

**01/27/15
PRESENTATION:
EXECUTIVE
BRANCH -
MARIJUANA
BALLOT MEASURE
IMPLEMENTATION
& PERSPECTIVE**

<TARGET><BILL></BILL><SUBJECT>01-27-15 PRESENTATION
EXECUTIVE BRANCH - MARIJUANA BALLOT MEASURE
IMPLEMENTATION and
PERSPECTIVE</SUBJECT><COMM>SSTA29</COMM></TARGET>



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

ALCOHOLIC BEVERAGE CONTROL BOARD

Marijuana Implementation Overview for Senate State Affairs

ABC Director Cynthia A. Franklin
January 27, 2015



Definitions

Define all important terms at outset

Important terms in AS 17.38 that are not defined

- “Edibles”
- “Public”
- “Possession”

Definition that needs clarification

- “Marijuana” (specifically portion stating that an oil is not marijuana)



Edibles

Several elements are important to assure safe recreational use of edibles

- Serving size: 5 or 10 mg THC content
- Limit on total THC per package
- Childproof packaging (many good solutions have been identified)
- Prohibition of adulterated products
- Limitation of products appealing to kids
- Warning labels (suggestion: symbol for those who are non English reading, such as the no-puffin we commonly know)





Edibles

- Edibles are 40% of the market in Colorado
- Due to smoking prohibitions, edibles are likely to be the most commonly purchased product for tourist consumption





Hash Oil and Solvent Extraction

- Manufacturing processes need to be regulated as closed loop systems by licensees only
- All other solvent extractions should be prohibited
- Local governments, land-use rules and zoning restrictions are some ways to handle this



Labs

- Labs are essential to certify THC content for edible serving sizes
- CO advised to have labs up and running before edible licenses are issued
- Open question of where labs will come from, though we have heard there will be private interest from the industry as long as they are able to obtain state certification



Advertising and Education

- Reasonable advertising limits should be part of the rules
- Public education about rules and edibles is essential
- Colorado has offered to share its multi-million dollar

“Good to Know” Campaign

Check it out at: www.GoodToKnowColorado.com

Be educated. Be responsible.

- › It's illegal to purchase, possess or use marijuana if you're under 21.
- › It's illegal to use marijuana in public.
- › It's illegal to take marijuana out of state.
- › It's illegal to give or share marijuana with anyone under 21.
- › Protect youth from underage marijuana use. Keep it locked up, out of sight and out of reach.





Local Government Control

- AS 17.38.110 provides for local control of marijuana.
- Local options for alcohol exist in Title 4 and give us a starting place for MJ local options in Title 17.
- Local governments in CO issue their own licenses in addition to state licenses. This is something to consider for AK.



Banking

- CO MJ industry is under-banked, not unbanked
- Oregon's M-Bank just began accepting deposits from CO businesses
- Cash acceptance issues will need to be addressed



License Selection Process

- Merit-based selection is proving to be best method- Nevada has a good model
- Strict limitation on number of licenses encourages black market and lawsuits
- Market correction is already occurring in CO with grower businesses failing due to depressed market for harvest
- If only best applicants are licensed, limits on numbers may not be necessary



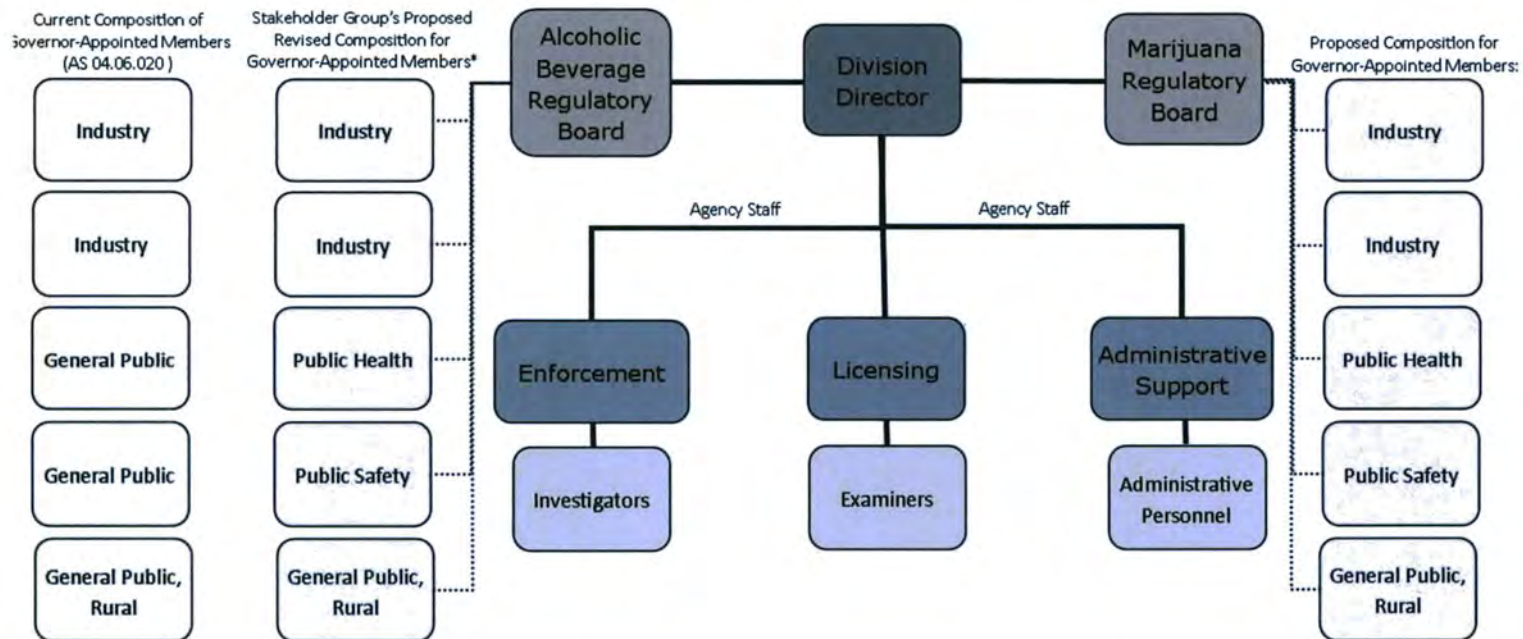
Board Structure

- The ABC Board is a five member volunteer board that meets 5 times per year to act on liquor license issues
- A similar Marijuana Control Board that shares current ABC agency director and staff could utilize the experience, minimize additional staffing, and enforce licensing rules on both substances
- Existing ABC agency staff (licensing, enforcement and administrative personnel) are experienced in licensing and enforcing rules around liquor licenses



Board Structure

Proposed Organizational Structure: Alcoholic Beverage Control Board with new marijuana responsibilities



* If the ABC Board director, considered a non-voting member of the board, has the same background as any of the sectors listed above (with the exception of general public, rural), the corresponding seat would become a general public member



Questions?

Recreational Marijuana and Health

Jay C. Butler, MD

Chief Medical Officer

Dept. of Health and Social Services

Short-Term Effects of Marijuana Use on Health

- Impaired short-term memory
- Temporary loss of coordination
 - Increase in motor vehicle accident risk when driving soon after using
 - THC levels of 2 to 5 ng/mL associated with impaired driving skills
- Altered judgment
- At high doses
 - Stimulation: agitation, paranoia, psychosis
 - Followed by sedation: can lead to respiratory insufficiency in children
 - No specific antidote for marijuana toxicity

Volkow ND, et al. *N Engl J Med* 2014; 370:2219-27

Hurley W, Mazor S. *JAMA Pediatr* 2013; 167:602-3

Long-Term Effects of Marijuana Use on Health

- Risk of addiction:
 - ~1 in 10 who use marijuana will become addicted
 - Risk increases with
 - Earlier age of initiation
 - Daily use (25% to 50%)
 - Cannabis withdrawal syndrome: craving, irritability, sleep difficulties, anxiety, and depression
- Regular use during adolescence associated with
 - Altered brain development
 - Poorer educational outcome
 - Cognitive impairment, lower IQ scores
 - Diminished life satisfaction

Long-Term Effects of Marijuana Use on Health

- Association with use of other substances
- Psychiatric symptoms
 - Associated with anxiety and depression
 - Unmasking of schizophrenia (genetic predisposition)
- Increased symptoms of chronic bronchitis in persons who regularly smoke marijuana

Effect on the Health System: Experience in Colorado

- Increased admissions to burn center
 - Butane used as solvent to extract THC
- Cyclic vomiting syndrome/marijuana hyperemesis syndrome
 - Associated with frequent use of high THC products
 - Abdominal pain, sweating, severe vomiting
- THC intoxication from edible products
 - 10-30 mg THC for intoxication
 - THC blood levels begin to rise ~30 minutes after consumption, peak at ~3 hours, and are cleared ~12 after ingestion

Effect on the Health Care System: ED Visits for Ingestions, Children <12 Years Old, Denver, 2005-2011

Characteristic	January 1, 2005, Through September 30, 2009	October 1, 2009, Through December 31, 2011 *
No. of patients	790	588
Age, median (IQR), y	2.6 (1.6-3.0)	2.3 (1.5-3.6)
Male sex	449 (56.8)	334 (56.8)
Types of ingestions		
Acetaminophen	90 (11.3)	48 (8.2)
Antihistamine	43 (5.4)	32 (5.4)
Antidepressant	23 (2.9)	14 (2.3)
Antitussive	18 (2.2)	14 (2.3)
Marijuana exposures	0	14 (2.3)

* Medical marijuana laws changed Oct 2009; recreational use legalization Nov. 2012

Many Caveats and Poorly Understood Issues

- Association does not prove causation
- Health effects may take years to manifest
- Effects of prenatal exposure on brain development
- Cancer risk: confounded by high rates of concurrent tobacco use
- Risk of heart attack and stroke
- Opportunities for effective public health education to reduce the health risks
- Second hand marijuana smoke exposure
- E-cigarettes (vaping)
- “Re-normalization” of smoking

Health Effects of Legalization

- Very little is known
- Depends on legalization's effects on:
 - Prevalence of use and age-specific prevalence of use
 - Frequency and duration of use
 - Modalities of use
 - Regulation, taxation, market forces



Alaska Department of Revenue

Marijuana Taxation
Presentation to Senate State Affairs Committee
January 27, 2015

Alaska Department of Revenue



Taxation in the Marijuana Initiative

- The bulk of the initiative language dealt with legalization and licensing. Tax is a relatively small and simple section.
- We have been working with the Department of Commerce and ABC since the initiative passed to ensure seamless administration.

Initiative Language

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.

What it means for the Tax Division

- The Tax Division currently collects several excise taxes, including alcohol, tobacco, motor fuels, vehicle rentals, mining, and tires. It is well within our ability to add an additional one.
- Alcohol and Tobacco are currently taxed at the wholesale level. Since marijuana will not be imported into the state, taxing “cultivation facilities” (i.e. growers) at their first point of sale is the most comparable to what we are already doing. It is also by far the easiest to administer.

Preliminary Revenue Estimates

- Based on the best available data, our Economic Research Group estimated first year revenues between \$5 and \$20 million
 - Data on current users, both quantity and volume, is understandably inexact
 - The wide range is largely driven by what proportion of existing users will transition from the illegal to the legal market
 - Data from Colorado and Washington is hard to compare, due to the widespread medical distribution industries that existed in those states prior to legalization

Enforcement

- Tax enforcement could also be an additional tool to pursue and shut down unlicensed / black market growers
- Tax enforcement is in many ways easier to prosecute than other crimes
- (Al Capone went to jail for tax evasion)
- The Department of Revenue, Criminal Investigations Unit (CIU) will continue to work with state and local law enforcement in the effort to bring businesses into compliance

Regulations

- Because we are anticipating legislation this year, we will not begin writing regulations until the end of the session
- We are confident that we can complete any necessary tax regulations before the November, 2015 deadline

THANK YOU

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AS 11.71.900(14) "Marijuana" Definition by Statute	AS 11.71.160(f) "Hash oil/Hashish" Schedule IIIA	AS 11.71.190(b) "Marijuana" Schedule VIA	AS 17.37.040(a)(4) "Medical Marijuana"	AS 17.38.900(6) PSUM Initiative Marijuana Definition
<p>"marijuana" means the seeds, and leaves, buds, and flowers of the plant (genus) Cannabis, whether growing or not; it does not include the resin or oil extracted from any part of the plants, or any compound, manufacture, salt, derivative, mixture, or preparation from the resin or oil, including hashish, hashish oil, and natural or synthetic tetrahydrocannabinol; it does not include the stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the stalks, fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination</p>	<p>...Schedule IIIA includes (1) hashish; (2) hash oil or hashish oil; (3) tetrahydrocannabinols;</p>	<p>Marijuana is a schedule VIA controlled substance</p> <p>Please refer to AS 11.71.900(14) for definition of "Marijuana"</p>	<p>(a) A patient, primary caregiver, or alternate caregiver may not(4) possess in the aggregate more than(A) one ounce of marijuana in usable form; and(B) six marijuana plants, with no more than three mature and <i>flowering</i> plants producing usable marijuana at any one time</p>	<p>(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.</p> <p>"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</p>

<p>AS 11.71.040 MICS 4th Degree(a)(3)(F)(G) Class "C" Felony</p>	<p>AS 11.71.050 MICS 5th Degree(a)(2)(E) Class "A" Misdemeanor</p>	<p>AS 11.81.900(6) Current definition of "Cannabis"</p>	<p>AS 17.38.020(b) PSUM Initiative Language for Possession</p>
<p>(a) Except as authorized in AS <u>17.30</u>, a person commits the crime of misconduct involving a controlled substance in the fourth degree if the</p> <p>(3) possesses</p> <p>(F) one or more preparations, compounds, mixtures, or substances of an aggregate weight of four ounces or more containing a schedule VIA controlled substance; or</p> <p>(G) 25 or more plants of the <u>genus cannabis</u></p>	<p>(a) Except as authorized in AS <u>17.30</u>, a person commits the crime of misconduct involving a controlled substance in the fifth degree if the person</p> <p>(2) Possesses</p> <p>(E) one or more preparations, compounds, mixtures, or substances of an aggregate weight of one ounce or more containing a schedule VIA controlled substance;</p>	<p>(6) "cannabis" has the meaning ascribed to it in AS <u>11.71.900</u> (10), (11), and (14)</p> <p>-----</p> <p>(10) "hashish" means the dried, compressed, resinous product of the plant (genus) Cannabis;</p> <p>(11) "hashish oil" means the viscous liquid concentrate of tetrahydrocannabinols extracted from the plant (genus) Cannabis;</p> <p>(14) "Marijuana" as defined under AS 11.71.900 (14) on prior slide</p>	<p>(a) Possessing, using, displaying, purchasing, or transporting marijuana accessories or one ounce or less of marijuana;</p> <p>(b) Possessing, growing, processing, or transporting no more than six marijuana plants, with three or fewer being mature, flowering plants, <u>and</u> possession of the marijuana produced by the plants on the premises where the plants were grown;</p>



Department of Law

Criminal Division

Policy Questions Surrounding Marijuana Legalization

Definition of Marijuana

- Once PSUM becomes effective there will be **three** different definitions of marijuana in statute.
- Medical Marijuana:
 - "usable marijuana" means the seeds, leaves, buds, and flowers of the plant (genus) cannabis, but **does not include the stalks or roots.** (AS 17.37.070(12)).

- Drug Offense Statutes:
 - "marijuana" means the seeds, and leaves, buds, and flowers of the plant (genus) Cannabis, whether growing or not; **it does not include the resin or oil extracted from any part of the plants, or any compound, manufacture, salt, derivative, mixture, or preparation from the resin or oil, including hashish, hashish oil, and natural or synthetic tetrahydrocannabinol; it does not include the stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the stalks, fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination; (AS 11.71.900(14)).**

- PSUM
- "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;** (AS 17.38.900(6)).

Concentrates

- PSUM includes “marijuana concentrate” in the definition of marijuana.
- What is a “marijuana concentrate?”

Underage Possession/Consumption

- Under PSUM:
 - A person over 21 years of age can possess, use, consume, or transport one ounce or less of marijuana. Public consumption is a violation.
- Under current law:
 - Possession of one ounce or less of marijuana is a misdemeanor. ^B
- Once PSUM becomes effective:
 - Minors (persons under 18 years of age) will continue to be adjudicated as juvenile delinquents if they possess marijuana.
 - Persons aged 18-21 will be charged with misdemeanors if they possess marijuana.
- Question

Should a violation be considered for persons aged 18-21? Should the penalties mirror the current Minor Consuming Alcohol statute?

Opt Out Communities

- What should the penalty be for operating marijuana cultivation facilities, product manufacturing facilities, testing facilities, or retail stores in a community that has opted to prohibit such activities?
 - The current drug offense statutes make this conduct anything from a class A misdemeanor to an unclassified felony.
 - Should an offense structure be created which is similar to alcohol?
 - Class A misdemeanor – class C felony to bring alcohol into a local option community.

Promoting Contraband

- Marijuana is still a controlled substance.
- Bringing (or receiving) a controlled substance into a correctional facility is a class C felony.
 - Other substances which are legal outside a prison facility but prohibited inside a prison facility (i.e. tobacco) are misdemeanors.
 - Should the promoting contraband statute be amended?

Proposed Discussion topics from the Department of Public Safety

PSUM testimony to the State Legislature on 1/27/15

Introductory comments –

Good morning,

I am Major Dennis Casanovas with the Division of Alaska State Troopers. I appreciate the opportunity to address this legislative committee and to re-affirm to you, the Alaska State Troopers are committed to carrying out the laws of the State in the most professional and effective manner possible.

Most state legislation is carefully crafted and vetted and includes modifying existing statutory and regulatory language so the intent of new legislation is clear and conflicting language or ambiguity is eliminated.

Ballot Measure #2 resulted in eight community hearings being held during September of 2014, and with the election results having been certified, Alaska State Troopers and other Alaskan law enforcement officers across this State are expected to understand and to legally enforce the changes which this initiative provides for in just 27 days.

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

Law Enforcement Priorities –

1. What will the definition of marijuana be on February 24, 2015?

Alaska law enforcement officers are most familiar with the definition of marijuana found in

(Slide #1)

AS 11.71.900 (14)

AS 11.71.160 (f)(1)(2)(3) - Schedule IIIA

AS 11.71.190 (b) – Schedule VIA

AS 17.37.040 (a)(4)

But now there is a new definition

AS 17.38.900 (6)

Note the contrast between existing definitions in statute, which have been the basis for legal interpretations and cited in Alaska court decisions compared to the new initiative language.

2. How might interpretation and enforcement actions vary? (Slide #2)

Let's envision a law enforcement officer contacts a citizen in a public place such as on a street corner, or perhaps even at an airport, a marine highway system terminal or on school grounds which aren't posted prohibiting the possession of marijuana – or during a traffic stop on a public roadway. The 21 year old citizen has a container with slightly less than one ounce of a substance appearing to be a marijuana concentrate and 6 marijuana plants, only three of which are mature, flowering plants. Is this a criminal offense? Applying the definition of the new Ballot Measure, probably not. But applying the definition found in current statute – probably so.

Let's add an additional variable – the law enforcement officer contacts three 21 year olds in a vehicle on a public roadway – sitting in the center console of the vehicle is a single container with just under three ounces of marijuana or marijuana concentrate and there are 18 marijuana plants, only 9 of which are mature, flowering plants. The citizens claim they each own 1/3 of the products. Is there a criminal offense? Applying the definition of the new Ballot Measure the answer may be no. But applying current Alaska law and court rulings describing that possession may be sole, constructive or held 'jointly' with others, thus the answer is this could be a criminal offense.

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

Let's add an additional variable to include the detail that there is 3 pounds of harvested marijuana located in the home. Does the language found in the initiative under AS 17.38.020 (b) which reads that is NOT a criminal or civil offense under Alaska law, "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;" mean that there is no maximum limit to the amount of marijuana, produced by plants in the residence that can be harvested and retained?

Conclusion –

Ballot Measure #2 required the Alaska State Troopers to order four hundred battery operated scales to assist Alaska State Troopers and Village Public Safety Officer to be able to accurately weigh marijuana and marijuana concentrates when encountered. We intend to produce a power point presentation to our State Troopers as to the policies for enforcement of this new law but we still need your assistance in clarifying some of the conflicting and ambiguous language before February 24, which will assist us in designing those policies.

Our Alaska law enforcement officers and the vast majority of Alaska's general public wish to comply with the laws which are enacted but we need your direction and support in making those laws understandable and enforceable and able to withstand judicial review.

Thank you.