

## New Drug Crimes

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**Categories :** [Crimes and Elements](#), [Uncategorized](#)

**Tagged as :** [controlled substances](#), [drugs](#), [spice](#), [synthetic cannabinoids](#)

**Date :** April 11, 2011

The legislature has passed, and the Governor has signed, new [S.L. 2011-12](#), which creates three new Schedule I drugs, defines certain synthetic cannabinoids as Schedule VI drugs, and makes several other changes to the drug statutes. (The federal government had already taken action on synthetic cannabinoids, as discussed [here](#).) The law is effective ~~July~~ *June* 1, earlier than the December 1 effective date that the General Assembly typically uses. The following is adapted from John Rubin's summary of the law:

*Generally.* Effective for offenses committed on or after ~~July~~ *June* 1, 2011, the act adds four substances to the controlled substance schedules and creates new controlled substance offenses based on those substances, including trafficking offenses for three of the drugs.

*Additional controlled substances.* Amended G.S. 90-89(5) includes three new substances as Schedule I controlled substances, which generally carry the most serious criminal penalties: 4-methylmethcathinone (also known as mephedrone); 3,4-Methylenedioxypropylvalerone (also known as MDPV); and a compound, other than bupropion, that is structurally derived from 2-amino-1-phenyl-1-propanone by modification in one of several specified ways. Amended G.S. 90-94 adds synthetic cannabinoids (as defined in new subsection (3) of G.S. 90-94) as a Schedule VI controlled substance.

*New controlled substance offenses.* Possession of any Schedule I controlled substance, including the above-described controlled substances, remains a Class I felony under G.S. 90-95(a)(3) and 90-95(d)(1), except that possession of one gram or less of MDPV is a Class 1 misdemeanor. Possession of synthetic cannabinoids or any mixture containing that substance are classified as follows under G.S. 90-95(a)(3) and 90-95(d)(4): a Class 3 misdemeanor for seven grams or less; a Class 1 misdemeanor for more than seven and up to 21 grams or less; and a Class I felony for more than 21 grams. Manufacture, sale, or delivery of synthetic cannabinoids, or possession with intent to do so, is a Class H felony (*Class I if a sale*) under G.S. 90-95(a)(1) and 90-95(b)(3), except the transfer of less than 2.5 grams of that substance or any mixture containing that substance for no remuneration does not constitute delivery. The threshold quantities for synthetic cannabinoids are approximately half the threshold quantities for marijuana, perhaps reflecting a legislative determination that synthetic cannabinoids are more potent.

*New trafficking offenses.* New G.S. 90-95(h)(3d) creates the offense of trafficking in MDPV, new G.S. 90-95(h)(3e) creates the offense of trafficking in mephedrone, and new G.S. 90-95(h)(1a) creates the offense of trafficking in synthetic cannabinoids, all classified and punishable as indicated in the new statutes.

I don't have any special expertise regarding synthetic cannabinoids, but I wonder if the statutes will be able to keep up with the science. A commenter on the [High Times website](#) claims that "there are over one hundred synthetic cannabinoids, and DEA only banned five of them." And an [NPR article](#) suggests that "it seems likely that some manufacturers will try to adapt their formulas so they include cannabinoid chemicals other than [those banned by the federal government]." If that's correct, the situation may become reminiscent of the game of cat-and-mouse between the General Assembly and the manufacturers of electronic sweepstakes machines and software.