

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 25, 2015

SUBJECT: Definition of "public place"
(CSHB 75(CRA); Work Order No. 29-LS0345\P)

TO: Representative Paul Seaton
Attn: Jenny Martin

FROM: Megan A. Wallace
Legislative Counsel 

You have asked whether a cannabis club with a membership is excluded from the "public place" definition in AS 11.81.900. You have also asked if it were a paid membership, whether that would restrict entry enough to make it fall outside the definition of "public place."

AS 11.81.900(53) defines "public place" as "a place to which the public or a substantial group of persons has access and includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence." It does not appear that Alaska has ever decided whether a private club is a "public place."¹ Accordingly, there is no way to say for certain whether a cannabis club would be excluded from the definition of "public place." It is my opinion, however, that if there were no membership fee, then the club would not be "private" and would likely be deemed a "public place." Even if a membership fee were required, a strong argument could be made that a cannabis club is analogous to "places of amusement or business" and would fall within the definition of "public place," since it would be a place where "a substantial group of persons has access."

If you have any questions, or if I can be of further assistance, please advise.

MAW:lem
15-118.lem

¹ Other states have considered this issue for different purposes. *See, e.g., Long v. State*, 666 N.E.2d 1258, 1261 (Ind. Ct. App. 1996) ("[A] private residence or private club is not a public place" for purposes of public indecency).