

**SENATE BILL NO. 94**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY SENATOR LEMAN

Introduced: 3/4/99

Referred: HESS, Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the medical use of marijuana; and providing for an effective  
2 date."

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

4 \* **Section 1.** AS 11.71 is amended by adding a new section to article 1 to read:

5 **Sec. 11.71.090. Affirmative defense to a prosecution under AS 11.71.030 -**

6 **11.71.060; medical use of marijuana.** (a) In a prosecution under AS 11.71.030 -

7 11.71.060 charging the manufacture, delivery, possession, possession with intent to

8 manufacture or deliver, use, or display of a schedule VIA controlled substance, it is

9 an affirmative defense that the defendant is a patient, or the primary caregiver for a

10 patient, and

11 (1) the patient is currently registered under AS 17.37, that registration

12 has not expired or been revoked, and, within the previous six months, the patient was

13 (A) personally examined and diagnosed by a physician

14 (i) as having a debilitating medical condition; and

1 (ii) in the context of a bona fide physician-patient  
2 relationship; and

3 (B) given a written statement by the physician described in (A)  
4 of this paragraph that sets out the physician's conclusion that

5 (i) there are no other legal treatments that can be  
6 tolerated by the patient that are as effective in alleviating the  
7 debilitating medical condition; and

8 (ii) the patient might benefit from the ingestion of  
9 marijuana;

10 (2) the entire amount of marijuana manufactured, delivered, possessed,  
11 possessed with intent to manufacture or deliver, used, or displayed was intended by the  
12 defendant to be ingested by the patient in accordance with the written statement  
13 described in (1)(B) of this subsection;

14 (3) if the defendant is charged with having possessed, used, or  
15 displayed marijuana, the conduct occurred

16 (A) inside the residence of the patient or the primary caregiver  
17 of the patient, if any; or

18 (B) under the supervision of the patient's physician in a hospital,  
19 medical clinic, medical office, or other medical premises;

20 (4) if the defendant is charged with having delivered, or possessed with  
21 intent to deliver, marijuana, the

22 (A) conduct occurred inside the residence of the patient or  
23 primary caregiver of the patient, if any; and

24 (B) patient and the primary caregiver of the patient, if any, were  
25 the only parties to the conduct;

26 (5) if the defendant is charged with having manufactured, or possessed  
27 with intent to manufacture, marijuana, the conduct occurred inside the residence of the  
28 patient or the primary caregiver of the patient, if any;

29 (6) the patient and the primary caregiver of the patient, if any, together  
30 possessed an aggregate amount of marijuana for that patient's medical use of

31 (A) one ounce or less in usable form; and

1 (B) six or fewer marijuana plants of which no more than three  
 2 were mature or flowering plants capable of producing usable marijuana; and  
 3 (7) if the defendant is the primary caregiver of a patient, the defendant  
 4 is currently registered as the primary caregiver of the patient under AS 17.37.

5 (b) In this section,

6 (1) “bona fide physician-patient relationship” has the meaning given in  
 7 AS 17.37.070;

8 (2) “correctional facility” has the meaning given in AS 33.30.901;

9 (3) “debilitating medical condition” has the meaning given in  
 10 AS 17.37.070;

11 (4) “facility monitored by the department or the Department of  
 12 Administration” has the meaning given in AS 17.37.070;

13 (5) “patient” has the meaning given in AS 17.37.070;

14 (6) “physician” has the meaning given in AS 17.37.070;

15 (7) “primary caregiver” has the meaning given in AS 17.37.070;

16 (8) “residence” means a person's primary place of abode, where the  
 17 person intends to reside indefinitely; “residence” does not include a correctional facility  
 18 or a facility monitored by the department or Department of Administration;

19 (9) “usable form” means the seeds, leaves, buds, and flowers of the  
 20 marijuana plant, including stalks commonly used in ingesting marijuana, but does not  
 21 include roots or unusable stalks.

22 \* **Sec. 2.** AS 11.71.190(b) is amended to read:

23 (b) Marijuana is a schedule VIA controlled substance [EXCEPT FOR  
 24 MARIJUANA POSSESSED FOR MEDICAL PURPOSES UNDER AS 17.37].

25 \* **Sec. 3.** AS 17.37.010 is amended to read:

26 **Sec. 17.37.010. Registry of patients and primary caregivers [PATIENTS].**

27 (a) The department shall create and maintain a [CONFIDENTIAL] registry of patients  
 28 who have applied for and are entitled to receive a registry identification card according  
 29 to the criteria set out [FORTH] in this chapter. **The registry must also contain the**  
 30 **name of the primary caregiver of a patient, if any. Only one primary caregiver**  
 31 **may be registered by the department for a patient** [AUTHORIZED EMPLOYEES]

1 OF STATE OR LOCAL LAW ENFORCEMENT AGENCIES SHALL BE GRANTED  
 2 ACCESS TO THE INFORMATION CONTAINED WITHIN THE DEPARTMENT'S  
 3 CONFIDENTIAL REGISTRY ONLY FOR THE PURPOSE OF VERIFYING THAT  
 4 AN INDIVIDUAL THAT HAS PRESENTED A REGISTRY IDENTIFICATION  
 5 CARD TO A STATE OR LOCAL LAW ENFORCEMENT OFFICIAL IS  
 6 LAWFULLY IN POSSESSION OF SUCH CARD].

7 (b) **The registry and the information contained in it are confidential and**  
 8 **are not a public record under AS 09.25.100 - 09.25.220. Access to the registry is**  
 9 **limited to** [NO PERSON SHALL BE PERMITTED TO GAIN ACCESS TO NAMES  
 10 OF PATIENTS, PHYSICIANS, PRIMARY CARE-GIVERS OR ANY  
 11 INFORMATION RELATED TO SUCH PERSONS MAINTAINED IN  
 12 CONNECTION WITH THE DEPARTMENT'S CONFIDENTIAL REGISTRY,  
 13 EXCEPT FOR] authorized employees of the department in the course of their official  
 14 duties and **to peace officers and** authorized employees of [STATE OR LOCAL] law  
 15 enforcement agencies **of this state or a municipality of this state in the course of**  
 16 **a criminal investigation or prosecution or for the purpose of verifying that a**  
 17 **person who has presented a registry identification card or who otherwise claims**  
 18 **to be lawfully engaged in the medical use of marijuana is registered with the**  
 19 **department or is considered to be registered with the department under (f)** [WHO  
 20 HAVE STOPPED OR ARRESTED A PERSON WHO CLAIMS TO BE ENGAGED  
 21 IN THE MEDICAL USE OF MARIJUANA AND IN THE POSSESSION OF A  
 22 REGISTRY IDENTIFICATION CARD OR ITS FUNCTIONAL EQUIVALENT  
 23 PURSUANT TO (e)] of this section.

24 (c) In order to be placed on the state's confidential registry for the medical **use**  
 25 [USES] of marijuana, **an adult** [A] patient **or a parent or guardian of a minor**  
 26 **patient** shall provide to the department

27 (1) **a statement signed by the patient's physician**

28 **(A) in the context of a bona fide physician-patient**  
 29 **relationship,** [THE ORIGINAL OR A COPY OF WRITTEN  
 30 DOCUMENTATION] stating that the patient has been diagnosed with a  
 31 debilitating medical condition; **and**

1                    **(B) setting out the grounds for** [AND] the physician's  
 2 conclusion that **there is no other legal treatment that can be tolerated by** the  
 3 patient **that is as effective in alleviating the debilitating medical condition**  
 4 **and that** might benefit from the medical use of marijuana;

5                    (2) the name, address, date of birth, and social security number of the  
 6 patient;

7                    (3) the name, address, and telephone number of the patient's physician;  
 8 [AND]

9                    (4) the name, [AND] address, **date of birth, and social security**  
 10 **number** of the patient's primary **caregiver** [CARE-GIVER,] if one is designated at the  
 11 time of application; **and**

12                    **(5) if the patient is a minor, a statement by the minor's parent or**  
 13 **guardian that the patient's physician has explained the possible risks and benefits**  
 14 **of medical use of marijuana and that the parent or guardian consents to serve as**  
 15 **the primary caregiver for the patient and to control the acquisition, possession,**  
 16 **dosage, and frequency of use of marijuana by the patient.**

17                    (d) **A person may be registered under this section as the primary caregiver**  
 18 **for a patient**

19                    **(1) if the person is at least 21 years of age;**

20                    **(2) if the person has never been convicted of a felony offense under**  
 21 **AS 11.71 or AS 11.73 or a law or ordinance of another jurisdiction with elements**  
 22 **similar to an offense under AS 11.71 or AS 11.73;**

23                    **(3) if the person is not currently on probation or parole from this**  
 24 **or another jurisdiction; and**

25                    **(4) for only one patient at a time unless the primary caregiver is**  
 26 **simultaneously caring for two or more patients who reside in the same household**  
 27 **as the caregiver and are related to the caregiver by at least the fourth degree of**  
 28 **kinship by blood or marriage.**

29                    (e) The department shall verify all information submitted under (c) **and (d)** of  
 30 this section within 30 days of receiving it. The department shall notify the **patient**  
 31 [APPLICANT] that **the patient's** [HIS OR HER] application for a registry

1 identification card has been denied if the department's [ITS] review of the  
 2 information that [WHICH] the patient has provided discloses that the information  
 3 required under [PURSUANT TO] (c) of this section has not been provided or has  
 4 been falsified or that the patient is not otherwise qualified to be registered. If the  
 5 department determines that the primary caregiver is not qualified under (d) of  
 6 this section to be a primary caregiver, or if the information required under (d)  
 7 of this section has not been provided or has been falsified, the department shall  
 8 notify the patient of that determination and shall proceed to review the patient's  
 9 application as if a primary caregiver was not designated. The patient may amend  
 10 the application and designate a new primary caregiver at any time. The  
 11 department may not register a newly designated primary caregiver until it  
 12 determines that the newly designated primary caregiver is qualified under (d) of  
 13 this section and that the information required under (d) of this section has been  
 14 provided and has not been falsified. Otherwise, not more than five days after  
 15 verifying the [SUCH] information, the department shall issue a [SERIALLY  
 16 NUMBERED] registry identification card to the patient and to the primary caregiver  
 17 of the patient, if any, stating

18 (1) the patient's name, address, date of birth, and social security  
 19 number;

20 (2) that the patient is registered with the department [PATIENT'S  
 21 NAME HAS BEEN CERTIFIED TO THE STATE HEALTH AGENCY] as a person  
 22 who has a debilitating medical condition that [WHICH] the patient may address with  
 23 the medical use of marijuana;

24 (3) the dates of issuance and expiration of the registry identification  
 25 card; and

26 (4) the name, [AND] address, date of birth, and social security  
 27 number of the patient's primary caregiver [CARE-GIVER], if any [IS DESIGNATED  
 28 AT THE TIME OF APPLICATION].

29 (f) [(e)] If the department fails to deny the application and issue a registry  
 30 identification card within 35 days of receipt of an application, the patient's application  
 31 for the [SUCH] card is considered [WILL BE DEEMED] to have been approved.

1 Receipt of an application shall be **considered** [DEEMED] to have occurred upon  
 2 delivery to the department [OR DEPOSIT IN THE UNITED STATES MAILS].  
 3 Notwithstanding **this subsection, an** [THE FOREGOING, NO] application **may not**  
 4 [SHALL] be **considered to have been** [DEEMED] received **before** [PRIOR TO]  
 5 June 1, 1999. **If the department subsequently registers a patient or primary**  
 6 **caregiver, if any, or denies the application, that registration or denial revokes the**  
 7 **approval that is considered to have occurred under this subsection.**

8 (g) A patient **or a primary caregiver** who is questioned by a [ANY STATE  
 9 OR LOCAL] law enforcement official about **the patient's or primary caregiver's**  
 10 [HIS OR HER] medical use of marijuana shall **immediately show proper**  
 11 **identification to the official and (1) the person's registry identification card, or (2)**  
 12 [PROVIDE] a copy of **an application that has been pending without registration**  
 13 **or denial for over 35 days since received by** [THE WRITTEN DOCUMENTATION  
 14 SUBMITTED TO] the department and proof of the date of [MAILING OR OTHER  
 15 TRANSMISSION OF THE WRITTEN DOCUMENTATION FOR] delivery to the  
 16 department, which shall be accorded the same legal effect as a registry identification  
 17 card [,] until the patient receives actual notice that the application has been denied.  
 18 [NO PERSON SHALL APPLY FOR A REGISTRY IDENTIFICATION CARD  
 19 MORE THAN ONCE EVERY SIX MONTHS.]

20 (h) [(f)] The denial **or revocation** of a registry identification card **or the**  
 21 **removal of a person from the registry** shall be considered a final agency action  
 22 subject to judicial review. Only the patient, **or the parent or guardian of a patient**  
 23 **who is a minor, has** [WHOSE APPLICATION HAS BEEN DENIED SHALL HAVE]  
 24 standing to contest the final agency action.

25 (i) [(g)] When there has been a change in the name, address, **or** physician [,]  
 26 OR PRIMARY CARE-GIVER] of a patient who has qualified for a registry  
 27 identification card, **or a change in the name or address of the patient's primary**  
 28 **caregiver**, that patient must notify the **department** [STATE HEALTH AGENCY] of  
 29 **the** [ANY SUCH] change within 10 days. To maintain an effective registry  
 30 identification card, a patient must annually resubmit updated written documentation to  
 31 the **department** [STATE HEALTH AGENCY], as well as the name and address of

1 the patient's primary **caregiver** [CARE-GIVER], if any.

2 (j) [(h)] A patient who no longer has a debilitating medical condition **and the**  
 3 **patient's primary caregiver, if any,** shall return **all** [HIS OR HER] registry  
 4 identification **cards** [CARD] to the department within 24 hours of receiving **the**  
 5 [SUCH] diagnosis by **the patient's** [HIS OR HER] physician.

6 (k) **The department may revoke a patient's registration and refuse to**  
 7 **review another application by the patient for**

8 **(1) six months if the department determines that the patient is not**  
 9 **qualified to be registered or has not provided the department with accurate or**  
 10 **current information; or**

11 **(2) one year if the department determines that**

12 **(A) information provided to the department in connection**  
 13 **with the patient's application is false or misleading; or**

14 **(B) the patient has violated a provision of this chapter or**  
 15 **AS 11.71.**

16 (l) **The department may remove a primary caregiver from the registry if**  
 17 **the department determines that the primary caregiver**

18 **(1) has not adequately controlled the acquisition, possession, dosage,**  
 19 **or frequency of medical use of marijuana by a minor patient; or**

20 **(2) is not qualified to be registered or has violated a provision of**  
 21 **this chapter or AS 11.71.**

22 (m) [(i)] The department may determine and levy reasonable fees to pay for  
 23 any administrative costs associated with **its** [THEIR] role in **enforcing this chapter**  
 24 [THIS PROGRAM].

25 \* **Sec. 4.** AS 17.37.030 is amended to read:

26 **Sec. 17.37.030. Privileged medical use of marijuana.** (a) **A patient or**  
 27 **primary caregiver registered with the department under this chapter has an**  
 28 **affirmative defense to a criminal prosecution related to marijuana to the extent**  
 29 **provided in AS 11.71.090** [EXCEPT AS OTHERWISE PROVIDED IN AS 17.37.040,  
 30 NO PATIENT OR PRIMARY CARE-GIVER MAY BE FOUND GUILTY OF, OR  
 31 PENALIZED IN ANY MANNER FOR, A VIOLATION OF ANY PROVISION OF

1 LAW RELATED TO THE MEDICAL USE OF MARIJUANA, WHERE IT IS  
2 PROVED BY A PREPONDERANCE OF THE EVIDENCE THAT

3 (1) THE PATIENT WAS DIAGNOSED BY A PHYSICIAN  
4 AS HAVING A DEBILITATING MEDICAL CONDITION;

5 (2) THE PATIENT WAS ADVISED BY HIS OR HER PHYSICIAN,  
6 IN THE CONTEXT OF A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP,  
7 THAT THE PATIENT MIGHT BENEFIT FROM THE MEDICAL USE OF  
8 MARIJUANA IN CONNECTION WITH A DEBILITATING MEDICAL  
9 CONDITION; AND

10 (3) THE PATIENT AND HIS OR HER PRIMARY CARE-GIVER  
11 WERE COLLECTIVELY IN POSSESSION OF AMOUNTS OF MARIJUANA ONLY  
12 AS PERMITTED UNDER THIS SECTION].

13 (b) Except as otherwise provided **by law, a person is not** [IN AS 17.37.040,  
14 NO PATIENT OR PRIMARY CARE-GIVER IN LAWFUL POSSESSION OF A  
15 REGISTRY IDENTIFICATION CARD SHALL BE] subject to arrest, prosecution, or  
16 penalty in any manner for [MEDICAL USE OF MARIJUANA OR FOR] applying to  
17 have **the person's** [HIS OR HER] name placed on the confidential **registry**  
18 [REGISTER] maintained by the department **under AS 17.37.010**.

19 (c) **A** [NO] physician **is not** [SHALL BE] subject to any penalty, including  
20 arrest, prosecution, **or** disciplinary proceeding, or **denial of** [BE DENIED] any right  
21 or privilege, for

22 (1) advising a patient whom the physician has diagnosed as having a  
23 debilitating medical condition [,] about the risks and benefits of medical use of  
24 marijuana or that **the patient** [HE OR SHE] might benefit from the medical use of  
25 marijuana [,] provided that **the** [SUCH] advice is based upon

26 **(A)** the physician's contemporaneous assessment of

27 **(i)** the patient's medical history and current medical  
28 condition; **and**

29 **(ii)** **other forms of effective legal treatment that may**  
30 **be tolerated by the patient;** and

31 **(B)** a bona fide physician-patient relationship; or

1                   (2) providing a patient with **a written statement of the patient's**  
 2 **medical condition under AS 11.71.090 or in an application for registration under**  
 3 **AS 17.37.010** [WRITTEN DOCUMENTATION, BASED UPON THE PHYSICIAN'S  
 4 CONTEMPORANEOUS ASSESSMENT OF THE PATIENT'S MEDICAL HISTORY  
 5 AND CURRENT MEDICAL CONDITION AND A BONA FIDE PHYSICIAN-  
 6 PATIENT RELATIONSHIP, STATING THAT THE PATIENT HAS A  
 7 DEBILITATING MEDICAL CONDITION AND MIGHT BENEFIT FROM THE  
 8 MEDICAL USE OF MARIJUANA].

9                   (d) Notwithstanding the [FOREGOING] provisions **of this section, a** [, NO]  
 10 person, including a patient or primary **caregiver, is not** [CARE-GIVER, SHALL BE]  
 11 entitled to the protection of this **chapter** [SECTION] for **the person's** [HIS OR HER]  
 12 acquisition, possession, cultivation, use, sale, distribution, **or** [AND/OR] transportation  
 13 of marijuana for **nonmedical** [NON-MEDICAL] use.

14                   [(e) ANY PROPERTY INTEREST THAT IS POSSESSED, OWNED, OR  
 15 USED IN CONNECTION WITH THE MEDICAL USE OF MARIJUANA, OR ACTS  
 16 INCIDENTAL TO SUCH USE, SHALL NOT BE HARMED, NEGLECTED,  
 17 INJURED, OR DESTROYED WHILE IN THE POSSESSION OF STATE OR  
 18 LOCAL LAW ENFORCEMENT OFFICIALS WHERE SUCH PROPERTY HAS  
 19 BEEN SEIZED IN CONNECTION WITH THE CLAIMED MEDICAL USE OF  
 20 MARIJUANA. ANY SUCH PROPERTY INTEREST SHALL NOT BE FORFEITED  
 21 UNDER ANY PROVISION OF STATE OR LOCAL LAW PROVIDING FOR THE  
 22 FORFEITURE OF PROPERTY OTHER THAN AS A SENTENCE IMPOSED  
 23 AFTER CONVICTION OF A CRIMINAL OFFENSE OR ENTRY OF A PLEA OF  
 24 GUILTY TO SUCH OFFENSE. MARIJUANA AND PARAPHERNALIA SEIZED  
 25 BY STATE OR LOCAL LAW ENFORCEMENT OFFICIALS FROM A PATIENT  
 26 OR PRIMARY CARE-GIVER IN CONNECTION WITH THE CLAIMED MEDICAL  
 27 USE OF MARIJUANA SHALL BE RETURNED IMMEDIATELY UPON THE  
 28 DETERMINATION THAT THE PATIENT OR PRIMARY CARE-GIVER IS  
 29 ENTITLED TO THE PROTECTION CONTAINED IN THIS SECTION AS MAY BE  
 30 EVIDENCED, FOR EXAMPLE, BY A DECISION NOT TO PROSECUTE, THE  
 31 DISMISSAL OF CHARGES, OR ACQUITTAL.]

1 \* **Sec. 5.** AS 17.37.040 is amended to read:

2 **Sec. 17.37.040. Restrictions on medical use of marijuana.** (a) A [NO]  
3 patient **or primary caregiver may not engage in the medical use of marijuana** [IN  
4 LAWFUL POSSESSION OF A REGISTRY IDENTIFICATION CARD SHALL]

5 (1) [ENGAGE IN THE MEDICAL USE OF MARIJUANA] in a way  
6 that endangers the health or well-being of any person; **or**

7 (2) [ENGAGE IN THE MEDICAL USE OF MARIJUANA] in plain  
8 view of, or in a place open to, the general public [; OR

9 (3) **SELL OR DISTRIBUTE MARIJUANA TO ANY PERSON WHO**  
10 **IS KNOWN TO THE PATIENT NOT TO BE EITHER IN LAWFUL POSSESSION**  
11 **OF A REGISTRY IDENTIFICATION CARD OR ELIGIBLE FOR SUCH CARD].**

12 (b) **A patient may not distribute marijuana other than to the patient's**  
13 **primary caregiver, and a primary caregiver may not distribute marijuana other**  
14 **than to a patient for whom the caregiver is responsible** [ANY PATIENT FOUND  
15 BY A PREPONDERANCE OF THE EVIDENCE TO HAVE WILLFULLY  
16 VIOLATED THE PROVISIONS OF THIS CHAPTER SHALL BE PRECLUDED  
17 FROM OBTAINING OR USING A REGISTRY IDENTIFICATION CARD FOR THE  
18 MEDICAL USE OF MARIJUANA FOR A PERIOD OF ONE YEAR].

19 (c) A [NO] governmental, private, or [ANY] other health insurance provider  
20 **is not** [SHALL BE REQUIRED TO BE] liable for any claim for reimbursement for  
21 **expenses associated with** [THE] medical use of marijuana.

22 (d) Nothing in this **chapter** [SECTION] shall require any accommodation of  
23 any medical use of marijuana

24 (1) in any place of employment;

25 (2) in any correctional facility, **medical facility, or facility monitored**  
26 **by the department or the Department of Administration;**

27 (3) on or within 500 feet of school grounds;

28 (4) at or within 500 feet of a recreation or youth center; or

29 (5) on a school bus.

30 \* **Sec. 6.** AS 17.37.060 is amended to read:

31 **Sec. 17.37.060. Addition of debilitating medical conditions.** Not later than

1 June 1, 1999, the department shall **adopt** [PROMULGATE] regulations under  
 2 AS 44.62 (Administrative Procedure Act) governing the manner in which it may  
 3 consider adding debilitating medical conditions to the list provided in **AS 17.37.070**  
 4 [THIS SECTION]. After June 1, 1999, the department shall also accept for  
 5 consideration physician or patient initiated petitions to add debilitating medical  
 6 conditions to the list provided in **AS 17.37.070** [THIS SECTION] and, after hearing,  
 7 shall approve or deny **the** [SUCH] petitions within 180 days of submission. The  
 8 denial of [SUCH] a petition shall be considered a final agency action subject to  
 9 judicial review.

10 \* **Sec. 7.** AS 17.37.070 is amended to read:

11 **Sec. 17.37.070. Definitions.** In this chapter, unless the context clearly requires  
 12 otherwise,

13 (1) **"bona fide physician-patient relationship" means that the**  
 14 **physician obtained a patient history, performed an in-person physical examination**  
 15 **of the patient, and documented written findings, diagnoses, recommendations, and**  
 16 **prescriptions in written patient medical records maintained indefinitely by the**  
 17 **physician;**

18 (2) "correctional facility" **has the meaning given in AS 33.30.901**  
 19 [MEANS A STATE PRISON INSTITUTION OPERATED AND MANAGED BY  
 20 EMPLOYEES OF THE DEPARTMENT OF CORRECTIONS OR PROVIDED TO  
 21 THE DEPARTMENT OF CORRECTIONS BY AGREEMENT UNDER AS 33.30.031  
 22 FOR THE CARE, CONFINEMENT OR DISCIPLINE OF PRISONERS];

23 (3) [(2)] "debilitating medical condition" means

24 (A) **severe and chronic pain or nausea resulting from** cancer,  
 25 glaucoma, positive status for human immunodeficiency virus, or acquired  
 26 immune deficiency syndrome, or **resulting from medical** treatment for any of  
 27 these conditions; **or**

28 (B) **severe and** [ANY] chronic **pain, nausea, seizures, or**  
 29 **muscle spasms resulting from a** [OR DEBILITATING] disease or treatment  
 30 for **the disease when the condition has been determined** [SUCH DISEASES,  
 31 WHICH PRODUCES, FOR A SPECIFIC PATIENT, ONE OR MORE OF

1 THE FOLLOWING, AND FOR WHICH, IN THE PROFESSIONAL OPINION  
 2 OF THE PATIENT'S PHYSICIAN, SUCH CONDITION OR CONDITIONS  
 3 REASONABLY MAY BE ALLEVIATED BY THE MEDICAL USE OF  
 4 MARIJUANA: CACHEXIA; SEVERE PAIN; SEVERE NAUSEA;  
 5 SEIZURES, INCLUDING THOSE THAT ARE CHARACTERISTIC OF  
 6 EPILEPSY; OR PERSISTENT MUSCLE SPASMS, INCLUDING THOSE  
 7 THAT ARE CHARACTERISTIC OF MULTIPLE SCLEROSIS; OR

8 (C) ANY OTHER MEDICAL CONDITION, OR TREATMENT  
 9 FOR SUCH CONDITION, APPROVED] by the department, **under**  
 10 [PURSUANT TO ITS AUTHORITY TO PROMULGATE] regulations **adopted**  
 11 **under AS 17.37.060** or [ITS] approval of a [ANY] petition submitted [BY A  
 12 PATIENT OR PHYSICIAN] under AS 17.37.060, **to be susceptible to**  
 13 **alleviation by ingesting marijuana;**

14 (4) [(3)] "department" means the Department of Health and Social  
 15 Services;

16 (5) **"facility monitored by the department or the Department of**  
 17 **Administration" means an institution, building, office, or home operated by the**  
 18 **department or the Department of Administration, funded by the department or**  
 19 **the Department of Administration, under contract with the department or the**  
 20 **Department of Administration, inspected by the department or the Department**  
 21 **of Administration, designated by the department or the Department of**  
 22 **Administration, or licensed by the department or the Department of**  
 23 **Administration, for the care of**

24 (A) **juveniles; for the purposes of this subparagraph,**  
 25 **"institution" includes a foster home and a group home, and a juvenile**  
 26 **detention facility; a juvenile detention home, a juvenile work camp, and a**  
 27 **treatment facility, as those terms are defined in AS 47.14.990;**

28 (B) **the elderly; for the purposes of this subparagraph,**  
 29 **"institution" includes an assisted living home as defined in AS 47.33.990**  
 30 **and a Pioneers' Home operated under AS 47.55;**

31 (C) **the mentally ill; for the purposes of this subparagraph,**

1 "institution" includes a designated treatment facility and an evaluation  
 2 facility, as those terms are defined in AS 47.30.915;

3 (6) "medical facility" means an institution, building, office, or home  
 4 providing medical services, and includes a hospital, clinic, physician's office, or  
 5 health facility as defined in AS 47.07.900, and a facility providing hospice care or  
 6 rehabilitative services, as those terms are defined in AS 47.07.900;

7 (7) [(4)] "medical use" means the acquisition, possession, cultivation,  
 8 use or [AND/OR] transportation of marijuana or [AND/OR] paraphernalia related to  
 9 the administration of [SUCH] marijuana to alleviate [ADDRESS THE SYMPTOMS  
 10 OR EFFECTS OF] a debilitating medical condition under the provisions of this  
 11 chapter and AS 11.71.090 [ONLY AFTER A PHYSICIAN HAS AUTHORIZED  
 12 SUCH MEDICAL USE BY A DIAGNOSIS OF THE PATIENT'S DEBILITATING  
 13 MEDICAL CONDITION];

14 (8) [(5)] "patient" means a person who has a debilitating medical  
 15 condition;

16 (9) [(6)] "physician" means a person licensed to practice medicine in  
 17 this state or an officer in the regular medical service of the armed forces of the United  
 18 States or the United States Public Health Service while in the discharge of their official  
 19 duties, or while volunteering services without pay or other remuneration to a hospital,  
 20 clinic, medical office, or other medical facility in this state;

21 (10) [(7)] "primary caregiver [CARE-GIVER]" means a person, other  
 22 than the patient's physician, who has primary [IS 18 YEARS OF AGE OR OLDER  
 23 AND HAS SIGNIFICANT] responsibility for attending to the basic needs of and  
 24 managing the care and well-being of a patient who has a debilitating medical  
 25 condition; "primary caregiver" does not include a person whose primary  
 26 relationship with the patient is to supply the patient with marijuana

27 [(8) "PRISONER" MEANS A PERSON DETAINED OR CONFINED  
 28 IN A CORRECTIONAL FACILITY, WHETHER BY ARREST, CONVICTION, OR  
 29 COURT ORDER, OR A PERSON HELD AS A WITNESS OR OTHERWISE,  
 30 INCLUDING MUNICIPAL PRISONERS HELD UNDER CONTRACT AND  
 31 JUVENILES HELD UNDER THE AUTHORITY OF AS 47.10;

1 (9) "REGISTRY IDENTIFICATION CARD" MEANS A DOCUMENT  
2 ISSUED BY THE DEPARTMENT WHICH IDENTIFIES A PATIENT  
3 AUTHORIZED TO ENGAGE IN THE MEDICAL USE OF MARIJUANA AND THE  
4 PATIENT'S PRIMARY CARE-GIVER, IF ANY;

5 (10) "USABLE FORM" AND "USABLE MARIJUANA" MEANS THE  
6 SEEDS, LEAVES, BUDS, AND FLOWERS OF THE PLANT (GENUS) CANNABIS,  
7 BUT DOES NOT INCLUDE THE STALKS OR ROOTS;

8 (11) "WRITTEN DOCUMENTATION" MEANS A STATEMENT  
9 SIGNED BY A PATIENT'S PHYSICIAN OR COPIES OF THE PATIENT'S  
10 PERTINENT MEDICAL RECORDS].

11 \* **Sec. 8.** AS 17.37.020 and 17.37.050 are repealed.

12 \* **Sec. 9.** This Act takes effect immediately under AS 01.10.070 or on March 4, 1999,  
13 whichever is later.