

Original sponsors: Martin, Abood,  
Adams, et al

Offered: 4/5/82  
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 338 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act prohibiting access by minors to premises where  
7 drug paraphernalia is offered for sale."

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

9 \* Section 1. AS 11.66 is amended by adding a new section to read:

10 ARTICLE 3. DRUGS AND DRUG PARAPHERNALIA.

11 Sec. 11.66.300. MINORS ON PREMISES WHERE DRUG PARAPHERNALIA IS  
12 OFFERED FOR SALE. (a) A person under the age of 18 years may not  
13 knowingly enter or remain on premises in which drug paraphernalia is  
14 sold or offered for sale.

15 (b) An owner, operator, manager, or employee of premises in which  
16 drug paraphernalia is sold or offered for sale may not, with criminal  
17 negligence, allow a person under the age of 18 years to enter and remain  
18 on the premises.

19 (c) Failure to comply with the provisions of (a) of this section  
20 is a violation. A person who violates (b) of this section is guilty,  
21 upon conviction, of a class A misdemeanor, punishable by not less than  
22 120 consecutive hours imprisonment and a fine of not less than \$500.

23 (d) In this section,

24 (1) "controlled substance" means a narcotic drug as defined  
25 in AS 17.10.230(13) or in a regulation adopted under AS 17.10, or a  
26 depressant, hallucinogenic, or stimulant drug as defined in AS 17.12.-  
27 150(3) or a regulation adopted under AS 17.12;

28 (2) "drug paraphernalia" means equipment, products, and  
29 materials of any kind that are used, designed for use, or marketed for

1 use in planting, propagating, cultivating, growing, harvesting, manufac-  
2 turing, compounding, converting, producing, processing, preparing,  
3 testing, analyzing, packaging, repackaging, storing, containing, con-  
4 cealing, injecting, ingesting, inhaling, or otherwise introducing into  
5 the human body a controlled substance in violation of AS 17.10 or  
6 AS 17.12; "drug paraphernalia" includes, but is not limited to,

7 (A) kits used, designed for use, or marketed for use in  
8 planting, propagating, cultivating, growing, or harvesting of any  
9 species of plant which is a controlled substance or from which a  
10 controlled substance can be derived;

11 (B) kits used, designed for use, or marketed for use in  
12 manufacturing, compounding, converting, producing, processing, or  
13 preparing controlled substances;

14 (C) isomerization devices used, designed for use, or  
15 marketed for use in increasing the potency of a species of plant  
16 which is a controlled substance;

17 (D) testing equipment used, designed for use, or marketed  
18 for use in identifying, or in analyzing the strength, effectiveness  
19 or purity of controlled substances;

20 (E) scales and balances used, designed for use, or  
21 marketed for use in weighing or measuring controlled substances;

22 (F) diluents and adulterants, such as quinine hydro-  
23 chloride, mannitol, mannite, dextrose and lactose, used, designed  
24 for use, or marketed for use in cutting controlled substances;

25 (G) separation gins and sifters used, designed for use,  
26 or marketed for use in removing twigs and seeds from, or in other-  
27 wise cleaning or refining, marijuana;

28 (H) blenders, bowls, containers, spoons, and mixing  
29 devices used, designed for use, or marketed for use in compounding

1 controlled substances;

2 (I) capsules, balloons, envelopes, and other containers  
3 used, designed for use, or marketed for use in packaging small  
4 quantities of controlled substances;

5 (J) containers and other objects used, designed for use,  
6 or marketed for use in storing or concealing controlled substances;

7 (K) hypodermic syringes, needles, and other objects  
8 used, designed for use, or marketed for use in parenterally inject-  
9 ing controlled substances into the human body;

10 (L) objects used, designed for use, or marketed for use  
11 in ingesting, inhaling, or otherwise introducing marijuana, cocaine,  
12 hashish, or hashish oil into the human body, such as

13 (i) metal, wooden, acrylic, glass, stone, plastic,  
14 or ceramic pipes with or without screens, permanent screens,  
15 hashish heads, or punctured metal bowls;

16 (ii) water pipes;

17 (iii) carburetion tubes and devices;

18 (iv) smoking and carburetion masks;

19 (v) roach clips, meaning objects used to hold  
20 burning material, such as a marijuana cigarette, that has  
21 become too small or too short to be held in the hand;

22 (vi) miniature cocaine spoons and cocaine vials;

23 (vii) chamber pipes;

24 (viii) carburetor pipes;

25 (ix) electric pipes;

26 (x) air-driven pipes;

27 (xi) chillums;

28 (xii) bongs;

29 (xiii) ice pipes or chillers.

1 (e) In determining whether an object is drug paraphernalia, a  
2 court or other authority shall consider, in addition to all other logic-  
3 ally relevant factors, the following:

4 (1) statements by an owner or by a person in control of the  
5 object concerning its use;

6 (2) prior convictions, if any, of an owner, or of a person in  
7 control of the object, under state or federal law relating to a con-  
8 trolled substance;

9 (3) the proximity of the object, in time and space, to a  
10 direct violation of AS 17.10 or AS 17.12;

11 (4) the proximity of the object to a controlled substance;

12 (5) the existence of residue of a controlled substance on the  
13 object;

14 (6) direct or circumstantial evidence of the intent of an  
15 owner, or of a person in control of the object, to deliver it to a  
16 person whom he knows, or should reasonably know, intends to use the  
17 object to facilitate a violation of AS 17.10 or AS 17.12; the innocence  
18 of an owner, or of a person in control of the object, as to a direct  
19 violation of AS 17.10 or AS 17.12 does not prevent a finding that the  
20 object is used, designed for use, or marketed for use as drug para-  
21 phernalia;

22 (7) instructions, oral or written, provided with the object  
23 concerning its use;

24 (8) descriptive materials accompanying the object that explain  
25 or depict its use;

26 (9) national and local advertising concerning its use;

27 (10) the manner in which the object is displayed for sale;

28 (11) direct or circumstantial evidence of the ratio of sales  
29 of the object to the total sales of the business enterprise;

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(12) the existence and scope of legitimate uses for the object in the community;

(13) expert testimony concerning its use.

(f) This section does not apply to the premises of a pharmacy or a hospital, or the offices of a medical doctor, osteopath, dentist, or optometrist.

\* Sec. 2. Nothing in this Act prohibits a municipality from adopting an ordinance regulating or prohibiting the possession, sale, or use of drug paraphernalia. Nothing in this Act prohibits a municipality from providing civil or criminal penalties for the possession, sale, or use of drug paraphernalia.