February 11, 2015

SENATE BILL No. 93

DIGEST OF SB 93 (Updated February 10, 2015 8:58 am - DI ck)

Citations Affected: IC 4-22; IC 25-26; IC 35-31.5.

Synopsis: Synthetic drugs. Requires the publisher of the Indiana administrative code to publish a list of substances declared by the board of pharmacy to be synthetic drugs in a specific location in the Indiana administrative code, and requires the board of pharmacy to include a link to that provision of the Indiana administrative code on its Internet web site.

Effective: Upon passage.

Merritt

January 6, 2015, read first time and referred to Committee on Rules & Legislative Procedure.
February 10, 2015, amended; reassigned to Committee on Judiciary.

February 11, 2015

First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 93

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:

SECTION 1. IC 4-22-2-37.2, IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 37.2. (a) This section applies to a rule (including an emergency rule under IC 25-26-13-4.1) adopted by the Indiana board of pharmacy declaring a substance to be a synthetic drug.**

(b) The publisher of the Indiana administrative code shall establish a new article in the Indiana administrative code with the citation 856 IAC 8 and entitled "SYNTHETIC DRUGS". The article must be in the format of the Indiana administrative code.

(c) Not later than thirty (30) days after the publisher of the Indiana administrative code receives for filing a rule (including an emergency rule under IC 25-26-13-4.1) adopted by the Indiana board of pharmacy declaring a substance to be a synthetic drug, the publisher shall publish the name of the synthetic drug in 856 IAC 8, in the format of the Indiana administrative code.

(d) Before July 1, 2015, the publisher of the Indiana administrative code shall collect and compile a list of all substances previously declared by the Indiana board of pharmacy to be synthetic drugs by rule and published in the Indiana Register. The publisher shall publish the list of these drugs in 856 IAC 8, unless the rule declaring the substances to be synthetic drugs has expired and has not been readopted.

(e) If the publisher of the Indiana administrative code receives notice from the Indiana board of pharmacy that a rule declaring a compound to be a synthetic drug has expired and has not been readopted, the publisher shall remove that compound from the list of synthetic drugs in 856 IAC 8.

SECTION 2. IC 25-26-13-4.1, AS AMENDED BY P.L.196-2013, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.1. (a) The board may adopt an emergency rule to declare that a substance is a synthetic drug.

(b) The board may, on its own initiative or under a written request from the state police department, the United States Drug Enforcement Administration, or a poison control center, adopt an emergency rule declaring a substance to be a synthetic drug if the board finds that the substance:

(1) has been scheduled or emergency scheduled by the United States Drug Enforcement Administration;

(2) has been scheduled, emergency scheduled, or criminalized by another state; or

(3) has:

(A) a high potential for abuse; and

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

(c) In making its determination under subsection (b)(3), the board shall consider the following factors relating to the substance:

(1) The actual or relative potential for abuse.

(2) Scientific evidence of the substance's pharmacological effect, if known.

(3) The state of current scientific knowledge regarding the substance.

(4) The history and current pattern of abuse of the substance.

(5) The scope, duration, and significance of abuse of the substance.

(6) The degree of risk to the public health.

(7) The psychic or psychological dependence liability of the

substance.

(d) A rule adopted under this section becomes effective thirty (30) days after it is filed with the publisher under IC 4-22-2-37.1.

(e) A rule adopted under this section expires on June 30 of the year following the year in which it is filed with the publisher under IC 4-22-2-37.1.

(f) The board may readopt under this section an emergency rule that has expired.

(g) If an emergency rule adopted under this section expires and is not readopted, the board shall notify the publisher of the Indiana administrative code under IC 4-22-2-37.2.

(h) The board shall include a prominent link on the home page of its Internet web site to the list of synthetic drugs in 856 IAC 8 maintained by the publisher of the Indiana administrative code.

SECTION 3. IC 35-31.5-2-321, AS AMENDED BY P.L.196-2013, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 321. "Synthetic drug" means:

(1) a substance containing one (1) or more of the following chemical compounds, including an analog of the compound:

(A) JWH-015 ((2-Methyl-1-propyl-1H-indol-3-yl)-1-naphthalenylmethanone).

(B) JWH-018 (1-pentyl-3-(1-naphthoyl)indole).

(C) JWH-019 (1-hexyl-3-(naphthalen-1-oyl)indole).

(D) JWH-073 (naphthalen-1-yl-(1-butylindol-3-yl)methanone).

(E) JWH-081 (4-methoxynaphthalen- 1-yl- (1-pentylindol-3-yl)methanone).

(F) JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl)indole).

(G) JWH-200 ((1-(2-morpholin-4-ylethyl)indol-3-yl)-naphthalen-1-yl-methanone).

(H) JWH-250 (1-pentyl-3-(2-methoxyphenylacetyl)indole).

(I) JWH-251 (1-pentyl-3-(2-methylphenylacetyl)indole).

(J) JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl)indole).

(K) HU-210 ((6aR,10aR)- 9-(Hydroxymethyl)- 6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen- 1-ol).

(L) HU-211 ((6aS,10aS)-9-(Hydroxymethyl)- 6,6-dimethyl-3-(2-methyloctan-2-yl)- 6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol).

(M) HU-308 ([(1R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan- 2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl] methanol).

(N) HU-331 (3-hydroxy-2- [(1R,6R)-3-methyl-6-(1-methylethenyl)-2 -cyclohexen-1-yl]-5 -pentyl-2,5-cyclohexadiene-1,4-dione).
(O) CP 55,940
(2-[(1R,2R,5R)-5-hydroxy-2-(3-hydroxypropyl) cyclohexyl]-5- (2-methyloctan-2-yl)phenol).
(P) CP 47,497 (2-[(1R,3S)-3-hydroxycyclohexyl]- 5-(2-methyloctan-2-yl)phenol) and its 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.
(Q) WIN 55212-2
((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl) pyrrolo [1,2,3-de)- 1,4- benzoxazin-6-yl]-1-napthalenylmethanone).
(R) RCS-4 ((4-methoxyphenyl) (1-pentyl-1H-indol-3-yl)methanone).
(S) RCS-8 (1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-methoxyphenyl)ethanone).
(T) 4-Methylmethcathinone. Other name: mephedrone.
(U) 3,4-Methylenedioxymethcathinone. Other name: methylone.
(V) Fluoromethcathinone.
(W) 4-Methoxymethcathinone. Other name: methedrone.
(X) 4-Ethylmethcathinone (4-EMC).
(Y) Methylenedioxypyrovalerone. Other name: MDPV.
(Z) JWH-007, or 1-pentyl-2-methyl-3-(1-naphthoyl)indole.
(AA) JWH-098, or 1-pentyl-2-methyl-3-(4-methoxy-1-naphthoyl)indole.
(BB) JWH-164, or 1-pentyl-3-(7-methoxy-1-naphthoyl)indole.
(CC) JWH-210, or 1-pentyl-3-(4-ethyl-1-naphthoyl)indole.
(DD) JWH-201, or 1-pentyl-3-(4-methoxyphenylacetyl)indole.
(EE) JWH-203, or 1-pentyl-3-(2-chlorophenylacetyl)indole.
(FF) AM-694, or 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole.
(GG) CP 50,556-1, or [(6S,6aR,9R,10aR)-9-hydroxy-6-methyl-3-[(2R)-5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl] acetate.
(HH) Dimethylheptylpyran, or DMHP.

(II) 4-Methyl-alpha-pyrrolidinobutiophenone, or MPBP.
(JJ) 6-APB [6-(2-aminopropyl)benzofuran].
(LL) 7-hydroxymitragynine.
(MM) α-PPP [α-pyrrolidinopropiophenone].
(NN) α-PVP (desmethylpyrovalerone).
(OO) AM-251.
(PP) AM-1241.
(QQ) AM-2201.
(RR) AM-2233.
(SS) Buphedrone.
(TT) Butylone.
(UU) CP-47,497-C7.
(VV) CP-47,497-C8.
(WW) Desoxypipradol.
(XX) Ethylone.
(YY) Eutylone.
(ZZ) Flephedrone.
(AAA) JWH-011.
(BBB) JWH-020.
(CCC) JWH-022.
(DDD) JWH-030.
(EEE) JWH-182.
(FFF) JWH-302.
(GGG) MDAI [5,6-methylenedioxy-2-aminoindane].
(HHH) Mitragynine.
(III) Naphyrone.
(JJJ) Pentedrone.
(LLL) Pentylone.
(MMM) Methoxetamine
[2-(3-methoxyphenyl)-2-(ethylamino)- cyclohexanone].
(NNN) A796,260 [1-(2-morpholin-4-ylethyl)-1H-indol-3-yl]-(2,2,3,3-tetramethylcyclopropyl)methanone].
(OOO) AB-001 [(1s,3s)-adamantan-1-yl) (1-pentyl-1H-indol-3-yl)methanone] or [1-Pentyl-3-(1-adamantoyl)indole].
(PPP) AM-356 [Methanandamide].
(QQQ) AM 1248 [1-[(1-methyl-2- piperidinyl) methyl]-1H-indol-3-yl] tricyclo[3.3.1.13,7] dec-1-yl-methanone]or [(1-[(N-methylpiperindin-2-yl) Methyl]-3-(Adamant-1-oyl)indole)].
(RRR) AM 2233 Azepane isomer [(2-iodophenyl) (1-(1-methylazepan-3-yl)- 1H-indol-3-yl)methanone].

(SSS) CB-13 [1-Naphthalenyl [4-(pentyoxy)-1-naphthalenyl]methanone].

(TTT) UR-144 [(1-pentyl-1H-indol-3-yl) (2,2,3,3-tetramethylcyclopropyl)-methanone].

(UUU) URB 597 [(3'-(aminocarbonyl) [1,1'-biphenyl]-3-yl)-cyclohexylcarbamate].

(VVV) URB602 [[1,1'-biphenyl]- 3-yl-carbamic acid, cyclohexyl ester].

(WWW) URB 754 [6-methyl-2-[(4-methylphenyl) amino]-1-benzoxazin-4-one].

(XXX) XLR-11 or 5-fluoro UR-144 (1-(5-fluoropentyl)-1H-indol-3-yl) (2,2,3,3-tetramethylcyclopropyl)methanone].

(YYY) AKB48 (Other names include: N-Adamantyl-1-pentyl-1H-Indazole-3-carboxamide; 1-pentyl-N-tricyclo[3.3.1.13.7]dec-1-yl-1H-indazole-3-carboxamide).

(ZZZ) 25I-NBOMe (Other names include: 4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine); 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl) methyl]ethanamine).

(AAAA) 2C-C-NBOMe (Other names include: 25C-NBOMe; 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl) methyl]ethanamine; 2,5-Dimethoxy-4-chloro-N-(2-methoxybenzyl) phenethylamine).

(BBBB) 2NE-1 (Other names include: 1-Pentyl-3-(1-adamantylamido)indole).

(CCCC) STS-135 (Other names include: N-Adamantyl-1-fluoropentylindole-3- carboxamide (1-5-fluoropentyl)-N-tricyclo[3.3.1.13.7]dec-1-yl-1H-indole-3-carboxamide).

(2) Any compound structurally derived from 3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane by substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent.

(3) Any compound structurally derived from 3-(1-naphthoyl) pyrrole by substitution at the nitrogen atom of the pyrrole ring by alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent.

(4) Any compound structurally derived from 1-(1-naphthylmethyl)indene by substitution at the 3-position of the indene ring by alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent.

(5) Any compound structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent.

(6) Any compound structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring by alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not substituted in the cyclohexyl ring to any extent.

(7) Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent.

(8) Any compound, except bupropion or a compound listed under a different schedule, structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified:

(A) by substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;

(B) by substitution at the 3-position with an acyclic alkyl substituent;

(C) by substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups; or

(D) by inclusion of the 2-amino nitrogen atom in a cyclic structure.

(9) Any compound structurally derived from 3-tetramethyl cyclopropanoylindole with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl) ethyl, 1-(N-methyl-2-pyrrolidinyl) methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the tetramethylcyclopropyl ring to any extent.

(10) Any compound containing a N-(1-adamantyl)-1H-indazole-3-carboxamide structure with substitution at the nitrogen atom of the indazole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2- piperidinyl)methyl, or 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted at the nitrogen atom of the carboxamide to any extent, whether or not further substituted in the indazole ring to any extent, and whether or not further substituted on the adamantyl ring system to any extent. An example of this structural class includes AKB48.

(11) Any compound containing a N-(1-adamantyl)-1H-indole-3-carboxamide structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2- piperidinyl)methyl, or 2-(4-morpholinyl)ethyl,

1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted at the nitrogen atom of the carboxamide to any extent, whether or not further substituted in the indole ring to any extent, and whether or not further substituted on the adamantyl ring system to any extent. An example of this structural class includes STS-135.

(12) Any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2- piperidinyl)methyl, or 2-(4-morpholinyl)ethyl, 1-(N-methyl-2- pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted on the adamantyl ring system to any extent. An example of this structural class includes AM-1248.

(13) Any compound determined to be a synthetic drug by rule adopted under IC 25-26-13-4.1 **and codified at 856 IAC 8 (synthetic drugs). The list of synthetic drugs codified at 856 IAC 8 may be accessed electronically from the Indiana board of pharmacy's Internet web site.**

SECTION 4. **An emergency is declared for this act.**

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 93, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Judiciary.

(Reference is to SB 93 as introduced.)

LONG, Chairperson