

LOCAL LAW NO. "N" FOR 2015

A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK PROHIBITING THE SALE OR DISTRIBUTION OF PRODUCTS CONTAINING A SYNTHETIC CANNABINOID IN ALBANY COUNTY, NEW YORK

Introduced: 10/13/15

By Messrs. Higgins and Clenahan:

BE IT ENACTED, by the Legislature of the County of Albany as follows:

SECTION 1

LEGISLATIVE INTENT:

The purpose of this Local Law is to protect the public interest, welfare, health and safety of citizens within the County of Albany by prohibiting the sale of synthetic marijuana in local retail shops. Three years ago poison control centers across the country reported only 13 calls from patients who had used synthetic marijuana.

It has come to the attention of this legislature that these products are being openly sold and marketed throughout the county. The Albany County Legislature further finds that the continued sale of these substances poses a significant risk to those who use it by producing a marijuana-like high with dangerous side effects including hallucinations, vomiting, increased heart rate and elevated blood pressure.

SECTION 2

DEFINITIONS

1. For the purposes of this local law, "synthetic cannabinoid" means any chemical compound that is a cannabinoid receptor agonist and shall include, but not be limited to, any material, compound, mixture or preparation that is not designated as a controlled substance pursuant to section thirty-three hundred six of the public health law.

SECTION 3

Prohibition against the sale of synthetic cannabinoids

1. No person, firm, corporation, partnership, association, limited liability company or other entity shall sell, offer for sale, distribute or give away, for retail, wholesale or promotional purposes any synthetic cannabinoid.

2. Nothing in this section shall apply to nonprescription over-the-counter drugs approved or regulated by the federal food and drug administration.

3. It shall be a defense that any person, firm, corporation, partnership, association, limited liability company or other entity that sold, offered for sale or gave away as either a retail or wholesale promotion ledge that it was a product containing a synthetic cannabinoid, if such knowledge was not reasonably discoverable.

SECTION 4
PENALTIES:

A violation of Section 3 of this Local Law shall be punishable as follows:

1. First Offense - Any person who violates Section 3 of this Law shall be guilty of a violation punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250), where such violation constitutes the person's first offense.
2. Second Offense - Any person who violates Section 3 of this Law, shall be guilty of a violation punishable by a fine of not less than Five Hundred Dollars (\$500), where such violation constitutes the person's second offense.
3. Third and Subsequent Offenses - Any person who violates Section 3 of this Law, shall be guilty of an unclassified misdemeanor punishable by a fine not to exceed One Thousand Dollars (\$1,000) and a term of imprisonment not to exceed one (1) year, or both.

SECTION 5
EFFECT ON OTHER LAWS:

The provision of Section 3 of this Law, shall not in any way affect the application of any other Law, where appropriate, including, but not limited to, New York Penal Law Section 260.10, Endangering the Welfare of a Minor, and Section 260.20(2), Unlawfully Dealing with a Child.

SECTION 6
APPLICABILITY:

This Law shall apply to all actions occurring on or after the effective date of this Law.

SECTION 7
PREEMPTION:

1. If any part or provision of this section is inconsistent with any Federal or State statute, law, rule or regulation, then such statute, law, rule or regulation shall prevail.

2. If any part or provision of this Section or the application thereof to any person or circumstance be adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this section, or the application thereof to other persons or circumstances.

SECTION 8

REVERSE PREEMPTION:

This law shall be null and void on the day that Statewide or Federal legislation goes into effect incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent State or Federal administrative agency issues and promulgates regulations preempting such action by the County of Albany. The Albany County Legislature may determine via resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

SECTION 9

EFFECTIVE DATE:

This Local Law shall take effect immediately.

Referred to Health Committee. 10/13/15