

HOUSE BILL NO. 11

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE THERRIAULT

Introduced: 1/19/99

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to controlled substances and to the possession and distribution**
2 **of certain chemicals; and providing for an effective date."**

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

4 *** Section 1.** AS 11.71 is amended by adding new sections to article 1 to read:

5 **Sec. 11.71.085. Misconduct involving a listed chemical in the first degree.**

6 (a) Except as authorized in AS 17.30, a person commits the crime of misconduct
7 involving a listed chemical in the first degree if the person possesses a list I or II
8 chemical with the intent to manufacture a schedule IA controlled substance.

9 (b) Misconduct involving a listed chemical in the first degree is a class A
10 felony.

11 **Sec. 11.71.090. Misconduct involving a listed chemical in the second**

12 **degree.** (a) Except as authorized in AS 17.30, a person commits the crime of
13 misconduct involving a listed chemical in the second degree if the person possesses
14 a list I or II chemical with the intent to manufacture a schedule IIA or IIIA controlled

1 substance.

2 (b) Misconduct involving a listed chemical in the second degree is a class B
3 felony.

4 **Sec. 11.71.095. Misconduct involving a listed chemical in the third degree.**

5 (a) Except as authorized in AS 17.30, a person commits the crime of misconduct
6 involving a listed chemical in the third degree if the person possesses a list I or II
7 chemical with the intent to manufacture a schedule IVA, VA, or VIA controlled
8 substance.

9 (b) Misconduct involving a listed chemical in the third degree is a class C
10 felony.

11 * **Sec. 2.** AS 11.71.195 is amended to read:

12 **Sec. 11.71.195. Exempted drugs.** A substance, other than a list I or II
13 chemical, the manufacture, distribution, dispensing, or possession of which is explicitly
14 exempt from criminal penalty under federal law is exempt from the application of this
15 chapter and AS 17.30. This exemption includes any substances that [WHICH] may,
16 under 21 U.S.C. 301-392 (Food, Drug, and Cosmetic Act), be lawfully sold over the
17 counter without a prescription. This exemption also includes those substances listed
18 in 21 C.F.R. Sec. 1308.22 on April 1, 1980.

19 * **Sec. 3.** AS 11.71 is amended by adding a new section to article 2 to read:

20 **Sec. 11.71.200. Listed chemicals.** (a) List I chemicals include

- 21 (1) anthranilic acid, its esters, and its salts;
22 (2) benzaldehyde;
23 (3) benzyl cyanide;
24 (4) ephedrine, its salts, optical isomers, and salts of optical isomers;
25 (5) ergonovine and its salts;
26 (6) ergotamine and its salts;
27 (7) N-acetylanthranilic acid, its esters, and its salts;
28 (8) nitroethane;
29 (9) norpseudoephedrine, its salts, optical isomers, and salts of optical
30 isomers;
31 (10) phenylacetic acid, its esters, and its salts;

1 (11) phenylpropanolamine, its salts, optical isomers, and salts of optical
2 isomers;

3 (12) piperidine and its salts;

4 (13) pseudoephedrine, its salts, optical isomers, and salts of optical
5 isomers;

6 (14) 3,4-methylenedioxyphenyl-2-propanone;

7 (15) any salt, optical isomer, or salt of an optical isomer of the
8 following chemicals:

9 (A) ethylamine;

10 (B) hydriodic acid;

11 (C) isosafrole;

12 (D) methylamine;

13 (E) N-methylephedrine;

14 (F) N-methylpseudoephedrine;

15 (G) piperonal;

16 (H) propionic anhydride;

17 (I) safrole.

18 (b) List II chemicals include

19 (1) acetic anhydride;

20 (2) acetone;

21 (3) benzyl chloride;

22 (4) ethyl ether;

23 (5) hydrochloric gas;

24 (6) iodine;

25 (7) potassium permanganate;

26 (8) toluene;

27 (9) 2-butanone (or methyl ethyl ketone).

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

29 (31) "list I chemical" means a chemical included in the list in
30 AS 11.71.200(a);

31 (32) "list II chemical" means a chemical included in the list in

1 AS 11.71.200(b).

2 * **Sec. 5.** AS 17.30 is amended by adding a new section to article 1 to read:

3 **Sec. 17.30.090. Reporting of distribution and possession of listed chemicals.**

4 (a) A person may not knowingly

5 (1) deliver, dispense, or distribute in this state a listed chemical in an
6 amount or quantity set by regulation by the commissioner of public safety unless the
7 person

8 (A) receives positive identification of the person to whom the
9 chemical is being delivered, dispensed, or distributed by picture identification
10 or otherwise; and

11 (B) within 24 hours of the delivery, dispensing, or distribution,
12 reports to the commissioner of public safety on a form provided by the
13 commissioner the name, address, and telephone number of the person to whom
14 the delivery, dispensing, or distribution is made, the name of the chemical and
15 the quantity delivered, dispensed, or distributed, and other information required
16 by the commissioner by regulation;

17 (2) possess a listed chemical in this state in an amount or quantity set
18 by regulation of the commissioner of public safety unless the person, within 24 hours
19 of receiving or taking possession of the listed chemical, reports to the commissioner
20 of public safety on a form provided by the commissioner the person's name, address,
21 and telephone number, the name of the chemical, the quantity received or otherwise
22 possessed, and other information the commissioner may require by regulation.

23 (b) In this section, "listed chemical" means a list I chemical or a list II
24 chemical as defined in AS 11.71.900.

25 (c) A person who violates this section is guilty of a class A misdemeanor and
26 may be punished as provided in AS 12.55.

27 * **Sec. 6.** Notwithstanding the effective date of sec. 5 of this Act, the commissioner of
28 public safety may proceed to adopt regulations before the effective date of sec. 5 of this Act
29 to implement sec. 5 of this Act. The regulations take effect under AS 44.62 (Administrative
30 Procedure Act), but not before the effective date of sec. 5 of this Act.

31 * **Sec. 7.** Notwithstanding sec. 5 of this Act, a person who receives or takes possession of

1 a listed chemical before the effective date of sec. 5 of this Act and who possesses on the
2 effective date of sec. 5 of this Act the listed chemical in an amount or quantity set by the
3 commissioner of public safety under sec. 6 of this Act shall report that possession to the
4 commissioner within 30 days of the effective date of sec. 5 of this Act. In this section, "listed
5 chemical" has the meaning given in AS 17.30.090(b).

6 * **Sec. 8.** Section 6 of this Act takes effect immediately under AS 01.10.070(c).