

## Cannabis Business Blog

# Anchorage Assembly Decides Against Opting Out of Commercial Marijuana

Foster Garvey on 12.23.14 | Posted in Alaska

Alaska's legalization and regulation effort survived intact on Tuesday night when the Anchorage Assembly voted not to opt the unified City and Borough of Anchorage out of the recently passed laws allowing commercial growing and distribution. Under the new AS 17.38.110(a), local governments and voters have the right to "prohibit the operation of marijuana cultivation facilities, marijuana production manufacturing facilities, marijuana testing facilities, or retail marijuana stores through enactment of an ordinance[.]" Eagle River Assembly Member Amy Demboski proposed such an ordinance to opt Anchorage out of the cannabis laws shortly after Alaskan voters legalized regulated cannabis distribution in November. The Assembly voted 9-2 to reject the ordinance on Tuesday night.

This vote was very important for the legalization and regulation effort in Alaska because Anchorage is home to 41 percent of Alaska's population. For that reason, it often leads the way for what will occur around the state. While the future is always uncertain, the resounding defeat of the measure to opt Anchorage out of the State's new cannabis laws ensures a state-wide discussion on how to best put forward policies and regulations that serve the best interests of the residents of the State of Alaska.

For more information on the vote, please see:

<http://www.adn.com/article/20141216/assembly-kills-proposal-ban-marijuana-sales-anchorage>

For more information on the statutes that were passed into law in the November vote, please see:

<http://regulatemarijuanainalaska.org/full-initiative-text/>

**Warning Regarding Federal Law:** The possession, distribution, and manufacturing of marijuana is illegal under federal law, regardless of state law which may, in some jurisdictions, decriminalize such activity under certain circumstances. Penalties for violating federal drug laws are very serious. For example, a conviction on a charge of conspiracy to sell drugs carries a mandatory minimum prison term of five years for a first offense and, depending on the quantity of marijuana involved, the fine for such a conviction could be as high as \$10 million. In addition, the federal government may seize, and seek the civil forfeiture of, the real or personal property used to facilitate the sale of marijuana as well as the money or other proceeds from the sale. Although the U.S. Department of Justice (DOJ) recently rescinded its guidance regarding prioritization of criminal prosecutions of individuals and entities operating in compliance with effective state regulatory systems, DOJ left in place long standing

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guidance to federal prosecutors regarding how to exercise this discretion. Individuals and companies are cautioned to consult with experienced attorneys regarding their exposure to potential criminal prosecution before establishing business operations in reliance upon the passage of state laws which may decriminalize such activity. Federal authority to prosecute violations of federal law as crimes or through seizures and forfeiture actions is not diminished by state law. Indeed, due to the federal government's jurisdiction over interstate commerce, when businesses provide services to marijuana producers, processors or distributors located in multiple states, they potentially face a higher level of scrutiny from federal authorities than do their customers with local operations.