

HB 27

SENATE FINANCE COMMITTEE REPORT

DATE: 5/3/91

FURTHER:

DATE TURNED

INTO OFFICE: ~~5-12-91~~ _____

The Finance Committee considered

~~CS SS HB 27 (FINANCE)~~

Possession of controlled substances and imitation controlled substances, to misconduct involving controlled substances and imitation controlled substances by minors; provision of information that apprises students about controlled substances and penalties applicable to misconduct involving controlled substances; requiring municipalities to post signs in the vicinity of schools declaring the areas to be 'drug-free school zones'; efd and recommended:

- replace with _____ CS _____
 - or adopt _____ CS _____
 - attached amendment(s)
 - _____ letter of intent adopted
- same title
 - new title
 - technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

APPROVES PREVIOUS:

Dept/Date:

fiscal note(s) _____
~~DOE 5-27-91~~

zero fiscal note(s) _____

SIGNING DO PASS:

Al Adams
Paul Smith
Quintely

OTHER RECOMMENDATIONS:

1. *[Signature]*

2. *[Signature] Do pass*

Co-Chairs: Signatures and Recommendations

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Education
 Title: Delivery and possession of controlled substances... 'drug free school zones' BRU: Executive Administration
 Component: Executive Administration
 Sponsor: Bettye Davis
 Requestor: House HESS COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	12.7	11.5	11.5	11.5	11.5	11.5
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	12.7	11.5	11.5	11.5	11.5	11.5

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	12.7	11.5	11.5	11.5	11.5	11.5
FEDERAL FUNDS						
OTHER						
TOTAL	12.7	11.5	11.5	11.5	11.5	11.5

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.) This fiscal analysis assumes distribution of the information pamphlet to 112,200 students in the 54 public school districts in the state. Four versions of the pamphlet will be developed, targeting grades K-12, 3-5, 6-8, 9-12.

Prepared By: Mary Hakala Phone: 465-2800
 Division: Commissioner's Office Date: 2/27/91
 Approved by Commissioner: Steve Hole, Acting Commissioner
 Agency: Education Date: 2/27/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 27 (FINANCE)**IN THE LEGISLATURE OF THE STATE OF ALASKA****SEVENTEENTH LEGISLATURE - FIRST SESSION****BY THE HOUSE FINANCE COMMITTEE****Offered: 4/12/91****Referred: Rules****Sponsor(s): REPRESENTATIVES B.DAVIS, Boyer, Ellis, Brown, Lincoln, Mackie, Choquette, C.Davis, Finkelstein, Navarre, Parnell, Ulmer, Gonzales, Donley, Hanley, Taylor, Moyer, Baker****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 studen's about controlled
4 substances and the penalties applicable to misconduct involving controlled substances; and
5 requiring municipalities to post signs in the vicinity of schools declaring the areas to be
6 'drug-free 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 28.01.010(d) is amended to read:

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

28 * Sec. 8. AS 47.10.080(b) is amended to read:

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

30 (1) order the minor committed to the department for a period of time not to
31 exceed two years or in any event extend past the day the minor becomes 19, except that the

1 department may petition for and the court may grant in a hearing (A) two-year extensions of
2 commitment that do not extend beyond the child's 19th birthday if the extension is in the best
3 interests of the minor and the public; and (B) an additional one-year period of supervision past
4 age 19 if continued supervision is in the best interests of the person and the person consents to
5 it; the department shall place the minor in the juvenile facility that the department considers
6 appropriate and that may include a juvenile correctional school, detention home, or detention
7 facility; the minor may be released from placement or detention and placed on probation on order
8 of the court and may also be released by the department, in its discretion, under AS 47.10 200;

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

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

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

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

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

1 and

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

4 [OR]

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

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

11 (6) in addition to an order under (1) - (5) of this subsection, if the
12 delinquency finding is based on the minor's violation of AS 11.71.030(a)(3) or
13 11.71.040(a)(4), order the minor to perform 50 hours of community service; for purposes
14 of this paragraph. "community service" includes work

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

16 (B) that, on the recommendation of the city council or traditional
17 village council, would benefit persons within the city or village who are elderly or
18 disabled.

19 * Sec. 9. Section 7 of this Act takes effect August 16, 1992.

ALASKA STATE LEGISLATURE

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REPRESENTATIVE BETTYE DAVIS

DISTRICT 14 SEAT B • EAST ANCHORAGE • MULDOON

M E M O R A N D U M

TO: SENATOR JAY KERTTULA AND PAT POURCHOT
CO-CHAIR, SENATE FINANCE COMMITTEE

FROM: REPRESENTATIVE BETTYE DAVIS

DATE: MAY 7, 1991

RE: CS FOR SSHB 27 (FINANCE) - DRUG-FREE SCHOOL ZONES

I respectfully request that CS for SSHB 27 (FINANCE) be scheduled for a hearing before the Senate Finance Committee at your earliest convenience. CS for SSHB 27 (FINANCE) relates to conviction for possession, delivery, and use of controlled substances in school, on or near school grounds, and on school buses.

Criminal justice, education, and substance abuse prevention leaders unanimously agree that the only possible resolution to the current drug epidemic lies in successful reduction of the demand for illegal drugs, particularly among our nation's youth. Of all known drug reduction strategies, the Drug Free School Zones initiative is perhaps the most promising systemic demand-reduction innovation. Drug-Free School Zones can unite community leaders in partnerships with criminal justice, education, and prevention efforts to protect children and enhance the school learning environment by constricting the supply and lessening the demand for drugs. Conceptually, Drug-Free School Zones are designed to create drug-free "safe havens" within geographic zones surrounding schools.

Recognizing the need for greater legislative innovation the following organizations strongly supported the development of drug-free school zones: National School Boards Association, National Association of Secondary School Principals, National Association of Elementary School Principals, National



Association of Partners in Education, National School Safety Center, National Association of State Alcohol and Drug Abuse Directors, Council of State Governments, National Council of Juvenile and Family Court Judges, National Association of Chiefs of Police, and the National Association of Attorneys General.

As of June 1990 forty-two (42) States plus the District of Columbia have institute Drug-Free School Zones. It has been recognized by the National Coalition for Drug-Free School Zones that Alaska already has incorporated the concept of Drug-Free School Zone in its laws. What we hope to do is enhance the law by doing the following.

(1) Amends certain criminal law provisions applicable to possession of controlled substances and imitation controlled substances on or near school grounds and on school buses;

(2) requires the State Board of Education to initiate certain activity apprising the state's public and private students about controlled substances and the criminal penalties applicable to them; and

(3) directs municipalities to install "drug-free school zone" signs near schools.

(4) mandates a court to compel a minor who is convicted or adjudicated of a violation involving possession, delivery, or use of a controlled substance in a school, 500 feet around school grounds, or on a school bus to perform a minimum of 50 hours of community service.

The Association of Alaska School Boards, Alaska Council of School Administrators, NEA-Alaska, Departments of Corrections, Education, Health and Social Services, and Public Safety all support this bill.

Thank you for scheduling this bill.

May 7, 1991

Sponsor: Rep. Bettye Davis

**SECTIONAL ANALYSIS
SPONSOR SUBSTITUTE FOR CS FOR SSHB 27 (FINANCE)**

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

Sections 1 and 3 amend laws defining, respectively, the crimes of misconduct involving a controlled substance in the third and fourth degrees by

(1) broadening to 500 feet around school grounds the geographic area adjacent to a school within which possession of a controlled substance is made a criminal offense, and extending that prohibition to possession occurring on a school bus; and

(2) deleting a condition in current law that the illegal possession in or adjacent to a school bus must be by someone not a minor; the deletion thus broadens the reach of these two criminal provisions to minors. Misconduct in the third degree is a class B felony, misconduct in the fourth degree is a class C felony.

Sections 2 and 4 establishes as affirmative defenses, respectively, for the two offenses above that the alleged offense occurred within a private residence that is situated within 500 foot school grounds perimeter. (An affirmative defense simply means that, as to an issue for which an affirmative defense may be raised, once the state offers some evidence that permits the defendant to use the defense, the defendant has the burden of establishing the defense by a preponderance of the evidence.)

Section 5 defines the terms "school bus" and "school grounds," used in the preceding criminal provisions.

In an adjudication of delinquency of a minor charged with a violation of one of the two preceding criminal provision, Section 8 directs the superior court to order the minor to perform 50 hours of community service, i.e. "work on projects designed to reduce or eliminate environmental damage, protect the public health, or improve public services, lands, forests, park, roads, highways, facilities, or education."

II

Section 6 adds to the duties of the State Board of Education the responsibility of directing the Department of Education to develop and annually distribute to students enrolled in public and private schools an information pamphlet about controlled substances.

III

Section 7 directs the Municipality shall post sign indicating that the school is a "drug-free school zone" signs at each location in which it has installed a sign identifying the location of a school.

Section 9 delays until August 16, 1992, the effective date of the two-sign placement sections, allowing the department and local governments time to prepare and position signs in advance of the 1992-93 school year.