Coalition for Responsible Cannabis Legislation

To: Senator Lesil McGuire

Attn.: Amy Saltzman

From: Bruce Schulte, CRCL

Date: February 10, 2015

Re: SB 30 – Draft I

Dear Senator McGuire;

Thank you for this opportunity to comment on SB30. We greatly appreciate the evolution that this bill has undergone to this point and feel that it is developing as a solid piece of legislation.

We wish to offer the following suggestions / observations:

1) Sec 50 – *17.38.200 (1)(a) – "One or more preparations, compounds, or mixtures of an aggregate weight of more than one ounce containing marijuana and"*

   This sentence is problematic because, in the case of edibles and similar products, the aggregate weight of the product would likely include a small portion of marijuana or marijuana extract / concentrate and a much larger portion of inert ingredients (for example, an infused cookie or beverage).

   Suggest rephrasing as follows:
   *17.38.200 (1)(a) – "**One or more preparations, compounds, or mixtures containing an aggregate weight of more than one ounce of marijuana or marijuana concentrate and**"*

2) Sec 50 - *17.38.200 (2) – "knowingly 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 more than one ounce containing marijuana and"*

This sentence is similarly problematic to 17.38.200 (1)(a) in that it combines the weight of both the marijuana and the product in which it is infused.

Suggest rephrasing as follows:
*17.38.200 (1)(a) – "**knowingly manufactures or delivers, or possesses with the intent to manufacture or deliver, one or more preparations, compounds, or mixtures containing an aggregate weight of more than one ounce of marijuana or marijuana concentrate and**"*

3) Sec 50 – *AS 17.38.200 (4) - "Is not registered under this chapter and the person manufactures marijuana through use of a solvent-based extraction method using a substance other than vegetable glycerin."*

We understand and support the intent to discourage the potentially hazardous practice of hashoil extraction using butane however, as written, we feel this is overly broad and could encompass other practices using ice-water or dry-ice that are perfectly safe. This could be of particular concern for medical consumers who choose to cultivate at home but wish to use extracts for consumption or to produce their own edible products.

Suggest rephrasing as follows:
*17.38.200 (4) – "**Is not registered under this chapter and the person produces marijuana concentrates or extracts using volatile or explosive gases**."*

We believe that this more targeted language would address the legitimate concern for individual and public safety without being overly intrusive into the lives of individuals engaged in safe practices in their own homes.

4) Sec 50 – AS 17.38.200 (5) – Misconduct involving marijuana in the first degree

As written, this section appears to impose a misdemeanor penalty on a business establishment (not an individual).

Suggest rephrasing as follows:
*17.38.200 (5) – "is **an employee or agent of** a marijuana establishment registered under this chapter and with criminal negligence"*

Note: Pending revisions to Alaska Statutes (Title 4) pertaining to alcohol would remove criminal sanctions for employees selling to an underage customer and would, instead, leave the licensed business subject to fines or other sanctions imposed by the Control Board.

We suggest that this would be a more appropriate strategy for marijuana establishments, particularly if the revisions to Title 4 are adopted. In that case this sentence should be omitted entirely and replaced with corresponding language from the Title 4 revisions.

5) Sec 50 - AS 17.38.260 – Aggregate weight of live marijuana plants

We believe that this section should be omitted. We believe there should be no circumstance where law enforcement is required, encouraged, or authorized to destroy live marijuana plants in order to demonstrate or ascertain their weight.

Related statutes should refer either to a number of live plants present (regardless of weight) or to the weight of harvested material. Thus, this section is superfluous and could be abused by overzealous law enforcement and potentially result in civil lawsuits for damages.

6) Sec 50 – AS 17.38.290 – Forfeiture and seizures
We are opposed, in principle, to this section. The abuse of seizure and forfeiture laws has been rampant across the country and is one of the primary reasons that some Alaska voters supported this initiative.

Inclusion of this section could give law enforcement a strong economic incentive to investigate and arrest citizens just to seize their property or cash.

However, we recognize that the text of this section is almost identical to corresponding sections that apply to alcohol (AS 4.16.220) so we are reticent to oppose these sections entirely.

Therefore, we respectfully request that if this section is to be included, that it be noted that the legislature's intent is that any property or funds seized under this law would be used to fund drug education and treatment programs.

7) Sec 51 – AS17.38.900 (6) Definition of marijuana – We concur with removal of the word "Salt" as it is inapplicable in this context.

The term "Salt" appears to have been included in the initiative because that exact text is included in Federal Laws prohibiting marijuana. However, we can find no context in which this term would apply in a legitimate marijuana industry therefore, to avoid potential confusion with synthetic drugs like "Bath Salts", we support its removal from this statute as an appropriate and desirable grammatical correction.

8) Sec 52 – AS 17.38.900 – Definitions (20) – Refers to AS11.81.900 (53) “Public Place”.

We respect the prohibition on public consumption of marijuana however, we believe that the present definition in AS 11.81.900 (53) places unreasonable restrictions on the use of private property by businesses.

We suggest that this definition should be amended to make a distinction between Public Places to which the general public have ready, unobstructed access and other places that are actually private property accessible by the public under certain circumstances (an example might be an outdoor deck or patio of a private business or a designated area indoors where consumption of marijuana products may be allowed when not in conflict with other statutes or ordinances).

Additionally, the definition should be broad enough to allow for special events, of limited duration, where attendees pay a fee to attend and where there is a designated area for consumption of marijuana.

9) Sec 160 – Repeal of 17.38.040
We recognize that 17.38.040 would need to be repealed with the addition of section 17.38.230. We propose that the definition of a “Public Place” be amended to allow for the consumption of marijuana products in certain locations that are on the private property of a business establishment that has consented to such consumption or on the premises of an event or business operating under a state or local license that explicitly allows the consumption of marijuana during business hours or for the duration of the event.

It is worth noting that consumption may not always mean “smoking” in the traditional sense. Consumption habits have changed in recent years to include vaporizers that emit little, if any, residual vapor and, of course, edible products.

The definition of public versus private space has been an issue with several local governing bodies and we believe that clarification at the state-level would be helpful.

10) Sec 160 – Repeal of 17.38.020 / 17.38.030

We recognize that many of the provisions of 17.38.020 & 17.38.030 are addressed in (new section) 17.38.200. However, given that the provisions for personal cultivation and consumption were such an important part of this initiative to many voters, we believe that both 17.38.020 and 17.38.030 should be retained. These two sections articulate what is lawful, while section 17.38.200 details the penalties for activities that are unlawful. Thus the several sections are actually complementary.

We respectfully suggest retaining 17.38.020 modified as follows:

Sec. 17.38.020. Personal use of marijuana.
*[Notwithstanding any other provision of law, e] **E**xcept as otherwise provided in this chapter, the following acts, by persons 21 years of age or older, are lawful and shall not be a criminal or civil offense under Alaska law or the law of any political subdivision of Alaska or be a basis for seizure or forfeiture of assets under Alaska law:*

(a) Possessing, using, displaying, purchasing, or transporting marijuana accessories or one ounce or less of marijuana;
(b) Possessing, growing, processing, or transporting 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;
(c) 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;
(d) Consumption of marijuana, except that nothing in this chapter shall permit the consumption of marijuana in public; and
(e) Assisting another person who is 21 years of age or older in any of the acts described in paragraphs (a) through (d) of this section.

11) Sec 160 – Repeal of 17.38.050
    We recognize that 17.38.050 would need to be repealed with the addition of section 17.38.220.

Thank you for considering our input on this draft bill, we appreciate the opportunity to contribute to this effort and look forward to working with you and your committee further.

Regards,

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