



2018 SEP 27 AM 9:42
OFFICE OF THE
SECRETARY

MURIEL BOWSER
MAYOR

SEP 27 2018

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
1350 Pennsylvania Avenue, NW, Suite 504
Washington, D.C. 20004

Dear Chairman Mendelson:

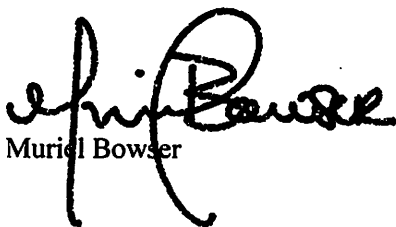
Enclosed for consideration and approval by the Council of the District of Columbia is a bill entitled the "Synthetics Abatement and Full Enforcement Drug Control Amendment Act of 2018," and the accompanying emergency declaration, temporary, and permanent versions.

The existing drug classification system has made it difficult to make arrests and move forward with prosecutions for crimes related to the production and sale of synthetic drugs, such as synthetic cannabinoids and synthetic opioids. The District has seen a recent and sustained spike in the number of overdoses caused by these synthetic drugs. According to Fire and Emergency Medical Services (FEMS), from April 1, 2018 through September 23, 2018, FEMS treated or transported more than 1,660 patients to hospitals for symptoms consistent with synthetic drug overdoses. The strain on our emergency response systems, including ambulances and emergency rooms – is significant.

The District must ensure that its laws keep up with scientific advances that allow the mass production of these dangerous chemical compounds. This legislation broadens the classification of what constitutes a prohibited synthetic drug and will allow law enforcement and prosecutors to go after the drug dealers who are bringing these deadly drugs into our communities.

If you have any questions on this matter, please contact Kevin Donahue, Deputy Mayor for Public Safety and Justice at (202) 286-5028.

Sincerely,


Muriel Bowser



Chairman Phil Mendelson
at the request of the Mayor

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A PROPOSED RESOLUTION

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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9 To declare the existence of an emergency with respect to the need to enact emergency legislation
10 that would add certain classes and substances to the Schedule I of the District of
11 Columbia Uniform Controlled Substances Act of 1981.

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RESOLVED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
14 resolution may be cited as the “Synthetics Abatement and Full Enforcement Drug Control
15 Emergency Declaration Resolution of 2018”.

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Sec. 2. (a) The existing classification system has made it difficult to prosecute crimes
related to the proliferation of fentanyl and synthetic drugs.

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(b) Prosecuting crimes related to fentanyl and synthetic drugs is a key component in
combating the public health issue evidenced by increased overdoses and related emergency
medical services transports in the District.

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(c) According to data provided by the Fire and Emergency Medical Services (FEMS),
from April 1 through September 23, 2018, FEMS treated or transported 1,660 patients to
hospitals for symptoms consistent with synthetic cannabinoids. The District of Columbia
experienced two significant spikes in calls relating to suspected synthetic cannabinoids, during
the month of July, and beginning in the second week of September. During July, FEMS treated
or transported 683 patients to hospitals for symptoms consistent with synthetic cannabinoids.

27 During the September spike, through September 23, 2018, FEMS treated or transported 411
28 patients to hospitals for symptoms consistent with synthetic cannabinoids.

29 (d) According to an Office of Chief Medical Examiner (OCME) report dated October 25,
30 2017, in 2014, we saw 83 deaths from overdoses; in 2015, opioid overdoses accounted for 114
31 deaths; in 2016, opioid overdoses accounted for 231 deaths. Updated data provided by the
32 OCME indicates that in 2017, opioid overdoses accounted for 279 deaths, and in the first 3
33 quarters of 2018, there were 134 deaths attributed to opioid overdoses. Disturbingly, more than
34 67 % of those decedents had fentanyl in their systems. The data presented represents deaths
35 occurring in DC for which OCME has jurisdiction, however the decedent's place of residence or
36 location of injury may be outside the District.

37 (e) The Synthetics Abatement and Full Enforcement Drug Control Emergency
38 Amendment Act of 2018 will reform the existing classification system in a way that enhances the
39 effectiveness of prosecutions related to the proliferation of synthetic drugs. This legislation
40 criminalizes synthetic cannabinoids and synthetic cathinones (commonly known as synthetic
41 drugs) based on the class of the chemical compound, not the individual compound. Classifying
42 new substances based on the class of the compound solves three problems that have proved
43 troublesome in past prosecution of these cases. First, it minimizes the necessity of enumerating
44 specific synthetic drug compounds on Schedule I of the District of Columbia's Controlled
45 Substances list. Second, it makes laboratory testing for synthetic cannabinoids and synthetic
46 cathinones more efficient. Finally, law enforcement will no longer need to rely on an impractical
47 controlled substances analogue statute to prosecute emerging synthetic drugs.

48 Sec. 3. The Council of the District of Columbia determines that the circumstances
49 enumerated in section 2 constitute emergency circumstances making it necessary that the

50 “Synthetics Abatement and Full Enforcement Drug Control Emergency Amendment Act of
51 2018” be adopted after a single reading.

52 Sec. 4. This resolution shall take effect immediately.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



ATTORNEY GENERAL
KARL A. RACINE

Legal Counsel Division

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

MEMORANDUM

TO: Alana Intrieri
Executive Director
Office of Policy and Legislative Affairs

FROM: Janet M. Robins *JMR*
Deputy Attorney General
Legal Counsel Division

DATE: September 25, 2018

SUBJECT: Legal Sufficiency Review of Draft Revised Synthetics Abatement and Full Enforcement Drug Control Emergency, Temporary, and Permanent Amendment Acts
(AE-18-515)

On September 24, 2018, you asked us for an expedited legal sufficiency review of the above bill, which amends the District of Columbia Uniform Controlled Substances Act of 1981 (“Controlled Substances Act”).¹ The bill incorporates synthetic cathinones, synthetic cannabinoids, and synthetic opioids into Schedule I of the Act,² and supplements the existing Schedule I list of hallucinogens. It also standardizes the Schedule I language concerning isomers.³ Most provisions in Schedule I refer simply to “isomers,” but subsection (3) of Schedule I states that “for the purposes of *this [subsection] only*, the term ‘isomer’ includes the optical, position, and

¹ The Controlled Substances Act was effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code 48-902.01 *et seq.* (2012 Repl. and 2015 Supp.)).

² Schedule I is section 204 of the Controlled Substances Act (D.C. Official Code § 48-902.04 (2012 Repl. and 2015 Supp.)). It is designed for substances that have a high potential for abuse and have no accepted medical use in treatment in the United States or the District. *See* D.C. Official Code § 48-902.03 (2012 Repl.).

³ An isomer is “one of two or more compounds, radicals, or ions that contain the same number of atoms of the same elements but differ in structural arrangement and properties.” MERRIAM-WEBSTER’S COLLEGIATE DICTIONARY 664 (11th ed. 2004).

geometric isomers” (emphasis added). To avoid confusion, and undermine any inference that *other* references to “isomer” are not so expansive, the bill would strike this expanded language from subsection (3).

This bill, which draws heavily from a bill this office previously introduced,⁴ incorporates the expertise of the Department of Forensic Sciences. We are not chemists, and we defer to the Department’s extensive knowledge of this subject. The draft bill also incorporates some technical and minor substantive revisions this office recommended.

The draft bill is legally sufficient. If you have any questions, please contact Josh Turner, Assistant Attorney General, at 442-9834, or me at 724-5524.

JMR/jat

⁴ See Revised Synthetics Abatement and Full Enforcement Drug Control Amendment Act of 2017, as introduced on Dec. 11, 2017 (Bill 22-628).

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



ATTORNEY GENERAL
KARL A. RACINE



Legal Counsel Division

MEMORANDUM

TO: Lolita S. Alston
Director
Office of Legislative Support

FROM: Janet M. Robins
Deputy Attorney General
Legal Counsel Division

DATE: September 25, 2018

SUBJECT: Legal Sufficiency Review of Draft Revised Synthetics Abatement and Full Enforcement Drug Control Emergency, Temporary, and Permanent Amendment Acts
(AE-18-515)

This is to Certify that this Office has reviewed the above-referenced draft legislation and found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-5524.


Janet M. Robins
Janet M. Robins