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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:

- possessing, using, displaying, purchasing, or transporting marijuana accessories or one ounce or less of marijuana;
- 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;
- 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;
- consumption of marijuana, except that nothing in this chapter shall permit the consumption of marijuana in public; and
- assisting another person who is 21 years of age or older in any of the acts described above

Source: Sec. 17.38.020 Personal Use of Marijuana

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Restrictions on Personal Cultivation and Penalty

The personal cultivation of marijuana described in *AS 17.38.020(2), listed on the previous slide*, 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.

A person who violates this section while otherwise acting in compliance with *AS 17.38.020 (2), listed on the previous slide*, is guilty of a violation punishable by a fine of up to $750.

Source: Sec. 17.38.030 Restrictions on Personal Cultivation and Penalty

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Public Consumption Banned and 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.

Source: Sec. 17.38.040 Public Consumption Banned and Penalty

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False Identification and Penalty

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.

A person who violates this section is guilty of a violation punishable by a fine of up to $400.

Source: Sec. 17.38.050 False Identification and Penalty

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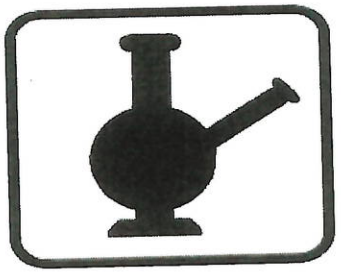
Marijuana Accessories Authorized

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.

Source: Sec. 17.38.060 Marijuana Accessories Authorized



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Lawful Operation of Marijuana-Related Facilities

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 the person's 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:

- 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;
- delivering or transferring marijuana or marijuana products to a marijuana testing facility;
- receiving marijuana or marijuana products from a marijuana testing facility;
- purchasing marijuana from a marijuana cultivation facility;
- purchasing marijuana or marijuana products from a marijuana product manufacturing facility; and
- delivering, distributing, or selling marijuana to a marijuana cultivation facility, a marijuana product manufacturing facility, or a retail marijuana store;
- receiving or purchasing marijuana from a marijuana cultivation facility; and
- receiving marijuana seeds or immature marijuana plants from a person 21 years of age or older.

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 the person's capacity as an owner, employee, or agent of a marijuana testing facility, are lawfuland shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law:

- possessing, cultivating, processing, repackaging, storing, transporting, displaying, transferring, or delivering marijuana;
- 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
- 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.

Source: Sec. 17.38.070 Lawful Operation of Marijuana-Related Facilities

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Marijuana Control Board; Appointment and Qualifications

The Marijuana Control Board is established in the Department of Commerce, Community, and Economic Development as a regulatory and quasi-judicial agency. The board is in the Department of Commerce, Community, and Economic Development for administrative purposes only.

The board members shall be appointed by the governor and confirmed by a majority of the members of the legislature in joint session. A member of the board may not hold any other state or federal office, either elective or appointive. The board consists of five voting members as follows:

- one person from the public safety sector;
- one person from the public health sector;
- one person currently residing in a rural area;
- one person actively engaged in the marijuana industry; and
- one person who is either from the general public or actively engaged in the marijuana industry.

Not more than two members of the board may be engaged in the same business, occupation, or profession.

A board member representing the general public, the public safety sector, the public health sector, or a rural area, or the member's immediate family member, may not have a financial interest in the marijuana industry.

In this section,

- "financial interest" means holding, directly or indirectly, a legal or equitable interest in the operation of a business licensed under this chapter;
- "immediate family member" means a spouse, child, or parent;
- "marijuana industry" means a business or profession related to marijuana in which the person is lawfully engaged and that is in compliance with the provisions of state law, including this chapter and regulations adopted under this chapter;
- "public health sector" means a state, federal, or local entity that works to ensure the health and safety of persons and communities through education, policymaking, treatment and prevention of injury and disease, and promotion of wellness;
- "public safety sector" means a state, federal, or local law enforcement authority that provides for the welfare and protection of the general public through the enforcement of applicable laws;
- "rural area" means a community with a population of 7,000 or less that is not connected by road or rail to Anchorage or Fairbanks, or with a population of 2,000 or less that is connected by road or rail to Anchorage or Fairbanks.

Source: Sec. 17.38.080 Marijuana Control Board; Appointment and Qualifications

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Terms of office; chair

Members of the board serve staggered three-year terms.

Except as provided in AS 39.05.080, a member of the board serves until a successor is appointed.

A vacancy occurring in the membership of the board shall be filled within 30 days by appointment of the governor for the unexpired portion of the vacated term.

A member who has served all or part of three successive terms on the board may not be reappointed to the board unless three years have elapsed since the person has last served on the board.

The board shall select a chair from among its members.

Source: Sec. 17.38.091. Terms of office; chair

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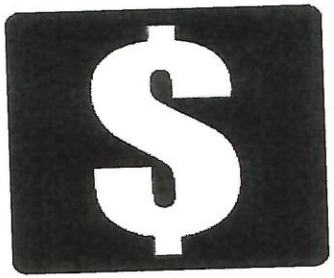
Per diem and Expenses

Members of the board do not receive a salary but are entitled to per diem and travel expenses authorized for boards and commissions under AS 39.20.180.

Source: Sec. 17.38.101. Per diem and Expenses



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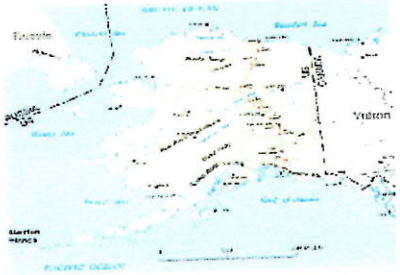
Board meetings

The board shall meet at the call of the chair. The board shall also meet at least once each year in each judicial district of the state to study this chapter and existing board regulations in light of statewide and local issues. Unless impracticable, the board shall hold its regular meetings at the same location as and within 24 hours of the regular meetings of the Alcoholic Beverage Control Board.

Three members of the board constitute a quorum for the conduct of business. A majority of the whole membership of the board must approve applications for new licenses, renewals, transfers, suspensions, and revocations of existing licenses, and product approvals as provided in regulations adopted by the board.

Source: Sec. 17.38.111 Meetings



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Powers and Duties of the Board

The board shall control the cultivation, manufacture, and sale of marijuana in the state. The board is vested with the powers and duties necessary to enforce this chapter.

The board shall:

- propose and adopt regulations;
- establish by regulation the qualifications for licensure including fees and factors related to the applicant's experience, criminal justice history, and financial interests;
- review applications for licensure made under this chapter and may order the executive director to issue, renew, suspend, or revoke a license authorized under this chapter; and
- hear appeals from actions of the director and from actions of officers and employees charged with enforcing this chapter and the regulations adopted under this chapter.

When considering an application for licensure, the board may reduce the area to be designated as the licensed premises from the area applied for if the board determines that a reduction in area is necessary to ensure control over the sale and consumption of marijuana on the premises or is otherwise in the public interest.

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Enforcement powers

The director and the persons employed for the administration and enforcement of this chapter may, with the concurrence of the commissioner of public safety, exercise the powers of peace officers when those powers are specifically granted by the board. Powers granted by the board under this section may be exercised only when necessary for the enforcement of the criminally punishable provisions of this chapter, other criminal statutes relating to substances or activities regulated or permitted under this chapter, regulations of the board, and other criminally punishable laws and regulations relating to marijuana.

Source: Sec. 17.38.131 Enforcement powers

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Appointment and Removal of Director; Staff

The director of the Alcoholic Beverage Control Board appointed under AS 04.06.070 shall serve as the director of the board. The board may remove the director by a majority vote of the full membership of the board and a majority vote of the full membership of the Alcoholic Beverage Control Board. The governor may remove the executive director as provided in AS 04.06.070.

The paid staff of the Alcoholic Beverage Control Board created in AS 04.06.010 shall also be the staff for the board.

Source: Sec. 17.38.140 Appointment and Removal of Director; Staff

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Duties of the Director

The director shall enforce this chapter and regulations adopted by the board. The director shall issue, renew, transfer, suspend, or revoke all licenses and permits and issue product approvals at the direction of the board. The board may delegate to the director the authority to temporarily grant or deny the issuance, renewal, or transfer of licenses and permits. The director's temporary grant or denial of the issuance, renewal, or transfer of a license or permit is not binding on the board. The board may delegate to the director any duty imposed by this chapter except its power to propose and adopt regulations.

Source: Sec. 17.38.150 Duties of Director

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Rulemaking

Not later than nine months after February 24, 2015, 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:

- 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 (Administrative Procedure Act);
- 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;
- qualifications for registration that are directly and demonstrably related to the operation of a marijuana establishment;
- security requirements for marijuana establishments, including for the transportation of marijuana by marijuana establishments;
- requirements to prevent the sale or diversion of marijuana and marijuana products to persons under the age of 21;
- labeling requirements for marijuana and marijuana products sold or distributed by a marijuana establishment;
- health and safety regulations and standards for the manufacture of marijuana products and the cultivation of marijuana;
- reasonable restrictions on the advertising and display of marijuana and marijuana products; and
- civil penalties for the failure to comply with regulations made pursuant to this chapter.

In order to ensure that individual privacy is protected, the board shall not require 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.

Source: Sec. 17.38.190 Rulemaking

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Marijuana Establishment Registrations

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 before the expiration of the marijuana establishment's registration. When filing an application under this subsection, the applicant shall submit the applicant's fingerprints and the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check. The board shall forward the fingerprints and fees to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400.

The board shall begin accepting and processing applications to operate marijuana establishments one year after February 24, 2015.

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 17.38.210(c).

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 17.38.190 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 17.38.210 and in effect at the time of application.

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.

Upon denial of an application, the board shall notify the applicant in writing of the specific reason for its denial.

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.

Marijuana establishments and the books and records maintained and created by marijuana establishments are subject to inspection by the board.

A marijuana establishment may not be registered under this chapter if a person who is an owner, officer, or agent of the marijuana establishment has been convicted of a felony and either:

- less than five years have elapsed from the time of the person's conviction; or
- the person is currently on probation or parole for that felony.

Source: Sec. 17.38.200 Marijuana Establishment Registrations

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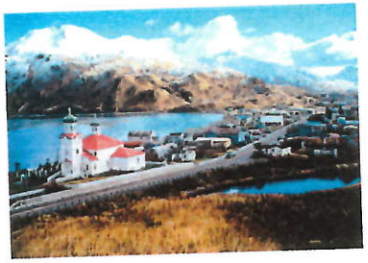
Local Control



(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. An established village may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores as provided in AS 17.38.300.

(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

(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 pursuant to AS 17.38.190 or to accept or process applications in accordance with AS 17.38.200.

(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 (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.

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Employers, Driving, Minors, and Control of Property

- 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.
- 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.
- Nothing in this chapter is intended to permit the transfer of marijuana, with or without remuneration, to a person under the age of 21.
- 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.

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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.

Source: Sec. 17.38.230 Impact on Medical Marijuana Law

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Local Option Election by an Established Village

(a) If a majority of the voters voting on the question vote to approve the option, an established village shall exercise a local option to prohibit the operation of one or more of the following types of marijuana establishments:

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

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

Source: Sec. 17.38.300 Local Option Election by an Established Village

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Source: Sec. 17.38.300 Local Option Election by an Established Village

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Effect on Registrations of Prohibition of Marijuana Establishments

If a majority of voters vote to prohibit the operation of marijuana establishments under AS 17.38.300, the board may not issue, renew, or transfer, between persons or locations, a registration for a marijuana establishment located within the perimeter of the established village.

A registration that may not be renewed because of a local option election held under AS 17.38.300 is void 90 days after the results of the election are certified.

A registration that expires during the 90 days after the results of a local option election are certified may be extended, until it is void under this sec

Source: Sec. 17.38.320 Effect on Registrations of Prohibition of Marijuana Establishments

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Prohibition of Sale and Manufacture After Election

If a majority of the voters vote to prohibit the operation of marijuana establishments under AS 17.38.300, a person may not knowingly sell or manufacture marijuana in the established village.

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

Nothing in this section prohibits the personal conduct authorized in AS 17.38.020.

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

Source: Sec. 17.38.330 Prohibition of Sale and Manufacture After Election

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Procedure for Local Option Elections

(a) An election to adopt a local option under AS 17.38.300 or remove a local option under AS 17.38.310 shall be conducted as required in this section.

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

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

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

Source: Sec. 17.38.340 Procedure for Local Option Elections

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Establishment of Perimeter of Established Village

(a) *Except as provided under (b) and (c) of this section*, for purposes of AS 17.38.300 - 17.38.320, the perimeter of an established village is a circle around the established village that includes an area within a five-mile radius of the post office of the established village.

If the established village does not have a post office, the perimeter of an established village is a circle around the established village that includes an area within a five-mile radius of another site selected by the local governing body or by the board if the established village does not have a local governing body.

(b) If the perimeter of an established village *determined under (a)* of this section includes any area that is within the perimeter of another established village and, if the other established village has (1) also adopted a local option under AS 17.38.300, the local option of the established village that is less restrictive applies in the overlapping area; (2) not adopted a local option under AS 17.38.300, the local option does not apply in the overlapping area.

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

Source: Sec. 17.38.350 Establishment of Perimeter of Established Village

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