

# COMMITTEE REPORT HOUSE

FURTHER:

2/23/83

Date: 3/11/83

Mr. Speaker:

The Committee on FINANCE has had SSIB 10

An Act relating to controlled imitation controlled substances.

under consideration and reports it back as follows:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for SSIB 10 (Amended)  same title  
 new title
- and recommends DO PASS
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

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MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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CHAIRMAN

Offered: 2/23/83  
Referred: Finance

Original sponsors: Abood, Wendte,  
Lindauer, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE  
2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 10 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - FIRST 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 11 is amended by adding a new chapter to read:

9 CHAPTER 73. IMITATION CONTROLLED SUBSTANCES ACT.

10 Sec. 11.73.010. MANUFACTURE OR DELIVERY OF AN IMITATION CON-  
11 TROLLED SUBSTANCE. (a) Except as provided in AS 11.73.050, a person  
12 may not manufacture, deliver, or possess with intent to deliver, an  
13 imitation controlled substance.

14 (b) Except as provided in AS 11.73.030, a person who violates  
15 this section commits a class C felony.

16 Sec. 11.73.020. POSSESSION OF SUBSTANCE WITH INTENT TO MANUFAC-  
17 TURE. (a) Except as provided in AS 11.73.050, a person may not  
18 possess the following substances or their salts with the intent to  
19 manufacture an imitation controlled substance:

- 20 (1) ephedrine;
- 21 (2) ephedrine sulfate;
- 22 (3) pseudoephedrine;
- 23 (4) pseudoephedrine hydrochloride;
- 24 (5) phenylpropanolamine;
- 25 (6) caffeine;
- 26 (7) theophylline;
- 27 (8) lidocaine;
- 28 (9) procaine;
- 29 (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. 11.73.030. DELIVERY OF AN IMITATION CONTROLLED SUBSTANCE TO  
11 A MINOR. (a) Except as provided in AS 11.73.050, a person 19 years  
12 of age or older may not deliver an imitation controlled substance to a  
13 person under 19 years of age, who is at least three years younger than  
14 the person delivering the substance.

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

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

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

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

1 research.

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

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

10 Sec. 11.73.099. DEFINITIONS. In this chapter

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

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

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

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

29 (B) statements made to the recipient that the

1 substance may be resold for inordinate profit;

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

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

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

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

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: CSSS HB 10 Date on Bill: 2-23-83  
 Title: "An Act relating to imitation controlled substances "  
 Sponsor: Representative Abood  
 Requestor: House Finance Committee

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating		34.6	38.8	41.1
Total		34.6	38.8	41.1

b. Revenues:

Revenue	FY 83	FY 84	FY 85	FY 86

2. Source of funds to offset fiscal impact of bill:

No information provided.

3. Assumptions: 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. These new prosecutions and the handling of forfeiture actions allowed under the bill represent additional workload which will require the allocation of additional prosecutor resources.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Daniel W. Hickey, Chief Prosecutor Phone: 465-3428  
 Division: Department of Law, Criminal Division Date: 3-9-83

Approved by Commissioner: Norman C. Gorsuch, Attorney General Date: 3-9-83  
 Department: Law

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

### Fiscal Analysis

The impact of CSSS HB 10 is expected to result in the addition of prosecutor time equivalent to one-half of an Attorney III (SR22), statewide. For purposes of the analysis, salary schedule A has been used. Actual placement of a position cannot be determined until after the Legislature has acted and we know what bills have been approved.

The first year of the analysis will be for FY 84 and costs have been calculated on a 10 month basis to account for the time required to establish a new position and the time it takes to get a new program underway. The costs beyond FY 84 are on a 12 month basis and include a 6% annual inflation factor.

#### 1st Year (10 months)

	<u>AIII (PPT)</u>	<u>TOTAL</u>
Personal Services	23.8	23.8
Travel	2.5	2.5
Contractual	4.0	4.0
Commodities - ongoing	.8	.8
Commodities - single time	2.0	2.0
Equipment - single time	1.5	1.5
		<hr/>
		34.6

#### 2nd Year (12 months + 6% annual inflation)

Personal Services	30.0	30.0
Travel	3.2	3.2
Contractual	4.6	4.6
Commodities	1.0	1.0
		<hr/>
		38.8

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: CS SS HB 10 (JUD) Date on Bill: 2-23-83  
 Title: "An Act Relating to imitation controlled substances"  
 Sponsor: Abood, etc.  
 Requestor: \_\_\_\_\_

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue				
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2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

No Fiscal Impact

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Francis C. Allan Phone: 269-5691  
 Division: Alaska State Troopers Date: 3-2-83

Approved by Commissioner: *[Signature]* Date: 3/8/83  
 Department: Public Safety

5. Distribution:  
 Original to Legislative Finance  
 Copy to OMB  
 Copy to Sponsor  
 Copy to Requestor

2/15/83

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: CS for SS for H.B. No. 10 Date on Bill: February 23, 1983  
 Title: "An Act relating to imitation controlled substances."  
 Sponsor: Judiciary Committee  
 Requestor: House Judiciary Committee

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
Capital		730.0	-0-	-0-		
Operating		13.9	122.4	129.8		
Total	-0-	743.9	122.4	129.8		

b. Revenues:

Revenue	-0-	-0-	-0-	-0-		
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2. Source of funds to offset fiscal impact of bill:

The source of funds to implement this bill has not been identified by the sponsors.

3. Assumptions:

- A. Estimated arrest and conviction information was gathered from the Department of Law and the Alaska Judicial Council statistics. They estimate that there would annually be five convictions resulting in prison terms for Class B and Class C felonies. Class A misdemeanors have been omitted in the committee substitute.
- B. It is assumed that all convictions are of first time offenders.
- C. The following table displays data regarding additional bed needs with enactment of HB 10:

Prepared By: Roger C. Lange *Roger C. Lange*  
 Division: Division of Adult Corrections  
 Approved by Commissioner: Robert Gordon Smith, PhD  
 Department: HEALTH & SOCIAL SERVICES

Phone: 465-3376  
 Date: \_\_\_\_\_  
 Date: 3/16/83

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

Class of Offense	Expected # of Convictions	% & # to Jail	Avg. Sentence Length	Flat Years	Person Years
B. Felony	1	50%/.5	2.5 Yr.	1.9	.95
C. Felony	23	20%/4.6	1.09 Yr.	.82	3.77
	24	5.1			4.72

Therefore, 4.72 beds 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.

D. Cost Estimates:

1. Capital Expenditures

It is assumed that medium security beds would be the appropriate classification. It is estimated that construction costs for this type of bed will be approximately \$146,000 per bed. Therefore, capital expenditures would be:

$$5 \times \$146,000 = \$730,000$$

2. Personal Services

It is assumed that these 5 beds would be combined with other construction where staff will be identified. It is estimated two staff positions 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 6% per year was used for projecting cost after FY 1985, the year in which the total bed impact would be experienced.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

The following individuals are expected to testify on CS SS HB 10  
(Judiciary):

Representative Mitch Abood, prime sponsor

Lieutenant Roger McCoy, Department of Public Safety

Roger Lange, Division of Corrections, Department of Health and  
Social Services  
(Mr. Lange will speak to the fiscal note from Corrections)

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Due to a schedule conflict, Gail Huretsky, Office of the Chief  
Prosecutor, Department of Law, is not able to testify. There is  
a letter in your file, however, from the Chief Prosecutor to the  
Chairman, describing the Department of Law's position on a  
bill.

POSITION PAPER

HOUSE BILL 10

"An Act relating to imitation controlled substances."

The Department of Health and Social Services is supportive of this legislation.

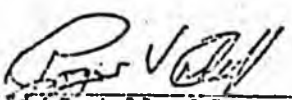
Data is not available on the use or distribution of imitation controlled substances also known as "look-alikes." Look-alikes are generally sold as purporting to be depressants or stimulants that normally would require prescriptions. These look-alikes are also sometimes advertised as diet aids or sleep aids.

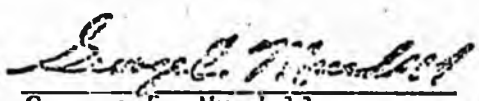
Products sold over the counter containing caffeine (No-Doz. etc.) are sometimes sold as amphetamines (uppers). This is one example of selling an imitation controlled substance.

To manufacture or sell a product by misrepresenting its contents should not be acceptable. The public health and safety risk related to misrepresented drugs can be numerous. Use of drugs (legal by prescription or over-the-counter) not in accordance with medically recommended dosage can lead to health problems. Overdose, unexpected reactions or actions and/or allergic reactions may be a few of the problems.

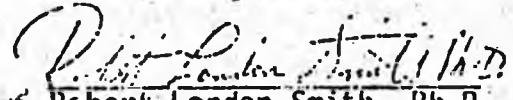
One possible major problem is the use of a look-alike may lead a person to take increased dosage to achieve an effect. To a careless, inexperienced or naive user the use of the "real" product after use of an imitation could result in unintentional overdose.

HB 10 could be one mechanism to help prevent such problems and to make persons aware of the dangers of such actions.

  
Roger Endell, Director  
Division of Adult Corrections

Recommended by:   
George E. Mundell  
Acting Coordinator  
Office of Alcoholism/  
Drug Abuse

Date: 4/24/83

Approved by:   
Robert London Smith, Ph.D.  
Commissioner  
Dept. of Health &  
Social Services

Date: 11/27/83

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THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 10  
 Title "An Act relating to imitation controlled substances."  
 Requested by Representative Abood Date 1/19/83

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 83	FY 84	FY 85	FY 86	FY 87	FY 88
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)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
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. The forfeiture provisions in the bill will also require additional attorney time to handle the court hearings required if a forfeiture of specific property is contested by the owner, and may have the effect of diverting resources from other matters currently being addressed.

IV. DATE 1/19/83 PREPARED BY Daniel W. Hickey, Chief Prosecutor  
 AGENCY Department of Law  
 PHONE 465-3428  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

Office of Management and Budget  
 Reviewed by: Mike Malin, Program Budget Analyst  
 Division of Budget Review

Rec'd 1/31

THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 10  
Title "An Act relating to imitation controlled substances."  
Requested by House Judiciary Date Jan. 13, 1983

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 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS ETC.						
<b>TOTAL</b>	-0-	1184.8	33.4	35.4		

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	1184.8	33.4	35.4		
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This bill makes it unlawful to manufacture, distribute, or possess with intent to distribute, an imitation controlled substance. The bill also classifies levels of offenses as class B and class C felonies, as well as specifies forfeitures applicable when provisions of the statute are violated.

IV. DATE January 21, 1983 PREPARED BY Roger C. Lange  
Original: Legislative Finance AGENCY Division of Adult Corrections  
cc: Budget and Management PHONE 465-3376  
Prime Sponsor (First Legislator Named)

OMB review: *RD*

BILL NUMBER House Bill No. 10

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL		.8	.8	.9		
300 CONTRACTUAL		7.2	14.7	15.6		
400 COMMODITIES		8.8	17.9	18.9		
500 EQUIPMENT						
600 LAND & STRUCTURES		1168.0				
700 GRANTS, CLAIMS ETC.						
<b>TOTAL</b>	<b>-0-</b>	<b>1184.8</b>	<b>33.4</b>	<b>35.4</b>		

FINDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND	-0-	1184.8	33.4	35.4		
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

A. Assumptions

1. Estimated conviction information was furnished by the Department of Law. They estimate that there would annually be three convictions for a Class B felony and 30 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 10:

<u>Class of Offense</u>	<u>Expected # of Convictions</u>	<u>% &amp; # to Jail</u>	<u>Avg. Sentence Length</u>	<u>Flat Years</u>	<u>Person Years</u>
B Felony	3	50%/1.5	2.5 Yr.	1.9	2.85
C Felony	30	20%/6.0	1.09 Yr.	.82	4.92
	33	7.5			7.77

Therefore, 7.77 beds would be needed. For purposes of this fiscal note, this was rounded to the nearest whole number resulting in 8 new beds identified as being required.

#### B. Cost Estimates:

##### 1. Capital Expenditures

It is assumed that medium security beds would be the appropriate classification. It is estimated that construction costs for this type of bed will be approximately \$146,000 per bed. Therefore, capital expenditures would be:

$$8 \times \$146,000 = \$1,168,000$$

##### 2. Personal Services

It is assumed that these 8 beds would be combined with other construction where staff will be 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 6% per year was used for projecting cost after FY 1985, the year in which the total bed impact would be experienced.

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: Sponsor Substitute HB 10 Date on Bill: 2-11-83

Title: An Act relating to imitation controlled substances

Sponsor: Aboud, etc

Requestor: House JUDICIARY

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue	FY 83	FY 84	FY 85	FY 86

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

No Fiscal Impact

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Francis C. Allan  
Division: Alaska State Troopers

Phone: 269-5691

Date: 2-16-83

Approved by Commissioner: [Signature]  
Department: Public Safety

Date: 2/25/83

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

FREEDOM COUNCIL

Post Office Box 381  
Douglas, Alaska 99824

TO: Representative Al Adams, Chairman  
House Finance Committee

FROM: *Chris Botts*  
Chris Botts, Capital City Coordinator  
Freedom Council

DATE: March 11, 1983

RE: CSHSB 10 "An Act relating to imitation controlled  
substances."

We, the friends and members of the Freedom Council in Alaska, are in support of Representative Abood's House Bill No. 10, "An Act relating to imitation controlled substances."

We feel there is a real need to bring the unlawful manufacture of the look-alike substances under control through legal process.

A number of the substances noted in HB 10, in particular, Theophylline, have been found to impair driving ability and to contribute to fatalities on our nation's highways. As these substances have been known to be used in an increasing amount by our youth, it is imperative that we eliminate easy access and the very damaging consequences, particularly in relation to highway fatalities in Alaska.

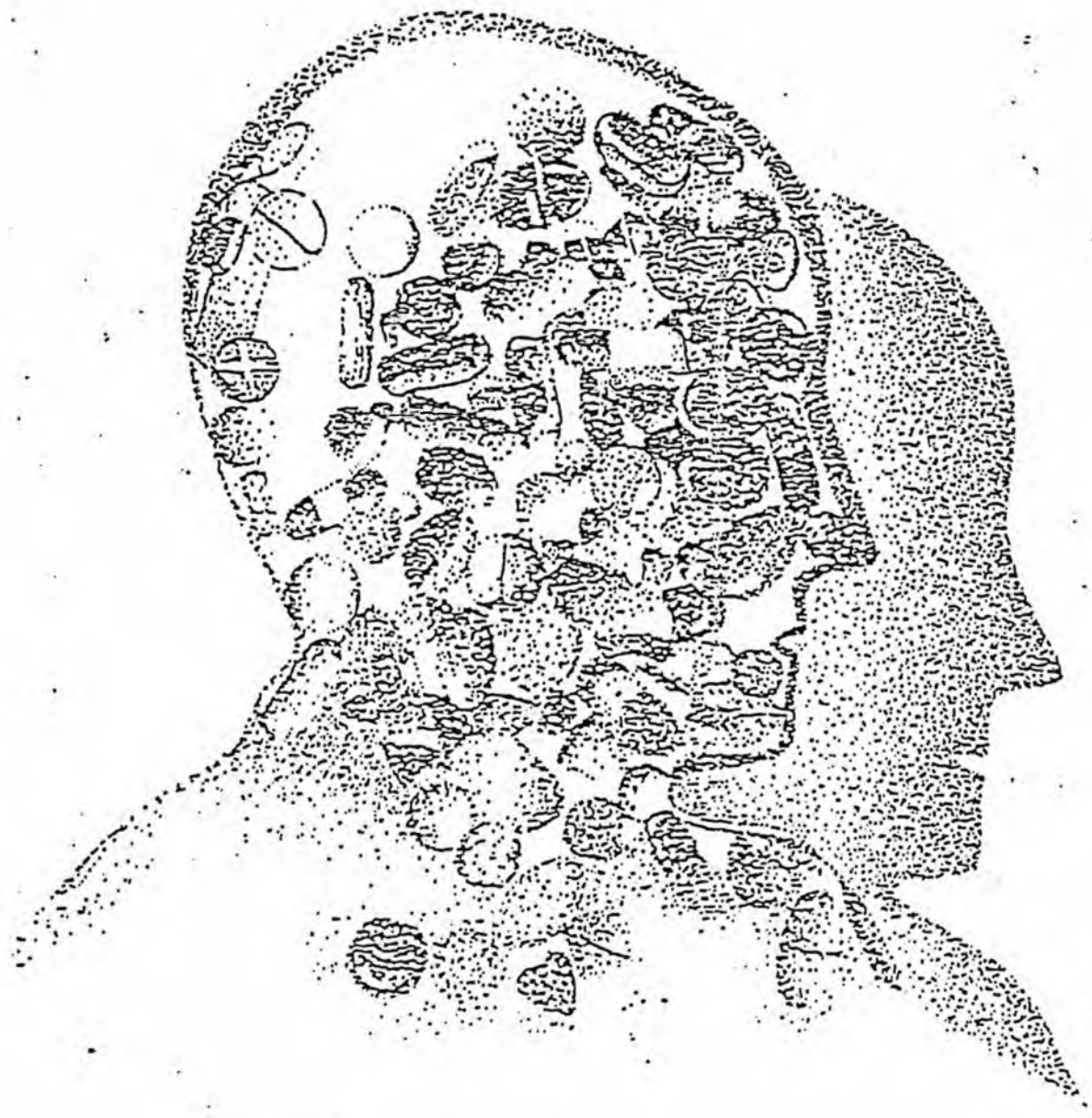
cc: Ted Panteleo  
Executive Director  
Freedom Council



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# Trafficking in Look-Alikes ; an Update



## Trafficking in Look-Alikes; an Update

Recent federal and state actions have seriously affected the rampant trafficking in look-alikes that has been sweeping the country. Look-alike distributors, who began assaulting the nation with a blizzard of capsules and tablets early in 1980, and the manufacturers who supply them have been dealt a series of regulatory setbacks that may portend an end to this multi-million dollar industry.

Look-alikes are carefully designed to resemble or duplicate the appearance of brand name amphetamines, barbiturates, tranquilizers, and narcotic pain killers in both capsule and tablet form. On the street, they are known by the same names as their dangerous drugs counterparts: Black Beauties, Dexies, Yellows, Christmas Trees, and Rainbows. But look-alikes contain only non-controlled substances such as caffeine, ephedrine, phenylpropylamine, acetaminophen, and other over-the-counter non-prescription drugs.

As the number of mail order and store front wholesale distributors grew from a mere handful in early 1980 to more than 150 outlets by November of 1981, the production of look-alikes was reported to have soared to 30 million dosage units per week. During the past year and a half, the look-alike industry has flooded the nation's campuses and schoolyards with hundreds of millions of these pills. Intelligence derived from local police agencies, hospital emergency rooms, and medical examiners reveals widespread abuse, especially among teen-agers and college age youths.

In marked contrast to the methods used by illicit drug traffickers, look-alike distributors have conducted extensive advertising campaigns claiming their products to be both safe and legal. They have utilized full color brochures, magazine ads, highway billboards, and even television spots designed to appeal to teen-agers and young adults. Using commercial mailing lists, distributors have mailed colorful business cards directly to young recipients.

The easy availability of look-alikes has encouraged a climate of acceptance among many teen-agers and has conditioned them to the daily trafficking, handling, and consumption of these "pharmaceutical stimulants." In many places, look-alikes have become as much a part of the drug culture as the shopping center head shop and the paraphernalia vendor.

As the abuse of look-alikes grew, the public health dangers of these substances quickly became apparent. It is obvious that the young consumer who thinks that he has been purchasing "speed" or "ludes" and has become used to taking several look-alike

capsules or tablets at a time in order to "get the full effect" runs the risk of serious overdose or death if one day he ingests the same number of real controlled substances. In addition to this danger, the look-alikes, themselves, can have serious damaging effects. The number of emergency room incidents attributable to these drugs has risen dramatically in the past year. More than a dozen deaths caused by look-alikes have been reported from around the country. More deaths from caffeine overdose and emergency room hypertensive incidents from severe reactions to phenylpropanolamine may have occurred but, have gone unreported.

Although trafficking in look-alikes is not prohibited by the federal Controlled Substances Act, the Drug Enforcement Administration considers that the distribution and sale of look-alikes, as of drug paraphernalia, encourages and contributes to drug abuse and drug profiteering. The look-alike problem is one more facet of the nation-wide drug abuse problem. For these reasons, the DEA has undertaken a six-point program against look-alikes. Briefly stated, the six points are:

1. Drafting of a Model Imitation Controlled Substances Act<sup>1</sup> for concerned states to adopt.
2. Preparation of documentation describing the problem, distribution patterns and practices, and other information to be used in support of the Model Act.
3. Fostering intergovernmental agency cooperation and providing active support to other agency efforts.
4. Enlisting the support and voluntary cooperation of the legitimate pharmaceutical industry.
5. Publicizing the DEA initiative and encouraging the support of parent and community groups.
6. Targetting of states heavily involved in look-alike distribution and manufacture to encourage legislative action.

More than a dozen states have enacted or are considering legislation targetted against the manufacture and distribution of look-alikes. States with legislation now on the books include Arkansas, Colorado, Connecticut, Delaware, Florida, Indiana, Kansas, Louisiana, Maryland, North Carolina, Oklahoma, Oregon, and South Dakota. Some cities, such as Independence, Missouri, have passed local ordinances prohibiting storefront look-alike sales. In other state action, the Attorney General of Illinois has filed complaints against 39 look-alike distributors. To date, he has obtained verbal agreements from 15 distributors to cease and desist selling in the State of Illinois and he has obtained temporary restraining orders against three others.

---

<sup>1</sup>Copies are available upon request from the Dangerous Drugs Section, Office of Intelligence, Headquarters, DEA.

(202) 233-1763

The legitimate pharmaceutical industry also has been cooperating in efforts to eliminate the look-alike problem. The Eli Lilly Company, one of the largest manufacturers of gelatin capsules, has, since July 1981, refused to sell capsules to look-alike manufacturers. Other capsule manufacturers also have indicated a willingness to cooperate in this effort. The resulting lack of capsules already has begun to affect the look-alike distribution chain and some distributors say they can no longer obtain "Yellows" and "Black Beauties."

Recent actions by federal government agencies are having salutary effects on the problem too. During the past several months, the U. S. Postal Service has filed complaints against 39 look-alike distributors. To date, the Postal Service has concluded consent agreements with nine distributors and has obtained False Representation Orders against nine others. The False Representation Orders require postmasters to stop the delivery of all mail to the subject distributors.

The most significant federal action yet taken occurred on September 30, 1981, when the Food and Drug Administration filed counterfeiting and mis-labeling complaints against nine manufacturers of look-alike drugs. With the assistance of U. S. Marshalls in five states, seizures of equipment, materials, and finished products were effected at the following locations:

BT Pharmaceuticals, Inc.  
Tampa, Florida

Pharmadose, Inc.  
Bohemia, New York

Frye Pharmaceuticals, Inc.  
Birmingham, Alabama

Standard Pharmacal Corp.  
Elgin, Illinois

Jerome Stevens Pharmaceuticals, Inc.  
Central Islip, New York

LNK International, Inc.  
Hauppauge, New York

Valley Run Pharmaceutical  
Milroy, Pennsylvania

VIP Pharmaceuticals, Inc.  
Pearl River, New York

Newtron, Pharmaceuticals, Inc.  
Coram, New York

An inventory of seized items includes: 15 million filled capsules, 800,000 tablets, 20 million empty capsules, and over one million dollars worth of equipment including offset rollers, capsule printers, tablet punches and dies, and tablet presses. The FDA felt that its case against a tenth manufacturer, Ketchum Laboratories of Amityville, New York, was inadequate to support any enforcement action at that time.

As a result of the FDA actions, one of the manufacturers has already signed a consent agreement to cease and desist production of look-alikes, and two more companies are also negotiating consent agreements. Information on responses by the other manufacturers was unavailable as of the date of this report.

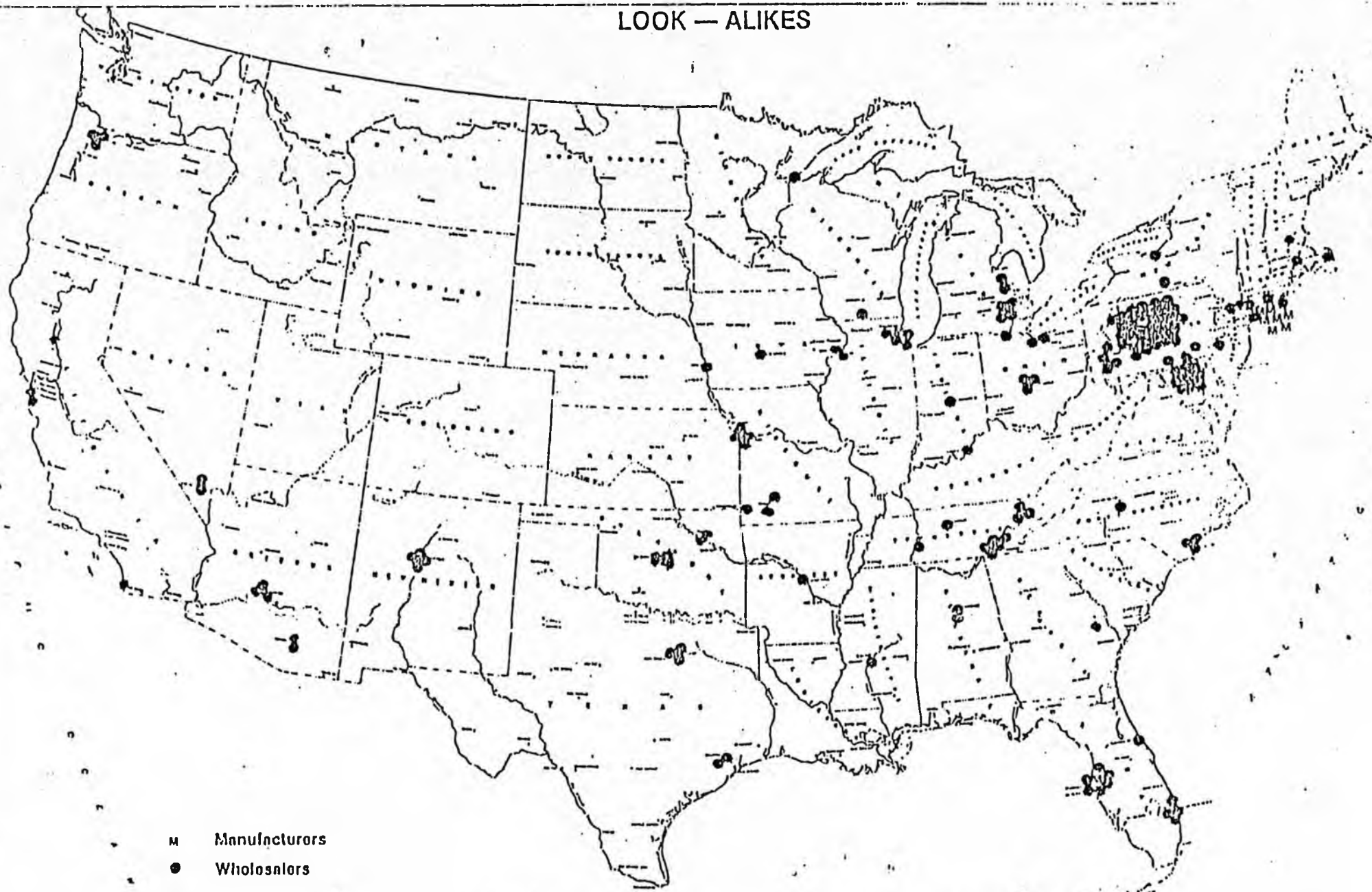
The actions described above comprise a promising start toward ending the nation-wide trafficking in look-alikes. It is too early to make an accurate evaluation of the overall damage suffered by look-alike traffickers, but there is room for some optimism. Continuing action by federal agencies, state and local governing bodies, the pharmaceutical industry, and the public will be required to eliminate the look-alike problem from this country.

Laurence B. Golden  
Office of Intelligence  
November 2, 1981

(202) 633-1263

UNITED STATES

LOOK — ALIKES



M Manufacturers  
● Wholesalers

### More Work for Police

X 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 bogus speed, Mr. Golden says, has jumped from a dozen a few years ago to about 120 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-fraud 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-alikes instead, and the ingredients in the look-alikes aren't controlled substances under federal regulations. So federal offi-

Please Turn to Page 21, Column 2

## 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 beauties" 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 misnamed. They weren't what many of the dealer's 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 narcotics agents. Once found almost exclusively in truck drivers' pockets, they have been cropping up all around the country. College and high-school students are gulping them for pick-me-ups. So are junior-high pupils and even younger children. The trend worries many adults.

### Reports of Overdoses

The fake speed is causing almost as much alarm as genuine speed. Lawrence B. Golden, a staff assistant 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 in on the drug scene and taking these things," says James Tudor of the Ohio State Board of Pharmacy. "It's a very natural step up into the real thing."

On the other hand, the buyer of a look-alike may already be a speed user who thinks he is getting speed again this time. If so, he almost certainly won't get the buzz he expected to get, so 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 needs more speed than he used to. Then, the next time he gets real speed, 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.

# Almost as Much Fear as Real Ones

Continued From First Page

cialists are forced to pass the buck.

Not the postal service, though. Ned Fricce of the U.S. Postal Inspector's Office says the agency has filed 39 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 (phenylpropanolamine)."

## 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, Dexamyl, after it discovered that capsules disguised as Dexamyl were being sold as speed. Pennwalt Corp.'s Philadelphia division has successfully barred four companies from pushing imitations of its popular Biphedamine 20—the real "black beauties."

The founder of the look-alike industry, William Saye, 35, 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 1975. 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 O.W. 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 \$8 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 Pick-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

them. Suppliers come from larger wholesalers such as Clifton Pharmacal Inc. in Millroy, Pa., which has its own pharmaceutical factory, or from one of an estimated 10 to 12 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 \$5 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 Hecht, the founder of the Pick-Me-Ups in Albuquerque, says that his six stores average \$1,000 a week each in profits.

P: 60 RKY. MTT. NEWS 4/2/82

## At least 12 deaths attributed to use of 'look-alike' drugs

CHICAGO (UPI) — Counterfeit pills sold increasingly on the streets as "look-alike" hard drugs have killed at least a dozen users, the American Medical Association reported Thursday.

Authorities are essentially powerless to prosecute the sale by pushers of such drugs, which contain a combination of easily obtainable ingredients found in appetite suppressants and decongestants, the AMA report said.

"They're called look-alikes because they mimic the size, shape and color of controlled substances — usually amphetamine or tranquilizers," said the AMA report.

Counterfeit "black beauties," "speeds," "dexies" and other drug culture terms for speed have caused 12 deaths, federal Food and Drug Administration investigations have confirmed.

They include a 17-year-old Belvidere, Ill., girl who died after taking what police presumed to be "black beauties," and a 17-year-old Albuquerque boy who consumed two counterfeit bipheta-mines (a type of amphetamine), lapsed into a coma and died. Several other victims have suffered paralysis after suffering strokes because of the drugs.

In addition, at least nine suicides are linked to counterfeit drugs, most of them attributed to caffeine overdose.

A typical "look-alike," manufactured for a few pennies and sold to unwitting purchasers at huge profits, contains up to 200 milligrams caffeine, 50-75 milligrams phenylpropanolamine and 30 milligrams ephedrine. Their combined effect on a user "is unpredictable," the FDA said.

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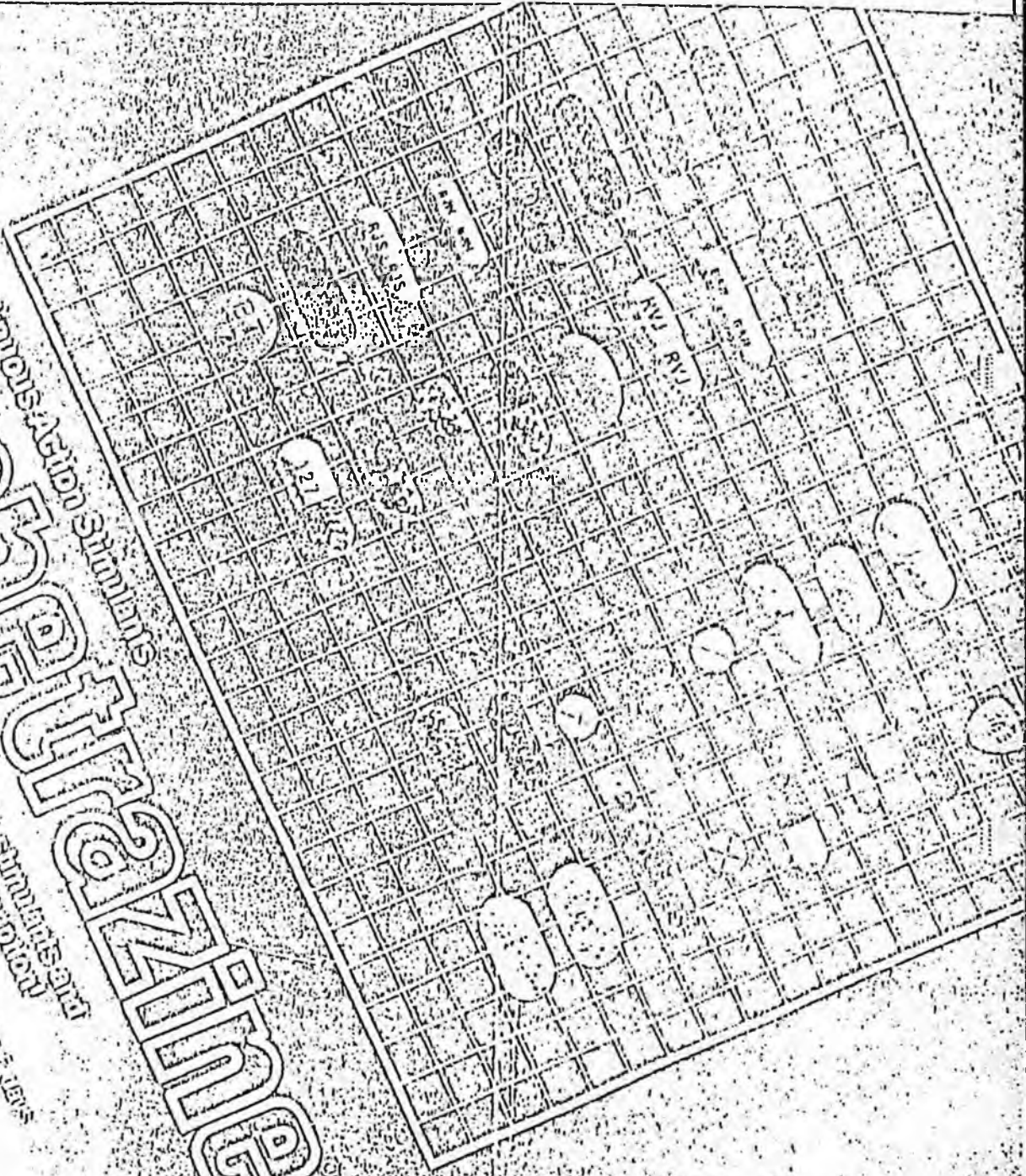
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Run with your innards, my friend, and your outerwards ain't very pretty either. Hoo, Sembo, lemme stick that one up."

Maclehearn gently pinched the top end of a marvelous crimson wound that grew around the left quarter of Connie's broad basket, and ran a suture through it with a drawing a speck of extra blood. "Now you don't want to know how fucked up you are, Connie," he said conversationally. "Your job now is, you just lay back and let us carry you home. Don't think about nothing unless it's pussy and air-conditioning okay?" He looked up from his amazingly precise stitch work and rattled off a string of rhyming at a couple gooks chopping up the bamboo with machetes. "We're gonna make you a nice poncho stretcher and carry you straight on home, all the way home like an Abyssinian prince on his imperial palanquin. You just think about that, my man."

Abyssinia was a pleasant thing to think about, to take a person's mind off his miserable injuries. It was high up in Africa, Connie had heard somewhere; they called it Abyssinia because the mountains were so high. High and cool and dry. Abyssinia was a fine, cool place to think about, instead of being all crushed and bunged up and bloody in this jungle sumphole. He would like to visit Abyssinia. In fact, he could dream himself there, with no effort at all.

Every time Connie started to come down out of it, over the day and a half it took them to get him to a Medevac unit, the spook Maclehearn fixed him up with another dose of Doc Dai's Number Four. "Once that night, he realized that they were under fire, because of the fascinating musical, non-musical, exquisitely meaningful in their regional idiosyncrasy, created by the incoming and outgoing. "It's another kind of singing together," he told Maclehearn. "That's another way people have of singing with each other. Can you understand that, Maclehearn?"

"Sure, Connie. It's a big old jamboree." Maclehearn slung off another rocket into the jungle, and some of the screaming. "That fucker just terrifies the soprano, Connie. Give us E over high slope!" And he slung another rocket into a different place.

The Medevac orderly tried to fix him up with Demerol, but Maclehearn wouldn't hear of it. "This boy's on a special prescription from Doctor Dai in Saigon, my man. He got so fucked up on the Trail, he's got nothing but the best."

"But he's got no special—"  
"Shut your hole, friend," Maclehearn said in an easy voice that would have stunned up Lyndon Baines Johnson himself. It was the last thing Connie ever heard him say and remembered. Once they got him to the marine base, they started giving him something different, something that took his memory clean away, and filled his head with weird animals and ghoulish noises.

continued on page 69

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roof. No more propitious opportunity would ever offer itself for killing Price, that was all he could think of.

The V.C. snipers—if they were V.C., and not Kuomintang, which was more likely—had been scared off by the shelling, it seemed, knock wind. Unholstering his Luger and snapping a round in the chamber, Connie plastered himself by the door of the blockhouse and waited for Price to dash out.

But no dash. "Goddamn sunbitch clumsy marine!" the major was yammering. "You pick up all Doc Dai's fucking money here, man. You no take off with Duc Dai's dope and leave his money all over the floor, marine. I kill you here fucking dead forever, cheat marine!"

Connie edged his cheek around the concrete corner, laying the barrel of the Luger across his nose. Inside, in the kerosene-lamp flicker, Lieutenant Price was on his knees, his bald spot toward the door, scooping loose clusters of dollars and francs from the clay floor into his briefcase while the snarling ARVN major held an M 14 on him. They both looked up as the faraway 155s rumbled again, but Connie ducked out of view in time.

Again, two blasts simultaneously at some distance. Then the breath went out of Connie's chest as though a fist had hooked into it to rip his lungs out, and an enormous hardbound book slammed together around his temples. In the singing silence afterward, he found himself sitting against the concrete blockhouse, which was still there. Connie was still there, too, as it turned out, with his arms and legs apparently still working. And he could see well enough, though everything was cherry red, to do the job.

Hustling to his knees, Connie swung around into the doorway with his pistol gripped straight-armed before him, couched and steady in his left hand. Child's play. Price's bald spot was right in front of him, since the man was doubled over on his knees holding his ears. Connie didn't even watch as he fragged the fucker with two rounds; his eyes were locked with the major's beady, shell-shocked glare. The major had set his rifle aside to cover his own ears, and watched in shell-shocked resentment as the pistol barrel retrained on him. He belched audibly as a round took him through the heart, and turned half around, then fell down with a crash as another round fetched him in the spine. Connie noticed with curiosity that he could clearly hear these incidental sounds, but not the pistol-fire, which seemed too loud to be audible, somehow.

He heard the artillery murmur again, miles away, clear enough. The murderer was dead, everything was on fire and Connie was suddenly possessed with an overwhelming yearning for deep jungle. He was halfway to the perimeter wire by the time the rush-and-yodel tore overhead, and the blast waves actually aided him in body-



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

Fourth Fl., State Capitol  
Juneau, Alaska 99811  
(907) 465-3991

November 3, 1982

MEMORANDUM

TO: Representative Mitch Abood  
Attention: Carol Horos

FROM: Christine Johnson, Research Staff

RE: Look-alike Drug Laws  
Research Request 82-186

Carol Horos of your staff has asked us for the number of states which have passed look-alike drug laws and the number of states in which such legislation has been proposed. We received the following information from the National Conference of State Legislatures (NCSL):

- As of August 1982, thirty-six states had adopted legislation restricting the sale of look-alike drugs.
- Fourteen states\* did not have look-alike drug laws in August of this year; however, legislation was pending in four of these states (Michigan, Nebraska, New Mexico, and Tennessee). Legislation has also been considered in one other state (Texas), although no law was ever passed.

The federal Drug Enforcement Administration has drafted a model look-alike drug law for states; we have requested a copy of this legislation and will forward it to you when it arrives. We have also enclosed two articles on look-alike drugs which may be of interest to you.

If we can provide any further information, please don't hesitate to contact us.

---

\*States without look-alike drug laws include: Alaska, Hawaii, Massachusetts, Michigan, Montana, Nebraska, New Hampshire, Nevada, New Mexico, North Dakota, Tennessee, Texas, West Virginia, Wyoming.

# FDA Seeking to Bottle Up Fake Narcotics



By Pam Earty

In 1960, as Albuquerque was one of the cities where there is a mixture of a Communist party and a mixture of the people he had been the very cooperation. From the time that the people were not cooperation, but non-cooperation was made to look like them.

Since then, imitation opiates and barbiturates have been listed to 11 other laws are enacted, according to the Food and Drug Administration.

The federal government faces an unusual jurisdictional problem in trying to control the so-called look-alike drugs. Because their ingredients are not obtained without a prescription, the Drug Enforcement Administration said it doesn't have jurisdiction. The FDA maintains it can play only a limited role because it has certified the ingredients as safe.

While the agencies say they are taking what steps they can, they are cooperative in taking on new information, said in terms of tight budgets.

Fake combinations contain large amounts of caffeine, phenylpropionamide (a nasal decongestant and appetite suppressant) and the barbiturate, phenobarbital. Imitation barbiturates contain acetaminophen, salicylic acid, chlorpheniramine or other sedatives and hypnotic agents.

When the ingredients are taken separately and in small doses, they are considered safe, an FDA spokesman said. But they can cause nervousness, insomnia, temporary psychotic episodes, cerebral hemorrhage, convulsions or death if mixed together in large amounts or taken with alcohol.

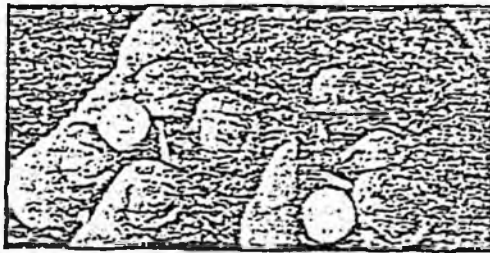
Many young people take them that way, a DEA spokesman said, because they believe that will help eliminate the "high" caused by controlled substances. In mid-1961, DEA estimated that 30 million doses of fake barbiturates were being manufactured each week and distributed through a network of 200 dealers.

Since 1960, FDA has filed numerous compliance orders against 46 companies that it claims violated certain provisions of the Food, Drug and Cosmetic Act by making imitation drugs. Over the same period, the U.S. Postal Service has filed 20 complaints that accused drug makers of false advertising because they did not disclose that their products could cause illness or death.

Last week, FDA revealed what it believes is its toughest tactic to date. It informed 15 small companies that they must submit any products that contain combinations of caffeine, phenobarbital and phenylpropionamide for certification as new drugs. "We have researched this extensively and we find no precedent for the three-drug combination. It would be hard to believe that anyone can show a medical purpose or need for these drugs," said Bill Grier, an FDA spokesman. In effect, Grier said, FDA's action will force many of the manufacturers off the market.

Last year, DEA drafted a model law for states to ban look-alike drugs. So far, 30 states have enacted legislation. DEA also convinced three companies that make drug capsules to voluntarily refuse orders from suspected imitation drug makers.

While federal officials are confident that their tactics have driven



An example of look-alike imitation drugs, left, and the real controlled substances, right.

Sen. Gordon J. Humphrey (R-N.H.) said such maneuvering has convinced him that the only way to eliminate the imitation drugs is by giving the DEA, FDA and the Postal

Service jurisdiction. He has introduced legislation that would prohibit the manufacture of drugs that "look like or are represented to be controlled substances." Products that

promote drug abuse would be barred from the mails and FDA controlled law would be expanded.

But at a recent hearing, Humphrey urged Congress to delay passing new legislation. "We are trying to solve the problem through legislation. If we can't solve the problem through state laws that we might need to do it at a federal level, but that's not our first choice," he said.

Justice Attorney General Tyrone Feltner disagreed with Humphrey. Feltner told Congress that although his state has moved against control, it still has problems. "Some companies we have sued and closed have popped up again under a new name and location. Just because we stop a look-alike distributor in Illinois doesn't mean we have solved the national problem."

Washington Post Staff Aug. 23, 1970

mits" which allow a convicted drunk driver to drive only a specified route at a specified time without unauthorized stops.

Several states, Utah, Idaho and Maryland among them, have set the blood alcohol concentration (BAC) level, which determines intoxication, at 0.08 percent, closer to the more stringent laws in Europe where the Netherlands and Norway have the level at 0.05 percent. The new Maryland law adds that state to at least 16 others that allow police officers to administer a breath test at the scene without first arresting the driver. Refusal to take the test then subjects the driver to a six-month license suspension.



Photo courtesy of *The Denver Post*

The new solutions, however, are not expected to be panaceas, the experts admit. Stiff mandatory sentences can irk some judges who find ingenious ways to avoid applying them. Mandatory sentences may result in long lists of offenders waiting to get into crowded jails. Experts also recognize that tougher laws do not always reduce the number of alcohol-related driving deaths. For instance, the British Road Safety Act of 1967 set a BAC level of 0.08 percent as *prima facie* evidence of drunk driving and made punishment upon conviction a mandatory one-year license suspension. Weekend alcohol-related driving deaths declined immediately following implementation of the law but rose to previous levels within a year.

In general, though, the result of the new state laws has been increased media attention and more public awareness, two phenomena welcomed by traffic safety professionals at the National Highway Traffic Safety Administration (NHTSA) where millions of dollars have been spent on public information campaigns in the past. One NHTSA official, Clayton Hall, who specializes in the drunk-driving issue, called the new attention "a squeaky wheel thing." "People are getting interested at the community level and there is an awakening of a feeling that something must be done," Hall said.

*Richard W. Foster*

## The 'look-alike' game: Deception in street drugs

In the shadowy world of abuse of illegal and legal drugs, a new issue that is drawing the attention of state legislatures has surfaced: the sale and use of over-the-counter drugs—called "look-alikes"—that imitate prescription stimulants. Eleven states have banned the distribution of these drugs, and seven more have considered such legislation.

The federal Food and Drug Administration (FDA) has received numerous inquiries and complaints about look-alikes, which are generally similar in size, shape, color, and markings to amphetamine-type products such as bipheteramines and Dexedrine, but which have slight deviations in markings that often go undetected by the buyer.

Illicit drug dealers have recognized that more money could be made selling counterfeits than actual prescription drugs and, in addition, they would be immune to prosecution for selling look-alikes.

The fact that these drugs are frequently mistaken for prescription drugs has caused serious problems. Many young users have overdosed by confusing the strong prescription drug with its imitation. Also, confusion of counterfeits with prescription drugs interferes with the ability of doctors to treat an overdose victim. Although the FDA has received four reports of deaths associated with the use of these drugs, the causes of death could not be directly attributed to look-alikes.

Look-alikes typically contain two-thirds caffeine and one-third cough-cold ingredients such as phenylpropanolamine (an appetite suppressant and nasal decongestant) and ephedrine sulfate (a decongestant). They are labeled in compliance with current FDA labeling requirements for use as stimulants for mental alertness and as decongestants and bronchodilators for managing bronchial asthma. Since these drugs are legitimately manufactured and properly labeled, they are considered legally marketable. By the time they filter down to the user level, however, they are almost always unlabeled and misrepresented.

The drugs produce constriction of

\*Arkansas, Colorado, Connecticut, Delaware, Florida, Indiana, Kansas, Louisiana, Maryland, Oklahoma, and South Dakota have passed legislation banning the distribution of these drugs, and Illinois, Minnesota, New Mexico, Ohio, Pennsylvania, Tennessee, and Texas have considered similar bills.

blood vessels which in turn elevates blood pressure and, if taken in large quantities, can cause blood vessels to collapse. Reported abuse syndromes—very similar to the amphetamine abuse syndrome—include over-excitement, insomnia and hallucinations, all of which can lead to toxic psychosis.

The FDA is encouraging and supporting state attempts to formulate and develop regulatory laws to deal with this problem. Delaware took the lead by passing anti-fraud legislation in 1980. When the Maryland General Assembly learned of increasing use of look-alike drugs in schools, the Anne Arundel County delegation sponsored a bill that expanded on Delaware's statute.

The Maryland law prohibits "distribution, attempted distribution, or possession with intent to distribute non-controlled substances intended for use or distribution as controlled dangerous substances." The law is aimed at mass volume distributors, not just street dealers. Since the law became effective in June 1981, 12 major distributors have closed or moved their business out of the state, and there are now no known distributors in Maryland. The counterfeit problem still exists, however, because of mail order businesses. Many of the complaints the FDA has received have been from the parents of children who ordered fake "pep pills" after receiving unsolicited mail-order literature.

Despite state and federal attempts to prohibit the distribution of these drugs, sales are on the rise. It is estimated that as many as 150 million look-alikes may be sold this year, compared to 70 million pills of amphetamines.

The FDA had not fully articulated its position on counterfeit drugs until September 25, 1981, when the agency raided nine factories in Alabama, Florida, Illinois, New York, and Pennsylvania. Equipment and over 10 million drugs were seized under a section of the Food, Drug and Cosmetic Act that defines a counterfeit drug and states that such drugs are liable to seizure.

*Jane Germano*

*Kaye Bache-Snyder is a free lance writer in the Denver area. Michele R. Magri is editorial assistant for NCSL's Publication Department. Richard W. Foster, a former Associated Press reporter, is a free-lance writer based in Denver. Jane Germano is a support staff member with NCSL's Natural Resource Information Systems.*

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPARTMENT OF PUBLIC SAFETY OFFICE OF THE COMMISSIONER

POUCH N  
JUNEAU, ALASKA 99811  
PHONE:

March 8, 1983

Representative Al Adams  
Pouch V  
Juneau, Alaska 99811

Dear Representative Adams:

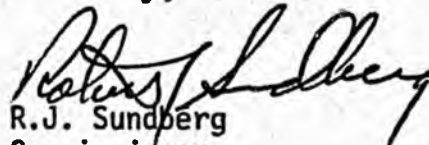
I have been asked to forward this letter to you expanding on our explanation of the need for CSSHB 10 (Jud). In brief, this proposed legislation would prohibit the sale of "lookalike" imitation drugs in the state. While this may seem to be a trivial matter at first glance, let me assure you that passage of this measure will have a substantial impact upon the violent crimes that are associated with the drug culture.

Imitation drugs are designed to resemble or duplicate the appearance of brand name amphetamines, barbiturates, tranquilizers and narcotic pain killers. On the street, they are known and sold under the same names as their dangerous drug counterparts: Black Beauties, Dexies, Yellows, Christmas Trees and Rainbows. The imitations, however, contain non-controlled substances such as caffeine, ephedrine and other over-the-counter drugs. Violence often occurs when a buyer discovers that the drugs he has purchased are fake and simply, revenge is sought. Other problems involve the use of imitations to initiate juveniles into the drug culture. Another related problem involves a user who has become accustomed to ingesting imitation drugs and then receives the same dosage of the real drug. Such cases often result in fatalities.

In all of these cases the pushers are immune from the efforts of the law enforcement community from having an impact because these imitation drugs are not "controlled substances" under present statutes. If this bill is passed, we will be able to remove these individuals and their tools from having such a negative impact upon the citizens of our state.

Please do not hesitate to contact me again if you have any questions or comments concerning this topic.

Sincerely,

  
R.J. Sundberg  
Commissioner

# STATE OF ALASKA

## DEPARTMENT OF LAW

CRIMINAL DIVISION

BILL SHEFFIELD, GOVERNOR

POUCH KC - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3428

March 9, 1983

The Honorable Al Adams  
Chairman, House Finance Committee  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Re: CSSS HB 10

Dear Representative Adams:

Thank you for your request for our comment on CSSS HB 10, an act relating to imitation controlled substances. As you may be aware, Assistant Attorney General Rhonda Butterfield from the Anchorage Office of Special Prosecutions and Appeals worked extensively with the sponsor in revising the original bill to the current version. We believe that CSSS HB 10's language is comprehensive and comprehensible, and are satisfied with the bill in its present form.

Under the bill as drafted, it is a "C felony" for a person to possess, with intent to deliver, an imitation controlled substance. An imitation controlled substance is a substance which is not listed in the controlled substances act which was passed during the last legislative term, but which appears to be a controlled substance. It is also a class C felony offense for a person to possess the raw materials listed in Sec. 11.73.020 with intent to manufacture an imitation controlled substance. Class C felonies are punishable by up to five years in prison. Under section 11.73.030 of the bill, if delivery of an imitation controlled substance is made to a person under 19 who is at least three years younger than the deliveror, the offense is increased from a class C to a class B felony, punishable by up to 10 years in prison. This language is patterned upon similar language in the controlled substances act passed last term.

According to police officers who work in drug enforcement, a high percentage of the substances sold on the streets in Alaskan cities are imitation controlled substances. These items look the same as controlled substances, and the purchaser pays the same price for them. The purchaser has no

March 9, 1983

way of knowing, without actually testing the substances, whether he or she is purchasing is a real drug or an imitation drug. Since imitation controlled substances (such as caffeine and ephedrine) are much easier for a seller to obtain than controlled substances (such as cocaine, heroin or amphetamines), the sale of imitation controlled substances increases the apparent illicit drug traffic, exposing more young people to a criminal or drug lifestyle. Additionally, a person (especially a young person), who has been purchasing and ingesting imitation controlled substances under the mistaken belief that they are the real thing, may eventually purchase real cocaine or amphetamines, and ingest too much of the drug. This can lead to drug overdose and possibly death.

The bill contains provisions allowing the forfeiture of property used in violation of the imitation controlled substances law. The forfeiture provisions track those used in AS 17.30.110, which deal with the forfeiture of items used in violation of the controlled substances act. This would allow the confiscation of money, manufacturer paraphenelia and vehicles used in the violation of the law.

Attached to this letter is a revised statement of fiscal impact which conforms to the governor's format for the submission of these statements, and which reflects the Department of Law's estimate of the impact of this bill. Thank you again for the opportunity to state the Department of Law's position on CSSS HB 10. Please contact my office if you have any questions.

Very truly yours,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By: 

\_\_\_\_\_  
Daniel W. Hickey  
Chief Prosecutor

DWH/GAH/gb-07

Enclosure

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: CSSS HB 10 Date on Bill: 2-23-83  
 Title: "An Act relating to imitation controlled substances "  
 Sponsor: Representative Abood  
 Requestor: House Finance Committee

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating				34.6	38.8	41.1		
Total				34.6	38.8	41.1		

b. Revenues:

Revenue								
---------	--	--	--	--	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

No information provided.

3. Assumptions: 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. These new prosecutions and the handling of forfeiture actions allowed under the bill represent additional workload which will require the allocation of additional prosecutor resources.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Daniel W. Hickey, Chief Prosecutor Phone: 465-3428  
 Division: Department of Law, Criminal Division Date: 3-9-83  
 Approved by Commissioner: Norman C. Gorsuch, Attorney General Date: 3-9-83  
 Department: Law

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

Fiscal Analysis

The impact of CSSS HB 10 is expected to result in the addition of prosecutor time equivalent to one-half of an Attorney III (SR22), statewide. For purposes of the analysis, salary schedule A has been used. Actual placement of a position cannot be determined until after the Legislature has acted and we know what bills have been approved.

The first year of the analysis will be for FY 84 and costs have been calculated on a 10 month basis to account for the time required to establish a new position and the time it takes to get a new program underway. The costs beyond FY 84 are on a 12 month basis and include a 6% annual inflation factor.

1st Year (10 months)

	<u>AIII (PPT)</u>	<u>TOTAL</u>
Personal Services	23.8	23.8
Travel	2.5	2.5
Contractual	4.0	4.0
Commodities - ongoing	.8	.8
Commodities - single time	2.0	2.0
Equipment - single time	1.5	1.5
		<hr/>
		34.6

2nd Year (12 months + 6% annual inflation)

Personal Services	30.0	30.0
Travel	3.2	3.2
Contractual	4.6	4.6
Commodities	1.0	1.0
		<hr/>
		38.8

# Alaska State Legislature

## House of Representatives

Al Adams

Chairman

Committee on Finance



Official Business

March 11, 1983

WHILE IN SESSION  
Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-3706

OUT OF SESSION  
P.O. Box 333  
Kotzebue, Alaska 99752  
(907) 442-3320

1024 W. 6th  
Anchorage, Alaska 99501  
(907) 274-0615

### MEMORANDUM

TO: House Finance Committee Members

FROM: Al Adams, Chair *APA*  
House Finance Committee

SUBJ: CS SS HB 10 (Judiciary)

CS SS HB 10 (Judiciary) would prohibit manufacture, delivery, possession with intent to manufacture or deliver, and advertisement to promote the delivery of imitation controlled substances. The bill attempts to crack down on manufacturers and sellers of imitation controlled substances as opposed to those who use an imitation controlled substance thinking that it is actually a controlled substance. It is thought that the best way to control the problem is to punish the manufacturers and sellers.

An example of an imitation controlled substance would be a caffeine pill passed off as an amphetamine.

#### Section-by-section analysis of CS SS HB 10 (Judiciary)

The legislation would add a new Chapter 73 to AS 11 entitled the "Imitation Controlled Substances Act".

Sec. 11.73.010 prohibits manufacture, delivery, or possession with intent to deliver imitation controlled substances. Violation of this section is a class C felony. A person convicted of a class C felony can receive up to 5 years in jail and a fine not to exceed \$50,000. The language of this section is the same as the language of the sponsor substitute.

Sec. 11.73.020 prohibits possession with intent to manufacture imitation controlled substances or their salts (derivatives). A list of 18 substances is included. Violation of this section is a class C

felony. The language of this section is the same as the language of the sponsor substitute.

Sec. 11.73.030 prohibits delivery of an imitation controlled substance to a minor. The language of this section was altered by the Judiciary Committee to reflect existing law regarding controlled substances. Under the new language, a person who delivers an imitation controlled substance to a minor who is at least three years younger is guilty of a class B felony. A person convicted of a class B felony can receive up to 10 years in jail and a fine not to exceed \$50,000. If the minor is less than three years younger than the seller, the provisions of AS 11.73.010 apply; i.e. the seller could be convicted of a class C felony. Thus, if three or more years difference in age exists between the seller and the minor, it is a more serious crime.

Sec. 11.73.040 prohibits advertisement to promote the delivery of an imitation controlled substance. Violation of this section is a class C felony. The language of this section is the same as the language of the sponsor substitute.

Sec. 11.73.050 would allow use of imitation controlled substances by registered practitioners (doctors, dentists, etc.) for professional practice or research. It would also allow for manufacture, delivery, and advertisement of imitation controlled substances for this purpose. The language of this section is the same as the language of the sponsor substitute.

Sec. 11.73.060 provides for forfeiture to the state of property used in violation of Chapter 11. The language of the forfeiture provisions are tied to the forfeiture provisions for controlled substances. The language of this section is the same as the language of the sponsor substitute.

Sec. 11.73.099 provides definitions for Chapter 11. The definition of "imitation controlled substance" was amended by the Judiciary Committee. An imitation controlled substance now includes salts of the substances, as well as the substances themselves. Also, the definition of "representations" was amended by the Judiciary Committee in section .099(3)(C) by removing the word "illicit" since the phrase "illicit controlled substance" was thought to be redundant.

Since there is no effective date in the body of the bill, the act would go into effect 90 days after passage.

## Fiscal Notes

Department of Public Safety: DPS has submitted a zero fiscal note due to the fact that any additional costs can be absorbed in their existing budget.

Department of Law: DOL has submitted a fiscal note for the CS of \$34,600 for FY 84. The main reason for the difference between this fiscal note and the original one, according to DOL, is a change in OMB policy for fiscal notes. When the original fiscal note was submitted, DOL was not instructed to predict the fiscal impact of this bill whereas now it has been so instructed.

Division of Corrections: The original fiscal note requested \$1.2 million, most of which was capital costs to fund eight new beds to handle the increased prisoner load due to passage of this bill. The fiscal note prepared for the committee substitute has been lowered to \$743,900 which represents the cost of building five new beds. According to Corrections, the reduced bed space is caused by the change in age from 18 to 19 in proposed AS 11.73.030, and the fact that Corrections now expects that approximately 15% of those who deal in imitation controlled substances will be deterred from doing so if the practice becomes illegal. Corrections does not expect any position costs until FY 85. One staff position is generally needed for every 2½ inmates, therefore two Corrections Officer II positions are included in the FY 85 and FY 86 estimates.

For your information, Corrections' capital budget request for new prison facilities includes only the cost of housing the existing population and the increase expected from statute changes already made. Thus, any new crime legislation such as this bill that requires additional bed space will not be included in Corrections' capital budget request.

Offered: 2/23/83  
Referred: Finance

Original sponsors: Abood, Wendte,  
Lindauer, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE  
2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 10 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - FIRST 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 11 is amended by adding a new chapter to read:

9 CHAPTER 73. IMITATION CONTROLLED SUBSTANCES ACT.

10 Sec. 11.73.010. MANUFACTURE OR DELIVERY OF AN IMITATION CON-  
11 TROLLED SUBSTANCE. (a) Except as provided in AS 11.73.050, a person  
12 may not manufacture, deliver, or possess with intent to deliver, an  
13 imitation controlled substance.

14 (b) Except as provided in AS 11.73.030, a person who violates  
15 this section commits a class C felony.

16 Sec. 11.73.020. POSSESSION OF SUBSTANCE WITH INTENT TO MANUFAC-  
17 TURE. (a) Except as provided in AS 11.73.050, a person may not  
18 possess the following substances or their salts with the intent to  
19 manufacture an imitation controlled substance:

- 20 (1) ephedrine;  
21 (2) ephedrine sulfate;  
22 (3) pseudoephedrine;  
23 (4) pseudoephedrine hydrochloride;  
24 (5) phenylpropanolamine;  
25 (6) caffeine;  
26 (7) theophylline;  
27 (8) lidocaine;  
28 (9) procaine;  
29 (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. 11.73.030. DELIVERY OF AN IMITATION CONTROLLED SUBSTANCE TO  
11 A MINOR. (a) Except as provided in AS 11.73.050, a person 19 years  
12 of age or older may not deliver an imitation controlled substance to a  
13 person under 19 years of age, who is at least three years younger than  
14 the person delivering the substance.

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

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

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

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

1 research.

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

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

10 Sec. 11.73.099. DEFINITIONS. In this chapter

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

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

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

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

29 (B) statements made to the recipient that the

1 substance may be resold for inordinate profit;

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

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

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

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

Introduced: 2/11/83  
Referred: Judiciary and  
Finance

BY ABOOD, WENDTE, LINDAUER,  
PESTINGER AND LISKA

1 IN THE HOUSE

2

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 10

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST 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 11 is amended by adding a new chapter to read:

9

CHAPTER 73. IMITATION CONTROLLED SUBSTANCES ACT.

10

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

11

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

12

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

13

imitation controlled substance.

14

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

15

this section commits a class C felony.

16

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

17

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

18

possess the following substances or their salts with the intent to

19

manufacture an imitation controlled substance:

20

(1) ephedrine;

21

(2) ephedrine sulfate;

22

(3) pseudoephedrine;

23

(4) pseudoephedrine hydrochloride;

24

(5) phenylpropanolamine;

25

(6) caffeine;

26

(7) theophylline;

27

(8) lidocaine;

28

(9) procaine;

29

(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) pyrillamine.

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; salicyamide;  
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.