

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

March 2, 2015

SUBJECT: Marijuana concentrates
(CSHB 59()); Work Order No. 29-LS0257\S)

TO: Representative Paul Seaton
Attn: Taneeka Hansen

FROM: Hilary V. Martin 
Legislative Counsel

You have asked whether the delay on regulations related to marijuana concentrates is constitutional as an amendment to the voter initiative.

Article 11, sec. 6, Constitution of the State of Alaska, provides in relevant part:

An initiated law becomes effective ninety days after certification, is not subject to veto, and may not be repealed by the legislature within two years of its effective date. It may be amended at any time.

In *Warren v. Thomas*, The Alaska Supreme Court stated that the legislature cannot amend an initiative to the point where the amendments constitute a repeal of the initiative.¹ In *Warren*, the Court also noted that the amendments to the initiative at issue in that case "preserve [the initiative's] basic structure and purpose"²

The definition of "marijuana" in the initiative explicitly includes marijuana concentrates.³ Preventing marijuana establishments from manufacturing, delivering, possessing, possessing with the intent to manufacture or deliver, or displaying marijuana concentrates or products containing marijuana concentrates does amend the initiative. However, the bill does not contain a ban on the personal possession of marijuana concentrates, and it repeals the ban on marijuana concentrates for marijuana establishments when the regulations are ready, or one year after the date for the board to write regulations, whichever is earlier. Given these facts, a court would likely find that the ban on marijuana concentrates is not tantamount to a repeal of the initiative.

If I may be of further assistance, please advise.

HVM:lnd
15-170.lnd

¹ 586 P.2d 400, 402 - 403 (Alaska, 1977).

² *Id.* at 404.

³ AS 17.38.900(6).