



# LAWS OF ALASKA

1968

Source

FCCSCSHB 486

Chapter No.

225

## AN ACT

Relating to depressant, hallucinogenic and stimulant drugs.

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

\* Section 1. DECLARATION OF INTENT. (a) The Legislature of the State of Alaska finds that it is essential to the public health and safety to regulate the manufacture, distribution and possession of depressant, hallucinogenic and stimulant drugs, as defined in this Act.

(b) It is the purpose of this Act to regulate the manufacture, distribution, and possession of these drugs while affording the public the therapeutic benefits of them under medical supervision; to complement and supplement the federal laws and regulations affecting the named activities; to prevent the manufacture and distribution for harmful or illegitimate purposes; and to place upon manufacturers, wholesalers, licensed compounders of prescriptions, and persons prescribing these drugs a basic responsibility for preventing the improper distribution of these drugs to the extent that the drugs are produced, handled, sold or prescribed by them.

(c) The legislature further finds that the distribution and sale of certain drugs are more serious offenses against society than the mere use of the drugs and that distribution to a minor is a graver offense than distribution to an adult. It is the intent of the legislature that this latter factor be considered by the courts in exercising their discretion in imposing the sentences prescribed in this Act for the distribution and sale of the named drugs.

\* Sec. 2. AS 17 is amended by adding a new chapter to read:

CHAPTER 12. DRUG ABUSE CONTROL.

Sec. 17.12.010. ACTS PROHIBITED. Except as otherwise provided in this chapter it is unlawful for a person to manufacture, compound, counterfeit, possess, have under his control, sell, prescribe, administer, dispense, give, barter, supply or distribute in any manner, a depressant, hallucinogenic or stimulant drug.

Sec. 17.12.020. AUTHORIZED POSSESSION. A person may lawfully possess a depressant, hallucinogenic or stimulant drug that has been prescribed, sold or dispensed by a practitioner if the drugs are

(1) for use by the person in possession or a member of his household;

(2) for administration to an animal owned by him or a member of his household; or

(3) designated by the commissioner for use in laboratories or institutions for educational or teaching research, or for chemical analysis; such a laboratory or institution must first obtain a permit from the commissioner which shall specify the drugs, the possession of which is allowed, delineate and restrict their use or disposal, identify the permittee and promulgate the rules and regulations considered necessary to fulfill the requirements of this chapter.

Sec. 17.12.030. MANUFACTURE AND SALE. Depressant, hallucinogenic and stimulant drugs may be manufactured, compounded, processed, possessed, sold or otherwise disposed of by the following persons acting in the ordinary and authorized course of their business:

(1) a manufacturer, compounder or processor, operating in conformance with the laws of this state relating to the manufacture, compounding or processing of drugs, who is regularly engaged in preparing pharmaceutical chemicals or prescription drugs for distribution through branch outlets, through wholesale druggists, or by direct shipment (A) to pharmacies or to hospitals, clinics, public health agencies or physicians for dispensing by registered pharmacists upon prescriptions, or for use by or under the supervision of practitioners licensed in this state to administer drugs in the course of their professional practice; or (B) to laboratories or research or educational institutions for their use in research, teaching or chemical analysis;

(2) a supplier of manufacturers, compounders, and processors referred to in (1) of this section;

(3) a wholesale druggist who maintains his establishment in conformance with state and local laws relating to the manufacture, compounding or processing of drugs and is regularly engaged in supplying prescription drugs (A) to pharmacies, or to hospitals, clinics, public health agencies, or physicians for dispensing by registered pharmacists upon prescriptions or for use by or under the supervision of practitioners licensed in this state to administer these drugs in the course of their professional practice, or (B) to laboratories or

research or educational institutions for their use in research, teaching, or clinical analysis;

(4) pharmacies, hospitals, clinics and public health agencies which maintain their establishments in conformance with state and local laws regulating the practice of pharmacy and medicine which are regularly engaged in dispensing drugs upon prescriptions of practitioners licensed in this state to administer drugs for patients under the care of the practitioners in the course of their professional practice;

(5) a practitioner licensed in this state who may prescribe or administer depressant, hallucinogenic or stimulant drugs, while acting in the course of his professional practice;

(6) a person who uses depressant, hallucinogenic or stimulant drugs in research, teaching or chemical analysis and not for sale.

Sec. 17.12.040. REGULATIONS. (a) The commissioner may promulgate regulations necessary to carry out the purposes of this chapter and to secure effective enforcement of its provisions.

(b) The commissioner shall, by regulation, promulgate a list of drugs which contain barbituric acid or a quantity of any other substance which is habit forming, dangerous, or has a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(c) The commissioner shall by regulation exempt any depressant, hallucinogenic or stimulant drug from the application of this chapter if he finds that it includes a substance not having a depressant or stimulant effect on the central nervous system or a hallucinogenic effect and the substance is present in such combination, quantity, proportion, or concentration as to prevent the substance which does have such an effect from being ingested or absorbed in sufficient amounts or concentrations as to be habit forming, dangerous, or have a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect. However, no depressant, hallucinogenic or stimulant drug listed as dangerous by the Secretary of Health and Welfare of the United States whether defined by statute or regulation may be exempted from state regulations.

Sec. 17.12.050. RECORDS. A person engaged in manufacturing, compounding, processing, selling, delivering or otherwise disposing of a depressant, hallucinogenic or stimulant drug shall, upon the effective date of this chapter, prepare a complete and accurate record of all stocks of each drug on hand and shall keep the record for three years. If this record has already been prepared in accordance with federal law no additional record is required if all of these records have been retained and are made available to the department upon request. On and after the effective date of this chapter, a person manufacturing, compounding, or processing a depressant, hallucinogenic or stimulant drug shall prepare and keep, for not

less than three years, a complete and accurate record of the kind and quantity of each drug manufactured, compounded, or processed and the date of the manufacture, compounding, or processing; a person selling, delivering, or otherwise disposing of a depressant, hallucinogenic or stimulant drug shall prepare or obtain, and keep for not less than three years, a complete and accurate record of the kind and quantity of each drug received, sold, delivered, or otherwise disposed of, the name and address from whom it was received and to whom it was sold, delivered, or otherwise disposed of, and the date of the transaction.

Sec. 17.12.060. INSPECTION. (a) A person required by sec. 50 of this chapter to prepare or obtain and keep records, and a carrier maintaining records with respect to a shipment containing a depressant, hallucinogenic or stimulant drug, and a person in charge, or having custody of the records, shall, upon request of an officer or employee designated by the commissioner permit the officer or employee at reasonable times to have access to and copy the records. For the purposes of verification of the records and of the enforcement of this chapter, officers or employees designated by the commissioner are authorized to enter, at reasonable times, a factory, warehouse, establishment, or vehicle in which a depressant, hallucinogenic or stimulant drug is manufactured, compounded, processed, sold, delivered, or otherwise disposed of and to inspect, within reasonable limits and in a reasonable manner, the factory, warehouse, establishment, or vehicle, and all pertinent equipment, finished and unfinished material, containers and labeling and to inventory the stock of these drugs and obtain samples of these drugs.

(b) No inspection authorized by (a) of this section extends to (1) financial data, (2) sales data other than shipment data, (3) pricing data, (4) personnel data, or (5) research data.

(c) The provisions of sec. 50 of this chapter and of (a) of this section do not apply to a licensed practitioner with respect to a depressant, hallucinogenic or stimulant drug received, prepared, processed, administered, or dispensed by him in the course of his professional practice, unless the practitioner regularly engages in dispensing these drugs to his patients for which they are charged, either separately or together with charges for other professional services.

Sec. 17.12.070. PRESCRIPTION REFILL. No prescription for a depressant, hallucinogenic or stimulant drug may be filled or refilled more than six months after the date on which the prescription was issued and no prescription which is authorized to be refilled may be refilled more than five times. Nothing in this chapter prevents a practitioner from issuing a new prescription for the same drug either in writing or orally. An oral prescription for the drug shall be promptly reduced to writing on a new prescription blank and filed by the pharmacist filling it.

Sec. 17.12.080. PERSONS EXEMPTED. The provisions of this chapter restricting the possessing and control of depressant, hallucinogenic and stimulant drugs do not apply to

(1) a common carrier or to a warehouseman, while engaged in lawfully transporting or storing these drugs;

(2) an employee of a common carrier or warehouseman while acting within the scope of his employment in lawfully transporting or storing these drugs;

(3) a public officer or his employee in the performance of his official duties requiring possession or control of these drugs;

(4) temporary, incidental possession by an employee or agent of a person lawfully entitled to possession; or

(5) temporary, incidental possession by a person whose possession is for the purpose of aiding a public officer in performing his official duties.

Sec. 17.12.090. EXEMPTED DRUGS. Depressant, hallucinogenic or stimulant drugs exempted under federal law or under regulations promulgated by the commissioner are exempted from the application of this chapter.

Sec. 17.12.100. EXEMPTIONS AND EXCEPTIONS NOT REQUIRED TO BE NEGATIVED. In a complaint, information, or indictment, and in an action or proceeding brought for the enforcement of any provision of this chapter, it is not necessary to negative any exception, excuse, proviso, or exemption, contained in this chapter, and the burden of proof of an exception, excuse, proviso, or exemption is upon the defendant.

Sec. 17.12.110. PENALTIES. (a) A person who violates a provision of this chapter relating to the possession or control of depressant, hallucinogenic and stimulant drugs, when his possession or control is for his own use, is guilty of a misdemeanor and upon conviction is punishable by imprisonment for not more than one year, or by a fine of not more than \$1,000, or by both.

(b) A person who violates a provision of this chapter other than one mentioned in (a) of this section, or a person who violates a provision of this chapter relating to the possession or control of depressant, hallucinogenic and stimulant drugs, when his possession or control is for the purpose of sale or other disposal to another person, is guilty of a felony and upon conviction is punishable as follows:

(1) for the first offense, by imprisonment for not more than 25 years, or by a fine of not more than \$20,000, or by both;

(2) for the second and subsequent offenses, by imprisonment for any term of years or life, or by a fine of not more than \$25,000, or by both.

(c) A person who violates a provision of this chapter by selling or otherwise disposing of a depressant, hallucinogenic or stimulant drug to a person less than 19 years of age is guilty of a felony and upon conviction is punishable by imprisonment for any term of years or life, or by a fine of not more than \$25,000, or by both.

Sec. 17.12.120. REHABILITATION. A person convicted of violating a provision of this chapter relating to the possession or control of depressant, hallucinogenic and stimulant drugs, when his possession or control is for his own use may, in lieu of a fine or imprisonment, be committed to the custody of the department for rehabilitative treatment for not more than one year.

Sec. 17.12.130. FORFEITURE. A quantity of a drug or drug manufacturing equipment or punch, die, plate, or accessories in making counterfeit drugs with respect to which a violation of this chapter has occurred shall be forfeited to the state and upon conclusion of the trial in which the violation is proved shall be destroyed or used by the department for medical or scientific purposes.

Sec. 17.12.140. ADDITIONAL REMEDIES. In addition to the remedies provided in this chapter, the commissioner is authorized to apply to the superior court for, and the court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining a person from violating a provision of this chapter irrespective of whether there exists an adequate remedy at law.

Sec. 17.12.150. DEFINITIONS. In this chapter

(1) "commissioner" means the commissioner of health and welfare;

(2) "department" means the Department of Health and Welfare;

(3) "depressant, hallucinogenic or stimulant drug" means:

(A) cannabis, psilocybin, dimethyltryptamine, lysergic acid diethylamide, and every other substance having similar physiological effects;

(B) a drug which contains barbituric acid or any of the salts of barbituric acid; or a derivative of barbituric acid which has been designated by the commissioner under sec. 40 of this chapter as habit forming or dangerous;

(C) a drug which contains amphetamine or any of its optical isomers; or a substance which has been designated by the commissioner as habit forming or dangerous because of its stimulant effect on the central nervous system; or

(D) a drug which contains any quantity of a substance which the commissioner, after investigation, has found to have, and by regulation designates as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect;

(4) "cannabis" includes all parts of the plant "Cannabis Sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture,

or preparation of such plant, its seeds, or resin; but does not include the mature stalks of such plant, fiber produced from such stalks, oil, or cake made from the seeds of such plant, any other compound, manufacture, salt derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination;

(5) "manufacture, compound or process" includes repackaging or otherwise changing the container, wrapper, or labeling of a drug package in the furtherance of the distribution of the drug from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer, and "manufacturers, compounders, and processors" refer to persons engaged in these defined activities;

(6) "practitioner" means a physician, dentist, veterinarian, or other person licensed in this state who may prescribe or administer drugs which are subject to this chapter.

\* Sec. 3. AS 17.10.230(13) is amended to read:

(13) "narcotic drugs" means coca leaves, opium, isonipecaine, amidone, isoamidone, ketobemidone, and every other substance having similar physiological effects:

(A) "amidone" means any substance identified chemically as (4-4-Diphenyl-6-Dimethylamino-Heptanone-3), or any salt thereof, by whatever trade name designated;

(B) "isoamidone" means any substance identified chemically as (4-4-Dyphenyl-5-Methyl-6-Dimethylamino-hexanon-3), or any salt thereof, by whatever trade name designated;

(C) "keto-Bemidone" means any substance identified chemically as (4-(3-Hydroxyphenyl)-1 Methyl-4-piperidyl ethyl ketone hydrochloride), or any salt thereof, by whatever trade name designated;

\* Sec. 4. AS 17.15.110(3) is amended to read:

(3) "narcotic drug" means a narcotic drug defined by the federal internal revenue laws and the regulation issued under them .