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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**

preceding the violation, the person has been previously convicted under

(A) this section;

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

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

* **Sec. 5.** AS 11.71.040 is amended by adding a new subsection to read:

(e) The provisions of (a)(3)(F) and (a)(3)(G) of this section do not apply to 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.

* **Sec. 6.** AS 11.71.050(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 fifth degree if the person

(1) **transports,** manufactures or delivers, or possesses with the intent to manufacture or deliver,

(A) one or more preparations, compounds, mixtures, or substances of an aggregate weight of **more** [LESS] than one ounce containing a schedule VIA controlled substance;

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

(2) possesses

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

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

(i) three grams containing a schedule IIIA or IVA controlled substance except a controlled substance in a form listed in

(ii) of this subparagraph;

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

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

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

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

(E) one or more preparations, compounds, mixtures, or substances of an aggregate weight of **at least three ounces but less than 16 ounces** [ONE 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 a schedule VIA controlled substance to a person under 21 years of age;

(5) delivers or transports

(A) one or more preparations, compounds, mixtures, or substances of an aggregate weight of one ounce or less of a schedule VIA controlled substance for remuneration; or

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

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

* **Sec. 7.** 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 a schedule VIA 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

VIA controlled substance 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.

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

(1) up to \$300 for a violation of (a)(1), (a)(2)(A), (a)(3), or (a)(4) of this section; upon conviction of a person under (a)(2)(A) of this section, the court may grant a suspended imposition of sentence under AS 12.55.085 and place the person on probation for up to one year. Among the conditions of probation, the court shall, with the consent of a community diversion panel, refer the person to the panel, and require the person to comply with conditions set by the panel, including counseling, education, treatment, community work, and payment of fees. In this subsection, "community diversion panel" means a youth court or other group selected by the court to serve as a sentencing option for a person convicted under (a)(2)(A) of this section;

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

* **Sec. 11.** AS 11.71.090(a) is amended to read:

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

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

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

(3) if the defendant is the

(A) primary caregiver of the patient, the defendant was in physical possession of the caregiver registry identification card at the time of 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;

(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).