

SENATE BILL NO. 444

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/24/92
Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to murder, kidnapping, controlled substances, and imitation controlled
2 substances offenses; creating the crime of conspiracy and the crime of money laundering;
3 amending a provision relating to general principles of criminal liability."

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

5 * **Section 1.** AS 11.31 is amended by adding a new section to read:

6 **CHAPTER 31.**

7 **ATTEMPT; [AND] SOLICITATION; CONSPIRACY.**

8 **Sec. 11.31.120. CONSPIRACY.** (a) A person commits the crime of conspiracy if, with
9 intent to promote or facilitate an illegal activity, the person agrees with one or more other
10 persons to engage in or cause the performance of that activity and the person or one of the others
11 does an overt act in furtherance of the agreement.

12 (b) In this section "illegal activity" means murder in the first degree under AS 11.41.100
13 or in the second degree under AS 11.41.110, kidnapping under AS 11.41.300, and misconduct
14 involving a controlled substance under AS 11.71.010 - 11.71.040.

1 (c) Conspiracy is the same class of offense as the most serious offense that was an object
2 of the conspiracy.

3 * Sec. 2. AS 11.31.140 is amended to read:

4 Sec. 11.31.140. MULTIPLE CONVICTIONS BARRED. (a) It is not a defense to a
5 prosecution under AS 11.31.100 - 11.31.120 [AS 11.31.100 OR AS 11.31.110] that the crime that
6 is the object of the attempt, [OR] solicitation, or conspiracy was actually committed pursuant
7 to the attempt, [OR] solicitation, or conspiracy.

8 (b) A person may not be convicted of more than one crime defined by AS 11.31.100 -
9 11.31.120 [AS 11.31.100 OR AS 11.31.110] for conduct designed to commit or culminate in
10 commission of the same crime.

11 (c) A person may not be convicted on the basis of the same course of conduct of both
12 (1) a crime defined by AS 11.31.100 - 11.31.120 [AS 11.31.100 OR AS 11.31.110]; and (2) a
13 [THE] crime that is an [THE] object of the attempt, [OR] solicitation, or conspiracy.

14 (d) This section does not bar inclusion of multiple counts in a single indictment or
15 information charging commission of a crime defined by AS 11.31.100 - 11.31.120 [AS 11.31.100
16 OR AS 11.31.110] and commission of the crime that is the object of the attempt, [OR]
17 solicitation, or conspiracy.

18 * Sec. 3. AS 11.71.020 is amended to read:

19 Sec. 11.71.020. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN THE
20 SECOND DEGREE. (a) Except as authorized in AS 17.30, a person commits the crime of
21 misconduct involving a controlled substance in the second degree if the person

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

25 (2) manufactures or delivers, or possesses with the intent to manufacture or
26 deliver, one or more preparations, compounds, mixtures, or substances of an aggregate
27 weight of 500 grams or more containing a schedule IIA controlled substance identified in
28 AS 11.71.150(c) other than cocaine base;

29 (3) manufactures or delivers, or possesses with the intent to manufacture or
30 deliver, one or more preparations, compounds, mixtures, or substances of an aggregate
31 weight of five grams or more containing cocaine base; or

1 **(4) engages in a continuing criminal enterprise.**
2 (b) **For purposes of this section, a person is engaged in a "continuing criminal**
3 **enterprise" if**
4 **(1) the person commits a violation of this chapter which is punishable as a**
5 **felony; and**
6 **(2) that violation is a part of a continuing series of three or more violations**
7 **of this chapter**
8 **(A) which the person undertakes in concert with at least two other**
9 **persons organized, supervised, or otherwise managed by the person; and**
10 **(B) from which the person obtains substantial income or resources.**
11 (c) Misconduct involving a controlled substance in the second degree is a class A felony.
12 * Sec. 4. AS 11.71.030(a) is amended to read:
13 (a) Except as authorized in AS 17.30, a person commits the crime of misconduct
14 involving a controlled substance in the third degree if the person
15 (1) manufactures or delivers, **or possesses with the intent to manufacture or**
16 **deliver, one or more preparations, compounds, mixtures, or substances of an aggregate**
17 **weight of less than 500 grams containing a schedule IIA controlled substance identified in**
18 **AS 11.71.150(c), or manufactures or delivers, or possesses with the intent to manufacture**
19 **or deliver,** any amount of **any other** [A] schedule IIA or IIIA controlled substance [OR
20 POSSESSES ANY AMOUNT OF A SCHEDULE IIA OR IIIA CONTROLLED SUBSTANCE
21 WITH INTENT TO MANUFACTURE OR DELIVER];
22 (2) delivers any amount of a schedule IVA, VA, or VIA controlled substance to
23 a person under 19 years of age who is at least three years younger than the person delivering the
24 substance; [OR]
25 (3) possesses any amount of a schedule IA or IIA controlled substance
26 (A) with reckless disregard that the possession occurs on or within 500
27 feet of school grounds; or
28 (B) on a school bus; **or**
29 **(4) manufactures or delivers, or possesses with intent to manufacture or**
30 **deliver, one or more preparations, compounds, mixtures, or substances of an aggregate**
31 **weight of 10 kilograms or more containing a schedule VIA controlled substance.**

1 * Sec. 5. AS 11.71 is amended by adding a new section to read:

2 **ARTICLE 1A. MONEY LAUNDERING.**

3 **Sec. 11.71.090. MONEY LAUNDERING.** (a) A person commits the crime of money
4 laundering if the person

5 (1) knowingly receives or acquires proceeds, or engages in a transaction involving
6 proceeds that the person knows are derived from a violation of this chapter;

7 (2) knowingly gives, sells, transfers, trades, invests, conceals, transports, or
8 otherwise makes available money or other intangible property that the person knows is intended
9 to be used to commit or further the commission of a violation of this chapter;

10 (3) knowingly directs, plans, organizes, initiates, finances, manages, supervises,
11 or facilitates the transportation or transfer of proceeds that the person knows are derived from
12 a violation of this chapter; or

13 (4) knowingly conducts a financial transaction involving proceeds derived from
14 a violation of this chapter if the transaction is designed in whole or in part to conceal or disguise
15 the nature, location, source, ownership, or control of those proceeds or to avoid a transaction
16 reporting requirement under state or federal law.

17 (b) For purposes of this section, "intangible property" includes money, checks, drafts,
18 negotiable instruments, gift certificates, credit balances, credit memos, and stocks, bonds,
19 coupons, securities, and other intangible ownership interests in a business association.

20 (c) Money laundering is a class C felony.

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

22 (30) "cocaine base," which includes "crack," excludes cocaine hydrochloride;

23 (31) "possess" means exercising dominion or control over or having physical
24 possession of a controlled substance, and includes injecting, inhaling, swallowing, or otherwise
25 introducing the substance into the person's body or bloodstream.

26 * Sec. 7. AS 11.73 is amended by adding a new section to read:

27 **Sec. 11.73.070. EXCLUDED DEFENSE.** In a prosecution for an offense involving an
28 imitation controlled substance under this chapter, it is not a defense that the person believed that
29 the imitation controlled substance was in fact a controlled substance.

30 * Sec. 8. AS 11.81.615 is amended to read:

31 **Sec. 11.81.615. OFFENSES DEFINED BY AGE, WEIGHT, OR VALUE.** Whenever

1 a provision of law defining an offense requires a determination of the age of the victim, the
2 weight of a substance, or the value of property or services, it is not a defense to a lower [THE
3 LOWEST] class of offense established by the evidence that the age of the victim is less than the
4 age which would make the offense a higher class of offense or that the weight of the substance
5 exceeds the weight that would make the offense a higher class of offense or that the value
6 of the property or services exceeds the value which would make the offense a higher class of
7 offense, and a person may be charged and convicted accordingly.