

11-6427

May 9, 2011

Hon. Greg Holding  
President, Common Council  
c/o City Attorney  
730 Wisconsin Avenue  
Racine, WI 53403

**Attn: Stacy Salvo (E-mailed on 05/09/11)**

RE: *Synthetic cannabinoid under section 66-262*

Dear President Holding:

Pursuant to Section 800.037 of the Wisconsin Statutes, I hereby set the following deposit schedule for violations of Racine Ordinances sec. 66-262:

- For Possession , public display, attempting to sell, giving away or bartering Synthetic cannabinoid - \$300 plus costs (\$555.00).
- For sale of Synthetic cannabinoid \$2,500 plus costs (\$3,201.00).

I recognize that the council may have assumed that "public display, attempting to sell, giving away or bartering" be treated in the same way as sale. The section laying down the prohibited acts prohibits "sell, publically display, attempt to sell, give or barter." However the section on penalty, Sec. 66-262(b)(2), only provides enhanced punishment for "sale." From a technical point of view the only prohibited acts which are punished are use, possession or sale. From a common sense point of view, the acts of "public display, attempt to sell, give or barter" necessarily imply possession, so I believe that the penalty for possession under 66-262(b)(a) may be.

The law provides that I set the deposit schedule, subject to approval by the council. I submit this for approval by the city council. I am sending this care of the City Attorney so that they may voice any input prior to your review.

Sincerely,

Honorable Mark F. Nielsen  
Racine Municipal Judge

MFN/mb