

Prosecutors lead effort to make fake pot illegal in Anchorage

By CASEY GROVE

With the designer drug known as Spice easily available in Anchorage, often retailed as potpourri or incense, municipal prosecutors are trying to make it illegal to sell and possess by rewriting local drug laws to make them broader and get ahead of the manufacturers.

Attempts by federal and state lawmakers to criminalize the drug, which is marketed by word of mouth as a legal alternative to marijuana, have fallen short. Local law enforcement officials say that is because the makers of Spice have sidestepped controlled-substance laws by tweaking chemical compounds to no longer fit the drug definitions that lawmakers write into controlled-substances laws. Changing the formulas allows Spice-makers to stay one step ahead of the law, prosecutors say.

The new criminalization effort in Anchorage comes in the form of a proposed amendment to a municipal drug ordinance introduced at Tuesday night's Assembly meeting and set for public hearing Jan. 14. It aims to cut through the haze of confusion by criminalizing Spice, not for what it is, but for what it isn't.

"In other words, you find a legal way to describe what these are without calling them by their chemical composition," said Municipal Prosecutor Cindy Franklin, who helped write the ordinance. "Because, frankly, nobody knows what this is, even the people making it."

If passed, the new law would require Spice packaging to include labels that say specifically what is contained in the packets or jars and the name of the manufacturer. And the packaging cannot be "false or misleading" and must carry accurate directions for use. The penalty for possession: \$500 per unit of sale.

The stakes are high, say Franklin and police officials. Users, increasingly teenagers, are having bad physical and psychological reactions after smoking Spice or ingesting it in other ways, they say. It can make people paranoid and panicky, according to a memorandum attached to the proposed ordinance amendment. Anchorage police have described users becoming unpredictable and psychotic.

"The short-term physiological effects include increased heart rate and increased blood pressure, and the long term physiological effects are unknown," the memo says.

Spice can also make someone comatose, as was the case with a young woman raped at Town Square Park in 2012 while she was incapacitated after smoking Spice, police and charging documents said.

There are dozens of brands of the leafy material sprayed with chemicals and sold over the counters of smoke shops and some gas stations as incense or potpourri. But the products in colorful packaging emblazoned with names like "Scooby Snax" and "Crippler" are really intended for human consumption, even if the packets claim they are not, Franklin said.

"This is a drug, and everybody knows it," she said. "People are just making gobs of money selling it, and bragging about it. If you ask them what they're selling, they have no idea."

At The Smoke Shoppe in Mountain View on Wednesday, glass pipes, bongs and hookahs sat in display cases or lined the wall on one side of the business. At the front of the store were tobacco products and rolling papers. When asked if the store sold any Spice, a woman behind the counter said they did not.

"No, we carry potpourri," she said. "It's on the back wall."

Directly behind the pipes, tacked to the wall, was a small display with packets of the purported potpourri. The display advertised a packet holding two grams of "Green Dream" for \$20 and a packet with five grams of "Lazy Daze" for \$20 with a sticker that said, "Sweet deal!!"

The clerk declined an interview request. The store's manager was not there, and an email to the manager was not returned Wednesday. The clerk did not provide a phone number.

Paul Honeman -- an Assembly member on the Public Safety committee, a University of Alaska Anchorage police officer and a former Anchorage cop -- said he recently walked into a shop while investigating a theft on campus. The suspect used a stolen credit card at a smoke shop to buy two packets of "potpourri."

Honeman was in uniform and the clerk talked to him openly about what he believed was Spice.

"I said, 'Man that stuff's no good,' and she goes, 'Yeah, I know. I wouldn't use it,'" Honeman said. "She's not the owner. She's not even the manager. She's just a clerk. But they're pushing this stuff out the door. I mean, they've got boxes of the stuff."

Both Honeman and Franklin admitted it might be a challenge to prove that retailers are not simply selling very expensive potpourri or incense. The additional requirements for packaging - forcing manufacturers to say what is in their product -- is designed to help with that, Franklin said. Honeman said it comes down to common sense.

"If you sell it, you know, for 20 times the cost of what somebody would pay for potpourri or incense, and you look on the packaging and it doesn't really contain any ingredients that says what it is, I think that's the answer," Honeman said. "Attack it for what it's not."

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