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1 IN THE SENATE

2 SENATE BILL NO. 190

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act revising the drug laws and making amendments
7 to the criminal laws of the state; and providing for
8 an effective date."

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

10 * Section 1. DECLARATION OF LEGISLATIVE PURPOSE. (a) The purposes of
11 this Act are to consolidate and revise Alaska's drug laws so that they are
12 patterned after the Uniform Controlled Substances Act and the Federal Con-
13 trolled Substances Act of 1970 and to enact uniform penalty provisions in
14 conformity with the 1978 revision of Alaska's criminal code to effectively
15 combat illicit trafficking in controlled substances.

16 (b) Two distinct, but interrelated, concerns are addressed in this
17 Act. The first concern is the detrimental effect on public safety created
18 through illicit trafficking in and use of drugs. A second, equally important
19 concern, is the effect on public health created by the use and abuse of
20 drugs. It is the intent of the legislature that, in addressing public
21 safety concerns, uniform classification and penalty provisions be enacted
22 which adopt an approach reflecting law enforcement problems unique to Alaska.
23 It is also the intent of the legislature that in addressing public health
24 concerns, a statutory scheme be enacted which is patterned after federal law
25 and that the legitimate manufacture, distribution, prescription, and dis-
26 pensing of controlled substances be subject to a regulatory scheme regarding
27 registration, record keeping, order forms, and prescription requirements
28 that is identical to that provided under federal law.

29 * Sec. 2. AS 11 is amended by adding a new chapter to read:

1 CHAPTER 71. CONTROLLED SUBSTANCES.

2 ARTICLE 1. OFFENSES RELATING TO CONTROLLED SUBSTANCES.

3 Sec. 11.71.010. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN
4 THE FIRST DEGREE. (a) Except as authorized in AS 17.30, a person
5 commits the crime of misconduct involving a controlled substance in the
6 first degree if he

7 (1) delivers any amount of a schedule IA controlled sub-
8 stance to a person under 19 years of age who is at least three years
9 younger than he; or

10 (2) engages in a continuing criminal enterprise.

11 (b) For purposes of this section, a person is engaged in a "con-
12 tinuing criminal enterprise" if

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

15 (2) that violation is a part of a continuing series of five
16 or more violations of this chapter

17 (A) which he undertakes in concert with at least five
18 other persons he organizes, supervises, or otherwise manages; and

19 (B) from which he obtains substantial income or re-
20 sources.

21 (c) Misconduct involving a controlled substance in the first
22 degree is an unclassified felony and is punishable as provided in
23 AS 12.55.

24 Sec. 11.71.020. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN
25 THE SECOND DEGREE. (a) Except as authorized in AS 17.30, a person
26 commits the crime of misconduct involving a controlled substance in the
27 second degree if he

28 (1) manufactures or delivers any amount of a schedule IA
29 controlled substance or possesses any amount of a schedule IA con-

1 trolled substance with intent to manufacture or deliver; or

2 (2) delivers any amount of a schedule IIA or IIIA controlled
3 substance to a person under 19 years of age who is at least three years
4 younger than he.

5 (b) Misconduct involving a controlled substance in the second
6 degree is a class A felony.

7 Sec. 11.71.030. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN
8 THE THIRD DEGREE. (a) Except as authorized in AS 17.30 or AS 17.35, a
9 person commits the crime of misconduct involving a controlled substance
10 in the third degree if he

11 (1) manufactures or delivers any amount of a schedule IIA or
12 IIIA controlled substance or possesses any amount of a schedule IIA or
13 IIIA controlled substance with intent to manufacture or deliver;

14 (2) delivers any amount of a schedule IVA, VA or VIA con-
15 trolled substance to a person under 19 years of age who is at least
16 three years younger than he; or

17 (3) being 18 years of age or older, possesses any amount of
18 a schedule IA or IIA controlled substance within the grounds of or on a
19 parking lot immediately adjacent to a public or private preschool,
20 elementary, junior high, or secondary school.

21 (b) It is an affirmative defense to a prosecution under (a)(3)
22 of this section that at the time of the possession the school was
23 closed to any organized activity involving persons under 18 years of
24 age. Nothing in this subsection precludes a prosecution under any
25 other provision of this section or any other section of this chapter.

26 (c) Misconduct involving a controlled substance in the third
27 degree is a class B felony.

28 Sec. 11.71.040. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN
29 THE FOURTH DEGREE. (a) Except as authorized in AS 17.30 or AS 17.35,

1 a person commits the crime of misconduct involving a controlled sub-
2 stance in the fourth degree if he

3 (1) manufactures or delivers any amount of a schedule IVA,
4 VA, or VIA controlled substance or possesses any amount of a schedule
5 IVA, VA, or VIA controlled substance with intent to manufacture or
6 deliver;

7 (2) possesses

8 (A) any amount of a schedule IA or IIA controlled sub-
9 stance;

10 (B) 25 or more tablets, ampules, or syrettes containing
11 a schedule IIIA or IVA controlled substance;

12 (C) one or more preparations, compounds, mixtures, or
13 substances of an aggregate weight of three grams or more contain-
14 ing a schedule IIIA or IVA controlled substance;

15 (D) 50 or more tablets, ampules, or syrettes containing
16 a schedule VA controlled substance;

17 (E) one or more preparations, compounds, mixtures, or
18 substances of an aggregate weight of six grams or more containing
19 a schedule VA controlled substance; or

20 (F) one or more preparations, compounds, mixtures, or
21 substances of an aggregate weight of one pound or more containing
22 a schedule VIA controlled substance;

23 (3) being 18 years of age or older, possesses a schedule
24 IIIA, IVA, VA, or VIA controlled substance within the grounds of or on
25 a parking lot immediately adjacent to a public or private preschool,
26 elementary, junior high, or secondary school;

27 (4) knowingly keeps or maintains any store, shop, warehouse,
28 dwelling, building, vehicle, boat, aircraft, or other structure or
29 place which is used for keeping or distributing controlled substances

1 in violation of this chapter or AS 17.30;

2 (5) makes, delivers, or possesses a punch, die, plate,
3 stone, or other thing which prints, imprints, or reproduces a trademark,
4 trade name, or other identifying mark, imprint, or device of another or
5 any likeness of any of these upon a drug, drug container, or labeling
6 so as to render the drug a counterfeit substance;

7 (6) knowingly uses in the course of the manufacture or dis-
8 tribution of a controlled substance a registration number which is
9 fictitious, revoked, suspended, or issued to another person;

10 (7) knowingly furnishes false or fraudulent information in
11 or omits material information from any application, report, record, or
12 other document required to be kept or filed under AS 17.30;

13 (8) obtains possession of a controlled substance by mis-
14 representation, fraud, forgery, deception or subterfuge; or

15 (9) affixes a false or forged label to a package or other
16 container containing any controlled substance.

17 (b) It is an affirmative defense to a prosecution under (a)(3) of
18 this section that at the time of the possession the school was closed
19 to any organized activity involving persons under 18 years of age.
20 Nothing in this subsection precludes a prosecution under any other pro-
21 vision of this section or any other section of this chapter.

22 (c) Nothing in (a)(4) or (5) of this section precludes a prosecu-
23 tion or civil proceeding brought under any other provision of this sec-
24 tion or any other section of this chapter or under AS 17.

25 (d) Misconduct involving a controlled substance in the fourth
26 degree is a class C felony.

27 Sec. 11.71.050. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN
28 THE FIFTH DEGREE. (a) Except as authorized in AS 17.30 or AS 17.35, a
29 person commits the crime of misconduct involving a controlled substance

1 in the fifth degree if he

2 (1) possesses

3 (A) less than 25 tablets, ampules, or syrettes con-
4 taining a schedule IIIA or IVA controlled substance;

5 (B) one or more preparations, compounds, mixtures, or
6 substances of an aggregate weight of less than three grams con-
7 taining a schedule IIIA or IVA controlled substance;

8 (C) less than 50 tablets, ampules, or syrettes con-
9 taining a schedule VA controlled substance;

10 (D) one or more preparations, compounds, mixtures, or
11 substances of an aggregate weight of less than six grams con-
12 taining a schedule VA controlled substance; or

13 (E) one or more preparations, compounds, mixtures, or
14 substances of an aggregate weight of one-half pound or more con-
15 taining a schedule VIA controlled substance; or

16 (2) fails to make, keep, or furnish any record, notification,
17 order form, statement, invoice, or information required under AS 17.30.

18 (b) Misconduct involving a controlled substance in the fifth
19 degree is a class A misdemeanor.

20 Sec. 11.71.060. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN
21 THE SIXTH DEGREE. (a) Except as authorized in AS 17.30 or AS 17.35, a
22 person commits the crime of misconduct involving a controlled substance
23 in the sixth degree if he

24 (1) uses or displays any amount of a schedule VIA controlled
25 substance or possesses one or more preparations, compounds, mixtures,
26 or substances of an aggregate weight of one ounce or more containing a
27 schedule VIA controlled substance on a public street or sidewalk or on
28 the premises of a public carrier or business establishment or in any
29 other public place;

1 (2) knowingly possesses any amount of a schedule VIA controlled
2 substance within his immediate control while operating a prop-
3 pelled vehicle;

4 (3) being under 19 years of age, possesses one or more
5 preparations, compounds, mixtures, or substances of an aggregate weight
6 of less than four ounces containing a schedule VIA controlled substance;

7 (4) possesses one or more preparations, compounds, mixtures,
8 or substances of an aggregate weight of four ounces or more containing
9 a schedule VIA controlled substance; or

10 (5) refuses entry into a premises for an inspection autho-
11 rized under AS 17.30.

12 (b) Misconduct involving a controlled substance in the sixth
13 degree is a class B misdemeanor.

14 Sec. 11.71.070. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN
15 THE SEVENTH DEGREE. (a) Except as authorized in AS 17.30 or AS 17.35,
16 a person commits the offense of misconduct involving a controlled
17 substance in the seventh degree if he possesses one or more prepara-
18 tions, compounds, mixtures, or substances of an aggregate weight of
19 less than one ounce containing a schedule VIA controlled substance on a
20 public street or sidewalk or on the premises of a public carrier or
21 business establishment or in any other public place.

22 (b) Misconduct involving a controlled substance in the seventh
23 degree is a violation.

24 ARTICLE 2. STANDARDS AND SCHEDULES.

25 Sec. 11.71.100. CONTROLLED SUBSTANCES ADVISORY COMMITTEE. (a)
26 The Controlled Substances Advisory Committee is established in the
27 Department of Law. The committee consists of

28 (1) the attorney general or his designee;

29 (2) the commissioner of health and social services or his

1 designee;

2 (3) the commissioner of public safety or his designee;

3 (4) the chairman of the Board of Pharmacy or his designee
4 who shall also be a member of the Board of Pharmacy;

5 (5) a peace officer appointed by the governor after consul-
6 tation with the Alaska Association of Chiefs of Police;

7 (6) a physician appointed by the governor;

8 (7) a psychiatrist appointed by the governor; and

9 (8) two individuals appointed by the governor.

10 (b) Members of the committee appointed under (a)(5) - (8) of this
11 section serve terms of four years. A member of the committee receives
12 no salary but is entitled to per diem and travel expenses authorized by
13 law for boards and commissions under AS 39.20.180.

14 (c) The attorney general is the chairman of the committee.

15 (d) The committee meets at the call of the attorney general.

16 (e) The committee may not meet less than twice a year.

17 (f) Five members of the committee constitute a quorum.

18 Sec. 11.71.110. DUTIES OF COMMITTEE. The committee shall

19 (1) determine the need to add substances to the schedules
20 set out in AS 11.71.140 - 11.71.190;

21 (2) advise the governor of the need to delete or reschedule
22 substances in the schedules in AS 11.71.110 - 11.71.190;

23 (3) recommend regulations for adoption by the Board of
24 Pharmacy to prevent excessive prescription of controlled substances and
25 the diversion of prescription drugs into illicit channels;

26 (4) evaluate the effectiveness of programs in the state
27 providing treatment and counseling for persons who abuse controlled
28 substances;

29 (5) recommend programs to the Alaska Court System to be in-

1 stituted as alternatives to the prosecution or imprisonment of offenders
2 who have no prior criminal record involving controlled substance of-
3 fenses and who are charged with crimes involving controlled substances;

4 (6) review and evaluate enforcement policies and practices
5 of the Department of Public Safety and the Department of Law with
6 regard to crimes involving controlled substances, and recommend modifi-
7 cations of those policies and practices consistent with the committee's
8 assessment of the probable danger of particular controlled substances;
9 and

10 (7) review budget requests and recommend amounts for appro-
11 priations to the governor and the legislature for departments and
12 agencies responsible for

13 (A) enforcing criminal laws pertaining to controlled
14 substances;

15 (B) providing treatment and counseling of persons who
16 abuse controlled substances; and

17 (C) regulating the legitimate handling of controlled
18 substances.

19 Sec. 11.71.120. AUTHORITY TO SCHEDULE CONTROLLED SUBSTANCES. (a)
20 If, after considering the factors set out in (c) of this section, the
21 committee finds that a substance should be added to a schedule of
22 controlled substances under AS 11.71.140 - 11.71.190, the attorney
23 general shall adopt a regulation under the Administrative Procedure Act
24 (AS 44.62) in accordance with the committee's findings. The committee
25 shall prescribe the effective date of a regulation adopted under this
26 section. This date may not be earlier than the 60th day of the next
27 regular session of the legislature following adoption of the regulation.
28 Within 10 days after the convening of a regular session of the legisla-
29 ture, the committee shall submit to the legislature a regulation adopted

1 under this section which has not taken effect and shall submit findings
2 of fact and other information which it considers appropriate. If the
3 legislature annuls a regulation adopted under this section by statute,
4 the regulation may not be readopted within three years after the annul-
5 ment.

6 (b) If a substance is added as a controlled substance under
7 federal law and notice of the addition is given to the attorney general,
8 the committee shall give notice under AS 44.62.190 of proposed adoption
9 of a regulation making a corresponding change in the Alaska schedules
10 and shall hold a hearing under AS 44.62.210. The committee shall
11 submit the regulation to the legislature as provided in (a) of this
12 section. If the committee decides not to adopt the regulation, it
13 shall file with the lieutenant governor a notice of that decision along
14 with findings of fact.

15 (c) In making a determination regarding the addition of a sub-
16 stance under (a) of this section, or in advising the governor of the
17 need to delete or reschedule a substance, under AS 11.71.110(2), the
18 committee shall assess the danger or probable danger of the substance
19 after considering the following:

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

21 (A) the history and current pattern of abuse both in
22 this state and in other states;

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

24 (C) the degree of actual or probable detriment which
25 may result from abuse of the substance;

26 (D) the probable physical and social impact of wide-
27 spread abuse of the substance;

28 (2) the biomedical hazard of the substance including

29 (A) its pharmacology, the effects and modifiers of the

1 effects of the substance;

2 (B) its toxicology, the acute and chronic toxicity,
3 interaction with other substances, whether controlled or not, and
4 the degree to which it may cause psychological or physiological
5 dependence;

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

8 (3) whether the substance is an immediate precursor of a
9 substance already controlled under this chapter;

10 (4) the current state of scientific knowledge regarding the
11 substance, including whether there is any acceptable means to safely
12 use the substance under medical supervision;

13 (5) the relationship between the use of the substance and
14 other criminal activity, including

15 (A) whether persons engaged in illicit trafficking of
16 the substance are also engaged in other criminal activity;

17 (B) whether the nature and relative profitability of
18 manufacturing or delivering the substance encourages illicit
19 trafficking in the substance;

20 (C) whether the commission of other crimes is one of
21 the effects of abuse of the substance;

22 (D) whether addiction to the substance relates to the
23 commission of crimes to support the continued use of the substance.

24 (d) If the committee designates a substance as an immediate
25 precursor of a controlled substance, a precursor of that immediate
26 precursor is not subject to control solely because it is a precursor of
27 the immediate precursor.

28 (e) The committee has no authority over tobacco or intoxicating
29 liquor as defined in AS 04.20.010.

1 Sec. 11.71.130. NOMENCLATURE. Controlled substances are listed
2 in the schedules in AS 11.71.140 - 11.71.190 by official, common,
3 usual, chemical, or trade designation and by slang terms if applicable.
4 In a prosecution or other proceeding under this chapter, it is not a
5 defense and it is immaterial that a slang term is listed after more
6 than one controlled substance, that a slang term listed after a con-
7 trolled substance is inaccurately applied to that controlled substance,
8 that no slang term is listed after a controlled substance, or that
9 slang terms other than those listed may apply to a controlled substance.
10 The use of a slang term is not required in a complaint, indictment, or
11 information charging a violation of this chapter, and the failure to
12 specify a slang term, or the use of an improper slang term in a com-
13 plaint, indictment, or information is not grounds for dismissal of the
14 charging document, or for an instruction directing an acquittal of the
15 charge.

16 Sec. 11.71.140. SCHEDULE IA. (a) A substance shall be placed in
17 schedule IA if it is found under AS 11.71.120(c) to have the highest
18 degree of danger or probable danger to a person or the public.

19 (b) Substances, vegetable origin or chemical synthesis. Schedule
20 IA includes, unless specifically excepted or listed in another schedule,
21 any of the following substances whether produced directly or indirectly
22 by extraction from substances of vegetable origin, or independently by
23 means of chemical synthesis, or by a combination of extraction and
24 chemical synthesis:

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

29 (A) raw opium (slang terms: op, pen yan, hop, tar,

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black stuff);

(B) opium extracts;

(C) opium fluid extracts;

(D) powdered opium;

(E) granulated opium;

(F) tincture of opium;

(G) codeine (slang term: school boy);

(H) ethylmorphine;

(I) etorphine hydrochloride;

(J) hydrocodone;

(K) hydromorphone;

(L) metopon;

(M) morphine (slang terms: cube, first line, hocus, Emma, morph, morpho, mud, white stuff, hard stuff, M, unkie);

(N) oxycodone;

(O) oxymorphone;

(P) thebaine;

(2) any salt, compound, derivative, or preparation of a substance included in (b)(1) of this section which is chemically equivalent or identical to any of the substances referred to in (b)(1) of this section; however, these substances do not include the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw;

(4) concentrate of poppy straw which is the crude extract of poppy straw in either liquid, solid, or powder form which contains the phennanthrine alkaloids of the opium poppy.

(c) Opiates. Schedule IA includes, unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers,

1 esters, and ethers, whenever the existence of these isomers, esters,
2 ethers, and salts is possible within the specific chemical designation,
3 dextrorphan excepted:

- 4 (1) acetylmethadol;
- 5 (2) allylprodine;
- 6 (3) alphacetylmethadol;
- 7 (4) alphameprodine;
- 8 (5) alphamethadol;
- 9 (6) alphaprodine;
- 10 (7) anileridine;
- 11 (8) benzethidine;
- 12 (9) betacetylmethadol;
- 13 (10) betameprodine;
- 14 (11) betamethadol;
- 15 (12) betaprodine;
- 16 (13) bezitramide;
- 17 (14) clonitazene;
- 18 (15) dextromoramide;
- 19 (16) diampromide;
- 20 (17) diethylthiambutene;
- 21 (18) difenoxin;
- 22 (19) dihydrocodeine;
- 23 (20) dimenoxadol;
- 24 (21) dimepheptanol;
- 25 (22) dimethylthiambutene;
- 26 (23) dioxaphetyl butyrate;
- 27 (24) diphenoxylate;
- 28 (25) dipipanone;
- 29 (26) ethylmethylthiambutene;

- 1 (27) etonitazene;
- 2 (28) etoxeridine;
- 3 (29) fentanyl;
- 4 (30) furethidine;
- 5 (31) hydroxypethidine;
- 6 (32) isomethadone;
- 7 (33) ketobemidone;
- 8 (34) levomethorphan;
- 9 (35) levomoramide;
- 10 (36) levorphanol;
- 11 (37) levophenacymorphan;
- 12 (38) metazocine;
- 13 (39) methadone;
- 14 (40) methadone-intermediate, 4-cyano-2-dimethylamino-4,
15 4-diphenyl butane;
- 16 (41) moramide-intermediate, 2-methyl-3-morpholino-1,
17 1-diphenylpropane-carboxylic acid;
- 18 (42) morpheridine;
- 19 (43) noracymethadol;
- 20 (44) norlevorphanol;
- 21 (45) normethadone;
- 22 (46) norpipanone;
- 23 (47) pethidine, also known as meperidine;
- 24 (48) pethidine-intermediate-A, 4-cyano-1-methyl-4-phenyl-
25 piperidine;
- 26 (49) pethidine-intermediate-B, ethyl-4-phenylpiperidine-4-
27 carboxylate;
- 28 (50) pethidine-intermediate-C, 1-methyl-4-phenylpiperidine-4-
29 carboxylic acid;

- 1 (51) phenadoxone;
- 2 (52) phenampromide;
- 3 (53) phenazocine;
- 4 (54) phenomorphan;
- 5 (55) phenoperidine;
- 6 (56) piminodine;
- 7 (57) piritramide;
- 8 (58) propheptazine;
- 9 (59) properidine;
- 10 (60) propiram;
- 11 (61) racemethorphan;
- 12 (62) racemoramide;
- 13 (63) racemorphan;
- 14 (64) trimeperidine.

15 (d) Opium derivatives. Schedule IA includes, unless specifically
16 excepted or unless listed in another schedule, any of the following
17 opium derivatives, their salts, isomers, and salts of isomers whenever
18 the existence of these salts, isomers, and salts of isomers is possible
19 within the specific chemical designation:

- 20 (1) acetorphine;
- 21 (2) acetyldihydrocodeine;
- 22 (3) benzylmorphine;
- 23 (4) codeine methylbromide;
- 24 (5) codeine-n-oxide;
- 25 (6) cyprenorphine;
- 26 (7) desomorphine;
- 27 (8) dihydromorphine;
- 28 (9) drotebanol;
- 29 (10) etorphine, except hydrochloride salt;

1 (11) heroin (slang terms: big H, boy, brown, brown sugar,
2 caballo, Chinese red, chiva, crap, doojee, H, Harry, horse, junk,
3 Mexican mud, powder, scag, smack, stuff, thing, joy powder, white
4 stuff, sugar, hairy, skag, schmeck);

5 (12) hydromorphenol;

6 (13) methyl-desorphine;

7 (14) methyldihydromorphine;

8 (15) morphine methylbromide;

9 (16) morphine methylsulfonate;

10 (17) morphine-n-oxide;

11 (18) myrophine;

12 (19) nicocodeine;

13 (20) nicomorphine;

14 (21) normorphine;

15 (22) pholcodine;

16 (23) thebacon.

17 Sec. 11.71.150. SCHEDULE IIA. (a) A substance shall be placed
18 in schedule IIA if it is found under AS 11.71.120(c) to have a degree
19 of danger or probable danger to a person or the public which is less
20 than substances listed in schedule IA, but higher than substances
21 listed in schedule IIIA.

22 (b) Hallucinogens. Schedule IIA includes, unless specifically
23 excepted or unless listed in another schedule, any material, compound,
24 mixture, or preparation which contains any quantity of the following
25 hallucinogenic substances, or which contains any of its salts, isomers,
26 whether optical, position, or geometric, or salts of isomers whenever
27 the existence of these salts, isomers, or salts of isomers is possible
28 within the specific chemical designation:

29 (1) 4-bromo-2, 5-dimethoxy-amphetamine, also known as

1 4-bromo-2,5-dimethoxy-a-methylphenethylamine and 4-bromo-2, DMA;

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

4 (3) 4-methoxyamphetamine, also known as 4-methoxy-a-methyl-
5 phenethylamine and paramethoxyamphetamine, PMA;

6 (4) 5-methoxy-3,4-methylenedioxy-amphetamine;

7 (5) 4-methyl-2,5-dimethoxy-amphetamine, also known as
8 4-methyl-2,5 - dimethoxy-a-methylphenethylamine (slang terms: DOM, MDA,
9 STP, serenity, tranquility, and peace, cone drug);

10 (6) 3,4-methylenedioxy amphetamine;

11 (7) 3,4,5-trimethoxy amphetamine;

12 (8) bufotenine, also known as 3-(B-dimethylaminoethyl)-5-
13 hydroxyindole, 3-(2-dimethylaminoethyl)-5-indolol, N, N-dimethylsero-
14 tonin; 5-hydroxy-N, N-dimethyltryptamine, and mappine;

15 (9) diethyltryptamine, also known as N,N-diethyltryptamine
16 and DET;

17 (10) dimethyltryptamine, also known as DMT (slang terms:
18 businessman's special, lunch-hour trip);

19 (11) ibogaine, also known as 7-ethyl-6, 6B, 7, 8, 9, 10, 12,
20 13-octahydro-2-methoxy-6, 9-methano-5H-pyrido [1',2': 1, 2] azepino [5,
21 4-b] indole and tabernanthe iboga;

22 (12) lysergic acid diethylamide, also known as LSD (slang
23 terms: Alice D, acid, beast, big D, blue cheer, blue heaven, blue
24 mist, brown dots, California sunshine, chocolate chips, coffee, contact
25 lens, cupcakes, haze, mellow yellows, microdots, orange mushrooms,
26 orange wedges, Owlsley, paper acid, royal blue, strawberry fields,
27 sugar, sunshine, the hawk, wedges, white lightning, window pane,
28 yellows, cubes, 25, Lucy in the sky with diamonds);

29 (13) mescaline (slang terms: mesc, mescal, moon);

1 (14) n-ethyl-3-piperidyl benzilate;
2 (15) n-methyl-3-piperidyl benzilate (slang term: LBJ)
3 (16) peyote (slang terms: buttons, cactus, mescal buttons,
4 mesc, mescal plants);

5 (17) analogs of phencyclidine (PCP), including:

6 (A) ethylamine analog, also known by some trade or
7 other names as follows: N-ethyl-1-phenylcyclohexylamine (1-phenyl-
8 cyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclo-
9 hexamine, PCE;

10 (B) pyrrolidine analog, also known by some trade or
11 other names as follows: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPY,
12 PHP;

13 (C) thiophene analog, also known as 1-[1-(2-thienyl)
14 cyclohexyl] piperidine and 2-thienyl analog of phencyclidine, TCP, and TCP;

15 (18) psilocybin (slang terms: magic mushroom, mushroom);

16 (19) psilocyn (slang terms: magic mushroom, mushroom).

17 (c) Cocaine and coca leaves. Schedule IIA includes cocaine or
18 coca leaves, and any salt, compound, derivative, mixture, isomer,
19 ester, ether, or preparation of cocaine or coca leaves produced direct-
20 ly or indirectly by extraction from coca leaves, or independently by
21 means of chemical synthesis, or by a combination of extraction and
22 chemical synthesis, including the isomers, salts, and salts of isomers
23 of cocaine and other derivatives of coca leaves whenever the existence
24 of these esters, ethers, isomers or salts is possible, but does not
25 include decocainized coca leaves or extractions of coca leaves which do
26 not contain cocaine or ecgonine (slang terms: Bernice, bernies, big C,
27 blow, C, coke, dream, flake, girl, gold dust, heaven dust, nose candy,
28 paradise, rock, white, happy dust, speedballs, snow birds, Cecil,
29

1 stardust, Corine, Carrie, dust, Burese).

2 (d) Depressants. Schedule IIA includes, unless specifically
3 excepted or unless listed in another schedule, any material, compound,
4 mixture, or preparation which contains any quantity of the following
5 substances having a depressant effect on the central nervous system,
6 including their salts, isomers, and salts of isomers whenever the
7 existence of these salts, isomers, and salts of isomers is possible
8 within the specific chemical designation:

9 (1) amobarbital (slang terms: barbs, block busters, Christ-
10 mas trees, downers, green dragons, peanuts, sleeping pills, stumblers,
11 goofballs, goofs, tuinal, tuies, rainbow, double trouble, reds and
12 blues);

13 (2) mandrix or mandrax;

14 (3) mecloqualone;

15 (4) methaqualone (slang terms: ludes, quas, quads, soapers,
16 sopes);

17 (5) pentobarbital (slang terms: barbs, block busters,
18 Christmas trees, downers, green dragons, peanuts, sleeping pills,
19 stumblers, goofballs, goofs, yellow jackets, yellows, nimby's, nimbies,
20 nobbies);

21 (6) phencyclidine, also known as PCP (slang terms: angel
22 dust, DOA (Dead on Arrival), hog, killer weed (when combined with
23 marijauna or other plant material), peace pill);

24 (7) secobarbital (slang terms: barbs, block busters, Christ-
25 mas trees, downers, green dragons, peanuts, sleeping pills, stumblers,
26 goofballs, goofs, tuinal, tuies, rainbow, double trouble, reds and
27 blues, red birds, red devils, seccy, pink, seggy, pink ladies, marsh-
28 mallow reds, Mexican reds).

29 (e) Stimulants. Schedule IIA includes, unless specifically

1 excepted or unless listed in another schedule, any material, compound,
2 mixture, or preparation which contains any quantity of the following
3 substances having a stimulant effect on the nervous system:

4 (1) amphetamine, its salts, optical isomers, and salts of
5 its optical isomers (slang terms: beans, bennies, black beauties,
6 blackbirds, black Mollies, bumblebees, cartweels, chalk, chicken powder,
7 copilots, crank, crossroads, crystal, dexies, double cross, eye openers,
8 hearts, jelly beans, lightning, meth, minibennies, nuggets, oranges,
9 pep pills, speed, roses, thrusters, truck drivers, turnabouts, uppers,
10 ups, wake-ups, peaches, whites, browns, greenies, bombido, jugs,
11 bottles, lid proppers, football, coast-to-coast, L.A. turnabouts);

12 (2) methamphetamine, its salts, isomers, and salts of its
13 isomers (slang terms: bombido, crystal, meth, speed, splash);

14 (3) methlyphenidate;

15 (4) phenmetrazine and its salts.

16 (f) Immediate Precursors. Schedule IIA includes, unless specifi-
17 cally excepted or unless listed in another schedule, any material,
18 mixture, or preparation which contains any quantity of the following
19 substances:

20 (1) immediate precursor to amphetamine and methamphetamine:
21 phenylacetone, also known as phenyl-2-propanone; P2P; benzyl methyl
22 ketone; methyl benzyl ketone;

23 (2) immediate precursors to phencyclidine, also known as
24 PCP:

25 (A) 1-phencyclohexylamine;

26 (B) 1-piperidinocyclohexanecarbonitrile, also known as

27 PCC.

28 Sec. 11.71.160. SCHEDULE IIIA. (a) A substance shall be placed
29 in schedule IIIA if it is found under AS 11.71.120(c) to have a degree

1 of danger or probable danger to a person or the public less than the
2 substances listed in schedule IIA but higher than substances listed in
3 schedule IVA.

4 (b) Stimulants. Schedule IIIA includes, unless specifically
5 excepted or unless listed in another schedule, any material, compound,
6 mixture, or preparation which contains any quantity of the following
7 substances having a stimulant effect on the central nervous system,
8 including their salts, isomers whether optical, position, or geometric,
9 and salts of these isomers whenever the existence of these salts,
10 isomers, and salts of isomers is possible within the specific chemical
11 designation:

- 12 (1) benzphetamine;
- 13 (2) chlorphentermine;
- 14 (3) clortermine;
- 15 (4) mazindol;
- 16 (5) phendimetrazine;

17 (6) any compound, mixture, or preparation in dosage unit
18 form containing any stimulant substance listed in schedule IIA, which
19 compound, mixture, or preparation was listed on August 25, 1971, as an
20 excepted compound under 21 C.F.R. sec. 308.32, and any other drug of
21 the quantitative composition shown in that list for those substances, or
22 which is the same except that it contains a lesser quantity of any
23 controlled substance.

24 (c) Depressants. Schedule IIIA includes, unless specifically
25 excepted or unless listed in another schedule, any material, compound,
26 mixture, or preparation which contains any quantity of the following
27 substances having a depressant effect on the central nervous system:

28 (1) amobarbital, secobarbital, or pentobarbital or any salt
29 of these substances, combined with one or more other active medicinal

1 ingredients which are not listed in any other schedule;

2 (2) amobarbital, secobarbital, or pentobarbital or any salt
3 of these substances, approved by the federal Food and Drug Administra-
4 tion for marketing only as a suppository;

5 (3) any substance which contains any quantity of a deri-
6 vative of barbituric acid or any salt of barbituric acid;

7 (4) chlorhexadol;

8 (5) glutethimide (slang terms: C.D., cibas);

9 (6) lysergic acid;

10 (7) lysergic acid amide;

11 (8) methyprylon;

12 (9) sulfondiethylmethane;

13 (10) sulfonethylmethane;

14 (11) sulformethane.

15 (d) Nalorphine. Schedule IIIA includes nalorphine.

16 (e) Narcotics. Schedule IIIA includes, unless specifically
17 excepted or unless listed in another schedule, any material, compound,
18 mixture, or preparation containing any of the following narcotic drugs
19 or their salts calculated as the free anhydrous base or alkaloid, in
20 the following quantities:

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

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

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

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

4 (5) not more than 1.8 grams of dihydrocodeine per 100 milli-
5 liters or not more than 90 milligrams per dosage unit, with one or more
6 active nonnarcotic ingredients in recognized therapeutic amounts;

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

10 (7) not more than 500 milligrams of opium per 100 milli-
11 liters or per 100 grams or not more than 25 milligrams per dosage unit,
12 with one or more active, nonnarcotic ingredients in recognized thera-
13 peutic amounts;

14 (8) not more than 50 milligrams of morphine per 100 milli-
15 liters or per 100 grams, with one or more active, nonnarcotic ingredi-
16 ents in recognized therapeutic amounts.

17 (f) Hallucinogens. Schedule IIIA includes

18 (1) hashish;

19 (2) hash oil or hashish oil; and

20 (3) tetrahydrocannabinols (slang terms: black Russian, hash,
21 Kif, quarter moon, soles).

22 Sec. 11.71.170. SCHEDULE IVA. (a) A substance shall be placed
23 in schedule IVA if it is found under AS 11.71.120(c) to have a degree
24 of danger or probable danger to a person or the public which is less
25 than the substances listed in schedule IIIA, but higher than the sub-
26 stances listed in schedule VA.

27 (b) Depressants. Schedule IVA includes, unless specifically
28 excepted or unless listed in another schedule, any material, compound,
29 mixture, or preparation which contains any quantity of the following

1 substances, including their salts, isomers and salts of isomers when-
2 ever the existence of these salts, isomers, and salts of isomers is
3 possible within the specific chemical designation:

- 4 (1) barbital;
- 5 (2) chloral betaine;
- 6 (3) cloral hydrate (slang terms: Knockout drops, Mickey
7 Finn, Mickey, Peter);
- 8 (4) chlordiazepoxide;
- 9 (5) clonazepam;
- 10 (6) clorazepate;
- 11 (7) diazepam;
- 12 (8) ethchlorvynol;
- 13 (9) ethinamate;
- 14 (10) flurazepam;
- 15 (11) lorazepam;
- 16 (12) mebutamate;
- 17 (13) meprobamate;
- 18 (14) methohexital;
- 19 (15) methylphenobarbital, also known as mephobarbital;
- 20 (16) oxazepam;
- 21 (17) paraldehyde;
- 22 (18) petrichloral;
- 23 (19) phenobarbital;
- 24 (20) prazepam.

25 (c) Fenfluramine. Schedule IVA includes any material, compound,
26 mixture or preparation which contains any quantity of the following
27 substances, including their salts, isomers whether optical, position,
28 or geometric, and salts of these isomers, whenever the existence of
29 these salts, isomers, and salts of isomers is possible: fenfluramine.

1 (d) Stimulants. Schedule IVA includes, unless specifically
2 excepted or unless listed in another schedule, any material, compound,
3 mixture, or preparation which contains any quantity of the following
4 substances having a stimulant effect on the central nervous system,
5 including their salts, isomers whether optical, position, or geometric,
6 and salts of these isomers whenever the existence of these salts,
7 isomers, and salts of isomers is possible within the specific chemical
8 designation:

9 (1) diethylpropion;

10 (2) phentermine;

11 (3) pemoline, including organometallic complexes and chelates
12 of this substance.

13 (e) Narcotics. Schedule IVA includes, unless specifically ex-
14 cepted or unless listed in another schedule, any material, compound,
15 mixture, or preparation containing not more than 1 milligram of di-
16 fenoxin and not less than 25 micrograms of atropine sulfate per dosage
17 unit, or their salts calculated as the free anhydrous base or alkaloid.

18 (f) Other substances. Schedule IVA includes, unless specifically
19 excepted or unless listed in another schedule, any material, compound,
20 mixture or preparation which contains any quantity of the following
21 substances, including their salts:

22 (1) dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-
23 diphenyl-3-methyl-2-propionoxybutane);

24 (2) pentazocine.

25 Sec. 11.71.180. SCHEDULE VA. (a) A substance shall be placed in
26 schedule VA if it is found under AS 11.71.120(c) to have a degree of
27 danger or probable danger to a person or the public which is less than
28 substances listed in schedule IVA, but higher than substances listed in
29 schedule VIA.

1 (b) Narcotics. Schedule VA includes any compound, mixture, or
2 preparation containing any of the following limited quantities of
3 narcotic drugs or their salts, calculated as the free anhydrous base or
4 alkaloid, in limited quantities as specified in (1) - (6) of this sub-
5 section, which includes one or more nonnarcotic active medicinal ingre-
6 dients in sufficient proportion to confer upon the compound, mixture,
7 or preparation valuable medicinal qualities other than those possessed
8 by schedule IA substances alone:

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 milli-
18 liters or per 100 grams;

19 (6) not more than 0.5 milligrams of difenoxin and not less
20 than 25 micrograms of atropine sulfate per dosage unit.

21 (c) Loperamide. Schedule VA includes loperamide.

22 Sec. 11.71.190. SCHEDULE VIA. (a) A substance shall be placed
23 in Schedule VIA if it is found under AS 11.71.120(c) to have the lowest
24 degree of danger or probable danger to a person or the public.

25 (b) Marijuana. Schedule VIA controlled substances include mari-
26 juana (slang terms: Acapulco gold, broccoli, bush, dry high, gage,
27 ganga, grass, griffo, hay, hemp, herb, J, Jay, Jane, Mary Jane, mot,
28 mutah, Panama red, pod, pot, reefer, sativa, smoke, stick, tea, weed,
29 stuff, rope, joints, Texas tea, goof butt, jive, sweet lunch, stinkweed,

1 locoweed, mezz, Mary Waner, Indian hay, fu, bobo bush).

2 Sec. 11.71.195. EXEMPTED DRUGS. A substance the manufacture,
3 distribution, dispensing, or possession of which is explicitly exempt
4 from criminal penalty under federal law is exempt from the application
5 of this chapter and AS 17.30. This exemption includes any substances
6 which may, under the federal Food, Drug, and Cosmetic Act (21 U.S.C.
7 sec. 301 et seq.) be lawfully sold over the counter without a prescrip-
8 tion. This exemption also includes those substances listed in 21
9 C.F.R. sec. 1308.22 on April 1, 1980.

10 ARTICLE 3. MISCELLANEOUS PROVISIONS.

11 Sec. 11.71.300. PENALTIES UNDER OTHER LAWS. A penalty imposed
12 for violation of this chapter is in addition to, and not in place of,
13 any other civil or administrative penalty or sanction otherwise autho-
14 rized by law.

15 Sec. 11.71.310. BAR TO PROSECUTION. If a violation of this
16 chapter is a violation of a federal law or the law of another state, a
17 conviction or acquittal under federal law or the law of another state
18 for the same act is a bar to prosecution in this state.

19 Sec. 11.71.320. DEFENSES EXEMPTED. (a) In a prosecution for the
20 possession of a controlled substance under this chapter, it is not a
21 defense that the substance was possessed in less than a useable quan-
22 tity. It is sufficient to support a conviction that there is a suf-
23 ficient quantity of the substance to permit proper identification.

24 (b) In a prosecution for an offense involving a controlled sub-
25 stance under this chapter, it is not a defense that the substance is
26 misclassified under a subsection within a schedule.

27 Sec. 11.71.330. LIABILITY OF PUBLIC SERVANTS. No liability is
28 imposed by this chapter upon a public servant acting within the scope
29 and authority of his employment.

1 Sec. 11.71.340. OFFENSES DEFINED BY AMOUNTS. Whenever a pro-
2 vision of this chapter defining an offense requires a determination of
3 an amount, it is not a defense to the lowest class of offense estab-
4 lished by the evidence that the amount in question was equal to or
5 larger than the amount which would make the offense a higher class of
6 offense, and a person may be charged and convicted accordingly.

7 Sec. 11.71.350. BURDEN OF PROOF. It is not necessary for the
8 state to negate an exemption or exception provided for in this chapter
9 in a complaint, information, indictment, or other pleading or at a
10 trial, hearing, or other proceeding under this chapter or AS 17.30.
11 The defendant has the burden of proving by a preponderance of the
12 evidence any exemption or exception claimed by him.

13 Sec. 11.71.360. UNPRIVILEGED COMMUNICATIONS. Information commu-
14 nicated to a physician or other licensed practitioner in an effort to
15 unlawfully procure a controlled substance or to unlawfully procure the
16 administration of a controlled substance is not a privileged communi-
17 cation.

18 ARTICLE 4. DEFINITIONS.

19 Sec. 11.71.900. DEFINITIONS. In this chapter, unless the context
20 clearly requires otherwise,

21 (1) "administer" means the direct application of a con-
22 trolled substance, whether by injection, inhalation, ingestion, or any
23 other means into the body of a patient or research subject by

24 (A) a practitioner or, in the practitioner's presence,
25 by his authorized agent; or

26 (B) the patient or research subject at the direction
27 and in the presence of a practitioner;

28 (2) "agent" means an authorized person who acts on behalf of
29 or at the direction of a manufacturer, distributor, or dispenser, but

1 does not include a common or contract carrier, public warehouseman, or
2 employee of the carrier or warehouseman;

3 (3) "committee" means the Controlled Substances Advisory
4 Committee established in AS 11.71.100;

5 (4) "controlled substance" means a drug, substance, or im-
6 mediate precursor included in the schedules set out in AS 11.71.140 -
7 11.71.190;

8 (5) "counterfeit substance" means a controlled substance
9 which, without authorization, bears the trademark, trade name, or other
10 identifying mark, imprint, number, or device of a manufacturer, distri-
11 butor, or dispenser other than the person or persons who in fact manu-
12 factured, distributed, or dispensed the substance and which falsely
13 purports or is represented to be the product of, or to have been distri-
14 buted by, the other manufacturer, distributor, or dispenser;

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

18 (7) "dispense" means to deliver a controlled substance to an
19 ultimate user or research subject by or under the lawful order of a
20 practitioner, including the prescribing, administering, packaging, la-
21 beling, or compounding necessary to prepare the substance for that de-
22 livery; "dispenser" means a practitioner who dispenses;

23 (8) "distribute" means to deliver other than by administer-
24 ing or dispensing a controlled substance, whether or not there is any
25 money or other item of value exchanged; it includes sale, gift, or
26 exchange; "distributor" means a person who distributes;

27 (9) "drug"

28 (A) means

29 (i) a substance recognized as a drug in the offi-

1 cial United States Pharmacopoeia, official Homeopathic Pharma-
2 copoeia of the United States, or official National Formulary,
3 or any supplement to these publications;

4 (ii) a substance intended for use in the diagnosis,
5 cure, mitigation, treatment, or prevention of disease in
6 humans or animals;

7 (iii) a substance, other than food, intended to
8 affect the structure or any function of the body of humans or
9 animals; and

10 (iv) a substance intended for use as a component of
11 any article specified in (i), (ii), or (iii) of this sub-
12 paragraph;

13 (B) does not include a device or its components, parts,
14 or accessories;

15 (10) "hashish" means the dried, compressed, resinous product
16 of the plant (genus) Cannabis;

17 (11) "hashish oil" means the viscous liquid concentrate of
18 tetrahydrocannabinols extracted from the plant (genus) Cannabis;

19 (12) "immediate precursor" means a substance which is by
20 statute or regulation designated as the principal compound commonly
21 used or produced primarily for use, and which is an immediate chemical
22 intermediary used or likely to be used in the manufacture of a con-
23 trolled substance, the control of which is necessary to prevent, cur-
24 tail, or limit manufacture of that controlled substance;

25 (13) "manufacture"

26 (A) means the production, preparation, propagation,
27 compounding, conversion, growing, or processing of a controlled
28 substance, either directly or indirectly by extraction from sub-
29 stances of natural origin, or independently by means of chemical

1 synthesis, or by a combination of extraction and chemical syn-
2 thesis; however, the growing of marijuana for personal use is not
3 manufacturing;

4 (B) includes the preparation, compounding, packaging,
5 repackaging, labeling or relabeling of a controlled substance or
6 its container unless done in conformity with applicable federal
7 law

8 (i) by a practitioner as an incident to his admin-
9 istering or dispensing of a controlled substance in the
10 course of his professional practice; or

11 (ii) by a practitioner, or by his authorized agent
12 under his supervision, for the purpose of, or as an incident
13 to, research, teaching, or chemical analysis and not for
14 sale;

15 (14) "marijuana" means the leaves, stems, flowers, and seeds
16 of the plant (genus) Cannabis, whether growing or not; it does not
17 include the resin or oil extracted from any part of the plant, or any
18 compound, manufacture, salt, derivative, mixture, or preparation from
19 the resin or oil, including hashish, hashish oil, and natural or syn-
20 thetic tetrahydrocannabinol; it does not include the mature stalks of
21 the plant, fiber produced from the stalks, oil or cake made from the
22 seeds of the plant, any other compound, manufacture salt, derivative,
23 mixture, or preparation of the mature stalks, fiber, oil or cake, or
24 the sterilized seed of the plant which is incapable of germination;

25 (15) "opiate" means

26 (A) a substance having an addiction-forming or addic-
27 tion-sustaining capability similar to morphine or being capable of
28 conversion into a drug having addiction-forming or addiction-
29 sustaining capability;

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(B) includes its racemic and levorotatory forms; and

(C) does not include, unless specifically designated as controlled under AS 11.71.120 the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan);

(16) "opium poppy" means the plant of any species of Papaver containing the phenanthrine alkaloids of opium, except its seeds;

(17) "peyote" means any part of the plant classified botanically as Lophophora Williamsii Lemaire, whether growing or not, the seeds of the plant, any extract from any part of the plant, and a compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or extracts, including mescaline;

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

(19) "practitioner" means

(A) a physician, dentist, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer or use in teaching or chemical analysis a controlled substance in the course of professional practice or research in the state;

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

(20) "sale" means to sell, barter, exchange, give, or dispose of to another, or an exchange for a thing of value;

(21) "schedule IA controlled substance" means a controlled substance included in the schedule in AS 11.71.140;

1 (22) "schedule IIA controlled substance" means a controlled
2 substance included in the schedule in AS 11.71.150;

3 (23) "schedule IIIA controlled substance" means a controlled
4 substance included in the schedule in AS 11.71.160;

5 (24) "schedule IVA controlled substance" means a controlled
6 substance included in the schedule in AS 11.71.170;

7 (25) "schedule VA controlled substance" means a controlled
8 substance included in the schedule in AS 11.71.180;

9 (26) "schedule VIA controlled substance" means a controlled
10 substance included in the schedule in AS 11.71.190;

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

15 * Sec. 3. AS 17 is amended by adding a new chapter to read:

16 CHAPTER 30. CONTROLLED SUBSTANCES.

17 ARTICLE 1. REGULATION OF MANUFACTURE, DISTRIBUTION,
18 PRESCRIPTION, AND DISPENSING OF CONTROLLED SUBSTANCES.

19 Sec. 17.30.010. REGULATIONS. (a) The Board of Pharmacy shall
20 adopt regulations under the Administrative Procedure Act (AS 44.62)
21 which are necessary for the administration of this chapter, and may
22 charge reasonable fees relating to the registration and control of the
23 manufacture, distribution, and dispensing of controlled substances as
24 authorized by federal law in the state.

25 (b) Regulations adopted under this chapter by the board shall be
26 patterned after federal law so that the legitimate manufacture, distri-
27 bution, and dispensing of controlled substances is subject to regula-
28 tions regarding registration, record keeping, order forms and prescrip-
29 tion requirements that are identical to those required by federal law

1 or regulations.

2 Sec. 17.30.020. REGISTRATION REQUIREMENTS. (a) A person who
3 manufactures, distributes, dispenses, or conducts research with a
4 controlled substance in the state or who proposes to manufacture,
5 distribute, or dispense a controlled substance in the state, shall
6 register annually with the board in accordance with regulations adopted
7 under AS 17.30.010.

8 (b) A person registered under this chapter to manufacture, distri-
9 bute, dispense, or conduct research with controlled substances may
10 possess, manufacture, distribute, dispense, or conduct research with
11 those substances to the extent authorized by his registration and in
12 conformity with the other provisions of this chapter.

13 (c) The following persons may lawfully possess controlled sub-
14 stances under this chapter without registration:

15 (1) an agent or employee of a registered manufacturer, dis-
16 tributor, dispenser, or researcher of a controlled substance so long as
17 the possession is incidental to the usual course of his business or
18 employment;

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

22 (3) an ultimate user or a person in possession of a con-
23 trolled substance under a lawful order of a registered practitioner or
24 in lawful possession of a schedule VA controlled substance.

25 (d) The board may, by regulation, waive the requirement for
26 registration of certain manufacturers, distributors, or dispensers if
27 it finds it consistent with public health and safety.

28 (e) A separate registration is required for each principal place
29 of business or professional practice where the applicant manufactures,

1 distributes, or dispenses controlled substances.

2 (f) The board may inspect the establishment of a registrant or
3 applicant for registration in accordance with regulations adopted by
4 the board.

5 Sec. 17.30.030. REGISTRATION. (a) The board shall register an
6 applicant to manufacture, distribute, or dispense controlled substances
7 listed in the schedules established under federal law unless it finds
8 that the registration would be inconsistent with the public interest.
9 In determining the public interest, the board shall consider the follow-
10 ing factors:

11 (1) maintenance of effective controls against diversion of
12 controlled substances into other than legitimate medical, scientific,
13 or industrial channels;

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

15 (3) a conviction of the applicant under federal or state
16 laws relating to controlled substances;

17 (4) past experience in the manufacture, distribution, or
18 dispensing of controlled substances and the existence in the appli-
19 cant's establishment of effective controls against diversion of con-
20 trolled substances into other than legitimate medical, scientific, or
21 industrial channels;

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

24 (6) suspension or revocation of the applicant's federal
25 registration to manufacture, distribute, or dispense controlled sub-
26 stances as authorized by federal law; and

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

29 (b) A practitioner registered under federal law to conduct re-

1 search with controlled substances shall be issued a registration to
2 conduct research with these substances in the state if the practitioner
3 furnishes the board with evidence of the federal registration.

4 (c) A manufacturer, distributor, or dispenser who complies with
5 federal law pertaining to registration requirements other than fees is
6 entitled to be registered under this chapter.

7 Sec. 17.30.040. DENIAL, REVOCATION AND SUSPENSION OF REGISTRA-
8 TION. (a) A registration applied for or issued under AS 17.30.030 to
9 manufacture, distribute, dispense, or conduct research with a control-
10 led substance may be denied, suspended, or revoked by the board upon a
11 finding that the registrant

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

14 (2) has been convicted of a felony offense under state or
15 federal law; or

16 (3) has had his federal registration to manufacture, dis-
17 tribute, dispense, or conduct research with controlled substances
18 denied, suspended, or revoked.

19 (b) The board may limit the denial, revocation, or suspension of
20 a registration to a particular controlled substance with respect to
21 which grounds for denial, revocation, or suspension exist.

22 (c) If the board denies, suspends, or revokes a registration, all
23 controlled substances owned or possessed by the registrant at the time
24 of the denial or suspension or the effective date of the revocation
25 order may be placed under seal by the board or the Department of Public
26 Safety and remains in the custody of the department, subject only to
27 the orders and decrees of a court having jurisdiction over the property.
28 A disposition may not be made of substances under seal until the time
29 for taking an appeal has elapsed or until all appeals have been con-

1 cluded unless a court, upon application, orders the sale of perishable
2 substances and the deposit of the proceeds of the sale with the court.
3 After a revocation order is final, all controlled substances held by
4 the registrant are forfeited to the state.

5 (d) The board shall promptly notify the Drug Enforcement Admin-
6 istration of the United States Department of Justice of all orders
7 denying, suspending, or revoking registrations and of all forfeitures
8 of controlled substances.

9 Sec. 17.30.050. ORDER TO SHOW CAUSE. (a) Before denying, sus-
10 pending, or revoking a registration, or refusing a renewal of a regis-
11 tration, the board shall serve upon the applicant or registrant an
12 order to show cause why a registration should not be denied, revoked,
13 or suspended, or why a renewal should not be refused. The order to
14 show cause shall contain a statement of the basis for issuance of the
15 order and shall require the applicant or registrant to appear before
16 the board at a time and place not less than 30 days after the date of
17 service of the order. For a refusal of renewal of registration the
18 show cause order must be served not later than 30 days before the
19 expiration of the registration. These proceedings must be conducted in
20 accordance with procedures for administrative adjudication under AS 44.-
21 62.330 - 44.62.630 without regard to criminal prosecution or other
22 proceeding. Proceedings to refuse renewal of registration do not make
23 the existing registration void. The existing registration remains in
24 effect pending the outcome of the administrative hearing.

25 (b) The board may, without an order to show cause, suspend a
26 registration simultaneously with the institution of proceedings under
27 AS 17.30.040 if it finds that there is an imminent danger to the public
28 health or safety which warrants this action. The suspension continues
29 in effect until the conclusion of the proceedings, including judicial

1 review of the proceedings, unless withdrawn by the board or dissolved
2 by a court of competent jurisdiction.

3 Sec. 17.30.060. RECORDS OF REGISTRANTS. A person registered to
4 manufacture, distribute, dispense, or conduct research with controlled
5 substances under this chapter shall keep records and maintain invento-
6 ries in conformance with the record keeping and inventory requirements
7 of federal law and in conformance with additional regulations adopted
8 by the board.

9 Sec. 17.30.070. ORDER FORMS; PRESCRIPTIONS. (a) A controlled
10 substance may be distributed by one registrant to another registrant
11 only if the distribution is in accordance with federal requirements for
12 order forms.

13 (b) A controlled substance may not be dispensed by a practitioner
14 other than in accordance with federal requirements regarding prescrip-
15 tions for controlled substances.

16 (c) If the classification of a controlled substance in a schedule
17 set out in AS 11.71.140 - 11.71.190, or by a regulation adopted in ac-
18 cordance with AS 11.71.120(a), is different from its corresponding
19 classification under federal law, the requirements of (a) and (b) of
20 this section are determined by the classification of the substance un-
21 der federal law.

22 Sec. 17.30.080. UNLAWFUL ADMINISTRATION, PRESCRIPTION AND DIS-
23 PENSATION OF CONTROLLED SUBSTANCES. A controlled substance classified
24 under federal law or in a schedule set out in AS 11.71.140 - 11.71.190
25 or by regulations adopted in accordance with AS 11.71.120(a) may not be
26 administered, prescribed, dispensed, or distributed other than for a
27 medical purpose.

28 ARTICLE 2. ENFORCEMENT AND ADMINISTRATIVE PROVISIONS.

29 Sec. 17.30.100. COOPERATIVE ARRANGEMENTS. (a) The commissioner

1 of public safety shall cooperate with other state and federal agencies
2 in the discharge of their responsibilities pertaining to illicit traffic
3 in controlled substances and in suppressing the abuse of controlled
4 substances. Under this section, the powers of the commissioner of
5 public safety include but are not limited to the following:

6 (1) arranging for the exchange of information among govern-
7 ment officials concerning illicit traffic in and abuse of controlled
8 substances;

9 (2) coordinating training programs pertaining to controlled
10 substances at both local and state levels; and

11 (3) cooperating with the Drug Enforcement Administration of
12 the United States Department of Justice by establishing a centralized
13 unit to accept, catalog, file, and collect statistics, including records
14 of persons who have violated the provisions of this chapter or AS 11.71
15 in the state and making the information available for federal, state,
16 and local law enforcement purposes.

17 (b) The commissioner of public safety may not furnish the name or
18 identity of a patient or research subject whose identity could not be
19 obtained under AS 17.30.150(b).

20 Sec. 17.30.110. FORFEITURES. (a) The following may be forfeited
21 to the state:

22 (1) a controlled substance which has been manufactured,
23 distributed, dispensed, acquired, or possessed in violation of this
24 chapter or AS 11.71;

25 (2) raw materials, products, and equipment which are used or
26 intended for use in manufacturing, distributing, compounding, process-
27 ing, delivering, importing, or exporting a controlled substance which
28 is a felony under this chapter or AS 11.71;

29 (3) property which is used or intended for use as a container

1 for property described in (1) or (2) of this subsection;

2 (4) a conveyance, including but not limited to aircraft,
3 vehicles or vessels, which has been used or is intended for use in
4 transporting or in any manner in facilitating the transportation; sale,
5 receipt, possession, or concealment of property described in (1) or (2)
6 of this subsection in violation of a felony offense under this chapter
7 or AS 11.71; however,

8 (A) a conveyance may not be forfeited under this section
9 if the owner of the conveyance establishes, by a preponderance of
10 the evidence, at a hearing before the court as the trier of fact,
11 that use of the conveyance in violation of this chapter or AS 11.71
12 was committed by another person and that the owner was not a
13 consenting party nor privy to the violation;

14 (B) a forfeiture of a conveyance encumbered by a valid
15 security interest at the time of seizure is subject to the interest
16 of the secured party if the secured party establishes, by a prepon-
17 derance of the evidence, at a hearing before the court as the
18 trier of fact, that use of the conveyance in violation of this
19 chapter or AS 11.71 was committed by another person and that the
20 secured party was not a consenting party nor privy to the viola-
21 tion;

22 (5) books, records, and research products and materials,
23 including formulas, microfilm, tapes, and data which are used in vio-
24 lation of this chapter or AS 11.71;

25 (6) money, securities, negotiable instruments, or other
26 things of value used in financial transactions derived from activity
27 prohibited by this chapter or AS 11.71; and

28 (7) a firearm which is visible, carried during, or used in
29 furtherance of a violation of this chapter or AS 11.71.

1 (b) Property listed in (a) of this section may be forfeited to
2 the state either upon conviction of the defendant of a violation of
3 this chapter or AS 11.71, or upon judgment of a court in a separate
4 civil proceeding in rem. The court may order a forfeiture in the in
5 rem proceeding if it finds that an item specified in (a) of this section
6 was used during or in aid of a violation of this chapter or AS 11.71.

7 (c) It is not a defense in an in rem proceeding brought under
8 this section that

9 (1) a criminal proceeding is pending or has resulted in a
10 conviction, acquittal, or conviction of a lesser offense for a violation
11 of this chapter or AS 11.71;

12 (2) a criminal proceeding has been dismissed;

13 (3) the item has not been forfeited in a criminal proceeding;

14 or

15 (4) multiple actions are pending.

16 (d) Property listed in (a) of this section may be seized by a
17 peace officer upon an order issued by a court having jurisdiction over
18 the property upon a showing of probable cause that the property may be
19 forfeited under (a) of this section. Seizure without a court order may
20 be made if

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

23 (2) the property subject to seizure has been the subject of
24 an earlier judgment in favor of the state in a criminal proceeding or
25 civil proceeding in rem under this chapter or AS 11.71; or

26 (3) there is probable cause that the property was used, is
27 being used, or is intended for use, in violation of this chapter or
28 AS 11.71 and the property is easily movable; property seized under this
29 paragraph may not be held for more than 48 hours without a court order

1 obtained to continue its detention.

2 (e) Property taken or detained under (d) of this section shall be
3 held in the custody of either the commissioner of public safety or a
4 municipal law enforcement agency authorized by the commissioner of
5 public safety to retain custody of property listed in (a) of this
6 section subject only to the orders and decrees of the court having
7 jurisdiction over any forfeiture proceedings. If property is seized
8 under this chapter, the commissioner of public safety or an authorized
9 municipal law enforcement agency may

10 (1) place the property under seal;

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

12 or

13 (3) take custody of the property and remove it to an appro-
14 priate location for disposition in accordance with law.

15 (f) Within 10 days after a seizure under this section, the commis-
16 sioner of public safety shall make an inventory of any property seized,
17 including controlled substances, and shall appraise the value of any
18 items seized other than controlled substances.

19 (g) Within 20 days after a seizure under this section, the commis-
20 sioner of public safety shall, by certified mail, notify any person
21 known to have an interest in an item with an appraised value of \$500 or
22 more, or who is ascertainable from official registration numbers,
23 licenses, or other state, federal or municipal numbers on the item.
24 Additionally, the commissioner of public safety shall publish notice of
25 forfeiture action of an item valued at \$500 or more in a newspaper of
26 general circulation in the judicial district in which the seizure was
27 made, or if no newspaper is published in that district, in a newspaper
28 published in the state and distributed in that district. The notice
29 shall be published once each week during four consecutive calendar

1 weeks. The requirements of this subsection do not apply to the for-
2 feiture of controlled substances which have been manufactured, distri-
3 buted, dispensed, or possessed in violation of this chapter or AS 11.71,
4 regardless of their value.

5 (h) Upon service or publication of notice of commencement of an
6 action under this section, a person claiming interest in the property
7 shall file within 20 days after the service or publication, a notice of
8 claim setting out the nature of his interest, the date it was acquired,
9 the consideration paid, and an answer to the state's allegations. If a
10 claim and answer is not filed within the time specified, the property
11 described in the state's allegation must be ordered forfeited to the
12 state without further proceedings or showings.

13 (i) Questions of fact or law raised by a notice of claim and
14 answer of a claimant in an action commenced under this section must be
15 determined by the court sitting without a jury. This proceeding may be
16 held in abeyance until conclusion of any pending criminal charges
17 against the claimant under this chapter or AS 11.71.

18 (j) A claimant under (h) of this section may at any time petition
19 for release of a seized item as follows:

20 (1) to a court in which a warrant for seizure has been
21 issued;

22 (2) to a court in which a criminal or civil action alleging
23 forfeiture of the item has been filed; or

24 (3) before an action is filed, or if no seizure warrant was
25 issued, to a court in the judicial district in which the violation took
26 place.

27 (k) An item may not be released by the court under (j) of this
28 section unless the claimant gives adequate assurance that the item will
29 remain subject to the court's jurisdiction and

1 (1) the court finds that the release is in the best interests
2 of the state; or

3 (2) the claimant provides a bond or other valid and equiva-
4 lent security equal to twice the assessed value of the item.

5 (1) A claimant may petition the court for sale of an item before
6 final disposition of court proceedings. The court shall grant a peti-
7 tion for sale upon a finding that the sale is in the best interests of
8 the state and the preservation and maintenance of the item seized.
9 Proceeds from the sale plus interest to the date of final disposition
10 of the court proceedings become the subject of the forfeiture action.

11 (m) Property forfeited under this section other than controlled
12 substances shall be disposed of by the commissioner of administration
13 in accordance with applicable law. The commissioner of administration
14 may

15 (1) destroy property harmful to the public;

16 (2) sell the property and use the proceeds for payment of
17 all proper expenses of the proceedings for forfeiture and sale, includ-
18 ing expenses of seizure, custody, and court costs;

19 (3) take custody of the property and authorize its use in
20 the enforcement of this chapter or AS 11.71, or transfer it to another
21 agency of the state or a political subdivision of the state for a use
22 in furtherance of the administration of justice;

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

25 (5) forward it to the Drug Enforcement Administration of the
26 United States Department of Justice for disposition.

27 (n) Upon a showing that a claimant is entitled to remittance in
28 accordance with this section, the court shall order that

29 (1) if the item may be used for a valid state purpose, it

1 shall be delivered to the commissioner of administration and the com-
2 missioner shall remit to the claimant the value of the claimant's in-
3 terest at the time of seizure; or

4 (2) the item may be sold at public auction to the highest
5 bidder under the following conditions:

6 (A) the claimant has a right of first refusal;

7 (B) the sale proceeds shall be used to satisfy the
8 claimant's interest at the time of seizure; and

9 (C) the balance remaining after (B) of this paragraph
10 is complied with shall be deposited in the general fund.

11 (o) An offender who used an item subject to remission in viola-
12 tion of this chapter or AS 11.71 shall be assessed a fine which may not
13 be less than the cost of any lien payment or remittance made by the
14 state plus the reasonable costs of the seizure.

15 (p) A controlled substance manufactured, possessed, transferred,
16 sold, or offered for sale in violation of this chapter or AS 11.71 is
17 contraband and must be seized and summarily forfeited to the state.
18 The commissioner of public safety or his designee, including a municipal
19 law enforcement agency authorized under (e) of this section to retain
20 custody of controlled substances, is responsible for the disposal of
21 controlled substances which have been forfeited. The controlled sub-
22 stances shall be disposed of in accordance with procedures and require-
23 ments prescribed by the commissioner.

24 (q) Plants from which controlled substances may be derived and
25 which have been planted or cultivated in violation of this chapter or
26 AS 11.71, or which are grown in the wild, may be seized and summarily
27 forfeited to the state.

28 Sec. 17.30.130. JUDICIAL REVIEW. A final determination, finding,
29 or conclusion of the board under this chapter or a regulation adopted

1 under it is a final decision of the matter involved. A person aggrieved
2 by a decision may obtain review of the decision in the superior court
3 in accordance with AS 44.62.560 - 44.62.570. However, a person is not
4 entitled to a hearing de novo in the superior court.

5 Sec. 17.30.140. EDUCATION AND RESEARCH. (a) The commissioner of
6 health and social services shall provide for educational programs
7 designed to prevent and deter the abuse of controlled substances. In
8 connection with these programs, the commissioner may

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

12 (2) promote better recognition of the problems surrounding
13 abuse of controlled substances within the regulated industry and among
14 interested groups and organizations;

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

17 (4) evaluate procedures, projects and techniques conducted
18 or proposed as part of educational programs on abuse of controlled
19 substances;

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

23 (6) with the cooperation of the Department of Law, assist in
24 the education and training of state and local law enforcement officials
25 in their efforts to prevent illicit traffic in and abuse of controlled
26 substances.

27 (b) The commissioner of health and social services shall encourage
28 research on controlled substances and may

29 (1) establish methods to assess the effects of controlled

1 substances and identify and characterize those with potential for
2 abuse;

3 (2) make studies and undertake research to

4 (A) develop new or improved approaches, techniques,
5 systems, equipment, and devices to strengthen the enforcement of
6 this chapter;

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

9 (C) improve methods for preventing, predicting, and un-
10 derstanding the abuse of controlled substances;

11 (3) enter into contracts with public agencies, institutions
12 of higher education, and private organizations or individuals for con-
13 ducting research, demonstrations, or special projects which bear
14 directly on abuse of controlled substances and for related research and
15 educational activities.

16 Sec. 17.30.150. CONFIDENTIALITY. (a) Results, information, and
17 evidence received from the Drug Enforcement Administration of the
18 United States Department of Justice relating to the regulatory func-
19 tions of this chapter, including results of inspections conducted by it
20 may be relied on and acted on by the board in the exercise of its
21 regulatory functions under this chapter.

22 (b) A practitioner engaged in medical practice or research may
23 not furnish the name or identity of a patient or research subject to
24 the board. The practitioner may not otherwise disclose the name or
25 identity of an individual that he is required to keep confidential
26 unless ordered by a court to disclose it within the context of a crim-
27 inal investigation or proceeding.

28 Sec. 17.30.160. DEFINITIONS. (a) Unless the context clearly
29 requires otherwise, the definitions set out in AS 11.71.900 apply to

1 this chapter.

2 (b) In this chapter, "board" means the Board of Pharmacy provided
3 for in AS 08.80.010.

4 * Sec. 4. AS 17 is amended by adding a new chapter to read:

5 CHAPTER 35. ALASKA THERAPEUTIC RESEARCH ACT.

6 Sec. 17.35.010. LEGISLATIVE PURPOSE. The legislature finds that
7 recent research has shown that the use of marijuana may alleviate the
8 nausea and ill effects of cancer chemotherapy and radiology, and,
9 additionally, may alleviate the ill effects of glaucoma. The legis-
10 lature further finds that there is a need for further research and
11 experimentation regarding the use of marijuana under strictly con-
12 trolled circumstances.

13 Sec. 17.35.020. THERAPEUTIC RESEARCH PROGRAM. (a) A therapeutic
14 research program is established in the Board of Pharmacy. The program
15 shall be administered by the board. The board shall adopt regulations
16 necessary for the proper administration of this chapter. Before adopt-
17 ing regulations, the board shall take into consideration pertinent
18 regulations adopted by the Drug Enforcement Administration of the
19 United States Department of Justice, the federal Food and Drug Adminis-
20 tration, and the National Institute on Drug Abuse.

21 (b) Except as provided in AS 17.35.030(e), the therapeutic re-
22 search program is limited to cancer chemotherapy and radiology patients
23 and glaucoma patients, who are certified to the Patient Qualification
24 Review Committee by a practitioner. A patient may not be admitted to
25 the therapeutic research program without full disclosure by the practi-
26 tioner of the experimental nature of this program and of the possible
27 risks and side effects of the proposed treatment.

28 (c) The board shall provide by regulation for a program of regis-
29 tration of therapeutic research projects.

1 Sec. 17.35.030. PATIENT QUALIFICATION REVIEW COMMITTEE. (a) The
2 board shall appoint a Patient Qualification Review Committee to serve
3 at its pleasure. The committee shall consist of four members with the
4 following qualifications:

5 (1) two physicians licensed to practice medicine in the
6 state, one of whom specializes in the practice of ophthalmology;

7 (2) a physician licensed to practice medicine in the state
8 and specializing in the practice of psychiatry; and

9 (3) a physician licensed to practice medicine in the state
10 who specializes in the practice of radiology.

11 (b) Members of the Patient Qualification Review Committee receive
12 no salary but are entitled to per diem for travel and expenses autho-
13 rized by law for boards and commissions.

14 (c) The Patient Qualification Review Committee shall review all
15 applicants for the therapeutic research program and their licensed
16 practitioners and certify their participation in the program.

17 (d) The Patient Qualification Review Committee and the board
18 shall protect the privacy of individuals who participate in the thera-
19 peutic research program by withholding the names and other identifying
20 characteristics of those individuals from all persons who are not
21 connected with the research. Persons authorized to engage in research
22 under the therapeutic research program may not be compelled in any
23 civil, criminal, administrative, legislative, or other proceeding to
24 identify the individuals who are the subjects of research for which the
25 authorization was granted unless necessary to permit the board to
26 determine whether the research is being conducted in accordance with
27 the authorization.

28 (e) The Patient Qualification Review Committee may include other
29 disease groups for participation in the therapeutic research program.

1 However, a practitioner must present pertinent medical data to both the
2 committee and the board before a disease group may be added. The
3 participation of a disease group must be approved by the board consis-
4 tent with applicable regulations adopted by the Drug Enforcement Admin-
5 istration of the United States Department of Justice, the federal Food
6 and Drug Administration, and the National Institute on Drug Abuse.

7 Sec. 17.35.040. SOURCES AND DISTRIBUTION OF MARIJUANA. The board
8 shall ensure that marijuana is made available through whatever means it
9 considers appropriate consistent with applicable regulations adopted by
10 the Drug Enforcement Administration of the United States Department of
11 Justice, the federal Food and Drug Administration, and the National
12 Institute on Drug Abuse, and under this chapter.

13 Sec. 17.35.050. REPORT TO THE GOVERNOR AND LEGISLATURE. The
14 board, in conjunction with the Patient Qualification Review Committee,
15 shall report its findings and recommendations to the governor and the
16 legislature regarding the effectiveness of the therapeutic research
17 program by March 1, 1984.

18 Sec. 17.35.060. DEFINITIONS. In this chapter

- 19 (1) "board" means the Board of Pharmacy;
20 (2) "marijuana" has the meaning set out in AS 11.71.900(14);
21 (3) "practitioner" means a physician authorized to practice

22 medicine in the state under AS 08.64.

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

24 (B) habitual overuse of alcoholic beverages or con-
25 trolled substances [DEPRESSANT, HALLUCINOGENIC OR STIMULANT DRUGS,]
26 as defined in AS 11.71.900(4) [AS 17.12.150(3), OR ADDICTION TO
27 THE USE OF NARCOTIC DRUGS AS DEFINED IN AS 17.10.230(13)];

28 * Sec. 6. AS 08.80.040 is amended by adding a new paragraph to read:

29 (10) provide for the regulation of controlled substances

1 under AS 17.30.

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

3 Sec. 08.80.470. CONSTRUCTION. Nothing in this chapter amends,
4 modifies, repeals or otherwise changes any provision of AS 11.71,
5 AS 17.30, [THE UNIFORM NARCOTIC DRUG ACT (AS 17.10)] or the Alaska
6 Food, Drug and Cosmetic Act (AS 17.20).

7 * Sec. 8. AS 08.80.480(20) is repealed and reenacted to read:

8 (20) "controlled substance" has the same meaning set out in
9 AS 11.71.900(4).

10 * Sec. 9. AS 11.31.100(d)(1) is amended to read:

11 (1) class A felony if the crime attempted is an unclassified
12 felony [MURDER IN ANY DEGREE OR KIDNAPPING];

13 * Sec. 10. AS 11.31.110(c)(1) is amended to read:

14 (1) class A felony if the crime solicited is an unclassified
15 felony [MURDER IN ANY DEGREE OR KIDNAPPING];

16 * Sec. 11. AS 11.81.900(b)(4) is amended to read:

17 (4) "cannabis" has the meaning ascribed to it in AS 11.71.-
18 900(10), (11), and (14) [AS 17.12.150];

19 * Sec. 12. AS 11.81.900(b)(6) is repealed and reenacted to read:

20 (6) "controlled substance" has the meaning ascribed to it in
21 AS 11.71.900(4);

22 * Sec. 13. AS 11.81.900(b)(16) is repealed and reenacted to read:

23 (16) "drug" has the meaning ascribed to it in AS 11.71.-
24 900(9);

25 * Sec. 14. AS 12.30.040(b) is repealed and reenacted to read:

26 (b) Notwithstanding the provisions of (a) of this section, if a
27 person has been convicted of an offense which is an unclassified felony
28 or a class A felony, he may not be released on bail either before
29 sentencing or pending appeal.

1 * Sec. 15. AS 12.45 is amended by adding a new section to read:

2 Sec. 12.45.155. LABORATORY REPORT OF CONTROLLED SUBSTANCES. (a)

3 In a prosecution under AS 11.71.010 - 11.71.070, a complete copy of an
4 official laboratory report from the Department of Public Safety or a
5 laboratory operated by another law enforcement agency is prima facie
6 evidence of the content, identity, and weight of a controlled sub-
7 stance. The report must be signed by the person performing the anal-
8 ysis and must state that the substance which is the basis of the alleged
9 offense has been weighed and analyzed. In the report, the author shall
10 state with specificity his findings of the content, weight, and identity
11 of the substance.

12 (b) A sworn statement prepared by the author of the report pro-
13 vided for in (a) of this section must be attached to the report. The
14 statement must set out the identity of the author and include a state-
15 ment that he is an employee of the laboratory issuing the report and
16 that performing the analysis is a part of his regular duties. The
17 statement must also include an outline of his education, training, and
18 experience for performing an analysis. The author shall state that
19 scientifically accepted tests were performed with due caution, and
20 whether to his knowledge the evidence was handled in accordance with
21 established and accepted procedures while in the custody of the labora-
22 tory.

23 (c) The prosecuting attorney shall serve a copy of the report on
24 the attorney of record for the accused, or on the defendant if he has
25 no attorney, not later than 20 days before a proceeding in which the
26 report is to be used against the accused. However, at a preliminary
27 hearing or grand jury proceeding, the report may be used without having
28 previously been served upon the accused.

29 (d) The accused or his attorney may demand the testimony of the

1 person signing the report, by serving a written demand showing cause
2 upon the prosecuting attorney within seven days from receipt of the
3 report.

4 (e) A report issued for use under this section must contain
5 notice of the right of the accused to demand the testimony of the
6 person signing the report.

7 * Sec. 16. AS 12.55.035(b)(1) is amended to read:

8 (1) \$75,000 for murder in the first or second degree, [OR]
9 kidnapping, or misconduct involving a controlled substance in the first
10 degree;

11 * Sec. 17. AS 12.55.125(b) is amended to read:

12 (b) A defendant convicted of murder in the second degree, [OR]
13 kidnapping, or misconduct involving a controlled substance in the first
14 degree shall be sentenced to a definite term of imprisonment of at
15 least five years but not more than 99 years.

16 * Sec. 18. AS 12.55.155(c) is amended by adding new paragraphs to read:

17 (19) the defendant is convicted of an offense specified in
18 AS 11.71 and the offense involved the delivery of a controlled sub-
19 stance under circumstances manifesting an intent to distribute the
20 substance as part of a commercial enterprise;

21 (20) the defendant is convicted of an offense specified in
22 AS 11.71 and the offense involved the transportation of controlled
23 substances into the state;

24 (21) the defendant is convicted of an offense specified in
25 AS 11.71 and the offense involved large quantities of a controlled
26 substance;

27 (22) the defendant is convicted of an offense specified in
28 AS 11.71 and the offense involved the distribution of a controlled
29 substance that had been adulterated with a toxic substance.

1 * Sec. 19. AS 12.55.155(d) is amended by adding new paragraphs to read:

2 (14) the defendant is convicted of an offense specified in
3 AS 11.71 and the offense involved small quantities of a controlled
4 substance;

5 (15) the defendant is convicted of an offense specified in
6 AS 11.71 and the offense involved the distribution of a controlled
7 substance, other than a schedule IA controlled substance, to a personal
8 acquaintance who is 19 years of age or older for no profit;

9 (16) the defendant is convicted of an offense specified in
10 AS 11.71 and the offense involved the possession of a small amount of a
11 controlled substance for personal use in the defendant's home.

12 * Sec. 20. AS 28.35.030(a)(1) is amended to read:

13 (1) while under the influence of intoxicating liquor, or any
14 controlled substance listed [DEPRESSANT, HALLUCINOGENIC, STIMULANT OR
15 NARCOTIC DRUGS AS DEFINED] in AS 11.71.140 - 11.71.190 [AS 17.10.230-
16 (13) AND AS 17.12.150(3)];

17 * Sec. 21. AS 28.35.030 is amended by adding a new subsection to read:

18 (e) In a prosecution under this section alleging that the accused
19 operated a motor vehicle while under the influence of a controlled sub-
20 stance, as defined in AS 11.71.140 - 11.71.190, or under the influence
21 of alcohol and a controlled substance and the controlled substance is
22 available by prescription, it is prima facie evidence of the accused's
23 knowledge of the effects of the controlled substance that he was warned,
24 by a doctor, pharmacist, or other licensed practitioner of those
25 effects. A label placed on the prescription bottle recommending or
26 warning that the person should not operate a motor vehicle or other
27 equipment after ingesting the controlled substance is a warning which
28 satisfies the requirements of this subsection.

29 * Sec. 22. (a) Prosecution for a violation of law occurring before

1 January 1, 1982, is not affected or abated by this Act. Violation of any
2 law repealed by this Act may still be prosecuted and brought to a final
3 determination in accordance with the laws and regulations in effect at the
4 time of the violation.

5 (b) This Act does not apply to a civil seizure, forfeiture, or injunc-
6 tive proceeding commenced before January 1, 1982.

7 (c) Administrative proceedings pending under a law repealed or amended
8 by this Act shall be continued and brought to a final determination in
9 accordance with the laws and regulations in effect before January 1, 1982.

10 (d) The Board of Pharmacy shall permit persons who own or operate an
11 establishment engaged in the manufacture, distribution, or dispensing of a
12 controlled substance to register before January 1, 1982.

13 (e) This Act applies to violations of law, seizures, forfeitures,
14 injunctive proceedings, administrative proceedings, and investigations which
15 occur after December 31, 1981.

16 * Sec. 23. Orders issued and regulations adopted under a law amended or
17 repealed by this Act and in effect on January 1, 1982, and not in conflict
18 with this Act continue until amended or repealed.

19 * Sec. 24. The members of the Controlled Substance Advisory Committee
20 first appointed under AS 11.71.100(a)(5) - (8) shall serve terms as follows:

- 21 (1) one member for two years;
22 (2) two members for three years; and
23 (3) two members for four years.

24 * Sec. 25. AS 17.10, AS 17.12, and AS 17.15 are repealed.

25 * Sec. 26. This Act takes effect on January 1, 1982.

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