

HOUSE BILL NO. 367

**IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION**

BY REPRESENTATIVE ZAWACKI

Introduced: 1/13/92

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the use or ingestion of controlled substances."

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

3 * Section 1. PURPOSE. In its recent decision in State v. Thronsen, 809 P.2d 941, the Alaska Court
4 of Appeals ruled that a defendant could not be convicted of misconduct involving a controlled substance
5 in the fourth degree based on the presence in the defendant's blood of quantities of cocaine that the
6 defendant had ingested. The appellate court affirmed the trial court's dismissal of the indictment
7 alleging that the defendant had possessed cocaine in the defendant's body. The purpose of this Act is
8 to set aside the ruling of that decision and its effect so that a person may be convicted on the basis of
9 use or ingestion of a controlled substance on the same basis as the person's possession of the substance
10 without intent to deliver.

11 * Sec. 2. AS 11.71.040(a) is amended to read:

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

14 (1) manufactures or delivers any amount of a schedule IVA or VA controlled

1 substance or possesses any amount of a schedule IVA or VA controlled substance with intent to
2 manufacture or deliver;

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

6 (3) possesses

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

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

10 (C) one or more preparations, compounds, mixtures, or substances of an
11 aggregate weight of three grams or more containing a schedule IIIA or IVA controlled
12 substance;

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

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

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

20 (4) possesses a schedule IIIA, IVA, VA, or VIA controlled substance

21 (A) with reckless disregard that the possession occurs on or within 500
22 feet of school grounds; or

23 (B) on a school bus;

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

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

31 (7) knowingly uses in the course of the manufacture or distribution of a controlled

1 substance a registration number which is fictitious, revoked, suspended, or issued to another
2 person;

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

6 (9) obtains possession of a controlled substance by misrepresentation, fraud,
7 forgery, deception or subterfuge; [OR]

8 (10) affixes a false or forged label to a package or other container containing any
9 controlled substance; or

10 (11) uses or ingests any amount of a schedule IA or IIA controlled substance.

11 * Sec. 3. AS 11.71.050(a) is amended to read:

12 (a) Except as authorized in AS 17.30, a person commits the crime of misconduct
13 involving a controlled substance in the fifth degree if the person

14 (1) manufactures or delivers, or possesses with the intent to manufacture or
15 deliver, one or more preparations, compounds, mixtures, or substances of an aggregate weight
16 of one-half ounce or more containing a schedule VIA controlled substance;

17 (2) manufactures or delivers, or possesses with the intent to manufacture or
18 deliver, one or more preparations, compounds, mixtures, or substances of an aggregate weight
19 of less than one-half ounce containing a schedule VIA controlled substance, for remuneration;

20 (3) possesses

21 (A) less than 25 tablets, ampules, or syrettes containing a schedule IIIA
22 or IVA controlled substance;

23 (B) one or more preparations, compounds, mixtures, or substances of an
24 aggregate weight of less than three grams containing a schedule IIIA or IVA controlled
25 substance;

26 (C) less than 50 tablets, ampules, or syrettes containing a schedule VA
27 controlled substance;

28 (D) one or more preparations, compounds, mixtures, or substances of an
29 aggregate weight of less than six grams containing a schedule VA controlled substance;
30 or

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

1 aggregate weight of one-half pound or more containing a schedule VIA controlled
2 substance; [OR]

3 (4) fails to make, keep, or furnish any record, notification, order form, statement,
4 invoice, or information required under AS 17.30; or

5 (5) uses or ingests any amount of a schedule IIIA, IVA, or VA controlled
6 substance.

7 * Sec. 4. AS 11.71.060(a) is amended to read:

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

10 (1) uses, ingests, or displays any amount of a schedule VIA controlled substance
11 or possesses one or more preparations, compounds, mixtures, or substances of an aggregate
12 weight of less than one-half pound containing a schedule VIA controlled substance; or

13 (2) refuses entry into a premise for an inspection authorized under AS 17.30.