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Referred: State Affairs and  
Judiciary

6-0469A

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2

HOUSE BILL NO. 88

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act amending the definition of the offense of  
7 misconduct involving a controlled substance in the  
8 seventh degree to make possession of less than four  
9 ounces of marijuana illegal as a violation, and  
10 relating to the disposition of offenses of misconduct  
11 involving a controlled substance in the seventh  
12 degree."

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

14 \* Section 1. PURPOSE. (a) Alaska's criminal code classifies marijuana  
15 as a schedule VIA controlled substance. Section 2 of this Act makes the  
16 possession of less than four ounces of marijuana illegal as the offense of  
17 misconduct involving a controlled substance in the seventh degree. Miscon-  
18 duct involving a controlled substance in the seventh degree is, under  
19 current Alaska law, a violation, that is, an offense punishable by a fine.

20 (b) It is the purpose of secs. 3 and 4 of this Act to amend applica-  
21 ble statutes so that a law enforcement officer who stops or contacts a  
22 person for possession of a small amount of marijuana may issue a citation  
23 for that offense, and the person who receives the citation may waive a  
24 court appearance and remit a payment as satisfaction of the offense.

25 \* Sec. 2. AS 11.71.070(a) is amended to read:

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

29 (1) manufactures or delivers, or possesses with the intent

1 to manufacture or deliver, one or more preparations, compounds,  
2 mixtures, or substances of an aggregate weight of less than one- half  
3 ounce of a schedule VIA controlled substance; [OR]

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

9 (3) possesses one or more preparations, compounds, mix-  
10 tures, or substances of an aggregate weight of less than four ounces  
11 containing a schedule VIA controlled substance in a place other than a  
12 public place.

13 \* Sec. 3. AS 11.71 is amended by adding a new section to read:

14 Sec. 11.71.075. CITATION FOR VIOLATION. (a) The provisions of  
15 AS 12.25.180(b) and 12.25.190 - 12.25.230 apply to a person arrested  
16 or cited for the commission of an offense under AS 11.71.070.

17 (b) An offense under AS 11.71.070 for which a citation is issued  
18 may be disposed of without court appearance. For each offense under  
19 AS 11.71.070, the supreme court shall establish a schedule of bail  
20 amounts, not to exceed the amount of a fine prescribed by law. The  
21 citing officer shall write on the citation the amount of bail appli-  
22 cable to the cited offense.

23 (c) A person cited under (a) of this section shall, within five  
24 days after the date of the citation, mail or personally deliver to the  
25 clerk of the court having jurisdiction over the place where the of-  
26 fense occurred

27 (1) the amount of bail indicated on the citation for that  
28 offense; and

29 (2) a copy of the citation signed by the person on an

1 appropriate blank on the citation indicating the person's waiver of  
2 appearance, plea of no contest, and direction to forfeit the bail.

3 (d) When bail has been forfeited under this section, a judgment  
4 of conviction shall be entered. Bail forfeited under this section is  
5 a complete satisfaction for the offense, and the offender shall be  
6 given a receipt stating that fact.

7 (e) The maximum penalty that may be imposed for the offense may  
8 not exceed the bail amount for that offense set out in the schedule of  
9 bail amounts as determined by the supreme court under (b) of this  
10 section.

11 \* Sec. 4. AS 12.25.190(c) is amended to read:

12 (c) The person cited for the crime shall give a written promise  
13 to appear in court by signing at least one copy of the written cita-  
14 tion prepared by the peace officer and the officer shall deliver a  
15 copy of the citation to the person. The written promise requirement  
16 of this subsection does not apply to

17 (1) motor vehicle and traffic citations for which a bail or  
18 fine schedule has been established under AS 28.05.151;

19 (2) [,] fish and game citations for which a bail schedule  
20 has been established under AS 16.05.165;

21 (3) [,] citations issued under AS 18.35.341;

22 (4) [,] citations issued in state park and recreational  
23 facilities under AS 41.21.960;

24 (5) [, OR] littering citations issued under AS 46.06.080;

25 or

26 (6) citations issued under AS 11.71.075.

27 \* Sec. 5. AS 12.45.155(a) is amended to read:

28 (a) In a prosecution under AS 11.71.010 - 11.71.075 [AS 11.71.-  
29 010 - 11.71.070], a complete copy of an official laboratory report

1 from the Department of Public Safety or a laboratory operated by  
2 another law enforcement agency is prima facie evidence of the content,  
3 identity, and weight of a controlled substance. The report must be  
4 signed by the person performing the analysis and must state that the  
5 substance which is the basis of the alleged offense has been weighed  
6 and analyzed. In the report, the author shall state with specificity  
7 findings as to the content, weight, and identity of the substance.

8 \* Sec. 6. AS 17.30.080(b) is amended to read:

9 (b) A person who violates (a) of this section, or who otherwise  
10 manufactures, distributes, dispenses, or conducts research with a  
11 controlled substance in the state without fully complying with 21  
12 U.S.C. 811 - 830 (Controlled Substances Act), and regulations adopted  
13 under those sections, is guilty of misconduct involving a controlled  
14 substance under AS 11.71.010 - 11.71.075 [AS 11.71.010 - 11.71.070] in  
15 the degree appropriate to the circumstances as described in those  
16 sections.