

**ALASKA MARIJUANA CERTIFICATION COURSE by Alaska Green Resources**  
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**LESSON 1: AS 17.37 (Medical Marijuana Regs) and AS 17.38 (Recreational Marijuana Regs)**

**Chapter 17.37 MEDICAL USES OF MARIJUANA**

Sec. 17.37.010. Registry of patients and listing of caregivers. (a) The department shall create and maintain a confidential registry of patients who have applied for and are entitled to receive a registry identification card according to the criteria set out in this chapter. The registry must also contain the name of the primary caregiver and the name of the alternate caregiver of a patient, if either is designated by the patient. Only one primary caregiver and one alternate caregiver may be listed in the registry for a patient. The registry and the information contained within it are not a public record under AS 40.25.100 - 40.25.295. Peace officers and authorized employees of state or municipal law enforcement agencies shall be granted access to the information contained within the department's confidential registry only

(1) for the purpose of verifying that an individual who has presented a registry identification card to a state or municipal law enforcement official is lawfully in possession of such card; or

(2) for the purpose of determining that an individual who claims to be lawfully engaged in the medical use of marijuana is registered or listed with the department or is considered to be registered or listed under (g) of this section.

(b) Except as provided in (a) of this section, a person, other than authorized employees of the department in the course of their official duties, may not be permitted to gain access to names of patients, physicians, primary or alternate caregivers, or any information related to such persons maintained in connection with the department's confidential registry.

(c) In order to be placed on the state's confidential registry for the medical use of marijuana, an adult patient or a parent or guardian of a minor patient shall provide to the department

(1) a statement signed by the patient's physician

(A) stating that the physician personally examined the patient and that the examination took place in the context of a bona fide physician-patient relationship and setting out the date the examination occurred;

(B) stating that the patient has been diagnosed with a debilitating medical condition; and

(C) stating that the physician has considered other approved medications and treatments that might provide relief, that are reasonably available to the patient, and that can be tolerated by the patient, and that the physician has concluded that the patient might benefit from the medical use of marijuana;

(2) a sworn application on a form provided by the department containing the following information:

(A) the name, address, date of birth, and Alaska driver's license or identification card number of the patient;

(B) the name, address, and telephone number of the patient's physician; and

(C) the name, address, date of birth, and Alaska driver's license or identification card number of the patient's primary caregiver and alternate caregiver if either is designated at the time of application, along with the statements required under (d) of this section; and

(3) if the patient is a minor, a statement by the minor's parent or guardian that the patient's physician has explained the possible risks and benefits of medical use of marijuana and that the parent or guardian consents to serve as the primary caregiver for the patient and to control the acquisition, possession, dosage, and frequency of use of marijuana by the patient.

(d) A person may be listed under this section as the primary caregiver or alternate caregiver for a patient if the person submits a sworn statement on a form provided by the department that the person

(1) is at least 21 years of age;

(2) has never been convicted of a felony offense under AS 11.71 or AS 11.73 or a law or ordinance of another jurisdiction with elements similar to an offense under AS 11.71 or AS 11.73; and

(3) is not currently on probation or parole from this or another jurisdiction.

(e) A person may be a primary caregiver or alternate caregiver for only one patient at a time unless the primary caregiver or alternate caregiver is simultaneously caring for two or more patients who are related to the caregiver by at least the fourth degree of kinship by blood or marriage.

(f) The department shall review the application and all information submitted under (c) and (d) of this section within 30 days of receiving it. The department shall notify the patient that the patient's application for a registry identification card has been denied if the department's review of the information that the patient has provided discloses that the information required under (c) of this section has not been provided or has been falsified or that the patient is not otherwise qualified to be registered. If the department determines that the primary caregiver or alternate caregiver is not qualified under this section to be a primary caregiver or alternate caregiver, or if the information required under this section has not been provided or has been falsified, the department shall notify the patient of that determination and shall proceed to review the patient's application as if a primary caregiver or alternate caregiver was not designated. The patient may amend the application and designate a new primary caregiver or alternate caregiver at any time. The department may not list a newly designated primary caregiver or alternate caregiver until it determines that the newly designated primary caregiver or alternate caregiver is qualified under this section and that the information required under this section has been provided. Otherwise, not more than five days after verifying the information, the department shall issue a registry identification card to the patient, and, if a primary caregiver for a patient has been listed in the registry, the department shall issue to the patient a duplicate of the patient's card clearly identified as the caregiver registry identification card, stating

(1) the patient's name, address, date of birth, and Alaska driver's license or identification card number;

(2) that the patient is registered with the department as a person who has a debilitating medical condition that the patient may address with the medical use of marijuana;

(3) the dates of issuance and expiration of the registry identification card; and

(4) the name, address, date of birth, and Alaska driver's license or identification card number of the patient's primary caregiver and alternate caregiver, if either is designated.

(g) If the department fails to deny the application and issue a registry identification card within 35 days of receipt of an application, the patient's application for the card is considered to have been approved. Receipt of an application shall be considered to have occurred upon delivery to the department. Notwithstanding this subsection, an application may not be considered to have been received before June 1, 1999. If the department subsequently registers a patient or lists a primary caregiver or alternate caregiver, if either is designated, or denies the application or listing, that registration or listing or denial revokes the approval that is considered to have occurred under this subsection.

(h) A patient or a primary caregiver who is questioned by a state or municipal law enforcement official about the patient's or primary caregiver's medical use of marijuana shall immediately show proper identification to the official and inform the official that the person is a registered patient or listed primary caregiver for a registered patient and either show the official (1) the person's registry identification card, or (2) a copy of an application that has been pending without registration or denial for over 35 days since received by the department and proof of the date of delivery to the department, which shall be accorded the same legal effect as a registry identification card until the patient receives actual notice that the application has been denied.

(i) A person may not apply for a registry identification card more than once every six months.

(j) The denial or revocation of a registry identification card or the removal of a patient from the registry or the listing of a caregiver shall be considered a final agency action subject to judicial review. Only the patient, or the parent or guardian of a patient who is a minor, has standing to contest the final agency action.

(k) When there has been a change in the name, address, or physician of a patient who has qualified for a registry identification card, or a change in the name or address of the patient's primary caregiver or alternate caregiver, that patient must notify the department of the change within 10 days. To maintain an effective registry identification card, a patient must annually resubmit updated written documentation, including a statement signed by the patient's physician containing the information required to be submitted under (c)(1) of this section, to the department, as well as the name and address of the patient's primary caregiver or alternate caregiver, if any.

(l) A patient who no longer has a debilitating medical condition and the patient's primary caregiver, if any, shall return all registry identification cards to the department within 24 hours of receiving the diagnosis by the patient's physician.

(m) A copy of a registry identification card is not valid. A registry identification card is not valid if the card has been altered, mutilated in a way that impairs its legibility, or laminated.

(n) The department may revoke a patient's registration if the department determines that the patient has violated a provision of this chapter or AS 11.71.

(o) The department may remove a primary caregiver or alternate caregiver from the registry if the department determines that the primary caregiver or alternate caregiver is not qualified to be listed or has violated a provision of this chapter or AS 11.71.

(p) The department may determine and levy reasonable fees to pay for any administrative costs associated with its role in administering this chapter.

(q) A primary caregiver may only act as the primary caregiver for the patient when the primary caregiver is in physical possession of the caregiver registry identification card. An alternate caregiver may only act as the primary caregiver for the patient when the alternate caregiver is in physical possession of the caregiver registry identification card.

(r) The department may not register a patient under this section unless the statement of the patient's physician discloses that the patient was personally examined by the physician within the 16-month period immediately preceding the patient's application. The department shall cancel, suspend, revoke, or not renew the registration of a patient whose annual resubmission of updated written documentation to the department under (k) of this section does not disclose that the patient was personally examined by the patient's physician within the 16-month period immediately preceding the date by which the patient is required to annually resubmit written documentation.

Sec. 17.37.020. Medical Use of Marijuana. [Repealed, Sec. 8 ch 37 SLA 1999]. Repealed or Renumbered

Sec. 17.37.030. Privileged medical use of marijuana. (a) A patient, primary caregiver, or alternate caregiver registered with the department under this chapter has an affirmative defense to a criminal prosecution related to marijuana to the extent provided in AS 11.71.090.

(b) Except as otherwise provided by law, a person is not subject to arrest, prosecution, or penalty in any manner for applying to have the person's name placed on the confidential registry maintained by the department under AS 17.37.010.

(c) A physician is not subject to any penalty, including arrest, prosecution, or disciplinary proceeding, or denial of any right or privilege, for

(1) advising a patient whom the physician has diagnosed as having a debilitating medical condition about the risks and benefits of medical use of marijuana or that the patient might benefit from the medical use of marijuana, provided that the advice is based upon the physician's contemporaneous assessment in the context of a bona fide physician-patient relationship of

(A) the patient's medical history and current medical condition; and  
(B) other approved medications and treatments that might provide relief and that are reasonably available to the patient and that can be tolerated by the patient; or

(2) providing a patient with a written statement in an application for registration under AS 17.37.010.

(d) Notwithstanding the provisions of this section, a person, including a patient, primary caregiver, or alternate caregiver, is not entitled to the protection of this chapter for the person's acquisition, possession, cultivation, use, sale, distribution, or transportation of marijuana for nonmedical use.

Sec. 17.37.040. Restrictions on medical use of marijuana. (a) A patient, primary caregiver, or alternate caregiver may not

(1) engage in the medical use of marijuana in a way that endangers the health or well-being of any person;

(2) engage in the medical use of marijuana in plain view of, or in a place open to, the general public; this paragraph does not prohibit a patient or primary caregiver from possessing marijuana in a place open to the general public if

(A) the person possesses, in a closed container carried on the person, one ounce or less of marijuana in usable form;

(B) the marijuana is not visible to anyone other than the patient or primary caregiver; and

(C) the possession is limited to that necessary to transport the marijuana directly to the patient or primary caregiver or directly to a place where the patient or primary caregiver may lawfully possess or use the marijuana;

(3) sell or distribute marijuana to any person, except that a patient may deliver marijuana to the patient's primary caregiver and a primary caregiver may deliver marijuana to the patient for whom the caregiver is listed; or

(4) possess in the aggregate more than

(A) one ounce of marijuana in usable form; and

(B) six marijuana plants, with no more than three mature and flowering plants producing usable marijuana at any one time.

(b) Any patient found by a preponderance of the evidence to have knowingly violated the provisions of this chapter shall be precluded from obtaining or using a registry identification card for the medical use of marijuana for a period of one year. In this subsection, "knowingly" has the meaning given in AS 11.81.900.

(c) A governmental, private, or other health insurance provider is not liable for any claim for reimbursement for expenses associated with medical use of marijuana.

(d) Nothing in this chapter requires any accommodation of any medical use of marijuana

(1) in any place of employment;

(2) in any correctional facility, medical facility, or facility monitored by the department or the Department of Administration;

(3) on or within 500 feet of school grounds;

(4) at or within 500 feet of a recreation or youth center; or

(5) on a school bus.

Sec. 17.37.050. Medical use of marijuana by a minor. [Repealed, Sec. 8 ch 37 SLA 1999]. Repealed or Renumbered

Sec. 17.37.060. Addition of debilitating medical conditions. Not later than August 31, 1999, the department shall adopt regulations under AS 44.62 (Administrative Procedure Act) governing the manner in which it may consider adding debilitating medical conditions to the list provided in AS 17.37.070. After the adoption of the regulations, the department shall also accept for consideration physician or patient initiated petitions to add debilitating medical conditions to the list provided in AS

17.37.070 and, after hearing, shall approve or deny the petitions within 180 days of submission. The denial of a petition shall be considered a final agency action subject to judicial review.

Sec. 17.37.070. Definitions. In this chapter, unless the context clearly requires otherwise,

(1) "alternate caregiver" means a person who is listed as an alternate caregiver under AS 17.37.010;

(2) "bona fide physician-patient relationship" means that the physician obtained a patient history, performed an in-person physical examination of the patient, and documented written findings, diagnoses, recommendations, and prescriptions in written patient medical records maintained by the physician;

(3) "correctional facility" has the meaning given in AS 33.30.901;

(4) "debilitating medical condition" means

(A) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome, or treatment for any of these conditions;

(B) any chronic or debilitating disease or treatment for such diseases, which produces, for a specific patient, one or more of the following, and for which, in the professional opinion of the patient's physician, such condition or conditions reasonably may be alleviated by the medical use of marijuana: cachexia; severe pain; severe nausea; seizures, including those that are characteristic of epilepsy; or persistent muscle spasms, including those that are characteristic of multiple sclerosis; or

(C) any other medical condition, or treatment for such condition, approved by the department, under regulations adopted under AS 17.37.060 or approval of a petition submitted under AS 17.37.060;

(5) "department" means the Department of Health and Social Services;

(6) "facility monitored by the department or the Department of Administration" means an institution, building, office, or home operated by the department or the Department of Administration, funded by the department or the Department of Administration, under contract with the department or the Department of Administration, inspected by the department or the Department of Administration, designated by the department or the Department of Administration, or licensed by the department or the Department of Administration, for the care of

(A) juveniles; for the purposes of this subparagraph, "institution" includes a foster home and a group home, and a juvenile detention facility, a juvenile detention home, a juvenile work camp, and a treatment facility, as those terms are defined in AS 47.12.990;

(B) the elderly; for the purposes of this subparagraph, "institution" includes

(i) an assisted living home as defined in AS 47.33.990; and

(ii) the Alaska Pioneers' Home or the Alaska Veterans' Home, operated under AS 47.55;

(C) the mentally ill; for the purposes of this subparagraph, "institution" includes a designated treatment facility and an evaluation facility, as those terms are defined in AS 47.30.915;

(7) "medical facility" means an institution, building, office, or home providing medical services, and includes a hospital, clinic, physician's office, or health facility as defined in AS 47.07.900, and a facility providing hospice care or rehabilitative services, as those terms are defined in AS 47.07.900;

(8) "medical use" means the acquisition, possession, cultivation, use or transportation of marijuana or paraphernalia related to the administration of marijuana to alleviate a debilitating medical condition under the provisions of this chapter and AS 11.71.090;

(9) "patient" means a person who has a debilitating medical condition;

(10) "physician" means a person licensed to practice medicine in this state or an officer in the regular medical service of the armed forces of the United States or the United States Public Health Service while in the discharge of their official duties, or while volunteering services without pay or other remuneration to a hospital, clinic, medical office, or other medical facility in this state;

(11) "primary caregiver" means a person listed as a primary caregiver under AS 17.37.010 and in physical possession of a caregiver registry identification card; "primary caregiver" also includes an

alternate caregiver when the alternate caregiver is in physical possession of the caregiver registry identification card;

(12) "usable form" and "usable marijuana" means the seeds, leaves, buds, and flowers of the plant (genus) cannabis, but does not include the stalks or roots

### **Chapter 17.38 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:

(1) possessing, using, displaying, purchasing, or transporting marijuana accessories or one ounce or less of marijuana;

(2) 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;

(3) 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;

(4) consumption of marijuana, except that nothing in this chapter shall permit the consumption of marijuana in public; and

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

Sec. 17.38.030. Restrictions on personal cultivation, penalty.. (a) The personal cultivation of marijuana described in AS 17.38.020(2) 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(2) 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 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:

(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;

(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 the person's 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 the person's 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 the person's 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
  - (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 (a) - (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; appointment and qualifications. (a) 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.
- (b) 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:
- (1) one person from the public safety sector;
  - (2) one person from the public health sector;
  - (3) one person currently residing in a rural area;
  - (4) one person actively engaged in the marijuana industry; and
  - (5) one person who is either from the general public or actively engaged in the marijuana industry.
- (c) Not more than two members of the board may be engaged in the same business, occupation, or profession.
- (d) 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.
- (e) In this section,
- (1) "financial interest" means holding, directly or indirectly, a legal or equitable interest in the operation of a business licensed under this chapter;
  - (2) "immediate family member" means a spouse, child, or parent;
  - (3) "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;



(4) "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;

(5) "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;

(6) "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.

Sec. 17.38.091. Terms of office; chair. (a) Members of the board serve staggered three-year terms.

(b) Except as provided in AS 39.05.080(4), a member of the board serves until a successor is appointed.

(c) 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.

(d) 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.

(e) The board shall select a chair from among its members.

Sec. 17.38.101. 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.

Sec. 17.38.111. Meetings. (a) 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.

(b) 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.

Sec. 17.38.121. Powers and duties of the board. (a) 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.

(b) The board shall

(1) propose and adopt regulations;

(2) establish by regulation the qualifications for licensure including fees and factors related to the applicant's experience, criminal justice history, and financial interests;

(3) 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

(4) 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.

(c) 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.

(d) The board shall adopt regulations under this chapter in accordance with AS 44.62 (Administrative Procedure Act).

(e) The board may employ, directly or through contracts with other departments and agencies of the state, enforcement agents and staff it considers necessary to carry out the purposes of this chapter. The salaries of personnel of the board in the exempt service shall be set by the Department of Administration.

(f) The board shall promptly notify all licensees and municipalities of major changes to this chapter and to regulations adopted under this chapter. However, if changes affect only specific classifications of licenses and permits, the board need only notify those licensees and municipalities directly affected by the changes. Current copies of this chapter and current copies of the regulations adopted under this chapter shall be made available at all offices in the state of the Department of Commerce, Community, and Economic Development and the detachment headquarters and posts maintained by the division of Alaska state troopers in the Department of Public Safety.

Sec. 17.38.131. 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.

Sec. 17.38.140. Appointment and removal of director; staff. (a) 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.

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

Sec. 17.38.150. Duties of 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.

Sec. 17.38.190. Rulemaking. (a) 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

(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 (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 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. 17.38.200. 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 February 24, 2015.

(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 17.38.210(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 17.38.190 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.

(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.

(i) 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

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

Sec. 17.38.210. 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 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.

(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 17.38.200 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 17.38.190 and has accepted applications pursuant to AS 17.38.200 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 subsection, 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 17.38.190, an applicant may submit an application directly to a local regulatory authority after one year after February 24, 2015 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 17.38.200. 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 17.38.200.

(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 17.38.190 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 17.38.190 but has not, at least 90 days after the adoption of such regulations, issued registrations pursuant to AS 17.38.200.

(l) Nothing in this section shall limit such relief as may be available to an aggrieved party under AS 44.62 (Administrative Procedure Act).

Sec. 17.38.220. 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. 17.38.230. 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 Marijuana Control Board established by AS 17.38.080;

(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) "director" means the director of the Marijuana Control Board and the Alcoholic Beverage Control Board;

(5) "local government" means both home rule and general law municipalities, including boroughs and cities of all classes and unified municipalities;

(6) "local regulatory authority" means the office or entity designated to process marijuana establishment applications by a local government;

(7) "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;

(8) "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;

(9) "marijuana cultivation facility" means an entity registered to cultivate, prepare, and 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;

(10) "marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store;

(11) "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;

(12) "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;

(13) "marijuana testing facility" means an entity registered to analyze and certify the safety and potency of marijuana;

(14) "registration" means registration or licensure, as determined by regulation;

(15) "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;

(16) "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.

## **LESSON 2: Action Response Document, “In a nut-shell” summary of Chapter 306, the Regulation of Marijuana**

### **Action Response Document**

Knowing the effects of consumption of marijuana and marijuana products:

Impaired coordination  
Difficulty in problem solving  
Possible short term memory loss  
Anxiety, paranoia  
Hunger, referred to as “munchies”  
Can cause sleepiness

Knowing how to identify a person impaired by the consumption of marijuana:

Red, blurry, bloodshot eyes  
Dry mouth  
“munchies”  
A constant grin  
Anxiety, paranoia  
Sleepy

Learn how to determine valid identification:

Check age  
Check date to ensure license is not expired  
Check that photo and person are similar  
Check for hologram

Learn how to intervene to prevent unlawful marijuana consumption:

Do not allow anyone to enter the premise without checking identification, customer must be 21 years of age  
Do not allow consumption on premises unless premise is licensed and endorsed to do so

Know the penalty for an unlawful act by a licensee, an employee, or an agent of a marijuana establishment:

An unlawful act by a licensee, employee, or an agent of a marijuana establishment can result in the suspension or revocation of an establishment license, and/or criminal charges against those involved  
A marijuana establishment, and any licensee, employee, or agent in charge shall cooperate with the director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, and must:  
Permit entry and inspection of the licensed premise

Provide access to business records at reasonable times

Know sanitary handling practices:

Always use protective hand coverings when handling marijuana  
Know and follow individual facility sanitary handling practices

Know the purchase limits per person:

A licensed retail store may not sell in one transaction more than:  
One ounce of useable marijuana  
Seven grams of marijuana concentrate  
Marijuana or marijuana products containing more than 5600mg combined THC

Know the rules defining a restricted access walkthrough:

An employee or licensee may not escort more than 5 people in a restricted access area at one time



## STATE OF ALASKA MARIJUANA INDUSTRY REGULATIONS ...“In a Nut Shell”

Four license types:

Cultivation facility (Limited and Standard)

Manufacturing facility (Concentrate Manufacturing and Standard)

Testing facility

Retail facility

Safety Requirements for all licensed establishments:

There is an "Opt-Out" clause in AS 17.38 which gives each municipality the power to ban commercial marijuana facilities, or further restrict state regulations.

Buffer zones of 500ft. exist between schools, recreation or youth centers, correctional facilities and churches.

Must be a resident of the State of Alaska to have ownership or financial interest

All Renewal, transfer, modifications or relocation of a licensed premise must be approved by the Alcohol and Marijuana Control Office (AMCO).

The state will require a Marijuana Tracking System to track all marijuana and marijuana products from seedling to the final sale, including waste. Metrc by Franwell is the tracking system prescribed by the board.

Anyone involved with owning or working at a marijuana establishment is required to attend a safety course and obtain a marijuana handler permit card.

Must meet state health, safety and fire requirements

Use of marijuana by employees is NOT permitted on any licensed premise

Each premise is required to have:

Exterior lighting

Security alarm systems

Interior and exterior continuous video surveillance

40 day video retention for AMCO and law enforcement

Designated restricted access area (marijuana area)

Commercial grade locks

A license may be suspended or revoked based upon act of employee

No more than 5 people at one time per employee may be escorted in a restricted access area

Must be closed for business between the hours of 5am and 8am

### **Retail Marijuana Stores (3 AAC 306.300 - 3AAC 306.360)**

Direct sales to consumer.

May not sell marijuana products to those under 21.

Marijuana must be stored in a restricted access area.

May not sell more than one ounce of marijuana flower to a consumer in one transaction.

May not sell more than 7 grams concentrate to a consumer in one transaction.

May not sell more than 5600mg THC in one transaction.

May not sell or deliver marijuana outside of licensed retail facility.

Marijuana products must be packed in an opaque, reseal able and child resistant container or bag.

Marijuana products will be labeled with total amount of THC.

Marijuana labeling will include warning statements found in AAC.306.345

Advertising will be limited, have restrictions, and buffer zones.

Signage is limited in size, placement and quantity.

May not be open for business between 5AM – 8AM.

May provide an on-site consumption area only by obtaining an endorsement from the state.

**Marijuana Cultivation Facilities (3 AAC 306.400 - 3AAC 306.480).** There are two types of Cultivators license, Standard and Limited. The Limited Cultivators license must be less than 500sq.ft. of plant canopy space. Both license types must follow the same requirements and safety measures:

May only sell marijuana product to a manufacturing facility, retail store, or another cultivation facility.

All marijuana is required to have lab testing and then labeled with lab results prior to sale.

Must pay excise taxes monthly (\$800 per pound) and submit business records as requested.

Is subject to random lab testing and inspections by AMCO.

Indoor cultivation shall be fully enclosed with walls, doors and roof.

Outdoor cultivation shall be hidden from public view by a 6ft. wall or fence.

Cultivation facilities may not emit an odor detectable by the public from outside the facility.

A batch may not exceed 50 plants and may not exceed 5lb. per package.

Each batch must be tested for a cannabinoid profile and contaminants.

**Marijuana Product Manufacturing Facilities (3 AAC 306.500 - 3AAC 306.570).** There are two types of manufacturing licenses, manufacturing concentrates and producing consumable products.

Neither establishment type may sell directly to public

All products must be approved by the AMCO prior to sale

Consumable products:

Edible potency limits are set at 5mg of active THC per serving. This dosage is extremely low and is considered a safety measure.

Marijuana products cannot imitate a known food brand product, and marijuana cannot be added to such a product. For example, you cannot produce a product that resembles a Hostess Twinkie nor can you add marijuana to a Hostess Twinkie.

Workers must have a Food Safety Worker Card in addition to the marijuana handler permit card.

Packaging may not include printed images or be packaged in any way that targets individuals under the age of 21.

Marijuana products will be labeled with warning statements found in 3AAC 306.570(c).

Concentrate manufacturing can be produced with ice, water, heat, food oils(butter, coconut oil) or hydrocarbon based solvents such as butane or propane

All marijuana concentrates are required to have additional lab testing and then labeled with lab results prior to sale.

All hydrocarbon based manufacturing must use a “closed looped system” and be approved by a licensed engineer. This also includes extra safety requirements:

Equipment operators must have principal knowledge of equipment operation

Provide proper ventilation

Controlled sources of ignition

Compliance with equipment pressure ratings

Reclaim solvents, so none escape into the atmosphere

### **Marijuana Testing Facilities (3 AAC 306.600 - 3AAC 306.675)**

May not sell directly to public.

Scientific Director must have a Biological or Chemical Science college degree and lab experience. The qualifications and experience needed varies yet is rigorous and demanding.

Equipment operators and personnel must successfully participate in a proficiency testing program prior to being approved by AMCO.

Facilities will be subject to random practices and procedure inspections.

## **VOCABULARY COMPONENT:**

- 1) "In public" ...A place to which the public or a substantial group of people have access to
- 2) "Bud an Flower" ...means the hairy, sticky, or crystal covered parts of the female marijuana plant, generally harvested for its high potency content
- 3) "Concentrate" ...Resin, oil, wax, or any other substance produced by extracting or isolating cannabinoids, THC, or other components from a marijuana plant or from materials harvested from a marijuana plant.
- 4) "Consumer" ...An individual who purchases and uses marijuana or marijuana product, and does not include a marijuana establishment that resells marijuana, or incorporates marijuana into a manufactured product.
- 5) "Edible" ...A product intended on being consumed orally, whether as food or drink, and does not include an adulterated food or drink product.
- 6) "Licensed Premises" ...means any and all designated portions of a building, or structure, or rooms and enclosures in the building or structure, at the specific address for which a marijuana establishment license is issued, and used, controlled, or operated by the marijuana establishment to carry out the business for which it is licensed.
- 7) "Marijuana infused product" ...means a product that contains marijuana or marijuana concentrate and is intended for human use
- 8) "Delivering" ...Handing to a person who purchases the product on licensed premises only. Does not mean transporting to a person off premises
- 9) "Batch" or "harvest batch" ... Means a specifically identified quantity of plant trim, leaf, and other usable product from marijuana plants that are uniform in strain, cultivated in one place and under the same conditions, using the same medium and agricultural chemicals including pesticides and fungicides, and harvested at the same time.