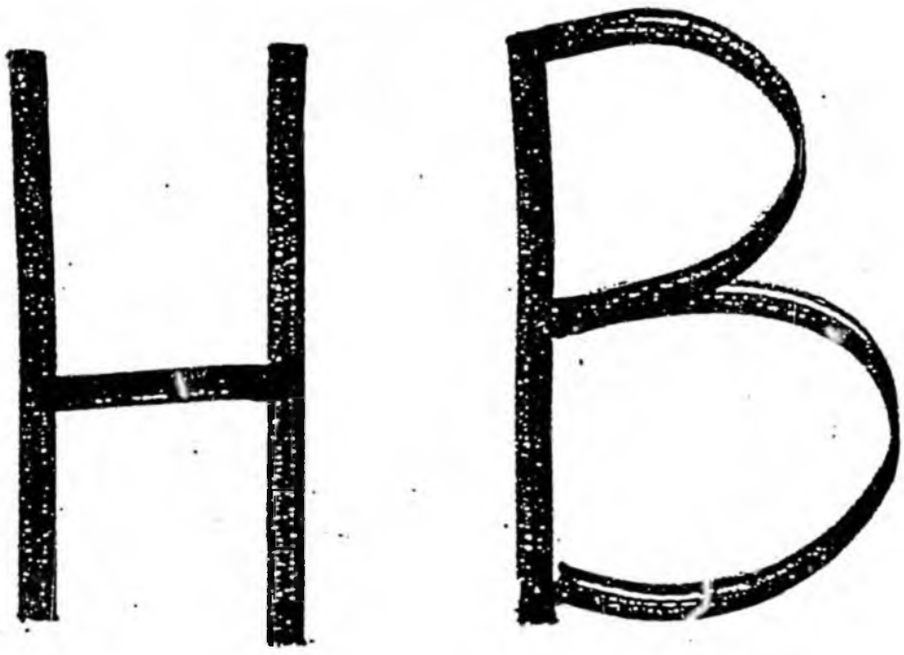
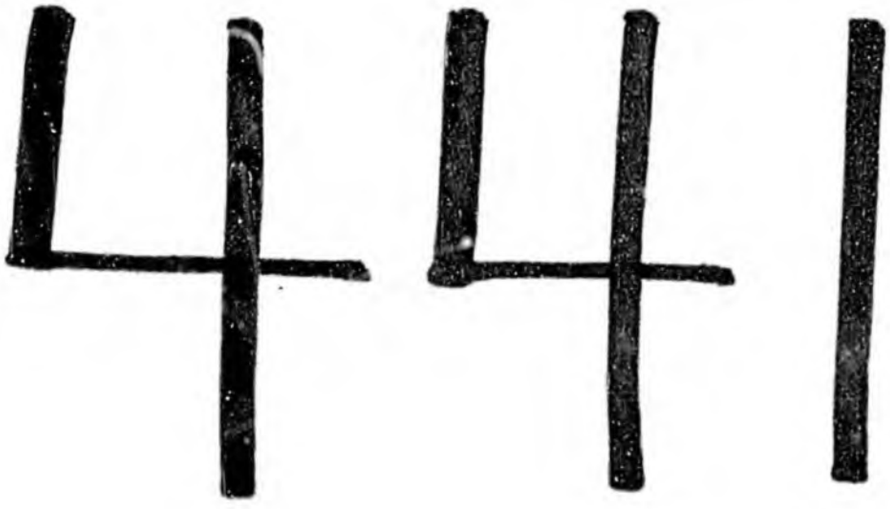

HB


4441

HOUSE COMMITTEE REPORT

(7)
Date Referred: February 12, 1990 FURTHER REFERRALS:

Date of Committee Action: 2/20/90

The JUDICIARY Committee considered: HB 441

HOUSE BILL NO. 441 CONTROLLED SUBSTANCE/IMITATION CON. SUBS.

"An Act amending schedules IA - VA of the controlled substance law and the definition of 'imitation controlled substance.'"

RECOMMENDATIONS:
[ ] be replaced with _____ [ ] the same title [ ] a new title
[ ] have attached amendment(s)
[ ] do pass
[ ] do not pass
[ ] no recommendation
[x] individual recommendations
[ ] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s): (Dept)
[ ] fiscal impact_____
[ ] zero fiscal note_____
[ ] zero with analysis_____

APPROVES PREVIOUS: (Date/Dept)
[ ] fiscal note(s) _____
[✓] zero fiscal note(s) DPS 2/1/90
[ ] zero fn/analysis _____

SIGNING DO PASS:

Ellis
Terry Moreau
Clif Davidson

SIGNING: (Check approp. column)

	Do Not Pass	No Rec	Amend

Chairman's Signature

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: HB 441
PUBLISH DATE: HOUSE 2/12/90

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Amending the controlled and imitation controlled substances laws
Sponsor: Representative Gruenberg
Requestor: House Judiciary

Agency Affected: Public Safety
BRU: _____
Component: _____

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill revises the State's controlled substance laws. Any fiscal impact is expected to be small, and can be absorbed within the existing budget.

JAL 2/8/90

Prepared by: Lt. Thomas Stearns
Division: Alaska State Troopers
Phone: 269-5620
Date: 2/01/90

Approved by Commissioner: Arthur English
Agency: Department of Public Safety
Date: 2-9-90

STATE OF ALASKA
THE LEGISLATURE

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

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HOUSE HESS 2/6/90 8:30 AM
HB 441

HOUSE COMMITTEE REPORT

(7)
Date Referred: January 24, 1990 FURTHER REFERRALS:

JUDICIARY

Date of Committee Action: 2/8/90

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: HB 441

HOUSE BILL NO. 441 CONTROLLED SUBSTANCES SCHEDULES

"An Act amending schedules IA - VA of the controlled substance law and the definition of 'imitation controlled substance.'"

RECOMMENDATIONS:
[ ] be replaced with _____ [ ] the same title [ ] a new title
[ ] have attached amendment(s)
[X] do pass
[ ] do not pass
[ ] no recommendation
[ ] individual recommendations
[ ] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Date/Dept)

[ ] fiscal impact _____ [ ] fiscal note(s) _____
[X] zero fiscal note OPS [ ] zero fiscal note(s) _____
[ ] zero with analysis _____ [ ] zero fn/analysis _____

SIGNING DO PASS:

J. Ellis
Walter Furnace
Cheri Davis
Mark Boyd
Pete Story

SIGNING: (Check approp. column)

	Do Not Pass	No Rec	Amend

J. Ellis
Chairman's Signature

State of Alaska

Committees

CO-CHAIR, HOUSE JUDICIARY
VICE-CHAIR, HOUSE LABOR AND COMMERCE
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES

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(SESSION)

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ANCHORAGE, ALASKA 99503
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Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

MEMORANDUM

TO: Members of the House

FROM: Rep. Max F. Gruenberg, Jr.

DATE: January 18, 1990

RE: Sectional Analysis of the Controlled Substance Bill.

Note: Unless otherwise indicated, the descriptions of the drugs listed below are based upon materials supplied by the Federal Drug Enforcement Administration (DEA).

Section 1:

This section removes the substance nalmefene from Alaska's Controlled Substances Act by adding it to the list of exclusions in AS 11.71.140(b)(1). Currently, nalmefene is included in schedule IA (AS 11.71.140) because it is a derivative of the listed opiod thebaine. Nalmefene is also a derivative of the narcotic antagonist naltrexone, currently excepted from the state Controlled Substances Act. The DEA and the Secretary of the U.S. Department of Health

and Human Services have concluded that there is insufficient scientific evidence to demonstrate that nalmefene possesses sufficient potential for abuse to justify its continued control in any schedule of the federal Controlled Substances Act.

Section 2:

This section adds 16 narcotic substances to schedule IA: alfentanil; alpha-methylfentanyl; bulk dextropropoxyphene; carfentanil; sufentanil; tilidine; para-fluorofentanyl; 3-methylfentanyl; acetyl-alpha-methylfentanyl; alpha-methylthiofentanyl; beta-hydroxyfentanyl; beta-hydroxy-3-methylfentanyl; 3-methylthiofentanyl; thiofentanyl; MPPP; and PEPAP.

Alfentanil was placed in federal schedule I in accordance with U.S. treaty obligations under the Single Convention on Narcotic Drugs. At the request of the World Health Organization, alfentanil was examined by various groups from the Committee of Problems of Drug Dependence. The results of the study showed that alfentanil is a potent morphine-like compound with two to four times the potency of morphine when used as an analgesic.

Alpha-methylfentanyl, also known as "China White" or synthetic heroin, is a close structural analog of the Alaska

schedule IA substance fentanyl. It is an analgesic approximately 80 times more potent than morphine. The substance has been placed in federal schedule I because it has a high potential for abuse and currently has no accepted use in medical treatment in the United States.

Bulk dextropropoxyphene (non-dosage form) is a federal schedule II opiate. The scheduling criteria used in Alaska require that all federal schedule I and II narcotics be placed in Alaska's schedule IA. This substance, therefore, is placed in schedule IA. It should be noted that dextroproxyphene in dosage form is placed in Alaska's schedule IVA and federal schedule IV. Dextropropoxyphene in dosage form is better known as the drug "Darvon." Non-dosage form was placed in federal schedule II in accordance with U.S. treaty obligations under the Single Convention on Narcotic Drugs.

Carfentanil is a narcotic substance approved by the Food and Drug Administration for marketing as a new animal drug. Carfentanil is an opiate, as defined in 21 U.S.C. 802(18), because it has an addiction-forming and addiction-sustaining ability similar to morphine. Because it has been approved for marketing, it has been placed in federal schedule II. However, because it is a narcotic substance, carfentanil is being placed in Alaska's schedule IA.

Sufentanil is contained in the federal schedule II; it is a congener of the federal schedule II narcotic substance fentanyl. Sufentanil is indistinguishable in terms of abuse potential from fentanyl, a drug used mainly in operating rooms and abused primarily by operating room personnel.

Tilidine, also known as tilidate hydrochloride, is a narcotic analgesic used in the control of moderate or severe pain. Tilidine was placed in federal schedule I in accordance with U.S. treaty obligations under the Single Convention on Narcotic Drugs.

Para-fluorofentanyl, 3-methylfentanyl, acetyl-alpha-methylfentanyl, alpha-methylthiofentanyl, beta-hydroxyfentanyl, beta-hydroxy-3-methylfentanyl, 3-methylthiofentanyl, and thiofentanyl are potent analogs of the synthetic narcotic analgesic fentanyl. Each of these fentanyl analogs behaves as a typical morphinelike compound in rodent antinociceptive tests. Each analog substitutes completely for morphine when administered to morphine-dependent withdrawn monkeys. These analogs have been produced in clandestine laboratories, identified in drug evidence submissions, and associated with a number of overdose deaths.

MPPP and PEPAP are potent analogs of meperidine, a synthetic narcotic analgesic. Produced in clandestine laboratories,

MPPP and PEPAP have been identified in illicit drug trafficking. MPPP in particular has been associated with drug-induced Parkinson's disease in a number of users.

Section 3:

This section adds one new drug to schedule IIA. The drug is a hallucinogen, similar to PCP and TCP, and is called "1 -[1-(2-thienyl) -cyclohexyl] -pyrrolidine" or "TCPy". TCPy was added to the federal controlled substances schedule in the past year.

Section 4:

This section would add 3,4-methylenedioxymethamphetamine (MDMA) to AS 11.71.150(b), to place it in schedule IIA.

MDMA, the designer drug known as Ecstasy, is an analog of the substance "methamphetamine." It has a high potential for abuse and currently has no accepted medical use in the United States. It is a federal schedule I drug, but because it is a non-narcotic hallucinogenic it has been placed in Alaska schedule IIA.

Section 5:

This section would add six new substances to schedule IIA (AS 11.71.150): fenethylline; N-ethylamphetamine;

3,4-methylenedioxy-N-ethylamphetamine; N-hydroxy-3,4-methylenedioxyamphetamine; 4-methylaminorex and N,N-dimethylamphetamine.

Fenethylline is a conjugate of amphetamine and theophyllin (a methylxanthine). The drug produces a delayed, but prolonged, central nervous system stimulatory effect. Fenethylline has a high potential for abuse, has no recognized medical use in the United States, and has not been tested to determine its safety for use under medical supervision. It is a federal schedule I drug, but it has been placed in Alaska's schedule IIA because the drug is non-narcotic.

N-ethylamphetamine's pharmacological and behavioral effects are similar to those of amphetamine and methamphetamine. It is a federal schedule I substance with a high potential for abuse, and no known medical use in the United States. It has been placed in Alaska's schedule IIA because the drug is non-narcotic.

3,4-methylenedioxy-N-ethylamphetamine and N-hydroxy-3,4-methylenedioxyamphetamine are analogs of the schedule IIA substance methamphetamine (MDA). 4-methylaminorex has a pharmacological profile that closely resembles that of amphetamine; it has been described as a potent central nervous system stimulant.

Because N,N-dimethylamphetamine has no current accepted medical use, it has been placed in federal schedule I. N,N-dimethylamphetamine belongs to the chemical class of compounds known as phenylisopropylamines. Amphetamine and methamphetamine also belong to this class. N,N-dimethylamphetamine is very similar in molecular structure to amphetamine and methamphetamine and produces central nervous system stimulant effects. Because N,N-dimethylamphetamine is a non-narcotic stimulant, it is being placed in Alaska schedule IIA.

The federal 1984 Crime Control Act provided the Drug Enforcement Administration with emergency scheduling authority, to avoid an imminent hazard to the public safety. This scheduling procedure was established with the onset of the illicit manufacture and distribution of designer drugs. Federal law defines a designer drug as:

> New chemical analogs or variations of existing controlled substances, or other new substances, which have a psychedelic, stimulant, depressant, or narcotic effect and have a high potential for abuse.

Scheduling under this authority is effective for one year and is not applicable to substances for which there is an exemption under the Federal Food, Drug, and Cosmetic Act (e.g., investigational new drugs and new drug applications). To classify a substance under its emergency powers, the DEA must publish a notice of the classification in the Federal Register; the classification

becomes effective after 30 days. On October 30, 1987, 3,4-methylenedioxy-N-ethylamphetamine and N-hydroxy-3, 4-methylenedioxyamphetime and 4-methylaminorex were scheduled in this manner. On October 14, 1988, a proposed rule was published to permanently schedule these three substances. It is anticipated that, by the time this legislation is being considered, a final rule scheduling these substances will have been signed.

On August 3, 1988, the administrator of DEA issued a final rule temporarily placing N,N-dimethylamphetamine into federal schedule I. According to DEA, a final rule permanently scheduling this substance will be published within the next several months.

Section 6:

This section places the substance "tiletamine and zolazepam" into schedule IIIA, by adding it to AS 11.71.160(c). Tiletamine is a chemical analog of phencyclidine and has pharmacological properties similar to that substance. Zolazepam is a chemical analog of the schedule IVA benzodiazepines. As a combined substance it is used by veterinarians as a tranquilizer. This scheduling action facilitates the marketing of a veterinary pharmaceutical product and minimizes the likelihood of the product being abused.

Section 7:

This section places the following substances into AS 11.71.-160(f), to add them to schedule IIIA: parahexyl, dronabinol, and nabilone. Because these substances are THC analogs that are chemically and pharmacologically similar to THC, they have been placed in Alaska schedule IIIA.

Parahexyl is a synthetic analog of delta-9-tetrahydrocannabinol (THC). Parahexyl has no known medical use in the United States. It has been placed in federal schedule I.

Dronabinol (synthetic) in sesame oil and encapsulated in soft gelatin capsules is a Food and Drug Administration-approved drug product: Dronabinol is the synthetic equivalent of the isomer delta-9-tetrahydrocannabinol, the principal psychoactive substance in marijuana. Dronabinol is used to treat nausea and vomiting associated with cancer chemotherapy in patients who have failed to respond adequately to conventional antiemetic treatment.

Nabilone is a synthetic analog of delta-9-tetrahydrocannabinol (THC). It is used to treat nausea and vomiting associated with cancer chemotherapy. Nabilone has been placed in federal schedule II.

Section 8:

This section adds six benzodiazepines to schedule IVA (AS 11.71.-170): alprazolam, halazepam, temazepam, triazolam, midazolam, and quazepam. Each substance is an anti-anxiety agent substantially similar to other benzodiazepines currently listed in Alaska's schedule IVA. All six substances have been classified into the federal schedule IV.

Section 9::

This section places the substance mazindol in schedule IV (AS 11.71.170) (see sec. 11 description, below). Section 8 also adds six other substances to schedule IVA: pipradol, SPA, cathine, fencamfamin, fenproporex and mefenorex.

Pipradol is a mild central nervous system stimulant. Its effects resemble those of the amphetamines, but the usual therapeutic dose of pipradol results in less euphoria, anorexia, and insomnia. It is an effective anti-depressant without the extreme central nervous system stimulation found in the amphetamines.

SPA is a substance marketed in Japan. It exhibits the same properties as morphine and methamphetamine, but with analgesic effects. Results of a study conducted by the University of Michigan showed that SPA has no physical dependence capacity.

Cathine is scheduled in accordance with the 1971 Psychotropic Convention. It is a stimulant derived from the Khat plant and originates in the Middle East.

Fencamfamin, fenproporex, and mefenorex are also stimulants.

Cathine, fencamfamin, fenproporex, and mefenorex are scheduled in accordance with the 1971 Psychotropic Convention. During its February 1986 session, the United Nations Commission on Narcotic Drugs (CND) decided to include 17 phenethylamines in the schedules of the Convention on Psychotropic Substances. These substances are among the 17.

Section 10:

This section classifies the substance buprenorphine as a schedule VA drug by placing it in proposed AS 11.71.180(d). The DEA has placed buprenorphine into federal schedule V. It had previously been considered a federal schedule II drug because it is a derivative of the substance thebaine (a schedule IA narcotic in Alaska). The DEA has found that buprenorphine has a low potential for abuse, has a currently accepted medical use, and has limited potential for physical or psychological dependence.

This section also adds propylhexedrine and pyrovalerone to schedule VA by placing them in proposed AS 11.71.180(e).

Propylhexedrine and pyrovalerone are psychotropic substances. Currently pyrovalerone is neither manufactured nor distributed commercially in the United States. Propylhexedrine is marketed over-the-counter as Benzedrex nasal decongestant inhalers. That is why there is an exception for these inhalers. There is also an exception in the federal schedule.

These two substances are being scheduled in accordance with the 1971 Psychotropic Convention, and are among the 17 phenethylamines included in the schedules of the Convention on Psychotropic Substances by the United Nations Commission on Narcotic Drugs (CND) during its February 1986 session.

Section 11:

This section amends the language of existing AS 11.73.099(3), which defines "imitation controlled substance." The minor amendment, substitution of "and" for "or," corrects an oversight in the imitation controlled substances law, which was enacted in 1983. The amendment changes the elements of the crime to require that a person actually make explicit or implied representations about the character of the substance. These representations and the item's appearance are facts that a judge or jury would consider when deciding whether, under all the circumstances of the case, a reasonable person would have believed the substance to be controlled. The law as presently written is vague -- perfectly legal substances sold over a drug store counter might be similar

in appearance to items that are manufactured and sold illicitly. A person should be able to legally possess these substances if the person has no intent to pass them as counterfeit substances.

The Alaska Court of Appeals pointed out the vagueness in the current definition of "imitation controlled substance" in its recent decision in Morrow v. State, 704 P.2d 226, 232 (Ak. App. 1985). The court was not able to determine, under the facts in the record in that particular case, whether the defendant's conviction should be reversed; the appellate court remanded the case to the trial court for factual findings. Although the conviction in the Morrow case was not reversed, it is important to clarify the language of the definition -- both to ensure that the problem does not recur in the future and to give people fair notice of the types of conduct that are prohibited under the law.

Section 12:

This section removes the substance mazindol from Alaska's ed-ule IIIA (AS 11.71.160). Mazindol has been transferre ned-ule IVA (AS 11.71.170) (see sec. 8, above). This change has been made because mazindol is an anorectic substance that has a lower potential for abuse than other schedule IIIA anorectics; it also presents less danger of psychological dependence relative to other anorectics in schedule IIIA.