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Martin  
2/24/15

**CS FOR HOUSE BILL NO. 59( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-NINTH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVE SEATON**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act relating to marijuana concentrates; relating to marijuana establishments and**  
2 **to the licensing of marijuana establishments; and providing for an effective date."**

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

4 **\* Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
5 to read:

6 LEGISLATIVE INTENT. It is the intent of the legislature in order to implement the  
7 marijuana initiative in an orderly process

8 (1) to focus on the provisions related to growth and sale of marijuana and  
9 licensing of marijuana establishments not later than November 24, 2015;

10 (2) to delay regulations relating to legal manufacture, delivery, possession,  
11 possession with the intent to manufacture or deliver, sale, packaging, or display of marijuana  
12 concentrates to not later than November 24, 2016, in response to the difficulties other  
13 jurisdictions have found in unintended consequences of regulations permitting marijuana  
14 concentrates; and

1 (3) during the period of the delay, that activities related to marijuana  
2 concentrates remain illegal and may form the basis for revocation of an establishment license  
3 or for seizure or forfeiture of assets under state law.

4 \* Sec. 2. AS 17.38.070(a) is amended to read:

5 (a) Notwithstanding any other provision of law, the following acts, when  
6 performed by a retail marijuana store with, and permitted by, a current, valid license  
7 [REGISTRATION], or a person 21 years of age or older who is acting in the person's  
8 capacity as an owner, employee, or agent of a retail marijuana store, are lawful and  
9 are [SHALL] not offenses [BE AN OFFENSE] under Alaska law or [BE] a basis for  
10 seizure or forfeiture of assets under Alaska law:

11 (1) possessing, displaying, storing, or transporting marijuana or  
12 marijuana products, except that marijuana and marijuana products may not be  
13 displayed in a manner that is visible to the general public from a public right-of-way;

14 (2) delivering or transferring marijuana or marijuana products to a  
15 marijuana testing facility;

16 (3) receiving marijuana or marijuana products from a marijuana testing  
17 facility;

18 (4) purchasing marijuana from a marijuana cultivation facility;

19 (5) purchasing marijuana or marijuana products from a marijuana  
20 product manufacturing facility; and

21 (6) delivering, distributing, or selling marijuana or marijuana products  
22 to consumers.

23 \* Sec. 3. AS 17.38.070(b) is amended to read:

24 (b) Notwithstanding any other provision of law, the following acts, when  
25 performed by a marijuana cultivation facility with, and permitted by, a current, valid  
26 license [REGISTRATION], or a person 21 years of age or older who is acting in the  
27 person's capacity as an owner, employee, or agent of a marijuana cultivation facility,  
28 are lawful and are [SHALL] not offenses [BE AN OFFENSE] under Alaska law or  
29 [BE] a basis for seizure or forfeiture of assets under Alaska law:

30 (1) cultivating, manufacturing, harvesting, processing, packaging,  
31 transporting, displaying, storing, or possessing marijuana;

- 1 (2) delivering or transferring marijuana to a marijuana testing facility;  
2 (3) receiving marijuana from a marijuana testing facility;  
3 (4) delivering, distributing, or selling marijuana to a marijuana  
4 cultivation facility, a marijuana product manufacturing facility, or a retail marijuana  
5 store;  
6 (5) receiving or purchasing marijuana from a marijuana cultivation  
7 facility; and  
8 (6) receiving marijuana seeds or immature marijuana plants from a  
9 person 21 years of age or older.

10 \* **Sec. 4.** AS 17.38.070(c) is amended to read:

11 (c) Notwithstanding any other provision of law, the following acts, when  
12 performed by a marijuana product manufacturing facility with, and permitted by, a  
13 current, valid license [REGISTRATION], or a person 21 years of age or older who is  
14 acting in the person's capacity as an owner, employee, or agent of a marijuana product  
15 manufacturing facility, are lawful and are [SHALL] not offenses [BE AN OFFENSE]  
16 under Alaska law or [BE] a basis for seizure or forfeiture of assets under Alaska law:

- 17 (1) packaging, processing, transporting, manufacturing, displaying, or  
18 possessing marijuana or marijuana products;  
19 (2) delivering or transferring marijuana or marijuana products to a  
20 marijuana testing facility;  
21 (3) receiving marijuana or marijuana products from a marijuana testing  
22 facility;  
23 (4) delivering or selling marijuana or marijuana products to a retail  
24 marijuana store or a marijuana product manufacturing facility;  
25 (5) purchasing marijuana from a marijuana cultivation facility; and  
26 (6) purchasing of marijuana or marijuana products from a marijuana  
27 product manufacturing facility.

28 \* **Sec. 5.** AS 17.38.090(a) is amended to read:

29 (a) Not later than nine months after February 24, 2015, the board shall adopt  
30 regulations necessary for implementation of this chapter. The [SUCH] regulations  
31 may [SHALL] not prohibit the operation of marijuana establishments, either expressly

1 or through regulations that make their operation unreasonably impracticable. The  
2 [SUCH] regulations must [SHALL] include

3 (1) procedures for the issuance, renewal, suspension, and revocation of  
4 a license [REGISTRATION] to operate a marijuana establishment; the [, WITH  
5 SUCH] procedures are subject to all requirements of AS 44.62 (Administrative  
6 Procedure Act);

7 (2) a schedule of application, license [REGISTRATION], and renewal  
8 fees, provided, application fees may [SHALL] not exceed \$5,000, with this upper  
9 limit adjusted annually for inflation, unless the board determines a greater fee is  
10 necessary to carry out its responsibilities under this chapter;

11 (3) qualifications for licensure [REGISTRATION] that are directly  
12 and demonstrably related to the operation of a marijuana establishment;

13 (4) security requirements for marijuana establishments, including for  
14 the transportation of marijuana by marijuana establishments;

15 (5) requirements to prevent the sale or diversion of marijuana and  
16 marijuana products to persons under [THE AGE OF] 21 years of age;

17 (6) labeling requirements for marijuana and marijuana products sold or  
18 distributed by a marijuana establishment;

19 (7) health and safety regulations and standards for the manufacture of  
20 marijuana products and the cultivation of marijuana;

21 (8) reasonable restrictions on the advertising and display of marijuana  
22 and marijuana products; and

23 (9) civil penalties for the failure to comply with regulations made  
24 under [PURSUANT TO] this chapter.

25 \* **Sec. 6.** AS 17.38.090 is amended by adding a new subsection to read:

26 (c) The board shall adopt regulations governing the manufacture, delivery,  
27 possession, possession with intent to manufacture or deliver, use, or display of  
28 marijuana concentrates. At a minimum, the regulations must include labeling and  
29 packaging requirements. The regulations may include

30 (1) prohibitions on combining marijuana concentrates with other  
31 addictive substances; or

1 (2) requirements to certify new products before they are available for  
2 retail.

3 \* Sec. 7. AS 17.38.100(a) is amended to read:

4 (a) Each application or renewal application for a license [REGISTRATION]  
5 to operate a marijuana establishment shall be submitted to the board. A renewal  
6 application may be submitted up to 90 days before [PRIOR TO] the expiration of the  
7 marijuana establishment's license [REGISTRATION].

8 \* Sec. 8. AS 17.38.100(c) is amended to read:

9 (c) Upon receiving an application or renewal application for a marijuana  
10 establishment, the board shall immediately forward a copy of each application and half  
11 of the license [REGISTRATION] application fee to the local regulatory authority for  
12 the local government in which the applicant desires to operate the marijuana  
13 establishment, unless the local government has not designated a local regulatory  
14 authority under [PURSUANT TO] AS 17.38.110(c).

15 \* Sec. 9. AS 17.38.100(d) is amended to read:

16 (d) Within [45 TO] 90 days after receiving an application or renewal  
17 application, the board shall issue an annual license [REGISTRATION] to the  
18 applicant unless the board finds the applicant is not in compliance with regulations  
19 enacted under [PURSUANT TO] AS 17.38.090 or the board is notified by the  
20 relevant local government that the applicant is not in compliance with ordinances and  
21 regulations adopted under [MADE PURSUANT TO] AS 17.38.110 and in effect at  
22 the time of application.

23 \* Sec. 10. AS 17.38.100(e) is amended to read:

24 (e) If a local government has enacted a numerical limit on the number of  
25 marijuana establishments and a greater number of applicants seek licensure  
26 [REGISTRATIONS], the board shall solicit and consider input from the local  
27 regulatory authority as to the local government's preference or preferences for  
28 licensing [REGISTRATION].

29 \* Sec. 11. AS 17.38.100(g) is amended to read:

30 (g) Every marijuana establishment license must [REGISTRATION SHALL]  
31 specify the location where the marijuana establishment will operate. A separate

1        license is [REGISTRATION SHALL BE] required for each location at which a  
2        marijuana establishment operates.

3        \* **Sec. 12.** AS 17.38.100 is amended by adding new subsections to read:

4                (i) A license issued under this section does not authorize a marijuana  
5        establishment to manufacture, deliver, possess, possess with intent to manufacture or  
6        deliver, or display marijuana concentrates or products containing marijuana  
7        concentrates.

8                (j) The board may by regulation establish different types of licenses or license  
9        endorsements.

10               (k) The board may not issue a marijuana retail store license to a person who  
11        holds a license issued under AS 04 or to an applicant for a retail store license who  
12        intends to use any portion of premises licensed under AS 04.

13               (l) A license issued to a marijuana product manufacturing facility does not  
14        authorize a marijuana product manufacturing facility to combine marijuana with  
15        tobacco, nicotine, or alcohol, or a product containing tobacco, nicotine, or alcohol.

16        \* **Sec. 13.** AS 17.38.110(c) is amended to read:

17               (c) A local government may designate a local regulatory authority that is  
18        responsible for processing applications submitted for a license [REGISTRATION] to  
19        operate a marijuana establishment within the boundaries of the local government. The  
20        local government may provide that the local regulatory authority may issue licenses if  
21        [SUCH REGISTRATIONS SHOULD] the issuance by the local government become  
22        necessary because of a failure by the board to adopt regulations under [PURSUANT  
23        TO] AS 17.38.090 or to accept or process applications under [IN ACCORDANCE  
24        WITH] AS 17.38.100.

25        \* **Sec. 14.** AS 17.38.110(d) is amended to read:

26               (d) A local government may establish procedures for the issuance, suspension,  
27        and revocation of a license [REGISTRATION] issued by the local government in  
28        accordance with (f) [OF THIS SECTION] or (g) of this section. These procedures  
29        shall be subject to all requirements of AS 44.62 (Administrative Procedure Act).

30        \* **Sec. 15.** AS 17.38.110(e) is amended to read:

31               (e) A local government may establish a schedule of annual operating,

1 licensing [REGISTRATION], and application fees for marijuana establishments. The  
2 [, PROVIDED, THE] application fee is [SHALL ONLY BE] due only if an  
3 application is submitted to a local government in accordance with (f) of this section,  
4 and a license [REGISTRATION] fee is [SHALL ONLY BE] due only if a license  
5 [REGISTRATION] is issued by a local government in accordance with (f) [OF THIS  
6 SECTION] or (g) of this section.

7 \* **Sec. 16.** AS 17.38.110(f) is amended to read:

8 (f) If the board does not issue a license [REGISTRATION] to an applicant  
9 within 90 days after [OF] receipt of the application filed in accordance with  
10 AS 17.38.100 and does not notify the applicant of the specific, permissible reason for  
11 its denial, in writing and within that [SUCH] time period, or if the board has adopted  
12 regulations under [PURSUANT TO] AS 17.38.090 and has accepted applications  
13 under [PURSUANT TO] AS 17.38.100 but has not issued any licenses  
14 [REGISTRATIONS] by 15 months after the effective date of this Act, the applicant  
15 may resubmit its application directly to the local regulatory authority under [,  
16 PURSUANT TO] (c) of this section, and the local regulatory authority may issue an  
17 annual license [REGISTRATION] to the applicant. If an application is submitted to a  
18 local regulatory authority under this subsection, the board shall forward to the local  
19 regulatory authority the application fee paid by the applicant to the board upon request  
20 by the local regulatory authority.

21 \* **Sec. 17.** AS 17.38.110(g) is amended to read:

22 (g) If the board does not adopt regulations required by AS 17.38.090, an  
23 applicant may submit an application directly to a local regulatory authority after [ONE  
24 YEAR AFTER] February 24, 2016, [2015] and the local regulatory authority may  
25 issue an annual license [REGISTRATION] to the applicant.

26 \* **Sec. 18.** AS 17.38.110(h) is amended to read:

27 (h) A local regulatory authority issuing a license [REGISTRATION] to an  
28 applicant shall do so within 90 days after [OF] receipt of the submitted or resubmitted  
29 application unless the local regulatory authority finds and notifies the applicant that  
30 the applicant is not in compliance with ordinances and regulations made under  
31 [PURSUANT TO] (b) of this section in effect at the time the application is submitted

1 to the local regulatory authority. The local government shall notify the board if an  
2 annual license [REGISTRATION] has been issued to the applicant.

3 \* **Sec. 19.** AS 17.38.110(i) is amended to read:

4 (i) A license [REGISTRATION] issued by a local government in accordance  
5 with (f) [OF THIS SECTION] or (g) of this section has [SHALL HAVE] the same  
6 force and effect as a license [REGISTRATION] issued by the board in accordance  
7 with AS 17.38.100. The holder of a license is [SUCH REGISTRATION SHALL] not  
8 [BE] subject to regulation or enforcement by the board during the term of that license  
9 [REGISTRATION].

10 \* **Sec. 20.** AS 17.38.110(j) is amended to read:

11 (j) A subsequent or renewed license [REGISTRATION] may be issued under  
12 (f) of this section on an annual basis only upon resubmission to the local government  
13 of a new application submitted to the board under [PURSUANT TO] AS 17.38.100.

14 \* **Sec. 21.** AS 17.38.110(k) is amended to read:

15 (k) A subsequent or renewed license [REGISTRATION] may be issued under  
16 (g) of this section on an annual basis if the board has not adopted regulations required  
17 by AS 17.38.090 at least 90 days before [PRIOR TO] the date on [UPON] which the  
18 [SUCH] subsequent or renewed license [REGISTRATION] would be effective or if  
19 the board has adopted regulations under [PURSUANT TO] AS 17.38.090 but has not,  
20 at least 90 days after the adoption of the [SUCH] regulations, issued licenses under  
21 [REGISTRATIONS PURSUANT TO] AS 17.38.100.

22 \* **Sec. 22.** AS 17.38.900 is amended by adding a new paragraph to read:

23 (15) "marijuana concentrates" means an oil, liquid, or other substance  
24 created by extracting cannabinoids from marijuana for the purpose of increasing the  
25 strength or proportion of the cannabinoids.

26 \* **Sec. 23.** AS 43.61.030(b) is amended to read:

27 (b) If a marijuana cultivation facility fails to pay the tax to the state, the  
28 marijuana cultivation facility's license [REGISTRATION] may be revoked in  
29 accordance with procedures established under AS 17.38.090(a)(1).

30 \* **Sec. 24.** AS 17.38.100(i) is repealed on the earlier of the following:

31 (1) November 24, 2016; or



1                   (2) the date the director of the Alcoholic Beverage Control Board notifies the  
2 revisor of statutes that regulations adopted under AS 17.38.090(c) have taken effect.

3       \* **Sec. 25.** This Act takes effect immediately under AS 01.10.070(c).