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## Commerce & Gaming Committee

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### ESB 5673

**Brief Description:** Concerning the distribution of synthetic cannabinoids and bath salts.

**Sponsors:** Senators Padden, Kohl-Welles, Roach, Miloscia, Pearson and Darneille.

#### Brief Summary of Engrossed Bill

- Creates civil liability under the Consumer Protection Act for the sale of synthetic cannabinoids, cathinones, and methcathinones.
- Imposes additional fines upon criminal conviction for the sale of such synthetic cannabinoids, cathinones, and methcathinones.

**Hearing Date:** 3/23/15

**Staff:** David Rubenstein (786-7153).

#### Background:

Cathinones and methcathinones are stimulants with methamphetamine-like effects. Cathinones may cause hallucinations, agitation, and serious cardiac symptoms. Cathinone derivatives are commonly known as “bath salts.”

Synthetic cannabinoids are drugs that target the same brain receptors that interact with the tetrahydrocannabinol present in marijuana that produces a psychoactive effect. Synthetic cannabinoids are often called "spice" or "K2," after popular brands of the substances.

Current law places cathinones and methcathinones on Schedule I of the Controlled Substances Act, meaning they have no accepted medical value, have a high potential for abuse, and lack accepted safety for use in medical treatment under supervision.

The manufacture, delivery, or possession of a Schedule I controlled substance is a class B felony, punishable by either up to 10 years in prison or a fine of up to \$20,000, or both, plus an additional \$1,000 fine.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The Pharmacy Quality Assurance Commission addresses the evolving chemistry of illegal controlled substances by classifying or reclassifying new compounds under its administrative rule-making authority.

#### Washington Consumer Protection Act.

Washington's Consumer Protection Act (CPA) declares that "unfair or deceptive acts or practices" occurring in trade are unlawful.

The CPA provides that any person who is injured in his or her business or property through such practices may bring a civil action to recover actual damages sustained and costs of the suit, including reasonable attorney's fees. Treble damages may also be awarded at the discretion of the court.

To prevail in a private action under this act, a plaintiff must establish five elements: (1) an unfair or deceptive act or practice; (2) occurring in trade or practice; (3) an impact on the public interest; (4) actual injury to the plaintiff in his or her business or property; and (5) a causal link between the unfair or deceptive acts and the injury suffered by plaintiff.

The CPA also authorizes the Attorney General to bring an action in the name of the state, or as *parens patriae*, on behalf of a state resident, in order to restrain and prevent unfair and deceptive acts or practices.

#### **Summary of Bill:**

##### Synthetic Cannabinoids.

Synthetic cannabinoids, meaning a chemically synthesized compound or its chemical analog that is chemically synthesized and has been demonstrated to have binding activity at a cannabinoid receptor in the brain, are added to Schedule I of the Controlled Substances Act. The manufacture, distribution, or possession of synthetic cannabinoids is a felony and carries a fine, like any other substance on Schedule I.

##### Consumer Protection Act Violation.

Any person who manufactures, sells, or distributes cathinones, methcathinones, and synthetic cannabinoids commits a violation of the CPA, allowing an action by the Attorney General or a private citizen who can prove actual injury.

##### Additional Fines.

A person who manufactures, sells, or distributes synthetic cannabinoids, cathinones, or methcathinones must pay a fine between \$10,000 and \$500,000, in addition to other criminal and civil penalties. However, if the person receiving the drug is a minor under 18 years old and at least two years younger than the person violating the law, the minimum fine is increased to \$25,000. Courts may not suspend or defer the fine unless the violator is indigent.

Pilot Program.

The Washington State Patrol (WSP) must implement a pilot program to evaluate protocols and technologies for the instant identification of synthetic cannabinoids, cathinones, and methcathinones. The WSP must report the progress of the pilot program to the Legislature by July 30, 2016, and include recommendation on whether its selected technologies may be used to limit the proliferation of such drugs.

**Appropriation:** None.

**Fiscal Note:** Requested on 03/19/15.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.