



# ALASKA STATE LEGISLATURE

## House Community and Regional Affairs Committee

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### SECTIONAL ANALYSIS

#### CSHB 75(CRA)

(29-LS0345\I)

“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, line 30 through Page 3, line 2

Section 4 – Page 3, lines 3-6

Section 6 – Page 3, lines 16-23

Section 9 – Page 5, lines 23-31

Section 10 – Page 6, lines 1-10

Section 11 – Page 6, lines 11-16

Section 12 – Page 6, lines 17-24

Section 13 – Page 6, line 25 through Page 7, line 1

Section 14 – Page 7, lines 2-7

Section 15 – Page 7, lines 8-12

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 5-29) – Section 2 does two things.

1. This section provides for a household maximum plant limit of “not more than 12 marijuana plants, with six or fewer being mature” where two or more adults reside.
2. 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 5 (Page 3, Lines 7-15) – The section now contains language conforming to Title 4 provisions regarding the Board’s (currently ABC or a Marijuana Control Board, if adopted) notification requirements to municipalities when issuing registrations for commercial marijuana establishments.

Section 7 (Page 3, Line 24 – Page 5, Line 15) – This contains substantially similar language to what appears in Title 4 providing for a notification and protest process for municipalities regarding issuance of registrations for commercial marijuana establishments within its boundaries.

Section 8 (Page 5, lines 16-22) – 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 7, lines 13-22) – Section 16 (Page 7, lines 19-22) stipulates 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 7, line 23 through Page 10, line 9) – 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.

Section 19 (Page 10, lines 14-17) – Adds “marijuana club” to the definition of “marijuana establishment.”

Section 20 (Page 10, lines 18-26) – 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 10, line 27 through Page 11, line 5) – Provides express definitions of “established village”, “marijuana club” and “public place” as recommended by municipalities. It also provides a definition of “residence” as necessitated by the plant limit found in Section 2. Of note, “public place” follows the definition found in AS 11.81.900.

Section 22 (Page 11, line 6) – Removes “local government” from the definitions section found in AS 17.38.

Section 23 (Page 11, line 7) – Provides an immediate effective date for the provisions of the bill.