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1 IN THE SENATE

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SENATE BILL NO. 340

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 11.71.010(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 first degree if
16 the person

17 (1) delivers any amount of a schedule IA controlled sub-
18 stance to

19 (A) a person under 19 years of age who is at least
20 three years younger than the person delivering the substance; or

21 (B) a woman who is pregnant;

22 (2) delivers any amount of a schedule IIA or IIIA con-
23 trolled substance to a person under 19 years of age who is at least
24 three years younger than the person delivering the substance; or

25 (3) engages in a continuing criminal enterprise.

26 * Sec. 2. AS 11.71.010 is amended by adding a new subsection to read:

27 (d) It is an affirmative defense to a prosecution under
28 (a)(1)(B) of this section that the defendant reasonably believed that
29 the woman to whom the defendant delivered the schedule IA controlled

1 substance was not pregnant at the time of the delivery of the con-
2 trolled substance.

3 * Sec. 3. AS 11.71.020(a) is amended to read:

4 (a) Except as authorized in AS 17.30, a person commits the crime
5 of misconduct involving a controlled substance in the second degree if
6 the person

7 (1) manufactures or delivers any amount of a schedule IA
8 controlled substance;

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

11 (3) delivers any amount of a controlled substance, or
12 possesses any amount of a controlled substance with intent to deliver
13 that controlled substance, to a person

14 (A) with knowledge that the delivery or possession
15 with intent to deliver occurs on or within 1,000 feet of school
16 grounds; or

17 (B) on a school bus; or

18 (4) delivers any amount of a schedule IIA or IIIA con-
19 trolled substance to a woman who is pregnant.

20 * Sec. 4. AS 11.71.020 is amended by adding a new subsection to read:

21 (c) It is an affirmative defense

22 (1) to a prosecution under (a)(3)(A) of this section that
23 the prohibited conduct took place entirely within a private residence
24 located within 1,000 feet of the school grounds, that a minor was not
25 present in the private residence at any time during the commission of
26 the offense, and that the prohibited conduct did not involve distri-
27 buting, dispensing, or possessing with the intent to distribute or
28 dispense a controlled substance for profit;

29 (2) to a prosecution under (a)(4) of this section that the

1 defendant reasonably believed that the woman to whom the defendant
2 delivered the schedule IIA or IIIA controlled substance was not preg-
3 nant at the time of the delivery of the controlled substance.

4 * Sec. 5. AS 11.71.030(a) is amended to read:

5 (a) Except as authorized in AS 17.30, a person commits the crime
6 of misconduct involving a controlled substance in the third degree if
7 the person

8 (1) manufactures or delivers any amount of a schedule IIA
9 or IIIA controlled substance or possesses any amount of a schedule IIA
10 or IIIA controlled substance with intent to manufacture or deliver;

11 (2) delivers any amount of a schedule IVA, VA, or VIA
12 controlled substance to

13 (A) a person under 19 years of age who is at least
14 three years younger than the person delivering the substance; or

15 (B) a woman who is pregnant;

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

18 (A) with knowledge that the possession occurs on or
19 within 1,000 feet of school [THE] grounds; or

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

23 * Sec. 6. AS 11.71.030(b) is repealed and reenacted to read:

24 (b) It is an affirmative defense

25 (1) to a prosecution under (a)(3)(A) of this section that
26 the prohibited conduct took place entirely within a private residence
27 located within 1,000 feet of the school grounds and that a minor was
28 not present in the private residence at any time during the commission
29 of the offense;

1 (2) to a prosecution under (a)(2)(B) of this section that
2 the defendant reasonably believed that the woman to whom the defendant
3 delivered the schedule IVA, VA, or VIA controlled substance was not
4 pregnant at the time of the delivery of the controlled substance.

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

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

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

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

16 (3) possesses

17 (A) any amount of a schedule IA or IIA controlled
18 substance;

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

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

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

26 (E) one or more preparations, compounds, mixtures, or
27 substances of an aggregate weight of six grams or more containing
28 a schedule VA controlled substance; or

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

1 substances of an aggregate weight of one pound or more containing
2 a schedule VIA controlled substance;

3 (4) unlawfully [BEING 18 YEARS OF AGE OR OLDER,] possesses
4 a schedule IIIA, IVA, VA, or VIA controlled substance

5 (A) with knowledge that the possession occurs on or
6 within 1,000 feet of school [THE] grounds [OF OR ON A PARKING LOT
7 IMMEDIATELY ADJACENT TO A PUBLIC OR PRIVATE PRESCHOOL, ELEMENTA-
8 RY, JUNIOR HIGH, OR SECONDARY SCHOOL]; or

9 (B) on a school bus;

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 misrep-
27 resentation, 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. 8. AS 11.71.040(b) is repealed and reenacted to read:

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

7 * Sec. 9. AS 11.71.900 is amended by adding a new paragraph to read:

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

12 * Sec. 10. AS 19.10 is amended by adding a new section to read:

13 Sec. 19.10.045. INSTALLATION OF "DRUG-FREE SCHOOL ZONE" SIGNS
14 NEAR SCHOOLS. The department shall post a sign indicating that the
15 school is a "drug-free school zone" at each location in which it has
16 installed a sign identifying the location of a school.

17 * Sec. 11. AS 28.01.010(d) is amended to read:

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

25 * Sec. 12. Sections 10 and 11 of this Act take effect August 16, 1990.