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Referred: Judiciary and
Finance

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1 IN THE HOUSE

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SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 10

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

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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 11 is amended by adding a new chapter to read:

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CHAPTER 73. IMITATION CONTROLLED SUBSTANCES ACT.

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Sec. 11.73.010. MANUFACTURE OR DELIVERY OF AN IMITATION CON-

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TROLLED SUBSTANCE. (a) Except as provided in AS 11.73.050, a person

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may not manufacture, deliver, or possess with intent to deliver, an

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imitation controlled substance.

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(b) Except as provided in AS 11.73.030, a person who violates

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this section commits a class C felony.

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Sec. 11.73.020. POSSESSION OF SUBSTANCE WITH INTENT TO MANUFAC-

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TURE. (a) Except as provided in AS 11.73.050, a person may not

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possess the following substances or their salts with the intent to

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manufacture an imitation controlled substance:

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(1) ephedrine;

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(2) ephedrine sulfate;

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(3) pseudoephedrine;

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(4) pseudoephedrine hydrochloride;

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(5) phenylpropanolamine;

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(6) caffeine;

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(7) theophylline;

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(8) lidocaine;

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(9) procaine;

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(10) tetracaine;

- 1 (11) dyclonine;
2 (12) acetaminophen;
3 (13) salicylamide;
4 (14) doxylamine;
5 (15) diphenhydramine;
6 (16) pheniramine;
7 (17) chlorpheniramine; or
8 (18) pyrilamine.

9 (b) A person who violates this section commits a class C felony.

10 Sec. 17.14.030. DELIVERY OF AN IMITATION CONTROLLED SUBSTANCE TO
11 A MINOR. (a) Except as provided in AS 11.73.050, a person 18 years
12 of age or older may not deliver an imitation controlled substance to a
13 person under 18 years of age.

14 (b) A person who violates this section commits a class B felony.

15 Sec. 11.73.040. ADVERTISEMENT TO PROMOTE THE DELIVERY OF AN
16 IMITATION CONTROLLED SUBSTANCE. (a) Except as provided in AS 11.73.-
17 050, a person may not knowingly place in a newspaper, magazine, hand-
18 bill, or other publication, or post or distribute in a public place,
19 an advertisement or solicitation knowing that the purpose of the
20 advertisement or solicitation is to promote the delivery of an imita-
21 tion controlled substance in the state.

22 (b) A person who violates this section commits a class C felony.

23 Sec. 11.73.050. IMITATION CONTROLLED SUBSTANCE AS PLACEBO. No
24 civil or criminal liability may be imposed under this chapter on a
25 person who manufactures, delivers, possesses or advertises or solicits
26 to promote delivery of an imitation controlled substance solely for
27 use as a placebo prescribed by a registered practitioner, as defined
28 in AS 11.71.900(19), in the course of professional practice or re-
29 search.

1 Sec. 11.73.060. FORFEITURES. (a) Property used during or in
2 aid of a violation of this chapter may be forfeited to the state to
3 the extent permitted under and in accordance with the provisions of
4 AS 17.30.110.

5 (b) For purposes of this section the terms "controlled sub-
6 stance" and "this chapter", as used in AS 17.30.110, shall be con-
7 strued as "imitation controlled substance" and "AS 11.73" respective-
8 ly.

9 Sec. 11.73.099. DEFINITIONS. In this chapter

10 (1) "controlled substance" means a substance as defined in
11 AS 11.71.900(4);

12 (2) "deliver" or "delivery" means the actual, constructive,
13 or attempted transfer from one person to another of an imitation
14 controlled substance, whether or not there is an agency relationship;

15 (3) "imitation controlled substance" means a substance con-
16 taining ephedrine, ephedrine sulfate, pseudoephedrine, pseudoephedrine
17 hydrochloride, phenylpropanolamine, caffeine, theophylline, lidocaine,
18 procaine; tetracaine; dyclonine; acetaminophen; salicylamide;
19 doxylamine; diphenhydramine; pheniramine; chlorpheniramine; or
20 pyrilamine, that is not a controlled substance, and that by dosage
21 unit appearance (including color, shape, size, and markings) or by
22 representations would lead a reasonable person to believe that the
23 substance is a controlled substance; the term "representations", as
24 used in this paragraph, includes

25 (A) statements made by an owner or by anyone else in
26 control of the substance concerning the nature of the substance,
27 or its use or effect;

28 (B) statements made to the recipient that the sub-
29 stance may be resold for inordinate profit;

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

3 (D) evasive tactics or actions used by the owner or
4 person in control of the substance to avoid detection by law en-
5 forcement authorities;

6 (E) the storage, packaging, presentation, display of
7 or reference to a controlled substance with, near, or in con-
8 nection with the activity involving the imitation controlled
9 substance.

10 (4) "manufacture" means the production, preparation, com-
11 pounding, processing, encapsulating, packaging or repackaging, label-
12 ing or relabeling, of an imitation controlled substance.