For your consideration...
Marijuana Risk Management

Building on Tradition. Protecting Your Future.
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Risk Control Specialist, AMLJIA
Gregory A. Russell
Police Professional Liability Consultant
Russell Consulting. LLC
We are a member-driven pool dedicated to providing stable, cost-effective risk financing and quality loss control services designed to meet the needs of local governments and school districts.
Four Introductory Caveats:
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- Marijuana in Alaska is a moving target
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• Daily changes may change the playing field
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• These are only recommendations
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• Marijuana in Alaska is a moving target

• Daily changes may change the playing field

• These are only recommendations

• Consult your attorney
Today’s Local Government Risk Menu:
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- State of the State
Today’s Local Government Risk Menu:

- State of the State
- Human Resources Risk
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- State of the State
- Human Resources Risk
- Political Risk
Today’s Local Government Risk Menu:

- State of the State
- Human Resources Risk
- Political Risk
- Law Enforcement Liability
Part One: State of the State....
### A Timeline of Marijuana's Legal History in Alaska

**Key:**
- ■ = move towards legal possession
- □ = move towards criminalizing possession
- ⚑ = court decision
- ☑ = statewide election ballot initiative
- § = legislative changes to the state law

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>1970</td>
<td>Federal law classifies marijuana as a Schedule 1 drug.</td>
</tr>
<tr>
<td>1971</td>
<td>President Nixon declares War on Drugs.</td>
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<tr>
<td>1972</td>
<td>State constitution amended to protect privacy.</td>
</tr>
<tr>
<td>1972</td>
<td>Irwin Ravin arrested for marijuana possession.</td>
</tr>
<tr>
<td>1973</td>
<td>Federal Drug Enforcement Agency formed.</td>
</tr>
<tr>
<td>1975</td>
<td>Possession of 1 oz. or less decriminalized.</td>
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<tr>
<td>1975</td>
<td>A week later, Ravin v. State is decided. Marijuana possession now legal in Alaska.</td>
</tr>
<tr>
<td>1978</td>
<td>Medical marijuana legalized.</td>
</tr>
<tr>
<td>2000</td>
<td>Decriminalization vote fails.</td>
</tr>
<tr>
<td>2002</td>
<td>High-school senior in Juneau suspended for &quot;BONG HITS 4 JESUS&quot; sign.</td>
</tr>
<tr>
<td>2003</td>
<td>Donald Noy acquitted of possession in challenge to 1990 law, Ravin upheld.</td>
</tr>
<tr>
<td>2004</td>
<td>Another decriminalization vote fails.</td>
</tr>
<tr>
<td>2006</td>
<td>Attorney general says he won't enforce criminal possession of less than 4 oz.</td>
</tr>
<tr>
<td>2006</td>
<td>Governor makes possession of 1-4 oz. a misdemeanor.</td>
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<tr>
<td>2008</td>
<td>State Supreme Court refuses to hear ACLU challenge to 2006 law.</td>
</tr>
<tr>
<td>2010</td>
<td>Irwin Ravin dies at 70.</td>
</tr>
<tr>
<td>2014</td>
<td>1 oz. possession and regulated sale legalized.</td>
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</tbody>
</table>
Proposition 2 timeline:

- Nov. 4, 2014: Voters statewide approve Ballot Measure 2, 53 percent to 47 percent.

- Nov. 24, 2014: Vote certified by Division of Elections, begins the 90 day countdown until the measure goes in to effect.

- Jan. 20, 2015: Alaska Legislature gavels in. Two bills related to marijuana are pre-filed leading up to the opening day of session, with more expected.

- Feb. 24, 2015: Ballot Measure 2 becomes law. Personal-possession portions of the measure are effective immediately. The Alcoholic Beverage Control Board, unless another board is created by the legislature, can begin crafting marijuana regulations. Under the initiative, the board has nine months to complete them.

- April 19, 2015: Legislature scheduled to adjourn. Legislation will likely impact the creation of marijuana rules.
Proposition 2 timeline:

- Nov. 24, 2015: Deadline for the board to adopt marijuana regulations. If not adopted by this date, local governments have the option of establishing their own rules. The final regulations package will be submitted to the governor’s office and Department of Law for review and approval.

- Feb. 24, 2016: Board must start accepting applications for marijuana businesses and must act on them within 90 days. If the board has not adopted regulations, applications may be submitted directly to local regulatory authorities.

- March 26, 2016: Tentative effective date of regulations; effective date will be 30 days after the Lt. Governor’s Office files the approved regulations.

- May 24, 2016: Initial marijuana industry licenses expected to be awarded. Marijuana businesses will be able to legally begin operations.

- Feb. 24, 2017: Per Alaska’s constitution, the state legislature can repeal the ballot
According to the 2012 National Survey on Drug Use and Health, Alaskans are among the top users of marijuana in the country. Alaskans older than 26 smoke more weed per capita than in any other state.

**ALASKA MARIJUANA USE IN THE PAST MONTH BY AGE**

<table>
<thead>
<tr>
<th>Age</th>
<th>ALASKA</th>
<th>U.S.</th>
</tr>
</thead>
<tbody>
<tr>
<td>12-17</td>
<td>10.01%</td>
<td>7.13%</td>
</tr>
<tr>
<td>18-25</td>
<td>24.77%</td>
<td>3.78%</td>
</tr>
<tr>
<td>26+</td>
<td>11.18%</td>
<td>6.25%</td>
</tr>
</tbody>
</table>

**TOTAL USE 12+**

<table>
<thead>
<tr>
<th></th>
<th>ALASKA</th>
<th>U.S.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marijuana</td>
<td>12.97%</td>
<td>7.13%</td>
</tr>
</tbody>
</table>

This may explain the recent ballot initiative’s victory. In February, Alaskans will be able to possess or transport one ounce and six plants under state law. There will still be charges for minors, intoxicated driving, and possessing more than an ounce. Now the legislature must build a legal framework for the marijuana trade.

Not only that, but because of Ravin, Alaskans may be better protected from federal drug laws than other Americans.

Jason Brandeis writes:

> It is well established that state constitutions can provide greater protection for individual rights than the United States Constitution.

However, since 1975, Ravin v. State has allowed adults to possess a small amount of marijuana in the privacy of home. So even though this vote might seem to change everything, it actually changed very little:

Every statute criminalizing possession since 1975 has been a “dead letter.” Ravin is the law of the land. Possession cases were dismissed on appeal, and Alaska has avoided enforcing the possession laws since 2006.
What happened?

- State of Alaska did just the minimum
- Patients: no access to plants, seeds, clones, flowers
- Allowed less than *Ravin*: 2 oz v 4 oz
“Went from ‘A’ to ‘C’ without going through ‘B’
“Went from ‘A’ to ‘C’ without going through ‘B’

A: *Ravin*, reaffirmed by *Noy*

B: Decriminalization

C: Commercial operations including retail stores
Part One Bottom line(s):

✓ Remember it’s a moving target. Stay informed.

✓ Don’t rely on the State to solve every legal issue. (e.g. borough area-wide powers, definitions)

✓ Don’t become a test case

✓ Consult your attorney(s)

✓ Remember the initiative and intent

✓ Talk to your insurer

✓ Learn about Local option: not like alcohol

✓ Continue to have town hall meetings
Part Two: Human Resources Risk
Part Two: Human Resources Risk

- Testing: especially random drug testing*
- Review and update your personnel policies
- Safety sensitive, DOT 49/40
- 41 US Code Chapter 81 Drug-Free Workplace Act
- Do not be a test case for wrongful termination
- Use progressive discipline

Anchorage Police Department Employees Association and International Association of Firefighters, Local 1264 v. Municipality of Anchorage, 24 P.3d 547 (Alaska Supreme Court 2001).
Part Three: Political Risk
Part Three: Political Risk

- Citizens Initiative
- Numbers varied by district
- Action *and* inaction risk
- Right to privacy
- Executive branch: directives
Legalized Marijuana from the Local Perspective

Public Safety must be a critical consideration for and by everyone that will be affected by these law changes.
Speaker

Gregory A. Russell

- Soldotna Police Department – 17 years
  - Sgt. 14 years (Patrol, Investigations, Administration)
- Kotzebue Police Department – 3 years
  - Chief of Police
- Consultant / Trainer / Investigator
  - AMLJIA Police Professional – 13 years
BALKING
Push past the denial stage and get to the ACCEPTANCE stage

Denial, Anger, Bargaining, Depression, Acceptance
TALKING

Are we speaking the same language as the industry folks?
TALKING

• BHO / 710 / Dabbing
• Edibles
• Medicinal v. Recreational
WALKING
Provide the leadership to our communities that is EXPECTED.
WALKING

• Local cross-agency collaborative approach
• Base it on real science
• Avoid emotional knee-jerk reactions to pseudo-science, exaggerations, false information, hype
Barbed Wire

**Building** – Work being done without permits, overloaded electrical panels and open wiring, blocking of egress corridors and exit doors

**Neighborhood** – Not having the appropriate type of zoning permit for use for the activity happening at the site, more than the allowed 12 marijuana plants in a residential unit

Issues with marijuana extraction
Inspections

• All commercial occupancies at least once
• High hazard occupancies at least twice
• Marijuana occupancies
  – Grow facilities
  – Extraction processes
  – Kitchen and MIPs
  – Dispensaries
  – Testing facilities
  – Other hazardous processes twice/year
Local Fire Department

Red Flags

• Extraction Processes
  – By far the most hazardous

• Improper electrical installations
  – Poses dual hazards: ignition source and electrocution

• Impaired means of egress
  – Life safety concern for both occupants and emergency responders

• Fumigation processes
  – Utilizing sulphur burners or by means of carbon dioxide flooding
Food safety

- Regulations are applied to marijuana food business
- Includes extraction operations if consumed via “non-smoking oral consumption”
- All applicable MJ manufacturers & retailers receive at least 2 full inspections annually
Environmental Health

Inspection Challenges

• Understanding extraction processes and health/safety concerns
• Unapproved equipment
• Industry lacks food safety expertise
• Establishing clear policies that prioritize inspector safety
it must have been something I ate...
Environmental Health

Enforcement Tools

• Importance of consistent use of enforcement tools to achieve compliance

• Administrative citations assessed for repeat violations

• Food disposals, facility closures where imminent health hazards exist

• First ever recalls of marijuana food product conducted in 2014
Please be careful with this product
A little goes a long way!
Helpful Hints:

• For super high altitude baking (above 10,000 feet) add one extra egg-white for best results.

<table>
<thead>
<tr>
<th>Location</th>
<th>Altitude (ft)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leadville, CO</td>
<td>10,152’</td>
</tr>
<tr>
<td>Quito, Ecuador</td>
<td>10,000’</td>
</tr>
<tr>
<td>Lhasa, Tibet</td>
<td>12,002’</td>
</tr>
<tr>
<td>Potosi, Bolivia</td>
<td>13,420’</td>
</tr>
<tr>
<td>El Alto, Bolivia</td>
<td>13,615’</td>
</tr>
<tr>
<td>Namache Bazaar, Nepal</td>
<td>11,482’</td>
</tr>
<tr>
<td>Cuzco, Peru</td>
<td>10,800’</td>
</tr>
<tr>
<td>Villa Mills, Costa Rica</td>
<td>10,170’</td>
</tr>
<tr>
<td>Hushe Village, Pakistan</td>
<td>10,006’</td>
</tr>
<tr>
<td>Apartaderos, Venezuela</td>
<td>11,502’</td>
</tr>
</tbody>
</table>
Helpful Hints:

• Also please be sure to drink plenty of water while medication to avoid that dry mouth feeling while you are under the effects of our edible and realize that alcohol will increase the strength and effects of our edibles so be careful if you choose to medicate and drink alcohol at the same time.
Helpful Hints:

• If you **feel anxious or stressed when enjoying your experience** just relax in a comfortable place and listen to some of your favorite music. If you would like to eat some candy or drink some soda to lessen the amount of time you will be affected but **stay away from dairy or mango which may extend or enhance the THC experience.**
WALKING

• Expect that you will be dealing with a moving, constantly evolving issue, so critical focus must include an eye to:

Public Safety