

# **RCA**

***The Retail Compliance Association***

The Retail Compliance Association Brief on the Proposed Federal  
Laws Addressing Synthetic Cannabinoids

submitted to the Senate and Congress on May 2<sup>nd</sup> 2011

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**The Retail Compliance Association provides this written statement for the record as a suggestion on managing the emerging issues associated with synthetic cannabinoids.**

**The issues surrounding the so called synthetic cannabinoids are complicated scientific issues that require a different approach than banning chemical compounds. This has failed and will continue to fail because the chemists will always stay one step ahead of the law.**

The reason for this is both the wide variety of known compounds and the incredible potential for future compounds that have not yet been created . They are not plants or extracts. These compounds are for the most part very simple compounds, that have nothing whatsoever to do with natural cannabis or THC.

The current methods of banning specific chemicals is the equivalent of banning margaritas in an effort to control alcohol use. It shows how misunderstood this issues are by lawmakers. The very basis of many lawmakers negative opinions is simply that the name is similar to cannabis. It is important to understand what a cannabinoid is if the intent is to create a law that will make felons out of store clerks and otherwise law abiding citizens.

### **What is a Cannabinoid?**

The most common nerve receptor in the Human Brain is the Anandamide receptor. The human body makes Anandamide as well as many other compounds that stimulate this receptor. The receptors are responsible for many bodily functions, but not for heart rate or breathing. There are no Anandamide receptors in the brain stem which controls these functions.

During research on natural cannabis in the 1960s, it was discovered that the Anandamide receptor was responsible for the effects of one of the active compounds in natural cannabis, THC. THC is an analogue to Anandamide, so it too affects the Anandamide receptor. From those studies It was then termed the “Cannabinoid” Receptor, but there are many compounds that act on these receptor sites. Science is only just beginning to understand the human body’s use of Anandamide and many other natural or *endocannabinoid* functions.

Compounds that stimulate the so called cannabinoid receptor exist in many products that range from chocolate to perfumes. The compounds created for research do indeed stimulate this same nerve receptor, but have no scientific relation whatsoever to natural cannabis, THC or Hemp in any way. They do not represent “fake pot” as media hype has introduced these terms to dramatize the issue and keep it an inflammatory one for their audience.

Due to the wide variety of compounds that stimulate the cannabinoid receptor there really is **no possible way** to draft a law that a retail store can reasonably understand with a focus on the chemicals, which are invisible ingredients, and then hold that employee / store owner responsible for these ingredients as potential felons under the Controlled Substances Act Schedule One. The prosecutions will fail and lawmakers will be humiliated if this approach is continued.

An additional issue with the current language in legislation regarding these compounds is the fact that they are all patented under medicinal use. Companies such as Pfizer and Bayer have patents

on the entire series of JWH and CP compounds. Schedule One is for substances that have no medical use, yet even the US Government themselves, represented by Health and Human Services has a medicinal patent on a synthetic cannabinoid. Scheduling these compounds under Schedule One of the Controlled Substances Act will simply lead to political embarrassment, as it is very clear that there will be numerous challenges from the pharmaceutical industry, as there is proof that there is much promise in medicine for these compounds, and this has been thoroughly documented over the last 60 years.

### **Prohibition is ineffective**

Banning substances always has the unintended consequences of creating an illicit black market. There are estimates that the incense industry has in excess of five billion dollars in economic impact at the retail level on an annual basis with incredible growth being fueled by media stories. That is a very attractive product to cartels and drug lords who would be the ones that replaced the legitimate businesses if a ban is passed. In a society such as Americas, demand will be met, and there is billions in demand for this product, regardless of any law, this demand will be met, it is just a question of who meets the demand. The RCA wants legal retail stores to meet this demand under strict regulations.

Prohibition is also counterproductive in protecting young people as it takes them from buying these products at a corner store or smoke shop and sends them to the cocaine dealer to get them, completely unregulated and unmonitored. This indeed is the most frightening of situations. It is easier to get marijuana at school than liquor; banning substances allows a new and dangerous market to exist that furthers the dangers to our youth as opposed to keeping them at a safe distance.

Management of age related alcohol laws has had tremendous effect and does limit access to young people, is enforceable on a local level, and can be made clear to the retailer what the limits are regarding the product, so they can be held responsible for their actions. This type of mentality is going to be necessary to manage these products and discourage the rouge players in the business without creating a brand new illicit criminal drug market.

The States that have these laws have based their laws on the European laws that have failed. Europe continues to be the main destination for these exported products from the US and China. European countries have essentially given up on regulating these products.

New Zealand has proposed a law that the RCA would support wholly and has included in this statement as our proposed regulations regarding these products. It is essential to note that in their 6 years of research, they did not find the chemicals to be significantly dangerous or even to qualify under their laws as drugs.

The RCA, In consideration of the fact that banning these substances by chemical name or structure is a futile effort that will be extremely expensive to enforce and will create felons out of otherwise law abiding business owners and their employees, proposes we rename the law as the Research Chemical and Chemicals of Abuse Control Act..

This law would require that only a limited number of manufacturers are licensed by the DEA to make these chemicals. The license cost would be in excess of one million dollars and require FDA inspection of the manufacturing site on a bi-annual basis or as the FDA determines. The RCA estimates the revenue from these licenses could be in excess of seventy-five million dollars.

The funds raised would also allow the DEA the ability to advance their chemistry capabilities to match this rising threat and detect products, such as bath salts, that truly are unsafe and truly do pose a huge threat to public health. Manufacturers could be limited to no more than 50 nationwide. The dollars raised would allow the DEA to monitor chemical shipments, do surprise inspections, and monitor the market for rouge players that are not licensed to do business.

Distributors, also would have to be licensed by the DEA, and pay substantial annual license fees. These funds will be the funding for rehabilitating people that believe they have become addicted. There will be 2000 distributors available raising hundreds of millions of dollars for rehabilitation services. It would provide service until the fund was exhausted and would use a known PPO network to select providers of the services to be rendered. Fees from distributors could exceed one hundred-fifty million dollars.

Further, many tax dollars are currently being uncollected from a five plus billion dollar industry. If regulated, a special "tobacco type" luxury tax could be applied creating additional substantial revenue. ***If banned, all these revenues go underground.***

The Manufacturer would also have to have third party verification from an organization such as The RCA or KeepItLegal.org to certify the contents of the product. They must display the lab analysis of mg of compound to gram of product on the label and list the compounds used in the product. The certification labels will have serial numbers that match lot and batch numbers of the products so recall and product tracing will be in place to find any product that may be causing any type of issue and remove from the market in a rapid sequence of events. A target chemical will be included in all products that can be tested for. This will allow for drug testing and scientific backing of the drug test results from established procedures that are well accepted in the scientific community.

Fraud and counterfeiting are concerns of the industry. There will programs in place and security features created to make sure rouge players cannot effectively counterfeit the products and offer them without oversight. When counterfeit materials are located we will notify FDA/DEA and local LE for assessment and further action.

A 1-800 number will, be established and monitored 24/7 for reporting of any ER or addiction related incidence. This will allow for tracking products that do indeed pose a significant health threat and have those compounds removed from the list of available compounds for use. This will also assist in determining rouge players in local areas. As has happened in the past, when an incident occurs, it is either a single individual or a small, very localized group. There have been no reported "outbreaks" of people having reactions, if this were to occur, the 1-800 number would be a sentinel for notification of the industry and all concerned government agencies.

- \* Prohibitions on selling such products from places where children or minors gather, including but not limited to schools, recreational facilities and sporting facilities
- \* Requirements for all products to contain warning labels, including warning against driving or operating machinery following use, and contact details of the manufacturer and the National Poison Control Center
- \* Requirements for all products to clearly state the synthetic cannabinomimetic substances they contain on the packet
- Requirements that all such products be sold in child resistant and tamper-proof containers.
- \* A minimum purchase ages of 21 years
- \* Prohibitions on free of charge distribution or the offering of such products as a reward
- \* Restrictions limiting all advertising (except internet-based advertising) to only the inside of a premises selling regulated substances and a requirement that such advertising not be visible or audible from outside such premises
- \* Prohibitions on selling such products from any venue with a liquor license or from service stations, or from non-fixed premises such as caravans or street carts

The RCA recognizes the need to propose a law that is also funded for enforcement, this proposal is well funded for its intended purpose and will allow the DEA and FDA to regulate these products, remove them from access to youth and restrict the compounds that are used in the products. Fraud and counterfeiting have been considered here and compliance would include stiff fines on any party not compliant with the regulation.

As the Executive Director of the RCA I sincerely pray that you give this law consideration and abandon any effort to ban these products as the black market hardly needs a new billion dollar industry. Our prisons are full, they hardly need store clerks in them as felons, we already lock up more of our citizens than any other western country. All government entities affected here do have the ability within existing laws to fund and enforce these regulations to a high degree, creating jobs as opposed to eliminating jobs, and allowing research to continue that may in the future offer great promise in the area of pain relief and nerve disorders such as multiple sclerosis. And saving store owners and employees from becoming felons for selling a product that contains an invisible ingredient they may know nothing about.

Thanks for considering the position of the RCA.