

## J. Y. Interpretation No.376 ( March 31, 1995 ) \*

**ISSUE:** Is it constitutional for the Department of Health, Executive Yuan, to include amphetamine among chemically synthesized narcotics by public notice?

**RELEVANT LAWS:**

Article 2, Subparagraph 4, and Article 3 of the Narcotics Control Act ( 麻醉藥品管理條例第二條第四款及第三條 ) ; Article 8 of the Enforcement Rules of the Narcotics Control Act ( 麻醉藥品管理條例施行細則第八條 ) .

**KEYWORDS:**

synthetic narcotics and their precursor compounds ( 化學合成麻醉藥品類及其製劑 ) , narcotic drugs ( 麻醉藥品 ) , chemical synthesis ( 化學合成 ) , highly addictive effects ( 成癮性 ) , methamphetamine ( 安非他命 ) , long-term use ( 長期使用 ) , physical and psychological dependence ( 生理及心理上之依藥性 ) , behavior or personality disorder ( 行動與性格異常 ) , adverse side effects ( 副作用 ) , violent and anti-social behaviors ( 暴力攻擊及反社會行為 ) , medical treatment ( 醫療 ) . \*\*

**HOLDING:** Article 2, Subparagraph 4, of the Narcotics Control Act pro-

**解釋文：**化學合成麻醉藥品類及其製劑為麻醉藥品管理條例所稱麻醉

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\* Translated by Li-Chih Lin, Esq., J.D.

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vides that synthetic narcotics and their precursor compounds are within one of the categories of narcotic drugs prescribed in the said Act. Methamphetamine is a narcotic produced independently by means of chemical synthesis and it has a highly addictive effect. Proclamation No. 904142 of the Health Bureau of the Executive Yuan, which was publicly announced on October 9th, 1990, states that: "Methamphetamine and its precursor compounds shall be categorized as synthetic narcotics as prescribed in Article 2, Paragraph 4, of the Narcotics Control Act and governed by the same law." The purpose of this Proclamation is to notify the public that methamphetamine and its precursor compounds have been categorized as synthetic narcotics and are governed by the said Act in accordance with the legislative intent of Article 3 of the said Act. Proclamation No. 904142 of the Health Bureau does not impose additional sanctions or obligations on the public and is warranted to maintain the social order and promote the public welfare. It is therefore consistent with the provisions set forth in the Constitution of the Republic of China.

藥品之一種，為同條例第二條第四款所明定。安非他命係以化學原料合成而具有成癮性之藥品，行政院衛生署中華民國七十九年十月九日衛署藥字第九〇四一四二號公告，將安非他命列入麻醉藥品管理條例所稱化學合成麻醉藥品類，係在公告確定其列為管理之項目，並非增列處罰規定或增加人民之義務，與憲法並無牴觸。

**REASONING:** Article 2, Subparagraph 4, of the Narcotics Control Act provides that synthetic narcotics and their precursor compounds are within one of the categories of narcotic drugs of the said Act. In addition, Article 8 of the Enforcement Rules of the said Act provides that the term “synthetic narcotics” refers to narcotics and their precursor compounds which are produced independently by means of chemical synthesis and have a highly addictive effect or narcotics and their precursor compounds which are combined into other highly addictive drugs. The long-term use of methamphetamine will result in tissue tolerance, and will cause the users to depend physically and psychologically on this narcotic. In addition, such long-term use will have adverse side effects on the users, including delusions and hallucinations associated with insanity and other behavior or personality disorders. Moreover, long-term users of methamphetamine often display violent and anti-social behaviors, which can have devastating effects on the users and pose imminent danger to the public safety. Therefore, methamphetamine and

**解釋理由書：**化學合成麻醉藥品類及其製劑為麻醉藥品管理條例所稱麻醉藥品之一種，為同條例第二條第四款所明定。又依同條例施行細則第八條規定同條例所稱化學合成麻醉藥品類係指以化學原料合成而具有成癮性或可改製為成癮性之藥品。安非他命如長期使用，將具耐藥性，同時有心理及生理上之依藥性，產生類似精神分裂症之錯覺、幻覺、妄想並伴有行動與性格異常等副作用，更具有暴力攻擊及反社會行為等傾向，不但影響個人身心健康，且危害社會公共安寧。故安非他命具有成癮性，係屬同條例第二條第四款所稱之麻醉藥品。行政院衛生署中華民國七十九年十月九日衛署藥字第九〇四一四二號公告：「『安非他命類』藥品列入麻醉藥品管理條例第二條第四款所定『化學合成類麻醉藥品』管理，並禁止於醫療上使用」，係在公告確定其列為管理之項目，依同條例第三條規定意旨，並非增列處罰規定或增加人民之義務，且為維持社會秩序，增進公共利益所必要，與憲法並無牴觸。

its precursor compounds which are highly addictive are within one of the categories of narcotic drugs prescribed in Article 2, Paragraph 4, of the Narcotics Control Act. Proclamation No. 904142 of the Health Bureau of the Executive Yuan, which was publicly announced on October 9th, 1990, states that: "Methamphetamines and their precursor compounds shall be categorized as synthetic narcotics as prescribed in Article 2, Subparagraph 4, of the Narcotics Control Act and governed by the same law. The use of methamphetamines and their precursor compounds shall be prohibited in medical treatment." The purpose of this Proclamation is to notify the public that methamphetamine and its precursor compounds have been categorized as synthetic narcotics and governed by the said Act in accordance with the legislative intent of Article 3 of the said Act. Proclamation No. 904142 of the Health Bureau does not impose additional sanctions or obligations on the public and is warranted to maintain the social order and promote the public welfare. It is therefore consistent with the provisions set forth in the Constitution of the Republic of China.

Justice Young-Mou Lin filed concurring  
opinion.

本號解釋林大法官永謀提出協同  
意見書。