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Strasbaugh
4/15/14

HOUSE CS FOR CS FOR SENATE BILL NO. 173()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS MEYER, McGuire, Bishop, Gardner, Giessel, Ellis, Micciche, Kelly

A BILL

FOR AN ACT ENTITLED

**"An Act relating to a prohibition on the possession, offer, display, marketing,
advertising for sale, or sale of illicit synthetic drugs."**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** AS 17 is amended by adding a new chapter to read:

Sec. 17.21.010. Illicit synthetic drugs. (a) A person may not possess, offer,
display, market, advertise for sale, or sell an illicit synthetic drug.

(b) A synthetic drug is illicit if

(1) the label

(A) is false or misleading;

(B) does not specify the identity of the substances contained in
the synthetic drug; or

(C) does not specify the name and place of business of the
manufacturer, packer, or distributor; and

(2) the synthetic drug has one or more of the following characteristics:

(A) the packaging or labeling of the synthetic drug suggests that the user will achieve euphoria, a hallucination, mood enhancement, relaxation, stimulation, or another effect on the body;

(B) the name or packaging of the synthetic drug uses images or labels suggesting that it is a controlled substance or has the effect of a controlled substance;

(C) the synthetic drug resembles a controlled substance in appearance, in chemical structure, or composition;

(D) the synthetic drug is marketed or advertised for a particular use or purpose and the cost of the synthetic drug is disproportionately higher than other products marketed or advertised for the same or similar use or purpose;

(E) the synthetic drug contains a warning label stating or suggesting that the synthetic drug is in compliance with state laws regulating controlled substances;

(F) the synthetic drug is a product to which has been added a synthetic chemical or synthetic chemical compound that does not have a legitimate relationship to the advertised use of the product.

(c) It is an affirmative defense to an action for a violation of this section that a product is expressly exempted from or is expressly regulated under and is in compliance with state or federal law. In this subsection, "affirmative defense" has the meaning given in AS 11.81.900.

Sec. 17.21.020. Exemption. AS 17.21.010 does not apply to a synthetic drug intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety of drugs if the drug is plainly labeled "for investigational use only," and the investigational use is authorized by state or federal law.

Sec. 17.21.030. Enforcement and penalties. (a) The commissioner of public safety is responsible for enforcing this chapter and may

(1) delegate that authority as appropriate; and

(2) cooperate with the Department of Health and Social Services in

1 carrying out the commissioner's enforcement activities.

2 (b) This section does not limit the authority of a peace officer.

3 (c) A person who violates AS 17.21.010 is guilty of a violation, and, upon
4 conviction, is punishable by a fine of not more than \$500.

5 (d) The provisions of this section are in addition to the remedies available
6 under AS 45.50.471 - 45.50.561.

7 **Sec. 17.21.090. Definitions.** In this chapter, unless the context clearly requires
8 otherwise,

9 (1) "controlled substance" has the meaning given in AS 11.71.900;

10 (2) "drug" has the meaning given in AS 17.20.370;

11 (3) "synthetic drug" means a substance that is

12 (A) a chemical or chemical compound intended, when
13 introduced into the human body, to mimic or simulate the effect of a drug or
14 controlled substance;

15 (B) in the form of

16 (i) a crystalline or powder product in crystalline, loose
17 powder, block, tablet, or capsule form; or

18 (ii) plant material in granular, loose leaf, powder, or
19 liquid form or used as a food additive; and

20 (C) that is not a controlled substance.

21 * **Sec. 2.** AS 44.29.020 is amended by adding a new subsection to read:

22 (c) The Department of Health and Social Services shall cooperate with the
23 Department of Public Safety in enforcement of the prohibition on the possession,
24 offer, display, marketing, advertising, or sale of illicit synthetic drugs under AS 17.21.