

CS FOR HOUSE BILL NO. 375(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/17/00
Referred: Finance

Sponsor(s): REPRESENTATIVE KAPSNER

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 inhalant, other than an alcoholic beverage, with the intent
7 of causing intoxication, inebriation, excitement, stupefaction, or dulling of the brain
8 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,

14 (1) "alcoholic beverage" has the meaning given in AS 04.21.080;

15 (2) "inhalant" has the meaning given in AS 47.37.270(10).

1 (d) Abuse of inhalants is a violation. A court shall suspend the imposition of
 2 sentence, place the defendant on probation under AS 12.55.085, and require the
 3 defendant to successfully complete an inhalant abuse treatment program.

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

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

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

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

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

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

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

30 (g) A person may not bring an action for damages based on the decision under
 31 this section to take or not to take an intoxicated person or a person incapacitated by

1 alcohol, **inhalants**, or drugs into protective custody, unless the action is for damages
 2 caused by gross negligence or intentional misconduct.

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

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

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

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

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

1 (a) A spouse or guardian, a relative, the certifying physician, or the
 2 administrator in charge of an approved public treatment facility may petition the court
 3 for a 30-day involuntary commitment order. The petition must allege that the person
 4 is an alcoholic **or inhalant** or drug abuser who (1) has threatened, attempted to inflict,
 5 or inflicted physical harm on another and that, unless committed, is likely to inflict
 6 physical harm on another; or (2) is incapacitated by alcohol, **inhalants**, or drugs. A
 7 refusal to undergo treatment does not constitute evidence of lack of judgment as to the
 8 need for treatment. The petition must be accompanied by a certificate of a licensed
 9 physician who has examined the person within two days before submission of the
 10 petition, unless the person whose commitment is sought has refused to submit to a
 11 medical examination, in which case the fact of refusal must be alleged in the petition.
 12 The certificate must set out the physician's findings in support of the allegations of the
 13 petition.

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

15 (a) At any time during a person's 30-day commitment, the director of an
 16 approved public facility or approved private facility may file with the court a petition
 17 for a 180-day commitment of that person. The petition must include all material
 18 required under AS 47.37.190(a) except that references to "30 days" shall be read as
 19 "180 days" and must allege that the person continues to be an alcoholic **or inhalant**
 20 or drug abuser who is incapacitated by alcohol, **inhalants**, or drugs, or who continues
 21 to be at risk of serious physical harm or illness.

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

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

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

28 (1) "alcoholic **or inhalant** or drug abuser" means a person who
 29 demonstrates increased tolerance to alcohol, **inhalants**, or drugs, who suffers from
 30 withdrawal when alcohol, **inhalants**, or drugs are not available, whose habitual lack
 31 of self-control concerning the use of alcohol, **inhalants**, or drugs causes significant

1 hazard to the person's health, and who continues to use alcohol, inhalants, or drugs
 2 despite the adverse consequences;

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

4 (10) "hazardous volatile material or substance" or "inhalant"

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

7 (i) pose an immediate threat to the life or health of the
 8 person; or

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

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

12 (i) gasoline;

13 (ii) materials and substances containing petroleum
 14 distillates; and

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

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

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

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

26 (14) "intoxicated person" means a person whose mental or physical
 27 functioning is substantially impaired as a result of the use of alcohol, inhalants, or
 28 drugs;