



City of Baltimore

City Council
City Hall, Room 408
100 North Holliday Street
Baltimore, Maryland 21202

Legislation Text

File #: 15-0584, **Version:** 0

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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INTRODUCTORY*

CITY OF BALTIMORE
COUNCIL BILL

Introduced by: The Council President
At the request of: The Administration (Health Department)

A BILL ENTITLED

AN ORDINANCE concerning
Psychoactive Substances

FOR the purpose of prohibiting the distribution of psychoactive substances; defining certain terms; imposing administrative sanctions, civil fines, and criminal penalties for violations; and providing for the seizure, testing, and destruction of these substances.

BY adding
Article - Health
Sections 16-101 through 16-403, to be under the new title,
◆Title 16. Psychoactive Substances◆
Baltimore City Revised Code
(Edition 2000)

BY adding
Article 1 - Mayor, City Council, and Municipal Agencies
Sections 40-14(e)(7)(Title 16) and 41-14(6)(Title 16)
Baltimore City Code
(Edition 2000)

Recitals

Psychoactive substances, commonly referred to as synthetic drugs, are being marketed and sold in Baltimore City. These products are designed and marketed to mimic the effects of illegal narcotics. Psychoactive substances can be generally found in two categories: synthetic cannabinoids and synthetic cathinones.

Synthetic cannabinoids, also known as **Spice** or **K2**, are mixtures of herbs and spices that have been sprayed with a synthetic compound chemically similar to THC, the psychoactive ingredient in marijuana. These products are often available for purchase in various retail outlets labeled as **incense** or **potpourri**. These products can produce serious psychological and physiological effects including paranoia, panic attacks, increased heart rate and increased blood pressure, agitation, anxiety, nausea, vomiting, tachycardia, tremors, seizures, hallucinations, and non-responsiveness.

Synthetic cathinones, also known as **bath salts**, are chemicals that are synthetic derivatives of cathinones, a central nervous system stimulant, and simulate the effect of amphetamines. These products are often available for purchase in various retail outlets labeled as **bath salts**. They can be found in powder, tablet, and capsule form and are usually ingested by sniffing/snorting, but can also be taken orally, smoked, or put into a solution and injected. Users have reported effects such as impaired perception of reality, reduced motor control, and decreased ability to think clearly. These products can produce serious psychological and physiological effects, including agitation, insomnia, irritability, dizziness, depression, paranoia, delusions, suicidal thoughts, seizures, panic attacks, rapid heart rate, nosebleeds, sweating, nausea, vomiting, heart attacks, and strokes.

In response to the efforts by federal and state legislators to outlaw the chemicals in these psychoactive substances, chemists immediately reconfigured the specific substances that were prohibited to produce **new** versions of these synthetic drugs. Consumers suffering a reaction to or injury from these products have little chance of obtaining information concerning the contents of the product, as the identity and locations of the manufacturers are unknown.

The names and packaging of these substances are designed to appeal to children and young adults, and increased usage among high school youths is a concern for both law enforcement and the medical community.

The Mayor and City Council of Baltimore find that the proliferation and availability of illicit psychoactive substances presents a threat to public health and safety, and additional authority is warranted and necessary to eliminate these harmful products from Baltimore City.

Now, Therefore ...

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Revised Code

Article **Health**

TITLE 16. PSYCHOACTIVE SUBSTANCES

SUBTITLE 1. DEFINITIONS

◆ 16-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(B) DISTRIBUTE.

◆DISTRIBUTE◆ MEANS TO:

- (1) give away, sell, deliver, dispense, issue, transfer, or otherwise distribute;
- (2) offer to give away, sell, deliver, dispense, issue, transfer, or otherwise distribute; or
- (3) cause or hire any person to:
 - (i) give away, sell, deliver, dispense, issue, transfer, or otherwise distribute; or
 - (ii) offer to give away, sell, deliver, dispense, issue, transfer, or otherwise distribute.
- (c) Psychoactive substance.

(1) In general.

◆Psychoactive substance◆ means any:

- (i) synthetic cannabinoid;
- (ii) synthetic cathinone; or
- (iii) psychoactive substance analogue.

(2) Exclusions.

◆Psychoactive substance◆ does not include a substance that:

- (i) has an approved drug application by the U.S. Food and Drug Administration; and
- (ii) is being distributed in accordance with all applicable federal and state laws and regulations.
- (d) Psychoactive substance analogue.

◆Psychoactive substance analogue◆ means a substance that:

- (1) is an alkyl homologue of a synthetic cannabinoid or synthetic cathinone; or
- (2) in its chemical structure, differs from a synthetic cannabinoid or synthetic cathinone only by:

- (i) substituting 1 or more hydrogens with halogens; or
 - (ii) substituting 1 or more halogens with different halogens.
- (e) Synthetic cannabinoid.

(1) In general.

◆Synthetic cannabinoid◆ means a chemically engineered substance that:

- (i) has binding activity at 1 or more cannabinoid receptors;
- (ii) is a chemical analogue or isomer of a compound that has binding activity at 1 or more cannabinoid receptors; or
- (iii) is identified as a cannabimimetic agent, as defined in State Code Criminal Law Article ◆ 5-101.

(2) Illustrations.

A synthetic cannabinoid is commonly, but not exclusively, found sprayed on dried herbs, to be burned and inhaled by consumers.

(f) Synthetic cathinone.

(1) In general.

◆Synthetic cathinone◆ means a chemically engineered derivative of cathinone, which is a naturally occurring beta-ketone amphetamine analogue found in the leaves of the catha edulis plant.

(2) Inclusions.

◆Synthetic cathinone◆ includes butylone, dimethylcathinone, ethcathinone, ethylone, 3- and 4-fluoromethcathinone, mephedrone, methedrine, methylenedioxypropylone (MDVP), methylone, and pyrovalerone.

(3) Illustrations.

A synthetic cathinone is commonly, but not exclusively, found in the form of pills, capsules, crystals, powders, tablets, or liquids.

Subtitle 2. Prohibited Conduct

◆ 16-201. Distribution prohibited.

No person may distribute a psychoactive substance.

Subtitle 3. Administrative Sanctions

Part I. In general

◆ 16-301. NOTICE OF VIOLATION.

(A) IN GENERAL.

WHENEVER THE COMMISSIONER REASONABLY BELIEVES THAT A PERSON IS DISTRIBUTING A PSYCHOACTIVE SUBSTANCE IN VIOLATION OF THIS TITLE, THE COMMISSIONER SHALL ISSUE A VIOLATION NOTICE TO THE PERSON.

(B) CONTENTS.

THE VIOLATION NOTICE MUST:

- (1) CITE THE VIOLATION;
- (2) SPECIFY ANY CORRECTIVE ACTION TO BE TAKEN AND THE TIME WITHIN WHICH THAT ACTION MUST BE TAKEN; AND
- (3) STATE THAT A HEARING WILL BE PROVIDED TO THE PERSON, IF ONE IS REQUESTED UNDER TITLE 2, SUBTITLE 3 {◆ADMINISTRATIVE HEARINGS◆} OF THIS ARTICLE.

◆ 16-302. AUTHORITY TO SEIZE, TEST, ETC.

(A) IN GENERAL.

ON REASONABLE BELIEF THAT A VIOLATION OF THIS TITLE HAS OCCURRED, THE COMMISSIONER MAY:

- (1) SEIZE AND DETAIN ANY PRODUCT SUSPECTED TO BE A PSYCHOACTIVE SUBSTANCE;
- (2) SUBMIT THE SEIZED PRODUCT FOR LABORATORY TESTING AND ANALYSIS;
- (3) RETAIN FOR USE IN FURTHER PROCEEDINGS ANY SEIZED PRODUCT FOUND TO BE A PSYCHOACTIVE SUBSTANCE; AND
- (4) DESTROY ANY PRODUCT ULTIMATELY DETERMINED TO BE A PSYCHOACTIVE SUBSTANCE INVOLVED IN A VIOLATION OF THIS TITLE.

(B) RETURN OF NON-PSYCHOACTIVE SUBSTANCES.

ANY PRODUCT FOUND NOT TO BE A PSYCHOACTIVE SUBSTANCE INVOLVED IN A VIOLATION OF THIS SUBTITLE MUST BE PROMPTLY RETURNED TO THE PERSON FROM

WHOM SEIZED, LESS ANY AMOUNT DESTROYED FOR TESTING.

◆◆ 16-303 TO 16-305. {RESERVED}

PART II. LICENSEES

◆ 16-306. ◆LICENSE◆ DEFINED.

IN THIS PART II, ◆LICENSE◆ MEANS A LICENSE OR PERMIT ISSUED BY THE BALTIMORE CITY HEALTH DEPARTMENT.

◆ 16-307. SUSPENSION OR REVOCATION OF LICENSE.

(A) GROUNDS.

THE COMMISSIONER MAY SUSPEND OR REVOKE THE LICENSE OF A PERSON IF:

(1) THE LICENSEE HAS FIRST BEEN ISSUED A VIOLATION NOTICE UNDER ◆◆16▲301 {◆NOTICE OF VIOLATION◆} OF THIS SUBTITLE; OR

(2) THE LICENSEE INTERFERES WITH THE PERFORMANCE OF THE COMMISSIONER◆S DUTIES.

(B) NOTICE AND OPPORTUNITY FOR HEARING.

BEFORE SUSPENDING OR REVOKING A LICENSE, THE COMMISSIONER MUST PROVIDE THE LICENSEE WITH NOTICE AND OPPORTUNITY FOR HEARING, AS PROVIDED IN TITLE 2, SUBTITLE 3 {◆ADMINISTRATIVE HEARINGS◆} OF THIS ARTICLE.

◆ 16-308. SUSPENSION OF LICENSE WITHOUT NOTICE.

(A) ORDER OF IMMEDIATE SUSPENSION.

IF THE COMMISSIONER CONSIDERS IT NECESSARY AND IN THE INTEREST OF PUBLIC HEALTH AND SAFETY, THE COMMISSIONER MAY ISSUE AN ORDER OF IMMEDIATE SUSPENSION TO A LICENSEE WITHOUT HAVING FIRST ISSUED A VIOLATION NOTICE UNDER ◆ 16-301 {◆NOTICE OF VIOLATION◆} OF THIS SUBTITLE.

(B) CONTENT.

AN ORDER ISSUED UNDER THIS SECTION:

(1) MUST CITE THE VIOLATION;

(2) MUST SPECIFY THE CORRECTIVE ACTION TO BE TAKEN AND THE TIME WITHIN WHICH THAT ACTION MUST BE TAKEN; AND

(3) MAY ORDER ALL OF THE LICENSEE'S OPERATIONS TO BE DISCONTINUED IMMEDIATELY.

(C) OPPORTUNITY FOR HEARING.

THE NOTICE MUST ALSO STATE THAT A HEARING WILL BE PROVIDED TO THE LICENSEE UNDER TITLE 2, SUBTITLE 3{ADMINISTRATIVE HEARINGS} OF THIS ARTICLE, IF ONE IS REQUESTED.

SUBTITLE 4. CIVIL AND CRIMINAL PENALTIES

16-401. ENFORCEMENT BY CITATION.

(A) IN GENERAL.

IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT PROCEDURE, THIS TITLE MAY BE ENFORCED BY ISSUANCE OF:

(1) AN ENVIRONMENTAL CITATION UNDER CITY CODE ARTICLE 1, SUBTITLE 40 {ENVIRONMENTAL CONTROL BOARD}; OR

(2) A CIVIL CITATION UNDER CITY CODE ARTICLE 1, SUBTITLE 41 {CIVIL CITATIONS}.

(B) PROCESS NOT EXCLUSIVE.

THE ISSUANCE OF A CITATION TO ENFORCE THIS SUBTITLE DOES NOT PRECLUDE PURSUING ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT ACTION AUTHORIZED BY LAW.

16-402. CRIMINAL PENALTIES.

ANY PERSON WHO VIOLATES ANY PROVISION OF THIS TITLE OR OF A RULE OR REGULATION ADOPTED UNDER THIS TITLE IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 12 MONTHS OR TO BOTH FINE AND IMPRISONMENT FOR EACH OFFENSE.

16-403. EACH PACKAGE OR CONTAINER A SEPARATE OFFENSE.

EACH PACKAGE OR CONTAINER OF A PSYCHOACTIVE SUBSTANCE THAT IS DISTRIBUTED OR INTENDED FOR DISTRIBUTION IN VIOLATION OF THIS TITLE IS A SEPARATE OFFENSE.

Baltimore City Code

Article 1. Mayor, City Council, and Municipal Agencies

Subtitle 40. Environmental Control Board

◆ 40-14. Violations to which subtitle applies.

(e) Provisions and penalties enumerated.

(7) Health Code

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TITLE 16: PSYCHOACTIVE SUBSTANCES

SUBTITLE 2: PROHIBITED CONDUCT

\$1,000

Subtitle 41. Civil Citations

◆ 41-14. Offenses to which subtitle applies ◆ Listing.

(6) Health Code

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TITLE 16: PSYCHOACTIVE SUBSTANCES

SUBTITLE 2: PROHIBITED CONDUCT

\$1,000

SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day after the date it is enacted.

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