



Attorney General Jon Bruning

NEWS RELEASE

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Attorney General Bruning Announces 2011 Legislative Package

Includes 5 measures to protect Nebraskans and Ensure Justice is Served

(LINCOLN) Attorney General Jon Bruning today unveiled his 2011 legislative package that includes five measures designed to provide additional safeguards for Nebraskans.

The first bill bans the class of chemicals used to manufacture the dangerous drug known as K2. The second bill seeks to eliminate the criminal defense of insanity by voluntary intoxication. The third bill imposes a statute of limitations on criminal post-conviction challenges. The fourth bill supports Nebraska law enforcement by creating the crime of assault on a peace officer with bodily fluid. The final bill provides an electronic tracking system for meth precursor purchases.

K2 Ban

The bill amends the Uniformed Controlled Substances Act to include the class of synthetic cannabinoids used to make the drug commonly known as *K2* or *Spice*. K2/Spice products can cause anxiety, panic attacks, agitation, hallucinations and seizures. The substances have been labeled by federal drug authorities as “drugs and chemicals of concern.” This bill seeks to apply a ban for all synthetic cannabinoids.

“The safety of Nebraska’s children can’t wait for the federal government to conduct its study on K2,” said Bruning. “It’s time to get this dangerous drug off the shelves and out of the hands of kids.”

In November 2010, the DEA announced a one-year ban on five specific chemicals used to manufacture the drug while the agency conducts further study. However, there are compounds and many other formulas used to create K2 beyond the five designated for study by the DEA. The new formulas used in products called K3 and K4 are not covered under the federal ban but will be covered by this bill.

State Senator Beau McCoy will carry the bill.

“K2 is a dangerous drug that has invaded our communities,” said Sen. McCoy. “Now is the time for leaders to work together to protect our families.”

Under this bill, the penalties for possessing, manufacturing and distributing K2 mirror those currently in statute for possession, manufacture or distribution of marijuana.

Currently, K2 is banned in at least 13 states including Missouri, Kansas and Iowa. Six other states are considering a ban.

Voluntary Intoxication Insanity Defense

This bill eliminates the “not responsible by reason of insanity” criminal defense in situations where the defendant was *voluntarily intoxicated or high* when the crime was committed.

“If you make a conscious choice to get drunk or high, you are still responsible for your actions,” said Bruning. “This legislation helps to ensure criminals will be held accountable for their crimes.”

In addition to prohibiting the use of voluntary intoxication as a basis for asserting an insanity defense, voluntary intoxication will be unavailable as a defense used to negate the mental state element to a criminal charge such as intent or premeditation.

State Senator Colby Coash will carry the bill.

“Criminals who choose to get intoxicated before committing crimes should not be able to use that as an excuse to avoid being punished,” said Sen. Coash. “This legislation eliminates that possibility.”

At least 34 states have enacted similar legislation including Colorado, Montana, North Dakota, Oklahoma, Wyoming and South Dakota.

Limiting Post-conviction Challenges

This bill would impose a time-limit for bringing post-conviction challenges to criminal convictions. Challenges would have to be filed within one year of the date the conviction became final.

“Allowing criminals to indefinitely challenge their conviction promotes abuse of the system and delays justice,” said Bruning. “This legislation brings Nebraska in line with federal law and allows challenges to be brought within one year of the date of conviction.”

Federal law imposes a one-year statute of limitations on habeas corpus matters beginning on the date of the finalized criminal case. 21 states also have statutes that limit post-conviction challenges including Iowa, Oklahoma, and Montana.

State Senator Scott Lautenbaugh will carry the bill.

“Nebraskans should be able to depend upon the finality of criminal convictions,” said Sen. Lautenbaugh. “This critical piece of legislation validates court decisions and brings closure to victims.”

Assault with Bodily Fluids

The bill amends the Nebraska Criminal Code to include the knowing and intentional assault of a public safety officer with bodily fluids while the officer is engaged in the performance of his or her duties.

“Nebraska’s peace officers stand on the front line of safety and deserve to be treated with respect,” said Bruning. “No one should suffer this disgusting abuse.”

In the last four years, 223 reports of bodily fluid assault have been made in the Nebraska Department of Correctional Services alone. The purpose of this bill is to deter individuals from these acts and to decrease the number of incidents.

State Senator Mike Gloor will carry the bill.

“Peace officers protect us from harm, many times by placing themselves in danger,” said Sen. Mike Gloor. “With this bill, we will be providing them a small measure of respect and protection in return.”

“This bill will provide a much needed deterrent to criminals who now have little incentive to mind their manners,” said Lancaster County Sheriff Terry Wagner.

The legislation will make this offense a class I misdemeanor with penalties from 0-1 year imprisonment and/or 0-\$1000 fine. The assault will be a Class IIIA felony if done by someone who is knowingly infected with HIV, AIDS or Hepatitis B and/or C – with penalties of up to five years imprisonment and/or \$10,000 fine. To determine disease status, upon a showing of probable cause (by affidavit to a judge), a search warrant can be obtained.

Currently 13 states, including Iowa, South Dakota and Montana have similar laws.

National Precursor Log Exchange

This bill would implement a statewide electronic tracking system for purchases of methamphetamine precursor chemicals at the point of sale. The system is designed to stop individuals who are illegally stockpiling meth drugs used to make meth, also known as *Smurfers*.

“We can’t allow meth users to circumvent the law and enable production of this deadly drug,” said Bruning. “This tool will tighten the net on criminals without creating new barriers for legitimate purchasers.”

The federal Combat Methamphetamine Epidemic Act of 2006 currently requires sellers of pseudoephedrine to record all sales. In addition, current law restricts the amounts of over-the-counter cold or allergy medicines that can be purchased.

However, criminals are able to get around these restrictions by purchasing small quantities at multiple locations either individually or in groups. Circumventing the law in this way is referred to as *smurfing*. Since information is not shared in real time it is nearly impossible to stop the practice of smurfing.

The NPLeX system makes precursor purchase data available to retailers and law enforcement in real time through web access. When an individual attempts to purchase a product containing pseudoephedrine in an amount over the legal limit, the system automatically notifies the seller and issues a stop sale alert. In Iowa, implementation of the NPLeX system has stopped sales of more than 9,000 grams of meth precursor monthly. The system is provided by the drug manufacturers at no cost to the participating states.

State Senator Beau McCoy will carry the bill.

“Meth smurfers should not find a haven in Nebraska,” said Sen. McCoy. “This legislation provides a way to stop them in their tracks.”

Currently 13 states including Iowa, Kansas, Missouri and Oklahoma participate in the NPLEx program. In 2011, Georgia, North Carolina, Texas, Tennessee, Ohio, Michigan, California and Indiana are expected to introduce NPLEx legislation.

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