



# Senate

General Assembly

**File No. 642**

January Session, 2011

Senate Bill No. 1098

*Senate, April 27, 2011*

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

**AN ACT REGULATING THE SALE AND POSSESSION OF SYNTHETIC MARIJUANA AND SALVIA DIVINORUM.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 21a-243 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2011*):

3 (a) The Commissioner of Consumer Protection shall adopt  
4 regulations for the efficient enforcement and operation of sections 21a-  
5 244 to 21a-282, inclusive.

6 (b) The Commissioner of Consumer Protection may, so far as may  
7 be consistent with [said] sections 21a-244 to 21a-282, inclusive, adopt  
8 the regulations existing under the federal Controlled Substances Act  
9 and pertinent regulations existing under the federal food and drug  
10 laws and conform regulations adopted hereunder with those existing  
11 under the federal Controlled Substances Act and federal food and  
12 drug laws.

13 (c) The Commissioner of Consumer Protection acting upon the  
14 advice of the Commission of Pharmacy, may by regulation designate,  
15 after investigation, as a controlled substance, a substance or chemical  
16 composition containing any quantity of a substance which has been  
17 found to have a stimulant, depressant or hallucinogenic effect upon  
18 the higher functions of the central nervous system and having a  
19 tendency to promote abuse or physiological or psychological  
20 dependence or both. Such substances are classifiable as amphetamine-  
21 type, barbiturate-type, cannabis-type, cocaine-type, hallucinogenic,  
22 morphine-type and other stimulant and depressant substances, and  
23 specifically exclude alcohol, caffeine and nicotine. Substances which  
24 are designated as controlled substances shall be classified in schedules  
25 I to V by regulations adopted pursuant to subsection (a) of this section.

26 (d) The Commissioner of Consumer Protection may by regulation  
27 change the schedule in which a substance classified as a controlled  
28 substance in schedules I to V of the controlled substance scheduling  
29 regulations is placed. On or before December 15, 1986, and annually  
30 thereafter, the commissioner shall submit a list of all such schedule  
31 changes to the chairmen and ranking members of the joint standing  
32 committee of the General Assembly having cognizance of matters  
33 relating to public health.

34 (e) A new or amended regulation under this chapter shall be  
35 adopted in accordance with the provisions of chapter 54.

36 (f) In the event of any inconsistency between the contents of  
37 schedules I, II, III, IV and V of the controlled substance scheduling  
38 regulations and schedules I, II, III, IV and V of the federal Controlled  
39 Substances Act, as amended, the provisions of the federal act shall  
40 prevail, except when the provisions of the Connecticut controlled  
41 substance scheduling regulations place a controlled substance in a  
42 schedule with a higher numerical designation, schedule I being the  
43 highest designation.

44 (g) When a drug that is not a controlled substance in schedule I, II,  
45 III, IV or V, as designated in the Connecticut controlled substance

46 scheduling regulations, is designated to be a controlled substance  
47 under the federal Controlled Substances Act, such drug shall be  
48 considered to be controlled at the state level in the same numerical  
49 schedule for a period of two hundred forty days from the effective date  
50 of the federal classification.

51 (h) The Commissioner of Consumer Protection shall, by regulation  
52 adopted pursuant this section, designate the following substances, by  
53 whatever official, common, usual, chemical or trade name designation,  
54 as controlled substances and classify each such substance in the  
55 appropriate schedule:

56 (1) 1-pentyl-3-(1-naphthoyl)indole (JWH-018);

57 (2) 1-butyl-3-(1-naphthoyl)indole (JWH-073);

58 (3) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200);

59 (4) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol  
60 (CP-47,497);

61 (5) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol  
62 (cannabicyclohexanol; CP-47,497 C8 homologue);

63 (6) Salvia divinorum; and

64 (7) Salvinorum A.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2011	21a-243

**JUD**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 12 \$</b>	<b>FY 13 \$</b>
Judicial Dept.	GF - Potential Revenue Gain	Less than 50,000	Less than 50,000

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

There is no fiscal impact in requiring the commissioner of the Department of Consumer Protection (DCP) to adopt regulations designating as controlled substances five specified synthetic versions of marijuana, along with salvia divinorum (a perennial herb in the mint family native to certain parts of Mexico) and salvinorum A (its active constituent) as the agency has expertise in this area.

To the extent that offenders are prosecuted and required to pay fines for the sale and/or possession of these five synthetic versions of marijuana, a potential annual revenue gain of less than \$50,000 to the General Fund would result. The estimate assumes that the establishment of a fine as a result of regulating synthetic marijuana will increase the likelihood that an estimated 100 offenders annually would be prosecuted and receive harsher penalties than under current law.<sup>1</sup>

It is anticipated that the number of additional low-risk offenders placed on probation as a result of this change would be less than 100, and would not result in additional resources being required by the

<sup>1</sup> In 2010 there were 8,198 offenses for possession of four ounces or less of marijuana, with \$156,500 in revenue collected. Zero of these offenses were for possession and/or sale of synthetic marijuana, as it was not regulated by DCP or set in statute.

Judicial Department.<sup>2</sup> An additional 100 offenders placed on probation would represent a 0.15% increase to the total probation caseload.

### ***The Out Years***

The annualized revenue from potential fines would remain constant into the future since fine amounts are set by statute.

---

<sup>2</sup> The majority of these offenders would be expected to be placed under an administrative form of probation, which does not require ongoing contact with probation officers or contract services.

---

**OLR Bill Analysis****SB 1098*****AN ACT REGULATING THE SALE AND POSSESSION OF SYNTHETIC MARIJUANA AND SALVIA DIVINORUM.*****SUMMARY:**

This bill requires the commissioner of the Department of Consumer Protection (DCP) to adopt regulations designating as controlled substances five specified synthetic versions of marijuana, along with salvia divinorum (a perennial herb in the mint family native to certain parts of Mexico) and salvinorum A (its active constituent).

EFFECTIVE DATE: July 1, 2011

**DESIGNATION AS CONTROLLED SUBSTANCES**

The bill requires the DCP commissioner, by regulation, to designate the following substances as controlled substances and classify each substance in the appropriate schedule. The bill specifies that the designation may be by whatever official, common, usual, chemical, or trade name applies to the substances.

The substances are:

1. 1-pentyl-3-(1-naphthoyl)indole (JWH-018);
2. 1-butyl-3-(1-naphthoyl)indole (JWH-073);
3. 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200);
4. 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP-47,497);
5. 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol; CP-47,497 C8 homologue);

6. salvia divinorum; and
7. salvinorum A.

Under existing state law, unchanged by the bill, when a substance is reclassified from non-controlled to controlled under federal law, it is deemed to be a controlled substance under state law for 240 days (CGS § 21a-243(g)). On March 1, 2011, the federal Drug Enforcement Agency (DEA) administrator issued a final order to temporarily classify substances (1) through (5) above as Schedule I controlled substances for one year (76 Fed. Reg. 11,075 (March 1, 2011)). The DEA order described these substances as synthetic cannabinoids, a large family of unrelated structures that are functionally similar to the active principle of marijuana.

By law, the DCP commissioner is authorized to adopt regulations, on the advice of the Commission on Pharmacy and after an investigation, which designate as a controlled substance any substance or chemical composition that contains any quantity of a substance which (1) has been found to have a stimulant, depressant, or hallucinogenic effect on the central nervous system's higher functions and (2) has a tendency to promote abuse, physiological or psychological dependence, or both. These substances include cannabis-type substances (CGS § 21a-243(c)). Marijuana is classified as a Schedule I controlled substance under both state and federal law.

## **BACKGROUND**

### ***Schedules of Controlled Substances***

Controlled substances are grouped in Schedules I through V, according to their decreasing tendency to promote abuse or dependency. Schedule I substances are the most strictly controlled because of their high potential for abuse. State and federal laws authorize prescribing drugs on Schedules II through V; most Schedule I drugs do not have any approved medical use.

### ***Federal Temporary Classification of Schedule I Controlled Substances***

The federal Controlled Substances Act allows the DEA administrator to temporarily place a substance into Schedule I, without regard to the usual drug scheduling rulemaking requirements, if based upon certain factors, she determines that the action is necessary to avoid an imminent hazard to public safety (21 U.S.C. § 811(h)).

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 45 Nay 0 (04/15/2011)