

Ordinance No. 10205

AN ORDINANCE ADDING CHAPTER 7 TO TITLE 3, DIVISION 6,
OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES
DECLARING CERTAIN ACTIVITIES INVOLVING SYNTHETIC STIMULANTS AND
CANNABINOIDS TO BE A PUBLIC NUISANCE AND SUBJECT TO CIVIL ABATEMENT
AND PENALTIES IN THE UNINCORPORATED AREAS

The Board of Supervisors of the County of San Diego, State of California, ordains as follows:

Section 1.

Title 3, Division 6 of the San Diego County Code of Regulatory Ordinances is amended to add Chapter 7 as follows:

CHAPTER 7: SYNTHETIC STIMULANTS AND SYNTHETIC CANNABINOIDS

SEC. 36.701 Declaration of Purpose

The purpose of this Chapter is to protect the public health and safety within the unincorporated areas of the County of San Diego from the dangers and ill effects of synthetic stimulants and synthetic cannabinoids by declaring certain activities involving these drugs to be a public nuisance and subject to all available civil remedies.

SEC. 36.702 Definitions

- (a) Synthetic Stimulants – As used in this Chapter, the terms “synthetic stimulant” or “synthetic stimulants” include any material, compound, mixture, or preparation, except bupropion or compounds listed under a different schedule, which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, esters, or ethers, and salts of isomers, esters, or ethers whenever the existence of such salts, isomers, esters, or ethers, and salts of isomers, esters, or ethers is possible within any of the following specific chemical designations:
- (1) Naphthylpyrovaleron, whether or not further substituted in the naphthyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl, or halide substituents, whether or not further substituted in the naphthyl ring by one or more other univalent substituents, or whether or not further substituted in the carbon chain at the 3-, 4-, or 5-position with an alkyl substituent.
 - (2) 2-amino-1-phenyl-1-propanone (cathinone) or variation in any of the following ways:
 - (A) By substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl, or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents.
 - (B) By substitution at the 3-position with an alkyl substituent.

(C) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, or benzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure.

(b) Synthetic cannabinoids – As used in this Chapter, the terms “synthetic cannabinoid” or “synthetic cannabinoids” refer to any synthetic cannabinoid agonist, including but not limited to the substances listed below and any substances identified as a “synthetic cannabinoid compound” by Health & Safety Code section 11357.5:

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

(2) 1-butyl-3-(1-naphthoyl) indole (JWH-073).

(3) 1-2-[(4-morpholinyl)ethyl]-3-(1-naphthoyl) indole (JWH-200).

(4) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP-47,497).

(5) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol; CP-47, 497 C8 homologue).

(6) Naphthoylindoles: any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl 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.

(7) Naphthylmethylinindoles: any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl 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.

(8) Naphthoylpyrroles: any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl 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.

(9) Naphthylmethylindenes: any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl 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.

(10) Phenylacetylindoles: any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl 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.

(11) Cyclohexylphenols: any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not substituted in the cyclohexyl ring to any extent.

(12) Benzoylindoles: any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl 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.

(13) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)-pyrrolo-[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone.

(14) 9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c] chromen-1-ol.

(15) Adamantoylindoles: any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morphonyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring system to any extent.

(c) Distribute – As used in this Chapter, the term “distribute” has the same meaning as set forth in Health & Safety Code § 11012.

(d) Person – As used in this Chapter, the terms “person” or “persons” has the same meaning as set forth in Health & Safety Code § 11022.

SEC. 36.703 Legislative Findings

(a) On October 9, 2011, Health and Safety Code § 11375.5 was enacted, criminalizing the sale, distribution and possession for sale or distribution of psychoactive synthetic stimulants commonly sold as “bath salts.” Soon thereafter, on January 1, 2012, Health and Safety Code § 11357.5 became effective, criminalizing the sale, distribution and possession for sale or distribution of “synthetic cannabinoids” commonly marketed as “herbal incense.” These new laws are aimed at combating the growing popularity and dangerous health risks of these so-called “designer drugs.” It is anticipated that additional state laws will be enacted criminalizing possession for personal use.

(b) Synthetic Stimulants (“Bath salts”) – “Bath Salts” products contain synthetic stimulants in a class of drugs known as synthetic cathinones, including MDPV, Mephedrone and Methylone. These cathinones derivatives have effects similar to cocaine, amphetamine or MDMA (Ecstasy), and may have a high risk for overdose. Doctors at poison centers and emergency rooms have reported the drug can cause rapid heartbeat, high blood pressure, chest pain, agitation, hallucinations, extreme paranoia, delusions and suicidal thoughts. According to February 8, 2012 data from the American Association of Poison Control Centers Poison, in one year there has been a 20-fold increase in the number of calls about exposure to bath salts: In 2010, there were 304 reported calls, and in 2011 there were 6,138 calls. The drugs come in powder and crystal forms like traditional bath salts—hence the name. Users typically snort, inject or smoke them. The drugs are sold under names such as, but not limited to, Ivory Wave, Purple Wave, Vanilla Sky, Energy-1, Bliss, Cloud Nine, Charge Plus, Hurricane, Pixie Dust, Posh, Euphoria, Bonzai Grow, Drone, Lunar Wave, Meow Meow, Ocean Burst, Pure Ivory, Snow Leopard, White Knight, White Lightning, Scarface, Stardust and Blue Silk.

(c) (Synthetic Cannabinoids (“Herbal Incense”) – “Herbal Incense” products are most commonly a combustible leafy plant material that has been sprayed with research chemicals called synthetic cannabinoids. While synthetic cannabinoids and natural marijuana and act on the body’s natural cannabinoid receptors, synthetic cannabinoids are not marijuana. Research and anecdotal reports show that synthetic cannabinoids produces dangerous symptoms not normally associated with marijuana. Making matters worse, synthetic cannabinoids may be combined with other toxic substances. Emergency room physicians report that users of these products experience serious side effects, including convulsions, anxiety, dangerously elevated heart rates, increased blood pressure, vomiting, and disorientation. According to February 8, 2012 data from the American Association of Poison Control Centers Poison, in one year there has been a greater than two-fold increase in the number of calls about exposure to synthetic cannabinoids: In 2010, there were 2,906 reported calls, and in 2011 there were 6,959 calls. These products typically appear as packaged dried plant product or leaves, and are sold at gas stations, liquor stores, convenient stores, smoke shops, or on the Internet. While they sometimes have warning labels against human consumption, they are intended for just that use. They are sold under names as Spice, K2, Black Mamba, Bombay Blue, Fake Weed, Genie and Zohai.

Sec. 36.704 Declaration of Public Nuisances

(a) It is a public nuisance for any person to distribute, sell or possess with the intent to distribute or sell synthetic stimulants and/or synthetic cannabinoids.

(b) Possession that is not described in subdivision (a) of this section is declared to be a public nuisance when such possession injuriously affects any person or persons, other than the person in possession, in such other person’s or persons’ health, safety, welfare, or comfortable enjoyment of life or property.

Sec. 36.705 Authority to Administer and Enforce

This Chapter may be administered and enforced by the Chief Administrative Officer, the Sheriff, the District Attorney, their deputies or persons designated by them.

Sec. 36.706 Abatement Authority and Procedures; Other Remedies

(a) If a public nuisance exists pursuant to this Chapter, any of the persons identified in section 36.705 of this Chapter may proceed under Title 1, Division 6, Chapter 2, Nuisance Abatement, sections 16.201 et seq., of this Code.

(b) Nothing in this Chapter shall be construed to prevent the County of San Diego from pursuing any and all other legal remedies that may be available, including but not limited to civil actions filed by County Counsel seeking any and all appropriate relief such as civil injunctions, penalties and forfeiture.

Sec. 36.707 Severability

This Chapter and the various parts thereof are hereby declared to be severable. Should any section or part of this Chapter be declared by the courts to be unconstitutional, void or invalid, such decision shall not affect the validity of the Chapter as a whole, or any portion thereof other than the part or section declared to be unconstitutional, void or invalid.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this 3rd day of April, 2012.