

**ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE**

January 22, 2015
9:00 a.m.

MEMBERS PRESENT

Senator Bill Stoltze, Chair
Senator John Coghill, Vice Chair
Senator Lesil McGuire
Senator Bill Wielechowski

MEMBERS ABSENT

Senator Charlie Huggins

OTHER LEGISLATORS PRESENT

Representative Max Gruenberg

COMMITTEE CALENDAR

OVERVIEW: BALLOT MEASURE NO. 2 (13PSUM) - AN ACT TO TAX AND
REGULATE THE PRODUCTION~ SALE~ AND USE OF MARIJUANA.

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

DR. TIM HINTERBERGER, Chairman
Campaign to Regulate Marijuana like Alcohol in Alaska
Anchorage, Alaska

POSITION STATEMENT: Provided an overview of Ballot Measure 2.

BRUCE SCHULTE, board member
The Coalition for Responsible Cannabis Legislation
Fairbanks, Alaska

POSITION STATEMENT: Provided an overview of Ballot Measure 2.

RACHELLE YEUNG, Legislative Analyst
State Policies Department
Marijuana Policy Project
Washington, D.C.

POSITION STATEMENT: Provided supportive testimony for Ballot Measure 2.

ACTION NARRATIVE

[9:00:18 AM](#)

CHAIR BILL STOLTZE called the Senate State Affairs Standing Committee meeting to order at 9:00 a.m. Present at the call to order were Senators McGuire, Wielechowski, Vice-Chair Coghill, and Chair Stoltze.

Overview: Ballot Measure No. 2 (13PSUM) - An Act to Tax and Regulate the Production, Sale, and Use of Marijuana.

[9:00:38 AM](#)

CHAIR STOLTZE announced that the committee is commencing the review of the Ballot Measure No. 2, which is soon to be an act or in other words a law. He said the committee is deliberating as is always done with a bill. He noted that the sponsors of the bill are the initiative sponsors: Dr. Tim Hinterberger and Bruce Schulte. He added that Rachelle Yeung has been asked to testify and augment the sponsors' testimony.

[9:03:11 AM](#)

DR. TIM HINTERBERGER, Chairman, Campaign to Regulate Marijuana like Alcohol in Alaska (CRMLA), Anchorage, Alaska, explained that he is one of the primary sponsors of Ballot Measure No. 2. He added that he is a faculty member of the medical school at the University of Alaska-Anchorage. He noted that he has been working on promoting marijuana legalization for the 2000 and 2004 campaigns. He explained that the voters approved the initiative as follows:

Ballot Measure No. 2 clarifies Alaska's contradictory marijuana laws, making it legal for adults 21 and over to possess and cultivate limited amounts of marijuana; it also replaces the existing underground, unregulated marijuana market with taxed and regulated businesses. The state is required to establish a system that allows adults 21 and over to purchase marijuana in a legal regulated setting.

In general, our message to you today is that we understand the importance of the task that the state has before it. There will be challenges, but also opportunities, opportunities for a regulatory

framework that Alaska can be proud of and that can serve as a model for the rest of the country as other states join Alaska, Oregon, Colorado, and Washington in repealing the failed policies of prohibition. We can protect the public health and safety while recognizing that creating a new approach to marijuana will bring benefits to the state as well.

I want to say that we see this primarily as a regulatory issue given the nine month timeline and the tremendous amount of work needed to be done well after adjournment of this legislative session. We drafted the initiative with the intent that the majority of the work would be done by a rulemaking authority, whether it be the Alcoholic Beverage Control (ABC) Board, a separate marijuana-control board or a hybrid solution.

[9:05:26 AM](#)

Quite frankly, we feel that Legislature's role would be quite limited; with that said, we do recognize that the Legislature can have a role to play in the process and there is an interest in doing that. We the sponsors of the law will be staying attentive during implementation and hope to serve as a resource to this committee and others in representing the intent of the initiative and helping you to avoid considering legislation that might violate the intent of the initiative and the will of the voters.

Along with me today I have Bruce Schulte and Rachelle Yeung. Bruce is an Anchorage businessman and pilot who served alongside me as co-chair of the Campaign to Regulate Marijuana like Alcohol, he is a board member and spokesperson for the Coalition for Responsible Cannabis Legislation (CRCL), one of the campaign's partners, and will be speaking on behalf of CRCL today. Rachelle is a legislative analyst with the Marijuana Policy Project (MPP) where she supports activists and legislators interested in reforming their own marijuana laws in nearly 20 different states and territories as varied as Alaska, Maryland, and the U.S. Virgin Islands; she received her degree from the University of Colorado Law School where she worked in marijuana policy at Vicente Sederberg, one of the leading marijuana law firms in the country. MPP is another partner-organization of ours; they were

founded in 1995 and are currently the largest nonprofit in the U.S. that's focused solely on ending marijuana prohibition. Rachelle is here to provide additional legal and policy expertise to the committee.

9:07:10 AM

SENATOR COGHILL stated that there are many things in the initiative that the Legislature will have to do that Dr. Hinterberger may have contemplated and one pertains to Alaska's out-of-synch marijuana statutes for the sale and use of marijuana. He pointed out that the Legislature will have to get some of the criminal descriptions in-line with the initiative. He said the expectation is under 21 years of age would be a legal prohibition. He asserted that one of the things the Legislature will struggle with is how to establish the legal levels of impairment and noted that arbitrary driving impairment levels have been set for alcohol. He asked what the sponsors' anticipation was for setting marijuana driving-impairment levels.

DR. HINTERBERGER pointed out that marijuana use is not new to Alaska because there already is a substantial amount of use. He noted that law enforcement already has experience in dealing with marijuana driving impairment. He asserted that whatever is working now for law enforcement would continue to work equally well under a regulated legal situation. He offered that in the future there will be the likelihood that additional technical solutions will be available to detect marijuana levels in a person suspected of impairment.

9:09:13 AM

SENATOR COGHILL stated that he did not know if law enforcement in Alaska had the ability to test for marijuana levels. He asked if Colorado or Washington have been able to come up with a testing scheme that would allow Alaska to model after.

DR. HINTERBERGER replied that Alaska was pretty well served by the police's current detection testing procedures. He said he is not aware that driving under the influence of marijuana has been a major public safety issue in the state. He pointed out that CRMLA and CRCL are opposed to the notion of what is called "per se" testing for a particular level of Tetrahydrocannabinol (THC) presence as being a crime. He explained that levels of marijuana metabolites and active ingredients in the person's system have been shown to not in any way generally reflect impairment. He stated that the issue needs to be considered carefully.

SENATOR COGHILL said the Legislature will consider that and he will be looking very closely how other jurisdictions do it. He added that many of Alaska's workplaces have zero-tolerance policies and the initiative will change how testing deals with trace element detection rather than just impairment. He noted that Commercial Driver License (CDL) drivers have to abide by a national drug testing requirement. He asked Dr. Hinterberger for his input on how the state should deal with the workplace as well as testing options that are similar to detecting alcohol.

DR. HINTERBERGER replied that he will defer to Mr. Schulte to address questions that pertain to the workplace.

[9:12:03 AM](#)

SENATOR WIELECHOWSKI noted that the initiative bans the public use of marijuana. He asked how Dr. Hinterberger defines public-use.

DR. HINTERBERGER answered that the initiative's sponsors felt that the rulemaking-body should address the definition for public-use. He noted that the public-use definition has cropped up in other states. He stated that the ABC Board and other authorities have recently investigated the approaches other states have taken. He remarked that the public-use definition will depend very much on local preferences.

SENATOR WIELECHOWSKI asked if Dr. Hinterberger advocates that the state leave the communities to define public-use or does he have a definition that he prefers the state enacts.

DR. HINTERBERGER replied that there is a great interest in localities to define public-use as appropriate for their individual circumstances. He noted that the Mat-Su Valley has expressed an interest in regulating locally.

CHAIR STOLTZE asked if the definition of public-use is an issue where the initiative's sponsors allow for greater governmental involvement. He noted that Dr. Hinterberger mentioned that there is a very limited role for government.

DR. HINTERBERGER replied that there is a role by the state or preferably by local entities to define what public consumption is.

[9:14:20 AM](#)

SENATOR MCGUIRE pointed out that Dr. Hinterberger stated at the outset of his testimony that the majority of the initiative's rulemaking would be left up to the regulatory body, either the ABC Board or some other entity that the Legislature creates given the timeline and the complexity. She noted that Dr. Hinterberger declared that he did see a role for the Legislature. She asked what the initiative's sponsors envisioned as the role for the Legislature in the coming months.

DR. HINTERBERGER answered that there is a role for the Legislature. He pointed out that it would be desirable to revise existing statutes by removing any reference to criminal penalties for marijuana use and possession. He added that the Legislature may be further involved if the draft regulations that the regulatory-authority proposes requires additional legislation for effective implementation.

9:16:00 AM

CHAIR STOLTZE clarified that as a voter in Alaska he did not support the initiative. He stated that the initiative is now pending law and the Legislature will certainly try to guide the will of the people coinciding with the legislators' and local governments' responsibilities in trying to make the pending law work as safely as possible. He remarked that the questions posed by the committee may be viewed as confrontational or antagonistic by the public. He asserted that with any law or statute, the committee is just trying to probe and explore the initiative. He pointed out that 53 percent of Alaskans are anxious to see how the initiative moves forward.

SENATOR COGHILL added that he concurred with Chair Stoltze and noted that legislators are just trying to figure out how to make the initiative work to the best of their abilities. He noted that the initiative's sponsors gave some local control over some of the marketing, distribution, and the ability to make rules. He pointed out that Alaska has given some communities a local option regarding alcohol and asked if the initiative's sponsors contemplated allowing local communities to opt-out as with alcohol.

9:18:36 AM

DR. HINTERBERGER replied that a local opt-out option is definitely an important part of the initiative. He affirmed that the local opt-out option was clearly stated in the initiative that local governments of any sort would have the ability to opt-out either by citizen initiative or by assembly action. He asserted that the initiative's sponsors intended to parallel

quite closely with the opt-out option for alcohol with one difference pertaining to personal use and possession. He pointed out that since the mid-1970s, personal use and possession of marijuana has been expressly allowed in Alaska by the Alaska Supreme Court under the Raven Decision. He said because the court found that marijuana is much less harmful to the individual and to the society than alcohol, individual private use of marijuana has been protected and so there is nothing that could have been done to alter that.

SENATOR COGHILL remarked that the initiative's idea is to regulate marijuana like alcohol, but using marijuana is very similar to smoking cigarettes. He noted that there are many places that ban smoking due to secondhand smoke. He said the initiative may be going around the smoking ban. He asked for a comment on workplace smoking, secondhand smoke, and the current regulation on cigarettes.

DR. HINTERBERGER replied that there is nothing in the initiative that prevents a workplace or any other privately owned place from prohibiting marijuana use. He stated that public use is contrary to the intent of the initiative. He pointed out that marijuana differs from tobacco in that marijuana is often consumed in ways that do not involve smoking. He added that more people are consuming marijuana through edibles. He noted that an example where an apartment complex might prohibit tobacco smoking, but there is no reason to prohibit overall marijuana consumption.

[9:21:40 AM](#)

SENATOR COGHILL noted that marijuana has health benefits as well as health risks. He asked what marijuana's health risks are from smoking as well as ingesting edibles.

DR. HINTERBERGER answered that the health risks from marijuana consumption were the topic of a lot of discussion during the campaign. He explained that smoking marijuana is not near the same category of harm as tobacco smoke where there is no association with cancer and other problems associated with tobacco smoke. He said he is not aware of any evidence of harm from moderately consuming marijuana in other ways.

SENATOR COGHILL asked how marijuana potency levels should be labeled on edibles packaging and how potency levels should be tested to ensure safe levels.

[9:24:06 AM](#)

DR. HINTERBERGER replied that marijuana testing, packaging, and labeling are an important part of what develops in Alaska; they are among the primary benefits of having a legal regulated market as opposed to the current black market system where buyers have no idea what they are really getting. He said Colorado and Washington have successful examples of testing, packaging, and labeling implementation. He reiterated that potency level labeling is up to the rulemaking authorities to propose whether the process should be a state function. He surmised that producers would contract with private testing laboratories, a function that is clearly what the initiative's sponsors want to see happen.

SENATOR COGHILL pointing out that the testing laboratories and marketing descriptions noted by Dr. Hinterberger are regulatory issues that will be hard to attain under the initiative's timeline constraints. He said setting up a whole testing laboratory industry with credible packaging will be difficult. He asked what Dr. Hinterberger's thoughts are regarding the timelines demanded by the initiative.

DR. HINTERBERGER replied that the timeline issue for putting together the testing and packaging infrastructure by the private sector is being underestimated. He pointed out that in other states there is a pretty well established industry that is responding very nimbly to changes in regulation and responding to marijuana's business opportunity. He asserted that he would be very surprised if the private sector is not able to deal with the issues that Senator Coghill raised in a timely fashion.

SENATOR COGHILL remarked that he does not share Dr. Hinterberger's optimism. He stated that the Legislature will plug-away forward in a credible manner with the hope that if there is a need for flexibility that the issue does not necessitate litigation.

9:26:44 AM

CHAIR STOLTZE remarked that there was a fairly emphatic statement that the Legislature had limits on its involvement. He asserted that there is a legislative role for limiting or regulating dosages and content for the purpose of public safety. He asked if the initiative's sponsors felt that the Legislature having a significant policy role was another area that might be taboo.

DR. HINTERBERGER asserted that the initiative's sponsors felt strongly that the rulemaking-body should deal with packaging and dosing.

CHAIR STOLTZE asked for clarification on Dr. Hinterberger's definition for rulemaking-body. He inquired if rulemaking-body did not mean a group other than an elected group such as the Legislature or a city council.

DR. HINTERBERGER answered that the rulemaking-body would refer to the ABC Board as it stands now, unless the Legislature were to create a separate marijuana control board.

CHAIR STOLTZE pointed out that the ABC Board gets their direction from the legislative-body. He remarked that public safety and the health aspect is an important part of the initiative. He noted that Dr. Hinterberger mentioned the Supreme Court's role and voiced his desire not to litigate every aspect if there is a concomitance of an agreement on issues relating to the initiative. He asserted that he would hate in good faith to assert the Legislature's responsibility regulating dosages and find out the initiative's sponsors are going to litigate against the Legislature. He remarked that the reframe he has heard indicates that any changes made will result in litigation. He said he wants to operate in good faith as a legislative-body trying to implement the initiative and that precipitates his desire for the committee to get clarified answers.

[9:28:59 AM](#)

DR. HINTERBERGER reiterated that that initiative's sponsors believe that the regulation of dosage and packaging as a function for a regulatory board like the ABC Board. He said the Legislature's role is not a contentious issue and seems to be very straight forward. He explained that the Legislature certainly can have a role within the initiative's framework. He remarked that the initiative's sponsors are simply concerned that the Legislature not try to involve itself with changing the initiative's intent or doing anything contrary to the initiative's intent and standing in the way of the will of the voters.

CHAIR STOLTZE replied that the Legislature understands that part of the rhetoric and acknowledged that the Legislature is trying to make the initiative work.

SENATOR MCGUIRE noted that the initiative's sponsors may have intended that a rulemaking-body would take on the bulk of

regulatory issues and the Legislature would simply look at decriminalization. She stated that the reality is not going to be what the initiative's sponsors had intended. She pointed out that the initiative itself is to regulate marijuana like alcohol and noted that over her 15 years in the Legislature, there has been a bill every year in alcohol's Title 4 statutes. She affirmed Chair Stoltze's comment that the committee's dialog is not adversarial, but rather more of a practicality that the Legislature does engage in more policymaking on some of the rulemaking areas than what the initiative's sponsors might think when it comes to alcohol and other controlled substances. She surmised that the Legislature is not going to feel comfortable in leaving the ABC Board to decide THC levels, dosages, advertising, and zoning because the Legislature has not in the past. She noted that the Legislature has lowered the blood-alcohol level, enhanced restrictions on alcohol sales to minors, addressed happy hours, and legislated brewpub guidelines. She said she understands the sponsors' goal and noted that it is human to say, "Regulate everyone else, govern everyone else, but we respectfully don't want the Legislature to come in." She reiterated that the voters have spoken and the initiative passed to decriminalize marijuana and the Legislature will implement the initiative. She detailed that the Senate Judiciary Committee will decriminalize marijuana, but to say that the Legislature won't have any role looking at the high intoxicant levels or dosaging is fairly naïve.

[9:32:47 AM](#)

DR. HINTERBERGER stated that the initiative's sponsors do not have an objection to the Legislature specifying limits on dosage or specifying certain aspects of packaging as long as the legislation is within the guidelines of the language of the initiative.

CHAIR STOLTZE remarked that Dr. Hinterberger's comments brings clarity to the Legislature's role as defined by the initiative's sponsors.

SENATOR WIELECHOWSKI asked if Dr. Hinterberger would recommend the Legislature to enact THC based impairment levels for drivers and if so, what THC level would be recommended. He inquired about the issue of marijuana use at employment and noted that some employers have zero tolerance policies, including municipal workers. He detailed that marijuana can stay in a person's system for months.

DR. HINTERBERGER replied that the initiative's sponsors strongly oppose setting limits on THC impairment levels. He pointed out that "per se" limits on THC content is something that varies from one individual to another. He said people are actively researching the relationship between THC and impairment. He asserted that setting specific THC levels would be premature by the state.

SENATOR WIELECHOWSKI asked if there needs to be a state-level policy that addresses employment and some employers enacting zero tolerance policies on marijuana use.

DR. HINTERBERGER stated that there is nothing in the initiative that prevents employers from doing anything to alter their current zero tolerance policies if the employers feel zero tolerance is necessary for their particular work force.

SENATOR WIELECHOWSKI asked if Dr. Hinterberger was okay with a person being dismissed from a zero tolerance employer where a test result shows a couple nanograms of THC from a hair sample due to marijuana use that occurred several months in the past.

[9:35:48 AM](#)

DR. HINTERBERGER replied that personally he thinks that the scenario described would be inappropriate and all cases would depend on the circumstances. He explained that the zero tolerance scenario noted by Senator Wielechowski gets beyond anything to do with the initiative.

CHAIR STOLTZE added that his intention is to provide a greater public awareness by bringing in folks from industry, federal government, and others that have established guidelines. He noted that he has talked with organized labor whose mission it is to put people to work and related that employees have argued that they can smoke marijuana starting November 5 and cannot be tested anymore. He asserted that the Legislature needs to achieve some clarity for policy decisions as well as providing education for the public because there is always a lot of excitement and apprehension for a new law. He remarked that Alaska is not a nanny-state and the committee wants to let people have the information to make the appropriate decision. He said legislators are all concerned about Alaskans not only getting jobs, but keeping them. He noted that union and non-union trades have expressed their apprehensions. He asserted that the committee will spend time on employers dealing with marijuana. He summarized that the public will make their own decisions, but the committee will provide information through

its testifiers to address the issue of public misunderstanding as to what is allowable.

[9:37:57 AM](#)

SENATOR COGHILL explained that one of the things he looks at when looking at a bill is, "What is repealed and what is defined." He noted that in the definition of marijuana there is a reference to "salt." He asked that Dr. Hinterberger review the sectional definitions and help the committee understand, for example, what a "salt" is.

DR. HINTERBERGER answered that "salt" is an odd usage that pertains to a chemical or pharmacological reference to certain kind of derivative that might be used. He noted that the CRCL is currently working on refining definitions that would be of use to both the Legislature and potential people in the industry.

SENATOR COGHILL replied that he is looks forward to the definitions coming forward to the committee. He remarked that people have a tendency to think of marijuana as something that is smoked and not take into account related forms defined as "derivative," "resin," "concentrate," or "salt."

CHAIR STOLTZE stated that one of the committee's responsibilities is understanding and if necessary, clarifying some of the definitions for providing guidance. He remarked that the definition for marijuana "derivatives" seems vague and he will seek input from the Administration as well. He asked Dr. Hinterberger if clarifying definitions and removing ambiguities was an area for the Legislature, Administration, and other governing bodies that still complies with the intent of the voters.

[9:40:49 AM](#)

DR. HINTERBERGER answered yes.

SENATOR MCGUIRE called attention to forming a new marijuana control board. She noted that the initiative group initially had taken no position on whether the rulemaking body was the ABC Board. She revealed that the ABC Board had updated their proposal to have a marijuana control board within the ABC Board and there would be some shared resources to keep the fiscal costs down. She revealed that the ABC Board's proposal for the new board members will consist of two public members, a couple of industry members, and maybe one commissioner or something like that. She asked if Dr. Hinterberger had an opinion on the ABC Board's proposal.

DR. HINTERBERGER replied that the proposal is sort of a hybrid approach that the sponsors think makes quite a bit of sense in the current political environment. He said the sponsors are open to the proposal's approach, provided that it in no way delays the timeline mandated by Ballot Measure 2.

CHAIR STOLTZE specified that after reading the initiative, the default position absent the Legislature acting will be the ABC Board. He asked if his summation was correct and was in line with the sponsors' position.

DR. HINTERBERGER answered yes. He specified that the intent of the initiative is that the ABC Board be named the default board. He added that the initiative states that the Legislature can create a separate marijuana control board. He said authorizing the ABC Board to have a sub-board to regulate marijuana makes sense.

[9:43:26 AM](#)

CHAIR STOLTZE remarked that his intent is to clarify some of the things in the initiative for people who may not have read the entire initiative prior to voting.

SENATOR COGHILL asked that Dr. Hinterberger address the initiative's definitions regarding "personal use." He noted that transferring one ounce or less of marijuana could be interpreted to include leaves, derivatives, or concentrates.

DR. HINTERBERGER answered that the sponsors see it makes sense to regulate the amount of possession for concentrate differently than for unprocessed marijuana.

SENATOR COGHILL remarked that he would take Dr. Hinterberger's comment as another place where the Legislature needs to look into the details and maybe make some recommendations.

CHAIR STOLTZE added that the Administration will hopefully be involved as well.

[9:45:13 AM](#)

BRUCE SCHULTE, board member, The Coalition for Responsible Cannabis Legislation (CRCL), Fairbanks, Alaska. He explained CRCL's role and intentions as follows:

The CRCL was established as serving as a resource to the Legislature and local governments during the

rulemaking process, so we hope to work with all of those entities as the rulemaking plays out.

I would like to address a couple of things that came up during the conversation so far. With regard to workplace testing, I'm a commercial pilot, so I'm subject to testing and I take that very seriously. I would certainly support and I recognize that certain safety related fields should continue to drug test and that is totally appropriate. I think that as we navigate this social change, some employers may choose to modify their workplace drug testing and then they should have that right.

With regard to the local option, the opt-out option, that is certainly articulated in the Ballot Measure and we support that. We would hope though that local governments would instead of simply opting out of various parts of this industry, as a default, we would hope that they would instead try and regulate their way to allowing the industry to exist in some fashion; that said, I think there is a tremendous opportunity at the state level to craft the rules in such a way that smaller communities that maybe don't have the time or resources to develop their own rules, could fall back on the statewide rules and not have to opt-out, but just could use the statewide rules.

[9:47:39 AM](#)

With regard to smoke, this is a very broad topic and I'm probably going to come back to this again. A lot of us are familiar with the consumption of marijuana as it was 30 years ago, that was my reference point coming into this campaign, but the industry has evolved tremendously. The smoking of leaf and flower from the plants has actually diminished, the consumption, the preferred consumption has transitioned to concentrates over the years and they actually represent, in some cases, more than half of the market, so I think it is important to recognize that.

The CRCL absolutely supports reasonable guidelines on packaging, on testing requirements, and on labeling. We absolutely do not condone or support the marketing of marijuana products to children and we would support reasonable efforts to keep that from happening; that

said, we do think that there are existing methods for packaging that would meet the safety needs of the public. We feel that the testing could very easily, probably should indicate levels of CBDs and THC in the products, as well as perhaps testing for adulterates like mold, residual fertilizer and pesticides.

9:49:06 AM

SENATOR COGHILL asked for an explanation of acronyms used in the initiative.

MR. SCHULTE explained that CBD stands for Cannabidiol, that's the component in the plant that has more medicinal and therapeutic properties than psychoactive. He said THC is Tetrahydrocannabinol, which is the psychoactive component that people use more for recreational purposes. He stated that CRCL is working on a white-paper that clarifies many of the terms, not just chemically but also the derivatives as to what they are, how they are derived, and how they are consumed. He said CRCL found that in discussions with elected officials at every level that a lot of the terminology is not clear and a lot of the practices are not clear. He stated that CRCL will present the definition white-book to the committee the following week.

CHAIR STOLTZE noted that Tetrahydrocannabinol does not sound as wholesome as THC.

MR. SCHULTE continued his overview as follows:

A couple of other points, we have heard from local governments that they would like the state to weigh in on a definition of "public" versus "private" space. In our view, some spaces where large gatherings might take place are in fact private in their nature. For example, a bar that has an outdoor smoking area where they have allowed their patrons to smoke cigarettes, that would be a private space and it's our position that spaces like that if the business owner chooses, might be available for the consumption of marijuana products in some form; again, that's something for further scrutiny of course, but we would hope to see some sort of definition there and I think many of the local governments would as well.

With regard to dosing and limits on edibles and so forth, we agree that that is a concern, obviously it is a concern. We found through the experience of

Colorado for example that 200 milligrams (mg) of THC in a single chocolate bar was excessive, so we support and we would hope to help guide some reasonable limits. A definition for example on what constitutes a serving and then how many servings could be contained in a single package.

With regard to the rulemaking body, it has always been CRCL's position that the best approach for a successful marijuana industry is to have a dedicated marijuana control board; within the initiative, that falls by default to the ABC Board. The option remains with the Legislature to designate a marijuana control board. We recognize though for many reasons, budgetary and scheduling and so forth, some sort of a hybrid-board might develop and we totally support that and by a hybrid-board I mean a dedicated marijuana control board housed within the ABC Board. I have spoken with Cynthia Franklin a number of times, I found her to be knowledgeable, motivated, and we think she would be a great resource in that rulemaking process. For several reasons we could envision a hybrid-board with folks dedicated to marijuana rulemaking would perhaps be a practical approach.

[9:53:21 AM](#)

CHAIR STOLTZE asked if Mr. Schulte envisioned the board to be a more autonomous board from the politically motivated body of the Legislature and the Administration.

MR. SCHULTE answered that CRCL respects and acknowledges that elected officials speak for their constituents. He asserted that a dedicated rulemaking board would be more nimble and more able to get into the rulemaking process within the nine month timeline versus the much shorter period that the Legislature has to work with in conjunction with their other responsibilities.

CHAIR STOLTZE noted that voters rejected a gambling initiative six or eight years ago that attempted to get the legislative bodies out of the process so that an independent board could make the rules, regulations, and expansions. He stated that he did not know and has not heard if the voters' expectations for the initiative are for a more autonomous board from their elected representatives. He remarked that nimbleness is often equated with being less democratic and often being autocratic because people do not have to be asked in addition to no checks or balances.

MR. SCHULTE replied that CRCL's goal is to see the right regulations develop in a way that allows the industry to grow and thrive in a regulated legitimate manner. He set forth that one of the opportunities CRCL sees is to create a framework that allows and encourages the black market to transition over to a legitimate business model.

[9:55:32 AM](#)

CHAIR STOLTZE remarked that there is a reformative aspect to the initiative that folks will be brought out of the shadows.

MR. SCHULTE answered yes. He said on occasion he has talked to individuals in the black market who have expressed resistance, but noted that many have embraced the change to working within the regulated market as long as the regulations are not too onerous, complicated, or cumbersome. He said public safety is obviously paramount, but the challenge beyond public safety is to create a safe rulemaking environment that also allows the marijuana industry to compete with the black market. He said CRCL believes that balance will gradually diminish the black market over the coming years.

CHAIR STOLTZE asked to address the black market versus grey markets and inquired if government should take an enhanced role and a heavier-hand against people growing outside of the parameters.

MR. SCHULTE answered that CRCL sees two components specified in Ballot Measure 2: personal cultivation and consumption, and the commercial aspect. He stated that CRCL does not anticipate a lot more involvement from law enforcement. He said CRCL hopes that the rulemaking process would be sufficiently broad to allow the industry to develop and encourage the black market operators to move to a legitimate business model so that law enforcement does not have to spend time with them. He asserted that regulatory enforcement would be expected, but not necessarily involving law enforcement.

[9:58:34 AM](#)

CHAIR STOLTZE stated that larger businesses in the alcohol industry have used the ABC Board's enforcement powers to go after club licenses that included military based organizations that he is sympathetic to. He asserted that there should be caution for an overly charged board outside of legislative oversight. He asked if the marijuana industry will be dominated by big players. He said he sincerely doubts that the American

Legion in Chugiak is going to have a cannabis-room; however, if they did, will they be snuffed out by big marijuana. He summarized that he gets a little nervous when a regulatory board has too much power that the people's body is kept out. He said the initiative is a people's voice and noted that the Legislature is also the people's voice.

10:01:02 AM

MR. SCHULTE replied that from an industry perspective, CRCL shares the same concern. He revealed that the existing market is fairly large and CRCL would like to see the industry change their business model and come out of the shadows. He said the only way current operators will change is if they are not put into competition with large outside mega-corporations. He said from an industry perspective, CRCL would support reasonable efforts to keep marijuana an Alaska-based industry to the greatest extent possible. He asserted that CRCL does not support businesses that are not going to operate in a regulated environment and in some cases, criminal sanctions may be appropriate. He said CRCL hopes that the vast majority would not fall into the unregulated market but would take to the regulations and change their business models to perhaps combine some smaller mom-and-pop operations into a slightly large one. He surmised that the current market is not dominated by large players, but consists of several hundred or more small operators.

He remarked that on a side note that a number of CRCL's members are former military personnel who use marijuana medicinally to treat Post-Traumatic Stress Disorder (PTSD). He said he did not know if it would be out of the question for a legion hall to either sell or allow marijuana consumption on their property.

CHAIR STOLTZE asked about the issue with the regulatory board if the Legislature has an appropriate role in setting standards of conduct and weighing in on past acts or prior criminal activity for being involved in the industry.

10:03:57 AM

MR. SCHULTE answered yes. He said CRCL wants to see responsible, respectful citizens within the marijuana industry. He stated that CRCL would probably support some type of merit-based system where past criminal behavior weighs against being eligibility for a license.

SENATOR COGHILL stated that he questions the initiative's definition where consuming marijuana in public is unlawful. He

asserted that enforcement will be difficult when a person can consume marijuana in something as small as a little chocolate bar. He reiterated that he thought of marijuana being smoked when he first read the initiative. He asked what Mr. Schulte anticipated on public consumption when marijuana can be consumed by either smoking or in a derivative form.

10:05:29 AM

MR. SCHULTE replied that there are a number of derivative forms of marijuana and offered that one of his concerns pertains to being careful that law enforcement is not put into a position of trying to guess whether a chocolate bar is in fact infused with marijuana or not. He noted that CRCL does not support public smoking of marijuana and the act is clearly articulated in the bill and is something that CRCL stands by. He said there are scenarios where consumption is either through smoking, vaping, or eating edibles. He noted that a chocolate bar with marijuana could be consumed in a bar's designated smoking area or in a bar that sells marijuana due to the establishment's 21 and over policy where IDs are checked at the door. He added that there are other scenarios too where one might have a convention or industry expo conducted at a private venue where some limited consumption might be appropriate where other factors are recognized. He noted that allowing marijuana consumption at an industry expos would be helpful for the players in the industry. He summarized that people prefer to consume derivatives and oil extracts in vapor form. He explained that vaporizers have very little residual smoke from organic material and noted that the technology is state of the art in marijuana consumption. He said vaping marijuana was a bit of an epiphany for him and one of the reasons why he believes CRCL would be helpful in explaining the vaporizing practices for lawmakers.

10:08:07 AM

SENATOR COGHILL remarked that the public consumption of marijuana is one of those areas that would be hammered-out if it was going through a regular committee, but the committee is presented with a lawful act that consuming marijuana in public is unlawful, period. He asserted that the committee has to figure out what consumption in public means and attach a definition to Section 900 in the act. He said CRCL's white-paper will assist the committee.

CHAIR STOLTZE noted that marijuana consumption has referenced tobacco use at times. He pointed out that "public" as used in cigarette consumption terms requires imbibers to stand out in the cold. He remarked that cigarette consumers may take umbrage

if marijuana users are allowed to consume indoors in public. He noted that the committee process probably would have had a lot of public input and suggestions on public consumption, but he conceded that the committee is dealing with a constitutionally established concept regarding the initiative.

10:10:00 AM

MR. SCHULTE summarized that CRCL is working on its white-paper and will present a copy to the committee. He added that CRCL welcomes the opportunity to work with the Legislature and local governments as the marijuana rules are developed. He said CRCL recognizes that the elected officials do represent the public. He set forth that CRCL supports and agrees with a lot of the public and health concerns that were raised during the campaign. He asserted that CRCL firmly believes that the legitimate public concerns can be addressed. He said CRCL thinks that there are models and examples elsewhere in the country that can be adopted. He summarized that CRCL hopes that Alaska can become a model for marijuana legislation going forward.

CHAIR STOLTZE remarked that several people involved in the industry commented that any changes made by the Legislature will result in a lawsuit. He asked how Mr. Schulte intended to contest any changes should the Legislature abridge the initiative's fairly strict limits.

MR. SCHULTE replied that the initiative's backers prefer to work together with the Legislature. He noted that most of the contentious issues raised are based on incomplete information. He asserted that the feeling is once the complete information is out there and once the processes' products are understood, there are solutions for almost every one of the issues that have come up. He remarked that some of the issues are a little more awkward than others; for example, the definition of public versus private space is not an easy one to answer. He asserted that as long as the fundamental framework of the initiative's intent is not changed, the initiative's backers do not envision going to court and would rather work with the Legislature than to have the initiative become contentious at any level.

10:12:53 AM

CHAIR STOLTZE added that the Legislature will work at its best level to work through the common sense compromises and try to clarify the issues. He affirmed that his concern relates to affiliates outside of the initiative's sponsors who will chose to litigate due to initiative changes as well as not being involved in the discussion. He asserted that the Legislature is

trying to operate on good faith to help implement the law. He pointed out that the Legislature is going to rely on a lot of good faith in doing what is best in the public safety aspects as well as complying with the intent of the initiative. He stated that he hopes the process remains in good faith. He said he knows Mr. Schulte and remarked that he can trust his word. He admitted that as in any industry, there are other segments that have every right to go out and do what they wish; however, they do not operate on the same level of integrity.

MR. SCHULTE reiterated that the initiative's sponsors would much rather work in a cooperative manner with state and local governments. He remarked that the initiative's sponsors cannot control every player in the industry and conceded that some may take issue with one rule or another. He envisioned times when the initiative's sponsors will side with the Legislature or with the rulemaking board in opposing a specific issue from an opposing viewpoint. He summarized that CRCL is gathering and vetting input from its members in order to bring forward recommendations that represent the industry's best possible viewpoint.

10:15:23 AM

SENATOR COGHILL noted that he appreciates Mr. Schulte's comments. He referenced the "personal use" section in the initiative, Section 020, and pointed out that the definition of marijuana allows for an ounce or less to be transferred in addition to possessing six immature plants without selling them. He reiterated that his initial understanding encompassed an ounce of marijuana leaves, but the definition also pertains to concentrate, derivatives, or salts. He asked that Mr. Schulte to explain what an ounce of marijuana means.

CHAIR STOLTZE remarked that maybe Mr. Schulte can clarify whether the initiative's sponsors meant the product or if he believes the derivatives should be treated differently in regulation or statute.

SENATOR COGHILL remarked that Chair Stoltze's comment was a good point. He asserted that marijuana under the definition includes all of the forms that he noted.

CHAIR STOLTZE declared that they can put their intent on the record.

SENATOR COGHILL replied that is fine. He asked Mr. Schulte if he had any comments on his concern regarding marijuana's broad definition.

10:17:02 AM

MR. SCHULTE replied the he would not want to attempt to change the intent of the initiative; however, he pointed out that Senator Coghill raised a good point.

He explained that an ounce of hash oil would be an incredibly expensive commodity and remarked that he is not sure that hash oil will be exchanged between private individuals due to cost. He stated that CRCL would support a rule whereby the sale of hash oil would have a maximum amount at a retail level. He added that he does not know what a maximum amount may be. He said several ounces of hash oil will probably be transferred between a hash oil extractor and a licensed edibles producer. He summarized that wholesale and retail transfers have to be acknowledged in addition to person-to-person.

He referenced talk about butane hash oil and explained that the extraction process uses butane. He set forth that CRCL does not support the home use of butane extraction due to the compound's volatility. He asserted that CRCL believes that hash oil can be produced in a controlled environment using appropriate equipment and trained personnel. He stated that incidents of fires or explosions associated with home use will simply go away, much the way home distilleries and bootlegging went away with the end of Prohibition.

10:19:16 AM

SENATOR COGHILL revealed that Colorado had a challenge with its "gifting" provisions where taxation was avoided. He explained that people in Colorado paid a cover charge at a location where marijuana was "gifted" upon entry. He pointed out that taxation becomes a bigger question due to marijuana's definition that goes beyond an ounce of leaves and stalks.

MR. SCHULTE replied that marijuana's cultivation is a key point. He explained that the initiative does give individuals the right to cultivate up to six plants. He noted that growing plants is an expensive proposition that requires a lot of equipment, space, time, and expertise to do it well. He said CRCL hopes that smaller growers with 50 to 100 plants would meet the market need of those individuals that are just looking for an ounce or half ounce of whatever product. He remarked that CRCL is concerned that folks will be taking their six plants at home and

selling what they grow to friends through some sort of disingenuous mechanism. He hoped that individuals selling what they grow at home would be relatively minor if small operators are allowed to participate in a regulated industry.

SENATOR COGHILL remarked that worst case scenarios have to be taken into account when scrutinizing texts of laws. He pointed out that Mr. Schulte provided a personal use example where a person 21 years or older could also mean a group of people or an establishment. He advised that regulations must be thought through for their real meaning.

SENATOR WIELECHOWSKI asked if the smoking ban in Anchorage and some other communities would not apply to marijuana.

[10:22:32 AM](#)

MR. SCHULTE answered that he believes the smoking ban in Anchorage includes enclosed spaces; for example, the inside of a restaurant or a bar. He said he is not sure CRCL envisions stretching or modifying the smoking bans to exclude marijuana. He stated that CRCL hopes that establishments with designated outdoor smoking areas have the leeway to allow the consumption of marijuana in some form. He specified that smoking or vaping would possibly fall to local jurisdictions to define or for the business owner to choose.

CHAIR STOLTZE asked if a business should have the leeway to prohibit marijuana if they allow tobacco.

MR. SCHULTE answered yes. He explained that he ultimately supports the rights of a business to do what they see as best on their property. He said the best analogy is some businesses may choose to ban the consumption of alcohol on their property and those businesses should legitimately have the right to ban the consumption of marijuana as well.

CHAIR STOLTZE pointed out that the initiative's sponsors campaigned that alcohol is worse than marijuana and Mr. Schulte's previous statement sounds like a fertile ground for litigation.

MR. SCHULTE replied that he is not sure who would bring the lawsuit. He said CRCL would find it hard to support a frivolous lawsuit that was started by an individual. He asserted that CRCL would support the rights of the business owner over those of the patron in the scenario that was described.

SENATOR WIELECHOWSKI explained that the Anchorage ordinance defines smoking as follows:

Smoking means inhaling, exhaling, burning or carrying any lighted tobacco product.

He set forth that marijuana consumption would not fall under the Anchorage ordinance.

CHAIR STOLTZE noted that marijuana consumption would also not fall under the Palmer ordinance as well.

SENATOR WIELECHOWSKI noted that he does not know how other ordinances read or how Senator Micciche's ordinance reads. He asked if Mr. Schultz believes that marijuana should be applied to the smoking legislation or ordinances that are enacted throughout the state.

[10:25:55 AM](#)

MR. SCHULTE replied that the discussion regarding e-cigarettes could be expanded to marijuana. He explained that marijuana vaporizers essentially use the same technology as e-cigarettes; they are primarily closed systems that produce very little residual smoke that would impact patrons. He said he would envision a scenario where both e-cigarettes and marijuana vaporizers are allowable.

CHAIR STOLTZE remarked that Mr. Schulte and Dr. Hinterberger will have future opportunities to testify before the committee as spokespeople and sponsors of a bill.

SENATOR COGHILL remarked that the Legislature is between Alaska's voters and the federal government. He specified that the challenges pertain to banking restrictions because of guarantees, security of cash, taxation, and the requirements on the marijuana businesses. He asked if the initiative's sponsors have thought through the challenges that he described.

MR. SCHULTE answered that CRCL is acutely aware of the challenges at the federal level. He said CRCL is working with national organizations and is hoping to work with Alaska's congressional delegation to remedy the noted challenges. He conceded that banking laws and IRS rules are problematic and CRCL is hopeful that modifications will be allowed.

SENATOR COGHILL asked that any forth coming information be presented to the committee as well as recommendations on laws

that might have to be modified to make sure Alaska complies with federal law.

MR. SCHULTE replied that CRCL welcomes the opportunity to work with the Legislature going forward. He reiterated that CRCL will provide the committee with information and remain ready during the rulemaking process.

CHAIR STOLTZE commented that the best advice will help the Legislature to navigate through the challenge with contradictory bodies of law.

[10:29:47 AM](#)

RACHELLE YEUNG, Legislative Analyst, State Policies Department, Marijuana Policy Project (MPP), Washington, D.C. She read a MPP overview statement as follows:

MPP has been working with activists in Alaska for many years. The Marijuana Policy Project is a nonprofit organization. We are the largest advocacy organization in the country working towards marijuana policy reform. We have been working with activists such as Dr. Hinterberger and Mr. Schulte in Alaska for many years. MPP supports local activists who would like to reform their own marijuana laws.

She summarized that she looks forward to working with the Legislature and other rulemaking bodies towards the implementation of Ballot Measure 2.

SENATOR WIELECHOWSKI noted that MPP is on the federal level and has probably dealt with banking in other states. He said his understanding is it is a violation to use credit cards and checks to pay for marijuana. He asked what the state may do to help get around not being able to pay for marijuana with check or credit card.

MS. YEUNG replied that there are several solutions that other states are looking into. She related that state-licensed credit unions have been formed in Colorado and are awaiting federal approval for certain aspects. She revealed that the credit unions in Colorado will be able to function as a financial institution in which marijuana businesses can receive banking services. She revealed that a bank in Oregon just announced that it is willing to openly work with marijuana businesses. She summarized that MPP is working with Congress toward more tenable banking solutions.

[10:33:39 AM](#)

SENATOR MCGUIRE noted that a letter was received from a constituent which asked if legislative support for marijuana legalization interferes with the oath taken by senators to uphold the state and federal constitutions and rules. She asked what advice was given to Colorado and Washington State lawmakers.

She called attention to Alaska's transportation issues and challenges due to the state's vast geographical areas. She noted that some locations are only accessible by boats that use federal waters or aircraft that are regulated by the Federal Aviation Administration (FAA). She noted the conundrum in states where people have a right to use marijuana, but they have to use transportation methods that come through federal entities that have federal jurisdiction.

[10:35:28 AM](#)

MS. YEUNG replied that she does not think there is a conflict between the duties of elected representatives to uphold federal laws and constitution as well as representing the will of the voters in a particular state. She explained that the Federal Controlled Substances Act is very explicit about the fact that that federal law is not intended to occupy the entire field of drug policy and a lot of space is left for states to interpret their own controlled substances act as they will. She specified that criminal law is generally left up to the state, so removing criminal penalties for the possession of certain substances would be entirely consistent with the division of powers between states and the federal government.

She addressed the transportation issue and noted that the Department of Justice (DOJ) issued a memo in August 2013 that outlined their 8 enforcement policies. She noted that DOJ's 8 enforcement priorities did not include marijuana transit from one legal state to another. She said MPP is hopeful that the lesser issue of transferring within one's state would not be an issue for federal law enforcement.

[10:37:12 AM](#)

CHAIR STOLTZE said the committee will seek clarification from other entities on Ms. Yeung's comments.

SENATOR MCGUIRE noted that the issue of state-to-state has not been clarified and is still prohibited. She specified that the

intrastate travel using federally controlled navigable waters and airspace requires further clarification.

CHAIR STOLTZE noted that Alaska has different kinds of governments within the state that pertains to reservations and tribal entities. He asked how Colorado and Washington State have addressed taxation and rules regarding other government entities within their states.

MS. YEUNG replied that Chair Stoltze's question is timely given that DOJ just issued a recent memo extending the flexibility given to states towards experimenting with their own marijuana policies towards tribal governments as well.

CHAIR STOLTZE asked if Ms. Yeung could share the information with the committee. He noted that he was not aware of the noted memo from DOJ.

[10:39:37 AM](#)

MS. YEUNG replied that the DOJ memo will be forwarded to the committee and she encouraged the Legislature to seek clarification.

CHAIR STOLTZE remarked that the experience based on states involving in gambling and cigarette sales is something that the Legislature needs to be aware of. He asserted that he is not trying to cause tensions between different entities. He set forth that Don Mitchell could provide the Legislature with some guidance on the issue with marijuana policies towards tribal governments.

[10:41:28 AM](#)

MS. YEUNG summarized MPP's role as follows:

MPP is not here to subvert the role of local activists and the campaign in assisting to implement this law. We simply want to serve as a resource and provide background and perspective for how these laws have worked out in other states. I would also like to note that we want to ensure that in implementing Measure 2, the legal protections legalizing adult possession of marijuana are not repealed or accidentally repealed and replaced with an affirmative defense. I note this because the medical marijuana law that was passed many years ago in Alaska was replaced with a mere affirmative defense and it led to the thwarting of the will of the voters. So we just want to be very careful

with how the legalization aspect of the measure is interpreted. I would also like to address a previous question by Senator Coghill about the role of the Legislature in clarifying the definition of marijuana, of course there are certain aspects that do require additional clarity such as what one ounce of concentrates or extracts could mean, but the definition of marijuana that was passed by the voters itself should not be altered, all of those elements included under the definition of marijuana appears to be the will of the voters that all of them be legalized and be available for adult possession and purchase. Of course we would like to provide as much assistance as possible both to the Legislature and the rulemaking body in meeting your deadlines timelines as approved by the voters of Alaska.

[10:44:04 AM](#)

DR. HINTERBERGER summarized as follows:

Our primary interest here is seeing that the intent of the initiative is protected and that the will of the voters as expressed in voting in favor of this initiative, keeping in mind that there was a huge amount of debate about this in advance of the election and I think we have to assume that people knew what they were voting for when they voted to legalize marijuana in all of the forms that are described in the initiative. We want to see that that gets implemented, that's our primary concern and as Ms. Yeung stated, making sure all of the forms of marijuana described in the initiative are made available in appropriate manner and that the timeline specified in the initiative is adhered to.

CHAIR STOLTZE acknowledged that the public was keenly aware of what the initiative's sponsors were doing in legalizing marijuana. He stated that the committee is going to be mostly discussing commercializing marijuana and that is where there is some ambiguity.

DR. HINTERBERGER responded that the public voted with full knowledge that they were legalizing the commercial availability of marijuana and marijuana products with the goal of taking it out of the hands of the black market and creating a regulated, licensed, tax paying market.

CHAIR STOLTZE announced that the next committee meeting will include testimony from the Walker administration in addition to representatives from the departments of: Revenue, Public Safety, Law, and Commerce. He added that Mr. Jesse, Executive Director of the Mental Health Trust, will also participate. He explained that the committee's initial meetings have invited-testimony and his intention is to have public-testimony. He summarized that the State Affairs Committee is not going to introduce a bill. He specified that the committee is going to deal with bills that are already introduced and help facilitate the process as it goes to the next committees of jurisdiction. He explained that addressing Ballot Measure 2 is primarily going to be an exploratory education and a process for input for involved parties with the committee facilitating the continuation of the debate and how the Legislature implements the people's law. He said the committee welcomes suggestions from people who wish to testify in order to aid in the deliberation of a complex issue.

[10:48:11 AM](#)

There being no further business to come before the committee, Chair Stoltze adjourned the Senate State Affairs Standing Committee hearing at 10:48 a.m.