



THE ATTORNEY GENERAL OF TEXAS
KEN PAXTON



Cheap, Dangerous, and Marketed to Kids: New Ways to Fight Synthetic Drugs

Paul Singer and Pat Stein
Consumer Protection Division
February 28, 2017

Views expressed are those of the presenters, do not constitute legal advice,
and are not official opinions of the Office of the Texas Attorney General.


Background

- ▶ **47 hospitalizations related to designer drugs in Abilene, Texas - April 2013**
 - Spice – synthetic marijuana
 - Bath salts – synthetic cathinones
- ▶ **Criminal enforcement issues**
 - Delays in testing of detained substances
 - Changing formulation to avoid detection
 - Chemicals not listed as controlled substances
 - Time lag in listing substances as controlled substances


Background

- ▶ **Definition of designer drugs**
 - Synthetic derivatives of illegal substances that are manufactured for recreational use in an attempt to evade legislation and prosecution
 - Marketed as "legal highs"
- ▶ **Examples**
 - Ecstasy
 - PCP
 - Spice (synthetic cannabinoid agonists)
 - Bath salts (synthetic cathinones)
 - N-bomb (synthetic hallucinogen)



Effects of Synthetic Cannabinoids

- ▶ **Effects of marijuana**
 - Relaxation, heightened sensory perception, altered time perception, and increased appetite
 - Sometimes anxiety, fear, distrust, and panic
- ▶ **Effects of synthetic cannabinoids**
 - Unpredictable effects on cannabinoid receptors
 - Enhanced adverse effects include
 - Paranoia, anxiety, psychosis, agitation, hallucinations, and suicidal thoughts
 - Nausea, vomiting, rapid heart beat, dilated pupils, elevated blood pressure, tremors, and seizures
 - Death



Severity of Effects

- ▶ **Side effects reported by the Centers for Disease Control (CDC) between January and May 2015**
 - Incidence – 3,572 calls to poison control
 - 11.3% suffered life-threatening effects or effects resulted in disability/disfigurement
 - 47.5% needed medical treatment
 - 0.5% died (15)



Injury and Deaths

- ▶ **Texas Deaths**
 - Jessie High – 15-year-old – Amarillo – June 2013
 - 33-year-old- male - MacKay – Jan. 2015
 - 41-year-old-male – MacKay –Jan. 2015
 - Kendell Sneed - Fort Hood soldier – Killeen – Jan. 2015
- ▶ **Life-threatening or Severe Disability**
 - High School Sophomore – Cypress – Dec. 2012
 - 13-year-old – Irving – June 2014
- ▶ **Sports Figures**
 - New England Patriots linebacker Chandler Jones went to emergency room after using synthetic marijuana - January 10, 2016
 - Seahawks Fullback Derrick Coleman said he smoked Spice before crash – October 2015



Incidence of Poison Control Calls

▶ American Association of Poison Control Centers

Year	Number of Cases
2011	6,968
2012	5,230
2013	2,643
2015	7,779
2016	2,695



Incidence of Poison Control Calls – Texas

- ▶ 673 calls to Poison Control Centers in Texas in 2015
 - 25 calls in December 2015

- ▶ 291 calls to Poison Control Centers in Texas in 2016
 - 22 calls in August 2016



Manufacturing

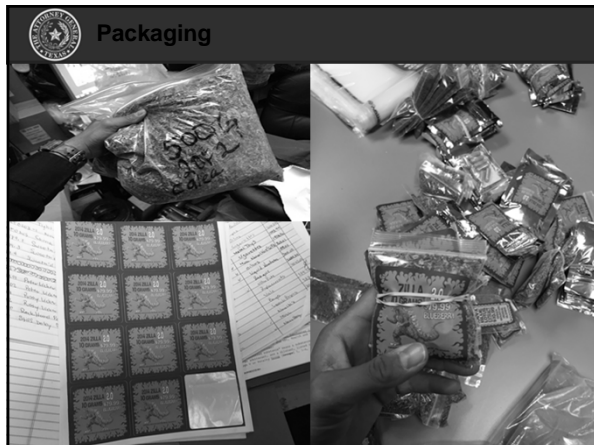
▶ Steps

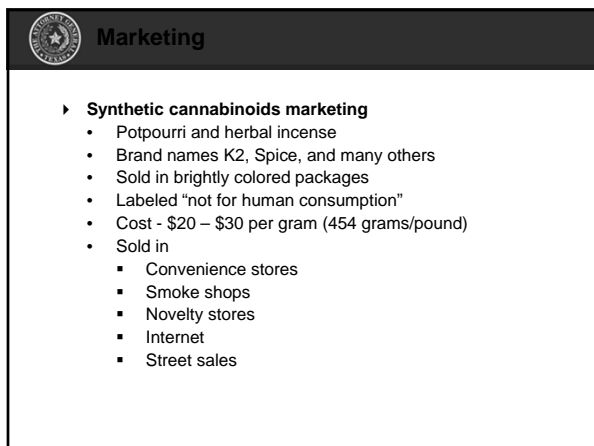
- Synthetic Cannabinoid powder is imported from China.
- Powder is mixed with Acetone (i.e. nail polish remover) to create a "Milk."
- Dried plant matter is spread out on a plastic tarp.
- The Milk is then applied to the plant matter with a spray bottle or bug sprayer.
- Once dry, the product is then weighed and packaged into ziplock bags or packages purchased online.

▶ Synthetic Cannabinoids seized in Texas:

- 2015: AB-CHMINACA, AKB48, AB-FUBINACA, XLR111, PB-22, AB-PINACA, NM2201, 5-Fluoro-AB-PINACA, 5-Fluoro-AMB
- ▶ 2016: AB-CHMINACA, XLR11, MMB-Fubinaca, Flouro-ADB, Flouro-AMB











Marketing



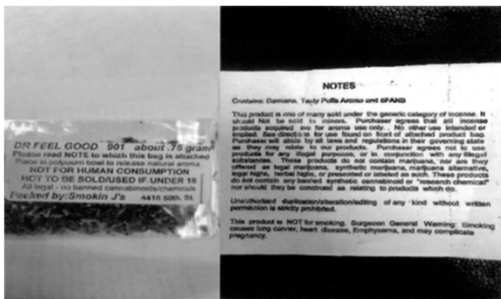


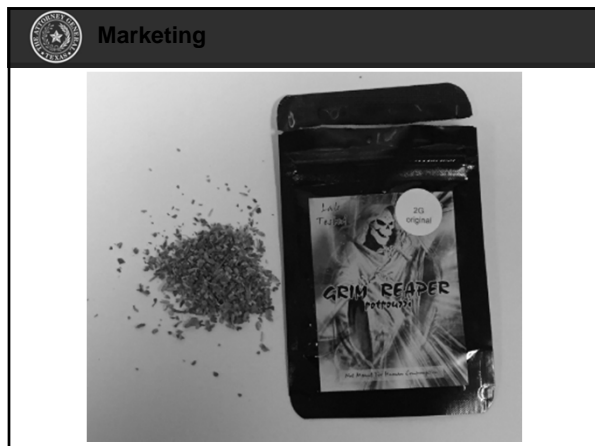
Marketing

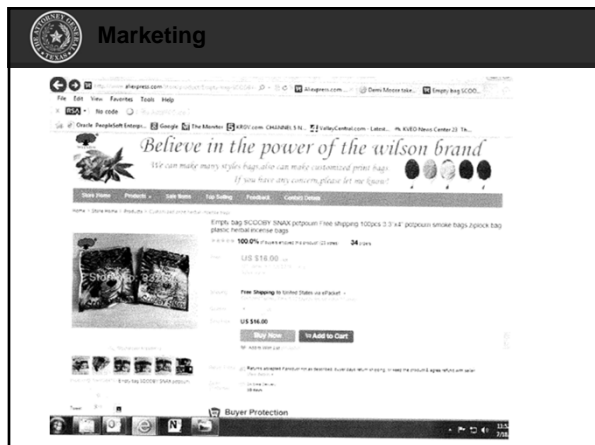




Marketing







Legislation – 84th Legislative Session

► **Senate Bill No. 173 – amended the Controlled Substance Act Sections 481.002(5)(6); 481.1031; 481.106**

- Amended in regards to synthetic marijuana cannabinoids as controlled substances and controlled substance analogues
- De-emphasizes reliance on lists of specific chemical formulations and attempts to describe the structures of the derivatives
- Provides generic legislation criminalizing specific categories of substances
- Introduced by Senator Huffman, Houston



Legislation – 84th Legislative Session

► House Bill No. 1212 – Montana Brown & Jesse High Act

- Creates new Tex. Health & Safety Code § § 431.171 & 431.172 and amends Tex. Health & Safety Code § § 481.0355; 481.106
- Authorizes emergency scheduling of an abusable synthetic substance effective the date notice is published in Texas Register
- Introduced by Representative Four Price – Carson, Hutchinson, Moore, Potter, and Sherman Counties - Panhandle



Legislation – 84th Legislative Session

► Senate Bill No. 461 – Adds Chapter 484 to the Texas Health and Safety Code

- Attorney general or district, county, or city attorney may institute an action in district court to collect a civil penalty from a person who in the course of business produces, distributes, sells, or offers for sale an mislabeled abusable synthetic substance
- Introduced by Senator Charles Perry – Lubbock & San Angelo



Legislation – 84th Legislative Session

► House Bill No. 1265 – Amends the DTPA

- Adds Sections 28, 29, 30, and 31 to the Tex. Bus. & Com. Code § 17.46(b)
- § 17.46(b) (30) makes it a violation to make a deceptive representation or designation about the synthetic substance or cause confusion or misunderstanding as to the effects the synthetic substance causes when consumed or ingested.
- Sponsored by 8 House and Senate members



Legislation – 84th Legislative Session

► Two New Civil Statutes that CPD can enforce:

- Tex. Bus. & Com. Code § 17.46(b)(30)
 - Deceptive representations regarding synthetic substances
- Tex. Health & Safety Code § 484.003
 - Mislabeled abusable synthetic substances



What CPD has done since 2016

- **Approximately 200 warning letters sent to smoke shops in the Houston area**
- **Spoke with city and county attorneys, law enforcement, and community leaders in:**
 - Austin, Corpus Christi, Dallas, Fort Worth, Houston, McAllen, Pharr, and San Antonio
- **Filed 8 lawsuits in Harris, Dallas, and Nueces Counties**
 - Harris County: six lawsuits filed in cooperation with Harris County Attorney's Office, City of Houston Attorney's Office, Harris County District Attorney's Office, Houston Police Department and Harris County Sheriff's Office
 - Nueces County: cooperation with the Corpus Christi Police Department and Texas Department of Public Safety Crime Laboratory
 - Dallas County: cooperation with Dallas County PD



CPD cases since enactment of DTPA § 17.46(b)(30)

- State of Texas vs. Fantasy Smoking, 2016-05800 (113th Dist. Ct., Harris County, Tex., Jan. 28, 2016)
- State of Texas vs. Brother's Meat Market, 2016-05834 (334th Dist. Ct., Harris County, Tex., Jan. 29, 2016)
- State of Texas vs. Jam's Smoke Shop, 2016-19440 (295th Dist. Ct., Harris County, Tex., Mar. 28, 2016)
- State of Texas vs. Moon Mart, 2016-18581 (164th Dist. Ct., Harris County, Tex., Mar. 23, 2016)
- State of Texas vs. Good Timez Boutique, 2016-41134 (129th Dist. Ct., Harris County, Tex., June 15, 2016)
- State of Texas vs. Tobacco Junction, 2016DCV-3211-A (214th Dist. Ct., Nueces County, Tex., June 30, 2016)
- State of Texas vs. Spice Boutique, 2016-52548 (152nd Dist. Ct., Harris County, Tex., Aug. 9, 2016)
- State of Texas vs. Mohamed Bakr, DC-17-00363 (193rd Dist. Ct., Dallas County, Tex. Jan. 12, 2017)



Case Study: Katz Boutique, et al.

- ▶ **Defendants operate 9 smoke shop/adult novelty “Boutiques” and sold synthetic cannabinoids from 2013-2015**
 - October 2014 to June 2015: 69,865 packets sold
- ▶ **Katz 4 April 2015: 6,631 packets**
 - 221 packets a day
 - 9,209 packets per hour
 - \$127,780.64 from packet sales
 - 58% of total store sales (for this single store!)
- ▶ **In discovery:**
 - Depositions of undercover narcotics officers and five individual defendants
 - Obtaining and analyzing the Retail Pro sales database
- ▶ **Resolution: Permanent injunction against owner and business. \$1,175,000 in penalties and attorneys’ fees.**



Case Study: Jam’s Smoke Shop

- ▶ **Filed March 28, 2016 → tried June 2, 2016**
 - Trial by consent
- ▶ **Expedited Discovery**
 - Court ordered production of documents and depositions
- ▶ **Trial Instruction**
 - Court ordered the defendant could not testify, present evidence, or argue that there was no evidence that his agents sold synthetic cannabinoids.
- ▶ **Jury Verdict of \$878,000 in penalties and \$33,000 in attorneys’ fees.**
 - Permanent injunction granted.



Case Study: Spice Boutique

- ▶ **Hermann Park Overdose** – On the afternoon of June 23rd, 2016, 16 people overdose at Houston’s Hermann Park.
- ▶ Houston Police Department begins a two month investigation into the source of the illegal drugs.
- ▶ Defendants Minh and Tuan Dang arrested on August 9, 2016. OAG files suit that afternoon against Dang brothers, Spice Boutique, and the individual store locations.
- ▶ Over \$2 million in cash and gold bars were seized by the police and frozen by law enforcement.



Spice Boutique





Spice Boutique





Outreach and Education

Partners in Enforcement:

- ▶ **Identifying Targets**
 - Looking for retail businesses
 - Passing on supplier information
- ▶ **Undercover Buyers**
- ▶ **Lab Testing**
- ▶ **Testimony**



Outreach and Education

Community Education:

- ▶ **Law Enforcement, District/County/City Attorneys**
- ▶ **Legislature**
- ▶ **Juveniles**
 - Expand to reach schools, facilities, parents/guardians
 - Legal and Health related dangers
 - Upcoming AG outreach/materials



Contact

Paul Singer – paul.singer@oag.texas.gov
Patricia Stein – patricia.stein@oag.texas.gov

Assistant Attorneys General
Consumer Protection Division
Office of the Attorney General

For more info see - "Addressing the Designer Drug Problem" at

<http://www.naag.org/assets/files/pdf/nagtri/public-health-law-papers/Stein.Addressing%20The%20Designer%20Drug%20Problem.pdf>.
