

Introduced: 1/30/79  
Referred: Health, Education &  
Social Services and Judiciary

BY MARTIN, BARNES, BETTISWORTH,  
HAYES AND MONTGOMERY

1 IN THE HOUSE

2 HOUSE BILL NO. 101

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act consolidating and strengthening the state's  
7 drug laws; and providing for an effective date."

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

9 \* Section 1. PURPOSE. (a) It is the purpose of this Act to consolidate  
10 the state's various drug laws into one comprehensive chapter and, through  
11 enactment of new provisions, to strengthen law enforcement's ability to more  
12 effectively combat those who are finding it attractive to engage in the  
13 illicit trafficking of controlled substances.

14 (b) The legislature reaffirms its former intent to provide identical  
15 punishment discretion for criminal offenses involving unlawful trafficking  
16 and use of both heroin and cocaine and other substances similarly classified  
17 as previously set out in AS 17.10, which provisions are repealed and re-enac-  
18 ted through this Act, even though the legislature recognizes that some of the  
19 substances such as heroin and cocaine do not have the same or similar pharma-  
20 cological characteristics. The detrimental effect on the health and general  
21 welfare of our society created through the illicit trafficking and use of  
22 these substances is such as to warrant the same condemnation and punishment.  
23 Since many of the substances included within this Act have a useful and  
24 legitimate medical purpose, provisions have been included to allow for that  
25 use while maintaining the ability to monitor that use.

26 \* Sec. 2. AS 17.12.010 is amended to read:

27 Sec. 17.12.010. ACTS PROHIBITED. (a) Except as otherwise pro-  
28 vided in this chapter, it is unlawful for a person to manufacture,  
29 distribute [COMPOUND, COUNTERFEIT], possess, [HAVE UNDER HIS CONTROL,

1 SELL, PRESCRIBE, ADMINISTER,) dispense, or possess with intent to manu-  
2 facture, distribute, or dispense a controlled substance [GIVE, BARTER,  
3 SUPPLY OR DISTRIBUTE IN ANY MANNER, A DEPRESSANT, HALLUCINOGENIC OR  
4 STIMULANT DRUG].

5 \* Sec. 3. AS 17.12.010 is amended by adding new subsections to read:

6 (b) No person may obtain, attempt to obtain, procure, or attempt  
7 to procure, a controlled substance by

- 8 (1) fraud, deceit, misrepresentation, or subterfuge;  
9 (2) forgery or alteration of a prescription or written order;  
10 (3) concealment of a material fact; or  
11 (4) use of a false name or giving of a false address.

12 (c) No person may wilfully make a false statement in a prescrip-  
13 tion, order, report, or record required by this chapter.

14 (d) No person may, for the purpose of obtaining a controlled sub-  
15 stance, falsely assume the title of, or represent himself to be, a  
16 manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian,  
17 or other authorized person.

18 (e) No person may make or utter a false or forged prescription or  
19 false or forged written order.

20 (f) No person may affix a false or forged label to a package or  
21 receptacle containing a controlled substance.

22 \* Sec. 4. AS 17.12 is amended by adding a new section to read:

23 Sec. 17.12.015. CONTINUING CRIMINAL ENTERPRISE. (a) No person  
24 may engage in a continuing criminal enterprise. Upon conviction, a  
25 person who engages in a continuing criminal enterprise shall be sentenced

26 (1) for the first offense, to all of the following:

27 (A) a term of imprisonment of no less than 10 years and  
28 no more than life;

29 (B) a fine of no more than \$100,000; and

1 (C) the forfeiture prescribed in (b) of this section;  
2 (2) for the second and subsequent offenses, to all of the  
3 following:

4 (A) a term of imprisonment of no less than 20 years and  
5 no more than life;

6 (B) a fine of no more than \$200,000; and

7 (C) the forfeiture prescribed in (b) of this section.

8 (b) A person who is convicted of engaging in a continuing criminal  
9 enterprise shall forfeit to the state

10 (1) the profits obtained by him in that enterprise; and

11 (2) any of his interest in, claim against, or property or  
12 contractual rights of any kind affording a source of influence over that  
13 enterprise.

14 (c) The imposition or execution of a sentence required to be im-  
15 posed under this section may not be suspended and probation or parole  
16 may not be granted until the minimum term of imprisonment specified in  
17 this section has been served. AS 12.55.080 and 12.55.085 are inappli-  
18 cable to the extent that they are inconsistent with this subsection.

19 (d) For purposes of this section, a person is engaged in a con-  
20 tinuing criminal enterprise if

21 (1) he commits a violation of this chapter which is punish-  
22 able as a felony; and

23 (2) that violation is a part of a continuing series of viola-  
24 tions of this chapter

25 (A) which he undertakes in concert with five or more  
26 other persons with respect to whom he occupies a position of orga-  
27 nizer, a supervisory position, or any other position of management;  
28 and

29 (B) from which he obtains substantial income or re-

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\* Sec. 5. AS 17.12.020 is amended to read:

Sec. 17.12.020. AUTHORIZED POSSESSION. A person may lawfully possess a controlled substance [DEPRESSANT, HALLUCINOGENIC OR STIMULANT DRUG] that has been lawfully prescribed, sold, or dispensed by a practitioner if the controlled substance is [DRUGS ARE]

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

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

(3) DESIGNATED BY THE COMMISSIONER FOR USE IN LABORATORIES OR INSTITUTIONS FOR EDUCATIONAL OR TEACHING RESEARCH, OR FOR CHEMICAL ANALYSIS; SUCH A LABORATORY OR INSTITUTION MUST FIRST OBTAIN A PERMIT FROM THE COMMISSIONER WHICH SHALL SPECIFY THE DRUGS, THE POSSESSION OF WHICH IS ALLOWED, DELINEATE AND RESTRICT THEIR USE OR DISPOSAL, IDENTIFY THE PERMITTEE AND PROMULGATE THE RULES AND REGULATIONS CONSIDERED NECESSARY TO FULFILL THE REQUIREMENTS OF THIS CHAPTER].

\* Sec. 6. AS 17.12.030 is repealed and re-enacted to read:

Sec. 17.12.030. LEGITIMATE INDUSTRY. A controlled substance may be manufactured, distributed, possessed, or dispensed by a practitioner acting in the ordinary and authorized course of his business under federal registration if evidence of that federal registration is filed with the department.

\* Sec. 7. AS 17.12.050 is amended to read:

Sec. 17.12.050. RECORDS. A practitioner [PERSON] engaged in manufacturing, distributing, or dispensing a controlled substance [COMPOUNDING, PROCESSING, SELLING, DELIVERING OR OTHERWISE DISPOSING OF A DEPRESSANT, HALLUCINOGENIC OR STIMULANT DRUG] shall, upon the effective date of this chapter, prepare a complete and accurate record of all

1 stocks of each drug on hand and shall keep the record for three years.  
2 If this record has already been prepared in accordance with federal law,  
3 no additional record is required if all of these records have been  
4 retained and are made available to the department upon request. A  
5 practitioner [ON AND AFTER AUGUST 4, 1968, A PERSON] manufacturing,  
6 distributing, dispensing, or possessing a controlled substance [COM-  
7 POUNDING, OR PROCESSING A DEPRESSANT, HALLUCINOGENIC OR STIMULANT DRUG]  
8 shall prepare and keep, for not less than three years, a complete and  
9 accurate record of the kind and quantity of each controlled substance  
10 [DRUG] manufactured, distributed, dispensed, or possessed, [COMPOUNDED,  
11 OR PROCESSED AND] the date of the manufacture, distribution, dispensing,  
12 or receipt, the name and address of the person from whom the controlled  
13 substance was received, and the name and address of the person to whom  
14 the controlled substance was distributed or dispensed [COMPOUNDING, OR  
15 PROCESSING. A PERSON SELLING, DELIVERING, OR OTHERWISE DISPOSING OF A  
16 DEPRESSANT, HALLUCINOGENIC OR STIMULANT DRUG SHALL PREPARE OR OBTAIN,  
17 AND KEEP FOR NOT LESS THAN THREE YEARS, A COMPLETE AND ACCURATE RECORD  
18 OF THE KIND AND QUANTITY OF EACH DRUG RECEIVED, SOLD, DELIVERED, OR  
19 OTHERWISE DISPOSED OF, THE NAME AND ADDRESS FROM WHOM IT WAS RECEIVED  
20 AND TO WHOM IT WAS SOLD, DELIVERED, OR OTHERWISE DISPOSED OF, AND THE  
21 DATE OF THE TRANSACTION].

22 \* Sec. 8. AS 17.12.060(a) and (b) are amended to read:

23 (a) A person required by AS 17.12.050 to prepare or obtain and  
24 keep records, [AND] a carrier maintaining records with respect to a  
25 shipment containing a controlled substance [DEPRESSANT, HALLUCINOGENIC  
26 OR STIMULANT DRUG], and a person in charge or having custody of the  
27 records [,] shall, upon request of an officer or employee designated by  
28 the commissioner, permit the officer or employee at reasonable times to  
29 have access to and copy the records. For the purposes

1 of verification of the records and of the enforcement of this chapter,  
2 officers or employees designated by the commissioner are authorized to  
3 enter, at reasonable times, a factory, warehouse, establishment, or  
4 vehicle in which a controlled substance [DEPRESSANT, HALLUCINOGENIC OR  
5 STIMULANT DRUG] is manufactured, compounded, processed, stored, sold,  
6 delivered, dispensed, or otherwise disposed of and to inspect, within  
7 reasonable limits and in a reasonable manner, the factory, warehouse,  
8 establishment, or vehicle, and all pertinent equipment, finished and  
9 unfinished material, containers and labeling and to inventory the stock  
10 of these controlled substances [DRUGS] and obtain samples of each con-  
11 trolled substance [THESE DRUGS].

12 (b) No inspection authorized by (a) of this section extends to (1)  
13 financial data, (2) sales data other than shipment data, (3) pricing  
14 data, (4) personnel data, or (5) research data unless those data are not  
15 kept in separate books and records.

16 \* Sec. 9. AS 17.12 is amended by adding a new section to read:

17 Sec. 17.12.065. SEARCH WARRANTS. (a) A search warrant relating  
18 to an offense involving a controlled substance may be served at any time  
19 of the day or night if the judge issuing the warrant is satisfied that  
20 there is probable cause to believe that grounds exist for the warrant  
21 and for its service at that time.

22 (b) An officer authorized to execute a search warrant relating to  
23 an offense involving a controlled substance for which a penalty of  
24 imprisonment for more than one year is authorized may, without notice of  
25 his authority and purpose, break open an outer or inner door or window  
26 of a building, any part of a building, or anything in a building if the  
27 judge issuing the warrant

28 (1) is satisfied that there is probable cause to believe that

29 (A) the property sought may, and if notice is given

1 will, be easily and quickly destroyed or disposed of; or

2 (B) the giving of notice will immediately endanger the  
3 life or safety of the executing officer or another person; and

4 (2) has included in the warrant a direction that the officer  
5 executing it is not required to give notice of his authority and purpose  
6 before entering the premises.

7 (c) An officer acting under a warrant issued under (b) of this  
8 section shall, as soon as practicable after entering the premises,  
9 identify himself and give the reasons and authority for his entrance  
10 upon the premises.

11 (d) AS 12.35.040 as limited by AS 12.25.100 is inapplicable to the  
12 extent that it is inconsistent with this section.

13 \* Sec. 10. AS 17.12.070 is amended to read:

14 Sec. 17.12.070. PRESCRIPTION REFILL. (a) The substances de-  
15 scribed as class A in AS 17.12.105(b) may not be dispensed on oral  
16 prescription, and written prescriptions for these substances may not  
17 be refilled.

18 (b) In regard to controlled substances other than those referred  
19 to in (a) of this section, no [NO] prescription for a controlled sub-  
20 stance [DEPRESSANT, HALLUCINOGENIC OR STIMULANT DRUG] may be filled or  
21 refilled more than six months after the date on which the prescription  
22 was issued and no prescription which is authorized to be refilled may be  
23 refilled more than five times. Except where specifically prohibited,  
24 [NOTHING IN THIS CHAPTER PREVENTS] a practitioner may issue [FROM ISSU-  
25 ING] a new prescription for the same controlled substance [DRUG] either  
26 in writing or orally. An oral prescription for the controlled substance  
27 [DRUG] shall be promptly reduced to writing on a new prescription blank  
28 and filed by the pharmacist filling it and retained for the period  
29 prescribed in AS 17.12.050. An oral prescription may not be refilled

1 unless authorized by the prescriber.

2 \* Sec. 11. AS 17.12.070 is amended by adding new subsections to read:

3 (c) A pharmacist may, in good faith, sell and dispense a con-  
4 trolled substance to any person upon a written prescription of a physi-  
5 cian, dentist, or veterinarian if the prescriber is licensed to practice  
6 in this state and the prescription is dated and signed by the prescriber  
7 on the day when issued, bears the name and address of the patient for  
8 whom, or the owner of the animal for which, the controlled substance is  
9 dispensed, and bears the full name, address and federal registry number  
10 of the person prescribing the controlled substance. If the prescription  
11 is for an animal, it shall state the species of animal for which the  
12 controlled substance is prescribed.

13 (d) The person filling the prescription shall write the date of  
14 filling and his own signature on the face of the prescription. The  
15 prescription shall be retained on file by the proprietor of the pharmacy  
16 in which it is filled for a period of three years so as to be readily  
17 accessible for inspection by any public officer or employee engaged in  
18 the enforcement of this chapter.

19 (e) The legal owner of stock of controlled substances in a phar-  
20 macy, upon discontinuance of dealing or dispensing those substances, may  
21 sell the stock to a manufacturer, wholesaler, or other pharmacy, but  
22 only on an official written order.

23 \* Sec. 12. AS 17.12.080 is amended to read:

24 Sec. 17.12.080. PERSONS EXEMPTED. The provisions of this chapter  
25 restricting the possession [POSSESSING AND CONTROL] of a controlled  
26 substance [DEPRESSANT, HALLUCINOGENIC AND STIMULANT DRUGS] do not apply  
27 to

28 (1) a common carrier or to a warehouseman, while engaged in  
29 lawfully transporting or storing a controlled substance for a practi-

1 tioner or public officer or agent in performance of his official duties  
2 or other person authorized by federal registration to manufacture, dis-  
3 tribute, dispense, or possess controlled substances [THESE DRUGS];

4 (2) an employee of a common carrier or warehouseman while acting  
5 within the scope of his employment in lawfully transporting or storing a  
6 controlled substance for a practitioner or public officer or agent in  
7 performance of his official duties or other person authorized by federal  
8 registration to manufacture, distribute, dispense, or possess controlled  
9 substances [THESE DRUGS];

10 (3) a public officer or his employee in the performance of  
11 his official duties requiring possession or control of a controlled  
12 substance [THESE DRUGS];

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

15 (5) temporary, incidental possession by a person whose pos-  
16 session is for the purpose of aiding a public officer in performing his  
17 official duties.

18 \* Sec. 13. AS 17.12.090 is amended to read:

19 Sec. 17.12.090. EXEMPTED DRUGS. A controlled substance the manu-  
20 facture, distribution, dispensing, or possession of which is [DEPRES-  
21 SANT, HALLUCINOGENIC OR STIMULANT DRUGS] exempted from criminal penalty  
22 under federal law is [OR UNDER REGULATIONS PROMULGATED BY THE COMMIS-  
23 SIONER ARE] exempted from the application of this chapter. This exemp-  
24 tion includes any substances which may, under the federal Food, Drug,  
25 and Cosmetic Act (21 U.S.C. sec. 301 et seq.) be lawfully sold over the  
26 counter without a prescription.

27 \* Sec. 14. AS 17.12.100 is repealed and re-enacted to read:

28 Sec. 17.12.100. BURDEN OF PROOF AND LIABILITIES. (a) It is not  
29 necessary for the state to negate an exemption or exception in this

1 chapter in a complaint, information, indictment, or other pleading or in  
2 a trial, hearing, or other proceeding under this chapter. The burden of  
3 proof of an exemption is upon the person claiming it.

4 (b) In the absence of proof that a person is an authorized holder  
5 of an appropriate federal registration or order form filed with the  
6 department, it is presumed that that person is not the holder of the  
7 registration or form, and the burden of proof is upon that person to  
8 rebut the presumption.

9 (c) All authorized peace officers, while investigating violations  
10 under this chapter in the performance of their official duties, and any  
11 person working under their immediate direction, supervision, and in-  
12 struction are immune from prosecution under this chapter.

13 (d) Information communicated to a physician in an effort to unlaw-  
14 fully procure a controlled substance is not a privileged communication.

15 \* Sec. 15. AS 17.12 is amended by adding a new section to read:

16 Sec. 17.12.105. CLASSIFICATION OF CONTROLLED SUBSTANCES. (a)  
17 Except as otherwise provided, controlled substances are divided into the  
18 following five classes for penalty purposes: class A, class B, class C,  
19 class D, and class E.

20 (b) Unless specifically excepted or unless listed in another  
21 classification within this section, class A controlled substances in-  
22 clude any material compound which contains any quantity of a substance  
23 listed in this subsection, including its salts, its isomers, (whether  
24 optical, position, or geometric), and the salts of its isomers whenever  
25 the existence of those salts, isomers, or salts of isomers is possible  
26 within the specific chemical designation, regardless of whether the  
27 listed substance is produced directly or indirectly by extraction from  
28 substances of vegetable origin or independently by means of chemical  
29 synthesis or by a combination of extraction and chemical synthesis:

1 (1) opium and opiate, and any salt, compound, derivative, or  
2 preparation of opium or opiate, excluding apomorphine, dextrorphan,  
3 nalbuphine, naloxone, and naltrexone, and their respective salts, but  
4 including the following:

- 5 (A) raw opium;  
6 (B) opium extracts;  
7 (C) opium fluid extracts;  
8 (D) powdered opium;  
9 (E) granulated opium;  
10 (F) tincture of opium;  
11 (G) codeine;  
12 (H) ethylmorphine;  
13 (I) hydrocodone;  
14 (J) hydromorphone;  
15 (K) metopon;  
16 (L) morphine;  
17 (M) oxycodone;  
18 (N) oxymorphone;  
19 (O) thebaine;

20 (2) any salt, compound, derivative, or preparation of these  
21 which is chemically equivalent or identical with any of the substances  
22 referred to in (1) of this subsection, except that these substances do  
23 not include the isoquinoline alkaloids of opium;

24 (3) opium poppy and poppy straw;

25 (4) coca leaves and any salt, compound, derivative, or pre-  
26 paration of coca leaves, and any salt, compound, derivative, or prepara-  
27 tion of these which is chemically equivalent or identical with any of  
28 these substances, except that the substances do not include decocainized  
29 coca leaves or extractions of coca leaves, which extractions do not con-

- 1            **tain cocaine or ecgonine;**
- 2            (5)   **acetylmethadol;**
- 3            (6)   **allylprodine;**
- 4            (7)   **alphacetylmethadol;**
- 5            (8)   **alphameprodine;**
- 6            (9)   **alphamethadol;**
- 7            (10)  **benzethidine;**
- 8            (11)  **betacetylmethadol;**
- 9            (12)  **betameprodine;**
- 10           (13)  **betamethadol;**
- 11           (14)  **betaprodine;**
- 12           (15)  **clonitazene;**
- 13           (16)  **dextromoramide;**
- 14           (17)  **diampromide;**
- 15           (18)  **diethylthiambutene;**
- 16           (19)  **difenoxin;**
- 17           (20)  **dimenoxadol;**
- 18           (21)  **dimepheptanol;**
- 19           (22)  **dimethylthiambutene;**
- 20           (23)  **dioxaphetyl butyrate;**
- 21           (24)  **dipipanone;**
- 22           (25)  **ethylmethylthiambutene;**
- 23           (26)  **etonitazene;**
- 24           (27)  **etoxeridine;**
- 25           (28)  **furethidine;**
- 26           (29)  **hydroxypethidine;**
- 27           (30)  **ketobemidone;**
- 28           (31)  **levomoramide;**
- 29           (32)  **levophenacylmorphan;**

- 1 (33) morpheridine;
- 2 (34) noracymethadol;
- 3 (35) norlevorphanol;
- 4 (36) normethadone;
- 5 (37) norpipanone;
- 6 (38) phenadoxone;
- 7 (39) phenampromide;
- 8 (40) phenomorphan;
- 9 (41) phenoperidine;
- 10 (42) piritramide;
- 11 (43) proheptazine;
- 12 (44) properidine;
- 13 (45) propiram;
- 14 (46) racemoramide;
- 15 (47) trimeperidine;
- 16 (48) acetorphine;
- 17 (49) acetyldihydrocodeine;
- 18 (50) benzylmorphine;
- 19 (51) codeine methylbromide;
- 20 (52) codeine-N-oxide;
- 21 (53) cyprenorphine;
- 22 (54) desomorphine;
- 23 (55) dihydromorphine;
- 24 (56) drotebanol;
- 25 (57) etorphine;
- 26 (58) heroin;
- 27 (59) hydromorphinol;
- 28 (60) methyl-desorphine;
- 29 (61) methyldihydromorphine;

- 1 (62) morphine methylbromide;
- 2 (63) morphine methylsulfonate;
- 3 (64) morphine-N-oxide;
- 4 (65) myrophine;
- 5 (66) nicocodeine;
- 6 (67) nicomorphine;
- 7 (68) normorphine;
- 8 (69) pholcodeine;
- 9 (70) thebacon;
- 10 (71) alphaprodine;
- 11 (72) anileridine;
- 12 (73) bezitramide;
- 13 (74) dihydrocodeine;
- 14 (75) diphenoxylate;
- 15 (76) fentanyl;
- 16 (77) isomethadone;
- 17 (78) levomethorphan;
- 18 (79) levorphanol;
- 19 (80) metazocine;
- 20 (81) methadone;
- 21 (82) methadone-intermediate, 4-cyano-2-dimethylamino-4, 4-
- 22 diphenyl butane;
- 23 (83) moramide-intermediate, 2-methyl-3-morpholino-1,
- 24 1-diphenylpropane-carboxylic acid;
- 25 (84) pethidine (meperidine);
- 26 (85) pethidine-intermediate-A, 4-cyano-1-methyl-4-phenylpiperi
- 27 dine;
- 28 (86) pethidine-intermediate-B, ethyl-4-phenylpiperidine-4-
- 29 carboxylate;

1 (87) pethidine-intermediate-C, 1-methyl-4-phenylpiperidine-4-  
2 carboxylic acid;

3 (88) phenazocine;

4 (89) piminodine;

5 (90) racemethorphan;

6 (91) racemorphan.

7 (c) Unless specifically excepted or unless listed in another  
8 classification within this section, class B controlled substances in-  
9 clude any material compound which contains any quantity of a substance  
10 listed in this subsection, including its salts, its isomers (whether  
11 optical, position, or geometric), and the salts of its isomers whenever  
12 the existence of those salts, isomers, or salts of isomers is possible  
13 within the specific chemical designation, regardless of whether the  
14 listed substance is produced directly or indirectly by extraction from  
15 substances of vegetable origin or independently by means of chemical  
16 synthesis or by a combination of extraction and chemical synthesis:

17 (1) 4-bromo-2,5-dimethoxy-amphetamine, also known as bromo-2,  
18 5-dimethoxy-a-methylphenethylamine and 4-bromo-2,5-DMA;

19 (2) 2,5-dimethoxyamphetamine, also known as 2,5-dimethoxy-a-  
20 methylphenethylamine and 2,5-DMA;

21 (3) 4-methoxyamphetamine, also known as 4-methoxy-a-  
22 methylphenethylamine and paramethoxyamphetamine, PMA;

23 (4) 5-methoxy-3,4-methylenedioxy-amphetamine;

24 (5) 4-methyl-2,5-dimethoxy-amphetamine, also known as 4-  
25 methyl-2,5-dimethoxy-a-methylphenethylamine and "DOM" and "STP";

26 (6) 3,4-methylenedioxy amphetamine;

27 (7) 3,4,5-trimethoxy amphetamine;

28 (8) bufotenine, also known as 3-(b-dimethylaminoethyl)-5-  
29 hydroxyindole and 3-(2-dimethylaminoethyl)-5-indolol and N,N-

- 1 dimethylserotonin and 5-hydroxy-N,N-dimethyltryptamine and mappine;
- 2 (9) diethyltryptamine, also known as N,N-diethyltryptamine
- 3 and DET;
- 4 (10) dimethyltryptamine, also known as DMT;
- 5 (11) ibogaine, also known as 7-ethyl-6,6,8,7,8,9,10,12,13-
- 6 octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepino [5,4-b]
- 7 indole and Tabernanthe iboga;
- 8 (12) lysergic acid diethylamide;
- 9 (13) mescaline;
- 10 (14) peyote, meaning all parts of the plant presently classi-
- 11 fied botanically as *Lophophora williamsii* Lemaire, whether growing or
- 12 not, the seeds of the plant, any extract from any part of the plant, and
- 13 every compound, manufacture, salts, derivative, mixture, or preparation
- 14 of the plant, its seeds, or extracts;
- 15 (15) N-ethyl-3-piperidyl benzilate;
- 16 (16) N-methyl-3-piperidyl benzilate;
- 17 (17) psilocybin;
- 18 (18) psilocyn;
- 19 (19) thiophene analog of phencyclidine, also known as: 1-
- 20 [1-(2-thienyl) cyclohexyl] piperidine and 2-thienyl analog of phencycli-
- 21 dine and TCPD;
- 22 (20) phencyclidine, also known as PCP;
- 23 (21) mecloqualone;
- 24 (22) amphetamine, its salts, optical isomers, and salts of its
- 25 optical isomers;
- 26 (23) methamphetamine, its salts, isomers, and salts of its
- 27 isomers;
- 28 (24) phenmetrazine and its salts;
- 29 (25) methylphenidate;

- 1 (26) methaqualone;
- 2 (27) amobarbital;
- 3 (28) secobarbital;
- 4 (29) pentobarbital.

5 (d) Unless specifically excepted or unless listed in another  
6 classification within this section, class C controlled substances in-  
7 clude any material compound which contains any quantity of a substance  
8 listed in this subsection, including its salts, its isomers (whether  
9 optical, position, or geometric), and the salts of its isomers whenever  
10 the existence of those salts, isomers, or salts of isomers is possible  
11 within the specific chemical designation, regardless of whether the  
12 listed substance is produced directly or indirectly by extraction from  
13 substances of vegetable origin or independently by means of chemical  
14 synthesis or by a combination of extraction and chemical synthesis:

- 15 (1) benzphetamine;
- 16 (2) chlorphentermine;
- 17 (3) clortermine;
- 18 (4) mazindol;
- 19 (5) phendimetrazine;
- 20 (6) any compound, mixture, or preparation containing amobar-  
21 bital, secobarbital, or pentobarbital or any salt of any of these sub-  
22 stances combined with one or more other active medicinal ingredients  
23 which are not listed in any classification in this section;
- 24 (7) any suppository dosage form containing amobarbital,  
25 secobarbital, or pentobarbital or any salt of any of these substances  
26 which are approved by the federal Food and Drug Administration for  
27 marketing only as a suppository;
- 28 (8) any substance, having a depressant effect on the central  
29 nervous system, which contains any quantity or derivative of barbituric

1 acid or any salt of these;

2 (9) chlorhexadol;

3 (10) glutethimide;

4 (11) lysergic acid;

5 (12) lysergic acid amide;

6 (13) methyprylon;

7 (14) sulfondiethylmethane;

8 (15) sulfonethylmethane;

9 (16) sulfonmethane;

10 (17) nalorphine;

11 (18) any material, compound, mixture, or preparation contain-  
12 ing limited quantities of any of the following substances or any of  
13 their salts:

14 (A) not more than 1.8 grams of codeine per 100 milli-  
15 liters or not more than 90 milligrams per dosage unit, with an  
16 equal or greater quantity of an isoquinoline alkaloid of opium;

17 (B) not more than 1.8 grams of codeine per 100 milli-  
18 liters or not more than 90 milligrams per dosage unit, with one or  
19 more active, nonnarcotic ingredients in recognized therapeutic  
20 amounts;

21 (C) not more than 300 milligrams of dihydrocodeinone per  
22 100 milliliters or not more than 15 milligrams per dosage unit,  
23 with a fourfold or greater quantity of an isoquinoline alkaloid of  
24 opium;

25 (D) not more than 300 milligrams of dihydrocodeinone per  
26 100 milliliters or not more than 15 milligrams per dosage unit,  
27 with one or more active nonnarcotic ingredients in recognized  
28 therapeutic amounts;

29 (E) not more than 1.8 grams of dihydrocodeine per 100

1 milliliters or not more than 90 milligrams per dosage unit, with  
2 one or more active nonnarcotic ingredients in recognized thera-  
3 peutic amounts;

4 (F) not more than 300 milligrams of ethylmorphine per  
5 100 milliliters or not more than 15 milligrams per dosage unit,  
6 with one or more active, nonnarcotic ingredients in recognized  
7 therapeutic amounts;

8 (G) not more than 500 milligrams of opium per 100 grams  
9 or not more than 25 milligrams per dosage unit, with one or more  
10 active, nonnarcotic ingredients in recognized therapeutic amounts;

11 (H) not more than 50 milligrams of morphine per 100  
12 milliliters or per 100 grams, with one or more active, nonnarcotic  
13 ingredients in recognized therapeutic amounts.

14 (e) Unless specifically excepted or unless listed in another  
15 classification within this section, class D controlled substances in-  
16 clude any material compound which contains any quantity of a substance  
17 listed in this subsection, including its salts, its isomers (whether  
18 optical, position, or geometric), and the salts of its isomers whenever  
19 the existence of those salts, isomers, or salts of isomers is possible  
20 within the specific chemical designation, regardless of whether the  
21 listed substance is produced directly or indirectly by extraction from  
22 substances of vegetable origin or independently by means of chemical  
23 synthesis or by a combination of extraction and chemical synthesis:

- 24 (1) barbital;  
25 (2) chloral betaine;  
26 (3) chloral hydrate;  
27 (4) chlordiazepoxide;  
28 (5) clonazepam;  
29 (6) clorazepate;

- 1 (7) diazepam;
- 2 (8) ethchlorvynol;
- 3 (9) ethinamate;
- 4 (10) flurazepam;
- 5 (11) lorazepam;
- 6 (12) mebutamate;
- 7 (13) meprobamate;
- 8 (14) methohexital;
- 9 (15) methylphenobarbital (mephobarbital);
- 10 (16) oxazepam;
- 11 (17) paraldehyde;
- 12 (18) petrichloral;
- 13 (19) phenobarbital;
- 14 (20) prazepam;
- 15 (21) fenfluramine;
- 16 (22) diethylpropion;
- 17 (23) phentermine;
- 18 (24) pemoline, including organometallic complexes and chelates  
19 thereof;
- 20 (25) dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-  
21 diphenyl-3-methyl-2-propionoxybutane).

22 (f) Unless specifically excepted or unless listed in another  
23 classification within this section, class E controlled substances in-  
24 clude loperamide and any material compound which contains any quantity  
25 of a substance listed in this subsection, including its salts, its  
26 isomers (whether optical, position, or geometric), and the salts of its  
27 isomers whenever the existence of those salts, isomers, or salts of  
28 isomers is possible within the specific chemical designation, regardless  
29 of whether the listed substance is produced directly or indirectly by

1 extraction from substances of vegetable origin or independently by means  
2 of chemical synthesis or by a combination of extraction and chemical  
3 synthesis. Class E controlled substances include the following con-  
4 trolled substances, otherwise listed in (b) of this section, when they  
5 are combined in the following portions with one or more nonnarcotic  
6 active medicinal ingredients in sufficient portion to confer upon the  
7 compound mixture preparation valuable medicinal qualities other than  
8 those possessed by the class A substance:

9 (1) not more than 200 milligrams of codeine per 100 milli-  
10 liters or per 100 grams;

11 (2) not more than 100 milligrams of dihydrocodeine per 100  
12 milliliters or per 100 grams;

13 (3) not more than 100 milligrams of ethylmorphine per 100  
14 milliliters or per 100 grams;

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

17 (5) not more than 100 milligrams of opium per 100 milliliters  
18 or per 100 grams.

19 \* Sec. 16. AS 17.12.110(a), (b), and (c) are amended to read:

20 (a) A person who violates a provision of this chapter relating to  
21 the possession [OR CONTROL] of a controlled substance [DEPRESSANT,  
22 HALLUCINOGENIC AND STIMULANT DRUGS,] other than a class A controlled  
23 substance or marijuana, when his possession [OR CONTROL] is for his own  
24 use, is guilty of a misdemeanor and upon conviction is punishable by  
25 imprisonment for not more than one year, or by a fine of not more than  
26 \$1,000, or by both.

27 (b) A person who violates a provision of this chapter [OTHER THAN  
28 ONE MENTIONED IN (a) OF THIS SECTION, OR A PERSON WHO VIOLATES A PRO-  
29 VISION OF THIS CHAPTER] relating to the manufacture, distribution, dis-

1 dispensing, or possession with intent to manufacture, distribute, or dis-  
2 pende, of a class A controlled substance [OR CONTROL OF DEPRESSANT,  
3 HALLUCINOGENIC AND STIMULANT DRUGS, WHEN HIS POSSESSION OR CONTROL IS  
4 FOR THE PURPOSE OF SALE OR OTHER DISPOSAL TO ANOTHER PERSON,] is guilty  
5 of a felony and upon conviction is punishable as follows:

6 (1) for the first offense, he shall be sentenced to a term of  
7 [BY] imprisonment of [FOR] not less than two years nor more than 25  
8 years and may, in addition, be ordered to pay [, OR BY] a fine of not  
9 more than \$20,000 [, OR BY BOTH];

10 (2) for the second and subsequent offenses, he shall be sen-  
11 tenced to a term of [BY] imprisonment of [FOR] not less than four years  
12 nor more than [ANY TERM OF YEARS OR] life and may, in addition, be  
13 ordered to pay [, OR BY] a fine of not more than \$25,000 [, OR BY BOTH].

14 (c) A person 19 years of age or older who violates a provision of  
15 this chapter by distributing or dispensing a controlled substance [SELL-  
16 ING OR OTHERWISE DISPOSING OF A DEPRESSANT, HALLUCINOGENIC OR STIMULANT  
17 DRUG] to a person less than 19 years of age is guilty of a felony and  
18 upon conviction is punishable by imprisonment for any term of years or  
19 life, or by a fine of not more than \$25,000, or by both.

20 \* Sec. 17. AS 17.12.110 is amended by adding new subsections to read:

21 (g) A person who violates a provision of this chapter by posses-  
22 sion of a class A controlled substance when his possession is for his  
23 own use is guilty of a felony and upon conviction is punishable by  
24 imprisonment for not more than five years, or by a fine of not more than  
25 \$5,000, or by both.

26 (h) A person who violates a provision of this chapter relating to  
27 the manufacture, distribution, dispensing, or possession with intent to  
28 manufacture, distribute, or dispense, of a class B controlled substance  
29 is guilty of a felony and upon conviction is punishable as follows:

1 (1) for the first offense, by imprisonment for not more than  
2 15 years, or by a fine of not more than \$15,000, or by both;

3 (2) for the second and subsequent offenses, by imprisonment  
4 for not more than 30 years, or by a fine of not more than \$30,000, or by  
5 both.

6 (i) A person who violates a provision of this chapter relating to  
7 the manufacture, distribution, dispensing, or possession with intent to  
8 manufacture, distribute, or dispense, of a class C controlled substance  
9 is guilty of a felony and, upon conviction, is punishable as follows:

10 (1) for the first offense, by imprisonment for not more than  
11 10 years, or by a fine of not more than \$10,000, or by both;

12 (2) for the second and subsequent offenses, by imprisonment  
13 for not more than 20 years, or by a fine of not more than \$20,000, or by  
14 both.

15 (j) A person who violates a provision of this chapter relating to  
16 the manufacture, distribution, dispensing, or possession with intent to  
17 manufacture, distribute, or dispense, of a class D controlled substance  
18 or marijuana is guilty of a felony and, upon conviction, is punishable  
19 as follows:

20 (1) for the first offense, by imprisonment for not more than  
21 five years, or by a fine of not more than \$5,000, or by both;

22 (2) for the second and subsequent offenses, by imprisonment  
23 for not more than 10 years, or by a fine of not more than \$10,000, or by  
24 both.

25 (k) A person who violates a provision of this chapter relating to  
26 the manufacture, distribution, dispensing, or possession with intent to  
27 manufacture, distribute, or dispense, of a class E controlled substance  
28 is guilty of a felony and, upon conviction, is punishable as follows:

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

1 two years, or by a fine of not more than \$2,000, or by both;

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

5 (1) A person who violates (b), (c), (d), (e), or (f) of sec. 10 of  
6 this chapter is guilty of a felony and upon conviction is punishable by  
7 imprisonment for not more than five years, or by a fine of not more than  
8 \$10,000, or by both.

9 (m) A person who violates any provision of this chapter, the  
10 penalty for which is not provided in (a) - (l) of this section or in AS  
11 17.12.015 is subject to a civil penalty of not more than \$25,000 unless  
12 the violation was committed intentionally, in which case the person is  
13 guilty of a misdemeanor and upon conviction is punishable by imprison-  
14 ment for not more than one year, or by a fine of not more than \$25,000,  
15 or by both.

16 (n) The imposition or execution of a sentence required to be im-  
17 posed under this section may not be suspended and probation or parole  
18 may not be granted until the minimum term of imprisonment specified in  
19 this section has been served. AS 12.55.080 and 12.55.085 are inappli-  
20 cable to the extent that they are inconsistent with this subsection.

21 \* Sec. 18. AS 17.12 is amended by adding a new section to read:

22 Sec. 17.12.125. INFORMATION ON SENTENCING. No limitation may be  
23 placed on the information concerning the background, character, or con-  
24 duct of a person convicted of an offense which a court may receive and  
25 consider for the purpose of imposing an appropriate sentence under this  
26 chapter.

27 \* Sec. 19. AS 17.12.130 is repealed and re-enacted to read:

28 Sec. 17.12.130. FORFEITURE. (a) The following are subject to  
29 forfeiture to the state and no property rights exist in them:

1 (1) any controlled substance which has been manufactured,  
2 distributed, dispensed, or acquired other than as provided in AS 17.12.-  
3 020, 17.12.030, and 17.12.080;

4 (2) any raw material, product, or equipment of any kind which  
5 is used, has been used, or is intended for use in manufacturing, com-  
6 pounding, processing, or delivering a controlled substance by someone  
7 other than one authorized under this chapter;

8 (3) any property which is used, has been used, or is intended  
9 for use as a container for property and described in (1) or (2) of this  
10 subsection;

11 (4) any conveyance, including but not limited to aircraft,  
12 vehicle, or vessel, which has been used, is used, or is intended for use  
13 to transport or in any manner facilitate transportation of property  
14 described in (1) or (2) of this subsection; however,

15 (A) no conveyance is subject to forfeiture under this  
16 section if the owner of the conveyance shows that its use and vio-  
17 lation of this chapter was committed by another person while that  
18 person was in unlawful possession of the conveyance without the  
19 owner's permission or acquiescence;

20 (B) forfeiture of a conveyance encumbered by a bona fide  
21 security interest at the time of seizure is subject to the interest  
22 of the secured party if the secured party shows that the conveyance  
23 used in violation of this chapter was committed by another person  
24 and that the secured party neither consented nor was privy to the  
25 violation;

26 (5) any book, record, or research product and material,  
27 including formulas, microfilm, tapes, and data which are used, have been  
28 used, or are intended for use in violation of this chapter;

29 (6) any money or negotiable instrument derived from any

1 activity prohibited by this chapter;

2 (7) any firearm used during or in furtherance of a violation  
3 of this chapter.

4 (b) Property listed in (a) of this section may be forfeited to the  
5 state upon conviction of a violation of this chapter of a person who  
6 possessed or owned the property at the time of the violation or upon  
7 judgment of a court of competent jurisdiction in a civil proceeding in  
8 rem that an item meets the criteria of (a) of this section.

9 (c) Property subject to forfeiture under this section may be  
10 seized by a peace officer upon filing of a verified civil complaint in  
11 rem against the property upon receipt of which the clerk of the court  
12 shall immediately issue a warrant for the arrest of the specified pro-  
13 perty. Seizure without such a warrant may be made if

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

16 (2) the property subject to seizure has been the subject of a  
17 prior judgment in favor of the state in a criminal proceeding or a civil  
18 proceeding in rem based upon this chapter;

19 (3) there is probable cause to believe the property is either  
20 directly or indirectly dangerous to health or safety; or

21 (4) there is probable cause to believe that the property has  
22 been or is intended to be used in violation of this chapter.

23 (d) Upon service or publication of notice of commencement of an  
24 action under this section, a person claiming interest in the property  
25 shall file within 20 days from the publication or service, or such  
26 additional time as granted by the court, a notice of claim setting out  
27 the nature of his interest, the date it was acquired, the consideration  
28 paid, and an answer to the state' allegations. If no claim and answer  
29 is filed within the time specified, the property described in the state's

1 allegation shall be ordered forfeited to the state without further  
2 proceedings or showings.

3 (e) Questions of fact or law raised by a notice of claim and  
4 answer of any claimant in an action commenced under this section shall  
5 be determined by the court sitting without a jury. Such a proceeding  
6 may, in the court's discretion, be held in abeyance until conclusion of  
7 any pending criminal charges under this chapter against the claimant.

8 (f) Property taken or obtained under this section is not replevi-  
9 able, and shall remain in the custody of the state subject only to the  
10 orders and decrees of the court or other official having jurisdiction  
11 over the property. If property is seized under this chapter, the De-  
12 partment of Public Safety may

13 (1) place the property under seal; or

14 (2) remove the property to a place considered by the Depart-  
15 ment of Public Safety to be more convenient or safe for its storage.

16 (g) When property is forfeited under this section, the Department  
17 of Public Safety may

18 (1) retain it for official use;

19 (2) sell that which is not required to be destroyed by law  
20 and which is not harmful to the public and use the proceeds to pay all  
21 proper expenses of the forfeiture and sale proceedings, including expen-  
22 ses of seizure, maintenance of custody, advertising and court costs and  
23 transmit the remainder to the general fund of the state;

24 (3) destroy property harmful to the public;

25 (4) take custody of the property and remove it for disposi-  
26 tion in accordance with law; or

27 (5) forward it to the federal Drug Enforcement Administration  
28 for disposition.

29 (h) Any controlled substance manufactured, distributed, or pos-

1 sessed other than as provided in AS 17.12.020, 17.12.030, and 17.12.080  
2 is contraband and shall be seized and summarily forfeited to the state.

3 (i) Any plant from which a controlled substance may be derived and  
4 which is wild growth or not sanctioned by a federal registration on file  
5 with the department may be seized and summarily forfeited to the state.

6 (j) For purposes of this section, any money or negotiable security  
7 in excess of \$200 found on a defendant at the time of an arrest for a  
8 violation of this chapter and any money or negotiable instrument in  
9 excess of \$200 found during the course of a search incident to an arrest  
10 or under a warrant in regard to provisions of this chapter is presumed  
11 to have been derived from an activity prohibited by this chapter. The  
12 burden of proof is upon the claimant of the money or negotiable instru-  
13 ment to rebut this presumption.

14 (k) In a proceeding brought for the forfeiture of a conveyance  
15 under this section where the property is claimed by any person, the  
16 burden of proof shall shift to the claimant upon the establishment by  
17 the state to the satisfaction of the court that probable cause exists  
18 for the institution of the forfeiture proceedings.

19 (l) Any firearm found on a defendant at the time of an arrest for  
20 a violation of this chapter or any firearm found during the course of a  
21 search incident to an arrest or under a warrant in regard to the pro-  
22 visions of this chapter is presumed to have been used during or in  
23 furtherance of a violation of this section. The burden of proof is upon  
24 the claimant of the firearm to rebut this presumption.

25 \* Sec. 20. AS 17.12 is amended by adding a new section to read:

26 Sec. 17.12.135. ENFORCEMENT COOPERATION. It is the duty of the  
27 commissioner of public safety, officers of the division of state  
28 troopers, officers appointed to enforce criminal law in this state or  
29 another state, local government law enforcement officers, the attorney

1 general, and all prosecuting attorneys to enforce all provisions of this  
2 chapter and to cooperate with agencies charged with enforcement of the  
3 laws of the United States, of this state, and of all other states,  
4 relating to controlled substances.

5 \* Sec. 21. AS 17.12.150 is repealed and re-enacted to read:

6 Sec. 17.12.150. DEFINITIONS. In this chapter, unless the context  
7 requires otherwise,

8 (1) "commissioner" means the commissioner of health and  
9 social services;

10 (2) "controlled substance" means a drug, substance, or  
11 immediate precursor included within any of the classifications of sec.  
12 105 of this chapter, and marijuana;

13 (3) "conveyance" means a vessel, vehicle, trailer, aircraft,  
14 or other mode of transportation used to transport an illegally possessed  
15 controlled substance;

16 (4) "counterfeit substance" means a controlled substance  
17 which, or the container or labeling of which, without authorization,  
18 bears the trademark, trade name, or other identifying mark, imprint,  
19 number, or device, or any likeness to it, of a manufacturer, distri-  
20 butor, or dispenser other than the person who in fact manufactured,  
21 distributed, or dispensed the substance;

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

25 (6) "dentist" means a person authorized by law to practice  
26 dentistry in this state;

27 (7) "dispense" means to deliver a controlled substance to an  
28 ultimate user or research subject by a practitioner, including the  
29 prescribing, administering, packaging, labeling, or compounding neces-

1 sary to prepare the substance for that delivery;

2 (8) "distribute" means to deliver, other than by administer-  
3 ing or dispensing, a controlled substance;

4 (9) "drug"

5 (A) means

6 (i) substances recognized as drugs in the official  
7 United States Pharmacopoeia, official Homeopathic Pharma-  
8 copoeia of the United States, or official National Formulary,  
9 or any supplement to any of them;

10 (ii) substances intended for use in the diagnosis,  
11 cure, mitigation, treatment, or prevention of disease in  
12 humans or animals;

13 (iii) substances, other than food, intended to affect  
14 the structure or any function of the body of humans or ani-  
15 mals; and

16 (iv) substances intended for use as a component of  
17 any article specified in (i), (ii), or (iii) of this subpara-  
18 graph;

19 (B) does not include devices or their components, parts,  
20 or accessories;

21 (10) "hospital" means an institution for the care and treat-  
22 ment of the sick and injured, approved by the Board of Pharmacy as  
23 proper to be entrusted with the custody of controlled substances, under  
24 the direction of a physician, dentist, or veterinarian;

25 (11) "immediate precursor" means the principal compound com-  
26 monly used or produced primarily for use, and which is an immediate  
27 chemical intermediary used or likely to be used in the manufacture of a  
28 controlled substance, the control of which is necessary to prevent, cur-  
29 tail, or limit manufacture of that controlled substance;

1 (12) "laboratory" means a laboratory approved by the Board of  
2 Pharmacy as proper to be entrusted with the custody of controlled sub-  
3 stances and the use of controlled substances for scientific and medical  
4 purposes and for purposes of instruction;

5 (13) "manufacture"

6 (A) means the production, preparation, propagation,  
7 compounding, or processing of a drug or other substance, either  
8 directly or indirectly by extraction from substances of vegetable  
9 origin or independently by means of chemical synthesis or by a  
10 combination of extraction and chemical synthesis;

11 (B) includes any packaging or repackaging of a drug or  
12 other substance or labeling or relabeling of its container; but

13 (C) does not include the preparation, compounding, pack-  
14 aging, or labeling of a drug or other substance in conformity with  
15 applicable state or local law by a practitioner as an incident to  
16 his administration or dispensing of the drug or substance in the  
17 course of his professional practice;

18 (14) "manufacturer" means a person who manufactures a drug or  
19 other substance;

20 (15) "marijuana" means all parts of the plant Cannabis,  
21 whether growing or not, the seeds of that plant, the resin extracted  
22 from any part of that plant, and every compound, manufacture, salt,  
23 derivative, mixture, or preparation of that plant, its seeds, or its  
24 resin; "marijuana" does not include the mature stalks of that plant,  
25 fiber produced from mature stalks, oil or cake made from the seeds of  
26 that plant, any other compound, manufacture, salt, derivative, mixture,  
27 or preparation of mature stalks (except the resin extracted from them),  
28 fiber, oil, or cake, or the sterilized seed of that plant which is  
29 incapable of germination;

1 (16) "nonnarcotic substance" means a substance not listed as a  
2 class A controlled substance under sec. 105 of this chapter;

3 (17) "official written order" means an order written on a form  
4 provided for that purpose by the appropriate federal official under any  
5 laws of the United States making provisions for such a form; if such  
6 order forms are required by federal law and no order form is provided by  
7 a federal officer, then on an official form provided for that purpose by  
8 the Alaska Board of Pharmacy;

9 (18) "opiate" means a substance having an addiction-forming or  
10 addiction-sustaining liability similar to morphine or being capable of  
11 conversion into a drug having an addiction-forming or addiction-sus-  
12 taining liability;

13 (19) "opium poppy" means the plant of any species of Papaver  
14 containing the phenanthrine alkaloids of opium;

15 (20) "owner of conveyance" means the person having lawful de  
16 facto control over a conveyance irrespective of who may be listed on its  
17 official registration;

18 (21) "poppy straw" means all parts, except the seeds, of the  
19 opium poppy, after mowing;

20 (22) "practitioner" means

21 (A) a physician, dentist, veterinarian, scientific  
22 investigator, or other person licensed, registered, or otherwise  
23 permitted to distribute, dispense, conduct research with respect  
24 to, or administer a controlled substance in the course of profes-  
25 sional practice or research in this state;

26 (B) a pharmacy, hospital, or other institution licensed,  
27 registered, or otherwise permitted to distribute, dispense, conduct  
28 research with respect to, or administer a controlled substance in  
29 the course of professional practice or research in this state;

1 (23) "physician" means a person licensed to practice medicine  
2 in this state;

3 (24) "production" means the manufacture, planting, cultiva-  
4 tion, growing, or harvesting of a controlled substance;

5 (25) "ultimate user" means a person who lawfully possesses a  
6 controlled substance for his own use or for the use of a member of his  
7 household or for administering to an animal owned by him or by a member  
8 of his household;

9 (26) "veterinarian" means a person authorized by law to prac-  
10 tice veterinary medicine in this state;

11 (27) "wholesaler" means a person who supplies controlled sub-  
12 stances that he himself has not produced or prepared, on official  
13 written orders, but not on prescriptions.

14 \* Sec. 22. AS 17.12 is amended by adding a new section to read:

15 Sec. 17.12.160. SHORT TITLE. This chapter may be cited as the  
16 Controlled Substances Act.

17 \* Sec. 23. AS 08.64.380(3)(B) is amended to read:

18 (B) habitual overuse of alcoholic beverages or controlled  
19 substances [DEPRESSANT, HALLUCINOGENIC OR STIMULANT DRUGS,] as  
20 defined in AS 17.12 [AS 17.12.150(3), OR ADDICTION TO THE USE OF  
21 NARCOTIC DRUGS AS DEFINED IN AS 17.10.230(13)];

22 \* Sec. 24. AS 08.80.260(2) is amended to read:

23 (2) selling, bartering, or making available a controlled  
24 substance as defined in AS 17.12 [, MORPHINE, COCAINE OR OTHER NARCOTIC]  
25 to a person addicted to the use of a controlled substance [DRUGS] except  
26 upon prescription issued by a licensed physician;

27 \* Sec. 25. AS 08.80.260(9) is amended to read:

28 (9) violation of regulations pertaining to the provision of  
29 adequate security for controlled substances [DANGEROUS DRUGS].

1 \* Sec. 26. AS 08.80.470 is amended to read:

2           Sec. 08.80.470. CONSTRUCTION. Nothing in this chapter amends,  
3 modifies, repeals or otherwise changes any provision of the Controlled  
4 Substances Act (AS 17.12) [UNIFORM NARCOTIC DRUG ACT (AS 17.10)] or the  
5 Alaska Food, Drug and Cosmetic Act (AS 17.20).

6 \* Sec. 27. (a) Prosecution for a violation of law occurring before the  
7 effective date of this Act is not affected or abated by this Act. Violation  
8 of any law repealed by this Act may still be prosecuted and brought to a  
9 final determination in accordance with the laws and regulations in effect at  
10 the time of the violation.

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

13           (c) All administrative proceedings pending under prior laws which are  
14 superseded by this Act shall be continued and brought to a final determina-  
15 tion in accordance with the laws and regulations in effect before the effec-  
16 tive date of this Act.

17           (d) This Act applies to violations of law, seizures and forfeitures,  
18 injunctive proceedings, administrative proceedings, and investigations which  
19 occur on or after the effective date of this Act.

20 \* Sec. 28. Orders issued and regulations adopted under a law affected by  
21 this Act and in effect on the effective date of this Act and not in conflict  
22 with this Act continue in effect until modified, superseded, or repealed.

23 \* Sec. 29. The following laws are repealed: AS 11.60.100 - 11.60.130; AS  
24 17.10; AS 17.12.040(b) and (c), 17.12.060(c), 17.12.120; and AS 17.15.

25 \* Sec. 30. This Act takes effect immediately in accordance with AS 01.-  
26 10.070(c).

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