

RULES PERTAINING TO SYNTHETIC MARIJUANA PRODUCTS

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SECTION I. AUTHORITY

The following Rules Pertaining to Synthetic Marijuana Products are duly adopted and promulgated by the Arkansas State Board of Health pursuant to the authority expressly conferred by the laws of the State of Arkansas, specifically Ark. Code Ann. § 20-7-109.

SECTION II. PURPOSE

Synthetic marijuana products marketed under names such as K2, Spice, Genie, Blaze, Red X Dawn and Zohia commonly contain the substances JWH-018 and JWH-073. These substances are believed to be manufactured in China and were invented to study the effects of cannabinoids on the brains of mice. They have not been tested or approved for use by humans in the United States, and the Drug Enforcement Administration has listed these substances as “drugs and chemicals of concern.” The purpose of this rule is to prohibit the sale and distribution of synthetic marijuana products in Arkansas.

SECTION III. DEFINITIONS

A. “Synthetic marijuana products” means a synthetic equivalent of the substance contained in the Cannabis plant, or in the resinous extractives of the genus Cannabis, or a synthetic substance, derivative, or its isomers with similar chemical structure or pharmacological activity such as the following:

1. 1-Pentyl-3-(1-naphthoyl) indole; some trade or other names: JWH-018;
2. 1-Butyl-3-(1-naphthoyl) indole; some trade or other names: JWH-073.

B. “Distributor” means any person offering for sale, exchange, or barter any synthetic marijuana products destined for sale in Arkansas;

C. “Participate in the synthetic marijuana products market” means to distribute, possess with an intent to distribute, commit an act intended to facilitate the marketing or distribution of, or agree to distribute, possess with an intent to distribute, or commit an act intended to facilitate the marketing and distribution of any synthetic marijuana product.

- D. "Person" means an individual, partnership, corporation, or association;
- E. "Retailer" means any person offering for sale synthetic marijuana products to individual consumers.

SECTION IV. GENERAL REQUIREMENTS

- A. It shall be unlawful for any person, retailer or distributor to participate in the synthetic marijuana products market.
- B. Any product found to contain a synthetic marijuana product shall not be distributed, sold, or moved until the Department allows such activity.

SECTION V. VIOLATIONS AND PENALTIES

- A. Every firm, person, or corporation violating any of the provisions of this rule shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or by imprisonment not exceeding one (1) month, or both. Each day of violation shall constitute a separate offense.
- B. Every firm, person, or corporation who violates this rule may be assessed a civil penalty by the board. The penalty shall not exceed one thousand dollars (\$1,000) for each violation. Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessments.

SECTION VI. EFFECTIVE DATE

The effective date of these Rules shall be July 2, 2010.

SECTION VII. SEVERABILITY

If any provision of these Rules, or the application thereof, to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of these Rules which can give effect without the invalid provisions or applications, and to this end the provisions hereto are declared to be severable.

SECTION VIII. REPEAL

All Rules and parts of the Rules in conflict herewith are hereby repealed.

SECTION IX. EMERGENCY CLAUSE

In accordance with Ark. Code Ann. § 25-15-204(b), the Arkansas State Board of Health finds that imminent peril to public health, safety, or welfare requires adoption of the following rule upon fewer than twenty (20) days' notice. It is found and determined by the State Board of Health; that these synthetic marijuana products are "marketed" as not being for human consumption, but all indications are that they are being used despite the fact that the FDA has not approved their use; that Arkansas's Poison Control Center has received twenty-six reports from hospitals and/or physicians of patients presenting with symptoms consistent with the use of these synthetic marijuana products and nineteen admitted using them; that these synthetic marijuana products contain extreme potency variations due to no quality or quantitative controls; that these synthetic marijuana products contain mixtures of various chemical compounds in variable doses, the specific biological effects and interactions among these chemical compounds are largely unknown; that it is undeniable that persons using these synthetic marijuana products are

operating vehicles, recreational vehicles, and heavy equipment; that, according to media reports, Poison Centers nationwide have reported 352 cases in 35 states where patients often have a rapid heart rate, dangerously high blood pressure and sometimes hallucinations or paranoia; that Kansas, Kentucky, Georgia, Tennessee and Alabama have banned these substances; and that the legislature in Missouri has passed a ban that will take effect unless vetoed by their governor. Therefore, an emergency is hereby declared to exist and this Rule being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 2, 2010.

CERTIFICATION

This is to certify that the foregoing Rules Pertaining to Synthetic Marijuana Products were adopted by the Arkansas State Board of Health at a special session of said Board held in Little Rock, Arkansas on the 2nd day of July, 2010.

_____/original signed/
Paul Halverson, DrPH
Secretary
Arkansas State Board of Health

The foregoing Rules, copy having been filed in my office, are hereby approved on this 2nd day of July, 2010.

_____/original signed/
Mike Beebe
Governor