

823A

HHESS

HB

4/9

823A

1 upon the state to prove by clear and convincing evidence that the item
2 in question is subject to forfeiture.

3 (c) Liability is not imposed by this chapter upon an authorized
4 state or local officer engaged in the lawful performance of his duties.

5 Sec. 17.17.780. EDUCATION AND RESEARCH. (a) The ^{Bel} commissioner
6 shall carry out educational programs designed to prevent and deter abuse
7 of controlled substances. In connection with these programs, the commis-
8 sioner may

9 (1) promote better recognition of the problems of abuse of
10 controlled substances within the regulated industry and among interested
11 groups and organizations;

12 (2) assist the regulated industry and interested groups and
13 organizations in contributing to the reduction of abuse of controlled
14 substances;

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) assist in the education and training of state and local
24 law enforcement officials in their efforts to prevent abuse of con-
25 trolled substances.

26 (b) The commissioner shall encourage research on controlled sub-
27 stances and may

28 (1) establish methods to assess the effects of controlled
29 substances and identify and characterize those with potential for abuse;

1 (2) undertake research to

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

5 (B) determine patterns of abuse of controlled substances
6 and their social effects;

7 (C) improve methods for preventing, predicting, and
8 understanding the abuse of controlled substances;

9 (3) enter into contracts with public agencies, institutions
10 of higher education, and organizations or individuals for conducting
11 research on abuse of controlled substances and for performing related
12 educational activities.

13 ARTICLE 5. GENERAL PROVISIONS.

14 Sec. 17.17.900. DEFINITIONS. As used in this chapter, unless the
15 context requires otherwise,

16 (1) "administer" means the direct application of a controlled
17 substance, whether by injection, inhalation, ingestion, or any other
18 means, to the body of a patient or research subject by

19 (A) a practitioner or, in his presence, by his autho-
20 rized agent, or *PA*

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

23 (2) "agent" means an authorized person who acts on behalf of
24 or at the direction of a manufacturer, distributor, or dispenser; "agent"
25 does not include a common or contract carrier, public warehouseman, or
26 employee of the carrier or warehouseman;

27 (3) "*B. J. Pham* commissioner" means the commissioner of health and
28 social services;

29 (4) "controlled substance" means a drug, substance, or

1 immediate precursor included within any of the ^{Fedl}schedules in AS 17.17.-

2 ~~040 - 17.17.()~~;

3 (5) "counterfeit substance" means a controlled substance
4 which, or the container or labeling of which, without authorization,
5 bears the trademark, trade name, or other identifying mark, imprint,
6 number, or device, or any likeness to it, of a manufacturer, distribu-
7 tor, or dispenser other than the person who in fact manufactured, dis-
8 tributed, or dispensed the substance;

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

12 (7) "dentist" means a person authorized by law to practice
13 dentistry [in this state;]

14 (8) "dispense" means to deliver a controlled substance to an
15 ultimate user or research subject by a practitioner, including the
16 prescribing, administering, packaging, labeling, or compounding neces-
17 sary to prepare the substance for that delivery;

18 (9) "distribute" means to deliver, other than by administer-
19 ing or dispensing, a controlled substance;

20 (10) "drug"

21 (A) means

22 (i) substances recognized as drugs in the official
23 United States Pharmacopoeia, official Homeopathic Pharma-
24 copoeia of the United States, or official National Formulary,
25 or any supplement to any of them;

26 (ii) substances intended for use in the diagnosis,
27 cure, mitigation, treatment, or prevention of disease in
28 humans or animals;

29 (iii) substances, other than food, intended to affect

5611

1 the structure or any function of the body of humans or
2 animals; and

3 (iv) substances intended for use as a component of
4 any article specified in (i), (ii), or (iii) of this subpara-
5 graph;

6 (B) does not include devices or their components, parts,
7 or accessories;

8 (11) "hashish" means the resin produced by the plant (genus)
9 Cannabis;

10 (12) "hashish oil" means the viscous liquid concentrate of
11 tetrahydrocannabinols extracted from hashish;

12 (13) "immediate precursor" means a substance which the Con-
13 trolled Substances Advisory Committee has found to be and is by regula-
14 tion designated as the principal compound commonly used or produced
15 primarily for use, and which is an immediate chemical intermediary used
16 or likely to be used, in the manufacture of a controlled substance, the
17 control of which is necessary to prevent, curtail, or limit manufacture;

18 17 (14) "manufacture" means the production, preparation, pro-
19 pagation, compounding, conversion, or processing of a controlled sub-
20 stance, either directly or indirectly by extraction from substances of
21 natural origin or independently by means of chemical synthesis, or by a
22 combination of extraction and chemical synthesis, and includes any
23 packaging or repackaging of the substance or labeling or relabeling of
24 its container, except that this term does not include the preparation or
25 compounding of a controlled substance by an individual for his own use
26 or the preparation, compounding, packaging, or labeling of a controlled
27 substance

28 (A) by a practitioner as an incident to his administer-
29 ing or dispensing a controlled substance in the course of his

1 professional practice, or

2 (B) by a practitioner, or by his authorized agent under
3 his supervision, for the purpose of, or as an incident to, research,
4 teaching, or chemical analysis and not for sale;

5 - A ? (15) "marijuana" means the leaves, stems, flowers, and seeds
6 of the plant (genus) Cannabis, whether growing or not, but does not
7 include the resin or oil extracted from any part of the plant, or any
8 compound, manufacture, salt, derivative, mixture, or preparation from
9 the resin or oil, including hashish and natural or synthetic tetrahydro-
10 cannabinal; it does not include the mature stalks of the plant, fiber
11 produced from the stalks, oil or cake made from the seeds of the plant,
12 any other compound, manufacture, salt, derivative, mixture, or prepara-
13 tion of the mature stalks, fiber, oil or cake, or the sterilized seed of
14 the plant which is incapable of germination;

15 (16) "minor" means a person who is under 18 years of age;

16 (17) "opiate" means a substance having an addiction-forming or
17 addiction-sustaining liability similar to morphine or being capable of
18 conversion into a drug having addiction-forming or addiction-sustaining
19 liability; it does not include, unless specifically designated as con-
20 trolled under AS 17.17.020, the dextrorotatory isomer of 3-methoxy-n-
21 methylmorphinan and its salts (dextromethorphan); it does include its
22 racemic and levorotatory forms;

23 (18) "opium poppy" means the plant of the species Papaver
24 somniferum L., except its seeds;

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

27 (20) "practitioner" means

28 (A) a physician, dentist, veterinarian, scientific
29 investigator, or other person licensed, registered, or otherwise

1 permitted to distribute, dispense, conduct research with respect
2 to, or administer a controlled substance in the course of pro-
3 fessional practice or research in this state;

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

8 (21) "production" includes the manufacture, planting, cultiva-
9 tion, growing, or harvesting of a controlled substance;

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

14 Sec. 17.17.990. SHORT TITLE. This chapter may be cited as the
15 Controlled Substances Act.

16 * Sec. 2. AS 08.64.380(3)(B) is amended to read:

17 (B) habitual overuse of alcoholic beverages or con-
18 trolled substances as defined in AS 17.17 [DEPRESSANT, HALLUCINO-
19 GENIC OR STIMULANT DRUGS, AS DEFINED IN AS 17.12.150(3), OR ADDIC-
20 TION TO THE USE OF NARCOTIC DRUGS AS DEFINED IN AS 17.10.230(13)];

21 * Sec. 3. AS 08.80.470 is amended to read:

22 Sec. 08.80.470. CONSTRUCTION. Nothing in this chapter amends,
23 modifies, repeals or otherwise changes any provision of the Controlled
24 Substances Act (AS 17.17) [UNIFORM NARCOTIC DRUG ACT (AS 17.10)] or the
25 Alaska Food, Drug and Cosmetic Act (AS 17.20).

26 * Sec. 4. AS 12.55.155(c) is amended by adding new paragraphs to read:

27 (15) the offense is defined in AS 17.17, and the commission
28 of the offense involved smuggling controlled substance into this
29 state;

11
1 (16) the offense is defined in AS ~~17~~.17, and the commission of
2 the offense involved large quantities of a controlled substance;

3 (17) the offense is defined in AS 17.17, and the commission of
4 the offense involved the distributor of a controlled substance adulter-
5 ated with a toxic substance.

6 * Sec. 5. AS 12.55.155(d) is amended by adding new paragraphs to read:

7 (13) the offense is defined in AS ~~17~~.17, and the commission of
8 the offense involved small quantities of a controlled substance;

9 (14) the offense is defined in AS ~~17~~.17, and the commission of
10 the offense involved the distribution of a controlled substance for no
11 remuneration to a personal acquaintance 19 years of age or older;

12 (15) the offense is defined in AS ~~17~~.17, and the commission of
13 the offense involved the possession of a controlled substance for per-
14 sonal use in the defendant's home.

15 * Sec. 6. AS 44.29.020 is amended to read:

16 Sec. 44.29.020. DUTIES OF DEPARTMENT. The Department of Health
17 and Social Services shall administer the state programs of public health
18 and social services, including: (1) maternal and child health ser-
19 vices; (2) preventive medical services; (3) public health nursing ser-
20 vices; (4) sanitation and engineering services; (5) nutrition services;
21 (6) health education; (7) laboratories; (8) mental health treatment and
22 diagnosis; (9) management of state institutions; (10) medical facili-
23 ties; (11) old age assistance; (12) aid to dependent children; (13) aid
24 to the blind; (14) child welfare services; (15) general relief; (16)
25 licensing and supervision of child care facilities; [AND] (17) probation
26 and parole supervision; and (18) control of drug abuse in accordance with
27 AS ~~17~~.17. *Not 17*

28 * Sec. 7. (a) Prosecution for a violation of law occurring before the
29 effective date of this Act is not affected or abated by this Act. If the

1 offense being prosecuted is similar to one defined in AS 17.17, then the
2 penalties under AS 17.17 apply if they are less than those under prior law.

3 (b) Civil seizures or forfeitures and injunctive proceedings commenced
4 before the effective date of this Act are not affected by this Act.

5 (c) All administrative proceedings pending under prior laws which are
6 superseded by this Act shall be continued and brought to a final determina-
7 tion in accord with the laws and rules in effect before the effective date of
8 this Act.

9 *BD of Phcy*
10 (d) The commissioner of health and social services shall initially
11 permit persons to register under AS 17.17 who own or operate an establishment
12 engaged in the manufacture, distribution, or dispensing of a controlled
13 substance before the effective date of this Act and who are registered or
14 licensed by this state.

15 (e) This Act applies to violations of law, seizures and forfeitures,
16 injunctive proceedings, administrative proceedings, and investigations which
17 occur on or after the effective date of this Act.

18 * Sec. 8. Orders issued and regulations adopted under a law affected by
19 this Act and in effect on the effective date of this Act and not in conflict
20 with this Act continue in effect until modified, superseded, or repealed.

21 * Sec. 9. AS 17.10; AS 17.12; and AS 17.15 are repealed.

22 *Maybe some others.*

23
24
25
26
27
28
29