



March 3, 2015

<b>Regarding: HB 75</b>
<b>Position: Neutral, Recommend amendments</b>

Alaska House Community & Regional Affairs Committee  
Attention Representative Cathy Tilton, Chair  
Pouch V  
State Capitol  
Juneau, Alaska 99801

Cc: Committee members

Dear Chair Tilton and members of the committee:

We're grateful for this committee's diligence in working with local governments and municipalities to clarify their role in implementing Measure 2. We appreciate the committee and legislative staff's desire to respect the will of the voters and your responsiveness to our recommendations.

As a whole, we are neutral on the bill. However, we do have some concerns and recommend a few remaining revisions, which are detailed in this memo.

Thank you for your hard work and for soliciting our input. Please let us know if you have any questions.

Sincerely,

Dr. Timothy Hinterberger  
Chair  
Campaign to Regulate Marijuana Like Alcohol in Alaska

Rachelle Yeung, Esq.  
Legislative Analyst  
Marijuana Policy Project

## Recommendations for HB 75, Draft I

### **1. HB 75, Draft I imposes a statewide household cap of 12 plants per multi-adult home. We recommend deference to municipalities and a higher limit. (Sec. 2)**

Under AS 17.39.020, Measure 2 allows each adult 21 years of age or older to possess up to six plants (three mature), with no household cap on plants. Municipalities desire further clarity on their ability to enforce this possession limit in households where two or more adults reside.

The language regarding personal plant possession in Alaska is very similar to the language in Colorado's 2012 ballot initiative, which has been codified into their state constitution. In that state, local governments have imposed household limits similar to the one proposed in HB 75 without legal challenge. However, that does not mean a challenge may not come down the road. In addition, there is no statewide household limit in Colorado, as is being proposed here.

Generally, in Colorado, local governments have the authority to regulate household possession limits through zoning ordinances. The Alaska State Legislature could show similar deference to municipalities in deciding the household limit that would be appropriate for their communities. Furthermore, it is quite common for families to include three or more adults residing in the same location. If there were a statewide cap, we would encourage that it be, at a minimum, no lower than 18 plants.

### **2. HB 75, Draft I adds a new section, AS 17.38.105, relating to the municipal protest and review process. (Sec. 7)**

This new section was modeled after the existing municipal protest and review process under Title 4, relating to alcohol licensing (AS 04.11.520 and AS 04.11.480). The Campaign concurs that it would be more efficient and convenient for municipalities to mirror their marijuana-related registration processes after existing alcohol-related processes. The objective of the initiative, after all, was to regulate marijuana like alcohol.

We do not oppose the addition of this new section so long as the process does not delay the application period for applicants, raise costs, or otherwise conflict with Measure 2. As described in AS 17.38.100(d) of Measure 2, the state regulatory board must accept or reject an annual registration within 90 days of receiving an application. The municipal protest and review process must not extend the timeline beyond that 90-day period.

### **3. HB 75, Draft I adds several new sections, AS 17.38.200 et seq., relating to the exercise of the local option to prohibit marijuana establishments. (Sec. 17)**

Under AS 17.38.100(a), Measure 2 allows municipalities to "prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance or by a voter initiative." The new local option sections under HB 75 elaborate upon that voter initiative process for an established village. Throughout the new local option sections, the bill refers to the prohibition of the operation of "marijuana establishments."

The initiative makes clear that a municipality may choose to prohibit one type of marijuana establishment, which is defined as “a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store,” but not others. For example, a municipality may choose to allow the operation of retail marijuana stores only, but not any of the other types of licensed establishments. This flexibility should be given to established villages as well.