

CONFERENCE CS FOR HOUSE BILL NO. 75

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE CONFERENCE COMMITTEE

Offered: 5/17/16

Sponsor(s): HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to possessing, using, displaying, purchasing, growing, processing,
2 transporting, and transferring marijuana; relating to assisting another person 21 years
3 of age or older in activities related to marijuana; relating to established villages and to
4 local option elections regarding the operation of marijuana establishments; and
5 providing for an effective date."

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

7 * **Section 1.** AS 17.38.020 is amended to read:

8 **Sec. 17.38.020. Personal use of marijuana.** Notwithstanding any other
9 provision of law, except as otherwise provided in this chapter, the following acts, by
10 persons 21 years of age or older, are lawful and **are not** [SHALL NOT BE A] criminal
11 or civil **offenses** [OFFENSE] under Alaska law or the law of any political subdivision
12 of Alaska or **bases** [BE A BASIS] for seizure or forfeiture of assets under Alaska law:

13 (1) possessing, using, displaying, purchasing, or transporting

1 marijuana accessories or one ounce or less of marijuana;

2 (2) possessing, growing, processing, or transporting **not** [NO] more
 3 than six marijuana plants, with three or fewer being mature, flowering plants, and
 4 possession of the marijuana produced by the plants on the premises where the plants
 5 were grown, **except that not more than 12 marijuana plants, with six or fewer**
 6 **being mature, flowering plants, may be present in a single dwelling regardless of**
 7 **the number of persons 21 years of age or older residing in the dwelling;**

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

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

12 (5) assisting, **aiding, or supporting** another person who is 21 years of
 13 age or older in any of the acts described in (1) - (4) of this section.

14 * **Sec. 2.** AS 17.38.210(a) is amended to read:

15 (a) A local government may prohibit the operation of marijuana cultivation
 16 facilities, marijuana product manufacturing facilities, marijuana testing facilities, or
 17 retail marijuana stores through the enactment of an ordinance or by a voter initiative.
 18 **An established village may prohibit the operation of marijuana cultivation**
 19 **facilities, marijuana product manufacturing facilities, marijuana testing facilities,**
 20 **or retail marijuana stores as provided in AS 17.38.300.**

21 * **Sec. 3.** AS 17.38.210 is amended by adding a new subsection to read:

22 (m) Except as provided in AS 29, the exercise of the powers authorized by this
 23 section by a borough may be exercised only on a nonareawide basis. In this
 24 subsection, "nonareawide" means throughout the area of a borough outside all cities in
 25 the borough.

26 * **Sec. 4.** AS 17.38 is amended by adding new sections to read:

27 **Sec. 17.38.300. Local option election by an established village.** (a) If a
 28 majority of the voters voting on the question vote to approve the option, an established
 29 village shall exercise a local option to prohibit the operation of one or more of the
 30 following types of marijuana establishments:

31 (1) marijuana cultivation facilities;

- 1 (2) marijuana product manufacturing facilities;
 2 (3) marijuana testing facilities; or
 3 (4) retail marijuana stores.

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

7 **Sec. 17.38.310. Removal of local option.** (a) If a majority of the voters voting
 8 on the question vote to remove the option, an established village shall remove a local
 9 option previously adopted under AS 17.38.300. The option is repealed effective the
 10 first day of the month following certification of the results of the election.

11 (b) A ballot question to remove a local option under this section must at least
 12 contain language substantially similar to the following: "Shall (name of village)
 13 remove the local option currently in effect, that prohibits (current local option under
 14 AS 17.38.300(a)), so that there is no longer any local option in effect? (yes or no)."

15 (c) When issuing a registration in the area that has removed a local option, the
 16 board shall give priority to an applicant who was formerly registered and whose
 17 registration was not renewed because of the results of the previous local option
 18 election. However, an applicant described in this subsection does not have a legal right
 19 to registration, and the board is not required to approve the application.

20 **Sec. 17.38.320. Effect on registrations of prohibition of marijuana**
 21 **establishments.** If a majority of voters vote to prohibit the operation of marijuana
 22 establishments under AS 17.38.300, the board may not issue, renew, or transfer,
 23 between persons or locations, a registration for a marijuana establishment located
 24 within the perimeter of the established village. A registration that may not be renewed
 25 because of a local option election held under AS 17.38.300 is void 90 days after the
 26 results of the election are certified. A registration that expires during the 90 days after
 27 the results of a local option election are certified may be extended, until it is void
 28 under this section, by payment of a prorated portion of the annual registration fee.

29 **Sec. 17.38.330. Prohibition of sale and manufacture after election.** (a) If a
 30 majority of the voters vote to prohibit the operation of marijuana establishments under
 31 AS 17.38.300, a person may not knowingly sell or manufacture marijuana in the

1 established village.

2 (b) If there are registered establishments within the established village, the
3 prohibition on sale and manufacture is effective beginning 90 days after the results of
4 the election are certified.

5 (c) Nothing in this section prohibits the personal conduct authorized in
6 AS 17.38.020.

7 (d) A person who violates this section is guilty, upon conviction, of a class A
8 misdemeanor. Each violation is a separate offense.

9 **Sec. 17.38.340. Procedure for local option elections.** (a) An election to adopt
10 a local option under AS 17.38.300 or remove a local option under AS 17.38.310 shall
11 be conducted as required in this section.

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

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

20 (d) After a petition has been certified as sufficient to meet the requirements of
21 (b) of this section, another petition may not be filed or certified until after the question
22 presented in the first petition has been voted on. A local option question to prohibit the
23 operation of marijuana cultivation facilities, marijuana product manufacturing
24 facilities, marijuana testing facilities, or retail marijuana stores or to prohibit all
25 marijuana establishments may be presented in one election.

26 **Sec. 17.38.350. Establishment of perimeter of established village.** (a)
27 Except as provided under (b) and (c) of this section, for purposes of AS 17.38.300 -
28 17.38.320, the perimeter of an established village is a circle around the established
29 village that includes an area within a five-mile radius of the post office of the
30 established village. If the established village does not have a post office, the perimeter
31 of an established village is a circle around the established village that includes an area

1 within a five-mile radius of another site selected by the local governing body or by the
2 board if the established village does not have a local governing body.

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

6 (1) also adopted a local option under AS 17.38.300, the local option of
7 the established village that is less restrictive applies in the overlapping area;

8 (2) not adopted a local option under AS 17.38.300, the local option
9 does not apply in the overlapping area.

10 (c) If the board determines that the perimeter of an established village as
11 provided under (a) and (b) of this section does not accurately reflect the perimeter of
12 the established village, the board may establish the perimeter of the established village
13 and the areas of overlapping perimeter described under (b) of this section for purposes
14 of applying a local option selected under this chapter.

15 **Sec. 17.38.360. Notice of the results of a local option election.** If a majority
16 of the voters vote to adopt or remove a local option under AS 17.38.300 or 17.38.310,
17 the lieutenant governor shall notify the board of the results of the election immediately
18 after the results are certified. The board shall immediately notify the Department of
19 Law and the Department of Public Safety of the results of the election.

20 **Sec. 17.38.370. Bail forfeiture for certain offenses.** The supreme court shall
21 establish by rule or order a schedule of bail amounts that may be forfeited without
22 court appearance for a violation of AS 17.38.030 - 17.38.050.

23 * **Sec. 5.** AS 17.38.900 is amended by adding new paragraphs to read:

24 (17) "dwelling" has the meaning given in AS 11.81.900;

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

29 (19) "manufacture" has the meaning given in AS 11.71.900.

30 * **Sec. 6.** This Act takes effect immediately under AS 01.10.070(c).