

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

April 17, 2015

4:11 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 15(FIN)

"An Act relating to credits toward a sentence of imprisonment for certain persons under electronic monitoring."

- MOVED SCS CSHB 15(JUD) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 75(JUD) AM

"An Act relating to the registration of marijuana establishments by municipalities; relating to the definition of 'marijuana'; clarifying standards for personal use of marijuana by persons 21 years of age or older; prohibiting the public consumption of marijuana; authorizing the registration of marijuana clubs; relating to established villages and to local option elections regarding the operation of marijuana establishments; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 15

SHORT TITLE: CREDITS FOR TIME SERVED/GOOD TIME

SPONSOR(S): REPRESENTATIVE(S) WILSON

01/21/15	(H)	PREFILE RELEASED 1/9/15
01/21/15	(H)	READ THE FIRST TIME - REFERRALS
01/21/15	(H)	STA, FIN
01/23/15	(H)	STA REFERRAL REMOVED

01/23/15 (H) JUD REFERRAL ADDED BEFORE FIN
 02/18/15 (H) BILL REPRINTED 2/16/15
 02/20/15 (H) JUD AT 1:00 PM CAPITOL 120
 02/20/15 (H) Heard & Held
 02/20/15 (H) MINUTE(JUD)
 03/18/15 (H) JUD AT 1:00 PM CAPITOL 120
 03/18/15 (H) Heard & Held
 03/18/15 (H) MINUTE(JUD)
 03/23/15 (H) JUD AT 1:00 PM CAPITOL 120
 03/23/15 (H) Moved CSHB 15(JUD) Out of Committee
 03/23/15 (H) MINUTE(JUD)
 03/25/15 (H) JUD RPT CS(JUD) NT 2DP 4NR
 03/25/15 (H) DP: CLAMAN, LEDOUX
 03/25/15 (H) NR: MILLETT, KELLER, GRUENBERG, FOSTER
 04/03/15 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/03/15 (H) <Bill Hearing Canceled>
 04/06/15 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/06/15 (H) Heard & Held
 04/06/15 (H) MINUTE(FIN)
 04/10/15 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/10/15 (H) Moved CSHB 15(FIN) Out of Committee
 04/10/15 (H) MINUTE(FIN)
 04/11/15 (H) FIN RPT CS(FIN) NT 6DP 3AM
 04/11/15 (H) DP: SADDLER, PRUITT, WILSON, GATTIS,
 EDGMON, THOMPSON
 04/11/15 (H) AM: GARA, KAWASAKI, GUTTENBERG
 04/13/15 (H) TRANSMITTED TO (S)
 04/13/15 (H) VERSION: CSHB 15(FIN)
 04/14/15 (S) READ THE FIRST TIME - REFERRALS
 04/14/15 (S) JUD
 04/15/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 04/15/15 (S) Heard & Held
 04/15/15 (S) MINUTE(JUD)
 04/17/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 75

SHORT TITLE: MARIJUANA REG;CLUBS;MUNIS;LOCAL OPT ELECT
 SPONSOR(S): COMMUNITY & REGIONAL AFFAIRS

01/23/15 (H) READ THE FIRST TIME - REFERRALS
 01/23/15 (H) CRA, JUD
 02/21/15 (H) CRA AT 10:00 AM BARNES 124
 02/21/15 (H) -- MEETING CANCELED --
 02/24/15 (H) CRA AT 8:00 AM BARNES 124
 02/24/15 (H) Heard & Held
 02/24/15 (H) MINUTE(CRA)
 03/03/15 (H) CRA AT 8:00 AM BARNES 124

03/03/15 (H) Moved CSHB 75(CRA) Out of Committee
 03/03/15 (H) MINUTE(CRA)
 03/05/15 (H) CRA AT 8:00 AM BARNES 124
 03/05/15 (H) Moved CSHB 75(CRA) Out of Committee
 03/05/15 (H) MINUTE(CRA)
 03/06/15 (H) CRA RPT CS(CRA) NT 3DP 3NR
 03/06/15 (H) DP: NAGEAK, SEATON, TILTON
 03/06/15 (H) NR: DRUMMOND, REINBOLD, HUGHES
 03/11/15 (H) JUD AT 1:00 PM CAPITOL 120
 03/11/15 (H) Heard & Held
 03/11/15 (H) MINUTE(JUD)
 03/18/15 (H) JUD AT 1:00 PM CAPITOL 120
 03/18/15 (H) <Bill Hearing Canceled>
 03/25/15 (H) JUD AT 1:00 PM CAPITOL 120
 03/25/15 (H) <Bill Hearing Canceled>
 03/27/15 (H) JUD AT 1:00 PM CAPITOL 120
 03/27/15 (H) Moved CSHB 75(JUD) Out of Committee
 03/27/15 (H) MINUTE(JUD)
 03/30/15 (H) JUD RPT CS(JUD) NT 1DP 3NR 3AM
 03/30/15 (H) DP: LEDOUX
 03/30/15 (H) NR: MILLETT, CLAMAN, FOSTER
 03/30/15 (H) AM: LYNN, KELLER, GRUENBERG
 04/02/15 (H) TRANSMITTED TO (S)
 04/02/15 (H) VERSION: CSHB 75(JUD) AM
 04/03/15 (S) READ THE FIRST TIME - REFERRALS
 04/03/15 (S) CRA, JUD
 04/07/15 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)
 04/07/15 (S) Heard & Held
 04/07/15 (S) MINUTE(CRA)
 04/14/15 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)
 04/14/15 (S) Moved SCS CSHB 75(CRA) Out of Committee
 04/14/15 (S) MINUTE(CRA)
 04/15/15 (S) CRA RPT SCS 1DP 3AM NEW TITLE
 04/15/15 (S) DP: BISHOP
 04/15/15 (S) AM: EGAN, STEDMAN, HOFFMAN
 04/15/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 04/15/15 (S) Heard & Held
 04/15/15 (S) MINUTE(JUD)
 04/17/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

REPRESENTATIVE TAMMIE WILSON
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 15.

REPRESENTATIVE CATHY TILTON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided introductory comments on HB 75 speaking as Chair of the House Community and Regional Affairs Standing Committee.

HEALTH HILYARD, Staff
Representative Tilton
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Discussed the policy points of HB 75 and responded to questions.

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

POSITION STATEMENT: Testified in support of HB 75.

NANCY MEADE, General Counsel
Administrative Staff
Alaska Court System

POSITION STATEMENT: Discussed the provision in HB 75 that the Court System requested.

JOE HARDENBROOK
Mayor's Office
Fairbanks North Star Borough
Fairbanks, Alaska

POSITION STATEMENT: Testified in support the provision in HB 75 to allow marijuana clubs and voiced concern with Sections 16 and 19.

DENNIS WHEELER, Municipal Attorney
Municipality of Anchorage
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 75.

AMY MEAD, Municipal Attorney
City and Borough of Juneau
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 75.

TIM HINTERBERGER, Chair
Campaign to Regulate Marijuana Like Alcohol
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 75 and offered three suggestions for amendments.

FRANK BERARDI, Chair
Coalition for Responsible Cannabis Legislation
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 75.

ACTION NARRATIVE

[4:11:32 PM](#)

CHAIR LESIL MCGUIRE called the Senate Judiciary Standing Committee meeting to order at 4:11 p.m. Present at the call to order were Senators Costello Coghill, Wielechowski, and Chair McGuire.

HB 15-CREDITS FOR TIME SERVED/GOOD TIME

[4:11:47 PM](#)

CHAIR MCGUIRE announced the consideration of HB 15. "An Act relating to credits toward a sentence of imprisonment for certain persons under electronic monitoring." She noted that the Senate CS, version X, was before the committee and the only outstanding issue was addressed in a legal memo that was in the packets. She asked the sponsor if that was her recollection.

REPRESENTATIVE TAMMIE WILSON, sponsor of HB 15, answered yes.

CHAIR MCGUIRE asked if there were any further questions.

[4:12:08 PM](#)

SENATOR WIELECHOWSKI asked the sponsor to clarify the discussion about the last "and" on page 1, line 12.

[4:12:36 PM](#)

REPRESENTATIVE WILSON advised that the conversation was whether or not it would make a difference to change the last word on line 12 from "and" to "or." She spoke to the Department of Law and their preference was to keep the term "and."

SENATOR WIELECHOWSKI indicated he was satisfied with the explanation.

[4:13:13 PM](#)

SENATOR COGHILL added that there was also discussion about whether someone on electronic monitoring would lose their

accumulated credit if they committed a criminal offense while on electronic monitoring. His expectation was yes they'd lose it all.

[4:13:33 PM](#)

SENATOR COGHILL moved to report the Senate CS for CS for HB 15(JUD) from committee with individual recommendations and attached fiscal note(s).

CHAIR MCGUIRE found no objection and announced that SCS CSHB 15(JUD) is reported from the Senate Judiciary Standing Committee.

HB 75-MARIJUANA REG;CLUBS;MUNIS;LOCAL OPT ELECT

[4:14:11 PM](#)

CHAIR MCGUIRE announced the consideration of HB 75. "An Act relating to the registration of marijuana establishments by municipalities; relating to the definition of 'marijuana'; clarifying standards for personal use of marijuana by persons 21 years of age or older; prohibiting the public consumption of marijuana; authorizing the registration of marijuana clubs; relating to established villages and to local option elections regarding the operation of marijuana establishments; and providing for an effective date." She asked for a motion to adopt the Senate committee substitute (CS), version R.

[4:14:31 PM](#)

SENATOR COGHILL motioned to adopt Senate CS for HB 75, labeled 29-LS0345\R, as the working document.

CHAIR MCGUIRE found no objection and version R was before the committee.

[4:15:00 PM](#)

REPRESENTATIVE CATHY TILTON, speaking as Chair of the House Community and Regional Affairs Standing Committee stated that HB 75 provides the definitions and guidance that municipal attorneys and mayors requested in order to adopt local ordinances relating to the marijuana initiative. She said the bill follows Title 4.

[4:17:03 PM](#)

At ease from 4:17 p.m. to 4:19 p.m.

SENATOR MICCICHE joined the committee.

[4:19:27 PM](#)

HEALTH HILYARD, Staff, Representative Tilton, reviewed the more substantive and policy changes between version U.A that passed the House and version R for HB 75.

Page 2, lines 21-23, stipulates that a person may possess not more than 24 marijuana plants for personal use.

Page 3, lines 8-10, states that notwithstanding the 24 plant limit established in the bill, municipalities, by ordinance, may limit the number of marijuana plants per dwelling to fewer than 24 plants.

Section 6 on page 3 changes from 10 days to five days the timeframe for the board to notify a municipality of receipt of an application or renewal application to operate a marijuana establishment.

Page 7 has conforming amendments to the timeline for the issuance of registrations.

Section 8 on page 4, lines 6-12, reinserts language amending AS 17.38.100(d). It clarifies the board process in the event there are more applicants seeking registration of a marijuana establishment than are available in the municipality.

Section 20 on page 9, lines 7-8, stipulates that after a local village has had a local election and chose to ban commercial marijuana establishments, nothing in that ban would prohibit any of the activities provided for in the personal use statute, AS 17.38.020.

Page 10, lines 20-22, provides that the supreme court shall establish a bail schedule that allows individuals to pay fines for certain violations without a court appearance. This change was made at the request of the Court System.

Page 11, line 15, clarifies that "manufacture" has the meaning given in AS 11.71.900. He read the statute and summarized that it means that growing for personal use is not considered manufacturing.

MR. HILYARD offered to answer questions.

[4:24:15 PM](#)

CHAIR MCGUIRE found no questions and opened public testimony.

[4:24:27 PM](#)

BRUCE SCHULTE, Spokesman, Coalition for Responsible Cannabis Legislation, stated support for HB 75. Noting the potential amendment to remove marijuana clubs as a type of marijuana business, he highlighted that municipalities and boroughs have articulated interest in having that type of marijuana businesses. He suggested the committee leave the local option in the bill and clarify the operating parameters through the regulatory process, before any permits are issued.

He said the Coalition supports the six plant per person limit, but he understands law enforcement's desire to have a bright line for the total number of plants in a single dwelling. If the concern is that people might try and get around the regulations and have a small commercial growing operation in their home, he suggested a better strategy might be to provide an easy entry into a regulated market. That may address the problem, whereas allowing municipalities to set the limit creates confusion when someone moves from one community to another.

SENATOR WIELECHOWSKI asked if he said that communities have specifically asked for marijuana clubs.

MR. SCHULTE answered yes; Fairbanks is specifically looking at allowing that type of business.

[4:28:23 PM](#)

SENATOR WIELECHOWSKI observed that communities would have to adopt an ordinance to allow marijuana clubs.

MR. SCHULTE offered his expectation that if they're allowed under state law, communities additionally would impose boundaries so they'd have control over whether or not a business received a permit to operate.

[4:29:01 PM](#)

SENATOR MICCICHE expressed concern about what happens after someone is served marijuana in a marijuana club because presumably they'd be "high" and couldn't be served any more. He asked "What is a marijuana club?"

MR. SCHULTE said he envisions a membership-only private establishment for people 21 and older where people could spend time with their friends and consume marijuana. The establishment

likely would have some other types of entertainment that's the focus of the gathering, but it would be "marijuana friendly." He reiterated the suggestion to leave the local option for marijuana clubs in the bill and clarify the operating parameters through the regulatory process.

SENATOR MICCICHE noted that over half the Senate is cosponsoring a bill that prohibits smoking in places where Alaskans are employed. He asked how he sees that working with a marijuana club.

MR. SCHULTE replied it depends on how that bill evolves. If it allows e-cigarettes, there is an analogous method of consumption of marijuana that would be compatible. If the bill didn't allow e-cigarettes it might exclude marijuana clubs unless they confined consumption to edibles, he said.

SENATOR MICCICHE recalled that marijuana clubs were not mentioned in the initiative.

MR. SCHULTE agreed they were not discussed in the initiative. He said this was added at the request of the Fairbanks North Star Borough and it's a business model that has existed in Amsterdam for decades. He added that he envisions an opportunity in the rule-making process to define business types that weren't discussed in the initiative but may become part of the legitimate, regulated industry.

SENATOR COSTELLO asked if someone could carry a firearm into a marijuana club.

MR. SCHULTE replied he didn't know but he'd look to what's done with bars and restaurants where alcohol is served.

[4:33:58 PM](#)

NANCY MEADE, General Counsel, Administrative Staff, Alaska Court System, stated that the Court System asked the sponsor to include the language that appears on page 10, lines 20-22. It requires the Alaska Supreme Court to put the violations on the bail forfeiture schedule so people can pay their tickets online or by mail without a mandatory court appearance. That is fairly standard for a number of minor offenses in the statute, she said.

[4:34:53 PM](#)

JOE HARDENBROOK, Mayor's Office, Fairbanks North Star Borough, testified in support of the provision in HB 75 to allow

marijuana clubs. He expressed appreciation for the language and the ability to regulate the clubs at the local level. This aligns with Article X of the Constitution of the State of Alaska that provides maximum local self government. Including the language in HB 75 allows municipalities and local governments to decide whether or not to allow these consumption venues within their boundaries, he said.

He voiced concern with Section 16. It says that a registration issued by a municipality is subject to state regulation, which is contrary to the initiative language and its intent. He requested the committee amend HB 75 to match the tenets of the original initiative.

MR. HARDENBROOK also requested the committee amend Section 19 to make the powers of a borough area wide. This would allow a city within a borough to be more restrictive, but not less restrictive with regard to commercial facilities. This is in line with the consideration of zoning authority, which is a borough power.

He pointed out that 60 percent of the residents in the Fairbanks North Star Borough voted in favor of Proposition 2, which is more than voted in the election for the legislature. He said it could therefore be argued that Fairbanks area voters were more sure of their stance on the marijuana issue than they were on who they would choose to represent them in the legislature.

[4:38:48 PM](#)

DENNIS WHEELER, Municipal Attorney, Municipality of Anchorage, testified in support of HB 75. He described the legislation as a good vehicle for giving local governments the opportunity to decide how to regulate marijuana. With regard to marijuana clubs, he stressed the importance of a local option to opt in or opt out or provide local licensing regulations.

[4:40:25 PM](#)

AMY MEAD, Municipal Attorney, City and Borough of Juneau, testified in support of HB 75. She noted that the CBJ Assembly submitted written testimony. She emphasized the importance of giving municipalities tools to reasonably and effectively regulate this industry, and expressed appreciation for the outreach and being included in the process.

[4:41:59 PM](#)

TIM HINTERBERGER, Chair, Campaign to Regulate Marijuana Like Alcohol, stated that he is testifying in support of HB 75 but he

has potential amendments to suggest. He expressed support for the previous comments in support of granting municipalities local control to authorize marijuana clubs. He discussed the two primary issues with the current committee substitute, version R. First, the CS appears to grant municipalities the discretion to set a lower cap on the number of plants in a household, but it doesn't say how low. Unless the wording is changed, a municipality could use this mechanism to prevent individuals from growing any plants. The second concern is that the current language does not set a timeline for when the marijuana board would need to address an application for a marijuana establishment that a municipality protests. He emphasized that the 90-day deadline set out in the ballot measure should not be altered.

MR. HINTERBERGER said his final suggestion relates to the fact that SB 30 doesn't appear to be moving. That bill has important language setting a civil penalty rather than a criminal sanction for the possession of marijuana by young adults. He stated support for inserting language in HB 75 that would have that same effect. He noted he submitted written comments.

[4:45:32 PM](#)

FRANK BERARDI, Chair, Coalition for Responsible Cannabis Legislation, testified in support of HB 75 and emphasized the importance of local control for onsite consumption for marijuana establishments. This will reduce public consumption of marijuana and provide tourists an outlet for consuming cannabis. He said visitors can't smoke in their hotel, in public, inside a facility, and they can't take anything they buy home with them. He maintained that the way to have a viable cannabis industry that draws tourists and brings dollars to the state is to allow onsite consumption facilities.

Pointing out that the Fairbanks North Star Borough supports local control for onsite consumption, he opined that when citizens voted to regulate marijuana like alcohol they also intended for it to be regulated like alcohol. "We want to see a viable and money-making marijuana industry, and this is the first step towards making that happen," he said.

[4:47:38 PM](#)

SENATOR MICCICHE asked what he meant when he said tourists can't take marijuana home, because that's not permitted by any laws.

MR. BERARDI replied there is no legal avenue for a tourist to take part in Alaska's legal cannabis industry if they can't take

it home and they can't consume it in a legal cannabis establishment. He surmised that this would lead to more public consumption and the possibility of smuggling.

SENATOR MICCICHE said the initiative never mentioned clubs and he believes that's because they're challenging in a number of ways, public health among them. Employees would more than likely be exposed constantly to plant particulate matter, and that doesn't sound healthy.

MR. BERARDI responded that it could be mitigated with the use of a proper HVAC system and carbon filter so that smoke isn't lingering and the smell isn't projected into the street. "It is possible for an employee to work in an onsite consumption facility without actually being exposed to cannabis," he said.

[4:50:25 PM](#)

CHAIR MCGUIRE closed public testimony.

[4:50:40 PM](#)

SENATOR COGHILL motioned to adopt Amendment 1, labeled 29-LS0345\R.2.

AMENDMENT 1

OFFERED IN THE SENATE

TO: SCS CSHB 75(JUD), Draft Version "R"

Page 1, line 4:

Delete "**authorizing the registration of marijuana clubs;**"

Page 5, line 25:

Delete "[OR]"

Insert "or"

Delete "**, or marijuana clubs**"

Page 7, line 26:

Delete "retail marijuana stores, or marijuana clubs"

Insert "or retail marijuana stores"

Page 11, lines 5 - 8:

Delete all material.

Renumber the following bill sections accordingly.

Page 11, lines 16 - 18:
Delete all material.

Renumber the following paragraph accordingly.

Page 11, lines 23 - 24:

Delete "; "public place" does not include a
marijuana club"

CHAIR MCGUIRE objected for discussion purposes.

SENATOR COGHILL explained that the amendment removes the option for marijuana clubs. He reasoned that it's a matter of public safety because so much is unknown about the effect of marijuana intoxication. He said he agrees with the argument about local control, but the legislature needs to provide better direction. This will allow the opportunity to figure things out before municipalities put regulations in place.

CHAIR MCGUIRE asked the net effect of the proposed change on page 5, line 25.

SENATOR COGHILL replied it removes the reference to marijuana clubs, which aligns with his view that municipalities and boroughs need more direction before these clubs are referenced in statute.

[4:55:37 PM](#)

MR. HILYARD said this was an effort to be responsive to municipalities, but it was probably premature.

CHAIR MCGUIRE said she's inclined to support the amendment as a middle ground. There's nothing in the amendment that says a municipality can't adopt regulations, but it sends a message that the legislature recognizes that the matter needs more study.

MR. HILYARD agreed, adding that the amendment returns the bill to the original initiative language.

[4:57:12 PM](#)

SENATOR MICCICHE stated support for maintaining the verbatim language of the initiative.

SENATOR COSTELLO observed that it's written in the affirmative and then it lists the things that are prohibited. She asked if something that isn't on the list is inherently not prohibited.

MR. HILYARD replied the legal opinions agree that the amendment returns the bill to the language in the ballot initiative, which is silent on marijuana clubs.

SENATOR COSTELLO asked if he'd contemplated how to respond if someone submits an application for a marijuana club.

MR. HILYARD responded that an application for a commercial establishment isn't possible if it doesn't exist in statute or regulation.

[5:00:48 PM](#)

CHAIR MCGUIRE maintained her objection to Amendment 1 and recessed the Senate Judiciary Standing Committee meeting to a call of the chair. [The committee reconvened on 4/18/15.]