

SB

30

<TARGET><BILL>SB 30</BILL><SUBJECT>SB
30</SUBJECT><COMM>SFIN29</COMM></TARGET>

SENATE FINANCE COMMITTEE REPORT

DATE: 2/23/15

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Finance Committee considered SENATE BILL NO. 30

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

"An Act relating to controlled substances; relating to marijuana; relating to driving motor vehicles when there is an open marijuana container; and providing for an effective date."

and recommends:

- be replaced with CS SB 30 (FIN) Same Title New Title
- adopt previous CS _____ (_____) Same Title New Title
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
EED	MVA
DEC	DNR
DFG	DPS
GOV	REV
DHS	DOT
AJS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
ADM			✓	
ADM			✓	
CED	✓			
COR			✓	
LAW			✓	
DPS			✓	
AJS			✓	

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	MICCICHE				✓
	BISHOP			✓	
	O'LEARY			✓	
	O'LEARY			✓	✓
	HOFFMAN			✓	
CO-CHAIR:	MACKINNON				
CO-CHAIR: Anna Mackinnon	Mackinnon	✓			

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 30
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB030CS(JUD)-DOA-OPA-02-23-15
Title: MARIJUANA REG;CONT.
SUBST;CRIMES;DEFENSES
Sponsor: JUDICIARY
Requester: Senate Finance

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

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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:

Updated for new version of the bill.

Prepared By: Richard Allen, Director Phone: (907)269-3504
Division: Office of Public Advocacy Date: 02/23/2015 02:30 PM
Approved By: Sheldon Fisher, Commissioner Date: 02/23/15
Agency: Department of Administration

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. CSSB 30(JUD)

Analysis

This bill modifies existing criminal statutes to allow for manufacture, possession, display and use of marijuana in some circumstances. Additionally, it creates new violations and crimes related to the delivery, possession, display, or use of marijuana by persons under twenty-one (21) years of age.

The Office of Public Advocacy does not anticipate a financial impact from this legislation and therefore, submits a zero fiscal note.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 30
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB030CSCS(FIN)-DOA-PDA-03-14-15
Title: MARIJUANA REG;CONT.
SUBST;CRIMES;DEFENSES
Sponsor: JUDICIARY
Requester: Senate Finance

Department: Department of Administration
Appropriation: Legal and Advocacy Services
Allocation: Public Defender Agency
OMB Component Number: 1631

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
OPERATING EXPENDITURES	FY 2016	FY 2016					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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:

Section 14 of the CS repeals a portion of the marijuana voter initiative and adds marijuana concentrates as a schedule IIIA controlled substance.

Prepared By: <u>Quinlan Steiner</u>	Phone: (907)334-4414
Division: <u>Public Defender Agency</u>	Date: 03/14/2015 12:15 PM
Approved By: <u>Sheldon Fisher, Commissioner</u>	Date: 03/14/15
Agency: <u>Department of Administration</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. SB 30

Analysis

This bill modifies existing criminal statutes to allow for manufacture, possession, display and use of marijuana in some circumstances. Additionally, it creates new violations and crimes related to the delivery, possession, display, or use of marijuana by persons under 21 years of age.

Section 14 of the bill, however, repeals a portion of the marijuana voter initiative and adds marijuana concentrates as a schedule IIIA controlled substance beginning in February 2017. The agency anticipates an increased marijuana concentrate caseload starting in FY2017 based upon this repeal.

The Public Defender Agency does not anticipate a fiscal impact from this bill up to February 2017, but can not reliably predict the fiscal impact of section 14, which will likely increase the agency's caseload over post-initiative levels. The agency, therefore, submits a zero fiscal note.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 30
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB030-DCCED-ABC-03-14-15
Title: MARIJUANA REG;CONT,
SUBST;CRIMES;DEFENSES
Sponsor: JUDICIARY
Requester: (S) FINANCE

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
OPERATING EXPENDITURES	***	***	***	***	***	***	***
Personal Services		610.5					
Travel		73.0					
Services		756.4					
Commodities		134.5					
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	1,574.4	***	***	***	***	***

Fund Source (Operating Only)

1004 Gen Fund		1,574.4					
Total	***	1,574.4	***	***	***	***	***

Positions

Full-time		4.0					
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? N/A

Why this fiscal note differs from previous version:

Revised to reflect changes in version U.

Prepared By: Cynthia Franklin, Executive Director
Division: Alcoholic Beverage Control Board
Approved By: Catherine Reardon, Director
Agency: Division of Administrative Services

Phone: (907)269-0351
Date: _____

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. SB 30

Analysis

SB 30 would provide exceptions to criminal statutes related to marijuana and marijuana offenses. These changes would not have a substantive impact on the cost of implementing ballot measure 2.

SB 30 would also provide for legislative action to opt-out all communities in an unincorporated borough, which could increase the cost of enforcement. Additionally, it would make hash oil or hashish oil, hashish, and tetrahydrocannabinols a schedule three substance after February 24, 2017. The exemptions to criminal statutes related to marijuana and marijuana offenses provided in this bill are only for schedule five and schedule six substances. This change in classification will impact licensees, as they would be legally able to manufacture and sell marijuana products prior to the repeal date, but unable to do so afterward. Enforcing this change would require additional outreach and/or enforcement actions both before and after the repeal date. It is not possible to predict what the fiscal impact from these changes would be at this time.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 30
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB030-DOC-IDO-03-14-15
Title: MARIJUANA REG;CONT.
SUBST,CRIMES;DEFENSES
Sponsor: JUDICIARY
Requester: SENATE FINANCE

Department: Department of Corrections
Appropriation: Population Management
Allocation: Institution Director's Office
OMB Component Number: 1381

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 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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: April Wilkerson Phone: (907)465-3460
Division: Administrative Services - Department of Corrections Date: 03/14/2015 10:45 AM
Approved By: Remond Henderson, Deputy Commissioner Date: 03/14/2015
Agency: Department of Corrections

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. SB 30

Analysis

This legislation should have no financial impact to the department as contraband into a correctional facility is currently a class A misdemeanor.

Section 4. AS 11.56.380(a)(3) established that a person commits the crime of promoting contraband in the second degree (class A misdemeanor) if the person introduces, takes, conveys, or attempts to introduce, take, or convey a schedule VIA controlled substance into a correctional facility.

Section 15. AS 11.71.190(b) establishes a new controlled substance section which includes marijuana; hashish; hashish oil or hash oil; and tetrahydrocannabinols as a schedule VIA.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 30
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB030-LAW-CRIM-03-14-15
Title: MARIJUANA REG;CONT.
SUBST;CRIMES;DEFENSES
Sponsor: JUDICIARY
Requester: (S) FIN

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
OPERATING EXPENDITURES	FY 2016	FY 2016					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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:

This fiscal note differs from the initial version because it reflects the changes made in Senate Finance.

Prepared By: Valerie Rose, Budget Analyst	Phone: (907)465-3674
Division: Administrative Services Division	Date: 03/14/2015 11:02 PM
Approved By: Craig W. Richards, Attorney General	Date: 03/14/15
Agency: Department of Law	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. SB 30

Analysis

This legislation amends the misconduct involving controlled substances statutes to incorporate the provisions of Ballot Measure #2, An Act to Tax and Regulate the Production, Sale, and Use of Marijuana. It establishes new possession limits for marijuana and marijuana plants and prohibits certain conduct relating to marijuana.

Misconduct Involving a Controlled Substance in the Fourth Degree (Class C Felony)

This statute has been amended to establish new felony level thresholds for possession of marijuana outside the home. This crime prohibits a person from possessing 16 ounces or more of usable marijuana outside the home and 25 or more marijuana plants.

Misconduct Involving a Controlled Substance in the Fifth Degree (Class A Misdemeanor)

This statute has been amended to prohibit a person from possessing at least three but less than 16 ounces of usable marijuana outside the home and at least 12 but less than 25 plants. It also prohibits a person from delivering more than an ounce of useable marijuana or more than six plants for remuneration.

Misconduct Involving a Controlled Substance in the Sixth Degree (Class B Misdemeanor)

This statute has been amended to prohibit a person from possessing at least two but less than three ounces of usable marijuana outside the home and seven to ten marijuana plants.

Misconduct Involving a Controlled Substance in the Seventh Degree (Violation)

This is a new violation. This violation prohibits conduct such as minors possessing less than two ounces of usable marijuana. It also prohibits operating a motor vehicle while using marijuana and persons over the age of 21 from using marijuana in public.

Failure to Carry Proof of Registration

SB 30 requires a person who works for a marijuana establishment to carry proof that they are licensed under AS 17.38 when transporting more than one ounce of marijuana. If a person is cited they may avoid conviction by presenting their valid license in court or to the citing officer. Failure to Carry Proof of Registration is a violation. All of the violations created in the legislation allow a person to avoid a court appearance and pay any fines by mail.

This legislation reschedules hashish and hash oil from a IIIA controlled substance to a VIA controlled substance, similar to marijuana. On February 24, 2017, hashish and hash oil will be rescheduled back into schedule IIIA.

The Department of Law does not anticipate a fiscal impact.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 30
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB030CS(JUD)-DPS-DET-02-23-15
Title: MARIJUANA REG;CONT.
SUBST;CRIMES;DEFENSES
Sponsor: JUDICIARY
Requester: Senate Finance

Department: Department of Public Safety
Appropriation: Alaska State Troopers
Allocation: Alaska State Trooper Detachments
OMB Component Number: 2325

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
OPERATING EXPENDITURES	FY 2016	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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:

No change from initial version.

Prepared By:	Kelly Howell, Director	Phone:	(907)465-4336
Division:	Administrative Services	Date:	02/23/2015 04:00 PM
Approved By:	Gary Folger, Commissioner	Date:	02/23/15
Agency:	Public Safety		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. CSSB 30(JUD)

Analysis

This legislation revises Alaska statutes to implement the ballot initiative associated with the production, sale, and use of marijuana.

DPS will endeavor to identify other funding sources to mitigate any increased costs associated with this legislation before seeking additional state funding.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 30
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB030CS(FIN)-ACS-TRC-03-14-15
Title: MARIJUANA REG;CONT.
SUBST;CRIMES;DEFENSES
Sponsor: JUDICIARY
Requester: Senate Finance

Department: Judiciary
Appropriation: Alaska Court System
Allocation: Trial Courts
OMB Component Number: 768

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
OPERATING EXPENDITURES	FY 2016	FY 2016					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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:

New CS from Senate Finance Committee. Fiscal impact remains zero.

Prepared By: Nancy Meade, General Counsel	Phone: (907)463-4736
Division: Alaska Court System	Date: 03/14/2015 12:00 PM
Approved By: Nancy Meade for Christine Johnson, Administrative Director	Date: 03/14/15
Agency: Alaska Court System	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. SB30 _____

Analysis

The Finance Committee Substitute for SB 30 (version U) makes numerous statutory changes to implement the initiative known as Ballot Measure 2 that the Alaska voters passed in November 2014 to legalize certain amounts of recreational marijuana. CSSB 30 (FIN) concerns the criminal aspects of implementing legalized marijuana in Alaska.

Generally, the bill amends the criminal drug possession laws in AS 11.71 to make certain conduct related to personal marijuana use (as contemplated in the initiative) no longer crimes by adding a "non-applicability" provision to the criminal statutes, and by categorizing the possession/manufacture/delivery of illegal marijuana as different crimes depending on the volume of marijuana involved. The CS also amends the crimes of promoting contraband (sections 3 and 4), adds a new violation to AS 11.71 for Misconduct involving a Controlled Substance in the 7th degree (section 12), and creates three other new violations in AS 17.38.200, .210, and .220 (section 32). The bill also makes a number of other changes that are not expected to have a fiscal impact on the court system.

New AS 17.38.230 in section 32 requires the Supreme Court to create a bail forfeiture schedule (fine schedule) so that persons who receive a citation for the violations can pay the scheduled fine without a mandatory court appearance. Further, AS 17.38.240 requires the court to remove from its publicly available website of case records (after a case is closed) the court records of persons who were under 21 when they committed the offense that led to the court case.

The impact on the court system from CSSB 30 (FIN) is difficult to predict with certainty, but is not expected to be large. Some activity that is currently a crime and that leads to cases being filed and handled in the court system will no longer be a crime, but other activities relating to marijuana use remain a crime or become a new crime or violation, depending on the amounts of marijuana involved, the status of the defendant as registered or unregistered, and the age of the defendant. If CSSB 30 (FIN) becomes law, the supreme court will create the bail forfeiture schedule as required in AS 17.38.230, the court's administrative office will develop a mechanism for removing the case records of those under 21 from CourtView, and the courts will handle all cases filed under the new provisions in the normal course of its business.

In summary, though the actual impact on case filings is not certain, and though it will affect the court's workload somewhat, this bill is unlikely to result in a fiscal impact on the court system, which therefore submits this zero fiscal note.

CS FOR SENATE BILL NO. 30(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to controlled substances; relating to marijuana; relating to crimes and**
2 **offenses related to marijuana and the use of marijuana; relating to open marijuana**
3 **containers; relating to established villages and local options; relating to delinquent**
4 **minors; making conforming amendments; and providing for an effective date."**

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

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

8 PURPOSE OF SEC. 30 OF THIS ACT. The purpose of sec. 30 of this Act is to protect
9 the health and safety of persons who reside in established villages in the unorganized borough
10 in the state and to provide legislative findings regarding the operation of marijuana cultivation
11 facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail
12 marijuana stores in the unorganized borough. The legislature, acting in its capacity as the
13 assembly for the unorganized borough, prohibits the operation of marijuana establishments in
14 the unorganized borough outside of a municipality. Established villages in the unorganized

1 borough may allow marijuana establishments on a community-by-community basis through
2 the local option election procedure provided by AS 17.38.250 - 17.38.300, added by sec. 32 of
3 this Act.

4 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 FINDINGS FOR SEC. 30 OF THIS ACT. The type of marijuana available in the
7 United States and Alaska today, and the changes in the patterns of usage of the drug,
8 particularly by young Alaskans, Alaska Natives, and those undergoing alcohol treatment, pose
9 a threat to the public health and welfare that justifies prohibiting the operation of marijuana
10 establishments in the unorganized borough outside of municipalities. In this Act, the
11 legislature has considered its duty as the assembly for the unorganized borough in art. X, sec.
12 6, Constitution of the State of Alaska, and its duty to promote the public health and welfare in
13 art. VII, sec. 4, Constitution of the State of Alaska. The legislature has also considered its
14 obligation to carry out the intent of the voters of Alaska in legalizing marijuana by ballot
15 initiative. To assist the courts in considering these issues, the legislature further finds that

16 (1) the potency of marijuana has increased dramatically since the 1960s and
17 1970s; the national average amount of delta-9-tetrahydrocannabinol (THC), the main
18 psychoactive ingredient, was less than one percent then, but increased steadily in the 1980s
19 and 1990s, and by 2003 was six times higher, at 6.4 percent; Alaska marijuana today
20 commands hundreds of dollars an ounce on the illegal market and is often sold in smaller
21 amounts within the price range of teenagers; the increasing potency of marijuana corresponds
22 to an increase in substance abuse treatment admissions and in the number of persons seeking
23 emergency medical care due to marijuana-related incidents;

24 (2) several hundred adults and children are admitted into treatment each year
25 in Alaska for marijuana abuse, with nearly 46 percent being children under 20 years of age;

26 (3) there is evidence that some users become dependent on marijuana under
27 the clinical standards applied by the Diagnostic and Statistical Manual of Mental Disorders
28 IV; studies have shown that use of marijuana and withdrawal from marijuana affect some of
29 the same neurochemical processes as known addictive drugs; Marijuana Anonymous chapters
30 to treat marijuana addicts exist in a majority of states in the country; that is persuasive
31 evidence of marijuana's potential for users to become dependent on it; currently, 9.2 percent

1 of all persons in Alaska treated for drug and alcohol problems are treated for marijuana abuse;

2 (4) early exposure of young people to marijuana increases the likelihood of
3 lifelong health and social problems and is associated with depression;

4 (5) a significant percentage of persons in treatment for alcohol abuse also
5 abuse a secondary drug, which may include marijuana; nevertheless, the relationship between
6 marijuana and alcohol and other drugs is not fully understood;

7 (6) marijuana consists of hundreds of different chemicals and can affect
8 almost every organ and system in the body, including the lymph system, the heart, and the
9 lungs; THC binds to receptors in the brain that should otherwise bind to naturally occurring
10 brain chemicals; marijuana can affect memory, attention, judgment, and other cognitive
11 functions and can impair motor coordination, time perception, and balance; marijuana smoke
12 contains more carcinogenic hydrocarbons than tobacco smoke; marijuana often contains
13 bacteria or fungi that are dangerous to humans, and may be harvested and sold without
14 removing pesticides and fungicides;

15 (7) about 40 percent of the adults arrested in this state who commit violent
16 offenses have marijuana in their system at the time of the arrest;

17 (8) if a parent uses marijuana, the children of the parent are more likely to
18 become marijuana users; some high school students report that they have been able to get
19 marijuana at home or from a relative; criminal penalties for possession of marijuana in the
20 home may deter possession by adults and reduce its availability and accessibility to children;
21 some studies have shown that criminal penalties for possession of marijuana are effective in
22 increasing the perception among teenagers of the risks of using the drug, thus reducing its use
23 by young people;

24 (9) in *Noy v. State*, 83 P.3d 538 (Alaska App. 2003), the Alaska court of
25 appeals held that an adult may possess less than four ounces of marijuana in the person's
26 home; at the same time, the court held that possession of four ounces or more could
27 legitimately be prohibited even in the home because it was reasonable for the legislature to
28 conclude in 1982 that possession of four ounces is indicative of an intent to sell; the street
29 value of marijuana today in Alaska averages between \$270 and \$300 an ounce.

30 * **Sec. 3.** AS 11.41.110(a) is amended to read:

31 (a) A person commits the crime of murder in the second degree if

1 (1) with intent to cause serious physical injury to another person or
 2 knowing that the conduct is substantially certain to cause death or serious physical
 3 injury to another person, the person causes the death of any person;

4 (2) the person knowingly engages in conduct that results in the death of
 5 another person under circumstances manifesting an extreme indifference to the value
 6 of human life;

7 (3) under circumstances not amounting to murder in the first degree
 8 under AS 11.41.100(a)(3), while acting either alone or with one or more persons, the
 9 person commits or attempts to commit arson in the first degree, kidnapping, sexual
 10 assault in the first degree, sexual assault in the second degree, sexual abuse of a minor
 11 in the first degree, sexual abuse of a minor in the second degree, burglary in the first
 12 degree, escape in the first or second degree, robbery in any degree, or misconduct
 13 involving a controlled substance under AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1)
 14 or (2), or 11.71.040(a)(1) [OR (2)] and, in the course of or in furtherance of that crime
 15 or in immediate flight from that crime, any person causes the death of a person other
 16 than one of the participants;

17 (4) acting with a criminal street gang, the person commits or attempts
 18 to commit a crime that is a felony and, in the course of or in furtherance of that crime
 19 or in immediate flight from that crime, any person causes the death of a person other
 20 than one of the participants; or

21 (5) the person with criminal negligence causes the death of a child
 22 under the age of 16, and the person has been previously convicted of a crime involving
 23 a child under the age of 16 that was

24 (A) a felony violation of this chapter [AS 11.41];

25 (B) in violation of a law or ordinance in another jurisdiction
 26 with elements similar to a felony under this chapter [AS 11.41]; or

27 (C) an attempt, a solicitation, or a conspiracy to commit a crime
 28 listed in (A) or (B) of this paragraph.

29 * **Sec. 4.** AS 11.41.150(a) is amended to read:

30 (a) A person commits the crime of murder of an unborn child if the person

31 (1) with intent to cause the death of an unborn child or of another

1 person, causes the death of an unborn child;

2 (2) with intent to cause serious physical injury to an unborn child or to
3 another person or knowing that the conduct is substantially certain to cause death or
4 serious physical injury to an unborn child or to another person, causes the death of an
5 unborn child;

6 (3) while acting alone or with one or more persons, commits or
7 attempts to commit arson in the first degree, kidnapping, sexual assault in the first
8 degree, sexual assault in the second degree, sexual abuse of a minor in the first degree,
9 sexual abuse of a minor in the second degree, burglary in the first degree, escape in the
10 first or second degree, robbery in any degree, or misconduct involving a controlled
11 substance under AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1) or (2), or
12 11.71.040(a)(1) [OR (2)], and, in the course of or in furtherance of that crime or in
13 immediate flight from that crime, any person causes the death of an unborn child;

14 (4) knowingly engages in conduct that results in the death of an unborn
15 child under circumstances manifesting an extreme indifference to the value of human
16 life; for purposes of this paragraph, a pregnant woman's decision to remain in a
17 relationship in which domestic violence, as defined in AS 18.66.990, has occurred
18 does not constitute conduct manifesting an extreme indifference to the value of human
19 life.

20 * **Sec. 5.** AS 11.56.375(a) is amended to read:

21 (a) A person commits the crime of promoting contraband in the first degree if
22 the person violates AS 11.56.380 and the contraband is

23 (1) a deadly weapon or a defensive weapon;

24 (2) an article that is intended by the defendant to be used as a means of
25 facilitating an escape; or

26 (3) a schedule IA - VA controlled substance.

27 * **Sec. 6.** AS 11.56.380(a) is amended to read:

28 (a) A person commits the crime of promoting contraband in the second degree
29 if the person

30 (1) introduces, takes, conveys, or attempts to introduce, take, or convey
31 contraband into a correctional facility; [OR]

1 (2) makes, obtains, possesses, or attempts to make, obtain, or possess
 2 anything that person knows to be contraband while under official detention within a
 3 correctional facility; or

4 (3) introduces, takes, conveys, or attempts to introduce, take, or
 5 convey a schedule VIA controlled substance into a correctional facility.

6 * **Sec. 7.** AS 11.71.030(a) is amended to read:

7 (a) Except as authorized in AS 17.30, a person commits the crime of
 8 misconduct involving a controlled substance in the third degree if the person

9 (1) under circumstances not proscribed under AS 11.71.020(a)(2) - (6),
 10 manufactures or delivers any amount of a schedule IIA or IIIA controlled substance or
 11 possesses any amount of a schedule IIA or IIIA controlled substance with intent to
 12 manufacture or deliver;

13 (2) delivers any amount of a schedule IVA or [,] VA [, OR VIA]
 14 controlled substance to a person under 19 years of age who is at least three years
 15 younger than the person delivering the substance; or

16 (3) possesses any amount of a schedule IA or IIA controlled substance

17 (A) with reckless disregard that the possession occurs

18 (i) on or within 500 feet of school grounds; or

19 (ii) at or within 500 feet of a recreation or youth center;

20 or

21 (B) on a school bus.

22 * **Sec. 8.** AS 11.71.040(a) is amended to read:

23 (a) Except as authorized in AS 17.30, a person commits the crime of
 24 misconduct involving a controlled substance in the fourth degree if the person

25 (1) manufactures or delivers any amount of a schedule IVA or VA
 26 controlled substance or possesses any amount of a schedule IVA or VA controlled
 27 substance with intent to manufacture or deliver;

28 (2) manufactures or delivers, or possesses with the intent to
 29 manufacture or deliver, one or more preparations, compounds, mixtures, or substances
 30 of an aggregate weight of one ounce or more containing a schedule VIA controlled
 31 substance;

1 (3) possesses

2 (A) any amount of a

3 (i) schedule IA controlled substance; or

4 (ii) IIA controlled substance except a controlled
5 substance listed in AS 11.71.150(e)(11) - (15);

6 (B) 25 or more tablets, ampules, or syrettes containing a
7 schedule IIIA or IVA controlled substance;

8 (C) one or more preparations, compounds, mixtures, or
9 substances of an aggregate weight of

10 (i) three grams or more containing a schedule IIIA or
11 IVA controlled substance except a controlled substance in a form listed
12 in (ii) of this subparagraph;

13 (ii) 12 grams or more containing a schedule IIIA
14 controlled substance listed in AS 11.71.160(f)(7) - (16) that has been
15 sprayed on or otherwise applied to tobacco, an herb, or another organic
16 material; or

17 (iii) 500 milligrams or more of a schedule IIA controlled
18 substance listed in AS 11.71.150(e)(11) - (15);

19 (D) 50 or more tablets, ampules, or syrettes containing a
20 schedule VA controlled substance;

21 (E) one or more preparations, compounds, mixtures, or
22 substances of an aggregate weight of six grams or more containing a schedule
23 VA controlled substance;

24 (F) 16 [ONE OR MORE PREPARATIONS, COMPOUNDS,
25 MIXTURES, OR SUBSTANCES OF AN AGGREGATE WEIGHT OF
26 FOUR] ounces or more of usable marijuana [CONTAINING A SCHEDULE
27 VIA CONTROLLED SUBSTANCE]; or

28 (G) 25 or more plants of the genus cannabis;

29 (4) possesses a schedule IIIA, IVA, or VA [, OR VIA] controlled
30 substance

31 (A) with reckless disregard that the possession occurs

1 (i) on or within 500 feet of school grounds; or

2 (ii) at or within 500 feet of a recreation or youth center;

3 or

4 (B) on a school bus;

5 (5) knowingly keeps or maintains any store, shop, warehouse, dwelling,
6 building, vehicle, boat, aircraft, or other structure or place that is used for keeping or
7 distributing controlled substances in violation of a felony offense under this chapter or
8 AS 17.30;

9 (6) makes, delivers, or possesses a punch, die, plate, stone, or other
10 thing that prints, imprints, or reproduces a trademark, trade name, or other identifying
11 mark, imprint, or device of another or any likeness of any of these upon a drug, drug
12 container, or labeling so as to render the drug a counterfeit substance;

13 (7) knowingly uses in the course of the manufacture or distribution of a
14 controlled substance a registration number that is fictitious, revoked, suspended, or
15 issued to another person;

16 (8) knowingly furnishes false or fraudulent information in or omits
17 material information from any application, report, record, or other document required
18 to be kept or filed under AS 17.30;

19 (9) obtains possession of a controlled substance by misrepresentation,
20 fraud, forgery, deception, or subterfuge; [OR]

21 (10) affixes a false or forged label to a package or other container
22 containing any controlled substance; or

23 (11) violates AS 11.71.050(a)(4) and, within the five years preceding
24 the violation, the person has been previously convicted under

25 (A) AS 11.71.010 - 11.71.040;

26 (B) AS 11.71.050(a)(4); or

27 (C) a law or ordinance of this or another jurisdiction with
28 elements similar to a crime listed under (A) or (B) of this paragraph.

29 * Sec. 9. AS 11.71.040 is amended by adding a new subsection to read:

30 (e) The provisions of

31 (1) (a)(3)(F) of this section do not apply to a person who is lawfully

1 possessing usable marijuana in accordance with AS 17.38.020; or

2 (2) (a)(3)(F) and (a)(3)(G) of this section do not apply to a marijuana
3 establishment registered under AS 17.38, or an officer, agent, or employee of the
4 registered marijuana establishment acting in compliance with the terms of the
5 registration issued under AS 17.38.

6 * **Sec. 10.** AS 11.71.050(a) is amended to read:

7 (a) Except as authorized in AS 17.30, a person commits the crime of
8 misconduct involving a controlled substance in the fifth degree if the person

9 (1) transports [MANUFACTURES] or delivers

10 (A) more [, OR POSSESSES WITH THE INTENT TO
11 MANUFACTURE OR DELIVER, ONE OR MORE PREPARATIONS,
12 COMPOUNDS, MIXTURES, OR SUBSTANCES OF AN AGGREGATE
13 WEIGHT OF LESS] than one ounce of usable marijuana [CONTAINING A
14 SCHEDULE VIA CONTROLLED SUBSTANCE];

15 (B) more than six plants of the genus cannabis;

16 (2) possesses

17 (A) less than 25 tablets, ampules, or syrettes containing a
18 schedule IIIA or IVA controlled substance;

19 (B) one or more preparations, compounds, mixtures, or
20 substances of an aggregate weight of less than

21 (i) three grams containing a schedule IIIA or IVA
22 controlled substance except a controlled substance in a form listed in
23 (ii) of this subparagraph;

24 (ii) 12 grams but more than six grams containing a
25 schedule IIIA controlled substance listed in AS 11.71.160(f)(7) - (16)
26 that has been sprayed on or otherwise applied to tobacco, an herb, or
27 another organic material; or

28 (iii) 500 milligrams containing a schedule IIA controlled
29 substance listed in AS 11.71.150(e)(11) - (15);

30 (C) less than 50 tablets, ampules, or syrettes containing a
31 schedule VA controlled substance;

1 (D) one or more preparations, compounds, mixtures, or
2 substances of an aggregate weight of less than six grams containing a schedule
3 VA controlled substance; [OR]

4 (E) at least three ounces but less than 16 ounces of usable
5 marijuana [ONE OR MORE PREPARATIONS, COMPOUNDS,
6 MIXTURES, OR SUBSTANCES OF AN AGGREGATE WEIGHT OF ONE
7 OUNCE OR MORE CONTAINING A SCHEDULE VIA CONTROLLED
8 SUBSTANCE]; or

9 (F) 12 or more but less than 25 plants of the genus cannabis;

10 (3) fails to make, keep, or furnish any record, notification, order form,
11 statement, invoice, or information required under AS 17.30;

12 (4) delivers any amount of usable marijuana to a person under 21
13 years of age;

14 (5) delivers or transports

15 (A) one ounce or less of usable marijuana for remuneration
16 or barter; or

17 (B) six plants or less of the genus cannabis for remuneration
18 or barter; or

19 (6) manufactures a marijuana concentrate or extract using a
20 volatile or explosive gas.

21 * Sec. 11. AS 11.71.050 is amended by adding new subsections to read:

22 (c) The provisions of (a)(1), (a)(2)(E), (a)(2)(F), and (a)(4) - (6) of this section
23 do not apply to

24 (1) a person who is lawfully possessing, manufacturing, delivering,
25 possessing with the intent to manufacture or deliver, or transporting usable marijuana
26 in accordance with AS 17.38.020;

27 (2) a marijuana establishment registered under AS 17.38, or an officer,
28 agent, or employee of the registered marijuana establishment acting in compliance
29 with the terms of the registration issued under AS 17.38.

30 (d) A person does not violate (a)(4) of this section if the person is over 21
31 years of age and delivers a schedule VIA controlled substance to the person's child,

1 ward, or legal spouse if

2 (1) the child, ward, or legal spouse is 18 years of age or older; and

3 (2) the delivery occurs in the person's residence.

4 * **Sec. 12.** AS 11.71.060(a) is amended to read:

5 (a) Except as authorized in AS 17.30, a person commits the crime of
6 misconduct involving a controlled substance in the sixth degree if the person

7 (1) uses or displays any amount of a schedule VIA controlled
8 substance;

9 (2) possesses one or more preparations, compounds, mixtures, or
10 substances of an aggregate weight of

11 (A) less than one ounce containing a schedule VIA controlled
12 substance;

13 (B) six grams or less containing a schedule IIIA controlled
14 substance listed in AS 11.71.160(f)(7) - (16) that has been sprayed on or
15 otherwise applied to tobacco, an herb, or another organic material; [OR]

16 (3) refuses entry into a premise for an inspection authorized under
17 AS 17.30;

18 **(4) possesses at least two ounces but less than three ounces of**
19 **usable marijuana;**

20 **(5) possesses more than six but less than 12 plants of the genus**
21 **cannabis.**

22 * **Sec. 13.** AS 11.71.060 is amended by adding a new subsection to read:

23 (c) The provisions of (a)(4) and (a)(5) of this section do not apply to

24 (1) a person who is lawfully possessing, displaying, delivering, or
25 transporting usable marijuana in accordance with AS 17.38.020;

26 (2) a marijuana establishment registered under AS 17.38, or an officer,
27 agent, or employee of the registered marijuana establishment acting in compliance
28 with the terms of the registration issued under AS 17.38.

29 * **Sec. 14.** AS 11.71 is amended by adding a new section to read:

30 **Sec. 11.71.071. Misconduct involving a controlled substance in the seventh**
31 **degree.** (a) Except as authorized in AS 17.30, a person commits the crime of

1 misconduct involving a controlled substance in the seventh degree if the person

2 (1) possesses more than one ounce but less than two ounces of usable
3 marijuana;

4 (2) is

5 (A) under 21 years of age and

6 (i) possesses less than two ounces of usable marijuana;

7 or

8 (ii) uses or displays any amount of usable marijuana; or

9 (B) 21 years of age or older and uses any amount of usable
10 marijuana in a public place;

11 (3) manufactures usable marijuana

12 (A) in a location where the plants are subject to public view
13 without the use of binoculars, aircraft, or other optical aids;

14 (B) in a location that is not secure from unauthorized access; or

15 (C) on property not lawfully in the possession of the person or
16 on property without the consent of the person in lawful possession of the
17 property; or

18 (4) uses usable marijuana while operating a motor vehicle, aircraft, or
19 watercraft under circumstances not proscribed by AS 28.35.030.

20 (b) The provisions of (a)(1) and (a)(3) of this section do not apply to

21 (1) a person who is lawfully possessing or manufacturing usable
22 marijuana in accordance with AS 17.38.020;

23 (2) a marijuana establishment registered under AS 17.38, or an officer,
24 agent, or employee of the registered marijuana establishment acting in compliance
25 with the terms of the registration issued under AS 17.38.

26 (c) Misconduct involving a controlled substance in the seventh degree is a
27 violation punishable by a fine of

28 (1) up to \$300 for a violation of (a)(1), (a)(3), or (a)(4) of this section;

29 (2) \$300 for a violation of (a)(2)(A) of this section; the court may
30 reduce the fine to \$50 for a defendant under 18 years of age if the defendant supplies
31 to the court, within six months, proof of completion of a community diversion panel or

1 a state-approved marijuana education or treatment program; in this paragraph,
2 "community diversion panel" means a youth court or other group selected by the court
3 to serve as a sentencing option for a person convicted under (a)(2)(A) of this section;

4 (3) \$100 for a violation of (a)(2)(B) of this section.

5 * **Sec. 15.** AS 11.71.090(a) is amended to read:

6 (a) In a prosecution under AS 11.71.030 - 11.71.071 [AS 11.71.030 -
7 11.71.060] charging the manufacture, delivery, possession, possession with intent to
8 manufacture or deliver, use, or display of a schedule VIA controlled substance, it is an
9 affirmative defense that the defendant is a patient, or the primary caregiver or alternate
10 caregiver for a patient, and

11 (1) at the time of the manufacture, delivery, possession, possession with
12 intent to manufacture or deliver, use, or display, the patient was registered under
13 AS 17.37;

14 (2) the manufacture, delivery, possession, possession with intent to
15 manufacture, deliver, use, or display complied with the requirements of AS 17.37; and

16 (3) if the defendant is the

17 (A) primary caregiver of the patient, the defendant was in
18 physical possession of the caregiver registry identification card at the time of
19 the manufacture, delivery, possession, possession with intent to manufacture or
20 deliver, use, or display; or

21 (B) alternate caregiver of the patient, the defendant was in
22 physical possession of the caregiver registry identification card at the time of
23 the manufacture, delivery, possession, possession with intent to manufacture or
24 deliver, use, or display.

25 * **Sec. 16.** AS 11.71.190(b) is repealed and reenacted to read:

26 (b) Schedule VIA includes, unless specifically excepted or unless listed in
27 another schedule, any material, compound, mixture, or preparation that contains any
28 quantity of the following substances:

29 (1) marijuana;

30 (2) hashish;

31 (3) hash oil or hashish oil;

1 (4) tetrahydrocannabinols.

2 * **Sec. 17.** AS 11.71.311(a) is amended to read:

3 (a) A person may not be prosecuted for a violation of AS 11.71.030(a)(3),
4 11.71.040(a)(3) or (4), 11.71.050(a)(2), or 11.71.060(a)(2) [11.71.060(a)(1) OR (2)] if
5 that person

6 (1) sought, in good faith, medical or law enforcement assistance for
7 another person who the person reasonably believed was experiencing a drug overdose
8 or significant adverse marijuana reaction and

9 (A) the evidence supporting the prosecution for an offense
10 under AS 11.71.030(a)(3), 11.71.040(a)(3) or (4), 11.71.050(a)(2), or
11 11.71.060(a)(2) [11.71.060(a)(1) OR (2)] was obtained or discovered as a
12 result of the person seeking medical or law enforcement assistance;

13 (B) the person remained at the scene with the other person until
14 medical or law enforcement assistance arrived; and

15 (C) the person cooperated with medical or law enforcement
16 personnel, including by providing identification;

17 (2) was experiencing a drug overdose or significant adverse
18 marijuana reaction and sought medical assistance, and the evidence supporting a
19 prosecution for an offense under AS 11.71.030(a)(3), 11.71.040(a)(3) or (4),
20 11.71.050(a)(2), or 11.71.060(a)(2) [11.71.060(a)(1) OR (2)] was obtained as a result
21 of the overdose or significant adverse marijuana reaction and the need for medical
22 assistance.

23 * **Sec. 18.** AS 11.71.900(14) is repealed and reenacted to read:

24 (14) "marijuana" means all parts of the plant of the genus cannabis
25 whether growing or not, the seeds thereof, the resin extracted from any part of the
26 plant, and every compound, manufacture, derivative, mixture, or preparation of the
27 plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does not
28 include fiber produced from the stalks, oil or cake made from the seeds of the plant,
29 sterilized seed of the plant that is incapable of germination, or the weight of any other
30 ingredient combined with marijuana to prepare topical or oral administrations, food,
31 drink, or other products;

1 * **Sec. 19.** AS 11.71.900 is amended by adding a new paragraph to read:

2 (31) "usable marijuana" means the seeds, leaves, buds, and flowers of
3 the plant genus cannabis, hashish, hash oil, tetrahydrocannabinols, and marijuana
4 concentrates, but does not include the stalks or roots of the plant genus cannabis.

5 * **Sec. 20.** AS 12.45.084(a) is amended to read:

6 (a) In a prosecution under AS 11.71.010 - 11.71.071 [AS 11.71.010 -
7 11.71.060], a complete copy of an official laboratory report from the Department of
8 Public Safety or a laboratory operated by another law enforcement agency is prima
9 facie evidence of the content, identity, and weight of a controlled substance. The
10 report must be signed by the person performing the analysis and must state that the
11 substance that [WHICH] is the basis of the alleged offense has been weighed and
12 analyzed. In the report, the author shall state with specificity findings as to the content,
13 weight, and identity of the substance.

14 * **Sec. 21.** AS 17.30.080(b) is amended to read:

15 (b) A person who violates (a) of this section, or who otherwise manufactures,
16 distributes, dispenses, or conducts research with a controlled substance in the state
17 without fully complying with 21 U.S.C. 811 - 830 (Controlled Substances Act), and
18 regulations adopted under those sections, is guilty of misconduct involving a
19 controlled substance under AS 11.71.010 - 11.71.071 [AS 11.71.010 - 11.71.060] in
20 the degree appropriate to the circumstances as described in those sections. Upon filing
21 a complaint, information, presentment, or indictment charging a medical assistance
22 provider with misconduct involving a controlled substance under AS 11.71.140 -
23 11.71.190, the attorney general shall, in writing, notify the commissioner of health and
24 social services of the filing.

25 * **Sec. 22.** AS 17.38.020 is amended to read:

26 **Sec. 17.38.020. Personal use of marijuana.** The [NOTWITHSTANDING
27 ANY OTHER PROVISION OF LAW, EXCEPT AS OTHERWISE PROVIDED IN
28 THIS CHAPTER, THE] following acts, by persons 21 years of age or older, are lawful
29 and are not [SHALL NOT BE A] criminal or civil offenses [OFFENSE] under Alaska
30 law or the law of any political subdivision of Alaska or bases [BE A BASIS] for
31 seizure or forfeiture of assets under Alaska law:

1 (1) possessing, using, displaying, purchasing, or transporting marijuana
2 accessories or one ounce or less of usable marijuana;

3 (2) possessing, growing, processing, or transporting not [NO] more
4 than six marijuana plants, with three or fewer being mature, flowering plants, and
5 possession of the marijuana produced by the plants on the premises where the plants
6 were grown, except that nothing in this chapter permits the growing of marijuana
7 as proscribed in AS 11.71.071(a)(3);

8 (3) transferring one ounce or less of marijuana and up to six immature
9 marijuana plants to a person who is 21 years of age or older without remuneration or
10 barter;

11 (4) consumption of marijuana, except that nothing in this chapter
12 permits [SHALL PERMIT] the consumption of marijuana in a public place; and

13 (5) assisting another person who is 21 years of age or older in any of
14 the acts described in (1) - (4) of this section; under this paragraph, assisting does
15 not include

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

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

20 * Sec. 23. AS 17.38.070(a) is amended to read:

21 (a) The [NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
22 THE] following acts, when performed by a retail marijuana store with a current, valid
23 registration, or a person 21 years of age or older who is acting in the person's capacity
24 as an owner, employee, or agent of a retail marijuana store, are lawful and are not
25 offenses [SHALL NOT BE AN OFFENSE] under Alaska law or bases [BE A BASIS]
26 for seizure or forfeiture of assets under Alaska law:

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

30 (2) delivering or transferring marijuana or marijuana products to a
31 registered marijuana testing facility;

1 (3) receiving marijuana or marijuana products from a registered
2 marijuana testing facility;

3 (4) purchasing marijuana from a registered marijuana cultivation
4 facility;

5 (5) purchasing marijuana or marijuana products from a registered
6 marijuana product manufacturing facility; and

7 (6) delivering, distributing, or selling marijuana or marijuana products
8 to consumers.

9 * **Sec. 24.** AS 17.38.070(b) is amended to read:

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

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

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

20 (3) receiving marijuana from a registered marijuana testing facility;

21 (4) delivering, distributing, or selling marijuana to a registered
22 marijuana cultivation facility, a registered marijuana product manufacturing facility,
23 or a registered retail marijuana store;

24 (5) receiving or purchasing marijuana from a registered marijuana
25 cultivation facility; and

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

28 * **Sec. 25.** AS 17.38.070(c) is amended to read:

29 (c) The [NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
30 THE] following acts, when performed by a marijuana product manufacturing facility
31 with a current, valid registration, or a person 21 years of age or older who is acting in

1 the person's capacity as an owner, employee, or agent of a marijuana product
 2 manufacturing facility, are lawful and are not offenses [SHALL NOT BE AN
 3 OFFENSE] under Alaska law or bases [BE A BASIS] for seizure or forfeiture of
 4 assets under Alaska law:

5 (1) packaging, processing, transporting, manufacturing, displaying, or
 6 possessing marijuana or marijuana products;

7 (2) delivering or transferring marijuana or marijuana products to a
 8 registered marijuana testing facility;

9 (3) receiving marijuana or marijuana products from a registered
 10 marijuana testing facility;

11 (4) delivering or selling marijuana or marijuana products to a
 12 registered retail marijuana store or a marijuana product manufacturing facility;

13 (5) purchasing marijuana from a registered marijuana cultivation
 14 facility; and

15 (6) purchasing of marijuana or marijuana products from a registered
 16 marijuana product manufacturing facility.

17 * Sec. 26. AS 17.38.070(d) is amended to read:

18 (d) The [NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
 19 THE] following acts, when performed by a marijuana testing facility with a current,
 20 valid registration, or a person 21 years of age or older who is acting in the person's
 21 capacity as an owner, employee, or agent of a marijuana testing facility, are lawful and
 22 are not offenses [SHALL NOT BE AN OFFENSE] under Alaska law or bases [BE A
 23 BASIS] for seizure or forfeiture of assets under Alaska law:

24 (1) possessing, cultivating, processing, repackaging, storing,
 25 transporting, displaying, transferring, or delivering marijuana;

26 (2) receiving marijuana or marijuana products from a registered
 27 marijuana cultivation facility, a registered marijuana retail store, a registered
 28 marijuana products manufacturer, or a person 21 years of age or older; and

29 (3) returning marijuana or marijuana products to a registered
 30 marijuana cultivation facility, registered marijuana retail store, registered marijuana
 31 products manufacturer, or a person 21 years of age or older.

1 * **Sec. 27.** AS 17.38.070(e) is amended to read:

2 (e) **It** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IT] is
3 lawful and **is** [SHALL] not [BE] an offense under Alaska law or [BE] a basis for
4 seizure or forfeiture of assets under Alaska law to lease or otherwise allow the use of
5 property owned, occupied, or controlled by any person, corporation, or other entity for
6 any of the activities conducted lawfully in accordance with (a) - (d) of this section.

7 * **Sec. 28.** AS 17.38.070 is amended by adding a new subsection to read:

8 (h) A retail marijuana store may only sell or deliver marijuana or marijuana
9 products to a person who is present at the premises of the retail marijuana store.

10 * **Sec. 29.** AS 17.38.090 is amended by adding a new subsection to read:

11 (c) The board shall adopt a regulation that prohibits a retail marijuana store
12 from selling more than five grams of marijuana concentrate in one transaction to a
13 customer.

14 * **Sec. 30.** AS 17.38.110(a) is amended to read:

15 (a) A local government may prohibit the operation of marijuana cultivation
16 facilities, marijuana product manufacturing facilities, marijuana testing facilities, or
17 retail marijuana stores through the enactment of an ordinance or by a voter initiative.
18 **The operation of marijuana cultivation facilities, marijuana product**
19 **manufacturing facilities, marijuana testing facilities, and retail marijuana stores**
20 **in the unorganized borough outside of a municipality is prohibited. An**
21 **established village may permit the operation of marijuana cultivation facilities,**
22 **marijuana product manufacturing facilities, marijuana testing facilities, or retail**
23 **marijuana stores as provided in AS 17.38.250.**

24 * **Sec. 31.** AS 17.38.120(c) is amended to read:

25 (c) Nothing in this chapter is intended to permit the transfer of marijuana, with
26 or without remuneration **or barter**, to a person under [THE AGE OF] 21 **years of age**.

27 * **Sec. 32.** AS 17.38 is amended by adding new sections to read:

28 **Sec. 17.38.200. Unlawful activity related to persons under 21 years of age.**

29 (a) A registered marijuana establishment or an officer, agent, or employee of the
30 marijuana establishment may not knowingly

31 (1) allow a person to deliver marijuana to another person under 21

1 years of age within the registered premises;

2 (2) allow a person under 21 years of age to enter and remain within the
3 registered premises;

4 (3) allow a person under 21 years of age to use marijuana within the
5 registered premises;

6 (4) allow a person under 21 years of age to deliver marijuana; or

7 (5) while working on the registered premises, deliver marijuana to a
8 person under 21 years of age.

9 (b) The prohibition in (a)(2) of this section does not apply if the person under
10 21 years of age is accompanied by a parent, guardian, or spouse who has attained 21
11 years of age.

12 (c) A person who violates this section is guilty of a violation punishable by a
13 fine of at least \$250 but not more than \$500.

14 **Sec. 17.38.210. Access of persons under 21 years of age to registered**
15 **premises.** (a) A person under 21 years of age may not knowingly

16 (1) enter or remain on premises registered under this chapter where
17 marijuana, marijuana products, or marijuana accessories are sold; or

18 (2) present a birth certificate or other written evidence of age that is
19 fraudulent or false or that is not the person's own, or otherwise misrepresent the
20 person's age for the purpose of

21 (A) purchasing, attempting to purchase, or otherwise procuring
22 or attempting to procure marijuana or marijuana products; or

23 (B) gaining access to a registered marijuana establishment.

24 (b) A person does not violate (a) of this section if the person

25 (1) enters and remains on premises registered under this chapter at the
26 request of a peace officer, if the peace officer accompanies, supervises, or otherwise
27 observes the person's entry or remaining on premises, and the purpose for the entry or
28 remaining on premises is to assist in the enforcement of this section;

29 (2) is accompanied by a parent, guardian, or spouse who has attained
30 21 years of age; or

31 (3) is acting in the capacity of an employee or volunteer of an agency

1 providing emergency medical or fire protection services while on the premises.

2 (c) A person who violates this section is guilty of a violation and is punishable
3 by a fine of \$300.

4 **Sec. 17.38.220. Proof of registration to be exhibited on demand; penalty.**

5 (a) A person shall have a copy of the person's registration issued under AS 17.38.100
6 in the person's immediate possession at all times when transporting more than one
7 ounce of marijuana, and shall present the copy of the registration for inspection upon
8 the demand of a peace officer or other authorized representative of the Department of
9 Public Safety. However, a person charged with violating this section may not be
10 convicted if the person produces in court or in the office of the arresting or citing
11 officer proof of registration previously issued to the person that was valid at the time
12 of the person's arrest or citation.

13 (b) A person convicted under this section is guilty of a violation punishable by
14 a fine of \$100.

15 **Sec. 17.38.230. Bail forfeiture for certain offenses.** The supreme court shall
16 establish by rule or order a schedule of bail amounts that may be forfeited without
17 court appearance for a violation of AS 11.71.071, AS 17.38.200, 17.38.210, and
18 17.38.220. The supreme court, in establishing scheduled amounts of bail under this
19 section, may not allow for disposition of an offense without court appearance for a
20 person under 18 years of age who is cited for a violation of AS 11.71.071(a)(2)(A).

21 **Sec. 17.38.240. Court records of violations of persons under 21 years of**
22 **age.** The Alaska Court System may not publish on a publicly available website the
23 court records of a violation of AS 11.71.071(a)(2)(A) or AS 17.38.210 by a person
24 who was under 21 years of age at the time of the offense, after the court proceedings
25 are completed and the case is closed.

26 **Sec. 17.38.250. Local options.** (a) If a majority of the voters voting on the
27 question vote to approve the option, an established village shall exercise a local option
28 to permit the operation of one or more of the following types of marijuana
29 establishments:

- 30 (1) marijuana cultivation facilities;
31 (2) marijuana product manufacturing facilities;

1 (3) marijuana testing facilities; or

2 (4) retail marijuana stores.

3 (b) A ballot question to adopt a local option under this section must at least
4 contain language substantially similar to the following: "Shall (name of village) adopt
5 a local option to permit (specify local option under (a) of this section)? (yes or no)."

6 **Sec. 17.38.260. Removal of local options.** (a) If a majority of the voters
7 voting on the question vote to remove the option, an established village shall remove a
8 local option previously adopted under AS 17.38.250. The option is repealed effective
9 the first day of the month following certification of the results of the election.

10 (b) A ballot question to remove a local option under this section must at least
11 contain language substantially similar to the following: "Shall (name of village)
12 remove the local option currently in effect, that permits (current local option under
13 AS 17.38.250(a)), so that there is no longer any local option in effect? (yes or no)."

14 **Sec. 17.38.270. Effect on registrations of removal of local option**
15 **permitting marijuana establishments.** If a majority of voters vote to remove a local
16 option permitting the operation of marijuana establishments under AS 17.38.260, the
17 board may not issue, renew, or transfer, between persons or locations, a registration
18 for a marijuana establishment located within the perimeter of the established village. A
19 registration that may not be renewed because of a local option election held under
20 AS 17.38.260 is void 90 days after the results of the election are certified. A
21 registration that expires during the 90 days after the results of a local option election
22 are certified may be extended, until it is void under this section, by payment of a
23 prorated portion of the annual registration fee.

24 **Sec. 17.38.280. Procedure for local option elections.** (a) An election to adopt
25 a local option under AS 17.38.250 or remove a local option under AS 17.38.260 shall
26 be conducted as required in this section.

27 (b) Upon receipt of a petition of 35 percent or more of the registered voters
28 residing within an established village, the lieutenant governor shall place on a separate
29 ballot at a special election the local option or removal of local option that constitutes
30 the subject of the petition. The lieutenant governor shall conduct the election under
31 AS 15.

1 (c) An election under (b) of this section to remove a local option may not be
2 conducted during the first 24 months after the local option was adopted or more than
3 once in a 36-month period.

4 (d) After a petition has been certified as sufficient to meet the requirements of
5 (b) of this section, another petition may not be filed or certified until after the question
6 presented in the first petition has been voted on. A local option question to permit the
7 operation of marijuana cultivation facilities, marijuana product manufacturing
8 facilities, marijuana testing facilities, or retail marijuana stores or to permit all
9 marijuana establishments may be presented in one election.

10 **Sec. 17.38.290. Establishment of perimeter of established village.** (a)
11 Except as provided under (b) and (c) of this section, for purposes of AS 17.38.250 and
12 17.38.270, the perimeter of an established village is a circle around the established
13 village that includes an area within a five-mile radius of the post office of the
14 established village. If the established village does not have a post office, the perimeter
15 of an established village is a circle around the established village that includes an area
16 within a five-mile radius of another site selected by the local governing body or by the
17 board if the established village does not have a local governing body.

18 (b) If the perimeter of an established village determined under (a) of this
19 section includes any area that is within the perimeter of another established village
20 and, if the other established village has

21 (1) also adopted a local option under AS 17.38.250, the local option of
22 the established village that is less restrictive applies in the overlapping area;

23 (2) not adopted a local option under AS 17.38.250, the local option
24 does not apply in the overlapping area.

25 (c) If the board determines that the perimeter of an established village as
26 provided under (a) and (b) of this section does not accurately reflect the perimeter of
27 the established village, the board may establish the perimeter of the established village
28 and the areas of overlapping perimeter described under (b) of this section for purposes
29 of applying a local option selected under this chapter.

30 **Sec. 17.38.300. Notice of the results of a local option election.** If a majority
31 of the voters vote to adopt or remove a local option under AS 17.38.250 or 17.38.260,

1 the lieutenant governor shall notify the board of the results of the election immediately
 2 after the results are certified. The board shall immediately notify the Department of
 3 Law and the Department of Public Safety of the results of the election.

4 **Sec. 17.38.310. Peace officer powers.** The director of the board and the
 5 persons employed for the administration and enforcement of this chapter and the
 6 provisions of AS 11.71.040 - 11.71.071 involving a schedule VIA controlled
 7 substance may, with the concurrence of the commissioner of public safety, exercise
 8 the powers of peace officers when those powers are specifically granted by the board.
 9 Powers granted by the board under this section may be exercised only when necessary
 10 for the enforcement of the criminally punishable provisions of this chapter, the
 11 provisions of AS 11.71.040 - 11.71.071 involving a schedule VIA controlled
 12 substance, regulations of the board, and other criminally punishable laws and
 13 regulations.

14 * **Sec. 33.** AS 17.38.900(6) is amended to read:

15 (6) "marijuana" means all parts of the plant of the genus cannabis
 16 whether growing or not, the seeds thereof, the resin extracted from any part of the
 17 plant, and every compound, manufacture, [SALT,] derivative, mixture, or preparation
 18 of the plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does
 19 not include fiber produced from the stalks, oil [,] or cake made from the seeds of the
 20 plant, sterilized seed of the plant that [WHICH] is incapable of germination, or the
 21 weight of any other ingredient combined with marijuana to prepare topical or oral
 22 administrations, food, drink, or other products;

23 * **Sec. 34.** AS 17.38.900 is amended by adding new paragraphs to read:

24 (15) "deliver" means the actual, constructive, or attempted transfer
 25 from one person to another of marijuana, whether or not there is an agency
 26 relationship;

27 (16) "established village" means an area that does not contain any part
 28 of an incorporated city or another established village and that is an unincorporated
 29 community that is in the unorganized borough and that has 25 or more permanent
 30 residents;

31 (17) "knowingly" has the meaning given in AS 11.81.900;

1 (18) "manufacture" has the meaning given in AS 11.71.900;

2 (19) "marijuana concentrate" means a product created from resins of or
3 by extracting cannabinoids from any part of the plant (genus) Cannabis;

4 (20) "public place" has the meaning given in AS 11.81.900;

5 (21) "usable marijuana" has the meaning given in AS 11.71.900.

6 * **Sec. 35.** AS 28.35.029(a) is amended to read:

7 (a) A person may not drive a motor vehicle on a highway or vehicular way or
8 area, when there is an open bottle, can, or other receptacle containing an alcoholic
9 beverage or an open marijuana container in the passenger compartment of the
10 vehicle, except as provided in (b) of this section.

11 * **Sec. 36.** AS 28.35.029(b) is amended to read:

12 (b) Except as provided in AS 28.33.130, a person may transport an open bottle,
13 can, or other receptacle containing an alcoholic beverage or an open marijuana
14 container

15 (1) in the trunk of a motor vehicle;

16 (2) on a motor driven cycle, or behind the last upright seat in a motor
17 home, station wagon, hatchback, or similar trunkless vehicle, if the open bottle, can, or
18 other receptacle, or an open marijuana container is enclosed within another
19 container;

20 (3) behind a solid partition that separates the vehicle driver from the
21 area normally occupied by passengers; or

22 (4) if the open bottle, can, or other receptacle, or an open marijuana
23 container is in the possession of a passenger in a motor vehicle for which the owner
24 receives direct monetary compensation and that has a capacity of 12 or more persons.

25 * **Sec. 37.** AS 28.35.029(c) is amended by adding new paragraphs to read:

26 (6) "marijuana" has the meaning given in AS 11.71.900;

27 (7) "open marijuana container" means a receptacle that contains any
28 amount of marijuana and that is open or has a broken seal, and any amount of
29 marijuana is removed while in the vehicle.

30 * **Sec. 38.** AS 34.03.360(7) is amended to read:

31 (7) "illegal activity involving a controlled substance" means a violation

1 of AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1) or (2), or 11.71.040(a)(1) [, (2),] or
 2 (5);

3 * **Sec. 39.** AS 47.12.030(b) is amended to read:

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

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

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

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

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

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

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

1 (7) AS 11.71.071(a)(2)(A), relating to possession, use, and display of
2 usable marijuana; and

3 (8) AS 17.38.210, relating to access to marijuana establishments.

4 * **Sec. 40.** AS 11.71.040(a)(2), 11.71.060(a)(1), 11.71.060(a)(2)(A), 11.71.160(f)(1),
5 11.71.160(f)(2), 11.71.160(f)(3); AS 17.38.030, 17.38.040, and 17.38.050 are repealed.

6 * **Sec. 41.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 APPLICABILITY. AS 11.41.110(a), as amended by sec. 3 of this Act,
9 AS 11.41.150(a), as amended by sec. 4 of this Act, AS 11.56.375(a), as amended by sec. 5 of
10 this Act, AS 11.56.380(a), as amended by sec. 6 of this Act, AS 11.71.030(a), as amended by
11 sec. 7 of this Act, AS 11.71.040(a), as amended by sec. 8 of this Act, AS 11.71.050(a), as
12 amended by sec.10 of this Act, AS 11.71.060(a), as amended by sec. 12 of this Act, and
13 AS 11.71.071, enacted by sec. 14 of this Act, apply to offenses committed on or after the
14 effective date of this Act.

15 * **Sec. 42.** This Act takes effect immediately under AS 01.10.070(c).

ADOPTED 3/23/15

29-LS0231\V.2
Martin
3/19/15

AMENDMENT #1

OFFERED IN THE SENATE

TO: CSSB 30(FIN), Draft Version "V"

1 Page 1, following line 5:

2 Insert new bill sections to read:

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

5 PURPOSE OF SEC. 30 OF THIS ACT. The purpose of sec. 30 of this Act is to protect
6 the health and safety of persons who reside in established villages in the unorganized borough
7 in the state and to provide legislative findings regarding the operation of marijuana cultivation
8 facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail
9 marijuana stores in the unorganized borough. The legislature, acting in its capacity as the
10 assembly for the unorganized borough, prohibits the operation of marijuana establishments in
11 the unorganized borough outside of a municipality. Established villages in the unorganized
12 borough may allow marijuana establishments on a community-by-community basis through
13 the local option election procedure provided by AS 17.38.250 - 17.38.300, added by sec. 32 of
14 this Act.

15 *** Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 FINDINGS FOR SEC. 30 OF THIS ACT. The type of marijuana available in the
18 United States and Alaska today, and the changes in the patterns of usage of the drug,
19 particularly by young Alaskans, Alaska Natives, and those undergoing alcohol treatment, pose
20 a threat to the public health and welfare that justifies prohibiting the operation of marijuana
21 establishments in the unorganized borough outside of municipalities. In this Act, the
22 legislature has considered its duty as the assembly for the unorganized borough in art. X, sec.
23 6, Constitution of the State of Alaska, and its duty to promote the public health and welfare in

1 art. VII, sec. 4, Constitution of the State of Alaska. The legislature has also considered its
2 obligation to carry out the intent of the voters of Alaska in legalizing marijuana by ballot
3 initiative. To assist the courts in considering these issues, the legislature further finds that

4 (1) the potency of marijuana has increased dramatically since the 1960s and
5 1970s; the national average amount of delta-9-tetrahydrocannabinol (THC), the main
6 psychoactive ingredient, was less than one percent then, but increased steadily in the 1980s
7 and 1990s, and by 2003 was six times higher, at 6.4 percent; Alaska marijuana today
8 commands hundreds of dollars an ounce on the illegal market and is often sold in smaller
9 amounts within the price range of teenagers; the increasing potency of marijuana corresponds
10 to an increase in substance abuse treatment admissions and in the number of persons seeking
11 emergency medical care due to marijuana-related incidents;

12 (2) several hundred adults and children are admitted into treatment each year in
13 Alaska for marijuana abuse, with nearly 46 percent being children under 20 years of age;

14 (3) there is evidence that some users become dependent on marijuana under the
15 clinical standards applied by the Diagnostic and Statistical Manual of Mental Disorders IV;
16 studies have shown that use of marijuana and withdrawal from marijuana affect some of the
17 same neurochemical processes as known addictive drugs; Marijuana Anonymous chapters to
18 treat marijuana addicts exist in a majority of states in the country; that is persuasive evidence
19 of marijuana's potential for users to become dependent on it; currently, 9.2 percent of all
20 persons in Alaska treated for drug and alcohol problems are treated for marijuana abuse;

21 (4) early exposure of young people to marijuana increases the likelihood of
22 lifelong health and social problems and is associated with depression;

23 (5) a significant percentage of persons in treatment for alcohol abuse also
24 abuse a secondary drug, which may include marijuana; nevertheless, the relationship between
25 marijuana and alcohol and other drugs is not fully understood;

26 (6) marijuana consists of hundreds of different chemicals and can affect almost
27 every organ and system in the body, including the lymph system, the heart, and the lungs;
28 THC binds to receptors in the brain that should otherwise bind to naturally occurring brain
29 chemicals; marijuana can affect memory, attention, judgment, and other cognitive functions
30 and can impair motor coordination, time perception, and balance; marijuana smoke contains
31 more carcinogenic hydrocarbons than tobacco smoke; marijuana often contains bacteria or

1 fungi that are dangerous to humans, and may be harvested and sold without removing
2 pesticides and fungicides;

3 (7) about 40 percent of the adults arrested in this state who commit violent
4 offenses have marijuana in their system at the time of the arrest;

5 (8) if a parent uses marijuana, the children of the parent are more likely to
6 become marijuana users; some high school students report that they have been able to get
7 marijuana at home or from a relative; criminal penalties for possession of marijuana in the
8 home may deter possession by adults and reduce its availability and accessibility to children;
9 some studies have shown that criminal penalties for possession of marijuana are effective in
10 increasing the perception among teenagers of the risks of using the drug, thus reducing its use
11 by young people;

12 (9) in *Noy v. State*, 83 P.3d 538 (Alaska App. 2003), the Alaska court of
13 appeals held that an adult may possess less than four ounces of marijuana in the person's
14 home; at the same time, the court held that possession of four ounces or more could
15 legitimately be prohibited even in the home because it was reasonable for the legislature to
16 conclude in 1982 that possession of four ounces is indicative of an intent to sell; the street
17 value of marijuana today in Alaska averages between \$270 and \$300 an ounce."
18

19 Page 1, line 6:

20 Delete "Section 1"

21 Insert "Sec. 3"

22

23 Renumber the following bill sections accordingly.

24

25 Page 25, line 2:

26 Delete "sec. 1"

27 Insert "sec. 3"

28

29 Page 25, line 3:

30 Delete "sec. 2"

31 Insert "sec. 4"

1 Delete "sec. 3"

2 Insert "sec. 5"

3

4 Page 25, line 4:

5 Delete "sec. 4"

6 Insert "sec. 6"

7

8 Page 25, line 5:

9 Delete "sec. 5"

10 Insert "sec. 7"

11 Delete "sec. 6"

12 Insert "sec. 8"

13

14 Page 25, line 6:

15 Delete "sec. 8"

16 Insert "sec. 10"

17 Delete "sec. 10"

18 Insert "sec. 12"

19

20 Page 25, line 7:

21 Delete "sec. 12"

22 Insert "sec. 14"

ADOPTED 3/23/15

29-LS0231\V
Martin
3/13/15

CS FOR SENATE BILL NO. 30(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to controlled substances; relating to marijuana; relating to crimes and
2 offenses related to marijuana and the use of marijuana; relating to open marijuana
3 containers; relating to established villages and local options; relating to delinquent
4 minors; making conforming amendments; and providing for an effective date."

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

6 * **Section 1.** AS 11.41.110(a) is amended to read:

- 7 (a) A person commits the crime of murder in the second degree if
 - 8 (1) with intent to cause serious physical injury to another person or
 - 9 knowing that the conduct is substantially certain to cause death or serious physical
 - 10 injury to another person, the person causes the death of any person;
 - 11 (2) the person knowingly engages in conduct that results in the death
 - 12 of another person under circumstances manifesting an extreme indifference to the
 - 13 value of human life;
 - 14 (3) under circumstances not amounting to murder in the first degree

1 under AS 11.41.100(a)(3), while acting either alone or with one or more persons, the
2 person commits or attempts to commit arson in the first degree, kidnapping, sexual
3 assault in the first degree, sexual assault in the second degree, sexual abuse of a minor
4 in the first degree, sexual abuse of a minor in the second degree, burglary in the first
5 degree, escape in the first or second degree, robbery in any degree, or misconduct
6 involving a controlled substance under AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1)
7 or (2), or 11.71.040(a)(1) [OR (2)] and, in the course of or in furtherance of that crime
8 or in immediate flight from that crime, any person causes the death of a person other
9 than one of the participants;

10 (4) acting with a criminal street gang, the person commits or attempts
11 to commit a crime that is a felony and, in the course of or in furtherance of that crime
12 or in immediate flight from that crime, any person causes the death of a person other
13 than one of the participants; or

14 (5) the person with criminal negligence causes the death of a child
15 under the age of 16, and the person has been previously convicted of a crime involving
16 a child under the age of 16 that was

17 (A) a felony violation of this chapter [AS 11.41];

18 (B) in violation of a law or ordinance in another jurisdiction
19 with elements similar to a felony under this chapter [AS 11.41]; or

20 (C) an attempt, a solicitation, or a conspiracy to commit a
21 crime listed in (A) or (B) of this paragraph.

22 * **Sec. 2.** AS 11.41.150(a) is amended to read:

23 (a) A person commits the crime of murder of an unborn child if the person

24 (1) with intent to cause the death of an unborn child or of another
25 person, causes the death of an unborn child;

26 (2) with intent to cause serious physical injury to an unborn child or to
27 another person or knowing that the conduct is substantially certain to cause death or
28 serious physical injury to an unborn child or to another person, causes the death of an
29 unborn child;

30 (3) while acting alone or with one or more persons, commits or
31 attempts to commit arson in the first degree, kidnapping, sexual assault in the first

1 degree, sexual assault in the second degree, sexual abuse of a minor in the first degree,
2 sexual abuse of a minor in the second degree, burglary in the first degree, escape in the
3 first or second degree, robbery in any degree, or misconduct involving a controlled
4 substance under AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1) or (2), or
5 11.71.040(a)(1) [OR (2)], and, in the course of or in furtherance of that crime or in
6 immediate flight from that crime, any person causes the death of an unborn child;

7 (4) knowingly engages in conduct that results in the death of an unborn
8 child under circumstances manifesting an extreme indifference to the value of human
9 life; for purposes of this paragraph, a pregnant woman's decision to remain in a
10 relationship in which domestic violence, as defined in AS 18.66.990, has occurred
11 does not constitute conduct manifesting an extreme indifference to the value of human
12 life.

13 * **Sec. 3.** AS 11.56.375(a) is amended to read:

14 (a) A person commits the crime of promoting contraband in the first degree if
15 the person violates AS 11.56.380 and the contraband is

16 (1) a deadly weapon or a defensive weapon;

17 (2) an article that is intended by the defendant to be used as a means of
18 facilitating an escape; or

19 (3) a schedule IA - VA controlled substance.

20 * **Sec. 4.** AS 11.56.380(a) is amended to read:

21 (a) A person commits the crime of promoting contraband in the second degree
22 if the person

23 (1) introduces, takes, conveys, or attempts to introduce, take, or
24 convey contraband into a correctional facility; [OR]

25 (2) makes, obtains, possesses, or attempts to make, obtain, or possess
26 anything that person knows to be contraband while under official detention within a
27 correctional facility; or

28 (3) introduces, takes, conveys, or attempts to introduce, take, or
29 convey a schedule VIA controlled substance into a correctional facility.

30 * **Sec. 5.** AS 11.71.030(a) is amended to read:

31 (a) Except as authorized in AS 17.30, a person commits the crime of

1 misconduct involving a controlled substance in the third degree if the person

2 (1) under circumstances not proscribed under AS 11.71.020(a)(2) - (6),
3 manufactures or delivers any amount of a schedule IIA or IIIA controlled substance or
4 possesses any amount of a schedule IIA or IIIA controlled substance with intent to
5 manufacture or deliver;

6 (2) delivers any amount of a schedule IVA or [,] VA [, OR VIA]
7 controlled substance to a person under 19 years of age who is at least three years
8 younger than the person delivering the substance; or

9 (3) possesses any amount of a schedule IA or IIA controlled substance

10 (A) with reckless disregard that the possession occurs

11 (i) on or within 500 feet of school grounds; or

12 (ii) at or within 500 feet of a recreation or youth center;

13 or

14 (B) on a school bus.

15 * **Sec. 6.** AS 11.71.040(a) is amended to read:

16 (a) Except as authorized in AS 17.30, a person commits the crime of
17 misconduct involving a controlled substance in the fourth degree if the person

18 (1) manufactures or delivers any amount of a schedule IVA or VA
19 controlled substance or possesses any amount of a schedule IVA or VA controlled
20 substance with intent to manufacture or deliver;

21 (2) manufactures or delivers, or possesses with the intent to
22 manufacture or deliver, one or more preparations, compounds, mixtures, or substances
23 of an aggregate weight of one ounce or more containing a schedule VIA controlled
24 substance;

25 (3) possesses

26 (A) any amount of a

27 (i) schedule IA controlled substance; or

28 (ii) IIA controlled substance except a controlled
29 substance listed in AS 11.71.150(e)(11) - (15);

30 (B) 25 or more tablets, ampules, or syrettes containing a
31 schedule IIIA or IVA controlled substance;

1 (C) one or more preparations, compounds, mixtures, or
2 substances of an aggregate weight of

3 (i) three grams or more containing a schedule IIIA or
4 IVA controlled substance except a controlled substance in a form listed
5 in (ii) of this subparagraph;

6 (ii) 12 grams or more containing a schedule IIIA
7 controlled substance listed in AS 11.71.160(f)(7) - (16) that has been
8 sprayed on or otherwise applied to tobacco, an herb, or another organic
9 material; or

10 (iii) 500 milligrams or more of a schedule IIA
11 controlled substance listed in AS 11.71.150(e)(11) - (15);

12 (D) 50 or more tablets, ampules, or syrettes containing a
13 schedule VA controlled substance;

14 (E) one or more preparations, compounds, mixtures, or
15 substances of an aggregate weight of six grams or more containing a schedule
16 VA controlled substance;

17 (F) 16 [ONE OR MORE PREPARATIONS, COMPOUNDS,
18 MIXTURES, OR SUBSTANCES OF AN AGGREGATE WEIGHT OF
19 FOUR] ounces or more of usable marijuana [CONTAINING A SCHEDULE
20 VIA CONTROLLED SUBSTANCE]; or

21 (G) 25 or more plants of the genus cannabis;

22 (4) possesses a schedule IIIA, IVA, or VA [, OR VIA] controlled
23 substance

24 (A) with reckless disregard that the possession occurs

25 (i) on or within 500 feet of school grounds; or

26 (ii) at or within 500 feet of a recreation or youth center;

27 or

28 (B) on a school bus;

29 (5) knowingly keeps or maintains any store, shop, warehouse,
30 dwelling, building, vehicle, boat, aircraft, or other structure or place that is used for
31 keeping or distributing controlled substances in violation of a felony offense under this

1 chapter or AS 17.30;

2 (6) makes, delivers, or possesses a punch, die, plate, stone, or other
3 thing that prints, imprints, or reproduces a trademark, trade name, or other identifying
4 mark, imprint, or device of another or any likeness of any of these upon a drug, drug
5 container, or labeling so as to render the drug a counterfeit substance;

6 (7) knowingly uses in the course of the manufacture or distribution of a
7 controlled substance a registration number that is fictitious, revoked, suspended, or
8 issued to another person;

9 (8) knowingly furnishes false or fraudulent information in or omits
10 material information from any application, report, record, or other document required
11 to be kept or filed under AS 17.30;

12 (9) obtains possession of a controlled substance by misrepresentation,
13 fraud, forgery, deception, or subterfuge; [OR]

14 (10) affixes a false or forged label to a package or other container
15 containing any controlled substance; or

16 (11) violates AS 11.71.050(a)(4) and, within the five years
17 preceding the violation, the person has been previously convicted under

18 (A) AS 11.71.010 - 11.71.040;

19 (B) AS 11.71.050(a)(4); or

20 (C) a law or ordinance of this or another jurisdiction with
21 elements similar to a crime listed under (A) or (B) of this paragraph.

22 * Sec. 7. AS 11.71.040 is amended by adding a new subsection to read:

23 (e) The provisions of

24 (1) (a)(3)(F) of this section do not apply to a person who is lawfully
25 possessing usable marijuana in accordance with AS 17.38.020; or

26 (2) (a)(3)(F) and (a)(3)(G) of this section do not apply to a marijuana
27 establishment registered under AS 17.38, or an officer, agent, or employee of the
28 registered marijuana establishment acting in compliance with the terms of the
29 registration issued under AS 17.38.

30 * Sec. 8. AS 11.71.050(a) is amended to read:

31 (a) Except as authorized in AS 17.30, a person commits the crime of

1 misconduct involving a controlled substance in the fifth degree if the person

2 (1) **transports** [MANUFACTURES] or delivers

3 (A) more [, OR POSSESSES WITH THE INTENT TO
4 MANUFACTURE OR DELIVER, ONE OR MORE PREPARATIONS,
5 COMPOUNDS, MIXTURES, OR SUBSTANCES OF AN AGGREGATE
6 WEIGHT OF LESS] than one ounce of usable marijuana [CONTAINING A
7 SCHEDULE VIA CONTROLLED SUBSTANCE];

8 (B) more than six plants of the genus cannabis;

9 (2) possesses

10 (A) less than 25 tablets, ampules, or syrettes containing a
11 schedule IIIA or IVA controlled substance;

12 (B) one or more preparations, compounds, mixtures, or
13 substances of an aggregate weight of less than

14 (i) three grams containing a schedule IIIA or IVA
15 controlled substance except a controlled substance in a form listed in
16 (ii) of this subparagraph;

17 (ii) 12 grams but more than six grams containing a
18 schedule IIIA controlled substance listed in AS 11.71.160(f)(7) - (16)
19 that has been sprayed on or otherwise applied to tobacco, an herb, or
20 another organic material; or

21 (iii) 500 milligrams containing a schedule IIA
22 controlled substance listed in AS 11.71.150(e)(11) - (15);

23 (C) less than 50 tablets, ampules, or syrettes containing a
24 schedule VA controlled substance;

25 (D) one or more preparations, compounds, mixtures, or
26 substances of an aggregate weight of less than six grams containing a schedule
27 VA controlled substance; [OR]

28 (E) at least three ounces but less than 16 ounces of usable
29 marijuana [ONE OR MORE PREPARATIONS, COMPOUNDS,
30 MIXTURES, OR SUBSTANCES OF AN AGGREGATE WEIGHT OF ONE
31 OUNCE OR MORE CONTAINING A SCHEDULE VIA CONTROLLED

SUBSTANCE]; or

(F) 12 or more but less than 25 plants of the genus cannabis;

(3) fails to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under AS 17.30;

(4) delivers any amount of usable marijuana to a person under 21 years of age;

(5) delivers or transports

(A) one ounce or less of usable marijuana for remuneration or barter; or

(B) six plants or less of the genus cannabis for remuneration or barter; or

(6) manufactures a marijuana concentrate or extract using a volatile or explosive gas.

* Sec. 9. AS 11.71.050 is amended by adding new subsections to read:

(c) The provisions of (a)(1), (a)(2)(E), (a)(2)(F), and (a)(4) - (6) of this section do not apply to

(1) a person who is lawfully possessing, manufacturing, delivering, possessing with the intent to manufacture or deliver, or transporting usable marijuana in accordance with AS 17.38.020;

(2) a marijuana establishment registered under AS 17.38, or an officer, agent, or employee of the registered marijuana establishment acting in compliance with the terms of the registration issued under AS 17.38.

(d) A person does not violate (a)(4) of this section if the person is over 21 years of age and delivers a schedule VIA controlled substance to the person's child, ward, or legal spouse if

(1) the child, ward, or legal spouse is 18 years of age or older; and

(2) the delivery occurs in the person's residence.

* Sec. 10. AS 11.71.060(a) is amended to read:

(a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the sixth degree if the person

1 (1) uses or displays any amount of a schedule VIA controlled
2 substance;

3 (2) possesses one or more preparations, compounds, mixtures, or
4 substances of an aggregate weight of

5 (A) less than one ounce containing a schedule VIA controlled
6 substance;

7 (B) six grams or less containing a schedule IIIA controlled
8 substance listed in AS 11.71.160(f)(7) - (16) that has been sprayed on or
9 otherwise applied to tobacco, an herb, or another organic material; [OR]

10 (3) refuses entry into a premise for an inspection authorized under
11 AS 17.30;

12 **(4) possesses at least two ounces but less than three ounces of**
13 **usable marijuana;**

14 **(5) possesses more than six but less than 12 plants of the genus**
15 **cannabis.**

16 * **Sec. 11.** AS 11.71.060 is amended by adding a new subsection to read:

17 (c) The provisions of (a)(4) and (a)(5) of this section do not apply to

18 (1) a person who is lawfully possessing, displaying, delivering, or
19 transporting usable marijuana in accordance with AS 17.38.020;

20 (2) a marijuana establishment registered under AS 17.38, or an officer,
21 agent, or employee of the registered marijuana establishment acting in compliance
22 with the terms of the registration issued under AS 17.38.

23 * **Sec. 12.** AS 11.71 is amended by adding a new section to read:

24 **Sec. 11.71.071. Misconduct involving a controlled substance in the seventh**
25 **degree.** (a) Except as authorized in AS 17.30, a person commits the crime of
26 misconduct involving a controlled substance in the seventh degree if the person

27 (1) possesses more than one ounce but less than two ounces of usable
28 marijuana;

29 (2) is

30 (A) under 21 years of age and

31 (i) possesses less than two ounces of usable marijuana;

1 or

2 (ii) uses or displays any amount of usable marijuana; or

3 (B) 21 years of age or older and uses any amount of usable
4 marijuana in a public place;

5 (3) manufactures usable marijuana

6 (A) in a location where the plants are subject to public view
7 without the use of binoculars, aircraft, or other optical aids;

8 (B) in a location that is not secure from unauthorized access; or

9 (C) on property not lawfully in the possession of the person or
10 on property without the consent of the person in lawful possession of the
11 property; or

12 (4) uses usable marijuana while operating a motor vehicle, aircraft, or
13 watercraft under circumstances not proscribed by AS 28.35.030.

14 (b) The provisions of (a)(1) and (a)(3) of this section do not apply to

15 (1) a person who is lawfully possessing or manufacturing usable
16 marijuana in accordance with AS 17.38.020;

17 (2) a marijuana establishment registered under AS 17.38, or an officer,
18 agent, or employee of the registered marijuana establishment acting in compliance
19 with the terms of the registration issued under AS 17.38.

20 (c) Misconduct involving a controlled substance in the seventh degree is a
21 violation punishable by a fine of

22 (1) up to \$300 for a violation of (a)(1), (a)(3), or (a)(4) of this section;

23 (2) \$300 for a violation of (a)(2)(A) of this section; the court may
24 reduce the fine to \$50 for a defendant under 18 years of age if the defendant supplies
25 to the court, within six months, proof of completion of a community diversion panel or
26 a state-approved marijuana education or treatment program; in this paragraph,
27 "community diversion panel" means a youth court or other group selected by the court
28 to serve as a sentencing option for a person convicted under (a)(2)(A) of this section;

29 (3) \$100 for a violation of (a)(2)(B) of this section.

30 * **Sec. 13.** AS 11.71.090(a) is amended to read:

31 (a) In a prosecution under AS 11.71.030 - 11.71.071 [AS 11.71.030 -

1 11.71.060] charging the manufacture, delivery, possession, possession with intent to
2 manufacture or deliver, use, or display of a schedule VIA controlled substance, it is an
3 affirmative defense that the defendant is a patient, or the primary caregiver or alternate
4 caregiver for a patient, and

5 (1) at the time of the manufacture, delivery, possession, possession
6 with intent to manufacture or deliver, use, or display, the patient was registered under
7 AS 17.37;

8 (2) the manufacture, delivery, possession, possession with intent to
9 manufacture, deliver, use, or display complied with the requirements of AS 17.37; and

10 (3) if the defendant is the

11 (A) primary caregiver of the patient, the defendant was in
12 physical possession of the caregiver registry identification card at the time of
13 the manufacture, delivery, possession, possession with intent to manufacture or
14 deliver, use, or display; or

15 (B) alternate caregiver of the patient, the defendant was in
16 physical possession of the caregiver registry identification card at the time of
17 the manufacture, delivery, possession, possession with intent to manufacture or
18 deliver, use, or display.

19 * **Sec. 14.** AS 11.71.190(b) is repealed and reenacted to read:

20 (b) Schedule VIA includes, unless specifically excepted or unless listed in
21 another schedule, any material, compound, mixture, or preparation that contains any
22 quantity of the following substances:

- 23 (1) marijuana;
24 (2) hashish;
25 (3) hash oil or hashish oil;
26 (4) tetrahydrocannabinols.

27 * **Sec. 15.** AS 11.71.311(a) is amended to read:

28 (a) A person may not be prosecuted for a violation of AS 11.71.030(a)(3),
29 11.71.040(a)(3) or (4), 11.71.050(a)(2), or 11.71.060(a)(2) [11.71.060(a)(1) OR (2)] if
30 that person

31 (1) sought, in good faith, medical or law enforcement assistance for

1 another person who the person reasonably believed was experiencing a drug overdose
2 **or significant adverse marijuana reaction** and

3 (A) the evidence supporting the prosecution for an offense
4 under AS 11.71.030(a)(3), 11.71.040(a)(3) or (4), 11.71.050(a)(2), or
5 **11.71.060(a)(2)** [11.71.060(a)(1) OR (2)] was obtained or discovered as a
6 result of the person seeking medical or law enforcement assistance;

7 (B) the person remained at the scene with the other person until
8 medical or law enforcement assistance arrived; and

9 (C) the person cooperated with medical or law enforcement
10 personnel, including by providing identification;

11 (2) was experiencing a drug overdose **or significant adverse**
12 **marijuana reaction** and sought medical assistance, and the evidence supporting a
13 prosecution for an offense under AS 11.71.030(a)(3), 11.71.040(a)(3) or (4),
14 11.71.050(a)(2), or **11.71.060(a)(2)** [11.71.060(a)(1) OR (2)] was obtained as a result
15 of the overdose **or significant adverse marijuana reaction** and the need for medical
16 assistance.

17 * **Sec. 16.** AS 11.71.900(14) is repealed and reenacted to read:

18 (14) "marijuana" means all parts of the plant of the genus cannabis
19 whether growing or not, the seeds thereof, the resin extracted from any part of the
20 plant, and every compound, manufacture, derivative, mixture, or preparation of the
21 plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does not
22 include fiber produced from the stalks, oil or cake made from the seeds of the plant,
23 sterilized seed of the plant that is incapable of germination, or the weight of any other
24 ingredient combined with marijuana to prepare topical or oral administrations, food,
25 drink, or other products;

26 * **Sec. 17.** AS 11.71.900 is amended by adding a new paragraph to read:

27 (31) "usable marijuana" means the seeds, leaves, buds, and flowers of
28 the plant genus cannabis, hashish, hash oil, tetrahydrocannabinols, and marijuana
29 concentrates, but does not include the stalks or roots of the plant genus cannabis.

30 * **Sec. 18.** AS 12.45.084(a) is amended to read:

31 (a) In a prosecution under **AS 11.71.010 - 11.71.071** [AS 11.71.010 -

1 11.71.060], a complete copy of an official laboratory report from the Department of
2 Public Safety or a laboratory operated by another law enforcement agency is prima
3 facie evidence of the content, identity, and weight of a controlled substance. The
4 report must be signed by the person performing the analysis and must state that the
5 substance that [WHICH] is the basis of the alleged offense has been weighed and
6 analyzed. In the report, the author shall state with specificity findings as to the content,
7 weight, and identity of the substance.

8 * **Sec. 19.** AS 17.30.080(b) is amended to read:

9 (b) A person who violates (a) of this section, or who otherwise manufactures,
10 distributes, dispenses, or conducts research with a controlled substance in the state
11 without fully complying with 21 U.S.C. 811 - 830 (Controlled Substances Act), and
12 regulations adopted under those sections, is guilty of misconduct involving a
13 controlled substance under AS 11.71.010 - 11.71.071 [AS 11.71.010 - 11.71.060] in
14 the degree appropriate to the circumstances as described in those sections. Upon filing
15 a complaint, information, presentment, or indictment charging a medical assistance
16 provider with misconduct involving a controlled substance under AS 11.71.140 -
17 11.71.190, the attorney general shall, in writing, notify the commissioner of health and
18 social services of the filing.

19 * **Sec. 20.** AS 17.38.020 is amended to read:

20 **Sec. 17.38.020. Personal use of marijuana.** The [NOTWITHSTANDING
21 ANY OTHER PROVISION OF LAW, EXCEPT AS OTHERWISE PROVIDED IN
22 THIS CHAPTER, THE] following acts, by persons 21 years of age or older, are lawful
23 and are not [SHALL NOT BE A] criminal or civil offenses [OFFENSE] under Alaska
24 law or the law of any political subdivision of Alaska or bases [BE A BASIS] for
25 seizure or forfeiture of assets under Alaska law:

26 (1) possessing, using, displaying, purchasing, or transporting
27 marijuana accessories or one ounce or less of usable marijuana;

28 (2) possessing, growing, processing, or transporting not [NO] more
29 than six marijuana plants, with three or fewer being mature, flowering plants, and
30 possession of the marijuana produced by the plants on the premises where the plants
31 were grown, except that nothing in this chapter permits the growing of marijuana

1 as proscribed in AS 11.71.071(a)(3):

2 (3) transferring one ounce or less of marijuana and up to six immature
3 marijuana plants to a person who is 21 years of age or older without remuneration or
4 barter;

5 (4) consumption of marijuana, except that nothing in this chapter
6 permits [SHALL PERMIT] the consumption of marijuana in a public place; and

7 (5) assisting another person who is 21 years of age or older in any of
8 the acts described in (1) - (4) of this section; under this paragraph, assisting does
9 not include

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

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

14 * **Sec. 21.** AS 17.38.070(a) is amended to read:

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

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

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

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

28 (4) purchasing marijuana from a registered marijuana cultivation
29 facility;

30 (5) purchasing marijuana or marijuana products from a registered
31 marijuana product manufacturing facility; and

1 (6) delivering, distributing, or selling marijuana or marijuana products
2 to consumers.

3 * **Sec. 22.** AS 17.38.070(b) is amended to read:

4 (b) **The** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
5 THE] following acts, when performed by a marijuana cultivation facility with a
6 current, valid registration, or a person 21 years of age or older who is acting in the
7 person's capacity as an owner, employee, or agent of a marijuana cultivation facility,
8 are lawful and **are not offenses** [SHALL NOT BE AN OFFENSE] under Alaska law
9 or **bases** [BE A BASIS] for seizure or forfeiture of assets under Alaska law:

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

12 (2) delivering or transferring marijuana to a **registered** marijuana
13 testing facility;

14 (3) receiving marijuana from a **registered** marijuana testing facility;

15 (4) delivering, distributing, or selling marijuana to a **registered**
16 marijuana cultivation facility, a **registered** marijuana product manufacturing facility,
17 or a **registered** retail marijuana store;

18 (5) receiving or purchasing marijuana from a **registered** marijuana
19 cultivation facility; and

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

22 * **Sec. 23.** AS 17.38.070(c) is amended to read:

23 (c) **The** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
24 THE] following acts, when performed by a marijuana product manufacturing facility
25 with a current, valid registration, or a person 21 years of age or older who is acting in
26 the person's capacity as an owner, employee, or agent of a marijuana product
27 manufacturing facility, are lawful and **are not offenses** [SHALL NOT BE AN
28 OFFENSE] under Alaska law or **bases** [BE A BASIS] for seizure or forfeiture of
29 assets under Alaska law:

30 (1) packaging, processing, transporting, manufacturing, displaying, or
31 possessing marijuana or marijuana products;

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

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

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

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

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

11 * **Sec. 24.** AS 17.38.070(d) is amended to read:

12 (d) **The** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
13 THE] following acts, when performed by a marijuana testing facility with a current,
14 valid registration, or a person 21 years of age or older who is acting in the person's
15 capacity as an owner, employee, or agent of a marijuana testing facility, are lawful and
16 are not offenses [SHALL NOT BE AN OFFENSE] under Alaska law or bases [BE A
17 BASIS] for seizure or forfeiture of assets under Alaska law:

18 (1) possessing, cultivating, processing, repackaging, storing,
19 transporting, displaying, transferring, or delivering marijuana;

20 (2) receiving marijuana or marijuana products from a registered
21 marijuana cultivation facility, a registered marijuana retail store, a registered
22 marijuana products manufacturer, or a person 21 years of age or older; and

23 (3) returning marijuana or marijuana products to a registered
24 marijuana cultivation facility, registered marijuana retail store, registered marijuana
25 products manufacturer, or a person 21 years of age or older.

26 * **Sec. 25.** AS 17.38.070(e) is amended to read:

27 (e) **It** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IT] is
28 lawful and is [SHALL] not [BE] an offense under Alaska law or [BE] a basis for
29 seizure or forfeiture of assets under Alaska law to lease or otherwise allow the use of
30 property owned, occupied, or controlled by any person, corporation, or other entity for
31 any of the activities conducted lawfully in accordance with (a) - (d) of this section.

1 * **Sec. 26.** AS 17.38.070 is amended by adding a new subsection to read:

2 (h) A retail marijuana store may only sell or deliver marijuana or marijuana
3 products to a person who is present at the premises of the retail marijuana store.

4 * **Sec. 27.** AS 17.38.090 is amended by adding a new subsection to read:

5 (c) The board shall adopt a regulation that prohibits a retail marijuana store
6 from selling more than five grams of marijuana concentrate in one transaction to a
7 customer.

8 * **Sec. 28.** AS 17.38.110(a) is amended to read:

9 (a) A local government may prohibit the operation of marijuana cultivation
10 facilities, marijuana product manufacturing facilities, marijuana testing facilities, or
11 retail marijuana stores through the enactment of an ordinance or by a voter initiative.

12 **The operation of marijuana cultivation facilities, marijuana product**
13 **manufacturing facilities, marijuana testing facilities, and retail marijuana stores**
14 **in the unorganized borough outside of a municipality is prohibited. An**
15 **established village may permit the operation of marijuana cultivation facilities,**
16 **marijuana product manufacturing facilities, marijuana testing facilities, or retail**
17 **marijuana stores as provided in AS 17.38.250.**

18 * **Sec. 29.** AS 17.38.120(c) is amended to read:

19 (c) Nothing in this chapter is intended to permit the transfer of marijuana, with
20 or without remuneration **or barter**, to a person under [THE AGE OF] 21 **years of age**.

21 * **Sec. 30.** AS 17.38 is amended by adding new sections to read:

22 **Sec. 17.38.200. Unlawful activity related to persons under 21 years of age.**

23 (a) A registered marijuana establishment or an officer, agent, or employee of the
24 marijuana establishment may not knowingly

25 (1) allow a person to deliver marijuana to another person under 21
26 years of age within the registered premises;

27 (2) allow a person under 21 years of age to enter and remain within the
28 registered premises;

29 (3) allow a person under 21 years of age to use marijuana within the
30 registered premises;

31 (4) allow a person under 21 years of age to deliver marijuana; or

1 (5) while working on the registered premises, deliver marijuana to a
2 person under 21 years of age.

3 (b) The prohibition in (a)(2) of this section does not apply if the person under
4 21 years of age is accompanied by a parent, guardian, or spouse who has attained 21
5 years of age.

6 (c) A person who violates this section is guilty of a violation punishable by a
7 fine of at least \$250 but not more than \$500.

8 **Sec. 17.38.210. Access of persons under 21 years of age to registered**
9 **premises.** (a) A person under 21 years of age may not knowingly

10 (1) enter or remain on premises registered under this chapter where
11 marijuana, marijuana products, or marijuana accessories are sold; or

12 (2) present a birth certificate or other written evidence of age that is
13 fraudulent or false or that is not the person's own, or otherwise misrepresent the
14 person's age for the purpose of

15 (A) purchasing, attempting to purchase, or otherwise procuring
16 or attempting to procure marijuana or marijuana products; or

17 (B) gaining access to a registered marijuana establishment.

18 (b) A person does not violate (a) of this section if the person

19 (1) enters and remains on premises registered under this chapter at the
20 request of a peace officer, if the peace officer accompanies, supervises, or otherwise
21 observes the person's entry or remaining on premises, and the purpose for the entry or
22 remaining on premises is to assist in the enforcement of this section;

23 (2) is accompanied by a parent, guardian, or spouse who has attained
24 21 years of age; or

25 (3) is acting in the capacity of an employee or volunteer of an agency
26 providing emergency medical or fire protection services while on the premises.

27 (c) A person who violates this section is guilty of a violation and is punishable
28 by a fine of \$300.

29 **Sec. 17.38.220. Proof of registration to be exhibited on demand; penalty.**

30 (a) A person shall have a copy of the person's registration issued under AS 17.38.100
31 in the person's immediate possession at all times when transporting more than one

1 ounce of marijuana, and shall present the copy of the registration for inspection upon
2 the demand of a peace officer or other authorized representative of the Department of
3 Public Safety. However, a person charged with violating this section may not be
4 convicted if the person produces in court or in the office of the arresting or citing
5 officer proof of registration previously issued to the person that was valid at the time
6 of the person's arrest or citation.

7 (b) A person convicted under this section is guilty of a violation punishable by
8 a fine of \$100.

9 **Sec. 17.38.230. Bail forfeiture for certain offenses.** The supreme court shall
10 establish by rule or order a schedule of bail amounts that may be forfeited without
11 court appearance for a violation of AS 11.71.071, AS 17.38.200, 17.38.210, and
12 17.38.220. The supreme court, in establishing scheduled amounts of bail under this
13 section, may not allow for disposition of an offense without court appearance for a
14 person under 18 years of age who is cited for a violation of AS 11.71.071(a)(2)(A).

15 **Sec. 17.38.240. Court records of violations of persons under 21 years of**
16 **age.** The Alaska Court System may not publish on a publicly available website the
17 court records of a violation of AS 11.71.071(a)(2)(A) or AS 17.38.210 by a person
18 who was under 21 years of age at the time of the offense, after the court proceedings
19 are completed and the case is closed.

20 **Sec. 17.38.250. Local options.** (a) If a majority of the voters voting on the
21 question vote to approve the option, an established village shall exercise a local option
22 to permit the operation of one or more of the following types of marijuana
23 establishments:

- 24 (1) marijuana cultivation facilities;
- 25 (2) marijuana product manufacturing facilities;
- 26 (3) marijuana testing facilities; or
- 27 (4) retail marijuana stores.

28 (b) A ballot question to adopt a local option under this section must at least
29 contain language substantially similar to the following: "Shall (name of village) adopt
30 a local option to permit (specify local option under (a) of this section)? (yes or no)."

31 **Sec. 17.38.260. Removal of local options.** (a) If a majority of the voters

1 voting on the question vote to remove the option, an established village shall remove a
2 local option previously adopted under AS 17.38.250. The option is repealed effective
3 the first day of the month following certification of the results of the election.

4 (b) A ballot question to remove a local option under this section must at least
5 contain language substantially similar to the following: "Shall (name of village)
6 remove the local option currently in effect, that permits (current local option under
7 AS 17.38.250(a)), so that there is no longer any local option in effect? (yes or no)."

8 **Sec. 17.38.270. Effect on registrations of removal of local option**
9 **permitting marijuana establishments.** If a majority of voters vote to remove a local
10 option permitting the operation of marijuana establishments under AS 17.38.260, the
11 board may not issue, renew, or transfer, between persons or locations, a registration
12 for a marijuana establishment located within the perimeter of the established village. A
13 registration that may not be renewed because of a local option election held under
14 AS 17.38.260 is void 90 days after the results of the election are certified. A
15 registration that expires during the 90 days after the results of a local option election
16 are certified may be extended, until it is void under this section, by payment of a
17 prorated portion of the annual registration fee.

18 **Sec. 17.38.280. Procedure for local option elections.** (a) An election to adopt
19 a local option under AS 17.38.250 or remove a local option under AS 17.38.260 shall
20 be conducted as required in this section.

21 (b) Upon receipt of a petition of 35 percent or more of the registered voters
22 residing within an established village, the lieutenant governor shall place on a separate
23 ballot at a special election the local option or removal of local option that constitutes
24 the subject of the petition. The lieutenant governor shall conduct the election under
25 AS 15.

26 (c) An election under (b) of this section to remove a local option may not be
27 conducted during the first 24 months after the local option was adopted or more than
28 once in a 36-month period.

29 (d) After a petition has been certified as sufficient to meet the requirements of
30 (b) of this section, another petition may not be filed or certified until after the question
31 presented in the first petition has been voted on. A local option question to permit the

1 operation of marijuana cultivation facilities, marijuana product manufacturing
2 facilities, marijuana testing facilities, or retail marijuana stores or to permit all
3 marijuana establishments may be presented in one election.

4 **Sec. 17.38.290. Establishment of perimeter of established village.** (a)
5 Except as provided under (b) and (c) of this section, for purposes of AS 17.38.250 and
6 17.38.270, the perimeter of an established village is a circle around the established
7 village that includes an area within a five-mile radius of the post office of the
8 established village. If the established village does not have a post office, the perimeter
9 of an established village is a circle around the established village that includes an area
10 within a five-mile radius of another site selected by the local governing body or by the
11 board if the established village does not have a local governing body.

12 (b) If the perimeter of an established village determined under (a) of this
13 section includes any area that is within the perimeter of another established village
14 and, if the other established village has

15 (1) also adopted a local option under AS 17.38.250, the local option of
16 the established village that is less restrictive applies in the overlapping area;

17 (2) not adopted a local option under AS 17.38.250, the local option
18 does not apply in the overlapping area.

19 (c) If the board determines that the perimeter of an established village as
20 provided under (a) and (b) of this section does not accurately reflect the perimeter of
21 the established village, the board may establish the perimeter of the established village
22 and the areas of overlapping perimeter described under (b) of this section for purposes
23 of applying a local option selected under this chapter.

24 **Sec. 17.38.300. Notice of the results of a local option election.** If a majority
25 of the voters vote to adopt or remove a local option under AS 17.38.250 or 17.38.260,
26 the lieutenant governor shall notify the board of the results of the election immediately
27 after the results are certified. The board shall immediately notify the Department of
28 Law and the Department of Public Safety of the results of the election.

29 **Sec. 17.38.310. Peace officer powers.** The director of the board and the
30 persons employed for the administration and enforcement of this chapter and the
31 provisions of AS 11.71.040 - 11.71.071 involving a schedule VIA controlled

1 substance may, with the concurrence of the commissioner of public safety, exercise
2 the powers of peace officers when those powers are specifically granted by the board.
3 Powers granted by the board under this section may be exercised only when necessary
4 for the enforcement of the criminally punishable provisions of this chapter, the
5 provisions of AS 11.71.040 - 11.71.071 involving a schedule VIA controlled
6 substance, regulations of the board, and other criminally punishable laws and
7 regulations.

8 * **Sec. 31.** AS 17.38.900(6) is amended to read:

9 (6) "marijuana" means all parts of the plant of the genus cannabis
10 whether growing or not, the seeds thereof, the resin extracted from any part of the
11 plant, and every compound, manufacture, [SALT,] derivative, mixture, or preparation
12 of the plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does
13 not include fiber produced from the stalks, oil [,] or cake made from the seeds of the
14 plant, sterilized seed of the plant **that** [WHICH] is incapable of germination, or the
15 weight of any other ingredient combined with marijuana to prepare topical or oral
16 administrations, food, drink, or other products;

17 * **Sec. 32.** AS 17.38.900 is amended by adding new paragraphs to read:

18 (15) "deliver" means the actual, constructive, or attempted transfer
19 from one person to another of marijuana, whether or not there is an agency
20 relationship;

21 (16) "established village" means an area that does not contain any part
22 of an incorporated city or another established village and that is an unincorporated
23 community that is in the unorganized borough and that has 25 or more permanent
24 residents;

25 (17) "knowingly" has the meaning given in AS 11.81.900;

26 (18) "manufacture" has the meaning given in AS 11.71.900;

27 (19) "marijuana concentrate" means a product created from resins of or
28 by extracting cannabinoids from any part of the plant (genus) Cannabis;

29 (20) "public place" has the meaning given in AS 11.81.900;

30 (21) "usable marijuana" has the meaning given in AS 11.71.900.

31 * **Sec. 33.** AS 28.35.029(a) is amended to read:

1 (a) A person may not drive a motor vehicle on a highway or vehicular way or
2 area, when there is an open bottle, can, or other receptacle containing an alcoholic
3 beverage or an open marijuana container in the passenger compartment of the
4 vehicle, except as provided in (b) of this section.

5 * **Sec. 34.** AS 28.35.029(b) is amended to read:

6 (b) Except as provided in AS 28.33.130, a person may transport an open
7 bottle, can, or other receptacle containing an alcoholic beverage or an open
8 marijuana container

9 (1) in the trunk of a motor vehicle;

10 (2) on a motor driven cycle, or behind the last upright seat in a motor
11 home, station wagon, hatchback, or similar trunkless vehicle, if the open bottle, can, or
12 other receptacle, or an open marijuana container is enclosed within another
13 container;

14 (3) behind a solid partition that separates the vehicle driver from the
15 area normally occupied by passengers; or

16 (4) if the open bottle, can, or other receptacle, or an open marijuana
17 container is in the possession of a passenger in a motor vehicle for which the owner
18 receives direct monetary compensation and that has a capacity of 12 or more persons.

19 * **Sec. 35.** AS 28.35.029(c) is amended by adding new paragraphs to read:

20 (6) "marijuana" has the meaning given in AS 11.71.900;

21 (7) "open marijuana container" means a receptacle that contains any
22 amount of marijuana and that is open or has a broken seal, and any amount of
23 marijuana is removed while in the vehicle.

24 * **Sec. 36.** AS 34.03.360(7) is amended to read:

25 (7) "illegal activity involving a controlled substance" means a violation
26 of AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1) or (2), or 11.71.040(a)(1) [, (2),] or
27 (5);

28 * **Sec. 37.** AS 47.12.030(b) is amended to read:

29 (b) When a minor is accused of violating a statute specified in this subsection,
30 other than a statute the violation of which is a felony, this chapter and the Alaska
31 Delinquency Rules do not apply and the minor accused of the offense shall be

1 charged, prosecuted, and sentenced in the district court in the same manner as an
2 adult; if a minor is charged, prosecuted, and sentenced for an offense under this
3 subsection, the minor's parent, guardian, or legal custodian shall be present at all
4 proceedings; the provisions of this subsection apply when a minor is accused of
5 violating

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

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

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

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

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

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

26 **(7) AS 11.71.071(a)(2)(A), relating to possession, use, and display**
27 **of usable marijuana; and**

28 **(8) AS 17.38.210, relating to access to marijuana establishments.**

29 * **Sec. 38.** AS 11.71.040(a)(2), 11.71.060(a)(1), 11.71.060(a)(2)(A), 11.71.160(f)(1),
30 11.71.160(f)(2), 11.71.160(f)(3); AS 17.38.030, 17.38.040, and 17.38.050 are repealed.

31 * **Sec. 39.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 APPLICABILITY. AS 11.41.110(a), as amended by sec. 1 of this Act,
3 AS 11.41.150(a), as amended by sec. 2 of this Act, AS 11.56.375(a), as amended by sec. 3 of
4 this Act, AS 11.56.380(a), as amended by sec. 4 of this Act, AS 11.71.030(a), as amended by
5 sec. 5 of this Act, AS 11.71.040(a), as amended by sec. 6 of this Act, AS 11.71.050(a), as
6 amended by sec. 8 of this Act, AS 11.71.060(a), as amended by sec. 10 of this Act, and
7 AS 11.71.071, enacted by sec. 12 of this Act, apply to offenses committed on or after the
8 effective date of this Act.

9 * **Sec. 40.** This Act takes effect immediately under AS 01.10.070(c).

adopted 3/13/15

29-LS023 \X.57
Martin
3/13/15

AMENDMENT #19

OFFERED IN THE SENATE

TO: CSSB 30(), Draft Version "X"

1 Page 6, line 7, following "provisions of":

2 Insert "(1) (a)(3)(F) of this section do not apply to a person who is lawfully possessing
3 a schedule VIA controlled substance in accordance with AS 17.38.020; or

4 (2)"

5

6 Page 13, lines 15 - 16:

7 Delete "or the possession of 16 ounces or more of marijuana at any time"

adopted 3/13/15

29-LS0231\X.51
Martin
3/12/15

AMENDMENT #20

OFFERED IN THE SENATE

TO: CSSB 30(), Draft Version "X"

1 Page 20, following line 21:

2 Insert a new section to read:

3 "Sec. 17.38.310. **Peace officer powers.** The director of the board and the
4 persons employed for the administration and enforcement of this chapter and the
5 provisions of AS 11.71.040 - 11.71.071 involving a schedule VIA controlled
6 substance may, with the concurrence of the commissioner of public safety, exercise
7 the powers of peace officers when those powers are specifically granted by the board.
8 Powers granted by the board under this section may be exercised only when necessary
9 for the enforcement of the criminally punishable provisions of this chapter, the
10 provisions of AS 11.71.040 - 11.71.071 involving a schedule VIA controlled
11 substance, regulations of the board, and other criminally punishable laws and
12 regulations."

adopted 3/13/15

29-LS0231 X.55
Martin
3/12/15

AMENDMENT # 21

OFFERED IN THE SENATE

TO: CSSB 30(), Draft Version "X"

1 Page 6, lines 14 - 16:

2 Delete "transports, manufactures or delivers, or possesses with the intent to
3 manufacture or deliver,

4 (A)"

5 Insert "transports [MANUFACTURES] or delivers

6 (A) [, OR POSSESSES WITH THE INTENT TO
7 MANUFACTURE OR DELIVER,]"

adopted 3/13/15

29-LS0231\X.48
Martin
3/12/15

AMENDMENT # 22

OFFERED IN THE SENATE

TO: CSSB 30(), Draft Version "X"

1 Page 3, following line 14:

2 Insert new bill sections to read:

3 **** Sec. 3.** AS 11.56.375(a) is amended to read:

4 (a) A person commits the crime of promoting contraband in the first degree if
5 the person violates AS 11.56.380 and the contraband is

6 (1) a deadly weapon or a defensive weapon;

7 (2) an article that is intended by the defendant to be used as a means of
8 facilitating an escape; or

9 (3) a schedule IA - VA controlled substance.

10 *** Sec. 4.** AS 11.56.380(a) is amended to read:

11 (a) A person commits the crime of promoting contraband in the second degree
12 if the person

13 (1) introduces, takes, conveys, or attempts to introduce, take, or
14 convey contraband into a correctional facility; [OR]

15 (2) makes, obtains, possesses, or attempts to make, obtain, or possess
16 anything that person knows to be contraband while under official detention within a
17 correctional facility; or

18 (3) introduces, takes, conveys, or attempts to introduce, take, or
19 convey a schedule VIA controlled substance into a correctional facility."

20
21 Renumber the following bill sections accordingly.

22

23 Page 23, line 25:

- 1 Delete "sec. 3"
- 2 Insert "sec. 5"
- 3
- 4 Page 23, line 26:
 - 5 Delete "sec. 4"
 - 6 Insert "sec. 6"
 - 7
- 8 Page 23, line 27:
 - 9 Delete "sec. 6"
 - 10 Insert "sec. 8"
 - 11 Delete "sec. 8"
 - 12 Insert "sec. 10"
 - 13
- 14 Page 23, line 28:
 - 15 Delete "sec. 10"
 - 16 Insert "sec. 12"

Adopted 3/13/15

29-LS0231\X.50
Martin
3/12/15

AMENDMENT #23

OFFERED IN THE SENATE

BY SENATOR HOFFMAN

TO: CSSB 30(), Draft Version "X"

1 Page 16, lines 18 - 24:

2 Delete all material and insert:

3 **"* Sec. 25.** AS 17.38.110(a) is amended to read:

4 (a) A local government may prohibit the operation of marijuana cultivation
5 facilities, marijuana product manufacturing facilities, marijuana testing facilities, or
6 retail marijuana stores through the enactment of an ordinance or by a voter initiative.
7 **The operation of marijuana cultivation facilities, marijuana product**
8 **manufacturing facilities, marijuana testing facilities, and retail marijuana stores**
9 **in the unorganized borough outside of a municipality is prohibited. An**
10 **established village may permit the operation of marijuana cultivation facilities,**
11 **marijuana product manufacturing facilities, marijuana testing facilities, or retail**
12 **marijuana stores as provided in AS 17.38.250."**

13

14 Page 18, line 16:

15 Delete "option"

16 Insert "options"

17

18 Page 18, line 18:

19 Delete "prohibit the operation of marijuana establishments"

20 Insert "permit the operation of one or more of the following types of marijuana
21 establishments:

22 (1) marijuana cultivation facilities;

23 (2) marijuana product manufacturing facilities;

1 (3) marijuana testing facilities; or
2 (4) retail marijuana stores"

3

4 Page 18, line 21:

5 Delete "prohibit the operation of marijuana establishments"

6 Insert "permit (specify local option under (a) of this section)"

7

8 Page 18, line 22:

9 Delete "**option**"

10 Insert "**options**"

11

12 Page 18, lines 28 - 29:

13 Delete "prohibits the operation of marijuana establishments"

14 Insert "permits (current local option under AS 17.38.250(a))"

15

16 Page 18, line 30, through page 19, line 3:

17 Delete all material.

18

19 Page 19, line 4:

20 Delete "**local option prohibition of**"

21 Insert "**removal of local options permitting**"

22

23 Page 19, lines 5 - 6:

24 Delete "prohibit the operation of marijuana establishments under AS 17.38.250"

25 Insert "remove a local option permitting the operation of marijuana establishments
26 under AS 17.38.260"

27

28 Page 19, line 9:

29 Delete "AS 17.38.250"

30 Insert "AS 17.38.260"

31

1 Page 19, lines 26 - 27:

2 Delete "Only one local option question may be presented in an election"

3 Insert "A local option question to permit the operation of marijuana cultivation
4 facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail
5 marijuana stores or to permit all marijuana establishments may be presented in one election"

Adopted 3/13/15

29-LS0231X.56
Martin
3/13/15

AMENDMENT #25

OFFERED IN THE SENATE

BY SENATOR KELLY

TO: CSSB 30(), Draft Version "X," as amended by Amendment No. 11

1 Page 11, following line 5:

2 Insert a new bill section to read:

3 **** Sec. 12.** AS 11.71.160(f), as amended by sec. 38 of this Act, is amended to read:

4 (f) Schedule IIIA includes, unless specifically excepted or unless listed in
5 another schedule, any material, compound, mixture, or preparation that contains any
6 quantity of the following substances or that contains any of its salts, isomers, whether
7 optical, position, or geometric, or salts of isomers whenever the existence of those
8 salts, isomers, or salts of isomers is possible within the specific chemical designation:

9 (1) [REPEALED]

10 (2) [REPEALED]

11 (3) [REPEALED]

12 (4) parahexyl;

13 (5) dronabinol (synthetic) in sesame oil and encapsulated in a soft
14 gelatin capsule in a U.S. Food and Drug Administration approved drug product;

15 (6) nabilone;

16 (7) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-
17 yl)-6a,7, 10, 10a- tetrahydrobenzo[c]chromen-1-ol, also known as HU-210;

18 (8) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-
19 yl)-6a,7, 10, 10a- tetrahydrobenzo[c]chromen-1-ol, also known as Dexanabinol or
20 HU-211;

21 (9) 1-pentyl-3-(1-naphthoyl)indole, also known as JWH-018;

22 (10) 1-Butyl-3-(1-naphthoyl)indole, also known as JWH-073;

23 (11) (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone,

1 also known as JWH-015;

2 (12) 1-pentyl-3-(4-chloro-1-naphthoyl)indole, also known as JWH-398;

3 (13) 1-pentyl-3-(2-methoxyphenylacetyl)indole, also known as JWH-
4 250;

5 (14) 1-hexyl-3-(1-naphthoyl)indole, also known as JWH-019;

6 (15) 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl)indole, also known as
7 JWH-200;

8 (16) 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol,
9 also known as CP 47, 497, and its dimethyloctyl (C8) homologue; in this paragraph,
10 "homologue" means a chemical compound in a series in which each compound differs
11 by one or more alkyl functional groups on an alkyl side chain;

12 **(17) hashish;**

13 **(18) hash oil or hashish oil;**

14 **(19) tetrahydrocannabinols."**

15
16 Renumber the following bill sections accordingly.

17
18 Page 12, following line 9:

19 Insert a new bill section to read:

20 **"* Sec. 16.** AS 11.71.900(14), as amended by sec. 15 of this Act, is repealed and reenacted
21 to read:

22 (14) "marijuana" means the seeds, and leaves, buds, and flowers of the
23 plant (genus) Cannabis, whether growing or not; it does not include the resin or oil
24 extracted from any part of the plants, or any compound, manufacture, salt, derivative,
25 mixture, or preparation from the resin or oil, including hashish, hashish oil, and natural
26 or synthetic tetrahydrocannabinol; it does not include the stalks of the plant, fiber
27 produced from the stalks, oil or cake made from the seeds of the plant, any other
28 compound, manufacture, salt, derivative, mixture, or preparation of the stalks, fiber,
29 oil or cake, or the sterilized seed of the plant that is incapable of germination;"

30
31 Renumber the following bill sections accordingly.

1

2 Page 20, lines 22 - 30:

3 Delete all material and insert:

4 **"* Sec. 29.** AS 17.38.900(6) is repealed and reenacted to read:

5 (6) "marijuana" has the meaning given in AS 11.71.900;"

6

7 Page 23, following line 21:

8 Insert a new bill section to read:

9 **"* Sec. 39.** AS 11.71.050(a)(6), 11.71.190(b)(2), 11.71.190(b)(3), 11.71.190(b)(4);
10 AS 17.38.090(c), and 17.38.900(18) are repealed."

11

12 Renumber the following bill sections accordingly.

13

14 Page 23, line 24, following "APPLICABILITY.":

15 Insert "(a)"

16

17 Page 23, line 29:

18 Delete "this"

19 Insert "secs. 1 - 4, 6, 8, and 10 of this"

20

21 Page 23, following line 29:

22 Insert a new subsection to read:

23 "(b) AS 11.71.160(f), as amended by secs. 12 and 38 of this Act, and
24 AS 11.71.900(14), as repealed and reenacted by sec. 16 of this Act, apply to offenses
25 committed on or after the effective date of secs. 12 and 16 of this Act."

26

27 Page 23, following line 29:

28 Insert a new bill section to read:

29 **"* Sec. 41.** Sections 12, 16, and 39 of this Act take effect February 24, 2017."

30

31 Renumber the following bill section accordingly.

1

2 Page 23, line 30:

3 Delete "This"

4 Insert "Except as provided in sec. 41 of this Act, this"

ADOPTED 3/12/15

AMENDMENT #1

OFFERED IN THE SENATE

TO: CSSB 30(), Draft Version "X"

- 1 Page 22, lines 3 - 4:
- 2 Delete all material.
- 3
- 4 Renumber the following paragraph accordingly.
- 5
- 6 Page 22, lines 5 - 6:
- 7 Delete "or marijuana accessory"
- 8
- 9 Page 22, line 7, following "removed":
- 10 Insert "while in the vehicle"

ADOPTED 3/12/15

29-LS0231\X.19
Gardner/Martin
3/10/15

AMENDMENT #2

OFFERED IN THE SENATE

TO: CSSB 30(), Draft Version "X"

1 Page 7, line 21, following "remuneration":

2 Insert "or barter"

3

4 Page 7, line 23, following "remuneration":

5 Insert "or barter"

6

7 Page 12, lines 10 - 12:

8 Delete all material.

9

10 Renumber the following bill sections accordingly.

11

12 Page 13, line 18, following "remuneration":

13 Insert "or barter"

14

15 Page 16, following line 24:

16 Insert a new bill section to read:

17 "* **Sec. 25.** AS 17.38.120(c) is amended to read:

18 (c) Nothing in this chapter is intended to permit the transfer of marijuana, with

19 or without remuneration or barter, to a person under [THE AGE OF] 21 years of

20 age."

21

22 Renumber the following bill sections accordingly.

23

1 Page 21, line 11:

2 Delete ";"

3 Insert "."

4

5 Page 21, line 12:

6 Delete all material.

ADOPTED 3/12/15

29-LS0231\X.28
Mischel/Martin
3/11/15

AMENDMENT #3

OFFERED IN THE SENATE

TO: CSSB 30(), Draft Version "X"

- 1 Page 16, line 17:
- 2 Delete "a day"
- 3 Insert "in one transaction"

ADOPTED 3/12/15

29-LS0231\X.35

Mischel/Martin

3/11/15

AMENDMENT # 4

OFFERED IN THE SENATE

TO: CSSB 30(), Draft Version "X"

- 1 Page 1, line 3:
- 2 Delete "**relating to municipalities;**"
- 3
- 4 Page 22, lines 8 - 14:
- 5 Delete all material.
- 6
- 7 Renumber the following bill sections accordingly.

Adopted 3/12/15

29-LS0231\X.25
Martin
3/11/15

AMENDMENT #5

OFFERED IN THE SENATE

TO: CSSB 30(), Draft Version "X"

- 1 Page 11, line 18, following "overdose":
- 2 Insert "or significant adverse marijuana reaction"
- 3
- 4 Page 11, line 28, following "overdose":
- 5 Insert "or significant adverse marijuana reaction"
- 6
- 7 Page 11, line 31, following "overdose":
- 8 Insert "or significant adverse marijuana reaction"

* adopted *
(amended)
AMENDMENT #6

29-LS0231\X.18

Martin

3/11/15

3/13/15

OFFERED IN THE SENATE

TO: CSSB 30(), Draft Version "X"

1 Page 5, lines 2 - 4:

2 Delete all material and insert:

3 "(F) 16 [ONE OR MORE PREPARATIONS, COMPOUNDS,
4 MIXTURES, OR SUBSTANCES OF AN AGGREGATE WEIGHT OF
5 FOUR] ounces or more of usable marijuana [CONTAINING A SCHEDULE
6 VIA CONTROLLED SUBSTANCE]; or"

7

8 Page 6, lines 16 - 18:

9 Delete all material and insert:

10 "(A) more [ONE OR MORE PREPARATIONS,
11 COMPOUNDS, MIXTURES, OR SUBSTANCES OF AN AGGREGATE
12 WEIGHT OF LESS] than one ounce of usable marijuana [CONTAINING A
13 SCHEDULE VIA CONTROLLED SUBSTANCE];"

14

15 Page 7, lines 8 - 11:

16 Delete all material and insert:

17 "(E) at least three ounces but less than 16 ounces of usable
18 marijuana [ONE OR MORE PREPARATIONS, COMPOUNDS,
19 MIXTURES, OR SUBSTANCES OF AN AGGREGATE WEIGHT OF ONE
20 OUNCE OR MORE CONTAINING A SCHEDULE VIA CONTROLLED
21 SUBSTANCE]; or"

22

23 Page 7, line 16:

1 Delete "a schedule VIA controlled substance"

2 Insert "usable marijuana"

3

4 Page 7, lines 19 - 21:

5 Delete all material and insert:

6 "(A) one ounce or less of usable marijuana for
7 remuneration; or"

8

9 Page 7, lines 30 - 31:

10 Delete "a schedule VIA controlled substance"

11 Insert "usable marijuana"

12

13 Page 8, line 5:

14 Delete "a schedule VIA controlled substance"

15 Insert "usable marijuana"

16

17 Page 8, lines 16 - 17:

18 Delete "at least two ounces but less than three ounces [LESS THAN ONE
19 OUNCE]"

20 Insert "less than one ounce"

21

22 Page 8, following line 22:

23 Insert a new paragraph to read:

24 "(4) possesses at least two ounces but less than three ounces of
25 usable marijuana;"

26

27 Renumber the following paragraphs accordingly.

28

29 Page 8, lines 25 - 26:

30 Delete "one or more preparations, compounds, mixtures, or substances of an
31 aggregate weight of"

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Page 8, line 27:

Delete "a schedule VIA controlled substance"

Insert "usable marijuana"

Page 8, line 29:

Delete "(a)(2)(A), (a)(4), and (a)(5)"

Insert "(a)(4) - (a)(6)"

Page 9, line 1:

Delete "a schedule VIA controlled substance"

Insert "usable marijuana"

Page 9, lines 9 - 11:

Delete all material and insert:

"(1) possesses more than one ounce but less than two ounces of usable marijuana;"

Page 9, lines 14 - 16:

Delete all material and insert:

"(i) possesses less than two ounces of usable marijuana;

or"

Page 9, lines 17 - 18:

Delete "a schedule VIA controlled substance"

Insert "usable marijuana"

Page 9, lines 19 - 20:

Delete "a schedule VIA controlled substance"

Insert "usable marijuana"

- 1 Page 9, line 21:
 2 Delete "a schedule VIA controlled substance"
 3 Insert "usable marijuana"
 4
- 5 Page 9, line 28:
 6 Delete "a schedule VIA controlled substance"
 7 Insert "usable marijuana"
 8
- 9 Page 9, line 31, through page 10, line 1:
 10 Delete "a schedule VIA controlled substance"
 11 Insert "usable marijuana"
 12
- 13 Page 10, line 20:
 14 Delete "a schedule VIA controlled substance"
 15 Insert "**usable marijuana** [A SCHEDULE VIA CONTROLLED SUBSTANCE]"
 16
- 17 Page 12, line 10:
 18 Delete "a new paragraph"
 19 Insert "new paragraphs"
 20
- 21 Page 12, line 12, following "means":
 22 Insert ";
 23 (32) "usable marijuana" means the seeds, leaves, buds, and flowers of
 24 the plant genus cannabis, hashish, hash oil, and marijuana concentrates, but does not
 25 include the stalks or roots of the plant genus ^Acannabis"
 26 tetrahydrocannabinols
- 27 Page 13, line 10, following "of":
 28 Insert "**usable**"
 29
- 30 Page 13, line 15, following "**more of**":
 31 Insert "**usable**"

1

2 Page 23, line 18:

3 Delete "a schedule VIA controlled substance"

4 Insert "usable marijuana"

5

6 Page 23, line 20, following "11.71.060(a)(1),":

7 Insert "11.71.060(a)(2)(A),"

adopted 3/12/15

29-LS0231\X.26

Martin

3/11/15

AMENDMENT # 7

OFFERED IN THE SENATE

TO: CSSB 30(), Draft Version "X"

1 Page 16, following line 14:

2 Insert a new bill section to read:

3 "* **Sec. 24.** AS 17.38.070 is amended by adding a new subsection to read:

4 (h) A retail marijuana store may only sell or deliver marijuana or marijuana
5 products to a person who is present at the premises of the retail marijuana store."
6

7 Renumber the following bill sections accordingly.

Adopted 3/12/15

29-LS0231\X.46
Martin
3/11/15

AMENDMENT #9

OFFERED IN THE SENATE

TO: CSSB 30(), Draft Version "X"

1 Page 17, line 13, following "knowingly":

2 Insert "(1)"

3

4 Page 17, line 15, following "sold":

5 Insert "; or

6 (2) present a birth certificate or other written evidence of age that is
7 fraudulent or false or that is not the person's own, or otherwise misrepresent the
8 person's age for the purpose of

9 (i) purchasing, attempting to purchase, or otherwise
10 procuring or attempting to procure marijuana or marijuana products; or

11 (ii) gaining access to a registered marijuana
12 establishment"

adopted 3/12/15

29-LS0231 X.47
Martin
3/12/15

AMENDMENT #10

OFFERED IN THE SENATE

TO: CSSB 30(), Draft Version "X"

- 1 Page 10, lines 7 - 15:
2 Delete all material and insert:
3 "(1) up to \$300 for a violation of (a)(1), (a)(3), or (a)(4) of this section;
4 (2) \$300 for a violation of (a)(2)(A) of this section; the court may
5 reduce the fine to \$50 for a defendant under 18 years of age if the defendant supplies
6 to the court, within six months, proof of completion of a community diversion panel or
7 a state-approved marijuana education or treatment program; in this paragraph,
8 "community diversion panel" means a youth court or other group selected by the court
9 to serve as a sentencing option for a person convicted under (a)(2)(A) of this section;"
10
11 Renumber the following paragraph accordingly.

adopted 3/12/15

29-LS0231\X.24

Mischel/Martin

3/11/15

AMENDMENT # 11

OFFERED IN THE SENATE

TO: CSSB 30(), Draft Version "X"

- 1 Page 11, line 12, following "oil":
- 2 Insert ";
- 3 (4) tetrahydrocannabinols"
- 4
- 5 Page 23, line 20, following "11.71.160(f)(2)":
- 6 Insert ", 11.71.160(f)(3)"

adopted 3/12/15

29-LS0231 X.31
Mischel/Martin
3/11/15

AMENDMENT # 12

OFFERED IN THE SENATE

TO: CSSB 30(), Draft Version "X"

1 Page 17, line 20:

2 Delete "or"

3

4 Page 17, line 22, following "age":

5 Insert "; or

6 (3) is acting in the capacity of an employee or volunteer of an agency

7 providing emergency medical or fire protection services while on the premises"

adopted 3/12/15

AMENDMENT # 14

OFFERED IN THE SENATE

TO: CSSB 30(), Draft Version "X"

1 Page 8, line 22, following "i":

2 Insert "or"

3

4 Page 8, lines 24 - 27:

5 Delete "or

6 (5) possesses, displays, delivers, or transports one or more
7 preparations, compounds, mixtures, or substances of an aggregate weight of
8 more than one ounce of a schedule VIA controlled substance in a public place"

9

10 Page 8, line 29:

11 Delete ", (a)(4), and (a)(5)"

12 Insert "and (a)(4)"

adopted 3/12/15

29-LS0231\X.36
Martin
3/11/15

AMENDMENT # 15

OFFERED IN THE SENATE

TO: CSSB 30(), Draft Version "X"

- 1 Page 6, line 2:
- 2 Delete "this section"
- 3 Insert "AS 11.71.010 - 11.71.040"

adopted 3/12/15

29-LS0231\X.20

Martin

3/11/15

AMENDMENT #16

OFFERED IN THE SENATE

TO: CSSB 30(), Draft Version "X"

1 Page 21, following line 8:

2 Insert a new paragraph to read:

3 "(18) "manufacture" has the meaning given in AS 11.71.900;"

4

5 Renumber the following paragraphs accordingly.

Adopted 3/12/15

29-LS0231\X.30

Martin

3/11/15

AMENDMENT # 17

OFFERED IN THE SENATE

TO: CSSB 30(), Draft Version "X"

- 1 Page 18, line 7:
- 2 Delete "AS 17.38.210"
- 3 Insert "AS 17.38.200, 17.38.210"

Adopted 3/12/15

29-LS0231\X.29
Mischel/Martin
3/11/15

AMENDMENT # 18

OFFERED IN THE SENATE

TO: CSSB 30(), Draft Version "X"

- 1 Page 17, line 7:
- 2 Delete "to a"
- 3 Insert "if the"
- 4
- 5 Page 17, line 8:
- 6 Delete the first occurrence of "who"

*Adopted
3/10/15*

29-LS0231\X
Martin
3/9/15

CS FOR SENATE BILL NO. 30()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to controlled substances; relating to marijuana; relating to crimes and**
2 **offenses related to marijuana and the use of marijuana; relating to open marijuana**
3 **containers; relating to municipalities; relating to established villages and local options;**
4 **relating to delinquent minors; making conforming amendments; and providing for an**
5 **effective date."**

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

7 *** Section 1.** AS 11.41.110(a) is amended to read:

- 8 (a) A person commits the crime of murder in the second degree if
- 9 (1) with intent to cause serious physical injury to another person or
- 10 knowing that the conduct is substantially certain to cause death or serious physical
- 11 injury to another person, the person causes the death of any person;
- 12 (2) the person knowingly engages in conduct that results in the death
- 13 of another person under circumstances manifesting an extreme indifference to the

1 value of human life;

2 (3) under circumstances not amounting to murder in the first degree
3 under AS 11.41.100(a)(3), while acting either alone or with one or more persons, the
4 person commits or attempts to commit arson in the first degree, kidnapping, sexual
5 assault in the first degree, sexual assault in the second degree, sexual abuse of a minor
6 in the first degree, sexual abuse of a minor in the second degree, burglary in the first
7 degree, escape in the first or second degree, robbery in any degree, or misconduct
8 involving a controlled substance under AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1)
9 or (2), or 11.71.040(a)(1) [OR (2)] and, in the course of or in furtherance of that crime
10 or in immediate flight from that crime, any person causes the death of a person other
11 than one of the participants;

12 (4) acting with a criminal street gang, the person commits or attempts
13 to commit a crime that is a felony and, in the course of or in furtherance of that crime
14 or in immediate flight from that crime, any person causes the death of a person other
15 than one of the participants; or

16 (5) the person with criminal negligence causes the death of a child
17 under the age of 16, and the person has been previously convicted of a crime involving
18 a child under the age of 16 that was

19 (A) a felony violation of this chapter [AS 11.41];

20 (B) in violation of a law or ordinance in another jurisdiction
21 with elements similar to a felony under this chapter [AS 11.41]; or

22 (C) an attempt, a solicitation, or a conspiracy to commit a
23 crime listed in (A) or (B) of this paragraph.

24 * **Sec. 2.** AS 11.41.150(a) is amended to read:

25 (a) A person commits the crime of murder of an unborn child if the person

26 (1) with intent to cause the death of an unborn child or of another
27 person, causes the death of an unborn child;

28 (2) with intent to cause serious physical injury to an unborn child or to
29 another person or knowing that the conduct is substantially certain to cause death or
30 serious physical injury to an unborn child or to another person, causes the death of an
31 unborn child;

1 (3) while acting alone or with one or more persons, commits or
 2 attempts to commit arson in the first degree, kidnapping, sexual assault in the first
 3 degree, sexual assault in the second degree, sexual abuse of a minor in the first degree,
 4 sexual abuse of a minor in the second degree, burglary in the first degree, escape in the
 5 first or second degree, robbery in any degree, or misconduct involving a controlled
 6 substance under AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1) or (2), or
 7 11.71.040(a)(1) [OR (2)], and, in the course of or in furtherance of that crime or in
 8 immediate flight from that crime, any person causes the death of an unborn child;

9 (4) knowingly engages in conduct that results in the death of an unborn
 10 child under circumstances manifesting an extreme indifference to the value of human
 11 life; for purposes of this paragraph, a pregnant woman's decision to remain in a
 12 relationship in which domestic violence, as defined in AS 18.66.990, has occurred
 13 does not constitute conduct manifesting an extreme indifference to the value of human
 14 life.

15 * **Sec. 3.** AS 11.71.030(a) is amended to read:

16 (a) Except as authorized in AS 17.30, a person commits the crime of
 17 misconduct involving a controlled substance in the third degree if the person

18 (1) under circumstances not proscribed under AS 11.71.020(a)(2) - (6),
 19 manufactures or delivers any amount of a schedule IIA or IIIA controlled substance or
 20 possesses any amount of a schedule IIA or IIIA controlled substance with intent to
 21 manufacture or deliver;

22 (2) delivers any amount of a schedule IVA or [,] VA [, OR VIA]
 23 controlled substance to a person under 19 years of age who is at least three years
 24 younger than the person delivering the substance; or

25 (3) possesses any amount of a schedule IA or IIA controlled substance

26 (A) with reckless disregard that the possession occurs

27 (i) on or within 500 feet of school grounds; or

28 (ii) at or within 500 feet of a recreation or youth center;

29 or

30 (B) on a school bus.

31 * **Sec. 4.** AS 11.71.040(a) is amended to read:

1 (a) Except as authorized in AS 17.30, a person commits the crime of
2 misconduct involving a controlled substance in the fourth degree if the person

3 (1) manufactures or delivers any amount of a schedule IVA or VA
4 controlled substance or possesses any amount of a schedule IVA or VA controlled
5 substance with intent to manufacture or deliver;

6 (2) manufactures or delivers, or possesses with the intent to
7 manufacture or deliver, one or more preparations, compounds, mixtures, or substances
8 of an aggregate weight of one ounce or more containing a schedule VIA controlled
9 substance;

10 (3) possesses

11 (A) any amount of a

12 (i) schedule IA controlled substance; or

13 (ii) IIA controlled substance except a controlled
14 substance listed in AS 11.71.150(e)(11) - (15);

15 (B) 25 or more tablets, ampules, or syrettes containing a
16 schedule IIIA or IVA controlled substance;

17 (C) one or more preparations, compounds, mixtures, or
18 substances of an aggregate weight of

19 (i) three grams or more containing a schedule IIIA or
20 IVA controlled substance except a controlled substance in a form listed
21 in (ii) of this subparagraph;

22 (ii) 12 grams or more containing a schedule IIIA
23 controlled substance listed in AS 11.71.160(f)(7) - (16) that has been
24 sprayed on or otherwise applied to tobacco, an herb, or another organic
25 material; or

26 (iii) 500 milligrams or more of a schedule IIA
27 controlled substance listed in AS 11.71.150(e)(11) - (15);

28 (D) 50 or more tablets, ampules, or syrettes containing a
29 schedule VA controlled substance;

30 (E) one or more preparations, compounds, mixtures, or
31 substances of an aggregate weight of six grams or more containing a schedule

- 1 VA controlled substance;
- 2 (F) one or more preparations, compounds, mixtures, or
- 3 substances of an aggregate weight of **16** [FOUR] ounces or more containing a
- 4 schedule VIA controlled substance; or
- 5 (G) 25 or more plants of the genus cannabis;
- 6 (4) possesses a schedule IIIA, IVA, or VA [, OR VIA] controlled
- 7 substance
- 8 (A) with reckless disregard that the possession occurs
- 9 (i) on or within 500 feet of school grounds; or
- 10 (ii) at or within 500 feet of a recreation or youth center;
- 11 or
- 12 (B) on a school bus;
- 13 (5) knowingly keeps or maintains any store, shop, warehouse,
- 14 dwelling, building, vehicle, boat, aircraft, or other structure or place that is used for
- 15 keeping or distributing controlled substances in violation of a felony offense under this
- 16 chapter or AS 17.30;
- 17 (6) makes, delivers, or possesses a punch, die, plate, stone, or other
- 18 thing that prints, imprints, or reproduces a trademark, trade name, or other identifying
- 19 mark, imprint, or device of another or any likeness of any of these upon a drug, drug
- 20 container, or labeling so as to render the drug a counterfeit substance;
- 21 (7) knowingly uses in the course of the manufacture or distribution of a
- 22 controlled substance a registration number that is fictitious, revoked, suspended, or
- 23 issued to another person;
- 24 (8) knowingly furnishes false or fraudulent information in or omits
- 25 material information from any application, report, record, or other document required
- 26 to be kept or filed under AS 17.30;
- 27 (9) obtains possession of a controlled substance by misrepresentation,
- 28 fraud, forgery, deception, or subterfuge; [OR]
- 29 (10) affixes a false or forged label to a package or other container
- 30 containing any controlled substance; or
- 31 **(11) violates AS 11.71.050(a)(4) and, within the five years**

1 **preceding the violation, the person has been previously convicted under**

2 **(A) this section;**

3 **(B) AS 11.71.050(a)(4); or**

4 **(C) a law or ordinance of this or another jurisdiction with**
5 **elements similar to a crime listed under (A) or (B) of this paragraph.**

6 * **Sec. 5.** AS 11.71.040 is amended by adding a new subsection to read:

7 (e) The provisions of (a)(3)(F) and (a)(3)(G) of this section do not apply to a
8 marijuana establishment registered under AS 17.38, or an officer, agent, or employee
9 of the registered marijuana establishment acting in compliance with the terms of the
10 registration issued under AS 17.38.

11 * **Sec. 6.** AS 11.71.050(a) is amended to read:

12 (a) Except as authorized in AS 17.30, a person commits the crime of
13 misconduct involving a controlled substance in the fifth degree if the person

14 (1) **transports**, manufactures or delivers, or possesses with the intent
15 to manufacture or deliver,

16 **(A)** one or more preparations, compounds, mixtures, or
17 substances of an aggregate weight of **more** [LESS] than one ounce containing
18 a schedule VIA controlled substance;

19 **(B) more than six plants of the genus cannabis;**

20 (2) possesses

21 (A) less than 25 tablets, ampules, or syrettes containing a
22 schedule IIIA or IVA controlled substance;

23 (B) one or more preparations, compounds, mixtures, or
24 substances of an aggregate weight of less than

25 (i) three grams containing a schedule IIIA or IVA
26 controlled substance except a controlled substance in a form listed in
27 (ii) of this subparagraph;

28 (ii) 12 grams but more than six grams containing a
29 schedule IIIA controlled substance listed in AS 11.71.160(f)(7) - (16)
30 that has been sprayed on or otherwise applied to tobacco, an herb, or
31 another organic material; or

1 (iii) 500 milligrams containing a schedule IIA
2 controlled substance listed in AS 11.71.150(e)(11) - (15);

3 (C) less than 50 tablets, ampules, or syrettes containing a
4 schedule VA controlled substance;

5 (D) one or more preparations, compounds, mixtures, or
6 substances of an aggregate weight of less than six grams containing a schedule
7 VA controlled substance; [OR]

8 (E) one or more preparations, compounds, mixtures, or
9 substances of an aggregate weight of **at least three ounces but less than 16**
10 **ounces** [ONE OUNCE OR MORE] containing a schedule VIA controlled
11 substance; or

12 **(F) 12 or more but less than 25 plants of the genus**
13 **cannabis;**

14 (3) fails to make, keep, or furnish any record, notification, order form,
15 statement, invoice, or information required under AS 17.30;

16 **(4) delivers any amount of a schedule VIA controlled substance to**
17 **a person under 21 years of age;**

18 **(5) delivers or transports**

19 **(A) one or more preparations, compounds, mixtures, or**
20 **substances of an aggregate weight of one ounce or less of a schedule VIA**
21 **controlled substance for remuneration; or**

22 **(B) six plants or less of the genus cannabis for**
23 **remuneration; or**

24 **(6) manufactures a marijuana concentrate or extract using a**
25 **volatile or explosive gas.**

26 * Sec. 7. AS 11.71.050 is amended by adding new subsections to read:

27 (c) The provisions of (a)(1), (a)(2)(E), (a)(2)(F), and (a)(4) - (6) of this section
28 do not apply to

29 (1) a person who is lawfully possessing, manufacturing, delivering,
30 possessing with the intent to manufacture or deliver, or transporting a schedule VIA
31 controlled substance in accordance with AS 17.38.020;

1 (2) a marijuana establishment registered under AS 17.38, or an officer,
2 agent, or employee of the registered marijuana establishment acting in compliance
3 with the terms of the registration issued under AS 17.38.

4 (d) A person does not violate (a)(4) of this section if the person is over 21
5 years of age and delivers a schedule VIA controlled substance to the person's child,
6 ward, or legal spouse if

7 (1) the child, ward, or legal spouse is 18 years of age or older; and

8 (2) the delivery occurs in the person's residence.

9 * **Sec. 8.** AS 11.71.060(a) is amended to read:

10 (a) Except as authorized in AS 17.30, a person commits the crime of
11 misconduct involving a controlled substance in the sixth degree if the person

12 (1) uses or displays any amount of a schedule VIA controlled
13 substance;

14 (2) possesses one or more preparations, compounds, mixtures, or
15 substances of an aggregate weight of

16 (A) **at least two ounces but less than three ounces** [LESS
17 THAN ONE OUNCE] containing a schedule VIA controlled substance;

18 (B) six grams or less containing a schedule IIIA controlled
19 substance listed in AS 11.71.160(f)(7) - (16) that has been sprayed on or
20 otherwise applied to tobacco, an herb, or another organic material; [OR]

21 (3) refuses entry into a premise for an inspection authorized under
22 AS 17.30;

23 **(4) possesses more than six but less than 12 plants of the genus**
24 **cannabis; or**

25 **(5) possesses, displays, delivers, or transports one or more**
26 **preparations, compounds, mixtures, or substances of an aggregate weight of**
27 **more than one ounce of a schedule VIA controlled substance in a public place.**

28 * **Sec. 9.** AS 11.71.060 is amended by adding a new subsection to read:

29 (c) The provisions of (a)(2)(A), (a)(4), and (a)(5) of this section do not apply
30 to

31 (1) a person who is lawfully possessing, displaying, delivering, or

1 transporting a schedule VIA controlled substance in accordance with AS 17.38.020;

2 (2) a marijuana establishment registered under AS 17.38, or an officer,
3 agent, or employee of the registered marijuana establishment acting in compliance
4 with the terms of the registration issued under AS 17.38.

5 * **Sec. 10.** AS 11.71 is amended by adding a new section to read:

6 **Sec. 11.71.071. Misconduct involving a controlled substance in the seventh**
7 **degree.** (a) Except as authorized in AS 17.30, a person commits the crime of
8 misconduct involving a controlled substance in the seventh degree if the person

9 (1) possesses one or more preparations, compounds, mixtures, or
10 substances of an aggregate weight of more than one ounce but less than two ounces of
11 a schedule VIA controlled substance;

12 (2) is

13 (A) under 21 years of age and

14 (i) possesses one or more preparations, compounds,
15 mixtures, or substances of an aggregate weight of less than two ounces
16 of a schedule VIA controlled substance; or

17 (ii) uses or displays any amount of a schedule VIA
18 controlled substance; or

19 (B) 21 years of age or older and uses any amount of a schedule
20 VIA controlled substance in a public place;

21 (3) manufactures a schedule VIA controlled substance

22 (A) in a location where the plants are subject to public view
23 without the use of binoculars, aircraft, or other optical aids;

24 (B) in a location that is not secure from unauthorized access; or

25 (C) on property not lawfully in the possession of the person or
26 on property without the consent of the person in lawful possession of the
27 property; or

28 (4) uses a schedule VIA controlled substance while operating a motor
29 vehicle, aircraft, or watercraft under circumstances not proscribed by AS 28.35.030.

30 (b) The provisions of (a)(1) and (a)(3) of this section do not apply to

31 (1) a person who is lawfully possessing or manufacturing a schedule

1 VIA controlled substance in accordance with AS 17.38.020;

2 (2) a marijuana establishment registered under AS 17.38, or an officer,
3 agent, or employee of the registered marijuana establishment acting in compliance
4 with the terms of the registration issued under AS 17.38.

5 (c) Misconduct involving a controlled substance in the seventh degree is a
6 violation punishable by a fine of

7 (1) up to \$300 for a violation of (a)(1), (a)(2)(A), (a)(3), or (a)(4) of
8 this section; upon conviction of a person under (a)(2)(A) of this section, the court may
9 grant a suspended imposition of sentence under AS 12.55.085 and place the person on
10 probation for up to one year. Among the conditions of probation, the court shall, with
11 the consent of a community diversion panel, refer the person to the panel, and require
12 the person to comply with conditions set by the panel, including counseling,
13 education, treatment, community work, and payment of fees. In this subsection,
14 "community diversion panel" means a youth court or other group selected by the court
15 to serve as a sentencing option for a person convicted under (a)(2)(A) of this section;

16 (2) \$100 for a violation of (a)(2)(B) of this section.

17 * **Sec. 11.** AS 11.71.090(a) is amended to read:

18 (a) In a prosecution under AS 11.71.030 - 11.71.071 [AS 11.71.030 -
19 11.71.060] charging the manufacture, delivery, possession, possession with intent to
20 manufacture or deliver, use, or display of a schedule VIA controlled substance, it is an
21 affirmative defense that the defendant is a patient, or the primary caregiver or alternate
22 caregiver for a patient, and

23 (1) at the time of the manufacture, delivery, possession, possession
24 with intent to manufacture or deliver, use, or display, the patient was registered under
25 AS 17.37;

26 (2) the manufacture, delivery, possession, possession with intent to
27 manufacture, deliver, use, or display complied with the requirements of AS 17.37; and

28 (3) if the defendant is the

29 (A) primary caregiver of the patient, the defendant was in
30 physical possession of the caregiver registry identification card at the time of
31 the manufacture, delivery, possession, possession with intent to manufacture or

1 deliver, use, or display; or

2 (B) alternate caregiver of the patient, the defendant was in
3 physical possession of the caregiver registry identification card at the time of
4 the manufacture, delivery, possession, possession with intent to manufacture or
5 deliver, use, or display.

6 * **Sec. 12.** AS 11.71.190(b) is repealed and reenacted to read:

7 (b) Schedule VIA includes, unless specifically excepted or unless listed in
8 another schedule, any material, compound, mixture, or preparation that contains any
9 quantity of the following substances:

- 10 (1) marijuana;
- 11 (2) hashish;
- 12 (3) hash oil or hashish oil.

13 * **Sec. 13.** AS 11.71.311(a) is amended to read:

14 (a) A person may not be prosecuted for a violation of AS 11.71.030(a)(3),
15 11.71.040(a)(3) or (4), 11.71.050(a)(2), or 11.71.060(a)(2) [11.71.060(a)(1) OR (2)] if
16 that person

17 (1) sought, in good faith, medical or law enforcement assistance for
18 another person who the person reasonably believed was experiencing a drug overdose
19 and

20 (A) the evidence supporting the prosecution for an offense
21 under AS 11.71.030(a)(3), 11.71.040(a)(3) or (4), 11.71.050(a)(2), or
22 11.71.060(a)(2) [11.71.060(a)(1) OR (2)] was obtained or discovered as a
23 result of the person seeking medical or law enforcement assistance;

24 (B) the person remained at the scene with the other person until
25 medical or law enforcement assistance arrived; and

26 (C) the person cooperated with medical or law enforcement
27 personnel, including by providing identification;

28 (2) was experiencing a drug overdose and sought medical assistance,
29 and the evidence supporting a prosecution for an offense under AS 11.71.030(a)(3),
30 11.71.040(a)(3) or (4), 11.71.050(a)(2), or 11.71.060(a)(2) [11.71.060(a)(1) OR (2)]
31 was obtained as a result of the overdose and the need for medical assistance.

1 * **Sec. 14.** AS 11.71.900(14) is repealed and reenacted to read:

2 (14) "marijuana" means all parts of the plant of the genus cannabis
3 whether growing or not, the seeds thereof, the resin extracted from any part of the
4 plant, and every compound, manufacture, derivative, mixture, or preparation of the
5 plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does not
6 include fiber produced from the stalks, oil or cake made from the seeds of the plant,
7 sterilized seed of the plant that is incapable of germination, or the weight of any other
8 ingredient combined with marijuana to prepare topical or oral administrations, food,
9 drink, or other products;

10 * **Sec. 15.** AS 11.71.900 is amended by adding a new paragraph to read:

11 (31) "remuneration" includes an exchange for anything of value,
12 whether by sale, barter, exchange, or other means.

13 * **Sec. 16.** AS 12.45.084(a) is amended to read:

14 (a) In a prosecution under AS 11.71.010 - 11.71.071 [AS 11.71.010 -
15 11.71.060], a complete copy of an official laboratory report from the Department of
16 Public Safety or a laboratory operated by another law enforcement agency is prima
17 facie evidence of the content, identity, and weight of a controlled substance. The
18 report must be signed by the person performing the analysis and must state that the
19 substance that [WHICH] is the basis of the alleged offense has been weighed and
20 analyzed. In the report, the author shall state with specificity findings as to the content,
21 weight, and identity of the substance.

22 * **Sec. 17.** AS 17.30.080(b) is amended to read:

23 (b) A person who violates (a) of this section, or who otherwise manufactures,
24 distributes, dispenses, or conducts research with a controlled substance in the state
25 without fully complying with 21 U.S.C. 811 - 830 (Controlled Substances Act), and
26 regulations adopted under those sections, is guilty of misconduct involving a
27 controlled substance under AS 11.71.010 - 11.71.071 [AS 11.71.010 - 11.71.060] in
28 the degree appropriate to the circumstances as described in those sections. Upon filing
29 a complaint, information, presentment, or indictment charging a medical assistance
30 provider with misconduct involving a controlled substance under AS 11.71.140 -
31 11.71.190, the attorney general shall, in writing, notify the commissioner of health and

1 social services of the filing.

2 * **Sec. 18.** AS 17.38.020 is amended to read:

3 **Sec. 17.38.020. Personal use of marijuana.** The [NOTWITHSTANDING
4 ANY OTHER PROVISION OF LAW, EXCEPT AS OTHERWISE PROVIDED IN
5 THIS CHAPTER, THE] following acts, by persons 21 years of age or older, are lawful
6 and **are not** [SHALL NOT BE A] criminal or civil **offenses** [OFFENSE] under Alaska
7 law or the law of any political subdivision of Alaska or **bases** [BE A BASIS] for
8 seizure or forfeiture of assets under Alaska law:

9 (1) possessing, using, displaying, purchasing, or transporting
10 marijuana accessories or one ounce or less of marijuana;

11 (2) possessing, growing, processing, or transporting **not** [NO] more
12 than six marijuana plants, with three or fewer being mature, flowering plants, and
13 possession of the marijuana produced by the plants on the premises where the plants
14 were grown, **except that nothing in this chapter permits the growing of marijuana**
15 **as proscribed in AS 11.71.071(a)(3) or the possession of 16 ounces or more of**
16 **marijuana at any time;**

17 (3) transferring one ounce or less of marijuana and up to six immature
18 marijuana plants to a person who is 21 years of age or older without remuneration;

19 (4) consumption of marijuana, except that nothing in this chapter
20 **permits** [SHALL PERMIT] the consumption of marijuana in **a public place**; and

21 (5) assisting another person who is 21 years of age or older in any of
22 the acts described in (1) - (4) of this section; **under this paragraph, assisting does**
23 **not include**

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

26 **(B) possessing, growing, processing, or transporting**
27 **marijuana plants in excess of the amount allowed in this section.**

28 * **Sec. 19.** AS 17.38.070(a) is amended to read:

29 (a) **The** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
30 THE] following acts, when performed by a retail marijuana store with a current, valid
31 registration, or a person 21 years of age or older who is acting in the person's capacity

1 as an owner, employee, or agent of a retail marijuana store, are lawful and **are not**
2 **offenses** [SHALL NOT BE AN OFFENSE] under Alaska law or **bases** [BE A BASIS]
3 for seizure or forfeiture of assets under Alaska law:

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

7 (2) delivering or transferring marijuana or marijuana products to a
8 **registered** marijuana testing facility;

9 (3) receiving marijuana or marijuana products from a **registered**
10 marijuana testing facility;

11 (4) purchasing marijuana from a **registered** marijuana cultivation
12 facility;

13 (5) purchasing marijuana or marijuana products from a **registered**
14 marijuana product manufacturing facility; and

15 (6) delivering, distributing, or selling marijuana or marijuana products
16 to consumers.

17 * **Sec. 20.** AS 17.38.070(b) is amended to read:

18 (b) **The** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
19 THE] following acts, when performed by a marijuana cultivation facility with a
20 current, valid registration, or a person 21 years of age or older who is acting in the
21 person's capacity as an owner, employee, or agent of a marijuana cultivation facility,
22 are lawful and **are not offenses** [SHALL NOT BE AN OFFENSE] under Alaska law
23 or **bases** [BE A BASIS] for seizure or forfeiture of assets under Alaska law:

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

26 (2) delivering or transferring marijuana to a **registered** marijuana
27 testing facility;

28 (3) receiving marijuana from a **registered** marijuana testing facility;

29 (4) delivering, distributing, or selling marijuana to a **registered**
30 marijuana cultivation facility, a **registered** marijuana product manufacturing facility,
31 or a **registered** retail marijuana store;

1 (5) receiving or purchasing marijuana from a **registered** marijuana
2 cultivation facility; and

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

5 * **Sec. 21.** AS 17.38.070(c) is amended to read:

6 (c) **The** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
7 THE] following acts, when performed by a marijuana product manufacturing facility
8 with a current, valid registration, or a person 21 years of age or older who is acting in
9 the person's capacity as an owner, employee, or agent of a marijuana product
10 manufacturing facility, are lawful and **are not offenses** [SHALL NOT BE AN
11 OFFENSE] under Alaska law or **bases** [BE A BASIS] for seizure or forfeiture of
12 assets under Alaska law:

13 (1) packaging, processing, transporting, manufacturing, displaying, or
14 possessing marijuana or marijuana products;

15 (2) delivering or transferring marijuana or marijuana products to a
16 **registered** marijuana testing facility;

17 (3) receiving marijuana or marijuana products from a **registered**
18 marijuana testing facility;

19 (4) delivering or selling marijuana or marijuana products to a
20 **registered** retail marijuana store or a marijuana product manufacturing facility;

21 (5) purchasing marijuana from a **registered** marijuana cultivation
22 facility; and

23 (6) purchasing of marijuana or marijuana products from a **registered**
24 marijuana product manufacturing facility.

25 * **Sec. 22.** AS 17.38.070(d) is amended to read:

26 (d) **The** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
27 THE] following acts, when performed by a marijuana testing facility with a current,
28 valid registration, or a person 21 years of age or older who is acting in the person's
29 capacity as an owner, employee, or agent of a marijuana testing facility, are lawful and
30 **are not offenses** [SHALL NOT BE AN OFFENSE] under Alaska law or **bases** [BE A
31 BASIS] for seizure or forfeiture of assets under Alaska law:

1 (1) possessing, cultivating, processing, repackaging, storing,
2 transporting, displaying, transferring, or delivering marijuana;

3 (2) receiving marijuana or marijuana products from a **registered**
4 marijuana cultivation facility, a **registered** marijuana retail store, a **registered**
5 marijuana products manufacturer, or a person 21 years of age or older; and

6 (3) returning marijuana or marijuana products to a **registered**
7 marijuana cultivation facility, **registered** marijuana retail store, **registered** marijuana
8 products manufacturer, or a person 21 years of age or older.

9 * **Sec. 23.** AS 17.38.070(e) is amended to read:

10 (e) **It** [NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IT] is
11 lawful and **is** [SHALL] not [BE] an offense under Alaska law or [BE] a basis for
12 seizure or forfeiture of assets under Alaska law to lease or otherwise allow the use of
13 property owned, occupied, or controlled by any person, corporation, or other entity for
14 any of the activities conducted lawfully in accordance with (a) - (d) of this section.

15 * **Sec. 24.** AS 17.38.090 is amended by adding a new subsection to read:

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

18 * **Sec. 25.** AS 17.38.110(a) is amended to read:

19 (a) A local government may prohibit the operation of marijuana cultivation
20 facilities, marijuana product manufacturing facilities, marijuana testing facilities, or
21 retail marijuana stores through the enactment of an ordinance or by a voter initiative.

22 **An established village may prohibit the operation of marijuana cultivation**
23 **facilities, marijuana product manufacturing facilities, marijuana testing facilities,**
24 **or retail marijuana stores by a voter initiative as provided in AS 17.38.250.**

25 * **Sec. 26.** AS 17.38 is amended by adding new sections to read:

26 **Sec. 17.38.200. Unlawful activity related to persons under 21 years of age.**

27 (a) A registered marijuana establishment or an officer, agent, or employee of the
28 marijuana establishment may not knowingly

29 (1) allow a person to deliver marijuana to another person under 21
30 years of age within the registered premises;

31 (2) allow a person under 21 years of age to enter and remain within the

1 registered premises;

2 (3) allow a person under 21 years of age to use marijuana within the
3 registered premises;

4 (4) allow a person under 21 years of age to deliver marijuana; or

5 (5) while working on the registered premises, deliver marijuana to a
6 person under 21 years of age.

7 (b) The prohibition in (a)(2) of this section does not apply to a person under
8 21 years of age who is accompanied by a parent, guardian, or spouse who has attained
9 21 years of age.

10 (c) A person who violates this section is guilty of a violation punishable by a
11 fine of at least \$250 but not more than \$500.

12 **Sec. 17.38.210. Access of persons under 21 years of age to registered**
13 **premises.** (a) A person under 21 years of age may not knowingly enter or remain on
14 premises registered under this chapter where marijuana, marijuana products, or
15 marijuana accessories are sold.

16 (b) A person does not violate (a) of this section if the person

17 (1) enters and remains on premises registered under this chapter at the
18 request of a peace officer, if the peace officer accompanies, supervises, or otherwise
19 observes the person's entry or remaining on premises, and the purpose for the entry or
20 remaining on premises is to assist in the enforcement of this section; or

21 (2) is accompanied by a parent, guardian, or spouse who has attained
22 21 years of age.

23 (c) A person who violates this section is guilty of a violation and is punishable
24 by a fine of \$300.

25 **Sec. 17.38.220. Proof of registration to be exhibited on demand; penalty.**

26 (a) A person shall have a copy of the person's registration issued under AS 17.38.100
27 in the person's immediate possession at all times when transporting more than one
28 ounce of marijuana, and shall present the copy of the registration for inspection upon
29 the demand of a peace officer or other authorized representative of the Department of
30 Public Safety. However, a person charged with violating this section may not be
31 convicted if the person produces in court or in the office of the arresting or citing

1 officer proof of registration previously issued to the person that was valid at the time
2 of the person's arrest or citation.

3 (b) A person convicted under this section is guilty of a violation punishable by
4 a fine of \$100.

5 **Sec. 17.38.230. Bail forfeiture for certain offenses.** The supreme court shall
6 establish by rule or order a schedule of bail amounts that may be forfeited without
7 court appearance for a violation of AS 11.71.071, AS 17.38.210, and 17.38.220. The
8 supreme court, in establishing scheduled amounts of bail under this section, may not
9 allow for disposition of an offense without court appearance for a person under 18
10 years of age who is cited for a violation of AS 11.71.071(a)(2)(A).

11 **Sec. 17.38.240. Court records of violations of persons under 21 years of**
12 **age.** The Alaska Court System may not publish on a publicly available website the
13 court records of a violation of AS 11.71.071(a)(2)(A) or AS 17.38.210 by a person
14 who was under 21 years of age at the time of the offense, after the court proceedings
15 are completed and the case is closed.

16 **Sec. 17.38.250. Local option.** (a) If a majority of the voters voting on the
17 question vote to approve the option, an established village shall exercise a local option
18 to prohibit the operation of marijuana establishments.

19 (b) A ballot question to adopt a local option under this section must at least
20 contain language substantially similar to the following: "Shall (name of village) adopt
21 a local option to prohibit the operation of marijuana establishments? (yes or no)."

22 **Sec. 17.38.260. Removal of local option.** (a) If a majority of the voters voting
23 on the question vote to remove the option, an established village shall remove a local
24 option previously adopted under AS 17.38.250. The option is repealed effective the
25 first day of the month following certification of the results of the election.

26 (b) A ballot question to remove a local option under this section must at least
27 contain language substantially similar to the following: "Shall (name of village)
28 remove the local option currently in effect, that prohibits the operation of marijuana
29 establishments, so that there is no longer any local option in effect? (yes or no)."

30 (c) When issuing a registration in the area that has removed a local option, the
31 board shall give priority to an applicant who was formerly registered and whose

1 registration was not renewed because of the results of the previous local option
2 election. However, an applicant described in this subsection does not have a legal right
3 to registration, and the board is not required to approve the application.

4 **Sec. 17.38.270. Effect on registrations of local option prohibition of**
5 **marijuana establishments.** If a majority of voters vote to prohibit the operation of
6 marijuana establishments under AS 17.38.250, the board may not issue, renew, or
7 transfer, between persons or locations, a registration for a marijuana establishment
8 located within the perimeter of the established village. A registration that may not be
9 renewed because of a local option election held under AS 17.38.250 is void 90 days
10 after the results of the election are certified. A registration that expires during the 90
11 days after the results of a local option election are certified may be extended, until it is
12 void under this section, by payment of a prorated portion of the annual registration fee.

13 **Sec. 17.38.280. Procedure for local option elections.** (a) An election to adopt
14 a local option under AS 17.38.250 or remove a local option under AS 17.38.260 shall
15 be conducted as required in this section.

16 (b) Upon receipt of a petition of 35 percent or more of the registered voters
17 residing within an established village, the lieutenant governor shall place on a separate
18 ballot at a special election the local option or removal of local option that constitutes
19 the subject of the petition. The lieutenant governor shall conduct the election under
20 AS 15.

21 (c) An election under (b) of this section to remove a local option may not be
22 conducted during the first 24 months after the local option was adopted or more than
23 once in a 36-month period.

24 (d) After a petition has been certified as sufficient to meet the requirements of
25 (b) of this section, another petition may not be filed or certified until after the question
26 presented in the first petition has been voted on. Only one local option question may
27 be presented in an election.

28 **Sec. 17.38.290. Establishment of perimeter of established village.** (a)
29 Except as provided under (b) and (c) of this section, for purposes of AS 17.38.250 and
30 17.38.270, the perimeter of an established village is a circle around the established
31 village that includes an area within a five-mile radius of the post office of the

1 established village. If the established village does not have a post office, the perimeter
2 of an established village is a circle around the established village that includes an area
3 within a five-mile radius of another site selected by the local governing body or by the
4 board if the established village does not have a local governing body.

5 (b) If the perimeter of an established village determined under (a) of this
6 section includes any area that is within the perimeter of another established village
7 and, if the other established village has

8 (1) also adopted a local option under AS 17.38.250, the local option of
9 the established village that is less restrictive applies in the overlapping area;

10 (2) not adopted a local option under AS 17.38.250, the local option
11 does not apply in the overlapping area.

12 (c) If the board determines that the perimeter of an established village as
13 provided under (a) and (b) of this section does not accurately reflect the perimeter of
14 the established village, the board may establish the perimeter of the established village
15 and the areas of overlapping perimeter described under (b) of this section for purposes
16 of applying a local option selected under this chapter.

17 **Sec. 17.38.300. Notice of the results of a local option election.** If a majority
18 of the voters vote to adopt or remove a local option under AS 17.38.250 or 17.38.260,
19 the lieutenant governor shall notify the board of the results of the election immediately
20 after the results are certified. The board shall immediately notify the Department of
21 Law and the Department of Public Safety of the results of the election.

22 * **Sec. 27.** AS 17.38.900(6) is amended to read:

23 (6) "marijuana" means all parts of the plant of the genus cannabis
24 whether growing or not, the seeds thereof, the resin extracted from any part of the
25 plant, and every compound, manufacture, [SALT,] derivative, mixture, or preparation
26 of the plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does
27 not include fiber produced from the stalks, oil [,] or cake made from the seeds of the
28 plant, sterilized seed of the plant that [WHICH] is incapable of germination, or the
29 weight of any other ingredient combined with marijuana to prepare topical or oral
30 administrations, food, drink, or other products;

31 * **Sec. 28.** AS 17.38.900 is amended by adding new paragraphs to read:

1 (15) "deliver" means the actual, constructive, or attempted transfer
2 from one person to another of marijuana, whether or not there is an agency
3 relationship;

4 (16) "established village" means an area that does not contain any part
5 of an incorporated city or another established village and that is an unincorporated
6 community that is in the unorganized borough and that has 25 or more permanent
7 residents;

8 (17) "knowingly" has the meaning given in AS 11.81.900;

9 (18) "marijuana concentrate" means a product created from resins of or
10 by extracting cannabinoids from any part of the plant (genus) Cannabis;

11 (19) "public place" has the meaning given in AS 11.81.900;

12 (20) "remuneration" has the meaning given in AS 11.71.900.

13 * **Sec. 29.** AS 28.35.029(a) is amended to read:

14 (a) A person may not drive a motor vehicle on a highway or vehicular way or
15 area, when there is an open bottle, can, or other receptacle containing an alcoholic
16 beverage or an open marijuana container in the passenger compartment of the
17 vehicle, except as provided in (b) of this section.

18 * **Sec. 30.** AS 28.35.029(b) is amended to read:

19 (b) Except as provided in AS 28.33.130, a person may transport an open
20 bottle, can, or other receptacle containing an alcoholic beverage or an open
21 marijuana container

22 (1) in the trunk of a motor vehicle;

23 (2) on a motor driven cycle, or behind the last upright seat in a motor
24 home, station wagon, hatchback, or similar trunkless vehicle, if the open bottle, can, or
25 other receptacle, or an open marijuana container is enclosed within another
26 container;

27 (3) behind a solid partition that separates the vehicle driver from the
28 area normally occupied by passengers; or

29 (4) if the open bottle, can, or other receptacle, or an open marijuana
30 container is in the possession of a passenger in a motor vehicle for which the owner
31 receives direct monetary compensation and that has a capacity of 12 or more persons.

1 * **Sec. 31.** AS 28.35.029(c) is amended by adding new paragraphs to read:

2 (6) "marijuana" has the meaning given in AS 11.71.900;

3 (7) "marijuana accessory" has the meaning given to "marijuana
4 accessories" in AS 17.38.900;

5 (8) "open marijuana container" means a receptacle or marijuana
6 accessory that contains any amount of marijuana and that is open or has a broken seal,
7 and any amount of marijuana is removed.

8 * **Sec. 32.** AS 29.10.200 is amended by adding a new paragraph to read:

9 (65) AS 29.35.148 (marijuana).

10 * **Sec. 33.** AS 29.35 is amended by adding a new section to article 1 to read:

11 **Sec. 29.35.148. Regulation of marijuana.** (a) The authority to regulate
12 marijuana is reserved to the state, and, except as specifically provided by statute, a
13 municipality may not enact or enforce an ordinance that is inconsistent with AS 17.38.

14 (b) This section applies to home rule and general law municipalities.

15 * **Sec. 34.** AS 34.03.360(7) is amended to read:

16 (7) "illegal activity involving a controlled substance" means a violation
17 of AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1) or (2), or 11.71.040(a)(1) [, (2),] or
18 (5);

19 * **Sec. 35.** AS 47.12.030(b) is amended to read:

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

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

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

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- (3) a fish and game statute or regulation under AS 16;
- (4) a parks and recreational facilities statute or regulation under AS 41.21;
- (5) AS 04.16.050, relating to possession, control, or consumption of alcohol, except for conduct constituting habitual minor consuming or in possession or control under AS 04.16.050(d); [AND]
- (6) a municipal curfew ordinance, whether adopted under AS 29.35.085 or otherwise, unless the municipality provides for enforcement of its ordinance under AS 29.25.070(b) by the municipality; in place of any fine imposed for the violation of a municipal curfew ordinance, the court shall allow a defendant the option of performing community work; the value of the community work, which may not be lower than the amount of the fine, shall be determined under AS 12.55.055(c); in this paragraph, "community work" includes the work described in AS 12.55.055(b) or work that, on the recommendation of the municipal or borough assembly, city council, or traditional village council of the defendant's place of residence, would benefit persons within the municipality or village who are elderly or disabled;

(7) AS 11.71.071(a)(2)(A), relating to possession, use, and display of a schedule VIA controlled substance; and

(8) AS 17.38.210, relating to access to marijuana establishments.

* **Sec. 36.** AS 11.71.040(a)(2), 11.71.060(a)(1), 11.71.160(f)(1), 11.71.160(f)(2); AS 17.38.030, 17.38.040, and 17.38.050 are repealed.

* **Sec. 37.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. AS 11.41.110(a), as amended by sec. 1 of this Act, AS 11.41.150(a), as amended by sec. 2 of this Act, AS 11.71.030(a), as amended by sec. 3 of this Act, AS 11.71.040(a), as amended by sec. 4 of this Act, AS 11.71.050(a), as amended by sec. 6 of this Act, AS 11.71.060(a), as amended by sec. 8 of this Act, and AS 11.71.071, enacted by sec. 10 of this Act, apply to offenses committed on or after the effective date of this Act.

* **Sec. 38.** This Act takes effect immediately under AS 01.10.070(c).

2015 SENATE FINANCE COMMITTEE VOTE SHEET

DATE: 3/12/15

Amendment: Amendment #11

MEMBER	Favor	Oppose
SEN. BISHOP	✓	
SEN. DUNLEAVY	✓	
SEN. HOFFMAN	✓	
SEN. MICCICHE	✓	
SEN. OLSON		✓
		✓
SEN. KELLY		
SEN. MACKINNON	✓	

YEA 5 NAY 2

~~adopted 3/12/15~~

rescinded 3/13/15
AMENDMENT #13

29-LS0231\X.33
Gardner/Martin
3/11/15

OFFERED IN THE SENATE

TO: CSSB 30(), Draft Version "X"

1 Page 20, following line 21:

2 Insert a new section to read:

3 "Sec. 17.38.310. Peace officer powers. The director of the board and the
4 persons employed for the administration and enforcement of this chapter may, with the
5 concurrence of the commissioner of public safety, exercise the powers of peace
6 officers when those powers are specifically granted by the board. Powers granted by
7 the board under this section may be exercised only when necessary for the
8 enforcement of the criminally punishable provisions of this chapter, regulations of the
9 board, and other criminally punishable laws and regulations."

#24

OFFERED IN THE SENATE

By Senator Bishop

TO: CSSB 30(X) Draft Version "X"

Page 17, line 22, and following (3) insert a new section as follows;

(4) Enters the premise at the invitation of the owner, lessee, or operator of the premises for the sole purpose of practicing a trade or performing specific labor or task for the benefit of the owner lessee or operator of the premises; nothing in this section authorizes a marijuana establishment to hire or retain a person under 21 years of age as a regular employee.

~~WITHDRAWN~~

2015 SENATE FINANCE COMMITTEE VOTE SHEET

DATE: 3/13/15

Amendment: 23

MEMBER	Favor	Oppose
SEN. DUNLEAVY	✓	
SEN. HOFFMAN	✓	
SEN. MICCICHE		✓
SEN. OLSON	✓	
SEN. BISHOP		✓
SEN. MACKINNON	✓	
SEN. KELLY	✓	

YEA 5 NAY 2

2015 SENATE FINANCE COMMITTEE VOTE SHEET

DATE: 3/13/15

Amendment: # 25

MEMBER	Favor	Oppose
SEN. HOFFMAN	✓	
SEN. MICCICHE		✓
SEN. OLSON	✓	
SEN. BISHOP	✓	
SEN. DUNLEAVY		✓
SEN. KELLY	✓	
SEN. MACKINNON		✓

YEA 4 NAY 3

29th Alaska State Legislature

SENATOR
LESIL MCGUIRE
CHAIR

State Capitol, Room 121
Juneau, Alaska 99801-1182
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SENATOR
JOHN COGHILL
VICE-CHAIR

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Senate Judiciary Committee

CS for SENATE BILL 30 (*Version X*)

SECTIONAL ANALYSIS

Section 1 – CONFORMING

Page 1

AS 11.41.110(a). Murder in the second degree.

Deletes reference to marijuana misconduct that has been repealed and provides stylistic drafting changes.

Section 2 – CONFORMING

Page 2

AS 11.41.150 (a). Murder of an unborn child.

Deletes reference to marijuana misconduct that has been repealed.

Section 3 – CONFORMING

Page 3

AS 11.71.030(a). Misconduct involving a controlled substance in the third degree.

Deletes reference to Schedule VIA controlled substances.

Section 4 – SUBSTANTIVE

Pages 3-6

AS 11.71.040(a). Misconduct involving a controlled substance in the fourth degree.

A person commits the crime of MICS 4, which is a class C felony, if they:

- Possess 16 or more ounces of marijuana.
- Possess 25 or more plants.
- Furnish marijuana, twice within five years, to a person under 21 years of age.

Section 5 – NON-APPLICABILITY

Page 6

AS 11.71.040. Misconduct involving a controlled substance in the fourth degree.

Certain provisions of MICS 4 are not applicable to a person who is lawfully possessing marijuana in accordance with AS 17.38.020. Similarly, a marijuana establishment registered under AS 17.38, or its employees, if acting in compliance with AS 17.38.

Section 6 – SUBSTANTIVE

Page 6

AS 11.71.050(a). Misconduct involving a controlled substance in the fifth degree.

A person commits the crime of MICS 5, which is a class A misdemeanor, if they:

- Transport or deliver more than one ounce of marijuana or more than six marijuana plants.
- Possess 3-16 ounces of marijuana or 12-24 plants.
- Deliver any amount of marijuana to a person under 21 years.
- Deliver or transport an ounce or less of marijuana or six plants or less for remuneration.
- Manufacture a marijuana concentrate using a volatile or explosive gas.

Section 7 – NON-APPLICABILITY

Page 7

AS 11.71.050. Misconduct involving a controlled substance in the fifth degree.

Certain provisions of MICS 5 are not applicable to a person who is lawfully possessing, manufacturing, or delivering marijuana in accordance with AS 17.38.020. Similarly, a marijuana establishment registered under AS 17.38, or its employees, if acting in compliance with AS 17.38. An exemption is made for a person over 21 years of age delivering marijuana to the person's child or spouse who is over 18 years of age and the delivery occurs in the person's residence.

Section 8 – SUBSTANTIVE

Page 8

AS 11.71.060(a). Misconduct involving a controlled substance in the sixth degree.

A person commits the crime of MICS 6, which is a class B misdemeanor, if they:

- Possess 2-3 ounces of marijuana.
- Possess 7-11 plants.
- Possess, display, deliver, or transport more than one ounce in a public place.

Section 9 – NON-APPLICABILITY

Page 8

AS 11.71.060. Misconduct involving a controlled substance in the sixth degree.

Provisions of MICS 6 are not applicable to a person who is lawfully possessing marijuana in accordance with AS 17.38.020. Similarly, a marijuana establishment registered under AS 17.38, or its employees, if acting in compliance with AS 17.38.

Section 10 – SUBSTANTIVE

Page 9

AS 11.71.071. Misconduct involving a controlled substance in the seventh degree.

A person commits the offense of MICS 7, which is a violation, if they:

- Possess 1-2 ounces of marijuana.
- Consume marijuana in a public place.
- Grow marijuana in public view or on someone else's property without their consent.
- Use marijuana while operating a vehicle.
- As a minor, possess less than two ounces of marijuana or consume any amount of marijuana.
- **Non-applicability:** Certain provisions of MICS 7 are not applicable to a person who is lawfully possessing marijuana in accordance with AS 17.38.020. Similarly, a marijuana establishment registered under AS 17.38, or its employees, if acting in compliance with AS 17.38.

Section 11 – CONFORMING

Page 10

AS 11.71.090(a). Affirmative defense to a prosecution under MICS 3 – MICS 7; medical use of marijuana.

Expands the affirmative defense for medical marijuana patients to include the new degree of misconduct involving controlled substance established in section 10.

Section 12 – SUBSTANTIVE

Page 11

AS 11.71.190(b). Schedule VIA.

Places hashish and hash oil into Schedule VIA, alongside marijuana.

Section 13 – CONFORMING

Page 11

AS 11.71.311(a). Restriction on prosecution for certain persons in connection with a drug overdose.

A person may not be prosecuted for certain MICS offenses if the person seeks medical or law enforcement assistance for another person they believe is experiencing a drug overdose and the evidence was obtained as a result of the person seeking assistance.

Section 14 – CONFORMING

Page 12

AS 11.71.900. Definitions.

Repeals the existing Title 11 definition of “marijuana” as it applied to the MICS statutes and replaces it with a definition similar to the definition found in the initiative.

Section 15 – SUBSTANTIVE

Page 12

AS 11.71.900. Definitions.

Defines “remuneration” to include an exchange of anything of value, whether by sale, barter, exchange, or other means.

Section 16 – CONFORMING

Page 12

AS 12.45.084(a). Laboratory report of controlled substances.

Expands the statutes this section applies to include the new degree of misconduct involving a controlled substance established in section 10.

Section 17 – CONFORMING

Page 12

AS 17.30.080(b). Unlawful administration, prescription, and dispensation of controlled substances.

Expands the statutes this section applies to include the new degree of misconduct involving a controlled substance established in section 10.

Section 18 – INITIATIVE

Page 13

AS 17.38.020. Personal use of marijuana.

Deletes [notwithstanding any other provision of law, except as otherwise provided in this chapter, the] and makes other stylistic changes to conform initiative language to legislative drafting standards. This section states that certain marijuana related activities are legal and not a basis for seizure or forfeiture, and prohibits use of marijuana in a public place. Nothing in this chapter permits growing or possessing 16 ounces or more of marijuana at any time.

Additionally provides that the definition of “assisting” does not include growing, possessing, processing, using, displaying, purchasing, or transporting marijuana and marijuana plants in excess of the amount allowed in this section.

Section 19 – INITIATIVE

Page 13

AS 17.38.070(a). Lawful operation of marijuana-related facilities.

Deletes [notwithstanding any other provision of law, the] and makes other stylistic changes to conform initiative language to legislative drafting standards. Provides that certain marijuana related acts are legal and not a basis for seizure or forfeiture when performed by a registered retail marijuana store, or a person 21 years of age or older acting in the person’s capacity as an owner, employee or agent of the store.

Section 20 – INITIATIVE

Page 14

AS 17.38.070(b). Lawful operation of marijuana related facilities.

Deletes [notwithstanding any other provision of law, the] and makes other stylistic changes to conform initiative language to legislative drafting standards. Provides that certain marijuana related acts are legal and not a basis for seizure or forfeiture when performed by a registered marijuana cultivation facility, or a person 21 years of age or older acting in the person's capacity as an owner, employee or agent of the facility.

Section 21 – INITIATIVE

Page 15

AS 17.38.070(c). Lawful operation of marijuana related facilities.

Deletes [notwithstanding any other provision of law, the] and makes other stylistic changes to conform initiative language to legislative drafting standards. Provides that certain marijuana related acts are legal and not a basis for seizure or forfeiture when performed by a registered marijuana product manufacturing facility, or a person 21 years of age or older acting in the person's capacity as an owner, employee or agent of the facility.

Section 22 – INITIATIVE

Page 15

AS 17.38.070(d). Lawful operation of marijuana related facilities.

Deletes [notwithstanding any other provision of law, the] and makes other stylistic changes to conform initiative language to legislative drafting standards. Provides that certain marijuana related acts are legal and not a basis for seizure or forfeiture when performed by a registered marijuana testing facility, or a person 21 years of age or older acting in the person's capacity as an owner, employee or agent of the facility.

Section 23 – INITIATIVE

Page 16

AS 17.38.070(e). Lawful operation of marijuana related facilities.

Provides that it is lawful and not a basis for forfeiture or seizure for a person or business to lease or allow the use of property for marijuana related activities. Deletes [notwithstanding any other provision of law, it] and makes stylistic drafting changes.

Section 24 – SUBSTANTIVE

Page 16

AS 17.38.090. Rulemaking.

Directs the marijuana control board to adopt a regulation that will prohibit a retail marijuana store from selling more than five grams of marijuana concentrate per day to a customer.

Section 25 – SUBSTANTIVE

Page 16

AS 17.38.110(a). Local Control.

Allows for a local governments and established villages to prohibit the operation of marijuana cultivation, manufacturing, testing, or retail facilities through the act of an ordinance.

Section 26 – SUBSTANTIVE

Page 16

AS 17.38.200. Unlawful activity related to persons under 21 years of age.

A registered marijuana establishment, or an employee thereof, may not knowingly:

- Allow a person to give marijuana to a minor within the registered premises.
- Allow a minor to enter and remain within the registered premises.
- Allow a minor to use marijuana within the registered premises.
- While working on the registered premises, give marijuana to a minor.

Violation of this section incurs a fine of at least \$250 and less than \$500. This section does not apply to a minor who is accompanied in the marijuana establishment by a parent, guardian, or spouse who is over 21 years of age.

AS 17.38.210. Access of persons under 21 years of age to registered premises.

A person under 21 may not knowingly enter or remain on a registered marijuana premises. An exception is made for a minor on the premises at the request of a peace officer, or a minor accompanied by a parent, guardian, or spouse who has attained 21 years of age. Violation of this section is a \$300 fine.

AS 17.38.220. Proof of registration to be exhibited on demand; penalty.

Requires a licensee to have a copy of their marijuana license at all times when transporting more than one ounce of marijuana, and shall present the license on demand by a peace officer.

Violation of this section is a \$100 fine.

AS 17.38.230. Bail forfeiture for certain offenses.

Requires the court to make a bail schedule allowing defendants to pay the fine for violations without a court appearance for violations involving marijuana.

AS 17.38.240. Court records of violations by minors confidential.

The court may not publish on a publicly available website the court records of a minor in possession of marijuana, a minor consuming marijuana, or a minor accessing licensed premises, after the court proceedings are concluded and the case is closed.

AS 17.38.250. Local option.

An established village shall prohibit the operation of marijuana establishments if a majority of the voters in the election approve the ban. A ballot to adopt a local option must contain language substantially similar to the following: “Shall (name of village) adopt a local option to prohibit the operation of marijuana establishments? (yes or no).”

AS 17.38.260. Removal of local option.

An established village shall remove a local option if a majority of the voters vote to remove the option. The option is repealed effective the first day of the month following certification of the election results. A ballot question to remove a local option must at least contain language similar to the following: "Shall (name of village) remove the local option currently in effect, that prohibits the operation of marijuana establishments, so that there is no longer any local option in effect? (yes or no)." When issuing a registration in an area that has removed a local option, the board shall give priority to an applicant who was formerly licensed.

AS 17.38.270. Effect of local option on registrations of prohibition of marijuana establishments.

If a local option is in effect, the board may not issue, renew, or transfer a registration for a marijuana establishment located within the perimeter of the village.

AS 17.38.280. Procedure for local option elections.

An election to adopt or remove a local option shall be conducted as follows:

- The lieutenant governor shall place on a separate ballot at a special election the content from a petition that received at least 35 percent of registered voters within the village.
- The election may not be conducted during the first 24 months after the local option was adopted or more than once in a 36-month period.
- Another petition may not be filed until after the question presented in the first petition has been voted on. Only one local option question may be presented in an election.

AS 17.38.290. Establishment of perimeter of established village.

For purposes of the local option law, the perimeter of a village is a circle around the village that includes an area within a five-mile radius of the post office of the village, or a five-mile radius of another site selected by the local governing body, or the board, if the village doesn't have a local governing body. If the perimeter overlaps with another village's perimeter, and that other village has not adopted a local option, then the local option does not apply in the overlapping area.

AS 17.38.300. Notice of the results of a local option election.

If a majority of the voters approve or remove a local option, the lieutenant governor shall notify the board of the results immediately following the election, and the board shall immediately notify the Department of Law and the Department of Public Safety.

Section 27 – INITIATIVE

Page 20

AS 17.38.900(6). Definitions.

Establishes the definition for "marijuana" as defined in the ballot initiative.

Section 28 – INITIATIVE/SUBSTANTIVE

Page 20

AS 17.38.900. Definitions.

Defines “deliver”, “established village”, “knowingly”, “marijuana concentrate”, “public place” and “remuneration.”

Section 29 – SUBSTANTIVE

Page 21

AS 28.35.029(a). Open container.

Provides that a person may not drive a motor vehicle when there is an open marijuana container in the passenger compartment with the exceptions provided below (b.)

Section 30 – SUBSTANTIVE

Page 21

AS 28.35.029(b). Open container.

Creates exceptions to an open marijuana container being in the vehicle: the container is in the trunk of the vehicle; behind the last upright seat in certain vehicles; behind a solid partition that separates the driver from the passengers, or certain types of passenger vehicles.

Section 31 – SUBSTANTIVE

Page 22

AS 28.35.029(c). Open container.

Defines “open marijuana container” as a receptacle that contains marijuana, is open or has a broken seal, and any amount of marijuana is removed.

Sections 32-33 – SUBSTANTIVE

Page 22

AS 29.10.200; AS 29.35. Limitation of home rule powers. Municipal powers and duties.

Provides the right to limit marijuana to the state and municipalities cannot enact or enforce an ordinance inconsistent with 17.38, except as specifically provided by state statute. The section applies to home rule and general law municipalities.

Section 34 – CONFORMING

Page 22

AS 34.03.360(7). Definitions.

Defines “illegal activity involving a controlled substance” to include MICS crimes relating to marijuana.

Section 35 – CONFORMING

Page 22

AS 47.12.030(b). Provisions inapplicable.

When a minor is accused of a violating a statute relating to marijuana, other than a felony, the Alaska Delinquency Rules do not apply and the minor accused of the offense shall be charged, prosecuted, and sentenced in the same manner as an adult. The minor's parent or guardian shall be present at all proceedings.

Section 36 – SUBSTANTIVE

Page 23

Repeals the enumerated statutes.

Section 37 – SUBSTANTIVE

Page 23

Applicability provisions.

Section 38 – SUBSTANTIVE

Page 24

Establishes an immediate effective date.

29th Alaska State Legislature

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LESIL MCGUIRE
CHAIR

State Capitol, Room 121
Juneau, Alaska 99801-1182
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SENATOR
JOHN COGHILL
VICE-CHAIR

State Capitol, Room 119
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Senate Judiciary Committee

CS for SENATE BILL 30 (*Version X - DRAFT*)

SECTIONAL ANALYSIS

Section 1 – CONFORMING

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Deletes reference to marijuana misconduct that has been repealed and provides stylistic drafting changes.

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- Grow marijuana in public view or on someone else's property without their consent.
- Use marijuana while operating a vehicle.
- As a minor, possess less than two ounces of marijuana or consume any amount of marijuana.
- **Non-applicability:** provides that XX are not applicable to a person who is lawfully possessing marijuana in accordance with AS 17.38.020. Similarly, a marijuana establishment registered under AS 17.38, or its employees, if acting in compliance with AS 17.38.

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Additionally provides that the definition of “assisting” does not include growing, possessing, processing, using, displaying, purchasing, or transporting marijuana and marijuana plants in excess of the amount allowed in this section.

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Section 20 – INITIATIVE

Page 14

AS 17.38.070(b). Lawful operation of marijuana related facilities.

Deletes [notwithstanding any other provision of law, the] and makes other stylistic changes to conform initiative language to legislative drafting standards. Provides that certain marijuana related acts are legal and not a basis for seizure or forfeiture when performed by a registered marijuana cultivation facility, or a person 21 years of age or older acting in the person’s capacity as an owner, employee or agent of the facility.

Section 21 – INITIATIVE

Page 15

AS 17.38.070(c). Lawful operation of marijuana related facilities.

Deletes [notwithstanding any other provision of law, the] and makes other stylistic changes to conform initiative language to legislative drafting standards. Provides that certain marijuana related acts are legal and not a basis for seizure or forfeiture when performed by a registered marijuana product manufacturing facility, or a person 21 years of age or older acting in the person's capacity as an owner, employee or agent of the facility.

Section 22 – INITIATIVE

Page 15

AS 17.38.070(d). Lawful operation of marijuana related facilities.

Deletes [notwithstanding any other provision of law, the] and makes other stylistic changes to conform initiative language to legislative drafting standards. Provides that certain marijuana related acts are legal and not a basis for seizure or forfeiture when performed by a registered marijuana testing facility, or a person 21 years of age or older acting in the person's capacity as an owner, employee or agent of the facility.

Section 23 – INITIATIVE

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A registered marijuana establishment, or an employee thereof, may not knowingly:

- Allow a person to give marijuana to a minor within the registered premises.
- Allow a minor to enter and remain within the registered premises.
- Allow a minor to use marijuana within the registered premises.
- While working on the registered premises, give marijuana to a minor.

Violation of this section incurs a fine of at least \$250 and less than \$500. This section does not apply to a minor who is accompanied in the marijuana establishment by a parent, guardian, or spouse who is over 21 years of age.

AS 17.38.210. Access of persons under 21 years of age to registered premises.

A person under 21 may not knowingly enter or remain on a registered marijuana premises. An exception is made for a minor on the premises at the request of a peace officer, or a minor accompanied by a parent, guardian, or spouse who has attained 21 years of age.

AS 17.38.220. Proof of registration to be exhibited on demand; penalty.

Requires a licensee to have a copy of their marijuana license at all times when transporting more than one ounce of marijuana, and shall present the license on demand by a peace officer.

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The court may not publish on a publicly available website the court records of a minor in possession of marijuana or a minor consuming alcohol.

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An established village shall prohibit the operation of marijuana establishments if a majority of the voters in the election approve the ban. A ballot to adopt a local option must contain language substantially similar to the following: "Shall (name of village) adopt a local option to prohibit the operation of marijuana establishments? (yes or no)."

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For purposes of the local option law, the perimeter of a village is a circle around the village that includes an area within a five-mile radius of the post office of the village, or a five-mile radius of another site selected by the local governing body, or the board, if the village doesn't have a local governing body. If the perimeter overlaps with another village's perimeter, and that other village has not adopted a local option, then the local option does not apply in the overlapping area.

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Section 37 – SUBSTANTIVE

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Section 38 – SUBSTANTIVE

Page 24

Establishes an immediate effective date.

DRAFT



SAM Smart Approaches to Marijuana

preventing another big tobacco

February 15, 2015 at 10:27:31 PM MST

FOR IMMEDIATE RELEASE

CONTACT: KEVIN@LEARNABOUTSAM.ORG

LANCET JOURNAL: DAILY USE OF HIGH POTENCY MARIJUANA INCREASES PSYCHOSIS RISK 5 TIMES; WEEKEND USE NEARLY TRIPLES RISK

High potency marijuana use alone was also responsible for 24% of psychosis cases in the south London study group.

LONDON, ENGLAND - Today, in one of the most prominent medical journals in the world, *Lancet Psychiatry*, a team of twenty-three scientists published a large study showing that people who smoked high-grade marijuana - about 16% THC with no CBD, similar to average US varieties of marijuana - were five times as likely than non-users to have a psychotic disorder. Weekend users were three times as likely than non-users to have a psychotic disorder, and high potent marijuana use alone was responsible for 24% of those adults presenting with first-episode psychosis to the psychiatric services in south London.

Sir Robin Murray, Professor of Psychiatric Research at the IoPPN at King's and senior researcher on the study stated, "It is now well known that use of cannabis increases the risk of psychosis. However, skeptics still claim that this is not an important cause of schizophrenia-like psychosis.

"This paper suggests that we could prevent almost one quarter of cases of psychosis if no-one smoked high potency cannabis. This could save young patients a lot of suffering and the Health Services a lot of money."

Between 2005 and 2011, researchers worked with 410 patients aged 18-65 who reported a first episode of psychosis at the South London and Maudsley NHS Foundation Trust. A further 370 healthy participants from the same area of South London were included as controls.

A main finding was that the frequency of use and cannabis potency, which are often overlooked when determining how harmful the drug can be, are essential factors in the mental health effects on users. These factors are not sufficiently considered by doctors.

"As with smoking tobacco and drinking alcohol you need a clear public message," said Dr. Di Forti, the lead author of the study.

"For years, the marijuana industry has discounted the link between the highly potent strains of marijuana they produce and mental health problems," commented Dr. Kevin A. Sabet, President of SAM and the Director of the Drug Policy Institute at the University of Florida. "Big Marijuana - who relies on addiction for profit - will of course discount this study too, but the public and lawmakers should not be deceived. More marijuana use equals more mental health problems, no matter what special interest lobbyists want us to think. We must urgently get this information out now to every lawmaker in the country."

SAM is a science-oriented, public health organization dedicated to getting the science out about marijuana and stopping Big Marijuana. It advocates for a health-first approach, and boasts numerous top public health researchers on its advisory board.

###

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

This bill would tax and regulate the production, sale, and use of marijuana in Alaska.

The bill would make the use of marijuana legal for persons 21 years of age or older. The bill would allow a person to possess, use, show, buy, transport, or grow set amounts of marijuana, with the growing subject to certain restrictions. The bill would ban the public use of marijuana. The bill would prohibit a person under 21 years of age from using false identification to buy or try to buy marijuana or marijuana accessories.

The bill would allow validly registered marijuana-related entities and persons 21 years of age or older who own or are employed by these entities to make, possess, buy, distribute, sell, show, store, transport, deliver, transfer, receive, harvest, process, or package marijuana and marijuana products, subject to certain restrictions. Alaska Statute 17.30.020 (Controlled Substances) would not apply to these entities.

The bill would require the Alcoholic Beverage Control (ABC) Board to implement parts of the bill. But the bill would also let the legislature create a Marijuana Control Board to assume these duties. The bill would require the ABC Board to adopt regulations governing marijuana-related entities. The regulations would need to cover certain topics and be subject to certain restrictions. The bill would also create procedures for registering a marijuana-related entity. The procedures would be managed by the ABC board and local governments.

The bill would allow a local government to prohibit the operation of marijuana-related entities. A local government could do that by enacting an ordinance or through voter initiative. The ordinances could cover the time, place, manner, and registration of a marijuana entity's operations.

The bill would allow a person 21 years of age or older to possess, use, show, buy, or transport marijuana accessories. Marijuana accessories are products individuals use to grow or consume marijuana. The bill would also allow persons 21 years of age or older to make marijuana accessories and to distribute or sell them to persons who are 21 years of age or older.

The bill states that it is not intended to require an employer to allow marijuana use, transportation, possession, sale, growth, or transfer, or prevent an employer from prohibiting these activities. The bill does not intend to supersede laws prohibiting driving under the influence of marijuana. The bill does not intend to prohibit schools, correction facilities, hospitals, or private persons or entities from restricting marijuana on their property. The bill does not intend to limit the state's existing medical marijuana laws.

The bill would impose a \$50 per ounce (or proportionate) excise tax on the sale or transfer of marijuana from a cultivation facility to a retail store or marijuana product manufacturing facility. The marijuana cultivation facility would pay the tax and send monthly tax statements to the Department of Revenue. The Department of Revenue could exempt certain parts of the marijuana plant from the tax. It could also establish a lower tax rate for certain parts of the plant.

The bill defines numerous terms. The bill contains a statement of purpose and findings. The bill would impose civil fines and penalties for violations.

Should this initiative become law?





Bio

Ben's passion for recovery, prevention and harm reduction comes from his own struggle with substance abuse. Sober since 6/15/96, Ben has been a part of the recovery community in almost every way imaginable; from a recipient to a provider to a spokesperson Cort has a deep understanding of the issues and a personal motivation to see the harmful effects of drug and alcohol abuse minimized.

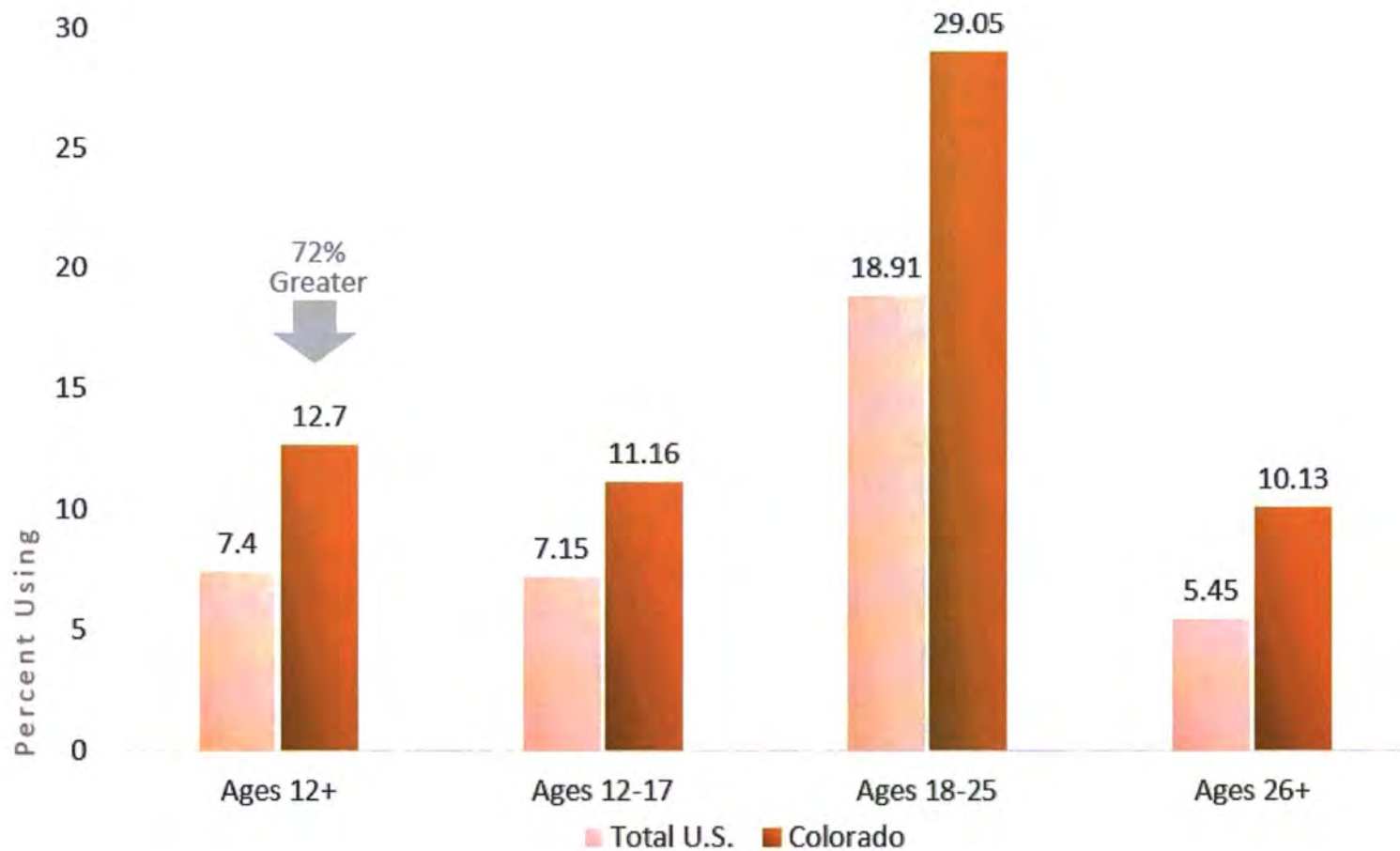
Aside from frequent speaking engagements in the community, Ben built his career outside of the substance abuse industry. Until 2007 he was a HR Director at an S&P 500 firm. Ben left this role to help start the Colorado based nonprofit, Phoenix Multisport (PM). As an original board member and then their first full time employee, Ben was instrumental in building this organization that has received frequent national recognition for their innovative approach to building sober communities around sport and healthy activities. While with PM, Cort worked extensively with the treatment community as well as drug courts and the therapy community as advisor, a member of clinical teams, frequent speaker, liaison, etc.

Ben left PM in 2012 feeling compelled to play a larger role in the organized, and ultimately unsuccessful, effort to defeat Colorado's Amendment 64 that legalized recreational marijuana use. A frequent presenter and debater on the subject, Ben was well respected by both sides because of his fair, patient and informed approach.

Following the campaign Ben joined the drug policy conversation at the national level and is a frequent guest in the media and has published multiple articles and position papers on the subject. Ben has been appointed to the Board of Directors of Project SAM (Smart Approaches to Marijuana), is a Jr. Fellow at the University of Florida's Drug Policy Institute, he also serves on the Board of Directors for Denver based Stout Street Foundation.

Ben now leads the business development team and functions as the Director of Professional Relations for CeDAR, a world-class center for residential addiction and co-occurring disorders treatment in Aurora, CO that is part of the University of Colorado Health System.

U.S. vs Colorado Past-Month Marijuana Use, 2013



Source: National Survey on drug use and health – SAMHSA 2014

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	Ballot Measure 2 - 13PSUM				Ballot Measure 3 - 13MINW			
	Reg. Voters	Total Votes	YES	NO	Reg. Voters	Total Votes	YES	NO
Jurisdiction Wide								
06-005 Anderson	182	75	43	32	182	75	48	27
06-007 Arctic Village	104	52	44	8	104	52	52	0
06-010 Beaver	59	21	16	5	59	19	17	2
06-012 Cantwell	187	75	37	38	187	78	50	28
06-015 Central	167	48	34	14	167	48	34	14
06-020 Chistochina	217	75	36	39	217	75	47	28
06-023 Circle	76	30	20	10	76	30	27	3
06-024 Clear	191	69	44	25	191	69	50	19
06-025 Copper Center	947	239	126	113	947	241	170	71
06-026 Denali Park	277	81	63	18	277	82	76	6
06-027 Dot Lake	123	40	7	33	123	39	24	15
06-030 Eagle	211	79	39	40	211	79	47	32
06-033 Fort Yukon	508	144	81	63	508	144	128	16
06-035 Gakona	277	89	42	47	277	89	56	33
06-040 Healy	854	335	176	159	854	337	250	87
06-047 Kenny Lake	347	136	66	70	347	135	86	49
06-050 Manley Hot Springs	147	47	27	20	147	47	33	14
06-053 Mentasta	86	46	32	14	86	44	36	8
06-054 Minto	143	69	35	34	143	67	67	0
06-056 Nenana	577	270	145	125	577	269	192	77
06-060 Northway	221	77	42	35	221	76	65	11
06-070 Stevens Village	65	13	11	2	65	13	13	0
06-075 Tanacross	99	47	23	24	99	47	43	4
06-080 Tanana	194	75	57	18	194	76	71	5
06-085 Tetlin	77	40	35	5	77	41	37	4
06-090 Tok	1112	427	238	189	1112	440	306	134
06-095 Venetie	141	59	43	16	141	61	57	4
06-145 Eielson	2370	248	119	129	2370	250	151	99
06-150 Fox	552	234	155	79	552	234	141	93
06-155 Moose Creek	540	188	104	84	540	186	120	66
06-160 Salcha	982	400	186	214	982	409	243	166
06-170 Steele Creek	1201	457	269	188	1201	461	303	158
06-180 Two Rivers	1081	474	280	194	1081	476	321	155
District 6 - Absentee	0	1459	754	705	0	1466	1017	449
District 6 - Question	0	321	207	114	0	317	228	89
District 6 - Early Voting	0	444	269	175	0	444	328	116
Total	14315	6983	3905	3078	14315	7016	4934	2082

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Sen. Donleavy

	HOUSE DISTRICT 9						Ballot Measure 2 - 13PSUM			
	Reg. Voters	Total Votes	Colver, Jim (REP)	Goode, Pamela (CON)	Wimmer, Mabel H. (DEM)	Write-In Votes	Reg. Voters	Total Votes	YES	NO
Jurisdiction Wide										
09-600 Big Delta	2698	985	575	329	64	17	2698	983	433	550
09-608 Delta Junction	758	323	161	125	33	4	758	329	133	196
09-622 Farm Loop	2149	873	542	200	130	1	2149	900	407	493
09-628 Fishhook	2503	1101	702	271	124	4	2503	1129	539	590
09-632 Glennallen	681	190	92	76	21	1	681	191	80	111
09-640 Sheep Mountain	332	111	35	63	12	1	332	111	34	77
09-645 Sutton	950	408	198	122	86	2	950	426	251	175
09-650 Valdez No. 1	1107	443	254	111	78	0	1107	467	260	207
09-655 Valdez No. 2	879	285	170	71	43	1	879	294	178	116
09-660 Valdez No. 3	1110	414	221	124	69	0	1110	431	288	143
09-665 Whittier	272	92	47	16	29	0	272	102	69	33
District 9 - Absentee	0	1335	803	276	243	13	0	1448	744	704
District 9 - Question	0	98	41	33	22	2	0	341	213	128
District 9 - Early Voting	0	349	234	57	55	3	0	360	158	202
Total	13439	7007	4075	1874	1009	49	13439	7512	3787	3725

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	Ballot Measure 2 - 13PSUM				Ballot Measure 3 - 13MINW			
	Reg. Voters	Total Votes	YES	NO	Reg. Voters	Total Votes	YES	NO
Jurisdiction Wide								
32-800 Chiniak	134	33	22	11	134	34	25	9
32-805 Cordova	1825	695	445	250	1825	704	576	128
32-810 Flats	1717	369	220	149	1717	370	261	109
32-815 Kodiak Island South	202	25	21	4	202	25	21	4
32-820 Kodiak No. 1	1757	641	334	307	1757	649	500	149
32-825 Kodiak No. 2	1711	590	305	285	1711	599	499	100
32-830 Mission Road	3168	1329	676	653	3168	1336	978	358
32-835 Old Harbor	133	62	41	21	133	61	57	4
32-840 Ouzinkie	134	64	54	10	134	64	57	7
32-845 Port Lions	198	65	24	41	198	65	53	12
32-847 Seldovia/Kachemak Bay	439	162	101	61	439	163	124	39
32-850 Tatitlek	117	18	14	4	117	18	18	0
32-855 Tyonek	333	44	28	16	333	45	38	7
32-860 Yakutat	475	259	181	78	475	258	210	48
District 32 - Absentee	0	1445	870	575	0	1441	1086	355
District 32 - Question	0	259	170	89	0	257	202	55
District 32 - Early Voting	0	47	33	14	0	47	37	10
Total	12343	6107	3539	2568	12343	6136	4742	1394

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Sen. Stevens

	HOUSE DISTRICT 33					Ballot Measure 2 - 13PSUM			
	Reg. Voters	Total Votes	Dukowitz, Peter (REP)	Kito, Sam S. (DEM)	Write-In Votes	Reg. Voters	Total Votes	YES	NO
Jurisdiction Wide									
33-500 Douglas	1706	727	159	562	6	1706	750	531	219
33-505 Gustavus	486	190	56	134	0	486	192	134	58
33-510 Juneau No. 1	2343	716	148	563	5	2343	730	516	214
33-515 Juneau No. 2	2475	897	99	796	2	2475	907	679	228
33-520 Juneau No. 3	1013	411	77	332	2	1013	420	289	131
33-525 Lemon Creek	1987	665	234	426	5	1987	692	425	267
33-530 North Douglas	1479	628	133	493	2	1479	646	450	196
33-540 Skagway	1005	360	98	258	4	1005	375	266	109
33-545 Haines No. 1	1954	820	288	526	6	1954	817	507	310
33-550 Haines No. 2	276	97	37	60	0	276	101	68	33
33-555 Klukwan	79	42	6	36	0	79	42	26	16
District 33 - Absentee	0	2143	498	1635	10	0	2263	1539	724
District 33 - Question	0	242	64	176	2	0	458	338	120
District 33 - Early Voting	0	759	180	578	1	0	768	482	286
Total	14803	8697	2077	6575	45	14803	9161	6250	2911

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Sen. Stedman

	HOUSE DISTRICT 35					Ballot Measure 2 - 13PSUM			
	Reg. Voters	Total Votes	Samuelson, Steven A. (REP)	Kreiss-Tomkins, Jona (DEM)	Write-In Votes	Reg. Voters	Total Votes	YES	NO
Jurisdiction Wide									
35-700 Angoon	346	186	37	149	0	346	180	99	81
35-705 Craig	971	355	149	205	1	971	368	221	147
35-720 Hoonah	694	358	128	230	0	694	357	195	162
35-730 Kake	395	195	53	141	1	395	189	101	88
35-735 Kasaan	61	21	5	16	0	61	19	16	3
35-740 Klawock	636	275	92	181	2	636	266	142	124
35-745 North Prince of Wales	534	77	43	34	0	534	80	47	33
35-750 Pelican-Elfin Cove	193	47	21	26	0	193	48	39	9
35-755 Petersburg-Kupreanof	2601	1039	596	442	1	2601	1052	614	438
35-760 Port Alexander	74	19	2	17	0	74	18	12	6
35-765 Sitka No. 1	3483	1457	540	909	8	3483	1450	1012	438
35-770 Sitka No. 2	3501	1413	468	941	4	3501	1402	980	422
35-775 Tenakee Springs	158	45	14	31	0	158	46	29	17
35-780 Thorne Bay	549	180	126	51	3	549	183	106	77
District 35 - Absentee	0	2058	856	1199	3	0	2113	1347	766
District 35 - Question	0	48	26	21	1	0	136	103	33
District 35 - Early Voting	0	70	33	37	0	0	71	45	26
Total	14196	7843	3189	4630	24	14196	7978	5108	2870

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Sen. Hoffmann

	HOUSE DISTRICT 37				Ballot Measure 2 - 13PSUM			
	Reg. Voters	Total Votes	Edgmon, Bryce (DEM)	Write-In Votes	Reg. Voters	Total Votes	YES	NO
Jurisdiction Wide								
37-300 Anvik	56	32	32	0	56	36	26	10
37-302 Grayling	114	48	47	1	114	53	33	20
37-304 Holy Cross	136	66	66	0	136	71	41	30
37-306 McGrath	266	92	87	5	266	122	83	39
37-308 Nikolai	74	42	42	0	74	47	36	11
37-310 Shageluk	48	26	26	0	48	26	16	10
37-312 Takotna	35	4	3	1	35	8	4	4
37-700 Akutan	501	64	62	2	501	73	62	11
37-702 Aleknagik	146	52	51	1	146	53	30	23
37-704 Aleutians No. 1	210	27	26	1	210	33	19	14
37-706 Aleutians No. 2	1805	527	510	17	1805	640	369	271
37-708 Chignik	237	20	19	1	237	25	15	10
37-710 Clark's Point	43	18	17	1	43	19	16	3
37-712 Cold Bay	105	11	11	0	105	18	7	11
37-714 Dillingham	1560	670	656	14	1560	717	416	301
37-716 Egegik	118	19	19	0	118	23	14	9
37-718 Ekwok	76	16	16	0	76	15	7	8
37-720 King Cove	331	131	128	3	331	154	115	39
37-722 King Salmon	359	99	94	5	359	124	62	62
37-724 Koliganek	126	27	27	0	126	28	10	18
37-726 Lake Iliamna No. 1	220	67	64	3	220	84	25	59
37-728 Lake Iliamna No. 2	161	49	47	2	161	57	34	23
37-730 Levelock	44	24	23	1	44	24	15	9
37-732 Manokotak	260	121	119	2	260	124	56	68
37-734 Naknek	398	141	140	1	398	168	88	80
37-736 New Stuyahok	295	143	135	8	295	140	50	90
37-738 Nondalton	297	55	54	1	297	54	45	9
37-740 Pedro Bay	50	14	14	0	50	18	8	10
37-742 Port Heiden	84	21	21	0	84	28	14	14
37-744 Sand Point	479	151	148	3	479	167	116	51
37-746 Sleetmute	123	21	20	1	123	24	20	4
37-748 South Naknek	53	20	19	1	53	22	14	8
37-750 St. George Island	68	27	27	0	68	26	16	10
37-752 St. Paul Island	311	117	115	2	311	132	94	38
37-754 Togiak	599	197	193	4	599	203	124	79
District 37 - Absentee	0	965	936	29	0	1183	689	494
District 37 - Question	0	98	98	0	0	256	171	85
District 37 - Early Voting	0	64	61	3	0	76	48	28
Total	9788	4286	4173	113	9788	5071	3008	2063

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	HOUSE DISTRICT 38				Ballot Measure 2 - 13PSUM			
	Reg. Voters	Total Votes	Herron, Bob (DEM)	Write-In Votes	Reg. Voters	Total Votes	YES	NO
Jurisdiction Wide								
38-800 Akiachak	301	93	92	1	301	98	22	76
38-802 Akiak	187	103	101	2	187	109	43	66
38-804 Aniak	358	146	141	5	358	167	124	43
38-806 Atmautluak	133	56	56	0	133	56	9	47
38-808 Bethel No. 1	1877	538	499	39	1877	565	261	304
38-810 Bethel No. 2	1794	529	489	40	1794	575	286	289
38-812 Cheformak	289	199	198	1	289	199	48	151
38-814 Chuathbaluk	64	25	25	0	64	26	16	10
38-816 Crooked Creek	73	25	25	0	73	26	24	2
38-818 Eek	196	85	85	0	196	93	30	63
38-820 Goodnews Bay	203	96	92	4	203	96	64	32
38-822 Kasigluk	257	99	97	2	257	99	27	72
38-824 Kipnuk	371	152	152	0	371	156	40	116
38-826 Kongiganak	266	148	147	1	266	149	59	90
38-828 Kwethluk	369	115	111	4	369	122	46	76
38-830 Kwigillingok	232	98	97	1	232	100	18	82
38-832 Lower Kalskag	165	90	89	1	165	96	52	44
38-834 Marshall	221	81	81	0	221	94	53	41
38-836 Mekoryuk	147	77	76	1	147	80	27	53
38-838 Napakiak	232	101	100	1	232	99	53	46
38-840 Napaskiak	232	97	96	1	232	97	31	66
38-842 Newtok	221	97	94	3	221	98	35	63
38-844 Nightmute	140	94	94	0	140	94	39	55
38-846 Nunapitchuk	245	99	99	0	245	102	25	77
38-848 Quinhagak	396	187	187	0	396	193	84	109
38-850 Russian Mission	185	125	123	2	185	131	80	51
38-852 Toksook Bay	375	190	189	1	375	201	51	150
38-854 Tuluksak	227	94	94	0	227	94	52	42
38-856 Tuntutuliak	210	103	102	1	210	104	31	73
38-858 Tununak	236	107	105	2	236	105	49	56
38-860 Upper Kalskag	126	44	44	0	126	48	31	17
District 38 - Absentee	0	467	447	20	0	544	255	289
District 38 - Question	0	241	233	8	0	376	192	184
District 38 - Early Voting	0	28	23	5	0	29	15	14
Total	10328	4829	4683	146	10328	5221	2272	2949

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Sen. Olson

	HOUSE DISTRICT 39				Ballot Measure 2 - 13PSUM			
	Reg. Voters	Total Votes	Foster, Neal W. (DEM)	Write-In Votes	Reg. Voters	Total Votes	YES	NO
Jurisdiction Wide								
39-314 Galena	313	156	150	6	313	176	84	92
39-316 Huslia	173	98	97	1	173	100	58	42
39-318 Kaltag	125	76	76	0	125	74	43	31
39-320 Koyukuk	71	36	36	0	71	40	21	19
39-322 Nulato	179	87	87	0	179	88	43	45
39-324 Ruby	121	36	36	0	121	50	36	14
39-900 Alakanuk	314	101	100	1	314	102	54	48
39-902 Brevig Mission	218	122	119	3	218	125	78	47
39-904 Chevak	557	243	242	1	557	247	114	133
39-906 Diomedes	61	18	18	0	61	20	12	8
39-908 Elim	183	100	99	1	183	100	65	35
39-910 Emmonak	441	199	197	2	441	204	103	101
39-912 Gambell	323	167	163	4	323	171	120	51
39-914 Golovin	112	60	58	2	112	58	22	36
39-916 Hooper Bay	602	247	244	3	602	261	156	105
39-918 Kotlik	284	109	108	1	284	109	55	54
39-920 Koyuk	195	99	97	2	195	99	64	35
39-922 Mountain Village	471	195	190	5	471	201	108	93
39-924 Nome No. 1	1075	360	340	20	1075	391	217	174
39-926 Nome No. 2	1462	501	485	16	1462	540	308	232
39-928 Nunam Iqua	97	32	32	0	97	36	17	19
39-930 Pilot Station	332	132	130	2	332	134	77	57
39-932 Savoonga	420	236	236	0	420	240	161	79
39-934 Scammon Bay	296	153	153	0	296	157	66	91
39-936 Shaktoolik	156	89	89	0	156	89	42	47
39-938 Shishmaref	337	200	198	2	337	202	124	78
39-940 St. Mary's	356	132	130	2	356	148	79	69
39-942 St. Michael	212	89	85	4	212	91	62	29
39-944 Stebbins	295	128	125	3	295	126	92	34
39-946 Teller	155	75	73	2	155	75	57	18
39-948 Unalakleet	534	261	255	6	534	266	125	141
39-950 Wales	104	63	61	2	104	60	47	13
39-952 White Mountain	144	67	67	0	144	64	39	25
District 39 - Absentee	0	378	363	15	0	444	242	202
District 39 - Question	0	100	99	1	0	218	127	91
District 39 - Early Voting	0	261	239	22	0	277	175	102
Total	10718	5406	5277	129	10718	5783	3293	2490

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Sen. Olson

	HOUSE DISTRICT 40				Ballot Measure 2 - 13PSUM			
	Reg. Voters	Total Votes	Nageak, Benjamin P. (DEM)	Write-In Votes	Reg. Voters	Total Votes	YES	NO
Jurisdiction Wide								
40-002 Ambler	174	71	65	6	174	72	49	23
40-004 Anaktuvuk Pass	277	97	95	2	277	101	76	25
40-006 Atkasuk	140	72	71	1	140	71	53	18
40-008 Barrow	997	320	315	5	997	326	220	106
40-010 Browerville	1745	711	691	20	1745	723	484	239
40-012 Buckland	282	104	101	3	282	104	49	55
40-014 Deering	93	40	38	2	93	50	33	17
40-016 Kaktovik	183	98	97	1	183	101	85	16
40-018 Kiana	236	84	81	3	236	86	59	27
40-020 Kivalina	221	112	105	7	221	104	69	35
40-022 Kobuk	85	30	30	0	85	32	21	11
40-024 Kotzebue	2006	670	644	26	2006	720	431	289
40-026 Noatak	296	131	130	1	296	131	71	60
40-028 Noorvik	350	157	149	8	350	149	82	67
40-030 Nuiqsut	251	115	114	1	251	124	98	26
40-032 Point Hope	399	182	175	7	399	188	143	45
40-034 Point Lay	131	57	57	0	131	57	48	9
40-036 Selawik	408	138	135	3	408	138	101	37
40-038 Shungnak	161	71	69	2	161	79	59	20
40-040 Wainwright	322	152	150	2	322	155	116	39
40-326 Allakaket	143	86	84	2	143	87	56	31
40-328 Bettles	89	14	14	0	89	16	11	5
40-330 Hughes	68	50	49	1	68	50	33	17
District 40 - Absentee	0	411	396	15	0	510	303	207
District 40 - Question	0	97	96	1	0	196	134	62
District 40 - Early Voting	0	32	31	1	0	34	15	19
Total	9057	4102	3982	120	9057	4404	2899	1505

Community Name	Borough/Census Area	Incorporation Type	ate Dis	Senator	Use Dist	Representative
Arctic Village	Yukon-Koyukuk Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Beaver	Yukon-Koyukuk Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Birch Creek	Yukon-Koyukuk Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Central	Yukon-Koyukuk Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Chalkyitsik	Yukon-Koyukuk Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Chistochina	Valdez-Cordova Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Chitina	Valdez-Cordova Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Circle	Yukon-Koyukuk Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Copper Center	Valdez-Cordova Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Dot Lake	Southeast Fairbanks Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Dry Creek	Southeast Fairbanks Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Eagle	Southeast Fairbanks Census Area	2nd Class City	C	Click Bishop (R)	6	David Talerico (R)
Eagle Village	Southeast Fairbanks Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Fort Yukon	Yukon-Koyukuk Census Area	2nd Class City	C	Click Bishop (R)	6	David Talerico (R)
Four Mile Road	Yukon-Koyukuk Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Gakona	Valdez-Cordova Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Gulkana	Valdez-Cordova Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Healy Lake	Southeast Fairbanks Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Kenny Lake	Valdez-Cordova Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Manley Hot Springs	Yukon-Koyukuk Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
McCarthy	Valdez-Cordova Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Mentasta Lake	Valdez-Cordova Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Minto	Yukon-Koyukuk Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Nenana	Yukon-Koyukuk Census Area	Home Rule City	C	Click Bishop (R)	6	David Talerico (R)
Northway Village	Southeast Fairbanks Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Rampart	Yukon-Koyukuk Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Silver Springs	Valdez-Cordova Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Slana	Valdez-Cordova Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Stevens Village	Yukon-Koyukuk Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Tanacross	Southeast Fairbanks Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Tanaana	Yukon-Koyukuk Census Area	1st Class City	C	Click Bishop (R)	6	David Talerico (R)
Tazlina	Valdez-Cordova Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Tetlin	Southeast Fairbanks Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Tok	Southeast Fairbanks Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Venetie	Yukon-Koyukuk Census Area	Unincorporated	C	Click Bishop (R)	6	David Talerico (R)
Glennallen	Valdez-Cordova Census Area	Unincorporated	C, E	Click Bishop (R), Mike Dunleavy (R)	06, 09	David Talerico (R), Jim Colver (R)
Delta Junction	Southeast Fairbanks Census Area	2nd Class City	E	Mike Dunleavy (R)	9	Jim Colver (R)
Deltana	Southeast Fairbanks Census Area	Unincorporated	E	Mike Dunleavy (R)	9	Jim Colver (R)
Mendeltna	Valdez-Cordova Census Area	Unincorporated	E	Mike Dunleavy (R)	9	Jim Colver (R)
Nelchina	Valdez-Cordova Census Area	Unincorporated	E	Mike Dunleavy (R)	9	Jim Colver (R)
Paxson	Valdez-Cordova Census Area	Unincorporated	E	Mike Dunleavy (R)	9	Jim Colver (R)
Tolsona	Valdez-Cordova Census Area	Unincorporated	E	Mike Dunleavy (R)	9	Jim Colver (R)
Valdez	Valdez-Cordova Census Area	Home Rule City	E	Mike Dunleavy (R)	9	Jim Colver (R)
Whitestone	Southeast Fairbanks Census Area	Unincorporated	E	Mike Dunleavy (R)	9	Jim Colver (R)
Whittier	Valdez-Cordova Census Area	2nd Class City	E	Mike Dunleavy (R)	9	Jim Colver (R)
Gold Sand Acres	Southeast Fairbanks Census Area	Unincorporated		Not able to determine		Not able to determine
Chenega	Valdez-Cordova Census Area	Unincorporated	P	Gary Stevens (R)	32	Louise Stutes (R)
Cordova	Valdez-Cordova Census Area	Home Rule City	P	Gary Stevens (R)	32	Louise Stutes (R)
Tatitlek	Valdez-Cordova Census Area	Unincorporated	P	Gary Stevens (R)	32	Louise Stutes (R)
Gustavus	Hoonah-Angoon Census Area	2nd Class City	Q	Dennis Egan (D)	33	Sam Kito (D)
Klukwan	Hoonah-Angoon Census Area	Unincorporated	Q	Dennis Egan (D)	33	Sam Kito (D)
Angoon	Hoonah-Angoon Census Area	2nd Class City	R	Bert Stedman (R)	35	Jonathan Kreiss-Tomkins (D)
Big Salt	Prince of Wales-Hyder Census Area	Unincorporated	R		35	
Coffman Cove	Prince of Wales-Hyder Census Area	2nd Class City	R	Bert Stedman (R)	35	Jonathan Kreiss-Tomkins (D)
Craig	Prince of Wales-Hyder Census Area	1st Class City	R	Bert Stedman (R)	35	Jonathan Kreiss-Tomkins (D)
Edna Bay	Prince of Wales-Hyder Census Area	2nd Class City	R	Bert Stedman (R)	35	Jonathan Kreiss-Tomkins (D)
Elfin Cove	Hoonah-Angoon Census Area	Unincorporated	R	Bert Stedman (R)	35	Jonathan Kreiss-Tomkins (D)
Hollis	Prince of Wales-Hyder Census Area	Unincorporated	R	Bert Stedman (R)	35	Jonathan Kreiss-Tomkins (D)
Hoonah	Hoonah-Angoon Census Area	1st Class City	R	Bert Stedman (R)	35	Jonathan Kreiss-Tomkins (D)
Hydaburg	Prince of Wales-Hyder Census Area	1st Class City	R	Bert Stedman (R)	36	Dan Ortiz (NA)
Hyder	Prince of Wales-Hyder Census Area	Unincorporated	R	Bert Stedman (R)	36	Dan Ortiz (NA)
Kake	Prince of Wales-Hyder Census Area	1st Class City	R	Bert Stedman (R)	35	Jonathan Kreiss-Tomkins (D)
Kasaan	Prince of Wales-Hyder Census Area	2nd Class City	R	Bert Stedman (R)	35	Jonathan Kreiss-Tomkins (D)
Klawock	Prince of Wales-Hyder Census Area	1st Class City	R	Bert Stedman (R)	35	Jonathan Kreiss-Tomkins (D)
Metlakatla	Prince of Wales-Hyder Census Area	Indian reservation organiz	R	Bert Stedman (R)	36	Dan Ortiz (NA)
Naukatli Bay	Prince of Wales-Hyder Census Area	Unincorporated	R	Bert Stedman (R)	35	Jonathan Kreiss-Tomkins (D)
Pelican	Hoonah-Angoon Census Area	1st Class City	R	Bert Stedman (R)	35	Jonathan Kreiss-Tomkins (D)
Point Baker	Prince of Wales-Hyder Census Area	Unincorporated	R	Bert Stedman (R)	35	Jonathan Kreiss-Tomkins (D)
Port Alexander	Prince of Wales-Hyder Census Area	2nd Class City	R	Bert Stedman (R)	35	Jonathan Kreiss-Tomkins (D)
Port Protection	Prince of Wales-Hyder Census Area	Unincorporated	R	Bert Stedman (R)	35	Jonathan Kreiss-Tomkins (D)
Tenakee Springs	Hoonah-Angoon Census Area	2nd Class City	R	Bert Stedman (R)	35	Jonathan Kreiss-Tomkins (D)
Thorne Bay	Prince of Wales-Hyder Census Area	2nd Class City	R	Bert Stedman (R)	35	Jonathan Kreiss-Tomkins (D)
Whale Pass	Prince of Wales-Hyder Census Area	Unincorporated	R	Bert Stedman (R)	35	Jonathan Kreiss-Tomkins (D)
Adak	Aleutians West Census Area	2nd Class City	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Akiachak	Bethel Census Area	Unincorporated	S	Lyman Hoffman (D)	38	Bob Herron (D)
Akiak	Bethel Census Area	2nd Class City	S	Lyman Hoffman (D)	38	Bob Herron (D)

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Aleknagik	Dillingham Census Area	2nd Class City	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Aniak	Bethel Census Area	2nd Class City	S	Lyman Hoffman (D)	38	Bob Herron (D)
Anvik	Yukon-Koyukuk Census Area	2nd Class City	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Atka	Aleutians West Census Area	2nd Class City	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Atmautluak	Bethel Census Area	Unincorporated	S	Lyman Hoffman (D)	38	Bob Herron (D)
Bethel	Bethel Census Area	2nd Class City	S	Lyman Hoffman (D)	38	Bob Herron (D)
Chefornak	Bethel Census Area	2nd Class City	S	Lyman Hoffman (D)	38	Bob Herron (D)
Chuathbaluk	Bethel Census Area	2nd Class City	S	Lyman Hoffman (D)	38	Bob Herron (D)
Clark's Point	Dillingham Census Area	2nd Class City	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Crooked Creek	Bethel Census Area	Unincorporated	S	Lyman Hoffman (D)	38	Bob Herron (D)
Dillingham	Dillingham Census Area	1st Class City	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Eek	Bethel Census Area	2nd Class City	S	Lyman Hoffman (D)	38	Bob Herron (D)
Ekwok	Dillingham Census Area	2nd Class City	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Goodnews Bay	Bethel Census Area	2nd Class City	S	Lyman Hoffman (D)	38	Bob Herron (D)
Grayling	Yukon-Koyukuk Census Area	2nd Class City	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Holy Cross	Yukon-Koyukuk Census Area	2nd Class City	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Kasigluk	Bethel Census Area	Unincorporated	S	Lyman Hoffman (D)	38	Bob Herron (D)
Kipnuk	Bethel Census Area	Unincorporated	S	Lyman Hoffman (D)	38	Bob Herron (D)
Koliganek	Dillingham Census Area	Unincorporated	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Kongiganak	Bethel Census Area	Unincorporated	S	Lyman Hoffman (D)	38	Bob Herron (D)
Kwethluk	Bethel Census Area	2nd Class City	S	Lyman Hoffman (D)	38	Bob Herron (D)
Kwigillingok	Bethel Census Area	Unincorporated	S	Lyman Hoffman (D)	38	Bob Herron (D)
Lime Village	Bethel Census Area	Unincorporated	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Lower Kalskag	Bethel Census Area	2nd Class City	S	Lyman Hoffman (D)	38	Bob Herron (D)
Manokotak	Dillingham Census Area	2nd Class City	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Marshall	Wade Hampton Census Area	2nd Class City	S	Lyman Hoffman (D)	38	Bob Herron (D)
McGrath	Yukon-Koyukuk Census Area	2nd Class City	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Mekoryuk	Bethel Census Area	2nd Class City	S	Lyman Hoffman (D)	38	Bob Herron (D)
Napakiak	Bethel Census Area	2nd Class City	S	Lyman Hoffman (D)	38	Bob Herron (D)
Napaskiak	Bethel Census Area	2nd Class City	S	Lyman Hoffman (D)	38	Bob Herron (D)
New Stuyahok	Dillingham Census Area	2nd Class City	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Newtok	Bethel Census Area	Unincorporated	S	Lyman Hoffman (D)	38	Bob Herron (D)
Nightmute	Bethel Census Area	2nd Class City	S	Lyman Hoffman (D)	38	Bob Herron (D)
Nikolai	Yukon-Koyukuk Census Area	2nd Class City	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Nikolski	Aleutians West Census Area	Unincorporated	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Nunapitchook	Bethel Census Area	2nd Class City	S	Lyman Hoffman (D)	38	Bob Herron (D)
Oscarville	Bethel Census Area	Unincorporated	S	Lyman Hoffman (D)	38	Bob Herron (D)
Platinum	Bethel Census Area	2nd Class City	S	Lyman Hoffman (D)	38	Bob Herron (D)
Quinhagak	Bethel Census Area	2nd Class City	S	Lyman Hoffman (D)	38	Bob Herron (D)
Red Devil	Bethel Census Area	Unincorporated	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Russian Mission	Wade Hampton Census Area	2nd Class City	S	Lyman Hoffman (D)	38	Bob Herron (D)
Saint George	Aleutians West Census Area	2nd Class City	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Saint Paul	Aleutians West Census Area	2nd Class City	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Shageluk	Yukon-Koyukuk Census Area	2nd Class City	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Sleetmute	Bethel Census Area	Unincorporated	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Stony River	Bethel Census Area	Unincorporated	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Takotna	Yukon-Koyukuk Census Area	Unincorporated	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Togiak	Dillingham Census Area	2nd Class City	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Toksook Bay	Bethel Census Area	2nd Class City	S	Lyman Hoffman (D)	38	Bob Herron (D)
Tuluksak	Bethel Census Area	Unincorporated	S	Lyman Hoffman (D)	38	Bob Herron (D)
Tuntutuliak	Bethel Census Area	Unincorporated	S	Lyman Hoffman (D)	38	Bob Herron (D)
Tununak	Bethel Census Area	Unincorporated	S	Lyman Hoffman (D)	38	Bob Herron (D)
Twin Hills	Dillingham Census Area	Unincorporated	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Unalaska	Aleutians West Census Area	1st Class City	S	Lyman Hoffman (D)	37	Bryce Edgmon (D)
Upper Kalskag	Bethel Census Area	2nd Class City	S	Lyman Hoffman (D)	38	Bob Herron (D)
Alakanuk	Wade Hampton Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Alatna	Yukon-Koyukuk Census Area	Unincorporated	T	Donald Olson (D)	40	Benjamin Nageak (D)
Allakaket	Yukon-Koyukuk Census Area	2nd Class City	T	Donald Olson (D)	40	Benjamin Nageak (D)
Bettles	Yukon-Koyukuk Census Area	2nd Class City	T	Donald Olson (D)	40	Benjamin Nageak (D)
Brevig Mission	Nome Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Chevak	Wade Hampton Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Diomedes	Nome Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Elim	Nome Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Emmonak	Wade Hampton Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Galena	Yukon-Koyukuk Census Area	1st Class City	T	Donald Olson (D)	39	Neal Foster (D)
Gambell	Nome Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Golovin	Nome Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Hooper Bay	Wade Hampton Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Hughes	Yukon-Koyukuk Census Area	2nd Class City	T	Donald Olson (D)	40	Benjamin Nageak (D)
Huslia	Yukon-Koyukuk Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Kaltag	Yukon-Koyukuk Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Kotlik	Wade Hampton Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Koyuk	Nome Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Koyukuk	Yukon-Koyukuk Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Mountain Village	Wade Hampton Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Nome	Nome Census Area	1st Class City	T	Donald Olson (D)	39	Neal Foster (D)
Nulato	Yukon-Koyukuk Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)

Nunam Iqua	Wade Hampton Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Pilot Station	Wade Hampton Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Pitkas Point	Wade Hampton Census Area	Unincorporated	T	Donald Olson (D)	39	Neal Foster (D)
Ruby	Yukon-Koyukuk Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Saint Mary's	Wade Hampton Census Area	1st Class City	T	Donald Olson (D)	39	Neal Foster (D)
Saint Michael	Nome Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Savoonga	Nome Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Scammon Bay	Wade Hampton Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Shaktoolik	Nome Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Shishmaref	Nome Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Stebbins	Nome Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Teller	Nome Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Unalakleet	Nome Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
Wales	Nome Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)
White Mountain	Nome Census Area	2nd Class City	T	Donald Olson (D)	39	Neal Foster (D)



Memorandum

To: Quinlan Steiner
Public Defender

From: Tracey Wollenberg
Deputy Public Defender, Appellate Division

Date: March 12, 2015

Subject: Senate Bill 30, Version X

On Tuesday, March 10, 2015, I testified before the Senate Finance Committee on Senate Bill 30, Version X. The Committee requested my comments in writing. Below is a summary of my testimony.

Return of Marijuana to the Controlled Substances Schedule

Last month, the Senate Judiciary Committee approved a prior version of Senate Bill 30 that removed marijuana from the controlled substances schedule. Version X of Senate Bill 30 returns marijuana to the controlled substances schedule. In doing so, it presumes that marijuana remains illegal, subject to certain exceptions as passed in the initiative, rather than decriminalizing marijuana, regulating it like alcohol, and making certain marijuana-related conduct illegal. This undermines the intent of the initiative. In AS 17.38.010, the "Purpose and findings" section of the initiative, the voters declared "that the use of marijuana should be legal for persons 21 years of age or older" and identified the diversion of law enforcement resources to violent and property crimes as one of the purposes of the initiative. As noted above, the initiative itself is entitled, "An Act to tax and regulate the production, sale, and use of marijuana." Removing marijuana from the controlled substances schedule, while not required by the initiative, is more consistent with the intent of voters and the purposes of the initiative.

Inconsistencies Between the Proposed Misconduct Involving Controlled Substance Crimes Related to Marijuana and the Initiative

Section 4. AS 11.71.040. This provision would make it a class C felony to possess "one or more preparations, compounds, mixtures, or substances of an aggregate weight of 16 ounces or more containing a schedule VIA controlled substance." (As noted above, marijuana would remain a

schedule VIA controlled substance under this bill.) This proposed provision is inconsistent with the initiative in two ways.¹

First, AS 17.38.020—the personal use provision of the initiative—permits a person to possess, grow, process, or transport up to six marijuana plants, with three or fewer being mature, flowering plants. It also allows a person to possess all the marijuana produced by the plants on the premises where the plants were grown. The proposed 16-ounce provision would limit the amount of marijuana a person could possess, even when that marijuana was produced from plants grown by the person and possessed on the premises where the plants were grown. Thus, if a single plant generally yields 3 to 4 ounces of usable marijuana, a person who procures that much from three flowering plants and stores some of that marijuana in his or her freezer before growing more will ultimately contravene this felony provision once exceeding the 16-ounce limit, even though that conduct is permitted under the initiative.

Second, because marijuana is defined in the bill (Section 18) and in the initiative (AS 17.38.900) to include “all parts of the plant,” an “aggregate weight of 16 ounces or more containing a schedule VIA controlled substance” (marijuana) would mean that the plants themselves could not have an “aggregate weight” of more than 16 ounces. This was likely not the intent, as a different provision of AS 11.71.040 (which would have an equivalent penalty) prohibits possession of 25 or more marijuana plants—an amount significantly greater than plants with an aggregate weight of 16 ounces. It is possible that three mature, flowering plants, depending on their size, could have an aggregate weight of more than 16 ounces; criminalizing this conduct would contravene the initiative, which permits the possession of six marijuana plants, three of which may be mature, flowering plants.

One way to potentially fix this problem is to return to the dichotomy between marijuana plants and usable marijuana previously adopted by the Senate Judiciary Committee. This would clarify what conduct is permitted, without requiring individuals to guess as to how much their plants weigh or might weigh when fully grown.

Section 6.

AS 11.71.050(a)(1)(A). This provision would make it a class A misdemeanor to transport, manufacture or deliver, or possess with the intent to manufacture or deliver, “one or more preparations, compounds, mixtures, or substances of an aggregate weight of more than one ounce containing a schedule VIA controlled substance.” This provision is inconsistent with the initiative in several ways.

First, the initiative specifically allows for the delivery of more than one ounce, contrary to this provision. Alaska Statute 17.38.020(c) permits the transfer of up to one ounce of marijuana *plus* up to six immature marijuana plants to a person at least 21 years of age without remuneration.

¹ Note that this proposed language is mirrored in revisions to AS 17.38.020 in Section 18.

Second, as noted above, the initiative permits the possession, growing, processing, or transporting of up to six plants, three of which can be flowering. Similar to the problem noted above, because marijuana is defined to include all parts of the plant, this provision would prohibit a person from growing plants with an aggregate weight of more than one ounce, effectively nullifying the 6-plant provision of the initiative.

Third, because a person is permitted, under the initiative, to possess all the marijuana from the plants on the premises where the plants were grown, and because a person is allowed to deliver up to one ounce plus six immature plants to another adult (without remuneration), there is no general prohibition under the initiative on possessing marijuana with the intent to deliver it. In other words, a person can possess more than one ounce of marijuana with the intent to deliver it; a person simply cannot deliver more than one ounce (plus six immature plants) to any one person at a given time. The provision should be clarified to reflect this.²

AS 11.71.050(a)(2)(E). This provision would make it a class A misdemeanor to possess “one or more preparations, compounds, mixtures, or substances of an aggregate weight of at least three ounces but less than 16 ounces containing a schedule VIA controlled substance.” This provision implicates the same concerns noted above. First, under the initiative, a person can possess up to six plants, three of which are flowering; these plants may have an aggregate weight within the range precluded by this statute. Second, under the initiative, a person can possess all the marijuana from plants on the premises where the plants were grown; but the marijuana produced from three flowering plants is very likely to be more than three ounces.

Section 7. AS 11.71.050(c). The bill adds a new non-applicability section to this crime, fifth-degree misconduct involving a controlled substance, stating that the marijuana-related crimes in the statute do not apply to “a person who is lawfully possessing, manufacturing, delivering, possessing with the intent to manufacture or deliver, or transporting a schedule VIA controlled substance in accordance with AS 17.38.020.” In other words, this provision says that if AS 11.71.050 criminalizes conduct that is otherwise legal under AS 17.38.020 of the initiative, the criminal provisions do not apply.

Structuring the bill this way is likely to create confusion and possibly generate litigation. In essence, the bill creates a wide class of conduct that appears to be criminalized (as noted above) but is not actually criminal and requires a person to reconcile two different provisions in two different titles (Titles 11 and 17) in order to determine what conduct is permissible. It is possible that this could lead to arrests or expenditures of resources that could otherwise be avoided if the only conduct that is criminalized is conduct that is not otherwise legalized in AS 17.38.020.

While this type of non-applicability provision is used in the criminal code, it is not common. And in those situations where it is used, the exempted conduct is generally based on certain limited factual circumstances rather than whole categories of conduct.

² This concern was identified after my oral testimony of March 10 and thus was not previously provided to the Committee.

To the extent the non-applicability provision is retained, the Committee should make clear, consistent with the March 6, 2015 memorandum from Doug Gardner, Director of Legislative Legal Services, that a person is not subject to prosecution or arrest for the conduct listed in the non-applicability provision, the non-applicability provision in no way sets up a defense, and in a criminal prosecution of marijuana-related conduct under this statute, the State retains the burden of establishing that a person's conduct was both unlawful under the criminal statutes and fell outside the scope of AS 17.38.020.

Section 8.

AS 11.71.060(a)(2)(A). This provision would make it a class B misdemeanor to possess "one or more preparations, compounds, mixtures, or substances of an aggregate weight of at least two ounces but less than three ounces containing a schedule VIA controlled substance." This provision implicates the same concerns noted above with respect to AS 11.71.050(a)(2)(E).

AS 11.71.060(a)(5). This provision would make it a class B misdemeanor to possess, display, deliver, or transport "one or more preparations, compounds, mixtures, or substances of an aggregate weight of more than one ounce containing a schedule VIA controlled substance in a public place." This provision implicates the same concerns noted above with respect to AS 11.71.050(a)(1)(A).

Section 9. AS 11.71.060(c). This provision sets out a non-applicability provision related to AS 11.71.060 and shares the same concerns as the non-applicability provision in AS 11.71.050, as discussed above.

Section 10. AS 11.71.071(a)(1). This provision would make it a violation to possess "one or more preparations, compounds, mixtures, or substances of an aggregate weight of more than one ounce containing a schedule VIA controlled substance in a public place." This provision implicates the same concerns noted above with respect to AS 11.71.050(a)(2)(E). Additionally, at these lower levels, this bill may violate the privacy rights set out in *Ravin v. State*, 537 P.2d 494 (Alaska 1975), pertaining to the use and possession of marijuana by a person in his or her home. The initiative specifically states that it was not intended to diminish the right to privacy as interpreted in *Ravin*.

Penalty in AS 11.71.060(c) Denotes Criminality

Section 10. AS 11.71.071(c). This provision sets out the penalty for seventh-degree misconduct involving a controlled substance. It states that this offense is a violation punishable by a fine but allows for the imposition of certain penalties (suspended imposition of sentence under AS 12.55.085 and probation and referral to a community diversion panel) that may entitle a person to a jury trial and, if indigent, to court-appointed counsel and may essentially elevate this offense to a criminal-like status not intended by the Committee.

Drug Overdose Language Too Narrow

Section 13. In the prior version of the bill, the Senate Judiciary Committee provided an exemption from prosecution for a person who was seeking assistance for another person suffering an "adverse reaction" from marijuana use. The Committee should consider expanding this

provision from “drug overdose” to “adverse reaction” as it pertains to marijuana use given that the common understanding of the term “drug overdose” may be too narrow in this context and may not properly incentivize people to seek assistance when necessary.

Broad Definition of “Remuneration”

Section 15. Version X adopts a broad definition of remuneration as “an exchange for anything of value, whether by sale, barter, exchange, or other means.” “Remuneration” is commonly understood to mean money paid for work or service; thus, this definition is significantly broader than the term used in the initiative, which was not defined. It is also broader than a corresponding alcohol provision in AS 04.11.010, which prohibits non-licensees from selling, trafficking, or bartering an alcoholic beverage.

Additionally, this broad definition may have unintended consequences, criminalizing conduct the legislature—and the initiative—intends to be legal. For example, if a friend helps a person fix his sink one weekend and, in appreciation, the person then shares a marijuana joint with the friend or gives him a small bag of marijuana below the allowable limit, it could be argued under this broad definition that the person delivered marijuana for remuneration.

Provisions Relating to Those Under 21

Section 26.

AS 17.38.210. This provision generally prohibits access of persons under 21 years of age to registered marijuana premises but provides certain limited exceptions. The provision does not include an exception for a person under 21 who is employed by an outside vendor and requires temporary access to the marijuana establishment—for example, for purposes of delivering a package or furniture or for purposes of providing construction services. It also does not permit access by a medical marijuana patient who is at least 18 but under 21 and does not have, or is not accompanied by, a parent, guardian, or spouse over 21.

AS 17.38.240. This provision would not make the records of those under 21 who commit certain marijuana violations confidential; rather, the provision would simply remove these files from CourtView, the court system’s publicly-accessible database, at the conclusion of the court proceedings.

Broad Definition of “Open Marijuana Container”

Section 31. This provision defines “open marijuana container” as “a receptacle or marijuana accessory that contains any amount of marijuana and that is open or has a broken seal, and any amount of marijuana is removed.” This definition is broader than the definition in the previous draft bill, which required evidence of use of marijuana in the vehicle, consistent with the purpose of the open container law. Unless the definition is amended to require removal of the marijuana in the vehicle, or use of marijuana in the vehicle, this law may capture people it is not intended to, who have no intention of using marijuana in the car and may even have taken steps to conceal it. For example, a person may take a small bag of marijuana that has been previously opened (so the seal is

broken) from his home to a friend's home. If he places it in a closed container in the back seat of his car, without ever intending to remove the marijuana in the car, he has violated the open container provision—since the seal was broken and the marijuana was neither in the trunk nor behind the last upright seat in a hatchback or similar vehicle. Similarly, because the provision includes a “marijuana accessory,” a marijuana pipe that has residue in it and is in a person's purse in the back seat may qualify as an “open marijuana container.”



March 13, 2015

Alaska Senate Finance Committee
Attention Senator Pete Kelly and Anna MacKinnon, Co-Chairs
Pouch V
State Capitol
Juneau, Alaska 99801

Cc: Committee members

Dear Chairs Kelly and MacKinnon and members of the committee:

Thank you for the opportunity to weigh in on Amendment 6 of SB 30, Draft X. We have several concerns as outlined below.

Sincerely,

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

Rachelle Yeung, Esq.
Legislative Analyst
Marijuana Policy Project

1. References to Schedule VIA

Am. 6 replaces references to a Schedule VIA controlled substance with “usable marijuana.”

If the intent was to replace all references to “Schedule VIA” with “usable marijuana,” the following instances have been overlooked in SB 30, Draft X:

- p. 4, line 8; and
- p. 8, line 12.

If this means that “usable marijuana” will no longer be considered a controlled substance, that’s welcome (though also lowering penalties, as Judiciary did, would be far better). However, this amendment does not appear to include deleting marijuana from the CSA. For clarity, we recommend the following amendment in addition:

Page 23, line 20, following “11.71.160(f)(2),”:
Insert “11.71.190,”

2. Definition of Usable Marijuana

Furthermore, the definition of “usable marijuana” does not mirror the definition of marijuana in Measure 2. The intent and effect of this new term is unclear. Of course, it would not be inconsistent with the intent of the initiative to exclude whole plants or the

buds of marijuana growing on plants when assessing the weight of marijuana. However, it is unclear whether a new definition of “usable marijuana,” which excludes stalks and roots of the plant, is the most effective manner in which to accomplish this goal. Of course, if AS 17.38.020 remains intact and is not altered by other portions of this bill, that should trump any language to the contrary.

3. Amendment of AS 11.71.060(a)(2)(A)

The most concerning and confusing combination of changes that Amendment 6 makes is to restore AS 11.71.060(a)(2)(A) to referring to “less than an ounce,” making possession of a preparation containing marijuana of that amount a class B misdemeanor, which would be in direct violation of Measure 2. It also deletes the non-applicability clause in AS 11.71.060(c), which would remove personal legal protections from Measure 2. However, Amendment 6 later repeals that subsection entirely, which renders the changes above null. If possible, we recommend repealing that AS 11.71.060(a)(2)(A) without making the redundant change to the language of AS 11.71.060(a)(2)(A).

29th Alaska State Legislature

SENATOR
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CHAIR

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Senate Judiciary Committee

SPONSOR STATEMENT

CS Senate Bill 30

*Marijuana Regulation; Controlled Substances; Crimes; Defenses
Version F*

Senate Bill 30 revises Alaska's criminal statutes to ensure the public safety of our communities following the passage of ballot measure 2 to legalize and regulate marijuana. Senate Bill 30 provides clear rules for the public and peace officers.

An earlier draft of the bill-version "N" was structured in a manner that would have provided citizens with a defense to legal sanctions stemming from the use, cultivation or sale of marijuana. The initiative's sponsors and others expressed concern over this approach because it was at odds with the intent of the ballot measure to make these activities affirmatively legal. They asserted that by only creating a "defense" to a legal sanction, the onus, and expense, of avoiding punishment would fall on the person participating in lawful marijuana-related activities.

The Senate Judiciary Committee found these concerns to be persuasive and has redrafted the bill to ensure that the activities addressed in the ballot measure are affirmatively legal. Thus, Committee Substitute for Senate Bill 30-version "F" removes marijuana from the controlled substances schedules. To align with the will of the voters this committee substitute aims at clearly setting the same boundaries within Alaska Statutes that are set for the use of alcohol. The majority of this version is conforming sections of statutes that apply.

Version "F" of the committee substitute includes new section 44 which, with minor stylistic changes, reflects the initiative language set forth in AS 17.38.020 assuring the right to recreational use, within specified parameters, of marijuana.

Version "F" also makes a number of changes addressing "misconduct involving marijuana" ("MIM") offenses and violations. Version "F" modifies the definitions relating to the manner in which the amount of marijuana that may be permissibly manufactured, produced, cultivated, possessed, delivered, or transported is calculated. It also clarifies the amounts of marijuana that trigger the various levels of MIM offenses or violations.

This legislation is needed in response to the Alaskans we serve. We strongly encourage your support of Senate Bill 30.

SENATOR
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29th Alaska State Legislature



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Senate Judiciary Committee

CS for SENATE BILL 30 (*Version F*)

SECTIONAL ANALYSIS

Overview

Secs. 1 – 40, 42, & 43 are conforming amendments to current law which show marijuana, hash and hashish oil to not be a controlled substance.

Sec. 44 – 49 relates to the use of marijuana as provided in the initiative.

Sec. 50 relates to the rulemaking powers of the Marijuana Control Board.

Sec. 51 establishes local control for established villages.

Sec. 52 creates new crimes associated with the misconduct of marijuana

Secs. 53 – 54 establishes definitions.

Secs. 55 – 57 are conforming amendments dealing with protective orders and victim compensation.

Secs. 58 – 78 are conforming amendments dealing with drug testing in the workplace and employment.

Secs. 80 – 125 are conforming amendments dealing with drivers licenses and operating motor vehicles while under the influence of marijuana.

Secs. 126-127 creates new sections dealing with enforcement and municipal control.

Secs. 128-132 are conforming amendments addressing parole administration and prison management.

Secs. 133-137 are conforming amendments concerning landlords and tenants.

Secs. 139-157 are conforming amendments dealing with substance abuse, testing and treatment.

Sec. 158 are repealers.

Sec. 159-160 repealed sections of law and effective date.

Section 1 - CONFORMING

Page 1

AS 02.30.030(b). Reckless Operation of Aircraft.

A person may not operate an aircraft occupied by a crew member or passenger who is “obviously” under the influence of intoxicating liquor or a controlled substance. Adds “marijuana.”

Section 2 - CONFORMING

Page 2

AS 04.16.050(e). Possession, control, or consumption by persons under 21.

Requires the court, as a condition of probation, to prohibit the use of inhalants, controlled substances and alcohol as a condition of probation. Adds “marijuana.”

Section 3 - CONFORMING

Page 2

AS 05.45.100(c). Duties and responsibilities of skiers.

Prohibits skiers from moving uphill on a tramway, or using a ski slope or trail while impaired by alcohol or a controlled substance. Adds “marijuana.”

Section 4 - CONFORMING

Page 3

AS 08.68.270. Grounds for denial, suspension, or revocation of a license.

The board or nursing may deny, suspend, or revoke a nursing license for habitual abuse of alcohol or illegal use of controlled substances. Adds “marijuana.”

Section 5 - CONFORMING

Page 3

AS 08.72.272. Prohibited prescriptions in the practice of optometry.

Removes marijuana from the list of controlled substances an optometrist is prohibited from prescribing.

Section 6 - CONFORMING

Page 4

AS 08.76.170(a). Customer and transaction limitations.

Prohibits a pawnbroker from entering into a transaction with a person under the influence of alcohol or a controlled substance. Adds “marijuana.”

Section 7 - CONFORMING

Page 4

AS 09.50.170. Abatement of places used for certain acts.

A person in control of property used for illegal activities involving prostitution, alcoholic beverages, gambling and controlled substances is guilty of maintaining a nuisance which may be abated (removed). Adds "marijuana" and definition for "illegal activity involving marijuana."

Section 8 - CONFORMING

Page 5

AS 09.60.070(c). Attorney fees for victims of serious criminal offenses.

Adds to a "serious criminal offense" listing of offenses for which a person may recover from an offender full reasonable attorney fees the act of driving under the influence marijuana or any other crime committed by the offender while driving under the influence of marijuana.

Section 9 - CONFORMING

Page 5

AS 09.65.210. Damages resulting from commission of a felony or while under the influence of alcohol or drugs.

Provides that a person, or the person's estate, may not recover damages for personal injury or death if the injury or death occurred while the person was engaged in certain criminal conduct. Adds operating a vehicle while under the influence of marijuana to this list of criminal conduct.

Section 10 - CONFORMING

Page 7

AS 09.65.315(a). Limitation of liability and damages resulting from driving vehicle of a person under the influence of alcoholic beverage.

This statute excludes a person from personal liability beyond the limits of an applicable insurance policy for damages resulting from a motor vehicle accident, if the person was not under the influence of alcohol, inhalants or controlled substances; was driving the vehicle to the owner's or operator's residence at the request of the owner or operator or a law enforcement officer because the owner of the vehicle was under the influence of an alcoholic beverage. Adds "marijuana".

Section 11 - CONFORMING

Page 7

AS 09.65.315(e). Definition of "marijuana".

Provides that definition of marijuana is to be found in 17.38.900 (see. P.37)

Section 12 - CONFORMING

Page 7

AS 09.65.320(b). Nonrecovery for noneconomic losses resulting from operating a motor vehicle while uninsured.

Prohibits recovery of noneconomic losses (i.e., pain, inconvenience, loss of enjoyment of life) in cases where the person who is liable for the personal injury or death was driving under the influence of an alcoholic beverage, inhalant, or controlled substance. Adds “marijuana”.

Section 13 - CONFORMING

Page 8

AS 11.41.110(a). Murder in the second degree.

Line 21 - Removes reference to marijuana [11.71.040(a)(2)] as a controlled substance, and provides a stylistic drafting change using the language “this chapter” rather than “AS 11.41”.

Section 14 - CONFORMING

Page 9

AS 11.41.150 (a). Murder of an unborn child.

Line 19 - Removes reference to marijuana [11.71.040(a)(2)] as a controlled substance.

Section 15 - CONFORMING

Page 10

AS 11.61.200(a). Misconduct involving weapons in the third degree.

In subsection (4) adds prohibition to knowingly sell or transfer a firearm to a person who is substantially impaired by marijuana. In subsection (7) M.I.W. 3 is committed if during the act of Criminal Trespass in the first degree the person possesses a firearm and is under the influence of alcohol or a controlled substance. Adds “marijuana”.

Section 16 - CONFORMING

Page 11

AS 11.61.210(a). Misconduct involving weapons in the fourth degree.

In subsection (1) adds prohibition to possess on the person or in the vehicle in which the person is present a firearm if the person is impaired by marijuana.

Section 17 - CONFORMING

Page 12

AS 11.71.030(a). Misconduct involving a controlled substance - third degree.

Line 30 - Removes reference to VIA (marijuana) as a controlled substance.

Section 18 - CONFORMING

Pages 13 & 14

AS 11.71.040(a). Misconduct involving a controlled substance – fourth degree.

Removes reference to VIA (marijuana).

Section 19 - CONFORMING

Page 15

AS 11.71.110(a). Controlled Substances Advisory Committee.

Removes AS 11.71.190 (marijuana) from the list of drugs the committee is presently tasked to advise the governor concerning the need to add, delete, or reschedule substances in the Controlled Substances schedule in AS 11.71.

Section 20 - CONFORMING

Page 16

AS 11.71.120(a). Authority to schedule controlled substances.

Removes AS 11.71.190 (marijuana) from committee recommendations to governor for rescheduling of controlled substances.

Section 21 - CONFORMING

Page 16

AS 11.71.180(a). Schedule VA Controlled Substances.

Removes reference to VIA (marijuana) as a controlled substance.

Section 22 - CONFORMING

Page 16

AS 11.71.311(a). Restriction on prosecution for certain persons in connection with a drug overdose.

Provides that a person may not be prosecuted for certain misconduct involving controlled substances offenses if the person seeks medical or law enforcement assistance for another person they believe is experiencing a drug overdose and the evidence was obtained as a result of the person seeking assistance. Repeals reference to marijuana conduct now allowed under the initiative, and retains the reference to controlled substance conduct that remains illegal.

Section 23 - CONFORMING

Page 17

AS 11.71.900(4). Definitions.

Removes 11.71.190 (Schedule VIA) from definition of "controlled substances."

Section 24 - CONFORMING

Page 17

AS 11.71.900(13). Definitions.

Removes reference to marijuana from the definition of "manufacture" in Controlled Substances definitions.

Section 25 - CONFORMING

Page 17

AS 11.81.900(b)(34). Definitions.

Adds “marijuana” to the definition of “intoxicated” in Title 11 Criminal Law definitions.

Section 26 - CONFORMING

Page 17

AS 12.30.011(b). Release before trial.

Provides that a judicial officer may, as a condition of bail, prohibit a person from using or possessing marijuana; require a person to enroll in the 24/7 testing program (SB64) if the person was charged with a marijuana related unclassified felony; and prohibit a person from entering a registered marijuana establishment, as provided in 17.38.

Section 27 - CONFORMING

Page 19

AS 12.30.016. Release for before trial in certain cases.

Adds new subsection (g), providing that in prosecutions for new Misconduct Involving Marijuana offenses (17.38.200-210) a judge may prohibit the person from using and/or possessing marijuana; require a person to submit to searches based on reasonable suspicion of a peace officer that the person is violating terms of release prohibiting marijuana related activities; require a person to submit to drug testing; require a person to enroll in the 24/7 testing program; and prohibiting a person from entering a place where marijuana is used, manufactured, or sold.

Section 28 - CONFORMING

Page 20

AS 12.30.080. Definitions of marijuana related terms.

Provides that definitions for “marijuana”, “marijuana accessories” and “marijuana products” have the meanings given in AS 17.38.900.

Section 29 - CONFORMING

Page 20

AS 12.45.084(a). Laboratory report of a controlled substance.

Provides that in prosecutions for new misconduct involving marijuana offenses, a copy of the DPS laboratory report is prima facie evidence of the content, identity and weight of marijuana, or usable marijuana, and establishes required content for such reports. Adds “marijuana” and “usable marijuana” as defined in AS 17.38.900.

Section 30 - CONFORMING

Page 20

AS 12.55.015(a). Authorized sentences (sentencing and probation).

Provides that a court at sentencing may order a person to refrain from using marijuana for a period of time.

Section 31 - CONFORMING

Page 21

AS 12.55.015(j). Authorized sentences (sentencing and probation).

Provides that the court is not limited or restricted from ordering restrictions on the use of marijuana at the time of sentencing or probation, just as they are not limited in their orders about the consumption of alcohol.

Section 32 - CONFORMING

Page 21

AS 12.55.155(c)(5). Factors in aggravation and mitigation.

Provides that it is an aggravator at sentencing that the person knew the victim was particularly vulnerable or incapable of resistance due to consumption of marijuana, and other factors.

Section 33 - CONFORMING

Page 21

AS 12.55.155(c)(30). Factors in aggravation and mitigation.

Provides that it is an aggravator at sentencing that a person convicted of a sexual offense knowingly supplied marijuana to a victim in furtherance of the offense with the intent to incapacitate the victim.

Section 34 - CONFORMING

Page 22

AS 12.55.155(g). Factors in aggravation and mitigation.

Provides that voluntary marijuana intoxication or addiction may not be considered an aggravating or mitigating factor.

Section 35 - CONFORMING

Page 22

AS 12.55.185. Definitions – Sentencing and Probation.

Provides that “marijuana” has the definition provided in AS 17.38.900.

Section 36 - CONFORMING

Page 22

AS 17.21.010(b). Illicit synthetic drugs.

Relating to illicit synthetic drugs, adds marijuana in places that refer to controlled substances.

Section 37 - CONFORMING

Page 23

AS 17.21.090(3). Definitions - Synthetic drug.

Includes marijuana in places referencing controlled substances.

Section 38 - CONFORMING

AS 17.30.070(c). Order forms; prescriptions.

Relating to regulation of manufacture, distribution, prescription and dispensing of controlled substances- removes AS 11.71.190 (marijuana) as a controlled substance.

Section 39 - CONFORMING

Page 23

AS 17.30.080(a). Unlawful administration, prescription, and dispensation of controlled substances.

Relating to the Federal Controlled Substances Act and prescribers, removes AS 11.71.190 (marijuana).

Section 40 - CONFORMING

Page 23

AS 17.30.080(b). Unlawful administration, prescription, and dispensation of controlled substances.

Removes state statutory reference to AS 11.71.190 (marijuana) in the Federal Controlled Substances Act.

Section 41 - SUBSTANTIVE

Page 24

AS 17.30.140. Education and research.

Directs the Department of Health and Social Services, working in cooperation with the Departments of Law and Public Safety, to develop educational programs for the public regarding alcohol and marijuana abuse prevention.

Section 42 - CONFORMING

Page 25

AS 17.37.030. Privileged medical use of marijuana.

Provides an affirmative defense to a prosecution related to marijuana for registered caregivers charged with offenses related to medical marijuana as previously provided in AS 11.71.090, is now provided in AS 17.38.270 (see p.34).

Section 43 - CONFORMING

Page 25

AS 17.37.070(8). Definitions.

Concerning the definition of medical use of marijuana. Provides the definition of "medical use" for marijuana as previously provided in AS 11.71.090.

Section 44 - INITIATIVE

Page 25

AS 17.38.020. Personal use of marijuana.

Deletes [notwithstanding any other provision of law, except as otherwise provided in this chapter, the] and makes other Uniform Rules Legislative Drafting changes to conform ballot initiative language to legislative drafting standards. This section states that certain marijuana related activities are legal and not a basis for seizure or forfeiture, and prohibits use of marijuana in a public place.

Additionally provides that the definition of “assisting” does not include growing, possessing, processing, using, displaying, purchasing, or transporting marijuana and marijuana plants in excess of the amount allowed in this section.

Section 45 - INITIATIVE

Page 26

AS 17.38.070(a). Lawful operation of marijuana-related facilities.

Relating to retail marijuana stores. Deletes [notwithstanding any other provision of law, the] and makes other Uniform Rules legislative drafting changes to conform ballot initiative language to legislative drafting standards. Provides that certain marijuana related acts are legal and not a basis for seizure or forfeiture when performed by a registered retail marijuana store, or a person 21 years of age or older acting in the person’s capacity as an owner, employee or agent of the store.

Section 46 - INITIATIVE

Page 27

AS 17.38.070(b). Lawful operation of marijuana related facilities.

Relating to marijuana cultivation facilities. Deletes [notwithstanding any other provision of law, the] and makes other Uniform Rules legislative drafting changes to conform ballot initiative language to legislative drafting standards. Provides that certain marijuana related acts are legal and not a basis for seizure or forfeiture when performed by a registered marijuana cultivation facility, or a person 21 years of age or older acting in the person’s capacity as an owner, employee or agent of the facility.

Section 47 - INITIATIVE

Page 27

AS 17.38.070(c). Lawful operation of marijuana related facilities.

Relating to marijuana product manufacturing facilities. Deletes [notwithstanding any other provision of law, the] and makes other Uniform Rules legislative drafting changes to conform ballot initiative language to legislative drafting standards. Provides that certain marijuana related acts are legal and not a basis for seizure or forfeiture when performed by a registered marijuana product manufacturing facility, or a person 21 years of age or older acting in the person’s capacity as an owner, employee or agent of the facility.

Section 48 - INITIATIVE

AS 17.38.070(d). Lawful operation of marijuana related facilities.

Relating to marijuana testing facilities. Deletes [notwithstanding any other provision of law, the] and makes other Uniform Rules legislative drafting changes to conform ballot initiative language to legislative drafting standards. Provides that certain marijuana related acts are legal and not a basis for seizure or forfeiture when performed by a registered marijuana testing facility, or a person 21 years of age or older acting in the person's capacity as an owner, employee or agent of the facility.

Section 49 - INITIATIVE

Page 29

AS 17.38.070(e). Lawful operation of marijuana related facilities.

Provides that is is lawful and not a basis for forfeiture or seizure for a person or business to lease or allow the use of property for marijuana related activities allowed under Secs. 45-48. Deletes [notwithstanding any other provision of law, it] and makes stylistic drafting changes.

Section 50 – SUBSTANTIVE

Page 29

AS 17.38.090. Rulemaking.

Directs the marijuana control board to adopt a regulation that will prohibit a retail marijuana store from selling more than five grams of marijuana concentrate per day to a customer.

Section 51 - SUBSTANTIVE

Page 29

AS 17.38.110(a). Local Control.

Allows for a local governments and established villages to prohibit the operation of marijuana cultivation, manufacturing, testing, or retail facilities through the act of an ordinance.

Section 52 - SUBSTANTIVE

Pages 29 through 37

AS 17.38.200. Misconduct involving marijuana in the first degree.

A person commits the crime of MIM in the 1st degree, which is a class A misdemeanor, if they do any of the following without a license:

- Possesses 25 or more marijuana plants.
- Manufactures more than six marijuana plants.
- Delivers or transports more than one ounce of usable marijuana or more than six marijuana plants.
- Gives any amount of marijuana to a person under 21.
- Manufactures a marijuana concentrate using a volatile or explosive gas.
- Delivers or transports one ounce or less of usable marijuana for remuneration.
- Delivers or transports up to six immature plants for remuneration;

A person with a registered marijuana establishment commits the crime of MIM in the 1st degree if they do not comply with the license requirements and knowingly:

- Possesses 25 or more marijuana plants.
- Manufactures more than six marijuana plants.
- Transports more than one ounce of usable marijuana or more than six marijuana plants.
- Delivers any amount of marijuana to a person under 21.
- Manufactures a marijuana concentrate using a volatile or explosive gas:

A person with a registered marijuana establishment commits the crime of MIM in the 1st degree if they do the following with criminal negligence:

- Allows a person to deliver marijuana to a person under 21 who is not a medical marijuana patient 18 years of age or older.
- Allows a person under 21 years to enter and remain in the licensed premise who is not a medical marijuana patient 18 years of age or older.
- Allows a person under 21 years to use marijuana within the licensed premises.
- Allows a person under 21 to deliver marijuana.
- Delivers marijuana to a person under 21 who is not a medical marijuana patient 18 years of age or older.

AS 17.38.210. Misconduct involving marijuana in the second degree.

A person commits the crime of MIM in the 2nd degree, which is a class B misdemeanor, if, at the time of the misconduct, the person:

- Is at least 21 years of age, is not a registered marijuana establishment and knowingly:
 - Possesses 6-25 marijuana plants or possesses; or
 - Delivers more than one ounce of usable marijuana in a public place or possesses or delivers more than six marijuana plants.
- Is a registered marijuana establishment not in compliance with the registration requirements and knowingly:
 - Possesses 6-25 marijuana plants
 - Delivers or sells any amount of marijuana
- Is not a registered marijuana establishment and knowingly sells any amount of marijuana.

AS 17.38.220. Misconduct involving marijuana in the third degree.

A person commits MIM in the 3rd degree, which is a violation, if they:

- Manufacture marijuana in a location where the plants are in public view, not secure from unauthorized access, or on property not in possession of the person or without consent of the property owner.

- Are under 21 and attempts to purchase marijuana with false identification, or otherwise misrepresents the person's age.
- Are under 18 and possesses, uses, or displays any amount of marijuana.
- This section does not apply to a person assisting enforcement.

AS 17.38.230. Misconduct involving marijuana in the fourth degree.

A person commits MIM in the 4th degree, which is a violation, if they:

- Are over 21 and use any amount of marijuana in a public place
- Are between 18-20 and use, display, or possess 1 ounce or less of marijuana.

AS 17.38.240. Proof of registration to be exhibited on demand; penalty.

Requires a licensee to have a copy of their marijuana license at all times when transporting more than one ounce of marijuana, and shall present the license on demand by a peace officer.

AS 17.38.250. Bail forfeiture for certain offenses.

Requires the court to make a bail schedule allowing defendants to pay the fine for violations without a court appearance for MIM 3rd (AS 17.38.220) and MIM 4th (AS 17.38.230.)

AS 17.38.260. Restriction on prosecution for certain persons in connection with a significant adverse marijuana reaction.

A person may not be prosecuted for various marijuana misconduct crimes if that person seeks, in good faith, medical or law enforcement assistance for another person who is believed to be experiencing a significant adverse marijuana reaction and the person remains at the scene until assistance arrives and cooperates with medical or law enforcement personnel.

AS 17.38.270. Affirmative defense to a prosecution under AS 17.38.200 – AS 17.38.230; medical use of marijuana.

In a prosecution for certain MIM crimes, it is an affirmative defense that the defendant is a patient, or the primary caregiver for a patient, and:

- At the time of the alleged misconduct, the person is a medical marijuana cardholder.
- The alleged misconduct complies with requirements of AS 17.37 and the defendant is the primary or alternate caregiver.

AS 17.38.280. Court records of violations by minors confidential.

The court records of a MIM crime or violation are confidential if the person is under 18 years of age.

AS 17.38.290. Local option.

An established village shall prohibit the operation of marijuana establishments if a majority of the voters in the election approve the ban. A ballot to adopt a local option must contain language substantially similar to the following: "Shall (name of village) adopt a local option to prohibit the operation of marijuana establishments? (yes or no)."

AS 17.38.300. Removal of local option.

An established village shall remove a local option if a majority of the voters vote to remove the option. The option is repealed effective the first day of the month following certification of the election results. A ballot question to remove a local option must at least contain language similar to the following: "Shall (name of village) remove the local option currently in effect, that prohibits the operation of marijuana establishments, so that there is no longer any local option in effect? (yes or no)." When issuing a registration in an area that has removed a local option, the board shall give priority to an applicant who was formerly licensed.

AS 17.38.310. Effect of local option on registrations of prohibition of marijuana establishments.

If a local option is in effect, the board may not issue, renew, or transfer a registration for a marijuana establishment located within the perimeter of the village.

AS 17.38.320. Procedure for local option elections.

An election to adopt or remove a local option shall be conducted as follows:

- The lieutenant governor shall place on a separate ballot at a special election the content from a petition that received at least 35 percent of registered voters within the village.
- The election may not be conducted during the first 24 months after the local option was adopted or more than once in a 36-month period.
- Another petition may not be filed until after the question presented in the first petition has been voted on. Only one local option question may be presented in an election.

AS 17.38.330. Establishment of perimeter of established village.

For purposes of the local option law, the perimeter of a village is a circle around the village that includes an area within a five-mile radius of the post office of the village, or a five-mile radius of another site selected by the local governing body, or the board, if the village doesn't have a local governing body. If the perimeter overlaps with another village's perimeter, and that other village has not adopted a local option, then the local option does not apply in the overlapping area.

AS 17.38.340. Notice of the results of a local option election.

If a majority of the voters approve or remove a local option, the lieutenant governor shall notify the board of the results immediately following the election, and the board shall immediately notify the Department of Law and the Department of Public Safety.

Section 53 - INITIATIVE

Page 37

AS 17.38.900(6). Definitions.

Establishes the definition for "marijuana" as defined in the ballot initiative.

Section 54 – INITIATIVE/SUBSTANTIVE

Page 37

AS 17.38.900. Definitions.

Defines “criminal negligence”, “deliver”, “established village”, “knowingly”, “manufacture”, “marijuana concentrate”, “public place” and “usable marijuana.”

Section 55 - CONFORMING

Page 38

AS 18.66.100(c). Protective orders: eligible petitioners; relief.

Allows for protective orders to prohibit the person from consuming marijuana or to require the respondent to participate in marijuana abuse treatment programs.

Sections 56 & 57 - CONFORMING

Pages 40-41

AS 18.67.080; AS 18.67.101. Violent Crimes Compensation.

Prohibits the violent crimes compensation board from denying a victim based on their use of marijuana or from being injured in a vehicle operated by someone under the influence of marijuana.

Section 58 - CONFORMING

Page 42

AS 21.42.365(b). Coverage for treatment of alcoholism or drug abuse.

Defines drug abuse, for insurance purposes, to include marijuana dependency.

Section 59 - CONFORMING

Page 42

AS 23.10.600(a). Employer protection from litigation.

Prohibits legal action against an employer for establishing a drug testing policy and for taking actions based upon the results of a positive drug test.

Section 60 - CONFORMING

Page 42

AS 23.10.600(b). Employer protection from litigation.

Creates an exception in cases when a false positive test result occurs and the employer knew that the result was in error and ignored the true test result because of reckless or malicious disregard for the truth.

Section 61 - CONFORMING

Page 42

AS 23.10.600(d). Employer protection from litigation.

Prohibits legal action against an employer for a false negative test.

Section 62 - CONFORMING

Page 43

AS 23.10.600(e). Employer protection from litigation.

Prohibits action against an employer for not implementing drug testing or prevention programs.

Section 63 - CONFORMING

Page 43

AS 23.10.610. Limits on causes of action for disclosures.

Prohibits action against an employer for defamation, slander or libel due to their use of a drug or alcohol test.

Section 64 - CONFORMING

Page 43

AS 23.10.620(a). Employer policy.

Prohibits employers from conducting drug and alcohol testing without first adopting a written policy and properly informing employees.

Section 65 - CONFORMING

Page 44

AS 23.10.620(b). Employer policy.

Describes the requirements for a written drug testing policy.

Section 66 - CONFORMING

Page 44

AS 23.10.620(c). Employer policy.

Allows employers to test for drug and alcohol testing and investigation.

Section 67 - CONFORMING

Page 45

AS 23.10.620(e). Employer policy.

Describes the parameters of employer drug and alcohol testing.

Section 68 - CONFORMING

Page 45

AS 23.10.620(f). Employer policy.

Clarifies that the requirements for alcohol and drug impairment testing are not an effort to hinder testing by employers.

Section 69 - CONFORMING

Page 45

AS 23.10.630(a). Collection of samples.

Allows employers to test potential employees for alcohol and marijuana impairment.

Section 70 - CONFORMING

Page 46

AS 23.10.630(c). Collection of samples.

Describes how alcohol and marijuana impairment testing should be scheduled.

Section 71 - CONFORMING

Page 46

AS 23.10.630(d). Collection of samples.

Requires employers to pay the entire cost for alcohol and marijuana testing.

Section 72 - CONFORMING

Page 46

AS 23.10.640(a). Testing procedures.

Requires employers to conduct drug and alcohol testing during, immediately before, or immediately after work, and be performed in a manner that guarantees the individual's privacy.

Section 73 - CONFORMING

Page 46

AS 23.10.645(a). On-site testing.

Adds marijuana to the list of substances an employer can include in an on-site testing policy.

Section 74 - CONFORMING

Page 47

AS 23.10.650. Training of test administrators.

Adds marijuana to the list of substances included in the certified test administrator training program.

Section 75 - CONFORMING

Page 47

AS 23.10.655. Disciplinary procedures.

Includes marijuana impairment testing to the list of tests that permit an employer to take adverse employment action if there is a positive drug test and it violates the employer's written policy.

Section 76 - CONFORMING

Page 48

AS 23.10.660. Confidentiality of results; access to records.

Includes "marijuana impairment testing to the types of tests that are privileged and confidential, and may only be disclosed to the employee in question, the individuals designated by the

employer to evaluate test results, or if the disclosure is ordered by a court or governmental agency.

Section 77 – CONFORMING

Page 48

AS 23.10.670. Effect of mandatory testing obligations.

Provides that an employer who is obligated by state or federal law to have drug and alcohol testing shall receive the full protections from litigation contained within AS 23-10.600 – 23.10.699.

Section 78 - CONFORMING

Page 49

AS 23.10.699. Definitions.

“Marijuana” has the meaning given in AS 17.38.900.

Section 79 - CONFORMING

Page 49

AS 25.20.061. Visitation in proceedings involving domestic violence.

Includes marijuana to the list of substances a domestic violence perpetrator shall abstain from possessing or consuming during parent/child visitation, including the 24 preceding hours.

Section 80 - CONFORMING

Page 49

AS 28.01.010(j). Provisions uniform throughout state.

Includes marijuana to the list of substances that could incur DUI, pertaining to the requirement that ignition interlock devices must be applied to all DUI crimes,

Section 81 - CONFORMING

Page 50

AS 28.15.031(b). Persons not to be licensed.

Adds marijuana to the list of substances that, if used habitually to the degree that the person is incapable of safely driving, precludes the department from issuing a driver’s license to that person.

Section 82 – CONFORMING

Page 50

AS 28.15.046(d). Licensing of school bus drivers.

Adds marijuana to the list of substances that can incur a DUI, pertaining to disqualifications from being issued a school bus driver’s license.

Section 83 - CONFORMING

AS 28.15.046(k). Licensing of school bus drivers.

Adds marijuana to the list of substances that can incur a DUI, pertaining to persons permitted to receive a school bus driver's license.

Section 84 - CONFORMING

Page 51

AS 28.15.081(a). Examination of applicants.

Applicants for a driver's license must undergo a test of the applicant's knowledge of the laws and effects of certain substances, including marijuana.

Section 85 – CONFORMING

Page 52

AS 28.15.085. Alcohol and drug awareness and safety examination of applicants.

Adds marijuana to the list of substances included in a test intended for a person applying for a new license after expiration of the previous license upon reaching 21 years of age.

Section 86 - CONFORMING

Page 52

AS 28.15.165(c). Administrative revocations and disqualifications resulting from chemical sobriety tests and refusals to submit to tests.

Adds marijuana to the list of substances that can incur a DUI.

Section 87 - CONFORMING

Page 53

AS 28.15.166(g). Administrative review of revocation.

Adds marijuana to the list of substances that can incur a DUI.

Section 88 - CONFORMING

Page 53

AS 28.15.181(a). Court suspensions, revocations, and limitations.

Adds marijuana to the list of substances that can incur a DUI or refusal, which leads to immediate license revocation if convicted.

Section 89 – CONFORMING

Page 54

AS 28.15.183(a). Administrative revocation of license to drive.

Includes marijuana in the administrative license revocation statutes as it relates to the crime of a minor operating a vehicle after consuming alcohol.

Section 90 – CONFORMING

Page 55

AS 28.15.183(h). Administrative revocation of license to drive.

The department may waive marijuana abuse treatment if the person resides in an area where drug rehabilitation is unavailable.

Section 91 – CONFORMING

Page 55

AS 28.15.184(g). Administrative review of revocation of a minor's license.

Adds marijuana to a provision referencing the crime of a minor operating a vehicle after consuming alcohol.

Section 92 - CONFORMING

Page 55

Amends AS 28.15.191(e). Court and parole board reports to department; surrender of license or identification card.

The court shall report to the department every legal change of name of any person considered to be afflicted with a mental disability or is an habitual user of alcohol, marijuana, or another drug.

Section 93 - CONFORMING

Page 55

AS 28.15.191(g). Court and parole board reports to department; surrender of license or identification card.

After a court has ordered a person to refrain from consuming alcohol or marijuana as part of a DUI or refusal conviction, the court shall require the surrender of that person's ID.

Section 94 – CONFORMING

Page 56

AS 28.15.191(h). Court and parole board reports to department; surrender of license or identification card.

Adds marijuana to a statute relating to conditions of parole and notification.

Section 95 - CONFORMING

Page 56

AS 28.15.271(e). Fees.

Adds "marijuana" to a statute relating to the issuance of new licenses to replace a cancelled license due to being restricted from purchasing alcohol. If the person has been ordered to refrain from consuming alcoholic beverages under Title 4.

Section 96 – CONFORMING

Page 56

AS 28.20.230(c). Proof of financial responsibility for the future.

Adds "marijuana" to the list of substances that can incur a DUI or refusal charge.

Section 97 - CONFORMING

Page 57

AS 28.33.030. Operating a commercial motor vehicle.

Operating a motor vehicle while under the influence of an alcoholic beverage, marijuana, inhalant, or controlled substance.

Section 98 – CONFORMING

Page 57

AS 28.33.031(a). Implied consent for operators of commercial motor vehicles.

Adds "marijuana" to statutes relating to DUI and refusal.

Section 99 – CONFORMING

Page 58

AS 28.33.130(a). Out-of-service orders.

Adds "marijuana" to the list of substances that are prohibited from being consumed within four hours of operating a commercial motor vehicle. This also includes possession of marijuana, unless the marijuana is manifested and documented as part of an authorized shipment of cargo.

Section 100 – CONFORMING

Page 59

AS 28.33.140(a). Conviction resulting in disqualification from driving commercial vehicle.

Adds "marijuana" to offenses that are grounds for immediate disqualification from driving a commercial motor vehicle.

Section 101 - CONFORMING

Page 60

AS 28.33.190. Definitions.

Defines "marijuana" as having the same meaning given in AS 17.38.900.

Section 102 – CONFORMING

Page 60

AS 28.35.028(h)(1). Court-ordered treatment.

Includes "marijuana" into the definitions of "court-ordered treatment program" and "treatment plan".

Section 103 - SUBSTANTIVE

Page 60

AS 28.35.029(a). Open container.

Provides that a person may not drive a motor vehicle when there is an open marijuana container in the passenger compartment with the exceptions provided below (b.)

Section 104 – SUBSTANTIVE

Page 61

AS 28.35.029(b). Open container.

Creates exceptions to an open marijuana container being in the vehicle: the container is in the trunk of the vehicle; behind the last upright seat in certain vehicles; behind a solid partition that separates the driver from the passengers, or certain types of passenger vehicles.

Section 105 – SUBSTANTIVE

Page 61

AS 28.35.029(c). Open container.

Defines “open marijuana container” as a receptacle that contains marijuana, is open or has a broken seal and there is evidence marijuana has been consumed in the vehicle.

Section 106 – CONFORMING

Page 61

AS 28.35.030(a). Operating a vehicle, aircraft or watercraft while under the influence of an alcoholic beverage, inhalant, or controlled substance.

Adds “marijuana” to the DUI statutes.

Section 107 - CONFORMING

Page 62

AS 28.35.030(b). Operating a vehicle, aircraft or watercraft while under the influence of an alcoholic beverage, inhalant, or controlled substance.

Adds “marijuana” to the DUI statutes.

Section 108 - CONFORMING

Page 63

AS 28.35.031(a). Implied consent.

Adds “marijuana” to the list of substances associated with DUI. A person is considered to have given consent to a chemical test if lawfully arrested for driving impaired on those substances.

Section 109 - CONFORMING

Page 64

AS 28.35.031(g). Implied consent.

Adds “marijuana” to the implied consent statute. With probable cause, consent is implied to test blood or urine for the presence of marijuana if the person is involved in a motor vehicle accident that causes death or serious physical injury to another person.

Section 110 - CONFORMING

Page 64

AS 28.35.032(a). Refusal to submit to chemical test.

Adds “marijuana” to the refusal statutes.

Section 111 - CONFORMING

Page 65

AS 28.35.032(e). Refusal to submit to chemical test.

Adds “marijuana” to the refusal statutes.

Section 112 - CONFORMING

Page 65

AS 28.35.033(a). Presumptions and chemical analysis of breath or blood.

Adds “marijuana” to the list of substances associated with DUI statutes.

Section 113 - CONFORMING

Page 66

AS 28.35.035(a). Administration of chemical tests without consent.

Adds “marijuana” to the statute providing that a chemical test can be administered without consent if the offender causes death or physical injury to another person.

Section 114 - CONFORMING

Page 66

AS 28.35.035(b). Administration of chemical tests without consent.

Adds “marijuana” to the statute that an unconscious person who is incapable of refusal is considered not to have withdrawn consent and a chemical test may be administered.

Section 115 - CONFORMING

Page 67

AS 28.35.039(1). Definitions: Alcohol safety and controlled substances.

Includes marijuana testing into the Alcohol Safety Action Program.

Section 116 - CONFORMING

Page 67

AS 28.35.039. Definitions for AS 28.35.029 – 28.35.039.

Adds a new paragraph providing “marijuana” has the meaning set forth in AS 17.38.900.

Section 117 - CONFORMING

Page 67

AS 28.35.280(a). Minor operating a vehicle after consuming alcohol.

A peace officer with probable cause can arrest or request a chemical test from a minor, who is at least 14 years of age, but not yet 21, for suspicion of operating a vehicle after consuming alcohol.

Section 118 - CONFORMING

Page 67

AS 28.35.280(b). Minor operating a vehicle after consuming alcohol.

In cases involving minors and vehicles if a chemical test is performed and the discovery of any amount of alcohol is found, the person is cited and released to their parental guardian or legal custodian.

Section 119 - CONFORMING

Page 67

AS 28.35.280(d). Minor operating a vehicle after consuming alcohol.

Involving sentencing, fines and community work for a minors found guilty of operating a vehicle under the influence of alcohol.

Sections 120-122 - CONFORMING

Pages 68

AS 28.35.285(a);(c);(d). Minors refusal to submit to chemical test.

The refusal to submit to a chemical test of a person's breath, is a violation subject to the same caveats and conditions attending a minor's refusal to submit to a request of a peace officer to undergo chemical testing.

Section 123 - CONFORMING

Page 70

AS 28.35.290(b). Driving during the 24 hours after being cited for alcohol or breath test offenses.

A person who has been cited for minor operating a vehicle after consuming alcohol or marijuana, or for refusal, may not operate a vehicle during the 24 hours following issuance of the citation.

Section 124-125 - CONFORMING

Pages 70 & 71

AS 28.35.290(a);(b). Minors Driving during the 24 hours after being cited for alcohol or breath test offenses.

Involving sentencing, fines and community work for a minors found guilty of operating a vehicle during the 24 hour period after being cited for operating a vehicle under the influence of alcohol.

Section 126-127 - SUBSTANTIVE

Pages 71 & 72

AS 29.10.200; AS 29.35. Limitation of home rule powers. Municipal powers and duties.
Provides the right to limit marijuana to the state and municipalities cannot enact or enforce an ordinance inconsistent with 17.38, except as specifically provided by state statute. The section applies to home rule and general law municipalities.

Section 128 - CONFORMING

Page 72

AS 33.16.060(c). Duties of the board of parole.
To conform to the removal of marijuana from inclusion under the definition of a “controlled substance” by separately identifying “marijuana” as a substance falling within the purview of the subsection

Section 129 - CONFORMING

Page 72

AS 33.16.150(b). Conditions of parole.
Adds subsection (b)(11) which permits prohibiting the entry into an establishment where marijuana is sold or otherwise dispensed as a condition of parole.

Section 130 - CONFORMING

Page 73

AS 33.16.900(3). Definitions.
Removes AS 11.71.190 or “marijuana” from the schedule of control substances definition provided for the chapter.

Section 131 - CONFORMING

Page 74

AS 33.30.015(a). Living conditions for prisoners.
Describes the authority and limitations of the commissioner of corrections.
Subsection (a)(3)(k) relating to controlled substances and alcohol, adds “marijuana.”

Section 132 - CONFORMING

Page 75

AS 33.30.065(b). Service of sentence by electronic monitoring.
In determining whether to designate a prisoner to serve a term of imprisonment or period of temporary commitment by electronic monitoring. Adds “marijuana” to the list of substances of abuse for consideration for determining whether electronic monitoring is appropriate.

Sections 133-137 - CONFORMING

Pages 76 & 77

AS 34.03.120; AS 34.03.360(7); AS 34.05.100(a); AS 34.05.100(d)(1). Tenant obligations; Landlord Tenant Act.

Includes illegal marijuana activities in the list of conduct a tenant may not knowingly engage in on rented premises.

Section 138 - CONFORMING

Page 77

AS 44.19.645(a). Alaska Criminal Justice Commission.

Removes AS 11.71.190 or “marijuana” from the list of controlled substances reviewed by the Alaska Criminal Justice Commission for the purposes evaluation of sentencing laws and criminal justice practices.

Section 139 - CONFORMING

Page 78

AS 47.10.900(17). Child in Need of Aid Definitions.

Adds “marijuana” to the definition of “intoxicant.”

Section 140 - CONFORMING

Page 78

AS 47.17.024(a). Duties of practitioners of the healing arts.

Requirement that a practitioner must notify closest office of Department of Health and Social Services if the practitioner determines infant adversely affected by alcohol, drug abuse or misuse of inhalants or hazardous materials.

Section 141 - CONFORMING

Page 78

AS 47.37.010. Declaration of policy.

The State’s policy of recognizing, appreciating, and reinforcing examples of sobriety; and in its policy of not criminally prosecuting “alcoholics and intoxicated persons” finding treatment to be a better option.

Section 142 - CONFORMING

Page 78

AS 47.37.030. Powers of Department of Health and Social Services.

The list of prevention and treatment programs the Department is empowered to establish and maintain; in addition, treats “marijuana abusers” throughout subsections in same manner as alcoholics and persons addicted to other substances.

Section 143 - CONFORMING

Page 80

AS 47.37.040. Duties of Department of Health and Social Services.

The Department of Health and Social Services with cooperation from the Department of Public Safety and Administration is required to implement prevention-of-abuse programs. Adds “marijuana abuse” and “marijuana abusers” to the list of types of activity for which these programs are developed.

Section 144 - CONFORMING

Page 84

AS 47.37.170(b). Protective custody.

By including marijuana in the list of causes of incapacitation requiring peace officers to take the incapacitated person into protective custody and deliver the incapacitated person to a treatment facility or secure facility. Minors are not permitted to be placed in jail or other secure facilities.

Section 145 - CONFORMING

Page 84

AS 47.37.170(d). Definitions.

List of causes of incapacitation for which an incapacitated person may not be held beyond his or her period of incapacitation, or for more than 48 hours in any event, at a facility.

Section 146 - CONFORMING

Page 84

AS 47.37.170(f). Treatment and services for intoxicated persons and persons incapacitated by alcohol or drugs.

If a person is admitted to an approved treatment facility, and not incapacitated by drugs or alcohol, they can request that his or her next of kin not be notified and this will be upheld. Adds a person can also not be incapacitated by use marijuana for this privilege.

Section 147 - CONFORMING

Page 84

AS 47.37.170(g). No action for damages.

List of incapacitating substances which, if caused an incapacitated person to be taken into custody, prevents an incapacitated person from bringing an action for damages, unless damages were caused by gross negligence or intentional misconduct.

Section 148 - CONFORMING

Page 85

AS 47.37.170(i). Detention.

Adds marijuana incapacitation to the rules governing length of time an incapacitated person may be held in a detention facility.

Section 149 - CONFORMING

Page 85

AS 47.37.180(a). Emergency commitment.

Adds incapacitation by marijuana to the list of incapacitating substances that qualify for committing an incapacitated person to an approved public treatment facility for emergency treatment.

Section 150 - CONFORMING

Page 85

AS 47.37.190(a). Involuntary commitment.

Establishes requirements for petitions for 30-day involuntary commitment orders. Adds marijuana to the list of substances which, if abused, can help form the basis for involuntary commitment.

Section 151 - CONFORMING

Page 86

AS 47.37.205(a). Procedure for recommitment following 30-day commitment.

Establishes requirements for the petitions of directors of approved treatment facilities for 180-day commitment orders for persons currently committed under a 30-day order. Adds continued marijuana abuse and marijuana incapacitation to petition allegations that form the basis for extended involuntary commitment.

Section 152 - CONFORMING

Page 86

AS 47.37.270(1). Definitions.

Adds "marijuana abuser" to definition of "alcoholic or drug abuser", by including marijuana and marijuana abuser in the defined terms.

Section 153 - CONFORMING

Page 86

AS 47.37.270(4). Definitions.

Removes marijuana from the definition of "drugs" as identified in AS 11.71, the controlled substance schedules.

Section 154 - CONFORMING

Page 87

AS 47.37.270(7). Definitions.

Adds "marijuana" to the term "incapacitated by alcohol or drugs", and to the definition of what it means to be incapacitated.

Section 155 - CONFORMING

Page 87

AS 47.37.270(10). Definitions.

Adds marijuana to the definition of “intoxicated person.”

Section 156 - CONFORMING

Page 87

AS 47.38.020(a). Alcohol and substance abuse monitoring program.

Adds marijuana to the list of substances offenders are prohibited from consuming while out on bail or on probation.

Section 157 - CONFORMING

Page 87

AS 47.38.020(c). Alcohol and substance abuse monitoring program twice a day testing.

Adds marijuana to the provision for twice-a-day testing under the program of release and parole.

Section 158 - SUBSTANTIVE

Page 88

Repeals the enumerated statutes.

Section 159 - SUBSTANTIVE

Page 88

Applicability provisions.

Section 160 - SUBSTANTIVE

Page 88

Provides for an immediate effective date.

“An Act to tax and regulate the production, sale, and use of marijuana.”

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA:

***Section 1.** AS 17 is amended by adding a new chapter to read:

Chapter 38. The regulation of marijuana

Sec. 17.38.010. Purpose and findings.

(a) In the interest of allowing law enforcement to focus on violent and property crimes, and to enhance individual freedom, the people of the state of Alaska find and declare that the use of marijuana should be legal for persons 21 years of age or older.

(b) In the interest of the health and public safety of our citizenry, the people of the state of Alaska further find and declare that the production and sale of marijuana should be regulated so that:

(1) Individuals will have to show proof of age before purchasing marijuana;

(2) Legitimate, taxpaying business people, and not criminal actors, will conduct sales of marijuana; and

(3) Marijuana sold by regulated businesses will be labeled and subject to additional regulations to ensure that consumers are informed and protected.

(c) The people of the state of Alaska further declare that the provisions of this Act are not intended to diminish the right to privacy as interpreted by the Alaska Supreme Court in *Ravin v. State of Alaska*.

(d) Nothing in this Act proposes or intends to require any individual or entity to engage in any conduct that violates federal law, or exempt any individual or entity from any requirement of federal law, or pose any obstacle to federal enforcement of federal law.

Sec. 17.38.020. Personal use of marijuana.

Notwithstanding any other provision of law, except as otherwise provided in this chapter, the following acts, by persons 21 years of age or older, are lawful and shall not be a criminal or civil offense under Alaska law or the law of any political subdivision of Alaska or be a basis for seizure or forfeiture of assets under Alaska law:

(a) Possessing, using, displaying, purchasing, or transporting marijuana accessories or one ounce or less of marijuana;

(b) Possessing, growing, processing, or transporting no more than six marijuana plants, with three or fewer being mature, flowering plants, and possession of the marijuana produced by the plants on the premises where the plants were grown;

(c) Transferring one ounce or less of marijuana and up to six immature marijuana plants to a person who is 21 years of age or older without remuneration;

(d) Consumption of marijuana, except that nothing in this chapter shall permit the consumption of marijuana in public; and

(e) Assisting another person who is 21 years of age or older in any of the acts described in paragraphs (a) through (d) of this section.

Sec. 17.38.030. Restrictions on personal cultivation, penalty.

(a) The personal cultivation of marijuana described in AS 17.38.020(b) is subject to the following terms:

(1) Marijuana plants shall be cultivated in a location where the plants are not subject to public view without the use of binoculars, aircraft, or other optical aids.

(2) A person who cultivates marijuana must take reasonable precautions to ensure the plants are secure from unauthorized access.

(3) Marijuana cultivation may only occur on property lawfully in possession of the cultivator or with the consent of the person in lawful possession of the property.

(b) A person who violates this section while otherwise acting in compliance with AS 17.38.020(b) is guilty of a violation punishable by a fine of up to \$750.

Sec. 17.38.040. Public consumption banned, penalty.

It is unlawful to consume marijuana in public. A person who violates this section is guilty of a violation punishable by a fine of up to \$100.

Sec. 17.38.050. False identification, penalty.

(a) A person who is under 21 years of age may not present or offer to a marijuana establishment or the marijuana establishment's agent or employee any written or oral evidence of age that is false, fraudulent or not actually the person's own, for the purpose of:

(1) Purchasing, attempting to purchase or otherwise procuring or attempting to procure marijuana or marijuana products; or

(2) Gaining access to a marijuana establishment.

(b) A person who violates this section is guilty of a violation punishable by a fine of up to \$400.

Sec. 17.38.060. Marijuana accessories authorized.

Notwithstanding any other provision of law, it is lawful and shall not be an offense under Alaska law or the law of any political subdivision of Alaska or be a basis for seizure or forfeiture of assets under Alaska law for persons 21 years of age or older to manufacture, possess, or purchase marijuana accessories, or to distribute or sell marijuana accessories to a person who is 21 years of age or older.

Sec. 17.38.070. Lawful operation of marijuana-related facilities.

(a) Notwithstanding any other provision of law, the following acts, when performed by a retail marijuana store with a current, valid registration, or a person 21 years of age or older who is acting in his or her capacity as an owner, employee or agent of a retail marijuana store, are lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law:

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

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

(3) Receiving marijuana or marijuana products from a marijuana testing facility;

(4) Purchasing marijuana from a marijuana cultivation facility;

(5) Purchasing marijuana or marijuana products from a marijuana product manufacturing facility; and

(6) Delivering, distributing, or selling marijuana or marijuana products to consumers.

(b) Notwithstanding any other provision of law, the following acts, when performed by a marijuana cultivation facility with a current, valid registration, or a person 21 years of age or older who is acting in his or her capacity as an owner, employee or agent of a marijuana cultivation

facility, are lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law:

- (1) Cultivating, manufacturing, harvesting, processing, packaging, transporting, displaying, storing, or possessing marijuana;
- (2) Delivering or transferring marijuana to a marijuana testing facility;
- (3) Receiving marijuana from a marijuana testing facility;
- (4) Delivering, distributing, or selling marijuana to a marijuana cultivation facility, a marijuana product manufacturing facility, or a retail marijuana store;
- (5) Receiving or purchasing marijuana from a marijuana cultivation facility; and
- (6) Receiving marijuana seeds or immature marijuana plants from a person 21 years of age or older.

(c) Notwithstanding any other provision of law, the following acts, when performed by a marijuana product manufacturing facility with a current, valid registration, or a person 21 years of age or older who is acting in his or her capacity as an owner, employee or agent of a marijuana product manufacturing facility, are lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law:

- (1) Packaging, processing, transporting, manufacturing, displaying, or possessing marijuana or marijuana products;
- (2) Delivering or transferring marijuana or marijuana products to a marijuana testing facility;
- (3) Receiving marijuana or marijuana products from a marijuana testing facility;
- (4) Delivering or selling marijuana or marijuana products to a retail marijuana store or a marijuana product manufacturing facility;
- (5) Purchasing marijuana from a marijuana cultivation facility; and
- (6) Purchasing of marijuana or marijuana products from a marijuana product manufacturing facility.

(d) Notwithstanding any other provision of law, the following acts, when performed by a marijuana testing facility with a current, valid registration, or a person 21 years of age or older who is acting in his or her capacity as an owner, employee or agent of a marijuana testing facility, are lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law:

- (1) Possessing, cultivating, processing, repackaging, storing, transporting, displaying, transferring or delivering marijuana;
- (2) Receiving marijuana or marijuana products from a marijuana cultivation facility, a marijuana retail store, a marijuana products manufacturer, or a person 21 years of age or older; and
- (3) Returning marijuana or marijuana products to a marijuana cultivation facility, marijuana retail store, marijuana products manufacturer, or a person 21 years of age or older.

(e) Notwithstanding any other provision of law, it is lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law to lease or otherwise allow the use of property owned, occupied or controlled by any person, corporation or other entity for any of the activities conducted lawfully in accordance with paragraphs (a) through (d) of this section.

(f) Nothing in this section prevents the imposition of penalties upon marijuana establishments for violating this chapter or rules adopted by the board or local governments pursuant to this chapter.

(g) The provisions of AS 17.30.020 do not apply to marijuana establishments.

Sec. 17.38.080. Marijuana Control Board.

At any time, the legislature may create a Marijuana Control Board in the Department of Commerce, Community, and Economic Development or its successor agency to assume the power, duties, and responsibilities delegated to the Alcoholic Beverage Control Board under this chapter.

Sec. 17.38.090. Rulemaking.

(a) Not later than nine months after the effective date of this act, the board shall adopt regulations necessary for implementation of this chapter. Such regulations shall not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation unreasonably impracticable. Such regulations shall include:

(1) Procedures for the issuance, renewal, suspension, and revocation of a registration to operate a marijuana establishment, with such procedures subject to all requirements of AS 44.62, the Administrative Procedure Act;

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

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

(4) Security requirements for marijuana establishments, including for the transportation of marijuana by marijuana establishments;

(5) Requirements to prevent the sale or diversion of marijuana and marijuana products to persons under the age of 21;

(6) Labeling requirements for marijuana and marijuana products sold or distributed by a marijuana establishment;

(7) Health and safety regulations and standards for the manufacture of marijuana products and the cultivation of marijuana;

(8) Reasonable restrictions on the advertising and display of marijuana and marijuana products; and

(9) Civil penalties for the failure to comply with regulations made pursuant to this chapter.

(b) In order to ensure that individual privacy is protected, the board shall not require a consumer to provide a retail marijuana store with personal information other than government-issued identification to determine the consumer's age, and a retail marijuana store shall not be required to acquire and record personal information about consumers.

Sec. 17.38.100. Marijuana establishment registrations.

(a) Each application or renewal application for a registration to operate a marijuana establishment shall be submitted to the board. A renewal application may be submitted up to 90 days prior to the expiration of the marijuana establishment's registration.

(b) The board shall begin accepting and processing applications to operate marijuana establishments one year after the effective date of this act.

(c) Upon receiving an application or renewal application for a marijuana establishment, the board shall immediately forward a copy of each application and half of the registration application fee to the local regulatory authority for the local government in which the applicant desires to operate the marijuana establishment, unless the local government has not designated a local regulatory authority pursuant to AS 17.38.110(c).

(d) Within 45 to 90 days after receiving an application or renewal application, the board shall issue an annual registration to the applicant unless the board finds the applicant is not in compliance with regulations enacted pursuant to AS 17.38.090 or the board is notified by the relevant local government that the applicant is not in compliance with ordinances and regulations made pursuant to AS 17.38.110 and in effect at the time of application.

(e) If a local government has enacted a numerical limit on the number of marijuana establishments and a greater number of applicants seek registrations, the board shall solicit and consider input from the local regulatory authority as to the local government's preference or preferences for registration.

(f) Upon denial of an application, the board shall notify the applicant in writing of the specific reason for its denial.

(g) Every marijuana establishment registration shall specify the location where the marijuana establishment will operate. A separate registration shall be required for each location at which a marijuana establishment operates.

(h) Marijuana establishments and the books and records maintained and created by marijuana establishments are subject to inspection by the board.

Sec. 17.38.110. Local control.

(a) A local government may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance or by a voter initiative.

(b) A local government may enact ordinances or regulations not in conflict with this chapter or with regulations enacted pursuant to this chapter, governing the time, place, manner and number of marijuana establishment operations. A local government may establish civil penalties for violation of an ordinance or regulation governing the time, place, and manner of a marijuana establishment that may operate in such local government.

(c) A local government may designate a local regulatory authority that is responsible for processing applications submitted for a registration to operate a marijuana establishment within the boundaries of the local government. The local government may provide that the local regulatory authority may issue such registrations should the issuance by the local government become necessary because of a failure by the board to adopt regulations pursuant to AS 17.38.090 or to accept or process applications in accordance with AS 17.38.100.

(d) A local government may establish procedures for the issuance, suspension, and revocation of a registration issued by the local government in accordance with (f) of this section or (g) of this section. These procedures shall be subject to all requirements of AS 44.62, the Administrative Procedure Act.

(e) A local government may establish a schedule of annual operating, registration, and application fees for marijuana establishments, provided, the application fee shall only be due if an application is submitted to a local government in accordance with (f) of this section and a registration fee shall only be due if a registration is issued by a local government in accordance with (f) of this section or (g) of this section.

(f) If the board does not issue a registration to an applicant within 90 days of receipt of the application filed in accordance with AS 17.38.100 and does not notify the applicant of the specific, permissible reason for its denial, in writing and within such time period, or if the board has adopted regulations pursuant to AS 17.38.090 and has accepted applications pursuant to AS 17.38.100 but has not issued any registrations by 15 months after the effective date of this act, the applicant may resubmit its application directly to the local regulatory authority, pursuant to (c) of this section, and the local regulatory authority may issue an annual registration to the applicant. If an application is submitted to a local regulatory authority under this paragraph, the board shall forward to the local regulatory authority the application fee paid by the applicant to the board upon request by the local regulatory authority.

(g) If the board does not adopt regulations required by AS 17.38.090, an applicant may submit an application directly to a local regulatory authority after one year after the effective date of this act and the local regulatory authority may issue an annual registration to the applicant.

(h) A local regulatory authority issuing a registration to an applicant shall do so within 90 days of receipt of the submitted or resubmitted application unless the local regulatory authority finds and notifies the applicant that the applicant is not in compliance with ordinances and regulations made pursuant to (b) of this section in effect at the time the application is submitted to the local regulatory authority. The local government shall notify the board if an annual registration has been issued to the applicant.

(i) A registration issued by a local government in accordance with (f) of this section or (g) of this section shall have the same force and effect as a registration issued by the board in accordance with AS 17.38.100. The holder of such registration shall not be subject to regulation or enforcement by the board during the term of that registration.

(j) A subsequent or renewed registration may be issued under (f) of this section on an annual basis only upon resubmission to the local government of a new application submitted to the board pursuant to AS 17.38.100.

(k) A subsequent or renewed registration may be issued under (g) of this section on an annual basis if the board has not adopted regulations required by AS 17.38.090 at least 90 days prior to the date upon which such subsequent or renewed registration would be effective or if the board has adopted regulations pursuant to AS 17.38.090 but has not, at least 90 days after the adoption of such regulations, issued registrations pursuant to AS 17.38.100.

(l) Nothing in this section shall limit such relief as may be available to an aggrieved party under AS 44.62, the Administrative Procedure Act.

Sec. 17.38.120. Employers, driving, minors and control of property.

(a) Nothing in this chapter is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale or growing of marijuana in the workplace or to affect the ability of employers to have policies restricting the use of marijuana by employees.

(b) Nothing in this chapter is intended to allow driving under the influence of marijuana or to supersede laws related to driving under the influence of marijuana.

(c) Nothing in this chapter is intended to permit the transfer of marijuana, with or without remuneration, to a person under the age of 21.

(d) Nothing in this chapter shall prohibit a person, employer, school, hospital, recreation or youth center, correction facility, corporation or any other entity who occupies, owns or controls private property from prohibiting or otherwise regulating the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of marijuana on or in that property.

Sec. 17.38.130. Impact on medical marijuana law.

Nothing in this chapter shall be construed to limit any privileges or rights of a medical marijuana patient or medical marijuana caregiver under AS 17.37.

Sec. 17.38.900. Definitions.

As used in this chapter unless the context otherwise requires:

- (1) "Board" means the Alcoholic Beverage Control Board established by AS 04.06.
- (2) "Consumer" means a person 21 years of age or older who purchases marijuana or marijuana products for personal use by persons 21 years of age or older, but not for resale to others.
- (3) "Consumption" means the act of ingesting, inhaling, or otherwise introducing marijuana into the human body.
- (4) "Local government" means both home rule and general law municipalities, including boroughs and cities of all classes and unified municipalities.

(5) "Local regulatory authority" means the office or entity designated to process marijuana establishment applications by a local government.

(6) "Marijuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. "Marijuana" does not include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

(7) "Marijuana accessories" means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

(8) "Marijuana cultivation facility" means an entity registered to cultivate, prepare, and package marijuana and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

(9) "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store.

(10) "Marijuana product manufacturing facility" means an entity registered to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

(11) "Marijuana products" means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

(12) "Marijuana testing facility" means an entity registered to analyze and certify the safety and potency of marijuana.

(13) "Retail marijuana store" means an entity registered to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities, and to sell marijuana and marijuana products to consumers.

(14) "Unreasonably impracticable" means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent businessperson.

*Sec. 2. AS 43 is amended by adding a new chapter to read:

Chapter 61. Excise tax on marijuana

Sec. 43.61.010. Marijuana tax.

(a) An excise tax is imposed on the sale or transfer of marijuana from a marijuana cultivation facility to a retail marijuana store or marijuana product manufacturing facility. Every marijuana cultivation facility shall pay an excise tax at the rate of \$50 per ounce, or proportionate part thereof, on marijuana that is sold or transferred from a marijuana cultivation facility to a retail marijuana store or marijuana product manufacturing facility.

(b) The department may exempt certain parts of the marijuana plant from the excise tax described in (a) of this section or may establish a rate lower than \$50 per ounce for certain parts of the marijuana plant.

Sec. 43.61.020. Monthly Statement and Payments.

(a) Each marijuana cultivation facility shall send a statement by mail or electronically to the department on or before the last day of each calendar month. The statement must contain an account of the amount of marijuana sold or transferred to retail marijuana stores and marijuana product manufacturing facilities in the state during the preceding month, setting out

- (1) the total number of ounces, including fractional ounces sold or transferred;
- (2) the names and Alaska address of each buyer and transferee; and
- (3) the weight of marijuana sold or transferred to the respective buyers or transferees.

(b) The marijuana cultivation facility shall pay monthly to the department, all taxes, computed at the rates prescribed in this chapter, on the respective total quantities of the marijuana sold or transferred during the preceding month. The monthly return shall be filed and the tax paid on or before the last day of each month to cover the preceding month.

Sec. 43.61.030. Administration and Enforcement of Tax.

(a) Delinquent payments under this chapter shall subject the marijuana cultivation facility to civil penalties under AS 43.05.220.

(b) If a marijuana cultivation facility fails to pay the tax to the state the marijuana cultivation facility's registration may be revoked in accordance with procedures established under AS 17.38.090(a)(1).

***Sec. 3.** The provisions of this Act are independent and severable, and, except where otherwise indicated in the text, shall supersede conflicting statutes, local charter, ordinance, or resolution, and other state and local provisions. If any provision of this Act, or the application thereof to any person or circumstance, is found to be invalid or unconstitutional, the remainder of this Act shall not be affected and shall be given effect to the fullest extent possible.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 30
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB030CS(JUD)-DOA-OPA-02-23-15
Title: MARIJUANA REG;CONT.
SUBST;CRIMES;DEFENSES
Sponsor: JUDICIARY
Requester: Senate Finance

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

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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:

Updated for new version of the bill.

Prepared By:	Richard Allen, Director	Phone:	(907)269-3504
Division:	Office of Public Advocacy	Date:	02/23/2015 02:30 PM
Approved By:	Sheldon Fisher, Commissioner	Date:	02/23/15
Agency:	Department of Administration		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. CSSB 30(JUD)

Analysis

This bill modifies existing criminal statutes to allow for manufacture, possession, display and use of marijuana in some circumstances. Additionally, it creates new violations and crimes related to the delivery, possession, display, or use of marijuana by persons under twenty-one (21) years of age.

The Office of Public Advocacy does not anticipate a financial impact from this legislation and therefore, submits a zero fiscal note.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 30
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB030CS(JUD)-DOA-PDA-02-23-15
Title: MARIJUANA REG;CONT.
SUBST;CRIMES;DEFENSES
Sponsor: JUDICIARY
Requester: Senate Finance

Department: Department of Administration
Appropriation: Legal and Advocacy Services
Allocation: Public Defender Agency
OMB Component Number: 1631

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
OPERATING EXPENDITURES	FY 2016	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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:

Updated for new version of the bill.

Prepared By: <u>Quinlan Steiner</u>	Phone: <u>(907)334-4414</u>
Division: <u>Public Defender Agency</u>	Date: <u>02/23/2015 11:00 AM</u>
Approved By: <u>Sheldon Fisher, Commissioner</u>	Date: <u>02/23/15</u>
Agency: <u>Department of Administration</u>	

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2015 LEGISLATIVE SESSION**

BILL NO. CSSB 30(JUD)

Analysis

This bill modifies existing criminal statutes to allow for manufacture, possession, display and use of marijuana in some circumstances. Additionally, it creates new violations and crimes related to the delivery, possession, display, or use of marijuana by persons under 21 years of age.

The Public Defender Agency does not anticipate a financial impact from this legislation. The agency, therefore, submits a zero fiscal note.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 30
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB030CS(JUD)-DOA-DMV-02-27-15
Title: MARIJUANA REG;CONT.
SUBST;CRIMES;DEFENSES
Sponsor: JUDICIARY
Requester: Senate Finance

Department: Department of Administration
Appropriation: Motor Vehicles
Allocation: Motor Vehicles
OMB Component Number: 2348

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 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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:

Not applicable. Initial submission.

Prepared By: <u>Amy Erickson, Director</u>	Phone: <u>(907)269-5574</u>
Division: <u>Motor Vehicles</u>	Date: <u>02/27/2015 11:30 AM</u>
Approved By: <u>Sheldon Fisher, Commissioner</u>	Date: <u>02/27/15</u>
Agency: <u>Department of Administration</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. CSSB 30(JUD)

Analysis

SB 30 amends Title 28 with regard to commercial or noncommercial motor vehicle drivers operating under the influence of an alcoholic beverage, marijuana, inhalant or other controlled substance.

It will prohibit the issuance of a driver's license to a person who is a habitual user of marijuana and prohibits the issuance of a school bus license for convictions for driving under the influence of marijuana within certain timeframe.

DMV will be required to include knowledge of the effects of marijuana, knowledge of the dangers of driving under the influence of marijuana, and knowledge of the laws on driving under the influence of marijuana to its alcohol awareness and general knowledge test examinations for the issuance or renewal of a driving permit or license.

SB 30 includes provisions for license revocations, and includes marijuana in the definition of "alcohol safety action program" (ASAP), and adds it to the implied consent, chemical testing and refusal laws for adults and minors. DMV must update its knowledge test system program and driver license manuals to include information about the influence of marijuana.

Updating of knowledge test system program and driver license manuals will be conducted in the normal course of business, therefore the agency submits a zero fiscal note.

This act takes effect immediately under AS 01.10.070(c).

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 30
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB030-DCCED-CBPL-02-20-15
Title: MARIJUANA REG;CONT.
SUBST;CRIMES;DEFENSES
Sponsor: JUDICIARY
Requester: (S) FINANCE

Department: Department of Commerce, Community and
Economic Development
Appropriation: Corporations, Business and Professional
Licensing
Allocation: Corporations, Business and Professional
Licensing
OMB Component Number: 2360

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 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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:

Not applicable, initial version.

Prepared By:	Sara Chambers, Director	Phone:	(907)465-2538
Division:	Corporations, Business, and Professional Licensing	Date:	02/20/2015 12:00 AM
Approved By:	Catherine Reardon, Director	Date:	02/20/15
Agency:	Division of Administrative Services		

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2015 LEGISLATIVE SESSION**

BILL NO. SB030

Analysis

SB30 amends AS 08.68.270 to give professional licensing boards the authority to deny, suspend, or revoke the license of a person who habitually abuses marijuana.

The Division of Corporations, Business, and Professional Licensing does not anticipate fiscal impact from this legislation.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 30
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB030CS(JUD)-DCCED-ABC-02-27-15
Title: MARIJUANA REG;CONT.
SUBST;CRIMES;DEFENSES
Sponsor: JUDICIARY
Requester: (S) FINANCE

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	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2016 Request	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES	FY 2016	FY 2016					
Personal Services		610.5					
Travel		73.0					
Services		756.4					
Commodities		134.5					
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	1,574.4	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

1004 Gen Fund		1,574.4					
Total	0.0	1,574.4	0.0	0.0	0.0	0.0	0.0

Positions

Full-time		6.0					
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2015) cost: 785.7 *(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? N/A

Why this fiscal note differs from previous version:

Added funding included in Governor's FY16 Request.

Prepared By: <u>Cynthia Franklin, Executive Director</u>	Phone: <u>(907)269-0351</u>
Division: <u>Alcoholic Beverage Control Board</u>	Date: <u>02/27/2015 12:00 PM</u>
Approved By: <u>Catherine Reardon, Director</u>	Date: <u>02/27/15</u>
Agency: <u>Administrative Services Division</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. CSSB 30(JUD)

Analysis

SB030 would change marijuana's current classification as a controlled substance in Alaska to a regulated substance. New misdemeanors and fines would be created for some marijuana misconduct, and several terms are defined for additional clarity in regulating and enforcing marijuana statutes.

There is a fiscal impact associated with regulating marijuana in the state, including implementing the provisions of SB030. Funding for marijuana-related activities in the Alcoholic Beverage Control board is included in FY2016 Governor's budget, and as a supplemental budget request for FY2015 in the amount of \$785.7. If either funding request is removed from an appropriation bill, the fiscal note for this bill will need to be increased accordingly.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 30
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB030CS(JUD)-DOC-IDO-02-23-15
Title: MARIJUANA REG;CONT.
SUBST;CRIMES;DEFENSES
Sponsor: JUDICIARY
Requester: Senate Finance Committee

Department: Department of Corrections
Appropriation: Population Management
Allocation: Institution Director's Office
OMB Component Number: 1381

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 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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: April Wilkerson Phone: (907)465-3460
Division: Administrative Services - Department of Corrections Date: 02/23/2015 05:00 PM
Approved By: Remond Henderson, Deputy Commissioner Date: 02/23/15
Agency: Department of Corrections

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. CSSB 30(JUD)

Analysis

This legislation deletes marijuana, hash, and hash oil from the controlled substance schedules and amends the statutes relating to conditions of release; probation and parole; and sentencing. These changes will have no fiscal impact on the Department of Corrections.

Section 128 amends AS 33.16.060(c) separating marijuana from the controlled substance category and establishes it as a separate category for conditions of parole. Marijuana was previously considered a controlled substance for this purpose and this change will have no fiscal impact on the department.

Section 129 amends AS 33.16.150(b) adding marijuana as a condition of special medical, discretionary, or mandatory parole. Marijuana was previously considered a controlled substance for this purpose and this change will have no fiscal impact on the department.

Section 131 amends AS 33.30.015(a) in which marijuana or marijuana products may not be purchased for prisoners in a state correctional facility. Marijuana is currently disallowed and considered contraband within the state correctional facilities and this change will have no fiscal impact on the department.

Section 132 amends AS 33.30.065(b) and requires the consideration of marijuana use by prisoners to be added as a criteria when considering prisoner placements onto electronic monitoring.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 30
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB030CS(JUD)-DPS-DET-02-23-15
Title: MARIJUANA REG;CONT.
SUBST;CRIMES;DEFENSES
Sponsor: JUDICIARY
Requester: Senate Finance

Department: Department of Public Safety
Appropriation: Alaska State Troopers
Allocation: Alaska State Trooper Detachments
OMB Component Number: 2325

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
OPERATING EXPENDITURES	FY 2016	FY 2016					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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:

No change from initial version.

Prepared By: <u>Kelly Howell, Director</u>	Phone: <u>(907)465-4336</u>
Division: <u>Administrative Services</u>	Date: <u>02/23/2015 04:00 PM</u>
Approved By: <u>Gary Folger, Commissioner</u>	Date: <u>02/23/15</u>
Agency: <u>Public Safety</u>	

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2015 LEGISLATIVE SESSION**

BILL NO. CSSB 30(JUD)

Analysis

This legislation revises Alaska statutes to implement the ballot initiative associated with the production, sale, and use of marijuana.

DPS will endeavor to identify other funding sources to mitigate any increased costs associated with this legislation before seeking additional state funding.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 30
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB030CS-ACS-TRC-02-23-15
Title: MARIJUANA REG;CONT.
SUBST;CRIMES;DEFENSES
Sponsor: JUDICIARY
Requester: Senate Judiciary

Department: Judiciary
Appropriation: Alaska Court System
Allocation: Trial Courts
OMB Component Number: 768

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
OPERATING EXPENDITURES	FY 2016	FY 2016					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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:

Initial version.

Prepared By: <u>Nancy Meade, General Counsel</u>	Phone: <u>(907)463-4736</u>
Division: <u>Alaska Court System</u>	Date: <u>02/23/2015 08:00 AM</u>
Approved By: <u>Nancy Meade for Christine Johnson, Administrative Director</u>	Date: <u>02/23/15</u>
Agency: <u>Alaska Court System</u>	

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version:	CSSB 30 (JUD)
Fiscal Note Number:	7
(S) Publish Date:	2/23/2015

Identifier: SB030CS(JUD)-DHSS-PEIG-2-22-15
 Title: MARIJUANA REG;CONT.
 SUBST;CRIMES;DEFENSES
 Sponsor: JUDICIARY
 Requester: Senate Finance Committee

Department: Department of Health and Social Services
 Appropriation: Behavioral Health
 Allocation: Behavioral Health Prevention and Early
 Intervention Grants
 OMB Component Number: 3098

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
OPERATING EXPENDITURES	FY 2016	FY 2016					
Personal Services							
Travel							
Services	124.4		120.7	117.0	113.5	110.1	106.8
Commodities							
Capital Outlay							
Grants & Benefits	244.1		244.1	244.1	244.1	244.1	244.1
Miscellaneous							
Total Operating	368.5	0.0	364.8	361.1	357.6	354.2	350.9

Fund Source (Operating Only)

1004 Gen Fund	368.5		364.8	361.1	357.6	354.2	350.9
Total	368.5	0.0	364.8	361.1	357.6	354.2	350.9

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:

Not applicable, initial version.

Prepared By:	Albert E. Wall, Director	Phone:	(907)465-3370
Division:	Behavioral Health	Date:	02/18/2015 01:00 PM
Approved By:	Sarah Woods, Deputy Director Finance & Management Services	Date:	02/22/19
Agency:	Health & Social Services		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

Analysis

This bill makes changes to Alaska Statute, following voter approval of Ballot Measure #2 in November, 2014.

Relevant to duties performed by the Department of Health and Social Services, Division of Behavioral Health (DBH), this bill:

- Amends AS 17.30.140 "Education and Research" to add specific focus on alcohol and marijuana to current work addressing controlled substances;
- Amends various current provisions codified in AS 47.37, adding references to "marijuana", "marijuana abuse", and "marijuana abusers" to areas regarding the maintenance of substance abuse prevention and treatment services available in the state; and
- Amends AS 47.38.020 to allow the courts to refer individuals to an existing sobriety monitoring program, as a condition of release or probation.

Specific to the funds identified in this fiscal note, this bill clearly identifies the need for increased and/or enhanced education, research and community outreach related to marijuana and its possible impacts on public and behavioral health and public safety. Currently, DBH's Prevention and Early Intervention team works closely with community-level organizations across the state to promote health and wellness, prevent youth use and excessive adult use of both legal and illegal drugs, and to identify early intervention strategies to minimize the poor behavioral health outcomes related to such use. The Division's initial assessment identifies three immediate strategies to begin improving our response to these statutory changes:

1. Acquire and/or develop Alaska specific education and outreach materials to inform the public about the change in marijuana's legal and commercial status, identify potential health and safety risks for individuals to consider, and offer strategies for reducing possible negative behavioral health and public safety outcomes. A statewide media campaign, among other education and outreach strategies, is currently under consideration;
2. Expand the current duties of cross-disciplinary groups such as the Alaska Committee to Prevent Underage Drinking (ACPUD) and the State Epidemiology Workgroup. The ACPUD, with broad representation from diverse stakeholders, has developed the Alaska Strategies to Prevent Underage Drinking; a similar plan could be developed to focus on underage marijuana use and abuse. The State Epidemiology Workgroup (SEW) could be used to monitor and track changes in data reflecting marijuana use, treatment and outcomes, including trends and prevalence rates; and
3. Provide technical assistance, provide training, and increase resources to community-based Comprehensive Behavioral Health Prevention and Early Intervention grantees.

Projected costs for these increases include \$124.4 in current Services costs (items 1 and 2, above). An additional \$244.1 would fund additional necessary technical assistance and other resources for additional marijuana-focused grant programming by current Community Based Prevention and Early Intervention grantees (item 3, above). The Department's request for these three items totals \$368.5 in FY2016. This request builds in a 3% annual decrease in Services costs, as some materials and service infrastructure can be re-used in following years.

Due to limited data and information about the possible effects of this policy change on multiple affected systems, as well as an unknown regulatory framework, this fiscal note is a current best estimate. The Department of Health and Social Services continues to work with multiple agencies, as well as partners in Colorado and Washington State, to gather the best possible information in order to identify costs associated with this bill.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version:	CSSB 30(JUD)
Fiscal Note Number:	4
(S) Publish Date:	2/23/2015

Identifier: SB030-LAW-CRIM-02-21-15
 Title: MARIJUANA REG;CONT.
 SUBST;CRIMES;DEFENSES
 Sponsor: JUDICIARY
 Requester: (S) FIN

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
OPERATING EXPENDITURES	FY 2016	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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:

This fiscal note differs from the initial version because it reflects the changes made in Senate Judiciary.

Prepared By:	Valerie Rose, Budget Analyst	Phone:	(907)465-3674
Division:	Administrative Services Division	Date:	02/20/2015 04:01 PM
Approved By:	Craig W. Richards, Attorney General	Date:	02/21/15
Agency:	Department of Law		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

Analysis

This bill removes marijuana from the controlled substances schedule and creates new crimes relating to marijuana.

The bill removes marijuana, hashish, and hash oil from the controlled substances schedule and makes several conforming amendments to Alaska Statutes. It also creates five new crimes in relation to marijuana: Misconduct Involving Marijuana in the First Degree (class A misdemeanor), Misconduct Involving Marijuana in the Second Degree (class B misdemeanor), Misconduct involving Marijuana in the Third Degree (violation), Misconduct Involving Marijuana in the Fourth Degree (violation), and Failure to Carry Proof of Registration (violation).

Misconduct Involving Marijuana in the First Degree prohibits a person from possessing 25 or more marijuana plants and delivering any amount of marijuana to a person under 21. Licensed marijuana establishments may possess and deliver more than an ounce of marijuana and possess more than 25 marijuana plants if they are compliant with all of the licensing requirements under AS 17.38. However, a licensed marijuana establishment may not allow a person under 21 to enter and remain in their establishment or sell marijuana to a person under 21. Misconduct Involving Marijuana in the First Degree is a class A misdemeanor.

Misconduct Involving Marijuana in the Second Degree includes a prohibition on possessing more than six but less than 24 marijuana plants. A licensed marijuana establishment may engage in this conduct if they are compliant with all of the licensing requirements under AS 17.38. Misconduct Involving Marijuana in the Second Degree is a class B misdemeanor.

Misconduct Involving Marijuana in the Third Degree prohibits a person from manufacturing marijuana in a place subject to public view without optical aids, in an unsecure location, or without a property owner's consent. Under this section, a person under 21 is prohibited from using false identification to purchase marijuana and a person under 18 years of age is prohibited from possessing any amount of marijuana. Misconduct Involving Marijuana in the Third Degree is a violation.

Misconduct Involving Marijuana in the Fourth Degree prohibits a person 21 years of age or older from consuming marijuana in public. Persons between the ages of 18-21 are prohibited from possessing any amount of marijuana. Misconduct Involving Marijuana in the Fourth Degree is a violation.

The bill requires a person who works for a marijuana establishment to carry proof that they are licensed under AS 17.38 when transporting more than one ounce of marijuana. If a person is cited they may avoid conviction by presenting their valid license in court or to the citing officer. Failure to Carry Proof of Registration is a violation.

The violations created in the bill allow a person to avoid a court appearance and pay any fines by mail.

Finally, the bill makes introducing or receiving marijuana in a correctional facility a class A misdemeanor.

The Department of Law does not anticipate a fiscal impact.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version:	CSSB 30 (JUD)
Fiscal Note Number:	3
(S) Publish Date:	2/23/2015

Identifier: SB030CS(JUD)-DHSS-TRG-2-20-15
 Title: MARIJUANA REG;CONT.
 SUBST;CRIMES;DEFENSES
 Sponsor: JUDICIARY
 Requester: Senate Finance Committee

Department: Department of Health and Social Services
 Appropriation: Behavioral Health
 Allocation: Behavioral Health Treatment and Recovery
 Grants
 OMB Component Number: 3099

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 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits	665.0		665.0	665.0	665.0	665.0	665.0	665.0
Miscellaneous								
Total Operating	665.0	0.0	665.0	665.0	665.0	665.0	665.0	665.0

Fund Source (Operating Only)

1004 Gen Fund	665.0		665.0	665.0	665.0	665.0	665.0	665.0
Total	665.0	0.0	665.0	665.0	665.0	665.0	665.0	665.0

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? Yes
 If yes, by what date are the regulations to be adopted, amended or repealed? 07/01/16

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By:	Albert E. Wall, Director	Phone:	(907)465-3370
Division:	Behavioral Health	Date:	02/19/2015 01:00 PM
Approved By:	Sarah Woods, Deputy Director Finance & Management Services	Date:	02/20/15
Agency:	Health & Social Services		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

Analysis

This bill makes changes in many areas of Alaska Statute, following voter approval of Ballot Measure #2 in November, 2014.

Relevant to activities of the Department of Health and Social Services, Division of Behavioral Health (DBH), this bill:

---Amends AS 17.30.140 "Education and Research" to add specific focus on alcohol and marijuana to current work addressing controlled substances;

---Amends various current provisions codified in AS 47.37, adding references to "marijuana", "marijuana abuse", and "marijuana abusers" to areas regarding the maintenance of substance abuse prevention and treatment services available in the state; and

---Amends AS 47.38.020 to allow the courts to refer individuals to an existing sobriety monitoring program, as a condition of release or probation.

Specific to the funds identified in this fiscal note:

Research shows that an adolescent's perception of the risks associated with substance use is an important determinant of whether he/she engages in substance use. Youth who perceive high risk of harm are less likely to use drugs than youth who perceive low risk of harm. According to a 2012 report issued by the National Institute on Drug Abuse and the National Institutes of Health, rates of perception of great risk from marijuana use remained stable between 2004 and 2007 among young people. When the perception of risk decreased between 2007 and 2011, marijuana use increased. We anticipate that with the legalization of marijuana, the the rate of Alaskan youth's perception of risk will decrease, encouraging use and increasing the need for marijuana use and abuse treatment services.

DBH anticipates the need for an additional \$600.0 in grant funding to community treatment providers, for the provision of direct services to Alaskans with marijuana abuse or dependency diagnoses. Funds will primarily support services to youth and adolescents, though the Division also anticipates an increased need for outpatient treatment services to adults.

In addition, DBH anticipates the need for \$9.0 increase in grant funds to the Alaska Commission for Behavioral Health Certification (from \$46.0 in FY2015 to \$55.0 in FY2016) to support certification of providers offering services to Alaskans diagnosed as Marijuana Abusive or Dependent. Requirements of chemical dependency service provider certification will include focused training on topics surrounding marijuana abuse and dependency. These additional funds will also support the Commission's work ensuring provider adherence to appropriate ethical standards set by the National Association of Addiction Professionals.

DBH also anticipates the need for an additional \$56.0 in funding to the Regional Alcohol and Drug Abuse Counselor Training Program (RADACT), from \$280.0 in FY2015 to \$336.0 in FY2016 and beyond. This organization provides training statewide to direct service providers working in DBH grant-funded agencies. It is anticipated that in FY2016, as part of their ongoing curriculum, RADACT will need to expand training sessions focused on marijuana abuse, dependence, and effective treatment of these diagnoses. These funds will also be used to support increased technical assistance to providers.

Regulations will need to be amended, as a result of the change in marijuana's legal status.

Due to limited data and information about the possible effects of this policy change on multiple affected systems, as well as an unknown regulatory framework, this fiscal note is an estimate. The Department of Health and Social Services continues to work with multiple agencies, as well as partners in Colorado and Washington State, to gather the best possible information in order to predict costs associated with this bill.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version:	CSSB 30(JUD)
Fiscal Note Number:	2
(S) Publish Date:	2/23/2015

Identifier: SB030CS(JUD)-DHSS-BVS-2-19-15
 Title: MARIJUANA REG;CONT.
 SUBST;CRIMES;DEFENSES
 Sponsor: JUDICIARY
 Requester: Senate Finance Committee

Department: Department of Health and Social Services
 Appropriation: Public Health
 Allocation: Bureau of Vital Statistics
 OMB Component Number: 961

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
OPERATING EXPENDITURES	FY 2016	FY 2016					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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? n/a

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By:	Jay C. Butler, MD, Director / Chief Medical Officer	Phone:	(907)269-6680
Division:	Public Health	Date:	02/19/2015 03:00 PM
Approved By:	Sarah Woods, Deputy Director Finance & Management Services	Date:	02/19/15
Agency:	Health & Social Services		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

Analysis

This bill amends AS 17.37 Medical Uses of Marijuana to change the reference for an affirmative defense to a prosecution to AS 17.38 Regulation of Marijuana from AS 11.71 Controlled Substances. The Bureau of Vital Statistics maintains the medical marijuana registry for persons with a debilitating medical condition. There is no fiscal impact.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version:	CSSB 30(JUD)
Fiscal Note Number:	1
(S) Publish Date:	2/23/2015

Identifier: SB030CS(JUD)-DHSS-ASAP-2-20-15
 Title: MARIJUANA REG;CONT.
 SUBST;CRIMES;DEFENSES
 Sponsor: JUDICIARY
 Requester: Senate Finance Committee

Department: Department of Health and Social Services
 Appropriation: Behavioral Health
 Allocation: Alcohol Safety Action Program (ASAP)
 OMB Component Number: 305

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
OPERATING EXPENDITURES	FY 2016	FY 2016					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits	94.7		94.7	94.7	94.7	94.7	94.7
Miscellaneous							
Total Operating	94.7	0.0	94.7	94.7	94.7	94.7	94.7

Fund Source (Operating Only)

1004 Gen Fund	94.7		94.7	94.7	94.7	94.7	94.7
Total	94.7	0.0	94.7	94.7	94.7	94.7	94.7

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:

Not applicable, initial version.

Prepared By:	Albert E. Wall, Director	Phone:	(907)465-3370
Division:	Behavioral Health	Date:	02/18/2015 01:00 PM
Approved By:	Sarah Woods, Deputy Director Finance & Management Services	Date:	02/20/15
Agency:	Health & Social Services		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

Analysis

This bill makes changes to Alaska Statute, following voter approval of Ballot Measure #2 in November, 2014.

Relevant to duties performed by the Department of Health and Social Services, Division of Behavioral Health (DBH), this bill:

- Amends AS 17.30.140 "Education and Research" to add specific focus on alcohol and marijuana to current work addressing controlled substances;
- Amends various current provisions codified in AS 47.37, adding references to "marijuana", "marijuana abuse", and "marijuana abusers" to areas regarding the maintenance of substance abuse prevention and treatment services available in the state; and
- Amends AS 47.38.020 to allow the courts to refer individuals to an existing sobriety monitoring program, as a condition of release or probation.

Specific to the funds identified in this fiscal note, this bill's proposed changes to AS 47.38.020 will require that certain offenders participate in DBH's existing 24/7 Sobriety Monitoring Program. Participation would be required for individuals who are court ordered to the program as a condition of bail or release.

In larger urban areas such as Anchorage, Mat-Su, Fairbanks, and Kenai, the program is designed to be self-sustaining; testing is done by private testing providers and paid for by program participants. In smaller areas such as Bethel, Barrow, and other rural hub communities, testing will be provided by the Department's Alcohol Safety Action Program (ASAP) grantees. Because testing by private providers requires that there be sufficient number of participants to sustain a private operation, the Department has found no private providers willing to provide testing services in these rural hubs. The Department estimates that the existing workload in these rural offices would increase by approximately 10% with these additional clients. In FY2015, prior to any changes required by this bill, the Department expects to spend approximately \$947.0 for ASAP grantee services outside of the urban Anchorage, Mat-Su, Fairbanks, and Kenai areas. The \$94.7 requested in this fiscal note for FY2016 would fund the expected 10% service increase.

Due to limited data and information about the possible effects of this policy change on multiple affected systems, as well as an unknown regulatory framework, this fiscal note is a current estimate. The Department of Health and Social Services continues to work with multiple agencies, as well as partners in Colorado and Washington State, to gather the best possible information in order to identify costs associated with this bill.

Alaska State Legislature

Senate Majority Leader

Joint Armed Services Committee
Co-Chairman
Judiciary Committee
Vice-Chairman
Resources Committee
State Affairs Committee
Legislative Council
Rules Committee



Senator John Coghill

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LOCAL OPTION MEMO

CSSB 30(JUD)

Marijuana Regulation; Controlled Substances; Crimes; Defenses

During the March 3rd Senate Finance meeting, several questions were raised regarding the local option provisions in Senate Bill 30.

Relationship between Cities and Organized Boroughs

According to the local control provisions in the initiative, AS 17.38.110, a local government may prohibit licensed marijuana establishments through the enactment of an ordinance.

According to AS 29.35.250, a city inside a borough may exercise any power not otherwise prohibited by law. However, if a borough adopts an ordinance to exercise a power on an areawide basis, a city may not exercise the power unless the borough ordinance provides otherwise, or the borough, by ordinance, ceases to exercise the power. In other words, if an organized borough has the power to ban marijuana retail establishments on an areawide basis (different types of boroughs have different areawide powers and it is complicated how they obtain them), no city within that borough can allow retail marijuana establishments.

Unfortunately, the initiative is silent on whether local governments exercise the powers contained within 17.38.110 on an areawide basis or a non-areawide basis. It's clear that a city can "opt out" even if the borough hasn't, but it's far from clear if a city could "opt in" if the borough chooses to prohibit marijuana establishments.

The committee may want to consider adopting language that clarifies this issue: "Except as provided in AS 29, the exercise of the powers authorized by this section by a borough may be exercised only on a nonareawide basis. In this subsection, "nonareawide" means throughout the

area of a borough outside all cities in the borough.” If adopted, this language would serve to limit borough powers regarding marijuana establishments to areas outside city boundaries.

Established Villages in Organized Boroughs and the Unorganized Borough

The initiative defines “local government” as a home rule or general law municipality including boroughs and cities of all classes and unified municipalities. As such, the initiative did not give unincorporated communities in the unorganized borough the ability to prohibit marijuana establishments, despite the initiative giving local governments in the organized borough that ability. This creates a disparity between alcohol and marijuana because provisions in the alcohol statutes allow established villages in the unorganized borough to prohibit alcohol.

Senate Bill 30 contains local option provisions to give those communities the ability to ban marijuana establishments.

It was asked if established villages within organized boroughs have the ability to ban marijuana establishments through a local option election provided for in Senate Bill 30. The answer is no – “established village” is defined as “an area that does not contain any part of an incorporated city or another established village and that is an unincorporated community that is in the unorganized borough and that has 25 or more permanent residents.” This would be a departure from the alcohol local option laws. In Title 4, “established village” is defined to include villages in organized boroughs:

- (9) "established village" means an area that does not contain any part of an incorporated city or another established village and that is
- (A) an unincorporated community that is in the unorganized borough and that has 25 or more permanent residents; or
 - (B) an unincorporated community that is in an organized borough, has 25 or more permanent residents, and
 - (i) is on a road system and is located more than 50 miles outside the boundary limits of a unified municipality, or
 - (ii) is not on a road system and is located more than 15 miles outside the boundary limits of a unified municipality;

I hope this memo provides clarification and direction to the committee. If you have any questions, please contact Jordan Shilling in my office at (907) 465-5834.

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
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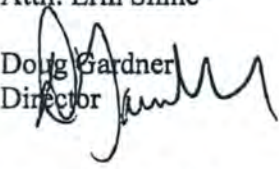
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 3, 2015

SUBJECT: Federal Enforcement Priorities for Marijuana

TO: Senator Anna MacKinnon
Co-Chair of the Senate Finance Committee
Attn: Erin Shine

FROM: Doug Gardner
Director 

You asked that I follow up today's Senate Finance Committee Hearing regarding CSSB 30(JUD) with a memorandum regarding the concern raised by members of the committee regarding federal enforcement of federal criminal marijuana laws.

After the hearing, I researched the position of the United States Department of Justice regarding instructions provided to United States attorneys. I found two memoranda of advice that should be read by committee members to get a complete sense of the federal government's approach to federal marijuana enforcement. However, I have several comments that I hope will be helpful.

First, Deputy Attorney General James Cole reaffirms in his memorandum of August 29, 2013, at page 1, that the Department of Justice is committed to enforcement of the Controlled Substances Act based on identified factors that I have summarized below. Note that Mr. Cole emphasizes that marijuana is a matter of discretion for prosecutors and law enforcement, and that federal law enforcement agencies should focus their resources on marijuana enforcement based on the following criteria:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the accompanying

Senator Anna MacKinnon

March 3, 2015

Page 2

public safety and environmental dangers posed by marijuana production on public lands; and

- Preventing marijuana possession or use on federal property.

Based on these criteria, it may mean that, on a case-by-case basis, a federal law enforcement officer might choose to cite an Alaskan in certain circumstances, where the officer determined that the criteria above warranted doing so. *However*, Mr. Cole notes that where states have enacted laws legalizing marijuana, but have implemented strong and effective regulatory and enforcement systems, it is less likely that the federal government would take enforcement action.

One way to view Mr. Cole's August 29, 2013, memorandum from a legislator's perspective, is that the legislature implements the initiative, while at the same time protecting Alaskans to the fullest extent possible vis-a-vis federal enforcement actions, by passing legislation to implement the conduct that is made legal by the initiative, but providing for substantial criminal enforcement in areas outside of conduct allowed by the initiative, such as providing marijuana to persons under 19 (currently a class B felony under AS 11.71.030(a)(2)), and providing for penalties for persons growing marijuana for distribution and profit (currently a class C felony under AS 11.71.040(a)(3)(G)). In addition to criminal enforcement, the same approach regarding regulating the sale of marijuana by providing for strong and effective regulatory systems would likely have the same effect in deterring federal enforcement interest.

I am enclosing the United States Attorneys Office's memoranda related to enforcement (Deputy Attorney General James Cole Memorandum, August 29, 2013), as well as a memo related to marijuana related financial crimes (Deputy Attorney General James Cole Memorandum, February 14, 2014).

If you have further questions, please advise.

Enclosures

DDG:lem
15-142.lem



U.S. Department of Justice

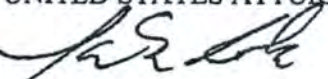
Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

February 14, 2014

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole 
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Related Financial Crimes

On August 29, 2013, the Department issued guidance (August 29 guidance) to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). The August 29 guidance reiterated the Department's commitment to enforcing the CSA consistent with Congress' determination that marijuana is a dangerous drug that serves as a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. In furtherance of that commitment, the August 29 guidance instructed Department attorneys and law enforcement to focus on the following eight priorities in enforcing the CSA against marijuana-related conduct:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

Under the August 29 guidance, whether marijuana-related conduct implicates one or more of these enforcement priorities should be the primary question in considering prosecution

under the CSA. Although the August 29 guidance was issued in response to recent marijuana legalization initiatives in certain states, it applies to all Department marijuana enforcement nationwide. The guidance, however, did not specifically address what, if any, impact it would have on certain financial crimes for which marijuana-related conduct is a predicate.

The provisions of the money laundering statutes, the unlicensed money remitter statute, and the Bank Secrecy Act (BSA) remain in effect with respect to marijuana-related conduct. Financial transactions involving proceeds generated by marijuana-related conduct can form the basis for prosecution under the money laundering statutes (18 U.S.C. §§ 1956 and 1957), the unlicensed money transmitter statute (18 U.S.C. § 1960), and the BSA. Sections 1956 and 1957 of Title 18 make it a criminal offense to engage in certain financial and monetary transactions with the proceeds of a "specified unlawful activity," including proceeds from marijuana-related violations of the CSA. Transactions by or through a money transmitting business involving funds "derived from" marijuana-related conduct can also serve as a predicate for prosecution under 18 U.S.C. § 1960. Additionally, financial institutions that conduct transactions with money generated by marijuana-related conduct could face criminal liability under the BSA for, among other things, failing to identify or report financial transactions that involved the proceeds of marijuana-related violations of the CSA. *See, e.g.*, 31 U.S.C. § 5318(g). Notably for these purposes, prosecution under these offenses based on transactions involving marijuana proceeds does not require an underlying marijuana-related conviction under federal or state law.

As noted in the August 29 guidance, the Department is committed to using its limited investigative and prosecutorial resources to address the most significant marijuana-related cases in an effective and consistent way. Investigations and prosecutions of the offenses enumerated above based upon marijuana-related activity should be subject to the same consideration and prioritization. Therefore, in determining whether to charge individuals or institutions with any of these offenses based on marijuana-related violations of the CSA, prosecutors should apply the eight enforcement priorities described in the August 29 guidance and reiterated above.¹ For example, if a financial institution or individual provides banking services to a marijuana-related business knowing that the business is diverting marijuana from a state where marijuana sales are regulated to ones where such sales are illegal under state law, or is being used by a criminal organization to conduct financial transactions for its criminal goals, such as the concealment of funds derived from other illegal activity or the use of marijuana proceeds to support other illegal activity, prosecution for violations of 18 U.S.C. §§ 1956, 1957, 1960 or the BSA might be appropriate. Similarly, if the financial institution or individual is willfully blind to such activity by, for example, failing to conduct appropriate due diligence of the customers' activities, such prosecution might be appropriate. Conversely, if a financial institution or individual offers

¹ The Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) is issuing concurrent guidance to clarify BSA expectations for financial institutions seeking to provide services to marijuana-related businesses. The FinCEN guidance addresses the filing of Suspicious Activity Reports (SAR) with respect to marijuana-related businesses, and in particular the importance of considering the eight federal enforcement priorities mentioned above, as well as state law. As discussed in FinCEN's guidance, a financial institution providing financial services to a marijuana-related business that it reasonably believes, based on its customer due diligence, does not implicate one of the federal enforcement priorities or violate state law, would file a "Marijuana Limited" SAR, which would include streamlined information. Conversely, a financial institution filing a SAR on a marijuana-related business it reasonably believes, based on its customer due diligence, implicates one of the federal priorities or violates state law, would label the SAR "Marijuana Priority," and the content of the SAR would include comprehensive details in accordance with existing regulations and guidance.

services to a marijuana-related business whose activities do not implicate any of the eight priority factors, prosecution for these offenses may not be appropriate.

The August 29 guidance rested on the expectation that states that have enacted laws authorizing marijuana-related conduct will implement clear, strong and effective regulatory and enforcement systems in order to minimize the threat posed to federal enforcement priorities. Consequently, financial institutions and individuals choosing to service marijuana-related businesses that are not compliant with such state regulatory and enforcement systems, or that operate in states lacking a clear and robust regulatory scheme, are more likely to risk entanglement with conduct that implicates the eight federal enforcement priorities.² In addition, because financial institutions are in a position to facilitate transactions by marijuana-related businesses that could implicate one or more of the priority factors, financial institutions must continue to apply appropriate risk-based anti-money laundering policies, procedures, and controls sufficient to address the risks posed by these customers, including by conducting customer due diligence designed to identify conduct that relates to any of the eight priority factors. Moreover, as the Department's and FinCEN's guidance are designed to complement each other, it is essential that financial institutions adhere to FinCEN's guidance.³ Prosecutors should continue to review marijuana-related prosecutions on a case-by-case basis and weigh all available information and evidence in determining whether particular conduct falls within the identified priorities.

As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA, the money laundering and unlicensed money transmitter statutes, or the BSA, including the obligation of financial institutions to conduct customer due diligence. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct of a person or entity threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the exercise of prosecutorial discretion in future cases and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution. Finally, nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest.

² For example, financial institutions should recognize that a marijuana-related business operating in a state that has not legalized marijuana would likely result in the proceeds going to a criminal organization.

³ Under FinCEN's guidance, for instance, a marijuana-related business that is not appropriately licensed or is operating in violation of state law presents red flags that would justify the filing of a Marijuana Priority SAR.



U.S. Department of Justice


Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

August 29, 2013

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole 
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with those determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, as several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

These priorities will continue to guide the Department's enforcement of the CSA against marijuana-related conduct. Thus, this memorandum serves as guidance to Department attorneys and law enforcement to focus their enforcement resources and efforts, including prosecution, on persons or organizations whose conduct interferes with any one or more of these priorities, regardless of state law.¹

Outside of these enforcement priorities, the federal government has traditionally relied on states and local law enforcement agencies to address marijuana activity through enforcement of their own narcotics laws. For example, the Department of Justice has not historically devoted resources to prosecuting individuals whose conduct is limited to possession of small amounts of marijuana for personal use on private property. Instead, the Department has left such lower-level or localized activity to state and local authorities and has stepped in to enforce the CSA only when the use, possession, cultivation, or distribution of marijuana has threatened to cause one of the harms identified above.

The enactment of state laws that endeavor to authorize marijuana production, distribution, and possession by establishing a regulatory scheme for these purposes affects this traditional joint federal-state approach to narcotics enforcement. The Department's guidance in this memorandum rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests. A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice. Jurisdictions that have implemented systems that provide for regulation of marijuana activity

¹ These enforcement priorities are listed in general terms; each encompasses a variety of conduct that may merit civil or criminal enforcement of the CSA. By way of example only, the Department's interest in preventing the distribution of marijuana to minors would call for enforcement not just when an individual or entity sells or transfers marijuana to a minor, but also when marijuana trafficking takes place near an area associated with minors; when marijuana or marijuana-infused products are marketed in a manner to appeal to minors; or when marijuana is being diverted, directly or indirectly, and purposefully or otherwise, to minors.

must provide the necessary resources and demonstrate the willingness to enforce their laws and regulations in a manner that ensures they do not undermine federal enforcement priorities.

In jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten the federal priorities set forth above. Indeed, a robust system may affirmatively address those priorities by, for example, implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states, prohibiting access to marijuana by minors, and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market in which revenues are tracked and accounted for. In those circumstances, consistent with the traditional allocation of federal-state efforts in this area, enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity. If state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms.

The Department's previous memoranda specifically addressed the exercise of prosecutorial discretion in states with laws authorizing marijuana cultivation and distribution for medical use. In those contexts, the Department advised that it likely was not an efficient use of federal resources to focus enforcement efforts on seriously ill individuals, or on their individual caregivers. In doing so, the previous guidance drew a distinction between the seriously ill and their caregivers, on the one hand, and large-scale, for-profit commercial enterprises, on the other, and advised that the latter continued to be appropriate targets for federal enforcement and prosecution. In drawing this distinction, the Department relied on the common-sense judgment that the size of a marijuana operation was a reasonable proxy for assessing whether marijuana trafficking implicates the federal enforcement priorities set forth above.

As explained above, however, both the existence of a strong and effective state regulatory system, and an operation's compliance with such a system, may allay the threat that an operation's size poses to federal enforcement interests. Accordingly, in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department's enforcement priorities listed above. Rather, prosecutors should continue to review marijuana cases on a case-by-case basis and weigh all available information and evidence, including, but not limited to, whether the operation is demonstrably in compliance with a strong and effective state regulatory system. A marijuana operation's large scale or for-profit nature may be a relevant consideration for assessing the extent to which it undermines a particular federal enforcement priority. The primary question in all cases – and in all jurisdictions – should be whether the conduct at issue implicates one or more of the enforcement priorities listed above.



As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the exercise of prosecutorial discretion in future cases and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution. Finally, nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest.

cc: Mythili Raman
Acting Assistant Attorney General, Criminal Division

Loretta E. Lynch
United States Attorney
Eastern District of New York
Chair, Attorney General's Advisory Committee

Michele M. Leonhart
Administrator
Drug Enforcement Administration

H. Marshall Jarrett
Director
Executive Office for United States Attorneys

Ronald T. Hosko
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Criminal Investigative Division
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LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
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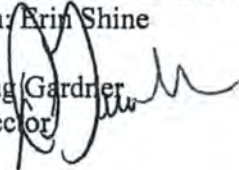
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 6, 2015

SUBJECT: Non-Applicability Sections in AS 11

TO: Senator Anna MacKinnon
Co-Chair of the Senate Finance Committee
Attn: Erin Shine

FROM: Doug Gardner, 
Director

You asked for an expedited memorandum providing examples of other statutes in the criminal code where the legislature has used applicability sections (sometimes referred to as non-applicability sections) regarding statute drafting related to the recent marijuana initiative.

An applicability provision in our criminal law provides notice that the particular criminal statute or statutes referred to *do not apply to certain persons, conduct, or circumstances*. The use by the legislature of an applicability section is significant. An applicability provision differs *substantially* from a justification,¹ a defense,² or an affirmative defense³ as, in my opinion, it affects whether the prosecution can even be brought. It is, in effect, jurisdictional.

Without going into a substantial discussion about the differences between justifications, defenses, or affirmative defenses, the point that I want to convey to you is that applicability sections are used less frequently in the criminal code, and are reserved by the legislature for specific situations where the legislature has made the decision that a case should not be brought against a person based upon the person's status or other special circumstances, and who is otherwise engaging in conduct that would be a crime. Using an applicability section in the context of certain conduct made legal by Ballot Measure Two, provides a jurisdictional bar to an action being brought against a person acting in conformity with the initiative. Accordingly, use of an applicability section in this context should be viewed as the legislature giving the maximum protection to

¹ See AS 11.81.300 - 11.81.450.

² See AS 11.81.900(b)(18).

³ See AS 11.81.900(b)(2).

persons acting in conformity with the initiative, by providing a jurisdictional bar against criminal prosecution.

An example of an applicability section is AS 11.61.210; misconduct involving weapons in the fourth degree. The italicized and bolded portion of the statute is an applicability section that allows a peace officer to engage in conduct, such as possessing a deadly weapon, typically a firearm on school grounds, even though the officer's conduct would be an offense under AS 11.61.210 but for the applicability section:

Sec. 11.61.210. Misconduct involving weapons in the fourth degree.

(a) A person commits the crime of misconduct involving weapons in the fourth degree if the person

(1) possesses on the person, or in the interior of a vehicle in which the person is present, a firearm when the person's physical or mental condition is impaired as a result of the introduction of an intoxicating liquor or a controlled substance into the person's body in circumstances other than described in AS 11.61.200(a)(7);

(2) discharges a firearm from, on, or across a highway;

(3) discharges a firearm with reckless disregard for a risk of damage to property or a risk of physical injury to a person under circumstances other than those described in AS 11.61.195(a)(3)(A);

(4) manufactures, possesses, transports, sells, or transfers metal knuckles;

(5) sells or transfers a switchblade or a gravity knife to a person under 18 years of age without the prior written consent of the person's parent or guardian;

(6) knowingly sells a firearm or a defensive weapon to a person under 18 years of age;

(7) other than a preschool, elementary, junior high, or secondary school student, knowingly possesses a deadly weapon or a defensive weapon, without the permission of the chief administrative officer of the school or district or the designee of the chief administrative officer, within the buildings of, on the grounds of, or on the school parking lot of a public or private preschool, elementary, junior high, or secondary school, on a school bus while being transported to or from school or a school-sponsored event, or while participating in a school-sponsored event, except that a person 21 years of age or older may possess

(A) a deadly weapon, other than a loaded firearm, in the trunk of a motor vehicle or encased in a closed container in a motor vehicle;

(B) a defensive weapon;

(C) an unloaded firearm if the person is traversing school premises in a rural area for the purpose of entering public or private land that is open to hunting and the school board with jurisdiction over the school premises has elected to have this exemption apply to the school premises; in this subparagraph, "rural" means a community with a population of

5,500 or less that is not connected by road or rail to Anchorage or Fairbanks or with a population of 1,500 or less that is connected by road or rail to Anchorage or Fairbanks; or

(8) being a preschool, elementary, junior high, or secondary school student, knowingly possesses a deadly weapon or a defensive weapon, within the buildings of, on the grounds of, or on the school parking lot of a public or private preschool, elementary, junior high, or secondary school, on a school bus while being transported to or from school or a school-sponsored event, or while participating in a school-sponsored event, except that a student may possess a deadly weapon, other than a firearm as defined under 18 U.S.C. 921, or a defensive weapon if the student has obtained the prior permission of the chief administrative officer of the school or district or the designee of the chief administrative officer for the possession.

(b) ~~{}~~Repealed, Sec. 4 ch 63 SLA 1990~~{}~~.

(c) The provisions of (a)(7) of this section do not apply to a peace officer acting within the scope and authority of the officer's employment.

(d) Misconduct involving weapons in the fourth degree is a class A misdemeanor.

(Emphasis added).

Below are representative examples of the offenses that use the format of non-applicability sections, which make a criminal offense inapplicable to certain persons engaging in conduct that would otherwise constitute an offense:

- AS 11.41.180 (homicide of an unborn child; offenses not applicable to acts of a physician performing lawful abortion);
- AS 11.56.825 and 11.56.830 (impersonating a public servant; offenses not applicable to a law enforcement officer acting in the scope of duty);
- AS 11.61.123 and 11.61.127 (indecent viewing or photography and possession of child pornography; offenses not applicable to a law enforcement officer acting in scope of duty);
- AS 11.61.140 (cruelty to animals; offense does not apply to generally accepted dog mushing practices);
- AS 11.61.200 and 11.61.210 (misconduct weapons offenses; offenses do not apply to certain persons previously convicted of a felony who have been unconditionally discharged for 10 years, and law enforcement officers).

Please advise if you have questions.

DDG:Ind
15-190.Ind



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Law

CRIMINAL DIVISION
Criminal Division Central Office

P.O. Box 110300
Juneau, Alaska 99811-0300
Main: 907.465.3600
Fax: 907.465.4043

March 12, 2015

The Honorable Anna MacKinnon
Senate Finance Co-Chair
State Capitol, Rm. 516
Juneau, Alaska 99801

Re: Opting the Unorganized Borough Out of Ballot Measure #2

Dear Senator MacKinnon:

During the March 9, 2015 hearing on SB 30, Senator Hoffman asked if the legislature, acting as the assembly for the unorganized borough, could opt the entire unorganized borough out of allowing the operation of marijuana establishments. Local governments or established villages in the unorganized borough could then allow marijuana establishments on a community by community basis by enactment of ordinances or voter initiatives. There is no clear answer to this question.

Ballot Measure #2, An Act to Tax and Regulate Production, Sale, and Use of Marijuana (the initiative) allows local governments to prohibit the operation of marijuana establishments in their communities by way of ordinance or voter initiative. This provision is commonly called the "opt out" provision.

Additionally, Article 10, Section 6 of the Alaska Constitution reads:

The legislature shall provide for performance of services it deems necessary or advisable in unorganized boroughs, allowing for maximum local participation and responsibility. It may exercise any power or function in an organized borough which the assembly may exercise in any organized borough.

The Alaska Legislature, being in the role of the assembly of the unorganized borough, is subject to the same requirements under the initiative as the assembly of any organized borough. Therefore, it is possible for the legislature to opt out the unorganized borough. This would be

consistent with the legislature's constitutional duties and would be defensible if subject to a legal challenge.

If challenged, a court would look to see if the action taken by the legislature "vitiates(s) the aims of the initiative."¹ This analysis would require a court to look at whether the initiative, which makes marijuana establishments presumptively legal, is irreconcilable with the "unorganized borough opt out" amendment, which makes marijuana establishments presumptively illegal. It is not clear how a court would rule on this issue, but one of the things it might consider is how the population in the unorganized borough voted on the initiative. Conceivably, if a majority of the voters in the unorganized borough voted in favor of the initiative, they also voted in favor of allowing marijuana establishments to operate in their communities unless they take affirmative actions to prohibit them. Therefore, a court may find that the legislature was acting contrary to the will of the voters within the unorganized borough and attempting to effect a repeal.

While it is unclear whether an amendment prohibiting marijuana establishments in the unorganized borough would be upheld, it is defensible as an exercise of the legislature's duties under Article 10, Section 6 of the Alaska Constitution. If the legislature chooses to take this action. A clear legislative record and detailed legislative findings will be helpful if this action is challenged.

Please let me know if I can be of any further assistance.

Sincerely,

CRAIG W. RICHARDS
ATTORNEY GENERAL

By:



Kaci Schroeder
Assistant Attorney General

¹ *State v. Trust the People*, 113 P.3d 613, 621 (2005).



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Law

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March 9, 2015

The Honorable Anna MacKinnon
Senate Finance Co-Chair
State Capitol, Rm. 516
Juneau, Alaska 99801

Re: SB 30 (29-LS0231\F) and ATV's

Dear Senator MacKinnon:

At the March 5, 2015 hearing on SB 30, the Department of Law was asked to submit its testimony in writing identifying policy questions contained in the bill. The department was also asked a question which required additional research. The policy issues that were identified at that hearing are below as well as the response to the question which needed further research.

Promoting Contraband (Page 75, Line 26)

Under current law, it is a class C felony to introduce or receive, or attempt to introduce or receive, a controlled substance into a correctional facility. (AS 11.56.375). Despite it being legal to possess and use certain amounts of marijuana, it is still a controlled substance, and a person could still be charged with a class C felony for introducing or receiving marijuana into a correctional facility. When it comes to promoting contraband offenses, should marijuana be treated similarly to tobacco? Introducing or receiving tobacco into a correctional facility is a class A misdemeanor.

The current version of SB 30 addresses this issue by removing marijuana from the controlled substances schedule and adding it into AS 33.30.015(a) which lists items that prisoners are not allowed to possess inside a correctional facility. This amendment brings marijuana in line with tobacco and makes it a class A misdemeanor to bring marijuana into a correctional facility.

Possession of Marijuana within 500 feet of School Grounds (Page 14, Line 14)

Currently, it is a class C felony to possess marijuana within 500 feet of school grounds, a recreation or youth center, or on a school bus. (AS 11.71.040). While there is no similar provision for alcohol, it is a policy question as to whether or not this prohibition should be continued. If the answer is yes, the severity of the penalty may also be evaluated.

Local Option (Page 35, Line 13)

Ballot Measure #2, An Act to Tax and Regulate the Production, Sale, and Use of Marijuana (the initiative) allows some local governments to prohibit the operation of marijuana cultivation, manufacturing, testing, and retail stores. The initiative's definition of "local government" does not include unincorporated villages. SB 30 addresses this by inserting language into AS 17.38 which allows an established village to vote to prohibit marijuana establishments from operating within their boundaries.

Under current law, local governments, including municipalities and established villages, can restrict the import of alcohol into their communities. Depending on the circumstances surrounding the import of alcohol into a local option community, a person could be guilty of a class A misdemeanor or a class C felony. (AS 04.16.200). Should local governments and established villages be allowed to prohibit the import of marijuana into their communities?

Hash Oil

There has been testimony that hash oil falls under the initiative's definition of marijuana. How should this substance be weighed? The most common practice is to weigh substances by their mass. Should this be the same practice for hash oil which is a fluid?

Further, regardless of the possession limits which are found in the initiative or in statute, once hash oil is put into a baked good and becomes an "edible" there is no way for law enforcement to separate out the hash oil to verify its weight. The initiative is very clear that flour, chocolate, or any other substance that is combined with marijuana should not be counted towards its weight. Therefore, once hash oil or any other fluid or crystalline form of marijuana is combined with another substance, any possession limits are unenforceable.

Driving Under the Influence

State legislatures across the country have adopted various thresholds for the amount of THC a person can have in their system when operating a motor vehicle. These thresholds range from "any amount" to five nanograms of active THC per milliliter of blood. However, the science surrounding THC and impairment is not as developed as it is for alcohol and there is no roadside test for THC. Therefore, the best available test is a blood test which can measure the level of active THC in a person's system.

Alaska's current DUI structure offers several safeguards against wrongful drug DUI convictions. Alaska is not a "per se" state and AS 28.35.030 allows a defendant to explain the results of a chemical test. Additionally, defendants may introduce evidence that they were not "under the influence" of alcohol, despite the results of a chemical test.

Given the legalization of marijuana possession and the commercialization of the marijuana industry, should Alaska consider establishing thresholds for the amount of THC a person can have in their system when operating a motor vehicle?

All-Terrain Vehicles (Page 61, Line 8)

During the hearing, a question was asked about how an all-terrain vehicle could transport an open container under AS 28.35.029(b). While there is no case law directly on point, all motor vehicles which are operated on highways or vehicular ways must abide by the rules of the road. Therefore, it is likely that a person driving an all-terrain vehicle on a "highway or vehicular way or area" would be treated similarly to a person driving a motor driven cycle in that an open container may be transported as long as it is enclosed within another container.

Please let me know if I can be of any further assistance.

Sincerely,

CRAIG W. RICHARDS
ATTORNEY GENERAL

By:



Kaci Schroeder
Assistant Attorney General



Coalition for Responsible Cannabis Legislation

To: Honorable Senator Anna MacKinnon

From: Bruce Schulte, CRCL

Date: March 11, 2015

Re: SB 30 – Draft X

Dear Senator MacKinnon;

With regard to Senate Bill 30-Draft X, we are unequivocally opposed to the direction this modified bill would take if amended.

It is our position that Alaska voters very clearly voted to legalize marijuana and regulate it in a manner similar to alcohol. To re-classify marijuana as a controlled substance alongside powerful pharmaceutical drugs would be contrary to the letter and intent of the voter initiative and would demonstrate a fundamental lack of respect for the will of the voters.

The provision to limit daily sales to one-ounce per person could only be accomplished through extensive and intrusive record-keeping that is specifically disallowed under the initiative. No such limit is placed on alcohol sales and we see no rationale for such a requirement on marijuana retailers.

We urge the Senate Finance Committee to respect the will of the voters, to abandon this new direction and to pass SB30-Version F out of committee unmodified, and without further delay.

Best Regards,

Bruce Schulte, CRCL

SB 30 Public Testimony
Prepared by James Barrett
March 11th, 2015

Thank you for your hard work and effort in implementing the will of the voters with the new initiative. I know many of you are putting extra hours into this and your time is very much appreciated.

I am the father of a growing family here in Juneau, Alaska. I am hoping to build my family business within the cannabis industry and hopefully pass it on to future generations.

The regulation of marijuana is a very technical topic, time consuming, and with regards to other challenges that Alaska faces at this time, my hope is that the will of the voters is upheld and we can build a strong industry for Alaskans.

Just as we did when we joined statehood over 50 years ago in effort to successfully regulate our fishing industry, we can do the same with Marijuana.

Although I am grateful with the efforts to remove marijuana concentrates from the controlled substance act, there are many parts of this bill, including several last minute amendments, that do not comply with the will of the voters.

I'd like to suggest that we keep this bill to a minimal set of guidelines for consumers and leave the rest to the Alcoholic Beverage Control Board or a Marijuana Control Board, in the event that it a separate Marijuana Control Board is created.

By placing too many regulations on the industry and consumers during this session, such as the unnecessary amendments in SB 30, we will run a very high risk of regulating the industry before it takes place. We must allow the Alcohol Beverage Control Board or a Marijuana Control Board make these choices based on expert opinions and direction.

I would like this bill to be redrafted to omit anything that might touch upon future industry regulations.

Without taking too much of your time, below is a brief outline of just a few, but certainly not all, items for the committee's' consideration:

1. AS17.38.090(c):
 - Changes under this section are unconstitutional by means of requiring the tracking of a citizens purchase history. This directly infringes upon personal freedoms as well as puts a burden on the industry.
2. AS17.38.900(18)

-The definition of concentrates violates the Industrial Hemp bill (SB8). There is also a misunderstanding here as to the definition of concentrates. Concentrated cannabis and hemp both have cannabinoids. Also, marijuana concentrates are concentrated to contain not just Cannabinoids, but also terpenes, and other "entourage" chemicals that interact with the body through consumption, some being psychoactive and some being non-psychoactive compounds. The language in this section does not conform to any definitive meaning of what a concentrate is.

3. AS11.71.060(a) and AS11.71.060(a)(2)(A):

-The possession of between 2-3 ounces is too vague and unclear to both consumers and law enforcement. This language will make it very for the average consumer to moderate the amount on hand. We should enforce civil penalties for manufacturing rather than criminal charges in any degree.

Im asking the committee today to please re-examine and consider the end goal of this bill and its implications for future legislation.

Im also asking the committee to step back from anything that touches the industry side of the initiative. We have to capitalize on this opportunity and need everyone from black market growers to lawmakers to be involved. The more we restrict what a regulating board has the power to do, the less chance we have of overhauling the pre-existing black market.

By pulling SB-30 back from the industry side, our prospective regulating boards can then take the testimony and research heard by the legislature and apply it to future lawmaking.

Thank you for your time. I'll be happy to answer any questions that you may have.

Doniece Gott

From: Erin Shine
Sent: Tuesday, March 10, 2015 10:49 AM
To: Doniece Gott
Subject: FW: Please put in record in SB 30

Please include in Sb 30 documents for public testimony.

From: Ray Gillespie [mailto:ray@raygillespieandassociates.com]
Sent: Tuesday, March 10, 2015 10:17 AM
To: Erin Shine
Cc: Kathie Wasserman; Heath Hilyard; 'Brooks Chandler'; Jesse Logan
Subject: Please put in record in SB 30

Erin:

Thanks for your time this morning.

Following is an email from Brooks Chandler, President of the Municipal Attorneys Association, who has been very active in the marijuana legislation. He is currently out of state but asked that I have this placed in the record on SB 30. The section he refers to is section 33 of the work draft 29-LS023\X.

I am the lobbyist for AML so I also conveying this concern on its behalf. Kathie Wasserman, AML Executive Director, will provide public testimony on this point at the first opportunity.

“This is section 128 in the 2/6 version on my computer. In my opinion this is a puzzling section and should be deleted for a number of reasons:

1. AS 17.38 as approved by the voters explicitly allows municipal government to regulate the "time, place, manner" of commercial marijuana including the right to prohibit all aspects of commercial marijuana activity (something neither the Legislature nor the ABC/MJ Board may do under Prop. 2). So it is simply inaccurate for the State to say it "reserves" the exclusive right to regulate marijuana. To the extent this is intended to limit the power of municipalities granted by the voters through initiative this overreach is premature by two years.

2. Perhaps recognizing the issue identified above, the phrase "inconsistent with AS 17.38" is used in this section. In my opinion, this does avoid the problem of altering a voter approved initiative in light of AS 17.38's "time, place, manner" language but leaves both local government and the state unclear about where the

line is drawn. There is no valid public policy reason articulated in the legislative record to date as to why creating a large gray area is necessary at this time.

3. SB 30 is focused on criminal issues. But the language in this section is not limited to criminal penalties and would ordinarily be interpreted to include civil regulation. So it really has no place in a bill focused on criminal matters.

4. In a larger context, in the absence of specific state statutes or regulations specific to commercial marijuana it is premature to short circuit the public input process and attempt to declare the State the regulator in chief of commercial marijuana. It would be better to proceed through the regulatory process this year and decide next year if there is some public policy reason to attempt to limit local regulation of commercial marijuana in a manner not intended by the voters.

I would prefer to place these comments in an official letter but time constraints simply don't allow for that so whatever could be done to make this an official part of the legislative record would be appreciated."

Brooks Chandler

Boyd, Chandler & Falconer LLP

911 W. 8th Ave.

Suite 302

Anchorage, AK

907-272-8401

Thank you very much,

Ray Gillespie



217 Second Street, Suite 200 • Juneau, Alaska 99801

Tel (907) 586-1325 • Fax (907) 463-5480 • www.akml.org

March 6, 2015

Senate Finance Committee
Senator Anna MacKinnon
Room 532
Alaska State Capitol
Juneau, Alaska 99801

RE: SB 30 – An Act relating to controlled substances; relating to marijuana; relating to driving motor vehicles when there is an open marijuana container; and providing for an effective date.

Dear Senate Finance Committee Members,

The Alaska Municipal League and its 164 member municipalities have spent much time and effort attempting to make sure that with the legality of marijuana, that we provide a safe environment for all of our residents, while yet allowing for the will of the people. To that end, we have paid much attention to the various bills moving through the Legislature, as they will all affect municipalities in many ways.

We know that SB 30 deals with the criminal aspects of marijuana in our communities and in our state. However, we are puzzled as to why Section 127 of the bill, would suddenly have a section that deals with civil regulations. There are many other bills where this issue would be more appropriate, such as HB 75.

We would respectfully suggest that civil regulations be left out of the criminal marijuana bill. Thank you for the opportunity to comment.

Sincerely,

Kathie Wasserman

Kathie Wasserman
Executive Director
Alaska Municipal League



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Law

CRIMINAL DIVISION
Criminal Division Central Office

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Honorable Anna MacKinnon
Alaska State Senate
Alaska Capitol, Room 516
Juneau, AK 99801

Dear Senator MacKinnon:

Article 12 Section 5 of the Alaska Constitution reads:

All public officers, before entering upon the duties of their office, shall take and subscribe to the following oath or affirmation "I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alaska and that I will faithfully discharge my duties as ... to the best of my ability."

The question presented is: Would it be a violation of a legislator's oath to participate in committee or voting on legislation relating to Ballot Measure #2, An Act to Tax and Regulate the Production, Sale, and Use of Marijuana, given the Supremacy Clause of the United States Constitution? The answer to this question is, no.

The Supremacy Clause is found in Article Six Clause 2 of the U.S. Constitution. This clause establishes the principle that the federal constitution and federal statutes are the "supreme law of the land." The practical effect of this constitutional provision is that all state judges must follow federal law when there is an irreconcilable conflict between federal and state law. For example, in *Cooper v. Aaron*, 358 U.S. 1 (1958), the Supreme Court rejected the validity of Arkansas' laws attempting to stop desegregation of that state's schools. The Supreme Court relied on the Supremacy Clause in holding that their decision in *Brown v. Board of Education* could not be nullified by state statutes. In other words, the Supremacy Clause relates to the validity of state laws rather than being a tool to create liability for elected officers from conducting hearings, debating, speaking for, or voting on legislation that may be in conflict with the federal law.

Further, the Supremacy Clause does not require a state to have a state statutory scheme consistent with federal law. For example, because the Federal Controlled Substance Act prohibits the possession of marijuana, a state is not required to have a similar provision of law prohibiting possession of marijuana. Marijuana under federal law is scheduled as a Schedule I controlled substance, the most serious substance, while Alaska schedules

marijuana as a schedule VIA controlled substance, the least serious of the controlled substances. These differences are not violations of the Supremacy Clause.

A hypothetical may be of assistance. If the federal government enacted a law that prohibited the sale of soft drinks in containers of more than 24 ounces, the Supremacy Clause would not be implicated if the state had no law on container size. On the other hand, if the state had a law that said soft drinks can only be sold in containers of 25 ounces or more the Supremacy Clause would cause the state law to be struck down. However, the Supremacy Clause would not have prohibited the legislature from passing the soft drink legislation.

As to the interplay between federal and state law, the United States Attorney General has provided guidance. See attached August 29, 2013 memorandum commonly referred to as the "Cole Memo." The "Cole Memo" provides guidance to federal prosecutors concerning federal enforcement efforts in those states that have legalized marijuana. According to the memo, federal enforcement efforts will be focused on the following priorities:

1. Preventing the distribution of marijuana to minors;
2. Preventing revenue from the sale of marijuana from going to criminal entities, gangs or cartels;
3. Preventing the diversion of marijuana from states where it is legal under state law to other states;
4. Preventing state-authorized marijuana activity from being used as a pretext for illegal activity (trafficking, etc.);
5. Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
6. Preventing the exacerbation of adverse public health consequences and crimes (e.g., drugged driving);
7. Preventing the growing of marijuana on public lands (public safety and environmental dangers); and
8. Preventing marijuana use or possession on federal property.

As to state regulatory efforts, the memo specifically provides the following guidance:

In jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten the federal priorities set forth above. . . . In those circumstances, consistent with the traditional allocation of federal-state efforts in this area, enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity. If state

enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecution, focused on those harms.

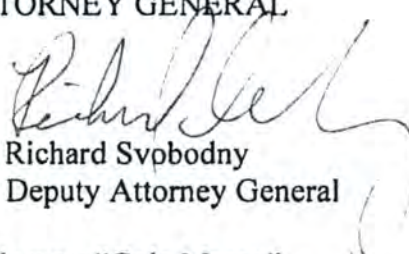
In other words, it is the position of the United States' Attorney that if a state has an initiative that requires regulation of marijuana, "enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activities." Although it cannot be guaranteed, the "Cole Memo" makes it clear that the Supremacy Clause will not be used to try to stop a legislative body from regulating marijuana use and distribution.

The next sentence in the Cole Memo suggests that the federal government might choose to use the Supremacy Clause "[i]f state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement action, including criminal prosecution, focused on these harms." The memo does not mention the use of the Supremacy Clause against the initiative, but without sufficient regulation by the legislature the federal government may choose to use federal law to "bring individual enforcement action, including criminal prosecution..." Again, one can never guarantee what the federal government will do in the future, but this language means that if the legislature does not act with a sufficiently robust regulating scheme it is possible that federal criminal cases could be brought against users and distributors of marijuana.

In conclusion, the State of Alaska and the United States of America are separate sovereigns. The legislative body of each government may adopt laws. When the laws of a state are irreconcilably in conflict with a law of a federal government, the federal law becomes "the supreme law of the land." Hence, it is not a violation of a legislator's oath to engage in speech and debate on legislation even if a court ultimately finds that a federal law supersedes a state law and declares the state law unconstitutional.

Sincerely,

CRAIG W. RICHARDS
ATTORNEY GENERAL


By: Richard Svobodny
Deputy Attorney General

Enclosure: "Cole Memo"



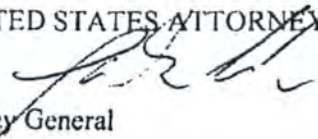
U.S. Department of Justice

Office of the Deputy Attorney General

Washington, D.C. 20530

June 29, 2011

MEMORANDUM FOR UNITED STATES ATTORNEYS

FROM: James M. Cole 
Deputy Attorney General

SUBJECT: Guidance Regarding the Ogden Memo in Jurisdictions
Seeking to Authorize Marijuana for Medical Use

Over the last several months some of you have requested the Department's assistance in responding to inquiries from State and local governments seeking guidance about the Department's position on enforcement of the Controlled Substances Act (CSA) in jurisdictions that have under consideration, or have implemented, legislation that would sanction and regulate the commercial cultivation and distribution of marijuana purportedly for medical use. Some of these jurisdictions have considered approving the cultivation of large quantities of marijuana, or broadening the regulation and taxation of the substance. You may have seen letters responding to these inquiries by several United States Attorneys. Those letters are entirely consistent with the October 2009 memorandum issued by Deputy Attorney General David Ogden to federal prosecutors in States that have enacted laws authorizing the medical use of marijuana (the "Ogden Memo").

The Department of Justice is committed to the enforcement of the Controlled Substances Act in all States. Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large scale criminal enterprises, gangs, and cartels. The Ogden Memorandum provides guidance to you in deploying your resources to enforce the CSA as part of the exercise of the broad discretion you are given to address federal criminal matters within your districts.

A number of states have enacted some form of legislation relating to the medical use of marijuana. Accordingly, the Ogden Memo reiterated to you that prosecution of significant traffickers of illegal drugs, including marijuana, remains a core priority, but advised that it is likely not an efficient use of federal resources to focus enforcement efforts on individuals with cancer or other serious illnesses who use marijuana as part of a recommended treatment regimen consistent with applicable state law, or their caregivers. The term "caregiver" as used in the memorandum meant just that: individuals providing care to individuals with cancer or other serious illnesses, not commercial operations cultivating, selling or distributing marijuana.

The Department's view of the efficient use of limited federal resources as articulated in the Ogden Memorandum has not changed. There has, however, been an increase in the scope of

Memorandum for United States Attorneys
Subject: Guidance Regarding the Ogden Memo in Jurisdictions
Seeking to Authorize Marijuana for Medical Use

Page 2

commercial cultivation, sale, distribution and use of marijuana for purported medical purposes. For example, within the past 12 months, several jurisdictions have considered or enacted legislation to authorize multiple large-scale, privately-operated industrial marijuana cultivation centers. Some of these planned facilities have revenue projections of millions of dollars based on the planned cultivation of tens of thousands of cannabis plants.

The Ogden Memorandum was never intended to shield such activities from federal enforcement action and prosecution, even where those activities purport to comply with state law. Persons who are in the business of cultivating, selling or distributing marijuana, and those who knowingly facilitate such activities, are in violation of the Controlled Substances Act, regardless of state law. Consistent with resource constraints and the discretion you may exercise in your district, such persons are subject to federal enforcement action, including potential prosecution. State laws or local ordinances are not a defense to civil or criminal enforcement of federal law with respect to such conduct, including enforcement of the CSA. Those who engage in transactions involving the proceeds of such activity may also be in violation of federal money laundering statutes and other federal financial laws.

The Department of Justice is tasked with enforcing existing federal criminal laws in all states, and enforcement of the CSA has long been and remains a core priority.

cc: Lanny A. Breuer
Assistant Attorney General, Criminal Division

B. Todd Jones
United States Attorney
District of Minnesota
Chair, AGAC

Michele M. Leonhart
Administrator
Drug Enforcement Administration

H. Marshall Jarrett
Director
Executive Office for United States Attorneys

Kevin L. Perkins
Assistant Director
Criminal Investigative Division
Federal Bureau of Investigations



2014 General Election Ballot Measure No. 2

An Initiative to Tax and Regulate the Production,
Sale, and Use of Marijuana

Purpose and Findings

- Allow law enforcement to focus on violent crimes and property crimes
- Enhance individual freedom
- Declare marijuana should be legal for persons 21 years of age or older
- In the interest of health and public safety, production and sale of marijuana should be regulated
 - Individuals show proof of age before purchasing
 - Legitimate taxpaying business people, and not criminal actors will conduct sales of marijuana
 - Marijuana sold by regulated businesses will be labeled and subject to regulation to inform and protect consumers
 - Does not intend to diminish the Alaska Supreme Court's holding in *Ravin v. State*
 - Does not require any individual or entity to violate federal law, or exempt any individual or entity from federal law

Personal Use of Marijuana

The following acts by persons 21 years of age or older are lawful

- Possessing, using, displaying, purchasing, transporting, growing or processing
 - Marijuana accessories
 - One ounce or less of marijuana
 - No more than 6 marijuana plants (3 or fewer mature)
 - Including marijuana produced by the plants on premises where plants are grown
 - Transferring one ounce or less of marijuana and up to six immature plants to a person 21 or older without remuneration
 - Consumption of marijuana (except in public)
 - Assisting a person 21 years of age or older in the above

Restrictions on Personal Cultivation; Penalty

- Personal cultivation is subject to
 - Plants not subject to public view without binoculars, aircraft, etc.
 - Secure plants from unauthorized access
 - Only on cultivator's property or with consent of person in lawful possession of property

Public Consumption Banned

Violation of up to \$100

False Identification Penalty

- Person under 21 years of age may not offer false identification to
 - Purchase marijuana or attempt to procure marijuana or marijuana products
 - Gain access to a marijuana establishment

Marijuana Accessories Authorized

For persons 21 years of age or older

Lawful Operation of Marijuana-Related Facilities

- A person 21 years of age or older with valid registration, may operate a retail marijuana store, marijuana cultivation facility, marijuana product manufacturing facility, or marijuana testing facility
- Lease or allow use of property for activities above
- Authorizes penalties for marijuana establishments that violate their registration/license
- Personal use provisions do not apply to marijuana establishments

Marijuana Control Board

At any time the legislature may create a marijuana control board in DCCED to assume the duties given to the ABC Board

Rulemaking

Not later than 9 months after the effective date of the initiative, the board shall adopt regulations for marijuana establishments including procedures for licensing, application fees, etc.; qualifications for registration; security requirements; requirements to prevent sales to persons under 21; labeling requirements; health and safety regulations; reasonable restrictions on advertising; and civil penalties for failure to comply with regulations.

Marijuana Establishment Registrations

- Applications and renewal applications; board shall forward half of the registration fee to the local regulatory commission for the local government in which the establishment will operate.
- If local government has enacted a numerical limit on marijuana establishments, board will ask local government for input on location, etc.

Local Control

- Local governments may prohibit operation of marijuana establishments by an ordinance or voter initiative.
- Local governments may
 - Enact ordinances not in conflict with the initiative relating to time, place, and manner restrictions on marijuana establishments
 - Designate a local regulatory authority to review applications
 - Establish procedures for issuing or revoking a registration issued by a local government
 - Establish annual schedule of fees
- Local governments may issue permits directly to marijuana establishments if the board does not act on an application within 90 days or if the board does not adopt regulations within 9 months of the effective date of initiative.

Employers, Driving, Minors, Property

Initiative does not

- require an employer to permit use, etc.
- Alter DUI laws
- Permit transfer of marijuana to person under 21
- Prohibit a person or entity who owns or controls private property from prohibiting or regulating marijuana

Medical Marijuana

Not limited by the initiative

Definitions

IMPLEMENTATION OF LEGALIZING AND REGULATING MARIJUANA IN ALASKA

SB 30 - CRIMINAL

CONFORMING STATUTES FOR ALCOHOL
AND/OR CONTROLLED SUBSTANCE

REMOVED FROM CONTROLLED SUBSTANCES

PERSONAL POSSESSION

DEFINITION OF "PUBLIC"

MISCONDUCT INVOLVING MARIJUANA

MANUFACTURING PROCESS

DEFINITIONS

LOCAL OPTION

SB 62 - REGULATORY

EDIBLES

PACKAGING

LABELING

LICENSING

TESTING

TAXING

SB 60 - MARIJUANA CONTROL BOARD

BOARD