

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE KELLER

TO: CSHB 123(L&C)

1 Page 1, line 4, following "**Board;**":

2 Insert "**relating to marijuana and the regulation of marijuana; relating to the**
3 **taxation of marijuana;**"

4

5 Page 5, line 7:

6 Delete "municipalities"

7 Insert "local governments"

8

9 Page 5, line 9:

10 Delete "and permits"

11

12 Page 5, line 10:

13 Delete "municipalities"

14 Insert "local governments"

15

16 Page 5, lines 15 - 25:

17 Delete all material.

18

19 Page 6, line 5:

20 Delete "and permits"

21

22 Page 6, line 7:

23 Delete "and permits"

Page 6, line 8:

Delete "and permits"

Page 6, following line 10:

Insert new bill sections to read:

"* **Sec. 4.** AS 17.38.090 is amended to read:

Sec. 17.38.090. Rulemaking. (a) Not later than nine months after February 24, 2015, the board shall adopt regulations necessary for implementation of this chapter. **The** [SUCH] regulations may [SHALL] not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation unreasonably impracticable. **The** [SUCH] regulations must [SHALL] include

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

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

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

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

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

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

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

(8) reasonable restrictions on the advertising and display of marijuana

1 and marijuana products; and

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

4 (b) To [IN ORDER TO] ensure that individual privacy is protected, the board
5 may [SHALL] not require a consumer to provide a retail [MARIJUANA] licensee
6 [STORE] with personal information other than government-issued identification to
7 determine the consumer's age, and a retail [MARIJUANA] licensee may [STORE
8 SHALL] not be required to acquire and record personal information about consumers.

9 * **Sec. 5.** AS 17.38.100(a) is amended to read:

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

14 * **Sec. 6.** AS 17.38.100(d) is amended to read:

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

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

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

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

29 (g) Every marijuana establishment license must [REGISTRATION SHALL]
30 specify the location where the marijuana establishment will operate. A separate
31 license is [REGISTRATION SHALL BE] required for each location at which a

1 marijuana establishment operates.

2 * **Sec. 9.** AS 17.38.110(a) is amended to read:

3 (a) A local government may prohibit the operation of a marijuana
4 establishment by a wholesale licensee [CULTIVATION FACILITIES], producer
5 licensee [MARIJUANA PRODUCT MANUFACTURING FACILITIES,
6 MARIJUANA TESTING FACILITIES], or retail licensee [MARIJUANA STORES]
7 through the enactment of an ordinance or by a voter initiative.

8 * **Sec. 10.** 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 becomes
14 [BECOME] necessary because of a failure by the board to adopt regulations under
15 [PURSUANT TO] AS 17.38.090 or to accept or process applications in accordance
16 with AS 17.38.100.

17 * **Sec. 11.** 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. 12.** 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. 13.** AS 17.38.110(f) is amended to read:

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

within 90 days after [OF] receipt of the application filed in accordance with AS 17.38.100 and does not notify the applicant of the specific, permissible reason for its denial, in writing and within that [SUCH] time period, or if the board has adopted regulations under [PURSUANT TO] AS 17.38.090 and has accepted applications under [PURSUANT TO] AS 17.38.100 but has not issued any licenses [REGISTRATIONS BY 15 MONTHS] after May 24, 2016 [THE EFFECTIVE DATE OF THIS ACT], the applicant may resubmit its application directly to the local regulatory authority, under [PURSUANT TO] (c) of this section, and the local regulatory authority may issue an annual license [REGISTRATION] to the applicant. If an application is submitted to a local regulatory authority under this subsection, the board shall refund [FORWARD] to the local regulatory authority the application fee paid by the applicant to the board upon request by the local regulatory authority.

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

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

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

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

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

(i) A license [REGISTRATION] issued by a local government in accordance with (f) [OF THIS SECTION] or (g) of this section has [SHALL HAVE] the same force and effect as a license [REGISTRATION] issued by the board in accordance with AS 17.38.100. The holder of the license is [SUCH REGISTRATION SHALL]

not [BE] subject to regulation or enforcement by the board during the term of that registration.

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

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

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

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

* **Sec. 19.** AS 17.38 is amended by adding new sections to read:

Sec. 17.38.200. Powers and duties. (a) The board shall control the manufacture, barter, possession, and sale of marijuana and marijuana products in the state. The board is vested with the powers, duties, and responsibilities necessary for the control of marijuana and marijuana products, including the power to propose and adopt regulations and to hear appeals from actions of the director, and from actions of officers and employees charged with enforcing the marijuana control laws and the regulations of the board.

(b) The board shall review all applications for licenses made under this chapter and may order the director to issue, renew, revoke, transfer, or suspend licenses authorized under this chapter.

(c) When considering an application, the board may reduce the area to be designated the licensed premises below the area applied for when, in the judgment of the board, a reduction in area is necessary to ensure control over the sale and consumption of marijuana or marijuana products on the premises or is otherwise in the best interests of the public.

(d) The board may employ, directly or through contracts with other

1 departments and agencies of the state, enforcement agents and staff it considers
 2 necessary to carry out the purposes of this chapter. The salaries of personnel of the
 3 board in the exempt service shall be set by the Department of Administration.

4 (e) The board shall promptly notify all licensees and local governments of
 5 major changes to this chapter and to regulations adopted under this chapter. However,
 6 if changes only affect specific classifications of licenses, the board need only notify
 7 those licensees and local governments directly affected by the changes. Current copies
 8 of this chapter and current copies of the regulations adopted under this chapter shall be
 9 made available at all offices in the state of the Department of Commerce, Community,
 10 and Economic Development and the detachment headquarters and posts maintained by
 11 the division of Alaska state troopers in the Department of Public Safety.

12 **Sec. 17.38.205. Meetings and employment procedures.** (a) The board shall
 13 adopt regulations governing

14 (1) employment, conduct, and duties of the director and of regular and
 15 contractual employees of the board;

16 (2) conduct of regular and special meetings of the board; and

17 (3) delegation to the director of routine administrative functions and
 18 powers.

19 **Sec. 17.38.210. Peace officer powers.** The director and the persons employed
 20 for the administration and enforcement of this chapter may, with the concurrence of
 21 the commissioner of public safety, exercise the powers of peace officers when those
 22 powers are specifically granted by the board. Powers granted by the board under this
 23 section may be exercised only when necessary for the enforcement of the criminally
 24 punishable provisions of this chapter, regulations of the board, and other criminally
 25 punishable laws and regulations, including investigation of violations of laws against
 26 prostitution and sex trafficking described in AS 11.66.100 - 11.66.135 and laws
 27 against gambling, promoting gambling, and related offenses described in
 28 AS 11.66.200 - 11.66.280. Unless authorized by a search warrant described in
 29 AS 12.35, nothing in this section authorizes the use of metal keys, magnetic card keys,
 30 or identification cards to access private clubs.

31 **Sec. 17.38.215. License required.** A person may not knowingly manufacture,

1 sell, offer for sale, possess for sale or barter, traffic in, or barter marijuana or a
2 marijuana product unless under license issued under this chapter.

3 **Sec. 17.38.220. Purchase from nonlicensee prohibited.** (a) A person may not
4 purchase marijuana or marijuana products from a person who is not a licensee or an
5 agent or employee of a licensee.

6 (b) A person who violates this section is guilty of a violation.

7 **Sec. 17.38.225. Death of licensee.** (a) The executor or administrator of the
8 estate of a person who was operating a business as a sole licensee under a license
9 authorized by this chapter may continue to operate the licensed business until an
10 application for transfer of a license to another person is approved or until the license is
11 forfeited under (b) of this section.

12 (b) If an application for the transfer of ownership of a license from a deceased
13 licensee is not made within 90 days after the death of the licensee or within an
14 additional 90 days if an application for transfer of ownership made by the executor is
15 denied, or no petition is made to the board for an extension of time under (c) of this
16 section within the time, the license is forfeited.

17 (c) The board may extend the time limits in (b) of this section on petition of
18 the executor or administrator.

19 (d) This section does not authorize the transfer of a license by an administrator
20 or executor to the estate of a decedent.

21 (e) The board may transfer a license to an executor or administrator only in the
22 executor's or administrator's individual capacity.

23 **Sec. 17.38.250. Board approval of transfers.** (a) A license issued under this
24 chapter may not be transferred to another person except with the written consent of the
25 board.

26 (b) A license issued under this chapter may not be transferred to a new
27 location except with the written consent of the board.

28 (c) A person may not receive or transfer a controlling interest in a marijuana
29 license issued to a partnership, including a limited partnership, a limited liability
30 organization, or a corporation under this chapter, except with the written consent of
31 the board.

1 **Sec. 17.38.235. Reports required of limited liability organizations.** (a) A
 2 limited liability organization licensed under this chapter shall report to the board when
 3 a member of the limited liability organization transfers 10 percent or more of the
 4 ownership of the organization and shall report a change of managers.

5 (b) The report to the board shall be made in writing in duplicate and shall be
 6 sent within 10 days after the change in member interest or manager.

7 **Sec. 17.38.240. Reports required of corporations.** (a) A corporation issued a
 8 license under this chapter shall report to the board when 10 percent or more of the
 9 corporation's corporate stock is transferred and shall also report any change in its
 10 corporate officers or in the membership of its board of directors.

11 (b) The report to the board shall be made in writing in duplicate and shall be
 12 sent within 10 days after the transfer of the stock or the change in officers or directors.

13 (c) This section does not apply to a corporation whose stock is listed on a
 14 stock exchange, a corporation that is required by law to file periodic reports with the
 15 United States Securities Exchange Commission, or a bank, trust company, financial
 16 institution, or title company to which a license is issued in a fiduciary capacity.

17 **Sec. 17.38.245. Reports required of partnerships.** (a) A partnership,
 18 including a limited partnership, issued a license under this chapter shall report to the
 19 board when a partnership interest of 10 percent or more is transferred and shall report
 20 a change of general partners.

21 (b) The report to the board shall be made in writing in duplicate and shall be
 22 sent within 10 days after the change in interest or change of general partners.

23 **Sec. 17.38.250. Power limited to the board.** Except for temporary licenses
 24 issued by the executive director, only the board may issue, renew, transfer, relocate,
 25 suspend, or revoke a license under this chapter.

26 **Sec. 17.38.260. Types of licenses.** Licenses issued under this chapter are as
 27 follows:

- 28 (1) wholesale license;
- 29 (2) retail license;
- 30 (3) producer license.

31 **Sec. 17.38.265. Wholesale license.** (a) A wholesale license authorizes the

holder to sell marijuana and marijuana products in the original package. A wholesaler may not sell to a person not licensed under this chapter. A wholesaler may not sell marijuana or marijuana products unless any stamps required to be affixed to the package by state or federal law are intact on the package. A wholesaler shall obtain a wholesale license for each distribution point. The biennial wholesale license fee is \$2,000, payable at the time of making an original application or an application for renewal. In addition, the wholesaler shall pay an annual fee of

(1) \$500 if the total business transacted during the calendar year is over \$100,000 and not over \$150,000;

(2) \$1,000 if the total business transacted during the calendar year is over \$150,000 and not over \$200,000;

(3) \$1,500 if the total business transacted during the calendar year is over \$200,000 and not over \$250,000;

(4) \$2,000 if the total business transacted during the calendar year is over \$250,000 and not over \$300,000;

(5) \$2,500 if the total business transacted during the calendar year is over \$300,000 and not over \$350,000;

(6) \$3,000 if the total business transacted during the calendar year is over \$350,000 and not over \$400,000;

(7) \$4,000 if the total business transacted during the calendar year is over \$400,000 and not over \$500,000;

(8) \$5,000 if the total business transacted during the calendar year is over \$500,000 and not over \$600,000;

(9) \$6,000 if the total business transacted during the calendar year is over \$600,000 and not over \$700,000;

(10) \$7,000 if the total business transacted during the calendar year is over \$700,000 and not over \$800,000;

(11) \$9,000 if the total business transacted during the calendar year is over \$800,000 and not over \$1,000,000;

(12) \$10,000 if the total business transacted during the calendar year is over \$1,000,000.

(b) Not later than February 28 of each year, the licensee shall file with the board an affidavit showing the total business transacted during the preceding calendar year under the license and the location of the licensed premises at which the business was transacted. At the time of filing the affidavit, the licensee shall pay the additional annual fees accrued under (a) of this section during the preceding calendar year.

(c) Failure to file an affidavit under (b) of this section or the expiration of a license under AS 17.38.445 does not relieve a licensee from paying the prescribed fees.

(d) A person who applies for issuance or renewal of a license under this section shall file, on forms provided by the board, the following information regarding each product line of marijuana or marijuana products that the person intends to purchase, offer for sale, or sell:

- (1) the supplier of the product line;
- (2) the full and correct brand names in the product line;
- (3) the name of the producer of the product line; and
- (4) a certification by the producer of the product line that the person is the primary source of supply for the product line.

(e) In addition to the fees imposed under (a) of this section, a person filing under (d) of this section shall pay a biennial filing fee of:

- (1) \$500 for 1 to 25 suppliers;
- (2) \$1,000 for 26 to 50 suppliers;
- (3) \$1,500 for 51 to 75 suppliers;
- (4) \$2,000 for over 75 suppliers.

(f) A person licensed under this section shall notify the board within 10 days after a change in a primary source of supply designation required under (d) of this section.

(g) In this section, "total business transacted" means the total value of business transacted by the wholesale business, including the excise tax imposed by AS 43.61.010.

Sec. 17.38.270. Retail license. (a) A retail license authorizes the licensee to sell marijuana or marijuana products to a person present on the licensed premises.

1 (b) The biennial retail license fee is \$1,500.

2 (c) The holder of a retail license may not sell marijuana or marijuana products
3 unless any stamps required to be affixed to the package by state or federal law are
4 intact on the packages.

5 (d) The consumption of marijuana or marijuana products on premises licensed
6 under this section is prohibited.

7 (e) The business premises occupied by a holder of a retail license may not be
8 connected by a door, opening, or other means of passage intended for the access of the
9 general public to an adjacent retail business not licensed under this chapter, unless
10 approved by the board.

11 (f) In this section, "business premises" means that part of the licensed
12 premises to which the public has access.

13 **Sec. 17.38.275. Producer license.** (a) A producer license authorizes the holder
14 to operate a facility where marijuana is grown and packaged for sale.

15 (b) A producer license authorizes the holder to sell marijuana in any amount to
16 a person who is licensed under this chapter or in another state or country.

17 (c) A producer licensee is subject to inspection at any time by the Department
18 of Environmental Conservation, the Department of Natural Resources, and the
19 Department of Public Safety.

20 (d) The biennial producer license fee is \$1,000.

21 **Sec. 17.38.280. Application for new license.** (a) An applicant for a new
22 license shall file with the director a written application on a form approved by the
23 board, signed and sworn to by the applicant. If the applicant is a corporation, the
24 application shall be executed by the authorized officers of the corporation. If the
25 applicant is a partnership, including a limited partnership, the application shall be
26 executed by an authorized general partner. The application must include

27 (1) the name and address of the applicant;

28 (2) the type of license desired;

29 (3) a description of the premises for which the license is desired,
30 giving the address by street and number, or other information, so that the location of
31 the premises can be definitely determined;

1 (4) the application fee;

2 (5) any other information required by the board by regulation.

3 (b) A corporation applying for a license shall provide the names and addresses
4 of the president, vice-president, secretary, managing officer, and all stockholders who
5 own 10 percent or more of the stock in the corporation, together with any other
6 information required by the board.

7 (c) An applicant for a new license must include with the application

8 (1) proof that notice required by AS 17.38.310 has been given; and

9 (2) any petitions required to be secured under AS 17.38.370 before a
10 license may be issued.

11 (d) A partnership, including a limited partnership, that applies for a license
12 shall provide information required by the board including the names and addresses of
13 all general partners and all partners with an interest of 10 percent or more.

14 (e) A limited liability organization that applies for a license shall provide
15 information required by the board, including the names and addresses of all members
16 with an ownership interest of 10 percent or more and the names and addresses of all
17 managers.

18 **Sec. 17.38.285. Application for renewal of license.** (a) An application for
19 renewal of a license must include

20 (1) the information required for a new license under AS 17.38.280
21 except that proof of notice under AS 17.38.310 is not required; and

22 (2) a list of all convictions of the applicant of violations of this chapter
23 or a regulation adopted under this chapter that occurred in the preceding two calendar
24 years.

25 (b) A license shall be renewed as follows:

26 (1) on or before November 1, the director shall mail a renewal
27 application to each licensee whose license, unless renewed, will expire on
28 December 31 of that year; the application shall be mailed to the licensee at the
29 licensed premises or at the last known mailing address furnished by the licensee;

30 (2) the licensee shall submit the completed renewal application and the
31 biennial license fee to the director before January 1;

1 (3) a renewal application filed after December 31 is delinquent and
2 must be accompanied by a \$500 penalty fee;

3 (4) if December 31 falls on a weekend or a state holiday, the deadline
4 is extended to the first business day following December 31.

5 **Sec. 17.38.290. Application for transfer of a license to another person.** (a)
6 An application for transfer of a license to another person must contain the same
7 information about the transferee as is required of an applicant for a new license under
8 AS 17.38.280 and must include other information required by the board.

9 (b) An application for the transfer of a license to another person must be
10 accompanied by a statement, under oath, executed by the transferor, listing all debts of
11 the business and all taxes due by the business. The board shall promptly inform each
12 listed creditor of the application and the amount shown as owed to that creditor.

13 **Sec. 17.38.295. Application for transfer of license location.** An application
14 for a transfer of a license to a new location must contain the information required by
15 the board and must be accompanied by proof that the notice required in AS 17.38.310
16 has been given and by any petitions required to be secured under AS 17.38.370 before
17 a license may be transferred.

18 **Sec. 17.38.300. Criminal justice information and records.** (a) An applicant
19 for the issuance or transfer of a license under this chapter shall submit to the board,
20 with the application, the applicant's fingerprints and the fees required by the
21 Department of Public Safety under AS 12.62.160 for criminal justice information and
22 a national criminal history record check. The board may require an applicant for
23 renewal of a license under this chapter to submit fingerprints and pay fees as required
24 by this subsection. The board shall submit the fingerprints to the Department of Public
25 Safety to obtain a report of criminal justice information under AS 12.62 and a national
26 criminal history record check under AS 12.62.400. The Department of Public Safety
27 may submit the fingerprints to the Federal Bureau of Investigation for a national
28 criminal history record check. The board shall use the information obtained under this
29 section in its determination of an applicant's qualification for issuance, transfer, or
30 renewal of a license.

31 (b) In this section,

1 (1) "applicant" means all individuals whose names and addresses are
2 required to be provided with an application for a new license under AS 17.38.280;

3 (2) "criminal justice information" has the meaning given in
4 AS 12.62.900.

5 **Sec. 17.38.305. State trooper investigation.** The state troopers shall assist the
6 director in the investigation of applicants for new licenses and applicants for the
7 transfer of existing licenses before the applications are considered by the board.

8 **Sec. 17.38.310. Notice of application.** (a) Before a new license is issued, or
9 transfer of location or transfer of a license to another person is approved, the applicant
10 shall post a copy of the application for 10 days at the location of the proposed licensed
11 premises and at any additional locations designated by the board. The board may
12 require the applicant (1) to provide a copy of the application to newspapers and radio
13 and television stations for public service announcement, or (2) to provide paid notice
14 of the application once each week for three successive weeks in a newspaper or by
15 radio. The notice required in this subsection must be in more than one language when
16 the board decides it is necessary.

17 (b) Upon receiving an application for the issuance, renewal, relocation, or
18 transfer of ownership of a license for premises or proposed premises that are located
19 within one-half mile of the boundary of a community council established by local
20 government charter or ordinance, the board shall

21 (1) immediately provide written notice of the application to

22 (A) the community council; and

23 (B) any nonprofit community organization that has requested
24 notification in writing; and

25 (2) at least 10 days before the date set for board action on the
26 application, provide written notice of the proposed action and the time and place for a
27 hearing to

28 (A) the community council; and

29 (B) any nonprofit community organization that has requested
30 notification in writing.

31 **Sec. 17.38.315. Denial of new licenses.** The board shall deny an application

1 requesting issuance of a new license if

2 (1) the board finds, after review of all relevant information, that
3 issuance of the license would not be in the best interests of the public;

4 (2) issuance of the license is prohibited by AS 17.38.350, relating to
5 location of premises near churches and schools;

6 (3) the application has not been completed as required under
7 AS 17.38.280;

8 (4) issuance of the license would violate the restrictions pertaining to
9 the particular license imposed under this chapter;

10 (5) the requirements of AS 17.38.355 - 17.38.365 relating to zoning,
11 ownership, and location of the license and the identity and financing of a licensee have
12 not been met;

13 (6) issuance of the license is prohibited under AS 17.38.345(a) or the
14 prohibition of the issuance of the license is found necessary under AS 17.38.345(b);

15 (7) the application contains false statements of material fact.

16 **Sec. 17.38.320. Denial of license renewal.** (a) The board shall deny an
17 application requesting renewal of a license if

18 (1) the board finds, after review of all relevant information, that
19 renewal of the license would not be in the best interests of the public;

20 (2) the license has been revoked for any cause;

21 (3) the applicant has not operated the licensed premises for at least 30
22 eight-hour days during each of the two preceding calendar years, unless the board
23 determines that the licensed premises are under construction or cannot be operated
24 through no fault of the applicant;

25 (4) the requirements of AS 17.38.355 - 17.38.365 relating to zoning,
26 ownership and location of the license, and the identity and financing of a licensee have
27 not been met;

28 (5) renewal of the license would violate the restrictions pertaining to
29 the particular license under this chapter or the license has been operated in violation of
30 a condition or restriction imposed by the board;

31 (6) the application has not been completed in accordance with

1 AS 17.38.285.

2 (b) The board may deny an application for renewal of a license if the applicant
3 is delinquent in the payment of taxes if the tax liability arises in whole or in part out of
4 the licensed business.

5 **Sec. 17.38.325. Denial of request for relocation.** The board shall deny an
6 application requesting approval for the relocation of licensed premises if

7 (1) the board finds, after review of all relevant information, that
8 relocation of the license would not be in the best interests of the public;

9 (2) the relocation is prohibited under AS 17.38.345(a) or (b);

10 (3) the license would be relocated out of the established village,
11 incorporated city, unified municipality, or population area established under
12 AS 17.38.345(a) within which the license is located;

13 (4) transfer of ownership is to be made concurrently with the
14 relocation of the licensed premises and a ground for denial of the transfer of
15 ownership under AS 17.38.330 is presented;

16 (5) the application has not been completed in accordance with
17 AS 17.38.295;

18 (6) relocation of the license would result in violation of a local zoning
19 law;

20 (7) relocation of the license would violate the restrictions pertaining to
21 the particular license imposed by this chapter; or

22 (8) the license was issued under AS 17.38.345(d).

23 **Sec. 17.38.330. Denial of transfer of a license to another person.** The board
24 shall deny an application requesting approval of a transfer of a license to another
25 person under this chapter if

26 (1) the board finds, after review of all relevant information, that
27 transfer of a license to another person would not be in the best interests of the public;

28 (2) the application has not been completed in accordance with
29 AS 17.38.290;

30 (3) the application contains false statements of material fact;

31 (4) the transferor has not paid all debts or taxes arising from the

1 conduct of the business licensed under this chapter unless

2 (A) the transferor gives security for the payment of the debts or
3 taxes satisfactory to the creditor or taxing authority; or

4 (B) the transfer is under a promise given as collateral by the
5 transferor to the transferee in the course of an earlier transfer of the license
6 under which promise the transferor is obligated to transfer the license back to
7 the transferee in the event of default in payment for property conveyed as part
8 of the earlier transfer of the license;

9 (5) transfer of the license to another person would result in violation of
10 the provisions of this chapter relating to identity of licensees and financing of
11 licensees;

12 (6) transfer of the license to another person would violate the
13 restrictions pertaining to the particular license under this chapter; or

14 (7) the prospective transferee does not have the qualifications required
15 under this chapter of an original applicant.

16 **Sec. 17.38.335. Suspension and revocation of licenses.** (a) The board shall
17 suspend or revoke a license issued under this chapter if the board finds

18 (1) misrepresentation of a material fact on an application made under
19 this chapter or a regulation adopted under this chapter;

20 (2) continuation of the manufacture or sale of marijuana or marijuana
21 products by the licensee would be contrary to the best interests of the public;

22 (3) failure on the part of the licensee, after receipt of notice issued by
23 the board or its agent, to correct a defect that constitutes a violation of

24 (A) this chapter;

25 (B) a condition or restriction imposed by the board;

26 (C) a regulation adopted under this chapter; or

27 (D) other applicable law;

28 (4) conviction of a licensee of a violation of this chapter, a regulation
29 adopted under this chapter, or an ordinance adopted under AS 17.38.110;

30 (5) conviction of an agent or employee of a licensee of a violation of
31 this chapter, a regulation adopted under this chapter, or an ordinance adopted under

1 AS 17.38.110, if the licensee is found by the board to have either knowingly allowed
2 the violation or to have recklessly or with criminal negligence failed to act in
3 accordance with the duty prescribed under AS 17.38.680 with the result that the agent
4 or employee violates a law, regulation, or ordinance;

5 (6) failure of the licensee to comply with the public health, fire, or
6 safety laws and regulations in the state;

7 (7) use of the licensed premises as a resort for illegal possessors or
8 users of narcotics, prostitutes, or sex traffickers; in addition to any other legally
9 competent evidence, the character of the premises may be proved by the general
10 reputation of the premises in the community as a resort for illegal possessors or users
11 of narcotics, prostitutes, or sex traffickers;

12 (8) occurrence of illegal gambling within the limits of the licensed
13 premises;

14 (9) the licensee permitted a public offense involving moral turpitude to
15 occur on the licensed premises;

16 (10) violation by a licensee of this chapter, a condition or restriction
17 imposed by the board, a regulation adopted under this chapter, or an ordinance
18 adopted under AS 17.38.110; or

19 (11) violation by an agent or employee of a licensee of a provision of
20 this chapter, a condition or restriction imposed by the board, a regulation adopted
21 under this chapter, or an ordinance adopted under AS 17.38.110, if the licensee is
22 found by the board to have either knowingly allowed the violation or to have
23 recklessly or with criminal negligence failed to act in accordance with the duty
24 prescribed under AS 17.38.680 with the result that the agent or employee violates the
25 law, condition or restriction, regulation, or ordinance.

26 (b) If the board finds that a licensee has been convicted of a violation of a
27 criminal law related to gambling under AS 11.66.200 - 11.66.280, the board shall
28 suspend the license for a period of at least six months if the offense is the person's first
29 conviction or violation and shall revoke the license if the offense is the person's
30 second or subsequent conviction or violation.

31 (c) If the board receives notice from the Department of Revenue that a

1 licensee has violated a provision of AS 05.15 related to gambling, the board

2 (1) may suspend the license; and

3 (2) shall suspend the license for a period of at least 30 days if the
4 offense is the person's second or subsequent violation of AS 05.15 related to
5 gambling.

6 **Sec. 17.38.340. Board-imposed conditions or restrictions.** The board may, in
7 the best interests of the public, impose conditions or restrictions on a license issued
8 under this chapter.

9 **Sec. 17.38.345. Population limitations.** (a) Except as provided in (c) - (f) of
10 this section, a new license may not be issued and the board may prohibit relocation of
11 an existing license

12 (1) outside an established village, incorporated city, unified
13 municipality, or organized borough if, after the issuance or relocation, there would be
14 (A) more than one retail license for each 1,500 population or fraction of that
15 population, or (B) more than one license of each other type, including licenses that
16 have been issued under (c) of this section, for each 3,000 population or fraction of that
17 population, in a radius of five miles of the licensed premises, excluding the
18 populations of established villages, incorporated cities, unified municipalities, and
19 organized boroughs that are wholly or partly included within the radius;

20 (2) inside an established village, incorporated city, or unified
21 municipality if, after the issuance or relocation, there would be inside the established
22 village, incorporated city, or unified municipality

23 (A) more than one retail license for each 1,500 population or
24 fraction of that population; or

25 (B) more than one license of each other type, including licenses
26 that have been issued under (c) of this section, for each 3,000 population or
27 fraction of that population;

28 (3) inside an organized borough but outside an established village or
29 incorporated city located within the borough if, after the issuance or relocation, there
30 would be inside the borough, but outside the established villages and incorporated
31 cities located within the borough,

1 (A) more than one retail license for each 1,500 population or
 2 fraction of that population; or

3 (B) more than one license of each other type, including licenses
 4 that have been issued under (c) of this section, for each 3,000 population or
 5 fraction of that population, and excluding the population of incorporated cities
 6 located within the organized borough.

7 (b) If the radius described in (a)(1) of this section encompasses all of an
 8 established village, incorporated city, or unified municipality and the population
 9 resident inside and outside the established village, incorporated city, or unified
 10 municipality but inside the radius described in (a)(1) of the section is less than 3,000,
 11 the board may deny the issuance or relocation of the license.

12 (c) The board may approve the issuance or transfer of ownership of a retail
 13 license without regard to (a) of this section if it appears that the issuance or transfer
 14 will encourage the tourist trade by encouraging the construction or improvement of

15 (1) a hotel, motel, resort, or similar business relating to the tourist trade
 16 and at least a minimum number of rental rooms required according to the population
 17 of the established village, incorporated city, unified municipality, or population area
 18 established under (a) of this section in which the facility will be located, as follows:

19 (A) 10 rental rooms if the population is less than 1,501;

20 (B) 20 rental rooms if the population is 1,501 - 2,500;

21 (C) 25 rental rooms if the population is 2,501 - 5,000;

22 (D) 30 rental rooms if the population is 5,001 - 15,000;

23 (E) 35 rental rooms if the population is 15,001 - 25,000;

24 (F) 40 rental rooms if the population is 25,001 - 50,000; and

25 (G) 50 rental rooms if the population is greater than 50,000; or

26 (2) an airport terminal.

27 (d) An application requesting a transfer of location of licensed premises
 28 limited under (a) or (b) of this section shall be granted without regard to (a) of this
 29 section if the new location is less than one mile from the original location and

30 (1) no ground for denial exists under AS 17.38.325(1) or (3); and

31 (2) relocation of the licensed premises is necessary because of

1 (A) termination of a lease or rental agreement;

2 (B) condemnation of the premises;

3 (C) the substantial destruction of the premises by any cause.

4 (e) The board may approve the issuance or transfer of ownership of a retail
5 license without regard to (a) of this section if the board finds that issuance or transfer
6 of the license is necessary for the public convenience.

7 (f) In (a)(1) of this section, "population" includes only those persons residing
8 inside the radius not later than the date the application is received by the board and not
9 earlier than 60 days before the application is received by the board.

10 (g) In (a)(2) and (3) of this section, "population" includes only those persons
11 residing inside the established village, incorporated city, unified municipality, or
12 organized borough as of December 31 of the year preceding the date of application.

13 (h) In this section, "radius" means the circular area or distance limited by the
14 sweep of a straight line originating at the proposed licensed premises and extending
15 outward.

16 **Sec. 17.38.350. Restriction of location near churches and schools.** (a) The
17 board may not issue a retailer license or producer license or transfer the location of an
18 existing retailer license or producer license if the licensed premises would be located
19 in a building the public entrance of which is within 1,000 feet of school grounds or a
20 church building in which religious services are regularly conducted, measured by the
21 shortest pedestrian route from the outer boundaries of the school ground or the public
22 entrance of the church building. However, a license issued before the presence of
23 either cause of restriction within 1,000 feet of the licensed premises may be renewed
24 or transferred to a person notwithstanding this subsection.

25 (b) If a retailer license or producer license for premises located within 1,000
26 feet of school grounds or a church building in which religious services are regularly
27 conducted is revoked, expires, or is transferred to another location, the board may not
28 issue a marijuana retailer license or producer license or transfer the license to the
29 formerly licensed premises until the cessation of the cause of the restriction.

30 **Sec. 17.38.355. Zoning limitations.** (a) The board may not issue a license to a
31 person in an area regulated by a local government if a zoning regulation or ordinance

1 prohibits the sale of marijuana or marijuana products unless a variance of the
2 regulation or ordinance has been approved.

3 (b) The local government shall inform the board of zoning regulations or
4 ordinances that prohibit the sale of marijuana or marijuana products.

5 **Sec. 17.38.360. Person and location.** (a) The board shall issue each license to
6 a specific individual or individuals, to a partnership, including a limited partnership, to
7 a limited liability organization, or to a corporation. If the license is issued to a
8 corporation or limited liability organization, the registered agent of the corporation or
9 limited liability organization must be an individual who is a resident of the state.

10 (b) A specific location shall be indicated on the license as the licensed
11 premises, the principal address of which shall be indicated on the license. The licensee
12 shall immediately notify the board of changes to the mailing address of a licensee or,
13 if the licensee is a corporation, the address of the registered office of the corporation.
14 The board shall maintain the current address for a licensee on file in the main office of
15 the board.

16 **Sec. 17.38.365. Prohibited financial interest.** (a) A person other than a
17 licensee may not have a direct or indirect financial interest in the business for which a
18 license is issued.

19 (b) A person who is a representative or owner of a wholesale or producer
20 business may not be issued, solely or together with others, a retail license.

21 (c) A license may not be leased by a licensee to another person, partnership,
22 limited liability organization, or corporation.

23 (d) For the purposes of this section, a lessor under a graduated or percentage
24 lease-rent agreement involving premises licensed under this chapter does not hold a
25 financial interest in the business.

26 (e) A holder of a wholesale license may not be employed by or act as the agent
27 or employee of the holder of a retail license.

28 (f) In this section, "direct or indirect financial interest" means holding a legal
29 or equitable interest in the operation of a business licensed under this chapter.
30 However, credit extended by a producer to a wholesaler, or credit extended by a
31 wholesaler to a retailer, or a consulting fee received from a person licensed under this

chapter, is not considered a financial interest in a business licensed under this chapter.

Sec. 17.38.370. Prior public approval. (a) A new license or the transfer of location of an existing license may not be approved by the board in an area outside but within 50 miles of the boundaries of a municipality unless a petition asking that the license be issued or transferred within the area containing signatures of a majority of the permanent residents residing within one mile of the proposed premises is filed with the board.

(b) A license may not be issued in an area that is 50 miles or more from the boundaries of a municipality unless a petition asking that the license be issued within the area containing the signatures of two-thirds of the permanent residents residing within a radius of five miles of the United States post office station nearest to the proposed licensed premises is filed with the board. If there are two or more United States post office stations in the vicinity of the proposed licensed premises, the nearest to the premises constitutes the point of beginning under this subsection. If there is no United States post office station within a radius of five miles of the proposed licensed premises, the applicant must obtain the signatures of two-thirds of the permanent residents residing within a five-mile radius of the proposed licensed premises. A petition is not required for the renewal of a license issued in accordance with this subsection unless specifically required by the board.

(c) In this section, "permanent resident" means a person 21 years of age or older who has established a permanent place of abode.

Sec. 17.38.375. Objection. A person may object to an application for issuance, renewal, transfer of location, or transfer to another person of a license, by serving on the applicant and the board the reasons for the objection. The board shall consider the objections and testimony received at a hearing conducted under AS 17.38.415(b)(2) when it considers the application. An objection and the record of a hearing conducted under AS 17.38.415(b)(2) shall be retained as part of the board's permanent record of its review of the application.

Sec. 17.38.380. Protest. (a) A local governing body may protest the issuance, renewal, relocation, or transfer to another person of a license by sending the board and the applicant a protest and the reasons for the protest within 60 days after receipt from

1 the board of notice of filing of the application. A protest received after the 60-day
2 period may not be accepted by the board, and in no event may a protest cause the
3 board to reconsider an approved renewal, relocation, or transfer. The local governing
4 body may protest the continued operation of a license during the second year of the
5 biennial license period by sending the board and the licensee a protest and the reasons
6 for the protest by January 31 of the second year of the license. The procedures for
7 action on a protest of continued operation of a license are the same as the procedures
8 for action on a protest of a renewal application. The board shall consider a protest and
9 testimony received at a hearing conducted under AS 17.38.415(b)(2) or (4) when it
10 considers the application or continued operation, and the protest and the record of the
11 hearing conducted under AS 17.38.415(b)(2) or (4) shall be kept as part of the board's
12 permanent record of its review. If an application or continued operation is protested,
13 the board shall deny the application or continued operation unless the board finds that
14 the protest is arbitrary, capricious, and unreasonable.

15 (b) If the permanent residents residing outside of but within two miles of an
16 incorporated city or an established village wish to protest the issuance, renewal, or
17 transfer of a license within the city or village, they shall file with the board a petition
18 meeting the requirements of AS 17.38.415(b)(3) requesting a public hearing within 30
19 days after the posting of notice required under AS 17.38.310, or by December 31 of
20 the year application is made for renewal of a license. The board shall consider
21 testimony received at a hearing conducted under AS 17.38.415(b)(3) when it considers
22 the application, and the record of a hearing conducted under AS 17.38.415(b)(3) shall
23 be retained as part of the board's permanent record of its review of the application.

24 (c) A local governing body may recommend that a license be issued, renewed,
25 relocated, or transferred with conditions. The board shall consider recommended
26 conditions and testimony received at a hearing conducted under AS 17.38.415(b)(2) or
27 (4) when it considers the application or continued operation, and the recommended
28 conditions and the record of the hearing conducted under AS 17.38.415(b)(2) or (4)
29 shall be kept as part of the board's permanent record of its review. If the local
30 governing body recommends conditions, the board shall impose the recommended
31 conditions unless the board finds that the recommended conditions are arbitrary,

1 capricious, or unreasonable. If a condition recommended by a local governing body is
2 imposed on a licensee, the local governing body shall assume responsibility for
3 monitoring compliance with the condition, except as otherwise provided by the board.

4 (d) In addition to the right to protest under (a) of this section, a local
5 governing body may notify the board that the local governing body has determined
6 that a licensee has violated a provision of this chapter or a condition imposed on the
7 licensee by the board. Unless the board finds that the local governing body's
8 determination is arbitrary, capricious, or unreasonable, the board shall prepare the
9 determination as an accusation against the licensee under AS 44.62.360 and conduct
10 proceedings to resolve the matter as described under AS 17.38.415(c).

11 **Sec. 17.38.415. Procedure for action on license applications, suspensions,**
12 **and revocations.** (a) Unless a legal action relating to the license, applicant, or
13 premises to be licensed is pending, the board shall decide whether to grant or deny an
14 application within 90 days after receipt of the application at the main office of the
15 board. However, the decision may not be made before the time allowed for protest
16 under AS 17.38.380 has elapsed, unless waived by the local governing body.

17 (b) The board may review an application for the issuance, renewal, transfer of
18 location, or transfer to another person of a license without affording the applicant
19 notice or hearing, except

20 (1) if an application is denied, the notice of denial shall be furnished to
21 the applicant immediately in writing stating the reason for the denial in clear and
22 concise language; the notice of denial must inform the applicant that the applicant is
23 entitled to an informal conference with either the director or the board, and that, if not
24 satisfied by the informal conference, the applicant is then entitled to a formal hearing
25 conducted by the office of administrative hearings (AS 44.64.010); if the applicant
26 requests a formal hearing, the office of administrative hearings shall adhere to
27 AS 44.62.330 - 44.62.630 (Administrative Procedure Act); all interested persons may
28 be heard at the hearing and unless waived by the applicant and the board, the formal
29 hearing shall be held in the area for which the application is requested;

30 (2) the board may, on its own initiative or in response to an objection
31 or protest, hold a hearing to ascertain the reaction of the public or a local governing

body to an application if a hearing is not required under this subsection; the board shall send notice of a hearing conducted under this paragraph 20 days in advance of the hearing to each community council established within the municipality and to each nonprofit community organization entitled to notification under AS 17.38.310(b);

(3) if a petition containing the signatures of 35 percent of the adult residents having a permanent place of abode outside of but within two miles of an incorporated city or an established village is filed with the board, the board shall hold a public hearing on the question of whether the issuance, renewal, or transfer of the license in the city or village would be in the public interest;

(4) if a protest to the issuance, renewal, or transfer of location or transfer to another person of a license made by a local governing body is based on a question of law, the board shall hold a public hearing.

(c) Unless the grounds for the suspension or revocation are under AS 17.38.335(a)(4), board proceedings to suspend or revoke a license shall be conducted in accordance with AS 44.62.330 - 44.62.630 (Administrative Procedure Act), except that the licensee is entitled to an opportunity to confer informally with the director or the board within 10 days after the accusation is served on the licensee. Notice of the opportunity for an informal conference shall be served on the licensee along with the accusation. If an informal conference is requested, the running of the period of time specified in AS 44.62.380 for filing a notice of defense is tolled from the date of receipt of the request for the conference until the day following the date of the conference unless extended by the board. After the conference, the licensee, if not satisfied by the results of the conference, may obtain a hearing by filing a notice of defense as provided in AS 44.62.390. If the grounds for suspension or revocation are under AS 17.38.335(a)(4), the licensee is not entitled to notice and hearing under AS 44.62.330 - 44.62.630 (Administrative Procedure Act) on the merits of the suspension or revocation.

Sec. 17.38.420. Notice to local governing body. After receipt of an application from within (1) an established village, (2) an incorporated city, (3) an organized borough, or (4) a unified municipality, the board shall transmit written notice to the local governing body within 10 days so that the local governing body

1 may protest under AS 17.38.380.

2 **Sec. 17.38.425. Notice to community council and others.** On receipt of an
3 application for the issuance, renewal, relocation, or transfer of the ownership of a
4 license, the board shall provide written notice under AS 17.38.310(b).

5 **Sec. 17.38.430. Consideration of reports.** A license may not be suspended or
6 revoked under AS 17.38.335(a)(4) or (5) unless the board considers the reports
7 prepared by arresting and investigating officers and the sentencing report sent to the
8 board under AS 12.55.025(b).

9 **Sec. 17.38.435. Suspension and revocation based on acts of employees.** If,
10 in a proceeding to suspend or revoke a license under AS 17.38.335(a)(5), the board
11 finds that a sentencing report sent to the board under AS 12.55.025(b) or a report
12 prepared by the investigating or arresting officers in connection with the violation,
13 contains information that, if uncontradicted or unexplained, would provide a ground
14 for suspension or revocation under AS 17.38.335(a)(5), the licensee has the burden of
15 proof to establish that the licensee neither knowingly allowed the violation nor
16 recklessly or with criminal negligence failed to act in accordance with the duty
17 prescribed under AS 17.38.680.

18 **Sec. 17.38.440. Application of precedent.** In determining whether issuance,
19 renewal, transfer, relocation, suspension, or revocation of a license is in the best
20 interests of the public, the board need not conform to or distinguish its decision from
21 any action it has taken in the past on applications presenting similar facts, but may
22 instead base its decision only on the particular facts before it.

23 **Sec. 17.38.445. License renewal and expiration.** Notwithstanding
24 AS 17.38.500, an application for renewal of a license issued for two calendar years
25 ending December 31 or of a seasonal license issued for parts of those calendar years
26 may be submitted until the next February 28. If a complete application for renewal has
27 not been filed by February 28 or the required fees and the penalty fees have not been
28 paid by that date, the license expires at 12 midnight February 28. A new license may
29 not be issued to the holder of an expired license for the same premises except on proof
30 satisfactory to the board of good cause for the failure to file and pay.

31 **Sec. 17.38.450. Notice of expiration.** On or before February 15, the director

1 shall mail a notice of expiration to each licensee who has not either (1) filed an
 2 application to renew a license, along with any applicable affidavits and all fees due, or
 3 (2) notified the director of an intent not to do so. Failure of the director to mail a notice
 4 of expiration does not waive the requirement that the application for renewal be filed
 5 by February 28.

6 **Sec. 17.38.455. Appeals.** (a) An action of an officer, employee, or agent of the
 7 board relating to the administration or enforcement of this chapter may be appealed to
 8 the board by the aggrieved party.

9 (b) A decision by the board relating to the issuance, renewal, transfer,
 10 relocation, suspension, or revocation of a license under this chapter may be appealed
 11 to the superior court under AS 44.62.560.

12 **Sec. 17.38.460. Refund and forfeiture of fees.** (a) If an application for a
 13 license is denied, the board shall refund the license fee less the application fee.

14 (b) A license fee may not be refunded after the license has been issued unless
 15 the board determines it has erred in the issuance through no fault of the applicant.

16 (c) If a license is revoked on grounds that statements made in the application
 17 are untrue, the license fee paid by the applicant is forfeited to the state.

18 **Sec. 17.38.465. Civil fine.** (a) Except as provided in (c) of this section, the
 19 board may, in addition to any other penalties imposed under this chapter, impose a
 20 civil fine on a licensee that the board determines, at a proceeding under
 21 AS 17.38.415(c), has violated a provision of this chapter, a regulation adopted under
 22 this chapter, or an ordinance adopted under AS 17.38.110.

23 (b) The board shall by regulation adopt a schedule of fines that a licensee may
 24 be required to pay under this section. A fine may not exceed the greater of

25 (1) \$50,000; or

26 (2) an amount that is three times the monetary gain realized by the
 27 licensee as a result of the violation.

28 (c) If the board is proceeding under AS 17.38.335(a)(4), the board may not
 29 impose a civil fine exceeding the amount specified under AS 12.55.035 applicable to
 30 the offense for which the licensee was convicted or, with the licensee's consent, the
 31 limit imposed under (b) of this section.

1 **Sec. 17.38.470. Surrender or destruction of license.** (a) A license issued
2 under this chapter shall, if the board so directs, be surrendered on demand to a peace
3 officer, agent, or officer of the board.

4 (b) The licensee shall surrender a current license to the board within 10 days
5 after the loss or vacation of the licensed premises.

6 (c) If the license is destroyed, the licensee shall notify the board.

7 **Sec. 17.38.475. Disposition of money.** (a) The board shall transfer money
8 collected from licenses, civil fines under this chapter, and fees prescribed by the board
9 in addition to fees authorized under this chapter to the Department of Commerce,
10 Community, and Economic Development to be deposited in the general fund.

11 (b) The annual estimated balance in the account maintained by the
12 commissioner of administration under AS 37.05.142 may be appropriated to the
13 Department of Commerce, Community, and Economic Development to carry out the
14 purposes of this chapter.

15 **Sec. 17.38.485. Accessibility of license and licensed premises to inspection.**

16 (a) A licensee shall, upon request, make the licensed premises available for inspection
17 by officers charged with the enforcement of this chapter, including members of the
18 board and the director or an employee of the director, during all regular business
19 hours.

20 (b) A license issued under this chapter shall be posted within the licensed
21 premises so as to be easily available for inspection upon request by a peace officer or
22 other person during regular business hours.

23 **Sec. 17.38.490. License a privilege.** (a) A license issued under this chapter is a
24 personal privilege, not a property right.

25 (b) The privilege conferred on the licensee is personal in nature and affords
26 protection to the licensee only.

27 **Sec. 17.38.495. Foreclosure.** A license issued under this chapter is not subject
28 to foreclosure and may not be used as collateral to secure a debt. However, if a license
29 is transferred to another person, the transferor may secure payment for real and
30 personal property conveyed to the transferee on the promise of the transferee to
31 transfer the license back to the transferor upon default in payment.

1 **Sec. 17.38.500. Duration of licenses.** Upon application and payment of one-
2 half of the biennial fee, the board may issue a seasonal license under this chapter that
3 is effective for the intervals stated on the license. A seasonal license may not be
4 effective for more than 12 months in a two-year period. Otherwise, all licenses issued
5 under this chapter are effective for the two calendar years ending December 31, unless
6 a shorter period is prescribed by the board or by law.

7 **Sec. 17.38.505. Discouragement of monopolies.** (a) In a general sense, it is
8 against the public interest that the issuance, renewal, or transfer of licenses issued
9 under this chapter will create, or assist in the creation of, a monopoly.

10 (b) The board may submit proposals to the governor and the legislature
11 addressed to the discouragement of the creation of monopolies.

12 (c) The board may not by regulation adopt a definition of a monopoly.

13 **Sec. 17.38.510. Hours of sale and presence on licensed premises (standard**
14 **closing hours).** (a) A person may not sell, offer for sale, give, furnish, deliver, or
15 consume marijuana or a marijuana product on premises licensed under this chapter
16 between the hours of 5:00 a.m. and 8:00 a.m. each day.

17 (b) A licensee, agent, or employee may not permit a person to consume
18 marijuana or marijuana products on the licensed premises between the hours of 5:00
19 a.m. and 8:00 a.m. each day.

20 (c) A licensee, agent, or employee may not permit a person to enter and a
21 person may not enter premises licensed under this chapter between the hours of 5:00
22 a.m. and 8:00 a.m. each day. This subsection does not apply to an employee of the
23 licensee who is on the premises to prepare for the next day's business.

24 (d) A local government may provide for additional hours of closure under
25 AS 17.38.110.

26 **Sec. 17.38.515. Pricing and marketing of marijuana and marijuana**
27 **products.** (a) On premises where marijuana or marijuana products are sold in
28 individual servings, a licensee or a licensee's agent or employee may not

29 (1) offer or deliver, as a marketing device to the general public, free
30 marijuana or marijuana products to a patron;

31 (2) deliver marijuana or a marijuana product to a person already

1 possessing two or more servings;

2 (3) sell, offer to sell, or deliver marijuana or marijuana products to a
3 person or group of persons at a price less than the price regularly charged for the
4 marijuana or marijuana products during the same calendar week, except at private
5 functions not open to the general public;

6 (4) sell, offer to sell, or deliver an unlimited amount of marijuana or
7 marijuana products to a person or group of persons during a set period of time for a
8 fixed price;

9 (5) sell, offer to sell, or deliver marijuana or marijuana products to a
10 person or group of persons on any one day at prices less than those charged the
11 general public on that day, except at private functions not open to the general public;

12 (6) encourage or permit an organized game or contest on the licensed
13 premises that involves using marijuana or marijuana products or the awarding of
14 marijuana or marijuana products as prizes.

15 (b) A licensee or a licensee's agent or employee may not advertise or promote
16 in any way, either on or off the premises, a practice prohibited under (a) of this
17 section.

18 **Sec. 17.38.675. Marijuana server education course.** (a) As a condition of
19 issuance or renewal of a license and selling marijuana or marijuana products under a
20 license, the board shall require a licensee who sells or serves marijuana or marijuana
21 products and a licensee's agents and employees who sell or serve marijuana or
22 marijuana products or check the identification of a patron to complete a marijuana
23 server education course approved by the board, if the license is a retail license.

24 (b) The subjects that are included in an approved marijuana server education
25 course shall be determined under regulations adopted by the board. In approving
26 marijuana server education courses, the board shall consider the needs of both urban
27 and rural licensees regarding access to an approved marijuana server education course.
28 A licensee, agent, or employee who sells or serves marijuana or marijuana products
29 shall keep the card described in (c) of this section or other proof acceptable to the
30 board of successful completion of an approved marijuana server education course on
31 the licensed premises during working hours.

1 (c) A licensee, agent, or employee shall complete the course required under (a)
2 of this section and pass a written test demonstrating an understanding of the course
3 subjects not more than 30 days after being licensed or employed. The course provider
4 shall issue a card to each individual who completes the course and passes the written
5 test. A card issued under this subsection is valid for three years from the date of issue.
6 A licensee, agent, or employee may renew a card issued under this section; to renew
7 the card, the licensee, agent, or employee must pass a written test demonstrating an
8 understanding of the course subjects.

9 (d) The board shall review an approved marijuana server education course at
10 least once every three years.

11 **Sec. 17.38.680. Responsibility of licensees, agents, and employees.** The
12 licensee has a duty to exercise that degree of care that a reasonable person would
13 observe to ensure that a business under the person's control is lawfully conducted. This
14 duty of the licensee includes

15 (1) ensuring the compliance by agents or employees with this chapter
16 and regulations adopted under this chapter, including acting with reasonable diligence
17 to determine that agents or employees are advised of the provisions of this chapter and
18 the regulations adopted under this chapter, either by securing the agent's or employee's
19 written acknowledgment of posted instructions or otherwise; and

20 (2) ensuring the compliance of the premises with public health, fire,
21 and safety codes and ordinances of the state or local government having jurisdiction.

22 **Sec. 17.38.685. Responsibility of partners of a limited liability partnership**
23 **or foreign limited liability partnership.** Notwithstanding any other provision of
24 AS 32.06, a partner of a limited liability partnership or a foreign limited liability
25 partnership holding a license under this chapter is not relieved of the obligation or the
26 liability otherwise imposed on a holder of a license under this chapter solely because
27 the license is held by a limited liability partnership or a foreign limited liability
28 partnership.

29 **Sec. 17.38.690. Proof of age.** (a) If a licensee or an agent or employee of the
30 licensee questions or has reason to question whether a person entering licensed
31 premises, or ordering, purchasing, attempting to purchase, or otherwise procuring or

1 attempting to procure marijuana or marijuana products, has attained 21 years of age,
 2 that licensee, agent, or employee shall require the person to furnish proof of age
 3 acceptable under (b) of this section or proof of consent in a form determined by the
 4 board; if the person questioned does not furnish proof of age acceptable under (b) of
 5 this section, or if a licensee, agent, or employee questions or has reason to question the
 6 validity of the proof of age furnished, the licensee, employee, or agent shall require the
 7 person to sign a statement that the person is 21 years of age or older; this statement
 8 shall be made on a form prepared by and furnished to the licensee by the board.

9 (b) A valid driver's license or a valid identification card is acceptable as proof
 10 of age when used for identification in the purchase of marijuana or marijuana products
 11 and for securing entry to and remaining on premises where marijuana or marijuana
 12 products are sold if the license or identification card is made of or encased in plastic
 13 and contains a photograph of the licensee or card holder and a statement of age or date
 14 of birth.

15 **Sec. 17.38.695. Refusal of service.** A licensee, agent, or employee may refuse
 16 to sell, give, or serve marijuana or marijuana products to a person if the licensee,
 17 agent, or employee reasonably believes that the consumption of marijuana or
 18 marijuana products by that person may result in serious harm to that person or to
 19 others.

20 **Sec. 17.38.700. Warehousing of marijuana or marijuana products.** A
 21 licensee may stock, warehouse, or otherwise store marijuana or marijuana products in
 22 a place elsewhere than premises indicated on the license if

23 (1) the premises to be used for storage are inspected and approved by
 24 the board before their use;

25 (2) the use of the premises for storage is authorized by local zoning
 26 ordinances; and

27 (3) the premises are accessible for inspection as provided in
 28 AS 17.38.485.

29 **Sec. 17.38.710. Enforcement.** Peace officers shall investigate and report to the
 30 board violations of this chapter."
 31

1 Renumber the following bill sections accordingly.

3 Page 6, following line 14:

4 Insert a new bill section to read:

5 **"* Sec. 21.** AS 17.38.900(9) is repealed and reenacted to read:

6 (9) "marijuana establishment" means a wholesale licensee, retail
7 licensee, and producer licensee;"

9 Renumber the following bill sections accordingly.

11 Page 6, following line 15:

12 Insert a new paragraph to read:

13 "(15) "designated premises" means any or all designated portions of a
14 building or structure, rooms or enclosures in the building or structure, or real estate
15 leased, used, controlled, or operated by a licensee for the purpose for which the license
16 is issued by the board at the location of the site for which the license is issued;"

18 Renumber the following paragraphs accordingly.

20 Page 6, lines 18 - 19:

21 Delete all material and insert:

22 "(17) "foreign limited liability company" has the meaning given in
23 AS 10.50.990;

24 (18) "foreign limited liability partnership" has the meaning given in
25 AS 32.06;

26 (19) "impaired person" means a person whose physical or mental
27 conduct is substantially impaired as a result of the introduction of marijuana or a
28 marijuana product into the person's body and who exhibits those plain and easily
29 observed or discovered outward manifestations of behavior commonly known to be
30 produced by the overconsumption of marijuana or marijuana products;

31 (20) "licensed premises" means any or all designated portions of a

1 building or structure, rooms or enclosures in the building or structure, or real estate
 2 leased, used, controlled, or operated by a licensee in the conduct of business for which
 3 the licensee is licensed by the board at the specific address for which the license is
 4 issued;

5 (21) "limited liability company" means an organization under
 6 AS 10.50;

7 (22) "limited liability organization" means a limited liability company,
 8 a foreign limited liability company, a limited liability partnership, or a foreign limited
 9 liability partnership;

10 (23) "limited liability partnership" has the meaning given in AS 32.06;

11 (24) "local governing body" means, as appropriate, a city council, a
 12 borough assembly, or a traditional village council, but does not include a corporation
 13 established under the Alaska Native Claims Settlement Act.

14 * **Sec. 23.** AS 17.38.900 is amended by adding a new subsection to read:

15 (b) In this chapter,

16 (1) a person acts with "criminal negligence" with respect to a result or
 17 to a circumstance described by a provision of law defining an offense when the person
 18 fails to perceive a substantial and unjustifiable risk that the result will occur or that the
 19 circumstance exists; the risk must be of such a nature and degree that the failure to
 20 perceive it constitutes a gross deviation from the standard of care that a reasonable
 21 person would observe in the situation;

22 (2) a person acts "knowingly" with respect to conduct or to a
 23 circumstance described by a provision of law defining an offense when the person is
 24 aware that the person's conduct is of that nature or that the circumstance exists; when
 25 knowledge of the existence of a particular fact is an element of an offense, that
 26 knowledge is established if a person is aware of a substantial probability of its
 27 existence, unless the person actually believes it does not exist; a person who is
 28 unaware of conduct or a circumstance of which the person would have been aware had
 29 the person not been intoxicated acts knowingly with respect to that conduct or
 30 circumstance;

31 (3) a person acts "recklessly" with respect to a result or to a

circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had the person not been intoxicated acts recklessly with respect to that risk.

* **Sec. 24.** AS 43.61.010(a) is amended to read:

(a) An excise tax is imposed on the sale or transfer of marijuana from a producer licensee [MARIJUANA CULTIVATION FACILITY] to a retail licensee [MARIJUANA STORE OR MARIJUANA PRODUCT MANUFACTURING FACILITY]. Every producer licensee [MARIJUANA CULTIVATION FACILITY] shall pay an excise tax at the rate of \$50 an [PER] ounce, or proportionate part of an ounce [THEREOF], on marijuana that is sold or transferred from a producer licensee [MARIJUANA CULTIVATION FACILITY] to a retail licensee [MARIJUANA STORE OR MARIJUANA PRODUCT MANUFACTURING FACILITY].

* **Sec. 25.** AS 43.61.010 is amended by adding a new subsection to read:

(c) A licensee shall pay the tax imposed under (a) of this section through the use of stamps issued under AS 43.61.040 - 43.61.220.

* **Sec. 26.** AS 43.61.020 is amended to read:

Sec. 43.61.020. Monthly statement and payments. (a) Each producer licensee [MARIJUANA CULTIVATION FACILITY] shall send a statement by mail or electronically to the department on or before the last day of each calendar month. The statement must contain an account of the amount of marijuana sold or transferred to retail licensees [MARIJUANA STORES AND MARIJUANA PRODUCT MANUFACTURING FACILITIES] in the state during the preceding month, setting out

- (1) the total number of ounces, including fractional ounces, sold or transferred;
- (2) the names and Alaska address of each buyer and transferee; and
- (3) the weight of marijuana sold or transferred to each buyer or

1 transferee [THE RESPECTIVE BUYERS OR TRANSFEREES].

2 (b) The producer licensee [MARIJUANA CULTIVATION FACILITY] shall
3 pay monthly to the department, all taxes, computed at the rates prescribed in this
4 chapter, on the [RESPECTIVE] total quantities of the marijuana sold or transferred
5 during the preceding month. The monthly return shall be filed and the tax paid on or
6 before the last day of each month to cover the preceding month.

7 * **Sec. 27.** AS 43.61.030 is amended to read:

8 **Sec. 43.61.030. Administration and enforcement of tax.** (a) Delinquent
9 payments under this chapter shall subject the producer licensee [MARIJUANA
10 CULTIVATION FACILITY] to civil penalties under AS 43.05.220.

11 (b) If a producer licensee [MARIJUANA CULTIVATION FACILITY] fails
12 to pay the tax to the state, the producer licensee's license [MARIJUANA
13 CULTIVATION FACILITY'S REGISTRATION] may be revoked in accordance with
14 procedures established under AS 17.38.090(a)(1).

15 * **Sec. 28.** AS 43.61 is amended by adding new sections to read:

16 **Sec. 43.61.040. Stamp design; manner of affixing.** (a) The department shall
17 design and furnish stamps of sizes and denominations as determined by the
18 department.

19 (b) A stamp required under AS 43.61.040 - 43.61.220 must be affixed

20 (1) on the smallest package that will be handled, sold, used, consumed,
21 or distributed in this state; and

22 (2) in a denomination equal to the amount of tax due under this chapter
23 on the marijuana or marijuana products in the package.

24 (c) A stamp required under AS 43.61.040 - 43.61.220 shall be affixed to each
25 individual package of marijuana or marijuana products in a manner so that the stamp
26 cannot be removed from the package without being mutilated or destroyed.

27 (d) For purposes of this section, a stamp is considered affixed only if more
28 than 80 percent of the stamp is attached to the individual package in accordance with
29 (c) of this section and regulations adopted by the department.

30 **Sec. 43.61.050. Stamp required before sale, distribution, or consumption.**

31 (a) Except as provided in AS 43.61.110, a licensee or the authorized agent or designee

1 of the licensee shall affix a stamp, in the manner required by AS 43.61.040, to each
 2 package of marijuana or marijuana products immediately upon the opening of the
 3 shipping container containing the package and before sale, distribution, or
 4 consumption in this state.

5 (b) Except as provided in AS 43.61.110 and 43.61.140, a person may not
 6 engage in the following activities in this state unless the package containing the
 7 marijuana or marijuana products is affixed with the required stamp:

8 (1) sell or distribute marijuana or marijuana products to a person who
 9 is a consumer in this state;

10 (2) acquire, hold, own, possess, or transport marijuana or marijuana
 11 products for sale or distribution in this state; or

12 (3) import or cause to be imported marijuana or marijuana products
 13 into this state for sale, distribution, or consumption.

14 **Sec. 43.61.060. Sale of stamps.** (a) The department shall furnish stamps for
 15 sale to licensees.

16 (b) The department may enter into agreements with financial institutions to
 17 permit the sale of stamps by those institutions. The department shall make a list of
 18 financial institutions authorized to sell stamps under this section available to the
 19 public.

20 **Sec. 43.61.070. Purchase of and payment for stamps.** (a) A licensee shall
 21 apply to the department or a financial institution authorized under AS 43.61.060(b) to
 22 purchase stamps required by AS 43.61.040 - 43.61.220.

23 (b) A licensee may authorize an agent or designee to purchase stamps for the
 24 licensee at a location where stamps are sold. The licensee's authorization of an agent
 25 or designee must be in writing and must be signed by the licensee. The licensee shall
 26 provide a copy of the authorization to the department. The authorization continues in
 27 effect until the department receives the licensee's written notice of revocation of the
 28 authorization.

29 (c) Except as otherwise provided in this subsection, each stamp shall be sold
 30 to a licensee at its denominated value less the discount provided in this subsection.
 31 The discount under this subsection is provided as compensation for affixing stamps to

1 packages as required by AS 43.61.040 - 43.61.220. The department may reduce or
2 eliminate the discount to a licensee under this subsection if the licensee fails to meet
3 the requirements of AS 43.61.040 - 43.61.220. The discount under this subsection is
4 equal to the sum of the amounts calculated using the following percentages of
5 denominated value of stamps purchased by a licensee under this section in a calendar
6 year:

7 (1) \$1,000,000 or less, three percent;

8 (2) the amount that is more than \$1,000,000 but not more than
9 \$2,000,000, two percent;

10 (3) the amount that is over \$2,000,000, zero percent.

11 (d) Payment for stamps shall be made at the time of purchase, except that the
12 department may permit a licensee to defer payments as provided in AS 43.61.080.

13 (e) The licensee or the licensee's agent or designee must obtain the stamps in
14 person from the department or a financial institution authorized under
15 AS 43.61.060(b) to sell stamps. Alternatively, the licensee may request in writing that
16 the stamps be shipped or transported in a manner specified by the licensee that is
17 acceptable to the department. The department may accept only United States mail or
18 common or private carrier as a shipping or transportation method.

19 (f) Title to the stamps passes immediately to the licensee at the time the
20 stamps are obtained in person or, if the stamps are shipped or transported, at the time
21 the stamps are placed in the United States mail or received by the common or private
22 carrier. The licensee bears all costs associated with shipping or transporting the
23 stamps. The department may replace stamps lost or damaged in transit if the licensee
24 provides proof acceptable to the department verifying that the loss or damage occurred
25 while the stamps were in the possession of the shipping company and the shipping
26 company substantiates the loss or damage. Damaged stamps must be returned to the
27 department before the department may replace them.

28 (g) Loss, destruction, or theft of stamps does not absolve the licensee of its
29 obligation to make payment for the stamps, including payment on a deferred-payment
30 basis under AS 43.61.080.

31 (h) For purposes of the discount provided in (c) of this section, "stamps

1 purchased by a licensee" includes stamps purchased by affiliated licensees.

2 **Sec. 43.61.080. Deferred-payment basis for stamps.** (a) A licensee may
3 apply to the department to purchase stamps on a deferred-payment basis. Upon receipt
4 of the application and the bond required under (b) of this section, the department may
5 set the maximum dollar amount of stamps that the licensee is authorized to purchase
6 on a deferred-payment basis in a calendar month.

7 (b) A licensee who submits an application for the purchase of stamps on a
8 deferred-payment basis shall, as a condition of approval of the application, post a bond
9 acceptable to the department in an amount equal to

10 (1) 200 percent of the maximum dollar amount of allowed monthly
11 purchases under this section; or

12 (2) 100 percent of the maximum dollar amount of allowed monthly
13 purchases under this section if the licensee

14 (A) holds a license issued under AS 17.38 for a physical
15 location in this state; and

16 (B) has been in full compliance with the provisions of this title
17 and regulations adopted under this title during the preceding 60 months.

18 (c) Amounts owing for stamps purchased on a deferred-payment basis in a
19 calendar month are due on or before the last day of the next calendar month. Payment
20 shall be made by a remittance acceptable to the department that is made payable to the
21 department.

22 (d) The department may designate the sales locations where the licensee may
23 make purchases of stamps on a deferred-payment basis and fix the dollar amount of
24 purchases that the licensee may make under this section at each designated sales
25 location each month.

26 **Sec. 43.61.090. Suspension of deferred-payment basis privilege.** The
27 department may suspend, without prior notice, a licensee's privilege to purchase
28 stamps on a deferred-payment basis or may reduce the monthly dollar amount of
29 purchases the licensee may make under AS 43.61.080 if

30 (1) the licensee fails to pay for stamps when payment is due;

31 (2) the licensee's bond is cancelled or becomes void, impaired, or

unenforceable;

(3) the department determines that the collection of an amount unpaid or due from the licensee under this chapter is jeopardized; or

(4) the licensee violates a state statute or regulation related to the collection of taxes under this chapter.

Sec. 43.61.100. Interest. A licensee who fails to pay an amount due for the purchase of stamps within the time required

(1) is considered to have failed to pay the marijuana taxes due under this chapter; and

(2) shall pay interest at the rate established under AS 43.05.225 from the date on which the amount became due until the date of payment.

Sec. 43.61.110. Possession of unstamped marijuana and marijuana products. (a) Except as provided in (b) of this section and in AS 43.61.140, a person may not possess unstamped marijuana or marijuana products in this state.

(b) A licensee may possess unstamped marijuana or marijuana products in this state if the licensee posts a surety bond in an amount satisfactory to the department to ensure performance of its duties under this chapter.

(c) If a licensee who is authorized to possess unstamped marijuana or marijuana products under (b) of this section fails to comply with the requirements of this section, the licensee is no longer authorized to and may not possess unstamped marijuana or marijuana products under this section and is subject to the imposition of any applicable penalty under this title or other law.

Sec. 43.61.120. Refunds or credits for unused stamps and for unsalable, destroyed, or certain returned packages. (a) The department shall adopt procedures for a refund or credit to a licensee in the amount of the denominated value, less the discount given under AS 43.61.070, for

(1) unused or damaged stamps; or

(2) stamps affixed to marijuana or marijuana product packages that have become unfit for use or sale, are destroyed, or are returned to the manufacturer for credit or replacement if the licensee provides proof acceptable to the department that the marijuana or marijuana products have not been and will not be consumed in

1 this state.

2 (b) A refund or credit under (a) of this section may not be allowed for stamps
3 affixed to marijuana or marijuana product packages in violation of this chapter or
4 AS 17.38.

5 **Sec. 43.61.130. Stamps prohibited on packages not complying with federal**
6 **and state laws.** A licensee or the licensee's authorized agent or designee may not affix
7 a stamp to a marijuana or marijuana product package if the marijuana or marijuana
8 products

9 (1) may not be acquired, held, owned, imported, possessed, sold, or
10 distributed in this state under AS 17.38; or

11 (2) are not in compliance with other state or federal laws.

12 **Sec. 43.61.140. Unstamped marijuana or marijuana products as**
13 **contraband; seizure.** Unstamped marijuana or marijuana products found in this state
14 are contraband and may be seized by the commissioner or an agent or employee of the
15 commissioner or by any peace officer of the state, unless

16 (1) the marijuana or marijuana products are in the original and
17 unopened shipping container; or

18 (2) possession of the unstamped marijuana or marijuana product is not
19 a violation of this chapter.

20 **Sec. 43.61.150. Forfeiture and destruction of seized marijuana and**
21 **marijuana products.** Marijuana and marijuana products seized under AS 43.61.040 -
22 43.61.220 are forfeited to the state. After notice and an opportunity for a hearing, the
23 commissioner shall destroy the marijuana and marijuana products forfeited under this
24 section.

25 **Sec. 43.61.160. Forfeiture of other property.** (a) Upon a showing of probable
26 cause that a person has committed the crime of misconduct involving unstamped
27 marijuana or stamps in the first degree under AS 43.61.180, the following are subject
28 to forfeiture:

29 (1) material and equipment used in the manufacture, sale, offering for
30 sale, or possession for sale of marijuana or marijuana products in this state in violation
31 of AS 43.61.040 - 43.61.180 or 43.61.200 - 43.61.220;

1 (2) aircraft, vehicles, or vessels used to transport or facilitate the
2 transportation of marijuana or marijuana products manufactured, sold, offered for sale,
3 or possessed for sale in this state in violation of AS 43.61.040 - 43.61.180 or
4 43.61.200 - 43.61.220;

5 (3) money, securities, negotiable instruments, or other things of value
6 used in financial transactions derived from activity prohibited under AS 43.61.040 -
7 43.61.180 or 43.61.200 - 43.61.220.

8 (b) Property subject to forfeiture under this section may be actually or
9 constructively seized under an order issued by the superior court upon a showing of
10 probable cause that the property is subject to forfeiture under this section. Constructive
11 seizure is effected upon posting a signed notice of seizure on the item to be forfeited,
12 stating the violation and the date and place of seizure. Seizure without a court order
13 may be made if

14 (1) the seizure is incident to a valid arrest or search;

15 (2) the property subject to seizure is the subject of a prior judgment in
16 favor of the state; or

17 (3) there is probable cause to believe that the property is subject to
18 forfeiture under (a) of this section; property seized under this paragraph may be held
19 for not more than 48 hours unless an order of forfeiture is issued by the court before
20 the end of that time period.

21 (c) Within 30 days after a seizure under this section, the Department of Public
22 Safety shall make reasonable efforts to ascertain the identity and whereabouts of any
23 person holding an interest, or an assignee of a person holding an interest, in the
24 property seized, including a right to possession, or a lien, mortgage, or conditional
25 sales contract. The Department of Public Safety shall notify the person ascertained to
26 have an interest in the seized property of the impending forfeiture, and, before
27 forfeiture, the Department of Public Safety shall publish, once a week for four
28 consecutive calendar weeks, a notice of the impending forfeiture in a newspaper of
29 general circulation in the judicial district in which the seizure was made, or if a
30 newspaper is not published in that judicial district, in a newspaper published in the
31 state and distributed in that judicial district.

1 (d) Property subject to forfeiture under (a) of this section may be forfeited
2 (1) upon conviction of a person for a violation of AS 43.61.180; or
3 (2) upon judgment by the superior court in a proceeding in rem that the
4 property was used in a manner subjecting it to forfeiture under (a) of this section.

5 (e) The owner of property subject to forfeiture under (a) of this section is
6 entitled to relief from the forfeiture in the nature of remission of the forfeiture if, in an
7 action under (d) of this section, the owner shows that the owner

8 (1) was not a party to the violation;
9 (2) did not have actual knowledge or reasonable cause to believe that
10 the property was used or was to be used in violation of the law; and

11 (3) did not have actual knowledge or reasonable cause to believe that
12 the person committing the violation had, within the last 10 years,

13 (A) a criminal record for violating this chapter; or

14 (B) committed other violations of this chapter.

15 (f) The court may allow the owner of property that is subject to forfeiture
16 under (a) of this section to redeem the property by paying an amount determined by
17 the court to be the fair market value of the property.

18 (g) A person other than the owner holding, or the assignee of, a lien,
19 mortgage, or conditional sales contract on, or the right to possession of, property
20 subject to forfeiture under (a) of this section is entitled to relief from the forfeiture in
21 the nature of remission of the forfeiture if, in an action under (d) of this section, the
22 person shows that the person

23 (1) was not a party to the violation subjecting the property to
24 forfeiture;

25 (2) did not have actual knowledge or reasonable cause to believe that
26 the property was used or was to be used in violation of the law; and

27 (3) did not have actual knowledge or reasonable cause to believe that
28 the person committing the violation had, within the last 10 years,

29 (A) a criminal record for violating this chapter; or

30 (B) committed other violations of this chapter.

31 (h) It is not a defense in an in rem forfeiture proceeding brought under (d)(2)

1 of this section that a criminal proceeding is pending or has resulted in conviction or
2 acquittal of a person charged with violating AS 43.61.180.

3 (i) Property forfeited under this section shall be placed in the custody of the
4 commissioner of public safety for disposition according to an order entered by the
5 court. The court shall order destroyed any property forfeited under this section that is
6 harmful to the public and may order any property forfeited under this section that was
7 seized in a municipality to be transferred to the municipality in which the property was
8 seized or to another municipality affected by the crime for which the property was
9 forfeited. The state shall notify all municipalities affected by the crime of the
10 forfeiture proceeding. Other property shall be ordered sold and the proceeds used for
11 payment of expenses of the proceedings for forfeiture and sale, including expenses of
12 seizure, custody, and court costs. The remainder of the proceeds shall be deposited in
13 the general fund.

14 (j) The title to a vehicle or vessel forfeited to the state under this section may
15 be transferred by the state to a municipality or the local governing body of a village
16 for official use by the municipality or village, on condition that the vehicle or vessel
17 not be available for use by the defendant.

18 **Sec. 43.61.170. Monthly reports; records retention; inspection of records.**

19 (a) On or before the last day of each calendar month, a licensee shall file the following
20 information for each place of business with the department, on a form or in a format
21 prescribed by the department:

22 (1) the quantity and brands of marijuana and marijuana products
23 manufactured, imported, acquired, or sold in the state during the preceding calendar
24 month;

25 (2) the number and dollar amount of stamps

26 (A) purchased during the preceding calendar month;

27 (B) affixed to marijuana or marijuana product packages during
28 the preceding calendar month;

29 (C) not affixed to marijuana or marijuana product packages and
30 on hand at the end of the preceding calendar month; and

31 (D) refunded or credited to a licensee under AS 43.61.120; and

(3) any other information that the department requires to carry out its duties under this chapter.

(b) If a licensee ceases to manufacture, import, acquire, or sell marijuana or marijuana products in this state, the licensee shall immediately file the form required under (a) of this section with the department, for the period ending with the cessation.

(c) All statements and other records required by AS 43.61.040 - 43.61.220 must be

(1) in a form or format prescribed by the department;

(2) preserved by a licensee for a period of three years; and

(3) available for inspection at any time upon oral or written demand by the department or its authorized agent.

(d) A summary of information filed under (a) of this section shall be prepared by the department and released to the public upon request.

Sec. 43.61.180. Misconduct involving unstamped marijuana or stamps in the first degree. (a) A person commits the crime of misconduct involving unstamped marijuana or stamps in the first degree if the person

(1) with reckless disregard that the marijuana or marijuana products are unstamped

(A) sells or distributes 10 ounces or more of unstamped marijuana or marijuana products in a single transaction;

(B) owns or possesses 10 ounces or more of unstamped marijuana or marijuana products with the intent to sell; or

(C) acquires, holds, transports, imports, or possesses 20 ounces or more of unstamped marijuana or marijuana products; or

(2) with reckless disregard that the stamp was previously affixed to another marijuana or marijuana product package

(A) affixes a previously used stamp to a marijuana or marijuana product package; or

(B) possesses, sells, or distributes a previously used stamp.

(b) Misconduct involving unstamped marijuana or stamps in the first degree is a class C felony.

1 **Sec. 43.61.190. Misconduct involving unstamped marijuana or marijuana**
 2 **products in the second degree.** (a) A person commits the crime of misconduct
 3 involving unstamped marijuana or marijuana products in the second degree if the
 4 person

5 (1) with reckless disregard that the marijuana or marijuana products
 6 are unstamped

7 (A) sells or distributes at least one ounce but fewer than 10
 8 ounces of unstamped marijuana or marijuana products in a single transaction;

9 (B) owns or possesses at least one ounce but fewer than 10
 10 ounces of unstamped marijuana or marijuana products, with intent to sell;

11 (C) acquires, holds, transports, imports, or possesses at least
 12 two ounces but fewer than 20 ounces of unstamped marijuana or marijuana
 13 products; or

14 (D) acquires, holds, transports, imports, or possesses at least
 15 one ounce but fewer than two ounces of unstamped marijuana or marijuana
 16 products that are not for personal consumption; or

17 (2) is not licensed under this chapter or otherwise authorized by the
 18 department to possess stamps and possesses a stamp that is not affixed to a marijuana
 19 or marijuana product package.

20 (b) Misconduct involving unstamped marijuana or marijuana products in the
 21 second degree is a class A misdemeanor.

22 **Sec. 43.61.200. Construction of criminal statutes.** (a) The provisions of
 23 AS 11.16, AS 11.81.600, 11.81.610, and 11.81.900 apply to AS 43.61.180 and
 24 43.61.190.

25 (b) For purposes of AS 43.61.180 and 43.61.190, display of marijuana or
 26 marijuana products by a person, or possession other than in the original and unopened
 27 shipping container of marijuana or marijuana products by a person who holds a retail
 28 license under AS 17.38, is prima facie evidence of possession with intent to sell
 29 marijuana or marijuana products. In this subsection, "display" means to exhibit
 30 openly.

31 **Sec. 43.61.210. Unauthorized transfer of unaffixed stamps.** (a) A licensee

1 may not sell, exchange, or otherwise transfer stamps not affixed to a package of
 2 marijuana or marijuana products in accordance with this chapter to another person
 3 without the prior written approval of the department.

4 (b) After notice and opportunity for a hearing, the department may assess a
 5 civil fine of not less than \$1,000 nor more than \$10,000 for a violation of (a) of this
 6 section. The fine assessed is in addition to any other penalty available under the law.

7 **Sec. 43.61.220. Definitions.** In AS 43.61.040 - 43.61.220, unless the context
 8 otherwise requires,

9 (1) "affiliated licensees" means two or more licensees in which the
 10 same person holds, directly or indirectly, at least a 50 percent ownership interest;

11 (2) "licensee" means a person licensed under AS 17.38 to sell,
 12 distribute, purchase, possess, or acquire marijuana or marijuana products;

13 (3) "marijuana" has the meaning given in AS 17.38.900;

14 (4) "marijuana product" has the meaning given to "marijuana products"
 15 in AS 17.38.900;

16 (5) "package" means the individual packet, box, or other container,
 17 originating from the manufacturer, in which retail sales of marijuana or marijuana
 18 products are normally made or intended to be made; "package" does not include
 19 containers that are cartons, cases, bales, or boxes that contain packages of marijuana
 20 or marijuana products;

21 (6) "person" has the meaning given in AS 43.50.170;

22 (7) "shipping container" means the case, box, parcel, or other container
 23 in which cartons or packages of marijuana or marijuana products are placed for
 24 shipment or transportation from one place to another; "shipping container" does not
 25 include a package in which retail sales of marijuana or marijuana products are
 26 normally made or intended to be made;

27 (8) "stamp" means a stamp or other indicium that is

28 (A) printed, manufactured, or made under authorization of the
 29 department under this chapter;

30 (B) issued, sold, or circulated by the department; and

31 (C) used to pay the marijuana taxes levied under this chapter;

1 (9) "unstamped marijuana or marijuana products" means a package
2 containing marijuana or marijuana products that is not affixed with the stamp required
3 by AS 43.61.040 - 43.61.220 or is affixed with a stamp in a denomination less than the
4 tax levied under this chapter."

5
6 Renumber the following bill sections accordingly.

7
8 Page 6, following line 24:

9 Insert a new bill section to read:

10 "* **Sec. 31.** AS 17.38.070, 17.38.900(8), 17.38.900(10), 17.38.900(12), and 17.38.900(13)
11 are repealed."

12
13 Renumber the following bill sections accordingly.