

HOUSE BILL REPORT

ESB 5673

As Reported by House Committee On:
Commerce & Gaming
General Government & Information Technology

Title: An act relating to the distribution of synthetic cannabinoids and bath salts.

Brief Description: Concerning the distribution of synthetic cannabinoids and bath salts.

Sponsors: Senators Padden, Kohl-Welles, Roach, Miloscia, Pearson and Darneille.

Brief History:

Committee Activity:

Commerce & Gaming: 3/23/15, 3/24/15 [DPA];

General Government & Information Technology: 3/31/15, 4/2/15 [DPA(COG)].

**Brief Summary of Engrossed Bill
(As Amended by Committee)**

- Creates civil liability under the Consumer Protection Act for the sale of synthetic cannabinoids, cathinones, and methcathinones.
- Imposes additional fines upon criminal conviction for the sale of such synthetic cannabinoids, cathinones, and methcathinones.

HOUSE COMMITTEE ON COMMERCE & GAMING

Majority Report: Do pass as amended. Signed by 9 members: Representatives Hurst, Chair; Wylie, Vice Chair; Condotta, Ranking Minority Member; Holy, Assistant Ranking Minority Member; Blake, Kirby, Scott, Van De Wege and Vick.

Staff: David Rubenstein (786-7153).

Background:

Cathinones and methcathinones are stimulants with methamphetamine-like effects. Cathinones may cause hallucinations, agitation, and serious cardiac symptoms. Cathinone derivatives are commonly known as "bath salts."

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Synthetic cannabinoids are drugs that target the same brain receptors that interact with the tetrahydrocannabinol present in marijuana that produces a psychoactive effect. Synthetic cannabinoids are often called "spice" or "K2," after popular brands of the substances.

Current law places cathinones and methcathinones on Schedule I of the Controlled Substances Act, meaning they have no accepted medical value, have a high potential for abuse, and lack accepted safety for use in medical treatment under supervision.

The manufacture, delivery, or possession of a Schedule I controlled substance is a class B felony, punishable by either up to 10 years in prison or a fine of up to \$20,000, or both, plus an additional \$1,000 fine.

The Pharmacy Quality Assurance Commission addresses the evolving chemistry of illegal controlled substances by classifying or reclassifying new compounds under its administrative rule-making authority.

Washington Consumer Protection Act.

Washington's Consumer Protection Act (CPA) declares that "unfair or deceptive acts or practices" occurring in trade are unlawful.

The CPA provides that any person who is injured in his or her business or property through such practices may bring a civil action to recover actual damages sustained and costs of the suit, including reasonable attorney's fees. Treble damages may also be awarded at the discretion of the court.

To prevail in a private action under this act, a plaintiff must establish five elements: (1) an unfair or deceptive act or practice; (2) occurring in trade or practice; (3) an impact on the public interest; (4) actual injury to the plaintiff in his or her business or property; and (5) a causal link between the unfair or deceptive acts and the injury suffered by plaintiff.

The CPA also authorizes the Attorney General to bring an action in the name of the state, or as *parens patriae*, on behalf of a state resident, in order to restrain and prevent unfair and deceptive acts or practices.

Summary of Amended Bill:

Synthetic Cannabinoids.

Synthetic cannabinoids, meaning a chemically synthesized compound or its chemical analog that is chemically synthesized and has been demonstrated to have binding activity at a cannabinoid receptor in the brain, are added to Schedule I of the Controlled Substances Act. The manufacture, distribution, or possession of synthetic cannabinoids is a felony and carries a fine, like any other substance on Schedule I.

Consumer Protection Act Violation.

Any person who manufactures, sells, or distributes cathinones, methcathinones, and synthetic cannabinoids commits a violation of the CPA, allowing an action by the Attorney General or a private citizen who can prove actual injury.

Additional Fines.

A person who manufactures, sells, or distributes synthetic cannabinoids, cathinones, or methcathinones must pay a fine between \$10,000 and \$500,000, in addition to other criminal and civil penalties. However, if the person receiving the drug is a minor under 18 years old and at least two years younger than the person violating the law, the minimum fine is increased to \$25,000. Courts may not suspend or defer the fine unless the violator is indigent.

Amended Bill Compared to Engrossed Bill:

The striking amendment moves the Consumer Protection Act (CPA) violation from the CPA chapter to the Controlled Substances Act. It also specifies that violations of the law relating to synthetic cannabinoids, cathinones, and methcathinones are matters vitally affecting the public interest and not reasonable in relation to the development and preservation of business for the purpose of applying the CPA.

The striking amendment also eliminates the pilot program in the Washington State Patrol.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) A growing problem with synthetic marijuana has led to overdoses and hospital visits. This bill seeks to address that problem by defining it as a controlled substance, imposing additional fines, and creating a Consumer Protection Act violation.

The pilot program has led to some controversy, but proponents want to see it agreed to.

(With concerns) The Washington State Patrol was caught off guard when the program was proposed, and the machines required, which can be very expensive, may not be superior to low-cost alternatives and may not be useful in criminal trials.

(Opposed) None.

Persons Testifying: (In support) Senator Padden, prime sponsor; and Angela Wolfe, Thermo Fisher.

(With concerns) Rob Huss, Washington State Patrol.

Persons Signed In To Testify But Not Testifying: None.

**HOUSE COMMITTEE ON GENERAL GOVERNMENT & INFORMATION
TECHNOLOGY**

Majority Report: Do pass as amended by Committee on Commerce & Gaming. Signed by 7 members: Representatives Hudgins, Chair; Senn, Vice Chair; MacEwen, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; McCabe, Morris and Takko.

Staff: Rachelle Harris (786-7137).

**Summary of Recommendation of Committee On General Government & Information
Technology Compared to Recommendation of Committee On Commerce & Gaming:**

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) None.

(Opposed) None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: None.