

Offered: 4/20/90
Referred: Judiciary, and Finance

6-1102M

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1 IN THE SENATE BY THE HESS COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 340 (HESS)

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, to misconduct involving controlled sub-
9 stances, imitation controlled substances, and alcohol
10 by minors, and to the provision of information that
11 includes penalties applicable to misconduct involving
12 controlled substances; and requiring installation of
13 signs in the vicinity of schools declaring the areas
14 to be 'drug-free school zones'; and providing for an
15 effective date."

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

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

18 (a) Except as authorized in AS 17.30, a person commits the crime
19 of misconduct involving a controlled substance in the second degree if
20 the person

21 (1) manufactures or delivers any amount of a schedule IA
22 controlled substance;

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

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

29 (A) with reckless disregard that the delivery or

1 possession with intent to deliver occurs on or within 1,000 feet
2 of school grounds; or

3 (B) on a school bus.

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

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

13 * Sec. 3. AS 11.71.030(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 third degree if
16 the person

17 (1) manufactures or delivers any amount of a schedule IIA
18 or IIIA controlled substance or possesses any amount of a schedule IIA
19 or IIIA controlled substance with intent to manufacture or deliver;

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

23 (3) delivers any amount of a schedule IVA or schedule VA
24 controlled substance, or delivers one ounce or more of a schedule VIA
25 controlled substance to a person

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

28 (B) on a school bus;

29 (4) possesses any amount of a schedule IVA or schedule VA

1 controlled substance with intent to deliver, or possesses one ounce or
2 more of a schedule VIA controlled substance with intent to deliver,
3 that controlled substance to a person

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

7 (B) on a school bus; or

8 (5) [(3) BEING 18 YEARS OF AGE OR OLDER,] possesses any
9 amount of a schedule IA or IIA controlled substance

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

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

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

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

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

25 (a) Except as authorized in AS 17.30, a person commits the crime
26 of misconduct involving a controlled substance in the fourth degree if
27 the person

28 (1) manufactures or delivers any amount of a schedule IVA
29 or VA controlled substance or possesses any amount of a schedule IVA

1 or VA controlled substance with intent to manufacture or deliver;
2 (2) manufactures or delivers, or possesses with the intent
3 to manufacture or deliver, one or more preparations, compounds, mix-
4 tures, or substances of an aggregate weight of one ounce or more
5 containing a schedule VIA controlled substance;
6 (3) possesses
7 (A) any amount of a schedule IA or IIA controlled
8 substance;
9 (B) 25 or more tablets, ampules, or syrettes contain-
10 ing a schedule IIIA or IVA controlled substance;
11 (C) one or more preparations, compounds, mixtures, or
12 substances of an aggregate weight of three grams or more contain-
13 ing a schedule IIIA or IVA controlled substance;
14 (D) 50 or more tablets, ampules, or syrettes contain-
15 ing a schedule VA controlled substance;
16 (E) one or more preparations, compounds, mixtures, or
17 substances of an aggregate weight of six grams or more containing
18 a schedule VA controlled substance; or
19 (F) one or more preparations, compounds, mixtures, or
20 substances of an aggregate weight of one pound or more containing
21 a schedule VIA controlled substance;
22 (4) unlawfully [BEING 18 YEARS OF AGE OR OLDER,] possesses
23 a schedule IIIA, IVA, VA, or VIA controlled substance
24 (A) with reckless disregard that the possession occurs
25 on or within 1,000 feet of school [THE] grounds [OF OR ON A
26 PARKING LOT IMMEDIATELY ADJACENT TO A PUBLIC OR PRIVATE PRE-
27 SCHOOL, ELEMENTARY, JUNIOR HIGH, OR SECONDARY SCHOOL]; or
28 (B) on a school bus;
29 (5) knowingly keeps or maintains any store, shop,

1 warehouse, dwelling, building, vehicle, boat, aircraft, or other
2 structure or place which is used for keeping or distributing control-
3 led substances in violation of a felony offense under this chapter or
4 AS 17.30;

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

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

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

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

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

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

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

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

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

1 (29) "school grounds" means a building, structure, athletic
2 playing field, playground, parking area, or land contained within the
3 real property boundary line of a public or private preschool, elemen-
4 tary, or secondary school.

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

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

14 * Sec. 9. AS 18.65 is amended by adding new sections to article 3 to
15 read:

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

27 (b) State money may not be used to print and distribute stu-
28 dent's rights cards under this section unless contributions from
29 private sources to pay for these costs have not been forthcoming.

1 Sec. 18.65.330. DISTRIBUTION OF PAMPHLET TO HOUSEHOLDS. (a)
2 Annually, the commissioner of public safety shall prepare and mail to
3 each household an information pamphlet. The pamphlet must be written
4 in easily understandable language, must be designed to educate the
5 public about controlled substances, and must summarize information
6 relating to the criminal penalties applicable to the possession and
7 sale of controlled substances in public and private schools, in areas
8 adjacent to schools, and on school buses.

9 (b) State money may not be used to print and distribute informa-
10 tion pamphlets to households under this section unless contributions
11 from private sources to pay for these costs have not been forthcoming.

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. AS 28.15.185(b) is amended to read:

26 (b) The court shall impose the revocation for an offense
27 described in (a) of this section as follows:

28 (1) for a first conviction or adjudication, the revocation
29 may be for a period not to exceed 120 [90] days;

1 (2) for a second [OR SUBSEQUENT] conviction or adjudica-
2 tion, the revocation may be for a period not to exceed one year;

3 (3) for a third or subsequent conviction or adjudication,
4 the court shall revoke the minor's driver's license for two years or
5 until the minor reaches 18 years of age, whichever is longer.

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

7 (b) If the court finds that the minor is delinquent, it shall

8 (1) order the minor committed to the Department of Health
9 and Social Services for a period of time not to exceed two years or in
10 any event extend past the day the minor becomes 19, except that the
11 department may petition for and the court may grant in a hearing (A)
12 two-year extensions of commitment which do not extend beyond the
13 child's 19th birthday if the extension is in the best interests of the
14 minor and the public; and (B) an additional one-year period of super-
15 vision past age 19 if continued supervision is in the best interests
16 of the person and the person consents to it; the department shall
17 place the minor in the juvenile facility which the department consid-
18 ers appropriate and which may include a juvenile correctional school,
19 detention home, or detention facility; the minor may be released from
20 placement or detention and placed on probation on order of the court
21 and may also be released by the department, in its discretion, under
22 AS 47.10.200;

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

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

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

7 (3) order the minor committed to the department and placed
8 on probation, to be supervised by the department, and released to the
9 minor's parents, guardian, other suitable person, or suitable nonde-
10 tention setting such as a family home, group care facility, or child
11 care facility, whichever the department considers appropriate to
12 implement the treatment plan of the predisposition report; if the
13 court orders the minor placed on probation, it may specify the terms
14 and conditions of probation; the department may transfer the minor, in
15 the minor's best interests, from one of the probationary placement
16 settings listed in this paragraph to another, and the minor, the
17 minor's parents or guardian, and the minor's attorney are entitled to
18 reasonable notice of the transfer; the probation may be for a period
19 of time, not to exceed two years and in no event extend past the day
20 the minor becomes 19, except that the department may petition for and
21 the court may grant in a hearing

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

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

28 (4) order the minor to make suitable restitution in lieu of
29 or in addition to the court's order under (1), (2), or (3) of this

1 subsection; [.]

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

8 (6) in addition to an order under (1) - (5) of this subsec-
9 tion, if the delinquency finding is based on the minor's violation of
10 AS 11.71.020(a)(3), 11.71.030(a)(3) - (a)(5), or 11.71.040(a)(4),
11 order the minor to perform 100 hours of community service; for pur-
12 poses of this paragraph, "community service" has the meaning given in
13 AS 33.30.901.

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

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