

SENATE FINANCE COMMITTEE  
March 10, 2015  
1:35 p.m.

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CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 1:35 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  
Senator Donny Olson

MEMBERS ABSENT

None

ALSO PRESENT

Kaci Schroeder, Assistant Attorney General, Criminal Division, Department of Law; Nancy Mead, General Counsel, Alaska Court System; Cynthia Franklin, Executive Director, Alcohol Beverage Control Board.

PRESENT VIA TELECONFERENCE

Tracey Wollenberg, Director, Public Defender Agency; Major Dennis Casanovas, Alaska State Troopers, Department of Public Safety; Orin Dym, Forensic Laboratory Manager, Department of Public Safety.

SUMMARY

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

CSSB 30(FIN) 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."

1:36:43 PM

Co-Chair MacKinnon asked if there was continued objection to the adoption of the proposed committee substitute for SB 30, Work Draft 29-LS0231\X (Martin, 3/9/15).

Co-Chair MacKinnon WITHDREW her OBJECTION from the previous day. There being NO further OBJECTION, it was so ordered.

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AT EASE

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RECONVENED

KACI SCHROEDER, ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, DEPARTMENT OF LAW, addressed questions from the March 5, 2015 hearing. She explained that the issue of contraband had been discussed in previous versions of the bill but was not addressed in the current version before the committee. She said that if marijuana were placed back into the controlled substances schedule, it would be a class C felony to bring marijuana into a correctional facility in the state. She relayed that the question before the committee in addressing the issue was whether the penalty should be lowered to make bringing marijuana into a correctional facility a class A misdemeanor, and put it on par with tobacco.

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Ms. Schroeder referred to Page 12, line 6 of SB 30, regarding the definition of marijuana. She explained that version X removed the comma after the word "oil," and read:

"marijuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, derivative,

mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does not include fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant that is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products;

Ms. Schroeder elucidated that the removal of the comma, combined with hashish and hash oil being moved into the same schedule as marijuana, provided clarity for law enforcement as to how they should treat hash oil and hashish.

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Co-Chair MacKinnon asked whether the current version of the bill was more consistent with the intent of the initiative.

Ms. Schroeder replied that she could not speculate on the intent of the initiative, but that it was consistent with testimony that had been provided in previous committees.

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Ms. Schroeder referred to Page 16, line 25, which was Section 26 of the bill. She shared that the section would make it a violation for a marijuana establishment to sell or provide marijuana to a person under 21, and also included parameters for conduct with persons under 21 years of age. She relayed that violators could be fined from \$250 to \$500; it was a class A misdemeanor to provide marijuana to a person under 21 years of age, and a class C felony if done twice within a 5 year span.

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Ms. Schroeder stated that the bill was reestablishing possession limits, which could potentially lead to litigation.

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Co-Chair MacKinnon understood that the limits that were being referred to was the establishment of 16 ounces for personal possession.

Ms. Schroeder replied that the bill had 16 ounces as the threshold for a felony, anything over an ounce would be a class A or B misdemeanor.

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Senator Hoffman asked whether an unorganized borough could unilaterally opt out of the marijuana law and if a provision could be added to the legislation that allowed each community within the unorganized areas of the state to opt back in at their discretion.

Ms. Schroeder noted that the question regarded civil law. She had forwarded the question to the civil division, which would provide and answer in a timely manner.

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Senator Dunleavy asked what would happen if no action were to be taken on CSSB 30, or another related bill.

Ms. Schroeder responded that chaos in the streets was not expected. She hoped that legislation would bring further clarity and definition to the issue. She related that the Department of Law would be able to maintain public safety in the absence of CSSB 30, but that anarchy was not expected. She said that she could not speak to the regulatory context, but believed that those bills should be defined.

Senator Dunleavy understood that the law would default to the initiative.

Ms. Schroeder replied in the affirmative.

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Vice-Chair Micciche requested examples of where non-applicability was used in criminal law in the state.

Ms. Schroeder cited the bill; Page 9, section 10, which offered a version of a non-applicability clause.

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Co-Chair MacKinnon directed attention to a memorandum from the Division of Legislative Legal and Research Services

dated March 6, 2015, which pointed out that the non-applicability clause did not apply when people were using a product consistent with the initiative. She added that it would be a jurisdictional issue.

Vice-Chair Micciche queried the version of the applicability clause from Section 10.

Ms. Schroeder believed that it was the section of law related to prescriptions and pharmaceutical drugs; a pharmacist acting in the course of their job would not violate the drug offense statutes.

Vice-Chair Micciche asked if the department was comfortable with Section 10.

Ms. Schroeder replied yes.

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Senator Dunleavy understood that there could be litigation concerning the issue, regardless of whether or not the bill passed.

Ms. Schroeder replied in the affirmative.

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TRACEY WOLLENBERG, DIRECTOR, PUBLIC DEFENDER AGENCY (via teleconference), spoke to concerns she had with CSSB 30, specifically inconsistencies with the voter initiative. She related that the bill version returned marijuana to the controlled substances schedule and did not treat marijuana like alcohol by making it legal and then regulating it like alcohol; it returns marijuana to the controlled substances schedule and then redefines the marijuana related conduct that is outlawed. She stated that the agency's overarching concerns involved the controlled substance and misconduct involving marijuana offenses. She relayed that a number of the provisions were inconsistent with the initiative and could confuse, rather than clarify, the type of conduct that was legal or illegal. She asserted that the offences seemed to differentiate between the numbers of plants that a person was prohibited from possessing and an aggregate weight of marijuana a person was prohibited from possessing. She referred to Page 5, lines 2-4, relating to felony conduct. She stated that the problem with this

section was two-fold. She explained that the definition of marijuana included all parts of the plant; a distinction needed to be made between 16 ounces of a plant and 16 ounces of useable marijuana. She said that current statute AS 11.71.080 defined the aggregate weight of a live plant as one-sixth of the measured weight of the marijuana plant after the roots of the plant had been removed. She said that the combination of the broad definition of marijuana included all parts of the plant and the use of the term aggregate weight in the provision led to the conclusion that the provision applied not only to useable marijuana, but to plants. She stated that if the one-sixth calculation were applied a person would be penalized for the plant, rather than only the useable marijuana.

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Ms. Wollenberg suggested returning to the term "usable marijuana," adopted in the Senate Judiciary Committee. She shared that there was a definition for useable marijuana in existing law under AS 17.37. She said that the use of the term usable marijuana, in conjunction with deleting the aggregate weight provision, would make the distinction between the number of plants a person could possess and the weight of usable marijuana that could be possessed. She said that expecting that plants would not weigh more than one ounce was not realistic.

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Ms. Wollenberg pointed out another potential inconsistency with the initiative. She stated that the initiative allowed a person to possess all of the marijuana produced from the plants on the premises where the plants were grown. She explained that under the legislation, if 3 plants produced 4 ounces of marijuana each, some of which was put into a freezer for later use, marijuana then produced by another plant would put the grower in violation.

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Ms. Wollenberg she spoke to Section 6, line 11, which was starkly inconsistent with the initiative. She relayed that the provision would outlaw transport, manufacture, and delivery of more than one ounce of a schedule 6 controlled substance; the initiative specifically allowed for the delivery of once ounce, plus up to 6 immature marijuana

plants. She surmised that there was a problem in the bill of distinguishing between one ounce of useable marijuana and the weight of the plants themselves.

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Ms. Wollenberg spoke to the non-applicability provisions. She explained that non-applicability codes were not often used because they created confusion. She said that if the intent was to not outlaw certain types of conduct then it would be clearer to the public to state what was legal and what was illegal in the legislation. She felt that first time growers could have difficulty gaging how much plants would weigh. She felt that illegal conduct should be published outside of the scope of AS 17.37.020.

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Ms. Wollenburg stated that because the non-applicability codes were not common it was conceivable that a person could be arrested for conduct that was actually legal, which would lead to litigation in court.

[2:02:22 PM](#)

Vice-Chair Micciche asked whether there was anything in the initiative that required the removal of marijuana from the controlled substance list.

Ms. Wollenburg responded that she did not believe that the initiative had set up the mechanics of how the legislature should proceed on the matter. She commented that the purpose and findings of the initiative made clear that the use of marijuana should be legal for persons 21 years of age or older, and that law enforcement resources be used elsewhere because marijuana would be legalized and sold by regulated businesses. She said that keeping in the controlled substances schedule was inconsistent with the purpose of the initiative.

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Co-Chair MacKinnon highlighted the fact that marijuana was still illegal on the federal level. She solicited a comment on the federal legality of the transportation, use, and possession of marijuana.

Ms. Wollenburg conceded that marijuana would remain illegal under federal law. She did not believe that states were prohibited from passing laws to regulate marijuana in the manner of previous drafts of the legislation. She understood that if the state was adequately and fully regulating the use of marijuana, the federal government would not intervene.

Co-Chair MacKinnon asked whether marijuana was an illegal substance on the federal level.

Ms. Wollenburg replied in the affirmative.

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Vice-Chair Micciche revealed that he was, "not a fan" of the initiative. He expressed concern that there was no way for a person growing marijuana legally in the state to know the weight of a live plant until it is harvested.

Ms. Wollenburg agreed. She added that the public would not know how much each plant was going to weigh; the provision that restricted the possession of an aggregate weight of more than X amount, when X amount included all parts of the plant, was problematic.

Vice-Chair Micciche surmised that there was no way to accurately weigh the entire living plant.

Ms. Wollenburg understood that that was one of the reasons that the aggregate weight provision was put in to place.

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Ms. Wollenburg referred to Page 10, section 10, lines 7 - 15:

(1) up to \$300 for a violation of (a)(1), (a)(2)(A), (a)(3), or (a)(4) of this section; upon conviction of a person under (a)(2)(A) of this section, the court may grant a suspended imposition of sentence under AS 12.55.085 and place the person on probation for up to one year. Among the conditions of probation, the court shall, with the consent of a community diversion panel, refer the person to the panel, and require the person to comply with conditions set by the panel, including counseling,

education, treatment, community work, and payment of fees. In this subsection, "community diversion panel" means a youth court or other group selected by the court to serve as a sentencing option for a person convicted under (a)(2)(A) of this section;

Ms. Wollenburg commented that because of the nature of the potential penalties, the full panoply of rights that are attendant to a criminal case could be called into play. She said that past case law suggested that the court might find that the rights were applicable when there was the possibility of probation or community diversion panel. She suggested that the committee consider whether it intends to impose those types of penalties that require those types of resources for a violation that otherwise might carry a \$300 fine.

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Ms. Wollenburg referred to Page 11, section 13, line 13:

\* **Sec.13.** AS 11.71.31 1(a) is amended to read:

(a) A person may not be prosecuted for a violation of AS 11.71.030(a)(3), 11.71.040(a)(3) or (4), 11.71.050(a)(2), or **11.71.060(a)(2)** [11.71.060(a)(1) OR (2)] if that person

(1) sought, in good faith, medical or law enforcement assistance for another person who the person reasonably believed was experiencing a drug overdose and

(A) the evidence supporting the prosecution for an offense under AS 11.71.030(a)(3), 11.71.040(a)(3) or (4), 11.71.050(a)(2), or **11.71.060(a)(2)** [11.71.060(a)(1) OR (2)] was obtained or discovered as a result of the person seeking medical or law enforcement assistance;

(B) the person remained at the scene with the other person until medical or law enforcement assistance arrived; and

(C) the person cooperated with medical or law enforcement personnel, including by providing identification;

(2) was experiencing a drug overdose and sought medical assistance, and the evidence supporting a prosecution for an offense under AS 11.71.030(a)(3), 11.71.040(a)(3) or (4), 11.71.050(a)(2), or

11.71.060(a)(2) [11.71.060(a)(1) OR (2)] was obtained as a result of the overdose and the need for medical assistance.

Ms. Wollenburg believed that the previous version of the bill had broadened the section to allow for the seeking of medical or law enforcement assistance for a person experiencing an adverse reaction to marijuana. She encouraged language that would allow people to seek medical assistance for people who were experiencing adverse reactions to potential marijuana use, even if it could not be classified as a strict drug overdose. She noted that popular opinion stated people could not overdose on marijuana.

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Ms. Wollenburg referred to Section 15, page 12 line 10, which defined remuneration. She said that the definition was potentially broader than the initiative had intended. She noted that it was broader than the definition for alcohol, which prohibited a person from selling an alcoholic beverage without a license.

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Co-Chair MacKinnon asked about Section 13. She requested clarification with regard to use of the word "overdose."

Ms. Wollenburg replied that the term "drug overdose" commonly implied that a person had taken drugs at a potentially fatal level; the adverse reaction that a person might suffer from marijuana would not be necessarily due to the amount of marijuana the person had taken, but rather the potency of the strain, or if the person was a first time user.

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Co-Chair MacKinnon directed committee attention to the fact that on Page 11, lines 18, 28, and 31; the word "overdose" was used. She hoped that specific language in the bill that was problematic could be identified and addressed for clarity.

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Ms. Wollenburg continued to Page 17, section 26, line 12:

**Sec. 17.38.210. Access of persons under 21 years of age to registered premises.** (a) A person under 21 years of age may not knowingly enter or remain on premises registered under this chapter where marijuana, marijuana products, or marijuana accessories are sold.

(b) A person does not violate (a) of this section if the person

(1) enters and remains on premises registered under this chapter at the request of a peace officer, if the peace officer accompanies, supervises, or otherwise observes the person's entry or remaining on premises, and the purpose for the entry or remaining on premises is to assist in the enforcement of this section; or

(2) is accompanied by a parent, guardian, or spouse who has attained 21 years of age.

(c) A person who violates this section is guilty of a violation and is punishable by a fine of \$300.

Ms. Wollenburg thought that the committee may want to consider adding an exception for those under 21 years of age who had to enter the premises in the course of their employment, unrelated to the marijuana business.

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Vice-Chair Micciche asked if there was anything in the initiative that looked for such an exemption.

Ms. Wollenburg replied in the negative.

Vice-Chair Micciche thought that it could be difficult for a person to work in a "cannabis club" without breathing in second hand smoke.

Ms. Wollenburg clarified that the exception would not be that someone under age could work at a cannabis club or marijuana establishment, only that they not be subject to violation if their work, unrelated to the establishment, brings them momentarily into the marijuana establishment.

Vice-Chair Micciche commented that there were some things that were difficult to regulate like alcohol because of the differences in how the intoxicant was consumed.

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Ms. Wollenburg commented on Page 18, line 11:

**Sec. 17.38.240. Court records of violations of persons under 21 years of age.** The Alaska Court System may not publish on a publicly available website the court records of a violation of AS 1 1.71.071(a)(2)(A) or AS 17.38.210 by a person who was under 21 years of age at the time of the offense, after the court proceedings are completed and the case is closed.

Ms. Wollenburg reiterated that the provision would only remove a minor's file from CourtView, but would not make the file confidential.

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Vice-Chair Micciche understood she was discussing sealed records, after the completion of court proceedings and the closure of the case.

Ms. Wollenburg replied that she was pointing out that the files would not be sealed or confidential, making it more difficult for future employers to access.

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Ms. Wollenburg referred to Page 22, lines 5 through 7:

(8) "open marijuana container" means a receptacle or marijuana accessory that contains any amount of marijuana and that is open or has a broken seal, and any amount of marijuana is removed.

Ms. Wollenburg relayed that it would make sense to require evidence of use, or removal of marijuana in the vehicle, if the purpose of the open container law was to prevent use of marijuana in a vehicle. She noted that the previous draft of the bill had required evidence of use of marijuana in the vehicle.

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Co-Chair MacKinnon requested that Ms. Wollenburg submit her comments in written form.

Ms. Wollenburg that she had relayed her comments directly to Chuck Kopp, Staff to Vice-Chair Micciche and Erin Shine, Staff to Senator Anna MacKinnon, and that any requests of written finding would need to be authorized by Quinlan Steiner, Director, Public Defender Agency, Department of Administration.

Co-Chair MacKinnon related that both eventualities would be helpful.

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Co-Chair MacKinnon welcomed Nancy Meade, General Counsel, Alaska Court System to the table.

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NANCY MEAD, GENERAL COUNSEL, ALASKA COURT SYSTEM, said that there were three areas of the legislation she hoped the committee would address. She turned to Page 10, lines 8 - 15:

(1) up to \$300 for a violation of (a)(1), (a)(2)(A), (a)(3), or (a)(4) of this section; upon conviction of a person under (a)(2)(A) of this section, the court may grant a suspended imposition of sentence under AS 12.55.085 and place the person on probation for up to one year. Among the conditions of probation, the court shall, with the consent of a community diversion panel, refer the person to the panel, and require the person to comply with conditions set by the panel, including counseling, education, treatment, community work, and payment of fees. In this subsection, "community diversion panel" means a youth court or other group selected by the court to serve as a sentencing option for a person convicted under (a)(2)(A) of this section;

Ms. Mead reiterated Ms. Wollenburg's concerns with the language. She stated that suspending the imposition of the sentence could be problematic because the definition of "violation" was something that was punishable only by a fine; to add other potential punishments, namely probation, was inconsistent with the definitions and would confuse the issue. She believed that the drafters were trying to imitate what happened with minor consuming cases, but those cases were not considered violations.

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Ms. Mead commented on Page 18, lines 5-10:

**Sec. 17.38.230. Bail forfeiture for certain offenses.** The supreme court shall establish by rule or order a schedule of bail amounts that may be forfeited without court appearance for a violation of AS 11.71.071, AS 17.38.210, and 17.38.220. The supreme court, in establishing scheduled amounts of bail under this section, may not allow for disposition of an offense without court appearance for a person under 18 years of age who is cited for a violation of AS 11.71.071(a)(2)(A).

Ms. Mead suggested adding 17.38.200 to the list of violations in the section. She said that AS 11.71.071(a)(2)(A) was for people under the age of 21, which meant that the section created two separate punishments depending on the age of the person being cited. She believed that the issue could be addressed with a drafting adjustment so that those under 18 were cited by a different statute than those between 18 and 21 years of age.

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Ms. Mead said that the bill had two definitions of marijuana that would appear in statute in two different places. She spoke to Page 12, line 2:

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

Ms. Mead read the second definition of marijuana on Page 20, line 23:

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

Ms. Mead relayed that having the definition located in two different places in the bill could be problematic.

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MAJOR DENNIS CASANOVAS, ALASKA STATE TROOPERS, DEPARTMENT OF PUBLIC SAFETY (via teleconference), directed the committee to Page 5, lines 6-10:

(4) possesses a schedule IIIA, IVA, or VA [, OR VIA] controlled substance  
or

(A) with reckless disregard that the possession occurs

(i) on or within 500 feet of school grounds;  
or

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

Major Casanovas relayed that under AS 17.38.120(d), if schools, youth recreational centers, or other businesses or property owners wished to prohibit the possession of marijuana on their premises, the burden had been shifted to those location to post the prohibition; violations would then be investigated and prosecuted as trespassing offenses.

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Vice-Chair Micciche queried the definition of "reckless disregard" on page 5, line 8.

Major Casanovas replied that the definition of "reckless" was referred to in other parts of the statute. He said that he could not speak to the question.

Co-Chair MacKinnon said that a definition would be provided.

Vice-Chair Micciche felt that 500 feet encompassed a large area. He wondered whether there were other legal substances that were not allowed within 500 feet of school grounds or recreational youth centers.

Major Casanovas believed that most private and community property allowed the land owner, or guardian of the property, to decide what items were allowed to be brought onto the land, or into the building; any prohibitions had to be posted and would be enforced from a trespass standpoint.

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Major Casanovas referred to Page 11, lines 6-12:

**\* Sec. 12.** AS 11. 71. 1 90(b) is repealed and reenacted to read:

(b) Schedule VIA includes, unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances:

- (1) marijuana;
- (2) hashish;
- (3) hash oil or hashish oil.

Major Casanovas suggested that, for clarity, the committee include tetrahydrocannabinols (THC), a principal psychoactive constituent of the cannabis plant, in the description of a controlled substance VIA.

He referred to Page 23, section 36, lines 20-21:

**\* Sec. 36.** AS 11.71.040(a)(2), 11.71.060(a)(1), 11.71.160(f)(1), 11.71.160(f)(2); AS 17.38.030, 17.38.040, and 17.38.050 are repealed.

Major Casanovas explained that the list of statutes to be repealed left THC in statute, and currently THC was identified as a schedule 3(a) controlled substance. He

concluded that THC should be included as part of the definition of marijuana, or part of the schedule 6(a) description, if it were going to be removed from the schedule 3(a) description.

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Co-Chair MacKinnon asked for information regarding THC.

ORIN DYM, FORENSIC LABORATORY MANAGER, DEPARTMENT OF PUBLIC SAFETY (via teleconference), related that THC was a natural product produced by the marijuana plant, and was the main psychoactive component. He stated that the plant produced other cannabinoids produced by the plant, but THC was the most powerful.

Co-Chair MacKinnon asked whether THC could be manufactured in a lab. She queried whether it would be appropriate to include THC in the definition.

Mr. Dym replied that THC could be produced in a lab, but that it was not generally done because it was readily available through the plant. He felt that the question of whether THC should be included in the definition was a matter for the Department of Law.

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Senator Bishop asked whether a test existed to measure the THC concentration in oils.

Mr. Dym replied that it could be done. He believed that the development of a method would take approximately 3 months.

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Major Casanovas moved to Page 22, section 31, lines 5-7:

(8) "open marijuana container" means a receptacle or marijuana accessory that contains any amount of marijuana and that is open or has a broken seal, and any amount of marijuana is removed.

Major Casanovas said that "open marijuana container" spoke to an accessory that was open or had a broken seal and any amount of marijuana had been removed. He stated that it was not clear whether a smoking or inhaling device that had

been used before the person got into the vehicle, would fit into that definition. He expressed concern that the language did not define what how live marijuana plants would be transported, or what definition the plants would fall under.

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Vice-Chair Micciche asked whether the department could manage decriminalized marijuana without this legislation.

Major Casanovas responded that the department had been operating since February 24, 2015, with the ballot initiative language in contrast to some areas of Title 11. He said that the Alaska State Troopers were averaging 1 to 2 events per day involving marijuana across the state. He relayed that there had not yet been a circumstance that had been at odds with current statutes, versus the ballot measure. He mentioned the likelihood of litigation resulting from conflicting statutes and interpretation of statutes.

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Vice-Chair Micciche understood that further clarity in the bill language would be beneficial.

Major Casanovas replied that he would prefer less litigation and hoped that all the involved parties could come up with an agreed upon set of rules.

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AT EASE

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RECONVENED

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CYNTHIA FRANKLIN, EXECUTIVE DIRECTOR, ALCOHOL BEVERAGE CONTROL (ABC) BOARD, commented that the scope of authority that the board had over alcohol in the state, gave the board complete control over ever verb involving alcohol, including possession. She said that looking at Title 4 it was impossible to separate licensing and creating commercial establishments around alcohol from enforcement of individuals who would deal with alcohol without a

license. She explained that the tension for the regulatory agency between Title 11 and Title 17, was assuring that enforcement officers had statutory authority to act on businesses and individuals who held licenses, and had the authority to shut down places that attempt to look like licensed marijuana businesses, but were not. She asserted that a control board dealing with marijuana should have some authority relating to shutting down the black market aspect of marijuana. She said that the way that AS 17.38 currently read, the ABC Board only had the authority to make the rules for licensed sellers.

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Ms. Franklin related a concern with local control. She referred to Page 18, lines 16 - 21:

**Sec. 17.38.250. Local option.** (a) If a majority of the voters voting on the question vote to approve the option, an established village shall exercise a local option to prohibit the operation of marijuana establishments.

(b) A ballot question to adopt a local option under this section must at least 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)."

Ms. Franklin hoped that whatever rules were developed around local option and marijuana mirrored the rules relating to local option and alcohol. She said that local option allowed a community to opt in or out, but also allowed for a menu of what would and would not be allowed in individual communities. She said that one local option that she had discussed at length with municipalities would make the municipality the sole point of retail sale of the substance in their community.

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Co-Chair MacKinnon noted that there would be public testimony the following day.  
CSSB 30 was HEARD and HELD in committee for further consideration.

#  
ADJOURNMENT

3:02:47 PM

The meeting was adjourned at 3:02 p.m.