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1 IN THE SENATE

BY THE CONFERENCE COMMITTEE

2

CONFERENCE CS FOR SENATE BILL NO. 190

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 to
7 the criminal laws of the state; and providing for an
8 effective date."

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

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* Section 1. DECLARATION OF LEGISLATIVE PURPOSE. (a) The purposes of

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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.

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(b) Two distinct, but interrelated, concerns are addressed in this Act.

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The first concern is the detrimental effect on public safety created through

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illicit trafficking in and use of drugs. A second, equally important concern,

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is the effect on public health created by the use and abuse of drugs. It is

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the intent of the legislature that, in addressing public safety concerns,

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uniform classification and penalty provisions be enacted which adopt an

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approach reflecting law enforcement problems unique to Alaska. It is also

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the intent of the legislature that in addressing public health concerns, a

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statutory scheme be enacted which is patterned after federal law and that the

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legitimate manufacture, distribution, prescription, and dispensing of con-

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trolled substances be subject to a regulatory scheme regarding registration,

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record keeping, order forms, and prescription requirements that is identical

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to that provided under federal law.

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(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 (d) 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 the person

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 the person delivering the substance; 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 the person delivering the substance; 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) the person commits a violation of this chapter which is
24 punishable 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 the person undertakes in concert with at least
28 five other persons organized, supervised, or otherwise managed by
29 the person; and

1 (B) from which the person obtains substantial income or
2 resources.

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

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

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

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

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

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 of an aggregate weight of six grams or more containing a
29 schedule VA 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 17.35, a
10 person commits the crime of misconduct involving a controlled substance
11 in the fifth degree if the person

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 containing
15 a 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 con-
19 taining a 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 the person

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 the immediate control of that person while
21 operating a propelled 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 sub-
6 stance in the seventh degree if the person

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 is a violation and is punishable as authorized in AS 12.55,
18 except that if a fine is imposed it shall not be more than \$100.

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

23 ARTICLE 2. STANDARDS AND SCHEDULES.

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

27 (1) the attorney general or the attorney general's designee;
28 (2) the commissioner of health and social services or the
29 commissioner's designee;

1 (3) the commissioner of public safety or the commissioner's
2 designee;

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

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

7 (6) a physician appointed by the governor;

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

9 (8) two individuals appointed by the governor.

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

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

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

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

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

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

22 (1) advise the governor of the need to add, delete or re-
23 schedule substances in the schedules in AS 11.71.140 - 11.71.190;

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

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

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

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

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

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

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

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

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

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

28 (c) In advising the governor of the need to add, delete, or
29 reschedule a substance, under AS 11.71.110(1), the committee shall

1 assess the danger or probable danger of the substance after considering
2 the following:

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

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

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

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

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

11 (2) the biomedical hazard of the substance including

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

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

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

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

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

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

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

29 (B) whether the nature and relative profitability of

1 manufacturing or delivering the substance encourages illicit traf-
2 ficking in the substance;

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

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

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

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

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

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

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

- 25 (A) raw opium;
26 (B) opium extracts;
27 (C) opium fluid extracts;
28 (D) powdered opium;
29 (E) granulated opium;

- 1 (F) tincture of opium;
- 2 (G) codeine;
- 3 (H) ethylmorphine;
- 4 (I) etorphine hydrochloride;
- 5 (J) hydrocodone;
- 6 (K) hydromorphone;
- 7 (L) metopon;
- 8 (M) morphine;
- 9 (N) oxycodone;
- 10 (O) oxymorphone;
- 11 (P) thebaine;

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

17 (3) opium poppy and poppy straw;

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

21 (c) Schedule IA includes, unless specifically excepted or unless
22 listed in another schedule, any of the following opiates, including
23 their isomers, esters, ethers, salts, and salts of isomers, esters, and
24 ethers, whenever the existence of these isomers, esters, ethers, and
25 salts is possible within the specific chemical designation, dextrorphan
26 excepted:

- 27 (1) acetylmethadol;
- 28 (2) allylprodine;
- 29 (3) alphacetylmethadol;

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

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

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

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

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

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

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

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

- 21 (1) 4-bromo-2, 5-dimethoxy-amphetamine, also known as
22 4-bromo-2,5-dimethoxy-a-methylphenethylamine and 4-bromo-2, DMA;
- 23 (2) 2,5-dimethoxyamphetamine, also known as 2,5-dimethoxy-
24 a-methylphenethylamine and 2,5-DMA;
- 25 (3) 4-methoxyamphetamine, also known as 4-methoxy-a-methyl-
26 phenethylamine and paramethoxyamphetamine, PMA;
- 27 (4) 5-methoxy-3,4-methylenedioxy-amphetamine;
- 28 (5) 4-methyl-2,5-dimethoxy-amphetamine, also known as 4-
29 methyl-2,5 - dimethoxy-a-methylphenethylamine;

- 1 (6) 3,4-methylenedioxy amphetamine;
- 2 (7) 3,4,5-trimethoxy amphetamine;
- 3 (8) bufotenine, also known as 3-(B-dimethylaminoethyl)-5-
- 4 hydroxyindole, 3-(2-dimethylaminoethyl)-5-indolol, N, N-dimethylsero-
- 5 tonin; 5-hydroxy-N, N-dimethyltryptamine, and mappine;
- 6 (9) diethyltryptamine, also known as N, N-diethyltryptamine
- 7 and DET;
- 8 (10) dimethyltryptamine, also known as DMT;
- 9 (11) ibogaine, also known as 7-ethyl-6, 6B, 7, 8, 9, 10, 12,
- 10 13-octahydro-2-methoxy-6, 9-methano-5H-pyrido [1',2': 1, 2] azepino [5,
- 11 4-b] indole and tabernanthe iboga;
- 12 (12) lysergic acid diethylamide, also known as LSD;
- 13 (13) mescaline;
- 14 (14) n-ethyl-3-piperidyl benzilate;
- 15 (15) n-methyl-3-piperidyl benzilate;
- 16 (16) peyote;
- 17 (17) analogs of phencyclidine (PCP), including:
- 18 (A) ethylamine analog, also known by some trade or other
- 19 names as follows: N-ethyl-1-phenylcyclohexylamine (1-phenylcyclo-
- 20 hexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine,
- 21 PCE;
- 22 (B) pyrrolidine analog, also known by some trade or
- 23 other names as follows: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPY,
- 24 PHP;
- 25 (C) thiophene analog, also known as 1-[1-(2-thienyl)
- 26 cyclohexyl] piperidine and 2-thienylanalog of phencyclidine, TPCP,
- 27 and TCP;
- 28 (18) psilocybin;
- 29 (19) psilocyn.

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

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

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

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

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

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

3 (3) methlyphenidate;

4 (4) phenmetrazine and its salts.

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

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

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

12 (A) 1-phencyclohexylamine;

13 (B) 1-piperidinocyclohexanecarbonitrile, also known as

14 PCC.

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

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

27 (1) benzphetamine;

28 (2) chlorphentermine;

29 (3) clortermine;

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- (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;
- (11) sulfonmethane.

1 (d) Schedule IIIA includes nalorphine.

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

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

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

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

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

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

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

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

29 (8) not more than 50 milligrams of morphine per 100 milli-

1 liters or per 100 grams, with one or more active, nonnarcotic ingredi-
2 ents in recognized therapeutic amounts.

3 (f) Schedule IIIA includes

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

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

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

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

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

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

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

- 21 (1) diethylpropion;
- 22 (2) phentermine;
- 23 (3) pemoline, including organometallic complexes and chelates
24 of this substance.

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

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

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

7 (2) pentazocine;

8 (3) propoxyphene.

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

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

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

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

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

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

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

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

5 (c) Schedule VA includes loperamide.

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

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

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

18 ARTICLE 3. MISCELLANEOUS PROVISIONS.

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

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

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

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

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

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

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

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

29 Sec. 11.71.360. UNPRIVILEGED COMMUNICATIONS. Information commu-

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

5 ARTICLE 4. DEFINITIONS.

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

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

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

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

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

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

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

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

1 buted by, the other manufacturer, distributor, or dispenser;

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

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

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

14 (9) "drug"

15 (A) means

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

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

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

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

29 (B) does not include a device or its components, parts,

1 or accessories;

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

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

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

12 (13) "manufacture"

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

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

23 (i) by a practitioner as an incident to the practi-
24 tioner's administering or dispensing of a controlled substance
25 in the course of the practitioner's professional practice; or

26 (ii) by a practitioner, or by the practitioner's
27 authorized agent under the practitioner's supervision, for the
28 purpose of, or as an incident to, research, teaching, or
29 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 the person's own use or for the use of a member
27 of the person's household or for administering to an animal owned by the
28 person or by a member of the person's 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 the person's registration
8 and in 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 the agent's or
14 employee's business or employment;

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

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

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

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

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

1 board.

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

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

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

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

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

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

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

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

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

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

4 Sec. 17.30.040. DENIAL, REVOCATION AND SUSPENSION OF REGISTRATION.

5 (a) A registration applied for or issued under AS 17.30.030 to manufac-
6 ture, distribute, dispense, or conduct research with a controlled sub-
7 stance may be denied, suspended, or revoked by the board upon a finding
8 that the registrant

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

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

13 (3) the registrant's federal registration to manufacture,
14 distribute, dispense, or conduct research with controlled substances has
15 been denied, suspended, or revoked.

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

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

1 registrant are forfeited to the state.

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

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

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

29 Sec. 17.30.060. RECORDS OF REGISTRANTS. A person registered to

1 manufacture, distribute, dispense, or conduct research with controlled
2 substances under this chapter shall keep records and maintain invento-
3 ries in conformance with the record keeping and inventory requirements
4 of federal law and in conformance with additional regulations adopted
5 by the board.

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

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

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

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

25 ARTICLE 2. ENFORCEMENT AND ADMINISTRATIVE PROVISIONS.

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

1 substances. Under this section, the powers of the commissioner of
2 public safety include but are not limited to the following:

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

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

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

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

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

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

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

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

28 (4) a conveyance, including but not limited to aircraft,
29 vehicles or vessels, which has been used or is intended for use in

1 transporting or in any manner in facilitating the transportation, sale,
2 receipt, possession, or concealment of property described in (1) or (2)
3 of this subsection in violation of a felony offense under this chapter
4 or AS 11.71; however,

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

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

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

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

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

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

1 proceeding if it finds that an item specified in (a) of this section was
2 used during or in aid of a violation of this chapter or AS 11.71.

3 (c) It is not a defense in an in rem proceeding brought under this
4 section that a criminal proceeding has resulted in a conviction or con-
5 viction of a lesser offense for a violation of this chapter or 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 the 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 the claimant immediately;

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 the
22 claimant's choice, to receive either the value of the claimant's interest
23 or, upon receipt of payment of the difference in value by the claimant,
24 the 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 the commissioner's designee, including
4 a municipal law enforcement agency authorized under (e) of this section
5 to retain custody of controlled substances, is responsible for the
6 disposal of controlled substances which have been forfeited. The con-
7 trolled substances shall be disposed of in accordance with procedures
8 and requirements prescribed 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 de-
21 signed 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 the practitioner is required to keep
11 confidential unless ordered by a court to disclose it within the context
12 of a criminal 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 the patient's 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, the person 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 findings as to 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 the author is an employee of the laboratory issuing the report
5 and that performing the analysis is a part of the author's regular
6 duties. The statement must also include an outline of the author's
7 education, training, and experience for performing an analysis. The
8 author shall state that scientifically accepted tests were performed
9 with due caution, and whether to the author's knowledge the evidence was
10 handled in accordance with established and accepted procedures while in
11 the custody of the laboratory.

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 the
14 defendant has no attorney, not later than 20 days before a proceeding in
15 which the report is to be used against the accused. However, at a
16 preliminary hearing or grand jury proceeding, the report may be used
17 without having previously been served upon the accused.

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

22 (e) A report issued for use under this section must contain notice
23 of the right of the accused to demand the testimony of the person signing
24 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 least
4 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 substance
8 under circumstances manifesting an intent to distribute the substance as
9 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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