

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

March 7, 2014

1:32 p.m.

MEMBERS PRESENT

Senator John Coghill, Chair
Senator Fred Dyson
Senator Donald Olson

MEMBERS ABSENT

Senator Lesil McGuire, Vice Chair
Senator Bill Wielechowski

COMMITTEE CALENDAR

SENATE BILL NO. 136

"An Act relating to unmanned aircraft systems; and relating to images captured by an unmanned aircraft system."

- MOVED CSSB 136(JUD) OUT OF COMMITTEE

SENATE CONCURRENT RESOLUTION NO. 2

Urging the governor to acquire land in the Tongass National Forest from the United States government by purchase or negotiation or by seeking amendment to the Alaska Statehood Act.

- MOVED CSSCR 2(JUD) OUT OF COMMITTEE

SENATE BILL NO. 128

"An Act relating to the crime of harassment."

- MOVED CSSB 128(JUD) OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 22

Opposing the warrantless collection of telephone call data by the National Security Agency.

- MOVED SJR 22 OUT OF COMMITTEE

SENATE BILL NO. 66

"An Act relating to imitation controlled substances; and providing for an effective date."

- MOVED CSSB 66(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 136

SHORT TITLE: UNMANNED AIRCRAFT SYSTEMS

SPONSOR(s): SENATOR(s) OLSON

01/24/14	(S)	READ THE FIRST TIME - REFERRALS
01/24/14	(S)	JUD
02/21/14	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/21/14	(S)	Scheduled But Not Heard
02/26/14	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/26/14	(S)	Scheduled But Not Heard
02/28/14	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/28/14	(S)	Heard & Held
02/28/14	(S)	MINUTE(JUD)

BILL: SCR 2

SHORT TITLE: ACQUIRE TONGASS NATIONAL FOREST LAND

SPONSOR(s): SENATOR(s) STEDMAN

03/28/13	(S)	READ THE FIRST TIME - REFERRALS
03/28/13	(S)	JUD
04/05/13	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/05/13	(S)	Heard & Held
04/05/13	(S)	MINUTE(JUD)
02/17/14	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/17/14	(S)	Heard & Held
02/17/14	(S)	MINUTE(JUD)
02/19/14	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/19/14	(S)	Scheduled But Not Heard

BILL: SB 128

SHORT TITLE: ELECTRONIC BULLYING

SPONSOR(s): SENATOR(s) MEYER

01/22/14	(S)	READ THE FIRST TIME - REFERRALS
01/22/14	(S)	JUD
02/17/14	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/17/14	(S)	Scheduled But Not Heard
02/19/14	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/19/14	(S)	Heard & Held
02/19/14	(S)	MINUTE(JUD)
03/03/14	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/03/14	(S)	Heard & Held
03/03/14	(S)	MINUTE(JUD)

BILL: SJR 22

SHORT TITLE: OPPOSE WARRANTLESS DATA COLLECTION

SPONSOR(s): SENATOR(s) GIESSEL

02/14/14 (S) READ THE FIRST TIME - REFERRALS
02/14/14 (S) JUD
03/07/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 66

SHORT TITLE: IMITATION CONTROLLED SUBSTANCE

SPONSOR(s): SENATOR(s) EGAN

02/27/13 (S) READ THE FIRST TIME - REFERRALS
02/27/13 (S) JUD
02/21/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/21/14 (S) Heard & Held
02/21/14 (S) MINUTE(JUD)
03/07/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

GINGER BLAISDELL, Staff
Representative Shelley Hughes
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced SB 136 on behalf of the sponsor.

CHRISTIE JAMIESON, Staff
Senator Bert Stedman, Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Described the changes found in Version U of SCR 2.

EDRA MORLEDGE, Staff
Senator Kevin Meyer
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced SB 128 on behalf of the sponsor.

ANNE CARPENETI, Assistant Attorney General
Criminal Division
Legal Services Section
Department of Law
Juneau, Alaska

POSITION STATEMENT: Commented on SB 66.

JANE CONWAY, Staff

Senator Cathy Giessel
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced SJR 22 on behalf of the sponsor.

ALIDA BUS, Staff
Senator Dennis Egan
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information related to SB 66.

TRACY WOLLENBERG, Deputy Director
Appellate Division
Public Defender Agency
Anchorage, Alaska

POSITION STATEMENT: Testified that the CS for SB 66 was an improvement.

ACTION NARRATIVE

[1:32:44 PM](#)

CHAIR JOHN COGHILL called the Senate Judiciary Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Dyson, Olson, and Chair Coghill.

SB 136-UNMANNED AIRCRAFT SYSTEMS

[1:34:16 PM](#)

CHAIR COGHILL announced the consideration of SB 136. "An Act relating to unmanned aircraft systems; and relating to images captured by an unmanned aircraft system." He noted the proposed committee substitute (CS).

[1:34:31 PM](#)

SENATOR OLSON moved to adopt CS for SB 136, labeled 28-LS1316\U, as the working document. There was no objection and Version U was adopted.

CHAIR COGHILL asked for an explanation of the changes between versions A and U.

SENATOR OLSON summarized that SB 136 is the result of recommendations by the Legislative Task Force on Unmanned Aircraft Systems. The bill allows the University of Alaska to establish a training program for the operation of unmanned aircraft systems and speaks to law enforcement uses and privacy issues. He noted that the bill works with an accompanying

resolution to extend the task force for three years. The CS clarifies the parameters for the use of unmanned aircraft systems by law enforcement agencies.

[1:37:11 PM](#)

SENATOR DYSON asked if the CS added the language that requires law enforcement to obtain a warrant before doing an aerial survey.

SENATOR OLSON answered yes; the intention was to protect the privacy of individuals.

SENATOR DYSON commented on monitoring utility bills to locate marijuana growing operations and asked if the Department of Law was available.

SENATOR OLSON suggested the committee hear from Ms. Blaisdell who was working on companion legislation.

[1:39:03 PM](#)

GINGER BLAISDELL, Staff, Representative Shelley Hughes, reported that she also helped staff Legislative Task Force on Unmanned Aircraft Systems that Representative Hughes and Senator Olson co-chaired. SB 136 addresses the items that the task force identified that could be specifically addressed in a bill. She clarified that a separate piece of legislation that is not in this committee extends the task force and expands the duties.

MS. BLAISDELL explained that the CS makes two significant changes. On page 2, line 26, Sec. 18.65.902 talks about the use of an unmanned aircraft by a law enforcement agency. The original language said an unmanned aircraft could only be used in a criminal investigation. That left out the positive uses for things like search and rescue and amber alerts. The amended language eliminates the reference to criminal investigation so it can sweep in those search and rescue type of events by a law enforcement agency. In that section, paragraph (1) talks about gathering evidence in a criminal investigation under the terms of a search warrant. Paragraph (2) in that section addresses the use in situations that don't involve a criminal investigation. It must be for a public purpose and must not constitute an unwarranted invasion of personal privacy.

The second change, found on page 3, Sec. 18.65.903, basically says that images cannot be retained. Other areas of existing law specifically describe to law enforcement when and for how long images must be retained.

SENATOR DYSON indicated he didn't need to speak to the Department of Law before the bill was reported from committee.

[1:44:09 PM](#)

SENATOR DYSON moved to report CS for SB 136, Version U, from committee with individual recommendations and attached fiscal note(s).

CHAIR COGHILL announced that without objection, CSSB 136(JUD) passed out of the Senate Judiciary Standing Committee.

[1:44:41 PM](#)

At Ease

SCR 2-ACQUIRE TONGASS NATIONAL FOREST LAND

CHAIR COGHILL reconvened the meeting and announced the consideration of SCR 2. "Urging the United States Congress to act on the request of the governor to acquire for the state additional land in the Tongass National Forest from the United States government by purchase or negotiation or by seeking amendment to the Alaska Statehood Act." This was the third hearing and there was a new committee substitute (CS).

[1:46:02 PM](#)

SENATOR DYSON moved to adopt CS for SCR 2, labeled 28-LS0676\N, as the working document.

CHAIR COGHILL objected for purposes of an explanation.

[1:46:53 PM](#)

CHRISTIE JAMIESON, Staff, Senator Bert Stedman, Alaska State Legislature, Juneau, Alaska, stated that the changes found in Version U of SCR 2 were agreed upon with DNR. She noted that the Alaska Forest Association and legislative research helped prepare answers to nine questions the Senate Judiciary Committee asked and they were provided to the committee on 2/17/14.

She described the changes found in Version N.

- Page 1, lines 1-4, urge the U.S. Congress to act on the request of the governor to acquire for the state additional land in the Tongass National Forest.
- Page 2, line 1, the language following the word "Act" was amended and now reads "have not yet been conveyed".

- Page 3, lines 2-3, the language following "Southeast Alaska," was amended and now reads "it is time for the United States Congress to act on the governor's request to acquire additional land in the Tongass National Forest".
- Page 3, line 8, the language following "400,000 acres" was amended and now reads "with the intention of preserving timber for federal long-term sales".
- Page 3, line 12, the word "select" was replaced with the word "acquire".
- Page 3, line 13, following "forest" the words "without being limited to using that land for recreation and community expansion" was deleted.
- Page 3, lines 16-17, the words "governor to either" was deleted and language was inserted that reads "United States Congress to Act [sic] on the governor's request to".
- Page 3, line 19, the phrase "state fails to acquire" was replaced with "United States Congress fails to convey".
- Page 3, line 26, the name "Ken Salazar" was replaced with "Sally Jewell".
- Page 3, line 27, following "Interior;" insert "the Honorable Tom Vilsack".

[1:53:01 PM](#)

CHAIR COGHILL removed his objection and Version N was adopted.

[1:53:34 PM](#)

SENATOR DYSON moved to report CS for SCR 2, Version N, from committee with individual recommendations and attached fiscal note(s).

CHAIR COGHILL announced that without objection CSSCR 2(JUD) moved from the Senate Judiciary Standing Committee.

[1:54:26 PM](#)

At Ease

SB 128-ELECTRONIC BULLYING

[1:55:13 PM](#)

CHAIR COGHILL reconvened the meeting and announced the consideration of SB 128. "An Act relating to the crime of harassment." This was the third hearing and there was a new committee substitute (CS).

[1:55:51 PM](#)

SENATOR DYSON moved to adopt CS for SB 128, labeled 28-LS1001\I, as the working document.

1:56:08 PM

EDRA MORLEDGE, Staff, Senator Kevin Meyer, Alaska State Legislature, Juneau, Alaska, sponsor of SB 128, said the changes found in the CS are designed to address the concerns brought forward in the last two hearings. On page 2, lines 3-6, the language in paragraph (7) now reads:

(7) repeatedly sends or publishes an electronic communication that insults, taunts, challenges, or intimidates a person under 18 years of age in a manner that places the person in reasonable fear of physical injury.

The term "repeatedly" was inserted to show the act was deliberate and "or publishes" was added to include postings to social media sites. This version does not talk about severe mental or emotional injury or significant damage to the person's property (found in previous versions A and P) because the limit was ambiguous. It could be a pencil, a school locker, or car. It could also overlap with a criminal mischief statute.

CHAIR COGHILL asked Ms. Carpeneti to provide the Department of Law's perspective.

1:59:03 PM

ANNE CARPENETI, Assistant Attorney General, Criminal Division, Legal Services Section, Department of Law, Juneau, Alaska, said this version is an improvement although it probably will be challenged if it's used in a prosecution.

SENATOR DYSON asked if [Sec. 11.61.120] applies to minors.

MS. CARPENETI clarified that the harassment statute applies to all victims, but the new paragraph (7) would apply specifically to minor victims.

2:00:50 PM

SENATOR DYSON noted that he asked the sponsor about having this also apply to people with disabilities.

MS. MORLEDGE responded that the drafting attorney issued an opinion that the harassment, stalking, and theft statutes do not specifically protect people with disabilities, but the

vulnerability of the victim will likely be a consideration in sentencing. She noted that the legal memo was in the packets.

SENATOR DYSON asked the sequence of events that would lead to a prosecution under the new [paragraph (7)].

MS. CARPENETI said she imagines it would be a call to the police or a complaint reported in school.

SENATOR DYSON asked if a child could make a report directly.

MS. CARPENETI said they could.

SENATOR DYSON commented that he wasn't sure this was the best approach because there could be spurious reports. He surmised that if there was a suicide, an investigating officer would look at electronic communications even if there hadn't been a complaint.

MS. CARPENETI agreed.

SENATOR DYSON suspected that these cases would be difficult to prove.

MS. CARPENETI agreed and noted that the harassment statute had been used successfully in other circumstances since the criminal code was adopted in the late 1970s.

CHAIR COGHILL removed his objection and Version I was adopted.

[2:05:17 PM](#)

SENATOR DYSON moved to report CS for SB 128, Version I, from committee with individual recommendations and attached fiscal note(s).

[2:05:44 PM](#)

CHAIR COGHILL announced that without objection CSSB 128(JUD) moved from the Senate Judiciary Standing Committee.

[2:05:51 PM](#)

At Ease

SJR 22-OPPOSE WARRANTLESS DATA COLLECTION

[2:07:01 PM](#)

CHAIR COGHILL reconvened the meeting and announced the consideration of SJR 22. "Opposing the warrantless collection of

telephone call data by the National Security Agency." This was the first hearing.

2:07:25 PM

SENATOR CATHY GIESSEL, Alaska State Legislature, Juneau, Alaska, sponsor of SJR 22, stated that SJR 22 addresses another form of federal overreach called warrantless data collection. This is the National Security Agency (NSA) executing a dragnet over telephone calls made by private citizens, which is akin to the thought police in 1984 and an invasion of privacy. She deferred further introduction to Ms. Conway.

2:08:40 PM

JANE CONWAY, Staff, Senator Cathy Giessel, introduced SJR 22 on behalf of the sponsor, reading the following into the record:

In a day and age where private citizens, business, and even our local and federal governments rely on digital and telecommunication, there is something a bit chilling in realizing that those communications may not be secure or private.

We have all seen and heard the news stories about the National Security Agency (NSA) and their massive data collection program. United States District Court Judge Richard Leon ruled that the NSA's program, bulk collection, and querying of telephone record metadata is likely unconstitutional and violates privacy rights.

Judge Leon said, "I cannot imagine a more indiscriminate and arbitrary invasion than this systematic and high-tech collection and retention of personal data on virtually every citizen for purpose of querying and analyzing it without prior judicial approval. Surely, such a program infringes on *"that degree of privacy"* that the Founders enshrined in the Fourth Amendment."

The NSA was founded in 1952, with a strict focus on overseas rather than domestic surveillance. Unchecked and unrestrained, this agency has grown into the nation's largest intelligence agency and has broken privacy rules or overstepped its legal authority thousands of times each year since Congress granted the agency broad new powers in 2008.

An internal audit, dated May 2012, counted 2,776 incidents (in just 12 months) of unauthorized collection, storage, access to or distribution of legally protected communications. While most of these incidents were unintended, many involved failures of due diligence or violations of standard operating procedure.

The most serious incidents included a violation of a court order and unauthorized use of data of more than 3,000 Americans and green-card holders. As well as an incident in February 2012, that involved the unlawful retention of 3,032 files that the surveillance court had ordered the NSA to destroy, in these files were an undisclosed number of telephone call records. Despite quadrupling of the NSA's oversight staff after a series of significant violations in 2009, the rate of infractions increased in the following years.

From the number of recorded compliance issues, there is no reliable way to calculate how many Americans have had their communications improperly collected, stored, or distributed by the NSA.

The Constitution of the United States protects individuals against the abuse of government authority and the Fourth Amendment guards against unreasonable searches and seizure and lays out specific requirement for warrants. The Fifth Amendment requires that individuals may not be deprived of life, liberty, or property without due process of law.

These NSA activities are a violation of the Constitution and strip Alaskans and Americans of their liberty. SJR 22 urges the Federal Government to end the mass telephone call data collection program and to eliminate all stored metadata.

It urges the Foreign Intelligence Surveillance Court to declassify past opinions and urges future opinions to be released to the public.

Finally, SJR 22 finds the NSA's activities a troubling example of federal overreach and this Legislature will in no way assist the NSA in facilitating their unconstitutional programs.

[2:12:39 PM](#)

MS. CONWAY noted that the packets contain articles on NSA activities over the last year, and today she sent the committee aide the prerecorded testimony from Edward Snowden to the European Parliament.

CHAIR COGHILL asked if she was aware of recent court cases challenging NSA activities.

MS. CONWAY said she was aware of a lawsuit filed by U.S. Senator Rand Paul from Kentucky and another that was filed by Microsoft, Facebook, Yahoo, and Google.

CHAIR COGHILL described SJR 22 as a worthwhile request dealing with the privacy of citizens of the U.S. and Alaska.

[2:17:13 PM](#)

SENATOR DYSON moved to report SJR 22 from committee with individual recommendations and attached fiscal note(s).

CHAIR COGHILL announced that without objection, SJR 22 moved from the Senate Judiciary Standing Committee.

[2:17:52 PM](#)

At Ease

SB 66-IMITATION CONTROLLED SUBSTANCE

[2:18:57 PM](#)

CHAIR COGHILL reconvened the meeting and announced the consideration of SB 66. "An Act relating to imitation controlled substances; and providing for an effective date." He noted this was the second meeting and there was a new committee substitute (CS).

[2:19:39 PM](#)

SENATOR DYSON moved to adopt CS for SB 66, labeled LS-280427\U, as the working document.

CHAIR COGHILL objected for purposes of an explanation.

[2:20:09 PM](#)

SENATOR EGAN stated that the CS reflects the comments that were voiced during the initial hearing. Under the current law, possession of oregano with intent to sell as a drug is a class C felony, whereas the possession of marijuana with intent to sell is class A misdemeanor. The CS reduces the penalties for first

time offenders for all violations under the imitation controlled substance law, AS 11.73. The penalty for repeat offenders is much stricter.

ALIDA BUS, Staff, Senator Dennis Egan, was available to answer questions.

SENATOR DYSON disagreed that the sale of sheetrock dust as a controlled substance should be a class C felony and suggested that it should carry a fraud charge. He indicated he didn't support the bill in its present form.

CHAIR COGHILL opened public testimony.

2:24:40 PM

TRACY WOLLENBERG, Deputy Director, Appellate Division, Public Defender Agency, Anchorage, Alaska, said she was happy to see some reduction in the level of offense in response to the concerns voiced about SB 66 at the 2/21/14 hearing. A remaining concern is that the bill is too broad and may capture conduct it is not intended to capture. A specific example is a person who doesn't intend to deceive someone into thinking the substance is a controlled substance. The memo from Legislative Legal discusses *Morrow v. State* and the hypothetical situation where someone, without any intent to deceive, gives caffeine diet pills to someone indicating that they are as effective for weight loss as any prescription medicine. In *Morrow*, the court of appeals recognized that the statute would conceivably cover that hypothetical. The statutory definition has changed in recent years, but the concern remains that activity that isn't intended to deceive would still be captured under the broad language of the statute. That's because the statute is written in a way that captures situations where the recipient reasonably believes that the substance is controlled, even though the distributor did not intend for the recipient to think that. In part, the reason is that the definition of "representations" is so broad and inclusive.

MS. WOLLENBERG suggested that a potential fix is to narrow the statute by building an intent to deceive mens rea directly into the crimes that are written under AS 11.73.010, .030, and .040. It should include that the crime is complete only if the person intends to deceive when they manufacture, deliver, or possess with intent to deliver an imitation controlled substance. That change wouldn't make the seller's motivation part of the offense but it would make the seller's intent to deceive the recipient an element of the offense. This would still capture the person

who sells imitation drugs to an undercover police officer because in that instance it's clearly the person's intent to deceive another into thinking the substance is controlled.

[2:29:07 PM](#)

SENATOR DYSON questioned how knowingly selling a phony drug would rise to the level of a drug crime when the person clearly has intent to defraud the other person and misadvertise. He asked for help understanding how the mens rea on fraud should be in the drug code.

MS. WOLLENBERG explained that to capture the concept of fraud, it ought to be spelled out explicitly in the crime as one of the elements that the state needs to prove. If it isn't built in, the statute will default to the knowingly mens rea and that might not capture the fraud aspect. Somebody could knowingly deliver substances and have no intent for the other person to think that those substances are controlled.

SENATOR DYSON said he would be more supportive if the phony substance was actually dangerous.

[2:32:42 PM](#)

MS. BUS respectfully reminded that the target of the bill is to get to drug dealers who are suspicious of a sting and are trading phony drugs to law enforcement officers. Theoretically these people are involved in drug dealing and they deal salt rather than meth, for example.

SENATOR DYSON questioned how the legislation makes it clear about evidence tampering.

MS. BUS addressed the question of intentional misrepresentation pointing to *Morrow v. State*. The state said, "We believe the statute can be interpreted by us to apply to those situations involving an intentional misrepresentation that an imitation controlled drug is a controlled drug." The opinion goes on to say that the language of the ordinance is so vague that arbitrary enforcement is likely. She deferred further explanation to the Department of Law.

[2:35:07 PM](#)

ANNE CARPENETI, Assistant Attorney General, Criminal Division, Legal Services Section, Department of Law, said that Ms. Bus was referring to the fact that, in addition to the mens rea in the substantive chapter, there is also a culpable mental state in the definition. In *Morrow*, the only appellate decision under

these statutes, the court limited the meaning of "representation" to the "intentional misrepresentation that an imitation drug is a controlled substance." That imports the mens rea of a person trying to cheat or defraud someone and the concern is that that would be another mens rea for the state to prosecute. She offered to redraft the provision so the culpable mental state isn't in the definition section.

SENATOR DYSON said that still misses his point, which is that the mens rea is fraud. It is not to sell somebody drugs. It's too large a leap to think that the seller had the culpable mental state to sell drugs just because the customer thought he/she was buying drugs, he said.

MS. CARPENETI relayed that the supervisor of the drug unit in Anchorage has said that when they can prove that the seller knew that it was an imitation drug, they charge and prosecute under the theft statutes.

[2:39:44 PM](#)

SENATOR DYSON voiced support for charging under the theft statute in that circumstance, and concern that it was discretionary. He restated that he didn't want selling a phony drug twice in ten years to be a class C felony. He maintained that it wasn't the same classification as running a house of prostitution or molesting kids.

CHAIR COGHILL summarized his understanding of the repeat offense addressed in paragraph (2).

[2:41:57 PM](#)

MS. BUS clarified that the repeat offense relates to offenses of the controlled substance law or imitation controlled substance law. To meet the class C felony threshold, a person could have been convicted of two misrepresentations or one actual drug offense and one misrepresentation.

SENATOR DYSON drew an analogy with firearms and commented that he wasn't willing to make somebody a felon for fleecing fools. He further offered that somebody who is selling a bad product will see their market share go down and perhaps their physical comfort will decrease as well.

[2:44:35 PM](#)

CHAIR COGHILL summarized his understanding of Ms. Wollenberg's concern. The public defender would like the bill to be more

specific about the intent to deceive because the court case doesn't do that.

MS. CARPENETI said she wasn't sure of her position on the *Morrow* decision and its interpretation of the term "representation."

SENATOR DYSON said he wasn't willing to impose a class C felony on people that haven't harmed anyone. They've defrauded somebody of money.

CHAIR COGHILL said it would be a significant event if the person has been convicted two or more times in the last 10 years of a crime under AS 11.71. He asked Ms. Carpeneti to add clarity.

MS. CARPENETI said that according to the *Morrow* interpretation of these statutes, the person would have to intentionally misrepresent a non-controlled substance to the buyer as a controlled substance. She noted that marijuana related offenses are class A misdemeanors but most drug offenses are felonies.

CHAIR COGHILL asked if a conviction under this bill would be in any of the range of drug offenses.

MS. CARPENETI said that's correct.

MS. BUS clarified that the CS reduces the current class C felony penalties for imitation controlled substance crimes to a class A misdemeanor for the first offense.

SENATOR DYSON acknowledged the point.

SENATOR DYSON commented that the bill was an improvement over current law.

[2:50:31 PM](#)

At Ease

[2:52:03 PM](#)

CHAIR COGHILL reconvened the meeting and moved to report CS for SB 66 from committee with individual recommendations and attached fiscal note(s). He asked for objections or comments.

SENATOR DYSON said he wouldn't hold the bill up but his preference in AS 11.73.010(b) was a class B misdemeanor in paragraph (1), a class A misdemeanor in paragraph (2), and 5 years instead of 10 in paragraph (2).

CHAIR COGHILL announced that without objection, CSSB 66(JUD) is reported from the Senate Judiciary Standing Committee.

2:54:06 PM

At ease

CHAIR COGHILL reconvened the meeting and discussed the schedule for Monday.

2:56:47 PM

There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 2:56 p.m.