

Code Ordinance

By: Council Member Stu Graham
Introduced: February 9, 2015
Public Hearing: February 23, 2015
Amended: February 23, 2015
Action: February 23, 2015

Vote: Buswell, Graham, O'Barr, and Wilson in favor; Sullivan-Leonard and Wall opposed

**City of Wasilla
Ordinance Serial No. 15-08(AM)**

An ordinance of the Wasilla City Council adopting Wasilla Municipal Code, Chapter 9.40 Regulation of Marijuana, pertaining to the manufacture, transport, possession, and use of marijuana and substances derived from marijuana.

Whereas, the voters of the Alaska recently passed Ballot Measure 2, An Act to Tax and Regulate the production, Sale, and use of marijuana, and which would be codified as Alaska Statute 17.38 et seq.; and

Whereas, AS 17.38.110, "local control" in subsection (a) provides: "A local government may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, or retail marijuana stores through the enactment of an ordinance or voter initiative"; and

Whereas, the personal use of marijuana as described in AS 17.38.020 will not be affected by this ordinance; and

Whereas, enactment of AS 17.38 is phased in with the first actions under said statute becoming effective in late February 2015; and

Whereas, State regulations influencing actions permitted beginning in late February 2015 will not be in place by the time said actions are allowed by passage of the statewide voter initiative; and

Whereas, the voters in the City of Wasilla precincts voted in opposition to Ballot Measure 2; and

Whereas the Wasilla City Council is charged with enacting law to best assure the public health and safety; and

Whereas; the Wasilla City Council must enact regulations which express the will of the voters of the city of Wasilla.

Section 1. Classification. This ordinance is of a general and permanent nature and shall become part of the city code.

Section 2. Adoption of chapter. WMC 9.40, Regulation of Marijuana, is hereby adopted to read as follows:

CHAPTER 9.40 REGULATION OF MARIJUANA

9.40.010 Definitions.

When used in the chapter, the following words and phrases shall have the meanings set forth in this section:

Consume or consumption. The act of ingesting, inhaling, or otherwise introducing marijuana into the human body.

Manufacture. Any operation to cultivate marijuana or manufacture products in which marijuana or any extract therefrom is an ingredient.

Marijuana. As defined in Alaska Statute 17.38.900(6).

Marijuana Club. The consumption of marijuana by persons assembled within a commercial or industrial structure, where such consumption is permitted, encouraged, promoted, enabled or condoned by persons assembled therein, whether such consumption is the primary intended purpose or an intended purpose incidental to other reasons for assembly therein.

Transportation device. The use of a motorized and/or wheeled vehicle to move marijuana and/or manufactured from cannabis within the Wasilla City limits.

9.40.020 Purpose.

The purpose of this chapter is to enhance public safety by regulating availability and use of marijuana as marijuana is a psychoactive substance.

9.40.030 Limitations to manufacture.

Manufacturing edible products, marijuana extracts and/or concentrates made with marijuana is prohibited within the Wasilla City limits.

9.40.040 Limitation on transport.

Transport of marijuana within the Wasilla City limits shall be limited to no more than two (2.0) ounces of marijuana per transportation device.

9.40.050 Limitations on use.

(A) Marijuana may be consumed only on private real property with consent of the owner.

(B) Use of marijuana may not disturb other residents of the same or neighboring properties. Any use disturbing other residents or neighbors must cease immediately.

9.40.060 Marijuana clubs prohibited.

(A) Marijuana clubs are prohibited within the Wasilla City limits.

(B) Each day in which a violation of this provision is committed shall be deemed a separate violation.

9.40.070 Remedies and Penalties.

(A) Remedies and penalties for violations of this chapter are as provided in Chapter 1.20.

(B) Each full ounce or portion thereof in excess of the permitted amount shall constitute basis for violation of this chapter and constitute a separate violation pursuant to Chapter 1.20.

(C) Manufacturing of edible products and/or concentrates or derivatives shall constitute a violation pursuant to Chapter 1.20.

(D) Any products found in violation of this chapter may be seized and held as evidence to be used in any future proceeding and may be disposed of as appropriate after their use for evidentiary purposes is no longer required, in accordance with Chapter 5.40.

Section 3. Amendment of subsection. WMC 1.20.030, Disposition of Scheduled Offenses—Fine Schedule, is hereby amended to add a fine for Excessive responses violations as follows:

Code Section	Description of Offense	Fine
9.40.030	Marijuana Manufacture	\$300
9.40.040	Marijuana Transport	\$100
9.40.050	Marijuana Use	\$100
9.40.060	Marijuana Clubs Prohibited	\$1,000

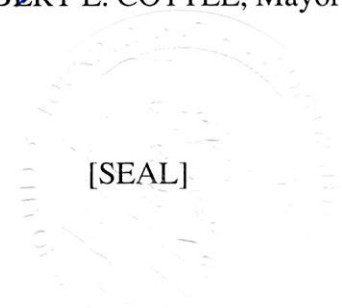
Section 4. Effective date. This ordinance shall take effect upon adoption by the Wasilla City Council.

ADOPTED by the Wasilla City Council on February 23, 2015.


BERT L. COTTLE, Mayor

ATTEST:


KRISTIE SMITHERS, MMC, City Clerk



Ballot Measure No. 2

An Act to Tax and Regulate the Production, Sale, and Use of Marijuana

BALLOT LANGUAGE

**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.

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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?

Yes No

LEGISLATIVE AFFAIRS AGENCY SUMMARY

The Act regulates the production, sale, and use of marijuana. The Act enacts a marijuana tax.

The Act allows personal use of marijuana by a person 21 years of age or older, with restrictions. The Act lets a person have, show, use, buy, transport, or give away up to one ounce of marijuana to another person 21 years of age or older. The Act makes it a crime for a person under 21 to use a false ID to buy marijuana. The Act also makes it a crime to use marijuana in public. The Act sets the number and types of marijuana plants a person may keep and give away. The plants may not be in public view. The Act allows a person 21 years of age or older to buy, make, have, show, sell, and give away items used to grow, use, produce, package, or store marijuana, or produce, use, package, test, or store marijuana products.

The Act regulates marijuana establishments. The Act defines an establishment as a retail store, a grower, a tester, or a product manufacturing facility. To operate legally, an establishment must register. Registered establishments may possess, transport, deliver, display, or receive marijuana. Registered marijuana stores, growers, or manufacturers may buy and sell marijuana. Growers or testers may grow or process it.

The Alcoholic Beverage Control Board administers the registration system. The board must make rules to carry out the Act. Those rules may not make it impractical to operate a marijuana establishment. The board must give a copy of each application and half the application fee to the local marijuana authority, if there is one; the Act provides for local control if the board does not act. Cities or boroughs may ban establishments. They may limit the number of them within their boundaries. They may regulate the time, place, and manner of operation. They may name local authorities to regulate them.

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The Act taxes the sale of marijuana by registered growers. The tax is \$50 per ounce. The Department of Revenue administers the tax. Growers who pay late may be subject to fines. Growers who do not pay the tax may lose their registrations.

Under the Act, employers do not have to allow marijuana in the work place. Employers may also restrict marijuana use by employees. The Act does not allow a person to drive under the influence of marijuana. The Act allows private property owners or tenants to ban the use of marijuana on the property.

STATEMENT OF COSTS

Estimate of Costs to the State of Alaska for the Implementation of the Initiative Proposing an Act to “tax and regulate the production, sale, and use of marijuana.”

Summary

As required by AS 15.45.090(a)(4), the State of Alaska has prepared the following statement of costs resulting from the implementation of the proposed ballot initiative to tax and regulate the production, sale, and use of marijuana.

The initiative would legalize the personal use of marijuana for persons age 21 or older. Specifically, the statute would permit: the possession, use, display, purchase, or transportation of marijuana accessories or one ounce or less of marijuana; the possession, growth, processing, or transporting of no more than six marijuana plants (with three or fewer being mature, flowering plants) and possession of the marijuana on the premises where the plants were grown; the transfer of 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; the consumption of marijuana in a non-public location; and assisting another person who is 21 years of age or older in any of the above activities.

The initiative would also impose certain restrictions and penalties on the personal cultivation and public consumption of marijuana as well as prohibit the use of false identification by a person under the age of 21 to purchase or attempt to purchase marijuana. It would allow for the manufacture, possession, purchase, distribution and sale of marijuana accessories as well as the lawful operation of marijuana-related facilities such as retail stores and cultivation facilities.

The initiative requires the Alcoholic Beverage Control Board (ABC) in the Department of Commerce, Community and Economic Development (DCCED) to adopt regulations to implement the law no later than nine months after the initiative is approved. However the legislature may create a Marijuana Control Board in DCCED to assume the ABC’s regulatory role. Marijuana establishments must be registered and local governments could prohibit or limit the existence of and operations of marijuana facilities in their jurisdiction.

The initiative also imposes a \$50 per ounce (or proportionate part) excise tax on the sale and transfer of marijuana from a marijuana cultivation facility to a retail marijuana store or marijuana product manufacturing facility. The tax would be paid by the marijuana cultivation facility.

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Based on examination of Washington and Colorado, two states that are currently in the process of implementing similar legislation, the Governor, the Legislature, or the ABC Board may choose to establish a Task Force to represent the major stakeholders affected by the implementation of the initiative. An estimate of the potential costs for the Task Force are included under the DCCED cost statement beginning on page 3. This would be an effective method to facilitate an expedient and comprehensive gear-up of the tax and regulatory framework described or established in the initiative.

There are numerous unknowns in the State's implementation of this initiative and as such the cost statement provided here is illustrative. For example, it is unknown whether or not the legislature will create a Marijuana Control Board within DCCED, so the cost estimates do not reflect that potential administrative structure. Using information available from the Colorado and Washington experiences as well as other sources, state agencies have identified a range of potential costs to the state from \$3.7 to \$7.0 million in the first year. It is likely that costs related to development of the tax and regulatory framework would initially be significant. Over the longer term, it would be expected that more of the state's total costs would become public health and education activities as the extent of the impact on public health becomes more defined.

Below is a summary table of agency costs followed by explanations of the estimates by individual agency. The following represents a potential range of state agency costs. The estimate does not include expenses that the legislature may or may not incur associated with the initiative, or any legal expenses that the state may incur as a result of the initiative.

Summary of estimated costs to implement the Marijuana Initiative by State Agency

Agency	Cost Range - First Year	
Alaska Department of Revenue	\$650,000	\$800,000
Alaska Department of Commerce, Community and Economic Development	\$1,563,960	\$1,563,960
Alaska Department of Health and Social Services	\$0	\$2,987,000
Alaska Department of Public Safety	\$1,434,700	\$1,434,700
Alaska Department of Environmental Conservation	\$0	\$136,900
University of Alaska	indeterminate	--
Office of the Lieutenant Governor	\$9,000	\$9,000
Division of Elections	\$71,257	\$71,257
Total First Year Estimated Cost	\$3,728,917	\$7,002,817

Statement of Cost Estimates by Department

Estimate of costs to the Alaska Department of Revenue to implement the marijuana initiative

\$650,000 - \$800,000

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If this initiative is approved by the voters in the August 2014 primary election, it would require DOR to incur additional costs to effectively implement it. If approved, it is presumed that this initiative would take effect thirty days after approval by a majority of qualified voters.

The estimated cost to the state for the implementation of this initiative is between \$650,000 and \$800,000. Recurring annual costs are estimated at approximately \$300,000.

The estimated costs can be broken down into two categories:

Personnel Services:	\$300,000
<u>Contractual Services:</u>	<u>\$350,000-\$500,000</u>
TOTAL	\$650,000-\$800,000

Personnel - DOR estimates that it will need to create at least three new positions to oversee the new excise tax imposed by this initiative at a cost of approximately \$300,000 to assist with the administration and collection of a new excise tax. DOR would need at least one Tax Auditor III position, one Tax Technician II position, and one Investigator III position to fulfill the needs of a new tax program. This cost is similar to the cost that is currently incurred by DOR to administer other similar types of excise taxes, and would be recurring annual costs for DOR.

Contractual Services - DOR estimates that it will incur a one-time additional expense of approximately \$500,000 for systems configuration. In August 2014, DOR will be complete with configuring the excise tax portion of its new Tax Revenue Management System (TRMS). If this initiative is approved by the voters, it will require DOR and its information system contractors to reconfigure the system to add this new excise tax. Given the limited timeframe to analyze what portions of the system would need to be reconfigured if the initiative passed, DOR's contractors have supplied an estimate of \$350,000 to \$500,000 for this effort.

The above cost estimates represent a minimum cost given the numerous uncertainties around the referendum, and what all of the effects of its passage would be.

Estimate of costs to the Alaska Department of Commerce, Community and Economic Development to implement the marijuana initiative **\$1,563,960**

The following represents an estimated cost to DCCED given the language of the ballot initiative; the actual costs will likely be different. The estimate does not include expenses the legislature or other departments may incur associated with the initiative. The Washington and Colorado marijuana initiative cost estimates were reviewed in developing this cost analysis.

If the initiative is approved by voters in the August 2014 primary election, the State of Alaska, through the Alcoholic Beverage Control (ABC) Board, shall adopt regulations within nine months following the effective date, as required by AS 17.38.090. It is presumed that the initiative would take effect thirty days after the approval by a majority of qualified voters.

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A local government may designate a local regulatory authority that would be responsible for processing applications submitted for the operation of a marijuana establishment within the boundaries of the local government. If the ABC Board fails to adopt regulations as outlined in the initiative, an applicant may submit an application directly to a local regulatory authority one year after the effective date of the law. In accord with AS 17.38.110, a local government may prohibit cultivating, manufacturing, testing, and selling marijuana through an ordinance or voter initiative. Local governments may also enact local ordinances or regulations for the governance of marijuana establishment operations as long as they are not in conflict with the initiative or regulations enacted pursuant to the initiative.

If the initiative passes, the responsibility for controlling marijuana will lie with the ABC Board until or unless a marijuana control board is established by the legislature within DCCED.

As was done in the state of Colorado following the passage of a similar initiative, the department recommends the creation of a Task Force to identify legal, policy, and procedural issues that need to be resolved, and to offer suggestions and proposals for legislative and executive action for the implementation of this initiative. The Task Force would need to complete its initial regulatory framework within four months of the effective date of the initiative to allow for the adoption of regulations within the nine month requirement. The remaining Task Force work would be concluded one year after the effective date of the initiative.

It is assumed that the Task Force would be comprised of a total of 17 uncompensated members representing interest groups affected by the ballot initiative: four Legislators, one each from the majority and minority of both the House and Senate; one Commissioner or their Designee from each agency affected by this initiative (DCCED, Public Safety, Health and Social Services, Environmental Conservation, Revenue, Law, Corrections and the University of Alaska); one member of the initiative campaign; one member of the public who represents the medical industry; and three members of the public at-large, with one representing rural Alaska. Task Force members will receive travel and per diem. The actual composition of the Task Force may be different. The estimated total cost to DCCED for the implementation of this initiative is \$1,563,960 for the first year and \$1,413,140 for the second year.

	<u>First Year</u>	<u>Second Year</u>
Business Registration Examiners, Range 13 C - 2 at \$73,000 each		\$146,000
Investigator IIIs, Range 18 C - 4 at \$99,300 each		\$397,200
Investigator IV, Range 20 C		\$110,000
Administrative Officer I, Range 17 C		\$86,000
Program Coordinator II, Range 20 C	\$107,800	\$107,800
Total Personal Service Costs	\$107,800	\$847,000
Board member/Staff travel and per diem		\$85,900
Informants/underage buyers (compliance check) travel, pay, and per diem		\$34,000
Task Force travel and per diem	\$16,600	
Total Travel and Per Diem Costs	\$16,600	\$119,900

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ABC Board Warning/Enforcement Signs	\$2,000	\$2,000
Envelopes	\$800	\$800
Forms	\$1,500	\$1,500
Postage	\$2,000	\$2,000
Office Space 160 sq. ft. per employee at \$3 foot	\$5,760	\$51,840
Ongoing support services for new employees	\$10,000	\$90,000
<u>One-time set up costs for new positions</u>	<u>\$5,000</u>	<u>\$40,000</u>
Total Equipment, Office Space, and Supplies Costs	\$27,060	\$188,140
Task Force recommendations contract funds	\$650,000	
Department of Law Assistant Attorney General Services	\$62,500	\$62,500
Department of Law for expedited regulations	\$200,000	
Database Creation	\$500,000	
Database Maintenance		\$50,000
Vehicles 4 at \$33,500		\$134,000
<u>Vehicle Operating and Maintenance at \$240t per month</u>		<u>\$11,600</u>
Total Contracts and Services Costs:	\$1,412,500	\$258,100
Total Costs:	\$1,563,960	\$1,413,140

Personal Services

All positions within the ABC Board are currently performing at or above capacity. With the passage of the initiative, the workload of the ABC Board has the potential to double or triple. If doubled, the ABC Board would require an additional four investigators, one supervisor, and two business registration examiners to regulate the marijuana industry, similar to the duties of current staff that regulate the liquor industry. The addition of an Administrative Officer I would be necessary to support the added financial requirements. A Program Coordinator II would be necessary for the facilitation, coordination, and documentation of the Task Force and for the long-term program development, planning, coordination, and oversight of this complex program.

Travel and Per Diem

Board

If the ABC Board of Directors takes on the added responsibility of controlling the cultivation, manufacture, barter, possession, and the sale of marijuana, the current board meetings would be extended by one day, adding to the cost of lodging, ground transportation, and per diem.

Investigations

Investigators and underage buyers will travel to communities around the state to provide compliance checks and ensure retailers adhere to the laws and regulations of the program, similar to liquor industry compliance investigations.

Task Force

The Task Force will hold seven two-day meetings, with two face-to-face meetings in Anchorage and the rest conducted either by video or teleconference; this assumes ten members are located

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Equipment, Office Space, and Supplies

Equipment and supply costs includes new employee set up, warning signs, test kits, paper products, postage, and additional office space.

Contracts and Services

Contract costs are for studies on market demand, effects of marijuana, and the cost of production. Regulations will need to be in place nine months after the effective date of this initiative and will require extensive work with the Department of Law. There will be significant ongoing work required by the Department of Law to meet the demands of this new program, similar to the legal demands of the liquor industry.

A new database would require the analysis and development of business rules, analysis of existing systems for parallel processes or required modifications, new system development, testing, validation, implementation, and documentation.

Vehicles

Additional vehicles are required to perform investigations across the state.

**Estimate of costs to the Alaska Department of Health & Social Services
to implement the marijuana initiative** **\$0 - \$2,987,000**

As written, the initiative primarily focuses on the process and procedures necessary to establish taxation and regulation of the production, sale, and use of marijuana; the actions addressed in the initiative will not directly impact or cost the Department of Health and Social Services in the establishment of these procedures and regulation development.

However, there is evidence that downstream health and social service consequences of implementing this initiative could be significant. The department has prepared an estimate based on research, other states' experiences, and an extrapolation of expenses the department incurs providing similar substance related services. The fiscal impact will directly relate to how many additional people begin using marijuana and how many current users increase their use.

To evaluate costs, the department has considered recent studies including Proceedings of the National Academy of Science¹, and the United Nations Office on Drugs and Crime, *Cannabis: A Short Review*.²

These studies note emerging findings on the harmful effect of cannabis on neuropsychological functioning data indicating cannabis is linked to addiction, cognitive impairment, motor skills

¹ Persistent cannabis users show neuropsychological decline from childhood to midlife. Meier, Madeline H., Caspi, Avshalom, et al. Proceedings of the National Academy of Science. Published online August 27, 2012

² Cannabis: A Short Review, Discussion Paper from the United Nations Office on Drugs and Crime. 2012.

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deficiency, respiratory, cardiovascular and mental health problems, and has been shown to be particularly damaging to maturing brains.

The consequences and outcomes of marijuana use create a significant potential for increased costs for physical and behavioral health care, child welfare services, educational systems, employers, public safety, criminal justice, community health and other aspects of state and local governments. For instance, legalization of marijuana may create an environment in which young people, in particular, perceive a lower risk of harm from marijuana use, resulting in increased use.³

According to Robert Morrison, Executive Director of the National Association of State Alcohol and Drug Abuse Directors (NASADA), Alaska has one of the highest use rates of marijuana at 11%, along with Vermont. He also highlights that an estimated 4.4 million individuals, nationwide, met criteria for marijuana dependence or abuse.⁴

While actual increases in health and social service programming are unknown, research and data provide a clear picture of the potential for increased problems associated with the legalization of marijuana.⁵ In states where medical marijuana is legal, marijuana abuse and dependence rates are almost twice as high as in those states without medical marijuana. Two states that have recently legalized marijuana, Washington and Colorado, report difficulty determining the potential costs. Results of a recent report to estimate the fiscal impact of marijuana legalization in Colorado were inconclusive and four national marijuana-policy experts wrote that “the future holds more unknowns than knowns.”

The Division of Juvenile Justice has identified several areas in which costs could increase. Making possession of marijuana an offense that can be committed by minors but not adults creates a new status offense that is subject to specific rules governing the secure holding of juveniles. Violation of those rules could jeopardize federal funding currently received through the U.S. Office of Juvenile Justice and Delinquency Prevention. The initiative could also require increased treatment for substance abuse and mental health issues among youth held in detention.

With this very brief overview of concerns about increased marijuana use and legalization, the department anticipates potential costs to DHSS in the following areas, with estimates of per annual cost increases:

- Increased substance use, dependency and addictions treatment: \$200,000 or a 10% increase in treatment services for marijuana dependence;
- Increased mental health treatment services: \$1.1 million or a 5% increase in mental health treatment services;
- Increased physical health services through public health and our primary care providers: \$400,000;

³Trends in Adolescent Substance Use and Perception of Risk from Substance Use. The NSDUH Report; from the Substance Abuse and Mental Health Services Administration (SAMHSA) and the National Survey on Drug Use and Health. January 3, 2013.

⁴Marijuana Regulation: Considerations from State Substance Abuse Agency Directors. A presentation to the National Conference of State Legislatures (NCSL), Spring Forum. Robert Morrison, Executive Director, NASADAD. May 3, 2013.

⁵Toolkit for States Facing “Medical” Marijuana & Marijuana Legalization Initiatives. Community Anti-Drug Coalitions of America (CADCA). Summer 2012.

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- Increased Medicaid costs to cover treatment and service needs: \$27,000 or a 10% increase in current marijuana treatment services covered by Medicaid;
- Increased enforcement of marijuana access by youth (similar to our current tobacco enforcement efforts). This expenditure will be determined upon the process developed for retail sale of marijuana: \$140,000 or a potential 20% increase;
- Increased prevention, education and early intervention programs for adolescents and young adults: 10% community grant increase and 20% ASAP service increase = \$390,000 + \$250,000;
- Increased child protection services for young children in homes with regular and persistent marijuana users (second hand marijuana smoke, neglect), and training for foster parents and staff: \$250,000;
- Increased juvenile justice services for youth engaged in marijuana use and dependency \$200,000; and
- Potential Human Resource activities related to employee use of marijuana and related policies \$30,000.

Estimated annual potential cost increases to the Department of Health and Social Services resulting from the legalization of marijuana are \$2,987,000. As indicated, these are estimates based on projected impacts; depending on the actual regulations, enforcement, and number of citizens who increase their use of marijuana, actual costs are likely to be different.

Estimate of Costs to the Alaska Department of Public Safety to implement the marijuana initiative

\$1,434,700

The ballot initiative would tax and regulate marijuana sales and allow Alaskans to cultivate marijuana for personal use. Persons 21 years of age or older could legally possess up to one ounce of marijuana or six marijuana plants (three of which could be mature), and could legally cultivate, sell and purchase marijuana through authorized marijuana-related facilities.

The cost to DPS to implement the law proposed by this initiative is based on the following assumptions regarding the legalization of marijuana in Alaska: it will lead to increased demand and usage and a consequent increase in the number of people driving while under the influence of this drug, and it will increase the illegal diversion and exportation of marijuana lawfully cultivated in Alaska.

Therefore, the costs to DPS are associated with the following:

1. Increasing the number Statewide Drug Enforcement Unit trooper investigators to target the diversion and exportation of marijuana lawfully grown in Alaska;
2. Requiring more troopers to receive Drug Recognition Expert (DRE) certification to enhance their ability to detect drivers impaired by marijuana and address the anticipated increase in DUI offenses;
3. Launching a public education and awareness campaign on the dangers of driving under the influence of marijuana; and

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4. Increasing the number of samples being sent out for toxicology analysis to detect the presence of marijuana in blood.

Division of Alaska State Troopers:

Marijuana is identified as a primary substance of abuse in Alaska, along with alcohol, cocaine, heroin, and prescription drugs. These substances are the focus of most drug enforcement efforts in Alaska.

DPS' Division of Alaska State Troopers (AST), Alaska Bureau of Investigation, Statewide Drug Enforcement Unit (SDEU) provides a leadership role in coordinating law enforcement's efforts to reduce the availability of illegal alcohol and controlled substances (including marijuana) throughout Alaska. The SDEU primarily supports six investigative drug task forces throughout Alaska. These teams are broken down by region as follows:

- Alaska Interdiction Task Force/Anchorage Enforcement Group (sponsored by the U.S. Drug Enforcement Administration)
- Fairbanks Area-wide Narcotics Team
- Mat-Su Narcotics Enforcement Team
- South Central Area-wide Narcotics Team
- Southeast Alaska Cities Against Drugs Task Force
- Western Alaska Alcohol and Narcotics Team

SDEU participates with and receives assistance from several federal investigative agencies involved in drug enforcement. These agencies include: the Drug Enforcement Administration (DEA); Federal Bureau of Investigation (FBI); U.S. Postal Inspection Service; Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATFE); and U.S. Immigration and Customs Enforcement (ICE).

The DEA awarded \$80,000 in Marijuana Eradication grant funds to the State of Alaska in calendar year 2012. These funds were used to cover some of the costs associated with marijuana eradication in the state. In calendar year 2012, funds were shared with the Anchorage, Craig, and Kenai police departments to cover overtime incurred by officers involved in eradication operations. The following table reports the activities supported through this grant:

2012 Domestic Cannabis Eradication/Suppression Statistical Report for Alaska								
Total Eradicated Outdoor Grow Sites	Total Cultivated Plants Outdoor	Total Eradicated Indoor Grow Sites	Total Cultivated Plants Indoor	Total Cultivated Plants (Outdoor & Indoor)	Bulk Processes Marijuana	Number of Arrest	*Assets Seized (Value)	Weapon Seizure
3	113	62	4,270	4,383	203	76	\$36,077	74

**Assets seized include paraphernalia items such as grow lights and digital scales and does not include marijuana plants.*

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Given that marijuana is illegal under federal law, legalization of marijuana in Alaska will have an impact on the collaborative working relationships DPS has with its federal counterparts and could potentially affect federal grant funds DPS and local law enforcement agencies receive for marijuana eradication and suppression efforts.

Should this initiative become law, it is practical to assume that arrests for simple possession will decrease. Even so, drug enforcement efforts are primarily targeted at individuals engaged in commercially cultivating and trafficking marijuana.

It is likely that sales of marijuana will not only be conducted by legitimate, taxpaying business people, but by criminal actors as well. Due to more potent levels of tetrahydrocannabinol (THC) in Alaskan-grown marijuana, the out of state demand for the drug is significant, and legalization could increase opportunities for marijuana export. AST predicts illegal commercial marijuana growing operations will continue to exist to meet this demand, skirting taxes and regulation in order to make the maximum profit. In addition, allowing the operation of marijuana cultivation facilities as proposed by the initiative actually increases the opportunity for Alaska's "legally grown" marijuana to be illegally diverted and exported.

DPS would require at least three additional Alaska State Trooper positions to target the illegal diversion and exportation of marijuana lawfully cultivated in Alaska. These positions would also work with DCCED's Alcoholic Beverage Control (ABC) board investigators on investigations into criminal activity associated with regulation of the marijuana industry.

The first year cost of three new trooper investigator positions is \$827,200; \$594,400 for ongoing funding to cover personal services, travel, training, and supplies (base increment), and \$232,800 to cover training at the academy, IT equipment, portable radios, office equipment, firearms and vehicles (one-time funding).

Though arrests for simple possession may decrease, the greater availability of marijuana will likely increase the number of adults consuming marijuana and the frequency with which it is consumed; consequently, the number of individuals driving under the influence of marijuana is expected to increase. Current practice is to administer standardized field sobriety tests to individuals suspected of driving under the influence (DUI). There is currently no chemical test that can be used in the field to detect marijuana impairment; the taking of a blood sample for purposes of determining the presence of a controlled substance (including marijuana) must be conducted at a medical facility.

To quickly and proficiently recognize the signs of marijuana impairment in drivers who are contacted, DPS proposes that more troopers become certified as drug recognition experts. A drug recognition expert (DRE), sometimes referred to as a drug recognition evaluator, is a police officer trained to recognize impairment in drivers under the influence of drugs other than, or in addition to, alcohol. Training and certification requirements are established by the International Association of Chiefs of Police and the National Highway Traffic Safety Administration. The cost for this training is approximately \$2,500 per trooper.

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Finally, DPS would launch a major public education and awareness media campaign focused on the dangers of driving under the influence of marijuana, similar to its current drunk driving and seat belt use campaigns. Using current media campaign expenditures as a base, the production and advertising costs for a DUI campaign focused on marijuana impairment are estimated to be \$500,000 per year for television, radio, print, and internet advertising.

Scientific Crime Detection Laboratory:

The DPS Scientific Crime Detection Laboratory (SCDL) provides drug identification services to Alaska's law enforcement agencies through its controlled substances section. Forensic scientists in the section analyze evidence items and conclusively identify a controlled substance or perform sufficient analysis to determine that no controlled substances are present.

Drug evidence submitted to the section can be analyzed through a variety of methods that include preliminary testing combined with confirmatory testing. Preliminary testing can include color testing, microcrystalline microscopic analysis, or physical identification of a tablet using a reliable source. The confirmation of the presence of a controlled substance is performed through one of two confirmatory tests, gas chromatography/mass spectrometry (GC/MS) or infrared spectrophotometry.

Following analysis, a forensic scientist interprets the instrumental data and prepares a report of his/her findings. This report is used in criminal court proceedings and often the forensic scientist is asked to provide expert testimony to the courts.

Marijuana, a schedule VIA controlled substance under AS 11.71.190, is commonly submitted by law enforcement agencies to the crime lab. Drug paraphernalia such as pipes and digital scales are also frequently submitted to the crime lab for analysis. Forensic scientists may also be called upon to analyze samples for federal agencies operating within Alaska for substances controlled under the federal Controlled Substances Act, which includes marijuana.

The crime lab seldom analyzes personal use quantities of marijuana. Rather, the evidence being submitted to the crime lab is indicative of distribution (trafficking) level quantities. As AST predicts that illegal commercial marijuana grow operations will continue despite any legalization of marijuana-related facilities, such as marijuana cultivation facilities and marijuana retail stores, the SCDL does not anticipate a decrease in submissions of evidence.

Alaska does not currently have an in-house drug toxicology program. The SCDL has a contract with the Washington State Patrol Toxicology Laboratory in Seattle for toxicology services and sends samples there for drug analysis. Based on the anticipated increase in marijuana impaired driving, DPS estimates that an average of 150 additional samples will be sent out for analysis each year. At an average cost of \$300 per sample, the increase in contract costs would be \$45,000 per year.

The estimated total cost to DPS for the implementation of this initiative is \$1,434,700 for the first year and \$1,201,900 for the second year. Following is a summary of the estimated costs:

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	First Year	Second Year
Three Trooper Investigator Positions	\$594,400	\$594,400
One-time position costs (academy training, IT equipment, office equipment, firearms, and vehicles)	\$232,800	\$0.0
Total Personal Service Costs	\$827,200	\$594,400
Marijuana DUI Media Campaign (production and advertising)	\$500,000	\$500,000
DRE Certification (\$2,500/trooper x 25 troopers annually)	\$62,500	\$62,500
Contractual increase for toxicology services (\$300/sample x 150 additional samples)	\$45,000	\$45,000
Total Contracts and Services Costs	\$607,500	\$607,500
TOTAL COSTS	\$1,434,700	\$1,201,900

Estimate of costs to the Alaska Department of Environmental Conservation to implement the marijuana initiative **\$0 - \$136,900**

The ballot initiative legalizes marijuana for use by persons 21 years of age and older. Section 17.38.080 states that the Department of Commerce, Community, and Economic Development (DCCED) may create a Marijuana Control Board; otherwise, the powers, duties, and responsibilities fall to the Alcoholic Beverage Control Board, located in the DCCED.

Normally, under AS 17.20, the DEC has responsibility to regulate food and food products. Marijuana or its derivatives, if considered a food, would fall under those provisions. However, under 17.38.090 of the proposed law, responsibility for regulating marijuana, including creating labeling requirements and health and safety regulations for the manufacture of marijuana, lies with the Alcoholic Beverage Control Board.

If additional food establishments were opened to create marijuana products (such as marijuana bakeries, etc.) along with additional food facilities opening up in the state, the Food Safety and Sanitation Program within DEC will need an additional Environmental Health Officer III position in Anchorage to review sanitation plans and conduct sanitation inspections for the increased number of facilities. If there is an increase in facilities, DEC anticipates needing one full time position at a total cost of \$136,900 (includes personal services, travel, contractual and supply expenses).

The estimates are done based on the cost during FY14 and do not reflect inflationary increases that will occur during the years it takes for this legislation to be passed, regulations to be written, and individuals to set up grow operations and potential food establishments. The cost will likely increase in future years.

Estimate of costs to the University of Alaska to implement the marijuana initiative **Indeterminate**

The University of Alaska has examined the initiative and due to the uncertainty around the

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initiative cannot provide a definitive estimate of the costs that it would incur at this time. However, should the initiative become law, it will directly impact the University's primary population – its students.

Areas of potential costs include but are not limited to:

As with Colorado and Washington, education will be needed for students, faculty, and staff about how the initiative would change University policies regarding possession or use of drugs on campus.

The Clery Act includes requirements for education on drug effects. The University would need to adjust its Clery documents, and there would potentially be some production costs associated with that effort. Additionally, there will likely be costs associated with revising University policies and regulations such as housing, employment and discipline.

It is anticipated that there would be additional costs associated with enforcement (the proposed law prohibits consumption in public) by UAA and UAF police departments as well as by administrators

There are potential legal costs associated with analyzing initiative and advising Major Administrative Units (MAUs).

There is likely to be some impact on the health care costs and rates for employees as well as a potential impact on insurance rates for the University.

The University envisions that they would very likely incur some research costs based on requests for information on the social and economic impacts of the initiative.

Estimate of costs to the Office of the Lieutenant Governor and the Division of Elections to implement the marijuana initiative **\$80,257**

Office of the Lieutenant Governor

Assuming the initiative is placed on the ballot, the minimum cost to conduct public hearings concerning the initiative in two communities in each of four judicial districts is estimated to be \$9,000. This number may be reduced if hearings are held on more than one initiative at a time.

Lt. Governor's Office estimate by category

<u>Travel</u>	<u>\$ 9,000</u>
Total	\$ 9,000

Estimated travel expenses include round-trip air transportation, per diem and other associated travel costs for the Lieutenant Governor and staff to travel to seven communities in Alaska. It is assumed one of the hearings would be in Anchorage which would not involve travel costs.

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Division of Elections

The minimum cost to the Division of Elections associated with certification of the initiative application and review of the initiative petition, excluding legal costs to the state and the costs to the state of any challenge to the validity of the petition, is estimated to be \$71,257.

Elections estimate by category

Personal Services	\$69,957
<u>Services</u>	<u>\$ 1,300</u>
Total	\$71,257

Personal services expenses associated with certification of the initiative application and review of the initiative petition:

Three full-time employees at 522 hours is \$29,200

8 temporary employees at 2,520 hours is \$40,757

Services expenses associated with certification of the initiative application and review of the initiative petition:

Printing of booklets is \$1,300.

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STATEMENT IN SUPPORT

Marijuana prohibition has been just as ineffective, inefficient, and counterproductive as alcohol prohibition. It's time for a more sensible approach.

Ballot Measure 2 will end the failed policy of marijuana prohibition in Alaska and replace it with a system in which:

- Personal use, possession, and limited home-growing of marijuana is legal for adults 21 and older; and
- Marijuana is regulated and taxed like alcohol.

Government studies and scientific research have consistently concluded that even the most potent marijuana, in concentrate or any other form, is far less harmful than alcohol to the consumer and to society. It's less addictive, less damaging to the body, and far less likely to trigger violent and reckless behavior.^{1,2} Adults who prefer to use marijuana instead of alcohol shouldn't be punished for making a safer choice.

There were 2,219 arrests for marijuana offenses in Alaska in 2010, of which 91% were for possession alone.³ Measure 2 would allow law enforcement to spend their time and limited resources addressing serious crimes instead of arresting and prosecuting adults for using a less harmful substance than alcohol.

Current marijuana prohibition laws force marijuana sales into the underground market where they're controlled by criminal enterprises. Measure 2 will replace the underground market with a tightly regulated system of licensed marijuana businesses that will create good jobs for Alaskans and generate tax revenue for the state and localities. It will also create business and ancillary industries, such as construction, real estate, and accounting. Localities will have the right to ban marijuana establishments.

State officials will create and enforce rules governing the production and sale of marijuana, such as testing, packaging, labeling requirements, and restrictions on advertising.

A regulated market will provide a safer environment for adults to purchase marijuana, and it will reduce their exposure to other illegal substances. It will also more effectively prevent teens from purchasing marijuana. It will remain illegal to sell or provide marijuana to minors, and proof of age will be required to purchase marijuana. Those selling marijuana in the underground market do not ask for ID.

In Colorado, where voters approved a similar measure in 2012, officials have reported no instances of businesses illegally selling marijuana to minors.⁴ Since the state began regulating hundreds of marijuana-related businesses in 2010, teen marijuana use hasn't increased, high school graduation rates have increased, and drop-out rates have decreased.^{5,6}

Implementation of the Colorado law hasn't contributed to an increase in crime, and violent crime decreased statewide in the first year in which marijuana was legal for adults.⁷ The number of fatal vehicle crashes dropped more than 25% during the first four months of legal marijuana sales compared to the same period the previous year.⁸

Statewide support for ending marijuana prohibition has increased in Colorado since legal adult marijuana sales began.⁹

Regulating marijuana works.

Christopher Rempert, Political Director and Treasurer/Campaign to Regulate Marijuana Like Alcohol

1 U.S. Institute of Medicine.

2 World Health Organization.

3 American Civil Liberties Union.

4 Colorado Department of Revenue.

5 U.S. Centers for Disease Control.

6 Colorado Department of Education.

7 Colorado Bureau of Investigation.

8 Colorado State Patrol.

9 Public Policy Polling.

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STATEMENT IN OPPOSITION

Big Marijuana. Big Mistake. Vote No on 2

Against the best interests of our State, Proposition 2 seeks to legalize, commercialize, **advertise**, and industrialize marijuana and concentrated marijuana products (such as “shatter,” “butane hash oil,” and marijuana “Ring Pots”) in Alaska. The Initiative is costly, extreme, premature, and will unduly harm Alaskan communities, businesses, families, and our youth. We urge you to Vote No on 2 because:

1. **The Initiative is Far Too Costly.** The State of Alaska estimates that this initiative could increase costs to State Government by over \$7 million/year, including increased costs for child neglect and DUIs. Also, the Alaska Association of Chiefs of Police estimates that the initiative will increase costs to small towns and cities by \$6 million. These are just the costs to state government and police. Based on evidence, **for every \$1 of taxes raised, the social, productivity, business, and health costs of substances like marijuana will be \$10.** Costs include: lost productivity, increased accidents, harm to youth, harm to families, and increased health costs.
2. **The Initiative Legalizes the Manufacturing, Advertising, Marketing, Transport and Consumption of Extreme Products like Shatter, Butane Hash Oil and Dangerous, Child-Friendly Edibles.** The Initiative specifically defines marijuana to include all marijuana concentrates and products. This would legalize the manufacturing, advertising, marketing, transport and consumption of such extreme products as 80-90% THC shatter, butane hash oil, and crumble. **We recommend all voters Google shatter and butane hash oil before voting.** Two people have already died in Colorado from child-friendly marijuana edibles, and emergency room visits have increased.
3. **The Initiative Eliminates the local option** for communities in Alaska to be dry on marijuana.
4. **This Initiative Will Not Eradicate the Illegal Trafficking of Marijuana.** If this initiative passes, there will be: illegal sales of marijuana to youth; illegal export of marijuana, and illegal sales to adults (just as there are in Colorado now after legalization).
5. **Do Alaskans Really Want Another Major Industry Promoting the Increased Use of Another Harmful Intoxicant? No.** There is so much evidence that marijuana is harmful to fetuses, developing brains, motivation, judgment (including while driving), mental health, lungs, hearts and more.
6. **Large Outside Interests are Funding the Initiative.** Follow the money. Big marijuana. Big mistake.
7. **Rates of Use by our Youth Will Increase.** Public Health science is very clear. If this initiative passes, youth use rates of marijuana, including shatter, butane hash oil, and edibles will increase.
8. **There is No Reason to Rush into Making a Mistake.** We deserve to see what happens in Colorado and make a more informed decision about what is best for Alaskans. Let's see how the **pervasive advertising of marijuana and marijuana products** works out; how many **lawsuits** there are from the marijuana industry; and what **marijuana lobbyists** do. Let's examine the increases in emergency room visits and deaths. There is no rush in Alaska to make a mistake.

The costs of this outside-funded initiative are far too great. Vote No on 2.

(Please Visit the Website: <http://www.bigmarijuanabigmistake.org/> for More Information)

Mike Williams, Akiak, Chair. Big Marijuana. Big Mistake.

Joe Byrnes, Fairbanks, Deputy Treasurer. Big Marijuana. Big Mistake.

Deborah Williams, Anchorage, Deputy Treasurer. Big Marijuana. Big Mistake

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FULL TEXT OF PROPOSED LAW

“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.

The text of this bill is presented as submitted by petition sponsors.

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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;

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- (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

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- (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

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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

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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

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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, consumptions, 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

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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

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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.