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Id. (emphasis added).

Throughout its analysis, the court went to great length to explain the limited nature of its holding which does not afford "protection for the buying or selling of marijuana" [Id. at 40]; nor protection for possession at home or anywhere else "of amounts of marijuana indicative of [an] intent to sell" [Id. at 41]; nor protection for possession or use while operating a motor vehicle [Id. at 33, 37-39]; nor protection for possession or use by adolescents [Id. at 40]; nor "absolute protection for its use or possession in public." [Id. at 40-41. (emphasis added)].

Thus, the court specifically recognized that the right to privacy contained within the Alaska Constitution is not absolute; that there are specific limitations upon the purely private, non-commercial possession or use of marijuana; and that an individual's right to privacy will sometimes yield to a legitimate exercise of the State's police power where the State can show a close relationship between the prohibition in question and the health, safety, rights and privileges of others or the public welfare. The court emphasized that by its holding it did not intend to condone the use of marijuana but rather, of freedom from state intrusion into an individual's strictly private affairs where no legitimate public purpose is being served. In this regard, the court recognized that:

The State has a legitimate concern with avoiding the spread of marijuana use to adolescents who may not be equipped with the maturity to handle the experience prudently, as well as a legitimate concern with the problems of driving while under the influence of marijuana.

Id. at 40.

A number of very difficult legal and practical enforcement questions arise under Ravin, particularly when it is viewed with the recently enacted amendments to AS 17.12.110. First, under the statutory amendments, private possession of any amount possessed for personal use gives rise to a civil penalty. Under Ravin, however, possession of marijuana by adults in a home for personal use is protected from any state interference under the Alaska Constitution. Consequently, as an initial matter, Ravin invalidates that portion of the new statute which makes private possession under these circumstances a civil offense.

A second problem involves the use of the word "home" within the context of the decision. I have advised prosecutors in the Department of Law to interpret the word "home" to mean any place that would be so defined within the meaning of the provisions of the Fourth Amendment to the United States Constitution and Article I, Section 14, of the Constitution of the State of Alaska relating to the law

of search and seizure. Essentially, if officers are in doubt, they should ask themselves whether they would regard a particular place as a residence where, for example, they were attempting to obtain evidence of a crime. If they concluded, for instance, that they would have to obtain a search warrant because it was a "home", then they should treat it as a "home" within the context of Ravin. At the least, Ravin will apply to any private place which is used as a dwelling, even if it happens to be a tent or a hotel room.

This question gets quite difficult in situations involving campers and vessels. However, the law of search and seizure provides, I think, a useful and workable frame of reference. One of the specifically recognized exceptions to the general rule that a warrant must first be secured before a search may be conducted into an area where an individual holds an expectation of privacy is that a search of a motor vehicle may be conducted without a warrant if a police officer has probable cause to believe that the vehicle contains contraband or evidence of a crime and further, if the vehicle is mobile when the officer first comes into contact with it. In other words, the facts of each particular situation will define whether a camper or a vessel is a "home" within the context of Ravin. If it is being used as a dwelling when encountered, then it should be treated as a "home" under Ravin. If, on the other hand, it is being used as transportation and would be a proper subject of a search without a warrant given the existence of probable cause, then it should not be regarded as a "home". This analysis, however, must be read together with the discussion in Part I of this letter pertaining to the private possession of marijuana for personal use in a motor vehicle, airplane or vessel under ch. 110 SLA 1975. In some instances, marijuana found in a camper, even if used as transportation, may only give rise to a civil penalty.

It is obvious that both Ravin and ch. 110 SLA 1975 have a rather substantial effect on the laws of arrest, search and seizure in regard to the enforcement of marijuana laws. As noted in Part I of this letter, under Ravin probable cause that marijuana is to be found in a particular place will no longer support an entry into a "home" to either effectuate an arrest or conduct a search unless probable cause exists to believe that marijuana is possessed for purpose of sale. Furthermore, in situations where possession of marijuana for personal use gives rise only to a civil penalty, an officer will not be able to arrest an individual and will not be able to specifically search for marijuana with or without a warrant.

A third and very specific question that arises under Ravin is whether marijuana should continue to be treated as contraband when it is found in a "home" during the course of a lawful intrusion for a valid independent reason and under circumstances that do not establish possession for purpose of sale. The more I reflect on this question, the more I am convinced that marijuana possessed within the home for personal use should probably not be treated as contraband, unless

officers want to embroil themselves in the federal process which will, I think, be unduly complicated. In this respect, Ravin creates a unique situation. Under federal law marijuana possessed in any amount under any circumstances remains unlawful and thus contraband. Under state law, however, the private possession of marijuana in a "home" for personal use is constitutionally protected and thus cannot be regarded as contraband. If officers under authority of federal law seize marijuana in a "home" discovered during the course of a lawful intrusion then they are inevitably going to become involved in federal case. There also arises the distinct possibility of civil rights actions brought by individuals who feel that their state constitutional rights have been invaded. This will particularly be the case in situations which suggest that the entry into a "home" was a result of a predesigned pretext to seize marijuana possessed for personal use. I am confident that such suits against officers will not be successful, but there remains the question whether the time and effort expended can be justified when small amounts of marijuana are involved. In basic terms it seems to me we will have enough trouble keeping up with the enforcement of State laws without looking specifically to get involved in federal activity.

A remaining question that has arisen under both Ravin and ch 110 SLA 1975 is whether the word "marijuana" as used in both the act and the decision includes all derivatives of the plant Cannabis sativa L. Ch 110 SLA 1975 does not address this issue and a definition of "marijuana" is not contained in AS 17.12. However, the court in Ravin makes it clear that the decision is restricted to "marijuana" which it defines as:

. . . [T]he common term for dried leaves or stalk of the plant Cannabis sativa L. The primary psychoactive ingredient in the plant is delta-9-tetrahydrocannabinol (THC). Most marijuana available in the United States has a THC content of less than one percent. Other cannabis derivatives with a higher THC content, such as hashish are available in the United States although much less common than is marijuana.

Id. at 23-24 (emphasis in original). Thus, I think it is clear that the applicability of both Ravin and ch 110 SLA 1975 is restricted to "marijuana" in the form of leaves, stalk and seeds from the plant Cannabis sativa L., along with the plant itself, and does not include derivatives such as hashish or hash oil with a higher THC content.

To summarize, the court decision together with the recent statutory amendments give rise to the following conclusions:

(1) Under both Ravin and ch 110 SLA 1975 sale or distribution of marijuana and the possession of any amount for purpose of sale remain felonies. No modification of present enforcement procedures should occur except that in order to obtain a search warrant to search a "home" for marijuana, probable cause must exist to believe that marijuana is being possessed for purpose of sale.

(2) Public use of marijuana remains a misdemeanor offense.

(3) Possession of any amount of marijuana by an individual while operating a motor vehicle or airplane or possession within the area of his immediate reach while operating remains a misdemeanor offense.

(4) Possession of any amount of marijuana by a passenger in a motor vehicle or airplane or possession by an operator beyond the area of his immediate reach while operating is subject to a civil penalty.

(5) Possession of any amount in a vessel or any other non-public place except a "home" is subject to a civil penalty.

(6) Public possession of an ounce or less of marijuana is subject to a civil penalty.

(7) Public possession of more than one ounce of marijuana remains a misdemeanor offense.

(8) Possession in a public place of an ounce or less of marijuana is subject to a civil penalty.

(9) Possession in a public place of more than an ounce of marijuana remains a misdemeanor offense.

(10) Possession or use of marijuana for personal use in a "home" is constitutionally protected and may not be made the subject of either a criminal or civil offense under the laws of the State of Alaska.

Again, I realize that it is undoubtedly not possible to touch upon all of the potential law enforcement questions that will arise as a result of the aforementioned changes in the law regarding possession or control of marijuana. I trust, however, that this analysis will be of some value in an effort to develop a rational and common sense enforcement pattern, particularly until future Supreme Court decisions clarify both the court's initial holding in Ravin and ch 110 SLA 1975. As soon as these decisions occur, we will, of course, transmit our comments on them. In the meantime, however, if you or any individual officer has a particular question, forward them to us and we will do our best to respond.

Very truly yours,

AVRUM M. GROSS
ATTORNEY GENERAL

By:



Daniel W. Hickey
Deputy Attorney General
Criminal Division

doubts as to the safety of marijuana demonstrate a sufficient justification for the prohibition found in this section as an exercise of the state's police power for the public welfare. *Ravin v. State*, Sup. Ct. Op. No. 1156 (File No. 2135), 537 P.2d 494 (1975).

Possession of marijuana by adults at home for personal use is constitutionally protected. *Ravin v. State*, Sup. Ct. Op. No. 1156 (File No. 2135), 537 P.2d 494 (1975).

Citizens of the State of Alaska have a basic right to privacy in their homes under Alaska's constitution. This right to privacy would encompass the possession and ingestion of substances such as marijuana in a purely personal, noncommercial context in the home unless the state can meet its substantial burden and show that proscription of possession of marijuana in the home is supportable by achievement of a legitimate state interest. *Ravin v. State*, Sup. Ct. Op. No. 1156 (File No. 2135), 537 P.2d 494 (1975).

No adequate justification for the state's intrusion into the citizen's right to privacy by its prohibition of possession of marijuana by an adult for personal consumption in the home has been shown. *Ravin v. State*, Sup. Ct. Op. No. 1156 (File No. 2135), 537 P.2d 494 (1975).

For discussion of marijuana, its incidence and effects, see *Ravin v. State*, Sup. Ct. Op. No. 1156 (File No. 2135), 537 P.2d 494 (1975).

Delay between offense and formal charge. — Some delay between offense and formal charge is clearly justified in cases involving drug undercover agents. *McKay v. State*, Sup. Ct. Op. No. 729 (File No. 1284), 489 P.2d 145 (1971).

Where the circumstances surrounding the drug transaction render the identification of the defendant unreliable, the disabilities inherent in a long delay between the date of the offense and the formal charge become manifestly prejudicial to the defendant. *McKay v. State*, Sup. Ct. Op. No. 729 (File No. 1284), 489 P.2d 145 (1971).

The time between the acts charged (July 8 and 16, 1969) and the indictment (Sept. 25, 1969) was not unreasonable and did not constitute a denial of due process in that the delay was purposeful, unjustifiable, and prejudiced his ability to prepare a defense. *McKay v. State*, Sup. Ct. Op. No. 729 (File No. 1284), 489 P.2d 145 (1971).

A seven month interval from the alleged drug sale until arrest was an unreasonable delay denying accused due process. *McKay v. State*, Sup. Ct. Op. No. 729 (File No. 1284), 489 P.2d 145 (1971).

Dismissal of the criminal proceedings under this section was constitutionally mandated where eight months had elapsed between the occurrence of the alleged sale and the filing of the indictment. *Marks v. State*, Sup. Ct. Op. No. 787 (File No. 1414), 496 P.2d 66 (1972).

Sufficiency of indictment. — Indictment held insufficient to charge accused with the sale of depressant, stimulant or hallucinogenic drugs in violation of this section. *Burkholder v. State*, Sup. Ct. Op. No. 753 (File No. 1346), 491 P.2d 754 (1971).

The state must demonstrate knowing possession. *Bell v. State*, Sup. Ct. Op. No. 1005 (File No. 1717), 519 P.2d 804 (1974).

Evidence sufficient to prove knowing possession. — Evidence was sufficient to establish that defendant was aware that he possessed an illicit drug. *Bell v. State*, Sup. Ct. Op. No. 1005 (File No. 1717), 519 P.2d 804 (1974).

Mere presence at the scene, alone, is insufficient to prove knowing control of the prohibited substance. *Egner v. State*, Sup. Ct. Op. No. 784 (File No. 1443), 495 P.2d 1272 (1972).

Cross-examination is permissible to show that a witness was under the influence of a drug at the time of the events to which he is testifying at trial. *John Doe v. State*, Sup. Ct. Op. No. 707 (File No. 1240), 487 P.2d 47 (1971).

A child who sells LSD is a "delinquent minor" under AS 47.13.290(2), because the sale of LSD is a crime under this section. *RLR v. State*, Sup. Ct. Op. No. 706 (File No. 1156), 487 P.2d 27 (1971).

And may be incarcerated until age 19. — A child adjudicated delinquent for selling LSD may be incarcerated until age 19, which may be many years, possibly even in a city jail. *RLR v. State*, Sup. Ct. Op. No. 706 (File No. 1156), 487 P.2d 27 (1971).

In order to constitute a valid arrest under AS 12.25.030 (1), the misdemeanor of possessing hashish be committed in the presence of the arresting officers. *Howes v. State*, Sup. Ct. Op. No. 846 (File No. 1443), 503 P.2d 1055 (1972).

Applied in *Meyers v. State*, Sup. Ct. Op. No. 726 (File No. 1491), 488 P.2d 713 (1971); *Gravel v. State*, Sup. Ct. Op. No. 819 (File No. 1502), 499 P.2d 1022 (1972); *Wright v. State*, Sup. Ct. Op. No. 833 (File No. 1288), 501 P.2d 1360 (1972); *Howes v. State*, Sup. Ct. Op. No. 846 (File No. 1443), 503 P.2d 1055 (1972); *Erickson v. State*, Sup. Ct. Op. No. 868 (File Nos. 1521, 1542), 507 P.2d 508 (1973); *Coger v. State*, Sup. Ct. Op. No. 988 (File No. 1766), 517 P.2d

1403 (1974); Op. No. 995 (1974); Gray (File No. 204) Quoted in No. 725 (F (1971). Cited in

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Alaska State Legislature

Senate

Committee on

Health, Education & Social Services

Official Business

Pouch V
State Capitol
Juneau, Alaska 9 911

Glenn Hackney, Chairman
Frank Ferguson, Vice Chairman
Mike Colletta
Bettye Fahrenkamp
Arliss Sturgulewski

BUTROVICH ROOM, 207 CAPITOL BUILDING

Friday, February 9

3:30 PM

SB 40 -- An Act relating to the possession
and control of marijuana; BRADLEY

Notified

John Coffee - Sup. of Schools (cannot attend today)

Chief Barkley, J.P.D.

Craig Forster, Alaska Peace Officers' Assoc.

Dept. of HSS

Dan Hekey, Alaska Chief Prosecutor

Louis Bernardino, Chief of Seward P.C. (Police Officers' Assoc.)

Sen Bradley

Sen Secretary

CRT

Commissioner Nix

CITY OF SEWARD



P. O. BOX 337
SEWARD, ALASKA 99664

CITY MANAGER	224-5214
COMPTROLLER	224-5216
INFORMATION	224-5215
CITY POLICE	224-5201

January 31, 1979

The Honorable Glenn Hackney
Pouch V
Juneau, Alaska 99811

Sir:

In response to your telephone call of January 30th anent Senate Bill 49, I wish to thank you for keeping me posted on this pending legislation. Unfortunately, pressing duties here in Seward preclude my attendance.

As you may be aware, my thinking is that possession of Marijuana in any amount should, at the least, be classified as a misdemeanor, and any cultivation or marketing of this substance on a large scale should be classified as a felony.

I realize this may be a bit much to wish for, given the present weight of the pro-marijuana forces.

I trust you are aware of research results now surfacing indicating that marijuana contains most or all of the carcinogenic agents found in tobacco plus many other suspected carcinogenic agents. It follows that while the office of H.E.W. is spending millions to persuade Americans not to smoke, it would be the sheerest lunacy to encourage marijuana smoking by legislating it.

Many traffic accidents not involving the drinking driver are attributed to driver-inattention or falling asleep, when in reality the driver was high on marijuana. These are extremely difficult cases to prosecute, because marijuana cannot be detected by a breathalyzer, nor can police do a car search, or a blood test without permission of the individual (who is incompetent to give informed consent, if he indeed under the influence of marijuana). Obtaining a court warrant under these circumstances is another can of worms entirely, to be opened as a last resort.

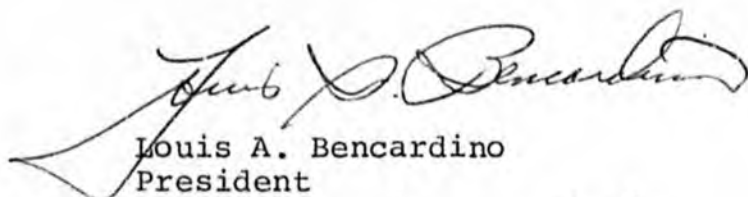
Legalize marijuana and you guarantee it's use will become as common among children as cigarette smoking is at present.

I know that you and most of the legislature will give this question the closest scrutiny. I know you will not leave Law Enforcement beleaguered by this aberrant statute.

I want to be on record as being categorically opposed to the legalization of marijuana. If this sounds regressive or reactionary, so be it. I can live with that. It will be a lot better than living in a society of apathetic, spaced-out paranoids.

Thank you for soliciting the views of those of us in Law Enforcement.

Sincerely,

A handwritten signature in cursive script, appearing to read "Louis A. Bencardino". The signature is written in dark ink and is positioned above the typed name and title.

Louis A. Bencardino
President
Chiefs of Police Association

LAB:dw

cc: Senator Ferguson
Senator Fahrenkamp
Senator Sturgulewski
Senator Colletta

Sec. 17.12.080. Persons exempted. The provisions of this chapter restricting the possessing and control of depressant, hallucinogenic and stimulant drugs do not apply to

- (1) a common carrier or to a warehouseman, while engaged in lawfully transporting or storing these drugs;
- (2) an employee of a common carrier or warehouseman while acting within the scope of his employment in lawfully transporting or storing these drugs;
- (3) a public officer or his employee in the performance of his official duties requiring possession or control of these drugs;
- (4) temporary, incidental possession by an employee or agent of a person lawfully entitled to possession; or
- (5) temporary, incidental possession by a person whose possession is for the purpose of aiding a public officer in performing his official duties. (§ 2 ch 225 SLA 1968)

Sec. 17.12.090. Exempted drugs. Depressant, hallucinogenic or stimulant drugs exempted under federal law or under regulations promulgated by the commissioner are exempted from the application of this chapter. (§ 2 ch 225 SLA 1968)

Sec. 17.12.100. Exemptions and exceptions not required to be negated. In a complaint, information, or indictment, and in an action or proceeding brought for the enforcement of any provision of this chapter, it is not necessary to negative any exception, excuse, proviso, or exemption, contained in this chapter, and the burden of proof of an exception, excuse, proviso, or exemption is upon the defendant. (§ 2 ch 225 SLA 1968)

Sec. 17.12.110. Penalties. (a) A person who violates a provision of this chapter relating to the possession or control of depressant, hallucinogenic and stimulant drugs, other than marijuana, when his possession or control is for his own use, is guilty of a misdemeanor and upon conviction is punishable by imprisonment for not more than one year, or by a fine of not more than \$1,000, or by both.

(b) A person who violates a provision of this chapter other than one mentioned in (a) of this section, or a person who violates a provision of this chapter relating to the possession or control of depressant, hallucinogenic and stimulant drugs, when his possession or control is for the purpose of sale or other disposal to another person, is guilty of a felony and upon conviction is punishable as follows:

- (1) for the first offense, by imprisonment for not more than 25 years, or by a fine of not more than \$20,000, or by both;
 - (2) for the second and subsequent offenses, by imprisonment for any term of years or life, or by a fine of not more than \$25,000, or by both.
- (c) A person who violates a provision of this chapter by selling or otherwise disposing of a depressant, hallucinogenic or stimulant drug to a person less than 19 years of age is guilty of a felony and upon

conviction or by a fine

(d) A person on the public other public marijuana carrier or possesses an airplane, of any amount punishable

(e) A person possession public place possession punishable this subsection The court

(f) In the public ownership 1968; am

Effect of amendment marijuana subsections

Legislative report on SSSB 350 695; 1975 H

Inference are extreme court has in maximum that the offenses to State, Sup 501 P.2d 13

Standard - In the Op. No. supreme court imposition cases. Mey 720 (File N

The judicial groups of are in des smuggling narcotics for sale; quantities small quantities narcotics marijuana

conviction is punishable by imprisonment for any term of years or life, or by a fine of not more than \$25,000, or by both.

(d) A person who: (1) uses marijuana on a public street or sidewalk or on the premises of a public carrier or business establishment or any other public place, or (2) possesses or controls more than an ounce of marijuana on a public street or sidewalk or on the premises of a public carrier or business establishment or any other public place, or (3) possesses any amount of marijuana while operating a motor vehicle or airplane, or (4) while under the age of 18, possesses, controls or uses any amount of marijuana is, upon conviction, guilty of a misdemeanor punishable by a fine of not more than \$1,000.

(e) A person 18 years of age or older who violates this chapter by possession or control of any amount of marijuana in other than a public place, when his possession or control is for his own use, or by possession of one ounce or less of marijuana in a public place, is punishable by a civil fine of not more than \$100. Punishment under this subsection shall be initiated only by civil complaint or citation. The court may establish procedures for payment of fines by mail.

(f) In this section, "public place" means a place which is either in public ownership or a place available to public access. (§ 2 ch 225 SLA 1968; am § 1 ch 110 SLA 1975)

Effect of amendment. — The 1975 amendment inserted "other than marijuana" in subsection (a) and added subsections (d), (e) and (f).

Legislative committee report. — For report on ch. 110, SLA 1975 (FCCS HCS SSSB 350), see 1975 Senate Journal, p. 695; 1975 House Journal, p. 1263.

Inference that offenses under section are extremely serious. — The supreme court has inferred from the severity of the maximum punishment under this section that the legislature considers such offenses to be extremely serious. *Wright v. State*, Sup. Ct. Op. No. 833 (File No. 1288), 501 P.2d 1360 (1972).

Standards for imposition of sentence. — In the case of *Waters v. State*, Sup. Ct. Op. No. 681, 483 P.2d 199 (1971), the supreme court set forth standards for the imposition of sentence in drug offense cases. *Meyers v. State*, Sup. Ct. Op. No. 720 (File No. 1491), 488 P.2d 713 (1971).

The judge should take account of four groups of drug offenders whose crimes are in descending order of seriousness: (1) smuggling or sale of large quantities of narcotics or possession of large quantities for sale; (2) smuggling or sale of small quantities of narcotics, or possession of small quantities for sale; (3) possession of narcotics without intent to sell; (4) marijuana offenses. *Meyers v. State*, Sup.

Ct. Op. No. 720 (File No. 1491), 488 P.2d 713 (1971).

Courts intended to have broad discretion in imposing sentence. — The declaration of intent preceding this chapter when enacted clearly indicates the legislature's intent to vest, and recognition that it has in fact vested, broad discretion in the courts in imposing sentence for violations of the drug laws set forth in this chapter. *Speas v. State*, Sup. Ct. Op. No. 889 (File No. 1555), 511 P.2d 130 (1973).

This reading is strengthened by the omission from this chapter of mandatory minimum sentences. *Speas v. State*, Sup. Ct. Op. No. 889 (File No. 1555), 511 P.2d 130 (1973).

Furthermore, AS 17.12.120 makes specific provision for rehabilitative treatment in lieu of imprisonment in certain cases. *Speas v. State*, Sup. Ct. Op. No. 889 (File No. 1555), 511 P.2d 130 (1973).

An eight-year sentence with two years suspended was not outside the zone of reasonableness. *Meyers v. State*, Sup. Ct. Op. No. 720 (File No. 1491), 488 P.2d 713 (1971).

Principles in undertaking sentencing review. — In the case of *State v. Chaney*, Sup. Ct. Op. No. 653, 477 P.2d 441 (1970), the supreme court set forth the various principles in undertaking sentencing

Senator ^{Kept in} Bills, 2-12-79

Re: SB 49 ^{7th Rev} /

The attached was received after
the hearing Friday - Feb. 9th.

Please read and return to
Hess Committee that it may be put
in your file folder - and available
when SB 49 comes before the
Committee again. Thank you.

Mary Jesses AA
Sen. Hochney

ALASKA PEACE OFFICERS ASSOCIATION



February 6, 1979

Senator Glenn Hackney
Pouch "V"
Juneau, Alaska 99811

Dear Senator Hackney:

In response to your message informing me of the Hess Meeting on SB 49, I sincerely appreciate your keeping me informed of this Hearing. Unfortunately, I will not be able to attend; however, I am attempting to locate an APOA member that can make the meeting and testify on behalf of the Alaska Peace Officers Association.

Aside from being the President of the Alaska Peace Officers Association, I am a Detective with the Fairbanks Police Department and Supervisor of the Areawide Narcotics Team.

Just today, officers under my supervision were successful in obtaining a Grand Jury indictment for an individual that has been a Marijuana dealer in the Fairbanks area for a large number of years. During the Grand Jury proceedings, a young man, eighteen years old, testified to having assisted the Areawide Narcotics Team in purchasing Marijuana from this dealer and obtaining needed information for a search warrant. During his testimony, a Grand Jury member asked the young man why he was motivated to help the police. The young man stated that he could see that the use of Marijuana was ruining his life and that since he had been using Marijuana, he found himself to be lazy and run-down.

Approximately three weeks ago, a Mr. Joe Hergenreter, of 515 7th Avenue, Fairbanks, Alaska 99701, came to my office and reported that his seven and nine year old sons were using Marijuana. He reported that they were getting the Marijuana from a nine year old neighbor boy whose parents permitted the use of Marijuana. I explained the difficulty in prosecuting any violations under these circumstances to Mr. Hergenreter. As you can see, there would be no effective way to handle this case without the involvement of Mr. Hergenreter and his two sons. Mr. Hergenreter may, himself, be willing to assist by testifying; however, he was not willing to subject his children to court proceedings. As you can see, an attempt to investigate and prosecute either the nine year old neighbor boy or his parents would become a "bucket of worms" and I am not sure that we could ever reach a court proceeding at all.

Senator Glenn Hackney

February 6, 1979

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About a week prior to Mr. Hergenreter's report, I had conversation with a person whose name I have forgotten; however, he is the owner of the Giant Grinder restaurants here in Fairbanks. He reported to me that his thirteen year old daughter was getting Marijuana at school and from a young man in the neighborhood. I explained the necessity for a statement from his daughter in an effort to obtain information that would allow us to prosecute or obtain a search warrant for this individual's residence. After a lengthy explanation of the requirements of the police, this individual was ready to take care of matters himself.

These types of complaints are very common and there is little that the police can do to assist in these frustrating situations. It is disheartening to have to inform parents that there is very little that can be done without statements from juveniles and a lengthy court process.

Our statistics on the use of Marijuana in the schools is limited because we have no means of monitoring the activities in the schools. Our officers are too old to fit in or around schools. Most surveillance efforts are useless as officers in the areas are soon detected. As a practical matter, very few cases that involve juveniles are prosecuted through the District Attorney's Office. It is required that most juvenile offenses are handled through the Juvenile Intake Office and in many cases, there is no actual criminal prosecution. In the event that there can be some sort of criminal prosecution on the part of the juvenile, there is a low priority with reference to Marijuana cases where juveniles are involved in the District Attorney's Office. There may be some prosecution, should we be involved, with an adult selling to juveniles however.

I understand the District Attorney's position in these matters as it is my experience that my office can provide felony cases involving the sale of Cocaine and Heroin involving adults with very little difficulty. It has been my experience that the Areawide Narcotics Team has effectively clogged the court calendar on numerous occasions in the last four years.

The decriminalization of Marijuana in 1975 has finally had an effect on the populace. It can be observed that there is a definite problem within the school systems because of this decriminalization. It is evident by the problem in the Anchorage area where the football coach quit because of the students involved in drugs in that school. I have recently heard, while in Juneau, legislators making the comment that this situation had been blown out of proportion and that they are taking an adverse reaction to the publicity that has been raised. It is my opinion that these particular individuals are irresponsible and it is a shame that they are representing people of Alaska in their positions as legislators.

Senator Glenn Hackney
February 6, 1979
Page -3-

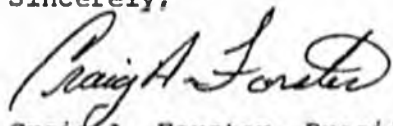
Prior to the decriminalization of Marijuana, a different set of circumstances existed concerning the involvement of juveniles with alcohol. During school hours, if a juvenile was involved with alcohol, it could be more easily detected than the use of Marijuana today. The individual who was intoxicated by alcohol could be identified by his particular actions and the strong odor of alcohol itself. It was also difficult to consume alcohol in the lavatories or other areas on the school grounds as the alcohol was not quite as easily concealed. Today, however, a "joint" of Marijuana or Marijuana cigarette can be easily concealed and quickly digested during a brief class break.

I feel that it is reasonable to assume that if Cocaine was decriminalized, it would be as prevalent in the schools as Marijuana is today. We already have a problem with Cocaine in our schools. I feel that the public is finally concerned that an action like this might happen. You should be aware that in the Supreme Court Decision in the Erickson Case, the Supreme Court suggested that the legislature take a closer look at the classification of Cocaine as there were some types of new scientific information that might lead one to believe that Cocaine was not as harmful as originally thought. I would submit that this was an irresponsible opinion by the Supreme Court in this matter. Once reading the Opinion, it is evident that the Supreme Court went beyond its duties of interpreting the law, but rather it suggested some liberal change in the law. It is also evident that the Supreme Court selected the scientists that would come up with findings that would satisfy the position they would like to take.

I believe that as time goes on, we will see that the Supreme Court will continue to circumvent the legislature and, therefore, continue the liberal decay in our criminal justice system.

Needless to say, I support SB 49 and any other legislation that would strictly prohibit possession of Marijuana. It would be appreciated if you would disseminate this letter amongst your colleagues. If I can be of any further assistance concerning this matter, please contact me and I will attempt to provide you with the necessary information.

Sincerely,



Craig A. Forster, President
Alaska Peace Officers Association
656 7th Avenue
Fairbanks, Alaska 99701

SB

65

COMMITTEE REPORT
SENATE

FURTHER: Judiciary

1/23/79

Date: 4/1/79

Mr. President:

HEALTH, EDUCATION AND SOCIAL
SERVICES

SB 65

The Committee on _____ has had _____
consolidating and strengthening the state's drug laws

under consideration and (a majority of the committee) (the committee)
reports it back with the following recommendations:

do pass [] do not pass

[] do pass with attached amendments(s)

replace with CS for _____

same title
[] new title

and recommends _____

[] AND attaches a "Letter of Intent" [] New Fiscal Note

[] reports it back without recommendation

[] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Engelmann do pass if amended

Stahmerberg with amendments

Colletta do pass if amended

Glenn Haden
CHAIRMAN

SB 65 "Consolidating & Strengthening
the State's Drug Laws" S.H.E.S.S. 79-80

By: Dankworth

Introduced 1-23-79

Logged 1-23-79

Referrals Judiciary

Comm. hearing 4-4-79 press with CS (amendments) taken Senate Seny 4-9-79

Comm. action passed as CS

Sponsor & original
Reas & original (Genie Bates)

Chief Buckley - notified but doesn't know if
he can come must check with
Administration.

Gregg FORRESTER (PHOTO) will be here.

4-3-79 Mike Walter (Center for Drug Problems)
called - endeavoring to get here to testify.

*Glenn Hockrip
Copy*

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SENATE BILL #65

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Introduced: 1/23/79
Referred: Health, Education
& Social Services and
Judiciary

BY DANKWORTH, FAHRENKAMP, BRADLEY
KERTTULA, SUMNER, HACKNEY, BENNETT
AND KELLY

1 IN THE SENATE

2 SENATE BILL NO. 65

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act consolidating and strengthening the state's
7 drug laws; and providing for an effective date."

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

9 * Section 1. PURPOSE. (a) It is the purpose of this Act to consolidate
10 the state's various drug laws into one comprehensive chapter and, through
11 enactment of new provisions, to strengthen law enforcement's ability to more
12 effectively combat those who are finding it attractive to engage in the
13 illicit trafficking of controlled substances.

14 (b) The legislature reaffirms its former intent to provide identical
15 punishment discretion for criminal offenses involving unlawful trafficking
16 and use of both heroin and cocaine and other substances similarly classified
17 as previously set out in AS 17.10, which provisions are repealed and re-enac-
18 ted through this Act, even though the legislature recognizes that some of the
19 substances such as heroin and cocaine do not have the same or similar pharma-
20 cological characteristics. The detrimental effect on the health and general
21 welfare of our society created through the illicit trafficking and use of
22 these substances is such as to warrant the same condemnation and punishment.
23 Since many of the substances included within this Act have a useful and
24 legitimate medical purpose, provisions have been included to allow for that
25 use while maintaining the ability to monitor that use.

26 * Sec. 2. AS 17.12.010 is amended to read:

27 Sec. 17.12.010. ACTS PROHIBITED (a) Except as otherwise pro-
28 vided in this chapter, it is unlawful for a person to manufacture,
29 distribute [COMPOUND, COUNTERFEIT], possess, [HAVE UNDER HIS CONTROL,

1 SELL, PRESCRIBE, ADMINISTER,] dispense, or possess with intent to manu-
2 facture, distribute, or dispense a controlled substance [GIVE, BARTER,
3 SUPPLY OR DISTRIBUTE IN ANY MANNER, A DEPRESSANT, HALLUCINOGENIC OR
4 STIMULANT DRUG].

5 * Sec. 3. AS 17.12.010 is amended by adding new subsections to read:

6 (b) No person may obtain, attempt to obtain, procure, or attempt
7 to procure, a controlled substance by

- 8 (1) fraud, deceit, misrepresentation, or subterfuge;
9 (2) forgery or alteration of a prescription or written order;
10 (3) concealment of a material fact; or
11 (4) use of a false name or giving of a false address.

12 (c) No person may wilfully make a false statement in a prescrip-
13 tion, order, report, or record required by this chapter.

14 (d) No person may, for the purpose of obtaining a controlled sub-
15 stance, falsely assume the title of, or represent himself to be, a
16 manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian,
17 or other authorized person.

18 (e) No person may make or utter a false or forged prescription or
19 false or forged written order.

20 (f) No person may affix a false or forged label to a package or
21 receptacle containing a controlled substance.

22 * Sec. 4. AS 17.12 is amended by adding a new section to read:

23 Sec. 17.12.015. CONTINUING CRIMINAL ENTERPRISE. (a) No person
24 may engage in a continuing criminal enterprise. Upon conviction, a
25 person who engages in a continuing criminal enterprise shall be sentenced

26 (1) for the first offense, to all of the following:

27 (A) a term of imprisonment of no less than 10 years and
28 no more than life;

29 (B) a fine of no more than \$100,000; and

1 (C) the forfeiture prescribed in (b) of this section;
2 (2) for the second and subsequent offenses, to all of the
3 following:

4 (A) a term of imprisonment of no less than 20 years and
5 no more than life;

6 (B) a fine of no more than \$200,000; and

7 (C) the forfeiture prescribed in (b) of this section.

8 (b) A person who is convicted of engaging in a continuing criminal
9 enterprise shall forfeit to the state

10 (1) the profits obtained by him in that enterprise; and

11 (2) any of his interest in, claim against, or property or
12 contractual rights of any kind affording a source of influence over that
13 enterprise.

14 (c) The imposition or execution of a sentence required to be im-
15 posed under this section may not be suspended and probation or parole
16 may not be granted until the minimum term of imprisonment specified in
17 this section has been served. AS 12.55.080 and 12.55.085 are inappli-
18 cable to the extent that they are inconsistent with this subsection.

19 (d) For purposes of this section, a person is engaged in a con-
20 tinuing criminal enterprise if

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

23 (2) that violation is a part of a continuing series of viola-
24 tions of this chapter

25 (A) which he undertakes in concert with five or more
26 other persons with respect to whom he occupies a position of orga-
27 nizer, a supervisory position, or any other position of management;
28 and

29 (B) from which he obtains substantial income or re-

1 sources.

2 * Sec. 5. AS 17.12.020 is amended to read:

3 Sec. 17.12.020. AUTHORIZED POSSESSION. A person may lawfully
4 possess a controlled substance [DEPRESSANT, HALLUCINOGENIC OR STIMULANT
5 DRUG] that has been lawfully prescribed, sold, or dispensed by a practi-
6 tioner if the controlled substance is [DRUGS ARE]

7 (1) for use by the person in possession or a member of his
8 household; or

9 (2) for administration to an animal owned by him or a member
10 of his household [; OR

11 (3) DESIGNATED BY THE COMMISSIONER FOR USE IN LABORATORIES OR
12 INSTITUTIONS FOR EDUCATIONAL OR TEACHING RESEARCH, OR FOR CHEMICAL
13 ANALYSIS; SUCH A LABORATORY OR INSTITUTION MUST FIRST OBTAIN A PERMIT
14 FROM THE COMMISSIONER WHICH SHALL SPECIFY THE DRUGS, THE POSSESSION OF
15 WHICH IS ALLOWED, DELINEATE AND RESTRICT THEIR USE OR DISPOSAL., IDENTIFY
16 THE PERMITTEE AND PROMULGATE THE RULES AND REGULATIONS CONSIDERED NECES-
17 SARY TO FULFILL THE REQUIREMENTS OF THIS CHAPTER].

18 * Sec. 6. AS 17.12.030 is repealed and re-enacted to read:

19 Sec. 17.12.030. LEGITIMATE INDUSTRY. A controlled substance may
20 be manufactured, distributed, possessed, or dispensed by a practitioner
21 acting in the ordinary and authorized course of his business under
22 federal registration if evidence of that federal registration is filed
23 with the department.

24 * Sec. 7. AS 17.12.050 is amended to read:

25 Sec. 17.12.050. RECORDS. A practitioner [PERSON] engaged in
26 manufacturing, distributing, or dispensing a controlled substance [COM-
27 POUNDING, PROCESSING, SELLING, DELIVERING OR OTHERWISE DISPOSING OF A
28 DEPRESSANT, HALLUCINOGENIC OR STIMULANT DRUG] shall, upon the effective
29 date of this chapter, prepare a complete and accurate record of all

1 stocks of each drug on hand and shall keep the record for three years.
2 If this record has already been prepared in accordance with federal law,
3 no additional record is required if all of these records have been
4 retained and are made available to the department upon request. A
5 practitioner [ON AND AFTER AUGUST 4, 1968, A PERSON] manufacturing,
6 distributing, dispensing, or possessing a controlled substance [COM-
7 POUNDING, OR PROCESSING A DEPRESSANT, HALLUCINOGENIC OR STIMULANT DRUG]
8 shall prepare and keep, for not less than three years, a complete and
9 accurate record of the kind and quantity of each controlled substance
10 [DRUG] manufactured, distributed, dispensed, or possessed, [COMPOUNDED,
11 OR PROCESSED AND] the date of the manufacture, dist. bution, dispensing,
12 or receipt, the name and address of the person from whom the controlled
13 substance was received, and the name and address of the person to whom
14 the controlled substance was distributed or dispensed [COMPOUNDING, OR
15 PROCESSING. A PERSON SELLING, DELIVERING, OR OTHERWISE DISPOSING OF A
16 DEPRESSANT, HALLUCINOGENIC OR STIMULANT DRUG SHALL PREPARE OR OBTAIN,
17 AND KEEP FOR NOT LESS THAN THREE YEARS, A COMPLETE AND ACCURATE RECORD
18 OF THE KIND AND QUANTITY OF EACH DRUG RECEIVED, SOLD, DELIVERED, OR
19 OTHERWISE DISPOSED OF, THE NAME AND ADDRESS FROM WHOM IT WAS RECEIVED
20 AND TO WHOM IT WAS SOLD, DELIVERED, OR OTHERWISE DISPOSED OF, AND THE
21 DATE OF THE TRANSACTION].

22 * Sec. 8. AS 17.12.060(a) and (b) are amended to read:

23 (a) A person required by AS 17.12.050 to prepare or obtain and
24 keep records, [AND] a carrier maintaining records with respect to a
25 shipment containing a controlled substance [DEPRESSANT, HALLUCINOGENIC
26 OR STIMULANT DRUG], and a person in charge or having custody of the
27 records [,] shall, upon request of an officer or employee designated by
28 the commissioner, permit the officer or employee at reasonable times to
29 have access to and copy the records. For the purposes

1 of verification of the records and of the enforcement of this chapter,
2 officers or employees designated by the commissioner are authorized to
3 enter, at reasonable times, a factory, warehouse, establishment, or
4 vehicle in which a controlled substance [DEPRESSANT, HALLUCINOGENIC OR
5 STIMULANT DRUG] is manufactured, compounded, processed, stored, sold,
6 delivered, dispensed, or otherwise disposed of and to inspect, within
7 reasonable limits and in a reasonable manner, the factory, warehouse,
8 establishment, or vehicle, and all pertinent equipment, finished and
9 unfinished material, containers and labeling and to inventory the stock
10 of these controlled substances [DRUGS] and obtain samples of each con-
11 trolled substance [THESE DRUGS].

12 (b) No inspection authorized by (a) of this section extends to (1)
13 financial data, (2) sales data other than shipment data, (3) pricing
14 data, (4) personnel data, or (5) research data unless those data are not
15 kept in separate books and records.

16 * Sec. 9. AS 17.12 is amended by adding a new section to read:

17 Sec. 17.12.065. SEARCH WARRANTS. (a) A search warrant relating
18 to an offense involving a controlled substance may be served at any time
19 of the day or night if the judge issuing the warrant is satisfied that
20 there is probable cause to believe that grounds exist for the warrant
21 and for its service at that time.

22 (b) An officer authorized to execute a search warrant relating to
23 an offense involving a controlled substance for which a penalty of
24 imprisonment for more than one year is authorized may, without notice of
25 his authority and purpose, break open an outer or inner door or window
26 of a building, any part of a building, or anything in a building if the
27 judge issuing the warrant

28 (1) is satisfied that there is probable cause to believe that

29 (A) the property sought may, and if notice is given

1 will, be easily and quickly destroyed or disposed of; or

2 (B) the giving of notice will immediately endanger the
3 life or safety of the executing officer or another person; and

4 (2) has included in the warrant a direction that the officer
5 executing it is not required to give notice of his authority and purpose
6 before entering the premises.

7 (c) An officer acting under a warrant issued under (b) of this
8 section shall, as soon as practicable after entering the premises,
9 identify himself and give the reasons and authority for his entrance
10 upon the premises.

11 (d) AS 12.35.040 as limited by AS 12.25.100 is inapplicable to the
12 extent that it is inconsistent with this section.

13 * Sec. 10. AS 17.12.070 is amended to read:

14 Sec. 17.12.070. PRESCRIPTION REFILL. (a) The substances de-
15 scribed as class A in AS 17.12.105(b) may not be dispensed on oral
16 prescription, and written prescriptions for these substances may not
17 be refilled.

18 (b) In regard to controlled substances other than those referred
19 to in (a) of this section, no [NO] prescription for a controlled sub-
20 stance [DEPRESSANT, HALLUCINOGENIC OR STIMULANT DRUG] may be filled or
21 refilled more than six months after the date on which the prescription
22 was issued and no prescription which is authorized to be refilled may be
23 refilled more than five times. Except where specifically prohibited,
24 [NOTHING IN THIS CHAPTER PREVENTS] a practitioner may issue [FROM ISSU-
25 ING] a new prescription for the same controlled substance [DRUG] either
26 in writing or orally. An oral prescription for the controlled substance
27 [DRUG] shall be promptly reduced to writing on a new prescription blank
28 and filed by the pharmacist filling it and retained for the period
29 prescribed in AS 17.12.050. An oral prescription may not be refilled

1 unless authorized by the prescriber.

2 * Sec. 11. AS 17.12.070 is amended by adding new subsections to read:

3 (c) A pharmacist may, in good faith, sell and dispense a con-
4 trolled substance to any person upon a written prescription of a physi-
5 cian, dentist, or veterinarian if the prescriber is licensed to practice
6 in this state and the prescription is dated and signed by the prescriber
7 on the day when issued, bears the name and address of the patient for
8 whom, or the owner of the animal for which, the controlled substance is
9 dispensed, and bears the full name, address and federal registry number
10 of the person prescribing the controlled substance. If the prescription
11 is for an animal, it shall state the species of animal for which the
12 controlled substance is prescribed.

13 (d) The person filling the prescription shall write the date of
14 filling and his own signature on the face of the prescription. The
15 prescription shall be retained on file by the proprietor of the pharmacy
16 in which it is filled for a period of three years so as to be readily
17 accessible for inspection by any public officer or employee engaged in
18 the enforcement of this chapter.

19 (e) The legal owner of stock of controlled substances in a phar-
20 macy, upon discontinuance of dealing or dispensing those substances, may
21 sell the stock to a manufacturer, wholesaler, or other pharmacy, but
22 only on an official written order.

23 * Sec. 12. AS 17.12.080 is amended to read:

24 Sec. 17.12.080. PERSONS EXEMPTED. The provisions of this chapter
25 restricting the possession [POSSESSING AND CONTROL] of a controlled
26 substance [DEPRESSANT, HALLUCINOGENIC AND STIMULANT DRUGS] do not apply
27 to

28 (1) a common carrier or to a warehouseman, while engaged in
29 lawfully transporting or storing a controlled substance for a practi-

1 tioner or public officer or agent in performance of his official duties
2 or other person authorized by federal registration to manufacture, dis-
3 tribute, dispense, or possess controlled substances [THESE DRUGS];

4 (2) an employee of a common carrier or warehouseman while acting
5 within the scope of his employment in lawfully transporting or storing a
6 controlled substance for a practitioner or public officer or agent in
7 performance of his official duties or other person authorized by federal
8 registration to manufacture, distribute, dispense, or possess controlled
9 substances [THESE DRUGS];

10 (3) a public officer or his employee in the performance of
11 his official duties requiring possession or control of a controlled
12 substance [THESE DRUGS];

13 (4) temporary, incidental possession by an employee or agent
14 of a person lawfully entitled to possession; or

15 (5) temporary, incidental possession by a person whose pos-
16 session is for the purpose of aiding a public officer in performing his
17 official duties.

18 * Sec. 13. AS 17.12.090 is amended to read:

19 Sec. 17.12.090. EXEMPTED DRUGS. A controlled substance the manu-
20 facture, distribution, dispensing, or possession of which is (DEPRES-
21 SANT, HALLUCINOGENIC OR STIMULANT DRUGS) exempted from criminal penalty
22 under federal law is (OR UNDER REGULATIONS PROMULGATED BY THE COMMIS-
23 SIONER ARE) exempted from the application of this chapter. This exemp-
24 tion includes any substances which may, under the federal Food, Drug,
25 and Cosmetic Act (21 U.S.C. sec. 301 et seq.) be lawfully sold over the
26 counter without a prescription.

27 * Sec. 14. AS 17.12.100 is repealed and re-enacted to read:

28 Sec. 17.12.100. BURDEN OF PROOF AND LIABILITIES. (a) It is not
29 necessary for the state to negate an exemption or exception in this

1 chapter in a complaint, information, indictment, or other pleading or in
2 a trial, hearing, or other proceeding under this chapter. The burden of
3 proof of an exemption is upon the person claiming it.

4 (b) In the absence of proof that a person is an authorized holder
5 of an appropriate federal registration or order form filed with the
6 department, it is presumed that that person is not the holder of the
7 registration or form, and the burden of proof is upon that person to
8 rebut the presumption.

9 (c) All authorized peace officers, while investigating violations
10 under this chapter in the performance of their official duties, and any
11 person working under their immediate direction, supervision, and in-
12 struction are immune from prosecution under this chapter.

13 (d) Information communicated to a physician in an effort to unlaw-
14 fully procure a controlled substance is not a privileged communication.

15 * Sec. 15. AS 17.12 is amended by adding a new section to read:

16 Sec. 17.12.105. CLASSIFICATION OF CONTROLLED SUBSTANCES. (a)

17 Except as otherwise provided, controlled substances are divided into the
18 following five classes for penalty purposes: class A, class B, class C,
19 class D, and class E.

20 (b) Unless specifically excepted or unless listed in another
21 classification within this section, class A controlled substances in-
22 clude any material compound which contains any quantity of a substance
23 listed in this subsection, including its salts, its isomers, (whether
24 optical, position, or geometric), and the salts of its isomers whenever
25 the existence of those salts, isomers, or salts of isomers is possible
26 within the specific chemical designation, regardless of whether the
27 listed substance is produced directly or indirectly by extraction from
28 substances of vegetable origin or independently by means of chemical
29 synthesis or by a combination of extraction and chemical synthesis:

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

- 5 (A) raw opium;
6 (B) opium extracts;
7 (C) opium fluid extracts;
8 (D) powdered opium;
9 (E) granulated opium;
10 (F) tincture of opium;
11 (G) codeine;
12 (H) ethylmorphine;
13 (I) hydrocodone;
14 (J) hydromorphone;
15 (K) metopon;
16 (L) morphine;
17 (M) oxycodone;
18 (N) oxymorphone;
19 (O) thebaine;

20 (2) any salt, compound, derivative, or preparation of these
21 which is chemically equivalent or identical with any of the substances
22 referred to in (1) of this subsection, except that these substances do
23 not include the isoquinoline alkaloids of opium;

24 (3) opium poppy and poppy straw;

25 (4) coca leaves and any salt, compound, derivative, or pre-
26 paration of coca leaves, and any salt, compound, derivative, or prepara-
27 tion of these which is chemically equivalent or identical with any of
28 these substances, except that the substances do not include decocainized
29 coca leaves or extractions of coca leaves, which extractions do not con-

1 tain cocaine or ecgonine;

2 (5) acetylmethadol;

3 (6) allylprodine;

4 (7) alphacetylmethadol;

5 (8) alphameprodine;

6 (9) alphamethadol;

7 (10) benzethidine;

8 (11) betacetylmethadol;

9 (12) betameprodine;

10 (13) betamethadol;

11 (14) betaprodine;

12 (15) clonitazene;

13 (16) dextromoramide;

14 (17) diampromide;

15 (18) diethylthiambutene;

16 (19) difenoxin;

17 (20) dimenoxadol;

18 (21) dimepheptanol;

19 (22) dimethylthiambutene;

20 (23) dioxaphetyl butyrate;

21 (24) dipipanone;

22 (25) ethylmethylthiambutene;

23 (26) etonitazene;

24 (27) etoxeridine;

25 (28) furethidine;

26 (29) hydroxypethidine;

27 (30) ketobemidone;

28 (31) levomoramide;

29 (32) levophenacymorphan;

- 1 (33) morpheridine;
- 2 (34) noracymethadol;
- 3 (35) norlevorphanol;
- 4 (36) normethadone;
- 5 (37) norpipanone;
- 6 (38) phenadoxone;
- 7 (39) phenampromide;
- 8 (40) phenomorphan;
- 9 (41) phenoperidine;
- 10 (42) piritramide;
- 11 (43) proheptazine;
- 12 (44) properidine;
- 13 (45) propiram;
- 14 (46) racemoramide;
- 15 (47) trimeperidine;
- 16 (48) acetorphine;
- 17 (49) acetyldihydrocodeine;
- 18 (50) benzylmorphine;
- 19 (51) codeine methylbromide;
- 20 (52) codeine-N-oxide;
- 21 (53) cyprenorphine;
- 22 (54) desomorphine;
- 23 (55) dihydromorphine;
- 24 (56) drotebanol;
- 25 (57) etorphine;
- 26 (58) heroin;
- 27 (59) hydromorphinol;
- 28 (60) methyldesorphine;
- 29 (61) methyldihydromorphine;

- 1 (62) morphine methylbromide;
- 2 (63) morphine methylsulfonate;
- 3 (64) morphine-N-oxide;
- 4 (65) myrophine;
- 5 (66) nicocodeine;
- 6 (67) nicomorphine;
- 7 (68) normorphine;
- 8 (69) pholcodeine;
- 9 (70) thebacon;
- 10 (71) alphaprodine;
- 11 (72) anileridine;
- 12 (73) bezitramide;
- 13 (74) dihydrocodeine;
- 14 (75) diphenoxylate;
- 15 (76) fentanyl;
- 16 (77) isomethadone;
- 17 (78) levomethorphan;
- 18 (79) levorphanol;
- 19 (80) metazocine;
- 20 (81) methadone;
- 21 (82) methadone-intermediate, 4-cyano-2-dimethylamino-4, 4-
- 22 diphenyl butane;
- 23 (83) moramide-intermediate, 2-methyl-3-morpholino-1,
- 24 1-diphenylpropane-carboxylic acid;
- 25 (84) pethidine (meperidine);
- 26 (85) pethidine-intermediate-A, 4-cyano-1-methyl-4-phenylpiperi-
- 27 dine;
- 28 (86) pethidine-intermediate-B, ethyl-4-phenylpiperidine-4-
- 29 carboxylate;

1 (87) pethidine-intermediate-C, 1-methyl-4-phenylpiperidine-4-
2 carboxylic acid;

3 (88) phenazocine;

4 (89) piminodine;

5 (90) racemethorphan;

6 (91) racemorphan.

7 (c) Unless specifically excepted or unless listed in another
8 classification within this section, class B controlled substances in-
9 clude any material compound which contains any quantity of a substance
10 listed in this subsection, including its salts, its isomers (whether
11 optical, position, or geometric), and the salts of its isomers whenever
12 the existence of those salts, isomers, or salts of isomers is possible
13 within the specific chemical designation, regardless of whether the
14 listed substance is produced directly or indirectly by extraction from
15 substances of vegetable origin or independently by means of chemical
16 synthesis or by a combination of extraction and chemical synthesis:

17 (1) 4-bromo-2,5-dimethoxy-amphetamine, also known as bromo-2,
18 5-dimethoxy-a-methylphenethylamine and 4-bromo-2,5-DMA;

19 (2) 2,5-dimethoxyamphetamine, also known as 2,5-dimethoxy-a-
20 methylphenethylamine and 2,5-DMA;

21 (3) 4-methoxyamphetamine, also known as 4-methoxy-a-
22 methylphenethylamine and paramethoxyamphetamine, PMA;

23 (4) 5-methoxy-3,4-methylenedioxy-amphetamine;

24 (5) 4-methyl-2,5-dimethoxy-amphetamine, also known as 4-
25 methyl-2,5-dimethoxy-a-methylphenethylamine and "DOM" and "STP";

26 (6) 3,4-methylenedioxy amphetamine;

27 (7) 3,4,5-trimethoxy amphetamine;

28 (8) bufotenine, also known as 3-(b-dimethylaminoethyl)-5-
29 hydroxyindole and 3-(2-dimethylaminoethyl)-5-indolol and N,N-

1 dimethylserotonin and 5-hydroxy-N,N-dimethyltryptamine and mappine;

2 (9) diethyltryptamine, also known as N,N-diethyltryptamine
3 and DET;

4 (10) dimethyltryptamine, also known as DMT;

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

8 (12) lysergic acid diethylamide;

9 (13) mescaline;

10 (14) peyote, meaning all parts of the plant presently classi-
11 fied botanically as *Lophophora williamsii* Lemaire, whether growing or
12 not, the seeds of the plant, any extract from any part of the plant, and
13 every compound, manufacture, salts, derivative, mixture, or preparation
14 of the plant, its seeds, or extracts;

15 (15) N-ethyl-3-piperidyl benzilate;

16 (16) N-methyl-3-piperidyl benzilate;

17 (17) psilocybin;

18 (18) psilocyn;

19 (19) thiophene analog of phencyclidine, also known as: 1-
20 [1-(2-thienyl) cyclohexyl] piperidine and 2-thienyl analog of phencycli-
21 dine and TPCP;

22 (20) phencyclidine, also known as PCP;

23 (21) mecloqualone;

24 (22) amphetamine, its salts, optical isomers, and salts of its
25 optical isomers;

26 (23) methamphetamine, its salts, isomers, and salts of its
27 isomers;

28 (24) phenmetrazine and its salts;

29 (25) methylphenidate;

1 (26) methaqualone;

2 (27) amobarbital;

3 (28) secobarbital;

4 (29) pentobarbital.

5 (d) Unless specifically excepted or unless listed in another
6 classification within this section, class C controlled substances in-
7 clude any material compound which contains any quantity of a substance
8 listed in this subsection, including its salts, its isomers (whether
9 optical, position, or geometric), and the salts of its isomers whenever
10 the existence of those salts, isomers, or salts of isomers is possible
11 within the specific chemical designation, regardless of whether the
12 listed substance is produced directly or indirectly by extraction from
13 substances of vegetable origin or independently by means of chemical
14 synthesis or by a combination of extraction and chemical synthesis:

15 (1) benzphetamine;

16 (2) chlorphentermine;

17 (3) clortermine;

18 (4) mazindol;

19 (5) phendimetrazine;

20 (6) any compound, mixture, or preparation containing amobar-
21 bital, secobarbital, or pentobarbital or any salt of any of these sub-
22 stances combined with one or more other active medicinal ingredients
23 which are not listed in any classification in this section;

24 (7) any suppository dosage form containing amobarbital,
25 secobarbital, or pentobarbital or any salt of any of these substances
26 which are approved by the federal Food and Drug Administration for
27 marketing only as a suppository;

28 (8) any substance, having a depressant effect on the central
29 nervous system, which contains any quantity or derivative of barbituric

1 acid or any salt of these;

2 (9) chlorhexadol;

3 (10) glutethimide;

4 (11) lysergic acid;

5 (12) lysergic acid amide;

6 (13) methyprylon;

7 (14) sulfondiethylmethane;

8 (15) sulfonethylmethane;

9 (16) sulfonmethane;

10 (17) nalorphine;

11 (18) any material, compound, mixture, or preparation contain-
12 ing limited quantities of any of the following substances or any of
13 their salts:

14 (A) not more than 1.8 grams of codeine per 100 milli-
15 liters or not more than 90 milligrams per dosage unit, with an
16 equal or greater quantity of an isoquinoline alkaloid of opium;

17 (B) not more than 1.8 grams of codeine per 100 milli-
18 liters or not more than 90 milligrams per dosage unit, with one or
19 more active, nonnarcotic ingredients in recognized therapeutic
20 amounts;

21 (C) not more than 300 milligrams of dihydrocodeinone per
22 100 milliliters or not more than 15 milligrams per dosage unit,
23 with a fourfold or greater quantity of an isoquinoline alkaloid of
24 opium;

25 (D) not more than 300 milligrams of dihydrocodeinone per
26 100 milliliters or not more than 15 milligrams per dosage unit,
27 with one or more active nonnarcotic ingredients in recognized
28 therapeutic amounts;

29 (E) not more than 1.8 grams of dihydrocodeine per 100

1 milliliters or not more than 90 milligrams per dosage unit, with
2 one or more active nonnarcotic ingredients in recognized thera-
3 peutic amounts;

4 (F) not more than 300 milligrams of ethylmorphine per
5 100 milliliters or not more than 15 milligrams per dosage unit,
6 with one or more active, nonnarcotic ingredients in recognized
7 therapeutic amounts;

8 (G) not more than 500 milligrams of opium per 100 grams
9 or not more than 25 milligrams per dosage unit, with one or more
10 active, nonnarcotic ingredients in recognized therapeutic amounts;

11 (H) not more than 50 milligrams of morphine per 100
12 milliliters or per 100 grams, with one or more active, nonnarcotic
13 ingredients in recognized therapeutic amounts.

14 (e) Unless specifically excepted or unless listed in another
15 classification within this section, class D controlled substances in-
16 clude any material compound which contains any quantity of a substance
17 listed in this subsection, including its salts, its isomers (whether
18 optical, position, or geometric), and the salts of its isomers whenever
19 the existence of those salts, isomers, or salts of isomers is possible
20 within the specific chemical designation, regardless of whether the
21 listed substance is produced directly or indirectly by extraction from
22 substances of vegetable origin or independently by means of chemical
23 synthesis or by a combination of extraction and chemical synthesis:

- 24 (1) barbitol;
25 (2) chloral betaine;
26 (3) chloral hydrate;
27 (4) chlordiazepoxide;
28 (5) clonazepam;
29 (6) clorazepate;

- 1 (7) diazepam;
2 (8) ethchlorvynol;
3 (9) ethinamate;
4 (10) flurazepam;
5 (11) lorazepam;
6 (12) mebutamate;
7 (13) meprobamate;
8 (14) methohexital;
9 (15) methylphenobarbital (mephobarbital);
10 (16) oxazepam;
11 (17) paraldehyde;
12 (18) petrichloral;
13 (19) phenobarbital;
14 (20) prazepam;
15 (21) fenfluramine;
16 (22) diethylpropion;
17 (23) phentermine;
18 (24) pemoline, including organometallic complexes and chelates
19 thereof;
20 (25) dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-
21 diphenyl-3-methyl-2-propionoxybutane).

22 (f) Unless specifically excepted or unless listed in another
23 classification within this section, class E controlled substances in-
24 clude loperamide and any material compound which contains any quantity
25 of a substance listed in this subsection, including its salts, its
26 isomers (whether optical, position, or geometric), and the salts of its
27 isomers whenever the existence of those salts, isomers, or salts of
28 isomers is possible within the specific chemical designation, regardless
29 of whether the listed substance is produced directly or indirectly by

1 extraction from substances of vegetable origin or independently by means
2 of chemical synthesis or by a combination of extraction and chemical
3 synthesis. Class E controlled substances include the following con-
4 trolled substances, otherwise listed in (b) of this section, when they
5 are combined in the following portions with one or more nonnarcotic
6 active medicinal ingredients in sufficient portion to confer upon the
7 compound mixture preparation valuable medicinal qualities other than
8 those possessed by the class A substance:

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 milliliters
18 or per 100 grams.

19 * Sec. 16. AS 17.12.110(a), (b), and (c) are amended to read:

20 (a) A person who violates a provision of this chapter relating to
21 the possession [OR CONTROL] of a controlled substance [DEPRESSANT,
22 HALLUCINOGENIC AND STIMULANT DRUGS,] other than a class A controlled
23 substance or marijuana, when his possession [OR CONTROL] is for his own
24 use, is guilty of a misdemeanor and upon conviction is punishable by
25 imprisonment for not more than one year, or by a fine of not more than
26 \$1,000, or by both.

27 (b) A person who violates a provision of this chapter [OTHER THAN
28 ONE MENTIONED IN (a) OF THIS SECTION, OR A PERSON WHO VIOLATES A PRO-
29 VISION OF THIS CHAPTER] relating to the manufacture, distribution, dis-

1 dispensing, or possession with intent to manufacture, distribute, or dis-
2 perse, of a class A controlled substance [OR CONTROL OF DEPRESSANT,
3 HALLUCINOGENIC AND STIMULANT DRUGS, WHEN HIS POSSESSION OR CONTROL IS
4 FOR THE PURPOSE OF SALE OR OTHER DISPOSAL TO ANOTHER PERSON,] is guilty
5 of a felony and upon conviction is punishable as follows:

6 (1) for the first offense, he shall be sentenced to a term of
7 [BY] imprisonment of [FOR] not less than two years nor more than 25
8 years and may, in addition, be ordered to pay [, OR BY] a fine of not
9 more than \$20,000 [, OR BY BOTH];

10 (2) for the second and subsequent offenses, he shall be sen-
11 tenced to a term of [BY] imprisonment of [FOR] not less than four years
12 nor more than [ANY TERM OF YEARS OR] life and may, in addition, be
13 ordered to pay [, OR BY] a fine of not more than \$25,000 [, OR BY BOTH].

14 (c) A person 19 years of age or older who violates a provision of
15 this chapter by distributing or dispensing a controlled substance [SELL-
16 ING OR OTHERWISE DISPOSING OF A DEPRESSANT, HALLUCINOGENIC OR STIMULANT
17 DRUG] to a person less than 19 years of age is guilty of a felony and
18 upon conviction is punishable by imprisonment for any term of years or
19 life, or by a fine of not more than \$25,000, or by both.

20 * Sec. 17. AS 17.12.110 is amended by adding new subsections to read:

21 (g) A person who violates a provision of this chapter by posses-
22 sion of a class A controlled substance when his possession is for his
23 own use is guilty of a felony and upon conviction is punishable by
24 imprisonment for not more than five years, or by a fine of not more than
25 \$5,000, or by both.

26 (h) A person who violates a provision of this chapter relating to
27 the manufacture, distribution, dispensing, or possession with intent to
28 manufacture, distribute, or dispense, of a class B controlled substance
29 is guilty of a felony and upon conviction is punishable as follows:

1 (1) for the first offense, by imprisonment for not more than
2 15 years, or by a fine of not more than \$15,000, or by both;

3 (2) for the second and subsequent offenses, by imprisonment
4 for not more than 30 years, or by a fine of not more than \$30,000, or by
5 both.

6 (i) A person who violates a provision of this chapter relating to
7 the manufacture, distribution, dispensing, or possession with intent to
8 manufacture, distribute, or dispense, of a class C controlled substance
9 is guilty of a felony and, upon conviction, is punishable as follows:

10 (1) for the first offense, by imprisonment for not more than
11 10 years, or by a fine of not more than \$10,000, or by both;

12 (2) for the second and subsequent offenses, by imprisonment
13 for not more than 20 years, or by a fine of not more than \$20,000, or by
14 both.

15 (j) A person who violates a provision of this chapter relating to
16 the manufacture, distribution, dispensing, or possession with intent to
17 manufacture, distribute, or dispense, of a class D controlled substance
18 or marijuana is guilty of a felony and, upon conviction, is punishable
19 as follows:

20 (1) for the first offense, by imprisonment for not more than
21 five years, or by a fine of not more than \$5,000, or by both;

22 (2) for the second and subsequent offenses, by imprisonment
23 for not more than 10 years, or by a fine of not more than \$10,000, or by
24 both.

25 (k) A person who violates a provision of this chapter relating to
26 the manufacture, distribution, dispensing, or possession with intent to
27 manufacture, distribute, or dispense, of a class E controlled substance
28 is guilty of a felony and, upon conviction, is punishable as follows:

29 (1) for the first offense, by imprisonment for not more than

1 two years, or by a fine of not more than \$2,000, or by both;

2 (2) for the second and subsequent offenses, by imprisonment
3 for not more than four years, or by a fine of not more than \$4,000, or
4 by both.

5 (1) A person who violates (b), (c), (d), (e), or (f) of sec. 10 of
6 this chapter is guilty of a felony and upon conviction is punishable by
7 imprisonment for not more than five years, or by a fine of not more than
8 \$10,000, or by both.

9 (m) A person who violates any provision of this chapter, the
10 penalty for which is not provided in (a) - (l) of this section or in AS
11 17.12.015 is subject to a civil penalty of not more than \$25,000 unless
12 the violation was committed intentionally, in which case the person is
13 guilty of a misdemeanor and upon conviction is punishable by imprison-
14 ment for not more than one year, or by a fine of not more than \$25,000,
15 or by both.

16 (n) The imposition or execution of a sentence required to be im-
17 posed under this section may not be suspended and probation or parole
18 may not be granted until the minimum term of imprisonment specified in
19 this section has been served. AS 12.55.080 and 12.55.085 are inappli-
20 cable to the extent that they are inconsistent with this subsection.

21 * Sec. 18. AS 17.12 is amended by adding a new section to read:

22 Sec. 17.12.125. INFORMATION ON SENTENCING. No limitation may be
23 placed on the information concerning the background, character, or con-
24 duct of a person convicted of an offense which a court may receive and
25 consider for the purpose of imposing an appropriate sentence under this
26 chapter.

27 * Sec. 19. AS 17.12.130 is repealed and re-enacted to read:

28 Sec. 17.12.130. FORFEITURE. (a) The following are subject to
29 forfeiture to the state and no property rights exist in them:

1 (1) any controlled substance which has been manufactured,
2 distributed, dispensed, or acquired other than as provided in AS 17.12.-
3 020, 17.12.030, and 17.12.080;

4 (2) any raw material, product, or equipment of any kind which
5 is used, has been used, or is intended for use in manufacturing, com-
6 pounding, processing, or delivering a controlled substance by someone
7 other than one authorized under this chapter;

8 (3) any property which is used, has been used, or is intended
9 for use as a container for property and described in (1) or (2) of this
10 subsection;

11 (4) any conveyance, including but not limited to aircraft,
12 vehicle, or vessel, which has been used, is used, or is intended for use
13 to transport or in any manner facilitate transportation of property
14 described in (1) or (2) of this subsection; however,

15 (A) no conveyance is subject to forfeiture under this
16 section if the owner of the conveyance shows that its use and vio-
17 lation of this chapter was committed by another person while that
18 person was in unlawful possession of the conveyance without the
19 owner's permission or acquiescence;

20 (B) forfeiture of a conveyance encumbered by a bona fide
21 security interest at the time of seizure is subject to the interest
22 of the secured party if the secured party shows that the conveyance
23 used in violation of this chapter was committed by another person
24 and that the secured party neither consented nor was privy to the
25 violation;

26 (5) any book, record, or research product and material,
27 including formulas, microfilm, tapes, and data which are used, have been
28 used, or are intended for use in violation of this chapter;

29 (6) any money or negotiable instrument derived from any

1 activity prohibited by this chapter;

2 (7) any firearm used during or in furtherance of a violation
3 of this chapter.

4 (b) Property listed in (a) of this section may be forfeited to the
5 state upon conviction of a violation of this chapter of a person who
6 possessed or owned the property at the time of the violation or upon
7 judgment of a court of competent jurisdiction in a civil proceeding in
8 rem that an item meets the criteria of (a) of this section.

9 (c) Property subject to forfeiture under this section may be
10 seized by a peace officer upon filing of a verified civil complaint in
11 rem against the property upon receipt of which the clerk of the court
12 shall immediately issue a warrant for the arrest of the specified pro-
13 perty. Seizure without such a warrant may be made if

14 (1) the seizure is incident to an arrest or a search under an
15 administrative inspection warrant;

16 (2) the property subject to seizure has been the subject of a
17 prior judgment in favor of the state in a criminal proceeding or a civil
18 proceeding in rem based upon this chapter;

19 (3) there is probable cause to believe the property is either
20 directly or indirectly dangerous to health or safety; or

21 (4) there is probable cause to believe that the property has
22 been or is intended to be used in violation of this chapter.

23 (d) Upon service or publication of notice of commencement of an
24 action under this section, a person claiming interest in the property
25 shall file within 20 days from the publication or service, or such
26 additional time as granted by the court, a notice of claim setting out
27 the nature of his interest, the date it was acquired, the consideration
28 paid, and an answer to the state's allegations. If no claim and answer
29 is filed within the time specified, the property described in the state's

1 allegation shall be ordered forfeited to the state without further
2 proceedings or showings.

3 (e) Questions of fact or law raised by a notice of claim and
4 answer of any claimant in an action commenced under this section shall
5 be determined by the court sitting without a jury. Such a proceeding
6 may, in the court's discretion, be held in abeyance until conclusion of
7 any pending criminal charges under this chapter against the claimant.

8 (f) Property taken or obtained under this section is not replevi-
9 able, and shall remain in the custody of the state subject only to the
10 orders and decrees of the court or other official having jurisdiction
11 over the property. If property is seized under this chapter, the De-
12 partment of Public Safety may

13 (1) place the property under seal; or

14 (2) remove the property to a place considered by the Depart-
15 ment of Public Safety to be more convenient or safe for its storage.

16 (g) When property is forfeited under this section, the Department
17 of Public Safety may

18 (1) retain it for official use;

19 (2) sell that which is not required to be destroyed by law
20 and which is not harmful to the public and use the proceeds to pay all
21 proper expenses of the forfeiture and sale proceedings, including expen-
22 ses of seizure, maintenance of custody, advertising and court costs and
23 transmit the remainder to the general fund of the state;

24 (3) destroy property harmful to the public;

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

27 (5) forward it to the federal Drug Enforcement Administration
28 for disposition.

29 (h) Any controlled substance manufactured, distributed, or pos-

1 sessed other than as provided in AS 17.12.020, 17.12.030, and 17.12.080
2 is contraband and shall be seized and summarily forfeited to the state.

3 (i) Any plant from which a controlled substance may be derived and
4 which is wild growth or not sanctioned by a federal registration on file
5 with the department may be seized and summarily forfeited to the state.

6 (j) For purposes of this section, any money or negotiable security
7 in excess of \$200 found on a defendant at the time of an arrest for a
8 violation of this chapter and any money or negotiable instrument in
9 excess of \$200 found during the course of a search incident to an arrest
10 or under a warrant in regard to provisions of this chapter is presumed
11 to have been derived from an activity prohibited by this chapter. The
12 burden of proof is upon the claimant of the money or negotiable instru-
13 ment to rebut this presumption.

14 (k) In a proceeding brought for the forfeiture of a conveyance
15 under this section where the property is claimed by any person, the
16 burden of proof shall shift to the claimant upon the establishment by
17 the state to the satisfaction of the court that probable cause exists
18 for the institution of the forfeiture proceedings.

19 (l) Any firearm found on a defendant at the time of an arrest for
20 a violation of this chapter or any firearm found during the course of a
21 search incident to an arrest or under a warrant in regard to the pro-
22 visions of this chapter is presumed to have been used during or in
23 furtherance of a violation of this section. The burden of proof is upon
24 the claimant of the firearm to rebut this presumption.

25 * Sec. 20. AS 17.12 is amended by adding a new section to read:

26 Sec. 17.12.135. ENFORCEMENT COOPERATION. It is the duty of the
27 commissioner of public safety, officers of the division of state
28 troopers, officers appointed to enforce criminal law in this state or
29 another state, local government law enforcement officers, the attorney

1 general, and all prosecuting attorneys to enforce all provisions of this
2 chapter and to cooperate with agencies charged with enforcement of the
3 laws of the United States, of this state, and of all other states,
4 relating to controlled substances.

5 * Sec. 21. AS 17.12.150 is repealed and re-enacted to read:

6 Sec. 17.12.150. DEFINITIONS. In this chapter, unless the context
7 requires otherwise,

8 (1) "commissioner" means the commissioner of health and
9 social services;

10 (2) "controlled substance" means a drug, substance, or
11 immediate precursor included within any of the classifications of sec.
12 105 of this chapter, and marijuana;

13 (3) "conveyance" means a vessel, vehicle, trailer, aircraft,
14 or other mode of transportation used to transport an illegally possessed
15 controlled substance;

16 (4) "counterfeit substance" means a controlled substance
17 which, or the container or labeling of which, without authorization,
18 bears the trademark, trade name, or other identifying mark, imprint,
19 number, or device, or any likeness to it, of a manufacturer, distri-
20 butor, or dispenser other than the person who in fact manufactured,
21 distributed, or dispensed the substance;

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

25 (6) "dentist" means a person authorized by law to practice
26 dentistry in this state;

27 (7) "dispense" means to deliver a controlled substance to an
28 ultimate user or research subject by a practitioner, including the
29 prescribing, administering, packaging, labeling, or compounding neces-

1 sary to prepare the substance for that delivery;

2 (8) "distribute" means to deliver, other than by administer-
3 ing or dispensing, a controlled substance;

4 (9) "drug"

5 (A) means

6 (i) substances recognized as drugs in the official
7 United States Pharmacopoeia, official Homeopathic Pharma-
8 copoeia of the United States, or official National Formulary,
9 or any supplement to any of them;

10 (ii) substances intended for use in the diagnosis,
11 cure, mitigation, treatment, or prevention of disease in
12 humans or animals;

13 (iii) substances, other than food, intended to affect
14 the structure or any function of the body of humans or ani-
15 mals; and

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

19 (B) does not include devices or their components, parts,
20 or accessories;

21 (10) "hospital" means an institution for the care and treat-
22 ment of the sick and injured, approved by the Board of Pharmacy as
23 proper to be entrusted with the custody of controlled substances, under
24 the direction of a physician, dentist, or veterinarian;

25 (11) "immediate precursor" means the principal compound com-
26 monly used or produced primarily for use, and which is an immediate
27 chemical intermediary used or likely to be used in the manufacture of a
28 controlled substance, the control of which is necessary to prevent, cur-
29 tail, or limit manufacture of that controlled substance;

1 (12) "laboratory" means a laboratory approved by the Board of
2 Pharmacy as proper to be entrusted with the custody of controlled sub-
3 stances and the use of controlled substances for scientific and medical
4 purposes and for purposes of instruction;

5 (13) "manufacture"

6 (A) means the production, preparation, propagation,
7 compounding, or processing of a drug or other substance, either
8 directly or indirectly by extraction from substances of vegetable
9 origin or independently by means of chemical synthesis or by a
10 combination of extraction and chemical synthesis;

11 (B) includes any packaging or repackaging of a drug or
12 other substance or labeling or relabeling of its container; but

13 (C) does not include the preparation, compounding, pack-
14 aging, or labeling of a drug or other substance in conformity with
15 applicable state or local law by a practitioner as an incident to
16 his administration or dispensing of the drug or substance in the
17 course of his professional practice;

18 (14) "manufacturer" means a person who manufactures a drug or
19 other substance;

20 (15) "marijuana" means all parts of the plant Cannabis,
21 whether growing or not, the seeds of that plant, the resin extracted
22 from any part of that plant, and every compound, manufacture, salt,
23 derivative, mixture, or preparation of that plant, its seeds, or its
24 resin; "marijuana" does not include the mature stalks of that plant,
25 fiber produced from mature stalks, oil or cake made from the seeds of
26 that plant, any other compound, manufacture, salt, derivative, mixture,
27 or preparation of mature stalks (except the resin extracted from them),
28 fiber, oil, or cake, or the sterilized seed of that plant which is
29 incapable of germination;

1 (16) "nonnarcotic substance" means a substance not listed as a
2 class A controlled substance under sec. 105 of this chapter;

3 (17) "official written order" means an order written on a form
4 provided for that purpose by the appropriate federal official under any
5 laws of the United States making provisions for such a form; if such
6 order forms are required by federal law and no order form is provided by
7 a federal officer, then on an official form provided for that purpose by
8 the Alaska Board of Pharmacy;

9 (18) "opiate" means a substance having an addiction-forming or
10 addiction-sustaining liability similar to morphine or being capable of
11 conversion into a drug having an addiction-forming or addiction-sus-
12 taining liability;

13 (19) "opium poppy" means the plant of any species of Papaver
14 containing the phenanthrine alkaloids of opium;

15 (20) "owner of conveyance" means the person having lawful de
16 facto control over a conveyance irrespective of who may be listed on its
17 official registration;

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

20 (22) "practitioner" means

21 (A) a physician, dentist, veterinarian, scientific
22 investigator, or other person licensed, registered, or otherwise
23 permitted to distribute, dispense, conduct research with respect
24 to, or administer a controlled substance in the course of profes-
25 sional practice or research in this state;

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

1 (23) "physician" means a person licensed to practice medicine
2 in this state;

3 (24) "production" means the manufacture, planting, cultiva-
4 tion, growing, or harvesting of a controlled substance;

5 (25) "ultimate user" means a person who lawfully possesses a
6 controlled substance for his own use or for the use of a member of his
7 household or for administering to an animal owned by him or by a member
8 of his household;

9 (26) "veterinarian" means a person authorized by law to prac-
10 tice veterinary medicine in this state;

11 (27) "wholesaler" means a person who supplies controlled sub-
12 stances that he himself has not produced or prepared, on official
13 written orders, but not on prescriptions.

14 * Sec. 22. AS 17.12 is amended by adding a new section to read:

15 Sec. 17.12.160. SHORT TITLE. This chapter may be cited as the
16 Controlled Substances Act.

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

18 (B) habitual overuse of alcoholic beverages or controlled
19 substances [DEPRESSANT, HALLUCINOGENIC OR STIMULANT DRUGS,] as
20 defined in AS 17.12 [AS 17.12.150(3), OR ADDICTION TO THE USE OF
21 NARCOTIC DRUGS AS DEFINED IN AS 17.10.230(13)];

22 * Sec. 24. AS 08.80.260(2) is amended to read:

23 (2) selling, bartering, or making available a controlled
24 substance as defined in AS 17.12 [, MORPHINE, COCAINE OR OTHER NARCOTIC]
25 to a person addicted to the use of a controlled substance [DRUGS] except
26 upon prescription issued by a licensed physician;

27 * Sec. 25. AS 08.80.260(9) is amended to read:

28 (9) violation of regulations pertaining to the provision of
29 adequate security for controlled substances [DANGEROUS DRUGS].

1 * Sec. 26. AS 08.80.470 is amended to read:

2 Sec. 08.80.470. CONSTRUCTION. Nothing in this chapter amends,
3 modifies, repeals or otherwise changes any provision of the Controlled
4 Substances Act (AS 17.12) [UNIFORM NARCOTIC DRUG ACT (AS 17.10)] or the
5 Alaska Food, Drug and Cosmetic Act (AS 17.20).

6 * Sec. 27. (a) Prosecution for a violation of law occurring before the
7 effective date of this Act is not affected or abated by this Act. Violation
8 of any law repealed by this Act may still be prosecuted and brought to a
9 final determination in accordance with the laws and regulations in effect at
10 the time of the violation.

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

13 (c) All administrative proceedings pending under prior laws which are
14 superseded by this Act shall be continued and brought to a final determina-
15 tion in accordance with the laws and regulations in effect before the effec-
16 tive date of this Act.

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

20 * Sec. 28. Orders issued and regulations adopted under a law affected by
21 this Act and in effect on the effective date of this Act and not in conflict
22 with this Act continue in effect until modified, superseded, or repealed.

23 * Sec. 29. The following laws are repealed: AS 11.60.100 - 11.60.130; AS
24 17.10; AS 17.12.040(b) and (c), 17.12.060(c), 17.12.120; and AS 17.15.

25 * Sec. 30. This Act takes effect immediately in accordance with AS 01.-
26 10.070(c).



Alaska State Legislature

Senate

Committee on

Health, Education & Social Services

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Glenn Hackney, Chairman
Frank Ferguson, Vice Chairman
Mike Colletta
Bettye Fahrenkamp
Arliss Sturgulewski

April 9, 1979

Robert Ziegler, Chairman
Senate Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Chairman Ziegler,

The Senate Health, Education and Social Services Committee, in its review of SB 65, has red flagged the following sections of SB 65 for close examination by the Senate Judiciary Committee: sections 14 - 18.

Section 14 would require that an individual claiming exemption from the provisions of this bill would bear the burden of proof in proving his exemption. This Committee requests that Judiciary address the constitutionality of placing the burden of proof on the claimant as opposed to placing the burden of proof on the state to prove that the individual is not exempt.

Section 15 divides controlled substances into five categories similar to categories established under federal law. However, the classification format that the state intends to adopt through this bill, i.e. Class A, Class B, etc., varies from the federal government's in that the federal government's format is based on a numerical system of classification, i.e. Schedule I, Schedule II, etc. In order to avoid problems that

Robert Ziegler, Chairman
April 9, 1979
Page Two

might surface as a result of using dissimilar classification formats, this Committee requests that Judiciary consider the merits of adopting a system of classification that will coincide with the classification format used by the federal government.

Sections 16, 17, and 18. This Committee requests that Judiciary take a look at the conformity between the penalty sections of this bill and the penalties prescribed for similar offenses in the Alaska Criminal Code.

Sincerely,

A handwritten signature in cursive script, appearing to read "Glenn Hackney", written in dark ink.

Glenn Hackney
Chairman

People for Better Education

Governor on Drug Bill?

A full page color advertisement in High Times, quote:

"Imagine planting a victory garden and reaping harvest legally. Home-grown marijuana fresh from mother earth. A new idea? Not at all, in Alaska the State Supreme Court says privately growing your own marijuana is OK . . . and no hassles.

The High Times magazine claims four million readers nationally. How many drug sellers and users are attracted to Alaska as a result of our marijuana law, outdated hard drug laws and lenient court system?

Last April Governor Hammond declared he would not support Drug Bill S.B. 518 the Controlled Substances Act. He said, "I feel strongly that this is not an appropriate year to deal with as controversial and divisive a subject as this one". (Was it not "the appropriate year" because it was an election year?)

Governor Hammond stated further that . . . "In the light of substantially increased sentences, the flaws (in our drug law) do not seem sufficient to call for emergency action . . . therefore my administration will not support a major revision in drug laws."

Governor Hammond and the legislators have had ample evidence of the problems of drug abuse and an ever-growing force of drug pushers.

People for Better Education contacted Governor Hammond and every legislator twice last year asking if they would support the Controlled Substance Act, S.B. 65, now.

The Governor promised to write PFBE on his decision in December. We have not received an answer. Perhaps the fact that the school drug abuse problem was on the front pages of the Times most of December has made it difficult for the Governor to respond.

The Governor owes each citizen of Alaska an answer on his position on the current drug laws. If you think you deserve an answer from the Governor, please circle this article in your newsletter and fill in the blanks.

DRUG PROBLEM IGNORED BY LEGISLATURE

Concern among law enforcement officials that Alaska is rapidly becoming a haven for drug dealers and abusers.

Legislation that will consolidate and strengthen Alaska drug laws was drafted by former U.S. Attorney, G. Kent Edwards, on behalf of and in conjunction with the Associations of the Alaska Peace Officers and the Chiefs of Police which have combined memberships of more than 650. This marks the first time that these associations have undertaken efforts of this kind, which underscores the seriousness of the problem.

Although there was great concern for the problem of drug abuse and obvious support for S.B. 518, last year both the problem and a solution were virtually ignored by the legislature.

The original Senate Bill 518 was reintroduced as S.B. 65 early this year. Strong citizen support and endorsement of this bill includes:

The Alaska Peace Officers Association
The Alaska Chiefs of Police
The Pharmaceutical Association
People for Better Education
The Executive Board of the Anchorage P.T.A.
The Executive Board of the Alaska Association of Secondary Principals
The Anchorage School Board
The Anchorage Chamber of Commerce
Anchorage Christian Schools
Major Church Denominations
Calista Corporation
Anchorage Women's Club

We urge our membership and others concerned about drug abuse and related problems of theft and violent crimes to contact their legislators and request a written commitment of support for the passage of S.B. 65 and the companion House Bill.

Name _____

Address _____

City _____ Zip _____

Governor Hammond, I want to know if you consider drug abuse a priority issue? Will you support Controlled Substances Act, S.B. 65 and the companion House Bill?

Send to: The Honorable Jay Hammond, Governor, State of Alaska
Pouch A, Juneau, Alaska 99811

About Drug Availability

According to Sargent Donald Trudeau, head of the Metropolitan Drug Enforcement Unit, the numbers of children age 15 years and under arrested on drug charges has doubled in one year. Seventy-five percent of these arrests were made in the Anchorage area.

Over one and three-quarter million dollars worth of illegal drugs were seized last year. Metro estimates that these seizures represent less than ten percent of the illicit drugs sold in Alaska. By this estimate, over \$17,000,000 worth of drugs were used by a drug culture consisting largely of young adults and teenagers.

Drug Availability Information

Drug magazines such as "High Times" are devoted to the promotion of drug use and drug products.

High Times includes national drug market quotes. Teenagers can purchase High Times at many locations in Anchorage including:

- Pay 'N Save
- All Book Caches
- Owik Stop Stores

The Metro Drug Unit also warns parents that drug pushers hang out **wherever kids gather**, e.g., skating rinks, skateboard rinks, movie houses, pool and recreation areas, parking lots, disco's, etc.

"High Times" magazine includes advertisements for "Baby Toker Shirts", showing a year old baby sitting on a pile of marijuana leaves, wearing a t-shirt with a marijuana leaf design, with a marijuana cigarette in his mouth. We are currently gathering material for an article on the correlation of drug abuse and child abuse.

High Times advertised "That Power Filtration Kit" purported to change marijuana to a dangerous highly concentrated hash oil. The Metro Drug Unit reports that these machines are highly unstable and have blown up in the hands of users.

High Times provides drug users with international drug market quotations.

Drug Paraphernalia

A term used to describe various objects used in the ingestion of drugs into the body. These objects are widely available and sold in stores where teenagers and young people shop. No law exists to prevent their sale.

We strongly advise that parents complain to managers and boycott stores and businesses that sell drug paraphernalia and drug magazines, and that they take whatever measures necessary to keep their children out of these stores.

*The Hall Closet, 2608 Spenard Rd.
North Star Head Shop, 5th Ave.,
(downtown)*

*Broschog's General Store,
555 W. Northern Lights Blvd.*

*The Black Market, 333 E. 5th Ave.
Cinema 1, 324 W. 4th Ave.*

*Rajah's, 3005 Spenard Rd. &
700 E. Benson (Country Village
Mall)*

*Wester's Fashions, 242 W. 5th
Ave.*

*Music Menu, 3801 Seward Hwy.
(University Center)*

Most tape stores

KIDS AND DRUGS

The initial hearings on the Board proposal were very encouraging. Solutions for this problem must be shared by the court system, the Municipality, the State Administration and the Legislature. Kids don't make drugs on the school campus. Somewhere along the line an adult pusher is involved. This individual will just move his distribution point to reach the kids in another way if he is not stopped.

I served as a student drug informant in an Anchorage high school several years ago. I was 15 years old at the time.

School administrations gave me money to purchase drugs from another student. This student was a well-known pusher.

As a result of this contact, the pusher was arrested with an assortment of drugs in his possession. Although he was already on probation, the court sent him back to school before the week was out. He went right back to selling drugs and was regarded as a hero by a lot of the kids because he had beaten the establishment.

I wonder if the courts are aware that these kids brag about being trained by adult suppliers on how to get sympathy if they get caught?

If more adults could see these pushers in action and how kids hang around and follow them because they have plenty of money and a good supply of drugs, maybe they would deal with pushers more realistically.

The drug culture is so prevalent that the majority of kids in the Anchorage school system will be affected in some way.

By the time kids get to junior high school the peer-group influence is so strong that many kids who don't use drugs pretend that they do. This pretense helps to create and sustain the drug culture and is only a short step into actual drug involvement for many.

Bad trips resulting from drug abuses are fairly common. Like the night I received a phone call from a friend who grew up in my neighborhood. He was in the middle of a bad trip and said he was going to kill himself before a giant spider could eat him alive. It took two hours to talk him down from a trip that he had created for himself by combining hash oil and pills.

Straight kids also have their own problems dealing with the drug orientated culture. The smart ones soon learn that high school is no place to show that you are actively against drugs.

My involvement as a narc resulted in two years of harassment, threats against myself and my girl, a beating and an ulcer that only gets better when I leave the state.

My experience is important only as an indicator of the depth of the problem. I have watched good people who have tried to stop the drug flow boxed into corners by bureaucracy and ignorance.

It is reassuring that people like Coach Larson and the Times Staff cared enough about kids to tell it like it is. Now the problem and the solution rightfully belong to everybody.

HOW IT HAPPENS

Ever wonder how People for Better Education or the Alert Newsletter get information printed months before these stories turn up on the front pages of the local papers?

Take, for instance, the piece we published last issue on school district procedures that cause "inflated" Iowa testing scores. This story originally came to us from a group of teachers. We researched the story for six months, interviewing other teachers.

We then contacted a few select members of administration to verify these facts. We were told that central administration so regulates these testing procedures that in order to insure that principals assure that teachers carry out the "pre-testing procedures" in each classroom, a portion of the new principals merit pay system is based on their performance.

This research indicated the solidity of our story but we wanted further substantiation. At this point, we contacted the first group of teachers who gave us the story originally. They provided People for Better Education with sample tests and teachers' orientation test material. We requested that they write a step-by-step procedure and the effects on the testing scores, which they did, and we published almost verbatim in the body of the story.

Each item printed is given this rigorous investigation and research.



AS A MAN THINKETH . . .

The choice of poetry and reading matter by individuals or groups of people provides understanding and insight into their thought processes and beliefs.

The Alaska Women's Resource is widely advertised as a woman's counseling service. If this poem reflects the philosophy of this organization, should your tax dollars be spent to support this activity? Alaska Women's Resource has received taxpayer funds through CETA and grants.

CARTER AND THE FEMINISTS

President Carter has been burned twice in the past year by the hot fires of radical feminism.

Both Midge Constansa and Bella Abzug reacted true to the fanaticism of the feminist cause when they chose to use their positions of presidential appointment to shaft the president.

Carter's first reaction to the "unladylike" behavior of Ms. Constansa and Ms. Abzug was probably surprise, the second reaction was obviously fury.

Those of us who have watched the growing threat of the radical feminist movement are not in the least surprised by these actions. The president is learning a lesson those of us who consider ourselves foes of the movement learned in the first round of battle.

By their actions and by their own definition, feminists consider themselves to be "in revolution." Their intent has been to wage a "no-holds barred" battle using federal and state tax dollars, people, laws and even the constitution against those they consider to be the "enemy."

Radical feminists will continue to use and abuse people at every opportunity until the state and national leaders realize that embracing the feminist cause is like snuggling up to a rattlesnake — the slightest movement in any direction could be both dangerous and embarrassing. If you don't believe it, just ask the president.

COMING OUT

by Jacqueline Lapidus

*The first person I loved was a woman
my passion for her lasted thirty years
and was not returned
she never let me suck her nipples
she kept secrets between her legs
she told me men would love me
for myself*

*she couldn't tell me ways to love myself
she didn't know*

*Mother, I would like to help you swim
back against the foaming river
to the source of our incestuous fears
but you're so tired out beyond
the breakers*

*and I am upstream among my
sisters spawning.*

The Lesbian Reader

This "Poem" is reprinted from the Alaska Women's Resource paper "The Sourceline."

MACOS DROPPED FROM ANCHORAGE SCHOOLS

Man: A Course of Study, raised the ire of parents and congressmen nationally and in Anchorage when it was discovered that the federal government paid seven million dollars to a former expert in psychological warfare for the creation of a course in anthropology, sensitivity training and behavior modification designed for ten year olds.

After four years in Anchorage classrooms, MACOS was phased out of the school district.

We hope it will be helpful to parents nationally who are still plagued with MACOS to find that the Anchorage schools have disposed of this material. It should be remembered that the Anchorage School District boasts the largest Eskimo population in the nation. Even under these circumstances, justification for MACOS could not hold up.

National parent groups wishing to obtain MACOS materials please mail \$5.00 for printing and mailing to:

People for Better Education, Inc.
P.O. Box 4-2850
Anchorage, Alaska 99509

People for Better Education

Action Committed Teens — A.C.T.

Surveys conducted in high schools nationwide consistently determine that peer pressure is the main reason students begin smoking, drinking, or initially become involved using drugs. How to effectively cope with this problem and counteract the pressure exerted by older students has long plagued parents and school administrators. For example:

A recent newspaper article reported on research conducted in Houston, Texas. Findings there indicated it is a waste of time to tell a ten-year old that smoking may cause lung cancer in 30 years. Students do not concern themselves in the least with the harmful effect of 20-30 years of smoking cigarettes. Fear is not an effective teaching tool!

Because of these findings, it was apparent that a different delivery system was necessary. A unique and rather refreshing approach was tried on the elementary school level in Anchorage. A teen panel was chosen from a nearby high school.

The panel presented a powerful message to 5th and 6th graders.

The interests of the teenagers on the panel represented a variety of activities ranging from student government to swing choir, from sky-diving to karate, from outstanding academic achievement to volleyball and basketball. The message was loud and clear — **get involved!** The panel told the elementary kids that with so many neat things to do there is a place and an interesting activity for each and every student. The younger kids paid rapt attention and asked searching and enthusiastic questions — the teenager panel responded with concern and interest.

One of the students knelt and, looking at the kids seated there on the gym floor, said "You're special. Each one of you is unique and different. Don't let anybody con you into hanging out with losers."

The initial programs sponsored by American Cancer Society were intended to encourage students to avoid the smoking habit by never starting. It became evident that smoking is but one symptom of the complex condition caused by peer pressure and a basic need for acceptance.

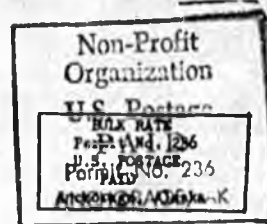
Recognizing the potential for high school students to deliver this message so often unheard when voiced by parents, People for Better Education will work to expand this program and organize teen panels from each high school so that elementary students throughout Anchorage can benefit from this unique experience.

Any parents who would like to participate in helping to organize this project in their schools, please call Alyce Hanley at 243-2538.

People For Better
Education, Inc.

P.O. BOX 4-2280 •
ANCHORAGE, ALASKA 99509

Glenn Hackney
Fouch V
Juneau, AK 99811



Paul -

4-5-79

Please take over to
Legal Services for CS to
be drawn up. You were at
meeting & know what is
to be deleted. THANKS

M.

Drug Laws

(consolidation
& strengthen-
ing of)

SENATE BILL NO. 65, by Senators Dankworth, Fahrenkamp, Bradley, Kerttula, Sumner, Hackney, Bennett, & Kelly. Purpose is to "consolidate the state's various drug laws into one comprehensive chapter," and "strengthen law enforcement's ability to more effectively combat those who are finding it attractive to engage in the illicit trafficking of controlled substances." (Identical to HB 794 and SB 518 both introduced last session.)

Introduced January 23 and referred to HESS and then to Judiciary.

OUTLINE OF SB 65 (REVISED)

- I. Six degrees of the crime of Promoting a Controlled Substance - placed in criminal code
 - A. First degree - 5-99 years
 1. delivery of schedule I (including heroin and opiates) to minor
 2. continuing criminal enterprise
 - B. Second degree - A felony - 0-20, 10 year presumptive for second, 15 year presumptive for third
 1. manufacture or delivery with intent to deliver I
 2. delivery of II or III (including cocaine, hashish and LSD) to minor
 - C. Third degree - B felony - 0-10, 4 year presumptive for second, 6 year presumptive for third
 1. delivery, manufacture, or possession with intent to deliver II or III (including hashish)
 2. delivery of IV, V or marijuana to minor
 3. possession by adult while on grounds of school of I or II.
 - D. Fourth degree - C felony - 0-5, 2 year presumptive for second, 3 year presumptive for third
 1. delivery, manufacture, or possession with intent to deliver IV, V, or marijuana, except less than one ounce for no remuneration
 2. possession of more than one gram of cocaine
 3. possession by adult while on grounds of school of III, IV, V or marijuana
 4. felony bootlegging (to minors, more than one person, prior misdemeanor bootlegging conviction)
 - E. Fifth degree - A misdemeanor - 0-1
 1. possession of II, III, IV or V or one gram or less of cocaine
 2. distribution of less than one ounce of marijuana for no remuneration
 3. bootlegging
 4. distribution of alcohol to minor
 - F. Sixth degree - B misdemeanor - 0-90 days
 1. display or use of marijuana in public
 2. possession of marijuana in immediate control while operating motor vehicle
 3. minor in possession of marijuana or liquor

II. Controlled Substances Act - placed in 17.30

- A. Standards for control are similar to federal act but include "relationship of use of substance to other criminal activity," i.e., addiction relates to crimes to support habit and fact that other crimes are committed by persons who traffic in substance.
- B. Uniform Controlled Substances Committee together with commissioner of health and social services have responsibility for adding, rescheduling and deleting controlled substances
 - 1. nine members, including pharmacist, director of public safety, attorney general, director of office of drug abuse
 - 2. regulations have delayed effective date - can be modified or repealed by law
- C. Schedules - test is danger or probable danger of substance
 - 1. I - heroin, opiates
 - 2. II - hallucinogens, cocaine, some depressants and stimulants
 - 3. III - hashish, hashish oil, depressants and some stimulants
 - 4. IV - depressants
 - 5. V - small amounts of codeine and opium in formulas having medicinal qualities
 - 6. VI - marijuana, intoxicating liquor and tobacco
- D. Registration requirements
 - 1. compliance with federal law entitles registration under act
 - 2. prescriptions and order forms must coincide with federal law
- E. Administrative and enforcement provisions

PENALTIES UNDER PROPOSED SUBSTITUTE FOR SB 65

Crime	I	II	III	IV	V	Marijuana	Intoxicating Liquor
Delivery to minors	Unclassified 5-99/\$75,000	A felony	A felony	B felony	B felony	B felony	A misdemeanor
Delivery, manufacture or possession with intent to manufacture or deliver	A felony	B felony	B felony	C felony	C felony	C felony - unless delivery for no remuneration which is an A misdemeanor	C felony for bootlegging to minors, more than one person, or prior misdemeanor conviction for bootlegging, otherwise, a misdemeanor.
Possession	C felony unless possession on school premises which is a B felony	A misdemeanor unless possession of more than one gram of cocaine which is a C felony or possession on school premises which is a B felony	A misdemeanor unless possession on school premises which is a C felony	A misdemeanor unless possession on school premises which is a C felony	A misdemeanor unless possession on school premises which is a C felony	C felony if possession on school premises B misdemeanor if used or displayed in public, possession while operating propelled vehicle, or possession by minor	B misdemeanor if minor in possession

SENTENCES

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

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, intoxicating liquor, tobacco

INTERNATIONAL INC.



TO: SENATE BESS COMMITTEE

Hackney

FROM: PETER CAVE, P. O. BOX 80573, FAIRBANKS 99707
PHONE: 479-2914

I URGE YOU NOT TO SUPPORT ANY PORTION OF SB95. I FIND IT
AGGRESSIVE TO PASS ANY LEGISLATION WHICH IS GOING TO
CREATE MORE CRIMINALS FOR THE STATE GOVERNMENT TO "GO AFTER".
THE MOOD OF THE ALASKAN PEOPLE IS FOR MORE LIBERALIZED
MARIJUAANA LAWS, NOT FOR MORE AGGRESSIVE ONES. STOP WASTING
THE TAXPAYERS' MONEY!

MR. CAVE CAN BE REACHED EARLY MORNINGS.
FOR NOTICE FOR