

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 are not criminal or civil offenses under Alaska law or the law of any political subdivision of Alaska or bases 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 not 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, except that not more than 12 marijuana plants, with six or fewer being mature, flowering plants, may be present in a single dwelling regardless of the number of persons 21 years of age or older residing in the dwelling;

(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 permits the consumption of marijuana in public; and

(5) assisting, aiding, or supporting 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 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 before the expiration of the marijuana establishment's registration. When filing an application for a new registration 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. When filing an application for renewal of registration, an 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

every five years. 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](#).

(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. 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 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).

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

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. 17.38.300. 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)."

Sec. 17.38.310. Removal of local option.

(a) If a majority of the voters voting on the question vote to remove the option, an

established village shall remove a local option previously adopted under [AS 17.38.300](#). The option is repealed effective the first day of the month following certification of the results of the election.

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

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

Sec. 17.38.320. 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 section, by payment of a prorated portion of the annual registration fee.

Sec. 17.38.330. Prohibition of sale and manufacture after election.

(a) 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.

(b) 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.

(c) Nothing in this section prohibits the personal conduct authorized in [AS 17.38.020](#).

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

Sec. 17.38.340. 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.

Sec. 17.38.350. 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.

Sec. 17.38.360. Notice of the results of a local option election.

If a majority of the voters vote to adopt or remove a local option under [AS 17.38.300](#) or 17.38.310, the lieutenant governor shall notify the board of the results of the election immediately after the results are certified. The board shall immediately notify the Department of Law and the Department of Public Safety of the results of the election.

Sec. 17.38.370. Bail forfeiture for certain offenses.

The supreme court shall establish by rule or order a schedule of bail amounts that may be forfeited without court appearance for a violation of [AS 17.38.030](#) - 17.38.050.

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) "dwelling" has the meaning given in [AS 11.81.900](#);
- (6) "established village" means an area that does not contain any part of an incorporated city or another established village and that is an unincorporated community that is in the unorganized borough and that has 25 or more permanent residents;
- (7) "local government" means both home rule and general law municipalities, including boroughs and cities of all classes and unified municipalities;
- (8) "local regulatory authority" means the office or entity designated to process marijuana establishment applications by a local government;

(9) "manufacture" has the meaning given in [AS 11.71.900](#).

(10)"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;

(11)"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;

(12)"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;

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

(14)"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;

(15)"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;

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

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

(18)"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;

(19)"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.