

STATE OF ALASKA

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ATTORNEY GENERAL'S LAW ENFORCEMENT BULLETIN: NEW MARIJUANA LAWS

The new marijuana laws created by House Bill 149, which will soon be signed by Governor Murkowski, will immediately affect those who possess four ounces or more, but will make *no immediate change in police authority regarding personal possession of under four ounces by adults in homes.*

Under the new laws, possession of four ounces or more becomes a class C felony. The new laws also allow an easier method to determine the weight of marijuana contained in growing plants, without having to dry and process the marijuana. These new laws can be put into place as soon as they take effect.

Most importantly, HB 149 contains several findings by the Legislature about problems caused by today's potent Alaska marijuana. These legislative findings prove marijuana is not harmless, and we believe they will convince the Alaska Supreme Court that marijuana has changed dramatically since the landmark 1975 decision in *Ravin v. State*.

But press reports are somewhat misleading in saying that the new laws "re-criminalize" possession of smaller amounts of marijuana by adults in private. That's not entirely accurate.

The new laws do not alter the decisions by the Alaska appellate courts that non-commercial possession of small amounts by adults in homes is constitutionally protected (*Ravin v. State*, 1975), that the amount of marijuana covered by *Ravin* is up to four ounces (*Noy v. State*, 2003), and that search warrants to investigate marijuana growing require probable cause that the cultivation was for commercial purposes or that there is more than four ounces on the premises (*Crocker v. State*, 2004).

The state will vigorously litigate all these legal issues because it's important that the courts overrule these prior decisions. The Legislature's findings about marijuana set the stage for that to happen, but they don't do it automatically. We live under the rule of law, and full implementation of the marijuana laws is ultimately up to the courts. Therefore, for the time being, and *until you are advised differently by the District Attorney in your region, there is no basis for changing law enforcement policies for investigation of non-public possession of less than four ounces of marijuana by adults.*

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