

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. 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 VII. REPEAL

All Rules and parts of the Rules in conflict herewith are hereby repealed.

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 regular session of said Board held in Little Rock, Arkansas on the ____ day of ____, 2010.

Paul Halverson, DrPH
Secretary
Arkansas State Board of Health

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

Mike Beebe
Governor