

**HB**

**59**

<TARGET><BILL>HB 59</BILL><SUBJECT>HB  
59</SUBJECT><COMM>HHSS29</COMM></TARGET>

**HOUSE BILL NO. 59**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE SEATON

Introduced: 1/16/15

Referred: Prefiled

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to marijuana concentrates; and providing for an effective date."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
4 to read:

5 LEGISLATIVE INTENT. It is the intent of the legislature in order to implement the  
6 marijuana initiative in an orderly process

7 (1) to focus on the provisions related to growth and sale of marijuana and  
8 licensing of marijuana establishments not later than November 24, 2015;

9 (2) to delay regulations relating to legal manufacture, delivery, possession,  
10 possession with the intent to manufacture or deliver, sale, packaging, or display of marijuana  
11 concentrates to not later than November 24, 2016, in response to the difficulties other  
12 jurisdictions have found in unintended consequences of regulations permitting marijuana  
13 concentrates; and

14 (3) during the period of the delay, that activities related to marijuana  
15 concentrates remain illegal and may form the basis for revocation of an establishment license

1 or for seizure or forfeiture of assets under state law.

2 \* **Sec. 2.** AS 11.71 is amended by adding a new section to article 1 to read:

3 **Sec. 11.71.092. Affirmative defense to a prosecution under AS 11.71.040 -**  
 4 **11.71.060.** In a prosecution under AS 11.71.040 - 11.71.060 charging the manufacture,  
 5 delivery, possession, possession with intent to manufacture or deliver, or display of a  
 6 schedule VIA controlled substance, it is an affirmative defense that the defendant is a  
 7 marijuana establishment registered under AS 17.38 or an officer, agent, or employee  
 8 of the marijuana establishment, and

9 (1) at the time of the manufacture, delivery, possession, possession  
 10 with intent to manufacture or deliver, or display, the marijuana establishment was  
 11 registered under AS 17.38 or the officer, agent, or employee of the marijuana  
 12 establishment was in compliance with AS 17.38;

13 (2) the manufacture, delivery, possession, possession with intent to  
 14 manufacture or deliver, or display complied with the requirements of AS 17.38; and

15 (3) if the charge is for delivery of a schedule VIA controlled substance,  
 16 the delivery was to a person who was 21 years of age or older at the time of the  
 17 delivery.

18 \* **Sec. 3.** AS 17.38.070(a) is amended to read:

19 (a) Notwithstanding any other provision of law, the following acts, when  
 20 performed by a retail marijuana store with, and permitted by, a current, valid  
 21 registration, or a person 21 years of age or older who is acting in the person's capacity  
 22 as an owner, employee, or agent of a retail marijuana store, are lawful and are  
 23 [SHALL] not offenses [BE AN OFFENSE] under Alaska law or [BE] a basis for  
 24 seizure or forfeiture of assets under Alaska law:

25 (1) possessing, displaying, storing, or transporting marijuana or  
 26 marijuana products, except that marijuana and marijuana products may not be  
 27 displayed in a manner that is visible to the general public from a public right-of-way;

28 (2) delivering or transferring marijuana or marijuana products to a  
 29 marijuana testing facility;

30 (3) receiving marijuana or marijuana products from a marijuana testing  
 31 facility;

- 1 (4) purchasing marijuana from a marijuana cultivation facility;  
2 (5) purchasing marijuana or marijuana products from a marijuana  
3 product manufacturing facility; and  
4 (6) delivering, distributing, or selling marijuana or marijuana products  
5 to consumers.

6 \* **Sec. 4.** AS 17.38.070(b) is amended to read:

7 (b) Notwithstanding any other provision of law, the following acts, when  
8 performed by a marijuana cultivation facility with, and permitted by, a current, valid  
9 registration, or a person 21 years of age or older who is acting in the person's capacity  
10 as an owner, employee, or agent of a marijuana cultivation facility, are lawful and are  
11 [SHALL] not offenses [BE AN OFFENSE] under Alaska law or [BE] a basis for  
12 seizure or forfeiture of assets under Alaska law:

- 13 (1) cultivating, manufacturing, harvesting, processing, packaging,  
14 transporting, displaying, storing, or possessing marijuana;  
15 (2) delivering or transferring marijuana to a marijuana testing facility;  
16 (3) receiving marijuana from a marijuana testing facility;  
17 (4) delivering, distributing, or selling marijuana to a marijuana  
18 cultivation facility, a marijuana product manufacturing facility, or a retail marijuana  
19 store;  
20 (5) receiving or purchasing marijuana from a marijuana cultivation  
21 facility; and  
22 (6) receiving marijuana seeds or immature marijuana plants from a  
23 person 21 years of age or older.

24 \* **Sec. 5.** AS 17.38.070(c) is amended to read:

25 (c) Notwithstanding any other provision of law, the following acts, when  
26 performed by a marijuana product manufacturing facility with, and permitted by, a  
27 current, valid registration, or a person 21 years of age or older who is acting in the  
28 person's capacity as an owner, employee, or agent of a marijuana product  
29 manufacturing facility, are lawful and are [SHALL] not offenses [BE AN OFFENSE]  
30 under Alaska law or [BE] a basis for seizure or forfeiture of assets under Alaska law:

- 31 (1) packaging, processing, transporting, manufacturing, displaying, or

1 possessing marijuana or marijuana products;

2 (2) delivering or transferring marijuana or marijuana products to a  
3 marijuana testing facility;

4 (3) receiving marijuana or marijuana products from a marijuana testing  
5 facility;

6 (4) delivering or selling marijuana or marijuana products to a retail  
7 marijuana store or a marijuana product manufacturing facility;

8 (5) purchasing marijuana from a marijuana cultivation facility; and

9 (6) purchasing of marijuana or marijuana products from a marijuana  
10 product manufacturing facility.

11 \* **Sec. 6.** AS 17.38.090 is amended by adding a new subsection to read:

12 (c) The board shall adopt regulations governing the manufacture, delivery,  
13 possession, possession with intent to manufacture or deliver, use, or display of  
14 marijuana concentrates. At a minimum, the regulations must include labeling and  
15 packaging requirements.

16 \* **Sec. 7.** AS 17.38.100 is amended by adding a new subsection to read:

17 (i) A registration issued under this section does not authorize a marijuana  
18 establishment to manufacture, deliver, possess, possess with intent to manufacture or  
19 deliver, or display marijuana concentrates or products containing marijuana  
20 concentrates.

21 \* **Sec. 8.** AS 17.38.900 is amended by adding a new paragraph to read:

22 (15) "marijuana concentrates" means an oil, liquid, or other substance  
23 created by extracting cannabinoids from marijuana through the use of a solvent other  
24 than water for the purpose of increasing the strength or proportion of the cannabinoids,  
25 but does not include hashish or hashish oil.

26 \* **Sec. 9.** AS 17.38.100(i) is repealed November 24, 2016.

27 \* **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to  
28 read:

29 TRANSITIONAL PROVISIONS: REGULATIONS. The Alcoholic Beverage Control  
30 Board established in AS 04.06.010 may adopt regulations necessary to implement the changes  
31 made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act),

1 but not before the effective date of the law implemented by the regulation.

2 \* **Sec. 11.** Sections 1 - 5, 7, 8, and 10 of this Act take effect immediately under  
3 AS 01.10.070(c).

4 \* **Sec. 12.** Except as provided in sec. 11 of this Act, this Act takes effect November 24,  
5 2016.

# Alaska State Legislature

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Juneau, Alaska 99801-1182  
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(907) 235-2921  
(907) 283-9170  
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**REPRESENTATIVE PAUL SEATON**  
Rep.Paul.Seaton@akleg.gov

## **Sponsor Statement**

### **House Bill 59**

House Bill 59 delays for no more than a year the regulations regarding manufacturing and commercialization of marijuana concentrates to allow for a smooth implementation of the initiative and charges the Alcoholic Beverage Control Board with creating regulations relating to marijuana concentrates that include labeling and packaging requirements and prohibitions on the combining of marijuana concentrates with nicotine or alcohol.

Through Ballot Measure Two the voters of Alaska approved the creation of a commercial manufacturing and retail industry for marijuana and tasked the legislature with creating the guiding regulations. The intention of House Bill 59 is to break the regulations into two units; the first to deal with the growing, manufacturing, and retail of plant products and the second relating to the extraction of compounds from marijuana into concentrates to be infused into a variety of edible and non-edible products.

This new industry will require complex regulations to ensure public safety and protect our residents against federal prosecution. We do not want to short-change the regulations that will establish growing, manufacturing and retail of basic marijuana products by tasking the regulating agency with too much in the short time span of seven months after the end of this legislative session. Regulations on marijuana concentrates have proven to be among the most complex and troublesome for other regions that have implemented similar legislation. For instance, issues arose around assumed or apparent serving sizes for edible products for those recreational users not a familiar with the effects of THC ingestion, and emergency provisions have been considered to strengthen packaging and labeling requirements in response to unforeseen medical complications.

It is important that Alaskans gain access to the products they elected through the initiative process, but it is also important that the regulations are done right so this new industry can succeed. HB 59 will not delay the commercialization of concentrates should the board have regulations ready before the end of the year, but it will allow regulations to focus first on growing and manufacturing of marijuana plants. By delaying marijuana concentrates by no more than a year, HB 59 gives the regulating agencies adequate time to create the regulations while allowing the commercialization of marijuana plants to begin on schedule.



## Coalition for Responsible Cannabis Legislation

To: Representative Paul Seaton  
From: Bruce Schulte, CRCL  
Date: February 2, 2015  
Re: Comments on HB59 – Draft P

Dear Representative Seaton;

Thank you for this opportunity to comment on HB59 (Draft P). We wish to offer the following observations:

- 1) We respectfully disagree with a portion of the Sponsor Statement. Specifically, the assertion that regulation of concentrates and edible products is overly complex and must be delayed by one year. Our organization and other advocacy groups have been in agreement all along that reasonable guidelines for packaging, labeling, and marketing are appropriate and achievable. Colorado has recently updated their regulations to address concerns over total THC content and serving size in edible products. There are currently a number of child-resistant packaging options available for use in retail stores. Most observers agree that appropriate labeling of products is both practical and achievable and we have examples in both Washington and Colorado.

In short, there already exist suitable solutions to the most controversial of issues surrounding this initiative and they have only to be codified. We contend that there is no credible reason to conclude that a comprehensive set of regulations cannot be finalized in the timeframe prescribed by this voter initiative.

- 2) This bill seeks to redefine marijuana and its derivatives. Ballot Measure 2 was very clear in articulating what products were under consideration and we believe that is what voters chose at the polls. To attempt to change those definitions now would be contrary to both the letter and intent of the voter initiative.



**CRCL**

- 3) At it's core Marijuana is an agricultural product. Each plant produces a portion of material that has a direct market (the flowers) and a significant portion of byproduct (trim) that can only be used in secondary markets (like concentrates / edibles). The ratio of the two varies however, roughly 30%-50% of the plant can only be sold to these secondary markets. Thus, to delay those portions of the industry by one year will, in effect, force growers to have to destroy 30%-50% of their harvest for lack of a market. This would make the entire (legitimate) marijuana industry unfeasible on economic grounds.

Section 17.38.090(a) States "Such regulations shall not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation unreasonably impracticable."

Since provisions of HB59 would make the growing of marijuana economically unfeasible, we submit that it would be in direct contravention of the voter initiative.

- 4) We are troubled at the inclusion of a Civil Forfeiture clause in HB59 for activities that were specifically deemed lawful by this voter initiative. The abuse of civil forfeiture laws in Alaska and elsewhere was one of the many reasons that Ballot Measure 2 passed in the first place. Just last week CNN ran several reports on the abuse of such laws in the Lower 48. We believe that to include such a provision – when 13PSUM specifically states that these activities would \*not\* be the basis for civil forfeiture – is contrary to both the letter and intent of the voter initiative.

In summary, we believe that efforts to delay all or part of this voter initiative will render a legitimate marijuana industry unfeasible and will serve only to guarantee the continuation of a marijuana black market for the foreseeable future.

We respectfully suggest that this bill be tabled as it would do a tremendous disservice to Alaskans who voted for this initiative.

Regards,

***Bruce Schulte, CRCL***

*Bruce.Schulte@gmail.com*

# Fiscal Note

State of Alaska  
2015 Legislative Session

Bill Version: HB 59  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB059-LAW-CRIM-01-30-15  
Title: MARIJUANA CONCENTRATES  
Sponsor: SEATON  
Requester: (H) HEALTH AND SOCIAL SERVICES

Department: Department of Law  
Appropriation: Criminal Division  
Allocation: Criminal Justice Litigation  
OMB Component Number: 2202

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates				
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
<b>OPERATING EXPENDITURES</b>	<b>FY 2016</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

**Change in Revenues**

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**Estimated SUPPLEMENTAL (FY2015) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2016) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Prepared By: Valerie Rose, Budget Analyst  
Division: Administrative Services Division  
Approved By: Craig W. Richards, Attorney General  
Agency: Department of Law

Phone: (907)465-3674  
Date: 01/30/2015 03:00 PM  
Date: 01/30/15

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2015 LEGISLATIVE SESSION

BILL NO. HB59

**Analysis**

This bill creates an affirmative defense for marijuana establishments who are charged with misconduct involving a controlled substance in the fourth, fifth, or sixth degrees. The affirmative defense applies to both the marijuana establishment as well as its employees and may be used if the marijuana establishment was registered pursuant to 17.38 (An Act to tax and regulate the production, sale and use of marijuana), in compliance with the requirements of 17.38, and delivered marijuana to a person who was 21 years of age or older.

The bill also defines "marijuana concentrates" to include an oil, liquid, or other substance created by extracting cannabinoids from marijuana using a solvent other than water. This definition specifically excludes hashish and hashish oil. Additionally, the bill does not permit marijuana establishments to manufacture, deliver, or possess marijuana concentrates until November 24, 2016.

The Department of Law does not anticipate a fiscal impact.

# Fiscal Note

State of Alaska  
2015 Legislative Session

Bill Version: HB 59  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB059-DCCED-ABC-01-30-15  
Title: MARIJUANA CONCENTRATES  
Sponsor: SEATON  
Requester: (H) HSS

Department: Department of Commerce, Community and  
Economic Development  
Appropriation: Alcoholic Beverage Control Board  
Allocation: Alcoholic Beverage Control Board  
OMB Component Number: 2690

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates				
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
<b>OPERATING EXPENDITURES</b>	<b>FY 2016</b>	<b>FY 2016</b>					
Personal Services							
Travel							
Services	60.0						
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>60.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

1004 Gen Fund	60.0						
<b>Total</b>	<b>60.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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**Estimated SUPPLEMENTAL (FY2015) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2016) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? **YES**  
If yes, by what date are the regulations to be adopted, amended or repealed? **11/24/16**

**Why this fiscal note differs from previous version:**

Not applicable, initial version.
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Prepared By:	Cindy Franklin, Director	Phone:	(907)269-0351
Division:	Alcoholic Beverage Control Board	Date:	01/30/2015 09:00 AM
Approved By:	Fred Parady, Acting Commissioner	Date:	01/30/15
Agency:	Department of Commerce, Community, and Economic Development		

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2015 LEGISLATIVE SESSION

BILL NO. HB059

### Analysis

HB059 separates concentrates and edibles from the general definition of marijuana. Passage of this bill will require additional enforcement activities and training of enforcement personnel. The separation of concentrates and edible products from the general definition of marijuana will require additional regulations, which will be developed under contract using a regulations attorney. This fiscal note includes \$50.0 for contractual legal services, and \$10.0 for additional training and enforcement activities.

# Fiscal Note

State of Alaska  
2015 Legislative Session

Bill Version: HB 59  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB059-DOA-OPA-02-27-15  
Title: MARIJUANA CONCENTRATES; LICENSES  
Sponsor: SEATON  
Requester: House Health and Social Services

Department: Department of Administration  
Appropriation: Legal and Advocacy Services  
Allocation: Office of Public Advocacy  
OMB Component Number: 43

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2016 Request	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
<b>OPERATING EXPENDITURES</b>	<b>FY 2016</b>	<b>FY 2016</b>					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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**Estimated SUPPLEMENTAL (FY2015) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2016) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Not applicable; initial version.

Prepared By:	Richard Allen, Director	Phone:	(907)269-3504
Division:	Office of Pubic Advocacy	Date:	02/27/2015 11:30 PM
Approved By:	Sheldon Fisher, Commissioner	Date:	02/27/15
Agency:	Department of Administration		

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2015 LEGISLATIVE SESSION

BILL NO. HB 59

### Analysis

If enacted into law, as drafted, amends the substantive criminal law in Title 11 and the substantive business and commercial licensing law in Title 17. This legislation would implement the voter initiative on marijuana with regard to criminal prosecutions and affirmative defenses applicable to prosecutions for violating prohibitions on manufacturing, selling or possessing marijuana concentrates. The Alcoholic Beverage Control Board would be authorized to adopt regulations to implement the Act and provides for effective dates.

The bill would affect persons prosecuted for such offenses or violations specified in the Act. Attorneys with the Office of Public Advocacy might be assigned to defend a person accused of such offenses but it would not affect the operations or activities of the Office of Public Advocacy.

While there is a chance that this bill may result in additional cases, the workload would be de minimis, if any, and therefore the agency submits a zero fiscal note.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

February 23, 2015

**SUBJECT:** Marijuana concentrates (CSHB 59 ( ));  
Work Order No. 29-LS0257P)

**TO:** Representative Paul Seaton  
Attn: Taneeka Hansen

**FROM:** Hilary V. Martin   
Legislative Counsel

You have asked whether the sunset of the prohibition on marijuana concentrates in proposed AS 17.38.100(i) (Bill sections 12 and 24) would require issuance of a new license in order to manufacture or sell marijuana concentrates.

The language in AS 17.38.100(i) does not require (or imply) that a separate license to manufacture, deliver, possess, possess with the intent to manufacture or deliver, or display marijuana concentrates would be required at any time. This language is a limitation on the license that would be issued by the board. When the prohibition sunsets, there would be no statutory requirements related to the manufacture, delivery, possession, possession with intent to manufacture or deliver, or display of marijuana concentrates.

If I may be of further assistance, please advise.

HVM:dla  
15-106.dla

29-LS0257P  
Martin  
1/29/15

**CS FOR HOUSE BILL NO. 59( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-NINTH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVE SEATON**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to marijuana concentrates; relating to marijuana establishments and**  
2 **to the licensing of marijuana establishments; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 **\* Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
5 to read:

6 **LEGISLATIVE INTENT.** It is the intent of the legislature in order to implement the  
7 marijuana initiative in an orderly process

8 (1) to focus on the provisions related to growth and sale of marijuana and  
9 licensing of marijuana establishments not later than November 24, 2015;

10 (2) to delay regulations relating to legal manufacture, delivery, possession,  
11 possession with the intent to manufacture or deliver, sale, packaging, or display of marijuana  
12 concentrates to not later than November 24, 2016, in response to the difficulties other  
13 jurisdictions have found in unintended consequences of regulations permitting marijuana  
14 concentrates; and

1 (3) during the period of the delay, that activities related to marijuana  
2 concentrates remain illegal and may form the basis for revocation of an establishment license  
3 or for seizure or forfeiture of assets under state law.

4 \* Sec. 2. AS 17.38.070(a) is amended to read:

5 (a) Notwithstanding any other provision of law, the following acts, when  
6 performed by a retail marijuana store with, and permitted by, a current, valid license  
7 [REGISTRATION], or a person 21 years of age or older who is acting in the person's  
8 capacity as an owner, employee, or agent of a retail marijuana store, are lawful and  
9 are [SHALL] not offenses [BE AN OFFENSE] under Alaska law or [BE] a basis for  
10 seizure or forfeiture of assets under Alaska law:

11 (1) possessing, displaying, storing, or transporting marijuana or  
12 marijuana products, except that marijuana and marijuana products may not be  
13 displayed in a manner that is visible to the general public from a public right-of-way;

14 (2) delivering or transferring marijuana or marijuana products to a  
15 marijuana testing facility;

16 (3) receiving marijuana or marijuana products from a marijuana testing  
17 facility;

18 (4) purchasing marijuana from a marijuana cultivation facility;

19 (5) purchasing marijuana or marijuana products from a marijuana  
20 product manufacturing facility; and

21 (6) delivering, distributing, or selling marijuana or marijuana products  
22 to consumers.

23 \* Sec. 3. AS 17.38.070(b) is amended to read:

24 (b) Notwithstanding any other provision of law, the following acts, when  
25 performed by a marijuana cultivation facility with, and permitted by, a current, valid  
26 license [REGISTRATION], or a person 21 years of age or older who is acting in the  
27 person's capacity as an owner, employee, or agent of a marijuana cultivation facility,  
28 are lawful and are [SHALL] not offenses [BE AN OFFENSE] under Alaska law or  
29 [BE] a basis for seizure or forfeiture of assets under Alaska law:

30 (1) cultivating, manufacturing, harvesting, processing, packaging,  
31 transporting, displaying, storing, or possessing marijuana;

- 1 (2) delivering or transferring marijuana to a marijuana testing facility;  
2 (3) receiving marijuana from a marijuana testing facility;  
3 (4) delivering, distributing, or selling marijuana to a marijuana  
4 cultivation facility, a marijuana product manufacturing facility, or a retail marijuana  
5 store;  
6 (5) receiving or purchasing marijuana from a marijuana cultivation  
7 facility; and  
8 (6) receiving marijuana seeds or immature marijuana plants from a  
9 person 21 years of age or older.

10 \* **Sec. 4.** AS 17.38.070(c) is amended to read:

11 (c) Notwithstanding any other provision of law, the following acts, when  
12 performed by a marijuana product manufacturing facility with, and permitted by, a  
13 current, valid license [REGISTRATION], or a person 21 years of age or older who is  
14 acting in the person's capacity as an owner, employee, or agent of a marijuana product  
15 manufacturing facility, are lawful and are [SHALL] not offenses [BE AN OFFENSE]  
16 under Alaska law or [BE] a basis for seizure or forfeiture of assets under Alaska law:

- 17 (1) packaging, processing, transporting, manufacturing, displaying, or  
18 possessing marijuana or marijuana products;  
19 (2) delivering or transferring marijuana or marijuana products to a  
20 marijuana testing facility;  
21 (3) receiving marijuana or marijuana products from a marijuana testing  
22 facility;  
23 (4) delivering or selling marijuana or marijuana products to a retail  
24 marijuana store or a marijuana product manufacturing facility;  
25 (5) purchasing marijuana from a marijuana cultivation facility; and  
26 (6) purchasing of marijuana or marijuana products from a marijuana  
27 product manufacturing facility.

28 \* **Sec. 5.** AS 17.38.090(a) is amended to read:

29 (a) Not later than nine months after February 24, 2015, the board shall adopt  
30 regulations necessary for implementation of this chapter. The [SUCH] regulations  
31 may [SHALL] not prohibit the operation of marijuana establishments, either expressly

1 or through regulations that make their operation unreasonably impracticable. The  
2 [SUCH] regulations must [SHALL] include

3 (1) procedures for the issuance, renewal, suspension, and revocation of  
4 a license [REGISTRATION] to operate a marijuana establishment; the [, WITH  
5 SUCH] procedures are subject to all requirements of AS 44.62 (Administrative  
6 Procedure Act);

7 (2) a schedule of application, registration, and renewal fees, provided,  
8 application fees may [SHALL] not exceed \$5,000, with this upper limit adjusted  
9 annually for inflation, unless the board determines a greater fee is necessary to carry  
10 out its responsibilities under this chapter;

11 (3) qualifications for registration that are directly and demonstrably  
12 related to the operation of a marijuana establishment;

13 (4) security requirements for marijuana establishments, including for  
14 the transportation of marijuana by marijuana establishments;

15 (5) requirements to prevent the sale or diversion of marijuana and  
16 marijuana products to persons under [THE AGE OF] 21 years of age;

17 (6) labeling requirements for marijuana and marijuana products sold or  
18 distributed by a marijuana establishment;

19 (7) health and safety regulations and standards for the manufacture of  
20 marijuana products and the cultivation of marijuana;

21 (8) reasonable restrictions on the advertising and display of marijuana  
22 and marijuana products; and

23 (9) civil penalties for the failure to comply with regulations made  
24 under [PURSUANT TO] this chapter.

25 \* **Sec. 6.** AS 17.38.090 is amended by adding a new subsection to read:

26 (c) The board shall adopt regulations governing the manufacture, delivery,  
27 possession, possession with intent to manufacture or deliver, use, or display of  
28 marijuana concentrates. At a minimum, the regulations must include

29 (1) labeling and packaging requirements;

30 (2) prohibitions on combining marijuana concentrates with nicotine or  
31 alcohol; and

1 (3) prohibitions on the sale of marijuana concentrates in establishments  
2 that sell or serve alcohol.

3 \* **Sec. 7.** AS 17.38.100(a) is amended to read:

4 (a) Each application or renewal application for a license [REGISTRATION]  
5 to operate a marijuana establishment shall be submitted to the board. A renewal  
6 application may be submitted up to 90 days before [PRIOR TO] the expiration of the  
7 marijuana establishment's license [REGISTRATION].

8 \* **Sec. 8.** AS 17.38.100(c) is amended to read:

9 (c) Upon receiving an application or renewal application for a marijuana  
10 establishment, the board shall immediately forward a copy of each application and half  
11 of the license [REGISTRATION] application fee to the local regulatory authority for  
12 the local government in which the applicant desires to operate the marijuana  
13 establishment, unless the local government has not designated a local regulatory  
14 authority under [PURSUANT TO] AS 17.38.110(c).

15 \* **Sec. 9.** AS 17.38.100(d) is amended to read:

16 (d) Within [45 TO] 90 days after receiving an application or renewal  
17 application, the board shall issue an annual license [REGISTRATION] to the  
18 applicant unless the board finds the applicant is not in compliance with regulations  
19 enacted under [PURSUANT TO] AS 17.38.090 or the board is notified by the  
20 relevant local government that the applicant is not in compliance with ordinances and  
21 regulations adopted under [MADE PURSUANT TO] AS 17.38.110 and in effect at  
22 the time of application.

23 \* **Sec. 10.** AS 17.38.100(e) is amended to read:

24 (e) If a local government has enacted a numerical limit on the number of  
25 marijuana establishments and a greater number of applicants seek licensure  
26 [REGISTRATIONS], the board shall solicit and consider input from the local  
27 regulatory authority as to the local government's preference or preferences for  
28 licensing [REGISTRATION].

29 \* **Sec. 11.** AS 17.38.100(g) is amended to read:

30 (g) Every marijuana establishment license must [REGISTRATION SHALL]  
31 specify the location where the marijuana establishment will operate. A separate

1        license is [REGISTRATION SHALL BE] required for each location at which a  
2        marijuana establishment operates.

3        \* **Sec. 12.** AS 17.38.100 is amended by adding a new subsection to read:

4                (i) A license issued under this section does not authorize a marijuana  
5        establishment to manufacture, deliver, possess, possess with intent to manufacture or  
6        deliver, or display marijuana concentrates or products containing marijuana  
7        concentrates.

8        \* **Sec. 13.** AS 17.38.110(c) is amended to read:

9                (c) A local government may designate a local regulatory authority that is  
10       responsible for processing applications submitted for a license [REGISTRATION] to  
11       operate a marijuana establishment within the boundaries of the local government. The  
12       local government may provide that the local regulatory authority may issue licenses if  
13       [SUCH REGISTRATIONS SHOULD] the issuance by the local government become  
14       necessary because of a failure by the board to adopt regulations under [PURSUANT  
15       TO] AS 17.38.090 or to accept or process applications under [IN ACCORDANCE  
16       WITH] AS 17.38.100.

17       \* **Sec. 14.** AS 17.38.110(d) is amended to read:

18                (d) A local government may establish procedures for the issuance, suspension,  
19       and revocation of a license [REGISTRATION] issued by the local government in  
20       accordance with (f) [OF THIS SECTION] or (g) of this section. These procedures  
21       shall be subject to all requirements of AS 44.62 (Administrative Procedure Act).

22       \* **Sec. 15.** AS 17.38.110(e) is amended to read:

23                (e) A local government may establish a schedule of annual operating,  
24       licensing [REGISTRATION], and application fees for marijuana establishments. The  
25       [, PROVIDED, THE] application fee is [SHALL ONLY BE] due only if an  
26       application is submitted to a local government in accordance with (f) of this section,  
27       and a license [REGISTRATION] fee is [SHALL ONLY BE] due only if a license  
28       [REGISTRATION] is issued by a local government in accordance with (f) [OF THIS  
29       SECTION] or (g) of this section.

30       \* **Sec. 16.** AS 17.38.110(f) is amended to read:

31                (f) If the board does not issue a license [REGISTRATION] to an applicant

1 within 90 days after [OF] receipt of the application filed in accordance with  
2 AS 17.38.100 and does not notify the applicant of the specific, permissible reason for  
3 its denial, in writing and within that [SUCH] time period, or if the board has adopted  
4 regulations under [PURSUANT TO] AS 17.38.090 and has accepted applications  
5 under [PURSUANT TO] AS 17.38.100 but has not issued any licenses  
6 [REGISTRATIONS] by 15 months after the effective date of this Act, the applicant  
7 may resubmit its application directly to the local regulatory authority under [,  
8 PURSUANT TO] (c) of this section, and the local regulatory authority may issue an  
9 annual license [REGISTRATION] to the applicant. If an application is submitted to a  
10 local regulatory authority under this subsection, the board shall forward to the local  
11 regulatory authority the application fee paid by the applicant to the board upon request  
12 by the local regulatory authority.

13 \* **Sec. 17.** AS 17.38.110(g) is amended to read:

14 (g) If the board does not adopt regulations required by AS 17.38.090, an  
15 applicant may submit an application directly to a local regulatory authority after [ONE  
16 YEAR AFTER] February 24, 2016, [2015] and the local regulatory authority may  
17 issue an annual license [REGISTRATION] to the applicant.

18 \* **Sec. 18.** AS 17.38.110(h) is amended to read:

19 (h) A local regulatory authority issuing a license [REGISTRATION] to an  
20 applicant shall do so within 90 days after [OF] receipt of the submitted or resubmitted  
21 application unless the local regulatory authority finds and notifies the applicant that  
22 the applicant is not in compliance with ordinances and regulations made under  
23 [PURSUANT TO] (b) of this section in effect at the time the application is submitted  
24 to the local regulatory authority. The local government shall notify the board if an  
25 annual license [REGISTRATION] has been issued to the applicant.

26 \* **Sec. 19.** AS 17.38.110(i) is amended to read:

27 (i) A license [REGISTRATION] issued by a local government in accordance  
28 with (f) [OF THIS SECTION] or (g) of this section has [SHALL HAVE] the same  
29 force and effect as a license [REGISTRATION] issued by the board in accordance  
30 with AS 17.38.100. The holder of a license is [SUCH REGISTRATION SHALL] not  
31 [BE] subject to regulation or enforcement by the board during the term of that license

1 [REGISTRATION].

2 \* **Sec. 20.** AS 17.38.110(j) is amended to read:

3 (j) A subsequent or renewed license [REGISTRATION] may be issued under  
4 (f) of this section on an annual basis only upon resubmission to the local government  
5 of a new application submitted to the board under [PURSUANT TO] AS 17.38.100.

6 \* **Sec. 21.** AS 17.38.110(k) is amended to read:

7 (k) A subsequent or renewed license [REGISTRATION] may be issued under  
8 (g) of this section on an annual basis if the board has not adopted regulations required  
9 by AS 17.38.090 at least 90 days before [PRIOR TO] the date on [UPON] which the  
10 [SUCH] subsequent or renewed license [REGISTRATION] would be effective or if  
11 the board has adopted regulations under [PURSUANT TO] AS 17.38.090 but has not,  
12 at least 90 days after the adoption of the [SUCH] regulations, issued licenses under  
13 [REGISTRATIONS PURSUANT TO] AS 17.38.100.

14 \* **Sec. 22.** AS 17.38.900 is amended by adding a new paragraph to read:

15 (15) "marijuana concentrates" means an oil, liquid, or other substance  
16 created by extracting cannabinoids from marijuana through the use of a solvent other  
17 than water for the purpose of increasing the strength or proportion of the cannabinoids.

18 \* **Sec. 23.** AS 43.61.030(b) is amended to read:

19 (b) If a marijuana cultivation facility fails to pay the tax to the state, the  
20 marijuana cultivation facility's license [REGISTRATION] may be revoked in  
21 accordance with procedures established under AS 17.38.090(a)(1).

22 \* **Sec. 24.** AS 17.38.100(i) is repealed on the earlier of the following:

23 (1) November 24, 2016; or

24 (2) the date the director of the Alcoholic Beverage Control Board notifies the  
25 revisor of statutes that regulations adopted under AS 17.38.090(c) have taken effect.

26 \* **Sec. 25.** This Act takes effect immediately under AS 01.10.070(c).

29-LS0257AS  
Martin  
2/24/15

**CS FOR HOUSE BILL NO. 59( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-NINTH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVE SEATON**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act relating to marijuana concentrates; relating to marijuana establishments and**  
2 **to the licensing of marijuana establishments; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 **\* Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
5 to read:

6 LEGISLATIVE INTENT. It is the intent of the legislature in order to implement the  
7 marijuana initiative in an orderly process

8 (1) to focus on the provisions related to growth and sale of marijuana and  
9 licensing of marijuana establishments not later than November 24, 2015;

10 (2) to delay regulations relating to legal manufacture, delivery, possession,  
11 possession with the intent to manufacture or deliver, sale, packaging, or display of marijuana  
12 concentrates to not later than November 24, 2016, in response to the difficulties other  
13 jurisdictions have found in unintended consequences of regulations permitting marijuana  
14 concentrates; and

1 (3) during the period of the delay, that activities related to marijuana  
2 concentrates remain illegal and may form the basis for revocation of an establishment license  
3 or for seizure or forfeiture of assets under state law.

4 \* Sec. 2. AS 17.38.070(a) is amended to read:

5 (a) Notwithstanding any other provision of law, the following acts, when  
6 performed by a retail marijuana store with, and permitted by, a current, valid license  
7 [REGISTRATION], or a person 21 years of age or older who is acting in the person's  
8 capacity as an owner, employee, or agent of a retail marijuana store, are lawful and  
9 are [SHALL] not offenses [BE AN OFFENSE] under Alaska law or [BE] a basis for  
10 seizure or forfeiture of assets under Alaska law:

11 (1) possessing, displaying, storing, or transporting marijuana or  
12 marijuana products, except that marijuana and marijuana products may not be  
13 displayed in a manner that is visible to the general public from a public right-of-way;

14 (2) delivering or transferring marijuana or marijuana products to a  
15 marijuana testing facility;

16 (3) receiving marijuana or marijuana products from a marijuana testing  
17 facility;

18 (4) purchasing marijuana from a marijuana cultivation facility;

19 (5) purchasing marijuana or marijuana products from a marijuana  
20 product manufacturing facility; and

21 (6) delivering, distributing, or selling marijuana or marijuana products  
22 to consumers.

23 \* Sec. 3. AS 17.38.070(b) is amended to read:

24 (b) Notwithstanding any other provision of law, the following acts, when  
25 performed by a marijuana cultivation facility with, and permitted by, a current, valid  
26 license [REGISTRATION], or a person 21 years of age or older who is acting in the  
27 person's capacity as an owner, employee, or agent of a marijuana cultivation facility,  
28 are lawful and are [SHALL] not offenses [BE AN OFFENSE] under Alaska law or  
29 [BE] a basis for seizure or forfeiture of assets under Alaska law:

30 (1) cultivating, manufacturing, harvesting, processing, packaging,  
31 transporting, displaying, storing, or possessing marijuana;

- 1 (2) delivering or transferring marijuana to a marijuana testing facility;  
2 (3) receiving marijuana from a marijuana testing facility;  
3 (4) delivering, distributing, or selling marijuana to a marijuana  
4 cultivation facility, a marijuana product manufacturing facility, or a retail marijuana  
5 store;  
6 (5) receiving or purchasing marijuana from a marijuana cultivation  
7 facility; and  
8 (6) receiving marijuana seeds or immature marijuana plants from a  
9 person 21 years of age or older.

10 \* Sec. 4. AS 17.38.070(c) is amended to read:

11 (c) Notwithstanding any other provision of law, the following acts, when  
12 performed by a marijuana product manufacturing facility with, and permitted by, a  
13 current, valid license [REGISTRATION], or a person 21 years of age or older who is  
14 acting in the person's capacity as an owner, employee, or agent of a marijuana product  
15 manufacturing facility, are lawful and are [SHALL] not offenses [BE AN OFFENSE]  
16 under Alaska law or [BE] a basis for seizure or forfeiture of assets under Alaska law:

- 17 (1) packaging, processing, transporting, manufacturing, displaying, or  
18 possessing marijuana or marijuana products;  
19 (2) delivering or transferring marijuana or marijuana products to a  
20 marijuana testing facility;  
21 (3) receiving marijuana or marijuana products from a marijuana testing  
22 facility;  
23 (4) delivering or selling marijuana or marijuana products to a retail  
24 marijuana store or a marijuana product manufacturing facility;  
25 (5) purchasing marijuana from a marijuana cultivation facility; and  
26 (6) purchasing of marijuana or marijuana products from a marijuana  
27 product manufacturing facility.

28 \* Sec. 5. AS 17.38.090(a) is amended to read:

29 (a) Not later than nine months after February 24, 2015, the board shall adopt  
30 regulations necessary for implementation of this chapter. The [SUCH] regulations  
31 may [SHALL] not prohibit the operation of marijuana establishments, either expressly

1 or through regulations that make their operation unreasonably impracticable. The  
2 [SUCH] regulations must [SHALL] include

3 (1) procedures for the issuance, renewal, suspension, and revocation of  
4 a license [REGISTRATION] to operate a marijuana establishment; the [, WITH  
5 SUCH] procedures are subject to all requirements of AS 44.62 (Administrative  
6 Procedure Act);

7 (2) a schedule of application, license [REGISTRATION], and renewal  
8 fees, provided, application fees may [SHALL] not exceed \$5,000, with this upper  
9 limit adjusted annually for inflation, unless the board determines a greater fee is  
10 necessary to carry out its responsibilities under this chapter;

11 (3) qualifications for licensure [REGISTRATION] that are directly  
12 and demonstrably related to the operation of a marijuana establishment;

13 (4) security requirements for marijuana establishments, including for  
14 the transportation of marijuana by marijuana establishments;

15 (5) requirements to prevent the sale or diversion of marijuana and  
16 marijuana products to persons under [THE AGE OF] 21 years of age;

17 (6) labeling requirements for marijuana and marijuana products sold or  
18 distributed by a marijuana establishment;

19 (7) health and safety regulations and standards for the manufacture of  
20 marijuana products and the cultivation of marijuana;

21 (8) reasonable restrictions on the advertising and display of marijuana  
22 and marijuana products; and

23 (9) civil penalties for the failure to comply with regulations made  
24 under [PURSUANT TO] this chapter.

25 \* Sec. 6. AS 17.38.090 is amended by adding a new subsection to read:

26 (c) The board shall adopt regulations governing the manufacture, delivery,  
27 possession, possession with intent to manufacture or deliver, use, or display of  
28 marijuana concentrates. At a minimum, the regulations must include labeling and  
29 packaging requirements. The regulations may include

30 (1) prohibitions on combining marijuana concentrates with other  
31 addictive substances; or

1 (2) requirements to certify new products before they are available for  
2 retail.

3 \* Sec. 7. AS 17.38.100(a) is amended to read:

4 (a) Each application or renewal application for a license [REGISTRATION]  
5 to operate a marijuana establishment shall be submitted to the board. A renewal  
6 application may be submitted up to 90 days before [PRIOR TO] the expiration of the  
7 marijuana establishment's license [REGISTRATION].

8 \* Sec. 8. AS 17.38.100(c) is amended to read:

9 (c) Upon receiving an application or renewal application for a marijuana  
10 establishment, the board shall immediately forward a copy of each application and half  
11 of the license [REGISTRATION] application fee to the local regulatory authority for  
12 the local government in which the applicant desires to operate the marijuana  
13 establishment, unless the local government has not designated a local regulatory  
14 authority under [PURSUANT TO] AS 17.38.110(c).

15 \* Sec. 9. AS 17.38.100(d) is amended to read:

16 (d) Within [45 TO] 90 days after receiving an application or renewal  
17 application, the board shall issue an annual license [REGISTRATION] to the  
18 applicant unless the board finds the applicant is not in compliance with regulations  
19 enacted under [PURSUANT TO] AS 17.38.090 or the board is notified by the  
20 relevant local government that the applicant is not in compliance with ordinances and  
21 regulations adopted under [MADE PURSUANT TO] AS 17.38.110 and in effect at  
22 the time of application.

23 \* Sec. 10. AS 17.38.100(e) is amended to read:

24 (e) If a local government has enacted a numerical limit on the number of  
25 marijuana establishments and a greater number of applicants seek licensure  
26 [REGISTRATIONS], the board shall solicit and consider input from the local  
27 regulatory authority as to the local government's preference or preferences for  
28 licensing [REGISTRATION].

29 \* Sec. 11. AS 17.38.100(g) is amended to read:

30 (g) Every marijuana establishment license must [REGISTRATION SHALL]  
31 specify the location where the marijuana establishment will operate. A separate

1        license is [REGISTRATION SHALL BE] required for each location at which a  
2        marijuana establishment operates.

3        \* **Sec. 12.** AS 17.38.100 is amended by adding new subsections to read:

4                (i) A license issued under this section does not authorize a marijuana  
5        establishment to manufacture, deliver, possess, possess with intent to manufacture or  
6        deliver, or display marijuana concentrates or products containing marijuana  
7        concentrates.

8                (j) The board may by regulation establish different types of licenses or license  
9        endorsements.

10               (k) The board may not issue a marijuana retail store license to a person who  
11        holds a license issued under AS 04 or to an applicant for a retail store license who  
12        intends to use any portion of premises licensed under AS 04.

13               (l) A license issued to a marijuana product manufacturing facility does not  
14        authorize a marijuana product manufacturing facility to combine marijuana with  
15        tobacco, nicotine, or alcohol, or a product containing tobacco, nicotine, or alcohol.

16        \* **Sec. 13.** AS 17.38.110(c) is amended to read:

17               (c) A local government may designate a local regulatory authority that is  
18        responsible for processing applications submitted for a license [REGISTRATION] to  
19        operate a marijuana establishment within the boundaries of the local government. The  
20        local government may provide that the local regulatory authority may issue licenses if  
21        [SUCH REGISTRATIONS SHOULD] the issuance by the local government become  
22        necessary because of a failure by the board to adopt regulations under [PURSUANT  
23        TO] AS 17.38.090 or to accept or process applications under [IN ACCORDANCE  
24        WITH] AS 17.38.100.

25        \* **Sec. 14.** AS 17.38.110(d) is amended to read:

26               (d) A local government may establish procedures for the issuance, suspension,  
27        and revocation of a license [REGISTRATION] issued by the local government in  
28        accordance with (f) [OF THIS SECTION] or (g) of this section. These procedures  
29        shall be subject to all requirements of AS 44.62 (Administrative Procedure Act).

30        \* **Sec. 15.** AS 17.38.110(e) is amended to read:

31               (e) A local government may establish a schedule of annual operating,

1        licensing [REGISTRATION], and application fees for marijuana establishments. The  
2        [, PROVIDED, THE] application fee is [SHALL ONLY BE] due only if an  
3        application is submitted to a local government in accordance with (f) of this section,  
4        and a license [REGISTRATION] fee is [SHALL ONLY BE] due only if a license  
5        [REGISTRATION] is issued by a local government in accordance with (f) [OF THIS  
6        SECTION] or (g) of this section.

7        \* **Sec. 16.** AS 17.38.110(f) is amended to read:

8                (f) If the board does not issue a license [REGISTRATION] to an applicant  
9        within 90 days after [OF] receipt of the application filed in accordance with  
10        AS 17.38.100 and does not notify the applicant of the specific, permissible reason for  
11        its denial, in writing and within that [SUCH] time period, or if the board has adopted  
12        regulations under [PURSUANT TO] AS 17.38.090 and has accepted applications  
13        under [PURSUANT TO] AS 17.38.100 but has not issued any licenses  
14        [REGISTRATIONS] by 15 months after the effective date of this Act, the applicant  
15        may resubmit its application directly to the local regulatory authority under [,  
16        PURSUANT TO] (c) of this section, and the local regulatory authority may issue an  
17        annual license [REGISTRATION] to the applicant. If an application is submitted to a  
18        local regulatory authority under this subsection, the board shall forward to the local  
19        regulatory authority the application fee paid by the applicant to the board upon request  
20        by the local regulatory authority.

21        \* **Sec. 17.** AS 17.38.110(g) is amended to read:

22                (g) If the board does not adopt regulations required by AS 17.38.090, an  
23        applicant may submit an application directly to a local regulatory authority after [ONE  
24        YEAR AFTER] February 24, 2016, [2015] and the local regulatory authority may  
25        issue an annual license [REGISTRATION] to the applicant.

26        \* **Sec. 18.** AS 17.38.110(h) is amended to read:

27                (h) A local regulatory authority issuing a license [REGISTRATION] to an  
28        applicant shall do so within 90 days after [OF] receipt of the submitted or resubmitted  
29        application unless the local regulatory authority finds and notifies the applicant that  
30        the applicant is not in compliance with ordinances and regulations made under  
31        [PURSUANT TO] (b) of this section in effect at the time the application is submitted

1 to the local regulatory authority. The local government shall notify the board if an  
2 annual license [REGISTRATION] has been issued to the applicant.

3 \* **Sec. 19.** AS 17.38.110(i) is amended to read:

4 (i) A license [REGISTRATION] issued by a local government in accordance  
5 with (f) [OF THIS SECTION] or (g) of this section has [SHALL HAVE] the same  
6 force and effect as a license [REGISTRATION] issued by the board in accordance  
7 with AS 17.38.100. The holder of a license is [SUCH REGISTRATION SHALL] not  
8 [BE] subject to regulation or enforcement by the board during the term of that license  
9 [REGISTRATION].

10 \* **Sec. 20.** AS 17.38.110(j) is amended to read:

11 (j) A subsequent or renewed license [REGISTRATION] may be issued under  
12 (f) of this section on an annual basis only upon resubmission to the local government  
13 of a new application submitted to the board under [PURSUANT TO] AS 17.38.100.

14 \* **Sec. 21.** AS 17.38.110(k) is amended to read:

15 (k) A subsequent or renewed license [REGISTRATION] may be issued under  
16 (g) of this section on an annual basis if the board has not adopted regulations required  
17 by AS 17.38.090 at least 90 days before [PRIOR TO] the date on [UPON] which the  
18 [SUCH] subsequent or renewed license [REGISTRATION] would be effective or if  
19 the board has adopted regulations under [PURSUANT TO] AS 17.38.090 but has not,  
20 at least 90 days after the adoption of the [SUCH] regulations, issued licenses under  
21 [REGISTRATIONS PURSUANT TO] AS 17.38.100.

22 \* **Sec. 22.** AS 17.38.900 is amended by adding a new paragraph to read:

23 (15) "marijuana concentrates" means an oil, liquid, or other substance  
24 created by extracting cannabinoids from marijuana for the purpose of increasing the  
25 strength or proportion of the cannabinoids.

26 \* **Sec. 23.** AS 43.61.030(b) is amended to read:

27 (b) If a marijuana cultivation facility fails to pay the tax to the state, the  
28 marijuana cultivation facility's license [REGISTRATION] may be revoked in  
29 accordance with procedures established under AS 17.38.090(a)(1).

30 \* **Sec. 24.** AS 17.38.100(i) is repealed on the earlier of the following:

31 (1) November 24, 2016; or

- 1                   (2) the date the director of the Alcoholic Beverage Control Board notifies the
- 2   revisor of statutes that regulations adopted under AS 17.38.090(c) have taken effect.
- 3    \* **Sec. 25.** This Act takes effect immediately under AS 01.10.070(c).

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 59( ), Draft Version "S"

1 Page 1, line 2, following "**establishments**";:

2 Insert "**relating to alcoholic beverages and marijuana**;"

3

4 Page 2, following line 3:

5 Insert a new bill section to read:

6 "**\* Sec. 2.** AS 04.16 is amended by adding a new section to read:

7 **Sec. 04.16.165. Restriction on sale of marijuana on licensed premises.** A  
8 licensee may not sell, offer for sale, furnish, or deliver marijuana on licensed  
9 premises."

10

11 Renumber the following bill sections accordingly.

12

13 Page 6, lines 10 - 12:

14 Delete all material and insert:

15 "(k) A marijuana retail store license issued under this section does not  
16 authorize the sale, offering for sale, furnishing, or delivery of alcoholic beverages on  
17 licensed premises."

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 59( ), Draft Version "S"

1 Page 2, line 5:

2 Delete "Notwithstanding any other provision of law, the"

3 Insert "The [NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE]"

4

5 Page 2, line 6:

6 Delete ", and permitted by,"

7

8 Page 2, line 24:

9 Delete "Notwithstanding any other provision of law, the"

10 Insert "The [NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE]"

11

12 Page 2, line 25:

13 Delete ", and permitted by,"

14

15 Page 3, line 11:

16 Delete "Notwithstanding any other provision of law, the"

17 Insert "The [NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE]"

18

19 Page 3, line 12:

20 Delete ", and permitted by,"

29-LS0257AF  
Martin  
2/28/15

**CS FOR HOUSE BILL NO. 59(HSS)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-NINTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE HEALTH AND SOCIAL SERVICES COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVE SEATON**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act relating to marijuana concentrates; relating to marijuana establishments and**  
2 **to the licensing of marijuana establishments; relating to alcoholic beverages and**  
3 **marijuana; and providing for an effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 **\* Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
6 to read:

7 **LEGISLATIVE INTENT.** It is the intent of the legislature in order to implement the  
8 marijuana initiative in an orderly process

9 (1) to focus on the provisions related to growth and sale of marijuana and  
10 licensing of marijuana establishments not later than November 24, 2015;

11 (2) to delay regulations relating to legal manufacture, delivery, possession,  
12 possession with the intent to manufacture or deliver, sale, packaging, or display of marijuana  
13 concentrates to not later than November 24, 2016, in response to the difficulties other  
14 jurisdictions have found in unintended consequences of regulations permitting marijuana

1 concentrates; and

2 (3) during the period of the delay, that activities related to marijuana  
3 concentrates remain illegal and may form the basis for revocation of an establishment license  
4 or for seizure or forfeiture of assets under state law.

5 \* **Sec. 2.** AS 04.16 is amended by adding a new section to read:

6 **Sec. 04.16.165. Restriction on sale of marijuana on licensed premises.** A  
7 licensee may not sell, offer for sale, furnish, or deliver marijuana on licensed premises.

8 \* **Sec. 3.** AS 17.38.070(a) is amended to read:

9 (a) The [NOTWITHSTANDING ANY OTHER PROVISION OF LAW,  
10 THE] following acts, when performed by a retail marijuana store with a current, valid  
11 license [REGISTRATION], or a person 21 years of age or older who is acting in the  
12 person's capacity as an owner, employee, or agent of a retail marijuana store, are  
13 lawful and are [SHALL] not offenses [BE AN OFFENSE] under Alaska law or [BE]  
14 a basis for seizure or forfeiture of assets under Alaska law:

15 (1) possessing, displaying, storing, or transporting marijuana or  
16 marijuana products, except that marijuana and marijuana products may not be  
17 displayed in a manner that is visible to the general public from a public right-of-way;

18 (2) delivering or transferring marijuana or marijuana products to a  
19 marijuana testing facility;

20 (3) receiving marijuana or marijuana products from a marijuana testing  
21 facility;

22 (4) purchasing marijuana from a marijuana cultivation facility;

23 (5) purchasing marijuana or marijuana products from a marijuana  
24 product manufacturing facility; and

25 (6) delivering, distributing, or selling marijuana or marijuana products  
26 to consumers.

27 \* **Sec. 4.** AS 17.38.070(b) is amended to read:

28 (b) The [NOTWITHSTANDING ANY OTHER PROVISION OF LAW,  
29 THE] following acts, when performed by a marijuana cultivation facility with a  
30 current, valid license [REGISTRATION], or a person 21 years of age or older who is  
31 acting in the person's capacity as an owner, employee, or agent of a marijuana

1 cultivation facility, are lawful and are [SHALL] not offenses [BE AN OFFENSE]  
2 under Alaska law or [BE] a basis for seizure or forfeiture of assets under Alaska law:

3 (1) cultivating, manufacturing, harvesting, processing, packaging,  
4 transporting, displaying, storing, or possessing marijuana;

5 (2) delivering or transferring marijuana to a marijuana testing facility;

6 (3) receiving marijuana from a marijuana testing facility;

7 (4) delivering, distributing, or selling marijuana to a marijuana  
8 cultivation facility, a marijuana product manufacturing facility, or a retail marijuana  
9 store;

10 (5) receiving or purchasing marijuana from a marijuana cultivation  
11 facility; and

12 (6) receiving marijuana seeds or immature marijuana plants from a  
13 person 21 years of age or older.

14 \* **Sec. 5.** AS 17.38.070(c) is amended to read:

15 (c) The [NOTWITHSTANDING ANY OTHER PROVISION OF LAW,  
16 THE] following acts, when performed by a marijuana product manufacturing facility  
17 with a current, valid license [REGISTRATION], or a person 21 years of age or older  
18 who is acting in the person's capacity as an owner, employee, or agent of a marijuana  
19 product manufacturing facility, are lawful and are [SHALL] not offenses [BE AN  
20 OFFENSE] under Alaska law or [BE] a basis for seizure or forfeiture of assets under  
21 Alaska law:

22 (1) packaging, processing, transporting, manufacturing, displaying, or  
23 possessing marijuana or marijuana products;

24 (2) delivering or transferring marijuana or marijuana products to a  
25 marijuana testing facility;

26 (3) receiving marijuana or marijuana products from a marijuana testing  
27 facility;

28 (4) delivering or selling marijuana or marijuana products to a retail  
29 marijuana store or a marijuana product manufacturing facility;

30 (5) purchasing marijuana from a marijuana cultivation facility; and

31 (6) purchasing of marijuana or marijuana products from a marijuana

1 product manufacturing facility.

2 \* Sec. 6. AS 17.38.090(a) is amended to read:

3 (a) Not later than nine months after February 24, 2015, the board shall adopt  
4 regulations necessary for implementation of this chapter. The [SUCH] regulations  
5 may [SHALL] not prohibit the operation of marijuana establishments, either expressly  
6 or through regulations that make their operation unreasonably impracticable. The  
7 [SUCH] regulations must [SHALL] include

8 (1) procedures for the issuance, renewal, suspension, and revocation of  
9 a license [REGISTRATION] to operate a marijuana establishment; the [, WITH  
10 SUCH] procedures are subject to all requirements of AS 44.62 (Administrative  
11 Procedure Act);

12 (2) a schedule of application, license [REGISTRATION], and renewal  
13 fees, provided, application fees may [SHALL] not exceed \$5,000, with this upper  
14 limit adjusted annually for inflation, unless the board determines a greater fee is  
15 necessary to carry out its responsibilities under this chapter;

16 (3) qualifications for licensure [REGISTRATION] that are directly  
17 and demonstrably related to the operation of a marijuana establishment;

18 (4) security requirements for marijuana establishments, including for  
19 the transportation of marijuana by marijuana establishments;

20 (5) requirements to prevent the sale or diversion of marijuana and  
21 marijuana products to persons under [THE AGE OF] 21 years of age;

22 (6) labeling requirements for marijuana and marijuana products sold or  
23 distributed by a marijuana establishment;

24 (7) health and safety regulations and standards for the manufacture of  
25 marijuana products and the cultivation of marijuana;

26 (8) reasonable restrictions on the advertising and display of marijuana  
27 and marijuana products; and

28 (9) civil penalties for the failure to comply with regulations made  
29 under [PURSUANT TO] this chapter.

30 \* Sec. 7. AS 17.38.090 is amended by adding a new subsection to read:

31 (c) The board shall adopt regulations governing the manufacture, delivery,

1 possession, possession with intent to manufacture or deliver, use, or display of  
2 marijuana concentrates. At a minimum, the regulations must include labeling and  
3 packaging requirements. The regulations may include

- 4 (1) prohibitions on combining marijuana concentrates with other  
5 addictive substances; or  
6 (2) requirements to certify new products before they are available for  
7 retail.

8 \* **Sec. 8.** AS 17.38.100(a) is amended to read:

9 (a) Each application or renewal application for a license [REGISTRATION]  
10 to operate a marijuana establishment shall be submitted to the board. A renewal  
11 application may be submitted up to 90 days before [PRIOR TO] the expiration of the  
12 marijuana establishment's license [REGISTRATION].

13 \* **Sec. 9.** AS 17.38.100(c) is amended to read:

14 (c) Upon receiving an application or renewal application for a marijuana  
15 establishment, the board shall immediately forward a copy of each application and half  
16 of the license [REGISTRATION] application fee to the local regulatory authority for  
17 the local government in which the applicant desires to operate the marijuana  
18 establishment, unless the local government has not designated a local regulatory  
19 authority under [PURSUANT TO] AS 17.38.110(c).

20 \* **Sec. 10.** AS 17.38.100(d) is amended to read:

21 (d) Within [45 TO] 90 days after receiving an application or renewal  
22 application, the board shall issue an annual license [REGISTRATION] to the  
23 applicant unless the board finds the applicant is not in compliance with regulations  
24 enacted under [PURSUANT TO] AS 17.38.090 or the board is notified by the  
25 relevant local government that the applicant is not in compliance with ordinances and  
26 regulations adopted under [MADE PURSUANT TO] AS 17.38.110 and in effect at  
27 the time of application.

28 \* **Sec. 11.** AS 17.38.100(e) is amended to read:

29 (e) If a local government has enacted a numerical limit on the number of  
30 marijuana establishments and a greater number of applicants seek licensure  
31 [REGISTRATIONS], the board shall solicit and consider input from the local

1 regulatory authority as to the local government's preference or preferences for  
2 licensing [REGISTRATION].

3 \* Sec. 12. AS 17.38.100(g) is amended to read:

4 (g) Every marijuana establishment license must [REGISTRATION SHALL]  
5 specify the location where the marijuana establishment will operate. A separate  
6 license is [REGISTRATION SHALL BE] required for each location at which a  
7 marijuana establishment operates.

8 \* Sec. 13. AS 17.38.100 is amended by adding new subsections to read:

9 (i) A license issued under this section does not authorize a marijuana  
10 establishment to manufacture, deliver, possess, possess with intent to manufacture or  
11 deliver, or display marijuana concentrates or products containing marijuana  
12 concentrates.

13 (j) The board may by regulation establish different types of licenses or license  
14 endorsements.

15 (k) A marijuana retail store license issued under this section does not authorize  
16 the sale, offering for sale, furnishing, or delivery of alcoholic beverages on licensed  
17 premises.

18 (l) A license issued to a marijuana product manufacturing facility does not  
19 authorize a marijuana product manufacturing facility to combine marijuana with  
20 tobacco, nicotine, or alcohol, or a product containing tobacco, nicotine, or alcohol.

21 \* Sec. 14. AS 17.38.110(c) is amended to read:

22 (c) A local government may designate a local regulatory authority that is  
23 responsible for processing applications submitted for a license [REGISTRATION] to  
24 operate a marijuana establishment within the boundaries of the local government. The  
25 local government may provide that the local regulatory authority may issue licenses if  
26 [SUCH REGISTRATIONS SHOULD] the issuance by the local government become  
27 necessary because of a failure by the board to adopt regulations under [PURSUANT  
28 TO] AS 17.38.090 or to accept or process applications under [IN ACCORDANCE  
29 WITH] AS 17.38.100.

30 \* Sec. 15. AS 17.38.110(d) is amended to read:

31 (d) A local government may establish procedures for the issuance, suspension,

1 and revocation of a license [REGISTRATION] issued by the local government in  
2 accordance with (f) [OF THIS SECTION] or (g) of this section. These procedures  
3 shall be subject to all requirements of AS 44.62 (Administrative Procedure Act).

4 \* **Sec. 16.** AS 17.38.110(e) is amended to read:

5 (e) A local government may establish a schedule of annual operating,  
6 licensing [REGISTRATION], and application fees for marijuana establishments. The  
7 [, PROVIDED, THE] application fee is [SHALL ONLY BE] due only if an  
8 application is submitted to a local government in accordance with (f) of this section,  
9 and a license [REGISTRATION] fee is [SHALL ONLY BE] due only if a license  
10 [REGISTRATION] is issued by a local government in accordance with (f) [OF THIS  
11 SECTION] or (g) of this section.

12 \* **Sec. 17.** AS 17.38.110(f) is amended to read:

13 (f) If the board does not issue a license [REGISTRATION] to an applicant  
14 within 90 days after [OF] receipt of the application filed in accordance with  
15 AS 17.38.100 and does not notify the applicant of the specific, permissible reason for  
16 its denial, in writing and within that [SUCH] time period, or if the board has adopted  
17 regulations under [PURSUANT TO] AS 17.38.090 and has accepted applications  
18 under [PURSUANT TO] AS 17.38.100 but has not issued any licenses  
19 [REGISTRATIONS] by 15 months after the effective date of this Act, the applicant  
20 may resubmit its application directly to the local regulatory authority under [,  
21 PURSUANT TO] (c) of this section, and the local regulatory authority may issue an  
22 annual license [REGISTRATION] to the applicant. If an application is submitted to a  
23 local regulatory authority under this subsection, the board shall forward to the local  
24 regulatory authority the application fee paid by the applicant to the board upon request  
25 by the local regulatory authority.

26 \* **Sec. 18.** AS 17.38.110(g) is amended to read:

27 (g) If the board does not adopt regulations required by AS 17.38.090, an  
28 applicant may submit an application directly to a local regulatory authority after [ONE  
29 YEAR AFTER] February 24, 2016, [2015] and the local regulatory authority may  
30 issue an annual license [REGISTRATION] to the applicant.

31 \* **Sec. 19.** AS 17.38.110(h) is amended to read:

1 (h) A local regulatory authority issuing a license [REGISTRATION] to an  
2 applicant shall do so within 90 days after [OF] receipt of the submitted or resubmitted  
3 application unless the local regulatory authority finds and notifies the applicant that  
4 the applicant is not in compliance with ordinances and regulations made under  
5 [PURSUANT TO] (b) of this section in effect at the time the application is submitted  
6 to the local regulatory authority. The local government shall notify the board if an  
7 annual license [REGISTRATION] has been issued to the applicant.

8 \* **Sec. 20.** AS 17.38.110(i) is amended to read:

9 (i) A license [REGISTRATION] issued by a local government in accordance  
10 with (f) [OF THIS SECTION] or (g) of this section has [SHALL HAVE] the same  
11 force and effect as a license [REGISTRATION] issued by the board in accordance  
12 with AS 17.38.100. The holder of a license is [SUCH REGISTRATION SHALL] not  
13 [BE] subject to regulation or enforcement by the board during the term of that license  
14 [REGISTRATION].

15 \* **Sec. 21.** AS 17.38.110(j) is amended to read:

16 (j) A subsequent or renewed license [REGISTRATION] may be issued under  
17 (f) of this section on an annual basis only upon resubmission to the local government  
18 of a new application submitted to the board under [PURSUANT TO] AS 17.38.100.

19 \* **Sec. 22.** AS 17.38.110(k) is amended to read:

20 (k) A subsequent or renewed license [REGISTRATION] may be issued under  
21 (g) of this section on an annual basis if the board has not adopted regulations required  
22 by AS 17.38.090 at least 90 days before [PRIOR TO] the date on [UPON] which the  
23 [SUCH] subsequent or renewed license [REGISTRATION] would be effective or if  
24 the board has adopted regulations under [PURSUANT TO] AS 17.38.090 but has not,  
25 at least 90 days after the adoption of the [SUCH] regulations, issued licenses under  
26 [REGISTRATIONS PURSUANT TO] AS 17.38.100.

27 \* **Sec. 23.** AS 17.38.900 is amended by adding a new paragraph to read:

28 (15) "marijuana concentrates" means an oil, liquid, or other substance  
29 created by extracting cannabinoids from marijuana for the purpose of increasing the  
30 strength or proportion of the cannabinoids.

31 \* **Sec. 24.** AS 43.61.030(b) is amended to read:

1 (b) If a marijuana cultivation facility fails to pay the tax to the state, the  
2 marijuana cultivation facility's license [REGISTRATION] may be revoked in  
3 accordance with procedures established under AS 17.38.090(a)(1).

4 \* **Sec. 25.** AS 17.38.100(i) is repealed on the earlier of the following:

5 (1) November 24, 2016; or

6 (2) the date the director of the Alcoholic Beverage Control Board notifies the  
7 revisor of statutes that regulations adopted under AS 17.38.090(c) have taken effect.

8 \* **Sec. 26.** This Act takes effect immediately under AS 01.10.070(c).

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**REPRESENTATIVE PAUL SEATON**  
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## **EXPLANATION OF CHANGES**

### *House Bill 59*

### *Marijuana Concentrates*

### *Version E to Version P*

Marijuana establishments and licensing of marijuana establishments have been added to the title of House Bill 59 to reflect new sections within the bill.

Section 2 of version E, creating an affirmative defense to prosecution, has been removed from the current version P.

The term *registration* has been replaced with *license* throughout the entirety of the bill. Sections 5, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 23 have been included in version P just to reflect this word change throughout the statute. In sections 2 through 4 of version P, the term *registration* has been replaced with *license*.

In section 6, requiring the board to adopt regulations governing marijuana concentrates, the regulations requirements have been extended to include prohibitions on combining marijuana concentrates with nicotine or alcohol. Prohibitions on the sale of marijuana concentrates in establishments that sell or serve alcohol have also been added.

In section 22 of version P, the specific exemption of hash or hashish oil has been removed from the definition of marijuana concentrates.

Sections 9 through 12 of version E, relating to various effective dates, have been replaced by section 24 and 25 of version P. Section 24 of version P repeals AS 17.38.100(i), the restriction on marijuana concentrates, on the earlier of November 24, 2016 or the date the board adopts regulations. Section 25 of version P establishes an immediate effective date. Previously, version E repealed AS 17.38.100(i) on November 24, 2016 and did not allow regulations to be implemented prior to that date.

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**SECTIONAL ANALYSIS**  
*House Bill 59*  
*Marijuana Concentrates*  
*Version P*

**Section 1:**  
*Pages 1-2*

Contains legislative intent language stating that in order to implement the marijuana initiative in an orderly process, the legislature intends to focus first on the growth and sale of marijuana and to delay regulations relating to marijuana concentrates for not more than a year. During the delay period, activities related to the commercialization of marijuana concentrates remain illegal.

**Section 2-4:**  
*Pages 2-4*

Amends language in AS 17.38.070(a), AS 17.38.070(b), and AS 17.38.070(c) to clarify language of the initiative permitting actions relating to marijuana by a licensed establishments. The term *registration* is amended to *license*.

**Section 5:**  
*Pages 3-4*

Amends language in AS 17.38.090(a) to clarify and replaces *registration* with *license*.

**Section 6:**  
*Pages 4-5*

Requires the board to adopt regulations governing marijuana concentrates. The regulations must include labeling and packaging requirements, prohibitions on combining concentrates with nicotine or alcohol, and prohibitions on the sale of concentrates in establishments that sell or serve alcohol.

**Section 7-11:**  
*Pages 5-6*

Amends language in AS 17.38.100 to replace *registration* with *license*.

**Section 12:**

*Page 6*

Adds subsection (i) which states that a license under AS 17.38 does not authorize a marijuana establishment to manufacture, deliver, or possess marijuana concentrates or products containing marijuana concentrates.

**Section 13-21:**

*Pages 6-8*

Amends language in AS 17.38.110 to replace *registration* with *license*.

**Section 22:**

*Page 8*

Defines marijuana concentrates as a substance created by extracting cannabinoids from marijuana using a solvent other than water for the purpose of increasing the concentration of the cannabinoids.

**Section 23:**

*Page 8*

Replaces *registration* with *license* in AS 43.61.030.

**Section 24:**

*Page 8*

Repeals subsection (i) effective on the earlier of November 24, 2016 or the date the Alcoholic Beverage Control Board completes the regulations required under section 6 of this bill.

**Section 25:**

*Page 8*

Establishes an immediate effective date.

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## SECTIONAL ANALYSIS

*House Bill 59*

*Marijuana Concentrates*

*Version S*

### **Section 1:**

*Pages 1-2*

Contains legislative intent language stating that in order to implement the marijuana initiative in an orderly process, the legislature intends to focus first on the growth and sale of marijuana and to delay regulations relating to marijuana concentrates for not more than a year. During the delay period, activities related to the commercialization of marijuana concentrates remain illegal.

### **Section 2-4:**

*Pages 2-4*

Amends language in AS 17.38.070(a), AS 17.38.070(b), and AS 17.38.070(c) to clarify language of the initiative permitting actions relating to marijuana by a licensed establishments. The term *registration* is amended to *license*.

### **Section 5:**

*Pages 3-4*

Amends language in AS 17.38.090(a) to clarify and replaces *registration* with *license*.

### **Section 6:**

*Pages 4-5*

Requires the board to adopt regulations governing marijuana concentrates. The regulations *must* include labeling and packaging requirements. Regulations *may* include prohibitions on combining concentrates with other addictive substances or requirements to certify new products before they are available for retail.

### **Section 7-11:**

*Pages 5-6*

Amends language in AS 17.38.100 to replace *registration* with *license*.

**Section 12:**

*Page 6*

Adds subsection (i), (j), (k) and (l).

Subsection (i) states that a license under AS 17.38 does not authorize a marijuana establishment to manufacture, deliver, or possess marijuana concentrates or products containing marijuana concentrates.

Subsection (j) allows the board by regulation to create the number or type of licenses necessary for implementation. Subsection (k) prohibits the issues of a license for a marijuana retail store to a person who holds a license under AS 04. Subsection (l) states that a license issued to a marijuana manufacturing facility does not authorize the facility to combine marijuana with tobacco, nicotine, or alcohol.

**Section 13-21:**

*Pages 6-8*

Amends language in AS 17.38.110 to replace *registration* with *license*.

**Section 22:**

*Page 8*

Defines marijuana concentrates as a substance created by extracting cannabinoids from marijuana for the purpose of increasing the concentration of the cannabinoids.

**Section 23:**

*Page 8*

Replaces *registration* with *license* in AS 43.61.030.

**Section 24:**

*Page 8-9*

Repeals subsection (i) effective on the earlier of November 24, 2016 or the date the Alcoholic Beverage Control Board completes the regulations required under section 6 of this bill.

**Section 25:**

*Page 9*

Establishes an immediate effective date.

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## EXPLANATION OF CHANGES

### *House Bill 59*

*Marijuana Concentrates*  
*Version P to Version S*

#### **Section 5:**

*Page 4, line 7 & 11*

*Registration is replaced with license.*

#### **Section 6:**

*Page 4, lines 26 - page 5, line 2*

Language requiring the regulations to include prohibitions on the combination of marijuana with alcohol and nicotine has been deleted. Language requiring the regulations to prohibit the sale of marijuana in an establishment which sells alcohol has also been removed.

New language was added which states that the regulations created by the board *may* include prohibitions on combining marijuana concentrates with other addictive substances or requirements that new products be certified before they are available for retail.

#### **Section 12:**

*Page 6, lines 8 – 15*

Subsections (j), (k), and (l) have been added.

Subsection (j) allows the board by regulation to create the number or type of licenses necessary for implementation. Subsection (k) prohibits the issues of a license for a marijuana retail store to a person who holds a license under AS 04. Subsection (l) states that a license issued to a marijuana manufacturing facility does not authorize the facility to combine marijuana with tobacco, nicotine, or alcohol or products containing them.

#### **Section 22**

*Page 8, lines 23 -25*

The words 'through the use of a solvent other than water' have been removed from the definition of concentrates.

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## **SECTIONAL ANALYSIS**

*House Bill 59*  
*Marijuana Concentrates*  
*Version F*

### **Section 1:**

*Pages 1-2*

Contains legislative intent language stating that in order to implement the marijuana initiative in an orderly process, the legislature intends to focus first on the growth and sale of marijuana and to delay regulations relating to marijuana concentrates for not more than a year. During the delay period, activities related to the commercialization of marijuana concentrates remain illegal.

### **Section 2**

*Page 2*

Adds a new section to AS 04.16 which restricts a licensee under that chapter from selling marijuana on the premise licensed under chapter 04.

### **Section 3-5:**

*Pages 2-4*

Amends language in AS 17.38.070(a), AS 17.38.070(b), and AS 17.38.070(c) to clarify language of the initiative permitting actions relating to marijuana by a licensed establishments. Deletes the phrase 'notwithstanding any other provision of law.' The term *registration* is amended to *license*.

### **Section 6:**

*Page 4*

Amends language in AS 17.38.090(a) to clarify and replaces *registration* with *license*.

### **Section 7:**

*Pages 4-5*

Requires the board to adopt regulations governing marijuana concentrates. The regulations *must* include labeling and packaging requirements. Regulations *may* include prohibitions on

combining concentrates with other addictive substances or requirements to certify new products before they are available for retail.

**Section 8-12:**

*Pages 5-6*

Amends language in AS 17.38.100 to replace *registration* with *license*.

**Section 13:**

*Page 6*

Adds subsection (i), (j), (k) and (l).

Subsection (i) states that a license under AS 17.38 does not authorize a marijuana establishment to manufacture, deliver, or possess marijuana concentrates or products containing marijuana concentrates.

Subsection (j) allows the board by regulation to create the number or type of licenses necessary for implementation. Subsection (k) prohibits the sale of alcohol on a premise licensed under this chapter. Subsection (l) states that a license issued to a marijuana manufacturing facility does not authorize the facility to combine marijuana with tobacco, nicotine, or alcohol.

**Section 14-22:**

*Pages 6-8*

Amends language in AS 17.38.110 to replace *registration* with *license*.

**Section 23:**

*Page 8*

Defines marijuana concentrates as a substance created by extracting cannabinoids from marijuana for the purpose of increasing the concentration of the cannabinoids.

**Section 24:**

*Page 8-9*

Replaces *registration* with *license* in AS 43.61.030.

**Section 25:**

*Page 9*

Repeals subsection (i) effective on the earlier of November 24, 2016 or the date the Alcoholic Beverage Control Board completes the regulations required under section 6 of this bill.

**Section 26:**

*Page 9*

Establishes an immediate effective date.

# LEGAL SERVICES

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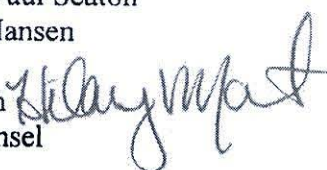
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## MEMORANDUM

March 2, 2015

**SUBJECT:** Marijuana concentrates  
(CSHB 59( ); Work Order No. 29-LS0257\S)

**TO:** Representative Paul Seaton  
Attn: Taneeka Hansen

**FROM:** Hilary V. Martin   
Legislative Counsel

You have asked whether the delay on regulations related to marijuana concentrates is constitutional as an amendment to the voter initiative.

Article 11, sec. 6, Constitution of the State of Alaska, provides in relevant part:

An initiated law becomes effective ninety days after certification, is not subject to veto, and may not be repealed by the legislature within two years of its effective date. It may be amended at any time.

In *Warren v. Thomas*, The Alaska Supreme Court stated that the legislature cannot amend an initiative to the point where the amendments constitute a repeal of the initiative.<sup>1</sup> In *Warren*, the Court also noted that the amendments to the initiative at issue in that case "preserve [the initiative's] basic structure and purpose"<sup>2</sup>

The definition of "marijuana" in the initiative explicitly includes marijuana concentrates.<sup>3</sup> Preventing marijuana establishments from manufacturing, delivering, possessing, possessing with the intent to manufacture or deliver, or displaying marijuana concentrates or products containing marijuana concentrates does amend the initiative. However, the bill does not contain a ban on the personal possession of marijuana concentrates, and it repeals the ban on marijuana concentrates for marijuana establishments when the regulations are ready, or one year after the date for the board to write regulations, whichever is earlier. Given these facts, a court would likely find that the ban on marijuana concentrates is not tantamount to a repeal of the initiative.

If I may be of further assistance, please advise.

HVM:lnd  
15-170.lnd

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<sup>1</sup> 586 P.2d 400, 402 - 403 (Alaska, 1977).

<sup>2</sup> *Id.* at 404.

<sup>3</sup> AS 17.38.900(6).



February 3, 2015

Alaska House Health & Social Services Committee  
Attention Representative Paul Seaton, Chair  
Pouch V  
State Capitol  
Juneau, Alaska 99801

<b>Regarding: HB 59</b>
<b>Position: Oppose Unless Amended</b>

Cc: Committee members

Dear Chair Seaton and members of the committee:

With help from thousands of supporters, the Campaign to Regulate Marijuana Like Alcohol in Alaska led the campaign for Ballot Measure 2, which was approved by 53% of Alaska voters on November 3. This measure removes any ambiguity about the legality of adults 21 and older possessing and securely cultivating limited amounts of marijuana. It will also replace the underground, unregulated market for marijuana with a regulated system of taxpaying businesses.

Under Alaska law, for the next two years, the Legislature's ability to modify the initiative is restricted. We recognize the need for thoughtful and deliberate rulemaking, and understand that it is with that goal in mind that HB 59 was drafted. Nevertheless, we have confidence in the ability of the Alcohol Beverage Control Board to adequately undertake the mandate handed to them by the voters under Measure 2. Cynthia Franklin, Director of the ABC Board, has already begun research on the matter of regulating edibles, and appears willing and able to abide by these deadlines. Delaying even a portion of its implementation would contradict the will of the voters. Concentrates are included under the definition of marijuana in Measure 2, and the manufacture, sales, and possession of such products should be treated with parity.

It is our position that HB 59 is unconstitutional as drafted. We have outlined our specific concerns below, and appreciate the opportunity to testify before this committee today. The work before you is important and we thank you for it. Seventy percent of your colleagues in the Senate have come to Juneau from districts that voted yes on Ballot Measure 2. Your constituents are looking to you to successfully implement the initiative, and we hope to help you do so. We will be providing legal and policy expertise to state and local lawmakers, and representing the intent of the initiative when questions arise.

Sincerely,

Dr. Timothy Hinterberger  
Chair, Campaign to Regulate Marijuana Like Alcohol in Alaska

## Specific Concerns With the Current Version of HB 59

### **1. HB 59 impermissibly delays implementation of portions of Measure 2 relating to marijuana concentrates. (Sec. 1)**

The definition of “marijuana” in Measure 2 makes clear that it includes marijuana concentrates. The initiative also makes clear that the state has until November 2015 to craft regulations to implement the law. Thus, HB 59 fundamentally alters the timeline for implementation approved by the voters of Alaska by banning the production and sale of “marijuana” for a year. The legislature does not have the authority to delay portions of that implementation.

Furthermore, HB 59 defines “marijuana concentrate” as “an oil, liquid, or other substance created by extracting cannabinoids from marijuana through the use of a solvent other than water for the purpose of increasing the strength or proportion of the cannabinoids.” One well-known cannabinoid that would fall under this definition is cannabidiol, known as CBD. Banning the possession and use of such concentrates would be particularly harmful to patients, many of who suffer from debilitating conditions requiring higher ratios of CBD and other cannabinoids.

### **2. HB 59 changes the term “registration” to “license” and adds the phrase “and permitted by” in relation to business registrations. (various sections)**

The word “registration” was carefully chosen in light of court decisions on federal preemption. (See e.g. *Emerald Steel v. BOLI*, Oregon Supreme Court.) “License” and “permitted by” suggest affirmative authorization rather than a designation that one is exempt from state penalties. While we believe that even laws using “license” are not preempted, the language should be left as-is to keep the law on the strongest possible footing.

### **3. The creation of an affirmative defense for product manufacturers. (Sec. 2, 11.71.092)**

In the context of a criminal law revisions bill, SB 30, we objected strongly to replacing comprehensive legal protections with a mere defense. While we note that unlike the initial draft of SB 30, HB 59 retains Measure 2’s comprehensive legal protections (AS 17.38.070), an exemption from penalties is far more protective than is a defense. Notably, SB 30 is being reworded to better conform to voters’ intent, including by replacing the defense with a more appropriate approach.

### **4. Amends 17.38.100 of Measure 2 to impermissibly ban production of marijuana concentrates by licensed marijuana establishments. (Sec. 12)**

Marijuana concentrates exist in Alaska today, and they would continue to exist even if HB 59 were enacted in its current form. Passing HB 59 would simply ensure that control over the sales and production of such concentrates remains in the hands of criminals. The longer such products are prohibited in the legal market, the longer criminals will profit from their manufacture and sale. This would increase the risk of explosions because small manufacturers would not have the safety requirements in place that businesses would.

HB 59 goes a step further and bans even the possession of “marijuana concentrates.” As defined in this bill, that excludes concentrates manufactured with water. This poses an enforcement problem, as it would be impossible to identify by plain view whether the concentrate in question was processed with water or other solvents. It should remain legal to possess and use such concentrates.

However, we agree that it is reasonable and in the best interest of public health and safety to prohibit certain solvent-based extractions in the home. Certain extraction processes can only be performed safely by professional, registered facilities equipped with the correct equipment and safeguards. We would be supportive of an amendment to HB 59 clarifying that the *manufacture* (not possession) of marijuana concentrates using potentially hazardous methods is prohibited in unregistered facilities, and specifically, in residential buildings. (However, this is likely unnecessary since SB 30 includes similar language.) An exception should be made for extractions that do not pose threats — for both water-based and vegetable glycerin-based extractions.

#### **4. HB 59 creates a new definition of “marijuana concentrate.” (Sec. 22)**

This restrictive definition is inappropriate because it is used in reference to marijuana establishments, which can safely manufacture concentrates in accordance with thoughtful safety regulations, such as those in place in Denver.

Also of note, another bill under consideration (SB 30) also creates a definition of “marijuana concentrate” that may conflict with this proposed definition. We would advise bill sponsors to coordinate on this issue.



February 2, 2015

The Honorable Paul Seaton  
Alaska State House of Representatives  
State Capitol Rm. 102  
120 4th Street, Mail Stop 3100  
Juneau AK 99801-1182

Dear Representative Seaton:

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for introducing House Bill 59 "An Act relating to marijuana concentrates; and providing for an effective date."

The APOA Board of Directors recently reviewed this proposed legislation and unanimously supports this bill in its current form. We agree that more time is needed to accurately and fairly create legislation on marijuana regulation. Please contact the APOA business office in Anchorage at 277-0515, if there is anything our organization can do to assist in the passage of this bill.

Sincerely,

A handwritten signature in black ink that reads "Brad Johnson". The signature is written in a cursive style with a large, stylized "B" and "J".

Brad Johnson  
State President



## Alaska Association of Chiefs of Police

March 6, 2015

The Honorable Paul Seaton  
Alaska House of Representatives  
State Capitol Room 102  
Juneau AK, 99801  
[Representative.Paul.Seaton@akleg.gov](mailto:Representative.Paul.Seaton@akleg.gov)

Dear Representative Seaton,

In my capacity as President of the Alaska Association of Chiefs of Police, I am writing to express our support of House Bill 59: "An Act relating to marijuana concentrates; and providing for an effective date." Our Association is comprised of more than 100 law enforcement executives from all across Alaska, and we feel this legislation is important to properly regulating what will be a very complex new industry in our state. Our colleagues in Colorado have warned us to be thoughtful in implementing regulation of the marijuana industry and to learn from their mistakes... one of which they say was trying to have all regulations in place in too short a period of time. Thank you for introducing this important bill.

We would be pleased to work with your staff to insure that HB 59 is passed, and encourage you to contact our Executive Director, Kalie Klaysmat, by email at [kalie.klaysmat@aacop.org](mailto:kalie.klaysmat@aacop.org) should there be some way we can be of further assistance in that regard. Thank you for your dedication to the people of Alaska and for your concern for public safety in particular.

Sincerely,

Deputy Chief Brad Johnson, President



# Coalition for Responsible Cannabis Legislation

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## Marijuana Products, Extracts, Derivatives, and Regulations (Overview and recommendations)

*Prepared by: CRCL Board Members*

*January 28 2015*



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**CRCL**

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## **Preface**

The purpose of this document is to clarify some of the terms, products, and processes related to the Marijuana Industry. Included are some suggested solutions to some of the more controversial issues that have been raised during public dialogue on these matters. These recommendations are not intended to be comprehensive but, rather, to serve as a reference for further discussion through the regulatory process. Some of the topics included may appear esoteric or insignificant but have been included to serve as background or reference for specific issues.

## **Introduction**

The Coalition for Responsible Cannabis Legislation (CRCL) was founded in 2013 for the express purpose of promoting a legal, regulated Marijuana industry in Alaska and to assist in the development of rules and guidelines that will allow that industry to thrive as a responsible Alaska-based industry. With over 1,000 members statewide, CRCL brings to the table a comprehensive industry-perspective on Marijuana Business, products, and the regulatory process.

Throughout this document, it is assumed that one of the major goals to be realized with implementation of 13PSUM is to allow and encourage existing black-market operators to grow, process, and sell marijuana in a regulated, legitimate market. We believe that success in this one area will yield multiple benefits including: Reduced availability to youth, reduced work/cost for law-enforcement, new jobs statewide, and tax income sufficient to administer a marijuana control board with associated infrastructure and to fund informational programs to educate segments of the population on the responsible consumption of marijuana products. Another goal, is to make retail stores available to medicinal marijuana consumers who currently have no legal way of purchasing those products.

## **State of the (Black Market) Industry**

Exact numbers are difficult to estimate but, by some accounts, roughly 100,000-120,000 Alaskans currently consume Marijuana on a semi-regular basis. If we assume (conservatively) an average, annual consumption of 2 ounces per consumer, then the current market may entail roughly 200,000-240,000 ounces annually (approximately 12,500-15,000 pounds. These numbers are estimates only, the current market may easily be 20-30% greater than suggested.

Due to logistics of transportation, most of the Marijuana consumed in Alaska is produced here as well. Black-market growers may produce only a few dozen plants at a time or may be as large as 1,000-2,000 plants. This range of producers is significant to the regulatory process because, in order to encourage those operators to adopt a legitimate business model, it is imperative to provide an entry-point into the industry for businesses of various sizes.



## **The Cannabis Plant**

### **Chemical Properties**

Cannabis plants produce two chemical compounds of significance: Tetrahydrocannabinol (THC) is the psychoactive component that may produce feelings of euphoria, relaxation, or increased appetite. The other cannabinoid of note is Cannabidiol (CBD) which is often sought for pain management or the control of seizures.

Different strains of the plant contain varying proportions of THC and CBD and some strains have been developed for greater production of one or the other. A notable example of such breeding is a strain called "Charlottes Web" which was bred to have relatively low levels of THC but much higher levels of CBD. This strain was specifically developed for its medicinal properties and has been used to control seizures in patients for whom other, powerful narcotics have been problematic. This strain was named in honor of a young girl named Charlotte whose seizures have been successfully controlled through the use of high-CBD cannabis extracts and tinctures.

### **Components of the Cannabis plant**

**Flowers:** The tops of plant stalks containing the most potent concentrations of THC and CBD. Typically dried, cured and sold for consumption or processed to extract concentrates.

**Trichomes:** Small (75-150 micron) mushroom-shaped glands on the surface of the flower and upper leaves that contain the highest concentration of THC and CBD. Often extracted through different processes to produce concentrates largely free of organic (leaf) material. Trichomes, in various concentrations, form the most sought-after parts of flowers, hash, and hashoil, as well as other derivative products.

**Fan Leaves:** Larger leaves - typically on the lower portion of the plant. They were once sold as a consumable product but are now either discarded in favor of the flowers, or processed in closed-loop extractors to distill resins within for use in creating edible products.

**Sugar Leaves:** Smaller leaves, typically found at the ends of branches and stalks (nearest the flowers). So named for the accumulation of trichomes on the leaves which gives them a sugar-frosted appearance.

**Trim:** A general term applied to leftover flower and leaf material that is typically processed to produce kief, hash, hashoil, or infusions.

**Stalks:** Stalks and stems are of little value to the Medicinal or Recreational Marijuana market but may be sold to a secondary hemp industry for further processing.



## **Strains of Cannabis**

There are three major species of the Cannabis genus:

- 1) Cannabis Sativa
- 2) Cannabis Indica
- 3) Cannabis Ruderalis

There are differences between the Sativa and Indica species that result in slightly different effects when consumed, however those differences are not considered pertinent to a regulatory discussion. Most contemporary strains are some hybrid mix of the two species.

Cannabis Ruderalis is notable because it flowers after a given period of time – not in response to the length of the day. This is significant because, considering Alaska's peak daylight hours, relative to the typical rainy season, this species may be best for outdoor growing during our fairly short growing season.

## **Cannabis Flowers**

Most cannabis products are derived, directly or indirectly, from the flower of the female plant. The male plants produce few desirable compounds and, except in breeding and research programs, are typically destroyed as soon as they are identified as being male. The female plants continue to develop but are never fertilized by the males. The unfertilized female flowers grow larger, develop more trichomes and are more potent. These unfertilized plants are known as "Sinsemilla" plants (from the Spanish "Sin semilla" – meaning "without seeds").

## **Potency of contemporary strains and derivative products**

Much has been made of the potency of certain strains as compared to those available 20-30 years ago. It is true that the average marijuana product available today is relatively higher in THC content but one could argue that this is more a function of the market than anything else. Discriminating consumers have become accustomed to a better product, to the point that portions of the plant are now thrown away or processed for use in edibles simply because no one is willing to buy them anymore when higher-quality flowers and concentrates are available.

It is tempting to treat concentrated forms of marijuana differently than the raw flowers or leaves, but to do so assumes a difference in the products that does not exist.

To make an analogy to alcohol, some consumers prefer beer, others prefer whiskey but they adjust their consumption accordingly to reflect the different potency of the products. Likewise, in the marijuana industry, some consumers prefer the flowers, others prefer more concentrated products (hash, hashoil, etc.) and they adjust their consumption accordingly.

This simple fact is, perhaps, one of the least understood aspects of the current discussion.



## **Derivative Products**

### **Flower**

The mature flower of the female cannabis plant (sometimes referred to as "Buds"). Traditionally, both the leaves and flowers of the cannabis plant were commonly consumed, most often by smoking. Though still fairly popular, flowers have given way to concentrates and edibles, and even the smoking of flowers and oils has evolved markedly over the past 20 years.

### **Concentrates**

This section is intended to bring some clarity to the discussion on marijuana extracts/concentrates and to offer some suggestions on how they may be properly managed / regulated. It is important to note that concentrates – of one form or another – along, with edibles, now comprise as much as 50% of the market in some areas. Therefore, while simply banning such derivative products may seem desirable, doing so would virtually guarantee the perpetuation of a significant black-market industry for the foreseeable future.

### **Keif**

Keif (or Kif) refers to the resin-filled trichomes from the flower separated from the rest of the plant using various mechanical or thermal processes (freezing the material allows the trichomes to be shaken loose and gathered). In agricultural terms, it is similar to separating wheat from chaff. The collected trichomes resemble coarse sand with a light tan or greenish tint.

Chemically, it is very similar to the flowers of the plant, lacking only the organic leaf and reproductive elements of the flower.

The resulting concentrate may be smoked or eaten by itself, added to a small amount of flower, or used in other processes to create oils or edible products. Current processes do not involve high-pressure equipment or volatile compounds of any kind – relying instead on the use of dry-ice or ice-baths to freeze the trichomes so they can be sifted from the rest of the plant material and collected.

### **Hash**

Hash, or Hashish is merely Keif (the collected trichomes from the cannabis flower) pressed into a small block of solid material. Like Keif, Hash is chemically similar to the flowers of the plant but having had most of the organic material removed by sifting.



### **Hashoil**

Hashoil is a liquid concentrate derived from the trichomes and other plant material. This oil extract is what remains when the cellular trichomes are stripped of the resins within. Still considered a raw product of the plant, the oil is typically extracted by exposing the plant material to pressurized CO<sub>2</sub> or another solvent to rinse out the resin, and then evaporating the solvent. What remains is a dark, lightly viscous oil. Done properly, the final product has little to no residual solvent and resembles a concentrated oil with a relatively high ratio of THC / CBD by weight.

Hashoil has grown in popularity over the past 30 years and is now the preferred product for many recreational and medicinal consumers – representing a significant portion of the market in some areas. Hashoil can be consumed directly using pipes or vaporizers, or used to create edible products or tinctures (the last being very common amongst medical consumers).

In commercial settings, hashoil is typically derived using closed-loop extraction systems employing pressurized CO<sub>2</sub> or other gases as a solvent. This process is very similar to that used to extract Lavender oils, Vanilla extract, and other familiar oils and extracts. In a controlled environment, with trained personnel and suitable equipment, this is a safe and very common industrial process. The International Building Codes (IBC) already provides design guidelines for facilities using such equipment and processes.

### **Tinctures**

Tinctures are a diluted form of hashoil mixed with alcohol or glycerin and are a preferred method of consumption for some medical consumers.

### **Infusions**

The leaves or concentrates (hashoil or hash) may be used to infuse THC in a solvent - this can include cocoa butter, dairy butter, cooking oil, glycerin, and skin moisturizers – which are then used in cannabis foods (edibles) or applied topically.



## **Methods of Consumption**

### **Smoking**

The most recognized and stereotypical method of marijuana consumption is smoking, with a pipe or paper-wrapped "joint". While this does produce some residual (second-hand) smoke it is typically not in the volumes associated with cigarette smoke because the amount of material burned is relatively small compared to that burned by a cigarette smoker. This method of consumption is also on the decline.

### **Vaporizer**

Vaporizers are a growing method of marijuana consumption. Some devices function similarly to e-cigarettes where a small amount of oil or flower is vaporized within the device with a heating element – and only when triggered by the consumer. The result is a more concentrated vapor with very little residual smoke or vapor.

### **Cannabis Tea**

Produced by adding a saturated fat (cream or milk) to hot water with a small amount of infused THC.

### **Edibles**

This covers a broad range of products including chocolates and other confections, beverages, and baked goods (ie: cookies, bread, or the ubiquitous brownie). Many consumers prefer edible products above all other forms of consumption. Many medical consumers can only consume marijuana in edible form.

It is important to note, for regulatory purposes, that the total weight of an edible product is made up by the confection or product itself – not the concentrate used to introduce THC into the recipe,



## **Regulatory considerations / recommendations**

### **Concentrates**

#### **Hash**

Hash is similar in chemistry and effect to the raw flowers of the plant. Consumers often prefer hash because it lacks the organic material (leaf) of the flower. Hash production does not typically involve the use of solvents or other volatile compounds. Therefore, there is little value or need to regulate hash differently than the flowers themselves.

#### **Hashoil**

The regulatory challenge with hashoil is that, in the absence of retail stores selling a quality, tested product at a reasonable price, some consumers have taken to home-extraction using butane – and sometimes in less-than-ideal settings. Butane, like any volatile gas, can be ignited by an open flame or electrical ignition source. This has given rise to home fires and some explosions.

The concern with “butane-hashoil” is a valid one but it’s important to make the distinction between the product (hashoil) which is not volatile, and the home-process of extraction using butane (which can be hazardous). To be clear hashoil, itself, is not volatile although the solvent used to extract hashoil can be in an uncontrolled environment.

Home-extraction is time-consuming, expensive, potentially hazardous, and often yields an inferior extract. The solution, in our view, is to ensure that a viable, regulated industry exists to produce this extract in a safe and economical manner so that consumers no longer have an incentive to attempt their own extraction.

We believe that such an approach would do far more to discourage the dangerous process of Butane-Hashoil production than any form of legislation could hope to.



## **Marketing**

We agree that reasonable guidelines for marketing of marijuana products are appropriate.

However, we believe that such guidelines should not be so onerous as to make all marketing impossible. We agree that advertising that targets, or is openly visible to, underage individuals is undesirable. However, we believe that in-store advertising, web-based ads, and demographic-targeted online ads (21 and over through Facebook, for example) are a reasonable balance between public welfare and First Amendment rights.

## **Packaging**

We agree that marijuana products should not be packaged or marketed to be enticing or attractive to children and that they should not be packaged to look, intentionally, like a familiar child-safe product.

### **Child-resistant packaging**

It's useful to point out that, for decades, prescription drugs – including powerful opiates, barbiturates, and others – have been sold to consumers and packaged in child-resistant bottles with lids that require a modest degree of strength or dexterity to open. Many of these compounds can be immediately fatal or damaging if ingested by a child – yet the standard of protection (at least in the packaging) is clearly established.

Although marijuana products are not potentially lethal, we propose that a similar child-resistant packaging be required at the point of sale. Where a product cannot readily fit into available safety-lid bottles, an acceptable alternative might be a re-sealable pouch with a special zipper. Several such products are manufactured and are being used in Colorado. Consumers might elect to purchase one at the time of sale or re-use one from a previous transaction.

### **Serving Size**

We agree that a standard “serving size” should be established as a guide for consumers buying edible products. Such a measure has proven both necessary and effective in other states as an appropriate consumer protection.

A likely concentration would be in the range of 5-20mg THC per serving with a recommended maximum of 4-6 servings per package (depending on the nature of the product). Products that cannot be readily re-sealed (such as a single cookie or beverage) might best be limited to a single “serving”.



## **Labeling**

We agree that marijuana and its' derivative products should have some basic labeling requirements to include:

- 1) THC content (by percentage)
- 2) Number of servings (when appropriate – typically for edibles)
- 3) A warning that the contents contain marijuana or marijuana derivatives

## **Public / Private Space (definition)**

Some local lawmakers have expressed concern over the distinction between Public versus Private consumption of marijuana. We recognize that Public consumption is unlawful under the provisions of 13PSUM, however there remains the definition of what is Public Space.

There are two specific examples that can be drawn from the consumption of alcohol and tobacco:

- 1) Bar and restaurant owners currently have the option of allowing their patrons to smoke cigarettes in designated areas (sometimes outdoor decks or patios). Since those properties are owned by or under the legal control of the business, it is effectively Private property and we believe they should be allowed to determine for themselves if marijuana may be consumed on the premises.

Note: In light of the proposed statewide ban on smoking we suggest that the use of e-cigarettes and vaporizers for marijuana be exempted from such a ban.

- 2) Special events such as the Beer and Barleywine Festival in Anchorage (and other such events around the state) are able to serve or allow the consumption of alcohol within designated areas during the event. We propose that similar events – specific to the marijuana industry – should also be allowed to designate areas for consumption / sampling on the premises and during the specific hours of the event assuming that the activity is consistent with other state or local laws pertaining to smoking of cigarettes or the use of e-cigarettes or vaporizers.

Some businesses may develop around the model of a coffee shop that serves marijuana products. Some of these may even provide designated areas for consumption. We suggest that the statewide rules should allow for such businesses – pending local approval.



### **Licensing of Businesses**

We recognize that Public Health and Welfare are the primary goals of the licensing process, however we believe that market forces of supply and demand should ultimately be allowed to determine the success or failure of individual businesses. That said, we believe that an effective licensing process can address both of these goals.

### **Types of Licenses and Associated fees**

Ballot Measure 2 articulated four general categories of license (Grower / Processor / Lab / Retailer).

We recommend that the License for Grower / Producer be expanded into a tiered system as follows:

- Tier 1 - Fewer than 100 plants
- Tier 2 - Over 100 but fewer than 2,500 plants
- Tier 3 - Over 2,500 plants

We further recommend that the initial application and license fees be kept as low as possible for Tiers 1 & 2 in order to encourage existing black-market growers to transition. We believe the lower fees would be justified since these smaller operators should require less administrative time to evaluate and process. We propose that the Tier 1&2 licenses be made available earliest with the Tier 3 permits made available 4-6 months later.

This approach would give smaller operators time to become established before opening the market to larger groups that might otherwise dominate the market. This could effectively dull the effect of "Big Marijuana" taking over the Alaska market as some have suggested.

### **Qualifications for Licensure**

We believe that the most effective way of evaluating applications would be a weighted, merit-based system whereby applicants can be evaluated on their likely ability to meet the regulatory requirements and operate a viable business. A weighted system would also allow applicants weak in one area but stronger in others to compete for available licenses.

### **Residency Requirements**

We recommend that qualifications for those with controlling interest in a marijuana business be predicated on the same criteria as those used for the Permanent Fund Dividend – Alaska resident with a prior period of residency.



### **Background Checks**

We agree that background checks should be conducted for individuals who would have controlling interest in a marijuana business. However, we would suggest that prior convictions for non-violent or marijuana-related offenses not be the sole grounds for license denial. The rationale here is that individuals with a felony conviction for growing marijuana may have served their time and / or parole but could still have a difficult time getting a high-paying job. That same individual might well find a high-paying career as a master-grower with a marijuana business and that could help them to get re-established in society and to provide for their families in a productive manner.

### **Application Process**

We are adamantly opposed to a "Lottery-Style" system of licensing. Such a system could have the effect of granting licenses to individuals or groups who may not be committed or prepared to engage in this industry while denying licenses to others who are prepared to operate effectively in a regulated environment.

### **Rulemaking Board**

It remains the position of CRCL that a dedicated Marijuana Control Board is the ideal body for working out the details of Marijuana Regulations. While we agree that Marijuana can be regulated "like" alcohol, the two products – and their associated industries – are sufficiently different that a separate board should be assigned the task of working out the regulatory details. In particular, we believe that such a board should include representatives of the Marijuana Industry and should not include members of the alcohol industry as that could result in a conflict of interest on the board.

That said, we recognize the current constraints of both time and budget and we believe that a suitable compromise would be a hybrid-board, housed within the ABC, guided by the current director (Cynthia Franklin) and utilizing existing resources of staff and office space but composed of individuals whose sole focus is Marijuana Regulations.



### **Rulemaking process**

CRCL is aware that some individuals or groups opposed to this initiative may be attempting to delay the process indefinitely, or at least until the Legislature can repeal the law in February of 2017. Naturally, we are opposed to such a strategy.

We believe that given time to develop properly, this new industry can operate in a responsible manner and offer the Legislature every reason to \*not\* repeal this law in 2017. In order to do that, it is imperative that the rulemaking schedule be adhered to so that there will sufficient data available to the public and the Legislature during the 2017 session to support the continuation of a legal, regulated marijuana industry.

The rulemaking schedule defined in 13PSUM is aggressive but we believe it is achievable provided that the following conditions exist:

- 1) A rulemaking body is identified quickly and granted the authority to proceed with the rulemaking process.
- 2) The individuals assigned to the rulemaking board and any associated sub-committees are committed to the successful execution of this voter initiative.
- 3) No extraneous actions are taken that would intentionally or unnecessarily delay implementation or negate key aspects of the new law.

\* \* \* \* \*



## Coalition for Responsible Cannabis Legislation

To: Representative Paul Seaton

Attn.: Taneeka Hansen

From: Bruce Schulte, CRCL

Date: March 11, 2015

Re: House Bill 59

Dear Representative Seaton;

Thank you for the opportunity to comment on this draft of HB59.

We wish to offer the following observations:

As stated in the proposed bill, the intent is to delay regulations relating to the commercial marijuana industry. The stated reasons included a concern that the designated Control Board cannot complete their work in the timeframe defined in this voter initiative.

However, in previous testimony, the director of the Alcohol Control Board (and presumptive director of a Marijuana Control Board) has stated that she has every confidence that the schedule can be met.

Thus, we respectfully submit that the underlying argument in support of this bill is not compelling.

Further, to specifically target concentrates – which, along with edible products, can comprise as much as fifty-percent of the market is contrary to the voter initiative.



Finally, this bill specifically references seizure and forfeiture as possible sanctions for violation of provisions that have, in fact, been made lawful under this voter initiative. I would point out that abuse of seizure and forfeiture laws around the country – and in Alaska was one of the main reasons that this voter initiative was adopted by the voters.

We respectfully recommend that this bill be tabled without further consideration.

Thank you for considering our input on this draft bill, we appreciate the opportunity to contribute to this effort and look forward to working with you and your committee further.

Regards,

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