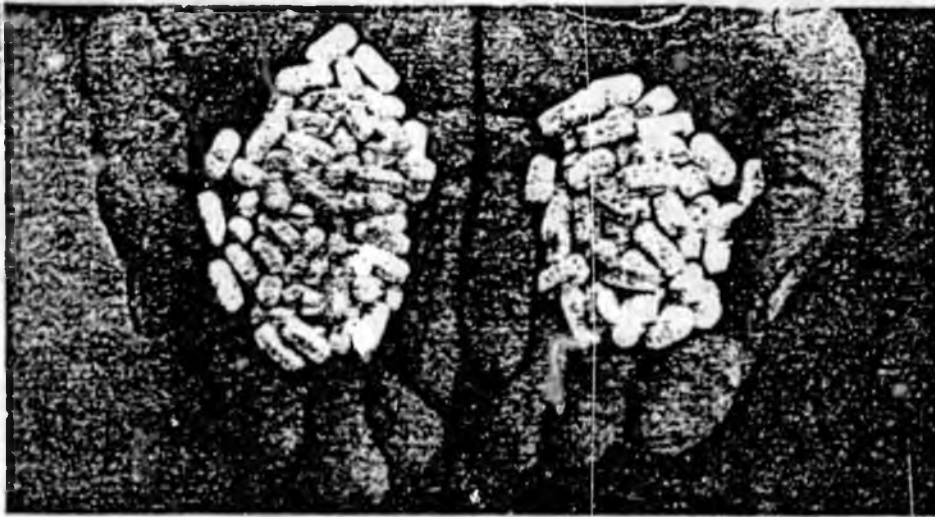


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The real thing, left, compared with imitations that have an equally deadly potential

“Look Alikes”: a New Drug Danger

Fake amphetamines are not only lethal but legal—for now

The 17-year-old girl in Belvidere, Ill., seemed to be just one more victim of an overdose of illegally obtained amphetamines. Police, finding the type of pills that allegedly killed her, thought they looked just like “black beauties,” one of several forms in which amphetamines are sold. Analysis showed, however, that they were not amphetamines at all but a combination of substances commonly found in the cold remedies, diet and keep-a-awake pills sold over the counter in drugstores. The dead girl was a victim of the nation's latest drug danger: the “look-alike” pill.

Though they are made to mimic the appearance of the more expensive amphetamines, look-alike drugs contain no federally controlled substance (i.e., with a high potential of dangerous abuse). Their primary ingredients are caffeine, a stimulant; ephedrine, a vascular constrictor; and phenylpropanolamine (PPA), a chemical cousin of amphetamines. The danger lies not in the kinds of chemicals they contain but in the amount. Whereas the average diet-aid capsule may contain about 50 mg of PPA and between 100 mg and 200 mg of caffeine, a look-alike capsule can carry 50 mg of PPA and 200 mg to 500 mg of caffeine, which in heavy doses can cause heart or respiratory failure. Says Dr. John Spikes, an Illinois toxicologist: “People hear caffeine, and they think of a cup of coffee. You get between 50 mg and 100 mg in a cup of coffee. The people we're seeing using these drugs are taking ten to 20 pills at once.” In other words, they can ingest the caffeine of dozens of cups of coffee in one gulp. In the past two years, look-alikes have been implicated in the deaths of at least 14 people in New York, Maryland, Michigan, New Mexico, California and Illinois.

For the small manufacturers and dealers who purvey look-alikes, the product

yields a lot of money with little legal risk. Says Lieut. Robert Long of the Massachusetts state police narcotics unit: “A dealer can buy about 1,000 look-alike pills for \$45 per jar, or approximately 4c each. Then he goes out to some eighth-grader and sells those same pills for \$2 apiece. Right off the bat he's making a profit of more than \$2,000.”

Ads for mail-order look-alikes (“safe, effective and legal”) have appeared in publications like *Cosmopolitan* and Chicago's *Reader* and in leaflets passed out at rock concerts and in schoolyards. Ironically, the only instance in which it is not legal to make or sell them is when a manufacturer or dealer claims they are real amphetamines. In that case he can be prosecuted for fraud, but sellers carefully label look-alikes as “stimulants” and often include warnings about maximum dosage. Says Lieut. Long: “Most of these guys are not going to make the mistake of claiming to have something they don't. They just let the kids think they have it.”

Because the drugs are not mislabeled by the manufacturer the Food and Drug Administration, which is responsible for the safety and efficacy of drugs, can do nothing under present laws. Neither can the Drug Enforcement Administration, which applies laws only against illegal use of controlled substances. But the U.S. Postal Service has filed complaints against 39 mail-order companies, charging them with misrepresenting the safety of their products. Delaware was the first of several states to pass special statutes against look-alikes, known as “turkey” laws, so named because “turkey” is the street term for phony drugs. Probably no serious headway will be made, however, until the Federal Government finds a way to block the look-alike loophole with a uniform national law. ■

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'Look-Alike' Drugs Sold In State, But It's Legal

SHBGN, PR.

The drugs are called "look-alikes" and they're just as dangerous, but they are legal, according to State Rep. Gervase Hephner, D-Chilton.

"These drugs are harmful and they should not be legal," Hephner argued.

JUN 10 1991

Concerned about the availability of substances that contain large amounts of caffeine, phenylpropanolamine and ephedrine sulfate, the lawmaker called on the State Council on Alcohol and Other Drug Abuse and the Attorney General to take definite, quick action.

"What's more," Hephner pointed out, "they are pushing these drugs through the mail now."

Citing a letter a constituent received in the mail from a Florida drug firm, Hephner stated, "These suppliers have to be stopped." The constituent, a tavern owner, received a letter advertising drugs and asking if he would like to become a distributor.

The letter pointed out that the tavern owner could buy a bottle of Ephedrine Speed for \$100 and sell it at a street value of \$1,000 per bottle. In describing its products, the company listed one drug as "the strongest" saying "it will raise the hair on your arms."

In addition, the company also said, "If you should need a certain stimulant that we don't carry in inventory, we will do our best to get it."

This is not the only instance of such selling tactics. Cars parked around the University of Wisconsin in Madison were leafleted with advertisements about street speed about the time students were taking finals, the lawmaker said. This was done by one of the three Wisconsin drug companies that use practices similar to the Florida firm to sell their dangerous products.

"The biggest problem is that these drugs are finding their way into our high schools and maybe even grade schools," Hephner said.

They appear to have very strong side affects, he stated. For example, in New Mexico and Illinois, special medical investigators have discovered approximately eight deaths related to these harmful substances.

"These were young people that died from strokes," Hephner said.

Since these are not controlled substances, many agencies feel powerless to act, he pointed out.

"This is nonsense," Hephner said.

If there is a fine line opening the way for these corrupt suppliers, let's sew it up. There is just too much at stake."



Gary R. Goyke

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Chairman
Education and State Institutions
Joint Committee on Tax Exemptions
Council on Alcohol and Other Drug Abuse

July 29, 1981

TO: Members of the State Council on
Alcohol and Other Drug Abuse

FROM: Senator Gary R. Goyke, Chairman

GRG

Since the Council was first alerted to the "look alike" drug trade in March of this year, staff have been working to analyze and prepare legislation to reduce and control this form of drug abuse.

On Friday, August 7, the Council will discuss and consider the look alike drug problem and various proposals for addressing that problem. Enclosed for your consideration is a discussion paper and a preliminary draft of my proposed look alike drug bill.

I hope that you will be in attendance and look forward to discussion of this important issue on Friday.

Enclosure

Good background material

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JUL 31 1981

LEGISLATIVE REFERENCE BUREAU

Controlling the "Look-Alike" Drug Trade:
Problem, Analysis and Proposed Legislation

by

Senator Gary R. Goyke

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JUL 31 1981

LEGISLATIVE REFERENCE
BUREAU

Background

Earlier this year, the State Council on Alcohol and Other Drug Abuse was alerted to the growth of the mail-order wholesale "Look Alike" drug trade in Wisconsin. The Council, the Controlled Substances Board, the Bureau of Alcohol and Other Drug Abuse, the Attorney General's Office and individual legislators have received inquiries and complaints about imitation controlled substances, and the promotional materials and marketing techniques associated with these drugs. Recent reports of deaths, strokes and other serious medical problems associated with the use of "look alike" drugs indicate the need for immediate efforts to alert the public to the potential hazards of their use and enact legislation to prohibit or restrict their distribution.

Facts

"Look alike" drugs are generally compounded from and contain legal, over-the-counter drugs procaine, phenylpropanolamine, caffeine, ephedrin and other uncontrolled substances which are manufactured to closely resemble or to be identical in appearance, taste, smell, texture, form and markings to legally manufactured or illegally available controlled substances such as cocaine, amphetamine, methamphetamine, and prescription tranquilizers.

Promotional materials for these imitation controlled substances appear in Wisconsin newspapers, shopping and entertainment guides, national magazines, direct mail advertisements and solicitations. Advertisements generally imply or directly state that these products are safe, legal, indistinguishable

from "the real thing" in appearance and comparable to the controlled substances they resemble in psychoactive, stimulant or depressive effect. Most solicit volume orders in multiples of 1,000 capsules or tablets. Some distributors imply or directly state that these products, which are offered for as little as 2 1/2c per tablet or capsule, may be resold for as much as \$2.00 each. (But, the same distributors advise, more profit can be made with faster turn-around, by reselling in quantities of 100 for 25c per tablet.) As advertised, these drugs are clearly intended to be resold in small quantities as or for controlled substances.

Hazards

Potential hazards of "look alike" drugs are two-fold: direct and indirect. Recent cases in other jurisdictions indicate direct associations between strokes, death, other serious medical consequences and the use of so-called "street speed" or "ephedrine speed", generally a combination of phenylpropanolamine hydrochloride, caffeine sulfate and ephedrine sulphate, alone or in combination with alcohol.

Direct medical consequences have also been associated with the use of cocaine look-alikes containing procaine, a drug which is not approved for human consumption under federal and state pure food and drug laws.

The indirect hazard resulting from use of "look alike" drugs is that persons accustomed to using imitation controlled substances in large dosages to obtain the desired effect are likely to ingest the same quantity of the actual controlled substance which is indistinguishable in price or appearance from the imitation, with serious and sometimes fatal results. Recent drug overdoses in other jurisdictions have been related to accidental purchase or substitution of "the real thing" for the accustomed imitation.

The Law

"Look alike" drugs delivered by commercial distributors are generally manufactured, packaged, labeled and distributed in accordance with the requirements of the federal and state pure food and drug law. Current Wisconsin law (s. 450.04 Wis. Stats.) does not prohibit sale of over-the-counter drugs by any person, in any form, packaged or unpackaged, in any amount, to any other person. Thus, sale of "look alike" drugs, which contain over-the-counter substances cannot be controlled under present drug laws.

Eleven states have adopted or are considering adoption of legislation directed at controlling the "look alike" drug trade: Delaware, Minnesota, Colorado, Tennessee, South Dakota, Oregon, Connecticut, Maryland, Florida, Kansas and Oklahoma. Elements of the approaches taken in these states are included in the legislation proposed, below.

Proposed Legislative Action

Attached are preliminary drafting notes for a bill which would:

1. Prohibit false, deceptive, misleading and undocumented drug advertising; provide injunctive relief, criminal penalties and cause for civil action for damages suffered as a consequence of violations. [ss. 100.186 proposed]
2. Prohibit delivery of a non-controlled substance which is represented to be:
(a) a controlled substance or (b) of such nature, appearance or effect as to permit it to be resold or used as or for a controlled substance; providing penalties of \$5,000 to \$25,000 and one to 25 years imprisonment. [ss. 161.41 proposed].
3. Prohibit manufacture, sale or possession of devices for counterfeiting or producing imitation controlled substances; penalties up to \$30,000, or four years imprisonment or both [ss. 161.43(1)(b)].
4. Prohibit manufacture packaging and labeling of non-controlled substances

in forms which resemble or are identical to controlled substances;

Penalties: up to \$30,000, four years imprisonment or both [ss. 161.43(1)(c) proposed.]

5. Prohibit manufacture and sale of drugs or medicines of any kind by unlicensed persons, except for sales of proprietary medicines, aspirin or over-the-counter drugs in sealed packages, labeled to comply with requirements of federal and state pure food and drug law, with directions for using, and the name and location of the manufacturer; Penalties for unlicensed sale or manufacture, or sale by unlicensed persons of over-the-counter drugs in other than properly labeled, sealed packages: \$50-\$100, 30-90 days in jail (each offense) [ss. 450.04(3)(b), (d) proposed].

Discussion

The provisions of this proposed legislation would:

1. Permit the attorney general or district attorneys to act, through injunctions, to stop false, deceptive, misleading and undocumented drug advertising, whether or not the substances involved are actually delivered.
2. Permit action against manufacturers and distributors of look-alike drugs who manufacture or possess devices to manufacture, package or repackage counterfeit or imitation controlled substances, whether or not those substances were actually manufactured, sold or delivered.
3. Permit action against wholesalers and retailers (street sellers) of look alike drugs who represent those drugs to be controlled substances or to be of such nature, effect or appearance as to permit resale or use as or for a controlled substance.
4. Permit action against street sellers of over-the-counter drugs which

do not resemble or are not represented to be controlled substances but

do not resemble or are not represented to be controlled substances but are sold unpackaged or in packages which do not comply with the requirements of the federal and state pure food and drug law. (This provision would permit prosecution for unlawful sales in cases in which there is insufficient evidence of misrepresentation of non-controlled substances or in which non-controlled substances, represented as such, are sold for "recreational" use.)

Ritodrine (Yutopar - Maxwell-National)

Ritodrine is available in an injectable product containing 50 mg/5 ml and as oral tablets of 10 mg each. It is indicated in the management of pre-term labor after at least the 20th week of pregnancy. Because of the complicated nature of the drug's activity and determination of patient suitability, the use of ritodrine should be left to those clinicians experienced with it. For an acute episode, ritodrine is administered by intravenous infusion of initially, 0.1 mg/minute. This may be increased by 0.05 mg/minute at 15 minute intervals, until adequate response is noted. Approximately 30 minutes prior to termination of IV therapy, one tablet is usually given. This is followed by one tablet every two hours for the first 24 hours, and then 1-2 tablets every 4-6 hours, depending on uterine activity and side effects. Adverse effects reflect ritodrine's beta-mimetic activity. The most frequently observed effect is alteration of maternal and fetal heart rates and maternal blood pressure. The package literature should be consulted for a description of the many other adverse effects reported. A more complete discussion of the rationale for use and pharmacology of ritodrine can be found in the July-August, 1980 issue of the *Bulletin*.

"LET THE BUYER BEWARE"

Over the past year we have witnessed an explosive phenomenon reflecting a new level of sophistication among the promoters of drug misuse or abuse. During this period of time the Drug Information Center has received several calls each week regarding identification of drug products which have been confiscated by police or found by concerned parents. Commonly the caller is trying to identify a black capsule that resembles Biphelamine[®], or a yellow capsule that looks like Ionomin[®], both of which are controlled central nervous system stimulants of the amphetamine type. The product is different, however, in that the logo and/or identifying number varies slightly from the trade-named product.

In investigating this situation we have become aware of several distributing houses which are selling these "new legal stimulants" directly to the consumer on a mail order basis. All of the available products resemble controlled stimulant products (see list below), such as those mentioned above, plus Dexamyf Spansules[®], Dexedrine[®], etc. Having anonymously contacted one of these distributors, however, we were informed that all the preparations contain the same thing: pseudoephedrine and caffeine. (Allegedly, other distributors utilize phenylpropanolamine as well.) We were also told that, although only available in quantities of 1000, the consumer could break these down into smaller quantities (for further distribution at the local level).

The FDA was contacted to determine the legality of these operations. It was learned that, although the agency recognized the problem, these companies were operating in a perfectly legal manner. When the consumer receives his order it is accompanied by appropriate legally required non-prescription drug labeling, and therefore, meets FDA requirements. Since product logo and/or number designations vary from the copied preparation, no trade-name infringements exist.

Although these operations are operating within the law, the problem is obvious. The unsuspecting "street consumer" is purchasing what he believes to be an amphetamine for \$0.50-\$1.00 per capsule and which actually contains no more stimulant activity than a cup of coffee. We believe, therefore, that preventive education is necessary to warn the unsophisticated user that they are being ripped-off.

This information, therefore, may be provided to local media at the reader's discretion. For your convenience, a description of some of the available preparations follows.

1. Black Capsule with the No. 335
2. Black Capsule with the letters DEX
3. Small Black Capsule with the No. 18-789
4. Small Black Capsule with the No. 18-985
5. Black Capsule with the No. 127
6. Small Black Capsule with the letters AKS
7. Small Black Capsule with the letters RUS
8. Small Black Capsule with the letters RJS
9. Yellow Capsule with the letters RJS
10. Small Yellow Capsule with the No. 18-906
11. Small Yellow Capsule with the letters RUS
12. Small Yellow Capsule with the letters RJS
13. Small Pink Capsule with the No. 97208-63
14. Round Orange Tablet with the letters BT-72
15. White Mini-Tablet with two Line Cross on the Top
16. White Large Tablet with two Line Cross on the Top
17. Green and Clear Capsule with Green and White Beads and the No. 127
18. Blue and Clear Capsule with Blue and White Beads and the No. 127
19. White and Clear Capsule with Orange, Green, White, Yellow Beads and the No. 127
20. Small Brown and Clear Capsule with White and Orange Beads and the No. 127
21. Rectangle White Tablet with Green Specks in it and One Line in the Middle
22. Rectangle White Tablet with Blue Specks in it and One Line in the Middle
23. Rectangle All Blue Tablet with One Line in the Middle
24. Oval Pink Tablet (Football)
25. Yellow Cube
26. Cube with Red and White Specks

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

Fake 'Speed' Causes Almost as Much Fear As the Real Thing

Look-Alikes, Mainly Caffeine,
Used by Many Youngsters;
Some Deaths Are Reported

By Steve R. Massey

Staff Reporter of THE WALL STREET JOURNAL
CLEVELAND—"Pink footballs," "black

beanders" and "yellow jackets" were confiscated here during the recent arrest of a street dealer who sells drugs to kids. But the dealer had to be released.

It turned out that the capsules were mislabeled. They weren't what many of the kids' customers thought they were: forms of "speed," the drug-world term for potent amphetamines that make a user's heart race and his nervous system tingle. Doctors prescribe amphetamines mainly for losing weight. Without a prescription, it is illegal to sell them.

But the capsules that the dealer was nabbed with are perfectly legal to sell in most places. Though disguised as pink footballs and the like, they are no stronger than three cups of coffee. In fact, caffeine is the main ingredient in most of them. Yet they, too, can be dangerous.

These stimulants are called "look-alikes" by medical agents. Once found almost exclusively in truck driver's pockets, they have been cropping up all around the country. College and high-school students are getting them for pick-me-ups. So are junior-high girls and even younger children. The junk scares many adults.

Reports of Overdoses

The fake speed is causing almost as much alarm as genuine speed. Laurence B. Golden, a staff consultant with the intelligence office of the Federal Drug Enforcement Administration, says his office receives daily reports of overdoses—and occasionally of deaths.

The dangers of look-alikes, however, are certainly less than the dangers of speed. "The real problem is that the young people are getting it on the drug scene and taking these things," says James Tabor, of the Ohio State Board of Pharmacy. "It's a very natural way to look the real thing."

On the other hand, the buyer of a look-alike may already be a speed user; who knows he is getting speed again this time. If he is a look-alike user, he may take more and more of the look-alike. That could lead to an overdose. Or it could lead him to think that he could take more speed than he had in the past. He may take more speed, or he may overdose on that.

A look-alike pill typically is two-thirds caffeine. The remaining one-third usually is composed of two anti-allergic agents: ephedrine sulfate and phenylpropanolamine. These constrict blood vessels, and if taken in excessive quantities can collapse them.

More Work for Police

When a drug is sold as speed, the authorities have to assume that it is speed. "Once this stuff gets on the street, it's dope," says Mr. Golden. "It's dealt with the same way." So the upsurge in look-alike traffic means more work for the police. It also means more work for drug companies fighting misuse of their products. It is bad enough when your product finds its way into the street-drug trade. It is even more infuriating when it's something disguised as your product.

Despite efforts by local, state and federal officials, the look-alikes keep coming. One federal official estimates that as many as 100 million may be sold this year. That compares with 70 million of the actual amphetamines. The number of wholesalers pushing the boys' speed, Mr. Golden says, has jumped from a dozen a few years ago to about 25 now.

"It is like dealing with a greased pig," says Richard J. McMahon of the attorney general's office in Delaware. In June 1960, that state became the first to pass an anti-look-alike law aimed at halting the flow of look-alikes. So far, only two cases have reached the courts; the state won one of them, "and even then the penalty was probation," Mr. McMahon says. More recently, nine other states have passed such laws: Arkansas, Colorado, Connecticut, Indiana, Kansas, Louisiana, Maryland, Oklahoma and South Dakota.

It may seem strange to charge someone with fraud for selling something legal instead of illegally selling something that is more dangerous anyway. But the federal drug authorities seem powerless to halt the look-alike traffic, so the states, with federal encouragement, are doing whatever they can.

There is no federal law protecting people who think they are buying speed but get look-alike instead, and the ingredients in the look-alikes aren't controlled substances.

Please Turn to Page 14, Column 2

Continued From First Page
under federal regulations. So federal officials are forced to pass the buck.

Not the postal service, though. Ned Preece of the U.S. Postal Inspector's Office says the agency has filed 25 complaints with an administrative-law judge, all charging distributors of the capsules with falsely representing them as safe. (Distributors may be developing a damned-if-I-do, damned-if-I-don't complex. If they say they are selling speed, the anti-fraud laws may get them. If they truthfully say they are selling the caffeine pills, and state or imply that they are safe, the post office may get them.)

Mostly, however, federal authorities simply urge states to enact stiffer anti-fraud penalties, and they give vocal support to state and local enforcement efforts.

Death in Michigan

Ohio is considering legislation requiring packages of look-alikes to disclose that the contents aren't speed. Michigan, operating under an existing deceptive-trade law, has shut down one look-alike wholesaler and banned three others from selling the pills in the state. According to the Michigan attorney general's office, two young women in Flint, Mich., died last year from overdoses of 50 or more look-alikes each. The deaths may have been suicides.

Douglas Vivian, a pharmacist for the poison-control center and drug-information service at Hurley Medical Center in Flint, says a dose of 10 grams can be fatal. The average look-alike, experts say, contains 200 milligrams, so a 10-gram dose would be 50 pills.

But Jerry O'Donnell, the director of the police-department laboratory in Albuquerque, N.M., says there is "no way to tell" what constitutes an overdose because "it varies from person to person." Mr. O'Donnell says that three young men aged 15 to 20 died in Albuquerque during the last year after taking look-alikes. While the victims had been doing some drinking, Mr. O'Donnell says, all had been "in excellent physical condition; they all died of brain hemorrhaging, which is symptomatic of ephedrine (sulfate) and PPA (phenylpropranolamine)."

Firms Take Steps

Some established drug companies are trying to dissociate themselves from look-alikes. SmithKline Corp. in Philadelphia discontinued its green-and-clear diet-capsule line, Dexanymyl, after it discovered that capsules disguised as Dexanymyl were being sold at speed. Pennwalt Corp.'s Philadelphia division has successfully barred four companies from pushing imitations of its popular Ephedamine 20—the real "black beauties."

The founder of the look-alike industry, William Saye, 38, of Fairburn, Ga., applauds the prohibitive measures. "Today, it is being abused," he says. "Kids don't know how to handle business. There are too many bathtub operations in existence now and not enough quality controls."

Mr. Saye started selling caffeine pills wholesale out of his truck cab in Georgia in 1973. The next year, as business expanded, he set up Saye Drug Co. there. In 1977, he moved the company to a Tampa warehouse and changed its name to OTW Distributors Inc. By the end of that year, he had almost 50 employes selling the pills at truck stops in almost every state. The salesmen were called "peashooters" and drivers would contact them over citizens'-band radio. Mr. Saye says that his salesmen, when asked, were supposed to tell a customer that the pills weren't speed—or risk being fired. By 1980, when he retired from the drug trade, Mr. Saye's business was bringing in about \$2 million annually in sales. The pills were obtained from a Long Island manufacturer. Evidently it was all perfectly legal.

Despite "hassles with the police and the press," Mr. Saye says, "I'm proud of what I've done. I ran the business right. Now I just want to lead a normal life, raise some beef cattle, and enjoy my two girls and two boys."

Small Operations

Today, most wholesale distributors are small operations, often a husband-and-wife team working out of their home. "About all they have to do is file a one-page registration form," says an official of the Food and Drug Administration. Sales are handled mainly by mail or phone except for a few storefront concerns in Albuquerque and Los Angeles with such names as the Source and the Pink-Me-Ups.

The distributors don't advertise much, though some ads run occasionally in local and college newspapers and a few national magazines. Instead, they leave calling cards in such places as truck-stop restrooms and college dormitories—a practice started by Mr. Saye.

Those who sell the pills rarely make them. Supplies come from larger wholesalers such as Clifton Pharmacal Inc. in Milroy, Pa., which has its own pharmaceutical factory, or from one of an estimated 10 to 15 big manufacturers in Pennsylvania and on Long Island. They are sold in high volumes, in lots of 100 or 1,000, at prices ranging from about two cents to 10 cents a pill. On the street, says Mr. Tudor of the Ohio pharmacy board, they fetch anywhere from 50 cents to \$2 a pill.

Most distributors won't divulge earnings, but estimates are that average sales for a medium-sized company can range between \$500,000 and \$1 million a year. Jerry Heck, the founder of the Pink-Me-Ups in Albuquerque, says that his six stores average \$200 a week each in profits.

DATE: THURSDAY, DECEMBER 10, 1981

Flood of 'look-alike' drugs appears to have receded in Maryland

By Alan Cooper

A flood of "look-alike" drugs that health and law enforcement officials said washed into Maryland early this year appears to have receded, thanks in part to a number of legal actions in the state and elsewhere.

Look-alikes are capsules or tablets, containing caffeine and other non-prescription drugs, that are made to resemble addictive, commonly abused prescription drugs, such as amphetamines. Health and law enforcement officials, alarmed when the drugs became popular on school campuses and in street drug traffic about a year ago, said look-alikes hampered drug law enforcement, encouraged drug-taking generally and posed some potential health hazards. The federal Food and Drug Administration blames look-alikes for at least 13 deaths nationwide, including two in Maryland.

A new state law that took effect in June apparently prompted most of the dozen or so companies selling look-

Of consuming interest

alikes in Maryland to close their doors, according to state health officials. In addition, actions by federal officials have shut down some look-alike manufacturers and distributors in other states.

One Maryland company, Phun Pharmaceuticals of Gaithersburg, is the subject of a U.S. Postal Service complaint charging the firm with making false representations that its products are safe and legal. That complaint is pending before a Postal Service administrative law judge. Another company is under investigation by a grand jury in Baltimore city, which is weighing whether the company's operations violated the new state law.

The spate of legal actions does not mean there are no more look-alikes in Maryland, but some law enforcement and health officials said traffic in look-alikes appears to have slowed down.

"I'm sure they are still available," said Bob Kramer, coordinator of Anne Arundel county's drug and alcohol program, noting that look-alikes can still be sold by mail order from companies in other states.

Since the state law took effect, Baltimore city police have charged three individuals with selling look-alike drugs on the street, according to Lt. Joseph Newhan of the city police narcotic unit. But officers who work on street drug cases are not running across look-alike peddlers as frequently as they did a few months ago, said Lieutenant Newman. "We really haven't seen a whole lot of them in the last couple of months. Maybe the bad has kind of died down," he said.

The contents of look-alikes are seemingly innocuous drugs, usually a combination of caffeine, ephedrine and phenylpropanolamine. These drugs are common ingredients in diet pills and cold remedies sold without prescription.

But it is the exterior of the look-alikes that has made them controversial. Their color, size, shape and markings imitate those of "uppers" and "downers" such as prescription amphetamines and barbiturates popular in illegal drug traffic. Look-alikes often are sold under the street names for illegal drugs, such as "black beetles" and "yellow jackets."

Health officials say that students and other unsophisticated customers pay several dollars apiece for look-alikes, believing they are illegal uppers and downers. To get the same effect as the more potent prescription

drugs, they may gobble look-alikes by the handful, causing an overdose. Or, accustomed to taking larger quantities of look-alikes, they may take too many of the prescription drugs they imitate.

According to FDA, most deaths involving look-alikes appear to have been caused by caffeine overdoses in people who took them in large quantities. But two young men in New Mexico died of strokes after taking only a couple of look-alikes, said an FDA spokesman. In those cases, phenylpropanolamine—which some medical experts say can cause extreme high blood pressure in certain people—is suspected of causing the strokes.

News of those deaths and other potential problems created pressure on state and federal officials to act against look-alikes this year. Maryland was among the first states to pass a law, making it illegal to sell a non-prescription drug if "one reasonably should know that the uncontrolled substance will be used or distributed for use as a controlled dangerous substance."

Prior to passage of the Maryland law, there were 12 or 13 companies selling look-alikes in the state, according to Charles Tregoe, chief of the state health department's division of drug control.

Drugs sold by one of those companies, J&P Distributors, Inc., on Eastern Avenue in Baltimore, were seized in a city police raid after the new law took effect this summer. A grand jury investigation of the firm is still pending, but J&P is no longer operating in the state, according to John Prevan, chief of criminal investigations for the city state's attorney's office.

Other distributors closed down their Maryland operations about the time the state law took effect, according to Mr. Tregoe. He said the only distributor he is aware of

for the state right now is Phun Pharmaceuticals. Mr. Tregoe declined to comment on Phun's continued operation in the state.

In June, the Postal Service filed a complaint against Phun, asking an administrative law judge to stop the firm's mail because of alleged misrepresentations in its advertising. The Postal Service complaint alleges that Phun has falsely advertised its products as safe, according to Sandra McFeeley, a Postal Service lawyer. The complaint also alleges that Phun's drugs are counterfeit, which are illegal under federal drug laws, she said.

Phun's case is pending before an administrative law judge in Washington. An attorney for the firm said he could not comment on the case without clearance from Phun officials.

Ms. McFeeley said the Postal Service has filed a total of 39 complaints against companies selling look-alike drugs, including one in Bel Air—RSI, Pharmaceutical, Inc.—that went out of business when Maryland's law took effect. About 30 of the 39 companies have either signed agreements promising to stop filling mail orders for look-alikes or have been ordered to stop by Postal Service judges, said Ms. McFeeley. The other complaints are still pending.

Despite the Postal Service's actions, there are still numerous distributors selling look-alikes in many states, according to a federal Drug Enforcement Administration official. He said he has compiled a list of more than 150 such companies since look-alikes first began to appear about two years ago.

FDA also has acted against look-alikes, concentrating its efforts on companies that manufacture them and sell them wholesale to the distributors. On September 30, FDA seized 15 million look-alike capsules and tablets and an additional 20 million empty capsules—marked to resemble controlled substances—according to agency spokesman Christopher Smith. In two cases, FDA's seizures have been upheld in court and the companies have been ordered to stop making look-alikes. Cases against the other manufacturers are still pending, said Mr. Smith.

Mr. Smith said FDA was under considerable pressure from Congress and the public to act against look-alikes. The agency felt attacking them from a health standpoint would be legally complicated, so it made its seizures on the basis that look-alike drugs are counterfeit. Under federal law, it is illegal to make counterfeit drugs—ones that copy the trademarks or other markings clearly identified with another drug product in an attempt to falsely represent the counterfeit as the imitated product. Mr. Smith said some of the drugs seized by the agency in September "were exact duplicates and others were very, very close."

12.

THE PPRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

Caffeine Toxicity Secondary to Street Drug Ingestion

To the Editor:

We have recently observed two serious toxicities secondary to ingestion of a caffeine-containing street drug preparation unfamiliar to most emergency physicians in the Louisville, Kentucky area. Due to the potentially grave consequences of this intoxication, we would like to alert other emergency physicians who may encounter this preparation in cases of unknown substance ingestion.

Case Number One. A 22-year-old man presented to the University Hospital ED approximately one hour after ingesting 15 to 20 "RJ-8" capsules to get "high." He stated that one-half hour after ingestion of the product he experienced abdominal cramping immediately followed by vomiting. On presentation, the pulse was 150; respiratory rate, 20/min; and BP, 90/60 mm Hg. The patient was noted to be extremely anxious and complained repeatedly of abdominal pain. Activated charcoal slurry and intravenous fluids were administered. The patient continued to retch for the ensuing 12 hours, but did not convulse. Toxicology screening of serum obtained on presentation was performed by coupled gas chromatography-mass spectrometry (GC-MS). A large amount of caffeine was detected in the serum. Quantification, carried out by high pressure liquid chromatography (HPLC), revealed 74.6 $\mu\text{g/ml}$ caffeine in the serum. No other drug substances were detected. Subsequent caffeine serum levels obtained over the next 24 hours demonstrated a caffeine elimination rate constant (k_e) of 0.136 hours^{-1} , yielding a caffeine half-life ($T_{1/2}$) of 5.1 hours. The patient was discharged in good condition 36 hours after admission.

Case Number Two. Forty-eight hours after the admission of Case Number One, a 21-year-old man presented complaining of abdominal pain and vomiting. He revealed that two hours prior to admission, he had ingested "40 hits of speed" which were in "yellow" capsules. Fifteen minutes after taking the capsules, he began to experience abdominal pain followed by vomiting. He observed a number of the capsules in the initial emesis. On presentation the pulse was 95; respirations, 20/min; and BP, 130/90 mm Hg. He was described as anxious, combative, and hostile. Toxicology screening and subsequent quantification *vide supra* demonstrated a 42 $\mu\text{g/ml}$ caffeine serum level. No other drug substances were detected in the serum or urine. The patient left against medical advice before further serum levels could be obtained.

The drug preparation obtained from Case Number One, as well as an additional capsule obtained by a community physician from an unrelated case, are shown (Fig). Analysis of the contents by GC-MS and HPLC demonstrated approximately 225 mg caffeine per capsule. No other drug substance was contained in the capsule.

Fatalities due to caffeine ingestion have been reported^{1,2} and were associated with caffeine plasma levels of 79.0 to 158.5 $\mu\text{g/ml}$. The amount of caffeine contained in the preparations shown here (225 mg) is greater than that found in most caffeine-containing products (No Doz, Bristol Myers, 100 mg; Vivarin, J.B. Williams, Co, 200 mg), indicating that ingestion of a small number of these capsules may result in caf-



Fig. Caffeine-containing street drug preparation. Analysis of contents revealed 225 mg caffeine per capsule. No other drug substances were detected. Capsule A, black in color, was obtained from Case Number One. Capsule B, yellow in color, was obtained by a community physician from a patient. Note the capsule markings differ.

feine plasma levels equal to those in reported fatalities. In children, the danger is particularly great due to the small size (1.2 cm x 5 mm OD) of the capsules.

Emergency physicians should consider toxicity secondary to caffeine-containing drug products in the differential diagnosis of patients presenting with a history of ingesting stimulant medications. The rapid recognition of this overdose will prevent inappropriate treatment and allow the physician to avert the potentially serious complications of caffeine overdose.

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Thomas Long, MD

Department of Emergency Medicine

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1. Dimatic VJM, Gerriotti JC: Lethal caffeine poisoning in a child. *J Foren Sci* 3, 1974.

2. Turner JE, Cravey RH: A fatal ingestion of caffeine. *Clin Toxicol* 10:341-344, 1977.

3. Sullivan JL: Caffeine poisoning in an infant. *J Pediatr* 90:1022-1023, 1977.

SECTIONAL ANALYSIS HB 679

" An Act relating to imitation controlled substances"

Sec 1 Amend Title 17 "Food and Drugs by adding Chapter 14-
IMITATION CONTROLLED SUBSTANCES ACT

Sec.17.14.010 " MANUFACTURE OR DISTRIBUTION OF IMITATION CONTROLLED
SUBSTANCE.

Unless a placebo-- see 17.14.050-- it is unlawful for a person to manufacture, distribute, or possess with intent to distribute, an imitation controlled substance. Class C felony.

Sec.17.14.020 DISTRIBUTION OF IMITATION CONTROLLED SUBSTANCE TO A MINOR.

A person violating previous section who is 18 or over and distributes an imitation controlled substance to a person under 18 is guilty of a Class B felony.

Sec.17.14.030 USE OF IMITATION CONTROLLED SUBSTANCE.

A person using, or possessing with intent to use, an imitation-controlled substance is guilty of a Class A misdemeanor.

Sec. 17.14.040 ADVERTISEMENT TO PROMOTE THE DISTRIBUTION OF AN IMITATION CONTROLLED SUBSTANCE.

Publication or solicitation to promote distribution of an Imitation controlled substance is a Class C felony.

Sec. 17.14.050 IMITATION CONTROLLED SUBSTANCE AS PLACEBO.

No violation if a person manufactures, distributes, or possess an imitation controlled substance solely for use as a placebo prescribed by a registered practitioner.

Sec. 17.14.060 FORFEITURE

All equipment used to manufacture an imitation controlled substance(plus the substance itself), shall be forfeited to the state.

Sec.17.14.099 DEFINITIONS

Definition section for the new imitation controlled substance chapter. Terms defined are;

1. controlled substance-(same as defined in AS 11.81.900(6) which included, but is not limited to- narcotics, depressants, hallucinogenics, or stimulant drugs- as defined in AS 17.10.230 or 17.12.150[includes marijuana]).

2. "distribute"

3. "imitation controlled substance"..basically "means a substance that is not a controlled substance, which by dosage unit appearance(including color, shape, size, and marking) or by representations made would lead a reasonable person to believe that the substance is a controlled substance..."

4. "manufacture"

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 679
 Title "An act relating to limitation controlled substances."
 Requested by Repr. Belrne, House HESS Committee Date 2/11/82

II. FISCAL DETAIL

Agency Affected Department of Law
 Program Category Affected Administration of Justice
 BRU, Program, Or Subprogram(s) Affected Prosecution
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

	0	0	0	0	0	0
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	0	0	0	0	0	0
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

It is estimated that enactment of this bill will result in 50 to 60 new criminal prosecutions throughout the state each year. This estimate is based upon a survey taken by the department, of local police agencies and the state troopers. Examined singly, no additional prosecution personnel will be required to implement the provisions of the bill. These new prosecutions, however, do represent additional workload which, when added to other crime bills, will have the effect of hampering the department's overall ability to prosecute criminal offenses.

IV. DATE February 16, 1982 PREPARED BY Richard I. Piques, Director, Adm. Svcs.

AGENCY Department of Law
 PHONE 465-3671

Original: Legislative Finance
 Budget and Management
 Prime Sponsor (First Legislator Named)

2/12/82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Sponsor Substitute for House Bill No. 679
Title "An Act relating to imitation controlled substances."
Requested by Representative Abood Date April 1, 1982

II. FISCAL DETAIL

Agency Affected Health & Social Services
Program Category Affected Offender Confinement, Reformation, & Supervision
BRU, Program Or Subprogram(s) Affected Adult Confinement
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL		.7	.8	.9	.9	1.0
300 CONTRACTUAL		4.3	5.2	6.8	7.4	8.1
400 COMMODITIES		3.4	10.6	11.6	12.6	13.8
500 EQUIPMENT						
600 LAND & STRUCTURES		345.0				
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	353.4	17.6	19.3	20.9	22.9

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-0-	353.4	17.6	19.3	20.9	22.9
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

A. Assumptions

1. Estimated conviction information was furnished by the Department of Law. They estimate that there would annually be one conviction for a Class B felony and 27 convictions for Class C felonies. Class A misdemeanors have been omitted in the committee substitute.
2. It is assumed that all convictions are of first time offenders.
3. The following table displays data regarding additional bed needs with enactment of HB 679:

IV. DATE April 5, 1982

PREPARED BY Robert C. Lange
AGENCY Division of Adult Corrections

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

PHONE 465-

100

FISCAL NOTE

Sponsor Substitute for H.B. #679

Page 2

<u>Class of Offense</u>	<u>Expected # of Convictions</u>	<u>% & # to Jail</u>	<u>Avg. Sentence Length</u>	<u>Flat Years</u>	<u>Person Years</u>
B Felony	1	50%/.5	2.5 Yr.	1.9	.95
C Felony	27	20%/5.4	1.09 Yr.	.82	4.43
	<u>28</u>	<u>5.9</u>			<u>5.38</u>

Therefore, 5.38 would be needed. For purposes of this fiscal note, this was rounded to the nearest whole number resulting in 5 new beds identified as being required.

B. Cost Estimates:

1. Capital Expenditures

It is assumed that minimum to medium security beds would be the appropriate classification. It is estimated that this type of bed can be built utilizing the fast track method for approximately \$69,000 per bed. Therefore, capital expenditures would be:

$$5 \times \$69,000 = \$345,000$$

2. Personal Services

It is assumed that these 5 beds would be combined with other construction where staff have already been identified. Therefore, no costs are specifically identified in this fiscal note for staff costs, although staff will be required to provide security and supervision for the additional inmate..

3. Other Costs

Other costs identified reflect only food, clothing, bedding, and medical services necessary to meet the physical care and medical needs of the projected inmate increase.

4. Inflation of 9% per year was used for projecting cost after FY 1984, the year in which the total bed impact would be experienced.

Lear ✓

IN THE HOUSE

BY ABOOI

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 679
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to imitation controlled substances."
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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

CHAPTER 14. IMITATION CONTROLLED SUBSTANCES ACT.

X Sec. 17.14.010. MANUFACTURE OR DISTRIBUTION OF IMITATION CONTROLLED SUBSTANCE. Except as provided in AS 17.14.040, it is unlawful for a person to manufacture, distribute, or possess with intent to ^{manufacture or} distribute, an imitation controlled substance. Except as provided in AS 17.14.020, a person who violates this section is guilty of a class C felony.

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

X Sec. 17.14.030. ADVERTISEMENT TO PROMOTE THE DISTRIBUTION OF AN IMITATION CONTROLLED SUBSTANCE. It is unlawful for a person ^{knowingly} to place in a newspaper, magazine, handbill, or other publication, or to post or distribute in a public place, an advertisement or solicitation ~~with~~ ^{knowing} that the purpose of the advertisement or solicitation is to promote the distribution of an imitation controlled substance ^{in the State of Alaska}. A person who violates this section is guilty of a class C felony.

Sec. 17.14.040. IMITATION CONTROLLED SUBSTANCE AS PLACEBO. No civil or criminal liability may be imposed under this chapter on a person who manufactures, distributes, or possesses an imitation controlled substance solely for use as a placebo prescribed by a registered

practitioner in the course of professional practice or research.

Sec. 17.14.050. FOREITURES. (a) The following may be forfeited to the state:

(1) an imitation controlled substance that has been manufactured, distributed, or possessed in violation of this chapter;

(2) raw materials, products, and equipment that are used or intended for use in manufacturing, distributing, compounding, processing, or delivering an imitation controlled substance in violation of this chapter;

(3) property that is used or intended for use as a container for property described in (1) or (2) of this subsection;

(4) a conveyance, including but not limited to aircraft, vehicles or vessels, that has been used or is intended for use in transporting or in any manner in facilitating the transportation, sale, receipt, possession, or concealment of property described in (1) or (2) of this subsection in violation of this chapter; however,

(A) a conveyance may not be forfeited under this section if the owner of the conveyance establishes, by a preponderance of the evidence, at a hearing before the court as the trier of fact, that use of the conveyance in furtherance of a violation of this chapter was by another person and that the owner was not a consenting party nor privy to the violation;

(B) a forfeiture of a conveyance encumbered by a valid security interest at the time of seizure is subject to the interest of the secured party if the secured party establishes, by a preponderance of the evidence, at a hearing before the court as the trier of fact, that use of the conveyance in furtherance of a violation of this chapter was by another person and that the secured party was not a consenting party nor privy to the violation;

(5) books, records, and research products and materials, including formulas, microfilm, tapes, and data that are used in furtherance of a violation of this chapter;

(6) money, securities, negotiable instruments, or other things of value used in financial transactions derived from activity prohibited by this chapter; and

(7) a firearm that is visible, carried during, or used in furtherance of a violation of this chapter.

(b) Property listed in (a) of this section may be forfeited to the state either upon conviction of the defendant of a violation of this chapter or upon judgment of a court in a separate civil proceeding in rem. The court may order a forfeiture in the in rem proceeding if it finds that an item specified in (a) of this section was used during or in aid of a violation of this chapter.

(c) It is not a defense in an in rem proceeding brought under this section that a criminal proceeding has resulted in a conviction for a violation of this chapter.

(d) Property listed in (a) of this section may be seized by a peace officer upon an order issued by a court having jurisdiction over the property upon a showing of probable cause that the property may be forfeited under (a) of this section. Seizure without a court order may be made if

(1) the seizure is incident to a valid arrest or a search under a valid search warrant;

(2) the property subject to seizure has been the subject of an earlier judgment in favor of the state in a criminal proceeding or civil proceeding in rem under this chapter; or

(3) there is probable cause that the property was used, is being used, or is intended for use, in violation of this chapter and the

property is easily movable; property seized under this paragraph may not be held for more than 48 hours without a court order obtained to continue its detention.

(e) Property taken or detained under (d) of this section shall be held in the custody of either the commissioner of public safety or a municipal law enforcement agency authorized by the commissioner of public safety to retain custody of property listed in (a) of this section subject only to the orders and decrees of the court having jurisdiction over any forfeiture proceedings. If property is seized under this chapter, the commissioner of public safety or an authorized municipal law enforcement agency may

(1) place the property under seal;

(2) remove the property to a place designated by the court;

or

(3) take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(f) Within 10 days after a seizure under this section, the commissioner of public safety shall make an inventory of any property seized, including imitation controlled substances, and shall appraise the value of any items seized other than imitation controlled substances.

(g) Within 20 days after a seizure under this section, the commissioner of public safety shall, by certified mail, notify any person known to have an interest in an item with an appraised value of \$500 or more, or who is ascertainable from official registration numbers, licenses, or other state, federal or municipal numbers on the item of the pending forfeiture action. Additionally, the commissioner of public safety shall publish notice of forfeiture action of an item valued at \$500 or more in a newspaper of general circulation in the judicial district in which the seizure was made, or if no newspaper is published

in that district, in a newspaper published in the state and distributed in that district. The notice shall be published once each week during four consecutive calendar weeks. The requirements of this subsection do not apply to the forfeiture of imitation controlled substances that have been manufactured, distributed, or possessed in violation of this chapter, regardless of their value:

(h) Upon service or publication of notice of commencement of a forfeiture action under this section, a person claiming interest in the property shall file within 30 days after the service or publication, a notice of claim setting out the nature of his interest, the date it was acquired, the consideration paid, and an answer to the state's allegations. If a claim and answer is not filed within the time specified, the property described in the state's allegation must be ordered forfeited to the state without further proceedings or showings.

(i) Questions of fact or law raised by a notice of forfeiture action and answer of a claimant in an action commenced under this section must be determined by the court sitting without a jury. This proceeding may be held in abeyance until conclusion of any pending criminal charges against the claimant under this chapter.

(j) A claimant under (h) of this section may at any time petition for release of a seized item as follows:

- (1) to a court in which a warrant for seizure has been issued
- (2) to a court in which a criminal or civil action alleging forfeiture of the item has been filed; or
- (3) before an action is filed, or if no seizure warrant was issued, to a court in the judicial district in which the violation took place.

(k) An item may not be released by the court under (j) of this section unless the claimant gives adequate assurance that the item will

remain subject to the court's jurisdiction and

(1) the court finds that the release is in the best interest of the state; or

(2) the claimant provides a bond or other valid and equivalent security equal to twice the assessed value of the item.

(1) A claimant may petition the court for sale of an item before final disposition of court proceedings. The court shall grant a petition for sale upon a finding that the sale is in the best interests of the state and the preservation and maintenance of the item seized. Proceeds from the sale plus interest to the date of final disposition of the court proceedings become the subject of the forfeiture action.

(m) Property forfeited under this section other than imitation controlled substances shall be disposed of by the commissioner of administration in accordance with applicable law. The commissioner of administration may

(1) destroy property harmful to the public;

(2) sell the property and use the proceeds for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, custody, and court costs;

(3) take custody of the property and authorize its use in the enforcement of this chapter, transfer it to the Board of Pharmacy to use for medical or scientific purposes, or transfer it to another agency of the state or a political subdivision of the state for a use in furtherance of the administration of justice;

(4) take custody of the property and remove it for disposition in accordance with law; or

(5) forward it to the Drug Enforcement Administration of the United States Department of Justice for disposition.

(n) Upon a showing that a claimant is entitled to remittance in

accordance with this section, the court shall order that

(1) if the claimant is entitled to the item, it shall be delivered to him immediately;

(2) if the claimant is entitled to remittance of some value less than the total value of the item, the claimant is entitled, at his choice, to receive either the value of the claimant's interest or, upon receipt of payment of the difference in value by the claimant, the entire item.

(o) An offender who used an item subject to remission in violation of this chapter shall be assessed a fine which may not be less than the cost of any lien payment or remittance made by the state plus the reasonable costs of the seizure.

(p) An imitation controlled substance manufactured, possessed, transferred, sold, or offered for sale in violation of this chapter is contraband and must be seized and summarily forfeited to the state. The commissioner of public safety or his designee, including a municipal law enforcement agency authorized under (e) of this section to retain custody of imitation controlled substances, is responsible for the disposal of imitation controlled substances that have been forfeited. The imitation controlled substances shall be disposed of in accordance with procedures and requirements prescribed by the commissioner.

(q) The commissioner^{of public safety} shall provide a procedure allowing the Board of Pharmacy to use property forfeited under this section for medical or scientific purposes.

Sec. 17.14.099. DEFINITIONS. In this chapter

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

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

substance;

X. See new page (3)

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

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

page 8 line 272

substance;

(3) "imitation controlled substance" means a substance containing ephedrine, ephedrine sulfate, pseudoephedrine, pseudoephedrine hydrochloride, phenylpropanolamine, caffeine, or theophylline, which is not a controlled substance, which by dosage unit appearance (including color, shape, size, and markings) or by representations made would lead a reasonable person to believe that the substance is a controlled substance. The term "representations made", as used in this definition, includes but is not limited to the following:

or relabeling, of an imitation controlled substance.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 679
Title An Act relating to imitation controlled substances
Requested by Representative Abood Date Jan. 22, 1982

II. FISCAL DETAIL

Agency Affected Health & Social Services
Program Category Affected Offender Confinement Reformation & Supervision
BRU, Program, Or Subprogram(s) Affected Adult Confinement
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL		1.0	1.1	1.2	1.3	1.4
300 CONTRACTUAL		6.0	8.7	9.5	10.4	11.3
400 COMMODITIES		4.8	14.9	16.2	17.7	19.3
500 EQUIPMENT						
600 LAND & STRUCTURES		483.0				
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	494.8	24.7	26.9	29.4	32.0

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-0-	494.8	24.7	26.9	29.4	32.0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

A. Assumptions:

1. Estimated Conviction information was furnished by the Department of Law. They estimate that there would annually be one conviction for a Class B felony, 27 convictions for Class C felonies and 16 convictions of Class A misdemeanors for a total of 44 convictions
2. It is assumed that all convictions are of first time offenders.
3. The following table displays data regarding additional bed needs with enactment of HB C79:

IV. DATE February 11, 1982 PREPARED BY Roger C. Lange

Original: Legislative Finance PHONE 465-3376
cc: Budget and Management
AGENCY Division of Adult Corrections
Prime Sponsor (First Legislator Named)

<u>Class of Offense</u>	<u>Expected No. of Convictions</u>	<u>% & # to Jail</u>	<u>Ave. Sent- ence Length</u>	<u>Flat Years</u>	<u>Person Years</u>
B Felony	1	50%/5	2.5 Yr.	1.9	.95
C Felony	27	20%/5.4	1.09 Yr.	.82	4.43
A Misdemeanor	16	20%/3.2	.5 Yr.	.375	1.20
	<hr/> 44	<hr/> 9.1			<hr/> 6.58

Therefore, 6.58 new beds (Minimum) would be needed. For purposes of this fiscal note, this was rounded to the nearest whole number, resulting in 7 new beds identified as being required.

B. Cost Estimates:

1. Capital Expenditures

It is assumed that minimum to medium security beds would be the appropriate classification. It is estimated that this type of bed can be built, utilizing the fast track method, for approximately \$69,000 per bed. Therefore, Capital expenditures would be:

$$7 \times \$69,000 = \$483,000.$$

2. Personal Services

It is assumed that these 7 beds would be combined with other construction where staff have already been identified. Therefore, no costs are specifically identified in this fiscal note for staff costs, although staff will be required to provide security and supervision for the additional inmates.

3. Other Costs

Other costs identified reflect only food, clothing, bedding, and medical services necessary to meet the physical care and medical needs of the projected inmate increase.

4. Inflation of 9% per year was used for projecting costs after FY 1984, the year in which the total bed impact would be experienced.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 679
 Title "An act relating to imitation controlled substances."
 Requested by Repr. Beirne, House HESS Committee Date 2/11/82

II. FISCAL DETAIL

Agency Affected Department of Law
 Program Category Affected Administration of Justice
 BRU, Program, Or Subprogram(s) Affected Prosecution
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

	0	0	0	0	0	0
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	0	0	0	0	0	0
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

It is estimated that enactment of this bill will result in 50 to 60 new criminal prosecutions throughout the state each year. This estimate is based upon a survey taken by the department, of local police agencies and the state troopers. Examined singly, no additional prosecution personnel will be required to implement the provisions of the bill. These new prosecutions, however, do represent additional workload which, when added to other crime bills, will have the effect of hampering the department's overall ability to prosecute criminal offenses.

IV. DATE February 16, 1982

PREPARED BY Richard I. Poyres Director, Admin. Svcs.
 AGENCY Department of Law

Original: Legislative Finance
 cc: Budget and Management

PHONE 465-2672

Prime Sponsor (First Legislator Named)

SECTIONAL ANALYSIS HB 679

" An Act relating to imitation controlled substances"

Sec.1 Amend Title 17 "Food and Drugs by adding Chapter 14-
IMITATION CONTROLLED SUBSTANCES ACT

Sec.17.14.010 " MANUFACTURE OR DISTRIBUTION OF IMITATION CONTROLLED
SUBSTANCE.

Unless a placebo-- see 17.14.050-- it is unlawful for a person to manufacture, distribute, or possess with intent to distribute, an imitation controlled substance. Class C felony.

Sec.17.14.020 DISTRIBUTION OF IMITATION CONTROLLED SUBSTANCE TO A MINOR.

A person violating previous section who is 18 or over and distributes an imitation controlled substance to a person under 18 is guilty of a Class B felony.

Sec.17.14.030 USE OF IMITATION CONTROLLED SUBSTANCE.

A person using, or possessing with intent to use, an imitation-controlled substance is guilty of a Class A misdemeanor.

Sec. 17.14.040 ADVERTISEMENT TO PROMOTE THE DISTRIBUTION OF AN IMITATION CONTROLLED SUBSTANCE.

Publication or solicitation to promote distribution of an Imitation controlled substance is a Class C felony.

Sec. 17.14.050 IMITATION CONTROLLED SUBSTANCE AS PLACEBO.

No violation if a person manufactures, distributes, or possess an imitation controlled substance solely for use as a placebo prescribed by a registered practitioner.

Sec. 17.14.060 FORFEITURE

All equipment used to manufacture an imitation controlled substance(plus the substance itself), shall be forfeited to the state.

Sec.17.14.099 DEFINITIONS

Definition section for the new imitation controlled substance chapter. Terms defined are;

1. controlled substance-(same as defined in AS 11.81.900(6) which included, but is not limited to- narcotics, depressants, hallucinogenics, or stimulant drugs- as defined in AS 17.10.230 or 17.12.150(includes marijuana()).

2. "distribute"

3. "imitation controlled substance"..basically "means a substance that is not a controlled substance, which by dosage unit appearance(including color, shape, size, and marking) or by representations made would lead a reasonable person to believe that the substance is a controlled substance..."

4. "manufacture"

Doc -
Reminder that
Terry is still chairing
the committee so
don't bring up \$500
until he gets here.

Roger Lang - Dept of Corrections
will testify next
Reg: 679

~~from~~ PAT CONHEADY
DEPT. OF LAW

2-19-82

Obvoul

→ police abuse

400

— young people

— 44 states

— 7 beds ✓

69 \$/bed const. cost

Rep Co ready

D.O.F LAW