

# **The Legal Landscape for Alaska's Alcoholic Beverage and Marijuana Licensees: The Top Challenges for 2023**

Friday, September 22, 2023 | 10:30 a.m. – 12:00 p.m.  
1.5 General CLE Credits



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2023 Alaska Bar Association Convention

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## **2023 Annual Bar Convention**

# **The Legal Landscape for Alaska's Alcoholic Beverage and Marijuana Licensees: The Top Challenges for 2023**



### **Joan Wilson**

Joan Wilson is the Director of the State of Alaska, Alaska Alcohol & Marijuana Control Office (AMCO), appointed by Governor Dunleavy in May 2022. In this position, she serves as executive officer to the Alcoholic Beverage Control Board and the Marijuana Control Board. She oversees a staff of peace officers and licensing examiners assigned to overseeing the regulation of the State's alcoholic beverage and marijuana licensees.

Prior to her appointment, Ms. Wilson served as a Senior Assistant Attorney General with the State of Alaska, Department of Law. Her clients included AMCO, the Alcoholic Beverage Control Board, the Marijuana Control Board, the Department of Commerce, Community & Economic Development, the Department of Health and Social Services, the Department of Administration, and the Department of Transportation and Public Facilities. She has practiced as a trial attorney for 27 years in both civil and criminal law and public and private practice. Prior to that practice, she served as a law clerk to the Honorable H. Russel Holland of the United States District Court, District of Alaska

In 2021, she was awarded the United States Department of Health and Human Services Office of Inspector General's Award for Excellence in Promoting Quality, Safety, and Value for her part in the trial team that successfully prosecuted an Anchorage dentist for committing millions of dollars of Medicaid fraud and reckless endangering the lives of his patients in the process. Ms. Wilson has also served as the Chief Ethics and Compliance Officer for the Alaska Native Tribal Health Consortium, where she was also responsible for guarding against fraud and abuse of state and federal health care programs.

Ms. Wilson received her Bachelor of Arts from Northwestern University, her Juris Doctor, magna cum laude, from Northwestern School of Law of Lewis and Clark College, and her Master of Fine Arts from the University of Alaska. There, she was recipient of the Jason Wenger Award in Literary Excellence. She is also recipient of a Rasmuson Foundation Individual Artists Award.

Ms. Wilson is the author of the critically acclaimed *The Book of Timothy: The Devil, My Brother and Me* (Red Hen Press 2021). This memoir chronicles her efforts to track and find her brother's abuser, a Catholic priest exiled to Rome, to get a confession from him many years after his crimes. It also tells the story of finding and rebuilding a Catholic faith life despite the broken foundation for the same. More information about this book and her literary life can be found at [www.joannockelswilson.com](http://www.joannockelswilson.com)

Related to her current profession, Ms. Wilson is daughter, niece, and granddaughter of Chicago Firefighters and the great granddaughter of one of the first members of the Iowa State Liquor Commission. She considers her current appointment of AMCO Director as the continuation of a long family history of public service. She considers herself privileged to serve the people of the State of the Alaska.



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

# The Legal Landscape for Alaska's Alcoholic Beverage and Marijuana Licensees: An Overview and The Top Challenges for 2023 and 2024

Joan M. Wilson

AMCO Director

September 22, 2023

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## Life After Becoming AMCO Director



Sideways



## Life After Becoming AMCO Director



**Tulsa King**



## Overview

- **Statutory and Regulatory Framework**
  - Alcoholic Beverage and Marijuana Licensing
  - Board Driven Oversight
  - AMCO Authority
  - Licensure
- **Economic Impact of Alcoholic Beverage and Marijuana Business**



## Overview

- **2023 - 2024 Landscape**

- Title 4 Rewrite: A Change for Every Alcoholic Beverage Licensee
- Overseeing the Legal Marijuana Industry without threat of federal intervention but in the market of intoxicating hemp products

- **Concluding Thoughts**

*Throughout this presentation, will provide an accurate summary of the legal framework and issues, but any opinions expressed are my own not those of the State of Alaska, in any capacity*



## Statutory and Regulatory Framework

Alcoholic Beverage	Marijuana
AS 04	AS 17.38
3 AAC <del>304</del>	3 AAC 306
3 AAC 305	?



## Statutory and Regulatory Framework

AS 04.06.005 Purpose	AS 17.38.010 Purpose
It is the policy of the state that controlling the manufacture, distribution, barter, and sale of alcoholic beverages in the state is necessary to promote the health and safety of the people of the state.	<p>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</p> <ul style="list-style-type: none"><li>• legitimate, taxpaying business people, and not criminal actors, will conduct sales of marijuana; and</li><li>• marijuana sold by regulated businesses will be labeled and subject to additional regulations to ensure that consumers are informed and protected.</li></ul>



## Statutory and Regulatory Framework

AS 04.06.010 Board	AS 17.38.080 Board
<p>There is established in the Department of Commerce, Community, and Economic Development Alcoholic Beverage Control Board as a regulatory and quasi-judicial agency. The board is in the Department of Commerce, Community, and Economic Development for administrative purposes only.</p> <ul style="list-style-type: none"><li>• Prior Departments – Revenue and Public Safety</li></ul>	<p>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.</p>



## Statutory and Regulatory Framework

AS 04.06.020 5 Member Board	AS 17.38.080 5 Member Board
<ul style="list-style-type: none"><li>• Public Safety</li><li>• General Public</li><li>• Rural</li><li>• Alcoholic Beverage Licensee</li><li>• Alcoholic Beverage Licensee</li></ul>	<ul style="list-style-type: none"><li>• Public Safety</li><li>• Public Health</li><li>• Rural</li><li>• Marijuana Licensee</li><li>• General Public</li></ul>



## Statutory and Regulatory Framework

AS 04.06.090 Board Authority	AS 17.38.121 Board Authority
<p>Invested with the powers, duties, and responsibilities necessary for the control of alcoholic beverages including power to:</p> <ul style="list-style-type: none"><li>• Propose and adopt regulations</li><li>• Hear appeals from the actions of the director and employees charged with enforcing title</li><li>• Issue, renew, transfer, relocate, or revoke a license (or endorsement)</li><li>• Title 4 Rewrite – Coordinate with agencies and non-profits to develop an education awareness on responsible use of alcoholic beverages</li></ul>	<p>The board shall control the cultivation, manufacture, and sale of marijuana in the state and is vested with the powers and duties necessary to enforce this chapter, including power to</p> <ul style="list-style-type: none"><li>• Propose and adopt regulations</li><li>• Establish by regulation the qualifications for licensure</li><li>• Review applications and order the director to issue, renew, suspend, or revoke a license</li><li>• Hear appeals from the actions of the director and employees charged with enforcing chapter</li></ul>



## Statutory and Regulatory Framework

### AS 04.06.070 Appointment/Removal of Director

- Governor shall appoint a director to serve as executive officer of the board and the Marijuana Control Board
- Director may be removed by a majority vote of the full membership of the ABC Board and Marijuana Control Board
- Governor may remove the director for misconduct, misfeasance, or malfeasance in office (provide copy of charges and an opportunity to be publicly heard in defense against the charges with at least 10 day's notice)

### AS 17.38.140 Appointment/Removal of Director

- Governor shall appoint a director to serve as executive officer of the board and the ABC Board
- Director may be removed by a majority vote of the full membership of the ABC Board and Marijuana Control Board
- Governor may remove the director for misconduct, misfeasance, or malfeasance in office (provide copy of charges and an opportunity to be publicly heard in defense against the charges with at least 10 day's notice)



## Statutory and Regulatory Framework

### AS 04.06.075 Authority of Director

- Enforce Title 4 and regulations adopted by the board
- Delegated authority from the board to temporarily grant or deny issuances, renewal, or transfer of a license, (endorsement,) or permit and any duty under Title 4 but for the power to propose and adopt regulations
- Title 4 Rewrite – Prepare and submit an annual budget that includes funding for administration, enforcement, education, training, and prevention activities

### AS 17.38.150 Powers of Director

- Enforce this chapter and regulations adopted by the board
- issue, renew, transfer, suspend, or revoke all licenses and permits and issue product approvals at the direction of the board
- Delegated authority from the board to temporarily grant or deny the issuance, renewal, or transfer of licenses and permits and any duty imposed under this chapter but for the power to propose and adopt regulations





## Statutory and Regulatory Framework

AS 04.09.010 Types of Licenses	AS 17.38.070 Types of Registrations
Three Tiers (Title 4 Rewrite) <ul style="list-style-type: none"><li>• Manufacturer</li><li>• Wholesaler</li><li>• Retailer</li></ul>	Four Tiers <ul style="list-style-type: none"><li>• Cultivator</li><li>• Product Manufacturer</li><li>• Retailer</li><li>• Testing Facility</li></ul>



## Statutory and Regulatory Framework

AS 04.11.491 Local Option	AS 17.38.210 Local Option
If a majority of the persons voting on the option approve the option, a municipality or established village shall prohibit <ul style="list-style-type: none"><li>• Sale of alcoholic beverages</li><li>• Sale of alcoholic beverages except by a subset of licensees</li><li>• Sale of alcoholic beverages except on premises operated by the municipality</li><li>• Sale and importation of alcoholic beverages</li><li>• Sale, importation, and possession of alcoholic beverages</li></ul>	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



## Statutory and Regulatory Framework

### AS 04.09.480 Right to Protest Individual Licenses

A local governing body may protest the issuance, renewal, relocation, or transfer of a license (or the issuance of an endorsement) by sending the board and applicant the reasons for the protest within 60 days of notice from AMCO of the application

- Board shall deny unless the Board finds the protest arbitrary, capricious, or unreasonable

### 3 AAC 306.060 Right to Protest Individual Licenses

A local governing body may protest the issuance, renewal, relocation, or transfer of a license or onsite consumption endorsement by sending the board and applicant the reasons for the protest within 60 days of notice from AMCO of the application

- Board shall deny unless the Board finds the protest arbitrary, capricious, and unreasonable



## Statutory and Regulatory Framework

### AS 04.11.560 Appeals

An action of an officer, employee, or agent of the board may be appealed to the board

A (final) decision by the board relating to licensure may be appealed to the superior court

- Not listed under the Administrative Procedure Act
- AS 04.11.510 -- If the applicant requests a formal hearing, the office of administrative hearings shall adhere to AS 04.62.330 – 44.62.630.

### 3 AAC 306.095 Appeals

An action of an officer, employee, or agent of the board may be appealed to the board

A (final) decision by the board relating to licensure may be appealed to the superior court

- hearing in compliance with the Administrative Procedure Act (identified agency under AS 44.62.330)
- 3 AAC 306.816 -- A person aggrieved by a final decision of the board following a hearing conducted in compliance with AS 44.62.330 – 44.62.630



## Economic Impact

### Alcoholic Beverage Licensees (April 2023)

License Type	Number
Beverage Dispensary	660
Bottling Works	2
Brewery or Brewpub	61
Club	75
Common Carrier	209
Destination Resort	4
Distillery	17
Golf Course	10
Outdoor Recreation Lodge	50

License Type	Number
Package Store	380
Pub	1
Recreation Site	28
Restaurant or Eating Place	360
Theater	1
Wholesale	24
Winery	25
Total	1923



## Economic Impact

### Marijuana Licensees (February 2023)

License Type	Number
Limited Cultivation	104
Standard Cultivation	136
Marijuana Product Manufacturing	38
Marijuana Concentrate Manufacturing Facility	16
Retail Store	164
Testing Facility	2
Total	460



## Economic Impact

### Tax Collection -- FY 2022

Revenue	FY 2022	Percentage of Total
Oil and Gas Production <sup>1, 2</sup>	\$1,815,278,900	67.11 %
Corporate Income Tax <sup>1, 2</sup>	\$415,182,531	15.24 %
Oil and Gas Property <sup>1, 2</sup>	\$125,210,061	4.62 %
Fisheries Business <sup>3</sup>	\$54,670,294	2.02 %
Mining License <sup>1</sup>	\$51,505,086	1.97 %
Tobacco <sup>1</sup>	\$48,924,066	1.80 %
Motor Fuel <sup>1</sup>	\$45,078,322	1.66 %
Alcoholic Beverages <sup>7</sup>	\$42,031,881	1.55 %
Marijuana <sup>8</sup>	\$28,690,918	1.06 %
Vehicle Rental	\$18,909,788	0.71 %
Commercial/Passenger Vessel <sup>1</sup>	\$10,750,135	0.40 %
Regulatory Cost Charges	\$10,579,204	0.39 %
Seafood Marketing Assessment	\$10,321,751	0.38 %
Fishery Resource Landing <sup>1</sup>	\$9,336,060	0.34 %
Salmon Enhancement	\$8,598,341	0.32 %
Large Passenger Vessel/ Gambling	\$5,774,540	0.21 %
Regional Seafood Development	\$3,151,788	0.12 %
Charitable Gaming	\$3,030,298	0.11 %
Electric Cooperative <sup>1</sup>	\$2,432,267	0.09 %
Telephone Cooperative Gross Revenue <sup>1</sup>	\$2,145,372	0.08 %
Tire Fees	\$1,373,162	0.05 %
Drift Fishery Management Assessment	\$550,137	0.02 %
Common Property Fishery Assessment	\$0	0 %
<b>Total</b>	<b>\$2,710,734,852</b>	<b>100%</b>

<sup>7</sup> Includes amounts transferred to the Alcohol and Other Drug Abuse Treatment and Prevention Fund.  
<sup>8</sup> Includes amounts transferred to the Recidivism Reduction Fund and Marijuana Education Treatment Fund.



## Economic Impact

### Alaska Economic Trends July 2023 – Alcoholic Beverage Licensees

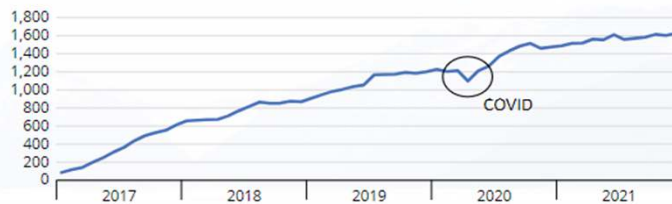
- The largest category [of employers] by far is bars and restaurants, with 22,000 jobs in 2019.
  - The pandemic cut about 4,500 jobs in 2020 as tourists didn't arrive and locals replaced eating out with takeout or eating at home.
  - By 2021, many restaurants had adapted to COVID protocols such as spacing, dividers, and limited seating, which brought back nearly 2,100 jobs and lifted the industry to 89 percent of its pre-pandemic employment.
  - Recovery continued in 2022, and while we don't yet have all four quarters of job data for 2022, the first three quarters suggest a 96 percent recovery.



## Economic Impact

### Alaska Economic Trends December 2022– Marijuana Establishment Licensees

#### Steady marijuana job growth, 2017-2021



Source: Alaska Department of Labor and Workforce Development, Research and Analysis Section



## Economic Impact

### Alaska Economic Trends December 2022– Marijuana Establishment Licensees

- In 2021, the industry averaged 1,566 direct jobs. Active licenses numbered 459 as of December 2022.
- The number of people involved in the industry likely eclipses 1,566, however. The state has just under 7,000 active marijuana handler permits, which is a rough proxy for the number of people who have participated in the industry in some way within the last three years. Any involvement with marijuana commerce requires a handler permit, even if it's ancillary or a one-off. AMCO has issued about 12,200 marijuana handling permits since the industry began.
- Overall, the outlook remains uncertain. Small regulatory changes could alter the landscape for marijuana businesses in either direction; examples include the possibility of license limits, changing local requirements, or federal legalization. In the meantime, the legal and administrative landscape remains complex and the costs of doing business are high.



## Economic Impact

### Balance with cost of substance use and abuse

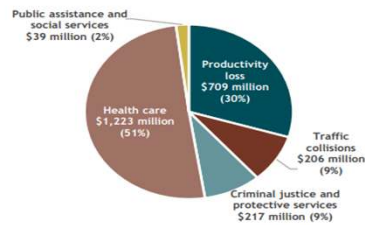
#### Alaska Mental Health Trust (2020)

#### Big Picture

In 2018, the estimated total cost of alcohol misuse in Alaska was \$2.4 billion. These costs are borne by state and local governments, employers, and residents of Alaska. Of the cost categories in the table below, most costs associated with criminal justice and protective services, and public assistance and social services, are borne by the public sector. A significant portion of the health care costs, largely due to associated costs of Medicaid and Medicare, is also a public expense.

Estimated Annual Alcohol-related Economic Costs to Alaska, 2018

Cost Category	Costs
Productivity loss	\$709 million
Traffic collisions	\$206 million
Criminal justice & protective services	\$217 million
Health care	\$1,223 million
Public assistance and social services	\$39 million
<b>Total</b>	<b>\$2,394 million</b>

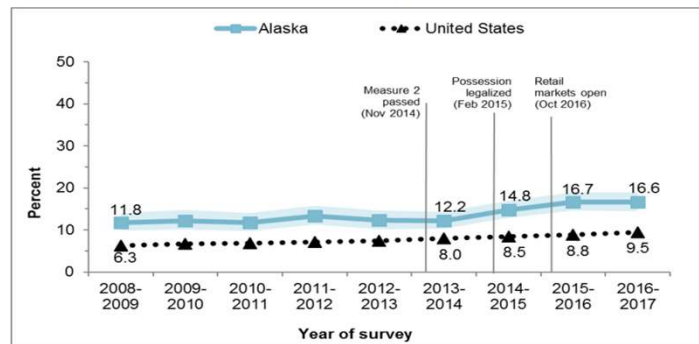


## Economic Impact

### Marijuana Use – Adults

#### Adults

Figure 11: Current marijuana use among adults (ages 18+), Alaska and U.S., 2008-2017

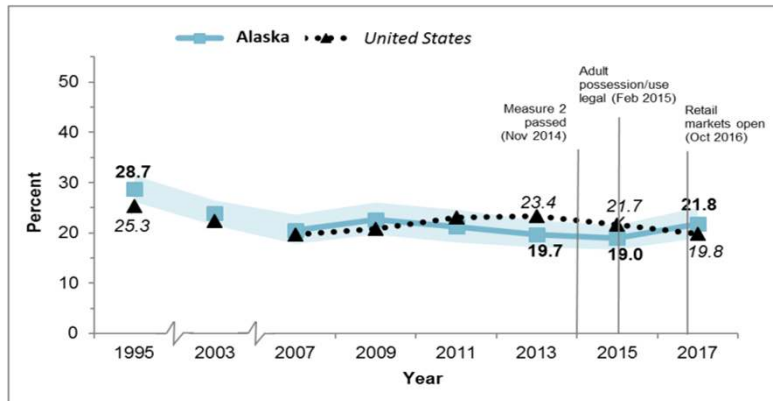




## Economic Impact

### Marijuana Use – Youth

Figure 3: Current marijuana use among youth in traditional high schools, Alaska and U.S., 1995-2017



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## Economic Impact

### Marijuana Use and Public Health (2020)

#### Public health and social outcomes

A variety of marijuana-related outcomes may be important to monitor if patterns of marijuana use change over time.

- One in ten (11%) high school students who drive had done so after using marijuana in the past month.
- Despite increases in adult use, fewer people received public-funded treatment for marijuana dependence during the most recent years where data are available.
- Marijuana use remains illegal for youth; the number of youth who have been referred to juvenile justice systems for marijuana offenses has increased since 2016.
- Although small in number, the number of marijuana-related calls to Alaska's Poison Center increased in 2017 after the state's retail marijuana market opened.
- The number of hospital outpatient visits with marijuana-related diagnosis codes increased during 2017. There were a total of more than 6,000 outpatient visits in 2017, and more than 3,000 inpatient visits.

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## 2023 – 2024 Landscape – Alcoholic Beverages

### Alaska House approves major update to alcohol laws, including changes for breweries

Brewery and distillery taprooms will be able to stay open until 9 p.m.

BY: JAMES BROOKS - MAY 15, 2022 8:37 PM



### Alaska governor signs alcohol rewrite bill into law, but some changes will take a while

Published: Jun. 20, 2022 at 7:06 PM AKDT



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## Goals of the Title 4 Rewrite

Promote a fair business climate and protect public health and safety.

1. Create **rational regulation** for all tiers of the state's alcohol industry.
2. **Limit youth access** to alcohol, while ensuring youth are not criminalized
3. Promote **responsible alcohol use** and reduce the harms of overconsumption.

Make Title 4 a clear and consistent legal framework

1. Increase swiftness, proportionality and consistency of **penalties**.
2. Increase **local law enforcement** of Title 4.
3. Increase **licensee accountability** before the ABC Board for Title 4 violations.

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## Upcoming Changes and Highlights

### 1. Current Changes

- Replacing Public Convenience
- New options for more restaurants: Seasonal REPL Tourism, Local Government Petition

### 2. Effective January 1, 2024:

- Reorganized licensing system + new fees
- Endorsements (for both existing and new privileges)
- Options for Manufacturers (Brewery, Winery, Distillery)
- Regulating prohibited trade practices
- New penalty structure for minor offenses
- Regulating Internet sales + direct shipping



## License, Endorsement, Permit

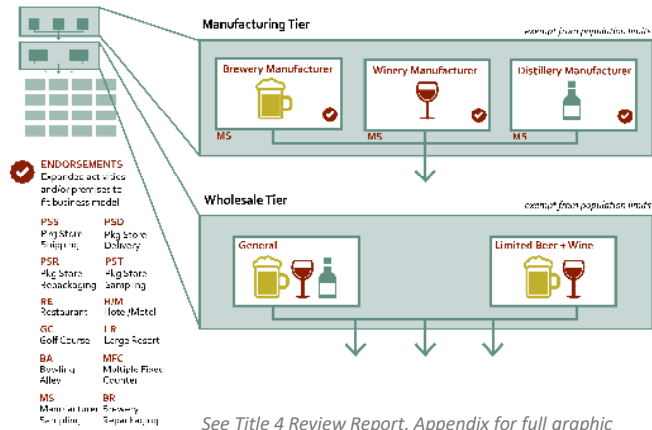
### Defining Terms

- **License:** A license defines activities allowed daily on licensed premises. License type is a general category of license activity based on a three-tier system of alcohol regulation: manufacturer, wholesale, and retail.
- **Endorsement:** An endorsement expands the boundaries of a licensed premises or the authorized activities of a licensed business
- **Permit:** A permit allows catering and serving activities for a specific period of time on a single specified premises and allows an eligible nonprofit organization to host a fundraising or not-for-profit event.



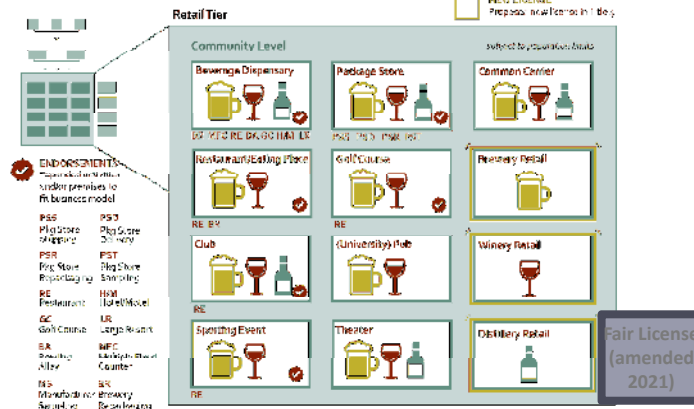
## Alaska's Liquor License System: Upcoming Changes

Alaska's license system is based on the 3-tier system of alcohol regulation: separate entities **manufacture**, **distribute**, and **sell** alcohol to the public.



## Alaska's Liquor License System: Upcoming Changes

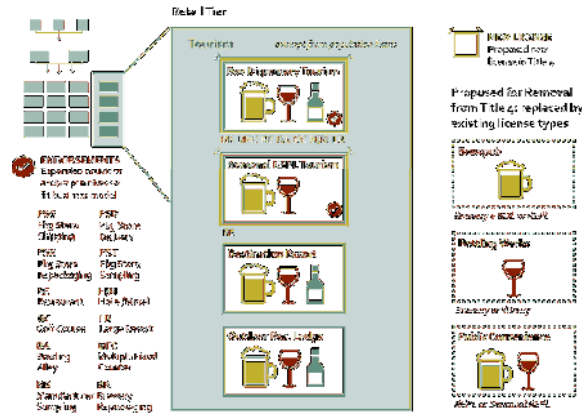
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## Alaska's Liquor License System: Upcoming Changes

Alaska's license system is based on the 3-tier system of alcohol regulation: separate entities **manufacture, distribute, and sell** alcohol to the public.



## Upcoming: More Retail Options for Manufacturers



*The brewery license does not require a permit. The permit system applies for distribution and circulation.*

Section 13, 04.09.320, .330, .340; Sections 60-62, 04.11.450



## Changes for Manufacturer Retailer Tasting Rooms

- Longer hours of operation, 9am - 9pm service, 930pm – 9am “Hard Close”
- Patrons allowed to provide own entertainment (cards, knitting, fireworks, etc.)
- 4 Permits per year to provide live entertainment events. 04.09.685
- Allows for “activities, presentations, television or video displays, or other displays that directly promote or educate customers about the brewery’s products, processes, or establishment”
- Allows “other community organizations or businesses to provide presentations, classes, or product displays, or host fundraisers.”
- Population caps for Manufacturer Retail Licenses will 1:9000 and are based on whether that license is in a village, town, city, borough or unincorporated area of Alaska.
- On January 1, 2030, that 1:9000 will change to 1:4500.



## Restaurant or Eating Place License Changes

### **REPL changes**

- Public Convenience REPL’s are gone – Already Converted to REPLS
- Seasonal REPL’s Tourism Licenses, in place this summer to meet visitor need
- First class cities, home rule cities, or unified municipalities may petition the ABC Board for more licenses on an annual basis with no limitation
- License moves to incorporated cities within boroughs



## Seasonal REPL Tourism

- Municipalities and Established Villages with 40,000 or less population
- 4,000 or more visitors a year (applicant, govt, board can present data to support)
- Statute directed board to establish license cap based on visitor data and public interest
- Supplemented the following year with local government petitions for REPLS above population limits
- <https://www.commerce.alaska.gov/web/amco/Title4Rewrite.aspx>



Add endorsements to existing licenses, giving businesses flexibility in how to operate, without creating more specific license types.



BASE LICENSE

**ENDORSEMENTS**  
Expanded activities and/or premises to fit business model

Endorsements will allow sampling on premises, multiple bar rooms, deliveries by package stores, etc.



## Endorsements AS 04.09.400 – 04.09.520

- Move from AS 04.11 to AS 04.09.
- An endorsement expands the boundaries of a licensed premises or the authorized activities of a licensed business.
- An endorsement is valid only in conjunction with a license. An endorsement may be transferred to another person only if the license for which the endorsement was issued is also transferred to that person. **An endorsement expires if the licensed premises are relocated, the license expires, or the license is revoked.**



## Manufacturer Sampling

- **AS 04.09.410. Manufacturer sampling endorsement.** (a) A manufacturer sampling endorsement authorizes the holder of a brewery **manufacturer** license, winery **manufacturer** license, or distillery **manufacturer** license to offer for consumption on the licensed premises at no charge a small sample of an alcoholic beverage produced by the manufacturer.

### Brewery

Beer – 12 oz.

Sake – 6 oz.

### Distillery

Distilled Spirit – 1.5 oz (may incl. n/a mixers)

### Winery

Wine – 6 oz.

Mead/cider – 12 oz.



## Manufacturer Sampling

- The biennial fee for a manufacturer sampling endorsement is \$200.
- A person serving a sample of an alcoholic beverage under this section must have a current alcohol server education card issued under AS 04.21.025(c). Only the license holder or an agent or employee of the license holder may serve a sample.



## Brewery Repackaging

- **AS 04.09.520. Brewery repackaging endorsement.** (a) A brewery repackaging endorsement authorizes the holder of a brewery manufacturer license who held a license to operate a brewpub under former AS 04.11.135 and was operating a brewpub on the day before the effective date of this section and who also holds, wholly or in part, a beverage dispensary license, beverage dispensary tourism license, restaurant or eating place license, or a seasonal restaurant or eating place tourism license to offer the holder's brewed beverage for sale for consumption **off the licensed premises** and to subdivide and sell the holder's brewed beverages from original packages with federally compliant labels to smaller containers with the standard federal government warnings and the product name.
  - not more than 5.167 gallons of the holder's beer or sake each day



## Brewery Repackaging

- Licensed premises means a premises licensed under a beverage dispensary, beverage dispensary tourism, restaurant or eating place, or seasonal restaurant or eating place tourism license
- The biennial fee for a brewery repackaging endorsement is \$200.



## Multiple Fixed Counter

- **AS 04.09.420. Multiple fixed counter endorsement.** (a) A multiple fixed counter endorsement authorizes the holder of a beverage dispensary license or a beverage dispensary tourism license to sell or serve alcoholic beverages on the licensed premises from multiple fixed counters.
- Only necessary if a duplicate license was required (i.e., not the same room)
- The biennial fee for a multiple fixed counter endorsement is \$200.
- In addition to the fee under (b) of this section, the initial application fee for each fixed counter covered under the endorsement is \$1,250 and an annotated drawing depicting the location of the fixed counters





## Hotel or Motel

- **AS 04.09.430. Hotel or motel endorsement.** (a) A hotel or motel endorsement authorizes the holder of a **beverage dispensary license** or a **beverage dispensary tourism license** that is a hotel, motel, resort, or similar business that caters to the traveling public as a substantial part of its business to sell or serve alcoholic beverages on the licensed premises, including in a dining room, banquet room, and other public areas approved by the board, and in guest rooms.
- The biennial fee for a hotel or motel endorsement is \$200.

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## Hotel or Motel

- Guestroom stocking option (see proposed regulations)
- May apply for a multiple fixed counter endorsement under AS 04.09.420 if model is to serve and sell from a fixed counter at a secondary location in a different building than the licensed premises if the different building:
  - Is located on the same property as, adjacent to, or attached to the originally licensed premises
  - Principally caters to guests of the hotel or motel
  - Principally encourages the tourism trade at the hotel or motel

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## Large Resort

- **Sec. 04.09.440. Large resort endorsement.** (a) A large resort endorsement authorizes the holder of a beverage dispensary license or a beverage dispensary tourism license that is a large resort to sell or serve alcoholic beverages from multiple locations on the resort property to guests for consumption in areas on the site of the large resort, including a dining room, banquet room, guest room, open air venue, and ingress or egress route between those areas.
- The biennial fee for a large resort endorsement is \$200.
- The holder of a large resort endorsement shall apply for a multiple fixed counter endorsement under AS 04.09.420 to sell or serve alcoholic beverages from multiple locations within the large resort's property. The locations do not need to be located in the same building or on the same parcel but must be within the boundary of the large resort



## Large Resort

- Same guestroom restocking options
- The holder of a large resort endorsement shall apply for a multiple fixed counter endorsement under AS 04.09.420 to sell or serve alcoholic beverages from multiple locations within the large resort's property. The locations do not need to be located in the same building or on the same parcel but must be within the boundary of the large resort
- Federal tax income requirement for profits and losses identified in statute
- The endorsement holder must exercise control over conduct of the business in all areas of the licensed premises
- "Large resort" means a resort that offers outdoor recreational activities and overnight lodging to the public and is located on a site consisting of at least 10 contiguous acres containing one or more parcels of real property owned, leased, or owned or leased in combination by the licensee



## Restaurant

- **AS 04.09.450. Restaurant endorsement.** (a) A restaurant endorsement authorizes the holder of a **beverage dispensary license, fair license, golf course license, sporting activity or event license, club license, outdoor recreation lodge license, destination resort license, or beverage dispensary tourism license** to allow a person (1) under 21 years of age access as provided in (e) of this section to the premises of a bona fide restaurant on the licensed premises; and
- The biennial fee for a restaurant endorsement is \$200.



## Restaurant

- An application for an endorsement must specify the establishment or portion of the establishment that constitutes a bona fide restaurant
- The Board may issue an endorsement only if the board finds:
  - that the establishment or portion of the establishment is a bona fide restaurant
  - there is supervision on the premises adequate to reasonably ensure that a person under 21 will not obtain alcoholic beverages
  - that it is unlikely (unless employed there) persons under 21 enter and remain for purposes other than dining



## Restaurant

- An endorsement
  - Allows a person who is at least 16 but under 21 to enter and remain on the licensed premises for dining only
  - Allows a person who is under 16 to enter and remain on the licensed premises for dining if there with parent or guardian consent and accompanied by an individual 21 or over
  - Allows 16 to under 21-year-olds to work on the premises of the bona fide restaurant provided there is adequate supervision



## Bowling Alley

- **AS 04.09.500. Bowling alley endorsement.** A bowling alley endorsement authorizes the holder of a **beverage dispensary license** or a **beverage dispensary tourism license** to sell or serve alcoholic beverages in the concourse or lane areas of the bowling alley adjacent to the main bar area.
- The biennial fee for a bowling alley endorsement is \$200.
- The board may issue a bowling alley endorsement only if the concourse or lane areas of the bowling alley or both are:
  - (1) designated as part of the licensed premises for the beverage dispensary license or a beverage dispensary tourism license; and
  - (2) adjacent to the main bar area.



## Bowling Alley

- Notwithstanding AS 06.16.049, the board may, upon application, authorize access by persons under 21 years of age to the concourse or lane areas designated part of the licensed premises during hours when no alcoholic beverages are being sold, served, or consumed
- These periods of time where minors are permitted must be clearly posted on the licensed premises



## Golf Course

- **AS 04.09.510. Golf course endorsement.** (a) A golf course endorsement authorizes the **owner of a golf course** who has obtained a **beverage dispensary license** or a **beverage dispensary tourism license** to sell or serve alcoholic beverages on the golf course, driving range, club house and other buildings located on the course, and a vending cart carrying beverages or food to, from, or on the course, excluding the parking lot.
- The biennial fee for a golf course endorsement is \$200.
- An application must include a drawing of the golf course with an annotated illustration and a description of the portions of the course that are the licensed premises and are intended to be covered by the endorsement
- Under AS 04.16.049(g), a person under 21 years of age may be present on the licensed premises of a golf course for the purposes of playing golf or attending golf-related activities if the person is at least 16 or, if under 16, with parental or guardian consent, accompanied by a person 21 or over



## Golf Course

- **Sec. 04.09.510. Golf course endorsement.** (a) A golf course endorsement authorizes the **owner of a golf course** who has obtained a **beverage dispensary license** or a **beverage dispensary tourism license** to sell or serve alcoholic beverages on the golf course, driving range, club house and other buildings located on the course, and a vending cart carrying beverages or food to, from, or on the course, excluding the parking lot.
- The biennial fee for a golf course endorsement is \$200.



## Package Store Shipping Endorsement

- **AS 04.09.460.** A package store shipping endorsement authorizes the package store licensee to sell alcoholic beverages to a person who makes a written or electronic order to that licensee for shipment
- The biennial fee for a shipping endorsement is \$200
- An endorsement holder includes the holder of the package store license and employees and agents of the endorsement holder



## The Package Store Shipping Endorsement

- An endorsement holder may ship to a purchaser only subject to a written or electronic order
- The shipment may go only to the purchaser's residential address or to an authorized community delivery site for local option communities that have designated these sites (AS 04.11.491(f) exceptions still apply)
- An endorsement holder must provide information on fetal alcohol spectrum disorder to the purchaser in response to the order



## The Package Store Shipping Endorsement

- Local option restrictions under AS 04.11.491(a)(1) – (3) or b(1)-(2)
  - Monthly Limits to single purchasers
  - The endorsement holder must consult the orders database for purchases within the month and may not ship any amounts of the order that exceeds the monthly limits
  - The endorsement holder shall immediately enter into the written order database the date and the amount of alcoholic beverages shipped to the purchaser
  - The endorsement holder may not divide or combine shipments to circumvent the monthly limits



## Delivery Endorsement AS 04.09.470

- **AS 04.09.470.** A package store delivery endorsement authorizes the package store licensee to deliver alcoholic beverages to the location of a “social event.”
- The biennial fee for a delivery endorsement is \$200.
- The holder may deliver only in response to an order and may deliver only to a responsible adult, who must provide identification acceptable of proof of age and acknowledge receipt in writing



## The Package Store Delivery Endorsement

### Proposed Regulatory Requirements 3 AAC 305.340(c)

- Delivery must be between 8 a.m. and 5 p.m.
- Order must be written or electronic. The order and written receipt of delivery must be maintained for one year
- Delivery must be at least 48 hours from receipt of payment
- Delivery must be by person who has successfully completed server education





## The Package Store Delivery Endorsement

### **Proposed Regulatory Requirements 3 AAC 305.340(e)**

- Social event means a catered event if the delivery of alcoholic beverages is to another licensee responsible for alcoholic beverage service at the event or to non-licensee for a private, by-invitation-only event, such as a wedding, memorial, graduation, or holiday celebration.



## Package Store Repackaging Endorsement

- AS 04.09.480 A package store repackaging endorsement authorizes the package store licensee to subdivide and sell alcoholic beverages from original packages with federally compliant labels to smaller containers with standard federal government warnings and the product name.
- The biennial fee for a repackaging endorsement is \$200.



## The Package Store Repackaging Endorsement

- The holder may
  - Subdivide alcoholic beverages for sale on the licensed premises by opening the original package for the purpose of subdividing the contents into smaller packages or in response to a purchase request from a person who is on the licensed premises or in response to a written or electronic order
  - Permit an agent or employee to subdivide, but not a customer



## Package Store Sampling Endorsement

- **AS 04.09.490.** A package store sampling endorsement authorizes the package store licensee to offer for consumption on the licensed premises at no charge a small sample of an alcoholic beverage from its inventory during a package store's stated hours of business, but not between midnight and 8 a.m.
- The biennial fee for a sampling endorsement is \$200.
- The licensee or an agent or employee of the licensee may serve a sample



## The Package Store Sampling Endorsement

- Volume limits
  - 12 oz. of brewed beverages or mead or cider, if the mead or cider contains less than 8.5 percent alcohol by volume;
  - 6 oz. of wine, sake, or mead or cider, if the mead or cider contains more than 8.5 percent alcohol by volume;
  - 1.5 oz. of distilled spirits; or
  - The alcoholic equivalent of the above three



## The Package Store Sampling Endorsement

- The endorsement holder may not publicly advertise sampling activities
  - Examples: printed news, radio, television
- The endorsement holder may notify existing customers of sampling activities, including by electronic means



## The Package Store Sampling Endorsement

### **Proposed Regulatory Requirements (3 AAC 305.340(e))**

- Notification of existing customers may be by email or text if the email address and phone numbers are gathered from customers while they are on the licensed premises
- No other electronic notification (e.g., social media posts)



## Local Government Petitions

### **Licenses may issue if the board finds:**

- The municipality serves as a center for commercial activity within and outside its boundary by providing goods and services greater than the permanent resident population; has local law enforcement department; exercises planning and land use authority; and is over the license threshold
- The number of additional licenses does not exceed the government's request
- Granting the petition is in the public interest



## Local Government Petitions

If the Board grants a petition for additional REPL's, the board may not authorize additional REPL's to the same municipality under this section for the following year



## Moving Licenses

### **AS 04.11.400(k) (Jan. 1, 2024)**

- **The board may allow for the relocation of retail licenses subject to the cap in a borough with 50,000 or more into an incorporated city within the borough.**
  - Both governments must approve
  - License cap for city must already be met
  - No more than three relocations a decade (20 -29, 30 -39, etc.)



## Trade Practices

- **What Is Now Permitted**

- AS 04.11.450(b) Prohibited Financial Interests is significantly amended.
  - Manufacturers may hold retail licenses in addition to manufacturer retail licenses (e.g., REPL, BDL, and package store).
  - Not available for larger manufacturers (by volume restrictions).
  - So -- alternatives. Manufacturer, acquires a BDL that operates a large resort, has 4 restaurants and a package store. What would you do?



## Trade Practices and Overlapping Premises

- **What This Makes Possible**

- Overlapping licensed premises (3 AAC 305.660).
  - Proposes to set parameters for what may be overlapping premises.
  - Overlapping licensed premises. (a) Other than as provided in subsection (h), upon a licensee's written request accompanied by a detailed premises diagram, the board may approve overlapping premises for two or more licenses, owned by the same person or group of persons required to be identified in an application submitted under AS 04.11.260.
- Please familiarize yourself with the entire section to learn what may or may not be allowed under this statute.



## Trade Practice Prohibitions AS 04.16.017

Incorporating Federal Law for enforcement purposes – These will impact you as manufacturers. Stay attuned to the regulation process. Manufacturers, wholesalers, and limited wholesalers (including those in other states) may not except as provided by regulation) induce a person holding a license under this title to

- Operate as a tied house
- Operate as an exclusive outlet
- Exclude purchases from other entities
- Enter into certain agreements



## Trade Practice Prohibitions AS 04.16.017

### Requirements for Regulatory Exceptions

- Exceptions must be consistent to federal law as of January 1, 2024.
- Necessary to avoid practical difficulty or undue hardship on a licensee.
- In the best interests of the public.
- Consistent with the requirements of AS 04.



## Penalties

### Current AS 04.16.180(a)

- Except [for statutes identified as subject to Class B misdemeanor or felony], a person who violates a provision of this title or a regulation adopted by the board is guilty, upon conviction, of a class A misdemeanor. Each violation is a separate offense.
  - *What prosecutor is bringing a class A misdemeanor for staying open 15 more minutes?*



## Penalties

### Under the Title 4 Rewrite

- AS 04.16.180(a) is repealed
- Still violations that are misdemeanors or felonious
- However, under AS 04.21.072

A violation under this title, unless otherwise specified in the provision of this title defining the offense, is punishable by a fine of \$250.
- And AS 04.21.074

The supreme court shall establish by rule or order a schedule of bail amounts for violations under this title that allow for the disposition of a citation without a court appearance. The bail amount may not exceed the maximum penalty prescribed by law for the violation
- Unless otherwise, violation carries definition at 11.81.900 – a noncriminal offense punishable only by a fine, but not by imprisonment or penalty





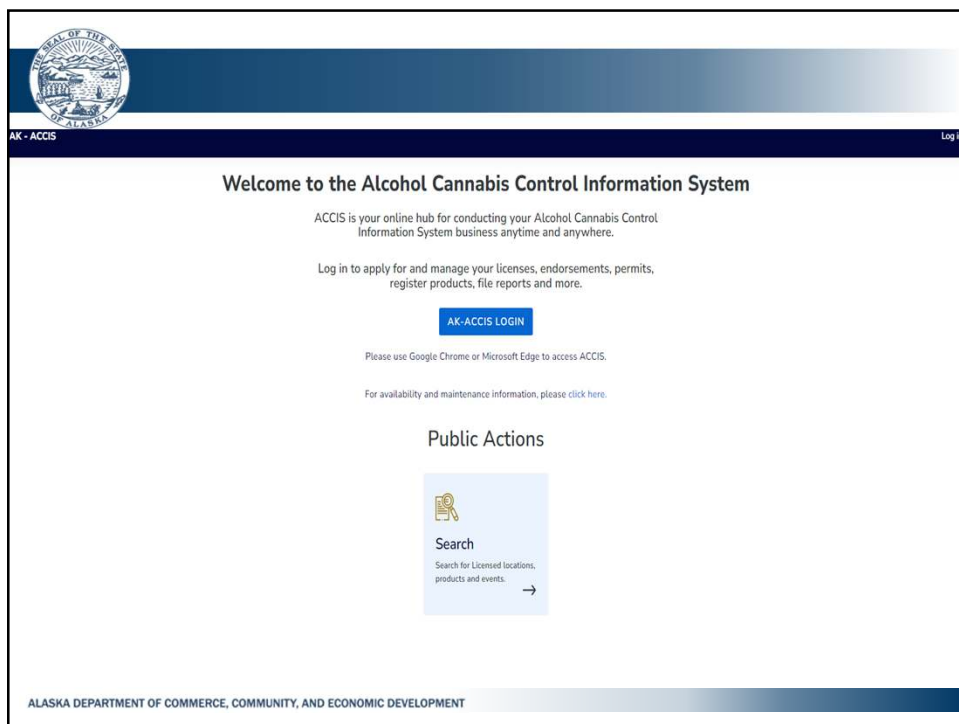
## Timeline for Implementation


- **Section 168 (SB 9)**
  - To timely provided for the issuance, renewal, and transfer of licenses, endorsements, and permits beginning on January 1, 2024, the ABC Board may begin to send notices, accept applications, and collect fees by September 1, 2023 (on new online licensing system).
- **Section 171**
  - The ABC Board may adopt regulations necessary to implement SB 9, but the regulations will take effect upon the effective date of the law implemented by the regulation.
- **Section 177**
  - Licenses, endorsements can take effect January 1, 2024. Board also has 90 days to complete the conversion.



## Timeline for Implementation

- **Regulations – Now**
  - 3 AAC 304 – to be repealed effective January 1, 2024
  - 3 AAC 305 – Effective January 1, 2024
  - New Bail Forfeiture Schedule
- **Outreach – Now**
  - Educate licensees, local governments, public safety, and the public.
- **Implement – Online Licensing System**
  - 1963 licensees claiming their businesses
  - Subset applying for licenses, license renewals, endorsements, and permits





## Timeline for Implementation

- **Goals**
  - Seamless transition as possible.
  - As much training as required.
  - Online licensing system that works the day we go/went live.

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## 2023 – 2024 Landscape – Marijuana Licensees



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## 2023 – 2024 Landscape – Marijuana Licensees

- Unlike alcohol, no major rewrite
- However, some legislation is pending
- **Best summary of current issues – Report from the Governor’s Advisory Taskforce on Recreational Marijuana**
  - Identify 7 specific issues that reflect the 2023-2024 market and legal barriers

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## Governor's Advisory Task Force

### **Administrative Order 339 -- Requested to**

- (1) model potential changes to the existing tax structure applicable to recreational marijuana businesses, while noting potential revenue impacts to state and local governments and to existing recreational marijuana businesses;**
- (2) identify opportunities to foster collaboration between recreational marijuana businesses and State government; and**
- (3) analyze the recreational marijuana program and the industrial hemp program for purposes of providing recommendations to enhance public safety**



## Governor's Advisory Taskforce

### **Membership**

- Department of Revenue Commissioner or Designee
- Department of Commerce Commissioner or Designee
- Director, Division of Agriculture
- Member, Marijuana Control Board
- Local government representative

### **Membership**

- Standard licensed marijuana cultivator
- Limited licensed marijuana cultivator
- Marijuana concentrate or product manufacturer
- Marijuana Retailer
- 3 other industry members
- Public member



## Historical Reasons for Current Concerns

- **2014 – Third State to Legalize By Initiative**
  - **Central to the initiative and likely its passage- \$50 per ounce excise tax levied on licensed cultivators at the time of sale of the plant to marijuana manufacturers or licensed retail stores**
  - **Some reduction through regulation based on plant part**
  - **Tax rate stagnant – does not adjust with market price**



## Historical Reasons for Current Concerns

### From the Taskforce Report

*In the State of Alaska, the current market price per wholesale pound of marijuana, at the date of [the drafting of the ballot initiative], ranged between \$1800 – \$2500 per pound. Additionally, Alaska is the only state to solely tax marijuana on a weight-based excise tax. At its **current market rate of sale**, the excise tax paid ranges between **24% and 50% of the value sold**. In Alaska under this regressive tax structure, cultivators currently pay \$800 in tax alone for every pound of marijuana sold. The current average price for a pound of marijuana in the continental United States is \$961 per pound. In June 2022 the average price per pound was \$699 in the State of Oregon. Once marijuana cultivation is legalized nationally (and one might state this has already occurred with the unregulated proliferation of intoxicate hemp products), there will be no way for Alaskan farmers to compete.*



## Cafeteria Style Selection



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## Historical Reasons for Current Concerns

- **2016 – 3 AAC 306 and First Legal Sales**
  - Regulatory Implementation
    - Borrowed regulations from Colorado and Washington
    - Written under threat of federal intervention
      - 8 Cole Memorandum Factors
        - (1) preventing the distribution of marijuana to minors;
        - (2) preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
        - (3) preventing the diversion of marijuana from states where it had been legalized to other states;
        - (4) preventing trafficking other drugs or illegal conduct;
        - (5) preventing violence and the use of firearms in the cultivation and distribution of marijuana;
        - (6) preventing drugged driving and the exacerbation of other adverse public health consequences;
        - (7) preventing the growing of marijuana on public lands
        - (8) preventing marijuana possession or use on federal property.

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## Historical Reasons for Current Concerns

### Agricultural Improvement Acts of 2014 and 2018

- **Industrial hemp is an agricultural crop if produced under a State or Federal Plan**
- **No restriction on interstate commerce**
- **Definition capable of manipulation**

*Hemp means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.*



## Historical Reasons for Current Concerns

- **Alaska adopted State Hemp Plan in 2021 permitting the “production” of hemp and hemp products – 50 mg delta-9 packet limitation, but no serving size limit (10 mg serving size limitation for recreational marijuana)**





## Historical Reasons for Current Concerns



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## Historical Reasons for Current Concerns

With relatively simple science and use of volatile chemicals and heavy metals, CBD from hemp can be chemically converted into other intoxicating cannabinoids.

- The explosion of Intoxicating Hemp Derived Cannabinoids (IHDC) began in 2020 with the new cannabinoid *de jure*
  - Delta 8-THC (followed by HHC, THC-O, D-10, THC-V, etc.). These ADCs are cast as alternatives to  $\Delta 9$ -THC. Most IHDCs are created by chemically converting hemp-derived CBD into a new/novel cannabinoid compounds, some of which are as intoxicating as  $\Delta 9$ -THC, some which are less so and others which are significantly more potent. These products can have residual solvents which can turn these legal products into lethal ones.
- $\Delta 9$ -THC sourced from cannabis/marijuana is molecularly identical to  $\Delta 9$ -THC sourced from hemp. The intoxicating | impairing effects are indistinguishable to the consumer. The current legal threshold for  $\Delta 9$ -THC of .3% on a dry weight basis does not include the unlimited allowance for ADCs to be added to these products for increased potency.

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## Historical reasons for concern

### THE TRUTH OF USING .3% THC AS FUNCTION OF WEIGHT



## Historical Reasons for Concern

### Here in Alaska

- prohibited product (300 – 500 mg delta-9)
- Products within package size limitation

INFUSED WITH THC!

**Primo**  
12870 Old Seward Hwy #105  
Anchorage, AK 99515

The best edibles, flower and prerolls in Town!  
**EDIBLES THAT ARE LEGAL TO EAT AT  
WORK OR ANYWHERE ELSE IN ALASKA!!**

DISCLAIMER: Marijuana has intoxicating effects. It may be habit forming & addictive. Marijuana impairs concentration, coordination, & judgment. Do not operate a vehicle or machinery under its influence. There are health risks associated with consumption of marijuana. For use only by adults 21 or older. Keep out of the reach of children. Marijuana should not be used by women who are pregnant or breastfeeding. License #24282



## Historical Reasons for Concern

### Latest Effort

- Major out-of-state hemp manufacturer is taking the position that raw marijuana flower (NOT hemp) that has not been decarb is protected under certain state's hemp programs, including Alaska's, and are selling to Alaska (directly to consumers)- on the basis that it does not contain Delta 9 THC it contains only Delta THCA.



## Historical Reasons for Concern

- **Unlike recreational marijuana**
  - Untaxed
  - Not age gated or limited sales to marijuana retail stores
  - Sold by individuals without marijuana handler permits
  - Consumer price lower than tax share licensed cultivators are paying to transfer recreational marijuana
  - With hemp, there is a legal recreational market in every state but those who have banned or limited its sale



## Governor's Taskforce Recommendations

**1. Address tax changes with short and long-term solutions to provide immediate relief to cultivators who are unfairly encumbered with the industry's entire tax burden and to create a long-term tax structure that will increase the Alaska tax base to include out-of-state businesses who benefit from the Alaskan marketplace and to spread the tax burden to all marketplace participants.**

- Proposed 3% sales tax on all cannabis (marijuana and hemp) at the retail store level
- Proposed 10.5% importation tax or tax rate reflective of state quality control costs on out-of-state products
- [HB 119](#)
  - \$12.50 – interim ounce rate
  - 3% retail store tax
- Interim Hearing – House Labor and Commerce Committee (September 14, 2023)



## Governor's Taskforce Recommendations

**2. Redefine Marijuana and Hemp as one plant - *Cannabis sp* and Create one regulatory authority over *Cannabis sp*.**

- The Task Force recommends that the statutory definition codified at AS 17.38.900(10) be amended to change the term “*marijuana*” to “*Cannabis sp.*” and that “*Cannabis sp.*” be defined to include “all species of the Cannabis plant and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not.”
- The Task Force further recommends amendment to the statutory definition of industrial hemp codified at AS 03.05.100 in a similar fashion. The term “industrial hemp” will change to “*Cannabis sp.*” *Cannabis sp.* will also be defined to include all species of the Cannabis plant and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not.
- Creation of one regulatory authority



## Different solution

### **Proposed Amendments to the Hemp Plan Regulations (Not final as of this writing)**

- Regulatory change appropriately restricts the Division of Agriculture from endorsing and approving an industrial hemp product intended for human or animal consumption that:

contains delta-9 THC or a non-naturally occurring cannabinoid, including a cannabinoid made from an ingredient extracted from industrial hemp and modified beyond its original form.



## Governor's Taskforce Recommendations

### **3. Authorize the creation of a distributor's license – Twofold purpose**

- Capture hemp products from out-of-state manufacturers (tax collection here)
- Prepare for potential onslaught of marijuana and marijuana products in the wake of federal legalization (tax collection here)



## Governor's Taskforce Recommendations

### 4. Amend AS 17.38.121 to allow for license limits and create a twelve-month moratorium on new licenses once recreational marijuana is federally legalized

The Task Force recommends that AS 17.38.121 be amended to create a new subsection (g). As newly codified there, the MCB (or renamed CCB) may limit the number of licenses based on the public interest. In addition to this recommendation, the Task Force recommends that upon federal legalization or decriminalization of marijuana, the Control Board shall immediately issue a moratorium for twelve months on any new licenses (any license in initiated status or further stage in the application process shall be allowed to move forward). During this twelve-month moratorium, the Control Board shall analyze the industry and in its discretion may authorize more licenses



## Likelihood of Federal Legalization

- **Via Omnibus Legislation (S. 4591)**
  - Political gamesmanship
  - Vested Interests in legalized states

- **Via Descheduling or Rescheduling**

*According to reporting from Kyle Jaeger of Marijuana Moment, the federal government aims to finish its review of marijuana's current legal status by the end of 2023, based on remarks from the head of the U.S. Department of Health of Human Services (HHS), Secretary Xavier Becerra. Becerra told Marijuana Moment at a press briefing in Sacramento that he aims to provide President Joe Biden with a cannabis scheduling decision this year.*

Source: <https://www.mcgalinchey.com/>

- Raises major regulatory issues to resolve
- Already present DEA Seed Letter



## Likelihood of Federal Legalization



U. S. Department of Justice  
Drug Enforcement Administration  
8701 Morrisette Drive  
Springfield, Virginia 22152

www.dea.gov

December 20, 2022

Mr. Omar Figueroa  
Law Offices of Omar Figueroa  
7770 Heidelberg Avenue  
Sebastopol, California 95472

Dear Mr. Figueroa:

This is in response to your email from October 4, 2022 in which you request the control status of *Cannabis Sativa L.* seeds, tissue culture, and genetic material under the Controlled Substances Act (CSA). The Drug Enforcement Administration (DEA) conducted a review of the CSA and its implementing regulations with regard to this question.

Title 21 of the United States Code (U.S.C.) § 802(16) states that the term "marihuana" means all parts of the plant *Cannabis sativa L.*, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. The provision goes on to exclude from the definition "the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination."

The CSA also excludes "hemp" from the definition of "marihuana." 21 U.S.C. § 802(16)(B)(i). The term "hemp" is "the plant *Cannabis sativa L.* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis." 7 U.S.C. § 1639a(1).

Therefore, any seed, tissue culture, or other genetic material that has a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis meets the definition of "hemp" and is not controlled under the CSA. However, non-sterilized seed, tissue culture, or other genetic material having a delta-9-tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis does fall within the CSA schedule I listing of marihuana.

If the *Cannabis sativa L.* seed germinates into material that contains delta-9-tetrahydrocannabinol in concentrations of not more than 0.3 percent on a dry weight basis, the material meets the definition of "hemp." Conversely, if the seed germinates into material having a delta-9-tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis, that material does fall within the CSA schedule I listing of marihuana.

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## Governor's Taskforce Recommendations

### 5. Statutory Corrections

- Allow for product transfers between all license types
- Amend the annual registration & renewal requirement to provide for biennial licensure (like alcoholic beverage)
- Increase the legal sale & possession limits

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## Governor's Taskforce Recommendations

### **6. Plant and Product Consumer Safety**

- **Provide in-state ability to test adult-use marijuana for heavy metals and pesticides in light of inability to lawfully transport marijuana out-of-state for testing.**



## Governor's Taskforce Recommendations

### **7. Review 3 AAC 306 for onerous regulatory restrictions**

- **Taskforce extended for such review (Administrative Order 347)**
- **Discussion of best way forward**
  - Piece meal/Priorities or
  - Rewrite like 3 AAC 305 (alcoholic beverage regulations)
  - Any review conducted assessed without the federal threat but still protecting public health and safety



## Marijuana Control Board and AMCO Director

- **Other Priorities**

- Target inversion (illegal plant product coming into the legal market)
- Target diversion (plant diverted from legal market before taxation)
- Youth Access to Intoxicating Hemp Products
- Parental Education



## Concluding Thoughts

- **Growth Field for Attorneys**

- Licensure
- Administrative appeals of licensing actions
- Business Transactions
- Regulation writing (my in-house counsel job)





## Concluding Thoughts

### **Things I did not spend the majority of my time thinking about before becoming AMCO Director**

- Importance of these industries to Alaska
- Power of persuasion with kids (if at all possible)
- How to fix the copier after 5 and design an online licensing system
- From litigator to regulator



## Conclusion

*Questions?*



## Alcohol & Marijuana Control Office

**Joan M. Wilson, Director**

**Contact Information:**

(907) 269-0351

[joan.wilson@alaska.gov](mailto:joan.wilson@alaska.gov)



## Resources

[2022 SLA 8/SB9](#)

[Unofficial Version AS 04](#)

[3 AAC 305 \(as proposed\)](#)

[AS 17.38](#)

[3 AAC 306](#)

[Administrative Order 339 \(creating taskforce\)](#)

[Governor's Advisory Taskforce on Recreational Marijuana Report](#)

[Administrative Order 347 \(extending taskforce\)](#)

[HB 119 \(marijuana taxation\)](#)

[Proposed Hemp Regulations](#)

[Cannabis Administration and Opportunity Act \(federal\)](#)

[DEA Seed Letter](#)

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