



# ALASKA STATE LEGISLATURE

## House Community and Regional Affairs Committee

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### SECTIONAL ANALYSIS

#### CSHB 75(CRA)

(29-LS0345\P)

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

#### **NON-SUBSTANTIVE**

The following sections are non-substantive changes to AS 17.38 that change references of “local government(s)” to “municipality/municipalities” and/or provide grammatical changes to conform to legislative drafting standards.

Section 3 – Page 2, lines 28-31

Section 4 – Page 3, lines 1-4

Section 5 – Page 3, lines 5-11

Section 6 – Page 3, lines 12-19

Section 7 – Page 3, lines 20-25

Section 9 – Page 4, lines 2-9

Section 10 – Page 4, lines 10-19

Section 11 – Page 4, lines 20-25

Section 12 – Page 4, line 26 through Page 5, line 2

Section 13 – Page 5, lines 3-10

Section 14 – Page 5, lines 11-16

Section 15 – Page 5, lines 17-21

Section 18 – Page 8, lines 19-22

## **SUBSTANTIVE**

Section 1 (Page 1, line 4 through Page 2, line 4) – Section 1 amends the definition of “marijuana” in AS 11.71.900(14), Alaska’s criminal code, to conform to the language established in AS 17.38 (ballot measure 2) with one minor exception. “Salt” (Page 1, line 8), included in the ballot measure language was thought to not have a functional meaning and has been deleted.

Section 2 (Page 2, lines 5-27) – When looking through the language as adopted by the ballot measure, municipal attorneys expressed some concern about not having a specific definition of “assisting” found in AS 17.38.020(e). Language found on Page 2, lines 21-27 attempts to provide a specific definition.

Section 8 (Page 3, line 26 through Page 4, line 1) – Section 8 does two important things.

1. First it makes reference to “marijuana clubs” as a new category of marijuana establishments. Municipalities have expressed a desire for the legislature to include and define these types of establishments which would ostensibly provide marijuana users for using marijuana products other than within the home. The purpose for including and defining marijuana clubs is to provide municipalities from approving or disapproving these establishments within their jurisdictions.
2. Section 8 begins to close a loophole, unintended by the initiative sponsors, to provide communities not in an organized city or borough to allow for a local option election in an “established village”. This is taken from Title 4 regarding local option elections for alcohol. As a reminder, because of Ravin v. State (537 P .2d 494), personal possession of small amounts of marijuana cannot be prohibited, so the prohibition in this section is limited to the operation of marijuana establishments.

Section 16 (Page 5, lines 22-31) – As a drafting note, “shall” found on Page 5, line 25 should be “may”. The committee chair has an amendment prepared to make that correction. The intent is that municipalities that have not prohibited marijuana establishments and commercial activities “*may*” create a local advisory board.

More importantly, Section 16 (Page 5, lines 28-31) stipulate that any powers authorized to boroughs may only be adopted on a “nonareawide” basis, meaning that those powers would not extend into cities that lay within a borough’s boundaries.

Section 17 (Page 6, line 1 through Page 8, line 18) – Section 17 sets forth the process by which an established village can hold a local option election for the prohibition or the removal of a prohibition of marijuana establishments and commercial marijuana activities within the boundary of an established village.

*\*Note: There is a question about the reference to “prohibit of remove” found on Page 8, Line 15. LAA Legal has been contacted for clarification, which has not been received at the time of preparing this sectional.*

Section 19 (Page 8, lines 23-26) – Adds “marijuana club” to the definition of “marijuana establishment.

Section 20 (Page 8, line 27 through Page 9, line 4) – Revises the definition of “marijuana”, consistent with Section 1 of this bill. The practical effect is that there is only one definition of “marijuana” in statute, thus eliminating potential confusion and legal challenges.

Section 21 (Page 9, lines 5-13) – Provides express definitions of “established village”, “marijuana club” and “public place” as recommended by municipalities. Of note, “public place” follows the definition found in AS 11.81.900.

Section 22 (Page 9, line 14) – Removes “local government” from the definitions section found in AS 17.38.

Section 23 (Page 9, line 15) – Provides an immediate effective date for the provisions of the bill.