

1 **Senate Bill No. 63**

2 (By Senator K. Facemyer)

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4 [Introduced January 12, 2011; referred to the Committee on Health
5 and Human Resources; and then to the Committee on the Judiciary.]

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10 A BILL to amend and reenact §60A-4-413 of the Code of West
11 Virginia, 1931, as amended, relating to the Uniformed Control
12 Substances Act; offenses and penalties; and extending the
13 number of prohibited products included in the definition of
14 "salvia divinorum" and any of its derivatives to be covered by
15 the criminal penalties article of this chapter.

16 *Be it enacted by the Legislature of West Virginia:*

17 That §60A-4-413 of the Code of West Virginia, 1931, as
18 amended, be amended and reenacted to read as follows:

19 **ARTICLE 4. OFFENSES AND PENALTIES.**

20 **§60A-4-413. Unlawful production, manufacture or possession of**
21 **Salvia divinorum.**

22 (a) For purposes of this section, "Salvia divinorum" means an
23 herb belonging to the Lamiaceae family, genus of Salvia, species of

1 divinorum, all parts of the plant presently classified as Salvia
2 divinorum or Salvinorum A, whether growing or not, the seeds
3 thereof, any extract from any part of that plant and every
4 compound, manufacture, salts, derivative, mixture or preparation of
5 that plant, its seeds or extracts, with common names including, but
6 not limited to, "Salvia," "Ska Pastora," "Shepherdess's Herb,"
7 "Maria Pastora," "yerba de Maria," "Purple Sticky" and "Sally-D,"
8 "Fake weed", synthetic marijuana", "K2 or Spice."

9 (b) It is unlawful for any person to knowingly or
10 intentionally manufacture or possess an extract, compound,
11 concentrate, or other processed substance intended for human
12 consumption which contains (1) Salvia divinorum, (2) (6aR,10aR)-9-
13 (hydroxymethyl)-6,6-dimethyl-3-(2methyloctan-2-yl)-6a,7,10a-
14 tetrahydrobenzo[c]chromen-1-ol, some trade or other names: HU-210,
15 (3) 1-Pentyl-3-(1-naphthoyl)indole, some trade or other names: JWH-
16 018, (4) 1-Butyl-3-(1-naphthoyl)indole, some trade or other names:
17 JWH-073, unless the substance was obtained directly from, or
18 pursuant to, a valid prescription or order of a licensed physician
19 or dispensed by a pharmacist for a recommended or medically
20 necessary therapeutic use. Any person who violates this subsection
21 is guilty of a misdemeanor and, disposition may be made under
22 section four hundred seven of this article, subject to the
23 limitations specified in said section, or upon conviction, such
24 person may be confined in jail not more than six months, or fined

1 not more than \$1,000, or both. Notwithstanding any other provision
2 of this code to the contrary, any first offense for possession of
3 Salvia divinorum shall be disposed of under section four hundred
4 seven of this article.

5 (c) The provisions of this section shall not apply to licensed
6 physicians, pharmacists, and accredited hospitals and teaching
7 facilities engaged in the research or study of Salvia divinorum,
8 and shall not include any person participating in clinical trials
9 involving the use of Salvia divinorum.

NOTE: The purpose of this bill is to extend the number of prohibited products included in the definition of "Salvia divinorum" (also known by the common names of "Salvia," "Ska Pastora," "Shepherdess's Herb," "Maria Pastora," "yerba de Maria," "Purple Sticky" and "Sally-D," "Fake weed", synthetic marijuana", "K2 or Spice.") and any of its derivatives to be covered by the criminal penalties article of the Uniformed Control Substances Act.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.