

HB 198

ORDINANCE NUMBER 12-0221-A

**ORDINANCE PROHIBITING THE POSSESSION OR SALE
OF AM CANNABINOIDS, CP CANNABINOIDS,
JWH CANNABINOIDS, OR HU CANNABINOIDS
SYNTHETIC CANNABINOIDS AGNOSTIS**

WHEREAS, herbal incense products marketed in the United States that provide a marijuana-like high when smoked have become increasingly popular, particularly among teens and young adults; and,

WHEREAS, these products consist of plant material that has been laced with chemicals that have not been approved by the FDA for human consumption; and,

WHEREAS, the Commonwealth of Kentucky has moved to prohibit the sale and possession of similar products, but the changing nature of the products has resulted in the availability of herbal incense products that exceed the Commonwealth's definition and statutes; and,

WHEREAS, federal, state and local officials are receiving reports from poison control centers, hospitals and emergency room doctors that individuals who use these types of products experience dangerous side effects including convulsions, anxiety attacks, dangerously elevated heart rates, increased blood pressure, vomiting and disorientation; and,

WHEREAS, the side effects of the unregulated herbal incense products pose a threat to the public health and safety of the citizens of the County of Calloway County and it is in the best interests of the County to regulate the sale and use of such products.

NOW, THEREFORE, BE IT ORDAINED by the County of Calloway, Kentucky, as follows:

I. **Declaration of Findings and Policy:**

Calloway Fiscal Court finds that herbal incense products marketed in the United States that provide a marijuana-like high when smoked have become increasingly popular, particularly among teens and young adults and that these products consist of plant material that has been laced with chemicals that have not been approved by the FDA for human consumption.

The Court further finds that the Commonwealth of Kentucky has moved to prohibit the sale and possession of similar products, but the changing nature of the products has resulted in the availability of herbal incense products that exceed the Commonwealth's definition and statutes and therefore are not properly regulated by the Commonwealth of Kentucky. The Court is aware that the side effects of the unregulated herbal incense products pose a threat to the public health and safety of the citizens of the County of Calloway, and it is in the best interests of the County to regulate the sale and use of such products.

ii. **Definitions:**

"AM cannabinoids" means any synthetic cannabinoids including but not limited to AM-087; AM-251; AM-281; AM-356; AM-374; AM-381; AM-404; AM-411; AM-630; AM-661; AM-678; AM-679; AM-694; AM-855; AM-881; AM-883; AM-905; AM-906; AM-919; AM-926; AM-938; AM-1116; AM-1172; AM-1220; AM-1221; AM-1235; AM-1241; AM-1248; AM-2201; AM-2212; AM-2213; AM-2232; AM-2233; AM-2102; AM-4030. The term shall not include synthetic cannabinoids that require a prescription, are approved by the United States Food and Drug Administration and are dispensed in accordance with state and federal law.

"CP cannabinoids" means CP-47,497; (C6)-CP-47,497; (C7)-CP-47,497; (C8)-CP-47,497; (C9)-CP-47,497; CP-50,556-1; CP-55,244; CP-55,940; CP-945,598. The term shall not include synthetic cannabinoids that require a prescription, are approved by the United States Food and Drug Administration and are dispensed in accordance with state and federal law.

"HU cannabinoids" means any synthetic cannabinoids including but not limited to HU-210; HU-211; HU-243; HU-308; HU-320; HU-331; HU-336; HU-345. The term shall not include synthetic cannabinoids that require a prescription, are approved by the United States Food and Drug Administration and are dispensed in accordance with state and federal law.

"JWH cannabinoids" means any synthetic cannabinoids including but not limited to JWH-007; JWH-015; JWH-018; JWH-019; JWH-030; JWH-047; JWH-048; JWH-051; JWH-057; JWH-073; JWH-081; JWH-098; JWH-116; JWH-120; JWH-122; JWH-133; JWH-139; JWH-147; JWH-148; JWH-149; JWH-161; JWH-164; JWH-166; JWH-167; JWH-171; JWH-175; JWH-176; JWH-181; JWH-182; JWH-184; JWH-185; JWH-192; JWH-193; JWH-194; JWH-195; JWH-196; JWH-197; JWH-198; JWH-199; JWH-200; JWH-203; JWH-205; JWH-210; JWH-213; JWH-229; JWH-234; JWH-249; JWH-250; JWH-251; JWH-253; JWH-258; JWH-300; JWH-302; JWH-307; JWH-336; JWH-350; JWH-359; JWH-387; JWH-398; JWH-424. The term shall not include synthetic cannabinoids that require a prescription, are approved by the United States Food and Drug Administration and are dispensed in accordance with state and federal law.

"Person" shall mean any person, firm, group, association, organization, partnership, business, trust, corporation, company, Limited Liability Company or any other business entity. For the purposes of this Ordinance, the president, managers, owners, shareholders, partners, members or other persons in charge of the business shall be responsible to require the business to comply with this Ordinance and shall likewise be subject to the penalties imposed for violations of this Ordinance by the business entity.

"Possession" means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object.

"Traffic" means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance.

"Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution.

III. Possession of AM cannabinoids, CP cannabinoids, JWH cannabinoids or HU cannabinoids:

A person is guilty of possession of AM cannabinoids, CP cannabinoids, JWH cannabinoids or HU cannabinoids when he or she knowingly and unlawfully possesses AM cannabinoids, CP cannabinoids, JWH cannabinoids or HU cannabinoids.

IV. Trafficking in AM cannabinoids, CP cannabinoids, JWH cannabinoids or HU cannabinoids:

A person is guilty of trafficking in AM cannabinoids, CP cannabinoids, JWH cannabinoids or HU cannabinoids when he or she knowingly and unlawfully traffics in AM cannabinoids, CP cannabinoids, JWH cannabinoids or HU cannabinoids.

V. **Applicability of State Law:**

If current or future Kentucky law prohibits any substance(s) contained in this ordinance, the Kentucky law shall be applied instead of this ordinance for both prosecution and penalty.

VI. **PENALTIES:**

- Any person who violates the provision of this Chapter concerning Possession of AM cannabinoids, CP cannabinoids, JWH cannabinoids or HU cannabinoids shall be guilty of a Class B Misdemeanor and upon conviction shall be punished by a fine not to exceed two-hundred and fifty (\$250) dollars and jail time not to exceed 90 days.
- Any person who violates the provision of this Chapter concerning Trafficking in AM cannabinoids, CP cannabinoids, JWH cannabinoids or HU cannabinoids shall be guilty of a Class A Misdemeanor and upon conviction shall be punished by a fine not to exceed five hundred (\$500) dollars and jail time not to exceed 12 months.
- Each day of such violation shall constitute a separate offense and no additional notice other than notice of the original offense shall be required to

convict a person for multiple violations resulting from a continuation of such offense.

VII. Severability:

The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

VIII. Ordinances / Orders in Conflict Repealed:

All prior Orders or Ordinances or parts of any Order or Ordinance in conflict herewith are hereby repealed.

This Ordinance hereby is adopted pursuant to KRS 67.077 in that it was published in summary form on the 8th day of March, 2012, and was introduced and read on the 20th day of March, 2012, and said Ordinance shall be in full force and effect upon signature, recordation and publication in summary pursuant to KRS Chapter 424 and KRS 67.077 sub-section three.

APPROVED this the 20th day of March, 2012.

[Signature]
LARRY ELKINS
ALLOWAY COUNTY JUDGE EXECUTIVE

ATTESTED:
Ray Coursey Jr.
RAY COURSEY, JR.
ALLOWAY FISCAL COURT CLERK

PASSED BY A VOTE OF 5 TO 0.