

FILED
MAY 21 2010
TOMMY ESTES, CLERK
BY D.C.

ORDINANCE NO. 2010-5 _____

Be it enacted by the Quorum Court of Sharp County, Arkansas; an ordinance to be entitled:

AN ORDINANCE PROHIBITING THE PURCHASE, POSSESSION, SALE AND OFFERING FOR SALE THE SYNTHETIC CANNABINOID KNOWN AS "SPICE" OR "K-2"; DECLARING AN EMERGENCY; AND FOR OTHER MATTERS

WHEREAS, the Quorum Court of Sharp County, Arkansas, has determined that certain businesses located within Sharp County, Arkansas, are selling and offering for sale certain substances commonly known as "Spice" and "K-2" which when ingested produce intoxicating effects similar to THC or marijuana; and,

WHEREAS, the Quorum Court of Sharp County, Arkansas, has determined that the substances commonly known as "Spice" and "K-2" and as more particularly described hereinafter are not yet categorized by law as being illegal controlled substances under state and federal law; and,

WHEREAS, the substances commonly known as "Spice" and "K-2" are often used as an alternative to marijuana and are potentially dangerous and cause a serious health threat to the citizens of Sharp County, Arkansas; and,

WHEREAS, the long term health effects of "Spice" and "K-2" are not yet known; and,

WHEREAS, the Quorum Court of Sharp County, Arkansas, has determined that the use, sale and possession of the substances commonly known as "Spice" and "K-2" are a major health concern to the citizens of Sharp County, Arkansas;

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE QUORUM

COURT OF SHARP COUNTY, ARKANSAS:

SECTION 1: It is hereby declared to be unlawful for any person to use possess, purchase, attempt to purchase, sell, publicly display for sale or attempt to sell, give, or barter any one or more of the following chemicals within Sharp County, Arkansas:

- (1) Salviadivinatorum or salvinatorum A: all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof. Any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or extracts;
- (2) (6aR, 10aR)-9-(hydroxymethyl)-6, 6dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol some trade or other names: HU-210;
- (3) 1-Pentyl-3-(1-naphthoyl)indole-some trade or other names: JWH-018\spice;
- (4) 1-Butyl-3-(1naphthoyl)indole-some trade or other names: JWH-073;
- (5) 1-(3-[trifluoromethylphenyl]) piperazine-some trade or other names: TFMPP;
- (6) or any similar structural analogs.
- (7) any substances commonly known as "Spice" or "K-2."

SECTION 2: It is unlawful for any person to knowingly breathe, inhale or drink any compound, liquid or chemical listed within this Ordinance, or a similar substance for the purpose of inducing a condition of intoxication, stupefaction giddiness, paralysis, irrational behavior, or in any manner, changing, distorting or disturbing the auditory, visual, or mental process.

SECTION 3: It is not an offense under Section 1 above of this Ordinance if the person was acting at the direction of an authorized agent of the either Sharp County or any law enforcement officer to enforce or ensure compliance with this law prohibiting the sale of the aforementioned substance.

SECTION 4: This ordinance does not apply to any person who commits any act described in this ordinance pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe such act. This Ordinance likewise does not apply to the inhalation of anesthesia for a medical purpose or dental purpose.

SECTION 5: Any person found to be in violation of this ordinance will be guilty of a misdemeanor and subject to a fine not to exceed \$1,000.00 for a first offense or up to double that sum for each repetition of such offense. In the event the violation would also be punishable by state law, a term of imprisonment consistent with the comparable state legislation may be imposed by the court.

SECTION 6: If the Arkansas General Assembly adopts a code provision enacting criminal penalties for the possession, sale or delivery of any illegal smoking product, as defined in this Ordinance, then upon the effective date of such statute, this Ordinance shall be superseded by said statute. However, any violation of this Ordinance occurring prior to the effective date of such a state statute may be prosecuted after the effective date of such a state statute.

SECTION 7: If the Arkansas Legislature adopts a statute enacting criminal penalties for possession, sale or delivery of any illegal smoking product, as defined in this Ordinance, then upon the effective date of such state statute, this Ordinance shall no longer be deemed to prohibit the possession, sale, or offer to sell any illegal smoking product from that effective date forward. However, any violation of this Ordinance occurring prior to the effective date of such a state statute may be prosecuted after the effective date of such a state statute.

The purpose of this section is to provide that state law, if enacted in the future, will supersede this county Ordinance, but that any violation of this county Ordinance may be prosecuted even after a state law is enacted.

SECTION 8: It is hereby declared that an emergency exists and this Ordinance being necessary for the preservation of the health, safety and welfare of the citizens of Sharp County Arkansas, shall be effective immediately upon its passage and approval.

PASSED AND APPROVED this 10 day of May, 2010.

APPROVED: Larry W Brown
Larry Brown, Judge

ATTEST: Tommy Estes
Tommy Estes, Clerk
by Olisa Black, DC

THIS INSTRUMENT PREPARED BY:
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