From:	Jana Weltzin
To:	Marijuana, CED ABC (CED sponsored)
Cc:	Smith, Jedediah R (CED); McConnell, Erika B (CED); Hoelscher, James C (CED); Valerie Mastolier; Christina Thibodeaux; Jana Weltzin
Subject:	Correspondence to be included in MCB April 2018 Nome Board Packet
Date:	Friday, March 16, 2018 3:53:11 PM
Attachments:	Retailers transfers back to wholesale correspondence 3.16.2018.pdf

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Good Afternoon – please include the attachment in the Board's packet for the upcoming April MCB meeting.

Thank you for your hard work!

Jana D. Weltzin, Esq.
JDW, LLC
Principal Owner
Of Counsel to Hoban Law Group
3003 Minnesota Drive Suite 201
Anchorage, Alaska 99503
janaweltzin@gmail.com
jana@jdwcounsel.com
630-913-1113 (cell & text)
907-231-3750 (main office)
*Licensed in Alaska and Arizona

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Think green, please don't print unnecessarily

Jana D. Weltzin
Licensed in Alaska &
Arizona 3003
Minnesota Blvd.,
Suite 201
Anchorage, Alaska 99501
Phone 630-913-1113
Main Office 907-231-3750
JDW, LLC
jana@jdwcounsel.com

March 16, 2018

MCB Board Members
Director McConnell
Chief James Hoelscher

Sent Via Electronic Mail

Re: Transfers of Marijuana and Marijuana Product from Retailers to Cultivators and Manufacturers

Dear MCB Members, Director McConnell and Chief James Hoelscher:

The issue has arisen with several retailers where marijuana flower either does not sell due to the particular strain type or has sat on the shelves for a length of time that makes it undesirable for consumers to purchase. Additionally, there have been occasions where the product is delivered to the retailer in bulk, and the retailer's agent inspects the product, but it is difficult to notice all the issues by just looking at the outside of a one-pound bag of marijuana. For example, imagine a scenario where a retailer received a delivery, and from the outside inspection of the bag of product, there did not appear to be any issues – then once the product had been accepted by the retailer and the bag had been opened and the contents were being weighed and packaged for individual consumer re-sale, the retailer found bugs or mold. The retailer, under AMCO staff's current interpretation, has no ability to return the marijuana flower back to the cultivator. Even if the cultivator was willing to accept the product back, the current interpretation by staff prevents such a transfer.

Retailers, with this type of product, would like the opportunity to return the product back to the cultivator it came from and/or directly to a manufacturing license. The ability to return, reject, and demand higher quality from a vender is a basic business function of any other industry. There are no health or public safety risks in returning product, assuming all the other regulatory safeguards are satisfied (i.e. Metrc tracking, trip manifest, etc). In fact, not allowing for a return mechanism actually puts the public's safety and health at risk, because if a retailer cannot return or exchange the product, its incentivize to sell the pest or mold infected product.

In the regulations, there is no language that specifically addresses this type of transaction and there is similarly no prohibition under 3 AAC 306.310 (Acts Prohibited at Retail Marijuana Store) that prohibits these actions either.

The transportation section of the regulations, 3 AAC 306.750, which apply to all license types, begins by stating that "Marijuana or a marijuana product may only be transported to a licensed marijuana establishment by a licensee or an agent or employee of a licensee". It then goes on to state labeling, transporting, tracking, receiving and record keeping requirements of such transports. This section does not specifically mention any distinct license type or imply that any particular license type would fall into a separate set of transportation regulations. In layman's terms, 306.750(a) states that any licensed marijuana establishment can transport marijuana or marijuana product to any other licensed marijuana establishment.

Therefore, I respectfully request the board issue guidance on this matter and make the interpretation that there is nothing in the regulations that prohibits the transactions described in above and to allow for retailers to either return problematic product to the cultivator or sell it to a manufacturer.

Sincerely,

Jana D. Weltzin