

HOUSE BILL NO. 27

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES B.DAVIS, Boyer, Ellis, Brown, Lincoln

Introduced: 1/21/91

Referred: Health, Education and Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the delivery and possession of controlled substances and imitation con-
 2 trolled substances, to misconduct involving controlled substances, imitation controlled
 3 substances, and alcohol by minors, and to the provision of information that includes
 4 penalties applicable to misconduct involving controlled substances; and requiring installation
 5 of signs in the vicinity of schools declaring the areas to be 'drug-free school zones'; and
 6 providing for an effective date."

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

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

9 (a) Except as authorized in AS 17.30, a person commits the crime of misconduct
 10 involving a controlled substance in the second degree if the person
 11 (1) manufactures or delivers any amount of a schedule IA controlled substance;
 12 (2) [OR] possesses any amount of a schedule IA controlled substance with intent
 13 to manufacture or deliver; or

1 **(3) delivers any amount of a schedule IIA or IIIA controlled substance, or**
2 **possesses any amount of a schedule IIA or IIIA controlled substance with intent to deliver**
3 **that controlled substance, to a person**

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

6 **(B) on a school bus.**

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

8 (c) It is an affirmative defense to a prosecution under (a)(3)(A) of this section that the
9 prohibited conduct took place entirely within a private residence located within 1,000 feet of the
10 school grounds, that a minor was not present in the private residence at any time during the
11 commission of the offense, and that the prohibited conduct did not involve distributing, dispens-
12 ing, or possessing with the intent to distribute or dispense a controlled substance 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 of misconduct
15 involving a controlled substance in the third degree if the person

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

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

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

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

26 **(B) on a school bus;**

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

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

1 (D) 50 or more tablets, ampules, or syrettes containing a schedule VA
2 controlled substance;

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

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

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

10 (A) with reckless disregard that the possession occurs on or within
11 1,000 feet of school [THE] grounds [OF OR ON A PARKING LOT IMMEDIATELY
12 ADJACENT TO A PUBLIC OR PRIVATE PRESCHOOL, ELEMENTARY, JUNIOR
13 HIGH, OR SECONDARY SCHOOL]; or

14 (B) on a school bus;

15 (5) knowingly keeps or maintains any store, shop, warehouse, dwelling, building,
16 vehicle, boat, aircraft, or other structure or place which is used for keeping or distributing
17 controlled substances in violation of a felony offense under this chapter or AS 17.30;

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

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

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

28 (9) obtains possession of a controlled substance by misrepresentation, fraud,
29 forgery, deception or subterfuge; or

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

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

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

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

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

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

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

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

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

20 Sec. 18.65.330. **STUDENT'S RIGHTS CARD.** (a) Annually, not later than October 31,
21 the Department of Public Safety shall issue a "Student's Rights" card. The student's rights card
22 shall be delivered to every child enrolled in a public school and to every child enrolled in a
23 private school of which the Department of Education has a record under AS 14.45. Based on
24 information in the Student's Bill of Rights prepared under AS 14.07.181, and after consultation
25 with the attorney general, the commissioner of public safety shall prepare the card so that it
26 contains information that summarizes state law applicable to and the penalties for sale and
27 possession of controlled substances in schools, in areas adjacent to schools, and on school buses.

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

31 Sec. 18.65.340. **DISTRIBUTION OF PAMPHLET TO HOUSEHOLDS.** (a) Annually,

1 the commissioner of public safety shall prepare and mail to each household an information
2 pamphlet. The pamphlet must be written in easily understandable language, must be designed
3 to educate the public about controlled substances, and must summarize information relating to
4 the criminal penalties applicable to the possession and sale of controlled substances in public and
5 private schools, in areas adjacent to schools, and on school buses.

6 (b) State money may not be used to print and distribute information pamphlets to
7 households under this section unless contributions from private sources to pay for these costs
8 have not been forthcoming.

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

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

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

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

19 * Sec. 12. AS 28.15.185(b) is amended to read:

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

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

24 (2) for a second [OR SUBSEQUENT] conviction or adjudication, the revocation
25 may be for a period not to exceed one year;

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

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

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

31 (1) order the minor committed to the department for a period of time not to

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

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

15 (A) two-year extensions of supervision that do not extend beyond the
16 child's 19th birthday if the extension is in the best interests of the minor and the public;
17 and

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

20 (3) order the minor committed to the department and placed on probation, to be
21 supervised by the department, and released to the minor's parents, guardian, other suitable person,
22 or suitable nondetention setting such as a family home, group care facility, or child care facility,
23 whichever the department considers appropriate to implement the treatment plan of the
24 predisposition report; if the court orders the minor placed on probation, it may specify the terms
25 and conditions of probation; the department may transfer the minor, in the minor's best interests,
26 from one of the probationary placement settings listed in this paragraph to another, and the
27 minor, the minor's parents or guardian, and the minor's attorney are entitled to reasonable notice
28 of the transfer; the probation may be for a period of time, not to exceed two years and in no
29 event extend past the day the minor becomes 19, except that the department may petition for and
30 the court may grant in a hearing

31 (A) two-year extensions of commitment that do not extend beyond the

1 child's 19th birthday if the extension is in the best interests of the minor and the public;
2 and

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

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

8 (5) order the minor committed to the department for placement in an adventure-
9 based education program established under AS 47.21.020 with conditions the court considers
10 appropriate concerning release upon satisfactory completion of the program or commitment under
11 (1) of this subsection if the program is not satisfactorily completed; or

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

16 * Sec. 14. Sections 10 and 11 of this Act take effect August 16, 1992.

17 * Sec. 15. In the preparation and distribution of a student's rights card, under AS 18.65.330, added
18 by sec. 9 of this Act, the commissioner of public safety shall consider rights of minors guaranteed by
19 state law and prepare and distribute a card based on the New Jersey student's rights cards prepared and
20 issued by the New Jersey Commission to Deter Criminal Activity under N.J.S.A. 52:17B - 156.