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29th Alaska State Legislature



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Senate Judiciary Committee

CS for SENATE BILL 30(JUD)

SECTIONAL ANALYSIS

Overview

Sections 1 – 44 are conforming amendments

Sections 45 – 49 create new crimes associated with the new marijuana industry

Sections 50 – 52 create new crimes associated with the misconduct of marijuana

Sections 53 – 56 are conforming amendments

Sections 57 – 78 are conforming amendments dealing with drug testing in the workplace and employment.

Sections 79 – 126 are conforming amendments dealing with drivers licenses and operating motor vehicles while under the influence of marijuana

Sections 127-128 creates new sections dealing with enforcement and municipal control

Sections 129-138 are conforming amendments concerning landlords and tenants

Sections 139-159 are conforming amendments dealing with substance abuse, testing and treatment.

Section 160-161 repealed sections of law and effective date.

Section 1 Amends AS 02.30.030(b) **Operation of an aircraft under the influence.**

A person cannot operate an aircraft with a crew member or passenger who is intoxicated.

Adds “marijuana.”

Section 2 Amends AS 04.16.050(e) **Possession, control, or consumption by a person under the age of 21.**

Requires the court to prohibit the use of alcohol as a condition of probation.

Adds “marijuana.”

Section 3 Amends AS 05.45.100(c) **Duties and responsibilities of skiers.**

Prohibiting the use of a tramway, ski slope or trail under the influence.

Adds “marijuana.”

Section 4 Amends AS 08.68.270 **Grounds for denial, suspension, or revocation.**

Grounds for denial, suspension, or revocation of a nursing license for habitual use of alcohol.
Adds “marijuana.”

Section 5 Amends AS 08.72.272 **Prohibited prescriptions in the practice of optometry.**

Removes VIA from the list of controlled substances an optometrist is prohibited from prescribing.

Section 6 Amends AS 08.76.170(a) **Customer and transaction limitations**

Prohibiting a pawnbroker from entering into a transaction with someone who is impaired.
Adds “marijuana.”

Section 7 Amends AS 09.50.170 **Abatement of places used for certain acts**

Prohibits illegal activity involving alcoholic beverages, gambling, controlled substances and prostitution.

Adds “marijuana “and “illegal activity involving marijuana.”

Section 8 Amends AS 09.60.070(c) **Attorney fees for victims of serious criminal offenses**

The insurer is liable in cases of a serious criminal offense. The list of these types of offenses includes driving under the influence of alcohol. Driving under the influence of “marijuana” is added.

Section 9 Amends AS 09.65.210 **Damages resulting from commission of a felony while under the influence of alcohol or drugs.**

Prohibits a person who is operating a vehicle under the influence from collecting damages in certain circumstances.

Adds “marijuana”

Sections 10 and 11 Amends AS 09.65.315(a) **Damages resulting from driving the vehicle of a person under the influence of alcoholic beverages.**

This statute excludes a person from personal liability beyond the limits of an applicable insurance policy for damages resulting from a motor vehicle accident, if the owner of the vehicle was impaired.

Adds “marijuana”

Section 12 Amends AS 09.65.320(b) **Nonrecovery for damages for economic losses resulting from operating a motor vehicle while uninsured.**

Prohibits recovery of noneconomic losses in cases of drivers under the influence.

Adds “marijuana”

Section 13 Amends AS 11.41.110(a) **Murder in the second degree.**

Relating to misconduct in the second degree of a controlled substance. Line 17, removes the reference to 11.71.040(a)(2) which is repealed in this draft (noted on page 91, section 160.)

Section 14 Amends AS 11.41.150 (a) **Murder of an unborn child.**

Line 18, removing the reference to 11.71.040(a)(2) which is repealed in this draft (noted on page 91, section 160.)

Section 15 Amends AS 11.61.200(a) **Misconduct involving weapons in the third degree.**

In subsection (4) knowingly sells or transfers a weapon to someone under the influence of alcohol or a controlled substance

In subsection (7) A violation of Crimes of trespass in the first degree and during the violation possesses a firearm and under the influence of alcohol or a controlled substance

Adds “marijuana” in subsections (4) and (7)

Section 16 Amends AS 11.61.210(a) **Misconduct involving weapons in the fourth degree crimes.**

In subsection (1) it is misconduct to possess a firearm or have a firearm inside the vehicle when impaired and under the influence of alcohol or a controlled substance

Adds “marijuana” in subsection (1)

Section 17 Amends AS 11.71.030(a) **Misconduct involving a controlled substance in the third degree.**

Line 29 in subsection (2) removes reference to VIA; that conduct is covered in sections 50-52.

Section 18 Amends AS 11.71.040(a) this section clarifies the repeals of AS 11.71.040(a)(2) and AS 11.71.040(F) noted on page 91, section 160. In subsection (3) on line 13, removes reference to VIA.

Section 19 and 20 Amends AS 11.71.120(a) by removing 11.71.190 (Schedule VIA) from the drugs reviewed by the Controlled Substances Advisory Committee.

Section 21 Amends AS 11.810(a), which defines Schedule VA substances, by removing reference to 11.71.190 (Schedule VIA)

Section 22 Amends AS 11.71.311(a) **Restriction on prosecution for certain persons in connection with a drug overdose.**

In cases which someone seeks medical or law enforcement assistance in cases of an overdose of a controlled substance they are prevented from being prosecution under this section.

Adds “marijuana”

Section 23 Amends AS 11.71.900(4) **Definitions**

Removes 11.71.190 (Schedule VIA) from the definition of “controlled substances.”

Section 24 Amends AS 11.71.900(13) **Definitions**

Adds “the growing of marijuana for personal use is not manufacturing” to the definition of “manufacture.”

Section 25 Amends 11.81.900(b)(34) **Definitions**

Adds “marijuana” to the definition of “intoxicated.”

Sections 26 Amends AS 12.30.011(b) to add to the conditions that a judicial officer may impose on a person who is released on bail. The judicial officer can (9) prohibit the person from using or possessing marijuana; (18) require them to enroll in the 24/7 testing program; and/or (19) prohibit them from entering a marijuana retail store, as additional conditions of release.

Section 27 Amends 12.30.016, relating to release on bail in particular types of cases, by adding a new subsection (g) granting a judge in a case charging violations of the new marijuana offenses the ability to prohibit the person from using and/or possessing marijuana, require them to submit to searches without a warrant, require them to submit to drug testing, require them to enroll in the 24/7 testing program, and prohibiting them from entering a marijuana retail store.

Section 28 Provides the definitions for “marijuana,” “marijuana accessories,” and “marijuana products” in AS 12.30.080 are provided in AS 17.38.900.

Section 29 Amends AS 12.45.084(a) **Laboratory report of a controlled substance.**
Requirements for laboratory test requirements for DPS and law enforcement.
Adds “marijuana.”

Section 30 Amends AS 12.55.015 **Fixing eligibility for discretionary parole at sentences.**
(a) relating to sentencing by allowing a court to order a defendant to refrain from using marijuana as a probation condition, just as they can currently order a defendant to refrain from consuming alcohol. (13)

Section 31 Amends AS 12.55.015(j) **Fixing eligibility for discretionary parole at sentences.**
To clarify that the courts are not limited or restricted from ordering restrictions on the use of marijuana at the time of sentencing or probation, just as they are not limited in their orders about the consumption of alcohol.

Section 32 Amends AS 12.55.135(j) **Sentences of imprisonment for misdemeanors.**
Relating to bail schedules. This section was added in error and will be removed in the next draft.

Section 33 Amends AS 12.55.15 (c) (30) **Factors in aggravation and mitigation.**
This statute relates to factors in aggravation and mitigation, and includes the use of controlled substances and alcohol as a factor in a crime if the substance was used incapacitate the victim.
Adds “marijuana”

Section 34 Amends AS 12.55.155 (c) (5) **Factors in aggravation and mitigation.**
This statute relates to factors in aggravation and mitigation, and includes the use of controlled substances and alcohol as a factor in a crime if the substance was used incapacitate the victim.
Adds “marijuana”

Section 35 Amends AS 12.55.155(g) **Factors in aggravation and mitigation.**
This statute relates to factors in aggravation and mitigation, and includes the use of controlled substances and alcohol as a factor in a crime if the substance was used incapacitate the victim-
this section provides this would not be used in cases when the substances were taken voluntarily.

Adds “marijuana”

Section 36 Adds a new paragraph to AS 12.55.185 **Definitions**
Adds “marijuana” with the definition provided in AS 17.38.900.

Section 37 Amends AS 17.21.010(b) relating to illicit synthetic drugs by adding marijuana in places that reference controlled substances subsections (B); (C); and (E.)

Section 38 Amends AS 17.21.090(3) **Definitions**
Relating to the definitions of synthetic drug to include marijuana in places referencing controlled substances subsections (B) and (C.)

Section 39 Amends AS 17.30.070(c) relating to the classification of controlled substances, by removing AS 11.71.900 (marijuana.)

Section 40 Amends AS 17.30.080(a) relating to the federal Controlled Substances Act and prescribing doctors, by removing AS 11.71.900 (marijuana.)

Section 41 Amends AS 17.30.080(b) relating to the federal Controlled Substances Act and prescribing doctors.
Removes AS 11.71.900 (marijuana.)

Section 42 Amends AS 17.30.140 relating to education and research. This section directs HSS to include alcohol and marijuana in the department’s educational programs to prevent and deter substance abuse.

Section 43 Amends AS 17.37.030 Relating to medical use of marijuana. Provides an affirmative defense for registered caregivers charged with offenses related to medical marijuana.

Section 44 Amends AS 17.37.070(a) Concerning the definition of medical use of marijuana

Section 45 Amends AS 17.38.070(a) Lawful operation of marijuana - related facilities.
Establishes that a person 21 years of age or older may own, operate, be an agent of or be employed by a retail marijuana store with a valid registration and perform all of the related duties and activities and not be prosecuted for it or have it be a basis for seizure or forfeiture. Language from Ballot Measure 2 with the exception of the phrase: “NOTWITHSTANDING ANY OTHER PROVISION OF LAW” and other stylistic clarifying changes.

Section 46 Amends AS 17.38.070(b) Lawful operation of marijuana – related facilities
Establishes that a person 21 years of age or older may own, operate, be an agent of or be employed by a marijuana cultivation facility with a valid registration and perform all of the related duties and activities and not be prosecuted for it or have it be a basis for seizure or forfeiture. Language from Ballot Measure 2 with the exception of the phrase: “NOTWITHSTANDING ANY OTHER PROVISION OF LAW” and other stylistic clarifying changes.

Section 47 Amends AS 17.38.070(c) Lawful operation of marijuana – related facilities
Establishes that a person 21 years of age or older may own, operate, be an agent of or be employed by a marijuana product manufacturing facility with a valid registration and perform all of the related duties and activities and not be prosecuted for it or have it be a basis for seizure or forfeiture. Language from Ballot Measure 2 with the exception of the phrase: “NOTWITHSTANDING ANY OTHER PROVISION OF LAW” and other stylistic clarifying changes.

Section 48 Amends AS 17.38.070(d) Lawful operation of marijuana – related facilities
Establishes that a person 21 years of age or older may own, operate, be an agent of or be employed by a marijuana testing facility with a valid registration and perform all of the related duties and activities and not be prosecuted for it or have it be a basis for seizure or forfeiture. Language from Ballot Measure 2 with the exception of the phrase: “NOTWITHSTANDING ANY OTHER PROVISION OF LAW” and other stylistic clarifying changes.

Section 49 Amends AS 17.38.070(e) Lawful operation of marijuana – related facilities
Relating to licensed businesses that operate in accordance with the laws cannot be subject to forfeiture or seizure. Language from Ballot Measure 2 with the exception of the phrase: “NOTWITHSTANDING ANY OTHER PROVISION OF LAW” and other stylistic clarifying changes.

Section 50

AS 17.38.200. Misconduct involving marijuana in the first degree.

A person commits the crime of MIM in the 1st degree, which is a class A misdemeanor, if they:

- Possess marijuana with an aggregate weight of more than four ounces
- Possess 25+ plants
- Manufacture or deliver more than one ounce.
- Deliver any amount to a person under 21 years of age, who is not a patient registered under AS 17.37 (medical marijuana).
- Manufactures “butane hash” without a license.
- Is a marijuana establishment and allows for a person under the age of 21 to enter and remain in the facility; allows the use of marijuana; or delivers marijuana to a person under the age of 21.

AS 17.38.210. Misconduct involving marijuana in the second degree.

A person commits the crime of MIM in the 2nd degree, which is a class B misdemeanor, if they are:

- Possess 7-24 plants
- An unlicensed and delivers more than 1 ounce of marijuana and six immature plants, one ounce or less for remuneration, or up to 6 immature plants for remuneration.
- Sells any amount of marijuana

AS 17.38.220. Misconduct involving marijuana in the third degree.

A person commits the crime of MIM in the 3rd degree, which is a violation, if they:

- Manufacture marijuana in a location where the plants are in public view, not secure from unauthorized access, or on property not in possession of the person or without consent of the property owner.
- Is under 21 and attempts to purchase marijuana with false identification, or otherwise misrepresents the person's age.
- Is under 18 and possesses, uses, or displays one ounce or less of marijuana.
- Possesses 1.01 ounces up to four ounces.

AS 17.38.230. Misconduct involving marijuana in the fourth degree.

A person commits the crime of MIM in the 4th degree, which is a violation, if they:

- Is over 21 and uses any amount of marijuana in a public place
- Is between 18-20 and uses, displays, or possesses 1 ounce or less of marijuana.

AS 17.38.240. Proof of registration to be exhibited on demand; penalty.

Requires a licensee to have a copy of their marijuana license at all times when transporting more than one ounce of marijuana, and shall present the license on demand by a peace officer.

AS 17.38.250. Bail forfeiture for certain offenses.

Requires the court to make a bail schedule allowing defendants to pay the fine for violations without a court appearance for MIM 3rd (AS 17.38.220) and MIM 4th (AS 17.38.230.)

AS 17.38.260. Aggregate weight of live marijuana plants.

For purposes of calculating the aggregate weight of a marijuana plant, the weight shall be 1/6th the weight of the plant after the roots have been removed.

AS 17.38.270. Rehabilitation.

A person convicted of misconduct relating to the use of marijuana may be committed to the Department of Corrections for treatment for not more than one year.

AS 17.38.280. Restriction on prosecution for certain persons in connection with a marijuana overdose.

A person may not be prosecuted for certain marijuana crimes if that person, in good faith, sought medical or law enforcement assistance for themselves or another person who is experiencing a marijuana overdose.

AS 17.38.290. Forfeitures and seizures.

Provides and establishes a process for forfeiture of marijuana and other assets upon violation of AS 17.38.200 – 17.38.230.

AS 17.38.300. Affirmative defense to a prosecution under AS 17.38.200-17.38.230; medical use of marijuana.

Establishes an affirmative defense in Title 17 for certain conduct by medical marijuana patients and caregivers.

Section 51 Amends AS 17.38.900(6) Definitions

Provides the definition of marijuana.

Section 52 Adds a new section to AS 17.38.900 **Definitions**

Adds definitions for criminal negligence, deliver(y), knowingly, manufacture, marijuana concentrate, and public place.

Section 53 Amends AS 18.66.100(c) **Protective orders: eligible petitioners; relief**

Allows for protective orders to require the respondent to participate in marijuana abuse treatment programs

Sections 54; 55 Amends AS 18.67.080; AS 18.67.101 **Violent Crimes Compensation.**

Prohibits the violent crimes compensation board from denying a victim based on their use of marijuana or from being injured in a vehicle operated by someone under the influence of marijuana

Section 56 Amends AS 21.42.365(b) **Coverage for treatment of alcoholism or drug abuse.**

For insurance purposes defines drug abuse to include marijuana dependency

Section 57 Amends AS 23.10.600(a) **Employer protection from litigation.**

Prohibits legal actions against an employer for drug testing, and the results of the drug testing. Adds marijuana and marijuana impairment testing.

Section 58 Amends AS 23.10.600(b) **Employer protection from litigation.**

Creates an exception in cases when an employer tampers with a test or creates a false positive. Adds marijuana.

Section 59 Amends AS 23.10.600(d) **Employer protection from litigation.**

Prohibits legal actions against an employer for a false negative test. Adds marijuana impairment testing.

Section 60 Amends AS 23.10.600(e) **Employer protection from litigation.**

Prohibits action against an employer for not implementing drug testing or prevention programs. Adds marijuana impairment testing and marijuana.

Section 61 Amends AS 23.10.610 **Limits on causes of action for disclosures.**

Prohibits action against an employer for defamation, slander or libel due to their use of a drug or alcohol test. Adds marijuana and marijuana impairment testing.

Section 62 Amends AS 23.10.620(a) **Employer policy.**

Prohibits employers from conducting drug and alcohol testing without first adopting a written policy and properly informing employees. Adds marijuana.

Section 63 Amends AS 23.10.620(b) **Employer policy**

Describes the requirements for a written policy on drug testing. Adds marijuana.

Section 64 Amends AS 23.10.620(c) **Employer policy**

Allows employers to test for drug and alcohol testing and investigation. Adds marijuana impairment testing.

Section 65 Amends AS 23.10.620(e) **Employer policy**

Describes the parameters of employer drug and alcohol testing. Adds marijuana.

Section 66 Amends AS 23.10.620(f) **Employer policy**

Clarifies the statute requirements for alcohol and drug impairment testing are not in an effort to hinder testing by employers. Adds marijuana impairment testing.

Section 67 Amends AS 23.10.630(a) **Collection of samples**

Allows employers to test potential employees for alcohol impairment. Adds marijuana.

Section 68 Amends AS 23.10.630(c) **Collection of samples**

Describes how alcohol impairment testing should be scheduled. Adds marijuana impairment testing.

Section 69 Amends AS 23.10.630(d) **Collection of samples**

Requires employers to pay the entire cost for alcohol testing. Adds “marijuana impairment testing.”

Section 70 Amends AS 23.10.640(a) **Testing procedures.**

Adds “marijuana impairment”.

Section 71 Amends AS 23.10.645(a) **On-site testing.**

Adds “marijuana” to the list of substances an employer can include in its on-site testing policy.

Section 72 Amends AS 23.10.650 **Training of test administrators.**

Adds “marijuana” to the list of substances included in the certified test administrator training program.

Section 73 Amends AS 23.10.655 **Disciplinary procedures.**

Includes “marijuana impairment testing” to the list of tests that permit an employer to take adverse employment action if there is a positive drug test and it violates the employer’s written policy.

Section 74 Amends AS 23.10.660 **Confidentiality of results; access to records.**

Includes “marijuana impairment test” to the list of tests that are privileged and confidential, and may only be disclosed to the employee in question, the individuals designated by the employer to evaluate test results, or if the disclosure is ordered by a court or governmental agency.

Section 75 Amends AS 23.10.670 **Effect of mandatory testing obligations.**

Adds “marijuana impairment testing” to provide that an employer who is obligated by state or federal law to have drug and alcohol testing shall receive the full protections from litigation contained within AS 23-10.600 – 23.10.699.

Section 76 Amends AS 23.10.699 **Definitions.**

“Marijuana” has the meaning given in AS 17.38.900.

Section 77 Amends AS 23.30.120(a) Presumptions.

Provides that in a claim for worker compensation, it is presumed, in the absence of substantial evidence to the contrary that the injury was not caused by intoxication related to alcohol or marijuana. Drafting error, this section will be removed.

Section 78 Amends AS 23.30.235 Cases in which no compensation is payable.

Worker compensation. Drafting error, this section will be removed.

Section 79 Amends AS 25.20.061 Visitation in proceedings involving domestic violence.

Includes “marijuana” in the list of substances a domestic violence perpetrator shall abstain from possessing or consuming during parent/child visitation and 24 hours prior.

Section 80 Amends AS 28.01.010(j) Provisions uniform throughout state.

Pertaining to the requirement that ignition interlock devices must be applied to all DUI crimes, Includes “marijuana” in the list of substances that could incur DUI.

Section 81 Amends AS 28.15.031(b) Persons not to be licensed.

Adds “marijuana” to the list of substances that, if used habitually to the degree that the person is incapable of safely driving, precludes the department from issuing a driver’s license to that person.

Section 82 Amends AS 28.15.046(d) Licensing of school bus drivers.

Pertaining to disqualifications from being issued a school bus driver’s license, adds “marijuana” to the list of substances that can incur a DUI. Mainly conforming language to the DUI statutes.

Section 83 AS 28.15.046(k) Licensing of school bus drivers.

Pertaining to persons permitted to receive a school bus driver’s license, adds “marijuana” to the list of substances that can incur a DUI.

Section 84 Amends AS 28.15.081(a) Examination of applicants.

Applicants for a driver’s license must undergo a test of the applicant’s knowledge of the laws and effects of list of substances. Adds “marijuana” to the list of substances contained in the test.

Section 85 Amends AS 28.15.085 Alcohol and drug awareness and safety examination of applicants.

Pertaining to a person applying for a new license after the previous license has expired, adds “marijuana” to the list of substances.

Section 86 Amends AS 28.15.165(c) Administrative revocations and disqualifications resulting from chemical sobriety tests and refusals to submit to tests.

Adds “marijuana” to the list of substances that can incur a DUI.

Section 87 Amends AS 28.15.166(g) Administrative review of revocation.

Adds “marijuana” to the list of substances that can incur a DUI.

Section 88 Amends AS 28.15.176. **Administrative revocation of license** to drive for consumption or possession of alcohol, marijuana, or drugs.

Adds “marijuana” to the section title. Drafting error, this section will be removed.

Section 89 Amends AS 28.15.181(a) **Court suspensions, revocations, and limitations.**

Adds “marijuana” to the list of substances that can incur a DUI or refusal, which leads to immediate license revocation, if convicted.

Section 90 Amends AS 28.15.183(a) **Administrative revocation of license to drive.**

Includes “marijuana” into the administrative license revocation statutes as it relates to the crime of a minor operating a vehicle after consuming alcohol.

Section 91 Amends AS 28.15.183(h) **Administrative revocation of license to drive.**

Adds “marijuana” and “marijuana abuse treatment” to ensure that the juvenile ASAP program, if required before issuing a new license, is waived if marijuana treatment is unavailable where that person resides.

Section 92 Amends AS 28.15.184(g) **Administrative review of revocation of a minor’s license.**

Adds “marijuana” to a provision referencing the crime of a minor operating a vehicle after consuming alcohol.

Section 93 Amends AS 28.15.191(e) **Court and parole board reports to department; surrender of license or identification card.**

Adds “marijuana” to provide that the court shall report to the department every legal change of name of any person considered to be afflicted with a mental disability or is an habitual user of alcohol, marijuana, or another drug.

Section 94 Amends AS 28.15.191(g) **Court and parole board reports to department; surrender of license or identification card.**

Adds “marijuana” to the section of law that requires the court to surrender someone’s ID card, enable the court to order a person from refraining from marijuana consumption, in the same fashion as alcohol, as part of a sentence for conviction under 28.35.030, 28.35.032, or some other similar thing.

Section 95 Amends AS 28.15.191(h) **Court and parole board reports to department; surrender of license or identification card.**

Adds “marijuana” to a statute relating to conditions of parole and notification.

Section 96 Amends AS 28.15.271(e) **Fees.**

Adds “marijuana” to a statute relating to the issuance of new licenses to replace a cancelled license due to being restricted from purchasing alcohol. If the person has been ordered to refrain from consuming alcoholic beverages under Title 4.

Section 97 Amends AS 28.20.230(c) **Proof of financial responsibility for the future.**

Adds “marijuana” to the list of substances that can incur a DUI or refusal charge.

Section 98 Amends AS 28.33.030 **Operating a commercial motor vehicle**

Operating a motor vehicle while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance.

Adds “marijuana”

Section 99 Amends AS 28.33.031(a) **Implied consent for operators of commercial motor vehicles.**

Adds “marijuana” to statutes relating to DUI and refusal.

Section 100 Amends AS 28.33.130(a) **Out-of-service orders.**

Adds “marijuana” to the list of substances that are prohibited from being consumed in the past four hours while operating a commercial motor vehicle. This also includes possession of marijuana, unless the marijuana is manifested and documented as part of an authorized shipment of cargo.

Section 101 Amends AS 28.33.140(a) **Conviction resulting in disqualification from driving commercial vehicle.**

Adds “marijuana” to offenses that are grounds for immediate disqualification from driving a commercial motor vehicle.

Section 102 Amends AS 28.33.190 **Definitions.**

Defines “marijuana” as having the same meaning given in AS 17.38.900.

Section 103 Amends AS 28.35.028(h)(1) **Court-ordered treatment.**

Includes “marijuana” into the definitions of “court-ordered treatment program” and “treatment plan”.

Section 104 Amends AS 28.35.029(a) **Open container.**

Provides that a person may not drive a motor vehicle when there is an open marijuana container in the passenger compartment.

Section 105 Amends AS 28.35.029(b) **Open container.**

Creates exceptions to an open marijuana container being in the vehicle, such as when the container is in the trunk of the vehicle, behind the last upright seat in certain vehicles, behind a solid partition that separates the driver from the passengers, or certain types of passenger vehicles.

Section 106 Amends AS 28.35.029(c) **Open container.**

Defines “open marijuana container” as a receptacle that contains marijuana and is open and there is evidence that marijuana has been consumed in the vehicle.

Section 107 Amends AS 28.35.030(a) **Operating a vehicle, aircraft or watercraft while under the influence of an alcoholic beverage, inhalant, or controlled substance.**

Adds “marijuana” to the DUI statutes.

Section 108 Amends AS 28.35.030(b) **Operating a vehicle, aircraft or watercraft while under the influence of an alcoholic beverage, inhalant, or controlled substance.**

Adds “marijuana” to the DUI statutes.

Section 109 Amends AS 28.35.031(a) **Implied consent**

Adds “marijuana” to the list of substances associated with DUI. A person is considered to have given consent to a chemical test if lawfully arrested for driving impaired on those substances.

Section 110 Amends AS 28.35.031(g) **Implied consent.**

Adds “marijuana” to the implied consent statute. With probable cause, consent is implied to test blood or urine for the presence of marijuana if the person is involved in a motor vehicle accident that causes death or serious physical injury to another person.

Section 111 Amends AS 28.35.032(a) **Refusal to submit to chemical test.**

Adds “marijuana” to the refusal statutes.

Section 112 Amends AS 28.35.032(e) **Refusal to submit to chemical test.**

Adds “marijuana” to the refusal statutes.

Section 113 Amends AS 28.35.033(a) **Presumptions and chemical analysis of breath or blood.**

Adds “marijuana” to the list of substances associated with DUI statutes, and changes

Section 114 Amends AS 28.35.035(a) **Administration of chemical tests without consent.**

Adds “marijuana” to the statute providing that a chemical test can be administered without consent if the offender causes death or physical injury to another person.

Section 115 Amends AS 28.35.035(b) **Administration of chemical tests without consent.**

Adds “marijuana” to the statute that an unconscious person who is incapable of refusal is considered not to have withdrawn consent and a chemical test may be administered.

Section 112 Amends AS 28.35.032(e) **Refusal to submit to chemical test.**

To conform to the removal of marijuana from inclusion under the definition of a “controlled substance” by separately identifying “marijuana” as a substance falling within the purview of the subsection.

Section 113 Amends AS 28.35.033(a) **Presumptions and chemical analysis of breath or blood.**

To conform to the removal of marijuana from inclusion under the definition of a “controlled substance” by separately identifying “marijuana” as a substance falling within the purview of the subsection; and makes a stylistic change by amending AS 28.35.033(a)(1), (2), and (3) by substituting the new term “for each” for the existing term “per” with respect to measuring the ratio of alcohol present in a person’s blood to that person’s blood volume and with respect to measuring the ratio of alcohol present in a person’s breath to that person’s breath volume.

Section 114 Amends AS 28.35.035(a) **Administration of chemical tests without consent.**

To conform to the removal of marijuana from inclusion under the definition of a “controlled substance” by separately identifying “marijuana” as a substance falling within the purview of the subsection.

Section 115 Amends AS 28.35.035(b) **Administration of chemical tests without consent.**

To conform to the removal of marijuana from inclusion under the definition of a “controlled substance” by separately identifying “marijuana” as a substance falling within the purview of the subsection.

Section 116 Amends AS 28.35.039(1) **Definitions: Alcohol safety and controlled substances**

to include marijuana as a substance coming within the purview of the subsection (“alcohol safety action program”).

Section 117 Amends AS 28.35.039 **Definitions: Marijuana**

Added a new paragraph giving “marijuana” the meaning set forth in AS 17.38.900.

Section 118 Amends AS 28.35.280(a) **Minor operating a vehicle after consuming alcohol.**

Adds the consumption of marijuana to the offense of a minor operating a vehicle after consuming alcohol (any quantity of either substance). The section includes the operation of motor vehicles, aircraft, or watercraft. It permits a peace officer acting with probable cause to place the minor under arrest, request that he or she submit to chemical tests, including, in the case of marijuana, the test of “blood or urine for the purpose of determining the marijuana content of the person’s blood or urine”; and transport the person to a testing site.

Section 119 Amends AS 28.35.280(b) **Minor operating a vehicle after consuming alcohol**

Treats the discovery of marijuana in a minor’s blood as the same as discovering alcohol in a minor’s blood (any quantity of either substance).

Section 120 Amends AS 28.35.280(d) **Minor operating a vehicle after consuming alcohol.**

By making the infraction of a “minor operating a vehicle after consuming alcohol” applicable to minors operating a vehicle after consuming marijuana. The amendment adds the word “marijuana” where appropriate to ensure commensurate applicability of the section to alcohol and marijuana. The amendment also makes grammatical changes.

Section 121 Amends AS 28.35.285(a) **Minors refusal to submit to chemical test.**

By adding marijuana to the section and by adding the provision that the refusal to submit to a chemical test of a person’s breath, “blood, or urine” is a violation subject to the same caveats and conditions attending a minor’s refusal to submit to a request of a peace officer to undergo chemical testing.

Section 122 Amends AS 28.35.285(c) **Minors refusal to submit to chemical test.**

By adding marijuana to the existing evidentiary rule regarding a minor’s refusal to submit to a chemical test authorized by law.

Section 123 Amends AS 28.35.285(d) **Minors refusal to submit to chemical test.**

By adding “blood or urine” to the type of chemical tests described in the section (breath) and by adding marijuana to the provisions addressing treatment and work-service. The amendment also makes grammatical changes.

Section 124 Amends AS 28.35.290(a) **Driving during the 24 hours after being cited for alcohol or breath test offenses.**

By adding marijuana to the section and treating marijuana the same as alcohol under the section.

Section 125 Amends AS 28.35.290(b) **Driving during the 24 hours after being cited for alcohol or breath test offenses**

By adding marijuana to the section and treating marijuana the same as alcohol under the section. The amendment also makes grammatical changes

Section 126 Amends AS 28.37.140(a) **Effect of conviction in party state.**

By adding marijuana to the list of intoxicating substances.

Section 127 Amends AS 29.10.200 **Limitation of home rule powers.**

By adding subsection (65) (general powers of municipalities), which refers to AS 29.35.148 (marijuana).

Section 128 Amends AS 29.35 **Municipal powers and duties**

To include a new section to Article 1, which reserves to the state, except as specifically provided by statute, the authority to regulate marijuana. The new section specifies that a municipality may not enact or enforce an ordinance that is inconsistent with AS 17.38. The section applies to home rule and general law municipalities.

Section 129 Amends AS 33.16.060(c) **Duties of the board of parole.**

To conform to the removal of marijuana from inclusion under the definition of a “controlled substance” by separately identifying “marijuana” as a substance falling within the purview of the subsection

Section 130 Amends AS 33.16.150(b) **Conditions of parole.**

to conform to the removal of marijuana from inclusion under the definition of a “controlled substance” by separately identifying “marijuana” as a substance falling within the purview of the subsection and by treating marijuana in the same manner as alcohol under the section. The amendment also adds subsection (b)(11) which permits prohibiting the entry into an establishment where marijuana is sold or otherwise dispensed as a condition of parole.

Section 131 Amends AS 33.16.900(3) **Definitions:** Board, Commissioner, controlled Substance, crime against person, crime involving domestic violence) by defining “controlled substance” as a substance set forth in the schedules at AS 11.71.140 – 11.71.180 (replacing references to AS 11.71.140 – 11.71.190). This amendment makes the definition of “controlled substance” consistent with the removal of marijuana from the controlled substance schedules.

Section 132 Amends AS 33.30.015(a) **Living conditions for prisoners.**

By adding subsection (a)(3)(k) which denies the commissioner of corrections the ability to permit a prisoner in a state prison to use marijuana or marijuana products.

Section 133 Amends AS 33.30.065(b) **Service of sentence by electronic monitoring.**

Adding marijuana to the list of substances falling within the purview of the subsection (considerations for determining whether electronic monitoring is appropriate).

Section 134 Amends AS 34.03.120 **Tenant obligation Landlord Tenant Act**

By including “an illegal activity involving marijuana” in the list of activities a tenant may not knowingly engage in on rented premises.

Section 135 Amends AS 34.03.360(7) **Definitions Landlord Tenant Act:** Abandonment, Building and housing codes, dwelling unit, fair rental value, good faith

By removing from the definition of “illegal activity involving a controlled substance” the reference to AS 11.71.040(a)(2) (the provision which makes marijuana a schedule VIA drug—a designation removed under the instant version of SB 30).

Section 136 Amends AS 34.03.360(24) **Definitions Landlord Tenant Act:** Illegal activity involving a controlled substance

By adding subsection (24), which defines the phrase “illegal activity involving marijuana” to mean a violation of AS 17.38.200(a)(2).

Section 137 Amends AS 34.05.100(a) **Tenant responsibilities in premise** are not subject to AS 34.03 By including “an illegal activity involving marijuana” in the list of activities a tenant who is not subject to the Landlord Tenant Act may not knowingly engage in on rented premises.

Section 138 Amends AS 34.05.100(d)(1) **Tenant responsibilities in premise** not subject to AS 34.03 -- Illegal activity

By adding “illegal activity involving marijuana” to the list of terms assigned the definition provided in AS 34.03.360 (Landlord Tenant Act).

Section 139 Amends AS 44.19.645(a) **Alaska Criminal Justice Commission.**

By directing the Commission to take into account the new SB 30 Version I controlled substances sections AS 11.71.140 – 11.71.180 (removing marijuana from the controlled substances schedules) when making its assessment of the efficacy of sentencing laws and criminal justice practices.

Section 140 Amends AS 47.10.900(17) **Child in Need of Aid Definitions** Intoxicant

By adding marijuana to the definition of “intoxicant.”

Section 141 Amends AS 47.12.030(b) **Delinquent minors.**

Adds subsection 7, which includes the violations described in AS 17.38.220(a)(3) (relating to the possession, use, or display of marijuana) to the section’s exclusion of such offenses from the Alaska Delinquency Rules and the other provisions of Title 47, Chapter 12. This provision

effectively places a violation of AS 17.38.220(a)(3) in District Court subject to the same procedures and sanctions as an adult.

Section 142 Amends AS 47.17.024(a) **Duties of practitioners of the healing arts.**

To conform to the removal of marijuana from inclusion under the definition of a “controlled substance” by separately identifying “marijuana” as a substance falling within the purview of the subsection (requirement that practitioner notify closest office of Department of Health and Social Services if practitioner determines infant adversely affected).

Section 143 Amends AS 47.37.010 **Declaration of policy.**

To include the use of marijuana, in addition to alcohol, in the State’s policy of recognizing, appreciating, and reinforcing examples of sobriety; and in its policy of not criminally prosecuting “alcoholics and intoxicated persons . . . for their consumption of alcoholic beverages or marijuana,” finding treatment to be a better option.

Section 144 Amends AS 47.37.030 **Powers of Department of Health and Social Services.**

By adding “marijuana abuse” to the list of prevention and treatment programs the Department is empowered to establish and maintain; in addition, treats “marijuana abusers” throughout subsections in same manner as alcoholics and persons addicted to other substances.

Section 145 Amends AS 47.37.040 **Duties of Department of Health and Social Services.**

By adding “marijuana abuse” and “marijuana abusers” to the list of types of activity for which the Department is required to implement prevention-of-abuse programs.

Section 146 Amends AS 47.37.170(b) **Protective custody.**

By including marijuana in the list of causes of incapacitation requiring peace officers to take the incapacitated person into protective custody and deliver the incapacitated person to a treatment facility or secure facility. Minors are not permitted to be placed in jail or other secure facility.

Section 147 Amends AS 47.37.170(d) **Definitions.**

By including marijuana in the list of causes of incapacitation for which an incapacitated person may not be held beyond his or her period of incapacitation, or for more than 48 hours in any event, at a facility.

Section 148 Amends AS 47.37.170(f) **Treatment and services for intoxicated persons and persons incapacitated by alcohol or drugs.**

By specifying that marijuana is to be treated in the same manner of alcohol: to wit, if a person is not incapacitated by marijuana (and other enumerated substances), that person, if admitted to an approved treatment facility, can request that his or her next of kin not be notified.

Section 149 Amends AS 47.37.170(g) **No action for damages.**

By including marijuana in the list of incapacitating substances which, if causing an incapacitated person to be taken into custody, prevents an incapacitated person from bringing an action for damages, unless damages were caused by gross negligence or intentional misconduct.

Section 150 Amends AS 47.37.170(i) **Detention.**

Adding marijuana incapacitation to the rules governing length of time an incapacitated person may be held in a detention facility.

Section 151 Amends AS 47.37.180(a) **Emergency commitment.**

By adding incapacitation by marijuana to the list of incapacitating substances that qualify for committing an incapacitated person to an approved public treatment facility for emergency treatment.

Section 152 Amends AS 47.37.190(a) **Involuntary commitment.**

By adding marijuana to the list of substances which, if abused, can, along with other criteria, form the basis for involuntary commitment.

Section 153 Amends AS 47.37.205(a) **Procedure for recommitment following 30-day commitment.**

By adding marijuana to the list of substances which, if abused, can, along with other criteria, form the basis for extended involuntary commitment.

Section 154 Amends AS 47.37.270(1) **Definitions: Alcoholic or drug abuser.**

Alcoholic or drug abuser, commissioner, department, drugs by including marijuana and marijuana abuser in the defined terms.

Section 155 Amends AS 47.37.270(4) **Definitions: Drugs**

By defining the term “drugs” in reference to statutes which no longer include marijuana as a controlled or scheduled substance.

Section 156 Amends AS 47.37.270(7) **Definitions: Incapacitated**

Incapacitated by alcohol, adds marijuana to the definition of what it means to be incapacitated.

Section 157 Amends AS 47.37.270(10) **Definitions: Intoxicated person**

By adding marijuana to the definition of what it means to be intoxicated.

Section 158 Amends AS 47.38.020(a) **Alcohol and substance abuse monitoring program**

By adding marijuana to the list of substances prohibited from use by a parolee enrolled in certain programs.

Section 159 Amends AS 47.38.020(c) **Alcohol and substance abuse monitoring program twice a day testing**

By adding marijuana to the provision for twice-a-day testing under the program of release and parole.

Section 160 **Repeals the enumerated statutes.**

Section 161 Amends the uncodified law of Alaska by adding a new section which provides that the Act applies to offenses committed on or after the effective date of the Act; except that certain exceptions apply to amendments affecting sentences imposed on or after the effective date for an

offense committed on or after the effective date; to amendments that apply to causes of action accrued on or after the effective date of the Act; and to amendments that apply to conditions of parole ordered on or after the effective date of the Act.

Section 162 Provides for an immediate effective date pursuant to AS 01.10.070(c).