February 19, 2015

Re: House Bill 79 – An Act relating to Marijuana

Esteemed members of the Twenty-Ninth Legislature for the State of Alaska;
Judiciary Committee:

I would like to follow up in writing with some of the concerns with this act that I was able to briefly address with you during the public testimony portion of this bill yesterday, February 18, 2015.

My first concern is not only with the definition of the term "marijuana" itself, but with the fact that the definition is being changed from its traditional legal definition in Alaska, **after the voters have deemed the substance "legal" by its former definition.**

AS 11.71.900 defined marijuana as:

(14) "marijuana" means the seeds, and leaves, buds, and flowers of the plant (genus) Cannabis, whether growing or not; it does not include the resin or oil extracted from any part of the plants, or any compound, manufacture, salt, derivative, mixture, or preparation from the resin or oil, including hashish, hashish oil, and natural or synthetic tetrahydrocannabinol; it does not include the stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the stalks, fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination;

As you can read above, the parts that were excluded from this definition, have now been included by HB 79's version. This seems deceptive to the intent of the voters, myself included, who intended to legalize the illegal portion and not expand the definition. The part of the marijuana plant that was considered "marijuana" is the "leaves, buds, and flowers of the plant (genus) Cannabis", along with seeds capable of germination. The addition of the term, "or extractions made therefrom" would cover extractions. This seems a much simpler and direct definition, which are usually the preferred type. If we have legalized the plant, the germinating ability of the seeds should no longer be an issue, and their weight should not be included in the definition of "marijuana". Additionally, adding "with a THC content greater than 3%" after the word cannabis, would bring the definition into conformity with the international definition of hemp being 3% or less. (See HIA v. DEA, 333 F.3d 1082 (9th Cir. 2003))

The way the language currently reads there is a lot of direct contradiction of concepts. So, if the fiber from the stock is excluded from the definition, where do stock and stem fit in? Are they considered the "marijuana" and subject to the weight limitations, as such? By HB 79's version "all parts of the plant of the genus cannabis whether growing or not" are included, which would now seem to cover the stocks and stems. The bill seems clear that the definition excludes "the weight of any other ingredient combined with

marijuana to prepare topical or oral administrations, food, drink, or other products", yet members of the committee seemed to think they were included, and again, by this bills confusing definitions includes, "every … derivative, mixture of preparation of the plant". So which is it?

Page 25, line 28, should read "the basis", not "bases" to be grammatically correct.

Page 26, line 16, should read "the basis", not "bases" to be grammatically correct.

Page 27, line 6 & line 25, should read "the basis", not "bases" to be grammatically correct.

Page 28, line 13, should read "the basis", not "bases" to be grammatically correct.

Page 37, line 7, the term "which" is grammatically correct and should be retained in the language instead of the word "that".

HB 79 appears to limit even licensed dispensary owner to 24 plants or less, and appears to continue the law that makes 25 plants or more a felony offense. This, again, does not seem to conform to the will of the voters, and will hamper the business owner's ability to produce product necessary to operate within the lawful business opportunities that Ballot Measure 2 was envisioning.

Sec. 17.38.260 is kind of laughable, not only because of the unlikeliness of "significant adverse marijuana reaction", but that by seeking medical assistance for someone, a grower is protected from prosecution for having over twenty-five (25) plants. However, upon further reflection of this provision, and my years of defense paralegal work, I approve of this section without revision.

I object to the inclusion of the language in Sec. 17.38.200(a)(1)(A)(v) and Sec. 17.38.200(a)(1)(B)(v). This provision is unconstitutional and is contrary to the business practices of the industry, as well as an unequal application of the law. Many industries use "volatile or explosive gas" as part of their daily operations and are not made criminals by this act. People endeavoring to create businesses in the marijuana industry should not criminally penalized for doing the same activities as other business are allowed to do without reservation or recourse. Gas and alcohol extractions are more efficient means of extraction than glycerin methods, and form the basis of many medicinal and edible applications.

As I stated in the hearing, some people are already engaged in this [gas extraction] behavior and this section should not be implemented just to make more criminals out of them. **Education is the key to safe practices**. Every year in Alaska, as the temperatures drop and people begin to use fireplaces, the occurrence of house fires increases, and yet, the legislature has never "outlawed" these documented fire hazards. Now, in response to a few unfortunate but well publicized incidences involving butane, the legislature is making a gut reaction into an impermissible restriction of a right. I

predict this will not stand a certain and swift judicial challenge to its enactment, and I encourage you to remove Sec. 17.38.200(a)(1)(A)(v) and Sec. 17.38.200(a)(1)(B)(v).

I object to the inclusion of the term "marijuana abusers" throughout the entire provision as it is undefined, unnecessary and was not part of the spirit or intent of the ballot measure. Just because this plant does not have the political lobby power of the dairy industry or some equally powerful lobby, does not mean that misinformation about the efficacy of cannabis medicinally or its ability to be "abused" will be allowed to go unchecked. Defining the term "medical user" v. "marijuana abuser" is like trying to define the word terrorist. One man's terrorist is another man's freedom fighter, and one man's marijuana user is another man's marijuana abuser. One fact is not debatable: Marijuana has less side effects than prescription drugs and aspirin has killed more people.

The daily use of marijuana is not abuse, and in fact, may be necessary to long and healthy human life. Edestin, the protein found in the meat of the seed of the plant, imitates human blood plasma and is the most digestible protein for the human body. Three (3) tablespoons contains 2500 mg Omega 3, 6 & 9, and a whopping 10 grams of protein. Some of the proposed revisions seem intent on continuing to associate a negative stigma to use of this plant, and aside from being unnecessary to the implementation of the ballot measure, are downright mean spirited. Shame on whomever is approaching this revision of law from that position!

I object to all provisions that restrict the rights implemented by Alaskan voters on November 2, 2014. We did not vote to restrict the rights of prisoners or probationers to interact lawfully with this plant. There is a rational basis for restricting "alcohol" or "controlled substances" but not marijuana from that population. In fact, there is more of an argument that allowing the use of marijuana helps the probationer not use alcohol or other controlled substances.

I object to Sec. 08.68.270 as to the terms "habitually uses" and marijuana. (Page 3, Line 8.) As marijuana is a substance recommended for daily use by doctors, and no exception is afforded in this act, its inclusion here is arbitrary and capricious.

I object to the inclusion of marijuana in Sec. 09.50.170, as unnecessary, arbitrary and capricious.

I object to the term "marijuana impairment" and "marijuana impairment testing" without definitions of those terms.

Thank-you for your consideration. I look forward to seeing the progression of this bill.

Sincerely,

R. L. Marcy

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