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Chapter 8.20

DRUG ABUSE AND PARAPHERNALIA

Sections:

- 8.20.010 Definitions.
- 8.20.020 Sale of drug paraphernalia unlawful.
- 8.20.025 Premises where drug paraphernalia sold--Minors prohibited.
- 8.20.030 Remedies.
- 8.20.040 Severability.

8.20.010 Definitions.

As used in this chapter, the following terms shall have the meanings as defined herein.

- A. "Controlled substance" means a narcotic drug as defined in AS 17.10.230(13) and as supplemented by any regulations adopted under AS 17.10; and a depressant, hallucinogenic or stimulant drug as defined in AS 17.12.150(3) and as supplemented by any regulations adopted under AS 17.12; and shall also include marijuana, hashish and cocaine.
- B. "Drug paraphernalia" means all items, equipment, devices, products and materials of any kind which are used, or intended for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance as defined herein. Drug paraphernalia includes, but is not limited to:
  - 1. kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
  - 2. kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;
  - 3. isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance;

4. testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances except for use by or under the direction of law enforcement agencies or medical research or treatment facilities;
5. scales and balances used or intended for use in weighing or measuring controlled substances;
6. diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting controlled substances;
7. separation gins and sifters used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
8. blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances;
9. capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
10. containers and other objects used or intended for use in storing or concealing controlled substances;
11. hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled substances into the human body;
12. objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:
  - a. metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
  - b. water pipes;
  - c. carburetion tubes and devices;
  - d. smoking and carburetion masks;
  - e. roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

- f. miniature cocaine spoons and cocaine vials;
- g. chamber pipes;
- h. carburetor pipes;
- i. electric pipes;
- j. air-driven pipes;
- k. chillums;
- l. bongs;
- m. ice pipes or chillers.

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

1. statements by the manufacturer, owner or by anyone in control of the object concerning its use;
2. prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;
3. the proximity of the object, in time and space, to a direct violation of AS 17.10 or AS 17.12;
4. the proximity of the object to controlled substances;
5. the existence of any residue of controlled substances on the object;
6. direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of AS 17.10 or AS 17.12; the innocence of an owner, or of anyone in control of the object, as to a direct violation of AS 17.10 or AS 17.12 shall not prevent a finding that the object is intended for use as drug paraphernalia;
7. instructions, oral or written, provided with the object concerning its use;
8. descriptive materials accompanying the object which explain or depict its use;

9. national and local advertising concerning its use;
10. the manner in which the object is displayed for sale;
11. whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
12. direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
13. the existence and scope of legitimate uses for the object in the community;
14. expert testimony concerning its use.

C. "Sell" or "sale" means the commercial transfer of ownership, possession or use of drug paraphernalia in the regular course of a wholesale or retail business for consideration of any type. (AO 81-219).

8.20.020 Sale of drug paraphernalia unlawful.

It is unlawful for any person to sell, or possess with intent to sell, drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance, except as specifically authorized and permitted under the provisions of AS Title 17 and by such rules and regulations as are adopted pursuant thereto. (AO 81-219).

8.20.025 Premises where drug paraphernalia sold--Minors prohibited.

In a store whose principal business is drug paraphernalia, it is unlawful for minors to purchase items or be on the premises. Legible signs will be posted on the premises stating that no minors are allowed. (AO 81-219).

8.20.030 Remedies.

A. Any person who violates any provision of this chapter shall be subject to a civil penalty of not less than \$50.00 nor more than \$1,000.00 for each offense or injunctive relief to restrain the person from continuing the violation or threat of violation, or both injunctive relief and a civil penalty. Upon application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this chapter, the Superior Court shall grant injunctive relief to restrain the violation.

- B. Each day of violation of any provision of this chapter shall constitute a separate offense.
- C. Any item sold or possessed with the intent to sell by any person after a court has adjudicated such an item to constitute drug paraphernalia as defined by Section 8.20.010 shall be subject to forfeiture of the said paraphernalia to the municipality upon order of the court entered in any injunction proceedings instituted under the authority of this section or in a separate forfeiture action instituted by the municipality. (AO 81-219).

8.20.040 Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provisions of this chapter and such invalid provisions are severable. (AO 81-219).

FISCAL NOTE

REQUEST

Revision Date: \_\_\_\_\_  
Title: An Act relating to drug paraphernalia

Agency Affected: Public Safety  
BRU: Alaska State Troopers

Sponsor: Sen. Fischer  
Requestor: Senate HESS

Components: Criminal Investigations Bureau

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY88	FY89	FY90	FY91	FY92	FY93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUNDS						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No increased enforcement level is anticipated to result from passage of this legislation.

Prepared by: Francis C. Allan  
Division: Alaska State Troopers

Phone: 269-5691  
Date: 1/26/88

Approved by Commissioner: Arthur E. English  
Agency: Public Safety

Date: 1/26/88

Distribution: (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

# Alaska State Legislature

Senator Paul A. Fischer  
Senate District D  
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(907) 262-9420 W  
262-9269 H



While in Juneau  
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## State Senate

BoFL  
FEB 10 1988

### MEMORANDUM

TO: Senator Jay Kerttula, Ch. *JK*  
Senate Judiciary Committee

FROM: Senator Paul Fischer *PF*

SUBJECT: Senate Bill 331  
(relating to drug paraphernalia)

DATE: February 10, 1988

I would appreciate your scheduling the above referenced bill before the Senate Judiciary Committee at your earliest possible convenience.

This legislation would make it a class A misdemeanor to use and possess, manufacture and deliver, or advertise drug paraphernalia. A person 18 years of age or over who delivers drug paraphernalia to a person under the age of 19 who is at least three years younger than the person delivering the paraphernalia would be guilty of a class C felony. Paraphernalia would be subject to seizure by the police upon issuance of a court order, and would be forfeited to the state upon conviction of a defendant of upon judgement of a court in a civil proceeding. This bill lists the types of paraphernalia, including roach clips and separation gins and sifters for cleaning marijuana, which were added in the Hess Committee Substitute. Additionally the HESS Committee substitute added a new section that would make paraphernalia used to ingest, inhale, or otherwise introduce marijuana into the human body a Class A misdemeanor (except for persons over 18 who deliver paraphernalia to persons under 18 who are at least three years younger, when it becomes a class C felony). This section would take effect when Section 1 of the bill (that criminalizes paraphernalia) takes effect, or on the effective date of a law making the possession of any amount of marijuana a crime, whichever is later.

PAF/sgn

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: "An Act relating to drug para-  
phernalia..."  
Sponsor: Sen. HESS  
Requestor: Senate Judiciary

Agency Affected: Department of Law  
BRU: Prosecution  
Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

*Richard I. Pegues*

Prepared by: Richard I. Pegues, Director  
Division: Administrative Services

Phone: 465-3672  
Date: February 17, 1988

Approved by Commissioner: Grace Berg Schable, Atty. Gen.  
Agency: Department of Law

Date: February 17, 1988

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 331 (HESS)

This bill adds a new chapter to Title 11 that outlaws the use, possession, manufacture, delivery, and advertisement of drug paraphernalia that are used or intended to be used with controlled substances in violation of AS 11.71 and AS 17.30. It is the department's view that most prosecution resulting from enactment of this bill will arise from other illegal drug activity that is already the subject of a criminal prosecution. Consequently, fiscal note funds are not being requested. There will, however, be some additional prosecution that would result from the discovery of drug paraphernalia during the investigation of non-drug related offenses, such as occurs during vehicular stops. It is not possible to accurately predict the extent of this latter category of workload, but it is not expected to be significant. However, it should be noted that because the prosecutor workload is at or near the saturation level in most of the state's district attorney offices, a significant number of independent drug paraphernalia complaints could result in diminished resources to handle more serious offenses, in deferred prosecution of drug paraphernalia complaints, or in a request for additional resources at a later time. Lastly, an initial legal review of the bill indicates that there may be a problem in proving some violations because many of the drug paraphernalia implements defined in the bill also have valid and necessary everyday uses in most households. Staff in the office of the Director of Criminal Prosecutions is available to discuss this issue.

POSITION PAPER  
ON  
SENATE BILL NO. 331

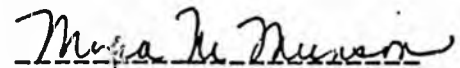
"An Act relating to drug paraphernalia; and providing for an effective date."

CS SB 331 provides for legal penalties for an individual who is found guilty of manufacturing, delivering or advertising for the sale of drug paraphernalia.

The Department of Health and Social Services is supportive of the intent of this legislation. The Department, through the State Office of Alcoholism and Drug Abuse, discourages the use of drugs of all kinds and promotes this position through its support of community education and treatment of individuals who use drugs. This bill complements these efforts by restricting the availability to the public of drug paraphernalia associated with drug use.

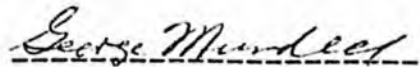
Problems related to alcohol and drug abuse have frequently been discussed during recent meetings of the Governor's Interim Commission on Children and Youth and the Senate Special Committee on Suicide Prevention. Specific strategies recommended to impact these problems included increasing the availability of youth outpatient counseling and additional school curriculum programs.

While supportive of CS for SB 331, the DHSS defers examination of the enforcement provisions of this bill to the Departments of Public Safety and Law.



Myra M. Munson  
Commissioner

2-17-88



For Matthew C. Felix  
Coordinator

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

REQUEST: \_\_\_\_\_

Bill Version: Senate Bill 331  
Publish Date: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: "An Act relating to drug paraphernalia; and providing for an effective date."  
Sponsor: Fischer  
Requestor: N/A

Agency Affected: Health & Social Services  
BRU: Alcoholism & Drug Abuse  
Components: N/A

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
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<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS : (Attach a separate page if necessary)**

Prepared by: Matthew Felix by George Mundell Phone: 586-6201  
Division: Alcoholism and Drug Abuse Date: 2/17/88

Approved by Commissioner: *Mike McManis* Date: 2-17-88  
Agency: *George Mundell*

**Distribution (by preparer):**

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- Senate Secretary