



MEMORANDUM

TO: Mark Springer, Chair, and
Members of the Board

DATE: May 7, 2018

FROM: Erika McConnell, Director
Marijuana Control Board

RE: Regulations Project – Definition of a
Resident

Staff requested that the board amend 3 AAC 306.015(e)(2) to remove confusion relating to when residency is evaluated in relation to PFD eligibility. In addition, staff included a clarification, which was consistent with current practice, that residency also be evaluated at time of license renewal and transfer.

In November of 2017, the board amended the proposed regulations change to eliminate evaluation of residency at time of license renewal. The concerns expressed by the board at that meeting were that if someone were to have sick relatives out of state that required a licensee to be out of state for longer than allowed by the PFD rules, the licensee would be in danger of losing their license.

The board adopted the attached changes in January of 2018. No public comments were submitted on this issue. As currently adopted, this regulations change (which is not yet effective) will require AMCO to establish that the licensee is an Alaska resident once, at the time of initial licensure, and never again after that. It is both possible and probable that individuals will establish Alaska residency for a year, obtain their marijuana license, and leave the state. If they have a capable manager, we may never be aware of this, and even if we were aware, that would not be a violation, as they would have been a resident at the time they were initially licensed.

It is my understanding that the board intended marijuana licenses to be held by Alaskans. This regulations change undermines that intention. I am requesting clarification by the board that your intention is for residency to never be evaluated again after initial licensure.

Should this NOT be the board's intention, I request that you reconsider your approval of this regulations project and direct the staff to propose language that would address concerns about emergency situations which may cause a licensee to need to be out of state longer than allowed by PFD eligibility rules, in such a way that their license would not be in jeopardy.

3 AAC 306.015(b) is amended to read:

(b) The board will not issue **a new license or transfer** a marijuana establishment license to

(1) an individual or a sole proprietorship unless the individual or proprietor is a resident of the state;

(2) a partnership unless each partner is a resident of the state;

(3) a limited liability company unless the limited liability company is qualified to do business in the state and each member of the limited liability company is a resident of the state; or

(4) a corporation unless the corporation is incorporated or qualified to do business in the state and each shareholder is a resident of the state.

(Eff. 2/21/2016, Register 217; add'l am 2/21/2016, Register 217; am ___/___/____, Register _____)

Authority:	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		

3 AAC 306.015(e)(2) is amended to read:

(2) “resident of the state” means a person who **currently** meets the residency requirement under AS 43.23 for a permanent fund dividend [IN THE CALENDAR YEAR IN WHICH THAT PERSON APPLIES FOR A MARIJUANA ESTABLISHMENT LICENSE UNDER THIS CHAPTER]. (Eff. 2/21/2016, Register 217; add'l am 2/21/2016, Register 217; am ___/___/____, Register _____)

Authority:	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		