

CHAPTER 58
IMITATION DRUGS

DEFINITIONS

5800. Definitions.

The following words and phrases are defined as follows.

5801. Controlled Substance.

Controlled substance means a substance defined in Schedules I through V of the Missouri Uniform Controlled Substance Act as contained in Chapter 195, RSMo. (Ord. 921, Sec. 1.a., Eff. 10-15-81)

5802. Distribute.

Distribute means the actual, constructive, or attempted transfer, delivery, or dispensing to another of an imitation controlled substance. (Ord. 921, Sec. 1.b, Eff. 10-15-81)

5803. Imitation Controlled Substance.

Imitation controlled substance means a substance that is not a controlled substance, which by dosage unit appearance (including color, shape, size and marking), or by representations made, would lead a reasonable person to believe that the substance is a controlled substance. (Ord. 921, Sec. 1.d, Eff. 10-15-81)

5803.1 Considerations.

In those rare cases when the appearance of the dosage unit is not reasonably sufficient to establish that the substance is an "imitation controlled substance" (for example in the case of powder or liquid), the court or authority concerned should consider, in addition to all other logically relevant factors, the following factors as related to "representations made" in determining whether the substance is an "imitation controlled substance." (Ord. 921, Sec. 1.d, Eff. 10-15-81)

5803.2 Statements by Owner.

Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance or its use or effect should be considered. (Ord. 921, Sec. 1.d(1), Eff. 10-15-81)

5803.3 Statements to Recipient.

Statements made to the recipient that the substance may be resold for inordinate profit should be considered. (Ord. 921, Sec. 1.d(2), Eff. 10-15-81)

5803.4 Packaging.

Whether the substance is packaged in a manner normally used for illicit controlled

substances should be considered. (Ord. 921, Sec. 1.d(3), Eff. 10-15-81)

5803.5 Evasive Tactics.

Evasive tactics or actions utilized by the owner or person in control of the substance to avoid detection by law enforcement authorities should be considered. (Ord. 921, Sec. 1.d(4), Eff. 10-15-81)

5803.6 Prior Convictions.

Prior convictions, if any, of the owner, or anyone in control of the object, under state or federal law related to controlled substances or fraud should be considered. (Ord. 921, Sec. 1.d(5), Eff. 10-15-81)

5803.7 Proximity to Controlled Substances.

The proximity of the substances to controlled substances should be considered. (Ord. 921, Sec. 1.d(6), Eff. 10-15-81)

5804. Manufacture.

Manufacture means the production, preparation, compounding, processing, encapsulating, packaging or repackaging, labeling or relabeling, of an imitation controlled substance. (Ord. 921, Sec. 1.c, Eff. 10-15-81)

PROHIBITED ACTIVITIES AND PENALTIES

5810. Manufacture or Distribution of Imitation Drugs Prohibited.

It is unlawful for any person to manufacture, distribute, or possess with intent to distribute, an imitation controlled substance. (Ord. 921, Sec. 2.a, Eff. 10-15-81)

5811. Penalty, Manufacture or Distribution of Imitation Controlled Substances.

Any person who violates Section 5810.00 shall be guilty of a misdemeanor and on conviction may be imprisoned for not more than one (1) year in the county jail, or fined not more than one thousand dollars (\$1,000), or both. (Ord. 921, Sec. 2.a, Eff. 10-15-81)

5812. Distribution to Minor Prohibited.

Any person eighteen (18) years of age or over who violates Section 5810.00 by distributing an imitation controlled substance to a person under eighteen (18) years of age is guilty of a misdemeanor. (Ord. 921, Sec. 2.b, Eff. 10-15-81)

5813. Penalty, Distribution of Imitation Controlled Substances to a Minor.

Any person who violates Section 5812.00 shall be guilty of a misdemeanor and on conviction may be imprisoned for not more than one (1) year in the county jail, or fined not more than one thousand dollars (\$1,000), or both. (Ord. 921, Sec. 2.b., Eff. 10-15-81)

5814. Use or Possession of Imitation Drugs Prohibited.

It is unlawful for any person to use, or to possess with intent to use, an imitation controlled substance. (Ord. 921, Sec. 2.c, Eff. 10-15-81)

5815. Penalty, Use or Possession of Imitation Controlled Substances.

Any person who violates Section 5814.00 is guilty of a misdemeanor and on conviction may be imprisoned for not more than one (1) year in the county jail, or fined not more than one thousand dollars (\$1,000), or both. (Ord. 921, Sec. 2.c, Eff. 10-15-81)

5816. Advertising of Imitation Drugs Prohibited.

It is unlawful for any person to place in any newspaper, magazine, handbill or other publication, or to post or distribute in any public place, any advertisement or solicitation with reasonable knowledge that the purpose of the advertisement or solicitation is to promote the distribution of imitation controlled substances. (Ord. 921, Sec. 2.d, Eff. 10-15-81)

5817. Penalty, Advertising Imitation Drugs.

Any person who violates Section 5817.00 is guilty of a misdemeanor and on conviction may be imprisoned for not more than one (1) year in the county jail, or fined not more than one thousand dollars (\$1,000), or both. (Ord. 921, Sec. 2.d, Eff. 10-15-81)

5818. Forfeiture of Imitation Drugs.

In the event any simulated controlled substance or drug as described in Section 5803.00 has come into the custody of a peace officer in violation of the provisions of this chapter, then that substance or drug shall be forfeited and disposed of as provided in Section 195.140, RSMo, which provides for the forfeiture and disposal of controlled substances and certain devices or material in connection therewith. (Ord. 921, Sec. 3, Eff. 10-15-81)