

11836 SENATE JUDICIARY

methamphetamine in solution, acids, or even urine which can be recycled later.

Source: Text based on NDIC Report
Photos: Riverside Sheriff Dept Special Investigative Bureau

| Dangers of Meth | | For Your Information | | Statistics | | Resources | | Lab Photos | | Links | | Site Map | | Contact Information | | Home |
--

LEGISLATIVE REFERENCE LIBRARY

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3808
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 400
Juneau, Alaska 99801-2105

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

Mary Pagenkopf

Senate Judiciary 2-9-05 @ 1:31pm

STATE OF ALASKA

DEPARTMENT of HEALTH & SOCIAL SERVICES
DIVISION of PUBLIC HEALTH

FRANK H. MURKOWSKI, GOVERNOR

OFFICE OF THE DIRECTOR
P.O. BOX 110610
JUNEAU, AK 99811-0610
PHONE: (907) 465-3090
FAX: (907) 465-4632

March 7, 2005

The Honorable Ralph Seekins
Chair, Senate Judiciary Committee
Alaska State Capitol, Room 125
Juneau, AK 99801-1182

Dear Senator Seekins:

As director of the state Division of Public Health, and as a longtime pediatrician in Alaska, I support the passage of Senate Bill 70, which strengthens criminal penalties for people who manufacture methamphetamine.

These statutory changes proposed by Governor Murkowski recognize the significant dangers posed by the illegal manufacture of methamphetamine. I am especially pleased that these proposals increase penalties for those who expose children to methamphetamine and the toxic byproducts of its production. Anyone exposed to this dangerous drug is at risk, but our children are especially vulnerable. The chemicals used in methamphetamine labs can harm fetal development, affect the healthy growth of young brains and bodies and, in fact, hurt children of any age.

I believe our laws must be strengthened accordingly, and I strongly support the passage of Senate Bill 70.

Sincerely,



Richard Mandsager, M.D.
Director, Division of Public Health

cc: Joel Gilbertson
Commissioner, Department of Health and Social Services

Randy Ruaro
Assistant Attorney General, Department of Law

THE CLEANUP

WARNING

There are many hazardous chemicals associated with clandestine drug manufacturing sites! ADEC recommends the use of a hazardous materials contractor for cleanup of clandestine drug manufacturing sites.

"THE CLEANUP PROCESS"

1. PRELIMINARY INSPECTION:
2. HEAT AND VENTILATE: Assists in removing volatile compounds.
3. DISPOSAL: Remove and destroy contaminated furniture, countertops, clothing, curtains, etc.
4. DECONTAMINATION: Decontamination must conform to the procedures outlined in the ADEC guidance document.
5. SAMPLING: Sample surfaces and air as required by ADEC guidance document.
6. NOTIFICATION: Property owner submits a letter certifying the cleanup.
7. ADEC: Receives the report and removes the site from the database.

IMPORTANT

Listed sites **shall not** be occupied until the property meets State of Alaska "fit for use" standards.

Any personnel hired to conduct cleanup or sampling at a drug lab site must have current, required OSHA approved hazardous materials training.

Cleanup and sampling must be done in accordance with ADEC's "Guidance and Standards for Cleanup of Illegal Drug Manufacturing Sites"

Samples must be analyzed by laboratories identified on ADEC's list of approved laboratories and the property owner must authorize the laboratory to provide results of the analysis to ADEC on request.

Providing false information on a cleanup or knowingly certifying a contaminated property meets the "fit for use" standard is a crime

For Information Visit the ADEC website at:

<http://www.state.ak.us/dec/spar/perp/methlab/htm>

Alaska
Department of
Environmental
Conservation



CLANDESTINE DRUG

LAB CLEANUP

REQUIREMENTS



**YOUR PROPERTY
WAS DETERMINED
TO BE AN ILLEGAL
DRUG LAB.**

What Happens Now?

LAW ENFORCEMENT

AGENCIES WILL!

1. **Conduct** enforcement action on suspected illegal drug manufacturing sites.
2. **Determine** if a property has been used as an illegal drug lab.
3. **Remove** gross contamination needed as evidence from the illegal drug lab site.
4. **Post** the property as unfit for habitation.
5. **Notify** the owner(s), occupants and users of the property of the posting and provide property owners with a copy of the ADEC "Guidance for Cleanup of Illegal Drug Manufacturing Sites".
6. **Notify** ADEC that a property has been posted.

After the property is posted!

THE PROPERTY OWNER WILL!

Vacate the property within four (4) days of notification and prohibit re-occupancy until the property is certified fit for use

ADEC WILL!

1. Add the property to a database of drug lab contaminated property sites. The property will remain in the database until certified fit for use. The database is available on the State website and hard copies of the database are also available.
2. Provide law enforcement authorities with copies of the "Guidance for Cleanup of Illegal Drug Manufacturing Sites".
3. Maintain a list of laboratories approved to analyze samples from former illegal drug laboratories.

OWNER RESPONSIBILITIES

The owner of a former drug lab may:

1. Hire a contractor to conduct decontamination and sampling of the site, or
2. Conduct decontamination and sampling themselves.

Decontamination must conform to all federal, State and Local regulations.

Employees of the owner or a contractor conducting decontamination must meet OSHA guidelines for hazardous material workers

The owner is responsible for proper disposal of contaminated material associated with the decontamination.

The owner must submit a letter of certification that a property has been decontaminated before the property can be re-occupied.

SB

74

SENATE COMMITTEE REPORT

DATE: 4/4/05

FURTHER: Finance

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered

SENATE BILL NO. 74

SB 74 CRIMES INVOLVING MARIJUANA/OTHER DRUGS

"An Act making findings relating to marijuana use and possession; relating to marijuana and misconduct involving a controlled substance; and providing an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:
 Same Title
 New Title

SCS House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____


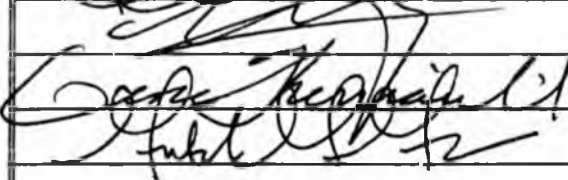
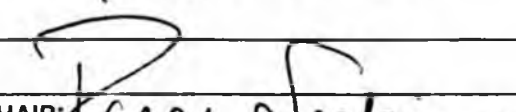
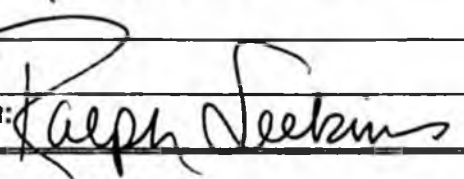
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
			X	
			X	
			X	
CHAIR: 	✓			

Newsday.com

[Homepage](#)[News](#)[Sports](#)[Business](#)[Entertainment](#)[Shopping](#)[Jobs](#)[Cars](#)[Homes](#)[Place an ad](#)

Feds Sound New Warning About Marijuana Use

By PAULINE JELINEK
Associated Press Writer

May 3, 2005, 8:05 PM EDT

WASHINGTON -- Youngsters who use marijuana are more likely to develop serious mental health problems, the government said Tuesday. A private group said law enforcement increasingly is targeting people who smoke and deal the drug.

Past medical studies have linked marijuana with a greater incidence of mental disorders such as depression or schizophrenia. But questions remain about whether people who smoke marijuana at a young age are already predisposed to mental disorders, or whether the drug caused those disorders.

Government officials say recent research makes a stronger case that smoking marijuana is itself a causal agent in psychiatric symptoms, particularly schizophrenia.

"A growing body of evidence now demonstrates that smoking marijuana can increase the risk of serious mental health problems," said John P. Walters, director of the White House Office of Drug Control Policy.

Administration officials pointed to a handful of studies to make their case. One, from the Substance Abuse and Mental Health Services Administration, found adult marijuana smokers who first began using the drug before age 12 were twice as likely to have suffered a serious mental illness in the past year as those who began smoking after 18.

The ratio was 21 percent to 10.5 percent. Those who first started as teens also were at significantly higher risk.

Also Tuesday, The Sentencing Project released a report that found the government's "war on drugs" has become the "war on drug" as police agencies increasingly target marijuana.

Begun in the 1980s, the war on drugs was aimed at stopping large-scale narcotics traffickers, particularly those selling cocaine. But since 1990 more of the focus has been on catching users and low-level dealers. And more often than ever, the drug targeted is marijuana, according to the group, a national nonprofit organization that works on judicial reform and favors alternatives to

jail.

Of some 700,000 marijuana arrests in 2002, 88 percent were for possession, it said. And only one of every 18 of those arrests ended in a felony conviction.

"Arresting record numbers of low-level marijuana offenders represents a poor investment in public safety" and diverts resources from "more serious crime problems," said Ryan King, co-author of the report.

King found that in 1992 arrests for heroin and cocaine comprised 55 percent of all drug arrests and marijuana 28 percent. A decade later heroin and cocaine arrests accounted for less than 30 percent of all arrests, while marijuana's share had risen to 45 percent.

Jennifer deVallance, spokeswoman for the White House drug office, said there are many reasons for the greater focus on marijuana. Among them: Marijuana is the single largest drug of abuse in the nation, the strains are more potent than ever and more is known about health dangers.

"For the first time, more kids are seeking treatment for marijuana use than alcohol," she said.

The Sentencing Project called for renewed national discussion of the war on drugs, an idea echoed by the conservative American Enterprise Institute. The group reported last month that despite spending at about \$40 billion a year now and toughening drug sentencing laws, "America continues to experience the Western world's worst drug problems."

An epidemic of heroin use more than three decades ago, followed by a 1980s epidemic of cocaine and crack, prompted a massive intensification in drug enforcement while giving short shrift to prevention and treatment, the institute reported. It decried budgeting that spends two-thirds of drug control funds on enforcement, 25 percent on treatment and just 12 percent on prevention.

* —

Associated Press reporter Kevin Freking contributed to this story.

* —

On the Net:

The Sentencing Project: <http://www.sentencingproject.org>

Office of National Drug Control Policy: <http://www.whitehousedrugpolicy.gov>

Copyright 2005 Newsday Inc.

CS FOR SENATE BILL NO. 74(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act making findings relating to marijuana use and possession, relating to
2 marijuana and misconduct involving a controlled substance; and providing for an
3 effective date."

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

5 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 **PURPOSE.** The purpose of this Act is to protect the health and safety of persons in
8 this state and to provide legislative findings concerning this Act regarding marijuana and its
9 effects in this state.

10 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 **FINDINGS.** The type of marijuana available in the United States and Alaska today,
13 and the changes in the patterns of usage of the drug, particularly by young Alaskans, Alaska
14 Natives and those undergoing alcohol treatment, pose a threat to the public health and welfare

1 that justifies prohibiting possession in this state, even by adults at home. In this Act, the
2 legislature has considered its duty to implement the right to privacy in art. I, sec. 22,
3 Constitution of the State of Alaska, and its duty to promote the public health and welfare in
4 art. VII, sec. 4, Constitution of the State of Alaska. To carry out the intent of the voters and
5 the legislature, it will ultimately be necessary for the courts in Alaska to come to different
6 conclusions about state statutes relating to marijuana than those expressed in *Noy v. State*, 83
7 P.3d 538 (Alaska App. 2003), and *Crocker v. State*, 97 P.3d 93 (Alaska App. 2004). To assist
8 the courts in considering these issues, the legislature further finds that

9 (1) the potency of marijuana has increased dramatically since the 1960s and
10 1970s; the national average amount of delta-9-tetrahydrocannabinol (THC), the main
11 psychoactive ingredient, was less than one percent then, but increased steadily in the 1980s
12 and 1990s and by 2003 was six times higher, at 6.4 percent; marijuana grown and available in
13 Alaska is much more potent than the national average, and has been tested with THC levels
14 over 20 percent; the average potency of Alaska marijuana for the period 1993-2003 was over
15 10 percent and for 2003 was nearly 14 percent; Alaska marijuana today commands hundreds
16 of dollars per ounce on the illegal market and is often sold in smaller amounts within the price
17 range of teenagers; the increasing potency of marijuana corresponds to an increase in
18 substance abuse treatment admissions, particularly youth 12 - 17 years of age, and in the
19 number of persons seeking emergency medical care due to marijuana-related incidents;

20 (2) several hundred adults and children are admitted into treatment each year
21 in Alaska for marijuana abuse, with more than half being children under 18 years of age and
22 more than a third being Alaska Natives; pregnant women in Alaska use marijuana at a higher
23 rate than the national average and the percentage of pregnant Alaska Native women using
24 marijuana is more than double the national average and the average for non-Native Alaskan
25 women; the percentage of Alaska Native high school youth who have used marijuana is
26 significantly higher than among non-Native youth;

27 (3) there is evidence that many users become dependent on marijuana under
28 the clinical standards applied by the Diagnostic and Statistical Manual of Mental Disorders
29 IV; studies have shown that use of marijuana and withdrawal from marijuana affect some of
30 the same neurochemical processes as known addictive drugs; Marijuana Anonymous chapters
31 to treat marijuana addicts exist in a majority of states in the country. This is persuasive

1 evidence of marijuana's potential for users becoming dependent on it. Currently, one-third of
2 all persons in Alaska treated for drug and alcohol problems are treated for marijuana abuse;

3 (4) early exposure of young people to marijuana increases the likelihood of
4 lifelong health and social problems, makes it more likely that the person will later use more
5 potent illegal drugs, and is associated with depression and an increased risk of attempting
6 suicide;

7 (5) a high percentage of persons in treatment for alcohol abuse also abuse
8 marijuana, particularly among Alaska Natives; although the relationship between marijuana
9 and alcohol and other drugs is not fully understood, there is a correlative effect that makes it
10 more difficult to treat alcoholism when marijuana is also used;

11 (6) marijuana consists of hundreds of different chemicals and can affect
12 almost every organ and system in the body, including the lymph system, the heart, and the
13 lungs; THC binds to receptors in the brain that should otherwise bind to naturally occurring
14 brain chemicals; marijuana can affect memory, attention, judgment, and other cognitive
15 functions and can impair motor coordination, time perception, and balance; marijuana smoke
16 contains more carcinogenic hydrocarbons than tobacco smoke; marijuana often contains
17 bacteria or fungus that are dangerous to humans, and is harvested and sold without removing
18 pesticides and fungicides;

19 (7) a high percentage of persons arrested in this state, including adults and
20 juveniles who commit violent offenses, have marijuana in their system at the time of the
21 arrest; the percentage is particularly high for adults arrested for domestic violence who test
22 positive for marijuana at the time of the arrest;

23 (8) if a parent uses marijuana, their children are four to five times more likely
24 to become marijuana users; many high school students report that they have been able to get
25 marijuana at home or from a relative; criminal penalties for possession of marijuana in the
26 home will deter possession by adults and reduce its availability and accessibility to children;
27 studies have shown that criminal penalties for possession of marijuana are effective in
28 increasing the perception among teenagers of the risks of using the drug, thus reducing its use
29 by young people;

30 (9) in *Noy v. State*, 83 P.3d 538 (Alaska App. 2003), the Alaska court of
31 appeals allowed any person over 17 years of age to possess up to four ounces of marijuana in

...d that possession of four ounces could legitimately
...was reasonable for the legislature to conclude in
...ive of an intent to sell; the Noy decision also led
... (Alaska App. 2004) to adopt requirements for
...ng that, in the words of the dissenting chief
... legitimate laws prohibiting the sale and

30, a person commits the crime of
...ntro...ance in the fourth degree if the person
...ures or delivers any amount of a schedule IVA or VA
...ance or possesses any amo nt of a schedule IVA or VA controlled
...stance with intent to manufacture or deliver;

(2) manufactures or delivers, or possesses with the intent to
manufacture or deliver, one or more preparations, compounds, mixtures, or substances
of an aggregate weight of one ounce or more containing a schedule VIA controlled
substance;

(3) possesses

(A) any amount of a schedule IA or IIA controlled substance;

(B) 25 or more tablets, ampules, or syrettes containing a
schedule IIIA or IVA controlled substance;

(C) one or more preparations, compounds, mixtures, or
substances of an aggregate weight of three grams or more containing a
schedule IIIA or IVA controlled substance;

(D) 50 or more tablets, ampules, or syrettes containing a
schedule VA controlled substance;

(E) one or more preparations, compounds, mixtures, or
substances of an aggregate weight of six grams or more containing a schedule
VA controlled substance;

(F) one or more preparations, compounds, mixtures, or
substances of an aggregate weight of four ounces [ONE POUND] or more

15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services
Department of Education & Early Development
State of Alaska

1 their home; at the same time, the court held that possession of four ounces could legitimately
2 be prohibited even in the home because it was reasonable for the legislature to conclude in
3 1982 that possession of four ounces is indicative of an intent to sell; the Noy decision also led
4 the same court in Crocker v. State, 97 P.3d 93 (Alaska App. 2004) to adopt requirements for
5 search warrants to investigate marijuana-growing that, in the words of the dissenting chief
6 judge, make it "difficult for the state to enforce legitimate laws prohibiting the sale and
7 possession of marijuana."

8 * Sec. 3. AS 11.71.040(a) is amended to read:

9 (a) Except as authorized in AS 17.30, a person commits the crime of
10 misconduct involving a controlled substance in the fourth degree if the person

11 (1) manufactures or delivers any amount of a schedule IVA or VA
12 controlled substance or possesses any amount of a schedule IVA or VA controlled
13 substance with intent to manufacture or deliver;

14 (2) manufactures or delivers, or possesses with the intent to
15 manufacture or deliver, one or more preparations, compounds, mixtures, or substances
16 of an aggregate weight of one ounce or more containing a schedule VIA controlled
17 substance;

18 (3) possesses

19 (A) any amount of a schedule IA or IIA controlled substance;

20 (B) 25 or more tablets, ampules, or syrettes containing a
21 schedule IIIA or IVA controlled substance;

22 (C) one or more preparations, compounds, mixtures, or
23 substances of an aggregate weight of three grams or more containing a
24 schedule IIIA or IVA controlled substance;

25 (D) 50 or more tablets, ampules, or syrettes containing a
26 schedule VA controlled substance;

27 (E) one or more preparations, compounds, mixtures, or
28 substances of an aggregate weight of six grams or more containing a schedule
29 VA controlled substance;

30 (F) one or more preparations, compounds, mixtures, or
31 substances of an aggregate weight of four ounces [ONE POUND] or more

1 containing a schedule VIA controlled substance; or

2 (G) 25 or more plants of the genus cannabis;

3 (4) possesses a schedule IIIA, IVA, VA, or VIA controlled substance

4 (A) with reckless disregard that the possession occurs

5 (i) on or within 500 feet of school grounds; or

6 (ii) at or within 500 feet of a recreation or youth center;

7 or

8 (B) on a school bus;

9 (5) knowingly keeps or maintains any store, shop, warehouse,
10 dwelling, building, vehicle, boat, aircraft, or other structure or place that is used for
11 keeping or distributing controlled substances in violation of a felony offense under this
12 chapter or AS 17.30;

13 (6) makes, delivers, or possesses a punch, die, plate, stone, or other
14 thing that [WHICH] prints, imprints, or reproduces a trademark, trade name, or other
15 identifying mark, imprint, or device of another or any likeness of any of these upon a
16 drug, drug container, or labeling so as to render the drug a counterfeit substance;

17 (7) knowingly uses in the course of the manufacture or distribution of a
18 controlled substance a registration number that is fictitious, revoked, suspended, or
19 issued to another person;

20 (8) knowingly furnishes false or fraudulent information in or omits
21 material information from any application, report, record, or other document required
22 to be kept or filed under AS 17.30;

23 (9) obtains possession of a controlled substance by misrepresentation,
24 fraud, forgery, deception, or subterfuge; or

25 (10) affixes a false or forged label to a package or other container
26 containing any controlled substance.

27 * Sec. 4. AS 11.71.050(a) is amended to read:

28 (a) Except as authorized in AS 17.30, a person commits the crime of
29 misconduct involving a controlled substance in the fifth degree if the person

30 (1) manufactures or delivers, or possesses with the intent to
31 manufacture or deliver, one or more preparations, compounds, mixtures, or substances

1 of an aggregate weight of less than one [ONE-HALF] ounce [OR MORE] containing
2 a schedule VIA controlled substance;

3 (2) manufactures or delivers, or possesses with the intent to
4 manufacture or deliver, one or more preparations, compounds, mixtures, or substances
5 of an aggregate weight of less than one-half ounce containing a schedule VIA
6 controlled substance, for remuneration;

7 (3) possesses

8 (A) less than 25 tablets, ampules, or syrettes containing a
9 schedule IIIA or IVA controlled substance;

10 (B) one or more preparations, compounds, mixtures, or
11 substances of an aggregate weight of less than three grams containing a
12 schedule IIIA or IVA controlled substance;

13 (C) less than 50 tablets, ampules, or syrettes containing a
14 schedule VA controlled substance;

15 (D) one or more preparations, compounds, mixtures, or
16 substances of an aggregate weight of less than six grams containing a schedule
17 VA controlled substance; [OR]

18 (E) one or more preparations, compounds, mixtures, or
19 substances of an aggregate weight of one ounce [ONE-HALF POUND] or
20 more containing a schedule VIA controlled substance; or

21 (F) one or more preparations, compounds, mixtures, or
22 substances containing a schedule VIA controlled substance while driving
23 or operating a motor vehicle, aircraft, or motorized watercraft; or

24 (4) fails to make, keep, or furnish any record, notification, order form,
25 statement, invoice, or information required under AS 17.30.

26 * Sec. 5. AS 11.71.060(a) is amended to read:

27 (a) Except as authorized in AS 17.30, a person commits the crime of
28 misconduct involving a controlled substance in the sixth degree if the person

29 (1) uses or displays any amount of a schedule VIA controlled
30 substance;

31 (2) [OR] possesses one or more preparations, compounds, mixtures, or

1 substances of an aggregate weight of less than one ounce [ONE-HALF POUND]
2 containing a schedule VIA controlled substance;

3 (3) possesses one or more preparations, compounds, mixtures, or
4 substances containing a schedule VIA controlled substance while a passenger in a
5 motor vehicle, aircraft, or motorized watercraft;

6 (4) being the driver or operator of a motor vehicle, aircraft, or
7 motorized watercraft, knowingly permits a passenger to possess one or more
8 preparations, compounds, mixtures, or substances containing a schedule VIA
9 controlled substance; or

10 (5) [(2)] refuses entry into a premise for an inspection authorized under
11 AS 17.30.

12 * Sec. 6. AS 11.71.080 is amended to read:

13 **Sec. 11.71.080. Aggregate weight of live marijuana plants.** For purposes of
14 calculating the aggregate weight of a live marijuana plant, the aggregate weight shall
15 be one-sixth of the measured weight of the marijuana plant after the roots of the
16 marijuana plant have been removed [WHEN REDUCED TO ITS COMMONLY
17 USED FORM].

18 * Sec. 7. AS 11.71.050(a)(2) is repealed.

19 * Sec. 8. This Act takes effect immediately under AS 01.10.070(c).

L

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 20, 2005

L SB74 (RS)

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 463-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

The Honorable Ben Stevens
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to marijuana. I believe it is time for the Alaska Legislature to take a stand and debunk the myth that marijuana is a harmless recreational drug.

It is very troubling to me that our young people have access to the drug and are using it. In recent years, Alaska had the highest rate in the nation of persons over the age of 12 trying marijuana for the first time. Approximately two-thirds of these new smokers were children ages 12 - 17. This same age group of children made up over half of the state's 363 treatment admissions in 2003 for marijuana abuse. Many more go untreated each year.

The problem is particularly great for Alaska Natives. In 2003, the self-reported rate of current use for Alaska Native students in the ninth grade (age 15) was 36.96 percent, nearly three times the rate for non-Native Alaska students. For tenth graders, the rate of current use by Alaska Native students was 41.77 percent. Alaska Natives also made up approximately 35 percent of the statewide treatment admissions for marijuana abuse in 2003. The numbers of our youths trying marijuana for the first time and entering treatment foretell's a dim future if nothing is done.

Although marijuana smoke contains hundreds of substances, some of them carcinogenic, the principal psychoactive ingredient is delta-9 tetrahydrocannabinol (commonly known as THC). In the 1960's and 70's, marijuana was primarily used by college students and "hippies," and the average THC content was less than one percent. But today, the average THC content in marijuana is six times that level, at 6.4 percent. Drug dealers in Alaska have turned indoor marijuana growing into a science and marijuana grown here has been found with a THC content in excess of 20 percent. Our young people thus have access to, and are using, marijuana that is a potent hallucinogenic.

In 1975, the Alaska Supreme Court studied marijuana and concluded, in *Ravin v. State*, that the scientific evidence on its effects did not justify making it a

COMMITTEE COPY

The Honorable Ben Stevens

January 20, 2005

Page 2

crime for adults to possess small amounts in private. More recently, the Alaska Supreme Court has shown an unwillingness to reconsider the latest scientific evidence on the harmful effects of marijuana. A rational evaluation of marijuana's harmful effects must occur, and the Legislature should do that -- not the courts. This bill would provide a forum for the Legislature to hear expert testimony on the effects of marijuana and to make findings that the courts can rely on in cases where marijuana is an issue.

In addition to educating the Legislature, courts, and the public about the harmful effects of marijuana, this bill would deter possession and use of marijuana by increasing criminal penalties for certain types of possession. It also would provide a fair and efficient process for determining the usable weight of live marijuana plants in criminal prosecutions.

Current law makes it a class B felony to give or sell marijuana, and schedule IVA and VA controlled substances, to someone age 18 or younger, but only if the dealer is at least three years older. Right now, if a 19-year-old gives a small amount of marijuana to a 17-year-old, it is the lowest level misdemeanor offense. When the law classifies such conduct as such a low-level offense, it provides no deterrence for young adults.

Marijuana is particularly harmful for young users, and it should be a serious crime to give or sell marijuana to someone under age 21, no matter how old the "dealer" may be. Expanding the current class B felony penalty for providing marijuana, and schedule IVA and VA controlled substances, to someone under age 21, regardless of the age difference between the user and the dealer, would allow the Superior Court to punish adults who supply our youths.

The bill also would make it a class C felony (the lowest felony level) to possess four ounces or more of marijuana, compared to current law, which reserves this felony level only for those who possess a whole pound or more. Four ounces of high-THC marijuana has a street value of up to \$2,000. Given the increase in the value and potency of marijuana, it is appropriate to apply higher penalties to possession of this amount.

The bill also would adjust misdemeanor penalties related to marijuana. The bill would make it a class A misdemeanor to possess one ounce or more of marijuana, as compared with current law, which allows misdemeanor penalties even for those who possess from a half-pound to up to one pound of marijuana. The bill would reserve the lowest misdemeanor penalties (class B misdemeanor), for possession of less than one ounce of marijuana, which is still a significant amount, both in dosage and cost.

The Honorable Ben Stevens

January 20, 2005

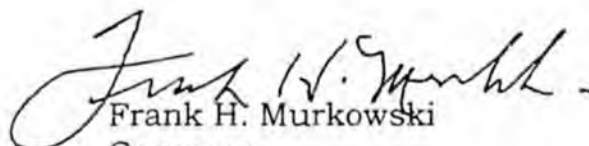
Page 3

The bill also tackles marijuana and driving, which even the Supreme Court in *Ravin* recognized as a potentially serious problem back in 1975. Unlike alcohol, there is no effective way for law enforcement officers to quickly and easily test the amount of marijuana in a person's blood, breath, or urine. Thus, the best way to deter using marijuana and driving is to prohibit it in motor vehicles. This bill would make it a class A misdemeanor for the driver of a motor vehicle to possess any amount while driving or operating a motor vehicle. This is the same level of offense as driving under the influence, although this bill does not require mandatory penalties as required for driving under the influence (DUI) offenses. The bill also would make it a class B misdemeanor if a passenger in a motor vehicle possesses any marijuana, or if the driver allows a passenger to do so.

Finally, the bill would provide a fair and efficient process for determining the usable weight of live marijuana plants. Under current statutory law, to determine the weight of marijuana from a growing plant, the law enforcement officers must harvest, dry, and process the marijuana just like a marijuana grower would. This is required for two reasons. First, the plants cannot be allowed to remain damp, or a mold will form that not only destroys the evidence, but is also dangerous to the officers handling the plants. Second, this processing is statutorily required because the plant can only be weighed after it has been "reduced to its commonly used form." (AS 11.71.080.) The obvious problem with this statute is that it forces the law enforcement officers to operate large marijuana drying and processing facilities at great expense and effort. The plants must be spread out and dried, and then the law enforcement officers must begin the laborious task of separating the less usable stalks from the leaves, buds, and flowers. Even then, there are often arguments in court about whether the law enforcement officers correctly processed the plants, or whether they left in too many stalks. This bill solves the problem by allowing the law enforcement officers to weigh the unprocessed harvested plants, and declares that one-sixth of that weight is used for determining what level of crime is involved. The one-sixth ratio was determined by experimentation of the Alaska State Troopers, and represents an average of several test batches of live marijuana plants that were dried and processed to their "commonly used form."

I urge your prompt and favorable action on this measure.

Sincerely yours,


Frank H. Murkowski
Governor

Enclosure

SENATE JUDICIARY COMMITTEE
Senate Bill 74

AMENDMENT #2

(Section, page and line numbers refer to the original version of the bill.)

- Delete Section 3 of the bill and re-number bill sections accordingly.
- Page 6, line 20:
Change “aggregate weight of one-half ounce or more”
to read “aggregate weight of less than one ounce [ONE-HALF OUNCE OR MORE]”
- Page 6, delete, that is, repeal, lines 22-25
Do not re-number paragraphs.
- Page 7, delete lines 22-25 and re-number paragraphs accordingly.

#1

Page 1, line 10, to page 4, line 10: **Delete Sec. 2 and Insert in its place:**

* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to read:

FINDINGS. The type of marijuana available in the United States and Alaska today, and the changes in the patterns of usage of the drug, particularly by young Alaskans, Alaska Natives and those undergoing alcohol treatment, pose a threat to the public health and welfare that justifies prohibiting possession in this state, even by adults at home. In this Act, the Legislature has considered its duty to implement the right to privacy in art. I, sec. 22, and its duty to promote the public health and welfare in art. VII, sec. 4, of the state constitution. To carry out the intent of the voters and the Legislature, it will ultimately be necessary for the courts in Alaska to come to different conclusions about state statutes relating to marijuana than those expressed in *Noy v. State*, 83 P.3d 538 (Alaska App. 2003), and *Crocker v. State*, 97 P.3d 93 (Alaska App. 2004). To assist the courts in considering these issues, the Legislature further finds that:

(1) the potency of marijuana has increased dramatically since the 1960s and 1970s; the national average amount of delta-9-tetrahydrocannabinol (THC), the main psychoactive ingredient, was less than one percent then, but increased steadily in the 1980s and 1990s, and by 2003 was six times higher, at 6.4 percent; marijuana grown and available in Alaska is much more potent than the national average, and has been tested with THC levels over 20 percent; the average potency of Alaska marijuana for the period 1993-2003 was over 10 percent and for 2003 was nearly 14 percent; Alaska marijuana today commands hundred of dollars per ounce on the illegal market and is often sold in smaller amounts within the price range of teenagers; the increasing potency of marijuana corresponds to an increase in substance abuse treatment admissions, particularly youth aged 12-17, and in the number of persons seeking emergency medical care due to marijuana-related incidents;

(2) several hundred adults and children are admitted into treatment each year in Alaska for marijuana abuse, with more than half being children under 18 and more than a third being Alaska Natives; pregnant women in Alaska use marijuana at a higher rate than the national average and the percentage of pregnant Alaska Native women using marijuana is more than double the national average and the average for non-Native Alaskan women; the percentage of Alaska Native high school youth who have used marijuana is significantly higher than among non-Native youth;

(3) there is evidence that many users become dependent on

marijuana under the clinical standards applied by the Diagnostic and Statistical Manual of Mental Disorders IV; studies have shown that use of marijuana and withdrawal from marijuana affect some of the same neurochemical processes as known addictive drugs; Marijuana Anonymous chapters to treat marijuana addicts exist in a majority of states in the country. This is persuasive evidence of marijuana's potential for users becoming dependent on it. Currently, one-third of all persons in Alaska treated for drug and alcohol problems are treated for marijuana abuse;

(4) early exposure of young people to marijuana increases the likelihood of lifelong health and social problems, makes it more likely that the person will later use more potent illegal drugs, and is associated with depression and an increased risk of attempting suicide;

(5) a high percentage of persons in treatment for alcohol abuse also abuse marijuana, particularly among Alaska Natives; although the relationship between marijuana and alcohol and other drugs is not fully understood, there is a correlative effect that makes it more difficult to treat alcoholism when marijuana is also used;

(6) marijuana consists of hundreds of different chemicals and can affect almost every organ and system in the body, including the lymph system, the heart, and the lungs; THC binds to receptors in the brain that should otherwise bind to naturally occurring brain chemicals; marijuana can affect memory, attention, judgment, and other cognitive functions and can impair motor coordination, time perception, and balance; marijuana smoke contains more carcinogenic hydrocarbons than tobacco smoke; marijuana often contains bacteria or fungus that are dangerous to humans, and is harvested and sold without removing pesticides and fungicides;

(7) a high percentage of persons arrested in this state, including adults and juveniles who commit violent offenses, have marijuana in their system at the time of arrest; the percentage is particularly high for adults arrested for domestic violence who test positive for marijuana at the time of arrest;

(8) if a parent uses marijuana, their children are four to five times more likely to become marijuana users; many high school students report that they have been able to get marijuana at home or from a relative; criminal penalties for possession of marijuana in the home will deter possession by adults and reduce its availability and accessibility to children; studies have shown that criminal penalties for possession of marijuana are effective in increasing the perception among teenagers of the risks of using the drug, thus reducing its use by young people;

(9) in *Noy v. State*, 83 P.3d 538 (Alaska App. 2003), the Alaska court of appeals allowed any person over 17 to possess up to four ounces of marijuana in their home; at the same time, the court held that possession of four ounces could legitimately be prohibited even in the home because it was reasonable for the legislature to conclude in 1982 that possession of four ounces is indicative of an intent to sell; the *Noy* decision also led the same court in *Crocker v. State*, 97 P.3d 93 (Alaska App. 2004) to adopt requirements for search warrants to investigate marijuana-growing that, in the words of the dissenting chief judge, make it “difficult for the state to enforce legitimate laws prohibiting the sale and possession of marijuana.”

SB 74 –Revised Findings
Examples of Testimony and Evidence Supporting Findings

(1) Increased potency and price of marijuana

- Tab “A” – Mississippi Monitoring Project Graphs and Charts
- Testimony of Dr. El Sohly in House Judiciary Committee; testimony of Capt. Al Storey in Senate HESS Committee; testimony of Capt. Ed Harrington in House and Senate Judiciary Committees
- Testimony of Dr. Edward Murray in Senate HESS Committee and House Judiciary Committee (relationship between doubling of potency in 1990s and doubling of emergency room admissions for marijuana incidents)
- Testimony of Bill Hogan, Director of Division of Behavioral Health, in Senate HESS and Judiciary Committees; testimony of Cristi Willer, Deputy Director of Behavioral Health in Senate HESS and Judiciary Committees and House Judiciary Committee

(2) Treatment admissions, abuse by youth, Alaska Natives, and pregnant women

- Tab “C” – Treatment admissions data from SAMHSA.
- Testimony of Bill Hogan, Director of Division of Behavioral Health, in Senate HESS and Judiciary Committees; testimony of Cristi Willer, Deputy Director of Behavioral Health in Senate HESS and Judiciary Committees and House Judiciary Committee
- Alaska Maternal and Child Health Data Book 2003, Women’s and Children’s & Family Health Fact Sheet 2005, Alaska Department of Health and Social Services;
- Tab “E” *2003 ALASKA YOUTH RISK BEHAVIOR SURVEY RESULTS*. (13.1% of Alaska students reporting use before age 13 vs. national average of 9.9%); (Alaska Native students 69.7% ever tried marijuana, 35.5% are current users; of all Alaska students 47.5% have ever tried marijuana and 24% are current users; compared with 41% and 22.4% nationally); (in a survey of pre-school parents in two rural Alaska villages, rates of use were three times higher than the national average); (41% of Alaska non-Native high school students have tried marijuana compared with 69% of Native students)

- Addendum. (In a survey of rural Alaskans admitted to treatment facilities, 17.9% of male Alaska Natives were found to have a marijuana disorder); (average age of first use for American Indian / Alaska Native population group has slipped down to 14 years old compared to 16 years for Alaska overall)

(3) Marijuana potential for dependence

- Tabs "C" and "D" generally
- Tab "C" *LEGALIZATION OF MARIJUANA: POTENTIAL IMPACT ON YOUTH, AMERICAN ACADEMY OF PEDIATRICS, TECHNICAL REPORT, 2004* "Scientists have demonstrated that the emotional stress caused by withdrawal from marijuana is linked to corticotropin-releasing factor, the same brain chemical that has been linked to anxiety and stress during opiate, alcohol, and cocaine withdrawal. Others report that tetrahydrocannabinol, the active ingredient in marijuana, stimulates release of dopamine in the mesolimbic area of the brain, the same neurochemical process that reinforces dependence on other addictive drugs."
- Tab "C" *ALASKA STATE PLAN FOR DRUG ABUSE PREVENTION, FY 77* (57 marijuana treatment admissions in FY 75 compared to an average of over 400 a year now) SAMHSA Treatment data set.
- Tanda, Munzar and Goldberg, *Self-administration behavior is maintained by the psychoactive ingredient of marijuana by squirrel monkeys (2000)* (Published in Nature Neuroscience, Nov. 2000, vol. 3, no. 11)
- Testimony of Dr. John Fielder in Senate HESS Committee; testimony of Cristi Willer, Deputy Director of Behavioral Health in Senate HESS and Judiciary Committees and House Judiciary Committee

(4) Early exposure of children to marijuana increases the likelihood of lifelong health and social problems, and makes it more likely that the person will go on to use more potent illegal controlled substances.

- Tabs "C" and "D" generally
- Tab "C", Table 5.1b, marijuana treatment admissions for youth aged 12-17 made up 63% of all treatment admissions in 2003.

- Tab "C", *ADOLESCENT DEPRESSION AND SUICIDE RISK, ASSOCIATION WITH SEX AND DRUG BEHAVIOR*, (Youth engaging in risk behaviors such as marijuana use are at increased odds for depression, suicidal ideation, and suicide attempts)
- Tab "C" *INITIATION OF MARIJUANA USE: TRENDS, PATTERNS, AND IMPLICATIONS, 2002, Joe Gfroerer, SAMHSA*, (Early initiation of marijuana use was associated with a greater risk of other drug use behaviors at age 26 or older, such as heroin use, cocaine use, etc., and with a greater risk of illicit drug dependence or abuse at age 26 or older) (6.3% percent of those initiating marijuana use at age 14 or younger were recent heavy users of other illicit drugs in comparison with the less than 1 percent of adults who had never used marijuana that reported heavy use of other illicit drugs).
- Tab "D", Linsky, et al., *Escalation of Drug Use in Early-Onset Cannabis Use vs. Co-twin Controls*, *Journal of the American Medical Association*, Jan. 22/29, 2003, vol. 289, no. 4)

(5) **High percentage of persons in alcohol treatment also abuse marijuana**

- Testimony of Bill Hogan, Director of Division of Behavioral Health, in Senate HESS and Judiciary Committees; testimony of Cristi Willer, Deputy Director of Behavioral Health in Senate HESS and Judiciary Committees and House Judiciary Committee
- Tab "C", *Alaska Natives Combatting Substance Abuse and Related Violence Through Self-Healing*, University of Alaska Anchorage (1999).

(6) **Marijuana chemistry affecting the body and brain; carcinogenic and other dangerous substances.**

- Tabs "C", and "D" generally
- *LEGALIZATION OF MARIJUANA: POTENTIAL IMPACT ON YOUTH, AMERICAN ACADEMY OF PEDIATRICS, TECHNICAL REPORT, 2004*, "Some of the significant neuropharmacologic, cognitive, behavioral, and somatic consequences of acute and long-term marijuana use are well known and include negative effects on short-term memory, concentration, attention span, motivation, and problem solving, which clearly interfere with learning, adverse effects on

coordination, judgment, reaction time, and tracking ability which contribute substantially to unintentional deaths and injuries among adolescents, and negative health effects with repeated use similar to effects seen with smoking tobacco.”

- Tab “D”: *BRITISH LUNG FOUNDATION, A SMOKING GUN*
- Testimony of Dr. David Murray in Senate HESS and House Judiciary Committees (receptors in brain)
- www.onlinepot.org, “How to Preserve Pot Potency” (articles on bacteria and fungus that grow on marijuana)

(7) **A large percentage of persons arrested in this state, including adults and juveniles who commit violent offenses, have marijuana in their system at the time of arrest.**

- Tab “A”: *Descriptive Analysis of Sexual Assaults in Anchorage, Alaska* (Oct. 2003) Rosay and Longworthy, University of Alaska, Anchorage
- Tab “B”: *Drug Use Among Arrestees in Anchorage* (Spring 2000) Alaska Justice Forum, University of Alaska, Anchorage

(8) **Marijuana use by parents affects use by children; access by children; effectiveness of penalties in reducing use**

- Tab “C” – State of Alaska Adolescent Health Survey, 1990 (Children in homes where parents used marijuana frequently were more likely (22.6% vs. 5%) than children in homes where parents did not use marijuana frequently to use themselves); (among youth perceiving parents would strongly disapprove of using marijuana only 5.4% had used marijuana in the past month vs. 28.7% in homes where the youth believed that their parents would only somewhat disapprove or neither approve or disapprove of their trying marijuana)
- Addendum: *Price and Enforcement Effects on Cocaine and Marijuana Demand*, Desimone and Farrelly, *Economic Inquiry* (January 2003)
- Addendum: *The joint demand for cigarettes and marijuana: evidence from the National Household Surveys on Drug Abuse*, Farrelly, et. al., *Journal of Health Economics* 20 (2001)
- Testimony of Cristi Willer, Deputy Director of Behavioral Health, in Senate HESS and Judiciary Committees and House Judiciary Committee

Existing Alaska Marijuana Crimes			Proposed Legislation
sells or gives ("delivers")	any amount to person under 19, and three years younger	class B felony	No change to existing law
grows, sells or gives or possesses with intent to deliver	1 ounce or more	class C felony	No change to existing law
possesses	1 pound or more	class C felony	Changes to 4 ounces or more
possesses	25 or more marijuana plants	class C felony	No change to existing law
possesses	any amount on school grounds and within 500 feet	class C felony	No change to existing law
possesses	1/2 pound to 1 pound	class A misdemeanor	Changes to one to four ounces
grows, sells or gives, or possesses with intent to deliver	1/2 ounce to 1 ounce	class A misdemeanor	Prohibits growing, sale, gift, or possession with intent to deliver, less than one ounce
grows, delivers or possesses with intent to deliver, for money	less than 1/2 ounce	class A misdemeanor	Repealed
uses or displays	any amount	class B misdemeanor	No change to existing law
possesses	up to 1/2 pound (up to 1/4 pound in home protected by court decision)	class B misdemeanor	Changes to under one ounce
possesses while driving or operating a motor vehicle	any amount	class B misdemeanor	Makes this a class A misdemeanor
driver of motor vehicle permits passenger to possess	any amount	This is not currently a crime in Alaska.	Makes this a class B misdemeanor

24-GS1054G

Luckhaupt

4/29/05

Frank G

CS FOR SENATE BILL NO. 74()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to marijuana and misconduct involving a controlled substance; and**
2 **providing for an effective date."**

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

4 *** Section 1.** AS 11.71.040(a) is amended to read:

5 (a) Except as authorized in AS 17.30, a person commits the crime of
6 misconduct involving a controlled substance in the fourth degree if the person

7 (1) manufactures or delivers any amount of a schedule IVA or VA
8 controlled substance or possesses any amount of a schedule IVA or VA controlled
9 substance with intent to manufacture or deliver;

10 (2) manufactures or delivers, or possesses with the intent to
11 manufacture or deliver, one or more preparations, compounds, mixtures, or substances
12 of an aggregate weight of one ounce or more containing a schedule VIA controlled
13 substance;

14 (3) possesses

L

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

(A) any amount of a schedule IA or IIA controlled substance;

(B) 25 or more tablets, ampules, or syrettes containing a schedule IIIA or IVA controlled substance;

(C) one or more preparations, compounds, mixtures, or substances of an aggregate weight of three grams or more containing a schedule IIIA or IVA controlled substance;

(D) 50 or more tablets, ampules, or syrettes containing a schedule VA controlled substance;

(E) one or more preparations, compounds, mixtures, or substances of an aggregate weight of six grams or more containing a schedule VA controlled substance;

(F) one or more preparations, compounds, mixtures, or substances of an aggregate weight of four ounces [ONE POUND] or more containing a schedule VIA controlled substance; or

(G) 25 or more plants of the genus cannabis;

(4) possesses a schedule IIIA, IVA, VA, or VIA controlled substance

(A) with reckless disregard that the possession occurs

(i) on or within 500 feet of school grounds; or

(ii) at or within 500 feet of a recreation or youth center;

or

(B) on a school bus;

(5) knowingly keeps or maintains any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place that is used for keeping or distributing controlled substances in violation of a felony offense under this chapter or AS 17.30;

(6) makes, delivers, or possesses a punch, die, plate, stone, or other thing that [WHICH] prints, imprints, or reproduces a trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of these upon a drug, drug container, or labeling so as to render the drug a counterfeit substance;

(7) knowingly uses in the course of the manufacture or distribution of a controlled substance a registration number that is fictitious, revoked, suspended, or

1 issued to another person;

2 (8) knowingly furnishes false or fraudulent information in or omits
3 material information from any application, report, record, or other document required
4 to be kept or filed under AS 17.30;

5 (9) obtains possession of a controlled substance by misrepresentation,
6 fraud, forgery, deception, or subterfuge; or

7 (10) affixes a false or forged label to a package or other container
8 containing any controlled substance.

9 * Sec. 2. AS 11.71.050(a) is amended to read:

10 (a) Except as authorized in AS 17.30, a person commits the crime of
11 misconduct involving a controlled substance in the fifth degree if the person

12 (1) manufactures or delivers, or possesses with the intent to
13 manufacture or deliver, one or more preparations, compounds, mixtures, or substances
14 of an aggregate weight of one-half ounce or more containing a schedule VIA
15 controlled substance;

16 (2) manufactures or delivers, or possesses with the intent to
17 manufacture or deliver, one or more preparations, compounds, mixtures, or substances
18 of an aggregate weight of less than one-half ounce containing a schedule VIA
19 controlled substance, for remuneration;

20 (3) possesses

21 (A) less than 25 tablets, ampules, or syrettes containing a
22 schedule IIIA or IVA controlled substance;

23 (B) one or more preparations, compounds, mixtures, or
24 substances of an aggregate weight of less than three grams containing a
25 schedule IIIA or IVA controlled substance;

26 (C) less than 50 tablets, ampules, or syrettes containing a
27 schedule VA controlled substance;

28 (D) one or more preparations, compounds, mixtures, or
29 substances of an aggregate weight of less than six grams containing a schedule
30 VA controlled substance; or

31 (E) one or more preparations, compounds, mixtures, or

1 substances of an aggregate weight of one ounce [ONE-HALF POUND] or
2 more containing a schedule VIA controlled substance; or

3 (4) fails to make, keep, or furnish any record, notification, order form,
4 statement, invoice, or information required under AS 17.30.

5 * Sec. 3. AS 11.71.060(a) is amended to read:

6 (a) Except as authorized in AS 17.30, a person commits the crime of
7 misconduct involving a controlled substance in the sixth degree if the person

8 (1) uses or displays any amount of a schedule VIA controlled
9 substance;

10 (2) [OR] possesses one or more preparations, compounds, mixtures, or
11 substances of an aggregate weight of less than one ounce [ONE-HALF POUND]
12 containing a schedule VIA controlled substance; or

13 (3) [(2)] refuses entry into a premise for an inspection authorized under
14 AS 17.30.

15 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 74
 (S) Publish Date: 1/21/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title An Act relating to marijuana use and possession; RDU Alaska State Troopers
marijuana and misconduct controlled substance Component AST Detachments
 Sponsor Rules Committee
 Requester Governor Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Passage of this Act will have no fiscal impact on the Department of Public Safety. The potential increase in the number of arrests for violations can be handled by available staff. Provisions of this Act will help deter marijuana use and possession overall. The Act also addresses the issue of driving under the influence of marijuana which is a serious problem. Contrary to some contention on the subject, marijuana is not a harmless recreational drug.

Prepared by: Lieutenant Todd Sharp Phone 907-269-4532
 Division: Alaska State Troopers Date/Time 1/20/05 2:20 PM
 Approved by: Commissioner William Tandeske Date 1/20/2005
 Agency: Department of Public Safety

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: SB 74
 (S) Publish Date: 1/21/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to marijuana RDU Legal and Advocacy Services
use and possession... Component Public Defender Agency
 Sponsor Rules Committee
 Requester Governor Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	115.5	115.5	115.5	115.5	115.5	115.5
Travel	4.8	4.8	4.8	4.8	4.8	4.8
Contractual	35.9	35.9	35.9	35.9	35.9	35.9
Supplies	2.7	2.7	2.7	2.7	2.7	2.7
Equipment	6.7	0.7	0.7	0.7	0.7	0.7
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	165.6	159.6	159.6	159.6	159.6	159.6

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	165.6	159.6	159.6	159.6	159.6	159.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	165.6	159.6	159.6	159.6	159.6	159.6

Estimate of any current year (FY2005) cost: 00
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This proposed bill significantly increases the penalties for possession, use, and delivery of marijuana. It raises from a B misdemeanor to a B felony in many cases the delivery of marijuana, in any amount to someone under 21. Possession of 4 ounces or more of marijuana is raised to a C felony from a misdemeanor. It also adjusts the misdemeanor penalties related to marijuana and creates new misdemeanors for possessing marijuana while driving, permitting a passenger to possess it, or being a passenger in possession. This bill would have an impact on Agency operations. We handle 500 misdemeanor drug cases, primarily involving marijuana. At least half of these would become felonies. Felonies take more work than misdemeanors. Also more misdemeanors would be prosecuted for less amounts and vehicle related offenses. This will increase by 50% the current number of misdemeanor cases handled by the Agency. The Agency will need one full time attorney to meet this increased case and work load. The position would be in Kenai, since their numbers are increasing in this area, and almost match Anchorage.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)334-4416
 Division: Public Defender Agency Date/Time 1/19/05 10:32 AM
 Approved by: Micheal Tibbles, Deputy Commissioner Date 1/19/2005
 Agency: Department of Administration

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: SB 74
(S) Publish Date: 1/21/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act making findings relating to marijuana RDU CRIMINAL
use and possession; relating to marijuana and misconduct.." Component CDCO
Sponsor _____
Requester Governor Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill creates a new statutory section making findings regarding the mental and physical health risks, illegality and dangers of marijuana use. The bill makes changes to AS 11.71.030, .040, .050, and .060 concerning the crime of misconduct involving a controlled substance by adding additional offenses and significantly decreasing the amount of marijuana in possession that would constitute a violation. All of the conduct prohibited in this bill is already a crime in Alaska, although recent decisions by the appellate courts have made it difficult to investigate and prosecute some of these offenses. We do not expect the policies of police agencies to change significantly in response to this bill, and therefore we do not expect a workload increase above and beyond what was experienced before the courts made prosecution more difficult. Anticipated fiscal impact is zero.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
Division: Administrative Services Division Date/Time 1/14/05 11:19 AM
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 1/14/2005
Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: SB 74
 (S) Publish Date: 1/21/05
 Dept. Affected: Health & Social Services
 RDU Juvenile Justice
 Component Probation Services

Revision Date/Time (Note if correction):
 Title RELATING TO MARIJUANA USE AND POSSESSION

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester GOVERNOR

Component No. 2134

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (0)						
-------------------------------	--	--	--	--	--	--

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 (FY2005) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill is not anticipated to have a significant impact on Division of Juvenile Justice staff workloads and therefore no fiscal impact.

Prepared by: Patty Ware
 Division Juvenile Justice
 Approved by: Joel S. Gilbertson, Commissioner
 Agency Department of Health and Social Services

Phone 465-2112
 Date/Time 01/20/2005
 Date 01/20/2005

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 5
 Bill Version: SB 74
 (S) Publish Date: 4/4/05

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Crimes Involving Marijuana/Other Drugs BRU Alaska Court System
 Component Trial Courts
 Sponsor Senate Rules
 Requester Governor Component No. 768

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING

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	.	.	.	.	.	.

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Senate Bill 74 decreases from one pound to four ounces the amount of marijuana sufficient to constitute a felony offense for possession under AS 11.71.040. Under current law, possession of less than one pound of marijuana is a misdemeanor. Additionally, the bill creates new offenses related to marijuana possession in a vehicle and raises the penalties for certain delivery offenses. An increase in the number of felony filings impacts the court system because felony cases must go to a grand jury, the felony trial rate is much higher than the misdemeanor trial rate and, because those convicted of felony crimes are subject to supervised probation by the Department of Corrections, the court will see more petitions to revoke probation. Although these changes will impact the court system, the extent of that impact is too speculative to support a fiscal note at this time. However, if that impact proves to be significant the court system may return to the legislature with a request for additional funding.

Prepared by: Douglas Wooliver, Administrative Attorney Phone 463-4750
 Division: Alaska Court System Date/Time 3/30/05 9:51 AM
 Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date 3/30/2005
 Agency: Alaska Court System

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 74
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title: "Act making findings relating to marijuana use
and possession, relating to marijuana and misconduct" RDU: Institutional Facilities
 Component: Institution Director's Office
 Sponsor: Rules Committee
 Requester: Governor Component No.: 524

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY2005) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	.	.	.	.	.	.
Part-time	.	.	.	.	.	.
Temporary	.	.	.	.	.	.

ANALYSIS: (Attach a separate page if necessary)

The legislation proposes new statutory language that delineates findings regarding the mental and physical health risks, illegality and dangers of marijuana use. The bill makes changes to AS 11.71.030, .040, .050, .060 concerning the crime of misconduct involving a controlled substance by adding additional offenses, decreasing the amount of marijuana in possession that would constitute a violation, and increasing the penalties for possession, use and delivery of marijuana. Although most of the conduct prohibited in this bill already is a crime in Alaska, changes are proposed that will increase penalties for certain criminal activity. The legislation decreases from one pound to four ounces the amount of marijuana sufficient to constitute a felony under AS 11.71.040. The bill also creates new offenses related to marijuana possession in a vehicle and raises the penalties for certain delivery offenses. (more)

Prepared by: Sharleen Griffin, Director Phone 465-4641
 Division: Administrative Services Date/Time 4/20/05 7:00 AM
 Approved by: Portia Parker, Deputy Commissioner Date 4/20/2005
 Agency: Department of Corrections

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. SB 74

ANALYSIS CONTINUATION

The penalty is increased from a misdemeanor to a class B felony for certain delivery of marijuana offenses, including any amount delivered to a person under 21 years of age. The changes proposed in the legislation most likely will increase both the number of cases, as well as the time served by offenders upon conviction, but accurate projections are difficult to assess.

In 2003 and 2004, the department incarcerated the following number of offenders charged with, or convicted of crimes similar to those being expanded or increased under the legislation.

AS 11.71.040, Misconduct involving a controlled substance in the fourth degree, a class C felony: In 2003, the Department of Corrections booked 1,617 individuals into its facilities who were charged with an offense under AS 11.71.040, and 646 of those individuals were later convicted of a crime under AS 11.71.040. In 2004, 1,599 were booked, and 618 were convicted. Convicted offenders served an average sentence of 1.5 years and 2.07 years respectively.

AS 11.71.050, Misconduct involving a controlled substance in the fifth degree, a class A misdemeanor: In 2003, the department booked 114 individuals, and 66 convictions. In 2004, 98 bookings and 186 convictions. Offenders served an average of 1.0 years and 1.1 years respectively.

AS 11.71.060, Misconduct involving a controlled substance in the sixth degree, a class B misdemeanor: In 2003, the department booked 652 individuals, and 186 convictions. In 2004, 593 bookings, and 99 convictions. Offenders served an average sentence of .79 years and .71 years respectively.

Although the changes proposed in the legislation will impact the Division of Institutions, Department of Corrections, the extent of that impact is too speculative to support a defined fiscal note at this time, and therefore it is indeterminate. However, if the impact proves to be significant, the department will return to the legislature with a request for additional funding.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 74
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title: "Act making findings relating to marijuana use and possession, relating to marijuana ..." RDU Probation and Parole
Probation and Parole Directors Ofc
 Sponsor: Rules Committee
 Requester: _____ Component No. 2684

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 EXPENDITURE						
----------------------------	--	--	--	--	--	--

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 (FY2005) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	.	.	.	.	.	.
Part-time	.	.	.	.	.	.
Temporary	.	.	.	.	.	.

ANALYSIS: (Attach a separate page if necessary)

The legislation proposes new statutory language that delineates findings regarding the mental and physical health risks, illegality and dangers of marijuana use. The bill makes changes to AS 11.71.030, .040, .050, .060 concerning the crime of misconduct involving a controlled substance by adding additional offenses, decreasing the amount of marijuana in possession that would constitute felonious conduct, and increasing the penalties for possession, use and delivery of marijuana. Although most of the conduct prohibited in this bill already is a crime in Alaska, changes are proposed that will increase penalties for certain criminal activity. The legislation decreases from one pound to four ounces the amount of marijuana sufficient to constitute a felony under AS 11.71.040. The bill also creates new offenses related to marijuana possession in a vehicle and raises the penalties for certain delivery offenses. (more)

Prepared by: Sharleen Griffin, Director Phone 465-4641
 Division: Administrative Services Date/Time 4/20/05 7:01 AM
 Approved by: Portia Park, Deputy Commissioner Date 4/20/2005
 Agency: Department of Corrections

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. SB 74

ANALYSIS CONTINUATION

The penalty is increased from a misdemeanor to a class B felony for certain delivery of marijuana offenses, including any amount delivered to a person under 21 years of age. The changes proposed in the legislation most likely will increase both the number of cases, as well as the time served by offenders upon conviction, but accurate projections are difficult to assess.

In 2003 and 2004, the department incarcerated the following number of offenders charged with, or convicted of crimes similar to those being expanded or increased under the legislation.

AS 11.71.040, Misconduct involving a controlled substance in the fourth degree, a class C felony: In 2003, the Department of Corrections booked 1,617 individuals into its facilities who were charged with an offense under AS 11.71.040, and 646 of those individuals were later convicted of a crime under AS 11.71.040. In 2004, 1599 were booked in, and 618 were convicted. Convicted offenders served an average sentence of 1.5 years and 2.07 years respectively.

AS 11.71.050, Misconduct involving a controlled substance in the fifth degree, a class A misdemeanor: In 2003, the department booked 114 individuals, and 66 convictions. In 2004, 98 bookings and 186 convictions. Offenders served an average of 1.0 years and 1.1 years respectively.

AS 11.71.060, Misconduct involving a controlled substance in the sixth degree, a class B misdemeanor: In 2003, the department booked 652 individuals, and 186 convictions. In 2004, 593 bookings, and 99 convictions. Offenders served an average sentence of .79 years and .71 years respectively.

Although the changes proposed in the legislation will impact the Division of Probation and Parole, Department of Corrections due to an increase in the number of felons under probation and/or parole supervision, the extent of that impact is too speculative to support a defined fiscal note at this time, and therefore it is indeterminate. However, if the impact proves to be significant, the department will return to the legislature with a request for additional funding.

Comparison of current marijuana laws with Governor's Marijuana legislation in SB 74 and HB 96

			Proposed Legislation
delivery (sale or gift)	any amount to person under 19, and three years younger	class B felony	any amount to person under 21, regardless of age difference
grows, delivers or possesses with intent to deliver	1 ounce or more	class C felony	
possesses	1 pound or more	class C felony	lowers to 4 ounces
possesses	25 or more marijuana plants	class C felony	
possesses	any amount on school grounds and within 500 feet	class C felony	
possesses	1/2 pound to 1 pound	class A misdemeanor	lowers to under one ounce
grows, delivers or possesses with intent to deliver, but does not do so for money	1/2 ounce to 1 ounce	class A misdemeanor	
grows, delivers or possesses with intent to deliver, for money	less than 1/2 ounce	class A misdemeanor	
grows, delivers or possesses with intent to deliver, but does not do so for money	less than 1/2 ounce	It is unclear if this is even a crime in Alaska.	Makes this a class B misdemeanor
uses or displays	any amount	class B misdemeanor	
possesses	up to 1/2 pound (up to 1/4 pound in home protected by court decision)	class B misdemeanor	
possesses while driving or operating a motor vehicle	any amount	class B misdemeanor	Makes this a class A misdemeanor
driver of motor vehicle permits passenger to possess	any amount	This is not currently a crime in Alaska.	Makes this a class B misdemeanor



[Click here to return to the original story](#)

AkCLU, experts say pot less harmful than alcohol or cigarettes

Prof who is a 40-year student of the effects of marijuana says public has been brainwashed

A representative from the Alaska Civil Liberties Union joined a handful of experts Friday to tell a Senate committee that marijuana is less harmful than alcohol and even tobacco.

"There has not been a single case of lung cancer or emphysema triggered by smoking marijuana found in medical literature," said Dr. Lester Grinspoon, an associate professor emeritus at Harvard Medical School who has studied the effects of pot for almost 40 years.

In his assessment, he said the public has been "brainwashed" on the effects of marijuana. Senators reviewing a criminalization bill were hesitant to agree.

The bill would make possession of an ounce of marijuana a misdemeanor. Possession of 4 ounces would be a felony. Currently Alaska courts grant privacy protection to those possessing up to 4 ounces.

Last week a White House drug adviser and others told the committee that marijuana is dangerous and should be criminalized.

The Senate Health, Environment and Social Services Committee approved the bill Friday, but committee chairman Fred Dyson, R-Eagle River, said his vote did not mean he supports the proposal.

"Three of the committee members felt comfortable that it should continue in the process. And I know Sen. (Donald) Olson and I both plan on doing some research," Dyson said.

The bill moves to the Judiciary Committee next and then to the Finance Committee before going to the floor for a vote. The House of Representatives must also review the bill.

Gov. Frank Murkowski is pushing this law to criminalize marijuana and get findings on the record in order to open and overturn a 2003 Court of Appeals case that ruled Alaskans have the right to possess small quantities of

marijuana in their homes.

Among the 19 findings in the bill are statements saying that marijuana is more addictive than heroin, it has a dramatically higher potency than before, and it leads smokers to commit violent crimes.

On Friday the AkCLU led a team of opponents who said the bill is based on a framework of evidence that is skewed to one view.

"The court will stand for a paper record of several hundred pages if the result is contrary to the evidence submitted," said Michael MacLeod-Ball, director of AkCLU.

The most debated finding throughout the afternoon was whether an increase in marijuana's potency has led to more addictions and associated problems.

"The marijuana of Cheech and Chong had a THC level of 1.5 percent," said John Bobo, adviser to the office of drug and alcohol policy U.S. Department of Transportation. He claims THC levels of homegrown pot today can be as high as 22 percent to 24 percent.

Mitch Earlewine, assistant professor of psychology at the University of Southern California, said that those high percentages are rare and the national average today is closer to 6 percent.

"When we give people cannabis that has 1 percent in the laboratory, they get a headache and claim it is placebo and they find it inactive and don't want to use it again," said Earlewine. "Obviously this wasn't the case in the 1970s or people wouldn't want to try it again."

Muscular sclerosis sufferer Jim Welch of Eagle River said the potency was a hidden "healthy" benefit: "That means I'm putting less smoke in my lungs."

Kelly Drew, a University of Alaska Fairbanks chemistry professor, phoned in to say that it is unlikely for marijuana to be addictive since it stays in the body's fat cells for about 30 days. Therefore, the body doesn't suffer withdrawal symptoms, she said.

Bobo also said that people under the influence of pot are more likely to commit accidents on the highways. The senators wondered why they haven't heard about marijuana being linked to such highway collisions.

"The media does not want to acknowledge there is a problem," said Assistant Attorney General Dean Guaneli, the bill's sponsor.

• Andrew Petty can be reached at andrew.petty@juneauempire.com.

Click here to return to story:

http://juneauempire.com/stories/040305/sta_20050403002.shtml

Marijuana: Things Have Changed and Parents Choices Matter

A Parent's Choice to Use Marijuana Affects Their Children

- **“More adolescents who report their parents use marijuana frequently use marijuana themselves compared with youths whose parents do not use marijuana” (22.6% to 5%).** *The State of Adolescent Health in Alaska, May, 1990, p.41.*
- **“Among youths in 2003 who perceived that their parents would strongly disapprove of trying marijuana or hashish once or twice, 5.4% used marijuana in the past month, vs. 28.7% of youths whose parents would not strongly disapprove”** *Overview of Findings from the 2003 National Survey On Drug Use and Health, Department of Health and Human Services, SAMHSA, Office of Applied Studies, 2004, p.23.*

The THC Content of Today's Alaska Marijuana is 14 Times Levels Found in Ravin

- **Average THC content in Alaska marijuana has steadily increased and averaged nearly 14% in 2003. This is approximately twice the national average THC content and 14 times stronger than THC content levels assumed and relied upon by the Alaska Supreme Court in weighing the harmful effects of marijuana.** *State v. Ravin, 537 P.2d 494, 505 (Alaska 1975) (“Most marijuana available in the United State has a THC content of less than one percent.”)* *Average THC Levels for Alaska, National Averages, Reports Prepared by Dr. Elsohly, University of Mississippi, National Center for Natural Products Research.*

The Face of Alaska Marijuana Use: Who Is Using Alaska's Powerful Marijuana?

Pregnant Mothers

- **Between 1990 and 2000, the rate of pregnant mothers in Alaska using marijuana remained fairly constant at about 5.3%. (400 to 450 newborns each year) This rate was approximately 67% higher than the national average (3%) for this time period and just slightly below the rate for Alaskan mother's prenatal alcohol use. (5.3%).** *Alaska Maternal and Child Health Data Book, 2003, State of Alaska, Department of Health and Social Services, Division of Public Health, Section of Maternal Child and Family Health, pp. 52-55; 150-151.*
- **The prevalence of prenatal marijuana use among Alaska Native pregnant mothers has been significantly higher than the overall state prevalence over the last decade. More than twice the state average in 2002. (3.5% Alaska average for prenatal marijuana use vs. 7.8% for Alaska Natives).** *Women's and Children's & Health Fact Sheet, 2005, State of Alaska, Department of Health and Social Services, (Information from Alaska Pregnancy Risk Assessment Monitoring System, PRAMS, 2002).*
- **Recent progress has been made and the overall rate of pregnant mothers in Alaska using marijuana was down to 3.5% in 2002. (Nearly 1 in 29)** *Women's, Children's, & Family Health Fact Sheet, 2005, State of Alaska Department of Health and Social Services. (Information from Alaska Pregnancy Risk Assessment Monitoring System (PRAMS), 2002.*
- **The approximately 400 to 450 Alaskan newborns exposed to marijuana may suffer negative physical and behavioral effects. (Three recently published scientific studies found evidence a pregnant mother's marijuana use has negative physical and behavioral effects).** *Porath AJ, Fried PA "Effects of Prenatal Cigarette and Marijuana Exposure on Drug Use Among Offspring" ("[m]ale offspring of mothers who reported using marijuana while pregnant had nearly four times the odds of initiating marijuana use compared to offspring whose mothers did not report using marijuana during pregnancy ... As data indicates that cannabinoid receptors are present in the placenta, and the fetal and neonatal brain, it is possible that prenatal exposure to marijuana also sensitizes the brain to the subsequent*

influence of marijuana consumed later in life. ... In summary ...the data suggest that in utero exposure to marijuana is associated with cigarette smoking and marijuana use initiation ... a reduction in rates of use may not only yield direct health benefits for the substance users ... it may also have unanticipated benefits for their offspring) ; Neurotoxicology Teratology, 2005 Mar-Apr; 27(2):267-77; Hurd, YL, Wang X, et.al., "Marijuana Impairs Growth in Mid-Gestation Fetuses"; Neurotoxicology Teratology, 2005 Mar-Apr; 27(2):267-77; Wang X, et.al., "In Utero Marijuana Exposure Associated with Abnormal Amygdala Dopamine D2 Gene Expression in the Human Fetus", Biological Psychiatry, Dec. 2004, pages 909-915.

Pre-School Age Children and Their Parents

- **A study of rural Alaska villages found preschool parents aged 26-34 were using marijuana at a rate roughly 3 times the national average. (19% vs. 6.7%)** *Stillner, V, et.al., Drug Use in Very Rural Alaska Villages, Substance Use and Misuse, 1999.*

Elementary School Students

- **By sixth grade, (age 11) 7-10% of Alaskan students have tried marijuana.** *1995, Alaska Youth Risk Behavior Survey (7% of middle school students started smoking marijuana before age 11); 1999, Alaska Youth Risk Behavior Survey (8.5% of middle school respondents (excluding Anchorage) started smoking marijuana before age 11; 2003, Youth Risk Behavior Survey Results, Northwest Arctic Borough School District Middle School Survey: Unweighted (10.2% of students tried marijuana for the first time before the age of 11)*
- **Students who started smoking marijuana before the age of 11 usually make up from 25-30% of the overall group of middle school students reporting a lifetime use of marijuana.** *Id.*
- **Kids who started smoking marijuana before the age of 11 made up 40% of the juveniles placed in Alaska's secure juvenile facilities in a survey done in 1998.** *1999, Division of Juvenile Justice Survey of Youths in Secure Facilities.*
- **Kids who smoked marijuana 10 to 40 times or more a month made up 46% of the juveniles placed in Alaska's secure juvenile facilities.** *Id.*

- **67% of the youth in Alaska's secure juvenile facilities have smoked marijuana 100 or more times in their lives. *Id.***

Middle School Students

- **Roughly one in four of all Alaska middle school students has at least tried marijuana. 1995, Alaska Youth Risk Behavior Survey (26.1%); 1999, Alaska Youth Risk Behavior Survey (28.9%, unweighted excluding Anchorage).**
- **These middle school students make up some of the 3-4,000 youth aged 12-17 in Alaska that initiate marijuana use each year. (100 to 150 a day). *Initiation of Marijuana Use, Trends, Patterns, and Implications, Gfroerer, J, Department of Health and Human Services, SAMHSA, Office of Applied Studies, 2002, Table 4.1.***
- **Many of the middle school students using marijuana are doing so before or during school. *Middle school students were part of a 1990 survey of students in grades 7-12 which found 25% of students reporting marijuana use in the past year used marijuana before or during school. The State of Adolescent Health in Alaska, May, 1990.***
- **Middle school students may also start to make up the roughly 150-170 Alaskan youth aged 12-17 (on average for the years 2000-2003) admitted into a treatment facility primarily for marijuana abuse. *Substance Abuse Treatment Admissions by Primary Substance of Abuse, SAMHSA TEDS data.***

High School Students

- **If you are one of the 6% of Alaska high school age students in an alternative high school due to being at risk for not graduating from a regular high school, there is an about an 85% chance you have used marijuana and a 53% chance you are a current marijuana user. *Youth Risk Behavior Surveillance – National Alternative High School Youth Risk Behavior Survey, United States, 1998.***
- **If you are a Alaska Native high school student there is a 70% chance you have tried marijuana and a 35.5% chance you are a current user. 2003, Alaska Youth Risk Behavior Survey.**

- **In high schools across the state, (excluding Anchorage) 18.8% of male students and 14.7% of female students have already tried marijuana for the first time by their freshmen year. 1999 Alaska Youth Risk Behavior Survey. The national average for 2003 was 9.9% for all students. 2003 National Youth Risk Behavior Survey Results.**
- **The average age of first marijuana use in Alaska is 16 years, but for American Indian / Alaska Native students (nationally), it is 14.1 years. SAMHSA, Office of Applied Studies, "Trends in Marijuana Incidence, Initiation of Marijuana Use: Trends, Patterns, and Implications Report", Table 3.6 and SAMHSA, Office of Applied Studies, Youth Substance Use: State Estimates from the 1999 National Household Survey on Drug Abuse, Table C.5.**
- **If you are high school age, a current user of marijuana, and have a predisposition to psychosis, your marijuana use increases the chances you will express a psychotic disorder or experience. Os, J., et.al., "Prospective Cohort Study of Cannabis Use, Predisposition for Psychosis, and Psychotic Symptoms in Young People", British Medical Journal, January, 2005.**
- **Daily use of marijuana by teenage females will also greatly increase (5 times) the chances of suffering from depression and anxiety. Weekly or more frequent use of marijuana by any teenager doubles the odds that you will suffer from depression and anxiety. Patton, G, et.al., Cannabis Use and Mental Health in Young People: Cohort Study, British Medical Journal, November, 2002.**
- **You may also be the one in six teenage drivers who drives while under the influence of marijuana. O'Malley, P., et.al., "Unsafe Driving by High School Seniors: National Trends from 1976 to 2001 in Tickets and Accidents After Alcohol, Marijuana and Other Illegal Drugs", Journal of Studies on Alcohol, May, 2003 (Data shows that 15% of U.S. high school seniors surveyed said they drove after using marijuana and 16% drove under the influence of alcohol).**
- **The New England Journal of Medicine has published results from a roadside study of reckless drivers (not impaired by alcohol) in which 45 % tested positive for marijuana. Another survey found that 68% of teen drivers who use drugs regularly reported they drive while under the influence of drugs. ONDCP, Press Release, Nov. 19, 2002.**

- **If you are a teenage driver who consumes both alcohol and marijuana and drives, the negative effects on your driving ability are magnified.** *National Highway Traffic Safety Administration, Traffic Tech, Number 201, June 1999, "Marijuana and Alcohol Combined Increase Impairment", ("The effect of combining moderate doses of alcohol and moderate doses of marijuana resulted in a dramatic performance decrement and levels of impairment as great as observed when at .14 BAC alone").*
- **If you are one of the approximately 75% of tobacco smokers who initiate their use as adolescents and you are a marijuana smoker, the additive effect of the carcinogens and other chemicals in marijuana increase the risk you will develop many respiratory symptoms associated with disorders common to tobacco use such as chronic bronchitis, chronic obstructive pulmonary disease, and cancer.** *State of Alaska, DHSS-Epidemiology Bulletin "Youth Tobacco Use", Results from the 2003 Youth Risk Behavior Survey; Moore, et.al., "Respiratory Effects of Marijuana and Tobacco Use in a U.S. Sample", Journal of General Internal Medicine, 2004.*

Adulthood

- **By the time you reach adulthood, if you are still using marijuana and have committed a crime and are incarcerated, you will be one of the 93% of Alaska inmates who have ever tried marijuana and may be one of the 23% of Alaska inmates with a marijuana disorder that needed treatment in the year prior to incarceration.** *State of Alaska, Department of Health and Social Services, Division of Alcoholism and Drug Abuse, "Substance Abuse Treatment Needs of Alaska's Newly Incarcerated Prisoner Population Prior to Incarceration, 2000.*
- **If your crime was rape, there is a 15% chance you used marijuana just prior to the assault and a little less than 10% chance that your victim was impaired by marijuana at the time of the rape.** *Descriptive Analysis of Sexual Assaults in Anchorage, October 2003.*

- **If you are Alaska Native and have a primary alcohol disorder for which you need treatment, it is more likely than not that you also have a secondary or co-occurring marijuana disorder.** *Alaska Natives Combatting Substance Abuse and Related Violence Through Self Healing, Center for Alcohol and Addiction Studies, January, 1999, (63% of native men and women with severe drinking problems surveyed in 1997 were also dependent on marijuana).*
- **If you are an Alaska Native male using marijuana, and you are seen at a community mental health center in rural Alaska, you may be one of the 17.4% of such patients with a diagnosis of marijuana dependence.** *Mental Disorders of Eskimos Seen at a Community Mental Health Center in Rural Alaska, Auon, S. et.al., Psychiatric Services, November 1998, vol.49, no. 11.*
- **If you committed a domestic violence crime and were arrested, there is a 69% chance you will test positive at the time of arrest for marijuana use.** *April, 2004, ONDCP Anchorage, Alaska, Profile of Drug Indicators. In comparison, there is only a 23% chance you would test positive for cocaine if you committed any type of violent crime. Id.*
- **If you somehow end up a drowning victim, you will be one of the 11% of drowning victims in Alaska that were found to have marijuana in their system.** *Drowning In Alaska Waters, Public Health Reports, v111, p.531-5, 1996.*

*Tougher Criminal Penalties and Fines Have A Deterrent Effect
And Individuals Respond To Changes In How
The Government Treats Illegal Drugs*

- **"The marijuana arrest rate has a strong negative effect [on use by adults] ... enforcement of drug possession violations reduces drug demand ... Changes in arrest rates [increase] for possession predict percentage point decreases of ... 3.0% in marijuana participation among juveniles";** *Price and Enforcement Effects on Cocaine and Marijuana Demand, Economic Inquiry, Desimone, J et.al., January, 2003; "[b]oth higher fines for marijuana possession and increased probability of arrest decrease the probability that young adults will use marijuana ..."* *Farrelly, MC, et.al., The Joint Demand for Cigarettes and Marijuana: Evidence from the National Household Surveys on Drug Abuse" Journal of Health Economics, 2001;*

Chaloupka, FJ, et.al., "Do Higher Cigarette Prices Encourage Youth to Use Marijuana", National Bureau of Economic Research, Working Paper No. 6938, 1999 (Study of the 8th, 10th, and 12th grade surveys found marijuana decriminalization had a positive and significant effect on both the prevalence and quantity consumed of marijuana when median jail terms and fines were included in the model); Chaloupka, F.J., et.al, "The Demand for Cocaine and Marijuana by Youth", University of Chicago Press, 1999 (Data from the 1982 and 1989 Monitoring the Future Study showed individuals living in decriminalized states were significantly more likely to report use of marijuana in the past year); Saffer, H, and Chaloupka, FJ, "The Demand for Illicit Drugs", Economic Inquiry, 1999, (Analyzing data from the 1988, 1990, and 1991 NHSDA's and finding that decriminalization had a positive and significant effect on [reducing] marijuana prevalence).

SENATE JUDICIARY COMMITTEE

11 April 2005

WITNESS LIST

- BILL PARKER
 - Spokesman for Alaskans for Marijuana Regulation and Control

- ✓ • WES MacLEOD-BALL
 - Director, Alaska Civil Liberties Union

- ✓ • LESTER GRINSPOON, M.D.
 - Associate Professor of Psychiatry, Harvard Medical School

- ✓ • SCOTT BATES
 - Economist, Boreal Economic Analysis and Research, Fairbanks

- ✓ • ROBERT MALAMEDE, Ph.D.
 - Professor of Biology, University of Colorado at Colorado Springs

- ✓ • TIM HINTERBERGER, Ph.D.
 - Associate Professor of Biomedicine, University of Alaska, Anchorage

- ✓ • MITCH EARLEYWINE, Ph.D.
 - Associate Professor of Psychology, University of Southern California

- absent ✓ • JIM WELCH
 - Medical Marijuana patient, Eagle River

- ✓ • DEBBIE SOULE
 - Medical Marijuana patient, Wasilla

WRITTEN TESTIMONY

- LESLIE IVERSON
 - Visiting Professor of Pharmacology, University of Oxford, England
- GREG CARTER, M.D.
 - Professor of Medicine, University of Washington, Seattle
- JACK COLE
 - Director, Law Enforcement Against Prohibition and retired narcotics police officer

**Testimony to Senate Judiciary Committee
April 11, 2005**

My name is Bill Parker. I am a former member of the Alaska House of Representatives, and I retired from state service as Deputy Commissioner of Corrections. Today I speak for Alaskans for Marijuana Regulation and Control.

S.B.74 attempts to recriminalize marijuana for adults in Alaska, in violation of the Alaska Constitution.

In 1975, in a landmark case known as *Ravin*, the Alaska Supreme Court ruled the privacy clause of the Alaska Constitution protects possession of a small amount of marijuana by adult Alaskans in their own homes for their own use. In 1975, the Alaska Legislature changed the statutes to decriminalize marijuana in Alaska.

Various attempts have been made in the 30 years since to attack this de-criminalization, both legally and politically.

An initiative in 1990 attempted to re-criminalize marijuana in Alaska, but initiatives change statutes, not the Constitution, and the initiative had no effect.

Many legal attempts have been made to test the constitutionality in the courts, all unsuccessful. The latest was last fall when the Alaska Supreme Court declined to take up the Appellate Court's latest ruling upholding *Ravin*.

S.B.74 is another attempt to attack the constitutional issue in a legal and political manner.

If S.B.74 passes with these findings, they will be admissible in court, and the administration will have new arguments that marijuana is much more potent and dangerous than in 1975, so much so that it is almost a different substance.

That is why the findings section of this bill is important. The findings are flawed. Expert witnesses from Alaska and Outside are going to explain those flaws today.

They will discuss the complex medical and sociological issues that other government panels have studied at length.

- The Shafer Commission's report to President Nixon in 1972, "Marijuana: Signal of Misunderstanding."
- The National Research Council's 1982 report, "An Analysis of Marijuana Policy."
- The Institute of Medicine's 1999 report, "Marijuana and Medicine: Assessing the Scientific Base."
- The 2002 report of the British Advisory Council on the misuse of drugs, "The Classification of Cannabis."
- The House of Commons Home Affairs Committee 2002 study, "The Government's Drug Policy: Is It Working?"
- Jamaica's 2001 National Commission on Ganja came to the same conclusion;

Marijuana is not so harmful that the penalties for possession need to be increased.

S.B.74 would take Alaska in the opposite and wrong direction.

The State's witnesses could not be called objective observers. Those directly involved in implementing an administration's policies cannot evaluate those policies impartially. Evaluators should be independent academics.

The testimony today will show that the time schedule alone for S.B.74 is inadequate to evaluate marijuana in Alaska. We have submitted, in writing, the findings of experts in their fields who determine marijuana to be relatively harmless compared to alcohol. Each finding must be examined individually as the other commissions and committees have done with scientific integrity.

Here is a quick review of the evidence you will hear today:

Experts will point out the differences between scientific research and pseudo-science, the confusion between correlation and causation.

The administration's assertions about increased potency of marijuana are inaccurate and misleading in several respects:

- There are serious questions about the actual potency of marijuana today and yesterday. There is no reliable way to measure potency.
- There is no proof that marijuana is more addictive or dangerous than previously.
- In fact, more potent marijuana would result in people using less, because of the effect of autotitration.

The administration's treatment of statistics is misleading because most of their conclusions are court-ordered, not a clinical diagnosis of marijuana addiction or even a self-referral. Most had to choose between treatment or incarceration. Most chose treatment.

The rate of marijuana use among minors in Alaska is no higher today than it was in 1975. In fact, according to the government's own statistics, overall use in grades 6 through 12 in Alaska schools is lower now after 30 years of decriminalization.

Marijuana use by minors has not been shown to cause psychosis later in life.

Marijuana use does not induce violent behavior, rape, or child abuse.

The emergency room data used to show that marijuana is more dangerous today is not conclusive. The relation to marijuana in patients is so widely construed as to be meaningless. And the administration has overstated and misinterpreted the evidence of marijuana's link to lung cancer, juvenile crime, and the possibility of addiction and dependence.

The weight of scientific evidence available today discredits the old 'gateway drug' theory.

There are laws already in place to prohibit driving while impaired by alcohol or marijuana. These laws will remain in effect.

S.B.74 would have a bad effect on medical marijuana patients by jeopardizing their ability to possess marijuana if adult use of marijuana in the home is criminalized.

If the administration's aim is to promote the public health and welfare, re-criminalizing personal, adult use of marijuana in the home won't do it. Re-criminalization will only feed the black market and increase the social costs that flow from it.

And the spontaneous response by the citizen witnesses in the capitol and that the legislative information offices (LIOs) across the state show the Alaska public understands all this.

Science shows marijuana causes far less harm to the public health and welfare than alcohol or tobacco. And that's as true today as it was in 1975.

STATEMENT REGARDING ALASKA SB 74 AND HB 96

Scott Bates, Economist
Boreal Economic Analysis & Research, Fairbanks AK

Hello, my name is Scott Bates. I work for Boreal Economic Analysis & Research in Fairbanks. I have a Master of Science in Economics from the University of Alaska Fairbanks. I have worked on various projects as a research analyst over the last few years, and I am here to speak to you because I was involved in preparing a report called The Economic Implications of Marijuana Legalization in Alaska, prior to the vote on Ballot Measure 2 in 2004.

As detailed in that report, the costs to the State of Alaska of prohibiting marijuana include the actual costs of policing, prosecuting and corrections, as well as some indirect social costs. In total, we estimated that direct costs to the justice system are on the order of \$16 million per year to prohibit marijuana. This was based on information gathered from the State, as well as data collected from the US DOJ, for State expenditures from 1997 to 2002. Social costs were estimated to amount to well over \$7 million per year, including lost economic output, social services, and secondary offenses which occur as a result of probation violations and such. Based on our estimates from the report last year, I have estimated the additional costs that will result from passage of this bill.

Of the \$16 million mentioned above, about \$1.5 million were for law enforcement costs of marijuana arrests. This estimate was based on the fact that roughly 3.5% of all arrests in Alaska are for marijuana. Nationally the rate of marijuana arrests as a proportion of total arrests is approximately 5%.

It is reasonable to assume that if marijuana is recriminalized in Alaska, the proportion of marijuana arrests compared to total arrests will rise to become similar to the US average. In this case the costs of law enforcement would rise by at least \$1 million, which is calculated by taking 1.5% of the average \$68.1 million law enforcement budget for the last few years.

If committee members have looked at the fiscal notes that accompany this bill, they might have been surprised to see that the Department of Public Safety claims that "passage of this act will have no fiscal impact" on policing costs, because "The potential increase in the number of arrests for violations can be handled by available staff." More than one member of the Senate HESS committee found this difficult to believe, and I don't expect you to believe it either.

The rise in marijuana cases does not mean a similar decrease in other crimes. So if we consider the average \$68 million budget for law enforcement, we have to ask, what will they give up in order to spend another million dollars on marijuana arrests? Since I am an economist, you know that the next words from me must be "opportunity costs." When we spend resources on a specific activity, we give up the opportunity to spend those resources on any other activities. Unless the law enforcement folks come to you and ask for more money, they are going to have to decide which crimes are more important to

respond to—marijuana possession or other offenses.

Of all the components of the justice system affected by marijuana prohibition, policing is the *least* costly. The court system had average expenditures of \$129.4 million over the last few years. Out of this total, we calculated that marijuana cases account for about \$9.45 million per year on average. Clearly an increase in arrests will mean an increase in the court's case load. If the case load increase comparably to the arrest rate, the court system could have additional costs of about \$4 million, bringing the total to \$13.46 million for marijuana cases. Again, you may have found it difficult to believe the fiscal note submitted by the Department of Law, in which the attorney general's office anticipates no additional funding needs.

In fact, because my \$4 million estimate is based on current levels of activity, we must conclude that the figure would actually be higher, since some crimes that are now misdemeanors would become felonies. You have heard or will hear that the Public Defender Agency anticipates a rise in their workload if this bill is enacted into law. Part of the reason is that felonies require more work than misdemeanors. I don't have the cost-per-case breakdown for Alaska, but we did find a fiscal note from the Iowa Legislative Services Agency regarding Iowa's costs of prosecution. In 2004 it was estimated that simple misdemeanors cost \$14 to \$300, serious misdemeanors were \$100 to \$5,000 and the lowest felonies ranged from \$2,000 to \$8,000. If Alaska's costs are similar, then it is clear how and why costs will rise. The Public Defender Agency says that the new law will result in at least 250 of its current misdemeanor cases becoming felonies, as well as a 50% increase in the number of misdemeanor cases they handle.

Corrections costs will also rise. Since we are more prone to incarcerate felons, there will be an increase in the number of felons who must be housed, although there may be more people convicted of marijuana misdemeanors who will be ordered to serve time as well. We estimated last year that approximately 132 people were incarcerated in one way or another because of marijuana convictions, at an estimated annual cost of \$5.05 million. In keeping with my preceding calculations, we can expect an increase in corrections expenditures of about \$2.16 million with the addition of roughly 56 inmates to the system.

The sum of the new costs is therefore estimated at \$6.77 million, bringing the total average yearly direct costs of marijuana prohibition in Alaska to \$22.77 million.

In the report prepared last year, we calculated some indirect costs as well. We estimated that lost productivity from marijuana prosecutions amounted approximately to \$6 million annually in wages and benefits, plus taxes paid by the employer. This number rises to \$8.26 million when we contemplate the increase in prisoner numbers. The lost productivity is actually higher because the value of the employee output should be higher than the combined costs of creating that output.

We also tried to estimate social service costs, which is tricky without a lot more inmate/family information. I would refer you to the original report for a detailed explanation of our estimation procedures, but our result for the current number of people in jail because of marijuana convictions easily surpasses \$1 million when all types of

assistance are figured in. The addition of another projected 31 inmates with families adds another \$450,000 to the potential costs.

6.2% of the corrections population is there because of parole and probation violations and may add another \$500,000 to corrections costs if the relationship of marijuana offenders to total offenders holds to this level. This cost might rise to over \$700,000 if the above inmate population increases occur.

In summary, then, if this bill is passed into law, and marijuana crimes are prosecuted as they are in the Lower 48, I have estimated that the annual direct costs to the criminal justice system will be \$6.77 million, and the indirect costs of things like lost wages, family assistance, and secondary offenses will be another \$3.35 million. In round numbers, we can look forward to an additional economic impact of \$10 million, bringing the total costs of marijuana prohibition for Alaska to the range of \$35 million to \$40 million per year.

If prohibition *works*, one might argue that these costs are tolerable. But if prohibition *fails*, these costs are in *addition to* any social costs that actually stem directly from marijuana use. There is little doubt that many people will avoid a behavior if it is illegal. The questions we must ask are, by how much is marijuana use reduced, and is it worth the cost that result from prohibiting it.

Prohibition of marijuana shows little or no evidence of being effective in its primary goal, reducing consumption. In the interest of time, I won't discuss in detail the studies that demonstrated this in our report from last year. In fact, you only need to consider Finding #1 from this bill to realize that prohibition has failed: "marijuana has been for many years and continues to be the most commonly used illegal controlled substance in the United States".

I do not believe, based on the studies I have cited here and in last year's report, that there will be a significant reduction in the use of marijuana either through the higher risk of punishment or through the higher prices that will result. Violent crime and crimes against property may even rise, as they did after the recriminalization of marijuana in 1990.

I do believe that this Legislature has good intentions, such as reducing marijuana consumption by adolescents. However, it is virtually certain that increased penalties for marijuana use will fail to accomplish that, and instead will result in large cost increases to the people of this State. I strongly urge you to reject this bill.

STATEMENT REGARDING ALASKA SB 74 AND HB 96

Debbie Soule, medical marijuana patient

My name is Debbie Soule. I live in Wasilla. I am married, 55 years old, a grandmother and own my own business.

Seven years ago, my husband and I had a near fatal car accident. I broke everything from my neck down and then lost my right leg. The doctors had me on nine different medications. None of them worked. I was slowly being killed by all the medications they had to give me after our accident. And all of this after they insisted on keeping me alive. Now I have a life of pain and loss.

I found out from my doctor that I might get some relief from some of the pain by using marijuana. I thought about this for over two years before I tried it and found it worked better than any medication I had tried. I also found that it didn't leave me doped up and unable to function like all of the medication they had prescribed.

The problem I have found is that although Alaska supposedly has a medical marijuana law, the State of Alaska has made it impossible to find a doctor who will sign the paper work. When I wanted to try smoking pot to relieve my pain, my husband had to buy it illegally and feel like a criminal. Alaska's medical marijuana law simply doesn't help anybody. Even if I could find a doctor to sign my forms, what good does it do if there's no legal way for me to get it? I know the law allows me to grow up to 6 plants, but that's just not practical for a lot of patients, including me. Unless you fix the medical marijuana law in this state, patients will have to buy it the same way everybody else does. That's why keeping the protection for personal use under the Ravin decision is so important to me.

If this new law is passed, the situation for people who use medical marijuana will go from bad to worse. At least now, if I got arrested for having it without a doctor's signature, I would have some protection in the eyes of the courts. You want to take that away from me. Of course I understand you want to keep marijuana out of the hands of kids—everybody wants that. But you have to admit that when marijuana possession was made illegal in 1990, teenagers went on smoking it anyway. Why do you think going back to that kind of law will make any difference now? This new law won't do anything to help kids, but it will make it tougher for plenty of people in wheelchairs, like me, to get the one medicine that helps us the most.

I find it odd that our good senators don't have anything better to do with their time than to attack and try to outlaw my medication. Why aren't you doing anything about the panhandlers on every street corner in Anchorage? Why aren't you doing anything about our alcohol problem? Why don't you spend a week in a wheelchair and see what a problem your so called handicap accessibility is? If you really want to do some good for our great state, as you say you do, then why don't you spend your time on our horrific alcohol and domestic violence problems, on unemployment, on decent roads, homelessness, and out of control children? In fact, if you pass this law and tell the police to go back to arresting every marijuana user, they will have less time to spend on these other things that are far more important. Thanks a lot.

The doctors are willing to give me any medication I need to keep me comfortable and turn me into a drug addict until it finally kills me, but they won't sign for medical marijuana. I feel I will now live longer and be much healthier and in a lot less pain because I have chosen to smoke pot.

Written Testimony of Dr. Lester Grinspoon

I would like to thank the Chairperson and the members of this Committee for the opportunity to testify before you today.

My name is Dr. Lester Grinspoon. I believe that you have copies of my curriculum vitae and two of my books: Marihuana Reconsidered (Harvard University press, 1971, 1977 and Marihuana, the Forbidden Medicine (Yale University press 1993, 1997). To be very brief, I am an associate professor of psychiatry, emeritus at the Harvard Medical School. Shortly after graduating from the Harvard Medical School in 1955, I joined the faculty and over the ensuing 45 years combined research and teaching with some clinical practice. In 1967, I had finished writing my part of a book on our seven-year study of schizophrenia. As the senior author I had to wait to finally put it together for what two junior co-authors estimated would be two to three months before they completed their parts. Because I was at that time very much concerned about the great danger young people were exposing themselves to as they recklessly ignored government warnings about its dangers, I decided to devote this unanticipated free time to studying marihuana in the Countway library with the object of producing a

scientifically sound paper on the subject, one which I hoped to publish in a journal or periodical accessible to college-age people. Perhaps some would pay more attention to such a review than they apparently were to the material produced by the US Public Health Service and the National Institute of Drug Abuse. (A shortened version of the paper was published in Scientific American). As I delved into the medical, scientific and other literature I soon discovered, to my great surprise and consternation, that, despite my training in medicine and science, I had been brainwashed like most other American citizens about the dangers of this drug. After I finished the book on schizophrenia, I began work on Marijuana Reconsidered which was published by Harvard University press in 1971, a second edition in 1977 and republished as a classic in 1997. Briefly, after documenting that most of what we believe about the dangers of cannabis were mythical, I concluded that marijuana was far less harmful than either alcohol or tobacco and that its greatest harmfulness arose from the way we as a society were dealing with it. (At that time we were arresting about 300,000 mostly young people on marijuana charges; today the figure is about 750,000.).

In the time since that initial research, I have devoted much of my professional career to studying the

effects of marijuana, and I have to this day remained current and up-to-date with the latest research in this area.

Let me say at the outset that marihuana is no more harmful today than it was in 1975 when I testified in the Raven case. Street marihuana is arguably more potent than it was at that time but this does not mean increased risk because both medicinal and recreational users very quickly learn how to titrate the dose to achieve the desired effect. A user who smokes (or vaporizes) marihuana has to inhale less of a more potent sample and, conversely, more of one that is less potent. It follows that to the extent that inhaling the smoke is considered a risk factor for pulmonary disease, the more potent sample provides a healthier choice. However, I should hasten to add that the pulmonary risk from smoking marihuana has been greatly exaggerated. There is not a single case of lung cancer or emphysema attributable to smoking marihuana to be found in the medical literature. I believe that the lungs of marihuana smokers are at greater risk from prolonged exposure to the air of cities like Los Angeles or Houston (or any other city with poor air quality). However, for those, particularly in today's anti-smoking atmosphere, who wish to avoid smoke for any reason, there is now available

a device called a vaporizer which holds the temperature of the marijuana to be consumed in a temperature window which vaporizes the cannabinoids at a temperature which is below the ignition point; thus no smoke.

I wish I had time to address the other 18 "Findings" because so many are erroneous and none is supported by the large body of research data available in the literature. Let me briefly consider another "Finding", the one that states... "marijuana use by children is associated with an increased risk of attempting suicide." I believe that the intention here is to suggest that because there is an association, cannabis must be causal in this increment of risk. Psychiatry is becoming increasingly aware that children suffer from depression and that some of them commit suicide. Like other children, some of the depressed children will use marijuana. In fact, because marijuana is an effective antidepressant, some of them may have discovered it as a self-medication. However, there is no credible evidence that I know of that establishes marijuana as a causal.

I am struck by the fact that so many of these "Findings" are the same claims of marijuana toxicity that have been made and discredited more than once in the history of this substance. For example, schizophrenics and

patients suffering from other psychoses were thought to comprise a significant number of the patients admitted to Indian Insane Asylums in the second half of the 19th-century and the use of ganja was thought to be causative. It was for this reason that the British organized the Indian Hemp Drug Commission Study which was published in 1894. The commission examined 800 doctors, superintendents of insane asylums, and so forth. In a 3000 page, seven volume report the commission concluded that "There is no evidence of any weight regarding mental and moral injuries from the moderate use of these drugs." This report put to rest the belief that cannabis led to schizophrenia and other psychoses for a while, but it has recurred periodically, most recently during the last year are so. For example, a report from New Zealand with a study group of only 759 subjects, claims to have established that those who smoked marijuana three or more times by the age of 15 had a 10% higher chance of developing schizophrenia. Similarly, other studies from Great Britain and the Netherlands would predict greater numbers of schizophrenic patients. If these predictions were correct, given the number of young people who are or who have used cannabis, we would expect an increment in the incidence of schizophrenia. However, no such increment exists.

In "Finding" number two the assertion is made that "... [marihuana] has addictive properties similar to heroin and other similar illegal controlled substances..." Most of those who are sophisticated about cannabis would question whether the word addiction is even appropriate to this drug, and all would agree that the withdrawal syndrome seen with "heroin and other illegal controlled substances" are not observed upon cessation of marihuana use. The assertion made in "Finding" number four, that marihuana use "... makes it more likely that the person will go on to use more potent illegal controlled substances..." is simply a restatement of what was known as the "stepping stone hypothesis"; a belief which has long since been thoroughly discredited.

As I participate in these hearings, I am reminded of those which preceded the passage of the Federal Marihuana Tax Act of 1937, the first of the draconian legislation aimed at marihuana. A reading of the hearings before the House Ways and Means Committee that preceded the passage of the legislation demonstrates quite clearly how little empirical data was found to support the Act. Indeed, the enactment reflected far more the mass hysteria surrounding the subject than any concrete evidence of the drug's harmfulness. The hearings were characterized by brevity

and lack of information. Little expert medical, sociological, or scientific evidence was produced or listened to. I would urge this committee to acquaint itself with some of the excellent, comprehensive special reports and commission reports which have been developed over the past half-century. They would include:

The La Guardia Report (1944)

The Wooten Report (1968)

The Shafer Report (1972)

The Le Dain Commission (1973)

The Canadian Senate Special Committee on Illegal Drugs Report (2002)

I think that if this legislative body is as meticulous and comprehensive in collecting and assessing the data as these Commissions were, it will have a better chance of arriving at a sound judgment about whether the "harmfulness" of marihuana is sufficient to enact such a restrictive bill.

In conclusion, I must tell you that I have much more to say on this topic, but given the extremely short time allotted for these hearings, there is no way I can thoroughly respond to the erroneous findings proposed in

this bill. It would take days, if not weeks, to carefully review each of the studies and reports submitted by the government in order to fully explain to you the fallacies and inaccuracies. I have appended to this written statement a supplemental statement containing a point-by-point specific refutation of some of the proponents' more egregious assertions, with annotations and supporting documentation. Given a more realistic amount of time, I assure you that I could provide much more information and documentation that would be very relevant to your decision on this bill. In short, this committee cannot possibly hope to seriously consider in the amount of time allocated the relevant evidence necessary to reach accurate, science-based conclusions about the public health effects of marijuana. I would urge the committee to postpone action on this legislation until such time as a full and fair review of all the evidence is achieved.

I read, in a recent Alaskan newspaper report of an earlier hearing concerning this legislation, a comment by a committee chairman to the effect that he wants to see quick action on this legislation, and that it would just take too long to appoint a commission or order a full and complete study. For the record, I would just like to be clear that there is simply no way the members of this committee could

even begin to read all of the evidence that's been submitted to you in the time you have allotted for considering this legislation, much less have read it, and have it read carefully and critically by qualified experts such as would be necessary to fully understand the relevant science. The only conclusion that can be drawn from the "fast track" manner in which this is being undertaken is that your minds are already made up and that these hearings are merely window dressing to justify a preordained decision based on politics, not science.

Finally, I must caution you about the evidence submitted by the proponents of this legislation. It may be tempting to simply conclude that since witnesses on both sides of this issue of submitted reams of paper in support of their positions, the scientific community is equally divided on this topic. Nothing could be farther from the truth.

Virtually all of the studies and reports submitted by the proponents of this bill were funded or directly undertaken by the National Institute on Drug Abuse (NIDA) or other US government agencies. One might hope and expect that this would be an indication of unbiased, honest and accurate scientific inquiry. The sad truth is that when it comes to marijuana, NIDA and the United States government

cannot be said to be unbiased, honest or accurate. For too long in the United States, drug policy and especially marijuana policy has been driven by politics, not science. NIDA's mission is to facilitate research into the *harmful* effects of drugs, including marijuana. It is common knowledge within the scientific and academic communities of this nation that if one wishes to secure and maintain funding from NIDA, one's research had better be designed to produce results that are consistent with and which support the government's zero-tolerance marijuana prohibition policies. NIDA has a monopoly on the supply of marijuana for research purposes, and researchers seeking to show that the government has overstated the dangers of marijuana, or seeking to show that marijuana may be useful and efficacious as a medicine, have been denied funding or, even where independent funding has been obtained, have been denied access to the marijuana necessary to undertake the research. In effect, NIDA funding creates a research "machine" that produces study after study, report after report, seeking to support and justify the government's marijuana prohibition policies. But this result-oriented research never withstands the test of time, or the scrutiny of independent review and analysis. And every time a truly independent body has undertaken a comprehensive review of

the available scientific data, the conclusion has been that marijuana is far less harmful than alcohol or tobacco, and not nearly dangerous enough to justify harsh, criminal penalties for personal use by adults in the privacy of the home such as this proposed legislation. Again, I encourage you to review the findings of the La Guardia Report, the Wooten Report, the Shafer Report, the Le Dain Commission, the decision of DEA Administrative Law Judge Francis Young, the Canadian Senate Special Committee on Illegal Drugs Report of 2002, the two Institute of Medicine reports, and the books that have been submitted to you, including the two I wrote, the Mitch Earlywine book and the Lynn Zimmer and John Morgan book. All of this represents an unbroken and consistent line of research results from the past 60 years or more. The handful of NIDA and US government-funded research reports that the proponents of this bill have submitted to you must be viewed in the context of this massive body of research, and in the context of the political realities underlying the NIDA funding process.

You would no doubt view with a skeptical eye research regarding the safety and efficacy of a new drug if that research were commissioned and funded by a large pharmaceutical company with a financial stake in the results of the research. You must view with equal

skepticism results of marijuana research funded by NIDA, especially when the results of that research are contrary to the very large body of independent research that has accumulated over the past four decades.

Thank you again for the opportunity to testify before you today.

Annotated Supplemental Statement of Dr. Lester Grinspoon

As I have tried to make clear in my testimony, given the short period of time that has been allotted to consideration of this legislation, I have not been able to prepare a complete and careful analysis and refutation of all of the evidence submitted by the proponents of this legislation. Even a cursory review, however, reveals the following examples of inaccuracies, exaggerations, and incomplete or misleading assertions:

1) The Effect of Criminalizing Adult Use of Small Amounts of Marijuana in the Home Upon the Rates of Marijuana Use by Children:

The proponents of this bill submitted excerpts from a May 1990 report entitled "The State of Adolescent Health In Alaska," and relied upon it for assertions about adolescent marijuana use in Alaska. Yet only 4 pages of the report

have been submitted. From comments contained even on those 4 pages, however, it is clear that the Committee should obtain and review the *entire report* before reaching any conclusions about its relevance to this proposed legislation.

The proponents selectively quote the statistic that 22.6% of adolescents who report that their parents frequently use marijuana use marijuana themselves, versus 5% of youths whose parents do not use marijuana. Several points need to be understood in this regard, however.

First, the authors of the report state in the executive summary that due to the small sample size, they "cannot claim that the data are statistically generalizeable" to the entire student population.

Second, the methodology of the survey involved students self-reporting of both their own and their parents' drug use. It is quite probable that students who know that their parents would strongly disapprove of their marijuana use would be less likely to admit that they use marijuana, thus resulting in an underreporting of drug use by students whose parents do not use marijuana.

Third, the Supreme Court in *Ravin* noted that a report of the Journal of the American Medical Association in 1971 indicated that 24% of Anchorage school children in grades

six through twelve had used marijuana, as had 46% in grades eleven and twelve. These rates are remarkably consistent with (and in fact are somewhat higher than) those reported in this 1990 "State of Adolescent Health In Alaska" report. This means that by the proponent's own accounting, the effect of personal adult use of marijuana in the home having been legal in Alaska from 1975 until the time the report was published in 1990 was not an alarming increase in the number of children using marijuana, but in fact led to a slight decrease.

Fourth, the report notes that marijuana usage rates may be higher than would otherwise be the case because high school seniors are substituting marijuana use for alcohol use. While ideally high school seniors would use neither marijuana or alcohol, it is beyond debate that alcohol use by adolescents causes much more harm than marijuana use. Therefore, such a "substitution effect" may in fact be reducing overall harm. (See the attached 2004 article by Dr. Mikuriya, also referenced in Point Number 6), below).

Finally, and perhaps most importantly, the authors of this 1990 "State of Adolescent Health In Alaska" report state explicitly, in a passage not highlighted or even acknowledged by the proponents of this legislation in their testimony and submissions, that:

"To look at these data in isolation from the other information collected in the Adolescent Health Survey is to ignore the dynamics which predispose to drug abuse. We know that those who do poorly in school are more likely to abuse substances; so, too, are those who are emotionally stressed. We know that those who are emotionally isolated are more likely to abuse drugs as are those who have been abused. **Simply stated, developing a substance abuse prevention program which does not address the predisposing factors and their interrelationships is most likely to fail. It is critical to understand the forces which predispose youth to abuse drugs if we are to assist them in developing chemical health.**" (emphasis added).¹

Yet the proponents of this legislation are encouraging exactly this flawed and ineffectual approach, in a cynical attempt to sway this legislature and eventually the state Supreme Court on the basis of purported concern for Native Alaskan children. If the governor is truly concerned about the welfare of Native Alaskan and other children, he might seek appropriations and legislation to ameliorate the poor public school, housing and other social services available to them, to truly begin to address "the dynamics which predispose to drug abuse." Instead, the proponents of this legislation assert that criminalizing adult possession of small amounts of marijuana in the privacy of the home will

¹ As noted in a recent report issued by the ACLU and others, the National Institute of Health has found that, "Native American women and their families often live in severe poverty - fifty percent of the households they head are below the poverty line. Native American/Alaska Native communities are also plagued by inadequate housing - in many cases with no indoor plumbing, severe electrical problems, and prolonged dysfunctional heating systems during the winter - unemployment, and toxic surroundings. (*Caught in the Net: The Impact of Drug Policies on Women and Families*, available online at <http://www.FairLaws4Families.org>, at p.10, citing *Office of the Director, National Institutes of Health, Women of Color Data Book, 74* (2d ed. 2002), available online at <http://www.4.od.nih.gov/orwh/wocEnglish2002.pdf>.

somehow afford greater protection to Alaskan children. There is absolutely no evidence to support this assertion, and in fact the available evidence points in exactly the opposite direction. The rates of marijuana use by Alaskan children has remained remarkably constant since the Ravin decision nearly 30 years ago; in fact, such use declined slightly between 1975 and 1990, a time period during which adult use of small amounts of marijuana in the privacy of the home was fully legal. Ravin was in force from 1975 to 1993; then from 1993 to 2003, the voter-approved initiative re-criminalizing all use was in effect; then from the time of the 2003 court of appeals decision in the Noy case to the present, the protection of Ravin has been back in effect. If criminalizing adult use of small amounts of marijuana in the home were an effective method of reducing children's use, or, conversely, if permitting such adult use were an aggravating factor that increased children's use, one would expect to see such effects correlated with the different legal statuses of marijuana over the years. Instead, what 30 years of empirical data now shows is that whether adult use of small amounts of marijuana in the privacy of the home is legal or not has virtually no effect on the rates at which Alaskan children use marijuana.

Illegality of cannabis has utterly failed to stem use