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ACKNOWLEDGMENTS

The National Center for Missing & Exploited Children first published *Modeling Sex-Offender Policy* in September 1998 after having convened a Sex-Offender Policy Task Force, composed of distinguished leaders in the field. Lucy Berliner, Director of the Harborview Center for Sexual Assault & Traumatic Stress in Seattle, Washington, a long-time NCMEC Board Member and Chair of NCMEC's Professional Advisory, chaired this multidisciplinary Task Force.

The Task Force examined the issues and research, listened to a cross-section of experts and practitioners, and helped NCMEC shape an initial comprehensive, research-based policy outline for decision makers. That policy has been further developed in this updated edition.

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For the 2003 updated *A Model State Sex-Offender Policy*, NCMC thanks:

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This publication represents the response of the National Center for Missing & Exploited Children to the enormous challenge sex offenders pose for policymakers. NCMC's recommended strategy for policymakers embodies a common-sense approach that is tough, aggressive, balanced, sensitive to victims, and, most importantly, effective.

END NOTES

¹ Lauren E. Glaze, *Probation and Parole in the United States, 2001*, U.S. Department of Justice, Bureau of Justice Statistics, August 2002, at 1. Available (NCJ 195669) from the National Criminal Justice Reference Service (NCJRS) at 1-800-851-3420.

² *Id.*

³ Paige M. Harrison and Allen J. Beck, *Prisoners in 2001*, U.S. Department of Justice, Bureau of Justice Statistics, July 2002, at 12. [Hereinafter "*Prisoners in 2001*."] Available (NCJ 195189) from NCJRS at 1-800-851-3420.

⁴ The term "sexual assault" is generally used to refer to forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling. For the purposes of this publication, we will be using the definitions provided by the National Incident-Based Reporting System. These definitions can be found in the publication titled *Sexual Assault of Young Children as Reported to Law Enforcement: Victim, Incident, and Offender Characteristics* by Howard N. Snyder, sponsored by the U.S. Department of Justice, Bureau of Justice Statistics, July 2000, at 13. [Hereinafter "*Sexual Assault of Young Children*."] Available (NCJ 182990) from NCJRS at 1-800-851-3420.

A **forcible sex offense** is any sex act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will when the victim is incapable of giving consent because of his or her temporary or permanent mental or physical incapacity.

Forcible rape is the carnal knowledge of a person, forcibly and/or against that person's will; or not forcibly or against the person's will when the victim is incapable of giving consent because of his or her temporary or permanent mental or physical incapacity. If force was used or threatened, the crime should be classified as forcible rape, regardless of the victim's age. If no force was used or threatened and the victim was under the statutory age of consent, the crime should be classified as statutory rape.

Forcible sodomy is oral or anal sexual intercourse with another person, forcibly and/or against that person's will; or not forcibly or against the person's will when the victim is incapable of giving consent because of his or her temporary or permanent mental or physical incapacity.

Sexual assault with an object is using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will; or not forcibly or against the person's will when the victim is incapable of giving consent because of his or her temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything used by the offender other than the offender's genitalia such as finger, bottle, handgun, and/or stick.

Forcible fondling is the touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will; or not forcibly or against the person's will when the victim is incapable of giving consent because of his or her temporary or permanent mental or physical incapacity.

⁵ *Sexual Assault of Young Children*, *supra* note 4, at 2, 12.

⁶ *Id.*

⁷ *Id.* at 2.

⁸ Sheila J. Barton, *National Conference on Sex Offender Registries: Proceedings of a BJS/Search Conference*, U.S. Department of Justice, Bureau of Justice Statistics, April 1998, at 9. Available (NCJ 168965) from NCJRS at 1-800-851-3420.

⁹ *Sexual Assault of Young Children*, *supra* note 4, at 5.

¹⁰ *Id.*

¹¹ *Id.* at 2.

¹² Carol J. DeFrances and Kevin J. Strom, *Juveniles Prosecuted in State Criminal Courts*, U.S. Department of Justice, Bureau of Justice Statistics, March 1997, at 3. Available (NCJ 164265) from NCJRS at 1-800-851-3420. Nineteen percent of prosecutor offices handling juvenile cases have a specialized unit dealing with juvenile cases transferred to criminal court, and 16 percent of prosecutor offices handling juvenile cases have written guidelines about the transfer of juveniles to criminal court.

¹³ Lawrence A. Greenfeld, *Sex Offenses and Offenders: Analysis of Data on Rape and Sexual Assault*, U.S. Department of Justice, Bureau of Justice Statistics, February 1997, at 20. [Hereinafter "*Sex Offenses and Offenders*."] Available (NCJ 163392) from NCJRS at 1-800-851-3420. In 1993 the average time served for convicted rapists was approximately five years, which is about 50 percent of their full sentences, and the average time served for convictions of sexual assault was just under three years, which is just over 41 percent of their sentences.

¹⁴ Lita Furby et al., *Sex Offender Recidivism: A Review*, 105 PSYCHOLOGICAL BULLETIN 3-4 (1989). [Hereinafter "Sex Offender Recidivism."] "[T]he overwhelming majority of apprehended sex offenders are not incarcerated or institutionalized at all. For those who are convicted, probation with mandatory treatment (and perhaps some jail time) is the most common disposition." *Sex Offenses and Offenders*, supra note 13, at 15. Approximately 234,000 convicted sex offenders are currently under correctional supervision. Nearly 60 percent of these offenders are on parole or probation. These figures do not account for the sex offenders who have not entered the criminal-justice system such as offenders who have avoided detection.

¹⁵ Roxanne Lieb and Scott Matson, *Community Notification in Washington State: 1996 Survey of Law Enforcement*, Washington State Institute for Public Policy, November 1996, at 7. Only a small percent of offenders are subject to active community notification. In Washington State, for example, from 1990 to 1996, it is estimated that only 1,105 out of the 9,912 (11 percent) registered offenders were subject to Level II and III notification. In addition many offenders were able to escape detection. See also Gene Abel et al., *Self-Reported Sex Crimes of Nonincarcerated Paraphiliacs*, 2 JOURNAL OF INTERPERSONAL VIOLENCE 3 (1987) (results from a self-report study).

¹⁶ W.L. Marshall and H.E. Barbaree, *Outcome of Comprehensive Cognitive-Behavioral Treatment Programs*, HANDBOOK OF SEXUAL ASSAULT 371 (1990). Baseline recidivism rates for untreated sex offenders are difficult to calculate, but several studies indicate that recidivism based on law-enforcement records only, for exhibitionists is between 41-71 percent; for rapists 7-35 percent; for opposite-sex child molesters 10-29 percent; and same-sex child molesters 13-40 percent. See also Lucy Berliner and Diana Elliot, *Sexual Abuse of Children*, THE APSAC HANDBOOK ON CHILD MALTREATMENT 53 (John Briere et al. eds., 1996) (discussing family, race, and gender rates of sexual abuse among children). See generally *Sex Offender Recidivism*, supra note 14, at 105 (reviewing different empirical studies of sexual offense recidivism rates).

¹⁷ R.F. Longo et al., *1994 Nationwide Survey of Treatment Programs and Models*, The Safer Society Program and Press (1995). Although private treatment programs have been increasing in recent years, there has been a decrease in sex-offender treatment programs in prison.

¹⁸ Carol Poole and Roxanne Lieb, *Community Notification in Washington State: Decision-Making and Costs*, Washington State Institute for Public Policy, July 1995, at 10. The level of community supervision of sex offenders varies. In Clarke County, Washington, for example, offenders deemed highly dangerous are visited monthly by law-enforcement personnel. In King County, Washington, which has a significantly larger population, home visits are replaced by telephone calls and certified mail.

¹⁹ Personal interviews with representatives of sex-offender registries in the 50 states and the District of Columbia conducted by the Legal Resource Division of the National Center for Missing and Exploited Children, December 2002 - April 2003. Total figure is 456,935.

²⁰ *Sexual Assault of Young Children*, supra note 4, at 12.

²¹ Lucy Berliner et al., *A Sentencing Alternative for Sex Offenders: A Study of Decision Making and Recidivism*, 10 JOURNAL OF INTERPERSONAL VIOLENCE 487-488 (1995). Especially in cases where the offender is related or known to the victim, the victim may not want to report the incident(s) if there is no other alternative to incarceration. For example the victim may not wish that a father or sibling be incarcerated. This may also hold true if the offender provides financial support. Additionally the victim may be concerned about potential harm to the society caused by the future release of a sex offender who remains untreated. See also William D. Murphy and Timothy A. Smith, *Sex Offenders Against the Children*, THE APSAC HANDBOOK ON CHILD MALTREATMENT 176 (John Briere et al. eds., 1996) (considering whether treatment instead of incarceration for sex offenders would encourage victims to step forward).

²² W.L. Marshall and W.D. Pithers, *Reconsideration of Treatment Outcome with Sex Offenders*, 21 CRIMINAL JUSTICE AND BEHAVIOR 10-27 (1994).

²³ Judith Becker, *Offender Characteristics and Treatment*, 4 THE FUTURE OF CHILDREN 176, 187 (1994) (citing R. McGrath, *Sex Offender Risk Assessment and Disposition Planning: A Review of Empirical and Clinical Findings*, 35 INTERPERSONAL JOURNAL OF OFFENDER TREATMENT AND COMPARATIVE CRIMINOLOGY 328 (1991)). [Hereinafter "Offender Characteristics and Treatment."] A sex offender can be amenable to treatment if he or she acknowledges his or her sexual offense, wants to stop, and is willing to participate fully in treatment.

²⁴ See, for example., W.L. Marshall and H.E. Barbaree, *The Long-Term Evaluation of a Behavioral Treatment Program for Child Molesters*, 26 BEHAVIOR RESEARCH THERAPY 499 (1988). One treatment study for child molesters, comparing a control group (n=58) and an experimental group (n=68), found that recidivism rates between the two groups was statistically significant. The sex reoffense rate, using unofficial statistics, was 13 percent for the treatment group and 35 percent for the nontreatment group. The follow-up period was one to eleven years. See also W.L. Marshall et al.,

Treatment Outcome With Sex Offenders, 11 CLINICAL PSYCHOLOGY REVIEW 465 (1991) (concluding that comprehensive cognitive behavioral programs are the most likely effective treatment for child molesters).

²⁵ *The Sex Offender: Corrections, Treatment and Legal Practice Part IV*, Barbara K. Schwartz and Henry R. Cellini eds., Civic Research Institute, 1995. Aside from treatment, other elements in relapse prevention include behavioral management, aftercare treatment programs, external supervision, and community management of the sex offender.

²⁶ M.E. Rice et al., *Sexual Recidivism Among Child Molesters Released from a Maximum Security Psychiatric Institution*, 59 JOURNAL OF CONSULTING AND CLINICAL PSYCHOLOGY 381 (1991). Experts suggest that for a small number of dangerous offenders, treatment is not effective. One treatment study for child molesters, comparing a control group (n=86) to an experimental group (n=50), found no statistically significant difference in recidivism rates. For the offenders who matched on criminal history and sexual preference, the reconviction rate was 38 percent for the treatment group and 31 percent for the nontreatment group. The average follow-up time was 6.3 years.

²⁷ *Offender Characteristics and Treatment*, *supra* note 23, at 184. Community-based controlled studies with random assignment are ethically questionable.

²⁸ Marie A. Bochnewich, *Predictions of Dangerousness and Washington's Sexually Violent Predator Statute*, 29 CAL. W. L. REV. 227 (1992). There is evidence that very few sex offenders are permanently incarcerated. See generally Lin Song and Roxanne Lieb, *Adult Sex Offender Recidivism: A Review of Studies*, Washington State Institute for Public Policy, January 1994, at 2 (observing that most convicted sex offenders eventually return to the community).

²⁹ In *North Carolina v. Alford*, 400 U.S. 25 (1970), the U.S. Supreme Court held that an individual may voluntarily and knowingly consent to the imposition of a prison sentence even if he is unwilling or unable to permit his participation in the acts constituting the crime.

³⁰ The Supreme Court decision of *Kansas v. Hendrick*, 521 U.S. 346 (1997), examines one such statute and provides a framework and context for the creation of such provisions.

³¹ Walter J. Dickey and Michael E. Smith, *Rethinking Probation: Community Supervision, Community Safety*, U.S. Department of Justice, Office of Justice Programs, December 1998, at 10. [Hereinafter "*Rethinking Probation*."] Available (NCJ 178236) from NCJRS at 1-800-851-3420.

³² These requirements are suggested pursuant to the *Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act* (42 U.S.C. § 14071).

³³ *Id.*

³⁴ Leading community notification models include those in Minnesota, New Jersey, and the state of Washington.

³⁵ *Prisoners in 2001*, *supra* note 3, at 10. On December 31, 2001, state prisons were operating between 1 and 16 percent above capacity, while federal prisons were operating at 31 percent above capacity.

³⁶ *Rethinking Probation*, *supra* note 31, at 5.

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*** ANNOTATIONS CURRENT THROUGH SEPTEMBER 30, 2005 ***

TITLE 47. CRIMINAL PROCEDURE AND CORRECTIONS (Chs. 900-985)
CHAPTER 921. SENTENCE

GO TO FLORIDA STATUTES ARCHIVE DIRECTORY

Fla. Stat. § 921.141 (2005)

§ 921.141. Sentence of death or life imprisonment for capital felonies; further proceedings to determine sentence

(1) *SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.* --Upon conviction or adjudication of guilt of a defendant of a capital felony, the court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or life imprisonment as authorized by s. 775.082. The proceeding shall be conducted by the trial judge before the trial jury as soon as practicable. If, through impossibility or inability, the trial jury is unable to reconvene for a hearing on the issue of penalty, having determined the guilt of the accused, the trial judge may summon a special juror or jurors as provided in chapter 913 to determine the issue of the imposition of the penalty. If the trial jury has been waived, or if the defendant pleaded guilty, the sentencing proceeding shall be conducted before a jury impaneled for that purpose, unless waived by the defendant. In the proceeding, evidence may be presented as to any matter that the court deems relevant to the nature of the crime and the character of the defendant and shall include matters relating to any of the aggravating or mitigating circumstances enumerated in subsections (5) and (6). Any such evidence which the court deems to have probative value may be received, regardless of its admissibility under the exclusionary rules of evidence, provided the defendant is accorded a fair opportunity to rebut any hearsay statements. However, this subsection shall not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or the Constitution of the State of Florida. The state and the defendant or the defendant's counsel shall be permitted to present argument for or against sentence of death.

(2) *ADVISORY SENTENCE BY THE JURY.* --After hearing all the evidence, the jury shall deliberate and render an advisory sentence to the court, based upon the following matters:

(a) Whether sufficient aggravating circumstances exist as enumerated in subsection (5);

(b) Whether sufficient mitigating circumstances exist which outweigh the aggravating circumstances found to exist; and

(c) Based on these considerations, whether the defendant should be sentenced to life imprisonment or death.

(3) *FINDINGS IN SUPPORT OF SENTENCE OF DEATH.* --Notwithstanding the recommendation of a majority of the jury, the court, after weighing the aggravating and mitigating circumstances, shall enter a sentence of life imprisonment or death, but if the court imposes a sentence of death, it shall set forth in writing its findings upon which the sentence of death is based as to the facts:

(a) That sufficient aggravating circumstances exist as enumerated in subsection (5), and

(b) That there are insufficient mitigating circumstances to outweigh the aggravating circumstances.

In each case in which the court imposes the death sentence, the determination of the court shall be supported by specific written findings of fact based upon the circumstances in subsections (5) and (6) and upon the records of the trial and the sentencing proceedings. If the court does not make the findings requiring the death sentence within 30 days after the rendition of the judgment and sentence, the court shall impose sentence of life imprisonment in accordance with s. 775.082.

(4) *REVIEW OF JUDGMENT AND SENTENCE.* --The judgment of conviction and sentence of death shall be subject to automatic review by the Supreme Court of Florida and disposition rendered within 2 years after the filing of a notice of appeal. Such review by the Supreme Court shall have priority over all other cases and shall be heard in accordance with rules promulgated by the Supreme Court.

(5) *AGGRAVATING CIRCUMSTANCES.* --Aggravating circumstances shall be limited to the following:

(a) [As amended by s. 1, ch. 96-302.] The capital felony was committed by a person previously convicted of a felony and under sentence of imprisonment or placed on community control or on felony probation.

(a) [As amended by s. 5, ch. 96-290.] The capital felony was committed by a person under sentence of imprisonment or placed on community control or on probation.

(b) The defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person.

(c) The defendant knowingly created a great risk of death to many persons.

(d) The capital felony was committed while the defendant was engaged, or was an accomplice, in the commission of, or an attempt to commit, or flight after committing or attempting to commit, any: robbery; sexual battery; aggravated child abuse; abuse of an elderly person or disabled adult resulting in great bodily harm, permanent disability, or permanent disfigurement; arson; burglary; kidnapping; aircraft piracy; or unlawful throwing, placing, or discharging of a destructive device or bomb.

(e) The capital felony was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.

(f) The capital felony was committed for pecuniary gain.

(g) The capital felony was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.

(h) The capital felony was especially heinous, atrocious, or cruel.

(i) The capital felony was a homicide and was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification.

(j) The victim of the capital felony was a law enforcement officer engaged in the performance of his or her official duties.

(k) The victim of the capital felony was an elected or appointed public official engaged in the performance of his or her official duties if the motive for the capital felony was related, in whole or in part, to the victim's official capacity.

(l) The victim of the capital felony was a person less than 12 years of age.

(m) The victim of the capital felony was particularly vulnerable due to advanced age or disability, or because the defendant stood in a position of familial or custodial authority over the victim.

(n) The capital felony was committed by a criminal street gang member, as defined in s. 874.03.

(o) The capital felony was committed by a person designated as a sexual predator pursuant to s. 775.21 or a person previously designated as a sexual predator who had the sexual predator designation removed.

(6) *MITIGATING CIRCUMSTANCES.* --Mitigating circumstances shall be the following:

(a) The defendant has no significant history of prior criminal activity.

(b) The capital felony was committed while the defendant was under the influence of extreme mental or emotional disturbance.

(c) The victim was a participant in the defendant's conduct or consented to the act.

(d) The defendant was an accomplice in the capital felony committed by another person and his or her participation was relatively minor.

(e) The defendant acted under extreme duress or under the substantial domination of another person.

(f) The capacity of the defendant to appreciate the criminality of his or her conduct or to conform his or her conduct to the requirements of law was substantially impaired.

(g) The age of the defendant at the time of the crime.

(h) The existence of any other factors in the defendant's background that would mitigate against imposition of the death penalty.

(7) VICTIM IMPACT EVIDENCE. --Once the prosecution has provided evidence of the existence of one or more aggravating circumstances as described in subsection (5), the prosecution may introduce, and subsequently argue, victim impact evidence to the jury. Such evidence shall be designed to demonstrate the victim's uniqueness as an individual human being and the resultant loss to the community's members by the victim's death. Characterizations and opinions about the crime, the defendant, and the appropriate sentence shall not be permitted as a part of victim impact evidence.

(8) APPLICABILITY. --This section does not apply to a person convicted or adjudicated guilty of a capital drug trafficking felony under s. 893.135.

HISTORY: s. 237a, ch. 19554, 1939; CGL 1940 Supp. 8663(246); s. 119, ch. 70-339; s. 1, ch. 72-72; s. 9, ch. 72-724; s. 1, ch. 74-379; s. 248, ch. 77-104; s. 1, ch. 77-174; s. 1, ch. 79-353; s. 177, ch. 83-216; s. 1, ch. 87-368; s. 10, ch. 88-381; s. 3, ch. 90-112; s. 1, ch. 91-270; s. 1, ch. 92-81; s. 1, ch. 95-159; s. 5, ch. 96-290; s. 1, ch. 96-302; s. 7, ch. 2005-28; s. 2, ch. 2005-64.

NOTES:

AMENDMENTS

The 2005 amendment by s. 7, ch. 2005-28, effective September 1, 2005, added (5)(o).

The 2005 amendment by s. 2, ch. 2005-64, effective July 1, 2005, in the first sentence in (7), added "to the jury" following "victim impact evidence."

NOTE.--Former s. 919.23.

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TITLE 47. CRIMINAL PROCEDURE AND CORRECTIONS (Chs. 900-985)
CHAPTER 921. SENTENCE

GO TO FLORIDA STATUTES ARCHIVE DIRECTORY

Fla. Stat. § 921.0016 (2005)

§ 921.0016. Recommended sentences; departure sentences; aggravating and mitigating
circumstances

(1) (a) The recommended guidelines sentence provided by the total sentence points is
assumed to be appropriate for the offender.

(b) A trial court judge may impose a state prison sentence which varies upward or
downward by up to, and including, 25 percent from the recommended guidelines state
prison sentence without issuing a written statement delineating the reasons for the
variation.

(c) A state prison sentence which varies upward or downward from the
recommended guidelines prison sentence by more than 25 percent is a departure sentence
and must be accompanied by a written statement delineating the reasons for the
departure, filed within 7 days after the date of sentencing. A written transcription of
orally stated reasons for departure from the guidelines at sentencing is permissible if it is
filed by the court within 7 days after the date of sentencing.

(d) The imposition of a split sentence of incarceration followed by community
control or probation does not by itself constitute a departure from sentencing guidelines.
For the purpose of determining the maximum sentence authorized by law, any
community control portion of a split sentence does not constitute a term of imprisonment.

(e) A departure sentence must be within any relevant maximum sentence limitations
provided by s. 775.082.

(2) A departure from the recommended guidelines sentence is discouraged unless
there are circumstances or factors which reasonably justify the departure. Aggravating
and mitigating factors to be considered include, but are not limited to, those listed in
subsections (3) and (4). The failure of a trial court to impose a sentence within the

sentencing guidelines is subject to appellate review under chapter 924, but the extent of departure from a guidelines sentence is not subject to appellate review.

(3) Aggravating circumstances under which a departure from the sentencing guidelines is reasonably justified include, but are not limited to:

(a) The departure results from a legitimate, uncoerced plea bargain.

(b) The offense was one of violence and was committed in a manner that was especially heinous, atrocious, or cruel.

(c) The offenses before the court for sentencing arose out of separate episodes; the primary offense is scored at offense level 4 or higher; and the defendant has committed five or more offenses within a 180-day period that have resulted in convictions.

(c) The primary offense is scored at offense level 3 and the defendant has committed eight or more offenses within a 180-day period that have resulted in convictions.

(e) The offense before the court for disposition was committed within 6 months after the defendant was discharged from a release program, as defined in s. 921.0011(6), or released from state prison, whichever is later.

(f) The defendant occupied a leadership role in a criminal organization.

(g) The offense was committed by a public official under color of office.

(h) The defendant knew the victim was a law enforcement officer at the time of the offense; the offense was a violent offense; and that status is not an element of the primary offense.

(i) The offense created a substantial risk of death or great bodily harm to many persons or to one or more small children.

(j) The victim was especially vulnerable due to age or physical or mental disability.

(k) The offense was motivated by prejudice based on race, color, ancestry, ethnicity, religion, sexual orientation, or national origin of the victim.

(l) The victim suffered extraordinary physical or emotional trauma or permanent physical injury, or was treated with particular cruelty.

(m) The victim was physically attacked by the defendant in the presence of one or more members of the victim's family.

(n) The offense resulted in substantial economic hardship to a victim and consisted of an illegal act or acts committed by means of concealment, guile, or fraud to obtain money or property, to avoid payment or loss of money or property, or to obtain business or professional advantage, when two or more of the following circumstances were present:

1. The offense involved multiple victims or multiple incidents per victim;

2. The offense involved a high degree of sophistication or planning or occurred over a lengthy period of time;

3. The defendant used position or status to facilitate the commission of the offense, including positions of trust, confidence, or fiduciary relationship; or

4. The defendant was in the past involved in other conduct similar to that involved in the current offense.

(o) The offense was committed in order to prevent or avoid arrest, to impede or prevent prosecution for the conduct underlying the offense, or to effect an escape from custody.

(p) The defendant is not amenable to rehabilitation or supervision, as evidenced by an escalating pattern of criminal conduct as described in s. 921.001(8).

(q) The defendant induced a minor to participate in any of the offenses pending before the court for disposition.

(r) The primary offense is scored at offense level 7 or higher and the defendant has been convicted of one more offense that scored, or would have scored, at an offense level 8 or higher.

(s) The defendant has an extensive unscorable juvenile record.

(t) The defendant committed an offense involving sexual contact or sexual penetration and as a direct result of the offense, the victim contracted a sexually transmissible disease.

(4) Mitigating circumstances under which a departure from the sentencing guidelines is reasonably justified include, but are not limited to:

(a) The departure results from a legitimate, uncoerced plea bargain.

(b) The defendant was an accomplice to the offense and was a relatively minor participant in the criminal conduct.

(c) The capacity of the defendant to appreciate the criminal nature of the conduct or to conform that conduct to the requirements of law was substantially impaired.

(d) The defendant requires specialized treatment for a mental disorder that is unrelated to substance abuse or addiction or for a physical disability, and the defendant is amenable to treatment.

(e) The need for payment of restitution to the victim outweighs the need for a prison sentence.

(f) The victim was an initiator, willing participant, aggressor, or provoker of the incident.

(g) The defendant acted under extreme duress or under the domination of another person.

(h) Before the identity of the defendant was determined, the victim was substantially compensated.

(i) The defendant cooperated with the state to resolve the current offense or any other offense.

(j) The offense was committed in an unsophisticated manner and was an isolated incident for which the defendant has shown remorse.

(k) At the time of the offense the defendant was too young to appreciate the consequences of the offense.

(l) The defendant is to be sentenced as a youthful offender.

(5) A defendant's substance abuse or addiction, including intoxication at the time of the offense, is not a mitigating factor under subsection (4) and does not, under any circumstances, justify a downward departure from the sentence recommended under the sentencing guidelines.

HISTORY: s. 13, ch. 93-406; s. 7, ch. 95-184; s. 5, ch. 96-409; ss. 1, 41, ch. 97-194.

NOTES:

NOTE.--Section 1, ch. 97-194, provides that "[s]ections 921.0001, 921.001, 921.0011, 921.0012, 921.0013, 921.0014, 921.0015, 921.0016, and 921.005, Florida Statutes, as amended by this act, are repealed effective October 1, 1998, except that those sections shall remain in effect with respect to any crime committed before October 1, 1998." Section 43, ch. 97-194, provides that "[t]he Division of Statutory Revision of the Joint Legislative Management Committee shall leave the repealed statutory provisions referenced herein in the Florida Statutes for 10 years from October 1, 1998." Section 4, ch. 95-184, deleted the definition of the term "release program" from s. 921.0011(6), which is referred to in paragraph (3)(e).

HB

373

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 373
 (H) Publish Date: 1/27/06

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title: An Act relating to the manufacture and RDU: CRIMINAL
transportation of alcoholic beverages; relating to forfeitures... Component: Criminal Justice Litigation
 Sponsor: Representative Meyer
 Requester: House Labor and Commerce Component No.: _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 04.11.010 (c) (Alcoholic Beverages - Licensing and Reporting Requirements) by reducing from 12 liters to 10.5 liters the amount of distilled spirits a person may possess, send, transport or bring, before it is presumed they intend it for sale. It also amends AS 04.16.220(a) (Alcoholic Beverages - Regulation of Sales and Distribution) by subjecting alcoholic beverages transported by a common carrier to forfeiture and seizure. The bill adds additional property items, including firearms, to the list of other property subject to forfeiture or seizure under the same subsection.

Passage of this legislation will have no fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division: Administrative Services Division Date/Time 1/25/06 10:19 AM
 Approved by: Kathryn Daughhete for David Márquez, Attorney General Date 1/25/2006
 Agency: Department of Law



REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

SPONSOR STATEMENT

HB 373

"An Act relating to the manufacture and transportation of alcoholic beverages; relating to forfeitures of property for violations of alcoholic beverage laws; and relating to violations of alcoholic beverage laws."

In 2004, Congress established the Alaska Rural Justice and Law Enforcement Commission, recognizing that: "...many remote rural residents in Alaska lack a law enforcement presence in their communities and face the highest alcohol abuse and family violence rates in the country." The Commission released a *Draft Interim Report* in 2005 that contained several recommendations. The Commission's recommendations primarily addressed local, federal and executive branch responsibilities. Also, the Commission recommended three changes to Alaska state statutes.

There are three major revisions of current statute contained in HB 373. The first pertains to our current forfeiture laws, which allow property used in bootlegging (the illegal introduction of alcohol into an area that has adopted a local option) to be seized by the state. HB 373 proposes that alcohol transported in violation of a local option, property that is purchased with the proceeds of illegal alcohol sales, and firearms that are carried, used or visible in the furtherance of a violation of local option laws, are all subject to seizure by the state. HB 373 also proposes a procedure for the seizure and appeal of, property seized by the state. Strengthening the forfeiture provisions of state statute will provide needed teeth to the laws designed to protect communities that have chosen to ban or limit alcohol.

HB 373 also proposes to add the definition of the "manufacture" of alcohol to our statutes. While current statute prohibits the manufacture of alcohol in a community that has adopted a local option, it does not include a definition. HB 373 would correct this oversight and set a clear standard for prosecution of the local production of alcohol in dry or damp communities.

Finally, HB 373 makes the allowable quantities of alcohol consistent in the statutes. In current statutes, 12 liters of distilled spirits is allowed, yet 24 liters of wine and 12 gallons of beer are allowed. 12 Liters of distilled spirits represents significantly more alcohol than 24 liters of wine or 12 gallons of beer. HB 373 proposes that the 12 liters allowed in current statute be reduced to 10 ½ liters to make the quantities allowed consistent.

HB 373 will provide clarity, consistency and strength to the state's alcohol and beverage control statutes in order to help law enforcement and communities fight the illegal importation of alcohol into their midst.



REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

MEMORANDUM

DATE: January 9, 2006
TO: Representative Kevin Meyer
FROM: Mike Pawlowski
RE: Sectional Analysis for HB 373
(Version No. 24 - LS1198\G)

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. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Reduces the quantity of distilled spirits allowed in AS 04.11.010(c) to 10 ½ from 12 liters to make it consistent with the quantity of malt beverages or wine allowed.

Section 2. Adds alcoholic beverages transported in violation of AS 04.16.125, items of value purchased from the proceeds of the sale of alcoholic beverages in violation of a local option, and a firearm visible, carried during, or used in the furtherance of a violation to the forfeiture provisions of title 4.

Section 3. Clarifies the procedure for seizures and the appeal of seizures made under section 2.

Section 4. Makes a conforming amendment to AS 04.16.220 (d).

Section 5. Adds a definition of "manufacture" to the definitions section of title 4.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 373
 (H) Publish Date: 1/27/06

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
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CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

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1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

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Part-time						
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ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 04.11.010 (c) (Alcoholic Beverages - Licensing and Reporting Requirements) by reducing from 12 liters to 10.5 liters the amount of distilled spirits a person may possess, send, transport or bring, before it is presumed they intend it for sale. It also amends AS 04.16.220(a) (Alcoholic Beverages - Regulation of Sales and Distribution) by subjecting alcoholic beverages transported by a common carrier to forfeiture and seizure. The bill adds additional property items, including firearms, to the list of other property subject to forfeiture or seizure under the same subsection.

Passage of this legislation will have no fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director Phone: 465-3673
 Division: Administrative Services Division Date/Time: 1/25/06 10:19 AM
 Approved by: Kathryn Daughhete for David Márquez, Attorney General Date: 1/25/2006
 Agency: Department of Law

**Draft Interim Report of the
Alaska Rural Justice and Law Enforcement
Commission**

Attached

Chapter 1: *Statement of Need*

Appendix G: *Attachments for the Alcohol importation
Recommendations*

The Report can be found in full at the following url:
http://www.aipc.org/site_documents/Draft%20Interim%20Report-2.mht

Chapter I. Statement of Need

The Alaska Rural Justice and Law Enforcement Commission was created by Congress to respond to a number of needs related to justice and law enforcement in rural Alaska that are detailed in the congressional language (Public Law 108-199). This chapter of the Commission's Final Report reviews current conditions in rural Alaska, recounts the history of law enforcement in rural Alaska, recognizes some of the improvements in rural Alaska that have occurred in recent years, and presents excerpts of the testimony given to the Commission during the public hearings.

A. Current Conditions

1. Problems the Commission has been asked to address

Like all communities nationwide, residents of remote, rural Alaska grapple with family violence, child abuse and neglect, and alcohol addiction. Unlike other communities, however, many remote rural residents in Alaska lack a law enforcement presence in their communities and face the highest alcohol abuse and family violence rates in the country. Congress asked the Commission to consider various options that might address these issues, including creation of a unified law enforcement and judicial system, cross deputization, and restorative justice methods to address family violence, child protection and alcohol consumption. This charge reflects congressional concern about the profound challenges facing rural Alaska.

Alcohol abuse presents profound challenges in rural Alaska; its effects are insidious, affecting and influencing the health and welfare of all who live there. As the Alaska Natives Commission reported more than a decade ago:

Facts do not lie: alcohol abuse among Alaska Natives equals tragedy for family and village. It is proven that alcohol abuse equals violence, imprisonment, and death. It is proven that alcohol abuse in the Native family results in frightened, psychologically disordered children. Alcohol abuse leaves FAS, FAE, and a myriad other physical and psychological symptoms in its destructive wake.^{1[3]}

Last year the Institute of Social and Economic Research (ISER), University of Alaska Anchorage, in its *The Status of Alaska Natives Report 2004, Volume I*, stated, "Analysts say that the most difficult social problems in the Native community – from high rates of suicide to domestic violence and child abuse – can be traced in large part to alcohol."^{2[4]} The costs to Alaska are not only social. Financially, it is estimated that alcohol abuse and alcoholism cost Alaska well over \$615,000,000 a year.^{3[5]}

The Commission emphasizes that alcohol abuse and alcoholism in rural Alaska are not *Native* problems, *per se*, but rather problems for Natives and non-Natives alike.

But the Commission also acknowledges that over 66% of the population in rural Alaska is Native⁴⁽⁶⁾ and that recommendations in this report that mention the importance of culturally appropriate approaches predominantly focus on Alaska Natives. However, that is not intended to imply that these approaches are inappropriate for non-Natives living in rural Alaska.

The impacts of substance abuse and the relevance of finding effective means to prevent alcohol and other drugs from reaching rural Alaska communities that have, through local option laws, decided to ban, partially or wholly, alcohol⁵⁽⁷⁾ are important threads in the fabric of society in rural Alaska, as they have been in the Commission's work over the last ten months. Numerous statistics point to the continuing – and in many cases growing – overrepresentation of Alaska Natives from rural Alaska among children in need of aid, victims and perpetrators of domestic violence and sexual assault, and other crimes. The percentage of Native children under the care of the Office of Children's Services hovers close to 50% and the numbers of Native youth and adults in Alaska's juvenile justice and correctional systems are similarly disproportionately large. The justice systems in rural Alaska struggle to find locally and culturally appropriate ways to manage offenders in a way that minimizes negative impacts to families and communities and strives to restore harmony quickly. There are frequent "disconnects" between tribal and state court systems, and disputes over jurisdiction continue throughout rural Alaska. In the mean time, rural residents criticize the inadequacies of current law enforcement and public safety in much of rural Alaska, but an affordable and acceptable resolution has yet to be found.

Domestic violence, child abuse, child neglect, and sexual assault are major problems in rural Alaska. The following quote highlights the experiences of one Alaskan researcher:

In Alaska, we often see abusive partners who have relocated their families to remote communities to isolate them from the support of their friends and family, and to more easily track and control their movements. Victims may be held hostage in their own homes with no winter clothing or means of escaping their extreme isolation. Deprivation and isolation become powerful tools to control victims.

One survivor, who shares her story to help others understand the dynamics of abuse in rural communities, described how her husband stranded her and their new baby at a remote fish camp for several weeks without enough food, medications and other essentials. Eventually, she was able to escape her abusive marriage and became a domestic violence outreach worker to remote villages in the Arctic. Although she struggles with debilitating, long-term health problems secondary to the abuse, she survived. Her former husband murdered his next wife.

When domestic violence services are available in rural regions, they face additional challenges in maintaining security and accommodating rural lifestyles. In Alaska, none of the shelter locations are secret – the communities are too small to hide a facility. Maniilaq Family Crisis Center, a victims' assistance program and shelter in northwestern Alaska, offers a safe haven to victims and the animals that they are often unwilling to leave behind. The center uses a snowmobile to pick up clients and has a fenced yard where clients can keep their dog teams and other animals. Susan Jones, the center's executive director, takes threats against victims' pets seriously. The murder or mutilation of a pet by an abusive partner is another indicator of escalating domestic violence.⁶⁽⁸⁾

Statistics reported by the Alaska Council on Domestic Violence and Sexual Assault highlight the seriousness and widespread nature of the situation in Alaska:⁷⁽⁹⁾

- In calendar year 2002 the Division of Family and Youth Services (now the Office of Children's Services) received 1,475 reports of suspected child sexual abuse.
(Division of Family and Youth Services, State of Alaska)
- On average, an Alaska woman is forcibly raped every 18 hours and 17 minutes.
(Alaska Uniform Crime Report, 2001)
- During FY 2002, 1,851 victims of sexual assault sought services from victim service programs in Alaska.
(Council on Domestic Violence and Sexual Assault, State of Alaska)
- 311 sexual assault cases and 241 sexual abuse of a minor cases were referred to Alaska District Attorney offices in 2001.
(Department of Law, State of Alaska)

Domestic violence, child abuse, child neglect, and sexual assault, especially in rural Alaska and in the Alaska Native population, represent major issues that need new, creative solutions to resolve.

Part of the solution may lie in enhanced or altered rural law enforcement. Accordingly, the Commission also has been asked to study issues related to law enforcement in rural Alaska. A brief history will help put the current systems in perspective.

Appendix G

**Attachments for Recommendations Related to
the Definition of Alcohol Manufacture**

Forfeiture

Quantity Consistency

Attachment 1: Definition of Alcohol Manufacture

The suggested statutory changes are as follows.

Put in AS 04.21.080(b) alcohol definition section: **"manufacture" of alcoholic beverages means to use the fermentation process with natural or artificial sugar and yeast, or the distillation process, to create alcoholic content.**

The statutes currently do not have a definition for "manufacture" as it relates to alcohol, but below are the definitions of Title 4 "alcoholic beverage" and Title 11.71 drug cases "manufacture".

AS 04.21.080(b)(1) "alcoholic beverage" means a spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that is intended for human consumption as a beverage and that contains one-half of one percent or more of alcohol by volume, whether produced commercially or privately; however, in an area that has adopted a local option under AS 04.11.491, "alcoholic beverage" means a spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that is intended for human consumption as a beverage by the person who possesses or attempts to possess it and that contains alcohol in any amount if the liquid is produced privately, or that contains one-half of one percent or more of alcohol by volume, if the liquid is produced commercially;

AS 11.71.900(13) "manufacture"

A. means the production, preparation, propagation, compounding, conversion, growing, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; however, the growing of marijuana for personal use is not manufacturing;

B. includes the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance or its container unless done in conformity with applicable federal law

(i) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(ii) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale;

Attachment 2: Forfeiture

Below are the current provisions of the forfeiture statute as applies to alcohol offenses. Added in **bold** are the suggested statutory changes.

AS 04.16.220

(a) The following are subject to forfeiture:

(1) alcoholic beverages manufactured, sold, offered for sale or possessed for sale, bartered or exchanged for goods and services in this state in violation of AS 04.11.010; alcoholic beverages possessed, stocked, warehoused, or otherwise stored in violation of AS 04.21.060; alcoholic beverages sold, or offered for sale in violation of a local option adopted under AS 04.11.491; alcoholic beverages transported into the state and sold to persons not licensed under this chapter in violation of AS 04.16.170(b); **alcoholic beverages transported in violation of AS 04.16.125.**

(2) materials and equipment used in the manufacture, sale, offering for sale, possession for sale, barter or exchange of alcoholic beverages for goods and services in this state in violation of AS 04.11.010; materials and equipment used in the stocking, warehousing, or storage of alcoholic beverages in violation of AS 04.21.060; materials and equipment used in the sale or offering for sale of an alcoholic beverage in an area in violation of a local option adopted under AS 04.11.491;

(3) aircraft, vehicles, or vessels used to transport, or facilitate the transportation of

(A) alcoholic beverages manufactured, sold, offered for sale or possessed for sale, bartered or exchanged for goods and services in this state in violation of AS 04.11.010;

(B) property stocked, warehoused, or otherwise stored in violation of AS 04.21.060;

(C) alcoholic beverages imported into a municipality or established village in violation of AS 04.11.499;

(4) alcoholic beverages found on licensed premises that do not bear federal excise

(5) alcoholic beverages, materials or equipment used in violation of AS 04.16.175;

(6) money, securities, negotiable instruments, or other things of value used in financial transactions, **or items of value purchased from the proceeds** derived from activity prohibited under AS 04.11.010 or in violation of a local option adopted under AS 04.11.491; **and**

(7) **a firearm which is visible, carried during, or used in furtherance of a violation of Title 4.**

(b) Property subject to forfeiture under this section may be actually or constructively seized under an order issued by the superior court upon a showing of probable cause that the property is subject to forfeiture under this section. Constructive seizure is effected upon posting a signed notice of seizure on the item to be forfeited, stating the violation and the date and place of seizure. Seizure without a court order may be made if

(1) the seizure is incident to a valid arrest or search;

(2) the property subject to seizure is the subject of a prior judgment in favor of the state; or

(3) there is probable cause to believe that the property is subject to forfeiture under (a) of this section; except for alcoholic beverages possessed on violation of AS 04.11.501 or an ordinance adopted under AS 04.11.501, property seized under this paragraph may not be held over 48 hours or until an order of forfeiture is issued by the court, whichever is earlier.

(c) Within 30 days of a seizure under this section the Department of Public Safety shall make reasonable efforts to ascertain the identity and whereabouts of any person holding an interest or

an assignee of a person holding an interest in the property seized, including a right to possession, a lien, mortgage, or conditional sales contract. The Department of Public Safety shall notify the person ascertained to have an interest in property seized of the impending forfeiture, and before forfeiture the Department of Law shall publish, once a week for four consecutive calendar weeks, a notice of the impending forfeiture in a newspaper of general circulation in the judicial district in which the seizure was made, or if no newspaper is published in that judicial district, in a newspaper published in the state and distributed in that judicial district.

(d) Property subject to forfeiture under (a) of this section may be forfeited

(1) upon conviction of a person for a violation of AS 04.11.010 , 04.11.499, AS 04.21.060 , or AS 04.11.501 or an ordinance adopted under AS 04.11.501, or AS 04.16.125 ; or

2) upon judgment by the superior court in a proceeding in rem that the property was used in a manner subjecting it to forfeiture under (a) of this section. Upon service or publication of notice of commencement of a forfeiture action under this section, a person claiming interest in the property shall file within 30 days after the service or publication, a notice of claim setting out the nature of the interest, the date it was acquired, the consideration paid, and an answer to the state's allegations. If a claim and answer is not filed within the time specified, the property described in the state's allegation must be ordered forfeited to the state without further proceedings or showings.

Questions of fact or law raised by a notice of forfeiture action and answer of a claimant in an action commenced under this section must be determined by the court sitting without a jury. This proceeding may be held in abeyance until conclusion of any pending criminal charges against the claimant.

(e) The owner of property subject to forfeiture under (a) or (i) of this section is entitled to relief from the forfeiture in the nature of remission of the forfeiture if, in an action under (d) of this section, the owner shows that the owner

(1) was not a party to the violation;

(2) had no actual knowledge or reasonable cause to believe that the property was used or was to be used in violation of the law; and

(3) had no actual knowledge or reasonable cause to believe that the person committing the violation had

(A) a criminal record for violating this title; or

(B) committed other violations of this title.

(f) A person other than the owner holding, or the assignee of, a lien, mortgage, conditional sales contract on, or the right to possession to property subject to forfeiture under (a) or (i) of this section is entitled to relief from the forfeiture in the nature of remission of the forfeiture if, in an action under (d) of this section, the person shows that the person

(1) was not a party to the violation subjecting the property to forfeiture; and

(2) had no actual knowledge or reasonable cause to believe that the property was to be used in violation of the law; and

(3) had no actual knowledge or reasonable cause to believe that the person committing the violation had

(A) a criminal record for violating this title; or

(B) committed other violations of this title.

(i) Upon conviction for a violation of AS 04.11.010 or 04.11.499, if an aircraft, vehicle, or watercraft is subject to forfeiture under (a) of this section, the court shall, subject to remission to innocent parties under this section,

- (1) order the forfeiture of an aircraft to the state;
- (2) order the forfeiture of a vehicle or watercraft if
 - (A) the defendant has a prior felony conviction for a violation of AS 11.41 or a similar law in another jurisdiction;
 - (B) the defendant is on felony probation or parole; the defendant has a prior conviction for violating AS 04.11.010 or 04.11.499; or
 - (C) the quantity of alcohol transported in violation of this title was twice the presumptive amounts in AS 04.11.010(c).

(j) Notwithstanding (i) of this section, a court is not required to order the forfeiture of a vehicle or watercraft if the court determines that

- (1) the vehicle or watercraft is the sole means of transportation for a family residing in a village;
- (2) the court may impose conditions that will prevent the defendant's use of the vehicle or watercraft; and
- (3) either
 - (A) a member of the family would be entitled to remission under this section if the family member were an owner of or held a security interest in the vehicle or watercraft; or
 - (B) if a member of the family would not be entitled to remission, the family member was unable as a practical matter to stop the violation making the vehicle or watercraft subject to forfeiture.

(k) When forfeiting property under (a), (d), or (i) of this section, a court may award to a municipal law enforcement agency that participated in the arrest or conviction of the defendant, the seizure of property, or the identification of property for seizure, (1) the property if the property is worth \$5,000 or less and is not money or some other thing that is divisible, or (2) up to 75 percent of the property or the value of the property if the property is worth more than \$5,000 or is money or some other thing that is divisible. In determining the percentage a municipal law enforcement agency may receive under this subsection, the court shall consider the municipal law enforcement agency's total involvement in the case relative to the involvement of the state.

- (l) In this section, "village" means a community of fewer than 1,000 persons located off the interconnected state road system.

Current forfeiture provisions relating to controlled substances below

AS 17.30.110. Items Subject to Forfeiture.

The following may be forfeited to the state:

- (1) a controlled substance which has been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or AS 11.71;
- (2) raw materials, products, and equipment which are used or intended for use in manufacturing, distributing, compounding, processing, delivering, importing, or exporting a controlled substance which is a felony under this chapter or AS 11.71;
- (3) property which is used or intended for use as a container for property described in (1) or (2) of this section;
- (4) a conveyance, including but not limited to aircraft, vehicles, or vessels, which has been used or is intended for use in transporting or in any manner in facilitating the

transportation, sale, receipt, possession, or concealment of property described in (1) or (2) of this section in violation of a felony offense under this chapter or AS 11.71; however,

(A) a conveyance may not be forfeited under this paragraph if the owner of the conveyance establishes, by a preponderance of the evidence, at a hearing before the court as the trier of fact, that use of the conveyance in violation of this chapter or AS 11.71 was committed by another person and that the owner was neither a consenting party nor privy to the violation;

(B) a forfeiture of a conveyance encumbered by a valid security interest at the time of seizure is subject to the interest of the secured party if the secured party establishes, by a preponderance of the evidence, at a hearing before the court as the trier of fact, that use of the conveyance in violation of this chapter or AS 11.71 was committed by another person and that the secured party was neither a consenting party nor privy to the violation;

(5) books, records, and research products and materials, including formulas, microfilm, tapes, and data, which are used in violation of this chapter or AS 11.71;

(6) money, securities, negotiable instruments, or other things of value used in financial transactions derived from activity prohibited by this chapter or AS 11.71; and

(7) a firearm which is visible, carried during, or used in furtherance of a violation of this chapter or AS 11.71.

AS 17.30.116. Procedure For Forfeiture Action.

(a) Within 20 days after a seizure under AS 17.30.110 - 17.30.126, the commissioner of public safety shall, by certified mail, notify any person known to have an interest in an item with an appraised value of \$500 or more, or who is ascertainable from official registration numbers, licenses, or other state, federal, or municipal numbers on the item, of the pending forfeiture action. Additionally, the commissioner of public safety shall publish notice of forfeiture action of an item valued at \$500 or more in a newspaper of general circulation in the judicial district in which the seizure was made, or if no newspaper is published in that judicial district, in a newspaper published in the state and distributed in that judicial district. The notice shall be published once each week during four consecutive calendar weeks. The requirements of this subsection do not apply to the forfeiture of controlled substances which have been manufactured, distributed, dispensed, or possessed in violation of this chapter or AS 11.71, regardless of their value.

(b) Upon service or publication of notice of commencement of a forfeiture action under this section, a person claiming interest in the property shall file within 30 days after the service or publication, a notice of claim setting out the nature of the interest, the date it was acquired, the consideration paid, and an answer to the state's allegations. If a claim and answer is not filed within the time specified, the property described in the state's allegation must be ordered forfeited to the state without further proceedings or showings.

(c) Questions of fact or law raised by a notice of forfeiture action and answer of a claimant in an action commenced under this section must be determined by the court sitting without a jury. This proceeding may be held in abeyance until conclusion of any pending criminal charges against the claimant under this chapter or AS 11.71.

The most common item bootlegged is R&R whiskey (distilled spirits). The quantity of 14 bottles (750 ml size) equals 10 and one half liters. (16 -750 ml bottles equals 12 liters.) As seen below, the quantity amounts for malt beverages and wine are essentially equivalent for presumptive sale, felony importation and allowable shipping to a sale-restricted location.

The suggested statutory change would make the quantity in AS 04.11.010 consistent if stated **"10 and one half liters or more of distilled spirits"**.

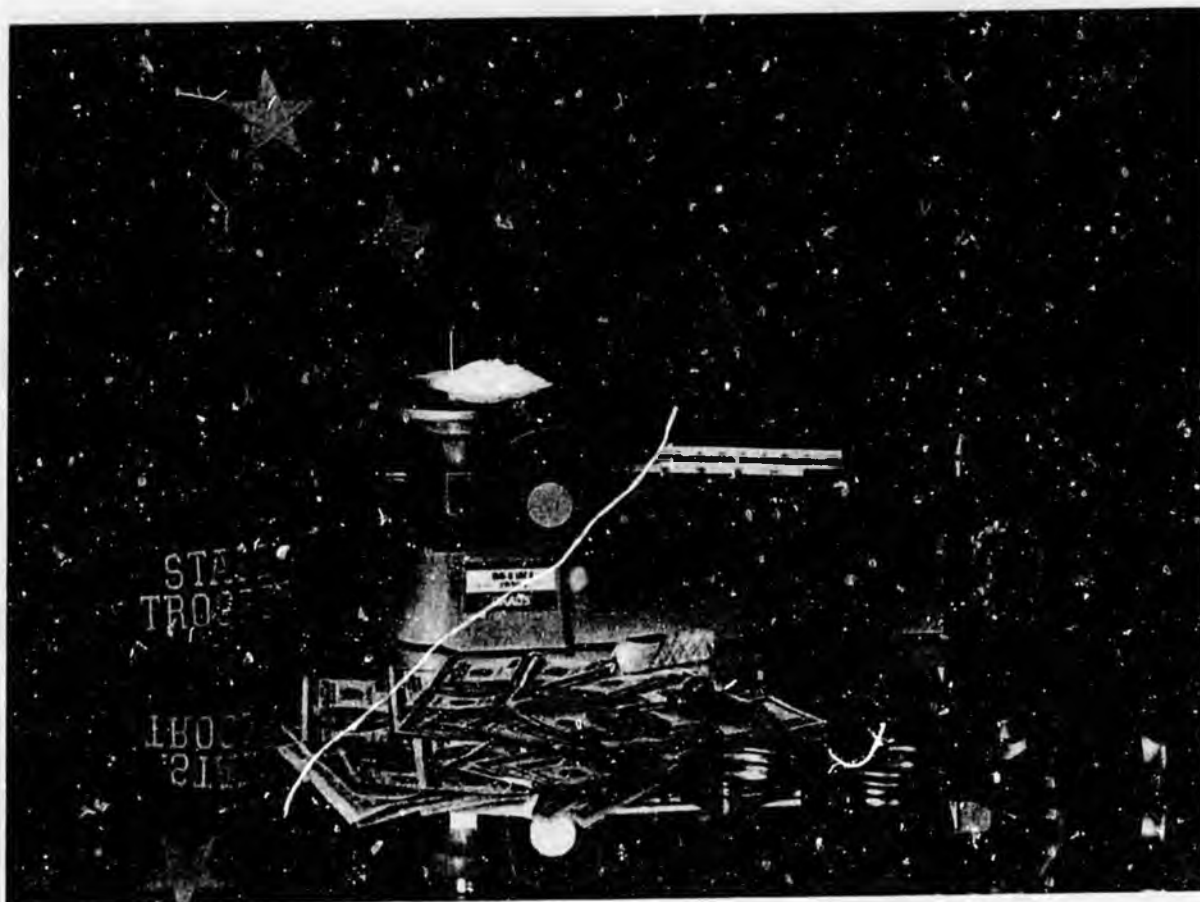
Currently, the statutes provide:

AS 04.11.010 presumptive amount for sale is possession **more than 12 liters of distilled spirits, 24 liters or more of wine, or 12 gallons or more of malt beverages.**

AS 04.16.200(e)(2) amount that makes importation into a dry location a felony is **10 and one half liters or more of distilled spirits, 24 liters or more of wine, or 12 gallons or more of malt beverages.**

AS 04.11.140(g) package store license permits shipping monthly to a damp (restriction of sale) location **10 and one half liters of distilled spirits, less than 24 liters of wine, or less than 12 gallons of malt beverages.**

**Alaska State Troopers
Alaska Bureau of Alcohol
and Drug Enforcement**



2004 Annual Drug Report



2004 Annual Drug Report

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Introduction

The Alaska State Troopers, Bureau of Alcohol and Drug Enforcement in authoring this publication, has endeavored to represent the drug situation in Alaska in a manner that provides the broadest possible picture of the true situation.

There are numerous agencies that conduct drug investigations in Alaska. While some agencies have a less formal relationship, most work closely with the Alaska State Troopers. In order to properly represent the true drug situation in Alaska, statistics from agencies other than those that participate in Alaska Bureau of Alcohol and Drug Enforcement are included in this report. Information provided by all sources should be considered when attempting to measure how drugs are impacting the citizens of this state.

We believe that all of this material is vital when analyzing the needs of the state in the arena of drug enforcement.



Our Mission

Alaska Bureau of Alcohol and Drug Enforcement

The Alaska State Troopers, Alaska Bureau of Alcohol and Drug Enforcement (ABADE) provides a leadership role in coordinating law enforcement's efforts to reduce the availability of alcohol and controlled substances throughout Alaska. ABADE recognizes that a successful alcohol and drug program depends upon a unified effort blending traditional law enforcement techniques with demand reduction programs that address educational, social, and community concerns.

ABADE's mission is to:

- ❖ Interdict and seize alcohol and controlled substances that are illegally distributed throughout Alaska.
- ❖ Identify and arrest distributors of controlled substances and illegal alcohol.
- ❖ Provide training and investigative support to criminal justice agencies.
- ❖ Support and participate in public education programs.



Staffing and Support

Using a combination of federal and state funding, ABADE consisted of twenty-seven (27) State Trooper investigators and twelve (12) civilian clerical personnel for the majority of 2004. ABADE recognizes that because of Alaska's geographical vastness and ethnic diversity, no single law enforcement agency is capable of handling the drug and alcohol problems alone. ABADE encourages cooperative efforts between federal, state and local law enforcement agencies and has taken a leadership role in fostering and developing many of these cooperative arrangements through multi-jurisdictional and/or multi-agency efforts. The ABADE headquarters office in Anchorage supports six (6) investigative teams throughout the state. These teams are broken down by region as follows:

Alaska Interdiction Task Force (DEA sponsored)

Fairbanks Area-wide Narcotics Team

Mat-Su Drug Narcotics Enforcement Team

Major Offenders Unit

Southeast Alaska Narcotics Enforcement Team

Western Alaska Alcohol and Narcotics Team

The Alaska National Guard Counter Drug Support Program (CDSP) provides additional support in several ABADE units. They provide operational resources, which include, but are not limited to manpower, equipment, and logistical support to federal, state, and local law enforcement throughout Alaska. Financed under a special congressional appropriation, there is no cost to the state of Alaska for the CDSP. This program contributes numerous resources not normally available to law enforcement agencies for assistance specific to drug investigations.

ABADE participates with and receives assistance from several investigative agencies involved in drug enforcement. These agencies include the Drug Enforcement Administration (DEA), Federal Bureau of Investigation (FBI), the U.S. Postal Inspection Service, the Internal Revenue Service (IRS), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and U.S. Immigration and Customs Enforcement (ICE) as well as other state and local agencies.



Nature of the Drug Problem

Members of Alaska's law enforcement community and others who are part of Alaska's criminal justice system have long known that the greatest contributing factor to violent crimes, including domestic violence and sexual assault, is drug and alcohol abuse. It is also widely recognized that many of the accidental deaths that occur in Alaska are related to alcohol use. This is especially true in the western regions of the state.

While there is no question that many aspects of the drug and alcohol problem are unique to Alaska, ABADE strives to provide a continuing and coordinated effort that not only meets the needs of Alaska, but is also dovetailed with the National Drug Control Strategy. The Strategy underscores the social and economic costs to society and was developed to provide general guidance and a framework for federal, state, and local agencies in developing a counter drug effort. The Strategy's established goals are:

- Educate and enable America's youth to reject illegal drugs as well as alcohol and tobacco.
- Increase the safety of America's citizens by substantially reducing drug-related crime and violence.
- Reduce health and social costs to the public of illegal drug use.
- Shield America's air, land and sea frontiers from the drug threat.
- Break foreign and domestic drug sources of supply.

The National Institute of Justice's Arrestee Drug Abuse Monitoring (ADAM) program tracks trends in the prevalence and type of drug use among booked arrestees in urban areas. This data has played an important role in assembling the national picture of drug abuse in the arrestee population and has been a central component in studying the links between drug use and crime.

The last data available for these types of statistics are for calendar year 2003 and were found in an article published by the Alaska Justice Forum. Research conducted by ADAM continues to show several very serious trends. This data represents only males screened at one correctional facility.

There were a total of 943 male arrestees screened for being under the influence of drugs and alcohol at time of booking. Among those screened, 10.4% were under 21, while over 40.3% were 36 years of age or older. These age percentages do not seem to dovetail with the normal expectations since such a large percent of those arrested are over 36 years of age.

When arrested, 25.4% of the 943 arrestees tested positive for cocaine, 52% tested positive for marijuana and 12.1% tested positive for alcohol.

The primary reason that these persons were arrested is not indicated in the ADAM report, but a strong inference can certainly be made that among arrestees, the use of drugs is prevalent. Another interesting statistic reveals that among those interviewed 37.8% admitted to using cocaine in the last 12 months and 62.5% admitted to using marijuana in the last 12 months.

While there are no ADAM type statistics on hand to indicate drug or alcohol use among arrestees in the more rural areas of Alaska, there is certainly strong evidence that alcohol is a very large contributor to the reasons that rural citizens are arrested.



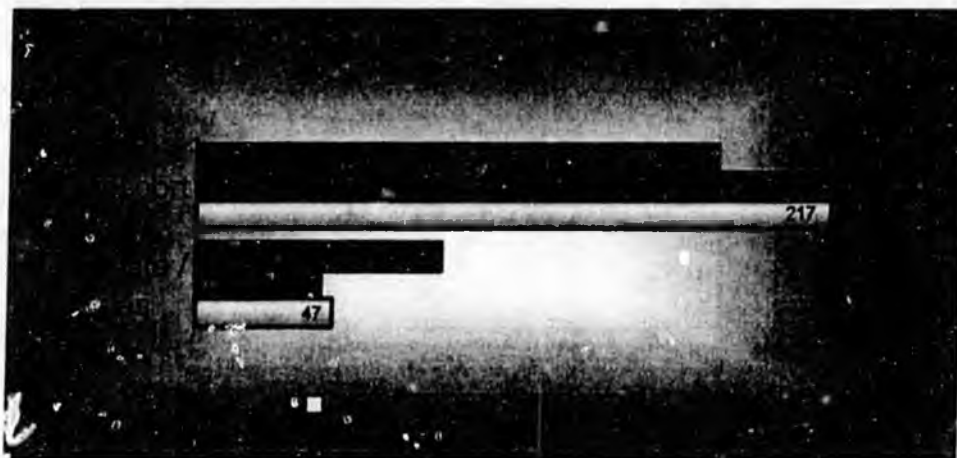
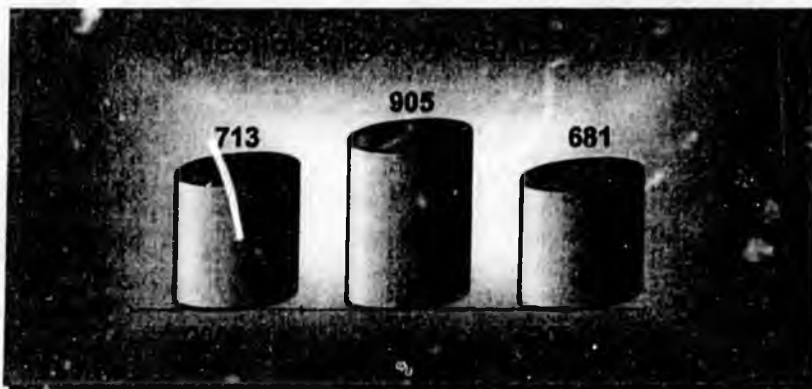
Drugs of Choice

Alcohol, cocaine, methamphetamine, marijuana and pharmaceuticals have been identified as the primary substances of abuse and are the focus of most law enforcement efforts. During 2004, methamphetamine use and manufacturing have increased significantly. Another area of significant increase was the use of prescription drugs, many of which are obtained with fraudulent prescriptions. Other drugs such as LSD, Ecstasy and designer and/or "club" drugs were also cause for concern.

Alcohol

Alaska's criminal justice professionals recognize that alcohol is the primary substance of abuse in Alaska and is the leading cause of violent, suicidal, and accidental deaths, especially in rural areas. Currently, 122 communities have voted in favor of local option statutes prohibiting the sale, importation, and/or possession of alcohol. Because alcohol remains legal in many areas of Alaska, illegal bootlegging activities continue to be a problem in the local option communities. Alcohol is easily transported to the villages via the U.S. Postal Service, local air carriers, private aircraft, boat, snow machines and express mailing services. Bootlegging alcohol has become a very lucrative business in rural Alaska.

The Alaska State Troopers applied for and received federal funding for five investigators whose function is focused on alcohol issues. During most of 2004, all five investigators dedicated 100% of their time to alcohol investigations.



The economics of the illegal sales of alcohol is staggering. A bootlegger can purchase a 750-milliliter bottle of alcohol legally for \$10 or less in an urban liquor store. The same bottle of alcohol in Bethel, Kotzebue or Barrow may sell for \$50. In the more remote communities, alcohol can easily sell for \$150 to over \$300 per bottle depending on the supply and demand. The initial purchase for the bootlegger involves a minimal cash investment, a maximum cash return with little threat of being caught or criminally charged. A dollar-for-dollar comparison of alcohol and drugs purchased in Anchorage and then sold in many Alaskan villages breaks down as follows:

Substance	Investment	Return *
Cocaine	\$1.00	\$1.50
Marijuana	\$1.00	\$4.00
Alcohol	\$1.00	\$15.00

* Calculated at \$150 per bottle



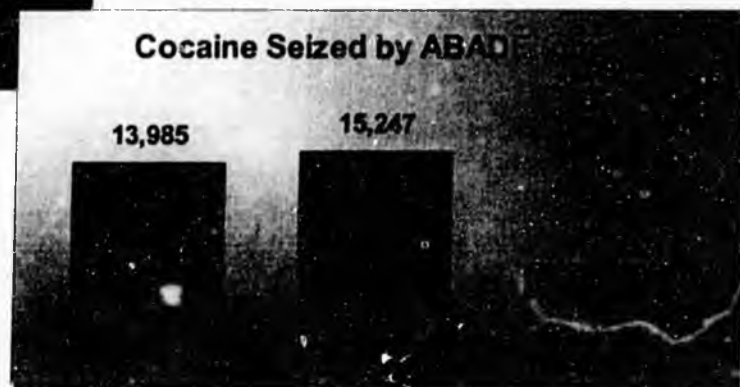
Cocaine

Cocaine continues to be a lucrative drug for sale and use in Alaska. Cocaine is readily available in most areas of the state and is seen with great frequency in powder form and crack cocaine in the major urban areas such as Anchorage and Fairbanks.

Cocaine is brought into Alaska concealed on passengers or in luggage through ports of entry such as the Ted Stevens Anchorage International Airport, and it is also shipped via the US Post Office or commercial parcel companies such as FedEx or UPS.

The cocaine brought into Alaska is typically packaged in kilogram quantities and later broken down by dealers into smaller quantities for retail sale. In powder form, it is normally sold in gram quantities for \$100-150 and its primary method of ingestion is by snorting.

Crack dealers use a process involving powder cocaine, water, baking soda and heat to produce crack cocaine, which is then sold in small rocks for \$20. The primary method of use for crack is by smoking.



Marijuana

Marijuana is available throughout the state and is viewed as a gateway drug to other drugs for young adults and teenagers. Demand for Alaskan-grown marijuana continues to be high as a result of its exceptional tetrahydrocannabinol (THC) content. Because Alaskan produced marijuana is extremely high quality; Alaska is considered a marijuana exporting state.

During 2004, the investigation of commercial marijuana cultivations were diminished due to the increased use and manufacturing of methamphetamine. In addition, recent Alaska court decisions, like Noy and Crocker, have diminished the ability of the investigators to obtain search warrants for marijuana cultivations.

However, ABADE teams continue to find extremely sophisticated indoor growing operations. Most commercial marijuana grows take place along the road system in the south central part of Alaska from Anchorage to Fairbanks. The Mat-Su Valley area is the "Marijuana Growing Capital of Alaska", followed by Fairbanks and the Kenai Peninsula. It is not unusual for sites to be located in homes with hidden or underground rooms specifically designed for the cultivation of marijuana. These rooms are often equipped with surveillance cameras and state-of-the-art timers controlling temperature, lighting, water, humidity and air purifiers.

In some parts of the state, the local economy is directly affected by the influx of money from illegally produced marijuana. Proceeds from marijuana production are used for a multitude of purchases including fuel, grow equipment/supplies, utilities, vehicles, ATV's and building materials.



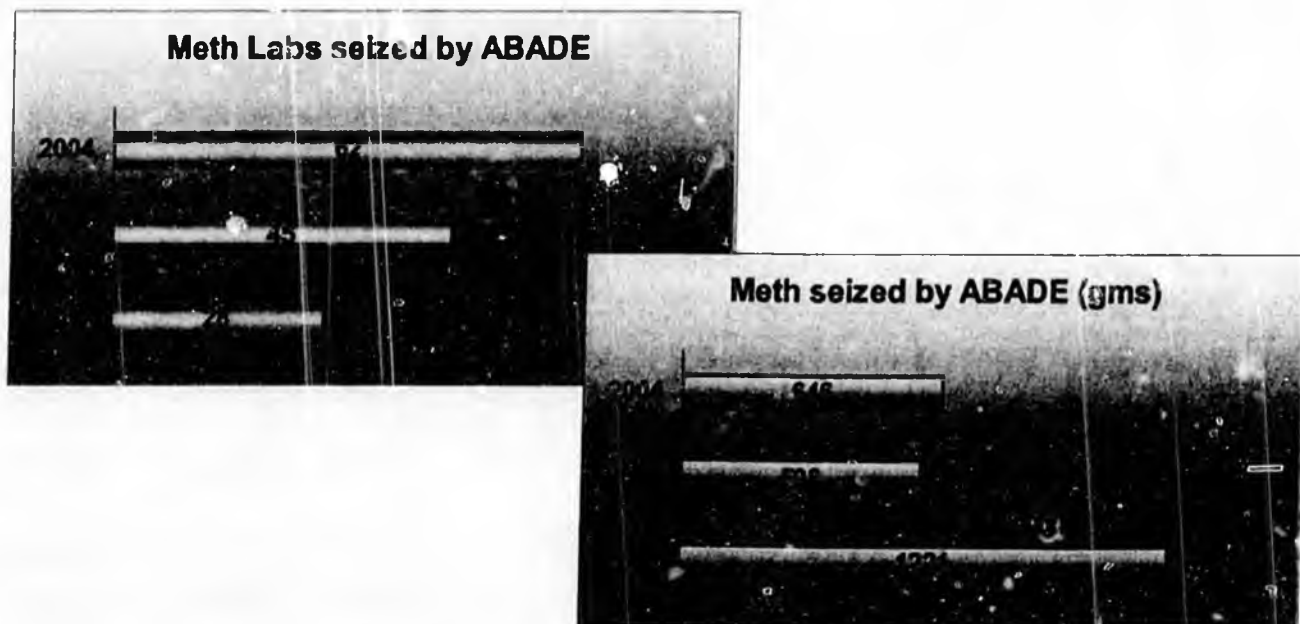
Methamphetamine

Methamphetamine use and manufacturing continues to be on the rise throughout the United States including Alaska. The manufacture and distribution of meth has reached alarming proportions. Methamphetamine, also known as meth, speed, crank, crystal and ice, produces an increase in energy and alertness, and a decrease in appetite. The effects, which also include an intense rush, can last up to 12 hours. It can be smoked, snorted, injected, or taken orally. The most frequent method of use is injection.

The DEA continues to conduct training in Alaska so that police officers will have the skills, knowledge, and tools to safely investigate suspected clandestine laboratories. There is now a sizable cadre of trained officers across the state. These officers are available to assist in the eradication of clandestine laboratories. They consist of federal, state, and local officers. In order to stay compliant with OSHA regulations, these members require annual re-certification as well as constant replacement of one time use equipment. In July 2004, 14 ABADE members were meth lab certified during training sponsored by CDSP.

Additionally, DEA has been extremely helpful in assisting in the cost of gross clean-up at clandestine lab sites. This requires a certified clean-up company to respond to the scene of each location, containerize larger items as well as the containers of chemical. These containers are then transported to a location for safe long-term storage and/or destruction.

Methamphetamine laboratories are being operated increasingly in single and multi-family residences in many neighborhoods. In addition to meth labs producing illegal, often deadly drugs, the clandestine nature of the manufacturing process and the presence of ignitable, corrosive, reactive, and toxic chemicals at the sites, have resulted in explosions, fires, toxic fumes, and irreparable damage to human health and to the environment. On several occasions in 2002, 2003, and again in 2004 labs were also discovered in hotel/motel rooms. Frequently children are found residing within clan lab sites.



Some of the commonly available items used in the manufacturing of meth include, Ephedrine or pseudoephedrine (found in cold/allergy tablets), lithium batteries, starter fluid, rock/table salt, matchbooks, coffee filters, acetone, aluminum foil and assorted kitchen glassware.

The methamphetamine problem in Alaska has certain peculiarities depending upon the region of the state in which the problem is located. The Anchorage, Mat-Su, Kenai Peninsula, and Fairbanks areas have a significant problem with clandestine labs that produce methamphetamine that is consumed in the local area. Southeast Alaska, specifically Ketchikan and Juneau, tend to have relatively large amounts of methamphetamine arrive already in a processed and usable form. The same tends to be true for coastal commercial fishery related communities.

Prescription Drugs

The sale and abuse of prescription drugs such as Oxycontin, Oxycodone, Methadone, Hydrocodone continue to be an issue in 2004. These drugs are being sought after for their pharmaceutical purity and ability to alter the central nervous system. With the identification of this increasing health hazard, statistics have been put into place for capturing the true impact anticipated in the upcoming years. Not only does the abuse of prescription drugs create a health hazard for the users, it creates a financial tragedy in the communities. The drugs vary in price and can cost anywhere from one dollar per milligram to two dollars per milligram depending on availability. With the increased demand for the drugs and a shortening of supply, many abusers may not have the money or insurance to pay for their addiction. Thus increasing property and violent crimes in the communities to pay for the drugs. It has been reported that tens of thousands of dollars are being spent to feed this growing abuse and addiction.

Prescription drugs have been linked to the following crimes; homicide, assault, prescription fraud, home invasion thefts and pharmacy robberies. People who are addicted to prescription facilitate their addition by doctor shopping, pharmacy shopping, forgery, and purchasing the drugs via the Internet.

It is the intent of the ABADE to increase pressure on those involved in the non-medical use, abuse, and sales of these addictive drugs. It has been said in the past that once problems of this sort have taken a toehold in the community, the community is at great risk for social decay from within. It has been and will continue to be the intent and purpose of the ABADE program not to allow that to happen in Alaska.



Alaska Bureau of Alcohol and Drug Enforcement Overviews

During the year of 2003, the Department of Public Safety (DPS) underwent substantial changes. One such change was the restructuring of the Statewide Drug Enforcement Unit (SDEU). With that restructuring, SDEU became the Alaska Bureau of Alcohol and Drug Enforcement (ABADE). ABADE, previously assigned to "i" Detachment, is now its own detachment. ABADE's program has expanded and been enhanced throughout the state. The command staff has grown from the traditional commander only to a commander and a deputy commander. During 2004, manning has been increased with the addition of three investigators and two administrative support personnel.

The six teams that comprise the Alaska Bureau of Alcohol and Drug Enforcement are spread throughout the state. Each team works hand-in-hand with the local law enforcement agencies and, in most locations, with the federal law enforcement agencies. The map below shows these teams and their area of responsibility.



Alaska Interdiction Task Force

The importance of the narcotics interdiction effort at key locations is constantly being reaffirmed and the Alaska Interdiction Task Force (AITF) continued its success in making large seizures of US Currency, cocaine, crack, methamphetamine and other controlled substances during 2004.

The AITF is a federally funded task force sponsored by the Drug Enforcement Administration (DEA). The AITF is responsible for investigations that involve drug trafficking at various ports of entry to include passengers and luggage arriving at airport terminals, packages and cargo shipped through parcel delivery services, and commercial cargo carriers. AITF is strategically located in Anchorage near the Ted Stevens International Airport, allowing the unit easy access to the airport and shipping companies where most passengers and parcels arrive.

Cocaine primarily comes into Alaska through the Anchorage airport from various source cities in the lower 48 states. Various methods are used to transport cocaine, such as concealing it in carry-on luggage, secured underneath clothing, or hidden in shoes, just to name a few. It is also imported and distributed through parcel express companies and the U.S. Postal Service. With the increase in airport security since September 11, drug traffickers have shifted their transportation methods and started to use parcel and cargo delivery services on a more frequent basis. Members of the AITF have worked diligently to develop working relationships with key business in this industry.

AITF team members consist of a DEA group supervisor, two DEA agents, two Alaska State Troopers, an Anchorage Police officer, an Airport Public Safety officer, one ICE agent four members of the National Guard Counterdrug Support Program (CDSP) and an AST administrative clerk.

In addition to the cocaine seizures, the AITF seized significant amounts of U.S. currency as it was leaving Alaska through the airport. The currency is commonly found to be the proceeds of drug trafficking.

The amount of cocaine detected and interdicted in the last several years in Anchorage clearly indicates that the illegal possession, sale, and use of cocaine in Alaska is a significant problem. There are organizations with international connections moving very large quantities of controlled substances and drug related monies across the country and state.

During 2004, AITF made several large seizures of US Currency as well as multi-kilo seizures of opium being shipped to Alaska from Asia.

Fairbanks Area-wide Narcotics Team

The primary area of responsibility for the Fairbanks Area-wide Narcotics Team is interior Alaska, which includes Fairbanks and the surrounding area, north to Barrow, and east to the Canadian border. This team is made up of one AST sergeant, two AST investigators, and a Fairbanks Police Department investigator. The Fairbanks team also works closely with two DEA agents assigned to the Fairbanks area. DEA compliments the teams' investigative ability by additional manpower, resources and the possibility of federal prosecution of drug traffickers.

Their focus varies from the identification and investigation of street level dealers of crack cocaine to the investigation of large distributors of powder cocaine. Of significant concern in the Fairbanks area is the continuing threat of manufacturing, use, and distribution of methamphetamine. Clandestine methamphetamine laboratories are prevalent in the Fairbanks area and are being operated increasingly in or near single and multi-family homes, where public health and safety is at an extremely high risk. Marijuana cultivation also continues to be a problem in the Fairbanks area. During 2004, the team eradicated 9 meth labs and 13 marijuana grows.

In May, investigators received information that a vehicle was driving from Fairbanks to Anchorage with a large amount of cocaine. Unit members and DEA stopped the vehicle and a search of the vehicle resulted in a seizure of 400 grams of cocaine, one gram of crack, and three handguns. The three male occupants were arrested.

In July, Fairbanks Airport Police received information that a male subject was arriving at the Fairbanks International Airport carrying a large quantity of prescription drugs. Contact was made with the suspect and 998 Oxycodone tablets and 1.5 grams of methamphetamine were seized. Members of the Fairbanks unit assisted with the execution of the search warrants in relation and follow-up to the case.

In August, the Fairbanks unit, with assistance from DEA, University of Alaska Fairbanks Police Department and the Fairbanks Police Department served two separate search warrants and a knock-and-talk on suspected marijuana grow sites. Three marijuana grows with a total of 502 marijuana plants were seized as well as \$3,609 in cash and one shotgun. The investigation revealed that all three grows were being operated by the same group of defendants.

In October, Fairbanks unit investigators began assisting the Fairbanks Police Department with the surveillance of a homicide suspect. The Fairbanks unit investigators, Fairbanks city detectives, the FBI and DEA conducted a traffic stop on a subject related to the homicide victim after investigators witnessed a suspected drug deal. The individual was found to have approximately 210 grams of cocaine on his person as well as at his residence. A 2001 GMC pickup truck and \$14,000 in cash was seized. The suspect then worked for the investigators and purchased 1,134 grams of cocaine from another suspect. The suspect was arrested and a 1999 Ford Mustang was seized as evidence.

Mat-Su Drug Enforcement Team

The Mat-Su Drug Enforcement Team focuses on drug investigations within the Matanuska-Susitna region to include Palmer, Wasilla, Talkeetna, Glennallen, Valdez, and Cordova. The team is comprised of one AST sergeant, two AST investigators, one officer from the Palmer Police Department, one officer from the Wasilla Police Department, and one individual from CDSP. The Mat-Su team works closely with the local police departments and the uniformed patrol section of the Alaska State Troopers to educate, train, and support their efforts related to drug enforcement.

This team's primary enforcement duties have shifted from marijuana cultivation to the investigation of meth labs. However, the Mat-Su region still comprises the bulk of marijuana related seizures throughout Alaska and has long been recognized as the primary area of marijuana cultivation and distribution in the state.

The production of methamphetamine in illegal clandestine laboratories continues to be a significant problem across the Mat-Su area. During 2004 the number of meth labs tripled to 37, compared to 10 labs in 2003. The rise in the number of seized meth labs indicates that meth use and manufacturing is a steadily growing problem in the Mat-Su area. ABADE is continually analyzing this situation and adjusting resources as needed to maintain an aggressive enforcement effort.

In February, the Mat-Su Team executed a search warrant in Wasilla. A commercial marijuana cultivation operation was discovered. Investigators seized 128 live marijuana plants. Also seized during the search warrant were scales, grow equipment, processed marijuana, suspected cocaine, firearms and various drug paraphernalia. The processed marijuana had a weight of 7.49 pounds with a street value estimated at approximately \$30,000.

Also in February the Mat-Su Team served a search warrant and seized a commercial marijuana cultivation operation consisting of 120 live plants. Investigators also seized processed marijuana, related grow equipment, scales and drug paraphernalia. One person was arrested and charged with four counts of Misconduct Involving a Controlled Substance in the 4th degree and three counts of contributing to the delinquency of minor.

In May, the Mat-Su unit executed a search warrant on a suspected meth lab at the Goldminer Hotel in downtown Palmer. This investigation started after a suspicious fire was discovered in a City of Palmer garbage truck. It appeared that the fire was started from the chemicals from a meth lab. Further investigation led investigators to the Goldminer Hotel where two suspects were discovered in the process of manufacturing methamphetamine. Both suspects were arrested at the scene.

In April, troopers with 'B' Detachment located a possible meth lab in Wasilla. A search was obtained for the residence and one of the largest meth labs seized during 2004 was discovered in the crawl space of the residence. Also found at the time of the search warrant was a loaded 9mm pistol and an illegally sawed off shotgun. Both suspects were located and arrested for the manufacturing of methamphetamine.

In October, the Mat-Su Unit along with investigators from DEA, the Anchorage Interdiction Task Force, Palmer Alaska Bureau of Investigation and Palmer Patrol executed a search warrant in Wasilla. Investigators delivered a parcel containing approximately 20 grams of crystal methamphetamine that was shipped from Arizona to the Wasilla address. Upon execution of the search warrant investigators seized approximately one ounce of methamphetamine, packaging used for distribution, digital scales and \$1,200 in US Currency. Firearms and miscellaneous drug paraphernalia was also seized. Two suspects were arrested at the residence.

Major Offender Unit

During 2003, the Department of Public Safety reinstated a statewide Major Offenders Unit. Ultimately the unit is located in Anchorage, but would have the ability to travel and conduct long-term drug and alcohol investigations anywhere in the state, targeting major offenders. Once the unit becomes established, AST plans to invite other agencies, such as, DEA, and the Anchorage Police Department to participate. The Major Offenders Unit is co-located with the Alaska Interdiction Task Force, allowing for better communication and cooperation between the units.

During most of 2004, the Major Offender Unit consisted of 2 to 3 investigators supervised by an Officer In Charge. The members worked to support other ABADE units when available and also assisted the Alaska Bureau of Investigations.

Late in 2004, the unit was completed with the assignment of a sergeant and two additional investigators, which brought the unit to a total of five investigators. In addition, an administrative clerk was added as well as a part-time prosecutor from the Department of Law. The prosecutor has been assigned to assist with legal questions, case development assistance and prosecution of drug and alcohol cases. The unit has been actively investigating several cases around the state.

Southeast Alaska Narcotics Enforcement Team

The primary responsibility for drug enforcement in southeast Alaska lies with the Southeast Alaska Narcotics Enforcement Team (SEANET). This team is composed of one AST sergeant, two Juneau Police Department officers, all located in Juneau and one AST investigator located in Ketchikan. SEANET also works closely with officers from the Ketchikan, Sitka, Wrangell, Yakutat, Craig, Haines, Skagway, Hoonah and Petersburg Police Departments. The teams focus ranges from street level dealers to major offenders. Some of the investigative methods used by this team include interdiction activities and undercover operations. This program works hand-in-hand with the **SouthEast Alaska Cities Against Drugs (SEACAD)** project that is oversighted by the Sitka Police Department.

Of particular note in Southeast Alaska is the quick rise in the availability, sales, possession, and use of methamphetamine. It appears that most of the substance is introduced into the region in a powder form, having been manufactured at other locations and imported into Southeast Alaska.

In June SEANET seized 1,679 grams of cocaine with a street value of approximately \$120,000 from a vehicle shipped to Juneau on a barge from Seattle, Washington. Two suspects have been charged.

Also in June, the U.S. Coast Guard and the Royal Canadian Mounted Police (RCMP) made contact with four individuals on a 20-foot skiff after information was provided by SEANET Juneau. The RCMP arrested 3 U.S. citizens at the scene for possession of 4 ounces of cocaine, 6 pounds of marijuana and 200 grams of Psilocybin mushrooms. The fourth suspect, a Canadian citizen, escape from the scene on foot.

In September, SEANET in Juneau discovered 2,203 grams of narcotics hidden on a vehicle being shipped from Seattle to Juneau on the Alaska Marine Highway Ferry system. This investigation led to the arrest of 3 people in Juneau who were attempting to import 495 grams of cocaine, 444 grams of methamphetamine and 1,097 grams of cocaine base (crack). Follow up investigation led to the delivery of a kilo of cocaine in Seattle and the arrest of another suspect.

On 9/16/04, SEANET Ketchikan completed a two-month investigation resulting in the seizure of 266 Oxycontin pills with a street value of approximately \$4,095

On 10/28/04, SEANET and Juneau Police Department seized \$13,100 in cash. The cash was suspected of being proceeds from drug sales. A residential search warrant resulted in the seizure of a stolen Tech-9 semi-auto pistol.

On 11/03/04, SEANET Juneau intercepted 5 pounds of marijuana being shipped from Seattle, Washington and \$28,000 in cash. The suspect had hidden the marijuana inside a new washing machine that was shipped to Juneau. One suspect was arrested.

Western Alaska Alcohol and Narcotics Team (WAANT)

This team's area of responsibility is Alaska's west coast, to include: Kotzebue, Nome, Bethel, Kodiak, Dillingham, the Aleutian Chain, and the Kenai Peninsula. For most of 2003, the WAANT team consisted of one AST sergeant and two AST investigators in Anchorage; one AST investigator and one officer from Soldotna Police Department in Soldotna; one AST investigator and one officer from Bethel Police Department in Bethel; one AST investigator in Kodiak, working with two investigators from Kodiak Police Department.

One of the positions in Bethel and one in Anchorage are dedicated specifically to alcohol interdiction and investigations. During 2003, three troopers previously assigned to "C" Detachment were reassigned to the WAANT unit. These three investigators, located in Bethel, Nome and Kotzebue will focus on alcohol interdictions.

Due to the vast number of local option communities in Western Alaska, a large portion of this team's principal focus is on alcohol enforcement. They target smugglers and bootleggers through undercover operations and interdictions.

Two common methods of importing alcohol and illegal drugs into rural communities are via the U.S. Postal system and local airlines. Alcohol shipped legally to regional hubs such as Nome, Bethel, and Kotzebue is then illegally distributed to local option communities that have banned alcohol or have limited the possession of alcohol under the local option laws of Alaska.

Because much of the alcohol and drugs being sold illegally in Alaska are shipped through the U.S. mail, the U.S. Postal Inspectors Service conducts interdictions with direct support from CDSP. These efforts consist mainly of US Postal Inspectors assisted by CDSP members monitoring packages en route to outlying villages and communities through the Anchorage postal hub facility. Suspicious packages are brought to the attention of the Postal Inspectors, who then decide how best to investigate the shipment.

The investigations of many of these seizures are coordinated through AST and/or other local law enforcement entities. The Postal Inspectors office relies heavily on support from ABADE. This support includes resources like scent detection canines, intelligence information and follow-up efforts. Not only do these resources assist in the seizure, they also help successfully investigate and prosecute those involved in alcohol bootlegging and drug trafficking.

In other WAANT areas of responsibility, the team has conducted long term undercover operations in Kodiak, Soldotna and Seward. Investigations vary from marijuana grows and meth labs to drug distributors dealing marijuana, meth, cocaine and prescription drugs.

In January, WAANT investigators in Anchorage discovered a suspicious box being shipped to Kotzebue. Investigators received consent to open the box and 4 pounds of marijuana was seized.

In February, investigators seized 5 bottles of alcohol being imported into the local option community of Selawik. As a result, a 2003 Polaris snow machine was also seized.

A contact at the Kotzebue airport resulted in the seizure of 94 grams of marijuana and the service of a search warrant. During the search investigators discovered 130 blasting caps, 500 feet of time/fuse cord and a small amount of C4 explosives. Also seized were 39 seal bombs, 28 rifles, 10 handguns, 8 shotguns and a 37mm gas gun.

In July, Kotzebue investigators saw a person loading alcohol into a vehicle at the airport. The vehicle operator drove to an 18-foot boat where the suspect loaded and hid the alcohol on the boat. The alcohol was being delivered to the local option community of Kivalina. Property seized from the investigation included the boat valued at \$8500, the vehicle valued at \$12,000 along with 60 cans of beer and 14 bottles of alcohol. The alcohol was valued at \$5100. Three suspects were arrested in this case.

In August, Soldotna WAANT investigators served a search warrant on a residence suspected of having a marijuana grow. Over 100 marijuana plants were discovered in several underground storage units. The property, consisting of a two-story, structure was seized and forfeiture proceedings were begun against the owner by DEA in Anchorage. One person was arrested in this case.

A contact at the Kotzebue airport led to the service of a search warrant at a known marijuana distributor's residence. The search resulted in the seizure of 3 Skidoo snow machines, one Honda 4 wheeler, a 20-foot Bayliner boat, one 16-foot Lund boat and other property totaling approximately \$49,000. In addition, \$11,975 in cash and 18 firearms were seized and 5 suspects were arrested.



DRUG ENFORCEMENT ADMINISTRATION

The Drug Enforcement Administration (DEA) in Anchorage is deeply involved in working with all state and local drug units to enhance and facilitate investigations of major offenders throughout Anchorage.

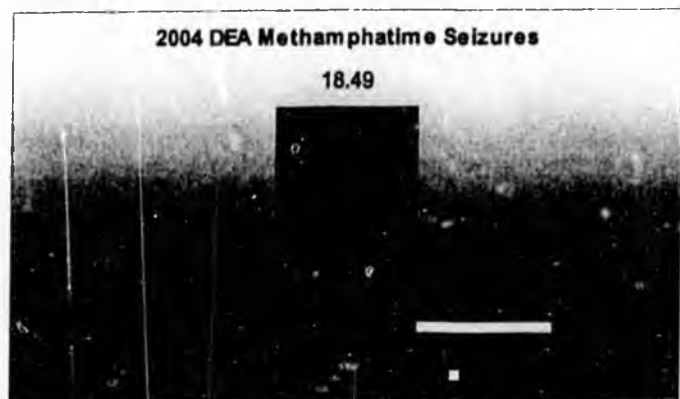
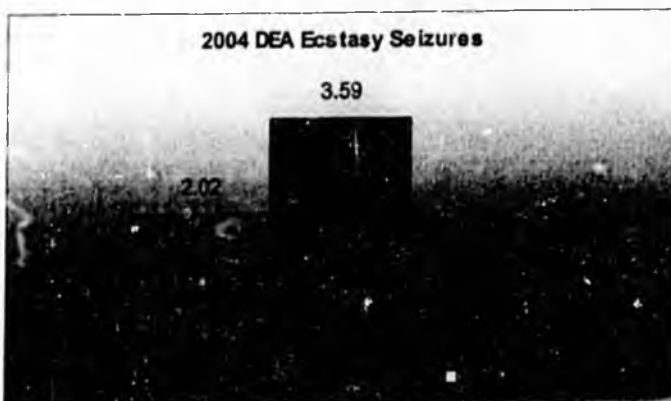
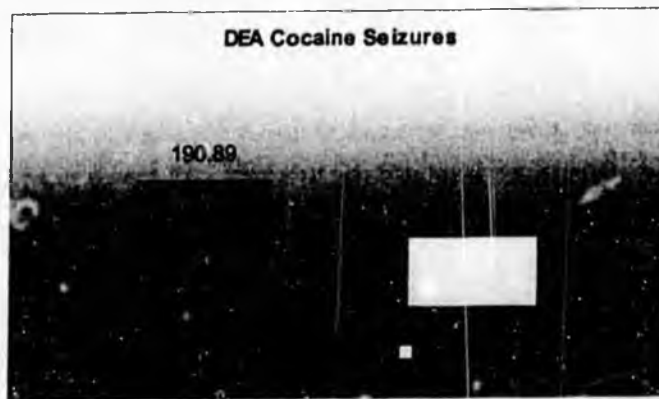
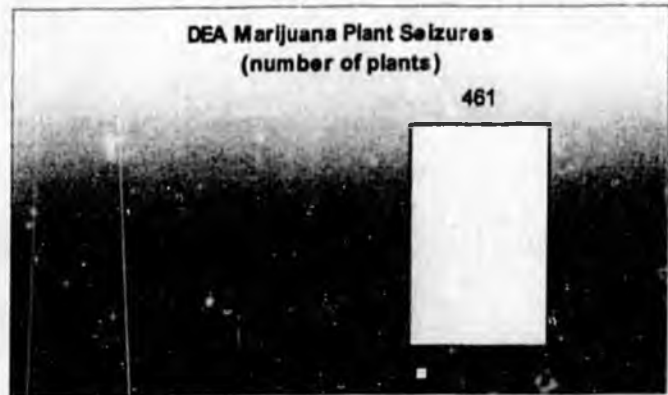
The DEA has added several Special Agents to Alaska in the last few years to support the entire state of Alaska, including two positions in Fairbanks that work hand-in-hand with the Alaska State Troopers, Alaska Bureau of Alcohol and Drug Enforcement to investigate a wide variety of drug related crimes in and around the area.

They are the host agency for the Alaska Interdiction Task Force, a joint effort involving DEA, AST, Ted Stevens Anchorage International Airport Police, Anchorage Police Department, Postal Inspectors, CDSP, and several other agencies as needed.

DEA continues to furnish training to state and local officers to include topics related to clandestine methamphetamine laboratories. DEA provided the funds for members of the Alaska Interdiction Task Force and other law enforcement personnel to be trained and get re-certified in clandestine laboratory safety and investigations. In addition, they have facilitated participation of troopers in a Drug Unit Commanders Academy held in Quantico, Virginia. The DEA Anchorage office is also currently planning additional training to state and local law enforcement personnel through a DEA sanctioned "Two-Week Basic Drug Enforcement School."

DEA continues to facilitate forfeiture proceedings related to assets and funds seized as a result of criminal investigations and drug trafficking. This effort allows state and local law enforcement agencies to receive a portion of the assets seized, which in turn funds additional criminal investigations.

Seizure Statistics for DEA Anchorage



Emerging Trends in 2004

The most significant trend in 2004 continues to be the explosion in the manufacturing and abuse of methamphetamine throughout Alaska. The number of illicit methamphetamine labs has continued to rise since 2002 when 29 labs were seized statewide, 66 labs were seized in 2003 and 80 labs were seized in 2004. Due to the volatile chemicals involved, investigators need to be trained and certified and wear hazardous material protective gear when responding to methamphetamine labs. Several residential fires were reported this year were caused by the manufacturing of methamphetamine. Also during 2004, several methamphetamine labs were discovered inside hotel/motel rooms creating chemical and fire hazards for other civilians that also occupy the buildings. Violent crime related to methamphetamine manufacturing and usage also appears to be on the rise. During the year there were several homicides that have been connected to methamphetamine. The sale and abuse of methamphetamine is as much on the rise as the number of meth labs.

A trend that continues from year to year is the illegal transport of alcohol and drugs to villages throughout Alaska. ABADE will continue to aggressively pursue and investigate the illegal possession, shipment and sale of alcohol in local option communities and other illegal drugs throughout Alaska. With funding from federal sources, as well as traditional program funds, the dedication to the task of pursuing bootleggers and drug dealers has been expanded and enhanced. Between the efforts of ABADE, Alaska State Troopers, Village Public Safety Officers, local law enforcement, federal agencies and the promised support of Governor Frank Murkowski, we will strive to decrease the alcohol and drug problem within the State of Alaska.

Summary

The Alaska Bureau of Alcohol and Drug Enforcement, with its unique ability to interdict and investigate cases across the state, recognizes that drug abuse is not confined to any one geographical location or any economic strata in our state. Drug and alcohol abuse affects all Alaskans, despite social, ethnic, racial and economic barriers.

The Alaska State Troopers, Alaska Bureau of Alcohol and Drug Enforcement is committed to working with all interested agencies in the fight against substance abuse throughout the state by using innovative concepts to deal with the illegal sale and distribution of alcohol and drugs. We are also committed to focusing on increased awareness and knowledge of drug abuse through educational presentations to the Public Safety Academy and in public forums, such as schools, service organizations and other community groups.



The 2004 Annual Drug Report is a publication of the Alaska State Troopers, Alaska Bureau of Alcohol and Drug Enforcement. It can be accessed via the Department of Public Safety Internet site therefore there is no publication cost and is intended to inform Alaskans about the type and frequency of drug related crime reported in Alaska during 2004.

The Alaska State Troopers, Alaska Bureau of Alcohol and Drug Enforcement supplied the majority of information and photos presented in this report. Additional data was obtained from Office of National Drug Control Policy (ONDCP) publications, the National Criminal Justice Reference Service (NCJRS) and the Alaska Justice Forum.



HB

379

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB379CS(JUD)-DHSS-FMS-02-08-06

Revision Date/Time (Note if correction): _____

() Publish Date: _____
 Dept. Affected: Health & Social Services

Title RELATING TO SCHEDULE IA CONTROLLED SUBSTANCES

RDU Departmental Support Services

Component Commissioner's Office

Sponsor MEYER

Requester HOUSE (JUD)

Component No. 317

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The proposed changes to Schedule IA controlled substances will have no fiscal impact on the Department of Health and Social Services.

Prepared by: Sherry Hill, Special Assistant

Phone 465-1618

Division: Office of the Commissioner

Date/Time 02/08/2006

Approved by: Karleen Jackson, Commissioner

Date 02/08/2006

Agency: Department of Health and Social Services



REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

SPONSOR STATEMENT

HB 379

"An Act relating to controlled substances."

Taken first by bodybuilders in the 1980's when steroids were initially controlled, GHB was believed to enhance steroid production. A small amount of GHB, when ingested elicits feelings similar to intense intoxication and gained popularity initially as a way to get drunk without the calories.

Since it is easily added to a drink, difficult to detect, leaves the system quickly and is very difficult for law enforcement to identify, GHB has become a popular "date rape" drug. In February of 2000, GHB was elevated at the Federal Level to a schedule I narcotic. Like other drugs, GHB and its variations are sadly found in Alaska.

Late last year, three young men were charged in federal court in the death of a 16-year-old Chugiak High School Student. The young men were charged in Federal Court because the variation of GHB they were allegedly providing isn't covered in Alaska's controlled substances statutes.

House Bill 379 adds these variations of GHB to Alaska's controlled substances act and raises them, along with GHB to a schedule IA narcotic. Since this narcotic is addictive, dangerous, and popular as a "date rape" drug it deserves the harshest designation possible under state law.



REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

MEMORANDUM

DATE: January 19, 2006
TO: Representative Kevin Meyer
FROM: Mike Pawlowski
RE: Sectional Analysis for HB 379
(Version No. 24 – LS1396\G)

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. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Adds a new section elevating GHB to a schedule 1A controlled substance from a schedule 4 and includes the analogous substances gamma butyrolactone (GBL) and 1,4-butanediol in the schedule.

Section 2. Adds a new section including analogs to controlled substances in the references to controlled substances in chapter 71, defines controlled substance analogs and makes exceptions.

Section 3. Repeals the classification of GHB as a schedule 4 controlled substance.

adn.com

Anchorage Daily News

Print Page

Suspect pleads guilty in fatal drug case**COOPERATION: Three charges will be dropped in agreement with prosecutor.**By JULIA O'MALLEY
Anchorage Daily News*(Published: December 6, 2005)*

Thairon Hawk, one of three men charged in connection with a 16-year-old Chugiak High School student's fatal drug overdose, admitted in federal court he helped friends conceal evidence they had provided the killer dose of a potent drug.

Hawk, 22, pleaded guilty Monday to being an accessory after the fact, a felony that carries a sentence of up to 15 years in federal prison. His sentence may be closer to six or seven years, according to sentencing guidelines.

Hawk originally was indicted on three other criminal counts related to lying about his involvement in the crime: obstruction of justice, making false material declarations under oath to a grand jury, and making a false statement. Those charges will be dropped at sentencing as part of a plea agreement.

"He learned that two people had overdosed on GHB. He also learned one of those people had died," assistant U.S. attorney Crandon Randell told U.S. District Court Judge Ralph Beistline on Monday. "He took possession of one or more bottles of what he thought was GHB. He assisted in the permanent disposal of those bottles."

Hawk, a 2001 Dimond High graduate, and his friends, Glade Lusk, 22, and Matthew O'Connor, 25, were charged in the fatal overdose at a Spenard apartment in summer 2003.

At a late-night gathering, Meghan Maroney, 16, and an 18-year-old girl took doses of 1, 4-Butanediol, or BD, a drug chemically similar to the date-rape drug GHB, according to police. Maroney died. The other girl became sick but recovered. Lusk and O'Connor are charged with providing the drug.

The next morning, Hawk took the drug bottles and threw them away, possibly into Cook Inlet, according to his plea.

"(Hawk's) role didn't begin until the drug had been distributed and people had gotten sick and overdosed," Randell said. "He saw what was going on, and made the decision to get rid of that stuff at Lusk's request."

Because the plea agreement is sealed, Randell would not say whether the other charges against Hawk were dropped in exchange for his testimony against Lusk and O'Connor.

"There is an agreement. He gets something out of it, we get something out of it," Randell said. "We get finality as far as Mr. Hawk is concerned. Hawk gets the benefit of getting three counts dismissed."

O'Connor was charged with distributing a controlled substance to a person under 21. Lusk was

charged with distributing a controlled substance to a person under 21 and possessing a controlled substance with intent to distribute, causing serious bodily injury and death. Their trial is scheduled for Jan. 17.

Both men have pleaded not guilty.

GHB and BD, made of gamma butyrolactone and sodium hydroxide or potassium hydroxide -- chemicals found in degreasing solvent, floor stripper and drain cleaner -- can cause loss of muscle control, respiratory problems, loss of consciousness, temporary paralysis, and death, according to the drug information Web site projectghb.org.

Hawk will be sentenced at a hearing scheduled for Feb. 14.

Daily News reporter Julia O'Malley can be reached at jomalley@adn.com or 257-4325.

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Anchorage Daily News

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Provider of fatal pill gets 13 years**PLEA: Girl died after consuming drink spiked with date-rape drug.**By MEGAN HOLLAND
Anchorage Daily News*(Published: January 12, 2006)*

A 22-year-old man agreed to a plea deal Wednesday in which he'll serve 13 years in federal prison for bringing a "date rape" drug to a party in 2003 that killed a teenage girl.

Glade Lusk pleaded guilty to the federal charges of possession of the drug with intent to distribute it and accessory after the fact for trying to get rid of evidence the next day. He was one of three people charged in the case.

The drug, mixed in a drink and passed around at the party, killed a 16-year-old girl and injured two others at the gathering. The drug was a form of the drug GHB, which is colorless, odorless, and causes drowsiness, dizziness and loss of inhibition. It is sometimes called "liquid ecstasy."

"We hope this case sends a very loud message to Alaskan parents and young people, first that GHB can kill you. And second, if you distribute it and give it to your friends, you face a very lengthy jail sentence," first assistant U.S. attorney Deborah Smith told a news conference at the U.S. Attorney's Office in Anchorage. "We plan to prosecute to the full extent of the law."

Anchorage Police Chief Wait Monegan said the case against the three men was the first in Alaska for which someone has been charged with the illegal distribution of the drug. Lusk was prosecuted federally because the particular form of the drug is not illegal in Alaska. Monegan said he wants to change that.

Earlier this month, Matthew O'Connor, 25, pleaded guilty to giving 16-year-old Meghan Maroney the drug and agreed to 10 years in prison. His brother brought her to the party, said John Murtagh, Lusk's attorney.

Last month, Thairon Hawk, 22, pleaded guilty to being an accessory after the fact, a felony that carries a sentence of up to 15 years in federal prison. His sentence may be closer to six or seven years, according to sentencing guidelines.

Murtagh said he and his client did not want to face a jury that might have convicted him of actually handing out the drug and giving it to Maroney, which would have carried a much stiffer federal prison sentence, possibly more than twice the sentence he agreed to. "We had to analyze possible outcomes of the trial," he said.

In June 2003, Maroney and a group of teenagers and young adults gathered at Lusk's apartment



Meghan Maroney, 16, died in 2003 after taking a drug-spiked drink. ()

on Roosevelt Drive in Spenard. Maroney, a Chugiak High School student, drank the drink containing the drug along with others at the party. Sometime that night or early the next morning, she died.

Prosecutors declined to say whether they believed Maroney knowingly drank the drug. They and police said that until the final court appearances for the defendants' sentencings, they would not discuss details of the case.

But Murtagh said there was nothing predatory about giving the drug to Maroney.

"I believe the evidence would have shown that (all the party-goers) knew it was going to be a (drug) party," he said.

Murtagh said his client was temporarily keeping the drug at his house for a friend, to whom he was going to return it. Lusk did not know Maroney, he said.

Lusk admitted in court documents that he had previously sold ecstasy and similar drugs.

"A lot of this reminds me of the last kid who makes the out in the Little League game," Murtagh said. "(Lusk) shouldn't have had it, it was a danger. But more of the issue is that kids ought to be more careful."

Meghan Maroney's father, Harold, was reached by phone at his Eagle River home Wednesday night.

"This is a big relief for us," he said "It's been a long time coming."

Sentencing for Lusk and O'Connor is scheduled for March 13. Sentencing for Hawk is scheduled for Feb. 14.

Daily News reporter Megan Holland can be reached at mrholland@adn.com.

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GHB: Bad Child of the Internet

They call it "carpeting out" when someone on GHB is dancing happily into the night, only to collapse in a heap and "hit the carpet" heading for a fit of vomiting, twitching or an unarousable coma. GHB is degreasing solvent (floor stripper) mixed with drain cleaner, and is a central nervous system depressant, with dangerous side effects. It is NOT a safe and fun drug as claimed on the Internet. Unfortunately, there is no validation process to protect you from false claims on the Internet. People have unknowingly taken GHB as a sleep aid, sexual stimulant or simply a recreational drug of abuse only to find themselves in intensive care in the hospital. Or, long-term to find themselves addicted to GHB. GHB gives a rapid onset of intoxication, comparable to alcohol but with a euphoric high and out-of-body experience. It often causes vomiting and muscle jerking. Breathing may slow to only six breathes per minute. Pulse/blood pressure will probably slow, or may increase. While most people do sleep off a GHB overdose, some will die without medical intervention. A GHB overdose IS a medical emergency.

Those Who Have Died

More than 10,000 adverse reactions to GHB are documented. More than 72 deaths have been deemed GHB related by DEA (170 more to review), perhaps just a tip of the iceberg since routine testing does not detect it. Deaths include a college student who took it as a "safe" sleep aid and died in his sleep. A 15-year-old in California's high desert who gulped GHB at a RAVE died. A 32-year old male in Atlanta, Georgia died from GHB only. A bodybuilder in Ohio died, with only alcohol and GHB use. A 15-year-old female in Michigan died from GHB/GBL use. Death is even more likely when alcohol or other drugs are added. Some would have lived IF their friends had called for help.

No Anabolic Effect

Taken first by bodybuilders in the 1980's when steroids were first controlled, GHB was believed to enhance steroid production. It doesn't work so easily. Many are lured into its use to get drunk without the calories of alcohol, but the risks are not worth it. GHB causes dangerous levels of impairment. An 18-year-old in California was given GHB by his sports trainer. He passed out, hit his head on the curb, and severed an optic nerve. He is blind in one eye. Others who have used GHB report an inability to maintain focus and stay in training, resulting in a lessening of physical conditioning, rather than a gain.

GHB's Role in Sexual Assaults

GHB is rapidly growing as a sexual assault problem because it is easily mixed into a drink, hard for a victim to detect, leaves the system quickly, and is difficult for law enforcement to identify. Drug-facilitated rape cases are difficult to prosecute. A victim's efforts to prevent such occurrences and a victim's actions if it does happen are crucial. Don't drink unusual drinks; don't take drinks from strangers; don't leave your drink unattended. If it happens, IMMEDIATE reporting is your best action. A urine sample is needed right away.

Remember too - Getting excessively drunk (alcohol or other recreational drugs) does NOT give anyone the right to rape you, but why volunteer to be a victim? **THINK!**

GHB Analogs - As Bad or Worse

GHB has "analogs," chemical cousins with identical or very similar effects. GHB is controlled (illegal) federally and in most states. In many states where GHB is illegal, the analogs have been covered and are also illegal. In any case, GHB and its analogs are not safe. Some of the deaths are from analogs.

Chemical Names

If you see words such as these on a "sports/health" food supplement you have purchased, BEWARE. These are analogs of GHB and just as dangerous: Gamma butyl lactone or gamma butyrolactone (GBL), 2(3H) furanone dihydro or dihydroxy, 1,4 butanediol, tetramethylene glycol. If the chemical names are different, but the product claims to be "safe" or "legal" or "herbal" GHB, BEWARE. It may be a different analog of GHB.



Product Names

These products have been sold as Blue Nitro, Renewtrient, Revivarant, Remforce, Firewater, Enliven, Serenity, Revitalize Plus, Thunder Nectar, Rejoov, Flower Power, Dream On, Weight Belt Cleaner and several others - the names keep changing.

GHB - A Sleep Aid?

Under the influence of GHB, you may not be able to hear (respond to) a phone, pager or doorbell ring or a knock at the door or a baby's cry or a fire alarm. If driving under the influence, you may kill yourself or someone else in a traffic accident.

AKA: The Date Rape Drug

There is no antidote for GHB. Overdose victims may need to be placed on life support until it passes to assure their survival. In a GHB coma, you cannot gag to save yourself if gum in your mouth falls to the back of your throat. You may not hear a fire alarm and save yourself.

The Great American Chemical Chase

Don't be a part of the Great American Chemical Chase...Life can be lived without a "magic potion" for every ache and discouragement and problem confronting you.

Think Before You Take (abuse)

Prescription pills that cause impairment, "sports" or "health" supplements that are unproven (and costly) or illegal drugs all have their risks. Stimulants, for example, can permanently damage serotonergic neurons, which control feelings of well being. Think about the consequences: Your current and future health potential brain (or other organ) damage, and the ever-present risk of death.

What does it mean that GHB is "naturally occurring?"

Poison ivy is naturally occurring. Snake venom is naturally occurring. Just because a chemical exists in your body naturally does not mean that adding additional quantities of it to your body is safe, much less beneficial. **EVEN IF A LITTLE IS GOOD, THAT DOES NOT MEAN THAT A LOT MUST BE BETTER.** Be careful what you add to your body - consequences may be grave.

ALSO KNOWN AS: GHB Jib, Scoop, Water, Salty Water, Gina, Easy Lay, GH Buddy, Blue Nitro, Swirl, Renewtrient, Firewater, Remforce, Serenity, Grievous Bodily Harm, Enliven, G, Liquid Ecstasy

RAVE PARTIES are today's most frequent location of first-time drug use for many American teens. Law enforcement presence has been slim, but it will increase. The presence of money-hungry drug dealers (they make big money) will also grow, as will the risk of death from the chemicals they market.



GHB, ketamine (Special K), MDMA (Ecstasy or E or XTC or The Hug Drug), mushrooms and LSD all carry a tremendous potential for personal damage, injury from traffic accidents and death from overdose or a resulting accident. Can it really be worth it?

ADDICTION TO GHB does happen and is incredibly hard to overcome. It is more dangerous to kick (detox) than heroin (since GHB withdrawal can be life threatening). It requires knowledgeable medical intervention. Depression and suicide are associated with GHB withdrawal. If you are addicted to GHB, contact us at www.projectghb.org or a regional Poison Control Center for help finding appropriate treatment.

The life you save may be your own.

Gamma Hydroxy Butyrate

Carpeting Out
Across America

PROJECT
GHB

For more information, go to
www.projectghb.org

PROJECT
GHB

What you don't know
can kill you.

HB

384

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB384-DOLWD-ALRA-02-17-06
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
 Title: Fines and Offenses RDU: Office of the Commissioner
 Sponsor: Representative Anderson Component: Alaska Labor Relations Agency
 Requester: House JUD Component Number: 1200

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—D. not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: None
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Section 21 would change the penalty in AS 23.40.180 (Public Employment Relations Act) for violation of a decision or order from a misdemeanor punishable by a fine of up to \$500, to a violation with no monetary penalty.

Section 29 would change the penalty in AS 42.40.830 (Alaska Railroad Labor Relations) for violation of a decision or order from a misdemeanor punishable by a fine of up to \$500, to a violation with no monetary penalty.

There is no anticipated financial impact to the department as a result of this legislation.

Prepared by: Mark Torgerson, Hearing Examiner Phone: 269-4895
 Division: Alaska Labor Relations Agency Date/Time: 2/17/06 9:37 AM
 Approved by: Greg O'Claray, Commissioner Date: 2/17/2006
 Agency: Department of Labor and Workforce Development

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB384-LAW-CJL-2-13-06
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to fines and offenses, amending RDU CRIMINAL
Rule 8(b), Alaska District Court Rules of Criminal Procedure..." Component Criminal Justice Litigation
 Sponsor Representative Anderson
 Requester House Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 EXPENDITURES						
-----------------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill makes various amendments throughout statute to increase the penalty for a violation to \$750. It also reclasses certain offenses as violations. In some cases the change represents an increase from a previous statutory level (frequently \$500), in some cases a fine would be imposed where one had not been. Even in the latter instance, it is unlikely that we will experience increases in the amount of time spent on prosecution because offenders choose to contest the higher or new fine. As a result we are not anticipating a fiscal impact to the Department of Law if this legislation passes.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division Administrative Services Division Date/Time 2/13/06 11:16 AM
 Approved by: Kathryn Daughhete for David Márquez, Attorney General Date 2/13/2006
 Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB384-Courts-2-10-06
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Fines and Offenses RDU Alaska Court System
 Component Trial Courts
 Sponsor Representative Anderson
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 EXPENDITURES						
-----------------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The court system does not anticipate any fiscal impact from the passage of HB 384.

Prepared by: Doug Wooliver, Administrative Attorney Phone 463-4750
 Division: Alaska Court System Date/Time 2-10-06 @ 9:00 am
 Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date 2/10/2006
 Agency: Alaska Court System

HB384 Sectional Analysis

Prepared by Department of Public Safety

Section 5: AS 05.25.090(b) is amended to read:

(b) A person who violates

- (1) AS 05.25.010, 05.25.020, 05.25.030(b), 05.25.060(2), or a regulation adopted under this chapter relating to As 05.25.010 or 05.25.020 is guilty of a violation **[AS DEFINED IN AS 11.81.900 AND MAY BE FINED UP TO \$500]**;
- (2) AS 05.25.055 is guilty of a violation **[AS DEFINED IN AS 11.81.900]** and may be fined up to \$50

Paragraph (1) would modify the maximum amount that could be fined for violations of several provisions of AS 05.25. Under this proposal, the maximum amount would not be specifically stated, but would fall within the range identified for violations. Those parameters are identified in AS 12.55.035(b)(7). The verbiage of "as defined in AS 11.81.900" should be retained as a means of defining "violation".

Paragraph (2) under this section also needs to retain the verbiage "as defined in AS 11.81.900". There is no need to include language about being fined up to \$50. That amount is already listed within the bail schedule as set by the Supreme Court.

Section 6: As 12.55.035(b) is amended to read:

- (7) **\$750 [~~\$500~~] for a violation or an infraction**

This section is the core of what AST's efforts were hoping to accomplish. AS 12.55.035(b)(7) will raise the maximum amount that can be access for a violation to \$750. The proposed language also adds infractions to this statute. It is suggested that infractions, since they are unique to only title 28, be defined in this statute. Possible language could be: "or an infraction as defined as AS 28.40.050(c)".

Bringing these two minor offenses together for purposes of determining the maximum penalty will serve to clarify much of the confusion that currently exist not only in law enforcement circles, but also in some of the magistrate courts across the state.

Section 8: AS 16.05.420(b) is amended to read:

(b) A person may not make a false statement, or omit a material fact, in an application for a license, tag, permit, sport fishing vessel registration issued under AS 16.05.130 – 16.05.430. A person who without any culpable mental state makes a false statement as to the person's identity or residency in an application for a license, tag, permit, or sport fishing vessel registration issued under AS 16.05.330 – 16.05.430 is guilty of a violation and upon conviction is punishable by a fine of not more than **\$750**

[\$300}. A person who knowingly violates this subsection is guilty of a class A misdemeanor.

It is suggested that "and upon a conviction is punishable by a fine of not more than \$750" be deleted from the proposed language. In its place, substitute "subject to the penalties specified in AS 12.55.035 (b)(7).

Section 12: AS 16.10.030 is amended to read:

Sec. 16.10.030 Penalty for violations of AS 16.10.010 – 16.10.050. A person who violates AS 16.10.010 – 16.10.050 is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not less than \$100 nor more than \$750 [\$500}.

This is proposed as a housekeeping provision to come into compliance with the new language if the proposals of section 6 within this bill are adopted.

Consideration should be given, however, as to why this offense is titled a misdemeanor but has a maximum penalty of between \$100 and \$750. Perhaps this offense should be called a Class B Misdemeanor with no specific monetary penalty spelled out. Conversely, if it is desired to not have penalties of any greater amount than \$100 to \$750, the offense should be titled as a violation subject to the penalties as specified in AS 12.55.035(b)(7).

Section 35: AS 28.39.010(b) is amended to read:

(b) A person who violates (a) of this section is guilty of an infraction [AND IS SUBJECT TO A \$300 FINE UNDER AS 28.40.050(c)].

This is essentially a housekeeping change in order to make the maximum amount that could be assessed under this provision of title 28 falls within the cap as established by the provisions of section 6 of this bill. For clarification as to the penalty, the following verbiage is suggested:

(b) A person who violates (a) of this section is guilty of an infraction **subject to the penalty specified in AS 12.55.035(b)(7).**

Section 36: AS 28.40.050(b) is amended to read:

(b) A person convicted of a misdemeanor for a violation of a provision of this title for which another penalty is not specifically provided is punishable by a fine of not more than \$750 [\$500], or by imprisonment for not more than 90 days, or both. In addition, the privilege to drive or the registration of vehicles may be suspended or revoked.

This section raises the maximum amount that could be assessed for a misdemeanor for violating title 28 to \$750 plus the stated amount of jail time.

It is unclear as to why misdemeanor offenses under title 28 have a monetary cap, currently \$500 but proposed as \$750, plus have a provision for imprisonment of not more than 90 days.

Perhaps this statute could be simplified by simply stating that offenses as identified by this section are Class B Misdemeanors without establishing any particular monetary amount.

Section 37: AS 28.40.050(c) is amended to read:

(c) Unless otherwise specified by law a person convicted of a violation of a regulation adopted under this title, or a municipal ordinance regulating vehicles or traffic when the municipal ordinance does not correspond to a provision of this title, is guilty of an infraction {AND IS PUNISHABLE BY A FINE NOT TO EXCEED \$300}.

This section essentially raises the maximum amount of penalty that can be assessed for a violation of title 28 for those offenses that are not specified by law as any other degree of offense. It is recommended that the proposed language include a defined reference for the penalty such as "subject to the penalty specified in AS 12.55.035(b)(7).

STATE OF ALASKA

FRANK MURKOWSKI, GOVERNOR

DEPARTMENT OF FISH AND GAME

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MEMORANDUM

TO: The Honorable Tom Anderson
Representative, Alaska State Legislature

FROM: Sarah A. Gilbertson
Legislative Liaison, ADF&G

DATE: February 14, 2006

SUBJECT: Sectional Analysis for CS for HB 384 (JUD)

Sections 7, 9-11, and 13-19 have a different purpose and reasoning than the other sections.

In 2002, the Alaska Legislature increased the maximum fine for Class A misdemeanors from \$5,000 to \$10,000. Several important AS 16 (fish & game) penalties list the maximum misdemeanor fine as \$5,000 (which was the maximum Class A misdemeanor fine for many years) and thus did not increase when the legislature increased all other Class A misdemeanor fines. This issue was not brought to the attention of legislators in 2002 and is now being addressed as part of CS for HB 384 (JUD).

The sections below update and bring uniformity to the old wording to now include "class A misdemeanor" so they will reflect the new standard the legislature created in 2002. Additionally, maximum fines will be automatically adjusted in the future should the legislature make changes to the Class A Misdemeanor fines. Currently, a Class A misdemeanor carries a maximum penalty of \$10,000 and up to one year imprisonment.

Section 7 modifies the maximum fine from \$5,000 to a Class A misdemeanor for violation of AS 16.05.407, which requires non-residents taking brown bear, grizzly bear, mountain goat, or sheep to be accompanied by a licensed guide-outfitter or a resident who is related within the second degree of kindred.

Section 9 modifies the maximum fine from \$5,000 to a Class A misdemeanor for violation of AS 16.05.783, which prohibits persons from shooting or assisting in shooting wolves and wolverines on the same day that the person has been airborne.

Section 10 modifies the maximum imprisonment time from 6 months to one year as required by a Class A misdemeanor for violation of AS 16.05.831, which prohibits a person from intentionally wasting salmon. The legislature previously set the maximum fine at \$10,000 and this change brings the entire section into alignment with other fisheries crimes that are punishable with up to one year in jail.

Section 11 is already set at a maximum fine of \$10,000 and one year imprisonment but should be modified for uniformity to be a Class A misdemeanor. This penalty is for violation of AS 16.05.905, which prohibits alien persons not lawfully admitted to the United States from engaging in commercial fishing activities or taking marine mammals.

Section 13 states that the penalty is a "misdemeanor" but should designate it a Class A misdemeanor for clarity and uniformity. This section pertains to AS 16.10.055, which prohibits persons from interfering with or damaging the commercial fishing gear of another person.

Section 14 modifies the maximum fine from \$5,000 to a Class A misdemeanor for a violation of AS 16.10.070, which prohibits persons from operating fish traps.

Section 15 modifies the maximum fine from \$5,000 to a Class A misdemeanor for violation of AS 16.10.100, which prohibits the construction or maintenance of fish traps.

Section 16 modifies the maximum fine from \$1,000 and a maximum of six months imprisonment to a Class A misdemeanor for violation of AS 16.10.120 & 125. AS 16.10.120 prohibits the use of a drum or reel in operation of a purse seine, and AS 16.10.125 requires the use of a termination device on shellfish and bottomfish pots so when they are lost they will cease fishing after a period of time. These changes are needed to bring these crimes into alignment with other commercial fishing penalties.

Section 17 modifies the maximum fine from \$5,000 to a Class A misdemeanor for AS 16.10.200 & 210. AS 16.10.200 prohibits a person from possessing or selling migratory fish and shellfish that were taken unlawfully and AS 16.10.220 prohibits a person from possessing or purchasing migratory fish or shellfish that have been taken unlawfully.

Section 18 modifies the maximum fine from \$5,000 to a Class A misdemeanor for violation of AS 16.10.240 which prohibits the exportation of live crab from the state.

Section 19 modifies the maximum fine from \$5,000 to a Class A misdemeanor for violation of AS 16.10.270 which requires the purchaser of raw fish to determine the weight of fish that are purchased.

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