SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair
2015 - 2016 Regular

Bill No:	SB 139	**Hearing Date:**	July 14, 2015
Author:	Galgiani		
Version:	January 26, 2015		
Urgency:	Yes	**Fiscal:**	Yes
Consultant:	JM		

Subject: ***Controlled Substances***

HISTORY

Source: California Narcotics Officers Association

Prior Legislation: SB 1283 (Galgiani) - Ch. 372, Stats. 2013
AB 486 (Hueso) - Ch. 656, Stats. 2011
SB 420 (Hernandez) - Ch. 420, Stats. 2011
AB 2420 (Hueso) - Died in Assembly Public Safety, 2012
AB 1141 (Anderson) - Ch. 292, Stats 2007

Support: Association for Los Angeles Deputy Sheriffs; California Association of Code Enforcement Officers; California College and University Police Chiefs Association; California District Attorneys Association; California Police Chiefs Association; California State Sheriffs' Association; Los Angeles Police Protective League; Riverside Sheriffs Association

Opposition: American Civil Liberties Union; Legal Services for Prisoners with Children

PURPOSE

The purpose of this bill is to 1) provide that possession of specified synthetic cannabinoids or specified synthetic stimulants is a crime, with the following classes of offense and penalties: First offense is an infraction, punishable by a fine of up to $250; a second offense is an infraction or misdemeanor, with a misdemeanor fine of up to $500, a jail term of up to six months, or both; a third or subsequent offense is a misdemeanor, punishable by a fine of up to $1,000, a jail term of up to one year, or both; 2) add numerous specified drugs or chemicals to the existing list of prohibited synthetic cannabinoids; and 3) add specified synthetic stimulants to the statutory list of prohibited drugs of that type.

Existing law lists controlled substances in five "schedules" - intended to reflect decreasing order of harm and increasing medical utility or safety - and provides penalties for possession of and commerce in controlled substances. (Health & Saf. Code §§ 11350-11401.)

Existing law lists cathinone as a Schedule II controlled substance stimulant and provides that simple possession of cathinone is a misdemeanor, punishable by a jail term of up to six month, a fine of up to $1,000, or both. (Health & Saf. Code §§ 11055, subd. (d)(8) and 11377, subd. (b)(3).)

Existing law provides that possession for sale of khat or cathinone is a felony punishable by 16 months, 2 years, or 3 years in state prison. (Health & Saf. Code § 11378.)

Existing law provides that transportation, sale, or furnishing of khat or cathinone is a felony punishable by 2, 3, or 4 years in state prison and a fine of up to $10,000. (Health & Saf. Code § 11379.)

Existing law provides that any person who possesses for sale, sells or furnishes any synthetic cannabinoid compound shall be punished by imprisonment in the county jail for up to six months, a fine of up to $1,000, or both. (Health & Saf. Code § 11357, subd. (a.)

Existing law provides that any person who sells, dispenses, distributes, or gives the stimulant substances naphthylpyrovalerone or cathinone, or specified variations of these drugs, or who offers to do such acts, is guilty of a misdemeanor, punishable by a jail term of up to six months, a fine of up to $1,000, or both. (Health & Saf. Code § 11375.5.)

Existing law provides that it is a misdemeanor to "use or be under the influence of" a specified controlled substance. (Health & Saf. Code § 11550.) Penalties and special provisions for being under the influence of a controlled substance are the following:

- First time conviction: Jail term of 90 days to one year. Probation may last up to five years. The court must include a 90-day jail term as a condition of probation;
- Third conviction within seven years of the prior convictions: If the defendant refuses to complete a licensed drug treatment program, the court must impose a term of at least 180 days in jail unless there are no reasonably available licensed programs;
- The court may allow a defendant convicted for a second time to complete a licensed drug treatment program in lieu of all or part of the mandatory jail term; and,
- Counties are encouraged to augment applications for federal and state drug treatment money to treat persons convicted of this offense. (Health & Saf. Code § 11550, subds. (a)-(c.)

Existing decisional law holds that within the context of Health and Safety Code Section 11550, "use" of a controlled substance means current use, or use immediately prior to arrest. (Bosco v. Justice Court (1978) 77 Cal.App.3d 179, 191; People v. Velasquez (1976) 54 Cal.App.3d 695.)

Existing Law – Proposition 36 (Nov. 2000 election), the Substance Abuse and Crime Prevention Act of 2000 (SACPA) – requires non-violent drug possession offenders to be offered drug treatment on probation, which shall not include incarceration as a condition of probation. (Pen. Code §§ 1210-1210.5.)

Existing law provides that non-violent drug possession offenses include:

- Unlawful use, possession for personal use, or transportation for personal use of a controlled substance;
- Being under the influence of a controlled substance; and, (Health and Saf. Code § 11550.); and, SACPA eligibility is not affected by the classification of the underlying; drug possession offense as a felony or misdemeanor. The controlling factor is that the drug is a controlled substance. (Pen. Code § 1210.)

Existing law provides that beginning on January 1, 2016, a person who "uses or possesses" a specified synthetic cannabinoid or specified synthetic stimulant is guilty of an infraction. (Health and Saf. Code § 11357.5.)

This bill provides that possession or use of a specified synthetic cannabinoid or synthetic stimulant is guilty of a crime, as follows:

- The first offense is an infraction, punishable by a fine of up to $250.
- The second offense is an infraction or misdemeanor. The infraction penalty is a fine of up to $250 and the misdemeanor is punishable by imprisonment in a county jail not to exceed six months, a fine of up to $500, or both.
- A third or subsequent offense is a misdemeanor, punishable by a jail term not to exceed six months, a fine of up to $1,000, or both.

This bill adds an extensive list of specified classes of synthetic cannabinoids and individual chemicals to the definition of a synthetic cannabinoid that appears in current criminal statutes, as specified.

This bill adds a number of synthetic stimulants – essentially synthetic cathinones[1] - to the list of these prohibited substances in existing law.

This bill is an urgency measure.

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past eight years, this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state's ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its "ROCA" policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In February of this year the administration reported that as "of February 11, 2015, 112,993 inmates were housed in the State's 34 adult institutions, which amounts to 136.6% of design bed capacity, and 8,828 inmates were housed in out-of-state facilities. This current population is now below the court-ordered reduction to 137.5% of design bed capacity."(Defendants' February 2015 Status Report In Response To February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).

[1] http://www.emcdda.europa.eu/publications/drug-profiles/synthetic-cathinones

While significant gains have been made in reducing the prison population, the state now must stabilize these advances and demonstrate to the federal court that California has in place the "durable solution" to prison overcrowding "consistently demanded" by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants' Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee's consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Need for This Bill

According to the author:

> The danger and prevalence of synthetic drugs has been well-documented in news media stories throughout the state and country. From the 16-year old in Indianapolis who passed away after his first time trying the drug *(http://fox59.com/2015/02/03/new-synthetic-drug-bill-proposed-as-statewide-ban-is-thrown-out/)*, to the 18 year old in North Dakota who died on a street corner after trying the drug *(http://www.cnn.com/2014/12/01/us/synthetic-drugs-investigation/*), to right here in our own backyards where a 19 year old died after simply taking one hit of the drug *(http://www.news10.net/story/news/local/roseville/2014/08/08/roseville-teen-dies-after-smoking-spice-connor-eckhardt/13782433/*), we are undoubtedly watching the spread of a deadly and extremely dangerous new substance.
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> On February 4th of this year NBC 4 of Southern California ran a story detailing how synthetic drugs are now the second most used illicit drug by high school seniors; second only to marijuana *(http://www.nbclosangeles.com/news/local/Designer-Drugs-Rise-Teens-Spice-Lean-Bath-Salts-291000251.html*). The market for these drugs is fundamentally rooted in demand from our youth here in California. Just last year in my district, a drug bust netting over $20 million worth of synthetic drugs took place at warehouses in Stockton and Millbrae *(http://sacramento.cbslocal.com/2014/05/07/stockton-warehouse-raided-as-part-of-nationwide-crackdown-on-spice-drug/*). In Bakersfield, a drug bust uncovered over 1,000 pounds of these drugs and over $2.7 million in cash *(http://www.huffingtonpost.com/2013/12/17/bath-salts-michael-kamar_n_4459846.html*). Two Orange County men were also recently arrested for allegedly selling more than $12 million worth of substances used to create synthetic drugs

(http://www.latimes.com/local/lanow/oc-men-charged-bath-salts-drug-ring--20140613-story.html). Finally, multiple synthetic drug busts in Texas have been accredited to being manufactured here in California, indicating the sophistication of these local operations. *(http://www.news-journal.com/news/police/raid-hits-longview-stores-that-sell-synthetic-drug-owners-arrested/article_6ede7edf-9000-55c3-b8d6-cd5f4d41d342.html). (http://www.connectamarillo.com/news/story.aspx?id=1156375#.VNj1OsnlwfA*).

Part of the reason that these drugs dealers are having so much success marketing the drug to teenagers and young adults is that they are able to market them as being legal. Up until my bill last year, simple possession of these drugs was actually perfectly legal under state law. This is despite their well-documented danger. Now it has come to my attention that, underground chemists skirt the law by slightly altering the chemical compounds of these drugs, to come up with new versions, which technically, are NOT illegal yet. Senate Bill 139 will close these loopholes in state law and allow law enforcement to be better equipped in getting these drugs away from our communities.

2. Background – Synthetic Cannabinoids

Synthetic cannabinoids come in two basic forms. CB1 cannabinoids bind to CB1 cannabinoid receptors in the brain. CB2 cannabinoid receptors bind to cells throughout the body that are largely involved in regulating the immune system, although their full properties of CB2 are not known. It appears that CB2 cannabinoids could be used to treat inflammation. (THC binds to CB1 and CB2 receptors.) C1 cannabinoids have psychoactive properties.[2] Typically statutes, news reports and academic works concern CB1 synthetic cannabinoids.

The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) is a European Union agency that "exists to provide the EU … with a factual overview of European drug problems and a solid evidence base to support the drugs debate."

The EMCDDA website includes the Following Information about Synthetic Cannabinoids:

> Synthetic cannabinoids …. bind to the same cannabinoid receptors in the brain [as THC] … More correctly designated as cannabinoid receptor agonists, they were developed over the past 40 years as therapeutic agents. … However, it proved difficult to separate the desired properties from unwanted psychoactive effects. Although often referred to simply as synthetic cannabinoids [or synthetic marijuana], many of the substances are not structurally related to the so-called "classical" cannabinoids like THC…
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> …[L]ittle is known about the detailed pharmacology and toxicology of the synthetic cannabinoids and few formal human studies have been published. It is possible that, apart from high potency, some cannabinoids could have… long half-lives…leading to a prolonged psychoactive effect. … [T]here could [also] be considerable … batch variability… in terms of substances present and …quantity.

[2] http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3567606/

Recent EMCDD data on synthetic cannabinoids include:

- A synthetic cannabinoid, JWH-018, was first detected in "Spice" products in 2008.
- 81 new psychoactive substances were reported to EMCDDA in 2013, 29 were synthetic cannabinoids.
- 105 synthetic cannabinoids in total [were] monitored by EU Early Warning System [in January of 2014].
- 14 recognizable chemical families of synthetic cannabinoids are known.

The EMCDD reports that most synthetic cannabinoids are manufactured in China and shipped though legitimate distribution networks.[3] The White House Office of National Drug Control Policy[4] states that most synthetic cannabinoids originate overseas, but that they are also being made on a small scale in the United States.

The EMCDD reported[5] on adverse consequences of synthetic cannabinoid use:

> The adverse health effects associated with synthetic cannabinoids are linked to both the intrinsic nature of the substances and to the way the products are produced. There have been numerous reports of non-fatal intoxications and a small number of deaths associated with their use. As noted above, some of these compounds are very potent; therefore the potential for toxic effects is high. Harm may result from uneven distribution of the substances within the herbal material, result[ing] in products containing doses that are higher than intended.
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> The reported adverse effects of synthetic cannabinoid products include agitation, seizures, hypertension, emesis (vomiting) and hypokalemia (low potassium levels). …There is some evidence…that synthetic cannabinoids can be associated with psychiatric symptoms, including psychosis. There are also investigations underway in the US regarding links between the use of synthetic cannabinoids… and acute kidney injury and recently, a case report associated the use of the cannabinoid JWH-018 with…strokes in two otherwise healthy males.

[3] http://www.emcdda.europa.eu/topics/pods/synthetic-cannabinoids

[4] https://www.whitehouse.gov/ondcp/ondcp-fact-sheets/synthetic-drugs-k2-spice-bath-salts

[5] The adverse health effects associated with synthetic cannabinoids are linked to both the intrinsic nature of the substances and to the way the products are produced. There have been numerous reports of non-fatal intoxications and a small number of deaths associated with their use. As noted above, some of these compounds are very potent, therefore the potential for toxic effects is high. In this respect some of the harms may result from uneven distribution of the substances within the herbal material, which may result in some products containing doses that are higher than intended .
The reported adverse effects of synthetic cannabinoid products include agitation, seizures, hypertension, emesis (vomiting) and hypokalemia (low potassium levels). Although some of these are similar to symptoms observed after a high dose of cannabis, researchers have concluded that 'legal highs' containing synthetic cannabinoids are potentially more harmful than cannabis. In addition, there is some evidence to suggest that synthetic cannabinoids can be associated with psychiatric symptoms, including psychosis. There are also investigations underway in the US regarding links between the use of synthetic cannabinoid products and acute kidney injury and recently, a case report associated the use of the cannabinoid JWH-018 with acute ischemic strokes in two otherwise healthy males.

3. This Bill is Drawn From a Model Statute and Lists 14 Classes or Families of Synthetic Cannabinoids and Myriad Individual Chemicals

As noted above, there are 14 currently known "families" or classes of chemicals. The bill appears to include them all. The EMCDD noted that 105 individual chemicals in these classes were being monitored in Europe in 2014. This bill appears to include hundreds of individual chemicals in the list of prohibited synthetic cannabinoids. Many of the chemicals are identified through a letter and number combination, such as JWH-018, AM-087 and HU-210. The letters are generally the initials of the researcher who first synthesized the chemical or the institution where the research was done.

The background provided by the author and sponsor includes model statutes for prohibiting synthetic cannabinoids and synthetic stimulants. The model statute was drafted by the National Alliance for Model State Drug Laws.[6] The list of chemicals in the bill appears to be copied from the model statute. The purpose of describing synthetic cannabinoids by class or family is to include any new chemical in each class as a prohibited substance. That is, if a new drug is developed in any of the 14 classes, the chemical is prohibited, regardless of whether the individual chemical is included in the statute. It is not known whether many new synthetic cannabinoid classes can or will be developed. Synthesis of a new class or family of cannabinoids would not be included in the list of prohibited chemicals.

4. Emergency Room Visits Related to Synthetic Cannabinoids

From 2010 through 2011, reported emergency room (ER) visits linked to synthetic cannabinoids increased from 11,406 to 28,531. The vast majority of patients were young males, ages 12 through 20.[7] This is a relatively small number of ER visits, as total drug-related ER visits numbered 2,460,000 in 2011. Of the 2,300,000 ER visits in 2010, approximately 460,000 concerned marijuana and approximately 11,000 concerned synthetic cannabinoids. However, the reported number of synthetic cannabinoid ER visits likely understates actual visits, as testing availability is limited and some medical personnel might not be familiar with the drugs. The ER studies reported that very few patients engaged in follow-up treatment. It is not clear whether ER doctors did not make referrals for additional care, or if patients chose not to seek it.

Very recently, ER visits for synthetic cannabinoids have spiked. As use of these drugs appears to be dropping, the surge in ER visits is likely the result of a dangerous change in chemical composition of the drugs. One who obtains a synthetic cannabinoid can only guess as to its composition and effects.[8]

The New York Times explained in an April 24, 2015 article: "[Synthetic cannabinoids …typically imported from China by American distributors, come in hundreds of varieties; new formulations appear monthly, with molecules subtly tweaked to try to skirt the DEA's list of illegal drugs as well as drug-detecting urine tests. … [E]each new variety can present distinct health risks caused by its underlying chemistry or contaminants in renegade manufacturing facilities."

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[6] http://www.namsdl.org/about.cfm. According to its website, NAMSDL is funded by Congress and coordinates policy initiatives with the Office of National Drug Control Policy.

[7] http://www.samhsa.gov/data/sites/default/files/SR-1378/SR-1378.pdf

[8] http://www.nytimes.com/2015/04/25/health/surge-in-hospital-visits-linked-to-a-drug-called-spice-alarms-health-officials.html

5. United Nations Report on Synthetic Cannabinoids Addresses the Issue of Dependence or Addiction

A United Nations report in 2011 considered the addictive potential of synthetic cannabinoids. The report found:

> Some reports suggest that a number of these substances may have a higher addictive potential compared to cannabis due to quicker development of tolerance [26, 53]. 11 In a case report published by Zimmermann et al. in 2009 [53], withdrawal phenomena and a dependence syndrome occurred after repeated consumption of relatively high doses of 'Spice gold', i.e. 3 g per day. From experiments carried out with autaptic hippocampal neurons, it was shown that JWH-018 could potently induce rapid and robust CB1 receptor internalization, highlighting the potential of developing tolerance and dependence on this substance [26].

It appears that users who consume the same synthetic cannabinoid substance could become dependent or habituated relatively quickly. However, the chemical composition of synthetic cannabinoids changes rapidly, often with a different affinity for cannabinoid receptors and a different effect on the user. It is not clear if there is a general dependence or addictive quality among synthetic cannabinoids, such that use of one chemical or substance would contribute to dependence on another, or other, synthetic cannabinoids. Multiple synthetic cannabinoids that bind to the same cannabinoid receptors would perhaps be likely to produce dependence when consumed separately. One controlled study found evidence that synthetic cannabinoids in the JWH class produced dependence symptoms in mice. The study cautioned that the results might not apply to all chemicals of that class and that some cannabinoid binding chemicals did not appear to produce symptoms of dependence.[9]

6. Synthetic Cannabinoid and Synthetic Stimulant Use is Falling Rapidly Among Young People

The University of Michigan Monitoring the Future survey first asked 8th and 10th graders about their use of synthetic [cannabinoids] in 2011. The survey found that in 2012 annual prevalence rates were 4.4% and 8.8%, respectively. Use in all grades dropped in 2013, and the decline was sharp and significant among 12th graders The declines continued into 2014 and were significant for both 10th and 12th graders; use for all grades declined 40% in 2014 from peak use in 2011 Awareness of the dangers of synthetic cannabinoid was up sharply among 12 graders.[10]

The use of synthetic stimulants among 8, 10th and 12 graders was first reported in the survey in 2012, with approximately 1% of students having tried the drug. Use of synthetic stimulants has also declined significantly – down approximately 20% from 2012 to 2014.[11]

The decline in the use of synthetic cannabinoids and synthetic stimulants was preceded by a precipitous drop in the use of the psychedelic salvia divinorum – another drug that gained popularity and some infamy around 2008. Since peak use (of 3.6%) by students in 2011 and

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[9] http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4131522/
[10] http://monitoringthefuture.org/pubs/monographs/mtf-overview2014.pdf
[11] http://www.monitoringthefuture.org//pubs/monographs/mtf-overview2014.pdf

2012, use of salvia declined 61%. Sale or distribution of salvia was made a misdemeanor in 2008, but no penalties exist for possession or use.[12] The decline in use appears to result from negative experiences by users, such as a frightening sensation of falling through space, not criminal penalties.[13]

7. Background on Synthetic Stimulants Covered by This Bill

It appears that the synthetic stimulant chemicals included in this bill are closely related to cathinone, the psychoactive chemical in the khat plant, which is commonly used in the Middle East. Khat and Cathinone are included in Schedule II stimulants. (Health and Saf. Code § 11055, subd. (d)(7)-(8).) Without this bill, it appears that possession of one of the specified synthetic chemicals would be a crime through the analog statute. The analog statute provides that any drug that has a chemical structure or properties that are similar to a scheduled drug can be the subject of prosecution as though the drug were included in the schedules.

The United Kingdom Advisory Council on the Misuse of Drugs (ACMD) is an agency of the UK Home Office that advises policy makers on drug issues. In the past few years, the ACMD has reported on the synthetic stimulants covered by this bill.[14]

> Synthetic cathinones are related to the parent compound cathinone, one of the psychoactive principals in khat… Cathinone derivatives are …. analogues of a corresponding phenethylamine. The group includes several substances that have been used as active pharmaceutical ingredients … Since the mid-2000s, unregulated ring-substituted cathinone derivatives have appeared in the European recreational drugs market. The most commonly available cathinones sold on the recreational market in the period up to 2010 appear to be mephedrone (Figure 3) and methylone. [The drugs]… are claimed to have effects similar to those of cocaine, amphetamine or MDMA, but little is known of their detailed pharmacology. Apart from cathinone [and other specified chemicals]. cathinone derivatives are not under international control.
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> …Like cocaine, the resulting 'high' of mephedrone is short-lived. Consequently, users may consume several doses in succession. …[Specified chemical alterations] could [create] more potent [drugs]. It should be noted that…PMA and PMMA are known to have a particularly high toxicity, and this property might translate to their analogues.

As noted above, cathinone is the main psychoactive chemical in the khat plan. Use of khat in the United States has grown in recent decades. The New York State Office of Alcohol and Substance Abuse Services produces research and educational material about drugs. The office has published the following discussion of khat:[15]

> Khat has been grown for use as a stimulant for centuries in the Horn of Africa and the Arabian Peninsula. There, chewing khat predates the use of coffee and is used in a similar social context. Its fresh leaves and tops are chewed or…consumed as

[12] http://www.monitoringthefuture.org//pubs/monographs/mtf-overview2014.pdf
[13] http://www.drugpolicy.org/sites/default/files/FactSheet_Salvia.pdf
[14] http://www.emcdda.europa.eu/publications/drug-profiles/synthetic-cathinones
[15] http://www.oasas.ny.gov/AdMed/FYI/khat.cfm

> tea, [producing] euphoria and stimulation. The stimulant effect is most effective when the leaves are still fresh.
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> Khat use has traditionally been confined to the regions where khat is grown, because only the fresh leaves have the desired… effects. In recent years improved [transportation] has increased the global distribution.
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> …In 1975, the [chemical] cathinone was isolated [from khat]. Cathinone is not very stable and breaks down to produce cathine and norephedrine. These chemicals belong to the PPA (phenylpropanolamine) family, a subset of the phenethylamines related to amphetamines and the catecholamines, epinephrine and norepinephrine.

8. Previous Similar Bill – SB 1283 (Galgiani) Ch. 372, Statutes of 2014

In 2014, the Committee heard another bill - SB 1283 (Galgiani) - concerning synthetic cannabinoids and synthetic cathinone drugs. SB 1283 becomes effective in 2016. SB 1283 was amended in this Committee to reflect the same basic penalty structure as in this bill. That is, a first offense is an infraction, punishable by a fine of up to $250. A second offense is an infraction or a misdemeanor. A third or subsequent offense is a misdemeanor. However, the bill included novel provisions concerning the education and treatment of defendants found to be in possession of a listed synthetic drug. The amendments (stripped from the bill in the Assembly) provided that a defendant could elect to participate in an education program. If the defendant successfully completed the education program, the fine that he or she paid would be returned. The bill included community services provisions and made defendants eligible for the Substance Abuse and Crime Prevention Act (SACPA) - Proposition 36 of 2000.

SB 1283 requested the UCLA Luskin School of Public Affairs to design the education program or designate another entity to do so. The Luskin School houses a respected concentration in Crime and Drug Control Policy. The bill further directed the Judicial Council to approve and help implement the education program. In Senate Appropriations, the bill was narrowed and implementation delayed until 2016. In the Assembly, the misdemeanor provisions and the education program were stricken from the bill. Possession of a specified synthetic cannabinoid or specific synthetic stimulant was simply defined as infractions. The bill was chaptered in this form, including delayed implementation until 2016. Thus, the provisions of SB 1283 have not gone into effect.

9. Proposition 36 of 2000, the Substance Abuse and Crime Prevention Act

SACPA requires any person convicted of non-violent possession of any substance included in the controlled substance schedules to be offered treatment on probation, with no jail sanctions. Defendants convicted of possession of a specified synthetic cannabinoid or a specified synthetic stimulant will not be eligible for SACPA if this bill or SB 1283 becomes effective. The specified chemicals or drugs are not included in the controlled substance schedules, but are separately listed or described in the sections defining crimes for commerce in or possession of these chemicals.

10. Drug Treatment in the Court System

Recent research has considered the effectiveness of varying forms of court-based drug treatment with other forms or sources of treatment demand.[16] UCLA studies of the effectiveness of SACPA – Proposition 36 of 2000 were released in 2003 and 2006.[17] SACPA requires drug treatment without incarceration for non-violent drug possession. UCLA found that the SACPA model was as effective as drug court or voluntary treatment models and produced $2.50 in savings from every dollar spent. Improvements in funding allocations and programs would have produced better results.

State funding for SACPA ended in 2006. Individual counties must bear the costs of the program. The California Society of Addiction Medicine has more recently found that SACPA produced positive results, including for participants who did not complete the full program.

An extensive 2007 study of 474 drug offenders in drug court in Maricopa County Arizona (the Phoenix area) compared the outcomes in drug court treatment for persons who were subject to jail sanctions against those who were not subject to sanctions. The study found that the threat of jail sanctions did not affect the participant's rate of retention in or completion of the program.

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[16] Much of the basis for this comment is a report or monograph written by Senate Fellow, Bethany Renfree at the request of Senator Jackson.

[17] http://www.uclaisap.org/prop36/documents/sacpa_costanalysis.pdf