

HOUSE BILL 851

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3lr0900
CF SB 651

By: **Delegates Clagett and Hogan**

Introduced and read first time: February 7, 2013

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Synthetic Cannabinoids – Penalties**

3 FOR the purpose of listing synthetic cannabinoids on Schedule I to designate
4 controlled dangerous substances that may not be legally used, possessed, or
5 distributed; establishing certain penalties for a violation of this Act; defining a
6 certain term; and generally relating to controlled dangerous substances.

7 BY renumbering

8 Article – Criminal Law

9 Section 5–101(e) through (ee), respectively

10 to be Section 5–101(f) through (ff), respectively

11 Annotated Code of Maryland

12 (2012 Replacement Volume and 2012 Supplement)

13 BY repealing and reenacting, without amendments,

14 Article – Criminal Law

15 Section 5–101(a) and 5–601(c)(1)

16 Annotated Code of Maryland

17 (2012 Replacement Volume and 2012 Supplement)

18 BY adding to

19 Article – Criminal Law

20 Section 5–101(e)

21 Annotated Code of Maryland

22 (2012 Replacement Volume and 2012 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article – Criminal Law

25 Section 5–304, 5–402(d), and 5–601(c)(2)

26 Annotated Code of Maryland

27 (2012 Replacement Volume and 2012 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That Section(s) 5–101(e) through (ee), respectively, of Article – Criminal
3 Law of the Annotated Code of Maryland be renumbered to be Section(s) 5–101(f)
4 through (ff), respectively.

5 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
6 read as follows:

7 **Article – Criminal Law**

8 5–101.

9 (a) In this title the following words have the meanings indicated.

10 (E) **“SYNTHETIC CANNABINOIDS”** MEANS A MATERIAL, A COMPOUND, A
11 MIXTURE, OR A PREPARATION THAT IS NOT LISTED AS A CONTROLLED
12 SUBSTANCE IN SCHEDULE I THROUGH V, IS NOT A FEDERAL FOOD AND DRUG
13 ADMINISTRATION APPROVED DRUG, AND CONTAINS A QUANTITY OF THE
14 FOLLOWING SUBSTANCES, THEIR SALTS, ISOMERS (WHETHER OPTICAL,
15 POSITIONAL, OR GEOMETRIC), HOMOLOGUES (ANALOGS), AND SALTS OF
16 ISOMERS AND HOMOLOGUES (ANALOGS), UNLESS SPECIFICALLY EXCEPTED,
17 WHENEVER THE EXISTENCE OF THESE SALTS, ISOMERS, HOMOLOGUES
18 (ANALOGS), AND SALTS OF ISOMERS AND HOMOLOGUES (ANALOGS) IS POSSIBLE
19 WITHIN THE SPECIFIC CHEMICAL DESIGNATION:

20 (1) NAPHTHOYLINDOLES OR ANY COMPOUND CONTAINING A
21 3–(1–NAPHTHOYL)INDOLE STRUCTURE WITH SUBSTITUTION AT THE NITROGEN
22 ATOM OF THE INDOLE RING BY AN ALKYL, HALOALKYL, ALKENYL,
23 CYCLOALKYLMETHYL, CYCLOALKYLETHYL, 1–(N–METHYL–2–
24 PIPERIDINYL)METHYL, OR 2–(4–MORPHOLINYL)ETHYL GROUP, WHETHER OR
25 NOT FURTHER SUBSTITUTED IN THE INDOLE RING TO ANY EXTENT AND
26 WHETHER OR NOT SUBSTITUTED IN THE NAPHTHYL RING TO ANY EXTENT,
27 INCLUDING JWH 015, JWH 018, JWH 019, JWH 073, JWH 081, JWH 122,
28 JWH 200, JWH 210, JWH 398, AM 2201, AND WIN 55212;

29 (2) NAPHTHYLMETHYLINDOLES OR ANY COMPOUND CONTAINING
30 A 1H–INDOL–3–YL–(1–NAPHTHYL)METHANE STRUCTURE WITH SUBSTITUTION
31 AT THE NITROGEN ATOM OF THE INDOLE RING BY AN ALKYL, HALOALKYL,
32 ALKENYL, CYCLOALKYLMETHYL, CYCLOALKYLETHYL, 1–(N–METHYL–2–
33 PIPERIDINYL)METHYL, OR 2–(4–MORPHOLINYL)ETHYL GROUP, WHETHER OR
34 NOT FURTHER SUBSTITUTED IN THE INDOLE RING TO ANY EXTENT AND
35 WHETHER OR NOT SUBSTITUTED IN THE NAPHTHYL RING TO ANY EXTENT,
36 INCLUDING JWH–175, AND JWH–184;

1 **(3) NAPHTHOYLPYRROLES OR ANY COMPOUND CONTAINING A**
2 **3-(1-NAPHTHOYL)PYRROLE STRUCTURE WITH SUBSTITUTION AT THE**
3 **NITROGEN ATOM OF THE PYRROLE RING BY AN ALKYL, HALOALKYL, ALKENYL,**
4 **CYCLOALKYLMETHYL, CYCLOALKYLETHYL, 1-(N-METHYL-2-**
5 **PIPERIDINYL)METHYL, OR 2-(4-MORPHOLINYL)ETHYL GROUP, WHETHER OR**
6 **NOT FURTHER SUBSTITUTED IN THE PYRROLE RING TO ANY EXTENT AND**
7 **WHETHER OR NOT SUBSTITUTED IN THE NAPHTHYL RING TO ANY EXTENT,**
8 **INCLUDING JWH 307;**

9 **(4) NAPHTHYLMETHYLINDENES OR ANY COMPOUND CONTAINING**
10 **A NAPHTHYLIDENEINDENE STRUCTURE WITH SUBSTITUTION AT THE**
11 **3-POSITION OF THE INDENE RING BY AN ALKYL, HALOALKYL, ALKENYL,**
12 **CYCLOALKYLMETHYL, CYCLOALKYLETHYL, 1-(N-METHYL-2-PIPERIDINYL)**
13 **METHYL, OR 2-(4-MORPHOLINYL)ETHYL GROUP, WHETHER OR NOT FURTHER**
14 **SUBSTITUTED IN THE INDENE RING TO ANY EXTENT AND WHETHER OR NOT**
15 **SUBSTITUTED IN THE NAPHTHYL RING TO ANY EXTENT, INCLUDING JWH-176;**

16 **(5) PHENYLACETYLINDOLES OR ANY COMPOUND CONTAINING A**
17 **3-PHENYLACETYLINDOLE STRUCTURE WITH SUBSTITUTION AT THE NITROGEN**
18 **ATOM OF THE INDOLE RING BY AN ALKYL, HALOALKYL, ALKENYL,**
19 **CYCLOALKYLMETHYL, CYCLOALKYLETHYL, 1-(N-METHYL-2-**
20 **PIPERIDINYL)METHYL, OR 2-(4-MORPHOLINYL)ETHYL GROUP, WHETHER OR**
21 **NOT FURTHER SUBSTITUTED IN THE INDOLE RING TO ANY EXTENT AND**
22 **WHETHER OR NOT SUBSTITUTED IN THE PHENYL RING TO ANY EXTENT,**
23 **INCLUDING RCS-8 (SR-18), JWH 250, JWH 203, JWH-251, AND JWH-302;**

24 **(6) CYCLOHEXYLPHENOLS OR ANY COMPOUND CONTAINING A**
25 **2-(3-HYDROXYCYCLOHEXYL)PHENOL STRUCTURE WITH SUBSTITUTION AT THE**
26 **5-POSITION OF THE PHENOLIC RING BY AN ALKYL, HALOALKYL, ALKENYL,**
27 **CYCLOALKYLMETHYL, CYCLOALKYLETHYL, 1-(N-METHYL-2-**
28 **PIPERIDINYL)METHYL, OR 2-(4-MORPHOLINYL)ETHYL GROUP, WHETHER OR**
29 **NOT SUBSTITUTED IN THE CYCLOHEXYL RING TO ANY EXTENT, INCLUDING CP**
30 **47,497 (AND HOMOLOGUES(ANALOGS)), CANNABICYCLOHEXANOL, AND CP 55,**
31 **940;**

32 **(7) BENZOYLINDOLES OR ANY COMPOUND CONTAINING A**
33 **3-(BENZOYL)INDOLE STRUCTURE WITH SUBSTITUTION AT THE NITROGEN ATOM**
34 **OF THE INDOLE RING BY AN ALKYL, HALOALKYL, ALKENYL,**
35 **CYCLOALKYLMETHYL, CYCLOALKYLETHYL, 1-(N-METHYL-2-**
36 **PIPERIDINYL)METHYL, OR 2-(4-MORPHOLINYL)ETHYL GROUP, WHETHER OR**
37 **NOT FURTHER SUBSTITUTED IN THE INDOLE RING TO ANY EXTENT AND**

1 WHETHER OR NOT SUBSTITUTED IN THE PHENYL RING TO ANY EXTENT,
2 INCLUDING AM 694, PRAVADOLINE (WIN 48,098), RCS 4, AND AM-679;

3 (8) [2,3-DIHYDRO-5-METHYL-3-(4-
4 ORPHOLINYLMETHYL)PYRROLO[1,2,3-DE]-1, 4-BENZOXAZIN-6-YL]-1-
5 NAPHTHALENYLMETHANONE, INCLUDING WIN 55,212-2;

6 (9) (6AR,1 OAR)-9-(HYDROXYMETHYL)-6, 6-DIMETHYL-3-(2-
7 METHYLOCTAN-2-YL)-6A,7,10,10A-TETRAHYDROBENZO[C]CHROMEN-L-OL
8 7370, INCLUDING HU-210;

9 (10) ADAMANTOYLINDOLES OR ANY COMPOUND CONTAINING A
10 3-(1-ADAMANTOYL)INDOLE STRUCTURE WITH SUBSTITUTION AT THE
11 NITROGEN ATOM OF THE INDOLE RING BY AN ALKYL, HALOALKYL, ALKENYL,
12 CYCLOALKYLMETHYL, CYCLOALKYLETHYL, 1-(N-METHYL-2-
13 PIPERIDINYL)METHYL, OR 2-(4-MORPHOLINYL)ETHYL GROUP, WHETHER OR
14 NOT FURTHER SUBSTITUTED IN THE ADAMANTYL RING SYSTEM TO ANY EXTENT,
15 INCLUDING AM-1248; OR

16 (11) ANY OTHER SYNTHETIC CHEMICAL COMPOUND THAT
17 EXHIBITS AGONIST ACTIVITY AND THE CANNABINOID 1(CB1) RECEPTOR AND
18 MIMICS THE PHARMACOLOGICAL EFFECT OF NATURALLY OCCURRING
19 CANNABINOIDS THAT IS NOT LISTED IN SCHEDULES II THROUGH V OR IS NOT A
20 FEDERAL FOOD AND DRUG ADMINISTRATION APPROVED DRUG.

21 5-304.

22 (a) If an authorized provider is authorized to dispense or conduct research
23 under State law, the Department shall register the authorized provider to dispense a
24 controlled dangerous substance or to conduct research with a controlled dangerous
25 substance listed in Schedule II through Schedule V.

26 (b) The Department need not require separate registration under this section
27 for an authorized provider who is:

28 (1) engaged in research with a nonnarcotic controlled dangerous
29 substance in Schedule II through Schedule V; and

30 (2) already registered under this subtitle in another capacity.

31 (c) An authorized provider may conduct research in the State with a
32 controlled dangerous substance listed in Schedule I if the authorized provider is:

1 **(1)** registered under federal law to conduct research with a controlled
2 dangerous substance listed in Schedule I and gives evidence of the registration to the
3 Department; **OR**

4 **(2) APPROVED BY A FEDERALLY REGISTERED INSTITUTIONAL**
5 **BOARD OR INSTITUTIONAL ANIMAL CARE AND USE COMMITTEE TO CONDUCT**
6 **RESEARCH ON A CONTROLLED DANGEROUS SUBSTANCE LISTED IN SCHEDULE I**
7 **THAT IS NOT SCHEDULED UNDER FEDERAL LAW AND GIVES EVIDENCE OF THE**
8 **APPROVAL TO THE DEPARTMENT.**

9 5-402.

10 (d) (1) A material, compound, mixture, or preparation that contains any of
11 the following hallucinogenic or hallucinogenic-like substances is a substance listed in
12 Schedule I:

- 13 (i) bufotenine;
- 14 (ii) diethyltryptamine;
- 15 (iii) dimethyltryptamine;
- 16 (iv) 4-methyl-2, 5-dimethoxyamphetamine;
- 17 (v) ibogaine;
- 18 (vi) lysergic acid diethylamide;
- 19 (vii) marijuana;
- 20 (viii) mescaline;
- 21 (ix) peyote;
- 22 (x) psilocybin;
- 23 (xi) psilocyn;
- 24 (xii) tetrahydrocannabinol;
- 25 (xiii) thiophene analog of phencyclidine;
- 26 (xiv) 2, 5-dimethoxyamphetamine;
- 27 (xv) 4-bromo-2, 5-dimethoxyamphetamine;

- 1 (xvi) 4-methoxyamphetamine;
- 2 (xvii) 3, 4-methylenedioxyamphetamine;
- 3 (xviii) 3, 4-methylenedioxymethamphetamine (MDMA);
- 4 (xix) 5-methoxy-3, 4-methylenedioxyamphetamine;
- 5 (xx) 3, 4, 5-trimethoxyamphetamine;
- 6 (xxi) N-methyl-3-piperidyl benzilate;
- 7 (xxii) N-ethyl-3-piperidyl benzilate;
- 8 (xxiii) N-ethyl-1-phenylcyclohexylamine;
- 9 (xxiv) 1-(1-phenylcyclohexyl)-pyrrolidine;
- 10 (xxv) 1-(1-(2-thienyl)-cyclohexyl)-piperidine;
- 11 (xxvi) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP);
- 12 (xxvii) 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine
13 (PEPAP);
- 14 (xxviii) 3, 4-methylenedioxymethcathinone (methylone);
- 15 (xxix) 3, 4-methylenedioxyprovalerone (MDPV);
- 16 (xxx) 4-methylmethcathinone (mephedrone);
- 17 (xxxi) 4-methoxymethcathinone (methedrone);
- 18 (xxxii) 4-fluoromethcathinone (flephedrone); [and]
- 19 (xxxiii) 3-fluoromethcathinone (3-FMC); AND
- 20 **(XXXIV) SYNTHETIC CANNABINOIDS.**

21 (2) Unless specifically excepted under this subtitle, a salt, isomer, or
22 salt of an isomer of a substance listed in this subsection is a substance listed in
23 Schedule I if the existence of the salt, isomer, or salt of an isomer is possible within
24 the specific chemical designation.

1 (c) (1) Except as provided in paragraphs (2) and (3) of this subsection, a
2 person who violates this section is guilty of a misdemeanor and on conviction is subject
3 to imprisonment not exceeding 4 years or a fine not exceeding \$25,000 or both.

4 (2) (i) A person whose violation of this section involves the use or
5 possession of marijuana **OR SYNTHETIC CANNABINOIDS** is subject to imprisonment
6 not exceeding 1 year or a fine not exceeding \$1,000 or both.

7 (ii) 1. A person convicted of the use or possession of less
8 than 10 grams of marijuana **OR SYNTHETIC CANNABINOIDS** is subject to
9 imprisonment not exceeding 90 days or a fine not exceeding \$500 or both.

10 2. Unless specifically charged by the State, the use or
11 possession of less than 10 grams of marijuana **OR SYNTHETIC CANNABINOIDS** under
12 subparagraph 1 of this subparagraph may not be considered a lesser included
13 crime of any other crime.

14 3. If a person is convicted under this subparagraph, the
15 court shall stay any sentence imposed that includes an unserved, nonsuspended period
16 of imprisonment without requiring an appeal bond:

17 A. until the time for filing an appeal has expired; and

18 B. if an appeal is filed, during the pendency of the
19 appeal.

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2013.