

SENATE FINANCE COMMITTEE

March 9, 2015

1:27 p.m.

[1:27:37 PM](#)

CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 1:27 p.m.

MEMBERS PRESENT

Senator Anna MacKinnon, Co-Chair  
Senator Pete Kelly, Co-Chair  
Senator Peter Micciche, Vice-Chair  
Senator Click Bishop  
Senator Mike Dunleavy  
Senator Lyman Hoffman

MEMBERS ABSENT

Senator Donny Olson

ALSO PRESENT

Erin Shine, Staff, Senator Anna MacKinnon; Chuck Kopp, Staff, Senator Peter Micciche; Jordan Shilling, Staff, Senator John Coghill; Kaci Schroeder, Special Assistant to the Commissioner, Department of Law.

SUMMARY

SB 30 MARIJUANA REG; CONT. SUBST; CRIMES; DEFENSES

SB 30 was HEARD and HELD in committee for further consideration.

#sb30

SENATE BILL NO. 30

"An Act relating to controlled substances; relating to marijuana; relating to driving motor vehicles when there is an open marijuana container; and providing for an effective date."

[1:35:10 PM](#)

Senator Bishop MOVED to ADOPT the proposed committee substitute for SB 30, Work Draft 29-LS0231/X (Martin, 3/9/15).

Co-Chair MacKinnon OBJECTED for discussion.

ERIN SHINE, STAFF, SENATOR ANNA MACKINNON, offered a high-level overview of CSSB 30. She stated that the CS listed marijuana as a controlled substance and created a non-applicability section for individuals and establishments associated with crimes involving marijuana. She explained that the non-applicability language made the crimes inapplicable to a person lawfully acting within the initiative guidelines [a 2014 voter initiative to legalize marijuana] for personal use as well as for marijuana establishments acting within the terms of registration. She furthered that the misconduct involving marijuana penalties that were in the Senate Judiciary Committee version of the bill were adapted to crimes relating to a Schedule 6A substance in the current statutes pertaining to misconduct involving a controlled substance.

Co-Chair MacKinnon asked if non-applicability language was used elsewhere in state statutes. Ms. Shine replied in the affirmative, and referenced an informational memo on the subject from Doug Gardner, Director, Division of Legal and Research Services, Legislative Affairs Agency (copy on file). She noted that specifically in Title 11 of the Alaska Statutes there were instances in which a non-applicability section had been applied.

[1:37:40 PM](#)

Co-Chair MacKinnon thanked staff for their work on the bill over the previous weekend, and offered a recently-authored draft sectional analysis (copy on file). She furthered that she would be "holding the document for incorporation" until the following day to ensure that the committee understood the concepts being introduced as well as the approach to implementing the voter's will.

CHUCK KOPP, STAFF, SENATOR PETER MICCICHE, presented the draft sectional analysis and noted that there were errors that would be corrected in the following day or two.

Section 1 - CONFORMING

Page 1

AS 11.41.110(a). Murder in the second degree.

Deletes reference to marijuana misconduct that has been repealed and provides stylistic drafting changes.

Mr. Kopp commented that Section 1 repealed language that referred to one or more ounces of marijuana because it was addressed later on in the misconduct involving marijuana sections of the bill.

Section 2 - CONFORMING

Page 2

AS 11.41.150 (a). Murder of an unborn child.

Deletes reference to marijuana misconduct that has been repealed.

Mr. Kopp related that like Section 1, Section 2 referred to previous Schedule 6A language pertaining to marijuana.

Section 3 - CONFORMING

Page 3

AS 11.71.030(a). Misconduct involving a controlled substance in the third degree.

Deletes reference to Schedule VIA controlled substances.

Section 4 - SUBSTANTIVE

Pages 3 - 6

AS 11.71.040(a). Misconduct involving a controlled substance in the fourth degree. A person commits the crime of MICS 4, which is a class C felony, if they:

- Possess 16 or more ounces of marijuana.
- Possess 25 or more plants.
- Furnish marijuana, twice within five years, to a person under 21 years of age.

Mr. Kopp explained that Section 4 involved current statutory language of misconduct involving a controlled substance in the fourth degree. He professed that in Section 4 the sponsors had (with the establishment of a 16 ounce possession limit) "declared a bright line of what possession conduct of marijuana under any circumstances" was a felony. He discussed possession quantities and noted that under the ballot initiative, with the permitted three mature marijuana plants it would be possible to have 12 to 14 ounces legally at home. He discussed the need to demark a limit at which an individual in possession would be a "de

facto" distributor of marijuana. He relayed that the sponsors had examined the quantity that could legitimately be produced in the home under the initiative in order to arrive at a greater amount that would indicate an intent to distribute and thereby constitute a felony.

[1:40:43 PM](#)

Co-Chair MacKinnon interjected, qualifying that the amount of 16 ounces was a "policy consideration" for the committee and was a number that had been chosen, yet "not necessarily the right number."

Section 5 - NON-APPLICABILITY

Page 6

AS 11.71.040. Misconduct involving a controlled substance in the fourth degree.

Certain provisions of MICS 4 are not applicable to a person who is lawfully possessing marijuana in accordance with AS 17.38.020. Similarly, a marijuana establishment registered under AS 17.38, or its employees, if acting in compliance with AS 17.38.

JORDAN SHILLING, STAFF, SENATOR JOHN COGHILL, noted that there was an additional felony conduct provision in the bill with the possession of 25 or more marijuana plants.

Section 6 - SUBSTANTIVE

Page 6

AS 11.71.050(a). Misconduct involving a controlled substance in the fifth degree.

A person commits the crime of MICS 5, which is a class A misdemeanor, if they:

- Transport or deliver more than one ounce of marijuana or more than six marijuana plants.
- Possess 3 to <16 ounces of marijuana or 12-24 plants.
- Deliver any amount of marijuana to a person under 21 years.
- Deliver or transport an ounce or less of marijuana or six plants or less for remuneration.
- Manufacture a marijuana concentrate using a volatile or explosive gas.

Mr. Kopp clarified that possession of 25 or more plants was previously considered a felony by law and would continue to be so.

Mr. Kopp made a correction to the draft sectional analysis: he clarified that possession of 12 to 25 plants constituted a Class A misdemeanor. A Class C felony would involve possession of 25 plants or more.

Section 7 - NON-APPLICABILITY

Page 7

AS 11.71.050. Misconduct involving controlled substance in the fifth degree.

Certain provisions of MICS 5 are not applicable to a person who is lawfully possessing, manufacturing, or delivering marijuana in accordance with AS 17.38.020. Similarly, a marijuana establishment registered under AS 17.38, or its employees, if acting in compliance with AS 17.38. An exemption is made for a person over 21 years of age delivering marijuana to the person's child or spouse who is over 18 years of age and the delivery occurs in the person's residence.

[1:44:47 PM](#)

Senator Dunleavy asked about the limit on plant possession and wondered if the size of the plants had any bearing. Mr. Kopp stated that only the number of plants was being addressed, regardless of their size.

Co-Chair MacKinnon asked if the recommendation for the number of plants was based on the intent of the initiative with regard to allowable use. Mr. Kopp stated that the initiative allowed for possession of six plants total, three of which could be mature flowering plants. He expanded that the initiative had a tiered structure of violation with regard to possession (ranging from a violation to misdemeanors and felony); the possession limits with usable weight of marijuana are explicated in the bill.

Co-Chair MacKinnon asked if the language in the bill was based on the conversation the Senate Finance Committee had concerning the "disconnect" that the initiative had with state statute regarding activities such as using a minor to sell marijuana. She suggested that the initiative "did not properly deter" such crimes. Mr. Kopp affirmed that the language before the committee was indeed based on the discussion, as well as a desire to show increased penalties that were outside of what the initiative would provide.

Section 8 - SUBSTANTIVE

Page 8

AS 11.71.060(a).

Misconduct involving a controlled substance in the sixth degree.

A person commits the crime of MICS 6, which is a class B misdemeanor, if they:

- Possess 2 - < 3 ounces of marijuana.
- Possess 7-11 plants.
- Possess, display, deliver, or transport more than one ounce in a public place.

[1:47:34 PM](#)

Senator Bishop asked if Mr. Kopp would discuss the misconduct involving a controlled substance in the sixth degree mentioned in Section 8. Senator Bishop pointed out a discrepancy in the language. Mr. Kopp explained that there was an error in the sectional analysis, and that an edited version would be forthcoming.

Co-Chair MacKinnon asked that the committee destroy the draft sectional analysis so that errors were not disseminated to misrepresent what was being considered in the bill. She furthered that staff had identified inconsistencies with regard to felony and misdemeanor charges, and although the sectional analysis contained errors, it was the best place to start the discussion. She stated that the committee planned to soon hold a public hearing and therefore wanted to get the new information out to the public as soon as possible. She related that she had been working with Senator Lesil McGuire's office [bill co-sponsor], in an attempt to ensure all of her concerns were addressed.

Section 9 - NON-APPLICABILITY

Page 8

AS 11.71.060. Misconduct involving a controlled substance in the sixth degree.

Provisions of MICS 6 are not applicable to a person who is lawfully possessing marijuana in accordance with AS 17.38.020. Similarly, a marijuana establishment registered under AS 17.38, or its employees, if acting in compliance with AS 17.38.

Section 10 - SUBSTANTIVE

Page 9

AS 11.71.071. Misconduct involving a controlled substance in the seventh degree.

A person commits the offense of MICS 7, which is a violation, if they:

- Possess 1
- < 2 ounces of marijuana.
- Consume marijuana in a public place.
- Grow marijuana in public view or on someone else's property without their consent.
- Use marijuana while operating a vehicle.
- As a minor, possess less than two ounces of marijuana or consume any amount of marijuana.
- Non-applicability: Certain provisions of MICS 7 are not applicable to a person who is lawfully possessing marijuana in accordance with AS 17.38.020. Similarly, a marijuana establishment registered under AS 17.38, or its employees, if acting in compliance with AS 17.38.

[1:49:39 PM](#)

Mr. Kopp presented Section 10, which was a substantive amendment dealing with the newest and lowest class of misconduct involving a controlled substance, misconduct in the seventh degree.

Mr. Shilling explained that misconduct in the seventh degree was a violation rather than a misdemeanor or felony, and it carried an accompanied \$100 or \$300 fine, depending upon the offense.

Section 11 - CONFORMING

Page 10

AS 11.71.090(a). Affirmative defense to a prosecution under MICS 3 - MICS 7; medical use of marijuana.

Expands the affirmative defense for medical marijuana patients to include the new degree of misconduct involving controlled substance established in Section 10.

Section 12 - SUBSTANTIVE

Page 11

AS 11.71.190(b). Schedule VIA.

Places hashish and hash oil into Schedule VIA, alongside marijuana.

Section 13 - CONFORMING

Page 11

AS 11.71.311(a). Restriction on prosecution for certain persons in connection with a drug overdose.

A person may not be prosecuted for certain MICS offenses if the person seeks medical or law enforcement assistance for another person they believe is experiencing a drug overdose and the evidence was obtained as a result of the person seeking assistance.

Section 14 - CONFORMING

Page 12

AS 11.71.900. Definitions.

Repeals the existing Title 11 definition of "marijuana" as it applied to the MICS statutes and replaces it with a definition similar to the definition found in the initiative.

[1:52:25 PM](#)

Co-Chair MacKinnon announced that the committee would not adopt the work draft for consideration until the following day in order to give the public time to "weigh in," and so that members would have a chance to look at it further. She directed the committee's attention to page 12, line 6 of the work draft, to the comma directly after the word "oil." She related that the committee had a previous discussion about the comma in the language of the initiative, and that the same language was in the process of litigation in the state of Colorado. She furthered that it was a policy decision to remove the comma. She noted that in current state statute the particular line did not have a comma in the definition of marijuana.

Section 15 - SUBSTANTIVE

Page 12

AS 11.71.900. Definitions.

Defines "remuneration" to include an exchange of anything of value, whether by sale, barter, exchange, or other means.

Section 16 - CONFORMING

Page 12

AS 12.45.084(a). Laboratory report of controlled substances.

Expands the statutes this section applies to include the new degree of misconduct involving a controlled substance established in Section 10.

Section 17 - CONFORMING

Page 12

AS 17.30.080(b).

Unlawful administration, prescription, and dispensation of controlled substances.

Expands the statutes this section applies to include the new degree of misconduct involving a controlled substance established in Section 10.

Section 18 - INITIATIVE

Page 13

AS 17.38.020. Personal use of marijuana.

Deletes [notwithstanding any other provision of law, except as otherwise provided in this chapter, the] and makes other stylistic changes to conform initiative language to legislative drafting standards. This section states that certain marijuana related activities are legal and not a basis for seizure or forfeiture, and prohibits use of marijuana in a public place. Nothing in this chapter permits growing or possessing 16 ounces or more of marijuana at any time.

Additionally provides that the definition of "assisting" does not include growing, possessing, processing, using, displaying, purchasing, or transporting marijuana and marijuana plants in excess of the amount allowed in this section.

Section 19 - INITIATIVE

Page 13

AS 17.38.070(a). Lawful operation of marijuana-related facilities.

Deletes [notwithstanding any other provision of law, the] and makes other stylistic changes to conform initiative language to legislative drafting standards. Provides that certain marijuana related acts are legal and not a basis for seizure or forfeiture when performed by a registered retail marijuana store, or a person 21 years of age or older acting in the person's capacity as an owner, employee or agent of the store.

Section 20 - INITIATIVE

Page 14

AS 17.38.070(b). Lawful operation of marijuana related facilities.

Deletes [notwithstanding any other provision of law, the] and makes other stylistic changes to conform initiative language to legislative drafting standards. Provides that certain marijuana related acts are legal and not a basis for seizure or forfeiture when performed by a registered marijuana cultivation facility, or a person 21 years of age or older acting in the person's capacity as an owner, employee or agent of the facility.

Section 21 - INITIATIVE

Page 15

AS 17.38.070(c). Lawful operation of marijuana related facilities.

Deletes [notwithstanding any other provision of law, the] and makes other stylistic changes to conform initiative language to legislative drafting standards. Provides that certain marijuana related acts are legal and not a basis for seizure or forfeiture when performed by a registered marijuana product manufacturing facility, or a person 21 years of age or older acting in the person's capacity as an owner, employee or agent of the facility.

Section 22 - INITIATIVE

Page 15

AS 17.38.070(d).

Lawful operation of marijuana related facilities.

Deletes [notwithstanding any other provision of law, the] and makes other stylistic changes to conform initiative language to legislative drafting standards. Provides that certain marijuana related acts are legal and not a basis for seizure or forfeiture when performed by a registered marijuana testing facility, or a person 21 years of age or older acting in the person's capacity as an owner, employee or agent of the facility.

Section 23 - INITIATIVE

Page 16

AS 17.38.070(e). Lawful operation of marijuana related facilities.

Provides that it is lawful and not a basis for forfeiture or seizure for a person or business to

lease or allow the use of property for marijuana related activities.

Deletes [notwithstanding any other provision of law, it] and makes stylistic drafting changes.

[1:54:30 PM](#)

Mr. Shilling remarked that Sections 18 through 23 were pulled from the initiative and had some stylistic changes to conform to bill drafting conventions.

Co-Chair MacKinnon referred to lines 3 through 5 in Section 18 of the work draft, and wondered if the initiative should replace all existing state law. She stated that it was her intention to interpret and "weave in" the intent of the initiative into existing state statute; however, she called into question the issue of precedence. She discussed the "notwithstanding" language in the initiative, and restated that the committee needed to make the language of the initiative work with existing state law. She queried Mr. Kopp as to whether her summation was fair. Mr. Kopp opined that it was very fair.

Mr. Shilling pointed out lines 24 through 27 in Section 18 of the work draft, and supposed it was a deviation from how the initiative was written; the word "assisting" was defined as to not include growing or possessing marijuana beyond the limits the initiative allowed for, while doing the conduct for someone else.

Co-Chair MacKinnon asked for clarification as to whether "doing the conduct for someone else" referred to gardening or cultivating a plant or plants for another individual. Mr. Shilling responded in the affirmative, explaining that without the word "assisting" being defined, there was concern that the law could be read to allow an individual to possess more than the allowed amount of marijuana while claiming one was "assisting" someone. Co-Chair MacKinnon asked if a person might endeavor to grow marijuana for others on a contractual basis, and whether the work draft was a policy call suggesting that it was not the intent of the people who signed the initiative. Mr. Shilling affirmed it was so. Co-Chair MacKinnon encouraged members of the public to speak out if they were not in agreement with the language in the CS.

[1:58:06 PM](#)

Mr. Shilling reiterated that Sections 19 through 23 were comprised of initiative language with stylistic changes. Co-Chair MacKinnon commented that the term "notwithstanding" had been removed from various sections, or changes were proposed for the same sections. Mr. Shilling concurred, and furthered that every occurrence of the clause (five occurrences) "notwithstanding any other provision of law" had been removed.

Section 24 - SUBSTANTIVE

Page 16

AS 17.38.090. Rulemaking.

Directs the marijuana control board to adopt a regulation that will prohibit a retail marijuana store from selling more than five grams of marijuana concentrate per day to a customer.

Section 25 - SUBSTANTIVE

Page 16

AS 17.38.110(a).

Local Control.

Allows for a local governments and established villages to prohibit the operation of marijuana cultivation, manufacturing, testing, or retail facilities through the act of an ordinance.

Mr. Shilling discussed Section 25, which he characterized as "the foundation of the local option provisions" that were found later in the bill.

Section 26 - SUBSTANTIVE

Page 16

AS 17.38.200. Unlawful activity related to persons under 21 years of age.

A registered marijuana establishment, or an employee thereof, may not knowingly:

- Allow a person to give marijuana to a minor within the registered premises.
- Allow a minor to enter and remain within the registered premises.
- Allow a minor to use marijuana within the registered premises.
- While working on the registered premises, give marijuana to a minor.

Violation of this section incurs a fine of at least \$250 and less than \$500. This section does not apply to a minor who is accompanied in the marijuana establishment by a parent, guardian, or spouse who is over 21 years of age.

AS 17.38.210. Access of persons under 21 years of age to registered premises.

A person under 21 may not knowingly enter or remain on a registered marijuana premises. An exception is made for a minor on the premises at the request of a peace officer, or a minor accompanied by a parent, guardian, or spouse who has attained 21 years of age. Violation of this section is a \$300 fine.

AS 17.38.220. Proof of registration to be exhibited on demand; penalty.

Requires a licensee to have a copy of their marijuana license at all times when transporting more than one ounce of marijuana, and shall present the license on demand by a peace officer. Violation of this section is a \$100 fine.

AS 17.38.230.

Bail forfeiture for certain offenses.

Requires the court to make a bail schedule allowing defendants to pay the fine for violations without a court appearance for violations involving marijuana.

AS 17.38.240. Court records of violations by minors confidential.

The court may not publish on a publicly available website the court records of a minor in possession of marijuana, a minor consuming marijuana, or a minor accessing licensed premises, after the court proceedings are concluded and the case is closed.

AS 17.38.250. Local option.

An established village shall prohibit the operation of marijuana establishments if a majority of the voters in the election approve the ban. A ballot to adopt a local option must contain language substantially similar to the following: "Shall (name of village) adopt a local option to prohibit the operation of marijuana establishments? (yes or no)."

AS 17.38.260. Removal of local option.

An established village shall remove a local option if a majority of the voters vote to remove the option. The option is repealed effective the first day of the month following certification of the election results. A ballot question to remove a local option must at least contain language similar to the following: "Shall (name of village) remove the local option currently in effect, that prohibits the operation of marijuana establishments, so that there is no longer any local option in effect? (yes or no)." When issuing a registration in an area that has removed a local option, the board shall give priority to an applicant who was formerly licensed.

AS 17.38.270. Effect of local option on registrations of prohibition of marijuana establishments. If a local option is in effect, the board may not issue, renew, or transfer a registration for a marijuana establishment located within the perimeter of the village.

AS 17.38.280. Procedure for local option elections. An election to adopt or remove a local option shall be conducted as follows:

- The lieutenant governor shall place on a separate ballot at a special election the content from a petition that received at least 35 percent of registered voters within the village.
- The election may not be conducted during the first 24 months after the local option was adopted or more than once in a 36-month period.
- Another petition may not be filed until after the question presented in the first petition has been voted on. Only one local option question may be presented in an election.

AS 17.38.290. Establishment of perimeter of established village.

For purposes of the local option law, the perimeter of a village is a circle around the village that includes an area within a five-mile radius of the post office of the village, or a five-mile radius of another site selected by the local governing body, or the board, if the village doesn't have a local governing body. If the perimeter overlaps with another village's perimeter, and that other village has not adopted a

local option, then the local option does not apply in the overlapping area.

AS 17.38.300. Notice of the results of a local option election.

If a majority of the voters approve or remove a local option, the lieutenant governor shall notify the board of the results immediately following the election, and the board shall immediately notify the Department of Law and the Department of Public Safety.

Mr. Shilling presented Section 26, which related to unlawful activity related to persons under 21 years of age.

2:00:09 PM

Vice-Chair Micciche wondered if there was redundancy in the language of Section 26. Mr. Kopp referred to page 17, lines 7 through 9 of the work draft, pointing out the non-applicability section; and stated that there was an exception to the minimum age for entering registered marijuana establishments. He furthered that those considerations [allowing a minor to use or possess marijuana on the premises] must be given to minors who were legally on the premises through the non-applicability language.

Mr. Kopp discussed AS 17.38.24 in Section 26, and noted that the qualifying language stipulated that the record was not available after the court proceeding was concluded and the case was closed.

2:03:01 PM

Vice-Chair Micciche asked if there was language in the bill pertaining to the ability of a licensed proprietor to deliver marijuana to a person off-site of the establishment, and related that the subject had been addressed in recent community meetings in his district. Mr. Shilling replied that the bill did not address the eventuality of home delivery of marijuana.

Co-Chair MacKinnon asked to clarify if Vice-Chair Micciche was asking about individuals who might phone in to a retail establishment for a delivery service. Vice-Chair Micciche reiterated that he had received concerns from his

constituency, and wondered if the initiative had addressed the subject.

Mr. Kopp referred to Section 19, subsection 6 of the work draft, concerning retail marijuana stores; and explained that under this portion, it specifically was not a violation for a licensed marijuana retail store who was "delivering, distributing, or selling marijuana or marijuana products to consumers." He suggested that the question at hand was what "delivering" meant. He opined it might be more properly addressed within the regulation bill [HB 75]. He discussed the accountability that was present when purchasing something in a retail location as compared to a home delivery.

Co-Chair MacKinnon mused that commas and other technicalities in the bill would be litigated at some point, and signified the importance of the clarity of legislative intent with regard to the term of "delivery."

Vice-Chair Micciche opined that defining "delivery" would be a future issue of concern if not clarified in the bill.

[2:06:37 PM](#)

Mr. Shilling noted that later in the bill the term "deliver" was defined.

Co-Chair Kelly referred to Section 17.38.240 and wondered about inconsistency between court records for alcohol violations and court records for marijuana violations. Mr. Kopp noted that there was currently no provision in the alcohol statutes pertaining to court records being treated in a special way for individuals under the age of 21. He furthered that it would be addressed when the regulation bill came up. He clarified that the work draft was solely pertaining to marijuana rather than alcohol.

Co-Chair MacKinnon asked Mr. Kopp if it was fair to say that the committee was trying to implement the voter initiative so that possession of marijuana was legal and not on an individual's criminal record. Mr. Kopp discussed legal records and specified that individuals under 21 faced issues such as possession charges impacting employment opportunities. He furthered that for individuals under 21, under the bill such charges would not be accessible on a publicly available website (such as Courtview). He

clarified that there would still be a hard copy of the records, but the inaccessibility would mitigate against the ability to be employed at a future date.

2:09:02 PM

Mr. Shilling referred to a "Local Option Memo" authored by Senator John Coghill (copy on file) that discussed the "interplay" between cities and organized boroughs with regard to the local option. He attested that there was one deviation from how local option was addressed in Title IV:

an established village in an organized borough does not have the option to prohibit marijuana establishments; rather, the language only applied to established villages in the un-organized borough.

Vice-Chair Micciche asked about the last sentence of Section 17.38.280 (d) "Only one local option question may be presented in an election" and wondered if it needed additional clarification. He wondered if, as written, the language could present a loophole. Mr. Kopp explained that Section 17.38.280 (d) referred back to 17.38.250 (Local Option), which specifically discussed an established village exercising their local option to prohibit the operation of marijuana establishments. He furthered that the reference was for clarity and the language was there particularly to prevent "petition stacking." He directed attention to Section 17.38.280(a), and confirmed that the local option referred back to the established village.

Vice-Chair Micciche stated that he understood, but wondered if the language could be abused in a way that would limit additional local options from occurring statewide. Mr. Shilling explained that the local option question would not appear on a statewide ballot, but rather only in a special election.

Co-Chair MacKinnon asked if it was fair to surmise that "the village issue" was not addressed in the initiative, and the committee was trying to insert language consistent with the initiative to provide local communities (villages) a means to consider the issue that might affect their community. Mr. Shilling responded in the affirmative.

Section 27 - INITIATIVE  
Page 20

AS 17.38.900(6). Definitions.  
Establishes the definition for "marijuana" as defined  
in the ballot initiative.

[2:14:55 PM](#)

Mr. Shilling noted that in addition to establishing the definition of marijuana, Section 27 of the work draft had a few differences from the initiative, including removal of the word "salt", the removal of a comma, and a stylistic change on line 28.

Section 28 - INITIATIVE/SUBSTANTIVE

Page 20

AS 17.38.900. Definitions.

Defines "deliver", "established village", "knowingly", "marijuana concentrate", "public place" and "remuneration."

Mr. Shilling addressed Section 28 of the sectional analysis, noting that the section added some definitions that were not contained in the initiative.

Co-Chair MacKinnon noted that Section 28 of the bill was where the word "deliver" was defined, and suggested that the committee might examine the language if there was specific intent of the legislature to hamper "pizza delivery" of a [marijuana] product.

Mr. Kopp noted that there was one other clarification that would be addressed in an amended version of the bill; he explained that the definition of "manufacture" had been inadvertently removed from the CS and would be added back in.

Co-Chair MacKinnon noted that the committee would be looking for a definition of "manufacturing" that would discriminate between lawful personal use and commercial use.

Section 29 - SUBSTANTIVE

Page 21

AS 28.35.029(a). Open container.

Provides that a person may not drive a motor vehicle when there is an open marijuana container in the passenger compartment with the exceptions provided below (b.)

Mr. Kopp discussed Section 29, which provided for open container violations involving marijuana. He addressed the question of whether the term "motor driven cycle" encompassed all terrain cycles/vehicles (ATV), and related that the Department of Law would be contacting the committee with information.

[2:17:48 PM](#)

Co-Chair MacKinnon harkened back to a prior conversation regarding ATVs and motorcycles, and wondered if there were other types of transportation to take in to account. She remembered that Senator Olson had raised the issue previously. Mr. Kopp stated that Senator Olson had mentioned snow machines, and anything that was motor driven.

Vice-Chair Micciche stated he would work on the language to ensure that it was adequate.

Section 30 - SUBSTANTIVE

Page 21

AS 28.35.029(b). Open container.

Creates exceptions to an open marijuana container being in the vehicle: the container is in the trunk of the vehicle; behind the last upright seat in certain vehicles; behind a solid partition that separates the driver from the passengers, or certain types of passenger vehicles.

Section 31 - SUBSTANTIVE

Page 22

AS 28.35.029(c). Open container.

Defines "open marijuana container" as a receptacle that contains marijuana, is open or has a broken seal, and any amount of marijuana is removed.

Sections 32-33 - SUBSTANTIVE

Page 22

AS 29.10.200; AS 29.35. Limitation of home rule powers. Municipal powers and duties.

Provides the right to limit marijuana to the state and municipalities cannot enact or enforce an ordinance inconsistent with 17.38, except as specifically provided by state statute. The section applies to home rule and general law municipalities.

Section 34 - CONFORMING

Page 22

AS 34.03.360(7). Definitions.

Defines "illegal activity involving a controlled substance" to include MICS crimes relating to marijuana.

Section 35 - CONFORMING

Page 22

AS 47.12.030(b). Provisions inapplicable.

When a minor is accused of a violating a statute relating to marijuana, other than a felony, the Alaska Delinquency Rules do not apply and the minor accused of the offense shall be charged, prosecuted, and sentenced in the same manner as an adult. The minor's parent or guardian shall be present at all proceedings.

Mr. Kopp clarified that under Section 35, just as a minor was not arraigned in juvenile court for a speeding ticket or fishing violation, similarly if they had a marijuana violation, they would be arraigned in District Court just like an adult.

Section 36 - SUBSTANTIVE

Page 23

Repeals the enumerated statutes.

Section 37 - SUBSTANTIVE

Page 23

Applicability provisions.

Section 38 - SUBSTANTIVE

Page 24

Establishes an immediate effective date.

[2:20:51 PM](#)

Co-Chair MacKinnon, with the support of the committee, set the bill aside and wondered if the members had questions for the manager of the bill. She related that the committee would be bringing back the Alaska State Troopers and other previous testifiers including the Department of Law, the Public Defender's Office, and Legislative Legal Services.

Co-Chair Kelly asked if the committee could work with a recruiter from the Army, Navy, Air Force, or Marines. He cited Section 17.38.240 of the work draft, which discussed public access to court records, and detailed the consequences for a user of marijuana who joins the military after not disclosing prior use. He furthered that a background check would reveal the court records, resulting in the discharge from the branch of service.

[2:22:23 PM](#)

Co-Chair MacKinnon discussed laboratories, scientific descriptions and testing; and suggested that when the committee further discussed testing while considering the regulatory bill, they would be calling in someone from the State of Washington to provide greater insight. She relayed that the committee would be bringing up the bill the following day, and if it was the will of the committee she would then remove her objection. She discussed the schedule and upcoming public testimony.

Senator Hoffman related that many of the villages he represented had opted out of the sale of alcohol, and wondered if the legislature (acting as the assembly for the unorganized borough) could opt such villages/communities out of the local option, and allow the villages to opt back in if they so desired. He suggested that it would save time to do so, and such an action would likely reflect the will of the community.

Co-Chair MacKinnon asked Ms. Kaci Schroeder (in the gallery) to offer a written response to the question of whether the legislature could (while acting as the seated city council for unorganized areas) opt them out. She noted that the action was not in agreeance with the initiative, which stated that individual and local communities needed to opt out.

KACI SCHROEDER, SPECIAL ASSISTANT TO THE COMMISSIONER, DEPARTMENT OF LAW, agreed to provide the committee with a written response by Thursday of the same week.

[2:25:26 PM](#)

Mr. Kopp, in response to Co-Chair Kelly's earlier comments regarding minor court records, commented that the bill would not affect any records at the courthouse, therefore

any violations would be available for a recruiter to see via a method other than a public website.

Co-Chair Kelly referred to Foreign Service contractors on military bases, and wondered if violations of federal law regarding marijuana would preclude employment. Co-Chair MacKinnon commented that her staff would follow up on the subject.

Senator Dunleavy asked if there was any language in the bill that pertained to operating "dangerous" machinery such as chainsaws or lawn mowers. Mr. Kopp noted that existing law addressed dangerous behavior that recklessly put any other individuals at risk, and it was quantified by the charge of reckless endangerment.

Vice-Chair Micciche asked if the riding lawn mower fell under the designation of motor vehicle. He wondered if it fell under the auspices of a driving while under the influence (DUI). Mr. Kopp explained that on one's own property, DUI did not apply. He clarified that it did apply in one's driveway and into the garage. He added that reckless endangerment would be more applicable in the case of a riding lawn mower.

[2:28:10 PM](#)

Co-Chair MacKinnon thanked Mr. Shilling and Mr. Kopp and asked if the committee could anticipate a corrected sectional analysis by the following day. Mr. Shilling responded in the affirmative. She noted that a public hearing would be held as previously announced, and amendments would be due during the current week.

Co-Chair MacKinnon reiterated that the work draft was an effort to conform the initiative language in with Alaska State Statutes, and welcomed public comment. She asked for individuals to address a specific page or section number when testifying.

[The Work Draft 29-LS0231/X was adopted the following day.]

SB 30 was HEARD and HELD in committee for further consideration.

#  
ADJOURNMENT

2:30:49 PM

The meeting was adjourned at 2:30 p.m.