

CERTIFICATION OF  
DEPARTMENT OF LEGAL AFFAIRS EMERGENCY RULE  
FILED WITH THE DEPARTMENT OF STATE

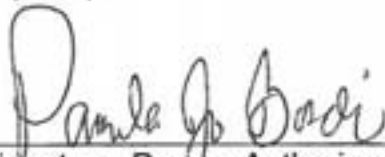
I hereby certify that an immediate danger to the public health, safety or welfare requires emergency action and that the attached rule is necessitated by the immediate danger. I further certify that the procedures used in the promulgation of this emergency rule were fair under the circumstances and that the rule otherwise complies with subsection 120.54(4), Florida Statutes. The adoption of this rule was authorized by the head of the agency and this rule is hereby adopted upon its filing with the Department of State.

Rule No.

2ER13-1

Under the provision of subparagraph 120.54(4)(d), F.S., this rule takes effect upon filing unless a later time and date less than 20 days from filing is set out below:

Effective: \_\_\_\_\_  
(Month) (Day) (Year)

  
\_\_\_\_\_  
Signature, Person Authorized  
To Certify Rules

\_\_\_\_\_  
Attorney General  
Title

1  
Number of Pages Certified

FILED  
2013 OCT -9 PM 2:55  
DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA

NOTICE OF EMERGENCY RULE

DEPARTMENT OF LEGAL AFFAIRS

RULE TITLE:

RULE NO.:

Addition of

AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)

AB-FUBINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)

ADB-PINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)

Fluoro ADBICA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(fluoropentyl)-1H-indole-3-carboxamide)

to Schedule I, Subsection 893.03(1)(c), F.S. to Schedule I, Subsection 893.03(1)(c), F.S. 2ER13-1

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE:

In written findings published on the date this emergency rule was filed with the Secretary of State's Office, Attorney General Bondi has found that there is a need to immediately place the above-mentioned psychoactive substances classifiable as Synthetic Cannabinoids under Schedule I, Subsection 893.03(1)(c), F.S., in order to curtail their abuse by Florida's children, young adults, and others. These substances are ostensibly legal and often perceived as a safer alternative to illegal drugs such as marijuana. In many cases, however, they are more dangerous. Due to their chemical design, they are commonly available for purchase in specialty smoke shops, over the internet, in convenience stores and from other retailers, making them easily obtainable. These circumstances present an immediate and imminent hazard to the public health, safety, and welfare which requires emergency action. In addition the Attorney General has found that the above-mentioned compounds meet the statutory criteria for placement as a controlled substance in Schedule I, Subsection 893.03(1)(c), F.S.

REASONS FOR CONCLUDING THAT THE PROCEDURE USED IS FAIR UNDER THE CIRCUMSTANCES:

SUMMARY OF THE RULE:

The above-mentioned Synthetic Cannabinoids present an immediate and imminent hazard to the public health, safety, and welfare which requires emergency action. The Attorney General will ask the Florida Legislature to memorialize this action through legislation in its 2014 legislative session. A copy of the Attorney General's findings in support of this emergency rule may be obtained by contacting the Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; (850) 245-0145.

SUMMARY OF THE RULE: Under the authority of Section 893.05, Florida Statutes, additional substances are being added to Schedule I, Subsection 893.03(1)(c), F.S.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Emery Gainey, Director, Law Enforcement Relations, Victim Services & Criminal Justice Programs, Department of Legal Affairs, PL-01, The Capitol, Tallahassee, Florida 32399-1050.

THE FULL TEXT OF THE EMERGENCY RULE IS:

2ER13-1 Addition of

AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)

AB-FUBINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)

ADB-PINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)

Fluoro ADBICA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(fluoropentyl)-1H-indole-3-carboxamide)

to Schedule I, Subsection 893.03(1)(c), F.S.

(1) Under the authority of Section 893.035, F.S., the following substances are hereby controlled substances, added to Schedule I, subsection 893.03(1)(c), F.S.:

(a) AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)

(b) AB-FUBINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)

(c) ADB-PINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)

(d) Fluoro ADBICA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(fluoropentyl)-1H-indole-3-carboxamide)

(2) All provisions of Chapter 893, F.S., applicable to controlled substances listed in Schedule I shall be applicable to the substances listed in subsections (1)(a) through (d), above.

Rulemaking Authority: 893.035 F.S.

Law Implemented: 893.035 F.S.

History – New

THIS RULE TAKES EFFECT IMMEDIATELY UPON BEING FILED WITH THE DEPARTMENT OF STATE  
UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

STATE OF FLORIDA  
OFFICE OF THE ATTORNEY GENERAL

IN RE: EMERGENCY RULE 2 ER13-1,  
ADDING:

AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)

AB-FUBINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)

ADB-PINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)

Fluoro ADBICA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(fluoropentyl)-1H-indole-3-carboxamide)

TO SCHEDULE I, SUBSECTION 893.03(1)(c), F.S.

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DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA

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FINDINGS OF THE ATTORNEY GENERAL  
IN SUPPORT OF EMERGENCY RULE 2ER13-1

For the past two years the Office of the Attorney General has adopted Emergency Rules 2ER11-1 and 2ER12-1 which added a number of "bath salt" compounds, synthetic cannabinoids, cathinones, and synthetic phenethylamines to Schedule I, Subsection 893.03(1)(c), F.S. The psychoactive substances added by the abovementioned emergency rules are powerful stimulants and compounds that behave similarly to the primary psychoactive constituent of marijuana. They serve as alternatives to illegal drugs such as marijuana, ecstasy, cocaine, and amphetamines. Since the promulgation of these emergency rules new synthetic cannabinoids variants have appeared in Florida and other states. For the third straight year, Florida law enforcement has noted the emergence of new dangerous chemical compounds, and therefore, the Office of the Attorney General has adopted Emergency Rules 2ER13-1 adding four new compounds to Schedule I, Subsection 893.03(1)(c), F.S.

Following the 2011 and the 2012 "bath salt" and synthetic cannabinoids ban, four new chemically engineered substances have been developed that contain one or more synthetic compounds that behave similarly to the primary psychoactive constituent of marijuana. Although technically different from currently scheduled substances, these substances are generally classifiable as synthetic cannabinoids, cathinones, and synthetic phenethylamines. These substances are being abused because they are an ostensibly legal and often times perceived as a safer alternative to illegal drugs such as marijuana, MDMA ("ecstasy"), cocaine, and

amphetamines. But, in many cases, they are more dangerous. These chemicals are commonly available over the internet and are often purchased in whole sale quantities to be illegally redistributed in specialty smoke shops and/or convenience stores, making them easily obtained for abuse by Florida's children and young adults. Such abuse presents severe health risks, and an immediate danger and imminent hazard to the health, safety, and welfare of Floridians. Such abuse has been found to cause severe health problems, and therefore, presenting an imminent hazard to the health, safety, and welfare of Floridians. Therefore, effective today, October 9, 2013, the Office of the Attorney General is adopting Emergency Rule 2ER13-1 which adds the following:

- AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)
- AB-FUBINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)
- ADB-PINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)
- Fluoro ADBICA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(fluoropentyl)-1H-indole-3-carboxamide)

### ANALYSIS

Subsection 893.035(7)(a), Florida Statutes requires the Attorney General to consider when determining whether to adopt an emergency rule controlling a substance under Chapter 893 whether the substance is an imminent hazard to public safety, whether it has potential for abuse, its history and current pattern of abuse, the scope, duration, and significance of abuse and what, if any, risk there is to the public health.

#### A. Potential for and Significance of Abuse and Risk to Public Health

On July 16, 2013 the Florida Department of Health issued a press release warning the public about the health risks associated with illicit synthetic such as synthetic cannabinoids. The State Surgeon General and Secretary of Health Dr. John Armstrong stated "Illicit synthetic drugs are dangerous to Florida's children, adults and families. These drugs destroy lives, and are threats to public health and safety."<sup>1</sup>

Despite the Surgeon General's warning, FDLE and the Office of the Attorney General continue to receive reports of adverse reactions to synthetic cannabinoids some of which are quite severe. These effects include, but are not limited to the following:

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<sup>1</sup> Florida Department of Health, "The Florida Department Of Health Warns Of Health Risks Associated With Illicit Synthetic Drugs"  
<http://newsroom.doh.state.fl.us/wp-content/uploads/newsroom/2013/05/071613SyntheticDrugs.pdf>



Headaches  
Agitation  
Vomiting  
Dangerous Hallucinations  
Loss of Consciousness  
Elevated Blood Pressure

Seizures  
Increased Heart Rate  
Increased Anxiety  
Convulsions  
Unresponsiveness  
Suicidal Thoughts

The mental and physical dangers associated with synthetic cannabinoids have prompted many jurisdictions to outlaw their sale, distribution and import.

In 2010, Poison Control Centers nationwide received 2,906 calls related to synthetic cannabinoid use. That figure jumped to 6,968 calls in 2011 and 5,228 calls in 2012. As of August 31, 2013 there have been 1,821 calls this year related to synthetic cannabinoid use nationwide. This decline can be attributed to the law enforcement and legislative measures taken across the U.S. to address this severe public health concern.<sup>2</sup> Additionally, in its February 15, 2013 Morbidity and Mortality Report, The Centers for Disease Control concluded, "Health-care providers should be aware of renal and other unexpected toxicities from use of SC [synthetic cannabinoids] products, especially with newer SC compounds."<sup>3</sup> (Emphasis supplied.)

Furthermore, in an excerpt from the September 25, 2013 Senate hearing entitled "Dangerous Synthetic Drugs" The Drug Enforcement Administration (DEA) stated "Based on law enforcement encounters reported directly to DEA, when responding to incidents involving individuals who have reportedly smoked these synthetic cannabinoids, first responders report that some of these individuals have suffered from intense hallucinations. Emergency department physicians and toxicologists have also reported the adverse health effects associated with smoking herbal incense products laced with these substances. Law enforcement agencies have recently reported examples of suspected *Driving Under the Influence of Drug* incidents that were attributed to the smoking of synthetic cannabinoids."<sup>4</sup>

#### B. Scope, History, Duration and Current Pattern of Abuse

The Florida Department of Law Enforcement has received intelligence through recent crime laboratory submissions by Florida law enforcement agencies indicating that the above referenced compounds are being inaccurately labeled and marketed as a variety of legitimate household products in a thinly veiled effort to mask their true use as abused psychoactive substances. All of

<sup>2</sup>American Association of Poison Control Centers. "Synthetic Marijuana Data" [https://aapcc.s3.amazonaws.com/files/library/Synthetic\\_Marijuana\\_Data\\_for\\_Website\\_8.31.2013.pdf](https://aapcc.s3.amazonaws.com/files/library/Synthetic_Marijuana_Data_for_Website_8.31.2013.pdf)

<sup>3</sup>Centers for Disease Control and Prevention, "Acute Kidney Injury Associated with Synthetic Cannabinoid Use — Multiple States, 2012" [http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6206a1.htm?s\\_cid=mm6206a1\\_w](http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6206a1.htm?s_cid=mm6206a1_w)

<sup>4</sup>Department of Justice "Dangerous Synthetic Drugs" <http://www.justice.gov/dea/pr/speeches-testimony/2013/092513t.pdf>

the above substances are marketed under a variety of pseudo brand names. They usually contain the disclaimer “not for human consumption,” but are sold in specialty smoke shops, over the internet, and in convenience stores for prices that are disproportionately high for the household product they purport to be, such as up to \$30.00 for 500 mg packets. Furthermore, a pattern has emerged in which the distributors of these substances respond to the scheduling of additional controlled substances by Florida Legislature by introducing new variants with labels on the packaging claiming to conform to the new laws. These actions further emphasize the true purpose of these substances as chemicals of abuse.

### Synthetic Cannabinoids

The original intent behind the creation of synthetic cannabinoids, such as the JWH compounds synthesized by Dr. John W. Huffman, was for research purposes only. The goals of the research were to recreate and study, in a laboratory setting, how the brain would react to synthetic compounds designed to mimic tetrahydrocannabinol (THC) the principal psychoactive compound found in cannabis.

These substances, which numbered in the hundreds, were never intended to be ingested or inhaled by humans; however, the publishing of Dr. Huffman’s research studies led unscrupulous individuals to create synthetic cannabinoids for recreational use. Once the synthetic cannabinoid powder is synthesized, it can be taken alone or applied to any type of material, such as a plant or paper, to be ingested mimicking marijuana use.

### Synthetic Cannabinoid Case History

FDLE crime laboratory submissions show a growing trend of these new substances being abused in Florida. The first submissions of AB-PINACA and AB-FUBINACA were in June of this year and have been steadily increasing since then. There have been submissions of AB-PINACA to FDLE crime laboratories in Jacksonville (18), Tampa Bay (16), Pensacola (2), and Orlando (2). Additionally, there have been submissions of AB-FUBINACA in Jacksonville (10), Tampa Bay (9), and Pensacola (4). The locations of the aforementioned submissions are evidence of the widespread effect these substances are having on the state of Florida.

In August 2013, a new synthetic drug, marketed and labeled “Crazy Clown,” was identified in Brunswick, Georgia after eight people (ages 16 to 26) were hospitalized following the use of this illicit synthetic substance. The Georgia Bureau of Investigation identified the substance as ADB-PINACA. The reported symptoms included nausea, vomiting, dry mouth, weakness, cardiac problems, and locking down (unable to move body). One individual was in critical condition as a result of the use of this substance which was purchased in a local retail store. The Georgia Department of Public Health (DPH) issued a press release following the series of “Crazy Clown” overdoses in Brunswick stating “first responders have reported unusual strength, agitation and combativeness in some persons. Some users have been rendered motionless, have abnormal or



absent reflexes, and some experience unconsciousness. Symptoms may present almost immediately after ingestion or inhalation, or may be delayed as more of the product is ingested or inhaled.”<sup>5</sup> Additionally, the Georgia DPH issued an emergency communication to approximately 40,000 licensed physicians and physician’s assistants in Georgia alerting them to the dangers of these substances and the potential side effects they may encounter in their patients.

There have been some reports indicating that 60 to 100 juveniles have been hospitalized in Georgia alone in recent weeks after smoking the drug “Crazy Clown.”

In September 2013, the Colorado Department of Public Health and Environment published a news release pertaining to an outbreak of illnesses tied to use of synthetic cannabinoids. Nearly a dozen product names were identified as possible sources of the synthetic cannabinoids that sent many individuals to Colorado hospitals beginning in August 2013. “Crazy Clown” was one of the products identified in these overdoses. Colorado stated the symptoms included “disorientation, delirium, confusion, anxiety, lethargy, agitation, paranoia, hallucinations and seizures, as well as some patients who were violent, unresponsive or even comatose.”<sup>6</sup> One patient was as young as 13 years old, which further emphasizes that these products are intended to and have successfully been marketed toward America’s youth.

In Papillion, Nebraska, two sixteen year olds were rushed to the emergency room after using the synthetic drug “Crazy Clown.” One of the teenagers was initially hospitalized in critical condition with life threatening injuries, but is expected to recover. The local school district has issued a warning to parents urging them to talk to their children about the dangers of substances such as “Crazy Clown.”

According to the Drug Enforcement Administration (DEA), ADB-PINACA and Fluoro ADBICA have also been identified as the cause of numerous hospitalizations in Georgia, Nebraska and Colorado. Although these two substances have yet to be seen in Florida, history suggests drug trends which emerge in neighboring states will likely make their presence in Florida. Based on FDLE’s past experience, there is a substantial likelihood that, if these substances are not already being sold and abused in Florida, such activities will take place in the very near future.

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<sup>5</sup> Georgia Department of Public Health “DPH Warns of Potentially Deadly ‘Herbal Incense’” <http://dph.georgia.gov/press-releases/2013-09-04/dph-warns-potentially-deadly-%E2%80%99herbal-incense%E2%80%99>

<sup>6</sup> Colorado Department of Public Health and Environment “Sept. 12: Several synthetic marijuana products identified as possible source of illness” <http://www.colorado.gov/cs/Satellite/CDPHE-Main/CBON/1251645934958>

Conclusion

The danger posed by the abuse of the aforementioned psychoactive substances presents a real and imminent hazard to the health, safety, and welfare of Floridians. History demonstrates that one of the most effective means of curtailing abuse of a substance is to designate it a controlled substance under law and provide felony penalties for persons who manufacture, distribute, sell or possess the controlled substance. Law enforcement authorities then have the essential legal tool they need – a felony charge – to arrest, prosecute and incarcerate persons who manufacture and peddle this dangerous substance.

Designation of these new synthetic cannabinoids as a Schedule I controlled substances will temporarily allow our law enforcement agencies to take action against their manufacturers and vendors. In its upcoming 2014 regular session, the Florida legislature will have the opportunity to permanently correct this problem.

Dated this 9<sup>th</sup> day of October, 2013.

Handwritten signature of Pamela Jo Bondi in black ink.

PAMELA JO BONDI  
ATTORNEY GENERAL