

SENATE BILL NO. 62

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Introduced: 2/25/15

Referred: State Affairs, Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the regulation of marijuana, marijuana testing, marijuana products,**
2 **and marijuana accessories; relating to the licensing of marijuana retailers, producers,**
3 **processors, boutique producers, brokers, and home growers; relating to taxation of**
4 **marijuana; and providing for an effective date."**

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

6 *** Section 1.** AS 03.05.011 is amended by adding a new subsection to read:

7 (f) The commissioner or the commissioner's designee shall inspect and certify
8 marijuana testing facilities.

9 *** Sec. 2.** AS 17.38.060 is amended to read:

10 **Sec. 17.38.060. Marijuana accessories authorized. It**
11 **[NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IT] is lawful and is**
12 **[SHALL] not [BE] an offense under Alaska law or the law of any political subdivision**
13 **of Alaska or [BE] a basis for seizure or forfeiture of assets under Alaska law for**
14 **persons 21 years of age or older to manufacture, possess, or purchase marijuana**

1 accessories, or to distribute or sell marijuana accessories to a person who is 21 years
2 of age or older.

3 * **Sec. 3.** AS 17.38 is amended by adding a new section to read:

4 **Sec. 17.38.075. Limitations on advertising.** A person may not advertise or
5 market marijuana, a marijuana product, or a marijuana accessory in a manner enticing
6 to **minors** [CHILDREN].

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

8 **Sec. 17.38.090. Rulemaking.** (a) Not later than nine months after February 24,
9 2015, the board shall adopt regulations necessary for implementation of this chapter.
10 **The** [SUCH] regulations **may** [SHALL] not prohibit the operation of marijuana
11 establishments, either expressly or through regulations that make their operation
12 unreasonably impracticable. **The** [SUCH] regulations **must** [SHALL] include

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

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

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

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

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

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

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

31 (8) **subject to the limitations on advertising and marketing in**

1 **AS 17.38.075**, reasonable restrictions on the advertising and display of marijuana and
2 marijuana products; and

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

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

11 * **Sec. 5.** AS 17.38.090 is amended by adding new subsections to read:

12 (c) The board shall adopt regulations regarding the packaging and labeling of
13 marijuana and marijuana products that are sold by a marijuana retailer. The regulations
14 must provide that

15 (1) marijuana and marijuana products, including edible marijuana
16 products, may not leave the licensed premises of a marijuana retail store unless
17 contained in child-proof containers or packages;

18 (2) the container or package must be clearly labeled with the contents
19 of the container or package; a label may not be marked in a manner or include pictures
20 or other representations that might be enticing to minors; and

21 (3) the potency and certification of safety of each retail marijuana
22 product, including edible marijuana products, are on the container or package.

23 (d) The board shall require that individual doses of edible marijuana contain
24 10 milligrams or less of tetrahydrocannabinol and each dose be individually wrapped.
25 The board shall allow for the retail sale of edible marijuana packages that contain
26 multiple doses.

27 (e) The board shall adopt regulations regarding the potency, safety, and
28 medical characteristics of medical marijuana.

29 * **Sec. 6.** AS 17.38.100(a) is amended to read:

30 (a) Each application or renewal application for a **license** [REGISTRATION] to
31 operate a marijuana establishment shall be submitted to the board. A renewal

1 application may be submitted up to 90 days **before** [PRIOR TO] the expiration of the
2 marijuana establishment's **license** [REGISTRATION].

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

4 (c) Upon receiving an application or renewal application for a marijuana
5 establishment, the board shall immediately forward a copy of each application [AND
6 HALF OF THE REGISTRATION APPLICATION FEE] to the local regulatory
7 authority for the **municipality** [LOCAL GOVERNMENT] in which the applicant
8 desires to operate the marijuana establishment, unless the **municipality** [LOCAL
9 GOVERNMENT] has not designated a local regulatory authority **under** [PURSUANT
10 TO] AS 17.38.110(c). **The board shall refund money collected under**
11 **AS 17.38.110(e) to a municipality for which the money was collected.**

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

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

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

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

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

27 (g) Every marijuana establishment **license must** [REGISTRATION SHALL]
28 specify the location where the marijuana establishment will operate. A separate
29 **license is** [REGISTRATION SHALL BE] required for each location at which a
30 marijuana establishment operates. **The board may only license a marijuana**
31 **establishment that is located in this state.**

1 * **Sec. 11.** AS 17.38.110(a) is amended to read:

2 (a) A **municipality** [LOCAL GOVERNMENT] may prohibit the operation of
3 **a** marijuana **producer** [CULTIVATION FACILITIES], marijuana **processor**
4 [PRODUCT MANUFACTURING FACILITIES], marijuana testing **facility**
5 [FACILITIES], or [RETAIL] marijuana **retailer** [STORES] through the enactment of
6 an ordinance or by a voter initiative.

7 * **Sec. 12.** AS 17.38.110(b) is amended to read:

8 (b) A **municipality** [LOCAL GOVERNMENT] may enact ordinances or
9 regulations not in conflict with this chapter or with regulations enacted **under**
10 [PURSUANT TO] this chapter, governing the time, place, manner, and number of
11 marijuana establishment operations. A **municipality** [LOCAL GOVERNMENT] may
12 establish civil penalties for violation of an ordinance or regulation governing the time,
13 place, and manner of a marijuana establishment that may operate in **the municipality**
14 [SUCH LOCAL GOVERNMENT].

15 * **Sec. 13.** AS 17.38.110(c) is amended to read:

16 (c) A **municipality** [LOCAL GOVERNMENT] may designate a local
17 regulatory authority that is responsible for processing applications submitted for a
18 **license** [REGISTRATION] to operate a marijuana establishment within the
19 boundaries of the **municipality** [LOCAL GOVERNMENT]. The **municipality**
20 [LOCAL GOVERNMENT] may provide that the local regulatory authority may issue
21 **licenses if** [SUCH REGISTRATIONS SHOULD] the issuance by the **municipality**
22 **becomes** [LOCAL GOVERNMENT BECOME] necessary because of a failure by the
23 board to adopt regulations **under** [PURSUANT TO] AS 17.38.090 or to accept or
24 process applications in accordance with AS 17.38.100.

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

26 (d) A **municipality** [LOCAL GOVERNMENT] may establish procedures for
27 the issuance, suspension, and revocation of a **license** [REGISTRATION] issued by the
28 **municipality** [LOCAL GOVERNMENT] in accordance with (f) [OF THIS
29 SECTION] or (g) of this section. These procedures shall be subject to all requirements
30 of AS 44.62 (Administrative Procedure Act).

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

1 (e) A municipality shall [LOCAL GOVERNMENT MAY] establish a
 2 schedule of licensing, renewal, [ANNUAL OPERATING, REGISTRATION], and
 3 application fees for marijuana establishments in accordance with AS 17.38.090(a)(2).
 4 The fees may not exceed the actual costs of processing the application to the point
 5 of issuance or denial [, PROVIDED, THE APPLICATION FEE SHALL ONLY BE
 6 DUE IF AN APPLICATION IS SUBMITTED TO A LOCAL GOVERNMENT IN
 7 ACCORDANCE WITH (f) OF THIS SECTION AND A REGISTRATION FEE
 8 SHALL ONLY BE DUE IF A REGISTRATION IS ISSUED BY A LOCAL
 9 GOVERNMENT IN ACCORDANCE WITH (f) OF THIS SECTION OR (g) OF
 10 THIS SECTION].

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

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

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

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

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

31 (h) A local regulatory authority issuing a license [REGISTRATION] to an

1 applicant shall do so within 90 days **after** [OF] receipt of the submitted or resubmitted
 2 application unless the local regulatory authority finds and notifies the applicant that
 3 the applicant is not in compliance with ordinances and regulations made **under**
 4 [PURSUANT TO] (b) of this section in effect at the time the application is submitted
 5 to the local regulatory authority. The **municipality** [LOCAL GOVERNMENT] shall
 6 notify the board if an annual **license** [REGISTRATION] has been issued to the
 7 applicant.

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

9 (i) A **license** [REGISTRATION] issued by a **municipality** [LOCAL
 10 GOVERNMENT] in accordance with (f) [OF THIS SECTION] or (g) of this section
 11 shall have the same force and effect as a **license** [REGISTRATION] issued by the
 12 board in accordance with AS 17.38.100. The holder of **the license is** [SUCH
 13 REGISTRATION SHALL] not [BE] subject to regulation or enforcement by the board
 14 during the term of that **license** [REGISTRATION].

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

16 (j) A subsequent or renewed **license** [REGISTRATION] may be issued under
 17 (f) of this section on an annual basis only upon resubmission to the **municipality**
 18 [LOCAL GOVERNMENT] of a new application submitted to the board **under**
 19 [PURSUANT TO] AS 17.38.100.

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

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

28 * **Sec. 22.** AS 17.38 is amended by adding new sections to read:

29 **Sec. 17.38.200. Types of licenses.** Licenses issued under this chapter are as
 30 follows:

31 (1) marijuana producer license;

- 1 (2) marijuana processor license;
- 2 (3) marijuana retailer license;
- 3 (4) marijuana boutique producer license;
- 4 (5) marijuana broker license; and
- 5 (6) marijuana home grower license.

6 **Sec. 17.38.210. Marijuana producer license.** (a) A marijuana producer
7 license authorizes the holder to

- 8 (1) grow marijuana on licensed premises located in the state;
- 9 (2) sell marijuana grown on the licensed premises only to a marijuana
10 processor or a marijuana retailer.

11 (b) The annual license fee for a marijuana producer license shall be determined
12 by the board in accordance with AS 17.38.090(a)(2).

13 **Sec. 17.38.220. Marijuana processor license.** (a) A marijuana processor
14 license authorizes the holder to

- 15 (1) purchase marijuana from a marijuana producer or marijuana
16 processor;
- 17 (2) refine, process, cook, manufacture, develop, label, and package
18 marijuana and marijuana products;
- 19 (3) perform solvent-based extractions on marijuana; and
- 20 (4) sell marijuana only to a marijuana processor or marijuana retailer.

21 (b) The annual fee for a marijuana processor license shall be determined by the
22 board in accordance with AS 17.38.090(a)(2).

23 **Sec. 17.38.230. Marijuana retailer license.** (a) A marijuana retailer license
24 authorizes the holder to sell up to one ounce of marijuana a day to an individual on the
25 licensed premises for consumption off the premises. A marijuana retailer may only
26 purchase marijuana from a marijuana producer or a marijuana processor.

27 (b) A license may be issued under this section only if the applicant does not
28 hold a license or permit issued under AS 04.

29 (c) A marijuana retailer may not

- 30 (1) sell, offer for sale, give, furnish, or deliver marijuana or marijuana
31 products on the licensed premises between the hours of 12 midnight and 8:00 a.m.

1 each day;

2 (2) consume marijuana or marijuana products on the licensed premises
3 or permit a person to consume marijuana or marijuana products on the licensed
4 premises;

5 (3) offer or deliver, as a marketing device to the general public, free
6 marijuana or marijuana products to a patron;

7 (4) sell marijuana to a person licensed under this chapter.

8 (d) The annual fee for a marijuana retailer license shall be determined by the
9 board in accordance with AS 17.38.090(a)(2).

10 **Sec. 17.38.240. Marijuana testing facilities.** A marijuana testing facility may
11 not test, analyze, or certify marijuana unless the facility is certified by the Department
12 of Environmental Conservation.

13 **Sec. 17.38.250. Marijuana boutique producer license.** (a) A marijuana
14 boutique producer license authorizes the holder to

15 (1) grow not more than 50 marijuana plants on licensed premises
16 located in the state; and

17 (2) sell the marijuana grown on the licensed premises to a marijuana
18 broker.

19 (b) The annual fee for a marijuana boutique producer license shall be
20 determined by the board in accordance with AS 17.38.090(a)(2).

21 **Sec. 17.38.260. Marijuana broker license.** (a) A marijuana broker license
22 authorizes the holder to

23 (1) purchase marijuana and marijuana products from a marijuana
24 processor, marijuana boutique producer, or marijuana home grower; and

25 (2) sell marijuana and marijuana products to a marijuana retailer or
26 marijuana processor.

27 (b) The annual fee for a marijuana broker license shall be determined by the
28 board in accordance with AS 17.38.090(a)(2).

29 **Sec. 17.38.270. Marijuana home grower license.** (a) A marijuana home
30 grower license authorizes the holder to sell to a marijuana broker any amount of
31 marijuana produced from plants legally owned by the holder.

1 (b) The annual fee for a marijuana home grower license shall be determined by
2 the board in accordance with AS 17.38.090(a)(2).

3 **Sec. 17.38.280. Integrated licenses.** (a) The board may issue a marijuana
4 producer, marijuana processor, and marijuana retailer license to one person.

5 (b) The board may issue a marijuana producer and marijuana processor license
6 to one person. A person issued an integrated marijuana producer and marijuana
7 processor license may not grow or process marijuana on more than one licensed
8 premises.

9 (c) The board may charge a higher annual fee for an integrated license.

10 **Sec. 17.38.290. Application for new license.** (a) An applicant for a new
11 license shall file with the director a written application on a form approved by the
12 board, signed and sworn to by the applicant. If the applicant is a corporation, the
13 application shall be executed by the authorized officers of the corporation. If the
14 applicant is a partnership, including a limited partnership, the application shall be
15 executed by an authorized general partner. The application must include

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

17 (2) the type of license desired;

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

21 (4) the application fee;

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

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

27 (c) An applicant for a new license must include with the application proof that
28 notice required by AS 17.38.340 has been given.

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

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

5 **Sec. 17.38.300. Application for renewal of license.** (a) An application for
 6 renewal of a license must include

7 (1) the information required for a new license under AS 17.38.290
 8 except that proof of notice under AS 17.38.340 is not required; and

9 (2) a list of all convictions of the applicant of violations of this chapter,
 10 or a regulation adopted under this chapter, that occurred in the preceding two calendar
 11 years.

12 (b) A license shall be renewed for a qualified applicant as follows:

13 (1) on or before November 1, the director shall mail a renewal
 14 application to each licensee; the application shall be mailed to the licensee at the
 15 licensed premises or at the last known mailing address furnished by the licensee;

16 (2) the licensee shall submit the completed renewal application and the
 17 license fee to the director before January 1;

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

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

22 **Sec. 17.38.310. Application for transfer of a license to another person.** (a)
 23 An application for transfer of a current, valid license to another person must contain
 24 the same information about the transferee as is required of an applicant for a new
 25 license under AS 17.38.290 and must include other information required by the board.

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

30 (c) A person may not charge another person more than the cost of the license
 31 for the calendar year to transfer a license.

1 **Sec. 17.38.320. Application for transfer of license location.** An application
 2 for a transfer of a license to a new location must contain the information required by
 3 the board and must be accompanied by proof that the notice required in AS 17.38.340
 4 has been given before a license may be transferred.

5 **Sec. 17.38.330. Criminal justice information and records.** (a) An applicant
 6 for the issuance or transfer of a license under this chapter shall submit to the board,
 7 with the application, the applicant's fingerprints and the fees required by the
 8 Department of Public Safety under AS 12.62.160 for criminal justice information and
 9 a national criminal history record check. The board may require an applicant for
 10 renewal of a license under this chapter to submit fingerprints and pay fees as required
 11 by this subsection. The board shall submit the fingerprints to the Department of Public
 12 Safety to obtain a report of criminal justice information under AS 12.62 and a national
 13 criminal history record check under AS 12.62.400. The Department of Public Safety
 14 may submit the fingerprints to the Federal Bureau of Investigation for a national
 15 criminal history record check. The board may use the information obtained under this
 16 section in its determination of an applicant's qualification for issuance, transfer, or
 17 renewal of a license.

18 (b) In this section,

19 (1) "applicant" means all individuals whose names and addresses are
 20 required to be provided with an application for a new license under AS 17.38.290;

21 (2) "criminal justice information" has the meaning given in
 22 AS 12.62.900.

23 **Sec. 17.38.340. Notice of application.** (a) Before a new license is issued, or
 24 transfer of location or transfer of a license to another person is approved, the applicant
 25 shall post a copy of the application for 10 days at the location of the proposed licensed
 26 premises and at any additional locations designated by the board. The board may
 27 require the applicant (1) to provide a copy of the application to newspapers and radio
 28 and television stations for public service announcement, or (2) to provide paid notice
 29 of the application once each week for three successive weeks in a newspaper or by
 30 radio. The notice required in this subsection must be in more than one language when
 31 the board decides it is necessary.

1 (b) Upon receiving an application for the issuance, renewal, relocation, or
 2 transfer of ownership of a license for premises or proposed premises that are located
 3 within one-half mile of the boundary of a community council established by municipal
 4 charter or ordinance, the board shall

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

6 (A) the community council; and

7 (B) any nonprofit community organization that has requested
 8 notification in writing; and

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

12 (A) the community council; and

13 (B) any nonprofit community organization that has requested
 14 notification in writing.

15 **Sec. 17.38.350. Denial of new licenses.** The board shall deny an application
 16 requesting issuance of a new license if

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

19 (2) issuance of the license is prohibited by AS 17.38.410, relating to
 20 location of premises near churches, schools, and correctional facilities;

21 (3) the application has not been completed as required under
 22 AS 17.38.290;

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

25 (5) the requirements of AS 17.38.420 - 17.38.440 relating to zoning,
 26 ownership and location of the license, and the identity and financing of a licensee have
 27 not been met; or

28 (6) the application contains false statements of material fact.

29 **Sec. 17.38.360. Denial of license renewal.** (a) The board shall deny an
 30 application requesting renewal of a license if

31 (1) the board finds, after review of all relevant information, that

1 renewal of the license would not be in the best interests of the public;

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

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

7 (4) the requirements of AS 17.38.420 - 17.38.440 relating to zoning,
8 ownership and location of the license, and the identity and financing of a licensee have
9 not been met;

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

13 (6) the application has not been completed in accordance with
14 AS 17.38.300; or

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

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

19 **Sec. 17.38.370. Denial of request for relocation.** The board shall deny an
20 application requesting approval for the relocation of licensed premises if

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

23 (2) the license would be relocated out of the established village,
24 incorporated city, or unified municipality within which the license is located;

25 (3) transfer of ownership is to be made concurrently with the relocation
26 of the licensed premises and a ground for denial of the transfer of ownership under
27 AS 17.38.380 is presented;

28 (4) the application has not been completed in accordance with
29 AS 17.38.320;

30 (5) relocation of the license would result in violation of a local zoning
31 law; or

1 (6) relocation of the license would violate the restrictions pertaining to
2 the particular license imposed by this chapter.

3 **Sec. 17.38.380. Denial of transfer of a license to another person.** The board
4 shall deny an application requesting approval of a transfer of a license to another
5 person under this chapter if

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

8 (2) the application has not been completed in accordance with
9 AS 17.38.310;

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

11 (4) the transferor has not paid all debts or taxes arising from the
12 conduct of the business licensed under this chapter unless

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

15 (B) the transfer is made under a promise given as collateral by
16 the transferor to the transferee in the course of an earlier transfer of the license
17 and the promise obligates the transferor to transfer the license back to the
18 transferee in the event of default in payment for property conveyed as part of
19 the earlier transfer of the license;

20 (5) transfer of the license to another person would result in violation of
21 the provisions of this chapter relating to identity of licensees and financing of
22 licensees;

23 (6) transfer of the license to another person would violate the
24 restrictions pertaining to the particular license under this chapter;

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

27 **Sec. 17.38.390. Suspension and revocation of licenses.** The board shall
28 suspend or revoke a license issued under this chapter if the board finds

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

31 (2) continuation of the manufacture or sale of marijuana or marijuana

1 products by the licensee would be contrary to the best interests of the public;

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

4 (A) this chapter;

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

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

7 (D) other applicable law;

8 (4) conviction of a licensee of a violation of this chapter or AS 11.71 or
9 a regulation adopted under this chapter or AS 11.71;

10 (5) conviction of an agent or employee of a licensee of a violation of
11 this chapter or AS 11.71 or a regulation adopted under this chapter or AS 11.71, if the
12 licensee is found by the board to have knowingly allowed the violation with the result
13 that the agent or employee violates a law or regulation;

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

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

21 (8) occurrence of illegal gambling within the limits of the licensed
22 premises;

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

25 (10) violation by a licensee of this chapter, a condition or restriction
26 imposed by the board, or a regulation adopted under this chapter; or

27 (11) violation by an agent or employee of a licensee of a provision of
28 this chapter, a condition or restriction imposed by the board, or a regulation adopted
29 under this chapter, if the licensee is found by the board to have knowingly allowed the
30 violation with the result that the agent or employee violates the law, condition or
31 restriction, or regulation.

1 **Sec. 17.38.400. Board-imposed conditions or restrictions.** The board may, in
2 the best interests of the public, impose conditions or restrictions on a license issued
3 under this chapter.

4 **Sec. 17.38.410. Restriction of location near churches, schools, and**
5 **correctional facilities.** (a) The board may not issue a marijuana retailer license or
6 transfer the location of an existing marijuana retailer license if the licensed premises
7 would be located in a building the public entrance of which is within 200 feet of
8 school grounds, a church building in which religious services are regularly conducted,
9 or a correctional facility measured by the shortest pedestrian route from the outer
10 boundaries of the school ground or the public entrance of the church building or
11 correctional facility. However, a license issued before the presence of either cause of
12 restriction within 200 feet of the licensed premises may be renewed or transferred to a
13 person notwithstanding this subsection.

14 (b) If a marijuana retailer license for premises located within 200 feet of school
15 grounds, a church building in which religious services are regularly conducted, or a
16 correctional facility is revoked, expires, or is transferred to another location, the board
17 may not issue a marijuana retailer license or transfer the license to the formerly
18 licensed premises until the cessation of the cause of the restriction.

19 **Sec. 17.38.420. Zoning limitations.** (a) The board may not issue a license to a
20 person in a municipality if a zoning regulation or ordinance prohibits the sale of
21 marijuana unless a variance of the regulation or ordinance has been approved.

22 (b) The municipality shall inform the board of zoning regulations or ordinances
23 that prohibit the sale of marijuana.

24 **Sec. 17.38.430. Person and location.** (a) The board shall issue each license to
25 a specific individual or individuals, to a partnership, including a limited partnership, to
26 a limited liability company, or to a corporation. If the license is issued to a corporation
27 or limited liability company, the registered agent of the corporation or limited liability
28 company must be an individual who is a resident of the state. A license may not be
29 issued to

30 (1) an individual unless the individual has been a resident of the state
31 for at least one year;

1 (2) a corporation unless the corporation is incorporated or qualified to
2 do business in the state;

3 (3) a sole proprietorship unless the proprietor is a resident of the state;

4 (4) a limited liability company unless all members are residents of the
5 state; or

6 (5) a partnership unless all partners are residents of the state.

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

13 **Sec. 17.38.440. Prohibited financial interest.** (a) A person other than a
14 licensee may not have a direct or indirect financial interest in the business for which a
15 license is issued.

16 (b) A license may not be leased by a licensee to another person, partnership,
17 limited liability organization, or corporation.

18 (c) For the purposes of this section, a lessor under a graduated or percentage
19 lease-rent agreement involving premises licensed under this title does not hold a
20 financial interest in the business.

21 (d) In this section, "direct or indirect financial interest" means holding a legal
22 or equitable interest in the operation of a business licensed under this title. However, a
23 consulting fee received from a person licensed under this chapter, is not considered a
24 financial interest in a business licensed under this chapter.

25 **Sec. 17.38.450. Procedure for action on license applications, suspensions,
26 and revocations.** (a) Unless a legal action relating to the license, applicant, or
27 premises to be licensed is pending, the board shall decide whether to grant or deny an
28 application within 90 days after receipt of the application at the main office of the
29 board.

30 (b) The board may review an application for the issuance, renewal, transfer of
31 location, or transfer to another person of a license without affording the applicant

1 notice or hearing, except

2 (1) if an application is denied, the notice of denial shall be furnished to
3 the applicant immediately in writing stating the reason for the denial in clear and
4 concise language; the notice of denial must inform the applicant that the applicant is
5 entitled to an informal conference with either the director or the board, and that, if not
6 satisfied by the informal conference, the applicant is then entitled to a formal hearing
7 conducted by the office of administrative hearings (AS 44.64.010); if the applicant
8 requests a formal hearing, the office of administrative hearings shall adhere to
9 AS 44.62.330 - 44.62.630 (Administrative Procedure Act); all interested persons may
10 be heard at the hearing and unless waived by the applicant and the board, the formal
11 hearing shall be held in the area for which the application is requested;

12 (2) the board may, on its own initiative or in response to an objection or
13 protest, hold a hearing to ascertain the reaction of the public or a local governing body
14 to an application if a hearing is not required under this subsection; the board shall send
15 notice of a hearing conducted under this paragraph 20 days in advance of the hearing
16 to each community council established within the municipality and to each nonprofit
17 community organization entitled to notification under AS 17.38.340(b).

18 (c) Unless the grounds for the suspension or revocation are under
19 AS 17.38.390(4), board proceedings to suspend or revoke a license shall be conducted
20 in accordance with AS 44.62.330 - 44.62.630 (Administrative Procedure Act), except
21 that the licensee is entitled to an opportunity to confer informally with the director or
22 the board within 10 days after the accusation is served on the licensee. Notice of the
23 opportunity for an informal conference shall be served on the licensee along with the
24 accusation. If an informal conference is requested, the running of the period of time
25 specified in AS 44.62.380 for filing a notice of defense is tolled from the date of
26 receipt of the request for the conference until the day following the date of the
27 conference unless extended by the board. After the conference, the licensee, if not
28 satisfied by the results of the conference, may obtain a hearing by filing a notice of
29 defense as provided in AS 44.62.390. If the grounds for suspension or revocation are
30 under AS 17.38.390(4), the licensee is not entitled to notice and hearing under
31 AS 44.62.330 - 44.62.630 (Administrative Procedure Act) on the merits of the

1 suspension or revocation.

2 **Sec. 17.38.460. Suspension and revocation based on acts of employees.** If,
3 in a proceeding to suspend or revoke a license under AS 17.38.390(5), the board finds
4 that a sentencing report sent to the board under AS 12.55.025(b) or a report prepared
5 by the investigating or arresting officers in connection with the violation, contains
6 information that if uncontradicted or unexplained would provide a ground for
7 suspension or revocation under AS 17.38.390(5), the licensee has the burden of proof
8 to establish that the licensee did not knowingly allow the violation.

9 **Sec. 17.38.470. Application of precedent.** In determining whether issuance,
10 renewal, transfer, relocation, suspension, or revocation of a license is in the best
11 interests of the public, the board need not conform to or distinguish its decision from
12 any action it has taken in the past on applications presenting similar facts, but may
13 instead base its decision only on the particular facts before it.

14 **Sec. 17.38.480. License renewal and expiration.** Notwithstanding
15 AS 17.38.580, an application for renewal of a license issued for one calendar year
16 ending December 31 may be submitted until the next February 28. If a complete
17 application for renewal has not been filed by February 28 or the required fees and the
18 penalty fees have not been paid by that date, the license expires at 12 midnight
19 February 28. A new license may not be issued to the holder of an expired license for
20 the same premises except on proof satisfactory to the board of good cause for the
21 failure to file and pay. A holder of an expired license shall immediately return the
22 license to the board.

23 **Sec. 17.38.490. Notice of expiration.** On or before February 15, the director
24 shall mail a notice of expiration to each licensee who has not either (1) filed an
25 application to renew a license, along with any applicable affidavits and all fees due, or
26 (2) notified the director of an intent not to do so. Failure of the director to mail this
27 notice of expiration does not waive the requirement that the application for renewal be
28 filed by February 28.

29 **Sec. 17.38.500. Appeals.** (a) An action of an officer, employee, or agent of the
30 board relating to the administration or enforcement of this chapter may be appealed to
31 the board by the aggrieved party.

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

4 **Sec. 17.38.510. Refund and forfeiture of fees.** (a) If an application for a
5 license is denied, the board shall refund the license fee less the application fee.

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

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

10 **Sec. 17.38.520. Civil fine.** (a) Except as provided in (c) of this section, the
11 board may, in addition to any other penalties imposed under this title, impose a civil
12 fine on a licensee that the board determines, at a proceeding under AS 17.38.450(c),
13 has violated a provision of this chapter or AS 11.71 or a regulation adopted under this
14 chapter or AS 11.71.

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

17 (1) \$75,000; or

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

20 (c) If the board is proceeding under AS 17.38.390(4), the board may not
21 impose a civil fine exceeding the amount specified under AS 12.55.035 applicable to
22 the offense for which the licensee was convicted, or with the licensee's consent, the
23 limit imposed under (b) of this section.

24 **Sec. 17.38.530. Surrender or destruction of license.** (a) A license issued
25 under this chapter shall, if the board so directs, be surrendered on demand to a peace
26 officer, agent, or officer of the board.

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

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

30 **Sec. 17.38.540. Disposition of money.** (a) The board shall transfer money
31 collected from licenses, civil fines under this chapter, and fees prescribed by the board

1 in addition to fees authorized under this chapter to the Department of Commerce,
2 Community, and Economic Development and deposited in the general fund.

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

7 **Sec. 17.38.550. Accessibility of license and licensed premises to inspection.**

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

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

15 **Sec. 17.38.560. License a privilege.** (a) A license issued under this chapter is a
16 personal privilege, not a property right.

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

19 **Sec. 17.38.570. Foreclosure.** A license issued under this chapter is not subject
20 to foreclosure, and may not be used as collateral to secure a debt.

21 **Sec. 17.38.580. Duration of licenses.** A license issued under this chapter shall
22 be for one year. The period shall be clearly designated on the license.

23 * **Sec. 23.** AS 17.38.900(6) is amended to read:

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

1 * **Sec. 24.** AS 17.38.900(9) is amended to read:

2 (9) "marijuana establishment" means a marijuana **producer**
 3 [CULTIVATION FACILITY], a marijuana testing facility, a marijuana **processor, a**
 4 [PRODUCT MANUFACTURING FACILITY, OR A RETAIL] marijuana **retailer, a**
 5 **marijuana boutique producer, a marijuana broker, or a marijuana home grower**
 6 [STORE];

7 * **Sec. 25.** AS 17.38.900(11) is amended to read:

8 (11) "marijuana products" **includes** [MEANS] concentrated marijuana
 9 products and marijuana products that **consist** [ARE COMPRISED] of marijuana and
 10 other ingredients and are intended for use or consumption, such as, but not limited to,
 11 edible products, ointments, and tinctures;

12 * **Sec. 26.** AS 17.38.900(12) is amended to read:

13 (12) "marijuana testing facility" means an entity **certified**
 14 [REGISTERED] to analyze and certify the safety and potency of marijuana;

15 * **Sec. 27.** AS 17.38.900 is amended by adding new paragraphs to read:

16 (15) "correctional facility" has the meaning given in AS 33.30.901;

17 (16) "director" means the director of the Alcoholic Beverage Control
 18 Board;

19 (17) "marijuana boutique" means a person licensed under
 20 AS 17.38.250;

21 (18) "marijuana broker" means a person licensed under AS 17.38.260;

22 (19) "marijuana home grower" means a person licensed under
 23 AS 17.38.270;

24 (20) "marijuana processor" means a person licensed under
 25 AS 17.38.220;

26 (21) "marijuana producer" means a person licensed under
 27 AS 17.38.210;

28 (22) "marijuana retailer" means a person licensed under AS 17.38.230;

29 (23) "municipality" has the meaning given in AS 29.71.800;

30 (24) "school grounds" has the meaning given in AS 11.71.900.

31 * **Sec. 28.** AS 29.35 is amended by adding a new section to read:

1 **Sec. 29.35.083. Marijuana.** (a) A municipality may only regulate marijuana
2 establishments and the operation of marijuana establishments as permitted by
3 AS 17.38.

4 (b) This section applies to home rule and general law municipalities.

5 (c) In this section, "marijuana" has the meaning given in AS 11.71.900.

6 * **Sec. 29.** AS 43.61.010(a) is amended to read:

7 (a) An excise tax is imposed on the sale or transfer of marijuana from a
8 marijuana **producer or marijuana broker** [CULTIVATION FACILITY] to a
9 [RETAIL] marijuana **retailer** [STORE] or marijuana **processor** [PRODUCT
10 MANUFACTURING FACILITY]. Every marijuana **producer and marijuana**
11 **broker** [CULTIVATION FACILITY] shall pay an excise tax at the rate of \$50 **an**
12 [PER] ounce, or proportionate part **of an ounce** [THEREOF], on marijuana that is sold
13 or transferred from a marijuana **producer or marijuana broker** [CULTIVATION
14 FACILITY] to a [RETAIL] marijuana **retailer** [STORE] or marijuana **processor**
15 [PRODUCT MANUFACTURING FACILITY].

16 * **Sec. 30.** AS 43.61.020 is amended to read:

17 **Sec. 43.61.020. Monthly statement and payments.** (a) Each marijuana
18 **producer and marijuana broker** [CULTIVATION FACILITY] shall send a
19 statement by mail or electronically to the department on or before the last day of each
20 calendar month. The statement must contain an account of the amount of marijuana
21 sold or transferred to [RETAIL] marijuana **retailers,** [STORES] and marijuana
22 **processors** [PRODUCT MANUFACTURING FACILITIES] in the state during the
23 preceding month, setting out

24 (1) the total number of ounces, including fractional ounces, sold or
25 transferred;

26 (2) the names and Alaska address of each buyer and transferee; and

27 (3) the weight of marijuana sold or transferred to the respective buyers
28 or transferees.

29 (b) The marijuana **producer and marijuana broker** [CULTIVATION
30 FACILITY] shall pay monthly to the department, all taxes, computed at the rates
31 prescribed in this chapter, on the respective total quantities of the marijuana sold or

1 transferred during the preceding month. The monthly return shall be filed and the tax
2 paid on or before the last day of each month to cover the preceding month.

3 * **Sec. 31.** AS 43.61.030 is amended to read:

4 **Sec. 43.61.030. Administration and enforcement of tax.** (a) Delinquent
5 payments under this chapter shall subject the marijuana producer or marijuana
6 broker [CULTIVATION FACILITY] to civil penalties under AS 43.05.220.

7 (b) If a marijuana producer or marijuana broker [CULTIVATION
8 FACILITY] fails to pay the tax to the state, the marijuana producer's license or
9 marijuana broker's license [CULTIVATION FACILITY'S REGISTRATION] may
10 be revoked in accordance with procedures established under AS 17.38.090(a)(1).

11 * **Sec. 32.** AS 43.61 is amended by adding a new section to read:

12 **Sec. 43.61.040. Definitions.** In this chapter, "marijuana processor," "marijuana
13 producer," "marijuana retailer," and "marijuana broker" have the meanings given in
14 AS 17.38.900.

15 * **Sec. 33.** AS 17.38.070, 17.38.900(8), 17.38.900(10), and 17.38.900(13) are repealed.

16 * **Sec. 34.** This Act takes effect immediately under AS 01.10.070(c).