

Members

Sen. Richard Bray, Chairperson
Sen. Randall Head
Sen. Lonnie Randolph
Sen. Timothy Lanane
Rep. Linda Lawson, Vice-Chairperson
Rep. Matt Pierce
Rep. Kathy Richardson
Rep. Eric Koch
Chief Justice Randall Shepard
Thomas Felts
David Whicker
Michael J. Kruk
Jill Jackson



COMMISSION ON COURTS

Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 233-0696 Fax: (317) 232-2554

LSA Staff:

Mark Goodpaster, Fiscal Analyst for the
Commission
Timothy Tyler, Attorney for the Commission

Authority: IC 33-23-10

MEETING MINUTES¹

Meeting Date: September 30, 2010
Meeting Time: 1:30 P.M.
Meeting Place: State House, 200 W. Washington St.,
Room 431
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Sen. Richard Bray, Chairperson; Sen. Randall Head; Sen. Lonnie Randolph; Sen. Timothy Lanane; Rep. Linda Lawson, Vice-Chairperson; Rep. Matt Pierce; Rep. Kathy Richardson; Rep. Eric Koch; Chief Justice Randall Shepard; Thomas Felts; David Whicker; Jill Jackson.

Members Absent: Michael J. Kruk.

Chairman Bray called the meeting to order at 1:35 p.m.

He announced that the next and final meeting of the Commission on Courts will be on Friday, October 15, at 1:30 p.m.

Warrick County Magistrate

The first item on the agenda was a request for a new magistrate for Warrick County.

Attorney at Law Warren Mathias described the need for a new magistrate in Warrick County and distributed statistics about Warrick County courts to the members of the Commission.
(See Exhibit A)

¹ These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at <http://www.in.gov/legislative>. Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies.

Judge David Kelley, Warrick Circuit Court, described in further detail the need for an additional magistrate for Warrick County.

During questions and answers with the Commission members, Judge Kelley made the following points:

- There is a court room available for the added magistrate
- While the judges would have to decide what the case mixture would be, a new magistrate would be assigned a combination of juvenile, misdemeanor, and small claims cases
- There are no part-time officers working for the court
- While all three courts are general jurisdiction courts, the circuit court hears all delinquency cases, but in a tradeoff does not hear small claims cases

Senator Bray noted that Warrick County ranks low in its weighted caseload average compared to other counties that are requesting new judicial officers.

Renters Safety

Senator Joe Zakas described the genesis of Senate Resolution 71– 2010 that was cosponsored by Senator Greg Taylor. SR 71 urged the Legislative Council to assign to an interim study committee to study issues pertaining to the safety of renters who are victims of burglaries, residential entries, or criminal trespass.

Senator Zakas introduced Deborah Kissa to describe the experience of her daughter, Sheena. Sheena was murdered in her own apartment when she was in the process of moving out after her apartment was burglarized. Ms. Kissa said that when Sheena told the apartment management about the burglary, she learned that other burglaries had occurred in her apartment complex, as well. When Sheena tried to terminate her lease, the apartment management told her that she would have to pay an additional three months rent or her credit rating would be reduced. She was stabbed to death a month after the initial burglary took place during the move-out process. Representative Pierce distributed a version of the bill that was considered as part of HB 1240 - 2010 (Exhibit B).

The legislation that was proposed during the 2010 General Assembly would permit a tenant to terminate a lease agreement if the tenant is a victim of certain crimes committed in the tenant's dwelling, including burglary, residential entry, and criminal trespass.

Exhibit C contains three versions of HB 1073-2010, which would permit a tenant who was a victim of certain crimes to be able to terminate a rental contract without credit penalties.

- The introduced version would permit a tenant to terminate a lease agreement if the tenant is a victim of certain crimes of burglary, residential entry, and criminal trespass if the crimes were committed in the tenant's dwelling and the tenant provided a copy of a police report filed in connection with the alleged offense committed against the tenant.
- The second version of HB 1073, printed on January 21, 2010, specifies that the police report must be official.

- The version printed on January 26, 2010, required an emergency court hearing for the lease to be terminated.

Lynne Sullivan, Executive Director of the Indiana Apartment Association, told the members of the Commission that the Apartment Association wants to work with the family about acceptable legislation.

Authorization of Judicial Officers to Carry Firearms

Judge Bruce Markel and Judge Gary Smith of Jennings Superior Court #1 requested the Commission members to consider changing the laws that restrict judges from carrying firearms in certain public places. He told the Commission members that while IC 35-47-2-2 exempts judicial officers from being required to obtain a permit to carry a handgun, several statutes and county ordinances ban judges from carrying guns on school property and county courthouses. He submitted a package of written material shown in Exhibit D. He told the Commission members that this is a matter of self-protection and indicated that current law does not give judges parity with law enforcement officers.

Regulation of Synthetic Marijuana ("Spice")

James Mowry, Director of the Indiana Poison Center, described the issue of synthetic marijuana to Commission members and provided a fact sheet from the poison center about the topic. (Exhibit E)

He told the members that there are a wide variety of retail names used when selling the substance. He indicated that the compounds in synthetic marijuana are much more powerful than THC, or tetrahydrocannabinol, and can increase a person's heart rate by 50 beats per minute. He said that poison centers across the nation have had over 1,400 cases of people with severe effects from synthetic marijuana. In Indiana there have been 117 people who have been treated in poison centers, the second most in all states.

Major Ed Littlejohn of the Indiana State Police introduced two individuals from the State Police laboratory division to testify about synthetic marijuana, Fred Huttzell, Forensic Scientist Supervisor, and Donna Roskowski, Forensic Scientist.

Mr. Huttzell, who's prepared remarks are included in Exhibit F, passed out a handout to the Commission members that listed the synthetic cannabinoids identified in forensic laboratories in the United States and Europe (Exhibit G). He also made available a handout that showed a list of ingredients that are controlled substances at the federal level but not in Indiana (Exhibit H).

During a discussion between Commission members, Mr. Huttzell and Dr. Mowry made the following points:

- To identify the drugs as a controlled substance for purposes of legislation, the drugs would be identified by their chemical names rather than by their retail names.
- It is improbable that all new synthetic compounds could be made illegal because new ones keep appearing. The new batches of compounds are being manufactured in overseas laboratories.
- The health effects of synthetic marijuana are much stronger than actual marijuana. Toxic effects can include rapid increases in heart rates, seizures, and even death.

- Persons who are pulled over for erratic driving would not test positive for an illegal drug and could not be charged with an OWI.
- Some of these compounds were originally designed to help deal with glaucoma and as an appetite depressant in cases of chemotherapy, without the hallucinogenic effect.

Steve Johnson, Executive Director, Indiana Prosecuting Attorneys Council, provided a packet of information on synthetic marijuana. (See Exhibit I)

During the Commission members' discussion with Mr. Johnson about the problem of identifying new compounds that should be considered controlled substances, the question arose whether the Board of Pharmacy could identify these new compounds and specify them as controlled substances. The Commission members noted the constitutional restriction of any body other than the General Assembly from creating new crimes.

Andrew Cullen, Legislative Liaison, Public Defender Council, told the Commission members that while the Council opposes criminalizing synthetic marijuana because these substances have not yet posed a public safety risk, the Council would not be opposed to making their distribution an infraction to help protect public health. He also noted that these types of product may be legal in states bordering Indiana. Consequently, persons may be unfairly arrested in Indiana and prosecuted for unknowingly purchasing and possessing a product that they did not know was illegal in Indiana.

Reagan Ford, Kendallville City Council member and director of Drug Free Noble County, told the Commission of efforts in Noble County to deal with synthetic marijuana.

Donna Roskowski, Forensic Scientist, Indiana State Police, told the Commission members that she attended a conference in Dallas, TX, that dealt with synthetic marijuana. She also indicated that these new compounds are not made in garages but in sophisticated laboratories. She indicated that once the compound has been developed, the manufacturers either spray or soak the mixture in plant material. She indicated that there is no quality control and any short- or long-term effects are not known.

After Ms. Roskowski's testimony, Sen Bray announced that the final meeting is scheduled for October 15th at 1:30 p.m.

The meeting was adjourned at 3:45 p.m.

**WARRICK COUNTY
(Request for Magistrate)**

CURRENT COURTS:

Warrick Circuit Court, David O. Kelley

Warrick Superior Court #1, Keith A. Meier (Created in 1976)

Warrick Superior Court #2, Robert R. Aylsworth (Created in 1993)

POPULATION:

1994: 48,209

2009: 58,521

TOTAL COURT FILINGS FOR ALL THREE COURTS:

1994: 4,045

2009: 6,328

The Warrick Courts also support the following programs:

Warrick County Drunk Driving and Drug Court (Six full time employees)

Court Appointed Special Advocate Program (Part time Director and Assistant)

Two Full Time Court employed Guardian ad Litem

Warrick County Community Corrections (Six full time employees)

	<u>Felonies</u>	<u>CM</u>	<u>MC/PC</u>	<u>CC/CP/CT</u>	<u>MF</u>	<u>SC</u>	<u>DR</u>	<u>RS</u>	<u>MH</u>	<u>AD</u>	<u>Estates</u>	<u>GU</u>	<u>TR</u>	<u>PO</u>	<u>MI</u>	<u>CB</u>	<u>JU</u>	<u>Totals</u>
1994 ¹ Population: 48,209																		
Circuit	52	0	1	108	0	0	174	46	37	14	102	55	1	146	23	0	86	845
Superior #1	131	675	18	128	0	529	59	0	0	3	19	7	0	1	3	0	49	1622
Superior #2	130	677	15	58	0	529	86	0	0	2	25	6	1	8	2	0	39	1578
																		4045
2009 ² Population: 58,521																		
Circuit	113	347	54	429	68	0	91	7	34	8	94	30	1	95	15	255	470	2111
Superior #1	146	345	32	210	100	814	127	3	0	5	15	17	3	115	7	2	53	1994
Superior #2	111	311	23	259	113	1122	93	0	0	5	21	7	2	103	8	3	42	2223
																		6328

¹http://www.hoosierdata.in.gov/highlights/profile.asp?geo_val=S18;C173&page_id=2

²http://www.stats.indiana.edu/profiles/profiles.asp?scope_choice=a&county_changer=18173&button1=Get+Profile&id=2&page_path=Area+Profiles&path_id=11&panel_number=1

1 section if:

2 (1) the loan is secured by a dwelling that is not the debtor's

3 primary residence;

4 (2) the loan has been the subject of a prior foreclosure prevention

5 agreement under this chapter and the debtor has defaulted with

6 respect to the terms of that foreclosure prevention agreement; or

7 (3) bankruptcy law prohibits the creditor from participating in a

8 settlement conference under this chapter with respect to the loan.

9 **(f) A creditor that shows evidence that a copy of the complaint**

10 **was sent as required by subsection (d)(2) is considered to have met**

11 **the requirement of subsection (d)(2), regardless of whether the**

12 **insurance company acknowledges having received the copy of the**

13 **complaint."**

14 SECTION 74. IC 32-31-9-3, AS ADDED BY P.L.22-2007,

15 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

16 JULY 1, 2010]: Sec. 3. As used in this chapter, "applicable offense"

17 refers to any of the following:

18 (1) A crime involving domestic or family violence (as defined in

19 IC 35-41-1-6.5).

20 (2) ~~A sex~~ **An offense against the person under IC 35-42-4.**

21 **IC 35-42.**

22 (3) Stalking under IC 35-45-10.

23 (4) **Any of the following offenses if the offense is committed at**

24 **the dwelling of the victim:**

25 (A) **Burglary under IC 35-43-2-1.**

26 (B) **Residential entry under IC 35-43-2-1.5.**

27 (C) **Criminal trespass under IC 35-43-2-2(a)(1),**

28 **IC 35-43-2-2(a)(2), IC 35-43-2-2(a)(4), or**

29 **IC 35-43-2-2(a)(5).**

30 SECTION 75. IC 32-31-9-7, AS ADDED BY P.L.22-2007,

31 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

32 JULY 1, 2010]: Sec. 7. As used in this chapter, "protected individual"

33 means a tenant or applicant:

34 (1) who is:

35 (A) a victim; or

36 (B) an alleged victim;

37 of an applicable offense; and

38 (2) who has received ~~either one~~ **(1)** of the following:

39 (A) A civil order for protection issued or recognized by a court

40 under IC 34-26-5 that restrains a perpetrator from contact with

41 the individual.

42 (B) A criminal no contact order that restrains a perpetrator

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1 from contact with the individual.

2 **(C) In the case of an applicable offense listed in section**

3 **3(2), 3(3), or 3(4) of this chapter, a copy of a police report**

4 **that was filed with the law enforcement agency with**

5 **respect to the applicable offense.**

6 SECTION 76. IC 32-31-9-12, AS ADDED BY P.L.22-2007,

7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

8 JULY 1, 2010]: Sec. 12. (a) A protected individual who is a tenant may

9 terminate the protected individual's rights and obligations under a

10 rental agreement by providing the landlord with a written notice of

11 termination in compliance with this section.

12 (b) A protected individual must give written notice of termination

13 under this section to the landlord at least thirty (30) days before the

14 termination date stated in the notice.

15 (c) The written notice required by this section must include:

16 (1) a copy of:

17 (A) a civil order for protection issued or recognized by a court

18 under IC 34-26-5 that restrains a perpetrator from contact with

19 the protected individual; or

20 (B) a criminal no contact order that restrains a perpetrator

21 from contact with the protected individual; or

22 **(C) in the case of an applicable offense listed in section**

23 **3(2), 3(3), or 3(4) of this chapter, a police report that was**

24 **filed with the law enforcement agency with respect to the**

25 **applicable offense; and**

26 (2) if the protected individual is a victim of domestic violence or

27 sexual assault, a copy of a safety plan, which must satisfy the

28 following:

29 (A) The plan must be dated not more than thirty (30) days

30 before the date on which the protected individual provides the

31 written notice to the landlord under this section.

32 (B) The plan must be provided by an accredited domestic

33 violence or sexual assault program.

34 (C) The plan must recommend relocation of the protected

35 individual.

36 (d) If a protected individual's rights and obligations under a rental

37 agreement are terminated under this section, the protected individual

38 is liable for the rent and other expenses due under the rental agreement:

39 (1) prorated to the effective date of the termination; and

40 (2) payable at the time when payment of rent would have been

41 required under the rental agreement.

42 A protected individual whose rights and obligations under a rental

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1 agreement are terminated under this section is not liable for any other
 2 rent or fees that would be due only because of the early termination of
 3 the protected individual's rights and obligations under the rental
 4 agreement. If a protected individual terminates the rental agreement at
 5 least fourteen (14) days before the protected individual would first have
 6 the right to occupy the dwelling unit under the lease, the individual is
 7 not subject to any damages or penalties.

8 (e) Notwithstanding section 13 of this chapter, a protected
 9 individual is entitled to deposits, returns, and other refunds as if the
 10 tenancy terminated by expiring under the terms of the rental agreement.

11 SECTION 77. IC 34-30-2-111 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 111. IC 27-2-15-9
 13 (Concerning the state fire marshal, a deputy fire marshal, an
 14 enforcement authority, or an officer of a city municipality for
 15 compliance with the statute concerning the set aside of insurance
 16 proceeds in arson cases).

17 SECTION 78. THE FOLLOWING ARE REPEALED [EFFECTIVE
 18 JULY 1, 2010] IC 27-1-3.5-3; IC 27-1-3.5-3.5; IC 27-2-15-2.

19 SECTION 79. [EFFECTIVE JULY 1, 2010] (a) IC 27-8-15, as
 20 amended by this act, applies to a health insurance plan (as defined
 21 in IC 27-8-15-9) that is issued, entered into, delivered, amended, or
 22 renewed after June 30, 2010.

23 (b) This SECTION expires July 1, 2015.

24 SECTION 80. [EFFECTIVE JULY 1, 2010] (a) IC 27-1-15.7-2, as
 25 amended by this act, applies only to an insurance producer license
 26 renewed after June 30, 2011.

27 (b) IC 27-1-15.7-5, as amended by this act, applies only to an
 28 insurance producer license issued after June 30, 2011.

29 (c) This SECTION expires July 1, 2016.

30 SECTION 81. [EFFECTIVE JULY 1, 2010] (a) IC 27-2-15, as
 31 amended by this act, applies to damage occurring by fire or
 32 explosion after June 30, 2010.

33 (b) This SECTION expires July 1, 2015.

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Introduced Version

HOUSE BILL No. 1073

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-31-9.

Synopsis: Termination of residential leases. Provides that a tenant leasing a dwelling may terminate a lease agreement if the tenant is the victim of certain crimes, including burglary, residential entry, and criminal trespass committed at the dwelling. Requires the tenant to provide, in the tenant's notice of termination to the landlord, a certified copy of a police report filed in connection with the alleged offense committed against the tenant.

Effective: July 1, 2010.

Fry

January 5, 2010, read first time and referred to Committee on Public Policy.

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Introduced

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

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HOUSE BILL No. 1073

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 32-31-9-3, AS ADDED BY P.L.22-2007,
- 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2010]: Sec. 3. As used in this chapter, "applicable offense"
- 4 refers to any of the following:
- 5 (1) A crime involving domestic or family violence (as defined in
- 6 IC 35-41-1-6.5).
- 7 (2) ~~A sex~~ An offense against the person under ~~IC 35-42-4.~~
- 8 IC 35-42.
- 9 (3) Stalking under IC 35-45-10.
- 10 (4) Any of the following offenses if the offense is committed at
- 11 the dwelling of the victim:
- 12 (A) Burglary under IC 35-43-2-1.
- 13 (B) Residential entry under IC 35-43-2-1.5.
- 14 (C) Criminal trespass under IC 35-43-2-2(a)(1),
- 15 IC 35-43-2-2(a)(2), IC 35-43-2-2(a)(4), or
- 16 IC 35-43-2-2(a)(5).
- 17 SECTION 2. IC 32-31-9-7, AS ADDED BY P.L.22-2007,



1 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2010]: Sec. 7. As used in this chapter, "protected individual"
3 means a tenant or applicant:

- 4 (1) who is:
 - 5 (A) a victim; or
 - 6 (B) an alleged victim;
 - 7 of an applicable offense; and
- 8 (2) who has received either one (1) of the following:
 - 9 (A) A civil order for protection issued or recognized by a court
 - 10 under IC 34-26-5 that restrains a perpetrator from contact with
 - 11 the individual.
 - 12 (B) A criminal no contact order that restrains a perpetrator
 - 13 from contact with the individual.
 - 14 (C) **In the case of an applicable offense listed in section**
 - 15 **3(2), 3(3), or 3(4) of this chapter, a certified copy of a**
 - 16 **police report that was filed with the law enforcement**
 - 17 **agency with respect to the applicable offense.**

18 SECTION 3. IC 32-31-9-12, AS ADDED BY P.L.22-2007,
19 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2010]: Sec. 12. (a) A protected individual who is a tenant may
21 terminate the protected individual's rights and obligations under a
22 rental agreement by providing the landlord with a written notice of
23 termination in compliance with this section.

24 (b) A protected individual must give written notice of termination
25 under this section to the landlord at least thirty (30) days before the
26 termination date stated in the notice.

- 27 (c) The written notice required by this section must include:
 - 28 (1) a copy of:
 - 29 (A) a civil order for protection issued or recognized by a court
 - 30 under IC 34-26-5 that restrains a perpetrator from contact with
 - 31 the protected individual; or
 - 32 (B) a criminal no contact order that restrains a perpetrator
 - 33 from contact with the protected individual; or
 - 34 (C) **in the case of an applicable offense listed in section**
 - 35 **3(2), 3(3), or 3(4) of this chapter, a certified copy of a**
 - 36 **police report that was filed with the law enforcement**
 - 37 **agency with respect to the applicable offense; and**
 - 38 (2) if the protected individual is a victim of domestic violence or
 - 39 sexual assault, a copy of a safety plan, which must satisfy the
 - 40 following:
 - 41 (A) The plan must be dated not more than thirty (30) days
 - 42 before the date on which the protected individual provides the

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1 written notice to the landlord under this section.
 2 (B) The plan must be provided by an accredited domestic
 3 violence or sexual assault program.
 4 (C) The plan must recommend relocation of the protected
 5 individual.
 6 (d) If a protected individual's rights and obligations under a rental
 7 agreement are terminated under this section, the protected individual
 8 is liable for the rent and other expenses due under the rental agreement:
 9 (1) prorated to the effective date of the termination; and
 10 (2) payable at the time when payment of rent would have been
 11 required under the rental agreement.
 12 A protected individual whose rights and obligations under a rental
 13 agreement are terminated under this section is not liable for any other
 14 rent or fees that would be due only because of the early termination of
 15 the protected individual's rights and obligations under the rental
 16 agreement. If a protected individual terminates the rental agreement at
 17 least fourteen (14) days before the protected individual would first have
 18 the right to occupy the dwelling unit under the lease, the individual is
 19 not subject to any damages or penalties.
 20 (e) Notwithstanding section 13 of this chapter, a protected
 21 individual is entitled to deposits, returns, and other refunds as if the
 22 tenancy terminated by expiring under the terms of the rental agreement.

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January 21, 2010

HOUSE BILL No. 1073

DIGEST OF HB 1073 (Updated January 20, 2010 10:47 am - DI 14)

Citations Affected: IC 32-31.

Synopsis: Termination of residential leases. Provides that a tenant leasing a dwelling may terminate a lease agreement if the tenant is the victim of certain crimes. Requires the tenant to provide, in the tenant's notice of termination to the landlord, an official copy of a police report filed in connection with the alleged offense committed against the tenant.

Effective: July 1, 2010.

Fry, Van Haaften, Walorski, Neese

January 5, 2010, read first time and referred to Committee on Public Policy.
January 20, 2010, amended, reported — Do Pass.

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HB 1073—LS 6205/DI 75+



January 21, 2010

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in **this style type**.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

HOUSE BILL No. 1073

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 32-31-9-3, AS ADDED BY P.L.22-2007,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2010]: Sec. 3. As used in this chapter, "applicable offense"
4 refers to any of the following:

- 5 (1) A crime involving domestic or family violence (as defined in
6 IC 35-41-1-6.5).
7 (2) A sex offense under IC 35-42-4.
8 (3) Stalking under IC 35-45-10.
9 (4) Any of the following offenses if the offense is committed at
10 the dwelling of the victim:
11 (A) Burglary under IC 35-43-2-1.
12 (B) Residential entry under IC 35-43-2-1.5.
13 (C) Criminal trespass under IC 35-43-2-2(a)(1),
14 IC 35-43-2-2(a)(4), or IC 35-43-2-2(a)(5).

15 SECTION 2. IC 32-31-9-7, AS ADDED BY P.L.22-2007,
16 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2010]: Sec. 7. As used in this chapter, "protected individual"

HB 1073—LS 6205/DI 75+



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- 1 means a tenant or applicant:
- 2 (1) who is:
- 3 (A) a victim; or
- 4 (B) an alleged victim;
- 5 of an applicable offense; and
- 6 (2) who has received either one (1) of the following:
- 7 (A) A civil order for protection issued or recognized by a court
- 8 under IC 34-26-5 that restrains a perpetrator from contact with
- 9 the individual.
- 10 (B) A criminal no contact order that restrains a perpetrator
- 11 from contact with the individual.
- 12 **(C) In the case of an applicable offense listed in section**
- 13 **3(2), 3(3), or 3(4) of this chapter, a copy of an official police**
- 14 **report that was filed with the law enforcement agency with**
- 15 **respect to the applicable offense.**
- 16 SECTION 3. IC 32-31-9-12, AS ADDED BY P.L.22-2007,
- 17 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 18 JULY 1, 2010]: Sec. 12. (a) A protected individual who is a tenant may
- 19 terminate the protected individual's rights and obligations under a
- 20 rental agreement by providing the landlord with a written notice of
- 21 termination in compliance with this section.
- 22 (b) A protected individual must give written notice of termination
- 23 under this section to the landlord at least thirty (30) days before the
- 24 termination date stated in the notice.
- 25 (c) The written notice required by this section must include:
- 26 (1) a copy of:
- 27 (A) a civil order for protection issued or recognized by a court
- 28 under IC 34-26-5 that restrains a perpetrator from contact with
- 29 the protected individual; or
- 30 (B) a criminal no contact order that restrains a perpetrator
- 31 from contact with the protected individual; or
- 32 **(C) in the case of an applicable offense listed in section**
- 33 **3(2), 3(3), or 3(4) of this chapter, a copy of an official police**
- 34 **report that was filed with the law enforcement agency with**
- 35 **respect to the applicable offense; and**
- 36 (2) if the protected individual is a victim of domestic violence or
- 37 sexual assault, a copy of a safety plan, which must satisfy the
- 38 following:
- 39 (A) The plan must be dated not more than thirty (30) days
- 40 before the date on which the protected individual provides the
- 41 written notice to the landlord under this section.
- 42 (B) The plan must be provided by an accredited domestic

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1 violence or sexual assault program.
 2 (C) The plan must recommend relocation of the protected
 3 individual.
 4 (d) If a protected individual's rights and obligations under a rental
 5 agreement are terminated under this section, the protected individual
 6 is liable for the rent and other expenses due under the rental agreement:
 7 (1) prorated to the effective date of the termination; and
 8 (2) payable at the time when payment of rent would have been
 9 required under the rental agreement.
 10 A protected individual whose rights and obligations under a rental
 11 agreement are terminated under this section is not liable for any other
 12 rent or fees that would be due only because of the early termination of
 13 the protected individual's rights and obligations under the rental
 14 agreement. If a protected individual terminates the rental agreement at
 15 least fourteen (14) days before the protected individual would first have
 16 the right to occupy the dwelling unit under the lease, the individual is
 17 not subject to any damages or penalties.
 18 (e) Notwithstanding section 13 of this chapter, a protected
 19 individual is entitled to deposits, returns, and other refunds as if the
 20 tenancy terminated by expiring under the terms of the rental agreement.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred House Bill 1073, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 7, reset in roman "A sex".

Page 1, line 7, delete "An".

Page 1, line 7, delete "against the person".

Page 1, line 7, reset in roman "IC 35-42-4.".

Page 1, delete line 8.

Page 1, line 15, delete "IC 35-43-2-2(a)(2),".

Page 2, line 15, delete "certified".

Page 2, line 15, delete "of a" and insert "**of an official**".

Page 2, line 35, delete "certified".

Page 2, line 35, delete "of a" and insert "**of an official**".

and when so amended that said bill do pass.

(Reference is to HB 1073 as introduced.)

VAN HAAFTEN, Chair

Committee Vote: yeas 12, nays 0.

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Reprinted
January 26, 2010

HOUSE BILL No. 1073

DIGEST OF HB 1073 (Updated January 25, 2010 7:51 pm - DI 75)

Citations Affected: IC 32-31.

Synopsis: Termination of residential leases. Provides that a tenant leasing a dwelling may terminate a lease agreement if the tenant is the victim of certain crimes committed in the tenant's unit. Provides that the lease may be terminated through procedures established under the statute providing for court issuance of emergency possessory orders for residential rental units. Establishes the criteria for the court to consider for termination of the tenant's lease agreement.

Effective: July 1, 2010.

Fry, Van Haaften, Walorski, Neese

January 5, 2010, read first time and referred to Committee on Public Policy.
January 20, 2010, amended, reported — Do Pass.
January 25, 2010, read second time, amended, ordered engrossed.

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HB 1073—LS 6205/DI 75+



Reprinted
January 26, 2010

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

HOUSE BILL No. 1073

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 32-31-6-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. The following may
3 file a petition for an emergency possessory order under this chapter:
4 (1) A tenant, if **either of the following apply**:
5 (A) The landlord has violated IC 32-31-5-6.
6 (B) **Any of the following offenses have been committed in**
7 **the dwelling unit of the tenant**:
8 (i) **Burglary under IC 35-43-2-1.**
9 (ii) **Residential entry under IC 35-43-2-1.5.**
10 (iii) **Criminal trespass under IC 35-43-2-2(a)(1),**
11 **IC 35-43-2-2(a)(4), or IC 35-43-2-2(a)(5).**
12 (2) A landlord, if the tenant has committed or threatens to commit
13 waste to the rental unit.
14 SECTION 2. IC 32-31-6-4 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) **This section**
16 **applies if**:
17 (1) **a tenant seeks relief under section 3(1)(A) of this chapter;**

HB 1073—LS 6205/DI 75+



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or

(2) the landlord seeks relief under section 3(2) of this chapter.

(b) A petition for an order under this chapter must satisfy the following:

(1) Include an allegation specifying the following:

(A) The violation, act, or omission caused or threatened by:

(i) a landlord; or

(ii) a tenant; and

(B) The nature of the specific immediate and serious:

(i) injury;

(ii) loss; or

(iii) damage;

that the landlord or tenant has suffered or will suffer if the violation, act, or omission is not enjoined. and

(2) Be sworn to by the petitioner.

SECTION 3. IC 32-31-6-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4.5. (a) This section applies if a tenant seeks relief under section 3(1)(B) of this chapter.

(b) A petition for an order under this chapter must satisfy the following:

(1) Include an allegation specifying the following:

(A) The specific offense described in section 3(1)(B) of this chapter that was committed in the dwelling unit.

(B) The nature of the specific immediate and serious:

(i) injury;

(ii) loss; or

(iii) damage;

that the tenant has suffered or will suffer if the rental agreement is not terminated.

(2) Be sworn to by the petitioner.

SECTION 4. IC 32-31-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) At the emergency hearing, if the court finds probable cause to believe either of the following, the court shall issue an emergency order under subsection (b) or (c):

(1) probable cause to believe that The landlord has violated or threatened to violate IC 32-31-5-6, and (2) that the tenant will suffer immediate and serious injury, loss, or damage.

(2) Both of the following:

(A) The tenant:

(i) is a victim of an offense described in section 3(1)(B) of

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1 this chapter that was committed in the dwelling unit; and
2 (ii) will suffer, or has suffered, immediate and serious
3 bodily injury or harm.

4 (B) Termination of the rental agreement will prevent
5 future serious bodily injury or harm to the tenant.

6 the court shall issue an emergency order under subsection (b):

7 (b) If the court makes a finding under subsection (a); (a)(1), the
8 court shall order the landlord to do either or both of the following:

9 (1) Return possession of the dwelling unit to the tenant if the
10 tenant has been deprived of possession of the dwelling unit.

11 (2) Refrain from violating IC 32-31-5-6.

12 (c) If the court makes a finding under subsection (a)(2), the
13 court shall do the following:

14 (1) Order the tenant to return possession of the dwelling unit
15 to the landlord.

16 (2) Terminate the rental agreement.

17 (d) If the court acts under subsection (c), the following apply:

18 (1) The termination of the rental agreement is effective thirty
19 (30) days after the date on which the order under subsection
20 (c) is issued.

21 (2) The tenant is liable under the rental agreement for all rent
22 and all other amounts that are due and that become due to the
23 landlord until the termination date.

24 (3) The tenant may return possession of the dwelling unit to
25 the landlord on any date not later than the termination date.

26 (4) The tenant is not liable to the landlord for early
27 termination fees or liquidated damages that might otherwise
28 be due to the landlord under the rental agreement for early
29 termination.

30 (c)(e) The court may make other orders that the court considers just
31 under the circumstances, including setting a subsequent hearing at the
32 request of a party to adjudicate related claims between the parties.

33 SECTION 5. IC 32-31-6-9 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. If the court sets a
35 subsequent hearing under section 6(c) 6(e) or 7(d) of this chapter, the
36 court may do the following at the subsequent hearing:

37 (1) Determine damages.

38 (2) Order return of a tenant's withheld property.

39 (3) Make other orders the court considers just under the
40 circumstances.

41 SECTION 6. IC 32-31-6-10 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. The adjudication of

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1 an emergency possessory claim under section 6(b), 6(c), or 7(c) of this
2 chapter does not bar a subsequent claim a party may have against the
3 other party arising out of the landlord and tenant relationship unless
4 that claim has been adjudicated under section 9 of this chapter.

5 SECTION 7. IC 32-31-9-3, AS ADDED BY P.L.22-2007,
6 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2010]: Sec. 3. As used in this chapter, "applicable offense"
8 refers to any of the following:

- 9 (1) A crime involving domestic or family violence (as defined in
10 IC 35-41-1-6.5).
- 11 (2) A sex offense under IC 35-42-4.
- 12 (3) Stalking under IC 35-45-10.
- 13 (4) Any of the following offenses if the offense is committed at
14 the dwelling of the victim:
 - 15 (A) Burglary under IC 35-43-2-1.
 - 16 (B) Residential entry under IC 35-43-2-1.5.
 - 17 (C) Criminal trespass under IC 35-43-2-2(a)(1),
18 IC 35-43-2-2(a)(4), or IC 35-43-2-2(a)(5).

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred House Bill 1073, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

- Page 1, line 7, reset in roman "A sex".
- Page 1, line 7, delete "An".
- Page 1, line 7, delete "against the person".
- Page 1, line 7, reset in roman "IC 35-42-4".
- Page 1, delete line 8.
- Page 1, line 15, delete "IC 35-43-2-2(a)(2)".
- Page 2, line 15, delete "certified".
- Page 2, line 15, delete "of a" and insert "of an official".
- Page 2, line 35, delete "certified".
- Page 2, line 35, delete "of a" and insert "of an official".

and when so amended that said bill do pass.

(Reference is to HB 1073 as introduced.)

VAN HAAFTEN, Chair

Committee Vote: yeas 12, nays 0.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1073 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 32-31-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. The following may file a petition for an emergency possessory order under this chapter:

- (1) A tenant, if **either of the following apply**:
 - (A) The landlord has violated IC 32-31-5-6.
 - (B) **Any of the following offenses have been committed in the dwelling unit of the tenant**:
 - (i) Burglary under IC 35-43-2-1.
 - (ii) Residential entry under IC 35-43-2-1.5.
 - (iii) Criminal trespass under IC 35-43-2-2(a)(1), IC 35-43-2-2(a)(4), or IC 35-43-2-2(a)(5).
- (2) A landlord, if the tenant has committed or threatens to commit

HB 1073—LS 6205/DI 75+



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waste to the rental unit.

SECTION 2. IC 32-31-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) This section applies if:

- (1) a tenant seeks relief under section 3(1)(A) of this chapter; or
- (2) the landlord seeks relief under section 3(2) of this chapter.

(b) A petition for an order under this chapter must satisfy the following:

- (1) Include an allegation specifying the following:
 - (A) The violation, act, or omission caused or threatened by:
 - (i) a landlord; or
 - (ii) a tenant; and
 - (B) The nature of the specific immediate and serious:
 - (i) injury;
 - (ii) loss; or
 - (iii) damage;

that the landlord or tenant has suffered or will suffer if the violation, act, or omission is not enjoined. and
- (2) Be sworn to by the petitioner.

SECTION 3. IC 32-31-6-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4.5. (a) This section applies if a tenant seeks relief under section 3(1)(B) of this chapter.

(b) A petition for an order under this chapter must satisfy the following:

- (1) Include an allegation specifying the following:
 - (A) The specific offense described in section 3(1)(B) of this chapter that was committed in the dwelling unit.
 - (B) The nature of the specific immediate and serious:
 - (i) injury;
 - (ii) loss; or
 - (iii) damage;

that the tenant has suffered or will suffer if the rental agreement is not terminated.
- (2) Be sworn to by the petitioner.

SECTION 4. IC 32-31-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) At the emergency hearing, if the court finds probable cause to believe either of the following, the court shall issue an emergency order under subsection (b) or (c):

- (1) probable cause to believe that The landlord has violated or

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threatened to violate IC 32-31-5-6, and ~~(2)~~ that the tenant will suffer immediate and serious injury, loss, or damage.

(2) Both of the following:

(A) The tenant:

- (i) is a victim of an offense described in section 3(1)(B) of this chapter that was committed in the dwelling unit; and**
- (ii) will suffer, or has suffered, immediate and serious bodily injury or harm.**

(B) Termination of the rental agreement will prevent future serious bodily injury or harm to the tenant.

the court shall issue an emergency order under subsection (b):

(b) If the court makes a finding under subsection ~~(a)~~; **(a)(1)**, the court shall order the landlord to do either or both of the following:

- (1) Return possession of the dwelling unit to the tenant if the tenant has been deprived of possession of the dwelling unit.**
- (2) Refrain from violating IC 32-31-5-6.**

(c) If the court makes a finding under subsection (a)(2), the court shall do the following:

- (1) Order the tenant to return possession of the dwelling unit to the landlord.**
- (2) Terminate the rental agreement.**

(d) If the court acts under subsection (c), the following apply:

- (1) The termination of the rental agreement is effective thirty (30) days after the date on which the order under subsection (c) is issued.**
- (2) The tenant is liable under the rental agreement for all rent and all other amounts that are due and that become due to the landlord until the termination date.**
- (3) The tenant may return possession of the dwelling unit to the landlord on any date not later than the termination date.**
- (4) The tenant is not liable to the landlord for early termination fees or liquidated damages that might otherwise be due to the landlord under the rental agreement for early termination.**

~~(c)~~ **(e) The court may make other orders that the court considers just under the circumstances, including setting a subsequent hearing at the request of a party to adjudicate related claims between the parties.**

SECTION 5. IC 32-31-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. If the court sets a subsequent hearing under section ~~6(c)~~ **6(e)** or 7(d) of this chapter, the court may do the following at the subsequent hearing:

- (1) Determine damages.**

HB 1073—LS 6205/DI 75+



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- (2) Order return of a tenant's withheld property.
- (3) Make other orders the court considers just under the circumstances.

SECTION 6. IC 32-31-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. The adjudication of an emergency possessory claim under section 6(b), 6(c), or 7(c) of this chapter does not bar a subsequent claim a party may have against the other party arising out of the landlord and tenant relationship unless that claim has been adjudicated under section 9 of this chapter."

Page 1, delete lines 15 through 17.

Delete pages 2 through 3.

Renumber all SECTIONS consecutively.

(Reference is to HB 1073 as printed January 21, 2010.)

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West's Annotated Indiana Code Currentness
Title 35. Criminal Law and Procedure
 ▣ Article 33. Preliminary Proceedings
 ▣ Chapter 1. Arrest
 → **35-33-1-2 Judge**

Sec. 2. A judge may arrest, or order the arrest of a person in his presence, when he has probable cause to believe the person has committed a crime.

CREDIT(S)

As added by Acts 1981, P.L.298, SEC.2.

Current through 2010 Second Regular Session

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West's Annotated Indiana Code Currentness

Title 35. Criminal Law and Procedure

▣ Article 47. Weapons and Instruments of Violence

▣ Chapter 2. Regulation of Handguns

→ **35-47-2-2 Excepted persons**

Sec. 2. Section 1 of this chapter does not apply to:

- (1) marshals;
- (2) sheriffs;
- (3) the commissioner of the department of correction or persons authorized by him in writing to carry fire- arms;
- (4) judicial officers;
- (5) law enforcement officers;
- (6) members of the armed forces of the United States or of the national guard or organized reserves while they are on duty;
- (7) regularly enrolled members of any organization duly authorized to purchase or receive such weapons from the United States or from this state who are at or are going to or from their place of assembly or target prac- tice;
- (8) employees of the United States duly authorized to carry handguns;
- (9) employees of express companies when engaged in company business;
- (10) any person engaged in the business of manufacturing, repairing, or dealing in firearms or the agent or representative of any such person having in his possession, using, or carrying a handgun in the usual or ordin- ary course of that business; or

(11) any person while carrying a handgun unloaded and in a secure wrapper from the place of purchase to his dwelling or fixed place of business, or to a place of repair or back to his dwelling or fixed place of business, or in moving from one dwelling or business to another.

CREDIT(S)

As added by P.L.311-1983, SEC.32.

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West's Annotated Indiana Code Currentness

Title 35. Criminal Law and Procedure

▣ Article 47. Weapons and Instruments of Violence

▣ Chapter 9. Possession of Firearms on School Property and School Buses

→ **35-47-9-1 Exemptions from chapter**

Sec. 1. This chapter does not apply to the following:

(1) A:

(A) federal;

(B) state; or

(C) local;

law enforcement officer.

(2) A person who has been employed or authorized by:

(A) a school; or

(B) another person who owns or operates property being used by a school for a school function;

to act as a security guard, perform or participate in a school function, or participate in any other activity authorized by a school.

(3) A person who:

(A) may legally possess a firearm; and

(B) possesses the firearm in a motor vehicle that is being operated by the person to transport another person to or from a school or a school function.

CREDIT(S)

As added by P.L.140-1994, SEC.11.

Current through 2010 Second Regular Session

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West's Annotated Indiana Code Currentness

Title 35. Criminal Law and Procedure

[Ⓢ] Article 47. Weapons and Instruments of Violence [Ⓢ] Chapter 9. Possession of Firearms on School Property and School Buses → **35-47-9-2 Possession of firearms on school property, at school function, or on school bus; felony**

Sec. 2. A person who possesses a firearm:

(1) in or on school property;

(2) in or on property that is being used by a school for a school function; or

(3) on a school bus;

commits a Class D felony.

CREDIT(S)

As added by P.L.140-1994, SEC.11.

Current through 2010 Second Regular Session

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West's Annotated Indiana Code Currentness

Title 34. Civil Procedure (Refs & Annos)

▣ Article 28. Special Proceedings: Miscellaneous Civil Proceedings and Remedies

▣ Chapter 7. Possession of Firearms and Ammunition in Locked Vehicles

→ **34-28-7-2 Storage of firearms or ammunition in trunk or glove compartment of vehicle; enactment of ordinance, resolution, or policy prohibited**

Sec. 2. (a) Notwithstanding any other law and except as provided in subsection (b), a person may not adopt or enforce an ordinance, a resolution, a policy, or a rule that:

(1) prohibits; or

(2) has the effect of prohibiting;

an employee of the person, including a contract employee, from possessing a firearm or ammunition that is locked in the trunk of the employee's vehicle, kept in the glove compartment of the employee's locked vehicle, or stored out of plain sight in the employee's locked vehicle.

(b) Subsection (a) does not prohibit the adoption or enforcement of an ordinance, a resolution, a policy, or a rule that prohibits or has the effect of prohibiting an employee of the person, including a contract employee, from possessing a firearm or ammunition:

(1) in or on school property, in or on property that is being used by a school for a school function, or on a school bus in violation of IC 20-33-8-16 or IC 35-47-9-2;

(2) on the property of:

(A) a child caring institution;

(B) an emergency shelter care child caring institution;

(C) a private secure facility;

(D) a group home;

(E) an emergency shelter care group home; or

(F) a child care center;

in violation of 465 IAC 2-9-80, 465 IAC 2-10-79, 465 IAC 2-11-80, 465 IAC 2-12-78, 465 IAC 2-13-77, or 470 IAC 3-4.7-19;

(3) on the property of a penal facility (as defined in IC 35-41-1-21);

(4) in violation of federal law;

(5) in or on property belonging to an approved postsecondary educational institution (as defined in IC 21-7-13-6(b));

(6) on the property of a domestic violence shelter;

(7) at a person's residence;

(8) on the property of a person that is:

(A) subject to the United States Department of Homeland Security's Chemical Facility Anti-Terrorism Standards issued April 9, 2007; and

(B) licensed by the United States Nuclear Regulatory Commission under Title 10 of the Code of Federal Regulations;

(9) on property owned by:

(A) a public utility (as defined in IC 8-1-2-1) that generates and transmits electric power; or

(B) a department of public utilities created under IC 8-1-11.1; or

(10) in the employee's personal vehicle if the employee, including a contract employee, is a direct support professional who:

(A) works directly with individuals with developmental disabilities to assist the individuals to become integrated into the individuals' community or least restrictive environment; and

(B) uses the employee's personal vehicle while transporting an individual with developmental disabilities.

CREDIT(S)

As added by P.L.90-2010, SEC.7.

Current through 2010 Second Regular Session

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West's Annotated Indiana Code Currentness

Title 35. Criminal Law and Procedure

▣ Article 41. Substantive Criminal Provisions (Refs & Annos)

▣ Chapter 1. Jurisdiction and Definitions (Refs & Annos)

→ **35-41-1-17 "Law enforcement officer" and "Federal enforcement officer" defined**

Sec. 17. (a) "Law enforcement officer" means:

(1) a police officer (including a correctional police officer), sheriff, constable, marshal, prosecuting attorney, special prosecuting attorney, special deputy prosecuting attorney, the securities commissioner, or the inspector general;

(2) a deputy of any of those persons;

(3) an investigator for a prosecuting attorney or for the inspector general;

(4) a conservation officer;

(5) an enforcement officer of the alcohol and tobacco commission; or

(6) an enforcement officer of the securities division of the office of the secretary of state.

(b) "Federal enforcement officer" means any of the following:

(1) A Federal Bureau of Investigation special agent.

(2) A United States Marshals Service marshal or deputy.

(3) A United States Secret Service special agent.

(4) A United States Fish and Wildlife Service special agent.

(5) A United States Drug Enforcement Agency agent.

- (6) A Bureau of Alcohol, Tobacco, Firearms and Explosives agent.
- (7) A United States Forest Service law enforcement officer.
- (8) A United States Department of Defense police officer or criminal investigator.
- (9) A United States Customs Service agent.
- (10) A United States Postal Service investigator.
- (11) A National Park Service law enforcement commissioned ranger.
- (12) United States Department of Agriculture, Office of Inspector General special agent.
- (13) A United States Citizenship and Immigration Services special agent.
- (14) An individual who is:
 - (A) an employee of a federal agency; and
 - (B) authorized to make arrests and carry a firearm in the performance of the individual's official duties.

CREDIT(S)

As added by P.L.311-1983, SEC.18. Amended by P.L.319-1987, SEC.2; P.L.47-1987, SEC.13; P.L.101-1990, SEC.6; P.L.40-1991, SEC.2; P.L.67-1992, SEC.4; P.L.244-1993, SEC.1; P.L.106-2001, SEC.1; P.L.204-2001, SEC.64; P.L.1-2002, SEC.148; P.L.222-2005, SEC.46, eff. May 11, 2005; P.L.1-2006, SEC.530, eff. Mar. 24, 2006; P.L.1-2007, SEC.229, eff. Mar. 30, 2007; P.L.230-2007, SEC.25; P.L.77-2009, SEC.7.

Current through 2010 Second Regular Session

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Introduced

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

HOUSE BILL

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-47-9-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. This chapter does not
3 apply to the following:
4 (1) A:
5 (A) federal;
6 (B) state; or
7 (C) local;
8 law enforcement officer.
9 (2) A person who has been employed or authorized by:
10 (A) a school; or
11 (B) another person who owns or operates property being used
12 by a school for a school function;
13 to act as a security guard, perform or participate in a school
14 function, or participate in any other activity authorized by a
15 school.
16 (3) A person who:
17 (A) may legally possess a firearm; and



Introduced

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in this style type. Also, the word NEW will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in this style type or this style type reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

HOUSE BILL

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-47-9-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. This chapter does not
3 apply to the following:
4 (1) A:
5 (A) federal;
6 (B) state; or
7 (C) local;
8 law enforcement officer.
9 (2) A person who has been employed or authorized by:
10 (A) a school; or
11 (B) another person who owns or operates property being used
12 by a school for a school function;
13 to act as a security guard, perform or participate in a school
14 function, or participate in any other activity authorized by a
15 school.
16 (3) A person who:
17 (A) may legally possess a firearm; and



1 (B) possesses the firearm in a motor vehicle that is being
 2 operated by the person to transport another person to or from
 3 a school or a school function.

4 **(4) A judicial officer exempt under IC 35-47-2-2(4) from the**
 5 **requirement to obtain a license to carry a handgun.**

6 SECTION 2. IC 35-47-11-2 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. Notwithstanding
 8 IC 36-1-3, a unit may not regulate in any manner the ownership,
 9 possession, sale, transfer, or transportation of firearms (as defined in
 10 IC 35-47-1-5) or ammunition except as follows:

11 (1) **Subject to IC 35-47-16**, this chapter does not apply to land,
 12 buildings, or other real property owned or administered by a unit,
 13 except highways (as defined in IC 8-23-1-23) or public highways
 14 (as defined in IC 8-2.1-17-14).

15 (2) Notwithstanding the limitation in this section, a unit may use
 16 the unit's planning and zoning powers under IC 36-7-4 to prohibit
 17 the sale of firearms within two hundred (200) feet of a school by
 18 a person having a business that did not sell firearms within two
 19 hundred (200) feet of a school before April 1, 1994.

20 (3) Notwithstanding the limitation in this section, a legislative
 21 body of a unit other than a township may adopt an emergency
 22 ordinance or a unit other than a township may take other action
 23 allowed under section 6 of this chapter to regulate the sale of
 24 firearms anywhere within the unit for a period of not more than
 25 seventy-two (72) hours after the regulatory action takes effect.

26 SECTION 3. IC 35-47-16 IS ADDED TO THE INDIANA CODE
 27 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2010]:

29 **Chapter 16. Possession of Handguns by Judicial Officers**

30 **Sec. 1. As used in this chapter, "judicial officer" refers to a**
 31 **judicial officer exempt under IC 35-47-2-2(4) from the requirement**
 32 **to obtain a license to carry a handgun.**

33 **Sec. 2. As used in this chapter, "political subdivision" means a:**

- 34 (1) county;
 35 (2) township;
 36 (3) city;
 37 (4) town; or
 38 (5) municipal corporation (as defined in IC 36-1-2-10).

39 **Sec. 3. As used in this chapter, "state" means:**

- 40 (1) Indiana; or
 41 (2) any agency of state government.

42 **Sec. 4. A judicial officer may not be prohibited from possessing**



- 1 **a handgun:**
- 2 **(1) on land; or**
- 3 **(2) in buildings and other structures;**
- 4 **owned or leased by the state or a political subdivision of the state.**



**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301

Indianapolis, IN 46204

(317) 233-0696

<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6741

BILL NUMBER:

NOTE PREPARED: Dec 29, 2009

BILL AMENDED:

SUBJECT: Possession of Handguns by Judicial Officers.

FIRST AUTHOR:

FIRST SPONSOR:

BILL STATUS:

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill provides that a judicial officer who is not required to obtain a license to carry a handgun may not be prohibited from possessing a handgun: (1) on land or in buildings and other structures owned or leased by the state or a political subdivision of the state; or (2) in or on school property, in or on property that is being used by a school for a school function, or on a school bus.

Effective Date: July 1, 2010.

Explanation of State Expenditures: Between 2002 and 2009, state correctional facility admissions data indicate that one offender was committed to state prisons for possessing a firearm on school property or a school bus, a Class D felony. There are no data available to indicate if the person was a judicial officer who would be exempt from the felony offense under the bill. Based on these data, the bill would have very minimal fiscal impact on the cost of incarceration.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues: There are no data available to indicate on a statewide basis how many offenders who are judicial officers are convicted of ordinance violations for possessing a firearm with a valid license on local unit land, buildings, or other real property.

State Agencies Affected:

Local Agencies Affected:

Information Sources:

Fiscal Analyst: Karen Firestone, 317-234-2106.



West's Annotated Indiana Code Currentness

Title 34. Civil Procedure (Refs & Annos)

▣ Article 13. Causes of Action: Claims Against the Government

▣ Chapter 3. Tort Claims Against Governmental Entities and Public Employees (Refs & Annos)

→ **34-13-3-3 Immunity of governmental entity or employee**

Sec. 3. A governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from the following:

- (1) The natural condition of unimproved property.
- (2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.
- (3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.
- (4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.
- (5) The design, construction, control, operation, or normal condition of an extreme sport area, if all entrances to the extreme sport area are marked with:
 - (A) a set of rules governing the use of the extreme sport area;
 - (B) a warning concerning the hazards and dangers associated with the use of the extreme sport area; and
 - (C) a statement that the extreme sport area may be used only by persons operating extreme sport equipment.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.

- (6) The initiation of a judicial or an administrative proceeding.

(7) The performance of a discretionary function; however, the provision of medical or optical care as provided in IC 34-6-2-38 shall be considered as a ministerial act.

(8) The adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment.

(9) An act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid.

(10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.

(11) The issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law.

(12) Failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety.

(13) Entry upon any property where the entry is expressly or impliedly authorized by law.

(14) Misrepresentation if unintentional.

(15) Theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission.

(16) Injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter.

(17) Injury to the person or property of a person under supervision of a governmental entity and who is:

(A) on probation; or

(B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under IC 11-12.

(18) Design of a highway (as defined in IC 9-13-2-73), toll road project (as defined in IC 8-15-2-4(4)), toll-

way (as defined in IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the claimed loss occurs at least twenty (20) years after the public highway, toll road project, tollway, or project was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition.

(19) Development, adoption, implementation, operation, maintenance, or use of an enhanced emergency communication system.

(20) Injury to a student or a student's property by an employee of a school corporation if the employee is acting reasonably under a discipline policy adopted under IC 20-33-8-12.

(21) An act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.

(22) An act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield (as defined in IC 13-1-2-19.3) unless:

(A) the loss is a result of reckless conduct; or

(B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.

(23) The operation of an off-road vehicle (as defined in IC 14-8-2-185) by a nongovernmental employee, or by a governmental employee not acting within the scope of the employment of the employee, on a public highway in a county road system outside the corporate limits of a city or town, unless the loss is the result of an act or omission amounting to:

(A) gross negligence;

(B) willful or wanton misconduct; or

(C) intentional misconduct.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain highways in a reasonably safe condition for the operation of motor vehicles licensed by the bureau of motor vehicles for operation on public highways.

CREDIT(S)

As added by P.L.1-1998, SEC.8. Amended by P.L.142-1999, SEC.2; P.L.250-2001, SEC.6; P.L.280-2001, SEC.42; P.L.1-2002, SEC.144; P.L.161-2003, SEC.5; P.L.1-2005, SEC.218; P.L.208-2005, SEC.14; P.L.47-2006, SEC.48, eff. Mar. 15, 2006; P.L.121-2009, SEC.15; P.L.86-2010, SEC.10.

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West's Annotated Indiana Code Currentness

Title 35. Criminal Law and Procedure

▣ Article 41. Substantive Criminal Provisions (Refs & Annos)

▣ Chapter 3. Defenses Relating to Culpability (Refs & Annos)

→ **35-41-3-1 Legal authority**

Sec. 1. A person is justified in engaging in conduct otherwise prohibited if he has legal authority to do so.

CREDIT(S)

As added by Acts 1976, P.L.148, SEC.1. Amended by Acts 1977, P.L.340, SEC.7.

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West's Annotated Indiana Code Currentness

Title 35. Criminal Law and Procedure

▣ Article 41. Substantive Criminal Provisions (Refs & Annos)

▣ Chapter 3. Defenses Relating to Culpability (Refs & Annos)

→ **35-41-3-3 Use of force relating to arrest or escape**

Sec. 3. (a) A person other than a law enforcement officer is justified in using reasonable force against another person to effect an arrest or prevent the other person's escape if:

- (1) a felony has been committed; and
- (2) there is probable cause to believe the other person committed that felony.

However, such a person is not justified in using deadly force unless that force is justified under section 2 of this chapter.

(b) A law enforcement officer is justified in using reasonable force if the officer reasonably believes that the force is necessary to effect a lawful arrest. However, an officer is justified in using deadly force only if the officer:

- (1) has probable cause to believe that that deadly force is necessary:
 - (A) to prevent the commission of a forcible felony; or
 - (B) to effect an arrest of a person who the officer has probable cause to believe poses a threat of serious bodily injury to the officer or a third person; and
- (2) has given a warning, if feasible, to the person against whom the deadly force is to be used.

(c) A law enforcement officer making an arrest under an invalid warrant is justified in using force as if the warrant was valid, unless the officer knows that the warrant is invalid.

(d) A law enforcement officer who has an arrested person in custody is justified in using the same force to prevent the escape of the arrested person from custody that the officer would be justified in using if the officer was arresting that person. However, an officer is justified in using deadly force only if the officer:

(1) has probable cause to believe that deadly force is necessary to prevent the escape from custody of a person who the officer has probable cause to believe poses a threat of serious bodily injury to the officer or a third person; and

(2) has given a warning, if feasible, to the person against whom the deadly force is to be used.

(e) A guard or other official in a penal facility or a law enforcement officer is justified in using reasonable force, including deadly force, if the officer has probable cause to believe that the force is necessary to prevent the escape of a person who is detained in the penal facility.

(f) Notwithstanding subsection (b), (d), or (e), a law enforcement officer who is a defendant in a criminal prosecution has the same right as a person who is not a law enforcement officer to assert self-defense under IC 35-41-3-2.

CREDIT(S)

As added by Acts 1976, P.L.148, SEC.1. Amended by Acts 1977, P.L.340, SEC.9; Acts 1979, P.L.297, SEC.2; P.L.245-1993, SEC.1.

Current through 2010 Second Regular Session

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West's Annotated Indiana Code Currentness

Title 35. Criminal Law and Procedure

▣ Article 47. Weapons and Instruments of Violence

▣ Chapter 4. Miscellaneous Provisions

→ **35-47-4-3 Pointing firearm at another person**

Sec. 3. (a) This section does not apply to a law enforcement officer who is acting within the scope of the law enforcement officer's official duties or to a person who is justified in using reasonable force against another person under:

(1) IC 35-41-3-2; or

(2) IC 35-41-3-3.

(b) A person who knowingly or intentionally points a firearm at another person commits a Class D felony. However, the offense is a Class A misdemeanor if the firearm was not loaded.

CREDIT(S)

As added by P.L.296-1995, SEC.2.

Current through 2010 Second Regular Session

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Westlaw.

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Page 1

▷

Supreme Court of Indiana.
 Delwin CATO, Appellant,
 v.
 Charles MAYES, Appellee.
 No. 579 S 118.

May 2, 1979.

Driver brought suit against justice of the peace, seeking to recover damages for alleged false arrest and imprisonment. The Superior Court, Vanderburgh County, Thomas M. Swain, J., awarded \$3,050, and the Court of Appeals affirmed. The justice of the peace petitioned to transfer the case, and transfer was granted. The Supreme Court, Givan, C. J., held that: (1) the issuance of a warrant for the arrest of plaintiff, reciting that plaintiff had committed a breach of the peace in the presence of the justice of the peace who signed the warrant, was a judicial act, for purposes of judicial immunity rules; (2) the defendant justice of the peace had jurisdiction to issue the arrest warrant, and (3) defendant, as a judicial officer, had absolute immunity from liability for any injury arising from the exercise of his judicial authority in issuing the arrest warrant.

Transfer granted, opinion of the Court of Appeals vacated and matter remanded with instructions.

West Headnotes

[1] Judges 227 ↪36

227 Judges

227III Rights, Powers, Duties, and Liabilities

227k36 k. Liabilities for Official Acts. Most Cited Cases

A judicial officer, acting in the exercise of a judicial function, is not liable to a party injured by an erroneous decision, however gross the error may have been or however malevolent the motive which inspired it.

[2] Judges 227 ↪36

227 Judges

227III Rights, Powers, Duties, and Liabilities

227k36 k. Liabilities for Official Acts. Most Cited Cases

Although sovereign immunity has been largely abolished in Indiana, there is still immunity for the exercise of judicial acts. IC 34-4-16.5-3 (1976 Ed.).

[3] Judges 227 ↪36

227 Judges

227III Rights, Powers, Duties, and Liabilities

227k36 k. Liabilities for Official Acts. Most Cited Cases

The only case in which a judicial officer may be held liable for his judicial actions is when the officer acted with a clear and complete absence of jurisdiction over the parties and the subject matter; however, in cases where the jurisdiction is uncertain, a judge will not be penalized so long as there is a reasonable basis for his assumption of jurisdiction. IC 34-4-16.5-3 (1976 Ed.).

[4] Judges 227 ↪36

227 Judges

227III Rights, Powers, Duties, and Liabilities

227k36 k. Liabilities for Official Acts. Most Cited Cases

For purpose of determining whether a judicial officer may be liable for his action, it must be determined whether the act complained of was an exercise of judicial authority and whether there was jurisdiction of the parties and subject matter and if these two questions are answered affirmatively, the officer has judicial immunity. IC 34-4-16.5-3 (1976 Ed.).

[5] Justices of the Peace 231 ↪25

231 Justices of the Peace

231III Rights, Duties, and Liabilities

231k23 Liabilities for Official Acts

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 270 Ind. 653, 388 N.E.2d 530
 (Cite as: 270 Ind. 653, 388 N.E.2d 530)

231k25 k. Judicial Acts. Most Cited Cases
 Where justice of peace issued an arrest warrant for driver whom he had observed driving in what he thought was a reckless fashion, the issuance of the arrest warrant for the driver was a judicial act, for purposes of judicial immunity rules. IC 35-1-6-1, 35-1-7-1, 35-1-17-2 (1976 Ed.).

[6] Justices of the Peace 231 ↪31

231 Justices of the Peace

231III Civil Jurisdiction and Authority

231k31 k. Nature and Scope of Jurisdiction in General. Most Cited Cases

A justice of the peace is a judicial officer who exercises limited jurisdiction. Const. art. 7, §§ 14, 15.

[7] Arrest 35 ↪63.2

35 Arrest

35II On Criminal Charges

35k63 Officers and Assistants, Arrest Without Warrant

35k63.2 k. Who May Arrest. Most Cited Cases

As judicial officer, justice of the peace who thought that driver was driving garbage truck recklessly had statutory authority to stop, arrest, and detain the driver for violating a law or disturbing the peace. IC 35-1-5-13, 35-1-21-1 (1976 Ed.).

[8] Arrest 35 ↪63.2

35 Arrest

35II On Criminal Charges

35k63 Officers and Assistants, Arrest Without Warrant

35k63.2 k. Who May Arrest. Most Cited Cases

The statute which provides that a peace officer shall have no authority to arrest unless he is wearing a distinctive uniform or a badge of authority or is operating a motor vehicle marked as a police vehicle was not intended to apply to judicial officers. IC 9-4-8-1 (1976 Ed.).

[9] Automobiles 48A ↪349(11)

48A Automobiles

48AVII Offenses

48AVII(B) Prosecution

48Ak349 Arrest, Stop, or Inquiry; Bail or Deposit

48Ak349(11) k. Who May Arrest, Stop, or Inquire. Most Cited Cases
 (Formerly 48Ak349)

Fact that justice of peace was not wearing a distinctive uniform or badge of authority when he stopped garbage truck driver for reckless driving did not render illegal either the stop or the subsequent arrest of the driver pursuant to an arrest warrant. IC 9-4-8-1 (1976 Ed.).

[10] Justices of the Peace 231 ↪25

231 Justices of the Peace

231III Rights, Duties, and Liabilities

231k23 Liabilities for Official Acts

231k25 k. Judicial Acts. Most Cited Cases

Where action of justice of the peace in issuing arrest warrant for driver was a judicial act and where the justice of the peace had statutory authority to stop, arrest and detain the driver and to order the driver to give surety to keep the peace, the justice of the peace, as a judicial officer, enjoyed absolute immunity from liability for any injury arising from the exercise of his judicial authority. IC 34-4-16.5-3, 35-1-5-13, 35-1-21-1 (1976 Ed.).

*654 **531 John D. Clouse, Barry L. Standley, Evansville, for appellant.

Jack N. VanStone, Rice & VanStone, Evansville, for appellee.

ON PETITION TO TRANSFER

GIVAN, Chief Justice.

Appellee Charles Mayes recovered a judgment of \$3,050 in an action for false arrest and imprisonment against appellant Delwin Cato. The Court of Appeals affirmed the judgment in all respects in an unpublished memorandum decision. Cato v.

Mayes (1977) No. 1-477 A 74. Upon Cato's petition to transfer this cause, we hereby grant transfer and reverse the judgment.

The evidence giving rise to the cause of action is as follows: On May 31, 1968, Mayes was driving his company garbage truck on a city street in Evansville. Cato pulled alongside the truck and then cut in front of Mayes, forcing him to stop in traffic. Cato, a justice of the peace in Evansville at the time, thought Mayes was driving recklessly. Cato's car had no official markings, nor was Cato himself wearing a uniform or badge. The two exchanged abusive language and departed. Cato then returned to his office and issued an arrest warrant for Mayes. Upon learning of the outstanding warrant later that day, Mayes surrendered himself to the sheriff. Mayes was processed and placed in a jail cell for a short time until he could post bond.

Mayes filed an action for false arrest in September, 1968. The action was held in abeyance until August, 1973, when this Court dismissed Cato's attempted appeal of Mayes' acquittal from the original charge. *Cato v. State* (1973) 261 Ind. 96, 300 N.E.2d 349. Mayes then filed an amended complaint. Judgment was entered in favor of Mayes on November 12, 1976.

***655** The four issues Cato raised in the Court of Appeals concerned: (1) the trial court's permitting Mayes to prove damages to his family; (2) the trial court's failure to allow Cato to show Mayes' prior arrests; (3) the propriety of certain jury instructions; and (4) whether Cato, as a justice of the peace, possessed judicial immunity for his actions in issuing the arrest warrant against Mayes. In view of our disposition of this matter, only the final issue need be addressed.

[1] ****532** A judicial officer, acting in the exercise of a judicial function, is not to be held liable to a party injured for an erroneous decision, however gross the error may have been or however malevolent the motive was which inspired it. *Alexander v. Gill* (1892) 130 Ind. 485, 30 N.E. 525; *State ex rel.*

Egan v. Wolever (1891) 127 Ind. 306, 26 N.E. 762 (overruled on other grounds, *Peters v. Koepke* (1901) 156 Ind. 35, 59 N.E. 33); *Kress v. State ex rel. Wagoner* (1878) 65 Ind. 106. The reason for this rule is that such a liability for a judicial act would be inconsistent with the proper discharge of judicial duties. As stated by Judge McBride in *State ex rel. Egan v. Wolever*, supra :

“No man is fitted to act as judge if he has not the courage to act in accordance with conscientious convictions of right and without fear of consequences to himself. Learning, conscience and courage are all essential qualities for those whose duty it is to decide upon the rights of their fellows.

“The student of English and American history will recall many instances where the judiciary has stood as the only barrier to protect society against oppression of rulers on one hand, or from the effects of hasty and ill-advised action, growing out of some wave of popular feeling, or some flame of excited passion. It is absolutely essential, not only to the well-being of society, but to the preservation of our government in its integrity, that the independence of the judiciary be preserved.

“The civil responsibility of the judge would often be an incentive to dishonest, instead of honest judgments, and would invite him to consult public opinion and public prejudices when he ought to be wholly above and uninfluenced by them.”

127 Ind. at 313-4, 26 N.E. at 764.

[2][3] Although sovereign immunity has now largely been abolished in this State, it still remains for the exercise of judicial acts. See IC s 34-4-16.5-3 ***656** (Burns Supp.1978); *Campbell v. State* (1972) 259 Ind. 55, 63, 284 N.E.2d 733, 737.

The only case in which a judicial officer may be held liable for his actions is where the act is promulgated with a clear and complete absence of jurisdiction over the parties and the subject matter. *Stump v. Sparkman* (1978) 435 U.S. 349, 98 S.Ct. 1099, 55 L.Ed.2d 331; *Dietrichs v. Schaw* (1873)

43 Ind. 175. However, in cases where the jurisdiction is uncertain, a judge will not be penalized so long as there is a reasonable basis for his assumption of jurisdiction. See *State ex rel. Clark v. Libbert* (1931) 96 Ind.App. 84, 177 N.E. 873. 180 N.E. 757.

[4] The test by which the question of the liability of a judicial officer is to be governed is twofold: (1) was the act complained of an exercise of judicial authority? and (2) did the court have jurisdiction of the parties and subject matter? *State ex rel. Egan v. Wolever*, 127 Ind. at 315, 26 N.E. at 764-5. If these two questions are answered affirmatively, judicial immunity will be accorded to the officer.

[5][6] As to the first question, it is obvious that the issuance of the arrest warrant in the case at bar was a judicial act. See IC s 35-1-6-1; IC s 35-1-7-1; IC s 35-1-17-2. With regard to the second question, a justice of the peace exercises limited jurisdiction:

“When a court of limited jurisdiction has in a given case jurisdiction of the subject-matter and of the persons interested, the same immunity is accorded to the judge or magistrate that is in any case accorded to the judge of a court of general jurisdiction. And here we would remark, that by ‘jurisdiction of the subject-matter’ is not meant simply jurisdiction of the particular case then occupying the attention of the court, but jurisdiction of the class of cases to which the particular case belongs. . . .

“It is said that in courts of general jurisdiction an action never lies against the judge because he has jurisdiction of all causes. In courts of limited jurisdiction it lies only when he exceeds that jurisdiction, and therefore is not in the exercise of his judicial authority.”

**533 127 Ind. at 315, 26 N.E. at 765.

[7] Under the constitutional provisions in force in 1968, a justice of the peace is a judicial officer. Indiana Constitution, Article 7, ss 14, 15; *McClanahan v. State* (1953) 232 Ind. 567. 112 N.E.2d 575.

As a judicial officer, Cato was authorized by IC s 35-1-5-13 and IC s 35-1-21-1 to stop, arrest and detain Mayes for violating a law or disturbing the peace. The *657 arrest warrant issued by Cato recited that Mayes, in violation of Burns s 9-513 (IC s 35-1-5-13), had committed a breach of the peace in Cato's presence. Pursuant to the statute, Cato ordered Mayes to post a \$1,000 bond as surety for his keeping the peace. The above statute specifically authorizes a justice of the peace to order a violator, without process or any other proof, to give surety to keep the peace, and in default thereof, to commit such person. Consequently, we find there was a clear jurisdiction over the subject-matter and the person of Mayes to issue the arrest warrant.

[8][9] The Court of Appeals, however, relied on IC s 9-4-8-1 in holding that Cato had no jurisdiction over this matter. The statute provides that a peace officer shall have no authority to arrest unless he is wearing a distinctive uniform or a badge of authority, or is operating a motor vehicle marked as a police vehicle. We disagree with the conclusion of the Court of Appeals that the arrest was unwarranted because Cato was not wearing a uniform or badge, or driving a police car. The statute was not intended to apply to judicial officers. Justices of the peace and other judicial officers do not, in the regular course of their official duties, wear uniforms, have badges of authority or drive marked cars. We therefore conclude that the stop and subsequent arrest of Mayes was not illegal by application of IC s 9-4-8-1.

[10] Under the facts as alleged in the amended complaint and as proved at trial, Mayes has not shown that Cato stopped him and subsequently issued the arrest warrant against him with a clear absence of jurisdiction over Mayes and the subject-matter of the arrest. Therefore, Justice of the Peace Delwin Cato, as a judicial officer, enjoys absolute immunity from liability for any injury resulting from the exercise of his judicial authority.

Accordingly, we grant transfer and vacate the opinion of the Court of Appeals. This cause is reversed

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and remanded to the trial court with instructions to enter judgment for Defendant Cato.

DeBRULER, HUNTER, PIVARNIK and PRENTICE, JJ., concur.
Ind., 1979.
Cato v. Mayes
270 Ind. 653, 388 N.E.2d 530

END OF DOCUMENT



West's Annotated Indiana Code Currentness
Title 35. Criminal Law and Procedure
 ▣ Article 42. Offenses Against the Person
 ▣ Chapter 2. Battery and Related Offenses
 → **35-42-2-1 Battery**

Sec. 1. (a) A person who knowingly or intentionally touches another person in a rude, insolent, or angry manner commits battery, a Class B misdemeanor. However, the offense is:

(1) a Class A misdemeanor if:

(A) it results in bodily injury to any other person;

(B) it is committed against a law enforcement officer or against a person summoned and directed by the officer while the officer is engaged in the execution of the officer's official duty;

(C) it is committed against an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;

(D) it is committed against a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty;

(E) it is committed against a community policing volunteer:

(i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or

(ii) because the person is a community policing volunteer; or

(F) it is committed against the state chemist or the state chemist's agent while the state chemist or the state chemist's agent is performing a duty under IC 15-16-5;

(2) a Class D felony if it results in bodily injury to:

(A) a law enforcement officer or a person summoned and directed by a law enforcement officer while the

officer is engaged in the execution of the officer's official duty;

(B) a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(C) a person of any age who has a mental or physical disability and is committed by a person having the care of the person with a mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation;

(D) the other person and the person who commits the battery was previously convicted of a battery in which the victim was the other person;

(E) an endangered adult (as defined in IC 12-10-3-2);

(F) an employee of the department of correction while the employee is engaged in the execution of the employee's official duty;

(G) an employee of a school corporation while the employee is engaged in the execution of the employee's official duty;

(H) a correctional professional while the correctional professional is engaged in the execution of the correctional professional's official duty;

(I) a person who is a health care provider (as defined in IC 16-18-2-163) while the health care provider is engaged in the execution of the health care provider's official duty;

(J) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;

(K) a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty;

(L) a community policing volunteer:

(i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or

(ii) because the person is a community policing volunteer;

(M) a family or household member (as defined in IC 35-41-1-10.6) if the person who committed the offense:

(i) is at least eighteen (18) years of age; and

(ii) committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense; or

(N) a department of child services employee while the employee is engaged in the execution of the employee's official duty;

(3) a Class C felony if it results in serious bodily injury to any other person or if it is committed by means of a deadly weapon;

(4) a Class B felony if it results in serious bodily injury to a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(5) a Class A felony if it results in the death of a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(6) a Class C felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2);

(7) a Class B felony if it results in the death of an endangered adult (as defined in IC 12-10-3-2); and

(8) a Class C felony if it results in bodily injury to a pregnant woman and the person knew the woman was pregnant.

(b) For purposes of this section:

(1) "law enforcement officer" includes an alcoholic beverage enforcement officer; and

(2) "correctional professional" means a:

(A) probation officer;

(B) parole officer;

(C) community corrections worker; or

(D) home detention officer.

CREDIT(S)

As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.30; Acts 1979, P.L.298, SEC.1; Acts 1979, P.L.83, SEC.10; Acts 1981, P.L.299, SEC.1; P.L.185-1984, SEC.1; P.L.205-1986, SEC.1; P.L.322-1987, SEC.1; P.L.164-1993, SEC.10; P.L.59-1995, SEC.2; P.L.31-1996, SEC.20 and P.L.32-1996, SEC.20; P.L.255-1996, SEC.25; P.L.37-1997, SEC.2; P.L.212-1997, SEC.1; P.L.56-1999, SEC.1; P.L.188-1999, SEC.5; P.L.43-2000, SEC.1; P.L.222-2001, SEC.4; P.L.175-2003, SEC.2; P.L.281-2003, SEC.3; P.L.2-2005, SEC.125, eff. April 25, 2005; P.L.99-2007, SEC.209, eff. May 2, 2007; P.L.164-2007, SEC.1; P.L.120-2008, SEC.93; P.L.131-2009, SEC.73.

Current through 2010 Second Regular Session

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END OF DOCUMENT

JUDGES WHO WISH TO BE SPECIFICALLY IDENTIFIED

Honorable Bruce A. MacTavish	Jackson Superior Court 2
Honorable David J. Certo	Marion Superior Court
Honorable Thomas J. Alevizos	LaPorte Circuit Court
Honorable William J. Boklund	LaPorte Superior Court 4
Honorable Brian D. Hutchison	Jay Circuit Court
Honorable Sally E. Berish	Boone Circuit Court Commissioner
Honorable Darrin M. Dolehanty	Wayne Superior Court 3
Honorable Gary L. Smith	Jennings Superior Court
Honorable Geoff Robison	New Haven City Court
Honorable George W. Biddlecome	Elkhart Superior Court 3
Honorable George Gasparovic	Pendleton Town Court
Honorable Jon W. Webster	Jennings Circuit Court
Honorable John M. Feick	Delaware Circuit Court 4
Honorable Steve David	Boone Circuit Court
Honorable Thomas L. Clem	Madison Superior Court 5
Honorable Christopher A. Newton	Vigo Superior Court 4
Honorable Mark K. Loyd	Johnson Circuit Court
Honorable Matthew L. Headley	Putman Circuit Court
Honorable Frank M. Nardi	Owen Circuit Court
Honorable Phillip J. McGraw	Senior Judge
Honorable Richard A. Dailey	Delaware Superior Court 1
Honorable Douglas A. Stephens	Pike Township Small Claims Court
Honorable Frank Newkirk, Jr.	Washington Superior Court
Honorable Matthew D. Bailey	Decatur Superior Court
Honorable Robert W. Freese	Hendricks Superior Court 1
Honorable William E. Vance	Jackson Circuit Court



FACT SHEET SYNTHETIC MARIJUANA

What Is It?

A mixture of herbs sprayed with synthetic chemicals that replicate the psychoactive chemical in marijuana (THC, or tetrahydrocannabinol).

What Chemicals May Be In It?

JWH-018	JWH-200	CP-47,497	HU-210
JWH-019	JWH-250	CP-55,940	HU-211
JWH-073	JWH-398		

What Names is it Sold Under?

K2 (Blonde, etc.)	Demon Passion	Nitro	Sativah Herbal
Spice (Diamond)	Smoke	Ono Budz	Smoke
Blaze	Genie	Panama Red	Skunk
Blueberry Haze	Hawaiian Hybrid	Ball	Ultra Chronic,
Dank	Magma	Puff	Voodoo Spice
	Ninja	Red X Dawn	Zohai

What Does It Do?

Replicate the effects of THC to get a high similar to that from marijuana: e.g. heightened mood, enhanced humor, heightened curiosity and intrigue, sedation, analgesia, heightened pleasurable sensitivity.

Is It Harmful?

- American Association of Poison Control Centers
 - 1,404 K2-related calls vs 13 in 2009 (Sep 16, 2010)
- As of September 30th, Indiana has reported 117 cases in 40 counties
- Most active months: May - 36, Aug - 22, Sep - 21
- Most cases by county: Marion - 25, Tippecanoe - 8, White - 7, Allen - 7, Vanderburgh - 6, Elkhart - 5
- Age: 12-19 years old: 63 (54%); 20-29 years old: 38 (33%); Gender: 74% male
- Most common symptoms (n=94) include agitation/irritability (33), tachycardia (30), vomiting (13), confusion (13), and hypertension (7). Most serious include syncope (5), seizures (4), cardiac arrest/arrhythmias (3) and respiratory arrest (2).
- Medical Outcomes: No effect (5), Minor (27), Moderate (32), Major (2), Death (2)

How Is It Obtained?

Head shops, similar retailers
Online

**Exhibit E
Commission on Courts
September 30, 2010**

Who Can Buy It?

Where legal, anyone. There are generally no age restrictions on the products.

Can It Be Detected?

No field tests. National Medical Services: solids. Redwood Toxicology Laboratory: urine.

Spice and K2 are just two of the brand names for synthetic marijuana products sold throughout Indiana and on the Internet that are being abused and submitted as evidence to forensic laboratories. These products are smokable herbal mixtures with small amounts of one or more synthetic cannabinoids added and are new “designer drugs” functionally similar to THC, the active drug in Marijuana.

Over 450 synthetic cannabinoids were developed as potential therapeutic agents over the past 40 years in research laboratories around the world. These include the CP series by Pfizer’s pharmaceutical research labs, JWH series by Dr. J. W. Huffman’s research group at Clemson University in South Carolina and HU series from research labs at Hebrew University of Jerusalem.

Since early 2008, a total of seventeen (17) different synthetic cannabinoids have been identified during analysis of Spice or K2-type submissions at forensic laboratories throughout the world. Indiana State Police laboratories only started receiving submissions of synthetic cannabinoids in 2010, and have identified JWH-18, JWH 73, and JWH-250 in twelve (12) case submissions.

Indiana State Police has procedures in place to analyze and identify synthetic cannabinoids with limitations due to availability and cost of pure reference samples. We currently have three (3) reference standards out of seventeen (17) commercially available synthetic cannabinoids, and have another six (6) reference standards on order.

Sale and use of synthetic cannabinoids are legal in Indiana with the exception of various local ordinances. Other states have adopted legislation to reduce the availability of synthetic cannabinoids by regulating these drugs by common names and chemical name. The Drug Enforcement Administration (DEA) has controlled HU-210 and is currently reviewing the legal and regulatory status of a variety of synthetic cannabinoids including the JWH chemicals and CP-47,497. Since Indiana does not automatically update our controlled substance list to follow Federal laws, these designer drugs would still not be illegal under current State criminal code.

Whether or not the Legislature passes a bill to control synthetic cannabinoids, these designer drugs will continue to be confiscated by police and submitted to the Indiana State Police for examination. The various county and city ordinances will result in submissions, and officers will also confiscate “unknown” vegetation and pipe residues as evidence in routine cases. The ISP Laboratory will continue to obtain reference standards as available to examine and identify these new designer drugs and other drugs not controlled in Indiana as we have done in the past.

Thank you very much for your time. Any questions?

SYNTHETIC CANNABINOIDS
[Identified in Forensic Labs in USA and Europe]

COMMON NAME	CHEMICAL NAME	Exhibit G Commission on Courts September 30, 2010
JWH-015	(2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone	
JWH-018	(1-pentyl-1H-indol-3-yl)-1-naphthalenyl-methanone, or 1-Pentyl-3-(1-naphthoyl)indole	
JWH-019	(1-hexyl-1H-indol-3-yl)-1-naphthalenyl-methanone	
JWH-073	(1-butyl-1H-indol-3-yl)-1-naphthalenyl-methanone, or 1-Butyl-3-(1-naphthoyl)indole	
JWH-081	4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone	
JWH-122	1-Pentyl-3-(4-methyl-1-naphthoyl)indole	
JWH-200	[1-[2-(4-morpholinyl)ethyl]-1H-indol-3-yl]-1-naphthalenyl-methanone	
JWH-250	1-(1-pentyl-1H-indol-3-yl)-2-(2-methoxyphenyl)-ethanone	
JWH-251	2-(2-methylphenyl)-1-(1-pentyl-1H-indol-3-yl)-ethanone	
JWH-398	1-pentyl-3-(4-chloro-1-naphthoyl)indole	
HU-210	(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol), or 3-(1,1'-dimethylheptyl)-6a,7,10,10a-tetrahydro-1-hydroxy-6,6-dimethyl-6H-dibenzo[b,d]pyran-9-methanol	
HU-211	(6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol), or (dexanabinol, or 3-(1,1'-dimethylheptyl)-6aS,7,10,10aS-tetrahydro-1-hydroxy-6,6-dimethyl-6H-dibenzo[b,d]pyran-9-methanol	
HU-308	4-[4-(1,1-dimethylheptyl)-2,6-dimethoxyphenyl]-6,6-dimethyl-bicyclo[3.1.1]hept-2-ene-2-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	
CP 55,940	5-(1,1-dimethylheptyl)-2-[(1R,2R,5R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-phenol	
CP 47,497 and homologues	2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol	
WIN 55212-2 (mesylate)	[(3R)-2,3-dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenyl-methanone, monomethanesulfonate	

Federally - controlled and Indiana - not controlled

Immediate precursor to fentanyl: 4-anilino-N-phenethyl-4-piperidine (ANPP) – **Schedule 1**, effective 8-30-10:

TAPENTADOL – **Schedule II** (as of 6/22/09)

LACOSAMIDE – **Schedule V** (as of 6/22/09)

19-NOR-4,9(10)-ANDROSTADIENEDIONE (estra-4,9(10)-diene-3,17-dione) – **Schedule III** (as of 1/4/10)

BOLDIONE (Androsta-1,4-diene-3,17-dione) – **Schedule III** (as of 1/4/10)

DESOXYMETHYLTESTOSTERONE (17a-methyl-5a-androst-2-en-17-ol, madol) – **Schedule III** (as of 1/4/10)

FOSPROPOFOL – **Schedule IV** (as of 11/5/09)

LISDEXAMFETAMINE – **Schedule II** (as of 6/4/07)

ORIPAVINE – **Schedule II** (as of 9/24/07)

HU-210 [(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c] chromen-1-ol)] – **Schedule I**

These were removed from Schedule I (federally) effective 6-29-10:

N-[1-benzyl-4-piperidyl]-N-phenylpropanamide 9818 (benzylfentanyl), its optical isomers, salts and salts of isomers

N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide 9834 (thenylfentanyl), its optical isomers, salts and salts of isomers

**SYNTHETIC MARIJUANA
"K-2" "SPICE"**

**Exhibit I
Commission on Courts
September 30, 2010**

- I. New York Times Article – Attachment A**

- II. Indiana Laws – Attachment B**

- III. Articles on Spice – Attachment C**

- IV. Laws or Introduced Bills From Other Jurisdictions – Attachment D**

- V. Sample Local Ordinances – Attachment E**

Attachment A

New York Times Article

The New York Times

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July 10, 2010

Synthetic Marijuana Spurs State Bans

By MALCOLM GAY

ST. LOUIS — Seated at a hookah lounge in the Tower Grove district, Albert Kuo trained his lighter above a marbleized glass pipe stuffed with synthetic marijuana. Inhaling deeply, Mr. Kuo, an art student at an area college, singed the pipe's leafy contents, emitting a musky cloud of smoke into the afternoon light.

Mr. Kuo, 25, had gathered here with a small cohort of friends for what could be the last time they legally get high in Missouri on a substance known popularly as K2, a blend of herbs treated with synthetic marijuana.

"I know it's not going to kill me," said Mr. Kuo, who likened the drug's effects to clove cigarettes. "It's a waste of time, effort and money to ban something like this."

On Tuesday, Gov. Jay Nixon, a Democrat, signed a bill prohibiting possession of K2. Missouri is the nation's eighth state this year to ban the substance, which has sent users to emergency rooms across the country complaining of everything from elevated heart rates and paranoia to vomiting and hallucinations.

Investigators blame the drug in at least one death, and this month, Gov. Mike Beebe of Arkansas, a Democrat, signed an emergency order banning the substance. Similar prohibitions are pending in at least six other states, including Illinois, Louisiana, Michigan, New Jersey, New York and Ohio, according to the National Conference of State Legislatures.

"It's like a tidal wave," said Ward Franz, the state representative who sponsored Missouri's legislation. "It's almost an epidemic. We're seeing middle-school kids walking into stores and

buying it.”

Often marketed as incense, K2 — which is also known as Spice, Demon or Genie — is sold openly in gas stations, head shops and, of course, online. It can sell for as much as \$40 per gram. The substance is banned in many European countries, but by marketing it as incense and clearly stating that it is not for human consumption, domestic sellers have managed to evade federal regulation.

“Everybody knows it’s not incense,” said Barbara Carreno, a spokeswoman for the federal Drug Enforcement Administration. “That’s done with a wink and a nod.”

First developed in the lab of a Clemson University chemist, John W. Huffman, K2’s active ingredients are synthetic cannabinoids — research-grade chemicals that were created for therapeutic purposes but can also mimic the narcotic effects of tetrahydrocannabinol, or THC, the active ingredient in marijuana.

In a statement, Mr. Huffman said the chemicals were not intended for human use. He added that his lab had developed them for research purposes only, and that “their effects in humans have not been studied and they could very well have toxic effects.”

Nevertheless, pure forms of the chemical are available online, and investigators believe that many sellers are buying bulk quantities, mixing them with a potpourrilike blend of herbs and labeling the substance K2.

“It’s not like there’s one K2 distributor — everybody is making their own stuff, calling it K2 and selling it, which is the most unnerving aspect,” said Dr. Christopher Rosenbaum, an assistant professor of toxicology at the University of Massachusetts who is studying the effects of K2 in emergency room patients.

The American Association of Poison Control Centers reports that so far this year there have been 567 K2-related calls, up from 13 in 2009. But investigators add that no one is really certain what is in K2, and people are arriving at emergency rooms with symptoms that would not normally be associated with marijuana or a synthetic form of the drug.

“I don’t know how many people are going for a box of doughnuts after smoking K2, but they’re

sure getting some other symptoms,” said Dr. Anthony Scalzo, a professor of emergency medicine at the St. Louis University who first reported a rise in K2-related cases and is collaborating with Dr. Rosenbaum in researching K2’s effects. “These are very anxious, agitated people that are requiring several doses of sedatives.”

Dr. Scalzo, who is also the medical director for the Missouri Poison Control Center, added that although tests had found cannabinoids in K2, it was unclear “whether the reaction we’re seeing is just because of dose effect, or if there’s something in there we haven’t found yet.”

That question remains at the center of an investigation into the death of David Rozga, an Iowa teenager who last month committed suicide shortly after smoking K2. Mr. Rozga, 18, had graduated from high school one week earlier and was planning to attend college in the fall.

According to the police report, Mr. Rozga smoked the substance with friends and then began “freaking out,” saying he was “going to hell.” He then returned to his parents’ house, grabbed a rifle from the family’s gun room and shot himself in the head.

“There was nothing in the investigation to show he was depressed or sad or anything,” said Detective Sgt. Brian Sher of the Indianola Police Department, who led the investigation. “I’ve seen it all. I don’t know what else to attribute it to. It has to be K2.”

But many users say they are undaunted by reports of negative reactions to the drug. K2 does not show up on drug tests, and users say that while they would like to know what is in it, they would take their chances if it means a clean urine test.

The Missouri ban, which goes into effect Aug. 28, prohibits several cannabinoids that investigators have found in K2 and related products. Nevertheless, investigators and researchers say that bans like the one in Missouri are little more than “Band-Aids” that street chemists can sidestep with a slight alteration to a chemical’s molecular structure.

“Once it goes illegal, I already have something to replace it with,” said Micah Riggs, who sells the product at his coffee shop in Kansas City. “There are hundreds of these synthetics, and we just go about it a couple of them at a time.”

Investigators say that a more effective ban might arise once the Drug Enforcement

Administration completes its review of cannabinoids, placing them under the Controlled Substances Act. Currently, however, only one such substance is controlled under the act, though the agency has listed four others as “chemicals of concern.”

“It’s hard to keep up with everything,” said Ms. Carreno of the D.E.A., adding, “The process of scheduling something is thorough and time consuming, and there are a lot of gifted chemists out there.”

Meanwhile, states are largely on their own when it comes to controlling this new breed of synthetic cannabis, which often comes down to a game of cat-and-mouse where law enforcement agents, politicians, users and their families must formulate new responses as each iteration of a drug comes to market.

“Where does a parent go to get answers?” asked Mike Rozga, who said he learned of K2 only after his son’s death. “We talk to our kids about sex. We talk to our kids about drugs, and we talk to our kids about drinking and being responsible. But how can you talk to your kids about something you don’t even know about?”

Attachment B

Indiana Laws

A. Not a Controlled Substance Under IC 35-48 Because Specific Chemical Composition Not Listed

B. Not Within Our “Toxic Vapors” Statutes

IC 35-46-6

C. Not Within Definition of “Intoxicated” For Purposes of Operating While Intoxicated Statutes

IC 9-13-2-86. “Intoxicated” Defined.

“Intoxicated” means under the influence of:

- (1) alcohol;
- (2) a controlled substance (as defined in IC 35-48-1);
- (3) a drug other than alcohol or a controlled substance;
- (4) a substance described in IC 35-46-6-2 or IC 35-46-6-3; or
- (5) a combination of substance described in subdivisions (1) through (4); so that there is an impaired condition of thought and action and the loss of normal control of a person’s faculties.

IC 9-13-2-49.1. “Drug” Defined.

The term “drug” includes legend drug (as defined in IC 16-18-2-199), nitrous oxide, “model glue” (as defined in IC 35-46-6-1) and any substance listed in IC 35-46-6-2(2).

D. Not Within Definition of “Drug” Under Legend Drug Act

IC 16-42-19-2. “Drug” Defined.

As used in this chapter, “drug” means the following:

- (1) Articles or substances recognized in United States Pharmacopeial Convention, Inc.; The United States Pharmacopeia, Twenty-Second Edition (1990) or United States Pharmacopeial Convention, Inc.; The National Formulary, Seventeenth Edition (1990) as revised by United States Pharmacopeial Convention, Inc.; Supplement 1 to The United States Pharmacopeia, Twenty-Second Edition and The National Formulary, Seventeenth Edition (1990); and any supplements printed after 1990.
- (2) Articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals.
- (3) Articles other than food intended to affect the structure of any functions of the body of human beings or other animals.
- (4) Articles intended for use as a component of any article specified in subdivision (1), (2), or (3).
- (5) Devices.

Source: [Legal > /.../ > IN State Cases, Combined](#)Terms: [khat analog](#) ([Edit Search](#) | [Suggest Terms for My Search](#) | [Feedback on Your Search](#)) Select for FOCUS™ or Delivery*843 N.E.2d 553, *; 2006 Ind. App. LEXIS 367, ***

OMER MOHAMED, Appellant-Defendant, vs. STATE OF INDIANA, Appellee-Plaintiff.

No. 49A04-0503-CR-144

COURT OF APPEALS OF INDIANA, FOURTH DISTRICT

843 N.E.2d 553; 2006 Ind. App. LEXIS 367

March 8, 2006, Decided

March 8, 2006, Filed

SUBSEQUENT HISTORY: **[**1]** As Corrected March 13, 2006.**PRIOR HISTORY:** APPEAL FROM THE MARION SUPERIOR COURT. The Honorable Michael Jensen, Magistrate. Cause No. 49G20-0407-FB-130203.**DISPOSITION:** Reversed.**CASE SUMMARY****PROCEDURAL POSTURE:** The Marion Superior Court (Indiana) convicted defendant of possession of a controlled substance **analog**, [Ind. Code § 35-48-1-9.3\(a\)](#). Defendant appealed the judgment.**OVERVIEW:** A police officer found a plant called **khat** in defendant's vehicle during a traffic stop. A crime lab chemist testified that the plant was widely cultivated in Arabia and parts of Africa and contained a naturally occurring stimulant compound called cathinone. Cathinone was not a listed drug under [Ind. Code §§ 35-48-2-4](#) or [35-48-2-6](#). The chemist testified that cathinone was chemically similar to methcathinone, which was a controlled substance. The trial court found that because the effect of the two drugs were similar, cathinone was a controlled substance **analog** under [Ind. Code § 35-48-1-9.3](#). Defendant argued that the conviction was not supported by sufficient evidence. The appellate court held that the State was required to prove that the **analog** substance had an effect on the central nervous system substantially similar to or greater than the effect of the controlled substance. The chemist testified that he had no knowledge of the comparative effects of cathinone and methcathinone. Thus, the appellate court held that the evidence was insufficient to establish beyond a reasonable doubt that **khat** was a controlled substance **analog**.**OUTCOME:** The judgment was reversed.**CORE TERMS:** controlled substance, cathinone, analog, substantially similar, methcathinone, chemical, stimulant, central nervous system, khat, box, plant, atom, hallucinogenic, depressant, narcotic, seat, reasonable doubt, possessed, cathine, felony, driver, lab's, passenger, wrapped, bundle, stems, count of possession, statutory elements, oral argument, comparative**LEXISNEXIS® HEADNOTES**[Criminal Law & Procedure](#) > [Criminal Offenses](#) > [Controlled Substances](#) > [Substance Schedules](#) > [Miscellaneous Drugs](#)**HN1** Neither cathinone nor cathine appears in Indiana's listing of schedule I drugs, [Ind. Code § 35-48-2-4](#), or its listing of schedule II drugs, [Ind. Code §§ 35-48-2-4](#) and [35-48-2-6](#). [More Like This Headnote](#)[Criminal Law & Procedure](#) > [Criminal Offenses](#) > [Controlled Substances](#) > [Analogues](#) > [Elements](#)**HN2** See [Ind. Code § 35-48-1-9.3\(a\)](#).

[Criminal Law & Procedure](#) > [Appeals](#) > [Standards of Review](#) > [Substantial Evidence](#) > [General Overview](#)

[Evidence](#) > [Procedural Considerations](#) > [Weight & Sufficiency](#)

HN3 When reviewing a claim that evidence was insufficient to support a conviction, appellate courts do not reweigh the evidence or judge the credibility of witnesses, and affirm if there is substantial evidence of probative value supporting each element of the crime from which a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. [More Like This Headnote](#)

[Governments](#) > [Legislation](#) > [Interpretation](#)

[Governments](#) > [Legislation](#) > [Types of Statutes](#)

HN4 Penal statutes must be strictly construed against the State. [More Like This Headnote](#)

COUNSEL: FOR APPELLANT: MARK SMALL, Marion County Public Defender Agency, Indianapolis, Indiana.

FOR APPELLEE: STEVE CARTER, Attorney General of Indiana; ELLEN H. MEILAENDER, Deputy Attorney General, Indianapolis, Indiana.

JUDGES: DARDEN, Judge. SHARPNACK, J., and CRONE, J., concur.

OPINION BY: DARDEN

OPINION

[*553] OPINION -- FOR PUBLICATION

DARDEN, Judge

STATEMENT OF THE CASE

Omer Mohamed appeals his conviction on one count of possession of a controlled substance **analog**, a class D felony.

We reverse.

FACTS

On the afternoon July 15, 2005, Mohamed was a passenger in a vehicle that was stopped for speeding on I-70 by Officer Keith Hartman of the Indianapolis Police Department. As Hartman approached the vehicle on its passenger side, he smelled a strong odor of vegetation - similar to cut grass - emanating from the vehicle. Hartman observed "two (2) large brown cardboard boxes" on the back seat "directly behind the passenger seat." (Tr. 12, 46). One of the boxes "was torn open," revealing what Hartman "recognized to be **khat**." (Tr. 12).

Hartman had seen **[**2]** pictures of and learned about **khat** from material produced by the Drug Enforcement Administration. Hartman testified that this material portrayed **khat** as "a very distinctive looking plant," which looks like a "a bundle of flower stems with no flower on top of them," "similar to . . . rebar," that is "wrapped in a type of leaf." (Tr. 19, 13). Hartman testified that this was what the plant material "in plain view" inside the open box on the back seat of the vehicle looked like, and a photograph thereof was introduced into evidence. (Tr. 20). According to Hartman, the DEA information and his training indicated that the effect of **khat** was similar to that of marijuana and cocaine. Hartman called for assistance; the driver and Mohamed were removed from the vehicle; and Hartman seized the **[*554]** two boxes and transported them for secure detention and forensic analysis.

The next day, July 16th, the contents of the two boxes were analyzed by the Marion County Crime Lab. The boxes contained 15 pounds and 14 pounds of vegetation respectively. One box contained 106 "bundles of maroon colored stems wrapped in green leaves" and the other, 91 "bundles of maroon colored stems wrapped in green leaves." (Ex. **[**3]** 4). According to the lab's report of the analysis by chemist Wayne Beasley, "cathinone" and "cathine" were "both present" in the plant material. Id. ¹

FOOTNOTES

¹ Cathinone is a Schedule I controlled substance under the Federal Controlled Substances Act, and cathine is a Schedule IV substance under the Act. See U.S. v. Caseer, 399 F.3d 828, 833, 834 (6th Cir. 2005).

HN1 Neither cathinone nor cathine appears in Indiana's listing of schedule I drugs, see I.C. § 35-48-2-4, or its listing of schedule II drugs. See I.C. § 35-48-2-4 and -6.

On July 21, 2005, both the driver and Mohamed were charged with one count of dealing in a controlled substance **analog**, a class B felony, and one count of possession of a controlled substance **analog**, a class D felony. Indiana Code section 35-48-1-9.3(a) defines a "controlled substance **analog**" as

~~HN24~~ a substance:

(1) the chemical structure of which is substantially similar **[**4]** to that of a controlled substance included in schedule I or II and that has; or

(2) that a person represents or intends to have;

a narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II.

On February 11, 2005, Mohamed waived his right to a jury trial, and he was tried to the bench on that day.

At trial, the Marion County Crime Lab chemist, Wayne Beasley, testified that **khat** is a plant cultivated in areas of the Arabian Peninsula and Eastern Africa that contains the "natural occurring stimulant compound cathinone." (Tr. 52). Beasley further testified that the chemical structure of cathinone is very similar to the chemical structure of methcathinone -- a manmade synthetic chemical that is a Schedule I controlled substance under Indiana law. See I.C. § 35-48-2-4(f). According to Beasley, and the exhibits portraying their respective organic composition, cathinone has "two hydrogen atoms" that are "hooked on" to its nitrogen atom; **[**5]** whereas methcathinone has three hydrogen atoms and a carbon atom "hooked to the nitrogen" atom. (Tr. 55). Beasley opined that the cathinone molecules and methcathinone molecules were "substantially similar," that is being "similar in chemical structure." (Tr. 56, 58). Beasley also testified that cathinone and methcathinone "are both stimulants." (Tr. 59). When asked on cross-examination about whether "the effect" of cathinone was "similar" to that of methcathinone, Beasley explained,

I would say they are similar in chemical structure but as far as the effect it would have on somebody I really cannot testify to the difference between the two.

(Tr. 57, 58). When further pressed by the trial court on this issue, Beasley stated,

I can testify that they are both stimulants. What I can't testify to is the severity or level of (inaudible) that the compounds have compared to each other. That would be more somebody in **[*555]** toxicology or pharmacology, which I really don't have the background to testify.

and that he lacked

enough understanding of that area to say that for example methcathinone is ten (10) times stronger than cathinone, I cannot testify to that. **[**6]**

(Tr. 59).

Counsel for both Mohamed and his co-defendant argued that Indiana law did not specify **khat** as a controlled or illegal substance. Mohamed's counsel also argued that the following were fatal to the State's obtaining a valid conviction: the lack of evidence on the comparative effect of cathinone on the central nervous system; the lack of knowledge by Mohamed with regard to "what was in a box that was behind his seat" or "its effect"; and that the **analog** statute was "constitutionally vague . . . because it does not ever define what substantially similar chemical structure is." (Tr. 66).

Finding "no evidence" as to delivery, the trial court concluded that neither the driver nor Mohamed was proven "to have possessed with the intent to deliver to another person," and acquitted them on the dealing charges. (Tr. 71). However, based on the evidence that cathinone and methcathinone "are both stimulants"; that cathinone is similar chemically to a controlled substance"; and that the **khat's** "proximity, . . . visibility, . . . size" with respect to Mohamed's position in the vehicle supported the reasonable inference that he was "well aware of its presence and [had] the ability **[**7]** to control it," the trial court found Mohamed guilty of the possession charge. (Tr. 70, 72). When pressed by Mohamed's counsel as to whether the trial court found beyond a reasonable doubt that the evidence "showed that the effect on the central nervous system is substantially similar to or greater than methcathinone," the trial court responded that it had drawn that inference from the fact that both were stimulants. (Tr. 71).

DECISION

Mohamed argues that the statutory definition of a controlled substance **analog**, see IND. CODE § 35-48-1-9.3, is unconstitutionally vague in that it failed to provide him with sufficient notice of the fact that having **khat** plant

material in his possession could subject him to criminal sanction. Mohamed also argues that there was insufficient evidence to support his conviction beyond a reasonable doubt. Because we find the latter argument dispositive, we do not reach his constitutional argument. See Williams v. State, 714 N.E.2d 644, 651-2 n.6 (Ind. 1999).

^{HN3} When reviewing a claim that evidence was insufficient to support a conviction, we do not reweigh the evidence or judge the credibility of witnesses, **[**8]** and we affirm if there is "substantial evidence of probative value supporting each element of the crime" from which a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. Davis v. State, 813 N.E.2d 1176, 1178 (Ind. 2004).

Initially, we note that "it is well established that ^{HN4} penal statutes must be strictly construed against the State." Sunday v. State, 720 N.E.2d 716, 719 (Ind. 1999). We turn to the statutory elements of the crime charged: possession of a controlled substance **analog**. As already noted, the legislature has defined a "controlled substance **analog**" as

a substance:

(1) the chemical structure of which is substantially similar to that of a controlled substance included in schedule I or II *and* that has; or

(2) that a person represents or intends to have;

[*556] a narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II.

I.C. § 35-48-1-9.3(a) (emphasis **[**9]** added). Thus, the State was required to prove not only that Mohamed possessed an **analog** substance that has a substantially similar chemical structure to that of a controlled substance but *also*

. that the **analog** substance has an effect on the central nervous system "substantially similar to or greater than" the effect of the controlled substance, or

. that he represented or intended the **analog** substance to have an effect on the central nervous system "substantially similar to or greater than" the effect of the controlled substance.

I.C. § 35-48-2-4(f).

Beasley's testimony established that cathinone's chemical structure is substantially similar to that of methcathinone. However, as recounted above, at trial only Beasley testified about the effects of cathinone as compared to methcathinone, and his unequivocal testimony was that he had no knowledge of the comparative effects. Consistent with this record of the trial below, the State conceded at oral argument ² that it had failed to meet its burden of proof with respect to the statutory element concerning the effects of the alleged **analog** substance. Because there is no evidence to **[**10]** establish this element, the evidence was insufficient to establish beyond a reasonable doubt that pursuant to Indiana Code section 35-48-1-9.3, cathinone is a controlled substance **analog** or that Mohamed possessed a controlled substance **analog**. Therefore, his conviction must be reversed.

FOOTNOTES

² We heard oral argument on this case at the Indiana University School of Law - Indianapolis on February 16, 2006. We thank the law school for its hospitality, appellate counsel for their able presentations, and the students for their participation in the subsequent discussion.

Reversed.

SHARPNACK, J., and CRONE, J., concur.

Source: [Legal > / . . . / > IN State Cases, Combined](#) 

Terms: **khat analog** ([Edit Search](#) | [Suggest Terms for My Search](#) | [Feedback on Your Search](#))

View: Full

Date/Time: Thursday, September 30, 2010 - 7:20 AM EDT

* Signal Legend:

 - Warning: Negative treatment is indicated

 - Questioned: Validity questioned by citing refs

 - Caution: Possible negative treatment

Attachment C

Articles on Spice

Physiological Effects of K2

Michele Glinn, Ph.D., D.A.B.F.T

MSP Forensic Sciences Division, Toxicology Unit

Methods for detection of cannabinoids in biological samples have been well-established for decades. Immunoassay screens from dipsticks to fully automated analyzers are used by hospitals, probation departments, crime labs and others. A drug that has the same effects as marijuana, but is not controlled, and not detectable by the usual methods has its obvious attractions - hence the recent rise in popularity of synthetic cannabinoids.

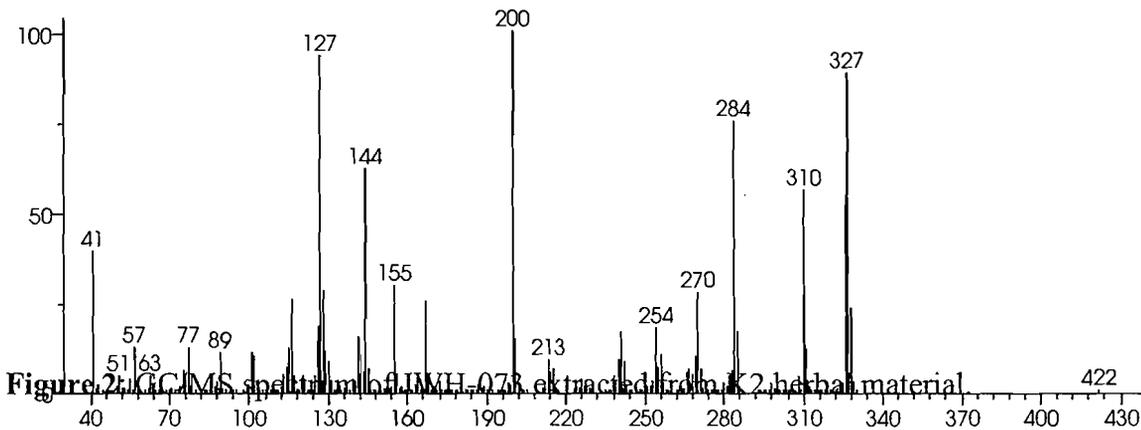
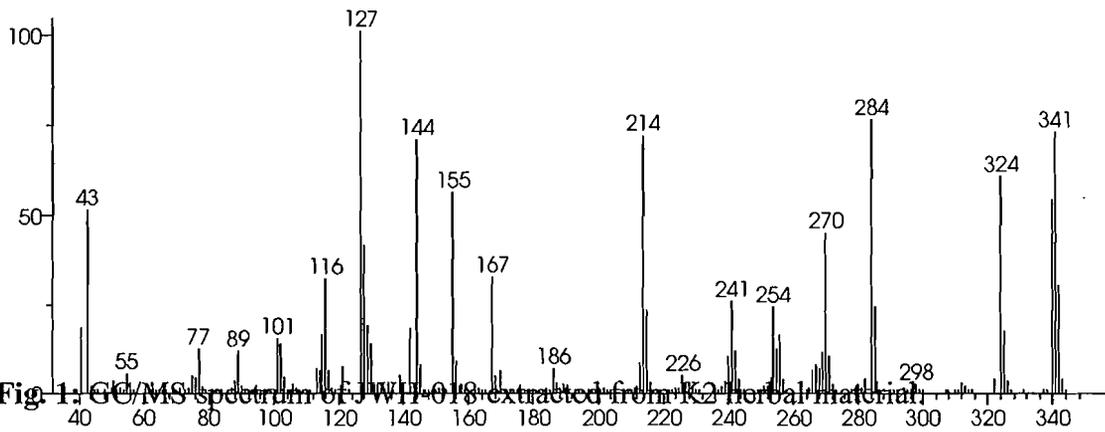
What exactly are they? They are cannabinoid receptor agonists, mostly produced during research into cannabinoid receptor function or during the development of antiemetic or analgesic drugs. The most common are known as JWH-018 and JWH-073, and were originally synthesized by JW Huffman at Clemson University. Also known are HU-210, from Hebrew University, CP-47497 from Pfizer and several other related compounds. These chemicals have been obtained or produced by clandestine chemists, who spray them on dried plant material and sell them as incense or potpourri under names like Spice and K2. The price, \$40 for 3 grams, is roughly comparable to that of mid-grade marijuana¹. None of them are structurally related to cannabinoids, and none cross-react with current commercial cannabinoid immunoassays.

In addition to knowing what these compounds are, it is essential to understand their effects on function and their metabolic and excretion profiles. For effects, we can turn to the internet, where anecdotal reports are numerous². Experiences are variable. Many users say the high is milder and the side effects, including rapid heartbeat, dysphoria (paranoia) and joint aches, more intense. Others report a high very similar to cannabis itself. Duration also varies: some users find it lasts longer than cannabis, others that it ends abruptly. The attraction for most is not that it's a better drug than marijuana, but that it's legal.

One of the first scientific reports to appear on Spice was published on-line in 2009 in the Journal of Mass Spectrometry by Auwarter et al of the University Medical Center in Freiburg, Germany³. In one of the oldest (if not the finest) traditions of biological research, two of the authors experimented on themselves and shared a cigarette containing 0.3 gm of Spice Diamond. They reported "considerably reddened conjunctivae, significant increase of pulse rates, xerostomia and an alteration of mood and perception." There were no psychomotor abnormalities noted, but the subjects felt impaired, and had hangover effects throughout the next day. Analysis of the herbal material showed the presence of JWH-018, CP-47497, and two compounds which were not conclusively identified but appeared to be related to the latter. One of the related compounds was also found in the subjects' blood.

The Toxicology Unit of the Michigan State Police (MSP) Forensic Sciences Division, in conjunction with Drug Recognition Experts (DREs) Sgt. Perry Curtis of the MSP Traffic Services Section, and Ofc. Jeramey Peters of the Auburn Hills Police Department, undertook a study on the physiological effects of synthetic cannabinoids. The Toxicology Unit was given two lots of K2 obtained from head shops in East Lansing

and Auburn Hills. We extracted the active compounds from the herbal material with methylene chloride. The procedure was simple and gave consistent results, most likely because the compounds were simply applied to the surface of the plant material, and did not have to be isolated from the cellular components as is the case with THC. Analysis of the extracts by GC/MS showed that the active ingredients in both samples were JWH-018 and JWH-073 (Figures 1 - 2)^{3,4}. No other compounds were found. As expected, none of the extracts cross-reacted with the cannabinoid panel of our laboratory's immunoassay screen (Randox Evidence).



Sgt. Curtis and Ofc. Peters then dosed a subject with the Auburn Hills lot of K2 as part of a plea agreement. The subject was a regular THC and K2 user, but had not used either substance in the five days before the exam. He completed a physical and DRE evaluation. Findings were normal. He was then given a bag of K2, rolled one cigarette estimated at 1.5 grams, and smoked it. Afterwards, he was taken to the booking area and completed a second DRE evaluation. Findings:

Parameter	Pre-Dose	Pose-Dose
One Leg Stand	No errors	Swayed, bent knees, leaned, nearly fell
Walk-and-Turn	One error during turn	Incorrect turn, more deliberate steps
Romberg	No sway	Visible sway
Finger to Nose	Problems locating tip of nose	Did better than pre-dose
Nystagmus	None present	None present
Convergence	Normal	Left eye unable to converge
Pupils	6.5 mm	6.5 mm Slowed reaction to light, rebound dilation
Eyes	Normal	Bloodshot, droopy
Eyelids	Normal	Tremors
Muscle	Normal	Tremors; tone normal
Pulse Rate	98	114
Blood Pressure	150/104	148/102
Temperature	98.8	99.5; skin warm to touch

Post-dose, the subject had increased body temperature and pulse rate, muscle tremors and distinctive opticokinetic symptoms. Although the subject's temperature was elevated, he reported that he did not feel warm. He completed the SFSTs as instructed, although it seemed to take greater effort than the same tasks pre-dose. He also stated that K2 was addicting and had mind altering and "bizarre" effects. The DREs' conclusions: the effects of JWH-18 and JWH-073 are similar to those of THC and the dissociative anaesthetics. They noted that the subject is a regular user of K2 and may have developed some tolerance; SFST performance might be poorer in a first-time user.

Blood and urine samples were taken before smoking and 30 minutes after the end of smoking, and sent to the MSP Toxicology Unit for analysis. The samples were analyzed using the laboratory's customary immunoassay screening and GC/MS confirmation procedures. No synthetic cannabinoids were seen in the pre-dose specimens. However, JWH-018 and JWH-073 were seen in both blood and urine post-dose. Both peaks were present at a higher intensity in blood than in urine, which may have been a result of the urine collection so soon after the cessation of smoking.

Conclusions: the active ingredients of two varieties of K2 sold in East Lansing and Auburn Hills are JWH-018 and JWH-073. These compounds are not detectable by our lab's immunoassay screen, but can be identified by GC/MS. Blood levels of both 30

minutes after one cigarette appear to be in the low ng/ml range. Physiological effects are similar to those of cannabis and the dissociative anesthetics.

Epilogue: A bill currently under consideration by the Michigan Legislature would make synthetic cannabinoids, including JWH-018 and JWH-073, Schedule I controlled substances. The medical marijuana business, however, is prospering. It remains to be seen how the relative popularity of these two substances changes with alterations in their legal status.

References

1. <http://norml.org>
2. <http://www.erowid.org>
3. <http://onlinelibrary.wiley.com/doi/10.1002/jms.1558/abstract>
4. Lindigkeit et al, *For. Sci. Int.*, 191(2009):58-63.

ANALYTICAL SPECIFICATION

Analyte Name: Synthetic Cannabinoids

Images



Relevant Chemical Data

See **Error! Reference source not found.**[Table 1](#)

General Relevancy

Synthetic cannabinoids are being sold as “herbal incense” under a wide variety of names including Spice, Yucatan Fire, Smoke, Sence, K2, Skunk, Space, K2 Citron, and K2 Blonde. Literature reports and internal analyses have identified the following analytes in these herbal mixtures HU-210; JWH-018; CP 47,497; JWH-073; and JWH-200 (1-3). These synthetic analytes have a varying degree of selectivity and affinity for cannabinoids (CB₁ and CB₂) receptors and are used as an alternative to cannabis. In addition to analytes that have been identified in herbal incense products, standards are available for several other known CB₁ and CB₂ receptor agonists which could potentially be used in a similar manner including JWH-015, JWH-019, JWH-250, CP 55,940 and WIN 55,212-2. While HU-211, an enantiomer of HU-210, has been identified in herbal incense products, it is not a CB receptor agonist. WIN 55,212 also has an enantiomer (WIN 55,212,-3) that is not a CB receptor agonist.

In early 2009, the US Customs and Border Protection (CBP) – Chicago Laboratory (Illinois) announced seizure of herbal incense containing HU-210 and over a period of 3 months proceeded to confiscate over 100 pounds of laced herbal material in five separate shipments (4).

Currently only HU-210 is controlled on the federal level; it is a schedule I drug; HU-211 is not controlled. It may be possible that other synthetic cannabinoids could be controlled under the Federal Analogue Act. However the law only applies to substances sold for human consumption. Since the herbal incense is labeled “not for human consumption” it is more difficult to prosecute these analytes under this act (5). Many states are in the process of controlling specific synthetic cannabinoids.

Mechanism of Action

The synthetic cannabinoids all elicit effects by acting on the CB₁ and CB₂ receptors. Cannabinoid receptors are G-protein-coupled receptors and are also coupled to potassium channel activation and calcium channel inhibition resulting in inhibition of transmitter release (6). CB₁ receptors are centrally distributed, mainly in the hippocampus (memory impairment), cerebellum (motor disturbance), mesolimbic dopamine pathways (reward) and rostral ventromedial medulla (pain), and in the cortex. The central distribution of CB₁ receptors makes them the primary site of pharmacological activity. CB₂ receptors are peripherally located, primarily in the lymphoid system and may explain the immune function inhibition reported with cannabis.

The desired effects following recreational use of synthetic cannabinoids are mediated by CB₁ receptor activity. Therefore, the affinity of an agonist at this receptor may be an indicator of the potential for abuse while affinity at the CB₂ receptor may help identify analytes with therapeutic potential in treatment of autoimmune diseases. Table 2 summarizes the binding affinity (K_i) of Δ⁹-THC and 12 synthetic cannabinoids known to be CB₁ and CB₂ agonists. Lower K_i indicates the analyte binds more tightly to the receptor and thus has more potential to elicit an effect.

Adverse Effects

Following reports of a “legal high” that could be obtained from smoking herbal incense, researchers in Germany conducted a self-administration study (1). Two researchers smoked a single cigarette containing 0.3g of “Spice Diamond” herbal incense, recorded the subjective effects, and collected urine and blood specimens. Effects including increased pulse rate, dry mouth, reddened conjunctivae, and alterations in mood and perception were noted within 10 minutes. Subjects reported feeling moderately impaired and the effects lasted for approximately 6 hours.

Metabolism and Pharmacokinetics

No information available at this time.

Proper Specimen Types

The analysis of synthetic cannabinoids will be for forensic purposes only. The method should be validated for whole blood and serum/plasma. It is important to note that it is very unlikely that the parent compounds will be detectable in urine because they are not water soluble.

Tissue and fluids will be analyzed by standard addition only.

Analytes to be Determined

All listed in [Table 1](#)

Stability

Analytical Standards are stable for at least 2 years @ -20°C (per product information sheets)

Aqueous solutions should not be stored for more than 1 day (per product information sheets)

No information on the stability of these compounds in biological specimens is available.

Methods of Analysis

The Customs and Border Protection (CBP) – Chicago Laboratory (Illinois) reports identification of HU-210 in products labeled as “Spice Gold,” “Spice Silver,” “Spice Diamond,” “Genie,” and “Yucatan Fire” incense by GCMS following N,O-bis(trimethylsilyl)acetamide derivatization (6). The following ions were monitored in selected ion monitoring mode: m/z 446 (100%), 530 (molecular ion), 447, 474, and 356. Further information on the method may be available from CBP upon request.

Uchiyama et al (2010) analyzed 46 herbal products for a variety of analytes including JWH-018, CP 47,497 and JWH-073 employing UPLC-ESI-MS and GCMS (2). Samples were extracted by sonication in methanol followed by centrifugation and filtering. Specimens were dried and reconstituted in 200 μ L methanol.

NOTE: Differentiation of HU-210 and HU-211 and WIN 55,212-2 and WIN 55,212-3 should be attempted. This is especially important for HU-210 (Federally controlled) and HU-211 (not controlled). This can be achieved using a chiral chromatography column (7).

Standards

Analytical standards are available from:

Cayman Chemical Company
1180 East Ellsworth Road
Ann Arbor, Michigan 48108
(Cntrl Click on Name in Table 1 to be directed to Specification Sheet for each analyte)

and/or

Tocris Bioscience
16144 Westwoods Business Park

Ellisville, Missouri 63021
USA

See Attachments for Product Information.

Interfering Substances

Common over-the-counter and abused drugs.

Concentration Range

There is only one publication with concentrations of any synthetic cannabinoid in humans. Two volunteers smoked a cigarette containing 100 mg (Volunteer 1) or 150 mg (Volunteer 2) of JWH-018 (9). The following serum concentrations were measured:

Post-smoking Time (min)	Volunteer 1 (ng/mL)	Volunteer 2 (ng/mL)
5	8.1	10.2
15	4.6	6.1
60	1.7	1.8
180	0.41	0.25
360	<LOQ	<LOQ

Maximum Acceptable Error

The interpretation of concentrations in biological specimens is facilitated by analytical methods with <20% total error.

Forensic Reference Comments

Blood and Serum/Plasma

HU-210

HU-210, a synthetic cannabinoid, has been identified in products sold as “herbal incense”. These products are sold under a wide variety of names including (but not limited to) Spice, Yucatan Fire, Smoke, Sence, K2, Skunk, Space, K2 Citron, and K2 Blonde. HU-210 can be used as an alternative to cannabis.

No information is available on the metabolism of HU-210 or expected blood, serum or plasma concentrations following use.

Note: HU-211 is an enantiomer of HU-210. However, HU-211 is an antagonist at the cannabinoid receptors and thus does not have potential to be used an alternative to cannabis. Testing does not differentiate between HU-210 and HU-211.

JWH-015

JWH-015 is a synthetic cannabinoid that can be used as an alternative to cannabis.

No information is available on the metabolism of JWH-015 or expected blood, serum or plasma concentrations following use.

JWH-018

JWH-018, a synthetic cannabinoid, has been identified in products sold as “herbal incense”. These products are sold under a wide variety of names including (but not limited to) Spice, Yucatan Fire, Smoke, Sence, K2, Skunk, Space, K2 Citron, and K2 Blonde. JWH-018 can be used as an alternative to cannabis.

No information is available on the metabolism of JWH-018. The following serum concentrations were reported in two volunteers who smoked a cigarette containing 100 mg (Volunteer 1) or 150 mg (Volunteer 2) of JWH-018.

Post-smoking Time (min)	Volunteer 1 (ng/mL)	Volunteer 2 (ng/mL)
5	8.1	10.2
15	4.6	6.1
60	1.7	1.8
180	0.41	0.25
360	<LOQ	<LOQ

JWH-019

JWH-019 is a synthetic cannabinoid that can be used as an alternative to cannabis.

No information is available on the metabolism of JWH-019 or expected blood, serum or plasma concentrations following use.

JWH-133

JWH-133 is a synthetic cannabinoid that can be used as an alternative to cannabis.

No information is available on the metabolism of JWH-133 or expected blood, serum or plasma concentrations following use.

JWH-200

JWH-200, a synthetic cannabinoid, has been identified in products sold as “herbal incense”. These products are sold under a wide variety of names including (but not limited to) Spice, Yucatan Fire, Smoke, Sence, K2, Skunk, Space, K2 Citron, and K2 Blonde. JWH-200 is a potent cannabinoid receptor agonist and can be used as an alternative to cannabis.

No information is available on the metabolism of JWH-200 or expected blood, serum or plasma concentrations following use.

JWH-250

JWH-250 is a synthetic cannabinoid that can be used as an alternative to cannabis.

No information is available on the metabolism of JWH-250 or expected blood, serum or plasma concentrations following use.

CP 55,940

CP 55,940 is a synthetic cannabinoid that can be used as an alternative to cannabis.

No information is available on the metabolism of CP 55,940 or expected blood, serum or plasma concentrations following use.

CP 47,497-C7

CP 47,497-C7, a synthetic cannabinoid, has been identified in products sold as “herbal incense”. These products are sold under a wide variety of names including (but not limited to) Spice, Yucatan Fire, Smoke, Sence, K2, Skunk, Space, K2 Citron, and K2 Blonde. CP 47,497-C7 can be used as an alternative to cannabis.

No information is available on the metabolism of CP 47,497-C7 or expected blood, serum or plasma concentrations following use.

CP 47,497-C8

CP 47,497-C8 is a synthetic cannabinoid that can be used as an alternative to cannabis.

No information is available on the metabolism of CP 47,497-C8 or expected blood, serum or plasma concentrations following use.

WIN 55212-2

WIN 55212-2 is a synthetic cannabinoid that can be used as an alternative to cannabis.

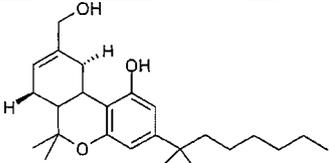
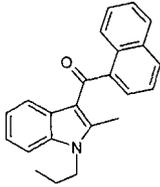
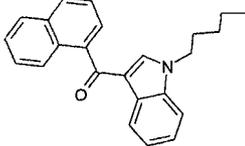
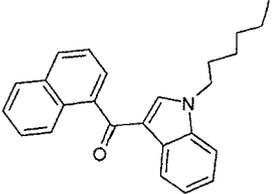
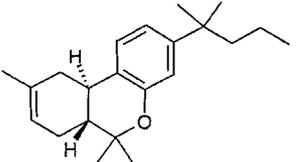
No information is available on the metabolism of WIN 55212-2 or expected blood, serum or plasma concentrations following use.

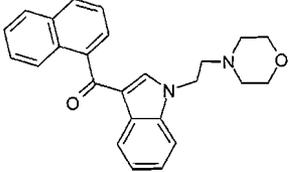
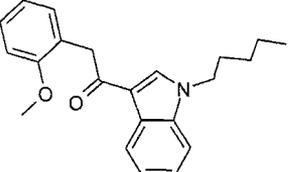
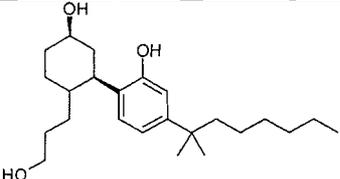
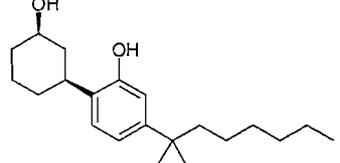
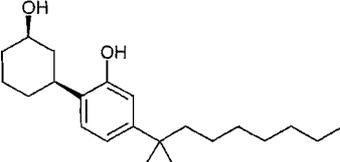
Note: WIN 55212-3 is an enantiomer of WIN 55,212-2. However, WIN 55,212-3 is an antagonist at the cannabinoid receptors and thus does not have potential to be used an alternative to cannabis. Testing does not differentiate between WIN 55,212-2 and WIN 55,212-3.

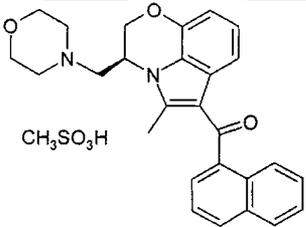
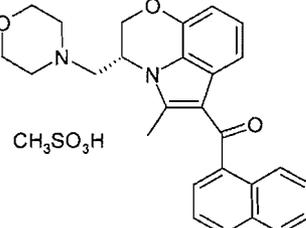
References:

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7. *'Spice' - Plant Material(S) Laced With Synthetic Cannabinoids Or Cannabinoid Mimicking Compounds.* DEA Microgram Bulletin, Volume 42, Number 3, March 2009
8. Levin S, Abu-Lafi S, Zahalka J, and Mechoulam R. *Resolution of chiral cannabinoids on amylose tris (3,5-dimethylphenylcarbamate) chiral stationary phase: effects of structural features and mobile phase additives,* J. Chrom A, 654:53-64, 1993.
9. Teske J, Weller JP, Fieguth A, et al. *Sensitive and rapid quantification of the cannabinoids receptor agonist naphthalen-1-yl-(1-pentylindol-3-yl)methanone JWH-018) in human serum by liquid chromatography-tandem mass spectrometry.* J. Chrom B, Article in Press 2010.

Table 1: Synthetic Cannabinoids that are agonists of CB₁ and CB₂ receptors

Name	Structure	Molecular Formula	Molecular Weight	Solubility Information ¹ (purge with inert gas recommended)
HU-210		C ₂₅ H ₃₈ O ₃	386.6	Ethanol, DMSO, DMF – at least 50 mg/mL
JWH-015		C ₂₃ H ₂₁ NO	327.4	Ethanol, DMSO : ~10 mg/mL
JWH-018		C ₂₄ H ₂₃ NO	341.5	Ethanol, DMSO, DMF: ~10 mg/mL
JWH-019		C ₂₅ H ₂₅ NO	355.5	Soluble in ethanol (~2.5 mg/mL); DMSO (~30 mg/mL), DMF (~20 mg/mL)
JWH-133		C ₂₂ H ₃₂ O	312.5	Available as a water soluble emulsion

Name	Structure	Molecular Formula	Molecular Weight	Solubility Information ¹ (purge with inert gas recommended)
JWH-200		C ₂₅ H ₂₄ N ₂ O ₂	384.5	DMSO and DMF: ~20 mg/mL)
JWH-250		C ₂₅ H ₂₅ NO ₂	335.2	Ethanol (~2.0 mg/mL) DMSO (~ 20 mg/mL), DMF (~20 mg/mL)
CP 55,940		C ₂₄ H ₄₀ O ₃	376.6	Ethanol, DMSO, DMF: ~30 mg/mL
CP 47,497-C7		C ₂₁ H ₃₄ O ₂	318.5	Ethanol, DMSO, DMF: ~10 mg/mL
CP 47,497-C8		C ₂₂ H ₃₆ O ₂	332.5	Ethanol, DMSO, DMF - ~20 mg/mL

Name	Structure	Molecular Formula	Molecular Weight	Solubility Information ¹ (purge with inert gas recommended)
WIN 55212-2	 <chem>CC1=CC=C2C(=C1)C(=C(C=C2)C(=O)C3=CC=CC=C4C=CC=CC34)N(C)C1CCN(C1)CC</chem> $\text{CH}_3\text{SO}_3\text{H}$	$\text{C}_{27}\text{H}_{26}\text{N}_2\text{O}_3 \cdot \text{CH}_4\text{SO}_3$	522.6	Ethanol (~5.0 mg/mL) DMSO (~30 mg/mL), DMF (~30 mg/mL)
WIN 55212-3	 <chem>CC1=CC=C2C(=C1)C(=C(C=C2)C(=O)C3=CC=CC=C4C=CC=CC34)N(C)C1CCN(C1)CC</chem> $\text{CH}_3\text{SO}_3\text{H}$	$\text{C}_{27}\text{H}_{26}\text{N}_2\text{O}_3 \cdot \text{CH}_4\text{SO}_3$	522.6	Ethanol (~5.0 mg/mL) DMSO (~30 mg/mL), DMF (~30 mg/mL)

*Note: CP 47,497-C6 and C9 homologs are also mentioned in the literature, however no standards exist, Their molecular weights are 304.5 and 346.6, respectively, and it would be expected that their fragmentation patterns would be similar to the C7 and C8 homologs.

Table 2: Binding Affinities of Δ^9 -THC and 12 CB1 receptor agonists*

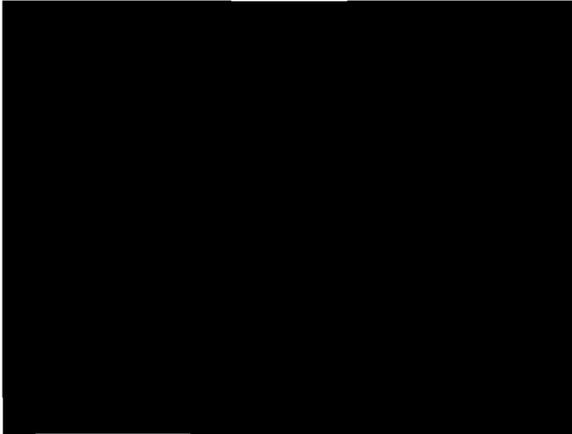
Name	Potency at CB1 ¹	Potency at CB2 ¹	CB ₁ Ki (nM)	CB ₂ Ki (nM)	Reference
Δ^9 -THC			41 ± 2	36 ± 10	
HU-210	8x		0.061	0.52	Drugs Forum Website
JWH-015		28x	164 ± 22	13.8 ± 4.6	Huffman et al (2005)*
JWH-018		3x	9.0 ± 5	2.94 ± 2.6	Huffman et al (2005)
JWH-019			9.8	5.6	Product Information Sheet ²
JWH-133		200x		3.4 ± 2	Drugs Forum Website
JWH-200			42 ± 2		Drugs Forum Website
JWH-250	3x		11 ± 2	33 ± 2	Drugs Forum Website
CP 55,940			0.6 ± 2	0.7 ± 2	Drugs Forum Website
CP 47,497-C7			2.2		Product information Sheet
CP 47,497-C8			0.83		Product information Sheet
WIN 55212-2			1.9 ± 2	0.28 ± 2	Huffman et al (2005)
WIN 55212-3			N.A. ³	N.A	

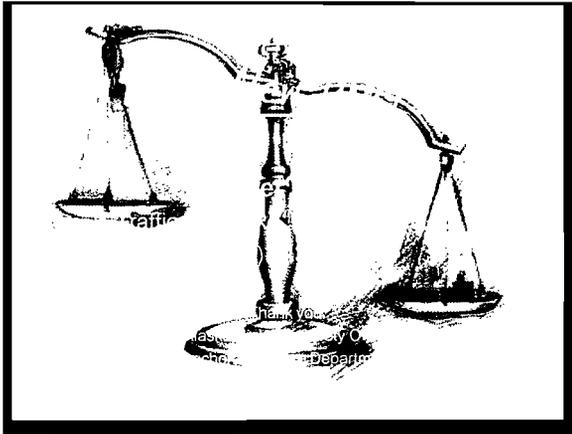
¹Compared to Δ^9 -THC (from <http://www.drugs-forum.com/forum/showthread.php?t=117873>)

²Cntrl Click product name to see information

³Not Available

*Huffman JW, Zengin G, Ming-Jung W, Lu J, et al. *Structure-activity relationships for 1-alkyl-3-(1-naphthoyl)indoles at the cannabinoid CB₁ and CB₂ receptors: steric and electronic effects of naphthoyl substituents. New highly selective CB₂ receptor agonists.* Bioorganic & Medicinal Chemistry, 13: 89-112, 2005.





What Drug Am I?

- He was at a friend's house Tuesday. *"I sat there, and the room spun a little and that's all I really remember,"* said Tyler. Then his family got the scary phone call. Tyler had vomited, suffered seizures and even quit breathing. *"The EMTs had dragged him out of this house on a gurney,"* said Tyler's father. Tyler spent the night in ICU and remained unconscious for five hours.

What Drug am I?

APD#10-14949

- Crossed raised median 3 times, hit concrete wall 2x, driving on sidewalk w/ broken axle / tire
- 6HGN + vertical
- .000 BrAC
- Hallucinating
- "Death is all around me"
- Going to kill Officer



What Drug am I?

SYMPTOMS

- Elevated BP (140-160 / 100-110)
- Rapid heart rate (110-150bpm)
- can be decreased BP / heart rate
- Anxiety
- Hallucinations (can be intense)
- Numbness / Tingling
- Vomiting



What Drug am I?

SYMPTOMS

- Tremors / Seizures
- Unconsciousness
- Paranoia
- 6-8hr high (some effects felt for 24hrs)
- Not detected in blood or urine tests
- Used since 2007
- LEGAL



GUESS?

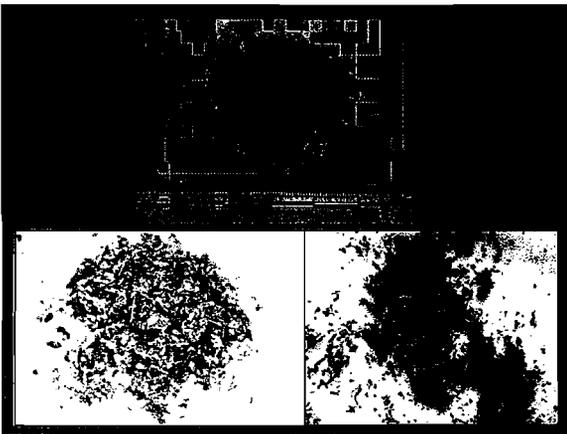
Objectives

- Understand what SPICE / K2 is and why it is important
- Recognize signs / symptoms of SPICE / K2
 - Psychoactive compounds
- Distinguish from marijuana
- Identify likely users
- What you can do
 - Stay safe
 - Solid DUI cases

SPICE

- Plant material (see CD)





SPICE

- Plant material (see CD)
- Marketed as incense
- Laced with various synthetic compounds that behave like THC
- Smoked or mixed in drink or food
- Sold LEGALLY and LOCALLY
- 1g -3g packages About 2x price of pot



SPICE / K2



Brands/Flavors





Psychoactive Compounds

Solid (white powder) or Oil

- Over 100 Synthetic Cannabinoids
- 5 different Cannabinoids found in 'Spice' by Volker Auwarter (2008)
 - Not all samples contained all 5
- DEA Lab similar findings



Psychoactive Compounds

Solid (white powder) or Oil

- JWH-018 most common
 - Pharmacologically similar to THC
 - Developed in U.S. in 1995
 - Synthetic drug that mimics effects of THC
 - Binds to CB1 Receptor 3:1 (THC=CB1, CB2 1:1)
 - 4 times as potent as THC
 - NOT currently a controlled substance

Psychoactive Compounds

Solid (white powder) or Oil

▪ HU-210

- Synthetic cannabinoid
- 100-800x more potent than THC
- Binds over 100 times more tightly to CB1 receptor
- Structurally and pharmacologically similar to THC
- Sch I Controlled Substance



Psychoactive Compounds

Solid (white powder) or Oil

▪ CP-47,497

- Synthetic cannabinoid
- Created by Pfizer 1995
- Not structurally related to THC
- NOT currently a controlled substance



▪ JWH-073

- Synthetic cannabinoid
- Not structurally related to THC
- NOT currently a controlled substance

SPICE

v.

?

- Unregulated mixture of you name it (higher potential for overdose)
- Mixed / Unpredictable symptoms
 - You are the frontline – Be Careful!
- Never been tested on humans
- Longer half-life (prolonged high)

SPICE

v.

?

- Reports of Addiction / Withdrawal
- Not able to detect in blood or urine
- On set 5- 10 Min
- Hallucinations
- Intense paranoia
- Anxiety
- Increase heart / BP

SPICE

v.

?

- Blood shot / Red eyes
- Maybe HGN / VGN
- Lack of Convergence
- Normal Pupil size
- Normal light reaction
- Increase HR / BP
- Rigid muscle tone

Worse than Pot?

- 6 week period (Feb – March 2010) ER
 - St Louis = 30 bad trips
 - Atlanta = 12
 - New Jersey = 2
 - MO Poison Control 10+ (Dec 09 – Jan 2010)



"When you take these drugs, you are hijacking the part of the brain important for many functions: temperature control, food intake, perception, memory and problem solving" – Dr. Huestis

Chief of Chemistry and Drug Metabolism
National Institute Drug Abuse

Likely Users

- Military
- Slope Workers
- High School
- 14 – 27yoa most common
- Prisoners / Probationers
- Experimental Drug Users
- Anyone needing a clean UA



What is Everyone Else Doing About It?

ILLEGAL

In several European and Scandinavian countries

Kansas, Missouri, Tennessee

- Problems with legislation and analog compounds ready to go



What can you do?

- Be Aware / Spread the word / Stay safe
- Help us identify cases / Frequency
 - Ask if you think it might be Spice
- Incident Documentation - even if you just a paragraph
 - Please send to messickj@muni.org
- Detail observations
- Support Legislation
- Poison Control 1-800-222-1222



What can you do?

- REPORT

DEA would appreciate information related to LEO encounters, identification and abuse of Spice

DEA Headquarters
Attn: Drug and Chemical Evaluation Section
8701 Morrissette Dr
Springfield, VA 22152
(202) 307-7183
ODE@usdoj.gov

Thank you

If you have additional information to contribute, or if you would like to schedule this presentation or get a copy of this Power Point, please contact

Jenn Messick
messickj@muni.org
907 343 6434

Questions / comments / feedback WELCOMED

Attachment D

Laws or Introduced Bills From Other Jurisdictions

Alabama

[§ 13A-12-214.1.] Unlawful possession of certain chemical compounds; salvia.

(a) The possession of the following chemical compounds shall be illegal in this state:

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

(2) 1-Pentyl-3-(1-naphthoyl)indole, some trade or other names: JWH-018.

(3) 1-Butyl-3-(1-naphthoyl)indole, some trade or other names: JWH-073.

(4) **Salvia** divinorum or salvinorum A; all parts of the plant presently classified botanically as **salvia** divinorum, whether growing or not, the seeds thereof, any extract from any part and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, extracts.

(b) A violation of subsection (a) shall be subject to the same penalties as a violation of Sect 213 and 13A-12-214, Code of Alabama 1975.

Kansas

Session of 2010

SENATE BILL No. 348

By Senators V. Schmidt, D. Schmidt and Petersen

1-11

9 AN ACT concerning controlled substances; relating to certain synthetic
10 cannabinoids; amending K.S.A. 2009 Supp. 65-4105 and repealing the
11 existing section.

12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2009 Supp. 65-4105 is hereby amended to read as
15 follows: 65-4105. (a) The controlled substances listed in this section are
16 included in schedule I and the number set forth opposite each drug or
17 substance is the DEA controlled substances code which has been assigned
18 to it.

19 (b) Any of the following opiates, including their isomers, esters,
20 ethers, salts, and salts of isomers, esters and ethers, unless specifically
21 excepted, whenever the existence of these isomers, esters, ethers and salts
22 is possible within the specific chemical designation:

23	(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-	
24	piperidinyl]-N-phenylacetamide	9815
25	(2) Acetylmethadol	9601
26	(3) Allylprodine	9602
27	(4) Alphacetylmethadol	9603
28	(except levo-alphacetylmethadol also known as levo-alpha-	
29	acetylmethadol, levomethadyl acetate or LAAM)	
30	(5) Alphameprodine	9604
31	(6) Alphamethadol	9605
32	(7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenylethyl)-4-	
33	piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-	
34	(N-propanilido) piperidine)	9814
35	(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl) ethyl-4-	
36	piperidinyl]-N-phenylpropanamide)	9832
37	(9) Benzethidine	9606
38	(10) Betacetylmethadol	9607
39	(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-	
40	N-phenylpropanamide)	9830
41	(12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-	
42	phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide	9831
43	(13) Betameprodine	9608

1	(14) Betamethadol	9609
2	(15) Betaprodine	9611
3	(16) Clonitazene	9612
4	(17) Dextromoramide	9613
5	(18) Diampromide	9615
6	(19) Diethylthiambutene	9616
7	(20) Difenoxin	9168
8	(21) Dimenoxadol	9617
9	(22) Dimepheptanol	9618
10	(23) Dimethylthiambutene	9619
11	(24) Dioxaphetyl butyrate	9621
12	(25) Dipipanone	9622
13	(26) Ethylmethylthiambutene	9623
14	(27) Etonitazene	9624
15	(28) Etoperidine	9625
16	(29) Furethidine	9626
17	(30) Hydroxypethidine	9627
18	(31) Ketobemidone	9628
19	(32) Levomoramide	9629
20	(33) Levophenacymorphan	9631
21	(34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-	
22	phenylpropanamide)	9813
23	(35) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidyl]-	
24	N-phenylpropanamide)	9833
25	(36) Morpheridine	9632
26	(37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine)	9661
27	(38) Noracymethadol	9633
28	(39) Norlevorphanol	9634
29	(40) Normethadone	9635
30	(41) Norpipanone	9636
31	(42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-	
32	piperidinyl] propanamide)	9812
33	(43) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine)	9663
34	(44) Phenadoxone	9637
35	(45) Phenampromide	9638
36	(46) Phenomorphan	9647
37	(47) Phenoperidine	9641
38	(48) Piritramide	9642
39	(49) Proheptazine	9643
40	(50) Propерidine	9644
41	(51) Propiram	9649
42	(52) Racemoramide	9645
43		

1	(53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-	
2	propanamide	9835
3	(54) Tilidine	9750
4	(55) Trimeperidine	9646
5	(c) Any of the following opium derivatives, their salts, isomers and	
6	salts of isomers, unless specifically excepted, whenever the existence of	
7	these salts, isomers and salts of isomers is possible within the specific	
8	chemical designation:	
9	(1) Acetorphine	9319
10	(2) Acetyldihydrocodeine	9051
11	(3) Benzylmorphine	9052
12	(4) Codeine methylbromide	9070
13	(5) Codeine-N-Oxide	9053
14	(6) Cyprenorphine	9054
15	(7) Desomorphine	9055
16	(8) Dihydromorphine	9145
17	(9) Drotebanol	9335
18	(10) Etorphine (except hydrochloride salt)	9056
19	(11) Heroin	9200
20	(12) Hydromorphanol	9301
21	(13) Methyldesorphine	9302
22	(14) Methyldihydromorphine	9304
23	(15) Morphine methylbromide	9305
24	(16) Morphine methylsulfonate	9306
25	(17) Morphine-N-Oxide	9307
26	(18) Myrophine	9308
27	(19) Nicocodeine	9309
28	(20) Nicomorphine	9312
29	(21) Normorphine	9313
30	(22) Pholcodine	9314
31	(23) Thebacon	9315
32	(d) Any material, compound, mixture or preparation which contains	
33	any quantity of the following hallucinogenic substances, their salts, iso-	
34	mers and salts of isomers, unless specifically excepted, whenever the ex-	
35	istence of these salts, isomers and salts of isomers is possible within the	
36	specific chemical designation:	
37	(1) 4-bromo-2,5-dimethoxy-amphetamine	7391
38	Some trade or other names: 4-bromo-2,5-dimethoxy-alpha-	
39	methylphenethylamine; 4-bromo-2,5-DMA.	
40	(2) 2,5-dimethoxyamphetamine	7396
41	Some trade or other names: 2,5-dimethoxy-alpha-methyl-	
42	phenethylamine; 2,5-DMA.	
43	(3) 4-methoxyamphetamine	7411

1	Some trade or other names: 4-methoxy-alpha-methylphenethylamine;	
2	paramethoxyamphetamine; PMA.	
3	(4) 5-methoxy-3,4-methylenedioxy-amphetamine	7401
4	(5) 4-methyl-2,5-dimethoxy-amphetamine	7395
5	Some trade or other names: 4-methyl-2,5-dimethoxy-alpha-	
6	methylphenethylamine; "DOM"; and "STP".	
7	(6) 3,4-methylenedioxy amphetamine	7400
8	(7) 3,4-methylenedioxymethamphetamine (MDMA)	7405
9	(8) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-	
10	alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA,	
11	MDE, and MDEA)	7404
12	(9) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-	
13	alpha-methyl-3,4(methylenedioxy) phenethylamine, and N-hydroxy	
14	MDA)	7402
15	(10) 3,4,5-trimethoxy amphetamine	7390
16	(11) Bufotenine	7433
17	Some trade or other names: 3-(Beta-Dimethyl-aminoethyl)-5-	
18	hydroxyindole; 3-(2-dimethyl-aminoethyl)-5-indolol; N,N-	
19	dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine.	
20	(12) Diethyltryptamine	7434
21	Some trade or other names: N,N-Diethyltryptamine; DET.	
22	(13) Dimethyltryptamine	7435
23	Some trade or other names: DMT.	
24	(14) Ibogaine	7260
25	Some trade or other names: 7-Ethyl-6,6 Beta,7,8,9,10,12,13-octahydro-	
26	2-methoxy-6,9-methano-5H-pyrido[1',2':1,2] azepino [5,4-b]indole;	
27	Tabernanthe iboga.	
28	(15) Lysergic acid diethylamide	7315
29	(16) Marijuana	7360
30	(17) Mescaline	7381
31	(18) Parahexyl	7374
32	Some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-	
33	6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl.	
34	(19) Peyote	7415
35	Meaning all parts of the plant presently classified botanically as <i>Lopho-</i>	
36	<i>phora williamsii Lemaire</i> , whether growing or not, the seeds thereof,	
37	any extract from any part of such plant, and every compound, manu-	
38	facture, salts, derivative, mixture or preparation of such plant, its seeds	
39	or extracts.	
40	(20) N-ethyl-3-piperidyl benzilate	7482
41	(21) N-methyl-3-piperidyl benzilate	7484
42	(22) Psilocybin	7437
43	(23) Psilocyn	7438

1	(24) Tetrahydrocannabinols	7370
2	Synthetic equivalents of the substances contained in the plant, or in the	
3	resinous extractives of Cannabis, sp. and/or synthetic substances, deriv-	
4	atives, and their isomers with similar chemical structure and pharma-	
5	cological activity such as the following: Delta 1 cis or trans tetrahydro-	
6	cannabinol, and their optical isomers Delta 6 cis or trans	
7	tetrahydrocannabinol, and their optical isomers Delta 3,4 cis or trans	
8	tetrahydrocannabinol, and its optical isomers (Since nomenclature of	
9	these substances is not internationally standardized, compounds of these	
10	structures, regardless of numerical designation of atomic positions cov-	
11	ered.)	
12	(25) Ethylamine analog of phencyclidine	7455
13	Some trade or other names: N-ethyl-1-phenyl-cyclo-hexylamine;	
14	(1-phenylcyclohexyl)ethylamine; N-(1-phenylcyclohexyl)ethylamine;	
15	cyclohexamine; PCE.	
16	(26) Pyrrolidine analog of phencyclidine	7458
17	Some trade or other names: 1-(1-phenylcyclo-hexyl)-pyrrolidine; PCPy;	
18	PHP.	
19	(27) Thiophene analog of phencyclidine	7470
20	Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine; 2-	
21	thienylanalog of phencyclidine; TPCP; TCP.	
22	(28) 1-[1-(2-thienyl)-cyclohexyl] pyrrolidine	7473
23	Some other names: TCPy.	
24	(29) 2,5-dimethoxy-4-ethylamphetamine	7399
25	Some trade or other names: DOET.	
26	(30) Salvia divinorum or salvinorum A; all parts of the plant presently clas-	
27	sified botanically as salvia divinorum, whether growing or not, the seeds	
28	thereof, any extract from any part of such plant, and every compound,	
29	manufacture, salts, derivative, mixture or preparation of such plant, its	
30	seeds or extracts.	
31	(31) Datura stramonium, commonly known as gypsum weed or jimson weed;	
32	all parts of the plant presently classified botanically as datura stramo-	
33	nium, whether growing or not, the seeds thereof, any extract from any	
34	part of such plant, and every compound, manufacture, salts, derivative,	
35	mixture or preparation of such plant, its seeds or extracts.	
36	(32) (6aR,10aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-	
37	6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol	7370
38	Some trade or other names: HU-210.	
39	(33) 1-Pentyl-3-(1-naphthoyl)indole	
40	Some trade or other names: JWH-018.	
41	(34) 1-Butyl-3-(1-naphthoyl)indole	
42	Some trade or other names: JWH-073.	
43	(e) Any material, compound, mixture or preparation which contains	

1 any quantity of the following substances having a depressant effect on the
 2 central nervous system, including its salts, isomers, and salts of isomers
 3 whenever the existence of such salts, isomers, and salts of isomers is
 4 possible within the specific chemical designation:

- 5 (1) Mecloqualone 2572
 6 (2) Methaqualone 2565
 7 (3) Gamma hydroxybutyric acid

8 (f) Unless specifically excepted or unless listed in another schedule,
 9 any material, compound, mixture or preparation which contains any quan-
 10 tity of the following substances having a stimulant effect on the central
 11 nervous system, including its salts, isomers and salts of isomers:

- 12 (1) Fenethylamine 1503
 13 (2) N-ethylamphetamine 1475
 14 (3) (+)cis-4-methylaminorex ((+)cis-4,5-dihydro-4-methyl-5-phenyl-2-
 15 oxazolamine 1590
 16 (4) N,N-dimethylamphetamine (also known as N,N-alpha-trimethyl-
 17 benzeneethanamine; N,N-alpha-trimethylphenethylamine) 1480
 18 (5) Cathinone (some other names: 2-amino-1-phenol-1-propanone, alpha-
 19 amino propiophenone, 2-amino propiophenone and norphedrone) 1235

20 (g) Any material, compound, mixture or preparation which contains
 21 any quantity of the following substances:

- 22 (1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its
 23 optical isomers, salts and salts of isomers 9818
 24 (2) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide
 25 (thenylfentanyl), its optical isomers, salts and salts of isomers 9834
 26 (3) Methcathinone (some other names: 2-methylamino-1-phenylpropan-1-
 27 one: Ephedrone: Monomethylpropion: UR 1431, its salts, optical iso-
 28 mers and salts of optical isomers) 1237
 29 (4) Aminorex (some other names: Aminoxaphen 2-amino-5-phenyl-2-
 30 oxazoline or 4,5-dihydro-5-phenyl-2-oxazolamine, its salts, optical iso-
 31 mers and salts of optical isomers) 1585
 32 (5) Alpha-ethyltryptamine, its optical isomers, salts and salts of isomers ... 7249
 33 Some other names: etryptamine, alpha-methyl-1H-indole-3-
 34 ethanamine; 3-(2-aminobutyl) indole.

35 Sec. 2. K.S.A. 2009 Supp. 65-4105 is hereby repealed.

36 Sec. 3. This act shall take effect and be in force from and after its
 37 publication in the statute book.



Kentucky Legislature

HB265

10RS

WWW Version

The hyperlink to a bill draft that precedes a summary contains the most recent version (Introduced/GA/Enacted) of the bill. If the session has ended, the hyperlink contains the latest version of the bill at the time of sine die adjournment. Note that the summary pertains to the bill as introduced, which is often different from the most recent version.

Includes opposite chamber sponsors where requested by primary sponsors of substantially similar bills in both chambers and jointly approved by the Committee on Committees of both chambers. Opposite chamber sponsors are represented in italics.

HB 265/LM (BR 1083) - W. Coursey, G. Stumbo, J. Crenshaw, J. Richards, F. Steele, T. Thompson, A. Webb-Edgington, B. Yonts

AN ACT relating to crimes and punishments and declaring an emergency.

Create new sections of KRS Chapter 218A to prohibit possession of, trafficking in, and cultivation of salvia and impose penalties; amend KRS 218A.010 to define "salvia"; amend KRS 218A.050 to include salvia as a Schedule I controlled substance; amend KRS 217.065, relating to misbranded drug or device, to include salvia; amend KRS 218A.141 relating to additional penalties for trafficking, to include trafficking in salvia; amend KRS 218A.1411, relating to trafficking in a controlled substance in or near school, to exclude offenses relating to salvia; amend KRS 218A.276, relating to a rehabilitation program for possessors of marijuana, to include possessors of salvia; amend KRS 218A.410, relating to property subject to forfeiture, to exclude misdemeanor offenses relating to salvia in certain circumstances; amend KRS 218A.500 to include in the definition of "drug paraphernalia" certain items used with salvia; amend KRS 218A.992, relating to enhancement of penalty for drug offense when in possession of a firearm, to exclude offenses involving salvia; amend KRS 530.064, relating to unlawful transaction with a minor in the first degree, to exclude activity involving salvia; amend various other sections to conform; EMERGENCY.

HB 265 - AMENDMENTS

SCS (1/LM) - Delete original provisions; Create new sections of KRS Chapter 218A to prohibit possession of, trafficking in, and cultivation of synthetic cannabinoid agonists or piperazines and impose penalties; amend KRS 218A.010 to define "synthetic cannabinoid agonists or piperazines"; amend KRS 218A.050 to include synthetic cannabinoid agonists or piperazines as a Schedule I controlled substance; amend KRS 217.065 relating to misbranded drug or device to include synthetic cannabinoid agonists or piperazines; amend KRS 218A.1401 relating to selling controlled substances to a minor to exclude synthetic cannabinoid agonists or piperazines; amend KRS 218A.141 relating to additional penalties for trafficking to include trafficking in synthetic cannabinoid agonists or piperazines; amend KRS 218A.1411 relating to trafficking in a controlled substance in or near school to exclude offenses relating to synthetic cannabinoid agonists or piperazines; amend KRS 218A.1413 to exclude synthetic cannabinoid agonists or piperazines from trafficking in a controlled substance in the second degree; amend KRS 218A.1416 to exclude synthetic cannabinoid agonists or piperazines from possession of a controlled substance in the second degree; amend KRS 218A.276 relating to a rehabilitation program for possessors of marijuana to include possessors of synthetic cannabinoid agonists or piperazines; amend KRS 218A.410 relating to property subject to forfeiture to exclude misdemeanor offenses relating to synthetic cannabinoid agonists or piperazines in certain circumstances; amend KRS 218A.500 relating to drug paraphernalia to modify the penalty; amend KRS 218A.992, relating to enhancement of penalty for drug offense when in possession of a firearm to exclude offenses involving synthetic cannabinoid agonists or piperazines; amend KRS 530.064 relating to unlawful transaction with a minor in the first degree to exclude activity involving synthetic cannabinoid agonists or piperazines; declare an EMERGENCY.

SCS (2/LM) - Amend SCS 1 to include provisions creating a per se DUI offense if certain listed drugs are detected in a driver's blood and the driver lacks a prescription for those drugs and to lower the blood alcohol level required for an aggravated DUI offense from 0.18 to 0.15 of a person's blood alcohol level.

Michigan

SB-1373, As Passed Senate, August 24, 2010

SUBSTITUTE FOR
SENATE BILL NO. 1373

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 7212, 7403, and 7404 (MCL 333.7212,
333.7403, and 333.7404), as amended by 2002 PA 710.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7212. (1) The following controlled substances are
2 included in schedule 1:

3 (a) Any of the following opiates, including their isomers,
4 esters, the ethers, salts, and salts of isomers, esters, and
5 ethers, unless specifically excepted, when the existence of these
6 isomers, esters, ethers, and salts is possible within the
7 specific chemical designation:

8 Acetylmethadol Difenoxin Noracymethadol

1	Allylprodine	Dimenoxadol	Norlevorphanol
2	Alpha-acetylmethadol	Dimepheptanol	Normethadone
3	Alphameprodine	Dimethylthiambutene	Norpipanone
4	Alphamethadol	Dioxaphetyl butyrate	Phenadoxone
5	Benzethidine	Dipipanone	Phenampramide
6	Betacetylmethadol	Ethylmethylthiambutene	Phenomorphane
7	Betameprodine	Etonitazene	Phenoperidine
8	Betamethadol	Etoxadine	Piritramide
9	Betaprodine	Furethidine	Proheptazine
10	Clonitazene	Hydroxypethidine	Properidine
11	Dextromoramide	Ketobemidone	Propiram
12	Diampramide	Levomoramide	Racemoramide
13	Diethylthiambutene	Levophenacymorphane	Trimeperidine
14		Morpheridine	

15 (b) Any of the following opium derivatives, their salts,
 16 isomers, and salts of isomers, unless specifically excepted, when
 17 the existence of these salts, isomers, and salts of isomers is
 18 possible within the specific chemical designation:

19	Acetorphine	Drotebanol	Morphine-N-Oxide
20	Acetyldihydrocodeine	Etorphine	Myrophine
21	Benzylmorphine	Heroin	Nicocodeine
22	Codeine methylbromide	Hydromorphinol	Nicomorphine
23	Codeine-N-Oxide	Methyldesorphine	Normorphine
24	Cyprenorphine	Methyldihydromorphine	Pholcodine
25	Desomorphine	Morphine methylbromide	Thebacon
26	Dihydromorphine	Morphine methylsulfonate	

1 (c) Any material, compound, mixture, or preparation which
2 contains any quantity of the following hallucinogenic substances,
3 their salts, isomers, and salts of isomers, unless specifically
4 excepted, when the existence of these salts, isomers, and salts
5 of isomers is possible within the specific chemical designation:

6 2-Methylamino-1-phenylpropan-1-one

7 Some trade and other names:

8 Methcathinone

9 Cat

10 Ephedrone

11 3, 4-methylenedioxy amphetamine

12 5-methoxy-3, 4-methylenedioxy

13 amphetamine

14 3, 4, 5-trimethoxy amphetamine

15 Bufotenine

16 Some trade and other names:

17 3-(B-dimethylaminoethyl)-5 hydroxyindole

18 3-(2-dimethylaminoethyl)-5 indolol

19 N,N-dimethylserotonin; 5-hydroxy-N-dimethyltryptamine

20 Mappine

21 2, 5-Dimethoxyamphetamine

22 Some trade or other names:

23 2, 5-Dimethoxy-a-methylphenethylamine; 2,5-DMA

24 4-Bromo-2, 5-Dimethoxyamphetamine

25 Some trade or other names:

26 4-bromo-2, 5 dimethoxy-a-methylphenethylamine; 4-bromo

27 2,5-DMA

28 Diethyltryptamine

29 Some trade and other names:

- 1 N,N-Diethyltryptamine; DET
- 2 Dimethyltryptamine
- 3 Some trade or other names:
- 4 DMT
- 5 4-methyl-2, 5-dimethoxyamphetamine
- 6 Some trade and other names:
- 7 4-methyl-2, 5-dimethoxy- α -methyl-phenethylamine
- 8 DOM, STP
- 9 4-methoxyamphetamine
- 10 Some trade or other names:
- 11 4-methoxy- α -methylphenethylamine; paramethoxy amphetamine;
- 12 PMA
- 13 Ibogaine
- 14 Some trade and other names:
- 15 7-Ethyl-6,6a,7,8,9,10,12,13
- 16 Octahydro-2-methoxy-6,9-methano-5H-
- 17 pyrido (1, 2:1, 2 azepino 4, 5-b) indole
- 18 tabernanthe iboga
- 19 Lysergic acid diethylamide
- 20 Marihuana, ~~except as otherwise provided in subsection (2)~~
- 21 Mecloqualone
- 22 Mescaline
- 23 Peyote
- 24 N-ethyl-3 piperidyl benzilate
- 25 N-methyl-3 piperidyl benzilate
- 26 Psilocybin
- 27 Psilocyn
- 28 Thiophene analog of phencyclidine
- 29 Some trade or other names:
- 30 1-(1-(2-thienyl)cyclohexyl) piperidine)
- 31 2-thienyl analog of phencyclidine; TPCP

1 (d) ~~Except as provided in subsection (2), synthetic~~
2 **SYNTHETIC** equivalents of the substances contained in the plant,
3 or in the resinous extractives of cannabis and synthetic
4 substances, derivatives, and their isomers with similar chemical
5 structure or pharmacological activity, or both, such as the
6 following, are included in schedule 1:

7 (i) Δ^1 cis or trans tetrahydrocannabinol, and their optical
8 isomers.

9 (ii) Δ^6 cis or trans tetrahydrocannabinol, and their optical
10 isomers.

11 (iii) $\Delta^{3,4}$, cis or trans tetrahydrocannabinol, and their
12 optical isomers.

13 (e) Compounds of structures of substances referred to in
14 subdivision (d), regardless of numerical designation of atomic
15 positions, are included.

16 (f) Gamma-hydroxybutyrate and any isomer, salt, or salt of
17 isomer of gamma-hydroxybutyrate.

18 Some trade and other names:

19 Sodium oxybate

20 4-hydroxybutanoic acid monosodium salt

21 (g) 3,4-methylenedioxymethamphetamine.

22 Some trade and other names:

23 Ecstasy

24 MDMA

1 N-BENZYLPIPERAZINE

2

3 SOME TRADE AND OTHER NAMES:

4 BZP

5 BENZYLPIPERAZINE

6 1-(PHENYLMETHYL)-PIPERAZINE

7

8 3-CHLOROPHENYLPIPERAZINE (MCPD)

9 1-(3-TRIFLUOROMETHYLPHENYL)PIPERAZINE (TFMPP)

10 4-BROMO-2,5-DIMETHOXYBENZYLPIPERAZINE (2C-B-BZP)

11 (H) ALL OF THE FOLLOWING:

12 (i) (6AR,10AR)-9-(HYDROXYMETHYL)-6,6-DIMETHYL-3-(2-
13 METHYLOCTAN-2-YL)-6A,7,10,10A-TETRAHYDROBENZO [C] CHROMEN-1-OL.

14 SOME TRADE AND OTHER NAMES:

15 HU-210

16 (ii) 2-[(1R,3S)-3-HYDROXYCYCLOHEXYL]-5-(2-METHYLOCTAN-2-
17 YL)PHENOL AND ITS SIDE CHAIN HOMOLOGUES.

18 SOME TRADE AND OTHER NAMES:

19 CP47,497

20 (iii) 1-PENTYL-3-(1-NAPHTHOYL)INDOLE.

21 SOME TRADE AND OTHER NAMES:

22 JWH-018

23 (iv) 1-BUTYL-3-(1-NAPHTHOYL)INDOLE.

1 SOME TRADE AND OTHER NAMES:

2 JWH-073

3

4 (v) JWH-015 (2-METHYL-1-PROPYL-1H-INDOL-3-YL) -1-

5 NAPHTHALENYL-METHANONE.

6 (vi) JWH-200 [1-[2-(4-MORPHOLINYL)ETHYL]-1H-INDOL-3-YL]-1-

7 NAPHTHALENYL-METHANONE.

8 (vii) JWH-250 1-(1-PENTYL-1H-INDOL-3-YL)-2-(2-METHOXYPHENYL)-

9 ETHANONE.

10 (I) MEPHRADONE (4-METHYLMETHCATHINONE); ALSO KNOWN AS (4-

11 MMC).

12 SOME TRADE AND OTHER NAMES:

13 MCAT, MEOW MEOW, BOUNCE, BUBBLES, AND MAD COW

14 (J) 4-METHYL-ALPHA-PYRROLIDINOBUTYROPHENONE, ALSO KNOWN AS

15 MPBP.

16 (K) KHAT, CATHINONE.

17 (I) SALVIA DIVINORUM AND SALVINORIN A; ALL PARTS OF THE PLANT

18 PRESENTLY CLASSIFIED BOTANICALLY AS SALVIA DIVINORUM, WHETHER

19 GROWING OR NOT; THE SEEDS OF THAT PLANT; ANY EXTRACT FROM ANY

20 PART OF THAT PLANT; AND EVERY COMPOUND, MANUFACTURE, SALTS

21 DERIVATIVE, MIXTURE, OR PREPARATION OF THAT PLANT OR ITS SEEDS OR

22 EXTRACTS.

23 ~~— (2) Marihuana and the substances described in subsection (1)~~

24 ~~(d) and (e) in schedule 1 shall be regulated as provided in~~

25 ~~schedule 2, if they are dispensed in the manner provided in~~

26 ~~sections 7335 and 7336.~~

1 (2) ~~(3)~~ For purposes of subsection (1), "isomer" includes
2 the optical, position, and geometric isomers.

3 Sec. 7403. (1) A person shall not knowingly or intentionally
4 possess a controlled substance, a controlled substance analogue,
5 or a prescription form unless the controlled substance,
6 controlled substance analogue, or prescription form was obtained
7 directly from, or pursuant to, a valid prescription or order of a
8 practitioner while acting in the course of the practitioner's
9 professional practice, or except as otherwise authorized by this
10 article.

11 (2) A person who violates this section as to:

12 (a) A controlled substance classified in schedule 1 or 2
13 that is a narcotic drug or a drug described in section
14 7214(a)(iv), and:

15 (i) Which is in an amount of 1,000 grams or more of any
16 mixture containing that substance is guilty of a felony
17 punishable by imprisonment for life or any term of years or a
18 fine of not more than \$1,000,000.00, or both.

19 (ii) Which is in an amount of 450 grams or more, but less
20 than 1,000 grams, of any mixture containing that substance is
21 guilty of a felony punishable by imprisonment for not more than
22 30 years or a fine of not more than \$500,000.00, or both.

23 (iii) Which is in an amount of 50 grams or more, but less than
24 450 grams, of any mixture containing that substance is guilty of
25 a felony punishable by imprisonment for not more than 20 years or
26 a fine of not more than \$250,000.00, or both.

27 (iv) Which is in an amount of 25 grams or more, but less than

1 50 grams of any mixture containing that substance is guilty of a
2 felony punishable by imprisonment for not more than 4 years or a
3 fine of not more than \$25,000.00, or both.

4 (v) Which is in an amount less than 25 grams of any mixture
5 containing that substance is guilty of a felony punishable by
6 imprisonment for not more than 4 years or a fine of not more than
7 \$25,000.00, or both.

8 (b) Either of the following:

9 (i) A substance described in section 7212(1)(g) or 7214(c)(ii)
10 is guilty of a felony punishable by imprisonment for not more
11 than 10 years or a fine of not more than \$15,000.00, or both.

12 (ii) A controlled substance classified in schedule 1, 2, 3,
13 or 4, except a controlled substance for which a penalty is
14 prescribed in **SUBPARAGRAPH (i) OR** subdivision (a), ~~(b)(i),~~ (c), or
15 (d), or a controlled substance analogue is guilty of a felony
16 punishable by imprisonment for not more than 2 years or a fine of
17 not more than \$2,000.00, or both.

18 (c) Lysergic acid diethylamide, peyote, mescaline,
19 dimethyltryptamine, psilocyn, psilocybin, or a controlled
20 substance classified in schedule 5 is guilty of a misdemeanor
21 punishable by imprisonment for not more than 1 year or a fine of
22 not more than \$2,000.00, or both.

23 (d) Marihuana, **SALVIA DIVINORUM, SALVINORIN A, OR A**
24 **SUBSTANCE DESCRIBED IN SECTION 7212(1)(H)** is guilty of a
25 misdemeanor punishable by imprisonment for not more than 1 year
26 or a fine of not more than \$2,000.00, or both.

27 (e) A prescription form is guilty of a misdemeanor

1 punishable by imprisonment for not more than 1 year or a fine of
2 not more than \$1,000.00, or both.

3 (3) If an individual was sentenced to lifetime probation
4 under subsection (2) (a) (iv) before ~~the effective date of the~~
5 ~~amendatory act that added this subsection~~ APRIL 1, 2003 and the
6 individual has served 5 or more years of that probationary
7 period, the probation officer for that individual may recommend
8 to the court that the court discharge the individual from
9 probation. If an individual's probation officer does not
10 recommend discharge as provided in this subsection, with notice
11 to the prosecutor, the individual may petition the court seeking
12 resentencing under the court rules. The court may discharge an
13 individual from probation as provided in this subsection. An
14 individual may file more than 1 motion seeking resentencing under
15 this subsection.

16 Sec. 7404. (1) A person shall not use a controlled substance
17 or controlled substance analogue unless the substance was
18 obtained directly from, or pursuant to, a valid prescription or
19 order of a practitioner while acting in the course of the
20 practitioner's professional practice, or except as otherwise
21 authorized by this article.

22 (2) A person who violates this section as to:

23 (a) A controlled substance classified in schedule 1 or 2 as
24 a narcotic drug or a drug described in section 7212(1) (g) or
25 7214(a) (iv) or (c) (ii) is guilty of a misdemeanor punishable by
26 imprisonment for not more than 1 year or a fine of not more than
27 \$2,000.00, or both.

1 (b) A controlled substance classified in schedule 1, 2, 3,
2 or 4, except a controlled substance for which a penalty is
3 prescribed in subdivision (a), (c), or (d), or a controlled
4 substance analogue, is guilty of a misdemeanor punishable by
5 imprisonment for not more than 1 year or a fine of not more than
6 \$1,000.00, or both.

7 (c) Lysergic acid diethylamide, peyote, mescaline,
8 dimethyltryptamine, psilocyn, psilocybin, or a controlled
9 substance classified in schedule 5 ~~7~~ is guilty of a misdemeanor
10 punishable by imprisonment for not more than 6 months or a fine
11 of not more than \$500.00, or both.

12 (d) Marihuana, **SALVIA DIVINORUM, SALVINORIN A, OR A**
13 **SUBSTANCE DESCRIBED IN SECTION 7212(1)(H)** is guilty of a
14 misdemeanor punishable by imprisonment for not more than 90 days
15 or a fine of not more than \$100.00, or both.

16 Enacting section 1. This amendatory act takes effect October
17 1, 2010.

Missouri

SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR

HOUSE BILL NO. 1472

95TH GENERAL ASSEMBLY

3978L.04T

2010

AN ACT

To repeal sections 195.017 and 195.202, RSMo, and to enact in lieu thereof two new sections relating to the designation of controlled substances, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 195.017 and 195.202, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 195.017 and 195.202, to read as follows:

195.017. 1. The department of health and senior services shall place a substance in Schedule I if it finds that the substance:

(1) Has high potential for abuse; and

(2) Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

2. Schedule I:

(1) The controlled substances listed in this subsection are included in Schedule I;

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(a) Acetyl-alpha-methylfentanyl;

(b) Acetylmethadol;

(c) Allylprodine;

(d) Alphacetylmethadol;

(e) Alphameprodine;

(f) Alphamethadol;

(g) Alpha-methylfentanyl;

(h) Alpha-methylthiofentanyl;

- (i) Benzethidine;
- (j) Betacetylmethadol;
- (k) Beta-hydroxyfentanyl;
- (l) Beta-hydroxy-3-methylfentanyl;
- (m) Betameprodine;
- (n) Betamethadol;
- (o) Betaprodine;
- (p) Clonitazene;
- (q) Dextromoramide;
- (r) Diampromide;
- (s) Diethylthiambutene;
- (t) Difenoxin;
- (u) Dimenoxadol;
- (v) Dimepheptanol;
- (w) Dimethylthiambutene;
- (x) Dioxaphetyl butyrate;
- (y) Dipipanone;
- (z) Ethylmethylthiambutene;
- (aa) Etonitazene;
- (bb) Etoxidine;
- (cc) Furethidine;
- (dd) Hydroxypethidine;
- (ee) Ketobemidone;
- (ff) Levomoramide;
- (gg) Levophenacymorphan;
- (hh) 3-Methylfentanyl;
- (ii) 3-Methylthiofentanyl;
- (jj) Morpheridine;
- (kk) MPPP;
- (ll) Noracymethadol;
- (mm) Norlevorphanol;
- (nn) Normethadone;
- (oo) Norpipanone;
- (pp) Para-fluorofentanyl;
- (qq) PEPAP;
- (rr) Phenadoxone;

- (ss) Phenampromide;
- (tt) Phenomorphan;
- (uu) Phenoperidine;
- (vv) Piritramide;
- (ww) Proheptazine;
- (xx) Properidine;
- (yy) Propiram;
- (zz) Racemoramide;
- (aaa) Thiofentanyl;
- (bbb) Tilidine;
- (ccc) Trimeperidine;

(3) Any of the following opium derivatives, their salts, isomers and salts of isomers unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (a) Acetorphine;
- (b) Acetyldihydrocodeine;
- (c) Benzylmorphine;
- (d) Codeine methylbromide;
- (e) Codeine-N-Oxide;
- (f) Cyprenorphine;
- (g) Desomorphine;
- (h) Dihydromorphine;
- (i) Drotebanol;
- (j) Etorphine (except hydrochloride salt);
- (k) Heroin;
- (l) Hydromorphanol;
- (m) Methyldesorphine;
- (n) Methyldihydromorphine;
- (o) Morphine methylbromide;
- (p) Morphine methylsulfonate;
- (q) Morphine-N-Oxide;
- (r) Myrophine;
- (s) Nicocodeine;
- (t) Nicomorphine;
- (u) Normorphine;
- (v) Pholcodine;

(w) Thebacon;

(4) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (a) 4-bromo-2, 5-dimethoxyamphetamine;
- (b) 4-bromo-2, 5-dimethoxyphenethylamine;
- (c) 2,5-dimethoxyamphetamine;
- (d) 2,5-dimethoxy-4-ethylamphetamine;
- (e) 2,5-dimethoxy-4-(n)-propylthiophenethylamine;
- (f) 4-methoxyamphetamine;
- (g) 5-methoxy-3,4-methylenedioxyamphetamine;
- (h) 4-methyl-2, 5-dimethoxyamphetamine;
- (i) 3,4-methylenedioxyamphetamine;
- (j) 3,4-methylenedioxymethamphetamine;
- (k) 3,4-methylenedioxy-N-ethylamphetamine;
- (l) N-hydroxy-3, 4-methylenedioxyamphetamine;
- (m) 3,4,5-trimethoxyamphetamine;
- (n) **5-MeO-DMT or 5-methoxy-N,N-dimethyltryptamine, its isomers, salts, and salts of**

isomers;

- (o) Alpha-ethyltryptamine;
- [(o)] (p) Alpha-methyltryptamine;
- [(p)] (q) Bufotenine;
- (r) **Dexanabinol, (6a*S*,10a*S*)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[*c*]chromen-1-ol;**
- [(q)] (s) Diethyltryptamine;
- [(r)] (t) Dimethyltryptamine;
- [(s)] (u) 5-methoxy-N,N-diisopropyltryptamine;
- [(t)] (v) Ibogaine;
- (w) **Indole, or 1-butyl-3(1-naphthoyl)indole;**
- (x) **Indole, or 1-pentyl-3(1-naphthoyl)indole;**
- [(u)] (y) Lysergic acid diethylamide;
- [(v)] (z) Marijuana or marihuana;
- [(w)] (aa) Mescaline;
- [(x)] (bb) Parahexyl;
- [(y)] (cc) Peyote, to include all parts of the plant presently classified botanically as Lophophora

Williamsil Lemaire, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seed or extracts;

(dd) Phenol, CP 47, 497 & homologues, or 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol), where side chain n=5, and homologues where side chain n=4,6, or 7;

[(z)] **(ee)** N-ethyl-3-piperidyl benzilate;

[(aa)] **(ff)** N-methyl-3-piperidyl benzilate;

[(bb)] **(gg)** Psilocybin;

[(cc)] **(hh)** Psilocyn;

[(dd)] **(ii)** Tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:

a. 1 cis or trans tetrahydrocannabinol, and their optical isomers;

b. 6 cis or trans tetrahydrocannabinol, and their optical isomers;

c. 3,4 cis or trans tetrahydrocannabinol, and their optical isomers;

d. Any compounds of these structures, regardless of numerical designation of atomic positions covered;

[(ee)] **(jj)** Ethylamine analog of phencyclidine;

[(ff)] **(kk)** Pyrrolidine analog of phencyclidine;

[(gg)] **(ll)** Thiophene analog of phencyclidine;

[(hh)] **(mm)** 1-[1-(2-thienyl)cyclohexyl]pyrrolidine;

[(ii)] **(nn)** Salvia divinorum;

[(jj)] **(oo)** Salvinorin A;

(5) Any material, compound, mixture or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers and salts of isomers whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(a) Gamma-hydroxybutyric acid;

(b) Mecloqualone;

(c) Methaqualone;

(6) Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:

(a) Aminorex;

(b) N-benzylpiperazine;

- (c) Cathinone;
- (d) Fenethylamine;
- (e) Methcathinone;
- (f) (+,-)cis-4-methylaminorex ((+,-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
- (g) N-ethylamphetamine;
- (h) N,N-dimethylamphetamine;

(7) A temporary listing of substances subject to emergency scheduling under federal law shall include any material, compound, mixture or preparation which contains any quantity of the following substances:

(a) N-(1-benzyl-4-piperidyl)-N phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers;

(b) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide (thienylfentanyl), its optical isomers, salts and salts of isomers;

(8) Khat, to include all parts of the plant presently classified botanically as *catha edulis*, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seed or extracts.

3. The department of health and senior services shall place a substance in Schedule II if it finds that:

- (1) The substance has high potential for abuse;
- (2) The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and
- (3) The abuse of the substance may lead to severe psychic or physical dependence.

4. The controlled substances listed in this subsection are included in Schedule II:

(1) Any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(a) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextropropoxyphene, nalbuphine, nalmefene, naloxone and naltrexone, and their respective salts but including the following:

- a. Raw opium;
- b. Opium extracts;
- c. Opium fluid;
- d. Powdered opium;
- e. Granulated opium;
- f. Tincture of opium;
- g. Codeine;
- h. Ethylmorphine;

- i. Etorphine hydrochloride;
- j. Hydrocodone;
- k. Hydromorphone;
- l. Metopon;
- m. Morphine;
- n. Oxycodone;
- o. Oxymorphone;
- p. Thebaine;

(b) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in this subdivision, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;

(e) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy);

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, dextrophan and levopropoxyphene excepted:

- (a) Alfentanil;
- (b) Alphaprodine;
- (c) Anileridine;
- (d) Bezitramide;
- (e) Bulk dextropropoxyphene;
- (f) Carfentanil;
- (g) [Butyl nitrite;
- (h) Dihydrocodeine;
- [(i)] (h) Diphenoxylate;
- [(j)] (i) Fentanyl;
- [(k)] (j) Isomethadone;
- [(l)] (k) Levo-alphaacetylmethadol;
- [(m)] (l) Levomethorphan;
- [(n)] (m) Levorphanol;
- [(o)] (n) Metazocine;

- [(p)] (o) Methadone;
- [(q)] (p) Meperidine;
- [(r)] (q) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane;
- [(s)] (r) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane--carboxylic acid;
- [(t)] (s) Pethidine (meperidine);
- [(u)] (t) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- [(v)] (u) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- [(w)] (v) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- [(x)] (w) Phenazocine;
- [(y)] (x) Piminodine;
- [(z)] (y) Racemethorphan;
- [(aa)] (z) Racemorphan;
- [(bb)] (aa) Remifentanil;
- [(cc)] (bb) Sufentanil;
- (cc) Tapentadol;**

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

- (a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (b) Lisdexamphetamine, its salts, isomers, and salts of its isomers;
- (c) Methamphetamine, its salts, isomers, and salts of its isomers;
- (d) Phenmetrazine and its salts;
- (e) Methylphenidate;

(4) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (a) Amobarbital;
- (b) Glutethimide;
- (c) Pentobarbital;
- (d) Phencyclidine;
- (e) Secobarbital;

(5) Any material or compound which contains any quantity of nabilone;

(6) Any material, compound, mixture, or preparation which contains any quantity of the following substances:

- (a) Immediate precursor to amphetamine and methamphetamine: Phenylacetone;
- (b) Immediate precursors to phencyclidine (PCP):

- a. 1-phenylcyclohexylamine;
- b. 1-piperidinocyclohexanecarbonitrile (PCC)[.];

(7) Any material, compound, mixture, or preparation which contains any quantity of the following alkyl nitrites:

- (a) Amyl nitrite;**
- (b) Butyl nitrite.**

5. The department of health and senior services shall place a substance in Schedule III if it finds that:

- (1) The substance has a potential for abuse less than the substances listed in Schedules I and II;
- (2) The substance has currently accepted medical use in treatment in the United States; and
- (3) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

6. The controlled substances listed in this subsection are included in Schedule III:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

- (a) Benzphetamine;
- (b) Chlorphentermine;
- (c) Clortermine;
- (d) Phendimetrazine;

(2) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances or salts having a depressant effect on the central nervous system:

(a) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances combined with one or more active medicinal ingredients:

- a. Amobarbital;
- b. Secobarbital;
- c. Pentobarbital;

(b) Any suppository dosage form containing any quantity or salt of the following:

- a. Amobarbital;
- b. Secobarbital;
- c. Pentobarbital;

(c) Any substance which contains any quantity of a derivative of barbituric acid or its salt;

- (d) Chlorhexadol;
- (e) Embutramide;

(f) Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers contained in a drug product for which an application has been approved under Section 505 of the federal Food, Drug, and

Cosmetic Act;

(g) Ketamine, its salts, isomers, and salts of isomers;

(h) Lysergic acid;

(i) Lysergic acid amide;

(j) Methyprylon;

(k) Sulfondiethylmethane;

(l) Sulfonethylmethane;

(m) Sulfonmethane;

(n) Tiletamine and zolazepam or any salt thereof;

(3) Nalorphine;

(4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs or their salts:

(a) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(b) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(c) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(d) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(e) Not more than 1.8 grams of dihydrocodeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(f) Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(g) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams or not more than twenty-five milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(h) Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts, as set forth in subdivision (6) of this subsection; buprenorphine;

(6) Anabolic steroids. Any drug or hormonal substance, chemically and pharmacologically

related to testosterone (other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone) that promotes muscle growth, except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for that administration. If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this paragraph. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any quantity of the following substances, including its salts, esters and ethers:

- (a) $3\beta,17$ -dihydroxy-5 α -androstane;
- (b) $3\alpha,17\beta$ -dihydroxy-5 α -androstane;
- (c) 5 α -androstan-3,17-dione;
- (d) 1-androstenediol ($3\beta,17\beta$ -dihydroxy-5 α -androst-1-ene);
- (e) 1-androstenediol ($3\alpha,17\beta$ -dihydroxy-5 α -androst-1-ene);
- (f) 4-androstenediol ($3\beta,17\beta$ -dihydroxy-androst-4-ene);
- (g) 5-androstenediol ($3\beta,17\beta$ -dihydroxy-androst-5-ene);
- (h) 1-androstenedione ([5 α]-androst-1-en-3,17-dione);
- (i) 4-androstenedione (androst-4-en-3,17-dione);
- (j) 5-androstenedione (androst-5-en-3,17-dione);
- (k) Bolasterone (7 α , 17 α -dimethyl-17 β -hydroxyandrost-4-en-3-one);
- (l) Boldenone (17 β -hydroxyandrost-1,4,-diene-3-one);
- (m) Boldione;**
- [(m)] (n) Calusterone (7 β , 17 α -dimethyl-17 β -hydroxyandrost-4-en-3-one);
- [(n)] (o) Clostebol (4-chloro-17 β -hydroxyandrost-4-en-3-one);
- [(o)] (p) Dehydrochloromethyltestosterone (4-chloro-17 β -hydroxy-17 α -methyl-androst-1,4-dien-3-one);
- (q) Dexoxymethyltestosterone;**
- [(p)] (r) $\Delta 1$ -dihydrotestosterone (a.k.a. '1-testosterone')(17 β -hydroxy-5 α -androst-1-en-3-one);
- [(q)] (s) 4-dihydrotestosterone (17 β -hydroxy-androstan-3-one);
- [(r)] (t) Drostanolone (17 β -hydroxy-2 α -methyl-5 α -androstan-3-one);
- [(s)] (u) Ethylestrenol (17 α -ethyl-17 β -hydroxyestr-4-ene);
- [(t)] (v) Fluoxymesterone (9-fluoro-17 α -methyl-11 $\beta,17\beta$ -dihydroxyandrost-4-en-3-one);
- [(u)] (w) Formebolone (2-formyl-17 α -methyl-11 $\alpha,17\beta$ -dihydroxyandrost-1,4-dien-3-one);
- [(v)] (x) Furazabol (17 α -methyl-17 β -hydroxyandrostano[2,3-c]-furazan);
- [(w)] (y) 13 β -ethyl-17 β -hydroxygon-4-en-3-one;
- [(x)] (z) 4-hydroxytestosterone (4,17 β -dihydroxy-androst-4-en-3-one);
- [(y)] (aa) 4-hydroxy-19-nortestosterone (4,17 β -dihydroxy-estr-4-en-3-one);

- [(z)] **(bb)** Mestanolone (17 α -methyl-17 β -hydroxy-5-androstan-3-one);
- [(aa)] **(cc)** Mesterolone (1 α -methyl-17 β -hydroxy-[5 α]-androstan-3-one);
- [(bb)] **(dd)** Methandienone (17 α -methyl-17 β -hydroxyandrost-1,4-dien-3-one);
- [(cc)] **(ee)** Methandriol (17 α -methyl-3 β ,17 β -dihydroxyandrost-5-ene);
- [(dd)] **(ff)** Methenolone (1-methyl-17 β -hydroxy-5 α -androst-1-en-3-one);
- [(ee)] **(gg)** 17 α -methyl-3 β ,17 β -dihydroxy-5 α -androstane);
- [(ff)] **(hh)** 17 α -methyl-3 α ,17 β -dihydroxy-5 α -androstane);
- [(gg)] **(ii)** 17 α -methyl-3 β ,17 β -dihydroxyandrost-4-ene;
- [(hh)] **(jj)** 17 α -methyl-4-hydroxynandrolone (17 α -methyl-4-hydroxy-17 β -hydroxyestr-4-en-3-one);
- [(ii)] **(kk)** Methyldienolone (17 α -methyl-17 β -hydroxyestra-4,9(10)-dien-3-one);
- [(jj)] **(ll)** Methyltrienolone (17 α -methyl-17 β -hydroxyestra-4,9-11-trien-3-one);
- [(kk)] **(mm)** Methyltestosterone (17 α -methyl-17 β -hydroxyandrost-4-en-3-one);
- [(ll)] **(nn)** Mibolerone (7 α ,17 α -dimethyl-17 β -hydroxyestr-4-en-3-one);
- [(mm)] **(oo)** 17 α -methyl- Δ 1-dihydrotestosterone (17 β -hydroxy-17 α -methyl-5 α -androst-1-en-3-one) (a.k.a. '17- α -methyl-1-testosterone');
- [(nn)] **(pp)** Nandrolone (17 β -hydroxyestr-4-ene-3-one);
- [(oo)] **(qq)** 19-nor-4-androstenediol (3 β ,17 β -dihydroxyestr-4-ene);
- [(pp)] **(rr)** 19-nor-4-androstenediol (3 α ,17 β -dihydroxyestr-4-ene);
- (ss) 19-nor-4,9(10)-androstadienedione;**
- [(qq)] **(tt)** 19-nor-5-androstenediol (3 β ,17 β -dihydroxyestr-5-ene);
- [(rr)] **(uu)** 19-nor-5-androstenediol (3 α ,17 β -dihydroxyestr-5-ene);
- [(ss)] **(vv)** 19-nor-4-androstenedione (estr-4-en-3,17-dione);
- [(tt)] **(ww)** 19-nor-5-androstenedione (estr-5-en-3,17-dione);
- [(uu)] **(xx)** Norbolethone (13 β ,17 α -diethyl-17 β -hydroxygon-4-en-3-one);
- [(vv)] **(yy)** Norclostebol (4-chloro-17 β -hydroxyestr-4-en-3-one);
- [(ww)] **(zz)** Norethandrolone (17 α -ethyl-17 β -hydroxyestr-4-en-3-one);
- [(xx)] **(aaa)** Normethandrolone (17 α -methyl-17 β -hydroxyestr-4-en-3-one);
- [(yy)] **(bbb)** Oxandrolone (17 α -methyl-17 β -hydroxy-2-oxa-[5 α]-androstan-3-one);
- [(zz)] **(ccc)** Oxymesterone (17 α -methyl-4,17 β -dihydroxyandrost-4-en-3-one);
- [(aaa)] **(ddd)** Oxymethalone (17 α -methyl-2-hydroxymethylene-17 β -hydroxy-[5 α]-androstan-3-one);
- [(bbb)] **(eee)** Stanozolol (17 α -methyl-17 β -hydroxy-[5 α]-androst-2-eno[3,2-c]-pyrazole);
- [(ccc)] **(fff)** Stenbolone (17 β -hydroxy-2-methyl-[5 α]-androst-1-en-3-one);
- [(ddd)] **(ggg)** Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);
- [(eee)] **(hhh)** Testosterone (17 β -hydroxyandrost-4-en-3-one);

[(fff)] (iii) Tetrahydrogestrinone (13 β ,17 α -diethyl-17 β -hydroxygon-4,9,11-trien-3-one);

[(ggg)] (jjj) Trenbolone (17 β -hydroxyestr-4,9,11-trien-3-one);

[(hhh)] (kkk) Any salt, ester, or ether of a drug or substance described or listed in this subdivision, except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for that administration;

(7) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product;

(8) The department of health and senior services may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subdivisions (1) and (2) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

7. The department of health and senior services shall place a substance in Schedule IV if it finds that:

(1) The substance has a low potential for abuse relative to substances in Schedule III;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

8. The controlled substances listed in this subsection are included in Schedule IV:

(1) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(a) Not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane);

(c) Any of the following limited quantities of narcotic drugs or their salts, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

a. Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams;

b. Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams;

c. Not more than one hundred milligrams of ethylmorphine per one hundred milliliters or per one hundred grams;

(2) Any material, compound, mixture or preparation containing any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (a) Alprazolam;
- (b) Barbitol;
- (c) Bromazepam;
- (d) Camazepam;
- (e) Chloral betaine;
- (f) Chloral hydrate;
- (g) Chlordiazepoxide;
- (h) Clobazam;
- (i) Clonazepam;
- (j) Clorazepate;
- (k) Clotiazepam;
- (l) Cloxazolam;
- (m) Delorazepam;
- (n) Diazepam;
- (o) Dichloralphenazone;
- (p) Estazolam;
- (q) Ethchlorvynol;
- (r) Ethinamate;
- (s) Ethyl loflazepate;
- (t) Fludiazepam;
- (u) Flunitrazepam;
- (v) Flurazepam;
- (w) Fospropofol;**
- [(w)] (x) Halazepam;
- [(x)] (y) Haloxazolam;
- [(y)] (z) Ketazolam;
- [(z)] **(aa)** Loprazolam;
- [(aa)] **(bb)** Lorazepam;
- [(bb)] **(cc)** Lormetazepam;
- [(cc)] **(dd)** Mebutamate;
- [(dd)] **(ee)** Medazepam;

[(ee)] **(ff)** Meprobamate;
 [(ff)] **(gg)** Methohexital;
 [(gg)] **(hh)** Methylphenobarbital (mephobarbital);
 [(hh)] **(ii)** Midazolam;
 [(ii)] **(jj)** Nimetazepam;
 [(jj)] **(kk)** Nitrazepam;
 [(kk)] **(ll)** Nordiazepam;
 [(ll)] **(mm)** Oxazepam;
 [(mm)] **(nn)** Oxazolam;
 [(nn)] **(oo)** Paraldehyde;
 [(oo)] **(pp)** Petrichloral;
 [(pp)] **(qq)** Phenobarbital;
 [(qq)] **(rr)** Pinazepam;
 [(rr)] **(ss)** Prazepam;
 [(ss)] **(tt)** Quazepam;
 [(tt)] **(uu)** Temazepam;
 [(uu)] **(vv)** Tetrazepam;
 [(vv)] **(ww)** Triazolam;
 [(ww)] **(xx)** Zaleplon;
 [(xx)] **(yy)** Zolpidem;
 [(yy)] **(zz)** Zopiclone;

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substance including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible: fenfluramine;

(4) Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:

- (a) Cathine ((+)-norpseudoephedrine);
- (b) Diethylpropion;
- (c) Fencamfamin;
- (d) Fenproporex;
- (e) Mazindol;
- (f) Mefenorex;
- (g) Modafinil;
- (h) Pemoline, including organometallic complexes and chelates thereof;
- (i) Phentermine;

- (j) Pipradrol;
- (k) Sibutramine;
- (l) SPA ((-)-1-dimethylamino-1,2-diphenylethane);

(5) Any material, compound, mixture or preparation containing any quantity of the following substance, including its salts:

- (a) butorphanol;
- (b) pentazocine;

(6) Ephedrine, its salts, optical isomers and salts of optical isomers, when the substance is the only active medicinal ingredient;

(7) The department of health and senior services may except by rule any compound, mixture, or preparation containing any depressant substance listed in subdivision (1) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

9. The department of health and senior services shall place a substance in Schedule V if it finds that:

(1) The substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

10. The controlled substances listed in this subsection are included in Schedule V:

(1) Any compound, mixture or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(a) Not more than two and five-tenths milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams;

(c) Not more than five-tenths milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(2) Any material, compound, mixture or preparation which contains any quantity of the following substance having a stimulant effect on the central nervous system including its salts, isomers

and salts of isomers: pyrovalerone;

(3) Any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine or its salts or optical isomers, or salts of optical isomers or any compound, mixture, or preparation containing any detectable quantity of ephedrine or its salts or optical isomers, or salts of optical isomers;

(4) Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts: [pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid]]

(a) Lacosamide;

(b) Pregabalin.

11. If any compound, mixture, or preparation as specified in subdivision (3) of subsection 10 of this section is dispensed, sold, or distributed in a pharmacy without a prescription:

(1) All packages of any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, shall be offered for sale only from behind a pharmacy counter where the public is not permitted, and only by a registered pharmacist or registered pharmacy technician; and

(2) Any person purchasing, receiving or otherwise acquiring any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers shall be at least eighteen years of age; and

(3) The pharmacist, intern pharmacist, or registered pharmacy technician shall require any person, prior to their purchasing, receiving or otherwise acquiring such compound, mixture, or preparation to furnish suitable photo identification that is issued by a state or the federal government or a document that, with respect to identification, is considered acceptable and showing the date of birth of the person;

(4) The seller shall deliver the product directly into the custody of the purchaser.

12. Pharmacists, intern pharmacists, and registered pharmacy technicians shall implement and maintain an electronic log of each transaction. Such log shall include the following information:

(1) The name, address, and signature of the purchaser;

(2) The amount of the compound, mixture, or preparation purchased;

(3) The date and time of each purchase; and

(4) The name or initials of the pharmacist, intern pharmacist, or registered pharmacy technician who dispensed the compound, mixture, or preparation to the purchaser.

13. Each pharmacy shall submit information regarding sales of any compound, mixture, or preparation as specified in subdivision (3) of subsection 10 of this section in accordance with transmission methods and frequency established by the department by regulation;

14. No person shall dispense, sell, purchase, receive, or otherwise acquire quantities greater than those specified in this chapter.

15. All persons who dispense or offer for sale pseudoephedrine and ephedrine products in a pharmacy shall ensure that all such products are located only behind a pharmacy counter where the public is not permitted.

16. Any person who knowingly or recklessly violates the provisions of subsections 11 to 15 of this section is guilty of a class A misdemeanor.

17. The scheduling of substances specified in subdivision (3) of subsection 10 of this section and subsections 11, 12, 14, and 15 of this section shall not apply to any compounds, mixtures, or preparations that are in liquid or liquid-filled gel capsule form or to any compound, mixture, or preparation specified in subdivision (3) of subsection 10 of this section which must be dispensed, sold, or distributed in a pharmacy pursuant to a prescription.

18. The manufacturer of a drug product or another interested party may apply with the department of health and senior services for an exemption from this section. The department of health and senior services may grant an exemption by rule from this section if the department finds the drug product is not used in the illegal manufacture of methamphetamine or other controlled or dangerous substances. The department of health and senior services shall rely on reports from law enforcement and law enforcement evidentiary laboratories in determining if the proposed product can be used to manufacture illicit controlled substances.

19. The department of health and senior services shall revise and republish the schedules annually.

20. The department of health and senior services shall promulgate rules under chapter 536, RSMo, regarding the security and storage of Schedule V controlled substances, as described in subdivision (3) of subsection 10 of this section, for distributors as registered by the department of health and senior services.

21. Logs of transactions required to be kept and maintained by this section and section 195.417 shall create a rebuttable presumption that the person whose name appears in the logs is the person whose transactions are recorded in the logs.

195.202. 1. Except as authorized by sections 195.005 to 195.425, it is unlawful for any person to possess or have under his control a controlled substance.

2. Any person who violates this section with respect to any controlled substance except thirty-five grams or less of marijuana, **Dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol, Indole, or 1-butyl-3(1-naphthoyl)indole, Indole, or 1-pentyl-3(1-naphthoyl)indole, and Phenol, CP 47, 497 & homologues, or 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol, where side chain n=5, and homologues where side chain n=4,6, or 7** is guilty of a class C felony.

3. Any person who violates this section with respect to not more than thirty-five grams of

marijuana, **Dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol, Indole, or 1-butyl-3(1-naphthoyl)indole, Indole, or 1-pentyl-3(1-naphthoyl)indole, and Phenol, CP 47, 497 & homologues, or 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol), where side chain n=5, and homologues where side chain n-4,6, or 7 is guilty of a class A misdemeanor.**

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Speaker of the House

President Pro Tem of the Senate

Governor

North Dakota - Pharmacy Regulations

Title 61

STATE BOARD OF PHARMACY

SECTION 1. There is hereby created a new Article 61-13 of title 61 of the North Dakota Administrative Rules as follows:

Article 61-13

CONTROLLED SUBSTANCES

Chapter

61-13-01 Controlled Substances Schedules

Section

61-13-01-01 Purpose and Scope

61-13-01-02 Definitions

61-13-01-03 Scheduling

61-13-01-01 Purpose and Scope

The purpose of this rule is to schedule substances which have an actual or relative potential for abuse; and which bear risk to the public health by unknown individuals using them by inhaling the smoke, vapors or by ingesting or injecting the substances.

History: Effective February 25, 2010

General Authority: NDCC 19-03.1-02; NDCC 19-03.1-05

Law Implemented: NDCC 19-03.1-02

61-13-01-02 Definitions.

The definitions under this rule have the meaning as set forth in Chapter 19-03.1 and Chapter 43-15.

History: Effective February 25, 2010

General Authority: NDCC 19-03.1-02; NDCC 19-03.1-05

Law Implemented: NDCC 19-03.1-02

61-13-01-03 Scheduling.

1. The following substances are hereby placed in Schedule I of the Controlled Substances Act NDCC 19-03.1-05 Schedule I subsection 5 Hallucinogenic substances:

- a. CP 47,497 and homologues 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol)
- b. HU-210[(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c] chromen-1-ol)].
- c. HU-211 (dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol)
- d. JWH-018 1-Pentyl-3-(1-naphthoyl)indole
- e. JWH-073 1-Butyl-3-(1-naphthoyl)indole.

2. The following substances are hereby placed in Schedule I of the Controlled Substances Act NDCC 19-03.1-05 Schedule I subsection 7 Stimulant substances:

- a. Mephedrone (2-methylamino-1-*p*-tolylpropan-1-one).[3] also known as 4-methylmethcathinone (4-MMC), 4-methylephedrone.
- b. 3,4-Methylenedioxypropylvalerone (MDPV)

History: Effective February 25, 2010

General Authority: NDCC 19-03.1-02; NDCC 19-03.1-05

Law Implemented: NDCC 19-03.1-02

North Dakota - Pharmacy Regulations

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- e. JWH-073 1-Butyl-3-(1-naphthoyl)indole.

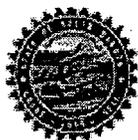
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- a. Mephedrone (2-methylamino-1-*p*-tolylpropan-1-one).[3] also known as 4-methylmethcathinone (4-MMC), 4-methylephedrone.
- b. 3,4-Methylenedioxypropylamphetamine (MDPV)

History: Effective February 25, 2010

General Authority: NDCC 19-03.1-02; NDCC 19-03.1-05

Law Implemented: NDCC 19-03.1-02



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22-42-22. Possession of Salvia divinorum or salvinorin A prohibited--
Felony or misdemeanor. No person may knowingly possess Salvia divinorum
or salvinorin A. It is a Class 1 misdemeanor to possess two ounces or less of
Salvia divinorum or salvinorin A. It is a Class 6 felony to possess more than
two ounces of Salvia divinorum or salvinorin A.

Source: SL 2009, ch 119, § 1, eff. Mar. 10, 2009.

Chapter 22-42

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PUBLIC CHAPTER NO. 922

SENATE BILL NO. 2982

By Tate, Black, Faulk, Burks

Substituted for: House Bill No. 2968

By Ulysses Jones, White, Ford, Roach, Maggart, Hardaway, Lynn, Weaver,
Moore, Coleman, Shaw, Litz, Coley, Towns

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 17, Part 4, relative to
the prohibition of drugs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-438, is amended by
deleting subsection (a) in its entirety and by substituting instead the following:

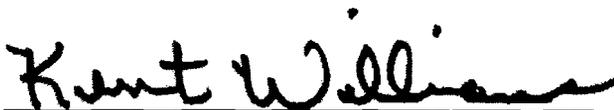
(a) It is an offense to knowingly produce, manufacture, distribute, possess
or possess with intent to produce, manufacture, or distribute the active chemical
ingredient in the hallucinogenic plant *salvia divinorum* or the synthetic
cannabinoids JWH-018, JWH-073, HU-210 and HU-211; provided however, the
provisions of this subsection concerning the synthetic cannabinoids JWH-018,
JWH-073, HU-210 and HU-211 shall not apply to drugs or substances lawfully
prescribed or to drugs or substances which have been approved by the federal
Food and Drug Administration.

SECTION 2. This act shall take effect July 1, 2010, the public welfare requiring it.

PASSED: May 13, 2010



RON RAMSEY
SPEAKER OF THE SENATE



KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 26th day of May 2010



PHIL BREDESEN, GOVERNOR

Attachment E

Sample Local Ordinances

BOARD OF COMMISSIONERS OF BOONE COUNTY

ORDINANCE NO. 2010 - _____

AN ORDINANCE PROHIBITING THE SALE OF SUBSTANCES CONTAINING
SYNTHETIC CANNABINOIDS OR THEIR USE IN PUBLIC FACILITIES

WHEREAS, The Board of Commissioners of Boone County have been made aware that substances containing synthetic cannabinoids, which include substances containing one or more of the following chemical compounds:

- (1) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol, also known as HU-210;
- (2) 1-Pentyl-3-(1-naphthoyl)indole, also known as JWH-018;
- (3) 1-Butyl-3-(1-naphthoyl)indole, also known as JWH-073; or
- (4) Any other equivalent compound or derivative

("Products") have been marketed, sold, and offered for sale to the residents of Boone County, including minors; and

WHEREAS, the citizens of Boone County and various elected and law enforcement officials have noted an increased use of such Products, currently marketed and sold under the name of K2 and Spice; and

WHEREAS, Indiana law provides that the County Executive may enact Ordinances to promote and protect the safety, health and welfare of its citizenry; and

WHEREAS, The Products containing synthetic cannabinoids have not been tested by the Food And Drug Administration (U.S. Department of Agriculture) or other governmental agency for human consumption and may contain chemicals detrimental to the health and welfare of those who may ingest them; and

WHEREAS, medical studies and treatises note deleterious health risks and adverse effects associated with synthetic cannabinoids and the Products; and

WHEREAS, several states and municipalities throughout the Unites States have banned the Products and synthetic cannabinoids as a danger to public health and welfare; and

WHEREAS, the smoke emanating from the burning or incineration of the Products may cause adverse effects on bystanders or those in the vicinity of such activity; and

WHEREAS, the Board of Commissioners of Boone County believe it is in the best interests of its citizens to prohibit the sale, marketing, or offering for sale of the Products within Boone County, Indiana, to protect the health, safety and welfare of the citizens and children of Boone County.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of Boone County, Indiana, as follows:

1. Products containing synthetic cannabinoids (“Products”), such as K2/Spice, or similar products which contain one or more of the following chemical compounds:
 - (1) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol, also known as HU-210;
 - (2) 1-Pentyl-3-(1-naphthoyl)indole, also known as JWH-018;
 - (3) 1-Butyl-3-(1-naphthoyl)indole, also known as JWH-073; or
 - (4) Any other equivalent compound or derivative

shall not be sold, marketed, or offered for sale within Boone County, Indiana; and

2. Products containing synthetic cannabinoids (“Products”) may not be burned, incinerated or ignited in any public place or on any property owned, leased or controlled by Boone County.

Persons or entities violating the provisions of this ordinance shall be subject to the penalty imposed for a Class B infraction, as set forth in Indiana Code 34-28-5-4. Accordingly, this ordinance shall be enforced by the provisions of Indiana Code 34-28-5.

This Ordinance shall be in full force and effect upon publication pursuant to Indiana law.

ALL OF WHICH IS ORDAINED by the Board of Commissioners of Boone County,
Indiana, this _____ day of _____, 2010.

BOARD OF COMMISSIONERS OF BOONE COUNTY

Charles Eaton

Marc Applegate

Jeff Wolfe

ATTEST:

Melody Price, Auditor

BILL NO. _____

ORDINANCE NO. _____

**AN ORDINANCE PROHIBITING THE PURCHASE,
POSSESSION, SALE, AND OFFERING FOR
SALE THE SYNTHETIC CANNABINOID,
KNOWN AS "SPICE" OR "K-2" AND
FOR OTHER PURPOSES**

WHEREAS, the City of Fort Wayne has a duty to preserve peace and order and secure freedom from dangerous or noxious activities and. To that end, the Common Council of the City of Fort Wayne, Indiana has determined that certain businesses within the City of Fort Wayne, Indiana are contemplating the sale of certain substances, which, when ingested, produce intoxicating effects similar to THC or marijuana; and

WHEREAS, the substances are not yet categorized controlled substances under State or Federal law; and

WHEREAS, the substances, which are more specifically described below, are potentially dangerous to users and further, the long term effects are not yet know; and

WHEREAS, it has been determined that the effects of these substances are a health and safety concern to the citizens of the City of Fort Wayne.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That Chapter 130 of the Fort Wayne Code of Ordinances: "OFFENSES AGAINST CITY REGULATIONS" SHALL BE AMENDED to add Section 130.10 as follows:

§ 130.10 SYNTHETIC CANNABINOID

(A) It is hereby declared to be unlawful for any person to use, possess, purchase, attempt to purchase, sell, publicly display for sale or attempt to sell, give, or barter any one or more of the following chemicals within the boundaries of the City of Fort Wayne.

- (1) 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol
{also known as CP 47,497 and its C6, C7, C8, and C9 homologues}
- (2) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol {also known as HU-210}

- (3) Naphthalen-1-yl-(1-pentylindol-3-yl)methanone {also known as 1-Pentyl-3-(1-naphthoyl)indole or JWH-018}
- (4) Naphthalen-1-yl-(1-butylindol-3-yl)methanone {also known as 1-Butyl-3-(1-naphthoyl)indole or JWH-073}

(B) This Section shall be enforced by the Fort Wayne-Allen County Health Department and the Fort Wayne Police Department. If any of the substances listed in Subsection (A) herein are found in the possession of any person, they may be confiscated and destroyed by law enforcement officials.

(C) It is not an offense under Subsection (A) herein if the person was acting at the direction of an authorized law enforcement agent to enforce or ensure compliance with this law prohibiting the sale of the aforementioned substance.

(D) This Section does not apply to any person who commits any act described in this Section pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe such act. This Section likewise does not apply to the inhalation of anesthesia for a medical purpose or dental purpose.

(E) Any business found to be in violation of this Section will be subject to a civil fine of \$2,500.00. Any person found in violation of this Section will be guilty of a civil fine not to exceed \$1,000.00.

(F) The City Attorney shall have the authority to seek an injunction to close any business which refuses to or fails to comply with this Section.

(G) If any provision of this Ordinance is held invalid, such invalidity shall not affect the remaining provisions of the Ordinance which shall remain effective absent the invalid provision, and to this end, the provisions of the Ordinance are declared to be severable.

SECTION 2. That the City is directed to take all action necessary and proper for the implementation of this Ordinance.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Mitch V. Harper, Council Member

Tom Didier, Council Member

APPROVED AS TO FORM AND LEGALITY

Joseph G. Bonahoom, Attorney for City Council

Z:\wpdocs\JGB\City Council of Fort Wayne\Harper Ordinance - reports\K-2 Ordinance\1001.ordinance.doc