

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

February 1, 2017

2:35 p.m.

**MEMBERS PRESENT**

Representative Matt Claman, Chair  
Representative Zach Fansler, Vice Chair  
Representative Jonathan Kreiss-Tomkins  
Representative Gabrielle LeDoux  
Representative David Eastman  
Representative Chuck Kopp  
Representative Lora Reinbold

**MEMBERS ABSENT**

Representative Louise Stutes (alternate)

**COMMITTEE CALENDAR**

HOUSE BILL NO. 24

"An Act classifying U-47700 as a schedule IA controlled substance; and providing for an effective date."

- MOVED HB 24 OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 24

SHORT TITLE: LIST U-47700 AS A CONTROLLED SUBSTANCE

SPONSOR(S): REPRESENTATIVE(S) MILLETT

01/18/17	(H)	PREFILE RELEASED 1/9/17
01/18/17	(H)	READ THE FIRST TIME - REFERRALS
01/18/17	(H)	JUD, FIN
02/01/17	(H)	JUD AT 2:15 PM GRUENBERG 120

**WITNESS REGISTER**

REPRESENTATIVE CHARISSE MILLETT

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** During the hearing of HB 24, presented the legislation as prime sponsor.

ROBERT HENDERSON, Chief Assistant Attorney

General and White Collar Crime Prosecutor  
Office of Special Prosecution  
Department of Law (DOL)  
Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of HB 24, answered questions.

JEFF TURNER, Staff  
Representative Charisse Millett  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing of HB 24, answered questions.

#### **ACTION NARRATIVE**

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**CHAIR MATT CLAMAN** called the House Judiciary Standing Committee meeting to order at 2:35 p.m. Representatives Fansler, Kreiss-Tomkins, LeDoux, Eastman, Kopp, Reinbold, and Claman were present at the call to order.

#### **HB 24-LIST U-47700 AS A CONTROLLED SUBSTANCE**

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CHAIR CLAMAN announced that the only business before the committee is HOUSE BILL NO. 24, "An Act classifying U-47700 as a schedule IA controlled substance; and providing for an effective date."

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REPRESENTATIVE CHARISSE MILLETT, Alaska State Legislature, advised that HB 24 addresses the opioid crisis epidemic. People around the state are losing their lives, once a person is addicted to opioids it is one of the most dangerous drugs to manage, and is one of the hardest drugs to get off. This bill addresses additive U-47700, a synthetic opioid added to heroin and other street drugs. She said U-47700 is eight times stronger than fentanyl and has a street name of "Pink," and people unknowingly buy heroin with U-47700 added as one of the ingredients. This bill simply adds U-47700 to schedule 1A, with the chemical makeup of 3,4-dichloro-N-[2-

(dimethylamino)cyclohexyl]-N-methylbenamide, also known as U-47700 or "Pink." She advised that this bill came to her by way of the governor, and as a recommendations from the Controlled Substances Advisory Committee (CSAC) to add Pink onto schedule 1A. Designer drugs, such as U-47700, are produced on a regular basis and it's hard to predict what the synthetic makeup of that drug will be, but it can be put on the list after it is defined. These designer drugs are becoming stronger and more potent, produced from countries outside of the USA, and because they are not currently on the state's registry one could go online and buy U-47700 through an internet website. Outlawing this in the State of Alaska will make it unavailable, she stressed. The federal government recently put U-47700 on its schedule and, she commented, the federal government has a unique way of putting their scheduled drugs onto the federal registry because it goes through a regulatory process, and not through a legislative process. She suggested adding a regulatory option to the state's scheduled drugs, especially drugs as dangerous as Pink, U-47700.

REPRESENTATIVE MILLETT explained there is no sectional analysis because it simply adds the chemical makeup of 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenamide to the state's schedule 1A statute.

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REPRESENTATIVE KREISS-TOMKINS commented that it makes sense to have a regulatory process allowing the designated department to use its discretion.

REPRESENTATIVE MILLETT suggested that possibly the House Judiciary Standing Committee could determine a process of putting drugs on a schedule through the regulatory process. She described it as a large piece of legislation that would be a work of art in putting sideboards on what the regulations could and would not allow,. She commented that it would be a good task for this committee. Due to the urgency of the U-47700 problem, she was unsure this legislation should be slowed down to add her suggestion, although, it is a conversation that should take place, she said.

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REPRESENTATIVE LEDOUX explained that she understands Representative Kreiss-Tomkins notion, yet the idea of putting criminal laws into regulations and going through the regulatory

process to decide a criminal law, as opposed to the legislative process, is frightening to her and it may be unconstitutional.

REPRESENTATIVE KOPP advised the committee that this synthetic drug has been identified for some time as a major problem within the law enforcement community. He explained, under AS 11.71, Controlled Substances Advisory Committee (CSAC), the committee's duty is to make sure substances are classified according to the correct schedule in the state's statutes, and prepare a report for the governor. The committee members include a pharmacist, medical people, law enforcement, and others, and it reviews various public safety effects on each drug. He reminded the committee that CSAC is in place, and he requested that this legislation receive the nod of CSAC.

REPRESENTATIVE MILLETT reminded Representative Kopp that initially she had advised the committee that this legislation came as a recommendation from CSAC. She said that AS 11.71.100 does a good job of identifying substances on the street, and the committee was formed to assist legislators in understanding the subject of synthetic drugs, and that the drug Spice was used under CSAC.

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REPRESENTATIVE FANSLER agreed that the opioid epidemic in Alaska crosses all cultures, barriers, is everywhere, and he thanked the sponsor for this legislation. He noted that he would be interested in making sure the state has bodies giving the legislature recommendations such as this, and that the legislation is passed timely

REPRESENTATIVE EASTMAN said he noticed, within the report from CSAC that two different substances were recommended for reclassification. He asked whether there was any intention of moving on the other substance as well.

REPRESENTATIVE MILLETT replied that the other substance was not included because U-47700 was a clearly defined substance that the legislature could immediately put into statute. She said she would entertain a friendly amendment if he wanted to add the other substance, although, she stressed, at this point U-47700 is hitting the streets and causing deaths in Alaska.

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REPRESENTATIVE LEDOUX asked whether the deaths caused by this substance were by overdoses, or impurities in the substance.

REPRESENTATIVE MILLETT pointed to the reports provided in the committee packets, and advised that U-47700 is an incredibly high potency drug that is eight times as potent as fentanyl, and fentanyl has caused some high profile deaths. She explained that U-47700 is an additive that in itself increases the potency of the drug being used, and the deaths are caused by both overdoses and impurities because this drug is produced in laboratories across the world with no FDA approval. She added that there is no direct use for this drug in that it was an experimental synthetic drug to use for surgeries, much like how fentanyl is used.

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ROBERT HENDERSON, Chief Assistant Attorney, General and White Collar Crime Prosecutor, Office of Special Prosecution, Department of Law (DOL), explained that within his capacity at the Department of Law (DOL) he is the chair of the Controlled Substances Advisory Committee (CSAC). He said he was available to answer questions regarding CSAC's process or U-47700, specifically.

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REPRESENTATIVE EASTMAN asked Mr. Henderson to briefly walk through what adding this particular substance to the new designation would have, and explained the implications of passing this legislation and penalties.

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MR. HENDERSON responded that by scheduling U-47700 as a schedule 1A controlled substance, the penalties would include the following: mere possession of the substance would be a class A misdemeanor; possession with the intent to deliver less than one gram, a class C felony; possession with the intent to deliver more than one gram, a class B felony; and the actual delivery of the substance to a person under the age of 19, "if the person delivering the substance and the person receiving the substance is less than three years," an unclassified felony.

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REPRESENTATIVE EASTMAN asked him to spell out the sentences for each of those offenses, under Senate Bill 91.

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MR. HENDERSON explained that with mere possession of the substance, first offense, there is no active jail time and there is a limited amount of suspended time. The maximum sentence for a person found guilty of possessing this substance would be 30 days with 30 days suspended. With regard to second conviction, under current law, no active jail time could be imposed and the suspended time would be an upper suspension of 180 days, he explained.

MR. HENDERSON explained a class C felony - possession with the intent to distribute less than one gram, the sentence would be dictated by their criminal history, but assuming the person has no criminal felony history, it would be a probationary sentence of up to 18 months suspended time.

MR. HENDERSON explained the class B felony - possession of more than one gram, the sentence would be zero to two years of active jail time, authorized by the court, on a first felony conviction. He continued that there are graduated sentences depending upon the person's criminal history, particularly, felony history.

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REPRESENTATIVE KOPP added that there is a criminal financial penalty such that a misdemeanor is up to \$10,000, and once it moves into the felony range it moves up considerably.

MR. HENDERSON replied that he was correct.

REPRESENTATIVE KOPP explained to the committee that suspended time means that any infraction [punishes the person to] serve that time. He related that it may appear a person "is off," but the person is under the gun so to speak.

CHAIR CLAMAN listed individuals online available for questions, and opened public testimony on HB 24. After ascertaining no one wished to testify, closed public testimony on HB 24.

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REPRESENTATIVE EASTMAN asked Mr. Henderson to explain the zero fiscal note for DOL.

MR. HENDERSON opined that in the event U-47700 becomes a schedule 1A drug, DOL would incur the prosecution costs of prosecuting and trying someone in court in possession of the drug. Whether or not that will be a significant number of prosecutions while moving forward is unknown, he pointed out. Currently, with regard to an unscheduled drug, law enforcement is unable to seize that drug and because it is unable to seize the drug, DOL is not necessarily seeing how frequent it has been found by law enforcement. He deferred to Dr. Butler to discuss how often this substance is seen in overdose deaths.

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JEFF TURNER, Staff, Representative Charisse Millett, Alaska State Legislature, referred to the issue of creating a regulatory system to ban these types of drugs when they hit the streets, and advised that the system is in place in at least 10 states, 10 states have already placed emergency bans on U-47700, and some of those bans have become permanent. There are 17 states that have legislation before their legislature to outlaw U-47700. Historically, he said, this drug was developed in 1976 by Upjohn in looking for a replacement for morphine for cancer patients, surgery patients, people with serious injuries, and discovered that it wasn't much different from morphine. Upjohn patented the drug and did not perform clinical trials on humans. Unfortunately, drug dealers in foreign countries, primarily China, troll the internet looking for these patents and what sort of design or synthetic drugs they can produce that are not banned under any federal or state laws, and then sell it on the internet. He explained that when the Drug Enforcement Administration (DEA) placed this drug on its list of schedule 1 controlled substances, the internet sales pretty much went away, except he googled Pink and found a website selling it. Even though the website said it was based in South Korea there is no way to authentic, the website also said the drug was for animal testing; however, it recommended cutting the dosage in one-half if used for human consumption, he pointed out.

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CHAIR CLAMAN asked for clarification that Congress added U-47700 to the federal list of controlled substances some months ago.

MR. HENDERSON clarified that it was actually added by DEA regulation because DEA has the ability to place the drug on its schedule 1 list, at least temporarily. He explained that the drug can be listed for one to two years, and then it can be extended another year before deciding whether to ban it permanently.

CHAIR CLAMAN asked whether Congress must finally take action to add it permanently to the list.

MR. HENDERSON said that that is his understanding.

CHAIR CLAMAN asked whether the committee would like to discuss the bill further. After no response, asked for a motion to move the bill out of committee.

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REPRESENTATIVE FANSLER restated his motion and moved to report HB 24, Version 30-LS0260\A out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 24 moved from the House Judiciary Standing Committee.

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#### **ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:01 p.m.