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Martin
2/23/15

CS FOR HOUSE BILL NO. 79(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

**Offered:
Referred:**

Sponsor(s): HOUSE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to controlled substances; relating to marijuana; deleting marijuana,**
2 **hash, and hash oil from the controlled substance schedules and making conforming and**
3 **related amendments; relating to crimes and offenses related to marijuana and the use of**
4 **marijuana; relating to driving a commercial motor vehicle or motor vehicle while under**
5 **the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance;**
6 **relating to conditions of release; relating to probation and parole; relating to sentencing;**
7 **relating to illicit synthetic drugs; relating to protective orders; relating to employer**
8 **alcohol, marijuana, and drug testing; relating to municipalities; relating to established**
9 **villages and local options; making conforming amendments; and providing for an**
10 **effective date."**

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

12 *** Section 1.** AS 02.30.030(b) is amended to read:

1 (b) A person may not operate an aircraft occupied by a crew member or
2 passenger who is obviously under the influence of intoxicating liquor, marijuana, or a
3 controlled substance.

4 * **Sec. 2.** AS 04.16.050(e) is amended to read:

5 (e) The court shall place a person sentenced under (b)(2), (c), or (d) of this
6 section on probation for the appropriate period. The person may not refuse probation.
7 The court may require the person to pay for and enroll in a juvenile alcohol safety
8 action program, if one is available. The court shall impose the following conditions of
9 probation:

10 (1) the person shall pay for and successfully complete any education or
11 treatment recommended;

12 (2) the person may not consume inhalants or possess or consume
13 controlled substances, marijuana, or alcoholic beverages, except as provided in
14 AS 04.16.051(b);

15 (3) the person shall timely complete any community work ordered, as
16 provided in (f) of this section; and

17 (4) other conditions the court considers appropriate.

18 * **Sec. 3.** AS 05.45.100(c) is amended to read:

19 (c) A skier may not

20 (1) ski on a ski slope or trail that has been posted as "closed" under
21 AS 05.45.060(b)(5) and (d);

22 (2) use a ski unless the ski is equipped with a strap or other device
23 capable of stopping the ski should the ski become unattached from the skier;

24 (3) cross the uphill track of a J-bar, T-bar, platter pull, or rope tow
25 except at locations designated by the operator, or place an object in an uphill track;

26 (4) move uphill on a tramway or use a ski slope or trail while the
27 skier's ability is impaired by the influence of alcohol, marijuana, or a controlled
28 substance as defined in AS 11.71.900 or other drug;

29 (5) knowingly enter upon public or private land from an adjoining ski
30 area when the land has been closed by an owner and is posted by the owner or by the
31 ski area operator under AS 05.45.060(e)(3).

1 * **Sec. 4.** AS 08.68.270 is amended to read:

2 **Sec. 08.68.270. Grounds for denial, suspension, or revocation.** The board
3 may deny, suspend, or revoke the license of a person who

4 (1) has obtained or attempted to obtain a license to practice nursing by
5 fraud or deceit;

6 (2) has been convicted of a felony or other crime if the felony or other
7 crime is substantially related to the qualifications, functions, or duties of the licensee;

8 (3) habitually abuses alcoholic beverages or marijuana, or illegally
9 uses controlled substances;

10 (4) has impersonated a registered or practical nurse;

11 (5) has intentionally or negligently engaged in conduct that has
12 resulted in a significant risk to the health or safety of a client or in injury to a client;

13 (6) practices or attempts to practice nursing while afflicted with
14 physical or mental illness, deterioration, or disability that interferes with the
15 individual's performance of nursing functions;

16 (7) is guilty of unprofessional conduct as defined by regulations
17 adopted by the board;

18 (8) has wilfully or repeatedly violated a provision of this chapter or
19 regulations adopted under this chapter or AS 08.01;

20 (9) is professionally incompetent;

21 (10) denies care or treatment to a patient or person seeking assistance
22 if the sole reason for the denial is the failure or refusal of the patient or person seeking
23 assistance to agree to arbitrate as provided in AS 09.55.535(a).

24 * **Sec. 5.** AS 08.72.272(a) is amended to read:

25 (a) A licensee may prescribe and use a pharmaceutical agent, including a
26 controlled substance, in the practice of optometry if

27 (1) the pharmaceutical agent

28 (A) is prescribed and used for the treatment of ocular disease or
29 conditions, ocular adnexal disease or conditions, or emergency anaphylaxis;

30 (B) is not a schedule IA or [,] IIA [, OR VIA] controlled
31 substance; however, notwithstanding this subparagraph, a licensee may

1 prescribe and use a pharmaceutical agent containing hydrocodone;

2 (C) is prescribed in a quantity that does not exceed four days of
3 prescribed use if it is a controlled substance;

4 (D) is not injected into the ocular globe of the eye; and

5 (E) is not a derivative of clostridium botulinum; and

6 (2) the licensee

7 (A) has a physician-patient relationship, as defined by the
8 board in regulations adopted under this chapter, with the person to whom the
9 pharmaceutical agent is prescribed; and

10 (B) has on file with the department the licensee's current
11 federal Drug Enforcement Administration registration number that is valid for
12 the controlled substance prescribed or used.

13 * **Sec. 6.** AS 08.76.170(a) is amended to read:

14 (a) A pawnbroker may not knowingly enter into a pawnbroker transaction
15 with a person who is

16 (1) under 18 years of age;

17 (2) under the influence of alcohol, marijuana, or a controlled
18 substance when the influence is apparent; or

19 (3) using the name of another person.

20 * **Sec. 7.** AS 09.50.170 is amended to read:

21 **Sec. 09.50.170. Abatement of places used for certain acts.** (a) A person who
22 erects, establishes, continues, maintains, uses, owns, or leases a building, structure, or
23 other place used for one of the following activities is guilty of maintaining a nuisance,
24 and the building, structure, or place, or the ground itself in or upon which or in any
25 part of which the activity is conducted, permitted, carried on, continues, or exists, and
26 its furniture, fixtures, and other contents, constitute a nuisance and may be enjoined
27 and abated:

28 (1) prostitution;

29 (2) an illegal activity involving a place of prostitution; or

30 (3) an illegal activity involving

31 (A) alcoholic beverages;

- (B) a controlled substance;
- (C) an imitation controlled substance; [OR]
- (D) gambling or promoting gambling; **or**
- (E) marijuana.**

(b) In this section, "illegal activity involving alcoholic beverages," "illegal activity involving a controlled substance," "illegal activity involving gambling or promoting gambling," "illegal activity involving an imitation controlled substance," **"illegal activity involving marijuana,"** "illegal activity involving a place of prostitution," and "prostitution" have the meanings given in AS 34.03.360.

* **Sec. 8.** AS 09.60.070(c) is amended to read:

(c) In this section, "serious criminal offense" means the following offenses:

- (1) murder in any degree;
- (2) manslaughter;
- (3) criminally negligent homicide;
- (4) assault in any degree;
- (5) kidnapping;
- (6) sexual assault in any degree;
- (7) sexual abuse of a minor in any degree;
- (8) robbery in any degree;
- (9) coercion;
- (10) extortion;
- (11) arson in any degree;
- (12) burglary in any degree;
- (13) criminal mischief in the first, second, third, or fourth degree;
- (14) driving while under the influence of an alcoholic beverage, inhalant, or controlled substance or another crime resulting from the operation of a motor vehicle, boat, or airplane when the offender is under the influence of an alcoholic beverage, **marijuana, an** inhalant, or **a** controlled substance;
- (15) a crime involving domestic violence, as defined in AS 18.66.990.

* **Sec. 9.** AS 09.65.210 is amended to read:

Sec. 09.65.210. Damages resulting from commission of a felony or while

1 **under the influence of alcohol, marijuana, or drugs.** A person who suffers personal
2 injury or death or the person's personal representative under AS 09.55.570 or
3 09.55.580 may not recover damages for the personal injury or death if the injury or
4 death occurred while the person was

5 (1) engaged in the commission of a felony, the person has been
6 convicted of the felony, including conviction based on a guilty plea or plea of nolo
7 contendere, and the party defending against the claim proves by clear and convincing
8 evidence that the felony substantially contributed to the personal injury or death;

9 (2) engaged in conduct that would constitute the commission of an
10 unclassified felony, a class A felony, or a class B felony for which the person was not
11 convicted and the party defending against the claim proves by clear and convincing
12 evidence

13 (A) the felonious conduct; and

14 (B) that the felonious conduct substantially contributed to the
15 personal injury or death;

16 (3) fleeing after the commission, by that person, of conduct that would
17 constitute an unclassified felony, a class A felony, or a class B felony or being
18 apprehended for conduct that would constitute an unclassified felony, a class A felony,
19 or a class B felony if the party defending against the claim proves by clear and
20 convincing evidence

21 (A) the felonious conduct; and

22 (B) that the conduct during the flight or apprehension
23 substantially contributed to the injury or death;

24 (4) operating a vehicle, aircraft, or watercraft while under the influence
25 of intoxicating liquor, marijuana, or any controlled substance in violation of
26 AS 28.35.030, was convicted, including conviction based on a guilty plea or plea of
27 nolo contendere, and the party defending against the claim proves by clear and
28 convincing evidence that the conduct substantially contributed to the personal injury
29 or death; or

30 (5) engaged in conduct that would constitute a violation of
31 AS 28.35.030 for which the person was not convicted if the party defending against

1 the claim proves by clear and convincing evidence

2 (A) the violation of AS 28.35.030; and

3 (B) that the conduct substantially contributed to the personal
4 injury or death.

5 * **Sec. 10.** AS 09.65.315(a) is amended to read:

6 (a) A person is not liable beyond the limits of any applicable insurance policy
7 purchased by or on behalf of the owner of the vehicle, or the taxicab or limousine
8 company or the company's owner, agents, or employees, for damages resulting from a
9 motor vehicle accident if the person was driving a vehicle involved in the accident and

10 (1) before the accident, started driving the vehicle involved in the
11 accident from or near licensed premises;

12 (2) is, at the time of the accident, a person employed in the course and
13 scope of employment to or under contract to drive a taxicab or limousine, a taxicab or
14 limousine owner, a holder of a taxicab or limousine permit issued by a municipality,
15 or an owner or employee of a company that dispatches taxicabs or limousines;

16 (3) was not under the influence of an alcoholic beverage, marijuana,
17 inhalant, or controlled substance at the time of the accident;

18 (4) was driving the vehicle to the motor vehicle owner's residence or
19 designated residential location at the request of the motor vehicle owner or operator or
20 a law enforcement officer; and

21 (5) was driving the vehicle because the motor vehicle owner or
22 operator was under the influence of an alcoholic beverage or marijuana or reasonably
23 believed to be under the influence of an alcoholic beverage or marijuana.

24 * **Sec. 11.** AS 09.65.315(e) is amended by adding a new paragraph to read:

25 (4) "marijuana" has the meaning given in AS 17.38.900.

26 * **Sec. 12.** AS 09.65.320(b) is amended to read:

27 (b) The prohibition against the recovery of noneconomic losses in (a) of this
28 section does not apply if the person who is liable for the personal injury or wrongful
29 death

30 (1) was driving while under the influence of an alcoholic beverage,
31 marijuana, an inhalant, or a controlled substance;

1 (2) acted intentionally, recklessly, or with gross negligence;
2 (3) fled from the scene of the accident; or
3 (4) was acting in furtherance of an offense or in immediate flight from
4 an offense that constitutes a felony as defined in AS 11.81.900 at the time of the
5 accident.

6 * **Sec. 13.** AS 11.41.110(a) is amended to read:

7 (a) A person commits the crime of murder in the second degree if

8 (1) with intent to cause serious physical injury to another person or
9 knowing that the conduct is substantially certain to cause death or serious physical
10 injury to another person, the person causes the death of any person;

11 (2) the person knowingly engages in conduct that results in the death
12 of another person under circumstances manifesting an extreme indifference to the
13 value of human life;

14 (3) under circumstances not amounting to murder in the first degree
15 under AS 11.41.100(a)(3), while acting either alone or with one or more persons, the
16 person commits or attempts to commit arson in the first degree, kidnapping, sexual
17 assault in the first degree, sexual assault in the second degree, sexual abuse of a minor
18 in the first degree, sexual abuse of a minor in the second degree, burglary in the first
19 degree, escape in the first or second degree, robbery in any degree, or misconduct
20 involving a controlled substance under AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1)
21 or (2), or 11.71.040(a)(1) [OR (2)] and, in the course of or in furtherance of that crime
22 or in immediate flight from that crime, any person causes the death of a person other
23 than one of the participants;

24 (4) acting with a criminal street gang, the person commits or attempts
25 to commit a crime that is a felony and, in the course of or in furtherance of that crime
26 or in immediate flight from that crime, any person causes the death of a person other
27 than one of the participants; or

28 (5) the person with criminal negligence causes the death of a child
29 under the age of 16, and the person has been previously convicted of a crime involving
30 a child under the age of 16 that was

31 (A) a felony violation of this chapter [AS 11.41];

1 (B) in violation of a law or ordinance in another jurisdiction
2 with elements similar to a felony under this chapter [AS 11.41]; or

3 (C) an attempt, a solicitation, or a conspiracy to commit a
4 crime listed in (A) or (B) of this paragraph.

5 * **Sec. 14.** AS 11.41.150(a) is amended to read:

6 (a) A person commits the crime of murder of an unborn child if the person

7 (1) with intent to cause the death of an unborn child or of another
8 person, causes the death of an unborn child;

9 (2) with intent to cause serious physical injury to an unborn child or to
10 another person or knowing that the conduct is substantially certain to cause death or
11 serious physical injury to an unborn child or to another person, causes the death of an
12 unborn child;

13 (3) while acting alone or with one or more persons, commits or
14 attempts to commit arson in the first degree, kidnapping, sexual assault in the first
15 degree, sexual assault in the second degree, sexual abuse of a minor in the first degree,
16 sexual abuse of a minor in the second degree, burglary in the first degree, escape in the
17 first or second degree, robbery in any degree, or misconduct involving a controlled
18 substance under AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1) or (2), or
19 11.71.040(a)(1) [OR (2)], and, in the course of or in furtherance of that crime or in
20 immediate flight from that crime, any person causes the death of an unborn child;

21 (4) knowingly engages in conduct that results in the death of an unborn
22 child under circumstances manifesting an extreme indifference to the value of human
23 life; for purposes of this paragraph, a pregnant woman's decision to remain in a
24 relationship in which domestic violence, as defined in AS 18.66.990, has occurred
25 does not constitute conduct manifesting an extreme indifference to the value of human
26 life.

27 * **Sec. 15.** AS 11.61.200(a) is amended to read:

28 (a) A person commits the crime of misconduct involving weapons in the third
29 degree if the person

30 (1) knowingly possesses a firearm capable of being concealed on one's
31 person after having been convicted of a felony or adjudicated a delinquent minor for

1 conduct that would constitute a felony if committed by an adult by a court of this state,
2 a court of the United States, or a court of another state or territory;

3 (2) knowingly sells or transfers a firearm capable of being concealed
4 on one's person to a person who has been convicted of a felony by a court of this state,
5 a court of the United States, or a court of another state or territory;

6 (3) manufactures, possesses, transports, sells, or transfers a prohibited
7 weapon;

8 (4) knowingly sells or transfers a firearm to another whose physical or
9 mental condition is substantially impaired as a result of the introduction of an
10 intoxicating liquor, marijuana, or controlled substance into that other person's body;

11 (5) removes, covers, alters, or destroys the manufacturer's serial
12 number on a firearm with intent to render the firearm untraceable;

13 (6) possesses a firearm on which the manufacturer's serial number has
14 been removed, covered, altered, or destroyed, knowing that the serial number has been
15 removed, covered, altered, or destroyed with the intent of rendering the firearm
16 untraceable;

17 (7) violates AS 11.46.320 and, during the violation, possesses on the
18 person a firearm when the person's physical or mental condition is impaired as a result
19 of the introduction of an intoxicating liquor, marijuana, or controlled substance into
20 the person's body;

21 (8) violates AS 11.46.320 or 11.46.330 by entering or remaining
22 unlawfully on premises or in a propelled vehicle in violation of a provision of an order
23 issued or filed under AS 18.66.100 - 18.66.180 or issued under former
24 AS 25.35.010(b) or 25.35.020 and, during the violation, possesses on the person a
25 defensive weapon or a deadly weapon, other than an ordinary pocketknife;

26 (9) communicates in person with another in violation of AS 11.56.740
27 and, during the communication, possesses on the person a defensive weapon or a
28 deadly weapon, other than an ordinary pocketknife;

29 (10) resides in a dwelling knowing that there is a firearm capable of
30 being concealed on one's person or a prohibited weapon in the dwelling if the person
31 has been convicted of a felony by a court of this state, a court of the United States, or a

1 court of another state or territory, unless the person has written authorization to live in
2 a dwelling in which there is a concealable weapon described in this paragraph from a
3 court of competent jurisdiction or from the head of the law enforcement agency of the
4 community in which the dwelling is located; or

5 (11) discharges a firearm from a propelled vehicle while the vehicle is
6 being operated in circumstances other than described in AS 11.61.190(a)(2).

7 [(12) REPEALED.]

8 * **Sec. 16.** AS 11.61.210(a) is amended to read:

9 (a) A person commits the crime of misconduct involving weapons in the
10 fourth degree if the person

11 (1) possesses on the person, or in the interior of a vehicle in which the
12 person is present, a firearm when the person's physical or mental condition is impaired
13 as a result of the introduction of an intoxicating liquor, marijuana, or a controlled
14 substance into the person's body in circumstances other than described in
15 AS 11.61.200(a)(7);

16 (2) discharges a firearm from, on, or across a highway;

17 (3) discharges a firearm with reckless disregard for a risk of damage to
18 property or a risk of physical injury to a person under circumstances other than those
19 described in AS 11.61.195(a)(3)(A);

20 (4) manufactures, possesses, transports, sells, or transfers metal
21 knuckles;

22 (5) sells or transfers a switchblade or a gravity knife to a person under
23 18 years of age without the prior written consent of the person's parent or guardian;

24 (6) knowingly sells a firearm or a defensive weapon to a person under
25 18 years of age;

26 (7) other than a preschool, elementary, junior high, or secondary
27 school student, knowingly possesses a deadly weapon or a defensive weapon, without
28 the permission of the chief administrative officer of the school or district or the
29 designee of the chief administrative officer, within the buildings of, on the grounds of,
30 or on the school parking lot of a public or private preschool, elementary, junior high,
31 or secondary school, on a school bus while being transported to or from school or a

1 school-sponsored event, or while participating in a school-sponsored event, except that
2 a person 21 years of age or older may possess

3 (A) a deadly weapon, other than a loaded firearm, in the trunk
4 of a motor vehicle or encased in a closed container in a motor vehicle;

5 (B) a defensive weapon;

6 (C) an unloaded firearm if the person is traversing school
7 premises in a rural area for the purpose of entering public or private land that is
8 open to hunting and the school board with jurisdiction over the school
9 premises has elected to have this exemption apply to the school premises; in
10 this subparagraph, "rural" means a community with a population of 5,500 or
11 less that is not connected by road or rail to Anchorage or Fairbanks or with a
12 population of 1,500 or less that is connected by road or rail to Anchorage or
13 Fairbanks; or

14 (8) being a preschool, elementary, junior high, or secondary school
15 student, knowingly possesses a deadly weapon or a defensive weapon, within the
16 buildings of, on the grounds of, or on the school parking lot of a public or private
17 preschool, elementary, junior high, or secondary school, on a school bus while being
18 transported to or from school or a school-sponsored event, or while participating in a
19 school-sponsored event, except that a student may possess a deadly weapon, other
20 than a firearm as defined under 18 U.S.C. 921, or a defensive weapon if the student
21 has obtained the prior permission of the chief administrative officer of the school or
22 district or the designee of the chief administrative officer for the possession.

23 * **Sec. 17.** AS 11.71.030(a) is amended to read:

24 (a) Except as authorized in AS 17.30, a person commits the crime of
25 misconduct involving a controlled substance in the third degree if the person

26 (1) under circumstances not proscribed under AS 11.71.020(a)(2) - (6),
27 manufactures or delivers any amount of a schedule IIA or IIIA controlled substance or
28 possesses any amount of a schedule IIA or IIIA controlled substance with intent to
29 manufacture or deliver;

30 (2) delivers any amount of a schedule IVA or [,] VA [, OR VIA]
31 controlled substance to a person under 19 years of age who is at least three years

1 younger than the person delivering the substance; or

2 (3) possesses any amount of a schedule IA or IIA controlled substance

3 (A) with reckless disregard that the possession occurs

4 (i) on or within 500 feet of school grounds; or

5 (ii) at or within 500 feet of a recreation or youth center;

6 or

7 (B) on a school bus.

8 * **Sec. 18.** AS 11.71.040(a) is amended to read:

9 (a) Except as authorized in AS 17.30, a person commits the crime of
10 misconduct involving a controlled substance in the fourth degree if the person

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

14 (2) manufactures or delivers, or possesses with the intent to
15 manufacture or deliver, one or more preparations, compounds, mixtures, or substances
16 of an aggregate weight of one ounce or more containing a schedule VIA controlled
17 substance;

18 (3) possesses

19 (A) any amount of a

20 (i) schedule IA controlled substance; or

21 (ii) IIA controlled substance except a controlled
22 substance listed in AS 11.71.150(e)(11) - (15);

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

25 (C) one or more preparations, compounds, mixtures, or
26 substances of an aggregate weight of

27 (i) three grams or more containing a schedule IIIA or
28 IVA controlled substance except a controlled substance in a form listed
29 in (ii) of this subparagraph;

30 (ii) 12 grams or more containing a schedule IIIA
31 controlled substance listed in AS 11.71.160(f)(7) - (16) that has been

sprayed on or otherwise applied to tobacco, an herb, or another organic material; or

(iii) 500 milligrams or more of a schedule IIA controlled substance listed in AS 11.71.150(e)(11) - (15);

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

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

(F) one or more preparations, compounds, mixtures, or substances of an aggregate weight of four ounces or more containing a schedule VIA controlled substance; or

(G) 25 or more plants of the genus cannabis;

(4) possesses a schedule IIIA, IVA, or VA [, OR VIA] controlled substance

(A) with reckless disregard that the possession occurs

(i) on or within 500 feet of school grounds; or

(ii) at or within 500 feet of a recreation or youth center;

or

(B) on a school bus;

(5) knowingly keeps or maintains any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place that is used for keeping or distributing controlled substances in violation of a felony offense under this chapter or AS 17.30;

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

(7) knowingly uses in the course of the manufacture or distribution of a controlled substance a registration number that is fictitious, revoked, suspended, or issued to another person;

1 (8) knowingly furnishes false or fraudulent information in or omits
2 material information from any application, report, record, or other document required
3 to be kept or filed under AS 17.30;

4 (9) obtains possession of a controlled substance by misrepresentation,
5 fraud, forgery, deception, or subterfuge; or

6 (10) affixes a false or forged label to a package or other container
7 containing any controlled substance.

8 * **Sec. 19.** AS 11.71.110 is amended to read:

9 **Sec. 11.71.110. Duties of committee.** The committee shall

10 (1) advise the governor of the need to add, delete, or reschedule
11 substances in the schedules in AS 11.71.140 - 11.71.180 [AS 11.71.140 - 11.71.190];

12 (2) recommend regulations for adoption by the Board of Pharmacy to
13 prevent excessive prescription of controlled substances and the diversion of
14 prescription drugs into illicit channels;

15 (3) evaluate the effectiveness of programs in the state providing
16 treatment and counseling for persons who abuse controlled substances;

17 (4) recommend programs to the Alaska Court System to be instituted
18 as alternatives to the prosecution or imprisonment of offenders who have no prior
19 criminal record involving controlled substance offenses and who are charged with
20 crimes involving controlled substances;

21 (5) review and evaluate enforcement policies and practices of the
22 Department of Public Safety and the Department of Law with regard to crimes
23 involving controlled substances, and recommend modifications of those policies and
24 practices consistent with the committee's assessment of the probable danger of
25 particular controlled substances; and

26 (6) review budget requests and recommend amounts for appropriations
27 to the governor and the legislature for departments and agencies responsible for

28 (A) enforcing criminal laws pertaining to controlled
29 substances;

30 (B) providing treatment and counseling of persons who abuse
31 controlled substances; and

1 (C) regulating the legitimate handling of controlled substances.

2 * **Sec. 20.** AS 11.71.120(a) is amended to read:

3 (a) If, after considering the factors set out in (c) of this section, the committee
4 decides to recommend that a substance should be added to, deleted from, or
5 rescheduled in a schedule of controlled substances under **AS 11.71.140 - 11.71.180**
6 [AS 11.71.140 - 11.71.190], the governor shall introduce legislation in accordance
7 with the recommendation of the committee.

8 * **Sec. 21.** AS 11.71.180(a) is amended to read:

9 (a) A substance shall be placed in schedule VA if it is found under
10 AS 11.71.120(c) to have a degree of danger or probable danger to a person or the
11 public **that** [WHICH] is less than substances listed in schedule IVA [, BUT HIGHER
12 THAN SUBSTANCES LISTED IN SCHEDULE VIA].

13 * **Sec. 22.** AS 11.71.311(a) is amended to read:

14 (a) A person may not be prosecuted for a violation of AS 11.71.030(a)(3),
15 11.71.040(a)(3) or (4), 11.71.050(a)(2), or **11.71.060(a)(2)** [11.71.060(a)(1) OR (2)] if
16 that person

17 (1) sought, in good faith, medical or law enforcement assistance for
18 another person who the person reasonably believed was experiencing a drug overdose
19 and

20 (A) the evidence supporting the prosecution for an offense
21 under AS 11.71.030(a)(3), 11.71.040(a)(3) or (4), 11.71.050(a)(2), or
22 **11.71.060(a)(2)** [11.71.060(a)(1) OR (2)] was obtained or discovered as a
23 result of the person seeking medical or law enforcement assistance;

24 (B) the person remained at the scene with the other person until
25 medical or law enforcement assistance arrived; and

26 (C) the person cooperated with medical or law enforcement
27 personnel, including by providing identification;

28 (2) was experiencing a drug overdose and sought medical assistance,
29 and the evidence supporting a prosecution for an offense under AS 11.71.030(a)(3),
30 11.71.040(a)(3) or (4), 11.71.050(a)(2), or **11.71.060(a)(2)** [11.71.060(a)(1) OR (2)]
31 was obtained as a result of the overdose and the need for medical assistance.

1 * **Sec. 23.** AS 11.71.900(4) is amended to read:

2 (4) "controlled substance" means a drug, substance, or immediate
3 precursor included in the schedules set out in **AS 11.71.140 - 11.71.180** [AS 11.71.140
4 - 11.71.190];

5 * **Sec. 24.** AS 11.71.900(13) is amended to read:

6 (13) "manufacture"

7 (A) means the production, preparation, propagation,
8 compounding, conversion, growing, or processing of a controlled substance,
9 either directly or indirectly by extraction from substances of natural origin, or
10 independently by means of chemical synthesis, or by a combination of
11 extraction and chemical synthesis [; HOWEVER, THE GROWING OF
12 MARIJUANA FOR PERSONAL USE IS NOT MANUFACTURING];

13 (B) includes the preparation, compounding, packaging,
14 repackaging, labeling, or relabeling of a controlled substance or its container
15 unless done in conformity with applicable federal law

16 (i) by a practitioner as an incident to the practitioner's
17 administering or dispensing of a controlled substance in the course of
18 the practitioner's professional practice; or

19 (ii) by a practitioner, or by the practitioner's authorized agent under the
20 practitioner's supervision, for the purpose of, or as an incident to, research, teaching,
21 or chemical analysis and not for sale;

22 * **Sec. 25.** AS 11.81.900(b)(34) is amended to read:

23 (34) "intoxicated" means intoxicated from the use of a drug,
24 **marijuana**, or alcohol;

25 * **Sec. 26.** AS 12.30.011(b) is amended to read:

26 (b) If a judicial officer determines that the release under (a) of this section will
27 not reasonably assure the appearance of the person or will pose a danger to the victim,
28 other persons, or the community, the officer shall impose the least restrictive condition
29 or conditions that will reasonably assure the person's appearance and protect the
30 victim, other persons, and the community. In addition to conditions under (a) of this
31 section, the judicial officer may, singly or in combination,

1 (1) require the execution of an appearance bond in a specified amount
2 of cash to be deposited into the registry of the court, in a sum not to exceed 10 percent
3 of the amount of the bond;

4 (2) require the execution of a bail bond with sufficient solvent sureties
5 or the deposit of cash;

6 (3) require the execution of a performance bond in a specified amount
7 of cash to be deposited in the registry of the court;

8 (4) place restrictions on the person's travel, association, or residence;

9 (5) order the person to refrain from possessing a deadly weapon on the
10 person or in the person's vehicle or residence;

11 (6) require the person to maintain employment or, if unemployed,
12 actively seek employment;

13 (7) require the person to notify the person's lawyer and the prosecuting
14 authority within two business days after any change in employment;

15 (8) require the person to avoid all contact with a victim, a potential
16 witness, or a codefendant;

17 (9) require the person to refrain from the consumption and possession
18 of alcoholic beverages or marijuana;

19 (10) require the person to refrain from the use of a controlled substance
20 as defined by AS 11.71, unless prescribed by a licensed health care provider with
21 prescriptive authority;

22 (11) require the person to be physically inside the person's residence,
23 or in the residence of the person's third-party custodian, at time periods set by the
24 court;

25 (12) require the person to keep regular contact with a law enforcement
26 officer or agency;

27 (13) order the person to refrain from entering or remaining in premises
28 licensed under AS 04;

29 (14) place the person in the custody of an individual who agrees to
30 serve as a third-party custodian of the person as provided in AS 12.30.021;

31 (15) if the person is under the treatment of a licensed health care

1 provider, order the person to follow the provider's treatment recommendations;

2 (16) order the person to take medication that has been prescribed for
3 the person by a licensed health care provider with prescriptive authority;

4 (17) order the person to comply with any other condition that is
5 reasonably necessary to assure the appearance of the person and to assure the safety of
6 the victim, other persons, and the community;

7 (18) require the person to comply with a program established under
8 AS 47.38.020 if the person has been charged with an alcohol-related, **marijuana-**
9 **related,** or substance-abuse-related offense that is an unclassified felony, a class A
10 felony, a sexual felony, or a crime involving domestic violence;

11 **(19) order the person to refrain from entering or remaining in**
12 **premises registered under AS 17.38.**

13 * **Sec. 27.** AS 12.30.016 is amended by adding a new subsection to read:

14 (g) In a prosecution charging a violation of AS 17.38.200 or 17.38.210, a
15 judicial officer may order the person to

16 (1) refrain from

17 (A) consuming marijuana; or

18 (B) possessing on the person, in the person's residence, or in
19 any vehicle or other property over which the person has control, marijuana,
20 marijuana products, or marijuana accessories;

21 (2) submit to a search without a warrant of the person, the person's
22 personal property, the person's residence, or any vehicle or other property over which
23 the person has control, for the presence of marijuana, marijuana products, or marijuana
24 accessories by a peace officer who has reasonable suspicion that the person is
25 violating the terms of the person's release by possessing marijuana, marijuana
26 products, or marijuana accessories;

27 (3) provide a sample for a urinalysis or blood test when requested by a
28 law enforcement officer;

29 (4) refrain from entering or remaining in a place where marijuana is
30 being used, manufactured, grown, or distributed;

31 (5) comply with a program established under AS 47.38.020.

1 * **Sec. 28.** AS 12.30.080 is amended by adding a new paragraph to read:

2 (8) "marijuana," "marijuana accessories," and "marijuana products"
3 have the meanings given in AS 17.38.900.

4 * **Sec. 29.** AS 12.45.084(a) is amended to read:

5 (a) In a prosecution under AS 11.71.010 - 11.71.060 or AS 17.38.200 -
6 17.38.230, a complete copy of an official laboratory report from the Department of
7 Public Safety or a laboratory operated by another law enforcement agency is prima
8 facie evidence of the content, identity, and weight of a controlled substance,
9 marijuana, or usable marijuana. The report must be signed by the person
10 performing the analysis and must state that the substance **that** [WHICH] is the basis of
11 the alleged offense has been weighed and analyzed. In the report, the author shall state
12 with specificity findings as to the content, weight, and identity of the substance. **In**
13 **this subsection, "marijuana" and "usable marijuana" have the meanings given**
14 **in AS 17.38.900.**

15 * **Sec. 30.** AS 12.55.015(a) is amended to read:

16 (a) Except as limited by AS 12.55.125 - 12.55.175, the court, in imposing
17 sentence on a defendant convicted of an offense, may singly or in combination

18 (1) impose a fine when authorized by law and as provided in
19 AS 12.55.035;

20 (2) order the defendant to be placed on probation under conditions
21 specified by the court that may include provision for active supervision;

22 (3) impose a definite term of periodic imprisonment, but only if an
23 employment obligation of the defendant preexisted sentencing and the defendant
24 receives a composite sentence of not more than two years to serve;

25 (4) impose a definite term of continuous imprisonment;

26 (5) order the defendant to make restitution under AS 12.55.045;

27 (6) order the defendant to carry out a continuous or periodic program
28 of community work under AS 12.55.055;

29 (7) suspend execution of all or a portion of the sentence imposed under
30 AS 12.55.080;

31 (8) suspend imposition of sentence under AS 12.55.085;

1 (9) order the forfeiture to the commissioner of public safety or a
2 municipal law enforcement agency of a deadly weapon that was in the actual
3 possession of or used by the defendant during the commission of an offense described
4 in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;

5 (10) order the defendant, while incarcerated, to participate in or
6 comply with the treatment plan of a rehabilitation program that is related to the
7 defendant's offense or to the defendant's rehabilitation if the program is made available
8 to the defendant by the Department of Corrections;

9 (11) order the forfeiture to the state of a motor vehicle, weapon,
10 electronic communication device, or money or other valuables, used in or obtained
11 through an offense that was committed for the benefit of, at the direction of, or in
12 association with a criminal street gang;

13 (12) order the defendant to have no contact, either directly or
14 indirectly, with a victim or witness of the offense until the defendant is
15 unconditionally discharged;

16 (13) order the defendant to refrain from consuming alcoholic
17 beverages or using marijuana for a period of time.

18 * **Sec. 31.** AS 12.55.015(j) is amended to read:

19 (j) Nothing in (a)(13) of this section limits or restricts the authority of a court
20 to order a person to refrain from the consumption of alcohol or use of marijuana as a
21 condition of sentence or probation.

22 * **Sec. 32.** AS 12.55.155(c)(5) is amended to read:

23 (5) the defendant knew or reasonably should have known that the
24 victim of the offense was particularly vulnerable or incapable of resistance due to
25 advanced age, disability, ill health, homelessness, consumption of alcohol, marijuana,
26 or drugs, or extreme youth or was for any other reason substantially incapable of
27 exercising normal physical or mental powers of resistance;

28 * **Sec. 33.** AS 12.55.155(c)(30) is amended to read:

29 (30) the defendant is convicted of an offense specified in AS 11.41.410
30 - 11.41.455, and the defendant knowingly supplied alcohol, marijuana, or a
31 controlled substance to the victim in furtherance of the offense with the intent to make

1 the victim incapacitated; in this paragraph, "incapacitated" has the meaning given in
2 AS 11.41.470;

3 * **Sec. 34.** AS 12.55.155(g) is amended to read:

4 (g) Voluntary alcohol, marijuana, or other drug intoxication or chronic
5 alcoholism or other drug or marijuana addiction may not be considered an
6 aggravating or mitigating factor.

7 * **Sec. 35.** AS 12.55.185 is amended by adding a new paragraph to read:

8 (20) "marijuana" has the meaning given in AS 17.38.900.

9 * **Sec. 36.** AS 17.21.010(b) is amended to read:

10 (b) A synthetic drug is illicit if

11 (1) the label

12 (A) is false or misleading;

13 (B) does not specify the identity of the substances contained in
14 the synthetic drug; or

15 (C) does not specify the name and place of business of the
16 manufacturer, packer, or distributor; and

17 (2) the synthetic drug has one or more of the following characteristics:

18 (A) the packaging or labeling of the synthetic drug suggests
19 that the user will achieve euphoria, a hallucination, mood enhancement,
20 relaxation, stimulation, or another effect on the body;

21 (B) the name or packaging of the synthetic drug uses images or
22 labels suggesting that it is a controlled substance or marijuana or has the
23 effect of a controlled substance or marijuana;

24 (C) the synthetic drug resembles a controlled substance or
25 marijuana in appearance, in chemical structure, or composition;

26 (D) the synthetic drug is marketed or advertised for a particular
27 use or purpose and the cost of the synthetic drug is disproportionately higher
28 than other products marketed or advertised for the same or similar use or
29 purpose;

30 (E) the synthetic drug contains a warning label stating or
31 suggesting that the synthetic drug is in compliance with state laws regulating

1 controlled substances **or marijuana**;

2 (F) the synthetic drug is a product to which has been added a
3 synthetic chemical or synthetic chemical compound that does not have a
4 legitimate relationship to the advertised use of the product.

5 * **Sec. 37.** AS 17.21.090(3) is amended to read:

6 (3) "synthetic drug" means a substance that is

7 (A) a chemical or chemical compound intended, when
8 introduced into the human body, to mimic or simulate the effect of a drug,
9 [OR] controlled substance, **or marijuana**;

10 (B) in the form of

11 (i) a crystalline or powder product in crystalline, loose
12 powder, block, tablet, or capsule form; or

13 (ii) plant material in granular, loose leaf, powder, or
14 liquid form or used as a food additive; and

15 (C) not a controlled substance **or marijuana**.

16 * **Sec. 38.** AS 17.30.070(c) is amended to read:

17 (c) If the classification of a controlled substance in a schedule set out in
18 **AS 11.71.140 - 11.71.180** [AS 11.71.140 - 11.71.190] is different from its
19 corresponding classification under federal law, the requirements of (a) and (b) of this
20 section are determined by the classification of the substance under federal law.

21 * **Sec. 39.** AS 17.30.080(a) is amended to read:

22 (a) A controlled substance classified under federal law, **other than**
23 **marijuana**, or in a schedule set out in **AS 11.71.140 - 11.71.180** [AS 11.71.140 -
24 11.71.190] may not be administered, prescribed, dispensed, or distributed other than
25 for a medical purpose.

26 * **Sec. 40.** AS 17.30.080(b) is amended to read:

27 (b) A person who violates (a) of this section, or who otherwise manufactures,
28 distributes, dispenses, or conducts research with a controlled substance in the state
29 without fully complying with 21 U.S.C. 811 - 830 (Controlled Substances Act),
30 **except as to marijuana**, and regulations adopted under those sections, **except as to**
31 **marijuana**, is guilty of misconduct involving a controlled substance under

1 AS 11.71.010 - 11.71.060 in the degree appropriate to the circumstances as described
2 in those sections. Upon filing a complaint, information, presentment, or indictment
3 charging a medical assistance provider with misconduct involving a controlled
4 substance under **AS 11.71.140 - 11.71.180** [AS 11.71.140 - 11.71.190], the attorney
5 general shall, in writing, notify the commissioner of health and social services of the
6 filing.

7 * **Sec. 41.** AS 17.30.140 is amended to read:

8 **Sec. 17.30.140. Education and research.** (a) The commissioner of health and
9 social services shall provide for educational programs designed to prevent and deter
10 the abuse of **alcohol, marijuana, and** controlled substances. In connection with these
11 programs, the commissioner may

12 (1) assist the regulated industry and interested groups and
13 organizations in contributing to the reduction of abuse of **alcohol, marijuana, and**
14 controlled substances;

15 (2) promote better recognition of the problems surrounding abuse of
16 **alcohol, marijuana, and** controlled substances within the regulated industry and
17 among interested groups and organizations;

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

20 (4) evaluate procedures, projects, and techniques conducted or
21 proposed as part of educational programs on abuse of **alcohol, marijuana, and**
22 controlled substances;

23 (5) disseminate the results of research on abuse of **alcohol, marijuana,**
24 **and** controlled substances to promote a better public understanding of the problems
25 **that** [WHICH] exist and their solutions; [AND]

26 (6) with the cooperation of the Department of Law, assist in the
27 education and training of state and local law enforcement officials in their efforts to
28 prevent illicit traffic in and abuse of **alcohol, marijuana, and** controlled substances;
29 **and**

30 **(7) with the cooperation of the Department of Public Safety, create**
31 **an education program for the public regarding marijuana laws.**

1 (b) The commissioner of health and social services shall encourage research
2 on **alcohol, marijuana, and** controlled substances and may

3 (1) establish methods to assess the effects of **alcohol, marijuana, and**
4 controlled substances and identify and characterize those with potential for abuse;

5 (2) make studies and undertake research to

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

8 (B) determine patterns of abuse of **alcohol, marijuana, and**
9 controlled substances and their social effects; and

10 (C) improve methods for preventing, predicting, and
11 understanding the abuse of **alcohol, marijuana, and** controlled substances;

12 (3) enter into contracts with public agencies, institutions of higher
13 education, and private organizations or individuals for conducting research,
14 demonstrations, or special projects **that** [WHICH] bear directly on abuse of **alcohol,**
15 **marijuana, and** controlled substances and for related research and educational
16 activities.

17 * **Sec. 42.** AS 17.37.030(a) is amended to read:

18 (a) A patient, primary caregiver, or alternate caregiver registered with the
19 department under this chapter has an affirmative defense to a criminal prosecution
20 related to marijuana to the extent provided in **AS 17.38.270** [AS 11.71.090].

21 * **Sec. 43.** AS 17.37.070(8) is amended to read:

22 (8) "medical use" means the acquisition, possession, cultivation, use or
23 transportation of marijuana or paraphernalia related to the administration of marijuana
24 to alleviate a debilitating medical condition under the provisions of this chapter and
25 **AS 17.38.270** [AS 11.71.090];

26 * **Sec. 44.** AS 17.38.020 is amended to read:

27 **Sec. 17.38.020. Personal use of marijuana. The** [NOTWITHSTANDING
28 ANY OTHER PROVISION OF LAW, EXCEPT AS OTHERWISE PROVIDED IN
29 THIS CHAPTER, THE] following acts, by persons 21 years of age or older, are lawful
30 and **are not** [SHALL NOT BE A] criminal or civil **offenses** [OFFENSE] under Alaska
31 law or the law of any political subdivision of Alaska or **bases** [BE A BASIS] for

1 seizure or forfeiture of assets under Alaska law:

2 (1) possessing, using, displaying, purchasing, or transporting
3 marijuana accessories or one ounce or less of marijuana;

4 (2) possessing, growing, processing, or transporting **not** [NO] more
5 than six marijuana plants, with three or fewer being mature, flowering plants, and
6 possession of the marijuana produced by the plants on the premises where the plants
7 were grown;

8 (3) transferring one ounce or less of marijuana and up to six immature
9 marijuana plants to a person who is 21 years of age or older without remuneration;

10 (4) consumption of marijuana, except that nothing in this chapter
11 **permits** [SHALL PERMIT] the consumption of marijuana in **a public place**; and

12 (5) assisting another person who is 21 years of age or older in any of
13 the acts described in (1) - (4) of this section; **under this paragraph, assisting does**
14 **not include**

15 **(A) using, displaying, purchasing, or transporting**
16 **marijuana in excess of the amount allowed in this section;**

17 **(B) possessing, growing, processing, or transporting**
18 **marijuana plants in excess of the amount allowed in this section.**

19 * **Sec. 45.** AS 17.38.070(a) is amended to read:

20 (a) **The** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
21 THE] following acts, when performed by a retail marijuana store with a current, valid
22 registration, or a person 21 years of age or older who is acting in the person's capacity
23 as an owner, employee, or agent of a retail marijuana store, are lawful and **are not**
24 **offenses** [SHALL NOT BE AN OFFENSE] under Alaska law or **bases** [BE A BASIS]
25 for seizure or forfeiture of assets under Alaska law:

26 (1) possessing, displaying, storing, or transporting marijuana or
27 marijuana products, except that marijuana and marijuana products may not be
28 displayed in a manner that is visible to the general public from a public right-of-way;

29 (2) delivering or transferring marijuana or marijuana products to a
30 **registered** marijuana testing facility;

31 (3) receiving marijuana or marijuana products from a **registered**

1 marijuana testing facility;

2 (4) purchasing marijuana from a **registered** marijuana cultivation
3 facility;

4 (5) purchasing marijuana or marijuana products from a **registered**
5 marijuana product manufacturing facility; and

6 (6) delivering, distributing, or selling marijuana or marijuana products
7 to consumers.

8 * **Sec. 46.** AS 17.38.070(b) is amended to read:

9 (b) **The** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
10 THE] following acts, when performed by a marijuana cultivation facility with a
11 current, valid registration, or a person 21 years of age or older who is acting in the
12 person's capacity as an owner, employee, or agent of a marijuana cultivation facility,
13 are lawful and **are not offenses** [SHALL NOT BE AN OFFENSE] under Alaska law
14 or **bases** [BE A BASIS] for seizure or forfeiture of assets under Alaska law:

15 (1) cultivating, manufacturing, harvesting, processing, packaging,
16 transporting, displaying, storing, or possessing marijuana;

17 (2) delivering or transferring marijuana to a **registered** marijuana
18 testing facility;

19 (3) receiving marijuana from a **registered** marijuana testing facility;

20 (4) delivering, distributing, or selling marijuana to a **registered**
21 marijuana cultivation facility, a **registered** marijuana product manufacturing facility,
22 or a **registered** retail marijuana store;

23 (5) receiving or purchasing marijuana from a **registered** marijuana
24 cultivation facility; and

25 (6) receiving marijuana seeds or immature marijuana plants from a
26 person 21 years of age or older.

27 * **Sec. 47.** AS 17.38.070(c) is amended to read:

28 (c) **The** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
29 THE] following acts, when performed by a marijuana product manufacturing facility
30 with a current, valid registration, or a person 21 years of age or older who is acting in
31 the person's capacity as an owner, employee, or agent of a marijuana product

1 manufacturing facility, are lawful and **are not offenses** [SHALL NOT BE AN
2 OFFENSE] under Alaska law or **bases** [BE A BASIS] for seizure or forfeiture of
3 assets under Alaska law:

4 (1) packaging, processing, transporting, manufacturing, displaying, or
5 possessing marijuana or marijuana products;

6 (2) delivering or transferring marijuana or marijuana products to a
7 **registered** marijuana testing facility;

8 (3) receiving marijuana or marijuana products from a **registered**
9 marijuana testing facility;

10 (4) delivering or selling marijuana or marijuana products to a
11 **registered** retail marijuana store or a marijuana product manufacturing facility;

12 (5) purchasing marijuana from a **registered** marijuana cultivation
13 facility; and

14 (6) purchasing of marijuana or marijuana products from a **registered**
15 marijuana product manufacturing facility.

16 * **Sec. 48.** AS 17.38.070(d) is amended to read:

17 (d) **The** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
18 THE] following acts, when performed by a marijuana testing facility with a current,
19 valid registration, or a person 21 years of age or older who is acting in the person's
20 capacity as an owner, employee, or agent of a marijuana testing facility, are lawful and
21 **are not offenses** [SHALL NOT BE AN OFFENSE] under Alaska law or **bases** [BE A
22 BASIS] for seizure or forfeiture of assets under Alaska law:

23 (1) possessing, cultivating, processing, repackaging, storing,
24 transporting, displaying, transferring, or delivering marijuana;

25 (2) receiving marijuana or marijuana products from a **registered**
26 marijuana cultivation facility, a **registered** marijuana retail store, a **registered**
27 marijuana products manufacturer, or a person 21 years of age or older; and

28 (3) returning marijuana or marijuana products to a **registered**
29 marijuana cultivation facility, **registered** marijuana retail store, **registered** marijuana
30 products manufacturer, or a person 21 years of age or older.

31 * **Sec. 49.** AS 17.38.070(e) is amended to read:

1 (e) **It** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IT] is
 2 lawful and **is** [SHALL] not [BE] an offense under Alaska law or [BE] a basis for
 3 seizure or forfeiture of assets under Alaska law to lease or otherwise allow the use of
 4 property owned, occupied, or controlled by any person, corporation, or other entity for
 5 any of the activities conducted lawfully in accordance with (a) - (d) of this section.

6 * **Sec. 50.** AS 17.38.090 is amended by adding a new subsection to read:

7 (c) the board shall adopt a regulation that prohibits a retail marijuana store
 8 from selling more than five grams of marijuana concentrate a day to a customer.

9 * **Sec. 51.** AS 17.38.110(a) is amended to read:

10 (a) A local government may prohibit the operation of marijuana cultivation
 11 facilities, marijuana product manufacturing facilities, marijuana testing facilities, or
 12 retail marijuana stores through the enactment of an ordinance or by a voter initiative.

13 **An established village may prohibit the operation of marijuana cultivation**
 14 **facilities, marijuana product manufacturing facilities, marijuana testing facilities,**
 15 **or retail marijuana stores by a voter initiative as provided in AS 17.38.290.**

16 * **Sec. 52.** AS 17.38 is amended by adding new sections to read:

17 **Sec. 17.38.200. Misconduct involving marijuana in the first degree.** (a)

18 Except as authorized in AS 17.38.020, a person commits the crime of misconduct
 19 involving marijuana in the first degree if

20 (1) at the time of the possession, manufacture, transport, or delivery,
 21 the person

22 (A) is not a registered marijuana establishment under this
 23 chapter or acting in the person's capacity as an officer, agent, or employee of
 24 the marijuana establishment and knowingly

25 (i) possesses 25 or more marijuana plants;

26 (ii) manufactures more than six marijuana plants, not
 27 more than three of which are mature, flowering plants;

28 (iii) delivers or transports more than one ounce of
 29 usable marijuana or more than six marijuana plants;

30 (iv) delivers any amount of marijuana to a person under
 31 21 years of age;

(v) manufactures a marijuana concentrate or extract using a volatile or explosive gas;

(vi) delivers or transports one ounce or less of usable marijuana for remuneration; or

(vii) delivers or transports up to six immature plants for remuneration; or

(B) is a registered marijuana establishment under this chapter or acting in the person's capacity as an officer, agent or employee of the marijuana establishment, the possession, manufacture, transport, or delivery does not comply with the requirements of the registration, and the person knowingly

(i) possesses 25 or more marijuana plants;

(ii) manufactures more than six marijuana plants, not more than three of which are mature, flowering plants;

(iii) transports more than one ounce of usable marijuana or more than six marijuana plants;

(iv) delivers any amount of marijuana to a person under 21 years of age; or

(v) manufactures a marijuana concentrate or extract using a volatile or explosive gas; or

(2) the person is a registered marijuana establishment under this chapter or acting in the person's capacity as an officer, agent, or employee of the marijuana establishment and with criminal negligence

(A) allows a person to deliver marijuana to another person under 21 years of age within the licensed premises who

(i) is not a patient registered under AS 17.37; and

(ii) is at least 18 years of age;

(B) allows a person under 21 years of age to enter and remain within the licensed premises who

(i) is not a patient registered under AS 17.37; and

(ii) is at least 18 years of age;

1 (C) allows a person under 21 years of age to use marijuana
2 within the licensed premises;

3 (D) allows a person under 21 years of age to deliver marijuana;
4 or

5 (E) while working on the licensed premises, delivers marijuana
6 to a person under 21 years of age who

7 (i) is not a patient registered under AS 17.37; and

8 (ii) is at least 18 years of age.

9 (b) Misconduct involving marijuana in the first degree is a class A
10 misdemeanor.

11 **Sec. 17.38.210. Misconduct involving marijuana in the second degree.** (a)

12 Except as authorized in AS 17.38.020, a person commits the crime of misconduct
13 involving marijuana in the second degree if, at the time of the possession, delivery, or
14 sale, the person

15 (1) is 21 years of age or older, is not a registered marijuana
16 establishment under this chapter or acting in the person's capacity as an officer, agent,
17 or employee of the marijuana establishment, and knowingly

18 (A) possesses more than six but less than 25 marijuana plants;

19 or

20 (B) possesses, purchases, displays, delivers, or transports

21 (i) more than one ounce of usable marijuana in a public
22 place except when authorized by the terms of registration issued under
23 this chapter; or

24 (ii) more than six marijuana plants except when
25 authorized by the terms of registration issued under this chapter;

26 (2) is a registered marijuana establishment under this chapter or acting
27 in the person's capacity as an officer, agent, or employee of the marijuana
28 establishment, the possession, delivery, or sale did not comply with the requirements
29 of the registration, and the person knowingly

30 (A) possesses more than six but less than 25 marijuana plants;

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(B) delivers or sells any amount of marijuana; or
(3) is not a registered marijuana establishment under this chapter or acting in the person's capacity as an officer, agent, or employee of the marijuana establishment and knowingly sells any amount of marijuana.

(b) Misconduct involving marijuana in the second degree is a class B misdemeanor.

Sec. 17.38.220. Misconduct involving marijuana in the third degree. (a) A person commits the crime of misconduct involving marijuana in the third degree if the person

(1) manufactures marijuana

(A) in a location where the plants are subject to public view without the use of binoculars, aircraft, or other optical aids;

(B) in a location that is not secure from unauthorized access; or

(C) on property not lawfully in the possession of the person or on property without the consent of the person in lawful possession of the property;

(2) is under 21 years of age and enters premises registered under this chapter where marijuana, marijuana products, or marijuana accessories are sold and offers or presents to a registered marijuana establishment or an agent or employee of the registered marijuana establishment a birth certificate or other written evidence of age, that is fraudulent or false or that is not actually the person's own, or otherwise misrepresents the person's age, for the purpose of inducing the registered marijuana establishment or an agent or employee of the registered marijuana establishment to deliver marijuana, marijuana products, or marijuana accessories to the person; or

(3) is under 18 years of age and possesses, uses, or displays any amount of marijuana.

(b) A person under 21 years of age does not violate (a)(2) of this section if the person enters and remains on premises registered under this chapter at the request of a peace officer, if the peace officer accompanies, supervises, or otherwise observes the person's entry or remaining on premises, and the purpose for the entry or remaining on premises is to assist in the enforcement of this section.

1 (c) Misconduct involving marijuana in the third degree is a violation and is
2 punishable by a fine of \$300.

3 **Sec. 17.38.230. Misconduct involving marijuana in the fourth degree.** (a) A
4 person commits the crime of misconduct involving marijuana in the fourth degree if
5 the person

6 (1) is 21 years of age or older and uses any amount of marijuana in a
7 public place; or

8 (2) is under 21 years of age but at least 18 years of age and uses,
9 displays, or possesses any amount of marijuana.

10 (b) Misconduct involving marijuana in the fourth degree is a violation and is
11 punishable by a fine of \$100.

12 **Sec. 17.38.240. Proof of registration to be exhibited on demand; penalty.**

13 (a) A person shall have a copy of the person's registration issued under AS 17.38.100
14 in the person's immediate possession at all times when transporting more than one
15 ounce of marijuana, and shall present the copy of the registration for inspection upon
16 the demand of a peace officer or other authorized representative of the Department of
17 Public Safety. However, a person charged with violating this section may not be
18 convicted if the person produces in court or in the office of the arresting or citing
19 officer proof of registration previously issued to the person that was valid at the time
20 of the person's arrest or citation.

21 (b) A person convicted under this section is guilty of a violation punishable by
22 a fine of \$100.

23 **Sec. 17.38.250. Bail forfeiture for certain offenses.** The supreme court shall
24 establish by rule or order a schedule of bail amounts that may be forfeited without
25 court appearance for a violation of AS 17.38.220 - 17.38.240.

26 **Sec. 17.38.260. Restriction on prosecution for certain persons in**
27 **connection with a significant adverse marijuana reaction.** A person may not be
28 prosecuted for a violation of AS 17.38.200(a)(1)(A)(i), 17.38.210(a)(1)(B)(i), or
29 17.38.230 if that person

30 (1) sought, in good faith, medical or law enforcement assistance for
31 another person who the person reasonably believed was experiencing a significant

adverse marijuana reaction and

(A) the evidence supporting the prosecution for an offense under AS 17.38.200(a)(1)(A)(i) or 17.38.230 was obtained or discovered as a result of the person's seeking medical or law enforcement assistance;

(B) the person remained at the scene with the other person until medical or law enforcement assistance arrived; and

(C) the person cooperated with medical or law enforcement personnel, including by providing identification;

(2) was experiencing a significant adverse marijuana reaction and sought medical assistance, and the evidence supporting a prosecution for an offense under AS 17.38.200(a)(1)(A)(i), 17.38.210(a)(1)(B)(i), or 17.38.230 was obtained as a result of the significant adverse reaction and the need for medical assistance.

Sec. 17.38.270. Affirmative defense to a prosecution under AS 17.38.200 - 17.38.230; medical use of marijuana. (a) In a prosecution under AS 17.38.200 - 17.38.230 charging the manufacture, delivery, possession, possession with intent to manufacture or deliver, use, or display of marijuana, it is an affirmative defense that the defendant is a patient, or the primary caregiver or alternate caregiver for a patient, and

(1) at the time of the manufacture, delivery, possession, possession with intent to manufacture or deliver, use, or display, the patient was registered under AS 17.37;

(2) the manufacture, delivery, possession, possession with intent to manufacture, deliver, use, or display complied with the requirements of AS 17.37; and

(3) if the defendant is the

(A) primary caregiver of the patient, the defendant was in physical possession of the caregiver registry identification card at the time of the manufacture, delivery, possession, possession with intent to manufacture or deliver, use, or display; or

(B) alternate caregiver of the patient, the defendant was in physical possession of the caregiver registry identification card at the time of the manufacture, delivery, possession, possession with intent to manufacture or

1 deliver, use, or display.

2 (b) In this section,

3 (1) "alternate caregiver" has the meaning given in AS 17.37.070;

4 (2) "patient" has the meaning given in AS 17.37.070;

5 (3) "primary caregiver" has the meaning given in AS 17.37.070.

6 **Sec. 17.38.280. Court records of violations by minors confidential.** The
7 court records of a violation of AS 17.38.200 - 17.38.240 filed with the court are
8 confidential if the person charged with the violation was under 18 years of age at the
9 time the person committed the violation.

10 **Sec. 17.38.290. Local option.** (a) If a majority of the voters voting on the
11 question vote to approve the option, an established village shall exercise a local option
12 to prohibit the operation of marijuana establishments.

13 (b) A ballot question to adopt a local option under this section must at least
14 contain language substantially similar to the following: "Shall (name of village) adopt
15 a local option to prohibit the operation of marijuana establishments? (yes or no)."

16 **Sec. 17.38.300. Removal of local option.** (a) If a majority of the voters voting
17 on the question vote to remove the option, an established village shall remove a local
18 option previously adopted under AS 17.38.290. The option is repealed effective the
19 first day of the month following certification of the results of the election.

20 (b) A ballot question to remove a local option under this section must at least
21 contain language substantially similar to the following: "Shall (name of village)
22 remove the local option currently in effect, that prohibits the operation of marijuana
23 establishments, so that there is no longer any local option in effect? (yes or no)."

24 (c) When issuing a registration in the area that has removed a local option, the
25 board shall give priority to an applicant who was formerly licensed and whose license
26 was not renewed because of the results of the previous local option election. However,
27 an applicant described in this subsection does not have a legal right to registration, and
28 the board is not required to approve the application.

29 **Sec. 17.38.310. Effect of local option on registrations of prohibition of**
30 **marijuana establishments.** If a majority of voters vote to prohibit the operation of
31 marijuana establishments under AS 17.38.290, the board may not issue, renew, or

1 transfer, between persons or locations, a registration for a marijuana establishment
2 located within the perimeter of the established village. A registration that may not be
3 renewed because of a local option election held under AS 17.38.290 is void 90 days
4 after the results of the election are certified. A registration that expires during the 90
5 days after the results of a local option election are certified may be extended, until it is
6 void under this section, by payment of a prorated portion of the annual registration fee.

7 **Sec. 17.38.320. Procedure for local option elections.** (a) An election to adopt
8 a local option under AS 17.38.290 or remove a local option under AS 17.38.300 shall
9 be conducted as required in this section.

10 (b) Upon receipt of a petition of 35 percent or more of the registered voters
11 residing within an established village, the lieutenant governor shall place on a separate
12 ballot at a special election the local option or removal of local option that constitutes
13 the subject of the petition. The lieutenant governor shall conduct the election under
14 AS 15.

15 (c) An election under (b) of this section to remove a local option may not be
16 conducted during the first 24 months after the local option was adopted or more than
17 once in a 36-month period.

18 (d) After a petition has been certified as sufficient to meet the requirements of
19 (b) of this section, another petition may not be filed or certified until after the question
20 presented in the first petition has been voted on. Only one local option question may
21 be presented in an election.

22 **Sec. 17.38.330. Establishment of perimeter of established village.** (a)
23 Except as provided under (b) and (c) of this section, for purposes of AS 17.38.290 and
24 17.38.310, the perimeter of an established village is a circle around the established
25 village that includes an area within a five-mile radius of the post office of the
26 established village. If the established village does not have a post office, the perimeter
27 of an established village is a circle around the established village that includes an area
28 within a five-mile radius of another site selected by the local governing body or by the
29 board if the established village does not have a local governing body.

30 (b) If the perimeter of an established village determined under (a) of this
31 section includes any area that is within the perimeter of another established village

1 and, if the other established village has

2 (1) also adopted a local option under AS 17.38.290, the local option of
3 the established village that is less restrictive applies in the overlapping area;

4 (2) not adopted a local option under AS 17.38.290, the local option
5 does not apply in the overlapping area.

6 (c) If the board determines that the perimeter of an established village as
7 provided under (a) and (b) of this section does not accurately reflect the perimeter of
8 the established village, the board may establish the perimeter of the established village
9 and the areas of overlapping perimeter described under (b) of this section for purposes
10 of applying a local option selected under this chapter.

11 **Sec. 17.38.340. Notice of the results of a local option election.** If a majority
12 of the voters vote to prohibit or remove a local option under AS 17.38.290 or
13 17.38.300, the lieutenant governor shall notify the board of the results of the election
14 immediately after the results are certified. The board shall immediately notify the
15 Department of Law and the Department of Public Safety of the results of the election.

16 * **Sec. 53.** AS 17.38.900(6) is amended to read:

17 (6) "marijuana" means all parts of the plant of the genus cannabis
18 whether growing or not, the seeds thereof, the resin extracted from any part of the
19 plant, and every compound, manufacture, [SALT,] derivative, mixture, or preparation
20 of the plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does
21 not include fiber produced from the stalks, oil, or cake made from the seeds of the
22 plant, sterilized seed of the plant that [WHICH] is incapable of germination, or the
23 weight of any other ingredient combined with marijuana to prepare topical or oral
24 administrations, food, drink, or other products;

25 * **Sec. 54.** AS 17.38.900 is amended by adding new paragraphs to read:

26 (15) "criminal negligence" has the meaning given in AS 11.81.900;

27 (16) "deliver" or "delivery" means the actual, constructive, or
28 attempted transfer from one person to another of marijuana, whether or not there is an
29 agency relationship;

30 (17) "established village" means an area that does not contain any part
31 of an incorporated city or another established village and that is an unincorporated

1 community that is in the unorganized borough and that has 25 or more permanent
2 residents;

3 (18) "knowingly" has the meaning given in AS 11.81.900;

4 (19) "manufacture" means the production, preparation, propagation,
5 compounding, conversion, growing, or processing of marijuana, either directly or
6 indirectly by extraction from substances of natural origin, or independently by means
7 of chemical synthesis, or by a combination of extraction and chemical synthesis, and
8 includes the preparation, compounding, packaging, repackaging, labeling, or
9 relabeling of marijuana or its container; however, the growing of marijuana for
10 personal use is not manufacturing;

11 (20) "marijuana concentrate" means a product created from resins of or
12 by extracting cannabinoids from any part of the plant (genus) Cannabis;

13 (21) "public place" has the meaning given in AS 11.81.900;

14 (22) "usable marijuana" has the meaning given in AS 17.37.070.

15 * **Sec. 55.** AS 18.66.100(c) is amended to read:

16 (c) A protective order under this section may

17 (1) prohibit the respondent from threatening to commit or committing
18 domestic violence, stalking, or harassment;

19 (2) prohibit the respondent from telephoning, contacting, or otherwise
20 communicating directly or indirectly with the petitioner;

21 (3) remove and exclude the respondent from the residence of the
22 petitioner, regardless of ownership of the residence;

23 (4) direct the respondent to stay away from the residence, school, or
24 place of employment of the petitioner or any specified place frequented by the
25 petitioner or any designated household member;

26 (5) prohibit the respondent from entering a propelled vehicle in the
27 possession of or occupied by the petitioner;

28 (6) prohibit the respondent from using or possessing a deadly weapon
29 if the court finds the respondent was in the actual possession of or used a weapon
30 during the commission of domestic violence;

31 (7) direct the respondent to surrender any firearm owned or possessed

1 by the respondent if the court finds that the respondent was in the actual possession of
2 or used a firearm during the commission of the domestic violence;

3 (8) request a peace officer to accompany the petitioner to the
4 petitioner's residence to ensure that the petitioner

5 (A) safely obtains possession of the petitioner's residence,
6 vehicle, or personal items; and

7 (B) is able to safely remove a vehicle or personal items from
8 the petitioner's residence;

9 (9) award temporary custody of a minor child to the petitioner and may
10 arrange for visitation with a minor child if the safety of the child and the petitioner can
11 be protected; if visitation is allowed, the court may order visitation under the
12 conditions provided in AS 25.20.061;

13 (10) give the petitioner possession and use of a vehicle and other
14 essential personal items, regardless of ownership of the items;

15 (11) prohibit the respondent from consuming controlled substances **or**
16 **marijuana**;

17 (12) require the respondent to pay support for the petitioner or a minor
18 child in the care of the petitioner if there is an independent legal obligation of the
19 respondent to support the petitioner or child;

20 (13) require the respondent to reimburse the petitioner or other person
21 for expenses associated with the domestic violence, including medical expenses,
22 counseling, shelter, and repair or replacement of damaged property;

23 (14) require the respondent to pay costs and fees incurred by the
24 petitioner in bringing the action under this chapter;

25 (15) order the respondent, at the respondent's expense, to participate in
26 (A) a program for the rehabilitation of perpetrators of domestic violence that meets the
27 standards set by, and that is approved by, the Department of Corrections under
28 AS 44.28.020(b), or (B) treatment for the abuse of alcohol, **marijuana**, or controlled
29 substances, or **a combination of them** [BOTH]; a protective order under this section
30 may not require a respondent to participate in a program for the rehabilitation of
31 perpetrators of domestic violence unless the program meets the standards set by, and

1 that is approved by, the Department of Corrections under AS 44.28.020(b);

2 (16) order other relief the court determines necessary to protect the
3 petitioner or any household member.

4 * **Sec. 56.** AS 18.67.080(c) is amended to read:

5 (c) In determining whether to make an order under this section, the board shall
6 consider all circumstances determined to be relevant, including provocation, consent,
7 or any other behavior of the victim that directly or indirectly contributed to the
8 victim's injury or death, the prior case or social history, if any, of the victim, the
9 victim's need for financial aid, and any other relevant matters. In applying this
10 subsection,

11 (1) the board may not deny an order based on the factors in this
12 subsection, unless those factors relate significantly to the occurrence that caused the
13 victimization and are of such a nature and quality that a reasonable or prudent person
14 would know that the factors or actions could lead to the crime and the victimization;

15 (2) with regard to circumstances in which the victim consented to,
16 provoked, or incited the criminal act, the board may consider those circumstances only
17 if the board finds that it is more probable than not that those circumstances occurred
18 and were the cause of the crime and the victimization;

19 (3) the board may deny an order based on the victim's involvement
20 with illegal drugs, only if

21 (A) the victim was involved in the manufacture or delivery of a
22 controlled substance at the time of the crime or the crime and victimization
23 was a direct result of the prior manufacture or delivery of a controlled
24 substance; the evidence of this manufacture or delivery must be corroborated
25 by law enforcement or other credible sources; and

26 (B) the evidence shows a direct correlation linking the illegal
27 activity and the crime and victimization; or

28 (4) if a claim is based on a crime involving domestic violence or on a
29 crime of sexual abuse of a minor or sexual assault and the offender is

30 (A) convicted of one of those crimes, notwithstanding (1) - (3)
31 of this subsection, the board may not deny an order based on considerations of

1 provocation, the use of alcohol, marijuana, or drugs by the victim, or the prior
2 social history of the victim; or

3 (B) not convicted of one of those crimes, the board may not
4 deny an order based on the involvement or behavior of the victim.

5 * **Sec. 57.** AS 18.67.101 is amended to read:

6 **Sec. 18.67.101. Incidents and offenses to which this chapter applies.** The
7 board may order the payment of compensation in accordance with the provisions of
8 this chapter for personal injury or death that resulted from

9 (1) an attempt on the part of the applicant to prevent the commission of
10 crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police
11 officer to do so, or aiding a victim of crime; or

12 (2) the commission or attempt on the part of one other than the
13 applicant to commit any of the following offenses:

14 (A) murder in any degree;

15 (B) manslaughter;

16 (C) criminally negligent homicide;

17 (D) assault in any degree;

18 (E) kidnapping;

19 (F) sexual assault in any degree;

20 (G) sexual abuse of a minor;

21 (H) robbery in any degree;

22 (I) threats to do bodily harm;

23 (J) driving while under the influence of an alcoholic beverage,
24 marijuana, inhalant, or controlled substance or another crime resulting from
25 the operation of a motor vehicle, boat, or airplane when the offender is under
26 the influence of an alcoholic beverage, marijuana, inhalant, or controlled
27 substance;

28 (K) arson in the first degree;

29 (L) sex trafficking in violation of AS 11.66.110 or
30 11.66.130(a)(2);

31 (M) human trafficking in any degree; or

(N) unlawful exploitation of a minor.

* **Sec. 58.** AS 21.42.365(b) is amended to read:

(b) In this section, "alcoholism or drug abuse" means an illness characterized by

(1) a physiological or psychological dependency, or both, on alcoholic beverages, marijuana, or controlled substances as defined in AS 11.71.900; or

(2) habitual lack of self-control in using alcoholic beverages, marijuana, or controlled substances to the extent that the person's health is substantially impaired or the person's social or economic function is substantially disrupted.

* **Sec. 59.** AS 23.10.600(a) is amended to read:

(a) If an employer has established a drug, marijuana, and alcohol testing policy and initiated a testing program under AS 23.10.600 - 23.10.699, a person may not bring an action for damages against the employer for

(1) actions in good faith based on the results of a positive drug test, positive marijuana impairment test, or alcohol impairment test;

(2) failure to test for drugs, marijuana impairment, or alcohol impairment or failure to test for a specific drug or another controlled substance;

(3) failure to test or, if tested, failure to detect a specific drug or other substance, a medical condition, or a mental, emotional, or psychological disorder or condition; or

(4) termination or suspension of a drug, marijuana, or alcohol prevention or testing program or policy.

* **Sec. 60.** AS 23.10.600(b) is amended to read:

(b) A person may not bring an action for damages based on test results against an employer who has established and implemented a drug, marijuana, and alcohol testing program under AS 23.10.600 - 23.10.699 unless the employer's action was based on a false positive test result and the employer knew or clearly should have known that the result was in error and ignored the true test result because of reckless or malicious disregard for the truth or the wilful intent to deceive or be deceived.

* **Sec. 61.** AS 23.10.600(d) is amended to read:

1 (d) A person may not bring an action for damages against an employer for an
2 action taken related to a false negative drug test, marijuana impairment test, or
3 alcohol impairment test.

4 * **Sec. 62.** AS 23.10.600(e) is amended to read:

5 (e) A person may not bring an action against an employer based on failure of
6 the employer to establish a program or policy on substance abuse prevention or to
7 implement drug testing, marijuana impairment testing, or alcohol impairment
8 testing.

9 * **Sec. 63.** AS 23.10.610 is amended to read:

10 **Sec. 23.10.610. Limits on causes of action for disclosures.** A person may not
11 bring an action for defamation of character, libel, slander, or damage to reputation
12 against an employer who has established a program of drug testing, marijuana
13 impairment testing, or alcohol impairment testing under AS 23.10.600 - 23.10.699 if
14 the action is based on drug, marijuana, or alcohol testing unless

15 (1) the results of the test were disclosed to a person other than the
16 employer, an authorized employee, agent or representative of the employer, the tested
17 employee, the tested prospective employee, or another person authorized or privileged
18 by law to receive the information;

19 (2) the information disclosed was a false positive test result;

20 (3) the false positive test result was disclosed negligently; and

21 (4) all elements of an action for defamation of character, libel, slander,
22 or damage to reputation as established by law are satisfied.

23 * **Sec. 64.** AS 23.10.620(a) is amended to read:

24 (a) Under AS 23.10.600 - 23.10.699, an employer may only carry out the
25 testing or retesting for the presence or evidence of use of drugs, marijuana, or alcohol
26 after adopting a written policy for the testing and retesting and informing employees
27 of the policy. The employer may inform employees by distributing a copy of the
28 policy to each employee subject to testing or making the policy available to employees
29 in the same manner as the employer informs its employees of other personnel
30 practices, including inclusion in a personnel handbook or manual or posting in a place
31 accessible to employees. The employer shall inform prospective employees that they

1 must undergo drug testing.

2 * **Sec. 65.** AS 23.10.620(b) is amended to read:

3 (b) The written policy on drug, marijuana, and alcohol testing must include,
4 at a minimum,

5 (1) a statement of the employer's policy respecting drug, marijuana,
6 and alcohol use by employees;

7 (2) a description of those employees or prospective employees who are
8 subject to testing;

9 (3) the circumstances under which testing may be required;

10 (4) the substances as to which testing may be required;

11 (5) a description of the testing methods and collection procedures to be
12 used, including an employee's right to a confirmatory drug test to be reviewed by a
13 licensed physician or doctor of osteopathy after an initial positive drug test result in
14 accordance with AS 23.10.640(d);

15 (6) the consequences of a refusal to participate in the testing;

16 (7) any adverse personnel action that may be taken based on the testing
17 procedure or results;

18 (8) the right of an employee, on the employee's request, to obtain the
19 written test results and the obligation of the employer to provide written test results to
20 the employee within five working days after a written request to do so, so long as the
21 written request is made within six months after the date of the test;

22 (9) the right of an employee, on the employee's request, to explain in a
23 confidential setting, a positive test result; if the employee requests in writing an
24 opportunity to explain the positive test result within 10 working days after the
25 employee is notified of the test result, the employer must provide an opportunity, in a
26 confidential setting, within 72 hours after receiving the employee's written notice, or
27 before taking adverse employment action;

28 (10) a statement of the employer's policy regarding the confidentiality
29 of the test results.

30 * **Sec. 66.** AS 23.10.620(c) is amended to read:

31 (c) An employer may require the collection and testing of a sample of an

1 employee's or prospective employee's urine or breath for any job-related purpose
2 consistent with business necessity and the terms of the employer's policy, including

3 (1) investigation of possible individual employee impairment;

4 (2) investigation of accidents in the workplace; an employee may be
5 required to undergo drug testing, marijuana impairment testing, or alcohol
6 impairment testing for an accident if the test is taken as soon as practicable after an
7 accident and the test is administered to employees who the employer reasonably
8 believes may have contributed to the accident;

9 (3) maintenance of safety for employees, customers, clients, or the
10 public at large;

11 (4) maintenance of productivity, the quality of products or services, or
12 security of property or information;

13 (5) reasonable suspicion that an employee may be affected by the use
14 of drugs, marijuana, or alcohol and that the use may adversely affect the job
15 performance or the work environment.

16 * **Sec. 67.** AS 23.10.620(e) is amended to read:

17 (e) If an employer institutes a policy of drug testing, marijuana impairment
18 testing, or alcohol impairment testing under AS 23.10.600 - 23.10.699, the policy
19 must identify which employees or positions are subject to testing. An employer must
20 test all or part of the work force based on consideration of safety for employees,
21 customers, clients, or the public at large. An employer may not initiate a testing
22 program under AS 23.10.600 - 23.10.699 until at least 30 days after the employer
23 notifies employees of the employer's intent to implement the program and makes
24 written copies of the policy available as required by (a) of this section.

25 * **Sec. 68.** AS 23.10.620(f) is amended to read:

26 (f) The provisions of AS 23.10.600 - 23.10.699 may not be construed to
27 discourage, restrict, limit, prohibit, or require on-site drug testing, marijuana
28 impairment testing, or alcohol impairment testing.

29 * **Sec. 69.** AS 23.10.630(a) is amended to read:

30 (a) An employer may test an employee for the presence of drugs or for
31 marijuana or alcohol impairment. An employer may test a prospective employee for

1 the presence of drugs.

2 * **Sec. 70.** AS 23.10.630(c) is amended to read:

3 (c) An employer shall normally schedule a drug test, **marijuana impairment**
4 **test**, or an alcohol impairment test of employees during, or immediately before or
5 after, a regular work period. Alcohol impairment, **marijuana impairment**, or drug
6 testing required by an employer is considered to be work time for the purposes of
7 compensation and benefits for current employees. Sample collection shall be
8 performed in a manner that guarantees the individual's privacy to the maximum extent
9 consistent with ensuring that the sample is not contaminated, adulterated, or
10 misidentified.

11 * **Sec. 71.** AS 23.10.630(d) is amended to read:

12 (d) An employer shall pay the entire actual costs for drug testing, **marijuana**
13 **impairment testing**, and alcohol impairment testing required of employees and
14 prospective employees. An employer shall also pay reasonable transportation costs to
15 an employee if the required test is conducted at a location other than the employee's
16 normal work site.

17 * **Sec. 72.** AS 23.10.640(a) is amended to read:

18 (a) Sample collection and testing for alcohol impairment, **marijuana**
19 **impairment**, and drugs under AS 23.10.600 - 23.10.699 shall be performed under
20 reasonable and sanitary conditions. The person collecting samples shall document the
21 sample, including labeling the sample to preclude to the extent reasonable the
22 possibility of misidentification of the person tested in relation to the test result
23 provided, and shall provide the person to be tested with an opportunity to provide
24 medical information that may be relevant to the test, including identifying current or
25 recently used prescription and nonprescription drugs.

26 * **Sec. 73.** AS 23.10.645(a) is amended to read:

27 (a) An employer may include on-site drug, **marijuana**, and alcohol tests of
28 employees and prospective employees as part of the employer's drug, **marijuana**, and
29 alcohol testing policy under AS 23.10.600 - 23.10.699. In on-site testing under this
30 section, an employer may only use products approved by the Food and Drug
31 Administration for employee testing and shall use the products in accordance with the

1 manufacturer's instructions. On-site testing under this section may only be conducted
2 by a test administrator who is certified under AS 23.10.650(b).

3 * **Sec. 74.** AS 23.10.650 is amended to read:

4 **Sec. 23.10.650. Training of test administrators.** (a) Each employer shall
5 ensure that at least one designated employee receives at least 60 minutes of training on
6 alcohol and marijuana misuse and at least an additional 60 minutes of training on the
7 use of controlled substances. The training will be used by the designee to determine
8 whether reasonable suspicion exists to require an employee to undergo testing under
9 AS 23.10.630.

10 (b) If an employer administers on-site drug, marijuana, or alcohol tests to test
11 employees or prospective employees under AS 23.10.645, the employer shall ensure
12 that each person who will be administering the on-site test receives training and meets
13 the qualifications of this subsection. An on-site test administrator must

14 (1) have been trained by the manufacturer of the test or the
15 manufacturer's representative on the proper procedure for administering the test and
16 accurate evaluation of on-site test results; training must be conducted in person by a
17 trainer from the manufacturer or the manufacturer's representative;

18 (2) be certified in writing by the manufacturer or the manufacturer's
19 representative as competent to administer and evaluate the on-site test;

20 (3) have been trained to recognize adulteration of a sample to be used
21 in on-site testing; and

22 (4) sign a statement that clearly states that the on-site test administrator
23 will hold all information related to any phase of a drug test confidential.

24 * **Sec. 75.** AS 23.10.655 is amended to read:

25 **Sec. 23.10.655. Disciplinary procedures.** (a) An employer may take adverse
26 employment action based on

27 (1) a positive drug test, marijuana impairment test, or alcohol
28 impairment test result that indicates a violation of the employer's written policy;

29 (2) the refusal of an employee or prospective employee to provide a
30 drug testing sample; or

31 (3) the refusal of an employee to provide a marijuana impairment

1 **testing sample or** an alcohol impairment testing sample.

2 (b) Adverse employment action under (a) of this section may include

3 (1) a requirement that the employee enroll in an employer provided or
4 employer approved rehabilitation, treatment, or counseling program; the program may
5 include additional drug testing, **marijuana impairment testing**, and alcohol
6 impairment testing; the employer may require participation in the program as a
7 condition of employment; costs of participating in the program may or may not be
8 covered by the employer's health plan or policies;

9 (2) suspension of the employee, with or without pay, for a designated
10 period of time;

11 (3) termination of employment;

12 (4) in case of drug testing, refusal to hire a prospective employee; and

13 (5) other adverse employment action.

14 * **Sec. 76.** AS 23.10.660 is amended to read:

15 **Sec. 23.10.660. Confidentiality of results; access to records.** A
16 communication received by an employer relevant to drug test, **marijuana**
17 **impairment test**, or alcohol impairment test results and received through the
18 employer's testing program is a confidential and privileged communication and may
19 not be disclosed except

20 (1) to the tested employee or prospective employee or another person
21 designated in writing by the employee or prospective employee;

22 (2) to individuals designated by an employer to receive and evaluate
23 test results or hear the explanation of the employee or prospective employee; or

24 (3) as ordered by a court or governmental agency.

25 * **Sec. 77.** AS 23.10.670 is amended to read:

26 **Sec. 23.10.670. Effect of mandatory testing obligations.** An employer who is
27 obligated by state or federal requirements to have a drug testing, **marijuana**
28 **impairment testing**, or alcohol impairment testing policy or program shall receive the
29 full benefits of AS 23.10.600 - 23.10.699 even if the required policy or program is not
30 consistent with AS 23.10.600 - 23.10.699, so long as the employer complies with the
31 state or federal requirements applicable to the employer's operations.

1 * **Sec. 78.** AS 23.10.699 is amended by adding a new paragraph to read:

2 (10) "marijuana" has the meaning given in AS 17.38.900.

3 * **Sec. 79.** AS 25.20.061 is amended to read:

4 **Sec. 25.20.061. Visitation in proceedings involving domestic violence.** If
5 visitation is awarded to a parent who has committed a crime involving domestic
6 violence, against the other parent or a child of the two parents, within the five years
7 preceding the award of visitation, the court may set conditions for the visitation,
8 including

9 (1) the transfer of the child for visitation must occur in a protected
10 setting;

11 (2) visitation shall be supervised by another person or agency and
12 under specified conditions as ordered by the court;

13 (3) the perpetrator shall attend and complete, to the satisfaction of the
14 court, a program for the rehabilitation of perpetrators of domestic violence that meets
15 the standards set by the Department of Corrections under AS 44.28.020(b), or other
16 counseling; the perpetrator shall be required to pay the costs of the program or other
17 counseling;

18 (4) the perpetrator shall abstain from possession or consumption of
19 alcohol, marijuana, or controlled substances during the visitation and for 24 hours
20 before visitation;

21 (5) the perpetrator shall pay costs of supervised visitation as set by the
22 court;

23 (6) the prohibition of overnight visitation;

24 (7) the perpetrator shall post a bond to the court for the return and
25 safety of the child; and

26 (8) any other condition necessary for the safety of the child, the other
27 parent, or other household member.

28 * **Sec. 80.** AS 28.01.010(j) is amended to read:

29 (j) A court may not enforce a municipal ordinance prescribing a penalty for
30 driving while under the influence of an alcoholic beverage, marijuana, inhalant, or
31 controlled substance or refusal to submit to a chemical test unless that ordinance

1 imposes ignition interlock device requirements under this title.

2 * **Sec. 81.** AS 28.15.031(b) is amended to read:

3 (b) The department may not issue an original or duplicate driver's license to,
4 nor renew or reinstate the driver's license of, a person

5 (1) whose license is suspended, revoked, canceled, or withdrawn in
6 this or any other jurisdiction except as otherwise provided in this chapter;

7 (2) who fails to appear in court for the adjudication of a certain
8 vehicle, driver, or traffic offense when the person's appearance is required by statute,
9 regulation, or court rule;

10 (3) who is an habitual user of alcohol, marijuana, or another drug to
11 such a degree that the person is incapable of safely driving a motor vehicle;

12 (4) when the department, based upon medical evidence, has
13 determined that because of the person's physical or mental disability the person is not
14 able to drive a motor vehicle safely;

15 (5) who is unable to understand official traffic control devices as
16 displayed in this state or who does not have a fair knowledge of traffic laws and
17 regulations, as demonstrated by an examination;

18 (6) who has knowingly made a false statement in the person's
19 application for a license or has committed fraud in connection with the person's
20 application for, or in obtaining or attempting to obtain, a license, or who has not
21 applied under oath on the form provided for the purpose of obtaining or attempting to
22 obtain a license or permit; or

23 (7) who is required under AS 28.20 to furnish proof of financial
24 responsibility and who has not done so.

25 * **Sec. 82.** AS 28.15.046(d) is amended to read:

26 (d) The department may not issue a license under this section if, at the time of
27 application

28 (1) and under circumstances other than those described in (2) of this
29 subsection, less than two years have elapsed from the date of the applicant's first
30 conviction of either driving while under the influence of an alcoholic beverage,
31 marijuana, inhalant, or controlled substance under AS 28.35.030 or refusal to submit

1 to a chemical test under AS 28.35.032;

2 (2) less than 10 years have elapsed from the date of the applicant's
3 conviction for

4 (A) refusal to submit to a chemical test under AS 28.35.032 if
5 the offense occurred while driving a commercial motor vehicle; or

6 (B) an offense described in AS 28.33.140(a)(1), (4), (5), or
7 (10);

8 (3) the applicant has been convicted two or more times of
9 misdemeanor driving while under the influence of an alcoholic beverage, marijuana,
10 inhalant, or controlled substance under AS 28.35.030 or misdemeanor refusal to
11 submit to a chemical test under AS 28.35.032, or a combination of those offenses.

12 * **Sec. 83.** AS 28.15.046(k) is amended to read:

13 (k) Notwithstanding (c) or (d) of this section, the department may, under
14 standards set by regulation, issue a license to a person who

15 (1) may otherwise not be issued a license under (d)(3) of this section if,
16 in the 10-year period immediately preceding the application under this subsection, the
17 person has not been convicted of a violation of driving while under the influence of an
18 alcoholic beverage, marijuana, inhalant, or controlled substance under AS 28.35.030
19 or refusal to submit to a chemical test under AS 28.35.032;

20 (2) has been convicted of an offense listed under (c)(2)(A) - (D) of this
21 section if less than two years have elapsed since the date of conviction and the offense
22 was not against a child.

23 * **Sec. 84.** AS 28.15.081(a) is amended to read:

24 (a) The department shall examine every applicant for a driver's license. The
25 examination must include a test of the applicant's (1) eyesight, (2) ability to read and
26 understand official traffic control devices, (3) knowledge of safe driving practices, (4)
27 knowledge of the effects of alcohol, marijuana, and drugs on drivers and the dangers
28 of driving under the influence of alcohol, marijuana, or drugs, (5) knowledge of the
29 laws on driving while under the influence of an alcoholic beverage, marijuana,
30 inhalant, or controlled substance, (6) knowledge of the laws on financial responsibility
31 and mandatory motor vehicle liability insurance, and (7) knowledge of the traffic laws

1 and regulations of the state. The examination may include a demonstration of ability to
2 exercise ordinary and reasonable control in the driving of a motor vehicle of the type
3 and general class of vehicles for which the applicant seeks a license. However, an
4 applicant who has not been previously issued a driver's license by this or another
5 jurisdiction shall demonstrate ability and shall present medical information that the
6 department reasonably requires to determine fitness to safely drive a motor vehicle of
7 the type and general class of vehicles for which the applicant seeks a license.

8 * **Sec. 85.** AS 28.15.085 is amended to read:

9 **Sec. 28.15.085. Alcohol, marijuana, and drug awareness and safety**
10 **examination of applicants.** Notwithstanding another provision of this chapter and in
11 addition to other requirements, a person applying for a new license after expiration of
12 the person's license on reaching 21 years of age under AS 28.15.099 must pass a test
13 developed and administered by the department regarding alcohol, marijuana, and
14 drug awareness and safety and the laws relating to alcohol, marijuana, drugs, and
15 driving before the license may be issued or renewed.

16 * **Sec. 86.** AS 28.15.165(c) is amended to read:

17 (c) Unless the person has obtained a temporary permit or stay of a
18 departmental action under AS 28.15.166, if the chemical test administered under
19 AS 28.33.031(a) or AS 28.35.031(a) or (g) produced a result described in
20 AS 28.35.030(a)(2) or the person refused to submit to a chemical test authorized under
21 AS 28.33.031(a) or AS 28.35.031(a) or (g), the department shall revoke the person's
22 license, privilege to drive, or privilege to obtain a license, shall refuse to issue an
23 original license, and, if the chemical test administered under AS 28.33.031(a)
24 produced a result described in AS 28.33.030(a)(2) or the person refused to submit to a
25 chemical test authorized under AS 28.33.031(a), shall disqualify the person. The
26 department's action takes effect seven days after delivery to the person of the notice
27 required under (a) of this section, and after receipt of a sworn report of a law
28 enforcement officer

29 (1) that a chemical test administered under AS 28.33.031(a) or
30 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2), that a
31 chemical test administered under AS 28.33.031(a) produced a result described in

1 AS 28.33.030(a)(2), or that a person refused to submit to a chemical test authorized
2 under AS 28.33.031(a) or AS 28.35.031(a) or (g);

3 (2) that notice under (a) of this section was provided to the person; and

4 (3) describing the

5 (A) circumstances surrounding the arrest and the grounds for
6 the officer's belief that the person operated a motor vehicle, commercial motor
7 vehicle, or aircraft while under the influence of an alcoholic beverage,
8 marijuana, inhalant, or controlled substance in violation of AS 28.33.030 or
9 AS 28.35.030; or

10 (B) grounds for the officer's belief that the person operated a
11 motor vehicle or commercial motor vehicle that was involved in an accident
12 causing death or serious physical injury to another person.

13 * **Sec. 87.** AS 28.15.166(g) is amended to read:

14 (g) The hearing for review of action by the department under AS 28.15.165
15 shall be limited to the issues of whether the law enforcement officer had probable
16 cause to believe that the person was operating a motor vehicle or commercial motor
17 vehicle that was involved in an accident causing death or serious physical injury to
18 another, or that the person was operating a motor vehicle, commercial motor vehicle,
19 or aircraft while under the influence of an alcoholic beverage, marijuana, inhalant, or
20 controlled substance in violation of AS 28.33.030 or AS 28.35.030 and whether

21 (1) the person refused to submit to a chemical test authorized under
22 AS 28.33.031(a) or AS 28.35.031(a) or (g) after being advised that refusal would
23 result in disqualification or the suspension, revocation, or denial of the person's
24 license, privilege to drive, or privilege to obtain a license, and that the refusal is a
25 misdemeanor;

26 (2) the chemical test administered under AS 28.33.031(a) or
27 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2); or

28 (3) the chemical test administered under AS 28.33.031(a) produced a
29 result described in AS 28.33.030(a)(2).

30 * **Sec. 88.** AS 28.15.181(a) is amended to read:

31 (a) Conviction of any of the following offenses is grounds for the immediate

1 revocation of a driver's license, privilege to drive, or privilege to obtain a license:

2 (1) manslaughter or negligent homicide resulting from driving a motor
3 vehicle;

4 (2) a felony in the commission of which a motor vehicle is used;

5 (3) failure to stop and give aid as required by law when a motor
6 vehicle accident results in the death or personal injury of another;

7 (4) perjury or making a false affidavit or statement under oath to the
8 department under a law relating to motor vehicles;

9 (5) operating a motor vehicle or aircraft while under the influence of
10 an alcoholic beverage, marijuana, inhalant, or controlled substance;

11 (6) reckless driving;

12 (7) using a motor vehicle in unlawful flight to avoid arrest by a peace
13 officer;

14 (8) refusal to submit to a chemical test authorized under
15 AS 28.33.031(a) or AS 28.35.031(a) while under arrest for operating a motor vehicle,
16 commercial motor vehicle, or aircraft while under the influence of an alcoholic
17 beverage, marijuana, inhalant, or controlled substance, or authorized under
18 AS 28.35.031(g);

19 (9) driving while license, privilege to drive, or privilege to obtain a
20 license, canceled, suspended, or revoked, or in violation of a limitation;

21 (10) vehicle theft in the first degree in violation of AS 11.46.360 or
22 vehicle theft in the second degree in violation of AS 11.46.365.

23 * **Sec. 89.** AS 28.15.183(a) is amended to read:

24 (a) If a peace officer has probable cause to believe that a person who is at least
25 14 years of age but not yet 21 years of age has operated a vehicle after consuming
26 alcohol or marijuana in violation of AS 28.35.280, or refused to submit to a chemical
27 test under AS 28.35.285, and the peace officer has cited the person or arrested the
28 person for the offense, the peace officer shall read a notice and deliver a copy to the
29 person. The notice must advise that

30 (1) the department intends to revoke the person's driver's license or
31 permit, privilege to drive, or privilege to obtain a license or permit;

1 (2) the person has the right to administrative review of the revocation;

2 (3) if the person has a driver's license or permit, the notice itself is a
3 temporary driver's license or permit that expires 10 days after it is delivered to the
4 person;

5 (4) revocation of the person's driver's license or permit, privilege to
6 drive, or privilege to obtain a license or permit, takes effect 10 days after delivery of
7 the notice to the person unless the person, within 10 days, requests an administrative
8 review;

9 (5) if the person has been cited under AS 28.35.280 or under
10 AS 28.35.285, that person, under AS 28.35.290, may not operate a motor vehicle,
11 aircraft, or watercraft during the 24 hours following issuance of the citation.

12 * **Sec. 90.** AS 28.15.183(h) is amended to read:

13 (h) The department may waive the provisions of (g) of this section if a person
14 who is required to obtain drug, marijuana, or alcoholism treatment resides in an area
15 where drug rehabilitation, marijuana abuse treatment, or alcoholism treatment is
16 unavailable.

17 * **Sec. 91.** AS 28.15.184(g) is amended to read:

18 (g) The hearing for review of a revocation by the department under
19 AS 28.15.183 shall be limited to the issues of whether the person was at least 14 years
20 of age but not yet 21 years of age and whether the person operated a vehicle after
21 consuming alcohol or marijuana in violation of AS 28.35.280 or refused to submit to
22 a chemical test of breath in violation of AS 28.35.285.

23 * **Sec. 92.** AS 28.15.191(e) is amended to read:

24 (e) A court shall report to the department every change of name authorized by
25 it, and the name, address, age, description, and driver's license number if available, of
26 every person adjudged to be afflicted with or suffering from a mental disability or
27 disease, or to be an habitual user of alcohol, marijuana, or another drug. The
28 department shall prescribe and furnish the forms for making these reports.

29 * **Sec. 93.** AS 28.15.191(g) is amended to read:

30 (g) A court that has ordered a person to refrain from consuming alcoholic
31 beverages or marijuana as part of a sentence for conviction of a crime under

1 AS 28.35.030, 28.35.032, or a similar municipal ordinance or as a condition of
2 probation or parole following a conviction under those sections or a similar municipal
3 ordinance shall

4 (1) require the surrender of the person's license and identification card
5 and forward the license and identification card to the department;

6 (2) report the order to the department within two days; and

7 (3) inform the person that the person's license and identification card
8 are subject to cancellation under AS 28.15.161 and AS 18.65.310 and, if the person is
9 otherwise qualified to receive a license or identification card, when the person obtains
10 a new license or identification card, the license or identification card must list the
11 restriction imposed by AS 04.16.160 for the period of probation or parole.

12 * **Sec. 94.** AS 28.15.191(h) is amended to read:

13 (h) The board of parole shall notify the department within two days whenever
14 a person has been ordered to refrain from consuming alcoholic beverages **or**
15 **marijuana** as a condition of parole, shall require the person to surrender the person's
16 license and identification card, and shall inform the person that the person's license
17 and identification card are subject to cancellation under AS 28.15.161 and
18 AS 18.65.310, and that, if the person is otherwise qualified to receive a license or
19 identification card, when the person obtains a new license or identification card, the
20 license or identification card must list the restriction imposed by AS 04.16.160.

21 * **Sec. 95.** AS 28.15.271(e) is amended to read:

22 (e) The department shall charge \$50 for issuance of a new license to replace a
23 license cancelled under AS 28.15.161(a)(5) because the person is restricted from
24 purchasing alcoholic beverages **or marijuana** under AS 04.16.160.

25 * **Sec. 96.** AS 28.20.230(c) is amended to read:

26 (c) Notwithstanding any other provisions of this chapter, a person convicted of
27 driving under the influence of an alcoholic beverage, **marijuana**, inhalant, or
28 controlled substance in violation of AS 28.35.030, or convicted of refusal to submit to
29 a chemical test of breath under AS 28.35.032, shall maintain proof of financial
30 responsibility for the future for (1) five years if the person has not been previously
31 convicted; (2) 10 years if the person has been previously convicted once; (3) 20 years

1 if the person has been previously convicted twice; (4) for as long as the person is
2 licensed to drive under AS 28.15 if the person has been previously convicted three or
3 more times. In this subsection, "previously convicted" has the meaning given in
4 AS 28.35.030.

5 * **Sec. 97.** AS 28.33.030 is amended to read:

6 **Sec. 28.33.030. Operating a commercial motor vehicle while under the**
7 **influence of an alcoholic beverage, marijuana, inhalant, or controlled substance.**

8 (a) A person commits the crime of operating a commercial motor vehicle while under
9 the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance if
10 the person operates a commercial motor vehicle

11 (1) while under the influence of an alcoholic beverage, marijuana,
12 inhalant, or any controlled substance;

13 (2) when, as determined by a chemical test taken within four hours
14 after the alleged offense was committed, there is 0.04 percent or more by weight of
15 alcohol in the person's blood or 40 milligrams or more of alcohol **for each** [PER] 100
16 milliliters of blood, or when there is 0.04 grams or more of alcohol **for each** [PER]
17 210 liters of the person's breath; or

18 (3) while under the combined influence of an alcoholic beverage,
19 marijuana, inhalant, and a controlled substance.

20 (b) Operating a commercial motor vehicle while under the influence of an
21 alcoholic beverage, marijuana, inhalant, or controlled substance is a class A
22 misdemeanor.

23 (c) The sentencing of a person convicted under this section shall be in
24 accordance with the minimum periods of imprisonment, fines, rehabilitative treatment,
25 and other provisions of AS 28.35.030, as if the person had been convicted of a
26 violation of AS 28.35.030. For purposes of sentencing, convictions for operating a
27 commercial motor vehicle while under the influence of an alcoholic beverage,
28 marijuana, inhalant, or controlled substance under this section, and for refusal to
29 submit to a chemical test under AS 28.35.032, if arising out of a single transaction, are
30 considered one previous conviction.

31 * **Sec. 98.** AS 28.33.031(a) is amended to read:

1 (a) A person who operates a commercial motor vehicle in this state is
2 considered to have given consent to a chemical test or tests

3 (1) of the person's breath if lawfully arrested for an offense arising out
4 of acts alleged to have been committed when the person was operating the commercial
5 motor vehicle while under the influence of an alcoholic beverage, marijuana,
6 inhalant, or controlled substance; the test or tests may be administered at the direction
7 of a law enforcement officer who has probable cause to believe that the person was
8 operating a commercial motor vehicle while under the influence of an alcoholic
9 beverage, marijuana, inhalant, or controlled substance in violation of AS 28.33.030
10 or AS 28.35.030;

11 (2) of the person's breath and blood for the purpose of determining the
12 alcoholic content of the person's breath and blood and is considered to have given
13 consent to a chemical test or tests of the person's blood and urine for the purpose of
14 determining the presence of marijuana or controlled substances in the person's blood
15 and urine if the person is involved in a motor vehicle accident that causes death or
16 serious physical injury to another person; the test or tests may be administered at the
17 direction of a law enforcement officer who has probable cause to believe that the
18 person was operating a commercial motor vehicle that was involved in an accident
19 causing death or serious physical injury to another person.

20 * **Sec. 99.** AS 28.33.130(a) is amended to read:

21 (a) A person may not operate a commercial motor vehicle or be on duty

22 (1) if, within the preceding four hours, the person

23 (A) consumed or was under the influence of

24 (i) an alcoholic beverage;

25 (ii) a controlled substance not prescribed by a
26 physician; [OR]

27 (iii) a controlled substance prescribed by a physician
28 that might impair a person's ability to operate a commercial motor
29 vehicle; or

30 (iv) marijuana; or

31 (B) had any measurable alcohol concentration within the blood

1 or breath or any detectable presence of alcohol;

2 (2) while in possession of an alcoholic beverage, marijuana, or a
3 controlled substance not prescribed by a physician unless

4 (A) the alcoholic beverage, marijuana, or controlled substance
5 is manifested and documented as part of an authorized shipment of cargo; or

6 (B) under AS 04, the alcoholic beverage may be legally served
7 to passengers being carried for hire;

8 (3) after being placed out of service for violation of a regulation
9 adopted under AS 19.10.060(c) or AS 28.05.011; or

10 (4) with an invalid operator's or commercial operator's license.

11 * **Sec. 100.** AS 28.33.140(a) is amended to read:

12 (a) In addition to any court action or administrative action in this or any other
13 jurisdiction, conviction of a person who holds or is required to have a commercial
14 driver's license or commercial instruction permit of any of the following offenses is
15 grounds for immediate disqualification from driving a commercial motor vehicle for
16 the periods set out in this section:

17 (1) operating a commercial motor vehicle while under the influence of
18 an alcoholic beverage, marijuana, inhalant, or controlled substance in violation of
19 AS 28.33.030;

20 (2) refusal to submit to a chemical test in violation of AS 28.35.032;

21 (3) operating a motor vehicle while under the influence of an alcoholic
22 beverage, marijuana, inhalant, or controlled substance in violation of AS 28.35.030;

23 (4) leaving the scene of an accident in violation of AS 28.35.060, or
24 failing to file, or providing false information in, an accident report in violation of
25 AS 28.35.110;

26 (5) a felony under state or federal law that was facilitated because the
27 person used a motor vehicle;

28 (6) a serious traffic violation;

29 (7) taking one of the following actions in violation of regulations
30 adopted under AS 19.10.060(c) or AS 28.05.011:

31 (A) driving after being placed out of service; or

1 (B) operating a commercial vehicle that has been placed out of
2 service;

3 (8) operating a commercial motor vehicle in violation of a federal or
4 state statute or regulation, or a local law or ordinance, relating to railroad-highway
5 grade crossings;

6 (9) operating a commercial motor vehicle while the driver's
7 commercial motor vehicle license is suspended, revoked, or canceled, or the driver is
8 disqualified;

9 (10) causing a fatality through the negligent operation, or operation in
10 violation of a felony criminal law, of a commercial motor vehicle.

11 * **Sec. 101.** AS 28.33.190 is amended by adding a new paragraph to read:

12 (17) "marijuana," has the meaning given in AS 17.38.900.

13 * **Sec. 102.** AS 28.35.028(h)(1) is amended to read:

14 (1) "court-ordered treatment program" or "treatment plan" means a
15 treatment program for a person who consumes alcohol, marijuana, or drugs and that

16 (A) requires participation for at least 18 consecutive months;

17 (B) includes planning and treatment for alcohol, marijuana, or
18 drug addiction;

19 (C) includes emphasis on personal responsibility;

20 (D) provides in-court recognition of progress and sanctions for
21 relapses;

22 (E) requires payment of restitution to victims and completion
23 of community work service;

24 (F) includes physician-approved treatment of physical
25 addiction and treatment of the psychological causes of addiction;

26 (G) includes a monitoring program and physical placement or
27 housing; and

28 (H) requires adherence to conditions of probation;

29 * **Sec. 103.** AS 28.35.029(a) is amended to read:

30 (a) A person may not drive a motor vehicle on a highway or vehicular way or
31 area, when there is an open bottle, can, or other receptacle containing an alcoholic

1 beverage or an open marijuana container in the passenger compartment of the
2 vehicle, except as provided in (b) of this section.

3 * **Sec. 104.** AS 28.35.029(b) is amended to read:

4 (b) Except as provided in AS 28.33.130, a person may transport an open
5 bottle, can, or other receptacle containing an alcoholic beverage or an open
6 marijuana container

7 (1) in the trunk of a motor vehicle;

8 (2) on a motor driven cycle, or behind the last upright seat in a motor
9 home, station wagon, hatchback, or similar trunkless vehicle, if the open bottle, can, or
10 other receptacle, or an open marijuana container is enclosed within another
11 container;

12 (3) behind a solid partition that separates the vehicle driver from the
13 area normally occupied by passengers; or

14 (4) if the open bottle, can, or other receptacle, or an open marijuana
15 container is in the possession of a passenger in a motor vehicle for which the owner
16 receives direct monetary compensation and that has a capacity of 12 or more persons.

17 * **Sec. 105.** AS 28.35.029(c) is amended by adding new paragraphs to read:

18 (6) "marijuana" has the meaning given in AS 11.71.900;

19 (7) "marijuana accessory" has the meaning given to "marijuana
20 accessories" in AS 17.38.900;

21 (8) "open marijuana container" means a receptacle or marijuana
22 accessory that contains any amount of marijuana and that is open or has a broken seal,
23 and there is evidence that marijuana has been consumed in the motor vehicle.

24 * **Sec. 106.** AS 28.35.030(a) is amended to read:

25 (a) A person commits the crime of driving while under the influence of an
26 alcoholic beverage, marijuana, inhalant, or controlled substance if the person
27 operates or drives a motor vehicle or operates an aircraft or a watercraft

28 (1) while under the influence of an alcoholic beverage, intoxicating
29 liquor, marijuana, inhalant, or any controlled substance, singly or in combination; or

30 (2) and if, as determined by a chemical test taken within four hours
31 after the alleged operating or driving, there is 0.08 percent or more by weight of

1 alcohol in the person's blood or 80 milligrams or more of alcohol for each [PER] 100
2 milliliters of blood, or if there is 0.08 grams or more of alcohol for each [PER] 210
3 liters of the person's breath.

4 * **Sec. 107.** AS 28.35.030(b) is amended to read:

5 (b) Except as provided under (n) of this section, driving while under the
6 influence of an alcoholic beverage, marijuana, inhalant, or controlled substance is a
7 class A misdemeanor. Upon conviction,

8 (1) the court shall impose a minimum sentence of imprisonment of

9 (A) not less than 72 consecutive hours, require the person to
10 use an ignition interlock device after the person regains the privilege, including
11 any limited privilege, to operate a motor vehicle for a minimum of six months,
12 and impose a fine of not less than \$1,500 if the person has not been previously
13 convicted;

14 (B) not less than 20 days, require the person to use an ignition
15 interlock device after the person regains the privilege, including any limited
16 privilege, to operate a motor vehicle for a minimum of 12 months, and impose
17 a fine of not less than \$3,000 if the person has been previously convicted once;

18 (C) not less than 60 days, require the person to use an ignition
19 interlock device after the person regains the privilege, including any limited
20 privilege, to operate a motor vehicle for a minimum of 18 months, and impose
21 a fine of not less than \$4,000 if the person has been previously convicted twice
22 and is not subject to punishment under (n) of this section;

23 (D) not less than 120 days, require the person to use an ignition
24 interlock device after the person regains the privilege, including any limited
25 privilege, to operate a motor vehicle for a minimum of 24 months, and impose
26 a fine of not less than \$5,000 if the person has been previously convicted three
27 times and is not subject to punishment under (n) of this section;

28 (E) not less than 240 days, require the person to use an ignition
29 interlock device after the person regains the privilege, including any limited
30 privilege, to operate a motor vehicle for a minimum of 30 months, and impose
31 a fine of not less than \$6,000 if the person has been previously convicted four

1 times and is not subject to punishment under (n) of this section;

2 (F) not less than 360 days, require the person to use an ignition
3 interlock device after the person regains the privilege, including any limited
4 privilege, to operate a motor vehicle for a minimum of 36 months, and impose
5 a fine of not less than \$7,000 if the person has been previously convicted more
6 than four times and is not subject to punishment under (n) of this section;

7 (2) the court may not

8 (A) suspend execution of sentence or grant probation except on
9 condition that the person

10 (i) serve the minimum imprisonment under (1) of this
11 subsection;

12 (ii) pay the minimum fine required under (1) of this
13 subsection;

14 (B) suspend imposition of sentence; or

15 (C) suspend the requirement for an ignition interlock device for
16 a violation of (a)(1) of this section involving an alcoholic beverage or
17 intoxicating liquor, singly or in combination, or a violation of (a)(2) of this
18 section;

19 (3) the court shall revoke the person's driver's license, privilege to
20 drive, or privilege to obtain a license under AS 28.15.181, and may order that the
21 motor vehicle, aircraft, or watercraft that was used in commission of the offense be
22 forfeited under AS 28.35.036; and

23 (4) the court may order that the person, while incarcerated or as a
24 condition of probation or parole, take a drug or combination of drugs intended to
25 prevent the consumption of an alcoholic beverage; a condition of probation or parole
26 imposed under this paragraph is in addition to any other condition authorized under
27 another provision of law.

28 * **Sec. 108.** AS 28.35.031(a) is amended to read:

29 (a) A person who operates or drives a motor vehicle in this state or who
30 operates an aircraft as defined in AS 28.35.030(u) or who operates a watercraft as
31 defined in AS 28.35.030(u) shall be considered to have given consent to a chemical

1 test or tests of the person's breath for the purpose of determining the alcoholic content
2 of the person's blood or breath if lawfully arrested for an offense arising out of acts
3 alleged to have been committed while the person was operating or driving a motor
4 vehicle or operating an aircraft or a watercraft while under the influence of an
5 alcoholic beverage, marijuana, inhalant, or controlled substance or if lawfully
6 arrested under AS 28.35.280 for the offense of minor operating a vehicle after
7 consuming alcohol or marijuana. The test or tests shall be administered at the
8 direction of a law enforcement officer who has probable cause to believe that the
9 person was operating or driving a motor vehicle or operating an aircraft or a watercraft
10 in this state while under the influence of an alcoholic beverage, marijuana, inhalant,
11 or controlled substance or that the person was a minor operating a vehicle after
12 consuming alcohol.

13 * **Sec. 109.** AS 28.35.031(g) is amended to read:

14 (g) A person who operates or drives a motor vehicle in this state shall be
15 considered to have given consent to a chemical test or tests of the person's breath and
16 blood for the purpose of determining the alcoholic content of the person's breath and
17 blood and shall be considered to have given consent to a chemical test or tests of the
18 person's blood and urine for the purpose of determining the presence of marijuana or
19 controlled substances in the person's blood and urine if the person is involved in a
20 motor vehicle accident that causes death or serious physical injury to another person.
21 The test or tests may be administered at the direction of a law enforcement officer who
22 has probable cause to believe that the person was operating or driving a motor vehicle
23 in this state that was involved in an accident causing death or serious physical injury to
24 another person.

25 * **Sec. 110.** AS 28.35.032(a) is amended to read:

26 (a) If a person under arrest for operating a motor vehicle or aircraft while
27 under the influence of an alcoholic beverage, marijuana, inhalant, or controlled
28 substance refuses the request of a law enforcement officer to submit to a chemical test
29 authorized under AS 28.33.031(a)(1) or AS 28.35.031(a), or if a person involved in a
30 motor vehicle accident that causes death or serious physical injury to another person
31 refuses the request of a law enforcement officer to submit to a chemical test authorized

1 under AS 28.33.031(a)(2) or AS 28.35.031(g), after being advised by the officer that
2 the refusal will result in the denial or revocation of the driver's license, privilege to
3 drive, or privilege to obtain a license, that the refusal may be used against the person
4 in a civil or criminal action or proceeding arising out of an act alleged to have been
5 committed by the person while operating a motor vehicle or aircraft while under the
6 influence of an alcoholic beverage, marijuana, inhalant, or controlled substance, and
7 that the refusal is a crime, a chemical test may not be given, except as provided by
8 AS 28.35.035. If a person under arrest for operating a watercraft while under the
9 influence of an alcoholic beverage, marijuana, inhalant, or controlled substance
10 refuses the request of a law enforcement officer to submit to a chemical test authorized
11 under AS 28.35.031(a), after being advised by the officer that the refusal may be used
12 against the person in a civil or criminal action or proceeding arising out of an act
13 alleged to have been committed by the person while operating a watercraft while
14 under the influence of an alcoholic beverage, marijuana, inhalant, or controlled
15 substance, and that the refusal is a crime, a chemical test may not be given, except as
16 provided by AS 28.35.035.

17 * **Sec. 111.** AS 28.35.032(e) is amended to read:

18 (e) The refusal of a person to submit to a chemical test authorized under
19 AS 28.33.031(a) or AS 28.35.031(a) or (g) is admissible evidence in a civil or criminal
20 action or proceeding arising out of an act alleged to have been committed by the
21 person while operating or driving a motor vehicle or operating an aircraft or watercraft
22 while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled
23 substance.

24 * **Sec. 112.** AS 28.35.033(a) is amended to read:

25 (a) Upon the trial of a civil or criminal action or proceeding arising out of acts
26 alleged to have been committed by a person while operating or driving a motor vehicle
27 or operating an aircraft or a watercraft while under the influence of an alcoholic
28 beverage, marijuana, inhalant, or controlled substance, the amount of alcohol in the
29 person's blood or breath at the time alleged shall give rise to the following
30 presumptions:

31 (1) If there was 0.04 percent or less by weight of alcohol in the

1 person's blood, or 40 milligrams or less of alcohol **for each** [PER] 100 milliliters of
2 the person's blood, or 0.04 grams or less of alcohol **for each** [PER] 210 liters of the
3 person's breath, it shall be presumed that the person was not under the influence of an
4 alcoholic beverage.

5 (2) If there was in excess of 0.04 percent but less than 0.08 percent by
6 weight of alcohol in the person's blood, or in excess of 40 but less than 80 milligrams
7 of alcohol **for each** [PER] 100 milliliters of the person's blood, or in excess of 0.04
8 grams but less than 0.08 grams of alcohol **for each** [PER] 210 liters of the person's
9 breath, that fact does not give rise to any presumption that the person was or was not
10 under the influence of an alcoholic beverage, but that fact may be considered with
11 other competent evidence in determining whether the person was under the influence
12 of an alcoholic beverage.

13 (3) If there was 0.08 percent or more by weight of alcohol in the
14 person's blood, or 80 milligrams or more of alcohol **for each** [PER] 100 milliliters of
15 the person's blood, or 0.08 grams or more of alcohol **for each** [PER] 210 liters of the
16 person's breath, it shall be presumed that the person was under the influence of an
17 alcoholic beverage.

18 * **Sec. 113.** AS 28.35.035(a) is amended to read:

19 (a) If a person is under arrest for an offense arising out of acts alleged to have
20 been committed while the person was operating a motor vehicle, aircraft, or watercraft
21 while under the influence of an alcoholic beverage, **marijuana**, inhalant, or controlled
22 substance, and that arrest results from an accident that causes death or physical injury
23 to another person, a chemical test may be administered without the consent of the
24 person arrested to determine the amount of alcohol in that person's breath or blood or
25 to determine the presence of **marijuana or** controlled substances in that person's
26 blood and urine.

27 * **Sec. 114.** AS 28.35.035(b) is amended to read:

28 (b) A person who is unconscious or otherwise in a condition rendering that
29 person incapable of refusal is considered not to have withdrawn the consent provided
30 under AS 28.33.031(a) or AS 28.35.031(a) or (g) and a chemical test may be
31 administered to determine the amount of alcohol in that person's breath or blood or to

1 determine the presence of marijuana or controlled substances in that person's blood
2 and urine. A person who is unconscious or otherwise incapable of refusal need not be
3 placed under arrest before a chemical test may be administered.

4 * **Sec. 115.** AS 28.35.039(1) is amended to read:

5 (1) "alcohol safety action program" means a program for alcohol,
6 marijuana, and substance abuse screening, referral, and monitoring developed and
7 implemented or approved by the Department of Health and Social Services under
8 AS 47.37;

9 * **Sec. 116.** AS 28.35.039 is amended by adding a new paragraph to read:

10 (3) "marijuana" has the meaning given in AS 17.38.900.

11 * **Sec. 117.** AS 28.35.280(a) is amended to read:

12 (a) A person who is at least 14 years of age but not yet 21 years of age
13 commits the offense of minor operating a vehicle after consuming alcohol or
14 marijuana if the person operates or drives a motor vehicle or operates an aircraft or a
15 watercraft after having consumed any quantity of alcohol or marijuana. A peace
16 officer who has probable cause to believe that a person has committed the offense of
17 minor operating a vehicle after consuming alcohol or marijuana may

18 (1) place the person under arrest;

19 (2) request that the person submit to a chemical test or tests of the
20 person's breath for the purpose of determining the alcoholic content of the person's
21 blood or breath; and

22 (3) transport the person to a location at which a chemical or other test
23 authorized under (2) of this subsection may be administered.

24 * **Sec. 118.** AS 28.35.280(b) is amended to read:

25 (b) If a chemical test under this section reveals any alcohol or marijuana
26 concentration within the person's blood or breath, the person shall be cited for
27 violating this section and then released unless there is a lawful reason for further
28 detention. A person who is 18 years of age or older shall be released on the person's
29 own recognizance. A person who is under the age of 18 shall be released to a parent,
30 guardian, or legal custodian.

31 * **Sec. 119.** AS 28.35.280(d) is amended to read:

1 (d) The offense of a minor operating a vehicle after consuming alcohol or
2 marijuana is an infraction, and, if the minor

3 (1) has not been previously convicted under this section,
4 AS 28.35.285, or 28.35.290, upon conviction, the court shall impose a

5 (A) fine of \$500; and

6 (B) period of community work service of not less than 20 hours
7 nor more than 40 hours; the community work service under this subparagraph
8 must be related to education about or prevention or treatment of misuse of
9 alcohol or marijuana if opportunities are available for that type of work
10 service in the community; if those [SUCH] opportunities are not available, the
11 court shall make other provisions for the work service;

12 (2) has been previously convicted once under this section,
13 AS 28.35.285, or 28.35.290, upon conviction, the court shall impose a

14 (A) fine of \$1,000; and

15 (B) period of community work service of not less than 40 hours
16 nor more than 60 hours; the community work service under this subparagraph
17 must be related to education about or prevention or treatment of misuse of
18 alcohol or marijuana if opportunities are available for that type of work
19 service in the community; if those [SUCH] opportunities are not available, the
20 court shall make other provisions for the work service;

21 (3) has been previously convicted two or more times under this
22 section, AS 28.35.285, or 28.35.290, upon conviction, the court shall impose a

23 (A) fine of \$1,500; and

24 (B) period of community work service of not less than 60 hours
25 nor more than 80 hours; the community work service under this subparagraph
26 must be related to education about or prevention or treatment of misuse of
27 alcohol or marijuana if opportunities are available for that type of work
28 service in the community; if those [SUCH] opportunities are not available, the
29 court shall make other provisions for the work service.

30 * **Sec. 120.** AS 28.35.285(a) is amended to read:

31 (a) If a person under arrest for minor operating a vehicle after consuming

1 alcohol or marijuana refuses the request of a peace officer to submit to a chemical
2 test or tests of the person's breath authorized under AS 28.35.031(a) and 28.35.280(a),
3 after being advised by the officer that the refusal will result in the denial or revocation
4 of the driver's license, privilege to drive, or privilege to obtain a license, that the
5 refusal may be used against the person in a civil or criminal action or proceeding
6 arising out of an act alleged to have been committed by the person while operating a
7 vehicle after consuming alcohol or marijuana, and that the refusal is a violation, a
8 chemical test may not be given.

9 * **Sec. 121.** AS 28.35.285(c) is amended to read:

10 (c) The refusal of a minor to submit to a chemical test authorized under
11 AS 28.35.031(a) and 28.35.280(a) is admissible evidence in a civil or criminal action
12 or proceeding arising out of an act alleged to have been committed by the person while
13 operating a vehicle after consuming alcohol or marijuana.

14 * **Sec. 122.** AS 28.35.285(d) is amended to read:

15 (d) Refusal to submit to a chemical test or tests of the person's breath
16 requested under AS 28.35.280 is an infraction, and, if the minor

17 (1) has not been previously convicted under this section,
18 AS 28.35.280, or 28.35.290, upon conviction, the court shall impose a

19 (A) fine of \$500; and

20 (B) period of community work service of not less than 20 hours
21 nor more than 40 hours; the community work service under this subparagraph
22 must be related to education about or prevention or treatment of misuse of
23 alcohol or marijuana if opportunities are available for that type of work
24 service in the community; if those [SUCH] opportunities are not available, the
25 court shall make other provisions for the work service;

26 (2) has been previously convicted once under this section,
27 AS 28.35.280, or 28.35.290, upon conviction, the court shall impose a

28 (A) fine of \$1,000; and

29 (B) period of community work service of not less than 40 hours
30 nor more than 60 hours; the community work service under this subparagraph
31 must be related to education about or prevention or treatment of misuse of

1 alcohol or marijuana if opportunities are available for that type of work
2 service in the community; if those [SUCH] opportunities are not available, the
3 court shall make other provisions for the work service;

4 (3) has been previously convicted two or more times under this
5 section, AS 28.35.280, or 28.35.290, upon conviction, the court shall impose a

6 (A) fine of \$1,500; and

7 (B) period of community work service of not less than 60 hours
8 nor more than 80 hours; the community work service under this subparagraph
9 must be related to education about or prevention or treatment of misuse of
10 alcohol or marijuana if opportunities are available for that type of work
11 service in the community; if those [SUCH] opportunities are not available, the
12 court shall make other provisions for the work service.

13 * **Sec. 123.** AS 28.35.290(a) is amended to read:

14 (a) A person who has been cited for minor operating a vehicle after consuming
15 alcohol or marijuana under AS 28.35.280 or for refusal to submit to a chemical test
16 of breath under AS 28.35.285 may not operate a motor vehicle, aircraft, or watercraft
17 during the 24 hours following issuance of the citation.

18 * **Sec. 124.** AS 28.35.290(b) is amended to read:

19 (b) Operating a motor vehicle during the 24 hours after being cited for minor
20 operating a vehicle after consuming alcohol or marijuana or for minor's refusal to
21 submit to a chemical test is an infraction, and, if the minor

22 (1) has not been previously convicted under this section,
23 AS 28.35.280, or 28.35.285, upon conviction, the court shall impose a

24 (A) fine of \$500; and

25 (B) period of community work service of not less than 20 hours
26 nor more than 40 hours; the community work service under this subparagraph
27 must be related to education about or prevention or treatment of misuse of
28 alcohol or marijuana if opportunities are available for that type of work
29 service in the community; if those [SUCH] opportunities are not available, the
30 court shall make other provisions for the work service;

31 (2) has been previously convicted once under this section,

1 AS 28.35.280, or 28.35.285, upon conviction, the court shall impose a

2 (A) fine of \$1,000; and

3 (B) period of community work service of not less than 40 hours
4 nor more than 60 hours; the community work service under this subparagraph
5 must be related to education about or prevention or treatment of misuse of
6 alcohol or marijuana if opportunities are available for that type of work
7 service in the community; if those [SUCH] opportunities are not available, the
8 court shall make other provisions for the work service;

9 (3) has been previously convicted two or more times under this
10 section, AS 28.35.280, or 28.35.285, upon conviction, the court shall impose a

11 (A) fine of \$1,500; and

12 (B) period of community work service of not less than 60 hours
13 nor more than 80 hours; the community work service under this subparagraph
14 must be related to education about or prevention or treatment of misuse of
15 alcohol or marijuana if opportunities are available for that type of work
16 service in the community; if those [SUCH] opportunities are not available, the
17 court shall make other provisions for the work service.

18 * **Sec. 125.** AS 28.37.140(a) is amended to read:

19 (a) The licensing authority in the home state, for the purposes of suspending,
20 revoking, or limiting the license to operate a motor vehicle, shall give the same effect
21 to the conduct reported under AS 28.37.130 as it would if the conduct had occurred in
22 the home state, in the case of a conviction for

23 (1) manslaughter or negligent homicide resulting from the operation of
24 a motor vehicle;

25 (2) driving a motor vehicle while under the influence of intoxicating
26 liquor, marijuana, or a narcotic drug, or under the influence of any other drug to a
27 degree that renders the driver incapable of safely driving a motor vehicle;

28 (3) any felony in the commission of which a motor vehicle is used;

29 (4) failure to stop and render aid in the event of a motor vehicle
30 accident resulting in the death or personal injury of another.

31 * **Sec. 126.** AS 29.10.200 is amended by adding a new paragraph to read:

(65) AS 29.35.148 (marijuana).

* **Sec. 127.** AS 29.35 is amended by adding a new section to article 1 to read:

Sec. 29.35.148. Regulation of marijuana. (a) The authority to regulate marijuana is reserved to the state, and, except as specifically provided by statute, a municipality may not enact or enforce an ordinance that is inconsistent with AS 17.38.

(b) This section applies to home rule and general law municipalities.

* **Sec. 128.** AS 33.16.060(c) is amended to read:

(c) The board shall establish a program for a parolee who has conditions of parole that include not consuming controlled substances, marijuana, or alcoholic beverages and who has been identified as being at moderate to high risk as identified by a risk-needs assessment. The program must

(1) include random testing for controlled substance, marijuana, and alcoholic beverage use;

(2) require that a parole officer file a parole violation report by the close of the next business day if a parolee

(A) fails to appear for an appointment as directed by the parole officer; or

(B) tests positive for the use of controlled substances, marijuana, or alcoholic beverages; and

(3) include a means to notify the board by the close of the next business day that a parole violation report has been filed on a parolee placed in the program by the board.

* **Sec. 129.** AS 33.16.150(b) is amended to read:

(b) The board may require as a condition of special medical, discretionary, or mandatory parole, or a member of the board acting for the board under (e) of this section may require as a condition of mandatory parole, that a prisoner released on parole

(1) not possess or control a defensive weapon, a deadly weapon other than an ordinary pocket knife with a blade three inches or less in length, or ammunition for a firearm, or reside in a residence where there is a firearm capable of being concealed on one's person or a prohibited weapon; in this paragraph, "deadly

1 weapon," "defensive weapon," and "firearm" have the meanings given in
2 AS 11.81.900, and "prohibited weapon" has the meaning given in AS 11.61.200;

3 (2) refrain from possessing or consuming alcoholic beverages **or**
4 **marijuana**;

5 (3) submit to reasonable searches and seizures by a parole officer, or a
6 peace officer acting under the direction of a parole officer;

7 (4) submit to appropriate medical, mental health, or controlled
8 substance, **marijuana**, or alcohol examination, treatment, or counseling;

9 (5) submit to periodic examinations designed to detect the use of
10 alcohol, **marijuana**, or controlled substances; the periodic examinations may include
11 testing under the program established under AS 33.16.060(c);

12 (6) make restitution ordered by the court according to a schedule
13 established by the board;

14 (7) refrain from opening, maintaining, or using a checking account or
15 charge account;

16 (8) refrain from entering into a contract other than a prenuptial contract
17 or a marriage contract;

18 (9) refrain from operating a motor vehicle;

19 (10) refrain from entering an establishment where alcoholic beverages
20 are served, sold, or otherwise dispensed;

21 (11) **refrain from entering an establishment where marijuana is**
22 **sold or otherwise dispensed**;

23 **(12)** refrain from participating in any other activity or conduct
24 reasonably related to the parolee's offense, prior record, behavior or prior behavior,
25 current circumstances, or perceived risk to the community, or from associating with
26 any other person that the board determines is reasonably likely to diminish the
27 rehabilitative goals of parole, or that may endanger the public; in the case of special
28 medical parole, for a prisoner diagnosed with a communicable disease, comply with
29 conditions set by the board designed to prevent the transmission of the disease.

30 * **Sec. 130.** AS 33.16.900(3) is amended to read:

31 (3) "controlled substance" means a drug, substance, or immediate

1 precursor included in the schedules set out in AS 11.71.140 - 11.71.180 [AS 11.71.140
2 - 11.71.190];

3 * **Sec. 131.** AS 33.30.015(a) is amended to read:

4 (a) The commissioner may not

5 (1) make per capita expenditures for food for prisoners in a state
6 correctional facility operated by the state that exceed 90 percent of per capita
7 expenditures for food that is available to enlisted personnel in the United States Army
8 stationed in the state;

9 (2) provide, in a state correctional facility operated by the state,

10 (A) living quarters for a prisoner into which the view is
11 obstructed; however, the commissioner is not required to renovate a facility to
12 comply with this subparagraph if the facility is being used as a correctional
13 facility on August 27, 1997, or if the facility was already built before being
14 acquired by the department;

15 (B) equipment or facilities for publishing or broadcasting
16 material the content of which is not subject to prior approval by the department
17 as consistent with keeping order in the institution and prisoner discipline;

18 (C) cable television service other than a level of basic cable
19 television service that is available as a substitute for services that are broadcast
20 to the public in the community in which a correctional facility is located;

21 (3) allow a prisoner held in a state correctional facility operated by the
22 state to

23 (A) possess in the prisoner's cell a cassette tape player or
24 recorder, a video cassette recorder (VCR), or a computer or modem of any
25 kind;

26 (B) view movies rated "R," "X," or "NC-17";

27 (C) possess printed or photographic material that

28 (i) is obscene as defined by the commissioner in
29 regulation;

30 (ii) could reasonably be expected to incite racial, ethnic,
31 or religious hatred that is detrimental to the security, good order, or

1 discipline of the institution or violence;

2 (iii) could reasonably be expected to aid in an escape or
3 in the theft or destruction of property;

4 (iv) describes procedures for brewing alcoholic
5 beverages or for manufacturing controlled substances, marijuana,
6 weapons, or explosives; or

7 (v) could reasonably be expected to facilitate criminal
8 activity or a violation of institution rules;

9 (D) receive instruction in person, or by broadcast medium, or
10 engage in boxing, wrestling, judo, karate, or other martial art or in any activity
11 that, in the commissioner's discretion, would facilitate violent behavior;

12 (E) possess or have access to equipment for use in the activities
13 listed in (D) of this paragraph;

14 (F) possess or have access to free weights;

15 (G) possess in the prisoner's cell a coffee pot, hot plate,
16 appliance or heating element for food preparation, or more than three electrical
17 appliances of any kind;

18 (H) possess or appear in a state of dress, hygiene, grooming, or
19 appearance other than as permitted as uniform or standard in the correctional
20 facility;

21 (I) use a computer other than those approved by the
22 correctional facility; the use of a computer under this subparagraph may be
23 approved only as part of the prisoner's employment, education, or vocational
24 training and may not be used for any other purpose;

25 (J) smoke or use tobacco products of any kind;

26 **(K) use, possess, or consume marijuana or marijuana**
27 **products.**

28 * **Sec. 132.** AS 33.30.065(b) is amended to read:

29 (b) In determining whether to designate a prisoner to serve a term of
30 imprisonment or period of temporary commitment by electronic monitoring, the
31 commissioner shall consider

- 1 (1) safeguards to the public;
- 2 (2) the prospects for the prisoner's rehabilitation;
- 3 (3) the availability of program and facility space;
- 4 (4) the nature and circumstances of the offense for which the prisoner
- 5 was sentenced or for which the prisoner is serving a period of temporary commitment;
- 6 (5) the needs of the prisoner as determined by a classification
- 7 committee and any recommendations made by the sentencing court;
- 8 (6) the record of convictions of the prisoner, with particular emphasis
- 9 on crimes specified in AS 11.41 or crimes involving domestic violence;
- 10 (7) the use of drugs, marijuana, or alcohol by the prisoner; and
- 11 (8) other criteria considered appropriate by the commissioner.

12 * **Sec. 133.** AS 34.03.120(b) is amended to read:

13 (b) The tenant may not knowingly engage at the premises in prostitution, an
14 illegal activity involving a place of prostitution, an illegal activity involving alcoholic
15 beverages, an illegal activity involving gambling or promoting gambling, an illegal
16 activity involving a controlled substance, [OR] an illegal activity involving an
17 imitation controlled substance, or an illegal activity involving marijuana, or
18 knowingly permit others in the premises to engage in one or more of those activities at
19 the rental premises.

20 * **Sec. 134.** AS 34.03.360(7) is amended to read:

21 (7) "illegal activity involving a controlled substance" means a violation
22 of AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1) or (2), or 11.71.040(a)(1) [, (2),] or
23 (5);

24 * **Sec. 135.** AS 34.03.360 is amended by adding a new paragraph to read:

25 (24) "illegal activity involving marijuana" means a violation of
26 AS 17.38.200(a)(1)(A)(i) or (a)(1)(B)(i).

27 * **Sec. 136.** AS 34.05.100(a) is amended to read:

28 (a) In rented premises other than premises to which the provisions of AS 34.03
29 apply, the tenant may not knowingly engage at the premises in prostitution, an illegal
30 activity involving a place of prostitution, an illegal activity involving alcoholic
31 beverages, an illegal activity involving gambling or promoting gambling, an illegal

1 activity involving a controlled substance, [OR] an illegal activity involving an
2 imitation controlled substance, or an illegal activity involving marijuana, or
3 knowingly permit others in the premises to engage in one or more of those activities at
4 the rental premises.

5 * **Sec. 137.** AS 34.05.100(d)(1) is amended to read:

6 (1) "illegal activity involving alcoholic beverages," "illegal activity
7 involving a controlled substance," "illegal activity involving an imitation controlled
8 substance," "illegal activity involving gambling or promoting gambling," "illegal
9 activity involving marijuana," "illegal activity involving a place of prostitution," and
10 "prostitution" have the meanings given in AS 34.03.360;

11 * **Sec. 138.** AS 44.19.645(a) is amended to read:

12 (a) The commission shall evaluate the effect of sentencing laws and criminal
13 justice practices on the criminal justice system to evaluate whether those sentencing
14 laws and criminal justice practices provide for protection of the public, community
15 condemnation of the offender, the rights of victims of crimes, the rights of the accused
16 and the person convicted, restitution from the offender, and the principle of
17 reformation. The commission shall make recommendations for improving criminal
18 sentencing practices and criminal justice practices, including rehabilitation and
19 restitution. In formulating its recommendations, the commission shall consider

20 (1) statutes, court rules, and court decisions relevant to sentencing of
21 criminal defendants in misdemeanor and felony cases;

22 (2) sentencing practices of the judiciary, including use of presumptive
23 sentences;

24 (3) means of promoting uniformity, proportionality, and accountability
25 in sentencing;

26 (4) alternatives to traditional forms of incarceration;

27 (5) the efficacy of parole and probation in ensuring public safety,
28 achieving rehabilitation, and reducing recidivism;

29 (6) the adequacy, availability, and effectiveness of treatment and
30 rehabilitation programs;

31 (7) crime and incarceration rates, including the rate of violent crime

1 and the abuse of controlled substances, in this state compared to other states, and best
2 practices adopted by other states that have proven to be successful in reducing
3 recidivism;

4 (8) the relationship between sentencing priorities and correctional
5 resources;

6 (9) the effectiveness of the state's current methodologies for the
7 collection and dissemination of criminal justice data; and

8 (10) whether the schedules for controlled substances in AS 11.71.140 -
9 11.71.180 [AS 11.71.140 - 11.71.190] are reasonable and appropriate, considering the
10 criteria established in AS 11.71.120(c).

11 * **Sec. 139.** AS 47.10.990(17) is amended to read:

12 (17) "intoxicant" means a substance that temporarily diminishes a
13 person's control over mental or physical powers, including alcohol, marijuana,
14 controlled substances under AS 11.71, and a hazardous volatile material or substance
15 misused by inhaling its vapors;

16 * **Sec. 140.** AS 47.17.024(a) is amended to read:

17 (a) A practitioner of the healing arts involved in the delivery or care of an
18 infant who the practitioner determines has been adversely affected by, or is
19 withdrawing from exposure to, a controlled substance, marijuana, or alcohol shall
20 immediately notify the nearest office of the department of the infant's condition.

21 * **Sec. 141.** AS 47.37.010 is amended to read:

22 **Sec. 47.37.010. Declaration of policy.** It is the policy of the state to recognize,
23 appreciate, and reinforce the example set by its citizens who lead, believe in, and
24 support a life of sobriety. It is also the policy of the state that alcoholics and
25 intoxicated persons should not be criminally prosecuted for their consumption of
26 alcoholic beverages or marijuana and that they should be afforded a continuum of
27 treatment that can introduce them to, and help them learn, new life skills and social
28 skills that would be useful to them in attaining and maintaining normal lives as
29 productive members of society.

30 * **Sec. 142.** AS 47.37.030 is amended to read:

31 **Sec. 47.37.030. Powers of department.** The department may

1 (1) plan, establish, and maintain programs for the prevention and
2 treatment of alcoholism, marijuana abuse, drug abuse, and misuse of hazardous
3 volatile materials and substances by inhalant abusers;

4 (2) make contracts and award grants necessary or incidental to the
5 performance of its duties and the execution of its powers, including contracts with the
6 grants to public and private agencies, organizations, and individuals, to pay them for
7 services rendered or furnished to alcoholics, intoxicated persons, marijuana abusers,
8 drug abusers, or inhalant abusers; to the maximum extent possible, contracts and
9 grants must be for a period of two years; contracts under this paragraph are governed
10 by AS 36.30 (State Procurement Code);

11 (3) solicit and accept for use a gift of money or property or a grant of
12 money, services, or property from the federal government, the state or a political
13 subdivision of it, or a private source, and do all things necessary to cooperate with the
14 federal government or any of its agencies in making an application for a grant;

15 (4) administer or supervise the administration of the provisions relating
16 to alcoholics, intoxicated persons, marijuana abusers, drug abusers, and inhalant
17 abusers of state plans submitted for federal funding under federal health, welfare, or
18 treatment legislation;

19 (5) coordinate its activities and cooperate with alcoholism, marijuana
20 abuse, drug abuse, and inhalant abuse programs in this and other states, and make
21 contracts and other joint or cooperative arrangements with state, local, or private
22 agencies for the treatment of alcoholics, intoxicated persons, marijuana abusers,
23 drugs abusers, and inhalant abusers, and for the common advancement of alcoholism,
24 marijuana abuse, drug abuse, and inhalant abuse programs in this and other states;

25 (6) keep records and engage in research and the gathering of relevant
26 statistics;

27 (7) do other acts necessary to implement the authority expressly
28 granted to it;

29 (8) acquire, hold, or dispose of real property or any interest in it, and
30 construct, lease, or otherwise provide treatment facilities for alcoholics, intoxicated
31 persons, marijuana abusers, drug abusers, and inhalant abusers; however, the

1 department shall encourage local initiative, involvement, and financial participation
2 under grants-in-aid whenever possible in preference to the construction or operation of
3 facilities directly by the department; contracting and construction under this paragraph
4 are governed by AS 36.30 (State Procurement Code);

5 (9) strengthen and enhance the process for identifying people who
6 have co-occurring substance abuse and mental health disorders;

7 (10) establish a secure enhanced detoxification and treatment center
8 for persons involuntarily detained because they are likely to inflict physical harm to
9 self or others; in this paragraph, "enhanced" means the ability to treat co-occurring
10 substance abuse and mental health disorders;

11 (11) develop and implement a substance abuse treatment system using
12 evidence-based best practices or, if evidence-based best practices do not exist,
13 research-based practices, that includes a procedure for adapting the practices to new
14 situations and for collaboration with consumer-based programs; if research-based
15 practices are not known or available, the department may include consensus-based or,
16 if funds are available, promising practices; a practice must promote independence,
17 recovery, employment, education, ongoing community-based treatment, housing, and
18 other aspects of harm reduction.

19 * **Sec. 143.** AS 47.37.040 is amended to read:

20 **Sec. 47.37.040. Duties of department.** The department shall

21 (1) develop, encourage, and foster statewide, regional, and local plans
22 and programs for the prevention of alcoholism, marijuana abuse, and drug abuse and
23 treatment of alcoholics, intoxicated persons, marijuana abusers, drug abusers, and
24 inhalant abusers in cooperation with public and private agencies, organizations, and
25 individuals, and provide technical assistance and consultation services for these
26 purposes;

27 (2) coordinate the efforts and enlist the assistance of all public and
28 private agencies, organizations, and individuals interested in prevention of alcoholism,
29 marijuana abuse, drug abuse, and inhalant abuse, and treatment of alcoholics,
30 intoxicated persons, marijuana abusers, drug abusers, and inhalant abusers;

31 (3) cooperate with the Department of Corrections in establishing and

1 conducting programs to provide treatment for alcoholics, intoxicated persons,
2 marijuana abusers, drug abusers, and inhalant abusers in or on parole from penal
3 institutions;

4 (4) cooperate with the Department of Education and Early
5 Development, school boards, schools, police departments, courts, and other public and
6 private agencies, organizations, and individuals in establishing programs for the
7 prevention of alcoholism, marijuana abuse, drug abuse, and inhalant abuse, and
8 treatment of alcoholics, intoxicated persons, marijuana abusers, drug abusers, and
9 inhalant abusers, and preparing curriculum materials for use at all levels of school
10 education;

11 (5) prepare, publish, evaluate, and disseminate educational material
12 dealing with the nature and effects of alcohol, marijuana, and drugs, and the misuse
13 of hazardous volatile substances;

14 (6) develop and implement, as an integral part of treatment programs,
15 an educational program for use in the treatment of alcoholics, intoxicated persons,
16 marijuana abusers, drug abusers, and inhalant abusers that includes the
17 dissemination of information concerning the nature and effects of alcohol, marijuana,
18 drugs, and hazardous volatile substances;

19 (7) organize and foster training programs for all persons engaged in
20 treatment of alcoholics, intoxicated persons, marijuana abusers, drug abusers, and
21 inhalant abusers, and establish standards for training paraprofessional alcoholism,
22 marijuana abuse, drug abuse, and inhalant abuse workers;

23 (8) sponsor and encourage research into the causes and nature of
24 alcoholism, marijuana abuse, drug abuse, and inhalant abuse, and the treatment of
25 alcoholics, intoxicated persons, marijuana abusers, drug abusers, and inhalant
26 abusers, and serve as a clearinghouse for information relating to alcoholism,
27 marijuana abuse, drug abuse, and inhalant abuse;

28 (9) specify uniform methods for keeping statistical information by
29 public and private agencies, organizations, and individuals, and collect and make
30 available relevant statistical information, including number of persons treated,
31 frequency of admission and readmission, and frequency and duration of treatment;

1 (10) conduct program planning activities approved by the Advisory
2 Board on Alcoholism and Drug Abuse;

3 (11) review all state health, welfare, and treatment plans to be
4 submitted for federal funding, and advise the commissioner on provisions to be
5 included relating to alcoholics, intoxicated persons, marijuana abusers, drug abusers,
6 and inhalant abusers;

7 (12) assist in the development of, and cooperate with, alcohol,
8 marijuana, drug abuse, and inhalant abuse education and treatment programs for
9 employees of state and local governments and businesses and industries in the state;

10 (13) use the support and assistance of interested persons in the
11 community, particularly recovered alcoholics, marijuana abusers, drug abusers, and
12 inhalant abusers, to encourage alcoholics, marijuana abusers, drug abusers, and
13 inhalant abusers to voluntarily undergo treatment;

14 (14) cooperate with the Department of Public Safety, the Department
15 of Administration, and the Department of Transportation and Public Facilities in
16 establishing and conducting programs designed to deal with the problem of persons
17 operating motor vehicles while under the influence of an alcoholic beverage,
18 marijuana, inhalant, or controlled substance, and develop and approve alcohol and
19 marijuana information courses required to be taken by drivers under AS 28.15 or
20 made available to drivers to reduce points assessed for violation of traffic laws;

21 (15) encourage hospitals and other appropriate health facilities to
22 admit without discrimination alcoholics, intoxicated persons, marijuana abusers,
23 drug abusers, and inhalant abusers and to provide them with adequate and appropriate
24 treatment;

25 (16) encourage all health insurance programs to include alcoholism,
26 marijuana abuse, and drug abuse as a covered illness;

27 (17) prepare an annual report covering the activities of the department
28 and notify the legislature that the report is available;

29 (18) develop and implement a training program on alcoholism,
30 marijuana, and drug abuse for employees of state and municipal governments, and
31 private institutions;

1 (19) develop curriculum materials on drug, marijuana, and alcohol
2 abuse and the misuse of hazardous volatile substances for use in grades kindergarten
3 through 12, as well as a course of instruction for teachers to be charged with
4 presenting the curriculum;

5 (20) develop and implement or designate, in cooperation with other
6 state or local agencies, a juvenile alcohol safety action program that provides alcohol,
7 marijuana, and substance abuse screening, referral, and monitoring of persons under
8 18 years of age who have been referred to it by

9 (A) a court in connection with a charge or conviction of a
10 violation or misdemeanor related to the use of alcohol, marijuana, or a
11 controlled substance;

12 (B) the agency responsible for the administration of motor
13 vehicle laws in connection with a license action related to the use of alcohol,
14 marijuana, or a controlled substance; or

15 (C) department staff after a delinquency adjudication that is
16 related to the use of alcohol, marijuana, or a controlled substance;

17 (21) develop and implement, or designate, in cooperation with other
18 state or local agencies, an alcohol safety action program that provides alcohol,
19 marijuana, and substance abuse screening, referral, and monitoring services to
20 persons who have been referred by a court in connection with a charge or conviction
21 of a misdemeanor involving the use of a motor vehicle, aircraft, or watercraft and
22 alcohol, marijuana, or a controlled substance, referred by a court under
23 AS 28.35.028, or referred by an agency of the state with the responsibility for
24 administering motor vehicle laws in connection with a driver's license action involving
25 the use of alcohol, marijuana, or a controlled substance;

26 (22) whenever possible, apply evidence-based, research-based, and
27 consensus-based substance abuse and co-occurring substance abuse and mental health
28 disorders treatment practices and remove barriers that prevent the use of those
29 practices;

30 (23) collaborate with first responders, hospitals, schools, primary care
31 providers, developmental disability treatment providers, law enforcement, corrections,

1 attorneys, the Alaska Court System, community behavioral treatment providers,
2 Alaska Native organizations, and federally funded programs in implementing
3 programs for co-occurring substance abuse and mental health disorders treatment.

4 * **Sec. 144.** AS 47.37.170(b) is amended to read:

5 (b) A person who appears to be incapacitated by alcohol, marijuana, or drugs
6 in a public place shall be taken into protective custody by a peace officer or a member
7 of the emergency service patrol and immediately brought to an approved public
8 treatment facility, an approved private treatment facility, or another appropriate health
9 facility or service for emergency medical treatment. If no treatment facility or
10 emergency medical service is available, a person who appears to be incapacitated by
11 alcohol, marijuana, or drugs in a public place shall be taken to a state or municipal
12 detention facility in the area if that appears necessary for the protection of the person's
13 health or safety. However, emergency protective custody under this subsection may
14 not include placement of a minor in a jail or secure facility.

15 * **Sec. 145.** AS 47.37.170(d) is amended to read:

16 (d) A person who, after medical examination at an approved private treatment
17 facility, or another appropriate health facility or service for emergency medical
18 treatment, is found to be incapacitated by alcohol, marijuana, or drugs at the time of
19 admission or to have become incapacitated by alcohol, marijuana, or drugs at any
20 time after admission, may not be detained at a facility after the person is no longer
21 incapacitated by alcohol, marijuana, or drugs. A person may not be detained at a
22 facility if the person remains incapacitated by alcohol or marijuana for more than 48
23 hours after admission as a patient. A person may consent to remain in the facility as
24 long as the physician in charge considers it appropriate.

25 * **Sec. 146.** AS 47.37.170(f) is amended to read:

26 (f) If a patient is admitted to an approved public treatment facility, family or
27 next of kin shall be promptly notified. If an adult patient who is not incapacitated by
28 alcohol, marijuana, or drugs requests that there be no notification of next of kin, the
29 request shall be granted.

30 * **Sec. 147.** AS 47.37.170(g) is amended to read:

31 (g) A person may not bring an action for damages based on the decision under

1 this section to take or not to take an intoxicated person or a person incapacitated by
2 alcohol, marijuana, or drugs into protective custody, unless the action is for damages
3 caused by gross negligence or intentional misconduct.

4 * **Sec. 148.** AS 47.37.170(i) is amended to read:

5 (i) A person taken to a detention facility under (a) or (b) of this section may be
6 detained only (1) until a treatment facility or emergency medical service is made
7 available, (2) until the person is no longer intoxicated or incapacitated by alcohol,
8 marijuana, or drugs, or (3) for a maximum period of 12 hours, whichever occurs first.
9 A detaining officer or a detention facility official may release a person who is detained
10 under (a) or (b) of this section at any time to the custody of a responsible adult. A
11 peace officer or a member of the emergency service patrol, in detaining a person under
12 (a) or (b) of this section and in taking the person to a treatment facility, an emergency
13 medical service, or a detention facility, is taking the person into protective custody and
14 the officer or patrol member shall make reasonable efforts to provide for and protect
15 the health and safety of the detainee. In taking a person into protective custody under
16 (a) and (b) of this section, a detaining officer, a member of the emergency service
17 patrol, or a detention facility official may take reasonable steps for self-protection,
18 including a full protective search of the person of a detainee. Protective custody under
19 (a) and (b) of this section does not constitute an arrest and no entry or other record
20 may be made to indicate that the person detained has been arrested or charged with a
21 crime, except that a confidential record may be made that is necessary for the
22 administrative purposes of the facility to which the person has been taken or that is
23 necessary for statistical purposes where the person's name may not be disclosed.

24 * **Sec. 149.** AS 47.37.180(a) is amended to read:

25 (a) An intoxicated person who (1) has threatened, attempted to inflict, or
26 inflicted physical harm on another or is likely to inflict physical harm on another
27 unless committed, or (2) is incapacitated by alcohol, marijuana, or drugs, may be
28 committed to an approved public treatment facility for emergency treatment. A refusal
29 to undergo treatment does not constitute evidence of lack of judgment as to the need
30 for treatment.

31 * **Sec. 150.** AS 47.37.190(a) is amended to read:

1 (a) A spouse or guardian, a relative, the certifying physician, physician
2 assistant, advanced nurse practitioner, or the administrator in charge of an approved
3 public treatment facility may petition the court for a 30-day involuntary commitment
4 order. The petition must allege that the person is an alcoholic, marijuana abuser, or
5 drug abuser who (1) has threatened, attempted to inflict, or inflicted physical harm on
6 another and that unless committed is likely to inflict physical harm on another; or (2)
7 is incapacitated by alcohol, marijuana, or drugs. A refusal to undergo treatment does
8 not constitute evidence of lack of judgment as to the need for treatment. The petition
9 must be accompanied by a certificate of a licensed physician, physician assistant, or
10 advanced nurse practitioner who has examined the person within two days before
11 submission of the petition, unless the person whose commitment is sought has refused
12 to submit to a medical examination, in which case the fact of refusal must be alleged
13 in the petition. The certificate must set out the physician's, physician assistant's, or
14 advanced nurse practitioner's findings of the examination in support of the allegations
15 of the petition.

16 * **Sec. 151.** AS 47.37.205(a) is amended to read:

17 (a) At any time during a person's 30-day commitment, the director of an
18 approved public facility or approved private facility may file with the court a petition
19 for a 180-day commitment of that person. The petition must include all material
20 required under AS 47.37.190(a) except that references to "30 days" shall be read as
21 "180 days" and must allege that the person continues to be an alcoholic, marijuana
22 abuser, or drug abuser who is incapacitated by alcohol, marijuana, or drugs, or who
23 continues to be at risk of serious physical harm or illness.

24 * **Sec. 152.** AS 47.37.270(1) is amended to read:

25 (1) "alcoholic, marijuana abuser, or drug abuser" means a person
26 who demonstrates increased tolerance to alcohol, marijuana, or drugs, who suffers
27 from withdrawal when alcohol, marijuana, or drugs are not available, whose habitual
28 lack of self-control concerning the use of alcohol, marijuana, or drugs causes
29 significant hazard to the person's health, and who continues to use alcohol,
30 marijuana, or drugs despite the adverse consequences;

31 * **Sec. 153.** AS 47.37.270(4) is amended to read:

(4) "drugs" means a drug that is included in the controlled substance schedules set out in AS 11.71.140 - 11.71.180 [AS 11.71.140 - 11.71.190];

* **Sec. 154.** AS 47.37.270(7) is amended to read:

(7) "incapacitated by alcohol, marijuana, or drugs" means a person who, as a result of alcohol, marijuana, or drugs, is unconscious or whose judgment is otherwise so impaired that the person (A) is incapable of realizing and making rational decisions with respect to the need for treatment, and (B) is unable to take care of the person's basic safety or personal needs, including food, clothing, shelter, or medical care;

* **Sec. 155.** AS 47.37.270(10) is amended to read:

(10) "intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol, marijuana, or drugs;

* **Sec. 156.** AS 47.38.020(a) is amended to read:

(a) The commissioner, in cooperation with the commissioner of corrections, shall establish a program for certain persons with release conditions ordered as provided under AS 12.30, or offenders with conditions of probation, that include not consuming controlled substances, marijuana, or alcoholic beverages.

* **Sec. 157.** AS 47.38.020(c) is amended to read:

(c) The commissioner shall include in the program

(1) a requirement for twice-a-day testing, in person if practicable, for alcoholic beverage or marijuana use and random testing for controlled substances;

(2) a means to provide the probation officer, prosecutor's office, or local law enforcement agency with notice within 24 hours, so that a complaint may be filed alleging a violation of AS 11.56.757, a petition may be filed with the court seeking appropriate sanctions and may be scheduled by the court for a prompt hearing, or an arrest warrant may be issued for the person on release or offender with conditions of probation provided in this subsection, if the person or offender

(A) fails to appear for an appointment as required by the program requirements; or

(B) tests positive for the use of controlled substances,

1 marijuana, or alcoholic beverages; and

2 (3) a requirement that the person or offender pay, based on the person's
3 or offender's ability under financial guidelines established by the commissioner, for
4 the cost of participating in the program.

5 * **Sec. 158.** AS 11.71.040(a)(2), 11.71.040(a)(3)(F), 11.71.040(a)(3)(G), 11.71.050(a)(1),
6 11.71.050(a)(2)(E), 11.71.060(a)(1), 11.71.060(a)(2)(A), 11.71.080, 11.71.090,
7 11.71.160(f)(1), 11.71.160(f)(2), 11.71.190, 11.71.900(10), 11.71.900(11), 11.71.900(14),
8 11.71.900(27); AS 11.81.900(b)(6); AS 12.55.135(j); AS 17.38.030, 17.38.040, and
9 17.38.050 are repealed.

10 * **Sec. 159.** The uncodified law of the State of Alaska is amended by adding a new section
11 to read:

12 APPLICABILITY. (a) Except as provided in (b) - (d) of this section, this Act applies
13 to offenses committed on or after the effective date of this Act.

14 (b) The amendments to AS 12.55.015 in secs. 30 and 31 of this Act and AS 12.55.155
15 in secs. 32 - 34 of this Act apply to a sentence imposed on or after the effective date of this
16 Act for an offense committed on or after the effective date of this Act.

17 (c) The amendments to AS 09.50.170 in sec. 7 of this Act, AS 09.60.070(c) in sec. 8
18 of this Act, and AS 09.65 in secs. 9 - 12 of this Act apply to causes of action accrued on or
19 after the effective date of this Act.

20 (d) The amendments to AS 33.16 in secs. 127 - 129 of this Act apply to conditions of
21 parole ordered on or after the effective date of this Act.

22 * **Sec. 160.** This Act takes effect immediately under AS 01.10.070(c).