
MEMORANDUM

TO: CHIEF OF STAFF, REPRESENTATIVE TILTON, HEATH HILYARD

FROM: GOVERNOR'S ADVISORY TASK FORCE ON MARIJUANA, PRESENTED BY CO-CHAIR JANA WELTZIN.

SUBJECT: RESPONSE TO MEMO MARIJUANA TASK FORCE RECOMMENDATIONS (WORK ORDER NO. 33-LS0401/A)

DATE: MARCH 13, 2023

CC: GOVERNOR'S ADVISORY TASK FORCE ON MARIJUANA

Discussion of March 13, 2023, Task Force meeting where priorities were identified by Task Force:

The task force met March 13th and discussed the feed back from legislative legal and the challenges articulated to some of the requested modifications. In the interest of protecting the economic viability of the industry, the task force as reduced its request to the following five (5) priority requests to hopefully be considered this session. Please note that one of the five (5) requests is a new request intended to address the public health emergency caused by the influx of intoxicating hemp products:

Priority One - Task Force Recommendation NO. 1 is the top priority – taxes must change in order to protect the viability of the marijuana industry.

Priority Two – Address the public health emergency by amending the Hemp Statutes (AS 03.05.010-0100 and other relevant statute) to include language that would effectuate the following intent: Prohibit intoxicating hemp products; intoxicating hemp products are products containing more than 3 milligrams of delta-9-tetrahydrocannabinol per package sold to consumers and any hemp products containing cannabinoids that are artificially derived.

Priority Three – Task Force Recommendation NO. 4 – authorize the creation of a distribution license in statute.

Priority Four – Task force Recommendation NO. 10 – allow for product transfers between all license types.

Priority Five - Task Force Recommendation NO 11 – amend annual registration & renewal requirement to provide for biennial renewal process.

Comments and responses to Legislative Legal issues and questions:

Issue One & Issue Two– changing Marijuana to Cannabis – given the issues raised by legislative legal, we feel that for purposes of getting the immediate industry needs approved this session (taxes

and structurally changes needed for preparing for federal legalization), it is wiser for the industry to reduce the request to the priority items outlined in the Governors Administrative Order No. 339. Our hope is that the Governor will extend the task force. During that time, we can further analyze the issues raised by legislative legal in regard to the proposed redefining marijuana to cannabis.

Issue Three – Industrial Hemp – the change requested to incorporate hemp and marijuana into one single definition needs further analysis by the task force, as pointed out by legislative legal, if the redefinition occurred, then the Industrial Hemp program would be out of compliance with Federal law which was not the intent of the task force. Given the Marijuana Control Board's (MCB) discussion with the Division of Agriculture at the March 9th MCB meeting, it appears there will be forthcoming emergency regulations to address the current public health crisis of intoxicating hemp products being available to minors. Therefore, assuming these emergency regulations are promulgated and codified, this issue could wait for next session and undergo further analysis by the task force.

Issue Four – Possession limits – the recommendation from the task force that increases the one ounce to six ounces for personal possession limits creates issues with the criminal possession statutes and may raise due process concerns. We agree that authorizing the Board to set criminal limits may constitute excessive delegation of legislative authority. Therefore, we believe this is another issue that could wait until next session so that the task force can fully consider the feedback from legislative legal and retool its request for possession limits.

Issue Five – Hemp Derived Products – Legislative legal raises some valid points regarding the impact on the Industrial Hemp program due to a redefinition of marijuana and hemp into one defined term – cannabis. It was not the intent to make CBD, CBN, CBC, and CBG only products not accessible to those under 21. And it was certainly not the intent for persons to be subject to criminal penalties for possessing these products. Therefore, as discussed in response to issue no. 3 above, it is prudent to remove this request pending further evaluation.

Issue Six – The transfer of products between licenses continues to be something that the Industry, as well as the Marijuana Control Board have asked for. This would primarily address the issues that exist within the industry when product recalls or product returns happen. License types should only be allowed to transfer products to a licensee that are allowed by the licensee's designation in 3AAC 306.

Issue Seven – Cannabis Control Board – this item could also wait for next session as it goes hand in hand with the redefinition of hemp and marijuana into one defined term. Additionally, there have been concerns raised by the Control Board that increasing board members could unintentionally dilute the influence of certain seats, like the rural seat, or public health seat. This request was closely tied to the changes related to issues one and two above, and should be removed accordingly.

Issue Eight – Limitations on Licenses – the concerns are understood, and the task force understands that more work and clarification is needed and would be agreeable to this item not being considered this session.

Issue Nine – Cultivation – Given that it is understood that more work and clarification needs to be done before moving forward redefining hemp and marijuana into one term, there is no need for “strong deference” to be included in this sessions request and can be revisited in the future after further task force review and clarification.

Issue Ten – Fingerprint Requirement – the task force would defer to legislative legal or the legislature on the appropriate timeframe for re-fingerprinting. If renewal of licensing to every 2 years is included, it would logically stand to adjust the fingerprint requirement accordingly, either every 4 or 6 years.

Issue Eleven – Repeal AS 17.383200(b) – understood and agree that its no longer necessary.

Issue Twelve – Higher Education – the task force understands that more work and clarification is needed on how to navigate marijuana licensing within the University system and would like to not address this issue in the current session.

Issue Thirteen – Retail cannabis store definition – a retail store receives product that is already tested and has passed testing requirements, there was no intent to provide for retailers to transfer product to or from a testing lab.

Issue Fourteen – Tax – Given the feedback from legislative legal, the task force would be agreeable to keeping the tax allocation as it is currently designated.

Issue Fifteen – Distributor licenses and tax – The 10.5% tax is intended to apply to the wholesale value when the product is imported from outside Alaska. And it is also understood that currently under federal law marijuana is illegal – this is in anticipation of federal legalization.

Issue Sixteen – tax for excess cannabis – the task force does not currently have an opinion on this as it did not consider this issue in its debates and discussions.

Issue Seventeen – Unregistered product – the task force does not currently have an opinion on this as it did not consider this issue in its debates and discussions.

Issue Eighteen – Cannabis Testing – Task force understands that this issue needs further investigation, discussion and clarification. Therefore, the task force does not desire this item to be a priority in this bill.

Issue Nineteen – Conditional Effect – Task force understands that this issue needs further investigation, discussion and clarification. Therefore, the task force does not desire this item to be a priority in this bill.

Issue Twenty – Extension of the Task Force – this request was directed to the Governor.

Issue Twenty-One – Existing statutory terms – the task force has no comment on this issue.