

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 27 (HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 3/1/91

Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVES B.DAVIS, Boyer, Ellis, Brown, Lincoln, Mackie, Choquette, C.Davis, Finkelstein, Navarre, Parnell, Ulmer, Gonzales, Donley, Hanley, Taylor, Moyer

A BILL

FOR AN ACT ENTITLED

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

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

8 * Section 1. AS 11.71.030(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 third degree if the person

11 (1) manufactures or delivers any amount of a schedule IIA or IIIA controlled
12 substance or possesses any amount of a schedule IIA or IIIA controlled substance with intent to
13 manufacture or deliver;

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

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

6 (A) with reckless disregard that the possession occurs on or within 500
7 feet of school [THE] grounds; or

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

11 * Sec. 2. AS 11.71.030(b) is repealed and reenacted to read:

12 (b) It is an affirmative defense to a prosecution under (a)(3)(A) of this section that the
13 prohibited conduct took place entirely within a private residence located within 500 feet of the
14 school grounds, and that the prohibited conduct did not involve distributing, dispensing, or pos-
15 sessed with the intent to distribute or dispense a controlled substance for profit. Nothing in this
16 subsection precludes a prosecution under any other provision of this section or any other section
17 of this chapter.

18 * Sec. 3. AS 11.71.040(a) is amended to read:

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

21 (1) manufactures or delivers any amount of a schedule IVA or VA controlled
22 substance or possesses any amount of a schedule IVA or VA controlled substance with intent to
23 manufacture or deliver;

24 (2) manufactures or delivers, or possesses with the intent to manufacture or
25 deliver, one or more preparations, compounds, mixtures, or substances of an aggregate weight
26 of one ounce or more containing a schedule VIA controlled substance;

27 (3) possesses

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

29 (B) 25 or more tablets, ampules, or syrettes containing a schedule IIIA or
30 IVA controlled substance;

31 (C) one or more preparations, compounds, mixtures, or substances of an

1 aggregate weight of three grams or more containing a schedule IIIA or IVA controlled
2 substance;

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

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

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

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

12 (A) with reckless disregard that the possession occurs on or within 500
13 feet of school [THE] grounds [OF OR ON A PARKING LOT IMMEDIATELY
14 ADJACENT TO A PUBLIC OR PRIVATE PRESCHOOL, ELEMENTARY, JUNIOR
15 HIGH, OR SECONDARY SCHOOL]; or

16 (B) on a school bus;

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

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

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

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

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

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

3 * Sec. 4. AS 11.71.040(b) is repealed and reenacted to read:

4 (b) It is an affirmative defense to a prosecution under (a)(4)(A) of this section that the
5 prohibited conduct took place entirely within a private residence located within 500 feet of the
6 school grounds. Nothing in this subsection precludes a prosecution under any other provision
7 of this section or any other section of this chapter.

8 * Sec. 5. AS 11.71.900 is amended by adding new paragraphs to read:

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

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

14 * Sec. 6. AS 14.07 is amended by adding a new section to read:

15 Sec. 14.07.181. ADDITIONAL DUTIES OF BOARD. The board shall direct the
16 department to develop, adopt, periodically review, and distribute annually to each student enrolled
17 in a public school an information pamphlet. The pamphlet must be written in easily
18 understandable language, must be designed to educate the student about controlled substances,
19 and must summarize information relating to the criminal penalties applicable to the possession
20 and sale of controlled substances in public schools, in areas adjacent to schools, and on school
21 buses.

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

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

26 * Sec. 8. AS 28.01.010(d) is amended to read:

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

1 * Sec. 9. AS 47.10.080(b) is amended to read:

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

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

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

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

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

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

1 event extend past the day the minor becomes 19, except that the department may petition for and
2 the court may grant in a hearing

3 (A) two-year extensions of commitment that do not extend beyond the
4 child's 19th birthday if the extension is in the best interests of the minor and the public;
5 and

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

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

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

15 (6) in addition to an order under (1) - (5) of this subsection, if the
16 delinquency finding is based on the minor's violation of AS 11.71.030(a)(3) or
17 11.71.040(a)(4), order the minor to perform 50 hours of community service; for purposes
18 of this paragraph, "community service" includes work

19 (A) on a project identified in AS 33.30.901; or

20 (B) that, on the recommendation of the city council or traditional
21 village council, would benefit persons within the city or village who are elderly or
22 disabled.

23 * Sec. 10. Sections 7 and 8 of this Act take effect August 16, 1992.