

29th Alaska State Legislature



House Judiciary Committee

CS for HOUSE BILL 79 (Version S)

SECTIONAL ANALYSIS

Overview

Sections 1 – 43 are conforming amendments dealing with under age consumption, impaired driving, weapons misconduct and medical use of marijuana.

Section 44 relates to the personal possession limits of marijuana.

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

Sections 50 relates to options for local governments.

Section 51 creates new crimes associated with the misconduct of marijuana.

Sections 53 – 56 are conforming amendments dealing with treatment.

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

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

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

Sections 129-138 are conforming amendments concerning landlords and tenants.

Sections 139-158 are conforming amendments dealing with substance abuse, testing and treatment.

Section 159-160 repealed sections of law and effective date.

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

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

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

Requires the court to prohibit the use of alcohol as a condition of probation. Adds “marijuana.”

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

Prohibiting the use of a tramway, ski slope or trail under the influence. Adds “marijuana.”

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

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

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

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

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

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

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

Prohibits illegal activity involving alcoholic beverages, gambling, controlled substances and prostitution. Adds “marijuana “and “illegal activity involving marijuana.”

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

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

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

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

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

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

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

Prohibits recovery of noneconomic losses in cases of drivers under the influence. Adds “marijuana”

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

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

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

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

Section 15 Amends AS 11.61.200(a) **Misconduct involving weapons in the third degree.**
In subsection (4) knowingly sells or transfers a weapon to someone under the influence of alcohol or a controlled substance.

In subsection (7) A violation of Crimes of trespass in the first degree and during the violation possesses a firearm and under the influence of alcohol or a controlled substance. Adds “marijuana” in subsections (4) and (7)

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

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

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

Line 29 in subsection (2) removes reference to VIA.

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

Sections 19 and 20 Amends AS 11.71.120(a) **Controlled Substances Advisory Committee**
Removes 11.71.190 (marijuana) from the list of drugs reviewed by the Controlled Substances Advisory Committee.

Section 21 Amends AS 11.71.180(a) **Definitions** Schedule VA Substances
Removes the reference of VIA (marijuana) from the definition of a Schedule VA substances.

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

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

Section 23 Amends AS 11.71.900(4) **Definitions** Controlled Substances.
Removes 11.71.190 (Schedule VIA) from the definition of “controlled substances.”

Section 24 Amends AS 11.71.900(13) **Definitions** Manufacture.
Adds “the growing of marijuana for personal use is not manufacturing” to the definition of “manufacture.”

Section 25 Amends 11.81.900(b)(34) **Definitions** Intoxicated.
Adds “marijuana” to the definition of “intoxicated.”

Sections 26 Amends AS 12.30.011(b) Release for trial.

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

Section 27 Amends 12.30.016 Release for before trial in certain cases.

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

Sections 28 and 29 Definitions & Laboratory report of a controlled substance.

Amends AS 12.45.080; AS 12.45.084(a) AS 12.45.080

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

Requirements for laboratory test requirements for DPS and law enforcement.

Adds “marijuana” and “usable marijuana” with the given meaning of marijuana given in AS 17.38.900.

Section 30 Amends AS 12.55.015 Fixing eligibility for discretionary parole at sentences.

(a) Relating to sentencing by allowing a court to order a defendant to refrain from using marijuana as a probation condition, just as they can currently order a defendant to refrain from consuming alcohol. Adds “marijuana.”

Section 31 Amends AS 12.55.015(j) Fixing eligibility for discretionary parole at sentences.

To clarify that the courts are not limited or restricted from ordering restrictions on the use of marijuana at the time of sentencing or probation, just as they are not limited in their orders about the consumption of alcohol.

Section 32 Amends AS 12.55.15 (c) (30) Factors in aggravation and mitigation.

This statute relates to factors in aggravation and mitigation, and includes the use of controlled substances and alcohol as a factor in a crime if the substance was used incapacitate the victim.

Adds “marijuana”

Section 33 Amends AS 12.55.155 (c) (5) Factors in aggravation and mitigation.

This statute relates to factors in aggravation and mitigation, and includes the use of controlled substances and alcohol as a factor in a crime if the substance was used incapacitate the victim.

Adds “marijuana”

Section 34 Amends AS 12.55.155(g) Factors in aggravation and mitigation.

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

Adds “marijuana”

Section 35 Adds a new paragraph to AS 12.55.185 **Definitions**
Adds “marijuana” with the definition provided in AS 17.38.900.

Section 36 Amends AS 17.21.010(b) **Illicit synthetic drugs.**
Relating to illicit synthetic drugs, adds marijuana in places that reference controlled substances subsections (B); (C); and (E.)

Section 37 Amends AS 17.21.090(3) **Definitions** Synthetic drug.
Relating to the definitions of synthetic drug to include marijuana in places referencing controlled substances subsections (B) and (C.)

Section 38 Amends AS 17.30.070(c) **Controlled substances.**
Relating to the classification of controlled substances, removes AS 11.71.900 (marijuana.)

Section 39 Amends AS 17.30.080(a) **Controlled Substances Act.**
Relating to the Federal Controlled Substances Act and prescribing doctors, removes AS 11.71.900 (marijuana.)

Section 40 Amends AS 17.30.080(b) **Controlled Substances Act.**
Relating to the Federal Controlled Substances Act and prescribing doctors. Removes AS 11.71.900 (marijuana.)

Section 41 Amends AS 17.30.140 **Education and research.**
Directs the Department of Health and Social Services, working in cooperation with the Department of Law and Public Safety, to develop educational programs for the public regarding alcohol and marijuana abuse prevention.

Section 42 Amends AS 17.37.030 **Medical Marijuana.**
Relating to medical use of marijuana, provides an affirmative defense for registered caregivers charged with offenses related to medical marijuana as previously provided in AS 11.71.090.

Section 43 Amends AS 17.37.070(a) **Definitions** Medical use of Marijuana.
Concerning the definition of medical use of marijuana. Provides the definition of “medical use” for marijuana as previously provided in AS 11.71.090.

Section 44 Adds AS 17.38.020: **Relating to the personal use of marijuana**
Provides:

- Possessing, using, displaying, purchasing, or transporting marijuana accessories or one ounce or less marijuana
- Possessing, growing, processing, or transporting six marijuana plants, with three or fewer being mature and possession of the marijuana produced by the plants on the premises where the plants were grown
- Transferring one ounce or less and up to six immature plants to a person 21 years of age or older without remuneration

Prohibits:

-Use of marijuana of in public place

Additionally provides the definition of “assisting” does not include possessing, using, displaying, purchasing, or transporting marijuana and marijuana plants in excess of the amount allowed in this section.

Section 45 Amends AS 17.38.070(a) Lawful operation of marijuana related facilities.

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

Section 46 Amends AS 17.38.070(b) Lawful operation of marijuana related facilities.

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

Section 47 Amends AS 17.38.070(c) Lawful operation of marijuana related facilities.

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

Section 48 Amends AS 17.38.070(d) Lawful operation of marijuana related facilities.

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

Section 49 Amends AS 17.38.070(e) Lawful operation of marijuana related facilities.

Relating to licensed businesses that operate in accordance with the laws cannot be subject to forfeiture or seizure. Language from Ballot Measure 2 with the exception of the phrase: “NOTWITHSTANDING ANY OTHER PROVISION OF LAW” and other stylistic clarifying changes.

Section 50 Amends AS 17.38.090 Rulemaking

Directs the board to adopt a regulation that will prohibit a retail marijuana store from selling more than five grams of marijuana concentrate per day to a customer.

Section 51 Amends AS 17.38.110(a) Local Control

Allows for a local governments and established villages to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or marijuana retail stores through the act of an ordinance.

Section 52

AS 17.38.200 Misconduct involving marijuana in the first degree.

A person commits the crime of MIM in the 1st degree, which is a class A misdemeanor, if they do any of the following without a license:

- Possesses 25 or more marijuana plants.
- Manufactures more than six marijuana plants.
- Delivers or transports more than one ounce of usable marijuana or more than six marijuana plants.
- Gives any amount of marijuana to a person under 21.
- Manufactures a marijuana concentrate using a volatile or explosive gas.
- Delivers or transports one ounce or less of usable marijuana for remuneration.
- Delivers or transports up to six immature plants for remuneration;

A person with a registered marijuana establishment commits the crime of MIM in the 1st degree if they do not comply with the license requirements and knowingly:

- Possesses 25 or more marijuana plants.
- Manufactures more than six marijuana plants.
- Transports more than one ounce of usable marijuana or more than six marijuana plants.
- Delivers any amount of marijuana to a person under 21.
- Manufactures a marijuana concentrate using a volatile or explosive gas.

A person with a registered marijuana establishment commits the crime of MIM in the 1st degree if they do the following with criminal negligence:

- Allows a person to deliver marijuana to a person under 21 who is not a medical marijuana patient 18 years of age or older.
- Allows a person under 21 years to enter and remain in the licensed premise who is not a medical marijuana patient 18 years of age or older.
- Allows a person under 21 years to use marijuana within the licensed premises.
- Allows a person under 21 to deliver marijuana.
- Delivers marijuana to a person under 21 who is not a medical marijuana patient 18 years of age or older.

AS 17.38.210 Misconduct involving marijuana in the second degree.

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

- Is at least 21 years of age, is not a registered marijuana establishment and knowingly:
 - o Possesses 6-25 marijuana plants or possesses; or
 - o Delivers more than one ounce of usable marijuana in a public place or possesses or delivers more than six marijuana plants.
- Is a registered marijuana establishment not in compliance with the registration requirements and knowingly:
 - o Possesses 6-25 marijuana plants
 - o Delivers or sells any amount of marijuana
- Is not a registered marijuana establishment and knowingly sells any amount of marijuana.

AS 17.38.220 Misconduct involving marijuana in the third degree.

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

- Manufacture marijuana in a location where the plants are in public view, not secure from unauthorized access, or on property not in possession of the person or without consent of the property owner.
- Are under 21 and attempts to purchase marijuana with false identification, or otherwise misrepresents the person's age.
- Are under 18 and possesses, uses, or displays any amount of marijuana.
- This section does not apply to a person assisting enforcement.

AS 17.38.230 Misconduct involving marijuana in the fourth degree.

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

- Are over 21 and use any amount of marijuana in a public place
- Are between 18-20 and use, display, or possess 1 ounce or less of marijuana.

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

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

AS 17.38.250 Bail forfeiture for certain offenses.

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

AS 17.38.260 Restriction on prosecution for certain persons in connection with a significant adverse marijuana reaction.

A person may not be prosecuted for various marijuana misconduct crimes if that person seeks, in good faith, medical or law enforcement assistance for another person who is believed to be experiencing a significant adverse marijuana reaction and the person remains at the scene until assistance arrives and cooperates with medical or law enforcement personnel.

AS 17.38.270 Affirmative defense to a prosecution under AS 17.38.200 – AS 17.38.230; medical use of marijuana.

In a prosecution for certain MIM crimes, it is an affirmative defense that the defendant is a patient, or the primary caregiver for a patient, and:

- At the time of the alleged misconduct, the person is a medical marijuana cardholder.
- The alleged misconduct complies with requirements of AS 17.37 and the defendant is the primary or alternate caregiver.

AS 17.38.280 Court records of violations by minors confidential.

The court records of a MIM crime or violation are confidential if the person is under 18 years of age.

AS 17.38.290 Local option.

An established village shall prohibit the operation of marijuana establishments if a majority of the voters in the election approve the ban. A ballot to adopt a local option must contain language substantially similar to the following: “Shall (name of village) adopt a local option to prohibit the operation of marijuana establishments? (yes or no).”

AS 17.38.300 Removal of local option.

An established village shall remove a local option if a majority of the voters vote to remove the option. The option is repealed effective the first day of the month following certification of the election results. A ballot question to remove a local option must at least contain language similar to the following: “Shall (name of village) remove the local option currently in effect, that prohibits the operation of marijuana establishments, so that there is no longer any local option in effect? (yes or no).” When issuing a registration in an area that has removed a local option, the board shall give priority to an applicant who was formerly licensed.

AS 17.38.310 Effect of local option on registrations of prohibition of marijuana establishments.

If a local option is in effect, the board may not issue, renew, or transfer a registration for a marijuana establishment located within the perimeter of the village.

AS 17.38.320 Procedure for local option elections.

An election to adopt or remove a local option shall be conducted as follows:

- The lieutenant governor shall place on a separate ballot at a special election the content from a petition that received at least 35 percent of registered voters within the village.
- The election may not be conducted during the first 24 months after the local option was adopted or more than once in a 36-month period.
- Another petition may not be filed until after the question presented in the first petition has been voted on. Only one local option question may be presented in an election.

AS 17.38.330 Establishment of perimeter of established village.

For purposes of the local option law, the perimeter of a village is a circle around the village that includes an area within a five-mile radius of the post office of the village, or a five-mile radius of

another site selected by the local governing body, or the board, if the village doesn't have a local governing body. If the perimeter overlaps with another village's perimeter, and that other village has not adopted a local option, then the local option does not apply in the overlapping area.

AS 17.38.340 Notice of the results of a local option election.

If a majority of the voters approve or remove a local option, the lieutenant governor shall notify the board of the results immediately following the election, and the board shall immediately notify the Department of Law and the Department of Public Safety.

Section 53 Amends AS 17.38.900(6) **Definitions** Marijuana.

Provides the definition of marijuana.

Section 54 Adds a new section to AS 17.38.900 **Definitions**.

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

Section 55 Amends AS 18.66.100(c) **Protective orders: eligible petitioners; relief**.

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

Sections 56; 57 Amends AS 18.67.080; AS 18.67.101 **Violent Crimes Compensation**.

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

Section 58 Amends AS 21.42.365(b) **Coverage for treatment of alcoholism or drug abuse**.

For insurance purposes defines drug abuse to include marijuana dependency

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

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

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

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

Section 61 Amends AS 23.10.600(d) **Employer protection from litigation**.

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

Section 62 Amends AS 23.10.600(e) **Employer protection from litigation**.

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

Section 63 Amends AS 23.10.610 **Limits on causes of action for disclosures.**

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

Section 64 Amends AS 23.10.620(a) **Employer policy.**

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

Section 65 Amends AS 23.10.620(b) **Employer policy.**

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

Section 66 Amends AS 23.10.620(c) **Employer policy.**

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

Section 67 Amends AS 23.10.620(e) **Employer policy.**

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

Section 68 Amends AS 23.10.620(f) **Employer policy.**

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

Section 69 Amends AS 23.10.630(a) **Collection of samples.**

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

Section 70 Amends AS 23.10.630(c) **Collection of samples.**

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

Section 71 Amends AS 23.10.630(d) **Collection of samples.**

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

Section 72 Amends AS 23.10.640(a) **Testing procedures.**

Adds “marijuana impairment”.

Section 73 Amends AS 23.10.645(a) **On-site testing.**

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

Section 74 Amends AS 23.10.650 **Training of test administrators.**

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

Section 75 Amends AS 23.10.655 **Disciplinary procedures.**

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

Section 76 Amends AS 23.10.660 **Confidentiality of results; access to records.**

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

Section 77 Amends AS 23.10.670 **Effect of mandatory testing obligations.**

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

Section 78 Amends AS 23.10.699 **Definitions.**

“Marijuana” has the meaning given in AS 17.38.900.

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

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

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

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

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

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

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

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

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

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

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

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

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

Pertaining to a person applying for a new license after the previous license has expired,

adds “marijuana” to the list of substances.

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

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

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

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

Section 88 Amends AS 28.15.181(a) **Court suspensions, revocations, and limitations.**

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

Section 89 Amends AS 28.15.183(a) **Administrative revocation of license to drive.**

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

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

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

Section 91 Amends AS 28.15.184(g) **Administrative review of revocation of a minor’s license.**

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

Section 92 Amends AS 28.15.191(e) **Court and parole board reports to department; surrender of license or identification card.**

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

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

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

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

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

Section 95 Amends AS 28.15.271(e) **Fees.**

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

Section 96 Amends AS 28.20.230(c) **Proof of financial responsibility for the future.**

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

Section 97 Amends AS 28.33.030 **Operating a commercial motor vehicle.**

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

Adds “marijuana”

Section 98 Amends AS 28.33.031(a) **Implied consent for operators of commercial motor vehicles.**

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

Section 99 Amends AS 28.33.130(a) **Out-of-service orders.**

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

Section 100 Amends AS 28.33.140(a) **Conviction resulting in disqualification from driving commercial vehicle.**

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

Section 101 Amends AS 28.33.190 **Definitions.**

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

Section 102 Amends AS 28.35.028(h)(1) **Court-ordered treatment.**

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

Section 103 Amends AS 28.35.029(a) **Open container.**

Provides that a person may not drive a motor vehicle when there is an open marijuana container in the passenger compartment with the exceptions provided below (b.)

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

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

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

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

Section 106 Amends AS 28.35.030(a) **Operating a vehicle, aircraft or watercraft while under the influence of an alcoholic beverage, inhalant, or controlled substance.**

Adds “marijuana” to the DUI statutes.

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

Adds “marijuana” to the DUI statutes.

Section 108 Amends AS 28.35.031(a) **Implied consent.**

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

Section 109 Amends AS 28.35.031(g) **Implied consent.**

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

Section 110 Amends AS 28.35.032(a) **Refusal to submit to chemical test.**

Adds “marijuana” to the refusal statutes.

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

Adds “marijuana” to the refusal statutes.

Section 112 Amends AS 28.35.033(a) **Presumptions and chemical analysis of breath or blood.**

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

Section 113 Amends AS 28.35.035(a) **Administration of chemical tests without consent.**

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

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

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

Section 115 Amends AS 28.35.039(1) **Definitions: Alcohol safety and controlled substances.**

Amends the definition of “alcohol safety action program” to include marijuana.

Section 116 Amends AS 28.35.039 **Definitions: Marijuana.**

Adds a new paragraph providing “marijuana” has the meaning set forth in AS 17.38.900.

Section 117 Amends AS 28.35.280(a) **Minor operating a vehicle after consuming alcohol.**

A peace officer with probable cause can arrest or request a chemical test from a minor, who is at least 14 years of age, but not yet 21, for suspicion of operating a vehicle after consuming alcohol. This section includes the operation of motor vehicles, aircraft, or watercraft.
Adds “Marijuana.”

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

In cases involving minors and vehicles if a chemical test is performed and the discovery of any amount of alcohol is found, the person is cited and released to their parental guardian or legal custodian.
Adds “Marijuana.”

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

Involving sentencing, fines and community work for a minors found guilty of operating a vehicle under the influence of alcohol.
Adds “Marijuana”

Sections 120-123 Amends AS 28.35.285(a);(c);(d) **Minors refusal to submit to chemical test.**

The refusal to submit to a chemical test of a person’s breath, is a violation subject to the same caveats and conditions attending a minor’s refusal to submit to a request of a peace officer to undergo chemical testing.
Adds “marijuana.”

Section 124;125 Amends AS 28.35.290(a);(b) **Minors Driving during the 24 hours after being cited for alcohol or breath test offenses.**

Involving sentencing, fines and community work for a minors found guilty of operating a vehicle during the 24 hour period after being cited for operating a vehicle under the influence of alcohol.
Adds “marijuana”

Section 126;127 Amends AS 29.10.200; AS 29.35 Article 1 **Limitation of home rule powers. Municipal powers and duties.**

Adds a new section, involving the general powers of municipalities. Provides the right to limit marijuana to the state and municipalities cannot enact or enforce an ordinance inconsistent with 17.38, except as specifically provided by state statute. The section applies to home rule and general law municipalities.

Section 128 Amends AS 33.16.060(c) **Duties of the board of parole.**

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

Section 129 Amends AS 33.16.150(b) **Conditions of parole.**

Adds subsection (b)(11) which permits prohibiting the entry into an establishment where marijuana is sold or otherwise dispensed as a condition of parole.

Section 130 Amends AS 33.16.900(3) **Definitions** Controlled Substance
Removes AS 11.71.190 or “marijuana” from the schedule of control substances definition provided for the chapter.

Section 131 Amends AS 33.30.015(a) **Living conditions for prisoners.**
Describes the authority and limitations of the commissioner of corrections.
Subsection (a)(3)(k) relating to controlled substances and alcohol, adds “marijuana.”

Section 132 Amends AS 33.30.065(b) **Service of sentence by electronic monitoring.**
In determining whether to designate a prisoner to serve a term of imprisonment or period of temporary commitment by electronic monitoring.
Adds “marijuana” to the list of substances of abuse for consideration for determining whether electronic monitoring is appropriate.

Sections 133- 137 Tenant obligation Landlord Tenant Act.
Amends AS 34.03.120; AS 34.03.360(7); AS 34.05.100(a); AS 34.05.100(d)(1)
Activities a tenant may not knowingly engage in on rented premises.
Adds “ illegal activity involving marijuana.”

Section 138 Amends AS 44.19.645(a) **Alaska Criminal Justice Commission.**
Removes AS 11.71.190 or “marijuana” from the list of controlled substances reviewed by the Alaska Criminal Justice Commission for the purposes evaluation of sentencing laws and criminal justice practices.

Section 139 Amends AS 47.10.900(17) **Child in Need of Aid Definitions** Intoxicant
Adds “marijuana” to the definition of “intoxicant.”

Section 140 Amends AS 47.17.024(a) **Duties of practitioners of the healing arts.**
Requirement that a practitioner must notify closest office of Department of Health and Social Services if the practitioner determines infant adversely affected by alcohol, drug abuse or misuse of inhalants or hazardous materials. Adds “marijuana.”

Section 141 Amends AS 47.37.010 **Declaration of policy.**
The State’s policy of recognizing, appreciating, and reinforcing examples of sobriety; and in its policy of not criminally prosecuting “alcoholics and intoxicated persons” finding treatment to be a better option. Adds “marijuana.”

Section 142 Amends AS 47.37.030 **Powers of Department of Health and Social Services.**
The list of prevention and treatment programs the Department is empowered to establish and maintain; in addition, treats “marijuana abusers” throughout subsections in same manner as alcoholics and persons addicted to other substances.

Section 143 Amends AS 47.37.040 **Duties of Department of Health and Social Services.**
The Department of Health and Social Services with corporation from the Department of Public Safety and Administration is required to implement prevention-of-abuse programs. Adds

“marijuana abuse” and “marijuana abusers” to the list of types of activity for which these programs are developed.

Section 144 Amends AS 47.37.170(b) **Protective custody.**

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

Section 145 Amends AS 47.37.170(d) **Definitions.**

List of causes of incapacitation for which an incapacitated person may not be held beyond his or her period of incapacitation, or for more than 48 hours in any event, at a facility. Adds “marijuana.”

Section 146 Amends AS 47.37.170(f) **Treatment and services for intoxicated persons and persons incapacitated by alcohol or drugs.**

If a person is admitted to an approved treatment facility, and not incapacitated by drugs or alcohol, they can request that his or her next of kin not be notified and this will be upheld. Adds a person can also not be incapacitated by use marijuana for this privilege.

Section 147 Amends AS 47.37.170(g) **No action for damages.**

List of incapacitating substances which, if caused an incapacitated person to be taken into custody, prevents an incapacitated person from bringing an action for damages, unless damages were caused by gross negligence or intentional misconduct. Adds “marijuana”

Section 148 Amends AS 47.37.170(i) **Detention.**

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

Section 149 Amends AS 47.37.180(a) **Emergency commitment.**

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

Section 150 Amends AS 47.37.190(a) **Involuntary commitment.**

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

Section 151 Amends AS 47.37.205(a) **Procedure for recommitment following 30-day commitment.**

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

Section 152 Amends AS 47.37.270(1) **Definitions: Alcoholic or drug abuser.**

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

Section 153 Amends AS 47.37.270(4) **Definitions: Drugs**

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

Section 154 Amends AS 47.37.270(7) **Definitions: Incapacitated.**

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

Section 155 Amends AS 47.37.270(10) **Definitions: Intoxicated person.**

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

Section 156 Amends AS 47.38.020(a) **Alcohol and substance abuse monitoring program.**

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

Section 157 Amends AS 47.38.020(c) **Alcohol and substance abuse monitoring program twice a day testing.**

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

Section 158 Repeals the enumerated statutes.

Section 159 Amends the uncodified law of Alaska by adding a new section which provides that the Act applies to offenses committed on or after the effective date of the Act; except that certain exceptions apply to amendments affecting sentences imposed on or after the effective date for an offense committed on or after the effective date; to amendments that apply to causes of action accrued on or after the effective date of the Act; and to amendments that apply to conditions of parole ordered on or after the effective date of the Act.

Section 160 Provides for an immediate effective date pursuant to AS 01.10.070(c).