

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

February 20, 2015

1:37 p.m.

MEMBERS PRESENT

Senator Lesil McGuire, Chair
Senator John Coghill, Vice Chair
Senator Mia Costello
Senator Peter Micciche

MEMBERS ABSENT

Senator Bill Wielechowski

COMMITTEE CALENDAR

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."

- MOVED CSSB 30(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 30

SHORT TITLE: MARIJUANA REG;CONT. SUBST;CRIMES;DEFENSES

SPONSOR(s): JUDICIARY

01/23/15	(S)	READ THE FIRST TIME - REFERRALS
01/23/15	(S)	JUD, FIN
01/26/15	(S)	JUD AT 1:00 PM BUTROVICH 205
01/26/15	(S)	Heard & Held
01/26/15	(S)	MINUTE(JUD)
01/28/15	(H)	JUD AT 1:00 PM CAPITOL 120
01/28/15	(H)	-- Companion Bill --
01/30/15	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
01/30/15	(S)	-- Meeting Postponed to Monday 2/2/2015
		--
02/02/15	(S)	JUD AT 1:30 PM BUTROVICH 205
02/02/15	(S)	-- Rescheduled from 01/30/15 --
02/05/15	(S)	FIN AT 9:00 AM SENATE FINANCE 532
02/05/15	(S)	Scheduled but Not Heard

02/06/15 (S) JUD AT 1:30 PM BUTROVICH 205
02/06/15 (S) -- MEETING CANCELED --
02/09/15 (S) JUD AT 1:30 PM BUTROVICH 205
02/09/15 (S) Heard & Held
02/09/15 (S) MINUTE(JUD)
02/11/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/11/15 (S) Heard & Held
02/11/15 (S) MINUTE(JUD)
02/13/15 (S) JUD AT 1:30 PM BUTROVICH 205
02/13/15 (S) Heard & Held
02/13/15 (S) MINUTE(JUD)
02/16/15 (S) JUD AT 1:30 PM BUTROVICH 205
02/16/15 (S) -- MEETING CANCELED --
02/18/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/18/15 (S) Heard & Held
02/18/15 (S) MINUTE(JUD)
02/20/15 (S) JUD AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

SENECA THENO, Municipal Prosecutor
Municipality of Anchorage

POSITION STATEMENT: Reviewed highlights of the written comments she submitted on February 20, 2015 pertaining to version S of SB 30.

DENNIS WHEELER, Municipal Attorney
Municipality of Anchorage (MOA)

POSITION STATEMENT: Highlighted perceived problems with Section 126 of SB 30.

JORDAN SHILLING, Staff
Senator John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Discussed the amendments to SB 30

BRUCE SCHULTE, Spokesman
Coalition for Responsible Cannabis Legislation
Anchorage, Alaska

POSITION STATEMENT: Commented on the amendments to SB 30.

JEFF PICKETT, Contract Attorney
Senate Judiciary Committee
Anchorage, Alaska

POSITION STATEMENT: Commented on Amendment 2 for SB 30.

AMY SALTZMAN, Staff
Senator Lesil McGuire
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Discussed the amendments for SB 30.

NANCY MEADE, General Counsel
Administrative Staff
Alaska Court System
Anchorage, Alaska

POSITION STATEMENT: Commented on the amendments for SB 30.

DIANNE CASTO, Prevention Manager
Division of Behavioral Health
Department of Health and Social Services (DHSS)

POSITION STATEMENT: Commented on the amendments for SB 30 and provided information on Title 4 related to minors consuming alcohol.

GEORGE PIERCE, representing himself
Kasilof, Alaska

POSITION STATEMENT: Disagreed with the committee's treatment of SB 30.

JAMIE RODGERS, representing herself
Fairbanks, Alaska

POSITION STATEMENT: Testified that the definition of public place in SB 30 should accommodate people who smoke pot when they're camping.

DON HART, representing himself
Wasilla, Alaska

POSITION STATEMENT: Offered suggestions on SB 30.

RONDA MARCY, representing herself
Wasilla, Alaska

POSITION STATEMENT: Stated objection to the section of SB 30 that prohibits the use of a volatile gas.

VIRGINIA ESPENSHADE, representing herself
Executive Director
Kenai Peninsula Youth Court
Homer, Alaska

POSITION STATEMENT: Offered suggestions on SB 30, based on her experience.

ACTION NARRATIVE

[1:37:59 PM](#)

CHAIR LESIL MCGUIRE called the Senate Judiciary Standing Committee meeting to order at 1:37 p.m. Present at the call to order were Senators Costello, Micciche, Coghill, and Chair McGuire.

^#sb30

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

[1:38:11 PM](#)

CHAIR MCGUIRE announced the consideration of SB 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." She solicited a motion to adopt the work draft committee substitute (CS).

[1:38:20 PM](#)

SENATOR COGHILL moved to adopt the work draft CS for SB 30, labeled 29-LS0231\S, as the working document.

CHAIR MCGUIRE found no objection and announced that version S was before the committee.

[1:39:11 PM](#)

SENECA THENO, Municipal Prosecutor, Municipality of Anchorage, (MOA) reviewed highlights of the written comments she submitted on February 20, 2015 pertaining to version S.

- Sections 103 and 104 on pages 60-61. The definition of open container of marijuana in a motor vehicle including that there be evidence of consumption within the vehicle will create an unenforceable ordinance. The MOA proposes changing the language to prohibit marijuana in the passenger compartment of the vehicle while the vehicle is being driven. This will clarify the issue for both citizens and police officers. Responding to a question, she suggested the most appropriate change would be in Section 102 on page 60, line 17. Replace the proposed new language with "or there is any marijuana in the passenger compartment of the vehicle."
- Section 51 on pages 29-32. It appears that the bill provides no penalty for possession of greater than one ounce of marijuana.

CHAIR MCGUIRE advised that a forthcoming amendment addresses the issue.

MS. THENO continued to review the suggestions from the Municipality of Anchorage.

- Section 51, pages 31-32. The current penalties in Title 4 for alcohol offenses by minors and the proposed penalties for marijuana offenses by minors are significantly different. The elements of the comparable offenses are also different. The initiative simply included a prohibition on people under age 21 entering the premises and the bill provides much more detail.
- Section 51, page 30, lines 6-26. AS 17.38.200 addresses culpability for an establishment allowing a person under age 21, but at least age 18, to do certain marijuana-related activities, but there is nothing for persons under the age of 18.
- Section 51, page 29, lines 11-20, and page 30, lines 6-24. AS 17.38.200(a)(1)(A)(iv) makes it a crime for an unlicensed seller to knowingly deliver marijuana to a person under age 21. AS 17.38.200(a)(2)(E) makes it a crime for a licensed seller to negligently allow a person to deliver marijuana to a person under age 21 and over age 18. The illegal dealer is held to a higher level of intent than the licensed seller, so it will be more difficult to prove wrongdoing by an illegal dealer than a licensed dealer.
- In general, the MOA is highly concerned that some of the penalties or lack of penalties may not create a clear, strong and effective regulatory system to ensure the safety of youths and fend off federal intervention.

[1:48:26 PM](#)

DENNIS WHEELER, Municipal Attorney, Municipality of Anchorage (MOA), highlighted perceived problems with Section 126 on page 71, which speaks to the authority of local governments to regulate marijuana under AS 17.38. The proposed language mirrors that in AS 29.35.145 and local governments view that statute as analogous on the local level to the state's frequent complaint about federal overreach. It goes too far in restricting what local governments are able to do. He suggested the committee instead look at language in Title 4 that explains what local governments are able to do. He noted that language similar to that in Title 4 is being incorporated in the companion HB 75.

CHAIR MCGUIRE asked if he was aware that the bill adds to what is already in statute.

MR. WHEELER answered yes, but his perspective is that the language in Title 4 fits better than the language that's proposed in the bill.

[1:52:00 PM](#)

CHAIR MCGUIRE turned to the amendments. [The amendments were pre-numbered 1-11.]

SENATOR COGHILL withdrew Amendment 1 [29-LS0231\S.5].

[1:52:24 PM](#)

SENATOR COGHILL moved Amendment 2, labeled 29-LS0231\S.3.

29-LS0231\S.3
Martin
2/17/15

AMENDMENT 2

OFFERED IN THE SENATE BY SENATOR COGHILL
TO: CSSB 30(JUD), Draft Version "S"

Page 32, lines 21 - 22:

Delete "except when authorized by the terms of registration issued under this chapter"

CHAIR MCGUIRE objected for discussion purposes.

[1:53:08 PM](#)

JORDAN SHILLING, Staff, Senator John Coghill, explained that the language is a vestige of an early version that the committee didn't consider. He said it is being deleted "because it would seem to allow for a license or registration of some sort that would allow smoking in public, like a private club scenario."

SENATOR COGHILL added that his concern is that a regulated smoking establishment will present a public safety issue.

SENATOR MICCICHE asked if the amendment contradicts the initiative.

MR. SHILLING replied it doesn't appear to; the initiative said no smoking in public and didn't define "public."

SENATOR COGHILL added that the amendment addresses a public establishment rather than a public place and would apply once regulations are adopted.

CHAIR MCGUIRE asked Mr. Schulte to comment.

[1:57:45 PM](#)

BRUCE SCHULTE, Spokesman, Coalition for Responsible Cannabis Legislation, Anchorage, Alaska, opined that the definition of public versus private becomes gray when talking about private businesses or private events accessible by the public. He said the coalition hopes that under certain circumstances the marijuana regulatory board could consider permits similar to those in Title 4 regulations for alcohol use.

SENATOR COGHILL stated his preference is to start with the basics of the initiative and move forward slowly.

CHAIR MCGUIRE asked Mr. Pickett if adopting the amendment would allow the ABC Board to adopt regulations in the future to issue a license that would allow consumption of marijuana on a premises.

JEFF PICKETT, Contract Attorney, Anchorage, Alaska, [did not identify himself]. He said he believes the language would allow a regulatory agency space to craft regulations and implement the intent of that language.

SENATOR MICCICHE commented on the difficulty of trying to regulate marijuana like alcohol because intoxication is different. "It's going to take a lot more thought and a lot more work than the time we have before the due date," he said.

SENATOR COGHILL restated his preference for moving slowly and not addressing an exception for an establishment.

CHAIR MCGUIRE removed her objection and announced that without further objection, Amendment 2 is adopted.

[2:03:11 PM](#)

SENATOR MICCICHE stated that he supports the amendment because he doesn't believe it is counter to the initiative, but he would give each amendment the same litmus test.

SENATOR COGHILL moved Amendment 3, labeled 29-LS0231\S.12.

29-LS0231\S.12

AMENDMENT 3

OFFERED IN THE SENATE BY SENATOR COGHILL
TO: CSSB 30(JUD), Draft Version "S"

Page 26, line 10, following "section":

Insert "; under this paragraph, assisting does not include

(A) using, displaying, purchasing, or transporting marijuana in excess of the amount allowed in this section;

(B) possessing, growing, processing, or transporting marijuana plants in excess of the amount allowed in this section"

CHAIR MCGUIRE objected for discussion purposes.

SENATOR COGHILL characterized the amendment as a belt and suspenders on personal use. It clarifies that assisting is not possessing.

CHAIR MCGUIRE asked Mr. Schulte to comment on the proposed amendment.

[2:05:19 PM](#)

MR. SCHULTE apologized that he didn't follow the change that's being proposed.

SENATOR COGHILL read the amendment and reiterated the initial explanation.

MR. SHILLING added that AS 17.38.020 explicitly says what a person can do with regard to the personal use of marijuana. Paragraph (5) says a person may assist another person who is 21 years or older. However, because "assist" isn't defined, it appears to allow someone to exceed the one ounce or six plant limit for personal use.

CHAIR MCGUIRE asked if that makes more sense.

MR. SCHULTE answered yes, and he agrees it shouldn't be a loophole.

SENATOR COGHILL clarified that he didn't want to limit any of the acts listed in subsections (a) through (d); he just wanted to make sure it wasn't a loophole.

MR. SCHULTE stated agreement with the intent and didn't object to the amendment.

SENATOR MICCICHE asked if the amendment is focused on not going over the one ounce and six plant limit.

SENATOR COGHILL confirmed that was the intent.

[2:09:39 PM](#)

SENATOR MCGUIRE removed her objection and announced that without further objection, Amendment 3 is adopted.

[2:10:08 PM](#)

SENATOR MICCICHE withdrew Amendment 4.

[2:10:29 PM](#)

SENATOR COSTELLO moved Amendment 5, labeled 20-LS0231\S.9.

29-LS0231\S.9
Martin
2/19/15

AMENDMENT 5

OFFERED IN THE SENATE BY SENATOR COSTELLO
TO: CSSB 30(JUD), Draft Version "S"

Page 24, line 25:

Delete the second occurrence of "and"
Insert "[AND]"

Page 24, line 28, following "substances":

Insert ";
(7) with the cooperation of the Department
of Public Safety, create an education program for the
public regarding marijuana laws"

CHAIR MCGUIRE objected for discussion purposes.

SENATOR COSTELLO explained that the amendment adds an education component to help the public understand the marijuana laws.

CHAIR MCGUIRE removed her objection and announced that without further objection, Amendment 5 is adopted.

[2:11:38 PM](#)

SENATOR COGHILL moved Amendment 6.

29-LS0231\S.6
Martin
2/19/15

AMENDMENT 6

OFFERED IN THE SENATE BY SENATOR COGHILL
TO: CSSB 30(JUD), Draft Version "S"

Page 16, following line 7:

Insert a new bill section to read:

", **Sec. 21.** AS 11.71.160(f) is amended by adding a new paragraph to read:

(17) cannabinoid concentrate."

Renumber the following bill sections accordingly.

Page 17, following line 21:

Insert new bill sections to read:

", **Sec. 26.** AS 11.71.900(14) is amended to read:

(14) "marijuana" means all parts [THE SEEDS, AND LEAVES, BUDS, AND FLOWERS] of the plant (genus) Cannabis, whether growing or not, with a THC concentration of up to 50 percent, the seeds thereof, [; IT DOES NOT INCLUDE] the resin [OR OIL] extracted from any part of the plant, and [PLANTS, OR] any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate; "marijuana" [FROM THE RESIN OR OIL, INCLUDING HASHISH, HASHISH OIL, AND NATURAL OR SYNTHETIC TETRAHYDROCANNABINOL; IT] does not include [THE STALKS OF THE PLANT,] fiber produced from the stalks, oil or cake made from the seeds of the plant, [ANY OTHER COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE STALKS, FIBER, OIL OR CAKE, OR THE] 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;

, **Sec. 27.** AS 11.71.900 is amended by adding new paragraphs to read:

(31) "cannabinoid concentrate" means marijuana with a THC concentration of greater than 50 percent;

(32) "THC concentration" has the meaning given in AS 17.38.900."

Renumber the following bill sections accordingly.

Page 37, line 3, following "not,":

Insert "with a THC concentration of up to 50 percent,"

Page 37, following line 10:

Insert a new paragraph to read:

"(15) "cannabinoid concentrate" has the meaning given in AS 11.71.900;"

Renumber the following paragraphs accordingly.

Page 37, line 28, following "Cannabis":

Insert "but does not include a cannabinoid concentrate"

Page 37, following line 29:

Insert a new paragraph to read:

"(23) "THC concentration" means

(A) the percentage of delta-9 tetrahydrocannabinol content in a

(i) dry weight of any part of the plant of the genus cannabis; or

(ii) volume or weight of a marijuana product; or

(B) the combined percentage of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus cannabis regardless of moisture content;"

Renumber the following paragraph accordingly.

Page 87, line 23:

Delete "11.71.900(14),"

Page 87, line 30:

Delete "secs. 30 and 31"

Insert "secs. 33 and 34"

Page 87, line 31:
Delete "secs. 32 - 34"
Insert "secs. 35 - 37"

Page 88, line 5:
Delete "secs. 127 - 129"
Insert "secs. 130 - 132"

CHAIR MCGUIRE objected for discussion purposes.

SENATOR COGHILL told the committee that Amendment 6 was his first attempt to address potency levels of marijuana. It inserts a new paragraph (14) and amends the definition of "marijuana" to include all parts of the plant with a THC concentration of up to 50 percent. He asked Mr. Schulte if the equivalency was reasonable.

[2:13:25 PM](#)

MR. SCHULTE stated that he didn't have a copy of the amendment.

CHAIR MCGUIRE described how to access the amendments on BASIS and advised that amendments 6 and 8 were related to potency.

[2:14:58 PM](#)

SENATOR COGHILL withdrew Amendment 6 to allow Mr. Schulte time to access and review it.

[2:16:00 PM](#)

CHAIR MCGUIRE moved Amendment 7, labeled 29-LS0231\S.11.

29-LS0231\S.11
Martin
2/19/15

[CONCEPTUAL] AMENDMENT 7

OFFERED IN THE SENATE BY SENATOR MCGUIRE
TO: CSSB 30(JUD), Draft Version "S"

Page 26, line 8, following "place":
Insert ", and nothing in this paragraph prohibits the consumption of marijuana in a public place under the terms of a registration issued under AS 17.38.090(c)"

Page 28, following line 28:

Insert a new bill section to read:

", **Sec. 50.** AS 17.38.090 is amended by adding a new subsection to read:

(c) The board may issue a special event registration that authorizes the consumption of marijuana in a public place for persons over 21 years of age under terms and conditions as set by the board."

Renumber the following bill sections accordingly.

Page 29, line 17, following "transports":

Insert "or delivers"

Page 29, line 20:

Delete "or"

Page 29, line 22:

Delete "or"

Page 29, following line 22:

Insert new sub-subparagraphs to read:

"(vi) delivers or transports one ounce or less of usable marijuana for remuneration; or

(vii) delivers or transports up to six immature plants for remuneration; or"

Page 30, line 31, following "(1)":

Insert "is 21 years of age or older,"

Page 31, line 3, following "plants;":

Insert "or"

Page 31, lines 4 - 11:

Delete all material and insert:

"(B) possesses, purchases, displays, delivers, or transports

(i) more than one ounce of usable marijuana in a public place except when authorized by the terms of registration issued under this chapter; or

(ii) more than six marijuana plants except when authorized by the terms of registration issued under this chapter;"

Page 31, line 18, following "marijuana":

Insert "; or"

(3) is not a registered marijuana establishment under this chapter or acting in the person's capacity as an officer, agent, or employee of the marijuana establishment and knowingly sells any amount of marijuana"

Page 33, line 18:

Delete ", 17.38.210(a)(1)(B)(i),"

Page 88, line 5:

Delete "secs. 127 - 129"

Insert "secs. 128 - 130"

SENATOR COGHILL objected for discussion purposes.

AMY SALTZMAN, Staff, Senator Lesil McGuire, suggested the committee adopt Amendment 7 conceptually, because it will change somewhat if Amendment 6 is adopted and the definition of "marijuana" is amended. The changes on page 29 clarify the difference between "delivers" and "transports" in the context of possession. The new sub-subparagraphs (vi) and (vii) on page 29 relate to remuneration for the delivery or transport of one ounce or less of marijuana or up to six immature plants. This was formerly a class B misdemeanor and that's been changed to a class A misdemeanor because it seems to be a better fit. Page 31, lines 4-7, adds clarity to the issue of possessing. She suggested that the drafter, Hilary Martin, could supplement the explanation.

[2:18:52 PM](#)

SENATOR COGHILL asked if the essence of the new insert on page 31, lines 4-11, was to clarify that a person cannot transport or possess more than one ounce of marijuana or six immature plants.

MS. SALTZMAN answered yes, and it also changes the delivery and selling from a class B misdemeanor to a class A misdemeanor.

SENATOR COGHILL noted the amendment would need to be conceptual.

[2:20:26 PM](#)

SENATOR COSTELLO voiced support for a conceptual format.

SENATOR MICCICHE said he assumes the conceptual amendment in B on line 17 ends at the word "place" and on line 19 ends at the word "plants."

CHAIR MCGUIRE agreed and added that the part relating to public place was changed in Amendment 3. Said Ms. Martin could clarify that once she's online.

SENATOR COGHILL asked if there was a need to identify the plants as mature.

MS. SALTZMAN suggested the committee consult with Ms. Martin before specifying that.

CHAIR MCGUIRE asked Mr. Schulte if he heard the testimony on Amendment 7.

[2:22:39 PM](#)

MR. SCHULTE said he didn't object to the amendment.

SENATOR MICCICHE asked if he was comfortable with the language on page 2, line 4. It allows someone to deliver or transport up to six immature plants, whereas the initiative says three of the total six plants can be flowering or mature.

MR. SCHULTE said he didn't object.

[2:24:49 PM](#)

CHAIR MCGUIRE recapped that Ms. Martin will redraft Amendment 7 to ensure it's compatible with the previously adopted Amendment 3.

SENATOR COGHILL removed his objection to Amendment 7.

SENATOR MICCICHE reviewed the new sub-subparagraphs (vi) and (vii) and asked the definition of remuneration.

MS. SALTZMAN offered her understanding that it refers to money.

SENATOR COGHILL noted that Amendment 9 will add the term barter to address value.

SENATOR COSTELLO asked for clarification of the conceptual amendment.

CHAIR MCGUIRE stated that the conceptual part of Amendment 7 is where public place is referenced. Ms. Martin will marry those with the previously adopted Amendment 3.

SENATOR COGHILL offered his understanding that the issue is transportation, delivery, or display.

CHAIR MCGUIRE agreed.

MS. SALTZMAN added that the meaning of "possession" and "in a public place" also needs clarification.

[2:28:35 PM](#)

CHAIR MCGUIRE noted that Ms. Schroeder brought it to their attention that a person who is carrying marijuana could stop and sit down and argue that they weren't transporting.

SENATOR MICCICHE asked why the amendment refers to six immature plants when delivery and transport refers to three immature and three mature plants.

[2:29:35 PM](#)

MS. SALTZMAN deferred to legislative legal to provide an explanation.

CHAIR MCGUIRE pointed out that the bill defines misconduct involving marijuana in the second degree as up to six immature marijuana plants for remuneration.

SENATOR MICCICHE questioned the distinction.

CHAIR MCGUIRE asked Mr. Schulte if he could provide clarification.

MR. SCHULTE said he believes the distinction is personal cultivation versus trading or gifting plants to another person. The nature of the homegrown process is that some plants will be immature and some will be mature, whereas it could be argued that a gifted mature plant could exceed the one ounce maximum. He recommended maintaining the distinction.

SENATOR MICCICHE said he understands the explanation but his preference is to simply say six plants, because identifying a plant as mature is a judgment call. He said it almost makes more sense to say less plants at full maturity so someone doesn't have to judge when a plant becomes mature.

[2:32:40 PM](#)

CHAIR MCGUIRE asked Mr. Schulte if he had anything further to add on the issue.

MR. SCHULTE said he believes the distinction is appropriate, and he wasn't sure he could support a lesser quantity of plants because of the language in the initiative.

SENATOR MICCICHE clarified that he wasn't suggesting fewer plants; he was identifying a gray area.

CHAIR MCGUIRE reiterated that Amendment 7 is conceptual because the public place language needs to fit with Amendment 3, which redefined public place to a certain extent.

[2:34:53 PM](#)

CHAIR MCGUIRE found no further objection and announced that Amendment 7 is adopted.

[2:35:35 PM](#)

SENATOR COGHILL moved Amendment 9, labeled 29-LS0231\S.13

29-LS0231\S.13
Martin
2/20/15

AMENDMENT 9

OFFERED IN THE SENATE BY SENATOR COGHILL
TO: CSSB 30(JUD), Draft Version "S"

Page 26, line 6, following "remuneration":
Insert "**or barter**"

Page 29, following line 4:
Insert a new bill section to read:
", **Sec. 51.** AS 17.38.120(c) is amended to read:
(c) Nothing in this chapter is intended to permit the transfer of marijuana, with or without remuneration **or barter**, to a person under [THE AGE OF] 21 **years of age.**"

ReNUMBER the following bill sections accordingly.

Page 31, line 8, following "remuneration":
Insert "or barter"

Page 31, line 10, following "remuneration":
Insert "or barter"

Page 88, line 5:

Delete "secs. 127 - 129"

Insert "secs. 128 - 130"

CHAIR MCGUIRE objected for discussion purposes.

SENATOR COGHILL said the amendment adds a new section to the bill to include the term "barter" in AS 17.38.120(c).

[2:36:27 PM](#)

MR. SHILLING explained that the purpose of the amendment is to broaden the concept of giving marijuana to a person without a benefit. The term "or barter" is inserted after each occurrence of remuneration and is intended to include an exchange of goods and services. He said the term is used in the bribery statutes, the fish and game statutes, and the alcohol statutes and it seems appropriate to close a potential loophole that would allow "me to give you marijuana in return for you plowing my driveway."

[2:37:48 PM](#)

MR. SCHULTE stated opposition to the amendment on the basis of the initiative and how it's written. If the idea is to remove a loophole by which people make a business out of bartering marijuana, the amendment doesn't achieve that because barter isn't part of the black market industry.

SENATOR COGHILL asked if he thought the bill was sufficiently clear that a person who was trading things could be held accountable for transferring to somebody under age 21.

MR. SCHULTE stressed that he did not support delivering, selling, or trading marijuana to anyone under age 21. The concern is that inserting the terminology could broaden some definitions that apply to transactions for people age 21 and older.

[2:40:38 PM](#)

SENATOR MICCICHE observed that the amendment addresses two issues. One is barter and making sure marijuana is not transferred to people under age 21. The second is whether or not to include barter following remuneration throughout the bill.

SENATOR COGHILL said he was trying to address a transaction that wasn't cash.

[2:41:34 PM](#)

CHAIR MCGUIRE read the definition of remuneration in Black's Law Dictionary.

SENATOR COGHILL said he was looking for clarity because it's a misconduct question.

MR. SHILLING said the legal drafter opined that remuneration is strictly a monetary gain, which is why the bribery statutes do not use the term.

SENATOR MCGUIRE stated that she had no idea why the legislative legal drafter was not available.

[2:42:42 PM](#)

SENATOR MICCICHE said it seems that bartering is only used in the illegal application and he wasn't sure that the neighborly conduct of exchanging marijuana for grass mowing wouldn't be allowed.

SENATOR COGHILL said that's the intent and it's all under the misconduct statutes.

SENATOR MICCICHE asked Mr. Schulte if that changed his view.

MR. SCHULTE said probably not because the term barter is so broad it could be misinterpreted or used as an excuse for over-zealous enforcement.

[2:44:46 PM](#)

SENATOR COGHILL said he understands the argument but he doesn't know what it means to transfer without remuneration. If it's a trade for value then it seems that it would be a violation, he said.

CHAIR MCGUIRE clarified that this is for persons under 21 years of age.

SENATOR COGHILL agreed and added that gifting and benefit exchange needs to be clarified for the penalty section.

[2:46:46 PM](#)

SENATOR MICCICHE said he supports inserting "or barter" on page 29, which is clearly for transferring to a person under 21 years of age, but he understands Mr. Schulte's concern extending it to page 31, lines 8 and 10.

SENATOR COGHILL asked Mr. Shilling to talk about the value question because it's a big deal in the penalty section.

MR. SHILLING said the intent was to deal with adding the term "or barter" to AS 17.38.020, but the committee might want to consider striking the areas that Senator Micciche expressed concern with.

[2:49:56 PM](#)

At ease

[2:51:41 PM](#)

CHAIR MCGUIRE reconvened the hearing. She stated that Senator Micciche has agreed to serve as a liaison to the finance committee. He will work with Senator Coghill and the initiative sponsors to carry forward any ideas that are ripe for discussion.

[2:52:29 PM](#)

SENATOR COGHILL withdrew Amendment 9.

[2:52:51 PM](#)

SENATOR MICCICHE said he hopes that constituents recognize that the committee is doing its best in a limited timeframe to meet the expectations of the initiative.

CHAIR MCGUIRE stated that there is no intention to thwart the will of the public, but it is complicated to meld an initiative into existing law.

CHAIR MCGUIRE explained that Amendment 10 is the product of the ongoing dialog about how to treat juveniles. The idea is to make the marijuana statutes that relate to minors similar to the alcohol statutes that relate to minors.

[2:57:08 PM](#)

CHAIR MCGUIRE moved Amendment 10.

29-LS0231\S.10
Martin
2/20/15

AMENDMENT 10

OFFERED IN THE SENATE

BY SENATOR MCGUIRE

TO: CSSB 30(JUD), Draft Version "S"

Page 1, line 9, following "options;":

Insert "**relating to delinquent minors;**"

Page 32, line 16, following "\$300.":

Insert "The court may reduce the fine to \$50 for a defendant under 18 years of age if the defendant supplies proof of completion of a state-approved marijuana education or treatment program to the court within six months."

Page 33, line 9, following "AS 17.38.220 - 17.38.240.":

Insert "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 17.38.220."

Page 76, following line 26:

Insert a new bill section to read:

"**, Sec. 137.** AS 40.25.120(a) is amended to read:

(a) Every person has a right to inspect a public record in the state, including public records in recorders' offices, except

(1) records of vital statistics and adoption proceedings, which shall be treated in the manner required by AS 18.50;

(2) records pertaining to juveniles unless disclosure is authorized by law; **a record of a conviction of a person under 18 years of age under AS 17.38.220 is a juvenile record under this paragraph;**

(3) medical and related public health records;

(4) records required to be kept confidential by a federal law or regulation or by state law;

(5) to the extent the records are required to be kept confidential under 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure or retain federal assistance;

(6) records or information compiled for law enforcement purposes, but only to the extent that the production of the law enforcement records or information

(A) could reasonably be expected to interfere with enforcement proceedings;

(B) would deprive a person of a right to a fair trial or an impartial adjudication;

(C) could reasonably be expected to constitute an unwarranted invasion of the personal privacy of a suspect, defendant, victim, or witness;

(D) could reasonably be expected to disclose the identity of a confidential source;

(E) would disclose confidential techniques and procedures for law enforcement investigations or prosecutions;

(F) would disclose guidelines for law enforcement investigations or prosecutions if the disclosure could reasonably be expected to risk circumvention of the law; or

(G) could reasonably be expected to endanger the life or physical safety of an individual;

(7) names, addresses, and other information identifying a person as a participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the advance college tuition savings program under AS 14.40.803 - 14.40.817;

(8) public records containing information that would disclose or might lead to the disclosure of a component in the process used to execute or adopt an electronic signature if the disclosure would or might cause the electronic signature to cease being under the sole control of the person using it;

(9) reports submitted under AS 05.25.030 concerning certain collisions, accidents, or other casualties involving boats;

(10) records or information pertaining to a plan, program, or procedures for establishing, maintaining, or restoring security in the state, or to a detailed description or evaluation of systems, facilities, or infrastructure in the state, but only to the extent that the production of the records or information

(A) could reasonably be expected to interfere with the implementation or enforcement of the security plan, program, or procedures;

(B) would disclose confidential guidelines for investigations or enforcement and the disclosure could reasonably be expected to risk circumvention of the law; or

(C) could reasonably be expected to endanger the life or physical safety of an individual or to

present a real and substantial risk to the public health and welfare;

(11) the written notification regarding a proposed regulation provided under AS 24.20.105 to the Department of Law and the affected state agency and communications between the Legislative Affairs Agency, the Department of Law, and the affected state agency under AS 24.20.105;

(12) records that are

(A) proprietary, privileged, or a trade secret in accordance with AS 43.90.150 or 43.90.220(e);

(B) applications that are received under AS 43.90 until notice is published under AS 43.90.160;

(13) information of the Alaska Gasline Development Corporation created under AS 31.25.010 or a subsidiary of the Alaska Gasline Development Corporation that is confidential by law or under a valid confidentiality agreement;

(14) information under AS 38.05.020(b)(11) that is subject to a confidentiality agreement under AS 38.05.020(b)(12)."

Renumber the following bill sections accordingly.

Page 77, following line 31:

Insert a new bill section to read:

", **Sec. 139.** AS 47.12.030(b) is amended to read:

(b) When a minor is accused of violating a statute specified in this subsection, other than a statute the violation of which is a felony, this chapter and the Alaska Delinquency Rules do not apply and the minor accused of the offense shall be charged, prosecuted, and sentenced in the district court in the same manner as an adult; if a minor is charged, prosecuted, and sentenced for an offense under this subsection, the minor's parent, guardian, or legal custodian shall be present at all proceedings; the provisions of this subsection apply when a minor is accused of violating

(1) a traffic statute or regulation, or a traffic ordinance or regulation of a municipality;

(2) AS 11.76.105, relating to the possession of tobacco by a person under 19 years of age;

(3) a fish and game statute or regulation under AS 16;

(4) a parks and recreational facilities statute or regulation under AS 41.21;

(5) AS 04.16.050, relating to possession, control, or consumption of alcohol, except for conduct constituting habitual minor consuming or in possession or control under AS 04.16.050(d); [AND]

(6) a municipal curfew ordinance, whether adopted under AS 29.35.085 or otherwise, unless the municipality provides for enforcement of its ordinance under AS 29.25.070(b) by the municipality; in place of any fine imposed for the violation of a municipal curfew ordinance, the court shall allow a defendant the option of performing community work; the value of the community work, which may not be lower than the amount of the fine, shall be determined under AS 12.55.055(c); in this paragraph, "community work" includes the work described in AS 12.55.055(b) or work that, on the recommendation of the municipal or borough assembly, city council, or traditional village council of the defendant's place of residence, would benefit persons within the municipality or village who are elderly or disabled; and

(7) AS 17.38.220, relating to misconduct involving marijuana in the third degree."

Renumber the following bill sections accordingly.

SENATOR COGHILL objected for discussion purposes.

[2:57:19 PM](#)

NANCY MEADE, General Counsel, Administrative Staff, Alaska Court System, described the amendment as a step toward the goal. She said the court would have no problem reducing the fine to \$50. The court could also accommodate the supreme court bail schedule that requires a court appearance for a person under age 18. However, it would help law enforcement know which citation to issue if there was a different statute for those under age 18 than for those over age 18. She said the next part of the amendment probably wouldn't accomplish what is intended because the Court System isn't subject to Title 40. The court would honor the legislative intent to keep conviction records for juveniles confidential, but the language she provided might be more aligned with trying to keep juvenile cases off CourtView without causing the consequential problems of having whole case files confidential. She said she would also provide the language to the group that is working on the underage drinking violations.

[3:01:14 PM](#)

SENATOR COGHILL asked if the suggested language says that the names of minors will be removed from CourtView once the case is satisfied.

MS. MEADE answered yes; the suggestion was along the lines of "shall not be published on a publicly available website after the court proceedings are completed and the case is closed."

[3:02:16 PM](#)

DIANNE CASTO, Prevention Manager, Division of Behavioral Health, Department of Health and Social Services (DHSS), pointed out that the group that is rewriting the statutes on underage drinking is looking at the same penalty for everyone under age 21, whereas for marijuana there appears to be a lesser penalty for those who are age 18, 19, and 20 and a higher penalty for those under age 18. She asked if she was reading that correctly.

MS. MEADE responded that is the case.

[3:04:07 PM](#)

CHAIR MCGUIRE withdrew Amendment 10 with the idea that Senator Micciche would take the matter to the finance committee.

She noted that Senator Coghill had two amendments that address concentration.

SENATOR COGHILL said Amendment 6 amends the definition of marijuana by establishing a THC concentration of 50 percent and Amendment 8 deals with grams of marijuana concentrate. He said he was still trying to answer the question about potency and value. He asked if Mr. Schulte had had a chance to review Amendment 6.

[3:07:53 PM](#)

MR. SCHULTE said he couldn't support Amendment 6 because it would be a fundamental change to the intent of the initiative and could have negative unintended consequences for home users of medical marijuana. He said he would concede that potency varies between flower versus hash versus hash oil but he would argue that that is what the initiative encompassed.

SENATOR COGHILL said he's sympathetic to that but his view is that hash oil belongs under controlled substances. He asked if there is a way to quantify it under a misconduct circumstance.

MR. SCHULTE asked if that was a question for him.

SENATOR COGHILL said yes; he was looking for guidance and perhaps the best approach would be to move Amendment 8 and talk about it.

CHAIR MCGUIRE asked if he wanted to withdraw Amendment 6. [Amendment 6 was previously withdrawn.]

[3:10:54 PM](#)

SENATOR COGHILL moved Amendment 8, labeled 29-LS0231\S.

29-LS0231\S.1

Martin

2/17/15

AMENDMENT 8

OFFERED IN THE SENATE BY SENATOR COGHILL
TO: CSSB 30(JUD), Draft Version "S"

Page 29, line 20:
Delete "or"

Page 29, following line 22:
Insert a new sub-sub-paragraph to read:
"(vi) possesses more than five grams of
marijuana concentrate; or"

Page 30, line 3:
Delete "or"

Page 30, following line 5:
Insert a new sub-sub-paragraph to read:
"(vi) possesses more than five grams of
marijuana concentrate; or"

CHAIR MCGUIRE objected for discussion purposes.

SENATOR COGHILL explained that the amendment adds possession of more than five grams of marijuana concentrate to the misconduct statutes. This is a recognition of a difference in potency between an ounce of marijuana and a similar quantity of concentrate.

MR. SHILLING said this would be the legislature acknowledging there is a difference between the concentrates and the flower,

just as there is a difference between beer and whiskey. "Common sense tells us that the voters thought they were legalizing marijuana and marijuana is considered, by most people, to be the green leafy stuff." He said he did some math and tried to find an equivalency based on different concentrations to come up with the five gram amount. He noted that Alaska would be the first jurisdiction with legal marijuana to restrict marijuana by concentration.

[3:14:30 PM](#)

SENATOR MICCICHE said the committee has to evaluate the question of the potency of an ounce versus the actual quantity of an ounce, but he would caution not to make a statement about what the voters intended when they voted for the initiative.

SENATOR COGHILL responded that the amendment tries to establish corresponding values between a quantity of marijuana concentrate and marijuana so the penalties can also correspond. For example, the penalty for grand theft auto and scratching a car should not be the same.

SENATOR MICCICHE asked Mr. Schulte if five grams of marijuana concentrate is approximately equivalent to one ounce of marijuana.

[3:17:39 PM](#)

MR. SCHULTE answered yes; between 4 and 5 grams of hash oil and an ounce of good quality flower is probably a reasonable correlation. He added that the preferred form of consumption today is concentrates and he believes the informed voter understood that and voted accordingly. "Again, I would support the text of the initiative as it was written, as being what the voters truly wanted," he said.

SENATOR MICCICHE asked if he was saying the initiative intention was up to one ounce of marijuana concentrate or the potency equivalency of one ounce of marijuana.

MR. SCHULTE replied he believes the intention was one ounce of any of the marijuana products, whether it is flower, hash or hash oil.

SENATOR COGHILL commented that is one reason why initiatives and the committee process are different. He continued that he wanted a thorough discussion of the issue but he wasn't necessarily satisfied with the answers at this point.

[3:20:02 PM](#)

SENATOR COGHILL withdrew Amendment 8.

[3:20:11 PM](#)

CHAIR MCGUIRE moved Amendment 11, labeled 29-LS0231\S.14.

29-LS0231\S.14
Martin
2/19/15

AMENDMENT 11

OFFERED IN THE SENATE BY SENATOR MCGUIRE
TO: CSSB 30(JUD), Draft Version "S"

Page 28, following line 8:

Insert a new bill section to read:

", **Sec. 50.** AS 17.38.090 is amended by adding a new subsection to read:

(c) The board shall adopt a regulation that prohibits a retail marijuana store from selling more than five grams of marijuana concentrate a day to a customer."

Renumber the following bill sections accordingly.

Page 88, line 5:

Delete "secs. 127 - 129"

Insert "secs. 128 - 130"

SENATOR COGHILL objected for discussion purposes.

CHAIR MCGUIRE said it's as reasonable to regulate the sale of marijuana concentrates as it is to regulate things like Sudafed and Claritin D that are used in the production of methamphetamine. This is a way of addressing Senator Coghill's concerns and gives some discretion to the regulatory board.

MR. SCHULTY stated that he had no objection to the amendment.

CHAIR COGHILL withdrew his objection.

CHAIR MCGUIRE announced that without further objection, Amendment 11 is adopted and the bill is before the committee. She opened public testimony and asked testifiers to limit their testimony to three minutes.

[3:22:39 PM](#)

GEORGE PIERCE, representing himself, Kasilof, Alaska, cited some facts on cannabis including that it is not physically addictive, does not lead to harder drugs, does not cause brain damage, and does not cause a person to become violent. He stressed that marijuana should be regulated like alcohol, not more restrictive. He cited a study that concluded that while alcohol appears to encourage risky driving, marijuana appears to elicit caution in drivers. He urged the committee to stop listening to people who don't know anything about marijuana and to stop fast-tracking the bill.

[3:27:15 PM](#)

SENATOR MICCICHE requested a limitation on testimony.

[3:27:33 PM](#)

JAMIE RODGERS, representing herself, Fairbanks, Alaska, suggested the definition of public place should accommodate people who smoke pot when they're camping. She voiced concern with licensing versus registration because there is a big difference. She also disagreed with differentiating between agriculture and manufacturing. "If you're going to be an agricultural pot grower, you're going to need to dry it up; that shouldn't be considered part of manufacturing," she said.

CHAIR MCGUIRE stated that the committee would be happy to receive additional testimony by email.

[3:30:51 PM](#)

DON HART, representing himself, Wasilla, Alaska, said Senator Micciche has demonstrated an intent to comply with the voters when they passed the ballot initiative. He highlighted that the bill does not make an exception for people who are treating themselves with some form of medical marijuana, whether or not they are under a doctor's care. This includes people under the age of 21. He also took issue with the phrase "under the influence" because there is no device that can determine whether a person has used or is under the influence of marijuana. This places a burden on law enforcement to make a subjective determination and appears to attempt to legislate away what the people approved.

CHAIR MCGUIRE encouraged the public to read all 90 pages of the bill. She cautioned that people who only listen to a hearing tend to believe that the bill only does a certain few things and not others. For example, medical marijuana was a separate initiative and is already addressed in statute. With respect to the issue of driving while impaired, that is already illegal.

What the bill does is remove marijuana from the controlled substance statutes and regulates it. The bill also says that people age 21 and older can possess and transport marijuana legally. "Overall for marijuana users, it's a better day in Alaska," she said.

3:36:55 PM

RONDA MARCY, representing herself, Wasilla, Alaska, stated objection to the section of SB 30 that prohibits the use of a volatile gas. She said it is an industry standard to use gas and it would be more in line with the ballot measure to allow people to get it from a regulated and licensed business as opposed to making it illegal for business entirely. She also objected to the changed definition of marijuana. She said it's confusing and the voters voted on making the leaves and flowering tops of the plant legal.

MS. MARCY stated that the committee is moving so fast that she and others who are testifying haven't gotten a chance to see the amendments. This makes it hard to follow what the committee is doing. She noted that she submitted written testimony to the House committee and she would ask the LIO to distribute copies to this committee.

CHAIR MCGUIRE explained that the committee adopted the initiative definition for marijuana and amended it by removing "stalks" and the word "salt" because the latter had fairly dangerous connotations.

3:40:33 PM

VIRGINIA ESPENSHADE, representing herself, Homer, Alaska, said she has been the executive director of the Kenai Peninsula Youth Court for 19 years. Her comments are based on her experience with misdemeanor marijuana cases for youth under age 18 referred by the Division of Juvenile Justice and minor consuming alcohol (MCA) cases referred by the district court. She explained that under Title 4, parents must accompany youth under age 18 to the district court proceedings regarding MCAs. Most judges use the proceeding to help educate both the youth and parents about the concerns about the youth's choices. If the youth is diverted to youth court or a tribal program, the parents or guardians must attend the diversion.

MS. ESPENSHADE said she can attest to barriers after an alcohol conviction or a marijuana case that was diverted and resolved through Youth Court with no adjudication of record. Examples included exclusion from the National Guard, nursing

certifications, and universities. She supports keeping the names of minors off CourtView, but would caution that if the case isn't confidential the names can appear in the newspaper. Even if it isn't a criminal conviction, she has seen the records close doors. She said she supports the idea of keeping MCA convictions out of CourtView, or eventually removing them, and believes the same approach would be appropriate for youth under age 21 who use or possess marijuana. She suggested the committee add community diversion panels to any sentencing provision options similar to the language in AS 04.16.050.

CHAIR MCGUIRE asked Ms. Espenshade to stay in contact with Senator Micciche's office. He is working on the Title 4 rewrite and will be the judiciary committee's liaison to the finance committee.

[3:44:56 PM](#)

CHAIR MCGUIRE closed public testimony and solicited a motion.

[3:45:12 PM](#)

SENATOR COGHILL motioned to report the CS for SB 30, as amended, from committee with individual recommendations and attached fiscal note(s).

CHAIR MCGUIRE announced that without objection, CSSB 30(JUD) is reported from the Senate Judiciary Standing Committee.

#

[3:45:31 PM](#)

There being no further business to come before the committee, Chair McGuire adjourned the Senate Judiciary Standing Committee meeting at 3:45 p.m.