

HOUSE BILL NO. 114

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES KAPSNER, Kookesh, Hayes, Kerttula, Guess, Stevens, Murkowski, Fate, Dyson, Cissna, Joule, Meyer

Introduced: 2/7/01

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

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

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

5 * **Sec. 2.** AS 47.12.030(b) is amended to read:

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

14 (1) a traffic statute or regulation, or a traffic ordinance or regulation of
15 a municipality;

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

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

19 (4) a parks and recreational facilities statute or regulation under
20 AS 41.21;

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

23 (6) a municipal curfew ordinance, whether adopted under
24 AS 29.35.085 or otherwise, unless the municipality provides for enforcement of its
25 ordinance under AS 29.25.070(b) by the municipality; in place of any fine imposed for
26 the violation of a municipal curfew ordinance, the court shall allow a defendant the
27 option of performing community work; the value of the community work, which may
28 not be lower than the amount of the fine, shall be determined under AS 12.55.055(c);
29 in this paragraph, "community work" includes the work described in AS 12.55.055(b)
30 or work that, on the recommendation of the municipal or borough assembly, city
31 council, or traditional village council of the defendant's place of residence, would

1 benefit persons within the municipality or village who are elderly or disabled; and

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

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

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

13 * **Sec. 4.** AS 47.37.170(d) is amended to read:

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

23 * **Sec. 5.** AS 47.37.170(f) is amended to read:

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

28 * **Sec. 6.** AS 47.37.170(g) is amended to read:

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

1 caused by gross negligence or intentional misconduct.

2 * **Sec. 7.** AS 47.37.170(i) is amended to read:

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

23 * **Sec. 8.** AS 47.37.180(a) is amended to read:

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

30 * **Sec. 9.** AS 47.37.190(a) is amended to read:

31 (a) A spouse or guardian, a relative, the certifying physician, or the

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

13 * **Sec. 10.** AS 47.37.205(a) is amended to read:

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

21 * **Sec. 11.** AS 47.37.235(c) is amended to read:

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

26 * **Sec. 12.** AS 47.37.270(1) is amended to read:

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

1 despite the adverse consequences;

2 * **Sec. 13.** AS 47.37.270(10) is amended to read:

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

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

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

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

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

11 (i) gasoline;

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

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

17 * **Sec. 14.** AS 47.37.270(11) is amended to read:

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

24 * **Sec. 15.** AS 47.37.270(14) is amended to read:

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