

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of Seneca

Local Law No. 4 of the year 2012

A local law "The Seneca County Can on the Sale of Synthetic Phenethylamines and Synthetic Cannabinoids"
(Insert Title)

Be it enacted by the Board of Supervisors of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of Seneca as follows:

Section 1. Name of Local Law

This law shall be known as "The Seneca County Ban on the Sale of the Synthetic Phenethylamines and Synthetic Cannabinoids."

Section 2. Legislative Intent

This Board of Supervisors hereby finds and determines that synthetic phenethylamines have recently become widely available in the United States and are being marketed online, in convenience stores, gas station and smoke shops as "bath salts," plant food and other ordinary household goods.

This Board of Supervisors finds and determines that these compounds stimulate the body's central nervous system, and cause effects similar to those caused by cocaine and amphetamines, including but not limited to increased heart rate and blood pressure, hallucinations, paranoia, suicidal thoughts, violent behavior, nausea and vomiting.

This Board of Supervisors finds that From January 2011 to April 2012, poison control centers throughout the United States have received over 7,000 call regarding instances of poisoning from products containing synthetic phenethylamines, including instances resulting in accidental death and suicide.

This Board of Supervisors finds that between January 1, 2011 and August 2, 2012, there were approximately 230 emergency department visits in New York (outside of New York City) in which effects from consuming a product with synthetic phenethylamines were the patient's chief complaint. 120 of these visits occurred in June and July of 2012, indicating that usage of these substances is increased at a remarkable rate.

This Board of Supervisors finds that these products are readily available throughout storefront retailers, online retailers, and indirectly through other individuals,

This Board of Supervisors also determines that the State of Louisiana and Florida, as well as many counties, towns

(If additional space is needed, attach pages the same size as this sheet, and number each.)

and local municipalities across the United States have banned the sale of these chemicals. Several other states are considering similar action.

This Board of Supervisors finds that products containing synthetic cannabinoids are produced, distributed, marketed and sold as a “legal alternative” to marijuana.

This Board of Supervisors finds that products containing synthetic cannabinoids have become prevalent drugs of abused, especially among teens and young adults.

This Board of Supervisors finds that poison control centers nationwide have received over 10,000 calls relating to exposure to these substances from January 2011 to June 2012.

This Board of Supervisors also finds that a Federal bath salts ban was signed into law in July of 2012.

This Board of Supervisors finds that on May 20, 2011, pursuant to Public Health Law Section 16, the Commissioner issued an Order for Summary Action that prohibited the sale or distribution of bath salts. On March 28, 2012, the Commissioner issued an Order for Summary Action that prohibited the sale or distribution of synthetic cannabinoids.

This Board of Supervisors finds that on August 7, 2012 the Public Health and Health Planning Council and the Commissioner of Health amended Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York to prohibit synthetic phenethylamines and synthetic cannabinoids. This amended the State Sanitary Code and established a minimum standard regarding the possession, manufacture, distribution, sale or offer for sale of synthetic phenethylamines and synthetic cannabinoids.

This Board of Supervisors finds that local governments have the power and duty to enforce the provisions of the State Sanitary code. Under the same authority, local governments are empowered to establish a local sanitary code that is more restrictive than the State Sanitary Code.

This Board of Supervisors determines that to protect the public from the ongoing threat posed by synthetic phenethylamines and synthetic cannabinoids, Seneca County must take action so that local law enforcement has the necessary authority to regulate synthetic phenethylamines and synthetic cannabinoids. The passage of this local law will provide local law enforcement with such authority.

This Board of Supervisors further determines that Seneca County should ban the possession, sale, manufacture, or distribution of these chemical and any products containing these chemicals to protect the health, safety and welfare of County Residents.

Section 3. Definitions

As used in this law, the following terms shall have the meanings indicated:

“Person” shall mean any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint-stock association or other entity or business organization of any kind.

“Synthetic phenethylamine” shall mean any of the following chemical compounds that are not listed as controlled substances in Schedules I through V of Section 3306 of the Public Health Law, and are not approved by the federal Food and Drug Administration (“FDA”): 3,4-Methylenedioxymethcathinone (Methylone); 4-Methoxymethcathinone; 3-Fluoromethcathinone; 4-Fluoromethcathinone; Ethypropion (Ethcathinone); 2-(2,5-Dimethoxy-4-ethylphenyl) ethanamine (2C-E); 2-(2,5-Dimethoxy-4-methylphenyl) ethanamine (2C-D); 2-(4-Chloro-2,5-dimethoxyphenyl) ethanamine (2C-C); 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I); 2-[4-(Ethylthio)-2,5-dimethoxyphenyl] ethanamine (2C-T-2); 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4); 2-(2,5-Dimethoxyphenyl) ethanamine (2C-H); 2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine (2C-N); 2-(2,5-Dimethoxy-4-(n)-propylphenyl) ethanamine (2C-P); and any compound that has a chemical structure that is substantially similar to these compounds.

“Synthetic cannabinoid” shall mean any chemical compound that is a cannabinoid receptor agonist and includes, but is not limited to any material, compound, mixture, or preparation that is not listed as a controlled substance in Schedules I through V of § 3306 of the Public Health Law, and not approved by the federal Food and Drug Administration (FDA), and contains any quantity of the following substances, their salts, isomers (whether optical, positional, or geometric), homologues (analogs), and salts of isomers and homologues (analogs), unless specifically exempted, whenever the existence of these salts, isomers, homologues (analogs), and salts of isomers and homologues (analogs) is possible within the specific chemical designation:

i) Naphthoylindoles. Any compound containing a 3-(1-Naphthoyl) indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. (Other names in this structural class include but are not limited to: JWH 015, JWH 018, JWH 019, JWH 073, JWH 081, JWH 122, JWH 200, JWH 210, JWH 398, AM 2201, and WIN 55 212).

ii) Naphthylmethylindoles. Any compound containing a 1 H-indol-3-yl-(1- naphthyl) methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1- (N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. (Other names in this structural class include but are not limited to: JWH-175, and JWH-1 84).

iii) Naphthoylpyrroles. Any compound containing a 3-(1-naphthoyl) pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. (Other names in this structural class include but are not limited: JWH 307).

iv) Naphthylmethylenes. Any compound containing a naphthylmethylenes indene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. (Other names in this structural class include but are not limited: JWH-176).

v) Phenylacetylindoles. Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. (Other names in this structural class include but are not limited to: RCS-8 (SR-18), JWH 250, JWH-203, JWH-251, and JWH-302).

vi) Cyclohexylphenols. Any compound containing a 2-(3-hydroxycyclohexyl) phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not substituted in the cyclohexyl ring to any extent. (Other names in this structural class include but are not limited to: CP 47,497 (and homologues (analogs)), cannabicyclohexanol, and CP 55,940).

vii) Benzoylindoles. Any compound containing a 3-(benzoyl) indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. (Other names in this structural class include but are not limited to: AM 694, Pravadoline (WIN 48,098), RCS 4, and AM-679).

viii) [2, 3-Dihydro-5-methyl-3-(4-morpholinylmethyl) pyrrolo [1, 2, 3-de]-1, 4-benzoxazin-6-yl]-1-naphthalenylmethanone. (Other names in this structural class include but are not limited to: WIN 55,212-2).

ix) (6aR, 10aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo [c]chromen-1-ol, (Other names in this structural class include but are not limited to: HU-210).

x) (6aS, 10aS)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl) 6a, 7, 10, 10a-tetrahydrobenzo {c}chromen-1-ol (Dezanabinol or HU-211).

xi) Adamantoylindoles. Any compound containing a 3-(1-adamantoyl) indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the adamantyl ring system to any extent. (Other names in this structural class include but are not limited to: AM-1248).

xii) Any other synthetic chemical compound that is a cannabinoid receptor agonist that is not listed in Schedules I through V of § 3306 of the Public Health Law, or is not an FDA approved drug.

“Possession” shall mean to have physical possession or otherwise to exercise dominion or control over synthetic phenethylamine or synthetic cannabinoid, or a product containing the same. For purposes of this definition, among other circumstances not limited to these examples, the same:

(1) any individual or entity that has an ownership interest in a retail, distribution Or manufacturing establishment that possesses, distributes, sells or offers for sale a synthetic phenethylamine or synthetic cannabinoid, or a product containing the same; and

(2) any clerk, cashier or other employee or staff of a retail establishment, which establishment possesses, distributes sells or offers for sale a synthetic phenethylamine or synthetic cannabinoid, or a product containing the same, who interacts with customers or other members of the public.

Section 4. Prohibitions

It shall be unlawful for any individual or entity to possess, manufacture, distribute, sell or offer to sell any synthetic phenethylamine or synthetic cannabinoid or product containing the same, except as expressly exempted in this local law.

Section 5. Penalties

Any person who knowingly violates the provisions of this article shall be guilty of an unclassified misdemeanor punishable by a fine of up to \$1,000 and/or up to one year’s imprisonment.

Section 6. Exemptions

The provisions of this local law prohibiting the possession of any synthetic phenethylamine or synthetic cannabinoid, or product containing the same shall not apply to:

(a) public officers or their employees in the lawful performance of their official duties requiring possession of synthetic phenethylamines or synthetic cannabinoids, or products containing the same;

(b) temporary or incidental possession by employees or agents of persons lawfully entitled to possession, or persons whose possession is for the purpose of aiding public officers in performing their official duties;

(c) a person in the employ of the United State government or of any state, territory, district, county, municipal or insular government, obtaining or possessing synthetic phenethylamines or synthetic cannabinoids, or products containing the same, by reason of his or her official duties;

(d) common carriers or warehousemen, while engaged in lawfully transporting or storing synthetic phenethylamines or synthetic cannabinoids, or products containing the same, or to any employee of the same within the scope of his or her employment;

(e) laboratories with a federal Drug Enforcement Administration (“DEA”) license to purchase and use schedule 1 controlled substance for research and/or analytical testing; and

(f) manufacturers that are registered with the DEA to synthesize and distribute controlled substances.

Section 7. Applicability

This law shall apply to all action occurring on or after the effective date of this law.

Section 8. Reverse Preemption

This law shall be null and void on the date that statewide or federal legislation goes into effect incorporating either the same or substantially similar provision as are contained in this article, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Seneca,. The County Board of Supervisors/Board of Supervisors may determine via mere resolution whether or not identical or substantially similar statewide or federal legislation has been enacted for the purposes of triggering the provisions of this section.

Section 9. Severability

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 10. Effective Date

This law shall take effect immediately upon filing in the Office of the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 2012 of the (County)(City)(Town)(Village) of Seneca was duly passed by the Board of Supervisors on November 13 2012, in accordance with the applicable provisions of law.

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____ (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.~~

~~**3. (Final adoption by referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____ (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____.~~

~~Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.~~

~~**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____ (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.~~

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

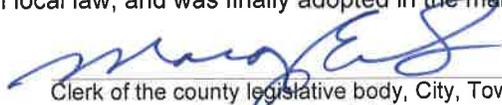
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.



Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 11/15/2012

(Seal)