

Introduced: 5/25/77
Referred: Judiciary

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 549

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act revising the laws relating to drug abuse in
7 accordance with the Uniform Controlled Substances
8 Act."

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 SCHEDULE CONTROLLED SUBSTANCES.

14 (a) The commissioner of the Department of Health and Social Services
15 shall administer this Act and may, by regulation adopted under the
16 Administrative Procedure Act (AS 44.62), add, delete, or reschedule
17 substances in the schedules in secs. 40, 50, 60, 70, and 80 of this
18 chapter. Each addition, deletion, or rescheduling shall be in accord-
19 ance with the advice and determination of the Controlled Substances
20 Advisory Committee established in sec. 20 of this chapter. In making
21 a determination regarding a substance, the committee shall assess the
22 danger or probable danger of the substance by considering the following:

23 (1) the actual or probable abuse of the substance including:

24 (A) its history and current pattern of abuse;

25 (B) the scope, duration, and significance of abuse;

26 and

27 (C) a judgment of the degree of actual or probable
28 detriment which may result from the abuse of the substance;

29 (2) the biomedical hazard of the substance including:

1 (A) its pharmacology: the effects and modifiers of
2 effects of the substance;

3 (B) its toxicology: the acute and chronic toxicity,
4 interaction with other substances, whether controlled or not, and
5 liability to psychological or physiological dependence;

6 (C) risk to public health and particular susceptibility
7 of segments of the population; and

8 (D) existence of therapeutic alternatives for substances
9 which are or may be used for medical purposes;

10 (3) a judgment of the probable physical and social impact
11 of widespread abuse of the substance;

12 (4) whether the substance is an immediate precursor of a
13 substance already controlled under this chapter;

14 (5) the current state of scientific knowledge regarding the
15 substance.

16 (b) If after considering the factors enumerated in (a) of this
17 section, the committee finds that a substance should be added, deleted
18 or rescheduled, the commissioner shall adopt a regulation in accordance
19 with the committee's findings.

20 (c) If the committee designates a substance as an immediate
21 precursor if a controlled substance, it is not subject to control
22 solely because it is a precursor of the controlled substance.

23 Sec. 17.17.020. CONTROLLED SUBSTANCES ADVISORY COMMITTEE. (a)
24 There is within the department the Controlled Substances Advisory
25 Committee, consisting of the director of the division of public
26 health and the director of the office of drug abuse, and one psychia-
27 trist, one physician, and one pharmacist appointed by the governor.
28 Other members serve terms of four years or until their successor is
29 appointed. Members appointed initially serve staggered terms of four,

1 three, and two years, respectively, to be determined by the governor.
2 Committee members receive no salary but are entitled to per diem and
3 travel expenses authorized by law for boards and commissions.

4 (b) The committee shall meet at the call of the commissioner,
5 and three members constitute a quorum. The committee may adopt bylaws
6 for its proceedings.

7 (c) Before making a determination regarding the addition, dele-
8 tion, or rescheduling of a substance under sec. 10 of this chapter,
9 the committee, together with the commissioner, shall hold the hearings
10 required under sec. 10(a), and shall include with its recommendations
11 findings of fact and other supporting information it considers appro-
12 priate.

13 (d) If a substance is added, deleted, or rescheduled as a con-
14 trolled substance under federal law and notice of the designation is
15 given to the department, the committee shall consider making a corre-
16 sponding change in the Alaska schedules. If the committee decides not
17 to include the change, it shall publish the reasons for that decision
18 and afford all interested parties an opportunity to be heard. Following
19 the hearing, the committee shall announce its final decision.

20 (e) The committee and the commissioner have no authority over
21 tobacco or over intoxicating liquors as defined in AS 04.20.010.

22 Sec. 17.17.030. NOMENCLATURE. The controlled substances listed
23 in the schedules in secs. 40, 50, 60, 70, and 80 of this chapter or
24 the regulations adopted under this chapter are included by whatever
25 official, common, usual, chemical or trade name designated.

26 Sec. 17.17.040. SCHEDULE I. (a) A substance shall be placed in
27 Schedule I if it is found under sec. 10(a) of this chapter to have the
28 highest degree of danger or probable danger.

29 (b) Schedule I includes the following substances, their salts,

1 isomers, esters, ethers and salts of isomers, esters and ethers whenever
2 the existence of these isomers, esters, salts and ethers is possible
3 within the specific chemical designation, except those listed in other
4 schedules or specifically excepted, whether produced directly or
5 indirectly by extraction from substances of vegetable origin, or
6 independently by means of chemical synthesis, or by combination of
7 extraction and chemical synthesis:

8 (1) opium and any opiate, and any salt, compound, derivative,
9 or preparation of opium or an opiate;

10 (2) any salt, compound, isomer, derivative, or preparation
11 which is chemically equivalent or identical to any of the substances
12 referred to in (1) of this subsection, but not including the isoquino-
13 line alkaloids of opium;

14 (3) opium poppy and poppy straw;

15 (4) acetylmethadol;

16 (5) allylprodine;

17 (6) alphacetylmethadol;

18 (7) alphameprodine;

19 (8) alphamethadol;

20 (9) benzethidine;

21 (10) betacetylmethadol;

22 (11) betameprodine;

23 (12) betamethadol;

24 (13) betaprodine;

25 (14) clonitazene;

26 (15) dextromoramide;

27 (16) dextrorphan;

28 (17) diampromide;

29 (18) diethylthiambutene;

- 1 (19) dimenoxadol;
- 2 (20) dimepheptanol;
- 3 (21) dimethylthiambutene;
- 4 (22) dioxaphetyl butyrate;
- 5 (23) dipipanone;
- 6 (24) ethylmethylthiambutene;
- 7 (25) etonitazene;
- 8 (26) etoxeridine;
- 9 (27) furethidine;
- 10 (28) hydroxypethidine;
- 11 (29) ketobemidone;
- 12 (30) levomoramide;
- 13 (31) levophenacymorphan;
- 14 (32) morpheridine;
- 15 (33) noracymethadol;
- 16 (34) norlevorphanol;
- 17 (35) normethadone;
- 18 (36) norpipanone;
- 19 (37) phenadoxone;
- 20 (38) phenampromide;
- 21 (39) phenomorphan;
- 22 (40) phenoperidine;
- 23 (41) piritramide;
- 24 (42) proheptazine;
- 25 (43) properidine;
- 26 (44) properam;
- 27 (45) racemoramide;
- 28 (46) trimeperidine;
- 29 (47) acetorphine;

- 1 (48) acetyldihydrocodeine;
- 2 (49) benzylmorphine;
- 3 (50) codeine methylbromide;
- 4 (51) codeine-N-Oxide;
- 5 (52) cyprenorphine;
- 6 (53) desomorphine;
- 7 (54) dihydromorphine;
- 8 (55) etorphine;
- 9 (56) heroin;
- 10 (57) hydromorphanol;
- 11 (58) methyl desorphine;
- 12 (59) methyl dihydromorphine;
- 13 (60) morphine methylbromide;
- 14 (61) morphine methylsulfonate;
- 15 (62) morphine-N-Oxide;
- 16 (63) myrophine;
- 17 (64) nicocodeine;
- 18 (65) nicomorphine;
- 19 (66) normorphine;
- 20 (67) phoclodine;
- 21 (68) thebacon;
- 22 (69) alphaprodine;
- 23 (70) anileridine;
- 24 (71) apomorphine;
- 25 (72) bezitramide;
- 26 (73) dihydrocodeine;
- 27 (74) diphenoxylate;
- 28 (75) fentanyl;
- 29 (76) isomethadone;

- 1 (77) levomethorphan;
- 2 (78) levorphanol;
- 3 (79) metazocine;
- 4 (80) methadone;
- 5 (81) methadone--Intermediate, 4-cyano-2-dimethylamino-4, 4-
- 6 diphenyl butane;
- 7 (82) moramide--Intermediate, 2-methyl-3-morpholino-1,1-
- 8 diphenyl propane-carboxylic acid;
- 9 (83) pethidine;
- 10 (84) pethidine--Intermediate--A, 4-cyano-1-methyl-4-
- 11 phenylpiperidine;
- 12 (85) pethidine--Intermediate--B, ethyl-4-phenylpiperidine-
- 13 4-carboxylate;
- 14 (86) pethidine--Intermediate--C, 1-methyl-4-phenylpiperi-
- 15 dine-4-carboxylic acid;
- 16 (87) phenazocine;
- 17 (88) piminodine;
- 18 (89) racemethorphan;
- 19 (90) racemorphan.

20 Sec. 17.17.050. SCHEDULE II. (a) A substance shall be placed
21 in schedule II if it is found under sec. 10(a) of this chapter to have
22 a degree of danger or probable danger less than substances listed in
23 Schedule I, but higher than substances in Schedule III.

24 (b) Schedule II includes any of the following substances whether
25 produced directly or indirectly by extraction from substances of
26 vegetable origin, or independently by means of chemical synthesis, or
27 by combination of extraction and chemical synthesis:

- 28 (1) amphetamine, its salts, optical isomers, and salts of
- 29 its optical isomers;

- 1 (2) phenmetrazine and its salts;
- 2 (3) any substance which contains any quantity of meth-
- 3 amphetamine, including its salts, isomers, and salts of isomers;
- 4 (4) methylphenidate;
- 5 (5) coca leaves and any salt, compound, derivative, or
- 6 preparation of coca leaves, including any salt, compound, derivative,
- 7 or preparation which is chemically equivalent or identical to any of
- 8 these substances, but not including decocainized coca leaves or extrac-
- 9 tions which do not contain cocaine or ecgonine.

10 Sec. 17.17.060. SCHEDULE III. (a) A substance shall be placed
11 in Schedule III if it is found under sec. 10(a) of this chapter to
12 have a degree of danger or probable danger less than the substances in
13 Schedule II but higher than substances in Schedule IV.

14 (b) Schedule III includes the following substances, unless
15 listed in another schedule, any material, compound, mixture, or prepara-
16 tion which contains any quantity of the following substances having a
17 degree of danger or probable danger associated with a depressant
18 effect on the central nervous system:

- 19 (1) any substance which contains any quantity of a derivative
20 of barbituric acid, or any salt of a derivative of barbituric acid,
21 except those substances which are specifically listed in other schedules;
- 22 (2) chlorhexadol;
- 23 (3) glutethimide;
- 24 (4) lysergic acid;
- 25 (5) lysergic acid amide;
- 26 (6) methyprylon;
- 27 (7) phencyclidine;
- 28 (8) sulfondiethylmethane;
- 29 (9) sulfonethylmethane;

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(10) sulfonylmethane.

(c) Schedule III includes any material, compound, mixture, or preparation which contains any quantity of the following substances:

- (1) barbital;
- (2) chloral betaine;
- (3) chloral hydrate;
- (4) ethchlorvynol;
- (5) ethinamate;
- (6) methohexital;
- (7) meprobamate;
- (8) methylphenobarbital;
- (9) paraldehyde;
- (10) petrichloral;
- (11) phenobarbital.

(d) Schedule III includes any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) 3,4-methylenedioxy amphetamine;
- (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- (3) 3,4,5-trimethoxy amphetamine;
- (4) bufotenine;
- (5) diethyltryptamine;
- (6) dimethyltryptamine;
- (7) 4-methyl-2,5-dimethoxylamphetamine;
- (8) ibogaine;
- (9) lysergic acid diethylamide;
- (10) mescaline;

- 1 (11) peyote;
- 2 (12) n-ethyl-3-piperidyl benzilate;
- 3 (13) n-methyl-3-piperidyl benzilate;
- 4 (14) psilocybin;
- 5 (15) psilocyn.

6 (e) Schedule III includes any material, compound, mixture or
7 preparation containing limited quantities of any of the following
8 drugs, or any salts of them:

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

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

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

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

25 (5) not more than 1.8 grams of dihydrocodeine, or any of
26 its salts, per 100 milliliters or not more than 90 milligrams per
27 dosage unit, with one or more active ingredients in recognized thera-
28 peutic amounts;

29 (6) not more than 300 milligrams of ethylmorphine, or any

1 of its salts, per 100 milliliters or not more than 15 milligrams per
2 dosage unit, with one or more ingredients in recognized therapeutic
3 amounts;

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

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

10 (f) Schedule III includes hashish and hashish oil.

11 Sec. 17.17.070. SCHEDULE IV. (a) A substance shall be placed
12 in Schedule IV if it is found under sec. 10(a) of this chapter to have
13 a degree of danger or probable danger less than the substances listed
14 in Schedule III but higher than the substances listed in Schedule V.

15 (b) Schedule IV includes any compound, mixture, or preparation
16 containing limited quantities of any of the following drugs, which
17 also contains one or more other active medicinal ingredients in suffi-
18 cient proportion to confer upon the compound, mixture, or preparation,
19 valuable medicinal qualities other than those possessed by the drug
20 alone:

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

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

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

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

29 (5) not more than 100 milligrams of opium per 100 milli-

1 liters or per 100 grams.

2 Sec. 17.17.080. SCHEDULE V. (a) A substance shall be placed
3 in Schedule V if it is found under sec. 10(a) of this chapter to have
4 the lowest degree of danger or probable danger.

5 (b) Marijuana is a Schedule V substance.

6 ARTICLE 2. REGULATION OF MANUFACTURE, DISTRIBUTION
7 AND DISPENSING OF CONTROLLED SUBSTANCES.

8 Sec. 17.17.150. REGULATIONS. The commissioner shall adopt regu-
9 lations under the Administrative Procedure Act (AS 44.62) which are
10 necessary for the administration of this chapter, and may charge
11 reasonable fees relating to the registration and control of the manu-
12 facture, distribution, and dispensing of controlled substances within
13 the state.

14 Sec. 17.17.160. REGISTRATION REQUIREMENTS. (a) A person who
15 manufactures, distributes, dispenses, or conducts research with a
16 controlled substance within the state or who proposes to engage in the
17 manufacture, distribution, or dispensing of a controlled substance
18 within the state, shall annually register with the commissioner in
19 accordance with regulations adopted under sec. 150 of this chapter.

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

26 (c) The following persons need not register and may lawfully
27 possess controlled substances under this chapter:

28 (1) an agent or employee of a registered manufacturer,
29 distributor, dispenser, or researcher of a controlled substance if the

1 possession is incidental to the agent's or employee's acting in the
2 usual course of business or employment;

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

6 (3) a person in possession of a controlled substance under
7 an order of a registered practitioner.

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

11 (e) A separate registration is required for each principal place
12 of business or professional practice where the applicant manufactures,
13 distributes, or dispenses controlled substances.

14 (f) The commissioner may inspect the establishment of a regis-
15 trant or applicant for registration in accordance with the commis-
16 sioner's regulations.

17 Sec. 17.17.170. REGISTRATION. (a) The commissioner shall
18 register an applicant to manufacture, distribute, or dispense controlled
19 substances included in secs. 40, 50, 60, 70, and 80 of this chapter
20 unless he or she finds that the registration would be inconsistent
21 with the public interest. In determining the public interest, the
22 commissioner shall consider the following factors:

23 (1) maintenance of effective controls against diversion of
24 controlled substances into other than legitimate medical, scientific,
25 or industrial channels;

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

27 (3) any conviction of the applicant under federal or state
28 laws relating to controlled substances;

29 (4) past experience in the manufacture or distribution of

1 controlled substances, and the existence in the applicant's establish-
2 ment of effective controls against diversion;

3 (5) furnishing by the applicant of false information in an
4 application filed under this chapter;

5 (6) suspension or revocation of the applicant's federal
6 registration to manufacture, distribute, or dispense controlled
7 substances as authorized by federal law; and

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

10 (b) Practitioners registered under federal law to conduct re-
11 search with controlled substances may be issued a registration to
12 conduct research with these substances within the state upon furnishing
13 the commissioner with evidence of the federal registration.

14 (c) Compliance by manufacturers and distributors with the pro-
15 visions of the federal law respecting registration (excluding fees)
16 entitles them to be registered under this chapter.

17 Sec. 17.17.180. REVOCATION AND SUSPENSION OF REGISTRATION. (a)
18 A registration under sec. 170 of this chapter to manufacture, distri-
19 bute, dispense, or conduct research with a controlled substance may be
20 suspended or revoked by the commissioner upon a finding that the
21 registrant:

22 (1) has furnished false or fraudulent material information
23 in an application filed under this chapter;

24 (2) has been convicted of a felony under state or federal
25 law relating to a controlled substance; or

26 (3) has had his or her federal registration to manufacture,
27 distribute, dispense, or conduct research with controlled substances
28 suspended or revoked.

29 (b) The commissioner may limit the revocation or suspension of a

1 registration to the particular controlled substance with respect to
2 which grounds for revocation or suspension exist.

3 (c) If the commissioner suspends or revokes a registration, all
4 controlled substances owned or possessed by the registrant at the time
5 of suspension or the effective date of the revocation order may be
6 placed under seal. No disposition may be made of substances under
7 seal until the time for taking an appeal has elapsed or until all
8 appeals have been concluded unless a court, upon application, orders
9 the sale of perishable substances and the deposit of the proceeds of
10 the sale with the court. Upon a revocation order becoming final, all
11 controlled substances are forfeited to the state.

12 (d) The commissioner shall promptly notify the Drug Enforcement
13 Administration of all orders suspending or revoking registration and
14 all forfeitures of controlled substances.

15 Sec. 17.17.190. ORDER TO SHOW CAUSE. (a) Before denying, sus-
16 pending or revoking a registration, or refusing a renewal of registra-
17 tion, the commissioner shall serve upon the applicant or registrant an
18 order to show cause why registration should not be denied, revoked, or
19 suspended, or why the renewal should not be refused. The order to
20 show cause shall contain a statement of the basis for it and shall
21 call upon the applicant or registrant to appear before the commissioner
22 at a time and place not less than 30 days after the date of the service
23 of the order, but in the case of a refusal of renewal of registration
24 the show cause order shall be served not later than 30 days before the
25 expiration of the registration. These proceedings shall be conducted
26 in accordance with procedures for administrative adjudication under AS
27 44.62.330 - 44.62.630 without regard to criminal prosecution or other
28 proceeding. Proceedings to refuse renewal of registration do not
29 abate the existing registration which remains in effect pending the

1 outcome of the administrative hearing.

2 (b) The commissioner may, without an order to show cause, suspend
3 a registration simultaneously with the institution of proceedings
4 under sec. 180 of this chapter if he or she finds that there is an
5 imminent danger to the public health or safety which warrants this
6 action. The suspension shall continue in effect until the conclusion
7 of the proceedings, including judicial review of the proceedings,
8 unless sooner withdrawn by the commissioner or dissolved by a court of
9 competent jurisdiction.

10 Sec. 17.17.200. RECORDS OF REGISTRANTS. Persons registered to
11 manufacture, distribute, dispense, or conduct research with controlled
12 substances under this chapter shall keep records and maintain inven-
13 tories in conformance with the record-keeping and inventory require-
14 ments of federal law and with additional regulations the commissioner
15 may issue.

16 Sec. 17.17.210. ORDER FORMS; PRESCRIPTIONS. (a) Controlled
17 substances may be distributed by one registrant to another registrant
18 only if the distribution is in accordance with federal requirements
19 for order forms.

20 (b) No controlled substance may be dispensed by a practitioner
21 except in accordance with federal requirements regarding prescriptions
22 for controlled substances; however, a controlled substance may be
23 dispensed directly by a practitioner, other than a pharmacist, to an
24 ultimate user without a prescription.

25 ARTICLE 3. OFFENSES AND PENALTIES.

26 Sec. 17.17.250. PROHIBITED ACTS A; PENALTIES. Except as autho-
27 rized in this chapter, it is unlawful for a person to deliver a con-
28 trolled substance to a person under 19 years of age. A person who
29 violates this section with respect to

1 (1) a Schedule I substance is guilty of a felony and upon
2 conviction is punishable by imprisonment for a period not to exceed 20
3 years or by a fine not to exceed \$20,000, or by both; the presumptive
4 sentence for a person convicted under this paragraph is a seven-year
5 term of imprisonment;

6 (2) a Schedule II substance is guilty of a felony and upon
7 conviction is punishable by imprisonment for a period not to exceed 15
8 years or by a fine not to exceed \$20,000, or by both; the presumptive
9 sentence for a person convicted under this paragraph is a five-year
10 term of imprisonment;

11 (3) a Schedule III substance is guilty of a felony and upon
12 conviction is punishable by imprisonment for a period not to exceed
13 seven years or by a fine not to exceed \$10,000, or by both; the pre-
14 sumptive sentence for a person convicted under this paragraph is a
15 two-year term of imprisonment;

16 (4) a Schedule IV substance is guilty of a felony and upon
17 conviction is punishable by imprisonment for a period not to exceed
18 three years or by a fine of not more than \$10,000, or by both; the
19 presumptive sentence for a person convicted under this paragraph is a
20 one-year term of imprisonment;

21 (5) a Schedule V substance is guilty of a felony and upon
22 conviction is punishable by imprisonment for a period not to exceed 18
23 months or by a fine of not more than \$5,000, or by both; the pre-
24 sumptive sentence for a person convicted under this paragraph is a
25 six-month term of imprisonment.

26 Sec. 17.17.260. PROHIBITED ACTS B; PENALTIES. Except as autho-
27 rized in this chapter, it is unlawful for a person to manufacture a
28 controlled substance. A person who violates this section with respect
29 to

1 (1) a Schedule I substance is guilty of a felony and upon
2 conviction is punishable by imprisonment for a period not to exceed 15
3 years or by a fine not to exceed \$50,000, or by both; the presumptive
4 sentence for a person convicted under this paragraph is a five-year
5 term of imprisonment;

6 (2) a Schedule II substance is guilty of a felony and upon
7 conviction is punishable by imprisonment for a period not to exceed
8 10 years or by a fine not to exceed \$50,000, or by both; the pre-
9 sumptive sentence for a person convicted under this paragraph is a
10 four-year term of imprisonment;

11 (3) a Schedule III substance is guilty of a felony and upon
12 conviction is punishable by imprisonment for a period not to exceed
13 five years or by a fine not to exceed \$20,000, or by both; the pre-
14 sumptive sentence for a person convicted under this paragraph is a
15 two-year term of imprisonment;

16 (4) a Schedule IV substance is guilty of a felony and upon
17 conviction is punishable by imprisonment for a period not to exceed
18 three years or by a fine not to exceed \$10,000, or by both; the pre-
19 sumptive sentence for a person convicted under this paragraph is a
20 one-year term of imprisonment;

21 (5) a Schedule V substance is guilty of a felony and upon
22 conviction is punishable by imprisonment for a period not to exceed
23 two years or by a fine not to exceed \$10,000, or by both; the pre-
24 sumptive sentence for a person convicted under this paragraph is a
25 six-month term of imprisonment.

26 Sec. 17.17.270. PROHIBITED ACTS C; PENALTIES. Except as autho-
27 rized in this chapter, it is unlawful for a person to deliver a con-
28 trolled substance to another person or to possess with the intent to
29 deliver to another person a controlled substance under circumstances

1 manifesting an intent to deliver controlled substances as part of an
2 ongoing commercial enterprise or to deliver controlled substances to
3 10 or more persons. A person who violates this section with respect
4 to

5 (1) a Schedule I substance is guilty of a felony and upon
6 conviction is punishable by imprisonment for a period not to exceed 12
7 years or by a fine not to exceed \$50,000, or by both; the presumptive
8 sentence for a person convicted under this paragraph is a four-year
9 term of imprisonment;

10 (2) a Schedule II substance is guilty of a felony and upon
11 conviction is punishable by imprisonment for a period not to exceed
12 eight years or by a fine not to exceed \$50,000, or by both; the
13 presumptive sentence for a person convicted under this paragraph is a
14 three-year term of imprisonment;

15 (3) a Schedule III substance is guilty of a felony and upon
16 conviction is punishable by imprisonment for a period not to exceed
17 five years or by a fine not to exceed \$20,000, or by both; the pre-
18 sumptive sentence for a person convicted under this paragraph is a
19 two-year term of imprisonment;

20 (4) a Schedule IV substance is guilty of a felony and upon
21 conviction is punishable by imprisonment for a period not to exceed
22 two years or by a fine not to exceed \$20,000, or by both; the pre-
23 sumptive sentence for a person convicted under this paragraph is a
24 one-year term of imprisonment;

25 (5) a Schedule V substance is guilty of a felony and upon
26 conviction is punishable by imprisonment for a period not to exceed
27 two years or by a fine not to exceed \$10,000, or by both; the pre-
28 sumptive sentence for a person convicted under this paragraph is a
29 one-year term of imprisonment.

1 Sec. 17.17.280. PROHIBITED ACTS D; PENALTIES. Except as autho-
2 rized in this chapter, it is unlawful to deliver to another person, or
3 to possess with the intent to deliver to another person a controlled
4 substance. A person who violates this section with respect to

5 (1) a Schedule I substance is guilty of a felony and upon
6 conviction is punishable by imprisonment for a period not to exceed 10
7 years or by a fine not to exceed \$20,000, or by both; the presumptive
8 sentence for a person convicted under this paragraph is a three-year
9 term of imprisonment;

10 (2) a Schedule II substance is guilty of a felony and upon
11 conviction is punishable by imprisonment for a period not to exceed
12 five years or by a fine not to exceed \$20,000, or by both; the pre-
13 sumptive sentence for a person convicted under this paragraph is an
14 18-month term of imprisonment;

15 (3) a Schedule III substance is guilty of a felony and upon
16 conviction is punishable by imprisonment for a period not to exceed
17 three years or by a fine not to exceed \$5,000, or by both; the pre-
18 sumptive sentence for a person convicted under this paragraph is a
19 one-year term of imprisonment;

20 (4) a Schedule IV substance is guilty of a misdemeanor and
21 upon conviction is punishable by imprisonment for a period not to
22 exceed one year or by a fine not to exceed \$5,000, or by both; the
23 presumptive sentence for a person convicted under this paragraph is a
24 fine of \$1,000;

25 (5) a Schedule V substance, except as provided in sec.
26 310(b)(2) of this chapter, is guilty of a misdemeanor and upon con-
27 viction is punishable by imprisonment for a period not to exceed six
28 months or by a fine not to exceed \$3,000, or by both; the presumptive
29 sentence for a person convicted under this paragraph is a fine of

1 \$1,000.

2 Sec. 17.17.290. PROHIBITED ACTS E; PENALTIES. Except as autho-
3 rized in this chapter, it is unlawful for a person to possess a con-
4 trolled substance. A person who violates this section with respect to

5 (1) a Schedule I substance is guilty of a felony and upon
6 conviction is punishable by imprisonment for a period not to exceed
7 three years or by a fine not to exceed \$20,000, or by both; the
8 presumptive sentence for a person convicted under this paragraph is a
9 six-month term of imprisonment;

10 (2) a Schedule II substance:

11 (A) for a first offense under this paragraph a person
12 is guilty of a misdemeanor and upon conviction is punishable by
13 imprisonment for a period not to exceed one year or by a fine not
14 to exceed \$10,000, or by both; the presumptive sentence for a
15 person convicted under this subparagraph is a fine of \$2,000;

16 (B) for a second and subsequent offense under this
17 paragraph a person is guilty of a felony and upon conviction is
18 punishable by imprisonment for a period not to exceed two years
19 or by a fine not to exceed \$10,000, or by both; the presumptive
20 sentence for a person convicted under this subparagraph is a
21 three-month term of imprisonment;

22 (3) a Schedule III substance is guilty of a misdemeanor and
23 upon conviction is punishable by imprisonment for a period not to
24 exceed one year or a fine not to exceed \$2,000, or by both; the pre-
25 sumptive sentence for a person convicted under this paragraph is a
26 fine of \$1,000;

27 (4) a Schedule IV or V substance, except as provided in
28 sec. 310(b)(1) of this chapter, is guilty of a misdemeanor and upon
29 conviction is punishable by imprisonment for a period not to exceed 30

1 days or a fine not to exceed \$500, or by both; the presumptive sentence
2 for a person convicted under this paragraph is a fine of \$200.

3 Sec. 17.17.300. PROHIBITED ACTS F; PENALTIES. (a) Except as
4 authorized by this chapter, it is unlawful for a person

5 (1) knowingly to keep or maintain any store, shop, ware-
6 house, dwelling, building, vehicle, boat, aircraft, or other structure
7 or place which is used for keeping or selling controlled substances in
8 violation of this chapter;

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

12 (3) to obtain possession of a controlled substance by mis-
13 representation, fraud, forgery, or other deception;

14 (4) to make, distribute, or possess any punch, die, plate
15 stone, or other thing designed to print, imprint, or reproduce the
16 trademark, trade name, or other identifying mark, imprint or device of
17 another or any likeness of any of the foregoing upon any drug or
18 container or labeling so as to render the drug a counterfeit substance;

19 (5) to furnish false or fraudulent material information in,
20 or omit material information from, any application, report, record, or
21 other document required to be kept or filed under this chapter.

22 (b) A person who violates (a) of this section is guilty of a
23 misdemeanor and upon conviction is punishable by imprisonment for a
24 period not to exceed one year or by a fine not to exceed \$5,000, or by
25 both; the presumptive sentence for a person convicted of a violation
26 of (a) of this section is a fine of \$1,000.

27 (c) Except as authorized under this chapter it is unlawful for
28 a person

29 (1) to fail to make, keep or furnish any record, notifica-

1 tion, order form, statement, invoice or information required under
2 this chapter;

3 (2) to refuse an entry into any premises for an inspection
4 authorized under this chapter.

5 (d) A person who violates (c) of this section is guilty of a
6 misdemeanor and upon conviction is punishable by imprisonment for a
7 period not to exceed 90 days or by a fine not to exceed \$1,000, or by
8 both; the presumptive sentence for a person convicted of a violation
9 of (c) of this section is \$500.

10 Sec. 17.17.310. PROHIBITED ACTS G; PENALTIES. (a) It is unlaw-
11 ful for a person to display, smoke, or otherwise ingest marijuana in
12 public or while operating a motor vehicle, vessel, or airplane. A
13 person who violates this subsection is guilty of a misdemeanor and
14 upon conviction is punishable by a fine not to exceed \$500.

15 (b) The following are not unlawful under this chapter:

16 (1) possession of marijuana by an individual for personal
17 use;

18 (2) distribution, to persons 19 years of age and over, of
19 an ounce or less of marijuana by an individual for no remuneration.

20 Sec. 17.17.320. SENTENCING. (a) A person convicted under secs.
21 250 - 310 of this chapter shall be sentenced to the presumptive
22 sentence for the offense except in cases where (b), (c) or (d) of this
23 section apply.

24 (b) If a person convicted under this chapter has no prior con-
25 viction for a drug offense, the court may suspend all or any portion
26 of the presumptive sentence and may suspend imposition of sentence as
27 provided under AS 12.55.085. "Prior conviction for a drug offense" in
28 this subsection means a conviction for violation of the drug laws of
29 this state or the drug laws of another jurisdiction within seven

1 years, excluding any periods of incarceration, before the date of com-
2 mission of the present offense. The court shall enter on the record
3 findings of the reasons for sentencing a person under this subsection.

4 (c) If factors in aggravation or mitigation are present in a
5 case the sentencing court may increase or decrease the presumptive
6 sentence or may, if the presumptive sentence is a term of imprisonment,
7 decrease the presumptive sentence to a fine, or may, if the presumptive
8 sentence is a fine, increase the presumptive sentence to a term of
9 imprisonment, in accordance with the following:

10 (1) the following factors in aggravation shall be considered
11 by the court and may increase the presumptive sentence provided in
12 this chapter:

13 (A) the defendant is part of an organization which
14 brings controlled substances into the state;

15 (B) the defendant has brought large amounts of con-
16 trolled substances into the state;

17 (C) the defendant employed a firearm or other dangerous
18 weapon in furtherance of the offense;

19 (D) the defendant has a criminal history consisting of
20 three or more prior convictions for violation of the drug laws of
21 this state or the drug laws of another jurisdiction; however, no
22 prior convictions may be considered when a period of seven or
23 more years, excluding any periods of incarceration, has elapsed
24 between the date of conviction for the immediately preceding
25 offense and the date of commission of the present offense;

26 (2) the following factors in mitigation shall be considered
27 by the sentencing court and may decrease the presumptive sentence
28 provided by this chapter:

29 (A) the defendant is addicted to a controlled sub-

1 stance;

2 (B) the violation involved only a small amount of a
3 controlled substance;

4 (C) the defendant, although an accomplice, played only
5 a minor role in the commission of the offense; or

6 (D) the conduct of a youthful defendant was substan-
7 tially influenced by a person more mature than the defendant;

8 (3) when the state seeks to establish any factor in aggra-
9 vation at sentencing, or when the defendant seeks to establish any
10 factor in mitigation at sentencing, written notice must be served on
11 the opposing party and filed with the court at least 10 days before
12 the date of sentencing; factors in mitigation and aggravation must be
13 established by clear and convincing evidence; all findings must be set
14 out with specificity.

15 (d) If a defendant has been convicted of a violation of sec. 290
16 of this chapter and is addicted to a controlled substance, the court
17 may require the defendant to complete a treatment program either
18 instead of imposing the presumptive sentence for the offense or as
19 part of the presumptive sentence.

20 Sec. 17.17.330. SUBSEQUENT OFFENSES. (a) The presumptive
21 sentence for a person convicted of a second offense under this chapter
22 is 50 per cent higher than the presumptive sentence otherwise autho-
23 rized, except as provided in sec. 290(2) of this chapter.

24 (b) The presumptive sentence for a person convicted of a third
25 or subsequent offense under this chapter is twice the presumptive term
26 otherwise authorized, except as provided in sec. 290(2) of this chapter.

27 (c) For purposes of this section, an offense is considered a
28 subsequent offense under this chapter, if, before the commission of
29 the offense for which the defendant is being sentenced, the offender

1 has been convicted of an offense under this chapter with the same or
2 higher level of authorized punishment as the offense for which he or
3 she is being sentenced. However, no prior convictions may be con-
4 sidered when a period of seven or more years, excluding any periods of
5 incarceration, has elapsed between the date of conviction for the
6 immediately preceding offense and the date of commission of the present
7 offense.

8 Sec. 17.17.340. PENALTIES UNDER OTHER LAWS. A penalty imposed
9 for violation of this chapter is in addition to, and not in place of,
10 a civil or administrative penalty or sanction otherwise authorized by
11 law.

12 Sec. 17.17.350. BAR TO PROSECUTION. If a violation of this
13 chapter is a violation of a federal law or the law of another state,
14 a conviction or acquittal under federal law or the law of another
15 state for the same act is a bar to prosecution in this state.

16 ARTICLE 4. ENFORCEMENT AND ADMINISTRATIVE PROVISIONS.

17 Sec. 17.17.380. COOPERATIVE ARRANGEMENTS AND CONFIDENTIALITY.

18 (a) The commissioner shall cooperate with other state and federal
19 agencies in discharging their responsibilities concerning traffic in
20 controlled substances and in suppressing the abuse of controlled sub-
21 stances. Under this section, the commissioner's powers include but
22 are not limited to the following:

23 (1) arranging for the exchange of information among govern-
24 mental officials concerning the use and abuse of controlled substances;

25 (2) coordinating and cooperating in training programs con-
26 cerning controlled substance law enforcement at local and state levels;

27 (3) cooperating with the Drug Enforcement Administration by
28 establishing a centralized unit to accept, catalogue, file, and collect
29 statistics, including records of persons who have violated the provi-

1 sions of this chapter within the state, and make the information
2 available for federal, state and local law enforcement purposes; he or
3 she may not furnish the name or identity of a patient or research
4 subject whose identity could not be obtained under (c) of this section;
5 and

6 (4) conducting programs aimed at destroying wild or illicit
7 growth of plant species from which controlled substances may be
8 extracted.

9 (b) Results, information, and evidence received from the Drug
10 Enforcement Administration relating to the regulatory functions of
11 this chapter, including results of inspections conducted by it may be
12 relied and acted upon by the commissioner in the exercise of his
13 regulatory functions under this chapter.

14 (c) A practitioner engaged in medical practice or research may
15 not furnish the name or identity of a patient or research subject to
16 the commissioner, and the practitioner may not be compelled in a state
17 or local civil, criminal, administrative, legislative, or other pro-
18 ceeding to furnish the name or identity of an individual that the
19 practitioner is obliged to keep confidential.

20 Sec. 17.17.390. FORFEITURES. (a) The following are subject to
21 forfeiture:

22 (1) controlled substances which have been manufactured,
23 distributed, or acquired in violation of this chapter;

24 (2) raw materials, products, and equipment which are used
25 in manufacturing, compounding, processing, delivering, importing, or
26 exporting a controlled substance in violation of this chapter;

27 (3) property which is used as a container for property
28 described in (1) or (2) of this subsection;

29 (4) conveyances, including but not limited to aircraft,

1 vehicles or vessels which are used to transport or in any manner to
2 facilitate transportation for the purpose of sale or receipt of prop-
3 erty described in (1) or (2) of this subsection; however,

4 (A) no conveyance is subject to forfeiture under this
5 section if the owner of the conveyance shows that its use in
6 violation of this chapter was committed by another person and
7 that the owner was not privy to the violation;

8 (B) a forfeiture of a conveyance encumbered by a bona
9 fide security interest at the time of seizure is subject to the
10 interest of the secured party if the secured party shows that its
11 use in violation of this chapter was committed by another person
12 and that the secured party was not privy to the violation;

13 (5) all books, records, and research products and materials,
14 including formulas, microfilm, tapes, and data which are used in
15 violation of this chapter.

16 (b) Property listed in (a) of this section may be forfeited to
17 the state upon conviction of the defendant of a violation of this
18 chapter, or upon judgment of a court of competent jurisdiction in a
19 civil proceeding in rem that an item specified in (a) of this section
20 was used in or in aid of a violation of this chapter.

21 (c) Property subject to forfeiture under this section may be
22 seized by the commissioner of the Department of Public Safety upon an
23 order issued by the court having jurisdiction over the property upon
24 a showing of probable cause that the property is subject to forfeiture
25 under (a) of this section. Seizure without a court order may be made
26 if:

27 (1) the seizure is incident to a valid arrest or a search
28 under a valid search warrant;

29 (2) the property subject to seizure has been the subject of

1 a prior judgment in favor of the state in a criminal proceeding or a
2 civil proceeding in rem based upon this chapter;

3 (3) there is probable cause that the property was or is
4 being used in violation of this chapter and the property is easily
5 movable; property seized under this paragraph may not be held over 48
6 hours or until an order may be applied for and issued by a court,
7 whichever is earlier.

8 (d) Property taken or detained under (b) of this section is in
9 the custody of the Department of Public Safety subject only to the
10 orders and decrees of the court having jurisdiction over the forfei-
11 ture proceedings. If property is seized under this chapter, the
12 Department of Public Safety may:

13 (1) place the property under seal;

14 (2) remove the property to a place designated by the court;

15 or

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

18 (e) Property forfeited under this section shall be disposed of
19 according to court order. The court may order the Department of
20 Public Safety to

21 (1) destroy property harmful to the public;

22 (2) sell the property and use the proceeds for payment of
23 all proper expenses of the proceedings for forfeiture and sale, in-
24 cluding expenses of seizure, custody and court costs;

25 (3) take custody of the property and use it in the enforce-
26 ment of this chapter, or transfer it to another agency of the state
27 for a use designated by the court in furtherance of the administration
28 of justice;

29 (4) take custody of the property and remove it for disposi-

1 tion in accordance with law, or

2 (5) forward it to the Drug Enforcement Administration for
3 disposition.

4 (f) Controlled substances that are possessed, transferred, sold,
5 or offered for sale in violation of this chapter are contraband and
6 shall be seized and summarily forfeited to the state.

7 (g) Plants from which controlled substances may be derived and
8 which have been planted or cultivated in violation of this chapter, or
9 which are wild growths, may be seized and summarily forfeited to the
10 state.

11 Sec. 17.17.400. BURDEN OF PROOF; LIABILITIES. (a) It is not
12 necessary for the state to negate an exemption or exception in this
13 chapter in a complaint, information, indictment or other pleading or
14 in a trial, hearing, or other proceeding under this chapter. The
15 burden of proof of an exemption or exception is upon the person
16 claiming it.

17 (b) In the absence of proof that a person is the duly authorized
18 holder of an appropriate registration or order form issued under this
19 chapter, he or she is presumed not to be the holder of the registration
20 or form. The burden of proof is upon him or her to rebut the presump-
21 tion.

22 (c) No liability is imposed by this chapter upon an authorized
23 state or local officer engaged in the lawful performance of his or her
24 duties under this chapter.

25 Sec. 17.17.410. JUDICIAL REVIEW. All final determinations,
26 findings, and conclusions of the commissioner under this chapter or
27 regulations issued under it are final decisions of the matters involved.
28 A person aggrieved by the decision may obtain review of the decision
29 in the superior court in accordance with AS 44.62.560 - 44.62.570.

1 Sec. 17.17.420. EDUCATION AND RESEARCH. (a) The commissioner
2 shall carry out educational programs designed to prevent and deter
3 abuse of controlled substances. In connection with these programs he
4 or she may:

5 (1) promote better recognition of the problems of abuse of
6 controlled substances within the regulated industry and among inter-
7 ested groups and organizations;

8 (2) assist the regulated industry and interested groups and
9 organizations in contributing to the reduction of abuse of controlled
10 substances;

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

13 (4) evaluate procedures, projects and techniques conducted
14 or proposed as part of educational programs on abuse of controlled
15 substances;

16 (5) disseminate the results of research on abuse of con-
17 trolled substances to promote a better public understanding of the
18 problems which exist and their solutions; and

19 (6) assist in the education and training of state and local
20 law enforcement officials in their efforts to prevent abuse of con-
21 trolled substances.

22 (b) The commissioner shall encourage research on controlled
23 substances and may:

24 (1) establish methods to assess the effects of controlled
25 substances and identify and characterize those with potential for
26 abuse;

27 (2) make studies and undertake research to:

28 (A) develop new or improved approaches, techniques,
29 systems, equipment and devices to strengthen the enforcement of

1 this chapter;

2 (B) determine patterns of abuse of controlled sub-
3 stances and their social effects;

4 (C) improve methods for preventing, predicting and
5 understanding the abuse of controlled substances;

6 (3) enter into contracts with public agencies, institutions
7 of higher education, and private organizations or individuals for con-
8 ducting research, demonstrations, or special projects which bear
9 directly on abuse of controlled substances and for related research
10 and educational activities.

11 ARTICLE 5. GENERAL PROVISIONS.

12 Sec. 17.17.900. DEFINITIONS. As used in this chapter

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

16 (A) a practitioner, or, in his presence, by his autho-
17 rized agent, or

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

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

24 (3) "commissioner" means the commissioner of health and
25 social services;

26 (4) "committee" means the Controlled Substances Advisory
27 Committee established in sec. 20 of this chapter;

28 (5) "controlled substance" means a drug, substance, or
29 immediate precursor in Schedules I - V of secs. 40, 50, 60, 70, and 80

1 of this chapter;

2 (6) "counterfeit substance" means a controlled substance or
3 the container or labeling of a controlled substance which, without
4 authorization, bears the trademark, trade name, or other identifying
5 mark, imprint, number, or device of a manufacturer, distributor, or
6 dispenser other than the person or persons who manufactured, distri-
7 buted, or dispensed the substance and which falsely purports or is
8 represented to be the product of, or to have been distributed by, the
9 other manufacturer, distributor, or dispenser;

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

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

15 (9) "dispense" means to deliver a controlled substance to
16 an 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; "dispenser" means a practitioner who dispenses;

20 (10) "distribute" means to deliver other than by administer-
21 ing or dispensing a controlled substance; "distributor" means a person
22 who distributes;

23 (11) "drug" means (A) substances recognized as drugs in the
24 official United States Pharmacopoeia, official Homeopathic Pharmaco-
25 poeia of the United States, or official National Formulary, or a
26 supplement to any of them; (B) substances intended for use in the
27 diagnosis, cure, mitigation, treatment, or prevention of disease in
28 man or animals; (C) substances (other than food) intended to affect
29 the structure or a function of the body of man or animals; and (D)

1 substances intended for use of a component of an article specified in
2 (A), (B), or (C) of this paragraph; "drug" does not include devices or
3 their components, parts, or accessories;

4 (12) "hashish" means the resin produced by the plant (genus)
5 Cannabis;

6 (13) "hashish oil" means the viscous liquid concentrate of
7 tetrahydrocannabinols extracted from hashish;

8 (14) "immediate precursor" means a substance which the
9 committee has found to be and is by regulation designated as the
10 principal compound commonly used or produced primarily for use, and
11 which is an immediate chemical intermediary used or likely to be used
12 in the manufacture of a controlled substance, the control of which is
13 necessary to prevent, curtail, or limit manufacture;

14 (15) "judicial officer" means a judge of the superior
15 court, a district judge and a magistrate;

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

26 (A) by a practitioner as an incident to his or her
27 administering or dispensing of a controlled substance in the
28 course of his or her professional practice, or

29 (B) by a practitioner, or by his or her authorized

1 agent under his or her supervision, for the purpose of, or as an
2 incident to, research, teaching, or chemical analysis and not for
3 sale;

4 (17) "marijuana" means the leaves, stems, flowers and seeds
5 of the plant (genus) Cannabis, whether growing or not; but does not
6 include the resin or oil extracted from any part of the plant, or any
7 compound, manufacture, salt, derivative, mixture, or preparation from
8 the resin or oil, including hashish and natural or synthetic tetrahydro-
9 cannabinal; it does not include the mature stalks of the plant, fiber
10 produced from the stalks, oil or cake made from the seeds of the
11 plant, any other compound, manufacture salt, derivative, mixture, or
12 preparation of the mature stalks, fiber, oil or cake, or the sterilized
13 seed of the plant which is incapable of germination;

14 (18) "opiate" means a substance having an addiction-forming
15 or addiction-sustaining liability similar to morphine or being capable
16 of conversion into a drug having addiction-forming or addiction-
17 sustaining liability; it does not include, unless specifically desig-
18 nated as controlled under sec. 10 of this chapter, the dextrorotatory
19 isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan);
20 it does include its racemic and levorotatory forms;

21 (19) "opium poppy" means the plant of the species *Papaver*
22 *somniferum* L., except its seeds;

23 (20) "poppy straw" means all parts, except the seeds, of
24 the opium poppy, after mowing;

25 (21) "practitioner" means:

26 (A) a physician, dentist, veterinarian, scientific
27 investigator, or other person licensed, registered or otherwise
28 permitted to distribute, dispense, conduct research with respect
29 to or to administer a controlled substance in the course of pro-

1 professional practice or research in the state;

2 (B) a pharmacy, hospital or other institution licensed,
3 registered, or otherwise permitted to distribute, dispense, con-
4 duct research with respect to or to administer a controlled
5 substance in the course of professional practice or research in
6 the state;

7 (22) "production" includes the manufacture, planting,
8 cultivation, growing, or harvesting of a controlled substance;

9 (23) "ultimate user" means a person who lawfully possesses
10 a controlled substance for his or her own use or for the use of a
11 member of his or her household or for administering to an animal owned
12 by him or her or by a member of the household.

13 Sec. 17.17.990. SHORT TITLE. This chapter may be cited as the
14 Uniform Controlled Substances Act.

15 * Sec. 2. AS 08.64.380(3)(B) is amended to read:

16 (B) habitual overuse of alcoholic beverages or con-
17 trolled substances as defined in AS 17.17 [DEPRESSANT, HALLUCINO-
18 GENIC OR STIMULANT DRUGS, AS DEFINED IN AS 17.12.150(3), OR
19 ADDICTION TO THE USE OF NARCOTIC DRUGS AS DEFINED IN AS 17.10.-
20 230(13)];

21 * Sec. 3. AS 08.80.470 is amended to read:

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

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

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

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

10 * Sec. 5. (a) Prosecution for a violation of law occurring before the
11 effective date of this Act is not affected or abated by this Act. If the
12 offense being prosecuted is similar to one set out in AS 17.17.250 -
13 17.17.310, then the penalties under AS 17.17 apply if they are less than
14 those under prior law.

15 (b) Civil seizures or forfeitures and injunctive proceedings commenced
16 before the effective date of this Act are not affected by this Act.

17 (c) All administrative proceedings pending under prior laws which are
18 superseded by this Act shall be continued and brought to a final determina-
19 tion in accord with the laws and rules in effect before the effective date
20 of the Act.

21 (d) The commissioner shall initially permit persons to register who
22 own or operate an establishment engaged in the manufacture, distribution,
23 or dispensing of a controlled substance before the effective date of this
24 Act and who are registered or licensed by the state.

25 (e) This Act applies to violations of law, seizures and forfeitures,
26 injunctive proceedings, administrative proceedings and investigations which
27 occur following its effective date.

28 * Sec. 6. Orders issued and regulations adopted under a law affected by
29 this Act and in effect on the effective date of this Act and not in con-

1 flict with it continue in effect until modified, superseded, or repealed.

2 * Sec. 7. AS 11.60.100 - 11.60.130, 17.10, 17.12, and 17.15 are repealed.

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