



LAWS OF ALASKA

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Source

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Chapter No.

63

AN ACT

Relating to the possession of controlled substances and imitation controlled substances, to misconduct involving controlled substances and imitation controlled substances by minors, and to the provision of information that apprises students about controlled substances and the penalties applicable to misconduct involving controlled substances; and requiring municipalities to post signs in the vicinity of schools declaring the areas to be "drug-free school zones"; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: June 18, 1991

Actual Effective Date: Section 7 takes effect August 16, 1992; remainder of Act takes effect September 16, 1991

AN ACT

1 Relating to the possession of controlled substances and imitation controlled substances,
2 to misconduct involving controlled substances and imitation controlled substances by
3 minors, and to the provision of information that apprises students about controlled
4 substances and the penalties applicable to misconduct involving controlled substances;
5 and requiring municipalities to post signs in the vicinity of schools declaring the areas
6 to be "drug-free school zones"; and providing for an effective date.

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9
10 * Section 1. AS 11.71.030(a) is amended to read:

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

13 (1) manufactures or delivers any amount of a schedule IIA or IIIA controlled
14 substance or possesses any amount of a schedule IIA or IIIA controlled substance with intent to
15 manufacture or deliver;

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

19 (3) [BEING 18 YEARS OF AGE OR OLDER,] possesses any amount of a
20 schedule IA or IIA controlled substance

21 (A) with reckless disregard that the possession occurs on or within 500

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1 feet of school [THE] grounds; or

2 (B) on a school bus [OF OR ON A PARKING LOT IMMEDIATELY
3 ADJACENT TO A PUBLIC OR PRIVATE PRESCHOOL, ELEMENTARY, JUNIOR
4 HIGH, OR SECONDARY SCHOOL].

5 * Sec. 2. AS 11.71.030(b) is repealed and reenacted to read:

6 (b) It is an affirmative defense to a prosecution under (a)(3)(A) of this section that the
7 prohibited conduct took place entirely within a private residence located within 500 feet of the
8 school grounds, and that the prohibited conduct did not involve distributing, dispensing, or pos-
9 sessing with the intent to distribute or dispense a controlled substance for profit. Nothing in this
10 subsection precludes a prosecution under any other provision of this section or any other section
11 of this chapter.

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

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

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

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

21 (3) possesses

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

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

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

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

30 (E) one or more preparations, compounds, mixtures, or substances of an

1 aggregate weight of six grams or more containing a schedule VA controlled substance;
2 or

3 (F) one or more preparations, compounds, mixtures, or substances of an
4 aggregate weight of one pound or more containing a schedule VIA controlled substance;

5 (4) [BEING 18 YEARS OF AGE OR OLDER,] possesses a schedule IIIA, IVA,
6 VA, or VIA controlled substance

7 (A) with reckless disregard that the possession occurs on or within 500
8 feet of school [THE] grounds [OF OR ON A PARKING LOT IMMEDIATELY
9 ADJACENT TO A PUBLIC OR PRIVATE PRESCHOOL, ELEMENTARY, JUNIOR
10 HIGH, OR SECONDARY SCHOOL]; or

11 (B) on a school bus;

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

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

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

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

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

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

29 * Sec. 4. AS 11.71.040(b) is repealed and reenacted to read:

30 (b) It is an affirmative defense to a prosecution under (a)(4)(A) of this section that the

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1 prohibited conduct took place entirely within a private residence located within 500 feet of the
2 school grounds. Nothing in this subsection precludes a prosecution under any other provision
3 of this section or any other section of this chapter.

4 * Sec. 5. AS 11.71.900 is amended by adding new paragraphs to read:

5 (28) "school bus" means a motor vehicle operated by a school district or private
6 school, directly or by contract, to transport students;

7 (29) "school grounds" means a building, structure, athletic playing field,
8 playground, parking area, or land contained within the real property boundary line of a public
9 or private preschool, elementary, or secondary school.

10 * Sec. 6. AS 14.07 is amended by adding a new section to read:

11 Sec. 14.07.181. ADDITIONAL DUTIES OF BOARD. The board shall direct the
12 department to develop, adopt, periodically review, and distribute annually to each student enrolled
13 in a public school an information pamphlet. The pamphlet must be written in easily
14 understandable language, must be designed to educate the student about controlled substances,
15 and must summarize information relating to the criminal penalties applicable to the possession
16 and sale of controlled substances in public schools, in areas adjacent to schools, and on school
17 buses.

18 * Sec. 7. AS 28.01.010(d) is amended to read:

19 (d) A municipality shall erect necessary official traffic control devices on streets and
20 highways within its jurisdiction which as far as practicable conform to the current edition of the
21 Alaska Traffic Manual prepared by the Department of Transportation and Public Facilities. The
22 municipality shall post a sign indicating that the school is a "drug-free school zone" at each
23 location in which it has installed a sign identifying the location of a school.

24 * Sec. 8. AS 47.10.080(b) is amended to read:

25 (b) If the court finds that the minor is delinquent, it shall

26 (1) order the minor committed to the department for a period of time not to
27 exceed two years or in any event extend past the day the minor becomes 19, except that the
28 department may petition for and the court may grant in a hearing (A) two-year extensions of
29 commitment that do not extend beyond the child's 19th birthday if the extension is in the best
30 interests of the minor and the public; and (B) an additional one-year period of supervision past

1 age 19 if continued supervision is in the best interests of the person and the person consents to
2 it; the department shall place the minor in the juvenile facility that the department considers
3 appropriate and that may include a juvenile correctional school, detention home, or detention
4 facility; the minor may be released from placement or detention and placed on probation on order
5 of the court and may also be released by the department, in its discretion, under AS 47.10.200;

6 (2) order the minor placed on probation, to be supervised by the department, and
7 released to the minor's parents, guardian, or a suitable person; if the court orders the minor
8 placed on probation, it may specify the terms and conditions of probation; the probation may be
9 for a period of time, not to exceed two years and in no event extend past the day the minor
10 becomes 19, except that the department may petition for and the court may grant in a hearing

11 (A) two-year extensions of supervision that do not extend beyond the
12 child's 19th birthday if the extension is in the best interests of the minor and the public;
13 and

14 (B) an additional one-year period of supervision past age 19 if the
15 continued supervision is in the best interests of the person and the person consents to it;

16 (3) order the minor committed to the department and placed on probation, to be
17 supervised by the department, and released to the minor's parents, guardian, other suitable person,
18 or suitable nondetention setting such as a family home, group care facility, or child care facility,
19 whichever the department considers appropriate to implement the treatment plan of the
20 predisposition report: if the court orders the minor placed on probation, it may specify the terms
21 and conditions of probation; the department may transfer the minor, in the minor's best interests,
22 from one of the probationary placement settings listed in this paragraph to another, and the
23 minor, the minor's parents or guardian, and the minor's attorney are entitled to reasonable notice
24 of the transfer; the probation may be for a period of time, not to exceed two years and in no
25 event extend past the day the minor becomes 19, except that the department may petition for and
26 the court may grant in a hearing

27 (A) two-year extensions of commitment that do not extend beyond the
28 child's 19th birthday if the extension is in the best interests of the minor and the public;
29 and

30 (B) an additional one-year period of supervision past age 19 if the

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1 continued supervision is in the best interests of the person and the person consents to it;

2 [OR]

3 (4) order the minor to make suitable restitution in lieu of or in addition to the
4 court's order under (1), (2), or (3) of this subsection; [.]

5 (5) order the minor committed to the department for placement in an adventure
6 based education program established under AS 47.21.020 with conditions the court considers
7 appropriate concerning release upon satisfactory completion of the program or commitment under
8 (1) of this subsection if the program is not satisfactorily completed; or

9 (6) in addition to an order under (1) - (5) of this subsection, if the
10 delinquency finding is based on the minor's violation of AS 11.71.030(a)(3) or
11 11.71.040(a)(4), order the minor to perform 50 hours of community service; for purposes
12 of this paragraph, "community service" includes work

13 (A) on a project identified in AS 33.30.901; or

14 (B) that, on the recommendation of the city council or traditional
15 village council, would benefit persons within the city or village who are elderly or
16 disabled.

17 * Sec. 9. Section 7 of this Act takes effect August 16, 1992.