

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 7*
House Committee Substitute Favorable 2/23/11
PROPOSED HOUSE COMMITTEE SUBSTITUTE S7-PCS65027-RK-24

Short Title: Add Controlled Substances.

(Public)

Sponsors:

Referred to:

January 31, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO ADD MEPHEDRONE, METHYENEDIOXYPROVALERONE AND CERTAIN
3 DERIVATIVES OF 2-AMINO-1-PHENYL-1-PROPANONE, AND SYNTHETIC
4 CANNABINOIDS TO THE LIST OF CONTROLLED SUBSTANCES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 90-89(5) reads as rewritten:

7 "§ 90-89. Schedule I controlled substances.

8 This schedule includes the controlled substances listed or to be listed by whatever official
9 name, common or usual name, chemical name, or trade name designated. In determining that a
10 substance comes within this schedule, the Commission shall find: a high potential for abuse, no
11 currently accepted medical use in the United States, or a lack of accepted safety for use in
12 treatment under medical supervision. The following controlled substances are included in this
13 schedule:

14 ...

15 (5) Stimulants. – Unless specifically excepted or unless listed in another
16 schedule, any material, compound, mixture, or preparation that contains any
17 quantity of the following substances having a stimulant effect on the central
18 nervous system, including its salts, isomers, and salts of isomers:

19 a. Aminorex. Some trade or other names: aminoxaphen;
20 2-amino-5-phenyl-2-oxazoline; or
21 4,5-dihydro-5-phenly-2-oxazolamine.

22 b. Cathinone. Some trade or other names:
23 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone,
24 2-aminopropiophenone, and norephedrone.

25 c. Fenethylamine.

26 d. Methcathinone. Some trade or other names:
27 2-(methylamino)propionophenone,
28 alpha-(methylamino)propionophenone,
29 2-(methylamino)-1-phenylpropan-1-one,
30 alpha-N-methylaminopropionophenone, monomethylpropion,
31 ephedrone, N-methylcathinone, methylcathinone, AL-464, AL-422,
32 AL-463, and UR1432.



- 1 e. (+/-)cis-4-methylaminorex
 2 [(+/-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine] (also
 3 known as 2-amino-4-methyl-5-phenyl-2-oxazoline).
 4 f. N,N-dimethylamphetamine. Some other names:
 5 N,N,alpha-trimethylbenzeneetha neamine;
 6 N,N,alpha-trimethylphenethylamine.
 7 g. N-ethylamphetamine.
 8 h. 4-methylmethcathinone (also known as mephedrone).
 9 i. 3,4-Methylenedioxypropylamphetamine (also known as MDPV).
 10 j. A compound, other than bupropion, that is structurally derived from
 11 2-amino-1-phenyl-1-propanone by modification in any of the
 12 following ways: (i) by substitution in the phenyl ring to any extent
 13 with alkyl, alkoxy, alkylendioxy, haloalkyl, or halide substituents,
 14 whether or not further substituted in the phenyl ring by one or more
 15 other univalent substituents; (ii) by substitution at the 3-position with
 16 an alkyl substituent; or (iii) by substitution at the nitrogen atom with
 17 alkyl or dialkyl groups or by inclusion of the nitrogen atom in a cyclic
 18 structure."

19 **SECTION 2.** G.S. 90-95(d)(1) reads as rewritten:

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

- 22 (1) A controlled substance classified in Schedule I shall be punished as a Class I
 23 ~~felon~~;felon. However, if the controlled substance is MDPV and the quantity
 24 of the MDPV is 1 gram or less, the violation shall be punishable as a Class I
 25 misdemeanor.

26 "...."

27 **SECTION 3.** G.S. 90-95(h) is amended by adding a new subdivision to read:

28 "(3d) Any person who sells, manufactures, delivers, transports, or possesses 28
 29 grams or more of MDPV or any mixture containing such substance shall be
 30 guilty of a felony, which felony shall be known as "trafficking in MDPV,"
 31 and if the quantity of such substance or mixture involved:

- 32 a. Is 28 grams or more, but less than 200 grams, such person shall be
 33 punished as a Class F felon and shall be sentenced to a minimum
 34 term of 70 months and a maximum term of 84 months in the State's
 35 prison and shall be fined not less than fifty thousand dollars
 36 (\$50,000);
 37 b. Is 200 grams or more, but less than 400 grams, such person shall be
 38 punished as a Class E felon and shall be sentenced to a minimum
 39 term of 90 months and a maximum term of 117 months in the State's
 40 prison and shall be fined not less than one hundred thousand dollars
 41 (\$100,000);
 42 c. Is 400 grams or more, such person shall be punished as a Class C
 43 felon and shall be sentenced to a minimum term of 225 months and a
 44 maximum term of 279 months in the State's prison and shall be fined
 45 at least two hundred fifty thousand dollars (\$250,000)."

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

47 "(3e) Any person who sells, manufactures, delivers, transports, or possesses 28
 48 grams or more of mephedrone or any mixture containing such substance
 49 shall be guilty of a felony, which felony shall be known as "trafficking in
 50 mephedrone," and if the quantity of such substance or mixture involved:

- 1 a. Is 28 grams or more, but less than 200 grams, such person shall be
2 punished as a Class F felon and shall be sentenced to a minimum
3 term of 70 months and a maximum term of 84 months in the State's
4 prison and shall be fined not less than fifty thousand dollars
5 (\$50,000);
- 6 b. Is 200 grams or more, but less than 400 grams, such person shall be
7 punished as a Class E felon and shall be sentenced to a minimum
8 term of 90 months and a maximum term of 117 months in the State's
9 prison and shall be fined not less than one hundred thousand dollars
10 (\$100,000);
- 11 c. Is 400 grams or more, such person shall be punished as a Class C
12 felon and shall be sentenced to a minimum term of 225 months and a
13 maximum term of 279 months in the State's prison and shall be fined
14 at least two hundred fifty thousand dollars (\$250,000)."

15 **SECTION 5.** G.S. 90-94 reads as rewritten:

16 **"§ 90-94. Schedule VI controlled substances.**

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

24 The following controlled substances are included in this schedule:

- 25 (1) Marijuana.
- 26 (2) Tetrahydrocannabinols.
- 27 (3) Synthetic cannabinoids. – Any material, compound, mixture, or preparation
28 that is not listed as a controlled substance in Schedule I through V, is not an
29 FDA-approved drug, and contains any quantity of the following substances,
30 their salts, isomers (whether optical, positional, or geometric), homologues,
31 and salts of isomers and homologues, unless specifically excepted, whenever
32 the existence of these salts, isomers, homologues, and salts of isomers and
33 homologues is possible within the specific chemical designation:
- 34 a. Naphthoylindoles. Any compound containing a
35 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom
36 of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
37 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or
38 2-(4-morpholinyl)ethyl group, whether or not further substituted in
39 the indole ring to any extent and whether or not substituted in the
40 naphthyl ring to any extent. Some trade or other names: JWH-015,
41 JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200,
42 JWH-210, JWH-398, AM-2201, WIN 55-212.
- 43 b. Naphthylmethylindoles. Any compound containing a
44 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the
45 nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl,
46 cycloalkylmethyl, cycloalkylethyl,
47 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group,
48 whether or not further substituted in the indole ring to any extent and
49 whether or not substituted in the naphthyl ring to any extent.
- 50 c. Naphthoylpyrroles. Any compound containing a
51 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen

1 atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl,
2 cycloalkylmethyl, cycloalkylethyl,
3 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group,
4 whether or not further substituted in the pyrrole ring to any extent
5 and whether or not substituted in the naphthyl ring to any extent.
6 Another name: JWH-307.

7 d. Naphthylmethylenes. Any compound containing a
8 naphthylideneindene structure with substitution at the 3-position of
9 the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
10 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or
11 2-(4-morpholinyl)ethyl group, whether or not further substituted in
12 the indene ring to any extent and whether or not substituted in the
13 naphthyl ring to any extent.

14 e. Phenylacetylindoles. Any compound containing a
15 3-phenylacetylindole structure with substitution at the nitrogen atom
16 of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
17 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or
18 2-(4-morpholinyl)ethyl group, whether or not further substituted in
19 the indole ring to any extent and whether or not substituted in the
20 phenyl ring to any extent. Some trade or other names: SR-18,
21 RCS-8, JWH-250, JWH-203.

22 f. Cyclohexylphenols. Any compound containing a
23 2-(3-hydroxycyclohexyl)phenol structure with substitution at the
24 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl,
25 cycloalkylmethyl, cycloalkylethyl,
26 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group,
27 whether or not substituted in the cyclohexyl ring to any extent. Some
28 trade or other names: CP 47,497 (and homologues),
29 cannabicyclohexanol.

30 g. Benzoylindoles. Any compound containing a 3-(benzoyl)indole
31 structure with substitution at the nitrogen atom of the indole ring by
32 an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
33 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group,
34 whether or not further substituted in the indole ring to any extent and
35 whether or not substituted in the phenyl ring to any extent. Some
36 trade or other names: AM-694, Pravadoline (WIN 48,098), RCS-4.

37 h. 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,
38 4-benzoxazin-6-yl]-1-naphthalenylmethanone. Some trade or other
39 names: WIN 55,212-2.

40 i. (6aR,10aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)
41 - 6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol 7370. Some trade or
42 other names: HU-210."

43 **SECTION 6.** G.S. 90-95(b) reads as rewritten:

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

- 46 ...
47 (2) A controlled substance classified in Schedule III, IV, V, or VI shall be
48 punished as a Class I felon, except that the sale of a controlled substance
49 classified in Schedule III, IV, V, or VI shall be punished as a Class H felon.
50 The transfer of less than 5 grams of marijuana or less than 2.5 grams of a

1 synthetic cannabinoid or any mixture containing such substance for no
2 remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1)."

3 **SECTION 7.** G.S. 90-95(d) reads as rewritten:

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

- 6 ...
7 (4) A controlled substance classified in Schedule VI shall be guilty of a Class 3
8 misdemeanor, but any sentence of imprisonment imposed must be suspended
9 and the judge may not require at the time of sentencing that the defendant
10 serve a period of imprisonment as a special condition of probation. If the
11 quantity of the controlled substance exceeds one-half of an ounce
12 (avoirdupois) of ~~marijuana~~ marijuana, 7 grams of a synthetic cannabinoid or
13 any mixture containing such substance, or one-twentieth of an ounce
14 (avoirdupois) of the extracted resin of marijuana, commonly known as
15 hashish, the violation shall be punishable as a Class 1 misdemeanor. If the
16 quantity of the controlled substance exceeds one and one-half ounces
17 (avoirdupois) of ~~marijuana~~ marijuana, 21 grams of a synthetic cannabinoid
18 or any mixture containing such substance, or three-twentieths of an ounce
19 (avoirdupois) of the extracted resin of marijuana, commonly known as
20 hashish, or if the controlled substance consists of any quantity of synthetic
21 tetrahydrocannabinols or tetrahydrocannabinols isolated from the resin of
22 marijuana, the violation shall be punishable as a Class I felony."

23 **SECTION 8.** G.S. 90-95(h) is amended by adding a new subdivision to read:

24 "(1a) For the purpose of this subsection, a "dosage unit" shall consist of 3 grams of
25 synthetic cannabinoid or any mixture containing such substance. Any person
26 who sells, manufactures, delivers, transports, or possesses in excess of 50
27 dosage units of a synthetic cannabinoid or any mixture containing such
28 substance, shall be guilty of a felony, which felony shall be known as
29 "trafficking in synthetic cannabinoids," and if the quantity of such substance
30 involved:

- 31 a. Is in excess of 50 dosage units, but less than 250 dosage units, such
32 person shall be punished as a Class H felon and shall be sentenced to
33 a minimum term of 25 months and a maximum term of 30 months in
34 the State's prison and shall be fined not less than five thousand
35 dollars (\$5,000);
36 b. Is 250 dosage units or more, but less than 1250 dosage units, such
37 person shall be punished as a Class G felon and shall be sentenced to
38 a minimum term of 35 months and a maximum term of 42 months in
39 the State's prison and shall be fined not less than twenty-five
40 thousand dollars (\$25,000);
41 c. Is 1250 dosage units or more, but less than 3750 dosage units, such
42 person shall be punished as a Class F felon and shall be sentenced to
43 a minimum term of 70 months and a maximum term of 84 months in
44 the State's prison and shall be fined not less than fifty thousand
45 dollars (\$50,000);
46 d. Is 3750 dosage units or more, such person shall be punished as a
47 Class D felon and shall be sentenced to a minimum term of 175
48 months and a maximum term of 219 months in the State's prison and
49 shall be fined not less than two hundred thousand dollars
50 (\$200,000)."

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