

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7916 HOUSE JUDICIARY

csed diff tests

DIFFERENCE IN PRE-POST DIFFERENCES	MEANS				STANDARD DEVIATIONS	
	PRE-Target	POST- Target	PRE- C-1	POST- C-1	PRE-Target	POST- Target
Diff AVE obligation Target Group 1 vs C-1	2861.25	3122.48	2964.92	3530.97	3005.16	2902.29
Diff AVE paid Target Group 1 vs C-1	1884.39	2523.88	1730.77	2347.5	2705.01	2824.98
Diff Ave obligation Target Group 2 vs C-2	3346.37	3662.41	3044.95	3629.29	3134.03	3260.08
Diff Ave paid Target Group 2 vs C-2	2301.35	2807.89	1763.28	2492.13	2897.83	2830.56
Source for t-statistic:						
TEXT: STATISTICS FOR THE SOCIAL SCIENCES WILLIAM L. HAYS SECOND EDITION HOLT, RINEHART, AND WINSTON 1973						
Source for df · Smith Sattertwate t-test:						
TEXT: PROBABILITY AND STATISTICS FOR ENGINEERING AND SCIENCE JAY DEVORE SECOND EDITION PACIFIC GROVE CA: BROOKS GROVE PUB 1991						

cseed diff tests

PRE- C-1	POST- C-1	SIZES Target	Comparison	DIF GROUP 1	DIF GROUP 2	DIF STD DEV 1	DIF STD DEV 2	DIF OF DIFFS
3174.18	3181.02	260	269	-261.23	-566.05	259.098095	273.992286	304.82
2713.44	3213.62	260	269	-639.49	-616.73	242.563165	256.441984	-22.76
3236.88	3560.96	839	859	-316.04	-584.34	156.123578	164.192128	268.3
2641.34	3054.34	839	859	-506.54	-728.85	139.851311	137.775736	222.31

cseed diff tests

T	SIGNIF T	DF
13.1505683	0.001	132.47
-1.0489861	NS	132.61
34.5121667	0.001	451.11
32.9902468	0.001	460.36

S B

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HOUSE COMMITTEE REPORT

(7)

Date Referred: March 25, 1994

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 4-5-94

The STATE AFFAIRS Committee considered:

CSSB 220(STA)

CS FOR SENATE BILL NO. 220(STA)

ADD "CAT" TO SCHEDULE IIA DRUG LIST

"An Act amending schedule IA of the schedules of controlled substances applicable to offenses relating to controlled substances to add the drug methcathinone, commonly identified as 'cat.'"

RECOMMENDATIONS:

be replaced with _____ the same title

have attached amendments(s) a new title

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) Public Safety, 2002

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	X	<i>[Signature]</i>			
<i>[Signature]</i>	X	<i>Hailey Olberg</i>		✓	
<i>[Signature]</i>	X				
<i>[Signature]</i>	X				

[Signature]
CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 220

Revision Date: January 13, 1994
Title: "...amending schedule IIA...controlled substances...to add...methcathinone..."
Sponsor: Senator Ellis
Requestor: Senator Ellis

Department Affected: Department of Law
BRU: Prosecution
Component: All
COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)
Please see the attached analysis.

Prepared by: Richard I. Peques, Director Phone: 465-3672
Division: Administrative Services Division Date: January 13, 1994
Approved by Commissioner: Bruce M. Botelho, Attorney General
Agency: Department of Law : January 13, 1994

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 220

ANALYSIS CONTINUATION:

This bill adds the drug methcathinone, commonly known as "cat", to schedule IIA of the schedules of controlled substances. Methcathinone is a powerful hallucinogen that can have devastating effects on drug users and can cause extreme aberrant behavior. Moreover, this drug can be manufactured easily and inexpensively. As a schedule IIA drug, the penalty for manufacture or delivery of "cat" would be a class B felony and the penalty for possession would be a class C felony. We do not expect a significant new caseload by the approval of this bill and, consequently, there should be no fiscal impact for the Department of Law. And, although an additional caseload is not expected, including "cat" in schedule IIA is important because of the danger to users and the public, and because the ease of manufacture.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO: SB 220

Revision Date: _____ Dept. Affected: Public Safety
 Title: An act amending schedule IIA of schedules BRU: Alaska State Troopers
and the drug interdiction component as part Component: Detachments
 Sponsor: Senator Ellis
 Requestor: S. STA COMPONENT SERIAL NO. 799

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

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY 94) impact: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact upon the Alaska State Troopers is anticipated.

Prepared By: Francis C. Allan Phone: (907) 269-5691
 Division: Alaska State Troopers Date: 01/13/93
 Approved by Commissioner: _____ Date: 01/19/20
 Agency: Richard L. Burton, Dent. of Public Safety

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Sponsor Statement for
Senate Bill 220
Add "CAT" to Schedule IIA Drug List

SB 220 amends schedule IA of the Schedules of Controlled Substances List to include the substance Methcathinone, also known as "cat". "Cat" is more addictive than heroin, more powerful than cocaine, and is easy, inexpensive, and profitable to produce. Furthermore, it is not currently illegal in the State of Alaska.

Patented in 1957 by a pharmaceutical company in Great Britain as a diet aid and antidepressant, it was not introduced to the market because of its highly addictive nature. In the 1970's it began to be illegally produced in Russia where its use quickly reached epidemic proportions. In mid 1991 police agencies of Michigan's Upper Peninsula were confronted with wide spread use of "cat" which soon permeated the southern portions of the State as well as Wisconsin.

Cat is easy to make. The ingredients can be purchased by anyone and the production can be accomplished in a kitchen or the back of a van. For an investment of \$500 dollars a profit of up to \$20,000 may be realized. These three factors make the drug very attractive to drug dealers and organized street gangs and very dangerous to Alaskans.

Currently Alaskan law does not specifically prohibit this new and powerful drug. Cat's highly addictive properties pose a serious threat to Alaskans. With the passage of this bill Alaskan law enforcement will have the authority to protect Alaska's citizens.

I urge your support of Senate Bill 220. Thank you for your consideration.

BILL NO: SB 220

DATE: January 19, 1994

TITLE: "An Act amending Schedule
IIA controlled substances. . .
'CAT' . . ."

CONTACT: C.E. Swackhammer
Deputy Commissioner
465-4322


POSITION PAPER - Department of Public Safety

SB 220 amends AS 11.71.050B adding a new paragraph to include methcathinone or "cat". This is becoming a commonly abused controlled substance nationwide. Alaska's controlled substance statutes would allow law enforcement to address this change in the illicit drug trade with this amendment.

Methcathinone is a synthetically derived stimulant that was first developed and tested by the Parke-Davis Company 37 years ago. Research by the drug company dissuaded them from continuing development of methcathinone. This drug is similar to cocaine in its effects only many times stronger and longer lasting. The drug effects the central nervous system and may be as much as one and a half times stronger than other amphetamines. The drug is typically snorted, injected, or sprinkled on marijuana cigarettes for ingestion. The drug was first seen being widely abused in 1989 in the state of Michigan, since then it has spread throughout the midwest and to Hawaii. This is an extremely easy drug to synthesize and takes a very simple rudimentary lab facility.

In section one of the bill, the technical chemical name for methcathinone is used and then the phrase "also known as methcathinone, ephedrone, and cat". Ephedrone is not a name for methcathinone but is actually a precursor used to make methcathinone. It is also a precursor to making methamphetamine and "ice". The Department suggests that ephedrone should be addressed separately as a precursor chemical and that it should be deleted from this bill as it is not a street name for methcathinone.

The Department supports this bill.


Richard L. Burton
Commissioner

POSITION PAPER

Alaska Association Chiefs of Police



February 7, 1994

Senator Johnny Ellis
State Capital, Room #9
Juneau, Alaska, 99801-1182

Dear Senator Ellis:

On behalf of the Alaska Association of Chiefs of Police I would like to offer our support for Senate Bill 220.

It is important that as new drugs are developed and marketed, they be properly classified and included on Alaska's schedules of controlled substances. Unfortunately, the use of illegal drugs and the illegal abuse of prescription drugs remain a significant problem throughout the state.

If we can provide any assistance in the passage of this bill please let me know.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ronald L. Otte", is written over the typed name.

Ronald L. Otte
President

RLO/lp



Alaskans For Drug-Free Youth

Statewide Headquarters

2417 Tongass, Suite #114, Ketchikan, Alaska 99901
 Phone: 907-247-2273, 1-800-478-2273, Fax 907-247-2232

February 9, 1994

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 Lynda Adams

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The Honorable Johnny Ellis
 State Capitol Bldg. Rm. 9
 Juneau, AK 99801 1182

Dear Senator Ellis:

I would like to offer my support for your Bill, SB 220 "An Act amending schedule IIA of the schedules of controlled substances applicable to offenses relating to controlled substances to add the drug methcathinone, commonly identified as 'cat'". The State Alcohol and Drug Abuse Advisory Board unanimously supports your Bill. We would prefer to see 'cat' as a schedule I drug, as it is in the Federal Statutes, but this is a step in the right direction.

I plan to present this Bill as part of a package for approval by the Alaskans For Drug Free Youth Board of Directors at their next meeting, and I am sure they will support it too.

If we can be of help to you in ensuring passage of this legislation, please let me know.

Sincerely,

Lynda Adams
 Executive Director, ADFY
 Legislative Committee Chair, ADA Board





Alaskans for Drug-Free Youth South Central Affiliate

P. O. 243704, Anchorage, Alaska 99524-3704
Phone: 907-247-2273, 1-800-478-2273, fax 907-247-2232

March 5, 1994

EXECUTIVE DIRECTOR

Lynda Adams

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Senator Johnny Ellis
State Capital, Room #9
Juneau, Alaska 99801-1182

Dear Senator Ellis:

On behalf of the Alaskans for Drug Free Youth - South Central, Board of Directors I would like to offer our determined and persistent support for Senate Bill 220.

Methcathinone ("Cat") is such a serious threat to the youth and young adults of Alaska it should be considered for Schedule I, as it is in the Federal Statutes, but your legislation will provide the safeguards necessary to prevent needless suffering.

If we can provide further assistance to ensure passage of Senate Bill 220, please let us know.

Sincerely,

Peggy Beitia, President
Alaskans for Drug Free Youth

ADVISORY BOARD

Tom Pool, Special Agent
Drug Enforcement Administration

Dr. Forest Tennant, Jr.
Community Health Projects

Mrs. Nancy Murkowski
Congressional Families for
Drug-Free Youth

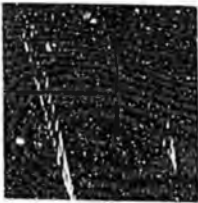
Richard Burton
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ALASKA STATE MEDICAL ASSOCIATION

4107 Laurel Street • Anchorage, Alaska 99508-5334 • (907) 562-2662

January 28, 1994

Senator Johnny Ellis
Alaska State Legislature
P.O. Box V (MS3100)
Juneau, AK 99811

Dear Senator Ellis:

At a recent meeting of our Legislative Affairs Committee we discussed your Senate Bill 220 that would add the drug Methcathinone to schedule IIA of controlled substances. While this drug has not yet been an obvious problem in Alaska, it certainly has been elsewhere and we strongly favor this drug being controlled. If I can be of any assistance to you in passage of your bill, do not hesitate to contact me.

Sincerely yours,

Donald R. Lehmann, M.D.
Chairman, Legislative Affairs Committee
President, Alaska State Medical Association

CC: Byron Mallot

Judiciary Committee Hearing

Date: March 18, 1994

Testimony of: Clarence William Worth, Officer
Juneau Police Department

Eight Years on the Police Department
Three Years on the Drug Unit
Four years D.A.R.E. Instructor

I was horrified at the realities of drug addiction and drug abuse. We all see it in the newspaper, we hear it on the TV, we see the results of what happens. As a result of I have dedicated my career to trying to educate kids. I'm a D.A.R.E. instructor.

This Methcathinone [[CAT]] is something I have just heard about, I haven't seen it yet. I predict we probably will see it. Alaska lags slightly behind [in the introduction of new drugs] but we eventually do get there.

I sent for some information on [CAT] from the Alaska State Trooper Intelligence Unit and WSIN, which is the Western States Information Network (a disseminating agency that works strictly with police departments). The essence is that Methcathinone is addictive, [it] is an analog of Methamphetamine, it can be manufactured easier than Methamphetamine, made overnight, made with very few laboratory supplies. In fact, it is down to just glass jars, rubber tubes, and a source of heat. It uses chemicals that are readily available: chemicals like Drain-O, battery acid, Epsom salts, and various paint solvents.

It is more addictive than we think cocaine is... some people are addicted the second or third time they use it which ranks it up there with the crack-cocaine as far as power of addiction. [Cat] changes the personality in the user. People binge on it, they go for three or four days with out eating.

It sells for about a hundred dollars a gram. For about a \$500 dollar investment there is a return around \$20,000 dollars. There is a lot of money to be made, its easy to make, the precursors are readily available, and I think it has the potential to be very threatening as a drug in our society.

THE
FOLLOWING
DOCUMENTS
ARE
POOR
ORIGINAL
COPIES

UPDATE ON METHCATHINONE OR "CAT"

They cook it in hotel rooms, cars, houses and sheds. The materials and chemicals needed to produce it are easy to obtain and legal to purchase and possess. Some recovering addicts claim to have been addicted to the drug within 48 hours. It's known as Cat on the streets, and it has law enforcement professionals on every level fighting to stop its spread across the country.

WHAT IS CAT?

Cat is the street name for the highly addictive illegal drug methcathinone. It is usually homemade from ingredients, including dangerous acids, obtained with little difficulty in most communities.

Users are drawn to Cat because it produces a burst of energy and a feeling of invincibility, accompanied by a state of well-being and euphoria. However, users experience a tremendous collapse or crash, physically and psychologically, after bingeing on the drug.

Methcathinone is a chemical synthesis of cathinone, a central nervous stimulant. The drug produces amphetamine-like effects, much like methamphetamine. Because of its similarity to methamphetamine in chemical structure and metabolism, researchers believe that methcathinone has the same neurotoxicity.

The drug was patented in Great Britain in 1957 as a diet aid and antidepressant, however, it was never marketed because of its highly addictive qualities. The formula for methcathinone leaked out in the 1970s, and Cat kitchens sprung up across Russia. According to Russian doctors, 55 percent of all drug addicts in Russia have used methcathinone, known as "Jeff" in their country.

The first instance of illegal manufac-

ture of Cat in the United States is believed to have occurred in Ann Arbor, Michigan, in the late 1980s or early 1990s. However, the drug is more frequently found in the Upper Peninsula (UP) of Michigan. It is from the UP that the drug has spread throughout Michigan and into northern Wisconsin.

PHYSICAL AND PSYCHOLOGICAL EFFECTS OF CAT

Users of Cat tend to "binge" when using this drug. One hit of the drug produces a high that can last up to three hours. Users quickly progress to the point where they binge on the drug for several days. During the initial euphoric burst of energy, Cat users can be quite hyperactive and talkative. However, longtime users have reported that binge usage also brings on paranoia, hallucinations and excruciating nervousness and anxiety. Appetite drops off or disappears entirely during the binge, often leading to long-term and massive weight loss. Users forget to sleep and to drink. As the body becomes dehydrated and fatigued, the user can also experience heart palpitations, headaches, stomachaches and seizures.

A binge will end usually because the supply of methcathinone has been exhausted. Users become depressed, irritable and sometimes violent.

When sleep finally comes, it may last 24 hours or more. Rest does not always restore a sense of well-being, however. Users may feel drained of energy for several weeks.

HOW IT IS USED

Cat is typically snorted, like cocaine, although injection by needle is preferred by some. It is also possible to take Cat orally, by mixing it with a beverage such as coffee or carbonated drinks.

THE INGREDIENTS AND APPEARANCE OF CAT

The recipe for methcathinone includes some relatively benign ingredients but also the following:

- Acetone, a paint solvent
- Lye, found in crystal drain cleaners
- Sodium dichromate, commonly used to refine petroleum
- Sulfuric acid, usually in the form of battery acid
- Sodium hydroxide, obtainable over the counter as lye-based granular drain cleaners
- Toluene, a paint thinner
- Muriatic acid, used by masons to scrub dried mortar off the face of bricks

The chemicals used to manufacture Cat pose another threat to the person cooking the drug. Both acetone and toluene are highly flammable and potassium dichromate, if inhaled, can be fatal. Users have experienced chemical burns on their arms and face from the acids used in production.

When properly made, the finished product is a crystalline powder whose color may range from white to light brown. Homemade Cat has an inconsistent texture and can be chunky. Cat does have a slight chemical smell.

THE RISK TO CHILDREN

While Cat appeals mainly to those in their 20s and 30s, there have been reports of users as young as 15. Because the drug is relatively inexpensive, law enforcement authorities are concerned that it is

find a market among even younger children.

ENVIRONMENTAL EFFECTS

When production of methcathinone produces a carcinogenic toxic waste as a by-product. Although producers of the drug typically make it for use in a close-to-home market, they show little concern for the pollution they spread.

The toxic waste left after the finished product emerges is often dumped in waterways, contaminating fish, well-water and wildlife.

If instead it's flushed down the drain, it contaminates septic systems. If simply dumped on fields or vacant land, it contaminates acreage used for crops or grazing or tains land that may be built on by homeowners.

There is no safe way to dispose of the toxic waste except through legitimate toxic waste disposal facilities.

CAT AND THE LAW

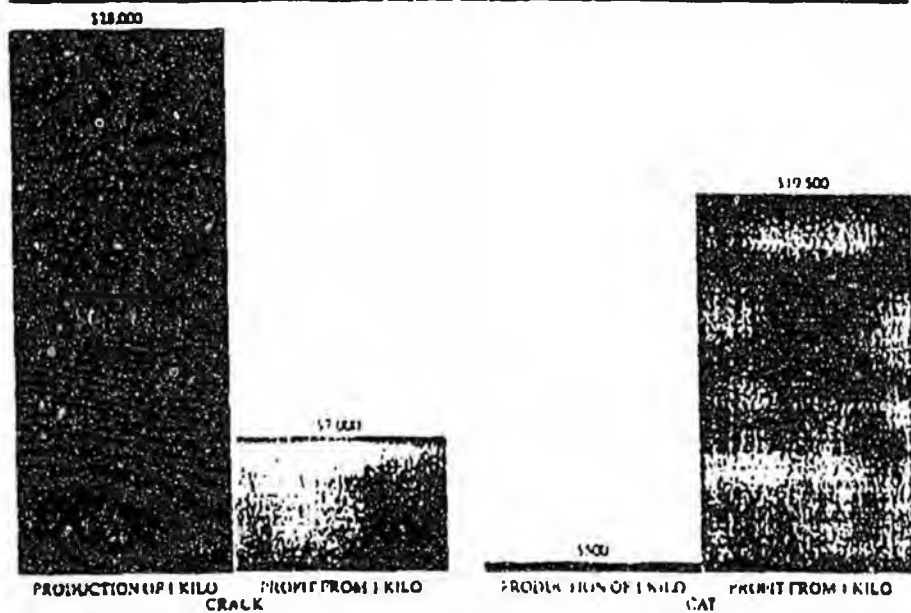
Persons who manufacture methcathinone or assist others in doing so, perhaps by serving as go-betweens to

buy ingredients, are being prosecuted under a number of federal statutes. Manufacturing or possession with intent to distribute, for instance, is a violation of Section 841 (a)(1) of Title 21 of the United States Code and is punishable by a prison term of up to 20 years and a fine of up to \$1 million.

TREATING THE CAT ADDICT

Methcathinone is a very powerful stimulant and usage may produce paranoid psychosis, hyperactivity and depression. As a person undergoes withdrawal from Cat, medication must sometimes be given to offset these conditions. There have been cases of Cat-induced psychosis outside the United States and antipsychotic medications were prescribed during detoxification. Agitation and hyperactivity continue during the withdrawal process, benzodiazepines (a type of tranquilizer) have proved to be effective. Those who have treated Cat addicts recommend that the person enroll immediately in a comprehensive treatment program after detoxification.

HIGH PROFIT MARGIN OF CAT: CONCERN FOR LAW ENFORCEMENT



Law enforcement has voiced concern about the potential for high profit Cat offers. Because most ingredients needed to produce Cat are cheap and legal, a kilo of the drug could be made with a \$500 investment. If each gram were sold on the street for \$20, the seller could net a \$19,500 profit. Compare that with the money needed to make a kilo of crack. It takes a \$28,000 investment to make a kilo of crack. With a current street price of \$35 for a gram-size rock, a dealer could only expect to make a \$7,000 profit.

Source: *The Michigan Substance Abuse and Traffic Safety Information Center and National Families in Action's Impact by Drugs in Technical Series, 1988.*

THE LATEST INFORMATION ON CAT

The Drug Enforcement Administration (DEA) has recently published a pamphlet on Cat. To order, please write to:

Demand Reduction Section
Drug Enforcement Administration
Washington, DC 20537

THE DIFFERENCE BETWEEN KHAT AND CAT

When U.S. troops were deployed in Somalia, the world was reintroduced to an ancient drug popular in East Africa and Southern Arabia, khat. Khat, pronounced "kayt," is a natural stimulant found in the *Catha edulis* shrub. Fresh khat leaves are typically chewed like tobacco and produce a mild cocaine- or amphetamine-like euphoria. Used for hundreds of years as a recreational and religious drug, many Somalis chew the leaves which users claim sharpen thinking and lessen hunger.

Fresh khat leaves contain a psychoactive ingredient known as cathinone. Methcathinone or Cat is a synthetic form of cathinone. Just as the natural stimulants found in the coca leaf were synthesized to produce cocaine, the naturally occurring cathinone has been chemically-altered to create a much more powerful and addictive drug than that found in nature.

The information for this update was supplied by the U. S. Drug Enforcement Administration, the Michigan Substance Abuse and Traffic Safety Information Center, The National Institute on Drug Abuse, The National Clearinghouse for Alcohol and Drug Information, Western District of Wisconsin U.S. Attorneys' Office, *Journal of the American Medical Association*, Vol 269, No 19, p 2508, and *Pharmacology Biochemistry and Behavior*, Vol 26, 1987, pp 547-551.

UPDATE ON METHCATHINONE OR "CAT"

DR. NELSON ASSISTS BRAZILIAN OFFICIALS IN ESTABLISHING ALCOHOL AND OTHER DRUG ABUSE PREVENTION AND EDUCATION PROGRAMS

At the invitation of members of the Partners For The Americas, who were in Cincinnati in April for the Parents' Resource Institute for Drug Education (PRIDE) world conference, Dr. E. Don Nelson, Director of the Ohio Prevention & Education Resource Center (OPERC) and Associate Director of the Drug & Poison Information Center, traveled to Parana, Brazil, to talk with Department of Health professionals, the Parana Medical Association, Department of Education officials, government officials, community workers and others involved in the process of establishing alcohol and other drug prevention programs throughout that area. Over a two week period, Dr. Nelson gave numerous presentations on topics including the:

1. Results of local research on the education of intravenous drug addicts and their sexual partners regarding the risks of HIV (Human Immunodeficiency Virus) transmissions during intravenous drug-use practices and unprotected sex.
2. Operation and scope of all of the Ohio Prevention and Education Resource Centers, including a discussion of individual available resources, alcohol and other drug prevention curricula materials developed by OPERC.
3. Use of psychotherapeutic medications in the treatment of chemical dependency.

Dr. Nelson's visit was well received, with extensive local newspaper and television coverage of his presentations. The goal of those involved with substance abuse prevention and education in Parana is to establish an OPERC-type network in Brazil. Resource materials from the Cincinnati OPERC will form the core of an alcohol and other drug prevention and education collection at the Jaime Lerner Institute in Parana. ❖

METHCATHINONE "CAT"

According to an article in the October, 1993 issue of *Emergency Medicine News*, methcathinone has made its way to the United States.¹ Appearing in the former Soviet Union as early as 1987,² it is now one of that country's most popular drugs of abuse. Known as "cat," this illicit designer drug is easily made in clandestine laboratories.* To date, the use of cat has been reported in Wisconsin, Cleveland, Detroit, New York, Seattle, and it is reported to be spreading. The effects are similar to methylenedioxymethamphetamine (also known as MDMA and "Ecstasy"), but central nervous system stimulation appears to be more dominant than the hallucinogenic effects at "normal" doses, estimated to be 80 to 250 mg.² People using the drug claim to experience a euphoric high, increased alertness and creativity, as well as increases in sexual arousal. As dosage or time of usage increases, the psychological symptoms become more prevalent and may include visual and auditory hallucinations, anxiety, disorientation, paranoia and aggression. Physical side effects can include tachycardia and hypertension, changing to bradycardia and hypotension, mydriasis, horizontal and rotary nystagmus, hyperthermia, seizure, and rhabdomyolysis, occurring most commonly with high doses. Death due to ventricular fibrillation has occurred.

Binge use over several days is common, followed by a "crash" period. Long-term use of cat can lead to paranoid psychosis, decline in personal hygiene, muscle wasting, anorexia, abnormal liver functions and hepatomegaly, antisocial behavior and Parkinsonism. Since the preferred method of administration is snorting, sores around the nose may develop. (Cat can also be injected, smoked or ingested.) Additional toxicities can occur from the individual chemicals used to manufacture the drug, residues from incomplete reactions and the subsequent contaminants. Heavy metal poisoning, along with causticity problems, are relatively common. One such heavy metal is sodium dichromate, which causes the characteristic color in "Green Cat."

Withdrawal symptoms can be severe. Cardiovascular collapse with hypotension and bradycardia, lethargy, irritability, myosis, coryza, myalgias, muscle spasms and arthralgias are common. Treatment of both acute overdose and withdrawal consists primarily of symptomatic support. Benzodiazepines can be used for agitation, hallucinations, or seizures. Beta-blockers should be avoided. In terms of toxicology screening, chronic use of methcathinone produces a urine screen that is negative for amphetamines but positive for both phenylpropionamine and ephedrine. Acute use results in a negative urine screen for all three substances. ❖

* Cat was made a Schedule I controlled substance by the U.S. Drug Enforcement Agency in 1992. While chemically similar, "cat" should not be confused with "khat." (Other spellings for khat are Q'at, Chat and Gat.) Khat is a naturally occurring substance obtained from the *Catha Edulis* plant common to the East Africa and the Arabian Peninsula. The plant contains two amphetamine-like stimulant substances called cathine and cathinone that are released by chewing the twigs and leaves. It most recently gained media attention as a common substance of abuse in Somalia and other surrounding countries.

1. Carrell S. Methcathinone: The next drug epidemic? *Emergency Medicine News* 1993 October;15(10):18-19,24.

2. Emerson TS, Cisek JE. Methcathinone: A Russian designer amphetamine infiltrates the rural midwest. *Ann Emerg Med* 1993;22:1897-1901.

2/9/1

12652934 DIALOG File 47 MAGAZINE INDEX (This is the FULL TEXT)

The new drug in town. Methcathinone abuse and sales in Michigan

Glastris, Paul

U.S. News & World Report v.14 p20(2) April 26, 1993

SOURCE FILE: MI File 47

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GEOGRAPHIC CODE: NNUSCMI

GEOGRAPHIC LOCATION: Michigan

ABSTRACT: Twenty-eight illegal methcathinone (cat) labs have been raided in Michigan since 1991. 'Cat' is an amphetamine similar to methamphetamine. Because the drug is easy and inexpensive to produce, police are concerned that sales could spread throughout the nation.

DESCRIPTORS: Amphetamines--Marketing; Michigan--Crime

MARQUETTE, MICH. - In the winter of 1991, a police informant left the second-floor apartment of a squat brick building in this college town, carrying a quarter gram of chunky off-white powder in a small paper pouch. The informant called the powder "cat" and claimed it was a brand-new drug, more potent than crack cocaine. Lt. Richard Killips of the Michigan State Police was skeptical: Drug fads start in California, he thought, not in Michigan's Upper Peninsula. Nevertheless, Killips's men sent the sample to the lab, unaware that it was the first sign of a devastating new drug scourge that federal officials now say could threaten the entire nation. And the sad part is that the spread of cat might have been prevented.

The substance was methcathinone, an obscure but powerful amphetamine never before seized in the United States but widely abused in, of all places, the former Soviet Union. Chemically, the drug is related to the leafy stimulant khat, chewed throughout Somalia. It is also similar to methamphetamine, a type of speed known on the street as "crystal meth."

Cat fight. Methcathinone was so new, however, that no law specifically forbade it. So the police, working with agents from the federal Drug Enforcement Administration, staked out the second-floor apartment and tried to gather evidence to bring charges under special umbrella federal drug laws. Meanwhile, inside the apartment, batch after batch of cat was being cooked up by several Northern Michigan University students, one of them a chemistry professor's son suspected of having gotten the recipe from an acquaintance in Ann Arbor.

After the students had moved to two separate locations, police and DEA agents raided the labs. But federal prosecutors declined to issue arrest warrants for six months, arguing that they needed more evidence plus clearance from the Justice Department in Washington. That may have been a strategic miscalculation. After the delays, says one officer, the students "had this arrogant attitude, like they'd beat the system." Not only were they still making cat but they continued to sell the recipe all over the Upper Peninsula. "Everyone thought it was legal," admits one of the students, now under indictment. Today, the use of cat has reached near epidemic proportions in Michigan, where 28 cat labs have been raided since 1991. This week, Gov. John Engler will sign a bill to outlaw cat in Michigan. Unfortunately, the drug has already spread to Wisconsin and Washington State.

It may have started with middle-class youth, but cat became popular with people like Dave Lawler (not his real name), a construction worker and ex-convict. Lawler went on five-day binges, followed by days of sleep. The buzz was like coke, only much longer. Lawler recalls fondly, "You felt totally hyper, and everything you did was fun." Such "fun" included jumping off 70-foot cliffs and boulder-strewn Lake Superior.

Side effects. The drug took its toll. Lawler felt paranoid. Unable to eat, he dropped 40 pounds. His sinuses became caked with blood from snorting the drug. His mouth always felt dry and thumb-nail-size flakes of skin hung from his lips. Even his perspiration smelled of cat. Only when Lawler ran out of money, having necked all his possessions (including his mother's stereo), did he finally enter a rehab program.

Of course, police and the media have hyped other drugs, like "ice" (a potent form of methamphetamine), as the next crack only to find that the fads fizzled. Cat, however, may prove different because it is so easy to make. All that's required is a Mason jar, some hardware-store chemicals and a certain over-the-counter cold medicine. The profit potential is huge: Just \$500 worth of ingredients can yield a kilo of cat, with a street value of \$15,000. While those who brew it currently consume most cat, federal authorities fear that outlaw motorcycle gangs that now dominate the methamphetamine market will start peddling cat. Says Killips: "Sometimes I get nostalgic for the days when all we had to worry about around here was coke and marijuana."

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08543905 93253905

Cat: methcathinone--a new drug or abuse (letter)

Goldstone MS

JAMA (UNITED STATES) May 19 1993, 269 (19) p2508, ISSN 0098-7484

Journal Code: KFR

Languages: ENGLISH

Document type: LETTER

JOURNAL ANNOUNCEMENT 9308

Subfile: AIM: INDEX MEDICUS

Tags: Human

Descriptors: *Propiophenones; *Substance Abuse

CAS Registry No.: 0 (Propiophenones); 5650-44-2 (monomethylpropion)

1/5/2

06230443 37204443

Methcathinone: a new and potent amphetamine-like agent.

Glennon RA; Yousif M; Nairan N; Kalix P

Pharmacol Biochem Behav Mar 1987, 26 (3) p547-51, ISSN 0091-3057

Journal Code: PJQ

Contract/Grant No.: DA-01642

Languages: ENGLISH

Document type: JOURNAL ARTICLE

JOURNAL ANNOUNCEMENT 5708

Subfile: INDEX MEDICUS

The purpose of the present investigation was to examine the effect of N-monomethylation of phenylisopropylamine derivatives on amphetamine-like activity. In tests of stimulus generalization using rats trained to discriminate 1.0 mg/kg of (+)-amphetamine from saline, the N-monomethyl

derivatives of 1-(X-phenyl)-2-aminopropane, where X = 2,4-dimethoxy (2,4-DMA), 3,4-dimethoxy (3,4-DMA), 2,4,5-trimethoxy (2,4,5-TMA), and 2-methoxy-4,5-methyleneedioxy (MMDA-2), did not produce amphetamine syndrome responses at the doses evaluated. However, the N-monomethyl derivative of cathinone (i.e., methcathinone), like cathinone, resulted in stimulus generalization. Further studies with this agent revealed that (a) in the amphetamine-trained animals, methcathinone (ED50 = 0.37 mg/kg) is more potent than racemic cathinone or racemic amphetamine (ED50 = 0.71 mg/kg in both cases), (b) methcathinone is capable of inducing release of radioactivity from [3H]dopamine-preflabeled tissue of rat caudate nucleus in a manner similar to that observed with cathinone, amphetamine, and methamphetamine, and (c) methcathinone is more potent than cathinone as a locomotor stimulant in mice as determined by their effect on spontaneous activity. The results of the present study provide evidence for a structural analogy between the prototypic psychostimulants amphetamine/methamphetamine and cathinone/methcathinone, and lend further support to the concept that amphetamine and cathinone correspond in their pharmacological effects.

Tags: Animal: Male; Support, Non-U.S. Gov't; Support, U.S. Gov't, P.H.S.
Descriptors: *Amphetamines--Pharmacology--PD; *Discrimination Learning--Drug Effects--DE; *Motor Activity--Drug Effects--DE; *Propiophenones--Pharmacology--PD; Alkaloids--Pharmacology--PD; Caudate Nucleus--Drug Effects--DE; Caudate Nucleus--Metabolism--ME; Dopamine--Metabolism--ME; Dose-Response Relationship, Drug; Methamphetamine--Pharmacology--PD; Mice, Mice, Inbred ICR

CAS Registry No.: Alkaloids: Amphetamines: 0
(Propiophenones): 51-61-6 (Dopamine); 5265-18-9 (cathinone); 537-46-2
(Methamphetamine); 5650-44-2 (monomethylpropion)

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METHCATHINONE BY L.E. FISHER

DIALOG File 492: 1993 Foxx Newspapers doc
17087072

CAT' ATTACK: U.S. EPIDEMIC OF NEW DRUG IS FEARED SIMPLE CONCOCTION SWEEPS N. MICHIGAN

Arizona Republic (AR) - SUNDAY, March 28, 1993

By: Jim Schaefer, Detroit Free Press

Edition: State Section: Valley And State Page: B13

Word Count: 714

TEXT:

MARQUETTE, Mich. - For the last 2 years, Vince Swenor sucked the seductive, off-white powder up his nose, and with each power-packed hit, the mysterious drug pulled him in tighter.

Swenor, seeking to spark up his life on Michigan's Upper Peninsula, had tried cocaine before. But this wasn't cocaine. This was something new, something more interesting, something that Swenor created at home with common chemicals, some jars and rubber tubes.

In mid-1990, two friends began making it at Swenor's house, and "like a good cookie recipe," Swenor said, the formula spread around the Marquette area. And it backed a wallop - like no other drug that Swenor, 24, had tried.

"I thought it was the greatest thing in the world," said the soft-voiced Swenor who is unemployed. "I could make it in my own house, never run out. I had it made.

But with frightening speed, the strange powder had Swenor helpless.

He called it by its street nickname, "cat," and by the time he learned what was used to make the drug, Swenor couldn't stop doing it even though he was shocked. Cat is made with battery acid, paint thinner, drain cleaner, muriatic acid, other assorted poisons and over-the-counter drugs.

SCIENTISTS PUZZLED

Police-laboratory scientists had no idea what cat was when it popped up on the Upper Peninsula a couple of years ago.

After police made the first seizure of the drug in early 1991, it took two weeks to identify it. The veteran chemist who finally rooted out cat's scientific name, methcathinone, had never heard of it.

Since police made that first puzzling contact, authorities say cat has bloomed into an epidemic on the Upper Peninsula, which they call the birthplace of illegal methcathinone in the United States. They still aren't sure why it has taken such hold in the area.

Cat has established a surprising link between the Upper Peninsula and Russia. Michigan authorities say Russia is the only other place in the world where illegal use of the drug has been known.

RECIPE'S SPREAD FEARED

(cont. next page)

METHCATHINONE BY L.E. FISHER

But cat now is seeping into northern Wisconsin and southern Michigan as police and doctors scramble to squash it on the Upper Peninsula. They fear that the drug may roar across the United States as the recipe spreads.

In January, a task force of federal, state and local police on the Upper Peninsula was formed to tackle the cat problem.

"We believe this is where the core of the problem is," Lt. Steve Herner of the Michigan State Police said recently.

No state law specifically prohibits methcathinone, although its use is a violation of federal law. The Michigan Legislature is considering a bill that would put methcathinone on the state's list of controlled substances.

There are several reasons for the concern that cat will continue its spread: The ingredients can be legally and easily purchased, production is cheap and profit potential high, and the chemical process is so simple that it can be done in the back of a mobile van or truck, making detection by police more difficult.

Very little is known about cat except that it is highly addictive and that there have been frightening effects on users. People have reported seizures, feelings of paranoia, heart palpitations, sleeplessness, hallucinations and an inability to eat, leading to massive weight loss.

One cat addict with an artificial leg and a glass eye lost so many pounds that his leg no longer fit and his eye dropped out when he bent over, police said.

A Russian doctor who is the only cat authority known to Michigan officials recently gave a five-hour lecture in Lansing to law-enforcement officials and doctors.

Methcathinone was patented in Britain in 1957 by a pharmaceutical company that planned to use it as a diet aid and anti-depressant. Plans were scrapped when it was found to be too addictive.

In the 1970s, the formula leaked out in Russia and spread like wildfire, said Dr. William Short, who studies addiction at Marquette General Hospital and who attended the Russian doctor's lecture.

Making cat is a simple process of mixing, washing and heating of the ingredients. The creator is left with a powder that is snorted, eaten, mixed with water, and injected or absorbed through a patch on the skin.

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<DIALOG File 496: (c) 1993 Sacramento Bee>
07176033
POWERFUL NEW DRUG SWEEPING RURAL MIDWEST
Sacramento Bee (SB) - THURSDAY, June 24, 1993
By: Mike Nichols Milwaukee Journal
Edition: METRO FINAL Section: MAIN NEWS Page: A13
Word Count: 497

(cont. next page)

METHCATHINONE BY L.E. FISHER

TEXT:

MILWAUKEE - Imagine a drug so powerful that one high lasts 10, maybe 25 times as long as the one you get from cocaine. And so addictive that people take it for days, even a week at a time, never eating or sleeping.

Then imagine that it's incredibly profitable -- just the kind of drug for which organized gangs would kill. And one more thing: it's almost as easy to make as a cake. Just order the ingredients through the mail, or stop by your local hardware store.

Well, it exists. It's a little-known stimulant called methcathinone. On the country roads and small-town streets of northern Wisconsin and Michigan where it is most popular, they call it cat.

Federal authorities have few doubts that cat will soon be making its way to northern Midwest cities, even though it hasn't already. Because a \$400 or \$500 investment can yield tens of thousands of dollars of profit, the migration seems inevitable.

"It's got all the flavor that the entrepreneurs are looking for," said Kelly Snyder, head of the Federal Drug Enforcement Administration in Wisconsin.

The ingredients themselves are almost as common. The key is ephedrine, a drug commonly sold in tablet form and most often ingested by truckers trying to stay awake for the long haul.

One of the few minor impediments is that thousands of the tablets are needed to make just a few ounces of the drug, which is usually snorted. But ephedrine is readily and legally available from distributors through the mail.

With the exception of one other ingredient usually available only in chemical supply shops, everything else needed can be picked up at the local hardware store.

The process is so simple federal authorities are careful not to divulge the whole recipe. But they have little doubt that plenty of people have the ability to make it.

Drug enforcement investigators say two chemistry students at the University of Michigan first began making the drug a few years ago. Since then, use of cat has been spreading across the Upper Peninsula of Michigan and into Wisconsin.

Ed Panick, who has pleaded guilty to taking part in a conspiracy to distribute cat, has said that he first learned of cat last summer while visiting Iron River, Mich. Soon he was taking the drug two or three times a week, and within a few months he was manufacturing it himself.

While a cocaine high often lasts only 15 or 20 minutes, a cat high can last seven to 14 hours, said Robert Block, head of the Wisconsin Department of Justice's drug identification lab.

Users become hyperactive and paranoid and will not eat or go to bed. They become anorexic and, finally, often only when the drug runs out, fall asleep for days on end. As a result, they often experience severe weight loss.

(cont. next page)

METHCATHINONE BY L.E. FISHER

One informant told the federal drug agency that some people are already mixing cat with cocaine. They have a new name for the result: "Wildcat."

<DIALOG File 496: 01/1993 Sacramento Bee>
06771064

NEW DRUG PACKS POTENT HIGH, HOOK STUDENTS' CREATION CALLED MORE ADDICTIVE THAN HEROIN, CRACK COCAINE

Sacramento Bee (SB) - SUNDAY, September 27, 1992
By: Scott Bowles Detroit News
Edition: METRO FINAL Section: MAIN NEWS Page: A10
Word Count: 587

TEXT:

DETROIT - It began last year as a chemical experiment in rural pockets of Michigan's western Upper Peninsula, an attempt by college students to duplicate the modest high of a chewable narcotic leaf known as khat.

But what emerged from their makeshift labs is a powdered drug so potent that it dwarfs crack cocaine and heroin in its addictive punch, authorities say.

Narcotics agents with the Detroit police and the Wayne County Sheriff's Department have been put on alert for methcathinone -- or "cat," as it was dubbed by the students who created it.

The synthetic stimulant, recently placed on the U.S. Drug Enforcement Agency's emergency list of controlled substances, can generate a high that lasts up to six days, agents say.

Cat marks the latest salvo from a new generation of drug dealers who are avoiding the risk of smuggling narcotics by producing their own. In addition to cat, college and street-level chemists have also recently introduced a synthetic version of heroin, police say.

"There seems to be a lot of young, bright chemists who are getting into the business," said Wayne County Sheriff Robert Ficano. "They've got no concern for what they are producing, and this time, I don't think they have any idea they're playing with fire.

"If you tried the purest stuff for the first time, there's a 99 percent chance you'd do it again, and again, until you're hooked. It's about as powerful as you can get."

A volatile elixir of pharmaceuticals and household cleansers, cat usually contains small doses of Drano or battery acid, which acts as a catalyst. The drug reportedly produces a "stimulant" high, creating feelings of exhilaration, heightened awareness and invincibility. Cat sells for about \$100 a gram and is typically inhaled, though some melt and inject it.

"You'd think people would be frightened to shoot up with drain cleaner," Ficano said. "But it's a high they'll do anything for."

Michigan state police say cat was first synthesized by college students, although they haven't traced its roots to a specific university. Other amateur

(cont. next page)

METHCATHINONE BY L.E. FISHER

chemists then began to copy the formula.

Cat's creators were trying to clone a relatively mild narcotic. The khat leaf, used for centuries in the Middle East, has been sold over the counter in some Detroit stores because it has gotten by U.S. customs officials who don't realize it is a controlled substance.

The leaf, which also produces a burst of energy, has the lowest rating for a controlled substance: A person caught with small amounts of the drug will receive only probation.

Federal penalties for its synthetic counterpart, however, are harsh. Depending on the quantity, penalties for trafficking cat range from 10 years to life in prison, and up to a \$1 million fine. Punishment for possession of the drug is up to one year in prison and a fine of \$1,000 to 250,000.

Synthetic drugs pose an unusual threat to police, who are trained to fight dope dealers, not manufacturers.

"They're becoming one of our biggest problems," said Detroit Police Cmdr. Rudy Thomas, head of the narcotics division. "If we could solve the crack and heroin problem tomorrow, we'd still have to deal with these chemists. They're like mad scientists."

Those scientists have recently developed fentanyl, a synthetic form of heroin that is 20 to 30 times more potent than its predecessor. Thomas said the manufacturers tested fentanyl by giving free samples to drug addicts, and monitoring the effects. If the addict suffered harmful effects -- or died -- the drug went back to the labs.

DIALOG File 498: 4/10/93 Detroit Free Press, Inc.>
07011768

CLOSE A DRUG LOOPHOLE

Detroit Free Press (FP) - WEDNESDAY March 31, 1993

Edition: METRO FINAL Section: EDP Page: 8A

Word Count: 184

MEMO:
FROM OUR READERS

TEXT:

Your March 23 article "Cheap, potent drug spreads from UP" offered readers a compelling view of the methcathinone epidemic. I have sponsored legislation that would begin to address this problem.

The measure would add the highly addictive substance, also known as cat, to the list of drugs prohibited in Michigan. The recreational drug was placed on the federal list of controlled substances in 1992. Michigan law should be strengthened to echo the forceful federal regulations.

Under my bill, individuals convicted of making or delivering cat would be guilty of a felony, punishable by a maximum seven-year prison sentence and a \$5,000 fine. Possession also would be a felony, punishable by as much as two years'

(cont. next page)

METHCATHINONE BY L.E. FISHER

imprisonment and a fine of as much as \$2,000.

Underground chemists have escaped prosecution by making small modifications in the chemical structure of a particular drug, so that the new compound was not covered by controlled substance statutes. By closing these loopholes, we would help police and prosecutors overcome clever attempts to circumvent the law.

Beverly A. Boehm

Michigan House of Representatives

106th District

Albena County

DIALOG File #98: c) 1993 Detroit Free Press, Inc.>
07010606

CHEAP, POTENT DRUG SPREADS FROM UP IT'S HIGHLY ADDICTIVE, DANGEROUS

Detroit Free Press (FP) - TUESDAY March 23, 1993

By: JIM SCHAEFER Free Press Staff Writer

Edition: METRO FINAL Section: NWS Page: 3A

Word Count: 1,791

TEXT:

MARQUETTE - For two and a half years, Vince Swenor snorted the seductive, off-white powder up his nose, and with each power-packed hit the mysterious drug reeled him in tighter.

Swenor, seeking to spark up his life in the Upper Peninsula, had tried cocaine. But this wasn't cocaine. This was something new, something more interesting, something that Swenor created at home with common chemicals, some jars and rubber tubes.

In mid-1990, two friends began making the drug at Swenor's house and "like good cookie recipe," he said, the formula spread around the Marquette area. It packed a wallop like no other drug that Swenor had tried.

"I thought it was the greatest thing in the world," Swenor, a soft-voiced 24-year-old unemployed man, said last week. "I could make it in my own house, never run out. I had it made."

But with frightening speed, the strange powder had Swenor helpless.

He referred to it by its street name, cat, and by the time he learned what was used to make the drug, Swenor couldn't stop doing it even though he was shocked. Cat is made with battery acid, paint thinner, drain cleaner, muriatic acid, other assorted poisons and over-the-counter drugs.

Police laboratory scientists had no idea what cat was when it popped up in the UP a couple of years ago. After the first seizure of the drug in early 1991, it took two weeks of analysis to identify it. The veteran state police chemist who finally rooted out cat's scientific name -- methcathinone -- still had never heard of it.

(cont. next page)

Post-it brand fax transmittal memo 7871

To: *Marlene*

From: *Kimberly Nunn*

Subject: *Legal Div.*

Phone: *465-2029*

Fax: *258-8182*

Page: *3*

Page: *258-5571*

Act No. 25
 Public Acts of 1993
 Approved by the Governor
 April 20, 1993
 Filed with the Secretary of State
 April 20, 1993

**STATE OF MICHIGAN
 87TH LEGISLATURE
 REGULAR SESSION OF 1993**

Introduced by Reps. Bodan, Benmane, Jamian, Kukuk, Dalman, Dolan, Gnodtke, Hammerstrom, Mousyds, Stille, McNutt, Gernaat, McManus, Bandstra and Jaye
 Reps. Aaga, Anthony, Baade, Bender, Brackenridge, Bullard, Byrum, Crisman, DeMars, Dobb, Dobronski, Fitzgerald, Freeman, Gagliardi, Gire, Goschka, Harrison, Horton, Johnson, Middaugh, Middleton, Murphy, Nye, Olstova, Potate, Profit, Randall, Rhead, Rivers, Shepich, Shugars, Varga, Voorhes, Vorva, Wallace and Watters named co-sponsors

ENROLLED HOUSE BILL No. 4103

AN ACT to amend section 7212 of Act No. 388 of the Public Acts of 1978, entitled as amended "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to promote the efficient and economical delivery of health care services; to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for penalties and remedies; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," as amended by Act No. 852 of the Public Acts of 1982, being section 383.7212 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 7212 of Act No. 388 of the Public Acts of 1978, as amended by Act No. 352 of the Public Acts of 1982, being section 383.7212 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 7212. (1) The following controlled substances are included in schedule 1:

(a) Any of the following opiates, including their isomers, esters, the ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, when the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- | | | |
|----------------------|----------------------|----------------|
| Acetylmethadol | Difenoxin | Noracymethadol |
| Allylprodine | Dimenoxadol | Norlevorphanol |
| Alpha-acetylmethadol | Dimenopentanol | Normethadone |
| Alphaprodine | Dimethylthambutene | Norpipanone |
| Alphamethadol | Dioxaphetyl butyrate | Phenadoxone |

Benzethidine	Dipipacone	Phenampromide
Betacetylmethadol	Ethylmethyldiambutene	Phenomorphan
Betameprodine	Etonitazene	Phenoperidine
Betamethadol	Etoxadine	Piritramide
Betaprodine	Furethidine	Prohepazine
Clonitazene	Hydroxypropethidine	Propenidine
Dextromoramide	Katobemidone	Propiram
Diampromide	Levomoramide	Racemoramide
Diethylthiambutene	Levophenacymorphan	Trimeperidine
	Morpheridine	

(b) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

Acetorphine	Drotebanol	Morphine-N-Oxide
Acetylhydrocodeine	Etorphine	Myrophine
Benzylmorphine	Heroin	Nicocodaine
Codeine methylbromide	Hydromorphone	Nicomorphine
Codeine-N-Oxide	Methyldesorphine	Normorphine
Cyprenorphine	Methylhydrocodeine	Pholcodine
Desomorphine	Morphine methylbromide	Thebaine
Dihydromorphine	Morphine methylsulfonate	

(c) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- 2-Methylamino-1-phenylpropan-1-one
 - Some trade and other names:
 - Methaqualone
 - Cat
 - Ephedrone
- 3, 4-methylenedioxy amphetamine
 - 3-methoxy-3, 4-methylenedioxy amphetamine
- 3, 4, 5-trimethoxy amphetamine
 - Bufofensin
 - Some trade and other names:
 - 3-(2-dimethylaminoethyl)-5 hydroxyindole
 - 3-(2-dimethylaminoethyl)-5 indolol
 - N,N-dimethylserotonin; 5-hydroxy-N-dimethyltryptamine
 - Mappine
- 2, 5-Dimethoxyamphetamine
 - Some trade or other names:
 - 2, 5-Dimethoxy- α -methylphenethylamine; 2,5-DMA
- 4-Bromo-2, 5-Dimethoxyamphetamine
 - Some trade or other names:
 - 4-bromo-2, 5 dimethoxy- α -methylphenethylamine; 1-bromo 2,5-DMA
- Diethyltryptamine
 - Some trade and other names:
 - N,N-Diethyltryptamine; DET
- Dimethyltryptamine
 - Some trade or other names:
 - DMT
- 4-methyl-2, 5-dimethoxyamphetamine
 - Some trade and other names:
 - 4-methyl-2, 5-dimethoxy- α -methyl-phenethylamine
 - DOM, STP
- 4-methoxyamphetamine
 - Some trade or other names:
 - 4-methoxy- α -methylphenethylamine; paramethoxy amphetamine;
 - PHA

Ibogaine

Some trade and other names:

7-Ethyl-8,8a,7,8,9,10,12,13

Octahydro-2-methoxy-6,9-methano-6H-

pyrido (1,2-l,3 aspino 4,5-b) indole

taberanthe iboga

Lysergic acid diethylamide

Marijuana, except as otherwise provided in subsection (2)

Mecloqualone

Mescaline

Psilocybe

N-ethyl-8 piperidyl benzilate

N-methyl-8 piperidyl benzilate

Psilocybin

Psilocybe

Thiopropene analog of phencyclidine

Some trade or other names:

1-(1-(2-allyloxy)cyclohexyl) piperidine)

3-allyl analog of phencyclidine; TCPF

(d) Except as provided in subsection (2), synthetic equivalents of the substances contained in the plant, or in the resinous extractives of cannabis and synthetic substances, derivatives, and their isomers with similar chemical structure or pharmacological activity, or both, such as the following, are included in schedule 1:

(i) Δ^1 cis or trans tetrahydrocannabinol, and their optical isomers.

(ii) Δ^8 cis or trans tetrahydrocannabinol, and their optical isomers.

(iii) Δ^9 cis or trans tetrahydrocannabinol, and their optical isomers.

(e) Compounds of structures of substances referred to in subdivision (d), regardless of numerical designation of atomic positions, are included.

(2) Marijuana and the substances described in subsection (1) (d) and (e) in schedule 1 shall be regulated as provided in schedule 2, if they are dispensed in the manner provided in sections 7835 and 7838.

(3) For purposes of subsection (1), "isomer" includes the optical, position, and geometric isomers.

Section 2. This amendatory act shall take effect May 1, 1983.

This act is ordered to take immediate effect.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved _____

Governor.

CAT (METHCATHINONE)

5/5/1

93560037

93510102

Drug more powerful, addictive than cocaine emerges in Midwest
Nicolas, Mike

Chicago Tribune (CT) Sec EVENING, p 2, col 5 Jan 24, 1991

ARTICLE TYPE: News

ARTICLE LENGTH: Medium (6-18 col inches)

AVAILABILITY: UMIACH CATALOG NO.: 60190.00

A drug called methcathinone, or 'cat', is more powerful than cocaine, highly addictive and can be made with easy-to-get ingredients. Use of the drug is spreading across Michigan's Upper Peninsula and into Wisconsin. There also has been some evidence of its use along the Illinois-Wisconsin line.

DESCRIPTORS: Drugs

GEOGRAPHIC NAME: Michigan; Wisconsin; Illinois

5/5/3

02903656

92718282

Scary Cat: New Drug Creeps in from U.P.

Bowles, Scott

Detroit News & Free Press (DNF) Sec A, p 1, col 1 Sep 27, 1992 ISSN:

1055-2758

ARTICLE TYPE: News

ARTICLE LENGTH: Long (18+ col inches)

AVAILABILITY: UMIACH CATALOG NO.: 60496.00

Narcotics agents with the Detroit Police and Wayne County MI Sheriff's Office have put on an alert for Methcathinone, or 'cat' as it has been dubbed. The synthetic stimulant was created in 1991 as a chemical experiment in pockets of the Upper Peninsula to duplicate the modest high of the chewable narcotic known as krat.

DESCRIPTORS: Drug trafficking; Drugs

GEOGRAPHIC NAME: Detroit Michigan; Upper Peninsula-Michigan; Wayne County Michigan

5/5/4

02869006

92681616

Cops Fear Speed-Like Drug

Detroit News (DN) Sec B, p 6W, col 4 Sep 2, 1992 ISSN: 1055-2715

ARTICLE TYPE: News

ARTICLE LENGTH: Medium (6-18 col inches)

AVAILABILITY: UMIACH CATALOG NO.: 60496.00

Authorities in Michigan's Upper Peninsula say the spread of the illegal drug methcathinone can be traced to an Ann Arbor man's pharmaceutical knowledge gone awry. Methcathinone, known as CAT, is chemically similar to methamphetamine or speed.

DESCRIPTORS: Drugs

GEOGRAPHIC NAME: Upper Peninsula-Michigan

Post-It brand fax transmittal memo 7671

To	225-1010	From	Kim B. ALU-HARRIS	# of pages	1
Co	ALU-HARRIS	Co	225-1010		
Dept	ALU-HARRIS	Phone	225-1010		
Fax	ALU-HARRIS	Fax	225-1010		



TEACH THE KIDS TO NEVER TAKE DRUGS

P.O. Box 2090 Los Angeles, California 90051-0090
(800) 223-DARE • (310) 574-1170 • Fax (310) 574-1174

March 23, 1994

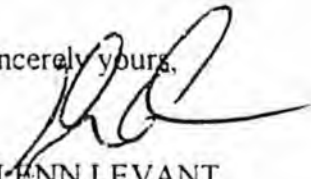
The Honorable Johnny Ellis
State Capitol Bldg. Rm 9
Juneau, AK 99801 -1182

Dear Senator Ellis

D.A.R.E. America would like to offer its support of your Senate Bill, SB 220 which will place the new dangerous designer drug, Methcathinone, on Schedule IA of the Schedules of Controlled Substances list. Methcathinone, also known as "Cat" is highly addictive. Its ingredients are easily purchased over the counter and it is produced relatively inexpensively. These factors make it a very dangerous drug that if not made illegal could easily get in the hands of young people who are unaware of its dangerous side effects and addictive nature.

I commend your proactive efforts, through Senate Bill 220, to curb the potential for widespread use of "Cat" in Alaska.

Sincerely yours,



GLENN LEVANT
Executive Director
Worldwide

DRUG ABUSE RESISTANCE EDUCATION

S B

2 2 1

HOUSE COMMITTEE REPORT

(9)

Date Referred: February 14, 1994

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 3/28/94

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

SB 221

SENATE BILL NO. 221

ARREST OF MINORS FOR CONSUMING ALCOHOL

"An Act relating to arrest of a person for illegal possession, consumption, or control of alcohol; and providing for an effective date."

RECOMMENDATIONS: [] the same title
 be replaced with _____ [] a new title

- [] have attached amendments(s)
- [] do pass
- [] do not pass
- [] no recommendations
- individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

[] fiscal impact _____

[] fiscal note(s) _____

[] zero fiscal note _____

(6) zero fiscal note(s) Public Safety, Law Court, H&SS, Admin (2) 2/9/94

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Car Beards</i>	✓	<i>[Signature]</i>			✓
<i>[Signature]</i>	✓	<i>[Signature]</i>			✓
<i>Auley Olberg</i>	✓	<i>[Signature]</i>		✓	
		<i>Bette Davis</i>			✓
		<i>[Signature]</i>		✓	
		<i>Tom Bruce</i>		✓	

Car Beards
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

No. 1 *N*

Bill Version: SB 221

(S) Publish Date: 1-26-94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Revision Date: January 18, 1994
Title: "...relating to arrest of a person for illegal possession, consumption or control of alcohol..."
Sponsor: Senator Taylor
Requestor: Senator Taylor

Department Affected: Department of Law
BRU: Prosecution, Legal Services
Component: Prosecution - All
Legal Services - Operations
COMPONENT SERIAL NO. 0085 through 0090, 0093

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Prog.am						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)
Please see the attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
Division: Administrative Services Division Date: January 18, 1994
Approved by Commissioner: Bruce M. Botelho, Attorney General
Agency: Department of Law Date: January 18, 1994

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Bill Version: SB 221
(S) Publish Date: 1-26-94

Revision Date: _____ Dept. Affected: Public Safety
 Title: An Act relating to the arrest of a person BRU: Alaska State Troopers
for illegal possession of alcohol Component: Detachments
 Sponsor: Senator Taylor
 Requestor: S. HES COMPONENT SERIAL NO. 799

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

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 94) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact upon the Alaska State Troopers is anticipated.

Prepared By: Francis C. Allan Phone: 260-5691
 Division: Alaska State Troopers Date: 01/12/94
 Approved by Commissioner: *Richard J. Burton* Date: 01/17/94
 Agency: Richard J. Burton, Dept. of Public Safety

FISCAL NOTE

No. 3

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Bill Version: SB 221

(S) Publish Date: 1-26-94

Revision Date: _____ Dept. Affected: Administration
 Title: *An Act relating to arrest of a person for illegal possession, consumption, or control of alcohol...* BRU: Public Defender Agency
 Component: Public Defender Agency
 Sponsor: Senator Taylor
 Requestor: (S) HES COMPONENT SERIAL NO. 1631

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
Total	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY94) cost: none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: John Salemi, Director Phone: 264-4400
 Division: Public Defender Agency Date: _____
 Approved by Commissioner: Nancy Bear Usura Date: 1/24/94
 Agency: Administration

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(Rev. 10/93) of 1/2/94

FISCAL NOTE

No. 34

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Bill Version: SB 221

(S) Publish Date: 1-26-94

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to arrest of a person for illegal possession, consumption, or control of alcohol; and providing..." BRU: Office of Public Advocacy
 Component: Office of Public Advocacy
 Sponsor: Senator Taylor
 Requestor: (S) SES COMPONENT SERIAL NO. 43

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
Total	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY94) cost: None

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page in necessary)

Prepared by: Brant McGee
 Division: Office of Public Advocacy
 Approved by Commissioner: Nancy Bear Usual
 Agency: Administration

Phone: 274-1684
 Date: _____
 Date: 1/24/94

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Bill Version: SB 221

(S) Publish Date: 2-9-94

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: An act relating to arrest of a person BRU: Alcohol & Drug Abuse
for illegal possession, consumption or control of alcohol Component: Administration
 Sponsor: Senator Taylor
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 302

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGES IN REVENUES	0	0	0	0	0	0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current year (FY94) cost \$ _____

ANALYSIS: (Attach a separate page if necessary)
 An Act relating to arrest of a person for illegal possession, consumption or control of alcohol; and providing for an effective date. This bill amends the list of crimes for which a person can be arrested without a warrant to specifically include minor consuming. SB 221 is necessary because of a Juneau court ruling that a minor could not be arrested for consuming alcohol unless the police officer actually witnessed the consumption. The ruling prohibited the juvenile from being arrested even though the juvenile might be quite intoxicated and in danger. This left the police officer with the ability to write a citation and then leave the minor. While this bill provides for arrest, in the case of minors who are consuming alcohol or other drugs, arrest may be a life saving action. Although this bill has no direct affect on the operations or responsibilities of the Dept. of Health & Social Services or the Div. of Alcoholism and Drug Abuse, it is consistent with the philosophy of the Div. regarding the promotion of no use alcohol and other drugs by minors.

Prepared by: Suzanne Perry
 Division: Alcohol & Drug Abuse
 Approved by Commissioner: Margaret R. Lowe
 Agency: Department of Health & Social Services

Phone: 465-2071
 Date: 01/24/94
 Date: 1-26-94

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FISCAL NOTE

6
Version: SB 221
(C) Publish Date: 2-9-94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL

Revision Date: _____ Dept. Affected: Alaska Court System
Title: An Act relating to arrest of a person for BRU: Trial Courts
illegal possession, consumption or control of alcohol Components: _____
Sponsor: Sen. Taylor
Requestor: Judiciary COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 94) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)
No fiscal impact

Prepared by: C. S. Christensen III, Staff Counsel *CSC* Phone: 264-8228
Agency: Alaska Court System Date: 01/28/94

Approved by: Arthur H. Snowden, II, Administrative Director *AS* *CSC* Date: 01/28/94
Agency: Alaska Court System

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 221

ANALYSIS CONTINUATION:

SB 221 amends AS 12.25.030(b) to provide that a peace officer may arrest a person under the age of 21 without a warrant when the peace officer has reasonable cause to believe that the person unlawfully possessed, consumed, or controlled alcohol. This bill has the effect of overruling a recent superior court decision that held the person must be caught in the act unlawfully consuming alcohol before an arrest could be made. The bill will not have a fiscal impact because it returns the law to its former interpretation prior to the superior court's decision.

Alaska State Legislature

Senate Majority Leader
Chair, Judiciary Committee
Vice Chair, Community &
Regional Affairs

Member, State Affairs Committee
Committee on Committees
Western States Legislative Forestry Task Force
Legislative Council



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352 Front Street
Ketchikan, Alaska 99901
(907) 225-8088
Fax: (907) 225-0713

Senator Robin L. Taylor

SPONSOR STATEMENT

SENATE BILL 221

I introduced Senate Bill 221 at the request of concerned parents, law enforcement agencies in the First Judicial District and Alaskans for Drug-Free Youth.

In May of last year, State Troopers and municipal police departments were directed not to arrest minors under the minor consuming statute unless the arresting officer actually sees the minor consume alcohol. The directive was issued after two judicial officers ruled that merely being under the influence in the officer's presence is not reason enough to make an arrest.

The District Attorney's directive stated that "officers who encounter minors under the influence should issue citations, rather than make arrests".

The court ruling left law enforcement officers in the position of either leaving such a minor on the street or taking the minor into protective custody. Past practise had been to arrest the minor and turn the youth over to parents or legal guardians.

SB 211 would add minor consuming to the list of crimes that allow for warrantless arrest. While the court ruling currently impacts only the First Judicial District, it could be extended to other jurisdictions.

My goal in sponsoring this bill is not to increase the number of minor consuming arrests or convictions. I don't believe the Legislature ever intended for a police officer to simply write a ticket and walk away from a minor who is under the influence. This bill is more about protecting our young people than prosecuting them.

DISTRICT ATTORNEY, STATE OF ALASKA
P.O. Box 110300
Juneau, AK 99811
Phone: (907) 465-3620

To: AST
Municipal Police Departments, First Judicial District

From: Richard A. Svobodny
District Attorney

Date: May 26, 1993

Subject: Citations rather than arrests for Minor Consuming cases.

With certain exceptions (felonies, DWI cases, cases arising under AS 11.41, 11.46.330, 11.56.740, 11.61.120), AS 12.25.030 does not authorize arrests for crimes not committed or attempted in the presence of the person making the arrest. The crime of Minor Consuming is defined as follows in AS 04.16.050:

A person under the age of 21 years may not knowingly consume, possess, or control alcoholic beverages except those furnished persons under AS 04.16.051(b).

Against arguments by our office that the word "possess", as it is used in that statute, should be interpreted to include possession by consumption, two judicial officers in the First Judicial District have now ruled that it does not, that an officer who contactss a minor under the influence of alcohol may not arrest the minor unless he or she actually sees the minor consume the alcohol, possess the alcohol outside of the minor's body, or control the alcohol. Merely being under the influence in the officer's presence is not enough.

For the above reasons, officers who encounter minors under the influence should issue citations, rather than make arrests, unless they see the minors possess, consume, or control the alcohol involved. Of course, a person may be taken into protective custody under the procedures of Title 47 if the person appears to be incapacitated by alcohol in a public place.

IN THE DISTRICT COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT JUNEAU

STATE OF ALASKA,
Plaintiff,

v.

IVAN SABON
Defendant.

Case No. 1JU-S92-386 Cr.

CERTIFICATION

[] This document and its attachments do not contain information that is confidential under AS 12.61.110 or the name of a victim of a crime listed in AS 12.61.140.

OPPOSITION TO MOTION TO DISMISS

FACTS

Officer Worth responded to the Senate Building on March 14, 1992 in response to a report of a person passed out in the restroom. Upon arrival at 1706 hours Worth discovered the defendant (Sabon) sitting on a toilet in an unconscious condition with his pants down. Worth's attempts to awaken Sabon proved difficult. Sabon had an odor of alcohol about his person and had bloodshot watery eyes. Sabon would not identify himself. Worth and Sergeant Herrera arrested Sabon for minor consuming based on Herrera's knowledge of Sabon's identity and presumably his age, although the police report doesn't indicate they knew his age.

ARGUMENT

The defendant argues in his memorandum that because the officers didn't see Sabon consume the alcohol the arrest is unconstitutional and the case must be dismissed. This does not

in any way explain why the court should go beyond the requirements of the "exclusionary rule" of evidence illegally seized to the more drastic step of dismissing the case. Elson v. State, 659 P.2d 1195 (Alaska 1983) and State v. Sears, 553 P.2d 907 (Alaska 1976); Mapp v. Ohio, 367 U.S. 643; 81 S. Ct. 1684, 6 L.Ed.2d 1081 (1961).

An illegal arrest is not a valid basis for dismissal of the action or suppression of the evidence. McConnell v. State, 595 P2d 147, 156 (AK 1979) See also fn. 26 at 155. (question of whether probable cause existed for defendant's arrest for MICS 3d not addressed given above-cited law). The remedy lies with the civil courts. See Ingraham v. Wright, 430 U.S. 651, 680 n. 48, 97 S.Ct. 1401 (1977).

Nor is outrageous conduct involved in this matter. Vaden v. State, 768 P2d 1102 (Alaska 1989) discusses outrageous conduct. While the Alaska Supreme Court noted in Vaden that judicial intervention for outrageous conduct is not limited to entrapment cases, the court nowhere in the opinion set out a standard for outrageous conduct outside of the entrapment situation. The court did, however, include a footnote at page 1108 (No. 13) which discusses outrageousness outside of entrapment. The standard is the malum in se standard i.e. the conduct must be inherently evil, immoral in its nature, illegality founded on principles of natural, moral and public law.

In this case the officers arrested a drunken teenager who

had passed out in a restroom, there is nothing inherently evil or immoral about such conduct. From a philosophical perspective one would be hard pressed to say such actions violate moral or public law. The law of the land is that if an officer were to have deprived Lawrence of his liberty improperly he would have been able to bring a 1983 Civil Rights action. Furthermore, had the officers left Sabon in the building and he later wandered in front of a car, the court knows the likely outcome.

In this case the court should focus on whether suppressing evidence is applicable not dismissal. The purpose of the exclusionary rule is two-fold, the preservation of the integrity of the judicial system and to dissuade law enforcement from a lawless invasion of a citizen's constitutional rights. Terry v. Ohio, 392 U.S. 1; 88 S. Ct. 1868, 20 L.Ed.2d 889 (1968); Sears, 553 P.2d at 912. Assuming arguendo that there was an illegal arrest in this matter then the remedy is the exclusionary rule prohibiting the introduction of any evidence from the time of the arrest onward, not the dismissal of the case.¹

Not all contacts between police officers and citizens involve a seizure of a person. The difference between a permissible encounter and a seizure is explained in Florida v. Royer, 103 S. Ct. 1319, 75 L.Ed.2d 229 (1983), when the United States Supreme Court said:

¹ The defendant in citing the Minnesota case of State v. Abu-Shanab, 440 N.W.2d 557, relates to the sufficiency of evidence at trial rather than the exclusionary rule or dismissal.

Law enforcement officers do not violate the Fourth Amendment by merely approaching an individual on the street or in another public place, by asking him if he is willing to answer some questions, by putting questions to him if the person is willing to listen, or by offering in evidence in a criminal prosecution his voluntary answers to such questions . . . Nor would the fact that an officer identifies himself as a police officer, without more convert the encounter into a seizure requiring some level of objective justification

Here, there is no seizure of a person when a police officer approaches him and asks him questions and as a result of those questions later arrests the person.

There is nothing illegal about this arrest. The defendant argues that the court of appeals decision in State v. Thronsen, 809 P.2d 941 (Alaska App. 1991), should be applicable here. This is a case where the defendant was specifically charged with "possession" of cocaine by having the cocaine in his bloodstream. The court said that "possession" in one's bloodstream was not the exercise of dominion or control over the cocaine required by AS 11.81.900(b)(42) and hence the state had not, when it specifically charged possession in the bloodstream, met its burden of proof at trial. The court went on to say that the possession of cocaine in the bloodstream was circumstantial evidence of the person's possession before it got to the bloodstream. But in this instance, that is not how the crime was charged. A violation of AS 11.71.040 of "possession" of a controlled substance is a substantially different crime than a violation of AS 04.16.050. The essential elements of a violation

of AS 11.71.040 are: (1) at the time and place charged; (2) the defendant knowingly possessed a substance; and (3) that substance was a schedule IIA controlled substance. The essential elements of a violation of AS 04.16.050 are: (1) at the time and place charged; (2) the defendant was under 21 years of age; (3) that he knowingly consumed or possessed, or controlled an alcoholic beverage. Hence in this instance the definition of "possess" found in AS 11.81.900(b)(42) is only applicable to one of three ways that one can commit this offense.² In this instance, the defendant had consumed an alcoholic beverage as distinct from possessed an alcoholic beverage. The argument is that because the statute is written in the present tense, it does not include "consumed." If this were so, none of the criminal statutes would be applicable unless the crime was committed in the officer's presence. Take for example AS 11.41.100, murder. "A person commits the crime of murder in the first degree if with the intent to cause the death of another person the person causes the death of any person." If the defendant's argument were applied to murder, no one could be charged with the commission of the offense unless it occurred directly in the officer's presence because the charge would be that the person caused the death of

² The definition found at AS 11.81.900(b)(42) reads: "'possess'" means having physical possession or the exercise of dominion or control over property. However, very specifically this definition is limited to Title 11. The preamble to the definition section says "for purposes of this Title," that is, Title 11. Therefore, possess may mean something substantially different for Title 4. However, the court need not reach this issue because possess is only one of three ways of committing this offense.

another person. The charge alleges something that occurred in the past. The very first legislature to compile Alaska laws in 1962 recognized that the absurd argument made here might arise and enacted AS 01.10.050 which says: "Words in the present tense include the past and future tenses and words in the future tense include the present tense." Consequently, no matter what creative use one puts Webster's New World Dictionary (2d edition, 1982), the Alaska State Legislature has indicated that the crime set forth in AS 04.16.050 includes the past tense of consuming an alcoholic beverage.

Sabon cites State v. Hornaday, 713 P.2d 71, 74 (1986) for the proposition that an arrest for minor consuming can't be made unless the officer sees the consuming. Hornaday is not an Alaska case. The proper citation is, State v. Hornaday, 713 P.2d 71 (Washington 1986), Under the revised code of Washington the Washington Supreme Court held that consume did not include the past tense. The RCW apparently does not include a provision such as AS 01.10.050. Because Alaska's statutory scheme is different, Hornaday does not apply.

The dissent of Hornaday is ,however, instructive. J. Brachtenbach suggested,

Common sense is not a bad precedent. To hold that an admittedly intoxicated person is not in possession of intoxicants is an exercise in sophistry beyond my comprehension unless we, like spiders, are content to spin fine buy temporary webs.

J. Brachtenbach went on to quote from Francis Bacon's "Of Judicature" Essays from (1625),

Judges must beware of hard constructions and strained inferences, for there is no worse torture than the torture of laws.

Sabon's citation to State v. Abu-Shanab, 448 N.W. 2d 557 (Minn. App. 1989) isn't applicable because the issue there was whether the state proved venue at trial in a border town incident.

Neither is State v. Sorensen, 758 P.2d 466 (Utah App. 1988) applicable, where the issue was no evidence of intoxication at trial other than defendant's breath smelling of alcohol.

CONCLUSION

The defendant argues that this case should be dismissed, citing no authority for the dismissal of a case assuming an illegal arrest. Assuming an illegal arrest under Alaska law, the proper remedy is the application of the "exclusionary rule" from the time of the arrest into the future. There is no prospective application of the exclusionary rule found in any case. The arrest in this case is permissible in that the defendant was committing a misdemeanor by having consumed alcohol. For the above-stated reason the defendant's motion should be denied.

DATED at Juneau, Alaska this _____ day of May 1992.

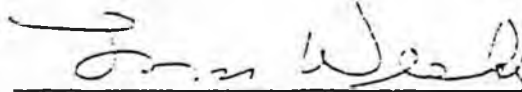
CHARLES E. COLE
ATTORNEY GENERAL

By: _____
J. Ron Sutcliffe
Assistant District Attorney

1 "seize" a person to preserve evidence of consumption, without a
2 warrant in exigent circumstances, that seizure, under Alaska law,
3 may not be for arrest to bring charges but only for obtaining
4 evidence. Neither the State nor the defendant raised the issue and
5 this court does not decide it.

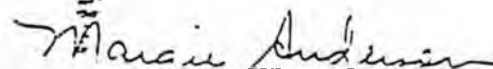
6 Officers, of course, may be under a legal obligation to take
7 an alcohol-incapacitated minor into protective custody if the minor
8 is unable to care for his or her self.² The officer may also issue
9 a citation.³

10
11 Dated July 8, 1992

12 

13 Larry Weeks,
14 Superior Court Judge

15 I certify that I served J. Ron Sutcliffe and David Seid the above
16 pleading on this 7th day of July 1992 by placing it in their
17 court box.

18 

19 Margie Anderson
20 Secretary to Judge Weeks

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25 ² Busby v. Anchorage, 741 P.2d 230 (Alaska 1987)

³ AS 12.25.180

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IN THE DISTRICT COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT JUNEAU

STATE OF ALASKA,
Plaintiff,

v.

JOSEPH RANDALL JIM,
Defendant.

RECEIVED

Jun 26 1992

DEFENDER,
JUNEAU

FILED IN THE TRIAL COURTS
STATE OF ALASKA, FIRST DISTRICT
AT JUNEAU

JUN 26 1992

By _____ *FB* Deput

No. 1JU-92-609 CR

MEMORANDUM AND ORDER

This matter is before the court on defendant's motion to dismiss. Defendant filed no reply to the State's opposition and neither party has requested oral argument.

Defendant was arrested at 10:26 p.m. on June 2, 1992, for the offense of minor consuming alcohol, a misdemeanor. The factual record concerning the circumstances of the arrest is somewhat vague, but it is undisputed that the defendant was not consuming alcohol in the presence of the officer. At most, he had consumed it some time before he was contacted by the officer.

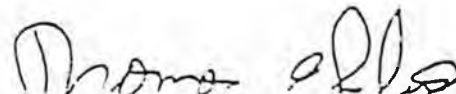
Whether or not one construes AS 04.16.050 to cover both the past and present tense or not and whether or not one engages in the "exercise in sophistry" (see State v. Hornaday, 713 P.2d 71 (Washington 1986), Brachtenbach, J. dissenting) necessary to hold that one who has consumed is not in possession, it is clear that the act of consuming charged in the complaint was complete before

defendant was arrested, and not in the presence of the arresting officer. AS 12.25.030 requires that the misdemeanor be committed in the officer's presence before he or she can arrest without a warrant.

Having determined that the arrest is illegal, the court must still deny the motion to dismiss. No persuasive argument is advanced by defendant in support of his request to dismiss, and the court is aware of none. The arrest clearly was not outrageous conduct. The officer had probable cause and, indeed, may have taken defendant to the Lemon Creek Jail at defendant's request. ~~In any event, suppression of any evidence seized as a result of the illegal arrest appears to be both the remedy supported by precedent and quite an adequate remedy in the circumstances of this case.~~

IT IS SO ORDERED.

Dated at Ketchikan, Alaska, this 23rd day of June, 1992.


Thomas E. Schuit
Superior Court Judge

CERTIFICATION

The undersigned certifies that on the 26th day of June, 19 92, a true copy of this document was served on the following attorneys:
J. Ron Sutcliffe; Donna McCREADY

J. R. Force

IN THE DISTRICT COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

STATE OF ALASKA,

Plaintiff,

vs.

IVAN SABON,

Defendant.

Filed In the Trial Courts
State of Alaska, First District
At Juneau

FEB 2 1992

By *EW* Deputy

Case No. 1JU-S92-00053 CR

MEMORANDUM DECISION/ORDER

ON MOTION TO DISMISS

I. FACTUAL AND PROCEDURAL BACKGROUND

On 10 January 1992 , the Defendant, Ivan Sabon, was charged with having violated AS 04.16.050 on or about the same date. The allegation are that "Sabon was found extremely intoxicated on S. Franklin St., hardly able to stand up." The Uniform Summons and Complaint Form filed by police officer Steffel states that Mr. Sabon was "incarcerated." (Complaint, JPD case no. 92000455).

On 11 February 1992, Mr. Sabon, filed a Motion To Dismiss. The Defendant's statement of facts include the following:

that police officer Steffel approached Mr. Sabon as he was walking on the sidewalk along S. Franklin Street;
that the officer alleges she smelled alcohol on Mr. Sabon's person and observed Mr. Sabon's eyes to be bloodshot;

that officer Steffel seized Mr. Sabon, charged him with minor consuming, and transported him to the Juneau Police Department; and

that police officers conducted a search of Mr. Sabon's pockets, and confiscated a bus pass which did not appear to belong to Mr. Sabon.

1 Mr. Sabon asserts that his arrest was unlawful as the alleged
2 illegal in violation of due process of law under Alaska
3 Constitution, Art. I, Sec. 14. Mr. Sabon submits that he did not
4 "consume, possess, or control alcoholic beverages" under AS
5 04.16.050 in the "presence" of the arresting officer. As such, Mr.
6 Sabon contends his arrest without a warrant was contrary to the
7 relevant arrest statute AS 12.25.030. (Motion, pp. 1-6).

8 On 13 February 1992, the State of Alaska filed its Opposition
9 To Motion To Dismiss. The State declares even if this were an
10 illegal arrest "(and it isn't in the state's view)", such is not
11 a valid basis for dismissal of the action or suppression of the
12 evidence. The defendant's remedy, contends the State, rests with
13 the civil courts. (Opposition, p. 1).

14 On 13 February 1992, Mr. Sabon filed an Amended Memorandum In
15 Support Of Motion To Dismiss. This amended pleading submits
16 additional authority for Mr. Sabon's position. (Supp. p. 6-7).

17 It is noteworthy that the State's has not provided a statement
18 of facts which in any way contradicts the defendant's factual
19 statement. Also, the State has not explained their view that Mr.
20 Sabon's arrest was legal. The State merely states their belief
21 without support. In any event, the State seeks to minimize the
22 merits of Mr. Sabon's position by characterizing it to be a "waste
23 of time responding to the law school exam question posed by Sabon."
24 (Opposition, p. 1). Instead, the State declares it is "not opposed
25 to suppressing all evidence seized following Sabon's arrest."

(Opposition, p. 1-2).

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II. POINTS AND AUTHORITIES

The Alaska Constitution, Art. I, Sec. 14 provides:

[t]he right of the people to be secure in their person, houses and other property, papers, and effects, against unreasonable searches and seizures, shall not be violated. No warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

The offense with which Mr. Sabon stands charged in violation of AS 04.16.050 declares:

A person under the age of 21 years may not knowingly consume, possess, or control alcoholic beverages....

The relevant arrest statute, AS 12.25.030, provides in pertinent part as follows:

(a) A private person or a peace officer without a warrant may arrest a person

(1) for a crime committed or attempted in the presence of the person making the arrest;....

"An arrest for a misdemeanor made by an officer without a warrant is valid if the offense is committed in his presence." Miller v. State, 462 P.2d 421. 425 (Alaska 1969). When a person is arrested on a misdemeanor, "the lawfulness of the arrest depends on whether the arresting officer was present at the commission of the offense." Rubey v. City of Fairbanks, 456 P.2d 470, 475 (Alaska 1969). The Alaska Supreme Court has recognized "that the grounds for arresting a person without a warrant for a misdemeanor committed in the presence of an officer are considerably more

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restricted than those which would constitute probable cause for a felony arrest without a warrant." Miller v. State, 462 P.2d at 426, fn.3.

Whether a seizure has occurred is a question of fact. In Waring v. State, 670 P.2d 357, 364 (Alaska 1976), the test for determining whether a seizure occurred was explained:

[W]e will employ an objective standard to determine whether or not a seizure has occurred, i.e., whether or not a reasonable person would believe that he or she was free to go....Such a confrontation, therefore, will amount to a seizure 'only if the officer added to those inherent pressures by engaging in conduct which a reasonable man would view as threatening or offensive even if coming from another private citizen.' 3 W.LaFave, "Search and Seizure: A Treatise on the Fourth Amendment," Sec.9.2, at 53, 54 (1978). The critical inquiry would be whether the policeman, although perhaps making inquiries which a private citizen would not be expected to make, has otherwise conducted himself in a manner consistent with what would be viewed as a offensive contact if it occurred between two ordinary citizens.

III. APPLICATION AND ANALYSIS

In the instant case, there seems to be little dispute over the fact that Mr. Sabon was arrested. He was transported to the Juneau Police Department. His pockets were searched by police officers. He was incarcerated at Lemon Creek Correctional Center. His arraignment was the next day. It is clear that a reasonable man in Mr. Sabon's situation would view as threatening or offensive the police conduct in this case. As such, the police had "seized" Mr. Sabon who had been placed under "arrest."

The significance of Mr. Sabon's arrest is that under AS

12.25.030 the police were only authorized to make such a
1 misdemeanor arrest of Mr. Sabon if the alleged crime of minor
2 consuming had been committed or attempted in the police officer's
3 presence. The common understanding of the term "consume" is "to
4 eat or drink up." Webster's New World Dictionary 305 (2ed. 1982).
5 The statutory definition of the word "possess" is "having physical
6 possession or the exercise of dominion or control over property."
7 AS 11.81.900 (45). There is sufficient grounds for a misdemeanor
8 arrest when the alcohol is in the minor's immediate dominion and
9 control. see, Miller v. State, 462 P.2d 421, 427 (Alaska 1969)
10 (open case of beer on the floor behind the driver's seat).
11 Additionally, the power of a person to control or possess an
12 alcoholic beverage ends once the person swallows the alcohol. see,
13 State v. Thronsen, 809 P.2d 941, 943 (Alaska App. 1991) (affirming
14 the trial court's rationale that "mere presence in the body cannot
15 support a criminal conviction for possession).

16
17 On the present facts, officer Steffel did not actually see Mr.
18 Sabon drink any alcohol. Additionally, the officer did not report
19 observing any alcoholic beverages in Mr. Sabon's presence. Mr.
20 Sabon was not witnessed as having any dominion or control over
21 alcoholic beverages. The odor of alcohol on Mr. Sabon was
22 circumstantial evidence that Mr. Sabon in the past may have
23 consumed, possessed, or controlled alcohol. The mere smell of
24 alcohol, however, did not give the police officer sufficient reason
25 to believe that the crime of AS 04.16.050 was being committed in

1 the officer's presence. As such, Mr. Sabon's arrest was not in
2 compliance with the limitations of AS 12.25.030, and was a
3 violation of Mr. Sabon's constitutional rights under Art.1, Sec.
4 14 to be secure against unwarranted searches and seizures. Cf.,
5 A.B.A., Standards for Criminal Justice, vol.II, (2ed. 1986), sec.
6 10-2.2 (mandatory issuance of citation).

7 The conclusion reached above is not precluded by AS 01.10.050
8 which states: "Words in the present tense include the past and
9 future tenses and words in the future tense include the present
10 tense." This statute may have some application in whether charges
11 can be filed against an accused. This statute, however, does not
12 apply to whether a misdemeanor arrest can lawfully be made under
13 AS 12.25.030. The purpose for the limitations of misdemeanor
14 arrest are clear. The statutory intent would be rendered null and
15 void if a police officer was able to arrest a person for a
16 misdemeanor crime previously committed. Any such use of AS
17 12.25.030 would be contrary to reason, policy, and precedent.

18 Beyond the above-referenced rationale construing Alaska's
19 right against unwarranted search and seizure, several other
20 decisions dealing with related rights under the Alaska Constitution
21 compel a strict application of article I, section 14. In Breese
22 v. Smith, 501 P.2d 159 (Alaska 1972), the supreme court interpreted
23 article I, section 1 of the Alaska Constitution, which includes the
24 guarantee "that all persons have a natural right to life, liberty,
25 the pursuit of happiness, and the enjoyment of the rewards of their

own industry." Relying on this provision's affirmative grant of
1 the right to "liberty," the supreme court held:

2 [T]he term "liberty" is an elusive concept, incapable of
3 definitive, comprehensive explication. Yetr at the core
4 of this concept is the notion of total personal immunity
from government control: the right "to be let alone."

5 Bresse vs. State, 501 P.2d at 168.

6 The court normally will use the exclusionary remedy as the
7 primary means of effectuating certain basic constitutional rights.
8 The rationale for the exclusionary rule is deterrence of
9 unconstitutional methods of law enforcement; and the imperative of
10 judicial integrity which requires that the courts not be made
11 "party to lawless invasions of the constitutional rights of
12 citizens by permitting unhindered governmental use of the fruits
13 of such invasions." see, Mapp v. Ohio, 367 U.S. 643, 81 S.Ct. 1684
14 (1961); and Terry v. Ohio, 392 U.S. 1, 13, 88 S.Ct. 1868, 1875
15 (1968). The court.

16 In short, police misconduct which shocks the conscience,
17 or is of a nature that calls for the judiciary, as a
18 matter of judicial integrity, to disassociate itself from
benefits derivable therefrom, would lead us to invoke the
exclusionary rule.

19 State v. Sears, 553 P.2d 907, 914 (Alaska 1976).

20 However, the court is not limited to the remedy of the
21 exclusionary rule. The court may on its own motion "and in
22 furtherance of justice," order an action be dismissed. see, Cr.R.
23 43 (c); see also, Cr.R. 1 and 2. Because of the small number of
24 criminal cases which actually go to trial, the deterrent effect of
25

1 the exclusionary rule is severely limited if the remedy for lawless
2 conduct of the police is restricted to the exclusionary rule.
3 Furthermore, the aggravated facts and circumstances of a particular
4 case may lead the court to the conclusion that dismissal is
5 warranted in the furtherance of justice, judicial integrity, and
6 deterrence. The admittedly extreme measure of dismissal is
7 appropriate when the government's outrageous conduct has
8 egregiously violated fundamental constitutional rights.

9 The authors of the constitution did not believe that any one
10 branch of government could be relied upon to honor or make
11 effective the fundamental guarantees contained in the Constitution
12 and the Bill of Rights. The prohibition against unlawful search
13 and seizure is a positive expression of restraint against the abuse
14 of governmental power. The role of the judicial system is vital
15 to the preservation of the fundamental rights. James Madison, in
16 an address to Congress, stated:

17 [I]ndependent tribunals of justice will consider
18 themselves in a peculiar manner the guardians of those
19 rights; they will be an impenetrable bulwark against
20 every assumption of power in the Legislative or
Executive; they will be naturally led to resist every
encroachment upon rights expressly stipulated for in the
Constitution by the declaration of rights. 1 Annals of
Congress 439 (1789).

21 Courts can not direct the daily operations of government and
22 law enforcement. The judiciary can respond only to those issues
23 brought before it in a case-by-case procedure. Indeed, the
24 protection of fundamental constitutional rights frequently has been
25

1 achieved by refusing to validate unlawful police conduct. see,
2 Fresneda v. State, 458 P.2d 134, 139-40 (Alaska 1969).

3 If courts allow unlawful action by other branches of the
4 government in the enforcement of law, then the judiciary becomes
5 party to the wrong. When courts condone the unlawful and
6 unconstitutional arrests, they render the statutory and
7 constitutional guarantees a nullity.

8 As Mr. Justice Brandeis observed in his historic dissent in
9 Olmstead v. United States, 277 U.S. 438, 48 S.Ct.564, 575 (1928):

10 In a government of laws, existence of the government will
11 be imperilled if it fails to observe the law
12 scrupulously. Our government is the potent, the omni-
13 present teacher. For good or for ill, it teaches the
14 whole people by its example. Crime is contagious. If
15 the government becomes a lawbreaker, it breeds contempt
16 for law; it invites every man to become a law unto
17 himself; it invites anarchy.

18 In the same case, Mr. Justice Holmes declared:

19 [W]e must consider the two objects of desire both of
20 which we cannot have and make up our minds which to
21 choose....We have to choose, and for my part I think it
22 is less evil that some criminals should escape than that
23 the government should play an ignoble part.
24If the existing code does not permit district
25 attorneys to have a hand in such dirty business it does
not permit the judge to allow such iniquities to succeed.

Unless actions are subject to dismissal in the furtherance of
justice for flagrant violations of constitutional rights, we engage
in governmental hypocrisy in a significant fashion. We are not
dealing with "law school exams" (see, State Opposition, p.1).
Rather, we are addressing important constitutional principles.
Freedom from unlawful search and seizures (and warrantless arrest)

1 goes to the very heart of our constitutional history. The right
2 of privacy and to "be let alone" is at issue. Protection from the
3 government's unlawful search and seizure is at stake. Our
4 discussion is not a "waste of time" (see, State Opposition, p.1).
5 The values and rights in question are basic to our governmental
6 structure.

7 Constitutional rights become simply words without content
8 unless there is a meaningful consequence for their violation. The
9 judiciary fails to support and defend the constitution (as we are
10 sworn to do) if we permit official lawlessness.

11 In the instant case, Mr. Sabon was not only unlawfully
12 arrested without a warrant, but also he was incarcerated and his
13 pockets were searched. The indignity resulting from the arrest of
14 Mr. Sabon was compounded by his subsequent incarceration and
15 search. The government's action was an affront both to Mr. Sabon
16 and the constitution. The aggravated nature of this lawless police
17 conduct in violation of fundamental statutory and constitutional
18 rights mandates a remedial response. Mr. Sabon's right to be let
19 alone was violated. Further, the State's conduct amounted to a
20 illegal search and seizure of Mr. Sabon. It is the opinion of this
21 court in the interest: (1) of deterring such police conduct in the
22 future, (2) of preserving the integrity of the judiciary, (3) of
23 protecting fundamental constitutional rights, and (4) of furthering
24 justice, that the present action is subject to the exclusionary
25 rule and also to dismissal.

1 In summary, Mr. Sabon was arrested without a warrant for the
2 misdemeanor offense of minor consuming. The arresting officer did
3 not observe Mr. Sabon consume or possess alcohol. Mr. Sabon's
4 arrest was not in accord with AS 12.25.030 and violated Alaska
5 Constitution, art. I, section 14. The exclusionary rule leads to
6 the suppression of evidence obtained following Mr. Sabon's arrest.
7 The interests of police deterrence, judicial integrity,
8 constitutional rights and furtherance of justice together with
9 insufficient evidence, as a matter of law, call for dismissal of
10 the present charges.

11 IV. CONCLUSION

12 Therefore, based on all of the above, and for good cause
13 having been shown,

14 It Is Hereby Ordered, Adjudged, and Decreed:


15 That any and all evidence seized following Mr. Sabon's arrest
16 shall be suppressed;

17 That Defendant's Motion To Dismiss is Granted; and

18 That the present case is Dismissed with prejudice.

19 Dated this 2 March 1992.

20 In The District Court At Juneau

21 
22 _____
23 John W. Sivertsen, Jr.
24 Magistrate

25 **CERTIFICATION**

The undersigned certifies that on the 2 day of
March, 1992, a true copy of this
document was served on the following attorneys:

Ron. Hutchins, Esq. & Court Rep.
Donna McPhee, Esq. & Court Rep.

S B

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(7)

Date Referred: April 15, 1994

HOUSE COMMITTEE REPORT

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 5-6-94

The STATE AFFAIRS Committee considered:

SB 228

SENATE BILL NO. 228

NO BAIL FOR FELONS W/PREVIOUS CONVICTIONS

"An Act relating to bail after conviction for various felonies if the defendant has certain previous felony convictions."

RECOMMENDATIONS: the same title
 be replaced with _____ a new title
 have attached amendments(s)
 do pass
 do not pass
 no recommendations
 individual recommendations
 additional referral to the _____ Comm. ice

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) corrections, LAW, Public Safety

zero fiscal note _____

zero fiscal note(s) Adm 27

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	X				
<i>[Signature]</i>	X				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	X				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	X				
<i>[Signature]</i>	X				

[Signature]
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

No. 5

Bill Version: SB 227

(S) Priority Date: 1-5-94

Revision Date: January 20, 1994
 Title: Appeal after conviction if defendant has certain previous felony convictions.
 Sponsor: Senator Salo
 Requestor: Senate Judiciary

Department Affected: Department of Law
 BRU: Prosecution
 Component: All
 COMPONENT SERIAL NO. 3085 through 3090

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						
FUNDING:						
1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-
POSITIONS:						
FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)
 Please see the attached analysis.

Richard I. Peques

Prepared by: Richard I. Peques, Director Phone: 465-3672
 Division: Administrative Services/Division Date: January 20, 1994
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law Date: January 20, 1994

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 128

ANALYSIS CONTINUATION:

This bill would prohibit bail after conviction and before sentencing or pending appeal if the person has been convicted of an offense that is an unclassified or a class A felony; or a class B or class C felony if the person has been previously convicted of an offense that is an unclassified felony, a class A felony, or stalking in the first degree, sexual assault in the second or third degrees, and sexual abuse of a minor in the second or third degrees. In most cases, courts usually deny bail under these circumstances. However, the bill removes the courts' existing authority to grant bail in these circumstances. In any event, these are sentencing provisions that occur after conviction and, consequently, there will not be a fiscal impact for the Department of Law.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Bill Version: 35 227

(S) Publish Date: 1-27-94

Revision Date: _____ Dept. Affected: Public Safety
 Title: 150 App. relating to pay raise reduction BRU: Alaska State Troopers
 (Main program category reduction): _____ Component: Transportation
 Sponsor: Senator Stein
 Requestor: S. JUC COMPONENT SERIAL NO. 799

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

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-

ENDING: (Thousands of Dollars)

002 Federal Receipts						
003 GF Match						
004 GF						
005 GF/Program Receipts						
006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

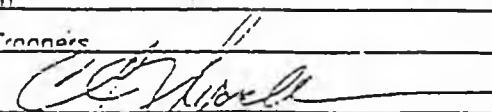
imate of current year (FY 94) impact: \$ _____

SITUATIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

o fiscal impact upon the Alaska State Troopers is anticipated.

pared By: Francis C. Allan Phone: 262.5221
 sion: Alaska State Troopers Date: 1/17/94
 roved by Commissioner:  Date: 1/24/94
 ency: Richard L. Burton, Dir. of Public Safety

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FISCAL NOTE

No. 2

Bill Version: SB 227

(S) Punish Date: --5-90

STATE OF ALASKA
994 LEGISLATIVE SESSION

Revision Date: _____
 Title: An Act relating to bail
After conviction for various
 Sponsor: Senator Saio
 Requestor: Senate Judiciary

Department Affected: Administration
 BRU: Office of Public Advocacy
 Component: Office of Public Advocacy
 COMPONENT SERIAL NO. 40

EXPENDITURES/REVENUES		(Thousands of Dollars)					
OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00	
PERSONAL SERVICES							
TRAVEL							
CONTRACTUAL							
SUPPLIES							
EQUIPMENT							
LAND & STRUCTURES							
GRANTS, CLAIMS							
MISCELLANEOUS							
TOTAL OPERATING	0	0	0	0	0	0	
CAPITAL EXPENDITURES	0	0	0	0	0	0	
CHANGE IN REVENUES ()	0	0	0	0	0	0	

FUNDING SOURCE:		(Thousands of Dollars)					
02 Federal Receipts							
03 GF Match							
04 GF							
05 GF/Program Receipts							
06 GF/MHTIA							
OTHER							
TOTAL	0	0	0	0	0	0	

Estimate of any current year (FY 94) cost: \$ 0

POSITIONS:		(Thousands of Dollars)					
FULL-TIME	0	0	0	0	0	0	
PART-TIME	0	0	0	0	0	0	
TEMPORARY	0	0	0	0	0	0	

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Brant McGee
 Position: Office of Public Advocacy
 Received by Commissioner: Nancy Bear Usura
 Department: Department of Administration

Phone: 274-1684
 Date: _____
 Date: 1/24/90

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FISCAL NOTE

No.

Bill Version: 35 223

(S) Publish Date: - -

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL

Revision Date: _____	Dept. Affected: <u>Administration</u>	_____
Title: <u>An Act relating to bail after conviction ...</u>	ERL: <u>Public Defender Agency</u>	_____
_____	Component: <u>Public Defender Agency</u>	_____
Author: <u>Senator Sale</u>	_____	_____
Requestor: <u>Senior Judiciary</u>	COMPONENT SERIAL NO. <u>1531</u>	_____

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE	(Thousands of Dollars)					
002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
004 GF	0.0	0.0	0.0	0.0	0.0	0.0
005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
Total	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY94) cost: none

POSITIONS:						
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared by: <u>John Salemi, Director</u>	Phone: <u>254-4400</u>
Vision: <u>Public Defender Agency</u>	Date: _____
Approved by Commissioner: <u>Nancy Bear Usara</u>	Date: <u>1/24/94</u>
Agency: <u>Administration</u>	

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Admin. F.N.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Bill Version: SS 208

Print Date: 4-5-94

Revision Date: _____ Dept. Affected: Corrections
 Title: No bill for felons with previous BRU: Statewide Operations
convictions Component: Institutions
 Sponsor: Sen. Savo
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 294-1084

Expenditures/Revenues	Thousands of Dollars					
	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
OPERATING EXPENDITURES						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL EXPENDITURES	0	0	0	0	0	0
CHANGE IN REVENUES	0	0	0	0	0	0

FUND SOURCE	Thousands of Dollars					
	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
002 Federal Receipts						
003 GF Match						
004 GF						
005 GF/Program Receipts						
006 GF/MHTA						
Other						
TOTAL	0	0	0	0	0	0

Estimate of any current year (FY94) cost: \$ 0

POSITIONS	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Please see the attached fiscal analysis.

Prepared by: Diane Schenker, Social Assistant Phone: 65-4643/786-2147
 Division: Office of the Commissioner Date: 3/1/94
 Approved by Commissioner: J. Frank Prewitt, Jr. Date: 3/1/94
 Agency: Department of Corrections

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Corrections F.N.

The bill would preclude an offender who has been convicted of a class B or C felony from being released on bail before sentencing or pending appeal if the offender had previously been convicted of an unclassified or class A felony, or certain sex offenses or stalking.

Assumptions

1. It is assumed that offenders convicted of class B or C felonies with the types of prior records applicable in the bill would be sentenced to some period of incarceration. Most will fall under presumptive sentencing statutes. The department reviewed 100 such cases, and found that 100% of the cases resulted in sentences of incarceration.
2. Since time served in custody prior to sentencing counts as time served on the sentence, the total time served will remain the same whether it is interrupted or delayed by posting bail or not.
3. The only impact on the department would be in cases in which the felon would receive bail under current law, then win an appeal which would result in no period of incarceration; under the bill the felon would have spent the appeal period incarcerated. According to the Clerk of the Court of Appeals, approximately 451 cases were appealed in 1992 (366 felonies and 85 misdemeanors.) Approximately 15% of the appeals resulted in reversals. This would be about 55 reversals per year for felony cases. Most reversals result in reduction in sentence length rather than overturning a conviction. Because the number of cases in which an appeal would result in no period of incarceration is assumed to be extremely small, and because there is no assurance that those cases would be released on bail pending appeal under current law, no measurable fiscal impact is expected.
4. If the department is able to gather more detailed data on the outcome of appeals referenced above, and the data indicates a significant number of appeals resulting in no period of incarceration, the fiscal note will be revised.

Senator Judith E. Salo

Alaska State Legislature



SPONSOR STATEMENT

SENATE BILL 228

In October of 1993 a man allegedly raped and assaulted two women in Anchorage. One of the sad facts in this case was that the perpetrator had been convicted and sentenced for a felony drug offense and yet he was still free. He had a long criminal record that included convictions for three rapes and two vehicle thefts in California. In Alaska he had been convicted for gambling, carrying a concealed weapon, fourth degree assault, trespassing, and possession of cocaine. His criminal record indicates a violent past and a threat of being a danger to the community. In spite of these facts, the defendant was released on (\$5,000.00) bail pending appeal. The lives of two women and their families are forever changed because of these circumstances.

S.B. 228 is a simple bill. It adds to the list of crimes and circumstances for which bail is not allowed under AS 12.30.040(b). It will prevent a persons release on bail either before sentencing or pending appeal where the person has been previously convicted of sexual assault in the second and third degrees, sexual abuse of a minor in the second and third degrees and stalking in the first degree.

I ask for the committee's support and prompt attention so that we might protect the lives of other potential victims of violent crime.

SENATE BILL NO. 228
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 EIGHTEENTH LEGISLATURE - SECOND SESSION

BY SENATORS SALO, Little, Zharoff

Introduced: 1/10/94
 Referred: JUD. FIN

A BILL
 FOR AN ACT ENTITLED

1 "An Act relating to bail after conviction for various felonies if the defendant has
 2 certain previous felony convictions."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. INTENT. It is the intent of the legislature by this Act to restrict the
 5 availability of bail after conviction for certain felons. The legislature notes the decision of the
 6 Alaska Court of Appeals in Stiegele v. State, 685 P.2d 1255, 1258 - 1261 (Alaska App. 1984)
 7 and further notes that for reasons stated in Stiegele this Act does not conflict with or amend
 8 a court rule.

9 * Sec. 2. AS 12.30.040(b) is amended to read:

10 (b) Notwithstanding the provisions of (a) of this section, a [IF A PERSON
 11 HAS BEEN CONVICTED OF AN OFFENSE WHICH IS AN UNCLASSIFIED
 12 FELONY OR A CLASS A FELONY, THE] person may not be released on bail either
 13 before sentencing or pending appeal if the person has been convicted of an offense
 14 that is

1) an unclassified felony or a class A felony; or

2) a class B or class C felony if the person has been previously convicted of an offense in this state that is an unclassified felony, a class A felony, or a violation of AS 11.41.260, 11.41.420 - 11.41.425, or 11.41.436 - 11.41.438 or of an offense in another jurisdiction with elements substantially similar to an offense of this state described in this paragraph.

Stalking in 1st degree
(Class "C" felony)

Sexual Assault 2nd & 3rd degree
(Class "B" & "C" felony)

Sexual Abuse of a Minor
2nd & 3rd degree
(Class "B" & "C" felony)

List of Unclassified Felonies:
Murder in 1st degree & 2nd degree
Attempted Murder in 1st degree
Sexual Assault in 1st degree
Sexual Abuse of a Minor 1st degree
Kidnapping

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

907) 465-3807 or 465-2450
FAX 907) 465-2029
Mail Stop 3101

150 Seaward Street, Suite 409
Juneau, Alaska 99801-2105

M E M O R A N D U M

March 14, 1994

SUBJECT: Sectional Summary of HB 460. (Work Order No. 8-LS1701A)

TO: Representative Mike Navarre
Attn: Tom

FROM: Jerry Luckhaupt *JL*
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1 of the bill provides that the intent of the legislature in this bill is to change a matter of substance, not a court rule of procedure, and therefore a two-thirds vote of each legislative body is not needed.

Section 2 of the bill amends AS 12.30.040(b) to add to the situations where a person is not eligible to be admitted to bail before sentencing or pending appeal. Under current law a person is not eligible for bail before sentencing or pending appeal when the person has been convicted of an unclassified or class A felony. This bill adds to that prohibition convictions for class B or C felonies if the person has previously been convicted in this state of an unclassified or class A felony or a violation of AS 11.41.-260,^{1/} 11.41.420 - 11.41.425,^{2/} or 11.41.436 - 11.41.438,^{3/} or a similar offense of another jurisdiction.

GPL:pl:mi
94-197.plm

^{1/} Stalking in the first degree.

^{2/} Sexual assault in the second or third degree.

^{3/} Sexual abuse of a minor in the second or third degree.

Sect. Summary

Man sought in assaults on 2 women

Police launching a search for knife-wielding suspect

S.J. KOMARNITSKY
Daily News reporter

Anchorage police are searching for a 36-year-old man they say assaulted one woman and raped another at knifepoint early Wednesday morning.

Police have charged Leonard John Hoffman with one count of third-degree assault and four counts of first-degree sexual assault and have issued a warrant for his arrest.

According to court documents, Hoffman allegedly assaulted the first woman shortly after midnight at her Anchorage home. The woman told police she knew Hoffman and let him in. But, she told police, he grabbed her face, pushed her onto a couch and then threatened her with a knife.

He then broke off the attack and drove her vehicle to a second woman's residence in a mobile home park off Boniface Parkway, Capt. Shirley Warner said.

According to court documents, the second woman told police Hoffman is her sister's boyfriend. She let him in after he told her he had been beaten up. The woman said Hoffman had scratches on his arm and she tried to bandage it. She told police he then smoked what appeared to be marijuana.

Meanwhile, he made several trips between the resi-



Special to the News

Police describe Leonard John Hoffman as 6-foot, 230 pounds, with brown hair and brown eyes.

dence and the vehicle. As he went to leave one time, he suddenly grabbed her, pulled out a knife and dragged her into the bedroom, she said. He then raped her, she said.

The woman told officers she ran out of the mobile home about 1:30 a.m. when Hoffman went to get some food in a microwave. She called police from a neighbor's residence. Police staked out the mobile home for about four hours, at-

Please see Page E-5,
WARRANT

WARRANT: Man sought in attacks

Continued from Page E-1

tempting to make contact. But Hoffman had apparently snuck out after the woman left, Warner said.

Hoffman is considered extremely dangerous and possibly armed, Warner said.

Hoffman has a long criminal record including convictions in California for three rapes and two vehicle thefts.

In Alaska, Hoffman has been convicted for gambling, carrying a concealed weapon, fourth-degree assault, trespassing and possession of cocaine, according to court records.

Last December, he was also charged with four counts of sexual assault for allegedly tying up and raping a woman to whom he offered a ride. Those charges were later dropped for lack of evidence.

In June, he was sentenced to three years in jail for drug possession. He was released on bail after he appealed the conviction.

Sgt. Walt Monegan said police are familiar with Hoffman. And although they didn't step up patrols Wednesday night, all officers had been briefed on him and a picture was being circulated.

"Right now, we are keeping our eyes out ... and following up on any possible sightings," Monegan said.

He said officers also were watching Hoffman's usual haunts. That included his last reported residence on West 26th Street.

Police describe Hoffman as 6 foot, 230 pounds, with brown hair and brown eyes. He often uses the aliases Leonard J. Samano and Leo Hoffman or combinations of the two. He is considered dangerous and anyone spotting him should call the Anchorage Police Department at 786-8900.

ARTICLES