

HOUSE No. 3711

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, October 24, 2013.

The committee on Health Care Financing to whom was referred the Bill relative to emergency scheduling of addictive substances by the Commissioner of Public Health (House, No. 3547), reports recommending that the same ought to pass with an amendment substituting therefore a bill with the same title (House, No. 3711) [Cost: Less than \$100,000].

For the committee,

STEVEN M. WALSH.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to emergency scheduling of addictive substances by the Commissioner of Public Health.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. Chapter 94C of the General Laws, as appearing in the 2012 Official Edition, is
2 hereby amended by inserting after section 2 the following new section:-
3 Section 2A. (a) If the Commissioner finds that the scheduling of a drug or substance on a
4 temporary basis is necessary to avoid an imminent hazard to the public safety and is necessary
5 for the preservation of the public health, safety or general welfare, the Commissioner may, by
6 order and without regard to the requirements of section 2 of this chapter, schedule such substance
7 in schedule I if:
8 (1) the substance is not listed in any other schedule in section 3 of this chapter;
9 (2) no exception is in effect for the substance under section 4 of this chapter; and
10 (3) the substance is not excluded under subsection (c) of section 2 of this chapter.
11 (b) When issuing an order under this section, the Commissioner shall be required to consider,
12 with respect to the finding of an imminent hazard to the public safety, and regarding each drug or
13 substance that is the subject of the order, its actual or relative potential for abuse, and its history
14 and current patterns of abuse.
15 (c) An order issued under this section shall be considered an emergency regulation and subject to
16 the provisions of section 3 of chapter 30A, except that: (i) no further approval by designated
17 persons or bodies, as referenced in said section 3, shall be required before such emergency
18 regulations become effective, and; (ii) an emergency regulation so established may remain in
19 effect up to one year.
20 (d) An order issued under this section is not subject to judicial review.
21 (e) Upon issuing an order under this section, the Commissioner shall forward a copy of said
22 order to the Chairs of the Joint Committee on Public Health.
23 (f) Upon issuing an order under this section, the Commissioner shall forward a copy of said order
24 to the United States Attorney General for purposes of requesting that the Attorney General

25 temporarily schedule, in accordance with the provisions of the Title 21 United States Code
26 Controlled Substances Act, and or 21 USC 811(h), the drug or substance which is the subject of
27 the Commissioner's order.

28 (g) Upon issuing an order under this section, the Commissioner shall also forward a copy of said
29 order to all local and regional boards of health, with guidance that the possession or distribution,
30 by any food or retail or other commercial establishment, of the drug or substance which is the
31 subject of said order shall constitute an imminent health hazard. While such order is in effect the
32 board of health or an authorized agent, the local inspection department or the equivalent, or a
33 municipal government or its agent may, in accordance with section 30 of chapter 111 of the
34 General Laws, and any regulation promulgated pursuant thereto, take any enforcement action
35 consistent with a finding of an imminent health hazard, up to and including summary suspension
36 of any municipal license or permit held by the establishment including, but not limited to, any
37 permit to operate.