

BY REP. BOYER, C.Davis, Brown, Ellis, Navarre, Finkelstein, Menard, Hudson,  
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1 IN THE HOUSE

2 HOUSE BILL NO. 391

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the delivery and possession of  
7 controlled substances and imitation controlled sub-  
8 stances; and requiring installation of signs in the  
9 vicinity of schools declaring the areas to be 'drug-  
10 free school zones'; and providing for an effective  
11 date."

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

13 \* Section 1. AS 11.71.020(a) is amended to read:

14 (a) Except as authorized in AS 17.30, a person commits the crime  
15 of misconduct involving a controlled substance in the second degree if  
16 the person

17 (1) manufactures or delivers any amount of a schedule IA  
18 controlled substance;

19 (2) [OR] possesses any amount of a schedule IA controlled  
20 substance with intent to manufacture or deliver; or

21 (3) delivers any amount of a controlled substance, or  
22 possesses any amount of a controlled substance with intent to deliver  
23 that controlled substance, to a person

24 (A) with knowledge that the delivery or possession  
25 with intent to deliver occurs on or within 1,000 feet of school  
26 grounds, or within 500 feet of a school bus stop when a school  
27 bus has stopped to embark or disembark children or while children  
28 are waiting to embark or disembark a school bus; or

29 (B) on a school bus.

1 \* Sec. 2. AS 11.71.020 is amended by adding a new subsection to read:

2 (c) It is an affirmative defense to a prosecution under (a)(3)  
3 of this section that the prohibited conduct took place entirely within  
4 a private residence located within 1,000 feet of school grounds or  
5 within 500 feet of a school bus stop, that a minor was not present in  
6 the private residence at any time during the commission of the  
7 offense, and that the prohibited conduct did not involve distributing,  
8 dispensing, or possessing with the intent to distribute or dispense a  
9 controlled substance for profit.

10 \* Sec. 3. AS 11.71.030(a) is amended to read:

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

14 (1) manufactures or delivers any amount of a schedule IIA  
15 or IIIA controlled substance or possesses any amount of a schedule IIA  
16 or IIIA controlled substance with intent to manufacture or deliver;

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

20 (3) [BEING 18 YEARS OF AGE OR OLDER,] possesses any amount  
21 of a schedule IA or IIA controlled substance

22 (A) with knowledge that the possession occurs on or  
23 within 1,000 feet of school [THE] grounds, or within 500 feet of  
24 a school bus stop when a school bus has stopped to embark or  
25 disembark children or while children are waiting to embark or  
26 disembark a school bus; or

27 (B) on a school bus [OF OR ON A PARKING LOT IMMEDIATE-  
28 LY ADJACENT TO A PUBLIC OR PRIVATE PRESCHOOL, ELEMENTARY, JUNIOR  
29 HIGH, OR SECONDARY SCHOOL].

1 \* Sec. 4. AS 11.71.030(b) is repealed and reenacted to read:

2 (b) It is an affirmative defense to a prosecution under (a)(3)  
3 of this section that the prohibited conduct took place entirely within  
4 a private residence located within 1,000 feet of the school grounds or  
5 500 feet of a school bus stop, and that a minor was not present in the  
6 private residence at any time during the commission of the offense.

7 \* Sec. 5. AS 11.71.040(a) is amended to read:

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

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

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

18 (3) possesses

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

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

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

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

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

1 a schedule VA controlled substance; or  
2 (F) one or more preparations, compounds, mixtures, or  
3 substances of an aggregate weight of one pound or more containing  
4 a schedule VIA controlled substance;  
5 (4) [BEING 18 YEARS OF AGE OR OLDER,] possesses  
6 (A) a schedule IIIA, IVA, or VA [, OR VIA] controlled  
7 substance  
8 (i) with knowledge that the possession occurs on  
9 or within 1,000 feet of school [THE] grounds [OF] or within  
10 500 feet of a school bus stop when a school bus has stopped  
11 to embark or disembark children or while children are wait-  
12 ing to embark or disembark a school bus; or  
13 (ii) on a school bus; or  
14 (B) unlawfully possesses a schedule VIA controlled  
15 substance  
16 (i) with knowledge that the possession occurs on  
17 or within 1,000 feet of school grounds, or within 500 feet  
18 of a school bus stop when a school bus has stopped to embark  
19 or disembark children or while children are waiting to  
20 embark or disembark a school bus; or  
21 (ii) on a school bus [ON A PARKING LOT IMMEDIATELY  
22 ADJACENT TO A PUBLIC OR PRIVATE PRESCHOOL, ELEMENTARY,  
23 JUNIOR HIGH, OR SECONDARY SCHOOL];  
24 (5) knowingly keeps or maintains any store, shop, ware-  
25 house, dwelling, building, vehicle, boat, aircraft, or other structure  
26 or place which is used for keeping or distributing controlled sub-  
27 stances in violation of a felony offense under this chapter or AS 17.-  
28 30;  
29 (6) makes, delivers, or possesses a punch, die, plate,

1 stone, or other thing which prints, imprints, or reproduces a trade-  
2 mark, trade name, or other identifying mark, imprint, or device of  
3 another or any likeness of any of these upon a drug, drug container,  
4 or labeling so as to render the drug a counterfeit substance;

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

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

11 (9) obtains possession of a controlled substance by misrep-  
12 resentation, fraud, forgery, deception, or subterfuge; or

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

15 \* Sec. 6. AS 11.71.040(b) is repealed and reenacted to read:

16 (b) It is an affirmative defense to a prosecution under  
17 (a)(4)(B) of this section that the prohibited conduct took place  
18 entirely within a private residence located within 1,000 feet of  
19 school grounds or 500 feet of a school bus stop, and that a minor was  
20 not present in the private residence at any time during the commission  
21 of the offense.

22 \* Sec. 7. AS 11.71.900 is amended by adding a new paragraph to read:

23 (28) "school grounds" means a building, structure, athletic  
24 playing field, playground, parking area, or land contained within the  
25 real property boundary line of a public or private preschool, elemen-  
26 tary, or secondary school.

27 \* Sec. 8. AS 19.10 is amended by adding a new section to read:

28 Sec. 19.10.045. INSTALLATION OF "DRUG-FREE SCHOOL ZONE" SIGNS  
29 NEAR SCHOOLS. The department shall post a sign indicating that the

1 school is a "drug-free school zone" at each location in which it has  
2 installed a sign identifying the location of a school.

3 \* Sec. 9. AS 28.01.010(d) is amended to read:

4 (d) A municipality shall erect necessary official traffic con-  
5 trol devices on streets and highways within its jurisdiction which as  
6 far as practicable conform to the current edition of the Alaska Traf-  
7 fic Manual prepared by the Department of Transportation and Public  
8 Facilities. The municipality shall post a sign indicating that the  
9 school is a "drug-free school zone" at each location in which it has  
10 installed a sign identifying the location of a school.

11 \* Sec. 10. Sections 8 and 9 of this Act take effect August 16, 1991.