

SENATOR  
**LESIL MCGUIRE**  
CHAIR

State Capitol, Room 121  
Juneau, Alaska 99801-1182  
(907) 465-6443

# 29<sup>th</sup> Alaska State Legislature



SENATOR  
**JOHN COGHILL**  
VICE-CHAIR

State Capitol, Room 119  
Juneau, Alaska 99801-1182  
(907) 465-2997

## Senate Judiciary Committee

CS for SENATE BILL 30 (*Version X*)

### SECTIONAL ANALYSIS

#### **Section 1 – CONFORMING**

*Page 1*

##### **AS 11.41.110(a). Murder in the second degree.**

Deletes reference to marijuana misconduct that has been repealed and provides stylistic drafting changes.

#### **Section 2 – CONFORMING**

*Page 2*

##### **AS 11.41.150 (a). Murder of an unborn child.**

Deletes reference to marijuana misconduct that has been repealed.

#### **Section 3 – CONFORMING**

*Page 3*

##### **AS 11.71.030(a). Misconduct involving a controlled substance in the third degree.**

Deletes reference to Schedule VIA controlled substances.

#### **Section 4 – SUBSTANTIVE**

*Pages 3-6*

##### **AS 11.71.040(a). Misconduct involving a controlled substance in the fourth degree.**

A person commits the crime of MICS 4, which is a class C felony, if they:

- Possess 16 or more ounces of marijuana.
- Possess 25 or more plants.
- Furnish marijuana, twice within five years, to a person under 21 years of age.

## **Section 5 – NON-APPLICABILITY**

*Page 6*

### **AS 11.71.040. Misconduct involving a controlled substance in the fourth degree.**

Certain provisions of MICS 4 are not applicable to a person who is lawfully possessing marijuana in accordance with AS 17.38.020. Similarly, a marijuana establishment registered under AS 17.38, or its employees, if acting in compliance with AS 17.38.

## **Section 6 – SUBSTANTIVE**

*Page 6*

### **AS 11.71.050(a). Misconduct involving a controlled substance in the fifth degree.**

A person commits the crime of MICS 5, which is a class A misdemeanor, if they:

- Transport or deliver more than one ounce of marijuana or more than six marijuana plants.
- Possess 3-<16 ounces of marijuana or 12-24 plants.
- Deliver any amount of marijuana to a person under 21 years.
- Deliver or transport an ounce or less of marijuana or six plants or less for remuneration.
- Manufacture a marijuana concentrate using a volatile or explosive gas.

## **Section 7 – NON-APPLICABILITY**

*Page 7*

### **AS 11.71.050. Misconduct involving a controlled substance in the fifth degree.**

Certain provisions of MICS 5 are not applicable to a person who is lawfully possessing, manufacturing, or delivering marijuana in accordance with AS 17.38.020. Similarly, a marijuana establishment registered under AS 17.38, or its employees, if acting in compliance with AS 17.38. An exemption is made for a person over 21 years of age delivering marijuana to the person's child or spouse who is over 18 years of age and the delivery occurs in the person's residence.

## **Section 8 – SUBSTANTIVE**

*Page 8*

### **AS 11.71.060(a). Misconduct involving a controlled substance in the sixth degree.**

A person commits the crime of MICS 6, which is a class B misdemeanor, if they:

- Possess 2-<3 ounces of marijuana.
- Possess 7-11 plants.
- Possess, display, deliver, or transport more than one ounce in a public place.

## **Section 9 – NON-APPLICABILITY**

*Page 8*

### **AS 11.71.060. Misconduct involving a controlled substance in the sixth degree.**

Provisions of MICS 6 are not applicable to a person who is lawfully possessing marijuana in accordance with AS 17.38.020. Similarly, a marijuana establishment registered under AS 17.38, or its employees, if acting in compliance with AS 17.38.

## **Section 10 – SUBSTANTIVE**

*Page 9*

### **AS 11.71.071. Misconduct involving a controlled substance in the seventh degree.**

A person commits the offense of MICS 7, which is a violation, if they:

- Possess 1-<2 ounces of marijuana.
- Consume marijuana in a public place.
- Grow marijuana in public view or on someone else's property without their consent.
- Use marijuana while operating a vehicle.
- As a minor, possess less than two ounces of marijuana or consume any amount of marijuana.
- **Non-applicability:** Certain provisions of MICS 7 are not applicable to a person who is lawfully possessing marijuana in accordance with AS 17.38.020. Similarly, a marijuana establishment registered under AS 17.38, or its employees, if acting in compliance with AS 17.38.

## **Section 11 – CONFORMING**

*Page 10*

### **AS 11.71.090(a). Affirmative defense to a prosecution under MICS 3 – MICS 7; medical use of marijuana.**

Expands the affirmative defense for medical marijuana patients to include the new degree of misconduct involving controlled substance established in section 10.

## **Section 12 – SUBSTANTIVE**

*Page 11*

### **AS 11.71.190(b). Schedule VIA.**

Places hashish and hash oil into Schedule VIA, alongside marijuana.

## **Section 13 – CONFORMING**

*Page 11*

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

A person may not be prosecuted for certain MICS offenses if the person seeks medical or law enforcement assistance for another person they believe is experiencing a drug overdose and the evidence was obtained as a result of the person seeking assistance.

## **Section 14 – CONFORMING**

*Page 12*

### **AS 11.71.900. Definitions.**

Repeals the existing Title 11 definition of “marijuana” as it applied to the MICS statutes and replaces it with a definition similar to the definition found in the initiative.

## **Section 15 – SUBSTANTIVE**

*Page 12*

### **AS 11.71.900. Definitions.**

Defines “remuneration” to include an exchange of anything of value, whether by sale, barter, exchange, or other means.

## **Section 16 – CONFORMING**

*Page 12*

### **AS 12.45.084(a). Laboratory report of controlled substances.**

Expands the statutes this section applies to include the new degree of misconduct involving a controlled substance established in section 10.

## **Section 17 – CONFORMING**

*Page 12*

### **AS 17.30.080(b). Unlawful administration, prescription, and dispensation of controlled substances.**

Expands the statutes this section applies to include the new degree of misconduct involving a controlled substance established in section 10.

## **Section 18 – INITIATIVE**

*Page 13*

### **AS 17.38.020. Personal use of marijuana.**

Deletes [notwithstanding any other provision of law, except as otherwise provided in this chapter, the] and makes other stylistic changes to conform initiative language to legislative drafting standards. This section states that certain marijuana related activities are legal and not a basis for seizure or forfeiture, and prohibits use of marijuana in a public place. Nothing in this chapter permits growing or possessing 16 ounces or more of marijuana at any time.

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

## **Section 19 – INITIATIVE**

*Page 13*

### **AS 17.38.070(a). Lawful operation of marijuana-related facilities.**

Deletes [notwithstanding any other provision of law, the] and makes other stylistic changes to conform initiative language to legislative drafting standards. Provides that certain marijuana related acts are legal and not a basis for seizure or forfeiture when performed by a registered retail marijuana store, or a person 21 years of age or older acting in the person’s capacity as an owner, employee or agent of the store.

## **Section 20 – INITIATIVE**

*Page 14*

### **AS 17.38.070(b). Lawful operation of marijuana related facilities.**

Deletes [notwithstanding any other provision of law, the] and makes other stylistic changes to conform initiative language to legislative drafting standards. Provides that certain marijuana related acts are legal and not a basis for seizure or forfeiture when performed by a registered marijuana cultivation facility, or a person 21 years of age or older acting in the person's capacity as an owner, employee or agent of the facility.

## **Section 21 – INITIATIVE**

*Page 15*

### **AS 17.38.070(c). Lawful operation of marijuana related facilities.**

Deletes [notwithstanding any other provision of law, the] and makes other stylistic changes to conform initiative language to legislative drafting standards. Provides that certain marijuana related acts are legal and not a basis for seizure or forfeiture when performed by a registered marijuana product manufacturing facility, or a person 21 years of age or older acting in the person's capacity as an owner, employee or agent of the facility.

## **Section 22 – INITIATIVE**

*Page 15*

### **AS 17.38.070(d). Lawful operation of marijuana related facilities.**

Deletes [notwithstanding any other provision of law, the] and makes other stylistic changes to conform initiative language to legislative drafting standards. Provides that certain marijuana related acts are legal and not a basis for seizure or forfeiture when performed by a registered marijuana testing facility, or a person 21 years of age or older acting in the person's capacity as an owner, employee or agent of the facility.

## **Section 23 – INITIATIVE**

*Page 16*

### **AS 17.38.070(e). Lawful operation of marijuana related facilities.**

Provides that it is lawful and not a basis for forfeiture or seizure for a person or business to lease or allow the use of property for marijuana related activities. Deletes [notwithstanding any other provision of law, it] and makes stylistic drafting changes.

## **Section 24 – SUBSTANTIVE**

*Page 16*

### **AS 17.38.090. Rulemaking.**

Directs the marijuana control 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 25 – SUBSTANTIVE**

*Page 16*

### **AS 17.38.110(a). Local Control.**

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

## **Section 26 – SUBSTANTIVE**

*Page 16*

### **AS 17.38.200. Unlawful activity related to persons under 21 years of age.**

A registered marijuana establishment, or an employee thereof, may not knowingly:

- Allow a person to give marijuana to a minor within the registered premises.
- Allow a minor to enter and remain within the registered premises.
- Allow a minor to use marijuana within the registered premises.
- While working on the registered premises, give marijuana to a minor.

Violation of this section incurs a fine of at least \$250 and less than \$500. This section does not apply to a minor who is accompanied in the marijuana establishment by a parent, guardian, or spouse who is over 21 years of age.

### **AS 17.38.210. Access of persons under 21 years of age to registered premises.**

A person under 21 may not knowingly enter or remain on a registered marijuana premises. An exception is made for a minor on the premises at the request of a peace officer, or a minor accompanied by a parent, guardian, or spouse who has attained 21 years of age. Violation of this section is a \$300 fine.

### **AS 17.38.220. 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.

Violation of this section is a \$100 fine.

### **AS 17.38.230. 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 violations involving marijuana.

### **AS 17.38.240. Court records of violations by minors confidential.**

The court may not publish on a publicly available website the court records of a minor in possession of marijuana, a minor consuming marijuana, or a minor accessing licensed premises, after the court proceedings are concluded and the case is closed.

### **AS 17.38.250. 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 17.38.260. 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 17.38.270. 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 17.38.280. 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 17.38.290. 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 17.38.300. 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 27 – INITIATIVE**

*Page 20*

**AS 17.38.900(6). Definitions.**

Establishes the definition for “marijuana” as defined in the ballot initiative.

**Section 28 – INITIATIVE/SUBSTANTIVE**

*Page 20*

**AS 17.38.900. Definitions.**

Defines “deliver”, “established village”, “knowingly”, “marijuana concentrate”, “public place” and “remuneration.”

**Section 29 – SUBSTANTIVE**

*Page 21*

**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 30 – SUBSTANTIVE**

*Page 21*

**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 31 – SUBSTANTIVE**

*Page 22*

**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 any amount of marijuana is removed.

**Sections 32-33 – SUBSTANTIVE**

*Page 22*

**AS 29.10.200; AS 29.35. Limitation of home rule powers. Municipal powers and duties.**

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 34 – CONFORMING**

*Page 22*

**AS 34.03.360(7). Definitions.**

Defines “illegal activity involving a controlled substance” to include MICS crimes relating to marijuana.



**Section 35 – CONFORMING**

*Page 22*

**AS 47.12.030(b). Provisions inapplicable.**

When a minor is accused of a violating a statute relating to marijuana, other than a felony, the Alaska Delinquency Rules do not apply and the minor accused of the offense shall be charged, prosecuted, and sentenced in the same manner as an adult. The minor's parent or guardian shall be present at all proceedings.

**Section 36 – SUBSTANTIVE**

*Page 23*

Repeals the enumerated statutes.

**Section 37 – SUBSTANTIVE**

*Page 23*

Applicability provisions.

**Section 38 – SUBSTANTIVE**

*Page 24*

Establishes an immediate effective date.