

June 16, 2016

Dear Business Owner:

The City Attorney's Office and San Diego Police Department have created a new ordinance that makes it unlawful for any person or business to possess, manufacture, distribute or sell any synthetic or psychoactive drugs such as those commonly referred to as "bath salts" and "spice". This city ordinance makes the possession and sale of these products unlawful and subjects businesses that sell them to potential criminal and civil law enforcement action.

This letter provides details on these new legal requirements so that you can take all necessary steps to avoid violations. Failure to comply fully with this ordinance can result in criminal prosecution or civil enforcement action, with potential sanctions including fines and imprisonment, or permanent injunctions and substantial civil penalties.

In 2011, the State of California prohibited certain types of synthetic drugs, commonly known as "spice" and "bath salts." (Cal. Health & Safety Code §§ 11357.5, 11375.5). However, the number and variety of synthetic drugs has grown dramatically since 2011. With the creation of this new ordinance the City of San Diego has now taken steps to prohibit additional dangerous drugs which are unregulated by California law. This new ordinance prohibits any person or business from possessing, manufacturing, selling, or distributing any synthetic or psychoactive drugs not already prohibited under state law. For instance, all versions of spice and bath salts are now illegal under this ordinance. In addition, dangerous psychoactive drugs such as Kratom (and many more) are illegal under this ordinance. For details please read the ordinance in its entirety (link below).

The San Diego City Council approved this ordinance that adds Division 33 to Chapter 5, Article 2 of the San Diego Municipal Code. This new ordinance was enacted on June 14, 2016, as an emergency measure, and therefore, became effective immediately.

All Federal Schedule I drugs not already regulated under state law, are included in this ordinance. (A list of federally scheduled drugs can be found at <http://www.deadiversion.usdoj.gov/schedules/>.) However, the new ordinance is primarily aimed at "spice" and "bath salts," not already prohibited by state law. The proliferation of these drugs in San Diego has caused significant medical distress in many people. Because unlawful drugs can easily be altered to create new drugs that have the same effect but have yet to be prohibited, the ordinance also includes new (novel) synthetic and psychoactive drugs that are not yet regulated or even known to authorities. Any violation of the new ordinance can be charged as a misdemeanor or an infraction.

With the enactment of this ordinance the following are now prohibited in the City of San Diego:

**San Diego Municipal Code section 52.3303** - Manufacture, Distribution and Sale Prohibited. It is unlawful to manufacture, sell, offer to sell, offer for

sale, distribute, or possess for sale any Federal Schedule I Drug, Novel Synthetic Drug, or Novel Psychoactive Drug.

**San Diego Municipal Code section 52.3304** – Possession Prohibited. It is unlawful to possess any Federal Schedule I Drug, Novel Synthetic Drug, or Novel Psychoactive Drug.

**San Diego Municipal Code section 52.3306** – Public Nuisance. This section declares the manufacturing, sale, offering to sell, distribution, or possession for sale of a Federal Schedule I Drug, Novel Synthetic Drug, or Novel Psychoactive Drug to be a public nuisance. Violations of this section can subject the business owners to civil action in court including injunctions and fines in addition to criminal prosecution and penalties.

**San Diego Municipal Code section 52.3307** – Property Owner and Responsible Party Liability. This section makes it unlawful for a property owner or other responsible person, after receiving written notice by the City of a violation of this Division, to fail to abate the public nuisance within 30 calendar days from the date of the notice. Violations can include civil fines and other penalties.

For ease of identifying those substances that are now banned under this ordinance the following list will include "brand" names of spice and bath salts commonly associated with and sold out of local businesses. This list is not all inclusive, as there are hundreds of brand names, but can be used a reference when identifying illegal products:

Spice has been marketed under various brand names, including the following: AK47, Aroma, Scope, Atomic, Barely In, Black Mamba, Bliss, Bombay Blue, Brain Storm, Bullet, Buzz, California Dreams, Chill X, Chronic Spice, D-ZL, Dank, Daylights, Dead Man Walking, Demon, Dragons Fire, Earth Impact, Earthquake, Fake Weed, G13, G-20, Galaxy Gold, Genie, Guerrilla Warfare, Hayze, Mystery, Hush, Hypnotiq, Jazz, Joker, K2, K3 Legal, K3, Kush, Kush Mania, Lucid, Mad Hatter, Makes Scents, Matrix, Maui Wowie, Mind Trip, Moon Rocks, Mr. Happy, Mr. Nice Guy, Mystery, Nightlights, Ocean Blue, OMG, Pineapple Express, Pot-Pourri, Potpourri, Pulse, Scooby Snax, Sence, Serenity, Skunk, Sky High, Smacked, Smoke, Solar Flare, Soul Sence, Space Truckin, Spice, Spice 99, Spice Gold, Spice Silver, Spike, Stinger, Tiger Shark, Voodoo, Voodoo Child, and Zohai.

Bath salts have been marketed under various brand names, including the following: Bliss, Blizzard, Blue Silk, Bonzai Grow, Charge Plus, Charlie, Cloud Nine (9), Euphoria, Hurricane, Ivory Snow, Ivory Wave, Lunar Wave, Ocean, Ocean Burst, Pixie Dust, Posh, Pure Ivory, Purple Wave, Red Dove, Scarface, Snow Leopard, Stardust, TranQuility, Vanilla Sky, White Dove, White Night, and White Lightning.

This new ordinance is posted in its entirety at <http://docs.sandiego.gov/municode/MuniCodeChapter05/Ch05Art02Division33.pdf>. It is incumbent upon every business owner and employee in San Diego to know and understand the new ordinance and how it applies to them. Enforcement of these laws has commenced. Those who violate these laws are subject to citation and/or arrest, or administrative and civil sanctions.

Should you have any questions, please contact:  
San Diego Police Department- Narcotics Unit  
619-531-2468

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Thank you for your anticipated cooperation.