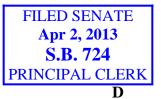
GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2013



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SENATE DRS95061-LH-89B (02/20)

Short Title:	Prohibited Imitation Controlled Substances.	(Public)
Sponsors:	Senator J. Davis (Primary Sponsor).	
Referred to:		

1			A BILL TO BE ENTITLED
2	AN ACT	TO MA	KE THE MANUFACTURE, POSSESSION, SALE, USE, AND DELIVERY
3	OF CE	ERTAIN	N IMITATION CONTROLLED SUBSTANCES UNLAWFUL.
4	The Gener	ral Asse	embly of North Carolina enacts:
5		SECT	TON 1. G.S. 90-94(3) is repealed.
6		SECT	TON 2. Article 5 of Chapter 90 of the General Statutes is amended by adding
7	a new sect		
8	" <u>§ 90-94.1</u>	. Imita	ation controlled substances: prohibitions.
9	<u>(a)</u>	For pt	rposes of this section, the term "imitation controlled substance" means a pill,
10	capsule, ta	<u>ıblet, or</u>	substance in any form whatsoever that satisfies all of the following criteria:
11		<u>(1)</u>	It is not a controlled substance enumerated in this Article which is subject to
12			abuse and which by express or implied representations purports to act like a
13			controlled substance as a stimulant or depressant of the central nervous
14			system and which is not commonly used or recognized for use in that
15			particular formulation for any purpose other than for such stimulant or
16			depressant effect unless marketed, promoted, or sold as permitted by the
17			United States Food and Drug Administration.
18		<u>(2)</u>	The chemical structure is a derivative of or substantially similar to the
19			chemical structure of a controlled substance.
20	<u>(b)</u>		n offense to knowingly manufacture, deliver, sell, import into or export from
21		-	sess with the intent to sell, deliver, or manufacture an imitation controlled
22	substance.	-	
23	<u>(c)</u>		rson shall for the purpose of causing a condition of intoxication, inebriation,
24			e, excitement, stupefaction, paralysis, or the dulling of the brain or nervous
25			ing or distorting of the audio or visual processes intentionally smell, inhale,
26			consume in any manner whatsoever an imitation controlled substance.
27	<u>(d)</u>		rson shall, for the purpose of violating subsection (c) of this section, use or
28	-		urpose of so using an imitation controlled substance.
29	<u>(e)</u>		ermining whether a pill, capsule, tablet, or substance in any other form is an
30			lled substance," there shall be considered, in addition to all other relevant
31			ons with accepted methods of marketing for legitimate nonprescription drugs
32		-	poses rather than for drug abuse or any similar nonmedicinal use, including
33			the packaging of the drug and its appearance in overall finished dosage form,
34	-		erials or representations, oral or written, concerning the drug and the methods
35	<u>ot distribu</u>	tion of	the drug and where and how it is sold to the public.



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1	(f) In determining whether any person intends to manufacture, sell, give, or distribute
2	an imitation controlled substance, it may be inferred from, in addition to all other relevant
3	evidence, whether any distribution or attempted distribution of the pill, capsule, tablet, or
4	substance in any other form included an exchange of or a demand for money or other property
5	as consideration and, if so, whether the amount of the consideration was substantially greater
6	than the reasonable value of the pill, capsule, tablet, or substance in any other form, considering
7	the actual chemical composition of the pill, capsule, tablet, or substance in any other form and,
8	where applicable, the price at which over-the-counter substances of like chemical composition
9	sell. Such inference shall be transmitted to the jury by the trial judge's charge.
10	(g) <u>A violation of this section shall be punishable as follows:</u>
11	(1) A violation of subsection (b) of this section is a Class H felony.
12	(2) <u>A violation of subsection (c) or (d) of this section is a Class 1 misdemeanor.</u> "
13	SECTION 3. This act becomes effective December 1, 2013, and applies to
14	offenses committed on or after that date. Prosecutions for offenses committed before the
15	effective date of this act are not abated or affected by this act, and the statutes that would be
16	applicable but for this act remain applicable to those prosecutions.