

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 86 / 2

2536 SJ HB 8 - HB 17





Alaska Court System  
State of Alaska

KARLA L. FORSYTHE  
General Counsel

OFFICE OF ADMINISTRATIVE DIRECTOR

303 K Street  
Anchorage, AK 99501

April 26, 1983

Representative Albert P. Adams  
Chairman, House Finance Committee  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Representative Adams:

It is my understanding that the House Finance Committee is hearing House Bill 8 on Wednesday, April 27. I have been advised by a committee aide that although testimony from the Alaska Court System will not be necessary, the court system is welcome to submit its comments. This letter is therefore intended to convey to the committee the position of the Alaska Court System regarding House Bill 8.

Proposed sections 22.18.101, .020, .030 and .040 make minor changes to the current statutes dealing with approval and rejection of judges, and consolidate these statutes within one chapter of AS 22. These revisions would have no impact upon the court system.

Proposed section 22.18.050 changes the geographical area for judicial retention elections from judicial districts to the 1959 state election districts. Judges would stand for election in districts where they reside. If the Judicial Council certifies to the director of elections that a judge "routinely and frequently" hears cases that arise outside the district of residence, the judge shall stand for election in that district or districts as well. If "most" of the cases heard by a judge do not arise in a district in which the judge resides, then the judge shall be voted on only by voters in districts where he or she routinely and frequently hears cases.

This provision substantially changes current procedures for retention elections. Under current law, judges face retention election in the judicial districts to which they were originally appointed. If a judge has been assigned or transferred, the

judge seeks approval in the district where the judge has served the major portion of his or her term. The judge designates the appropriate district and the director of elections then places the name of the judge on the ballot in the judicial district designated by the judge. This is a simple and clearcut procedure for determining where a judge will stand for retention election.

In contrast, the proposed legislation provides that the Judicial Council must decide whether a judge has "routinely and frequently" heard cases arising outside the district of residence. This process is confusing, difficult to administer, and legally troublesome.

1. **Constitutional Ramifications.** Article IV, Section 6 of the Alaska Constitution provides that judges shall in the manner provided by law be subject to approval or rejection. Under current procedures, the legislature by law has provided that judges shall seek approval in the districts of their original appointment, or the district in which they have served a major portion of their terms (AS 15.35.080 and .100).

Rather than providing by law for a retention election procedure, the proposed bill delegates to the Judicial Council the task of certifying whether a judge has routinely and frequently heard cases arising outside the district of his or her residence. The phrase "routinely and frequently" is not defined, leaving its interpretation to the Judicial Council.

This approach raises constitutional questions, because it delegates a legislative duty to the judicial branch. Additionally, the manner in which this duty shall be exercised is left to the Judicial Council, and is not "provided by law" as required by the constitution.

It can be argued that the Judicial Council is authorized by the constitution to perform this legislative duty. Article IV, section 9 provides that the council "shall perform other duties assigned by law." However, given the importance of elections and election procedures, it can also be argued that the two sections should not be read together. Thus, the legislature by statute can assign duties to the Judicial Council beyond those listed in the constitution, but the legislature must by statute provide for retention election procedures.

2. **Disenfranchisement of Voters.** A judge will face election in the district of his or her residence, as well as in any district in which he or she routinely and frequently hears cases. However, there are no resident judges in 10 of the 24 districts.

For some of the proposed districts, the lack of a resident judge does not create a problem. As an example, proposed District 11 (Seward) is normally served by the superior judge from Kenai.

However, several districts have neither a resident judge nor one particular judge who "routinely and frequently" hears cases from that district. These districts include District 6 (Haines and Skagway, served by judges from throughout the first judicial district), District 14 (Aleutian chain, served by judges from Anchorage on a rotating basis), and District 15 (Dillingham and Naknek, also served by Anchorage). Additionally, although Judge VanHoomissen provides superior court services to District 18 and 20, district court judges from Fairbanks hear cases in these proposed districts on a rotating basis.

As a result, although cases from these districts are routinely and frequently heard by judges from another district, there is no one judge who routinely and frequently hears cases arising in the district.

If a district is served by more than one judge, none of whom hears matters "routinely and frequently" in the district, there is the possibility that voters in the district would be disenfranchised under the current wording of the legislation.

### 3. Implementation.

- a. The phrase "routinely and frequently" is not defined. Since judicial retention elections are constitutionally required, this phrase may be too vague to survive a constitutional challenge.
- b. The bills provide that a judge may not be appointed for four years "if a majority of those voting on the question rejects the candidacy of the judge." This provision can be interpreted in two different ways. The first thwarts the goal of judicial accountability to the voters. A majority of the voters in District 12 (Kenai and Homer) might reject a judge, while a majority of the voters in another district in which the judge routinely and frequently hears cases might vote for retention (for example, District 11 - Seward). The statute could be interpreted to require the ouster of the judge based on "a majority of those voting" despite the fact that one district wanted to retain the judge. Although current provisions lead to the same result (for example, the Anchorage vote will outweigh votes from outlying third district locations), this outcome is inconsistent with the aim of the bill.

The statute could also be interpreted to require ouster only in those districts in which a majority voted against retention. This interpretation would lead to substantial administrative problems. The judge would be retained in the less frequently served district, and another judge would have to be appointed for the resident district. This interpretation would affect the court system budget for compensation and retirement, and adversely impact caseload efficiency.

- c. It is confusing to use one set of election districts for election purposes, another set of election districts for judicial retention purposes, and the four judicial districts for administrative purposes.

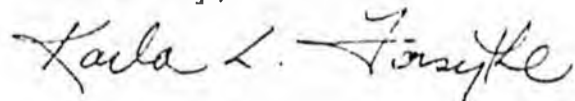
The goal of this legislation as articulated by its proponents is to increase judges' accountability to district residents. The approach outlined in the bill assumes that residents of a circumscribed geographic area will be more familiar with a judge than voters in outlying areas.

There are two difficulties with this assumption. First, voters throughout the state frequently voice concerns about their lack of knowledge regarding even judges in their local courts. Decreasing the size of the voting area will not necessarily increase voters' ability to cast a knowledgeable vote. Second, the decreased voting area has the effect of politicizing retention elections, because issues of the moment rather than overall judicial ability may become the basis for retention or rejection. If the purpose of judicial retention elections is for the electorate to vote based upon a judge's adjudicatory abilities rather than upon the outcome of a sensational case, creating smaller districts increases the risk that politics rather than merit will determine the outcome.

The fundamental principle of accountability to the voters is well served by efficient, workable and constitutionally adequate judicial retention election procedures. The proposed bill falls short of this standard.

The court system will be glad to answer any questions from the committee or to provide additional information.

Sincerely,



Karla L. Forsythe  
General Counsel

cc: Representative Robert Bettisworth, Vice Chairman  
Representative Vernon Hurlbert  
Representative Sam Pestinger  
Representative Ben Grussendorf  
Representative Terry Martin  
Representative Jerry Ward  
Representative Joe Flood  
Representative John Lindauer  
Representative Jim Duncan  
Representative Fred Zharoff  
Chief Justice Edmond W. Burke  
Arthur H. Snowden, II



STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: HB 8 No. 1  
 Title: Judicial Retention Elections  
 Sponsor: Grussendorf and Barnes  
 Requestor: \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected: AK Judicial Council  
 Program Category Affected: Justice  
 BRU, Program of Subprogram(s) Affected: Judicial Council

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		8.8	-0-	3.0	-0-	3.5
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		8.8	-0-	3.0	-0-	3.5
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		8.8	-0-	3.0	-0-	3.5
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Francis L. Bremson, Executive Director Phone: 279-2526  
 Division: Judicial Council Date: April 27, 1983  
 Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
 Department: \_\_\_\_\_

Distribution:

Original to Legislative Finance  
 Copy to Office of Management and Budget (for Legislature introduced bills)  
 Conv to Department (for Governor introduced bills)

STATE OF ALASKA  
FISCAL NOTE

Revision Date 4-25, 1983

Page 1 of 2

I. REQUEST

Bill/Resolution No.: HB 8 No. 2  
 Title: Judicial Retention Elections  
 Sponsor: Grussendorf & Barnes  
 Requestor: House Finance

II. FISCAL DETAIL

Agency Affected: Office of the Governor  
 Program Category Affected: Exec. Operations  
 BRU, Program of Subprogram(s) Affected:  
Division of Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL			91.8		101.4	
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	91.8	-0-	101.4	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	91.8	-0-	101.4	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Dana C. Coffman, Deputy Director

Phone: 586-6181

Division: Division of Elections

Date: April 26, 1983

Approved by Commissioner: 

Date: 4-26-83

Department: \_\_\_\_\_

Distribution:

Original to Legislative Finance

Copy to Office of Management and Budget (for Legislature introduced bills)

(for Governor introduced bills)

"An Act relating to judicial retention elections"

ASSUMPTIONS:

1. The passage of this legislation will initially affect the 1984 General Election ballots.
2. There will be 24 election districts as were designated in 1959.
3. Necessity of printing 24 separate ballots - one for each of the judicial retention districts.
4. Additional 12% inflation for each of the subsequent election years.

No additional funds are required beyond the Contractual Services area. Additional postage, printing and advertising costs will be required for the printing of 24 separate ballots. There will also be costs associated with printing additional pages in the Official Election Pamphlet, and postage associated with the heavier weight of the pamphlet.

Programming costs related to ballot counting will be substantial.

A Professional Services Agreement will be required in FY 85 (\$10,000) to contract for the production of a cross-reference listing of communities using the 1959 and 1981 reapportionments.

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FILE WITH AB7D

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY  
OFFICE OF THE COMMISSIONER

POUCH N  
JUNEAU, ALASKA 99811  
PHONE:

March 8, 1983

Representative Al Adams  
Pouch V  
Juneau, Alaska 99811

Dear Representative Adams:

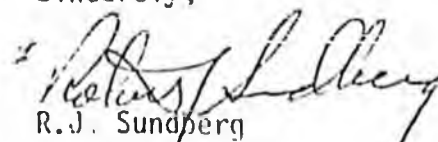
I have been asked to forward this letter to you expanding on our explanation of the need for CSSSHB 10 (Jud). In brief, this proposed legislation would prohibit the sale of "lookalike" imitation drugs in the state. While this may seem to be a trivial matter at first glance, let me assure you that passage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

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

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

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

Sincerely,

  
R.J. Sundberg  
Commissioner

FILE WITH 14010  
Alaska State Legislature

SENATOR  
ROBERT H. ZIEGLER, SR.  
307 BAWDEN STREET  
KETCHIKAN, ALASKA 99901

While in Juneau  
POUCH V  
JUNEAU, ALASKA 99811



Senate

VICE CHAIRMAN  
SENATE RESOURCES COMMITTEE  
MEMBER  
SENATE JUDICIARY COMMITTEE  
WESTERN STATES LEGISLATIVE  
FORESTRY TASK FORCE  
WESTERN CONFERENCE COUNCIL  
OF STATE GOVERNMENTS

May 30, 1983

Senator Bill Ray,  
Chairman  
Senate Judiciary Committee  
Alaska State Legislature  
Juneau, Alaska

Re: CSSSHB 10(Jud)

Dear Senator Ray:

The captioned bill relates to imitation controlled substances. It adds a new chapter to AS 11, the criminal code.

Section 11.73.010 provides that a person may not manufacture, deliver or possess, with intent to deliver, an imitation controlled substance. A conviction obtained under this section is a Class C felony (maximum five years, \$50,000 fine).

Section 11.73.020 provides that a person may not possess certain enumerated substances or their salts with the intent to manufacture an imitation controlled substance. Conviction under this section is likewise a Class C felony.

Section 11.73.030 provides that a person over 19 may not deliver an imitation controlled substance to a minor who is under 19 and is at least three years younger than the person delivering the substance. Here, conviction is a Class B felony (maximum 10 years and \$50,000 fine).

Section 11.73.040 prohibits knowingly advertising of any kind, for the sale of an imitation controlled substance to be delivered in the state. Conviction here is a Class C felony.

Section 11.73.050 authorizes the use of placebos if prescribed by a registered practitioner in the course of professional practice or research.

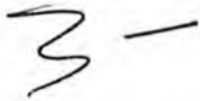
Section 11.73.060 authorizes forfeiture of property used during or in aid of violations of this chapter and further provides that "controlled substance" shall be construed as "imitation controlled substance."

The definition section is self-explanatory.

Senator Bill Ray  
Re: CSSSHB 10(Jud)  
May 30, 1983

There is a great deal of agitation throughout the state for the enactment of this bill; as far as I am concerned, I can see nothing wrong with the bill.

Very truly yours,

A handwritten signature in dark ink, appearing to be "R. H. Ziegler, Sr.", written in a cursive style.

Robert H. Ziegler, Sr.

RHZ:lk

HB 10 HOUSE ACTION  
 DATE SEQ PAGE

14:19 6/21/83 PAGE 2 OF 3

LEGISLATIVE ACTION

-----  
 02/11/83 01 0225 FIRST READING -- COMMITTEE REPORTS  
 02/13/83 02 0321 JUD -- ONP01, CS05  
 02/23/83 03 0321 JUD CMTE ZERO FISCAL NOTE  
 03/14/83 04 0474 FIN -- JUD CS07, NR03  
 03/14/83 05 0474 FIN F/NOTES HSE SUPPL #24  
 03/18/83 06 0550 SECOND READING  
 03/18/83 07 0550 JUD CS ADOPTED BY UNAN CONSENT  
 03/18/83 08 0551 AM01 WITHDRAWN  
 03/18/83 09 0555 AM01 NOT ADOPTED BY DIV 11-21-08  
 03/18/83 10 0556 AM02 NOT ADOPTED BY DIV 09-22-09  
 03/18/83 11 0557 AM03 NOT ADOPTED BY DIV 10-22-08  
 03/18/83 12 0558 AM04 NOT ADOPTED BY DIV 10-22-08  
 03/18/83 13 0559 FAILED TO ADV 3RD READING BY DIV 21-11-08  
 03/21/83 14 0579 THIRD READING  
 03/21/83 15 0580 PASSED BY DIV 34-03-03  
 03/21/83 16 0580 NOTICE OF RECONSIDERATION GIVEN  
 03/23/83 17 0617 RECONSIDERATION NOT TAKEN UP  
 06/15/83 26 1729 TRANSMITTED TO GOVERNOR  
 \*\*\*\* \*\* \*\*  
 \*\*\* \*\* \*\*

HB 10 SENATE ACTION  
 DATE SEQ PAGE

14:22 6/21/83 PAGE 3 OF 3

LEGISLATIVE ACTION

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 03/24/83 18 0482 FIRST READING -- COMMITTEE REPORTS  
 05/26/83 19 1122 HESS -- DR04  
 06/06/83 20 1213 JUD -- DR04  
 06/14/83 21 1299 RLS -- OTHER03  
 TAKEN UP IMMEDIATELY  
 06/14/83 22 1300 SECOND READING  
 06/14/83 23 1300 ADVANCED TO 3RD READING BY UNAN CONSENT  
 06/14/83 24 1300 THIRD READING  
 06/14/83 25 1301 PASSED BY DIV 17-07-00  
 \*\*\*\* \*\* \*\*  
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# 'Look-alike' drugs can lead to violence, trooper testifies

by Harry McFarland  
Associated Press

2-2-83

Juneau — When the buyer discovered he had been sold imitation drugs, he grabbed a gun, went back to the seller's home and shot him.

That is an example of the violence that imitation drugs, or "look-alikes," can cause on the streets, said Alaska State Trooper Lt. Roger McCoy during testimony on a bill to outlaw their sale in the state.

"Look-alikes" are designed to resemble or duplicate the appearance of brand name amphetamines, barbituates, tranquilizers and narcotic pain killers. On the streets, they are known and sold by the same names as their drug counterparts: Black Beauties, Dexies, Yellows, Christmas Trees and Rainbows.

"Look-alikes," though, contain non-controlled substances such as caffeine, ephedrine and other over-the-counter drugs.

The bogus drugs are showing up in Alaska in large quantities, said Anchorage Police Department Lt. Ron Needham.

"I have seen bags with the sum of 100,000 dosage units," Needham said from Anchorage via the state teleconference system. "I have

seen bags with 500,000, a half a million, dosage units."

The state has seen an increase in cases involving the look-alikes, McCoy said. In 1981, troopers had 95 cases involving the imitation drugs. Last year, they had 214 cases.

McCoy gave three reasons for the bill's passage: the potential of violence, the potential of overdose and the potential that juveniles will be introduced into the drug culture, McCoy said.

While the drugs are not physically addicting, they can be psychologically so, the policemen said.

Imitation drugs are very profitable, McCoy said. They sell for the same price as their real counter-

parts. A bag of speed will sell for \$200 to \$300. So will the fake stuff.

The difference is that the fake costs substantially less to manufacture, McCoy said. A tablet that sells for \$3 to \$5 dollars may only cost three cents to make.

Needham said 90 percent of the drugs sold on the street in Anchorage are imitations.

Rhonda Butterfield, assistant attorney general with Special Prosecution and Appeals, said there is a need for the legislation as only two ways currently exist to prosecute sellers of imitation drugs.

The first is to charge a seller with attempting to commit a crime; the other, charge the seller with theft by deception.

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

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

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

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

b. Revenues:

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

3. Assumptions:

No Fiscal Impact

4. Disclaimer:

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

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

Approved by Commissioner: *[Signature]* Date: 2/18/83  
 Department: Public Safety

5. Distribution:

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

2/15/83

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

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

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

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

b. Revenues:

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

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

3. Assumptions:

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

Prepared By: Roger C. Lange *Roger C. Lange* Phone: 465-3376  
 Division: Division of Adult Corrections Date: \_\_\_\_\_  
 Approved by Commissioner: [Signature] Date: 3/10/83  
 Department: HEALTH & SOCIAL SERVICES

5. Distribution:

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

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

Therefore, 4.72 beds would be needed. For purposes of this fiscal note, this was rounded to the nearest whole number resulting in 5 new beds identified as being required.

D. Cost Estimates:

1. Capital Expenditures

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

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

2. Personal Services

It is assumed that these 5 beds would be combined with other construction where staff will be identified. It is estimated two staff positions will be required to provide security and supervision for the additional inmates.

3. Other Costs

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

4. Inflation of 6% per year was used for projecting cost after FY 1985, the year in which the total bed impact would be experienced.

4. Disclaimer:

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

POSITION PAPER

HOUSE BILL 10

"An act relating to imitation controlled substances."

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

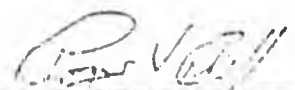
Data is not available on the use or distribution of imitation controlled substances also known as "look-alikes." Look-alikes are generally sold as purporting to be depressants or stimulants that normally would require prescriptions. These look-alikes are also sometimes advertised as diet aids or sleep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

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

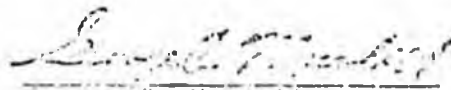
To manufacture or sell a product by misrepresenting its contents should not be acceptable. The public health and safety risk related to misrepresented drugs can be numerous. Use of drugs (legal by prescription or over-the-counter) not in accordance with medically recommended dosage can lead to health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

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

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

  
Roger Endell, Director  
Division of Adult Corrections

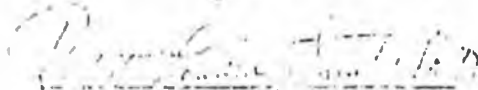
Recommended by:

  
George E. Bunnell  
Acting Coordinator  
Office of Alcoholism/  
Drug Abuse

Date:



Approved by:

  
Robert Gordon Smith, Ph.D.  
Commissioner  
Dept. of Health &  
Social Services

Date:





# Trafficking in Look-Alikes ; an Update

CPP

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## Trafficking in Look-Alikes; an Update

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

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

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

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

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

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

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

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

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

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

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

202) 233-1263

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

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

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

BT Pharmaceuticals, Inc.  
Tampa, Florida

Pharmadose, Inc.  
Bohemia, New York

Frye Pharmaceuticals, Inc.  
Birmingham, Alabama

Standard Pharmacal Corp.  
Elgin, Illinois

Jerome Stevens Pharmaceuticals, Inc.  
Central Islip, New York

LNK International, Inc.  
Hauppauge, New York

Valley Run Pharmaceutical  
Milroy, Pennsylvania

VIP Pharmaceuticals, Inc.  
Pearl River, New York

Newtron, Pharmaceuticals, Inc.  
Coram, New York

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

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

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

Laurence B. Golden  
Office of Intelligence  
November 2, 1981

(202) 633-1263





LASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

*[Handwritten signature]*

Pouch Y, State Capitol  
Juneau, Alaska 99811  
(907) 465-3991

November 3, 1982

MEMORANDUM

TO: Representative Mitch Abood  
Attention: Carol Horos

FROM: *[Handwritten initials]* 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 Paul Ecker  
 Washington Post Staff Writer

In 1942, an Alabamian newspaper editor died after drinking several bottles of bourbon as a Christmas party and revealing the exposure he had been told when a pharmacist from the hospital told the editor even not to get out of bed. The pharmacist's name was Dr. Richard L. Smith, and he had been killed by the editor's death, according to the Food and Drug Administration.

The federal government faces an unusual, pharmaceutical problem in trying to control the so-called look-alike drugs. Because their ingredients are so similar, they can be obtained without a prescription, the Drug Enforcement Administration says it cannot even produce. The FDA requires it to pay only a limited fee because it has certified the ingredients as safe.

While the agencies say they are taking what they can, they are somewhat reluctant to take on new enforcement tasks in times of tight budgets.

Fake amphetamine contains large amounts of caffeine, phenolphthalein, and a small amount of amphetamine (a small dose of amphetamine is usually sufficient to produce a "high"). The ingredients contain amphetamine, hydrochloride, phenolphthalein, and caffeine, and hydrochloride or other salts and synthetic agents.

While the ingredients are safe separately and in small doses, they are considered safe in FDA specifications. But they can cause nervousness, insomnia, temporary psychiatric symptoms, and death if mixed together in large amounts or taken with alcohol.

Many people take them that way, a DEA spokesman said, because they believe that will help alleviate the "high" caused by controlled substances. In mid-1941, DEA estimated that 20 million doses of fake narcotics were being manufactured each week and distributed through a network of 200 dealers.

Since 1942, FDA has filed 1500 letters complaints against the companies that it claims violated consumer protection of the Food, Drug and Cosmetic Act by making look-alike 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 released 15 small companies that they don't believe any products that contain combinations of caffeine, phenolphthalein and hydrochloride for certification as new drugs. "We have researched this extremely and we find no precedent for the three-drug combination. It would be hard to believe that anyone can show a medical purpose or need for these drugs," said Bill Goff, an FDA spokesman. In effect, Goff said, FDA's action will force many of the manufacturers of the drugs to

leave the market. Last year, DEA divided a model law for state and local jurisdictions. So far, 30 of the jurisdictions have enacted laws. DEA also reviewed these companies that make drug capsules to which any false claims were suspected in false drug sales.

While federal officials are confident that this is the best way to



An example of look-alike capsules which look like the real thing. The capsules are made of inert material and contain no active ingredients. The capsules are made of inert material and contain no active ingredients. The capsules are made of inert material and contain no active ingredients.

prevent drug abuse would be banned from the market and FDA officials here would be expected.

But it is a special service, Health and Welfare Secretary, Hilda D. D'Amico, said in a statement. "We are trying to solve the problem through legislation. If we can't solve the problem through legislation, we will have to go to the courts. We will have to go to the courts. We will have to go to the courts."

Illnesses, Secretary General, Thomas J. Blum, said in a statement. "We have been working with the states to solve the problem. We have been working with the states to solve the problem. We have been working with the states to solve the problem."

Washington Post Aug 23, 1942

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.

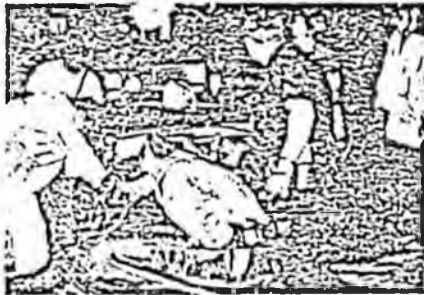


Photo courtesy of *The Denver Post*

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 1957 set a BAC level of 0.08 percent as prima facie evidence of drunk driving and made punishment upon conviction a mandatory one-year license suspension. Weekend alcohol-related driving deaths declined immediately following implementation of the law but rose to previous levels within a year.

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

*Richard W. Foster*

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

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

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

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

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

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

The drugs produce constriction of

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

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

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

The Maryland law prohibits "distribution, attempted distribution, or possession with intent to distribute non-controlled substances intended for use or distribution as controlled dangerous substances." The law is aimed at mass volume distributors, not just street dealers. Since the law became effective in June 1981, 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*

*Kiaye 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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Photo courtesy of The Sentinel Post.

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### 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 mis-use 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

## 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 P. 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 mis-named. 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 B. Golden, a staff assistant with the intelligence office of the federal Drug Enforcement Administration, says his office receives daily reports of overdoses—and occasionally of deaths.

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

On the other hand, the buyer of a look-alike may already be a speed user who thinks he is getting speed again this time. If so, he almost certainly won't get the buzz he expected to get, so he may take more and more of the look-alike. That could lead to an overdose. Or it could lead him to think that he needs more speed than he used to. Then, the next time he gets *real* speed, he may overdose on that.

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

# Almost as Much Fear as Real One

Continued From First Page

cialists are forced to pass the buck.

Not the postal service, though. Ned Frieze 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-can, damned-if-I-can't complex. If they say they are selling speed, the anti-fraud laws may get them. If they truthfully say they are selling the caffeine pills, and state or imply that they are safe, the post office may get them.)

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

## Death in Michigan

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

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

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

## Firms Take Steps

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

The founder of the look-alike industry, William Saye, 33, 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 employees selling the pills at truck stops in almost every state. The salesmen were called "peashooters," and drivers would contact them over citizens-band radio. Mr. Saye says that his salesmen, when asked, were supposed to tell a customer that the pills weren't speed—or risk being fired. By 1980, when he retired from the drug trade, Mr. Saye's business was bringing in about \$8 million annually in sales. The pills were obtained from a Long Island manufacturer. Evidently it was all perfectly legal.

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

## Small Operations

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

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

them. 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 \$3 a pill.

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

*P:60 RKY. WITH 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 bipheta-mines (a type of amphetamine), lapsed into a coma and died. Several other victims have suffered paralysis after suffering strokes because of the drugs.

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

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

STATE OF ALASKA  
THE LEGISLATURE

POUCH: Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907.465.3800

LEGISLATIVE AFFAIRS AGENCY

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 consummates 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 consummated 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.

Representative Mitchell E. Abood, Jr.

Page 3

February 1, 1983

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 Earle  
Washington Post Staff Writer

In 1981, an Albuquerque newspaper died after printing several boxes of heroin on its "Community party and publishing two columns he had been told were advertisements. Police discovered that the columns were not advertisements, but non-prescription drugs meant to lead law breakers.

Since then, imitative advertisements and brochures have been mailed to 11 other Westway clients, 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 and its agents have no jurisdiction. The FDA maintains it can pay only a limited role because it has certified the ingredients as safe.

FDA's role becomes key they are taking what steps they can, they are encouraging patients to take on some self-diagnosis tests in cases of light-headedness.

Fake amphetamines contain large amounts of caffeine, phenylpropylamine (a nasal decongestant and appetite suppressant) and the decongestant ephedrine. Imitation barbiturates contain amobarbital, mibofenazine, chlorpheniramine or other sedatives and hypnotic agents.

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

Many young people take these that way, a DEA spokesman said, because they believe that will help stimulate the "high" caused by recreational substances. In mid-1981, DEA estimated that 50 million doses of fake narcotics were being manufactured each week and distributed through a network of 200 dealers.

Since 1960, FDA has filed numerous compliance reports to companies that it claims violated registration provisions of the Food, Drug and Cosmetic Act by making imitation drugs. Over the same period, the U.S. Postal Service has filed 50 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 16 small companies that they must submit any products that contain combinations of caffeine, ephedrine and phenylpropylamine 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 Gray, an FDA spokesman. In effect, Gray said, FDA's action will force many of the manufacturers off the market.

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

While federal officials are confident that they cannot have driven



By James H. Johnson, The Washington Post

As examples of look-alike imitation drugs, the FDA has filed numerous complaints with the Federal Drug Administration.

Sen. Gordon J. Humphrey (R-N.H.) said such manufacturing has increased but that the only way to control the imitation drugs is by forcing the DEA, FDA and the Postal Service jurisdiction. He has introduced legislation that would prohibit the manufacturers of drugs that look like or are representative to be considered substances. Producers that

produce drug abuse would be barred from the state and FDA consumer laws would be expanded.

But at a recent hearing, Humphrey told Congress to delay passing new legislation. "We are trying to solve the problem through legislation. If we can't solve the problem through legislation, we might need to go to a federal level, but that's not yet done," he said.

House Attorney General Tyrone Fisher disagreed with Humphrey. Fisher charged that although he has not passed any legislation, he still has problems. "Some companies are being sued and closed down because they are popping up again under a new name and name," he said. "The fact is we have not solved the problem. We keep a lot of these distributors in business because we have not had the correct laws. We have not had the national products."

Washington Post, Aug. 30, 1982

POUCH V  
JUNEAU, ALASKA 99811  
465-4990

P.O. Box 4-1325  
ANCHORAGE, ALASKA 99509  
248-1515



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 you may have regarding this or any other act we have under consideration.

Again, thank you for becoming involved 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: 202 293 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  
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 unforeseen 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: 202-331-1700

## 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 Searlett, Esq./"US HHS News" ("blue")  
PA Memorandum ("yellow")

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 re-packaging, 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 liability 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

# No. 133—Part II Congressional Record

PROCEEDINGS AND DEBATES OF THE 97<sup>th</sup> 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 EN- FORCEMENT IMPROVEMENTS ACT OF 1982—Continued

UP AMENDMENT NO. 1388

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 1256

(S. 12789)

### SENATOR DANFORTH'S AND SENATOR HUM- PHREY'S SIMULATED CONTROLLED SUBSTANCE 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 SUBSTANCE"  
"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 simi-  
lar nonmedical use and—

"(A) by representation or appearance (in-  
cluding 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 mul-  
tiple doses, or in combination with a sub-  
stance or substances, like a controlled sub-  
stance, either stimulant or depressant as de-  
fined in section 102(9) of the Controlled  
Substances Act;

"(2) 'distribute' means the actual, con-  
structive, or attempted transfer, delivery, or  
dispensing to another of an imitation con-  
trolled substance;

"(3) 'manufacture' means the production,  
preparation, propagation, compounding, or  
processing of an imitation controlled sub-  
stance, and includes any packaging or re-  
packaging of such substance or labeling or  
relabeling of its container; except that such  
term does not include the preparation, com-  
pounding, packaging, or labeling of an imi-  
tation controlled substance in conformity  
with applicable State or local law by a prac-  
titioner 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 de-  
fined in section 102(6) of the Controlled  
Substances Act.

"(b)(1)(A) Except as provided in subpara-  
graph (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, manufacture, distribution, or  
possession of an imitation controlled sub-  
stance by a person if the imitation con-  
trolled 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 distribut-  
ing an imitation controlled substance to a  
person under 18 years of age shall be sen-  
tenced 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 sollicita-  
tion with reasonable knowledge that the  
purpose of the advertisement or sollicitation  
is to promote the distribution of imitation  
controlled substances. Any person who vio-  
lates 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:

September 30, 1982

CONGRESSIONAL RECORD — SENATE

S 12799

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 ZEFRETTI of New York, has held very productive hearings on the dangers of look-alike drugs. Mr. ZEFRETTI has asked hard questions about how the Federal Government can stifle this new drug abuse problem that has grown to alarming proportions. The Select Committee on Narcotics has sought 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 the 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 interstate 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 manufacturers no longer claim their products are absolutely safe and occasionally enumerate 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 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-alike 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 Abner

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.						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

It is estimated that enactment of this bill will result in 50 to 60 new criminal prosecutions throughout the state each year. This estimate is based upon a survey taken by the department, of local police agencies and the state troopers. Examined singly, no additional prosecution 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

Original: Legislative Finance

PHONE 465-3428

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

II. FISCAL DETAIL

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

EXPENDITURES (Thousands of Dollars)

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

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

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

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

OMB review: *[Signature]*

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		1158.0				
700 GRANTS, CLAIMS ETC.						
TOTAL	-0-	1184.8	33.4	35.4		

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

A. Assumptions

1. Estimated conviction information was furnished by the Department of Law. They estimate that there would annually be three convictions for a Class B felony and 30 convictions for Class C felonies. Class A misdemeanors have been omitted in the committee substitute.
2. It is assumed that all convictions are of first time offenders.
3. The following table displays data regarding additional bed needs with enactment of HB 10:

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

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

B. Cost Estimates:

1. Capital Expenditures

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

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

2. Personal Services

It is assumed that these 8 beds would be combined with other construction where staff will be identified. Therefore, no costs are specifically identified in this fiscal note for staff costs, although staff will be required to provide security and supervision for the additional inmates.

3. Other Costs

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

4. Inflation of 6% per year was used for projecting cost after FY 1985, the year in which the total bed impact would be experienced.

SPONSOR: A Judiciary

TAKEN BY: Bill

SUBJECT: Control of Tobacco

T/C DATE/DAY: June 15 1

MAILING ADDRESS: Substances

TIME: 1:30 - Pacific

(Witness to testify from Anchorage at Committee Meeting)

11:30 - Alaska

PHONE: 4990

CONTACT: Ruth <sup>ERINE</sup> Zalewski

10:30 - Bering

T/C DURATION: 1 hr

SITES PARTICIPATING:

- |                   |                  |            |                 |             |                  |
|-------------------|------------------|------------|-----------------|-------------|------------------|
| ALL ALASKAN       | <u>Anchorage</u> | Dillingham | <u>Juneau</u> * | Mat-Su      | Sitka            |
|                   | Barrow           | Fairbanks  | Ketchikan       | Nome        | Seward           |
| WASHINGTON DC     | Bethel           | Haines     | Kodiak          | *Petersburg | Soldotna (Kenai) |
|                   | Delta Junction   | Homer      | Kotzebue        | Sand Point  | Valdez           |
| Sen. Stevens      |                  |            |                 |             | *Wrangell        |
| Sen. Murkowski    |                  |            |                 |             |                  |
| Congressman Young |                  |            |                 |             |                  |

SPECIAL OFF-NET\* LOCATIONS/PHONE

NUMBERS: Rhonda Butterfield + perhaps one other

Chairing Site/Person \* \_\_\_\_\_ \*

↳ will come do Anch LID.

Ruth Zalewski  
Signature of Sponsor/Contact Person Date

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

MODERATOR NOTES

Special backup, publicity 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: \_\_\_\_\_

OBSERVERS: \_\_\_\_\_

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: 7/1

<u>BILL #</u>	<u>BILL TITLE</u>	<u>DEPARTMENT</u>	<u>DATE</u>	<u>SPONSOR</u>	<u>DATE</u>
HB 10 (466-19)	Amendment to Article Six			Robert	7/19
	received back up materials 7/18 Rosa, McPhee & Jenkins (7/21)				
	Revised and 7/21 (7/21) Setup LLC on Form 511.20 with form				
7/21	St Rosa McPhee				

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

1--This bill names seven substances that could be used to manufacture imitation controlled substances (look-alike drugs), as depicted 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, compounding, 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:

H

B

16

COMMITTEE REPORT  
SENATE

FURTHER:

Date April 2, 1947

Mr. President

The Committee on JUDICIARY considered Case No. 10000

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for \_\_\_\_\_
- new title \_\_\_\_\_
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

[Signature]

[Signature]

\_\_\_\_\_

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[Signature]  
Chairman

[Signature]  
Chairman recommendation

SENATE AMENDMENT

# 1

By Pettyjohn

To: ~~CS for SS~~ SENATE BILL No. \_\_\_\_\_

To: CS for SS (Fin) HOUSE BILL No. 16

PAGE: 1      LINE: 16

after "unless", delete "the insured  
or another person who resides in the  
insured's household and is covered  
by the policy" and add  
"the person changed"

SENATE AMENDMENT #2

By Peterson

To: \_\_\_\_\_ SENATE BILL No. \_\_\_\_\_

To: CS for SS (Fin) HOUSE BILL No. 16

PAGE: 1 LINE: 25

after "change", add "the  
right to a hearing"

CALENDAR



ALASKA STATE LEGISLATURE - SENATE  
COMMITTEE ON LABOR AND COMMERCE

SENATOR RICHARD I. ELIASON  
CHAIRMAN

POUCH V • JUNEAU, ALASKA 99811  
(907) 465-3844

OFFICIAL BUSINESS

TO: Senator Bill Ray, Chair  
Senate Judiciary Committee

FROM: Senator Dick Eliason *Dick*

DATE: April 3, 1984

RE: CSSH 16 (Fin) - Relating to premium increases for automobile insurance policies

As you recall, the above-mentioned bill was returned to the Senate Judiciary Committee for further review. Don Koch, Division of Insurance, has prepared the attached analysis on three proposed amendments.

Please let me know if further information is required.

3/28/84

KCM

Senator Eliason has requested an analysis of several proposed amendments to CSSSHB 16(Fin). These are set forth below with the requested comment.

Proposed amendment #1.

Page 1, line 16. After "unless" delete "the insured or another person who resides in the insured's household and is covered by the policy" and add "the person charged".

We would urge that this amendment not be adopted. The effect of the change is to permit the insurer to charge a premium surcharge or increase the premium for the violations of a person who is not normally an insured under the policy. The extension of this provision to persons not living in the household will result in a hit or miss situation as far as charging the additional for the violation. The insurer will not have reasonable access to the name and drivers license number of an incidental driver. The logic behind allowing an insurer to make a charge of this kind is that it is a measure of the increased propensity of the driver with violations to have accidents. This logic does not readily extend to the incidental driver who is not a member of the household. That driver may never again produce a driving exposure under that particular policy. If that were true it would be unreasonable to charge for an exposure that does not exist under that policy.

Proposed amendment #2.

Page 1, line 18. After "been" delete "convicted" and add a word that covers the situation of an individual pleading guilty without trial or who merely pays a fine.

This situation is already handled by insurers in the way described. If clarity is still further desired, we would suggest that the language be left as it is with an additional sentence to subsection (b) on line 18 to read: "In this subsection, 'convicted' includes a plea of guilty without trial, and the uncontested payment of a fine for the charged violation."

Proposed amendment #3.

Page 1, line 25. After "right" delete "of appeal" and add "to a hearing and to appeal".

Under AS 21.39.090, an insured does not have an automatic right to a hearing before the insurer or its rating organization. The insurer has a "right" to reject or fail to grant a hearing. This is not unreasonable as some requests are going to be frivolous and should not be heard. Still the insured denied a hearing has a right to an appeal of that action before the director. The proposed amendment tends to suggest a right to a hearing before the insurer and that is not precisely the way AS 21.39.090 is structured. An insured is still entitled to "his day in court", so abuses by an insurer will be detected. An alternative change on line 25 would be to change the words "right of appeal" to read "rights".



H

B

17

COMMITTEE REPORT  
SENATE

FURTHER:

Date: 1/13/19

Mr. President:

The Committee on GOVERNMENTAL ORGANIZATION has had one meeting

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with 5 CS for CS HB 17 (Jura)  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_  
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\_\_\_\_\_  
CHAIRMAN

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: CSHB17(Jud)am  
 Title: Age of majority for alcoholic beverages  
 Sponsor: House Judiciary  
 Requestor: Senate State Affairs Comm

II. FISCAL DETAIL

Agency Affected: Revenue  
 Program Category Affected: Public Protection  
 BRU, Program or Subprogram(s) Affected:  
 Alcoholic Beverage Control Board

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Patrick L. Sharrock, Director  
 Division: Alcoholic Beverage Control Board

Phone: 277-8638

Date: 3/30/83

Approved by Commissioner: Robert D. Heath  
 Department: Revenue

Date: 3/30/83

Distribution:

Original to Legislative Finance  
 Copy to Office of Management and Budget (for Legislature introduced bills)  
 Copy to Department (for Governor introduced bills)

Fiscal Note  
CSHB17(Jud)am

The following items are noted for possible further clarification:

1. Referencing page 4, line 26, one could conclude that parental consent was intended to be provided in AS 04.16.049(a)(2) at page 2, line 5. However, parental consent is not required in AS 04.16.049(a)(2) but is required in AS 04.16.049(a)(3) at page 2, line 8. OR: page 4, line 26 and 28 could be changed to read "...age of 16..." and "AS 04.16.049(a)(3)" respectively.

2. Page 3, line 8 - "restaurant or eating place" refers to a specific type of license under AS 04.11.100. If it is intended that persons 19 years of age or older be employed in restaurant premises which might also be "beverage dispensary" (AS 04.11.090) licenses premises, line 8 could be changed to read "premises of a hotel or premises designated as a restaurant for the purpose of this section, may enter and remain"

3. Page 6, line 18 - it would seem appropriate to add "and AS 04.16.049(d)."

4. It has been traditional under law that the "local governing body" defined at AS 04.21.080(a)(10) participate in approving "designated" restaurant premises referred to at lines 5 and 8, page 2, and noted in (2) above.

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 17, 1983

SUBJECT: Drinking age (SCS CSHB 17 (State Affairs)  
version dated May 5, 1983)

TO: Senator Vic Fischer

FROM: *RJ* Russ Josephson  
Legislative Counsel

You have asked for an opinion whether secs. 19 and 20 of this version of HB 17 come within the scope of the title of HB 17 as it passed the House. I do not believe they do.

Section 20 is the easier of the two sections to address. The title of CSHB 17 (Judiciary) am, the version of HB 17 that passed the House, did not include a reference to an effective date. Therefore, this section clearly does not fit under that title.

Section 19 presents a closer question. Sec. 19 provides a "grandfather clause" for those age 19 as of January 1, 1984. The title of CSHB 17 (Judiciary) am does not include such a clause. Had the title been broad, this section would not present a problem. However, the title is in a "string title" style; it mentions each of the main points of the bill. It is my feeling that the "grandfather clause" is a significant part of the bill and that the title ought to mention it. Accordingly, I do not feel that sec. 19 fits under the title of the bill as it passed the House.

The problem here, of course, is that under Rule 41(b) of the Uniform Rules of the Alaska State Legislature, one house may not amend the title of a bill introduced in the other house, except for a clerical or technical change. In drafting the committee substitute, I overlooked this restriction. You may want to use a committee bill to accomplish the scheme desired by the committee.

RJ:ljb  
20/012

DITTMAN

7-103 P. 100  
TO BE RELEASED

HS 17  
4/12/83

DITTMAN

~~1984~~ 1983  
MARCH

Currently the drinking age in Alaska is 19. Some people feel the drinking age should be lowered to 18 and others feel it should be raised to 21. What do you feel should the drinking age be lowered to 18, remain at 19 or raised to 21?

	<u>STATE</u>	<u>ANCH</u>	<u>SC</u>	<u>FAIR</u>	<u>SE</u>	<u>RURAL</u>
18	6%	8%	1%	8%	1%	4%
19	27%	24%	34%	33%	30%	20%
21	66%	66%	63%	58%	69%	76%
	18-24	25-40	40-54	55+		
18	7					
19	35					
21	57%	67%	68%	76%		

ANALYSIS  
11/14/64

<u>Raising Drinking Age from 18-21</u>	<u>Single</u>	<u>Divorced/ Separated</u>	<u>Married</u>	<u>Total</u>
Favor	55.0	65.5	75.6	69.3
Do Not Favor	45.0	34.5	24.4	30.7

(600)

Although the sample size is small, there appeared, to be a tendency for those in a cohabitational relationship to be less strongly in favor of the proposal similar to the single respondents. The widowed were more strongly in favor of the proposal, which is similar to the married respondents. There also appeared to be a tendency for those married once to be more strongly in favor and those married several times to be less strongly in favor of the proposal.

c. Length of Alaska Residence

Those having lived in Alaska from 4 - 14 years were most strongly in favor of the proposal. Those that lived in Alaska from 0 - 3 years were least supportive of the proposal. This is shown on the following table:

<u>Raising Drinking Age from 18-21</u>	<u>Lived in AK 0-3 Yrs</u>	<u>Lived in AK 4-14 Yrs</u>	<u>Lived in AK 15+ Yrs.</u>	<u>Average</u>
In Favor	59.5	74.2	69.8	69.5
Do Not Favor	40.5	25.8	30.2	30.5

Although less significant the same trend appears to be true for length of residency in Anchorage.

d. Industry of Employment

Those employed in construction, finance, real estate, public administration, armed forces and service industry are more likely to support the proposal while those in the trades, transportation, communication, utilities, manufacturing and oil extraction industries were less likely to support the proposal. This is shown in the following table:

A M E N D M E N T

Offered in the SENATE

By Ziegler and Josephson

TO: SCS CSHB 17 (Judiciary)

*Pattey John*

Page 6, following line 22, insert a new section to read:

"\* Sec. 18. EXCEPTION FOR THOSE 19 YEARS OF AGE OR OLDER AS OF JANUARY 1, 1984. Notwithstanding any other provision of this title regarding age limitations, any person born on or before December 31, 1964 may be present upon licensed premises and may possess, consume, receive or purchase alcoholic beverages as otherwise allowed under this title, and a person may serve, deliver, dispense, furnish or sell alcoholic beverages to a person born on or before December 31, 1964 as otherwise allowed under this title."

Renumber subsequent section accordingly.

BY PETTYJOHN

AMENDMENT TO

SENATE CS FOR CS FOR HOUSE BILL NO. 17 (Judiciary)

\* Sec. 19. EXCEPTION FOR THOSE 19 YEARS OF AGE OR OLDER AS OF JANUARY 1, 1984. Notwithstanding any other provision of this title regarding age limitations, a person born before January 1, 1965 may be present upon licensed premises and may possess, consume, receive or purchase alcoholic beverages as otherwise allowed under this title, and a person may serve, deliver, dispense, furnish or sell alcoholic beverages to a person born before January 1, 1965 as otherwise allowed under this title.

\* Sec. 20. This Act takes effect January 1, 1984.

Delete



Date: 5/12/83

WITNESS REGISTER

CSHB 17 (Jud) AM

BILL NO.	NAME	MAILING ADDRESS	AFFILIATION
	George Mundell	Porch HOSF Juneau 99811	DHSS
CSHB17	Allen M. Bailey	310 K St. Suite 508, Anch.	Munic. of Anch.
	Joni Paulen	8749 TRINITY DR. JUNO.	Coalition for a Soft Alcohol
	V FISCHER	<del>Savage</del>	
	DAVID SPENCE, MD.	Box 1034 Juneau 99802	physician, pediatrician

