

**CS FOR HOUSE BILL NO. 114(HES)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 3/16/01

Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVES KAPSNER, Kookesh, Hayes, Kerttula, Guess, Stevens, Murkowski, Fate, Dyson, Cissna, Joule, Meyer, Coghill

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to abuse of inhalants; and relating to minors under the influence of**  
2 **alcohol, inhalants, or drugs."**

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

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

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

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

14 (c) In this section,

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

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

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

6 \* **Sec. 2.** AS 47.10 is amended by adding a new section to read:

7 **Sec. 47.10.137. Intoxicated minors.** (a) A peace officer shall take into  
8 protective custody a minor who the peace officer has reasonable cause to believe is  
9 under the influence of alcohol, inhalants, or drugs if the minor is not otherwise subject  
10 to arrest or detention.

11 (b) A peace officer taking into protective custody a minor under (a) of this  
12 section shall

13 (1) return the minor to the minor's parent or guardian or, if the minor's  
14 parent or guardian is unknown or unavailable, take the child to a relative or to a  
15 shelter, program, or facility suitable for the minor;

16 (2) use the procedures provided in AS 47.37.170 for a person  
17 incapacitated by alcohol, inhalants, or drugs if the minor appears to be incapacitated,  
18 and the peace officer may use the procedures provided in AS 47.37.170 for an  
19 intoxicated person if the minor appears to be intoxicated; in this paragraph,  
20 "incapacitated by alcohol, inhalants, or drugs" and "intoxicated person" have the  
21 meanings given in AS 47.37.270;

22 (3) deliver the minor to another suitable location and promptly notify  
23 the Department of Health and Social Services of the placement.

24 \* **Sec. 3.** AS 47.12.030(b) is amended to read:

25 (b) When a minor is accused of violating a statute specified in this subsection,  
26 other than a statute the violation of which is a felony, this chapter and the Alaska  
27 Delinquency Rules do not apply and the minor accused of the offense shall be  
28 charged, prosecuted, and sentenced in the district court in the same manner as an  
29 adult; if a minor is charged, prosecuted, and sentenced for an offense under this  
30 subsection, the minor's parent, guardian, or legal custodian shall be present at all  
31 proceedings; the provisions of this subsection apply when a minor is accused of

1 violating

2 (1) a traffic statute or regulation, or a traffic ordinance or regulation of  
3 a municipality;

4 (2) AS 11.76.105, relating to the possession of tobacco by a person  
5 under 19 years of age;

6 (3) a fish and game statute or regulation under AS 16;

7 (4) a parks and recreational facilities statute or regulation under  
8 AS 41.21;

9 (5) AS 04.16.050, relating to possession, control, or consumption of  
10 alcohol; [AND]

11 (6) a municipal curfew ordinance, whether adopted under  
12 AS 29.35.085 or otherwise, unless the municipality provides for enforcement of its  
13 ordinance under AS 29.25.070(b) by the municipality; in place of any fine imposed for  
14 the violation of a municipal curfew ordinance, the court shall allow a defendant the  
15 option of performing community work; the value of the community work, which may  
16 not be lower than the amount of the fine, shall be determined under AS 12.55.055(c);  
17 in this paragraph, "community work" includes the work described in AS 12.55.055(b)  
18 or work that, on the recommendation of the municipal or borough assembly, city  
19 council, or traditional village council of the defendant's place of residence, would  
20 benefit persons within the municipality or village who are elderly or disabled; **and**

21 **(7) AS 11.76.200, relating to abuse of inhalants.**

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

23 (b) A person who appears to be incapacitated by alcohol, **inhalants**, or drugs  
24 in a public place shall be taken into protective custody by a peace officer or a member  
25 of the emergency service patrol and immediately brought to an approved public  
26 treatment facility, an approved private treatment facility, or another appropriate health  
27 facility or service for emergency medical treatment. If **a** [NO] treatment facility or  
28 emergency medical service is **not** available, a person who appears to be incapacitated  
29 by alcohol, **inhalants**, or drugs in a public place shall be taken to a state or municipal  
30 detention facility in the area if that appears necessary for the protection of the person's  
31 health or safety.

1 \* **Sec. 5.** AS 47.37.170(d) is amended to read:

2 (d) A person who, after medical examination at an approved private treatment  
3 facility, or another appropriate health facility or service for emergency medical  
4 treatment, is found to be incapacitated by alcohol, inhalants, or drugs at the time of  
5 admission or to have become incapacitated by alcohol, inhalants, or drugs at any time  
6 after admission, may not be detained at a facility after the person is no longer  
7 incapacitated by alcohol, inhalants, or drugs. A person may not be detained at a  
8 facility if the person remains incapacitated by alcohol for more than 48 hours after  
9 admission as a patient. A person may consent to remain in the facility as long as the  
10 physician in charge considers it appropriate.

11 \* **Sec. 6.** AS 47.37.170(f) is amended to read:

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

16 \* **Sec. 7.** AS 47.37.170(g) is amended to read:

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

21 \* **Sec. 8.** AS 47.37.170(i) is amended to read:

22 (i) A person taken to a detention facility under (a) or (b) of this section may be  
23 detained only (1) until a treatment facility or emergency medical service is made  
24 available, (2) until the person is no longer intoxicated or incapacitated by alcohol,  
25 inhalants, or drugs, or (3) for a maximum period of 12 hours, whichever occurs first.  
26 A detaining officer or a detention facility official may release a person who is detained  
27 under (a) or (b) of this section at any time to the custody of a responsible adult. A  
28 peace officer or a member of the emergency service patrol, in detaining a person under  
29 (a) or (b) of this section and in taking the person to a treatment facility, an emergency  
30 medical service, or a detention facility, is taking the person into protective custody,  
31 and the officer or patrol member shall make reasonable efforts to provide for and

1 protect the health and safety of the detainee. In taking a person into protective custody  
 2 under (a) and (b) of this section, a detaining officer, a member of the emergency  
 3 service patrol, or a detention facility official may take reasonable steps for self-  
 4 protection, including a full protective search of the person of a detainee. Protective  
 5 custody under (a) and (b) of this section does not constitute an arrest and **an** [NO]  
 6 entry or other record may **not** be made to indicate that the person detained has been  
 7 arrested or charged with a crime, except that a confidential record may be made that is  
 8 necessary for the administrative purposes of the facility to which the person has been  
 9 taken or that is necessary for statistical purposes where the person's name may not be  
 10 disclosed.

11 \* **Sec. 9.** AS 47.37.180(a) is amended to read:

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

18 \* **Sec. 10.** AS 47.37.190(a) is amended to read:

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

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

2 (a) At any time during a person's 30-day commitment, the director of an  
3 approved public facility or approved private facility may file with the court a petition  
4 for a 180-day commitment of that person. The petition must include all material  
5 required under AS 47.37.190(a) except that references to "30 days" shall be read as  
6 "180 days" and must allege that the person continues to be an alcoholic **or inhalant** or  
7 drug abuser who is incapacitated by alcohol, **inhalants**, or drugs, or who continues to  
8 be at risk of serious physical harm or illness.

9 \* **Sec. 12.** AS 47.37.235(c) is amended to read:

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

14 \* **Sec. 13.** AS 47.37.270(1) is amended to read:

15 (1) "alcoholic **or inhalant** or drug abuser" means a person who

16 **(A)** demonstrates increased tolerance to alcohol, **inhalants**, or  
17 drugs, who suffers from withdrawal when alcohol, **inhalants**, or drugs are not  
18 available, whose habitual lack of self-control concerning the use of alcohol,  
19 **inhalants**, or drugs causes significant hazard to the person's health, and who  
20 continues to use alcohol, **inhalants**, or drugs despite the adverse consequences;  
21 **or**

22 **(B) uses inhalants on a more than occasional basis, whose**  
23 **use of inhalants has caused significant adverse consequences to the**  
24 **person's health or whose use of inhalants is likely to cause a significant**  
25 **hazard to the person's life or health, and whose use of inhalants impairs**  
26 **the person's judgment to such a degree that the person continues to use**  
27 **inhalants despite the adverse consequences or hazards;**

28 \* **Sec. 14.** AS 47.37.270(10) is amended to read:

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

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

1 (i) pose an immediate threat to the life or health of the  
2 person; or

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

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

6 (i) gasoline;

7 (ii) materials and substances containing petroleum  
8 distillates; and

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

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

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

19 \* **Sec. 16.** AS 47.37.270(14) is amended to read:

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