

HB

551

Alaska State Legislature

Session
State Capitol Building, Room 118
Juneau, Alaska 99801-1182
Phone (907) 465-2995
Fax (907) 465-6592

Interim
716 West Fourth Avenue, Suite 430
Anchorage, Alaska 99501
Phone (907) 269-0250
Fax 9907) 269-0249

Chair, Judiciary Committee

Vice-Chair, House Committee on
Economic Development,
Trade and Tourism

Member
Oil & Gas Committee

Representative Lesil McGuire

House District 28

MEMORANDUM

To: Senator Fred Dyson
Chair, Senate Health, Education and Social Services

From: Representative Lesil McGuire

Date: May 6, 2004

Re: Request for Hearing HB 551: "An Act relating to the issuance of teacher certificates to and revocation of teacher certificates of persons convicted of certain felony drug offenses and to the issuance of limited teacher certificates to persons convicted of certain crimes involving a minor and felony drug offenses."

I respectfully request that HB 551: "An Act relating to the issuance of teacher certificates to and revocation of teacher certificates of persons convicted of certain felony drug offenses and to the issuance of limited teacher certificates to persons convicted of certain crimes involving a minor and felony drug offenses" be scheduled "pending referral" for a hearing at your earliest convenience. HB 551 is scheduled for its second hearing at 3:30pm in Senate State Affairs and is expected to be passed out today. Please refer to the attached bill packet for background information.

If you have any questions please feel free to contact me personally, or my staff, Ryan Makinster, at 2995. Thank you for your time and consideration.

23-LS1889I
Craver
5/6/04

SENATE CS FOR CS FOR HOUSE BILL NO. 551()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE JUDICIARY COMMITTEE

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to the issuance of teacher certificates to and revocation of teacher
2 certificates of persons convicted of certain felony drug offenses and to the issuance of
3 limited teacher certificates to persons convicted of certain crimes involving a minor and
4 felony drug offenses."

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

6 * Section 1. AS 14.20.020(f) is amended to read:

7 (f) The department may not issue a teacher certificate to a person who

8 (1) has been convicted of a crime, or an attempt, solicitation, or
9 conspiracy to commit a crime, involving a minor under AS 11.41.410 - 11.41.460 or a
10 law or ordinance in another jurisdiction with elements similar to an offense described
11 in this paragraph; or

12 (2) within the preceding 10 years, has been convicted of
13 misconduct involving a controlled substance under AS 11.71.010, 11.71.020(a)(1),
14 11.71.030(a)(2), or 11.71.030(a)(3), or a law or ordinance in another jurisdiction

1 with elements similar to an offense described in this paragraph [SUBSECTION].

2 * Sec. 2. AS 14.20.025 is amended to read:

3 **Sec. 14.20.025. Limited teacher certificates.** Notwithstanding
4 AS 14.20.020(b), a person may be issued a limited certificate, valid only in the area of
5 expertise for which it is issued, to teach Alaska Native language or culture, military
6 science, or a vocational or technical course for which the board determines by
7 regulation that baccalaureate degree training is not sufficiently available. A limited
8 certificate may be issued under this section only if the school board of the district or
9 regional educational attendance area in which the person will be teaching has
10 requested its issuance. A person who applies for a limited certificate shall
11 demonstrate, as required by regulations adopted by the board, instructional skills and
12 subject matter expertise sufficient to assure [ENSURE] the public that the person is
13 competent as a teacher. The board may require a person issued a limited certificate to
14 undertake academic training as may be required by the board by regulation and make
15 satisfactory progress in the academic training. To be eligible for a limited teacher
16 certificate, a person shall have submitted fingerprints to the department to be
17 used for a criminal history background check and have been found by the
18 department to be suitable for employment as a teacher under AS 14.20.020(f).

19 * Sec. 3. AS 14.20.030 is amended by adding a new subsection to read:

20 (c) The commissioner or the Professional Teaching Practices Commission
21 shall revoke the certificate of a person who, within the preceding 10 years, has been
22 convicted of a crime, or an attempt, solicitation, or conspiracy to commit a crime,
23 involving misconduct involving a controlled substance under AS 11.71.010,
24 11.71.020(a)(1), 11.71.030(a)(2), or 11.71.030(a)(3), or a law or ordinance in another
25 jurisdiction with elements similar to an offense described in this subsection.

Alaska State Legislature

Session:
State Capitol
Juneau, AK 99801
Phone: (907) 465-2995
Fax: (907) 465-6592



Interim:
716 W 4th Avenue, Suite 430
Anchorage, AK 99501-2133
Phone: (907) 269-0250
Fax: (907) 269-0249

Representative Lesil McGuire

Chair, Judiciary Committee

HB 551

"An Act relating to the issuance of teacher certificates to and revocation of teacher certificates of persons convicted of felony drug offenses and to the issuance of limited teacher certificates to persons convicted of certain crimes involving a minor and felony drug offenses."

SPONSOR STATEMENT

Children are our most valuable asset and should be allowed to grow and learn in a safe environment free from the influences of drugs and crime. Currently a person who has been convicted of a felony drug offense can apply for and receive a teaching certificate in Alaska. Similarly a person who currently has a certificate can be convicted of a felony drug offense and continue to teach Alaska's children. By allowing this to continue we are setting a bad example for our children in regards to drug use and are putting them at considerable risk.

HB 551 addresses this issue by requiring the Department of Education revoke the teaching certificate of a person convicted of felony drug charges and also disallows a person from being granted such a certificate if they have been convicted of these charges.

While this bill was being drafted it was also noticed that people applying for a limited teaching certificate weren't held to the same standards as regular teachers in regards to their criminal history. HB 551 corrects this oversight by requiring people applying for a limited teaching certificate to submit to a criminal background check prior to receiving the certificate.

By making these simple, but effective changes, HB 551 promotes a positive educational environment while keeping Alaska's children safe.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 551(JUD)
 (H) Publish Date: 4/29/2004

Revision Date/Time (Note if correction): _____ Dept. Affected: EED
 Title An Act relating to the issuance of teach BRU Teacher & Learning Support
certification Component Teacher Certification
 Sponsor House Judiciary Committee
 Requester House Rules Committee Component No. 1240

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Janet S. Seitz, Staff Phone 465-3764
 Division House Rules Committee Date/Time 4/29/04 10:52 AM
 Approved by: Representative Norman Rokeberg Date 4/29/2004
 Agency Chairman, House Rules Committee

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

Chapter 11.71. CONTROLLED SUBSTANCES

Article 01. OFFENSES RELATING TO CONTROLLED SUBSTANCES

Sec. 11.71.010. Misconduct involving a controlled substance in the first degree.

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

(1) delivers any amount of a schedule IA controlled substance to a person under 19 years of age who is at least three years younger than the person delivering the substance;

(2) delivers any amount of a schedule IIA or IIIA controlled substance to a person under 19 years of age who is at least three years younger than the person delivering the substance; or

(3) engages in a continuing criminal enterprise.

(b) For purposes of this section, a person is engaged in a "continuing criminal enterprise" if

(1) the person commits a violation of this chapter which is punishable as a felony; and

(2) that violation is a part of a continuing series of five or more violations of this chapter

(A) which the person undertakes in concert with at least five other persons organized, supervised, or otherwise managed by the person; and

(B) from which the person obtains substantial income or resources;

(c) Misconduct involving a controlled substance in the first degree is an unclassified felony and is punishable as provided in AS 12.55.

Sec. 11.71.020. Misconduct involving a controlled substance in the second degree.

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

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

(2) manufactures any material, compound, mixture, or preparation that contains

(A) methamphetamine, or its salts, isomers, or salts of isomers; or

(B) an immediate precursor of methamphetamine, or its salts, isomers, or salts of isomers;

(3) possesses an immediate precursor of methamphetamine, or the salts, isomers, or salts of isomers of the immediate precursor of methamphetamine, with the intent to manufacture any material compound, mixture, or preparation that contains methamphetamine, or its salts, isomers, or salts of isomers; or

(4) possesses a listed chemical with intent to manufacture any material, compound, mixture, or preparation that contains

(A) methamphetamine, or its salts, isomers, or salts of isomers; or

(B) an immediate precursor of methamphetamine, or its salts, isomers, or salts of isomer.

(b) In this section, "listed chemical" means a chemical described under AS 11.71.200.

(c) Misconduct involving a controlled substance in the second degree is a class A felony.

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

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

(1) under circumstances not proscribed under AS 11.71.020 (a)(2) - (4), manufactures or delivers any amount of a schedule IIA or IIIA controlled substance or possesses any amount of a schedule IIA or IIIA controlled substance with intent to manufacture or deliver;

(2) delivers any amount of a schedule IVA, VA, or VIA controlled substance to a person under 19 years of age who is at least three years younger than the person delivering the substance; or

(3) possesses any amount of a schedule IA or IIA controlled substance

(A) with reckless disregard that the possession occurs

- (i) on or within 500 feet of school grounds; or
- (ii) at or within 500 feet of a recreation or youth center; or
- (B) on a school bus;

(b) It is an affirmative defense to a prosecution under (a)(3)(A) of this section that the prohibited conduct took place entirely within a private residence located within 500 feet of the school grounds or recreation or youth center, and that the prohibited conduct did not involve distributing, dispensing, or possessing with the intent to distribute or dispense a controlled substance for profit. Nothing in this subsection precludes a prosecution under any other provision of this section or any other section of this chapter;

(c) Misconduct involving a controlled substance in the third degree is a class B felony.

Sec. 11.71.040. Misconduct involving a controlled substance in the fourth degree.

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

(1) manufactures or delivers any amount of a schedule IVA or VA controlled substance or possesses any amount of a schedule IVA or VA controlled substance with intent to manufacture or deliver;

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

(3) possesses

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

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

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

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

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

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

(G) 25 or more plants of the genus cannabis;

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

(A) with reckless disregard that the possession occurs

(i) on or within 500 feet of school grounds; or

(ii) at or within 500 feet of a recreation or youth center; or

(B) on a school bus;

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

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

(7) knowingly uses in the course of the manufacture or distribution of a controlled substance a registration number that is fictitious, revoked, suspended, or issued to another person;

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

(9) obtains possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge; or

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

(b) It is an affirmative defense to a prosecution under (a)(4)(A) of this section that the prohibited conduct took place entirely within a private residence located within 500 feet of the school grounds or recreation or youth center. Nothing in this subsection precludes a prosecution under any other provision of this section or any other section of this chapter.

(c) Nothing in (a)(5) or (6) of this section precludes a prosecution or civil proceeding brought under any other provision of this section or any other section of this chapter or under AS 17.

(d) Misconduct involving a controlled substance in the fourth degree is a class C felony.



Alaska

DEA Offices & Telephone Nos.
 Anchorage—907-271-5033
 Fairbanks —907-455-1818



Alaska

<p>State Facts Population: 626,932 Law Enforcement Officers: 1,293 State Prison Population: 4,577 Probation Population: 4,517 Violent Crime Rate National Ranking: 10</p>	<p>2002 Federal Drug Seizures Cocaine: 37.2 kgs. Heroin: 0.1 kgs. Methamphetamine: 1.9 kgs. Marijuana: 0.9 kgs. Clandestine Laboratories: 33 (DEA, state, and local)</p>
---	--

Drug Situation: Due to its close proximity to the Pacific Rim and shared border with Canada, Alaska is both a transshipment point for controlled substances to the continental United States and a consumer state. Historically, drug trends documented in the other states are eventually documented in Alaska. This includes the growing threat of methamphetamine, Ecstasy, GHB and other "Predatory Drugs." Alaska has the highest per capita incident of alcoholism, rape, and suicide in the United States, partially attributable to controlled substance abuse.



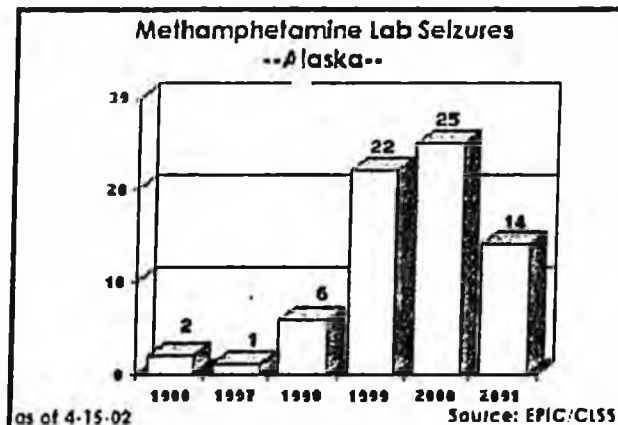
Cocaine: There are many different cocaine trafficking organizations in Alaska, although some of the largest ones are predominantly Mexican groups and Dominican groups. Eastern Europeans are also involved. Most cocaine appears to come into Alaska from the West Coast of the U.S. One cocaine smuggling organization in Alaska offered to sell one kilogram of cocaine for as high as \$39,000. Cocaine and other drugs are distributed throughout the State mainly from Anchorage and Fairbanks, all the way to remote fishing villages and northern rural areas.



Heroin: Evidence of heroin has declined due to much of the user population now illegally acquiring and using OxyContin. Opium continues to be transshipped through Alaska from the Far East/Pacific Rim countries.



Methamphetamine: Small toxic labs continue to be found throughout the state. The pseudoephedrine reduction method is the common manufacturing method used. Availability seems to be increasing, both from local labs and from methamphetamine mailed or shipped into the state by various methods, mostly from the Western U.S.

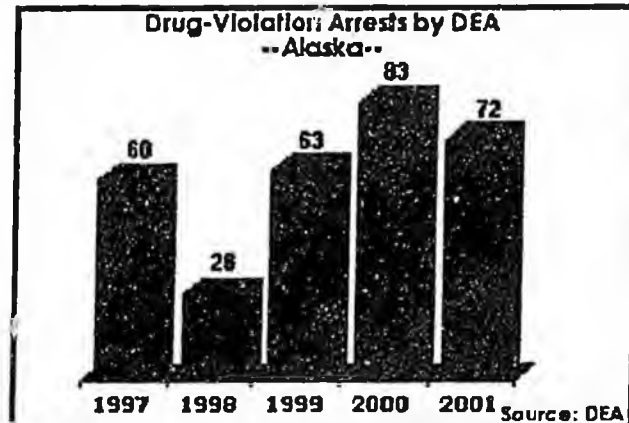


Club Drugs: There is recent evidence of large quantities of GBL being transshipped through Alaska from Thailand to various "lower 48" states. MDMA (methylene-dioxy-methamphetamine), also known as Ecstasy, is a growing threat throughout the state. Prior to 1999, there were no reports or direct evidence of large quantities of MDMA in any form. In the recent years, MDMA seizures have increased dramatically. Raves continue to occur in Alaska, with the accompanying use of Predatory Drugs found at these events.



Marijuana: Marijuana is the most abused and widespread illegal drug in Alaska. Local law enforcement can only estimate the extent of marijuana abuse because less than 5% of the marijuana in Alaska is grown outdoors. This makes detection much more difficult.

Other Drugs: The diversion of various controlled substances regulated by prescription is growing. Alaska is one of the top five purchasing states for five of the top twelve diverted drugs, to include Fentanyl, D-Amphetamine, Oxycodone, Methadone and Meperidine. Benzodiazepine is also widely abused. Internet purchases of controlled substances, from both domestic and international sites, are on the rise.



DEA Mobile Enforcement Teams: This cooperative program with state and local law enforcement counterparts was conceived in 1995 in response to the overwhelming problem of drug-related violent crime in towns and cities across the nation. There have been 381 deployments completed resulting in 15,731 arrests of violent drug criminals as of March 2003. There have been no MET deployments to this state.

DEA Regional Enforcement Teams: This program was designed to augment existing DEA division resources by targeting drug organizations operating in the United States where there is a lack of sufficient local drug law enforcement. This Program was conceived in 1999 in response to the threat posed by drug trafficking organizations that have established networks of cells to conduct drug trafficking operations in smaller, non-traditional trafficking locations in the United States. Nationwide, there have been 18 deployments completed resulting in 548 arrests of drug trafficking criminals as of March 2003. There have been no RET deployments in this state.