

Introduced: 1/22/82
Referred: Health, Education &
Social Services and Judiciary

1 IN THE HOUSE

BY ABOOD

2 HOUSE BILL NO. 679

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to imitation controlled substances."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 17 is amended by adding a new chapter to read:

9 CHAPTER 14. IMITATION CONTROLLED SUBSTANCES ACT.

10 Sec. 17.14.010. MANUFACTURE OR DISTRIBUTION OF IMITATION CONTROLLED
11 SUBSTANCE. Except as provided in AS 17.14.050, it is unlawful for a
12 person to manufacture, distribute, or possess with intent to distribute,
13 an imitation controlled substance. Except as provided in AS 17.14.020,
14 a person who violates this section is guilty of a class C felony.

15 Sec. 17.14.020. DISTRIBUTION OF IMITATION CONTROLLED SUBSTANCE TO
16 A MINOR. A person 18 years of age or over who violates AS 17.14.010 by
17 distributing an imitation controlled substance to a person under 18
18 years of age is guilty of a class B felony.

19 Sec. 17.14.030. USE OF IMITATION CONTROLLED SUBSTANCE. It is
20 unlawful for a person to use, or to possess with intent to use, an
21 imitation controlled substance. A person who violates this section is
22 guilty of a class A misdemeanor.

23 Sec. 17.14.040. ADVERTISEMENT TO PROMOTE THE DISTRIBUTION OF AN
24 IMITATION CONTROLLED SUBSTANCE. It is unlawful for a person to place in
25 a newspaper, magazine, handbill, or other publication, or to post or
26 distribute in a public place, an advertisement or solicitation with
27 reasonable knowledge that the purpose of the advertisement or solicita-
28 tion is to promote the distribution of an imitation controlled substance.
29 A person who violates this section is guilty of a class C felony.

1 Sec. 17.14.050. IMITATION CONTROLLED SUBSTANCE AS PLACEBO. No
2 civil or criminal liability may be imposed under this chapter on a
3 person who manufactures, distributes, or possesses an imitation con-
4 trolled substance solely for use as a placebo prescribed by a registered
5 practitioner in the course of professional practice or research.

6 Sec. 17.14.060. FORFEITURE. All imitation controlled substances
7 or manufacturing equipment or accessories used in making imitation
8 controlled substances with respect to which a violation of this chapter
9 has occurred shall be forfeited to the state and upon conclusion of the
10 trial in which the violation is proved shall be destroyed or used by the
11 Department of Health and Social Services for medical or scientific
12 purposes.

13 Sec. 17.14.099. DEFINITIONS. In this chapter

14 (1) "controlled substance" means a substance as defined in
15 AS 11.81.900(6);

16 (2) "distribute" means the actual, constructive, or attempted
17 transfer, delivery, or dispensing to another of an imitation controlled
18 substance;

19 (3) "imitation controlled substance" means a substance that
20 is not a controlled substance, which by dosage unit appearance (including
21 color, shape, size, and markings) or by representations made would lead
22 a reasonable person to believe that the substance is a controlled sub-
23 stance; if the appearance of the dosage unit is not reasonably sufficient
24 to establish that the substance is an "imitation controlled substance"
25 (for example in the case of powder or liquid), the court or authority
26 concerned should consider, in addition to all other logically relevant
27 factors, the following factors as related to "representations made" in
28 determining whether the substance is an "imitation controlled substance"

29 (A) statements made by an owner or by anyone else in

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control of the substance concerning the nature of the substance, or its use or effect;

(B) statements made to the recipient that the substance may be resold for inordinate profit;

(C) whether the substance is packaged in a manner normally used for illicit controlled substances;

(D) evasive tactics or actions used by the owner or person in control of the substance to avoid detection by law enforcement authorities;

(E) prior convictions, if any, of an owner, or anyone in control of the object, under state or federal law related to controlled substances or fraud;

(F) the proximity of the substances to controlled substances;

(4) "manufacture" means the production, preparation, compounding, processing, encapsulating, packaging or repackaging, labeling or relabeling, of an imitation controlled substance.