

CITY OF BALTIMORE  
STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW  
GEORGE A. NILSON, City Solicitor  
101 City Hall  
Baltimore, Maryland 21202

November 12, 2010

Honorable President and Members  
of the City Council of Baltimore  
Room 409, City Hall  
100 N. Holliday Street  
Baltimore, Maryland 21202

Attn: Karen Randle  
Executive Secretary

Re: City Council Bill 10-0616  
Prohibited Distribution of K2 or "Spice"



Dear President and City Council Members:

You have requested the advice of the Law Department regarding City Council Bill 10-0616. City Council Bill 616 prohibits the distribution of a synthetic product commonly known as K2 or "Spice." The bill defines "distribution" broadly to include offering to distribute or causing or hiring a person to distribute. As drafted, this definition would apply to all of Title 18. If the intent is to limit the definition to only this section, line 21 on page 1 should be amended to reflect this (the word "title" should be changed to "section"). The bill also defines the prohibited substance.

To be clear, although the Purpose Clause of the bill states that it prohibits only distribution of "Spice," the bill additionally prohibits purchasing, using or possessing "Spice." The prohibited distribution extends to substances that the person represents to be "Spice" or intends to be used or distributed as "Spice" or distributes under circumstances "that one reasonabl[y] should know" will be used or distributed as "Spice." It excepts certain accredited institutions and their agents from the prohibition.

There is a typo in line 18 of page 2 ("reasonable" should be "reasonably").

Generally speaking, City Council has the authority to "provide for the preservation of the health of all persons within the City" and to "pass any ordinance, not inconsistent with the provisions of this Charter or the laws of the State, which it may deem proper in the exercise of any of the powers, either express or implied, enumerated in this Charter, as well as any ordinance as it may

deem proper in maintaining the peace, good government, health and welfare of Baltimore City.” See City Charter, Art. II, §§ 11, 47. City Council, therefore, has the authority to enact this prohibition against the distribution, purchase, use or possession of “Spice,” since the ban is intended to promote the health and general welfare of citizens by eliminating the distribution, purchase, use and possession of the substance.

City Council Bill 616 is consistent with the City Council’s authority. Therefore, the Law Department would approve the bill for form and legal sufficiency.

Sincerely yours,



Ashlea H. Brown  
Special Assistant City Solicitor

cc: Angela Gibson, City Council Liaison, Mayor’s Office  
George Nilson, City Solicitor  
Elena DiPietro, Chief Solicitor  
Hilary Ruley, Assistant Solicitor