

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8468 SENATE STATE AFFAIRS

Missouri taxpayers over \$200,000 in Video Software Dealers Assn. v. Webster, 968 F.2d 684 (1992).

These are only some of the more obvious problems and complications relating to S.B. 216. If you have further questions, or would like more information, please do not hesitate to contact RIAA.

THE RECORDING INDUSTRY'S VOLUNTARY LYRICS LABELING PROGRAM

Since 1985, the recording industry has responsibly addressed the concerns of the public, and parents in particular, regarding the explicit nature of certain sound recordings. In that year, the RIAA reached an agreement with the National Parent Teacher Association and the Parents Music Resource Center under which record companies would voluntarily identify and label newly released sound recordings with lyrics that reflect explicit violence, explicit sex or explicit substance abuse.

In 1990, the RIAA greatly enhanced the effectiveness of this voluntary program as a tool for parents and guardians who wish to monitor what their children purchase and listen to by implementing a uniform parental advisory logo that continues in use today. The Parental Advisory program allows record companies and their artists to exercise their artistic rights and, at the same time, exercise their social responsibilities to the community as well.



The black and white logo, shown here, is made part of the each record's permanent packaging, beneath the shrink-wrap, and is now widely used not only by RIAA members, which represent approximately 90 percent of the music industry, but also by most non-member companies as well, particularly those releasing rap and heavy metal music.

While the decision to label a particular sound recording is properly left to each company, in conjunction with the artist, there is little question that the industry has taken this program seriously. Indeed, virtually every recording that has been the target of public controversy, either because of its sexually-explicit or violently-explicit nature, has a voluntary Parental Advisory on its cover. And the Parental Advisory also has served as an important tool for radio stations and record retailers when considering whether specific explicit recordings should be broadcast or made available for sale to minors.

Given the increased public attention to violence in America, and the desire of all Americans to eliminate it, the recording industry may well hear calls for a government censorship system or for a voluntary ratings system similar to the one currently in use by the motion picture industry and those now being considered for the video game industry as well.

Voluntary Lyrics Labeling Program
 Page Two

While a voluntary ratings system may be appropriate for motion pictures, its application to sound recordings would be both inappropriate and impractical. First, the lyrical content of musical recordings is far more subjective than the explicit visual images of motion pictures. In the context of violence for example, what some may perceive as a "call to arms" may in fact be a cry for help to address the hard realities of the artist's social environment. Second, given the vast number of songs (over 10,000) released each year, compared with the 577 films rated in 1993, developing a ratings board to review and rate each and every recording would be a near impossible task.

And of course, a government mandated censorship system would run afoul of the full and unimpeded protection of artistic expression given by the First Amendment.

Accepting a difference of values among people is part of living in a free society. Simply put, the voluntary Parental Advisory Program balances the rights of free expression with the desires for social responsibility. The recording industry has made great strides implementing its voluntary Parental Advisory Program and educating the public about its intended use. It vows to continue to do so in the future.



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MEMORANDUM IN OPPOSITION TO ALASKA SENATE BILL 216

The Motion Picture Association of America, Inc. (MPAA) submits this memorandum in opposition to Alaska Senate Bill 216, which prohibits the dissemination of motion pictures on video cassettes to minors that contain depictions of violent behavior. The bill also prohibits the sale or rental of video material that depicts or describes sexual conduct or violent behavior "harmful to minors" unless permanent warning labels are affixed in specified type size and are covered by opaque wrappers.

The MPAA and its member companies*, who are the leading distributors of motion pictures for theatrical exhibition and subsequent release on video cassette, believe that both key provisions of this legislation are both unnecessary and contravene the First Amendment to the United States Constitution.

SB 216 IS UNNECESSARY BECAUSE OF INDUSTRY POLICIES

SB 216 is unnecessary because the overwhelming majority of video tapes available in retail outlets either display the official MPAA rating and/or contain information for the parent to determine whether the video is appropriate for their children's viewing. For over 25 years, MPAA has administered the Classification and Rating Administration (CARA) which awards the familiar G, PG, PG-13, R and NC-17 to motion pictures. The rating system has been successful in guiding parents' decisions about their movie viewing. In the most recent nationwide survey, over 75% of parents surveyed said they found the rating system fairly helpful to helpful. Moreover, the overwhelming majority of video stores in Alaska enforce the voluntary rules and regulations of the motion picture rating system, restricting access to movies that parents may find inappropriate for their children's viewing.

SB 216 would undermine the voluntary enforcement of the rules and regulation of the MPAA-administered rating system, and would cause severe damage to mainstream businesses, including motion picture distributors.

This bill also has the potential to cause retailers that rent and sell videos to provide only information and entertainment

* MPAA member companies include: Buena Vista Pictures Distribution, Inc. (Disney); Metro-Goldwyn-Mayer Inc.; Paramount Pictures Corp.; Sony Pictures Entertainment, Inc.; Twentieth Century Fox Film Corp.; Universal City Studios, Inc.; and Warner Bros., a division of Time Warner Entertainment Company, L.P.

options that are appropriate for children due to the criminal liability associated with this bill if it is enacted.

Moreover, businesses like MPAA member companies and independent video manufacturers that distribute movies to video stores in Alaska may also simply decide not to do business in the state because they want to avoid the criminal liability associated with this bill. In addition, due to the relatively small size of the Alaska market, the risk may be too great for the volume of business that is generated.

SB 216 IS UNCONSTITUTIONAL

SB 216 is unconstitutional because it establishes a standard for material that is "harmful to minors" that is overbroad and violates the time-honored, court approved United States Supreme Court standards for motion pictures on video cassette that may be restricted from minors under the United States Constitution. MPAA also believes the labeling requirements on materials containing mere sexual conduct that have not been found by a court of law to be either obscene or harmful to minors by the court-approved guidelines, are unconstitutional because they infringe upon the First Amendment.

Motion pictures are a form of expression which is protected by the First Amendment to the U.S. Constitution, Joseph Burstyn, Inc. v. Wilson, 343 U.S. 495 (1952); Eronoznik v. City of Jacksonville, 422 U.S. 205 (1975); Jenkins v. Georgia, 417 U.S. 153 (1974). The exhibition of a motion picture to an adult may be proscribed only if the motion picture is obscene, which requires a finding that such films "if taken as whole, appeal to the prurient interest in sex, which portray sexual conduct in a patently offensive way, and which taken as a whole, do not have serious literary, artistic, political or scientific value...", Miller v. California, 413 U.S. 15, 21 (1973). The more recent U.S. Supreme Court ruling in Pope v. Illinois, 481 U.S. 497 (1987), affirmed the Miller test, specifying that the proper inquiry in an obscenity prosecution is whether a "reasonable person," as opposed to the "community," would find that the material possesses serious value.

Regulations pertaining to restricting a minor's access to a motion picture face similar constitutional scrutiny: it may be prohibited only if the motion picture is "harmful to minors," which requires a finding that the motion picture depicts nudity, sexual contact, sexual excitement, or sadomasochistic abuse in a manner which "predominantly appeals to the prurient, morbid, or shameful interests of minors, which is patently offensive to prevailing standards in the adult community concerning what is suitable for minors and which is utterly without redeeming social importance for minors." Ginsberg v. New York, 390 U.S. 629 (1968). In Interstate Circuit v. City of Dallas, 391 U.S. 53 (1968), decided on the same day as Ginsberg, a Dallas ordinance that prohibited the admission

of minors to films defined as not suitable for minors including motion pictures, "describing or portraying brutality, criminal violence, depravity, nudity, sexual promiscuity or abnormal sexual relations", was found unconstitutionally vague and over broad. The Court found that the absence of narrowly drawn, reasonable and definite standards was fatal and that, while the Constitution does not grant absolute freedom, restrictions imposed cannot be so vague as to set the censor "adrift upon a boundless sea."

VIOLENT VIDEO MOVIE RESTRICTIONS ARE UNCONSTITUTIONAL

The attempt in SB 216 to restrict minors from access to motion picture videos which contain depictions of violent behavior and require a parental advisory warning label on motion picture videos that contain depictions of violence goes well beyond obscenity guidelines established by U.S. Supreme Court decisions. While the Supreme Court stated in Miller that obscenity was not protected by the First Amendment and could be regulated by the states, it has repeatedly held that virtually all other portrayals of behavior are protected by the First Amendment.

In Interstate Circuit, Inc. v. City of Dallas, 366 F.2d 590 (5th Cir. 1966), remanded 391 U.S. 53, 88 S.Ct. 1649, 20 L.Ed.2d 415 (1968), the Fifth Circuit struck down as overbroad and unconstitutional an ordinance which classified as "not suitable for young persons" any film which described or portrayed excessive brutality or criminal violence. The Court found that the restriction on brutality or violence was invalid and held that "the standard for classification must be restricted to the control of obscenity". The Supreme Court in Sovereign News Co. v. Falke, 448 F. Supp. 306 (U.S.D.C. Ohio 1977), remanded 610 F. 2d, 428, cert. denied Warner V. Sovereign News Co., 447 U.S. 923, rehearing denied, 448 U.S. 912, appeal after remand, 674 F. 2d. 484, cert. denied 459 U.S. 864, and 459 U.S. 883 (1982), confirmed a lower court ruling which held that materials containing non-obscene violence, brutality, or cruelty cannot be banned. The Court held that materials involving violence are given the highest degree of constitutional protection and may not be restricted unless they constitute a clear and present danger to society. More recently, the Supreme Court held that an Indianapolis ordinance that prohibited the depiction of non-obscene sexual violence was unconstitutional because the ordinance proscribed speech based on content. American Booksellers Association, Inc., et. al. v. William Hudnut III 771 F. 2d 323 (1985) aff'd, 106 S.Ct. 1172 (1986). The Court reasoned that the First Amendment preserves the right of every speaker in this nation to advocate even unpopular views. Therefore, restrictions or regulations placed upon the depiction of distasteful, upsetting or socially unacceptable behavior restrain free expression and are unconstitutionally overbroad.

Depictions and descriptions of violence have never been

included among the categories of unprotected speech. The Supreme Court has declined to create such a category in cases in which it has considered such depictions and descriptions. In Winters v. New York, 333 U.S. 507 (1948), the Court had before it magazines that were "nothing but stories and pictures of bloodshed and lust." 333 U.S. at 512. The Court further recognized that the magazines have no serious literary or other value, but it nevertheless held them fully protected by the First Amendment:

"We do not accede to (New York's) suggestions that the constitutional protection for a free press applies to the exposition of ideas. The line between the informing and the entertaining is too elusive for the protection of that basic right. Everyone is familiar with instance of propaganda through fiction. What is one man's amusement, teaches another's doctrine. Though we can see nothing of any possible value to society in these magazines, they are entitled to the same protection of free speech as the best of literature." 333 U.S. at 510.

More recently, the United States District Court for the Western District of Missouri declared a Missouri violence statute unconstitutional and permanently barred its enforcement. The Missouri statute, which was signed into law June 20, 1989, would have forbidden the sale or rental of "violent" video cassettes to minors. In his order ruling the law unconstitutional, Judge Bartlett recognized the distinction between obscene materials that are beyond the scope of the First Amendment and materials depicting violence:

"The Supreme Court has not held that violent speech is unprotected by the Constitution...unlike obscenity, violent expression is protected by the First Amendment." Video Software Dealers Association, et. al. v. William L. Webster, et. al., 773 F. Supp. 1275 (1991), aff'd 968 F.2d 684 (1992).

The Court of Appeals upheld the District Court, and recognized the distinction between materials depicting violence and those that are beyond the scope of First Amendment protection "...videos depicting only violence do not fall within the legal definition of obscenity for either adults or minors", 968 F.2d 684, 688 (1992). The State of Missouri has been ordered to pay nearly \$200,000 in legal fees, resulting from their loss in the constitutional challenge, to the MPAA and VSDA.

In addition, this bill is impermissively vague because it does not specifically define the kind of violence that can be banned. The MPAA submits it would be impossible for video retailers to

determine which videos would be required to be restricted, labeled and/or packaged in an opaque wrapper. For example, a documentary that contains news footage from Bosnia, certain cartoons, like "Superman" and "Teenage Mutant Ninja Turtles," and sporting events, like football highlights, on video cassette could be deemed to contain depictions of violent behavior.

This legislation could subject video retailers who distribute mainstream motion pictures which are acceptable by the majority of Alaska residents to criminal prosecution. A movie with a message to discourage drug usage that utilizes a dramatic element in the content of the film which depicts "violent behavior" to illustrate the realities of the drug culture would subject video store owners to prosecution if disseminated to a minor. This bill as drafted would establish an unreasonable burden and potential criminal liability on video retailers.

VIDEO LABELING REQUIREMENTS ARE ALSO UNCONSTITUTIONAL

Alaska SB 216 will not pass constitutional scrutiny because it prohibits the distribution of motion pictures on video cassette, without a permanent warning label in a. opaque wrapping, that are protected under the First Amendment. The Supreme Court has never approved of a regulation or prohibition against the depiction of sexual conduct, even for minors, unless the Miller or Ginsberg tests are met. Further, violence is a class of speech that has never been permitted to be regulated, even for minors.

Further, SB 216 makes it a criminal act to sell, rent or distribute video cassettes without warning labels, which contravenes the First Amendment to the United States Constitution. The statutory prohibition constitutes an impermissible prior restraint of expression and bears a heavy presumption against its constitutional validity. Bantam Books v. Sullivan, 372 U.S. 58 (1963). The very concept of prior restraints on speech is repugnant to the First Amendment. Near v. Minnesota, 283 U.S. 697 (1931).

Since warning labels are required, MPAA also submits that this bill is unconstitutional because the courts have long held that the freedom of thought protected by the First Amendment against state action includes both the right to speak freely and the right to refrain from speaking at all. This principle is illustrated by the case of Miami Herald Publishing v. Tornillo, 418 US 241 (1974) where the Supreme Court held unconstitutional a Florida statute placing an affirmative duty upon newspapers to publish the replies of political candidates they had criticized. The court found that the requirement deprived a newspaper of the fundamental right to decide what to print or omit. "For corporations as for individuals, the choice to speak includes within it the choice of what not to say." Tornillo at 258. The First Amendment guarantees freedom of speech a term which necessarily comprises the decision of both what

to say and what not to say. See Riley v. National Federation of the Blind, 108 S.Ct 2667 (1988). This proposed bill compels film distributors to affix warning labels and create opaque packaging for certain video cassettes or to cease the distribution of videos in the State of Alaska. Such action constitutes impermissible forced speech which violates the First Amendment.

MPAA believes that the courts would strike down SB 216 as they did an order that compelled a utility to place a newsletter containing views of a third party in its billing envelopes because in both cases the freedom not to speak publicly does not lose its protection because of the corporate identity of the speaker. See Pacific Gas Electric v. P.V.C. of California, 106 S.Ct 903 (1986).

Under this bill, video stores would be required to identify motion pictures which contain depictions that are "harmful to minors" in order to determine those on which to place the permanent "warning" label and cover with an opaque wrapper and restrict from minors' access. The existence of such a list would likely lead to self-imposed censorship as motion picture distributors and video stores fear that the list could become public and thus falsely identify them as purveyors of pornography to minors which may result in unwarranted prosecution. In 1969, the United States Supreme Court struck down a Rhode Island law that authorized a commission to maintain a list of objectionable works. See Bantam Books v. Sullivan 372 US 58 (1969). In addition, the bill requires motion picture distributors to incriminate themselves by admitting their films contain depictions that are "harmful to minors" which might be subject to prosecution.

CONCLUSION

SB 216 is unnecessary and contravenes the United States Constitution.

This bill undermines the voluntary procedures and policies of the video industry which provides parents specific information about the content of the movies available for sale and rent so they can determine what is suitable for their children's viewing. In addition, the overwhelming majority of video retailers in Alaska enforce the voluntary rules of the MPAA-administered motion picture rating system, restricting access to video movies rated R to children under 17 without parental permission and to movies rated NC-17 under any circumstances.

SB 216 is unconstitutional because it restricts minors' access to constitutionally protected material, mandates warning labels which are a form of prior restraint, forced speech and because the bill requires that video cassettes be labeled "harmful to minors" before there has been any determination that the material has been found to be obscene or harmful to minors based on United States Supreme Court standards.

The "harmful to minors" standards contained in the bill, which include the depiction of violent behavior, go well beyond the guidelines permitted by the United States Supreme Court. See Ginsberg v. New York, 390 U.S. 629 (1968). Moreover, this may result in self censorship because it would force video stores to identify movies that contain depictions of sexual conduct which might also cause self incrimination. Bantam Books v. Sullivan 372 US 58 (1969). The bill is also overbroad and vague, based on constitutional standards, because it does not identify the "person" required to be identified on the label or who is to affix it.

In addition, unless a motion picture film meets the narrow definition of obscenity for adults set forth by the Supreme Court in Miller v. California or for minors in Ginsberg v. New York, it may not be prohibited. The proposed legislation, which would require a permanent warning label on motion pictures on video cassette in an opaque wrapper containing non-obscene sexual conduct and restrict minors' access, exceeds the parameters of the Miller and Ginsberg decisions. Such government regulations are constitutionally invalid.

For both practical and legal reasons, we ^{offer passing} urge the Alaska Legislature to defeat SB 216.

CS
March, 1994

8-LS1745E
Luckhaupt
2/22/94

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 487
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE KOIT

Introduced:
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the sale, display, or distribution of material harmful to
2 minors at places where minors are present or allowed to be present and where
3 minors are able to view such material; and prohibiting the sale or display of
4 certain audio recordings, phonograph records, magnetic tapes, compact discs, or
5 videotapes, without warning labels and opaque wrappings."

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

7 * Section 1. AS 11.61 is amended by adding new sections to read:

8 Sec. 11.61.127. SALE, DISPLAY, OR DISTRIBUTION OF MATERIAL
9 HARMFUL TO MINORS. (a) A person commits the crime of sale, display, or
10 distribution of material harmful to minors if the person knowingly sells, displays, or
11 distributes any material, including the covers and packaging of the material, but not
12 including audio recordings, music video recordings, or rated video recordings, that is
13 harmful to minors in any place where minors are present or are allowed to be present

1 and where minors are able to view such material unless each item of the material is
2 sealed in an opaque wrapper.

3 (b) In this section, the requirement of an opaque wrapper shall be satisfied if
4 the portions of the covers or packaging of the material that visually depict material
5 harmful to minors are blocked with the opaque wrapper and the wrapper is sealed.

6 (c) In this section,

7 (1) "material harmful to minors" means a description or representation,
8 in any form, of nudity, sexual conduct, or sexual excitement when it

9 (A) predominately appeals to the prurient, shameful, or morbid
10 interest of minors in sex;

11 (B) is patently offensive to contemporary standards in the adult
12 community as a whole with respect to what is suitable sexual material for
13 minors; and

14 (C) taken as a whole, lacks serious literary, artistic, political, or
15 scientific value for minors;

16 (2) "music video recording" means a tape or other recorded visual
17 depiction of a song or songs that is not voluntarily rated by the Classification and
18 Rating Administration (CARA);

19 (3) "rated video recording" means a tape or other recorded visual
20 depiction that is voluntarily rated by the Classification and Rating Administration
21 (CARA).

22 (d) Except as provided in (e) of this section, sale or display of material
23 harmful to minors is a class B misdemeanor.

24 (e) A person convicted under this section is guilty of a class A misdemeanor
25 if the person has previously been convicted of a violation of this section.

26 Sec. 11.61.128. UNLAWFUL SALE OR DISPLAY OF AUDIO OR MUSIC
27 VIDEO RECORDING. (a) A person commits the crime of unlawful sale of an audio
28 recording or music video recording if the person knowingly sells or offers to sell an
29 audio recording, phonograph record, magnetic tape, compact disc, or music video
30 recording that contains lyrics that include or are descriptive of material harmful to
31 minors, unless the cover of the recording, record, tape, or disc contains a warning label

1 that the lyrics contain material harmful to minors.

2 (b) A person commits the crime of unlawful display of an audio recording or
3 music video recording if the person knowingly displays an audio recording,
4 phonograph record, magnetic tape, compact disc, or music video recording, whose
5 packaging uses words, symbols, or pictures that include or describe material harmful
6 to minors unless the recording is sealed in an opaque wrapping.

7 (c) In this section, the requirement of a warning label shall be satisfied if the
8 label is affixed to the front cover, beneath any cellophane or other clear wrapping
9 material or above any opaque wrapping material, of the audio recording, phonograph
10 record, magnetic tape, compact disc, or music video recording and for (1) cassette
11 tapes and compact discs or other recordings the same size or smaller than cassette
12 tapes or compact discs, is printed with black letters of eight point type or larger, except
13 that the words "WARNING" and "PARENTAL ADVISORY" shall be of 10 point type
14 or larger on a fluorescent yellow background; or (2) all other audio or music video
15 recordings larger than cassette tapes or compact discs, is printed with black letters of
16 12 point type or larger on a fluorescent yellow background, except that the words
17 "WARNING" and "PARENTAL ADVISORY" shall be printed in letters which are of
18 48 point type or larger, and the label reads substantially as follows:

19 "WARNING:

20 May contain explicit lyrics that include or describe material
21 harmful to minors.

22 PARENTAL ADVISORY".

23 (d) In this section, the requirement of an opaque wrapper is satisfied if the
24 portions of the packaging of the audio recording, phonograph record, magnetic tape,
25 compact disc, or music video recording that use words, symbols, or pictures that
26 include or describe material harmful to minors are blocked with an opaque wrapper
27 and the wrapper is sealed.

28 (e) In a prosecution under this section, each day that a violation occurs and
29 each audio recording, phonograph record, magnetic tape, compact disc, or music video
30 recording that is found in violation of this section is a separate offense.

31 (f) In this section,

- 1 (1) "material harmful to minors" means a
2 (A) description or representation, in any form, of nudity, sexual
3 conduct, or sexual excitement when it
4 (i) predominately appeals to the prurient, shameful, or
5 morbid interest of minors in sex;
6 (ii) is patently offensive to contemporary standards in
7 the adult community as a whole with respect to what is suitable sexual
8 material for minors; and
9 (iii) taken as a whole, lacks serious literary, artistic,
10 political, or scientific value for minors; or
11 (B) graphic description, representation of, or incitement to
12 violent behavior that if acted out would constitute felonious behavior that is
13 morally repugnant to the community as a whole;
- 14 (2) "music video recording" has the meaning given in AS 11.61.127.
- 15 (g) Except as provided in (h) of this section, a violation of (a) or (b) of this
16 section is a class B misdemeanor.
- 17 (h) A person convicted under this section is guilty of a class A misdemeanor
18 if the person has previously been convicted of a violation of this section.

8-LS1745A
Luckhaupt
2/12/94

HOUSE BILL NO. 487

IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE KOTT

Introduced:
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the sale, display, or distribution of material harmful to
2 minors at places where minors are present or allowed to be present and where
3 minors are able to view such material; and prohibiting the sale or display of
4 certain audio recordings, phonograph records, magnetic tapes, compact discs, or
5 *music* videotapes, without warning labels and opaque wrappings."

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

7 * Section 1. AS 11.61 is amended by adding new sections to read:

8 Sec. 11.61.127. SALE, DISPLAY, OR DISTRIBUTION OF MATERIAL
9 HARMFUL TO MINORS. (a) A person commits the crime of sale, display, or
10 distribution of material harmful to minors if the person knowingly sells, displays, or
11 distributes any material, including the covers and packaging of the material, but not
12 including audio or video recordings, that is harmful to minors in any place where
13 minors are present or are allowed to be present and where minors are able to view

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such material unless each item of the material is sealed in an opaque wrapper.

(b) In this section, the requirement of an opaque wrapper shall be satisfied if the portions of the covers or packaging of the material that visually depict material harmful to minors are blocked with the opaque wrapper and the wrapper is sealed.

(c) In this section, "material harmful to minors" means a description or representation, in any form, of nudity, sexual conduct, or sexual excitement when it

(1) predominately appeals to the prurient, shameful, or morbid interest of minors in sex;

(2) is patently offensive to contemporary standards in the adult community as a whole with respect to what is suitable sexual material for minors; and

(3) taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

(d) Sale or display of material harmful to minors is a class B misdemeanor.

★
include
(2)

Sec. 11.61.128. UNLAWFUL SALE OR DISPLAY OF AUDIO OR VIDEO RECORDING. (a) A person commits the crime of unlawful sale of audio ^{or video} recording if the person knowingly sells or offers to sell an audio recording, phonograph record, magnetic tape, compact disc, or ^{audio} videotape that contains lyrics that include or are descriptive of material harmful to minors, unless the cover of such recording, record, tape, or disc contains a warning label that the lyrics contain material harmful to minors.

(b) A person commits the crime of unlawful display of audio ^{or video} recording if the person knowingly displays an audio recording, phonograph record, magnetic tape, compact disc, or ^{audio} videotape, whose packaging uses words, symbols, or pictures that include or describe material harmful to minors unless the recording is sealed in an opaque wrapping.

(c) In this section, the requirement of a warning label shall be satisfied if the label is affixed to the front cover, beneath any cellophane or other clear wrapping material or above any opaque wrapping material, of the audio recording, phonograph record, magnetic tape, compact disc, or videotape and for (1) cassette tapes and compact discs or video recordings the same size or smaller than cassette tapes or compact discs, is printed with black letters of eight point type or larger, except that the

1 words "WARNING" and "PARENTAL ADVISORY" shall be of 10 point type or
2 larger on a fluorescent yellow background; or (2) all other audio recordings larger than
3 cassette tapes or compact discs, is printed with black letters of 12 point type or larger
4 on a fluorescent yellow background, except that the words "WARNING" and
5 "PARENTAL ADVISORY" shall be printed in letters which are of 48 point type or
6 larger, and the label reads substantially as follows:

7 "WARNING:

8 May contain explicit lyrics that include or describe material
9 harmful to minors.

10 PARENTAL ADVISORY".

11 (d) In this section, the requirement of an opaque wrapper is satisfied if the
12 portions of the packaging of the audio recording, phonograph record, magnetic tape,
13 compact disc, or videotape that describe, advocate, or encourage the conduct described
14 in (b) of this section are blocked with an opaque wrapper and the wrapper is sealed.

15 (e) In a prosecution under this section, each day that a violation occurs and
16 each audio recording, phonograph record, magnetic tape, compact disc, or videotape
17 that is found in violation of this section is a separate offense.

18 (f) In this section, "material harmful to minors" has the meaning given in
19 AS 11.61.127.

20 (g) Except as provided in (h) of this section, a violation of (a) or (b) of this
21 section is a class B misdemeanor.

22 (h) A person convicted under this section is guilty of a class A misdemeanor
23 if the person has previously been convicted of a violation of this section.

Suggested definition for proposed AS 11.61.128:

1 (f) In this section, "material harmful to minors" means

2 (1) a description or representation, in any form, of nudity, sexual conduct, or sexual
3 excitement when it

4 (a) predominantly appeals to the prurient, shameful, or morbid interest of minors
5 in sex;

6 (b) is patently offensive to contemporary standards in the adult community as
7 a whole with respect to what is suitable sexual material for minors; and

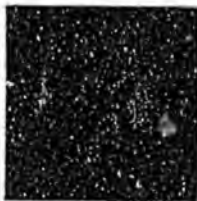
8 (c) taken as a whole, lacks serious literary, artistic, political, or scientific value for
9 minors; or

10 (2) a graphic description, representation of, or incitement to violent behavior which, if
11 acted out, would constitute felonious behavior ~~that is~~ that is considered morally repugnant
12 to the community as a whole.

~~*~~
include

SB

220



LASKA 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

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



EXECUTIVE DIRECTOR
Lynda Adams

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Wrangell

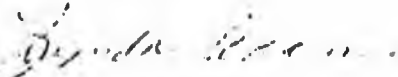
Dear Senator Ellis:

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

ADVISORY BOARD
Tom Pool, Special Agent
Drug Enforcement Administration

Dr. Forest Lemant, Jr.
Community Health Projects

Mrs. Nancy Murkowski
Congressional Families for
Drug Free Youth

Richard Burton
Commissioner of Public Safety

Billy G. Andrews
Anti Demand Reduction Coordinator

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A United Way Southeast Agency



CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**



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

EXECUTIVE DIRECTOR

Lynda Adams

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

AREA AFFILIATES

Anchorage

Fairbanks

Glennallen

Haines

Juneau

Ketchikan

Nome

Petersburg

Wrangell

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.

ADVISORY BOARD

Tom Pool, Special Agent
Drug Enforcement Administration

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Community Health Projects


Mrs. Nancy Murkowski
Congressional Families for
Drug Free Youth

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

Richard Burton
Commissioner of Public Safety

Sincerely,

Billy G. Andrews
FBI Demand Reduction Coordinator


Lynda Adams

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Louisiana Pacific Foundation

A United Way Southeast Agency



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

JOHNNY ELLIS
SENATOR



STATE CAPITOL, ROOM 9
JUNEAU, ALASKA 99801-1182
(907) 465-3704
FAX: (907) 465-2529

ALASKA STATE LEGISLATURE
SENATE

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

SB 220 amends schedule IIA of the Control of 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.

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
to add the drug methcathinone common as 'cat' BRU: Alaska State Troopers
 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 Trooper - anticipated.

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

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

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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 not be a 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.

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

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

SENATE BILL NO. 220
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY SENATORS ELLIS, Little

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

change this
IA
A BILL
FOR AN ACT ENTITLED

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

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

5 * Section 1. AS ~~11.71.150(b)~~ ^{11.71.140(c)82 (or whatever approx. cite)} is amended by adding a new paragraph to read:

6 (21) 2-methylamino-1-phenylpropan-1-one, also known as
7 methcathinone, ~~ephedrone,~~ and cat.

~~(21)~~
Take out

8-LS1177J
Chenoweth
2/10/94

**CS FOR SENATE BILL NO. 220(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION**

BY THE SENATE STATE AFFAIRS COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATORS ELLIS, Little

A BILL

FOR AN ACT ENTITLED

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

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1. AS 11.71.140(b) is amended by adding a new paragraph to read:**

6 **(5) 2-methylamino-1-phenylpropan-1-one, also known as methcathinone**
7 **and cat.**

METHCATHINONE BY L.E. FISHER

TEXT:

MILWAUKEE - Imagine a drug so powerful that one high lasts 20, maybe 25 times as long as the one you'd 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 is 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 is 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, if 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: (c) 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 Mideast, 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 narcotic 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 lab for revisions.

<DIALOG File 498: (c)1993 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. Bodem

Michigan House of Representatives

106th District

Alpena County

<DIALOG File 498: (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 a 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)

METHCATHINONE BY L.E. FISHER

<DIALOG File 492: (c)1993 Phnx Newspapers Inc>

07087072

'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 2 1/2 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 packed 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 blown 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)

Post-it brand fax transmittal memo 7871

To: *Marlene Legal Assoc.*

From: *Kimberly Nima*

Phone: *258-8182*

Fax: *258-5571*

of pages: *3*

Dept: *465-2029*

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. Bodam, Bennane, Jamian, Kukuk, Dalman, Dolan, Gnodtke, Hammerstrom, McCarryde, Stille, McNutt, Garnatz, McMannus, Bandstra and Jaye
 Reps. Agee, Anthony, Bando, Bender, Brackenridge, Bullard, Byrum, Crissman, DeMars, Dobb, Dobronski, Fitzgerald, Freeman, Gagliardi, Gire, Goschka, Harrison, Horton, Johnson, Middaugh, Middleton, Murphy, Nye, Olshova, Potato, Profit, Randall, Rhead, Rivers, Shepich, Shugars, Varga, Voorhees, Vorva, Wallace and Wetters named co-sponsors

ENROLLED HOUSE BILL No. 4103

AN ACT to amend section 7212 of Act No. 368 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. 352 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. 368 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 | Noracetylmethadol |
| Allylprodine | Dimenoxadol | Norlevorphanol |
| Alpha-acetylmethadol | Dimpheptanol | Normethadone |
| Alphameprodine | Dimethylthambutene | Norpipexone |
| Alphamethadol | Dioxapbetyl butyrate | Phenadoxone |

Benzethidine	Dipipanone	Phenampromide
Betacetylmethadol	Ethylmethylthiambutene	Phenomorphan
Betameprodine	Etonitazene	Phenoperidine
Betamethadol	Etoxadine	Piritramide
Betaprodine	Furethidine	Proheptazine
Clonitazene	Hydroxypethidine	Propidine
Dextromoramide	Ketobemidone	Propiram
Diampromide	Levomoramide	Racemoramide
Diethylthiambutene	Levophenacymorphan	Trimiperidine
	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	Drotabanol	Morphine-N-Oxide
Acetylhydrocodeine	Etorphine	Myrophine
Benzymorphine	Heroin	Nicocodaine
Codeine methylbromide	Hydromorphone	Nicomorphine
Codeine-N-Oxide	Methyldesorphine	Normorphine
Cyprenorphine	Methylhydromorphone	Pholcodine
Diamorphine	Morphine methylbromide	Thebacon
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-ones

Some trade and other names:

Methcathinone

Cat

Ephedrone

3, 4-methylenedioxy amphetamine

3-methoxy-3, 4-methylenedioxy
amphetamine

3, 4, 5-trimethoxy amphetamine

Bufotenine

Some trade and other names:

3-(2-dimethylaminoethyl)-5 hydroxyindole

3-(2-dimethylaminoethyl)-5 indole

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; 4-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;

PMA

Ibogaine

Some trade and other names:
7-Ethyl-8,8a,7,8,9,10,12,13
Octahydro-2-methoxy-6,9-methano-5H-
pyrido (1, 2:1, 2 acspino 4, 5-b) indole
taberantbe iboga

Lysergic acid diethylamide

Marihuana, except as otherwise provided in subsection (2)

Mecloqualone

Mescaline

Psycote

N-ethyl-8 piperidyl benzilate

N-methyl-8 piperidyl benzilate

Psilocybin

Psilocyn

Thiophene analog of phencyclidine

Some trade or other names:
1-(1-(2-thienyl)cyclohexyl) piperidine)
2-thienyl analog of phencyclidine; TPCP

(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) $\Delta^{8,6}$ 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) Marihuana 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 7335 and 7336.

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

Section 2. This amendatory act shall take effect May 1, 1993.

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

03560037

93510102

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

Chicago Tribune (CT) Sec EVENING, p 2, col 5 Jun 24, 1993

ARTICLE TYPE: News

ARTICLE LENGTH: Medium (6-18 col inches)

AVAILABILITY: UMIACII 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

02905656

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: UMIACII 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 khat.

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 # of pages 2

To	Dallas	From	KIM BARTLEY HERRING
Co.	Residence	Co.	SEAS, ELLIS
Dept.	ALB5-16607	Phone #	254-5571
Fax #		Fax #	

2/9/1
1365293d 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 v114 p20(2) April 26, 1993
SOURCE FILE: MI File 47
ISSN: 0041-5537
illustration: photograph
AVAILABILITY: FULL TEXT Online LINE COUNT: 00061
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," adds 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.

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-methylenedioxy (MMDA-2), did not produce amphetamine appropriate responding 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-prelabeled 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.: 0 (Alkaloids); 0 (Amphetamines); 0 (Propiophenones); 51-51-6 (Dopamine); 5265-18-9 (cathinone); 537-46-2 (Methamphetamine); 5630-44-2 (monomethylpropion)

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 cleaner
- 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

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

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 1982, 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, seizures 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, miosis, 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 phenylpropanolamine 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):1,18-19,24.
2. Emerson TS, Cisek JE. Methcathinone: A Russian designer amphetamine infiltrates the rural midwest. *Ann Emerg Med* 1993;22:1897-1903.

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TAL

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toxic waste as
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make it for use in a
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used for crops or
that may be built
ay to dispose of the
through legitimate
facilities.

LAW
manufacture meth-
others in doing so,
as go-betweens to

buy illegally, are held
under a number of federal statutes.
Manufacturing or possession with in-
tent to distribute, for instance, is a vio-
lation of Section 841 (a)(1) of Title 21
of the United States Code and is pun-
ishable 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 pow-
erful 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 con-
ditions. There have been cases of Cat-
induced psychosis outside the United
States and antipsychotic medications
were prescribed during detoxification.
If agitation and hyperactivity continue
during the withdrawal process, benzo-
diazepines (a type of tranquilizer) have
proved to be effective. Those who have
treated Cat addicts recommend that the
person enroll immediately in a compre-
hensive treatment program after detoxi-
fication.

THE LATEST INFORMATION ON CAT

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

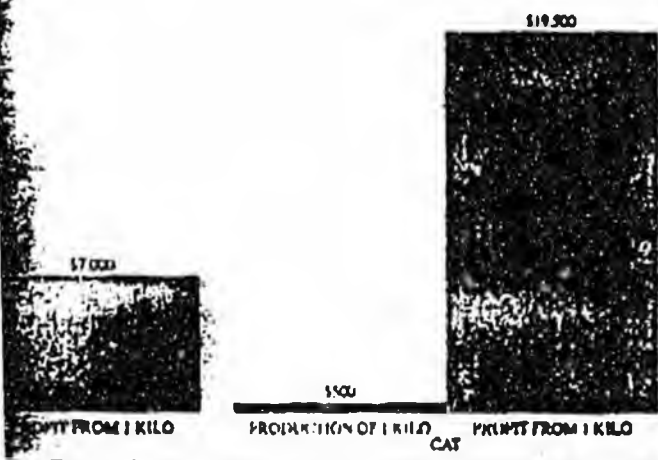
Demand Reduction Section
Drug Enforcement Administration
Washington, DC 20537

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, pro-
nounced "cot," 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.

HIGH PROFIT MARGIN OF CAT: A BURN FOR LAW ENFORCEMENT



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

Source: Abuse and Traffic Safety Information Center and National Families In
Recovery (1991).

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

UPDATE ON METHCATHINONE OR "CAT"

SB

227

National Bank of Alaska



Corporate Headquarters P.O. Box 100600 Anchorage, Alaska 99510-0600 (907) 276-1132

301 W. Northern Lights Blvd., Anchorage, AK 99503.

Mr. C.B. Toh
Vice President
Direct: (907) 265-2078
Fax: (907) 265-2141

October 21, 1993

Alaska State Senator Jay Kerttula
P.O. Box 1009
Palmer, AK 99645

Attention: Bill Kelder, Esquire

Re: TRAC Vehicle Leasing in Alaska

Dear Senator Kerttula:

I am writing you on behalf of National Bank of Alaska. Earlier this year, the Alaska Legislature enacted a set of amendments to UCC 1-201(37), sharpening the state law distinction between a "lease" and a "security interest" in transactions involving equipment and motor vehicles. While this new law is helpful in many situations, it is silent about our long-standing business practice of leasing fleets of motor vehicles to commercial business lessees under agreements with terminal rental adjustment clauses (TRACs). We seek your help in enacting legislation that would clarify the status of TRAC motor vehicle leases as true leases under Alaska state law.

Two national trade associations -- the American Automotive Leasing Association (AALA) and the Equipment Leasing Association (ELA) -- wrote you earlier about the need for TRAC/state legislation in Alaska. We agree with AALA and ELA.

What AALA, ELA and National Bank of Alaska are seeking is the enactment of legislation adding the following new section 28.10.375 to the Alaska Statutes:

Sec. 28.10.375. TERMINAL RENTAL ADJUSTMENT CLAUSES: VEHICLE LEASES THAT ARE NOT SALES OR SECURITY INTERESTS.

In the case of motor vehicles or trailers, notwithstanding any other provision of law, a transaction does not create a sale or security interest merely because it provides that the rental price is permitted or required to be adjusted under the agreement either upward or downward by reference to the amount realized upon sale or other disposition of the motor vehicle or trailer.

This is non-controversial, public interest legislation that will help put TRAC vehicle leases on a level playing field with other kinds of leases for state law and bankruptcy law purposes. If enacted in Alaska, this legislation will treat TRAC vehicle leases like all other leases, with the result that TRAC vehicle lessors' risks and costs will be lowered, lessees' rental rates will be reduced, and both interstate commerce and commerce within the state of Alaska will be facilitated.

Senator Jay Kerttula
October 21, 1993
Page 2

Thank you very much for your consideration. I look forward to your earliest favorable response.

Sincerely,
NATIONAL BANK OF ALASKA



C. B. Toh
Vice President

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 20, 1994

SUBJECT: Sectional Summary of SB 227 (Work Order No. 8-LS1332\A)

TO: Senator Jalmar Kerttula
Attn: Carol

FROM: 
Theresa L. Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Prevents certain motor vehicle and trailer transactions from being considered sales or security interests just because they provide that the rental price is permitted or required to be adjusted by reference to the amount realized from the sale or other disposition of the motor vehicle or trailer.

Section 2. States that sec. 1 doesn't apply to transactions that are entered into before the effective date of the Act.

TLB:gc
94-043.glc



Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

January 21, 1993

MEMORANDUM

To: Senator Loren Leman, Chair *Loren*
Senate State Affairs Committee

From: Senator Jay Kerttula *Jay*

Re: S.B. 227 Relating to Motor Vehicle Rental Terms

Please schedule the above bill at your earliest convenience. Attached you will find a sectional analysis, sponsor statement, and a fiscal note from the Department of Public Safety has been requested. I have also included a letter from the National Bank of Alaska for your information.

Thank you in advance for your assistance in this matter.

SPONSOR STATEMENT S.B. 227
TERMINAL RENTAL ADJUSTMENT CLAUSES
FOR MOTOR VEHICLES AND TRAILERS

SENATOR JAY KERTTULA

S. B. 207 WOULD CLARIFY IN LAW THE STATUS OF LEASES WHEN THEY INCLUDE A TERMINAL RENTAL ADJUSTMENT CLAUSE. A TERMINAL RENTAL ADJUSTMENT CLAUSE (TRAC) IS A SORT OF INSURANCE POLICY FOR THE LESSOR. IT PROVIDES FOR AN INCREASE IN THE LEASE PAYMENTS DEPENDING ON THE VALUE OF THE VEHICLE AT THE END OF THE LEASE. IF THE VEHICLE HAS BEEN WELL MAINTAINED THEN THE COST TO THE LESSEE WILL BE LESS. IF THE VEHICLE HAS HAD MORE THAN REASONABLE WEAR AND TEAR, THEN THE COST TO THE LESSEE WILL BE GREATER THAN THAT NEGOTIATED AT THE BEGINNING OF THE LEASE. THIS TRAC IS WRITTEN INTO A LEASE IN ORDER TO PROTECT THE VALUE OF THE ASSET OF THE LESSOR AT TERMINATION OF THE LEASE.

THIS SECTION WOULD MAKE EXPLICIT IN LAW THAT A TRAC DOES NOT IN AND OF ITSELF AFFECT THE NATURE OF A LEASE IN MOTOR VEHICLES OR TRAILERS--THESE LEASES CAN STILL BE "TRUE"

LEASES. (A TRUE LEASE IS ONE IN WHICH THE LESSOR HAS TITLE AND RETAINS OWNERSHIP IN THE ASSET DURING AND AFTER THE LEASE.)

THIS IS IMPORTANT ESPECIALLY IN BANKRUPTCY CASES WHERE THE LESSOR OF A TRUE LEASE IS ABLE TO RECOVER THE VEHICLES FROM THE LESSEE WITHOUT FEAR OF THE COURT TYING THE ASSETS UP. IF IT WAS UNCLEAR THAT THE LEASE WAS A TRUE LEASE, FOR EXAMPLE IF THERE WAS SOME QUESTION AS TO WHETHER THE LESSEE HAD A PROPRIETARY INTEREST IN THE ASSET, THEN THE BANKRUPTCY COURT COULD PREVENT THE LESSOR FROM RECOVERING THE VEHICLES IMMEDIATELY AND COULD, WORSE CASE, SELL THE VEHICLES AND PAY ANY NUMBER OF THE LESSEE'S DEBTS.

THIS MAKES IT VERY IMPORTANT FOR THE LAW TO BE CLEAR ON WHETHER OR NOT A TRAC AFFECTS THE NATURE OF A LEASE. THIS SECTION WILL CLARIFY IN LAW THAT TRACS CAN BE IN TRUE LEASES WITHOUT CHANGING THE NATURE OF THAT LEASE.

FISCAL NOTE

Revision Date: _____
Title: Vehicle Lease Terminal Rental Adjustment

Department Affected: DOT&PF
BRU: STW Administrative Services

Sponsor: Kerttula
Requestor: _____

Component: State Equipment Fleet
Component Serial Number: #539

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING:	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE	0	0	0	0	0	0
---------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS	0	0	0	0	0	0
1003 GF MATCH	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/PROGRAM RECEIPTS	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL FUNDING:	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) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary)

No financial impact to the state's equipment fleet is anticipated as a result of this legislation.

Prepared by: Ken Langel, Manager

Phone: 205-2461

Division: State Equipment Fleet

Date: February 16, 1993

Approved by Commissioner: 
B.A. Campbell

Phone: 465-3901

Agency: Department of Transportation and Public Facilities

Date: February 17, 1994

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SENATE BILL NO. 227

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY SENATOR KERTTULA

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to terminal rental adjustment clauses for motor vehicles and
2 trailers."

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

4 * **Section 1.** AS 28.10 is amended by adding a new section to read:

5 Section 28.10.375. **EFFECT OF TERMINAL RENTAL ADJUSTMENT**
6 **CLAUSES.** Notwithstanding other provisions of law, a transaction involving a motor
7 vehicle or trailer does not create a sale or security interest merely because the
8 transaction provides that the rental price is permitted or required to be adjusted under
9 the agreement either upward or downward by reference to the amount realized upon
10 the sale or other disposition of the motor vehicle or trailer.

11 * **Sec. 2.** ~~The~~ Act does not apply to a transaction involving a motor vehicle or trailer
12 unless the transaction is entered into on or after the effective date of this Act.

S B

2 3 7

These sites are
available to satisfy
for SB 237:

1. Bannock
2. Jain Lok
3. Katchu (K.)
4. Konaak
5. Road by Bannock
6. Bannock

02/09/94
09:12:30

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
PARTICIPANT LIST (ALL PARTICIPANTS)
TCN: 40247 SCHEDULED FOR: 02/09/94 09:00 TO 11:00
PUBLIC HEARING SENATE STATE AFFAIRS

LTN1150
BY:ANC
FOR:ANC

LOCATION: ANCHORAGE
SB 237

LAURA JANE WINEINGER

TESTIFY

02/09/94
09:06:18

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
PARTICIPANT LIST (ALL PARTICIPANTS)
TCN: 40247 SCHEDULED FOR: 02/09/94 09:00 TO 11:00
PUBLIC HEARING SENATE STATE AFFAIRS

LTN1150
BY:KOD
FOR:KOD

LOCATION: KODIAK
SB 237

MR. MIKE

MCARTHY

KOD JUV. TASK FOTESTIFY

02/09/94
09:07:39

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
PARTICIPANT LIST (ALL PARTICIPANTS)
TCN: 40247 SCHEDULED FOR: 02/09/94 09:00 TO 11:00
PUBLIC HEARING SENATE STATE AFFAIRS

LTN1150
BY:FBX
FOR:FBX

LOCATION: FAIRBANKS
SB 237
SB 237

OLIVER BURRIS
TOM SCARBOROUGH

TESTIFY
TESTIFY

Anchorage Offnet

1st Sgt. Randy Crawford

02/09/94
09:03:12

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
PARTICIPANT LIST (ALL PARTICIPANTS)
TCN:40247 SCHEDULED FOR:02/09/94 09:00 TO 11:00
PUBLIC HEARING SENATE STATE AFFAIRS

LTN1150
BY:KTN
FOR:KTN

LOCATION:KETCHIKAN
SB 237

MR.

SCOTT

CORYELL

TESTIFY

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 9, 1994

SUBJECT: Draft CSSB 237 (State Affairs) (Work Order No. 8-LS1365\R)

TO: Senator Loren Leman, Chair
Senate State Affairs Committee
ATTN: Portia Babcock

FROM: Jack Chenoweth
Legislative Counsel 

The draft committee substitute amends and adds to the body of criminal law relating to weapons, amends the delinquency laws to require an automatic waiver of juvenile jurisdiction, with subsequent trial as an adult, of certain recidivist minors and to add a required penalty to be imposed on minors who are adjudicated delinquent based on a weapons possession offense, and establishes a permit system to permit the carrying of concealed weapons.

AMENDMENTS AND ADDITIONS TO AS 11.61, CRIMINAL LAWS RELATING TO DANGEROUS INSTRUMENTS AND WEAPONS:

Bill section 1: To a prosecution for sale of a firearm or a defensive weapon to a person under 18 years of age under the statute defining the offense of misconduct in the fourth degree. AS 11.61.210(a)(6) ^{1/}, the material enacted in bill section one adds

^{1/} AS 11.61.210(a)(6), part of the definition of the crime of misconduct involving weapons in the fourth degree, a class A misdemeanor, provides:

(a) A person commits the crime of misconduct involving weapons in the fourth degree if the person

(6) knowingly sells a firearm or a defensive weapon to a person under 18 years of age.

(1) the defense ^{2/} that, at the time of sale, the minor was accompanied by a parent or legal guardian; and

(2) the affirmative defense ^{3/} that, at the time of sale, the minor was an emancipated minor.

Bill section 2: The amendment made by this section is to that part of the definition of the offense of misconduct involving weapons in the fifth degree, a class B misdemeanor, that speaks to possession of dangerous instruments. The changes delete reference to the maximum age of an unemancipated minor (set at 16 in other law) who may violate the element of this provision that relates to possession of a firearm without consent of parent or guardian, thereby raising the age to 18.

Bill section 3: AS 11.61.220(b) sets out affirmative defenses to the charge of carrying a concealed deadly weapon. The amendment in this bill section would extend the affirmative defense to certain concealed deadly weapon carried with a permit.

Bill section 5: The provision sets out exclusions, a defense, and punishments for conviction for the offense of minor in possession, AS 11.61.210(a)(3). Under subsection (h), a minor could not be prosecuted if possession of the firearm occurred in one of the instances identified in the paragraphs of that subsection. Subsection (i) allows the minor to raise a defense that, at the time of the possession of the firearm, the minor was accompanied by an adult. Subsection (j) increases the penalty for a second and subsequent violation of a minor in possession conviction from a class B to a class A misdemeanor.

Bill section 4 inserts an exception related to the augmentation of the punishment imposed for a second or subsequent violation by a minor in possession of a firearm.

^{2/} Under AS 11.81.900(b)(15),

(15) "defense", other than an affirmative defense, means that

(A) some evidence must be admitted which places in issue the defense; and

(B) the state then has the burden of disproving the existence of the defense beyond a reasonable doubt;

^{3/} Under AS 11.81.900(b)(1),

(1) "affirmative defense" means that

(A) some evidence must be admitted which places in issue the defense; and

(B) the defendant has the burden of establishing the defense by a preponderance of the evidence;

AMENDMENT OF THE DELINQUENCY LAWS, AS 47.10:

Bill section 7: The addition of a new subsection, (e), to AS 47.10.010 amends the delinquency laws to require an automatic waiver of juvenile jurisdiction and subsequent trial as an adult of a minor at least 14 years of age who commits a second or subsequent offense using a firearm, having once been convicted as an adult or adjudicated a delinquent.

Bill section 8: The addition of a new paragraph, (7), to AS 47.10.080(b) would allow the court to revoke a minor's driving privilege for one year (first offense) or for two years (second and subsequent offense) if the minor is found to have violated AS 11.61.220(a)(3), relating to a minor in possession of a dangerous instrument or a firearm.

MATERIAL RELATING TO CONCEALED WEAPONS:

Bill section 6: The bill section, adding new sections to AS 18.65, sets out specific requirements that would permit persons to possess concealed weapons. Specifically -

-- AS 18.65.700 directs the Department of Public Safety to issue a permit to a person who meets the qualifications of this section, sets a time limit on issuing the permit, and gives the permit a life of five years.

-- AS 18.65.705 describes the substantive qualifications for persons who are eligible to receive a permit.

-- AS 18.65.710 prescribes the content of the concealed weapons permit application.

-- AS 18.65.715 sets a schedule of the fees for the permit, its renewal, and its replacement.

-- AS 18.65.720 prescribes the process applicable to a permit's renewal.

-- AS 18.65.725 authorizes permit replacements.

-- AS 18.65.730 prescribes situations under which the Department of Public Safety may act to suspend a concealed weapons permit.

-- AS 18.65.735 identifies situations in which a concealed weapons permit may be revoked, authorizes appeals under the Administrative Procedure Act of revocation decisions, and sets a five year period during which a person whose permit was revoked by reason of a criminal conviction may not re-apply.

-- AS 18.65.740 disclaims any department liability for issuing a permit to carry a concealed weapon.

-- AS 18.65.750 requires the permittee to carry the permit at all times the permittee carries the concealed weapon.

-- AS 18.65.755 sets out a list of places in which a concealed weapon may not be taken.

-- AS 18.65.760 directs the department to maintain a list of permittees and to make that list available to peace officers, and not to others.

Senator Loren Leman
February 9, 1994
Page 4

-- AS 18.65.765 authorizes the department to adopt regulations and sets limits on the content of the regulations and action that may be taken under them.

-- AS 18.65.770 bars a municipality from enacting ordinances in conflict with the provisions of the proposed chapter.

-- AS 18.65.775 supplies definitions for key terms.

*

An applicability section, bill section 9, gives prospective effect to those sections of the bill that involve convictions of minors and adjudications of delinquency.

JBC:gc
94-110.glc

Enclosure



Alaska State Legislature

Session:
State Capitol
Juneau AK 99801-1182

Interim:
716 W 4th Avenue
Anchorage AK 99501-2133

MEMORANDUM

TO: Jack Chenoweth, Legal Counsel
Legislative Legal Services

FROM: Senator Loren Leman, Chairman
Senate Committee on State Affairs *Loren*

DATE: February 12, 1994

RE: New SSTA Work Draft CS for Work Draft CSSB 237 (STA)

Please make the following changes to SSTA work draft 8-LS1365/R
(2/3/94):

Page 4, line 18:

REPLACE: "one" with "two" sets of fingerprints

Page 5, line 18:

Following: "controlled substance" ADD. "for at least the five years
immediately preceding the application."

Page 6, line 4:

Following "weight" ADD "race"

Page 6, line 23 and 24:

DELETE all of (8)

Senate Committee on State Affairs
Draft CS Request for SB237: 2/12/94
Page 2

Page 8, line 15:

REPLACE: "department" with "state or a political subdivision of the state"

Page 8, lines 25, 26 27:

Following: "courtroom;" DELETE: "an office or building housing state or federal offices or the offices of a political subdivision of the state;"

Page 10, line line 7:

Following: "as a result of" DELETE: "another offense", and REPLACE with: " an offense that, in this or another jurisdiction, involved the use of a firearm in the commission of the offense."

In addition, please ADD a section, where appropriate,(maybe page 8, line 21) requiring a concealed carry permit holder to notify a peace officer of possession of a weapon and a permit to carry a concealed weapon when contact is made with a peace officer.

Also, please make a statutory distinction between bars and restaurants with liquor licenses. What we are trying to do is to allow concealed carry permit holders to enter eating establishments that may have a liquor license and serve alcohol, but not to allow them to carry in "bars." The language in AS 11.61.2109(a)(2) seems to cover both bars and restaurants that serve alcohol. We would like an exemption for eating establishments, but not for bars.

Thank you. If you have any questions or need clarification, please call Portia at 4522.

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

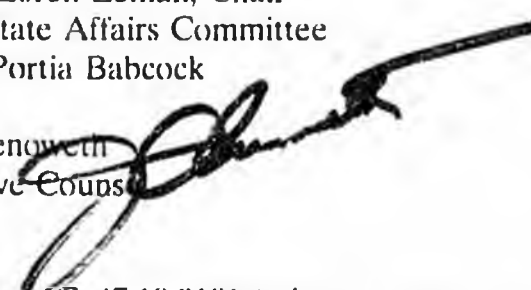
MEMORANDUM

February 14, 1994

SUBJECT: Draft CSSB 237 (State Affairs) (Work Order No. 8-LS1365U)

TO: Senator Loren Leman, Chair
Senate State Affairs Committee
ATTN: Portia Babcock

FROM: Jack Chenoweth
Legislative Counsel



Section 8 of this draft, adding AS 47.10.010(e), incorporates your suggested language--"as a result of an offense that . . . involves the use of a firearm in the commission of an offense"--but the "involves the use of" language of that provision strikes me as rather vague. If, in commission of the offense, the defendant had a firearm in personal possession--tucked in a belt or in a handbag--but the firearm was not material to the commission of the offense--wasn't pointed at a victim at the time of a threat--is the juvenile jurisdiction of the minor automatically waived? Couldn't we try to be a little clearer--perhaps

-- "used or threatened to use a firearm to commit the offense" (if actual use or threat of use is contemplated);

-- "possessed on or about oneself a firearm during the commission of an offense" (see AS 11.56.310(a)(1)(C) and (a)(2)) (if access to a firearm during commission of the offense is contemplated); or

-- "was armed with a firearm during the commission of the offense" (if possession but not necessarily use of the firearm during commission of the offense is contemplated).

In addition to that concern, AS 18.65.735 needs attention.

AS 18.65.735(a)(1) is a disqualification provision intended to operate after a permit has been issued. Unfortunately, by merely cross-referencing AS 18.65.705, it

Senator Loren Leman, Chair

February 14, 1994

Page 2

improperly incorporates reference to activity that occurred during a five-year period preceding an initial application for a permit. The disqualification under AS 18.65.705 for obtaining a permit won't work as a condition to disqualify someone from retaining a permit. AS 18.65.735(a)(1) should be redrafted.

AS 18.65.735(c) includes reference to "date of conviction." However, paragraph (a)(4) of the section makes no reference to a "conviction." It relates back to reference to "a revocation" in the lead-in material of subsection (a). Consequently, AS 18.65.735(c) should add, at the conclusion, "or revocation, whichever is later."

JBC:mi

94-030.mai



SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Ste 540, Anchorage AK 99501

258-8189

Session: State Capitol, Juneau AK 99801 465-2095

SPONSOR STATEMENT SB237

I introduced this bill to address the problem law enforcement agencies are experiencing with juvenile weapons possession and with the misuse of weapons by juveniles.

SB 237 requires parental permission for the possession of a firearm by juveniles under 18 years of age and that the minor be accompanied by a parent or guardian when purchasing a firearm.

New penalties for weapons possession violations by juveniles include drivers license suspension for one year on the first offense and two years suspension and 100 hours of community service for the second offense.

Exceptions are delineated for shooting competitions, marksmanship programs, gun safety courses, official rifle ranges, hunting and other lawful outdoor activities, and on private property with the consent of the property owner.

The proposed committee substitute for SB 237 includes changes to the procedures regarding juveniles who commit crimes with firearms. If the juvenile is charged with an offense involving a firearm and has been previously adjudicated as a delinquent or convicted as an adult, then the juvenile will be treated in the same manner as an adult.

In addition, it establishes a state permitting system for the carrying of concealed weapons by qualified, law-abiding citizens for personal protection. Thirty-three states in the U.S. have concealed-carry permitting systems in place today.

SB 237 implements important changes to our juvenile weapons possession statutes to assist law enforcement and enacts new penalties that have been an effective deterrent to juvenile offenses in other states. Additionally, it will allow Alaskans the opportunity to better protect themselves.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO: CSSR 237(JUD)

Revision Date: 04/28/94 Dept. Affected: Public Safety
 Title: Weapons Possession/Sale by/to Minors BRU: Alaska State Troopers/Motor Vehicles
 Component: Detachments/Driver Services
 Sponsor: Senator Leman
 Requestor: (S) Finance COMPONENT SERIAL NO. 799/500

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 EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

FUNDING: (Thousands of Dollars)

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

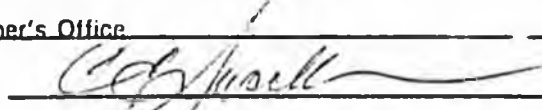
Estimate of current year (FY 94) impact: \$ _____

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 on the Department of Public Safety is anticipated.

Prepared By: Lee Ann Lucas Phone: 465-4322
 Division: Commissioner's Office Date: 04/28/94
 Approved by Commissioner:  Date: 04/28/94
 Agency: Richard L. Burton, Dept. of Public Safety

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8-LS136NR
Chenoweth
2/3/94

CS FOR SENATE BILL NO. 237(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS LEMAN, Phillips

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the possession of firearms by minors, offenses involving
2 weapons, and permits for the carrying of concealed weapons."

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

4 * Section 1. AS 11.61.210 is amended by adding new subsections to read:

5 (d) In a prosecution under (a)(6) of this section involving the sale of a firearm,
6 it is a defense that, at the time of the sale, the person under 18 years of age was
7 accompanied by the person's parent or guardian.

8 (e) In a prosecution under (a)(6) of this section involving the sale of a firearm,
9 it is an affirmative defense that the sale was made to a person under 18 years of age
10 as to whom, at the time of the sale, the disabilities of minority had been removed
11 under AS 09.55.590 or under AS 25.20.020.

12 * Sec. 2. AS 11.61.220(a) is amended to read:

13 (a) A person commits the crime of misconduct involving weapons in the fifth
14 degree if the person

1 (1) knowingly possesses a deadly weapon, other than an ordinary
2 pocketknife or a defensive weapon, that is concealed on the person;

3 (2) knowingly possesses a loaded firearm on the person in any place
4 where intoxicating liquor is sold for consumption on the premises;

5 (3) being an unemancipated minor [UNDER 16 YEARS OF AGE],
6 possesses a firearm without the consent of a parent or guardian of the minor;

7 (4) knowingly possesses a firearm

8 (A) or a defensive weapon within the grounds of or on a
9 parking lot immediately adjacent to a public or private preschool, elementary,
10 junior high, or secondary school without the permission of the chief
11 administrative officer of the school or district or the designee of the chief
12 administrative officer, except that a person 21 years of age or older may
13 possess

14 (i) an unloaded firearm in the trunk of a motor vehicle
15 or encased in a closed container in a motor vehicle;

16 (ii) a defensive weapon; or

17 (B) within the grounds of or on a parking lot immediately
18 adjacent to a center, other than a private residence, licensed under
19 AS 47.35.010 - 47.35.075 or recognized by the federal government for the care
20 of children; or

21 (5) possesses or transports a switchblade or a gravity knife.

22 * Sec. 3. AS 11.61.220(b) is amended to read:

23 (b) In a prosecution under (a)(1) of this section, it is an affirmative defense
24 that the defendant, at the time of possession, was

25 (1) in the defendant's dwelling or on land owned or leased by the
26 defendant appurtenant to the dwelling; [OR]

27 (2) actually engaged in lawful hunting, fishing, trapping, or other lawful
28 outdoor activity that necessarily involves the carrying of a weapon for personal
29 protection; or

30 (3) the holder of a permit to carry a concealed weapon under
31 AS 18.65.700 - 18.65.775 and the deadly weapon was not a shotgun, a rifle, or a

1 prohibited weapon as defined in AS 11.61.200.

2 * Sec. 4. AS 11.61.220(g) is amended to read:

3 (g) Except as provided in (i) of this section, misconduct [MISCONDUCT]
4 involving weapons in the fifth degree is a class B misdemeanor.

5 * Sec. 5. AS 11.61.220 is amended by adding new subsections to read:

6 (h) The provisions of (a)(3) of this section do not apply to a person under 18
7 years of age in possession of a firearm if the person possesses the firearm

8 (1) at an established and lawfully operated range or target concession
9 for the purpose of firing at targets at the range or concession;

10 (2) while in attendance at a hunter safety course or firearm safety
11 course for the purpose of using the firearm in conjunction with lessons presented
12 during that course;

13 (3) while engaged in organized competition involving use of the
14 firearm, or while practicing for an organized competition in which the person plans to
15 participate;

16 (4) on premises owned by or leased by another with the consent of the
17 owner or lessee of those premises;

18 (5) while actually engaged in lawful

19 (A) hunting; or

20 (B) fishing, trapping, or other lawful outdoor activity if the
21 fishing, trapping, or other lawful outdoor activity necessarily involves the
22 carrying of a weapon for personal protection; or

23 (6) while traveling to or from any activity described in (1) - (5) of this
24 sub section.

25 (i) A person convicted under (a)(3) of this section is guilty of a

26 (1) class B misdemeanor if the conviction is the person's first
27 conviction of the offense described in (a)(3) of this section and the person had not
28 been previously convicted under a law or ordinance of another jurisdiction with
29 elements substantially similar to those of an offense described in (a)(3) of this section
30 or adjudicated a delinquent minor under AS 47.10.010 - 47.10.142 for a violation of
31 (a)(3) of this section;

1 (2) class A misdemeanor if, within the preceding seven years, the
2 person was convicted under (a)(3) of this section or under a law or ordinance of
3 another jurisdiction with elements substantially similar to those of an offense described
4 in (a)(3) of this section, or the person was adjudicated a delinquent minor either under
5 AS 47.10.010 - 47.10.142 if the delinquency finding is based upon a violation of (a)(3)
6 of this section or under a law of another jurisdiction authorizing adjudication of
7 delinquency for the violation of a law or ordinance of that jurisdiction with elements
8 substantially similar to those of an offense described in (a)(3) of this section.

9 * Sec. 6. AS 18.65 is amended by adding new sections to read:

10 ARTICLE 9. PERMIT TO CARRY A CONCEALED WEAPON.

11 Sec. 18.65.700. PERMIT TO CARRY A CONCEALED WEAPON. (a) The
12 department shall issue a permit to carry a concealed weapon to a person who

13 (1) applies in person at an office of the Alaska State Troopers;

14 (2) qualifies under AS 18.65.705;

15 (3) submits a completed application on a form provided by the
16 department, that provides the information required under AS 18.65.705 and 18.65.710
17 and is executed under oath;

18 (4) permits the Alaska State Troopers to take one set of fingerprints of
19 the person and, on a blank permit, a print of one finger of each hand; and

20 (5) pays the application fee required by AS 18.65.715.

21 (b) The department shall either approve or reject an application for a permit to
22 carry a concealed weapon within 45 days of receipt of the application. The department
23 shall notify the applicant in writing of the reason for a rejection.

24 (c) A permit issued under this section is valid for five years from the date of
25 issue.

26 Sec. 18.65.705. QUALIFICATIONS TO OBTAIN A PERMIT. A person is
27 qualified to receive and hold a permit to carry a concealed weapon if the person

28 (1) is 21 years of age or older;

29 (2) is eligible to own or possess a firearm under the laws of this state
30 and under federal law;

31 (3) is not currently charged under a complaint, information, indictment,

1 or presentment with a violation of AS 11.41 or a similar law of another jurisdiction;
2 (4) has not been voluntarily or involuntarily committed to a treatment
3 facility for a mental illness, unless the person presents to the department a sworn
4 statement of

5 (A) an official in charge of the facility certifying that the person
6 has been released from the facility for at least the five years immediately
7 preceding the application and that at the time of release the person was not
8 suffering from the condition that led to the commitment; and

9 (B) a psychiatrist who has treated the person certifying that the
10 person has not suffered from the condition that led to the commitment during
11 the five years immediately preceding the application;

12 (5) has not been adjudicated as mentally incapacitated by a court of this
13 state, another state, territory, or jurisdiction, or of the United States, unless the
14 guardianship or similar arrangement has been closed or terminated and five years have
15 elapsed since the closure or other termination;

16 (6) is a resident of the state and has been for the 12 months
17 immediately preceding the application for a permit;

18 (7) has not been convicted of an unlawful use of a controlled substance;

19 (8) has not been discharged from the armed forces of the United States
20 under dishonorable conditions;

21 (9) is not an alien who is residing in the United States illegally or a
22 former citizen of the United States who has renounced the person's citizenship;

23 (10) is not now in and has not previously entered an alcohol treatment
24 program, unless the person presents the department with a sworn statement of a
25 medical or psychological professional that the person has undergone treatment for
26 alcohol abuse and has demonstrated freedom from alcohol impairment for the five
27 years immediately preceding the application; and

28 (11) has not been convicted of two violations of AS 28.33.030,
29 28.33.031, AS 28.35.030, or 28.35.032 or similar laws of another jurisdiction within
30 the five years immediately preceding the application.

31 Sec. 18.65.710. APPLICATION FOR PERMIT TO CARRY A CONCEALED

1 WEAPON. (a) The application for a permit to carry a concealed weapon must, at a
2 minimum, include

3 (1) the applicant's name, address, place and date of birth, physical
4 description, including height, weight, hair color, and eye color, and social security
5 number;

6 (2) a statement that the applicant qualifies under AS 18.65.705;

7 (3) a statement that the applicant has been furnished with a copy of
8 AS 18.65.700 - 18.65.775, has read those sections, and understands them;

9 (4) a statement that the applicant desires a permit to carry a concealed
10 weapon for a lawful purpose, which may include lawful self-defense;

11 (5) a sworn statement by the applicant that all statements, answers, and
12 attachments to the application are true and complete;

13 (6) a conspicuous warning that the application is executed under oath
14 and that an applicant who supplies a false statement, answer, or document, in
15 connection with the application which the applicant does not believe to be true, may
16 be prosecuted for perjury under AS 11.56.200 and, if found guilty, may be punished
17 for violation of a class B felony, and that in such cases the permit shall be revoked
18 and the applicant may be barred from any further application for a permit;

19 (7) a statement that the applicant understands that a background
20 investigation may be conducted as a part of the application process, that this may
21 involve computerized records searches, and that the applicant authorizes the
22 investigation; and

23 (8) any other information determined by the department to be
24 necessary.

25 (b) As a part of an application under (a) of this section, the department may
26 not inquire of an applicant as to any firearms owned by the applicant.

27 Sec. 18.65.715. FEES. (a) The department shall charge a nonrefundable fee
28 of \$100 for application for and initial issuance of a permit.

29 (b) The department shall charge a fee of \$15 for the renewal of a permit under
30 AS 18.65.720.

31 (c) The department shall charge a fee of \$15 for replacement of a permit under

1 AS 18.65.725.

2 Sec. 18.65.720. PERMIT RENEWAL. (a) A permittee shall apply for
3 renewal of a permit to carry a concealed weapon within 90 days before the expiration
4 of the permit on a form provided by the department. The renewal form shall be
5 submitted under oath and must include

6 (1) any change in the information originally submitted under
7 AS 18.65.710;

8 (2) a statement that the person remains qualified to receive and hold
9 a permit to carry a concealed weapon under AS 18.65.705; and

10 (3) the renewal fee required under AS 18.65.715.

11 (b) A renewal of a permit to carry a concealed weapon submitted on or after
12 the expiration date is subject to a late fee of \$15. The department may not accept a
13 renewal for a permit that is submitted more than 90 days after the expiration date of
14 the permit. Nothing in this subsection prohibits the holder of an expired permit from
15 applying for a new permit.

16 Sec. 18.65.725. REPLACEMENT OF PERMIT. The department may replace
17 a permit that the permittee certifies under oath has been lost, stolen, or destroyed.

18 Sec. 18.65.730. SUSPENSION OF PERMIT. The department shall
19 immediately suspend a permit to carry a concealed weapon if a permittee is arrested
20 for or formally charged with a crime that would disqualify the permittee under
21 AS 18.65.705(3) from being eligible to hold a permit to carry a concealed weapon.
22 A suspension of a permit remains in effect until the permit is revoked under
23 AS 18.65.735 or the department has been notified of a disposition favorable to the
24 defendant or the defendant has been released from custody without being charged. In
25 this section, "disposition favorable to the defendant" means an adjudication by a court
26 other than a conviction or a dismissal by the prosecutor.

27 Sec. 18.65.735. REVOCATION OF PERMIT; APPEAL. (a) A permit to
28 carry a concealed weapon shall be immediately revoked by the department when the
29 permittee

30 (1) becomes disqualified to receive and hold a permit under
31 AS 18.65.705, other than AS 18.65.705(3);

1 (2) is convicted of three violations of AS 18.65.750 or 18.65.755 within
2 a five-year period;

3 (3) is convicted of violating AS 28.33.030, 28.33.031, AS 28.35.030,
4 or 28.35.032 and was carrying a concealed weapon at the time of the violation; or

5 (4) with intent to mislead the department or its employees, supplied a
6 false or fraudulent answer, statement, or document, or made a material misstatement
7 or omission, in connection with an application for a permit or renewal of a permit.

8 (b) A person whose permit is revoked under this section may appeal the
9 revocation decision to the commissioner. A person may seek judicial review of the
10 decision of the commissioner under AS 44.62.560 - 44.62.570.

11 (c) A person whose permit is revoked under (a)(2) - (4) of this section may
12 not apply for a new permit until at least five years have elapsed since the date of the
13 last conviction.

14 Sec. 18.65.740. NO LIABILITY FOR ISSUANCE OF PERMIT. The
15 department is not liable by virtue of having issued a permit to carry a concealed
16 weapon for damage or harm caused by the permittee.

17 Sec. 18.65.750. POSSESSION AND DISPLAY OF PERMIT. (a) A permittee
18 shall carry the permit at all times the permittee carries a concealed weapon. The
19 permittee shall display both the license and other proper identification when asked to
20 do so by a peace officer at any time.

21 (b) A person who violates (a) of this section is guilty of a violation and shall
22 be punished by a fine of \$25.

23 Sec. 18.65.755. PLACES WHERE PERMITTEE MAY NOT POSSESS A
24 CONCEALED WEAPON. (a) A permittee may not carry a concealed weapon into
25 a law enforcement or correctional facility; a courthouse or a courtroom; an office or
26 building housing state or federal offices or the offices of a political subdivision of the
27 state; a passenger loading or unloading area of an airline terminal; or a vessel of the
28 Alaska marine highway system.

29 (b) In addition to any other penalty provided by law, a person who violates
30 this section is guilty of a class B misdemeanor.

31 Sec. 18.65.760. COMPILATION AND MAINTENANCE OF LIST OF

1 PERMITTEES; ACCESS TO LIST. (a) The department shall compile and maintain
2 a list of permittees in a manner that allows immediate access to the information by
3 peace officers.

4 (b) Except for access by peace officers under (a) of this section, the list of
5 permittees compiled and maintained under (a) of this section is confidential and may
6 not be inspected by the public.

7 Sec. 18.65.765. REGULATIONS. The department shall adopt regulations to
8 implement AS 18.65.700 - 18.65.775. This section does not delegate to the department
9 the authority to regulate or restrict the issuing of permits beyond those provisions
10 contained in AS 18.65.700 - 18.65.775. Subjective or arbitrary actions or regulations
11 that encumber the issuing process by placing burdens on the applicant beyond those
12 sworn statements and specified documents detailed in AS 18.65.700 - 18.65.775 or that
13 create restrictions beyond those specified or specifically authorized in AS 18.65.700 -
14 18.65.775 are prohibited.

15 Sec. 18.65.770. PROHIBITION ON CERTAIN ORDINANCES. A
16 municipality may not enact an ordinance that conflicts with or imposes stricter
17 standards than the requirements of this chapter.

18 Sec. 18.65.775. DEFINITIONS. In AS 18.65.700 - 18.65.775,

19 (1) "commissioner" means the commissioner of public safety;

20 (2) "concealed weapon"

21 (A) means a deadly weapon, as defined in AS 11.81.900, that
22 is covered or enclosed in any manner so that an observer cannot determine that
23 it is a weapon without removing it from that which covers or encloses it or
24 without opening, lifting, or removing that which covers or encloses it;

25 (B) does not include

26 (i) a deadly weapon that is a prohibited weapon as
27 defined in AS 11.61.200; or

28 (ii) a shotgun or rifle;

29 (3) "department" means the Department of Public Safety;

30 (4) "permit" means a permit to carry a concealed weapon issued under
31 AS 18.65.700 - 18.65.775.

1 * Sec. 7. AS 47.10.010 is amended by adding a new subsection to read:

2 (e) The procedures prescribed in AS 47.10.020 - 47.10.090 and the Alaska
3 Delinquency Rules do not apply when a minor who is at least 14 years of age at the
4 time of the alleged offense is charged with an offense, the minor is alleged to have
5 used a firearm in the commission of the offense, and the minor has been previously
6 adjudicated as a delinquent or convicted as an adult, in this or another jurisdiction, as
7 a result of another offense. The minor shall be charged, prosecuted, and sentenced in
8 the superior court in the same manner as an adult. In this subsection, "firearm" has
9 the meaning given in AS 11.81.900.

10 * Sec. 8. AS 47.10.080(b) is amended to read:

11 (b) If the court finds that the minor is delinquent, it shall

12 (1) order the minor committed to the department for a period of time
13 not to exceed two years or in any event extend past the day the minor becomes 19,
14 except that the department may petition for and the court may grant in a hearing (A)
15 two-year extensions of commitment that do not extend beyond the child's 19th
16 birthday if the extension is in the best interests of the minor and the public; and (B)
17 an additional one-year period of supervision past age 19 if continued supervision is in
18 the best interests of the person and the person consents to it; the department shall place
19 the minor in the juvenile facility that the department considers appropriate and that
20 may include a juvenile correctional school, juvenile work camp, detention home, or
21 detention facility; the minor may be released from placement or detention and placed
22 on probation on order of the court and may also be released by the department, in its
23 discretion, under AS 47.10.200;

24 (2) order the minor placed on probation, to be supervised by the
25 department, and released to the minor's parents, guardian, or a suitable person; if the
26 court orders the minor placed on probation, it may specify the terms and conditions
27 of probation; the probation may be for a period of time, not to exceed two years and
28 in no event extend past the day the minor becomes 19, except that the department may
29 petition for and the court may grant in a hearing

30 (A) two-year extensions of supervision that do not extend
31 beyond the child's 19th birthday if the extension is in the best interests of the