The Alaska State Legislature

Alaska Marijuana Legalization, Ballot Measure 2 (2014)

Testimony in Opposition

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Honorable Members of the Senate and House Judiciary Committees

This past November, the "*People*" of "*Alaska*" voted to enact into law by "*Ballot Initiative*" the legalization of the use of "*Marijuana*" for recreational and medical purposes. As this "*Ballot Measure*" is before you for implementation, I respectfully submit my opposition.

Enclosed with this "*Testimony in Opposition*" are several "*Documents and Papers of Interest*" which are to be included into the record of the "*Committee*" in support of this "*Testimony in Opposition*" to the implementation of "*Marijuana Ballot Measure No. 2*".

As you look to the full text of the "*Ballot Initiative*" (*attached*), you will see "*Sections*" that have been "*Emphasized*" which needs to be addressed. The important "*Sections*" to be addressed are:

Sec. 17.38.010. Purpose and findings.

(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**. [*Emphasis added*].

and "*Sections*":

Sec. 17.38.900. Definitions.

(6) **"Marijuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. "Marijuana" does not include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.** [*Emphasis added*].

Sec. 43.61.010. Marijuana tax.

(a) **An excise tax is imposed on the sale or transfer of marijuana from a marijuana cultivation facility to a retail marijuana store or marijuana product manufacturing facility. Every marijuana cultivation facility shall pay an excise tax at the rate of $50 per ounce, or proportionate part thereof, on marijuana that is sold or transferred from a marijuana cultivation facility to a retail marijuana store or marijuana product manufacturing facility. (b) The department may exempt certain parts of the marijuana plant from the excise tax described in (a) of this section or may establish a rate lower than $50 per ounce for certain parts of the marijuana plant**. [*Emphasis added*]

Sec. 43.61.030. Administration and Enforcement of Tax.

(b) **If a marijuana cultivation facility fails to pay the tax to the state** the marijuana cultivation facility's registration may be revoked in accordance with procedures established under AS 17.38.090(a)(1). [*Emphasis added*].

Sec. 3.

The provisions of this Act are independent and severable, and, except where otherwise indicated in the text, shall supersede conflicting statutes, local charter, ordinance, or resolution, and other state and local provisions. If any provision of this Act, or the application thereof to any person or circumstance, is found to be invalid or unconstitutional, the remainder of this Act shall not be affected and shall be given effect to the fullest extent possible. [*Emphasis added*]

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. [*Emphasis added*]

Sec. 17.38.130. Impact on medical marijuana law

Nothing in this chapter shall be construed to limit any privileges or rights of a medical marijuana patient or medical marijuana caregiver under AS 17.37. [*Emphasis added*]

The United States Controlled Substance Act (*CSA*)

As we look to *Sec. 17.38.010* of the" *Ballot Initiative*" *(Purpose and findings*), this "*Section*" says it all:

"(d) **Nothing in this Act proposes or intends to require [*authorize*] 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**." [*Emphasis added*]

As the "*U.S. Congress*" has made the following findings and declarations at *21 U.S. Code § 801*, the "*U.S. Congress*" has established exclusive jurisdiction under "*U.S. Constitution, Article I, Clause 8, Section 3*" to regulate "*Marijuana*" as product in "*Commerce*" between foreign "*Nations*," the "*States*," and "*Indian tribes*" as:

(1) Many of the drugs included within this subchapter have a useful and legitimate medical purpose and are necessary to maintain the health and general welfare of the American people.

(2) The illegal importation, manufacture, distribution, and possession and improper use of controlled substances have a substantial and detrimental effect on the health and general welfare of the American people. [*Emphasis added*].

(3) A major portion of the traffic in controlled substances flows through interstate and foreign commerce. **Incidents of the traffic which are not an integral part of the interstate or foreign flow, such as manufacture, local distribution, and possession, nonetheless have a substantial and direct effect upon interstate commerce because** — [*Emphasis added*].

> **(A) after manufacture, many controlled substances are transported in interstate commerce**, [*Emphasis added*].
>
> **(B) controlled substances distributed locally usually have been transported in interstate commerce immediately before their distribution**, [*Emphasis added*] and
>
> **(C)** controlled substances possessed commonly flow through interstate commerce immediately prior to such possession.

(4) Local distribution and possession of controlled substances contribute to swelling the interstate traffic in such substances. [*Emphasis added*].

(5) Controlled substances manufactured and distributed intrastate cannot be differentiated from controlled substances manufactured and distributed interstate. **Thus, it is not feasible to distinguish, in terms of controls, between controlled substances manufactured and distributed interstate and controlled substances manufactured and distributed intrastate**. [*Emphasis added*].

(6) Federal control of the intrastate incidents of the traffic in controlled substances is essential to the effective control of the interstate incidents of such traffic. [*Emphasis added*].

(7) The United States is a party to the Single Convention on Narcotic Drugs, 1961, and other international conventions designed to establish effective control over international and domestic traffic in controlled substances. [*Emphasis added*].

> [This is a list of parts within the "*Code of Federal Regulations*" for which this "*US Code*" section provides rulemaking authority.]

And as the "*U.S. Congress*" also made the following findings and declarations under 28 USC 801a:

(1) The Congress has long recognized the danger involved in the manufacture, distribution, and use of certain psychotropic substances for nonscientific and nonmedical purposes, and has provided strong and effective legislation to control illicit trafficking and to regulate legitimate uses of psychotropic substances in this country. Abuse of psychotropic substances has become a phenomenon common to many countries, however, and is not confined to national borders**. It is, therefore, essential that the United States cooperate with other nations in establishing effective controls over international traffic in such substances**. [*Emphasis added*].

(2) The United States has joined with other countries in executing an international treaty, entitled the Convention on Psychotropic Substances and signed at Vienna, Austria, on February 21, 1971, which is designed to establish suitable controls over the manufacture, distribution, transfer, and use of certain psychotropic substances. The Convention is not self-executing, and the obligations of the United States thereunder may only be performed pursuant to appropriate legislation. **It is the intent of the Congress that the amendments made by this Act, together with existing law, will enable the United States to meet all of its obligations under the Convention and that no further legislation will be necessary for that purpose**. [*Emphasis added*].

(3) In implementing the Convention on Psychotropic Substances, the Congress intends that, consistent with the obligations of the United States under the Convention, control of psychotropic substances in the United States **should be accomplished within the framework of the procedures and criteria for classification of substances provided in the Comprehensive Drug Abuse Prevention and Control Act of 1970 [21 U.S.C. 801 et seq.]**. [*Emphasis added*]. This will insure that

(A) the availability of psychotropic substances to manufacturers, distributors, dispensers, and researchers for useful and legitimate medical and scientific purposes will not be unduly restricted;

(B) nothing in the Convention will interfere with bona fide research activities; and

(C) nothing in the Convention will interfere with ethical medical practice in this country as determined by the Secretary of Health and Human Services on the basis of a consensus of the views of the American medical and scientific community.

And as the "*U.S. Congress*" declared what constitutes "*Schedule I Controlled Substances*" as:

Schedule I substances are those that have the following findings:

A. The drug or other substance has a high potential for abuse.

B. The drug or other substance has no currently accepted medical use in treatment in the United States.

C. There is a lack of accepted safety for use of the drug or other substance under medical supervision.

No prescriptions may be written for "*Schedule I*" substances, and such substances are subject to production quotas by the "*U.S. Drug Enforcement Agency*" (*DEA*).

Under the DEA's interpretation of the "*CSA*," a drug does not necessarily have to have the same "*high potential for abuse*" as heroin, for example, to merit placement in Schedule I:

> [W]hen it comes to a drug that is currently listed in schedule I, if it is undisputed that such drug has no currently accepted medical use in treatment in the United States and a lack of accepted safety for use under medical supervision, and it is further undisputed that the drug has *at least some potential for abuse sufficient to warrant control under the CSA*, the drug must remain in schedule I. In such circumstances, placement of the drug in schedules II through V would conflict with the CSA since such drug would not meet the criterion of "*a currently accepted medical use in treatment in the United States*." 21 USC 812(b).
>
> — Drug Enforcement Administration,
>
> *Notice of denial of petition to reschedule marijuana (2001)*

Sentences for first-time, non-violent offenders convicted of trafficking in Schedule I drugs can easily turn into *de facto* life sentences when multiple sales are prosecuted in one proceeding. Sentences for violent offenders are much higher.

Drugs in this schedule include:

- αMT (*alpha-methyltryptamine*), an anti-depressant from the tryptamine family; first developed in the Soviet Union and marketed under the brand name Indopan.
- BZP (*benzylpiperazine*), a synthetic stimulant once sold as a designer drug. It has been shown to be associated with an increase in seizures if taken alone. Although the effects of BZP are not as potent as MDMA, it can produce neuroadaptions that can cause an increase in the potential for abuse of this drug.
- Cathinone, an amphetamine-like stimulant found in the shrub *Catha edulis* (*khat*).
- DMT (*dimethyltryptamine*), a naturally-occurring psychedelic drug that is widespread throughout the plant kingdom and endogenous to the human body. DMT is the main psychoactive constituent in the psychedelic South American brew, ayahuasca, for which the UDV are granted exemption from DMT's schedule I status on the grounds of religious freedom.
- Etorphine, a semi-synthetic opioid possessing an analgesic potency approximately 1,000-3,000 times that of morphine.

- GHB, a general anaesthetic and treatment for narcolepsy-cataplexy and alcohol withdrawal with minimal side-effects and controlled action but a limited safe dosage range. It was placed in Schedule I in March 2000 after widespread recreational use led to increased emergency room visits, hospitalizations, and deaths. This drug is also listed in Schedule III for limited uses, under the trademark Xyrem.

- Heroin (*diacetylmorphine*), which is used in some European countries as a potent pain reliever in terminal cancer patients, and as second option, after morphine (*it is about twice as potent, by weight, as morphine*).

- LSD (*lysergic acid diethylamide*), a semi-synthetic psychedelic drug famous for its involvement in the counterculture of the 1960s.

→ - Marijuana and its cannabinoids. Pure (–)-trans-Δ9-tetrahydrocannabinol is also listed in Schedule III for limited uses, under the trademark Marinol. Ballot measures in several states such as Colorado, Washington, Massachusetts and others have made allowances for recreational and medical use of marijuana and/or have decriminalized possession of small amounts of marijuana – **such measures operate only on state laws, and have no effect on Federal law. Despite such ballot measures and multiple studies showing medicinal benefits, marijuana nevertheless remains on Schedule I, effective across all U.S. States and Territories**. [*Emphasis added*].

- MDMA ("*ecstasy*"), a stimulant, psychedelic, and entactogenic drug which initially garnered attention in psychedelic therapy as a treatment for post-traumatic stress disorder (*PTSD*). The medical community originally agreed upon placing it as a Schedule III substance, but the government denied this suggestion, despite two court rulings by the DEA's administrative law judge that placing MDMA in Schedule I was illegal. It was temporarily unscheduled after the first administrative hearing from December 22, 1987 – July 1, 1988.

- Mescaline, a naturally-occurring psychedelic drug and the main psychoactive constituent of peyote (*Lophophora williamsii*), San Pedro cactus (*Echinopsis pachanoi*), and Peruvian torch cactus (*Echinopsis peruviana*).

- Methaqualone (*Quaalude, Sopor, Mandrax*), a sedative that was previously used for similar purposes as barbiturates, until it was rescheduled.

- Peyote (*Lophophora williamsii*), a cactus growing in nature primarily in northeastern Mexico; one of the few plants specifically scheduled, with a narrow exception to its legal status for religious use by members of the Native American Church.

- Psilocybin and psilocin, naturally-occurring psychedelic drugs and the main psychoactive constituents of psilocybin mushrooms.

- Controlled substance analogs intended for human consumption (*as defined by the Federal Analog Act*).

Disclosure of the Act

The "*Controlled Substances Penalties Amendments Act*" was authored as two chapters entitled "*Controlled Substances Penalties*" and "*Diversion Control Amendments*." The "*H.R. 5656*" bill was passed on September 18, 1984 as the "*Dangerous Drug Diversion Control Act*" of 1984.

Treaty Obligations

The Congressional findings in 21 USC §§ 801(7), 801a(2), and 801a(3) state that a major purpose of the "*Controlled Substances Act*" (*CSA*) is to "*enable the United States to meet all of its obligations*" under international "*Treaties*." The "*CSA*" bears many resemblances to these "*Conventions*." Both the "*CSA*" and the "*Treaties*" set out a system for classifying controlled substances in several "*Schedules*" in accordance with the binding scientific and medical findings of a public health authority. Under 21 U.S.C. § 811 of the "*CSA*," that authority is the "*Secretary of Health and Human Services*" (*HHS*). Under "*Article 3*" of the "*Single Convention*" and "*Article 2*" of the "*Convention on Psychotropic Substances*," the "*World Health Organization*" is that authority.

And as mentioned in the "*U.S. Supreme Court*" case of "*United States v. Oakland Cannabis Buyers' Cooperative and Jeffrey Jones, (Supreme Court Case No. 00-151, 532 U.S __ {2002}*)" at "*footnote 7*;" no one has ever questioned the "*Comprehensive Drug Abuse Prevention and Control Act of 1970*" as being an "*Act*" of "*U.S. Congress*" that was not enacted pursuant to the "*Constitution*" for "*The United States of America*." As the presumption exist that the "*Comprehensive Drug Abuse Prevention and Control Act of 1970*" is an "*Act*" of "*U.S. Congress*" that is made pursuant to the "*Constitution*" for "*The United States of America*," the "*State of Alaska*" must accept said "*Act*" of the "*U.S. Congress*" and the above described "*Treaties*" to which "*The United States of America*" is a party as being the "*supreme laws*" of the "*land*":

"This Constitution, and the **laws of the United States** which shall be made in pursuance thereof; and all **treaties** made, or which shall be made, under the authority of the United States, **shall be the supreme law of the land**; and the judges in every state shall be bound thereby, **any thing in the Constitution or laws of any state to the contrary not withstanding**." [*Emphasis added*]

U.S. Constitution, Article VI, Clause 2.

"The Senators and Representatives before mentioned, **and the members of the several state legislatures**, and **all executive and judicial officers**, both of the United States **and of the several states**, **shall be bound by oath or affirmation, to support this Constitution** . . . " [*Emphasis added*]

U.S. Constitution, Article VI, Clause 3.

The Unconstitutional Provisions of the Alaska Marijuana Ballet Measure

We see that the "*U.S. Congress*" has "*barred*" the use of "*Marijuana*" for any purpose whatsoever and provided penalties for such violations at "*21 USC 841*" to wit:

SUBCHAPTER I — CONTROL AND ENFORCEMENT

Part D — Offenses And Penalties

§841. Prohibited acts A

(a) Unlawful acts

Except as authorized by this subchapter, **it shall be unlawful for any person knowingly or intentionally**— [*Emphasis added*]

(1) **to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance**; or [*Emphasis added*].

(2) to create, distribute, or dispense, or possess with intent to distribute or dispense, a counterfeit substance.

(b) Penalties

Except as otherwise provided in section 849, 859, 860, or 861 /[1] of this title, **any person who violates subsection (a) of this section shall be sentenced as follows**: [*Emphasis added*].

(1)(D) ***In the case of less than 50 kilograms*** **of marihuana, except in the case of 50 or more marihuana plants regardless of weight, 10 kilograms of hashish, or one kilogram of hashish oil, such person shall, except as provided in paragraphs (4) and (5) of this subsection, be sentenced to a term of imprisonment of not more than 5 years, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual, or both**. If any person commits such a violation after a prior conviction for a felony drug offense has become final, **such person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $500,000 if the defendant is an individual or $2,000,000 if the defendant is other than an individual, or both**. Notwithstanding section 3583 of title 18, any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 4 years in addition to such term of imprisonment. [*Emphasis added*].

Now to turn our attention to the following provisions of the "*Marijuana Ballot Initiative*" we see that they are superfluous and unconstitutional for being in conflict with the "*United States Controlled Substance Acts*" and "*Treaties*" of the "*United Nations*." They are all "*null and void*" ab initio:

[1]/ For text of 21 USC 849, 859, 860, or 861 see attached "*Addendum*"

- **Sec. 17.38.020. Personal use of marijuana.**
- **Sec. 17.38.030. Restrictions on personal cultivation, penalty.**
- **Sec. 17.38.040. Public consumption banned, penalty.**
- **Sec. 17.38.050. False identification, penalty.**
- **Sec. 17.38.060. Marijuana accessories authorized.**
- **Sec. 17.38.070. Lawful operation of marijuana-related facilities.**
- **Sec. 17.38.080. Marijuana Control Board.**
- **Sec. 17.38.090. Rulemaking.**
- **Sec. 17.38.100. Marijuana establishment registrations.**
- **Sec. 17.38.110. Local control.**
- **Sec. 17.38.120. Employers, driving, minors and control of property.**
- **Sec. 17.38.130. Impact on medical marijuana law.**
- **Sec. 43.61.010. Marijuana tax.**
- **Sec. 43.61.020. Monthly Statement and Payments.**
- **Sec. 43.61.030. Administration and Enforcement of Tax.**

Looking at the "*Marijuana Ballot Initiative*," we see the following on the use of "*Marijuana*" as a medical drug:

> **Sec. 17.38.130. Impact on medical marijuana law**
>
> **Nothing in this chapter shall be construed to limit any privileges or rights of a medical marijuana patient or medical marijuana caregiver under AS 17.37.**

The "*United States Supreme Court*" in the case of "*United States v. Oakland Cannabis Buyers' Cooperative and Jeffrey Jones, (supra.)* addressed the use of "*Marijuana*" for medical purposes. Here is what the "*Court*" had to say:

> "The Controlled Substances Act, 84 Stat. 1242, 21 U. S. C. §801 *et seq.*, prohibits the manufacture and distribution of various drugs, including marijuana. In this case, we must decide whether there is a medical necessity exception to these prohibitions. We hold that there is not."
>
> U.S. Supreme Court Justice Thomas

> "Lest there be any confusion, we clarify that nothing in our analysis, or the statute, suggests that a distinction should be drawn between the prohibitions on manufacturing and distributing and the other prohibitions in

the Controlled Substances Act. Furthermore, the very point of our holding is that there is no medical necessity exception to the prohibitions at issue, even when the patient is "seriously ill" and lacks alternative avenues for relief. Indeed, it is the Cooperative's argument that its patients are "seriously ill," see, and lacking "*alternatives*." We reject the argument that these factors warrant a medical necessity exception. If we did not, we would be affirming instead of reversing the Court of Appeals.

"Finally, we share JUSTICE STEVENS' concern for "showing respect for the sovereign States that comprise our Federal Union." However, we are "construing an Act of Congress, not drafting it." *United States* v. *Bailey*, 444 U.S. 394, 415, n. 11 (1980). Because federal courts interpret, rather than author, the federal criminal code, we are not at liberty to rewrite it. Nor are we passing today on a constitutional question, such as whether the Controlled Substances Act exceeds Congress' power under the Commerce Clause."

Footnote No. 7

United States v. Oakland Cannabis Buyers' Cooperative and Jeffrey Jones,
(Supreme Court Case No. 00-151, 532 U.S __ {2002})

The "*U.S. Court of Appeals for the District of Columbia*" is in full agreement with the "*U.S. Supreme Court*" for in the case of "*Americans for Save Access, et al., v. Drug Enforcement Administration, Case No. 11-1265 of January 22, 2013*" the Court had this to say:

EDWARDS, *Senior Circuit Judge*: "There is a serious debate in the United States over the efficacy of marijuana for medicinal uses. Although marijuana has been legalized in a number of states, it is classified as a "Schedule I" drug by the Drug Enforcement Administration ("*DEA*"), pursuant to its authority under the Controlled Substances Act of 1970 ("*CSA*" or "*Act*"). The DEA has maintained this listing because it has determined that marijuana "*has no currently accepted medical use in treatment in the United States*." 21 U.S.C. § 812(b)(1)(B). Because Schedule I is the most restricted drug classification under the CSA, the production, sale, and use of marijuana are largely banned by federal law. Petitioners in this case – Americans for Safe Access, the Coalition

to Reschedule Cannabis, Patients Out of Time, and several individuals – challenge DEA's denial of its petition to initiate proceedings to reschedule marijuana."

For reasons stated within the case, the Court denied the Petition to Review.

The "*U.S. Court of Appeals, Ninth Circuit*" had this to say:

> "We affirm. We recognize that the plaintiffs are gravely ill, and that their request for ADA relief implicates not only their right to live comfortably, but also their basic human dignity. We also acknowledge that California has embraced marijuana as an effective treatment for individuals like the plaintiffs who face debilitating pain. Congress has made clear, however, that the ADA defines "illegal drug use by reference to federal rather than state, law, and federal law does not authorize the plaintiffs' medical marijuana use. We therefore necessarily conclude that the plaintiffs' medical marijuana use is not protected by the ADA."
>
> U.S. Court of Appeals, Ninth Circuit,
> Marla James et al., v. City of Costa Mesa,
> Case No. 10-55769 [May 21, 2012]

As declared by the "*United States Supreme Court*" and the "*U.S. Court of Appeals for the District of Columbia*" and within the "*U.S. Court of Appeals, Ninth Circuit*" case of "*Marla James et al., v. City of Costa Mesa, Case No. 10-55769 [May 21, 2012],*" the "*Alaska Marijuana Ballot Section 17.38.130*" and the "*Alaska Statute, Title 17, Chapter 37*" (*Medical Uses of Marijuana*) must be found to be in conflict with the "*United States Controlled Substances Act*" and thus; notwithstanding the *U.S. Justice Department* "*Memo*" of August 29, 2013 (*which is in conflict with the above rulings of the "Federal Courts"*):

> "The Department's previous memoranda specifically addressed the exercise of prosecutorial discretion in states with laws authorizing marijuana cultivation and distribution for medical use. In those contexts, the Department advised that it likely was not an efficient use of federal resources to focus enforcement efforts on seriously ill individuals, or on their individual caregivers. In doing so, the previous guidance drew a distinction between the seriously ill and their caregivers, on the one hand, and large-scale, for-profit commercial enterprises, on the other, and advised that the latter continued to be appropriate targets for federal enforcement and prosecution. In drawing this distinction, the Department relied on the common-sense judgment that

> the size of a marijuana operation was a reasonable proxy for assessing whether marijuana trafficking implicates the federal enforcement priorities set forth above."
>
> "*Memo*" dated August 29, 2013;
> U.S. Deputy Attorney General, James M. Cole

they must be declared "*null and void*" ab initio for being unconstitutional. All of Alaska Statute, Title 17, Chapter 37 needs to be repealed for being in conflict with the "*United States Controlled Substances Acts*."

We see that the Sponsors of "*Alaska Marijuana Ballot Initiative*" has proposed an "*excise tax*" as an incentive for the "*People*" to pass the "*Marijuana Ballot Initiative*" into law:

> **Sec. 43.61.010. Marijuana tax.**
>
> **(a) An excise tax is imposed on the sale or transfer of marijuana from a marijuana cultivation facility to a retail marijuana store or marijuana product manufacturing facility.**

This is just another Ballot Initiative Sponsor "*con*" that has been used on the "*People*" of other "*States*." These "*cons*" include "*Sales Tax Clauses*" and "*Duty Tax Clauses*" in their "*Marijuana Ballot Initiatives*" to sell the "*Ballot Initiatives*" as a method of raising revenue for the "*States*," but such "*taxes*" are in reality "*imposts*" or "*duties*" upon "*Marijuana*" as an import or export of a "*Commodity*" moving through "*Interstate Commerce*." Please keep in mind that the "*Marijuana*" plant is not native to any "*State*" of the "*Union*" and as it was imported into the "*States*" from "*Asia*" through "*Mexico*," the first "*Marijuana*" plant and all of its child plants are involved in the intercourse of "*Interstate Commerce*." We also see that the "*U.S. Congress*" has identified (*supra*.) that any inland ("*Intrastate*") use of "*Marijuana*" effects and obstructs the "*Power*" of "*U.S. Congress*" to regulate "*Interstate Commerce*" and thus any commercial transactions involving "*Marijuana*" must be a transaction in "*Interstate Commerce*."

The "*Constitution*" for "*The United States of America*" at "*Article I, Section 10, Clause 2*" declares:

> "No state shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress."

The "*U.S. Secretary of Treasury*" has the duty of making "*audits*" of the "*Treasuries*" of the "*States*" for the purpose of making "*assessments of taxes, penalties, and interest*" that are due to the government of "*The United States of America*."

As a note of interest - No "*State*" has the authority to deposit any funds collected as "*imposts*" or "*duties*" that have been laid upon imports or exports with the "*Federal Reserve Bank*" for Article I, Section 10, Clause 2 of the U.S. Constitution mandates that all such funds are to be deposited with the "*U.S. Treasury*." The "*Federal Reserve Bank*" is a private Bank and it is not associated with any "*Department*" or "*Agency*" of the government of "*The United States of America*":

> "Federal reserve banks are not federal instrumentalities for purposes of a Federal Tort Claims Act, but are independent, privately owned and locally controlled corporations in light of fact that direct supervision and control of each bank is exercised by board of directors, federal reserve banks, though heavily regulated, are locally controlled by their member banks, banks are listed neither as "wholly owned" government corporations nor as "mixed ownership" corporations; federal reserve banks receive no appropriated funds from Congress and the banks are empowered to sue and be sued in their own names. . ."
>
> Lewis v. United States, 680 F.2d 1239 (1982)

For any "*State*" to make a deposit of its taxes with the "*Federal Reserve Bank*" or for the "*U.S. Congress*" to make such demands, there would be a need for a "*Constitutional Amendment*" to alter the wording of U.S. Constitution, Article I, Section 10, Clause 2.

We are now left with a question:

> Will the "*U.S. Congress*" grant consent to the "*State of Alaska*" to lay imposts taxes or duty taxes upon '*Marijuana*' as it moves through "*Interstate Commerce*" in violation of the "*United States Controlled Substance Acts*?

The answer is obvious and needs no further elaboration. We now turn our attention to "*Alaska Ballot Initiative, Section 17.38.060*":

> **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.**

This section of the "*Alaska Ballot Initiative*" is "***Colorable Law***" for it declares what shall be "*lawful*" in conflict to which the "*U.S. Congress*" has declared to be "*unlawful*." Although this section does not mention "*Federal Law*," there are no methods available that may be used to make this "*Section*" of the "*Marijuana Ballot Initiative*" lawful without violating the "*Federal Controlled Substance Laws*" and "*Treaties*" to which the "*United States*" is a party to. The "*U.S. Congress*" has declared that there is no lawful use of "*Marijuana*" backed by substantial penalties and prison incarceration time. This "*Section 17.38.060*" will deceive many "*Citizens*" of the "*State of Alaska*" into believing that they are not "*law breakers*" and that they will not be lead into the "*Federal Courts*" and incarcerated into "*Federal Prisons*;" but is that what the "*U.S. Justice Department*" had to say:

> "As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. **This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law**.

Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct threatens federal priorities **will subject that person or entity to federal enforcement action**, based on the circumstances. **This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal**. It applies prospectively to the exercise of prosecutorial discretion in future cases **and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution**. Finally, **nothing herein precludes investigation or prosecution**, even in the absence of any one of the factors listed above, in particular circumstances **where investigation and prosecution otherwise serves an important federal interest**." [*Emphasis added*]

"*Memo*" dated August 29, 2013;
U.S. Deputy Attorney General, James M. Cole

Notwithstanding the "*Memos*" /[2] of "*U.S. Deputy Attorney Generals, David W. Ogden*" and "*James M. Cole*" which were addressed to the "*U.S. Attorneys*" of our "*Nation*" and declaring therein:

". . . The Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of Marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;

[2]/ The "*Memos*" of "*David W. Ogdon*" and "*James M. Cole*" are included within the supporting documents to this "*Testimony on Opposition*."

- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and

- Preventing marijuana possession or use on federal property.

"The enactment of state laws that endeavor to authorize marijuana production, distribution, and possession by establishing a regulatory scheme for these purposes **affects this traditional joint federal-state approach to narcotics enforcement**. The Department's guidance in this memorandum rests **on its expectation that states and local governments** that have enacted laws authorizing marijuana-related conduct **will implement strong and effective regulatory and enforcement systems that will address *the threat those state laws could pose to public safety, public health, and other law enforcement interests***. A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice. Jurisdictions that have implemented systems that provide for regulation of marijuana activity." [*Emphasis added*]

no "*Officer*" of the "*U.S. Justice Department*" has authority to alter or change the language or intent of the "*Laws*" as enacted by the "*U.S. Congress*" nor do they have the authority to delegate the "*Powers*" of the "*U.S. Congress*" to the "*States*" for executing and enforcement of the "*Laws*" that were enacted under the authority of the "*Interstate Commerce Clause*" of the "*U.S. Constitution*." In writing those "*Memos*," crimes were committed and they are not

limited to "*Malfeasance of Office*" /[3] and "*Aiding and Abetting*" /[4] the commission of "*crimes*" against the "*Laws*" of the government of "*The United States of America*."

Conclusion

What Is before the "*Alaska Legislative Judiciary Committees*" are "*Constitutional*" questions of "*Law*" that need to be addressed. The "*Pros*" and "*Cons*" of the use of "*Marijuana*" are not at issue. The "*Sponsors*" of the "*Alaska Marijuana Ballot Initiative*" are asking the "*State of Alaska*" to use its powers to nullify existing "*Laws*" of "*The United States of America*" without a showing that those "*Federal Laws*" were not made pursuant to the "*Constitution*" for "*The United States of America*." There is a presumption that all "*Federal Laws*" are "*legitimate*" until proven otherwise.

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[3]/ "Malfeasance has been defined by appellate courts in other jurisdictions as a wrongful act which the actor has no legal right to do; as any wrongful conduct which affects, interrupts or interferes with the performance of official duty; as an act for which there is no authority or warrant of law; as an act which a person ought not to do; as an act which is wholly wrongful and unlawful; as that which an officer has no authority to do and is positively wrong or unlawful; and as the unjust performance of some act which the party performing it has no right, or has contracted not, to do."

—*Daugherty v. Ellis*, 142 W. Va. 340, 357-8, 97 S.E.2d 33, 42-3 (W. Va. 1956)

[4]/ **18 USC 2**

(a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.

(b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

State Nullification of Federal Laws

Nullification, in "*United States*" constitutional history, is a legal theory that a "*State*" has the right to nullify, or invalidate, any federal law which that "*State*" has deemed unconstitutional.

The theory of "*nullification*" is based on a view that the "*States*" formed the "*Union*" by an "*Agreement*" (*or "Compact"*) among the "*States*," and that as creators of the "*Federal Government*," the "*States*" have the final authority to determine the limits of the power of that government. Under this, the "Compact" theory, the "*States*" and not the "*Federal Courts*" are the ultimate interpreters of the extent of the "*Federal Government's*" power. Under this theory, the "*States*" therefore may reject, or nullify, "*Federal Laws*" that the "*States*" believe are beyond the "*Federal Government's*" constitutional powers. The related idea of interposition is a theory that a "*State*" has the right and the duty to "*interpose*" itself when the "*Federal Government*" enacts laws that the "*State*" believes to be unconstitutional. "*Thomas Jefferson*" and "*James Madison*" set forth the theories of "*nullification*" and "*interposition*" in the "*Kentucky*" /[5] and "*Virginia Resolutions*" /[6] in 1798.

The "*Courts*" at the "*State*" and federal level, including the "*U.S. Supreme Court*," repeatedly have rejected the theory of nullification of federal law. The "*Courts*" have decided that under the "*Supremacy Clause*" of the "*Constitution*," "*Federal Law*" is superior to "*State*" law, and that under "*Article III*" of the "*Constitution*," the "*Federal Judiciary*" has the final power to interpret the "*Constitution*." Therefore, the power to make final decisions about the constitutionality

[5]/ https://en.wikisource.org/wiki/Kentucky_Resolutions_of_1798

[6]/ https://en.wikisource.org/wiki/Virginia_Resolutions_of_1798

of "*Federal Laws*" lies with the "*Federal Courts*," not the "*States*," and the "*States*" do not have the power to nullify "*Federal Laws*."

Between 1798 and the beginning of the "*Civil War*" in 1861, several "*States*" threatened or attempted nullification of various "*Federal Laws*." None of these efforts were legally upheld. The "*Kentucky*" /[7] and "*Virginia Resolutions*" /[8] were rejected by the other "*States*" (*see* "*Answers" from* "*Delaware,*" /[9] "*Rhode Island,*" /[10] "*Massachusetts,*" /[11] "*New York*" /[12] *{also to "Kentucky"},* "*Connecticut,*" /[13] "*New Hampshire*," /[14] *and* "*Vermont*." /[15]). The "*Supreme Court*" rejected nullification attempts in a series of decisions in the "*19th Century*," including "*Ableman v. Booth, 62 U.S. 506 (1859),*" /[16] which rejected "*Wisconsin's*" attempt to nullify the "*Fugitive Slave Act*." /[17] The "*Civil War*" ended most nullification efforts.

In the 1950s, southern "*States*" attempted to use nullification and interposition to prevent integration of their schools. These attempts failed when the "*Supreme Court*" again rejected

[7]/ https://en.wikisource.org/wiki/Kentucky_Resolutions_of_1798

[8]/ https://en.wikisource.org/wiki/Virginia_Resolutions_of_1798

[9]/ https://en.wikisource.org/wiki/Virginia_Resolutions_of_1798/Delaware

[10]/ https://en.wikisource.org/wiki/Virginia_Resolutions_of_1798/Rhode_Island

[11]/ https://en.wikisource.org/wiki/Virginia_Resolutions_of_1798/Massachusetts

[12]/ https://en.wikisource.org/wiki/Virginia_Resolutions_of_1798/New_York

[13]/ https://en.wikisource.org/wiki/Virginia_Resolutions_of_1798/Connecticut

[14]/ https://en.wikisource.org/wiki/Virginia_Resolutions_of_1798/New_Hampshire

[15]/ https://en.wikisource.org/wiki/Virginia_Resolutions_of_1798/Vermont

[16]/ https://en.wikipedia.org/wiki/Ableman_v._Booth

[17]/ https://en.wikipedia.org/wiki/Fugitive_Slave_Act_of_1793

nullification in "*Cooper v. Aaron, 62 U.S. 506 (1859)*" /[18] explicitly holding that the "*States*" may not nullify "*Federal Law*."

The only "*Section*" of the "*Alaska Marijuana Ballot Initiative*" that may be found to be in conformity with "*Federal Law*" of the "*Controlled Substances Acts*" would be "***Sec. 17.38.010. Purpose and findings*****"** wherein the "*Section*" states: ***"(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."*** The remainder "*Sections*" of the "*Alaska Marijuana Ballot Initiative*" must be declared to be "*null and void*" for being in conflict with "*Federal Laws*" and with "*International Laws*" as expressed within "*Treaties*" as entered into and being a party by the government of "*The United States of America*."

All the "*Statutes*" of the "*State of Alaska*" that makes reference to "*Marijuana*" and other controlled substance drugs must be "*repealed*" so the "*Statutes*" of the "*State of Alaska*" will be brought into conformity with the "*Federal Laws*" and "*Treaties*" of "*The United States of America*." As the "*Power*" to regulate and enforce "*Interstate Commerce*" is with "*Congress*" of "*The United States of America*" **and not** with any "*State*" of the "*Union*," the government of the "*State of Alaska*" is without authority to diminish or add to the mandates of the "*Federal Controlled Substance Acts*" and its declaration that any use of "*Marijuana*" is a criminal act against the "*Laws*" of "*The United States of America*."

The repeal of the "*Alaska State Controlled Substance Acts*" leaves us with the question: "*Will the repeal of all the "Alaska Controlled Substance Acts" of the "State of Alaska" open up the "State" to*

[18]/ http://supreme.justia.com/cases/federal/us/358/1/case.html

unlimited and uncontrolled use of "Marijuana" and other "Controlled Substance Drugs"?? According to the "*U.S. Congress*," the answer is "***NO*.**"

The "*U.S. Congress*" has provided the "*States*" its guarantee of protection as found within "*Title 18*" of the "*United States Code*" (*USC*) to wit:

> "Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both."
>
> 18 USC 4

This "*Section 4*" of "*Title 18*" of the "*United States Code*" carries with it an implied obligation that the "*Judges*" and other "*Officers*" of the government of "*The United States of America*" will faithfully execute and enforce all "*Laws*" of the government of "*The "United States of America*;" a mandate that is found within "*U.S. Constitution, Article II, Section 2, Clause 3*."

The "*Legislature*" for the "*State of Alaska*" needs to address the procedures by which the "*Officers*" and "*Employees*" of the "*State*" may make known to "*Federal Judges*" and other "*Federal Officers*" in the name of "*State of Alaska*" the "*felonies*" that are committed within the borders of the "*State of Alaska*" which are cognizable by "*Federal Courts*." The "*Federal Courts*" have made it known that no "*Officer*" or "*Employee*" of a "*State*" has authority to execute and enforce any "*Law*" of "*The United States of America*" that was enacted under an exclusive "*Power*" of "*U.S. Congress*" such as the "*Interstate Commerce Clause*" of "*U.S. Constitution, Article I, Section 8, Clause 3*." (*e.g.* ***ARIZONA ET AL. v. UNITED STATES****, 567 U.S. ___ (2012)* /[19]).

[19]/ see https://en.wikipedia.org/wiki/Arizona_v._United_States

The government of "*The United States of America*" has a duty to guarantee to every "*State*" in the "*Union*" a "*Republican Form of Government*" under the mandate of "*U.S. Constitution, Article IV, Section 3, Clause 1*." This guarantee includes the preservation of "*Rights*" of the "*People*" as expressed in "*Article IX*" of the "*Bill of Rights*" to the "*U.S. Constitution*" and the "*Reserved Powers*" of the "*States*" as expressed in "*Article X*" of the "*Bill of Rights*" to the "*U.S. Constitution*."

The repealing of all "*Statutes*" of the "*State of Alaska*" that are in conflict with "*Federal Laws*" and "*International Laws*" of "*Treaties*" to which the "*United States*" is a party to would bring the "*State of Alaska*" into conformity with the "*U.S. Constitution*" saving much of the resources and funds of the "*State*" that may be used elsewhere.

Those who would like to legitimize the use of "*Marijuana*" may overcome the "*Federal Laws*" that "*bans*" all its uses by:

1. **Political** – Lobby the "*U.S. Congress*" and/or "*Federal Agencies*" to remove the classification of "*Marijuana*" from "*Schedule I*" of the "*Controlled Substance Drug Act*;" or

2. **Federal Courts** – Obtain a ruling from the "*U.S. Supreme Court*" declaring the "*U.S. Controlled Substance Acts*" (*those "Acts" that apply to "Marijuana"*) as having not been enacted in pursuance to the "*Constitution*" for "*The United States of America*;" or

3. **Constitutional Amendments** – Have the "*U.S. Congress*" or the "*States*" in "*Convention*" propose "*Constitutional Amendments*" with the "*Legislatures*" of the "*States*" ratifying those "*Constitutional Amendments*" authorizing medical and recreational use of "*Marijuana*" within the "*States*."

The "*States*" of the "*Union*" are not the place to go to legalized the use of "*Marijuana*" for no "*State*" has authority alter or repeal "*Federal Laws*."

The Marijuana Black Market

If the government of "*The United States of America*" was serious about reducing "*smuggling*" and other crimes associated with "*Marijuana*," the "*President*" of "*The United States of America*" has the lawful means to suppress those crimes, if not eliminating them in their entirety.

On June 9th 1933, the "*United States*" went into bankruptcy and a "*National Emergency*" was declared. When a "*State of National Emergency*" is declared, that "*National Emergency*" invokes "*Martial Law*" just as if we were in a state of "*WAR*." The "*Martial Law*" that has been invoked over the People is known as "*Martial Law Rule*."

Shortly after the year of 1933, the "*U.S. Congress*" passed the several "*Acts*" of "*Law*" delegating authority to the "*President*" to declared "*National Emergencies*." As our "*Presidents*" have discovered a new source of power in that as "*Commander-in-Chief*" of the "*Military*," the "*Presidents*" may sidestep "*Congress*" and the "*U.S. Constitution*" with the issuance of "*Executive Orders*":

> "Since March 9, 1933, the United States has been in a state of declared national emergency. In fact, there are now in effect four presidentially-proclaimed states of national emergency: In addition to the national emergency declared by President Roosevelt in 1933, there are also the national emergency proclaimed by President Truman on December 16, 1950, during the Korean conflict, and the states of national emergency declared by President Nixon on March 23, 1970, and August 15, 1971.

> "These proclamations give force to 470 provisions of Federal law. These hundreds of statutes delegate to the President extraordinary powers, ordinarily exercised by the Congress, which affect the lives of American citizens in a host of all-encompassing manners. This vast range of powers, taken together, confer enough authority to rule the country without reference to normal Constitutional processes.

"Under the powers delegated by these statutes, the President may: seize property; organize and control the means of production; seize commodities; assign military forces abroad; institute martial law; seize and control all transportation and communication; regulate the operation of private enterprise; restrict travel; and, in a plethora of particular ways, control the lives of all American citizens. . . ." /[20]

93d Congress, 1st Session
U.S. SENATE Report No. 93-549 /[21]
NOVEMBER 19, 1973

The "*President*" has authority of "*Martial Law*" under a perpetual declared "*National Emergency*" to proclaim a "*rule of necessity*" to take extraordinary action to curtail "*criminal acts*" involving the use of "*Marijuana*." So how does a "*President*" curtail criminal acts involving "*Marijuana*?"

The "*President*" may lawfully use his "*Martial Law Military Powers*" in his capacity as the "*Military Commander-in-Chief*" to destroy the "*Marijuana Black Market*" by issuing forth an "*Executive Order*" declaring that the "*Media*" shall issue forth a blitz of "*Press Releases*" giving warning that on a certain date, several tons of "*Marijuana*" that has been tainted with a "*Poison*" shall be distributed throughout the "*United States*." During this period of grace, anyone who is addicted to "*Marijuana*" will need to obtain medical assistance. After the date of grace has passed, anyone who uses "*Marijuana*" will be taking a chance of losing their life from a "*Poison*" to which there is no "*Antidote*." After publicizing a few "*fatalities*" (*actual or otherwise*), only a foolish few will be taking chances on using "*Mariana*" thus drying up a source of revenue for the smugglers of "*Marijuana*." I realize this is a harsh way of addressing the unlawful use of "*Marijuana*," but the loss of life (*actual or otherwise*) for a few may save

[20]/ Do you not understand the authority (*pretended or otherwise*) that "*Barack Hussein Obama*" is using to disregard the "*U.S. Congress*" and the "*U.S. Supreme Court*" and why he likes issuing "*Executive Orders*!" If there is no disaster, the "*President*" and his "Staff" will create one so that a "National Emergency" may be declared for the purpose of invoking a perpetual state of "*Martial Law*" upon the "*People*."

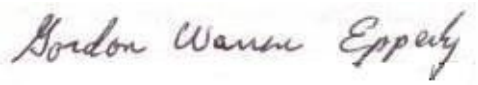
[21]/ Full Text at: http://www.usa-the-republic.com/emergency%20powers/Senate_Report_93-549.pdf

the lives of many. This is a proven way of destroying markets of "*Products*" for it was been demonstrated several times over the years with the poisoning of our food products in "*Grocery Stores*" which resulted in the adoption and use of "*Security (tamper) Seals*" for our food products.

Medical Marijuana

I am for the other option and that is for the "*States*" to use their influence to force the "*U.S. Drug Enforcement Agency*" and other "*Agencies*" of the "*Federal Government*" to begin research in earnest to determine what medical benefits "*Marijuana*" may provide to the "*People*." If the "*Political Officers*" of the "*Federal Government*" obtained a "*Patent*" on "*Marijuana*" /[22] as rumored, then there must be a medical use for that plant as "*Patented*" in the name of "*We the People*."

Respectfully Submitted



Gordon Warren Epperly

[22]/ On Oct. 7, 2003, the U.S. government issued Patent No. 6,630,507.

Addendum

21 U.S. Code § 849 - Transportation safety offenses

(a) Definitions

In this section—

"safety rest area" means a roadside facility with parking facilities for the rest or other needs of motorists.

"truck stop" means a facility (including any parking lot appurtenant thereto) that —

(A) has the capacity to provide fuel or service, or both, to any commercial motor vehicle (as defined in section 31301 of title 49), operating in commerce (as defined in that section); and

(B) is located within 2,500 feet of the National System of Interstate and Defense Highways or the Federal-Aid Primary System.

(b) First offense

A person who violates section 841 (a)(1) of this title or section 856 of this title by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area is (except as provided in subsection (c) of this section) **subject to —**

(1) twice the maximum punishment authorized by section 841 (b) of this title; and

(2) twice any term of supervised release authorized by section 841 (b) of this title for a first offense.

(c) Subsequent offense

A person who violates section 841 (a)(1) of this title or section 856 of this title by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (b) of this section have become final is subject to —

(1) 3 times the maximum punishment authorized by section 841 (b) of this title; and

(2) 3 times any term of supervised release authorized by section 841 (b) of this title for a first offense.

21 U.S. Code § 859 - Distribution to persons under age twenty-one

(a) First offense

Except as provided in section 860 of this title, any person at least eighteen years of age who violates section 841 (a)(1) of this title by distributing a controlled substance to a person under twenty-one years of age is (except as provided in subsection (b) of this section) **subject to**

(1) twice the maximum punishment authorized by section 841 (b) of this title, and

(2) at least twice any term of supervised release authorized by section 841 (b) of this title, for a first offense involving the same controlled substance and schedule. Except to the extent a greater minimum sentence is otherwise provided by section 841 (b) of this title, a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this subsection shall not apply to offenses involving 5 grams or less of marihuana.

(b) Second offense

Except as provided in section 860 of this title, any person at least eighteen years of age who violates section 841 (a)(1) of this title by distributing a controlled substance to a person under twenty-one years of age after a prior conviction under subsection (a) of this section (or under section 333 (b) of this title as in effect prior to May 1, 1971) has become final, is subject to

(1) three times the maximum punishment authorized by section 841 (b) of this title, and

(2) at least three times any term of supervised release authorized by section 841 (b) of this title, for a second or subsequent offense involving the same controlled substance and schedule. Except to the extent a greater minimum sentence is otherwise provided by section 841 (b) of this title, a term of imprisonment under this subsection shall be not less than one year. Penalties for third and subsequent convictions shall be governed by section 841 (b)(1)(A) of this title.

21 U.S. Code § 860 - Distribution or manufacturing in or near schools and colleges

(a) Penalty

Any person who violates section 841 (a)(1) of this title or section 856 of this title by distributing, possessing with intent to distribute, or manufacturing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility, is (except as provided in subsection (b) of this section) subject to

(1) twice the maximum punishment authorized by section 841 (b) of this title; and

(2) at least twice any term of supervised release authorized by section 841 (b) of this title for a first offense. A fine up to twice that authorized by section 841 (b) of this title may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 841 (b) of this title, a person shall be sentenced under this subsection to a term of imprisonment of not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

(b) Second offenders

Any person who violates section 841 (a)(1) of this title or section 856 of this title by distributing, possessing with intent to distribute, or manufacturing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility, after a prior conviction under subsection (a) of this section has become final is punishable

(1) by the greater of

(A) a term of imprisonment of not less than three years and not more than life imprisonment or

(B) three times the maximum punishment authorized by section 841 (b) of this title for a first offense, and

(2) at least three times any term of supervised release authorized by section 841 (b) of this title for a first offense. A fine up to three times that authorized by section 841 (b) of this title may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 841 (b) of this title, a person shall be sentenced under this subsection to a term of imprisonment of not less than three years. Penalties for third and subsequent convictions shall be governed by section 841 (b)(1)(A) of this title.

(c) Employing children to distribute drugs near schools or playgrounds

Notwithstanding any other law, any person at least 21 years of age who knowingly and intentionally —

(1) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to violate this section; or

(2) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to assist in avoiding detection or apprehension for any offense under this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, a fine, or both, up to triple those authorized by section 841 of this title.

(d) Suspension of sentence; probation; parole

In the case of any mandatory minimum sentence imposed under this section, imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.

(e) Definitions

For the purposes of this section—

(1) The term "playground" means any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swingsets, and teeterboards.

(2) The term "youth center" means any recreational facility and/or gymnasium (including any parking lot appurtenant thereto), intended primarily for use by persons under 18 years of age, which regularly provides athletic, civic, or cultural activities.

(3) The term "video arcade facility" means any facility, legally accessible to persons under 18 years of age, intended primarily for the use of pinball and video machines for amusement containing a minimum of ten pinball and/or video machines.

(4) The term "swimming pool" includes any parking lot appurtenant thereto.

21 U.S. Code § 860a - Consecutive sentence for manufacturing or distributing, or possessing with intent to manufacture or distribute, methamphetamine on premises where children are present or reside

Whoever violates section 841 (a)(1) of this title by manufacturing or distributing, or possessing with intent to manufacture or distribute, methamphetamine or its salts, isomers or salts of isomers on premises in which an individual who is under the age of 18 years is present or resides, shall, in addition to any other sentence imposed, be imprisoned for a period of any term of years but not more than 20 years, subject to a fine, or both.

Alaska Marijuana Legalization, Ballot Measure 2 (2014), Full text of initiative

This page is the complete text of the changes that were made to Alaska law since Ballot Measure 2 was approved by voters in the November 4, 2014, general election. Note: This text is quoted verbatim from the original source. Any inconsistencies are attributed to the original source.

"An Act to tax and regulate the production, sale, and use of marijuana." BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA:

Section 1.

AS 17 is amended by adding a new chapter to read:

Chapter 38. The regulation of marijuana

Sec. 17.38.010. Purpose and findings.

(a) In the interest of allowing law enforcement to focus on violent and property crimes, and to enhance individual freedom, the people of the state of Alaska find and declare that the use of marijuana should be legal for persons 21 years of age or older.

(b) In the interest of the health and public safety of our citizenry, the people of the state of Alaska further find and declare that the production and sale of marijuana should be regulated so that:

(1) Individuals will have to show proof of age before purchasing marijuana;

(2) Legitimate, taxpaying business people, and not criminal actors, will conduct sales of marijuana; and

(3) Marijuana sold by regulated businesses will be labeled and subject to additional regulations to ensure that consumers are informed and protected.

(c) The people of the state of Alaska further declare that the provisions of this Act are not intended to diminish the right to privacy as interpreted by the Alaska Supreme Court in Ravin v. State of Alaska.

(d) **Nothing in this Act proposes or intends to require any individual or entity to engage in any conduct that violates federal law, or exempt any individual or entity from any requirement of federal law, or pose any obstacle to federal enforcement of federal law**. [Emphasis added].

Sec. 17.38.020. Personal use of marijuana.

Notwithstanding any other provision of law, except as otherwise provided in this chapter, the following acts, by persons 21 years of age or older, are lawful and shall not be a criminal or civil offense under Alaska law or the law of any political subdivision of Alaska or be a basis for seizure or forfeiture of assets under Alaska law:

(a) Possessing, using, displaying, purchasing, or transporting marijuana accessories or one ounce or less of marijuana;

(b) Possessing, growing, processing, or transporting no more than six marijuana plants, with three or fewer being mature, flowering plants, and possession of the marijuana produced by the plants on the premises where the plants were grown;

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

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

(e) Assisting another person who is 21 years of age or older in any of the acts described in paragraphs (a) through (d) of this section.

Sec. 17.38.030. Restrictions on personal cultivation, penalty.

(a) The personal cultivation of marijuana described in AS 17.38.020(b) is subject to the following terms:

(1) Marijuana plants shall be cultivated in a location where the plants are not subject to public view without the use of binoculars, aircraft, or other optical aids.

(2) A person who cultivates marijuana must take reasonable precautions to ensure the plants are secure from unauthorized access.

(3) Marijuana cultivation may only occur on property lawfully in possession of the cultivator or with the consent of the person in lawful possession of the property.

(b) A person who violates this section while otherwise acting in compliance with AS 17.38.020(b) is guilty of a violation punishable by a fine of up to $750.

Sec. 17.38.040. Public consumption banned, penalty.

It is unlawful to consume marijuana in public. A person who violates this section is guilty of a violation punishable by a fine of up to $100.

Sec. 17.38.050. False identification, penalty.

(a) A person who is under 21 years of age may not present or offer to a marijuana establishment or the marijuana establishment's agent or employee any written or oral evidence of age that is false, fraudulent or not actually the person's own, for the purpose of:

(1) Purchasing, attempting to purchase or otherwise procuring or attempting to procure marijuana or marijuana products; or

(2) Gaining access to a marijuana establishment.

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

Sec. 17.38.060. Marijuana accessories authorized.

Notwithstanding any other provision of law, it is lawful and shall not be an offense under Alaska law or the law of any political subdivision of Alaska or be a basis for seizure or forfeiture of assets under Alaska law for persons 21 years of age or older to manufacture, possess, or purchase marijuana accessories, or to distribute or sell marijuana accessories to a person who is 21 years of age or older.

Sec. 17.38.070. Lawful operation of marijuana-related facilities.

(a) Notwithstanding any other provision of law, the following acts, when performed by a retail marijuana store with a current, valid registration, or a person 21 years of age or older who is acting in his or her capacity as an owner, employee or agent of a retail marijuana store, are lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law:

(1) Possessing, displaying, storing, or transporting marijuana or marijuana products, except that marijuana and marijuana products may not be displayed in a manner that is visible to the general public from a public right-of-way;

(2) Delivering or transferring marijuana or marijuana products to a marijuana testing facility;

(3) Receiving marijuana or marijuana products from a marijuana testing facility;

(4) Purchasing marijuana from a marijuana cultivation facility;

(5) Purchasing marijuana or marijuana products from a marijuana product manufacturing facility; and

(6) Delivering, distributing, or selling marijuana or marijuana products to consumers.

(b) Notwithstanding any other provision of law, the following acts, when performed by a marijuana cultivation facility with a current, valid registration, or a person 21 years of age or older who is acting in his or her capacity as an owner, employee or agent of a marijuana cultivation facility, are lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law:

(1) Cultivating, manufacturing, harvesting, processing, packaging, transporting, displaying, storing, or possessing marijuana;

(2) Delivering or transferring marijuana to a marijuana testing facility;

(3) Receiving marijuana from a marijuana testing facility;

(4) Delivering, distributing, or selling marijuana to a marijuana cultivation facility, a marijuana product manufacturing facility, or a retail marijuana store;

(5) Receiving or purchasing marijuana from a marijuana cultivation facility; and

(6) Receiving marijuana seeds or immature marijuana plants from a person 21 years of age or older.

(c) Notwithstanding any other provision of law, the following acts, when performed by a marijuana product manufacturing facility with a current, valid registration, or a person 21 years of age or older who is acting in his or her capacity as an owner, employee or agent of a marijuana product manufacturing

facility, are lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law:

(1) Packaging, processing, transporting, manufacturing, displaying, or possessing marijuana or marijuana products;

(2) Delivering or transferring marijuana or marijuana products to a marijuana testing facility;

(3) Receiving marijuana or marijuana products from a marijuana testing facility;

(4) Delivering or selling marijuana or marijuana products to a retail marijuana store or a marijuana product manufacturing facility;

(5) Purchasing marijuana from a marijuana cultivation facility; and

(6) Purchasing of marijuana or marijuana products from a marijuana product manufacturing facility.

(d) Notwithstanding any other provision of law, the following acts, when performed by a marijuana testing facility with a current, valid registration, or a person 21 years of age or older who is acting in his or her capacity as an owner, employee or agent of a marijuana testing facility, are lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law:

(1) Possessing, cultivating, processing, repackaging, storing, transporting, displaying, transferring or delivering marijuana;

(2) Receiving marijuana or marijuana products from a marijuana cultivation facility, a marijuana retail store, a marijuana products manufacturer, or a person 21 years of age or older; and

(3) Returning marijuana or marijuana products to a marijuana cultivation facility, marijuana retail store, marijuana products manufacturer, or a person 21 years of age or older.

(e) Notwithstanding any other provision of law, it is lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law to lease or otherwise allow the use of property owned, occupied or controlled by any person, corporation or other entity for any of the activities conducted lawfully in accordance with paragraphs (a) through (d) of this section.

(f) Nothing in this section prevents the imposition of penalties upon marijuana establishments for violating this chapter or rules adopted by the board or local governments pursuant to this chapter.

(g) The provisions of AS 17.30.020 do not apply to marijuana establishments.

Sec. 17.38.080. Marijuana Control Board.

At any time, the legislature may create a Marijuana Control Board in the Department of Commerce, Community, and Economic Development or its successor agency to assume the power, duties, and responsibilities delegated to the Alcoholic Beverage Control Board under this chapter.

Sec. 17.38.090. Rulemaking.

(a) Not later than nine months after the effective date of this act, the board shall adopt regulations necessary for implementation of this chapter. Such regulations shall not prohibit the operation of

marijuana establishments, either expressly or through regulations that make their operation unreasonably impracticable. Such regulations shall include:

(1) Procedures for the issuance, renewal, suspension, and revocation of a registration to operate a marijuana establishment, with such procedures subject to all requirements of AS 44.62, the Administrative Procedure Act;

(2) A schedule of application, registration and renewal fees, provided, application fees shall not exceed $5,000, with this upper limit adjusted annually for inflation, unless the board determines a greater fee is necessary to carry out its responsibilities under this chapter;

(3) Qualifications for registration that are directly and demonstrably related to the operation of a marijuana establishment;

(4) Security requirements for marijuana establishments, including for the transportation of marijuana by marijuana establishments;

(5) Requirements to prevent the sale or diversion of marijuana and marijuana products to persons under the age of 21;

(6) Labeling requirements for marijuana and marijuana products sold or distributed by a marijuana establishment;

(7) Health and safety regulations and standards for the manufacture of marijuana products and the cultivation of marijuana;

(8) Reasonable restrictions on the advertising and display of marijuana and marijuana products; and

(9) Civil penalties for the failure to comply with regulations made pursuant to this chapter.

(b) In order to ensure that individual privacy is protected, the board shall not require a consumer to provide a retail marijuana store with personal information other than government-issued identification to determine the consumer's age, and a retail marijuana store shall not be required to acquire and record personal information about consumers.

Sec. 17.38.100. Marijuana establishment registrations.

(a) Each application or renewal application for a registration to operate a marijuana establishment shall be submitted to the board. A renewal application may be submitted up to 90 days prior to the expiration of the marijuana establishment's registration.

(b) The board shall begin accepting and processing applications to operate marijuana establishments one year after the effective date of this act.

(c) Upon receiving an application or renewal application for a marijuana establishment, the board shall immediately forward a copy of each application and half of the registration application fee to the local regulatory authority for the local government in which the applicant desires to operate the marijuana establishment, unless the local government has not designated a local regulatory authority pursuant to AS 17.38.110(c).

(d) Within 45 to 90 days after receiving an application or renewal application, the board shall issue an annual registration to the applicant unless the board finds the applicant is not in compliance with regulations enacted pursuant to AS 17.38.090 or the board is notified by the relevant local government that the applicant is not in compliance with ordinances and regulations made pursuant to AS 17.38.110 and in effect at the time of application.

(e) If a local government has enacted a numerical limit on the number of marijuana establishments and a greater number of applicants seek registrations, the board shall solicit and consider input from the local regulatory authority as to the local government's preference or preferences for registration.

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

(g) Every marijuana establishment registration shall specify the location where the marijuana establishment will operate. A separate registration shall be required for each location at which a marijuana establishment operates.

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

Sec. 17.38.110. Local control.

(a) A local government may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance or by a voter initiative.

(b) A local government may enact ordinances or regulations not in conflict with this chapter or with regulations enacted pursuant to this chapter, governing the time, place, manner and number of marijuana establishment operations. A local government may establish civil penalties for violation of an ordinance or regulation governing the time, place, and manner of a marijuana establishment that may operate in such local government.

(c) A local government may designate a local regulatory authority that is responsible for processing applications submitted for a registration to operate a marijuana establishment within the boundaries of the local government. The local government may provide that the local regulatory authority may issue such registrations should the issuance by the local government become necessary because of a failure by the board to adopt regulations pursuant to AS 17.38.090 or to accept or process applications in accordance with AS 17.38.100.

(d) A local government may establish procedures for the issuance, suspension, and revocation of a

registration issued by the local government in accordance with (f) of this section or (g) of this section. These procedures shall be subject to all requirements of AS 44.62, the Administrative Procedure Act.

(e) A local government may establish a schedule of annual operating, registration, and application fees for marijuana establishments, provided, the application fee shall only be due if an application is submitted to a local government in accordance with (f) of this section and a registration fee shall only be due if a registration is issued by a local government in accordance with (f) of this section or (g) of this section.

(f) If the board does not issue a registration to an applicant within 90 days of receipt of the application filed in accordance with AS 17.38.100 and does not notify the applicant of the specific, permissible reason for its denial, in writing and within such time period, or if the board has adopted regulations pursuant to AS 17.38.090 and has accepted applications pursuant to AS 17.38.100 but has not issued any registrations by 15 months after the effective date of this act, the applicant may resubmit its application directly to the local regulatory authority, pursuant to (c) of this section, and the local regulatory authority may issue an annual registration to the applicant. If an application is submitted to a local regulatory authority under this paragraph, the board shall forward to the local regulatory authority the application fee paid by the applicant to the board upon request by the local regulatory authority.

(g) If the board does not adopt regulations required by AS 17.38.090, an applicant may submit an application directly to a local regulatory authority after one year after the effective date of this act and the local regulatory authority may issue an annual registration to the applicant. (h) A local regulatory authority issuing a registration to an applicant shall do so within 90 days of receipt of the submitted or resubmitted application unless the local regulatory authority finds and notifies the applicant that the applicant is not in compliance with ordinances and regulations made pursuant to (b) of this section in effect at the time the application is submitted to the local regulatory authority. The local government shall notify the board if an annual registration has been issued to the applicant.

(i) A registration issued by a local government in accordance with (f) of this section or (g) of this section shall have the same force and effect as a registration issued by the board in accordance with AS 17.38.100. The holder of such registration shall not be subject to regulation or enforcement by the board during the term of that registration.

(j) A subsequent or renewed registration may be issued under (f) of this section on an annual basis only upon resubmission to the local government of a new application submitted to the board pursuant to AS 17.38.100.

(k) A subsequent or renewed registration may be issued under (g) of this section on an annual basis if the board has not adopted regulations required by AS 17.38.090 at least 90 days prior to the date upon which such subsequent or renewed registration would be effective or if the board has adopted regulations pursuant to AS 17.38.090 but has not, at least 90 days after the adoption of such regulations, issued registrations pursuant to AS 17.38.100.

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

Sec. 17.38.120. Employers, driving, minors and control of property.

(a) Nothing in this chapter is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale or growing of marijuana in the workplace or to affect the ability of employers to have policies restricting the use of marijuana by employees.

(b) Nothing in this chapter is intended to allow driving under the influence of marijuana or to supersede laws related to driving under the influence of marijuana.

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

(d) Nothing in this chapter shall prohibit a person, employer, school, hospital, recreation or youth center, correction facility, corporation or any other entity who occupies, owns or controls private property from prohibiting or otherwise regulating the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of marijuana on or in that property.

Sec. 17.38.130. Impact on medical marijuana law.

Nothing in this chapter shall be construed to limit any privileges or rights of a medical marijuana patient or medical marijuana caregiver under AS 17.37.

Sec. 17.38.900. Definitions.

As used in this chapter unless the context otherwise requires:

(1) "Board" means the Alcoholic Beverage Control Board established by AS 04.06.

(2) "Consumer" means a person 21 years of age or older who purchases marijuana or marijuana products for personal use by persons 21 years of age or older, but not for resale to others.

(3) "Consumption" means the act of ingesting, inhaling, or otherwise introducing marijuana into the human body.

(4) "Local government" means both home rule and general law municipalities, including boroughs and cities of all classes and unified municipalities.

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

(6) **"Marijuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. "Marijuana" does not include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.** [Emphasis added].

(7) "Marijuana accessories" means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

(8) "Marijuana cultivation facility" means an entity registered to cultivate, prepare, and package marijuana and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

(9) "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store.

(10) “Marijuana product manufacturing facility” means an entity registered to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

(11) “Marijuana products” means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

(12) “Marijuana testing facility” means an entity registered to analyze and certify the safety and potency of marijuana.

(13) “Retail marijuana store” means an entity registered to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities, and to sell marijuana and marijuana products to consumers.

(14) “Unreasonably impracticable” means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent businessperson.

Sec. 2.

AS 43 is amended by adding a new chapter to read:

Chapter 61. Excise tax on marijuana [Emphasis added].

Sec. 43.61.010. Marijuana tax.

(a) **An excise tax is imposed on the sale or transfer of marijuana from a marijuana cultivation facility to a retail marijuana store or marijuana product manufacturing facility. Every marijuana cultivation facility shall pay an excise tax at the rate of $50 per ounce, or proportionate part thereof, on marijuana that is sold or transferred from a marijuana cultivation facility to a retail marijuana store or marijuana product manufacturing facility. (b) The department may exempt certain parts of the marijuana plant from the excise tax described in (a) of this section or may establish a rate lower than $50 per ounce for certain parts of the marijuana plant**. [Emphasis added]

Sec. 43.61.020. Monthly Statement and Payments.

(a) Each marijuana cultivation facility shall send a statement by mail or electronically to the department on or before the last day of each calendar month. The statement must contain an account of the amount of marijuana sold or transferred to retail marijuana stores and marijuana product manufacturing facilities in the state during the preceding month, setting out

(1) the total number of ounces, including fractional ounces sold or transferred;

(2) the names and Alaska address of each buyer and transferee; and

(3) the weight of marijuana sold or transferred to the respective buyers or transferees.

(b) The marijuana cultivation facility shall pay monthly to the department, all taxes, computed at the rates prescribed in this chapter, on the respective total quantities of the marijuana sold or transferred

during the preceding month. The monthly return shall be filed and the tax paid on or before the last day of each month to cover the preceding month.

Sec. 43.61.030. Administration and Enforcement of Tax.

(a) Delinquent payments under this chapter shall subject the marijuana cultivation facility to civil penalties under AS 43.05.220.

(b) **If a marijuana cultivation facility fails to pay the tax to the state** the marijuana cultivation facility's registration may be revoked in accordance with procedures established under AS 17.38.090(a)(1). [Emphasis added]

Sec. 3.

The provisions of this Act are independent and severable, and, except where otherwise indicated in the text, shall supersede conflicting statutes, local charter, ordinance, or resolution, and other state and local provisions. If any provision of this Act, or the application thereof to any person or circumstance, is found to be invalid or unconstitutional, the remainder of this Act shall not be affected and shall be given effect to the fullest extent possible. [Emphasis added]