

Complaint/Issue

- Citizen Compliant
- Licensee (Self Report)
- Board
- Other Law Enforcement Agency
- Officer Initiated



Open Investigation



Unfounded

The investigation has determined the initial complaint was not supported by the evidence.



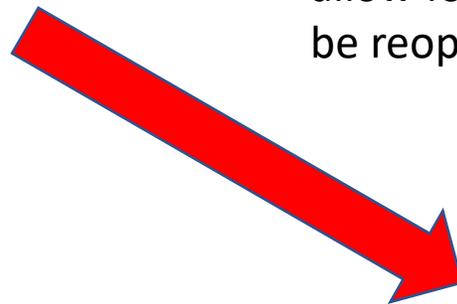
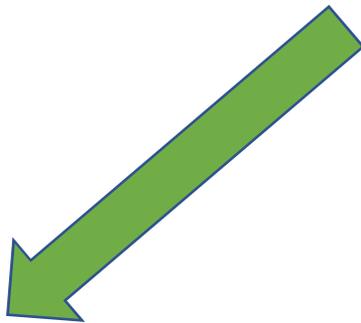
Sustained

The investigation has determined based upon the evidence uncovered support for one of three enforcement actions.



Suspended

The case is not being actively investigated until such time as viable investigative leads, resources, or other external factors allow for the case to be reopened.



Minor Violation*
Or potential for violation



**Warnings and
Advisory Notices**

**Intermediate or
Serious Violation**



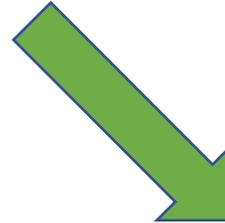
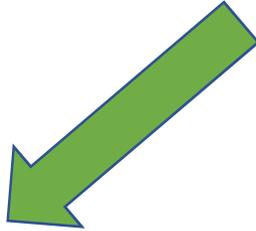
**Notice of Violation,
Possible Fines,**

Major Violation



**Additional License
Action (Suspension,**

Minor Violation or Potential for Violation



Verbal Warning

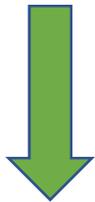
Verbal acknowledgement of concern to the licensee and requesting compliance. Used in the most minor and easily rectifiable of circumstances. Consider regulatory change to identify this potential course; however, likely already within discretionary authority

- Verbal Warning is documented
- Verification of compliance
- Statistics kept for Enforcement performance measurements
- Not part of the licensee's record (include in regulation)
- No board action required

Advisory Notice

Under 3 AAC 306.805(c), an advisory notice may be issued when an incident occurs or a defect is identified that could result in a violation of statute, regulation, or municipal ordinance. An advisory notice may result from an inspection report, but is not a basis for administrative action, unless the incident or defect continues or is not corrected. An advisory notice is written. It will cite applicable statute, regulation, ordinance, or board order and will include the time in which a correction, if any, is required. The advisory notice and final actions by the licensee to rectify the issue will be documented and will become a part of the permanent historical record of the licensee

- Written
- Verification of compliance
- Added to the record of the licensee
- No board action required unless requested by the licensee



DONE



Compliance? - YES



DONE



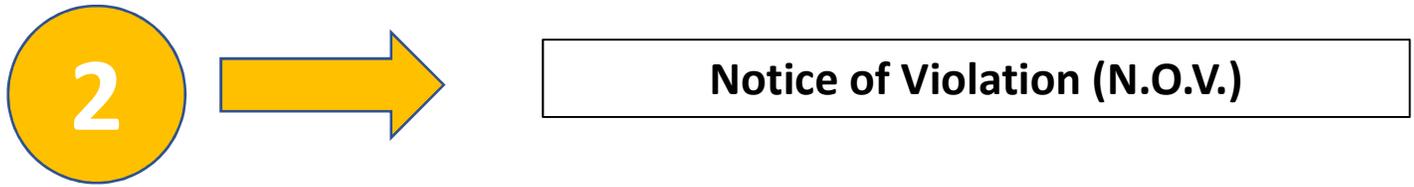
Non-Compliance or Repeated Violations



Serious Violation



Intermediate or Serious Violation -- Notice of Violation -- Fine and Probation Recommendation* (regulatory clarifications required for process)



Under 3 AAC 306.805(d), a notice of violation may issue if an inspection report or other credible information shows a marijuana establishment is in violation of AS 17.38, 3 AAC 306, or other law related to marijuana. Under 3 AAC 306.805(d), investigative personnel have discretion to issue an N.O.V., because of use of the word “may.” The Director also has discretion to dismiss the N.O.V. In general, as compared to an advisory notice, an N.O.V. will cover more serious issues in which the circumstances dictate written and formal action consideration by the board against a licensee (AMCO policy). The requested remedy may be monetary or probationary (this is not set out in regulation). This intermediate step is used when the investigative personnel and director are not seeking license revocation or suspension. However, failure to correct the action identified in the N.O.V. may be the basis of a suspension or revocation action under 3 AAC 306.810(a)(3). An N.O.V., along with a written complaint supporting the allegations, is served to the licensee under 3 AAC 306.805(d).

The Notice of Violation packet will include the following:

- A Notice of Violation(s)
- [A written complaint narrative to include:](#)
 - A narrative describing the circumstances of the violation(s) and supported by a preponderance of the evidence or probable cause statement.
 - A description of applicable statutes, regulations, or orders
 - Prior violations or criminal history of the licensee and/or licensed premises
 - Recommendations of fines or probation
 - Signed by the investigating officer
- Verifiable service of the Notice of Violation upon the licensee
- A description of how the licensee may contest the N.O.V.



N.O.V. with Documentation Served on the Licensee



Request to be heard before Director

No Request

This is not yet set out in regulation

- Agreement to accept the N.O.V. and penalty
- No Agreement



N.O.V. Consideration before the Board



Set before the board on a Violations Hearing section of the agenda during a regular board meeting

Intermediate or Serious Violation (Fine and/or Probation Recommendation)

2

N.O.V. Consideration before the Board

Set before the board in a Violations Hearing section of the agenda during a regular board meeting. Include N.O.V., supporting documentation, licensee’s response, along with a proposed fine, suspension of fine, or probationary period signed by the AMCO Director, licensee potential acceptance or rejection of same for board consideration.



N.O.V with Informal solution with the Licensee
The board can:

N.O.V in Dispute



Accept the terms

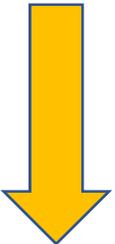
Accept the terms with changes

Not accept the terms

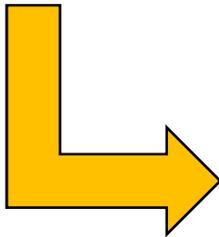
- AMCO presents their case
- Licensee presents their case
- Board determines:
 - Dismisses All
 - Dismisses Part
 - In favor of AMCO
 - Fine
 - Length of time to pay fine
 - Probation (have to apply 3 AAC 306.810(b) remedies or 3 AAC 306.840 to use)
 - Elevate to suspension/revocation
 - Outcome becomes part of the licensee’s record
- May be referred to OAH



DONE



Licensee agrees



DONE

Under 3 AAC 306.835 and 3 AAC 306.845(a), except as provided under 3 AAC 306.825(summary suspension) or 3 AAC 306.830(seizure) a person aggrieved by an action of the director, an enforcement agent, or an employee of the board may request a hearing in compliance with AS 44.62.390 by filing a notice of defense. The board may refer the matter to a hearing before the OAH in compliance with AS 44.62.330 – AS 44.62.630 (APA)

Major or Repeated Violations -- License Suspension or Revocation Sought

3



Accusation

*Note. Also consider referral for criminal prosecution to appropriate authority

Grounds for license suspension or revocation are set out at 3 AAC 306.810(b)-(c) and at 3 AAC 306.815

Under 3 AAC 306.810(c)(grounds based on local government notice) or 3 AAC 306.820, a proceeding to suspend or revoke a license must be initiated by service of an accusation on the marijuana establishment in compliance with AS 44.62.360 and 44.62.380, and conducted in compliance with AS 44.62.330 - AS 44.62.630 (Administrative Procedure Act). The licensee is entitled to a hearing as provided under AS 44.62.390.

The Accusation must will include a [signed, written statement of](#)

- Charges setting out in ordinary and concise language the acts or omissions with which the respondent is charged
- A description of applicable statutes, regulations, or orders that the respondent is alleged to have violated
- Prior violations or criminal history of the licensee and/or licensed premises



Accusation Served on the Licensee in compliance with AS 44.62.360 and 44.62.380

Served personally or by certified mail

Include a Notice of Defense

Under 3 AAC 306.820, the Accusation must be served at the address of the licensed premises or address of the licensee responsible for management and compliance as listed in the application



Request to be heard informally before Director or Board

This is not set out in regulation.



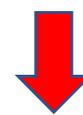
If informal conference is with Director, get proposed and accepted resolution to the Board for review and approval. If informal conference is with the board and the Board and licensee agree to the resolution, document the same in meeting minutes and in Licensee's file. (This is not set out in regulation)



No Request or No Resolution



Licensee files Notice of Defense. Case proceeds before the OAH



As described under 3 AAC 306.845(b), appeals of upheld final decisions of revocation or suspension to the superior court under AS 44.62.560

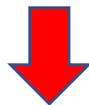
Danger to Public Health Safety or Welfare– Summary Suspension

3



Immediate Order of Suspension

*Note. Also consider referral for criminal prosecution to appropriate authority



- Under 3 AAC 306.825(a), if the Director finds that a licensee has acted or 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 and ordering an immediate stop to the activity that constitutes the threat
- Under 3 AAC 306.825(b), the Director shall give immediate notice of the reasons for suspension. This will include a [signed, written statement of](#)
 - Charges supporting summary suspension
 - A description of applicable statutes, regulations, or orders that the respondent is alleged to have violated (not set out in regulation)
 - Prior violations or criminal history of the licensee and/or licensed premises (not set out in regulation)
 - The time and place of an expedited hearing before the Board

Order Served upon Licensee



Expedited Hearing

Unless the establishment requests a delay, the hearing will be held not later than 5 days after the Director gives notice of the reasons for summary suspension

- Note. Summary Suspension should also be followed up with an Accusation for suspension or revocation in case the summary suspension is granted for a limited term or denied
- Note. Consider referring Summary Suspension hearing to OAH if time permits within 5 days or if licensee waives 5 day requirement



As described under 3 AAC 306.845(b), appeals of

Seizure of Marijuana or Marijuana Product

3



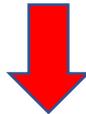
Immediate Seizure Order

Under 3 AAC 306.830(a), the Director, an enforcement agent, employee of the Board, or a peace officer may seize marijuana or marijuana product from a licensed or previously licensed establishment for grounds listed in 3 AAC 306.830 (see rekey and expected changes in the future to this process)

Under 3 AAC 306.830(b), the Director shall give immediate notice of the reasons for the seizure. The seizure order will include a [signed, written statement of](#)

- The grounds for seizure
- A description of applicable statutes, regulations, or orders that the respondent is alleged to have violated (not set out in regulation)
- Prior violations or criminal history of the licensee and/or licensed premises (not set out in regulation)
- The time and place of an expedited hearing before the Board

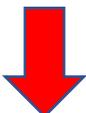
Order Served upon Licensee



Expedited Hearing

Unless the establishment requests a delay, the hearing will be held not later than 10 days after the Director gives notice of the reasons for summary suspension. If the seizure occurs in connection with a summary suspension order, the hearings will be combined (and the 5 day summary suspension time frame operates)

- Note. Seizure Order may be followed up with an for suspension or revocation in case the seizure is denied but grounds for license action remain
- Note. Consider referring seizure hearing to OAH if time permits within 10 days or if licensee waives 10 day requirement
- Potential seizure in place
- Rules for destruction set out in 3 AAC 306.830(d)



No firm appeal right set out in regulation, but final decisions of agencies may be appealed to the