

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

March 10, 2010

1:07 p.m.

**MEMBERS PRESENT**

Representative Jay Ramras, Chair  
Representative Nancy Dahlstrom, Vice Chair  
Representative Carl Gatto  
Representative Bob Herron  
Representative Bob Lynn  
Representative Max Gruenberg  
Representative Lindsey Holmes

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 327

"An Act relating to the scheduling and rescheduling of certain substances as controlled substances and to the sale of products containing dextromethorphan."

- MOVED CSHB 327(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 115

"An Act establishing a permanent absentee voting option for qualified voters; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 355

"An Act relating to criminal fines for organizations."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 327

SHORT TITLE: CONTROLLED SUBSTANCES/DEXTROMETHORPHAN

SPONSOR(S): REPRESENTATIVE(S) JOHANSEN

02/05/10	(H)	READ THE FIRST TIME - REFERRALS
02/05/10	(H)	JUD

03/10/10 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 115

SHORT TITLE: PERMANENT ABSENTEE VOTING

SPONSOR(S): REPRESENTATIVE(S) BUCH

02/04/09 (H) READ THE FIRST TIME - REFERRALS  
02/04/09 (H) STA, FIN  
03/17/09 (H) STA AT 8:00 AM CAPITOL 106  
03/17/09 (H) Heard & Held  
03/17/09 (H) MINUTE(STA)  
02/18/10 (H) STA AT 8:00 AM CAPITOL 106  
02/18/10 (H) Moved CSHB 115(STA) Out of Committee  
02/18/10 (H) MINUTE(STA)  
02/19/10 (H) JUD REFERRAL ADDED AFTER STA  
02/23/10 (H) STA RPT CS(STA) 3DP 2NR  
02/23/10 (H) DP: SEATON, GRUENBERG, PETERSEN  
02/23/10 (H) NR: P.WILSON, LYNN  
03/10/10 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 355

SHORT TITLE: CRIMINAL FINES FOR ORGANIZATIONS

SPONSOR(S): REPRESENTATIVE(S) GRUENBERG

02/19/10 (H) READ THE FIRST TIME - REFERRALS  
02/19/10 (H) JUD, FIN  
03/10/10 (H) JUD AT 1:00 PM CAPITOL 120

**WITNESS REGISTER**

REPRESENTATIVE KYLE JOHANSEN  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of HB 327.

DAVID SCOTT, Staff  
Representative Kyle Johansen  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Assisted with the presentation of HB 327 on behalf of the sponsor, Representative Johansen.

SUE STANCLIFF, Special Assistant  
Office of the Commissioner  
Department of Public Safety (DPS)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 327.

LELA RAYMOND

Ketchikan, Alaska

**POSITION STATEMENT:** During discussion of HB 327, spoke about dextromethorphan abuse.

REND AL-MONDHIRY, Esq., State Legislative Counsel

Legal & Government Affairs

Consumer Healthcare Products Association (CHPA)

Washington, D.C.

**POSITION STATEMENT:** During discussion of HB 327, expressed concern with the provisions pertaining to dextromethorphan.

RENEE SCHOFIELD, CEO

Tongass Substance Screening, Inc. (TSS)

Ketchikan, Alaska

**POSITION STATEMENT:** Testified in support of HB 327.

BARRY CHRISTENSEN, Co-Chair

Legislative Committee

Alaska Pharmacists Association (APA)

Ketchikan, Alaska

**POSITION STATEMENT:** During discussion of HB 327, testified in opposition to the provisions pertaining to dextromethorphan.

GERALD LUCKHAUPT, Attorney

Legislative Legal Counsel

Legislative Legal and Research Services

Legislative Affairs Agency (LAA)

Juneau, Alaska

**POSITION STATEMENT:** Spoke as the drafter during discussion of HB 327.

REPRESENTATIVE BOB BUCH

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Sponsor of HB 115.

PHIL KEISLING

Portland, Oregon

**POSITION STATEMENT:** Provided comments during discussion of HB 115.

GAIL FENUMIAI, Director

Central Office

Division Of Elections

Office of the Lieutenant Governor

Juneau, Alaska

**POSITION STATEMENT:** Responded to questions during discussion of HB 115.

**ACTION NARRATIVE**

[1:07:51 PM](#)

**CHAIR JAY RAMRAS** called the House Judiciary Standing Committee meeting to order at 1:07 p.m. Representatives Ramras, Dahlstrom, Herron, Gatto, Lynn, and Gruenberg were present at the call to order. Representative Holmes arrived as the meeting was in progress.

**HB 327 - CONTROLLED SUBSTANCES/DEXTROMETHORPHAN**

[1:09:08 PM](#)

CHAIR RAMRAS announced that the first order of business would be HOUSE BILL NO. 327, "An Act relating to the scheduling and rescheduling of certain substances as controlled substances and to the sale of products containing dextromethorphan."

[1:09:29 PM](#)

REPRESENTATIVE KYLE JOHANSEN, Alaska State Legislature, sponsor, indicated that HB 327 - the three main provisions of which were requested by three different constituents - would add "Salvia divinorum" [and its main active compound "Salvinorin A (Divinorin A)" - abused for their hallucinogenic properties - to the list of schedule IIA drugs; would change buprenorphine - used as a substitute for methadone in opiate addiction therapies but also subject to abuse - from a schedule VA drug to a schedule IIIA drug; and would require that the sale of products containing dextromethorphan - abused for its intoxicating effect and found in many cough syrups - be limited such that they could not be sold to minors without a prescription, and such that they either be clearly labeled to that effect or that access to them be restricted].

CHAIR RAMRAS acknowledged that many substances - including cleaning solvents - are now being abused by those seeking to experience an altered state of consciousness, and offered his understanding of what the provisions of HB 327 entail.

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DAVID SCOTT, Staff, Representative Kyle Johansen, Alaska State Legislature, on behalf of the sponsor, Representative Johansen, to clarify, reiterated some of the points made by the sponsor.

CHAIR RAMRAS predicted that one of the issues the committee would be considering is whether labeling a product as dangerous makes it more attractive to those seeking to experience an altered state of consciousness.

REPRESENTATIVE DAHLSTROM - remarking that she has two military bases in her district, that sometimes the spouses of military personnel are under the age of 18, and that sometimes minors become emancipated - said she supports the intent of the bill, but is concerned about its proposed requirement that products containing dextromethorphan not be sold to those under the age of 18 without a prescription.

MR. SCOTT explained that one of those military bases - Elmendorf Air Force Base - already bans the use of Salvia Divinorum, and already requires that products containing dextromethorphan be kept behind the counter.

REPRESENTATIVE HERRON questioned why the bill is proposing to add Salvia divinorum [and "Salvinorin A (Divinorin A)"] to the list of schedule IIA drugs rather than to the list of schedule IA drugs.

MR. SCOTT offered his understanding that it's because its chemical makeup and effects are similar to those of other schedule IIA drugs.

CHAIR RAMRAS surmised that the drafter could address that question further.

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SUE STANCLIFF, Special Assistant, Office of the Commissioner, Department of Public Safety (DPS), indicated that the DPS supports HB 327, and that although the DPS recognizes the difficulty of testing for [the presence of Salvia divinorum or "Salvinorin A (Divinorin A)" in a person's system], the DPS is concerned about the effect of those drugs on people who use them while driving or operating equipment. Many states have already made Salvia divinorum [and "Salvinorin A (Divinorin A)"] illegal, and several more states are considering doing so as well. According to a 2008 National Survey on Drug Use and Health Report published by the federal Substance Abuse & Mental

Health Services Administration (SAMHSA), approximately 1.8 million people over the age of 11 have used Salvia divinorum in their lifetime, approximately 750,000 people have done so during the prior year, and young adults were three times more likely than youths aged 12 to 17 to have used Salvia divinorum during the prior year.

MS. STANCLIFF recounted what she'd heard about the effects of Salvia divinorum - that it leaves the user feeling unable to control his/her own movements - and that there was one 17-year-old who committed suicide after using Salvia divinorum several times over a period of months and experiencing a sense that life was pointless. Regardless that it's difficult to test for Salvia divinorum use, she relayed, Alaska's Scientific Crime Detection Laboratory ("crime lab") is proactively searching for methods by which to do so, particularly given that driving under the influence of Salvia divinorum poses a danger to others on the road. In response to questions regarding the enforcement of the bill's provisions pertaining to dextromethorphan, she indicated that the DPS is primarily concerned with and supportive of the provisions of HB 327 that would add Salvia divinorum [and "Salvinorin A (Divinorin A)"] to the list of schedule IIA drugs.

CHAIR RAMRAS ventured that the committee supports HB 327.

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LELA RAYMOND mentioned that her son began abusing dextromethorphan in March 29, 2008, taking a product that contained it in order to "get high," and ended up in the hospital only 17 days later due to an overdose; seven months later, her son had overdosed a total of eight times, and during two of those times, he experienced some degree of organ failure. Her son's addiction has affected her entire family, with the youngest children now being fearful that he will soon die from dextromethorphan abuse. Her son was stealing products containing dextromethorphan from grocery stores, where such products are readily available. She noted that another child lost half of her liver due to her dextromethorphan abuse. Some years, dextromethorphan is abused even more than other types of drugs, it shuts down the person's whole body, muscle by muscle, organ by organ, and causes hallucinations.

MS. RAYMOND pointed out that when young girls abuse dextromethorphan, it renders them incapable of protecting themselves against rape. The concept of abusing products

containing dextromethorphan to experience an altered state of consciousness has spread rapidly over the Internet, and there are other children in the community experiencing this problem. Dextromethorphan abuse has become an epidemic across the nation, with one out of every eleven people abusing it to "get high." In conclusion, she relayed that eventually, her son had to be locked up for his own safety. In response to a question, she added that research indicates that while 15 to 30 milligrams of dextromethorphan is sufficient to suppress a cough, and 100 milligrams is sufficient to cause hallucinations, the children in Ketchikan are consuming several thousand milligrams at a time and daring each other to consume more and more - bottle for bottle - at each [event]. Her son, she added, had at one point consumed six bottles, thereby almost ending his life.

MS. RAYMOND, in response to another question, offered her understanding that there are about 120 common products on the market that contain dextromethorphan, and ventured some of the names of some of those products. Unfortunately, most of those products also contain many other ingredients which, when taken in excess, cause serious medical complications such as the destruction of one's liver. People who abuse such products are seeking the effects of the dextromethorphan, and, again, products containing it are readily available and accessible at the grocery store.

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REND AL-MONDHIRY, Esq., State Legislative Counsel, Legal & Government Affairs, Consumer Healthcare Products Association (CHPA), after mentioning that the CHPA is a trade association representing the nation's leading manufacturers of over-the-counter medicines and nutritional supplements, explained that dextromethorphan is a safe and effective ingredient found in over 100 over-the-counter cough- and cold-remedy products. Since dextromethorphan's approval by the U.S. Food and Drug Administration (FDA) in the 1950s, it has been used safely by millions of Americans each year to relieve coughs due to the common cold and flu. Unfortunately, there are reports that some teenagers and young adults are intentionally abusing products containing dextromethorphan in an effort to "get high"; this involves taking extremely large amounts - about 25-30 times the recommended dose.

MS. AL-MONDHIRY said that the CHPA supports the "age-18 sales restrictions," and applauds the purpose of HB 327. However, the CHPA opposes language that would limit or, in this case,

potentially cut off consumer access to cough and cold medicines by requiring that such products be placed behind the counter, or that requires these products to have special labeling; the CHPA believes that such requirements are unnecessary, unworkable, and not in the public interest. The CHPA and the companies that manufacture products containing dextromethorphan believe that education is the most effective way to prevent cough-medicine abuse by teenagers, and so for several years the CHPA has teamed up with the nation's leading anti-drug-abuse and education organizations to raise awareness among parents and in communities about the dangers of cough medicine abuse.

MS. AL-MONDHIRY then listed some of the CHPA's accomplishments in that regard, including its work with Community Anti-Drug Coalitions of America (CADCA), Partnership for a Drug-Free America (PDFA), Drug Abuse Resistance Education (D.A.R.E.) America, Abbott Laboratories, Pharmaceutical Research and Manufacturers of America (PhRMA), and WebMD, LLC, and the launch of its online grassroots campaign, "Five Moms: Stopping Cough Medicine Abuse". More information about these efforts can be found on the Internet at "StopMedicineAbuse.org".

MS. AL-MONDHIRY, in response to a question, explained that because currently there is no alternative to dextromethorphan - the most effective cough suppressant available - if stores are required to keep products containing dextromethorphan behind the counter or otherwise limit access to them, they will instead simply stop carrying those products.

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RENEE SCHOFIELD, CEO, Tongass Substance Screening, Inc. (TSS), relayed that her company focuses on the health and safety of the community, offering a wide range of services including drug and alcohol testing. She explained that five years ago, the TSS received one call about dextromethorphan and the problems it creates; that three years ago, the TSS received five or six calls; and that currently, the TSS receives calls every week. This indicates a rampant escalation in the abuse of products containing dextromethorphan, which is a good product when used appropriately. Unfortunately, today's youth are finding a variety of ways to misuse the drugs they have ready access to: products containing dextromethorphan are easy to get at the grocery store and are available in almost all homes. She suggested that families with children, regardless of their children's age, should keep such products locked up and inaccessible to their children.

MS. SCHOFIELD relayed that the TSS has also been receiving calls from concerned parents regarding their children's possession and use of Salvia divinorum. With regard to buprenorphine, she said that it, too, is a good drug when used appropriately; however, it appears that it is getting overprescribed, and then people are selling their prescriptions [to those seeking to abuse the drug]. In conclusion, she said that she supports HB 327; remarked that the intent of the bill is good; acknowledged that there may still be a few problems with regard to testing for the substances the bill is focused on; and predicted that as more states address these substances someone will find a way to test for their presence in a person's system, thereby protecting children so that they may indeed become the leaders of the future.

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BARRY CHRISTENSEN, Co-Chair, Legislative Committee, Alaska Pharmacists Association (APA), relayed that the APA opposes the provisions of HB 327 pertaining to dextromethorphan, with most members being opposed because they've been dispensing dextromethorphan for a number of years without issue. He acknowledged, however, that testimony heard thus far indicates that there are now some problems with abuse, and so the members of the APA are willing and able to help with enforcement. In response to questions, he indicated that having to check a customer's government-issued photo identification (ID) to determine that he/she is at least 18 years of age would not be much of a burden, and neither would refusing to sell a product containing dextromethorphan to a minor unless he/she had a prescription. The language of the bill that is troubling, however, is the requirement that products containing dextromethorphan be placed behind the counter; the concern with that requirement is that there are a lot of products that contain dextromethorphan and so to move them all behind the counter would raise shelving issues.

CHAIR RAMRAS pointed out, though, that in lieu of placing products containing dextromethorphan behind the counter, those selling such products could simply label them as for sale only to persons 18 years of age or by prescription. Observing that the Department of Law has submitted an indeterminate fiscal note for HB 327, he surmised that the bill would be referred to the House Finance Committee.

MR. SCOTT, in response to a question, acknowledged that the committee could choose to delete the requirement that access to products containing dextromethorphan be limited.

REPRESENTATIVE HERRON indicated that he would be opposed to such a change.

MR. CHRISTENSEN, in response to comments and questions, indicated acceptance of the bill's current language.

MR. SCOTT, in response to questions, acknowledged that under the bill, those who sell products containing dextromethorphan would be required to check a customer's government-issued photo ID to verify that the customer was at least 18 years of age, and that retailers, sellers, and vendors of such products would be responsible for training their employees to that effect.

REPRESENTATIVE GATTO opined that requiring employees to check customers' IDs would be too burdensome.

CHAIR RAMRAS disagreed, and pointed out that similar requirements are already in place with regard to the sale of certain other products such as [tobacco,] alcohol, and those containing ephedrine or pseudoephedrine.

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REPRESENTATIVE HOLMES said that according to her reading of the provisions pertaining to dextromethorphan, a violation would be a class B misdemeanor, and would apply to whoever violated the provisions, whether that be the seller, retailer, or vender, or his/her employee. She questioned how retailers would restrict the public's access to products containing dextromethorphan.

[Chair Ramras turned the gavel over to Representative Herron.]

MR. SCOTT ventured that it would be up to the individual retailer to decide whether to label the products or to restrict access to them, and, if the latter, to decide how to restrict access. Very small stores, those without any room behind the counter, would probably choose to label the products containing dextromethorphan, he surmised.

[Representative Herron returned the gavel to Chair Ramras.]

MR. SCOTT, in response to another question, ventured that some retailers might choose to put products containing

dextromethorphan in locked cases rather than behind the counter. The language in the bill that says, "limit the access of the public to the product by its placement behind a counter or by similar means" provides retailers with flexibility in that regard.

REPRESENTATIVE HERRON surmised that limiting access could involve just placing the products where a customer has to ask for them instead of where he/she can reach them himself/herself.

REPRESENTATIVE GRUENBERG pointed out that a violation of the provisions pertaining to dextromethorphan could be applied to a corporation, since the term, "a person" - as used in proposed AS 17.30.095 - is defined in AS 11.81.900(b)(45) as, "a natural person and, when appropriate, an organization, government, or governmental instrumentality;" and the term, "organization" is defined in AS 11.81.900(b)(43) as, "a legal entity, including a corporation, company, association, firm, partnership, joint stock company, foundation, institution, government, society, union, club, church, or any other group of persons organized for any purpose;".

CHAIR RAMRAS, in response to questions and comments, opined that it is necessary to protect young people from their attempts at experimentation with mind-altering substances, and posited that HB 327 would help.

REPRESENTATIVE GRUENBERG pointed out that a violation of the provisions pertaining to dextromethorphan requires a mens rea of recklessly, and that a person could violate either the requirement that a product containing dextromethorphan not be sold to a person under the age of 18 without a prescription, or the requirement that such products either be labeled to that effect or that access to them be restricted.

MR. CHRISTENSEN referred to the requirement that vendors sellers, and retailers determine that their employees and agents have been notified of the requirements of the provisions pertaining to dextromethorphan, and questioned what the phrase, "making another appropriate determination" would entail.

[2:21:13 PM](#)

GERALD LUCKHAUPT, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency (LAA), speaking as the drafter, explained that that phrase is meant to provide another mechanism - other than

obtaining an employee or agent's written acknowledgment - by which vendors sellers, and retailers could ensure that their employees and agents have been notified of the requirements of the provisions pertaining to dextromethorphan. That phrase is part of the existing law pertaining to the sale of products containing ephedrine or pseudoephedrine, and there is similar language in the laws pertaining to the sale of tobacco products.

MR. LUCKHAUPT, in response to the question of why the bill is proposing to add Salvia divinorum [and "Salvinorin A (Divinorin A)"] to the list of schedule IIA drugs rather than to the list of schedule IA drugs, explained that [Salvia divinorum and "Salvinorin A (Divinorin A)"] are not currently listed as scheduled substances by the federal government, though legislation to list them as schedule I substances was introduced [in 2002] but not adopted; that although the federal government lists marijuana and all [hallucinogenic] substances as schedule I substances, in Alaska, all [hallucinogenic] substances are listed as schedule IIA substances and marijuana is listed as a schedule VIA substance, and so the language of the bill is consistent with that practice; and that in Alaska, things like [opium and] heroin are listed as schedule IA substances, whereas the federal government, for the most part, lists such things as schedule II substances.

MR. LUCKHAUPT, with regard to the bill's proposed requirement that products containing dextromethorphan not be sold to those under the age of 18 without a prescription, noted that in similar statutes regarding the sale of products containing [ephedrine or pseudoephedrine] the age threshold was changed to 16 years of age in order to address underage spouses and emancipated minors.

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CHAIR RAMRAS made a motion to adopt Amendment 1, labeled 26-LS1261\R.1, Luckhaupt, 3/10/10, which read:

Page 3, line 7:

Insert a new bill section to read:

"\* **Sec. 3.** AS 11.71.170(b) is amended to read:

(b) Schedule IVA includes, unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including their salts, isomers and salts of isomers whenever the existence of these salts, isomers, and

salts of isomers is possible within the specific chemical designation:

- (1) barbital;
- (2) chloral betaine;
- (3) chloral hydrate;
- (4) chlordiazepoxide;
- (5) clonazepam;
- (6) clorazepate;
- (7) diazepam;
- (8) ethchlorvynol;
- (9) ethinamate;
- (10) flurazepam;
- (11) lorazepam [LORAZEPAN];
- (12) mebutamate;
- (13) meprobamate;
- (14) methohexital;
- (15) methylphenobarbital, also known as mephobarbital;
- (16) oxazepam;
- (17) paraldehyde;
- (18) petrichloral;
- (19) phenobarbital;
- (20) prazepam;
- (21) alprazolam;
- (22) halazepam;
- (23) temazepam;
- (24) triazolam;
- (25) midazolam;
- (26) quazepam;
- (27) flunitrazepam;
- (28) [REPEALED
- (29)] ketamine hydrochloride."

Renumber the following bill sections accordingly.

Page 4, following line 1:

Insert a new bill section to read:

**"\* Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. AS 11.71.170(b)(11), as amended by sec. 3 of this Act, corrects a typographical error in the spelling of "lorazepam" that has existed since its adoption in Chapter 45, SLA 1982. AS 11.71.170(b)(11), as amended by sec. 3 of this Act, applies to crimes committed before, on, or after the effective date of this Act."

CHAIR RAMRAS explained that Amendment 1 simply addresses a spelling error in current statute.

CHAIR RAMRAS, after ascertaining that there were no objections, announced that Amendment 1 was adopted.

[2:25:49 PM](#)

REPRESENTATIVE HERRON made a motion to adopt Amendment 2, to add Salvia divinorum [and "Salvinorin A (Divinorin A)"] to the list of schedule IA substances instead of to the list of schedule IIA substances.

REPRESENTATIVE DAHLSTROM objected for the purpose of discussion, and raised the issues of detection and enforcement.

MR. LUCKHAUPT, in response, indicated that there are tests available to determine whether a substance is Salvia divinorum, but not whether a person is under the influence of Salvia divinorum [or "Salvinorin A (Divinorin A)"]; that Salvia divinorum is part of the mint family; and that if Salvia divinorum [and "Salvinorin A (Divinorin A)"] were instead listed as schedule IA substances, slightly increased penalties would then be available. In response to another question, he clarified that Alaska classifies schedule IA substances as having the highest degree of danger or probable danger to a person or the public, whereas the federal government classifies schedule I substances as having no medicinal use. In response to further questions, he indicated that it might be possible to buy Salvia divinorum in certain shops, since currently it is not regulated by the federal government. He reiterated that in Alaska all [hallucinogenic] drugs are listed as schedule IIA substances.

REPRESENTATIVE GATTO indicated disfavor with the concept of listing Salvia divinorum [and "Salvinorin A (Divinorin A)"] as a more dangerous substance than the other [hallucinogenic] drugs currently listed as schedule IIA substances, as Amendment 2 proposes to do.

REPRESENTATIVE HERRON argued that Salvia divinorum [and "Salvinorin A (Divinorin A)"] should be listed as schedule IA substances in Alaska simply because the federal government lists drugs that have no medicinal use as schedule I substances.

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A roll call vote was taken. Representatives Herron, Lynn, and Ramras voted in favor of Amendment 2. Representatives Gatto, Gruenberg, Holmes, and Dahlstrom voted against it. Therefore, Amendment 2 failed by a vote of 3-4.

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REPRESENTATIVE DAHLSTROM made a motion to adopt Conceptual Amendment 3, [to allow underage spouses, emancipated minors, and minors who are parents to purchase products containing dextromethorphan without a prescription]. There being no objection, Conceptual Amendment 3 was adopted.

[2:32:57 PM](#)

REPRESENTATIVE DAHLSTROM moved to report HB 327, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 327(JUD) was reported from the House Judiciary Standing Committee.

#### **HB 115 - PERMANENT ABSENTEE VOTING**

[2:34:02 PM](#)

CHAIR RAMRAS announced that the next order of business would be HOUSE BILL NO. 115, "An Act establishing a permanent absentee voting option for qualified voters; and providing for an effective date." [Before the committee was CSHB 115(STA).]

[2:34:35 PM](#)

REPRESENTATIVE BOB BUCH, Alaska State Legislature, sponsor, indicated that HB 115 would simply make voting via absentee ballot more convenient [by providing voters with the option of registering as a permanent absentee voter for state elections], that it would make no other changes to Alaska's voting process, and that providing for permanent absentee voting status] has met with great success. Currently, 8 other states have a similar option available, and 21 other states are considering adopting similar legislation. In response to questions, he relayed that the Division of Elections supports HB 115, and that the bill would help those in the military and those who are [housebound].

CHAIR RAMRAS expressed concern that HB 115 would be used by military personnel to commit more permanent fund dividend (PFD) fraud.

REPRESENTATIVE BUCH offered his belief that it would not, that existing safeguards within the Division of Elections and the United States Postal Service (USPS) regarding absentee ballots/voting are sufficient to prevent any such increase in fraudulent PFD filings. Under the bill, a person must first apply with the Division of Elections for permanent absentee voter status, and then [if the application is approved] the Division of Elections would send the person an absentee ballot [each appropriate election cycle].

CHAIR RAMRAS reiterated his concern, but acknowledged that military personnel are not the only ones who commit PFD fraud.

REPRESENTATIVE GRUENBERG noted that members' packets include a letter from the Division of Elections dated February 24, 2010, that addresses the issue of fraud. He also noted that when the bill was heard in its last committee of referral, a concern was raised regarding whether the bill has potential constitutional or legal problems. That concern has been addressed via a memorandum from Legislative Legal and Research Services dated February 23, 2010; this memorandum indicates that under the federal Voting Rights Act of 1965, the bill's proposed changes to Alaska's voting practices/procedures require preclearance [by the Department of Justice's (DOJ's) Civil Rights Division].

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PHIL KEISLING relayed that he served as Oregon's secretary of state from 1991 through 1999; and that in 1995, Oregon implemented a statutory permanent absentee voting provision to address the fact that as the result of a "get out the vote" strategy, election officials were getting deluged prior to every election with requests for absentee ballots. People liked the convenience of voting by mail, but didn't like having to request an absentee ballot for every election. Furthermore, there were costs associated with processing new absentee ballot requests every election. The permanent absentee voting provision has proved to be very popular, has reduced costs, has increased voter turnout, has reduced the chance of mistakes, and has made it easier to detect election fraud.

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GAIL FENUMIAI, Director, Central Office, Division Of Elections, Office of the Lieutenant Governor, in response to questions, said that the Division of Elections doesn't believe that HB 115

would contribute to any increased incidents of voter fraud; that during her 12-plus years with the Division of Elections, she hasn't ever encountered any voter fraud resulting from Alaska's absentee ballot process; that she is unable to speak to the issue of PFD fraud; that the Division of Elections has spoken with a former Oregon election official who had nothing but positive things to say about its permanent absentee voting provision by mail system, feeling that it enhanced the opportunity for voters to participate in the election process; and that at this time she is not able to provide any statistics regarding the eventual increased voter turnout in Oregon.

REPRESENTATIVE BUCH indicated that members' packets contain information illustrating that at times, Oregon experienced a voter turnout of up to 80 percent due to that state's permanent absentee voting provision.

REPRESENTATIVE GATTO, referring to statistics provided in a letter from the president of the American Postal Workers Union dated February 10, 2010, indicated that he is questioning what impact HB 115 would have on the integrity of Alaska's voting process.

MS. FENUMIAI, in response to questions and comments, offered her understanding of how the voting system works in Oregon; stated that as the director of the Division of Elections, she believes it's important for everyone who is eligible to vote, to vote; and said she would prefer not to pass personal judgment on voters who may not be living in the state.

REPRESENTATIVE BUCH, in response to questions, indicated that voters could benefit from the adoption of HB 115 because it would be safer for them to receive their ballots by mail rather than risk having to get themselves to their election district's voting venue; and that he had not asked anyone from the Permanent Fund Dividend Division to come speak on HB 115 because his intention with the bill is to address the issue of elections, not PFDs or PFD fraud, which he surmised, is already being adequately addressed by the Permanent Fund Dividend Division.

The committee took an at-ease from 3:01 p.m. to 3:02 p.m.

CHAIR RAMRAS indicated a belief that HB 115 should also address the issue of PFD fraud, and relayed that HB 115 would therefore be held over.

**HB 355 - CRIMINAL FINES FOR ORGANIZATIONS**

[3:06:33 PM](#)

CHAIR RAMRAS announced that the final order of business would be HOUSE BILL NO. 355, "An Act relating to criminal fines for organizations."

REPRESENTATIVE GRUENBERG, speaking as the sponsor, explained that HB 355 and a proposed amendment included in members' packets would bring criminal penalties for organizations up to date, and would cure a loophole in current law; that proposed amendment, labeled 26-LS1385\E.1, Luckhaupt, 3/9/10, [which later became known as Amendment 1] read:

Page 1, line 7:  
Delete "\$1,000,000"  
Insert "**\$2,000,000** [\$1,000,000]"

Page 1, line 9:  
Delete "\$200,000"  
Insert "**\$400,000** [\$200,000]"

Page 1, line 11:  
Delete "\$25,000"  
Insert "**\$50,000** [\$25,000]"

Page 1, line 13:  
Delete "\$10,000"  
Insert "**\$20,000** [\$10,000]"

REPRESENTATIVE GRUENBERG, in conclusion, offered his understanding that HB 355 enjoys support.

[HB 355 was held over.]

[3:07:32 PM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:07 p.m.