

# SENATE BILL 62 (“SB62”) – COMMERCIAL MARIJUANA PRESENTATION

“An Act relating to the regulation of marijuana, marijuana testing, marijuana products, and marijuana accessories; relating to the licensing of marijuana retailers, producers, processors, boutique producers, brokers, and home growers; relating to taxation of marijuana; and providing for an effective date.”  
(29-LS0405\ E)

Senate Judiciary Committee Bill

Prepared by the Offices of Senator McGuire and Senator Coghill

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# STARTS WITH BALLOT MEASURE 2

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# **BALLOT MEASURE 2: AS 17 WAS AMENDED TO** **ADD CHAPTER 38**

1. From a commercial perspective, what changed?
  - A. Legitimate taxpaying business people can conduct sales of marijuana.
  - B. Marijuana sold by businesses will be labelled to ensure that consumers are informed and protected.
2. Of interest: AS 17.38.020, 17.38.030, 17.38.040, 17.38.060
3. Persons 21 years of age or older may legally:
  - Possess, use, display, purchase, transport: 1 ounce or less
  - Possess, grow, process, transport:
    - 6 plants, 3 or less may be mature/flowering
  - Transfer to a person 21 years of age or older:
    - 1 ounce or less AND up to 6 immature plants
  - Manufacture, possess, purchase: Marijuana accessories.



**NOTEWORTHY: No Public Consumption**

# MARIJUANA-RELATED FACILITIES

1. AS 17.38.070, 17.38.900
2. Marijuana Establishments:
  - Marijuana Cultivation Facility
  - Marijuana Product Manufacturing Facility
  - Marijuana Testing Facility
  - Marijuana Retail Store

All must have current, valid registration.

# STATE RULEMAKING DEADLINES

1. AS 17.38.080, 17.38.090, 17.38.100
2. 9 months – regulations to implement chapter 38:
  - Issue, renew, suspend, revoke a registration
  - Schedule of fees for application, registration, renewal
  - Qualifications for registration
  - Security requirements
  - Prevention of sale/diversion of those not 21 years of age
  - Labelling requirements
  - Health and safety regulations
  - Restrictions on advertising and display
  - Civil penalties for failure to comply

# STATE RULEMAKING DEADLINES...CONTINUED

3. 1 year (from Feb. 24, 2015):

- Board must begin accepting and processing applications for registration.

4. 45 to 90 days after receiving an application:

- Board must issue annual registration or notification of denial.

# LOCAL PARTICIPATION AND CONTROL



1. Relevant Statutes: AS 17.38.100, 17.38.110
2. Local government may:
  - Prohibit establishments
  - Enact ordinances regulating time, place, manner, and number of establishments
  - Establish annual operating fees
  - Establish civil penalties for ordinance violation
  - Create “local regulatory authority”
    - Will receive half of state application fees
    - Provide input on applications to Board
    - Issue registrations if state fails to meet chapter 38 deadlines
      - Must notify Board
      - Locally-issued registration will not be subject to Board regulations for duration of registration

# ANYTHING ELSE?

1. AS 17.38.010, 17.38.120, 17.38.130
2. *Ravin* unaffected.
3. Marijuana DUI laws unaffected
4. Medical marijuana laws unaffected
5. Employers may still restrict marijuana use in workplace
6. Private property owners/occupiers and schools, hospitals, corrections facilities, etc. may prohibit or regulate marijuana on their property



# WHAT ABOUT TAXES?

1. AS 43.61.010, 43.61.020, 43.61.030,
2. Department of Revenue (DOR) will:
  - Collect an excise tax of \$50 per ounce
    - When sold or transferred from cultivation facility to retail store or produce manufacturing facility
    - Certain parts of the marijuana plant may be exempted or taxed at a lower rate as determined by DOR
  - Be sent records from cultivation facilities monthly
    - Total number of ounces sold the previous month
    - Breakdown of the weight sold to each buyer/transferee and their Alaska address
  - Be sent payment from cultivation facilities monthly
  - Delinquent payments are subject to civil penalties
  - Registration may be revoked for failure to pay taxes



# WHAT CAN THE STATE DO?

1. The initiative could be amended. The Legislature has broad power to amend. However, it cannot amend to the point of an effective repeal.
2. May amend implied consent, DUI, open container laws.
3. Fill gaps.
4. Promulgate regulations.

# BALLOT MEASURE 2 SPAWNED A NUMBER OF BILLS:

- ▶ HB59 – Marijuana Concentrates
- ▶ SB30 – Criminal Bill; Defenses
- ▶ HB79 – Marijuana Regs; Controlled Substances; Defenses
- ▶ HB75 –Reg. Marijuana by Municipality
- ▶ SB60 – Marijuana Control Board
- ▶ HB123 – Marijuana Control Board
- ▶ **SB62 – Commercial Marijuana; Regulation of Marijuana.**



# SENATE BILL 62 (“SB62”)

- ▶ **Section 1:** Inspection and certification of marijuana testing facilities.
- ▶ **Section 2:** Marijuana accessories.
- ▶ **Section 3:** Limitations on advertising.
- ▶ **Section 4:** The board is required to adopt regulations for commercial licenses.

# SB62 CONTINUED

- ▶ **Section 5:** Regulations for packaging and labeling of marijuana for persons that have a marijuana retailer license.
- ▶ **Section 6:** Applications or renewals.
- ▶ **Section 7:** The board, upon receiving an application or renewal shall immediately forward a copy to the local regulatory authority for the municipality in which the applicant desires to operate the marijuana establishment.
- ▶ **Section 8:** The board has 90 days to issue an annual license.

# SB62 CONTINUED

- ▶ **Section 9:** Board shall consider local municipality numerical limits.
- ▶ **Section 10:** Marijuana establishment shall disclose where they will operate.
- ▶ **Section 11:** A municipality may prohibit a marijuana establishment through enactment of an ordinance or voter initiative.
- ▶ **Section 12:** Municipality may enact ordinances that govern the time, place, manner, and number of marijuana establishment operations.

# SB62 CONTINUED

- ▶ **Section 13:** A municipality may process applications within the boundaries of the municipality if the board fails to adopt regulations.
- ▶ **Section 14:** Allow a municipality the ability to issue, suspend, or revoke a license.
- ▶ **Section 15:** A municipality may establish a schedule for annual licensing, renewal, and application fees to marijuana establishments.
- ▶ **Section 16:** Applicant may resubmit their application for license to a local regulatory authority if the board does not issue a license after May 24, 2016, and does not provide reason/notice of denial.

# SB62 CONTINUED

- ▶ **Section 17:** If the board does not adopt regulations on time, the local regulatory authority may issue an annual license.
- ▶ **Section 18:** A local regulatory authority shall issue a license within 90 days after they receive an application.
- ▶ **Section 19:** A license issued by a municipality shall have the same force and effect as the license issued by the board.
- ▶ **Section 20:** AS 17.38.110(j) is amended to read that a renewed license, issued by a municipality, may be issued on an annual basis upon resubmission to the municipality.



# SB62 CONTINUED

- ▶ **Section 21:** A renewed license may be issued by a local regulatory authority.
- ▶ **Section 22:** Types of licenses: (1) producer license; (2) processor license; (3) retailer license; (4) boutique producer license; (5) broker license; and (6) home-grower license, testing, notice provisions, license procedures.

# MARIJUANA LICENSING STRUCTURE

## Basic Licenses

- ▶ Producer License (cultivator)
- ▶ Processor License (Infuser)
- ▶ Retailer License (store)
- ▶ Boutique Producer License (small cultivator)
- ▶ Home Grower (personal use overstock)
- ▶ Broker License (middle-person)

## Vertical Licenses

- Producer/Processor/Retailer
- Producer/Processor

# WHY SO MANY LICENSES?

- ▶ **Remember the Alcohol Industry...**

- ▶ **AS 04.11.080. Types of Licenses and Permits.**

- ▶ Licenses and permits issued under this title are as follows:
- ▶ beverage dispensary license;
- ▶ duplicate beverage dispensary license for additional rooms;
- ▶ restaurant or eating place license;
- ▶ club license;
- ▶ bottling works license;
- ▶ brewery license;
- ▶ package store license;
- ▶ general wholesale license;
- ▶ wholesale malt beverage and wine license;

- distillery license;
- common carrier dispensary license;
- retail stock sale license;
- recreational site license;
- pub license;
- winery license;
- brewpub license;
- golf course license.



# MARIJUANA PRODUCER LICENSE (CULTIVATION)

- ▶ These facilities are the **only** premises on which the licensee may grow **more than 50 plants**.
- ▶ The licensee can grow, harvest, and process raw Marijuana product to sell to:
  - ▶ Licensed Marijuana Retailers, or
  - ▶ Licensed Marijuana Processors (for use in infused products)
- ▶ This licensee has the **state tax obligation of \$50 per ounce** sold.

# MARIJUANA PROCESSOR LICENSE (INFUSER)

- ▶ This facility would **produce marijuana infused** products such as:
  - ▶ Edibles
  - ▶ Concentrates (hash)
  - ▶ Tinctures
  - ▶ Beverages
- ▶ These facilities are only authorized to wholesale products to licensed marijuana **retailers** or licensed marijuana **brokers**.
- ▶ This licensee **does not have a state tax burden**.

# MARIJUANA RETAILER LICENSE (STORE)

- ▶ Facility from which any individual **21 years or older** may purchase marijuana
- ▶ Retail marijuana **may not be cultivated or processed** under this stand-alone license type
- ▶ This licensee **does not have a state tax burden**
  - ▶ But
- ▶ Could be responsible for **any additional municipal taxes** applied at the retail point of sale

# MARIJUANA BOUTIQUE PRODUCER LICENSE (SMALL PRODUCER)

- ▶ A licensee is permitted to grow **not more than 50 plants** at one time on the premises
- ▶ May sell marijuana grown on the premises **only to a licensed marijuana broker**
- ▶ This licensee **does not have a state tax burden**
- ▶ The **tax burden is absorbed by the broker**
- ▶ This license type was conceived to offer a path to legitimate and regulated growing operations for current illegal grows.

# HOME GROWER

- ▶ AS 17.38.020 (b)
  - ▶ Allows an individual to possess, grow, process and transport **not more than 6 marijuana plants**, AND
  - ▶ To **possess the marijuana produced by the plants** on the premises where they were grown.
- ▶ An individual can **sell to a broker any surplus** of their personal use allowance as to avoid it ending up on the black market.
- ▶ Individual will obtain a **unique ID# that verifies the growers age and AK residency**
  - ▶ This ID# assures that not more than a “reasonable amount” of surplus is being sold
  - ▶ The Broker would enter the **ID# into the Seed-to-Sale database** when paying taxes
- ▶ This licensee **does not have a state tax burden**
  - ▶ **Tax burden is absorbed by the Broker**



# MARIJUANA BROKER LICENSE

- ▶ Licensee is authorized to **purchase any amount** of Marijuana and Marijuana products from
  - ▶ **Licensed Marijuana Processor**
  - ▶ **Licensed Marijuana Boutique Producer**
  - ▶ **Home Grower**
- ▶ Licensee is authorized **to sell any amount** of Marijuana and Marijuana Products to:
  - ▶ **Licensed Marijuana Processor**
  - ▶ **Licensed Marijuana Retailer**
- ▶ This Licensee is **responsible for testing** all Marijuana before it is sold to a retailer
- ▶ This Licensee **acts as the wholesale state tax obligator**
  - ▶ **Responsible for the same tax as a Marijuana Producer Licensee**

# PRODUCER/PROCESSOR/RETAIL LICENSE (TRUE VERTICAL INTEGRATION)

- ▶ The same licensee can obtain a marijuana Producer, Processor, and Retail License
- ▶ This allows the retailer to **exclusively sell their own product**
- ▶ The **application fee should increase** to process the integrated functions
- ▶ These functions should be allowed on the **same property, but not required**
- ▶ This Licensee has a **state tax burden of \$50 per ounce**
- ▶ **This Licensee may also have any municipal tax burdens**

# PRODUCER/PROCESSOR (PARTIAL INTEGRATION)

- ▶ The same licensee can obtain a **marijuana Producer and Processor license**
- ▶ Marijuana and Marijuana **products could only be sold to a licensed Retailer or licensed Broker**
- ▶ The **application fee should increase** to process the integrated functions.
- ▶ The functions of producer and processor should be **allowed on one property, but not required.**
- ▶ This license has the **state tax burden of \$50 per ounce**

# SB62 CONTINUED

- ▶ **Section 23:** “Marijuana” includes all parts of the plant whether growing or not, including the seeds, resin, and every compound, derivative, mixture, included in marijuana concentrate.
- ▶ **Section 24:** A “marijuana establishment” is a producer, testing facility, processor, retailer, boutique producer, broker, or home grower.
- ▶ **Section 25:** “Marijuana products” include concentrated marijuana products including, but not limited to, edible products, ointments, and tinctures.
- ▶ **Section 26:** “Marijuana testing facility” means a certified entity that analyzes safety and potency of marijuana.

# SB62 CONTINUED

- ▶ **Section 27:** “Correctional facility” has the meaning given in AS 33.30.901. “Director” is the executive director of the Alcohol Beverage Control Board. “Marijuana boutique” is a licensee that may grow no more than 50 marijuana plants on licensed premises. “Marijuana broker” is a licensee that may purchase marijuana and products from a processor, boutique producer, and home grower. “Marijuana home grower” is a licensee that may sell to a broker any amount of plants owned by the holder, subject to personal use provisions. “Marijuana processor” is a licensee that may purchase marijuana and prepare marijuana products. “Marijuana producer” is a licensee that may cultivate marijuana and sell to retailers, processors, or other producers. “Marijuana retailer” is a licensee that may buy from producers, processors, and sell marijuana to consumers. “Municipality” has the meaning given to it from AS 29.71.800. “School grounds” has the meaning given to it in AS 11.71.900.

# SB62 CONTINUED

- ▶ **Section 28:** Marijuana can be regulated by local “home rule” municipalities.
- ▶ **Section 29:** Every producer and broker shall pay a \$50 tax per ounce (or proportionate part of an ounce) on marijuana sold by producer or broker to a retailer or processor.
- ▶ **Section 30:** The producer and broker licensees shall send a statement by mail or electronically on or before the last day of each calendar month. The producer and broker licensee shall pay all monthly taxes to the department.

# SB62 CONTINUED

- ▶ **Section 31:** Penalties for tax deficiencies will be subject to civil penalties.
- ▶ **Section 32:** “Marijuana processor,” “marijuana producer,” and “marijuana retailer,” and “marijuana broker,” have the meaning found in Section 27.
- ▶ **Section 33:** AS 17.38.070, AS 17.38.900(8), AS 17.38.900(10), and AS 17.38.900(13) are repealed.
- ▶ **Section 34:** states that the act takes effect immediately.

# QUESTIONS?



# SUPPLEMENTAL SLIDES

# CORE ELEMENTS OF BALLOT MEASURE 2

1. Marijuana use is legal for persons 21 years of age and older.
2. Allows a person to possess, use, show, buy, transport, or grow set amounts of marijuana, subject to certain restrictions.
3. Public use of marijuana is banned.
4. Those under 21 years of age are prohibited from using false identification to buy or attempt to buy marijuana or marijuana accessories.

# CORE ELEMENTS OF BALLOT MEASURE

## 2 - CONTINUED

5. Owners/employees (21 years age and older) of validly registered entities, may:
  - possess, make, buy, distribute, sell, show, store, transport, deliver, transfer, receive, harvest, process, or package marijuana and marijuana products, subject to certain restrictions.
6. The Legislature may create a Marijuana Control Board. If the Marijuana Control Board is not created then the Alcoholic Beverage Control (ABC) Board may adopt regulations governing marijuana-related entities. The regulations shall cover certain marijuana related topics and are subject to certain restrictions.
7. Procedures will need to be created for registering a marijuana-related entity. The procedures would be managed by either the Marijuana Control Board (if created) or the ABC board (if no Marijuana Control Board is created) and local governments.

# CORE ELEMENTS OF BALLOT MEASURE 2 – CONTINUED...

8. Local governments may prohibit the operation of marijuana-related entities. A local government could do that by enacting an ordinance or through voter initiative. The ordinances may cover the time, place, manner, and registration of a marijuana entity's operations.
9. A person 21 years of age or older may possess, use, show, buy, or transport marijuana accessories. Marijuana accessories are products individuals use to grow or consume marijuana. A person 21 years or older may make marijuana accessories and distribute or sell them to persons 21 years and older.

# CORE ELEMENTS OF BALLOT MEASURE 2 – CONTINUED...

10. Employers may prohibit marijuana use, transportation, possession, sale, growth, or transfer.

11. Driving under the influence of marijuana is prohibited.

12. Schools, correctional facilities, hospitals, or private persons or entities may restrict marijuana on their property.

# CORE ELEMENTS OF BALLOT MEASURE 2 – CONTINUED...

13. Existing medical marijuana laws are not limited.

14. There shall be a \$50 per ounce (or proportionate) excise tax on the sale or transfer of marijuana from a cultivation facility to a retail store or marijuana product manufacturing facility. The marijuana cultivation facility would pay the tax and send monthly tax statements to the Department of Revenue. The Department of Revenue may exempt certain parts of the marijuana plant from the tax. It could also establish a lower tax rate for certain parts of the plant.