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1813 E. Locust St.
Milwaukee, WI 53211

Atomic Glass Inc.

October 4, 2010

Members of the Milwaukee Common Council
City Hall
sent via email

Dear President Hines and Members of the Common Council,

I am the owner of Atomic Glass, located at 1813 East Locust Street. I sell many brands of the herbal smoking blends that would be banned under ordinance file #100625. I write you to ask you to vote NO on this ordinance, or take alternative steps rather than passing it outright. In particular, I wish you to do one of the following, in order from most preferred to least preferred:

- Defeat the ordinance – it is unnecessary, penalizes Milwaukee businesses and residents, and is overly broad.
- Substitute an ordinance that would prohibit sale to, or use by, anyone under 18 years of age. I would strongly support such an ordinance, and such action would parallel what is done with tobacco products.
- Send the ordinance back to committee and schedule another public hearing. My business would be hugely affected by this ordinance, and yet the first I heard of it was when a *Journal-Sentinel* reporter approached me *after* it had passed out of committee.
- Reword the ordinance to reduce its extraordinary vagueness. Businesses, the public, and the police need to know what is illegal and what is not.

My reasons for these requests are many; I'll organize them into several topic areas.

The municipal level is the wrong level of government to regulate this. The ordinance will benefit suburban businesses at the expense of Milwaukee businesses. The thousands of Milwaukee residents who enjoy herbal blends won't stop smoking them – they'll simply buy them from stores in neighboring cities.

I started Atomic Glass in June of 2009. We sell a wide variety of smoking products, but herbal blends have moved us into profitability. Passage of this ordinance would lead to me reducing store hours and laying off some of my hard-working salespeople, a harsh step in these tough economic times. It is not an exaggeration that I may ultimately need to close my

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business if this ordinance passes, and then open in a neighboring city.

These herbal blends are not horrible drugs and their adverse effects have been wildly overstated in the ordinance. We have hundreds of customers who have purchased herbal blends from us. They are from all walks of life – truck drivers, office workers, students, and indeed physicians. Contrary to the very scary statements in the ordinance’s whereas clauses, the *worst* things our customers have ever said to us are at the level of “it was too harsh a smoke” or “I didn’t care for it.”

I think there are many reasons for these two rather different perceptions. First, it’s the nature of the internet that anecdotal stories can easily become the gospel truth. Secondly, people who have suffered illness or a genuine tragedy search for a simple explanation, and they may ascribe cause and effect when none is present.

In addition, some of the bad reactions claimed for these blends are actually from people who were foolish enough to smoke a pure laboratory compound. The difference between an herbal blend and a pure compound is like the difference between having a beer and drinking a fifth of pure alcohol. (This may be the source of the ordinance’s claim that the herbal blends “may be between 3 and 100 time more potent than natural marijuana.” I have spoken to many people who have smoked both, and the herbal blends are emphatically *not* more potent than marijuana.)

Of course, any substance will cause adverse reactions in some individuals – consider that more than 3,000 people die in the U.S. each year from aspirin and other over-the-counter non-steroidal anti-inflammatory drugs (per the *American Journal of Gastroenterology*). If one person in 100,000 has a seizure from a substance, should we ban that substance?

Finally, consider the contrast in scale to a substance that society actively promotes – alcoholic beverages. The ordinance states that poison control centers received “567 synthetic marijuana related calls in the first 6 months of 2010.” Compare these 567 *calls* nationwide to almost 12,000 *deaths* nationwide (in 2008 per NHTSA) due to drunk driving accidents. As I have said repeatedly, I am much more worried about the person who has a few beers and gets behind the wheel than I am about any of my customers smoking some K2.

The city government should focus limited resources on our many serious problems. Milwaukee has very serious problems with dangerous drugs like crack and heroin, which threaten lives and livelihoods daily. Shouldn’t our police department and court system spend its energy in that direction, rather than depriving thousands of Milwaukeeans of one of life’s little pleasures – smoking an herbal blend after a hard day’s work? As Milwaukee Police Captain Anthony Smith told the *Journal-Sentinel*, “I think that we have a much bigger problem with illegal drugs here in Milwaukee than we do right now with synthetic marijuana.”

If your concern is for our youth, then simply enact a youth ban. The herbal blends, like tobacco, are adult products for adult consumption. We check IDs at our

store as rigorously as tobacco sales outlets; people under 18 aren't even allowed in our store. If the focus of your concern is about young people consuming herbal blends, then substitute an ordinance banning sale to or possession by those under 18. I would strongly support such an ordinance, as would my customers.

The ordinance is so broadly written that one can't tell what is and isn't banned. Jurisdictions that have regulated or banned some herbal blends (not to mention the writers of state and national drug laws) generally write specific chemical compounds or chemical descriptions into their laws.

By contrast, your ordinance first speaks of any "chemical derivative of marijuana." None of the blends sold have anything derived from marijuana, which is why it is inappropriate to refer to them as "synthetic marijuana." Some of the blends have compounds that talk to your brain in a similar way to THC; that is all they have in common with marijuana. The ordinance then goes on to ban any substance "designed to mimic ... effects of marijuana." That sentence is maddeningly broad and vague.

Beer can mimic some of the effects of marijuana! Energy drinks mimic some effects of marijuana! Some herbal teas mimic effects of marijuana! And is the ban truly limited to substances *designed* to mimic? How do I (or a police officer or a judge) ascertain the intent of the designer of the herbal blend? This wording is an invitation to varying interpretation and uneven enforcement. I'm also left with an impossible task in determining what the law will and won't allow me to carry. Thus, if the ordinance must be passed, I urge you to first re-write it to call out specific compounds or products.

By the way, this is another reason why regulation at the municipal level is inappropriate. I doubt local expertise can be called upon to determine the chemical composition of each suspected blend, let alone what it may "mimic" in effect, let alone what the intent of the designer was. An entity like the DEA at the Federal level is a much more appropriate level of government at which to consider regulation.

Thank you very much for taking the time to read this letter. I urge you to take one of the steps I requested at the start of my communication. Please contact me if you have any questions or comments – my cell phone is 541-954-3061 and my email address is AtomicGlassShop@gmail.com. I would also be more than happy to meet with any of you prior to your meeting to discuss this at greater length. I look forward to hearing from you.

Sincerely,



David S. Kelly
President, Atomic Glass Inc.