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1 IN THE SENATE BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 340 (Finance)

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 to alcohol and the possession and con-  
9 sumption of alcohol and controlled substances; and  
10 requiring installation of signs in the vicinity of  
11 schools declaring the areas to be 'drug-free school  
12 zones'; and providing for an effective date."

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

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

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

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

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

22 (3) delivers any amount of a schedule IIA or IIIA con-  
23 trolled substance, or possesses any amount of a schedule IIA or IIIA  
24 controlled substance with intent to deliver that controlled substance,  
25 to a person

26 (A) with reckless disregard that the delivery or  
27 possession with intent to deliver occurs on or within 1,000 feet  
28 of school grounds; 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  
3 (a)(3)(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, that a minor was not present in the private residence  
6 at any time during the commission of the offense, and that the pro-  
7 hibited conduct did not involve distributing, dispensing, or possess-  
8 ing with the intent to distribute or dispense a controlled substance  
9 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) delivers any amount of a schedule IVA or schedule VA  
21 controlled substance, or delivers one ounce or more of a schedule VIA  
22 controlled substance to a person

23 (A) with reckless disregard that the delivery occurs  
24 on or within 1,000 feet of school grounds; or

25 (B) on a school bus;

26 (4) possesses any amount of a schedule IVA or schedule VA  
27 controlled substance with intent to deliver, or possesses one ounce or  
28 more of a schedule VIA controlled substance with intent to deliver,  
29 that controlled substance to a person

1                   (A) with reckless disregard that the possession with  
2                   intent to deliver occurs on or within 1,000 feet of school  
3                   grounds; or

4                   (B) on a school bus; or

5                   (5) [(3) BEING 18 YEARS OF AGE OR OLDER,] possesses any  
6 amount of a schedule IA or IIA controlled substance

7                   (A) with reckless disregard that the possession occurs  
8                   on or within 1,000 feet of school [THE] grounds; or

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

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

13                   (b) It is an affirmative defense to a prosecution under  
14 (a)(3)(A), (a)(4)(A), or (a)(5)(A) of this section that the prohibited  
15 conduct took place entirely within a private residence located within  
16 1,000 feet of the school grounds, that a minor was not present in the  
17 private residence at any time during the commission of the offense,  
18 and that the prohibited conduct did not involve distributing, dispens-  
19 ing, or possessing with the intent to distribute or dispense a con-  
20 trolled substance for profit.

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

22                   (a) Except as authorized in AS 17.30, a person commits the crime  
23 of misconduct involving a controlled substance in the fourth degree if  
24 the person

25                   (1) manufactures or delivers any amount of a schedule IVA  
26 or VA controlled substance or possesses any amount of a schedule IVA  
27 or VA controlled substance with intent to manufacture or deliver;

28                   (2) manufactures or delivers, or possesses with the intent  
29 to manufacture or deliver, one or more preparations, compounds,

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

3 (3) possesses

4 (A) any amount of a schedule IA or IIA controlled  
5 substance;

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

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

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

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

16 (F) one or more preparations, compounds, mixtures, or  
17 substances of an aggregate weight of one pound or more containing  
18 a schedule VIA controlled substance;

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

21 (A) with reckless disregard that the possession occurs  
22 on or within 1,000 feet of school [THE] grounds [OF OR ON A  
23 PARKING LOT IMMEDIATELY ADJACENT TO A PUBLIC OR PRIVATE PRE-  
24 SCHOOL, ELEMENTARY, JUNIOR HIGH, OR SECONDARY SCHOOL]; or

25 (B) on a school bus;

26 (5) knowingly keeps or maintains any store, shop, ware-  
27 house, dwelling, building, vehicle, boat, aircraft, or other structure  
28 or place which is used for keeping or distributing controlled sub-  
29 stances in violation of a felony offense under this chapter or

1 AS 17.30;

2 (6) makes, delivers, or possesses a punch, die, plate,  
3 stone, or other thing which prints, imprints, or reproduces a trade-  
4 mark, trade name, or other identifying mark, imprint, or device of  
5 another or any likeness of any of these upon a drug, drug container,  
6 or labeling so as to render the drug a counterfeit substance;

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

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

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

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

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

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

23 \* Sec. 7. AS 11.71.900 is amended by adding new paragraphs to read:

24 (28) "school bus" means a motor vehicle operated by a school  
25 district or private school, directly or by contract, to transport  
26 students;

27 (29) "school grounds" means a building, structure, athletic  
28 playing field, playground, parking area, or land contained within the  
29 real property boundary line of a public or private preschool,

1 elementary, or secondary school.

2 \* Sec. 8. AS 14.07 is amended by adding a new section to read:

3 Sec. 14.07.181. ADDITIONAL DUTIES OF BOARD. The board shall  
4 develop, adopt, and periodically review and revise a "Student's Bill  
5 of Rights" appropriate for reference and use by students in the  
6 state's schools. In addition to other information that the board  
7 determines appropriate for students, the "Student's Bill of Rights"  
8 must include information that summarizes state law applicable to and  
9 the penalties for the sale and possession of controlled substances in  
10 schools, or school grounds, and on school buses.

11 \* Sec. 9. AS 18.65 is amended by adding new sections to article 3 to  
12 read:

13 Sec. 18.65.320. STUDENT'S RIGHTS CARD. (a) Annually, not later  
14 than October 31, the Department of Public Safety shall issue a "Stu-  
15 dent's Rights" card. The student's rights card shall be delivered to  
16 every child enrolled in a public school and to every child enrolled in  
17 a private school of which the Department of Education has a record  
18 under AS 14.45. Based on information in the Student's Bill of Rights  
19 prepared under AS 14.07.181, and after consultation with the attorney  
20 general, the commissioner of public safety shall prepare the card so  
21 that it contains information that summarizes state law applicable to  
22 and the penalties for sale and possession of controlled substances in  
23 schools, in areas adjacent to schools, and on school buses.

24 (b) State money may not be used to print and distribute stu-  
25 dent's rights cards under this section.

26 Sec. 18.65.330. DISTRIBUTION OF PAMPHLET TO HOUSEHOLDS. (a)  
27 Annually, the commissioner of public safety shall prepare and mail to  
28 each household an information pamphlet. The pamphlet must be written  
29 in easily understandable language, must be designed to educate the

1 public about controlled substances, and must summarize information  
2 relating to the criminal penalties applicable to the possession and  
3 sale of controlled substances in public and private schools, in areas  
4 adjacent to schools, and on school buses.

5 (b) State money may not be used to print and distribute informa-  
6 tion pamphlets to households under this section.

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

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

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

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

20 \* Sec. 12. AS 28.15.185(b) is repealed and reenacted to read:

21 (b) For a conviction or an adjudication of an offense described  
22 in (a) of this section, the court shall revoke the minor's driver's  
23 license for one year or until the minor reaches 18 years of age,  
24 whichever is longer.

25 \* Sec. 13. AS 47.10.080(b) is amended to read:

26 (b) If the court finds that the minor is delinquent, it shall  
27 (1) order the minor committed to the Department of Health  
28 and Social Services for a period of time not to exceed two years or in  
29 any event extend past the day the minor becomes 19, except that the

1 department may petition for and the court may grant in a hearing (A)  
2 two-year extensions of commitment which do not extend beyond the  
3 child's 19th birthday if the extension is in the best interests of the  
4 minor and the public; and (B) an additional one-year period of super-  
5 vision past age 19 if continued supervision is in the best interests  
6 of the person and the person consents to it; the department shall  
7 place the minor in the juvenile facility which the department consid-  
8 ers appropriate and which may include a juvenile correctional school,  
9 detention home, or detention facility; the minor may be released from  
10 placement or detention and placed on probation on order of the court  
11 and may also be released by the department, in its discretion, under  
12 AS 47.10.200;

13 (2) order the minor placed on probation, to be supervised  
14 by the department, and released to the minor's parents, guardian, or a  
15 suitable person; if the court orders the minor placed on probation, it  
16 may specify the terms and conditions of probation; the probation may  
17 be for a period of time, not to exceed two years and in no event  
18 extend past the day the minor becomes 19, except that the department  
19 may petition for and the court may grant in a hearing

20 (A) two-year extensions of supervision which do not  
21 extend beyond the child's 19th birthday if the extension is in  
22 the best interests of the minor and the public; and

23 (B) an additional one-year period of supervision past  
24 age 19 if the continued supervision is in the best interests of  
25 the person and the person consents to it;

26 (3) order the minor committed to the department and placed  
27 on probation, to be supervised by the department, and released to the  
28 minor's parents, guardian, other suitable person, or suitable nonde-  
29 tention setting such as a family home, group care facility, or child

1 care facility, whichever the department considers appropriate to  
2 implement the treatment plan of the predisposition report; if the  
3 court orders the minor placed on probation, it may specify the terms  
4 and conditions of probation; the department may transfer the minor, in  
5 the minor's best interests, from one of the probationary placement  
6 settings listed in this paragraph to another, and the minor, the  
7 minor's parents or guardian, and the minor's attorney are entitled to  
8 reasonable notice of the transfer; the probation may be for a period  
9 of time, not to exceed two years and in no event extend past the day  
10 the minor becomes 19, except that the department may petition for and  
11 the court may grant in a hearing

12 (A) two-year extensions of commitment which do not  
13 extend beyond the child's 19th birthday if the extension is in  
14 the best interests of the minor and the public; and

15 (B) an additional one-year period of supervision past  
16 age 19 if the continued supervision is in the best interests of  
17 the person and the person consents to it; [OR]

18 (4) order the minor to make suitable restitution in lieu of  
19 or in addition to the court's order under (1), (2), or (3) of this  
20 subsection; [.]

21 (5) order the minor committed to the Department of Health  
22 and Social Services for placement in an adventure-based education  
23 program established under AS 47.21.020 with conditions the court  
24 considers appropriate concerning release upon satisfactory completion  
25 of the program or commitment under (1) of this subsection if the  
26 program is not satisfactorily completed; or

27 (6) in addition to an order under (1) - (5) of this subsec-  
28 tion, if the delinquency finding is based on the minor's violation of  
29 AS 11.71.020(a)(3), 11.71.030(a)(3) - (a)(5), or 11.71.040(a)(4),

1 order the minor to perform 100 hours of community service; for pur-  
2 poses of this paragraph, "community service" has the meaning given in  
3 AS 33.30.901.

4 \* Sec. 14. Sections 10 and 11 of this Act take effect August 16, 1990.

5 \* Sec. 15. In the preparation and distribution of a student's rights  
6 card, under AS 18.65.320, added by sec. 9 of this Act, the commissioner of  
7 public safety shall consider rights of minors guaranteed by state law and  
8 prepare and distribute a card based on the New Jersey student's rights  
9 cards prepared and issued by the New Jersey Commission to Deter Criminal  
10 Activity under N.J.S.A. 52:17B - 156.