

Governor’s Advisory Task Force on Recreational Marijuana:

Met Tuesday@11:00am

December 27th, 2022

Members: Lief Abel, Rob Carter, Gary Evans, Brian Fechter, Sam Hachey, Frank “Dru” Malone, Aaron Stiassny, Jana Weltzin, Joan Wilson

Absent: Nick Miller, David Pruhs, Ryan Tunseth

Support: Maya Ali & Bailey Stuart

Agenda Items	Discussion	Decision(s)/Conclusions
<p>Approval agenda & meeting minutes from December 19th, 2022</p>	<p>Brandon Emmett motions to approve agenda.</p> <p>Sam Hachey second’s motion.</p> <p>Task Force members voted in favor, motion is approved.</p> <p>Brandon Emmett motions to approve meeting minutes for December 19th, 2022</p> <p>Aaron Stiassny requests correction in meeting minutes.</p> <p>Sam Hachey second’s motion.</p> <p>Task Force members voted in favor, motion is approved.</p> <p>Y: Lief Abel, Rob Carter, Gary Evans, Brian Fechter, Sam Hachey, Frank “Dru” Malone, Aaron Stiassny, Jana Weltzin A: Joan Wilson</p>	<p>Agenda approved.</p> <p>Meeting minutes with corrections were approved.</p>
<p>Continued discussion on how to define intoxicating cannabinoids:</p> <p>a. What defines a hemp product?</p> <p>b. What is the definition of intoxicating cannabinoid? Naturally derived v. Synthetically derived</p>	<ul style="list-style-type: none"> The Marijuana Control Board (MCB) for the State of Alaska adopted the Cole Memorandum as its leading priority. Historically the MCB built the program to comply with it. <p>Brandon Emmet motions that the Task Force agree that there is a conflict between hemp products and adult use marijuana, that hemp products are undercutting the adult use marketplace, and that there are legal and illegal hemp products coming into the market that aren’t subject to the same tax implication of adult use marijuana.</p>	<p>Task Force agrees that there is a conflict between hemp products and adult use marijuana, that hemp products are undercutting the adult use marketplace, and that there are legal and illegal hemp products coming into the market that aren’t subject to the same tax implication of adult use marijuana.</p> <p>Task Force recognize the reality that the cost</p>

<p>c. Ratio approach discussion</p>	<p>Aaron Stiassny second's motion.</p> <p>Task Force members voted in favor, motion is approved. Y: Lief Abel, Gary Evans, Brian Fechter, Sam Hachey, Frank "Dru" Malone, Aaron Stiassny, Jana Weltzin, Joan Wilson A: Rob Carter</p> <p>Aaron Stiassny motions that the Task Force recognize the reality of growing that the cost crops in Alaska is considerably higher. The Task Force wants to place some protections to benefit and support Alaskans, and that includes food security.</p> <p>Lief Able second's motion.</p> <p>Task Force members voted in favor, motion is approved.</p> <p>Joan Wilson motions that hemp products that are unlawful under the industrial hemp plan shouldn't be produced or sold in Alaska.</p> <p>Lief Able second's motion.</p> <p>Task Force members voted in favor, motion is approved. Y: Lief Abel, Rob Carter, Gary Evans, Sam Hachey, Frank "Dru" Malone, Aaron Stiassny, Jana Weltzin, Joan Wilson A: Brian Fechter</p> <ul style="list-style-type: none"> • Rob Carter with Division of Agriculture has issued an initial advisory and is working on another. • Eliza Muse with the Department of Health & Social Services is ready to work on an advisory with Joan Wilson for a consumer protection advisory. <p>Rob Carter <i>"I think it needs to be noted in these points that it's all retail types of retail establishments that are offering for sale on endorsed products and State of Alaska that are derived from industrial hemp [are the issue]... Just finding them is even tough... But just note for everyone here and anyone listening, it's not just the cannabis industry, both the industrial hemp and recreational retailers, that's offering these products that are</i></p>	<p>of growing crops in Alaska is considerably higher. The Task Force wants to place some protections to benefit and support Alaskans, and that includes food security.</p> <p>Task Force motions that hemp products that are unlawful under the industrial hemp plan shouldn't be produced or sold in Alaska.</p> <p>Task Force considering license caps and disturber license types to protect Alaskan businesses.</p> <p>Discussion of recommendation to Governor to change the name of the Alcohol & Marijuana Control Office to Alcohol & Cannabis Control Office.</p> <p>Task Force waiting for Proof Tax modeling and Sales Tax modeling from Department of Revenue. METRC has submitted some raw data for modeling, however, with limited staffing, DoR hasn't finished modeling.</p>
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	<p><i>unendorsed or retailers that are not registered with our program. I would say probably, there's more compliance regulatory wise from the cannabis industry as a whole than there is from everyone else."</i></p> <p>Jana Weltzin <i>"And then there's the problem that you guys just don't have the kind of enforcement arm to go do that, right? And go kind of create that deterring effect of enforcing it."</i></p> <p>Rob Carter <i>"Yeah, there's geological challenges to Alaska, right?"</i></p> <ul style="list-style-type: none"> • Division of Agriculture is working through and beginning to finalize specific industrial hemp Notice of Violation (NOV) form, outside of what Division of Agriculture has for general agriculture practices. <p>Brian Fechter <i>"We do [The Department of Revenue] have a criminal investigation unit, and we do have some sort of capacity to sort of enforce things. I mean to me what would be helpful from this group is to firm up the definitions. What is like an intentionally intoxicating substance, and what should, and shouldn't we be taxing, and why should and shouldn't we be enforcing?"</i></p> <ul style="list-style-type: none"> • Task Force discussed having the Division of Agriculture have some oversight in their regulations as to how a cultivator operates by setting the standards. While licensing is still being held under AMCO. They are the experts in the subject matter and in supporting agriculture in the State of Alaska. The potential of grants opening to cultivators as well. • Task Force discussed recommending that AMCO change its name to the Alcohol & Cannabis Control Office (ACCO) to truly broaden the term and include some jurisdiction over potentially intoxicating cannabis derived products. 	
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<p>Discussion on Proof Tax</p>	<ul style="list-style-type: none"> • Modeling data for proof tax has not come in from the Department of Revenue (DoR) • Other than a straight retail tax a proof tax is the most efficient way of potentially capturing the hemp market. • Proof tax rate will be on per milligram of THC or other potentially intoxicating cannabinoid. • Connecticut, New York and Nevada use proof tax structure. 	<p>The Department of Revenue received some raw data from METRC, and a draft model is being produced. Currently DoR is short staff due to the holidays. The delay in receiving raw data from METRC has also delayed their modeling.</p>
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Jana Weltzin *“It is a flat tax, it doesn’t move, which is problematic. It’s kind of the issue we are getting into now. But it does sort of address the intention [collecting tax on potentially intoxicating cannabinoids] and it also would be able to be collected at a wholesale level. It would also set us up for collecting from lower 48 companies coming in and for lower 48 hemp companies and existing companies here. And I think we could, with the food security logic, create a tax credit for locally produced hemp, marijuana and marijuana products.”*

Sam Hachey *“That’s very difficult to build a business model on. I have a cost per gram in my shop because I run my lights and I pay my labor, I have my insurance, and I have my everything. And depending on what grows in my rooms whether it’s a high percentage or a low percentage it augments my cost per gram, because [of that] now my taxes are affected. It’s going to be really difficult for me to just be like, okay, well if this comes out to 15% or 17% What is my tax liability like? So, at that point how does that get a consistency to my garden to be able to project what it’s going to cost me to actually produce it? And then what I potentially could sell it for?”*

- Task Force discussed taxation on the finished value-added products on a milligram percentage and not on the raw material with a distributor overlay to capture product that is coming into the State of Alaska. It would also include a tax credit incentive for Alaskan production, that’s constitutional and incentives Alaska’s need for food security. And helps address the cost of producing in the State of Alaska and be competitive with other states where the cost of growing and producing is lower.

Rob Carter *“I think if you want to capture those intoxicating delta-9’s, and that’s just what I’m using as an example for now, not limiting all the others [cannabinoids] as we learn and have science and grow the industry, but to speak to that one. I think the only way to create that fair and equity in the product and in the taxation based on its inevitable outcome of consumption. Right? So, you’re going to eat both of those gummies you’re going to have the exact same reaction. I think the only way to capture those equality and fairly is to tax them equally and fairly based on milligrams going out the*

door... but I think for fair and equity, it has to go out the door as a retail product. Just like you'd see a sales tax on something in a municipality or borough that had a sales tax."

Jana motions the Task Force to ask the Department of Revenue to consult with legal on whether or not, and at what stage of the sale of the product an Alaskan production tax credit could be constitutional. Given the fact that it incentivizes production facilities for food products, increasing out food security in Alaska. And is there any level in the sales transaction where it could be constitutional tax credit.

Sam Hachey seconds motion.

Task Force members voted in favor, motion is approved.

Leif Abel *"I want to make sure that we include the [tax] credit at the retail level. I don't see why they [retail] wouldn't be incentivized if they got a tax break on Alaskan purchased products. Of course it would incentivize. Where all in the METRC system, it's going to be easy to see where the products are coming from. If the retail gets the track tax credit when they sell the product to the consumer to balance out the system, it should be easily tracked. I think that is a great motion. I just want to make sure that were including checking that on the retail level."*

- Task Force looking for DoR's legal department to give guidance on what level, retail or wholesale, a tax credit could be constitutional to continue conversation on proof tax.
- Task Force to look at limited licensing and how that will affect the industry as a whole. With or without tax credit incentivization.
- Task Force to continue to look at distribution license type to help control out of state products coming in and fairly tax products. However, Task Force would like to look at how to create a fair market and not create a limited distributor license that creates "gatekeepers" such as in the alcohol industry.

Brandon Emmett *"I don't think anything that we can come up with is going to be perfect. But when we talk about sustainability, let's say that the price that you get does just become lower. What an incentive program does*

	<p><i>specifically, one with a limited licensing scheme, is that it ensures that a high percentage of retailers, the vertically integrated ones, are going to be buying from Alaskans. So yeah, maybe you don't get that price benefit that you want, just playing devils advocate here. But what this conversation is leading to is ensuring our [Alaska cannabis industry] survival, which is something I hope we can all agree upon."</i></p> <ul style="list-style-type: none"> • 7 tons of hemp was cultivated in Alaska in 2022 between 2 growers. 7 registered but weather events killed several cultivations. • The Department of Revenue received some raw data from METRC, and a draft model is being produced. Currently DoR is short staff due to the holidays. The delay in receiving raw data from METRC has also delayed their modeling. 	
<p>Public Comment</p>	<p><i>Shawn "I mean my biggest concern is, you know I got into the CBD industry not to get people high and intoxicated products. So, it's just it's been alarming. About 2 years ago I went to a trade show in the lower 48 and start seeing a lot of the Delta 8 products come on the market, and it's a concern because it is harming my business. I have quite a few stores that say, hey, you know what these products are what people want, and we're not going to buy a traditional CBD product until these go away. That's been a big concern. And I think that the regulations really have to be on the Division of Agriculture because that's how the laws are written. I believe that the Department of Agriculture, on a federal level is going to be rewriting the Hemp Bill, I believe this year. So, they might be addressing some of these concerns that, you know, the board has on a federal level here before we know it. And I just think taxation is not the approach that's gonna deter any of these products from coming in from the lower 48 because they just come in from everywhere. Every state is manufacturing them. And, you know, manipulated cannabinoids is how I look at them, and how I've been discussing them with store fronts. I think it's education to the public to know what they're getting because a lot of these products, they're not tested on any level like we have to test our products. A lot of them are coming from all over the world. China's delivering a lot of edible products and the Delta 8 hemp smokes and all that type of products. A lot of its coming from countries like China and I think the products are dangerous. And I hope that we can get a handle on it somehow. I don't</i></p>	<p>Task Force requests the Department of Revenue to consult with legal on whether or not, and at what state of the sale of the intentionally intoxicating cannabis product (wholesale or retail or any level), an Alaskan production tax credit could be constitutional. Given the fact that incentivizing production facilities for food products increases our food security in Alaska, under that type of theory, is there a level in the sales transaction where it could be constitutional a tax credit.</p>

have the answer to it, but I know that it affects a lot of people like myself that are out there trying to do it right and not trying to get people high. And now you know why I got into this industry, the CBD industry. I love the marijuana industry, the recreational side as well. So, I'm not opposed to it, but I think that governing up by taxation would probably harm my business at the end of the day more than the people selling the products here, which are people from out of state."

Levi Miller "I think, with the taxation as far as that I think it has to be at the register and I think that it definitely. You have to have different [taxation] brackets between, like edibles and cartridges. But it definitely can be done. And I think that it can be done equally to the tax that's paid right now. Like I said before last meeting, it's about \$12,000 per liter taxation at the current market which goes directly to the grower. And I think that's not economical, on a national level, especially if we go to federal legalization. And so, I think it really has to go more toward the consumer. I think even past wholesale, because it gets it past the grower themselves, because I think its it can be very hard to grow. So, I think even like a 5 to 10%, [tax] if you do like a 5% on a edible. You'd be able to match that \$12,000 per liter and if you did, maybe like 10% on a vape cartridge, you would be about \$8 per vape cartridge, which would have to carry it over, and edibles basically carry the tax. But there's a way that it could be done."

Lacy Wilcox "I guess if I were sitting at this table with you guys, I would be making a motion, if necessary, to request that the Department of Revenue consult legal for the constitutionality of tax credits at varying points of sales. So, wholesale tax credit to cultivators, if nothing changes federally, if nothing changes statutorily, and if nothing changes regulatory except the implementation of a tax credit standing alone to help our Alaskan cultivators today, with no other changes would that be constitutionally allowed at the wholesale? Would that be constitutionally allowed in a value-add percent at wholesale? Would that be constitutionally allowed at retail at a percent? At the varying places where we sell cannabis, is there a place where the Department of Law could just give us a green light to explore. If tax credits are constitutional, if they come back and say, at no point do we find this constitutional, for lots of other reasons, then

	<p><i>that's valuable for you guys to have at your next meeting. When you make that instruction to revenue, to model something, because in revenues model, you would likely want them to also include the cost to build a program that issues the tax credited at any particular point similar to that film tax credit program that I've referenced before. It was told to me then, it was cumbersome and complicated and expensive and messy and pain in the but I never heard that it was unconstitutional, and I think that that's what the question needs to be posed to the Department of Revenue's attorneys now. So, that you can get an idea if it's even a conversation worth having at the next meeting. Thank you."</i></p> <p>Jana Weltzin moves to make Brandon Emmett Chair</p> <p>Jana Weltzin motions that the Task Force requests the Department of Revenue to consult with legal on whether or not, and at what state of the sale of the intentionally intoxicating cannabis product (wholesale or retail or any level), an Alaskan production tax credit could be constitutional. Given the fact that incentivizing production facilities for food products increases our food security in Alaska, under that type of theory, is there a level in the sales transaction where it could be constitutional a tax credit.</p> <p>Sam Hachey 2nds motion.</p> <p>Task Force members voted in favor, motion is approved.</p>	
Adjournment	Jana Weltzin motions to adjourn at 1:03pm	