

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

April 11, 2005

8:43 a.m.

MEMBERS PRESENT

Senator Ralph Seekins, Chair
Senator Charlie Huggins, Vice Chair
Senator Gene Therriault
Senator Hollis French
Senator Gretchen Guess

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 74

"An Act making findings relating to marijuana use and possession; relating to marijuana and misconduct involving a controlled substance; and providing an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 74

SHORT TITLE: CRIMES INVOLVING MARIJUANA/OTHER DRUGS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/21/05	(S)	READ THE FIRST TIME - REFERRALS
01/21/05	(S)	HES, JUD, FIN
03/21/05	(S)	HES AT 1:30 PM BUTROVICH 205
03/21/05	(S)	Heard & Held
03/21/05	(S)	MINUTE(HES)
03/23/05	(S)	HES AT 1:30 PM BUTROVICH 205
03/23/05	(S)	Heard & Held
03/23/05	(S)	MINUTE(HES)
04/01/05	(S)	HES AT 1:30 PM BUTROVICH 205
04/01/05	(S)	Moved SB 74 Out of Committee
04/01/05	(S)	MINUTE(HES)
04/04/05	(S)	HES RPT 2DP 1DNP 1NR
04/04/05	(S)	DP: DYSON, WILKEN
04/04/05	(S)	DNP: ELTON
04/04/05	(S)	NR: OLSON

04/11/05

(S)

JUD AT 8:00 AM BUTROVICH 205

WITNESS REGISTER

Mr. Dean Guaneli
Department of Law
PO Box 110300
Juneau, AK 99811-0300

POSITION STATEMENT: Testified in support of SB 74

Mr. Bill Hogan, Director
Division of Behavioral Health
Department of Health & Social Services
PO Box 110601
Juneau, AK 99801-0601

POSITION STATEMENT: Testified in support of SB 74

Ms. Cristy Willer
Department of Health & Social Services
PO Box 110601
Juneau, AK 99801-0601

POSITION STATEMENT: Testified in support of SB 74

Mr. Bill Parker, Spokesman
Alaskans for
Marijuana Regulation and Control

POSITION STATEMENT: Testified in opposition of SB 74

Dr. Lester Grinspoon, M.D.
Associate Professor of Psychiatry
Harvard Medical School

POSITION STATEMENT: Testified in opposition of SB 74

Mr. Scott Bates, Economist
Boreal Economic Analysis and Research
Fairbanks, AK

POSITION STATEMENT: Testified in opposition of SB 74

Dr. Robert Malamede, Ph.D
Professor of Biology
University of Colorado at Colorado Springs

POSITION STATEMENT: Testified in opposition of SB 74

Dr. Tim Hinterberger PH.D
Associate Professor of Biomedicine
University of Alaska, Anchorage

POSITION STATEMENT: Testified in opposition of SB 74

Dr. Mitch Earleywine
Associate Professor of Psychology
University of Southern California

POSITION STATEMENT: Testified in opposition of SB 74

ACTION NARRATIVE

CHAIR RALPH SEEKINS called the Senate Judiciary Standing Committee meeting to order at [8:43:00 AM](#). Present were Senators Charlie Huggins, Gene Therriault, Gretchen Guess, and Chair Ralph Seekins.

SB 74-CRIMES INVOLVING MARIJUANA/OTHER DRUGS

Chair Ralph Seekins announced SB 74 to be up for consideration.

[8:43:30 AM](#)

DEAN GUANELI, Department of Law (DOL), introduced SB 74 to the Senate Standing Judiciary Committee and stated the last time the Legislature considered marijuana was in 1999 when the session was considering medical marijuana. SB 74 does not affect medical marijuana in any way. SB 74 brings the topic of marijuana before the Legislature for the first time since 1982. Testimony from experts heard in previous committees is currently being transcribed and will be available to the committee for consideration.

[8:45:52 AM](#)

MR. GUANELI referred to an Alaska Supreme Court decision of 1975 *Ravin v. State*; wherein the state did not show sufficient evidence that marijuana was a dangerous substance. THC is the main active ingredient in marijuana and the average content of THC in marijuana was less than one percent. When someone is talking about the potency of marijuana, they are talking about THC. Currently the THC potency of marijuana in Alaska is running over 10 percent.

[8:47:53 AM](#)

MR. GUANELI read from the 1975 Alaska Supreme Court decision, which indicated one reason for the judgment was due to the low level of potency of marijuana at the time.

[8:49:59 AM](#)

Today a significant number of people are dependant on marijuana. Testimony in Senate Health and Social Services alleged nine

percent of regular marijuana users become dependent, with Alaska Natives dependency showing higher rates.

[8:52:07 AM](#)

Alcohol abuse is the number one substance abuse problem in Alaska. An additional area of concern is marijuana use by children where in Alaska 50 percent of young people have tried it. The average age of use is coming down.

[8:55:11 AM](#)

There are now marijuana anonymous chapters. The provision in the last section of SB 74 provides different methods of weighing marijuana. There are websites that assist people in preserving the potency.

[8:57:42 AM](#)

A book titled A Child's Garden of Grass offers assistance with preserving marijuana potency by creating a certain type of bacteria that improves potency. Growers suggest re-drying of the marijuana to stop mold growth.

[8:59:31 AM](#)

Another article recommends storing marijuana in an airtight container and putting it in the ground. This misleading information causes marijuana to be a dangerous drug. The beginning of SB 74 includes legislative findings, which have been criticized due to the language used. The DOL has suggested revised findings and would like an opportunity to come back and present them so as to help move SB 74 forward.

[9:01:38 AM](#)

SENATOR GENE THERRIAULT noted it is clear the DOL is building the record for litigation. He asked the importance of putting findings into SB 74 for the purpose of litigation.

MR. GUANELI said the DOL was attempting to bring to the court information about marijuana that the Legislature has not looked at. At time of the Ravin decision, there was no legislative record. The DOL believes that the findings would add essential elements for the court to consider, which would simplify litigation.

[9:04:13 AM](#)

SENATOR THERRIAULT asked when marijuana molds become harmful.

MR. GUANELI reported it was during handling and when inhaled.

[9:05:15 AM](#)

MR. BILL HOGAN, director, Division of Behavioral Health, Department of Health and Social Services (DHSS), introduced himself. He said Alaskans entering the mental health and substance abuse system have both problems of alcoholism and drug abuse. There is a correlation between substance abuse and suicide. Nearly 30 percent of people entering treatment have a history of cannabis abuse.

[9:08:42 AM](#)

Many individuals who have completed suicide had been drinking and/or using drugs.

[9:11:43 AM](#)

MS. CRISTY WILLER, deputy director, Division of Behavioral Health, testified in support of SB 74. She said 29 states and 5 countries have marijuana anonymous chapters. The likely problem is because the potency is higher than ever.

[9:15:21 AM](#)

For cannabis dependence, three or more of the following characteristics have to be present: Tolerance, withdrawal symptoms, a significant time spent seeking the drug, interference with family and work, persistence in use. Abuse is indicated when drug use interferes with school or work, becomes physically hazardous, instigates legal problems, or the user shows signs of increasing discord within the family.

[9:17:33 AM](#)

People in Alaska are more likely to use marijuana and less likely to think it is dangerous. Children whose parents use marijuana are more than likely to use it. Children whose parents are against marijuana are less likely to try it.

[9:19:57 AM](#)

There is a strong correlation between parental attitude and use of marijuana.

[9:21:09 AM](#)

Marijuana is a gateway drug, which leads to cocaine or heroin use. One in eight high school students reported using marijuana before the age of eighteen.

[9:23:21 AM](#)

Alcohol and marijuana use is not mutually exclusive.

[9:24:49 AM](#)

Sixty-nine percent of males arrested for domestic violence tested positive for marijuana.

9:26:05 AM

As a director of Bristol Bay's treatment center, Ms. Willer witnessed people using marijuana to help stay off of alcohol.

9:27:27 AM

CHAIR SEEKINS asked DG to summarize information contained in two notebooks that were provided by the DOL.

MR. GUANELI explained the tabs relate to subjects and the subjects contain articles. The addendum takes each finding in SB 74 and describes where the information came from. There is a tremendous amount of material available on marijuana.

9:30:08 AM

SENATOR CHARLIE HUGGINS moved to incorporate the notebook material provided by the DOL into record. Hearing no objection, the motion carried.

9:30:57 AM

CAPTAIN ED HARRINGTON, Alaska State Troopers, testified he has worked for the troopers for 20-plus years, 10 of which have been in the drug unit. He recently interviewed a six year old at a methamphetamine lab who told of an experience of smoking marijuana with his mother's boyfriend. A 17-year-old boy recently contacted at school for possession of marijuana stated he had been smoking marijuana since age 13.

9:33:26 AM

Marijuana has a shelf life. After 60 days the potency decreases by half. The wholesale price in south central Alaska is \$3,800 a pound. The wholesale price in rural Alaska can reach \$9,000 pound.

9:35:34 AM

Most marijuana is grown commercially in Mylar-lined rooms with expensive air ventilation and light systems.

9:37:14 AM

In the early 1990s Alaska was on the cutting edge of marijuana cultivation. It is commonly exported out of state. The rise in methamphetamine labs keeps the focus off marijuana growers. As the troopers increase alcohol seizures they see more and more marijuana destined to rural areas.

[9:39:50 AM](#)

One plant can easily produce four ounces. A large percentage of children who smoke marijuana get it from their parents. Marijuana is sprayed with fertilizers, herbicides, pesticides, which are ingested when smoked.

[9:42:02 AM](#)

The average person would spend two months in jail for growing up to 500 plants.

[9:42:47 AM](#)

Senator Hollis French joined the committee.

CAPT. HARRINGTON contended marijuana is not relatively harmless. A Mat-Su Valley homicide where one friend shot another was due to marijuana ingestion. A teenager who murdered his stepmother told investigators he was high on marijuana. A person protecting his marijuana shot at several officers.

[9:44:10 AM](#)

CAPT. HARRINGTON concluded the Alaska State Troopers have yet to come across a marijuana grow being used to produce hemp.

MR. GUANELI added Alaska is the only state in the country that allows recreational use of marijuana. Studies show the perception of increase penalties has an effect on whether people use a drug.

[9:47:21 AM](#)

SENATOR GRETCHEN GUESS asked Mr. Guaneli whether there were any other schedule 6A drugs besides marijuana.

MR. GUANELI responded the only schedule 6A drug is marijuana.

[9:54:50 AM](#)

CHAIR SEEKINS asked the penalty for misconduct involving a controlled substance in the fifth degree.

MR. GUANELI explained it is a Class A misdemeanor. He offered committee members a chart listing the new proposed marijuana laws.

[9:55:30 AM](#)

CHAIR SEEKINS asked the typical bail schedule for a marijuana arrest.

MR. GUANELI explained it is very rare for someone to do jail time for simple possession. The troopers prefer to go after the commercial growers.

[9:58:44 AM](#)

SENATOR FRENCH explained the difficulty in determining the timeframe for marijuana use when testing a person for it and asked the source of the finding on Page 2, Paragraph 5.

MR. GUANELI said a detailed study by the University of Alaska was included in the materials presented to the committee.

[10:01:25 AM](#)

SENATOR FRENCH asked the position of the police when performing searches without a warrant.

MR. GUANELI said the mere odor of marijuana wouldn't be enough to establish a cause to search. If the police are there lawfully they may be able to seize evidence that is in plain view. The police alone do not have search authority. SB 74 does nothing to change search and seizure.

[10:04:43 AM](#)

MR. BILL PARKER, Alaskans for Marijuana Regulation and Control, introduced himself and Mr. Wes Macleod-Ball from the Alaska Civil Liberties Union (ACLU). He explained the best use of time would be to allow his witnesses to testify.

[10:06:04 AM](#)

DR. LESTER GRINSPOON, M.D., Associate Professor of Psychiatry, Harvard Medical School, testified he studied marijuana with the object of producing sound material on the negative properties of marijuana so that young people would heed government warnings. He said he soon discovered he had been brainwashed about the effects. Most of what people are led to believe about the dangers of marijuana is mythical.

[10:08:17 AM](#)

DR. GRINSPOON said he has devoted much of his life to the study of marijuana. It is no more harmful today than it was in 1975. Street marijuana is more potent but does not impose increased risk. A user simply uses less. The pulmonary risk is exaggerated. Being exposed to pollution poses more of a risk than marijuana smoking.

CHAIR SEEKINS asked Dr. Grinspoon to summarize.

DR. GRINSPOON complained about the relatively small amount of time allotted for testimony in comparison to those who are proponents of SB 74.

[10:10:06 AM](#)

SENATOR FRENCH asked Dr. Grinspoon to comment on the adverse health and social effects and the addictive component.

DR. GRINSPOON aired the findings associated with SB 74 were absurd. The addictive properties of marijuana have been exaggerated.

[10:12:48 AM](#)

SENATOR FRENCH asked whether people on marijuana who operated motor vehicles were endangering others.

DR. GRINSPOON asserted marijuana was not in the same class as alcohol in respect to on-road hazards. The Department of Transportation studies show it is difficult to prove cannabis is harmful when driving.

[10:15:04 AM](#)

SENATOR THERRIAULT asked Dr. Grinspoon to compare the harms of marijuana to tobacco.

DR. GRINSPOON alleged there has never been a single death attributed to marijuana. The lethal dosage of marijuana has not been found.

[10:17:14 AM](#)

SENATOR HUGGINS asked Dr. Grinspoon what his counsel would be to children.

DR. GRINSPOON said cannabis use is not for children no more than alcohol is.

SENATOR HUGGINS asked what his counsel would be for adults.

DR. GRINSPOON said he would advise they use it responsibly. Medically, he would counsel adults who have never used it before to take one puff and wait for a while to see what happens. They may get relief from their pain or they may become anxious. They should take very little bits at a time until the desired effects are achieved.

[10:22:30 AM](#)

MR. SCOTT BATES economist, Boreal Economic Analysis and Research, detailed the costs with regard to prohibiting marijuana would be \$16 million per year. He disagreed with the fiscal notes submitted in association with SB 74, which say there would be no social impacts. There would be an additional \$1 million dollar cost to the Department of Public Safety and an additional \$4 million dollar cost to the courts as well as an additional \$2.16 million dollars for the Department of Corrections.

[10:24:14 AM](#)

The social costs by incarcerating people hits the economy in the form of lost work and value of output. There would be secondary costs to the Department of Corrections for parole and probation violations. All told he estimated an additional \$35-40 million dollars cost per year if SB 74 were to go into effect. He expressed doubt that people would avoid using marijuana if it were to become illegal.

[10:28:15 AM](#)

DR. ROBERT MALAMEDE, Ph.D., Professor of Biology, University of Colorado at Colorado Springs, testified that everyone uses marijuana-like compounds every day. Marijuana mimics the way the body works. He claimed marijuana-like compounds regulate every system in the body. Marijuana-like compounds regulate normal memory.

[10:30:30 AM](#)

Many diseases are caused by imbalance. Marijuana has a profound effect on cancer and it prevents many types of cancers in animal studies and tissue cultures. It is used for stress relief. The use of marijuana by the Indian population may be an attempt to medicate themselves in a healthy manner. Marijuana alone does not cause violence. Statistics can be made to say anything.

[10:33:33 AM](#)

DR. MALAMEDE summarized the bottom line is marijuana has a tremendous amount of positive uses. The criminalization of marijuana will impair the prosecuted young people by making them ineligible for student aid.

[10:34:53 AM](#)

DR. TIM HINTERBERGER, Ph.D, Associate Professor of Biomedicine, University of Alaska in Anchorage (UAA), informed his statements are not affiliated with UAA. He said the articles presented by the State of Alaska are not medical review articles and should not be considered as such.

[10:37:31 AM](#)

The 1972 National Commission on Marijuana and Drug Abuse appointed by former President Richard Nixon concluded unanimously that marijuana is not a grave problem. Nothing since 1972 has been proven to change that position.

[10:38:45 AM](#)

DR. HINTERBERGER asserted SB 74 disregards existing scientific consensus of the health, social, and economic effects of our current marijuana policy. If the Alaska Legislature passes into law section two of SB 74, it will demonstrate to world it has no regard for scientific process or for a systematic and methodical legislative process.

SENATOR FRENCH noted the huge amount of information associated with SB 74. He asked Dr. Hinterberger to reiterate his point regarding the importance of using scientific review articles.

DR. HINTERBERGER explained scientists review several articles on a subject before incorporating them into a review article, which contain a broader perspective of an issue. He does not know of any recent review articles that conclude marijuana as more dangerous than what the 1972 commission said.

[10:41:53 AM](#)

SENATOR HUGGINS asked Dr. Hinterberger to comment on the rise of THC levels in marijuana.

DR. HINTERBERGER responded the increase in potency is not nearly so dramatic as was presented by the state. There is no evidence of increased harm.

[10:43:50 AM](#)

DR. MITCH EARLEYWINE, Ph.D., Associate Professor of Psychology, University of Southern California (USC), testified he is a published authoritarian on the subject of marijuana and he also teaches substance abuse treatment at USC. Previous testimony regarding higher levels of marijuana potency has been exaggerated.

[10:46:06 AM](#)

DR. EARLEYWINE asserted a study done in the Netherlands showed there was no meaningful impairment while driving under the influence of marijuana. Alcohol impairs the body much more dramatically. Addictiveness ratings for cannabis are the same as those for caffeine. The addictive properties of marijuana can be

distorted by those who work in the substance abuse fields because they are constantly in touch with the small amount of people who have problems with the plant.

10:47:06 AM

CHAIR SEEKINS announced SB 74 would be picked up again at a later date.

There being no further business to come before the committee, Chair Seekins adjourned the meeting at 10:47:56 AM.