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Referred: Health, Education and  
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6-0117A

1 IN THE SENATE

BY FAIKS, KELLY, STURGULEWSKI  
AND RODEY

2

SENATE BILL NO. 16

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act defining the crime of conspiracy as it re-  
7 lates to the delivery of a controlled substance."

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

9 \* Section 1. AS 11.71 is amended by adding new sections to article 1 to  
10 read:

11 Sec. 11.71.090. CONSPIRACY TO DELIVER A CONTROLLED SUBSTANCE.

12 (a) An offender commits the crime of conspiracy to deliver a con-  
13 trolled substance if, with the intent to promote or facilitate an  
14 offense relating to the delivery of a controlled substance under  
15 AS 11.71.010 - 11.71.050, the offender agrees with one or more persons  
16 to engage in or cause the performance of that offense and the offender  
17 or one of the persons does an overt act in furtherance of the conspir-  
18 acy.

19 (b) If an offender commits the crime of conspiracy and knows  
20 that a person with whom the offender conspires to commit a crime has  
21 conspired or will conspire with another person or persons to commit  
22 the same crime, the offender is guilty of conspiring with that other  
23 person or persons to commit that crime, whether or not the offender  
24 knows their identities.

25 (c) In a prosecution under this section, it is not a defense

26 (1) that the defendant belongs to a class of persons who by  
27 definition are legally incapable in an individual capacity of com-  
28 mitting a crime that is an object of the conspiracy; or

29 (2) that a person with whom the defendant conspires could

1 not be guilty of a crime that is an object of the conspiracy because  
2 of

3 (A) lack of criminal responsibility or other legal  
4 incapacity or exemption;

5 (B) unawareness of the criminal nature of the conduct  
6 in question or of the criminal purpose of the defendant; or

7 (C) any other factor precluding the culpable mental  
8 state required for the commission of the crime.

9 (d) The liability of a conspirator for offenses committed in  
10 furtherance of the conspiracy, including a crime that is an object of  
11 the conspiracy, shall be determined under AS 11.16. However, in a  
12 prosecution under this section, it is a defense that, if the criminal  
13 objective were achieved, the defendant would not be legally account-  
14 able under AS 11.16.120(b) for the conduct of the person with whom the  
15 defendant conspired.

16 (e) In a prosecution under this section it is an affirmative  
17 defense that the defendant, under circumstances manifesting a volun-  
18 tary and complete renunciation of the defendant's criminal intent,  
19 gave timely warning to law enforcement authorities or otherwise made  
20 proper effort to prevent the commission of the crime that was the  
21 object of the conspiracy. Renunciation by one conspirator does not  
22 affect the liability of another conspirator who does not join in the  
23 renunciation.

24 (f) Conspiracy is a

25 (1) class A felony if the object of the conspiracy is a  
26 crime punishable as an unclassified felony;

27 (2) class B felony if the object of the conspiracy is a  
28 crime punishable as a class A felony;

29 (3) class C felony if the object of the conspiracy is a

1 crime punishable as a class B or class C felony;

2 (4) class B misdemeanor if the object of the conspiracy is  
3 a crime punishable as a class A misdemeanor.

4 Sec. 11.71.095. DURATION OF CONSPIRACY FOR PURPOSES OF LIMITA-  
5 TIONS OF ACTIONS. (a) For purposes of applying AS 12.10 governing  
6 limitations of actions, in a prosecution under AS 11.71.090, con-  
7 spiracy is a continuing course of conduct that terminates

8 (1) when all the crimes related to the delivery of control-  
9 led substance are completed;

10 (2) when the agreement is abandoned by the defendant and by  
11 the person with whom the defendant agreed; or

12 (3) as to an individual defendant, when the defendant  
13 abandons the agreement by advising the person with whom the defendant  
14 agreed of the defendant's abandonment or the defendant informs law  
15 enforcement authorities of the existence of the conspiracy and of the  
16 defendant's participation in it.

17 (b) For purposes of (a)(2) of this section, abandonment of an  
18 agreement is rebuttably presumed if neither the defendant nor anyone  
19 with whom the defendant conspired does an overt act in furtherance of  
20 the conspiracy during the applicable period of limitations.

21 \* Sec. 2. AS 11.31.140 is amended to read:

22 Sec. 11.31.140. MULTIPLE CONVICTIONS BARRED. (a) It is not a  
23 defense to a prosecution under AS 11.31.100<sub>1</sub> [OR AS] 11.31.110, or  
24 AS 11.71.090 that the crime that is the object of the attempt, con-  
25 spiracy to deliver a controlled substance, or solicitation was actual-  
26 ly committed pursuant to the attempt, conspiracy to deliver a con-  
27 trolled substance, or solicitation.

28 (b) A person may not be convicted of more than one crime defined  
29 by AS 11.31.100<sub>1</sub> [OR AS] 11.31.110, or AS 11.71.090 for conduct

1           designed to commit or culminate in commission of the same crime.

2           (c) A person may not be convicted on the basis of the same  
3           course of conduct of both (1) a crime defined by AS 11.31.100, [OR  
4           AS] 11.31.110, or AS 11.71.090 [;] and (2) a crime that is an object  
5           of the attempt, conspiracy to deliver a controlled substance, or  
6           solicitation.

7           (d) This section does not bar inclusion of multiple counts in a  
8           single indictment or information charging commission of a crime de-  
9           fined by AS 11.31.100, [OR AS] 11.31.110, or AS 11.71.090 and commis-  
10          sion of the crime that is the object of the attempt, conspiracy to  
11          deliver a controlled substance, or solicitation.

12        \* Sec. 3. AS 11.31.140 is amended by adding a new subsection to read:

13           (e) If a person conspires to commit more than one crime under  
14           AS 11.71.090, the person commits only one crime of conspiracy to  
15           deliver a controlled substance if the multiple crimes are the object  
16           of the same agreement.