

Introduced: 3/22/72
Referred: Health, Welfare
and Education

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 386

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act revising drug abuse laws of the state in
7 accordance with the Uniform Controlled Substances Act;
8 and providing for an effective date."

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

10 * Section 1. AS 17 is amended by adding a new chapter to read:

11 CHAPTER 17. UNIFORM CONTROLLED SUBSTANCES ACT.

12 ARTICLE 1. STANDARDS AND SCHEDULES.

13 Sec. 17.17.010. AUTHORITY TO CONTROL. (a) The commissioner may
14 by regulation add substances to those enumerated in the schedules in
15 secs. 40, 60, 80, 100 - 120 or 125 of this chapter. The commissioner
16 may present to the legislature during the first 10 days of a regular
17 session the proposed deletion or rescheduling of any substance
18 enumerated in the schedules in secs. 40, 60, 80, 100 - 120 or 125 of
19 this chapter. An addition, deletion or rescheduling shall be in
20 accordance with the advice and determination of the Controlled
21 Substances Advisory Committee established in sec. 15 of this chapter.
22 In making a determination regarding a substance, the committee shall
23 consider the following:

- 24 (1) the actual or relative potential for abuse;
25 (2) the scientific evidence of its pharmacological effect,
26 if known;
27 (3) the state of current scientific knowledge regarding the
28 substance;
29 (4) the history and current pattern of abuse;

1 (5) the scope, duration, and significance of abuse;

2 (6) the risk to the public health;

3 (7) the potential of the substance to produce psychic or
4 physiological dependence liability, and

5 (8) whether the substance is an immediate precursor of a
6 substance already controlled under this chapter.

7 (b) After considering the factors enumerated in (a) of this
8 section, the committee shall make findings with respect to them and,
9 subject to sec. 15 of this chapter, the commissioner shall issue a
10 regulation controlling the substance as required by the findings of the
11 committee or shall propose to the legislature during the first 10 days
12 of a regular session the deletion or rescheduling of the substance as
13 required by the findings of the committee.

14 (c) If the commissioner designates a substance as an immediate
15 precursor, substances which are precursors of the controlled precursor
16 shall not be subject to control solely because they are precursors of
17 the controlled precursor.

18 (d) When the deletion or rescheduling of a particular substance
19 is proposed to the legislature during the first 10 days of a regular
20 session, the proposed action becomes effective 45 days after presenta-
21 tion or at the end of the session whichever is earlier, unless dis-
22 approved by a resolution concurred in by a majority of the members of
23 each house.

24 Sec. 17.17.015. CONTROLLED SUBSTANCES ADVISORY COMMITTEE. (a)
25 There is within the department the Controlled Substances Advisory
26 Committee, comprised of the director, division of public health, one
27 physician designated by the State Medical Board, one person designated
28 by the Board of Pharmacy and two physicians appointed by the governor.
29 The director, division of public health, serves ex officio. Other

1 members serve terms of four years. Members appointed initially serve
2 four, three, two and one year terms. Members may be reappointed, and
3 vacancies on the committee are filled by the appointing authority.
4 Committee members receive no salary but are entitled to per diem and
5 travel expenses authorized by law for boards and commissions.

6 (b) The committee meets at the call of the commissioner, and
7 three members constitute a quorum. The committee may adopt bylaws
8 for its proceedings as it determines necessary.

9 (c) Before making a determination regarding addition, deletion
10 or rescheduling of a substance under sec. 10 of this chapter, the
11 committee shall hold hearings under the Administrative Procedure Act
12 and shall include with its recommendations findings of fact and other
13 supporting information as it considers appropriate.

14 (d) Notwithstanding sec. 10 of this chapter, if any substance is
15 designated, rescheduled or deleted as a controlled substance under
16 federal law and notice to that effect is given to the commissioner, he
17 shall similarly control the substance under this chapter after the
18 expiration of 30 days from publication in the Federal Register of a
19 final order designating a substance as a controlled substance or
20 rescheduling or deleting a substance, unless within that 30 day period,
21 the commissioner or the committee objects to inclusion, rescheduling,
22 or deletion. In that case, the committee shall publish the reasons
23 for objection and afford all interested parties an opportunity to be
24 heard. At the conclusion of the hearing, the committee shall publish
25 its decision, which shall be final unless altered by statute. Upon
26 publication of objection to inclusion, rescheduling, or deletion
27 under this chapter by the commissioner or the committee, control under
28 this chapter is stayed until the committee publishes its decision.

29 (e) Notwithstanding sec. 10 of this chapter, the commissioner,

1 unless the committee objects, shall delete from a schedule any non-
2 narcotic substance which may, under the Federal Food, Drug and
3 Cosmetic Act and the law of the state, be lawfully sold over the
4 counter without a prescription. If the committee objects, the
5 committee shall publish the reasons for objection and afford all
6 interested parties an opportunity to be heard. At the conclusion the
7 committee shall publish its decision, which shall be final unless
8 altered by statute.

9 (f) Authority to control under this section does not extend to
10 intoxicating liquor as defined in AS 04.20.010 or tobacco.

11 Sec. 17.17.020. NOMENCLAUTRE. The controlled substances listed
12 or to be listed in the schedules in secs, 40, 60, 80, 100 - 120 and
13 125 of this chapter are included by whatever official, common, usual,
14 chemical, or trade name designated.

15 Sec. 17.17.030. SCHEDULE I TESTS. The commissioner shall place
16 a substance in Schedule I upon a finding that the substance:

- 17 (1) has high potential for abuse, and
18 (2) has no accepted medical use in treatment in the United
19 States or lacks accepted safety for use in treatment under medical
20 supervision.

21 Sec. 17.17.040. SCHEDULE I. (a) The controlled substances
22 listed in this section are included in Schedule I.

23 (b) Any of the following opiates, including their isomers,
24 esters, ethers, salts, and salts of isomers, esters, and ethers, unless
25 specifically excepted, whenever the existence of these isomers, esters,
26 ethers and salts is possible within the specific chemical designation:

- 27 (1) Acetylmethadol;
28 (2) Allylprodine;
29 (3) Alphacetylmethadol;

- 1 (4) Alphameprodine;
- 2 (5) Alphamethadol;
- 3 (6) Benzethidine;
- 4 (7) Betacetylmethadol;
- 5 (8) Betameprodine;
- 6 (9) Betamethadol;
- 7 (10) Betaprodine;
- 8 (11) Clonitazene;
- 9 (12) Dextromoramide;
- 10 (13) Dextrorphan;
- 11 (14) Diampromide;
- 12 (15) Diethylthiambutene;
- 13 (16) Dimenoxadol;
- 14 (17) Dimepheptanol;
- 15 (18) Dimethylthiambutene;
- 16 (19) Dioxaphetyl butyrate;
- 17 (20) Dipipanone;
- 18 (21) Ethylmethylthiambutene;
- 19 (22) Etonitazene;
- 20 (23) Etoxeridine;
- 21 (24) Furethidine;
- 22 (25) Hydroxypethidine;
- 23 (26) Ketobemidone;
- 24 (27) Levomoramide;
- 25 (28) Levophenacylmorphane;
- 26 (29) Morpheridine;
- 27 (30) Noracymethadol;
- 28 (31) Norlevorphanol;
- 29 (32) Normethadone;

- 1 (33) Norpipanone;
- 2 (34) Phenadoxone;
- 3 (35) Phenampromide;
- 4 (36) Phenomorphan;
- 5 (37) Phenoperidine;
- 6 (38) Piritramide;
- 7 (39) Proheptazine;
- 8 (40) Properidine;
- 9 (41) Racemoramide;
- 10 (42) Trimeperidine.

11 (c) Any of the following opium derivatives, their salts, isomers
12 and salts of isomers, unless specifically excepted, whenever the
13 existence of these salts, isomers and salts of isomers is possible
14 within the specific chemical designation:

- 15 (1) Acetorphine;
- 16 (2) Acetyldihydrocodeine;
- 17 (3) Benzylmorphine;
- 18 (4) Codeine methylbromide;
- 19 (5) Codeine-N-Oxide;
- 20 (6) Cyprenorphine;
- 21 (7) Desomorphine;
- 22 (8) Dihydromorphine;
- 23 (9) Etorphine;
- 24 (10) Heroin;
- 25 (11) Hydromorphinol;
- 26 (12) Methyldesorphine;
- 27 (13) Methyldihydromorphine;
- 28 (14) Morphine methylbromide;
- 29 (15) Morphine methylsulfonate;

- 1 (16) Morphine-N-Oxide;
- 2 (17) Myrophine;
- 3 (18) Nicocodeine;
- 4 (19) Nicomorphine;
- 5 (20) Normorphine;
- 6 (21) Phoclodine;
- 7 (22) Thebacon.

8 (d) Any material, compound, mixture or preparation which contains
9 any quantity of the following hallucinogenic substances, their salts,
10 isomers and salts of isomers, unless specifically excepted, whenever
11 the existence of these salts, isomers, and salts of isomers is
12 possible within the specific chemical designation:

- 13 (1) 3,4-methylenedioxy amphetamine;
- 14 (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- 15 (3) 3,4,5-trimethoxy amphetamine;
- 16 (4) Bufotenine;
- 17 (5) Diethyltryptamine;
- 18 (6) Dimethyltryptamine;
- 19 (7) 4-methyl-2,5-dimethoxylamphetamine;
- 20 (8) Ibogaine;
- 21 (9) Lysergic acid diethylamide;
- 22 (10) Mescaline;
- 23 (11) Peyote;
- 24 (12) N-ethyl-3-piperidyl benzilate;
- 25 (13) N-methyl-3-piperidyl benzilate;
- 26 (14) Psilocybin;
- 27 (15) Psilocyn.

28 Sec. 17.17.050. SCHEDULE II TESTS. The commissioner shall place
29 a substance in Schedule II upon a finding that:

1 (1) the substance has high potential for abuse;

2 (2) the substance has currently accepted medical use in
3 treatment in the United States, or currently accepted medical use with
4 severe restrictions, and

5 (3) the abuse of the substance may lead to severe psychic or
6 physical dependence.

7 Sec. 17.17.060. SCHEDULE II. (a) The controlled substances
8 listed in this section are included in Schedule II.

9 (b) Any of the following substances, except those narcotic drugs
10 listed in other schedules, whether produced directly or indirectly by
11 extraction from substances of vegetable origin, or independently by
12 means of chemical synthesis, or by combination of extraction and
13 chemical synthesis:

14 (1) Opium and opiate, and any salt, compound, derivative,
15 or preparation of opium or opiate;

16 (2) Any salt, compound, isomer, derivative, or preparation
17 thereof which is chemically equivalent or identical with any of the
18 substances referred to in paragraph (1), but not including the
19 isoquinoline alkaloids of opium;

20 (3) Opium poppy and poppy straw;

21 (4) Coca leaves and any salt, compound, derivative, or
22 preparation of coca leaves, and any salt, compound, derivative, or
23 preparation thereof which is chemically equivalent or identical with
24 any of these substances, but not including decocainized coca leaves
25 or extractions which do not contain cocaine or ecgonine.

26 (c) Any of the following opiates, including their isomers, esters,
27 ethers, salts, and salts of isomers, whenever the existence of these
28 isomers, esters, ethers and salts is possible within the specific
29 chemical designation:

- 1 (1) Alphaprodine;
- 2 (2) Anileridine;
- 3 (3) Bezitramide;
- 4 (4) Dihydrocodeine;
- 5 (5) Diphenoxylate;
- 6 (6) Fentanyl;
- 7 (7) Isomethadone;
- 8 (8) Levomethorphan;
- 9 (9) Levorphanol;
- 10 (10) Metazocine;
- 11 (11) Methadone;
- 12 (12) Methadone-Intermediate, 4-cyano-2-dimethylamino-4,
- 13 4-diphenyl butane;
- 14 (13) Moramide-Intermediate, 2-methyl-3-morpholino-1,
- 15 1-diphenyl-propane-carboxylic acid;
- 16 (14) Pethidine;
- 17 (15) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-
- 18 phenylpiperidine;
- 19 (16) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-
- 20 4-carboxylate;
- 21 (17) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-
- 22 4-carboxylic acid;
- 23 (18) Phenazocine;
- 24 (19) Piminodine;
- 25 (20) Racemethorphan;
- 26 (21) Racemorphan.

27 Sec. 17.17.070. SCHEDULE III TESTS. The commissioner shall place
28 a substance in Schedule III upon a finding that:

- 29 (1) the substance has a potential for abuse less than the

1 substances listed in Schedules I and II;

2 (2) the substance has currently accepted medical use in
3 treatment in the United States, and

4 (3) abuse of the substance may lead to moderate or low
5 physical dependence or high psychological dependence.

6 Sec. 17.17.080. SCHEDULE III. (a) The controlled substances
7 listed in this section are included in Schedule III.

8 (b) Any material, compound, mixture, or preparation which
9 contains any quantity of the following substances having a potential
10 for abuse associated with a stimulant effect on the central nervous
11 system:

12 (1) Amphetamine, its salts, optical isomers, and salts of
13 its optical isomers;

14 (2) Phenmetrazine and its salts;

15 (3) any substance which contains any quantity of meth-
16 amphetamine, including its salts, isomers, and salts of isomers;

17 (4) Methylphenidate.

18 (c) Unless listed in another schedule, any material, compound,
19 mixture, or preparation which contains any quantity of the following
20 substances having a potential for abuse associated with a depressant
21 effect on the central nervous system:

22 (1) any substance which contains any quantity of a derivative
23 of barbituric acid, or any salt of a derivative of barbituric acid,
24 except those substances which are specifically listed in other
25 Schedules;

26 (2) Chlorhexadol;

27 (3) Glutethimide;

28 (4) Lysergic acid;

29 (5) Lysergic acid amide;

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- (6) Methyprylon;
- (7) Phencyclidine;
- (8) Sulfondiethylmethane;
- (9) Sulfonethylmethane;
- (10) Sulfonmethane.

(d) Nalorphine.

(e) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

1 (6) not more than 300 milligrams of ethylmorphine, or any
2 of its salts, per 100 milliliters or not more than 15 milligrams per
3 dosage unit, with one or more ingredients in recognized therapeutic
4 amounts;

5 (7) not more than 500 milligrams of opium per 100 milli-
6 liters or per 100 grams, or not more than 25 milligrams per dosage
7 unit, with one or more active, nonnarcotic ingredients in recognized
8 therapeutic amounts;

9 (8) not more than 50 milligrams of morphine, or any of its
10 salts, per 100 milliliters or per 100 grams with one or more active,
11 nonnarcotic ingredients in recognized therapeutic amounts.

12 (f) Marihuana.

13 (g) Tetrahydracannabinols.

14 (h) The commissioner may except by regulation any compound,
15 mixture or preparation containing any stimulant or depressant sub-
16 stance listed in subsections (b) and (c) of this section from the
17 application of all or part of this chapter if the compound, mixture,
18 or preparation contains one or more active medicinal ingredients not
19 having a stimulant or depressant effect on the central nervous system,
20 and if the admixtures are included in the compound, mixture or
21 preparation in combinations, quantity, proportion, or concentration
22 that vitiate the potential for abuse of the substances which have a
23 stimulant or depressant effect on the central nervous system.

24 Sec. 17.17.090. SCHEDULE IV TESTS. The commissioner shall
25 place a substance in Schedule IV upon a finding that:

26 (1) the substance has a low potential for abuse relative to
27 substances in Schedule III;

28 (2) the substance has currently accepted medical use in
29 treatment in the United States, and

1 (3) abuse of the substance may lead to limited physical
2 dependence or psychological dependence relative to the substances in
3 Schedule III.

4 Sec. 17.17.100. SCHEDULE IV. (a) The controlled substances
5 listed in this section are included in Schedule IV.

6 (b) Any material, compound, mixture, or preparation which
7 contains any quantity of the following substances having a potential
8 for abuse associated with a depressant effect on the central nervous
9 system:

- 10 (1) Barbital;
- 11 (2) Chloral betaine;
- 12 (3) Chloral hydrate;
- 13 (4) Ethchlorvynol;
- 14 (5) Ethinamate;
- 15 (6) Methohexital;
- 16 (7) Meprobamate;
- 17 (8) Methylphenobarbital;
- 18 (9) Paraldehyde;
- 19 (10) Petrichloral;
- 20 (11) Phenobarbital.

21 (c) The commissioner may except by regulation a compound,
22 mixture, or preparation containing any depressant substance listed in
23 (b) of this section from the application of all or part of this chapter
24 if the compound, mixture, or preparation contains one or more active
25 medicinal ingredients not having a depressant effect on the central
26 nervous system, and if the admixtures are included in the compound,
27 mixture or preparation in combinations, quantity, proportion, or
28 concentration that vitiate the potential for abuse of the substances
29 which have a depressant effect on the central nervous system.

1 Sec. 17.17.110. SCHEDULE V TESTS. The commissioner shall place
2 a substance in Schedule V upon a finding that:

3 (1) the substance has low potential for abuse relative to
4 the controlled substances listed in Schedule IV;

5 (2) the substance has currently accepted medical use in
6 treatment in the United States, and

7 (3) the substance has limited physical dependence or
8 psychological dependence liability relative to the controlled sub-
9 stances listed in Schedule IV.

10 Sec. 17.17.120. SCHEDULE V. (a) The controlled substances
11 listed in this section are included in Schedule V.

12 (b) Any compound, mixture, or preparation containing limited
13 quantities of any of the following narcotic drugs, which also contains
14 one or more nonnarcotic active medicinal ingredients in sufficient
15 proportion to confer upon the compound, mixture, or preparation,
16 valuable medicinal qualities other than those possessed by the narcotic
17 drug alone:

18 (1) not more than 200 milligrams of codeine, or any of its
19 salts, per 100 milliliters or per 100 grams;

20 (2) not more than 100 milligrams of dihydrocodeine, or any
21 of its salts, per 100 milliliters or per 100 grams;

22 (3) not more than 100 milligrams of ethylmorphine, or any
23 of its salts, per 100 milliliters or per 100 grams;

24 (4) not more than 2.5 milligrams of diphenoxylate and not
25 less than 25 micrograms of atropine sulfate per dosage unit;

26 (5) Not more than 100 milligrams of opium per 100 milliliters
27 or per 100 grams.

28 Sec. 17.17.125. SCHEDULE VI. The commissioner shall place a
29 substance in Schedule VI upon a finding that:

1 (1) the substance should be classified as a controlled
2 substance for purposes of this chapter;

3 (2) the substance has low potential for abuse;

4 (3) the limited use of the substance without regard to
5 prescription requirements or medical purposes poses no significant
6 risk to the public health or the health or safety of the users or
7 the health or safety of others in the community.

8 Sec. 17.17.130. REPUBLISHING OF SCHEDULES. The commissioner
9 shall revise and republish the schedules semi-annually for two years
10 from the effective date of this chapter and thereafter annually.

11 ARTICLE 2. REGULATION OF MANUFACTURE, DIS-
12 TRIBUTION AND DISPENSING OF CONTROLLED SUBSTANCES.

13 Sec. 17.17.150. REGULATIONS. The commissioner may promulgate
14 regulations and charge reasonable fees relating to the registration
15 and control of the manufacture, distribution, and dispensing of
16 controlled substances within the state.

17 Sec. 17.17.160. REGISTRATION REQUIREMENTS. (a) A person who
18 manufactures, distributes, or dispenses a controlled substance within
19 the state or who proposes to engage in the manufacture, distribution,
20 or dispensing of a controlled substance within the state, must obtain
21 annually a registration issued by the commissioner in accordance with
22 his regulations.

23 (b) Persons registered by the commissioner under this chapter to
24 manufacture, distribute, dispense, or conduct research with controlled
25 substances may possess, manufacture, distribute, dispense, or conduct
26 research with those substances to the extent authorized by their
27 registration and in conformity with the other provisions of secs. 150 -
28 220 of this chapter.

29 (c) The following persons need not register and may lawfully

1 possess controlled substances under this chapter:

2 (1) an agent or employee of a registered manufacturer,
3 distributor, or dispenser of a controlled substance if he is acting
4 in the usual course of his business or employment;

5 (2) a common or contract carrier or warehouseman, or his
6 employee, whose possession of a controlled substance is in the usual
7 course of business or employment;

8 (3) an ultimate user or a person in possession of a
9 controlled substance under a lawful order of a practitioner or in
10 lawful possession of a Schedule V substance.

11 (d) The commissioner may waive by regulation the requirement
12 for registration of certain manufacturers, distributors, or dispensers
13 if he finds it consistent with the public health and safety.

14 (e) A separate registration is required at each principal place
15 of business or professional practice where the applicant manufactures,
16 distributes, or dispenses controlled substances.

17 (f) The commissioner may inspect the establishment of a
18 registrant or applicant for registration in accordance with the
19 commissioner's regulation.

20 Sec. 17.17.170. REGISTRATION. (a) The commissioner shall
21 register an applicant to manufacture or distribute controlled substances
22 included in secs. 40, 60, 80, 100 and 120 of this chapter unless he
23 finds that the issuance of that registration would be inconsistent with
24 the public interest. In determining the public interest, the commis-
25 sioner shall consider the following factors:

26 (1) maintenance of effective controls against diversion of
27 controlled substances into other than legitimate medical, scientific,
28 or industrial channels;

29 (2) compliance with applicable state and local law;

1 (3) any convictions of the applicant under federal or state
2 laws relating to a controlled substance;

3 (4) past experience in the manufacture or distribution of
4 controlled substances, and the existence in the applicant's establish-
5 ment of effective controls against diversion;

6 (5) furnishing by the applicant of false or fraudulent
7 material in an application filed under this chapter;

8 (6) suspension or revocation of the applicant's federal
9 registration to manufacture, distribute, or dispense controlled sub-
10 stances as authorized by federal law, and

11 (7) any other factors relevant to and consistent with the
12 public health and safety.

13 (b) Registration under (a) of this section does not entitle a
14 registrant to manufacture and distribute controlled substances in
15 Schedule I or II other than those specified in the registration.

16 (c) Practitioners must be registered to dispense controlled
17 substances or to conduct research with controlled substances in
18 Schedules II - V if they are authorized to dispense or conduct research
19 under state law. The commissioner need not require separate
20 registration under secs. 150 - 220 of this chapter for practitioners
21 engaging in research with non-narcotic controlled substances in
22 Schedules II - V where the registrant is already registered under
23 these sections in another capacity. Practitioners registered under
24 federal law to conduct research with Schedule I substances may conduct
25 research with Schedule I substances within the state upon furnishing
26 the commissioner evidence of that federal registration.

27 (d) Compliance by manufacturers and distributors with the pro-
28 visions of the federal law respecting registration (excluding fees)
29 entitles them to be registered under this chapter.

1 Sec. 17.17.180. REVOCATION AND SUSPENSION OF REGISTRATION. (a)

2 A registration under sec. 170 of this chapter to manufacture, dis-
3 tribute, or dispense a controlled substance may be suspended or revoked
4 by the commissioner upon a finding that the registrant:

5 (1) has furnished false or fraudulent material information
6 in any application filed under this chapter;

7 (2) has been convicted of a felony under state or federal
8 law relating to a controlled substance, or

9 (3) has had his federal registration suspended or revoked
10 to manufacture, distribute, or dispense controlled substances.

11 (b) The commissioner may limit revocation or suspension of a
12 registration to the particular controlled substance with respect to
13 which grounds for revocation or suspension exist.

14 (c) If the commissioner suspends or revokes a registration, all
15 controlled substances owned or possessed by the registrant at the time
16 of suspension or the effective date of the revocation order may be
17 placed under seal. No disposition may be made of substances under seal
18 until the time for taking an appeal has elapsed or until all appeals
19 have been concluded unless a court, upon application, orders the sale
20 or perishable substances and the deposit of the proceeds of the sale
21 with the court. Upon a revocation order becoming final, all controlled
22 substances may be forfeited to the state.

23 (d) The commissioner shall promptly notify the bureau of all
24 orders suspending or revoking registration and all forfeitures of
25 controlled substances.

26 Sec. 17.17.190. ORDER TO SHOW CAUSE. (a) Before denying,
27 suspending or revoking a registration, or refusing a renewal of
28 registration, the commissioner shall serve upon the applicant or
29 registrant an order to show cause why registration should not be denied,

1 revoked, or suspended, or why the renewal should not be refused. The
2 order to show cause shall contain a statement of the basis for it and
3 shall call upon the applicant or registrant to appear before the
4 commissioner at a time and place not less than 30 days after the
5 date of the service of the order, but in the case of a denial or
6 renewal of registration the show cause order shall be served not later
7 than 30 days before the expiration of the registration. These
8 proceedings shall be conducted in accordance with procedures for
9 administrative adjudication under AS 44.62.330 - 44.62.630 without
10 regard to a criminal prosecution or other proceeding. Proceedings to
11 refuse renewal of registration shall not abate the existing registra-
12 tion which shall remain in effect pending the outcome of the
13 administrative hearing.

14 (b) The commissioner may suspend, without an order to show
15 cause, a registration simultaneously with the institution of proceed-
16 ings under sec. 180 of this chapter, or where renewal of registration
17 is refused, if he finds that there is an imminent danger to the
18 public health or safety which warrants this action. The suspension
19 shall continue in effect until the conclusion of the proceedings,
20 including judicial review of the proceedings, unless sooner withdrawn
21 by the commissioner or dissolved by a court of competent jurisdiction.

22 Sec. 17.17.200. RECORDS OF REGISTRANTS. Persons registered to
23 manufacture, distribute, or dispense controlled substances under this
24 chapter shall keep records and maintain inventories in conformance
25 with the record-keeping and inventory requirements of federal law and
26 with additional regulations the commissioner may issue.

27 Sec. 17.17.210. ORDER FORMS. Controlled substances in Schedule
28 I and II shall be distributed by a registrant to another registrant
29 only under an order form. Compliance with the provisions of federal

1 law respecting order forms shall be considered compliance with this
2 section.

3 Sec. 17.17.220. PRESCRIPTIONS. (a) Except when dispensed
4 directly by a practitioner, other than a pharmacy, to an ultimate user,
5 no controlled substance in Schedule II may be dispensed without the
6 written prescription of a practitioner.

7 (b) In emergency situations, as defined by rule of the
8 commissioner, Schedule II drugs may be dispensed upon oral prescription
9 of a practitioner, reduced promptly to writing and filed by the
10 pharmacy. Prescriptions shall be retained in conformity with the
11 requirements of sec. 200 of this chapter. No prescription for a
12 Schedule II substance may be refilled.

13 (c) Except when dispensed directly by a practitioner, other than
14 a pharmacy, to an ultimate user, a controlled substance included in
15 Schedule III or IV, which is a prescription drug as determined under
16 state or federal law (or a substance designated in sec. 80(f) or (g)
17 of this chapter) shall not be dispensed without a written or oral
18 prescription of a practitioner. The prescription shall not be filled
19 or refilled more than six months after its date or be refilled more
20 than five times, unless renewed by the practitioner.

21 (d) A controlled substance included in Schedule V shall not be
22 distributed or dispensed other than for a medical purpose.

23 ARTICLE 3. OFFENSES AND PENALTIES.

24 Sec. 17.17.250. PROHIBITED ACTS A - PENALTIES. (a) Except as
25 authorized by this chapter, it is unlawful for a person to manufacture,
26 deliver, or possess with intent to manufacture or deliver a controlled
27 substance, or to create, deliver or possess with intent to deliver, a
28 counterfeit substance

29 (1) a person who violates this subsection with respect to:

1 (A) a controlled substance classified in Schedule I
2 or II which is a narcotic drug is guilty of a felony and upon
3 conviction may be imprisoned for not more than 10 years, or fined
4 not more than \$25,000, or both;

5 (B) another controlled substance classified in
6 Schedule I or II is guilty of a felony and upon conviction may
7 be imprisoned for not more than five years, fined not more than
8 \$15,000, or both;

9 (C) a substance classified in Schedule III is guilty
10 of a felony and upon conviction may be imprisoned for not more
11 than two years, fined not more than \$10,000, or both; however
12 with respect to distribution of a small amount of marihuana for
13 no remuneration, imprisonment under this paragraph may be for
14 not more than 30 days, and a fine under this paragraph may not
15 exceed \$500, or both;

16 (D) a substance classified in Schedule IV is guilty
17 of a misdemeanor and upon conviction may be imprisoned for not
18 more than one year, fined \$5,000, or both;

19 (E) a substance classified in Schedule V is guilty of
20 a misdemeanor and upon conviction may be imprisoned for not more
21 than 30 days, fined not more than \$500, or both.

22 (b) It is unlawful for a person knowingly or intentionally to
23 possess a controlled substance unless the substance was obtained
24 directly from, or under, a valid prescription or order of a
25 practitioner while acting in the course of his professional practice,
26 or except as otherwise authorized by this chapter

27 (1) A person who violates this subsection with respect to:

28 (A) a controlled substance classified in Schedule I
29 or II which is a narcotic drug is guilty of a felony and upon

1 conviction may be imprisoned for not more than five years, fined
2 not more than \$15,000, or both;

3 (B) another controlled substance classified in
4 Schedule I or II is guilty of a felony and upon conviction may
5 be imprisoned for not more than two years, fined not more than
6 \$10,000, or both;

7 (C) a substance classified in Schedule III is guilty
8 of a misdemeanor and upon conviction may be imprisoned for not
9 more than one year, fined \$1,000, or both; however in case of a
10 conviction with respect to marihuana, the penalties of paragraph
11 (D) of this subsection apply;

12 (D) a substance classified in Schedule IV is guilty of a
13 misdemeanor and upon conviction may be imprisoned for not more than
14 30 days, fined not more than \$500, or both.

15 (2) In place of a fine, imprisonment or other imposition
16 of sentence under (1) of this subsection, an offender may be committed
17 to the custody of the division of public health for rehabilitative
18 treatment for not more than one year.

19 (c) A person who consumes a controlled substance listed in
20 Schedule VI other than in a private place or who, if a person is over
21 18, distributes such substance to a person under 18 is guilty of a
22 misdemeanor and upon conviction may be imprisoned for not more than 30
23 days, fined not more than \$300, or both.

24 Sec. 17.17.260. PROHIBITED ACTS B - PENALTIES. (a) It is
25 unlawful for a person:

26 (1) who is subject to secs. 150 - 220 of this chapter to
27 distribute or dispense a controlled substance in violation of sec.
28 220 of this chapter;

29 (2) who is a registrant, to manufacture a controlled sub-

1 stance not authorized by his registration, or to distribute or dispense
2 a controlled substance not authorized by his registration to another
3 registrant or other authorized person;

4 (3) to refuse or fail to make, keep or furnish a record,
5 notification, order form, statement, invoice or information required
6 under this chapter;

7 (4) to refuse an entry into any premises for an inspection
8 authorized by this chapter, or

9 (5) knowingly to keep or maintain a store, shop, warehouse,
10 dwelling, building, vehicle, boat, aircraft, or other structure or
11 place, which is resorted to by persons using controlled substances in
12 violation of this chapter for the purpose of using these substances,
13 or which is used for keeping or selling them in violation of this
14 chapter.

15 (b) A person who violates this section is guilty of a mis-
16 demeanor and upon conviction may be imprisoned for not more than one
17 year or fined not more than \$25,000, or both, except that if the
18 trier of fact specifically finds that a violation of (a)(1) - (4) of
19 this section was not knowingly committed, a civil penalty of not more
20 than \$25,000 shall be imposed with respect to the violation, and such
21 violation does not constitute a crime.

22 Sec. 17.17.270. PROHIBITED ACTS C - PENALTIES. (a) It is
23 unlawful for a person knowingly or intentionally:

24 (1) to distribute as a registrant a controlled substance
25 classified in Schedules I or II, except under an order form as
26 required by sec. 210 of this chapter;

27 (2) to use in the course of the manufacture or distribution
28 of a controlled substance a registration number which is fictitious,
29 revoked, suspended, or issued to another person;

1 (3) to acquire or obtain possession of a controlled sub-
2 stance by misrepresentation, fraud, forgery, deception or subterfuge;

3 (4) to furnish false or fraudulent material information in,
4 or omit any material information from, any application, report, or
5 other document required to be kept or filed under this chapter, or
6 any record required to be kept by this chapter, or

7 (5) to make, distribute, or possess a punch, die, plate,
8 stone, or other thing designed to print, imprint, or reproduce the
9 trademark, trade name, or other identifying mark, imprint, or device
10 of another or a likeness of any of the foregoing upon a drug or
11 container or labeling of a drug or container so as to render the drug
12 a counterfeit substance.

13 (b) A person who violates this section is guilty of a felony
14 and upon conviction may be imprisoned for not more than four years,
15 fined not more than \$30,000, or both.

16 Sec. 17.17.280. PENALTIES UNDER OTHER LAWS. A penalty imposed
17 for violation of this chapter is in addition to, and not in place of,
18 a civil or administrative penalty or sanction otherwise authorized by
19 law.

20 Sec. 17.17.290. BAR TO PROSECUTION. If a violation of this
21 chapter is a violation of a federal law or the law of another state,
22 a conviction or acquittal under federal law or the law of another state
23 for the same act is a bar to prosecution in this state.

24 Sec. 17.17.300. DISTRIBUTION TO PERSONS UNDER AGE 18. A person
25 18 years of age or over who violates sec. 250(a) of this chapter by
26 distributing a controlled substance listed in Schedules I or II which
27 is a narcotic drug to a person under 18 years of age who is at least
28 three years his junior is punishable by the fine authorized by sec.
29 250(a)(1)(A) of this chapter, by a term of imprisonment of up to twice

1 that authorized by that paragraph, or by both. A person 18 years of
2 age or over who violates sec. 250(a) of this chapter by distributing
3 another controlled substance listed in Schedules I, II, III, IV, and V
4 to a person under 18 years of age who is at least three years his
5 junior is punishable by:

6 (1) imprisonment for a term up to twice that authorized
7 by sec. 250(a)(1)(B), by the fine authorized by that paragraph, or
8 by both, for a violation respecting a substance listed in Schedules
9 I or II;

10 (2) imprisonment for a term up to twice that authorized
11 by sec. 250(a)(1)(C), by the fine authorized by that paragraph, or
12 by both, for a violation respecting a substance listed in Schedule
13 III;

14 (3) imprisonment for a term up to twice that authorized
15 by sec. 250(a)(1)(D), by the fine authorized by that paragraph, or
16 by both, for a violation respecting a substance listed in Schedule IV;

17 (4) by imprisonment for a term up to twice that authorized
18 by sec. 250(a)(1)(E), by the fine authorized by that paragraph, or
19 both, for a violation respecting a substance listed in Schedule V.

20 Sec. 17.17.310. SECOND OR SUBSEQUENT OFFENSES. (a) A person
21 convicted of a second or subsequent offense under this chapter may be
22 imprisoned for a term up to twice the term otherwise authorized, fined
23 an amount up to twice that otherwise authorized, or both.

24 (b) For purposes of this section, an offense is considered a
25 second or subsequent offense, if, prior to his conviction of the
26 offense, the offender has at any time been convicted under this chapter
27 or under a statute of the United States or of another state relating
28 to narcotic drugs, marihuana, depressant, stimulant, or hallucinogenic
29 drugs.

1 (c) This section does not apply to offenses under sec. 250(c) of
2 this chapter.

3 ARTICLE 4. ENFORCEMENT AND ADMINISTRATIVE
4 PROVISIONS.

5 Sec. 17.17.330. POWERS OF ENFORCEMENT PERSONNEL. (a) An officer
6 or employee designated by the commissioner may:

7 (1) execute and serve administrative inspection warrants
8 and subpoenas issued under the authority of the state;

9 (2) make seizures of property under this chapter, or

10 (3) perform other enforcement duties as the commissioner
11 designates.

12 Sec. 17.17.340. ADMINISTRATIVE INSPECTIONS AND WARRANTS. (a)
13 Issuance and execution of administrative inspection warrants shall be
14 as follows:

15 (1) A judicial officer within the judicial district in
16 which he serves and upon proper oath or affirmation showing probable
17 cause, may issue warrants for the purpose of conducting administrative
18 inspections authorized by this chapter or regulations under it, and
19 seizures of property appropriate to the inspections. For purposes of
20 the issuance of administrative inspection warrants, probable cause
21 exists upon showing a valid public interest in the effective enforce-
22 ment of this chapter or regulations under it, sufficient to justify
23 administrative inspection of the area, premises, building or conveyance
24 in the circumstances specified in the application for the warrant;

25 (2) A warrant shall issue only upon an affidavit of a
26 designated officer or employee having knowledge of the facts alleged,
27 sworn to before the judicial officer and establishing the grounds for
28 issuing the warrant. If the judicial officer is satisfied that grounds
29 for the application exist or that there is probable cause to believe

1 they exist, he shall issue a warrant identifying the area, premises,
2 building, or conveyance to be inspected, the purpose of the inspection,
3 and, if appropriate, the type of property to be inspected, if any. The
4 warrant shall:

5 (A) state the grounds for its issuance and the name of
6 each person whose affidavit has been taken in support of it;

7 (B) be directed to a person authorized by sec. 330 of
8 this chapter to execute it;

9 (C) command the person to whom it is directed to
10 inspect the area, premises, building, or conveyance identified for
11 the purpose specified and, if appropriate, direct the seizure of
12 the property specified;

13 (D) identify the item or types of property to be
14 seized, if any;

15 (E) direct that it be served during normal business
16 hours and designate the judicial officer to whom it shall be
17 returned.

18 (b) A warrant issued under this section shall be executed and
19 returned as prescribed by the rules of civil procedure.

20 (c) The commissioner may make administrative inspections of
21 controlled premises in accordance with the provisions of (d) - (h) of
22 this section.

23 (d) If authorized by an administrative inspection warrant
24 issued under (a) of this section, an officer or employee designated by
25 the commissioner upon presenting the warrant and appropriate
26 credentials to the owner, operator, or agent in charge, may enter
27 controlled premises for the purpose of conducting an administrative
28 inspection.

29 (e) If authorized by an administrative inspection warrant, an

1 officer or employee designated by the commissioner may:

2 (1) inspect and copy records required by this chapter to be
3 kept;

4 (2) inspect, within reasonable limits and in a reasonable
5 manner, controlled premises and all pertinent equipment, finished and
6 unfinished material, containers and labeling found on the premises,
7 and except as provided in (g) of this section, all other things on
8 the premises, including records, files, papers, processes, controls,
9 and facilities bearing on violation of this chapter, and

10 (3) inventory any stock of a controlled substance on the
11 premises and obtain samples of it.

12 (f) This section does not prevent the inspection without a
13 warrant of books and records under an administrative subpoena issued in
14 accordance with the rules of civil procedure, nor does it prevent
15 entries and administrative inspections, including seizures of property,
16 without a warrant:

17 (1) if the owner, operator, or agent in charge of the
18 controlled premises consents;

19 (2) in situations presenting imminent danger to health or
20 safety;

21 (3) in situations involving inspection of conveyances if
22 there is reasonable cause to believe that the mobility of the
23 conveyance makes it impracticable to obtain a warrant;

24 (4) in any other exceptional or emergency circumstance
25 where time or opportunity to apply for a warrant is lacking, or,

26 (5) in all other situations in which a warrant is not
27 constitutionally required.

28 (g) An inspection authorized by this section shall not extend to
29 financial data, sales data, other than shipment data, or pricing data

1 unless the owner, operator, or agent in charge of the controlled
2 premises consents in writing.

3 (h) For purposes of this section, "controlled premises" means:

4 (1) places where persons registered or exempted from
5 registration requirements under this chapter are required to keep
6 records, and

7 (2) places including factories, warehouses, establishments,
8 and conveyances in which persons registered or exempted from registra-
9 tion requirements under this chapter are permitted to hold, manufacture,
10 compound, process, sell, deliver, or otherwise dispose of any controlled
11 substance.

12 Sec. 17.17.350. ADDITIONAL REMEDIES. (a) In addition to the
13 remedies provided in this chapter, the commissioner is authorized to
14 apply to the superior court for, and the court shall have jurisdiction
15 upon hearing and for cause shown to grant, an injunction or
16 restraining order restraining a person from violating a provision of
17 this chapter irrespective of whether there exists an adequate remedy
18 at law.

19 (b) The defendant may demand trial by jury for an alleged
20 violation of an injunction or restraining order under (a) of this
21 section.

22 Sec. 17.17.360. COOPERATIVE ARRANGEMENTS AND CONFIDENTIALITY.

23 (a) The commissioner shall cooperate with federal and other state
24 agencies in discharging his responsibilities concerning traffic in
25 controlled substances and in suppressing the abuse of controlled
26 substances. To this end, he may:

27 (1) arrange for the exchange of information among govern-
28 mental officials concerning the use and abuse of controlled substances;

29 (2) coordinate and cooperate in training programs concerning

1 controlled substance law enforcement at local and state levels;

2 (3) cooperate with the bureau by establishing a centralized
3 unit to accept, catalogue, file, and collect statistics, including
4 records of drug dependent persons and other controlled substance law
5 offenders within the state, and make the information available for
6 federal, state and local law enforcement purposes. He shall not
7 furnish the name or identity of a patient or research subject whose
8 identity could not be obtained under (c) of this section, and

9 (4) conduct programs of eradication aimed at destroying
10 wild or illicit growth of plant species from which controlled sub-
11 stances may be extracted.

12 (b) Results, information, and evidence received from the bureau
13 relating to the regulatory functions of this chapter, including
14 results of inspections conducted by it may be relied and acted upon by
15 the commissioner in the exercise of his regulatory functions under
16 this chapter.

17 (c) A practitioner engaged in medical practice or research is
18 not required or compelled to furnish the name or identity of a patient
19 or research subject to the commissioner nor may he be compelled in a
20 state or local civil, criminal, administrative, legislative or other
21 proceeding to furnish the name or identity of an individual that the
22 practitioner is obligated to keep confidential.

23 Sec. 17.17.370. FORFEITURES. (a) The following are subject to
24 forfeiture:

25 (1) controlled substances which have been manufactured,
26 distributed, dispensed or acquired in violation of this chapter;

27 (2) raw materials, products and equipment of any kind which
28 are used, or intended for use, in manufacturing, compounding, process-
29 ing, delivering, importing, or exporting any controlled substance in

1 violation of this chapter;

2 (3) property which is used, or intended for use, as a
3 container for property described in paragraphs (1) or (2);

4 (4) conveyances, including aircraft, vehicles or vessels,
5 which are used, or intended for use, to transport, or in any manner to
6 facilitate the transportation, for the purpose of sale or receipt of
7 property described in paragraph (1) or (2), but:

8 (A) no conveyance used by a person as a common carrier
9 in the transaction of business as a common carrier is subject to
10 forfeiture under this section unless it appears that the owner or
11 other person in charge of the conveyance is a consenting party or
12 privy to a violation of this chapter;

13 (B) no conveyance is subject to forfeiture under this
14 section because of an act or omission established by the owner of
15 the conveyance to have been committed or omitted without his
16 knowledge or consent;

17 (C) a conveyance is not subject to forfeiture for a
18 violation of sec. 250(c) of this chapter, and

19 (D) a forfeiture of a conveyance encumbered by a bona
20 fide security interest is subject to the interest of the secured
21 party if he neither had knowledge of nor consented to the act
22 or omission.

23 (5) all books, records, and research products and materials,
24 including formulas, microfilm, tapes, and data which are used, or
25 intended for use, in violation of this chapter.

26 (b) Property subject to forfeiture under this section may be
27 seized by the commissioner or Department of Public Safety upon process
28 issued by the court having jurisdiction over the property. Seizure
29 without process may be made if:

1 (1) the seizure is incident to an arrest or a search under a
2 search warrant or an inspection under an administrative inspection
3 warrant;

4 (2) the property subject to seizure has been the subject of
5 a prior judgment in favor of the state in a criminal injunction or
6 forfeiture proceeding based upon this chapter;

7 (3) the commissioner or department has probable cause to
8 believe that the property is directly or indirectly dangerous to health
9 or safety, or

10 (4) the commissioner or department has probable cause to
11 believe that the property was used or is intended to be used in
12 violation of this chapter.

13 (c) In the event of seizure under (b) of this section, proceed-
14 ings under (d) of this section shall be instituted promptly.

15 (d) Property taken or detained under this section shall not be
16 subject to replevin but is deemed to be in the custody of the
17 Department of Public Safety subject only to the orders and decrees of
18 court having jurisdiction over the forfeiture proceedings. If
19 property is seized under this chapter, the department may:

20 (1) place the property under seal;

21 (2) remove the property to a place designated by it, or

22 (3) take custody of the property and remove it to an
23 appropriate location for disposition in accordance with law.

24 (e) If property is forfeited under this section the Department of
25 Public Safety shall destroy that which is harmful to the public, and
26 as to other property forfeited, may:

27 (1) retain it for official use;

28 (2) sell it and use the proceeds for payment of all proper
29 expenses of the proceedings for forfeiture and sale, including expenses

1 of seizure, maintenance of custody, advertising and court costs;

2 (3) take custody of the property and remove it for dis-
3 position in accordance with law, or

4 (4) forward it to the bureau for disposition.

5 (f) Controlled substances listed in Schedule I that are
6 possessed, transferred, sold, or offered for sale in violation of this
7 chapter are contraband and shall be seized and summarily forfeited to
8 the state. Controlled substances listed in Schedule I, which are
9 seized or come into the possession of the state, the owners of which are
10 unknown, are contraband and shall be summarily forfeited to the state.

11 (g) Species of plants from which controlled substances in
12 Schedules I, II and sec. 80(f)-(g) of this chapter may be derived
13 which have been planted or cultivated in violation of this chapter, or
14 of which the owners or cultivators are unknown, or which are wild
15 growths, may be seized and summarily forfeited to the state.

16 (h) The failure, upon demand by the commissioner or Department of
17 Public Safety or an authorized agent, of the person in occupancy or in
18 control of land or premises upon which the species of plants are
19 growing or being stored, to produce an appropriate registration, or
20 proof that he is the holder of the registration, constitutes authority
21 for the seizure and forfeiture of the plants.

22 Sec. 17.17.380. BURDEN OF PROOF; LIABILITIES. (a) It is not
23 necessary for the state to negate an exemption or exception in this
24 chapter in any complaint, information, indictment or other pleading or
25 in any trial, hearing, or other proceeding under this chapter. The
26 burden of proof of an exemption or exception is upon the person
27 claiming it.

28 (b) In the absence of proof that a person is the duly authorized
29 holder of an appropriate registration or order form issued under this

1 chapter, he is presumed not to be the holder of the registration or
2 form. The burden of proof is upon him to rebut the presumption.

3 (c) No liability is imposed by this chapter upon an authorized
4 state, county or municipal officer, engaged in the lawful performance
5 of his duties.

6 Sec. 17.17.390. JUDICIAL REVIEW. All final determinations,
7 findings and conclusions of the commissioner under this chapter or
8 regulations issued under it are final and conclusive decisions of the
9 matters involved. A person aggrieved by the decision may obtain
10 review of the decision in the superior court in accordance with
11 AS 44.62.560 - 44.62.570.

12 Sec. 17.17.400. EDUCATION AND RESEARCH. (a) The commissioner
13 shall carry out educational programs designed to prevent and deter
14 misuse and abuse of controlled substances. In connection with these
15 programs he may:

16 (1) promote better recognition of the problems of misuse
17 and abuse of controlled substances within the regulated industry and
18 among interested groups and organizations;

19 (2) assist the regulated industry and interested groups and
20 organizations in contributing to the reduction of misuse and abuse of
21 controlled substances;

22 (3) consult with interested groups and organizations to aid
23 them in solving administrative and organizational problems;

24 (4) evaluate procedures, projects, techniques, and controls
25 conducted or proposed as part of educational programs on misuse and
26 abuse of controlled substances;

27 (5) disseminate the results of research on misuse and abuse
28 of controlled substances to promote a better public understanding of
29 what problems exist and what can be done to combat them, and

1 (6) assist in the education and training of state and local
2 law enforcement officials in their efforts to control misuse and abuse
3 of controlled substances.

4 (b) The commissioner shall encourage research on misuse and
5 abuse of controlled substances. In connection with the research, and
6 in furtherance of the enforcement of this chapter, he may:

7 (1) establish methods to assess accurately the effects of
8 controlled substances and identify and characterize those with
9 potential for abuse;

10 (2) make studies and undertake programs of research to:

11 (A) develop new or improved approaches, techniques,
12 systems, equipment and devices to strengthen the enforcement of
13 this chapter;

14 (B) determine patterns of misuse and abuse of
15 controlled substances and their social effects;

16 (C) improve methods for preventing, predicting, under-
17 standing and dealing with the misuse and abuse of controlled
18 substances, and

19 (3) enter into contracts with public agencies, institutions
20 of higher education, and private organizations or individuals for
21 conducting research, demonstrations, or special projects which bear
22 directly on misuse and abuse of controlled substances and for related
23 research and educational activities.

24 (c) The commissioner may authorize persons engaged in research on
25 the use and effects of controlled substances to withhold the names and
26 other identifying characteristics of individuals who are the subjects
27 of the research. Persons who obtain this authorization are not
28 compelled in a civil, criminal, administrative, legislative, or other
29 proceeding to identify the individuals who are the subjects of research

1 for which the authorization was obtained.

2 (d) The commissioner may authorize the possession and distribu-
3 tion of controlled substances by persons engaged in research. Persons
4 who obtain this authorization are exempt from state prosecution for
5 possession and distribution of controlled substances to the extent of
6 the authorization.

7 ARTICLE 5. GENERAL PROVISIONS.

8 Sec. 17.17.420. UNIFORMITY OF INTERPRETATION. This chapter shall
9 be so applied and construed as to effectuate its general purpose to
10 make uniform the law with respect to the subject of this chapter among
11 the states which enact it.

12 Sec. 17.17.430. DEFINITIONS. As used in this chapter

13 (a) "administer" means the direct application of a controlled
14 substance, whether by injection, inhalation, ingestion, or any other
15 means, to the body of a patient or research subject by:

16 (1) a practitioner (or, in his presence, by his authorized
17 agent), or

18 (2) the patient or research subject at the direction and in
19 the presence of the practitioner;

20 (b) "agent" means an authorized person who acts on behalf of or
21 at the direction of a manufacturer, distributor, or dispenser; it does
22 not include a common or contract carrier, public warehouseman, or
23 employee of the carrier or warehouseman;

24 (c) "bureau" means the Bureau of Narcotics and Dangerous Drugs,
25 United States Department of Justice, or its successor agency;

26 (d) "commissioner" means the commissioner of health and social
27 services;

28 (e) "committee" means the Controlled Substances Advisory
29 Committee established in sec. 15 of this chapter;

1 (f) "controlled substance" means a drug, substance, or immediate
2 precursor in Schedules I through VI of secs. 40, 60, 80, 100 - 120 or
3 125 of this chapter;

4 (g) "counterfeit substance" means a controlled substance which,
5 or the container or labeling of which, without authorization, bears
6 the trademark, trade name, or other identifying mark, imprint, number
7 or device, or any likeness of these, of a manufacturer, distributor,
8 or dispenser other than the person who in fact manufactured,
9 distributed, or dispensed the substance;

10 (h) "deliver" or "delivery" means the actual, constructive, or
11 attempted transfer from one person to another of a controlled sub-
12 stance whether or not there is an agency relationship;

13 (i) "department" means the Department of Health and Social
14 Services;

15 (j) "dispense" means to deliver a controlled substance to an
16 ultimate user or research subject by or under the lawful order of a
17 practitioner, including the prescribing, administering, packaging,
18 labeling, or compounding necessary to prepare the substance for that
19 delivery;

20 (k) "dispenser" means a practitioner who dispenses;

21 (l) "distribute" means to deliver other than by administering or
22 dispensing a controlled substance;

23 (m) "distributor" means a person who distributes;

24 (n) "drug" means (1) substances recognized as drugs in the
25 official United States Pharmacopoeia, official Homeopathic Pharma-
26 copoeia of the United States, or official National Formulary, or a
27 supplement to any of them; (2) substances intended for use in the
28 diagnosis, cure, mitigation, treatment, or prevention of disease in
29 man or animals; (3) substances (other than food) intended to affect

1 the structure or a function of the body of man or animals; and (4)
2 substances intended for use as a component of an article specified in
3 (1), (2), or (3) of this subsection; it does not include devices or
4 their components, parts or accessories;

5 (o) "immediate precursor" means a substance which the commissioner
6 has found to be and by regulation designates as being the principal
7 compound commonly used or produced primarily for use, and which is an
8 immediate chemical intermediary used or likely to be used in the
9 manufacture of a controlled substance, the control of which is
10 necessary to prevent, curtail, or limit manufacture;

11 (p) "judicial officer" means a judge of the superior court, a
12 district judge and a magistrate;

13 (q) "manufacture" means the production, preparation, propagation,
14 compounding, conversion or processing of a controlled substance, either
15 directly or indirectly by extraction from substances of natural origin,
16 or independently by means of chemical synthesis, or by a combination of
17 extraction and chemical synthesis, and includes any packaging or
18 repackaging of the substance or labeling or relabeling of its
19 container, except that this term does not include the preparation or
20 compounding of a controlled substance by an individual for his own use
21 or the preparation, compounding, packaging, or labeling of a controlled
22 substance:

23 (1) by a practitioner as an incident to his administering or
24 dispensing of a controlled substance in the course of his professional
25 practice, or

26 (2) by a practitioner, or by his authorized agent under his
27 supervision, for the purpose of, or as an incident to, research,
28 teaching, or chemical analysis and not for sale;

29 (r) "marihuana" means all parts of the plant *Cannabis sativa* L.,

1 whether growing or not; its seeds; the resin extracted from any part
2 of the plant; and a compound, manufacture, salt, derivative, mixture,
3 or preparation of the plant, its seeds or resin; it does not include
4 the mature stalks of the plant, fiber produced from the stalks, oil
5 or cake made from the seeds of the plant, another compound, manufacture,
6 salt, derivative, mixture, or preparation of the mature stalks (except
7 the resin extracted from the stalks), fiber, oil, or cake, or the
8 sterilized seed of the plant which is incapable of germination;

9 (s) "narcotic drug" means any of the following, whether produced
10 directly or indirectly by extraction from substances of vegetable
11 origin, or independently by means of chemical synthesis, or by a
12 combination of extraction and chemical synthesis:

13 (1) opium and opiate, and a salt, compound, derivative, or
14 preparation of opium or opiate;

15 (2) a salt, compound, isomer, derivative, or preparation
16 of these which is chemically equivalent or identical with any of the
17 substances referred to in paragraph (1) of this section, but not
18 including the isoquinoline alkaloids of opium;

19 (3) opium poppy and poppy straw;

20 (4) coca leaves and a salt, compound, derivative, or
21 preparation of coca leaves, and a salt, compound, isomer, derivative,
22 or preparation of these which is chemically equivalent or identical
23 with any of these substances, but not including decocainized coca
24 leaves or extractions of coca leaves which do not contain cocaine
25 or ecgonine;

26 (t) "opiate" means a substance having an addiction-forming or
27 addiction-sustaining liability similar to morphine or being capable of
28 conversion into a drug having addiction-forming or addiction-
29 sustaining liability; it does not include, unless specifically

1 designated as controlled under sec. 10 of this chapter, the dextro-
2 rotatory isomer of 3-methoxy-n-methylmorphinan and its salts
3 (dextromethorphan); it does include its racemic and levorotatory forms;

4 (u) "opium poppy" means the plant of the species *Papaver*
5 *somniferum* L., except its seeds;

6 (v) "poppy straw" means all parts, except the seeds, of the
7 opium poppy, after mowing;

8 (w) "practitioner" means:

9 (1) a physician, dentist, veterinarian, scientific
10 investigator, or other person licensed, registered or otherwise
11 permitted to distribute, dispense, conduct research with respect to
12 or to administer a controlled substance in the course of professional
13 practice or research in the state;

14 (2) a pharmacy, hospital or other institution licensed,
15 registered, or otherwise permitted to distribute, dispense, conduct
16 research with respect to or to administer a controlled substance in
17 the course of professional practice or research in the state;

18 (x) "production" includes the manufacture, planting, cultivation,
19 growing, or harvesting of a controlled substance;

20 (y) "state," when applied to a part of the United States outside
21 the State of Alaska, includes a state, district, commonwealth,
22 territory, insular possession thereof, and any area subject to the
23 legal authority of the United States of America;

24 (z) "ultimate user" means a person who lawfully possesses a
25 controlled substance for his own use or for the use of a member of his
26 household or for administering to an animal owned by him or by a
27 member of his household.

28 Sec. 17.17.440. SHORT TITLE. This Act may be cited as the
29 Uniform Controlled Substances Act.

1 * Sec. 2. (a) Prosecution for a violation of law occurring prior to
2 the effective date of this Act is not affected or abated by this Act. If
3 the offense being prosecuted is similar to one set out in AS 17.17.250 -
4 310, then the penalties under AS 17.17 apply if they are less than those
5 under prior law.

6 (b) Civil seizures or forfeitures and injunctive proceedings commenced
7 prior to the effective date of this Act are not affected by this Act.

8 (c) All administrative proceedings pending under prior laws which are
9 superseded by this Act shall be continued and brought to a final determina-
10 tion in accord with the laws and rules in effect prior to the effective
11 date of the Act. A substance controlled under prior law which is not
12 listed within Schedules I through V, is automatically controlled without
13 further proceedings and shall be listed in the appropriate schedule.

14 (d) The commissioner shall initially permit persons to register who
15 own or operate an establishment engaged in the manufacture, distribution,
16 or dispensing of a controlled substance prior to the effective date of this
17 Act and who are registered or licensed by the state.

18 (e) This Act applies to violations of law, seizures and forfeiture,
19 injunctive proceedings, administrative proceedings and investigations which
20 occur following its effective date.

21 * Sec. 3. Orders, rules and other regulations promulgated under a law
22 affected by this Act and in effect on the effective date of this Act and not
23 in conflict with it continue in effect until modified, superseded or
24 repealed.

25 * Sec. 4. AS 44.29.020 is amended to read:

26 Sec. 44.29.020. DUTIES OF DEPARTMENT. The Department of Health
27 and Social Services shall administer the state programs of public
28 health and welfare, including: (1) maternal and child health services;
29 (2) preventive medical services; (3) public health nursing services;

1 (4) sanitation and engineering services; (5) nutrition services; (6)
2 health education; (7) laboratories; (8) mental health treatment and
3 diagnosis; (9) management of state institutions; (10) medical
4 facilities; (11) old age assistance; (12) aid to dependent children;
5 (13) aid to the blind; (14) child welfare services; (15) general
6 relief; (16) licensing and supervision of child care facilities; [AND]
7 (17) probation and parole supervision; and (18) control of drug abuse in
8 accordance with the provisions of AS 17.17.

9 * Sec. 5. AS 08.64.380(3)(B) is amended to read:

10 (B) habitual overuse of alcoholic beverages or
11 controlled substances as defined in AS 17.17 [DEPRESSANT,
12 HALLUCINOGENIC OR STIMULANT DRUGS, AS DEFINED IN AS 17.12.150(3),
13 OR ADDICTION TO THE USE OF NARCOTIC DRUGS AS DEFINED IN AS
14 17.10.230(13)];

15 * Sec. 6. AS 08.64.380(3)(F) is amended to read:

16 (F) violating the federal Controlled Substances Act
17 (P.L. 91-513) or other federal law pertaining to medical practice
18 and drugs [HARRISON ANTI-NARCOTIC ACT];

19 * Sec. 7. AS 08.80.470 is amended to read:

20 Sec. 08.80.470. CONSTRUCTION. Nothing in this chapter amends,
21 modifies, repeals or otherwise changes any provision of the Uniform
22 Controlled Substances [NARCOTIC DRUG] Act (AS 17.17) [(AS 17.10)] or
23 the Alaska Food, Drug and Cosmetic Act (AS 17.20).

24 * Sec. 8. The following laws are repealed: AS 11.60.100 - 130; AS 17.10;
25 AS 17.12; and AS 17.15.

26 * Sec. 9. This Act takes effect on the first day of the seventh month
27 following its passage and approval or its becoming law without approval.
28
29