

Introduced: 2/18/81  
Referred: Judiciary

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1 IN THE SENATE

2 SENATE BILL NO. 190 am H re-engrossed

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

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

29 (c) The legislature recognizes the right of the people to privacy. The

1 purposes of this Act do not include infringement of this constitutional right  
2 to privacy.

3 (a) The legislature finds that marijuana poses a serious threat to the  
4 public health. The legislature declares that possession or use of marijuana  
5 that is not proscribed by law under this Act should not be construed as  
6 condoning or encouraging the use of marijuana by any person.

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

8 CHAPTER 71. CONTROLLED SUBSTANCES.

9 ARTICLE 1. OFFENSES RELATING TO CONTROLLED SUBSTANCES.

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

14 (1) delivers any amount of a schedule IA controlled substance  
15 to a person under 19 years of age who is at least three years younger  
16 than he; or

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

20 (3) engages in a continuing criminal enterprise.

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

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

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

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

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

1 sources.

2 (c) Misconduct involving a controlled substance in the first  
3 degree is an unclassified felony and is punishable as provided in  
4 AS 12.55.

5 Sec. 11.71.020. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN THE  
6 SECOND DEGREE. (a) Except as authorized in AS 17.30, a person commits  
7 the crime of misconduct involving a controlled substance in the second  
8 degree if he manufactures or delivers any amount of a schedule IA con-  
9 trolled substance or possesses any amount of a schedule IA controlled  
10 substance with intent to manufacture or deliver; or

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

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

17 (1) manufactures or delivers any amount of a schedule  
18 IIA or IIIA controlled substance or possesses any amount of a schedule  
19 IIA or IIIA controlled substance with intent to manufacture or  
20 deliver;

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

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

28 (b) It is an affirmative defense to a prosecution under (a)(3) of  
29 this section that at the time of the possession the school was closed to

1 any organized activity involving persons under 18 years of age. Nothing  
2 in this subsection precludes a prosecution under any other provision of  
3 this section or any other section of this chapter.

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

6 Sec. 11.71.040. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN THE  
7 FOURTH DEGREE. (a) Except as authorized in AS 17.30 or AS 17.35, a  
8 person commits the crime of misconduct involving a controlled substance  
9 in the fourth degree if he

10 (1) manufactures or delivers any amount of a schedule IVA, or  
11 VA controlled substance or possesses any amount of a schedule IVA or VA  
12 controlled substance with intent to manufacture or deliver;

13 (2) manufactures or delivers, or possesses with the intent to  
14 manufacture or deliver, one or more preparations, compounds, mixtures,  
15 or substances of an aggregate weight of one ounce or more containing a  
16 schedule VIA controlled substance;

17 (3) possesses

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

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

22 (C) one or more preparations, compounds, mixtures, or  
23 substances of an aggregate weight of three grams or more containing  
24 a schedule IIIA or IVA controlled substance;

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

27 (E) one or more preparations, compounds, mixtures, or  
28 substances weighing six grams or more containing a schedule VA  
29 controlled substance; or

1 (F) one or more preparations, compounds, mixtures, or  
2 substances of an aggregate weight of one pound or more containing a  
3 schedule VIA controlled substance;

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

8 (5) knowingly keeps or maintains any store, shop, warehouse,  
9 dwelling, building, vehicle, boat, aircraft, or other structure or place  
10 which is used for keeping or distributing controlled substances in  
11 violation of a felony offense under this chapter or AS 17.30;

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

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

20 (8) knowingly furnishes false or fraudulent information in or  
21 omits material information from any application, report, record, or  
22 other document required to be kept or filed under AS 17.30;

23 (9) obtains possession of a controlled substance by mis-  
24 representation, fraud, forgery, deception or subterfuge; or

25 (10) affixes a false or forged label to a package or other  
26 container containing any controlled substance.

27 (b) It is an affirmative defense to a prosecution under (a)(4) of  
28 this section that at the time of the possession the school was closed to  
29 any organized activity involving persons under 18 years of age. Nothing

1 in this subsection precludes a prosecution under any other provision of  
2 this section or any other section of this chapter.

3 (c) Nothing in (a)(5) or (6) of this section precludes a prosecu-  
4 tion or civil proceeding brought under any other provision of this sec-  
5 tion or any other section of this chapter or under AS 17.

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

8 Sec. 11.71.050. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN THE  
9 FIFTH DEGREE. (a) Except as authorized in AS 17.30 or AS 17.55, a  
10 person commits the crime of misconduct involving a controlled substance  
11 in the fifth degree if he

12 (1) manufactures or delivers, or possesses with the intent to  
13 manufacture or deliver, one or more preparations, compounds, mixtures,  
14 or substances of an aggregate weight of one-half ounce or more of a  
15 schedule VIA controlled substance;

16 (2) manufactures or delivers, or possesses with the intent to  
17 manufacture or deliver, one or more preparations, compounds, mixtures,  
18 or substances of an aggregate weight of less than one-half ounce of a  
19 schedule VIA controlled substance, for remuneration;

20 (3) possesses

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

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

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

28 (D) one or more preparations, compounds, mixtures, or  
29 substances of an aggregate weight of less than six grams containing

1 a schedule VA controlled substance; or

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

5 (4) fails to make, keep, or furnish any record, notification,  
6 order form, statement, invoice, or information required under AS 17.30.

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

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

13 (1) uses or displays any amount of a schedule VIA controlled  
14 substance or possesses one or more preparations, compounds, mixtures, or  
15 substances of an aggregate weight of one ounce or more containing a  
16 schedule VIA controlled substance on a public street or sidewalk or on  
17 the premises of a public carrier or business establishment or in any  
18 other public place;

19 (2) knowingly possesses any amount of a schedule VIA con-  
20 trolled substance within his immediate control while operating a pro-  
21 pelled vehicle;

22 (3) being under 19 years of age, possesses one or more prep-  
23 arations, compounds, mixtures, or substances of an aggregate weight of  
24 less than four ounces containing a schedule VIA controlled substance;

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

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

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

3 Sec. 11.71.070. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN THE  
4 SEVENTH DEGREE. (a) Except as authorized in AS 17.30 or AS 17.35, a  
5 person commits the offense of misconduct involving a controlled substance  
6 in the seventh degree if he

7 (1) manufactures or delivers, or possesses with the intent to  
8 manufacture or deliver, one or more preparations, compounds, mixtures,  
9 or substances of an aggregate weight of less than one-half ounce of a  
10 schedule VIA controlled substance; or

11 (2) possesses one or more preparations, compounds, mixtures,  
12 or substances of an aggregate weight of less than one ounce containing a  
13 schedule VIA controlled substance on a public street or sidewalk or on  
14 the premises of a public carrier or business establishment or in any  
15 other public place.

16 (b) Misconduct involving a controlled substance in the seventh  
17 degree as defined in (a)(2) of this section is a violation. Misconduct  
18 involving a controlled substance in the seventh degree as defined in  
19 (a)(1) of this section is punishable by a civil fine of not more than  
20 \$100.

21 Sec. 11.71.080. AGGREGATE WEIGHT OF LIVE MARIJUANA PLANTS. For  
22 purposes of calculating the aggregate weight of a live marijuana plant,  
23 the aggregate weight shall be the weight of the marijuana when reduced  
24 to its commonly used form.

25 ARTICLE 2. STANDARDS AND SCHEDULES.

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

29 (1) the attorney general or his designee;



- 1 (2) the commissioner of health and social services or his  
2 designee;
- 3 (3) the commissioner of public safety or his designee;
- 4 (4) the chairman of the Board of Pharmacy or his designee who  
5 shall also be a member of the Board of Pharmacy;
- 6 (5) a peace officer appointed by the governor after consul-  
7 tation with the Alaska Association of Chiefs of Police;
- 8 (6) a physician appointed by the governor;
- 9 (7) a psychiatrist appointed by the governor; and
- 10 (8) two individuals appointed by the governor.

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

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

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

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

18 (f) Five members of the committee constitute a quorum, except that  
19 a smaller number may adjourn a meeting in the absence of a quorum. A  
20 quorum being present, a majority vote of the total membership is required  
21 to take official action.

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

23 (1) advise the governor of the need to add, delete or  
24 reschedule substances in the schedules in AS 11.71.110 - 11.71.190;

25 (2) recommend regulations for adoption by the Board of Phar-  
26 macy to prevent excessive prescription of controlled substances and the  
27 diversion of prescription drugs into illicit channels;

28 (3) evaluate the effectiveness of programs in the state  
29 providing treatment and counseling for persons who abuse controlled

1 substances;

2 (4) recommend programs to the Alaska Court System to be in-  
3 stituted as alternatives to the prosecution or imprisonment of offenders  
4 who have no prior criminal record involving controlled substance of-  
5 fenses and who are charged with crimes involving controlled substances;

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

11 (6) review budget requests and recommend amounts for appro-  
12 priations to the governor and the legislature for departments and agen-  
13 cies responsible for

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

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

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

20 Sec. 11.71.120. AUTHORITY TO SCHEDULE CONTROLLED SUBSTANCES. (a)  
21 If, after considering the factors set out in (c) of this section, the  
22 committee decides to recommend that a substance should be added to,  
23 deleted from, or rescheduled in a schedule of controlled substances  
24 under AS 11.71.140 - 11.71.190, the governor shall introduce legislation  
25 in accordance with the recommendation of the committee.

26 (b) If a substance is added as a controlled substance under federal  
27 law, the governor shall introduce legislation in accordance with the  
28 federal law.

29 (c) In advising the governor of the need to add, delete, or

1 reschedule a substance, under AS 11.71.110(1), the committee shall  
2 assess the danger or probable danger of the substance after considering  
3 the following:

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

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

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

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

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

12 (2) the biomedical hazard of the substance including

13 (A) its pharmacology, the effects and modifiers of the  
14 effects of the substance;

15 (B) its toxicology, the acute and chronic toxicity,  
16 interaction with other substances, whether controlled or not, and  
17 the degree to which it may cause psychological or physiological  
18 dependence;

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

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

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

26 (5) the relationship between the use of the substance and  
27 other criminal activity, including

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

1 (B) whether the nature and relative profitability of  
2 manufacturing or delivering the substance encourages illicit traf-  
3 ficking in the substance;

4 (C) whether the commission of other crimes is one of the  
5 effects of abuse of the substance;

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

8 (d) If the committee designates a substance as an immediate pre-  
9 cursor of a controlled substance, a precursor of that immediate precursor  
10 is not subject to control solely because it is a precursor of the  
11 immediate precursor.

12 (e) The committee has no authority over tobacco or alcoholic  
13 beverages as defined in AS 04.21.080.

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

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

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

26 (A) raw opium;

27 (B) opium extracts;

28 (C) opium fluid extracts;

29 (D) powdered opium;

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- (E) granulated opium;
- (F) tincture of opium;
- (G) codeine;
- (H) ethylmorphine;
- (I) etorphine hydrochloride;
- (J) hydrocodone;
- (K) hydromorphone;
- (L) metopon;
- (M) morphine;
- (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) 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, esters, and ethers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan excepted:

- (1) acetylmethadol;
- (2) allylprodine;

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

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

- 1 (56) phenoperidine;
- 2 (57) piminodine;
- 3 (58) piritramide;
- 4 (59) propheptazine;
- 5 (60) properidine;
- 6 (61) propiram;
- 7 (62) racemethorphan;
- 8 (63) racemoramide;
- 9 (64) racemorphan;
- 10 (65) trimeperidine.

11 (d) Schedule IA includes, unless specifically excepted or unless  
12 listed in another schedule, any of the following opium derivatives,  
13 their salts, isomers, and salts of isomers whenever the existence of  
14 these salts, isomers, and salts of isomers is possible within the speci-  
15 fic chemical designation:

- 16 (1) acetorphine;
- 17 (2) acetyldihydrocodeine;
- 18 (3) benzylmorphine;
- 19 (4) codeine methylbromide;
- 20 (5) codeine-n-oxide;
- 21 (6) cyprenorphine;
- 22 (7) desomorphine;
- 23 (8) dihydromorphine;
- 24 (9) drotebanol;
- 25 (10) etorphine, except hydrochloride salt;
- 26 (11) heroin;
- 27 (12) hydromorphinol;
- 28 (13) methyldesorphine;
- 29 (14) methyldihydromorphine;



- 1 (15) morphine methylbromide;
- 2 (16) morphine methylsulfonate;
- 3 (17) morphine-n-oxide;
- 4 (18) myrophine;
- 5 (19) nicocodeine;
- 6 (20) nicomorphine;
- 7 (21) normorphine;
- 8 (22) pholcodine;
- 9 (23) thebacon.

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

15 (b) Schedule IIA includes, unless specifically excepted or unless  
16 listed in another schedule, any material, compound, mixture, or prepara-  
17 tion which contains any quantity of the following hallucinogenic sub-  
18 stances, or which contains any of its salts, isomers, whether optical,  
19 position, or geometric, or salts of isomers whenever the existence of  
20 these salts, isomers, or salts of isomers is possible within the speci-  
21 fic chemical designation:

- 22 (1) 4-bromo-2, 5-dimethoxy-amphetamine, also known as  
23 4-bromo-2,5-dimethoxy-a-methylphenethylamine and 4-bromo-2, DMA;
- 24 (2) 2,5-dimethoxyamphetamine, also known as 2,5-dimethoxy-  
25 a-methylphenethylamine and 2,5-DMA;
- 26 (3) 4-methoxyamphetamine, also known as 4-methoxy-a-methyl-  
27 phenethylamine and paramethoxyamphetamine, PMA;
- 28 (4) 5-methoxy-3,4-methylenedioxy-amphetamine;
- 29 (5) 4-methyl-2,5-dimethoxy-amphetamine, also known as 4-

1 methyl-2,5 - dimethoxy- $\alpha$ -methylphenethylamine;

2 (6) 3,4-methylenedioxy amphetamine;

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

4 (8) bufotenine, also known as 3-( $\beta$ -dimethylaminoethyl)-5-  
5 hydroxyindole, 3-(2-dimethylaminoethyl)-5-indolol, N, N-dimethylsero-  
6 tonin, 5-hydroxy-N, N-dimethyltryptamine, and mappine;

7 (9) diethyltryptamine, also known as N, N-diethyltryptamine  
8 and DET;

9 (10) dimethyltryptamine, also known as DMT;

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

13 (12) lysergic acid diethylamide, also known as LSD;

14 (13) mescaline;

15 (14) n-ethyl-3-piperidyl benzilate;

16 (15) n-methyl-3-piperidyl benzilate;

17 (16) peyote;

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

19 (A) ethylamine analog, also known by some trade or other  
20 names as follows: N-ethyl-1-phenylcyclohexylamine (1-phenylcyclo-  
21 hexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine,  
22 PCE;

23 (B) pyrrolidine analog, also known by some trade or  
24 other names as follows: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPY,  
25 PHP;

26 (C) thiophene analog, also known as 1-[1-(2-thienyl)  
27 cyclohexyl] piperidine and 2-thienylanalog of phencyclidine, TPCP,  
28 and TCP;

29 (18) psilocybin;

1 (19) psilocyn.

2 (c) Schedule IIA includes cocaine or coca leaves, and any salt,  
3 compound, derivative, mixture, isomer, ester, ether, or preparation of  
4 cocaine or coca leaves produced directly or indirectly by extraction  
5 from coca leaves, or independently by means of chemical synthesis, or by  
6 a combination of extraction and chemical synthesis, including the iso-  
7 mers, salts, and salts of isomers of cocaine and other derivatives of  
8 coca leaves whenever the existence of these esters, ethers, isomers or  
9 salts is possible, but does not include decocainized coca leaves or  
10 extractions of coca leaves which do not contain cocaine or ecgonine.

11 (d) Schedule IIA includes, unless specifically excepted or unless  
12 listed in another schedule, any material, compound, mixture, or prepara-  
13 tion which contains any quantity of the following substances having a  
14 depressant effect on the central nervous system, including their salts,  
15 isomers, and salts of isomers whenever the existence of these salts,  
16 isomers, and salts of isomers is possible within the specific chemical  
17 designation:

- 18 (1) amobarbital;  
19 (2) mandrix or mandrax;  
20 (3) mecloqualone;  
21 (4) methaqualone;  
22 (5) pentobarbital;  
23 (6) phencyclidine, also known as PCP;  
24 (7) secobarbital.

25 (e) Schedule IIA includes, unless specifically excepted or unless  
26 listed in another schedule, any material, compound, mixture, or prepara-  
27 tion which contains any quantity of the following substances having a  
28 stimulant effect on the nervous system:

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

1 optical isomers;

2 (2) methamphetamine, its salts, isomers, and salts of its  
3 isomers;

4 (3) methlyphenidate;

5 (4) phenmetrazine and its salts.

6 (f) Schedule IIA includes, unless specifically excepted or unless  
7 listed in another schedule, any material, mixture, or preparation which  
8 contains any quantity of the following substances:

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

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

13 (A) 1-phencyclohexylamine;

14 (B) 1-piperidinocyclohexanecarbonitrile, also known as

15 PCC.

16 Sec. 11.71.160. SCHEDULE IIIA. (a) A substance shall be placed  
17 in schedule IIIA if it is found under AS 11.71.120(c) to have a degree  
18 of danger or probable danger to a person or the public less than the  
19 substances listed in schedule IIA but higher than substances listed in  
20 schedule IVA.

21 (b) Schedule IIIA includes, unless specifically excepted or unless  
22 listed in another schedule, any material, compound, mixture, or prepara-  
23 tion which contains any quantity of the following substances having a  
24 stimulant effect on the central nervous system, including their salts,  
25 isomers whether optical, position, or geometric, and salts of these  
26 isomers whenever the existence of these salts, isomers, and salts of  
27 isomers is possible within the specific chemical designation:

28 (1) benzphetamine;

29 (2) chlorphentermine;

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- (3) clortermine;
- (4) mazindol;
- (5) phendimetrazine;
- (6) any compound, mixture, or preparation in dosage unit form containing any stimulant substance listed in schedule IIA, which compound, mixture, or preparation was listed on August 25, 1971, as an excepted compound under 21 C.F.R. sec. 1308.32, and any other drug of the quantitative composition shown in that list for those substances, or which is the same except that it contains a lesser quantity of any controlled substance.

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

- (1) amobarbital, secobarbital, or pentobarbital or any salt of these substances, combined with one or more other active medicinal ingredients which are not listed in any other schedule;
- (2) amobarbital, secobarbital, or pentobarbital or any salt of these substances, approved by the federal Food and Drug Administration for marketing only as a suppository;
- (3) any substance which contains any quantity of a derivative of barbituric acid or any salt of barbituric acid;
- (4) chlorhexadol;
- (5) glutethimide;
- (6) lysergic acid;
- (7) lysergic acid amide;
- (8) methyprylon;
- (9) sulfondiethylmethane;
- (10) sulfonethylmethane;

1 (1) sulfonmethane.

2 (d) Schedule IIIA includes nalorphine.

3 (e) Schedule IIIA includes, unless specifically excepted or unless  
4 listed in another schedule, any material, compound, mixture, or prepara-  
5 tion containing any of the following narcotic drugs or their salts  
6 calculated as the free anhydrous base or alkaloid, in the following  
7 quantities:

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

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

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

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

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

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

26 (7) not more than 500 milligrams of opium per 100 milliliters  
27 or per 100 grams or not more than 25 milligrams per dosage unit, with  
28 one or more active, nonnarcotic ingredients in recognized therapeutic  
29 amounts;

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

4 (f) Schedule IIIA includes

- 5 (1) hashish;  
6 (2) hash oil or hashish oil; and  
7 (3) tetrahydrocannabinols.

8 Sec. 11.71.170. SCHEDULE IVA. (a) A substance shall be placed in  
9 schedule IVA if it is found under AS 11.71.120(c) to have a degree of  
10 danger or probable danger to a person or the public which is less than  
11 the substances listed in schedule IIIA, but higher than the substances  
12 listed in schedule VA.

13 (b) Schedule IVA includes, unless specifically excepted or unless  
14 listed in another schedule, any material, compound, mixture, or prepara-  
15 tion which contains any quantity of the following substances, including  
16 their salts, isomers and salts of isomers whenever the existence of  
17 these salts, isomers, and salts of isomers is possible within the speci-  
18 fic chemical designation:

- 19 (1) barbital;  
20 (2) chloral betaine;  
21 (3) chloral hydrate;  
22 (4) chlordiazepoxide;  
23 (5) clonazepam;  
24 (6) clorazepate;  
25 (7) diazepam;  
26 (8) ethchlorvynol;  
27 (9) ethinamate;  
28 (10) flurazepam;  
29 (11) lorazepam;

- 1 (12) mebutamate;  
2 (13) meprobanate;  
3 (14) methohexital;  
4 (15) methylphenobarbital, also known as mephobarbital;  
5 (16) oxazepam;  
6 (17) paraldehyde;  
7 (18) petrichloral;  
8 (19) phenobarbital;  
9 (20) prazepam.

10 (c) Schedule IVA includes any material, compound, mixture or  
11 preparation which contains any quantity of the following substances,  
12 including their salts, isomers whether optical, position, or geometric,  
13 and salts of these isomers, whenever the existence of these salts,  
14 isomers, and salts of isomers is possible: fenfluramine.

15 (d) Schedule IVA includes, unless specifically excepted or unless  
16 listed in another schedule, any material, compound, mixture, or prepara-  
17 tion which contains any quantity of the following substances having a  
18 stimulant effect on the central nervous system, including their salts,  
19 isomers whether optical, position, or geometric, and salts of these  
20 isomers whenever the existence of these salts, isomers, and salts of  
21 isomers is possible within the specific chemical designation:

- 22 (1) diethylpropion;  
23 (2) phentermine;  
24 (3) pemoline, including organometallic complexes and chelates

25 of this substance.

26 (e) Schedule IVA includes, unless specifically excepted or unless  
27 listed in another schedule, any material, compound, mixture, or prepara-  
28 tion containing not more than 1 milligram of difenoxin and not less than  
29 25 micrograms of atropine sulfate per dosage unit, or their salts calcu-



1           lated as the free anhydrous base or alkaloid.

2           (f) Schedule IVA includes, unless specifically excepted or unless  
3 listed in another schedule, any material, compound, mixture or prepara-  
4 tion which contains any quantity of the following substances, including  
5 their salts:

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

8                   (2) pentazocine;

9                   (3) propoxyphene.

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

15           (b) Schedule VA includes any compound, mixture, or preparation  
16 containing any of the following limited quantities of narcotic drugs or  
17 their salts, calculated as the free anhydrous base or alkaloid, in  
18 limited quantities as specified in (1) - (6) of this subsection, which  
19 includes one or more nonnarcotic active medicinal ingredients in  
20 sufficient proportion to confer upon the compound, mixture, or prepara-  
21 tion valuable medicinal qualities other than those possessed by schedule  
22 IA substances alone:

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

25                   (2) not more than 100 milligrams of dihydrocodeine per 100  
26 milliliters or per 100 grams;

27                   (3) not more than 100 milligrams of ethylmorphine per 100  
28 milliliters or per 100 grams;

29                   (4) not more than 2.5 milligrams of diphenoxylate and not

1 less than 25 micrograms of atropine sulfate per dosage unit;

2 (5) not more than 100 milligrams of opium per 100 milliliters  
3 or per 100 grams;

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

6 (c) Schedule VA includes loperamide.

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

10 (b) Marijuana is a Schedule VIA controlled substance.

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

19 ARTICLE 3. MISCELLANEOUS PROVISIONS.

20 Sec. 11.71.300. PENALTIES UNDER OTHER LAWS. A penalty imposed for  
21 violation of this chapter is in addition to, and not in place of, any  
22 other civil or administrative penalty or sanction otherwise authorized  
23 by law.

24 Sec. 11.71.305. REHABILITATION. A person convicted of violating a  
25 provision of this chapter may, when the violation relates to that  
26 person's own personal use of a controlled substance, be committed to the  
27 custody of the Department of Health and Social Services for rehabil-  
28 itative treatment for not to exceed one year. Such treatment may be  
29 imposed in place of a fine or imprisonment, but only where the imprison-

1 ment would not have exceeded one year.

2 Sec. 11.71.310. BAR TO PROSECUTION. If a violation of this chap-  
3 ter is a violation of a federal law or the law of another state, a  
4 conviction or acquittal under federal law or the law of another state  
5 for the same act is a bar to prosecution in this state.

6 Sec. 11.71.320. DEFENSES EXEMPTED. (a) In a prosecution for the  
7 possession of a schedule IA, IIA, IIIA, IVA, or VA controlled substance  
8 under this chapter, it is not a defense that the substance was possessed  
9 in less than a useable quantity. It is sufficient to support a con-  
10 viction that there is a sufficient quantity of the substance to permit  
11 proper identification.

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

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

18 Sec. 11.71.340. OFFENSES DEFINED BY AMOUNTS. Whenever a provision  
19 of this chapter defining an offense requires a determination of an  
20 amount, it is not a defense to the lowest class of offense established  
21 by the evidence that the amount in question was equal to or larger than  
22 the amount which would make the offense a higher class of offense, and a  
23 person may be charged and convicted accordingly.

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

1           Sec. 11.71.360. UNPRIVILEGED COMMUNICATIONS. Information commu-  
2           nicated to a physician or other licensed practitioner in an effort to  
3           unlawfully procure a controlled substance or to unlawfully procure the  
4           administration of a controlled substance is not a privileged communi-  
5           cation.

6                           ARTICLE 4. DEFINITIONS.

7           Sec. 11.71.900. DEFINITIONS. In this chapter, unless the context  
8           clearly requires otherwise,

9                   (1) "administer" means the direct application of a controlled  
10           substance, whether by injection, inhalation, ingestion, or any other  
11           means into the body of a patient or research subject by

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

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

16                   (2) "agent" means an authorized person who acts on behalf of  
17           or at the direction of a manufacturer, distributor, or dispenser, but  
18           does not include a common or contract carrier, public warehouseman, or  
19           employee of the carrier or warehouseman;

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

22                   (4) "controlled substance" means a drug, substance, or im-  
23           mediate precursor included in the schedules set out in AS 11.71.140 -  
24           11.71.190;

25                   (5) "counterfeit substance" means a controlled substance  
26           which, without authorization, bears the trademark, trade name, or other  
27           identifying mark, imprint, number, or device of a manufacturer, distri-  
28           butor, or dispenser other than the person or persons who in fact manu-  
29           factured, distributed, or dispensed the substance and which falsely

1 purports or is represented to be the product of, or to have been distri-  
2 buted by, the other manufacturer, distributor, or dispenser;

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

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

11 (8) "distribute" means to deliver other than by administering  
12 or dispensing a controlled substance, whether or not there is any money  
13 or other item of value exchanged; it includes sale, gift, or exchange;  
14 "distributor" means a person who distributes;

15 (9) "drug"

16 (A) means

17 (i) a substance recognized as a drug in the offi-  
18 cial United States Pharmacopoeia, official Homeopathic Pharma-  
19 copoeia of the United States, or official National Formulary,  
20 or any supplement to these publications;

21 (ii) a substance intended for use in the diagnosis,  
22 cure, mitigation, treatment, or prevention of disease in  
23 humans or animals;

24 (iii) a substance, other than food, intended to  
25 affect the structure or any function of the body of humans or  
26 animals; and

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

1 (B) does not include a device or its components, parts,  
2 or accessories;

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

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

7 (12) "immediate precursor" means a substance which is by  
8 statute or regulation designated as the principal compound commonly used  
9 or produced primarily for use, and which is an immediate chemical inter-  
10 mediary used or likely to be used in the manufacture of a controlled  
11 substance, the control of which is necessary to prevent, curtail, or  
12 limit manufacture of that controlled substance;

13 (13) "manufacture"

14 (A) means the production, preparation, propagation,  
15 compounding, conversion, growing, or processing of a controlled  
16 substance, either directly or indirectly by extraction from sub-  
17 stances of natural origin, or independently by means of chemi cal  
18 synthesis, or by a combination of extraction and chemical syn-  
19 thesis; however, the growing of marijuana for personal use is not  
20 manufacturing;

21 (B) includes the preparation, compounding, packaging,  
22 repackaging, labeling or relabeling of a controlled substance or  
23 its container unless done in conformity with applicable federal law

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

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

1 (14) "marijuana" means the seeds, and leaves, buds, and  
2 flowers of the plant (genus) Cannabis, whether growing or not. It does  
3 not include the resin or oil extracted from any part of the plants, or  
4 any compound, manufacture, salt, derivative, mixture, or preparation  
5 from the resin or oil, including hashish, hashish oil, and natural or  
6 synthetic tetrahydrocannabinol; it does not include the stalks of the  
7 plant, fiber produced from the stalks, oil or cake made from the seeds  
8 of the plant, any other compound, manufacture, salt, derivative, mixture,  
9 or preparation of the stalks, fiber, oil or cake, or the sterilized seed  
10 of the plant which is incapable of germination;

11 (15) "opiate" means

12 (A) a substance having an addiction-forming or addic-  
13 tion-sustaining capability similar to morphine or being capable of  
14 conversion into a drug having addiction-forming or addiction-  
15 sustaining capability;

16 (B) includes its racemic and levorotatory forms; and

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

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

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

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

29 (19) "practitioner" means

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

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

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

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

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

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

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

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

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

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

29 \* Sec. 3. AS 12.55.015 is amended by adding a new subsection to read:



1 (d) A court, in imposing sentence on a defendant convicted of  
2 misconduct involving a controlled substance in the first, second, third,  
3 fourth, fifth, or sixth degree, may, in addition to any mandatory  
4 minimum sentence required by law, order the defendant to participate in  
5 a program for treatment of drug abusers if the court determines that the  
6 defendant is a drug abuser. Participation in such a program may be  
7 imposed as a condition of probation, a condition of suspended execution  
8 of sentence, or a condition of suspended imposition of sentence. Nothing  
9 in this subsection shall be construed to reduce any mandatory minimum  
10 sentence.

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

12 CHAPTER 30. CONTROLLED SUBSTANCES.

13 ARTICLE 1. REGULATION OF MANUFACTURE, DISTRIBUTION,  
14 PRESCRIPTION, AND DISPENSING OF CONTROLLED SUBSTANCES.

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

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

27 Sec. 17.30.020. REGISTRATION REQUIREMENTS. (a) A person who  
28 manufactures, distributes, dispenses, or conducts research with a con-  
29 trolled substance in the state or who proposes to manufacture, distri-

1       bute, or dispense a controlled substance in the state, shall register  
2       annually with the board in accordance with regulations adopted under  
3       AS 17.30.010.

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

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

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

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

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

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

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

27           (f) The board may inspect the establishment of a registrant or  
28       applicant for registration in accordance with regulations adopted by  
29       the board.

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

7           (1) maintenance of effective controls against diversion of  
8 controlled substances into other than legitimate medical, scientific,  
9 or industrial channels;

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

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

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

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

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

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

25           (b) A practitioner registered under federal law to conduct re-  
26 search with controlled substances shall be issued a registration to  
27 conduct research with these substances in the state if the practitioner  
28 furnishes the board with evidence of the federal registration.

29           (c) A manufacturer, distributor, or dispenser who complies with

1 federal law pertaining to registration requirements other than fees is  
2 entitled to be registered under this chapter.

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

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

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

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

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

18 (c) If the board denies, suspends, or revokes a registration, all  
19 controlled substances owned or possessed by the registrant at the time  
20 of the denial or suspension or the effective date of the revocation  
21 order may be placed under seal by the board or the Department of Public  
22 Safety and remains in the custody of the department, subject only to  
23 the orders and decrees of a court having jurisdiction over the property.  
24 A disposition may not be made of substances under seal until the time  
25 for taking an appeal has elapsed or until all appeals have been con-  
26 cluded unless a court, upon application, orders the sale of perishable  
27 substances and the deposit of the proceeds of the sale with the court.  
28 After a revocation order is final, all controlled substances held by  
29 the registrant are forfeited to the state.

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

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

21 (b) The board may, without an order to show cause, suspend a  
22 registration simultaneously with the institution of proceedings under  
23 AS 17.30.040 if it finds that there is an imminent danger to the public  
24 health or safety which warrants this action. The suspension continues  
25 in effect until the conclusion of the proceedings, including judicial  
26 review of the proceedings, unless withdrawn by the board or dissolved  
27 by a court of competent jurisdiction.

28 Sec. 17.30.060. RECORDS OF REGISTRANTS. A person registered to  
29 manufacture, distribute, dispense, or conduct research with controlled

1 substances under this chapter shall keep records and maintain invento-  
2 ries in conformance with the record keeping and inventory requirements  
3 of federal law and in conformance with additional regulations adopted  
4 by the board.

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

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

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

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

24 ARTICLE 2. ENFORCEMENT AND ADMINISTRATIVE PROVISIONS.

25 Sec. 17.30.100. COOPERATIVE ARRANGEMENTS. (a) The commissioner  
26 of public safety shall cooperate with other state and federal agencies  
27 in the discharge of their responsibilities pertaining to illicit traffic  
28 in controlled substances and in suppressing the abuse of controlled  
29 substances. Under this section, the powers of the commissioner of

1 public safety include but are not limited to the following:

2 (1) arranging for the exchange of information among govern-  
3 ment officials concerning illicit traffic in and abuse of controlled  
4 substances;

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

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

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

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

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

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

25 (3) property which is used or intended for use as a container  
26 for property described in (1) or (2) of this subsection;

27 (4) a conveyance, including but not limited to aircraft,  
28 vehicles or vessels, which has been used or is intended for use in  
29 transporting or in any manner in facilitating the transportation, sale,

1 receipt, possession, or concealment of property described in (1) or (2)  
2 of this subsection in violation of a felony offense under this chapter  
3 or AS 11.71; however,

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

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

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

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

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

25 (b) Property listed in (a) of this section may be forfeited to the  
26 state either upon conviction of the defendant of a violation of this  
27 chapter or AS 11.71, or upon judgment of a court in a separate civil  
28 proceeding in rem. The court may order a forfeiture in the in rem  
29 proceeding if it finds that an item specified in (a) of this section was



1 used during or in aid of a violation of this chapter or AS 11.71.

2 (c) It is not a defense in an in rem proceeding brought under  
3 this section that a criminal proceeding has resulted in a conviction or  
4 conviction of a lesser offense for a violation of this chapter or  
5 AS 11.71.

6 (d) Property listed in (a) of this section may be seized by a  
7 peace officer upon an order issued by a court having jurisdiction over  
8 the property upon a showing of probable cause that the property may be  
9 forfeited under (a) of this section. Seizure without a court order may  
10 be made if

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

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

16 (3) there is probable cause that the property was used, is  
17 being used, or is intended for use, in violation of this chapter or  
18 AS 11.71 and the property is easily movable; property seized under this  
19 paragraph may not be held for more than 48 hours without a court order  
20 obtained to continue its detention.

21 (e) Property taken or detained under (d) of this section shall be  
22 held in the custody of either the commissioner of public safety or a  
23 municipal law enforcement agency authorized by the commissioner of  
24 public safety to retain custody of property listed in (a) of this section  
25 subject only to the orders and decrees of the court having jurisdiction  
26 over any forfeiture proceedings. If property is seized under this  
27 chapter, the commissioner of public safety or an authorized municipal  
28 law enforcement agency may

29 (1) place the property under seal;

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

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

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

9 (g) Within 20 days after a seizure under this section, the commis-  
10 sioner of public safety shall, by certified mail, notify any person  
11 known to have an interest in an item with an appraised value of \$500 or  
12 more, or who is ascertainable from official registration numbers,  
13 licenses, or other state, federal or municipal numbers on the item of  
14 the pending forfeiture action. Additionally, the commissioner of public  
15 safety shall publish notice of forfeiture action of an item valued at  
16 \$500 or more in a newspaper of general circulation in the judicial  
17 district in which the seizure was made, or if no newspaper is published  
18 in that district, in a newspaper published in the state and distributed  
19 in that district. The notice shall be published once each week during  
20 four consecutive calendar weeks. The requirements of this subsection do  
21 not apply to the forfeiture of controlled substances which have been  
22 manufactured, distributed, dispensed, or possessed in violation of this  
23 chapter or AS 11.71, regardless of their value.

24 (h) Upon service or publication of notice of commencement of a  
25 forfeiture action under this section, a person claiming interest in the  
26 property shall file within 30 days after the service or publication, a  
27 notice of claim setting out the nature of his interest, the date it was  
28 acquired, the consideration paid, and an answer to the state's allega-  
29 tions. If a claim and answer is not filed within the time specified,

1 the property described in the state's allegation must be ordered  
2 forfeited to the state without further proceedings or showings.

3 (i) Questions of fact or law raised by a notice of forfeiture  
4 action and answer of a claimant in an action commenced under this section  
5 must be determined by the court sitting without a jury. This proceeding  
6 may be held in abeyance until conclusion of any pending criminal charges  
7 against the claimant under this chapter or AS 11.71.

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

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

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

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

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

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

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

23 (l) A claimant may petition the court for sale of an item before  
24 final disposition of court proceedings. The court shall grant a peti-  
25 tion for sale upon a finding that the sale is in the best interests of  
26 the state and the preservation and maintenance of the item seized.  
27 Proceeds from the sale plus interest to the date of final disposition  
28 of the court proceedings become the subject of the forfeiture action.

29 (m) Property forfeited under this section other than controlled

1 substances shall be disposed of by the commissioner of administration  
2 in accordance with applicable law. The commissioner of administration  
3 may

4 (1) destroy property harmful to the public;

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

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

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

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

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

18 (1) if the claimant is entitled to the item, it shall be  
19 delivered to him forthwith;

20 (2) if the claimant is entitled to remittance of some value  
21 less than the total value of the item, the claimant is entitled, at his  
22 choice, to receive either the value of the claimant's interest or, upon  
23 receipt of payment of the difference in value by the claimant, the  
24 entire item.

25 (o) An offender who used an item subject to remission in violation  
26 of this chapter or AS 11.71 shall be assessed a fine which may not be  
27 less than the cost of any lien payment or remittance made by the state  
28 plus the reasonable costs of the seizure.

29 (p) A controlled substance manufactured, possessed, transferred,

1 sold, or offered for sale in violation of this chapter or AS 11.71 is  
2 contraband and must be seized and summarily forfeited to the state. The  
3 commissioner of public safety or his designee, including a municipal law  
4 enforcement agency authorized under (e) of this section to retain custody  
5 of controlled substances, is responsible for the disposal of controlled  
6 substances which have been forfeited. The controlled substances shall  
7 be disposed of in accordance with procedures and requirements prescribed  
8 by the commissioner.

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

13 Sec. 17.30.130. JUDICIAL REVIEW. A final determination, finding,  
14 or conclusion of the board under this chapter or a regulation adopted  
15 under it is a final decision of the matter involved. A person aggrieved  
16 by a decision may obtain review of the decision in the superior court in  
17 accordance with AS 44.62.560 - 44.62.570. However, a person is not  
18 entitled to a hearing de novo in the superior court.

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

23 (1) assist the regulated industry and interested groups and  
24 organizations in contributing to the reduction of abuse of controlled  
25 substances;

26 (2) promote better recognition of the problems surrounding  
27 abuse of controlled substances within the regulated industry and among  
28 interested groups and organizations;

29 (3) consult with interested groups and organizations to aid

1 them in solving administrative and organizational problems;

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

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

8 (6) with the cooperation of the Department of Law, assist in  
9 the education and training of state and local law enforcement officials  
10 in their efforts to prevent illicit traffic in and abuse of controlled  
11 substances.

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

14 (1) establish methods to assess the effects of controlled  
15 substances and identify and characterize those with potential for  
16 abuse;

17 (2) make studies and undertake research to

18 (A) develop new or improved approaches, techniques,  
19 systems, equipment, and devices to strengthen the enforcement of  
20 this chapter;

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

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

25 (3) enter into contracts with public agencies, institutions  
26 of higher education, and private organizations or individuals for con-  
27 ducting research, demonstrations, or special projects which bear  
28 directly on abuse of controlled substances and for related research and  
29 educational activities.

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

7           (b) A practitioner engaged in medical practice or research may  
8 not furnish the name or identity of a patient or research subject to  
9 the board. The practitioner may not otherwise disclose the name or  
10 identity of an individual that he is required to keep confidential  
11 unless ordered by a court to disclose it within the context of a crim-  
12 inal investigation or proceeding.

13           Sec. 17.30.160. DEFINITIONS. (a) Unless the context clearly  
14 requires otherwise, the definitions set out in AS 11.71.900 apply to  
15 this chapter.

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

18 \* Sec. 5. AS 17 is amended by adding a new chapter to read:

19           CHAPTER 35. ALASKA THERAPEUTIC RESEARCH ACT.

20           Sec. 17.35.010. LEGISLATIVE PURPOSE. The legislature finds that  
21 recent research has shown that the use of marijuana may alleviate the  
22 nausea and ill effects of cancer chemotherapy and radiology, and,  
23 additionally, may alleviate the ill effects of glaucoma. The legis-  
24 lature further finds that there is a need for further research and  
25 experimentation regarding the use of marijuana under strictly con-  
26 trolled circumstances.

27           Sec. 17.35.020. THERAPEUTIC RESEARCH PROGRAM. (a) A therapeutic  
28 research program is established in the Board of Pharmacy. The program  
29 shall be administered by the board. The board shall adopt regulations

1 necessary for the proper administration of this chapter. Before adopt-  
2 ing regulations, the board shall take into consideration pertinent  
3 regulations adopted by the Drug Enforcement Administration of the  
4 United States Department of Justice, the federal Food and Drug Adminis-  
5 tration, and the National Institute on Drug Abuse.

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

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

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

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

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

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

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

28 (c) The Patient Qualification Review Committee shall review all  
29 applicants for the therapeutic research program and their licensed



1 practitioners and certify their participation in the program.

2 (d) The Patient Qualification Review Committee and the board shall  
3 protect the privacy of individuals who participate in the therapeutic  
4 research program by withholding the names and other identifying charac-  
5 teristics of those individuals from all persons who are not connected  
6 with the research. Persons authorized to engage in research under the  
7 therapeutic research program may not be compelled in any civil, criminal  
8 administrative, legislative, or other proceeding to identify the indivi-  
9 duals who are the subjects of research for which the authorization was  
10 granted unless necessary to permit the board to determine whether the  
11 research is being conducted in accordance with the authorization.

12 (e) The Patient Qualification Review Committee may include other  
13 disease groups for participation in the therapeutic research program.  
14 However, a practitioner must present pertinent medical data to both the  
15 committee and the board before a disease group may be added. The parti-  
16 cipation of a disease group must be approved by the board consistent  
17 with applicable regulations adopted by the Drug Enforcement Administra-  
18 tion of the United States Department of Justice, the federal Food and  
19 Drug Administration, and the National Institute on Drug Abuse.

20 Sec. 17.35.040. SOURCES, DISTRIBUTION AND POSSESSION OF MARIJUANA.

21 (a) A patient who is certified to participate in the therapeutic re-  
22 search program by the Patient Qualification Review Committee may obtain  
23 and possess marijuana, its derivatives, or its active ingredients,  
24 whether synthetic or natural, for his own use.

25 (b) The board shall establish procedures by which a person author-  
26 ized under this section to possess marijuana, its derivatives or active  
27 ingredients, whether synthetic or natural, may do so, subject to applic-  
28 able regulations adopted by the Drug Enforcement Administration of the  
29 United States Department of Justice, the United States Food and Drug

1 Administration, and the National Institute on Drug Abuse.

2 Sec. 17.35.050. REPORT TO THE GOVERNOR AND LEGISLATURE. The  
3 board, in conjunction with the Patient Qualification Review Committee,  
4 shall report its findings and recommendations to the governor and the  
5 legislature regarding the effectiveness of the therapeutic research  
6 program by March 1, 1984.

7 Sec. 17.35.060. DEFINITIONS. In this chapter

8 (1) "board" means the Board of Pharmacy;

9 (2) "marijuana" has the meaning set out in AS 11.71.900(14);

10 (3) "practitioner" means a physician authorized to practice  
11 medicine in the state under AS 08.64.

12 \* Sec. 6. AS 08.64.380(3)(B) is amended to read:

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

17 \* Sec. 7. AS 08.80.040 is amended by adding a new paragraph to read:

18 (10) provide for the regulation of controlled substances  
19 under AS 17.30.

20 \* Sec. 8. AS 08.80.470 is amended to read:

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

25 \* Sec. 9. AS 08.80.480(20) is repealed and reenacted to read:

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

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

29 (1) class A felony if the crime attempted is an unclassified

1 felony [MURDER IN ANY DEGREE OR KIDNAPPING];

2 \* Sec. 11. AS 11.31.110(c)(1) is amended to read:

3 (1) class A felony if the crime solicited is an unclassified

4 felony [MURDER IN ANY DEGREE OR KIDNAPPING];

5 \* Sec. 12. AS 11.81.900(b)(4) is amended to read:

6 (4) "cannabis" has the meaning ascribed to it in AS 11.71.-

7 900(10), (11), and (14) [AS 17.12.150];

8 \* Sec. 13. AS 11.81.900(b)(6) is repealed and reenacted to read:

9 (6) "controlled substance" has the meaning ascribed to it in

10 AS 11.71.900(4);

11 \* Sec. 14. AS 11.81.900(b)(16) is repealed and reenacted to read:

12 (16) "drug" has the meaning ascribed to it in AS 11.71.-

13 900(9);

14 \* Sec. 15. AS 12.30.040(b) is repealed and reenacted to read:

15 (b) Notwithstanding the provisions of (a) of this section, if a

16 person has been convicted of an offense which is an unclassified felony

17 or a class A felony, he may not be released on bail either before

18 sentencing or pending appeal.

19 \* Sec. 16. AS 12.45 is amended by adding a new section to read:

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

21 In a prosecution under AS 11.71.010 - 11.71.070, a complete copy of an

22 official laboratory report from the Department of Public Safety or a

23 laboratory operated by another law enforcement agency is prima facie

24 evidence of the content, identity, and weight of a controlled sub-

25 stance. The report must be signed by the person performing the anal-

26 ysis and must state that the substance which is the basis of the alleged

27 offense has been weighed and analyzed. In the report, the author shall

28 state with specificity his findings of the content, weight, and identity

29 of the substance.

1 (b) A sworn statement prepared by the author of the report pro-  
2 vided for in (a) of this section must be attached to the report. The  
3 statement must set out the identity of the author and include a state-  
4 ment that he is an employee of the laboratory issuing the report and  
5 that performing the analysis is a part of his regular duties. The  
6 statement must also include an outline of his education, training, and  
7 experience for performing an analysis. The author shall state that  
8 scientifically accepted tests were performed with due caution, and  
9 whether to his knowledge the evidence was handled in accordance with  
10 established and accepted procedures while in the custody of the labora-  
11 tory.

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

18 (d) The accused or his attorney may demand the testimony of the  
19 person signing the report, by serving a written demand showing cause  
20 upon the prosecuting attorney within seven days from receipt of the  
21 report.

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

25 \* Sec. 17. AS 12.55.035(b)(1) is amended to read:

26 (1) \$75,000 for murder in the first or second degree, [OR]  
27 kidnapping, or misconduct involving a controlled substance in the first  
28 degree;

29 \* Sec. 18. AS 12.55.125(b) is amended to read:

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

5 \* Sec. 19. AS 12.55.155(c) is amended by adding new paragraphs to read:

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

10 (20) the defendant is convicted of an offense specified in  
11 AS 11.71 and the offense involved the transportation of controlled  
12 substances into the state;

13 (21) the defendant is convicted of an offense specified in  
14 AS 11.71 and the offense involved large quantities of a controlled  
15 substance;

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

19 \* Sec. 20. AS 12.55.155(d) is amended by adding new paragraphs to read:

20 (14) the defendant is convicted of an offense specified in  
21 AS 11.71 and the offense involved small quantities of a controlled  
22 substance;

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

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

1 \* Sec. 21. AS 28.35.030(a)(1) is amended to read:

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

6 \* Sec. 22. AS 33.15.190 is amended by adding a new subsection to read:

7 (b) A prisoner who is imprisoned because of a conviction for  
8 misconduct involving a controlled substance in the first, second, third,  
9 fourth, fifth, or sixth degree and who is a drug abuser may not be  
10 released on parole unless the prisoner has participated in a program for  
11 treatment of drug abusers, if such a program is available. Parole may  
12 be conditioned upon continued participation in a program for treatment  
13 of drug abusers after release from imprisonment. Nothing in this sub-  
14 section shall be construed to reduce any mandatory sentence or to grant  
15 a right to parole.

16 \* Sec. 23. (a) Prosecution for a violation of law occurring before  
17 January 1, 1983, is not affected or abated by this Act. Violation of any law  
18 repealed by this Act may still be prosecuted and brought to a final determina-  
19 tion in accordance with the laws and regulations in effect at the time of the  
20 violation.

21 (b) This Act does not apply to a civil seizure, forfeiture, or injunc-  
22 tive proceeding commenced before January 1, 1983.

23 (c) Administrative proceedings pending under a law repealed or amended  
24 by this Act shall be continued and brought to a final determination in accor-  
25 dance with the laws and regulations in effect before January 1, 1983.

26 (d) The Board of Pharmacy shall permit persons who own or operate an  
27 establishment engaged in the manufacture, distribution, or dispensing of a  
28 controlled substance to register before January 1, 1983.

29 (e) This Act applies to violations of law, seizures, forfeitures,

1 injunctive proceedings, administrative proceedings, and investigations which  
2 occur after December 31, 1982.

3 \* Sec. 24. Orders issued and regulations adopted under a law amended or  
4 repealed by this Act and in effect on January 1, 1983, and not in conflict  
5 with this Act continue until amended or repealed.

6 \* Sec. 25. The members of the Controlled Substance Advisory Committee  
7 first appointed under AS 11.71.100(a)(5) - (8) shall serve terms as follows:

- 8 (1) one member for two years;  
9 (2) two members for three years; and  
10 (3) two members for four years.

11 \* Sec. 26. AS 17.10, AS 17.12, and AS 17.15 are repealed.

12 \* Sec. 27. This Act takes effect on January 1, 1983.

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