

HOUSE BILL NO. 123

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/23/15

Referred: Labor and Commerce, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Marijuana Control Board; relating to the powers and duties of
2 the Marijuana Control Board; relating to the appointment, removal, and duties of the
3 director of the Marijuana Control Board; relating to the Alcoholic Beverage Control
4 Board; and providing for an effective date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 04.06.070 is amended to read:

7 **Sec. 04.06.070. Appointment and removal of director.** The governor shall
8 appoint a director to serve as the executive officer of the board and the Marijuana
9 Control Board created under AS 17.38.080. The director may be removed by a
10 majority vote of the full membership of the board and a majority vote of the full
11 membership of the Marijuana Control Board. The [BOARD MAY REMOVE THE
12 DIRECTOR AT ITS PLEASURE, AND THE] governor may remove the director for
13 misconduct, misfeasance, or malfeasance in office. The governor may not remove the
14 director unless the director is given a copy of the charges and afforded an opportunity

1 to be publicly heard, in person or by counsel, in defense against the charges upon at
2 least 10 days' notice. If the director is removed for cause, the governor shall file with
3 the lieutenant governor a complete statement of all charges made against the director
4 and the findings based on the charges, together with a complete record of any hearing.

5 * **Sec. 2.** AS 17.38.080 is repealed and reenacted to read:

6 **Sec. 17.38.080. Marijuana Control Board; appointment and qualifications.**

7 (a) The Marijuana Control Board is established in the Department of Commerce,
8 Community, and Economic Development. The board is in the Department of
9 Commerce, Community, and Economic Development for administrative purposes
10 only.

11 (b) The board consists of five voting members appointed by the governor and
12 confirmed by a majority of the members of the legislature in joint session. A member
13 of the board may not hold any other state or federal office, either elective or
14 appointive.

15 (c) Of the board members and the director, one person shall be from the public
16 safety sector, one person shall be from the public health sector, one person shall be
17 from a rural area, and not more than two people may be actively engaged in the
18 marijuana industry; the remaining person or persons shall be from the general public.
19 For the purposes of this section, "marijuana industry" means any business or
20 profession lawfully engaged and in compliance with the provisions of state law,
21 including AS 17.38 and regulations adopted under AS 17.38.

22 (d) If the director is or was a person actively engaged in the marijuana
23 industry within the five years preceding appointment; not more than one board
24 member may also be actively engaged in the marijuana industry.

25 (e) If the director is or has been employed in the public safety sector or the
26 public health sector within the five years preceding appointment, this shall meet the
27 requirement that one board member be from that sector, and the board position that
28 would otherwise have been filled by a person from that sector shall be filled by a
29 person from the general public.

30 (f) One board member shall reside or have resided in a rural area for not fewer
31 than 180 days within the five years preceding appointment.

1 (g) Not more than two members of the board may be engaged in the same
2 business, occupation, or profession.

3 (h) A board member representing the general public, the public safety sector,
4 the public health sector, or a rural area who has, or whose immediate family member
5 has, a financial interest in the marijuana industry, is disqualified from serving on the
6 board.

7 (i) In this section,

8 (1) "immediate family member" means a spouse, child, or parent;

9 (2) "financial interest" means holding directly or indirectly, a legal or
10 equitable interest in the operation of a business licensed under this title;

11 (3) "public health sector" means a state, federal, or local entity that
12 works to ensure the health and safety of persons and communities through education,
13 policymaking, treatment and prevention of injury and disease, and promotion of
14 wellness;

15 (4) "public safety sector" means a state, federal, or local law
16 enforcement authority that provides for the welfare and protection of the general
17 public through the enforcement of applicable laws;

18 (5) "rural area" means an area of human habitation with a population
19 below 6,000 as determined under AS 29.60.860(c).

20 * **Sec. 3.** AS 17.38 is amended by adding new sections to read:

21 **Sec. 17.38.081. Terms of office; chair.** (a) Members of the board serve
22 staggered three-year terms.

23 (b) Except as provided in AS 39.05.080(4), a member of the board serves until
24 a successor is appointed.

25 (c) Except as provided in AS 39.05.080(4), an appointment to fill a vacancy
26 on the board is for the remainder of the unexpired term.

27 (d) A member who has served all or part of two successive terms on the board
28 may not be reappointed to the board unless three years have elapsed since the person
29 has last served on the board.

30 (e) The board shall select a chair from among its members.

31 **Sec. 17.38.082. Per diem and expenses.** Members of the board do not receive

1 a salary but are entitled to per diem and travel expenses authorized for state boards and
2 commissions under AS 39.20.180.

3 **Sec. 17.38.083 Meetings.** (a) The board shall meet at the call of the chair.

4 (b) Three members of the board constitute a quorum for the conduct of
5 business. A majority of the whole membership of the board must approve all
6 applications for new licenses, and all renewals, transfers, suspensions, and revocations
7 of existing licenses, as well as product approvals as provided in regulation.

8 **Sec. 17.38.083. Powers and duties of the board.** (a) The board shall control
9 the cultivation, manufacture, possession, and sale of marijuana in the state. The board
10 is vested with the powers and duties necessary to enforce this chapter.

11 (b) The board shall

12 (1) propose and adopt regulations;

13 (2) establish through regulation the qualifications for licensure
14 including fees and factors relating to the applicant's experience, criminal justice
15 history, and financial interests;

16 (3) review applications for licensure made under this chapter and may
17 order the executive director to issue, renew, suspend, or revoke a license authorized
18 under this chapter; and

19 (4) hear appeals from actions of the director and from actions of
20 officers and employees charged with enforcing this chapter and the regulations
21 adopted under this chapter.

22 (c) When considering an application for licensure, the board may reduce the
23 area to be designated as the licensed premises from the area applied for if, in the
24 judgment of the board, a reduction in area is necessary to ensure control over the sale
25 and consumption of marijuana on the premises or it is otherwise in the best interests of
26 the public.

27 (d) The board shall adopt regulations under this title in accordance with
28 AS 44.62 (Administrative Procedure Act).

29 **Sec. 17.38.084. Enforcement powers.** The director and the persons employed
30 for the administration and enforcement of this title may, with the concurrence of the
31 commissioner of public safety, exercise the powers of peace officers when those

1 powers are specifically granted by the board. Powers granted by the board under this
 2 section may be exercised only when necessary for the enforcement of the criminally
 3 punishable provisions of this title, regulations of the board, and other criminally
 4 punishable laws and regulations relating to marijuana.

5 **Sec. 17.38.085. Appointment and removal of director; staff.** (a) The director
 6 of the Alcoholic Beverage Control Board appointed under AS 04.06.070 shall serve as
 7 the director of the board. The board may remove the director by a majority vote of the
 8 full membership of the board and a majority vote of the full membership of the
 9 Alcoholic Beverage Control Board. The governor may remove the executive director
 10 as provided in AS 04.06.070.

11 (b) The paid staff of the Alcoholic Beverage Control Board created in
 12 AS 04.06.010 shall also be the staff for the board.

13 **Sec. 17.38.086. Duties of director.** The director shall enforce this chapter and
 14 regulations adopted by the board. The director shall issue, renew, transfer, suspend, or
 15 revoke all licenses and permits and issue product approvals at the direction of the
 16 board. The board may delegate authority to the director to temporarily grant or deny
 17 the issuance, renewal, or transfer of licenses and permits. The director's temporary
 18 grant or denial of the issuance, renewal, or transfer of a license or permit is not
 19 binding on the board. The board may delegate to the director any duty imposed by this
 20 chapter except its power to propose and adopt regulations.

21 * **Sec. 4.** AS 17.38.900(1) is amended to read:

22 (1) "board" means the Marijuana Control Board established by
 23 AS 17.38.080 [ALCOHOLIC BEVERAGE CONTROL BOARD ESTABLISHED
 24 BY AS 04.06];

25 * **Sec. 5.** AS 17.38.900 is amended by adding new paragraphs to read:

26 (14) "director" means the director of the Marijuana Control Board and
 27 the Alcoholic Beverage Control Board;

28 (15) "registration" means registration or licensure, as determined by
 29 regulation.

30 * **Sec. 6.** AS 44.33.020(a)(45) is amended to read:

31 (45) supply necessary clerical and administrative services for the

1 Alcoholic Beverage Control Board and the Marijuana Control Board.

2 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 MARIJUANA CONTROL BOARD; STAGGERED TERMS. Notwithstanding
5 AS 39.05.055, the governor shall appoint the initial members of the Marijuana Control Board
6 to staggered terms as follows:

7 (1) two members shall be appointed to serve three years;

8 (2) two members shall be appointed to serve two years; and

9 (3) one member shall be appointed to serve one year.

10 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 TRANSITION: REGULATIONS. (a) Regulations adopted by the Alcoholic Beverage
13 Control Board to implement AS 17.38 remain in effect and may continue to be implemented,
14 enforced, amended, or repealed by the Marijuana Control Board established by sec. 2 of this
15 Act.

16 (b) The Marijuana Control Board, established by sec. 2 of this Act, may adopt
17 regulations necessary to implement the changes made by this Act. The regulations take effect
18 under AS 44.62 (Administrative Procedure Act), but not before the effective date of this Act.

19 * **Sec. 9.** This Act takes effect immediately under AS 01.10.070(c).