



## MEMORANDUM

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

DATE: June 13, 2018

FROM: Erika McConnell, Director  
Marijuana Control Board

RE: Regulations Project – Advertising and  
Promotional Activities

This project was noticed for public comment from April 26 to June 1, 2018.

**Summary:** At the November 2017 meeting, the board referred this regulations project to a subcommittee, consisting of Mr. Miller. This regulation proposes the following:

- Advertising regulations are moved from applying to just retail stores (in Article 3 of the regulations) to applying to all licensees (in Article 7).
- Business cards and merchandise that only contain the business name, logo, location, and contact information, are not considered advertising.
- A marijuana business may have no more than three signs (whether or not the business name is on the sign) but only two are required to be in the facility's window or attached to the outside of the licensed premises.
- An advertisement for a marijuana business, defined as including the business name, logo, business type, contact information, location, and hours of operation, but not written or illustrative information about marijuana, is not required to include the warning statements.
- The separation from child-related facilities for advertisements has an exemption for "established publications intended for general readership."
- The five warnings that must be included in advertisements are required to be plainly visible, in at least half the font size of the advertisement if on a sign, in a font size no smaller than size 9 if in print, and played at the same speed as the advertisement if in audio format.
- Web advertisements must utilize appropriate measures to prevent access by minors.
- Directed marketing to cell phones is prohibited without the owner's opt-in.
- A marijuana business may sponsor certain types of adult-focused events.
- The sale of marijuana may not be encouraged by using give-away coupons for marijuana, conducting games or competitions relating to marijuana consumption, providing promotional materials or activities that are especially appealing to children, or by holding promotional activities outside of the licensed premises.

Regulations Change: Advertising and Promotions

MCB June 13, 2018

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**Potential Actions:** Any substantive amendments will require the project to be put out again for public comment. Otherwise, the project may be adopted. I recommend the board adopt this change and work to develop a definition of “promotional activity.”

3 AAC 306.360 is repealed:

**3 AAC 306.360. Restriction on advertising of marijuana and marijuana products**

Repealed. (Eff. 2/21/2016, Register 217; Repealed \_\_/\_\_/\_\_\_\_, Register\_\_\_\_)

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

**3 AAC 306.760. Signs, merchandise, advertisements, and promotions.**

(a) Business cards and merchandise, including t-shirts, hats, and stickers, that are distributed by a licensed marijuana facility and contain only the business name and logo, licensee name, and location and contact information, are not advertising or promotions.

(b) A licensed marijuana facility may have not more than three signs that are visible to the general public from the public right-of-way. Two of the three signs may only be placed in the marijuana facility's window or attached to the outside of the licensed premises. The size of each sign may not exceed 4,800 square inches. A sign meeting these requirements is not advertising or promotions.

(c) An advertisement for a licensed marijuana facility and for marijuana or a marijuana product must include the business name and license number.

(d) An advertisement for a licensed marijuana facility is exempt from providing the warning statements in (g) below if

(i) the advertisement contains only the business name, logo, business type, contact information, location, and hours of operation;

(ii) the advertisement does not contain any written information about marijuana or a marijuana product or any photographic or illustrative depictions of marijuana or a marijuana product, other than depictions contained within the established business name font and logo.

(e) A logo or an advertisement for a licensed marijuana facility and for marijuana or a marijuana product may not contain a statement or illustration that

- (1) is false or misleading;
- (2) promotes excessive consumption;
- (3) represents that the use of marijuana has curative or therapeutic effects;
- (4) depicts a person under 21 years of age consuming marijuana; or
- (5) includes any object or character, including a toy, a cartoon character, or any other depiction that appeals to a person under 21 years of age.

(f) An advertisement for a licensed marijuana facility and for marijuana or a marijuana product may not be placed

- (1) within 1,000 feet of the perimeter of any child-centered facility, including a school, a child care facility or other facility providing services to children, a playground or recreation center, a public park, a library, or a game arcade that is open to persons under 21 years of age, except when included in an established publication intended for general readership;
- (2) on or in a public transit vehicle or public transit shelter;
- (3) on or in a publicly owned or operated property;
- (4) within 1,000 feet of a substance abuse or treatment facility; or
- (5) on a campus for postsecondary education.

(g) An advertisement for marijuana or any marijuana product must contain each of the following warnings, which must be plainly visible and at least half the font size of an advertisement on a sign, and no smaller than size 9 font when the advertisement is in printed form. Warnings in audio advertisements must be intelligible and played at the same speed as the advertisement.

- (1) “Marijuana has intoxicating effect and may be habit forming and addictive”;
  - (2) “Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence.”;
  - (3) “There are health risks associated with consumption of marijuana.”;
  - (4) “For use only by adults twenty-one and older. Keep out of the reach of children.”;
  - (5) “Marijuana should not be used by women who are pregnant or breast feeding.”
- (h) A licensed marijuana facility that advertises via web page must utilize appropriate measures to ensure that individuals visiting the web page are 21 years of age or older.
- (i) A licensed marijuana facility may not engage in advertising via marketing directed towards location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature.
- (j) As long as no more than 30 percent of the event’s participants and audience is reasonably expected to be under 21 years of age, a licensed marijuana facility may sponsor
- (1) an industry trade show;
  - (2) a charitable event;
  - (3) a sports event or competition;
  - (4) a concert;
  - (5) any other event approved in advance by the board.
- (k) A licensed marijuana facility may not encourage the sale of marijuana or a marijuana product

(1) by using giveaway coupons for marijuana or a marijuana product as promotional materials;

(2) by conducting games or competitions related to the consumption of marijuana or a marijuana product;

(3) by providing promotional materials or activities of a manner or type that would be especially appealing to children; or

(4) by holding promotional activities outside of the licensed premises. (Eff.

\_\_\_/\_\_\_/\_\_\_, Register\_\_\_)

<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		



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May 1, 2018

Marijuana Control Board

Mark Springer

Loren Jones

Brandon Emmett

Nicholas Miller

Public Safety representative (TBA)

Alcohol & Marijuana Control Office

550 West Seventh Avenue, Suite 1600

Anchorage, Alaska 99501

RE: Proposed 3 AAC 306.760, Advertising and Promotion restrictions for licensed marijuana businesses

Dear Sirs:

Great Northern Cannabis, Incorporated (GNC) is an Alaska corporation with approximately 45 full- and part-time employees, and a number of Alaskan shareholders from a wide variety of backgrounds. We currently own and operate a cultivation facility and a retail store, and we are in the process of permitting additional facilities. We thank you for the opportunity to comment on the proposed advertising and promotion regulations for licensed marijuana businesses.

GNC offers several comments:

1. Regarding proposed 3 AAC 306.760(c), we do not feel it necessary to include the license number. Given the other proposed requirements (e.g. warning statements) this further utilizes space without commensurate benefit. Further, if an advertiser has multiple outlets this requirement adds yet more clutter.
2. We appreciate recognition of our previous comments about advertisements in publications that appear to be reflected in proposed 3 AAC 306.760(f)(1).

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3. With respect to proposed 3 AAC 306.760(g) we remain concerned that print advertisement warnings must adhere to minimum font sizes and audio advertisement warnings to the same speed as the remainder of the advertisement. Specifically, we have tested the audio requirement and it consumed approximately 30 seconds of a 60-second radio ad. This, obviously, precludes the use of 30-second ads and essentially doubles the cost of radio advertising to achieve market penetration. We reiterate that these requirements are not consistent with those for other industries. If the board strongly believes the requirements to be in the public interest, then we would reassert the need for a briefer warning statement.
4. While we think we understand the intent of proposed 3 AAC 306.760(i) we are unsure whether this can be practically executed by either advertisers or enforcement personnel. It seems to require a level of targeting involving the use of extraordinary amounts of personal data that we would be loath to collect, even if it were possible, lest we be impinging on the privacy of customers and non-customers alike.

As always, GNC stands at the ready to collaborate with AMCO during rulemaking processes in either a formal or informal capacity. Simply contact us and we will respond to the best of our ability.

Thank you for the opportunity to provide input, and best of luck in your deliberation.

Best regards,

A handwritten signature in blue ink that reads "Stephen W. Brashear".

Stephen W. Brashear



**Public comment from R.C. Tinderbox:**

**3 AAC 306.360. Restriction on advertising of marijuana and marijuana products:**

**We feel that Advertising and Promotions should be allowed with the same regulations as Alcohol.**

**3 AAC 306.405. Standard marijuana cultivation facility: privileges and prohibited acts:**

**We feel adding new strains are such an important part for the growth of this industry. If allowed, we feel that up to 10 different stains per month but only 6 plants or clones can be delivered. We feel this is reasonable request for the ever-changing strains that are being developed.**

**3 AAC 306.730. Marijuana inventory tracking system:**

**We have no problem for or against the inventory tracking system.**

**3 AAC 306.700. Marijuana handler permit:**

**We have no problem for or against this section.**

**3 AAC 306.720. Video surveillance:**

**We feel a compromise would be 80 days instead of 120. At some point the public needs to take some responsibility and when they see something that they feel is not in regulation, they report it right away, so enforcement can follow up with the complaint. 120 days is expensive for the business to purchase another DVR for the longer recording time frame. We also feel that the video surveillance should not be use as a tool for disgruntled employees or public to try to use against the industry because they got upset and decided they saw something 2 months ago and NOW want to use it to get the facility or store front in trouble. I understand if you have nothing to hide this would not be a problem, but it is the fact that it is quite an added expense to the industry.**

**3 AAC 306.990. Definitions of recreational or youth facility:**

**(35) "recreation or youth center" means a building, structure, athletic playing field, or playground  
(A) run or created by a local government or the state to provide athletic, recreational, or leisure activities for persons under 21 years of age; or  
(B) operated by a public or private organization licensed to provide shelter, training, or guidance for persons under 21 years of age;**

**We have no problem with the definition as it stands**

**3 AAC 306.990. Definitions of Mature and Immature Marijuana plants:**

**(4) "flowering" means a marijuana plant that has visible crystals, buds, or flowers, or for which the exposure to light is scheduled with the intent to produce crystals, buds, or flowers;  
(5) "immature" means a marijuana plant with no visible crystals, buds, or flowers, and in which the exposure to light is scheduled with the intent to prevent formation of crystals, buds, or flowers.**

**We feel that a definition of Mature plant should be defined as; a plant that is in flower with finished production of trichomes that are viable for quality.**

**Immature plant should be defined as any plant in the clone, vegetative or early flower stage with visible signs of flower forming.**

May 30, 2018

Dear AMCO Board

The following are my concerns or suggestions with the proposed advertising regulations. I have experienced AMCO enforcement applying regulations word for word, without regard for intention. I have also experienced the opposite, when AMCO enforcement imposes regulations that are not stated, but rather using an interpretation based entirely on implied intent. Therefore, clarity is imperative. I would like to add that more often than not, AMCO enforcement has treated my store fairly, perform their job well and has been an excellent resource for me.

I had hoped this board would be clearer as to defining "what is advertising". My experience of 18+ years in tobacco advertising laws/regulation compliance has helped me identify some issues in this current set of proposed marijuana advertising regulations that may be helpful for the board to consider. For tobacco products, "what is advertising" has been simply defined in US courts. US courts have determined a logo, a photo, business name, brand name or product type is not advertising unless associated with an action word or verb. For example; "Cigarette" is not advertising, "Cigarettes sold here" is advertising. Any tobacco laws for a logo, a photo, business name, a brand name or product type, is addressed separately from tobacco advertising laws. I would love to see this board use this practice in the marijuana industry, as we do not need to reinvent the wheel, when a perfectly good wheel exists. I believe it will make advertising regulations easier to understand, adopt and enforce.

My concerns or suggestions are written red.

### **3 AAC 306.760. Signs, merchandise, advertisements, and promotions.**

(b) A licensed marijuana facility may have not more than three signs that are visible to the general public from the public right-of-way. Two of the three signs may only be placed in the marijuana facility's window or attached to the outside of the licensed premises. The size of each sign may not exceed 4,800 square inches. A sign meeting these requirements is not advertising or promotions.

Please clarify. The third sign is not addressed. Can the third sign be free standing? Are these "non-advertising" signs limited to what words or messages that 'can' and 'cannot be' used?

(d) An advertisement for a licensed marijuana facility is exempt from providing the warning statements in (g) below if

(I) the advertisement contains only the business name, logo, business type, contact information, location, and hours of operation;

Please clarify; "business type". Using effective signage is essential for any retailer. It could mean a very expensive change for a license holder if AMCO enforcement uses a rigid interpretation. Example: "Retail Store", "Marijuana Retail Store" "Alaskan Marijuana Retail Store" "Premium Alaskan Marijuana Retail Store" "Your Premium Alaskan Marijuana Retail Store". The questions is... Did any of my examples take "business type" beyond your intention?

### **3 AAC 306.760. Signs, merchandise, advertisements, and promotions.**

(g) An advertisement for marijuana or any marijuana product must contain each of the following warnings, which must be plainly visible and at least half the font size of an advertisement on a sign, and no smaller than size 9 font when the advertisement is in printed form. Warnings in audio advertisements must be intelligible and played at the same speed as the advertisement.

(1) "Marijuana has intoxicating effect and may be habit forming and addictive";

(2) "Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence.";

- (3) “There are health risks associated with consumption of marijuana.”;
- (4) “For use only by adults twenty-one and older. Keep out of the reach of children.”;
- (5) “Marijuana should not be used by women who are pregnant or breast feeding.”

I hope this board will give direction as to what is and what is not “printed form of advertising”. If you do not address it, you will put hard working honest marijuana license holders in a dangerous position for a notice of violation, which the board has not provided any mechanism of removing from a licensee’s record. AMCO enforcement will never say “this issue or that issue was not addressed” they will use bits and pieces from all these new regulations and apply them to every type of visual advertisement or visual message about marijuana. There needs to be more direction in these regulations as to what is a printed form of advertising, so that there is less room for misinterpretation by licensees and AMCO enforcement alike.

Please clarify;

2. Is a website a ‘printed form of advertising’?

If so, how do you plan on enforcing font sizes of warnings based on message size when websites can have multiple pages, scrolling pages or images, scrolling pages inside pages, messages in a photo or video? Also – is the board aware that folks cannot always control what is generated on the web and what populates in a search?

3. Is Instagram a ‘printed form of advertising’?

If so, how do you plan on enforcing font sizes when Instagram does not give you control of font size?

4. Is a film, video, or slideshow a ‘printed form of advertising’?

If so, no guideline or possible regulations have addressed for this medium.

5. Is twitter, individual texting or emails a “printed form of advertising”? Similar to Instagram, I am not aware of a method to control font size.

6. Is a common Digital Reader Board for roadside advertising a ‘printed form of advertising’? This question affects me and my store. I was hoping to see this medium addressed.

Digital Reader Boards are placed at a point so drivers and their passengers can receive messages. They make impressions similar to a slide show or video and not a printed sign. And currently, you have not addressed advertising in digital reader boards, slideshows, moving impressions or video.

Digital reader boards come many styles. Some scroll so you only see 1 or 2 words per impression, some you see up to 4 to 10 words. Some can actually produce what looks like a moving photo or film. Most importantly, there are limitations to how much information can be put on them and what size fonts can be used. Limitations are based on the physical size of the device, the physical size of the light bulbs and the digital reader board software. The digital reader board at my location is small in comparison to most, it is impossible to make one impression with all the warnings. I am very limited to the number of characters on each impression.

If a Digital Reader Boards is deemed ‘printed form of advertising’. Here is a sample of my digital reader board when advertising \$10 off edibles. It takes about 10 seconds to scroll through each impression. The entire message in my example below will take over 2 minutes. Unlike video or film, my observer is moving at 45 miles an hour which means the person who reads “High Bush Buds #10831” will be about 2 miles away when the message is finished. This makes the warnings ineffective and may cause confusion or miscommunication. Also, I share it with another business on the property, so anything confusion will also affect a non-marijuana business and their customers.

Example of a Digital Reader Board:

1<sup>st</sup> impression.... High Bush Buds # 10831

2<sup>nd</sup> impression.... SALE on edibles

3<sup>rd</sup> impression.... \$10 off all edibles

4<sup>th</sup> impression.... Marijuana impairs concentration

5<sup>th</sup> impression... coordination and judgement

6<sup>th</sup> impression.... Do not operate a vehicle or

7<sup>th</sup> impression.... machinery under its influence  
8<sup>th</sup> impression.... There are health risks associated  
9<sup>th</sup> impression... with consumption of marijuana  
10<sup>th</sup> impression.... For use by adults twenty -one  
11<sup>th</sup> impression.... and older. Keep out of the children  
12<sup>th</sup> impression.... Marijuana should not be used  
13<sup>th</sup> impression... by women who are pregnant  
14<sup>th</sup> impression.... or breast feeding

If a Digital Reader Boards is deemed a 'printed form of advertising' and I was able to put the warnings near my Digital Reader Board and the font was ½ the size of the advertising font, the warning sign would be 5x's larger than the device. My digital Reader board is 1 ½ ft. high by 6 ft. wide (1,296 sq. inches). I approximate the additional sign needed would be about 6ft high x 6ft wide (5,000 sq. inches). This seems extreme and unrealistic.

Passing vehicles have about 5 seconds to read any message. If a passing vehicle actually slowed down to the speed so they read all the warnings at any size font on a standard printed signboard they will take their eyes off the road for over 15 seconds, and more time if you're waiting for moving impressions. For road safety, no driver should ever read the warnings. As for the passenger, they will not have the time to read the warnings

The objective is to have the warnings read. I have a suggestion, which I have based from an FDA rule found in tobacco advertising.

'A retail store who uses visual advertising on their property to advertise marijuana or marijuana products intended to be seen by vehicles driving by, including but not limited to a signboard, a moving impression, a video, a slideshow or a digital reader board must choose one of the five warnings'.

This enables a warning to genuinely be read by a passing vehicle without creating a dangerous driving condition and it gives you a practical avenue for font size regulation.

(h) A licensed marijuana facility that advertises via web page must utilize appropriate measures to ensure that individuals visiting the web page are 21 years of age or older.

Please Clarify. What does 'utilize appropriate measures mean'? Could it be that the initial page requires the user to click on a button that says "I am 21 years of age or older?" Vague language will put license holders in an unsafe position for violation based on interpretation by AMCO enforcement.

(i) A licensed marijuana facility may not engage in advertising via marketing directed towards location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature.

Please clarify. Every computer, I-pad and cell phone are a "location-based devices". IP addresses are based on your location. Everything you search for on the internet is based on the location of your device, as well as your browsing history and the search request.

(j) As long as no more than 30 percent of the event's participants and audience is reasonably expected to be under 21 years of age, a licensed marijuana facility may sponsor

- (1) an industry trade show;
- (2) a charitable event;
- (3) a sports event or competition;
- (4) a concert;
- (5) any other event approved in advance by the board.

The wording in the regulation sets up every license holder for a violation, with exception for events that are specifically targeted for children such as a school Halloween Carnival or an event specifically targeted for 21+ adults such as an event held in a bar. I do not know of one event here on the Peninsula that keeps records on attendees ages.

May I suggest ... Do not allow sponsorships of events that are specifically targeted for children's amusement or participation, as well as any event that had host a majority of children's activities. For example, "Nikiski Days", This event is open to the public, has booths that sell merchandise, bands, games, an alcohol tent, barbeque and food carts. I could ask the organizer, how many activities are geared towards children, and how many activities are for adults. Using this type of wording, it allows the license holder use basic math to calculate compliance. This may not be a perfect system but it will protect us from a violation since we are using hard numbers and not a guessing game.

As for the 18 to 21-year olds, they have lost their rights to purchase regulated items such as alcohol, tobacco or marijuana. We must remember they are legal adults. The board should avoid banning sponsorships based on labeling legal adults as children. For example, I was asked to sponsor an adult softball team. Am I expected to gather the ages of all players in the league so I can calculate whether more than 30% of them are between 18 -20 years of age? Am I expected to have the league know the ages of those who could possible attend the games? We need language that does not put licensees in the impossible position of guessing who will attend or participate an event.

When a business sponsors an organized event, it is typical for the event to advertise and include the sponsors name or logo. If it's a sporting event your name may appear on a Jersey or T-Shirt. The actual advertising or clothing is not paid by or controlled by the marijuana business and more importantly, the marijuana business is not privy to the "proofing" of ads or promotional material. Is this considered advertising that would, in turn, require our license number to be included?

Also, Number (5) should be deleted. There should be no more work given to our control board, they have enough on their plate.

(k) A licensed marijuana facility may not encourage the sale of marijuana or a marijuana product  
(1) by using giveaway coupons for marijuana or a marijuana product as  
promotional materials;

(1) This regulation is so poorly written it should be re-addressed. It has caused many conversations, questions and confusion within the industry. I have been in the retail business for almost 20 years and I have never heard the phrase "using giveaway coupons".

All coupons are part of advertising campaigns to promote sales by discounting products. They are not designed not to give away free product. Common coupons are Buy 1 Get 1 Free (50% off when you buy two), \$1 off or 20% off, etc. I think AMCO is trying to prevent Marijuana License Holders from giving away free marijuana through a kind of paper voucher. Consider re-writing the regulation that states no advertising campaign shall include giving away free marijuana or marijuana products.

Or maybe AMCO does not want Marijuana License Holders "to give away coupons" in any manner. If so, then simply rewrite to say that and then put it out for public comment and let the public weigh in on that revision. Since many paper coupons are slowly disappearing and businesses are using cell phone apps, be clear in the re-write that cell phone apps are not considered coupons as long as they follow the mobile phone regulations.

So what is a "giveaway coupon"? I have no idea. If the board has issues with specific types of coupons then please use the correct terminology so the intent of this regulation can be met. See coupon terminology below.

For your reference... There are 3 types of coupons.

**1. Manufacturer coupon or 'Manufacturer to Consumer' coupon.** A form of advertising offered to a consumer direct from a manufacturer though newspapers, magazines, direct mail, cell phone apps or a website. If a retailer chooses to accept the manufacturer coupon the retailer is reimbursed for the value from the manufacturer.

**2. Retailer Coupons or ‘Retailer to Consumer’ coupon.** Fred Meyer is a perfect example. When you see the little slips of bright orange papers below the product on the shelf, these are coupons are produced by retailer for an in-house discount. Sometimes they are presented via cell phone apps, such as ‘Joanne Fabrics’ who offers coupons thru their cell phone app. These coupons are rarely mailed or emailed since they are an “impulse buying” or “time sensitive” form of advertising. The discount is paid for by the retailer.

**3. Store Specific Coupon or ‘Manufacturer to Retailer’ coupon.** These coupons are a combined marketing campaign between manufacturer and a specific retailer. A classic example is the Safeway coupons found every Wednesday in the newspaper’s grocery section. The value of discount is paid via contractual purchase agreements between the two parties.

(k) A licensed marijuana facility may not encourage the sale of marijuana or a marijuana product

(4) by holding promotional activities outside of the licensed premises.

This regulation has to be clarified. “By holding promotional activities” is not clear. Please consider using the phrase “by sponsoring a promotional activity”.

This will release any license holder from a violation when a neighbor business or charity organization is sponsoring an event nearby or on the property. This event could be as simple as a charity organization selling hot dogs in the parking lot. This board should not give the impression that AMCO enforcement has jurisdiction over any non-marijuana businesses or non-profit organizations. AMCO enforcement should never violate a marijuana license holder for anything that is not their doing. Retail stores will always benefit from activities on or near their location whether they are sponsoring them or not. We all know that on April 20<sup>th</sup> of every year, marijuana retailers will take full advantage, but this board must understand that they cannot dictate regulation over those they do not control. Marijuana is a legal product and has become normal. Just like the carnival that was in the parking lot where an Oaken Keg is located, the event was enjoyed by all without community outrage, we will see this for marijuana businesses in the near future.

Please clarify “outside of the licensed premises”. What does ‘outside the premise’ mean? If you interpret this word for word, no sponsorships of any event is allowed anywhere in the state. As it reads this regulation fosters broad based interpretation which is unfair to license holders.

I would like the board to address Business listing. What is a Business Listing? Example, when you google ‘High Bush Buds’ on your computer, you will see what looks like an advertisement on the right side of your screen. This is called a Business Listing and they are not in our control. These appear all over the internet. We have found Business Listings for High Bush buds on yelp, potguide.com, marijuanadoctors.com, Leafly, Headshopfinder.com plus many more. There are some sites who allow you to “claim” the Business Listing and give you the ability to adjust some of the information such as hours of operation and address, but more often than not, you must purchase the right for control.

On google, we have officially “claimed” our Business Listing, but cannot delete incorrect photos, or incorrect information. There is even a section called “From High Bush Buds....” which we have no control. We especially cannot add warnings or license numbers. We have taken a photo of the warnings and posted it on our Google Business Listing, but we have no control as to its size or placement.

I implore the Board to officially release any Marijuana License holder from all advertising regulations for any ‘Business Listing’ or ‘advertisement’ that we did not purchase, are not our creation or are not in our control.

Thank you,  
Patricia Patterson  
High Bush Buds  
License # 10831  
907-398-0202

Marijuana Control Board,

Advertising and Promotional Activities.

We should not need special permissions to sponsor an event or organization! It seems that it is an active attempt to not allow the industry to support those communities that they are operating in. With out advertising any marijuana or marijuana products then it should be no different than handing out a business card or merchandise and should not be considered advertising. If our industry would like to invest money into teams or non-profits to strengthen our communities it should be a welcome boon to the community. It is not harmful to the community to know that our industry exists and is donating to worthy causes or events to strengthen community ties. In this draft if it is only the name or logo of a business then it is not considered advertising. Why would sponsoring a team or event then become advertising that needs more restrictions if only a logo and name does not count as advertising?

I have seen at family fun centers beer promotions hanging over the finish line of the go-kart track. Movie theatres also serve alcohol in the same room that children are playing arcade games in. I think that we should be allowed to at least sponsor events and organizations without restriction since the alcohol industry has onsite consumptions at family fun centers, family establishments and family events. I have seen a new brewery with the children of the owners out wearing beer can suites to promote the opening of their business. Please allow us a small portion of that same acceptance by not hindering our ability to be part of our communities through sponsor programs.

I do support being able to have at least one sign that is not attached to the building. I am unsure how it is thought to be a negative impact to simply let the public know that we exist and where we are located.

Caleb Saunders, CEO – Green Jar, President – Matanuska Valley Cannabis Business Association.



**From:** Vivian Stiver  
**To:** [CED AMCO REGS \(CED sponsored\)](#)  
**Subject:** Regarding changes to Marijuana Advertising  
**Date:** Friday, June 01, 2018 4:16:28 PM

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RE: Comments on proposed changes on advertising by marijuana businesses

Thank you for the opportunity to provide comments to the proposed regulation changes to the advertising of marijuana businesses.

I request the below advertising regulations remain unchanged. These are reasonable for a product that is intoxicating to users and may influence under age consumption.

### 3 AAC 306.360

This section is current through Register 225 (April 2018)

- [Alaska Administrative Code](#)
- [TITLE 3. COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT](#)
- [PART 19. ALCOHOLIC BEVERAGE CONTROL BOARD](#)
- [CHAPTER 306. REGULATION OF MARIJUANA INDUSTRY](#)
- [ARTICLE 3. RETAIL MARIJUANA STORES](#)

#### 3 AAC 306.360. Restriction on advertising of marijuana and marijuana products

- **(a)** A retail marijuana store may have not more than three signs, visible to the general public from the public right-of-way, that identify the retail marijuana store by its business name. A sign may be placed in the retail marijuana store's window or attached to the outside of the licensed premises. The size of each sign may not exceed 4,800 square inches.
- **(b)** An advertisement for marijuana or a marijuana product may not contain a statement or illustration that
  - **(1)** is false or misleading;
  - **(2)** promotes excessive consumption;
  - **(3)** represents that the use of marijuana has curative or therapeutic effects;
  - **(4)** depicts a person under 21 years of age consuming marijuana; or
  - **(5)** includes an object or character, including a toy, a cartoon character, or any other depiction designed to appeal to a person under 21 years of age, that promotes consumption of marijuana.
- **(c)** A retail marijuana store may not place an advertisement for marijuana or a marijuana product, except as provided in (a) of this section,
  - **(1)** within 1,000 feet of the perimeter of any child-centered facility, including a school, a child care facility or other facility providing services to children, a playground or recreation center, a public park, a library, or a game arcade that is open to persons under 21 years of age;
  - **(2)** on or in a public transit vehicle or public transit shelter;
  - **(3)** on or in a publicly owned or operated property;
  - **(4)** within 1,000 feet of a substance abuse or treatment facility; or

- (5) on a campus for postsecondary education.
- (d) A retail marijuana store may not use giveaway coupons as promotional materials, or conduct promotional activities such as games or competitions to encourage sale of marijuana or marijuana products.
- (e) All advertising for marijuana or any marijuana product must contain each of the following warnings:
  - (1) "Marijuana has intoxicating effects and may be habit forming and addictive.";
  - (2) "Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence.";
  - (3) "There are health risks associated with consumption of marijuana.";
  - (4) "For use only by adults twenty-one and older. Keep out of the reach of children.";
  - (5) "Marijuana should not be used by women who are pregnant or breast feeding.".

Your consideration is greatly appreciated.

Sincerely,

Vivian

--

*Vivian Stiver*

907.347.2102

**[Because power corrupts] Society's demands for moral authority and character increase as the importance of the position increases.  
— John Adams, (1735-1826)**



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Marijuana Control Board  
Director McConnell  
AMCO Staff

Public Comment for consideration by the Board

### **3 AAC 306.720(e) Changes regarding video storage retention**

After researching and speaking with persons in the security Industry(not involved in the marijuana industry) about this specific requirement the comments I received were to say that those requirements will be rather impossible for the average small business owner to maintain. I personally cannot see a need to have 4 months worth of around the clock surveillance recordings. It states in the regulations already in place,"May erase video recordings, unless the licensee knows or should know of any pending criminal, civil, or administrative investigation for which the video recordings may contain relevant information."

If this is something that the board feels MUST be adopted may I suggest a caveat to the requirements. When it comes to 4 months of video recording stored, the cost of having new equipment in place that starts recording when movement is detected would be a much less of a burden then having to maintain the cost of four months storage to the pocket books. All areas would still be covered by surveillance but it cuts out the unneeded recordings of absolutely no human interactions or movements.

### **3 AAC 306.760(K)(4) "Advertising and Promotions Restrictions**

This is a much needed regulation packet and I am in full support, I would however like to address (K)(4) by working it "holding promotional activities outside the licensed premises" would restrict businesses to be able to celebrate grand openings or anniversaries in a way they so choose. This should be better defined to address the fear that any outside promotional activity may include activities that may be appealing to children. If that is the case then adding language that specifically excludes and activity that may be appealing to children IE:bounce house.



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June 1, 2018

Marijuana Control Board  
Director McConnell  
*Sent via Email*

**Re: Public Testimony Submitted re Regulation Projects for Advertisement June 2018 MCB Meeting**

Dear Esteemed MCB Members & Director McConnell:

Please consider the following issues and concerns during your MCB June 2018 meeting. Specifically, my staff and clients wanted to emphatically thank Ms. Jane Sawyer for the hard work and the long hours Ms. Sawyer has been putting in to help the industry and the state operate in an efficient and cohesive manner. Thank you to the entire AMCO staff and Enforcement team for their dedication and hard work.

Comments for proposed Advertising regulations currently in front of the board for its consideration:

**3 AAC 306.760. Signs, merchandise, advertisements, and promotions.**

(b) A licensed marijuana facility may have not more than three signs that are visible to the general public from the public right-of-way. Two of the three signs may only be placed in the marijuana facility's window or attached to the outside of the licensed premises. The size of each sign may not exceed 4,800 square inches. A sign meeting these requirements is not advertising or promotions.

*Comment – I believe based on the board's discussion on this regulation that the intent is that the third sign may be attached to the facility but it is also allowed to be an unattached sign – the problem with the regulation is that it does not clearly state that the detachment from the building is allowed. Please amend slightly to make it absolutely clear that the third sign may be an unattached sign. Also, the way the second sentence is worded seems to imply that only two of the three signs may be attached to the building, is the MCB meaning to require a max of only two*

*signs may be attached to the building and that an establishment may not attach all three signs, which is how most shops have their signage now under the current regulations? Please clarify.*

### **3 AAC 306.760. Signs, merchandise, advertisements, and promotions.**

(g) An advertisement for marijuana or any marijuana product must contain each of the following warnings, which must be plainly visible and at least half the font size of an advertisement on a sign, and no smaller than size 9 font when the advertisement is in printed form. Warnings in audio advertisements must be intelligible and played at the same speed as the advertisement.

- (1) “Marijuana has intoxicating effect and may be habit forming and addictive”;
- (2) “Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence.”;
- (3) “There are health risks associated with consumption of marijuana.”;
- (4) “For use only by adults twenty-one and older. Keep out of the reach of children.”;
- (5) “Marijuana should not be used by women who are pregnant or breast feeding.”

*Comment – what does “printed form” mean? Does it mean websites? Twitter? Facebook? Instagram? For many of the mediums identified there is not a font size option, how would one comply with this regulation if the answer to my first question, what is printed form, included these types of mediums? If social media and the internet is not a printed form of advertisement, please state that on the record for clarification of later interpretation.*

(h) A licensed marijuana facility that advertises via web page must utilize appropriate measures to ensure that individuals visiting the web page are 21 years of age or older.

*Comment – I am hopeful that as we re-craft and add to these regulations, we will work towards removing subjective standards, as that places Enforcement and the licensees in a tough position. What is appropriate measures to ensure individuals are 21 and older when they visit a website could vary widely. Is clicking a “yes, I am 21 or older” an appropriate measure? How about requiring a visitor to insert their birth date? There is a more objective standard that this Board could author in the regulations.*

*For example, if the regulation would require that a website have an access portal where a person has to enter their birth year and click “yes, I am over the age of 21” then that would be a standard that would be easy to understand, easy to enforce, and is effective.*

(j) As long as no more than 30 percent of the event’s participants and audience is



reasonably expected to be under 21 years of age, a licensed marijuana facility may sponsor

- (1) an industry trade show;
- (2) a charitable event;
- (3) a sports event or competition;
- (4) a concert;
- (5) any other event approved in advance by the board.

*Comment – Speaking about reducing the amount of subjectivity in our regulations, this section is by far the most concerning and the least objective regulation we have considered to date. How is one supposed to guess the ratio of participants at an event? Please consider the typical situation where this type of subjective guessing game of a regulation would be problematic.*

*Pot Shop Alaska wants to sponsor an adult softball team. The fact that its an adult team should lead one to conclude that this sponsorship is okay under the regulations. But wait, Pot Shop Alaska needs to figure out how many team members are not adult enough to buy marijuana (ie the 18-20 year olds) – so take a team of 20 people, how many of the team members are between the ages of 18-20, take a guess..*

*Lets guess that there are eight 18-20 year olds on the team – well, that is more than 30 %, so does it break the regulations? Not so fast, its not that easy – we need to look at the audience, who regularly attends these adult softball games. Friends of the players? Probably .. Kids of the players? Maybe.. So take our % of underage team mates + % of guesstimation of audience participates, and that = what?*

*Does the above paragraph make sense to any of you? It does not to me – but it's the analysis licensees will have to struggle with (and Enforcement as well) if this section gets adopted as written. Please consider a straight forward approach to sponsorship of an event. Here are some ideas of items to include in a revised section (j):*

- ✓ Any events specifically held for and geared towards only children shall not be sponsored by marijuana licensees. Family events and venues can be sponsored if the event holders also accept alcohol businesses as sponsors, i.e., Arctic Man and other similar unique Alaskan traditions, sporting events, all ages concerts/community events, etc.;
- ✓ All sponsorship media advertisements, banners, posters, or social media postings, which mentions or displays only the business name and/or logo are allowed and shall not be required to contain the five advertisement warnings. Any form of event advertisement that mentions regulated marijuana products shall include the five warnings.
- ✓ No sponsorship material shall insinuate or offer any marijuana or marijuana products will be given as promotional material for free or available at the event.
- ✓ No sponsorship material shall be drafted in a manner that would appeal specifically to persons under the age of 21 to engage in the consumption of marijuana/marijuana products.
- ✓ No sponsorship material shall contain cartoons when referring to or about a marijuana licensee sponsorship.

- ✓ A marijuana licensee may hold or be their own sponsor of an event, such as a concert, provided that the event does not violate any provision of the State of Alaska commercial marijuana regulations (i.e., no onsite consumption, no giving marijuana away or selling it off premises, no restricted access violations, etc.).

(k) A licensed marijuana facility may not encourage the sale of marijuana or a marijuana product  
(4) by holding promotional activities outside of the licensed premises.

*I would encourage the board to remove section k in its entirety – this provision is taking away a company's ability and right to promote its business by holding events, or parties. It is stating that a company cannot have an event to promote the business aspect of why the company exists, which is the sale of marijuana or a marijuana product. I cannot think of any other industry that would have this restriction. None. If the board decides to keep this section, I would recommend rewording to as follows:*

(k) A licensed marijuana facility may not encourage **over or excessive consumption** of ~~the sale~~  
of marijuana or a marijuana product

(4) by holding promotional activities outside of the licensed premises.

I would also recommend inserting the following policies/statements in the beginning of the advertisement regulation section to protect this industry from federal intervention:

- (1) Marijuana Control Board serves the interests of the citizens of Alaska by regulating and prohibiting advertising marijuana items in a manner:
  - (a) That is attractive to minors;
  - (b) That promotes excessive use;
  - (c) That promotes activity that is illegal under Alaska law; or
  - (d) That otherwise presents a significant risk to public health and safety.
- (2) The Control Board also serves the interests of Alaskans by allowing advertising for the purpose of informing the public of the availability and characteristics of marijuana.
- (3) All marijuana advertising by a licensee must conform to these rules.

Thank you for the hard work of you, this volunteer Board, in other states you would be paid a lot of money for your service on the marijuana control board, and you five (finally fifth member has joined the team) give your time to us, which takes time away from your family and life and we appreciate your contribution. This Board's careful analysis and thoughtful process is vital to the success of the industry and benefits and protects our community. Welcome to the new board member, we look forward to working with you and thank you for volunteering your time to this new industry.

Respectfully Submitted,

Jana D. Weltzin



Submitted By	Comment
<p>6/1/2018 10:53:28 AM</p> <p>Joe Byrnes  <a href="mailto:jfbyrnes@alaska.edu">jfbyrnes@alaska.edu</a>  Fairbanks, AK, US  Anonymous User</p>	<p>June 1, 2018</p> <p>Erika McConnell  Alcohol and Marijuana Control Office  550 W. 7th Avenue, Suite 1600  Anchorage AK 99501  amco.regs@alaska.gov</p> <p>RE: Comments on proposed changes in the regulation of marijuana advertising and promotions</p> <p>Thank you for the opportunity to provide comments to the proposed regulation changes regarding advertising and promotions. I offer the following comments:</p> <p>1. 3 AAC 306.760(a) - page 1: I am concerned that t-shirts, hats, and stickers are not going to be considered advertising or promotions. When stickers inevitably end up on benches around schools, or playgrounds, it will promote and advertise marijuana use to audiences that cannot legally use it. This seems like an obvious loophole. Even with just a logo, creating a brand perception of familiarity and normalization of the business' products is problematic and will likely result in desensitized attitudes towards potential harms of marijuana use among youth. Youth are highly impressionable and these sorts of signs should not be proliferated in such a manner they can easily be put before children and teenagers. In Colorado, youth use is on the rise:  <a href="http://gazette.com/collateral-impact-colorado-schools-on-front-1">http://gazette.com/collateral-impact-colorado-schools-on-front-1</a></p> <p>2. 3 AAC 306.760(g) - page 2: Having a minimum font requirement for warnings at least half the font size of the advertisement but no less than size 9 is a good change and will ensure that any warning text is visible and these rules are clear to licensees. While the proposal says "plainly visible," it does not say that the warnings must be readable. I recommend some parameters to ensure the readability such as a font type (like Times New Roman).</p> <p>3. 3 AAC 306.760(h) - page 3: I am concerned about allowing facilities to advertise via the Internet and to have webpages. While the proposal requires measures to ensure that individuals visiting the web page are 21 years of</p>

Submitted By	Comment
	<p>age or older, it is not very difficult for a person to share web content onto social media which can be easily disseminated to audiences under 21 years of age. Furthermore, current age verification systems are typically on-your-honor systems. Without some sort of external age verification system, there's no way to ensure that individuals visiting the webpage are of legal age. Online advertising should be limited to opt-in email to reduce the likelihood of unintentional dissemination to underage audiences.</p> <p>4. 3 AAC 306.760(j) - page 3: I am very concerned about allowing marijuana facilities to sponsor industry trade shows, charitable events, sports events or competitions, concerts, or “any other event approved in advance by the board” as long as no more than 30 percent of the event’s participants and audience is reasonable expected to be under 21 years of age. If the State is trying to ensure that youth are not subjected to marijuana advertising, any events sponsored by a marijuana facility should be 21 years of age and up only. This is particularly important for anything other than a marijuana trade show because children often accompany parents to such events. It is not clear what type of advertisement or promotional material may be present at those sponsored events, but 3 AAC 306.760(a) would allow for all sorts of promotional material with logos, contact, and location information be present and disseminated to persons under 21. Furthermore, the ambiguity of the term "any other event approved by the board," seems arbitrary and allows the board overly broad power.</p> <p>5. I am concerned with how the current 3 AAC 306.360(d) is being replaced by the proposed 3 AAC 306.760(k) [pages 3 and 4]. 3 AAC 306.360(d) reads: “A retail marijuana store may not use giveaway coupons as promotional materials, or conduct promotional activities such as games or competitions to encourage sale of marijuana or marijuana products.” This language is being significantly reduced in a detrimental fashion by the proposed regulations.</p> <p>a. The proposed 3 AAC 306.760(k)(1) states the</p>

Submitted By	Comment
	<p>restriction on giveaway coupons is made specific to only marijuana or a marijuana product so businesses could hold promotions for things like “get a free hat” or “get a free t-shirt” which would draw people in the door and promote further advertising of marijuana and increased sale of products.</p> <p>b. The proposed 3 AAC 306.760(k)(2) changes the language “conduct promotional activities such as games or competitions to encourage sale of marijuana or marijuana products” to just “conducting games or competitions related to consumption of marijuana or marijuana product.” This is also problematic because it allows so a business could have some sort of game night or trivia night so long as it not a consumption-type competition. This type of activity by association encourages sale and use of marijuana products. Furthermore, this clarification seems particularly geared toward the desire to allow on-site consumption which the board lacks statutory authority to enact.</p> <p>Thank you, Joe Byrnes</p>



May 31, 2018

Alaska Marijuana Industry Association  
3003 Minnesota Dr. Suite 201  
Anchorage, AK 99503

RE: 3 AAC 306.360 amended by adding subsection 3 AAC 306.760. Signs, merchandise, advertisements, and promotions.

Members of the Marijuana Control Board,

On behalf of the Alaska Marijuana Industry Association (AMIA) board this opposition public comment is in reference to the proposed regulation amendment AAC 306.760 regarding advertisement and promotion.

The language of this regulation requires that an advertisement for marijuana, marijuana product, or a licensed marijuana facility must include the business name and license number. While business cards, merchandise, and signs are excluded from “advertising” in this amendment, it is extreme to require a license number, which is completely irrelevant information to the public on every other advertising material not specifically listed in this amendment. Are these businesses going to be required to list their license numbers on their social media pages or on each social media post? This regulation simply creates even more grey areas for businesses making every attempt to thrive in a growing industry. There is absolutely no reason to complicate the process of advertising.

Section 3 AAC 306.760(b). Signs, merchandise, advertisements, and promotions does not clarify what can be done by the business with the third sign – we believe it was the board’s intent to allow for the third sign to be a free-standing sign, but the regulation doesn’t state this. Please amend the wording of this subsection to reflect the intent of the regulation change, to allow for a licensee to have a (one) free standing sign.

As for 3AAC 306.760 (g), requiring that all written advertisements must contain the following five warnings which must be plainly visible in no smaller than size 9 font. As an initial matter,

what is defined as a written advertisement? The board should clarify what counts as a written advertisement – is it twitter? The newspaper? Instagram? A webpage? A profile on Weedmaps? What is considered a “written advertisement”. Secondly, by requiring the following warnings on all advertisements it severely limits a licensee’s ability to promote its company: “(1) ‘Marijuana has intoxicating effect and may be habit forming and addictive’; (2) ‘Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence.’; (3) ‘There are health risks associated with consumption of marijuana.’; (4) ‘For use only by adults twenty-one and older. Keep out of the reach of children.’; (5) ‘Marijuana should not be used by women who are pregnant or breast feeding’” leaves no room for license holders to advertise their products accurately and to the best of their abilities. While it is completely valid to warn the public of the possible effects of consuming marijuana, this must be balanced with the needs of correctly advertising a product and can be done in a smaller font that is still visible and easily readable. Contributing to the plethora of information placed on a label simply confuses the public more than is necessary and again, places another regulation on an already overly regulated industry.

Finally, subsection (j) demanding that a licensed marijuana facility may sponsor an event only if it can reasonably anticipate that up to 30% of its audience will be minors is not a sustainable regulation. This regulation provision ensures that licensees will unnecessarily (and arbitrarily) violate the regulations. How does one guess how many kids will show up to an adult softball game to watch their parents play softball? Even tougher of a question – how does one ensure a softball team they may sponsor doesn’t have 30% or more of its team mates that are within the ages of 18-20? Compound that question with the question of guessing who will show up to observe the game leads to the logical conclusion that this regulation needs to be rewritten and cannot be passed by the board. Subsection j(5) is also unworkable – the board meets four times a year, how could one reasonable gain “approval in advance” of a sponsored activity. The mere inclusion of subsection j(5) could be used against licensees by Enforcement to state, well if you were not sure it was going to be less than 30% of participants under the age of 21 you should’ve just asked the board. The board has enough work to get through at the MCB meetings – and so does AMCO staff. With the permission of the board is absurd. To date, this industry has been very responsible – it made sense in the beginning to be overly cumbersome in the regulations – but now that the industry has been proving it is, by in large, a responsible industry, it should be treated as one. This industry has made a great effort to economically support our state in a variety of ways. Sponsoring events is just one example of how the industry contributes to fostering a healthy society. Requiring that a license holder must request permission to sponsor an event, and only “as long as no more than 30 percent of the event’s participants and audience is reasonably expected to be under 21 years of age,” further limits the industry. After all, there is no restriction of the sort on alcohol.

Section 3AAC 306.760(k) – states that “(k) A licensed marijuana facility may not encourage the sale of marijuana or a marijuana product; (4) by holding promotional activities outside of the licensed premises.” What does this mean? That a licensee can’t put on an event? and what does holding an event mean? Does it mean by being the main sponsor of the event? Does it mean by being a sponsor at any level of contribution? Does it mean hiring the venue and paying for the food served at the event? This regulation language, as currently proposed, is unworkable and unintelligible.

Does promoting “outside the licensed premises” include a radio commercial? And in fact radio commercials that have been allowed thus far have been required to include the entire disclaimer statement. The inclusion of this with no allowable compression to the disclaimer takes up the majority of the ad, 17 seconds of the 30 second commercial. There should be some allowable disclaimer that doesn’t make any kind of commercial for the business a commercial for the disclaimer. Is the intent to make any advertisement ineffective for the business paying for it? And what about businesses who want to co-sponsor a television PSA for safe use and storage of cannabis? Does the PSA require a 17 second disclaimer so that the idea of making sure that people should keep products safely stored from minors need to be lost amid a sea of warnings both visual and spoken?

Additionally, please clarify “outside of the licensed premises”. What does ‘premise’ this mean? If you interpreted this word for word, no sponsorships of any event are allowed anywhere in the state. As it reads this regulation fosters broad based interpretation which is unfair to license holders – it is a suppression of commercial speech. Please substantially amend this proposed language and put the amended version out for public comment.

Respectfully Submitted on Behalf of the AMIA Board,

Carroll E. Carrigan  
Executive Director  
Alaska Marijuana Industry Association

[www.alaskamarijuanaindustry.org](http://www.alaskamarijuanaindustry.org)