

HOUSE BILL NO. 375

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE KAPSNER

Introduced: 2/16/00

Referred: Health, Education and Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to abuse of inhalants."

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

3 * Section 1. AS 11.76 is amended by adding a new section to read:

4 Sec. 11.76.200. Abuse of inhalants. (a) Under circumstances not otherwise
5 proscribed under AS 11.71, a person commits the crime of abuse of inhalants if the
6 person smells or inhales any substance, other than an alcoholic beverage, with the
7 intent of causing intoxication, inebriation, excitement, stupefaction, or dulling of the
8 brain or nervous system.

9 (b) This section does not apply to the administration of a controlled substance,
10 drug, or other substance by a practitioner or otherwise in a medical context. In this
11 subsection, "administer," "drug," and "practitioner" have the meanings given in
12 AS 11.71.900.

13 (c) In this section, "alcoholic beverage" has the meaning given in
14 AS 04.21.080.

15 (d) Abuse of inhalants is a class B misdemeanor.

1 * **Sec. 2.** AS 47.37.170(b) is amended to read:

2 (b) A person who appears to be incapacitated by alcohol, inhalants, or drugs
3 in a public place shall be taken into protective custody by a peace officer or a member
4 of the emergency service patrol and immediately brought to an approved public
5 treatment facility, an approved private treatment facility, or another appropriate health
6 facility or service for emergency medical treatment. If a [NO] treatment facility or
7 emergency medical service is **not** available, a person who appears to be incapacitated
8 by alcohol, inhalants, or drugs in a public place shall be taken to a state or municipal
9 detention facility in the area if that appears necessary for the protection of the person's
10 health or safety.

11 * **Sec. 3.** AS 47.37.170(d) is amended to read:

12 (d) A person who, after medical examination at an approved private treatment
13 facility, or another appropriate health facility or service for emergency medical
14 treatment, is found to be incapacitated by alcohol, inhalants, or drugs at the time of
15 admission or to have become incapacitated by alcohol, inhalants, or drugs at any time
16 after admission, may not be detained at a facility after the person is no longer
17 incapacitated by alcohol, inhalants, or drugs. A person may not be detained at a
18 facility if the person remains incapacitated by alcohol for more than 48 hours after
19 admission as a patient. A person may consent to remain in the facility as long as the
20 physician in charge considers it appropriate.

21 * **Sec. 4.** AS 47.37.170(f) is amended to read:

22 (f) If a patient is admitted to an approved public treatment facility, family or
23 next of kin shall be promptly notified. If an adult patient who is not incapacitated by
24 alcohol, inhalants, or drugs requests that there be no notification of next of kin, the
25 request shall be granted.

26 * **Sec. 5.** AS 47.37.170(g) is amended to read:

27 (g) A person may not bring an action for damages based on the decision under
28 this section to take or not to take an intoxicated person or a person incapacitated by
29 alcohol, inhalants, or drugs into protective custody, unless the action is for damages
30 caused by gross negligence or intentional misconduct.

31 * **Sec. 6.** AS 47.37.170(i) is amended to read:

1 (i) A person taken to a detention facility under (a) or (b) of this section may
 2 be detained only (1) until a treatment facility or emergency medical service is made
 3 available, (2) until the person is no longer intoxicated or incapacitated by alcohol,
 4 inhalants, or drugs, or (3) for a maximum period of 12 hours, whichever occurs first.
 5 A detaining officer or a detention facility official may release a person who is detained
 6 under (a) or (b) of this section at any time to the custody of a responsible adult. A
 7 peace officer or a member of the emergency service patrol, in detaining a person under
 8 (a) or (b) of this section and in taking the person to a treatment facility, an emergency
 9 medical service, or a detention facility, is taking the person into protective custody,
 10 and the officer or patrol member shall make reasonable efforts to provide for and
 11 protect the health and safety of the detainee. In taking a person into protective custody
 12 under (a) and (b) of this section, a detaining officer, a member of the emergency
 13 service patrol, or a detention facility official may take reasonable steps for self-
 14 protection, including a full protective search of the person of a detainee. Protective
 15 custody under (a) and (b) of this section does not constitute an arrest and an [NO]
 16 entry or other record may not be made to indicate that the person detained has been
 17 arrested or charged with a crime, except that a confidential record may be made that
 18 is necessary for the administrative purposes of the facility to which the person has
 19 been taken or that is necessary for statistical purposes where the person's name may
 20 not be disclosed.

21 * **Sec. 7.** AS 47.37.180(a) is amended to read:

22 (a) An intoxicated person who (1) has threatened, attempted to inflict, or
 23 inflicted physical harm on another or is likely to inflict physical harm on another
 24 unless committed, or (2) is incapacitated by alcohol, inhalants, or drugs, may be
 25 committed to an approved public treatment facility for emergency treatment. A refusal
 26 to undergo treatment does not constitute evidence of lack of judgment as to the need
 27 for treatment.

28 * **Sec. 8.** AS 47.37.190(a) is amended to read:

29 (a) A spouse or guardian, a relative, the certifying physician, or the
 30 administrator in charge of an approved public treatment facility may petition the court
 31 for a 30-day involuntary commitment order. The petition must allege that the person

1 is an alcoholic **or inhalant** or drug abuser who (1) has threatened, attempted to inflict,
 2 or inflicted physical harm on another and that, unless committed, is likely to inflict
 3 physical harm on another; or (2) is incapacitated by alcohol, **inhalants**, or drugs. A
 4 refusal to undergo treatment does not constitute evidence of lack of judgment as to the
 5 need for treatment. The petition must be accompanied by a certificate of a licensed
 6 physician who has examined the person within two days before submission of the
 7 petition, unless the person whose commitment is sought has refused to submit to a
 8 medical examination, in which case the fact of refusal must be alleged in the petition.
 9 The certificate must set out the physician's findings in support of the allegations of the
 10 petition.

11 * **Sec. 9.** AS 47.37.205(a) is amended to read:

12 (a) At any time during a person's 30-day commitment, the director of an
 13 approved public facility or approved private facility may file with the court a petition
 14 for a 180-day commitment of that person. The petition must include all material
 15 required under AS 47.37.190(a) except that references to "30 days" shall be read as
 16 "180 days" and must allege that the person continues to be an alcoholic **or inhalant**
 17 or drug abuser who is incapacitated by alcohol, **inhalants**, or drugs, or who continues
 18 to be at risk of serious physical harm or illness.

19 * **Sec. 10.** AS 47.37.235(c) is amended to read:

20 (c) A person who knowingly initiates an involuntary commitment petition
 21 under AS 47.37.180 - 47.37.205 without having good cause to believe that the other
 22 person is an alcoholic **or inhalant** or drug abuser and is incapacitated or at risk of
 23 serious physical harm or illness if not treated is guilty of a class C felony.

24 * **Sec. 11.** AS 47.37.270(1) is amended to read:

25 (1) "alcoholic **or inhalant** or drug abuser" means a person who
 26 demonstrates increased tolerance to alcohol, **inhalants**, or drugs, who suffers from
 27 withdrawal when alcohol, **inhalants**, or drugs are not available, whose habitual lack
 28 of self-control concerning the use of alcohol, **inhalants**, or drugs causes significant
 29 hazard to the person's health, and who continues to use alcohol, **inhalants**, or drugs
 30 despite the adverse consequences;

31 * **Sec. 12.** AS 47.37.270(10) is amended to read:

1 (10) "hazardous volatile material or substance" **or "inhalant"**

2 (A) means a material or substance that is readily vaporizable at
3 room temperature and whose vapors or gases, when inhaled,

4 (i) pose an immediate threat to the life or health of the
5 person; or

6 (ii) are likely to have adverse delayed effects on the
7 health of the person;

8 (B) includes, but is not limited to,

9 (i) gasoline;

10 (ii) materials and substances containing petroleum
11 distillates; and

12 (iii) common household materials and substances whose
13 containers bear a notice warning that inhalation of vapors or gases may
14 cause physical harm;

15 * **Sec. 13.** AS 47.37.270(11) is amended to read:

16 (11) "incapacitated by alcohol, **inhalants**, or drugs" means a person
17 who, as a result of alcohol, **inhalants**, or drugs, is unconscious or whose judgment is
18 otherwise so impaired that the person (A) is incapable of realizing and making rational
19 decisions with respect to the need for treatment, and (B) is unable to take care of the
20 person's basic safety or personal needs, including food, clothing, shelter, or medical
21 care;

22 * **Sec. 14.** AS 47.37.270(14) is amended to read:

23 (14) "intoxicated person" means a person whose mental or physical
24 functioning is substantially impaired as a result of the use of alcohol, **inhalants**, or
25 drugs;