SENATE JUDICIARY
EXHIBIT NO. 4
DATE 3/12/13
BILL NO. HB 140

MONTANA DEPARTMENT OF JUSTICE

HB 140: Revising laws related to controlled substances to include "Dangerous Drug Analogues," Hashish, Synthetic Cannabinoids and Substituted Cathinones, also known as "Spice" and "Bath Salts," as Schedule I Dangerous Drugs.

Purpose of HB 140

The Attorney General's Office, in conjunction with the Montana State Crime Lab, the Montana Highway Patrol, the Division of Criminal Investigation, and local law enforcement believe that current state law does not adequately address the ever-increasing number of incidents where synthetic, or designer, drugs are being encountered throughout the State under often violent circumstances. These encounters with individuals who are under the influence of these new and very dangerous drugs present safety concerns, not only for law enforcement officers and third parties coming into contact with them, but also for those individuals themselves.

These chemical compounds are properly classified as schedule I dangerous drugs because they are being used illicitly to produce a "high" similar to or greater than other scheduled drugs, have high potential for abuse, and have no accepted medical use in treatment in the United States, or lack accepted safety for use in treatment under medical supervision. Further, no legitimate clinical studies have been performed to determine these compounds' efficacy, proper dosages, or potential side effects.

These drugs are intentionally marketed with the explicit intention of circumventing the authority of the Food and Drug Administration by labeling them "Not for Human Consumption," and are sold with an eye toward proliferation to youth, despite the fact that their use has commonly resulted in violent behavior, other harmful side effects, and even death; being sold in colorful wrapping printed with popular drug-culture imagery or being produced in the form of brightly colored tablets resembling candy.

With the exception of those chemical compounds added into the dangerous drug schedules under HB 185 and Board of Pharmacy Administrative Rules in 2011 and 12, these dangerous compounds are not controlled under Montana State Law leaving no means by which their availability and the harm they present to our citizenry can be curbed. HB 140 is necessary to remedy this problem.

HB 140 represents a proactive approach

Prior to 2009, the types of dangerous drugs identified in evidence submitted to the Crime Lab contained around 70 compounds, which were covered under State code. Since then, over 40 new chemicals suspected of being and having effects similar to or greater than other scheduled dangerous drugs have been identified. These chemicals are designed to circumvent current drug laws by changing their chemical structure just enough to avoid classification as an existing controlled drug yet still be able to bind to the specific receptors in the brain that other drugs are known to bind to, creating a new drug chemically different from the banned substance, but producing similar or greater effects.

Because these drugs are entirely synthetic, their chemical makeup can be altered slightly within a matter of days, creating a constantly moving target for legislators and law enforcement, alike. Synthetic cannabinoids and synthetic cathinones, also known as "spice" and "bath salts," respectively, would fall into this category. While previous legislative efforts have affected the availability of the chemical compounds known of at the time these laws were enacted, the new or altered versions of these synthetic drugs are still sold at various locations throughout the state, such as gas stations and smoke shops, are readily available online, and are being used by drug dealers to supplement their already booming trade.

In addition to adding newly discovered designer compounds to the list of dangerous drugs already codified under Montana State Law, the drafters of House Bill 140 have taken a balanced, "long view" approach to structuring its definition of "Dangerous Drug Analogues," having drawn from already-tested statutory language. This bill would supply the language necessary to accomplish the intent of existing law in controlling the availability of and the harm presented by these already prevalent, yet currently uncontrolled, dangerous drugs by providing prosecutors and law enforcement the tools necessary to thwart drug designers' attempts to profit from technical shortcomings in established code without having to continually amend administrative rules between legislative sessions.

Morigeau Homicide, near Dixon, Montana

On December 6, 2012, 32-year-old Nathan Calvert, barreled through the door of Doug and Cheryl Morigeau's home off Highway 12 near Dixon, Montana, just after they had finished dinner and were watching TV and attacked the couple, stabbing Doug Morigeau 54 times with a hunting knife and beating him with a rifle, killing him at the scene, and cutting Cheryl Morigeau's throat.

Calvert told authorities he had gone from house to house with a man named Gordon Northpiegan searching for cigarettes that night, eventually stabbing Northpiegan and walking down the highway before reaching the Morigeaus'. Calvert further informed law enforcement that he had been constantly smoking a synthetic form of marijuana called "spice," which he rolled in pages of a Bible, for about two weeks. He said he hallucinated and heard voices while on the drug. Calvert is charged with deliberate homicide, attempted deliberate homicide, aggravated burglary and robbery.

Jimmy Roger Pound, Helena, Montana

Between April and October of 2011 Jimmy Roger Pound molested a 4-year-old girl, the daughter of Pound's girlfriend, whom he was babysitting. Pound denied the molestation, but said he was habitually using the street drug "Meow" also known as "bath salts" at the time of the incident and did not recall the events that occurred. Pound was found guilty and sentenced to 75 years.