen-1-ol; OR [(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyl octan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol; OR 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol
HU-211	(Dexanabinol) (6aS, 10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol; OR (6aS, 10aS)-9-(hydroxymethyl)-6,6-dimethyl- 3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol
HU-243	3-dimethylheptyl-11-hydroxyhexahydrocannabinol
HU-308	[(91R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl]methanol
HU-331	3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-1,4-dione
HU-336	(6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,7,10,10a-tetrahydro-1H-benzo[c]chromene-1,4(6H)-dione
JTE-907	N-(benzol[1,3]dioxol-5-ylmethyl)-7-methoxy-2-oxo-8-pentyloxy-1,2-dihydroquinoline-3-carboxamide
JWH-051	((6aR,10aR)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-9-yl)methanol
JWH-057	(6aR,10aR)-3-(1,1-dimethylheptyl)-6a,7,10,10a-tetrahydro-6,6,9-trimethyl-6H-Dibenzo[b,d]pyran
JWH-133	(6aR,10aR)-3-(1,1-Dimethylbutyl)-6a,7,10,10a-tetrahydro -6,6,9-trimethyl-6H-dibenzo[b,d]pyran
JWH-359	(6aR,10aR)- 1-methoxy- 6,6,9-trimethyl- 3-[(2R)-1,1,2-trimethylbutyl]-6a,7,10,10a-tetrahydrobenzo[c]chromene
URB-597	[3-(3-carbamoylphenyl)phenyl]-N-cyclohexylcarbamate
URB-602	[1,1'-Biphenyl]-3-yl-carbamic acid, cyclohexyl ester; OR cyclohexyl [1,1'-biphenyl]-3-ylcarbamate
URB-754	6-methyl-2-[(4-methylphenyl)amino]-4H-3,1-benzoxazin-4-one
URB-937	3'-carbamoyl-6-hydroxy-[1,1'-biphenyl]-3-yl cyclohexylcarbamate

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

WIN 55,212-2 (R)-(+)-[2,3-dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-napthalenylmethanone; OR [2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[(1,2,3-de)-1,4-benzoxazin-6-yl]-1-napthalenylmethanone

f. *Novel psychoactive substance/synthetic designer drug/synthetic substance* means a synthetic cannabinoid, substituted cathinone, other novel psychoactive substance, a product containing a novel psychoactive substance, a mislabeled/misbranded novel psychoactive substance, or a controlled substance analogue as those terms are defined herein.

g. *Retail license and/or merchant's certificate* means a state, county, or municipal license or certificate granted to a retail store or to the owner of a retail store to operate a commercial enterprise within the state, county, or municipality.
h. *Retail store* means any convenience store, gas station, "head" shop, tobacco shop, grocery store, liquor store, or any other premises where commercial goods are sold.

COMMENT

THE DEFINITIONS IN THIS SECTION ARE TAKEN IN PART FROM THE CITY OF DEKALB, ILLINOIS MUNICIPAL CODE, SECTION 52.20-5 AND THE PASCO COUNTY, FLORIDA COUNTY CODE OF ORDINANCES, SECTION 66-61. THEY ARE TERMS WHICH ARE OR MAY BE DEFINED BY THE MUNICIPAL, COUNTY, OR STATE LEGISLATURE, BUT WHICH MAY ADD DEPTH TO DEFINITIONS ALREADY IN PLACE. THE CLASS DEFINITIONS UNDER "SYNTHETIC CANNABINOIDS" INCLUDE THE MOST CURRENT CANNABINOID CLASS DESIGNATIONS.

Section Five. Possession, Use, Sale, Distribution, or Delivery of Novel Psychoactive Substances.

It is unlawful for any person to sell, offer to sell, offer for sale, distribute, deliver, use, or possess any synthetic cannabinoid, substituted cathinone, other novel psychoactive substance, a product containing a novel psychoactive substance, a mislabeled/misbranded novel psychoactive substance, or a controlled substance analogue within the incorporated or unincorporated area of [municipality or county]. It is further unlawful for any retail store within the incorporated or unincorporated area of [municipality or county] to sell, offer for sale, distribute, or deliver any synthetic cannabinoid, substituted cathinone, other novel psychoactive substance, a product containing a novel psychoactive substance, a mislabeled/misbranded novel psychoactive substance, or a controlled substance analogue.

It is further unlawful for any person to provide or sell or offer for sale a product for human consumption when the product is labeled "not for human consumption" or contains similar warnings when such product is in fact intended for human consumption.

COMMENT

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

THIS SECTION IS TAKEN IN PART FROM THE CITY OF DEKALB, ILLINOIS MUNICIPAL CODE, SECTION 52.20-5 AND THE PASCO COUNTY, FLORIDA COUNTY CODE OF ORDINANCES, SECTION 66-61. THIS SECTION MAKES IT UNLAWFUL FOR A RETAIL ESTABLISHMENT OR PERSON TO SELL, OFFER TO SELL, OFFER FOR SALE, DISTRIBUTE, DELIVERY, USE, OR POSSESS A NOVEL PSYCHOACTIVE SUBSTANCE. IT IS DESIGNED TO BE ALL-INCLUSIVE TO DISCOURAGE RETAIL ESTABLISHMENTS FROM SELLING THESE PRODUCTS EVEN THOUGH SUCH PRODUCTS MIGHT TECHNICALLY BE "LEGAL" UNDER CURRENT FEDERAL, STATE, OR LOCAL LAWS.

Section Six. Factors to Be Considered.

In determining whether the sale, offer to sell, offer for sale, distribution, delivery, use, or possession of a synthetic cannabinoid, substituted cathinone, other novel psychoactive substance, a product containing a novel psychoactive substance, a mislabeled/misbranded novel psychoactive substance, or a controlled substance analogue is prohibited by this provision, the following factors shall be considered:

(i) The difference between the price at which the substance is sold and the price at which the substance it is purported to be or advertised as is normally sold;
(ii) Its diversion from legitimate channels, and its clandestine importation, manufacture, or distribution;
(iii) That the defendant knew or should have known the substance was intended to be consumed by injection, inhalation, ingestion, or any other immediate means;
(iv) The defendant's prior convictions, if any, for a violation of any state or federal statute prohibiting controlled substances, synthetic substances, or controlled substance analogues;
(v) Comparisons with accepted methods of marketing a legitimate nonprescription drug for medicinal purposes rather than for the purpose of drug abuse or any similar nonmedical use;
(vi) Verbal or written representations regarding the purpose, methods, use, or effect of the product;
(vii) Aspects of the packaging or labeling suggesting the user will achieve a "high," euphoria, relaxation, mood enhancement, or that the product has other effects on the body;
(viii) The product contains a warning label stating or suggesting that the product is in compliance with state or federal laws regulating controlled substances;
(ix) The product's name or packaging uses images or slang referring to an illicit street drug;
(x) Illicit or underground methods of sale or delivery are employed by the seller or provider;
(xi) The product resembles an illicit street drug such as cocaine, methamphetamine, or marijuana;
(xii) The methods by which the substance is distributed;
(xiii) The manner in which the substance is sold to the public; or,
(xiv) The product label contains a restriction that it is not for sale to minors or anyone under the age of 18.

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

Other scientific or pharmacological factors to determine whether a substance is a novel psychoactive substance or controlled substance analogue which may be considered in addition to the above include, but are not limited to:

(i) Its actual or relative potential for abuse;
(ii) Scientific evidence of its pharmacological effect, if known;
(iii) The state of current scientific knowledge regarding the substance;
(iv) The history of the substance and its current pattern of abuse;
(v) The scope, duration, and significance of abuse;
(vi) What, if any, risk there is to the public health;
(vii) Its psychic or physiological dependence liability; or
(viii) Whether the substance is an immediate precursor of a substance already controlled under the state or federal controlled substances act.

Statements on the package labeling such as "not intended for human consumption" may be disregarded when other relevant factors, including, but not limited to, those listed above, viewed alone or in totality, indicate that the product is intended to be consumed or ingested by humans, or is a product regulated by this provision.

COMMENT

THIS SECTION IS TAKEN IN PART FROM THE CITY OF DEKALB, ILLINOIS MUNICIPAL CODE, SECTION 52.20-5, THE PASCO COUNTY, FLORIDA COUNTY CODE OF ORDINANCES, SECTION 66-61, THE CITY OF LEVELLAND, TEXAS MUNICIPAL CODE, SECTION 4:1203, AND TENN. CODE ANN. § 39-17-454. THIS SECTION IS DESIGNED TO GIVE MAXIMUM FLEXIBILITY TO LAW ENFORCEMENT AND JUDICIAL OFFICIALS IN DECLARING A SUBSTANCE WHICH MIGHT NOT BE REGULATED UNDER FEDERAL, STATE, OR LOCAL LAWS TO BE A NOVEL PSYCHOACTIVE SUBSTANCE AND, THEREFORE, SUBJECT TO THE PROVISIONS OF THIS ARTICLE.

Section Seven. Exemptions.

The provisions of this section do not apply to any product that is:

(i) Specifically excepted by, or regulated within, the [state] Controlled Substances Act [statutory reference], or the federal Controlled Substances Act (21 USC §§ 801, et seq.);
(ii) Is a food product, drug, dietary supplement, cosmetic, or other substance regulated by the Food and Drug Administration and in compliance with that agency's requirements;
(iii) Is regulated by and in compliance with the labeling requirements of the Federal Trade Commission;
(iv) Is regulated by and in compliance with the Federal Fair Packaging and Labeling Act;
(v) Is regulated by and in compliance with the Federal Food, Drug, and Cosmetic Act;
(vi) Is regulated by and in compliance with the statutes and regulations of the [state] Department of Agriculture;

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

(vii) Is a tobacco product regulated by and in compliance with state and federal statutes and regulations governing the tobacco industry; or
(viii) Is regulated by and in compliance with the [state] Pharmacy Act.

For purposes of this section, products that are not subject to regulation by the act or agencies listed above are not exempt unless the product is specifically exempt from regulation. Mere non-regulation by these acts without a specific regulatory exemption will not render a product exempt under this section.

COMMENT

THIS SECTION IS TAKEN IN PART FROM THE CITY OF DEKALB, ILLINOIS MUNICIPAL CODE, SECTION 52.20-5, THE PASCO COUNTY, FLORIDA COUNTY CODE OF ORDINANCES, SECTION 66-61, AND THE CITY OF LEVELLAND, TEXAS MUNICIPAL CODE, SECTION 4:1203. THIS SECTION IS DESIGNED TO EXEMPT THOSE PRODUCTS WHICH MIGHT FALL WITHIN THE DEFINITION OF A NOVEL PSYCHOACTIVE SUBSTANCE BUT WHICH ARE REGULATED BY AND IN COMPLIANCE WITH THE STATUTES AND REGULATIONS OF ONE OR MORE OF THE LISTED AGENCIES.

Section Eight. Civil/Criminal Fines.

Any person found to be in violation of this Article shall be guilty of a [municipal or county] ordinance violation for each violation thereof. Each violation of this ordinance, or every day a violation continues to exist, shall constitute a new and separate violation. Each violation of this ordinance is punishable by a fine of not less than [dollar amount of fine] nor more than [dollar amount of fine] for each violation.

COMMENT

THIS SECTION IS TAKEN FROM THE CITY OF DEKALB, ILLINOIS MUNICIPAL CODE, SECTION 52.20-5. THIS SECTION IS DESIGNED TO PROVIDE MONETARY PENALTIES FOR VIOLATIONS OF THIS ARTICLE.

© 2014. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.