

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

January 27, 2015
9:02 a.m.

MEMBERS PRESENT

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

COMMITTEE CALENDAR

PRESENTATION BY EXECUTIVE BRANCH REPRESENTATIVES: MARIJUANA
BALLOT MEASURE - DISCUSSION OF IMPLEMENTATION / ADMINISTRATION
PERSPECTIVE

- HEARD

PREVIOUS COMMITTEE ACTION

See Senate State Affairs minutes from 1/22/15.

WITNESS REGISTER

HARRIET MILKS, Assistant Attorney General
Civil Division
Alaska Department of Law
Juneau, Alaska

POSITION STATEMENT: Provided departmental insight and
recommendations on the marijuana ballot measure.

KACI SCHROEDER, Assistant Attorney General
Criminal Division
Alaska Department of Law
Juneau, Alaska

POSITION STATEMENT: Provided departmental insight and
recommendations on the marijuana ballot measure.

MIKE LESSMAN, Legislative Liaison
Alaska Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: Provided departmental insight and
recommendations on the marijuana ballot measure.

MAJOR DENNIS CASANOVAS, Deputy Director
Division of Alaska State Troopers
Alaska Department of Public Safety
Anchorage, Alaska.

POSITION STATEMENT: Provided departmental insight and recommendations on the marijuana ballot measure.

JERRY BURNETT, Deputy Commissioner
Alaska Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Provided departmental insight and recommendations on the marijuana ballot measure.

KEN ALPER, Director
Tax Division
Alaska Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Provided departmental insight and recommendations on the marijuana ballot measure.

BRANDON SPANOS, Deputy Director
Tax Division
Alaska Department of Revenue
Anchorage, Alaska,

POSITION STATEMENT: Provided departmental insight and recommendations on the marijuana ballot measure.

CYNTHIA FRANKLIN, Director
Alcoholic Beverage Control Board
Alaska Department of Community and Regional Affairs
Anchorage, Alaska

POSITION STATEMENT: Provided insight and recommendations from the Alcoholic Beverage Control Board's perspective on the marijuana ballot measure.

JEFF JESSEE, Chief Executive Officer
Alaska Mental Health Trust Authority
Anchorage, Alaska

POSITION STATEMENT: Provided insight and recommendations from the Alaska Mental Health Trust Authority's perspective on the marijuana ballot measure.

ACTION NARRATIVE

[9:02:32 AM](#)

CHAIR BILL STOLTZE called the Senate State Affairs Standing Committee meeting to order at 9:02 a.m. Present at the call to order were Senators McGuire, Wielechowski, and Chair Stoltze.

**PRESENTATION BY EXECUTIVE BRANCH REPRESENTATIVES: MARIJUANA
BALLOT MEASURE - DISCUSSION OF IMPLEMENTATION / ADMINISTRATION
PERSPECTIVE**

[9:02:47 AM](#)

CHAIR STOLTZE announced that the committee will continue its review of the marijuana initiative, Ballot Measure 2. He added that there is no legislation in the committee for the omnibus or the comprehensive marijuana bill. He specified that a bill will be forthcoming from one of the committee members, Vice-Chair Coghill or Senator McGuire.

He said the theme for the committee meeting is a presentation by the Walker administration from the various departments that have the most direct impact. He explained that the committee cherry-picked the most relevant and frontline agencies and departments that will be helping to formulate any legislation in addition to coping with the act's implementation when it goes into law.

[9:05:38 AM](#)

HARRIET MILKS, Assistant Attorney General, Civil Division, Alaska Department of Revenue, Juneau.

[9:06:13 AM](#)

KACI SCHROEDER, Assistant Attorney General, Criminal Division, Alaska Department of Law, Juneau, Alaska, said her presentation will address questions raised by the initiative for the Criminal Division. She revealed that the initiative does not repeal any law. She pointed out that the state has a legal structure to deal with conflicting statutes without having to start from scratch.

She said the Department of Law would like to point out a few things that are in conflict. She revealed that there are three marijuana definitions on the books once the initiative becomes effective. She said the medical marijuana definition is very short and basic. She noted that the marijuana definition in the drug offense statutes is much more extensive and pointed out that the definition specifically excludes: hashish, hashish oil, and resins in oils made from the marijuana plant. She disclosed that the marijuana definition in the initiative does include marijuana concentrates and resins. She specified that case law says that conflicting statutes are not supposed to be

interpreted in such a way that it nullifies parts of the statute, but conflicting statutes are supposed to be harmonized. She conceded that harmonization is an inexact science and different people will harmonize in different ways.

9:08:38 AM

SENATOR WIELECHOWSKI opined that having one definition would be preferable. He asked if Ms. Schroeder agreed and what would be her recommended definition.

MS. SCHROEDER replied that she agreed that one definition would be preferred. She stated that the Department of Law would defer to the Legislature or regulatory board of what definition they want to pick. She noted that the Department of Law has an issue with the term "concentrates." She specified that the Department of Law would like some definition of "concentrates" regardless of the definition for marijuana.

CHAIR STOLTZE commented that the overriding theme of the bill is precise definitions.

SENATOR WIELECHOWSKI asked Chair Stoltze if maybe it is time for the committee to get into the specifics.

CHAIR STOLTZE replied that the committee does not have a bill but noted that questions can be placed on the record.

SENATOR WIELECHOWSKI asked what "PSUM" stands for in the initiative.

MS. MILKS answered that PSUM is an acronym used in the initiative, [Production, Sale, and Use of Marijuana].

SENATOR WIELECHOWSKI asked why the Department of Law has an issue with "concentrates."

9:10:11 AM

MS. SCHROEDER explained that the "concentrates" definition currently in the drug offense statutes specifically excludes hashish, hashish oil, resin, and extracted oil. She said the statute's definitions for hashish and hashish oil include the word "resins" and "concentrate." She pointed out that there could be an argument that hashish and hashish oil are concentrates. She revealed that under current law, hashish and hashish oil are schedule IIIA drugs and marijuana is a schedule 6A drug. She stated that the Department of Law needs to know the Legislature's intent with the definition for concentrates.

SENATOR WIELECHOWSKI asked if the Department of Law recommends that hashish's definition be kept different or kept out. He inquired what the issue is with hashish as opposed to marijuana concentrate.

MS. SCHROEDER replied that hashish is made in a different way. She specified that hashish is much more concentrated with higher tetrahydrocannabinols (THC) levels than marijuana. She said an ounce of hashish oil will go a lot farther than an ounce of marijuana. She stated that the Department of Law is not saying that hashish has to be excluded or included, but a determination needs to be made and regulatory boards can regulate it differently even if it is included.

[9:12:19 AM](#)

She said the other issue the Department of Law wants to flag is that currently it is a class B misdemeanor for someone to possess less than an ounce of marijuana. After the initiative becomes effective, anybody over 21 can possess an ounce or less, but a person under 21 will be charged with a class B misdemeanor, a criminal offense. She explained that the Department of Law does not know if a violation for those under 21 should be considered or maybe something similar to the minor consuming alcohol statute.

CHAIR STOLTZE asked how minor consuming of alcohol is treated.

MS. SCHROEDER replied that a person's first two offenses are violations and then a misdemeanor after the first two.

SENATOR WIELECHOWSKI stated that everyone is in agreement for not wanting kids to be using marijuana. He asked if the department had an opinion on a kid getting a misdemeanor when there is a good chance the offense could be on his record for a long time.

MS. SCHROEDER replied that Department of Law does not have an opinion. She said if the intent is to regulate marijuana like alcohol, the Legislature may want to consider looking at how alcohol is treated for minors. She specified that if the Legislature decides marijuana is different than alcohol, than the offense structure needs to be different, that's fine too. She stated that the Department of Law knows that underage possession is going to be an issue and the department does not want there to be complaints where a person that is 20 and a half is charged with a misdemeanor.

[9:14:18 AM](#)

MS. SCHROEDER noted that the initiative allows local governments to prohibit marijuana establishments from operating within their municipality. She said the department needs direction on what the penalty should be for operating marijuana cultivation facilities, product manufacturing facilities, testing facilities, or retail stores in a community that has opted to prohibit such activities. She pointed out that the penalties in the current drug offense statutes range from a class A misdemeanor to an unclassified felony for the previously noted activities. She asked if the noted offenses should be treated in the same way as bringing alcohol into an opt-out community where the offense is either a class A misdemeanor or class C felony.

She reiterated that the initiative does not repeal any law and noted that marijuana is still a controlled substance. She specified that under the promoting contraband statutes, bringing a controlled substance into a correctional facility is a class C felony and bringing a legal product like tobacco into a correctional facility is a class A misdemeanor. She inquired whether the promoting contraband statute should be amended.

[9:16:23 AM](#)

CHAIR STOLTZE commented that both the committee and the Department of Law is seeking clarity on the marijuana issue. He pointed out that PSUM proponents have testified towards a minimum role for the Legislature with broader authority to a board. He asked if the Department of Law can give the committee guidance.

MS. MILKS noted that she is representing the Civil Division of the Department of Law. She asserted that the Department of Law is ready to get to work and do what they can to assist the Alaska Beverage Control Board (ABC Board) or a marijuana control board in regulating the new marijuana industry.

CHAIR STOLTZE queried if the Department of Law can give the committee more guidance. He asked if the department would prefer administering with clarified definitions. He inquired if the Department of Law would prefer a board-direction where a board makes the rules and regulations.

[9:18:35 AM](#)

MS. MILKS answered that the Department of Law can be more specific. She said with respect to definitions, lawyers always like bright-lines. She stated that the Legislature can be

helpful by assisting the regulatory board in defining important terms like "marijuana" and "public."

CHAIR STOLTZE opined that the Walker administration apparently wants the Legislature to defer to the growers and producers to define and regulate marijuana.

MS. MILKS replied that she did not intend to make the inference that Chair Stoltze noted.

CHAIR STOLTZE reiterated that the Legislature is looking for guidance. He asserted that the Department of Law is making a statement by deferring.

[9:20:42 AM](#)

SENATOR MCGUIRE asked that if the Legislature was to change the promoting statute to change the definitions such that marijuana would not be a controlled substance in that area and to regulate it more like tobacco and alcohol, would the Legislature need to, across the board, change the definition of marijuana as a controlled substance. She noted that Ms. Schroeder was shaking her head "no." She added that besides the promoting contraband statute, what other places in law will the Legislature be affected by leaving marijuana as a controlled substance.

SENATOR COGHILL joined the committee meeting.

MS. SCHROEDER answered that taking marijuana out of the controlled substance classification would affect the entire drug offense statutes because the statutes all refer to controlled substances. She stated that a change was not impossible. She explained that an easy drafting modification would be to specifically revise the promoting contraband statute by carving out marijuana while leaving the rest of the controlled substances as a class C felony.

SENATOR MCGUIRE remarked that the Department of Law's detailed presentation specified the places where clarity is needed as well as the potential for absurd results if marijuana is regulated more like alcohol. She said the Department of Law pointed out that marijuana is still a controlled substance and its effect as to whether the promoting contraband statute at correctional facilities should be amended. She asked that the Department of Law thoroughly review other places where they would see a felony or a misdemeanor crime come into place versus a lesser penalty for alcohol. She stated that her assumption is that there are more places.

CHAIR STOLTZE concurred that receiving additional comments on practical applications would be a good guide for all the committees that address marijuana.

9:24:15 AM

MIKE LESSMAN, Legislative Liaison, Alaska Department of Public Safety, Anchorage, Alaska.

9:24:37 AM

MAJOR DENNIS CASANOVAS, Deputy Director, Division of Alaska State Troopers, Alaska Department of Public Safety, Anchorage, Alaska, presented his testimony as follows:

I appreciate the opportunity to address this legislative committee and to primarily reaffirm to you that the Alaska State Troopers are committed to carrying out the laws of the state in the most professional and effective manner possible.

While most state legislation is carefully crafted and vetted and it includes modifying existing statutory or regulatory language so the intent of new legislation is clear and conflicting language and ambiguity is eliminated, what we are faced with here with the passage of Ballot Measure 2, although it resulted in 8 community hearings held during September of 2014 and now that the election results have been certified, Alaska State Troopers and other Alaska law enforcement officers around the state are expected to understand and legally enforce the changes which this initiative provides for and I point out that it's just going to be in 27 days from now.

I would like to outline where the Alaska Legislature may be able to assist law enforcement in understanding what is expected of us and to better inform the law abiding public on what is expected of them as well.

9:26:05 AM

The primary issue as you've heard the Department of Law talk about is this reconciliation or merging of definitions of marijuana; again, that we will need to know by February 24. There are existing statutes as you have heard testimony to and this slide primarily points out the differences in that definition between the statute that police officers are most familiar

with, AS 11.71.900, and then the new initiative on the far right hand side of the slide. The new initiative is much more broad and encompassing of the definition. We have been accustomed to just looking at a marijuana plant or marijuana products and saying there's only four active parts of that plant and that's the flowers, buds, leaves, and seeds. Now with the new initiative that definition has expanded and essentially includes anything that could be extracted from the plant to include the resins, compounds, and the manufacture of items from this plant. To further sort of complicate that issue is that in the ballot initiative the definition says what's not there and that's fiber produced from the stalks, oil, or cake made from the seeds of the plant, etc. So they have the word "oil" in the lower part of the initiative that is not part of the plant. I would like to give a few examples of the circumstances that law enforcement may be faced with here next month and see if it's clear to the board to hear what it is that your decision would be.

[9:28:21 AM](#)

If we could envision a law enforcement officer contacting a citizen in a public place, perhaps a street corner or an airport or a Marine Highway System terminal, or even on school grounds which aren't already posted prohibiting the possession of marijuana, or even during a traffic stop on a public roadway. So you have a 21 year old citizen, who has a container with slightly less than one ounce of a substance that appears to be a marijuana concentrate and 6 marijuana plants, only 3 of which that are mature, flowering plants. Would this be a criminal offense? If you apply the definition of the new ballot measure, the answer would be probably not. But if you apply the definitions found in current statute that aren't being modified or revoked yet, the answer would be it could be a criminal offense.

So if we add another variable to that, let's say the law enforcement officer contacts three 21-year-olds in a vehicle on a public roadway, sitting in the center console of the vehicle is a single container with just under three ounces of marijuana or marijuana concentrate and that there are 18 marijuana plants, only 9 of which are mature, flowering plants. The

citizens in the stop claim that each of them own one third of the products. Is there a criminal offense? Applying the definition of the new Ballot Measure the answer may be no. But applying current Alaska law and court rulings that describe possession which may be sole or actual possession, constructive or held jointly with others, the answer could be that this could be a criminal offense.

[9:30:18 AM](#)

Let's examine a law enforcement officer who responds to a residential apartment or home for a call for service; while there, the officer learns that from each of the four 21-year-olds that this is their primary residence. Found in the home is 24 growing marijuana plants, 12 of which are mature, flowering plants. Is this a criminal offense by one, or perhaps all four of the residents, or are they within their legal limits per the Ballot Measure?

And one additional variable to that is let's say that in addition to all these plants, there are three pounds of harvested marijuana located in the home. Does the language found in the initiative under AS 17.38.020(b), which reads that is not a criminal or civil offense under Alaska law to possess, grow, process, transport more than six marijuana plants, three or fewer being mature plants, and the possession of the marijuana produced by the plants on the premises where the plants were grown, meaning that there is potentially no maximum limit to the amount of marijuana produced by the plants in the residence where the plants are that can be harvested or retained.

[9:31:46 AM](#)

MAJOR CASANOVAS summarized as follows:

Ballot Measure 2 is going to require the Alaska State Troopers to order, and we have, over four hundred battery operated scales to hand out to Alaska State Troopers and Village Public Safety Officers so that they may be able to accurately weigh marijuana and marijuana concentrates when encountered. We intend to produce a PowerPoint presentation to our troopers as to the policies for enforcement of this new law but we still need your assistance in clarifying some of the

conflicting and ambiguous language before February 24, which will assist us in designing those policies. Our Alaska law enforcement officers and the vast majority of Alaska's general public wish to comply with the laws which are enacted, but we need your direction and support in making those laws understandable and enforceable and to later withstand judicial review.

[9:32:45 AM](#)

CHAIR STOLTZE asked if Major Casanovas had concern or optimism regarding the Legislature reaching the clear lines to allow the Alaska State Troopers to administer justice.

MAJOR CASANOVAS replied that the initiative was certified two months ago and there is one month left. He noted that there is at least one bill moving forward. He revealed that the Department of Public Safety has met with several other state departments and he remains optimistic that the department can have some language reconciliation prior to February 24.

CHAIR STOLTZE asked if the initiative is similar to the Miranda Ruling which had a lot of opposition or concern about it and it eventually shook out. He inquired if the initiative has to be tested by arrest.

MAJOR CASANOVAS answered that his hope is that by putting the time upfront in getting the definitions clarified so that law enforcement knows what the rules are, there will be less long term, expensive litigation and heartache from citizens and the judiciary. He said he thinks if we just burn the candle at both ends right now, perhaps a lot of consternation, anxiety, and expense can be avoided down the road.

CHAIR STOLTZE commented that Major Casanovas holds a common view.

[9:34:55 AM](#)

SENATOR MCGUIRE remarked that there has been a narrow focus on what is the definition of marijuana. She stated that from a broader view, the reason for laws pertaining to alcohol, marijuana, and other drugs is due to the mind altering effects on human beings that may or may not create public safety or other types of threats or concerns within a community. She asserted that the Legislature in many cases has been forced to go back and reevaluate the state's relationship with marijuana. She explained that the initiative has tried to carve out one

area, but in doing so the initiative has thrown the bigger, broader issue on the Legislature's lap.

SENATOR MCGUIRE said she is looking for the Department of Safety's point of view on the following:

- How does the department view marijuana?
- How do the officers view marijuana?
- What is marijuana's placement in Alaska's communities?
- What is marijuana's placement in society?
- Where do you think the Legislature should come down in terms of the regulation of marijuana?
- What are the potential harms and threats to human beings?
- Where are the places you are seeing potential threats?
- Are your concerns in certain parts of the state?
- Are your concerns more on the manufacturer and distribution?
- Are you seeing physical crimes occur alongside marijuana at a rate that is disproportionate to other mind altering substances?
- What are the kinds of things from a public safety point of view should the committee know?

[9:37:27 AM](#)

MAJOR CASANOVAS replied as follows:

The points that the Department of Law made; for example, where the line should be drawn between the current understanding of marijuana as a 6A controlled substance: flowers, seeds, buds, leaves? How do we cross that next bridge that apparently the voters supported in this ballot initiative to expand that to things that are a lot higher in concentration of THC? How do we bridge that? Do we say that there is a demarcation point there or do we not? Do we say that anything, everything from a marijuana plant is going to be legal in some quantities or not? That is the crux of the matter and I'll have to defer to the expertise of the State Medical Officer in regards to the toxicity and the impacts upon people and those sorts of things. But right now law enforcement is very focused on the difference between a Schedule IIIA controlled substance, which is more serious than a 6A, and the IIIA is hashish, hash oil, and it's Tetrahydrocannabinols and those are considered at this

point to be more serious and we've been very focused on drawing the distinctions between those two for approximately 30 years now in those statutes and now to sort of merge them all together based on this ballot initiative is the thing that we are struggling with in law enforcement.

[9:39:24 AM](#)

SENATOR MCGUIRE stated that she is interested in creating policy that reflects common sense and that responds to the kinds of challenges that are out there. She noted that Major Casanovas made a point between Schedule III and 6A drugs; but, to the average public person, they don't really understand all of that, what matters is the public safety part of it. She pointed out that over two years of hearings with detailed testimony occurred when the Legislature lowered the blood-alcohol to 0.08 for driving under the influence. She specified that the blood-alcohol change was made not because the Legislature could, but because driving at 0.10 was more of a threat to public safety than 0.08. She said law enforcement is on the ground dealing with people who distribute and use marijuana. She asked what Major Casanovas is seeing that the committee should be concerned about. She conceded that everyone can agree that the public safety issue of young people using marijuana is not something the State of Alaska should encourage, but as the Legislature moves into the issue of adults 21-and-over using cannabinoids, where should the Legislature be alarmed, in the ounces or the concentrates? She asked that more specific testimony be provided in the future where officers observe a person's behavior under the influence of cannabinoids. She reiterated that the Department of Public Safety is on the ground, responding to people under the influence of marijuana and the department can really help the Legislature.

[9:41:12 AM](#)

SENATOR HUGGINS joined the committee meeting.

MAJOR CASANOVAS replied that he will certainly discuss with his supervisors as to what it is that the department might be able to do to answer Senator McGuire's question.

CHAIR STOLTZE commented that the committee will look forward to the detailed follow up.

SENATOR WIELECHOWSKI stated that he appreciates the examples that Major Casanovas gave and his comments. He noted that there is a strong desire to get this right on behalf of the

Legislature. He conceded that there clearly are inconsistencies between the law and the initiative; but, the Legislature is going to try to fix it and get it right. He remarked that the Legislature will possibly miss something when enacting the law.

CHAIR STOLTZE commented that it is likely.

SENATOR WIELECHOWSKI replied that he agreed. He remarked that the enforcement should be to enact the will of the people. He said enforcement should not be to say, "Well, under the old law you have one plant too many in your car, but under the initiative that's okay;" that's the will of the people, the people have spoken. He asserted that the enforcement policy should be to follow the will of the people.

SENATOR MCGUIRE affirmed that Senator Wielechowski made a good point that the Legislature's job is to enact the will of the people. She asserted that an exception occurs where there is a public safety threat. She agreed with the scenario presented as to why a person should be charged with a felony rather than violation or misdemeanor for having one plant more. She specified that her intent is to get at case examples where the Department of Safety is really concerned and where the Legislature should draw the bright-lines.

CHAIR STOLTZE commented that he is hoping to direct the committee's attention to the Walker administration presenting what Senator McGuire is asking for. He noted that what the committee is debating usually occurs during the bill wrap up.

[9:44:57 AM](#)

SENATOR COGHILL said one of the questions the Legislature is wrestling with is to tell when somebody is impaired using marijuana.

MAJOR CASANOVAS replied that arrest for impairment depends on the officer doing the following:

- Observes vehicle maneuvers that leads to a stop.
- Odor detection during initial encounter.
- Asks the driver for a verbal explanation on his or her condition and what they might have consumed.
- Have the subject, if willing, participate in a series of field sobriety tests.
- Use a portable breath testing device to determine if alcohol is involved.

MAJOR CASANOVAS continued that if there is no evidence of alcohol and the person still appears to exhibit all the symptoms and signs of being under the influence of something, whether that is a prescription or illicit drugs, the officer takes all of the previously noted field observations into consideration to make the decision whether to arrest or not. He explained that once an arrest is made, then a consent for a blood draw from the subject or a search warrant is obtained for a blood draw from the subject to try to be able to later identify what substances may or may not have been onboard the person that would have resulted in the impairment.

He specified that an officer in the field cannot ascertain whether a person's impairment is marijuana and marijuana only in addition to identifying whether marijuana is comingled with alcohol or prescription drugs. He explained that there is not a field test or a breath test device that would at this point be available that would tell an officer the level at which a person might be impaired by marijuana alone.

[9:47:46 AM](#)

SENATOR COGHILL responded that he just wanted to get the information as a starting point for discussion.

CHAIR STOLTZE asked for the Department of Public Safety to provide a narrative which will be useful all the way through the committee process as well as the floor. He requested that the department submit an official document that identifies their objective and subjective applications for determining impairment.

SENATOR HUGGINS noted that Senator Wielechowski's statement regarding "will of the people" is important. He commented that if a parallel to alcohol is used with marijuana, what are the complicating enforcement factors when a person is prohibited to use alcohol or marijuana by a court case.

[9:49:34 AM](#)

MAJOR CASANOVAS answered that the difficulty for law enforcement will be if the officer is not provided benefit of the subject themselves admitting or outlining what it is that they have been taking or any witnesses to provide that information. He said there is very minimal information available to the officer in the field for trying to isolate whether or not marijuana or a concentrate or something was used by the subject that may put them in violation of their conditions of release or conditions

of probation; it is a hurdle for us to overcome in the field with marijuana.

SENATOR HUGGINS noted that there has been a major influx of marijuana going into states that border Colorado. He asked what would happen from an enforcement perspective if Wasilla decides that they are not going to participate in the marijuana process and neighboring cities like Anchorage or Palmer decide not to opt out.

[9:51:26 AM](#)

MAJOR CASANOVAS replied that based upon discussions he has had with the Department of Law, a person 21 and older will have the right to possess and transport marijuana in public. He noted that he has not heard that a community can actually put up a fence for marijuana as is done with alcohol. He said he believed that the initiative is going to, in essence, disallow a community from prohibiting possession; but, communities can regulate or ban marijuana cultivation, manufacturing, testing, and retail sales.

CHAIR STOLTZE asked if marijuana equates with alcohol as to whether there is transferability in areas that are "damp," "wet" or "dry."

MAJOR CASANOVAS surmised that there is no transferability because even though communities could vote against the possession or importation of alcohol into their communities, as about 108 communities currently do, the marijuana initiative appears to say that people will have the right, up to an ounce, 21 years of age, to have possession of marijuana when they come into the city limits of communities that do not allow the possession or importation of alcohol.

CHAIR STOLTZE announced that representatives from the Department of Revenue will testify before the committee.

[9:54:31 AM](#)

JERRY BURNETT, Deputy Commissioner, Alaska Department of Revenue, Juneau, Alaska.

KEN ALPER, Director, Tax Division, Alaska Department of Revenue, Juneau, Alaska.

BRANDON SPANOS, Deputy Director, Tax Division, Alaska Department of Revenue, Anchorage, Alaska.

MR. ALPER noted that Mr. Spanos oversees the excise tax group which is the group that will be charged with overseeing any marijuana taxation statutes. He said the initiative is a fairly lengthy piece of law, about 8 pages long and taxation is fairly brief, approximately a half of a page. He revealed that the Department of Revenue has been working with the ABC Board and other agencies from the beginning to make sure that the transition is relatively seamless. He asserted that the tax portion of the law is a relatively straight forward corner of the overall marijuana initiative.

He stated that the Department of Revenue is expected to collect \$50 per ounce. He said the transfer will occur at the first transaction from the grower or cultivator to the manufacturer or retailer. He specified that the law is fairly clear that the plant itself, the useable part, will be taxed at the cultivation facility and not a manufactured concentrate or anything else in those lines. He noted that the follow up to the taxation section in the statute is that differential taxes on different parts of the plant can be established if so chosen, but the \$50 per ounce is the baseline position.

9:56:16 AM

He revealed that the Tax Division administratively collects taxes throughout the state, including: alcohol, tobacco, motor fuels, vehicle rentals, and tires. He set forth that the Department of Revenue anticipates that the marijuana taxation functions will be handled inside of the department's excise tax group. He asserted that adding marijuana taxation is well within the department's competency to add another one. He shared that the department's one concern is to maintain taxation on the wholesale or producer level as is done with tobacco and alcohol. He stated that taxation at the individual retailer level would impose a much more complex administrative burden on the department.

He revealed that preliminary revenue estimates from the department's economic research group is \$5 million to \$20 million in the first full year of taxation and regulation of marijuana. He noted that the relatively broad revenue estimate is attributed to some inherent unknowns such as the quantity and volume of current marijuana users in the state. He reported that the biggest variable is what proportion of the current cohort of marijuana smokers and consumers are going to transition from illegal to the legal tax regulated market. He noted that the only points of data were from Colorado and Washington where robust and fully functional medical marijuana industries and

dispensaries were operating with marijuana that was less expensive than the legal recreational facilities. He explained that conversion rates have been relatively low in Colorado and Washington. He pointed out that Alaska does not have a fully developed medical marijuana industry despite the fact that medical marijuana has been legal and on the state's books for some years.

MR. ALPER stated that tax enforcement is widely believed to be a good way of catching and prosecuting law breakers that might be hard to catch in other ways. He said the Department of Revenue envisions working with the licensing agencies; for example, if a selling facility after inspection is found to have seven pounds of marijuana in their possession and they can't prove from whom they bought it and the taxes were paid when they got it, the Department of Revenue has a tax enforcement case with relatively robust fines as well as the \$50 an ounce tax itself. He specified that the Department of Revenue's Criminal Investigations Unit works not just for the Tax Division, but for the Alaska Permanent Fund and the Child Support Enforcement Agency, will be working with the department to make sure that marijuana taxes are collected. He revealed the fact that Al Capone did not go to jail for being a gangster, he went to jail for not paying his income taxes.

[9:59:16 AM](#)

He stated that he fully expects that the Legislature will have a robust and complex role this Session. He surmised that at least one bill will be passed. He declared that the Department of Revenue will not jump-the-gun and start a regulatory process until the department receives direction. He noted that the Department of Revenue is under a requirement to finish the marijuana regulations by November, a solid seven months after the Session. He stated that the Department of Revenue is confident that the regulatory process will be completed well in advance of the deadline.

CHAIR STOLTZE related that the Department of Revenue projected tax revenues to be \$5 million to \$20 million. He asked what the department anticipates for transactional costs for implementation within the department.

MR. BURNETT replied that the transactional costs are going to be small, assuming that taxation continues at the wholesale level. He specified that with the other excise taxes, the transactional costs will amount to less than one fulltime employee.

SENATOR COGHILL asked if the tax scheme methodologies in Colorado or Washington were reviewed for guidance.

MR. ALPER replied yes. He noted that other jurisdictions were taxing at the retail level which makes the tax process more complex.

MR. SPANOS added that the Tax Division has looked at Colorado and noted that he has a meeting with their contractor to assist the division in developing their software to go over Colorado's tax structure in detail. He stated that there does not seem to be a lot that's going to be useful from Colorado's tax return. He said the tax and tax return will be fairly simple. He said the Tax Division already has a draft-return that taxes ounces at a certain rate. He noted that as Mr. Alper had already stated, the Tax Division has an opportunity to tax different parts of the plant at a different rate and that's the multi-complex part of the return.

SENATOR COGHILL remarked that the committee is still trying to figure out what does an "ounce" mean. He specified that "ounce" could be the "plant" or the "derivatives." He asked how the Tax Division will interpret "ounce." He noted that Colorado is bar-coding each plant and asked if the state will do the same or use an aggregate methodology. He added that the Legislature will continue to discuss the marijuana regulation scheme and noted that the ABC Board is currently reviewing taxation schemes. He asked what would be the best and cleanest way for the Tax Division to tax marijuana.

[10:02:56 AM](#)

MR. ALPER answered that from the point of view of the Tax Division, an ounce taxed will be the plant matter that is being sold for future consumption. He detailed that within the cultivation facility, there might be the following: trimming, packaging, creating of the package, whatever that is to which the plant will be transferred. He added that there will be a scale, stamp, and some sort of mechanism to prove that the tax has been paid. He asserted that he does not envision the issue of concentrates being at all relevant to the Tax Division's definition of an ounce for tax purposes, it's purely going to be the plant itself.

SENATOR COGHILL replied that the committee will have to address the retail-level because the plant value at a stem is one thing, but the plant value in its concentrate is a very different thing. He summarized that there are possession issues as well as

value issues that the committee will have to think about. He noted that the ABC Board is probably addressing the possession and value issues. He stated that value will be an issue at the Tax Division. He summarized that once a plant goes out and if taxation is totally wholesale based, which looks like the initiative wants the Legislature to do, value will likely be placed on an individual plant.

10:04:14 AM

MR. BURNETT set forth that the Tax Division will not have a problem with value taxation at the first transaction that is based upon ounces. He noted that the initiative specifies ounces. He stated that the Tax Division does not, for the most part, do retail taxes at the state level in Alaska. He mentioned that there is a question as to whether from the Legislature's perspective that taxability be reserved for local government entities as is currently done with alcohol and tobacco.

SENATOR COGHILL concurred that many communities have sales taxes. He agreed that retail taxation probably more properly belongs to the local governments.

MR. ALPER added that the Department of Revenue has learned that the concentrates in other states tend to be manufactured from lower value parts of the plant, things that might not be usable by the traditional smokables market. He detailed that a large amount of lower value product is being used to generate a small amount of concentrate and there would be consideration for a different tax rate or different tax regime on the lower value portion of the marijuana plant.

10:06:00 AM

CHAIR STOLTZE noted that Mr. Alper has been involved with a lot of tax issues. He asked if Mr. Alper has considered himself to be pretty knowledgeable with marijuana as well.

MR. ALPER responded that when he was asked to be the Director of the Tax Division, marijuana was not part of the conversation nor did he realize that it was going to be part of the job. He stated that he does not consider himself to be much of an expert. He explained that he is somewhat aware of the marijuana industry, but he noted that he has had to learn a lot during his two months on the job.

CHAIR STOLTZE noted that Mr. Alper is a part-owner of a bakery-confection shop.

MR. ALPER answered that is true.

CHAIR STOLTZE asked if Mr. Alper or his family have looked at the possibility of being involved in the marijuana edibles portion.

MR. ALPER replied that he and his wife were aware of the initiative and have had almost joking conversations about edibles. He specified that their realization early on was that they would need to see what the rules are going to be and would need to run the economics. He specified that he and his wife are by no means opposed, but by no means gun-ho. He asserted that ultimately in his role as Tax Director that it might not be appropriate. He said even if he and his wife thought marijuana edibles might be a good business decision, they might opt out just to avoid any appearance of conflict.

CHAIR STOLTZE asked to confirm that Mr. Alper has had discussions about the business opportunities.

MR. ALPER answered that he has had informal discussion with his wife who is his business partner.

CHAIR STOLTZE asked to confirm that Mr. Alper has not had discussions with any other people as well.

MR. ALPER replied that he does not understand the question.

[10:07:47 AM](#)

CHAIR STOLTZE asked if Mr. Apler and his wife have talked to another person at any time about a marijuana business opportunity.

MR. ALPER replied that he and his wife have had informal discussions at a party or casual conversations. He noted that Chair Stoltze is not the first person who has asked if he and his wife would be interested in getting into the marijuana industry due to their bakery business.

CHAIR STOLTZE asked to verify that Mr. Alper's business enthusiasm is very damp for marijuana.

MR. ALPER answered that on a scale from 1 to 10, his enthusiasm is a 4.

SENATOR HUGGINS stated that his assumption is that THC can be produced synthetically. He asked if THC can indeed be produced

synthetically and economically. He inquired if the Legislature should have a concern for synthetic THC, particularly from a taxation standpoint where inexpensive THC might be incorporated into edibles.

[10:09:17 AM](#)

MR. BURNETT answered that a synthetic THC would be illegal. He specified that there are different laws that allow the Department of Revenue to look at whether a business is using artificial or imitation substances.

SENATOR HUGGINS pointed out that certain states license ethanol dealers to produce alcohol. He asked if the Department of Revenue has considered quasi-legalized THC production that is similar to "moonshine" produced in the alcohol industry.

MR. ALPER replied that initiative allows a person to grow marijuana and not be taxed or regulated. He specified that growing larger quantities of marijuana than what is specified is illegal. He stated that tip-offs to the department from legally licensed growers will hopefully be one of the best enforcement mechanisms.

[10:12:03 AM](#)

CHAIR STOLTZE asked if the Department of Revenue has considered progressive taxes that increases based upon value.

MR. ALPER answered no. He said he is not interested in testing or comparing relative quality of marijuana and declaring that a certain product is worth more.

SENATOR HUGGINS asked what the Department of Revenue anticipates what the value of one ounce of marijuana will be.

MR. ALPER answered that he did not know what the value of an ounce of marijuana in Alaska is today. He said he knows that marijuana prices are regionally distinctive due to a lot of local regional economies.

MR. SPANOS remarked that the Tax Division has done the research, but he does not have the data in front of him. He explained that he has looked at Alaska's value via the internet and the Tax Division does have an idea.

MR. ALPER stated that he anticipates, because of the federal illegality on the restrictions on transportation that go along

with pricing, that Alaska will have a series of regional "locally grown" economies with differential prices.

CHAIR STOLTZE remarked that finding Alaska's current marijuana prices on the internet is interesting.

SENATOR HUGGINS asked if the state should look at progressive tax due to higher regional values.

10:14:53 AM

MR. BURNETT remarked that higher regional prices should be taxed locally. He said whether the state should be taxing marijuana at a higher rate or local communities ought to be looking at taxing higher values is certainly open to discussion.

MR. ALPER opined that local pricing discrepancies is quite likely due to there not being locally grown and available supply. He surmised that marijuana is possibly being brought in illegally and that activity is something other agencies would need to be looking into.

SENATOR HUGGINS pointed out that there has been speculation on the state having some sort of banking system in addition to transportation challenges. He asked to confirm that federal agencies do not allow marijuana to be transported on airlines. He inquired if the state should be involved with transportation.

MR. BURNETT replied that Senator Huggins' query is not a function of the Department of Revenue, but he believes that addressing both banking and transportation is a rational question. He remarked that both the Administration and Legislature should be looking at banking and transportation.

MR. ALPER stated that the Tax Division would prefer that people not bring large amounts of cash to pay their excise taxes.

10:16:48 AM

SENATOR MCGUIRE commented that saying higher pricing based upon marijuana being a black market item is not necessarily true. She pointed out that marketing for Copper River sockeye salmon is an example where higher value is placed upon a commodity by purchasers.

SENATOR MCGUIRE addressed taxation and surmised that like oil taxes, marijuana taxes will evolve over time. She opined that marijuana's initial taxation will not be the only way forever.

SENATOR MCGUIRE said if marijuana becomes a huge commercial industry, lots of people will be talking about different way to tax it.

She stated that her question to the Department of Revenue pertains to synthetics. She mentioned that Senator Huggins made a good point when he referenced synthetics from a public safety standpoint. She remarked that synthetics are illegal, but noted that the initiative made edibles legal.

She asked that the Department of Revenue address the following:

- Confirm that marijuana will have a chain of custody that will verify taxation in a way that is similar to a tobacco stamp.
- Verify that a chain of custody will monitor THC and synthetic THC levels as well as follow marijuana into the edibles.
- Corroborate that taxes appropriately provide for the social services associated with marijuana.

MR. BURNETT explained that the Department of Revenue will be working with the ABC Board to set up the regulations. He added that the ABC Board will be on point to address the structure that Senator McGuire noted.

CHAIR STOLTZE concurred that all kinds of evolutions will occur with marijuana. He pointed out that with cigarettes, the Legislature and local governments have raised the taxes with the stated policy purpose to make sure tax revenue and usage are reduced. He opined that marijuana may evolve into something similar to cigarettes.

[10:20:49 AM](#)

CYNTHIA FRANKLIN, Director, Alcoholic Beverage Control Board, Alaska Department of Community and Regional Affairs, Anchorage, Alaska, noted that Colorado has "medical" and "retail" marijuana pricing. She revealed that medical-pricing was \$150 an ounce and retail-pricing was \$385 an ounce. She specified that Colorado's retail-marijuana is taxed at a rate of about 25 percent in addition to sales and local taxes while medical-marijuana is not subject to many of the retail taxes. She said the ABC Board urges the Legislature not to go down the path of creating two separate types of marijuana in Alaska. She pointed out that Colorado's medical card holders continue to grow as people get cheaper marijuana. She stated that Alaska has the advantage of starting with a blank slate.

10:23:41 AM

MS. FRANKLIN revealed that Colorado indicated that definitions are very important. She asserted that the role for the Legislature is to define terms. She said the ABC Board can work with the definitions that the Legislature creates when the board is looking at the regulations.

She pointed out that the term "edibles" is not defined in AS.17.38 and the ABC Board would like to see a bright-line regarding adulterated edibles. She explained that adulterated edibles is a separate category where existing food products are sprayed with marijuana and repackaged. She noted that Colorado's public health and safety representatives found edibles to be particularly objectionable and particularly appealing to children. She suggested that a bright-line definition for edibles could say that it does not include adulterated products, meaning edibles must be made from scratch. She noted that members of the early aspects of Alaska's marijuana industry unilaterally agreed that adulterated edibles was not what they had in mind where something already made was sprayed down.

She addressed synthetic cannabinoid and explained that synthetic THC is a myth. She divulged that there is no THC in a synthetic cannabinoid, the term was used as a marketing ploy and the elicit substance is not related to marijuana at all. She said synthetic cannabinoid is a cocktail of various sundry drugs that is marketed as "synthetic marijuana" to appeal to young people who were looking for a high that they thought was legal. She opined that synthetic cannabinoids is off the table and the discussion of marijuana is really about a natural product that is grown and what can be done with the plant itself.

10:26:47 AM

CHAIR STOLTZE remarked that the initiative's sponsors testified about dosages and controlling dosages. He pointed out that a half liter of vodka with a non-resealable, pop-off cap would be frowned upon. He noted that while in Denver he had taken photos of marijuana edibles and noted that one cookie had 70 milligrams (mg) of THC, or 7 doses. He said he does not smoke marijuana and hypothetically asked if someone has the self-control to just nibble off a single dose from the cookie. He inquired if the ABC Board would have a regulatory and policy role in delineating dosages and controlling packaging.

MS. FRANKLIN replied that several elements are important to assure safe recreational use of edibles. She noted that the

products Chair Stoltze saw in Colorado were due to come off the shelves on January 31, 2015. She said Colorado went back and rewrote their rules on edibles to take effect on February 1, 2015. She explained that Colorado revised rules around edibles and created a serving size. She said the debate in the stakeholders group that made the new edibles rules was whether the THC serving size should be 5 mg or 10 mg. She revealed that Colorado settled on 10 mg and asserted that Alaska could have 5 mg. She explained that the reason for a 5 mg serving size is based upon Colorado's public education program on marijuana edibles to "Start low and go slow."

CHAIR STOLTZE asked if a 5 mg serving size would be a consumer advisory or legal imperative. He remarked that serving size is not indicative of what a person actually eats.

[10:29:48 AM](#)

MS. FRANKLIN replied correct. She pointed out that alcohol has rules on serving sizes and serving sizes for marijuana edibles could be legislated.

CHAIR STOLTZE asserted that there must be an imperative to lead the Legislature to set serving sizes relating to public health or public safety justifications. He stated that he does not want to emphasize what the Legislature is able to do, but why the Legislature should do it and what public safety aspects there are.

MS. FRANKLIN explained that the reason why Colorado settled on 10 mg was basically the scientific basis of a person who has not previously used edibles, what type of serving of THC would begin to have the psychoactive effect and how the person would react. She detailed that a person will feel uncomfortable after eating or smoking too much marijuana. She noted that there really were not any scientific effects that were brought forward in terms of poisoning in the equivalent of alcohol poisoning. She pointed out that ingesting too much alcohol certainly can lead to death and that has not been seen with marijuana; however, people in Colorado and Washington have been admitted to emergency rooms with uncomfortable sensations due to marijuana's psychoactive effect. She stated that the 5 mg serving size was determined to be a small serving size where someone will feel the psychoactive effect.

CHAIR STOLTZE stated that the Legislature has an imperative not to jump into a "Reefer Madness" mode, but to actually

concentrate on what the empirical science, data, and public safety aspects are.

10:32:14 AM

MS. FRANKLIN opined that the 5 mg serving size is a reasonable serving size with a maximum of 50 mg per package that included a clear demarcation. She explained that on February 1, Colorado will require a chocolate bar to have a clear demarcation for 10 mg squares.

CHAIR STOLTZE asked to verify that rather than a large block, a chocolate bar would have to have scorings that shows 10 mg.

MS. FRANKLIN answered correct. She detailed that Colorado has a maximum of 100 mg per package. She stated that there is no reason why Alaska could not have a 50 mg maximum per package.

CHAIR STOLTZE related that when he was in Colorado he noticed the "Peanut Buddha Buddha" bar with 210 mg.

MS. FRANKLIN replied that the product Chair Stoltze noted will be removed from stores on January 31. She detailed that under Colorado's new rules, a chocolate bar that contains more than [100] mg cannot be sold.

She addressed childproof packaging in Colorado and suggested that Alaska adopt a similar rule where an edible packaged in a 5 mg serving size does not require childproof packaging, but an edible in a 50 mg package would have to be resealable to childproof. She noted that she toured a company that made fizzy THC drinks that had to change their bottling machine to incorporate childproof caps.

She pointed out that prior to Colorado going to recreational marijuana in January 2014, the state catered to a medical marijuana market. She explained that the medical marijuana market tends to want and demand higher concentration of THC. She noted that Colorado experienced problems when the higher THC products sold to the medical marijuana market was consumed by individuals in the recreational market that had lower tolerance levels. She asserted that Alaska is ahead of the game by not having an established medical marijuana market.

10:35:01 AM

She addressed the limitation of products appealing to kids and noted that there is a trifold role for the Legislature, regulators, and the local governing bodies. She said Washington

has a system where edibles require a pre-approval process. She detailed that manufacturers or processors submit products and plans to Washington's liquor control board, products clearly marketed towards children are not permitted. She said Washington has a stopgap that prevents the edibles market from being entirely gummy-bears and silly-straws.

MS. FRANKLIN called attention to warning labels and noted that Colorado's are fairly elaborate. She pointed out that warning labels are required for alcohol and she anticipates the same for marijuana edibles. She recommended that Alaska uses a warning label that clearly identifies the product and suggested that a symbol be associated with the warning. She detailed that a warning symbol will work for people who cannot read English and can immediately associate the product as being infused with marijuana.

She noted that Major Casanovas made a good point on the definition of marijuana in the initiative. She asserted that the Legislature has to be very careful about altering the definition too severely because the only way to make edible products is to use marijuana concentrates. She said incorporating smashed marijuana leaves into a brownie is not going to taste very nice in addition to not having the desired psychoactive effect. She explained that marijuana must be heated for there to be a psychoactive effect. She specified that putting marijuana into an edible requires the marijuana to be heated in an oil base to make a concentrate. She noted that bakeries in Colorado make what is called "cannabutter" where marijuana is infused into butter over a slow heating process. She asserted that the marijuana edibles industry will be eliminated if "concentrates" is taken out of the marijuana definition and dialed back to the Title 11 definition with just stems, flowers, and buds.

She noted that the definition referenced by Major Casanovas had a strange portion at the end that says marijuana does not include "oil." She pointed out that "oil" is one word used to describe a product that is a result of solvent based extraction. She revealed that solvent extractions in homes has been the cause of hash oil explosions.

10:39:49 AM

CHAIR STOLTZE commented that some of the home extractions using solvents make meth labs look tame.

MS. FRANKLIN replied that the Alaska contingency in Colorado saw a couple of explosions on video.

CHAIR STOLTZE asked to specify that Ms. Franklin is referring to unregulated extractions occurring at home.

MS. FRANKLIN answered yes. She said the solvent extraction in homes is not a particularly successful method. She asserted that solvent extractions in homes is something that Alaska does not want, but governing bodies should be aware of. She specified that licensees will not use the nefarious extraction methods used in homes. She pointed out that licensees in Colorado are required to use closed-loop extraction systems for solvent or CO2 extractions with certain safety precautions in place.

She set forth that addressing marijuana regulations is a very difficult area due to figuring out where the rules around marijuana stop and the existing rules begin. She pointed out that the rules in Title 4 for alcohol are in one place and that alcohol is not in the Controlled Substances Act. She said officers do not have to look up two different codes and try to figure out which one the substance falls in. She noted that Title 4 has many misdemeanor and felony crimes that apply to individuals who are not licensed or regulated by the ABC Board, but who are dealing with a dangerous substance. She summarized that alcohol is a regulated substance, but not a controlled substance.

[10:43:03 AM](#)

She revealed that edibles are 40 percent of the recreation market in Colorado. She stated that due to smoking prohibitions, edibles are likely to be the most commonly purchased product for tourist consumption.

She revealed that labs are big in Colorado. She said she does not know where the labs are going to come from in Alaska, but labs are essential to certify the THC content for edible serving size. She related that Alaska was advised to have its labs up and running before edible licenses are issued.

CHAIR STOLTZE declared that the committee will have the Alaska Department of Environmental Conservation (DEC) address the committee. He noted that the initiative's pamphlet referred to "crime lab" and that does not make sense.

MS. FRANKLIN added that the ABC Board works a lot with DEC regarding alcohol regulation.

MS. FRANKLIN stated that Alaska should have reasonable advertising limits and public education about marijuana rules, especially around edibles. She noted that Colorado has developed a good-to-know public education campaign and basically offered to provide the program to Alaska for free.

She asserted that local government control is important. She noted that an earlier question referenced not being able to ban possession is based on the *Ravin v. State* decision and not by the initiative. She explained that the Title 4: Local Option Law allows communities to ban transport, sale, manufacturing, and distribution, but does not ban possession of alcohol. She detailed that Local Option 4 applies to municipalities and Local Option 3 applies to villages. She disclosed that the Title 4: Local Option Law is the best that a community is going to get to. She noted that local governments in Colorado issued their own licenses in addition to state licenses. She suggested that consideration be given to allow local governments to issue licenses, a question that has been posed by Alaska municipalities.

She stated that banking and licensing will be presented at a later committee meeting. She noted that many states in issuing their medical licenses have been sued because of their licensing selection process. She recommended that the state look carefully at its licensing structure.

CHAIR STOLTZE asked that Ms. Franklin address in the future whether licenses should have an economic vested value or should another commercial fishing entitlement type license or a taxi medallion be created. He asserted that licensing merits discussion due to its impact on barriers for average people versus big businesses.

10:46:45 AM

JEFF JESSEE, Chief Executive Officer, Alaska Mental Health Trust Authority, Anchorage, Alaska, stated that despite claims that marijuana may not be as dangerous as alcohol, marijuana is: not safe, good for a person, and is addictive. He revealed that adolescents that begin smoking marijuana have a 14 percent addiction rate, adults at 6 percent. He added that many of the Trust's beneficiaries have an issue with marijuana as well. He revealed that 2.7 million Americans are addicted to marijuana.

He asserted that ending marijuana's prohibition did not require the creation of a large scale commercial industry to promote the increased use and normalization of marijuana. He noted that the

Rand Corporation has developed a list of 12 different ways that one could decriminalize marijuana and the most extreme is exactly what the initiative proposes to do.

10:48:35 AM

MR. JESSE pointed out the following:

- The black market is not going to go away.
 - Small business owners are not going to ban together and open a business.
 - Entry into the marijuana industry will require more than \$100,000 in cash.
- Marijuana will not be regulated like alcohol.
 - Infusing alcohol into edibles is illegal.
 - THC will be allowed to be infused into edibles.

He said there are many questions that the Legislature needs to consider. He asserted that the Legislature is the ultimate regulators no matter what the sponsors say. He opined that the Legislature will spend the next two sessions on the initiative; however, he noted that the Alaska Constitution provides protection from initiatives by allowing the Legislature to amend within a two year period. He pointed out that the Legislature has a right to repeal the initiative in 2017. He opined that the marijuana industry insisted on the 9 month regulatory process because they know the Legislature cannot put the "genie back in the bottle." He noted that he has spent 2 years working with the alcohol industry on overhauling Title 4 and pointed out that in many cases where the board has given licenses to unqualified candidates, licensees were "grandfathered" in. He said for the government to change the rules and eliminate a person's economic investment is not appropriate for the government.

He recommended that the Legislature seriously consider extending the regulatory process to scrutinize the following:

- Unlimited licensing.
- Licensing where the licenses have economic value.
- Population based licensing or other limits.
- Vaping.
- Child protection and childproofing.
- Advertising.
- Addressing areas in Alaska that do not have local governments.

MR. JESSE urged that the Legislature not be stampeded by the constant refrain, "The people have voted, the people have voted." He said he does not think the people had the knowledge of what the nine month regulatory process would mean and how complex the marijuana issue would be. He asserted that the Legislature would not be out of line in repealing the initiative.

CHAIR STOLTZE asked if Mr. Jesse could provide the Legislature with data on the percentage of the Trust's beneficiaries that were served through addiction programs and if he can delineate marijuana.

MR. JESSE replied that he does not have the data. He asserted that data collection is one thing the Legislature needs to look at and start collecting data for the initiative's health and legal impacts.

[10:53:41 AM](#)

There being no further business to come before the committee, Chair Stoltze adjourned the Senate State Affairs Standing Committee hearing at 10:53 a.m.