

Interim
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Alaska State Legislature
House of Representatives
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Representative Doug Isaacson

Session
State Capitol
Juneau, AK 99801
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SECTION ANALYSIS – HB 178

Section 1

1. Amends the criminal statute AS 11.71.040 (Misconduct Involving Controlled Substance in the Fourth Degree), raising the quantity of Schedule IA or IIA controlled substance needed to be found in an offender's possession that would precipitate a felony charge from "any amount" to a quantity that implies distribution.
2. Establishes that the quantity possessed that implies distribution and opens an offender to a felony charge is 15 or more tablets, ampules, or syrettes when the Schedule IA or IIA is found in such a form.
3. Further establishes that the quantity possessed that implies distribution and opens an offender to a felony charge is 3 grams when the Schedule IA or IIA substance is in the form of a preparation, compound, or mixture.
4. Creates a carve out for the substances heroin and Lysergic acid diethylamide (LSD), each of which will be subject to a stricter felony quantity limit: 500 milligrams for heroin and 300 milligrams for LSD.
5. Provides for an "escalating punishment" system wherein a repeat offender found in possession of any amount of Schedule IA or IIA substance may still be prosecuted for Misconduct Involving a Controlled Substance in the Fourth Degree—a Class C Felony—if they have been previously convicted of any drug offense defined in AS 11.71.010 – 11.71.050 in the five years preceding the current offense.
6. Leaves unaffected any provisions of this statute or any other controlled substance statute that empowers law enforcement and prosecutors to charge and convict distributors of controlled substances.

Section 2

1. Provides that offenders found in possession of small quantities of Schedule IA and IIA substances may be prosecuted under AS 11.71.050 (Misconduct Involving a Controlled Substance in the Fifth Degree), a Class A Misdemeanor.
2. Establishes that an offender may be prosecuted of a Misconduct Involving a Controlled Substance in the Fifth Degree if they are found with any amount of a Schedule IA or IIA substance up to the felony limits, above which they are subject to felony convictions under AS.71.040.
3. Establishes the felony limit as 15 tablets, ampules, or syrettes if the substance is found in such a form, or 3 grams if found in a preparation, compound, or mixture.
4. Includes carve outs for heroin and LSD, for which the felony limits will be 500 and 300 milligrams, respectively.

Section 3

1. Establishes that this Act applies to offenses committed on or after the effective date of the Act, except that references to previous convictions in the "escalating punishment" or "three strikes" provisions of Section 1 include convictions occurring before, on, or after the effective date.

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Section 4

1. Removes conflicting language related to Bath Salts from the MICS-4 and MICS-5 statute. After the passage of this bill, Bath Salts will be treated as other Schedule IIA controlled substances, with the same felony limits as, for example, methamphetamine.

Section 5

1. Provides for an effective date.