

1 IN THE SENATE

BY RULES COMMITTEE
BY REQUEST OF THE GOVERNOR

2

SENATE BILL NO. 280

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SECOND LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act relating to the control of
7 dangerous drugs; and providing for an
8 effective date."

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

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Section 1. DEFINITIONS. a. The term "hypnotic drug"

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includes:

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(1) Acetylurea derivatives, barbituric acid deriva-
13 tives, chloral, paraldehyde, sulfomethane derivatives; or com-
14 pounds, preparations or mixtures containing any of these drugs,
15 and

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(2) Other drugs or compounds, preparations or mixtures
17 which the Department of Health and Welfare shall find and declare
18 by regulation promulgated pursuant to the Administrative Procedure
19 Act to have a hypnotic or somnifacient effect on the body of a
20 human or animal; except that the term "hypnotic drug" shall not
21 include any drug the manufacture or delivery of which is regulat-
22 ed by the narcotic drug laws of this state.

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b. The term "stimulant" means any drug consisting of
24 amphetamine, desoxyephedrine (methamphetamine), mephenteramine,
25 pipradol, phenmetrazine, methylphenidate or any salt mixture
26 or optical isomer thereof if the drug, salt mixture or optical
27 isomer has a stimulating effect on the central nervous system.

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c. The term "patient" means either (1) the individual for
29 whom a hypnotic drug or stimulant is prescribed or to whom a

1 hypnotic drug or stimulant is administered, or (2) the owner or
2 agent of the owner of an animal for which a hypnotic drug
3 or stimulant is prescribed or to which a hypnotic drug or
4 stimulant is administered.

5 d. The term "person" includes individual, corporation,
6 partnership and association.

7 e. The term "practitioner" means a person licensed by law
8 to prescribe and administer hypnotic drugs or stimulants.

9 f. The term "pharmacist" means a person licensed by
10 the State Board of Pharmacy as a pharmacist.

11 g. The term "prescription" means a written, verbal or tele-
12 phone order by a practitioner to a pharmacist for a hypnotic drug
13 or stimulant for a particular patient, which specifies the date
14 of its issue, the name and address of such practitioner, the name
15 of the patient (and, if such hypnotic drug or stimulant is
16 prescribed for an animal, the species of such animal), the name
17 and quantity of the hypnotic drug or stimulant prescribed, the
18 directions for use of such drug and the signature of such
19 practitioner.

20 h. The term "manufacturer" means any person, other than
21 a pharmacist, who manufactures hypnotic drugs or stimulants and
22 includes any person who prepares such drugs in dosage forms by
23 mixing, compounding, encapsulating, entableting, or other process.

24 i. The term "wholesaler" means any person engaged in the
25 business of distributing hypnotic drugs or stimulants to persons
26 included in any classes named in Subsecs. (1) to (6), inclusive,
27 of Sec. 4. of this Act.

28 j. The term "warehouseman" means any person who stores
29 hypnotic drugs or stimulants for others and who has no control

1 over the disposition of the hypnotic drugs or stimulants except
2 for the purpose of storage.

3 Sec. 2. UNLAWFUL ACTS. Any of the following acts or the
4 failure to do any of the acts as hereinafter set forth, or the
5 causing of any such act or failure to act are hereby declared
6 unlawful:

7 (1) The delivery of any hypnotic drug or stimulant,
8 except as provided in Sec. 4. of this Act, unless--

9 (a) The hypnotic drug or stimulant is delivered
10 by a pharmacist upon a prescription and there is affixed to the
11 immediate container in which such drug is delivered a label
12 bearing (1) the name and address of the owner of the establishment
13 from which the drug was delivered; (2) the date on which the
14 prescription for the drug was filled; (3) the number of the
15 prescription as filed in the prescription files of the pharmacist
16 who filled the prescription; (4) the name of the practitioner
17 who prescribed the drug; (5) the name of the patient, and if
18 the drug was prescribed for an animal, a statement showing the
19 species of the animal; and (6) the directions for use of the drug
20 as contained in the prescription; or

21 (b) The hypnotic drug or stimulant is delivered
22 by a practitioner in the course of his practice and the immediate
23 container in which such drug is delivered bears a label on which
24 appear the directions for use of the drug, the name and address
25 of the practitioner, the name of the patient, and if the drug
26 is prescribed for an animal, a statement showing the species of
27 the animal.

28 (2) The refilling of any prescription for a hypnotic
29 drug or stimulant unless permission is granted by the prescribing

1 physician, or practitioner, and the refilled prescription shall
2 have recorded upon it the date on which the authorization was
3 granted.

4 (3) The possession of a hypnotic drug or stimulant by
5 any person, unless the person obtained the drug on the prescrip-
6 tion of a practitioner or unless the drug was dispensed to the
7 patient by a practitioner.

8 (4) The refusal to make available and to accord full
9 opportunity to check any record or file, as required by Sec. 7
10 of this Act.

11 (5) The use by any person to his own advantage, or
12 the revealing of other than to an officer or employee of the
13 State Board of Pharmacy or to a court when relevant in a judicial
14 proceeding under this Act, any information required under the
15 authority of Sec. 7 of this Act, concerning any method or process
16 which as a trade secret, is entitled to protection.

17 Sec. 3. EXCEPTED ARTICLES. a. Nothing in this Act shall
18 apply to compounds, mixtures, or preparations containing, in
19 addition to hypnotic drugs, sufficient quantity of another drug
20 or drugs to cause the compound, mixture, or preparations to
21 possess other than a hypnotic or somnifacient action, or
22 containing, in addition to a stimulant, sufficient quantity of
23 another drug or drugs to cause the compound, mixture or prepara-
24 tion to possess other than a stimulating effect upon the central
25 nervous system.

26 b. Nothing in this Act shall apply to any compound or
27 mixture or preparation that is intended to be used as a spray or
28 gargle or a liniment or in any other way for external application
29 if such compound, mixture, or preparation contains, in addition

1 to the narcotic drug or stimulant, some other drug or drugs
2 rendering it unfit for internal administration, and such
3 compound or mixture or preparation may be sold in good faith for
4 the purpose for which they are intended and not for the purpose
5 of evading the provisions of this Act.

6 Sec. 4. EXCEPTED PERSONS. The provisions of Paragraphs (1)
7 and (2) of Sec. 2 of this Act shall not be applicable to the
8 delivery of hypnotic drugs or stimulants to persons included in
9 any of the classes hereinafter named, or to the agents or
10 employees of such persons, for use in the usual course of their
11 business or practice or in the performance of their official
12 duties, as the case may be; or to the possession of hypnotic
13 drugs or stimulants by such persons or their agents or employees
14 for such use:

15 (1) Pharmacists.

16 (2) Practitioners.

17 (3) Persons who procure hypnotic drugs or stimulants
18 for disposition by or under the supervision of pharmacists or
19 practitioners employed by them or for the purpose of lawful
20 research, teaching, or testing, and not for resale.

21 (4) Hospitals and other institutions which procure
22 hypnotic drugs or stimulants for lawful administration by practi-
23 tioners.

24 (5) Manufacturers, wholesalers, carriers, warehouseman.

25 (6) Any person who is employed by any pharmaceutical
26 manufacturer or wholesaler and who is an authorized agent of
27 the pharmaceutical manufacturer or wholesaler and who shall have
28 in his possession samples of any pharmaceutical preparations as
29 defined under the provisions of this Act when such person is

1 engaged by the pharmaceutical manufacturer or wholesaler for
2 the purpose of providing drugs to practitioners, pharmacies or
3 hospitals.

4 Sec. 5. RECORDS. a. Any person (other than a carrier or
5 practitioner) to whom the provisions of Sec. 4 of this Act is
6 applicable shall keep records showing (1) all stocks of hypnotic
7 drugs or stimulants on hand, and (2) all receipts and deliveries
8 of hypnotic drugs or stimulants by the person, his agents and
9 employees.

10 b. A practitioner shall keep records showing (1) all receipts
11 of hypnotic drugs or stimulants dispensed by him, his agents and
12 employees, and (2) the name and quantity of each hypnotic drug
13 or stimulant dispensed or administered by him, the date it was
14 dispensed or administered, the name of patient, and, if the
15 hypnotic drug or stimulant was prescribed or administered to an
16 animal, the species of the animal.

17 c. A pharmacist shall (1) keep records showing all receipts
18 of hypnotic drugs or stimulants dispensed by him; (2) file each
19 prescription received by them with appropriate number and date of
20 each refill pursuant thereto, as provided in Subsec. (2) of Sec.
21 2 of this Act; (3) retain such prescriptions for a period of not
22 less than two calendar years; (4) in case of sales under the
23 provisions of Sec. 4 of this Act, keep records showing the name
24 and quantity of the hypnotic drug or stimulant sold, the date it
25 was sold and the name and address of the purchaser.

26 d. The usual commercial or other records maintained by
27 manufacturers, wholesalers, practitioners, or pharmacists, shall
28 suffice to meet the requirements of this section. Such records
29 shall be preserved for a period of not less than two calendar years

1 Sec. 6. PROCUREMENT OR ATTEMPT TO PROCURE HYPNOTIC DRUGS
2 OR STIMULANTS BY FRAUD, UNLAWFUL. It shall be unlawful for any
3 person to obtain or attempt to obtain hypnotic drugs or stimulants
4 (1) by fraud, deceit, misrepresentation or subterfuge; or (2) by
5 the forgery or alteration of a prescription or of any written
6 order; or (3) by the use of a false name or the giving of a false
7 address.

8 Sec. 7. ACCESS TO RECORDS. Persons required to keep records
9 or files, relating to hypnotic drugs or stimulants by Sec. 5
10 of this Act shall, upon the written request of an officer or
11 employee duly designated by the Department of Health and Welfare,
12 (1) make such files or records available to such officer or
13 employee, at all reasonable hours, for inspection and copying,
14 and (2) accord to such officer or employee full opportunity
15 to check the correctness of such files or records including
16 opportunity to make inventory of all stocks of hypnotic drugs or
17 stimulants on hand; and it shall be unlawful for any such person
18 to fail to make such files or records available or to accord
19 such opportunity to check their correctness.

20 Sec. 8. REGULATIONS. The Department of Health and Welfare
21 is hereby authorized to promulgate necessary regulations for the
22 administration and enforcement of this Act.

23 Sec. 9. VIOLATIONS OF ACT. Any person who violates any of
24 the provisions of this Act shall be guilty of a misdemeanor and
25 upon conviction thereof shall be subject to imprisonment for not
26 more than one year, or a fine of not more than \$500.00, or both
27 such imprisonment and fine; but if the violation is committed
28 after a conviction of such person under this Act has become final,
29 such person shall be guilty of a felony and upon conviction shall

1 be subject to imprisonment for not more than two years or a fine
2 of not more than \$1,000.00, or both such imprisonment and fine.

3 Sec. 10. This Act takes effect on the day after its
4 passage and approval or on the day it becomes law without such
5 approval.

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