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Martin  
2/19/15

**CS FOR HOUSE BILL NO. 75(CRA)**

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

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered:  
Referred:

Sponsor(s): HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the regulation of marijuana by municipalities; relating to  
2 marijuana; and providing for an effective date."

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

4 \* **Section 1.** AS 11.71.900(14) is amended to read:

5 (14) "marijuana" means all parts [THE SEEDS, AND LEAVES,  
6 BUDS, AND FLOWERS] of the plant (genus) Cannabis, whether growing or not, the  
7 seeds thereof, [; IT DOES NOT INCLUDE] the resin [OR OIL] extracted from any  
8 part of the plant, and [PLANTS, OR] any compound, manufacture, [SALT,]  
9 derivative, mixture, or preparation of the plant, its seeds, or its resin, including  
10 marijuana concentrate; "marijuana" [FROM THE RESIN OR OIL, INCLUDING  
11 HASHISH, HASHISH OIL, AND NATURAL OR SYNTHETIC  
12 TETRAHYDROCANNABINOL; IT] does not include [THE STALKS OF THE  
13 PLANT,] fiber produced from the stalks, oil or cake made from the seeds of the plant,  
14 [ANY OTHER COMPOUND, MANUFACTURE, SALT, DERIVATIVE,

1 MIXTURE, OR PREPARATION OF THE STALKS, FIBER, OIL OR CAKE, OR  
 2 THE] sterilized seed of the plant that [WHICH] is incapable of germination, or the  
 3 weight of any other ingredient combined with marijuana to prepare topical or  
 4 oral administrations, food, drink, or other products;

5 \* **Sec. 2.** AS 17.38.020 is amended to read:

6 **Sec. 17.38.020. Personal use of marijuana.** Notwithstanding any other  
 7 provision of law, except as otherwise provided in this chapter, the following acts, by  
 8 persons 21 years of age or older, are lawful and **are not** [SHALL NOT BE A] criminal  
 9 or civil **offenses** [OFFENSE] under Alaska law or the law of any political subdivision  
 10 of Alaska or **bases** [BE A BASIS] for seizure or forfeiture of assets under Alaska law:

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

13 (2) possessing, growing, processing, or transporting **not** [NO] more  
 14 than six marijuana plants, with three or fewer being mature, flowering plants, and  
 15 possession of the marijuana produced by the plants on the premises where the plants  
 16 were grown;

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

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

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

24 **(i) using, displaying, purchasing, or transporting**  
 25 **marijuana in excess of the amount allowed in this section;**

26 **(ii) possessing, growing, processing, or transporting**  
 27 **marijuana plants in excess of the amount allowed in this section.**

28 \* **Sec. 3.** AS 17.38.040 is amended to read:

29 **Sec. 17.38.040. Public consumption banned, penalty.** It is unlawful to  
 30 consume marijuana in **a public place**. A person who violates this section is guilty of a  
 31 violation punishable by a fine of up to \$100.

1 \* **Sec. 4.** AS 17.38.070(f) is amended to read:

2 (f) Nothing in this section prevents the imposition of penalties on [UPON]  
3 marijuana establishments for violating this chapter or rules adopted by the board or a  
4 municipality under [LOCAL GOVERNMENTS PURSUANT TO] this chapter.

5 \* **Sec. 5.** AS 17.38.100(c) is amended to read:

6 (c) Upon receiving an application or renewal application for a marijuana  
7 establishment, the board shall immediately forward a copy of each application and half  
8 of the registration application fee to the local regulatory authority for the municipality  
9 [LOCAL GOVERNMENT] in which the applicant desires to operate the marijuana  
10 establishment, unless the municipality [LOCAL GOVERNMENT] has not designated  
11 a local regulatory authority under [PURSUANT TO] AS 17.38.110(c).

12 \* **Sec. 6.** AS 17.38.100(d) is amended to read:

13 (d) Within [45 TO] 90 days after receiving an application or renewal  
14 application, the board shall issue an annual registration to the applicant unless the  
15 board finds the applicant is not in compliance with regulations adopted under  
16 [ENACTED PURSUANT TO] AS 17.38.090 or the board is notified by the relevant  
17 municipality [LOCAL GOVERNMENT] that the applicant is not in compliance with  
18 ordinances enacted and regulations adopted under [MADE PURSUANT TO]  
19 AS 17.38.110 and in effect at the time of application.

20 \* **Sec. 7.** AS 17.38.100(e) is amended to read:

21 (e) If a municipality [LOCAL GOVERNMENT] has enacted a numerical  
22 limit on the number of marijuana establishments and a greater number of applicants  
23 seek registrations, the board shall solicit and consider input from the local regulatory  
24 authority as to the municipality's [LOCAL GOVERNMENT'S] preference [OR  
25 PREFERENCES] for registration.

26 \* **Sec. 8.** AS 17.38.110(a) is amended to read:

27 (a) A municipality [LOCAL GOVERNMENT] may prohibit the operation of  
28 marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana  
29 testing facilities, [OR] retail marijuana stores, or marijuana clubs through the  
30 enactment of an ordinance or by a voter initiative. An established village may  
31 prohibit the operation of marijuana establishments by a voter initiative as

1 provided in AS 17.38.200.

2 \* **Sec. 9.** AS 17.38.110(b) is amended to read:

3 (b) A municipality [LOCAL GOVERNMENT] may adopt [ENACT]  
4 ordinances or regulations not in conflict with this chapter or with regulations adopted  
5 under [ENACTED PURSUANT TO] this chapter, governing the time, place, manner,  
6 and number of marijuana establishment operations. A municipality [LOCAL  
7 GOVERNMENT] may establish civil penalties for violation of an ordinance or  
8 regulation governing the time, place, and manner of a marijuana establishment that  
9 may operate in the municipality [SUCH LOCAL GOVERNMENT].

10 \* **Sec. 10.** AS 17.38.110(c) is amended to read:

11 (c) A municipality [LOCAL GOVERNMENT] may designate a local  
12 regulatory authority that is responsible for processing applications submitted for a  
13 registration to operate a marijuana establishment within the boundaries of the  
14 municipality [LOCAL GOVERNMENT]. The municipality [LOCAL  
15 GOVERNMENT] may provide that the local regulatory authority may issue [SUCH]  
16 registrations should the issuance by the municipality [LOCAL GOVERNMENT]  
17 become necessary because of a failure by the board to adopt regulations under  
18 [PURSUANT TO] AS 17.38.090 or to accept or process applications in accordance  
19 with AS 17.38.100.

20 \* **Sec. 11.** AS 17.38.110(d) is amended to read:

21 (d) A municipality [LOCAL GOVERNMENT] may establish procedures for  
22 the issuance, suspension, and revocation of a registration issued by the municipality  
23 [LOCAL GOVERNMENT] in accordance with (f) [OF THIS SECTION] or (g) of this  
24 section. These procedures shall be subject to all requirements of AS 44.62  
25 (Administrative Procedure Act).

26 \* **Sec. 12.** AS 17.38.110(e) is amended to read:

27 (e) A municipality [LOCAL GOVERNMENT] may establish a schedule of  
28 annual operating, registration, and application fees for marijuana establishments,  
29 provided, the application fee is [SHALL ONLY BE] due only if an application is  
30 submitted to a municipality [LOCAL GOVERNMENT] in accordance with (f) of this  
31 section and a registration fee is [SHALL ONLY BE] due only if a registration is

1 issued by a municipality [LOCAL GOVERNMENT] in accordance with (f) [OF  
2 THIS SECTION] or (g) of this section.

3 \* **Sec. 13.** AS 17.38.110(h) is amended to read:

4 (h) A local regulatory authority issuing a registration to an applicant shall do  
5 so within 90 days after [OF] receipt of the submitted or resubmitted application unless  
6 the local regulatory authority finds and notifies the applicant that the applicant is not  
7 in compliance with ordinances and regulations adopted under [MADE PURSUANT  
8 TO] (b) of this section in effect at the time the application is submitted to the local  
9 regulatory authority. The municipality [LOCAL GOVERNMENT] shall notify the  
10 board if an annual registration has been issued to the applicant.

11 \* **Sec. 14.** AS 17.38.110(i) is amended to read:

12 (i) A registration issued by a municipality [LOCAL GOVERNMENT] in  
13 accordance with (f) [OF THIS SECTION] or (g) of this section shall have the same  
14 force and effect as a registration issued by the board in accordance with AS 17.38.100.  
15 The holder of the [SUCH] registration is [SHALL] not [BE] subject to regulation or  
16 enforcement by the board during the term of that registration.

17 \* **Sec. 15.** AS 17.38.110(j) is amended to read:

18 (j) A subsequent or renewed registration may be issued under (f) of this  
19 section on an annual basis only upon resubmission to the municipality [LOCAL  
20 GOVERNMENT] of a new application submitted to the board under [PURSUANT  
21 TO] AS 17.38.100.

22 \* **Sec. 16.** AS 17.38.110 is amended by adding new subsections to read:

23 (m) A municipality that has not prohibited the operation of marijuana  
24 cultivation facilities, marijuana product manufacturing facilities, marijuana testing  
25 facilities, retail marijuana stores, or marijuana clubs under (a) of this section shall  
26 create a local advisory board to advise the municipality on issues related to licensing  
27 of marijuana establishments and regulation of marijuana.

28 (n) Except as provided in AS 29, the exercise of the powers authorized by this  
29 section by a borough may be exercised only on a nonareawide basis. In this  
30 subsection, "nonareawide" means throughout the area of a borough outside all cities in  
31 the borough.

1 \* **Sec. 17.** AS 17.38 is amended by adding new sections to read:

2 **Sec. 17.38.200. Local option.** (a) If a majority of the voters voting on the  
3 question vote to approve the option, an established village shall exercise a local option  
4 to prohibit the operation of marijuana establishments.

5 (b) A ballot question to adopt a local option under this section must at least  
6 contain language substantially similar to the following: "Shall (name of village) adopt  
7 a local option to prohibit the operation of marijuana establishments? (yes or no)."

8 **Sec. 17.38.210. Removal of local option.** (a) If a majority of the voters voting  
9 on the question vote to remove the option, an established village shall remove a local  
10 option previously adopted under AS 17.38.200. The option is repealed effective the  
11 first day of the month following certification of the results of the election.

12 (b) A ballot question to remove a local option under this section must at least  
13 contain language substantially similar to the following: "Shall (name of village)  
14 remove the local option currently in effect, that prohibits the operation of marijuana  
15 establishments, so that there is no longer any local option in effect? (yes or no)."

16 (c) When issuing a registration in the area that has removed a local option, the  
17 board shall give priority to an applicant who was formerly registered and whose  
18 registration was not renewed because of the results of the previous local option  
19 election. However, an applicant described in this subsection does not have a legal right  
20 to registration, and the board is not required to approve the application.

21 **Sec. 17.38.220. Effect on registrations of prohibition of marijuana**  
22 **establishments.** If a majority of voters vote to prohibit the operation of marijuana  
23 establishments under AS 17.38.200, the board may not issue, renew, or transfer,  
24 between persons or locations, a registration for a marijuana establishment located  
25 within the perimeter of the established village. A registration that may not be renewed  
26 because of a local option election held under AS 17.38.200 is void 90 days after the  
27 results of the election are certified. A registration that expires during the 90 days after  
28 the results of a local option election are certified may be extended, until it is void  
29 under this section, by payment of a prorated portion of the annual registration fee.

30 **Sec. 17.38.230. Prohibition of sale, purchase, and manufacture after**  
31 **election.** (a) If a majority of the voters vote to prohibit the operation of marijuana

1 establishments under AS 17.38.200, a person may not knowingly sell, purchase, or  
2 manufacture marijuana in the established village.

3 (b) If there are registered establishments within the established village, the  
4 prohibition on sale, purchase, and manufacture is effective beginning 90 days after the  
5 results of the election are certified. If there are no registered establishments within the  
6 established village, the prohibition on possession is effective beginning 60 days after  
7 the results of the election are certified.

8 (c) A person who violates this section is guilty, upon conviction, of a class A  
9 misdemeanor. Each violation is a separate offense.

10 **Sec. 17.38.240. Procedure for local option elections.** (a) An election to adopt  
11 a local option under AS 17.38.200 or remove a local option under AS 17.38.210 shall  
12 be conducted as required in this section.

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

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

21 (d) After a petition has been certified as sufficient to meet the requirements of  
22 (b) of this section, another petition may not be filed or certified until after the question  
23 presented in the first petition has been voted on. Only one local option question may  
24 be presented in an election.

25 **Sec. 17.38.250. Establishment of perimeter of established village.** (a)  
26 Except as provided under (b) and (c) of this section, for purposes of AS 17.38.200 and  
27 17.38.220, the perimeter of an established village is a circle around the established  
28 village that includes an area within a five-mile radius of the post office of the  
29 established village. If the established village does not have a post office, the perimeter  
30 of an established village is a circle around the established village that includes an area  
31 within a five-mile radius of another site selected by the local governing body or by the

1 board if the established village does not have a local governing body.

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

5 (1) also adopted a local option under AS 17.38.200, the local option of  
6 the established village that is less restrictive applies in the overlapping area;

7 (2) not adopted a local option under AS 17.38.200, the local option  
8 does not apply in the overlapping area.

9 (c) If the board determines that the perimeter of an established village as  
10 provided under (a) and (b) of this section does not accurately reflect the perimeter of  
11 the established village, the board may establish the perimeter of the established village  
12 and the areas of overlapping perimeter described under (b) of this section for purposes  
13 of applying a local option selected under this chapter.

14 **Sec. 17.38.260. Notice of the results of a local option election.** If a majority  
15 of the voters vote to prohibit or remove a local option under AS 17.38.200 or  
16 17.38.210, the lieutenant governor shall notify the board of the results of the election  
17 immediately after the results are certified. The board shall immediately notify the  
18 Department of Law and the Department of Public Safety of the results of the election.

19 \* **Sec. 18.** AS 17.38.900(5) is amended to read:

20 (5) "local regulatory authority" means the office or entity designated to  
21 process marijuana establishment applications by a municipality [LOCAL  
22 GOVERNMENT];

23 \* **Sec. 19.** AS 17.38.900(9) is amended to read:

24 (9) "marijuana establishment" means a marijuana cultivation facility, a  
25 marijuana testing facility, a marijuana product manufacturing facility, [OR] a retail  
26 marijuana store, or a marijuana club;

27 \* **Sec. 20.** AS 17.38.900(6) is amended to read:

28 (6) "marijuana" means all parts of the plant of the genus cannabis  
29 whether growing or not, the seeds thereof, the resin extracted from any part of the  
30 plant, and every compound, manufacture, [SALT,] derivative, mixture, or preparation  
31 of the plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does



1 not include fiber produced from the stalks, oil, or cake made from the seeds of the  
2 plant, sterilized seed of the plant that [WHICH] is incapable of germination, or the  
3 weight of any other ingredient combined with marijuana to prepare topical or oral  
4 administrations, food, drink, or other products;

5 \* **Sec. 21.** AS 17.38.900 is amended by adding new paragraphs to read:

6 (15) "established village" means an area that does not contain any part  
7 of an incorporated city or another established village and that is an unincorporated  
8 community that is in the unorganized borough and that has 25 or more permanent  
9 residents;

10 (16) "marijuana club" means an entity registered to allow consumption  
11 of marijuana by members of the club on the registered premises and whose members  
12 are 21 years of age or older;

13 (17) "public place" has the meaning given in AS 11.81.900.

14 \* **Sec. 22.** AS 17.38.900(4) is repealed.

15 \* **Sec. 23.** This Act takes effect immediately under AS 01.10.070(c).