

CS FOR HOUSE BILL NO. 123(JUD) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Amended: 4/15/15

Offered: 4/9/15

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

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5 * **Sec. 2.** AS 17.38.080 is repealed and reenacted to read: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 as a regulatory and quasi-judicial agency.
 9 The board is in the Department of Commerce, Community, and Economic
 10 Development for administrative purposes only.

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

- 15 (1) one person from the public safety sector;
- 16 (2) one person from the public health sector;
- 17 (3) one person currently residing in a rural area;
- 18 (4) one person actively engaged in the marijuana industry; and
- 19 (5) one person who is either from the general public or actively
 20 engaged in the marijuana industry.

21 (c) Notwithstanding (b) of this section, if the director is currently or was a
 22 person actively engaged in the marijuana industry within the five years preceding
 23 appointment, not more than one member of the board may also be actively engaged in
 24 the marijuana industry.

25 (d) Notwithstanding (b) of this section, if the director currently is or was
 26 employed in the public safety sector or the public health sector within the five years
 27 preceding appointment, the requirement that one member of the board be from that
 28 sector is met, and the board position that would otherwise have been filled by a person
 29 from that sector shall be filled by a person from the general public.

30 (e) Not more than two members of the board may be engaged in the same
 31 business, occupation, or profession.

(f) A board member representing the general public, the public safety sector, the public health sector, or a rural area, or the member's immediate family member may not have a financial interest in the marijuana industry.

(g) In this section,

(1) "financial interest" means holding, directly or indirectly, a legal or equitable interest in the operation of a business licensed under this chapter;

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

(3) "marijuana industry" means a business or profession related to marijuana in which the person is lawfully engaged and that is in compliance with the provisions of state law, including this chapter and regulations adopted under this chapter;

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

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

(6) "rural area" means a community with a population of 7,000 or less that is not connected by road or rail to Anchorage or Fairbanks, or with a population of 2,000 or less that is connected by road or rail to Anchorage or Fairbanks.

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

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

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

(c) A vacancy occurring in the membership of the board shall be filled within 30 days by appointment of the governor for the unexpired portion of the vacated term.

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

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

Sec. 17.38.082. Per diem and expenses. Members of the board do not receive a salary but are entitled to per diem and travel expenses authorized for boards and commissions under AS 39.20.180.

Sec. 17.38.083. Meetings. (a) The board shall meet at the call of the chair. The board shall also meet at least once each year in each judicial district of the state to study this chapter and existing board regulations in light of statewide and local issues. Unless impracticable, the board shall hold its regular meetings at the same location as and within 24 hours of the regular meetings of the Alcoholic Beverage Control Board.

(b) Three members of the board constitute a quorum for the conduct of business. A majority of the whole membership of the board must approve applications for new licenses, renewals, transfers, suspensions, and revocations of existing licenses, and product approvals as provided in regulations adopted by the board.

Sec. 17.38.084. Powers and duties of the board. (a) The board shall control the cultivation, manufacture, and sale of marijuana in the state. The board is vested with the powers and duties necessary to enforce this chapter.

(b) The board shall

(1) propose and adopt regulations;

(2) establish by regulation the qualifications for licensure including fees and factors related to the applicant's experience, criminal justice history, and financial interests;

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

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

(c) When considering an application for licensure, the board may reduce the area to be designated as the licensed premises from the area applied for if the board determines that a reduction in area is necessary to ensure control over the sale and consumption of marijuana on the premises or is otherwise in the public interest.

1 (d) The board shall adopt regulations under this chapter in accordance with
2 AS 44.62 (Administrative Procedure Act).

3 (e) The board may employ, directly or through contracts with other
4 departments and agencies of the state, enforcement agents and staff it considers
5 necessary to carry out the purposes of this chapter. The salaries of personnel of the
6 board in the exempt service shall be set by the Department of Administration.

7 (f) The board shall promptly notify all licensees and municipalities of major
8 changes to this chapter and to regulations adopted under this chapter. However, if
9 changes affect only specific classifications of licenses and permits, the board need
10 only notify those licensees and municipalities directly affected by the changes. Current
11 copies of this chapter and current copies of the regulations adopted under this chapter
12 shall be made available at all offices in the state of the Department of Commerce,
13 Community, and Economic Development and the detachment headquarters and posts
14 maintained by the division of Alaska state troopers in the Department of Public Safety.

15 **Sec. 17.38.085. Enforcement powers.** The director and the persons employed
16 for the administration and enforcement of this chapter may, with the concurrence of
17 the commissioner of public safety, exercise the powers of peace officers when those
18 powers are specifically granted by the board. Powers granted by the board under this
19 section may be exercised only when necessary for the enforcement of the criminally
20 punishable provisions of this chapter, other criminal statutes relating to substances or
21 activities regulated or permitted under this chapter, regulations of the board, and other
22 criminally punishable laws and regulations relating to marijuana.

23 **Sec. 17.38.086. Appointment and removal of director; staff.** (a) The director
24 of the Alcoholic Beverage Control Board appointed under AS 04.06.070 shall serve as
25 the director of the board. The board may remove the director by a majority vote of the
26 full membership of the board and a majority vote of the full membership of the
27 Alcoholic Beverage Control Board. The governor may remove the executive director
28 as provided in AS 04.06.070.

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

31 **Sec. 17.38.087. Duties of director.** The director shall enforce this chapter and

1 regulations adopted by the board. The director shall issue, renew, transfer, suspend, or
 2 revoke all licenses and permits and issue product approvals at the direction of the
 3 board. The board may delegate to the director the authority to temporarily grant or
 4 deny the issuance, renewal, or transfer of licenses and permits. The director's
 5 temporary grant or denial of the issuance, renewal, or transfer of a license or permit is
 6 not binding on the board. The board may delegate to the director any duty imposed by
 7 this chapter except its power to propose and adopt regulations.

8 * **Sec. 4.** AS 17.38.100 is amended by adding a new subsection to read:

9 (i) A marijuana establishment may not be registered under this chapter if a
 10 person who is an owner, officer, or agent of the marijuana establishment has been
 11 convicted of a felony and either

12 (1) less than five years have elapsed from the time of the person's
 13 conviction; or

14 (2) the person is currently on probation or parole for that felony.

15 * **Sec. 5.** AS 17.38.900(1) is amended to read:

16 (1) "board" means the **Marijuana Control Board established by**
 17 **AS 17.38.080** [ALCOHOLIC BEVERAGE CONTROL BOARD ESTABLISHED
 18 BY AS 04.06];

19 * **Sec. 6.** AS 17.38.900 is amended by adding new paragraphs to read:

20 (15) "director" means the director of the Marijuana Control Board and
 21 the Alcoholic Beverage Control Board;

22 (16) "registration" means registration or licensure, as determined by
 23 regulation.

24 * **Sec. 7.** AS 44.33.020(a)(45) is amended to read:

25 (45) supply necessary clerical and administrative services for the
 26 Alcoholic Beverage Control Board **and the Marijuana Control Board.**

27 * **Sec. 8.** AS 44.62.330(a) is amended by adding a new paragraph to read:

28 (46) Marijuana Control Board.

29 * **Sec. 9.** AS 44.66.010(a) is amended by adding a new paragraph to read:

30 (13) Marijuana Control Board (AS 17.38.080) - June 30, 2018.

31 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

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

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

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

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

8 (b) Notwithstanding AS 17.38.080(b)(4) and (5), the governor, in making the initial
9 appointments to the Marijuana Control Board, shall appoint two persons with experience in
10 the marijuana industry obtained through lawful participation in the marijuana industry or
11 participation in an academic or advocacy role relating to the marijuana industry.

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

14 TRANSITION: REGULATIONS. (a) Regulations adopted by the Alcoholic Beverage
15 Control Board to implement AS 17.38 remain in effect and may continue to be implemented,
16 enforced, amended, or repealed by the Marijuana Control Board established under
17 AS 17.38.080, as repealed and reenacted by sec. 2 of this Act.

18 (b) The Marijuana Control Board, established under AS 17.38.080, as repealed and
19 reenacted by sec. 2 of this Act, may adopt regulations necessary to implement the changes
20 made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act),
21 but not before the effective date of this Act.

22 (c) The Alcoholic Beverage Control Board may carry out the functions of the board
23 under AS 17.38 as they existed on the day before the effective date of this Act and continue
24 and complete the process for adoption of regulations proposed but not adopted before the
25 effective date of this Act until members of the Marijuana Control Board are appointed by the
26 governor under AS 17.38.080(b), as repealed and reenacted by sec. 2 of this Act.

27 * **Sec. 12.** This Act takes effect immediately under AS 01.10.070(c).