

CS FOR HOUSE BILL NO. 59(HSS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH AND SOCIAL SERVICES COMMITTEE

Offered: 3/11/15

Referred: Judiciary

Sponsor(s): REPRESENTATIVE SEATON

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

1 concentrates; and

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

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

6 **Sec. 04.16.165. Restriction on sale of marijuana on licensed premises.** A

7 licensee may not sell, offer for sale, furnish, or deliver marijuana on licensed premises.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 product manufacturing facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (1) prohibitions on combining marijuana concentrates with other
 5 addictive substances; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (1) November 24, 2016; or

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

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