



NEW YORK STATE SENATOR

Patty Ritchie

Synthetic Legislation Closes Legal Loopholes

PATTY RITCHIE May 29, 2013

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Bill Would Penalize Dealers, Users of Synthetics to Prevent Further Addiction, Deaths

State Senator Patty Ritchie, Assemblyman Will Barclay and Assemblyman Bob Oakes have announced the introduction of comprehensive legislation addressing synthetic drugs in New York State.

At a recent press conference announcing the legislation was Teresa Woolson and her family, who are advocating for strengthening laws regarding synthetic drug use. Woolson's son, Victor, lost his battle with drugs in 2012 and died from injuries related to synthetic drug use. He died after federal legislation and the New York State Department of Health ban was put in place.

The biggest challenge to banning synthetic drugs has been that these products are typically sold as other products, such as bath salts, shoe powder and incense when they are, in fact, being used as drugs. The other problem addressing the ban is that like most states, New York bans drugs based on their chemical composition. Manufacturers of these drugs take advantage of this and frequently swap chemical formulas to bypass any bans. A good example of this is the ban on bath salts that was enacted in 2011. The state banned a certain chemical formula and manufacturers simply switched formulas and continued to sell these products after the ban.

The recently announced legislation addresses mislabeling, chemical swapping and creates penalties for possessing and selling synthetic drugs equivalent to their "street drug" counterpart. Two key provisions of the bill is that it gives broader power to the Commissioner of Health to add chemicals to the list, rather than having the legislature act to add to the list of controlled substances and penalizes stores for selling mislabeled products when they are clearly intended to be used as drugs.

"Part of the concern is that once a chemical is named and, eventually, added to the list of controlled substances, manufacturers who create the drugs are already making something new," said Barclay. "There are also several mislabeled products that are turned into drugs, as is the case with bath salts and synthetic marijuana, which is often sold as incense. And when you have products that people obtain legally, it becomes harder and harder for police and health officials to keep these out of the hands of users and dealers," said Barclay. "By giving the Department of Health Commissioner broader powers to add these substances to the controlled substance list, they can act immediately to add to the list of prohibited substances. It eliminates the need for the legislature to revisit this issue each time a new chemical compound is introduced. This is a proactive approach to addressing the issue of chemical swapping."

Current penalties established under the NYS Department of Health's ban are too lenient; they include a \$500 fine or a 15-day jail sentence. Barclay, Oaks, and Ritchie's bill would increase penalties so they are the equivalent to possession or sale of marijuana or controlled substance. Additionally, the bill increases penalties for mislabeling substances to purposely circumvent state and federal law. Under this legislation,

if a person believes that a store is selling synthetic drugs, they can file a complaint with the Attorney General. Based on evidence, the Attorney General can act and make an application to the court requesting a special procedure, to issue an injunction to stop selling the product. If it is determined by the court that the store violated the law of mislabeling synthetic drug for a minor to purchase, those individuals could be charged with a felony.

The legislation also defines synthetic cannabinoid as a chemical compound that is “chemically synthesized.” It specifies that a synthetic drug is any substance that affects a person’s cannabinoid receptor. The cannabinoid receptors language in the legislation is also key: It pinpoints the affect the drug has on a person, rather than naming actual substances, which has proven to be problematic in banning these products. This also helps address the issue of chemical swapping.

Teresa Woolson, an advocate for improvements in the law regarding synthetic drugs, said she is pleased to see this introduced and knows it will help if it passes the legislature.

“This legislation, when passed, will provide more tools in this war on synthetics, helping to stay one step ahead of the drug dealers to keep these poisons off the shelves of stores in this State. I want to thank everyone involved for keeping this issue front and center and helping to prevent another family from the pain and destruction these poisons can cause,” said Woolson.

State Senator Patty Ritchie said we need to do more to protect our communities. “We have all seen the headlines on the news and in the paper; violence, crime and even deaths related to the use of synthetic drugs. Although state and federal regulations have been put in place to put a stop to the use of these substances, manufacturers are finding ways to get around the law,” said Ritchie. “I’d like to thank Assemblyman Barclay as well as the Woolson family for working to raise awareness and pushing for this legislation. Through our efforts, we can make strides against synthetic drug use and prevent future tragedies.”

Assemblyman Bob Oaks said a grassroots effort to promote changes in the law will be heard in Albany. “When our region made it known in Albany that we would not tolerate synthetic drugs on our streets, Albany listened and banned the products from retail stores. Now, we need to make our voices heard again and urge the rest of our colleagues and leaders in Albany to take this important issue up once again, and protect our youth from obtaining these drugs underground, while at the same time, increasing penalties for those who continue to break the law,” said Oaks.

Oswego County Sheriff Reuel Todd said he was glad to see this subject be brought to light again. “Though you cannot legally sell these drugs in retail outlets any longer in Oswego County due to the local ban enacted by Oswego County, this remains a problem for our area and the state, as dealers and users are finding their way around our current law. Having this law in place would allow us to act faster when a new drug comes on the scene and better protect the public. We need laws that work, and can get ahead of underground chemists as best as we can,” said Todd.

Chairman of the Oswego County Legislature Kevin Gardner said he is glad to see our state representatives put forth a bill that will protect the community. “When this was being sold at retail outlets throughout our county, I was deeply concerned about our youth in particular and was glad we had our state representatives working for all of us to get the message to officials in Albany. Last year, Oswego County banned the sale of synthetic drugs through local law and the results have been positive. The legislation proposed by Assemblyman Barclay and Senator Ritchie will enhance our local laws, address this issue statewide and will be a proactive measure in addressing this problem,” said Gardner.

Oswego County District Attorney Greg Oakes is pleased lawmakers are proposing increased penalties. “Increasing penalties for synthetic drug sale and use will give us more tools in penetrating this evolving black market. We have seen the dangers of synthetics and know we need to establish better laws. I’m pleased to see this legislation be introduced by our state representatives and hope the attention we draw to this issue today results in increased penalties for anyone involved with promoting these dangerous chemicals,” said Oakes.

Jeanne Unger, Executive Director of Farnham Family Services, said she is pleased to stand with state and county leaders today as well as other advocates for this legislation. "I see first hand the far-reaching affects that addiction has on the individual and their loved ones. This legislation will help police be able to identify users, and get them to counseling so they can get treatment and give them the tools to recovery. Counselors can only work within the law so, thank you Mr. Barclay, for helping us improve the law."

Michele Caliva, Administrative Director of SUNY Upstate Poison Control Center, said she has seen abuse on the rise and is pleased state and county representatives continue to address this public health concern. "The Upstate New York Poison Center saw a significant increase in cases of synthetic drug abuse in 2012 and we continue to see numerous cases in 2013. So often the abusers of these agents do not realize or anticipate the intensity of symptoms that are produced from these drugs. We are seeing cases of extreme agitation, increase in body temperature, violent behavior, hallucinations and paranoia which for some have lasted for days," said Caliva.