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Offered: 4/16/68

1 IN THE HOUSE

BY FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR CS FOR HOUSE BILL NO. 486

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to depressant, hallucinogenic and
7 stimulant drugs."

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

9 * Section 1. DECLARATION OF INTENT. (a) The Legislature of the State
10 of Alaska finds that it is essential to the public health and safety to regu-
11 late the manufacture, distribution and possession of depressant, hallucino-
12 genic and stimulant drugs, as defined in this Act.

13 (b) It is the purpose of this Act to regulate the manufacture, distri-
14 bution, and possession of these drugs while affording the public the
15 therapeutic benefits of them under medical supervision; to complement and
16 supplement the federal laws and regulations affecting the named activities;
17 to prevent the manufacture and distribution for harmful or illegitimate
18 purposes; and to place upon manufacturers, wholesalers, licensed compounders
19 of prescriptions, and persons prescribing these drugs a basic responsibility
20 for preventing the improper distribution of these drugs to the extent that
21 the drugs are produced, handled, sold or prescribed by them.

22 (c) The legislature further finds that the distribution and sale of
23 certain drugs are more serious offenses against society than the mere use of
24 the drugs and that distribution to a minor is a graver offense than distri-
25 bution to an adult. It is the intent of the legislature that this latter
26 factor be considered by the courts in exercising their discretion in im-
27 posing the sentences prescribed in this Act for the distribution and sale of
28 the named drugs.

29 * Sec. 2. AS 17 is amended by adding a new chapter to read:

30 HOUSE BILL 486

1 CHAPTER 12. DRUG ABUSE CONTROL.

2 Sec. 17.12.010. ACTS PROHIBITED. Except as otherwise provided in
3 this chapter it is unlawful for a person to manufacture, compound,
4 counterfeit, possess, have under his control, sell, prescribe, adminis-
5 ter, dispense, give, barter, supply or distribute in any manner, a
6 depressant, hallucinogenic or stimulant drug.

7 Sec. 17.12.020. AUTHORIZED POSSESSION. A person may lawfully
8 possess a depressant, hallucinogenic or stimulant drug that has been
9 prescribed, sold or dispensed by a practitioner if the drugs are

10 (1) for use by the person in possession or a member of his
11 household; or

12 (2) for administration to an animal owned by him or a member
13 of his household; or

14 (3) designated by the commissioner for use in laboratories
15 or institutions for educational or teaching research, or for chemical
16 analysis; any such laboratory or institution must first obtain a permit
17 from the commissioner which shall specify the drugs, the possession of
18 which is allowed, delineate and restrict their use or disposal, identify
19 the permittee and promulgate the rules and regulations considered neces-
20 sary to fulfill the requirements of this chapter.

21 Sec. 17.12.030. MANUFACTURE AND SALE. Depressant, hallucinogenic
22 and stimulant drugs may be manufactured, compounded, processed, pos-
23 sessed, sold or otherwise disposed of by the following persons acting
24 in the ordinary and authorized course of their business:

25 (1) a manufacturer, compounder or processor, operating in
26 conformance with the laws of this state relating to the manufacture,
27 compounding or processing of drugs, who is regularly engaged in pre-
28 paring pharmaceutical chemicals or prescription drugs for distribution
29 through branch outlets, through wholesale druggists, or by direct

1 shipment (A) to pharmacies or to hospitals, clinics, public health
2 agencies or physicians for dispensing by registered pharmacists upon
3 prescriptions, or for use by or under the supervision of practitioners
4 licensed in this state to administer drugs in the course of their
5 professional practice; or (B) to laboratories or research or educational
6 institutions for their use in research, teaching or chemical analysis;

7 (2) a supplier of manufacturers, compounders, and pro-
8 cessors referred to in (a)(1) of this section;

9 (3) a wholesale druggist who maintains his establishment in
10 conformance with state and local laws relating to the manufacture, com-
11 compounding or processing of drugs and is regularly engaged in supplying
12 prescription drugs (A) to pharmacies, or to hospitals, clinics, public
13 health agencies, or physicians for dispensing by registered pharmacists
14 upon prescriptions or for use by or under the supervision of practi-
15 tioners licensed in this state to administer these drugs in the course
16 of their professional practice, or (B) to laboratories or research or
17 educational institutions for their use in research, teaching, or
18 clinical analysis;

19 (4) pharmacies, hospitals, clinics and public health agencies
20 which maintain their establishments in conformance with state and local
21 laws regulating the practice of pharmacy and medicine which are regu-
22 larly engaged in dispensing drugs upon prescriptions of practitioners
23 licensed in this state to administer drugs for patients under the care
24 of the practitioners in the course of their professional practice;

25 (5) a practitioner licensed in this state who may prescribe
26 or administer depressant, hallucinogenic or stimulant drugs, while
27 acting in the course of his professional practice;

28 (6) a person who uses depressant, hallucinogenic or stimulant
29 drugs in research, teaching or chemical analysis and not for sale.

1 Sec. 17.12.040. REGULATIONS. (a) The commissioner may promulgate
2 regulations necessary to carry out the purposes of this chapter and to
3 secure effective enforcement of its provisions.

4 (b) The commissioner shall, by regulation, promulgate a list of
5 drugs which contain barbituric acid or a quantity of any other substance
6 which is habit forming, dangerous, or has a potential for abuse because
7 of its depressant or stimulant effect on the central nervous system or
8 its hallucinogenic effect.

9 (c) The commissioner shall by regulation exempt any depressant,
10 hallucinogenic or stimulant drug from the application of this chapter if
11 he finds that it includes a substance not having a depressant or stimu-
12 lant effect on the central nervous system or a hallucinogenic effect and
13 the substance is present in such combination, quantity, proportion, or
14 concentration as to prevent the substance which does have such an effect
15 from being ingested or absorbed in sufficient amounts or concentrations
16 as to be habit forming, dangerous, or have a potential for abuse because
17 of its depressant or stimulant effect on the central nervous system or
18 its hallucinogenic effect. However, no depressant, hallucinogenic or
19 stimulant drug listed as dangerous by the Secretary of Health and Wel-
20 fare of the United States whether defined by statute or regulation may
21 be exempted from state regulations.

22 Sec. 17.12.050. RECORDS. A person engaged in manufacturing, com-
23 pounding, processing, selling, delivering or otherwise disposing of a
24 depressant, hallucinogenic or stimulant drug shall, upon the effective
25 date of this chapter, prepare a complete and accurate record of all
26 stocks of each drug on hand and shall keep the record for three years.
27 If this record has already been prepared in accordance with federal law
28 no additional record is required if all of these records have been
29 retained and are made available to the department upon request. On and

1 after the effective date of this chapter, a person manufacturing, com-
2 pound, or processing a depressant, hallucinogenic or stimulant drug
3 shall prepare and keep, for not less than three years, a complete and
4 accurate record of the kind and quantity of each drug manufactured,
5 compounded, or processed and the date of the manufacture, compounding,
6 or processing; a person selling, delivering, or otherwise disposing of
7 a depressant, hallucinogenic or stimulant drug shall prepare or obtain,
8 and keep for not less than three years, a complete and accurate record
9 of the kind and quantity of each drug received, sold, delivered, or
10 otherwise disposed of, the name and address from whom it was received
11 and to whom it was sold, delivered, or otherwise disposed of, and the
12 date of the transaction.

13 Sec. 17.12.060. INSPECTION. (a) A person required by sec. 50 of
14 this chapter to prepare or obtain and keep records, and a carrier main-
15 taining records with respect to a shipment containing a depressant,
16 hallucinogenic or stimulant drug, and a person in charge, or having
17 custody of the records, shall, upon request of an officer or employee
18 designated by the commissioner permit the officer or employee at
19 reasonable times to have access to and copy the records. For the pur-
20 poses of verification of the records and of the enforcement of this
21 chapter, officers or employees designated by the commissioner are
22 authorized to enter, at reasonable times, a factory, warehouse, estab-
23 lishment, or vehicle in which a depressant, hallucinogenic or stimulant
24 drug is manufactured, compounded, processed, sold, delivered, or other-
25 wise disposed of and to inspect, within reasonable limits and in a
26 reasonable manner, the factory, warehouse, establishment, or vehicle,
27 and all pertinent equipment, finished and unfinished material, con-
28 tainers and labeling and to inventory the stock of these drugs and
29 obtain samples of these drugs.

1 (b) No inspection authorized by (a) of this section extends to
2 (1) financial data, (2) sales data other than shipment data, (3)
3 pricing data, (4) personnel data, or (5) research data.

4 (c) The provisions of sec. 50 of this chapter and of (a) of this
5 section do not apply to a licensed practitioner with respect to a
6 depressant, hallucinogenic or stimulant drug received, prepared, proces-
7 sed, administered, or dispensed by him in the course of his professional
8 practice, unless the practitioner regularly engages in dispensing these
9 drugs to his patients for which they are charged, either separately or
10 together with charges for other professional services.

11 Sec. 17.12.070. PRESCRIPTION REFILL. No prescription for a de-
12 pressant, hallucinogenic or stimulant drug may be filled or refilled
13 more than six months after the date on which the prescription was issued
14 and no prescription which is authorized to be refilled may be refilled
15 more than five times. Nothing in this chapter prevents a practitioner
16 from issuing a new prescription for the same drug either in writing or
17 orally. An oral prescription for the drug shall be promptly reduced to
18 writing on a new prescription blank and filed by the pharmacist filling
19 it.

20 Sec. 17.12.080. PERSONS EXEMPTED. The provisions of this chapter
21 restricting the possessing and control of depressant, hallucinogenic
22 and stimulant drugs do not apply to

23 (1) a common carrier or to a warehouseman, while engaged in
24 lawfully transporting or storing these drugs;

25 (2) an employee of a common carrier or warehouseman while
26 acting within the scope of his employment in lawfully transporting or
27 storing these drugs;

28 (3) a public officer or his employee in the performance of
29 his official duties requiring possession or control of these drugs;

1 (4) temporary, incidental possession by an employee or agent
2 of a person lawfully entitled to possession; or

3 (5) temporary, incidental possession by a person whose
4 possession is for the purpose of aiding a public officer in performing
5 his official duties.

6 Sec. 17.12.090. EXEMPTED DRUGS. Depressant, hallucinogenic or
7 stimulant drugs exempted under federal law or under regulations promul-
8 gated by the commissioner are exempted from the application of this
9 chapter.

10 Sec. 17.12.100. EXEMPTIONS AND EXCEPTIONS NOT REQUIRED TO BE
11 NEGATIVED. In a complaint, information, or indictment, and in an
12 action or proceeding brought for the enforcement of any provision of
13 this chapter, it is not necessary to negative any exception, excuse,
14 proviso, or exemption, contained in this chapter, and the burden of
15 proof of an exception, excuse, proviso, or exemption is upon the
16 defendant.

17 Sec. 17.12.110. PENALTIES. (a) A person who violates a provision
18 of this chapter relating to the possession or control of depressant,
19 hallucinogenic and stimulant drugs, when his possession or control is
20 for his own use, is guilty of a misdemeanor and upon conviction is
21 punishable by imprisonment for not more than one year, or by a fine of
22 not more than \$1,000, or by both.

23 (b) A person who violates a provision of this chapter other than
24 one mentioned in (a) of this section, or a person who violates a pro-
25 vision of this chapter relating to the possession or control of depres-
26 sant, hallucinogenic and stimulant drugs, when his possession or control
27 is for the purpose of sale or other disposal to another person, is
28 guilty of a felony and upon conviction is punishable as follows:

29 (1) for the first offense, by imprisonment for not more than

1 25 years, or by a fine of not more than \$20,000, or by both;

2 (2) for the second and subsequent offenses, by imprisonment
3 for any term of years or life, or by a fine of not more than \$25,000,
4 or by both.

5 (c) A person who violates a provision of this chapter by selling
6 or otherwise disposing of a depressant, hallucinogenic or stimulant drug
7 to a person less than 19 years of age is guilty of a felony and upon
8 conviction is punishable by imprisonment for any term of years or life,
9 or by a fine of not more than \$25,000, or by both.

10 Sec. 17.12.120. REHABILITATION. A person convicted of violating
11 a provision of this chapter relating to the possession or control of
12 depressant, hallucinogenic and stimulant drugs, when his possession or
13 control is for his own use may, in lieu of a fine or imprisonment, be
14 committed to the custody of the department for rehabilitative treatment
15 for not more than one year.

16 Sec. 17.12.130. FORFEITURE. A quantity of a drug or drug manu-
17 facturing equipment or punch, die, plate, or accessories in making
18 counterfeit drugs with respect to which a violation of this chapter has
19 occurred shall be forfeited to the state and upon conclusion of the
20 trial in which the violation is proved shall be destroyed or used by
21 the department for medical or scientific purposes.

22 Sec. 17.12.140. ADDITIONAL REMEDIES. In addition to the remedies
23 provided in this chapter, the commissioner is authorized to apply to
24 the superior court for, and the court shall have jurisdiction upon
25 hearing and for cause shown, to grant a temporary or permanent injunc-
26 tion restraining a person from violating a provision of this chapter
27 irrespective of whether there exists an adequate remedy at law.

28 Sec. 17.12.150. DEFINITIONS. In this chapter

29 (1) "commissioner" means the commissioner of health and

1 welfare;

2 (2) "department" means the Department of Health and Welfare;

3 (3) "depressant, hallucinogenic or stimulant drug" means:

4 (A) cannabis, psilocybin, dimethyltryptamine, lysergic
5 acid diethylamide, and every other substance having similar
6 physiological effects;

7 (B) a drug which contains barbituric acid or any of the
8 salts of barbituric acid; or a derivative of barbituric acid which
9 has been designated by the commissioner under sec. 40 of this
10 chapter as habit forming or dangerous;

11 (C) a drug which contains amphetamine or any of its
12 optical isomers; or a substance which has been designated by the
13 commissioner as habit forming or dangerous because of its stimu-
14 lant effect on the central nervous system; or

15 (D) a drug which contains any quantity of a substance
16 which the commissioner, after investigation, has found to have,
17 and by regulation designates as having, a potential for abuse
18 because of its depressant or stimulant effect on the central ner-
19 vous system or its hallucinogenic effect;

20 (4) "cannabis" includes all parts of the plant Cannabis
21 Sativa L., whether growing or not; the seeds thereof; the resin ex-
22 tracted from any part of such plant; and every compound, manufacture,
23 salt, derivative, mixture, or preparation of such plant, its seeds,
24 or resin; but does not include the mature stalks of such plant, fiber
25 produced from such stalks, oil, or cake made from the seeds of such
26 plant, any other compound, manufacture, salt, derivative, mixture or
27 preparation of such mature stalks (except the resin extracted there-
28 from), fiber, oil, or cake, or the sterilized seed of such plant which
29 is incapable of germination;

1 (5) "manufacture, compound or process" includes re-packaging
2 or otherwise changing the container, wrapper, or labeling of a drug
3 package in the furtherance of the distribution of the drug from the
4 original place of manufacture to the person who makes final delivery
5 or sale to the ultimate consumer, and "manufacturers, compounders, and
6 processors" refer to persons engaged in these defined activities;

7 (6) "practitioner" means a physician, dentist, veterinarian,
8 or other person licensed in this state who may prescribe or administer
9 drugs which are subject to this chapter.

10 * Sec. 3. AS 17.10.230(13) is amended to read:

11 (13) "narcotic drugs" means coca leaves, opium, [CANNABIS,]
12 isonipecaine, amidone, isoamidone, ketobemidone, and every other sub-
13 stance having similar physiological effects:

14 (A) "amidone" means any substance identified chemically
15 as (4-4-Diphenyl-6-Dimethylamino-Heptanone-3), or any salt there-
16 of, by whatever trade name designated;

17 (B) "isoamidone" means any substance identified
18 chemically as (4-4-Dyphenyl-5-Methyl-6-Dimethylamino-hexanon-3),
19 or any salt thereof, by whatever trade name designated;

20 (C) "keto-Bemidone" means any substance identified
21 chemically as (4-(3-Hydroxyphenyl)-1 Methyl-4-piperidyl ethyl
22 ketone hydrochloride), or any salt thereof, by whatever trade
23 name designated;

24 * Sec. 4. AS 17.15.110(3) is amended to read:

25 (3) "narcotic drug" means a narcotic drug defined by the
26 federal internal revenue laws and the regulation issued under them
27 [AND THE FEDERAL MARIHUANA TAX ACT OF 1937 AND THE REGULATIONS ISSUED
28 UNDER IT].
29