

Original sponsor: Gruenberg

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

1 IN THE HOUSE

2

SENATE CS FOR CS FOR HOUSE BILL NO. 641 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to generic drugs, pharmaceuticals,
7 and the Board of Pharmacy; repealing the marijuana
8 therapeutic research program; and providing for an
9 effective date."

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

11 * Section 1. AS 08.03.010(c)(4) is amended to read:

12 (4) Board of Pharmacy (AS 08.80.010) -- June 30, 1989
13 [1985].

14 * Sec. 2. AS 08.80.030 is amended to read:

15 Sec. 08.80.030. POWERS OF THE BOARD. The board may

16 (1) elect a president and secretary from its membership and
17 adopt rules for the conduct of its business;

18 (2) examine applicants for registration as pharmacists;

19 (3) assist the department in inspections and investigations
20 [INVESTIGATE INDIVIDUALLY, COLLECTIVELY, OR THROUGH ITS AGENT,] for
21 violations of this chapter, or of any other state or federal statute
22 relating to the practice of pharmacy;

23 (4) adopt regulations and do whatever else is necessary and
24 advisable to carry out the purposes of this chapter;

25 (5) adopt [PROMULGATE] regulations to carry out the pur-
26 poses of this chapter;

27 (6) [REPEALED

28 (7)] register intern pharmacists and adopt regulations
29 [PROMULGATE RULES] relating to their minimum experience requirements;

1 (7) adopt [(8) PROMULGATE] regulations to ensure adequate
2 security for all dangerous drugs;

3 (8) [(9)] adopt requirements for licensing in addition to
4 the requirements set out in this chapter.

5 * Sec. 3. AS 08.80.295(a) is amended to read:

6 (a) Unless the prescription expressly states that it is to be
7 dispensed only as written [EXCEPT AS LIMITED BY (b) AND (c) OF THIS
8 SECTION, WITH THE CONSENT OF THE PURCHASER], the pharmacist may, with
9 the consent of the purchaser, substitute a drug product with the same
10 generic name in the same strength, quantity, dose and dosage form as
11 the prescribed drug, provided the substitute drug [PRESCRIBED DRUG
12 WHICH] is, in the pharmacist's professional opinion, therapeutically
13 equivalent and meets the standards of (g) of this section. The [UPON
14 SUBSTITUTION THE] pharmacist shall notify the purchaser [AND THE
15 PERSON WHO PRESCRIBED THE DRUG] of the substitution, and shall record
16 on the prescription and keep a record of the name and manufacturer of
17 the drug substituted.

18 * Sec. 4. AS 08.80.295 is amended by adding new subsections to read:

19 (i) A pharmacist who substitutes a drug in compliance with this
20 section incurs no greater liability in filling the prescription by
21 dispensing the equivalent drug product than would be incurred in
22 filling the prescription by dispensing the prescribed brand name drug.

23 (j) Every pharmacy shall post a sign in a location easily seen
24 by patrons at the counter where prescriptions are dispensed stating
25 that "Under Alaska law a therapeutically equivalent but less expensive
26 drug may, with your consent, be substituted for the drug prescribed by
27 your doctor unless your doctor has specified otherwise. Please con-
28 sult your pharmacist or physician." The printing on the sign shall be
29 in block letters not less than one inch in height.

1 * Sec. 5. AS 08.80.360 is amended to read:

2 Sec. 08.80.360. SALE OF DANGEROUS MATERIALS. Drugs that [OR
3 MEDICAL SUPPLIES WHICH] contain poisonous, potent, habit-forming or
4 deleterious ingredients may [SHALL] be dispensed only by a licensed
5 pharmacist. At the time of the sale, the pharmacist shall make the
6 nature of the drug or medical preparation known to the purchaser.

7 * Sec. 6. AS 08.80.480(2) is repealed and reenacted to read:

8 (2) "drug" means an article recognized in the official
9 United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
10 United States, or official National Formulary; an article intended for
11 use in the diagnosis, cure, mitigation, treatment, or prevention of
12 disease in man or animal; an article other than food, intended to
13 affect the structure or function of the body of man or animal; and an
14 article intended for use as a component of an article specified in
15 this paragraph but does not include devices or their components,
16 parts, or accessories;

17 * Sec. 7. AS 08.80.480 is amended by adding a new paragraph to read:

18 (21) "nonprescription drug" means a nonnarcotic medicine or
19 drug that may be sold without a prescription and that is prepackaged
20 for use by the consumer and labeled in accordance with the require-
21 ments of the statutes and regulations of the state and the federal
22 government.

23 * Sec. 8. AS 11.71.030(a) is amended to read:

24 (a) Except as authorized in AS 17.30 [OR AS 17.35], a person
25 commits the crime of misconduct involving a controlled substance in
26 the third degree if the person

27 (1) manufactures or delivers any amount of a schedule IIA
28 or IIIA controlled substance or possesses any amount of a schedule IIA
29 or IIIA controlled substance with intent to manufacture or deliver;

1 (2) delivers any amount of a schedule IVA, VA₁ or VIA
2 controlled substance to a person under 19 years of age who is at least
3 three years younger than the person delivering the substance; or

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

8 * Sec. 9. AS 11.71.040(a) is amended to read:

9 (a) Except as authorized in AS 17.30 [OR AS 17.35], a person
10 commits the crime of misconduct involving a controlled substance in
11 the fourth degree if the person

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

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

19 (3) possesses

20 (A) any amount of a schedule IA or IIA controlled
21 substance;

22 (B) 25 or more tablets, ampules, or syrettes contain-
23 ing a schedule IIIA or IVA controlled substance;

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

27 (D) 50 or more tablets, ampules, or syrettes contain-
28 ing a schedule VA controlled substance;

29 (E) one or more preparations, compounds, mixtures, or

1 substances of an aggregate weight of six grams or more containing
2 a schedule VA controlled substance; or

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

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

10 (5) knowingly keeps or maintains any store, shop, ware-
11 house, dwelling, building, vehicle, boat, aircraft, or other structure
12 or place which is used for keeping or distributing controlled sub-
13 stances in violation of a felony offense under this chapter or AS 17.-
14 30;

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

20 (7) knowingly uses in the course of the manufacture or
21 distribution of a controlled substance a registration number which is
22 fictitious, revoked, suspended, or issued to another person;

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

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

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

1 * Sec. 10. AS 11.71.050(a) is amended to read:

2 (a) Except as authorized in AS 17.30 [OR AS 17.35], a person
3 commits the crime of misconduct involving a controlled substance in
4 the fifth degree if the person

5 (1) manufactures or delivers, or possesses with the intent
6 to manufacture or deliver, one or more preparations, compounds, mix-
7 tures, or substances of an aggregate weight of one-half ounce or more
8 containing a schedule VIA controlled substance;

9 (2) manufactures or delivers, or possesses with the intent
10 to manufacture or deliver, one or more preparations, compounds, mix-
11 tures, or substances of an aggregate weight of less than one-half
12 ounce containing a schedule VIA controlled substance, for remunera-
13 tion;

14 (3) possesses

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

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

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

22 (D) one or more preparations, compounds, mixtures, or
23 substances of an aggregate weight of less than six grams contain-
24 ing a schedule VA controlled substance; or

25 (E) one or more preparations, compounds, mixtures, or
26 substances of an aggregate weight of one-half pound or more
27 containing a schedule VIA controlled substance; or

28 (4) fails to make, keep, or furnish any record, notifica-
29 tion, order form, statement, invoice, or information required under

1 AS 17.30.

2 * Sec. 11. AS 11.71.060(a) is amended to read:

3 (a) Except as authorized in AS 17.30 [OR AS 17.35], a person
4 commits the crime of misconduct involving a controlled substance in
5 the sixth degree if the person

6 (1) uses or displays any amount of a schedule VIA con-
7 trolled substance or possesses one or more preparations, compounds,
8 mixtures, or substances of an aggregate weight of one ounce or more
9 containing a schedule VIA controlled substance on a public street or
10 sidewalk or on the premises of a public carrier or business establish-
11 ment or in any other public place;

12 (2) knowingly possesses any amount of a schedule VIA con-
13 trolled substance within the immediate control of that person while
14 operating a propelled vehicle;

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

19 (4) possesses one or more preparations, compounds, mix-
20 tures, or substances of an aggregate weight of four ounces or more
21 containing a schedule VIA controlled substance; or

22 (5) refuses entry into a premises for an inspection au-
23 thorized under AS 17.30.

24 * Sec. 12. AS 11.71.070(a) is amended to read:

25 (a) Except as authorized in AS 17.30 [OR AS 17.35], a person
26 commits the offense of misconduct involving a controlled substance in
27 the seventh degree if the person

28 (1) manufactures or delivers, or possesses with the intent
29 to manufacture or deliver, one or more preparations, compounds,

1 mixtures, or substances of an aggregate weight of less than one-half
2 ounce of a schedule VIA controlled substance; or

3 (2) possesses one or more preparations, compounds, mix-
4 tures, or substances of an aggregate weight of less than one ounce
5 containing a schedule VIA controlled substance on a public street or
6 sidewalk or on the premises of a public carrier or business establish-
7 ment or in any other public place.

8 * Sec. 13. AS 17.30.020(a) is amended to read:

9 (a) A person who manufactures, distributes, dispenses, or con-
10 ducts research with a controlled substance in the state or who pro-
11 poses to manufacture, distribute, or dispense a controlled substance
12 in the state, shall comply with the registration requirements of 21
13 U.S.C. 811 - 830 (Controlled Substances Act), and the regulations
14 adopted under those sections [REGISTER ANNUALLY WITH THE BOARD IN
15 ACCORDANCE WITH REGULATIONS ADOPTED UNDER AS 17.30.010].

16 * Sec. 14. AS 17.30.020(b) is amended to read:

17 (b) A person registered under federal law [THIS CHAPTER] to
18 manufacture, distribute, dispense, or conduct research with controlled
19 substances in the state may possess, manufacture, distribute, dis-
20 pense, or conduct research with those substances to the extent au-
21 thorized by the person's registration and in conformity with the other
22 provisions of this chapter.

23 * Sec. 15. AS 17.30.020(f) is repealed and reenacted to read:

24 (f) A peace officer may enter a registrant's premises at reason-
25 able times and in a reasonable manner to inspect the premises and
26 records required to be maintained under federal law. An inspection
27 may not extend to financial data, pricing data, or sales data, other
28 than shipment data, unless the owner, operator, or agent in charge of
29 the premises consents.

1 * Sec. 16. AS 17.30.020 is amended by adding a new subsection to read:

2 (g) Upon request from a peace officer, a person who manufac-
3 tures, distributes, dispenses, or conducts research with a controlled
4 substance in the state shall provide evidence of current registration
5 under 21 U.S.C. 811 - 830 (Controlled Substances Act) and the regula-
6 tions adopted under those sections.

7 * Sec. 17. AS 17.30.060 is amended to read:

8 Sec. 17.30.060. RECORDS OF REGISTRANTS. A person registered
9 under federal law to manufacture, distribute, dispense, or conduct
10 research with controlled substances in the state [UNDER THIS CHAPTER]
11 shall keep records and maintain inventories in conformance with the
12 record keeping and inventory requirements of federal law [AND IN
13 CONFORMANCE WITH ADDITIONAL REGULATIONS ADOPTED BY THE BOARD.]

14 * Sec. 18. AS 17.30.080 is amended by adding a new subsection to read:

15 (b) A person who violates (a) of this section, or who otherwise
16 manufactures, distributes, dispenses, or conducts research with a
17 controlled substance in the state without fully complying with 21
18 U.S.C. 811 - 830 (Controlled Substances Act), and regulations adopted
19 under those sections, is guilty of misconduct involving a controlled
20 substance under AS 11.71.010 - 11.71.070 in the degree appropriate to
21 the circumstances as described in those sections.

22 * Sec. 19. AS 17.30.100(a) is amended to read:

23 Sec. 17.30.100. POWERS OF THE DEPARTMENT OF PUBLIC SAFETY [CO-
24 OPERATIVE ARRANGEMENTS]. (a) The commissioner of public safety shall
25 enforce this chapter and shall cooperate with other state and federal
26 agencies in the discharge of their responsibilities pertaining to
27 illicit traffic in controlled substances and in suppressing the abuse
28 of controlled substances. Under this section, the powers of the com-
29 missioner of public safety include but are not limited to the

1 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
10 records of persons who have violated the provisions of this chapter or
11 AS 11.71 in the state and making the information available for fed-
12 eral, state, and local law enforcement purposes; and

13 (4) instituting in the superior court, actions for
14 injunctions against continued manufacture, distribution, dispensation,
15 or research with a controlled substance in the state by a person who
16 violates 21 U.S.C. 811 - 830 (Controlled Substances Act) or the
17 regulations adopted under those sections.

18 * Sec. 20. AS 17.30.150 is amended to read:

19 Sec. 17.30.150. RELIANCE ON DRUG ENFORCEMENT ADMINISTRATION.
20 Results, information, and evidence received from the Drug Enforcement
21 Administration of the United States Department of Justice relating to
22 the enforcement [REGULATORY] functions of this chapter, including
23 results of inspections conducted by it, may be relied on and acted on
24 by the Department of Public Safety [BOARD] in the exercise of its
25 enforcement [REGULATORY] functions under this chapter.

26 * Sec. 21. AS 17.30.155 is amended to read:

27 Sec. 17.30.155. CONFIDENTIALITY OF CERTAIN INFORMATION. A
28 practitioner engaged in medical practice or research may not disclose
29 [FURNISH] the name or identity of a patient or research subject [TO

1 THE BOARD. THE PRACTITIONER MAY NOT OTHERWISE DISCLOSE THE NAME OR
2 IDENTITY OF AN INDIVIDUAL] that the practitioner is required to keep
3 confidential unless ordered by a court to disclose it within the
4 context of a criminal investigation or proceeding.

5 * Sec. 22. AS 08.80.295(b), (c), and (f), 08.80.480(3); AS 17.30.010,
6 17.30.020(c), (d), and (e), 17.30.030, 17.30.040, 17.30.050, 17.30.130,
7 17.30.900(b); and AS 17.35 are repealed.

8 * Sec. 23. This Act takes effect immediately in accordance with AS 01.-
9 10.070(c).