

SENATE BILL NO. 173

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY SENATORS MEYER, McGuire, Bishop, Gardner, Giessel, Ellis, Micciche, Kelly

Introduced: 2/14/14

Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a prohibition on the offer, display, marketing, advertising for sale,
2 or sale of illicit synthetic drugs."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 17 is amended by adding a new chapter to read:

5 **Sec. 17.21.010. Illicit synthetic drugs.** (a) A person may not offer, display,
6 market, advertise for sale, or sell an illicit synthetic drug.

7 (b) A synthetic drug is illicit if

8 (1) the label

9 (A) is false or misleading;

10 (B) does not specify the identity of the substances contained in
11 the synthetic drug; or

12 (C) does not specify the name and place of business of the
13 manufacturer, packer, or distributor; and

14 (2) the synthetic drug has one or more of the following characteristics:

1 (A) the packaging or labeling of the synthetic drug suggests
2 that the user will achieve euphoria, a hallucination, mood enhancement,
3 relaxation, stimulation, or another effect on the body;

4 (B) the name or packaging of the synthetic drug uses images or
5 labels suggesting that it is a controlled substance or has the effect of a
6 controlled substance;

7 (C) the synthetic drug resembles a controlled substance in
8 appearance, in chemical structure, or composition;

9 (D) the synthetic drug is marketed or advertised for a particular
10 use or purpose and the cost of the synthetic drug is disproportionately higher
11 than other products marketed or advertised for the same or similar use or
12 purpose;

13 (E) the synthetic drug contains a warning label stating or
14 suggesting that the synthetic drug is in compliance with state laws regulating
15 controlled substances;

16 (F) the owner or person in control of the synthetic drug uses
17 evasive tactics or actions to avoid detection by law enforcement authorities;

18 (G) the synthetic drug is a product to which has been added a
19 synthetic chemical or synthetic chemical compound that does not have a
20 legitimate relationship to the advertised use of the product; or

21 (H) the synthetic drug has one or more of the following street
22 names: AK47, Aroma, Atomic, Aura, Barely In, Black Mamba, Black Rob,
23 Bliss, Blizzard, Blue Silk, Bombay Blue, Bonzai Grow, Brain Storm, Bullet,
24 Buzz, California Dreams, Charge Plus, Charlie, Chill X, Chronic Spice, Cloud
25 9, Dank, Daylights, Dead Man Walking, Demon, Dragons Fire, Drone, D-ZL,
26 Earth Impact, Earthquake, Energy-1, Euphoria, Fake Weed, g-13, G-20,
27 Galaxy Gold, Genie, Guerrilla Warfare, Hayze, Hurricane, Hurricane Charlie,
28 Hush, Hypnotiq, Ivory Wave, Jazz, Joker, K2, K3, Kush, Kush Mania, Legal,
29 Lovely Dovey, Lucid, Lunar Wave, Maddie, Mad Hatter, Makes Scents,
30 Matrix, Maui Wowie, MCAT, MDPK, MDPV, Meow Meow, Meph, Mind
31 Trip, Moon Rocks, MTV, Mystery, Nightlights, Ocean, Ocean Blue, Ocean

1 Burst, OMG, Peeve, Pineapple Express, Pixie Dust, Posh, Pot-Pourri, Pulse,
 2 Pure Ivory, Purple Wave, PV, Red Dove, Sence, Serenity, Smoke, Snow
 3 Leopard, Mr. Happy, Mr. Nice Guy, Scarface, Scooby Snax, Scope, Skunk,
 4 Sky High, Solar Flare, Soul Sence, Space Truckin, Spice, Spice 99, Spice
 5 Gold, Spice Silver, Stardust, Stinger, Super Coke, Tiger Shark, Vanilla Sky,
 6 Voodoo, Voodoo Child, White Dove, White Knight, White Lightning, Zohai.

7 (c) It is an affirmative defense to an action for a violation of this section that a
 8 product is expressly exempted from or is expressly regulated under and is in
 9 compliance with state or federal law. In this subsection, "affirmative defense" has the
 10 meaning given in AS 11.81.900.

11 **Sec. 17.21.020. Exemption.** AS 17.21.010 does not apply to a synthetic drug
 12 intended solely for investigational use by experts qualified by scientific training and
 13 experience to investigate the safety of drugs if the drug is plainly labeled "for
 14 investigational use only," and the investigational use is authorized by state or federal
 15 law.

16 **Sec. 17.21.030. Enforcement and penalties.** (a) The commissioner is
 17 responsible for enforcing this chapter and may

18 (1) delegate that authority as appropriate; and

19 (2) cooperate with the Department of Public Safety in carrying out the
 20 commissioner's enforcement activities.

21 (b) This section does not limit the authority of a peace officer.

22 (c) A person who violates AS 17.21.010 is guilty of a violation and, upon
 23 conviction, may be punished as provided in AS 12.55.

24 (d) The provisions of this section are in addition to the remedies available
 25 under AS 45.50.471 - 45.50.561.

26 **Sec. 17.21.090. Definitions.** In this chapter, unless the context clearly requires
 27 otherwise,

28 (1) "controlled substance" has the meaning given in AS 11.71.900;

29 (2) "department" means the Department of Health and Social Services;

30 (3) "drug" has the meaning given in AS 17.20.370;

31 (4) "synthetic drug" means a substance that is

1 (A) a chemical or chemical compound intended, when
2 introduced into the human body, to mimic or simulate the effect of a drug or
3 controlled substance; and

4 (B) in the form of

5 (i) a crystalline or powder product in crystalline, loose
6 powder, block, tablet, or capsule form; or

7 (ii) plant material in granular, loose leaf, powder, or
8 liquid form or used as a food additive; and

9 (C) that is not a controlled substance.

10 * **Sec. 2.** AS 44.29.020 is amended by adding a new subsection to read:

11 (c) The Department of Health and Social Services, in cooperation with the
12 Department of Public Safety, shall enforce the prohibition on the offer, display,
13 marketing, advertising, or sale of illicit synthetic drugs under AS 17.21.

14 * **Sec. 3.** AS 44.41.020 is amended by adding a new subsection to read:

15 (g) The Department of Public Safety shall cooperate with the Department of
16 Health and Social Services in the enforcement of the prohibition on the offer, display,
17 marketing, advertising, or sale of illicit synthetic drugs under AS 17.21.