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Referred: Judiciary
and Finance

6-0469D

Original sponsor: State Affairs Committee

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2

CS FOR HOUSE BILL NO. 88 (State Affairs)

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 definitions of the offenses of
7 misconduct involving a controlled substance in the
8 sixth degree to make the use, display, or possession
9 of one to four ounces of marijuana illegal as a class
10 B misdemeanor and to make the use or display of less
11 than four ounces of marijuana by a minor, and the use
12 or display of any amount of marijuana within the im-
13 mediate control of the operator of a propelled vehi-
14 cle, illegal as a class B misdemeanor, and of miscon-
15 duct involving a controlled substance in the seventh
16 degree to make the use, display, or possession of
17 less than one ounce of marijuana illegal as a viola-
18 tion; and relating to disposition of offenses of
19 misconduct involving a controlled substance in the
20 sixth and seventh degrees."

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

22 * Section 1. PURPOSE. (a) Alaska's criminal code classifies marijuana
23 as a schedule VIA controlled substance. Section 2 of this Act makes the
24 possession of one ounce or more but less than four ounces of marijuana
25 illegal as the offense of misconduct involving a controlled substance in
26 the sixth degree. Section 4 of this Act makes the possession of less than
27 one ounce of marijuana illegal as the offense of misconduct involving a
28 controlled substance in the seventh degree.

29 (b) Misconduct involving a controlled substance in the seventh degree

1 is, under current Alaska law, a violation, that is, an offense punishable
2 by a fine of not more than \$100. The amendment made by sec. 5 of this Act
3 increases the fine that may be imposed to \$300.

4 (c) It is the purpose of secs. 6 and 7 of this Act to amend applica-
5 ble law so that a law enforcement officer who stops or contacts a person
6 for possession of a small amount of marijuana may issue a citation for that
7 offense, and the person who receives the citation may waive a court appear-
8 ance and remit a payment as satisfaction of the offense.

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

10 (a) Except as authorized in AS 17.30, a person commits the crime
11 of misconduct involving a controlled substance in the sixth degree if
12 the person

13 (1) [USES OR DISPLAYS ANY AMOUNT OF A SCHEDULE VIA CON-
14 TROLLED SUBSTANCE OR POSSESSES ONE OR MORE PREPARATIONS, COMPOUNDS,
15 MIXTURES, OR SUBSTANCES OF AN AGGREGATE WEIGHT OF ONE OUNCE OR MORE
16 CONTAINING A SCHEDULE VIA CONTROLLED SUBSTANCE ON A PUBLIC STREET OR
17 SIDEWALK OR ON THE PREMISES OF A PUBLIC CARRIER OR BUSINESS ESTABLISH-
18 MENT OR IN ANY OTHER PUBLIC PLACE;

19 (2)] knowingly uses, displays, or possesses any amount of a
20 schedule VIA controlled substance within the immediate control of that
21 person while operating a propelled vehicle;

22 (2) [(3)] being under 19 years of age, uses, displays, or
23 possesses one or more preparations, compounds, mixtures, or substances
24 of an aggregate weight of less than four ounces containing a schedule
25 VIA controlled substance;

26 (3) uses, displays, or [(4)] possesses one or more prepara-
27 tions, compounds, mixtures, or substances of an aggregate weight of
28 one ounce [FOUR OUNCES] or more containing a schedule VIA controlled
29 substance; or

1 (4) [(5)] refuses entry into a premises for an inspection
2 authorized under AS 17.30.

3 * Sec. 3. AS 11.71.060 is amended by adding a new subsection to read:

4 (c) A court

5 (1) may impose a sentence of imprisonment on a person
6 convicted of an offense under (a)(3) or (a)(4) of this section only if
7 the person has previously been convicted of an offense

8 (A) described in (a) of this section; or

9 (B) under a law or ordinance in another jurisdiction
10 with elements substantially similar to an offense described in
11 (a) of this section;

12 (2) may require the defendant to participate in a program
13 under AS 12.55.015(d);

14 (3) may require the defendant to engage in community work
15 under AS 12.55.015(a) and 12.55.055.

16 * Sec. 4. AS 11.71.070(a) is amended to read:

17 (a) Except as authorized in AS 17.30, a person commits the
18 offense of misconduct involving a controlled substance in the seventh
19 degree if the person

20 (1) manufactures or delivers, or possesses with the intent
21 to manufacture or deliver, one or more preparations, compounds, mix-
22 tures, or substances of an aggregate weight of less than one-half
23 ounce of a schedule VIA controlled substance; or

24 (2) uses, displays, or possesses one or more preparations,
25 compounds, mixtures, or substances of an aggregate weight of less than
26 one ounce containing a schedule VIA controlled substance [ON A PUBLIC
27 STREET OR SIDEWALK OR ON THE PREMISES OF A PUBLIC CARRIER OR BUSINESS
28 ESTABLISHMENT OR IN ANY OTHER PUBLIC PLACE].

29 * Sec. 5. AS 11.71.070(b) is amended to read:

1 (b) Misconduct involving a controlled substance in the seventh
2 degree is a violation and is punishable as authorized in AS 12.55 [,
3 EXCEPT THAT IF A FINE IS IMPOSED IT SHALL NOT BE MORE THAN \$100].

4 * Sec. 6. AS 11.71 is amended by adding a new section to read:

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

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

14 (c) A person cited under (a) of this section may, within five
15 days after the date of the citation, mail or personally deliver to the
16 clerk of the court having jurisdiction over the place where the of-
17 fense occurred

18 (1) the amount of bail indicated on the citation for that
19 offense; and

20 (2) a copy of the citation signed by the person on an
21 appropriate blank on the citation indicating the person's waiver of
22 appearance, plea of no contest, and direction to forfeit the bail.

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

27 (e) The maximum penalty that may be imposed for the offense may
28 not exceed the bail amount for that offense set out in the schedule of
29 bail amounts as determined by the supreme court under (b) of this

1 section.

2 * Sec. 7. AS 12.25.190(c) is amended to read:

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

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

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

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

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

15 (5) [, OR] littering citations issued under AS 46.06.080;
16 or

17 (6) citations issued under AS 11.71.075.

18 * Sec. 8. AS 12.45.155(a) is amended to read:

19 (a) In a prosecution under AS 11.71.010 - 11.71.075 [AS 11.71.-
20 010 - 11.71.070], a complete copy of an official laboratory report
21 from the Department of Public Safety or a laboratory operated by
22 another law enforcement agency is prima facie evidence of the content,
23 identity, and weight of a controlled substance. The report must be
24 signed by the person performing the analysis and must state that the
25 substance which is the basis of the alleged offense has been weighed
26 and analyzed. In the report, the author shall state with specificity
27 findings as to the content, weight, and identity of the substance.

28 * Sec. 9. AS 17.30.080(b) is amended to read:

29 (b) A person who violates (a) of this section, or who otherwise

1 manufactures, distributes, dispenses, or conducts research with a
2 controlled substance in the state without fully complying with 21
3 U.S.C. 811 - 830 (Controlled Substances Act), and regulations adopted
4 under those sections, is guilty of misconduct involving a controlled
5 substance under AS 11.71.010 - 11.71.075 [AS 11.71.010 - 11.71.070] in
6 the degree appropriate to the circumstances as described in those
7 sections.