



Testimony of Representative Garey Bies Assembly Committee on Criminal Justice

AB 406- Controlled Substances

Chairman Kleefisch, committee members. Thank you for the opportunity to submit testimony in support of Assembly Bill 406, relating to controlled substances.

Last session, the Governor signed into law legislation we introduced banning several commonly known “synthetic cannabinoids” and stimulant substances and classified them as controlled substances. Since the enactment of the law, we’ve been made aware that District Attorneys (DA) are having difficulty prosecuting these cases under the current statute. We’re bringing this bill forward today, after working with the Department of Justice to address those concerns.

The current law was written with the intent to ban any new drug that comes on the market and any similar analog. The problem is how we define “analog”. Right now, manufacturers are changing the make-up of these drugs quicker than we can ban them, making it difficult for DA’s to bring successful cases.

An additional concern is these cases are extremely costly to prosecute because a DA must also hire a pharmaceutical expert to testify to what effect a certain substance would have on the central nervous system.

To address both of these concerns we’ve replaced the concept of an analog with the description of the chemical structure. Under this bill, any substance that conforms to the structural definition of the chemical compound would be prohibited.

According to the National Institute on Drug Abuse, synthetic marijuana, widely known as K2 or spice, is now the second most frequently used illicit drug behind marijuana. Here in Wisconsin, there have been incidents where children have been able to purchase these synthetic drugs because they’re being labeled as “incense” in the store.

The Senate Committee on Judiciary and Labor held a favorable hearing on the bill yesterday. We urge quick passage of this bill to give the DA’s the tools they need to protect our children and communities from these harmful drugs.

Once again thank you for the opportunity to testify on Assembly Bill 406.

First for Wisconsin!

Capitol: P.O. 8952, Madison, WI 53708-8952 • (608) 266-5350 • Fax: (608) 282-3601
Toll-Free: (888) 482-0001 • Rep.Bies@legis.wi.gov
www.legis.state.wi.us/assembly/asm01/news/

Home: 2520 Settlement Road, Sister Bay, WI 54234 • (920) 854-2811



State Senator Sheila Harsdorf

Date: October 10, 2013
To: Assembly Committee on Criminal Justice
Fr: Senator Sheila Harsdorf
Re: Assembly Bill 406—Synthetic Drugs

Dear Chair Kleefisch and Committee Members,

Thank you for holding a public hearing on Assembly Bill 406 (AB 406), which expands the definition of synthetic drugs, also referred to as “bath salts,” “plant food,” “herbal incense,” “K2,” and “spice.” AB 406 would replace the concept of an analog of a synthetic drug with the description of the chemical structure so that any substance that conforms to the structural definition of the chemical compound would be prohibited.

As you may recall, last session, in response to concerns raised by law enforcement, we passed legislation to help close loopholes in our controlled substance laws by banning the sale of synthetic marijuana and potent stimulants that mimic the effect of cocaine when ingested. Last session’s law was written to be proactive by prohibiting new drugs coming on the market as well as their analogs. However, since the enactment of last session’s bill, individuals have found ways to alter the chemical structure of banned drugs beyond what is currently defined in law. Additionally, based on how a controlled substance analog is defined in law, prosecutors have had to prove a drug is a certain substance, which is done by a chemist in a crime lab, in addition to proving the drug has a certain effect on the human body, which is done by a pharmacologist or expert witness. These requirements have proven both challenging and costly for district attorneys to charge analog cases because they have to hire pharmacologists to comment on a drug’s effect on the body. Since AB 406 replaces the concept of an analog with the description of the chemical structure, a prosecutor will no longer have to hire a pharmacologist to prove the drug’s effect on the body; instead, a chemist would just be used to prove the structure of the substance. AB 406 will help district attorneys prosecute cases by eliminating this extra step of the prosecution.

I appreciate the efforts of the Department of Justice to address new issues that have been raised by law enforcement and district attorneys around the state to expand the definition of synthetic drugs. The Department’s recommended changes have been introduced as AB 406. This legislation proposes to list a description of substances and the chemical structure of controlled substances to make any substance, listed or not, that conforms to the structural definition illegal. Using the structural definition of a synthetic drug instead of listing analogs will better equip law enforcement and district attorneys to enforce and prosecute the sale of current and new illegal drugs as they are created.

The use of synthetic drugs is on the rise nationwide and in many parts of our state. According to the National Institute on Drug Abuse, one in nine high school seniors reported using synthetic marijuana. Additionally, the Drug Enforcement Administration reports that the number of calls made to poison control centers related to synthetic drug abuse increased by over 400% in one year from 2010 to 2011.

Synthetic hallucinogenic drugs are dangerous with severe side effects and are often significantly stronger than the drugs they seek to mimic. Synthetic drug use initially gives the user a euphoric high feeling followed by a psychological low point that can last up to two weeks, during which time a drug user may experience psychosis or suicidal or homicidal tendencies. Law enforcement officers report instances of synthetic drug users believing they were on fire, being shot at, or chased by a swarm of killer bees.

I am pleased that this legislation has bipartisan support and urge your passage of AB 406 in order to allow law enforcement and prosecutors to better address the illegal sale of dangerous, synthetic drugs. Thank you again for allowing me to speak in favor of the passage of AB 406. I welcome the opportunity to take questions.



REPRESENTATIVE JANET BEWLEY

WISCONSIN STATE ASSEMBLY

Assembly Committee on Criminal Justice Public Hearing - Assembly Bill 406 October 10, 2013

Good Morning Chairman and committee members. As you have heard, Synthetic Marijuana abuse is a serious problem in our communities that has reached an almost epidemic level. These drugs contain powerful chemicals and can cause dangerous health effects. Local Emergency Rooms across the state have been inundated with cases of people experiencing severe reactions to the drug but medical personnel are struggling to treat these patients because, again, they have no idea what substances may be involved.

I am pleased to be working with Representative Bies, Senators Harsdorf and Jauch, and Attorney General Van Hollen, in introducing a more comprehensive solution to stem sales and use of these dangerous drugs.

This bill will put an end to the loophole, in which a drug's chemistry is altered to avoid prosecution. Even if it is altered, if the drug maintains the same chemical structure- it is illegal. As Senator Jauch is fond of saying, "if it looks like a duck and quacks like a duck- it's the same poison."

The citizens of northern Wisconsin are all too familiar with the dangers of this drug and are fed up with the illicit sales of a product that is harming our citizens. In Ashland, a special committee has been formed to try and address this issue. At one meeting, the committee from a local woman that one of her sons was already in prison and the other was on their way as a result of using synthetics.

Another mother has started an anti-synthetic community group after her 15 year old son was found by police, wandering along the highway frothing at the mouth, growling at motorists incoherently and grabbing at passing cars after smoking synthetic marijuana.

This is an incredibly dangerous drug and it's not just a problem in northern Wisconsin, it's a problem across the state and across the country. Synthetic marijuana is now the second most frequently used illicit drug behind marijuana and over 20 deaths were reported last year nationwide. According to the Drug Enforcement Administration, the number of calls to poison centers related to synthetic drugs soared from about 3,200 in 2010 to more than 13,000 in 2011.

By broadening the legal definition of prohibited chemical substances and eliminating the need for an expert witness, this bill will enable law enforcement to crack down and prosecutors to more effectively prosecute the illegal sale of these very dangerous drugs.

Thank you for your time and attention.



74th Assembly District

State Capitol: P.O. Box 8952, Madison, WI 53708 ★ E-mail: rep.bewley@legis.wi.gov ★ Web: <http://bewley.assembly.wi.gov>
(608) 266-7690 ★ Toll-free: (888) 534-0074 ★ FAX: (608) 282-3674