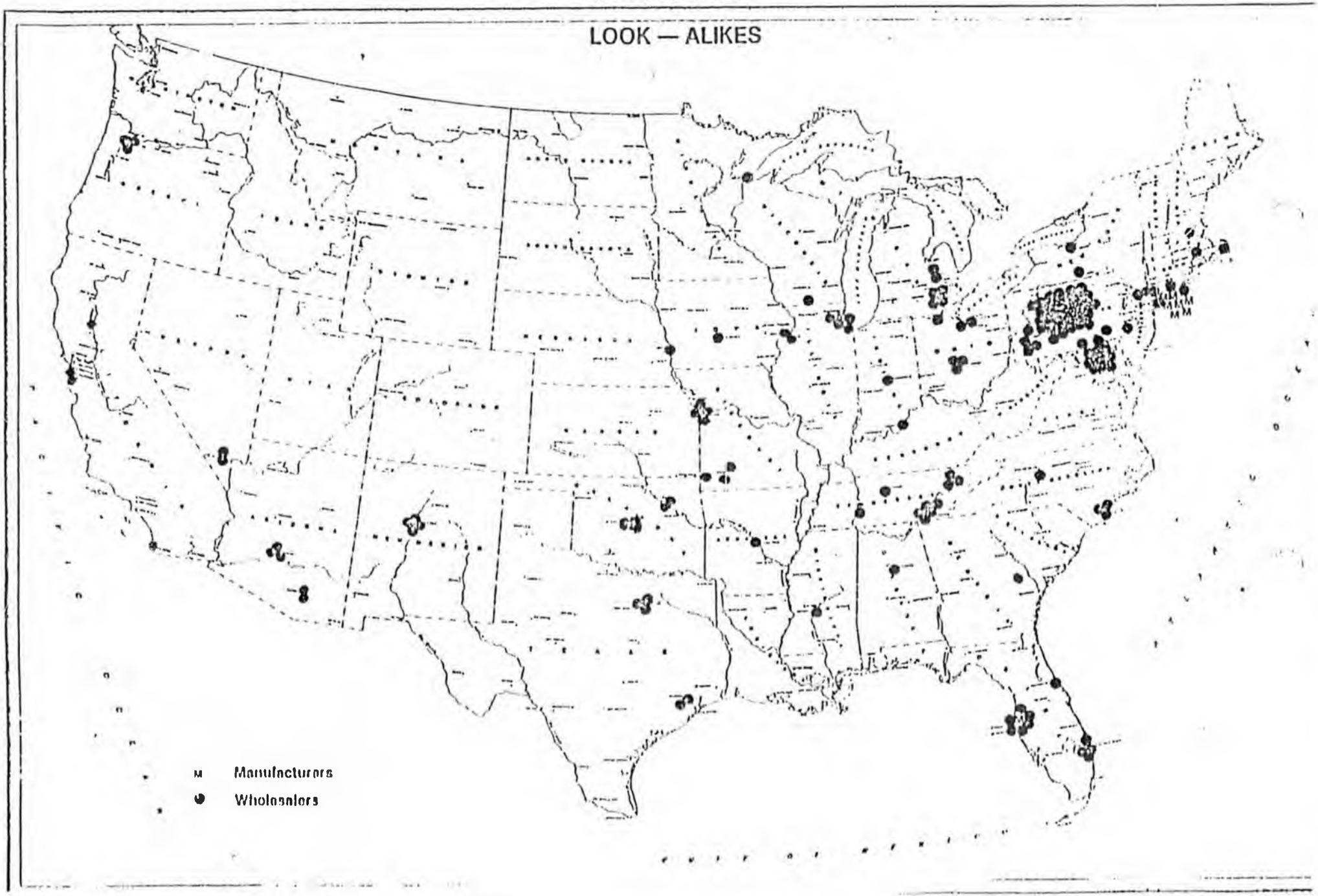
The actions described above comprise a promising start toward ending the nation-wide trafficking in look-alikes. It is too early to make an accurate evaluation of the overall damage sufferd by look-alike traffickers, but there is room for some optimism. Continuing action by federal agencies, state and 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



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, 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 Pete Earley
Washington Post Staff Writer

In 1980, an Albuquerque teenager died after drinking several shots of bourbon at a Christmas party and swallowing two capsules he had been told were amphetamines. Police discovered that the capsules were not amphetamines, but non-prescription drugs made to look like them.

Since then, imitation amphetamines and barbiturates have been linked to 11 other teen-age deaths, 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 can be 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 somewhat reluctant to take on new enforcement tasks in times of tight budgets.

Fake amphetamines contain large amounts of caffeine, phenylpropanolamine (a nasal decongestant and appetite suppressant) and the decongestant ephedrine. "Imitation" barbiturates contain acetaminophen, salicylamide, 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, drowsiness or death if mixed together in large amounts or taken with alcohol.

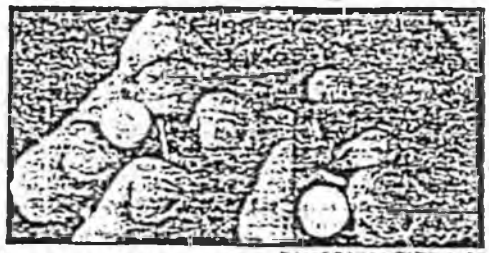
Many young people take them that way, a DEA spokesman said, because they believe that will help simulate the "high" caused by controlled substances. In mid-1981, DEA estimated that 30 million doses of fake narcotics were being manufactured each week and distributed through a network of 200 dealers.

Since 1980, FDA has filed administrative complaints against 45 companies that it claims violated counterfeit 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 unveiled 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, ephedrine and phenylpropanolamine for certification as new drugs. "We have researched this extensively and can 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 Grigg, an FDA spokesman. In effect, Grigg said, FDA's action will force many of the stimulants 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.

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 counterfeit laws would be expanded.

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

Illinois Attorney General Tyrone Fahner disagreed with Hatch. Fahner told Congress that although his state has moved against dealers, 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-a-like distributor in Illinois doesn't mean we have solved the national problem."

Washington Post Aug 30 1982

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 biphetamines 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 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, 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 100 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 28, 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.

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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. Laurence R. 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.

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 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 1980, 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

[illegible] Almost as Much Fear as Real One

Continued From First Page

cials are forced to pass the buck.

Not the postal service, though. Ned Priece 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 Biphetamine 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 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 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 $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 [illegible] 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 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 $8 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.

1°:60 RKY. MTN 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 attainable 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 amphetamines or tranquilizers," said the AMA report.

Counterfeit "black beauties," "yellow jackets," "dexies" and other drug culture names 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 biphetamines (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 conterfeit 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.

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

MEMORANDUM February 1, 1983

SUBJECT: Imitation controlled substances (HB 10)

TO: Representative Mitchell E. Abood, Jr.

FROM: James H. Lear
Legislative Counsel

You have asked for a sectional analysis of HB 10 (An Act relating to imitation controlled substances). HB 10 is based on the Model Imitation Controlled Substances Act drafted by the Drug Enforcement Agency of the United States Department of Justice in October, 1981.

The bill consists of one section creating a new Chapter 14 in AS 17. The chapter contains several new sections:

Sec. 17.14.010. Prohibits the manufacture or distribution of imitation controlled substances as defined in Sec. 17.14.099(3) or possession of the same with intent to distribute. Violation of the section is punishable as a class C felony (maximum of five years in prison and maximum fine of $50,000). It is not a crime in certain instances if the substance is to be used as a placebo for medical treatment. This section is intended to curb the distribution of noncontrolled substances currently sold over-the-counter if manufactured or distributed as imitation controlled substances.

Sec. 17.14.015. Prohibits the possession of certain noncontrolled substances with the intent to manufacture an imitation controlled substance. The substances are those most frequently used to manufacture imitation controlled substances. Violation of this section is punishable as a class C felony. This section is not part of the "Model Act".

Sec. 17.14.020. This section imposes a stricter punishment for distribution of imitation controlled substances by an

adult to a minor. The crime is a class B felony punishable by a maximum of ten years in prison and a maximum fine of $50,000.

Sec. 17.14.030. Prohibits advertisement to promote the distribution of an imitation controlled substance. This crime is punishable as a class C felony. The section is directed mainly at those persons who promote the distribution of an imitation controlled substance by soliciting advertising space in newspapers, magazines, et cetera, or by publicly distributing advertisements for an imitation controlled substance. A publisher and a distributor of not only a local but of a national publication could be prosecuted for violation of sec. 17.14.030 if the state can establish beyond a reasonable doubt that the person had the requisite mental state. The defendant must have known that the purpose of the advertisement or solicitation was to promote the distribution of an imitation controlled substance in the State of Alaska. It is obvious that it would be easier for the state to prosecute an individual who resides within the state, but Alaska has criminal jurisdiction over a nonresident publisher of a national magazine or newspaper who knowingly publishes an advertisement to promote the distribution of an imitation controlled substance if that person consumates the crime from outside the state by the intervention of an innocent or guilty agent, such as a newsstand operator, within the state (AS 12.05.010 -- crime commenced outside the state but consumated inside).

Sec. 17.14.040. This section specifies that manufacturing, distributing, or possessing an imitation controlled substance solely for use as a placebo under prescription is not a crime.

Sec. 17.14.050. This section addresses the circumstances under which a violator of the chapter may have to forfeit to the state those items associated with the perpetration of offenses involving imitation controlled substances. The section is rather lengthy since it is intended to provide adequate guidelines for determining what property may be subject to forfeiture, how it is to be seized, what procedure is to be used for litigating the interests of possible owners, disposition of forfeited property, et cetera. If the degree of detail in this section were absent, an individual might successfully challenge the forfeiture on the basis that it constitutes a taking of property without due process.

The section is almost identical to AS 17.30.110, the forfeiture provision of the 1982 drug bill enacted by Chapter 45, SLA 1982.

Sec. 17.14.099. Definition section. "Controlled substance" is defined by incorporating the definition codified in AS 11.81.900(6). However, sec. 13, Chapter 45, SLA 1982, repealed and reenacted that paragraph by substituting the following language for the former definition:

> (6) "controlled substance" has the meaning ascribed to it in AS 11.71.900(4).

Rather than requiring the reader to make a two-step process to get to the definition, the internal reference on line 18, page 8, of HB 10 should be amended to read "AS 11.71.900(4)".

The other important definition is the definition of "imitation controlled substance". Basically, a substance is an imitation controlled substance if it appears by dosage unit appearance to be a controlled substance or if it is represented as one. The definition enumerates those circumstances under which such a representation could be found.

JHL:ljb

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, 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.

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*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 Pete Earley
Washington Post Staff Writer

In 1980, an Albuquerque teenager died after drinking several shots of bourbon at a Christmas party and swallowing two capsules he had been told were amphetamines. Police discovered that the capsules were not amphetamines, but non-prescription drugs made to look like them.

Since then, imitation amphetamines and barbiturates have been linked to 11 other teen-age deaths, 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 can be 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 somewhat reluctant to take on new enforcement tasks in times of tight budgets.

Fake amphetamines contain large amounts of caffeine, phenylpropanolamine (a nasal decongestant and appetite suppressant) and the decongestant ephedrine. "Imitation" barbiturates contain acetaminophen, salicylamide, 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, drowsiness or death if mixed together in large amounts or taken with alcohol.

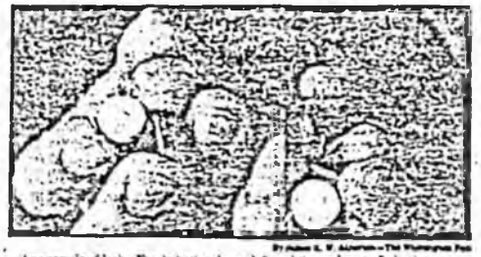
Many young people take them that way, a DEA spokesman said, because they believe that will help simulate the "high" caused by controlled substances. In mid-1981, DEA estimated that 30 million doses of fake narcotics were being manufactured each week and distributed through a network of 200 dealers.

Since 1980, FDA has filed administrative complaints against 45 companies that it claims violated counterfeit 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 unveiled 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, ephedrine and phenylpropanolamine for certification as new drugs. "We have researched this extensively and can 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 Grigg, an FDA spokesman. In effect, Grigg said, FDA's action will force many of the stimulants 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



By James K. W. Atherton—The Washington Post

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

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 counterfeit laws would be expanded.

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

Illinois Attorney General Tyrone Fahner disagreed with Haislip. Fahner told Congress that although his state has moved against dealers, 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-a-like distributor in Illinois doesn't mean we have solved the national problem."

Washington Post May 23, 1982

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CHAIRMAN
HOUSE JUDICIARY COMMITTEE
MEMBER
HOUSE RESOURCES COMMITTEE

Representative Charlie Bussell

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

February 23, 1983

The Proprietary Association
1700 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

ATTENTION: Mr. Allan R. Rexinger, Director of Legislative Relations

SUBJECT: HB 10, Imitation Controlled Substance Act

Dear Mr. Rexinger:

Thank you for your interest and offer of help in drafting a proper subject act.

Enclosed for your further information is a copy of the Act as amended and passed from the House Judiciary Committee on February 22, 1983.

I welcome any further comments yo[illegible]e regarding this or any other act we have under conside:

Again, thank you for becoming inv[illegible] in our legislative process.

Regards,

Representative Charlie Bussell
Chairman, Committee on Judiciary

CB:lyn

cc: Representative Abood

THE PROPRIETARY ASSOCIATION

1700 Pennsylvania Avenue N.W. Washington D.C. 20006 Phone: 202 393 1700

February 4, 1983

Representative Mitch E. Abood
Pouch V - Room 102
Alaska State Legislature
Juneau, Alaska 99811

Attn: July McGhie

Dear Representative Abood:

The purpose of this letter is to follow-up my conversation with Ms. McGhie during which we discussed several amendments to HB 10 — the Imitation Controlled Substances Act. As I explained to Ms. McGhie, The Proprietary Association is a 102-year-old national trade association which represents manufacturers of nonprescription, i.e., over-the-counter (OTC) medicines such as St. Joseph's Aspirin for Children, Anacin, Bayer Aspirin, Contac, Tylenol, Excedrin, Pepto Bismol and many others.

Enclosed is a summary of the amendments to HB 10. Also enclosed is a memorandum on street-drug look-alikes, the U.S. Drug Enforcement Administration Imitation Controlled Substances Model State Bill, the American Medical Association Model State Bill, and the Imitation Controlled Substances Amendment as passed the United States Senate on September 30, 1982. Please note that several of these amendments appear in the text of the enclosed bills. The amendments are marked by number for your convenience and correspond to the summary of our amendments.

Please do not hesitate to contact us if we can be of further assistance. In the mean time, I intend to keep in contact with Ms. McGhie and look forward to speaking with you in the future.

Thank you.

Sincerely,

Allan R. Rexinger

Allan R. Rexinger
Director of Legislative Relations

Enclosures: As stated

ARR/ds

THE PROPRIETARY ASSOCIATION

1700 Pennsylvania Avenue N.W. / Washington, D.C. 20006 / Phone (202) 393-1700

AMENDMENTS TO ALASKA HB 10
IMITATION CONTROLLED SUBSTANCES ACT

*CAPITALS indicate material to be added.
**[Bracketed] material is to be deleted.

AMENDMENT I

On page 1, line 12 after the word "person" add the following words:

KNOWINGLY OR INTENTIONALLY

Comment: The addition of these words adds specific intent to the Section which is necessary to prevent coverage of a person who does not intend to manufacture, distribute, or possess an imitation controlled substance, but who by unforseen circumstances becomes unwhitingly liable under the Act.

AMENDMENT II

On page 2, line 14 after the word "possesses" add the following:

: (1)

On page 2, line 16 after the word "research" add the following:

, (2) A NONCONTROLLED SUBSTANCE THAT WAS INITIALLY INTRODUCED INTO COMMERCE PRIOR TO THE INITIAL INTRODUCTION INTO COMMERCE OF THE CONTROLLED SUBSTANCE WHICH IT IS ALLEGED TO IMITATE, OR (3) AN IMITATION CONTROLLED SUBSTANCE FOR USE IN U.S. FOOD AND DRUG ADMINISTRATION INVESTIGATIONAL NEW DRUG TRIALS.

Comment: Two additional exemptions are needed beyond that already provided for placebos. The first would provide an exemption for a legitimate over-the-counter medicine that is already on the market and which may be rendered in violation of the Act if a controlled substance is subsequently marketed with identical dosage unit appearance. It is possible therefore that the legitimate OTC would be forced off the market or its manufacturer made subject to a penalty by the subsequent manufacture of a controlled substance. We do not believe this is the intention of the bill. In addition, an exemption ought to be provided for manufacturers of drugs that are used in U.S. Food and Drug Administration approved investigational new drug trials. These tests are conducted with the approval of the FDA.

AMENDMENT III

On page 8, strike line 22-29 and in lieu thereof add the following:

(3) "IMITATION CONTROLLED SUBSTANCE" MEANS ANY SUBSTANCE THAT IS NOT A CONTROLLED SUBSTANCE, AND THAT BY DOSAGE UNIT APPEARANCE (INCLUDING COLOR, SHAPE, SIZE, AND MARKINGS) OR BY REPRESENTATIONS WOULD LEAD A REASONABLE PERSON TO BELIEVE THAT THE SUBSTANCE IS A CONTROLLED SUBSTANCE; THE TERM "REPRESENTATIONS", AS USED IN THIS PARAGRAPH, INCLUDES BUT IS NOT LIMITED TO THE FOLLOWING:

Comment: By removing any reference to specific drug entities or ingredients, the definition of an "imitation controlled substance" is broader and would necessarily cover the widest possible range of noncontrolled substances intended to imitate controlled substances. Use of specific references to drug entities or ingredients creates room for reformulation for the purpose of escaping coverage under the current language of HB 10.

ARR/ds

2/4/83

THE PROPRIETARY ASSOCIATION

1700 Pennsylvania Avenue N.W. Washington D.C. 20006 Phone: 202 [illegible]

MEMORANDUM

STREET-DRUG LOOK-ALIKES

INTRODUCTION

The Proprietary Association is a 100-year-old trade association which represents manufacturers of nonprescription, i.e., over-the-counter (OTC) medicines such as St. Joseph's Aspirin for Children, Anacin, Distan, Contac, Tylenol, Excedrin, Sine-Off and many others. These products are classified as drugs under both the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 300, et. seq.] and State statutes. Many of the Association's members market OTC products in this state and/or maintain plants and facilities here, employing many persons. In addition, these products are sold at retail by thousands of food stores, pharmacies, discount and department stores, and other retail outlets. The Association is therefore interested in the proposed legislation.

NON-PRESCRIPTION DRUGS

Responsible self-medication is a valuable and crucial part of our health care system and economy. For the individual, it is a familiar, inexpensive, and convenient method of treating common discomforts. For the health care system, it shields against a deluge of visits to health professionals for minor self-limiting disorders. For the national economy, self-medication helps contain the demand for unnecessary visits to the doctor and thus the total cost for formal medical services. As the 1978 edition of the U.S. Department of Commerce's U.S. Industrial Outlook stated:

> "Seventy-five percent of all illness and injuries are initially treated through self-care and OTC medications. If only a small percentage of self-treatment was shifted to medical practitioners, the patient load would disrupt the U.S. health care system" U.S. Industrial Outlook 1978, U.S. Department of Commerce, January, 1978, page 131.

OTC Labeling

Because OTC medicines are designed for use by consumers without medical supervision, federal and state law requires that they contain considerable U.S. FDA approved labeling information for the benefit of consumers — labeling not carried by street-drug look-alikes. This information includes:

(1) the product name;

. . . /

(2) a statement of identity;
(3) a list of ingredients;
(4) the net quantity of the contents;
(5) the name and address of the manufacturer, packer, or distributor;
(6) the indications for use;
(7) directions and dosage instructions;
(8) warnings and cautionary statements;
(9) drug interaction precautions, if any; and
(10) an expiration date.

The Association is well aware of the critical functions which the labeling of an OTC serves in the appropriate and responsible use of OTC medicines. The Association makes available to consumers through pharmacists thousands of pamphlets entitled "Medicine Labels and You" (enclosed). In addition, the Council on Family Health, a non-profit organization funded by many of the Association's members, has broadcast millions of dollars worth of public service announcements on radio television urging consumers to read the label on OTC medicines.

Street-Drug Look-Alikes

The subject of the legislation is the fraudulent promotion of OTC medicines intentionally made to resemble controlled substances. The Association and its members are opposed to such practices because they necessarily involve the promotion and marketing of OTCs without adequate labeling, or encourage the disregard of OTC labeling, as well as the use of OTCs for inappropriate conditions. In addition, they damage the public's confidence in OTCs as the safe and effective medicines which they are when used as directed.

The Proprietary Association was first asked to assist in combating the marketing of street-drug look-alikes in 1979 when it was invited to testify before the Oregon Board of Pharmacy. The Association has also testified before the Wisconsin State Senate Committee on Judiciary and Consumer Affairs. The Pennsylvania House Health & Welfare Committee has provided technical advice to many other state legislatures. We have organized and keep updated a compilation of street-drug look-alike legislation which has been considered or enacted in the states. The Association has distributed this material to legislatures, pharmaceutical associations, boards of pharmacy, health officials and other interested persons in several states, including Colorado, Illinois, Iowa, Kentucky, Louisiana, Michigan, Missouri, Nebraska, New York, Utah, and Washington.

Because the marketing of imitation controlled substances has grown and changes in character in recent months, the Association has also discussed model state legislation with the U.S. Drug Enforcement Administration (attachment "buff") and the American Medical Association (attachment "pink"). Examining present law, however, the Association has concluded that the promotion of street-drug look-alikes is already illegal under several provisions of the Federal Food, Drug, and Cosmetic Act (attachment "yellow"). Accordingly, on September 21, 1981, in a letter to FDA General Counsel Thomas Scarlett, the Association formally requested that FDA take action against the practice. On September 30, 1981, FDA announced the seizure—as street-drug look-alikes—of the products of nine manufacturers in five states (attachment "blue"). The Association also has been working with the Post Office Department which has been moving against the practice.

. . . /

Proposed Legislation Should Not Affect Legitimate Medicines

Laws to attack the problem of these street-drug look-alikes, however, must not be so over-broad as to make criminal the good faith marketing of legitimate drug manufacturers, nor must it make it impossible for them to comply with the law.

- Thus, a definition of an "imitation controlled substance" should take into consideration representations made about the substance as well as overall appearance of the final dosage form specifically including color, size, and shape and markings or lack thereof in determining whether a drug or a transaction involving the drug is illegal (cf. New York S 7994, February 11, 1982 attachment "green").

- In order to prevent a lawfully marketed nonprescription drug from being made illegal by introduction of a new controlled substance, nothing in the act should apply to a noncontrolled substance that was initially introduced into commerce prior to the introduction into commerce of a controlled substance.

- In addition, prescription drugs, placebos, and drugs approved by FDA for use in investigational new drug trials should be excluded from the legislation since they are already under strict professional supervision and the legislation should not nor need not interfere with legitimate medical practice or research.

- The legislation should also take into account the intent of the manufacturer or distributor by considering the packaging, labeling, advertising and promotion of the drugs, along with the other criteria discussed.

Medications lawfully marketed under State and Federal law should not be forced off the market. None of these drugs have any reason, nor is there any intent, to look like a controlled substance. There are some 300,000 OTC products on the market, very many of them solid dosages, and many hundreds of brand-name and generic controlled substances.

Given the relatively few color choices - red/blue/yellow/green/white; the fact that timed dosages have clear tops to indicate timed release beads; - and the fact that there is no comprehensive pictorial index to which a manufacturer might go to determine similarity of mere color, size and shape, there is a possibility of some accidental similarity in color, shape and size in the manufacture of legitimate non-prescription medicines. Their labeling, advertising, promotion and markings make it clear, however, that they should not be swept up in the attempt to curb otherwise illicit activities.

Attachments: Discussion Draft of DEA Model State Statute ("buff")
Discussion Draft of AMA Model State Statute ("pink")
New York S 7994 ("green")
PA letter to Thomas Scarlett, Esq./"US HHS News" ("blue")
PA Memorandum ("yellow")

MJU/dmw
3/31/82

DRUG ENFORCEMENT ADMINISTRATION
IMITATION CONTROLLED SUBSTANCES
MODEL STATE BILL
WITH CHANGES PROPOSED BY THE PROPRIETARY ASSOCIATION
AND THE PHARMACEUTICAL MANUFACTURERS ASSOCIATION

Section 1. Definitions

a. The term "controlled substance" means a substance as defined in (insert appropriate citation for definition of "controlled substance" in State Controlled Substances Act).

b. The term "distribute" means the actual, constructive, or attempted transfer, delivery, or dispensing to another of an imitation controlled substance.

c. The term "manufacture" means the production, preparation, compounding, processing, encapsulating, TABLETING, packaging, or repackaging, labeling or relabeling, of an imitation controlled substance.

d. The term "imitation controlled substance" means a substance OTHER THAN A PRESCRIPTION DRUG that is not a controlled substance, which by OVERALL dosage unit appearance (including color, shape, size and markings), AND ~~or~~ by representations made, would lead a reasonable person to believe that the substance is a controlled substance. NOTHING IN THIS ACT SHALL APPLY TO A NON-CONTROLLED SUBSTANCE THAT WAS INITIALLY INTRODUCED INTO COMMERCE PRIOR TO THE INITIAL INTRODUCTION INTO COMMERCE OF THE CONTROLLED SUBSTANCE WHICH IT IS

*Deletions indicated by strikeout.
Additions indicated by CAPITALS.

Retyped by The Proprietary Association

(over, please)

ALLEGED TO IMITATE. ~~In those rare cases when 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":

(1) 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.

(2) ~~Statements made to the recipient that the substance may be resold for inordinate profit.~~ WHETHER THE CONSIDERATION TENDERED IN EXCHANGE FOR THE NONCONTROLLED SUBSTANCE SUBSTANTIALLY EXCEEDS THE REASONABLE VALUE OF THE SUBSTANCE, CONSIDERING THE ACTUAL CHEMICAL COMPOSITION OF THE SUBSTANCE AND, WHERE APPLICABLE, THE PRICE AT WHICH OVER-THE-COUNTER SUBSTANCES OF LIKE CHEMICAL COMPOSITION SELL.

(3) Whether the substance is packaged in a manner normally used for illicit controlled substances.

(4) Evasive tactics or actions utilized by the owner or person in control of the substance to avoid detection by law enforcement authorities.

. . . /

(5) 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.

(6) The proximity of the substances to controlled substances.

Section 2. Offenses

a. Manufacture or distribution - It is unlawful for any person to manufacture, distribute, or possess with intent to distribute, an imitation controlled substance. Any person who violates this section shall be guilty of a crime and upon conviction may be imprisoned for not more than _____, fined not more than _____, or both.

b. Distribution to a minor - Any person 18 years of age or over who violates Section 2a by distributing an imitation controlled substance to a person under 18 years of age is guilty of an aggravated crime and upon conviction may be imprisoned for not more than _____, fined not more than _____, or both.

c. Possession - It is unlawful for any person to use, or to possess with intent to use, an imitation controlled substance. Any person who violates this section is guilty of a crime and upon conviction may be imprisoned for not more than _____, fined not more than _____, or both.

. . . /

d. Advertisement - It is unlawful for any person to place any newspaper, magazine, handbill or other publication, or to post or distribute in any public place, any advertisement or solicitation with reasonable knowledge that the purpose of the advertisement or solicitation is to promote the distribution of imitation controlled substances. Any person who violates this section is guilty of a crime and upon conviction may be imprisoned for not more than _____, fined not more than _____, or both.

e. Immunity - No civil or criminal liabililty shall be imposed by virtue of this Act on any person ~~registered under the Controlled Substances Act~~ who manufactures, distributes, or possesses ~~an imitation controlled substance for use as~~ a placebo ~~by a registered practitioner~~ in the ORDINARY course of professional practice or research OR FOR USE IN U.S. FOOD & DRUG ADMINISTRATION APPROVED INVESTIGATIONAL NEW DRUG TRIALS.

Section 3. Forfeiture

(Insert designation of state civil forfeiture section) is amended to provide for the civil forfeiture of imitation controlled substances by adding the following after paragraph (insert designation of last category of forfeitable property):

"( ) all imitation controlled substances as defined by (list appropriate citation for this Act in the state's statutes).

. . . /

Section 4. Severability

If any provision of this Act or the application of the Act to any person or circumstances is held invalid, the invalidity does not affect the other provisions or applications of the Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are severable.

MJU:khp

2/2/81

Revised
January 1982

In The General Assembly

State of_____

A BILL

For An Act Pertaining to the Unlawful Manufacture, Processing, Packaging, Distribution, Delivery and Sale of Imitation Controlled Substances

Be it enacted by the Legislature of the State of_____

Section 1. The Legislature hereby finds and declares that there is a serious health threat in this state presented by tablets and capsules which contain only nonprescription ingredients, but which are manufactured to resemble various controlled drugs in size, shape, color and markings. The purpose of this legislation, therefore, is to prohibit the manufacture, processing, packaging, distribution, delivery and sale of such substances and to provide criminal penalties therefor.

Section 2. Except as otherwise may be authorized by law, no person shall knowingly:

(a) Manufacture, process, package, distribute or sell a noncontrolled substance, other than a prescription drug, which, or the label or container of which, substantially resembles a specific controlled substance;

(b) Distribute or sell a noncontrolled substance upon the express or implied representation that the substance is a controlled substance;

(c) Distribute or sell a noncontrolled substance upon the express representation that the recipient, in turn, will be able to distribute or sell the substance as a controlled substance.

Section 3. In determining whether there has been a violation of Section 2 (a), the following factors shall be considered:

(a) Whether the noncontrolled substance in its overall finished dosage form is substantially similar in size, shape, ~~and~~ color, and markings (or lack thereof) to a specific controlled substance;

~~(b) Whether the noncontrolled substance in its finished dosage form has substantially similar markings on each dosage unit as a specific controlled substance;~~

(b) Whether the noncontrolled substance in its finished dosage form is packaged in a container which, or the labeling of which, bears markings or printed material substantially similar to that accompanying or containing a specific controlled substance.

Section 4. In determining whether there has been a violation of Section 2 (b), the following factors, in addition to those factors set out in Section 3, shall be considered:

(a) Whether the noncontrolled substance is packaged in a manner ordinarily used for the illegal delivery of a controlled substance;

(b) Whether the consideration tendered in exchange for the noncontrolled substance substantially exceeds the reasonable value of the substance, considering the actual chemical composition of the substance and, where applicable, the price at which over-the-counter substances of like chemical composition sell.

(c) Whether the consideration tendered in exchange for the noncontrolled substance approximates or exceeds the price at which the substance would sell upon illegal delivery were it actually the specific controlled substance it physically resembles.

Section 5. In any criminal prosecution brought under this Act, it shall not be a defense that the defendant believed the noncontrolled substance actually to be a controlled substance.

Section 6. The provisions of this Act shall not be applicable to:

(a) Law enforcement officers acting in the course and legitimate scope of their employment;

(b) ~~Persons who~~ The manufacture, processing, ~~package~~ packaging, ~~distribute~~ distribution or ~~sell~~ sale of noncontrolled substances to licensed medical practitioners for use as placebos in the course of professional practice ~~or research~~, or for use in clinical research conducted pursuant to the Federal Food, Drug and Cosmetic Act;

(c) Licensed medical practitioners, pharmacists and other persons authorized to dispense or administer controlled substances and acting in the legitimate performance of their professional license.

(d) For purposes of Section 2(a), a noncontrolled substance in its finished dosage form that was initially introduced into commerce prior to the initial introduction into commerce of a controlled substance in its finished dosage form it may substantially resemble.

Section 7. Violation of this Act shall be a _____, punishable by a fine of not more than _____, and/or by a period of imprisonment not to exceed _____.

Section 8. If any provision of this Act or the application thereof to any person, thing or circumstance is held invalid, such invalidity shall not affect the provisions or application of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Section 9. This Act shall become effective _____.

NOTE: Stricken material to be omitted.
Underscored material to be added.

United States of America

Congressional Record

No. 133—Part II

PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, SECOND SESSION

Vol. 128 WASHINGTON, THURSDAY, SEPTEMBER 30, 1982 No. 133—Part II

Senate

THURSDAY, SEPTEMBER 30, 1982

(Legislative day of Wednesday, September 8, 1982)

VIOLENT CRIME AND DRUG ENFORCEMENT IMPROVEMENTS ACT OF 1982—Continued

UP AMENDMENT NO. 1756

Mr. THURMOND. Mr. President, I send to the desk certain amendments—in fact a group of amendments that I hope can be considered and adopted en bloc.

The PRESIDING OFFICER. The clerk will state the amendments.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes an unprinted amendment numbered 1756

(S. 12789)

SENATOR DANFORTH'S AND SENATOR HUMPHREY'S SIMULATED CONTROLLED SUBSTANCES AMENDMENTS (NOS. 9 AND 10)

The amendments provide Federal criminal sanctions for the manufacture, sale, and advertising of simulated controlled substances. The sale, manufacture, and distribution of these drugs—defined as any drug containing non-controlled substances that purport to act like a controlled substance, either stimulant or depressant—would be punishable by imprisonment of not more than two years. Distribution to a minor would carry a four-year penalty. Advertising these drugs would be a misdemeanor. The Food and Drug Administration would have the primary enforcement authority.

(S. 12795)

"IMITATION CONTROLLED SUBSTANCES

"SEC. 308. (a) For purposes of this section, the term—

"(1) 'imitation controlled substance' means any substance other than a controlled substance or prescription drug, or combination of such substances, which is marketed, sold, or distributed to encourage recreational drug use or abuse or any similar nonmedical use and—

"(A) by representation or appearance (including color, shape, size, and markings) would lead a reasonable person to believe that the substance is a controlled substance; or

"(B) purports to act, either alone, in multiple doses, or in combination with a substance or substances, like a controlled substance, either stimulant or depressant as defined in section 102(9) of the Controlled Substances Act;

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

"(3) 'manufacture' means the production, preparation, propagation, compounding, or processing of an imitation controlled substance, and includes any packaging or repackaging of such substance or labeling or relabeling of its container; except that such term does not include the preparation, compounding, packaging, or labeling of an imitation controlled substance in conformity with applicable State or local law by a practitioner as an incident to his administering or dispensing of such substance in the course of his professional practice; and

"(4) 'controlled substance' is used as defined in section 102(6) of the Controlled Substances Act.

"(b)(1)(A) Except as provided in subparagraph (B), it shall be unlawful for any person knowingly or intentionally to create, manufacture, or distribute, or possess with intent to create, manufacture, or distribute an imitation controlled substance. Any person who violates this paragraph shall be sentenced to a term of imprisonment of not more than two years, a fine of not more than $10,000, or both.

"(B) Subparagraph (A) does not apply to the creation, manufacure, distribution, or possession of an imitation controlled substance by a person if the imitation controlled substance is created, manufactured, distributed, or possessed for use as a placebo in the course of the professional practice of a practitioner registered under part C of the Controlled Substances Act or in research conducted under section 505(i) of this Act or conducted in connection with an application filed under section 505(b) of this Act.

"(2) Any person at least 18 years of age who violates paragraph (1)(A) by distributing an imitation controlled substance to a person under 18 years of age shall be sentenced to a term of imprisonment of not more than four years, fined not more than $20,000, or both.

(c) It is unlawful for any person to place any newspaper, magazine, handbill, or other publication, or to post or distribute in any public place, any advertisement of solicitation with reasonable knowledge that the purpose of the advertisement or solicitation is to promote the distribution of imitation controlled substances. Any person who violates this subsection is guilty of a crime and upon conviction may be imprisoned for not more than one year, fined not more than $5,000, or both.".

(b) Subsection (a) of section 302 of such Act is amended by striking out "paragraphs (h), (i), and (j)" and inserting in lieu thereof "paragraphs (h) and (j)".

(11) On page 47, beginning with line 12, strike out all through line 2 on page 51 and renumber subsequent titles accordingly.

(12) On page 59, beginning with line 20, strike out all through line 6 on page 61 and insert in lieu thereof the following:

Mr. DANFORTH. Mr. President, the Senator from New Hampshire, Mr.

HUMPHREY, and I are offering an amendment to deal with the problem of look-alike drugs. Cosponsoring this amendment are Senators ANDREWS, GRASSLEY, and LUGAR. This amendment is now part of the lengthy committee amendment.

The past few years have witnessed the birth of a new drug problem which has most of the moral and medical dangers of narcotics abuse, and yet the drugs being abused are legal under current Federal law. In legal circles, these drugs are known as imitation controlled substances; the press refers to them as look-alikes; and street pushers call them turkeys or kiddie dope. The tablets are a combination of legal substances such as caffeine and powerful decongestants, but they are packaged to look like well-known controlled substances such as amphetamines and Quaaludes. Buyers, many of whom are junior high and high school students, think they are getting the illegal drugs when they are in fact receiving the look-alike.

According to the Drug Enforcement Administration, "the wholesale vending of look-alike drugs has become a major nationwide drug abuse problem." DEA reports that a handful of distributors at the end of 1979 grew to 110 in 1981. The pills are offered by the big distributors in 1,000-pill jars, with advertising that they can be sold individually for tremendous profits. DEA estimates that production of these pills has reached 30-million units per week.

Profits in this business are substantial. One small-time distributor of these drugs in Dallas, Tex., interviewed by the Texas Monthly, claims profits of $90,000 a year; the profits of some larger manufacturers based in New York and large distributors such as Mid-State Supply in Oklahoma and Chicago Specialty Distributors of Illinois run into the millions of dollars. Even more troubling, the over-the-counter drug store, devoted entirely to the sale of look-alikes, opened in Los Angeles last fall despite the protests of concerned citizens. Officials fear this to be the first of what may be a string of similar stores which could appear all over the Nation. Indeed, some have already opened in New Mexico.

The manufacturers and distributors of look-alike amphetamines and barbiturates use every means of advertising legally available. The small-time dealer in Dallas walks the Texas beaches distributing his business cards; larger companies use more sophisticated advertising methods. One look-alike company mails its color brochures to college freshmen. The Drug Enforcement Administration reports that another look-alike company which distributes to college campuses puts the following words on envelopes: "To College Mail Handlers: Please deliver to dorms that have a high proportion of drug users. We request that this letter be delivered to an individual that needs or uses drugs so that he may be given direction and shown the way." The implication here is that the brochure inside is from some public service organization which wishes to discourage drug abuse—a cheap ploy to reach potential customers.

The first danger of look-alikes is, then, their tendency to encourage drug abuse. As a member of the Ohio State Board of Pharmacy put it, look-alikes are "a very natural step up to the real thing." The medical hazards of look-alikes is a second. Consider the situation where someone has been using look-alikes and is then given the real amphetamine. One DEA official put it this way: "They take six or seven of the phonies and then they take six or seven of the real thing someday and they are dead." Many people do not realize that the look-alikes themselves can be lethal. The FDA has confirmed 12 deaths from look-alikes, and other sources say many more have died, and all within the last 2 years. For example, the Illinois Department of Public Health claimed six deaths in 9 months from look-alikes. Recent deaths attributed to look-alikes include a 17-year-old girl from Belvidere, Ill., a 21-year-old carnival worker from Columbus, Ga., and three young men from Albuquerque, N. Mex., aged 15 to 20, who were in excellent physical condition but suffered brain hemorrhaging from the drugs.

The medical problem presented by look-alike overdoses is ironic. Hospital officials usually find pills on the person of victims and assume the look-alikes to be real amphetamines. They then treat the patient for amphetamine overdose and he or she dies of a caffeine overdose. As an Illinois Department of Public Health official put it, "Treating a caffeine problem like it was amphetamines is useless." It is time to try to put an end to such deaths.

The Drug Enforcement Administration has advocated State and local laws prohibiting the manufacture and sale of look-alikes, and many of the States have responded. This is a commendable effort. But relying on the uncoordinated actions of a diverse group of lawmaking bodies is inadequate. The absence of Federal criminal sanctions makes the look-alike problem, according to a Delaware official, "like dealing with a greased pig." Presently, manufacturers or distributors chased out of one State simply set up in another. The American Pharmacy magazine has criticized the Federal Government for its failure to take action, saying "* * * there appears to be no central plan of action, no spearhead force to halt this nationwide scourge * * *. Yet this problem is a national one that must be stopped." In its report on look-alike drugs, Time magazine noted that "probably no serious headway will be made * * * until the Federal Government finds a way to block the look-alike loophole with a uniform national law."

Making the manufacture and sale of look-alike drugs a Federal crime will be more than a symbol, more than a gesture. Look-alike pushers are in business because their product is legal. One dealer has said: "This can't last forever. Someday they've got to write a law against it." Mr. President, we can no longer tolerate drug pushers who hide behind a facade of business cards, brochures, slogans, and sham corporations in an attempt to imitate the respectable business community.

This problem is beginning to get the attention it deserves. The Select Committee on Narcotics Abuse and Control in the House of Representatives, chaired by Congressman LEO ZEFERETTI of New York, has held very productive hearings on the dangers of look-alike drugs. Mr. ZEFERETTI has asked hard questions about how the Federal Government can stifle this new drug abuse problem that has grown to alarming proportions. The [illegible] Committee on Narcotics has [illegible] the advice of both the Food and Drug Administration, charged with protecting the health of the Nation against impure and unsafe drugs, and the Drug Enforcement Agency Administration, charged with suppressing narcotics and other dangerous drugs.

In September 1981, the Food and Drug Administration seized 15 million capsules and tablets and 20 million empty capsules used in the look-alike drug trade, as well as the machinery used to manufacture these items. This seizure was made possible because of the Federal statutes that outlaw the manufacture of counterfeit prescription drugs. This year, beginning in mid-August, the FDA seized 1 million finished capsules and tablets containing a combination of caffeine, ephedrine, and PPA, which had been advertised as "100 percent legal" pep pills and speed. The FDA has advised the manufacturers that pills with this combination of substances require their approval before they can be marketed. These and similar efforts on the part of FDA are commendable, and yet they are not enough. We must do more than confiscate the pills and implement new regulations.

In my view the time has come for Federal criminal sanctions for the manufacture, sale, and advertising of look-alike drugs. The amendment offered by the Senator from New Hampshire and myself is quite simple. It defines look-alike drugs and any other drug containing noncontrolled substances that purports to act like a controlled substance, either stimulant or depressant. The sale and manufacture and distribution of these drugs would be a felony under our amendment, with maximum imprisonment up to 2 years. Distributing these drugs to a minor would be an aggravated offense with imprisonment up to 4 years. Advertising these drugs would be a misdemeanor. The Food and Drug Admin-

istration will have the primary enforcement authority of these provisions. The FDA seems the best choice for enforcement because they now have jurisdiction over all noncontrolled substances, and they already have been active in the fight against look-alikes.

This amendment will not hamper any legitimate over-the-counter drug manufacturer. The intent of he amendment is clear. We are out to stop the look-alike drug trade, to stop those drugs sold primarily to teenagers and frequently passed off as controlled substances. The purpose of these drugs is clearly nonmedical.

The mushrooming look-alike drug market has been covered by all three national television networks and by publications ranging from American Pharmacy and Drug Topics to Time and the Wall Street Journal. I ask unanimous consent to insert into the RECORD a number of these program transcripts and newspaper and magazine articles about this drug problem.

I believe the Federal Government can afford to give no quarter to drug abuse. We must take sterner measures. This amendment is part of what must be a larger effort.

I want to extend my thanks to the chairman of the Judiciary Committee, Senator THURMOND, both for including this amendment in the committee amendment, and for the important work he has done on this entire legislation. Let me also extend my thanks to Mr. Paul Summitt, special counsel to the Judiciary Committee, who has devoted so much of his time to improving the criminal statutes of the United States. His tireless efforts are to be commended, and we in the Senate are glad to have the benefit of his able assistance.

Mr. HUMPHREY. Mr. President, I am delighted that the Senate Judiciary Committee has accepted this amendment to the crime bill because it contains a powerful new weapon against those who prey on our youth by manufacturing and distributing look-alike drugs to promote drug abuse.

Look-alikes resemble or duplicate the appearance of certain highly abused controlled substances such as amphetamines, barbiturates, and tranquilizers. They contain only substances commonly sold over the counter, but in multiple doses or in combination with aspirin or caffeine produce stimulant or depressant effects similar to the controlled substances they resemble.

Manufacturers and distributors are actively promoting these pills as the "legal way to get high" and have engaged in extensive advertising campaigns claiming their products to be both safe and legal. Look-alikes are sometimes advertised using the "street terms" for amphetamines and barbiturates such as black beauties yellow jackets, speed, and white crosses, and are promoted through college newspapers, handbills at rock concerts, direct mail solicitations, magazine advertisements, and storefront operations near school campuses.

The industry is lucrative and growing. According to the Drug Enforcement Administration (DEA), mail order and storefront wholesale distributors grew from a mere handful in early 1980 to more than 150 outlets in November 1981 and production had increased to 30 million dosage units per week. The profits to distributors have been estimated to range from $100,000 per year for the small operator into the millions for a larger distributor.

As chairman of the Subcommittee on Alcoholism and Drug Abuse, the rapid expansion of this industry is extremely disturbing to me. First and most importantly, look-alikes are not safe. If taken in multiple doses or in combination with alcohol, there is a risk of hypertension, cardiac problems, or cerebral hemorrhage. To date the Food and Drug Administration (FDA) has documented at least 12 deaths attributed to look-alike drugs. Additionally, the marketing of these legal drugs solely to encourage recreational mind alteration or experimentation supports the drug culture in our society and by encouraging teenagers to accept a climate of drug use, may lead to the later use of illegal drugs. Finally, development of the look-alike industry seriously undermines the efforts of all of us, both in Government and the private sector, who are working to educate young people about the serious risks of drug use and reduce the drug problem in our society.

Especially disturbing is the apparent lack of effective Federal jurisdiction over this industry. DEA has jurisdiction over drugs which are illegally trafficked if the drug components are scheduled in the Controlled substances Act. Since DEA's jurisdiction is limited to enforcement of the Controlled Substances Act, DEA has no power to restrict sales and distribution of look-alikes which do not contain controlled substances. DEA has been influential in the fight against look-alikes by developing and distributing to the States a Model Imitation Controlled Substances Act. To date 28 States have passed some legislation aimed at dealing with look-alikes and 17 more States have legislation pending. Individual statutes differ from jurisdiction to jurisdiction and manufacturers only seek new locations more favorable to their activities.

Over the counter substances are regulated by the FDA under the Federal Food, Drug and Cosmetic Act. The FDA has exerted jurisdiction under the counterfeit provisions of the act against those look-alikes designed to resemble specific controlled substances. In September 1981, the FDA seized materials and manufacturing equipment from nine manufacturers which produced and mislabeled counterfeit drugs, and is now proceeding to move against distributors under both its counterfeit and imitation provisions.

But as a result of these FDA enforcement actions manufacturers have become more sophisticated and are currently producing pills, tablets, and capsules that do not look like controlled substances and therefore are no longer subject to legal action under the Federal Food, Drug and Cosmetic Act. Now that the market has been established among our young people these non-look-alikes are being promoted and sold in the same manner to willing buyers. As so often happens, the drug abuse promoters remain one step ahead of existing law.

Recently the FDA announced that the triple combination of phenylpropanolamine, ephedrine sulfate, and caffeine—the ingredients commonly contained in look-alikes—will now be regarded as a "new drug" and will thus require an application to FDA for marketing approval. Regulatory letters were issued to 14 manufacturers of triple combination products informing them that shipment of these drugs in interstates commerce without FDA approval violates the law. But there is already evidence that the response of these manufacturers has been to simply delete one or more of the three ingredients and thus produce a product that already possesses FDA approval. This is only further evidence of the ability of these manufacturers to modify their behavior to escape piecemeal Federal regulation, and of the need for a comprehensive Federal statute outlawing the manufacture and distribution of both look-alikes and non-look-alikes.

The U.S. Postal Service has also been involved in the look-alike drug enforcement effort. The Postal Service filed complaints against 41 distributors under its false representation statute and obtained false representation orders or consent agreements requiring postmasters to discontinue mail delivery to these distributors. The problem, however, continues. Most of the major promoters are evading the orders and agreements by restricting their business to telephone orders and payment by credit card, bank wire, or United Parcel Service COD.

Also, look-alike distributors and manufactuers no longer claim their products are absolutely safe and occasionally enumberate side effects related to consumption. Since the labels no longer misrepresent the nature of the product, the Postal Service is without

jurisdiction to restrain use of the mails for product distribution.

The only other Federal agency which may have jurisdiction over the advertising and distribution practices exhibited by look-alike dealers is the Federal Trade Commission (FTC). I am informed the Commission is reviewing its jurisdictional posture, but to date has not prosecuted.

Thus the look-alike industry appears to have circumvented ordinary regulation due to to the unique characteristics of this product and the industry's innovative ability to make changes in order to frustrate law enforcement efforts. We are confronted with an industry promoting drug use and abuse in our youth which we have no direct ability to regulate.

For these reasons, in July I introduced in the Senate a legislative package intended to supplement and clarify ongoing Federal enforcement efforts against look-alikes. The package of three bills was designed to fill the existing gaps and articulate a national policy in opposition to those who would encourage our children to take drugs for recreation, those who would make "pill popping" a national pastime, and those who would seek to make drug trafficking a socially acceptable occupation.

And it is for these reasons that I join today with Senator DANFORTH in offering this amendment to S. 2572, which incorporates the thrust of this look-alikes legislation. Our amendment is simple and straightforward. It outlaws the creation, manufacture, and distribution of imitation controlled substances which look like, or are represented to be controlled substances, and substances which purport to act like controlled substances, if they are marketed to encourage recreational drug use or abuse or any similar nonmedical use. Our definition of imitation controlled substances is broad enough to include both look-alikes and non-look-alikes, so long as they are marketed, sold, or distributed to encourage recreational drug use or abuse—but narrow enough to make it clear that prescription drugs, over-the-counter drugs, and legitimate generic drugs, over the counter drugs, and legitimate generic drugs are excluded. Exemptions are also included for placebos used in the course of professional practice and research.

The amendment imposes a felony sanction and intentional sales to minors would result in a doubled penalty. The amendment also imposes a misdemeanor sanction for advertisement of imitation controlled substances. Enactment of this legislation vests jurisdiction in the FDA to monitor and control the marketing practices of distributors.

Further, the amendment proposes to amend the Federal Food, Drug and Cosmetic Act to provide the FDA, acting through the U.S. Attorney, with power to seek injunctions to restrain manufacturers of counterfeit drugs. Currently the FDA can seize materials and equipment used to manufacture counterfeits but they are unable to restrain the manufacturer from distribution. Thus if the subject manufacturer has other warehouses stockpiled with counterfeits that are unknown to food and drug agents, the manufacturer can continue to distribute inventories until the FDA seizes it. The omission of injunctive power does not make sense and probably was a legislative oversight. The FDA should be empowered to restrain distribution by counterfeit manufacturers until it can be assured that future distribution by the subject manufacturer is in compliance with Federal Law.

Mr. President, enactment of this legislation will send a powerful signal that the Federal Government is firm in its resolve to shut down the look-alikes drug industry. Dr. Carlton Turner, Director of the President's Drug Abuse Policy Office, DEA, FDA, FTC, the National Institute on Drug Abuse, the U.S. Postal Service, the Internal Revenue Service, and the Consumer Product Safety Commission are now doing all within their power, through interagency meetings and cooperative efforts, to coordinate a Federal effort against these unscrupulous manufacturers and distributors. It is important that the Congress assist these agencies in this effort with a clear and comprehensive Federal policy outlawing the manufacture, distribution, and sales of look-alike drugs for the purpose of fostering drug abuse. I urge my colleagues to support this amendment in order that we may protect our young people by moving quickly and decisively against the look-alike industry.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendment (UP No. 1356) was agreed to.

(S. 12798)

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 10

Title "An Act relating to limitation controlled substances."

Requested by Representative Ahrens 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)

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

POSITIONS

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 person nel 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 R. 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 Mayer, Program Budget Analyst

Division of Budget Review

Title [illegible]

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 34	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-	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: FD

[illegible]-001 (Rev. 12/79)

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.						
	TOTAL	-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	-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:

Class of Offense	Expected # of Convictions	% & # to Jail	Avg. Sentence Length	Flat Years	Person Years
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 x $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.

SPONSOR: H Judiciary TAKEN BY: Phil

SUBJECT: Control of Tobacco Substances T/C DATE/DAY: Tues Feb 1

MAILING ADDRESS: _____ TIME: 1:30 -- Pacific

(Witness to testify from anchorage at Committee Meeting) 11:30-12:30 Alaska

10:30 Bering

PHONE: 4990 CONTACT: Katherine Zalewski

T/C DURATION: 1 hr

SITES PARTICIPATING:

ALL ALASKAN	(Anchorage)	Dillingham	(Juneau) *	Mat-Su	Sitka
	Barrow	Fairbanks	Ketchikan	Nome	Seward
WASHINGTON DC	Bethel	Haines	Kodiak	*Petersburg	Soldotna (Kenai)
	Delta Junction	Homer	Kotzebue	Sand Point	Valdez
					*Wrangell

Sen. Stevens
Sen. Murkowski
Congressman Young

SPECIAL OFF-NET* LOCATIONS/PHONE NUMBERS: Rhonda Butterfield + perhaps one more will come to Anch L.I.O.

Chairing Site/Person * _____ *

Katherine Zalewski _____

Signature of Sponsor/Contact Person Date

-------- TELECONFERENCE OFFICE USE ONLY --------

MODERATOR NOTES

Special backup, publicty or technical considerations.

POST TELECONFERENCE NOTES

SITE/LOCATION: _____

LOCAL MODERATOR: _____

T/C Started: _____

T/C Ended: _____

Was T/C Recorded? _____

Was T/C Broadcast on RADIO or TV?

(If yes, what stations?) _____

TESTIFIED/PARTICIPATED: _____

UNABLE TO TESTIFY:. _____

OBSERVORS: _____

TOTAL #: _____

BILLING INFORMATION

Billing Address: _____

_____ zip

Phone
Charges To: _____ (area code) (phone number)

CATEGORY: Legislative ___ Non-Legislative ___

AMOUNT PAYABLE: _____

NOTIFICATION OF BILL HEARING

WEEK OF: 2/1

BILL #	BILL TITLE	DEPARTMENT	DATE	SPONSOR	DATE
HB 10 (HB 649)	[illegible] [illegible] received backup material 1/18 Roger McCoy & family (1/21) Regarding [illegible] (1/21) Set up [illegible] on [illegible]			[illegible]	1/19
1/21	[illegible] Roger McCoy				

HB No. 10--RE: Imitation Controlled Substances Act---ABOOD, WENDTE, LINDAUER

1--This bill names seven susbstances that could be used to manufacture imitation controlled substances (look-alike drugs), as depcited in AS. 17.10 etc. (Narcotic drugs) and AS 17.12,etc. (Depressant, Hallucinogenic and Stimulant Drugs).

2--This worksheet is NOT section-by-section analysis, (Sponsor should provide that, as well as witness(es)), but see material in file from 12th Legislature.

3--In FORFEITURES chapter (AS 17.14.050) possible forfeitures are are considerably expanded from the meagre paragraph in AS 17.12.130 which merely mentions in passing "counterfeit drugs" and forfeitures of same. This provides for forfeiture the substance,raw materials, products, equipment used in making same, or processing, cmpoounding, distributing, delivering or containers or conveyances including aircraft, vehicles or vessels used in sale, transporting, receipt, possession or concealment of substance.

IMPACT:

WITNESSES:

PROPOSED CHANGES:

FISCAL NOTE: