

CS FOR SENATE BILL NO. 30(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 3/23/15

Referred: Rules

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to controlled substances; relating to marijuana; relating to crimes and**
2 **offenses related to marijuana and the use of marijuana; relating to open marijuana**
3 **containers; relating to established villages and local options; relating to delinquent**
4 **minors; making conforming amendments; and providing for an effective date."**

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

6 *** Section 1.** The uncoded law of the State of Alaska is amended by adding a new section
7 to read:

8 PURPOSE OF SEC. 30 OF THIS ACT. The purpose of sec. 30 of this Act is to protect
9 the health and safety of persons who reside in established villages in the unorganized borough
10 in the state and to provide legislative findings regarding the operation of marijuana cultivation
11 facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail
12 marijuana stores in the unorganized borough. The legislature, acting in its capacity as the
13 assembly for the unorganized borough, prohibits the operation of marijuana establishments in
14 the unorganized borough outside of a municipality. Established villages in the unorganized

1 borough may allow marijuana establishments on a community-by-community basis through
2 the local option election procedure provided by AS 17.38.250 - 17.38.300, added by sec. 32 of
3 this Act.

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

6 FINDINGS FOR SEC. 30 OF THIS ACT. The type of marijuana available in the
7 United States and Alaska today, and the changes in the patterns of usage of the drug,
8 particularly by young Alaskans, Alaska Natives, and those undergoing alcohol treatment, pose
9 a threat to the public health and welfare that justifies prohibiting the operation of marijuana
10 establishments in the unorganized borough outside of municipalities. In this Act, the
11 legislature has considered its duty as the assembly for the unorganized borough in art. X, sec.
12 6, Constitution of the State of Alaska, and its duty to promote the public health and welfare in
13 art. VII, sec. 4, Constitution of the State of Alaska. The legislature has also considered its
14 obligation to carry out the intent of the voters of Alaska in legalizing marijuana by ballot
15 initiative. To assist the courts in considering these issues, the legislature further finds that

16 (1) the potency of marijuana has increased dramatically since the 1960s and
17 1970s; the national average amount of delta-9-tetrahydrocannabinol (THC), the main
18 psychoactive ingredient, was less than one percent then, but increased steadily in the 1980s
19 and 1990s, and by 2003 was six times higher, at 6.4 percent; Alaska marijuana today
20 commands hundreds of dollars an ounce on the illegal market and is often sold in smaller
21 amounts within the price range of teenagers; the increasing potency of marijuana corresponds
22 to an increase in substance abuse treatment admissions and in the number of persons seeking
23 emergency medical care due to marijuana-related incidents;

24 (2) several hundred adults and children are admitted into treatment each year
25 in Alaska for marijuana abuse, with nearly 46 percent being children under 20 years of age;

26 (3) there is evidence that some users become dependent on marijuana under
27 the clinical standards applied by the Diagnostic and Statistical Manual of Mental Disorders
28 IV; studies have shown that use of marijuana and withdrawal from marijuana affect some of
29 the same neurochemical processes as known addictive drugs; Marijuana Anonymous chapters
30 to treat marijuana addicts exist in a majority of states in the country; that is persuasive
31 evidence of marijuana's potential for users to become dependent on it; currently, 9.2 percent

1 of all persons in Alaska treated for drug and alcohol problems are treated for marijuana abuse;

2 (4) early exposure of young people to marijuana increases the likelihood of
3 lifelong health and social problems and is associated with depression;

4 (5) a significant percentage of persons in treatment for alcohol abuse also
5 abuse a secondary drug, which may include marijuana; nevertheless, the relationship between
6 marijuana and alcohol and other drugs is not fully understood;

7 (6) marijuana consists of hundreds of different chemicals and can affect
8 almost every organ and system in the body, including the lymph system, the heart, and the
9 lungs; THC binds to receptors in the brain that should otherwise bind to naturally occurring
10 brain chemicals; marijuana can affect memory, attention, judgment, and other cognitive
11 functions and can impair motor coordination, time perception, and balance; marijuana smoke
12 contains more carcinogenic hydrocarbons than tobacco smoke; marijuana often contains
13 bacteria or fungi that are dangerous to humans, and may be harvested and sold without
14 removing pesticides and fungicides;

15 (7) about 40 percent of the adults arrested in this state who commit violent
16 offenses have marijuana in their system at the time of the arrest;

17 (8) if a parent uses marijuana, the children of the parent are more likely to
18 become marijuana users; some high school students report that they have been able to get
19 marijuana at home or from a relative; criminal penalties for possession of marijuana in the
20 home may deter possession by adults and reduce its availability and accessibility to children;
21 some studies have shown that criminal penalties for possession of marijuana are effective in
22 increasing the perception among teenagers of the risks of using the drug, thus reducing its use
23 by young people;

24 (9) in *Noy v. State*, 83 P.3d 538 (Alaska App. 2003), the Alaska court of
25 appeals held that an adult may possess less than four ounces of marijuana in the person's
26 home; at the same time, the court held that possession of four ounces or more could
27 legitimately be prohibited even in the home because it was reasonable for the legislature to
28 conclude in 1982 that possession of four ounces is indicative of an intent to sell; the street
29 value of marijuana today in Alaska averages between \$270 and \$300 an ounce.

30 * **Sec. 3.** AS 11.41.110(a) is amended to read:

31 (a) A person commits the crime of murder in the second degree if

(1) with intent to cause serious physical injury to another person or knowing that the conduct is substantially certain to cause death or serious physical injury to another person, the person causes the death of any person;

(2) the person knowingly engages in conduct that results in the death of another person under circumstances manifesting an extreme indifference to the value of human life;

(3) under circumstances not amounting to murder in the first degree under AS 11.41.100(a)(3), while acting either alone or with one or more persons, the person commits or attempts to commit arson in the first degree, kidnapping, sexual assault in the first degree, sexual assault in the second degree, sexual abuse of a minor in the first degree, sexual abuse of a minor in the second degree, burglary in the first degree, escape in the first or second degree, robbery in any degree, or misconduct involving a controlled substance under AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1) or (2), or 11.71.040(a)(1) [OR (2)] and, in the course of or in furtherance of that crime or in immediate flight from that crime, any person causes the death of a person other than one of the participants;

(4) acting with a criminal street gang, the person commits or attempts to commit a crime that is a felony and, in the course of or in furtherance of that crime or in immediate flight from that crime, any person causes the death of a person other than one of the participants; or

(5) the person with criminal negligence causes the death of a child under the age of 16, and the person has been previously convicted of a crime involving a child under the age of 16 that was

(A) a felony violation of this chapter [AS 11.41];

(B) in violation of a law or ordinance in another jurisdiction with elements similar to a felony under this chapter [AS 11.41]; or

(C) an attempt, a solicitation, or a conspiracy to commit a crime listed in (A) or (B) of this paragraph.

* **Sec. 4.** AS 11.41.150(a) is amended to read:

(a) A person commits the crime of murder of an unborn child if the person

(1) with intent to cause the death of an unborn child or of another

1 person, causes the death of an unborn child;

2 (2) with intent to cause serious physical injury to an unborn child or to
3 another person or knowing that the conduct is substantially certain to cause death or
4 serious physical injury to an unborn child or to another person, causes the death of an
5 unborn child;

6 (3) while acting alone or with one or more persons, commits or
7 attempts to commit arson in the first degree, kidnapping, sexual assault in the first
8 degree, sexual assault in the second degree, sexual abuse of a minor in the first degree,
9 sexual abuse of a minor in the second degree, burglary in the first degree, escape in the
10 first or second degree, robbery in any degree, or misconduct involving a controlled
11 substance under AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1) or (2), or
12 11.71.040(a)(1) [OR (2)], and, in the course of or in furtherance of that crime or in
13 immediate flight from that crime, any person causes the death of an unborn child;

14 (4) knowingly engages in conduct that results in the death of an unborn
15 child under circumstances manifesting an extreme indifference to the value of human
16 life; for purposes of this paragraph, a pregnant woman's decision to remain in a
17 relationship in which domestic violence, as defined in AS 18.66.990, has occurred
18 does not constitute conduct manifesting an extreme indifference to the value of human
19 life.

20 * **Sec. 5.** AS 11.56.375(a) is amended to read:

21 (a) A person commits the crime of promoting contraband in the first degree if
22 the person violates AS 11.56.380 and the contraband is

23 (1) a deadly weapon or a defensive weapon;

24 (2) an article that is intended by the defendant to be used as a means of
25 facilitating an escape; or

26 (3) a **schedule IA - VA** controlled substance.

27 * **Sec. 6.** AS 11.56.380(a) is amended to read:

28 (a) A person commits the crime of promoting contraband in the second degree
29 if the person

30 (1) introduces, takes, conveys, or attempts to introduce, take, or convey
31 contraband into a correctional facility; [OR]

(2) makes, obtains, possesses, or attempts to make, obtain, or possess anything that person knows to be contraband while under official detention within a correctional facility; or

(3) introduces, takes, conveys, or attempts to introduce, take, or convey a schedule VIA controlled substance into a correctional facility.

* **Sec. 7.** AS 11.71.030(a) is amended to read:

(a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the third degree if the person

(1) under circumstances not proscribed under AS 11.71.020(a)(2) - (6), manufactures or delivers any amount of a schedule IIA or IIIA controlled substance or possesses any amount of a schedule IIA or IIIA controlled substance with intent to manufacture or deliver;

(2) delivers any amount of a schedule IVA or [,] VA [, OR VIA] controlled substance to a person under 19 years of age who is at least three years younger than the person delivering the substance; or

(3) possesses any amount of a schedule IA or IIA controlled substance

(A) with reckless disregard that the possession occurs

(i) on or within 500 feet of school grounds; or

(ii) at or within 500 feet of a recreation or youth center;

or

(B) on a school bus.

* **Sec. 8.** AS 11.71.040(a) is amended to read:

(a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the fourth degree if the person

(1) manufactures or delivers any amount of a schedule IVA or VA controlled substance or possesses any amount of a schedule IVA or VA controlled substance with intent to manufacture or deliver;

(2) manufactures or delivers, or possesses with the intent to manufacture or deliver, one or more preparations, compounds, mixtures, or substances of an aggregate weight of one ounce or more containing a schedule VIA controlled substance;

- 1 (3) possesses
- 2 (A) any amount of a
- 3 (i) schedule IA controlled substance; or
- 4 (ii) IIA controlled substance except a controlled
- 5 substance listed in AS 11.71.150(e)(11) - (15);
- 6 (B) 25 or more tablets, ampules, or syrettes containing a
- 7 schedule IIIA or IVA controlled substance;
- 8 (C) one or more preparations, compounds, mixtures, or
- 9 substances of an aggregate weight of
- 10 (i) three grams or more containing a schedule IIIA or
- 11 IVA controlled substance except a controlled substance in a form listed
- 12 in (ii) of this subparagraph;
- 13 (ii) 12 grams or more containing a schedule IIIA
- 14 controlled substance listed in AS 11.71.160(f)(7) - (16) that has been
- 15 sprayed on or otherwise applied to tobacco, an herb, or another organic
- 16 material; or
- 17 (iii) 500 milligrams or more of a schedule IIA controlled
- 18 substance listed in AS 11.71.150(e)(11) - (15);
- 19 (D) 50 or more tablets, ampules, or syrettes containing a
- 20 schedule VA controlled substance;
- 21 (E) one or more preparations, compounds, mixtures, or
- 22 substances of an aggregate weight of six grams or more containing a schedule
- 23 VA controlled substance;
- 24 (F) **16** [ONE OR MORE PREPARATIONS, COMPOUNDS,
- 25 **MIXTURES, OR SUBSTANCES OF AN AGGREGATE WEIGHT OF**
- 26 **FOUR] ounces or more of usable marijuana [CONTAINING A SCHEDULE**
- 27 **VIA CONTROLLED SUBSTANCE]; or**
- 28 (G) 25 or more plants of the genus cannabis;
- 29 (4) possesses a schedule IIIA, IVA, **or** VA [, OR VIA] controlled
- 30 substance
- 31 (A) with reckless disregard that the possession occurs

(i) on or within 500 feet of school grounds; or

(ii) at or within 500 feet of a recreation or youth center;

or

(B) on a school bus;

(5) knowingly keeps or maintains any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place that is used for keeping or distributing controlled substances in violation of a felony offense under this chapter or AS 17.30;

(6) makes, delivers, or possesses a punch, die, plate, stone, or other thing that prints, imprints, or reproduces a trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of these upon a drug, drug container, or labeling so as to render the drug a counterfeit substance;

(7) knowingly uses in the course of the manufacture or distribution of a controlled substance a registration number that is fictitious, revoked, suspended, or issued to another person;

(8) knowingly furnishes false or fraudulent information in or omits material information from any application, report, record, or other document required to be kept or filed under AS 17.30;

(9) obtains possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge; [OR]

(10) affixes a false or forged label to a package or other container containing any controlled substance; or

(11) violates AS 11.71.050(a)(4) and, within the five years preceding the violation, the person has been previously convicted under

(A) AS 11.71.010 - 11.71.040;

(B) AS 11.71.050(a)(4); or

(C) a law or ordinance of this or another jurisdiction with elements similar to a crime listed under (A) or (B) of this paragraph.

* **Sec. 9.** AS 11.71.040 is amended by adding a new subsection to read:

(e) The provisions of

(1) (a)(3)(F) of this section do not apply to a person who is lawfully

possessing usable marijuana in accordance with AS 17.38.020; or

(2) (a)(3)(F) and (a)(3)(G) of this section do not apply to a marijuana establishment registered under AS 17.38, or an officer, agent, or employee of the registered marijuana establishment acting in compliance with the terms of the registration issued under AS 17.38.

* **Sec. 10.** AS 11.71.050(a) is amended to read:

(a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the fifth degree if the person

(1) transports [MANUFACTURES] or delivers

(A) more [, OR POSSESSES WITH THE INTENT TO MANUFACTURE OR DELIVER, ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES, OR SUBSTANCES OF AN AGGREGATE WEIGHT OF LESS] than one ounce of usable marijuana [CONTAINING A SCHEDULE VIA CONTROLLED SUBSTANCE];

(B) more than six plants of the genus cannabis;

(2) possesses

(A) less than 25 tablets, ampules, or syrettes containing a schedule IIIA or IVA controlled substance;

(B) one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than

(i) three grams containing a schedule IIIA or IVA controlled substance except a controlled substance in a form listed in (ii) of this subparagraph;

(ii) 12 grams but more than six grams containing a schedule IIIA controlled substance listed in AS 11.71.160(f)(7) - (16) that has been sprayed on or otherwise applied to tobacco, an herb, or another organic material; or

(iii) 500 milligrams containing a schedule IIA controlled substance listed in AS 11.71.150(e)(11) - (15);

(C) less than 50 tablets, ampules, or syrettes containing a schedule VA controlled substance;

(D) one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than six grams containing a schedule VA controlled substance; [OR]

(E) at least three ounces but less than 16 ounces of usable marijuana [ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES, OR SUBSTANCES OF AN AGGREGATE WEIGHT OF ONE OUNCE OR MORE CONTAINING A SCHEDULE VIA CONTROLLED SUBSTANCE]; or

(F) 12 or more but less than 25 plants of the genus cannabis;

(3) fails to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under AS 17.30;

(4) delivers any amount of usable marijuana to a person under 21 years of age;

(5) delivers or transports

(A) one ounce or less of usable marijuana for remuneration or barter; or

(B) six plants or less of the genus cannabis for remuneration or barter; or

(6) manufactures a marijuana concentrate or extract using a volatile or explosive gas.

* **Sec. 11.** AS 11.71.050 is amended by adding new subsections to read:

(c) The provisions of (a)(1), (a)(2)(E), (a)(2)(F), and (a)(4) - (6) of this section do not apply to

(1) a person who is lawfully possessing, manufacturing, delivering, possessing with the intent to manufacture or deliver, or transporting usable marijuana in accordance with AS 17.38.020;

(2) a marijuana establishment registered under AS 17.38, or an officer, agent, or employee of the registered marijuana establishment acting in compliance with the terms of the registration issued under AS 17.38.

(d) A person does not violate (a)(4) of this section if the person is over 21 years of age and delivers a schedule VIA controlled substance to the person's child,

ward, or legal spouse if

(1) the child, ward, or legal spouse is 18 years of age or older; and

(2) the delivery occurs in the person's residence.

* **Sec. 12.** AS 11.71.060(a) is amended to read:

(a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the sixth degree if the person

(1) uses or displays any amount of a schedule VIA controlled substance;

(2) possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of

(A) less than one ounce containing a schedule VIA controlled substance;

(B) six grams or less containing a schedule IIIA controlled substance listed in AS 11.71.160(f)(7) - (16) that has been sprayed on or otherwise applied to tobacco, an herb, or another organic material; [OR]

(3) refuses entry into a premise for an inspection authorized under AS 17.30;

(4) possesses at least two ounces but less than three ounces of usable marijuana;

(5) possesses more than six but less than 12 plants of the genus cannabis.

* **Sec. 13.** AS 11.71.060 is amended by adding a new subsection to read:

(c) The provisions of (a)(4) and (a)(5) of this section do not apply to

(1) a person who is lawfully possessing, displaying, delivering, or transporting usable marijuana in accordance with AS 17.38.020;

(2) a marijuana establishment registered under AS 17.38, or an officer, agent, or employee of the registered marijuana establishment acting in compliance with the terms of the registration issued under AS 17.38.

* **Sec. 14.** AS 11.71 is amended by adding a new section to read:

Sec. 11.71.071. Misconduct involving a controlled substance in the seventh degree. (a) Except as authorized in AS 17.30, a person commits the crime of

misconduct involving a controlled substance in the seventh degree if the person

(1) possesses more than one ounce but less than two ounces of usable marijuana;

(2) is

(A) under 21 years of age and

(i) possesses less than two ounces of usable marijuana;

or

(ii) uses or displays any amount of usable marijuana; or

(B) 21 years of age or older and uses any amount of usable marijuana in a public place;

(3) manufactures usable marijuana

(A) in a location where the plants are subject to public view without the use of binoculars, aircraft, or other optical aids;

(B) in a location that is not secure from unauthorized access; or

(C) on property not lawfully in the possession of the person or on property without the consent of the person in lawful possession of the property; or

(4) uses usable marijuana while operating a motor vehicle, aircraft, or watercraft under circumstances not proscribed by AS 28.35.030.

(b) The provisions of (a)(1) and (a)(3) of this section do not apply to

(1) a person who is lawfully possessing or manufacturing usable marijuana in accordance with AS 17.38.020;

(2) a marijuana establishment registered under AS 17.38, or an officer, agent, or employee of the registered marijuana establishment acting in compliance with the terms of the registration issued under AS 17.38.

(c) Misconduct involving a controlled substance in the seventh degree is a violation punishable by a fine of

(1) up to \$300 for a violation of (a)(1), (a)(3), or (a)(4) of this section;

(2) \$300 for a violation of (a)(2)(A) of this section; the court may reduce the fine to \$50 for a defendant under 18 years of age if the defendant supplies to the court, within six months, proof of completion of a community diversion panel or

1 a state-approved marijuana education or treatment program; in this paragraph,
 2 "community diversion panel" means a youth court or other group selected by the court
 3 to serve as a sentencing option for a person convicted under (a)(2)(A) of this section;

4 (3) \$100 for a violation of (a)(2)(B) of this section.

5 * **Sec. 15.** AS 11.71.090(a) is amended to read:

6 (a) In a prosecution under **AS 11.71.030 - 11.71.071** [AS 11.71.030 -
 7 11.71.060] charging the manufacture, delivery, possession, possession with intent to
 8 manufacture or deliver, use, or display of a schedule VIA controlled substance, it is an
 9 affirmative defense that the defendant is a patient, or the primary caregiver or alternate
 10 caregiver for a patient, and

11 (1) at the time of the manufacture, delivery, possession, possession with
 12 intent to manufacture or deliver, use, or display, the patient was registered under
 13 AS 17.37;

14 (2) the manufacture, delivery, possession, possession with intent to
 15 manufacture, deliver, use, or display complied with the requirements of AS 17.37; and

16 (3) if the defendant is the

17 (A) primary caregiver of the patient, the defendant was in
 18 physical possession of the caregiver registry identification card at the time of
 19 the manufacture, delivery, possession, possession with intent to manufacture or
 20 deliver, use, or display; or

21 (B) alternate caregiver of the patient, the defendant was in
 22 physical possession of the caregiver registry identification card at the time of
 23 the manufacture, delivery, possession, possession with intent to manufacture or
 24 deliver, use, or display.

25 * **Sec. 16.** AS 11.71.190(b) is repealed and reenacted to read:

26 (b) Schedule VIA includes, unless specifically excepted or unless listed in
 27 another schedule, any material, compound, mixture, or preparation that contains any
 28 quantity of the following substances:

29 (1) marijuana;

30 (2) hashish;

31 (3) hash oil or hashish oil;

1 (4) tetrahydrocannabinols.

2 * **Sec. 17.** AS 11.71.311(a) is amended to read:

3 (a) A person may not be prosecuted for a violation of AS 11.71.030(a)(3),
4 11.71.040(a)(3) or (4), 11.71.050(a)(2), or **11.71.060(a)(2)** [11.71.060(a)(1) OR (2)] if
5 that person

6 (1) sought, in good faith, medical or law enforcement assistance for
7 another person who the person reasonably believed was experiencing a drug overdose
8 **or significant adverse marijuana reaction** and

9 (A) the evidence supporting the prosecution for an offense
10 under AS 11.71.030(a)(3), 11.71.040(a)(3) or (4), 11.71.050(a)(2), or
11 **11.71.060(a)(2)** [11.71.060(a)(1) OR (2)] was obtained or discovered as a
12 result of the person seeking medical or law enforcement assistance;

13 (B) the person remained at the scene with the other person until
14 medical or law enforcement assistance arrived; and

15 (C) the person cooperated with medical or law enforcement
16 personnel, including by providing identification;

17 (2) was experiencing a drug overdose **or significant adverse**
18 **marijuana reaction** and sought medical assistance, and the evidence supporting a
19 prosecution for an offense under AS 11.71.030(a)(3), 11.71.040(a)(3) or (4),
20 11.71.050(a)(2), or **11.71.060(a)(2)** [11.71.060(a)(1) OR (2)] was obtained as a result
21 of the overdose **or significant adverse marijuana reaction** and the need for medical
22 assistance.

23 * **Sec. 18.** AS 11.71.900(14) is repealed and reenacted to read:

24 (14) "marijuana" means all parts of the plant of the genus cannabis
25 whether growing or not, the seeds thereof, the resin extracted from any part of the
26 plant, and every compound, manufacture, derivative, mixture, or preparation of the
27 plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does not
28 include fiber produced from the stalks, oil or cake made from the seeds of the plant,
29 sterilized seed of the plant that is incapable of germination, or the weight of any other
30 ingredient combined with marijuana to prepare topical or oral administrations, food,
31 drink, or other products;

1 * **Sec. 19.** AS 11.71.900 is amended by adding a new paragraph to read:

2 (31) "usable marijuana" means the seeds, leaves, buds, and flowers of
3 the plant genus cannabis, hashish, hash oil, tetrahydrocannabinols, and marijuana
4 concentrates, but does not include the stalks or roots of the plant genus cannabis.

5 * **Sec. 20.** AS 12.45.084(a) is amended to read:

6 (a) In a prosecution under **AS 11.71.010 - 11.71.071** [AS 11.71.010 -
7 11.71.060], a complete copy of an official laboratory report from the Department of
8 Public Safety or a laboratory operated by another law enforcement agency is prima
9 facie evidence of the content, identity, and weight of a controlled substance. The
10 report must be signed by the person performing the analysis and must state that the
11 substance **that** [WHICH] is the basis of the alleged offense has been weighed and
12 analyzed. In the report, the author shall state with specificity findings as to the content,
13 weight, and identity of the substance.

14 * **Sec. 21.** AS 17.30.080(b) is amended to read:

15 (b) A person who violates (a) of this section, or who otherwise manufactures,
16 distributes, dispenses, or conducts research with a controlled substance in the state
17 without fully complying with 21 U.S.C. 811 - 830 (Controlled Substances Act), and
18 regulations adopted under those sections, is guilty of misconduct involving a
19 controlled substance under **AS 11.71.010 - 11.71.071** [AS 11.71.010 - 11.71.060] in
20 the degree appropriate to the circumstances as described in those sections. Upon filing
21 a complaint, information, presentment, or indictment charging a medical assistance
22 provider with misconduct involving a controlled substance under AS 11.71.140 -
23 11.71.190, the attorney general shall, in writing, notify the commissioner of health and
24 social services of the filing.

25 * **Sec. 22.** AS 17.38.020 is amended to read:

26 **Sec. 17.38.020. Personal use of marijuana. The** [NOTWITHSTANDING
27 ANY OTHER PROVISION OF LAW, EXCEPT AS OTHERWISE PROVIDED IN
28 THIS CHAPTER, THE] following acts, by persons 21 years of age or older, are lawful
29 and **are not** [SHALL NOT BE A] criminal or civil **offenses** [OFFENSE] under Alaska
30 law or the law of any political subdivision of Alaska or **bases** [BE A BASIS] for
31 seizure or forfeiture of assets under Alaska law:

(1) possessing, using, displaying, purchasing, or transporting marijuana accessories or one ounce or less of usable marijuana;

(2) possessing, growing, processing, or transporting **not** [NO] more than six marijuana plants, with three or fewer being mature, flowering plants, and possession of the marijuana produced by the plants on the premises where the plants were grown, **except that nothing in this chapter permits the growing of marijuana as proscribed in AS 11.71.071(a)(3);**

(3) transferring one ounce or less of marijuana and up to six immature marijuana plants to a person who is 21 years of age or older without remuneration **or barter**;

(4) consumption of marijuana, except that nothing in this chapter **permits** [SHALL PERMIT] the consumption of marijuana in **a** public **place**; and

(5) assisting another person who is 21 years of age or older in any of the acts described in (1) - (4) of this section; **under this paragraph, assisting does not include**

(A) using, displaying, purchasing, or transporting marijuana in excess of the amount allowed in this section;

(B) possessing, growing, processing, or transporting marijuana plants in excess of the amount allowed in this section.

* **Sec. 23.** AS 17.38.070(a) is amended to read:

(a) **The** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE] following acts, when performed by a retail marijuana store with a current, valid registration, or a person 21 years of age or older who is acting in the person's capacity as an owner, employee, or agent of a retail marijuana store, are lawful and **are not offenses** [SHALL NOT BE AN OFFENSE] under Alaska law or **bases** [BE A BASIS] for seizure or forfeiture of assets under Alaska law:

(1) possessing, displaying, storing, or transporting marijuana or marijuana products, except that marijuana and marijuana products may not be displayed in a manner that is visible to the general public from a public right-of-way;

(2) delivering or transferring marijuana or marijuana products to a **registered** marijuana testing facility;

(3) receiving marijuana or marijuana products from a **registered** marijuana testing facility;

(4) purchasing marijuana from a **registered** marijuana cultivation facility;

(5) purchasing marijuana or marijuana products from a **registered** marijuana product manufacturing facility; and

(6) delivering, distributing, or selling marijuana or marijuana products to consumers.

* **Sec. 24.** AS 17.38.070(b) is amended to read:

(b) **The** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE] following acts, when performed by a marijuana cultivation facility with a current, valid registration, or a person 21 years of age or older who is acting in the person's capacity as an owner, employee, or agent of a marijuana cultivation facility, are lawful and **are not offenses** [SHALL NOT BE AN OFFENSE] under Alaska law or **bases** [BE A BASIS] for seizure or forfeiture of assets under Alaska law:

(1) cultivating, manufacturing, harvesting, processing, packaging, transporting, displaying, storing, or possessing marijuana;

(2) delivering or transferring marijuana to a **registered** marijuana testing facility;

(3) receiving marijuana from a **registered** marijuana testing facility;

(4) delivering, distributing, or selling marijuana to a **registered** marijuana cultivation facility, a **registered** marijuana product manufacturing facility, or a **registered** retail marijuana store;

(5) receiving or purchasing marijuana from a **registered** marijuana cultivation facility; and

(6) receiving marijuana seeds or immature marijuana plants from a person 21 years of age or older.

* **Sec. 25.** AS 17.38.070(c) is amended to read:

(c) **The** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE] following acts, when performed by a marijuana product manufacturing facility with a current, valid registration, or a person 21 years of age or older who is acting in

the person's capacity as an owner, employee, or agent of a marijuana product manufacturing facility, are lawful and are not offenses [SHALL NOT BE AN OFFENSE] under Alaska law or bases [BE A BASIS] for seizure or forfeiture of assets under Alaska law:

(1) packaging, processing, transporting, manufacturing, displaying, or possessing marijuana or marijuana products;

(2) delivering or transferring marijuana or marijuana products to a registered marijuana testing facility;

(3) receiving marijuana or marijuana products from a registered marijuana testing facility;

(4) delivering or selling marijuana or marijuana products to a registered retail marijuana store or a marijuana product manufacturing facility;

(5) purchasing marijuana from a registered marijuana cultivation facility; and

(6) purchasing of marijuana or marijuana products from a registered marijuana product manufacturing facility.

* **Sec. 26.** AS 17.38.070(d) is amended to read:

(d) The [NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE] following acts, when performed by a marijuana testing facility with a current, valid registration, or a person 21 years of age or older who is acting in the person's capacity as an owner, employee, or agent of a marijuana testing facility, are lawful and are not offenses [SHALL NOT BE AN OFFENSE] under Alaska law or bases [BE A BASIS] for seizure or forfeiture of assets under Alaska law:

(1) possessing, cultivating, processing, repackaging, storing, transporting, displaying, transferring, or delivering marijuana;

(2) receiving marijuana or marijuana products from a registered marijuana cultivation facility, a registered marijuana retail store, a registered marijuana products manufacturer, or a person 21 years of age or older; and

(3) returning marijuana or marijuana products to a registered marijuana cultivation facility, registered marijuana retail store, registered marijuana products manufacturer, or a person 21 years of age or older.

1 * **Sec. 27.** AS 17.38.070(e) is amended to read:

2 (e) **It** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IT] is
 3 lawful and **is** [SHALL] not [BE] an offense under Alaska law or [BE] a basis for
 4 seizure or forfeiture of assets under Alaska law to lease or otherwise allow the use of
 5 property owned, occupied, or controlled by any person, corporation, or other entity for
 6 any of the activities conducted lawfully in accordance with (a) - (d) of this section.

7 * **Sec. 28.** AS 17.38.070 is amended by adding a new subsection to read:

8 (h) A retail marijuana store may only sell or deliver marijuana or marijuana
 9 products to a person who is present at the premises of the retail marijuana store.

10 * **Sec. 29.** AS 17.38.090 is amended by adding a new subsection to read:

11 (c) The board shall adopt a regulation that prohibits a retail marijuana store
 12 from selling more than five grams of marijuana concentrate in one transaction to a
 13 customer.

14 * **Sec. 30.** AS 17.38.110(a) is amended to read:

15 (a) A local government may prohibit the operation of marijuana cultivation
 16 facilities, marijuana product manufacturing facilities, marijuana testing facilities, or
 17 retail marijuana stores through the enactment of an ordinance or by a voter initiative.
 18 **The operation of marijuana cultivation facilities, marijuana product**
 19 **manufacturing facilities, marijuana testing facilities, and retail marijuana stores**
 20 **in the unorganized borough outside of a municipality is prohibited. An**
 21 **established village may permit the operation of marijuana cultivation facilities,**
 22 **marijuana product manufacturing facilities, marijuana testing facilities, or retail**
 23 **marijuana stores as provided in AS 17.38.250.**

24 * **Sec. 31.** AS 17.38.120(c) is amended to read:

25 (c) Nothing in this chapter is intended to permit the transfer of marijuana, with
 26 or without remuneration **or barter**, to a person under [THE AGE OF] 21 **years of age**.

27 * **Sec. 32.** AS 17.38 is amended by adding new sections to read:

28 **Sec. 17.38.200. Unlawful activity related to persons under 21 years of age.**

29 (a) A registered marijuana establishment or an officer, agent, or employee of the
 30 marijuana establishment may not knowingly

31 (1) allow a person to deliver marijuana to another person under 21

1 years of age within the registered premises;

2 (2) allow a person under 21 years of age to enter and remain within the
3 registered premises;

4 (3) allow a person under 21 years of age to use marijuana within the
5 registered premises;

6 (4) allow a person under 21 years of age to deliver marijuana; or

7 (5) while working on the registered premises, deliver marijuana to a
8 person under 21 years of age.

9 (b) The prohibition in (a)(2) of this section does not apply if the person under
10 21 years of age is accompanied by a parent, guardian, or spouse who has attained 21
11 years of age.

12 (c) A person who violates this section is guilty of a violation punishable by a
13 fine of at least \$250 but not more than \$500.

14 **Sec. 17.38.210. Access of persons under 21 years of age to registered**
15 **premises.** (a) A person under 21 years of age may not knowingly

16 (1) enter or remain on premises registered under this chapter where
17 marijuana, marijuana products, or marijuana accessories are sold; or

18 (2) present a birth certificate or other written evidence of age that is
19 fraudulent or false or that is not the person's own, or otherwise misrepresent the
20 person's age for the purpose of

21 (A) purchasing, attempting to purchase, or otherwise procuring
22 or attempting to procure marijuana or marijuana products; or

23 (B) gaining access to a registered marijuana establishment.

24 (b) A person does not violate (a) of this section if the person

25 (1) enters and remains on premises registered under this chapter at the
26 request of a peace officer, if the peace officer accompanies, supervises, or otherwise
27 observes the person's entry or remaining on premises, and the purpose for the entry or
28 remaining on premises is to assist in the enforcement of this section;

29 (2) is accompanied by a parent, guardian, or spouse who has attained
30 21 years of age; or

31 (3) is acting in the capacity of an employee or volunteer of an agency

1 providing emergency medical or fire protection services while on the premises.

2 (c) A person who violates this section is guilty of a violation and is punishable
3 by a fine of \$300.

4 **Sec. 17.38.220. Proof of registration to be exhibited on demand; penalty.**

5 (a) A person shall have a copy of the person's registration issued under AS 17.38.100
6 in the person's immediate possession at all times when transporting more than one
7 ounce of marijuana, and shall present the copy of the registration for inspection upon
8 the demand of a peace officer or other authorized representative of the Department of
9 Public Safety. However, a person charged with violating this section may not be
10 convicted if the person produces in court or in the office of the arresting or citing
11 officer proof of registration previously issued to the person that was valid at the time
12 of the person's arrest or citation.

13 (b) A person convicted under this section is guilty of a violation punishable by
14 a fine of \$100.

15 **Sec. 17.38.230. Bail forfeiture for certain offenses.** The supreme court shall
16 establish by rule or order a schedule of bail amounts that may be forfeited without
17 court appearance for a violation of AS 11.71.071, AS 17.38.200, 17.38.210, and
18 17.38.220. The supreme court, in establishing scheduled amounts of bail under this
19 section, may not allow for disposition of an offense without court appearance for a
20 person under 18 years of age who is cited for a violation of AS 11.71.071(a)(2)(A).

21 **Sec. 17.38.240. Court records of violations of persons under 21 years of**
22 **age.** The Alaska Court System may not publish on a publicly available website the
23 court records of a violation of AS 11.71.071(a)(2)(A) or AS 17.38.210 by a person
24 who was under 21 years of age at the time of the offense, after the court proceedings
25 are completed and the case is closed.

26 **Sec. 17.38.250. Local options.** (a) If a majority of the voters voting on the
27 question vote to approve the option, an established village shall exercise a local option
28 to permit the operation of one or more of the following types of marijuana
29 establishments:

30 (1) marijuana cultivation facilities;

31 (2) marijuana product manufacturing facilities;

1 (3) marijuana testing facilities; or

2 (4) retail marijuana stores.

3 (b) A ballot question to adopt a local option under this section must at least
4 contain language substantially similar to the following: "Shall (name of village) adopt
5 a local option to permit (specify local option under (a) of this section)? (yes or no)."

6 **Sec. 17.38.260. Removal of local options.** (a) If a majority of the voters
7 voting on the question vote to remove the option, an established village shall remove a
8 local option previously adopted under AS 17.38.250. The option is repealed effective
9 the first day of the month following certification of the results of the election.

10 (b) A ballot question to remove a local option under this section must at least
11 contain language substantially similar to the following: "Shall (name of village)
12 remove the local option currently in effect, that permits (current local option under
13 AS 17.38.250(a)), so that there is no longer any local option in effect? (yes or no)."

14 **Sec. 17.38.270. Effect on registrations of removal of local option**
15 **permitting marijuana establishments.** If a majority of voters vote to remove a local
16 option permitting the operation of marijuana establishments under AS 17.38.260, the
17 board may not issue, renew, or transfer, between persons or locations, a registration
18 for a marijuana establishment located within the perimeter of the established village. A
19 registration that may not be renewed because of a local option election held under
20 AS 17.38.260 is void 90 days after the results of the election are certified. A
21 registration that expires during the 90 days after the results of a local option election
22 are certified may be extended, until it is void under this section, by payment of a
23 prorated portion of the annual registration fee.

24 **Sec. 17.38.280. Procedure for local option elections.** (a) An election to adopt
25 a local option under AS 17.38.250 or remove a local option under AS 17.38.260 shall
26 be conducted as required in this section.

27 (b) Upon receipt of a petition of 35 percent or more of the registered voters
28 residing within an established village, the lieutenant governor shall place on a separate
29 ballot at a special election the local option or removal of local option that constitutes
30 the subject of the petition. The lieutenant governor shall conduct the election under
31 AS 15.

1 (c) An election under (b) of this section to remove a local option may not be
 2 conducted during the first 24 months after the local option was adopted or more than
 3 once in a 36-month period.

4 (d) After a petition has been certified as sufficient to meet the requirements of
 5 (b) of this section, another petition may not be filed or certified until after the question
 6 presented in the first petition has been voted on. A local option question to permit the
 7 operation of marijuana cultivation facilities, marijuana product manufacturing
 8 facilities, marijuana testing facilities, or retail marijuana stores or to permit all
 9 marijuana establishments may be presented in one election.

10 **Sec. 17.38.290. Establishment of perimeter of established village.** (a)
 11 Except as provided under (b) and (c) of this section, for purposes of AS 17.38.250 and
 12 17.38.270, the perimeter of an established village is a circle around the established
 13 village that includes an area within a five-mile radius of the post office of the
 14 established village. If the established village does not have a post office, the perimeter
 15 of an established village is a circle around the established village that includes an area
 16 within a five-mile radius of another site selected by the local governing body or by the
 17 board if the established village does not have a local governing body.

18 (b) If the perimeter of an established village determined under (a) of this
 19 section includes any area that is within the perimeter of another established village
 20 and, if the other established village has

21 (1) also adopted a local option under AS 17.38.250, the local option of
 22 the established village that is less restrictive applies in the overlapping area;

23 (2) not adopted a local option under AS 17.38.250, the local option
 24 does not apply in the overlapping area.

25 (c) If the board determines that the perimeter of an established village as
 26 provided under (a) and (b) of this section does not accurately reflect the perimeter of
 27 the established village, the board may establish the perimeter of the established village
 28 and the areas of overlapping perimeter described under (b) of this section for purposes
 29 of applying a local option selected under this chapter.

30 **Sec. 17.38.300. Notice of the results of a local option election.** If a majority
 31 of the voters vote to adopt or remove a local option under AS 17.38.250 or 17.38.260,

1 the lieutenant governor shall notify the board of the results of the election immediately
 2 after the results are certified. The board shall immediately notify the Department of
 3 Law and the Department of Public Safety of the results of the election.

4 **Sec. 17.38.310. Peace officer powers.** The director of the board and the
 5 persons employed for the administration and enforcement of this chapter and the
 6 provisions of AS 11.71.040 - 11.71.071 involving a schedule VIA controlled
 7 substance may, with the concurrence of the commissioner of public safety, exercise
 8 the powers of peace officers when those powers are specifically granted by the board.
 9 Powers granted by the board under this section may be exercised only when necessary
 10 for the enforcement of the criminally punishable provisions of this chapter, the
 11 provisions of AS 11.71.040 - 11.71.071 involving a schedule VIA controlled
 12 substance, regulations of the board, and other criminally punishable laws and
 13 regulations.

14 * **Sec. 33.** AS 17.38.900(6) is amended to read:

15 (6) "marijuana" means all parts of the plant of the genus cannabis
 16 whether growing or not, the seeds thereof, the resin extracted from any part of the
 17 plant, and every compound, manufacture, [SALT,] derivative, mixture, or preparation
 18 of the plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does
 19 not include fiber produced from the stalks, oil [,] or cake made from the seeds of the
 20 plant, sterilized seed of the plant that [WHICH] is incapable of germination, or the
 21 weight of any other ingredient combined with marijuana to prepare topical or oral
 22 administrations, food, drink, or other products;

23 * **Sec. 34.** AS 17.38.900 is amended by adding new paragraphs to read:

24 (15) "deliver" means the actual, constructive, or attempted transfer
 25 from one person to another of marijuana, whether or not there is an agency
 26 relationship;

27 (16) "established village" means an area that does not contain any part
 28 of an incorporated city or another established village and that is an unincorporated
 29 community that is in the unorganized borough and that has 25 or more permanent
 30 residents;

31 (17) "knowingly" has the meaning given in AS 11.81.900;

(18) "manufacture" has the meaning given in AS 11.71.900;

(19) "marijuana concentrate" means a product created from resins of or by extracting cannabinoids from any part of the plant (genus) Cannabis;

(20) "public place" has the meaning given in AS 11.81.900;

(21) "usable marijuana" has the meaning given in AS 11.71.900.

* **Sec. 35.** AS 28.35.029(a) is amended to read:

(a) A person may not drive a motor vehicle on a highway or vehicular way or area, when there is an open bottle, can, or other receptacle containing an alcoholic beverage or an open marijuana container in the passenger compartment of the vehicle, except as provided in (b) of this section.

* **Sec. 36.** AS 28.35.029(b) is amended to read:

(b) Except as provided in AS 28.33.130, a person may transport an open bottle, can, or other receptacle containing an alcoholic beverage or an open marijuana container

(1) in the trunk of a motor vehicle;

(2) on a motor driven cycle, or behind the last upright seat in a motor home, station wagon, hatchback, or similar trunkless vehicle, if the open bottle, can, or other receptacle, or an open marijuana container is enclosed within another container;

(3) behind a solid partition that separates the vehicle driver from the area normally occupied by passengers; or

(4) if the open bottle, can, or other receptacle, or an open marijuana container is in the possession of a passenger in a motor vehicle for which the owner receives direct monetary compensation and that has a capacity of 12 or more persons.

* **Sec. 37.** AS 28.35.029(c) is amended by adding new paragraphs to read:

(6) "marijuana" has the meaning given in AS 11.71.900;

(7) "open marijuana container" means a receptacle that contains any amount of marijuana and that is open or has a broken seal, and any amount of marijuana is removed while in the vehicle.

* **Sec. 38.** AS 34.03.360(7) is amended to read:

(7) "illegal activity involving a controlled substance" means a violation

of AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1) or (2), or 11.71.040(a)(1) [, (2),] or (5);

* **Sec. 39.** AS 47.12.030(b) is amended to read:

(b) When a minor is accused of violating a statute specified in this subsection, other than a statute the violation of which is a felony, this chapter and the Alaska Delinquency Rules do not apply and the minor accused of the offense shall be charged, prosecuted, and sentenced in the district court in the same manner as an adult; if a minor is charged, prosecuted, and sentenced for an offense under this subsection, the minor's parent, guardian, or legal custodian shall be present at all proceedings; the provisions of this subsection apply when a minor is accused of violating

(1) a traffic statute or regulation, or a traffic ordinance or regulation of a municipality;

(2) AS 11.76.105, relating to the possession of tobacco by a person under 19 years of age;

(3) a fish and game statute or regulation under AS 16;

(4) a parks and recreational facilities statute or regulation under AS 41.21;

(5) AS 04.16.050, relating to possession, control, or consumption of alcohol, except for conduct constituting habitual minor consuming or in possession or control under AS 04.16.050(d); [AND]

(6) a municipal curfew ordinance, whether adopted under AS 29.35.085 or otherwise, unless the municipality provides for enforcement of its ordinance under AS 29.25.070(b) by the municipality; in place of any fine imposed for the violation of a municipal curfew ordinance, the court shall allow a defendant the option of performing community work; the value of the community work, which may not be lower than the amount of the fine, shall be determined under AS 12.55.055(c); in this paragraph, "community work" includes the work described in AS 12.55.055(b) or work that, on the recommendation of the municipal or borough assembly, city council, or traditional village council of the defendant's place of residence, would benefit persons within the municipality or village who are elderly or disabled;

1 **(7) AS 11.71.071(a)(2)(A), relating to possession, use, and display of**
 2 **usable marijuana; and**

3 **(8) AS 17.38.210, relating to access to marijuana establishments.**

4 * **Sec. 40.** AS 11.71.040(a)(2), 11.71.060(a)(1), 11.71.060(a)(2)(A), 11.71.160(f)(1),
 5 11.71.160(f)(2), 11.71.160(f)(3); AS 17.38.030, 17.38.040, and 17.38.050 are repealed.

6 * **Sec. 41.** The uncoded law of the State of Alaska is amended by adding a new section to
 7 read:

8 APPLICABILITY. AS 11.41.110(a), as amended by sec. 3 of this Act,
 9 AS 11.41.150(a), as amended by sec. 4 of this Act, AS 11.56.375(a), as amended by sec. 5 of
 10 this Act, AS 11.56.380(a), as amended by sec. 6 of this Act, AS 11.71.030(a), as amended by
 11 sec. 7 of this Act, AS 11.71.040(a), as amended by sec. 8 of this Act, AS 11.71.050(a), as
 12 amended by sec.10 of this Act, AS 11.71.060(a), as amended by sec. 12 of this Act, and
 13 AS 11.71.071, enacted by sec. 14 of this Act, apply to offenses committed on or after the
 14 effective date of this Act.

15 * **Sec. 42.** This Act takes effect immediately under AS 01.10.070(c).