



SENATOR DENNIS EGAN

**Questions & Answers on SB66 in S JUD**

***Q: By removing specific drugs from the definition, is there anything that falls off the table as far as some of the more harmful drugs (ephedrine, acetaminophen, etc.)?***

Chemicals used to manufacture illicit drugs are still illegal. See: 11.71.210 Purchase or receipt of restricted amounts of certain listed chemicals:

“A person commits the crime of purchase or receipt of restricted amounts of certain listed chemicals if the person purchases or receives more than six grams of the following listed chemical, its salts, isomers, or salts of isomers within any 30-day period:

- 1) Ephedrine under AS 11.71.200 (listed chemicals)
- 2) Pseudoephedrine
- 3) Phenylpropanolamine”

Violation of 11.71.210 is a class C felony

***Q: Could defense bring up “mens rea,” criminal intent? Sen. Dyson asked whether a defendant could successfully claim, “I wasn’t aimed on getting ‘em hooked, just getting their money.”***

An intent to addict the buyer is not now, nor would it become an element of the crimes this bill affects.

Under AS 11.81.600 and .610 Alaska courts assume the culpable mental state for conduct is “knowingly” unless a lower standard is specified in the statute.

After conversations with the Department of Law, the sponsor is comfortable with the mental state necessary to prove the offense under the language in the proposed committee substitute.

***Q: How often does this occur?***

In CY 12, the Court System had three cases filed with at least one charge of AS 11.73.010.

In CY 13, there was one case.

Anecdotally, Juneau Police Detective Lee Phelps has been involved in over 100 controlled buys in 2 ½ years. He was dealt fake drugs three times. In these cases it is seldom worth prosecuting someone who is normally a drug dealer for a fraudulent sale.

---

-----ALASKA SENATE-----