

11875 SENATE JUDICIARY

AMENDMENT #4

OFFERED IN THE SENATE

TO: SCS CSHB 149(JUD), Draft Version "K"

1 Page 4, lines 17 - 25:

2 Delete all material and insert:

3 "(2) less than 24 grams of ephedrine, pseudoephedrine,
4 phenylpropanolamine, or the salts, isomers, or salts of isomers of those chemicals,
5 kept in a locked storage area on the premises of a legitimate business or nonprofit
6 organization operating a camp, lodge, school, day care center, treatment center, or
7 other organized group activity, and the location or nature of the activity, or the age of
8 the participants, makes it impractical for the participants in the activity to obtain
9 medicinal products."

AMENDMENT #5

OFFERED IN THE SENATE

TO: SCS CSHB 149(JUD) Draft Version "K"

1 Page 10, line 8, following "regulation":

2 Insert "due to the product's potential for diversion to the manufacture of
3 methamphetamine, its immediate precursors, or the salts, isomers, or salts of isomers of
4 methamphetamine or its immediate precursors"

AMENDMENT

#6

OFFERED IN THE SENATE

TO: SCS CSHB 149(JUD), Draft Version "K"

1 Page 1, line 9, through page 2, line 3:

2 Delete all material.

3

4 Page 2, line 4:

5 Delete "Sec. 2"

6 Insert "Section 1"

7

8 Renumber the following bill sections accordingly.

9

10 Page 12, line 31:

11 Delete "Section 8"

12 Insert "Section 7"

13

14 Page 13, line 6:

15 Delete "Sections 2 - 12 and 15:"

16 Insert "Sections 1 - 11 and 14"

17

18 Page 13, line 9:

19 Delete "Sections 1 - 16"

20 Insert "Sections 1 - 15"

21

22 Page 13, line 10:

23 Delete "Section 17"

1

Insert "Section 16"

AMENDMENT #7

OFFERED IN THE SENATE

TO: SCS CSHB 149(JUD), Draft Version "K"

- 1 Page 13, line 8
- 2 Delete "AS 17.30.090"
- 3 Insert "AS 17.30.090~~(a)~~" (b)

AMENDMENT

#8

OFFERED IN THE SENATE

TO: SCS CSHB 149(JUD), Draft Version "K"

- 1 Page 10, lines 10 - 11:
- 2 Delete "requires the purchaser to sign a written log completed by the retailer"
- 3 Insert "completes a written log"

AMENDMENT

#9

OFFERED IN THE SENATE

TO: SCS CSHB 149(JUD), Draft Version "K"

- 1 Page 10, line 2, following "or a":
- 2 Insert "shorter"

AMENDMENT

#10

OFFERED IN THE SENATE

TO: SCS CSHB 149(JUD), Draft Version "K"

- 1 Page 10, line 12, following "regulation.":
- 2 Insert "The log shall be maintained for one year or a shorter period of time established
- 3 by the Department of Public Safety by regulation."

AMENDMENT #11

OFFERED IN THE HOUSE

TO: SCS CSHB 149(JUD), Draft Version "K"

1 Page 10, line 16, following "officers":

2 Insert "A retailer is not liable in a civil action for release of information contained in
3 the log in violation of the confidentiality requirements of this section unless the retailer
4 intentionally released the information or was aware at the time of the release that the
5 information was being released in violation of this section."



6401 A Street • Anchorage, Alaska 99518

April 26, 2005

Re:
Rep. Ramras
bill

VIA FACSIMILE AND EMAIL

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

Re: Safeway's Comments on HB 149 and SB 106

Dear Senator Seekins:

I write to respectfully offer you and your Committee the following comments of Safeway Inc. on HB 149 and SB 106, the two bills imposing certain restrictions on retailers regarding the sale of methamphetamines and precursors, currently pending before your Committee. While Safeway generally supports the law enforcement goals of these bills, Safeway nevertheless has serious concerns about the impact that these bills could have upon retailers such as Safeway.

By way of information, Safeway sells both prescription and non-prescription pharmaceutical drugs to its customers from 25 store locations throughout the State of Alaska. As one of the State's largest retail sellers of such drugs, these bills could have a significant, adverse impact on Safeway's operations, costs of doing business and customer relations.

More specifically, we offer the following comments regarding aspects of HB 149:

Section 9 (AS 11.71.210(a)): This provision makes it a crime for a person to purchase more than 9 grams of the listed substances within 30 days. It is unclear whether the provision contemplates that retailers would be responsible for policing and enforcing this provision themselves. If so, such effort would impose substantial additional labor expense on retailers, and could expose retailers to criminal penalties for failing to do so. We recommend that the provision be modified to clarify that retailers have no obligation to police or enforce this provision, and that any failure to do so would not subject retailers to criminal penalties.

Section 11 (AS 17.30.090(b)): The recordkeeping obligations set forth in this provision will be extremely burdensome on retailers, requiring more staff and man-hours to record and maintain the information specified herein (which includes keeping a log showing the date of the

Senator Ralph Seekins

April 26, 2005

Page 2

transaction, name of purchaser, type of ID and ID number and amount dispensed, for each transaction)). Safeway would be charged with tracking this information throughout Alaska and our 25 locations. Doing so will be highly labor-intensive and expensive. We recommend that these recordkeeping requirements be streamlined and that the bill be modified to clarify that any violations of this duty will not subject retailers to criminal penalties.

(AS 17.30.090(f)): This provision requires retailers to provide the information collected to any law enforcement agency, upon written request. We are concerned that disclosure of transaction records and customer information to law enforcement personnel may give rise to privacy issues with law-abiding customers. The bill provides no civil liability protection to retailers for complaints or claims brought by customers arising from the reporting of this information.

(AS 17.30.1090(b)): This provision makes violation of the above-mentioned recordkeeping duties a Class A Misdemeanor punishable by fines up to \$10,000. While the provision requires the failure to report information must be "knowingly" made in order to subject a wholesaler manufacturer or distributor to be guilty of a misdemeanor, it is silent with regard to retailers. The bill would thus seem to subject retailers (and possibly their employees) to Class A Misdemeanor charges and \$10,000 fines for inadvertent violations of the recordkeeping and secure storage duties. This section should either expressly exclude retailers (and their employees) from such penalties, or at a minimum, make clear that only intentional violations of such duties would subject retailers to such criminal charges and fines.

With respect to SB 106, we offer the following comments:

Section 4 (AS 11.71.210(a)): With respect to this provision, we incorporate by reference our comments made in regard to Section 9 of HB 149, and request that the provision be modified to clarify that retailers have no duty to police and enforce this provision themselves, and that failure to do so would not subject them to criminal penalties.

Section 5 (AS 11.17.090(b)): This provision imposes recordkeeping requirements on a "dispenser" of drugs listed in the bill. It is unclear whether "dispenser" is intended to include and apply to retailers. We incorporate by reference our comments regarding Section 11 of HB 149, pertaining to the substantial additional expense which will be imposed on retailers, and regarding the possibility that inadvertent violations of this provision by retailers (or their employees) could expose them to criminal charges and fines. We recommend that such provision be modified to clarify that it does not apply to retailers. If it is intended to apply to retailers, we recommend that it be modified streamline such recordkeeping and reporting requirements, and clarify that inadvertent failures to do so would not subject retailers to criminal penalties.

Senator Ralph Scekins
April 26, 2005
Page 3

We also incorporate by reference our comments regarding HB 149 regarding our concerns about privacy issues that law-abiding customers may have, and the need for civil liability protection for retailers from possible claims by customers for privacy violations.

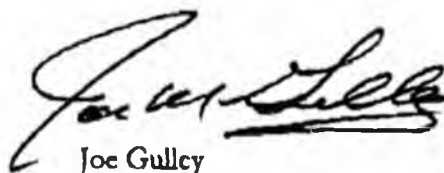
Finally, we incorporate by reference our comments regarding Section 11 of HB 149, regarding the general criminal penalty provisions of this bill, and recommend that the section be modified to clarify that retailers (and their employees) be expressly exempted from such provision, or at a minimum, that violations of such recordkeeping duties must be intentionally made to expose retailers (or their employees) to criminal penalties.

We appreciate the attention which you and the Committee members will give to Safeway's comments. We would be happy to discuss these concerns further with you and the Committee and/or provide an appropriate witness to testify to these concerns. Please feel free to contact us should you wish further comments from Safeway regarding these bills.

Very truly yours,
Safeway Inc.



Glenn Peterson
District Manager - Anchorage District



Joe Gulley
District Manager-Denali District

GP/ncb

42418v1

AMENDMENT

#2

OFFERED IN THE SENATE

TO: SCS CSHB 149(), Draft Version "M"

1 Page 9, line 29:

2 Delete the second occurrence of "or"

3

4 Page 9, line 29, following "crystal iodine":

5 Insert ", or (3) any other ingredient when required by the Department of Public Safety

6 by regulation."

AMENDMENT #3

OFFERED IN THE HOUSE

TO: SCS CSHB 149(), Draft Version "M"

1 Page 12, line 4:

2 Delete "and"

3

4 Page 12, line 5, following "address":

5 Insert ", and owner's name at the time the notice was issued"

6

7 Page 12, line 13, following "use.":

8 Insert "The property shall remain on the lists or databases for five years after it is
9 determined that the property is fit for use and shall be removed from the lists or databases
10 within three months after the five year period has elapsed."

21-LS0596M
Luckhaupt
4/27/05

SENATE CS FOR CS FOR HOUSE BILL NO. 149()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES RAMRAS, Wilson, Lynn, McGuire, Gatto, Kelly, Foster, Holm, Stoltze,
Gara, Elkins, Crawford, Meyer, Dahlstrom, Croft

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to controlled substances regarding the crimes of manslaughter and
2 misconduct involving a controlled substance; relating to the manufacture of
3 methamphetamine and to the sale, possession, and delivery of certain substances and
4 precursors used in the manufacture of methamphetamine; relating to listing certain
5 anabolic steroids as controlled substances; relating to the listing of property that
6 constitutes an illegal drug manufacturing site; amending Rule 41, Alaska Rules of
7 Criminal Procedure; and providing for an effective date."

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

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

11 FINDINGS. The legislature finds that the illegal manufacturing of methamphetamine
12 of the type that is generally encountered in Alaska subjects anyone within a wide area to the
13 risk of fire, explosion, and toxic chemicals in gaseous, liquid, and solid form. This activity

1 presents such a high level of danger to the community and to law enforcement and
2 environmental personnel that the mandatory minimum cash bail required by sec. 8 of this Act
3 is justified for defendants described in that section.

4 * Sec. 2. AS 11.41.120(a) is amended to read:

5 (a) A person commits the crime of manslaughter if the person

6 (1) intentionally, knowingly, or recklessly causes the death of another
7 person under circumstances not amounting to murder in the first or second degree;
8 [OR]

9 (2) intentionally aids another person to commit suicide; ~~or~~

10 **(3) knowingly manufactures or delivers a controlled substance in**
11 **violation of AS 11.71.010 - 11.71.030 or 11.71.040(a)(1) for schedule IVA**
12 **controlled substances, and a person dies as a direct result of ingestion of the**
13 **controlled substance; the death is a result that does not require a culpable mental**
14 **state; in this paragraph, "ingestion" means voluntarily or involuntarily taking a**
15 **substance into the body in any manner.**

16 * Sec. 3. AS 11.71.020(a) is amended to read:

17 (a) Except as authorized in AS 17.30, a person commits the crime of
18 misconduct involving a controlled substance in the second degree if the person

19 (1) manufactures or delivers any amount of a schedule IA controlled
20 substance or possesses any amount of a schedule IA controlled substance with intent
21 to manufacture or deliver;

22 (2) manufactures any material, compound, mixture, or preparation that
23 contains

24 (A) methamphetamine, or its salts, isomers, or salts of isomers;

25 or

26 (B) an immediate precursor of methamphetamine, or its salts,
27 isomers, or salts of isomers;

28 (3) possesses an immediate precursor of methamphetamine, or the
29 salts, isomers, or salts of isomers of the immediate precursor of methamphetamine,
30 with the intent to manufacture any material, compound, mixture, or preparation that
31 contains methamphetamine, or its salts, isomers, or salts of isomers; [OR]

1 (4) possesses a listed chemical with intent to manufacture any material,
2 compound, mixture, or preparation that contains

3 (A) methamphetamine, or its salts, isomers, or salts of isomers;

4 or

5 (B) an immediate precursor of methamphetamine, or its salts,
6 isomers, or salts of isomer;

7 (5) possesses methamphetamine in an organic solution with intent
8 to extract from it methamphetamine or its salts, isomers, or salts of isomers; or

9 (6) under circumstances not proscribed under AS 11.71.010(a)(2),
10 delivers

11 (A) an immediate precursor of methamphetamine, or the
12 salts, isomers, or salts of isomers of the immediate precursor of
13 methamphetamine, to another person with reckless disregard that the
14 precursor will be used to manufacture any material, compound, mixture,
15 or preparation that contains methamphetamine, or its salts, isomers, or
16 salts of isomers; or

17 (B) a listed chemical to another person with reckless
18 disregard that the listed chemical will be used to manufacture any
19 material, compound, mixture, or preparation that contains

20 (i) methamphetamine, or its salts, isomers, or salts of
21 isomers;

22 (ii) an immediate precursor of methamphetamine, or
23 its salts, isomers, or salts of isomers; or

24 (iii) methamphetamine or its salts, isomers, or salts
25 of isomers in an organic solution.

26 * Sec. 4. AS 11.71.020 is amended by adding a new subsection to read:

27 (d) In a prosecution under (a) of this section, possession of more than nine
28 grams of the listed chemicals ephedrine, pseudoephedrine, phenylpropanolamine, the
29 salts, isomers, or salts of isomers of those chemicals is prima facie evidence that the
30 person intended to use the listed chemicals to manufacture, to aid or abet another
31 person to manufacture, or to deliver to another person who intends to manufacture

1 methamphetamine, its immediate precursors, or the salts, isomers, or salts of isomers
2 of methamphetamine or its immediate precursors. The prima facie evidence described
3 in this subsection does not apply to a person who possesses the listed chemicals
4 ephedrine, pseudoephedrine, phenylpropanolamine, or the salts, isomers, or salts of
5 isomers of those chemicals

6 (1) and the listed chemical was dispensed to the person under a valid
7 prescription; or

8 (2) in the ordinary course of a legitimate business, or an employee of a
9 legitimate business, as a

10 (A) retailer or as a wholesaler;

11 (B) wholesale drug distributor licensed by the Board of
12 Pharmacy;

13 (C) manufacturer of drug products licensed by the Board of
14 Pharmacy;

15 (D) pharmacist licensed by the Board of Pharmacy; or

16 (E) health care professional licensed by the state.

17 * Sec. 5. AS 11.71.030(a) is amended to read:

18 (a) Except as authorized in AS 17.30, a person commits the crime of
19 misconduct involving a controlled substance in the third degree if the person

20 (1) under circumstances not proscribed under AS 11.71.020(a)(2) - (6)
21 [AS 11.71.020(a)(2) - (4)], manufactures or delivers any amount of a schedule IIA or
22 IIIA controlled substance or possesses any amount of a schedule IIA or IIIA controlled
23 substance with intent to manufacture or deliver;

24 (2) delivers any amount of a schedule IVA, VA, or VIA controlled
25 substance to a person under 19 years of age who is at least three years younger than
26 the person delivering the substance; or

27 (3) possesses any amount of a schedule IA or IIA controlled substance

28 (A) with reckless disregard that the possession occurs

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

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

31 or

1 (B) on a school bus.

2 * Sec. 6. AS 11.71.180 is amended by adding a new subsection to read:

3 (f) Schedule VA includes, unless specifically excepted or unless listed in
4 another schedule, any material, compound, mixture, or preparation that contains any
5 quantity of the following substances, including their salts, esters, isomers, and salts of
6 esters and isomers if those salts, esters, or isomers promote muscle growth, whenever
7 the existence of these salts, esters, and isomers is possible within the specific chemical
8 designation: anabolic steroids. In this subsection, "anabolic steroids" means any drug
9 or hormonal substance that is chemically and pharmacologically related to testosterone
10 (other than estrogens, progestins, and corticosteroids) and that promotes muscle
11 growth; "anabolic steroids" does not include an anabolic steroid that is expressly
12 intended for administration through implants to cattle or other nonhuman species and
13 that has been approved by the United States Secretary of Health and Human Services
14 for that administration, unless a person prescribes, dispenses, or distributes that type of
15 anabolic steroid for human use; "anabolic steroids" includes the following:

- 16 (1) boldenone;
17 (2) chlorotestosterone (4-chlorotestosterone);
18 (3) clostebol;
19 (4) dehydrochlormethyltestosterone;
20 (5) dihydrotestosterone (4-dihydrotestosterone);
21 (6) drostanolone;
22 (7) ethylestrenol;
23 (8) fluoxymesterone;
24 (9) formebulone (formebolone);
25 (10) mesterolone;
26 (11) methandienone;
27 (12) methandranone;
28 (13) methandriol;
29 (14) methandrostenolone;
30 (15) methenolone;
31 (16) methyltestosterone;

- 1 (17) mibolone;
- 2 (18) nandrolone;
- 3 (19) norethandrolone;
- 4 (20) oxandrolone;
- 5 (21) oxymesterone;
- 6 (22) oxymetholone;
- 7 (23) stanolone;
- 8 (24) stanozolol;
- 9 (25) testolactone;
- 10 (26) testosterone;
- 11 (27) trenbolone.

* Sec. 7. AS 11.71 is amended by adding a new section to article 2 to read:

Sec. 11.71.210. Purchase or receipt of restricted amounts of certain listed chemicals. (a) A person commits the crime of purchase or receipt of restricted amounts of certain listed chemicals if the person purchases or receives more than nine grams of the following listed chemical, its salts, isomers, or salts of isomers within any 30-day period:

- (1) ephedrine under AS 11.71.200(4);
- (2) pseudoephedrine under AS 11.71.200(13);
- (3) phenylpropanolamine under AS 11.71.200(11).

(b) This section does not apply to a person who lawfully purchases or receives more than nine grams of a listed chemical identified in (a) of this section

- (1) that was dispensed to the person under a valid prescription; or
- (2) in the ordinary course of a legitimate business, or to an employee of a legitimate business, as a
 - (A) retailer or as a wholesaler;
 - (B) wholesale drug distributor licensed by the Board of Pharmacy;
 - (C) manufacturer of drug products licensed by the Board of Pharmacy;
 - (D) pharmacist licensed by the Board of Pharmacy; or

1 (E) a health care professional licensed by the state.

2 (c) Purchase or receipt of restricted amounts of certain listed chemicals is a
3 class C felony.

4 * Sec. 8. AS 12.30.023 is amended by adding a new subsection to read:

5 (b) In addition to conditions the court may impose under (a) of this section and
6 notwithstanding other provisions in this chapter, if the defendant is charged with
7 manufacturing methamphetamine under AS 11.71.020(a)(2), unless the defendant
8 proves to the satisfaction of the court that the defendant's only role in the offense was
9 as an aider or abettor and that the defendant did not stand to benefit financially from
10 the manufacturing, the court shall require the posting of a minimum of \$250,000 cash
11 bond if the defendant has previously been convicted in this or another jurisdiction of
12 manufacturing, delivering, or possessing methamphetamine.

13 * Sec. 9. AS 12.55.125(c), as amended by ch. 2, sec. 8, SLA 2005, is amended to read:

14 (c) Except as provided in (i) of this section, a defendant convicted of a class A
15 felony may be sentenced to a definite term of imprisonment of not more than 20 years,
16 and shall be sentenced to a definite term within the following presumptive ranges,
17 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

18 (1) if the offense is a first felony conviction and does not involve
19 circumstances described in (2) of this subsection, five to eight years;

20 (2) if the offense is a first felony conviction

21 (A) and the defendant possessed a firearm, used a dangerous
22 instrument, or caused serious physical injury or death during the commission
23 of the offense, or knowingly directed the conduct constituting the offense at a
24 uniformed or otherwise clearly identified peace officer, fire fighter,
25 correctional employee, emergency medical technician, paramedic, ambulance
26 attendant, or other emergency responder who was engaged in the performance
27 of official duties at the time of the offense, seven to 11 years;

28 (B) and the conviction is for manufacturing related to
29 methamphetamine under AS 11.71.020(a)(2)(A) or (B), seven to 11 years,
30 if

31 (i) the manufacturing occurred in a building with

1 reckless disregard that the building was used as a permanent or
2 temporary home or place of lodging for one or more children
3 under 18 years of age or the building was a place frequented by
4 children; or

5 (ii) in the course of manufacturing or in preparation
6 for manufacturing, the defendant obtained the assistance of one or
7 more children under 18 years of age or one or more children were
8 present;

9 (3) if the offense is a second felony conviction, 10 to 14 years;

10 (4) if the offense is a third felony conviction and the defendant is not
11 subject to sentencing under (1) of this section, 15 to 20 years.

12 * Sec. 10. AS 12.55.125(d), as amended by ch. 2, sec. 9, SLA 2005, is amended to read:

13 (d) Except as provided in (i) of this section, a defendant convicted of a class B
14 felony may be sentenced to a definite term of imprisonment of not more than 10 years,
15 and shall be sentenced to a definite term within the following presumptive ranges,
16 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

17 (1) if the offense is a first felony conviction and does not involve
18 circumstances described in (2) of this subsection, one to three years; a defendant
19 sentenced under this paragraph may, if the court finds it appropriate, be granted a
20 suspended imposition of sentence under AS 12.55.085 if, as a condition of probation
21 under AS 12.55.086, the defendant is required to serve an active term of imprisonment
22 within the range specified in this paragraph, unless the court finds that a mitigation
23 factor under AS 12.55.155 applies;

24 (2) if the offense is a first felony conviction,

25 (A) the defendant violated AS 11.41.130, and the victim was a
26 child under 16 years of age, two to four years;

27 (B) two to four years if the conviction is for an attempt,
28 solicitation, or conspiracy to manufacture related to methamphetamine
29 under AS 11.31 and AS 11.71.020(a)(2)(A) or (B), and

30 (i) the attempted manufacturing occurred, or the
31 solicited or conspired offense was to have occurred, in a building

1 with reckless disregard that the building was used as a permanent
2 or temporary home or place of lodging for one or more children
3 under 18 years of age or the building was a place frequented by
4 children; or

5 (ii) in the course of an attempt to manufacture, the
6 defendant obtained the assistance of one or more children under 18
7 years of age or one or more children were present;

8 (3) if the offense is a second felony conviction, four to seven years;

9 (4) if the offense is a third felony conviction, six to 10 years.

10 * Sec. 11. AS 12.55.185 is amended by adding a new paragraph to read:

11 (1) "building," in addition to its usual meaning, includes any propelled
12 vehicle or structure adopted for overnight accommodation of persons or for carrying
13 on business; when a building consists of separate units, including apartment units,
14 offices, or rented rooms, each unit is considered a part of the same building.

15 * Sec. 12. AS 17.30 is amended by adding a new section to article 1 to read:

16 **Sec. 17.30.090. Dispensation of and registration and record requirements**
17 **for certain listed chemicals.** (a) A wholesaler, manufacturer, or distributor of
18 products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their
19 salts, isomers, or salts of isomers, or iodine or crystal iodine, shall keep complete
20 records of all transactions involving those products, including the names of all parties
21 involved in the transaction, the date of the transaction, and the amount of the drug
22 products involved. The records shall be kept readily retrievable for inspection by law
23 enforcement officers and separate from all other invoices or records of transactions not
24 involving those products and shall be maintained for one year, or a period of time
25 established by the Department of Public Safety by regulation, and must allow for
26 inspection of the records by law enforcement officers.

27 (b) A retailer of a product or substance that contains (1) as the sole active
28 ingredient ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers,
29 or salts of isomers, or (2) iodine, or crystal iodine may not sell or dispense the product
30 or substance unless the retailer confirms the identity of the purchaser by valid
31 government-issued photo identification, and the retailer requires the purchaser to sign a

1 written log completed by the retailer listing information required by the Department of
2 Public Safety by regulation. The Department of Public Safety and other law
3 enforcement officers shall have access to the log. The log and the information entered
4 into the log is confidential. The retailer may not allow access to the log or release
5 information contained within the log except to the Department of Public Safety or
6 other law enforcement officers.

7 (c) A person may not offer to sell a product or substance that contains (1) as
8 the sole active ingredient ephedrine, pseudoephedrine, or phenylpropanolamine, or
9 their salts, isomers, or salts of isomers, (2) iodine, or crystal iodine, or (3) any
10 additional product when required by the Department of Public Safety by regulation
11 unless that product or substance is displayed behind a service counter and not
12 accessible to the public or is kept in a secured cabinet or storage area that may only be
13 accessed by the seller.

14 (d) Nothing in this section limits the authority of a person regulated by this
15 section to report to a law enforcement agency or officer suspicious purchases of a
16 chemical, product, or substance.

17 (e) Notwithstanding (a) of this section, if a municipality enacts an ordinance
18 requiring wholesalers, manufacturers, and distributors to report the information
19 maintained under (a) of this section, each wholesaler, manufacturer, and distributor
20 shall regularly report that information to the municipal police department at intervals
21 required in the ordinance.

22 (f) Upon the written request of any law enforcement agency, ~~any wholesaler,~~
23 manufacturer, distributor, or a retailer shall report electronically or by mail the
24 information collected in (a) or (b) of this section for the subsequent six month period.

25 (g) A person has a duty to exercise that degree of care that a reasonable person
26 would observe to ensure that the requirements of (b) and (c) of this section are
27 complied with. This duty of the person includes ensuring the compliance by agents or
28 employees with this section, including acting with reasonable diligence to determine
29 that agents or employees are advised of the provisions of this section, either by
30 securing the agent's or employee's written acknowledgment of posted instructions or
31 otherwise. A person may neither knowingly allow agents or employees to violate this

1 section nor recklessly or with criminal negligence fail to act in accordance with the
2 duty prescribed under this subsection with the result that an agent or employee of the
3 licensee violates a provision of this section.

4 (h) It is an affirmative defense to a prosecution of a person that the person
5 exercised that degree of care specified in (g) of this section and did not knowingly
6 allow a violation of this section or recklessly or with criminal negligence fail to act as
7 required by this section.

8 (i) A person who knowingly violates (a), (b), or (c) of this section is guilty of a
9 class A misdemeanor, punishable upon conviction only by a fine in an amount not to
10 exceed \$10,000. A wholesaler, manufacturer, or distributor that knowingly fails to
11 report as required by (e) of this section is guilty of a violation.

12 (j) In this section,

13 (1) "criminal negligence" has the meaning given in AS 11.81.900(a);

14 (2) "distributor" means a person in the state or another state, other than
15 a manufacturer or wholesaler, who sells, delivers, transfers, or in any manner furnishes
16 a drug product described in (a) of this section to a person who is not the ultimate user
17 or consumer of the product;

18 (3) "knowingly" has the meaning given in AS 11.81.900(a);

19 (4) "manufacturer" means a person in the state who produces,
20 compounds, packages, or in any manner initially prepares for sale or use a drug
21 product described in (a) of this section, or a person in another state if the person causes
22 the products to be compounded in, packaged in, or transported to this state;

23 (5) "readily retrievable" means available for inspection without prior
24 notice at the registration address if that address is in the state; if the registration
25 address is outside the state, "readily retrievable" means records must be furnished
26 within three working days by courier, facsimile, mail, or electronic mail;

27 (6) "recklessly" has the meaning given in AS 11.81.900(a);

28 (7) "wholesaler" means a person in the state or another state, other than
29 a manufacturer, who sells, transfers, or in any manner furnishes a drug product
30 described in (a) of this section to another person in the state for the purpose of the drug
31 product's being resold.

1 * Sec. 13. AS 46.03.500 is amended by adding a new subsection to read:

2 (f) The department shall maintain on its Internet website a list of all properties
3 for which a notice has been issued under (a) of this section. For each of those
4 properties, the list must contain the parcel identification number, legal description, and
5 physical address.

6 * Sec. 14. AS 46.03.550(b) is amended to read:

7 (b) The department shall maintain a list of properties for which the department
8 has received notice under AS 46.03.500(c). When the department determines under (a)
9 of this section that a property on the list is fit for use, the department shall note on the
10 list maintained on its Internet website under AS 46.03.500(f), and on any other
11 list or database it maintains related to illegal drug manufacturing sites, that the
12 property is fit for use [REMOVE THE PROPERTY FROM THE LIST] and shall
13 notify the owner of the property that the property is fit for use. On request, the
14 department shall give a copy of the list maintained under this section to any person
15 who requests the list.

16 * Sec. 15. The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 INDIRECT COURT RULE AMENDMENT. Section 8 of this Act has the effect of
19 amending Rule 41, Alaska Rules of Criminal Procedure, by limiting the type and amount of
20 bond that can be posted to secure the pretrial release of certain defendants charged with
21 manufacturing methamphetamine under AS 11.71.020(a)(2).

22 * Sec. 16. The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 APPLICABILITY. Sections 2 - 12 and 15 of this Act apply to offenses committed on
25 or after the effective date of this Act.

26 * Sec. 17. This Act takes effect July 1, 2005.

24-LS0954VA
Luckhaupt
4/22/05

SENATE CONCURRENT RESOLUTION NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Introduced:
Referred:

A RESOLUTION

1 **Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State**
2 **Legislature, concerning House Bill No. 149, relating to controlled substances.**

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

4 That under Rule 54, Uniform Rules of the Alaska State Legislature, the provisions of
5 Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, regarding
6 changes to the title of a bill, are suspended in consideration of House Bill No. 149, relating to
7 controlled substances.

Representative Jay Ramras
Co-Chair, House Resources
V-Chair, Economic Develop.

Tourism & Trade

House State Affairs

119 N. Cushman St. Suite 207

Fairbanks, Alaska 99701

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Alaska State Legislature



While in Session
State Capitol, Room 104
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House District 10

House of Representatives Sectional Summary Senate CS for CS for House Bill No. 149 Work Order 24-LS0596\M

"An Act relating to controlled substances regarding the crimes of manslaughter and misconduct involving a controlled substance; relating to the manufacture of methamphetamine and to the sale, possession, and delivery of certain substances and precursors used in the manufacture of methamphetamine; relating to listing certain anabolic steroids as controlled substances; relating to the listing of property that constitutes an illegal drug manufacturing site; amending Rule 41, Alaska Rules of Criminal Procedure; and providing for an effective date."

Section 1. The uncodified law of the State of Alaska is amended to find that the illegal manufacture of methamphetamine subjects the public to the risk of fires, explosions, and toxic chemicals, as well as presenting a high level of danger to the community and to emergency responders which, justifies the requirement of the mandatory minimum cash bail required in sec. 8 of this Act. (SB70, Sec.1)

Section 2. Makes it a crime of manslaughter if a person intentionally, knowingly, or recklessly manufactures or delivers a controlled substance in violation of AS 11.71.010 – 11.71.030 or 11.71.040(a)(1) to a person who dies from ingestion of that controlled substance. (CSHB149(JUD)am-Sec.1, Similar to SB70-Sec.2)

Section 3. Makes possessing methamphetamine in an organic solution, or delivery of a immediate precursor of methamphetamine, or a listed chemical to another person with the knowledge that that person intends to use the listed chemical or precursor to manufacture methamphetamine a class A felony, misconduct involving a controlled substance in the second degree. (CSHB149(JUD)am-Sec.5, SB106 – Sec.1, SB70-Sec.4)

Section 4. Makes possession of more than nine grams of ephedrine, pseudoephedrine, or phenylpropanolamine prima facie evidence that the person intended to use the listed chemical to manufacture methamphetamine or to assist another person with the manufacture of methamphetamine, except for a person who possesses a listed chemical in the ordinary course of a legitimate business. (CSHB149(JUD)am-Sec.6, SB70-Sec.4, SB106-Sec.1)

Section 5. Technical amendment.

Section 6. Makes anabolic steroids a schedule VA controlled substance. (CSHB149(JUD)am-Sec.8, SB70-Sec.5)

Section 7. Limits the amount of ephedrine, pseudoephedrine, or phenylpropanolamine a person can purchase to nine grams within a 30-day period. Makes purchase or receipt of restricted amounts of certain listed chemicals a class C felony. (CSHB149(JUD)am-Sec.11, CS106-Sec.4)

Section 8. Will require that a defendant who is facing charges for manufacturing methamphetamine and who has previously been convicted of manufacturing, delivering or possessing methamphetamine will have to post a minimum cash bond of \$250,000 to get out on bail. (SB70-Sec.6)

Section 9. The current sentencing statutes are amended to read that if a person commits a class A felony of manufacturing methamphetamine in a building where a minor is present or enlisting the assistance of a minor in the manufacture of methamphetamine the sentence is 7 to 11 years. (SB70-Sec.7, Similar to CSHB149(JUD)am-Sec. 3)

Section 10. The current sentencing statutes are amended to read that if a person commits a class B felony of manufacturing methamphetamine in a building where a minor is present or enlisting the assistance of a minor in the manufacture of methamphetamine the sentence is 2 to 4 years. (SB70-Sec. 8)

Section 11. Expands on the definition of "building", in this section, to include any propelled vehicle or structure adapted to overnight accommodation of persons or for carrying on business, and to include each unit in a multi-unit building to be part of the same building. (CSHB149(JUD)am-Sec. 2, SB70-Sec.9)

Section 12. Creates requirement for distribution, registration, and record requirements for wholesalers, manufacturers, or distributors of certain listed chemicals and making violation of this section a class A misdemeanor, punishable upon conviction only by a fine in an amount not to exceed \$10,000. (CSHB149-Sec 11, Similar to SB106-Sec.5)

Section 13. States that the Department of Conservation shall maintain a list on their Internet website of all properties that the property was an illegal drug-manufacturing site. (SB70(FIN)-Sec. 9)

Section 14. States that once the property has been determined fit for use it shall be marked as fit for use on the department's Internet website. (SB70(FIN)-Sec. 10)

Section 15. Section 9 of this Act has the effect of indirectly amending Rule 41, Alaska Rules of Criminal Procedure, by limiting the type and amount of bond that can be posted.

Section 16. States that Sections 2 – 13 and 16 of this Act apply to offenses committed on or after the effective date of this Act.

Section 17. Provides that this Act takes effect July 1, 2005.

CURRENT DIFFERENCES IN DRUG BILLS

CSSB 106 (I)	CSCSHB 149 ()	CSSB 70 (JUD) (F)
	<p>Sec. 2. Makes it a crime of manslaughter if a person intentionally, knowingly, or recklessly manufactures or delivers a controlled substance in violation of AS 11.71.010 – 11.71.030 or 11.71.040(a)(1) to a person who dies from ingestion of that controlled substance. (P.2. L. 10-15)</p>	<p>Sec. 2. 11.41.120(a)(3) A person commits manslaughter if they knowingly manufacture or deliver a controlled substance in violation of AS 11.71, and a person dies as a direct result of ingesting the controlled substance; the death does not require a culpable mental state; ingesting means voluntary or involuntary. (P.2. L. 8-12)¹</p>
<p>“A retailer of a product or substance that contains a detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, iodine, or crystal iodine may not dispense the substance...” (P. 5, L. 11 – 13).</p>	<p>“A retailer of a product or substance that contains (1) as the sole active ingredient ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or (2) iodine, or crystal iodine may not sell or dispense the product or substance...” (P.9. L. 27- P.10. L. 1-6)</p>	
<p>“... of the person...” (P. 5 L. 14)</p>	<p>“...of the purchaser...” (P. 9 L. 30)</p>	
<p>“...shall be allowed access to this log upon request.” (P. 5 L 18 – 19).</p>	<p>“...shall have access to the log. The log and the information entered into the log is confidential. The retailer may not allow access to the log or release information contained within the log except to the Department of Public Safety or other law enforcement officers.” (P. 10. L. 2-6).</p>	
<p>“A person may not offer to sell a product</p>	<p>“A person may not offer to sell a product or substance</p>	

¹ Sec. 3 of CSSB70(JUD) was removed by the Senate Finance Committee in CSSB70(FIN). This was the section that gave affirmative defenses to the charge of manslaughter due to ingestion of a controlled substance.

CURRENT DIFFERENCES IN DRUG BILLS

or substance that contains ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, iodine, or crystal iodine unless that product..." (P. 5 ll. 20 – 22).	that contains (1) as the sole active ingredient ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, or (2) iodine, or crystal iodine unless that product or substance..." (P.10-L. 7-13)	
No similar language	"Nothing in this section limits the authority of a person regulated by this section to report to a law enforcement agency or officer suspicious purchases of a chemical, product, or substance." (P.10- L. 14-16)	
No similar language	"Upon the written request of any law enforcement agency, any wholesaler, manufacturer, distributor, or a retailer shall report electronically or by mail the information collected in (a) or (b) of this section for the subsequent six month period." (P.10-L. 22-24)	
No similar language	Section 8 – cash bond for meth production if previously convicted.	Section 5 – cash bond for meth production if previously convicted.
No similar language	Section 9 – Sentencing for class A felony Meth production	Section 6 – Sentencing for class A felony Meth production
No similar language	Section 10 – Sentencing for class B felony meth production	Section 7 – Sentencing for class B felony meth production
No similar language	Section 13 – DEC Internet website for drug contaminated properties requirements. No similar language	Section 9 – DEC Internet website for drug contaminated properties requirements.
No similar language	Section 14 – Requirement regarding noting on the DEC website that a property has been deemed fit for use.	Section 10 – Requirement regarding noting on the DEC website that a property has been deemed fit for use.

Spreadsheet of Meth Bills

CSSB 70 (FIN) Version L	CSHB 99 (JUD) Version G	CSSB 106	CSHB 149 (JUD)am
<p>Sec. 1. Uncodified. The activity of manufacturing meth presents such a high level of danger that mandatory minimum cash bail is required as set in Sec. 9 (p.1) (CSHB149-Sec.1)</p>	<p>Sec. 1. 11.41.120(a)(3) A person commits manslaughter if they knowingly manufacture or deliver a controlled substance in violation of AS 11.71, and a person dies as a direct result of ingesting the controlled substance; the death does not require a culpable mental state. (p.1) (Similar to SB70-Sec.2, HB149-Sec.1)</p>	<p>Sec. 1. 11.71.020(a)(5) MICS in the second degree is amended to add(5) possess meth in an organic solution with intent to extract meth (6) under circumstances not proscribed under AS 11.71.010(a)(2), delivers (A) an immediate precursor of meth, to another person to manufacture meth; or (B) a listed chemical to another person with reckless disregard that the listed chemical will be used to manufacture meth, an immediate precursor of meth or meth in an organic solution. (p.2) Similar SB70-Sec.4, HB99-Sec.5, 149-Sec-5)</p>	<p>Section 1. The uncodified law of the State of Alaska is amended to find that the illegal manufacture of methamphetamine subjects the public to the risk of fires, explosions, and toxic chemicals, as well as presenting a high level of danger to the community and to emergency responders which, justifies the requirement of the mandatory minimum cash bail required in sec. 9 of this Act. (SB70, Sec.1)</p>
<p>Sec. 2. 11.41.120(a)(3) A person commits manslaughter if they knowingly manufacture or deliver a controlled substance in violation of AS 11.71, and a person dies as a direct result of ingesting the controlled substance; the death does not require a culpable mental state; ingesting means voluntary or involuntary. (p.2) (Similar to CSHB149-Sec. 2)</p>	<p>Sec. 2. AS 11.51.100(c) redefines building. (p.2). (Same as SB70-Sec.9, HB149-Sec.6)</p>	<p>Sec. 2. 11.71.020 a new subsection is added. (d) more than nine grams of the listed chemicals ephedrine, pseudoephedrine, or phenylpropanolamine is prima facie evidence that the person intended to use the chemical to manufacture or aid another person to manufacture, or to deliver to another person who intends to manufacture meth with exceptions (p.3) (Similar to HB149 Sec.6)</p>	<p>Sec. 2. Makes it a crime of manslaughter if a person intentionally, knowingly, or recklessly manufactures or delivers a controlled substance in violation of AS 11.71.010 – 11.71.030 or 11.71.040(a)(1) to a person who dies from ingestion of that controlled substance. (CSHB149(JUD)am-Sec.1, Similar to SB70-Sec.2)</p>
<p>Sec. 3. 11.71.020(a) MICS in the second degree is amended to add (5) possess meth in an organic solution with intent to extract meth from the solution. (p.2) (Similar to HB 99-Sec.5, SB106-Sec1, and CSHB149-Sec. 3)</p>	<p>Sec. 3 AS 11.51.100(f) Endangering the welfare of a child under in the first degree under (a)(1) or (2), or (g) of this section is a class C felony. (p. 2) (Similar to SB70-Sec.7, HB149, Sec.3)</p>	<p>Sec. 3. 11.71.030(a) technical amendment to include new sections. (p.3)</p>	<p>Section 3. Makes possessing methamphetamine in an organic solution, or delivery of a immediate precursor of methamphetamine, or a listed chemical to another person with the knowledge that that person intends to use the listed chemical or precursor to manufacture methamphetamine a class A felony, misconduct involving a controlled substance in the second degree. (CSHB149(JUD)am-Sec.5, SB106 – Sec.1, SB70-Sec.4)</p>

Spreadsheet of Meth Bills

CSSB 70 (FIN) Version L	CSHB 99 (JUD) Version G	CSSB 106	CSHB 149 (JUD)am
<p>Sec. 4. 11.71.180 Makes anabolic steroids a Schedule VA controlled substance. includes, but not limited the following: (p.4-5) (Similar to CSHB149-Sec.6)</p>	<p>Sec. 4 11.51.100 (g) a person commits the crime of endangering the welfare of a child in the first degree if the person knowingly manufactures meth in violation of 11.71 in a building where a minor resides. Sec. 8 of CSSB 70 (JUD) address this in terms of sentencing. (p.3) (Similar to SB70-Sec.8, HB149-Sec.3)</p>	<p>Sec. 4. AS 11.71 a new section is added to article 2. 11.71.210 (a) A person commits the crime of purchase or receipt of restricted amounts of certain listed chemicals if a person purchases or receives more than nine grams of the following chemicals within 30-days: (1) ephedrine (2) pseudoephedrine (3) phenylpropanolamine. (b) exceptions to subsection (a). (c) Purchase or receipt of restricted amounts of chemicals is a class C felony. (p.4) (Same as HB149-Sec. 9)</p>	<p>Section 4. Makes possession of more than nine grams of ephedrine, pseudoephedrine, or phenylpropanolamine prima facie evidence that the person intended to use the listed chemical to manufacture methamphetamine or to assist another person with the manufacture of methamphetamine, except for a person who possesses a listed chemical in the ordinary course of a legitimate business. (CSHB149(JUD)am-Sec.6, SB70-Sec.4, SB106-Sec.1)</p>

Spreadsheet of Meth Bills

CSSB 70 (FIN) Version L	CSHB 99 (JUD) Version G	CSSB 106	CSHB 149 (JUD)am
<p>Sec. 5. 12.30.023 If a defendant is charged with manufacturing meth under AS 11.71.020(a)(2), unless an aider or abettor who no financial gain, the court shall require the posting of a minimum of a \$250,000 cash bond if; (1) possessed a firearm while engaged in manufacturing; or (2) had previously been convicted of manufacturing, delivering, or possessing meth. (p.5) (CSHB149-Sec.8)</p>	<p>Sec. 5. 11.71.020(a) MICS in the second degree is amended to add (5) possess meth in an organic solution with intent to extract meth from the solution. (p.3) (Same as SB70-Sec.4, SB106-Sec.1, HB149-Sec.5)</p>	<p>Sec. 5. AS 17.30.090 is added to 17.30. (a) A wholesaler, manufacturer, or distributor of products containing ephedrine, psuedoephedrine, or P2P shall keep records of all transactions, including the names of all parties involved, the date of the transaction, and the amount of the product involved. The records are to be kept readily retriavable and shall be maintained for 3 years, and allow for in person inspection by law enforcement. (b) retailer selling products contianing the above and iodine or crystal iodine may not dispense the products without obtaining valid government photo id, signing of a written log showing date of transaction, name of purchaser, type of id and id number, and amount dispensed. (c) products containing the above must be kept behind a service ccurter (d) if municipality enacts an ordinance the seller shall regularly report the info. (e) defintions (f) a violation of (a), (b), or (c) of this section is a class A misdemeanor, punishable by a fine only of up to \$10,000. (p.5-6) (Similar to HB149-Sec.9)</p>	<p>Section 5. Technical amendment.</p>

Spreadsheet of Meth Bills

CSSB 70 (FIN) Version L	CSHB 99 (JUD) Version G	CSSB 106	CSHB 149 (JUD)am
<p>Sec. 6. The current sentencing statutes are amended to read that if a person commits a class A felony of manufacturing methamphetamine in a building where a minor is present or enlisting the assistance of a minor in the manufacture of methamphetamine the sentence is 7 to 11 years. (p.4-5) (CSHB149-Sec.9)</p>	<p>Sec. 6. The changes made in 1-5 of this Act apply to offenses committed on or after the effective date of this Act.</p>	<p>Sec. 6. Applicability. This Act applies to offenses committed on or after the effective date of this Act. (p.7)</p>	<p>Section 6. Makes anabolic steroids a schedule VA controlled substance. (CSHB149(JUD)am-Sec.8, SB70-Sec.5)</p>
<p>Sec. 7. The current sentencing statutes are amended to read that if a person commits a class B felony of manufacturing methamphetamine in a building where a minor is present or enlisting the assistance of a minor in the manufacture of methamphetamine the sentence is 2 to 4 years. (p.5-6) (CSHB149-Sec.10)</p>	<p>Sec. 7. This Act takes effect 07/01/05.</p>	<p>Sec. 7. This Act takes effect 07/01/05. (p.7)</p>	<p>Section 7. Limits the amount of ephedrine, pseudoephedrine, or phenylpropanolamine a person can purchase to nine grams within a 30-day period. Makes purchase or receipt of restricted amounts of certain listed chemicals a class C felony. (CSHB149(JUD)am-Sec.11, CS106-Sec.4)</p>
<p>Sec. 8. Expands on the definition of "building", in this section, to include any propelled vehicle or structure adapted to overnight accommodation of persons or for carrying on business, and to include each unit in a multi-unit building to be part of the same building. (p.8) (CSHB149-Sec. 11)</p>			<p>Section 8. Will require that a defendant who is facing charges for manufacturing methamphetamine and who has previously been convicted of manufacturing, delivering or possessing methamphetamine will have to post a minimum cash bond of \$250,000 to get out on bail. (SB70-Sec.6)</p>

Spreadsheet of Meth Bills

CSSB 70 (FIN) Version L	CSHB 99 (JUD) Version G	CSSB 106	CSHB 149 (JUD)am
<p>Sec. 9. States that the Department of Conservation shall maintain a list on their Internet website of all properties that the property was an illegal drug-manufacturing site. (p.6-7) (CSHB149-Sec. 13)</p>			<p>Section 9. The current sentencing statutes are amended to read that if a person commits a class A felony of manufacturing methamphetamine in a building where a minor is present or enlisting the assistance of a minor in the manufacture of methamphetamine the sentence is 7 to 11 years. (SB70-Sec.7, Similar to CSHB149(JUD)am-Sec. 3)</p>
<p>Sec. 10. States that once the property has been determined fit for use it shall be marked as fit for use on the department's Internet website. (p.7) (CSHB149-Sec. 14)</p>			<p>Section 10. The current sentencing statutes are amended to read that if a person commits a class B felony of manufacturing methamphetamine in a building where a minor is present or enlisting the assistance of a minor in the manufacture of methamphetamine the sentence is 2 to 4 years. (SB70 Sec. 8)</p>
<p>Sec. 11. Section 9 of this Act has the effect of indirectly amending Rule 41, Alaska Rules of Criminal Procedure, by limiting the type and amount of bond that can be posted. (p.7) (CSHB149-Sec.15)</p>			<p>Section 11. Expands on the definition of "building", in this section, to include any propelled vehicle or structure adapted to overnight accommodation of persons or for carrying on business, and to include each unit in a multi-unit building to be part of the same building. CSHB149(JUD)am-Sec. 2, SB70-Sec.9)</p>
<p>Sec. 12. States that Sections 2 – 8 and 11 of this Act apply to offenses committed on or after the effective date of this Act. (p.7) (Similar to CSHB149-Sec.16)</p>			<p>Section 12. Creates requirement for distribution, registration, and record requirements for wholesalers, manufactures, or distributors of certain listed chemicals and making violation of this section a class A misdemeanor, punishable upon conviction only by a fine in an amount not to exceed \$10,000. (CSHB149-Sec 11, Similar to SB106-Sec.5)</p>
<p>Sec. 13. Act takes effect 07/01/05. (p.7)</p>			<p>Section 13. States that the Department of Conservation shall maintain a list on their Internet website of all properties that the property was an illegal drug-manufacturing site. (SB70(FIN)-Sec. 9)</p>

Spreadsheet of Meth Bills

CSSB 70 (FIN) Version L	CSHB 99 (JUD) Version G	CSSB 106	CSHB 149 (JUD)am
			Section 14. States that once the property has been determined fit for use it shall be marked as fit for use on the department's Internet website. (SB70(FIN)-Sec. 10)
			Section 15. Section 9 of this Act has the effect of indirectly amending Rule 41, Alaska Rules of Criminal Procedure, by limiting the type and amount of bond that can be posted.
			Section 16. States that Sections 2 – 13 and 16 of this Act apply to offenses committed on or after the effective date of this Act.
			Section 17. Provides that this Act takes effect July 1, 2005.

AMENDMENT #1

OFFERED IN THE SENATE

TO: SCS CSHB 149(), Draft Version "M"

1 Page 4, lines 2 - 16:

2 Delete "The prima facie evidence described in this subsection does not apply to a
3 person who possesses the listed chemicals ephedrine, pseudoephedrine, phenylpropanolamine,
4 or the salts, isomers, or salts of isomers of those chemicals

5 (1) and the listed chemical was dispensed to the person under a valid
6 prescription; or

7 (2) in the ordinary course of a legitimate business, or an employee of a
8 legitimate business, as a

9 (A) retailer or as a wholesaler;

10 (B) wholesale drug distributor licensed by the Board of
11 Pharmacy;

12 (C) manufacturer of drug products licensed by the Board of
13 Pharmacy;

14 (D) pharmacist licensed by the Board of Pharmacy; or

15 (E) health care professional licensed by the state."

16 Insert "The prima facie evidence described in this subsection does not apply to a
17 person who possesses

18 (1) the listed chemicals ephedrine, pseudoephedrine,
19 phenylpropanolamine, or the salts, isomers, or salts of isomers of those chemicals

20 (A) and the listed chemical was dispensed to the person under a
21 valid prescription; or

22 (B) in the ordinary course of a legitimate business, or an
23 employee of a legitimate business, as a

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(i) retailer or as a wholesaler;
(ii) wholesale drug distributor licensed by the Board of
Pharmacy;
(iii) manufacturer of drug products licensed by the
Board of Pharmacy;
(iv) pharmacist licensed by the Board of Pharmacy; or
(v) health care professional licensed by the state; or
(2) less than 24 grams of ephedrine, pseudoephedrine,
phenylpropanolamine, or the salts, isomers, or salts of isomers of those chemicals in a
home or business establishment under circumstances that are consistent with typical
medicinal or household use, as indicated by factors that include storage location,
purchase date, possession of the products in a variety of strengths, brands, types,
purposes, and expiration dates; the exception provided in this paragraph does not
apply if the substances in excess of nine grams were all purchased within a period of
thirty consecutive days unless purchased by a legitimate business for use in the
ordinary course of the business."

24-GS1049\L
Luckhaupt
4/16/05

CS FOR SENATE BILL NO. 70(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

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

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to controlled substances regarding the crimes of manslaughter and**
2 **misconduct involving a controlled substance; relating to listing certain anabolic steroids**
3 **as controlled substances; relating to the listing of property that constitutes an illegal**
4 **drug manufacturing site; amending Rule 41, Alaska Rules of Criminal Procedure; and**
5 **providing for an effective date."**

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

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

9 **FINDINGS.** The legislature finds that the illegal manufacturing of methamphetamine
10 of the type that is generally encountered in Alaska subjects anyone within a wide area to the
11 risk of fire, explosion, and toxic chemicals in gaseous, liquid, and solid form. This activity
12 presents such a high level of danger to the community and to law enforcement and
13 environmental personnel that the mandatory minimum cash bail required by sec. 5 of this Act

1
Bail Provision

1 is justified for defendants described in that section.

2 * Sec. 2. AS 11.41.120(a) is amended to read:

3 (a) A person commits the crime of manslaughter if the person

4 (1) intentionally, knowingly, or recklessly causes the death of another
5 person under circumstances not amounting to murder in the first or second degree;

6 [OR]

7 (2) intentionally aids another person to commit suicide; or

8 (3) knowingly manufactures or delivers a controlled substance in
9 violation of AS 11.71, and a person dies as a direct result of ingesting the
10 controlled substance: the death is a result that does not require a culpable mental
11 state; in this paragraph, "ingesting" means voluntarily or involuntarily taking a
12 substance into the body in any manner.

13 * Sec. 3. AS 11.71.020(a) is amended to read:

14 (a) Except as authorized in AS 17.30, a person commits the crime of
15 misconduct involving a controlled substance in the second degree if the person

16 (1) manufactures or delivers any amount of a schedule IA controlled
17 substance or possesses any amount of a schedule IA controlled substance with intent
18 to manufacture or deliver;

19 (2) manufactures any material, compound, mixture, or preparation that
20 contains

21 (A) methamphetamine, or its salts, isomers, or salts of isomers;

22 or

23 (B) an immediate precursor of methamphetamine, or its salts,
24 isomers, or salts of isomers;

25 (3) possesses an immediate precursor of methamphetamine, or the
26 salts, isomers, or salts of isomers of the immediate precursor of methamphetamine,
27 with the intent to manufacture any material compound, mixture, or preparation that
28 contains methamphetamine, or its salts, isomers, or salts of isomers; [OR]

29 (4) possesses a listed chemical with intent to manufacture any material,
30 compound, mixture, or preparation that contains

31 (A) methamphetamine, or its salts, isomers, or salts of isomers;

1 or

2 (B) an immediate precursor of methamphetamine, or its salts,
3 isomers, or salts of isomers; or

4 (5) possesses methamphetamine in an organic solution with intent
5 to extract from the solution methamphetamine salts, isomers, or salts of isomers
6 [ISOMER].

7 * Sec. 4. AS 11.71.180 is amended by adding a new subsection to read:

8 (f) Schedule VA includes, unless specifically excepted or unless listed in
9 another schedule, any material, compound, mixture, or preparation that contains any
10 quantity of the following substances, including their salts, esters, isomers, and salts of
11 esters and isomers if those salts, esters, or isomers promote muscle growth, whenever
12 the existence of these salts, esters, and isomers is possible within the specific chemical
13 designation: anabolic steroids. In this subsection, "anabolic steroids" means any drug
14 or hormonal substance that is chemically and pharmacologically related to testosterone
15 (other than estrogens, progestins, and corticosteroids) and that promotes muscle
16 growth; "anabolic steroids" does not include an anabolic steroid that is expressly
17 intended for administration through implants to cattle or other nonhuman species and
18 that has been approved by the United States Secretary of Health and Human Services
19 for that administration, unless a person prescribes, dispenses, or distributes that type of
20 anabolic steroid for human use; "anabolic steroids" ~~includes, but is not limited to,~~ the
21 following:

- 22 (1) boldenone;
- 23 (2) chlorotestosterone (4-chlorotestosterone);
- 24 (3) clostebol;
- 25 (4) dehydrochlormethyltestosterone;
- 26 (5) dihydrotestosterone (4-dihydrotestosterone);
- 27 (6) drostanolone;
- 28 (7) ethylestrenol;
- 29 (8) fluoxymesterone;
- 30 (9) formebulone (formebolone);
- 31 (10) mesterolone;

- 1 (11) methandienone;
- 2 (12) methandranone;
- 3 (13) methandriol;
- 4 (14) methandrostenolone;
- 5 (15) methenolone;
- 6 (16) methyltestosterone;
- 7 (17) mibolerone;
- 8 (18) nandrolone;
- 9 (19) norethandrolone;
- 10 (20) oxandrolone;
- 11 (21) oxymesterone;
- 12 (22) oxymetholone;
- 13 (23) stanolone;
- 14 (24) stanozolol;
- 15 (25) testolactone;
- 16 (26) testosterone;
- 17 (27) trenbolone.

18 * Sec. 5. AS 12.30.023 is amended by adding a new subsection to read:

19 (b) In addition to conditions the court may impose under (a) of this section and
 20 notwithstanding other provisions in this chapter, if the defendant is charged with
 21 manufacturing methamphetamine under AS 11.71.020(a)(2), unless the defendant
 22 proves to the satisfaction of the court that the defendant's only role in the offense was
 23 as an aider or abettor and that the defendant did not stand to benefit financially from
 24 the manufacturing, the court shall require the posting of a minimum of \$250,000 cash
 25 bond if the defendant has previously been convicted in this or another jurisdiction of
 26 manufacturing, delivering, or possessing methamphetamine.

27 * Sec. 6. AS 12.55.125(c), as amended by ch. 2, sec. 8, SLA 2005, is amended to read:

28 (c) Except as provided in (i) of this section, a defendant convicted of a class A
 29 felony may be sentenced to a definite term of imprisonment of not more than 20 years,
 30 and shall be sentenced to a definite term within the following presumptive ranges,
 31 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

1 (1) if the offense is a first felony conviction and does not involve
2 circumstances described in (2) of this subsection, five to eight years;

3 (2) if the offense is a first felony conviction

4 (A) and the defendant possessed a firearm, used a dangerous
5 instrument, or caused serious physical injury or death during the commission
6 of the offense, or knowingly directed the conduct constituting the offense at a
7 uniformed or otherwise clearly identified peace officer, fire fighter,
8 correctional employee, emergency medical technician, paramedic, ambulance
9 attendant, or other emergency responder who was engaged in the performance
10 of official duties at the time of the offense, seven to 11 years;

11 (B) and the conviction is for manufacturing related to
12 methamphetamine under AS 11.71.020(a)(2)(A) or (B), seven to 11 years,
13 if

14 (i) the manufacturing occurred in a building with
15 reckless disregard that the building was used as a permanent or
16 temporary home or place of lodging for one or more children
17 under 18 years of age or the building was a place frequented by
18 children; or

19 (ii) in the course of manufacturing or in preparation
20 for manufacturing, the defendant obtained the assistance of one or
21 more children under 18 years of age or one or more children were
22 present;

23 (3) if the offense is a second felony conviction, 10 to 14 years;

24 (4) if the offense is a third felony conviction and the defendant is not
25 subject to sentencing under (1) of this section, 15 to 20 years.

26 * Sec. 7. AS 12.55.125(d), as amended by ch. 2, sec. 9, SLA 2005, is amended to read:

27 (d) Except as provided in (i) of this section, a defendant convicted of a class B
28 felony may be sentenced to a definite term of imprisonment of not more than 10 years,
29 and shall be sentenced to a definite term within the following presumptive ranges,
30 subject to adjustment as provided in AS 12.55.155 - 12.55.175:

31 (1) if the offense is a first felony conviction and does not involve

1 circumstances described in (2) of this subsection, one to three years; a defendant
2 sentenced under this paragraph may, if the court finds it appropriate, be granted a
3 suspended imposition of sentence under AS 12.55.085 if, as a condition of probation
4 under AS 12.55.086, the defendant is required to serve an active term of imprisonment
5 within the range specified in this paragraph, unless the court finds that a mitigation
6 factor under AS 12.55.155 applies;

7 (2) if the offense is a first felony conviction,

8 (A) the defendant violated AS 11.41.130, and the victim was a
9 child under 16 years of age, two to four years;

10 (B) two to four years if the conviction is for an attempt,
11 solicitation, or conspiracy to manufacture related to methamphetamine
12 under AS 11.31 and AS 11.71.020(a)(2)(A) or (B), and

13 (i) the attempted manufacturing occurred, or the
14 solicited or conspired offense was to have occurred, in a building
15 with reckless disregard that the building was used as a permanent
16 or temporary home or place of lodging for one or more children
17 under 18 years of age or the building was a place frequented by
18 children; or

19 (ii) in the course of an attempt to manufacture, the
20 defendant obtained the assistance of one or more children under 18
21 years of age or one or more children were present;

22 (3) if the offense is a second felony conviction, four to seven years;

23 (4) if the offense is a third felony conviction, six to 10 years.

24 * Sec. 8. AS 12.55.185 is amended by adding a new paragraph to read:

25 (1) "building," in addition to its usual meaning, includes any propelled
26 vehicle or structure adopted for overnight accommodation of persons or for carrying
27 on business; when a building consists of separate units, including apartment units,
28 offices, or rented rooms, each unit is considered a part of the same building.

29 * Sec. 9. AS 46.03.500 is amended by adding a new subsection to read:

30 (f) The department shall maintain on its Internet website a list of all properties
31 for which a notice has been issued under (a) of this section. For each of those

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properties, the list must contain the parcel identification number, legal description, and physical address.

* Sec. 10. AS 46.03.550(b) is amended to read:

(b) The department shall maintain a list of properties for which the department has received notice under AS 46.03.500(c). When the department determines under (a) of this section that a property on the list is fit for use, the department shall note on the list maintained on its Internet website under AS 46.03.500(f), and on any other list or database it maintains related to illegal drug manufacturing sites, that the property is fit for use [REMOVE THE PROPERTY FROM THE LIST] and shall notify the owner of the property that the property is fit for use. On request, the department shall give a copy of the list maintained under this section to any person who requests the list.

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

INDIRECT COURT RULE AMENDMENT. Section 5 of this Act has the effect of amending Rule 41, Alaska Rules of Criminal Procedure, by limiting the type and amount of bond that can be posted to secure the pretrial release of certain defendants charged with manufacturing methamphetamine under AS 11.71.020(a)(2).

* Sec. 12. The uncoded law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. Sections 2 - 8 and 11 of this Act apply to offenses committed on or after the effective date of this Act.

* Sec. 13. This Act takes effect July 1, 2005.

1 circumstances described in (2) of this subsection, one to three years; a defendant
2 sentenced under this paragraph may, if the court finds it appropriate, be granted a
3 suspended imposition of sentence under AS 12.55.085 if, as a condition of probation
4 under AS 12.55.086, the defendant is required to serve an active term of imprisonment
5 within the range specified in this paragraph, unless the court finds that a mitigation
6 factor under AS 12.55.155 applies;

7 (2) if the offense is a first felony conviction,

8 (A) the defendant violated AS 11.41.130, and the victim was a
9 child under 16 years of age, two to four years;

10 (B) two to four years if the conviction is for an attempt,
11 solicitation, or conspiracy to manufacture related to methamphetamine
12 under AS 11.31 and AS 11.71.020(a)(2)(A) or (B), and

13 (i) the attempted manufacturing occurred, or the
14 solicited or conspired offense was to have occurred, in a building
15 with reckless disregard that the building was used as a permanent
16 or temporary home or place of lodging for one or more children
17 under 18 years of age or the building was a place frequented by
18 children; or

19 (ii) in the course of an attempt to manufacture, the
20 defendant obtained the assistance of one or more children under 18
21 years of age or one or more children were present;

22 (3) if the offense is a second felony conviction, four to seven years;

23 (4) if the offense is a third felony conviction, six to 10 years.

24 * Sec. 8. AS 12.55.185 is amended by adding a new paragraph to read:

25 (1) "building," in addition to its usual meaning, includes any propelled
26 vehicle or structure adopted for overnight accommodation of persons or for carrying
27 on business; when a building consists of separate units, including apartment units,
28 offices, or rented rooms, each unit is considered a part of the same building.

29 * Sec. 9. AS 46.03.500 is amended by adding a new subsection to read:

30 (f) The department shall maintain on its Internet website a list of all properties
31 for which a notice has been issued under (a) of this section. For each of those

Brian -

Sec. 9 & Sec. 10 were added
to SB 70 in Finance to
address the issue of realtors'
access to data on contaminated
sites.

Senate Green would appreciate
this language being added to
HB 149.

If you need a request in return
for in please let us know.

This language was crafted
by Law & DEC together.

thanks

trm x6581

1 properties, the list must contain the parcel identification number, legal description, and
2 physical address.

3 * Sec. 10. AS 46.03.550(b) is amended to read:

4 (b) The department shall maintain a list of properties for which the department
5 has received notice under AS 46.03.500(c). When the department determines under (a)
6 of this section that a property on the list is fit for use, the department shall note on the
7 list maintained on its Internet website under AS 46.03.500(f), and on any other
8 list or database it maintains related to illegal drug manufacturing sites, that the
9 property is fit for use [REMOVE THE PROPERTY FROM THE LIST] and shall
10 notify the owner of the property that the property is fit for use. On request, the
11 department shall give a copy of the list maintained under this section to any person
12 who requests the list.

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

15 INDIRECT COURT RULE AMENDMENT. Section 5 of this Act has the effect of
16 amending Rule 41, Alaska Rules of Criminal Procedure, by limiting the type and amount of
17 bond that can be posted to secure the pretrial release of certain defendants charged with
18 manufacturing methamphetamine under AS 11.71.020(a)(2).

19 * Sec. 12. The uncodified law of the State of Alaska is amended by adding a new section to
20 read:

21 APPLICABILITY. Sections 2 - 8 and 11 of this Act apply to offenses committed on
22 or after the effective date of this Act.

23 * Sec. 13. This Act takes effect July 1, 2005.

Representative Jay Ramras
Co-Chair, House Resources
V-Chair, Economic Develop.
Tourism & Trade

House State Affairs
119 N. Cushman St. Suite 207
Fairbanks, Alaska 99701
Phone: (907) 452-1088
Fax: (907) 452-1146

Alaska State Legislature



While in Session
State Capitol, Room 104
Juneau, Alaska 99801-1182
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House District 10

House of Representatives

Sponsor Statement

HB 149

House Bill 149 is legislation addressing one of Alaska's fastest growing and most devastating crime problems. Never before has law enforcement been faced with such a dangerous synthetic narcotic. Methamphetamine is highly addictive, and can easily be manufactured in small clandestine laboratories using inexpensive, over the counter drugs and chemicals. These laboratories are detrimental to society, not only for the drugs they produce, but also due to fire hazard, and the toxic waste that they create.

The purpose of HB 149 is to address this highly addictive, central nervous system stimulant. HB 149 will make it a crime to possess or deliver substances in quantities that are used to manufacture methamphetamine. This bill will require a person acquiring drugs containing ephedrine, pseudoephedrine, or phenylpropanolamine, as well as those purchasing iodine or iodine crystals, to show a photo ID and sign a written log or receipt relating to the sale. Any business distributing these chemicals will have to keep these logs for three years and make them readily available to law enforcement. A business in violation of this law will be punishable upon conviction of a fine not to exceed \$10,000.

This bill would also restrict the amount of pseudoephedrine a person can acquire to nine grams within a 30-day period. Additionally, the bill will restrict the amount of pseudoephedrine a person can legitimately possess.

Additionally, this bill will make certain anabolic steroids a schedule VA controlled substance.

Furthermore, this bill will serve to protect Alaska's children by making it a class C felony to manufacture methamphetamine in a building where a minor is present.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB149CS-DPS-LAB-4-21-05
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title "An Act relating to controlled substances; RDU Statewide Services
relating to the crimes of manslaughter..." Component Laboratory Services
 Sponsor Representative Ramras
 Requester Senate Judiciary Committee Component No. 527

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	5.77					
Travel	2.5					
Contractual						
Supplies	5.9					
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	14.17	0	0	0	0	0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	14.17					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	14.17	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 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Section 8 of this legislation adds anabolic steroids to the language in statute for controlled substances under Schedule VA. (The V in this reference is the Roman numeral for the number five, thus VA would be read as 5-A).

This action will require the state crime lab to begin testing for anabolic steroids as defined in this section. The crime lab will have to send a drug criminalist to the Drug Enforcement Agency (DEA) laboratory in San Francisco, California for a full week of training. The drug testing methodologies will then have to be validated in the state's crime lab.

This will require the purchase of drug standards for the most common steroids which must then be run

Prepared by: Director David Schade Phone 907-269-0202
 Division Statewide Services Date/Time 4/21/05 1:19 PM
 Approved by: Commissioner William Tandeske Date 4/21/2005
 Agency Department of Public Safety

FISCAL NOTE

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

BILL NO. HB149CS-DPS-LAB-4-21-05

ANALYSIS CONTINUATION

through the lab's equipment for authentication. Drug standards must be regularly added as new forms of the substances are developed and presented in criminal cases.

The criminalist must develop lab protocols for the state lab based on DEA protocols and then update the lab's various manuals and protocols. For example, the drug standard quality control manual, the reagent quality control manual, and the instrument and scale maintenance logs will periodically have to be updated. All hard copies and electronic versions of these manuals, protocols, and logs must be updated. Copies are provided for national lab certification processes, prosecutors' offices, discovery purposes, and for the lab.

The amounts reflected above are a one time cost for initiating this testing regime. The department will try and absorb the future costs in the normal budget process.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 149(JUD)
 (H) Publish Date: 3/14/05

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Sale of Methamphetamine BRU Alaska Court System
 Component Trial Courts
 Sponsor Representative Ramras
 Requester _____ 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	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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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)
 The court system does not anticipate any fiscal impact from the passage of HB 149.

Prepared by: Douglas Wooliver, Administrative Attorney Phone 463-4750
 Division Alaska Court System Date/Time 3/3/05 2:23 PM
 Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date 3/3/2005
 Agency Alaska Court System

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 149(JUD)
 (H) Publish Date: 3/14/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title: "An Act relating to further regulation of the sale, possession, and delivery of certain chemicals...." RDU: CRIMINAL
 Component: Criminal Justice Litigation
 Sponsor: Representative Ramras
 Requester: House Judiciary 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						
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CHANGE IN REVENUES ()						
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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 amends AS 11.71.020(a) by including the manufacture, delivery, or possession of methamphetamine or certain chemicals that make up methamphetamine as a misconduct involving a controlled substance in the second degree. The bill further defines the possession of six or more grams of certain chemicals used in the manufacture of methamphetamine as evidence that the person intended to use the listed chemical to manufacture or assist in the manufacture of methamphetamine. The bill excludes licensed wholesale and retail distributors of drugs; a manufacturer of chemicals or drug products; licensed pharmacists; and licensed health care providers.

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

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division: Administrative Services Division Date/Time 3/6/05 12:32 PM
 Approved by: K. Daughhete for Scott Nordstrand, Acting Attorney General Date 3/6/2005
 Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 149(JUD)
 (H) Publish Date: 3/14/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: An Act relating to controlled substances... RDU: Legal and Advocacy Services
 Component: Public Defender Agency
 Sponsor: Reps. Ramras, Wilson, Lynn...
 Requester: House Judiciary 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	*	*	*	*	*	*
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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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						
Temporar.						

ANALYSIS: (Attach a separate page if necessary)

This bill amends the crime of misconduct involving a controlled substance in the second degree, a Class A felony, to include possessing or delivering an immediate precursor of methamphetamine or providing a listed chemical, including pseudoephedrine in certain amounts, to another person for the purpose of manufacturing methamphetamine. It also makes it a crime to possess, purchase or deliver restricted amounts of pseudoephedrine, iodine, or crystal iodine. The Agency's operations will be fiscally impacted should this bill be enacted. The Agency has seen a recent increase in appointments concerning methamphetamine cases. In addition, making it a new offense, and a felony in some instances to possess, purchase or deliver restricted amounts of products containing pseudoephedrine, iodine, or crystal iodine will increase the caseload of the Agency, but the extent of the impact is not possible to predict with any accuracy, therefore an indeterminate fiscal note is submitted.

Prepared by: Linda K. Wilson, Deputy Director Phone: (907)334-4416
 Division: Public Defender Agency Date/Time: 3/8/05 12:07 PM
 Approved by: Michael Tibbles, Deputy Commissioner Date: 3/8/2005
 Agency: Department of Administration

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: CSHB 149(JUD)
 (H) Publish Date: 3/14/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title: "An act relating to... sale, possession, and RDU: Institutional Facilities
delivery of certain chemicals ... in the manufacture of meth Component: Institution Director's Office
 Sponsor: Representatives Ramras, Wilson, Lynn
 Requester: Judiciary, Finance 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	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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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 amends AS 11.71.020(a) by including the manufacture, delivery, or possession of methamphetamine or certain chemicals that make up methamphetamine as a misconduct involving a controlled substance in the second degree. The bill defines the possession of six or more grams of certain chemicals used in the manufacture as evidence that the person intended to use the listed chemical to manufacture or assist in the manufacture of methamphetamine. The bill excludes licensed wholesale and retail distributors of drugs; a manufacturer of chemicals or drug products; licensed pharmacists; and licensed health care providers. The bill may increase the number of inmates in custody and may increase sentences for offenders convicted of unlawful activity covered by this legislation, but due to a lack of data and an inability to predict the number of potential prosecutions, the fiscal impact to the Department of Corrections is indeterminate.

Prepared by: Sharleen Griffin, Acting Director
 Division: Administrative Services
 Approved by: Portia C.K. Parker, Deputy Commissioner
 Agency: Department of Corrections

Phone: 465-4641
 Date/Time: 3/7/05 4:35 PM
 Date: 3/7/2005

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 5
 Bill Version: CSHB 149(JUD)
 (H) Publish Date: 3/14/05

Revision Date/Time (Note if correction):
 Title: Sale of Methamphetamine and Precursors
 Sponsor: Ramras, Wilson, Lynn
 Requester: House Judiciary

Dept. Affected: Commerce
 RDU: Occupational Licensing (117)
 Component: Occupational Licensing

Component No. 2360

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	2.0	2.0	2.0	2.0	2.0	2.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	2.0	2.0	2.0	2.0	2.0	2.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1156)	2.0	2.0	2.0	2.0	2.0	2.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156 - Receipt Supported Services	2.0	2.0	2.0	2.0	2.0	2.0
TOTAL	2.0	2.0	2.0	2.0	2.0	2.0

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)

HB 149 establishes a requirement that certain categories already licensed by the Alaska Board of Pharmacy as a manufacturer, wholesaler, and distributor of certain chemicals register annually with the department (Board) all transactions relating to the drugs specified in the bills; and requires the Board to keep the records for three years. The costs identified above are to cover preparation and printing of the transaction forms and mailing costs associated with notifying licensees of the new requirement.

Prepared by: Jenniter Strickler, Administrative Manager Phone (907) 465-2144
 Division: Occupational Licensing Date/Time 3/7/05 12:22 PM
 Approved by: Edgar Blatchford, Commissioner Date 3/7/2005
 Agency: Commerce, Community, and Economic Development

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 6
 Bill Version: CSHB 149(FIN)
 (H) Publish Date: 4/11/05

Revision Date/Time (Note if correction):
 Title Sale of Methamphetamine
and Precursors
 Sponsor Ramras, Wilson, Lynn
 Requester House Judiciary

Dept. Affected: Commerce
 RDU Occupational Licensing (117)
 Component Occupational Licensing
 Component No. 2360

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						
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CHANGE IN REVENUES (1156)	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156 - Receipt Supported Services	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of 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)

CSHB 149(JUD) establishes requirements for the manufacture, wholesaler, and distributor of certain chemicals relating to methamphetamine; and to keep complete records of all transactions involving those products and to make those records available for inspection by law enforcement officers. New funding is not required to implement the provisions of this bill.

Prepared by: Jennifer Strickler, Administrative Manager
 Division: Occupational Licensing
 Approved by: Edgar Blatchford, Commissioner
 Agency: Commerce, Community, and Economic Development

Phone: (907) 465-2144
 Date/Time: 3/15/05 5:03 PM
 Date: 3/15/2005

Representative Jay Ramras
Co-Chair, House Resources
V-Chair, Economic Develop.
Tourism & Trade
House State Affairs

119 N. Cushman St. Suite 207
Fairbanks, Alaska 99701
Phone: (907) 452-1088
Fax: (907) 452-1146

Alaska State Legislature



While in Session
State Capitol, Room 104
Juneau, Alaska 99801-1182
(907) 465-3004
Fax: 465-2070
Toll Free: (877) 465-3004

House District 10

House of Representatives

Sectional Summary

Blank Sponsor Substitute for HB 149(FIN) am, Methamphetamine/Pseudoephedrine/Anabolic Steroids Work Order 24-LS0596\B.A

Section 1. Will make it a crime of manslaughter if a person knowingly manufactures or delivers a controlled substance in violation of Alaska's drug laws to a person who dies from ingestion of the controlled substance.

Section 2. Expands on the definition of "building", in this section, to include any propelled vehicle or structure adapted to overnight accommodation of persons or for carrying on business, and to include each unit in a multi-unit building to be part of the same building.

Section 3. Makes the manufacture of methamphetamine in a building where one or more minor children, under the age of 18, is residing or staying a class C felony.

Section 4. States that crimes committed under AS 11.51.100(g) are a separate crime.

Section 5. Makes possessing methamphetamine in an organic solution, or delivery of a immediate precursor of methamphetamine, or a listed chemical to another person with the knowledge that that person intends to use the listed chemical or precursor to manufacture methamphetamine a class A felony, misconduct involving a controlled substance in the second degree.

Section 6. Makes possession of nine grams or more of ephedrine, pseudoephedrine, or phenylpropanolamine prima facie evidence that the person intended to use the listed chemical to manufacture methamphetamine or to assist another person with the manufacture of methamphetamine, except for a person who possesses a listed chemical in the ordinary course of a legitimate business.

Section 7. States that crimes committed under AS 11.71.020(a)(2)(5) are a separate crime.

Section 8. Makes certain anabolic steroids a schedule VA controlled substance.

Section 9. Limits the amount of ephedrine, pseudoephedrine, or phenylpropanolamine a person can purchase to nine grams within a 30-day period. Makes purchase or receipt of restricted amounts of certain listed chemicals a class C felony.

Section 10. Amends the definition of a "recreation or youth center, to include those operated by a public or private agency to provide shelter, training, or guidance for minors.

Section 11. Creates requirement for distribution, registration, and record requirements for wholesalers, manufacturers, or distributors of certain listed chemicals and making violation of this section a class A misdemeanor, punishable upon conviction only by a fine in an amount not to exceed \$10,000.



NATIONAL CONSUMERS LEAGUE

1701 K Street, NW, Suite 1200, Washington, DC 20006
PHONE (202) 835-3323 FAX (202) 835-0747 www.nclnet.org

March 24, 2005

Re: Methamphetamine Legislation

Dear State Legislator:

National Consumers League is concerned about federal and state legislation introduced to address the very serious problem of diversion of over-the-counter drug products containing pseudoephedrine to the illicit manufacture of methamphetamine. NCL is a national nonprofit consumer advocacy organization representing consumers in the marketplace and the workplace. Founded in 1899, NCL is the nation's oldest consumer organization. Drug safety, access to medicines, and affordability have been longstanding concerns of NCL. A growing number of federal and state proposals would place pseudoephedrine in Schedule V under the Controlled Substances Act and require that cough and cold medications containing pseudoephedrine be dispensed only from behind the pharmacy counter.

NCL is concerned that in the important fight against illicit methamphetamine manufacture, access to primary healthcare products is maintained, including availability of safe, effective, and affordable medicines. Any restrictions that are placed on OTC drug products containing pseudoephedrine must be no more than necessary and practical. To do otherwise will limit therapeutic choices and could increase healthcare costs for consumers.

If sales of OTC drug products containing pseudoephedrine must be restricted because of their misuse, the burden of such restrictions should not be borne by consumers who depend on and properly use the products. Pseudoephedrine is a versatile medicine and one which the Food and Drug Administration has determined can be used safely and effectively through self-care of the patient. Decongestants are an everyday household product found in most family medicine cabinets. People need and use decongestants for common colds as well as treatment of seasonal and other allergies. The broad array of OTC products containing pseudoephedrine underscores the fact that large numbers of Americans have come to rely on these self-care products for safe, effective, and affordable relief.

Pseudoephedrine as a decongestant is also often coupled with antihistamines, such as in Sudafed® and Sinutab®. Reformulation of these products without pseudoephedrine, which also has stimulant effects, will leave consumers only with products that may cause drowsiness. This will result either in increased dangers for persons who take these medications, or consumers that must suffer from easily treated conditions because they cannot take the chance of falling asleep.

Not all OTC pseudoephedrine products are equally amenable to diversion; liquids, liquid capsules and gel capsules, as well as certain products that combine pseudoephedrine with other active ingredients, are much less useful in the illicit manufacture of methamphetamine. Several of

the bills do provide for sales by persons other than pharmacists when the absence of a pharmacy to distribute these products in a community would create a hardship. NCL, however, has significant concerns regarding the implementation of these provisions. Many rural and economically disadvantaged communities in America are underserved by pharmacies or large retail chains with pharmacies. Sometimes it is the local convenience or small grocery store which is the source of OTC drugs for rural populations. Under the proposed legislation, the decision on what constitutes a hardship is left undefined. Consumers should not be limited to safe and effective medicines based on where retailers decide to have a pharmacist on duty.

Conversion of these products to pharmacy-only status would have other direct and indirect effects, all of which would restrict therapeutic choices and raise healthcare costs. Pharmacies are generally served under a different distribution system, often by different distribution companies, than other retailers of OTC drug products. Pharmacy shelf space is limited. Manufacturers and distributors of these OTC drug products would be required to alter their distribution practices, and a significant portion could be effectively forced off the market because of simple lack of room. While decreasing the overall amount of product available may have some small impact on misuse of the product, the more likely effect would be a lessening of competition for these OTC drug products and potential price increases.

If restrictions are necessary, they should be tailored to the problem at hand, which is diversion of OTC drug products to illicit methamphetamine manufacture. This criminal activity relies on access to large quantities of OTC pseudoephedrine. NCL believes that retail transactions can be controlled by responsible retailers through a number of means. California, for example, has witnessed a significant reduction in clandestine laboratory seizures after tightening the single retail transaction limit on OTC drug products containing pseudoephedrine. A recently enacted Illinois law, ILL. ANN. STAT. ch. 720, § 647/1 (2004), is another good example of reasonable measures that could be employed. It provides for the following:

- Retail sales are limited to 2 packages or 6 grams per transaction.
- Self-service transactions are subject to special procedures that stop purchases over the retail limit.
- Single active ingredient products may only be displayed for sale
 - behind a store counter (not a pharmacy counter) that is not accessible to consumers; or
 - in a locked case that requires assistance by a store employee for customer access.
- Multi-active ingredient products may
 - be displayed behind a store counter (not a pharmacy counter), not accessible to consumers;
 - be displayed in a locked case that requires assistance by a store employee for customer access;
 - be sold if the retailer requires the customer to show ID and sign a log; or
 - be sold from the sales floor if the retailer adopts at least two of the following four options:
 - product must be kept within 30 feet and direct line of sight of a cash register or store counter staffed by one or more store employees;
 - reliable anti-theft devices are used on packages;
 - restricted access shelving is used so that only one package may be

removed by a consumer at a time and a delay of at least 15 seconds occurs between package replacement on shelf;

affected product is kept under constant video surveillance.

- Liquids, liquid cap, and gel caps product containing pseudoephedrine are exempt.
- Retail personnel must be trained and certified with respect to special procedures used in the sale of covered OTC drug products containing pseudoephedrine.

Your State Legislature should consider similar features in regulating retail distribution of OTC drug products containing pseudoephedrine.

NCL looks forward to the opportunity to work with you to address the serious problem of illicit methamphetamine manufacture while preserving safe, effective, and affordable medicines for the American consumer.

Sincerely,



Linda F. Golodner
President



Consumer Healthcare
Products Association

March 8, 2015

By Electronic Mail

The Honorable Lesli McGuire
Chair, House Judiciary Committee
State Capitol, Room 118
Juneau, Alaska 99801

Re: House Bill 149 – Proposed Amendments

Dear Representative McGuire,

Thank you for the opportunity to submit testimony and comments on House Bill 149 ("HB 149") at yesterday's hearing. The Consumer Healthcare Products Association ("CHPA") supports the State's efforts to address the growing methamphetamine abuse problem in Alaska. As discussed yesterday, however, CHPA has significant concerns about placing over-the-counter cough and cold products containing pseudoephedrine behind a counter and thereby limiting legitimate consumers' access to these trusted, effective products. Other states have taken less restrictive measures and have still seen success in reducing the number of meth lab incidents in their states.

In response to the Committee's invitation to submit additional comments or suggested amendments for consideration at Wednesday's hearing, I am attaching our model legislation and the Washington State registration and reporting provisions referenced in my testimony.

With regards to our concerns about placing pseudoephedrine products behind a counter, we respectfully ask that the committee consider deleting the requirement in proposed Sec. 17.30.090(b) placing products behind the counter. Instead, we request consideration of the following language (also shown in our attached model legislation as Sec. 101 Restrictions on the Sale of Methamphetamine Precursors):

(a) No retail establishment or individual shall transfer, sell, deliver or provide more than 2 packages or 6 grams of pseudoephedrine base, ephedrine base or phenylpropanolamine base product in a single retail sales transaction to a consumer;

(1) This section does not apply to pediatric products primarily intended for administration, according to label instructions, to children under 12 years of age, either:

- (i) In solid dosage form when individual dosage units do not exceed 15 milligrams of ephedrine, pseudoephedrine or phenylpropanolamine; or*
- (ii) In liquid form when recommended dosage units, according to label instructions, do not exceed 15 milligrams of ephedrine, pseudoephedrine or phenylpropanolamine per five milliliters of liquid product; or*

(iii) In liquid form that are primarily intended for administration to children under two years of age for whom the recommended dosage does not exceed two milliliters and that have a total package content of not more than one fluid ounce.

(b) The retail sale of nonliquid pseudoephedrine, ephedrine or phenylpropanolamine product is limited to:

- (1) Sales in packages containing not more than a total of three grams of pseudoephedrine base, ephedrine base or phenylpropanolamine base;*
- (2) Sales in blister packs, each blister containing not more than two dosage units, or when the use of blister packs is technically infeasible, sales in unit dose packets or pouches.*

(c) Any retail establishment, not currently licensed/registered by the Board of Pharmacy, which sells pseudoephedrine, ephedrine or phenylpropanolamine product(s) shall submit a notice of intent to sell with the an appropriate state designated agency indicating the establishment's intent to sell pseudoephedrine, ephedrine or phenylpropanolamine product (s).

(d) A person is guilty of unlawful distribution of a methamphetamine precursor when he knowingly and unlawfully sells, transfers, distributes, or dispenses any product containing ephedrine, pseudoephedrine or phenylpropanolamine, if the person knows that the purchaser will use the product as a precursor to methamphetamine or another controlled illegal substance or if the person sells, transfers, distributes or dispenses the product with reckless disregard as to how the product will be used.

(1) Unlawful distribution of a methamphetamine precursor is a class ## felony for the first offense and a class ## felony for the second or subsequent offense.

(2) A retailer who is the general owner or operator of an establishment that sells pseudoephedrine, ephedrine, or phenylpropanolamine product(s) shall not be penalized pursuant to this section if the retailer documents that an employee training program was conducted to train employees on compliance with this section.

Additionally, given the committee's interest in learning more about the registration and reporting requirements in Washington, I have attached provisions requiring manufacturers and wholesalers to report certain transactions involving pseudoephedrine products.

Thanks again for the opportunity to participate in the Committee's consideration of HB 149. We look forward to working with you on this issue. Please do not hesitate to call me at (202) 429-9260 if I can provide any additional information.

Sincerely,

Libby Dannenberg
State Relations Counsel

Douglas Owen

From: Robert Larango [nofire@alaska.net]
Sent: Wednesday, February 16, 2005 11:30 AM
To: Rep. Jay Ramras
Cc: Rep. David Guttenberg; Sen. Ralph Seekins
Subject: Pseudoephedrine Bill

Representative Ramras,

My name is Bob Larango, I own Northern Fire & Safety Inc here in Fairbanks. We sell pseudoephedrine products, along with a full line of first aid products for customers first aid kits refills.

I read about your bill in the News Miner. It looks and sounds great, for window dressing, but it is a redundancy of a Federal DEA Law that is already required.

In order for my company to sell any pseudoephedrine products, we had to file for a DEA Chemical Registration Number. We needed this number to buy products from the supplier. We went through a site visit with a DEA officer, and a complete training process. They actually flew in an officer from Anchorage, and this took at least 6 hours of my time. We can't sell more than 3 gram packages, or more 9 grams in 30 days to any one customer. These transactions can only be done on a face to face basis. We are required to ID any unknown customers, and required to notify the DEA of suspicious buyers. We are also required to keep a log of sales. If we violate this or the many other requirements we are subject to loss of our number and very large federal fines.

If you want more information about the federal law here is the address:

U.S. Department of Justice
Drug Enforcement Administration
Office of Diversion Control
2401 Jefferson-Davis Highway
Alexandria VA 22301

Ann Hensler (202) 307-4570

You had campaigned about taking common sense idea's to Juneau. I just don't see how a state law mirroring a federal law makes anything any better.

Other than creating another level of bureaucracy for business like this to conform to, and hiring more state employee's to handle the paperwork.

If you think .05% of the buyers are buying the pseudoephedrine products illegally from drug stores, chain store or business such as mine please contact the DEA. The large chain stores might be in violate of the law. I'm a sure a DEA visit, along with loss of privileges and the fines would bring them into compliance. The amount of pseudoephedrine tablets required to make methamphetamine is actually very sizeable. I find it hard to believe the root of the problem is meth makers sending in hundreds of addicts to buy 3 boxes of cold pills each in order to make a quantity worth selling.

I have been promised an ephedrine and pseudoephedrine free cold medication by my suppliers which would get my company out of all the regulations required in order to conduct business with my customers. The existing law does make it hard on my larger accounts. One gold mine has 500 employees but can only purchase 3 boxes of cold medication per month from us.

I carbon copied this to both my Senator and House Rep. I urge you to not support this bill.

Sincerely,
Robert Larango
452-5353

Douglas Owen

From: Lisa Harbo [lisa_harbo@yahoo.com]
Sent: Tuesday, February 15, 2005 4:54 PM
To: Rep. Jay Ramras
Subject: HB 149 Methamphetamine Bill

Dear Representative Ramras,

Thank you for sponsoring HB 149 Sale of Methamphetamine and Precursors. The methamphetamine problem in interior Alaska is terrible. There have been numerous clandestine methamphetamine activities in the area where I live off Farmer's Loop. The troopers cleaned up one of the labs in late September. What comes with clandestine methamphetamine labs and methamphetamine use? Fast, aggressive drivers. Trash along the road. Mail theft. Burglaries. Odd suffocating chemical smells in your neighborhood.

Paranoid, angry-looking people glaring and staring at you coldly. Loose pit bulls. Being chased by drivers in cars, on four-wheelers, or on snowmachines. Being threatened to mind your own business. Being shot at.

Having to move out of the neighborhood for your family's safety. And probably Being murdered (the only one that we haven't seen here, yet). It isn't good; in fact, it's all bad. So, thank you. Please don't use my name or address - it's still not good here.

Sincerely,

Lisa Harbo
820 Capricorn Street
Fairbanks, AK 99709

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FEB-10-2005 THU 11:03 AM

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P. 02



RECEIVED
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OCCUPATIONAL LICENSING
JUNEAU

 DIVISION OF OCCUPATIONAL LICENSING

Frank H. Markowski, Governor

February 3, 2005

The Honorable Peggy Wilson
Chair, House HBSS Committee
State Capitol, Room 108
Juneau, Alaska 99801-1182

Dear Representative Wilson:

As Chair of the Alaska State Board of Pharmacy and a practicing pharmacist, I am writing in support of the enactment of legislation to regulate the sale of "pseudoephedrine" which has become a common source of misuse in the production of methamphetamine in illegal "meth labs" in Alaska as well as elsewhere. As you may know, pseudoephedrine is the same of the decongestant in non-prescription (and some prescription) cold and sinus medications (e.g. Sudafed). It is sold in pharmacies, grocery stores, convenience stores, etc.

A recent Associated Press news article from the *Arizona Republic* dated January 20, 2005 described Oklahoma's success in decreasing meth lab seizures by 80 percent from April to November of 2004 after laws to "lock up" the pseudoephedrine were enacted. An article in the *Anchorage Daily News* (excerpted from *The New York Times*) of Sunday, January 30, 2005 also addresses the subject. It appears that this approach is being considered and acted upon by states across the nation.

Pseudoephedrine is a safe and effective decongestant that needs to be available to the public, so a total ban of the substance is definitely NOT in order. What is being suggested is legislation to restrict sales exclusively to pharmacies. The product would be kept "behind the counter". It would not require a prescription, but personal identification and a signature would be required of the consumer; also there would be a limit on quantity purchased.

At the Board of Pharmacy's January 27-28, 2005 meeting, the board determined to encourage such an approach as a public safety measure. The Board of Pharmacy believes that any potential inconvenience to consumers or pharmacists would be heavily outweighed by the potential safety it would provide by shutting off the supply of a major ingredient for the illegal production of methamphetamine.

The Board of Pharmacy supports this approach and hopes that such legislation could be enacted expeditiously.

Thank you for your consideration of this matter.

Oakley

Sincerely,

Cindy Bauer

Cindy Bauer, Chair
Alaska Board of Pharmacy

Citations: "One State's Effort to Curb Meth Labs May Spur Others", *Arizona Republic*, Jan 20, 2005, p.A4.
"States Try to Fight Illegal Drug by Limiting Its Legal Sources", *Anchorage Daily News*, Jan 30, 2005, p.A3.

P.O. Box 110806, Juneau, Alaska 99811-0806

Telephone: (907) 463-2534 Fax: (907) 465-2974 Text Telephone: (907) 465-5437

Email: licensing@commerce.state.ak.us Website: <http://www.commerce.state.ak.us/oc/>

Questions for Todd Sharp at DPS

- (1) What would DPS like to see for store recording requirements concerning pseudoephedrine purchases?

The retailer or their employee would be required to maintain a record of all sales for any quantity of pseudoephedrine. The following is information that would be recorded by the retailer or their employee; date of purchase, quantity and name of product dispensed, name of purchaser(s), valid ID or drivers license number of the person(s) making the purchase, the purchasers signature.

This record will need to be kept readily available for inspection by the Department of Public Safety or other law enforcement agencies without prior notice. Records are to be kept separate from all other transactions, and will be kept for a period of 3 years. Records may be copied by the Department of Public Safety or other law enforcement agencies or the record could be seized as evidence.

- (2) Should there be monthly reporting on pseudoephedrine sales? If so, where should the central location be for reporting this information? Will monthly reporting cause a large fiscal note?

No, DPS does not feel that retailers need to provide monthly reporting on pseudoephedrine sales at this time. Allowing law enforcement to have unobstructed access to the records for review would be sufficient for the purpose of investigation. Investigators need this information in a timely manner and creating a data base that could supply the information quickly would not be practical in many areas of the state.

Monthly reporting would create an indeterminate fiscal impact.

In what manner could reporting be done that would minimize fiscal impact to the department?

How frequently should reporting be required? Quarterly? Monthly?

How will law enforcement ensure individuals are not exceeding the purchase limits if no reporting is required? Individuals may very well purchase more than the limit of pseudoephedrine in a 30 day period even if there was an electronic central registry keeping track of the information. The Department of public Safety feels that the simple requirement for requiring that identification be shown and documented at the time of a purchase will deter violations. Records of purchases will receive reviews by state and local law enforcement to locate and investigate violations.

- (3) Can methamphetamine be made from drugs containing liquid pseudoephedrine? If so, should records be kept on drugs containing liquid pseudoephedrine?

There is a potential that someone will figure out how to extract pseudoephedrine from liquid form, but presently they are not and we do not know of any such activity. No records are needed for liquid.

How common is it for clandestine labs in Alaska to use liquid forms of pseudoephedrine in manufacturing meth? None.

PSE State Legislation Update

Updated 03/18/05



Pseudoephedrine and Methamphetamines

Background

- *Pseudoephedrine (PSE) is an orally ingested nasal decongestant available in many single ingredient and multi-ingredient OTC Cold, Allergy, and Sinus products.*
- *PSE is a precursor for the illicit production of methamphetamine. While clearly not the primary source, there is concern that some individuals are extracting PSE from OTC medications for use in manufacturing methamphetamines.*
- *According to DEA, approximately 80% of methamphetamine is produced in Mexico, Canada, India, and China. It is brought into the U.S. and distributed by professional drug traffickers, particularly Mexican gangs.*
- *The remainder of the meth is produced in the U.S. in small, clandestine labs. These labs typically yield only enough for the meth cook's own personal use.*
- *Small, home-made labs have a devastating effect on the communities in which they are found. While it is essential to eradicate these mini-labs, it is important to recognize that 80% of the meth problem comes from the larger drug cartels.*

Pseudoephedrine Legislation Is A Fluid Situation

Federal Regulation

- *PSE is regulated at the federal level as a List 1 (precursor) chemical under the Controlled Substances Act administered by the DEA.*
- *Retail outlets are permitted to sell OTC products containing PSE under the following conditions:*
 - *Solid oral dosage forms must be packaged in a blister card*
 - *No more than two dosage units are contained in each blister cell*
 - *Each package contains no more than 3 grams of PSE “base”**
- *The DEA also believes that there is an additional restriction that no more than 9 grams of PSE base can be sold in a single transaction. The industry disputes this interpretation.*

**PSE salt (sulfate) contains only about 70% of PSE “base.” The amount of salt is what appears on SP CHC product labels.*

PSE Content: “Base” vs. “Salt”

- *Pseudoephedrine “salt” (i.e. pseudoephedrine sulfate) contains only about 70% of pseudoephedrine “base.”*
- *The amount of “salt” is what appears on SPCHC product labels.*
- *Some states have unwittingly adopted legislative language that limits PSE products to 3 grams of PSE “salt, isomers, optical isomers, or hydrochloride (HCl)” per package.*

*Per the calculation noted in the first bullet point above, this exceeds the federal restriction of 3 grams of PSE “**base**” per package, and prohibits the sale of the following SPCHC products:*

- *Claritin D-12 30 count tablets*
- *Claritin D-4 15 count tablets*
- *Drixoral Cold & Allergy 30 count tablets*

Schering-Plough CHC Products That Contain PSE

The chart below details each SPCHC item that contains PSE, its active ingredients, the amount of PSE "base" per package, and the amount of PSE "salt" per package.

Item	Tablet Count	Dosage Form	Single Ingredient PSE?	Active Ingredients (Per Tablet)	Amount of PSE Base Per Package	Amount of PSE Salt Per Package
Claritin D-12	10	Tablet	No	Loratadine 5mg	0.93 grams	1.2 grams
Claritin D-12	20	Tablet	No	PSE Sulfate 120mg	1.86 grams	2.4 grams
Claritin D-12	30	Tablet	No		2.79 grams	3.6 grams
Claritin D-24	5	Tablet	No	Loratadine 10mg	0.93	1.2 grams
Claritin D-24	10	Tablet	No	PSE Sulfate 240mg	1.86	2.4 grams
Claritin D-24	15	Tablet	No		2.79	3.6 grams
Claritin D-24 (Club Pack for Costco, etc.)	30 (3x10)	Tablet	No		5.58 (1.86/pkg)	7.2 grams (2.4/pkg)
Drixoral Cold & Allergy	10	Tablet	No	Dexbropeniramine 6mg	0.93 grams	1.2 grams
Drixoral Cold & Allergy	20	Tablet	No	PSE Sulfate 120mg	1.86 grams	2.4 grams
Drixoral Cold & Allergy	30	Tablet	No		2.79 grams	3.6 grams
Drixoral Cold & Flu	12	Tablet	No	Dexbropeniramine 3mg PSE Sulfate 60mg Acetaminophen 500mg	0.56 grams	0.72 grams
Drixoral Allergy Sinus	12	Tablet	No	Dexbropeniramine 3mg PSE Sulfate 60mg Acetaminophen 500mg	0.56 grams	0.72 grams
Drixoral Nasal Decongestant	10	Tablet	YES	PSE Hydrochloride 120mg	0.99 grams	1.28 grams
Drixoral Nasal Decongestant	20	Tablet	YES		1.98 grams	2.55 grams
Coricidin D	24	Tablet	No	Acetaminophen 325mg Chlorpheniramine 2mg PSE sulfate 30mg	0.56 grams	0.72 grams
Chlor-Trimeton Allergy D	24	Tablet	No	Chlorpheniramine 4mg PSE hydrochloride 60mg	1.19 grams	1.53 grams PSE HCl

The following slides provide information regarding state legislation which has been passed and is more restrictive than the Federal laws on PSE.

This information represents our interpretation of state and federal law affecting retail sale of pseudoephedrine containing products. While we believe it is current and accurate, we are providing it strictly as a service to you and we assume no obligation to update it. You should rely solely on your own legal counsel for interpretation of state and federal legislation.