

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

March 14, 2011

1:30 p.m.

MEMBERS PRESENT

Senator Hollis French, Chair
Senator Bill Wielechowski, Vice Chair
Senator Joe Paskvan
Senator Lesil McGuire

MEMBERS ABSENT

Senator John Coghill

COMMITTEE CALENDAR

SENATE BILL NO. 9

"An Act relating to compulsory school attendance; and relating to the crime of contributing to the delinquency of a minor."

- MOVED SB 9 OUT OF COMMITTEE

STATE OF LITIGATION: CRIMINAL DIVISION, DEPARTMENT OF LAW

- HEARD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 7(JUD)

"An Act classifying certain substances as schedule IIIA controlled substances; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 9

SHORT TITLE: RAISE COMP. SCHOOL ATTENDANCE AGE/TRUANCY

SPONSOR(s): SENATOR(s) DAVIS

01/19/11	(S)	PREFILE RELEASED 1/7/11
01/19/11	(S)	READ THE FIRST TIME - REFERRALS
01/19/11	(S)	EDC, JUD, FIN
02/14/11	(S)	EDC AT 8:00 AM BELTZ 105 (TSBldg)
02/14/11	(S)	Heard & Held
02/14/11	(S)	MINUTE(EDC)
02/21/11	(S)	EDC RPT 3DP

02/21/11 (S) DP: THOMAS, MEYER, STEVENS
02/21/11 (S) EDC AT 8:00 AM BELTZ 105 (TSBldg)
02/21/11 (S) Moved SB 9 Out of Committee
02/21/11 (S) MINUTE(EDC)
03/11/11 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/11/11 (S) Heard & Held
03/11/11 (S) MINUTE(JUD)
03/14/11 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 7

SHORT TITLE: SYNTHETIC CANNABINOIDS

SPONSOR(S): REPRESENTATIVE(S) MUNOZ, HERRON, KERTTULA, GATTO,
LYNN, PRUITT

01/18/11 (H) PREFILE RELEASED 1/7/11
01/18/11 (H) READ THE FIRST TIME - REFERRALS
01/18/11 (H) JUD, FIN
02/04/11 (H) JUD AT 1:00 PM CAPITOL 120
02/04/11 (H) Heard & Held
02/04/11 (H) MINUTE(JUD)
02/11/11 (H) JUD AT 1:00 PM CAPITOL 120
02/11/11 (H) Moved CSHB 7(JUD) Out of Committee
02/11/11 (H) MINUTE(JUD)
02/14/11 (H) JUD RPT CS(JUD) NT 6DP
02/14/11 (H) DP: LYNN, GRUENBERG, KELLER, THOMPSON,
HOLMES, GATTO
02/22/11 (H) FIN AT 1:30 PM HOUSE FINANCE 519
02/22/11 (H) Heard & Held
02/22/11 (H) MINUTE(FIN)
02/24/11 (H) FIN AT 1:30 PM HOUSE FINANCE 519
02/24/11 (H) Moved CSHB 7(JUD) Out of Committee
02/24/11 (H) MINUTE(FIN)
02/25/11 (H) FIN RPT CS(JUD) NT 7DP 1NR 1AM
02/25/11 (H) DP: T.WILSON, JOULE, GARA, COSTELLO,
FAIRCLOUGH, STOLTZE, THOMAS
02/25/11 (H) NR: DOOGAN
02/25/11 (H) AM: GUTTENBERG
02/28/11 (H) TRANSMITTED TO (S)
02/28/11 (H) VERSION: CSHB 7(JUD)
03/01/11 (S) READ THE FIRST TIME - REFERRALS
03/01/11 (S) JUD, FIN
03/14/11 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

RICK SVOBODNY, Deputy Attorney General
Criminal Division

Department of Law
Juneau, AK

POSITION STATEMENT: Delivered an update on the state of litigation.

KENDRA KLOSTER Staff to Representative Cathy Munoz
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Introduced HB 7 on behalf of the sponsor.

KATE BURKHART, Executive Director
Advisory Board on Alcohol Abuse and Drug Abuse (ABADA)
Juneau, AK

POSITION STATEMENT: Testified in strong support of HB 7.

STEVEN STUBER, representing himself
Kenai, AK

POSITION STATEMENT: Testified in opposition to HB 7.

ANNE CARPENETI, Assistant Attorney General
Criminal Division
Department of Law

POSITION STATEMENT: Provided information related to HB 7.

JERRY LUCKHAUPT, Assistant Revisor of Statutes
Legislative Legal Services
Legislative Affairs Agency
Juneau, AK

POSITION STATEMENT: Provided information on HB 7 as drafter.

ACTION NARRATIVE

[1:30:47 PM](#)

CHAIR HOLLIS FRENCH called the Senate Judiciary Standing Committee meeting to order at 1:30 p.m. Senators Paskvan, Wielechowski, and French were present at the call to order.

SB 9-RAISE COMP. SCHOOL ATTENDANCE AGE/TRUANCY

[1:33:42 PM](#)

CHAIR FRENCH announced the consideration of SB 9 and noted that the bill was heard previously and public testimony was taken. Finding no amendments, comments, or discussion, he solicited a motion.

[1:34:09 PM](#)

SENATOR WIELECHOWSKI moved to report SB 9 from committee with individual recommendations and attached fiscal note(s). There being no objection, SB 9 moved from the Senate Judiciary Standing Committee.

At ease from 1:34 p.m. to 1:35 p.m.

State of Litigation: Criminal Division, Department of Law (DOL)

[1:35:32 PM](#)

CHAIR FRENCH announced the next order of business would be an update by the Department of Law (DOL) on litigation of legislation that passed last year.

[1:36:27 PM](#)

RICK SVOBODNY, Deputy Attorney General, Criminal Division, Department of Law (DOL), stated that the three pieces of substantial legislation that passed last year were the Bail Bill, SB 222 dealing with sexual assault and domestic violence, and the very complicated post conviction relief DNA bill. He noted that the state has been sued on the first two, but not Senator French's DNA bill.

He reminded the committee that last year the Legislature did the first comprehensive review of the bail statutes since 1966. While some major changes were made, about half the provisions were not changed because they were working. For the most part, he said, that bill is working as envisioned. He cited a recent case in Wrangell of sexual assault in the second degree. The defendant was entitled to bail, but he didn't meet his burden of proof as to whether he was a flight risk or a danger and he was remanded to custody.

[1:40:13 PM](#)

MR. SVOBODNY told the committee that the day before the Bail Bill was to become effective the ACLU of Alaska sued the state and asked for injunctive relief on behalf of the Alaska Association of Defense Attorneys (AADA) and three particular defense attorneys. The plaintiffs asserted that 13 portions of the bill were unconstitutional. The majority of those provisions related to specific conditions of bail that the Legislature said a trial judge could impose, some of which were existing law.

CHAIR FRENCH commented that the suit was a broadside attack on the bail statute as it stood and it also branched off to attack some of the provisions that were recently passed.

MR. SVOBODNY agreed. What changed was that the window for setting bail was expanded from 24 hours to 48 hours. The plaintiffs alleged that that provision was unconstitutional and asked for injunctive relief. This was in spite of that fact that neither the Alaska Constitution nor the U.S. Constitution have a time element, and that the U.S. Supreme Court had previously ruled that 72 hours was the outside limit for setting bail. They also asked for injunctive relief on a provision that precluded a defendant in a domestic violence case from returning to the home of the victim for a period of 20 days. Following the cooling off period, additional criteria must be met. Judge Michalski heard the application for injunctive relief and only granted the request dealing with domestic violence because he thought those conditions were very close to what the Legislature had done in 1996 or 1997 when it passed the first protective order. While the judge did not grant the relief that the defense asked, which was to enjoin the executive branch, he did enjoin the superior court judges from imposing the condition the way the Legislature intended. Judge Michalski said that as a matter of law a judge has to use discretion with regard to the 20-day cooling down period.

[1:44:43 PM](#)

SENATOR MCGUIRE joined the committee.

MR. SVOBODNY continued to explain that when judges were enjoined from enforcing that domestic violence provision, both the state and the ACLU petitioned the Alaska Supreme Court to take up the matter. In a 2:2 decision the court decided not to review the case and remanded it to the trial court. It is there today. The state has asked Judge Michalski to dismiss the case and oral argument on the dismissal is scheduled for March 18, 2011. The state's position is that these lawyers lack standing because they have no clients that were damaged and there is no case in controversy. The fact that the court didn't accept the petition for both sides suggests that Judge Michalski may revisit those issues. He noted that in a recent decision in Togiak the court said it gives great deference to what the Legislature has done and that there ought to be a case in controversy before talking about declaring a statute passed by the Legislature unconstitutional.

[1:48:04 PM](#)

CHAIR FRENCH asked for confirmation that the burden-shifting aspect of the Bail Bill was challenged as well, but there was no injunction.

MR. SVOBODNY said yes and that's an issue in a pending case in Palmer. The court has told the defendant that she has a right to bail and that it's been set, but the burden is on her to show why it should be changed. He noted that Judge Michalski did not enjoin anybody about burden shifting.

CHAIR FRENCH found no further questions on the Bail Bill and asked Mr. Svobodny to brief the committee on the book-sellers issue.

[1:49:05 PM](#)

MR. SVOBODNY explained that the ACLU is also representing several commercial entities, including Title Wave Books and the Alaska Library Association, in a suit against the state as a result of the passage of SB 222. The ACLU said that both the changes that the legislation made to the statute and the existing provisions were unconstitutional. The case was filed in federal court and the district court judge enjoined the state from prosecuting cases under the new provisions in AS 11.61.128 and the preexisting provisions of the law.

He reminded the committee that AS 11.61.128 previously said it was a crime to electronically distribute indecent material to somebody who was under age 16 or to somebody the offender thought was under age 16. Last year the Legislature said if it's against the law to distribute indecent material by computer, it should also be against the law to hand it to someone under age 16. During the committee process the ACLU suggested several changes in the law that the Legislature accepted. The booksellers' complaint is that a company like Amazon does not know that it is distributing to somebody under age 16 and it probably doesn't know the content of the material that it is distributing. The state's point is that under Alaska law you must knowingly distribute and at least be reckless as to whether the recipient is under age 18. The state attempted to find acceptable language to take to the Legislature and the case was put on hold in the federal district court. That time limit is about up and there are cross motions for summary judgment. The court will probably send that on for oral argument very soon, he stated.

[1:54:25 PM](#)

CHAIR FRENCH summarized that Judge Beistline issued the stay and it continued during negotiations, but agreement wasn't reached so arguments before Judge Beistline will begin shortly.

MR. SVOBODNY agreed and added that Judge Beistline made a sweeping order and then clarified that investigations could be done, but no prosecutions.

CHAIR FRENCH thanked Mr. Svobodny for the update.

HB 7-SYNTHETIC CANNABINOIDS

[1:55:14 PM](#)

CHAIR FRENCH announced the consideration of HB 7. [CSHB 7(JUD) was before the committee.] He asked the sponsor's representative how this differs from the companion bill

[1:55:33 PM](#)

KENDRA KLOSTER, staff to Representative Cathy Munoz, sponsor of HB 7, explained that the bill schedules 10 different chemicals that are known as synthetic cannabinoids. Use of these chemicals can cause hallucinations, panic attacks, and death. She noted that one death occurred in the Anchorage area and most recently an 18 year-old in Iowa had a severe reaction to one of these chemicals and he died.

SB 7 classifies these 10 synthetic cannabinoids as a schedule III controlled substance. The Department of Law and Legislative Legal Services both agree that this is the appropriate classification. She noted that on March 1, 2011 the Drug Enforcement Administration (DEA) classified five of these chemicals as a schedule I controlled substance.

CHAIR FRENCH asked what a schedule I classification means from the DEA perspective.

MS. KLOSTER replied that classification applies to the most dangerous drugs that have no medical purpose. This is a temporary classification while further research is done, but the DEA felt that immediate action was warranted because of burgeoning use.

CHAIR FRENCH asked if the DEA classification essentially criminalizes these chemicals without congressional action.

[1:57:56 PM](#)

MS. KLOSTER responded that the five chemicals that were classified are now illegal to sell and possess. This action is authorized under the Controlled Substance Act, primarily because of imminent danger to the public. She noted that the Anchorage

Assembly passed an ordinance on this and the City and Borough of Juneau Assembly is considering one.

CHAIR FRENCH clarified that the CBJ passed the ordinance. He added that he'll talk with the sponsor, but the committee is focused on setting the penalty levels so that they stop the behavior without needlessly making a lot more criminals.

MS. KLOSTER commented on how difficult it is to detect these chemicals.

CHAIR FRENCH said the committee heard from Orin Dym who said it's possible to detect them, but the test is expensive.

[2:00:14 PM](#)

SENATOR WIELECHOWSKI reviewed the language in Section 1 and asked for an explanation of salts, isomers, and salts of isomers.

MS. KLOSTER explained that with a salt a hydrogen atom has been removed, but it's basically the same product. With an isomer the atoms have been rearranged and it's theoretically a different substance, but the molecular structure is the same. She added that similar language is used for schedule II drugs and this is an update to ensure that similar products are captured.

SENATOR WIELECHOWSKI asked if this might ban common household items.

MS. KLOSTER answered no.

SENATOR WIELECHOWSKI asked if someone who possessed a teaspoon of the substance would be convicted under the bill since it says any quantity.

MS. KLOSTER explained that it would be a class A misdemeanor to possess three grams or less of a schedule III drug. Possession of over three grams would be a felony.

SENATOR WIELECHOWSKI said his understanding is that this substance is typically sold in three-ounce packages.

MS. KLOSTER clarified that large amounts can be purchased and then broken into small portions, but an Internet purchase is generally a three-gram package.

CHAIR FRENCH directed attention to the handout showing an Internet solicitation for real K2 incense and the first size option is a three-gram packet.

SENATOR PASKVAN reviewed the explanation of salts and isomers and questioned why these synthetic cannabinoids should be classified differently than marijuana.

MS. KLOSTER replied they're trying to mimic the effects of THC but these chemicals are more potent and hallucinogenic than marijuana. That's why the DEA classified these as a schedule I controlled substance and other states consider them a hallucinogen, she stated.

[2:04:48 PM](#)

SENATOR PASKVAN asked if someone will testify to that because the same argument was used on marijuana 40 years ago.

MS. KLOSTER said there is testimony in the packet from individuals who have tried it.

CHAIR FRENCH pointed out that a young person from Juneau testified that he tried it and had a very bad experience.

SENATOR WIELECHOWSKI asked if anyone has died from using marijuana.

MS. KLOSTER replied she isn't aware of anyone but this is a very different and more dangerous product than marijuana.

[2:06:27 PM](#)

CHAIR FRENCH reiterated that the committee is looking at how it can take this off the street without producing a lot more felons that cost the state \$50,000 a year to house.

SENATOR MCGUIRE said she is very hesitant to create more felons and is inclined to make this a misdemeanor until the public is better educated and understands synthetic cannabinoids.

[2:15:26 PM](#)

MS. KLOSTER said the intention of the sponsor is not to make a bunch of kids felons but to remove this product from the shelves and to bring awareness of how dangerous this really is.

SENATOR WIELECHOWSKI asked if tobacco and alcohol should be banned because they are the first and second leading cause of death in the country.

MS. KLOSTER agreed that those are also harmful substances and suggested that that's for another piece of legislation.

[2:18:15 PM](#)

SENATOR PASKVAN asked if the three-gram measurement is the inert leaf or the unlawful substance.

MS. KLOSTER replied the leafy product with the chemical on it is what would be measured, not just the chemical itself.

CHAIR FRENCH said that's his understanding as well.

SENATOR WIELECHOWSKI asked if she had data on the number of people who are in jail because of drug possession.

MS. KLOSTER said the information should be in the packets and reminded the members that in drug cases the person may be in jail for a number of reasons.

[2:20:57 PM](#)

SENATOR WIELECHOWSKI noted that the bill lists just 10 items are he wondered if the Legislature will need to address this every year as new chemical combinations are developed.

MS. KLOSTER said yes; the 10 chemicals that are listed are the ones that other states and the DEA have outlawed, but the bill can't prohibit similar compounds without being specific. As more chemicals are banned we hope that retailers won't want to sell them, she said.

CHAIR FRENCH reminded the committee that the drafter testified that he drafted the bill to be as broad as possible.

SENATOR WIELECHOWSKI asked if there would a grandfathering accommodation for a person who purchased Spice when it was legal and forgot about it, so they had it in their house when it was illegal.

MS. KLOSTER replied once it's illegal it would be just like any other drug and it would be illegal to possess.

[2:24:33 PM](#)

KATE BURKHART, Executive Director, Advisory Board on Alcohol Abuse and Drug Abuse (ABADA), stated that she is not speaking for the Department of Health and Social Services, but the record should show that ABADA is in strong support of HB 7. She

expressed appreciation for the discussion on balancing the significant health and safety risks with the necessary consideration of the appropriate penalty. She explained that the substances that are being regulated were developed in a lab under a federal grant to do research on the effects of THC on the brain, and were never intended for human use. These are chemicals that were created in a lab and should therefore be regulated at a higher level in the schedule than organic products like marijuana or Salvia divinorum, she stated.

MS. BURKHART noted that previous testimony from the crime lab indicated that three grams is equivalent to six to nine cigarettes of the product, which makes the idea that amounts in excess of that are for personal use somewhat specious. She added that regardless of whether this product is regulated at the statewide level, employers are seeking ways to test their employees and several Alaska businesses have responded to the market and now offer an effective test for \$149. She thanked both Representative Munoz and Senator Meyer for their attention on this issue.

[2:27:25 PM](#)

SENATOR PASKVAN asked if Alaska can ban import of the product into the state.

MS. BURKHART said if this bill passes it would be a state offense once the product crosses the state line. It's already a federal offense under the DEA's emergency scheduling, but that federal regulation is only good for 12-18 months.

SENATOR PASKVAN asked if she believes that most teens believe this is similar to marijuana.

MS. BURKHART replied that was a standard assumption when the product first came on the market, but the word is getting around that it's not like a marijuana high and the health consequences are severe.

SENATOR PASKVAN asked if it wouldn't make more sense to ban the importation and sale of the product in Alaska as opposed to focusing on a teen who thinks it's similar to marijuana.

MS. BURKHART replied that's a reasonable consideration and the committee can do that by focusing on what is reasonable for an adolescent who thinks he or she should try it versus a business that is profiting on misinformation about the product.

SENATOR PASKVAN asked if a distributor could be convicted if importation were banned.

[2:31:21 PM](#)

MS. BURKHART deferred questions about investigation and enforcement of a ban to law enforcement and the Department of Law (DOL).

SENATOR WIELECHOWSKI asked if the product is expensive to manufacture.

MS. BURKHART replied the research indicates that it's a sophisticated process. Most of what comes to Alaska comes from abroad, but it's readily and inexpensively available in the state.

SENATOR MCGUIRE asked what she knows about the federal study to mimic the affects of THC.

MS. BURKHART replied she understands that it was a National Institute of Drug Abuse (NIDA) grant the purpose of which was to determine the affects of THC on the brain. A synthetic was created for the purposes of that research, which led to a host of synthetic cannabinoids. The researcher has clearly stated that the synthetic was never meant to be suitable for human consumption.

SENATOR MCGUIRE asked what it was tested on and what they were trying to understand about THC if they didn't use human subjects.

MS. BURKHARDT said the information she read indicated that the test subjects were primates.

CHAIR FRENCH commented that the DEA has taken emergency action on this and he believes that there is no quicker way to end its presence in Alaska than to have the FBI arrest and prosecute a retailer in federal court.

SENATOR PASKVAN said he understands that she's saying that the derivatives aren't suitable for human consumption, but he suspects that the federal government also established that marijuana wasn't suitable for human consumption. He would therefore like to hear the broad spectrum differences between marijuana and the synthetic cannabinoids. He reiterated that he'd like to focus on the sellers, not the kids who are making a poor decision to try the substance.

2:36:12 PM

STEVEN STUBER, representing himself, said he can't talk about the affects [of synthetic cannabinoids] because he's never tried it, but he is a shop owner who follows the law explicitly. As a business owner who pays taxes, employs a number of Alaskans, and pays them well, he expressed concern that the bill would make him a felon overnight because of the immediate effective date. This is neither constitutional nor fair, he stated. If due notice were given he would obviously pull and dispose of the product, but expecting him to flush \$20,000 worth of product, as has been suggested, is a financial hardship and unreasonable since he is doing nothing illegal. The testimony today has been very one-sided and there is an amazing amount of "the other side of the story," he stated.

Mr. Stuber said that up to 85 percent of his customers are 40-55 year-old white males who work on the North Slope and are looking for something that has an effect that is similar to marijuana. Saying that this is a dangerous drug is sensationalist and reminiscent of "Reefer Madness." He claimed that what he sells isn't as dangerous as it's purported to be and suggested looking at the statistics on how many children died in Alaska last year in alcohol-related offenses. If this is so dissimilar to marijuana, why do hundreds of my customers who are upstanding citizens disagree, he questioned.

MR. STUBER reiterated that he is a responsible, upstanding citizen who pays his taxes and he doesn't believe that it's right that he or his employees could be felons tomorrow. Reasonable notice to get the product off the shelf is only fair. We will continue to comply with any law that's out there, he stated. Kids shouldn't have this product and it shouldn't be legal to sell it to anyone under age 19, but his customers are not kids.

2:44:27 PM

SENATOR WIELECHOWSKI asked how many customers he has and if he is aware of any who have suffered adverse affects from this substance.

MR. STUBER said he might have 1,000 customers and he sells about \$40,000 of this product each month. One customer claimed he had an adverse reaction and didn't want to use the particular product again, but that's the only one in \$300,000 worth of sales.

CHAIR FRENCH asked what deadline the DEA set for getting rid of the material.

MR. STUBER replied the DEA banned five chemicals in November and said it could register them within 30 days, but it didn't do so until March. He wholesaled his inventory at less than cost and complied two months ahead of time. Now everything he sells has a DEA compliant sticker on it and he posts a DEA registered lab report stating that his business is following the law.

CHAIR FRENCH said if the DEA order and this bill cover the same materials.

MR. STUBER said yes.

SENATOR PASKVAN remarked that there could be 20 more permutations out there.

CHAIR FRENCH asked Mr. Stuber if that's correct.

MR. STUBER said he believes that it would be closer to 100. He opined that over the next several years this will likely be a game of cat and mouse between the manufacturers and the government as each chemical compound is altered infinitesimally. This is the experience other states have had. He noted that this law is better than almost any he's seen.

SENATOR WIELECHOWSKI asked if a better policy would be to enact a very heavy tax on the substance.

MR. STUBER said absolutely, 100 percent.

CHAIR FRENCH pointed out that the packets contain information from the DEA that states that the five banned substances have the potential to be extremely harmful due to manufacturing methods and high pharmacological potency but that the full danger has not yet been determined with scientific certainty.

CHAIR FRENCH closed public testimony and said the committee would hear invited testimony as necessary. He asked Ms. Carpeneti to remind the committee of the possession limits for a schedule III controlled substance.

[2:51:05 PM](#)

ANNE CARPENETI, Assistant Attorney General, Criminal Division, Department of Law (DOL), stated that under AS 11.71.040 (a)(4), it's a class C felony to possess any amount of a schedule IIIA,

IVA, VA, or VIA controlled substance on a school bus or close to a school ground or youth center. AS 11.71.050 provides that possession of less than 3 grams of a IIIA or IVA controlled substance is a class A misdemeanor and possession of more than 3 grams is a class C felony.

CHAIR FRENCH asked if the amount is calculated by the weight of the plant material upon which the drug is sprayed.

MS. CARPENETI said that's correct; it would be difficult to remove the spray compound from the plant material. Discussion from other committees has indicated that it would be a good idea to consider that the plant material isn't dangerous or controlled, just the spray compound.

CHAIR FRENCH observed that it would be a different category of offense to possess a gram of the pure substance.

SENATOR WIELECHOWSKI commented that it's an interesting question because the bulk of the substance isn't illegal but a person would be charged based on that weight.

MS. CARPENETI said she understands the concern.

SENATOR WIELECHOWSKI asked for assurance that the language on page 1, lines 5-10, wouldn't criminalize basic household products.

MS. CARPENETI deferred to the drafter.

[2:56:13 PM](#)

CHAIR FRENCH reminded the committee that the drafter testified previously that he structured the bill to be as broad as possible without being overly broad. He asked Mr. Luckhaupt how he balanced the need to give notice when the substance can readily mutate.

JERRY LUCKHAUPT, Assistant Revisor of Statutes, Legislative Legal Services, explained that he employed the same strategy as with other controlled substances. He used the intra-language, which is salts, isomers, or salts of isomers that is used for other similar substances set out in statute. The federal government uses the same language in classifying those substances. The ten new substances that are listed in the bill are what other states have already classified. Some of these were created as a result of the study, but the others have been around for some time. They're all synthetic THCs not synthetic

marijuana. Delta 9 THC is the active ingredient in marijuana and that's currently a schedule III controlled substance. Marijuana is defined to not include THC. The marijuana is weighed separately and when the THC is refined, to make hashish for example, it's a schedule III controlled substance. Currently it's an unclassified penalty if the seller sells to someone who is under age 19 and at least three years younger than the seller.

[3:01:13 PM](#)

CHAIR FRENCH announced he would hold HB 7 in committee.

[3:01:23 PM](#)

There being no further business to come before the committee, Chair French adjourned the meeting at 3:01 p.m.