



## MEMORANDUM

TO: Marijuana Control Board                      DATE: August 12, 2021  
FROM: Jane P. Sawyer, Regulations Specialist    RE: Regulations Project – Exit  
Package - Opacity

At the October 2020 meeting, the board opened this regulations project to address opaque exit packaging at retail stores. The project was out for public comment for about 40 days closing on August 11, 2021. One comment was received.

3 AAC 306.345 proposes to allow the consumer to place the purchased marijuana or marijuana product in the consumer's opaque exit package before exiting the retail store. The amendment also proposes to define "Opaque" under this section.

Options for the board:

- Vote to adopt
- Amend and adopt (send back out for public comment if necessary)
- Send back to staff for revisions
- Close the project without action

(Words in boldface and underlined indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)

3 AAC 306.345(a) is amended to read:

**3 AAC 306.345. Packaging and labeling.** (a) A retail marijuana store shall assure that

(1) marijuana sold on its licensed premises is packaged and labeled in compliance with 3 AAC 306.470 and 3 AAC 306.475;

(2) any marijuana product sold on its licensed premises is packaged and labeled in compliance with 3 AAC 306.565 and 3 AAC 306.570; [AND]

(3) **at the point of sale,** marijuana or a marijuana product sold is packaged in [OPAQUE], resealable, child-resistant packaging [WHEN THE PURCHASER LEAVES THE RETAIL SECTION OF THE LICENSED PREMISES; THE PACKAGING MUST BE] designed or constructed to be significantly difficult for children under five years of age to open, but not normally difficult for adults to use properly; [.] **and**

**(4) unless already packaged by the cultivation facility or the manufacturing facility in an opaque package for final retail sale, prior to the consumer exiting the store, all marijuana or marijuana product purchased by the consumer is placed in an opaque exit package by the store or the consumer.**

3 AAC 306.345 is amended by adding a new subsection to read:

(c) For the purpose of this section, “Opaque” means that the package does not allow the product to be seen without opening the package. (Eff. 2/21/2016, Register 217; am 11/8/2018, Register 228; am \_\_\_\_/\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

Register \_\_\_\_\_, \_\_\_\_\_20\_\_

COMMERCE, COMMUNITY, AND EC. DEV.

<b>Authority:</b>	AS 17.38.010	AS 17.38.150	AS 17.38.200
	AS 17.38.070	AS 17.38.190	AS 17.38.900
	AS 17.38.121		



Jana D. Weltzin  
Licensed in Alaska & Arizona  
901 Photo Avenue, 2<sup>nd</sup> Floor  
Anchorage, Alaska 99503  
Phone 907-231-3750  
JDW Counsel  
jana@jdw-counsel.com

August 11<sup>th</sup>, 2021

**Re: Comment on Regulation Change to Packaging Opacity**

Dear Honorable Members of the Alaska Marijuana Control Board:


Please accept this letter in support of the proposed regulation changes to 3 AAC 306.345 pertaining to Packaging Opacity.

The proposed changes serve to clear up confusion around two Board requirements: opaque packaging and child-resistant packaging. At the point of sale, packaging must now be resealable and child-resistant. Packaging must only be opaque at the point of leaving the retail store. There has been some issues for retail stores when navigating the opacity requirement, as the previous regulations grouped together the child-resistant and opacity requirements, and did not state whether packaging could be provided by the customer. This issue has been compounded by recent Municipal-level bans on single-use plastic bags. The new regulations specifically allow the customer to do the concealing after the purchase, but before leaving the retail store. This allows customers to use their own bags (or pocket, purse, etc.), and avoids potential conflicts for retailers, who in the Anchorage municipality, would have to collect an extra 10¢ fee for a paper bag to satisfy the regulatory requirement. (This rule has been suspended during the pandemic, but may be reinstated soon)

This change protects the public by concealing marijuana and requiring child-resistant packaging, while still allowing ecologically-conscious customers to use their own bags.

Thank you for your consideration and thank you for your continued hard work supporting and regulating our thriving marijuana industry.

Truly and Sincerely Yours,

  
Jana D. Weltzin, Esq.