

Legalized Marijuana in Alaska

Summary of AS 17.38 Passed by Citizen Initiative and Subsequent Processes

On November 4, 2014, the citizens of the State of Alaska passed AS 17.38, a law decriminalizing the possession, transport and gifting of less than one ounce of marijuana by adults aged 21 and older and creating a commercialized marijuana industry. The law is eight pages long and provides that the Alcoholic Beverage Control Board or a Marijuana Control Board created by the legislature has the responsibility for writing regulations enacting the general concepts outlined in the bill.

Prior to November 4, 2014, marijuana was quasi-legal in Alaska in the following ways:

- Legal for adults over 21 to possess and grow a “small amount” of marijuana in one’s home
 - Derived from a 1975 Alaska Supreme Court opinion, Ravin v. Alaska
 - “Small Amount” later interpreted as less than 4 ounces and 6 plants, 3 flowering
 - Illegal to buy or sell marijuana, no legal way to get it into the home
- Marijuana still in controlled substances act- status of criminality of marijuana changed multiple times over the years by the legislature in response to case law
- 1998 law allowed medical users an affirmative defense to prosecution
 - Medical law also allowed caregiver to grow for one other person
 - Medical law does not allow for dispensaries or any way to legally buy or sell marijuana

AS 17.38 became effective on February 24, 2015. The effective date triggered the personal possession rights in the law. The bill contains timelines for the setup of the commercial aspects of the law. The Alaska legislature met in regular session from January 20- April 19, 2015. Although many marijuana bills were introduced, only one bill was passed. That bill created a five member volunteer Marijuana Control Board served by the state agency that serves the identically structured Alcoholic Beverage Control Board.

This agency consisted of a director and ten staff statewide to administer 1875 active liquor licenses. The legislature added funding for six additional employees in FY 15 and FY 16 to cover the additional duties of the staff of the boards. The breakdown of job types is eight enforcement staff, five licensing staff, and three administrative staff statewide.

The legislature did not pass any statutes which would clarify the existing criminal statutes as they relate to the new law. This leaves Alaska with a “carve out” of the criminal statutes for those situations where the new law indicates that marijuana is legal despite existing statutes which state it is illegal. The legislature did not pass any statutes containing rules relating to commercial marijuana establishments other than an amendment to board bill prohibiting individuals convicted of a felony within five years of applying from receiving any type of marijuana license. There are seven introduced marijuana bills that can be taken back up by the legislature when it resumes session January 19, 2016.

The Marijuana Control Board has until November 24, 2015 to write all regulations for the licensing of commercial marijuana establishments in Alaska. The Governor hopes to have the board selected and ready to work by July 2, 2015.