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Martin
3/13/15

CS FOR SENATE BILL NO. 30(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to controlled substances; relating to marijuana; relating to crimes and**
2 **offenses related to marijuana and the use of marijuana; relating to open marijuana**
3 **containers; relating to established villages and local options; relating to delinquent**
4 **minors; making conforming amendments; and providing for an effective date."**

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

6 *** Section 1.** AS 11.41.110(a) is amended to read:

- 7 (a) A person commits the crime of murder in the second degree if
 - 8 (1) with intent to cause serious physical injury to another person or
 - 9 knowing that the conduct is substantially certain to cause death or serious physical
 - 10 injury to another person, the person causes the death of any person;
 - 11 (2) the person knowingly engages in conduct that results in the death
 - 12 of another person under circumstances manifesting an extreme indifference to the
 - 13 value of human life;
 - 14 (3) under circumstances not amounting to murder in the first degree

1 under AS 11.41.100(a)(3), while acting either alone or with one or more persons, the
2 person commits or attempts to commit arson in the first degree, kidnapping, sexual
3 assault in the first degree, sexual assault in the second degree, sexual abuse of a minor
4 in the first degree, sexual abuse of a minor in the second degree, burglary in the first
5 degree, escape in the first or second degree, robbery in any degree, or misconduct
6 involving a controlled substance under AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1)
7 or (2), or 11.71.040(a)(1) [OR (2)] and, in the course of or in furtherance of that crime
8 or in immediate flight from that crime, any person causes the death of a person other
9 than one of the participants;

10 (4) acting with a criminal street gang, the person commits or attempts
11 to commit a crime that is a felony and, in the course of or in furtherance of that crime
12 or in immediate flight from that crime, any person causes the death of a person other
13 than one of the participants; or

14 (5) the person with criminal negligence causes the death of a child
15 under the age of 16, and the person has been previously convicted of a crime involving
16 a child under the age of 16 that was

17 (A) a felony violation of this chapter [AS 11.41];

18 (B) in violation of a law or ordinance in another jurisdiction
19 with elements similar to a felony under this chapter [AS 11.41]; or

20 (C) an attempt, a solicitation, or a conspiracy to commit a
21 crime listed in (A) or (B) of this paragraph.

22 * **Sec. 2.** AS 11.41.150(a) is amended to read:

23 (a) A person commits the crime of murder of an unborn child if the person

24 (1) with intent to cause the death of an unborn child or of another
25 person, causes the death of an unborn child;

26 (2) with intent to cause serious physical injury to an unborn child or to
27 another person or knowing that the conduct is substantially certain to cause death or
28 serious physical injury to an unborn child or to another person, causes the death of an
29 unborn child;

30 (3) while acting alone or with one or more persons, commits or
31 attempts to commit arson in the first degree, kidnapping, sexual assault in the first

1 degree, sexual assault in the second degree, sexual abuse of a minor in the first degree,
2 sexual abuse of a minor in the second degree, burglary in the first degree, escape in the
3 first or second degree, robbery in any degree, or misconduct involving a controlled
4 substance under AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1) or (2), or
5 11.71.040(a)(1) [OR (2)], and, in the course of or in furtherance of that crime or in
6 immediate flight from that crime, any person causes the death of an unborn child;

7 (4) knowingly engages in conduct that results in the death of an unborn
8 child under circumstances manifesting an extreme indifference to the value of human
9 life; for purposes of this paragraph, a pregnant woman's decision to remain in a
10 relationship in which domestic violence, as defined in AS 18.66.990, has occurred
11 does not constitute conduct manifesting an extreme indifference to the value of human
12 life.

13 * **Sec. 3.** AS 11.56.375(a) is amended to read:

14 (a) A person commits the crime of promoting contraband in the first degree if
15 the person violates AS 11.56.380 and the contraband is

16 (1) a deadly weapon or a defensive weapon;

17 (2) an article that is intended by the defendant to be used as a means of
18 facilitating an escape; or

19 (3) a **schedule IA - VA** controlled substance.

20 * **Sec. 4.** AS 11.56.380(a) is amended to read:

21 (a) A person commits the crime of promoting contraband in the second degree
22 if the person

23 (1) introduces, takes, conveys, or attempts to introduce, take, or
24 convey contraband into a correctional facility; [OR]

25 (2) makes, obtains, possesses, or attempts to make, obtain, or possess
26 anything that person knows to be contraband while under official detention within a
27 correctional facility; **or**

28 **(3) introduces, takes, conveys, or attempts to introduce, take, or**
29 **convey a schedule VIA controlled substance into a correctional facility.**

30 * **Sec. 5.** AS 11.71.030(a) is amended to read:

31 (a) Except as authorized in AS 17.30, a person commits the crime of

1 misconduct involving a controlled substance in the third degree if the person

2 (1) under circumstances not proscribed under AS 11.71.020(a)(2) - (6),
3 manufactures or delivers any amount of a schedule IIA or IIIA controlled substance or
4 possesses any amount of a schedule IIA or IIIA controlled substance with intent to
5 manufacture or deliver;

6 (2) delivers any amount of a schedule IVA or [,] VA [, OR VIA]
7 controlled substance to a person under 19 years of age who is at least three years
8 younger than the person delivering the substance; or

9 (3) possesses any amount of a schedule IA or IIA controlled substance

10 (A) with reckless disregard that the possession occurs

11 (i) on or within 500 feet of school grounds; or

12 (ii) at or within 500 feet of a recreation or youth center;

13 or

14 (B) on a school bus.

15 * **Sec. 6.** AS 11.71.040(a) is amended to read:

16 (a) Except as authorized in AS 17.30, a person commits the crime of
17 misconduct involving a controlled substance in the fourth degree if the person

18 (1) manufactures or delivers any amount of a schedule IVA or VA
19 controlled substance or possesses any amount of a schedule IVA or VA controlled
20 substance with intent to manufacture or deliver;

21 (2) manufactures or delivers, or possesses with the intent to
22 manufacture or deliver, one or more preparations, compounds, mixtures, or substances
23 of an aggregate weight of one ounce or more containing a schedule VIA controlled
24 substance;

25 (3) possesses

26 (A) any amount of a

27 (i) schedule IA controlled substance; or

28 (ii) IIA controlled substance except a controlled
29 substance listed in AS 11.71.150(e)(11) - (15);

30 (B) 25 or more tablets, ampules, or syrettes containing a
31 schedule IIIA or IVA controlled substance;

1 (C) one or more preparations, compounds, mixtures, or
2 substances of an aggregate weight of

3 (i) three grams or more containing a schedule IIIA or
4 IVA controlled substance except a controlled substance in a form listed
5 in (ii) of this subparagraph;

6 (ii) 12 grams or more containing a schedule IIIA
7 controlled substance listed in AS 11.71.160(f)(7) - (16) that has been
8 sprayed on or otherwise applied to tobacco, an herb, or another organic
9 material; or

10 (iii) 500 milligrams or more of a schedule IIA
11 controlled substance listed in AS 11.71.150(e)(11) - (15);

12 (D) 50 or more tablets, ampules, or syrettes containing a
13 schedule VA controlled substance;

14 (E) one or more preparations, compounds, mixtures, or
15 substances of an aggregate weight of six grams or more containing a schedule
16 VA controlled substance;

17 (F) **16** [ONE OR MORE PREPARATIONS, COMPOUNDS,
18 MIXTURES, OR SUBSTANCES OF AN AGGREGATE WEIGHT OF
19 FOUR] ounces or more **of usable marijuana** [CONTAINING A SCHEDULE
20 VIA CONTROLLED SUBSTANCE]; or

21 (G) 25 or more plants of the genus cannabis;

22 (4) possesses a schedule IIIA, IVA, **or** VA [, OR VIA] controlled
23 substance

24 (A) with reckless disregard that the possession occurs

25 (i) on or within 500 feet of school grounds; or

26 (ii) at or within 500 feet of a recreation or youth center;

27 or

28 (B) on a school bus;

29 (5) knowingly keeps or maintains any store, shop, warehouse,
30 dwelling, building, vehicle, boat, aircraft, or other structure or place that is used for
31 keeping or distributing controlled substances in violation of a felony offense under this

1 chapter or AS 17.30;

2 (6) makes, delivers, or possesses a punch, die, plate, stone, or other
3 thing that prints, imprints, or reproduces a trademark, trade name, or other identifying
4 mark, imprint, or device of another or any likeness of any of these upon a drug, drug
5 container, or labeling so as to render the drug a counterfeit substance;

6 (7) knowingly uses in the course of the manufacture or distribution of a
7 controlled substance a registration number that is fictitious, revoked, suspended, or
8 issued to another person;

9 (8) knowingly furnishes false or fraudulent information in or omits
10 material information from any application, report, record, or other document required
11 to be kept or filed under AS 17.30;

12 (9) obtains possession of a controlled substance by misrepresentation,
13 fraud, forgery, deception, or subterfuge; [OR]

14 (10) affixes a false or forged label to a package or other container
15 containing any controlled substance; **or**

16 **(11) violates AS 11.71.050(a)(4) and, within the five years**
17 **preceding the violation, the person has been previously convicted under**

18 **(A) AS 11.71.010 - 11.71.040;**

19 **(B) AS 11.71.050(a)(4); or**

20 **(C) a law or ordinance of this or another jurisdiction with**
21 **elements similar to a crime listed under (A) or (B) of this paragraph.**

22 * **Sec. 7.** AS 11.71.040 is amended by adding a new subsection to read:

23 (e) The provisions of

24 (1) (a)(3)(F) of this section do not apply to a person who is lawfully
25 possessing usable marijuana in accordance with AS 17.38.020; or

26 (2) (a)(3)(F) and (a)(3)(G) of this section do not apply to a marijuana
27 establishment registered under AS 17.38, or an officer, agent, or employee of the
28 registered marijuana establishment acting in compliance with the terms of the
29 registration issued under AS 17.38.

30 * **Sec. 8.** AS 11.71.050(a) is amended to read:

31 (a) Except as authorized in AS 17.30, a person commits the crime of

misconduct involving a controlled substance in the fifth degree if the person

(1) transports [MANUFACTURES] or delivers

(A) more [, OR POSSESSES WITH THE INTENT TO MANUFACTURE OR DELIVER, ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES, OR SUBSTANCES OF AN AGGREGATE WEIGHT OF LESS] than one ounce of usable marijuana [CONTAINING A SCHEDULE VIA CONTROLLED SUBSTANCE];

(B) more than six plants of the genus cannabis;

(2) possesses

(A) less than 25 tablets, ampules, or syrettes containing a schedule IIIA or IVA controlled substance;

(B) one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than

(i) three grams containing a schedule IIIA or IVA controlled substance except a controlled substance in a form listed in (ii) of this subparagraph;

(ii) 12 grams but more than six grams containing a schedule IIIA controlled substance listed in AS 11.71.160(f)(7) - (16) that has been sprayed on or otherwise applied to tobacco, an herb, or another organic material; or

(iii) 500 milligrams containing a schedule IIA controlled substance listed in AS 11.71.150(e)(11) - (15);

(C) less than 50 tablets, ampules, or syrettes containing a schedule VA controlled substance;

(D) one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than six grams containing a schedule VA controlled substance; [OR]

(E) at least three ounces but less than 16 ounces of usable marijuana [ONE OR MORE PREPARATIONS, COMPOUNDS, MIXTURES, OR SUBSTANCES OF AN AGGREGATE WEIGHT OF ONE OUNCE OR MORE CONTAINING A SCHEDULE VIA CONTROLLED

SUBSTANCE]; or

(F) 12 or more but less than 25 plants of the genus

cannabis;

(3) fails to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under AS 17.30;

(4) delivers any amount of usable marijuana to a person under 21 years of age;

(5) delivers or transports

(A) one ounce or less of usable marijuana for remuneration or barter; or

(B) six plants or less of the genus cannabis for remuneration or barter; or

(6) manufactures a marijuana concentrate or extract using a volatile or explosive gas.

* **Sec. 9.** AS 11.71.050 is amended by adding new subsections to read:

(c) The provisions of (a)(1), (a)(2)(E), (a)(2)(F), and (a)(4) - (6) of this section do not apply to

(1) a person who is lawfully possessing, manufacturing, delivering, possessing with the intent to manufacture or deliver, or transporting usable marijuana in accordance with AS 17.38.020;

(2) a marijuana establishment registered under AS 17.38, or an officer, agent, or employee of the registered marijuana establishment acting in compliance with the terms of the registration issued under AS 17.38.

(d) A person does not violate (a)(4) of this section if the person is over 21 years of age and delivers a schedule VIA controlled substance to the person's child, ward, or legal spouse if

(1) the child, ward, or legal spouse is 18 years of age or older; and

(2) the delivery occurs in the person's residence.

* **Sec. 10.** AS 11.71.060(a) is amended to read:

(a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the sixth degree if the person

1 (1) uses or displays any amount of a schedule VIA controlled
2 substance;

3 (2) possesses one or more preparations, compounds, mixtures, or
4 substances of an aggregate weight of

5 (A) less than one ounce containing a schedule VIA controlled
6 substance;

7 (B) six grams or less containing a schedule IIIA controlled
8 substance listed in AS 11.71.160(f)(7) - (16) that has been sprayed on or
9 otherwise applied to tobacco, an herb, or another organic material; [OR]

10 (3) refuses entry into a premise for an inspection authorized under
11 AS 17.30;

12 **(4) possesses at least two ounces but less than three ounces of**
13 **usable marijuana;**

14 **(5) possesses more than six but less than 12 plants of the genus**
15 **cannabis.**

16 * **Sec. 11.** AS 11.71.060 is amended by adding a new subsection to read:

17 (c) The provisions of (a)(4) and (a)(5) of this section do not apply to

18 (1) a person who is lawfully possessing, displaying, delivering, or
19 transporting usable marijuana in accordance with AS 17.38.020;

20 (2) a marijuana establishment registered under AS 17.38, or an officer,
21 agent, or employee of the registered marijuana establishment acting in compliance
22 with the terms of the registration issued under AS 17.38.

23 * **Sec. 12.** AS 11.71 is amended by adding a new section to read:

24 **Sec. 11.71.071. Misconduct involving a controlled substance in the seventh**
25 **degree.** (a) Except as authorized in AS 17.30, a person commits the crime of
26 misconduct involving a controlled substance in the seventh degree if the person

27 (1) possesses more than one ounce but less than two ounces of usable
28 marijuana;

29 (2) is

30 (A) under 21 years of age and

31 (i) possesses less than two ounces of usable marijuana;

1 or

2 (ii) uses or displays any amount of usable marijuana; or

3 (B) 21 years of age or older and uses any amount of usable
4 marijuana in a public place;

5 (3) manufactures usable marijuana

6 (A) in a location where the plants are subject to public view
7 without the use of binoculars, aircraft, or other optical aids;

8 (B) in a location that is not secure from unauthorized access; or

9 (C) on property not lawfully in the possession of the person or
10 on property without the consent of the person in lawful possession of the
11 property; or

12 (4) uses usable marijuana while operating a motor vehicle, aircraft, or
13 watercraft under circumstances not proscribed by AS 28.35.030.

14 (b) The provisions of (a)(1) and (a)(3) of this section do not apply to

15 (1) a person who is lawfully possessing or manufacturing usable
16 marijuana in accordance with AS 17.38.020;

17 (2) a marijuana establishment registered under AS 17.38, or an officer,
18 agent, or employee of the registered marijuana establishment acting in compliance
19 with the terms of the registration issued under AS 17.38.

20 (c) Misconduct involving a controlled substance in the seventh degree is a
21 violation punishable by a fine of

22 (1) up to \$300 for a violation of (a)(1), (a)(3), or (a)(4) of this section;

23 (2) \$300 for a violation of (a)(2)(A) of this section; the court may
24 reduce the fine to \$50 for a defendant under 18 years of age if the defendant supplies
25 to the court, within six months, proof of completion of a community diversion panel or
26 a state-approved marijuana education or treatment program; in this paragraph,
27 "community diversion panel" means a youth court or other group selected by the court
28 to serve as a sentencing option for a person convicted under (a)(2)(A) of this section;

29 (3) \$100 for a violation of (a)(2)(B) of this section.

30 * **Sec. 13.** AS 11.71.090(a) is amended to read:

31 (a) In a prosecution under **AS 11.71.030 - 11.71.071** [AS 11.71.030 -

1 11.71.060] charging the manufacture, delivery, possession, possession with intent to
2 manufacture or deliver, use, or display of a schedule VIA controlled substance, it is an
3 affirmative defense that the defendant is a patient, or the primary caregiver or alternate
4 caregiver for a patient, and

5 (1) at the time of the manufacture, delivery, possession, possession
6 with intent to manufacture or deliver, use, or display, the patient was registered under
7 AS 17.37;

8 (2) the manufacture, delivery, possession, possession with intent to
9 manufacture, deliver, use, or display complied with the requirements of AS 17.37; and

10 (3) if the defendant is the

11 (A) primary caregiver of the patient, the defendant was in
12 physical possession of the caregiver registry identification card at the time of
13 the manufacture, delivery, possession, possession with intent to manufacture or
14 deliver, use, or display; or

15 (B) alternate caregiver of the patient, the defendant was in
16 physical possession of the caregiver registry identification card at the time of
17 the manufacture, delivery, possession, possession with intent to manufacture or
18 deliver, use, or display.

19 * **Sec. 14.** AS 11.71.190(b) is repealed and reenacted to read:

20 (b) Schedule VIA includes, unless specifically excepted or unless listed in
21 another schedule, any material, compound, mixture, or preparation that contains any
22 quantity of the following substances:

23 (1) marijuana;

24 (2) hashish;

25 (3) hash oil or hashish oil;

26 (4) tetrahydrocannabinols.

27 * **Sec. 15.** AS 11.71.311(a) is amended to read:

28 (a) A person may not be prosecuted for a violation of AS 11.71.030(a)(3),
29 11.71.040(a)(3) or (4), 11.71.050(a)(2), or **11.71.060(a)(2)** [11.71.060(a)(1) OR (2)] if
30 that person

31 (1) sought, in good faith, medical or law enforcement assistance for

1 another person who the person reasonably believed was experiencing a drug overdose
2 **or significant adverse marijuana reaction** and

3 (A) the evidence supporting the prosecution for an offense
4 under AS 11.71.030(a)(3), 11.71.040(a)(3) or (4), 11.71.050(a)(2), or
5 **11.71.060(a)(2)** [11.71.060(a)(1) OR (2)] was obtained or discovered as a
6 result of the person seeking medical or law enforcement assistance;

7 (B) the person remained at the scene with the other person until
8 medical or law enforcement assistance arrived; and

9 (C) the person cooperated with medical or law enforcement
10 personnel, including by providing identification;

11 (2) was experiencing a drug overdose **or significant adverse**
12 **marijuana reaction** and sought medical assistance, and the evidence supporting a
13 prosecution for an offense under AS 11.71.030(a)(3), 11.71.040(a)(3) or (4),
14 11.71.050(a)(2), or **11.71.060(a)(2)** [11.71.060(a)(1) OR (2)] was obtained as a result
15 of the overdose **or significant adverse marijuana reaction** and the need for medical
16 assistance.

17 * **Sec. 16.** AS 11.71.900(14) is repealed and reenacted to read:

18 (14) "marijuana" means all parts of the plant of the genus cannabis
19 whether growing or not, the seeds thereof, the resin extracted from any part of the
20 plant, and every compound, manufacture, derivative, mixture, or preparation of the
21 plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does not
22 include fiber produced from the stalks, oil or cake made from the seeds of the plant,
23 sterilized seed of the plant that is incapable of germination, or the weight of any other
24 ingredient combined with marijuana to prepare topical or oral administrations, food,
25 drink, or other products;

26 * **Sec. 17.** AS 11.71.900 is amended by adding a new paragraph to read:

27 (31) "usable marijuana" means the seeds, leaves, buds, and flowers of
28 the plant genus cannabis, hashish, hash oil, tetrahydrocannabinols, and marijuana
29 concentrates, but does not include the stalks or roots of the plant genus cannabis.

30 * **Sec. 18.** AS 12.45.084(a) is amended to read:

31 (a) In a prosecution under **AS 11.71.010 - 11.71.071** [AS 11.71.010 -

1 11.71.060], a complete copy of an official laboratory report from the Department of
2 Public Safety or a laboratory operated by another law enforcement agency is prima
3 facie evidence of the content, identity, and weight of a controlled substance. The
4 report must be signed by the person performing the analysis and must state that the
5 substance **that** [WHICH] is the basis of the alleged offense has been weighed and
6 analyzed. In the report, the author shall state with specificity findings as to the content,
7 weight, and identity of the substance.

8 * **Sec. 19.** AS 17.30.080(b) is amended to read:

9 (b) A person who violates (a) of this section, or who otherwise manufactures,
10 distributes, dispenses, or conducts research with a controlled substance in the state
11 without fully complying with 21 U.S.C. 811 - 830 (Controlled Substances Act), and
12 regulations adopted under those sections, is guilty of misconduct involving a
13 controlled substance under **AS 11.71.010 - 11.71.071** [AS 11.71.010 - 11.71.060] in
14 the degree appropriate to the circumstances as described in those sections. Upon filing
15 a complaint, information, presentment, or indictment charging a medical assistance
16 provider with misconduct involving a controlled substance under AS 11.71.140 -
17 11.71.190, the attorney general shall, in writing, notify the commissioner of health and
18 social services of the filing.

19 * **Sec. 20.** AS 17.38.020 is amended to read:

20 **Sec. 17.38.020. Personal use of marijuana. The** [NOTWITHSTANDING
21 ANY OTHER PROVISION OF LAW, EXCEPT AS OTHERWISE PROVIDED IN
22 THIS CHAPTER, THE] following acts, by persons 21 years of age or older, are lawful
23 and **are not** [SHALL NOT BE A] criminal or civil **offenses** [OFFENSE] under Alaska
24 law or the law of any political subdivision of Alaska or **bases** [BE A BASIS] for
25 seizure or forfeiture of assets under Alaska law:

26 (1) possessing, using, displaying, purchasing, or transporting
27 marijuana accessories or one ounce or less of **usable** marijuana;

28 (2) possessing, growing, processing, or transporting **not** [NO] more
29 than six marijuana plants, with three or fewer being mature, flowering plants, and
30 possession of the marijuana produced by the plants on the premises where the plants
31 were grown, **except that nothing in this chapter permits the growing of marijuana**

1 **as proscribed in AS 11.71.071(a)(3);**

2 (3) transferring one ounce or less of marijuana and up to six immature
3 marijuana plants to a person who is 21 years of age or older without remuneration **or**
4 **barter;**

5 (4) consumption of marijuana, except that nothing in this chapter
6 **permits** [SHALL PERMIT] the consumption of marijuana in **a public place;** and

7 (5) assisting another person who is 21 years of age or older in any of
8 the acts described in (1) - (4) of this section; **under this paragraph, assisting does**
9 **not include**

10 (A) **using, displaying, purchasing, or transporting**
11 **marijuana in excess of the amount allowed in this section;**

12 (B) **possessing, growing, processing, or transporting**
13 **marijuana plants in excess of the amount allowed in this section.**

14 * **Sec. 21.** AS 17.38.070(a) is amended to read:

15 (a) **The** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
16 THE] following acts, when performed by a retail marijuana store with a current, valid
17 registration, or a person 21 years of age or older who is acting in the person's capacity
18 as an owner, employee, or agent of a retail marijuana store, are lawful and **are not**
19 **offenses** [SHALL NOT BE AN OFFENSE] under Alaska law or **bases** [BE A BASIS]
20 for seizure or forfeiture of assets under Alaska law:

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

24 (2) delivering or transferring marijuana or marijuana products to a
25 **registered** marijuana testing facility;

26 (3) receiving marijuana or marijuana products from a **registered**
27 marijuana testing facility;

28 (4) purchasing marijuana from a **registered** marijuana cultivation
29 facility;

30 (5) purchasing marijuana or marijuana products from a **registered**
31 marijuana product manufacturing facility; and

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

3 * **Sec. 22.** AS 17.38.070(b) is amended to read:

4 (b) **The** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
5 THE] following acts, when performed by a marijuana cultivation facility with a
6 current, valid registration, or a person 21 years of age or older who is acting in the
7 person's capacity as an owner, employee, or agent of a marijuana cultivation facility,
8 are lawful and **are not offenses** [SHALL NOT BE AN OFFENSE] under Alaska law
9 or **bases** [BE A BASIS] for seizure or forfeiture of assets under Alaska law:

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

12 (2) delivering or transferring marijuana to a **registered** marijuana
13 testing facility;

14 (3) receiving marijuana from a **registered** marijuana testing facility;

15 (4) delivering, distributing, or selling marijuana to a **registered**
16 marijuana cultivation facility, a **registered** marijuana product manufacturing facility,
17 or a **registered** retail marijuana store;

18 (5) receiving or purchasing marijuana from a **registered** marijuana
19 cultivation facility; and

20 (6) receiving marijuana seeds or immature marijuana plants from a
21 person 21 years of age or older.

22 * **Sec. 23.** AS 17.38.070(c) is amended to read:

23 (c) **The** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
24 THE] following acts, when performed by a marijuana product manufacturing facility
25 with a current, valid registration, or a person 21 years of age or older who is acting in
26 the person's capacity as an owner, employee, or agent of a marijuana product
27 manufacturing facility, are lawful and **are not offenses** [SHALL NOT BE AN
28 OFFENSE] under Alaska law or **bases** [BE A BASIS] for seizure or forfeiture of
29 assets under Alaska law:

30 (1) packaging, processing, transporting, manufacturing, displaying, or
31 possessing marijuana or marijuana products;

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

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

5 (4) delivering or selling marijuana or marijuana products to a
6 **registered** retail marijuana store or a marijuana product manufacturing facility;

7 (5) purchasing marijuana from a **registered** marijuana cultivation
8 facility; and

9 (6) purchasing of marijuana or marijuana products from a **registered**
10 marijuana product manufacturing facility.

11 * **Sec. 24.** AS 17.38.070(d) is amended to read:

12 (d) **The** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
13 THE] following acts, when performed by a marijuana testing facility with a current,
14 valid registration, or a person 21 years of age or older who is acting in the person's
15 capacity as an owner, employee, or agent of a marijuana testing facility, are lawful and
16 **are not offenses** [SHALL NOT BE AN OFFENSE] under Alaska law or **bases** [BE A
17 BASIS] for seizure or forfeiture of assets under Alaska law:

18 (1) possessing, cultivating, processing, repackaging, storing,
19 transporting, displaying, transferring, or delivering marijuana;

20 (2) receiving marijuana or marijuana products from a **registered**
21 marijuana cultivation facility, a **registered** marijuana retail store, a **registered**
22 marijuana products manufacturer, or a person 21 years of age or older; and

23 (3) returning marijuana or marijuana products to a **registered**
24 marijuana cultivation facility, **registered** marijuana retail store, **registered** marijuana
25 products manufacturer, or a person 21 years of age or older.

26 * **Sec. 25.** AS 17.38.070(e) is amended to read:

27 (e) **It** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IT] is
28 lawful and **is** [SHALL] not [BE] an offense under Alaska law or [BE] a basis for
29 seizure or forfeiture of assets under Alaska law to lease or otherwise allow the use of
30 property owned, occupied, or controlled by any person, corporation, or other entity for
31 any of the activities conducted lawfully in accordance with (a) - (d) of this section.

1 * **Sec. 26.** AS 17.38.070 is amended by adding a new subsection to read:

2 (h) A retail marijuana store may only sell or deliver marijuana or marijuana
3 products to a person who is present at the premises of the retail marijuana store.

4 * **Sec. 27.** AS 17.38.090 is amended by adding a new subsection to read:

5 (c) The board shall adopt a regulation that prohibits a retail marijuana store
6 from selling more than five grams of marijuana concentrate in one transaction to a
7 customer.

8 * **Sec. 28.** AS 17.38.110(a) is amended to read:

9 (a) A local government may prohibit the operation of marijuana cultivation
10 facilities, marijuana product manufacturing facilities, marijuana testing facilities, or
11 retail marijuana stores through the enactment of an ordinance or by a voter initiative.

12 **The operation of marijuana cultivation facilities, marijuana product**
13 **manufacturing facilities, marijuana testing facilities, and retail marijuana stores**
14 **in the unorganized borough outside of a municipality is prohibited. An**
15 **established village may permit the operation of marijuana cultivation facilities,**
16 **marijuana product manufacturing facilities, marijuana testing facilities, or retail**
17 **marijuana stores as provided in AS 17.38.250.**

18 * **Sec. 29.** AS 17.38.120(c) is amended to read:

19 (c) Nothing in this chapter is intended to permit the transfer of marijuana, with
20 or without remuneration **or barter**, to a person under [THE AGE OF] 21 **years of age**.

21 * **Sec. 30.** AS 17.38 is amended by adding new sections to read:

22 **Sec. 17.38.200. Unlawful activity related to persons under 21 years of age.**

23 (a) A registered marijuana establishment or an officer, agent, or employee of the
24 marijuana establishment may not knowingly

25 (1) allow a person to deliver marijuana to another person under 21
26 years of age within the registered premises;

27 (2) allow a person under 21 years of age to enter and remain within the
28 registered premises;

29 (3) allow a person under 21 years of age to use marijuana within the
30 registered premises;

31 (4) allow a person under 21 years of age to deliver marijuana; or

1 (5) while working on the registered premises, deliver marijuana to a
2 person under 21 years of age.

3 (b) The prohibition in (a)(2) of this section does not apply if the person under
4 21 years of age is accompanied by a parent, guardian, or spouse who has attained 21
5 years of age.

6 (c) A person who violates this section is guilty of a violation punishable by a
7 fine of at least \$250 but not more than \$500.

8 **Sec. 17.38.210. Access of persons under 21 years of age to registered**
9 **premises.** (a) A person under 21 years of age may not knowingly

10 (1) enter or remain on premises registered under this chapter where
11 marijuana, marijuana products, or marijuana accessories are sold; or

12 (2) present a birth certificate or other written evidence of age that is
13 fraudulent or false or that is not the person's own, or otherwise misrepresent the
14 person's age for the purpose of

15 (A) purchasing, attempting to purchase, or otherwise procuring
16 or attempting to procure marijuana or marijuana products; or

17 (B) gaining access to a registered marijuana establishment.

18 (b) A person does not violate (a) of this section if the person

19 (1) enters and remains on premises registered under this chapter at the
20 request of a peace officer, if the peace officer accompanies, supervises, or otherwise
21 observes the person's entry or remaining on premises, and the purpose for the entry or
22 remaining on premises is to assist in the enforcement of this section;

23 (2) is accompanied by a parent, guardian, or spouse who has attained
24 21 years of age; or

25 (3) is acting in the capacity of an employee or volunteer of an agency
26 providing emergency medical or fire protection services while on the premises.

27 (c) A person who violates this section is guilty of a violation and is punishable
28 by a fine of \$300.

29 **Sec. 17.38.220. Proof of registration to be exhibited on demand; penalty.**

30 (a) A person shall have a copy of the person's registration issued under AS 17.38.100
31 in the person's immediate possession at all times when transporting more than one

1 ounce of marijuana, and shall present the copy of the registration for inspection upon
2 the demand of a peace officer or other authorized representative of the Department of
3 Public Safety. However, a person charged with violating this section may not be
4 convicted if the person produces in court or in the office of the arresting or citing
5 officer proof of registration previously issued to the person that was valid at the time
6 of the person's arrest or citation.

7 (b) A person convicted under this section is guilty of a violation punishable by
8 a fine of \$100.

9 **Sec. 17.38.230. Bail forfeiture for certain offenses.** The supreme court shall
10 establish by rule or order a schedule of bail amounts that may be forfeited without
11 court appearance for a violation of AS 11.71.071, AS 17.38.200, 17.38.210, and
12 17.38.220. The supreme court, in establishing scheduled amounts of bail under this
13 section, may not allow for disposition of an offense without court appearance for a
14 person under 18 years of age who is cited for a violation of AS 11.71.071(a)(2)(A).

15 **Sec. 17.38.240. Court records of violations of persons under 21 years of**
16 **age.** The Alaska Court System may not publish on a publicly available website the
17 court records of a violation of AS 11.71.071(a)(2)(A) or AS 17.38.210 by a person
18 who was under 21 years of age at the time of the offense, after the court proceedings
19 are completed and the case is closed.

20 **Sec. 17.38.250. Local options.** (a) If a majority of the voters voting on the
21 question vote to approve the option, an established village shall exercise a local option
22 to permit the operation of one or more of the following types of marijuana
23 establishments:

- 24 (1) marijuana cultivation facilities;
- 25 (2) marijuana product manufacturing facilities;
- 26 (3) marijuana testing facilities; or
- 27 (4) retail marijuana stores.

28 (b) A ballot question to adopt a local option under this section must at least
29 contain language substantially similar to the following: "Shall (name of village) adopt
30 a local option to permit (specify local option under (a) of this section)? (yes or no)."

31 **Sec. 17.38.260. Removal of local options.** (a) If a majority of the voters

1 voting on the question vote to remove the option, an established village shall remove a
2 local option previously adopted under AS 17.38.250. The option is repealed effective
3 the first day of the month following certification of the results of the election.

4 (b) A ballot question to remove a local option under this section must at least
5 contain language substantially similar to the following: "Shall (name of village)
6 remove the local option currently in effect, that permits (current local option under
7 AS 17.38.250(a)), so that there is no longer any local option in effect? (yes or no)."

8 **Sec. 17.38.270. Effect on registrations of removal of local option**
9 **permitting marijuana establishments.** If a majority of voters vote to remove a local
10 option permitting the operation of marijuana establishments under AS 17.38.260, the
11 board may not issue, renew, or transfer, between persons or locations, a registration
12 for a marijuana establishment located within the perimeter of the established village. A
13 registration that may not be renewed because of a local option election held under
14 AS 17.38.260 is void 90 days after the results of the election are certified. A
15 registration that expires during the 90 days after the results of a local option election
16 are certified may be extended, until it is void under this section, by payment of a
17 prorated portion of the annual registration fee.

18 **Sec. 17.38.280. Procedure for local option elections.** (a) An election to adopt
19 a local option under AS 17.38.250 or remove a local option under AS 17.38.260 shall
20 be conducted as required in this section.

21 (b) Upon receipt of a petition of 35 percent or more of the registered voters
22 residing within an established village, the lieutenant governor shall place on a separate
23 ballot at a special election the local option or removal of local option that constitutes
24 the subject of the petition. The lieutenant governor shall conduct the election under
25 AS 15.

26 (c) An election under (b) of this section to remove a local option may not be
27 conducted during the first 24 months after the local option was adopted or more than
28 once in a 36-month period.

29 (d) After a petition has been certified as sufficient to meet the requirements of
30 (b) of this section, another petition may not be filed or certified until after the question
31 presented in the first petition has been voted on. A local option question to permit the

1 operation of marijuana cultivation facilities, marijuana product manufacturing
2 facilities, marijuana testing facilities, or retail marijuana stores or to permit all
3 marijuana establishments may be presented in one election.

4 **Sec. 17.38.290. Establishment of perimeter of established village.** (a)
5 Except as provided under (b) and (c) of this section, for purposes of AS 17.38.250 and
6 17.38.270, the perimeter of an established village is a circle around the established
7 village that includes an area within a five-mile radius of the post office of the
8 established village. If the established village does not have a post office, the perimeter
9 of an established village is a circle around the established village that includes an area
10 within a five-mile radius of another site selected by the local governing body or by the
11 board if the established village does not have a local governing body.

12 (b) If the perimeter of an established village determined under (a) of this
13 section includes any area that is within the perimeter of another established village
14 and, if the other established village has

15 (1) also adopted a local option under AS 17.38.250, the local option of
16 the established village that is less restrictive applies in the overlapping area;

17 (2) not adopted a local option under AS 17.38.250, the local option
18 does not apply in the overlapping area.

19 (c) If the board determines that the perimeter of an established village as
20 provided under (a) and (b) of this section does not accurately reflect the perimeter of
21 the established village, the board may establish the perimeter of the established village
22 and the areas of overlapping perimeter described under (b) of this section for purposes
23 of applying a local option selected under this chapter.

24 **Sec. 17.38.300. Notice of the results of a local option election.** If a majority
25 of the voters vote to adopt or remove a local option under AS 17.38.250 or 17.38.260,
26 the lieutenant governor shall notify the board of the results of the election immediately
27 after the results are certified. The board shall immediately notify the Department of
28 Law and the Department of Public Safety of the results of the election.

29 **Sec. 17.38.310. Peace officer powers.** The director of the board and the
30 persons employed for the administration and enforcement of this chapter and the
31 provisions of AS 11.71.040 - 11.71.071 involving a schedule VIA controlled

1 substance may, with the concurrence of the commissioner of public safety, exercise
2 the powers of peace officers when those powers are specifically granted by the board.
3 Powers granted by the board under this section may be exercised only when necessary
4 for the enforcement of the criminally punishable provisions of this chapter, the
5 provisions of AS 11.71.040 - 11.71.071 involving a schedule VIA controlled
6 substance, regulations of the board, and other criminally punishable laws and
7 regulations.

8 * **Sec. 31.** AS 17.38.900(6) is amended to read:

9 (6) "marijuana" means all parts of the plant of the genus cannabis
10 whether growing or not, the seeds thereof, the resin extracted from any part of the
11 plant, and every compound, manufacture, [SALT,] derivative, mixture, or preparation
12 of the plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does
13 not include fiber produced from the stalks, oil [,] or cake made from the seeds of the
14 plant, sterilized seed of the plant that [WHICH] is incapable of germination, or the
15 weight of any other ingredient combined with marijuana to prepare topical or oral
16 administrations, food, drink, or other products;

17 * **Sec. 32.** AS 17.38.900 is amended by adding new paragraphs to read:

18 (15) "deliver" means the actual, constructive, or attempted transfer
19 from one person to another of marijuana, whether or not there is an agency
20 relationship;

21 (16) "established village" means an area that does not contain any part
22 of an incorporated city or another established village and that is an unincorporated
23 community that is in the unorganized borough and that has 25 or more permanent
24 residents;

25 (17) "knowingly" has the meaning given in AS 11.81.900;

26 (18) "manufacture" has the meaning given in AS 11.71.900;

27 (19) "marijuana concentrate" means a product created from resins of or
28 by extracting cannabinoids from any part of the plant (genus) Cannabis;

29 (20) "public place" has the meaning given in AS 11.81.900;

30 (21) "usable marijuana" has the meaning given in AS 11.71.900.

31 * **Sec. 33.** AS 28.35.029(a) is amended to read:

1 (a) A person may not drive a motor vehicle on a highway or vehicular way or
2 area, when there is an open bottle, can, or other receptacle containing an alcoholic
3 beverage or an open marijuana container in the passenger compartment of the
4 vehicle, except as provided in (b) of this section.

5 * **Sec. 34.** AS 28.35.029(b) is amended to read:

6 (b) Except as provided in AS 28.33.130, a person may transport an open
7 bottle, can, or other receptacle containing an alcoholic beverage or an open
8 marijuana container

9 (1) in the trunk of a motor vehicle;

10 (2) on a motor driven cycle, or behind the last upright seat in a motor
11 home, station wagon, hatchback, or similar trunkless vehicle, if the open bottle, can, or
12 other receptacle, or an open marijuana container is enclosed within another
13 container;

14 (3) behind a solid partition that separates the vehicle driver from the
15 area normally occupied by passengers; or

16 (4) if the open bottle, can, or other receptacle, or an open marijuana
17 container is in the possession of a passenger in a motor vehicle for which the owner
18 receives direct monetary compensation and that has a capacity of 12 or more persons.

19 * **Sec. 35.** AS 28.35.029(c) is amended by adding new paragraphs to read:

20 (6) "marijuana" has the meaning given in AS 11.71.900;

21 (7) "open marijuana container" means a receptacle that contains any
22 amount of marijuana and that is open or has a broken seal, and any amount of
23 marijuana is removed while in the vehicle.

24 * **Sec. 36.** AS 34.03.360(7) is amended to read:

25 (7) "illegal activity involving a controlled substance" means a violation
26 of AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1) or (2), or 11.71.040(a)(1) [, (2),] or
27 (5);

28 * **Sec. 37.** AS 47.12.030(b) is amended to read:

29 (b) When a minor is accused of violating a statute specified in this subsection,
30 other than a statute the violation of which is a felony, this chapter and the Alaska
31 Delinquency Rules do not apply and the minor accused of the offense shall be

1 charged, prosecuted, and sentenced in the district court in the same manner as an
2 adult; if a minor is charged, prosecuted, and sentenced for an offense under this
3 subsection, the minor's parent, guardian, or legal custodian shall be present at all
4 proceedings; the provisions of this subsection apply when a minor is accused of
5 violating

6 (1) a traffic statute or regulation, or a traffic ordinance or regulation of
7 a municipality;

8 (2) AS 11.76.105, relating to the possession of tobacco by a person
9 under 19 years of age;

10 (3) a fish and game statute or regulation under AS 16;

11 (4) a parks and recreational facilities statute or regulation under
12 AS 41.21;

13 (5) AS 04.16.050, relating to possession, control, or consumption of
14 alcohol, except for conduct constituting habitual minor consuming or in possession or
15 control under AS 04.16.050(d); [AND]

16 (6) a municipal curfew ordinance, whether adopted under
17 AS 29.35.085 or otherwise, unless the municipality provides for enforcement of its
18 ordinance under AS 29.25.070(b) by the municipality; in place of any fine imposed for
19 the violation of a municipal curfew ordinance, the court shall allow a defendant the
20 option of performing community work; the value of the community work, which may
21 not be lower than the amount of the fine, shall be determined under AS 12.55.055(c);
22 in this paragraph, "community work" includes the work described in AS 12.55.055(b)
23 or work that, on the recommendation of the municipal or borough assembly, city
24 council, or traditional village council of the defendant's place of residence, would
25 benefit persons within the municipality or village who are elderly or disabled;

26 **(7) AS 11.71.071(a)(2)(A), relating to possession, use, and display**
27 **of usable marijuana; and**

28 **(8) AS 17.38.210, relating to access to marijuana establishments.**

29 * **Sec. 38.** AS 11.71.040(a)(2), 11.71.060(a)(1), 11.71.060(a)(2)(A), 11.71.160(f)(1),
30 11.71.160(f)(2), 11.71.160(f)(3); AS 17.38.030, 17.38.040, and 17.38.050 are repealed.

31 * **Sec. 39.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 APPLICABILITY. AS 11.41.110(a), as amended by sec. 1 of this Act,
3 AS 11.41.150(a), as amended by sec. 2 of this Act, AS 11.56.375(a), as amended by sec. 3 of
4 this Act, AS 11.56.380(a), as amended by sec. 4 of this Act, AS 11.71.030(a), as amended by
5 sec. 5 of this Act, AS 11.71.040(a), as amended by sec. 6 of this Act, AS 11.71.050(a), as
6 amended by sec. 8 of this Act, AS 11.71.060(a), as amended by sec. 10 of this Act, and
7 AS 11.71.071, enacted by sec. 12 of this Act, apply to offenses committed on or after the
8 effective date of this Act.

9 * **Sec. 40.** This Act takes effect immediately under AS 01.10.070(c).