

LOCAL LAW INTRO. NO.9614-2017 (as amended)

A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 536 to the Laws of Westchester County banning the sale and possession of synthetic drugs.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. A new Chapter 536 is hereby added to the Laws of Westchester

County to read as follows:

CHAPTER 536

BAN ON SALE AND POSSESSION OF SYNTHETIC DRUGS

Sec. 536.01. - Definition.

Sec. 536.11. – Sale prohibition.

Sec. 536.21. – Possession prohibition.

Sec. 536.31. – Reverse pre-emption.

Sec. 536.41 – Severability.

Sec. 536.51. – Penalties.

Sec. 536.01. - Definition.

Whenever used in this Chapter the term “synthetic drug” shall mean any product, whether described as tobacco, potpourri, herbs, incense, spice, aromatic, or any combination thereof, and whether marketed for the purpose of being smoked, ingested or injected, or otherwise marketed, which includes, but is not limited to, one or more of the following hallucinogenic substances: (1) 1-Pentyl-3-(1-Naphthoyl) Indole; some trade or other names; JWH-018; or (2) 1-Butyl-3-(1 naphthoyl) Indole; some trade or other names; JWH-073; or (3) 1-[2-(4Morpholinyl) Ethyl]-3-(1Naphthoyl) Indole; some trade or other names; JWH-200; or (4) 5-(1, 1-Dimethyloctyl)-2-[(1R, 3S)-3-Hydroxycyclohexyl]-Phenol; some trade or other names; CP-47, 497; or (5) 5-(1, 1-Dimethyloctyl)-2-[(1R, 3S)-3-Hydroxycyclohexyl]-Phenol; or some trade or other names;

Cannabicyclohexanol; CP447, 497 C8 Homologue; or (6) fentanyl analogues such as furanyl fentanyl, acetyl fentanyl, and 4 NAPP (despropionyl fentanyl); or (7) a material, compound, mixture or preparation in any form that contains the component Salvinorin A, or as a concentrated extract of the chemical Salvinorin A; or (8) any analogue of a synthetic cannabinoid, synthetic phenethylamine or cannabimimetic agent meaning a substance that has a chemical structure that is substantially similar to the chemical structure of a substance defined by part 9 of title 10 of the New York codes, rules and regulations as of the date of the violation, or as included in schedule I of the federal drug enforcement administration schedules of controlled substances, as listed in section 1308.11 of title 21 of the code of federal regulations, or successor regulation, as of the date of the violation, or any cannabimimetic agent, as defined in section 812 of title 21 of the United States code, as of the date of the violation and has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of such a substance defined by part 9 of title 10 of the New York codes, rules and regulations as of the date of the violation, or as included in schedule I of the federal drug enforcement administration schedules of controlled substances, as listed in section 1308.11 of title 21 of the code of federal regulations, or successor regulation, as of the date of the violation, or any cannabimimetic agent, as defined in section 812 of title 21 of the United States code, as of the date of the violation; or (9) any other non-prescription substance or compound developed prior to or subsequent to the adoption of this section which has a chemical structure and/or pharmacological effect substantially similar to, or

which otherwise mimics the active ingredient of marijuana, cocaine, heroin or any other controlled substance.

Sec. 536.11. – Sale prohibition.

It shall be a violation of this Chapter for any person or entity to sell, offer for sale, give away, barter, exchange or otherwise furnish or provide any synthetic drug.

Sec. 536.21. – Possession prohibition.

It shall be a violation of this Chapter for any person or entity to possess any synthetic drug unless such synthetic drug is expressly prescribed to said person by a physician, psychiatrist or person otherwise duly licensed and authorized to prescribe medication within the State of New York and, at the time of the alleged violation, the person in possession of the synthetic drug is able to provide written proof to the law enforcement officer(s) that the synthetic drug was so prescribed.

Sec. 536.31. – Reverse pre-emption.

This Chapter shall be null and void on the day that federal or statewide legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this Chapter, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Westchester. The County Legislature may determine via mere resolution whether or not identical or substantially similar federal or statewide legislation, or pertinent preempting state or federal regulations have been enacted for purposes of triggering the provisions of this Section.

Sec. 536.41. – Severability.

If any clause, sentence, paragraph, or section of this Chapter shall be held invalid by any court of competent jurisdiction, or the application of this Chapter to any person or set of circumstances shall be held invalid, such invalidity or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or operation of this Chapter directly involved in the controversy in which the judgment shall have been rendered. To further this end, the provisions of this Chapter are hereby declared to be severable.

Sec. 536.51. – Penalties.

1. The Westchester County Department of Health and the Westchester County Department of Public Safety shall enforce the provisions of this Chapter.

2. Any person or entity that violates the provisions of this Chapter shall be guilty of a misdemeanor punishable by a fine of not more than five hundred dollars (\$500) or imprisonment up to one year, or both.

3. In addition to the penalties described in subdivision “2” of this Section, any person or entity that violates this Chapter shall be liable for a civil penalty of not less than five hundred dollars (\$500) and not more than two thousand dollars (\$2000).

§2. This Local Law shall take effect immediately.

STATE OF NEW YORK)
) ss.
COUNTY OF WESTCHESTER)

I HEREBY CERTIFY that I have compared the foregoing Local Law, Local Law Intro No. 9614 - 2017 (as amended) with the original on file in my office, and that the same is a correct transcript therefrom, and of the whole, of the said original Local Law, which was duly adopted by the County Board of Legislators, of the County of Westchester on May 8, 2017, and approved by the County Executive on May 18, 2017.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 23rd day of May, 2017.



Malika Vanderberg

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York



