



2011 SENATE BILL 54

April 4, 2011 – Introduced by Senators HARSDORF, JAUCH, DARLING, WANGGAARD, OLSEN, LEIBHAM, HOLPERIN, LASSA and SCHULTZ, cosponsored by Representatives BIES, KNILANS, KLEEFISCH, JORGENSEN, BERNARD SCHABER, BROOKS, KAUFERT, KERKMAN, MASON, MEYER, MURSAU, NASS, PETERSEN, RIVARD, SEVERSON, SINICKI, SPANBAUER, STEINEKE, STRACHOTA, THIESFELDT and WYNN. Referred to Committee on Judiciary, Utilities, Commerce, and Government Operations.

1 **AN ACT to amend** 961.14 (4) (intro.), 961.14 (4) (x), 961.14 (7) (intro.), 961.41 (1)
2 (e) (intro.), 961.41 (1m) (e) (intro.) and 961.41 (3g) (d); and **to create** 59.54 (25g),
3 66.0107 (1) (bn), 961.14 (4) (tb), 961.14 (4) (te), 961.14 (4) (th), 961.14 (4) (tL),
4 961.14 (4) (tp), 961.14 (4) (tr), 961.14 (4) (tu), 961.14 (4) (ty), 961.14 (4) (wgm),
5 961.14 (7) (m), 961.14 (7) (n) and 961.41 (3g) (em) of the statutes; **relating to:**
6 certain controlled substances and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits the manufacture, distribution, delivery, or possession of substances included in the schedule of controlled substances. Current law categorizes substances into five schedules, depending on the nature of the substance. Schedule I substances are those that have a high potential for abuse, have no currently accepted medical use, and are not accepted as safe for use in treatment under medical supervision.

This bill identifies several nonnarcotic, hallucinogenic substances that are commonly known as “synthetic cannabinoids” and classifies those substances as Schedule I controlled substances. The bill also identifies two stimulant substances and classifies those as Schedule I controlled substances.

Under the bill, a person who possesses a synthetic cannabinoid may, for a first offense, be fined up to \$1,000, imprisoned for up to six months, or both. For a second or subsequent offense, the person is guilty of a Class I felony and may be fined up to

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\$10,000, imprisoned for up to three years and six months, or both. A person who manufactures, distributes, or delivers a synthetic cannabinoid, or who possesses a synthetic cannabinoid with the intent to manufacture, distribute, or deliver it, is guilty of a Class H felony and subject to a fine up to \$10,000, imprisonment for up to six years, or both. The bill also enables a town, city, village, or county to pass an ordinance that provides a forfeiture for a first violation of possession of a synthetic cannabinoid.

Under the bill, a person who possesses either of the stimulant substances may, for a first offense, be fined up to \$5,000, imprisoned for up to one year, or both. For a second or subsequent offense, the person is guilty of a Class I felony and may be fined up to \$10,000, imprisoned for up to three years and six months, or both. A person who manufactures, distributes, or delivers either of the stimulant substances, or who possesses either of the stimulant substances with the intent to manufacture, distribute, or deliver it, is guilty of a felony, the classification of which depends on the amount of the controlled substance involved in the offense.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 59.54 (25g) of the statutes is created to read:

2 **59.54 (25g)** POSSESSION OF A SYNTHETIC CANNABINOID. The board may enact and
3 enforce an ordinance to prohibit the possession of any controlled substance specified
4 in s. 961.14 (4) (tb) to (ty), and provide a forfeiture for a violation of the ordinance,
5 except that any person who is charged with possession of a controlled substance
6 specified in s. 961.14 (4) (tb) to (ty) following a conviction for possession of a controlled
7 substance in this state shall not be prosecuted under this subsection. Any ordinance
8 enacted under this subsection applies in every municipality within the county.

9 **SECTION 2.** 66.0107 (1) (bn) of the statutes is created to read:

10 **66.0107 (1) (bn)** Enact and enforce an ordinance to prohibit the possession of
11 a controlled substance specified in s. 961.14 (4) (tb) to (ty) and provide a forfeiture

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1 for a violation of the ordinance, except that any person who is charged with
2 possession of a controlled substance specified in s. 961.14 (4) (tb) to (ty) following a
3 conviction for possession of a controlled substance in this state shall not be
4 prosecuted under this paragraph.

5 **SECTION 3.** 961.14 (4) (intro.) of the statutes is amended to read:

6 961.14 (4) HALLUCINOGENIC SUBSTANCES. (intro.) Any material, compound,
7 mixture or preparation which contains any quantity of any of the following
8 hallucinogenic substances, including any of their salts, isomers, precursors, analogs,
9 esters, ethers, and salts of isomers, esters, or ethers that are theoretically possible
10 within the specific chemical designation, in any form ~~including a substance, salt,~~
11 ~~isomer or salt of an isomer~~ contained in a plant, obtained from a plant, or chemically
12 synthesized:

13 **SECTION 4.** 961.14 (4) (tb) of the statutes is created to read:

14 961.14 (4) (tb) Cannabicyclohexonal:
15 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methylnonan-2-yl)phenol.

16 **SECTION 5.** 961.14 (4) (te) of the statutes is created to read:

17 961.14 (4) (te) CP47,497 and homologues:
18 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol.

19 **SECTION 6.** 961.14 (4) (th) of the statutes is created to read:

20 961.14 (4) (th) HU-210:
21 [(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,
22 10a-tetrahydrobenzo[c]chromen-1-ol)], also known as
23 (6aR,10aR)-3-(1,1-dimethylheptyl)-6a,7,10,10a-tetrahydro-1-hydroxy-6,6-
24 dimethyl-6H-dibenzo[b,d]pyran-9-methanol.

25 **SECTION 7.** 961.14 (4) (tL) of the statutes is created to read:

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1 961.14 (4) (tL) JWH-018: 1-pentyl-3-(1-naphthoyl)indole, also known as
2 Naphthalen-1-yl-(1-pentylindol-3-yl)methanone.

3 **SECTION 8.** 961.14 (4) (tp) of the statutes is created to read:

4 961.14 (4) (tp) JWH-073: 1-butyl-3-(1-naphthoyl)indole, also known as
5 Naphthalen-1-yl-(1-butylindol-3-yl)methanone.

6 **SECTION 9.** 961.14 (4) (tr) of the statutes is created to read:

7 961.14 (4) (tr) JWH-081: 1-pentyl-3-(4-methoxy-1-naphthoyl)indole, also
8 known as 4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone.

9 **SECTION 10.** 961.14 (4) (tu) of the statutes is created to read:

10 961.14 **(4)** (tu) JWH-200:
11 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole.

12 **SECTION 11.** 961.14 (4) (ty) of the statutes is created to read:

13 961.14 (4) (ty) JWH-250: 1-pentyl-3-(2-methoxyphenylacetyl)indole, also
14 known as 2-(2-methoxyphenyl)-1-(1-pentylindol-3-yl)ethanone.

15 **SECTION 12.** 961.14 (4) (wgm) of the statutes is created to read:

16 961.14 (4) (wgm) 4-iodo-2,5-dimethoxy-beta-phenylethylamine, commonly
17 known as "2C-I".

18 **SECTION 13.** 961.14 (4) (x) of the statutes is amended to read:

19 961.14 (4) (x) 4-methoxyamphetamine, commonly known as "PMA."

20 **SECTION 14.** 961.14 (7) (intro.) of the statutes is amended to read:

21 961.14 (7) STIMULANTS. (intro.) Any material, compound, mixture or
22 preparation which contains any quantity of any of the following substances having
23 a stimulant effect on the central nervous system, including any of their precursors,
24 analogs, salts, isomers and salts of isomers that are theoretically possible within the
25 specific chemical designation:

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1 **SECTION 15.** 961.14 (7) (m) of the statutes is created to read:

2 961.14 (7) (m) Methylenedioxypropylone, commonly known as “MDPV.”

3 **SECTION 16.** 961.14 (7) (n) of the statutes is created to read:

4 961.14 (7) (n) 4-methylmethcathinone, commonly known as “mephedrone” or
5 “4-MMC.”

6 **SECTION 17.** 961.41 (1) (e) (intro.) of the statutes is amended to read:

7 961.41 (1) (e) *Phencyclidine, amphetamine, methamphetamine, and*
8 *methcathinone, methylenedioxypropylone, and 4-methylmethcathinone.* (intro.)
9 If the person violates this subsection with respect to phencyclidine, amphetamine,
10 methamphetamine, ~~or~~ methcathinone, methylenedioxypropylone, or
11 4-methylmethcathinone, or a controlled substance analog of phencyclidine,
12 amphetamine, methamphetamine, ~~or~~ methcathinone,
13 methylenedioxypropylone, or 4-methylmethcathinone, and the amount
14 manufactured, distributed, or delivered is:

15 **SECTION 18.** 961.41 (1m) (e) (intro.) of the statutes is amended to read:

16 961.41 (1m) (e) *Phencyclidine, amphetamine, methamphetamine, and*
17 *methcathinone, methylenedioxypropylone, and 4-methylmethcathinone.* (intro.)
18 If a person violates this subsection with respect to phencyclidine, amphetamine,
19 methamphetamine, ~~or~~ methcathinone, methylenedioxypropylone, or
20 4-methylmethcathinone, or a controlled substance analog of phencyclidine,
21 amphetamine, methamphetamine, ~~or~~ methcathinone,
22 methylenedioxypropylone, or 4-methylmethcathinone, and the amount
23 possessed, with intent to manufacture, distribute, or deliver, is:

24 **SECTION 19.** 961.41 (3g) (d) of the statutes is amended to read:

SENATE BILL 54**SECTION 19**

1 961.41 (3g) (d) *Certain hallucinogenic and stimulant drugs.* If a person
2 possesses or attempts to possess lysergic acid diethylamide, phencyclidine,
3 amphetamine, methcathinone, methylenedioxypropylamphetamine,
4 4-methylmethcathinone, psilocin or psilocybin, or a controlled substance analog of
5 lysergic acid diethylamide, phencyclidine, amphetamine, methcathinone,
6 methylenedioxypropylamphetamine, 4-methylmethcathinone, psilocin or psilocybin, the
7 person may be fined not more than \$5,000 or imprisoned for not more than one year
8 in the county jail or both upon a first conviction and is guilty of a Class I felony for
9 a 2nd or subsequent offense. For purposes of this paragraph, an offense is considered
10 a 2nd or subsequent offense if, prior to the offender's conviction of the offense, the
11 offender has at any time been convicted of any felony or misdemeanor under this
12 chapter or under any statute of the United States or of any state relating to controlled
13 substances, controlled substance analogs, narcotic drugs, marijuana, or depressant,
14 stimulant, or hallucinogenic drugs.

15 **SECTION 20.** 961.41 (3g) (em) of the statutes is created to read:

16 961.41 (3g) (em) *Synthetic cannabinoids.* If a person possesses or attempts to
17 possess a controlled substance specified in s. 961.14 (4) (tb) to (ty), or a controlled
18 substance analog of a controlled substance specified in s. 961.14 (4) (tb) to (ty), the
19 person may be fined not more than \$1,000 or imprisoned for not more than 6 months
20 or both upon a first conviction and is guilty of a Class I felony for a 2nd or subsequent
21 offense. For purposes of this paragraph, an offense is considered a 2nd or subsequent
22 offense if, prior to the offender's conviction of the offense, the offender has at any time
23 been convicted of any felony or misdemeanor under this chapter or under any statute
24 of the United States or of any state relating to controlled substances, controlled

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1 substance analogs, narcotic drugs, marijuana, or depressant, stimulant, or
2 hallucinogenic drugs.

3 (END)