



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

**Department of Commerce,
Community, and Economic
Development**

ALCOHOL AND MARIJUANA CONTROL OFFICE
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501
Main: 907.269.0350

To: The Marijuana Control Board
Fr: Joan M. Wilson
Date: May 22, 2023
Re: Review of the Rekey of the Enforcement Regulations

The Department of Law reviewed the substantial revisions this Board made to 3 AAC 306 Article Eight(enforcement) This memorandum summarizes the Board's initial revisions and describes the substance of the Department of Law's rekey. Two technical amendments are further requested to correct grammatical errors. This Board must consider and adopt the rekey for the regulations to move back to the Department of Law. At that point, its review should be perfunctory. The next step will be referral of the regulations to the Lieutenant Governor's Office. The effective date is thirty days after the Lieutenant Governor's signature. Once these regulations are effective, the civil fine schedule will finally be an available remedy.

Regulatory Section	Original Purpose of Revision	Rekey
306.800	Repeal	No Change
306.801	Summary of Enforcement activities	1. moved reasonable time and manner to inspection (2) section; broke into subparagraphs (3) conformity with style manual
306.805	Repeal	No changes
306.806	New section explaining verbal warnings, inspection reports, advisory notices, and notices of violation	While numerous, primarily drafting style changes required by manual; discretion

		for action is contained in the word “may”; amendment required in 801(a)(2) to correctly reference 806 instead of the repealed 805
306.809	Identifies what must be included in an NOV. Further explains how the licensee may challenge the NOV with the Director or the Board or both if dissatisfied with the Director’s decision. Identifies procedure for Director to make the case for an NOV before the Board if it is challenged. Direct right of appeal to Superior Court.	Stylistic changes conforming to drafting manual.
306.810(a)	No changes	Crossed off in rekey, but only because it was not amended/
306.810(b)	Adds probation and suspended fine remedies to actions the board can take	(1) through (2) crossed out, but only because its original language is not amended
306.810(b)(3)	Identifies failure to correct an advisory or notice as a reason for further board disciplinary action	Stylistic
306.810(b)(4)	Crossed out but this ground for disciplinary action remains (knowingly allowing an employee or agent to violate)	
306 810(b)(5)	Identifies violating a board condition or restriction as grounds for further board disciplinary action; new provision moves down the	Stylistic

	already codified reasons to take disciplinary action (seven reasons instead of six)	
306.810(c)	Taking disciplinary action based on local government complaint	Corrects internal citations
306.811	Further clarifies when action can be taken against a license based on act of an employee	Minor stylistic changes
306.812	Procedure for action against a handler permit.	Changes to paragraph (b) don't make sense. Request a motion to read: The second sentence should read "A permit holder may appeal the director's decision by submitting to the director and to the board a written statement of reasons for appeal." The remaining changes to .812 are stylistic. An editor's note is added.
306.815	Repealed. Addressed in revised 306.811	
306.816	New section on accusations	Clarifies what is disciplined (the license) and who is served (the licensee)
3 AAC 306.820	Repealed, because included in ,816	
306.830	Seizure and administrative hold section repealed and readopted. Clarifies ground of administrative hold or seizure to be denial of renewal. Breaks current (j) into 2 paragraphs (j) and (k) resulting in new paragraph (1) (the prior paragraph k)	Paragraph (j) "hearing" is struck through, but it should not be. Re-include

306.835	Hearing provisions repealed. Incorporated in other sections.	
306.836	New section permitting probation as a remedy and how to bring a probation violation before the board	Stylistic changes
306.840(b)	Civil fine schedule is paragraph (a) will finally be effective. Paragraph (b) includes reference to the fine schedule (a civil fine may not exceed the greater of)	Stylistic changes
306.844	Expands informal conference with the director as a means of resolution to any action taken under Article 83	
306.845	Addresses appeals of director's actions. Removes reference to suspension and revocation since that is the board's purview, not the director's	Stylistic changes
3 AAC 306.990(b)	Adds definition of Office to mean AMCO	

3 AAC 306.800 is repealed:

3 AAC 306.800. Inspection and investigation. Repealed. (Eff. 2/21/2016, Register 217; am 12/6/2020, Register 236; am 12/10/2020, Register 236; repealed ___/___/_____, Register _____)

3 AAC 306 is amended by adding a new section to read:

3 AAC 306.801. Powers and duties. (a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity may

(1) inspect, at a reasonable time and in a reasonable manner, the licensed premises of a marijuana establishment, including

(A) overlapping premises approved by the board under 3 AAC 306.705(d) and 3 AAC 306.710(d);

(B) marijuana and marijuana products;

(C) equipment used in cultivating, processing, testing, or storing marijuana, and

(D) the marijuana establishment's marijuana inventory tracking system, business records, and computers;

(2) issue a verbal warning, an inspection report, an advisory notice, or a notice of violation as set out under 3 AAC 306.805;

(3) seize or place an administrative hold on marijuana or any marijuana product as set out under 3 AAC 306.830;

(4) execute a search warrant;

(5) exercise peace officer powers as authorized under AS 17.38.131;

(6) file an accusation for suspension, revocation, or other disciplinary action on a license, permit, or endorsement; and

(7) take any other action the director considers necessary to ensure the enforcement of AS 17.38 and this chapter.

(b) A marijuana establishment, licensee, employee, or agent in charge shall cooperate with the director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity to enforce AS 17.38 or this chapter including to

(1) permit entry to and inspection of the licensed premises; and

(2) provide access to business records not later than 10 business days after a request by the director, an enforcement agent, an employee of the board, or a peace officer. (Eff. ___/___/____, Register _____)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

3 AAC 306.805 is repealed:

3 AAC 306.805. Report or notice of violation. Repealed. (Eff. 2/21/2016, Register 217; repealed ___/___/____, Register _____)

3 AAC 306 is amended by adding a new section to read:

3 AAC 306.806. Verbal warning, inspection report, advisory notice, or notice of violation. (a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity may issue a verbal warning, an inspection report, an advisory notice, or a notice of violation on a license, permit, or endorsement.

(b) A verbal warning may be issued to address a situation where a violation of a statute, regulation, or local law on the licensed premises is quickly correctable and does not pose an immediate risk to public safety or health. A verbal warning may be documented in the licensee's enforcement file maintained by the director.

(c) An inspection report may be issued to document an inspection of the licensed premises. An inspection report must be prepared on a form prescribed by the board and include information set out under AS 17.38 or this chapter or required by the board. An inspection report must be documented in the licensee's enforcement file maintained by the director.

(d) A written advisory notice may be issued to document an incident or defect that violates statute, regulation, or local law for which a verbal warning is not provided. The advisory notice may be issued based on information recorded on an inspection report or another record maintained by the director. An advisory notice may be grounds for issuance of a notice of violation or accusation. The advisory notice must be documented in the licensee's enforcement file maintained by the director.

(e) A written notice of violation may be issued to address more serious or repetitive violations of AS 17.38, this chapter, or local law that has occurred or is occurring on the licensed premises, including overlapping premises. It may be issued as a stand-alone document or based

on a single event described in a previously issued inspection report or advisory notice. A notice of violation must meet the requirements set out under 3 AAC 306.809. (Eff. ___/___/_____, Register _____)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

3 AAC 306 is amended by adding a new section to read:

3 AAC 306.809. Notice of violation. (a) A notice of violation must be in writing on a form approved by the board and include

- (1) a description of each violation;
- (2) a statement of applicable statutes, regulations, or local laws that were violated;
- (3) a description of any history of prior violations of AS 17.38 and this chapter by the licensee;
- (4) the recommended disciplinary action, including a fine or probation; and
- (5) the signature of the investigator from the office.

(b) The notice of violation must be delivered to the licensee at the licensee’s licensed premises, filed with the board, and, if applicable, delivered to the appropriate law enforcement agency. The notice of violation must be documented in the licensee’s enforcement file maintained by the director.

(c) A licensee may contest a notice of violation or a recommended disciplinary action by filing a written response to the director not later than 10 days after licensee’s receipt of the

notice. In the written response, the licensee may either contest the notice of violation as an appeal of the director's decision as described under 3 AAC 306.845 or request an informal conference with the director under 3 AAC 306.844.

(d) If a licensee's written response requests an informal conference with the director under 3 AAC 306.844, the director shall schedule the conference not later than 10 days after receipt of the request. Thereafter, the director may uphold the recommended disciplinary action, reduce the disciplinary action, or dismiss the notice of violation. The director's decision to uphold the recommended disciplinary action, reduce the disciplinary action, or dismiss the notice of violation must be documented in the licensee's enforcement file maintained by the director.

(e) If the licensee requests that the notice of violation be addressed by the board, either after or without conferencing with the director, the board will consider the notice of violation as an appeal of a director's decision at its next regularly scheduled meeting. At that meeting, the director shall present information and witnesses sufficient to prove to the satisfaction of the board that the violation occurred and the recommended fine or other disciplinary action is consistent with board precedent; the licensee may present information and witnesses to contest the disciplinary action and rebut the director's presentation.

(f) Following the presentation described in (e) of this section, the board shall determine whether a preponderance of evidence supports upholding the notice of violation and, if so, determine the appropriate fine or other disciplinary action based on board precedent. The board may vacate the notice of violation, decrease the recommended disciplinary action, or order additional disciplinary action, including requesting the director prepare an accusation for suspension or revocation of the license.

(g) A decision by the board relating to a notice of violation or civil fine or other disciplinary action may be appealed to the superior court under AS 44.62.560, excluding a request that the director prepare an accusation for suspension or revocation of a license.

(h) A notice of violation may be the basis of a proceeding to suspend or revoke a marijuana establishment’s license as set out under 3 AAC 306.810. (Eff. ___/___/____, Register _____)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

The introductory language of 3 AAC 306.810(b) is amended to read:

(b) The board may suspend or revoke a license issued under this chapter, refuse to renew a license, **order probation as described under 3 AAC 306.836**, or impose a civil fine **as described under 3 AAC 306.840** [,] if the board finds that a licensee for a marijuana establishment

The introductory language of 3 AAC 306.810(b)(3) is amended to read:

(3) failed, within a reasonable time [AFTER RECEIVING A NOTICE OF VIOLATION FROM THE DIRECTOR], to correct any defect that is subject of **an advisory notice or notice of violation** of [THE NOTICE OF VIOLATION]

3 AAC 306.810(b)(5) is amended to read:

(5) **violated a condition or restriction imposed by the board** [FAILED TO COMPLY WITH ANY APPLICABLE PUBLIC HEALTH, FIRE, SAFETY, OR TAX STATUTE, ORDINANCE, REGULATION, OR OTHER LAW IN THE STATE];

3 AAC 306.810(b)(6) is amended to read:

(6) **failed to comply with any applicable public health, fire, safety, or tax statute, ordinance, regulation, or other law in the state; or** [USED THE LICENSED PREMISES FOR AN ILLEGAL PURPOSE INCLUDING GAMBLING, POSSESSION OR USE OF NARCOTICS OTHER THAN MARIJUANA, PROSTITUTION, OR SEX TRAFFICKING.]

3 AAC 306.810(b) is amended by adding a new paragraph to read:

(7) used the licensed premises for an illegal purpose including gambling, possession or use of narcotics other than marijuana, prostitution, or sex trafficking.

3 AAC 306.810(c) is amended to read:

(c) A local government may notify the director if it obtains evidence that a marijuana establishment has violated a provision of AS 17.38, this chapter, or a condition or restriction the board has imposed on the marijuana establishment. Unless the board finds that the local government's notice is arbitrary, capricious, and unreasonable, the director shall prepare the notice and supporting evidence as an accusation against the marijuana establishment under

AS 44.62.360, and conduct proceedings to resolve the matter as described under **3 AAC 306.810** – **3 AAC 306.816** [3 AAC 306.820]. (Eff. 2/21/2016, Register 217; am ___/___/_____, Register _____)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

3 AAC 306 is amended by adding a new section to read:

3 AAC 306.811. Suspension or revocation of a license based on the act of an employee. If, in a proceeding to suspend, revoke, or otherwise discipline a marijuana establishment license under 3 AAC 306.809, 3 AAC 306.810, or 3 AAC 306.836, evidence shows that an employee or agent of a licensed marijuana establishment was responsible for an act that would justify suspension, revocation, or other discipline of the marijuana establishment’s license if committed by a licensee, the board may find that the licensee knowingly allowed the act if

- (1) the licensee
 - (A) was physically present when the violation occurred;
 - (B) knew or should have known the violation was occurring; and
 - (C) did not take action to stop the violation;
- (2) the licensee failed to adequately supervise the employee or agent;
- (3) the licensee failed to adequately train the employee or agent on the

requirements of AS 17.38 and this chapter relating to marijuana; or

(4) the licensee was reckless or careless in hiring the employee or agent. (Eff.

___/___/_____, Register _____)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

3 AAC 306.812 is repealed and readopted to read:

3 AAC 306.812. Suspension or revocation of marijuana handler permit. (a) The board may suspend or revoke a permit issued under 3 AAC 306.700, impose probation under 3 AAC 306.836, or impose a civil fine under 3 AAC 306.840 if the board finds that a marijuana handler permit holder acted in violation of a statute, regulation, or local law.

(b) The director may issue a director’s decision to discipline a permit holder under 3AAC 306.700 by submitting to the board a written statement of reasons for the requested discipline. A permit holder may appeal the director’s decision by submitting to the board a written statement of reasons for the requested action to the director and the permit holder.

(c) The director must provide an electronic notice to a permit holder at the electronic mail address provided by the permit holder in the holder’s permit application that a hearing conducted in compliance with 3 AAC 306.845 will take place at the board’s next regularly scheduled meeting.

(d) The director shall maintain a list of suspended, revoked, expired, or otherwise disciplined permit holders. Upon request, the list shall be made available to licensees and the public.

(e) Notwithstanding the requirements of (a) - (d) of this section, the director may suspend a permit issued under 3 AAC 306.700 if a permit holder’s check is returned for any reason by the withdrawing financial institution until the permit fee and any associated fees are paid. (Eff. 5/23/2018, Register 226; am 3/25/2020, Register 233; am ___/___/_____, Register _____)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

An editor’s note is added to 3 AAC 306.812 to read:

Editor’s note: To request the list referenced in 3 AAC 306.812(d), contact the Alcohol and Marijuana Control Office at 550 W 7th Ave., Ste. 1600, Anchorage, Alaska 99501 or at AMCO.enforcement@alaska.gov.

3 AAC 306.815 is repealed:

3 AAC 306.815. Suspension or revocation based on act of employee. Repealed. (Eff. 2/21/2016, Register 217; repealed ___/___/_____, Register _____)

3 AAC 306 is amended by adding a new section to read:

3 AAC 306.816. Accusations. (a) A proceeding to suspend, revoke, or otherwise discipline a license, excluding proceedings under 3 AAC 306.809 and 3 AAC 306.836, must be

initiated by service of an accusation on the licensee in compliance with AS 44.62.360 and 44.62.380.

(b) The accusation must be served at the address of the licensed premises or at the address of the licensee responsible for management of the marijuana establishment and compliance with state laws listed in the marijuana establishment license application under 3 AAC 306.020(b)(5).

(c) A licensee served with an accusation under this section is entitled to a hearing as provided under AS 44.62.390. If a notice of defense is filed, a hearing shall be held in compliance with AS 44.62.330 - 44.62.630 before the office of administrative hearings created under AS 44.64.010. Failure to file a notice of defense under AS 44.62.390 constitutes a waiver of the right to further appeal.

(d) A person aggrieved by a final decision of the board following a hearing conducted in compliance with AS 44.62.330 - 44.62.630 may appeal to the superior court under AS 44.62.560.

(Eff. ___/___/_____, Register _____)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

3 AAC 306.820 is repealed:

3 AAC 306.820. Procedure for action on license suspension or revocation. Repealed.

(Eff. 2/21/2016, Register 217; repealed ___/___/_____, Register _____)

3 AAC 306.830 is repealed and readopted to read:

3 AAC 306.830. Seizure of or administrative hold on marijuana or marijuana products. (a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity may seize or place an administrative hold on marijuana or any marijuana product from a licensed or previously licensed marijuana establishment

(1) if the marijuana establishment has any marijuana or marijuana product not properly logged into the marijuana establishment's marijuana inventory tracking system;

(2) if the marijuana establishment has any adulterated marijuana food or drink product prohibited under 3 AAC 306.510(a)(4);

(3) if the marijuana establishment has any marijuana or marijuana product that is not properly packaged and labeled as provided in

(A) 3 AAC 306.470 and 3 AAC 306.475; or

(B) 3 AAC 306.565 and 3 AAC 306.570;

(4) if the marijuana establishment has not renewed its license as required under 3 AAC 306.035 **or if the board has denied renewal of the marijuana establishment's license under 3 AAC 306.080(b);**

(5) upon the development of reasonable grounds to believe that any marijuana or marijuana product

(A) constitutes evidence of a violation of a state statute or regulation; or

(B) poses an immediate threat to worker or public health, safety, or

welfare; or

(6) if the marijuana establishment has engaged or attempted to engage in

(A) the diversion of marijuana or a marijuana product; or

(B) a crime on the establishment's licensed premises; in this subparagraph,

"crime" has the meaning given in AS 11.81.900(b).

(b) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity may choose, for a reason set out in (a) of this section, whether to place an administrative hold on marijuana or a marijuana product or seize the marijuana or marijuana product. The director may change an administrative hold to a seizure. The director shall update the marijuana inventory control tracking system to reflect the administrative hold or seizure or a change from an administrative hold to a seizure.

(c) If marijuana or a marijuana product is placed on an administrative hold, the marijuana establishment shall

(1) physically separate the marijuana or marijuana product from the public and store it in a secured and restricted-access area of the establishment's licensed premises; and

(2) receive the express written consent of the director to sell, move, transfer, or engage in any other commercial activity relating to the marijuana or marijuana product,

(A) after the conclusion of the investigation of the reason for the administrative hold, the payment of any civil fine, the lifting of any suspension, and the conclusion of any informal conference, any formal hearing, and any hearing under AS 44.62.330 - 44.62.630 (Administrative Procedure Act) and, if applicable, 2 AAC 64.100 - 2 AAC 64.990;

(B) if seizure of the marijuana or marijuana product has not been ordered under (d) of this section; and

(C) if destruction of the marijuana or marijuana product has not been ordered under (j) of this section.

(d) If the director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity seizes marijuana or a marijuana product under this section, the director shall ensure that the items physically removed from the establishment's licensed premises are stored in a reasonable manner.

(e) The director shall immediately give the marijuana establishment at which the marijuana or marijuana product was placed on administrative hold or from which the item was seized notice of whether the action is an administrative hold or seizure and the reasons for the administrative hold or seizure. In the notice, the director shall state that the marijuana establishment may request, not later than 15 days after receiving the notice,

(1) an informal conference, before either the director or the board, if the establishment is aggrieved by an administrative hold; the director shall also state in the notice that selection of an informal conference does not affect the establishment's right to request a formal hearing from the administrative hold; or

(2) a formal hearing before the board from an administrative hold or seizure; in the notice, the director shall schedule a date and time for a formal hearing that is not later than 15 days after the establishment receives the notice, unless the establishment requests a delay.

(f) If the marijuana establishment aggrieved by an administrative hold elects an informal conference

(1) with the director, the informal conference must be held at a time and place convenient to the establishment and the director, but not later than 15 days after the

establishment receives notice of the administrative hold, unless the establishment elects a later time for the conference; an informal conference with the director may be conducted telephonically; or

(2) with the board, the informal conference must be held at a time and place convenient to the establishment and the board, but not later than the next scheduled meeting of the board; an informal conference with the board may be conducted telephonically.

(g) If the informal conference does not resolve the matter of an administrative hold to the satisfaction of the marijuana establishment, the establishment, not later than 15 days after the last day of the informal conference, may request a formal hearing. The hearing will be held not later than 15 days after the director's receipt of the request for a formal hearing.

(h) If the request for formal hearing is from an informal conference regarding an administrative hold, the director shall send the marijuana establishment a notice with the date and time of the formal hearing, scheduled as described in (g) of this section, unless the establishment has requested a delay. If the request for formal hearing is from an administrative hold or seizure, and the establishment did not request an informal conference, the formal hearing will be held on the date and time scheduled in the notice sent under (e)(2) of this section, unless the establishment has requested a delay. If the administrative hold or seizure occurs in connection with a summary suspension under 3 AAC 306.825, the hearing will be combined with a hearing on the summary suspension.

(i) If an administrative hold is on marijuana plants in a licensed standard or limited marijuana cultivation facility, the order setting the administrative hold must

(1) direct the facility to continue care of the plants until the conclusion of any informal conference, any formal hearing, and any hearing under AS 44.62.330 - 44.62.630 (Administrative Procedure Act) and, if applicable, 2 AAC 64.100 - 2 AAC 64.990; and

(2) prohibit any transfer, sale, or commercial activity related to the plants, until the conclusion of any informal conference, any formal hearing, and any hearing under AS 44.62.330 - 44.62.630 (Administrative Procedure Act) and, if applicable, 2 AAC 64.100 - 2 AAC 64.990.

(j) If after a formal hearing the administrative hold or seizure is upheld as justified, the marijuana establishment at or from which the marijuana or marijuana product was placed on administrative hold or seized may request a under AS 44.62.330 - 44.62.630 and, if applicable, 2 AAC 64.100 - 2 AAC 64.990.

(k) If the marijuana establishment from which the marijuana or marijuana product was placed on administrative hold or seized does not contest the seizure or hold, or if after any informal conference and any final hearing the administrative hold on or seizure of the marijuana or marijuana product is upheld as justified, the board may order the destruction of the marijuana or marijuana product, in addition to or in place of any fines or civil remedies. The marijuana or marijuana product must be destroyed by burning, crushing, or mixing with other material to make the marijuana or marijuana product unusable as provided in 3 AAC 306.740.

(l) The board will not consider marijuana or marijuana product placed on administrative hold or seized to be part of a marijuana establishment's physical inventory until the administrative hold is lifted or the marijuana or marijuana product is removed from seizure. The director shall notify, for information purposes, local governments and taxing authorities with

jurisdiction over a marijuana establishment subject to the administrative hold and seizure not later than 30 days after the administrative hold or seizure is put in place or lifted. (Eff. 2/21/2016, Register 217; am 12/6/2020, Register 236; am ___/___/_____, Register _____)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

3 AAC 306.835 is repealed:

3 AAC 306.835. Hearing. Repealed. (Eff. 2/21/2016, Register 217; repealed ___/___/_____, Register _____)

3 AAC 306 is amended by adding a new section to read:

3 AAC 306.836. Probation. (a) In a disciplinary decision on a notice of violation or suspension order, the board may place a license, permit, or endorsement on probation for a period of no greater than three years. To ensure good faith performance of all obligations by a party while under probation, the board may suspend any portion of time of suspension or civil fines owed.

(b) The director may file a probation violation at their discretion. To initiate a probation violation, the director shall detail in a written communication to the board

- (1) a description of the circumstances that support that request;
- (2) a statement of statutes, regulations, or local laws that were violated;

(3) prior violations or criminal history of the licensee and any violations recorded on the licensed premises;

(4) a recommendation of the amount of unsuspended time or fines to levy; and

(5) the signature of the investigator from the office.

(c) The written communication described in (b) of this section must be documented in the licensee's enforcement file maintained by the director. A copy of the communication must be delivered to the licensee, filed with the board, and, if applicable, delivered to the appropriate law enforcement agency.

(d) An aggrieved party may contest a probation violation or the recommended disciplinary action issued under (a) of this section as an appealed director's decision by filing a written response to the director not later than 10 days after the licensee's receipt of the notice. If the licensee does not contest the violation and sanction, the director shall impose the violation and sanction.

(e) If the aggrieved party contests the probation violation, the board will consider the violation at its next regularly scheduled meeting. At that meeting the director shall present information and witnesses sufficient to prove to the satisfaction of the board that the violation occurred and the recommended unsuspended time or fine is consistent with board precedent. The licensee may present information and witnesses to contest the probation violation and rebut the director's presentation.

(f) Following the presentation described in (e) of this section, the board shall determine whether there is substantial evidence to uphold the probation violation, and if so, determine whether the penalty imposed by the director is appropriate. The board may vacate the probation

violation, decrease the recommended disciplinary action, or order additional disciplinary action, including requesting the director to prepare an accusation for suspension or revocation of a license.

(g) A decision by the board related to the notice of violation, civil fine, or other disciplinary action, excluding a request that the director prepare an accusation for suspension or revocation of a license, may be appealed to the superior court under AS 44.62.560.

(h) Nothing in this section limits the authority of the board to suspend or revoke a license for violation of AS 17.38 or this chapter. (Eff. ___/___/____, Register _____)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

3 AAC 306.840(b) is amended to read:

(b) In a proceeding under 3 AAC 306.810 - 3 AAC 306.830, the board may impose a civil fine, not to exceed the greater of

(1) **the fine imposed in the fine schedule adopted by reference in (a) of this section;**

(2) [(1)] an amount that is three times the monetary gain realized by the marijuana establishment, licensee, or person as a result of the violation, as determined by the board [THE AMOUNT IMPOSED IN THE FINE SCHEDULE IN (A) OF THIS SECTION]; or

(3) if applicable because of the seriousness of the conduct and the related facts:

(A) \$10,000 for the first violation;

(B) \$30,000 for the second violation; or

(C) \$50,000 for the third or subsequent violation. (Eff. 2/21/2016, Register 217; am 1/19/2022, Register 241; am ___/___/____, Register _____)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

3 AAC 306 is amended by adding a new section to read:

3 AAC 306.844. Informal conference. An aggrieved licensee or permittee subject to any action under 3 AAC 306.800 – 3 AAC 306.840 may request an informal conference with the director. The director will set the informal conference not later than ten days after receipt of the request. (Eff. ___/___/____, Register _____)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

3 AAC 306.845(a) is amended to read:

3 AAC 306.845. Appeal. (a)An aggrieved party may appeal to the board regarding any other action of the director, an enforcement agent, or an employee of the board charged with enforcing AS 17.38 or this chapter[, INCLUDING SUSPENDING OR REVOKING A LICENSE, SEIZING MARIJUANA OR A MARIJUANA PRODUCT, OR IMPOSING A

CIVIL FINE]. **The board will consider the appeal at the next regularly scheduled meeting of the board.**

3 AAC 306.845(b) is repealed:

(b) Repealed ____/____/_____. (Eff. 2/21/2016, Register 217; am 12/6/2020, Register 236; am ____/____/_____, Register _____)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

3 AAC 306.990(b) is amended by adding a new paragraph to read:

(51) “office” means the Alcohol and Marijuana Control Office. (Eff. 2/24/2015, Register 213; am 2/21/2016, Register 217; am 10/11/2017, Register 224; am 8/11/2018, Register 227; am 10/20/2018, Register 228; am 4/11/2019, Register 230; am 5/9/2019, Register 230; am 3/13/2020, Register 233; am 12/6/2020, Register 236; am 12/10/2020, Register 236; am 8/7/2021, Register 239; am ____/____/_____, Register_____)

Authority:	AS 17.38.010	AS 17.38.121	AS 17.38.900
	AS 17.38.040	AS 17.38.190	AS 18.35.301
	AS 17.38.070	AS 17.38.200	

Article 8

Enforcement; Civil Penalties

3 AAC 306.800. Inspection and investigation Repealed. (Eff. 2/21/2016, Register 217; am 12/6/2020, Register 236; am 12/10/2020, Register 236; repealed ___/___/_____, Register _____)

3 AAC 306.801. Powers and duties

(a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity may

(1) inspect, at a reasonable time and in a reasonable manner, the licensed premises of a marijuana establishment, including

(A) overlapping premises approved by the board under 3 AAC 306.705(d) and 3 AAC 306.710(d);

(B) marijuana and marijuana products;

(C) equipment used in cultivating, processing, testing, or storing marijuana, and

(D) the marijuana establishment's marijuana inventory tracking system, business records, and computers;

(2) issue a verbal warning, an inspection report, an advisory notice, or a notice of violation as set out under 3 AAC 306.806;

(3) seize or place an administrative hold on marijuana or any marijuana product as set out under 3 AAC 306.830;

(4) execute a search warrant;

(5) exercise peace officer powers as authorized under AS 17.38.131;

(6) file an accusation for suspension, revocation, or other disciplinary action on a license, permit, or endorsement; and

(7) take any other action the director considers necessary to ensure the enforcement of AS 17.38 and this chapter.

(b) A marijuana establishment, licensee, employee, or agent in charge shall cooperate with the director, an enforcement agent, an employee of the board, or a peace officer acting in an

official capacity to enforce AS 17.38 or this chapter including to

(1) permit entry to and inspection of the licensed premises; and

(2) provide access to business records not later than 10 business days after a request by the director, an enforcement agent, an employee of the board, or a peace officer. (Eff. ___/___/____, Register _____)

3 AAC 306.805. Report or notice of violation Repealed. (Eff. 2/21/2016, Register 217; repealed ___/___/____, Register _____)

3 AAC 306.806. Verbal warning, inspection report, advisory notice, or notice of violation.

(a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity may issue a verbal warning, an inspection report, an advisory notice, or a notice of violation on a license, permit, or endorsement.

(b) A verbal warning may be issued to address a situation where a violation of a statute, regulation, or local law on the licensed premises is quickly correctable and does not pose an immediate risk to public safety or health. A verbal warning may be documented in the licensee's enforcement file maintained by the director.

(c) An inspection report may be issued to document an inspection of the licensed premises. An inspection report must be prepared on a form prescribed by the board and include information set out under AS 17.38 or this chapter or required by the board. An inspection report must be documented in the licensee's enforcement file maintained by the director.

(d) A written advisory notice may be issued to document an incident or defect that violates statute, regulation, or local law for which a verbal warning is not provided. The advisory notice may be issued based on information recorded on an inspection report or another record maintained by the director. An advisory notice may be grounds for issuance of a notice of violation or accusation. The advisory notice must be documented in the licensee's enforcement file maintained by the director.

(e) A written notice of violation may be issued to address more serious or repetitive violations of AS 17.38, this chapter, or local law that has occurred or is occurring on the licensed premises, including overlapping premises. It may be issued as a stand-alone document or based on a single event described in a previously issued inspection report or advisory notice. A notice of violation must meet the requirements set out under 3 AAC 306.809. (Eff. ___/___/____, Register _____)

3 AAC 306.809. Notice of violation.

(a) A notice of violation must be in writing on a form approved by the board and include

- (1) a description of each violation;
- (2) a statement of applicable statutes, regulations, or local laws that were violated;
- (3) a description of any history of prior violations of AS 17.38 and this chapter by the licensee;

- (4) the recommended disciplinary action, including a fine or probation; and
- (5) the signature of the investigator from the office.

(b) The notice of violation must be delivered to the licensee at the licensee's licensed premises, filed with the board, and, if applicable, delivered to the appropriate law enforcement agency. The notice of violation must be documented in the licensee's enforcement file maintained by the director.

(c) A licensee may contest a notice of violation or a recommended disciplinary action by filing a written response to the director not later than 10 days after licensee's receipt of the notice. In the written response, the licensee may either contest the notice of violation as an appeal of the director's decision as described under 3 AAC 306.845 or request an informal conference with the director under 3 AAC 306.844.

(d) If a licensee's written response requests an informal conference with the director under 3 AAC 306.844, the director shall schedule the conference not later than 10 days after receipt of the request. Thereafter, the director may uphold the recommended disciplinary action, reduce the disciplinary action, or dismiss the notice of violation. The director's decision to uphold the recommended disciplinary action, reduce the disciplinary action, or dismiss the notice of violation must be documented in the licensee's enforcement file maintained by the director.

(e) If the licensee requests that the notice of violation be addressed by the board, either after or without conferencing with the director, the board will consider the notice of violation as an appeal of a director's decision at its next regularly scheduled meeting. At that meeting, the director shall present information and witnesses sufficient to prove to the satisfaction of the board that the violation occurred and the recommended fine or other disciplinary action is consistent with board precedent; the licensee may present information and witnesses to contest the disciplinary action and rebut the director's presentation.

(f) Following the presentation described in (e) of this section, the board shall determine

whether a preponderance of evidence supports upholding the notice of violation and, if so, determine the appropriate fine or other disciplinary action based on board precedent. The board may vacate the notice of violation, decrease the recommended disciplinary action, or order additional disciplinary action, including requesting the director prepare an accusation for suspension or revocation of the license.

(g) A decision by the board relating to a notice of violation or civil fine or other disciplinary action may be appealed to the superior court under AS 44.62.560, excluding a request that the director prepare an accusation for suspension or revocation of a license.

(h) A notice of violation may be the basis of a proceeding to suspend or revoke a marijuana establishment's license as set out under 3 AAC 306.810. (Eff. ___/___/____, Register _____)

3 AAC 306.810. Suspension or revocation of license

(a) The board will suspend or revoke a marijuana establishment license issued under this chapter if any licensee is convicted of a felony or of a crime listed in 3 AAC 306.010(d)(2) or (3), or if the board becomes aware that a licensee did not disclose a previous felony conviction or a conviction of a crime listed in 3 AAC 306.010(d)(2) or (3).

(b) The board may suspend or revoke a license issued under this chapter, refuse to renew a license, order probation as described under 3 AAC 306.836, or impose a civil fine as described under 3 AAC 306.840 if the board finds that a licensee for a marijuana establishment

(1) misrepresented a material fact on an application for a marijuana establishment license, or an affidavit, report, or signed statement under AS 17.38 or this chapter; or

(2) is following any practice or procedure that is contrary to the best interests of the public, including

(A) using any process not approved by the board for extracting or manufacturing marijuana concentrate or products; or

(B) selling or distributing any marijuana concentrate or product that has not been approved by the board;

(3) failed, within a reasonable time, to correct any defect that is subject of an advisory notice or notice of violation of

(A) AS 17.38 or this chapter;

(B) a condition or restriction imposed by the board; or

(C) other applicable law;

(4) knowingly allowed an employee or agent to violate AS 17.38, this chapter, or a condition or restriction imposed by the board;

(5) violated a condition or restriction imposed by the board;

(6) failed to comply with any applicable public health, fire, safety, or tax statute, ordinance, regulation, or other law in the state; or

(7) used the licensed premises for an illegal purpose including gambling, possession or use of narcotics other than marijuana, prostitution, or sex trafficking.

(c) A local government may notify the director if it obtains evidence that a marijuana establishment has violated a provision of AS 17.38, this chapter, or a condition or restriction the board has imposed on the marijuana establishment. Unless the board finds that the local government's notice is arbitrary, capricious, and unreasonable, the director shall prepare the notice and supporting evidence as an accusation against the marijuana establishment under AS 44.62.360, and conduct proceedings to resolve the matter as described under 3 AAC 306.810-3 AAC 306.816. (Eff. 2/21/2016, Register 217; am ___ / ___ / ____, Register ___)

3 AAC 306.811. Suspension or revocation of a license based on the act of an employee.

If, in a proceeding to suspend, revoke, or otherwise discipline a marijuana establishment license under 3 AAC 306.809, 3 AAC 306.810, or 3 AAC 306.836, evidence shows that an employee or agent of a licensed marijuana establishment was responsible for an act that would justify suspension, revocation, or other discipline of the marijuana establishment's license if committed by a licensee, the board may find that the licensee knowingly allowed the act if

(1) the licensee

(A) was physically present when the violation occurred;

(B) knew or should have known the violation was occurring; and

(C) did not take action to stop the violation;

(2) the licensee failed to adequately supervise the employee or agent;

(3) the licensee failed to adequately train the employee or agent on the requirements of AS 17.38 and this chapter relating to marijuana; or

(4) the licensee was reckless or careless in hiring the employee or agent. (Eff. ___ / ___ / ____, Register ___)

3 AAC 306.812. Suspension or revocation of marijuana handler permit

(a) The board may suspend or revoke a permit issued under 3 AAC 306.700, impose probation under 3 AAC 306.836, or impose a civil fine under 3 AAC 306.840 if the board finds that a marijuana handler permit holder acted in violation of a statute, regulation, or local law.

(b) The director may issue a director's decision to discipline a permit holder under 3AAC 306.700 by submitting to the board a written statement of reasons for the requested discipline. A permit holder may appeal the director's decision by submitting to the board a written statement of reasons for the requested action to the director and the permit holder.

(c) The director must provide an electronic notice to a permit holder at the electronic mail address provided by the permit holder in the holder's permit application that a hearing conducted in compliance with 3 AAC 306.845 will take place at the board's next regularly scheduled meeting.

(d) The director shall maintain a list of suspended, revoked, expired, or otherwise disciplined permit holders. Upon request, the list shall be made available to licensees and the public.

(e) Notwithstanding the requirements of (a) - (d) of this section, the director may suspend a permit issued under 3 AAC 306.700 if a permit holder's check is returned for any reason by the withdrawing financial institution until the permit fee and any associated fees are paid. (Eff. 5/23/2018, Register 226; am 3/25/2020, Register 233; am ___ / ___ / ____, Register ____)

Editor's note: To request the list referenced in 3 AAC 306.812(d), contact the Alcohol and Marijuana Control Office at 550 W 7th Ave., Ste. 1600, Anchorage, Alaska 99501 or at AMCO.enforcement@alaska.gov.

3 AAC 306.815. Suspension or revocation based on act of employee Repealed. (Eff. 2/21/2016, Register 217; repealed ___ / ___ / ____, Register ____)

3 AAC 306.816. Accusations

(a) A proceeding to suspend, revoke, or otherwise discipline a license, excluding proceedings under 3 AAC 306.809 and 3 AAC 306.836, must be initiated by service of an accusation on the licensee in compliance with AS 44.62.360 and 44.62.380.

(b) The accusation must be served at the address of the licensed premises or at the

address of the licensee responsible for management of the marijuana establishment and compliance with state laws listed in the marijuana establishment license application under 3 AAC 306.020(b)(5).

(c) A licensee served with an accusation under this section is entitled to a hearing as provided under AS 44.62.390. If a notice of defense is filed, a hearing shall be held in compliance with AS 44.62.330 - 44.62.630 before the office of administrative hearings created under AS 44.64.010. Failure to file a notice of defense under AS 44.62.390 constitutes a waiver of the right to further appeal.

(d) A person aggrieved by a final decision of the board following a hearing conducted in compliance with AS 44.62.330 - 44.62.630 may appeal to the superior court under AS 44.62.560. (Eff. ___/___/____, Register ____)

3 AAC 306.820. Procedure for action on license suspension or revocation Repealed. (Eff. 2/21/2016, Register 217; repealed ___/___/____, Register ____)

3 AAC 306.825. Summary suspension to protect public health, safety, or welfare

(a) If the director finds that a person holding a marijuana establishment license has acted and appears to be continuing to act in a way that constitutes an immediate threat to the public health, safety or welfare, the director may issue an order immediately suspending the license of that person, and ordering an immediate stop to the activity that constitutes the threat to the public health, safety, or welfare.

(b) When the director issues a summary suspension under this section, the director shall immediately give the marijuana establishment subject to the summary suspension order notice of the reasons for the summary suspension, and of the time and place for an expedited hearing before the board. Unless the marijuana establishment subject to the summary suspension order requests a delay, the hearing will be held not later than five days after the director gives notice of the reasons for the summary suspension and the scheduled hearing. (Eff. 2/21/2016, Register 217)

3 AAC 306.830. Seizure of or administrative hold on marijuana or marijuana products

(a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity may seize or place an administrative hold on marijuana or any marijuana product from a licensed or previously licensed marijuana establishment

(1) if the marijuana establishment has any marijuana or marijuana product not properly logged into the marijuana establishment's marijuana inventory tracking system;

(2) if the marijuana establishment has any adulterated marijuana food or drink product prohibited under 3 AAC 306.510(a)(4);

(3) if the marijuana establishment has any marijuana or marijuana product that is not properly packaged and labeled as provided in

(A) 3 AAC 306.470 and 3 AAC 306.475; or

(B) 3 AAC 306.565 and 3 AAC 306.570;

(4) if the marijuana establishment has not renewed its license as required under 3 AAC 306.035 or if the board has denied renewal of the marijuana establishment's license under 3 AAC 306.080(b);

(5) upon the development of reasonable grounds to believe that any marijuana or marijuana product

(A) constitutes evidence of a violation of a state statute or regulation; or

(B) poses an immediate threat to worker or public health, safety, or welfare; or

(6) if the marijuana establishment has engaged or attempted to engage in

(A) the diversion of marijuana or a marijuana product; or

(B) a crime on the establishment's licensed premises; in this subparagraph, "crime" has the meaning given in AS 11.81.900(b).

(b) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity may choose, for a reason set out in (a) of this section, whether to place an administrative hold on marijuana or a marijuana product or seize the marijuana or marijuana product. The director may change an administrative hold to a seizure. The director shall update the marijuana inventory control tracking system to reflect the administrative hold or seizure or a change from an administrative hold to a seizure.

(c) If marijuana or a marijuana product is placed on an administrative hold, the marijuana establishment shall

(1) physically separate the marijuana or marijuana product from the public and store it in a secured and restricted-access area of the establishment's licensed premises; and

(2) receive the express written consent of the director to sell, move, transfer, or

engage in any other commercial activity relating to the marijuana or marijuana product,

(A) after the conclusion of the investigation of the reason for the administrative hold, the payment of any civil fine, the lifting of any suspension, and the conclusion of any informal conference, any formal hearing, and any hearing under AS 44.62.330 - 44.62.630 (Administrative Procedure Act) and, if applicable, 2 AAC 64.100 - 2 AAC 64.990;

(B) if seizure of the marijuana or marijuana product has not been ordered under (d) of this section; and

(C) if destruction of the marijuana or marijuana product has not been ordered under (j) of this section.

(d) If the director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity seizes marijuana or a marijuana product under this section, the director shall ensure that the items physically removed from the establishment's licensed premises are stored in a reasonable manner.

(e) The director shall immediately give the marijuana establishment at which the marijuana or marijuana product was placed on administrative hold or from which the item was seized notice of whether the action is an administrative hold or seizure and the reasons for the administrative hold or seizure. In the notice, the director shall state that the marijuana establishment may request, not later than 15 days after receiving the notice,

(1) an informal conference, before either the director or the board, if the establishment is aggrieved by an administrative hold; the director shall also state in the notice that selection of an informal conference does not affect the establishment's right to request a formal hearing from the administrative hold; or

(2) a formal hearing before the board from an administrative hold or seizure; in the notice, the director shall schedule a date and time for a formal hearing that is not later than 15 days after the establishment receives the notice, unless the establishment requests a delay.

(f) If the marijuana establishment aggrieved by an administrative hold elects an informal conference

(1) with the director, the informal conference must be held at a time and place convenient to the establishment and the director, but not later than 15 days after the establishment receives notice of the administrative hold, unless the establishment elects a later

time for the conference; an informal conference with the director may be conducted telephonically; or

(2) with the board, the informal conference must be held at a time and place convenient to the establishment and the board, but not later than the next scheduled meeting of the board; an informal conference with the board may be conducted telephonically.

(g) If the informal conference does not resolve the matter of an administrative hold to the satisfaction of the marijuana establishment, the establishment, not later than 15 days after the last day of the informal conference, may request a formal hearing. The hearing will be held not later than 15 days after the director's receipt of the request for a formal hearing.

(h) If the request for formal hearing is from an informal conference regarding an administrative hold, the director shall send the marijuana establishment a notice with the date and time of the formal hearing, scheduled as described in (g) of this section, unless the establishment has requested a delay. If the request for formal hearing is from an administrative hold or seizure, and the establishment did not request an informal conference, the formal hearing will be held on the date and time scheduled in the notice sent under (e)(2) of this section, unless the establishment has requested a delay. If the administrative hold or seizure occurs in connection with a summary suspension under 3 AAC 306.825, the hearing will be combined with a hearing on the summary suspension.

(i) If an administrative hold is on marijuana plants in a licensed standard or limited marijuana cultivation facility, the order setting the administrative hold must

(1) direct the facility to continue care of the plants until the conclusion of any informal conference, any formal hearing, and any hearing under AS 44.62.330 - 44.62.630 (Administrative Procedure Act) and, if applicable, 2 AAC 64.100 - 2 AAC 64.990; and

(2) prohibit any transfer, sale, or commercial activity related to the plants, until the conclusion of any informal conference, any formal hearing, and any hearing under AS 44.62.330 - 44.62.630 (Administrative Procedure Act) and, if applicable, 2 AAC 64.100 - 2 AAC 64.990.

(j) If after a formal hearing the administrative hold or seizure is upheld as justified, the marijuana establishment at or from which the marijuana or marijuana product was placed on administrative hold or seized may request a under AS 44.62.330 - 44.62.630 and, if applicable, 2 AAC 64.100 - 2 AAC 64.990.

(k) If the marijuana establishment from which the marijuana or marijuana product was placed on administrative hold or seized does not contest the seizure or hold, or if after any informal conference and any final hearing the administrative hold on or seizure of the marijuana or marijuana product is upheld as justified, the board may order the destruction of the marijuana or marijuana product, in addition to or in place of any fines or civil remedies. The marijuana or marijuana product must be destroyed by burning, crushing, or mixing with other material to make the marijuana or marijuana product unusable as provided in 3 AAC 306.740.

(l) The board will not consider marijuana or marijuana product placed on administrative hold or seized to be part of a marijuana establishment's physical inventory until the administrative hold is lifted or the marijuana or marijuana product is removed from seizure. The director shall notify, for information purposes, local governments and taxing authorities with jurisdiction over a marijuana establishment subject to the administrative hold and seizure not later than 30 days after the administrative hold or seizure is put in place or lifted. (Eff. 2/21/2016, Register 217; am 12/6/2020, Register 236; am ___/___/____, Register ____)

3 AAC 306.835. Hearing Repealed. (Eff. 2/21/2016, Register 217; repealed ___/___/____, Register ____)

3 AAC 306.836. Probation

(a) In a disciplinary decision on a notice of violation or suspension order, the board may place a license, permit, or endorsement on probation for a period of no greater than three years. To ensure good faith performance of all obligations by a party while under probation, the board may suspend any portion of time of suspension or civil fines owed.

(b) The director may file a probation violation at their discretion. To initiate a probation violation, the director shall detail in a written communication to the board

- (1) a description of the circumstances that support that request;
- (2) a statement of statutes, regulations, or local laws that were violated;
- (3) prior violations or criminal history of the licensee and any violations recorded on the licensed premises;
- (4) a recommendation of the amount of unsuspended time or fines to levy; and
- (5) the signature of the investigator from the office.

(c) The written communication described in (b) of this section must be documented in the licensee's enforcement file maintained by the director. A copy of the communication must be

delivered to the licensee, filed with the board, and, if applicable, delivered to the appropriate law enforcement agency.

(d) An aggrieved party may contest a probation violation or the recommended disciplinary action issued under (a) of this section as an appealed director's decision by filing a written response to the director not later than 10 days after the licensee's receipt of the notice. If the licensee does not contest the violation and sanction, the director shall impose the violation and sanction.

(e) If the aggrieved party contests the probation violation, the board will consider the violation at its next regularly scheduled meeting. At that meeting the director shall present information and witnesses sufficient to prove to the satisfaction of the board that the violation occurred and the recommended unsuspended time or fine is consistent with board precedent. The licensee may present information and witnesses to contest the probation violation and rebut the director's presentation.

(f) Following the presentation described in (e) of this section, the board shall determine whether there is substantial evidence to uphold the probation violation, and if so, determine whether the penalty imposed by the director is appropriate. The board may vacate the probation violation, decrease the recommended disciplinary action, or order additional disciplinary action, including requesting the director to prepare an accusation for suspension or revocation of a license.

(g) A decision by the board related to the notice of violation, civil fine, or other disciplinary action, excluding a request that the director prepare an accusation for suspension or revocation of a license, may be appealed to the superior court under AS 44.62.560.

(h) Nothing in this section limits the authority of the board to suspend or revoke a license for violation of AS 17.38 or this chapter. (Eff. ___/___/____, Register _____)

3 AAC 306.840. Civil fines

(a) The board may, in addition to any other penalties imposed under this chapter, impose a civil fine in accordance with the Marijuana Control Board Fine Schedule dated March 23, 2021, and adopted by reference on a marijuana establishment, licensee, or person that the board determines has violated a provision of AS 17.38 or this chapter.

(b) In a proceeding under 3 AAC 306.810 - 3 AAC 306.830, the board may impose a civil fine, not to exceed the greater of

(1) the fine imposed in the fine schedule adopted by reference in (a) of this section;

(2) an amount that is three times the monetary gain realized by the marijuana establishment, licensee, or person as a result of the violation, as determined by the board; or

(3) if applicable because of the seriousness of the conduct and the related facts:

(A) \$10,000 for the first violation;

(B) \$30,000 for the second violation; or

(C) \$50,000 for the third or subsequent violation. (Eff. 2/21/2016,

Register 217; am 1/19/2022, Register 241; am ___/___/____, Register _____)

Editor's note: Copies of the Marijuana Control Board Fine Schedule dated March 23, 2021, adopted by reference in 3 AAC 306.840, are available for inspection at the Alcohol and Marijuana Control Office (AMCO) in Anchorage. The Marijuana Control Board Fine Schedule dated March 23, 2021, is also available on AMCO's website

<https://www.commerce.alaska.gov/web/amco/>.

3 AAC 306.844. Informal conference

An aggrieved licensee or permittee subject to any action under 3 AAC 306.801 – 3 AAC 306.840 may request an informal conference with the director. The director will set the informal conference not later than ten days after receipt of the request. (Eff. ___/___/____, Register _____)

3 AAC 306.845. Appeal

(a) An aggrieved party may appeal to the board regarding any other action of the director, an enforcement agent, or an employee of the board charged with enforcing AS 17.38 or this chapter. The board will consider the appeal at the next regularly scheduled meeting of the board.

(b) Repealed ___/___/____. (Eff. 2/21/2016, Register 217; am 12/6/2020, Register 236; am ___/___/____, Register _____)

3 AAC 306.850. Surrender or destruction of license

A license issued under this chapter must be surrendered to the director, an enforcement agent, or an employee of the board on demand if the director or board so orders. A license issued under this chapter must be surrendered not later than 10 days after the marijuana establishment loses or

vacates the licensed premises. If a license is destroyed, the marijuana establishment shall promptly notify the board. (Eff. 2/21/2016, Register 217)

