

ALASKA STATE LEGISLATURE
CONFERENCE COMMITTEE ON HB75

April 13, 2016
8:37 a.m.

MEMBERS PRESENT

Representative Cathy Tilton, Chair
Representative Charisse Millett
Representative Harriet Drummond

Senator Click Bishop, Chair
Senator Lesil McGuire
Senator Lyman Hoffman

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 75

"An Act relating to the regulation of marijuana by municipalities; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 75

SHORT TITLE: MARIJUANA ESTAB. REG; LOCAL ELECTION

SPONSOR(S): COMMUNITY & REGIONAL AFFAIRS

01/23/15	(H)	READ THE FIRST TIME - REFERRALS
01/23/15	(H)	CRA, JUD
02/21/15	(H)	CRA AT 10:00 AM BARNES 124
02/21/15	(H)	-- MEETING CANCELED --
02/24/15	(H)	CRA AT 8:00 AM BARNES 124
02/24/15	(H)	Heard & Held
02/24/15	(H)	MINUTE(CRA)
03/03/15	(H)	CRA AT 8:00 AM BARNES 124
03/03/15	(H)	Moved CSHB 75(CRA) Out of Committee
03/03/15	(H)	MINUTE(CRA)
03/05/15	(H)	CRA AT 8:00 AM BARNES 124
03/05/15	(H)	Moved CSHB 75(CRA) Out of Committee
03/05/15	(H)	MINUTE(CRA)
03/06/15	(H)	CRA RPT CS(CRA) NT 3DP 3NR

03/06/15 (H) DP: NAGEAK, SEATON, TILTON
03/06/15 (H) NR: DRUMMOND, REINBOLD, HUGHES
03/11/15 (H) JUD AT 1:00 PM CAPITOL 120
03/11/15 (H) Heard & Held
03/11/15 (H) MINUTE(JUD)
03/18/15 (H) JUD AT 1:00 PM CAPITOL 120
03/18/15 (H) <Bill Hearing Canceled>
03/25/15 (H) JUD AT 1:00 PM CAPITOL 120
03/25/15 (H) <Bill Hearing Canceled>
03/27/15 (H) JUD AT 1:00 PM CAPITOL 120
03/27/15 (H) Moved CSHB 75(JUD) Out of Committee
03/27/15 (H) MINUTE(JUD)
03/30/15 (H) JUD RPT CS(JUD) NT 1DP 3NR 3AM
03/30/15 (H) DP: LEDOUX
03/30/15 (H) NR: MILLETT, CLAMAN, FOSTER
03/30/15 (H) AM: LYNN, KELLER, GRUENBERG
04/02/15 (H) TRANSMITTED TO (S)
04/02/15 (H) VERSION: CSHB 75(JUD) AM
04/03/15 (S) READ THE FIRST TIME - REFERRALS
04/03/15 (S) CRA, JUD
04/07/15 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)
04/07/15 (S) Heard & Held
04/07/15 (S) MINUTE(CRA)
04/14/15 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)
04/14/15 (S) Moved SCS CSHB 75(CRA) Out of Committee
04/14/15 (S) MINUTE(CRA)
04/15/15 (S) CRA RPT SCS 1DP 3AM NEW TITLE
04/15/15 (S) DP: BISHOP
04/15/15 (S) AM: EGAN, STEDMAN, HOFFMAN
04/15/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/15/15 (S) Heard & Held
04/15/15 (S) MINUTE(JUD)
04/17/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/17/15 (S) Heard & Held
04/17/15 (S) MINUTE(JUD)
04/18/15 (S) JUD RPT SCS 4DP NEW TITLE
04/18/15 (S) DP: MCGUIRE, COGHILL, MICCICHE,
COSTELLO
04/18/15 (S) JUD AT 10:00 AM BUTROVICH 205
04/18/15 (S) Moved SCS CSHB 75(JUD) Out of Committee
04/18/15 (S) MINUTE(JUD)
04/19/15 (S) RETURNED TO RLS COMMITTEE
02/24/16 (S) RLS RPT 2D SCS 2DP 3NR NEW TITLE
02/24/16 (S) DP: HUGGINS, COGHILL
02/24/16 (S) NR: KELLY, MEYER, GARDNER
02/24/16 (S) WITHDRAW MOTION TO ADOPT JUD SCS UC
02/24/16 (S) VERSION: 2D SCS CSHB 75(RLS)

02/24/16 (S) RLS AT 8:00 AM BUTROVICH 205
02/24/16 (S) Moved 2d SCS CSHB 75(RLS) Out of
Committee
02/24/16 (S) MINUTE(RLS)
04/05/16 (H) CONFERENCE COMMITTEE APPOINTED
04/05/16 (H) TILTON (CHAIR), MILLETT, DRUMMOND
04/06/16 (S) RECEDE MESSAGE READ AND TAKEN UP
04/06/16 (S) CONFERENCE COMMITTEE APPOINTED
04/06/16 (S) BISHOP (CHAIR), MCGUIRE, HOFFMAN
04/13/16 (H) HB75 AT 8:30 AM GRUENBERG 120

WITNESS REGISTER

No witnesses to record

ACTION NARRATIVE

[8:37:32 AM](#)

CHAIR CATHY TILTON called the Conference Committee meeting on HB 75 to order at 8:37 a.m. Representatives Millett, Drummond, and Tilton, and Senators McGuire, Hoffman, and Bishop were present at the call to order.

HB 75-MARIJUANA ESTAB. REG; LOCAL ELECTION

[8:38:11 AM](#)

CHAIR TILTON announced that the Conference Committee on HB 75 was operating under Uniform Rule 42. She said no public testimony would be taken. She reviewed that adoption of a conference committee report requires an affirmative vote by the majority of the membership from each house. She stated that the two versions before the committee were: CSHB 75(JUD)am and 2d SCS CSHB 75(RLS).

[8:38:42 AM](#)

REPRESENTATIVE MILLETT moved to adopt CSHB 75(JUD)am as a working document.

[8:39:02 AM](#)

The committee took a brief at-ease at 8:39 a.m.

[8:39:36 AM](#)

A roll call vote was taken. Representatives Millet, Drummond, and Tilton voted in favor of the motion to adopt CSHB 75(JUD)am. Senators McGuire, Hoffman, and Bishop voted against the motion to adopt CSHB 75(JUD)am. Therefore, the motion failed by a vote of 3:0 (House) and 0:3 (Senate).

[8:40:22 AM](#)

SENATOR BISHOP moved to adopt 2d SCS CSHB 75(RLS) as a working document.

[8:40:52 AM](#)

A roll call vote was taken. Representatives Millet, Drummond, and Tilton voted against the motion to adopt 2d SCS CSHB 75(RLS). Senators McGuire, Hoffman, and Bishop voted in favor of the motion to adopt 2d SCS CSHB 75(RLS). Therefore, the motion failed by a vote of 0:3 (House) and 3:0 (Senate).

[8:41:37 AM](#)

The committee took a brief at-ease at 8:42 a.m.

[8:43:03 AM](#)

CHAIR TILTON announced that the Conference Committee on HB 75 had failed to [adopt] either CSHB 75(JUD)am or 2d SCS CSHB 75(RLS).

[8:43:25 AM](#)

SENATOR MCGUIRE reviewed the conference committee process, including the next possible steps of limited powers of free conference and free conference. She offered her understanding that the current focus was centered on opt-in and opt-out provisions for unorganized boroughs in Alaska. She said in the original version of the bill there was no delineation between unorganized and organized boroughs. In order for a community to issue marijuana licenses, it would have to meet on the issue, get public feedback, and then go through the process as outlined in the initiative, as well as follow the regulations put into effect by the Marijuana Control Board. She said some communities had opted out while others had opted in.

SENATOR MCGUIRE noted that Senator Hoffman had proposed that the legislature act as an assembly as a whole, which is allowed under the Constitution of the State of Alaska and Alaska

Statute. She offered her understanding that some people think "either way" there would be local dialogue at the unorganized borough level such that "if you wanted to issue licenses, you'd have to go to the elders, you'd have to have those conversations anyway." She said she leaned that direction. She remarked that Senator Hoffman had made points on the record that had compelled members of the Senate in an 18:2 vote to support having elders of the communities lead the discussion to determine whether the communities want to opt in. She said she tends to defer to people in their individual communities to determine what they want. She observed that "in this case" the House and Senate may be divided, and she said she would like to hear from House members on the issue.

[8:46:50 AM](#)

SENATOR McGUIRE stated that if the House and Senate [members of the Conference Committee on HB 75] could concur, then she thinks they should "zealously advocate to our colleagues to adopt that version." However, if the committee members cannot agree, then she would like to go to free powers, so that she could be allowed to put together a more narrow requirement, acting as the assembly as a whole, to require the unorganized boroughs to go through additional steps to the point that [Senator Hoffman] would be comfortable. She said there are provisions in the proposed legislation that are very important, but the most important, she opined, are the background checks. She indicated her involvement with legislation that "set up the licensing structure via the [Marijuana Control] Board, but she related that unfortunately "we put it alongside the Alcohol Beverage Control Board." She said it was her understanding that "the licenses would be issued the same way that you issue alcohol licenses." She said [marijuana licenses] are subject to background checks, because legislation prohibits felons from holding marijuana licenses, the same as they are prohibited from having alcohol licenses.

SENATOR McGUIRE said legal opinions are in the works currently. One theory is that the legislature would need to create statute so that the Department of Commerce, Community & Economic Development (DCCED) could authorize the Department of Public Safety (DPS) to conduct background checks. She said that was the reason for the change made to HB 75 by the Senate. She noted there is another [legal] opinion that says that legal authority is assumed and implied. She said in her community in Anchorage, which is approximately 300,000, all the business owners that have applied for a [marijuana] license find

themselves in a holding pattern, waiting on legislation, because the board has decided that it does not feel comfortable relying on the legal opinion. She asked committee members not to allow that provision, and some others in HB 75 that are important, to fail, but to "try to negotiate on this opt-in/opt-out provision."

[8:49:26 AM](#)

REPRESENTATIVE MILLETT noted two "sticking points": the [limit on] the number of [marijuana] plants and the opt-in/opt-out issue. She said she wants to see the issue resolved. She said she thought there would be portions of the bill that the House and Senate members could agree upon, and she expressed her hope that the Senate would consider removing the local control option so that the bill would not die. She said, "Absent of that provision, it goes back to what exists now, that we are silent on that issue." She remarked upon the time and effort put into the bill on the House side, and said while she appreciates the local option, she does not want to see "good work go to waste because we can't agree on that."

[8:51:21 AM](#)

SENATOR HOFFMAN said he, too, is not interested in having this become "another hairy crab." He noted that he had spoken with the two Representatives from his district, as well as several people in rural Alaska, and he offered his understanding that they think "the provision that is in there does not restrict those communities from having marijuana." He opined that marijuana law will be the law of the land and people in rural Alaska know and accept that. He indicated that an assembly from an unorganized borough has opted out, and communities may choose to have the dialogue with their elders at the table whether or not to "participate in that activity." He said that "did not happen with alcohol," which resulted in turmoil and suffering in communities. He stated that if the issue of opting in to alcohol had been provided, rural Alaska would have forgone many problems. He said, "We don't expect urban Alaska to go down that path; we understand that they're never going to have a dry community on [the issue of] alcohol; but they're not living the rural life; and rural Alaskans have opted out quite consistently on alcohol because of the problems that it provides - and rightfully so."

SENATOR HOFFMAN emphasized that he does not want to see that same problem exist with marijuana. He indicated the discussion

could take place about the pros and cons of the issue, and he stated his belief that [rural communities] would be years ahead on addressing alcohol and alcohol abuse in Interior Alaska if that [discussion had taken place}. He stated, "I don't believe this provision is asking very much of the House." He restated that this is a rural issue. He said people have suffered as a result of alcohol use and, although he would not say [marijuana use] would have the same result, he questioned forcing rural Alaska into something. He related that the two Representatives from his district had initially agreed with "the House position," but have reversed their position. He stated his belief that rural Alaska is unique in terms of alcohol abuse, and he indicated that drugs are not part of that society. He concluded, "I don't believe it's a big ask to allow us to do what we want to do and don't make the same mistakes, saying, 'We know what's best for rural Alaska.' Let's give them the benefit of the doubt and say that maybe they should be the ones to decide."

[8:55:43 AM](#)

CHAIR TILTON explained that in crafting the version of HB 75 that had passed out of the House Community and Regional Affairs Standing Committee, meetings had been held throughout Alaska, with input obtained from the mayors of communities. She said HB 75 started out as a "fix-it bill" to address a new initiative. Many communities were "flailing around" in an attempt to decide whether to opt in or opt out. She said a lot of public testimony was heard, and alongside the Marijuana Policy Project, HB 75 was crafted. She offered her understanding that the communities that participated in the discussion included the North Slope Borough, the Municipality of Anchorage, and the Matanuska-Susitna (Mat-Su) Borough, and some individuals took part. She acknowledged the statement made by Senator Hoffman, but explained that the goal for HB 75 was to address the public's concerns, follow Title 4, and stay true to the initiative, which asked that marijuana be regulated like alcohol.

[8:58:05 AM](#)

SENATOR HOFFMAN responded that Title 4 was flawed because "it still started out with those communities wet," and the communities then had to "go through all that pain and suffering to opt out." He opined that Title 4 was wrong; it should have had the opt-in provision; instead it put the rural communities through a process of suffering and violence. He said Title 4

"was not the complete solution to alcohol," and "as a result of that you can see the number of villages that have opted out." He said they never would have had to suffer if Title 4 was "flipped." He stated, "I don't want to put the communities through ... the same flaws that existed in Title 4 for alcohol, with marijuana." He said he did not believe that when [the House Community and Regional Affairs Standing Committee] was going through the public hearing process the option of opting in was offered; that option and dialogue came after the public hearing process. He touched briefly on the idea of asking people if they want to go through the same suffering they did during the issue of Title 4 and alcohol. He said although he does not believe [alcohol and marijuana] are the same and would cause the same types of problems, Title 4 was devastating.

[9:00:24 AM](#)

SENATOR MCGUIRE suggested it would be helpful for the Conference Committee on HB 75 to recess and for its members to see a list of the unorganized boroughs and which of them had opted to be dry.

[9:01:02 AM](#)

SENATOR HOFFMAN said he would like to recess to have time to come to a consensus and move forward. He stated his intention was "to pass the bill," but without forcing rural Alaska to go through a flawed process again. He clarified that he is not advising as to what should be done in urban Alaska, but is concerned that mistakes are not repeated in urban Alaska.

[9:01:57 AM](#)

REPRESENTATIVE DRUMMOND stated that while she appreciates the emotion and concern that had been expressed, the difference with the marijuana issue is that it is already legal. She said Spenard, as she predicted it would, already has more alcohol operations and marijuana license applications than any other part of the state. She said those licenses are expensive and the process is moving forward in Anchorage. She expressed her perspective that in the unorganized boroughs and remote communities, the process of establishing a marijuana business would be difficult because of distance, transportation issues, and testing. She posited that one consideration would be how to deal with the black market that already exists in many communities, especially when people have the liberty to grow and consume their own [marijuana] because of the initiative. She

said, "Nothing that we do here is going to change that." She advised consideration of what it would take for the communities that would appear on a list of unorganized borough to establish a marijuana retail business. She expressed doubt that anyone in a community of 200 people would establish a grow operation, figure out how to get the expensive testing done, and deal with the issue of transportation. She clarified that because of the difficulty of establishing a marijuana business anywhere, she does not think opting out will be an issue. She reiterated concern about dealing with the black market until the legitimate businesses get established. She said, "As we approach the two-year mark from the initiative, I would have some concerns about getting in the way of business" She reiterated her prediction that there would not be many businesses seeking to establish themselves in rural communities. She concluded that "of course, they have every right to have a discussion about that," but maintained that the issue of personal use must be addressed.

[9:05:38 AM](#)

SENATOR HOFFMAN responded that those are the exact issues that need dialog at the local level, and that is all "we" are asking. He said Representative Drummond raised important social issues, but elders should be allowed to participate in the discussion instead of having to "go through the whole process and then opt out." He questioned why there cannot be acknowledgement that Title 4 was a "huge mistake" in dealing with the issue of alcohol and a willingness to give [the rural communities] the benefit of the doubt.

[9:06:52 AM](#)

REPRESENTATIVE DRUMMOND stated that in urban communities, community councils are being pulled into the process by dealing with the applications first before the city actually does; therefore, "these conversations are happening in urban communities, as well."

SENATOR HOFFMAN replied, "Glad to hear that."

[HB 75 was held over.]

[9:07:14 AM](#)

ADJOURNMENT

CHAIR TILTON recessed the Conference Committee on HB 75 to a call of the chair at 9:07 a.m. [The meeting was reconvened on 5/16/16, at 11:40 a.m.]