

HB

27

**SEVENTEENTH LEGISLATURE
SENATE JUDICIARY COMMITTEE BILL FILE**

Bill Number: HB27
 Abbreviated Title: Drug Free School Zone

Sponsor: B. Davis Original Received: April 19, 1991
 Written Request to Schedule Rcv'd: April From: _____
 Sponser's Statement Rcv'd: _____ From: _____
 Sectional Analysis Rqst'd: _____ From: _____
 Sectional Analysis Received: _____

Fiscal Note (Original)
 Rqst'd Of: _____ Rcv'd From: _____ Date: _____
 Rqst'd Of: _____ Rcv'd From: _____ Date: _____
 Rqst'd Of: _____ Rcv'd From: _____ Date: _____

Fiscal Note (C.S.)
 Rqst'd Of: _____ Rcv'd From: Educator 12 Date: 2-27-91
 Rqst'd Of: _____ Rcv'd From: _____ Date: _____
 Rqst'd Of: _____ Rcv'd From: _____ Date: _____

Five Day Notice Given: In House - Notice of Hearings Given: March 25th
 Committees of Referral: First: Med Second: Law Third: _____
 LAA Contact: _____ To Senate Secretary: May 3, 1991

COMMITTEE ACTION

DATE: 5-2-91 Heard - CS HB27 Fin passed w/and Rec -
cross Sponsorship
5-3-91 Advised Rules by Note Cross Sponsorship OK

PERSONS TO BE NOTIFIED OF HEARING

- | | |
|------------|-----------|
| 1. Sponsor | 6. _____ |
| 2. Agency | 7. _____ |
| 3. _____ | 8. _____ |
| 4. _____ | 9. _____ |
| 5. _____ | 10. _____ |

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SSHB #27

Revision Date: 2-26-91 Department Affected: Corrections

Title: An act relating to..drug-free zones BRU: _____
Component: _____

Sponsor: Rep. B. Davis

Requestor: Rep. B. Davis 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						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Thomas Sutton, Director *Thomas Sutton* Phone: 465-3376
Division: Administrative Services Date: 2-26-91

Approved by Commissioner: Lloyd Hames
Agency: Dept. of Corrections Date: _____

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

ALASKA STATE LEGISLATURE

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& SOCIAL SERVICES

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REGIONAL AFFAIRS

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CHILDREN'S CAUCUS

REPRESENTATIVE BETTYE DAVIS

DISTRICT 14 SEAT B • EAST ANCHORAGE • MULDOON

M E M O R A N D U M

TO: SENATOR RICK HALFORD,
CHAIR, SENATE JUDICIARY

FROM: REPRESENTATIVE BETTYE DAVIS *Bettye*

DATE: APRIL 19, 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 Judiciary 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.

April 19, 1991

Sponsor: Rep. Bettye Davis

**SECTIONAL ANALYSIS
SPONSOR SUBSTITUTE FOR CS FOR SSB 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.

STATE OF ALASKA
Department of Corrections
LEGISLATIVE POSITION PAPER
Lloyd Hamee, Commissioner

P.O. Box 77, Juneau, AK 99801-2000 (907) 466-8878

Carl Minkul, Legislative Liaison

February 26, 1991

SPONSOR SUBSTITUTE HOUSE BILL NO. 27

"An act relating to the delivery and possession of controlled substances....installation of signs in the vicinity of schools....
"drug-free school zones.

The Department of Corrections supports SSHB No.27. The bill fundamentally addresses the national effort to protect young people and to encourage a drug free school environment.

SSHB No.27 does not have a fiscal impact on Corrections.

FISCAL NOTE:
ZERO
ATTACHED

APPROVED: L.H. by Carl Minkul

Commissioner

DATE: 2-26-91

BILL NO: CSSH B 27(HESS)

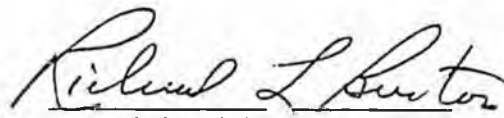
DATE: 3/07/91

TITLE: "An Act relating to . . .
drug free School zones . . ."

CONTACT: Gayle A. Horetski
Deputy Commissioner
465-4322

DEPARTMENT OF
PUBLIC SAFETY
POSITION PAPER

The Department of Public Safety supports CSSH B 27(HESS), which amends present criminal laws regarding possession of controlled substances and imitation controlled substances. The bill establishes a "drug-free zone" on or near school grounds or on a school bus. This is one more tool that will be used by law enforcement officers attempting to prevent youngsters from being exposed to illicit drugs.



Richard L. Burton
Commissioner



ALASKA ASSOCIATION OF ELEMENTARY SCHOOL PRINCIPALS
ALASKA ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS
ALASKA ASSOCIATION OF SCHOOL ADMINISTRATORS

• ALASKA COUNCIL OF SCHOOL ADMINISTRATORS •
326 Fourth St., Suite 406, Juneau, AK 99801-1101 (907) 586-9702 FAX (907) 586-5879

POSITION STATEMENT

HOUSE BILL 27

ENTITLED: DRUG & ALCOHOL USE BY MINORS/SCHOOL ZONES

The Alaska Council of School Administrators supports having a drug free zone located around a school site.

The Alaska Association of Secondary School Principals and the Alaska Association of Elementary School Principals are very aware of detrimental affects drugs can have on our students and society and have long been involved in fighting the menace of drug abuse in Alaska. We are also very aware of the fact that drug pushers have often found a lucrative market among students who cannot say "no" to drugs.

On the national level a recent survey by the Coalition for Drug-Free School Zones shows that 23 states now have drug-free school zones on the books, and legislation is pending in several other states.

Both the Alaska Association of Secondary Principals and the Alaska Association of Elementary School Principals passed resolutions at their annual conference supporting the drug-free school zone legislation.

ASSOCIATION OF ALASKA SCHOOL BOARDS

316 West 11th Street, Juneau, Alaska 99801-1510 • Tel. (907) 586-1083 • Fax (907) 586-2995

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POSITION PAPER HB 27

IN SUPPORT OF LEGISLATION CREATING A DRUG-FREE SCHOOL ZONE

The Association of Alaska School Boards endorses and supports legislation, such as HB 27, creating a drug free school zone and urges quick passage of such legislation by the Alaska Legislature. At least 23 other states have enacted such legislation with resulting decreases in drug related activity in and around schools.

The Association of Alaska School Boards has a strong commitment to a drug-free school environment in the State of Alaska. However, current Alaska law does not dictate increased penalties associated with possession of drugs on school grounds, or with delivery of, or possession with intent to deliver on school grounds.

AASB also endorses allowing the extent of the zone to be decided by local schools. A flexible boundary zone, decided upon by local schools or a school district, would grant the necessary latitude for districts to determine an effective drug-free school zone and would recognize the differences between Alaska's very small rural villages and larger communities.

2/1/91



NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

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February 26, 1991

To: **Representatives Carney and Lincoln, Co-Chairs
Members, House HESS Committee**

Re: **HB 27: "An Act relating to the delivery and possession of controlled substances and imitation controlled substances, to misconduct involving controlled substances, imitation controlled substances, and alcohol by minors, and to the provision of information that includes 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."**

NEA-Alaska strongly supports and encourages your favorable consideration of HB 27.

Public schools through-out our nation, unfortunately, have become focal points for those who would encourage illegal and inappropriate use of drugs and alcohol. The eventual solution to the myriad of attendant problems will happen only when the collective conscience of society is raised to such a level that alcohol and substance abuse is unacceptable behavior.

HB 27 properly increases penalties and, even more importantly, defines a process for raising an awareness of them. It is appropriate for the board of education to have a greater responsibility in providing students with specific information about controlled substances.

The creation of "drug-free" school zones is a positive step and represents a statement of public policy that it is time for all of us to deal with this problem.

Thank you for your consideration of our position.

Respectfully submitted,

Bob Manners
Executive Director

Don Oberg
President

cc: **Representative Bettye Davis**



ANCHORAGE
SCHOOL DISTRICT

4600 DeBarr Avenue
P.O. Box 196614
Anchorage, Alaska 99519-6614
AREA CODE (907) 333-9561

February 27, 1991

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President

Carol Slope
Vice President

Darryl Jordan
Clerk

Cabot Christianson
Treasurer

Vince Casey

Walter T. Featherly

Theresa Obermeyer

SUPERINTENDENT

Thomas C. O'Rourke

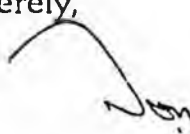
The Honorable Bettye Davis
House of Representatives
P.O. Box V
Juneau, AK 99811

Dear Bettye:

Per your request, the administration reviewed the contents of Sponsor Substitute for House Bill No. 27, and believes that it supports the existing philosophy and practice of the School District relating to the possession of controlled substances and/or imitation controlled substances involving students in our schools. Our current School Board Policy 451.4 - Illegal Drug/Alcohol (see attached), is but one example of our practice in dealing with this topic.

Because we are an educational institution, we believe we have an obligation to take a strong position on the use, sale, and possession of controlled substances by students in our schools and, where possible, provide appropriate education through regular and optional programs to those students impacted. As an educational organization, we would participate with the intent of drug free school zones.

Sincerely,


Thomas C. O'Rourke
Superintendent

mt

cc Carl LaMarr, Deputy Superintendent

Attachment: School Board Policy 451.4

NATIONAL COALITION FOR DRUG-FREE SCHOOL ZONES
State Legislation
June 1990

One of the goals of the National Coalition for Drug-Free School Zones is the passage of state drug-free school zone legislation. This goal is being achieved. To date 42 states plus the District of Columbia have state legislated Drug-Free School Zones. Five states have proposed or pending legislation (i.e., Nebraska, North Carolina, South Dakota, Texas, and Wyoming). Only three states remain without Drug-Free School Zones laws (i.e., Idaho, Montana, and Tennessee).

As each state has adopted unique DFSZ legislation, this legislation brief has been prepared to bring together all of the variations of DFSZ laws nationwide. It is hoped that this material will prove useful to leaders and legislators as they move to improve their DFSZ laws. The following are excerpts of state legislation for Drug-Free School Zones.

Alabama

Division 4.

Sale on or Near School Campus.

§ 13A-12-250. Additional penalty if unlawful sale on or near school campus.

In addition to any penalties heretofore or hereafter provided by law for any person convicted of an unlawful sale of a controlled substance, there is hereby imposed a penalty of five years incarceration in a state corrections facility with no provision for probation if the situs of such unlawful sale was on the campus or within a three-mile radius of the campus boundaries of any public or private school, college, university or other educational institution in this state. (Acts 1987, No. 87-610, p. 1060; Code 1975, § 20-2-79; Acts 1988, 1st Sp. Sess., No. 88-918, p. 512, § 2; Acts 1989, No. 89-950.)

Alaska

Sec. 11.71.030. Misconduct involving a controlled substance in the third degree.

(3) being 18 years of age or older, possesses any amount of a schedule IA or IIA controlled substance within the grounds of or on a parking lot immediately adjacent to a public or private preschool, elementary, junior high, or secondary school.

(b) It is an affirmative defense to a prosecution under (a)(3) of this section that at the time of the possession the school was closed to any organized activity involving persons under 18 years of age. [Nothing in this subsection precludes a prosecution under any other provision of this section or any other section of this chapter.]