

29-LS0257/P

Martin

1/29/15

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 uncoded 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

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

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

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

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

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

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

(4) purchasing marijuana from a marijuana cultivation facility;

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

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

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

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

(1) cultivating, manufacturing, harvesting, processing, packaging, 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, registration, and renewal fees, provided,
8 application fees may [SHALL] not exceed \$5,000, with this upper limit adjusted
9 annually for inflation, unless the board determines a greater fee is necessary to carry
10 out its responsibilities under this chapter;

11 (3) qualifications for registration that are directly and demonstrably
12 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

29 (1) labeling and packaging requirements;

30 (2) prohibitions on combining marijuana concentrates with nicotine or
31 alcohol; and

(3) prohibitions on the sale of marijuana concentrates in establishments that sell or serve alcohol.

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

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

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

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

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

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

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

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

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

(g) Every marijuana establishment license must [REGISTRATION SHALL] 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 a new subsection 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 * Sec. 13. AS 17.38.110(c) is amended to read:

9 (c) A local government may designate a local regulatory authority that is
10 responsible for processing applications submitted for a license [REGISTRATION] to
11 operate a marijuana establishment within the boundaries of the local government. The
12 local government may provide that the local regulatory authority may issue licenses if
13 [SUCH REGISTRATIONS SHOULD] the issuance by the local government become
14 necessary because of a failure by the board to adopt regulations under [PURSUANT
15 TO] AS 17.38.090 or to accept or process applications under [IN ACCORDANCE
16 WITH] AS 17.38.100.

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

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

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

23 (e) A local government may establish a schedule of annual operating,
24 licensing [REGISTRATION], and application fees for marijuana establishments. The
25 [, PROVIDED, THE] application fee is [SHALL ONLY BE] due only if an
26 application is submitted to a local government in accordance with (f) of this section,
27 and a license [REGISTRATION] fee is [SHALL ONLY BE] due only if a license
28 [REGISTRATION] is issued by a local government in accordance with (f) [OF THIS
29 SECTION] or (g) of this section.

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

31 (f) If the board does not issue a license [REGISTRATION] to an applicant

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

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

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

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

19 (h) A local regulatory authority issuing a license [REGISTRATION] to an
20 applicant shall do so within 90 days after [OF] receipt of the submitted or resubmitted
21 application unless the local regulatory authority finds and notifies the applicant that
22 the applicant is not in compliance with ordinances and regulations made under
23 [PURSUANT TO] (b) of this section in effect at the time the application is submitted
24 to the local regulatory authority. The local government shall notify the board if an
25 annual license [REGISTRATION] has been issued to the applicant.

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

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

1 [REGISTRATION].

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

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

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

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

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

15 (15) "marijuana concentrates" means an oil, liquid, or other substance
16 created by extracting cannabinoids from marijuana through the use of a solvent other
17 than water for the purpose of increasing the strength or proportion of the cannabinoids.

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

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

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

23 (1) November 24, 2016; or

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

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