

BILLS 1981 - 1982

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tent with federal regulations pertaining to the legitimate industry.

Sec. 17.30.010. REGULATIONS

This section establishes the Board of Pharmacy as the agency responsible for the administration of laws pertaining to the legitimate manufacture, distribution and dispensing of controlled substances, and requires the board to adopt regulations for the administration of AS 17.30. The section also allows the imposition of reasonable fees for registration. This chapter and the regulations to be adopted under it are required to be patterned after federal law, so that there is consistency between state and federal requirements placed upon persons required to register, keep records, and handle prescriptions and other order forms.

Sec. 17.30.020. REGISTRATION REQUIREMENTS.

This section requires annual registration with the Board of Pharmacy of persons who manufacture, distribute, dispense, or conduct research with a controlled substance within the state, or who propose to do so.

Subsection (c) lists persons who may lawfully possess controlled substances under this chapter without registering.

A person who is an agent or employee of a registrant may possess a controlled substance so long as that

possession is incidental to the usual course of business or employment. Should the person possess a controlled substance not incidental to the usual course of business or employment, the person subjects himself to criminal, civil, and/or administrative penalties set forth in other sections, in AS 11.71, AS 17.30, and 17.35.

Second, a person who is a common or contract carrier or warehouseman, or his employee, whose possession of a controlled substance is within the usual course of his business or employment may lawfully possess a controlled substance under this chapter without registering. However, the same caveat applies: should the person possess a controlled substance not within the usual course of his business or employment, the person is subject to criminal, civil, and/or administrative penalties under other sections, as listed in the previous paragraph.

Third, the person who is an "ultimate user", in possession of a controlled substance under a lawful order or prescription, or who is in lawful possession of a schedule VA controlled substance, may legally possess the substance without registering under AS 17.30 or 17.35. "Ultimate user" is defined in Sec. 11.71.900(27), and includes the prescription holder or a family member, when the use is for the holder or family member. A person who picks up a prescription for a controlled substance for a spouse, child or pet is an "ultimate user" and can lawfully possess the controlled substance without criminal liability under AS 11.71. Possession in this instance is

considered to be authorized in AS 17.30, and thus is an exception to criminal liability noted in subsection (a) of each of the sections in 11.70.040-.070. The "ultimate user" of a controlled substance pursuant to a lawful prescription can lawfully possess the substance anywhere, even on school grounds. However, that person may be prosecuted for possession of a controlled substance with the intent to deliver, should he possess the substance with that intent, or for any offenses other than a possessory offense should he engage in that conduct.

Sec. 17.0.030. REGISTRATION.

This section provides that a person who is registered under federal law to manufacture, distribute, or dispense a controlled substance in Alaska shall be registered by the Board of Pharmacy, unless the board finds that the registration would be inconsistent with the public interest. Several factors are specified which are to be considered by the board in determining the public interest. Of primary importance is the ability of the applicant to maintain effective controls against diversion of the controlled substance into illicit channels.

Subsection (c) provides that any manufacturer, distributor, or dispenser who complies with federal law regarding registration requirements (other than fees), is entitled to be registered under this chapter. This subsection is not to be read as inconsistent with, or more specific than, subsection (a) of this section.

Sec. 17.30.040. DENIAL, REVOCATION, AND SUSPENSION OF REGISTRATION.

This section establishes procedures and grounds for the denial, revocation, or suspension of a registration applied for or issued under this chapter. It also establishes a procedure for disposition of an applicant's or registrant's controlled substances during any denial, revocation, or suspension proceedings.

Subsection (a) provides that the board may deny, suspend, or revoke a registration applied for or issued under the previous section if it finds that the registrant has committed any of three acts: (1) furnishing false or fraudulent material information in an application filed under this chapter; (2) being convicted of any felony offense (not only drug-related) under state or federal law; or (3) having a federal controlled substance registration denied, suspended, or revoked.

Subsection (b) provides that the board may limit its denial, revocation, or suspension of a registration to a particular controlled substance, for which grounds for such denial, revocation, or suspension exist.

Subsection (c) provides a procedure for the disposition of controlled substances owned or possessed by the applicant or registrant at the time of the denial, suspension, or the effective date of the revocation order. The controlled substances may be placed under seal by the Board of Pharmacy or by the Department of Public Safety. A final disposition cannot be made of the con-

trolled substances under seal until the time for taking an appeal has elapsed, or until all appeals have been concluded. The only exception to this general rule is that a court, upon application, may order the sale of perishable substances, and the proceeds of the sale are to be deposited with the court, even though the time for taking an appeal has not run, or any appeal has not been concluded. After the appropriate time periods or when appeals have run their course, and when a revocation order is final, all of the controlled substances held by the registrant are to be forfeited to the state.

Subsection (d) provides that the Board of Pharmacy shall promptly notify the federal Drug Enforcement Administration of any order it issues denying, suspending, or revoking registrations, and of all forfeitures of controlled substances under this section or sec. 17.30.110.

Sec. 17.30.050. ORDER TO SHOW CAUSE.

This section establishes procedures which must be followed by the Board of Pharmacy before it denies, suspends, revokes, or refuses to renew a registration under this chapter. This section also provides that the board may suspend a registration without complying with these procedures, if there is imminent danger to the public health or safety which justifies immediate suspension.

Sec. 17.30.060. RECORDS OF REGISTRANTS

This section provides that persons registered under this chapter must keep records and inventories in conformance with federal requirements and any additional requirements established by the board.

Sec. 17.30.070. ORDER FORMS; PRESCRIPTIONS.

Subsection (a) provides for distribution of a controlled substance by one registrant to another registrant only in accordance with federal requirements for order forms.

Subsection (b) provides that a practitioner may not dispense a controlled substance other than in accordance with federal requirements regarding prescriptions for controlled substances.

Subsection (c) provides that if the classification of a controlled substance is different under the Alaska schedules than under the federal schedules, the requirements of subsections (a) and (b) of this section are determined by the classification of the substance under federal law. For example, if under federal law a particular controlled substance is a schedule II controlled substance but under Alaska law a schedule IA controlled substance, the requirements of federal law pertaining to prescriptions and order form requirements for schedule II substances apply under this section.

Sec. 17.30.080. UNLAWFUL ADMINISTRATION, PRESCRIPTION AND DISPENSATION OF CONTROLLED SUBSTANCES.

This provision is taken from a similar provision in federal law, 21 U.S.C. §829(c), applying only to schedule V substances in. The effect upon licensed practitioners is to treat them no differently than any other offender under secs. 11.71.010-070 when the practitioner dispenses, administers, or prescribes a controlled substance for any reason other than a medical purpose. For example, a physician who writes several prescriptions per day for a "patient" for a schedule IA substance, knowing that the person is addicted to the drug, has no medical condition other than the addiction necessitating the administration of that drug, and that the person sells the drug on the street in order to support his own habit, is liable under sec. 11.71.020(a)(1) for the delivery of a schedule IA controlled substance. See also 21 U.S.C. §828(e).

ARTICLE 2. ENFORCEMENT AND ADMINISTRATIVE PROVISIONS

Sec. 17.30.100. COOPERATIVE ARRANGEMENTS.

This section, patterned after a similar provision under the uniform act, is intended to foster more effective law enforcement cooperation in suppressing the abuse of controlled substances.

Sec. 17.30.110. FORFEITURES.

This section establishes a comprehensive scheme

for the forfeiture of property used in violation of AS 11.71, 17.30 or 17.35. It specifies what property is subject to forfeiture and the procedures that are to be followed to achieve forfeiture. The listing of property which is subject to forfeiture is similar to that found in federal law, (See 21 U.S.C. §881(a)(1)-(6), as amended in 1979) with the addition of subsection (7), which provides for the forfeiture of firearms which are visible, carried during, or used in furtherance of a violation of AS 11.71.

A vehicle used in the commission of an offense involving a controlled substance is subject to forfeiture under subsection (a)(4) only when the offense is a felony. The person, for example, who is arrested for a misdemeanor, such as possession of marijuana while operating a motor vehicle (sec. 11.71.060(a)(2)) does not face forfeiture of the vehicle involved.

Subsection (a)(4) specifically protects innocent owners of or holders of secured interests in conveyances such as automobiles and airplanes. For example, under subparagraph (a)(4)(A), if a person loans his car to another person without knowledge that the other person intends to use the vehicle to violate AS 11.71, and the owner did not consent to the use of the vehicle for the illegal purpose, the vehicle may not be forfeited under this section. This subsection also applies to rental car agencies which may innocently rent an automobile to a person who violates AS 11.71. Once the state has met its burden of proving by a preponderance of the evidence that

the conveyance was used during or in aid of a violation of AS 17.20 or 11.71, the burden then shifts to the innocent owner to establish by a preponderance of the evidence that he did not commit the unlawful act and did not consent to or know of the act.

Under subparagraph (a)(4)(B), once the state has proven by a preponderance of the evidence that the conveyance was used during or in aid of a violation of AS 17.30 or 11.71, a person who holds a valid security interest in the conveyance at the time of the seizure must then establish, by a preponderance of the evidence, that he or she did not commit the violation, and did not consent to or know of the violation. This subparagraph does not prevent the ultimate forfeiture of the conveyance if the state has met its burden of proof. However, it does provide a means by which the secured party can recover his interest in the conveyance.

If the conveyance is forfeited, the state can reimburse the secured party under subsection (n). Subsection (o) provides that the person who used the vehicle in violation of the chapters on controlled substances, shall be assessed a fine at least equal to the cost of any lien payment or remittance made by the state to the secured interest. See also State v. Rice and Cessna Finance Corp., (Alaska, April 10, 1981), which establishes a constitutional right in Alaska of a secured party to protect its interest in forfeiture proceedings under the Fish and Game laws.

Subsection (b) contains the burden of proof section applicable to forfeiture proceedings under this chapter. Property may be forfeited after the defendant is convicted of a criminal violation under AS 17.30. or 11.71. Property may also be forfeited in a separate in rem civil proceeding. The Rules of Civil Procedure would apply, and the state, as plaintiff, would be required to prove by a preponderance of the evidence that the property was used during or in aid of a violation of AS 17.30. or 11.71.

Forfeiture can take place without regard to the institution or outcome of a criminal proceeding under subsection (c). Even though a defendant may be acquitted of a criminal offense or his case dismissed, the state still may be able to prove, in a civil action, by a preponderance of the evidence, that the property was used during or in aid of a violation of one of the applicable chapters.

Property subject to forfeiture may be seized with or without a court order under subsection (d). To obtain a court order, a peace officer must show there is probable cause that the property may be forfeited under (a) of this section. Officers may seize property without a court order if: (1) the seizure is made pursuant to a valid search warrant, or incident to a valid arrest; (2) the property has been the subject of an earlier judgment in

favor of the state; or (3) there are exigent circumstances including probable cause that the property was used, is being used, or is intended for use in violation of AS 11.71 or AS 17.30 and the property is easily movable. When it is seized without a court order, property may not be held for more than 48 hours unless an extension is obtained from the court.

Once property has been seized or detained, the commissioner of public safety or a local law enforcement agency shall take custody of the property. Only the court with jurisdiction over the property can cause a subsequent movement of the property out of the agency's custody. The agency with custody of the seized property may seal the property, or remove it to a place which is designated by the court or is otherwise an appropriate location for it.

Subsection (f) provides that the property must be inventoried within 10 days after it is seized, and that the value of any items, other than controlled substances, must be appraised.

Under subsection (g), formal forfeiture proceedings must be instituted within 20 days after seizure, beginning with notification to any persons known to have an interest in the property. Where property has a value of \$500 or more, notice of the forfeiture action is to be published in a local newspaper. Since controlled substances are summarily forfeited to the state under subsection (p), these formal proceedings do not apply to such substances.

Subsection (h) requires any person claiming an interest in the property to file an answer within 20 days after service or publication of notice. If no answer is filed, the property is forfeited without further proceedings.

The issue of forfeiture is tried before a judge, without a jury. The proceeding may be postponed until after the determination of guilt or innocence on any pending criminal charges against the claimant, and without regard to whether an appeal is taken in the criminal proceeding. The burden of proof is set forth in subsection (b), and has been discussed previously. See also 21 U.S.C. § 885 (a)(1).

Under certain circumstances, property may be released prior to the court's decision on forfeiture, under subsections (j)-(l). A party may petition the court for its release. The property can be released only where it will remain subject to the court's jurisdiction; where release is found to be in the best interest of the state; and where a bond is posted equal to twice the value of the property. Additionally, the claimant can request sale of

the property prior to the decision on forfeiture. This may occur in instances, for example, where the property is perishable. The proceeds of the sale are then treated as the property which is subject to forfeiture.

Once the property is forfeited, the commissioner of administration determines the disposition of the property. Various options are listed under subsection (m): the commissioner may destroy the property; sell it and use proceeds to cover expenses incident to the forfeiture; use the property to enforce the controlled substances laws; or forward it to the federal Drug Enforcement Administration.

Under subsection (n), a claimant who has a valid interest in the property can later obtain the value of his interest at the time of the seizure from the commissioner of administration. Alternatively, if the property is sold at public auction, the claimant has a right of first refusal, or the proceeds of the sale shall be used to reimburse the claimant for his interest, and the balance, if any, goes to the state.

As previously discussed, an offender who used the property which is subject to another person's financial interest, shall be assessed a fine at least equal to the payment or remittance made by the state, in addition to reasonable costs of the seizure. This may include impound costs or special storage costs which may have been incurred, such as refrigeration of perishable chemicals.

Controlled substances, including plants, are

summarily forfeited to the state without any formal proceedings under subsections (p) and (q).

Sec. 17.30.130. JUDICIAL REVIEW.

This section provides for review by the superior court of administrative decisions made under the Controlled Substances Act in accordance with the provisions of the Alaska Administrative Procedure Act (AS 44.62).

Sec. 17.30.140. EDUCATION AND RESEARCH.

This section requires the commissioner of health and social services to encourage education and research in the field of drug abuse, and empowers the commissioner to establish research projects and educational programs.

Sec. 17.30.150. CONFIDENTIALITY.

This section provides that information supplied by the Drug Enforcement Administration of the United States Department of Justice may be presumed to be valid by the Board of Pharmacy when it exercises its regulating powers under AS 17.30. Additionally, this section prohibits the disclosure of either the names or identities of patients who are participating in drug research programs.

Sec. 17.30.160. DEFINITIONS.

This section provides that the definitions set out in AS 11.71.900 apply to the Controlled Substances Act (AS 17.30).

## CHAPTER 35. ALASKA THERAPEUTIC RESEARCH ACT.

The purpose of this act is to create an experimental research program for the treatment of some cancer patients and glaucoma patients to permit them to use a capsulized form of the active ingredient found in marijuana, delta-9-tetrahydrocannabinol. See National Institute on Drug Abuse, Research Monograph 31, Marijuana Research Findings: 1980, at 33-36, 199-214. Many states, including New York, California, and Washington, have enacted similar legislation permitting the therapeutic use of marijuana for these patients. Stringent guidelines have been established by the Drug Enforcement Administration for the acceptance of a patient, registration of a practitioner, and the dispensing of THC. At the time of the consideration of this legislation in 1981, the Drug Enforcement Administration permits only the use of federally grown, harvested, and prepared THC, in capsule form. It is the intent of this research act to comply fully with all regulations and requirements of the Drug Enforcement Administration, the federal Food and Drug Administration, the National Institute on Drug Abuse, and the National Cancer Institute.

This legislation specifically does not include confiscated marijuana as a source of marijuana for use by patients in this therapeutic research program. One of the main reasons for this decision is a lack of quality control over both the potency and the additives of marijuana which has been confiscated by law enforcement officers.

The THC capsules which are produced by the federal government are uniform in potency of THC for each dosage unit.

Sec. 17.35.010. LEGISLATIVE PURPOSE.

The intent of this chapter is to enable cancer patients who are undergoing chemotherapy and radiology to receive marijuana to alleviate nausea associated with chemotherapy and radiology. Glaucoma patients are also eligible for treatment by the use of marijuana. This section establishes that there is a need for further research regarding the use of marijuana under strictly controlled conditions, and this chapter is enacted for that purpose.

Sec. 17.35.020. THERAPEUTIC RESEARCH PROGRAM.

This section establishes the research program within the Board of Pharmacy, and provides that the board shall administer the program. It provides for regulations of federal agencies to be taken into consideration; that only persons suffering from certain diseases and undergoing particular types of treatment are eligible, and that they must be certified to the patient qualification review committee. The section provides that full disclosure of the risks must be made to the patient.

Sec. 17.35.030. PATIENT QUALIFICATION AND REVIEW COMMITTEE.

This section establishes the Patient Qualification Review Committee and provides for its membership

and duties. It also provides for expansion of the program to other disease groups, after approval by the Board of Pharmacy and consistent with applicable federal regulations.

Sec. 17.35.040. SOURCES AND DISTRIBUTION OF MARIJUANA.

This section provides that the Board of Pharmacy is responsible for insuring that marijuana used in the research program is made available according to applicable federal regulations.

Sec. 17.35.050. REPORT TO THE GOVERNOR AND LEGISLATURE.

This section provides for the board to make findings and recommendations to the governor and the legislature regarding the effectiveness of the program by March 1, 1984.

Sec. 17.35.060. DEFINITIONS.

This section defines words and phrases used in AS 17.35.

MISCELLANEOUS PROVISIONS  
(Only Substantive Changes are Noted)

Section 14. AS 12.30.040(b). APPEAL FROM CONDITIONS OF RELEASE.

This amendment expands the list of crimes for which a defendant cannot be released on bail after conviction and pending sentencing or appeal to include all unclassified and class A felonies (including Misconduct Involving a Controlled Substance in the First and Second Degrees). In doing so it addresses a possible equal

protection infirmity in the existing statute which limits bail after conviction for some, but not all, extremely dangerous crimes. See, Walker v. Huston, No. A79-395 Civil, Opinion rendered on record, (D. Alaska, 5/29/80).

Section 15. AS 12.45.155. LABORATORY REPORT OF CONTROLLED SUBSTANCES.

This section is intended to facilitate criminal trials of persons charged with controlled substances offenses and to diminish the amount of time which expert laboratory analysts, usually chemists, must spend in court. Similar provisions are found in other states. See e.g., Annotated Code of Maryland, §§10-1001-13; Ohio Revised Code §2925.51. Washington Criminal Rule 6.13(b), effective January 1, 1975, and Justice Court Criminal Rule 4.09, Criminalist's Report, effective January 1, 1975. The section changes the content of laboratory reports of controlled substances so that more detail is required about the controlled substance; the report must be notarized after being signed by the analyst; it must contain information including the duties of the analyst, his education, training, and experience for performing an analysis; it must state that scientifically accepted tests were performed with due caution and whether the evidence was handled in accordance with established and accepted procedures within the laboratory.

Procedures are established under this section for service of a copy of the report upon the defendant or his attorney. There is a provision that the accused or his

attorney may demand the testimony of the person signing the report, and the procedures for demanding such testimony are set out.

Section 10. Sec. 12.55.155(c). AGGRAVATING FACTORS.

This section adds four aggravating factors which can be considered at sentencing. The factors are intended to enhance the penalty of a person who engages in illegal acts involving controlled substances for financial benefit as part of a commercial enterprise; a person who smuggles controlled substances into the state; a person who is convicted of an offense involving large quantities of controlled substances; or a person involved in the distribution of a controlled substance which has been adulterated with a toxic substance, making the substance even more dangerous.

Section 19. Sec. 12.55.155(d). MITIGATING FACTORS.

Subsection (d) adds three mitigating factors which can be considered at sentencing. Primarily, they involve the converse of the acts or circumstances considered as new aggravating factors: the involvement with small amounts of controlled substances; distribution of a controlled substance, other than a schedule IA substance, to an adult acquaintance for no profit; and possession of any controlled substance for personal use in the defendant's home.

**CLASSIFICATION SCHEME AND PENALTIES**

<b>Crime</b>	<b>IA</b>	<b>IIA</b>	<b>IIIA</b>	<b>IVA</b>	<b>VA</b>	<b>VIA (Marijuana)</b>
<b>Delivery to Minors</b>	Unclassified 5-99 yrs./ \$75,000	A felony	A felony	B felony	B felony	B felony
<b>Delivery, Manufacture or Possession with Intent to Manufacture or Deliver</b>	A felony	B felony	B felony	C felony	C felony	C felony
<b>Possession on School Grounds</b>	B felony	B felony	C felony	C felony	C felony	C felony
<b>Possession</b>	C felony	C felony	A misdemeanor unless possession is 25 or more tablets or 3 grams or more than C felony	A misdemeanor unless possession is 25 or more tablets or 3 grams or more than C felony	A misdemeanor unless possession is 50 or more tablets or 6 grams or more than C felony	C felony - 1 lb. or more A misdemeanor - 1/2 lb. or more B misdemeanor - 4 ozs. or more - Used or displayed in public: - Possession while operating a vehicle - Possession by Minor - Possession of 1 oz in Public Violation - Possession of less than 1 oz in Public

**SENTENCES**

<b>A Felony - 0-20/\$50,000</b> 10 year presumptive for second 15 year for third	<b>C felony - 0-5/\$50,000</b> 2 year presumptive for second 3 year presumptive for third
<b>B felony - 0-10/\$50,000</b> 4 year presumptive for second 6 year presumptive for third	<b>A Misdemeanor - 0-1/\$5,000</b> <b>B misdemeanor - 0-90/days/\$1000</b> <b>Violation - \$300</b>

**SCHEDULING EXAMPLES**

Schedule I - Opium, opiates, heroin, methadone  
 Schedule II - LSD, mescaline, cocaine, PCP, amphetamines, methaqualone  
 Schedule III - barbiturates, hashish  
 Schedule IV - valium  
 Schedule V - small amounts of codeine and opium in mixtures having medicinal qualities  
 Schedule VI - marijuana

CLASSIFICATIONS OF SOME SUBSTANCES  
CONTROLLED IN ALASKA SCHEDULES

SUBSECTION CLASS.	IA	IIA	IIIA	IVA	VA	VIA
Narcotics	Dilaudid (b)(1)(k) Percodan (b)(1)(N) Demerol (c)(47) heroin (d)(11) methadone (c)(39)		specified amounts as free anhydrous base or alkaloid	difenoxin + atropine sulfate	specified amounts combined with 1 or more non-narcotic active medicinal ingredients	
Hallucinogens		DMA, FMA, DET, DHT, LSD, mescaline, peyote, analogs of PCP, psilocybin, psilocyn	hashish hash oil tetrahydrocannabinols			marijuana
Stimulants		amphetamine methamphetamine ritalin preludin (phen- metrazine)	benzphetamine chlorphentermine clortermine mazindol	diethylpropion phentermine pernoline		
Depressants		Amobarbital Pentobarbital Secobarbital Methaqualone (Quaaludes) PCP Mecloqualone	barbituric acid salts chlorhexadol glutathimide lysergic acid & acid amide methyprylon sulfondiethylmethane	numerous tran- quillizers Valium (b)(7) Librium (b)(4) Tranxene (b)(6) Equanil (b)(13) Serax (b)(16)		
Other		cocaine coca leaves  immediate pre- cursors to amph.; methamph.; & PCP	nalorphine	fenfluramine (c) darvon (f)(1) talwin (f)(2)	loperamide (c)	

Alaska Criteria

Comparable  
Federal Law  
21 U.S.C. §

- |   |  |
|---|--|
| (1) The actual or probable abuse of the substance, including:   | 811(c) (1)   |
| (A) the history and current pattern of abuse both in this state and in other states;  | 811(c) (4)   |
| (B) the scope, duration, and significance of abuse;   | 811(c) (5)   |
| (C) the degree of actual or probable detriment which may result from abuse of the substance;  |  |
| (D) the probable physical and social impact of widespread abuse of the substance;   | 811(c) (6)   |
| (2) the biomedical hazard of the substance including  |  |
| (A) its pharmacology, the effects and modifiers of the effects of the substance;  | 811(c) (2)   |
| (B) its toxicology, the acute and chronic toxicity, interaction with other substances, whether controlled or not, and the degree to which it may cause psychological or physiological dependence; | 811(c) (2)<br>811(c) (7)   |
| (C) the risk to public health and the particular susceptibility of segments of the population;  | 811(c) (6)   |
| (3) whether the substance is an immediate precursor of a substance already controlled under this chapter;   | 811(c) (8)   |
| (4) the current state of scientific knowledge regarding the substance, including whether there is an acceptable means to safely use the substance under medical supervision;                      | 811(c) (3)<br>812(b) (1) (C)   |
| (5) the relationship between the use of the substance and other criminal activity, including  | [Sec. Pub. L. 91-513, as amended by Pub. L. 92-13, May 14, 1971; §601(d) (1) (D), at 21 U.S.C. §801, page 170 (19__); re. duties of the Commission on Marihuana and Drug Abuse.] |
| (A) whether persons engaged in illicit trafficking of the substance are also engaged in other criminal activity;  |  |
| (B) whether the nature and relative profitability of manufacturing or delivering the substance encourages illicit trafficking in the substance;   |  |
| (C) whether the commission of other crimes is one of the effects of abuse of the substance;   |  |
| (D) whether addiction to the substance relates to the commission of crimes to support the continued use of the substance.   |  |

COMPARISON OF ALASKA AND FEDERAL SCHEDULING  
OF CONTROLLED SUBSTANCES

New Drug Code Section	Alaska Schedule	Federal Schedule	Federal Law Provision
11.71.140	IA		
(b) substances veg. or chem.		(II)	21 CFR §1308.12(b) (1), (2); (3), +(5).
(c) opiates		(I & II)	21 CFR §1308.11(b) §1308.12(c)
(d) opium derivatives		(I)	21 CFR §1308.11(c)
11.71.150	IIA		
(b) hallucinogens		I	21 CFR §1308.11(d)
(c) cocaine		II	21 CFR §1308.12(b) (4)
(d) depressants except mecloqualone		II	21 CFR §1308.12(e)
(e) stimulants		I	21 CFR §1308.11(e)
(f) immediate precursors		II	21 CFR §1308.12(d)
		(II)	21 CFR §1308.12(f)
11.71.160	IIIA		
(b) stimulants		III	21 CFR §1308.13(b)
(c) depressants		III	21 CFR §1308.13(c)
(d) nalorphine		(III)	21 CFR §1308.13(d)
(e) narcotics & non-narcotics		III	21 CFR §1308.13(e)
(f) hallucinogens		I	21 CFR §1308.11(d) (20) (THC)

New Drug Code Section	Alaska Schedule	Federal Schedule	Federal Law Provision
11.71.170	IVA		
(b) depressants		IV	21 CFR §1308.14(c)
(c) fenfluramine		IV	21 CFR §1308.14(d)
(d) stimulants		IV	21 CFR §1308.14(e)
(e) narcotics & non-narcotics		IV	21 CFR §1308.14(b)
(f) others		IV	21 CFR §1308.14(f)
11.71.180	VA		
(b) narcotics & non-narcotics		V	21 CFR §1308.15(b)
(c) loperamide		V	21 CFR §1308.15(c)
11.71.190	VIA		
(b) marijuana		I	21 CFR §1308.11(d)(13)

HOUSE BILL 180

PROJECTED IMPACT ON CORRECTIONAL PROGRAMS

A. PRISON POPULATION IMPACT

The primary impact of this legislation for the Department of Health and Social Services will be a significant increase in the number of persons serving terms of imprisonment for serious drug offenses. This increase is described in the attached chart (Attachment 1). The chart represents an analysis of felony convictions for comparable conduct under the present law and under proposed HB 180.

The left hand side of the chart depicts the number of people likely to be convicted each year, and the sentences received, if the present law is in effect. Data was generated from Judicial Council studies of past drug convictions and taking into consideration increased enforcement efforts in Anchorage, Fairbanks and Kenai. The right hand side of the chart depicts projected convictions and sentences if HB 180 is enacted. For ease of comparison, the figures for convictions under present law have been grouped together in an approximate relationship to the classes of felonies created by HB 180. The difference between the two conviction figures (40 additional convictions under HB 180) represents approximately 35 felony convictions that would be misdemeanors under current law and 5 convictions that could not be prosecuted successfully today. The conviction figures were provided by the Department of Law based on a crime-by-crime analysis of the HB 180 compared with the present law.

In terms of prison population, however, the greatest impact results from the imposition of presumptive sentencing for drug offenders with felony records. Under HB 180 more convicted persons will actually be going to jail (see columns labelled "% To Jail") and those going to jail will receive longer sentences (see columns labelled "Avg. Sent. Length") than under current law.

The columns on the far right hand side of the chart summarize the data in terms of population increase. The calculation is simply the column "# To Jail" multiplied by the columns "Avg. Sent. Served" and is based on the recognized method of assessing prison population referred to as "man-years generated". The equivalent of two beds (man years) would be necessitated in order to house those additional numbers of persons booked for drug offenses and for those who would be sentenced to misdemeanor offenses as a result of this proposed legislation. This two bed increase (full time equivalent of two offenders) would accommodate an increase of up to 250 additional arrestees per year, and up to 100 additional misdemeanants serving an average of five days each.

The analysis that was employed provides a good correlation between the actual number of prisoners now serving sentences for drug offenses and the future projected number under current law. An individual census of all sentenced male prisoners was taken on August 10, 1981, and indicated that between 20-30 drug offenders are currently

imprisoned at any one time. The analysis in Attachment 1 projects that 50 such prisoners can be expected to be imprisoned at any given point in time in the foreseeable future if current law is to remain in effect. Under HB 180 it is expected that about 135 people will be imprisoned for drug offenses at any point in time.

One important caveat should be included at this point. Although the projected population increase approaches ninety, it will not be felt immediately. As indicated by the attached graph (Attachment 2), less than 20% of the increase will be noticed by the end of the first year. After two years 65% of the increase will be noticed and 90% after about four years. The full increase will not be felt until 8-10 years in the future.

#### B. PROGRAM IMPACT

The primary programmatic impact will be the necessity to construct about ninety new beds in Alaska prison facilities. Additional impact will result from required security staff, counsellors and probation officers.

##### New Prison Construction

In-state facilities are currently operating at close to emergency levels and beds made available by the Federal Bureau of Prisons are essentially full. The current building program being undertaken by the Division of Corrections is only capable of providing housing for the number of inmates projected under current statutes and policies.

Therefore new beds and staff would be required in order to care for the predicted 85 additional inmates.

It is noted that the first year population increase is predicted to be 15; second year impact raises the total to 55; fourth year to 75, and long term impact a total of 85. See Attachment 2. For a variety of planning and fiscal realities, it is necessary that the construction costs for the new beds funded in the first fiscal year. There is, at a minimum, a three year planning-construction cycle, so that prisons funded today will be ready for use no earlier than early 1985. In addition, given the high rate of inflation and principles of economy of scale, it is impractical and expensive to build only a small number of prison cells at a time.

#### New Employees

To properly staff a ninety-bed prison unit 24 hours a day and 365 days a year requires at a minimum 12 correctional officers and two clerks. The officers and clerks would, in addition, be responsible for booking and processing new arrestees and misdemeanants. Counselling and prison programs will be provided by two psychological counsellors.

Probation/parole workloads would also be impacted. It is estimated that two additional probation officers and one clerk typist would be required to complete the additional pre-sentence reports, plus additional caseload supervision, related reports and other activities.

C. FISCAL IMPACT

Capital Costs

The fiscal note has been developed with the assumption that the 85 beds needed would be added to the 300 bed facility in the Division's FY 1983 capital budget. By adding the beds to an existing project, the cost per bed is estimated to be \$70,900, rather than the estimated \$136,600 per bed when all core facilities (heating plant, kitchen, administration, recreation, etc.) are included in a totally new institution. Therefore the estimated capital costs would be \$6,026,500.

Operating Costs

a. Personnel


- 1 - Correctional Officer III
- 11 - Correctional Officer II
- 2 - Psychological Counselor II
- 2 - Probation Officer II
- 2 - Clerk III
- 1 - Clerk Typist III

Personal Services costs are based on the FY 1982 salary schedule, with an annual inflation rate of 7%. The staff for probation/parole activities would be required in FY 1983. The institutional staff would be hired upon completion of the new beds, estimated to be in FY 1984.

b. Other costs included are those related directly to the physical and health needs of the additional inmate caseload. These costs reflect the increase in the inmate

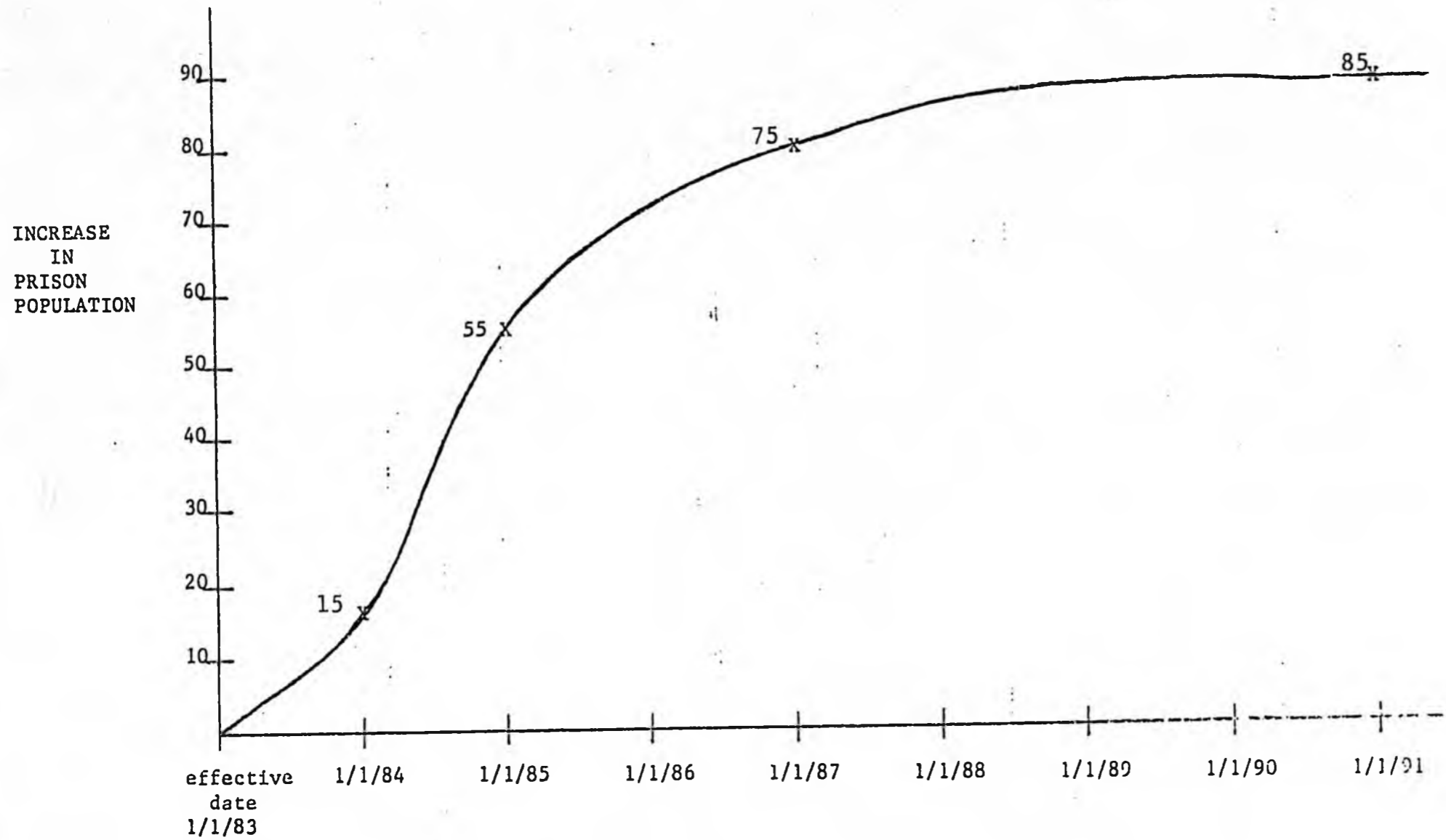
population over the period covered by this fiscal note. An inflation factor of 9% was used for costs included in the categories of travel, contractual services, commodities and equipment.

## PROJECTED PRISON POPULATION INCREASE

Class of Felony	PRESENT LAW					HOUSE BILL 180					Man-Years	
	Present Law # Convicted	% To Jail	# To Jail	Avg. Sent. Length	Avg. Sent. Served	H.B. 180 # Convicted	% To Jail	# To Jail	Avg. Sent. Length	Avg. Sent. Served	Present Law	H.B. 180
Unclassified	1	100%	1	10	7	2	100%	2	10	7	7	14
A	7	70%	5	4	2.8	10	90%	9	6	4	14	36
B	70	25%	18	2	1.4	82	40%	33	3	2	25	66
C	42	15%	6	1	.7	66	25%	17	1.5	1.0	4	17
	<u>120</u>					<u>160</u>					<u>50</u>	<u>133</u>
											 83 Additional Felons 2 Misdemeanants	

HB 180  
PHASED-IN PRISON POPULATION INCREASE

1/1/83 - 1/1/91



Introduced: 2/18/81  
Referred: Judiciary

BY THE RULES COMMITTEE  
BY REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 180

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act revising the drug laws and making amendments  
7 to the criminal laws of the state; and providing for  
8 an effective date."

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

10 \* Section 1. DECLARATION OF LEGISLATIVE PURPOSE. (a) The purposes of  
11 this Act are to consolidate and revise Alaska's drug laws so that they are  
12 patterned after the Uniform Controlled Substances Act and the Federal Con-  
13 trolled Substances Act of 1970 and to enact uniform penalty provisions in  
14 conformity with the 1978 revision of Alaska's criminal code to effectively  
15 combat illicit trafficking in controlled substances.

16 (b) Two distinct, but interrelated, concerns are addressed in this  
17 Act. The first concern is the detrimental effect on public safety created  
18 through illicit trafficking in and use of drugs. A second, equally important  
19 concern, is the effect on public health created by the use and abuse of  
20 drugs. It is the intent of the legislature that, in addressing public  
21 safety concerns, uniform classification and penalty provisions be enacted  
22 which adopt an approach reflecting law enforcement problems unique to Alaska.  
23 It is also the intent of the legislature that in addressing public health  
24 concerns, a statutory scheme be enacted which is patterned after federal law  
25 and that the legitimate manufacture, distribution, prescription, and dis-  
26 pensing of controlled substances be subject to a regulatory scheme regarding  
27 registration, record keeping, order forms, and prescription requirements  
28 that is identical to that provided under federal law.

29 \* Sec. 2. AS 11 is amended by adding a new chapter to read:

1                   CHAPTER 71. CONTROLLED SUBSTANCES.

2           ARTICLE 1. OFFENSES RELATING TO CONTROLLED SUBSTANCES.

3           Sec. 11.71.010. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN  
4 THE FIRST DEGREE. (a) Except as authorized in AS 17.30, a person  
5 commits the crime of misconduct involving a controlled substance in the  
6 first degree if he

7                   (1) delivers any amount of a schedule IA controlled sub-  
8 stance to a person under 19 years of age who is at least three years  
9 younger than he; or

10                   (2) engages in a continuing criminal enterprise.

11           (b) For purposes of this section, a person is engaged in a "con-  
12 tinuing criminal enterprise" if

13                   (1) he commits a violation of this chapter which is punish-  
14 able as a felony; and

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

17                           (A) which he undertakes in concert with at least five  
18 other persons he organizes, supervises, or otherwise manages; and

19                           (B) from which he obtains substantial income or re-  
20 sources.

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

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

28                   (1) manufactures or delivers any amount of a schedule IA  
29 controlled substance or possesses any amount of a schedule IA con-

1 trolled substance with intent to manufacture or deliver; or

2 (2) delivers any amount of a schedule IIA or IIIA controlled  
3 substance to a person under 19 years of age who is at least three years  
4 younger than he.

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

7 Sec. 11.71.030. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN  
8 THE THIRD DEGREE. (a) Except as authorized in AS 17.30 or AS 17.35, a  
9 person commits the crime of misconduct involving a controlled substance  
10 in the third degree if he

11 (1) manufactures or delivers any amount of a schedule IIA or  
12 IIIA controlled substance or possesses any amount of a schedule IIA or  
13 IIIA controlled substance with intent to manufacture or deliver;

14 (2) delivers any amount of a schedule IVA, VA or VIA con-  
15 trolled substance to a person under 19 years of age who is at least  
16 three years younger than he; or

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

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

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

28 Sec. 11.71.040. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN  
29 THE FOURTH DEGREE. (a) Except as authorized in AS 17.30 or AS 17.35,

1 a person commits the crime of misconduct involving a controlled sub-  
2 stance in the fourth degree if he

3 (1) manufactures or delivers any amount of a schedule IVA,  
4 VA, or VIA controlled substance or possesses any amount of a schedule  
5 IVA, VA, or VIA controlled substance with intent to manufacture or  
6 deliver;

7 (2) possesses

8 (A) any amount of a schedule IA or IIA controlled sub-  
9 stance;

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

12 (C) one or more preparations, compounds, mixtures, or  
13 substances of an aggregate weight of three grams or more contain-  
14 ing a schedule IIIA or IVA controlled substance;

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

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

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

23 (3) being 18 years of age or older, possesses a schedule  
24 IIIA, IVA, VA, or VIA controlled substance within the grounds of or on  
25 a parking lot immediately adjacent to a public or private preschool,  
26 elementary, junior high, or secondary school;

27 (4) knowingly keeps or maintains any store, shop, warehouse,  
28 dwelling, building, vehicle, boat, aircraft, or other structure or  
29 place which is used for keeping or distributing controlled substances

1 in violation of this chapter or AS 17.30;

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

7 (6) knowingly uses in the course of the manufacture or dis-  
8 tribution of a controlled substance a registration number which is  
9 fictitious, revoked, suspended, or issued to another person;

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

13 (8) obtains possession of a controlled substance by mis-  
14 representation, fraud, forgery, deception or subterfuge; or

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

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

22 (c) Nothing in (a)(4) or (5) of this section precludes a prosecu-  
23 tion or civil proceeding brought under any other provision of this sec-  
24 tion or any other section of this chapter or under AS 17.

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

27 Sec. 11.71.050. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN  
28 THE FIFTH DEGREE. (a) Except as authorized in AS 17.30 or AS 17.35, a  
29 person commits the crime of misconduct involving a controlled substance

1 in the fifth degree if he

2 (1) possesses

3 (A) less than 25 tablets, ampules, or syrettes con-  
4 taining a schedule IIIA or IVA controlled substance;

5 (B) one or more preparations, compounds, mixtures, or  
6 substances of an aggregate weight of less than three grams con-  
7 taining a schedule IIIA or IVA controlled substance;

8 (C) less than 50 tablets, ampules, or syrettes con-  
9 taining a schedule VA controlled substance;

10 (D) one or more preparations, compounds, mixtures, or  
11 substances of an aggregate weight of less than six grams con-  
12 taining a schedule VA controlled substance; or

13 (E) one or more preparations, compounds, mixtures, or  
14 substances of an aggregate weight of one-half pound or more con-  
15 taining a schedule VIA controlled substance; or

16 (2) fails to make, keep, or furnish any record, notification,  
17 order form, statement, invoice, or information required under AS 17.30.

18 (b) Misconduct involving a controlled substance in the fifth  
19 degree is a class A misdemeanor.

20 Sec. 11.71.060. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN  
21 THE SIXTH DEGREE. (a) Except as authorized in AS 17.30 or AS 17.35, a  
22 person commits the crime of misconduct involving a controlled substance  
23 in the sixth degree if he

24 (1) uses or displays any amount of a schedule VIA controlled  
25 substance or possesses one or more preparations, compounds, mixtures,  
26 or substances of an aggregate weight of one ounce or more containing a  
27 schedule VIA controlled substance on a public street or sidewalk or on  
28 the premises of a public carrier or business establishment or in any  
29 other public place;

1           (2) knowingly possesses any amount of a schedule VIA con-  
2 trolled substance within his immediate control while operating a pro-  
3 pelled vehicle;

4           (3) being under 19 years of age, possesses one or more  
5 preparations, compounds, mixtures, or substances of an aggregate weight  
6 of less than four ounces containing a schedule VIA controlled substance;

7           (4) possesses one or more preparations, compounds, mixtures,  
8 or substances of an aggregate weight of four ounces or more containing  
9 a schedule VIA controlled substance; or

10           (5) refuses entry into a premises for an inspection autho-  
11 rized under AS 17.30.

12           (b) Misconduct involving a controlled substance in the sixth  
13 degree is a class B misdemeanor.

14           Sec. 11.71.070. MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN  
15 THE SEVENTH DEGREE. (a) Except as authorized in AS 17.30 or AS 17.35,  
16 a person commits the offense of misconduct involving a controlled  
17 substance in the seventh degree if he possesses one or more prepara-  
18 tions, compounds, mixtures, or substances of an aggregate weight of  
19 less than one ounce containing a schedule VIA controlled substance on a  
20 public street or sidewalk or on the premises of a public carrier or  
21 business establishment or in any other public place.

22           (b) Misconduct involving a controlled substance in the seventh  
23 degree is a violation.

24           ARTICLE 2. STANDARDS AND SCHEDULES.

25           Sec. 11.71.100. CONTROLLED SUBSTANCES ADVISORY COMMITTEE. (a)  
26 The Controlled Substances Advisory Committee is established in the  
27 Department of Law. The committee consists of

28           (1) the attorney general or his designee;

29           (2) the commissioner of health and social services or his

1       designee;

2               (3) the commissioner of public safety or his designee;

3               (4) the chairman of the Board of Pharmacy or his designee  
4 who shall also be a member of the Board of Pharmacy;

5               (5) a peace officer appointed by the governor after consul-  
6 tation with the Alaska Association of Chiefs of Police;

7               (6) a physician appointed by the governor;

8               (7) a psychiatrist appointed by the governor; and

9               (8) two individuals appointed by the governor.

10              (b) Members of the committee appointed under (a)(5) - (8) of this  
11 section serve terms of four years. A member of the committee receives  
12 no salary but is entitled to per diem and travel expenses authorized by  
13 law for boards and commissions under AS 39.20.180.

14              (c) The attorney general is the chairman of the committee.

15              (d) The committee meets at the call of the attorney general.

16              (e) The committee may not meet less than twice a year.

17              (f) Five members of the committee constitute a quorum.

18              Sec. 11.71.110. DUTIES OF COMMITTEE. The committee shall

19              (1) determine the need to add substances to the schedules  
20 set out in AS 11.71.140 - 11.71.190;

21              (2) advise the governor of the need to delete or reschedule  
22 substances in the schedules in AS 11.71.110 - 11.71.190;

23              (3) recommend regulations for adoption by the Board of  
24 Pharmacy to prevent excessive prescription of controlled substances and  
25 the diversion of prescription drugs into illicit channels;

26              (4) evaluate the effectiveness of programs in the state  
27 providing treatment and counseling for persons who abuse controlled  
28 substances;

29              (5) recommend programs to the Alaska Court System to be in-

1 stituted as alternatives to the prosecution or imprisonment of offenders  
2 who have no prior criminal record involving controlled substance of-  
3 fenses and who are charged with crimes involving controlled substances;

4 (6) review and evaluate enforcement policies and practices  
5 of the Department of Public Safety and the Department of Law with  
6 regard to crimes involving controlled substances, and recommend modifi-  
7 cations of those policies and practices consistent with the committee's  
8 assessment of the probable danger of particular controlled substances;  
9 and

10 (7) review budget requests and recommend amounts for appro-  
11 priations to the governor and the legislature for departments and  
12 agencies responsible for

13 (A) enforcing criminal laws pertaining to controlled  
14 substances;

15 (B) providing treatment and counseling of persons who  
16 abuse controlled substances; and

17 (C) regulating the legitimate handling of controlled  
18 substances.

19 Sec. 11.71.120. AUTHORITY TO SCHEDULE CONTROLLED SUBSTANCES. (a)  
20 If, after considering the factors set out in (c) of this section, the  
21 committee finds that a substance should be added to a schedule of  
22 controlled substances under AS 11.71.140 - 11.71.190, the attorney  
23 general shall adopt a regulation under the Administrative Procedure Act  
24 (AS 44.62) in accordance with the committee's findings. The committee  
25 shall prescribe the effective date of a regulation adopted under this  
26 section. This date may not be earlier than the 60th day of the next  
27 regular session of the legislature following adoption of the regulation.  
28 Within 10 days after the convening of a regular session of the legisla-  
29 ture, the committee shall submit to the legislature a regulation adopted

1 under this section which has not taken effect and shall submit findings  
2 of fact and other information which it considers appropriate. If the  
3 legislature annuls a regulation adopted under this section by statute,  
4 the regulation may not be readopted within three years after the annul-  
5 ment.

6 (b) If a substance is added as a controlled substance under  
7 federal law and notice of the addition is given to the attorney general,  
8 the committee shall give notice under AS 44.62.190 of proposed adoption  
9 of a regulation making a corresponding change in the Alaska schedules  
10 and shall hold a hearing under AS 44.62.210. The committee shall  
11 submit the regulation to the legislature as provided in (a) of this  
12 section. If the committee decides not to adopt the regulation, it  
13 shall file with the lieutenant governor a notice of that decision along  
14 with findings of fact.

15 (c) In making a determination regarding the addition of a sub-  
16 stance under (a) of this section, or in advising the governor of the  
17 need to delete or reschedule a substance, under AS 11.71.110(2), the  
18 committee shall assess the danger or probable danger of the substance  
19 after considering the following:

20 (1) the actual or probable abuse of the substance including:

21 (A) the history and current pattern of abuse both in  
22 this state and in other states;

23 (B) the scope, duration, and significance of abuse;

24 (C) the degree of actual or probable detriment which  
25 may result from abuse of the substance;

26 (D) the probable physical and social impact of wide-  
27 spread abuse of the substance;

28 (2) the biomedical hazard of the substance including

29 (A) its pharmacology, the effects and modifiers of the

1 effects of the substance;

2 (B) its toxicology, the acute and chronic toxicity,  
3 interaction with other substances, whether controlled or not, and  
4 the degree to which it may cause psychological or physiological  
5 dependence;

6 (C) the risk to public health and the particular sus-  
7 ceptibility of segments of the population;

8 (3) whether the substance is an immediate precursor of a  
9 substance already controlled under this chapter;

10 (4) the current state of scientific knowledge regarding the  
11 substance, including whether there is any acceptable means to safely  
12 use the substance under medical supervision;

13 (5) the relationship between the use of the substance and  
14 other criminal activity, including

15 (A) whether persons engaged in illicit trafficking of  
16 the substance are also engaged in other criminal activity;

17 (B) whether the nature and relative profitability of  
18 manufacturing or delivering the substance encourages illicit  
19 trafficking in the substance;

20 (C) whether the commission of other crimes is one of  
21 the effects of abuse of the substance;

22 (D) whether addiction to the substance relates to the  
23 commission of crimes to support the continued use of the substance.

24 (d) If the committee designates a substance as an immediate  
25 precursor of a controlled substance, a precursor of that immediate  
26 precursor is not subject to control solely because it is a precursor of  
27 the immediate precursor.

28 (e) The committee has no authority over tobacco or intoxicating  
29 liquor as defined in AS 04.20.010.

1           Sec. 11.71.130. NOMENCLATURE. Controlled substances are listed  
2 in the schedules in AS 11.71.140 - 11.71.190 by official, common,  
3 usual, chemical, or trade designation and by slang terms if applicable.  
4 In a prosecution or other proceeding under this chapter, it is not a  
5 defense and it is immaterial that a slang term is listed after more  
6 than one controlled substance, that a slang term listed after a con-  
7 trolled substance is inaccurately applied to that controlled substance,  
8 that no slang term is listed after a controlled substance, or that  
9 slang terms other than those listed may apply to a controlled substance.  
10 The use of a slang term is not required in a complaint, indictment, or  
11 information charging a violation of this chapter, and the failure to  
12 specify a slang term, or the use of an improper slang term in a com-  
13 plaint, indictment, or information is not grounds for dismissal of the  
14 charging document, or for an instruction directing an acquittal of the  
15 charge.

16           Sec. 11.71.140. SCHEDULE IA. (a) A substance shall be placed in  
17 schedule IA if it is found under AS 11.71.120(c) to have the highest  
18 degree of danger or probable danger to a person or the public.

19           (b) Substances, vegetable origin or chemical synthesis. Schedule  
20 IA includes, unless specifically excepted or listed in another schedule,  
21 any of the following substances whether produced directly or indirectly  
22 by extraction from substances of vegetable origin, or independently by  
23 means of chemical synthesis, or by a combination of extraction and  
24 chemical synthesis:

25           (1) opium and opiate, and any salt, compound, derivative, or  
26 preparation of opium or opiate, excluding apomorphine, dextrorphan,  
27 nalbuphine, naloxone, and naltrexone, and their respective salts, but  
28 including the following:

29           (A) raw opium (slang terms: op, pen yan, hop, tar,

1 black stuff);

2 (B) opium extracts;

3 (C) opium fluid extracts;

4 (D) powdered opium;

5 (E) granulated opium;

6 (F) tincture of opium;

7 (G) codeine (slang term: school boy);

8 (H) ethylmorphine;

9 (I) etorphine hydrochloride;

10 (J) hydrocodone;

11 (K) hydromorphone;

12 (L) metopon;

13 (M) morphine (slang terms: cube, first line, hocus,  
14 Emma, morph, morpho, mud, white stuff, hard stuff, M, unkie);

15 (N) oxycodone;

16 (O) oxymorphone;

17 (P) thebaine;

18 (2) any salt, compound, derivative, or preparation of a  
19 substance included in (b)(1) of this section which is chemically equiva-  
20 lent or identical to any of the substances referred to in (b)(1) of  
21 this section; however, these substances do not include the isoquinoline  
22 alkaloids of opium;

23 (3) opium poppy and poppy straw;

24 (4) concentrate of poppy straw which is the crude extract of  
25 poppy straw in either liquid, solid, or powder form which contains the  
26 phennanthrine alkaloids of the opium poppy.

27 (c) Opiates. Schedule IA includes, unless specifically excepted  
28 or unless listed in another schedule, any of the following opiates,  
29 including their isomers, esters, ethers, salts, and salts of isomers,

1 esters, and ethers, whenever the existence of these isomers, esters,  
2 ethers, and salts is possible within the specific chemical designation,  
3 dextrorphan excepted:

- 4 (1) acetylmethadol;
- 5 (2) allylprodine;
- 6 (3) alphacetylmethadol;
- 7 (4) alphameprodine;
- 8 (5) alphamethadol;
- 9 (6) alphaprodine;
- 10 (7) anileridine;
- 11 (8) benzethidine;
- 12 (9) betacetylmethadol;
- 13 (10) betameprodine;
- 14 (11) betamethadol;
- 15 (12) betaprodine;
- 16 (13) bezitramide;
- 17 (14) clonitazene;
- 18 (15) dextromoramide;
- 19 (16) diampromide;
- 20 (17) diethylthiambutene;
- 21 (18) difenoxin;
- 22 (19) dihydrocodeine;
- 23 (20) dimenoxadol;
- 24 (21) dimepheptanol;
- 25 (22) dimethylthiambutene;
- 26 (23) dioxaphetyl butyrate;
- 27 (24) diphenoxylate;
- 28 (25) dipipanone;
- 29 (26) ethylmethylthiambutene;

- 1 (27) etonitazene;
- 2 (28) etoxeridine;
- 3 (29) fentanyl;
- 4 (30) furethidine;
- 5 (31) hydroxypethidine;
- 6 (32) isomethadone;
- 7 (33) ketobemidone;
- 8 (34) levomethorphan;
- 9 (35) levomoramide;
- 10 (36) levorphanol;
- 11 (37) levophenacymorphan;
- 12 (38) metazocine;
- 13 (39) methadone;
- 14 (40) methadone-intermediate, 4-cyano-2-dimethylamino-4,  
15 4-diphenyl butane;
- 16 (41) moramide-intermediate, 2-methyl-3-morpholino-1,  
17 1-diphenylpropane-carboxylic acid;
- 18 (42) morpheridine;
- 19 (43) noracymethadol;
- 20 (44) norlevorphanol;
- 21 (45) normethadone;
- 22 (46) norpipanone;
- 23 (47) pethidine, also known as meperidine;
- 24 (48) pethidine-intermediate-A, 4-cyano-1-methyl-4-phenyl-  
25 piperidine;
- 26 (49) pethidine-intermediate-B, ethyl-4-phenylpiperidine-4-  
27 carboxylate;
- 28 (50) pethidine-intermediate-C, 1-methyl-4-phenylpiperidine-4-  
29 carboxylic acid;

1 (51) phenadoxone;

2 (52) phenampromide;

3 (53) phenazocine;

4 (54) phenomorphan;

5 (55) phenoperidine;

6 (56) piminodine;

7 (57) piritramide;

8 (58) propheptazine;

9 (59) properidine;

10 (60) propiram;

11 (61) racemethorphan;

12 (62) racemoramide;

13 (63) racemorphan;

14 (64) trimeperidine.

15 (d) Opium derivatives. Schedule IA includes, unless specifically  
16 excepted or unless listed in another schedule, any of the following  
17 opium derivatives, their salts, isomers, and salts of isomers whenever  
18 the existence of these salts, isomers, and salts of isomers is possible  
19 within the specific chemical designation:

20 (1) acetorphine;

21 (2) acetyldihydrocodeine;

22 (3) benzylmorphine;

23 (4) codeine methylbromide;

24 (5) codeine-n-oxide;

25 (6) cyprenorphine;

26 (7) desomorphine;

27 (8) dihydromorphine;

28 (9) drotebanol;

29 (10) etorphine, except hydrochloride salt;

1 (11) heroin (slang terms: big H, boy, brown, brown sugar,  
2 caballo, Chinese red, chiva, crap, doojee, H, Harry, horse, junk,  
3 Mexican mud, powder, scag, smack, stuff, thing, joy powder, white  
4 stuff, sugar, hairy, skag, schmeck);

5 (12) hydromorphenol;

6 (13) methyldesorphine;

7 (14) methyldihydromorphine;

8 (15) morphine methylbromide;

9 (16) morphine methylsulfonate;

10 (17) morphine-n-oxide;

11 (18) myrophine;

12 (19) nicocodeine;

13 (20) nicomorphine;

14 (21) normorphine;

15 (22) pholcodine;

16 (23) thebacon.

17 Sec. 11.71.150. SCHEDULE IIA. (a) A substance shall be placed  
18 in schedule IIA if it is found under AS 11.71.120(c) to have a degree  
19 of danger or probable danger to a person or the public which is less  
20 than substances listed in schedule IA, but higher than substances  
21 listed in schedule IIIA.

22 (b) Hallucinogens. Schedule IIA includes, unless specifically  
23 excepted or unless listed in another schedule, any material, compound,  
24 mixture, or preparation which contains any quantity of the following  
25 hallucinogenic substances, or which contains any of its salts, isomers,  
26 whether optical, position, or geometric, or salts of isomers whenever  
27 the existence of these salts, isomers, or salts of isomers is possible  
28 within the specific chemical designation:

29 (1) 4-bromo-2, 5-dimethoxy-amphetamine, also known as

1 4-bromo-2,5-dimethoxy-a-methylphenethylamine and 4-bromo-2, DMA;

2 (2) 2,5-dimethoxyamphetamine, also known as 2,5-dimethoxy-  
3 a-methylphenethylamine and 2,5-DMA;

4 (3) 4-methoxyamphetamine, also known as 4-methoxy-a-methyl-  
5 phenethylamine and paramethoxyamphetamine, PMA;

6 (4) 5-methoxy-3,4-methylenedioxy-amphetamine;

7 (5) 4-methyl-2,5-dimethoxy-amphetamine, also known as  
8 4-methyl-2,5 - dimethoxy-a-methylphenethylamine (slang terms: DOM, MDA,  
9 STP, serenity, tranquility, and peace, cone drug);

10 (6) 3,4-methylenedioxy amphetamine;

11 (7) 3,4,5-trimethoxy amphetamine;

12 (8) bufotenine, also known as 3-(B-dimethylaminoethyl)-5-  
13 hydroxyindole, 3-(2-dimethylaminoethyl)-5-indolol, N, N-dimethylsero-  
14 tonin; 5-hydroxy-N, N-dimethyltryptamine, and mappine;

15 (9) diethyltryptamine, also known as N,N-diethyltryptamine  
16 and DET;

17 (10) dimethyltryptamine, also known as DMT (slang terms:  
18 businessman's special, lunch-hour trip);

19 (11) ibogaine, also known as 7-ethyl-6, 6B, 7, 8, 9, 10, 12,  
20 13-octahydro-2-methoxy-6, 9-methano-5H-pyrido [1',2': 1, 2] azepino [5,  
21 4-b] indole and tabernanthe iboga;

22 (12) lysergic acid diethylamide, also known as LSD (slang  
23 terms: Alice D, acid, beast, big D, blue cheer, blue heaven, blue  
24 mist, brown dots, California sunshine, chocolate chips, coffee, contact  
25 lens, cupcakes, haze, mellow yellows, microdots, orange mushrooms,  
26 orange wedges, Owlsley, paper acid, royal blue, strawberry fields,  
27 sugar, sunshine; the hawk, wedges, white lightning, window pane,  
28 yellows, cubes, 25, Lucy in the sky with diamonds);

29 (13) mescaline (slang terms: mesc, mescal, moon);

1 (14) n-ethyl-3-piperidyl benzilate;

2 (15) n-methyl-3-piperidyl benzilate (slang term: LBJ)

3 (16) peyote (slang terms: buttons, cactus, mescal buttons,  
4 mesc, mescal plants);

5 (17) analogs of phencyclidine (PCP), including:

6 (A) ethylamine analog, also known by some trade or  
7 other names as follows: N-ethyl-1-phenylcyclohexylamine (1-phenyl-  
8 cyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclo-  
9 hexamine, PCE;

10 (B) pyrrolidine analog, also known by some trade or  
11 other names as follows: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPY,  
12 PHP;

13 (C) thiophene analog, also known as 1-[1-(2-thienyl)  
14 cyclohexyl] piperidine and 2-thienylanalog of phencyclidine, TCP, and TCP;

15 (18) psilocybin (slang terms: magic mushroom, mushroom);

16 (19) psilocyn (slang terms: magic mushroom, mushroom).

17 (c) Cocaine and coca leaves. Schedule IIA includes cocaine or  
18 coca leaves, and any salt, compound, derivative, mixture, isomer,  
19 ester, ether, or preparation of cocaine or coca leaves produced direct-  
20 ly or indirectly by extraction from coca leaves, or independently by  
21 means of chemical synthesis, or by a combination of extraction and  
22 chemical synthesis, including the isomers, salts, and salts of isomers  
23 of cocaine and other derivatives of coca leaves whenever the existence  
24 of these esters, ethers, isomers or salts is possible, but does not  
25 include decocainized coca leaves or extractions of coca leaves which do  
26 not contain cocaine or ecgonine (slang terms: Bernice, bernies, big C,  
27 blow, C, coke, dream, flake, girl, gold dust, heaven dust, nose candy,  
28 paradise, rock, white, happy dust, speedballs, snow birds, Cecil,  
29

1 stardust, Corine, Carrie, dust, Burese).

2 (d) Depressants. Schedule IIA includes, unless specifically  
3 excepted or unless listed in another schedule, any material, compound,  
4 mixture, or preparation which contains any quantity of the following  
5 substances having a depressant effect on the central nervous system,  
6 including their salts, isomers, and salts of isomers whenever the  
7 existence of these salts, isomers, and salts of isomers is possible  
8 within the specific chemical designation:

9 (1) amobarbital (slang terms: barbs, block busters, Christ-  
10 mas trees, downers, green dragons, peanuts, sleeping pills, stumblers,  
11 goofballs, goofs, tuinal, tuies, rainbow, double trouble, reds and  
12 blues);

13 (2) mandrix or mandrax;

14 (3) mecloqualone;

15 (4) methaqualone (slang terms: ludes, quas, quads, soapers,  
16 sopes);

17 (5) pentobarbital (slang terms: barbs, block busters,  
18 Christmas trees, downers, green dragons, peanuts, sleeping pills,  
19 stumblers, goofballs, goofs, yellow jackets, yellows, nimbys, nimbies,  
20 nobbies);

21 (6) phencyclidine, also known as PCP (slang terms: angel  
22 dust, DOA (Dead on Arrival), hog, killer weed (when combined with  
23 marijauna or other plant material), peace pill);

24 (7) secobarbital (slang terms: barbs, block busters, Christ-  
25 mas trees, downers, green dragons, peanuts, sleeping pills, stumblers,  
26 goofballs, goofs, tuinal, tuies, rainbow, double trouble, reds and  
27 blues, red birds, red devils, seccy, pink, seggy, pink ladies, marsh-  
28 mallow reds, Mexican reds).

29 (e) Stimulants. Schedule IIA includes, unless specifically

1       excepted or unless listed in another schedule, any material, compound,  
2       mixture, or preparation which contains any quantity of the following  
3       substances having a stimulant effect on the nervous system:

4               (1) amphetamine, its salts, optical isomers, and salts of  
5       its optical isomers (slang terms: beans, bennies, black beauties,  
6       blackbirds, black Mollies, bumblebees, cartweels, chalk, chicken powder,  
7       copilots, crank, crossroads, crystal, dexies, double cross, eye openers,  
8       hearts, jelly beans, lightning, meth, minibennies, nuggets, oranges,  
9       pep pills, speed, roses, thrusters, truck drivers, turnabouts, uppers,  
10      ups, wake-ups, peaches, whites, browns, greenies, bombido, jugs,  
11      bottles, lid proppers, football, coast-to-coast, L.A. turnabouts);

12              (2) methamphetamine, its salts, isomers, and salts of its  
13      isomers (slang terms: bombido, crystal, meth, speed, splash);

14              (3) methlyphenidate;

15              (4) phenmetrazine and its salts.

16              (f) Immediate Precursors. Schedule IIA includes, unless specifi-  
17      cally excepted or unless listed in another schedule, any material,  
18      mixture, or preparation which contains any quantity of the following  
19      substances:

20              (1) immediate precursor to amphetamine and methamphetamine:  
21      phenylacetone, also known as phenyl-2-propanone; P2P; benzyl methyl  
22      ketone; methyl benzyl ketone;

23              (2) immediate precursors to phencyclidine, also known as  
24      PCP:

25                      (A) 1-phencylclohexylamine;

26                      (B) 1-piperidinocyclohexanecarbonitrile, also known as

27      PCC.

28              Sec. 11.71.160. SCHEDULE IIIA. (a) A substance shall be placed  
29      in schedule IIIA if it is found under AS 11.71.120(c) to have a degree

1 of danger or probable danger to a person or the public less than the  
2 substances listed in schedule IIA but higher than substances listed in  
3 schedule IVA.

4 (b) Stimulants. Schedule IIIA includes, unless specifically  
5 excepted or unless listed in another schedule, any material, compound,  
6 mixture, or preparation which contains any quantity of the following  
7 substances having a stimulant effect on the central nervous system,  
8 including their salts, isomers whether optical, position, or geometric,  
9 and salts of these isomers whenever the existence of these salts,  
10 isomers, and salts of isomers is possible within the specific chemical  
11 designation:

- 12 (1) benzphetamine;
- 13 (2) chlorphentermine;
- 14 (3) clortermine;
- 15 (4) mazindol;
- 16 (5) phendimetrazine;

17 (6) any compound, mixture, or preparation in dosage unit  
18 form containing any stimulant substance listed in schedule IIA, which  
19 compound, mixture, or preparation was listed on August 25, 1971, as an  
20 excepted compound under 21 C.F.R. sec. 308.32, and any other drug of  
21 the quantitative composition shown in that list for those substances, or  
22 which is the same except that it contains a lesser quantity of any  
23 controlled substance.

24 (c) Depressants. Schedule IIIA includes, unless specifically  
25 excepted or unless listed in another schedule, any material, compound,  
26 mixture, or preparation which contains any quantity of the following  
27 substances having a depressant effect on the central nervous system:

- 28 (1) amobarbital, secobarbital, or pentobarbital or any salt  
29 of these substances, combined with one or more other active medicinal

1 ingredients which are not listed in any other schedule;

2 (2) amobarbital, secobarbital, or pentobarbital or any salt  
3 of these substances, approved by the federal Food and Drug Administra-  
4 tion for marketing only as a suppository;

5 (3) any substance which contains any quantity of a deri-  
6 vative of barbituric acid or any salt of barbituric acid;

7 (4) chlorhexadol;

8 (5) glutethimide (slang terms: C.D., cibas);

9 (6) lysergic acid;

10 (7) lysergic acid amide;

11 (8) methyprylon;

12 (9) sulfondiethylmethane;

13 (10) sulfonethylmethane;

14 (11) sulfonmethane.

15 (d) Nalorphine. Schedule IIIA includes nalorphine.

16 (e) Narcotics. Schedule IIIA includes, unless specifically  
17 excepted or unless listed in another schedule, any material, compound,  
18 mixture, or preparation containing any of the following narcotic drugs  
19 or their salts calculated as the free anhydrous base or alkaloid, in  
20 the following quantities:

21 (1) not more than 1.8 grams of codeine per 100 milliliters  
22 or not more than 90 milligrams per dosage unit, with an equal or greater  
23 quantity of an isoquinoline alkaloid of opium;

24 (2) not more than 1.8 grams of codeine per 100 milliliters  
25 or not more than 90 milligrams per dosage unit, with one or more active,  
26 nonnarcotic ingredients in recognized therapeutic amounts;

27 (3) not more than 300 milligrams of dihydrocodeinone per 100  
28 milliliters or not more than 15 milligrams per dosage unit, with a  
29 fourfold or greater quantity of an isoquinoline alkaloid of opium;

1 (4) not more than 300 milligrams of dihydrocodeinone per 100  
2 milliliters or not more than 15 milligrams per dosage unit, with one or  
3 more active nonnarcotic ingredients in recognized therapeutic amounts;

4 (5) not more than 1.8 grams of dihydrocodeine per 100 milli-  
5 liters or not more than 90 milligrams per dosage unit, with one or more  
6 active nonnarcotic ingredients in recognized therapeutic amounts;

7 (6) not more than 300 milligrams of ethylmorphine per 100  
8 milliliters or not more than 15 milligrams per dosage unit, with one or  
9 more active, nonnarcotic ingredients in recognized therapeutic amounts;

10 (7) not more than 500 milligrams of opium per 100 milli-  
11 liters or per 100 grams or not more than 25 milligrams per dosage unit,  
12 with one or more active, nonnarcotic ingredients in recognized thera-  
13 peutic amounts;

14 (8) not more than 50 milligrams of morphine per 100 milli-  
15 liters or per 100 grams, with one or more active, nonnarcotic ingredi-  
16 ents in recognized therapeutic amounts.

17 (f) Hallucinogens. Schedule IIIA includes

18 (1) hashish;

19 (2) hash oil or hashish oil; and

20 (3) tetrahydrocannabinols (slang terms: black Russian, hash,  
21 Kif, quarter moon, soles).

22 Sec. 11.71.170. SCHEDULE IVA. (a) A substance shall be placed  
23 in schedule IVA if it is found under AS 11.71.120(c) to have a degree  
24 of danger or probable danger to a person or the public which is less  
25 than the substances listed in schedule IIIA, but higher than the sub-  
26 stances listed in schedule VA.

27 (b) Depressants. Schedule IVA includes, unless specifically  
28 excepted or unless listed in another schedule, any material, compound,  
29 mixture, or preparation which contains any quantity of the following

1 substances, including their salts, isomers and salts of isomers when-  
2 ever the existence of these salts, isomers, and salts of isomers is  
3 possible within the specific chemical designation:

- 4 (1) barbital;
- 5 (2) chloral betaine;
- 6 (3) cloral hydrate (slang terms: Knockout drops, Mickey  
7 Finn, Mickey, Peter);
- 8 (4) chlordiazepoxide;
- 9 (5) clonazepam;
- 10 (6) clorazepate;
- 11 (7) diazepam;
- 12 (8) ethchlorvynol;
- 13 (9) ethinamate;
- 14 (10) flurazepam;
- 15 (11) lorazepam;
- 16 (12) mebutamate;
- 17 (13) meprobamate;
- 18 (14) methohexital;
- 19 (15) methylphenobarbital, also known as mephobarbital;
- 20 (16) oxazepam;
- 21 (17) paraldehyde;
- 22 (18) petrichloral;
- 23 (19) phenobarbital;
- 24 (20) prazepam.

25 (c) Fenfluramine. Schedule IVA includes any material, compound,  
26 mixture or preparation which contains any quantity of the following  
27 substances, including their salts, isomers whether optical, position,  
28 or geometric, and salts of these isomers, whenever the existence of  
29 these salts, isomers, and salts of isomers is possible: fenfluramine.

1 (d) Stimulants. Schedule IVA includes, unless specifically  
2 excepted or unless listed in another schedule, any material, compound,  
3 mixture, or preparation which contains any quantity of the following  
4 substances having a stimulant effect on the central nervous system,  
5 including their salts, isomers whether optical, position, or geometric,  
6 and salts of these isomers whenever the existence of these salts,  
7 isomers, and salts of isomers is possible within the specific chemical  
8 designation:

9 (1) diethylpropion;

10 (2) phentermine;

11 (3) pemoline, including organometallic complexes and chelates  
12 of this substance.

13 (e) Narcotics. Schedule IVA includes, unless specifically ex-  
14 cepted or unless listed in another schedule, any material, compound,  
15 mixture, or preparation containing not more than 1 milligram of di-  
16 fenoxin and not less than 25 micrograms of atropine sulfate per dosage  
17 unit, or their salts calculated as the free anhydrous base or alkaloid.

18 (f) Other substances. Schedule IVA includes, unless specifically  
19 excepted or unless listed in another schedule, any material, compound,  
20 mixture or preparation which contains any quantity of the following  
21 substances, including their salts:

22 (1) dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-  
23 diphenyl-3-methyl-2-propionoxybutane);

24 (2) pentazocine.

25 Sec. 11.71.180. SCHEDULE VA. (a) A substance shall be placed in  
26 schedule VA if it is found under AS 11.71.120(c) to have a degree of  
27 danger or probable danger to a person or the public which is less than  
28 substances listed in schedule IVA, but higher than substances listed in  
29 schedule VIA.

1 (b) Narcotics. Schedule VA includes any compound, mixture, or  
2 preparation containing any of the following limited quantities of  
3 narcotic drugs or their salts, calculated as the free anhydrous base or  
4 alkaloid, in limited quantities as specified in (1) - (6) of this sub-  
5 section, which includes one or more nonnarcotic active medicinal ingre-  
6 dients in sufficient proportion to confer upon the compound, mixture,  
7 or preparation valuable medicinal qualities other than those possessed  
8 by schedule IA substances alone:

9 (1) not more than 200 milligrams of codeine per 100 milli-  
10 liters or per 100 grams;

11 (2) not more than 100 milligrams of dihydrocodeine per 100  
12 milliliters or per 100 grams;

13 (3) not more than 100 milligrams of ethylmorphine per 100  
14 milliliters or per 100 grams;

15 (4) not more than 2.5 milligrams of diphenoxylate and not  
16 less than 25 micrograms of atropine sulfate per dosage unit;

17 (5) not more than 100 milligrams of opium per 100 milli-  
18 liters or per 100 grams;

19 (6) not more than 0.5 milligrams of difenoxin and not less  
20 than 25 micrograms of atropine sulfate per dosage unit.

21 (c) Loperamide. Schedule VA includes loperamide.

22 Sec. 11.71.190. SCHEDULE VIA. (a) A substance shall be placed  
23 in Schedule VIA if it is found under AS 11.71.120(c) to have the lowest  
24 degree of danger or probable danger to a person or the public.

25 (b) Marijuana. Schedule VIA controlled substances include mari-  
26 juana (slang terms: Acapulco gold, broccoli, bush, dry high, gage,  
27 ganga, grass, griffo, hay, hemp, herb, J, Jay, Jane, Mary Jane, mot,  
28 mutah, Panama red, pod, pot, reefer, sativa, smoke, stick. tea, weed,  
29 stuff, rope, joints, Texas tea, goof butt, jive, sweet lunch, stinkweed,

1 locoweed, mezz, Mary Waner, Indian hay, fu, bobo bush).

2 Sec. 11.71.195. EXEMPTED DRUGS. A substance the manufacture,  
3 distribution, dispensing, or possession of which is explicitly exempt  
4 from criminal penalty under federal law is exempt from the application  
5 of this chapter and AS 17.30. This exemption includes any substances  
6 which may, under the federal Food, Drug, and Cosmetic Act (21 U.S.C.  
7 sec. 301 et seq.) be lawfully sold over the counter without a prescrip-  
8 tion. This exemption also includes those substances listed in 21  
9 C.F.R. sec. 1308.22 on April 1, 1980.

10 ARTICLE 3. MISCELLANEOUS PROVISIONS.

11 Sec. 11.71.300. PENALTIES UNDER OTHER LAWS. A penalty imposed  
12 for violation of this chapter is in addition to, and not in place of,  
13 any other civil or administrative penalty or sanction otherwise autho-  
14 rized by law.

15 Sec. 11.71.310. BAR TO PROSECUTION. If a violation of this  
16 chapter is a violation of a federal law or the law of another state, a  
17 conviction or acquittal under federal law or the law of another state  
18 for the same act is a bar to prosecution in this state.

19 Sec. 11.71.320. DEFENSES EXEMPTED. (a) In a prosecution for the  
20 possession of a controlled substance under this chapter, it is not a  
21 defense that the substance was possessed in less than a useable quan-  
22 tity. It is sufficient to support a conviction that there is a suf-  
23 ficient quantity of the substance to permit proper identification.

24 (b) In a prosecution for an offense involving a controlled sub-  
25 stance under this chapter, it is not a defense that the substance is  
26 misclassified under a subsection within a schedule.

27 Sec. 11.71.330. LIABILITY OF PUBLIC SERVANTS. No liability is  
28 imposed by this chapter upon a public servant acting within the scope  
29 and authority of his employment.

1           Sec. 11.71.340. OFFENSES DEFINED BY AMOUNTS. Whenever a pro-  
2 vision of this chapter defining an offense requires a determination of  
3 an amount, it is not a defense to the lowest class of offense estab-  
4 lished by the evidence that the amount in question was equal to or  
5 larger than the amount which would make the offense a higher class of  
6 offense, and a person may be charged and convicted accordingly.

7           Sec. 11.71.350. BURDEN OF PROOF. It is not necessary for the  
8 state to negate an exemption or exception provided for in this chapter  
9 in a complaint, information, indictment, or other pleading or at a  
10 trial, hearing, or other proceeding under this chapter or AS 17.30.  
11 The defendant has the burden of proving by a preponderance of the  
12 evidence any exemption or exception claimed by him.

13           Sec. 11.71.360. UNPRIVILEGED COMMUNICATIONS. Information commu-  
14 nicated to a physician or other licensed practitioner in an effort to  
15 unlawfully procure a controlled substance or to unlawfully procure the  
16 administration of a controlled substance is not a privileged communi-  
17 cation.

#### 18                                   ARTICLE 4. DEFINITIONS.

19           Sec. 11.71.900. DEFINITIONS. In this chapter, unless the context  
20 clearly requires otherwise,

21           (1) "administer" means the direct application of a con-  
22 trolled substance, whether by injection, inhalation, ingestion, or any  
23 other means into the body of a patient or research subject by

24                                   (A) a practitioner or, in the practitioner's presence,  
25 by his authorized agent; or

26                                   (B) the patient or research subject at the direction  
27 and in the presence of a practitioner;

28           (2) "agent" means an authorized person who acts on behalf of  
29 or at the direction of a manufacturer, distributor, or dispenser, but

1 does not include a common or contract carrier, public warehouseman, or  
2 employee of the carrier or warehouseman;

3 (3) "committee" means the Controlled Substances Advisory  
4 Committee established in AS 11.71.100;

5 (4) "controlled substance" means a drug, substance, or im-  
6 mediate precursor included in the schedules set out in AS 11.71.140 -  
7 11.71.190;

8 (5) "counterfeit substance" means a controlled substance  
9 which, without authorization, bears the trademark, trade name, or other  
10 identifying mark, imprint, number, or device of a manufacturer, distri-  
11 butor, or dispenser other than the person or persons who in fact manu-  
12 factured, distributed, or dispensed the substance and which falsely  
13 purports or is represented to be the product of, or to have been distri-  
14 buted by, the other manufacturer, distributor, or dispenser;

15 (6) "deliver" or "delivery" means the actual, constructive,  
16 or attempted transfer from one person to another of a controlled sub-  
17 stance whether or not there is an agency relationship;

18 (7) "dispense" means to deliver a controlled substance to an  
19 ultimate user or research subject by or under the lawful order of a  
20 practitioner, including the prescribing, administering, packaging, la-  
21 beling, or compounding necessary to prepare the substance for that de-  
22 livery; "dispenser" means a practitioner who dispenses;

23 (8) "distribute" means to deliver other than by administer-  
24 ing or dispensing a controlled substance, whether or not there is any  
25 money or other item of value exchanged; it includes sale, gift, or  
26 exchange; "distributor" means a person who distributes;

27 (9) "drug"

28 (A) means

29 (i) a substance recognized as a drug in the offi-

1                   cial United States Pharmacopoeia, official Homeopathic Pharma-  
2                   copoeia of the United States, or official National Formulary,  
3                   or any supplement to these publications;

4                   (ii) a substance intended for use in the diagnosis,  
5                   cure, mitigation, treatment, or prevention of disease in  
6                   humans or animals;

7                   (iii) a substance, other than food, intended to  
8                   affect the structure or any function of the body of humans or  
9                   animals; and

10                   (iv) a substance intended for use as a component of  
11                   any article specified in (i), (ii), or (iii) of this sub-  
12                   paragraph;

13                   (B) does not include a device or its components, parts,  
14                   or accessories;

15                   (10) "hashish" means the dried, compressed, resinous product  
16                   of the plant (genus) Cannabis;

17                   (11) "hashish oil" means the viscous liquid concentrate of  
18                   tetrahydrocannabinols extracted from the plant (genus) Cannabis;

19                   (12) "immediate precursor" means a substance which is by  
20                   statute or regulation designated as the principal compound commonly  
21                   used or produced primarily for use, and which is an immediate chemical  
22                   intermediary used or likely to be used in the manufacture of a con-  
23                   trolled substance, the control of which is necessary to prevent, cur-  
24                   tail, or limit manufacture of that controlled substance;

25                   (13) "manufacture"

26                   (A) means the production, preparation, propagation,  
27                   compounding, conversion, growing, or processing of a controlled  
28                   substance, either directly or indirectly by extraction from sub-  
29                   stances of natural origin, or independently by means of chemi cal

1 synthesis, or by a combination of extraction and chemical syn-  
2 thesis; however, the growing of marijuana for personal use is not  
3 manufacturing;

4 (B) includes the preparation, compounding, packaging,  
5 repackaging, labeling or relabeling of a controlled substance or  
6 its container unless done in conformity with applicable federal  
7 law

8 (i) by a practitioner as an incident to his admin-  
9 istering or dispensing of a controlled substance in the  
10 course of his professional practice; or

11 (ii) by a practitioner, or by his authorized agent  
12 under his supervision, for the purpose of, or as an incident  
13 to, research, teaching, or chemical analysis and not for  
14 sale;

15 (14) "marijuana" means the leaves, stems, flowers, and seeds  
16 of the plant (genus) Cannabis, whether growing or not; it does not  
17 include the resin or oil extracted from any part of the plant, or any  
18 compound, manufacture, salt, derivative, mixture, or preparation from  
19 the resin or oil, including hashish, hashish oil, and natural or syn-  
20 thetic tetrahydrocannabinol; it does not include the mature stalks of  
21 the plant, fiber produced from the stalks, oil or cake made from the  
22 seeds of the plant, any other compound, manufacture salt, derivative,  
23 mixture, or preparation of the mature stalks, fiber, oil or cake, or  
24 the sterilized seed of the plant which is incapable of germination;

25 (15) "opiate" means

26 (A) a substance having an addiction-forming or addic-  
27 tion-sustaining capability similar to morphine or being capable of  
28 conversion into a drug having addiction-forming or addiction-  
29 sustaining capability;

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(B) includes its racemic and levorotatory forms; and

(C) does not include, unless specifically designated as controlled under AS 11.71.120 the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan);

(16) "opium poppy" means the plant of any species of Papaver containing the phenanthrine alkaloids of opium, except its seeds;

(17) "peyote" means any part of the plant classified botanically as Lophophora Williamsii Lemaire, whether growing or not, the seeds of the plant, any extract from any part of the plant, and a compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or extracts, including mescaline;

(18) "poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;

(19) "practitioner" means

(A) a physician, dentist, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer or use in teaching or chemical analysis a controlled substance in the course of professional practice or research in the state;

(B) a pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in the state;

(20) "sale" means to sell, barter, exchange, give, or dispose of to another, or an exchange for a thing of value;

(21) "schedule IA controlled substance" means a controlled substance included in the schedule in AS 11.71.140;

1 (22) "schedule IIA controlled substance" means a controlled  
2 substance included in the schedule in AS 11.71.150;

3 (23) "schedule IIIA controlled substance" means a controlled  
4 substance included in the schedule in AS 11.71.160;

5 (24) "schedule IVA controlled substance" means a controlled  
6 substance included in the schedule in AS 11.71.170;

7 (25) "schedule VA controlled substance" means a controlled  
8 substance included in the schedule in AS 11.71.180;

9 (26) "schedule VIA controlled substance" means a controlled  
10 substance included in the schedule in AS 11.71.190;

11 (27) "ultimate user" means a person who lawfully possesses a  
12 controlled substance for his own use or for the use of a member of his  
13 household or for administering to an animal owned by him or by a member  
14 of his household.

15 \* Sec. 3. AS 17 is amended by adding a new chapter to read:

16 CHAPTER 30. CONTROLLED SUBSTANCES.

17 ARTICLE 1. REGULATION OF MANUFACTURE, DISTRIBUTION,  
18 PRESCRIPTION, AND DISPENSING OF CONTROLLED SUBSTANCES.

19 Sec. 17.30.010. REGULATIONS. (a) The Board of Pharmacy shall  
20 adopt regulations under the Administrative Procedure Act (AS 44.62)  
21 which are necessary for the administration of this chapter, and may  
22 charge reasonable fees relating to the registration and control of the  
23 manufacture, distribution, and dispensing of controlled substances as  
24 authorized by federal law in the state.

25 (b) Regulations adopted under this chapter by the board shall be  
26 patterned after federal law so that the legitimate manufacture, distri-  
27 bution, and dispensing of controlled substances is subject to regula-  
28 tions regarding registration, record keeping, order forms and prescrip-  
29 tion requirements that are identical to those required by federal law

1 or regulations.

2 Sec. 17.30.020. REGISTRATION REQUIREMENTS. (a) A person who  
3 manufactures, distributes, dispenses, or conducts research with a  
4 controlled substance in the state or who proposes to manufacture,  
5 distribute, or dispense a controlled substance in the state, shall  
6 register annually with the board in accordance with regulations adopted  
7 under AS 17.30.010.

8 (b) A person registered under this chapter to manufacture, distri-  
9 bute, dispense, or conduct research with controlled substances may  
10 possess, manufacture, distribute, dispense, or conduct research with  
11 those substances to the extent authorized by his registration and in  
12 conformity with the other provisions of this chapter.

13 (c) The following persons may lawfully possess controlled sub-  
14 stances under this chapter without registration:

15 (1) an agent or employee of a registered manufacturer, dis-  
16 tributor, dispenser, or researcher of a controlled substance so long as  
17 the possession is incidental to the usual course of his business or  
18 employment;

19 (2) a common or contract carrier or warehouseman, or his  
20 employee, whose possession of a controlled substance is in the usual  
21 course of his business or employment;

22 (3) an ultimate user or a person in possession of a con-  
23 trolled substance under a lawful order of a registered practitioner or  
24 in lawful possession of a schedule VA controlled substance.

25 (d) The board may, by regulation, waive the requirement for  
26 registration of certain manufacturers, distributors, or dispensers if  
27 it finds it consistent with public health and safety.

28 (e) A separate registration is required for each principal place  
29 of business or professional practice where the applicant manufactures,

1 distributes, or dispenses controlled substances.

2 (f) The board may inspect the establishment of a registrant or  
3 applicant for registration in accordance with regulations adopted by  
4 the board.

5 Sec. 17.30.030. REGISTRATION. (a) The board shall register an  
6 applicant to manufacture, distribute, or dispense controlled substances  
7 listed in the schedules established under federal law unless it finds  
8 that the registration would be inconsistent with the public interest.  
9 In determining the public interest, the board shall consider the follow-  
10 ing factors:

11 (1) maintenance of effective controls against diversion of  
12 controlled substances into other than legitimate medical, scientific,  
13 or industrial channels;

14 (2) compliance with applicable state and local law;

15 (3) a conviction of the applicant under federal or state  
16 laws relating to controlled substances;

17 (4) past experience in the manufacture, distribution, or  
18 dispensing of controlled substances and the existence in the appli-  
19 cant's establishment of effective controls against diversion of con-  
20 trolled substances into other than legitimate medical, scientific, or  
21 industrial channels;

22 (5) furnishing by the applicant of false information in an  
23 application filed under this chapter;

24 (6) suspension or revocation of the applicant's federal  
25 registration to manufacture, distribute, or dispense controlled sub-  
26 stances as authorized by federal law; and

27 (7) any other factors relevant to and consistent with the  
28 public health and safety.

29 (b) A practitioner registered under federal law to conduct re-

1 search with controlled substances shall be issued a registration to  
2 conduct research with these substances in the state if the practitioner  
3 furnishes the board with evidence of the federal registration.

4 (c) A manufacturer, distributor, or dispenser who complies with  
5 federal law pertaining to registration requirements other than fees is  
6 entitled to be registered under this chapter.

7 Sec. 17.30.040. DENIAL, REVOCATION AND SUSPENSION OF REGISTRA-  
8 TION. (a) A registration applied for or issued under AS 17.30.030 to  
9 manufacture, distribute, dispense, or conduct research with a control-  
10 led substance may be denied, suspended, or revoked by the board upon a  
11 finding that the registrant

12 (1) has furnished false or fraudulent material information  
13 in an application filed under this chapter;

14 (2) has been convicted of a felony offense under state or  
15 federal law; or

16 (3) has had his federal registration to manufacture, dis-  
17 tribute, dispense, or conduct research with controlled substances  
18 denied, suspended, or revoked.

19 (b) The board may limit the denial, revocation, or suspension of  
20 a registration to a particular controlled substance with respect to  
21 which grounds for denial, revocation, or suspension exist.

22 (c) If the board denies, suspends, or revokes a registration, all  
23 controlled substances owned or possessed by the registrant at the time  
24 of the denial or suspension or the effective date of the revocation  
25 order may be placed under seal by the board or the Department of Public  
26 Safety and remains in the custody of the department, subject only to  
27 the orders and decrees of a court having jurisdiction over the property.  
28 A disposition may not be made of substances under seal until the time  
29 for taking an appeal has elapsed or until all appeals have been con-

1 cluded unless a court, upon application, orders the sale of perishable  
2 substances and the deposit of the proceeds of the sale with the court.  
3 After a revocation order is final, all controlled substances held by  
4 the registrant are forfeited to the state.

5 (d) The board shall promptly notify the Drug Enforcement Admin-  
6 istration of the United States Department of Justice of all orders  
7 denying, suspending, or revoking registrations and of all forfeitures  
8 of controlled substances.

9 Sec. 17.30.050. ORDER TO SHOW CAUSE. (a) Before denying, sus-  
10 pending, or revoking a registration, or refusing a renewal of a regis-  
11 tration, the board shall serve upon the applicant or registrant an  
12 order to show cause why a registration should not be denied, revoked,  
13 or suspended, or why a renewal should not be refused. The order to  
14 show cause shall contain a statement of the basis for issuance of the  
15 order and shall require the applicant or registrant to appear before  
16 the board at a time and place not less than 30 days after the date of  
17 service of the order. For a refusal of renewal of registration the  
18 show cause order must be served not later than 30 days before the  
19 expiration of the registration. These proceedings must be conducted in  
20 accordance with procedures for administrative adjudication under AS 44.-  
21 62.330 - 44.62.630 without regard to criminal prosecution or other  
22 proceeding. Proceedings to refuse renewal of registration do not make  
23 the existing registration void. The existing registration remains in  
24 effect pending the outcome of the administrative hearing.

25 (b) The board may, without an order to show cause, suspend a  
26 registration simultaneously with the institution of proceedings under  
27 AS 17.30.040 if it finds that there is an imminent danger to the public  
28 health or safety which warrants this action. The suspension continues  
29 in effect until the conclusion of the proceedings, including judicial

1 review of the proceedings, unless withdrawn by the board or dissolved  
2 by a court of competent jurisdiction.

3 Sec. 17.30.060. RECORDS OF REGISTRANTS. A person registered to  
4 manufacture, distribute, dispense, or conduct research with controlled  
5 substances under this chapter shall keep records and maintain invento-  
6 ries in conformance with the record keeping and inventory requirements  
7 of federal law and in conformance with additional regulations adopted  
8 by the board.

9 Sec. 17.30.070. ORDER FORMS; PRESCRIPTIONS. (a) A controlled  
10 substance may be distributed by one registrant to another registrant  
11 only if the distribution is in accordance with federal requirements for  
12 order forms.

13 (b) A controlled substance may not be dispensed by a practitioner  
14 other than in accordance with federal requirements regarding prescrip-  
15 tions for controlled substances.

16 (c) If the classification of a controlled substance in a schedule  
17 set out in AS 11.71.140 - 11.71.190, or by a regulation adopted in ac-  
18 cordance with AS 11.71.120(a), is different from its corresponding  
19 classification under federal law, the requirements of (a) and (b) of  
20 this section are determined by the classification of the substance un-  
21 der federal law.

22 Sec. 17.30.080. UNLAWFUL ADMINISTRATION, PRESCRIPTION AND DIS-  
23 PENSATION OF CONTROLLED SUBSTANCES. A controlled substance classified  
24 under federal law or in a schedule set out in AS 11.71.140 - 11.71.190  
25 or by regulations adopted in accordance with AS 11.71.120(a) may not be  
26 administered, prescribed, dispensed, or distributed other than for a  
27 medical purpose.

28 ARTICLE 2. ENFORCEMENT AND ADMINISTRATIVE PROVISIONS.

29 Sec. 17.30.100. COOPERATIVE ARRANGEMENTS. (a) The commissioner

1 of public safety shall cooperate with other state and federal agencies  
2 in the discharge of their responsibilities pertaining to illicit traffic  
3 in controlled substances and in suppressing the abuse of controlled  
4 substances. Under this section, the powers of the commissioner of  
5 public safety include but are not limited to the following:

6 (1) arranging for the exchange of information among govern-  
7 ment officials concerning illicit traffic in and abuse of controlled  
8 substances;

9 (2) coordinating training programs pertaining to controlled  
10 substances at both local and state levels; and

11 (3) cooperating with the Drug Enforcement Administration of  
12 the United States Department of Justice by establishing a centralized  
13 unit to accept, catalog, file, and collect statistics, including records  
14 of persons who have violated the provisions of this chapter or AS 11.71  
15 in the state and making the information available for federal, state,  
16 and local law enforcement purposes.

17 (b) The commissioner of public safety may not furnish the name or  
18 identity of a patient or research subject whose identity could not be  
19 obtained under AS 17.30.150(b).

20 Sec. 17.30.110. FORFEITURES. (a) The following may be forfeited  
21 to the state:

22 (1) a controlled substance which has been manufactured,  
23 distributed, dispensed, acquired, or possessed in violation of this  
24 chapter or AS 11.71;

25 (2) raw materials, products, and equipment which are used or  
26 intended for use in manufacturing, distributing, compounding, process-  
27 ing, delivering, importing, or exporting a controlled substance which  
28 is a felony under this chapter or AS 11.71;

29 (3) property which is used or intended for use as a container

1 for property described in (1) or (2) of this subsection;

2 (4) a conveyance, including but not limited to aircraft,  
3 vehicles or vessels, which has been used or is intended for use in  
4 transporting or in any manner in facilitating the transportation, sale,  
5 receipt, possession, or concealment of property described in (1) or (2)  
6 of this subsection in violation of a felony offense under this chapter  
7 or AS 11.71; however,

8 (A) a conveyance may not be forfeited under this section  
9 if the owner of the conveyance establishes, by a preponderance of  
10 the evidence, at a hearing before the court as the trier of fact,  
11 that use of the conveyance in violation of this chapter or AS 11.71  
12 was committed by another person and that the owner was not a  
13 consenting party nor privy to the violation;

14 (B) a forfeiture of a conveyance encumbered by a valid  
15 security interest at the time of seizure is subject to the interest  
16 of the secured party if the secured party establishes, by a prepon-  
17 derance of the evidence, at a hearing before the court as the  
18 trier of fact, that use of the conveyance in violation of this  
19 chapter or AS 11.71 was committed by another person and that the  
20 secured party was not a consenting party nor privy to the viola-  
21 tion;

22 (5) books, records, and research products and materials,  
23 including formulas, microfilm, tapes, and data which are used in vio-  
24 lation of this chapter or AS 11.71;

25 (6) money, securities, negotiable instruments, or other  
26 things of value used in financial transactions derived from activity  
27 prohibited by this chapter or AS 11.71; and

28 (7) a firearm which is visible, carried during, or used in  
29 furtherance of a violation of this chapter or AS 11.71.

1 (b) Property listed in (a) of this section may be forfeited to  
2 the state either upon conviction of the defendant of a violation of  
3 this chapter or AS 11.71, or upon judgment of a court in a separate  
4 civil proceeding in rem. The court may order a forfeiture in the in  
5 rem proceeding if it finds that an item specified in (a) of this section  
6 was used during or in aid of a violation of this chapter or AS 11.71.

7 (c) It is not a defense in an in rem proceeding brought under  
8 this section that

9 (1) a criminal proceeding is pending or has resulted in a  
10 conviction, acquittal, or conviction of a lesser offense for a violation  
11 of this chapter or AS 11.71;

12 (2) a criminal proceeding has been dismissed;

13 (3) the item has not been forfeited in a criminal proceeding;

14 or

15 (4) multiple actions are pending.

16 (d) Property listed in (a) of this section may be seized by a  
17 peace officer upon an order issued by a court having jurisdiction over  
18 the property upon a showing of probable cause that the property may be  
19 forfeited under (a) of this section. Seizure without a court order may  
20 be made if

21 (1) the seizure is incident to a valid arrest or a search  
22 under a valid search warrant;

23 (2) the property subject to seizure has been the subject of  
24 an earlier judgment in favor of the state in a criminal proceeding or  
25 civil proceeding in rem under this chapter or AS 11.71; or

26 (3) there is probable cause that the property was used, is  
27 being used, or is intended for use, in violation of this chapter or  
28 AS 11.71 and the property is easily movable; property seized under this  
29 paragraph may not be held for more than 48 hours without a court order

1 obtained to continue its detention.

2 (e) Property taken or detained under (d) of this section shall be  
3 held in the custody of either the commissioner of public safety or a  
4 municipal law enforcement agency authorized by the commissioner of  
5 public safety to retain custody of property listed in (a) of this  
6 section subject only to the orders and decrees of the court having  
7 jurisdiction over any forfeiture proceedings. If property is seized  
8 under this chapter, the commissioner of public safety or an authorized  
9 municipal law enforcement agency may

10 (1) place the property under seal;

11 (2) remove the property to a place designated by the court;

12 or

13 (3) take custody of the property and remove it to an appro-  
14 priate location for disposition in accordance with law.

15 (f) Within 10 days after a seizure under this section, the commis-  
16 sioner of public safety shall make an inventory of any property seized,  
17 including controlled substances, and shall appraise the value of any  
18 items seized other than controlled substances.

19 (g) Within 20 days after a seizure under this section, the commis-  
20 sioner of public safety shall, by certified mail, notify any person  
21 known to have an interest in an item with an appraised value of \$500 or  
22 more, or who is ascertainable from official registration numbers,  
23 licenses, or other state, federal or municipal numbers on the item.  
24 Additionally, the commissioner of public safety shall publish notice of  
25 forfeiture action of an item valued at \$500 or more in a newspaper of  
26 general circulation in the judicial district in which the seizure was  
27 made, or if no newspaper is published in that district, in a newspaper  
28 published in the state and distributed in that district. The notice  
29 shall be published once each week during four consecutive calendar

1 weeks. The requirements of this subsection do not apply to the for-  
2 feiture of controlled substances which have been manufactured, distri-  
3 buted, dispensed, or possessed in violation of this chapter or AS 11.71,  
4 regardless of their value.

5 (h) Upon service or publication of notice of commencement of an  
6 action under this section, a person claiming interest in the property  
7 shall file within 20 days after the service or publication, a notice of  
8 claim setting out the nature of his interest, the date it was acquired,  
9 the consideration paid, and an answer to the state's allegations. If a  
10 claim and answer is not filed within the time specified, the property  
11 described in the state's allegation must be ordered forfeited to the  
12 state without further proceedings or showings.

13 (i) Questions of fact or law raised by a notice of claim and  
14 answer of a claimant in an action commenced under this section must be  
15 determined by the court sitting without a jury. This proceeding may be  
16 held in abeyance until conclusion of any pending criminal charges  
17 against the claimant under this chapter or 11.71.

18 (j) A claimant under (h) of this section may at any time petition  
19 for release of a seized item as follows:

20 (1) to a court in which a warrant for seizure has been  
21 issued;

22 (2) to a court in which a criminal or civil action alleging  
23 forfeiture of the item has been filed; or

24 (3) before an action is filed, or if no seizure warrant was  
25 issued, to a court in the judicial district in which the violation took  
26 place.

27 (k) An item may not be released by the court under (j) of this  
28 section unless the claimant gives adequate assurance that the item will  
29 remain subject to the court's jurisdiction and

1 (1) the court finds that the release is in the best interests  
2 of the state; or

3 (2) the claimant provides a bond or other valid and equiva-  
4 lent security equal to twice the assessed value of the item.

5 (1) A claimant may petition the court for sale of an item before  
6 final disposition of court proceedings. The court shall grant a peti-  
7 tion for sale upon a finding that the sale is in the best interests of  
8 the state and the preservation and maintenance of the item seized.  
9 Proceeds from the sale plus interest to the date of final disposition  
10 of the court proceedings become the subject of the forfeiture action.

11 (m) Property forfeited under this section other than controlled  
12 substances shall be disposed of by the commissioner of administration  
13 in accordance with applicable law. The commissioner of administration  
14 may

15 (1) destroy property harmful to the public;

16 (2) sell the property and use the proceeds for payment of  
17 all proper expenses of the proceedings for forfeiture and sale, includ-  
18 ing expenses of seizure, custody, and court costs;

19 (3) take custody of the property and authorize its use in  
20 the enforcement of this chapter or AS 11.71, or transfer it to another  
21 agency of the state or a political subdivision of the state for a use  
22 in furtherance of the administration of justice;

23 (4) take custody of the property and remove it for disposi-  
24 tion in accordance with law; or

25 (5) forward it to the Drug Enforcement Administration of the  
26 United States Department of Justice for disposition.

27 (n) Upon a showing that a claimant is entitled to remittance in  
28 accordance with this section, the court shall order that'

29 (1) if the item may be used for a valid state purpose, it

1 shall be delivered to the commissioner of administration and the com-  
2 missioner shall remit to the claimant the value of the claimant's in-  
3 terest at the time of seizure; or

4 (2) the item may be sold at public auction to the highest  
5 bidder under the following conditions:

6 (A) the claimant has a right of first refusal;

7 (B) the sale proceeds shall be used to satisfy the  
8 claimant's interest at the time of seizure; and

9 (C) the balance remaining after (B) of this paragraph  
10 is complied with shall be deposited in the general fund.

11 (o) An offender who used an item subject to remission in viola-  
12 tion of this chapter or AS 11.71 shall be assessed a fine which may not  
13 be less than the cost of any lien payment or remittance made by the  
14 state plus the reasonable costs of the seizure.

15 (p) A controlled substance manufactured, possessed, transferred,  
16 sold, or offered for sale in violation of this chapter or AS 11.71 is  
17 contraband and must be seized and summarily forfeited to the state.  
18 The commissioner of public safety or his designee, including a municipal  
19 law enforcement agency authorized under (e) of this section to retain  
20 custody of controlled substances, is responsible for the disposal of  
21 controlled substances which have been forfeited. The controlled sub-  
22 stances shall be disposed of in accordance with procedures and require-  
23 ments prescribed by the commissioner.

24 (q) Plants from which controlled substances may be derived and  
25 which have been planted or cultivated in violation of this chapter or  
26 AS 11.71, or which are grown in the wild, may be seized and summarily  
27 forfeited to the state.

28 Sec. 17.30.130. JUDICIAL REVIEW. A final determination, finding,  
29 or conclusion of the board under this chapter or a regulation adopted

1 under it is a final decision of the matter involved. A person aggrieved  
2 by a decision may obtain review of the decision in the superior court  
3 in accordance with AS 44.62.560 - 44.62.570. However, a person is not  
4 entitled to a hearing de novo in the superior court.

5 Sec. 17.30.140. EDUCATION AND RESEARCH. (a) The commissioner of  
6 health and social services shall provide for educational programs  
7 designed to prevent and deter the abuse of controlled substances. In  
8 connection with these programs, the commissioner may

9 (1) assist the regulated industry and interested groups and  
10 organizations in contributing to the reduction of abuse of controlled  
11 substances;

12 (2) promote better recognition of the problems surrounding  
13 abuse of controlled substances within the regulated industry and among  
14 interested groups and organizations;

15 (3) consult with interested groups and organizations to aid  
16 them in solving administrative and organizational problems;

17 (4) evaluate procedures, projects and techniques conducted  
18 or proposed as part of educational programs on abuse of controlled  
19 substances;

20 (5) disseminate the results of research on abuse of con-  
21 trolled substances to promote a better public understanding of the  
22 problems which exist and their solutions; and

23 (6) with the cooperation of the Department of Law, assist in  
24 the education and training of state and local law enforcement officials  
25 in their efforts to prevent illicit traffic in and abuse of controlled  
26 substances.

27 (b) The commissioner of health and social services shall encourage  
28 research on controlled substances and may

29 (1) establish methods to assess the effects of controlled

1 substances and identify and characterize those with potential for  
2 abuse;

3 (2) make studies and undertake research to

4 (A) develop new or improved approaches, techniques,  
5 systems, equipment, and devices to strengthen the enforcement of  
6 this chapter;

7 (B) determine patterns of abuse of controlled sub-  
8 stances and their social effects; and

9 (C) improve methods for preventing, predicting, and un-  
10 derstanding the abuse of controlled substances;

11 (3) enter into contracts with public agencies, institutions  
12 of higher education, and private organizations or individuals for con-  
13 ducting research, demonstrations, or special projects which bear  
14 directly on abuse of controlled substances and for related research and  
15 educational activities.

16 Sec. 17.30.150. CONFIDENTIALITY. (a) Results, information, and  
17 evidence received from the Drug Enforcement Administration of the  
18 United States Department of Justice relating to the regulatory func-  
19 tions of this chapter, including results of inspections conducted by it  
20 may be relied on and acted on by the board in the exercise of its  
21 regulatory functions under this chapter.

22 (b) A practitioner engaged in medical practice or research may  
23 not furnish the name or identity of a patient or research subject to  
24 the board. The practitioner may not otherwise disclose the name or  
25 identity of an individual that he is required to keep confidential  
26 unless ordered by a court to disclose it within the context of a crim-  
27 inal investigation or proceeding.

28 Sec. 17.30.160. DEFINITIONS. (a) Unless the context clearly  
29 requires otherwise, the definitions set out in AS 11.71.900 apply to

1 this chapter.

2 (b) In this chapter, "board" means the Board of Pharmacy provided  
3 for in AS 08.80.010.

4 \* Sec. 4. AS 17 is amended by adding a new chapter to read:

5 CHAPTER 35. ALASKA THERAPEUTIC RESEARCH ACT.

6 Sec. 17.35.010. LEGISLATIVE PURPOSE. The legislature finds that  
7 recent research has shown that the use of marijuana may alleviate the  
8 nausea and ill effects of cancer chemotherapy and radiology, and,  
9 additionally, may alleviate the ill effects of glaucoma. The legis-  
10 lature further finds that there is a need for further research and  
11 experimentation regarding the use of marijuana under strictly con-  
12 trolled circumstances.

13 Sec. 17.35.020. THERAPEUTIC RESEARCH PROGRAM. (a) A therapeutic  
14 research program is established in the Board of Pharmacy. The program  
15 shall be administered by the board. The board shall adopt regulations  
16 necessary for the proper administration of this chapter. Before adopt-  
17 ing regulations, the board shall take into consideration pertinent  
18 regulations adopted by the Drug Enforcement Administration of the  
19 United States Department of Justice, the federal Food and Drug Adminis-  
20 tration, and the National Institute on Drug Abuse.

21 (b) Except as provided in AS 17.35.030(e), the therapeutic re-  
22 search program is limited to cancer chemotherapy and radiology patients  
23 and glaucoma patients, who are certified to the Patient Qualification  
24 Review Committee by a practitioner. A patient may not be admitted to  
25 the therapeutic research program without full disclosure by the practi-  
26 tioner of the experimental nature of this program and of the possible  
27 risks and side effects of the proposed treatment.

28 (c) The board shall provide by regulation for a program of regis-  
29 tration of therapeutic research projects.

1           Sec. 17.35.030. PATIENT QUALIFICATION REVIEW COMMITTEE. (a) The  
2 board shall appoint a Patient Qualification Review Committee to serve  
3 at its pleasure. The committee shall consist of four members with the  
4 following qualifications:

5           (1) two physicians licensed to practice medicine in the  
6 state, one of whom specializes in the practice of ophthalmology;

7           (2) a physician licensed to practice medicine in the state  
8 and specializing in the practice of psychiatry; and

9           (3) a physician licensed to practice medicine in the state  
10 who specializes in the practice of radiology.

11           (b) Members of the Patient Qualification Review Committee receive  
12 no salary but are entitled to per diem for travel and expenses autho-  
13 rized by law for boards and commissions.

14           (c) The Patient Qualification Review Committee shall review all  
15 applicants for the therapeutic research program and their licensed  
16 practitioners and certify their participation in the program.

17           (d) The Patient Qualification Review Committee and the board  
18 shall protect the privacy of individuals who participate in the thera-  
19 peutic research program by withholding the names and other identifying  
20 characteristics of those individuals from all persons who are not  
21 connected with the research. Persons authorized to engage in research  
22 under the therapeutic research program may not be compelled in any  
23 civil, criminal, administrative, legislative, or other proceeding to  
24 identify the individuals who are the subjects of research for which the  
25 authorization was granted unless necessary to permit the board to  
26 determine whether the research is being conducted in accordance with  
27 the authorization.

28           (e) The Patient Qualification Review Committee may include other  
29 disease groups for participation in the therapeutic research program.

1 However, a practitioner must present pertinent medical data to both the  
2 committee and the board before a disease group may be added. The  
3 participation of a disease group must be approved by the board consis-  
4 tent with applicable regulations adopted by the Drug Enforcement Admin-  
5 istration of the United States Department of Justice, the federal Food  
6 and Drug Administration, and the National Institute on Drug Abuse.

7 Sec. 17.35.040. SOURCES AND DISTRIBUTION OF MARIJUANA. The board  
8 shall ensure that marijuana is made available through whatever means it  
9 considers appropriate consistent with applicable regulations adopted by  
10 the Drug Enforcement Administration of the United States Department of  
11 Justice, the federal Food and Drug Administration, and the National  
12 Institute on Drug Abuse, and under this chapter.

13 Sec. 17.35.050. REPORT TO THE GOVERNOR AND LEGISLATURE. The  
14 board, in conjunction with the Patient Qualification Review Committee,  
15 shall report its findings and recommendations to the governor and the  
16 legislature regarding the effectiveness of the therapeutic research  
17 program by March 1, 1984.

18 Sec. 17.35.060. DEFINITIONS. In this chapter

- 19 (1) "board" means the Board of Pharmacy;  
20 (2) "marijuana" has the meaning set out in AS 11.71.900(14);  
21 (3) "practitioner" means a physician authorized to practice  
22 medicine in the state under AS 08.64.

23 \* Sec. 5. AS 08.64.380(3)(B) is amended to read:

24 (B) habitual overuse of alcoholic beverages or con-  
25 trolled substances [DEPRESSANT, HALLUCINOGENIC OR STIMULANT DRUGS,]  
26 as defined in AS 11.71.900(4) [AS 17.12.150(3), OR ADDICTION TO  
27 THE USE OF NARCOTIC DRUGS AS DEFINED IN AS 17.10.230(13)];

28 \* Sec. 6. AS 08.80.040 is amended by adding a new paragraph to read:

- 29 (10) provide for the regulation of controlled substances

1 under AS 17.30.

2 \* Sec. 7. AS 08.80.470 is amended to read:

3 Sec. 08.80.470. CONSTRUCTION. Nothing in this chapter amends,  
4 modifies, repeals or otherwise changes any provision of AS 11.71,  
5 AS 17.30, [THE UNIFORM NARCOTIC DRUG ACT (AS 17.10)] or the Alaska  
6 Food, Drug and Cosmetic Act (AS 17.20).

7 \* Sec. 8. AS 08.80.480(20) is repealed and reenacted to read:

8 (20) "controlled substance" has the same meaning set out in  
9 AS 11.71.900(4).

10 \* Sec. 9. AS 11.31.100(d)(1) is amended to read:

11 (1) class A felony if the crime attempted is an unclassified  
12 felony [MURDER IN ANY DEGREE OR KIDNAPPING];

13 \* Sec. 10. AS 11.31.110(c)(1) is amended to read:

14 (1) class A felony if the crime solicited is an unclassified  
15 felony [MURDER IN ANY DEGREE OR KIDNAPPING];

16 \* Sec. 11. AS 11.81.900(b)(4) is amended to read:

17 (4) "cannabis" has the meaning ascribed to it in AS 11.71.-  
18 900(10), (11), and (14) [AS 17.12.150];

19 \* Sec. 12. AS 11.81.900(b)(6) is repealed and reenacted to read:

20 (6) "controlled substance" has the meaning ascribed to it in  
21 AS 11.71.900(4);

22 \* Sec. 13. AS 11.81.900(b)(16) is repealed and reenacted to read:

23 (16) "drug" has the meaning ascribed to it in AS 11.71.-  
24 900(9);

25 \* Sec. 14. AS 12.30.040(b) is repealed and reenacted to read:

26 (b) Notwithstanding the provisions of (a) of this section, if a  
27 person has been convicted of an offense which is an unclassified felony  
28 or a class A felony, he may not be released on bail either before  
29 sentencing or pending appeal.

1 \* Sec. 15. AS 12.45 is amended by adding a new section to read:

2 Sec. 12.45.155. LABORATORY REPORT OF CONTROLLED SUBSTANCES. (a)

3 In a prosecution under AS 11.71.010 - 11.71.070, a complete copy of an  
4 official laboratory report from the Department of Public Safety or a  
5 laboratory operated by another law enforcement agency is prima facie  
6 evidence of the content, identity, and weight of a controlled sub-  
7 stance. The report must be signed by the person performing the anal-  
8 ysis and must state that the substance which is the basis of the alleged  
9 offense has been weighed and analyzed. In the report, the author shall  
10 state with specificity his findings of the content, weight, and identity  
11 of the substance.

12 (b) A sworn statement prepared by the author of the report pro-  
13 vided for in (a) of this section must be attached to the report. The  
14 statement must set out the identity of the author and include a state-  
15 ment that he is an employee of the laboratory issuing the report and  
16 that performing the analysis is a part of his regular duties. The  
17 statement must also include an outline of his education, training, and  
18 experience for performing an analysis. The author shall state that  
19 scientifically accepted tests were performed with due caution, and  
20 whether to his knowledge the evidence was handled in accordance with  
21 established and accepted procedures while in the custody of the labora-  
22 tory.

23 (c) The prosecuting attorney shall serve a copy of the report on  
24 the attorney of record for the accused, or on the defendant if he has  
25 no attorney, not later than 20 days before a proceeding in which the  
26 report is to be used against the accused. However, at a preliminary  
27 hearing or grand jury proceeding, the report may be used without having  
28 previously been served upon the accused.

29 (d) The accused or his attorney may demand the testimony of the

1 person signing the report, by serving a written demand showing cause  
2 upon the prosecuting attorney within seven days from receipt of the  
3 report.

4 (e) A report issued for use under this section must contain  
5 notice of the right of the accused to demand the testimony of the  
6 person signing the report.

7 \* Sec. 16. AS 12.55.035(b)(1) is amended to read:

8 (1) \$75,000 for murder in the first or second degree, [OR]  
9 kidnapping, or misconduct involving a controlled substance in the first  
10 degree;

11 \* Sec. 17. AS 12.55.125(b) is amended to read:

12 (b) A defendant convicted of murder in the second degree, [OR]  
13 kidnapping, or misconduct involving a controlled substance in the first  
14 degree shall be sentenced to a definite term of imprisonment of at  
15 least five years but not more than 99 years.

16 \* Sec. 18. AS 12.55.155(c) is amended by adding new paragraphs to read:

17 (19) the defendant is convicted of an offense specified in  
18 AS 11.71 and the offense involved the delivery of a controlled sub-  
19 stance under circumstances manifesting an intent to distribute the  
20 substance as part of a commercial enterprise;

21 (20) the defendant is convicted of an offense specified in  
22 AS 11.71 and the offense involved the transportation of controlled  
23 substances into the state;

24 (21) the defendant is convicted of an offense specified in  
25 AS 11.71 and the offense involved large quantities of a controlled  
26 substance;

27 (22) the defendant is convicted of an offense specified in  
28 AS 11.71 and the offense involved the distribution of a controlled  
29 substance that had been adulterated with a toxic substance.

1 \* Sec. 19. AS 12.55.155(d) is amended by adding new paragraphs to read:

2 (14) the defendant is convicted of an offense specified in  
3 AS 11.71 and the offense involved small quantities of a controlled  
4 substance;

5 (15) the defendant is convicted of an offense specified in  
6 AS 11.71 and the offense involved the distribution of a controlled  
7 substance, other than a schedule IA controlled substance, to a personal  
8 acquaintance who is 19 years of age or older for no profit;

9 (16) the defendant is convicted of an offense specified in  
10 AS 11.71 and the offense involved the possession of a small amount of a  
11 controlled substance for personal use in the defendant's home.

12 \* Sec. 20. AS 28.35.030(a)(1) is amended to read:

13 (1) while under the influence of intoxicating liquor, or any  
14 controlled substance listed [DEPRESSANT, HALLUCINOGENIC, STIMULANT OR  
15 NARCOTIC DRUGS AS DEFINED] in AS 11.71.140 - 11.71.190 [AS 17.10.230-  
16 (13) AND AS 17.12.150(3)];

17 \* Sec. 21. AS 28.35.030 is amended by adding a new subsection to read:

18 (e) In a prosecution under this section alleging that the accused  
19 operated a motor vehicle while under the influence of a controlled sub-  
20 stance, as defined in AS 11.71.140 - 11.71.190, or under the influence  
21 of alcohol and a controlled substance and the controlled substance is  
22 available by prescription, it is prima facie evidence of the accused's  
23 knowledge of the effects of the controlled substance that he was warned,  
24 by a doctor, pharmacist, or other licensed practitioner of those  
25 effects. A label placed on the prescription bottle recommending or  
26 warning that the person should not operate a motor vehicle or other  
27 equipment after ingesting the controlled substance is a warning which  
28 satisfies the requirements of this subsection.

29 \* Sec. 22. (a) Prosecution for a violation of law occurring before

1 January 1, 1982, is not affected or abated by this Act. Violation of any  
2 law repealed by this Act may still be prosecuted and brought to a final  
3 determination in accordance with the laws and regulations in effect at the  
4 time of the violation.

5 (b) This Act does not apply to a civil seizure, forfeiture, or injunc-  
6 tive proceeding commenced before January 1, 1982.

7 (c) Administrative proceedings pending under a law repealed or amended  
8 by this Act shall be continued and brought to a final determination in  
9 accordance with the laws and regulations in effect before January 1, 1982.

10 (d) The Board of Pharmacy shall permit persons who own or operate an  
11 establishment engaged in the manufacture, distribution, or dispensing of a  
12 controlled substance to register before January 1, 1982.

13 (e) This Act applies to violations of law, seizures, forfeitures,  
14 injunctive proceedings, administrative proceedings, and investigations which  
15 occur after December 31, 1981.

16 \* Sec. 23. Orders issued and regulations adopted under a law amended or  
17 repealed by this Act and in effect on January 1, 1982, and not in conflict  
18 with this Act continue until amended or repealed.

19 \* Sec. 24. The members of the Controlled Substance Advisory Committee  
20 first appointed under AS 11.71.100(a)(5) - (8) shall serve terms as follows:

- 21 (1) one member for two years;  
22 (2) two members for three years; and  
23 (3) two members for four years.

24 \* Sec. 25. AS 17.10, AS 17.12, and AS 17.15 are repealed.

25 \* Sec. 26. This Act takes effect on January 1, 1982.  
26  
27  
28  
29

HB 180  
cc.

February 18, 1981

The Honorable Jim Duncan  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill designed to implement a comprehensive and more rational statutory scheme to control the possession, use, sale, and distribution of illicit drugs in the state through a logical classification and penalty scheme consistent with the revised criminal code which took effect on January 1, 1980.

The bill is patterned after the federal Controlled Substances Act of 1970 (P.L. 91-513) and the Uniform Controlled Substances Act, adopted by the National Conference of Commissioners on Uniform State Laws. It is designed to provide for uniformity among the laws of the several states and the federal government. This will create a network of federal and state law which enables government at all levels to develop a coordinated and effective approach to the enforcement of drug laws. The federal and Uniform Acts have served as models for 44 other states which have revised their outdated drug laws over the last decade.

Existing state law relating to drug offenses is confusing and often inconsistent, particularly in terms of the range of penalties provided. In general, the law constitutes a hodge-podge of separate statutory provisions enacted at different times in response to individual problems as they became apparent. This situation has been compounded in recent years by judicial decisions which have magnified inconsistencies in statutes and questioned some drug classifications.

Before the second session of the Eleventh Legislature, the commissioner of public safety and the state's chief prosecutor conducted, at my request, a comprehensive review of our drug laws and through direct consultation

with me have devised a coordinated and realistic state policy toward the classification of drugs and the enforcement of drug laws. This effort continued during the last legislative session and over the interim. As I am sure everyone recognizes, attitudes about drugs vary widely. Trying to reach a position which can be supported by all elements of the law enforcement community as well as by the public at large requires a great deal of time. We have spent that time. Extensive conferences have been held between members of the Department of Public Safety and the criminal division of the Department of Law. Additionally, representatives from several disciplines and interest groups have been consulted extensively and have contributed to the drafting of this bill. Although each of the various interests who have been consulted and involved in the drafting of the bill may not agree with each provision of the bill, there is, I believe, a general consensus that overall the bill constitutes a badly needed and significant improvement over existing law.

The main objective and advantage of the Uniform Controlled Substances Act and of this bill is to create a single coordinated statutory system of drug control similar to that now in effect at the federal level and in at least 44 other states through the classification of all abusable drugs into schedules. Both the federal and Uniform Acts use five schedules but because of circumstances which are unique to Alaska we have created a sixth schedule which includes marijuana.

Each schedule has its own criteria in relation to the others for inclusion of a drug based upon the degree of relative danger to the public health and safety which is to be assessed in accordance with a series of specific classification criteria set out in the bill. An additional mechanism is provided in the bill, for the Controlled Substances Advisory Committee to administratively add a drug to a schedule by regulation. The procedure for adopting these regulations would be different from the procedures prescribed by existing law. While I have some reservations about the flexibility and constitutionality of the procedures proposed in the bill for adopting regulations, I consider careful legislative oversight of changes in the schedules of controlled substances to be essential.

A principal objective of the bill is to establish a closed regulatory system for legitimate handlers of controlled substances to curtail drug diversion into illegitimate channels. This system requires, for example, registration with a designated state agency, maintenance of records, and the use of uniform order forms in conformity with federal law. However, the bill

provides that compliance with federal requirements satisfies state law so that pharmacists, doctors, researchers, and manufacturers of controlled substances are not subjected to conflicting state and federal requirements pertaining to registration, record keeping, order forms, and prescriptions.

The bill also provides for a specific drug research and treatment program, similar to that available through the federal government and adopted recently by several states, involving the use of the active ingredient of marijuana in treatment of some cancer and glaucoma patients. The bill would establish procedures for the registration of individuals involved in the handling of drugs for research treatment and rehabilitative purposes. In addition, the bill makes education and research an integral part of a total law enforcement effort with respect to drugs by requiring that the commissioner of health and social services implement educational programs designed to prevent and deter abuse of controlled substances.

From a law enforcement perspective, the bill is a substantial improvement over existing law in developing a classification and penalty structure that complements and is consistent with Alaska's new criminal code including the presumptive sentencing provisions of the new criminal code. Consequently, a judge's discretion in sentencing a defendant convicted of a felony drug offense who has been previously convicted of any other felony offense will be substantially restricted. This sentencing structure is designed to provide emphasis on the more serious offenses under the bill including the distribution of a controlled substance to a minor and the commercial sale of heroin, cocaine, LSD and amphetamines.

The bill also contains a comprehensive provision for the forfeiture of automobiles, airplanes, and firearms that are used to facilitate illegal drug transactions. The bill also contains provisions allowing innocent parties to protect their interest in property subject to forfeiture.

An additional provision contained in the bill which is designed to strengthen state law pertaining to drug offenses is a proposed amendment to existing law concerning release on bail. This amendment would provide that a defendant may not be released on bail after conviction for serious drug offenses. This provision amends existing law to eliminate bail after conviction either pending sentencing or appeal for any unclassified or class A felony offense.