

CS FOR HOUSE BILL NO. 327(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/12/10

Referred: Finance

Sponsor(s): REPRESENTATIVE JOHANSEN

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the scheduling and rescheduling of certain substances as controlled**
2 **substances and to the sale of products containing dextromethorphan."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 11.71.150(b) is amended to read:

5 (b) Schedule IIA includes, unless specifically excepted or unless listed in
6 another schedule, any material, compound, mixture, or preparation **that** [WHICH]
7 contains any quantity of the following hallucinogenic substances, or **that** [WHICH]
8 contains any of its salts, isomers, whether optical, position, or geometric, or salts of
9 isomers whenever the existence of these salts, isomers, or salts of isomers is possible
10 within the specific chemical designation:

11 (1) 4-bromo-2, 5-dimethoxy-amphetamine, also known as 4-bromo-2,
12 5-dimethoxy-a-methylphenethylamine and 4-bromo-2, DMA;

13 (2) 2,5-dimethoxyamphetamine, also known as 2,5-dimethoxy-a-
14 methylphenethylamine and 2,5-DMA;

- 1 (3) 4-methoxyamphetamine, also known as 4-methoxy-a-
 2 methylphenethylamine and paramethoxyamphetamine, PMA;
- 3 (4) 5-methoxy-3,4-methylenedioxy-amphetamine;
- 4 (5) 4-methyl-2,5-dimethoxy-amphetamine, also known as 4-methyl-
 5 2,5-dimethoxy-a-methylphenethylamine;
- 6 (6) 3,4-methylenedioxy amphetamine;
- 7 (7) 3,4,5-trimethoxy amphetamine;
- 8 (8) bufotenine, also known as 3-(B-dimethylaminoethyl)-5-
 9 hydroxyindole, 3-(2-dimethylaminoethyl)-5-indolol, N, N-dimethylserotonin; 5-
 10 hydroxy-N, N-dimethyltryptamine, and mappine;
- 11 (9) diethyltryptamine, also known as N, N-diethyltryptamine and DET;
- 12 (10) dimethyltryptamine, also known as DMT;
- 13 (11) ibogaine, also known as 7-ethyl-6, 6B, 7, 8, 9, 10, 12, 13-
 14 octahydro-2-methoxy-6, 9-methano-5H-pyrido [1',2': 1, 2] azepino [5, 4-b] indole and
 15 tabernanthe iboga;
- 16 (12) lysergic acid diethylamide, also known as LSD;
- 17 (13) mescaline;
- 18 (14) n-ethyl-3-piperidyl benzilate;
- 19 (15) n-methyl-3-piperidyl benzilate;
- 20 (16) peyote;
- 21 (17) analogs of phencyclidine (PCP), including:
- 22 (A) ethylamine analog, also known by some trade or other
 23 names as follows: N-ethyl-1-phenylcyclohexylamine (1-phenylcyclohexyl)-
 24 ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;
- 25 (B) pyrrolidine analog, also known by some trade or other
 26 names as follows: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPY, PHP;
- 27 (C) thiophene analog, also known as 1-[1-(2-thienyl)
 28 cyclohexyl]piperidine and 2-thienyl analog of phencyclidine, TPCP, and TCP;
- 29 (D) 1-[1-(2-thienyl)-cyclohexyl]-pyrrolidine, also known as
 30 TCPy;
- 31 (18) psilocybine;

1 (19) psilocyn;

2 (20) 3,4-methylenedioxymethamphetamine (MDMA);

3 **(21) Salvia divinorum;**

4 **(22) Salvinorin A (Divinorin A).**

5 * **Sec. 2.** AS 11.71.160 is amended by adding a new subsection to read:

6 (g) Schedule III A includes any material, compound, mixture, or preparation
7 of the narcotic drug buprenorphine or its salts.

8 * **Sec. 3.** AS 11.71.170(b) is amended to read:

9 (b) Schedule IVA includes, unless specifically excepted or unless listed in
10 another schedule, any material, compound, mixture, or preparation which contains any
11 quantity of the following substances, including their salts, isomers and salts of isomers
12 whenever the existence of these salts, isomers, and salts of isomers is possible within
13 the specific chemical designation:

14 (1) barbital;

15 (2) chloral betaine;

16 (3) chloral hydrate;

17 (4) chlordiazepoxide;

18 (5) clonazepam;

19 (6) clorazepate;

20 (7) diazepam;

21 (8) ethchlorvynol;

22 (9) ethinamate;

23 (10) flurazepam;

24 (11) **lorazepam** [LORAZEPAN];

25 (12) mebutamate;

26 (13) meprobamate;

27 (14) methohexital;

28 (15) methylphenobarbital, also known as mephobarbital;

29 (16) oxazepam;

30 (17) paraldehyde;

31 (18) petrichloral;

- 1 (19) phenobarbital;
 2 (20) prazepam;
 3 (21) alprazolam;
 4 (22) halazepam;
 5 (23) temazepam;
 6 (24) triazolam;
 7 (25) midazolam;
 8 (26) quazepam;
 9 (27) flunitrazepam;
 10 (28) [REPEALED
 11 (29)] ketamine hydrochloride.

12 * **Sec. 4.** AS 17.30 is amended by adding a new section to article 1 to read:

13 **Sec. 17.30.095. Sale of products containing dextromethorphan.** (a) A
 14 person may not sell a product containing dextromethorphan to another person unless

15 (1) the person checks a government-issued photo identification and
 16 determines the person is 18 years of age or older; or

17 (2) the person is under the age of 18 and

18 (A) supplies proof that the person

19 (i) has had the disabilities of minority removed under
 20 AS 09.55.590;

21 (ii) is married; or

22 (iii) is the parent of a child; or

23 (B) has a prescription for the product issued by a licensed
 24 practitioner.

25 (b) A person who sells products containing dextromethorphan must clearly
 26 mark the products as for sale only to persons 18 years of age or older or by
 27 prescription or limit the access of the public to the product by its placement behind a
 28 counter or by similar means.

29 (c) A seller, retailer, or vendor does not violate this section if the seller,
 30 retailer, or vendor proves by a preponderance of the evidence that the seller, retailer,
 31 or vendor

1 (1) exercised the degree of care of a reasonable employer to ensure
2 compliance with (a) - (c) of this section; and

3 (2) determined that the employees and agents of the seller, retailer, or
4 vendor had been notified of the requirements of this section by

5 (A) securing each employee's or agent's written
6 acknowledgment of notification of those requirements; or

7 (B) making another appropriate determination.

8 (d) A person who recklessly sells a product in violation of (a) of this section or
9 recklessly fails to mark or restrict access as required by (b) of this section is guilty of a
10 class B misdemeanor.

11 * **Sec. 5.** AS 11.71.180(d) is repealed.

12 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 APPLICABILITY. AS 11.71.170(b)(11), as amended by sec. 3 of this Act, corrects a
15 typographical error in the spelling of "lorazepam" that has existed since its adoption in
16 Chapter 45, SLA 1982. AS 11.71.170(b)(11), as amended by sec. 3 of this Act, applies to
17 crimes committed before, on, or after the effective date of this Act.