

By Legislators Tucciarello and Antelli

Intro No. 19

LOCAL LAW NO. 4 OF 2013

LOCAL LAW ENTITLED "PROHIBITING THE SALE, USE OR POSSESSION OF SYNTHETIC DRUGS AND OTHER SIMILAR COMPOUNDS"

BE IT ENACTED BY THE LEGISLATURE OF THE COUNTY OF MONROE, as follows:

Section 1. Part IV, General Local Laws of the Administrative Code and Charter of Monroe County, is hereby amended to include the following Local Law:

CHAPTER 383. PROHIBITING THE SALE, USE OR POSSESSION OF SYNTHETIC DRUGS AND OTHER SIMILAR COMPOUNDS

§383-1. Title.

This chapter shall be known as the law "Prohibiting the Sale, Use or Possession of Synthetic Drugs and other Similar Compounds."

§383-2. Legislative Intent.

The Legislature finds that:

A. Monroe County, along with communities throughout the country, has experienced increased crimes, emergency room cases, illnesses and deaths linked to the use and abuse of synthetic "designer" drugs and other similar substances or compounds;

B. Such products are being openly sold and marketed in Monroe County;

C. While several state legislatures have banned the sale, use and possession of these substances, the New York State Legislature has not done so;

D. The health, safety and well-being of the citizens of Monroe County is furthered by prohibiting the sale, use or possession of these substances.

§383-3. Purpose.

The purpose of this Chapter is to prohibit the sale, use or possession of synthetic drugs and other similar compounds in Monroe County.

§383-4. Definitions. As used in this section:

A. "Synthetic Drug" means any product, whether described as tobacco, potpourri, herbs, incense, spice, aromatic, bath salts, synthetic marijuana, synthetic stimulant or any combination thereof, and whether marketed for the purpose of being ingested otherwise marketed which includes, but is not limited to, one or more of the following hallucinogenic substances:

(1) "Synthetic Cannabinoids" means any substance that is a cannabinoid receptor type 1

(CB1 receptor) agonist as demonstrated by binding studies and function assays or is a structural analog or chemical derivative of any listed compound, as follows:

- a. 2-[(1R,2R,5R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-5-(2-methyloctan-2-yl)phenol
- b. 4-methoxyphenyl-[2-methyl-1-(2-morpholin-4-ylethyl)indol-3-yl]methanone
- c. [(3R)-5-Methyl-3-(morpholin-4-ylmethyl)-2,3-dihydro[1,4]oxazino[2,3,4-*b*]indol-6-yl](naphthalene-1-yl)methanone
- d. (2-Methyl-1-pentyl-1*H*-indol-3-yl)(naphthalen-1-yl)methanone
- e. (2-Methyl-1-propyl-1*H*-indol-3-yl)(naphthalene-1-yl)methanone
- f. Naphthalen-1-yl[1-(pen-4-en-1-yl)-1*H*-indol-3-yl]methanone
- g. 1-pentyl-3-(4-ethyl-1-naphthoyl)indole
- h. 1-pentylindol-3-yl)naphthalen-1-ylmethane
- i. (1-Pentyl-1*H*-indol-3-yl)(4-propylnaphthalen-1-yl)methanone
- j. 3-[(4-methyl-1-naphthaleny)methyl]-1-pentyl-1*H*-indole
- k. 1-[(1*E*)-3-pentylinden-1-ylidene]methyl)naphthalene
- l. 2-(2-methylphenyl)-1-(1-pentyl-1*H*-indol-3-yl)ethanone
- m. 2-(3-methoxyphenyl)-1-(1-pentylindol-3-yl)ethanone
- n. (5-(2-fluorophenyl)-1-pentylpyrrol-3-yl)-naphthalen-1-ylmethanone
- o. 1-pentyl-3-(2-iodobenzoyl)indole
- p. [1-[(1-Methyl-2-piperidinyl)methyl]-3-indolyl]-(1-naphthalenyl)methanone
- q. 1-[(*N*-methylpiperidin-2-yl)methyl]3-(adaman-1-oyl)indole
- r. (2-iodophenyl) {1-[1-methylpiperidin-2-yl)methyl]-1*H*-indol-3-yl} methanone
- s. (1-Pentyl-1*H*-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone
- t. [1-(5-Fluoropentyl)-1*H*-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone
- u. Unless specifically exempted or unless listed in another schedule, or approved for use by the Food and Drug Administration as a legitimate pharmaceutical compound, any material, compound, mixture, or preparation which contains any quantity of the above listed compounds, or which contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation or contains a structural analog or chemical derivative of any of the listed compounds.

(2) Substituted Cathinones means any substance that is a structural analog cathinone including any chemical derivatives of cathinone which by definition has a structural substitution on the benzene ring or aliphatic chain or contains a structural analog or chemical derivative of any of the listed compounds, as follows:

- a. 4-Methoxymethcathinone
- b. 3-Fluoromethcathinone
- c. 4-Fluoromethcathinone
- d. 2-Methylmethcathinone
- e. 3-Methylmethcathinone
- f. 2-Ethylethcathinone
- g. 3-Ethylethcathinone
- h. 4-Ethylethcathinone
- i. 2-Methylethcathinone
- j. 3-Methylethcathinone
- k. 4-Methylethcathinone
- l. 4-Fluoroethcathinone
- m. Ethylmethcathinone
- n. β -Keto-methylbenzodioxolypentanamine
- o. 2-(methlamino)-1-phenylpentan-1-one
- p. α -Pyrrolidinopentiophenone
- q. 3,4-methylenedioxy-*N*-ethylcathinone
- r. α -Pyrrolidinopropiophenone
- s. 3,4-Methylenedioxy- α pyrrolidinopropiophenone
- t. (RS)-1-naphthalen-2-yl-2-pyrrolidin-1-ylpentan-1-one
- u. Unless specifically exempted or unless listed in another schedule, or approved for use by the Food and Drug Administration as a legitimate pharmaceutical compound, any material, compound, mixture or preparation which contains any quantity of the above listed compounds, or which contains their salts, isomers and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

(3) Substituted Phenethylamines means any substance that is a structural analog of any phenethylamine scheduled in the public health law, including any chemical derivatives of scheduled phenethylamines which by definition has a structural substitution on the benzene ring or aliphatic chain or contains a structural analog of any of the listed compounds, as follows:

- a. 4-Methylamphetamine
- b. 3-Methylamphetamine
- c. 4-Chloroamphetamine
- d. 4-Fluoroamphetamine
- e. 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine
- f. 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine
- g. 1-(6-Benzofuranyl)-2-propanamine (MDA with a O>C ring substitute)
- h. Unless specifically exempted or unless listed in another schedule, or approved for use by the Food and Drug Administration as a legitimate pharmaceutical compound, any material, compound, mixture, or preparation which contains any quantity of the above listed compounds, or which contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

(4) Substituted phenylpiperazines means any substance that is a chemical analog of Benzylpiperazine (a Schedule I Controlled Substance) or any chemical derivatives of Benzylpiperazine which by definition has a structural substitution on the benzene or piperazine ring or contains a structural analog of any of the listed compounds, as follows:

- a. Trifluoromethylphenylpiperazine
- b. *meta*-Chlorophenylpiperazine
- c. *para*-Chlorophenylpiperazine
- d. *para*-Fluorophenylpiperazine
- e. 4-Methoxyphenylpiperazine
- f. Dibenzylpiperazine
- g. Unless specifically exempted or unless listed in another schedule, or approved for use by the Food and Drug Administration as a legitimate pharmaceutical compound, any material, compound, mixture, or preparation which contains any quantity of the above listed compounds, or which contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and

salts of isomers is possible within the specific chemical designation.

(5) Substituted Tryptamines means any substance that is a structural analog of Dimethyltryptamine, or Psilocin, (Schedule I Controlled Substances) or any chemical derivative of Demethyltryptamine which by definition has a structural substitution on the indole ring of aliphatic chain or contains a structural analog of any of the listed compounds, as follows:

- a. 5-MeO-DALT
- b. Unless specifically exempted or unless listed in another schedule, or approved for use by the Food and Drug Administration as a legitimate pharmaceutical compound, any material, compound, mixture, or preparation which contains any quantity of the above listed compounds, or which contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

(6) Unclassified Structurally

- a. Desoxypipadrol (2-DPMP)
- b. 3-methoxy-phencyclidine
- c. 4-methoxy-phencyclidine
- d. Methoxetamine (Ketamine Analog)
- e. (3-diethylamino-2,2-dimethylpropyl)-4-aminobenzoate
- f. 5,6-Methylenedioxy-2-aminoindane
- g. (5-Iodo-2-aminoindane) 5-iodo-2,3-dihydro-1*H*-inden-2-amine

B. "Structural Analog" means an optical or positional isomer of a chemical derivative of any drug listed in 3306 of the New York Public Health Law (Controlled Substances Act) or any of the substances specifically listed in this law (with the exception of those substances approved by the Food and Drug Administration for use as pharmaceuticals).

C. "Chemical Derivative" means a compound produced by adding an element or chemical group to the ring or aliphatic chain of an existing chemical. The novel chemicals produced are often not subject to existing laws or regulations.

D. "Element" means any substance in the periodic table of elements. Commonly used elements added to synthetic drugs include; F (Fluorine), Cl (Chlorine), Br (Bromine), I (Iodine), etc.

E. "Chemical Group" means a small combination of elements. Commonly used chemical groups added to synthetic drugs include: CH₃ (Methyl), CH₃CH₂ (Ethyl), CH₃O (methoxy), OCH₂O (Methylenedioxy), etc.

§383-5. Prohibitions.

- A. It shall be unlawful for any person to use, sell or otherwise furnish or provide any

synthetic drug in Monroe County.

B. It shall be unlawful for any person to possess any synthetic drug in Monroe County, unless said synthetic drug is expressly prescribed to said person by a physician, psychiatrist or person otherwise duly licensed and authorized to prescribe medication within the State of New York, and at the time of the alleged violation, the person in possession of the synthetic drug is able to provide written proof to the law enforcement officer(s) that the synthetic drug was so prescribed.

§383-6. Enforcement and Penalties.

A. Any person violating the provisions of this Chapter shall be guilty of an unclassified misdemeanor punishable by a fine of up to one thousand dollars (\$1,000) and/or imprisonment of up to one (1) year. Each such violation shall constitute a separate and distinct offense.

B. This Chapter shall be enforced by any local law enforcement agency having jurisdiction.

§383-7. Severability.

A. If any clause, sentence, paragraph, section or article of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such determination shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraphs, section or article thereof directly involved in the proceeding in which such adjudication shall have been rendered.

§383-8. Reverse Preemption.

This local law shall be null and void on the day that statewide or federal legislation goes into effect incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by Monroe County. The County Legislature may determine by resolution whether or not identical or substantially similar statewide or federal legislation or pertinent preempting state or federal regulations have been enacted for the purposes of triggering the provisions of this section.

Section 2. This local law shall take effect immediately upon filing with the Secretary of State pursuant to Section 27 of the New York State Municipal Home Rule Law.

Agenda/Charter Committee; January 28, 2013 - CV: 5-0
Human Services Committee; January 29, 2013 - CV: 8-0
File No. 13-0004.LL

ADOPTION: Date: March 12, 2013 Vote: 29-0

ACTION BY THE COUNTY EXECUTIVE

APPROVED: X VETOED: _____
SIGNATURE: Mario Marks DATE: 3/28/13
EFFECTIVE DATE OF LOCAL LAW: 3/28/13