

# Notice of Violation

(3AAC 306.805)

This form, all information provided and responses are public documents per Alaska Public Records ACT AS 40.25

Date: March 8th, 2018

License #/Type: #11966 Retail Marijuana Store

Licensee: Great Northern Cannabis, Inc

Address: 541 W. 4th Ave. Anchorage, AK

DBA: GREAT NORTHERN CANNABIS

AMCO Case #: AB18-0251

This is a notice to you as licensee that an alleged violation has occurred. If the Marijuana Control Board decides to act against your license, under the provisions of AS 44.62.330 - AS 44.62.630 (Administrative Procedures Act) you will receive an Accusation and Notice of your right to an Administrative Hearing.

Note: This is not an accusation or a criminal complaint.

On March 8, 2018 at approximately 1:15 PM, I conducted a walk through site visit to Great Northern Cannabis Retail Store and spoke with Anita Bradbury who had a question about a digital scale the retail store had been using. Anita stated that the digital scale was not in use for weighing marijuana product because it had been not working correctly. I asked Anita if Great Northern Cannabis had been using a scale to weigh the incoming marijuana product and she advised they had not because it all came in packages previously weighed by the cultivators and the scale had not been giving accurate weight readings.

This is a violation of:

3 AAC 306.730. Marijuana inventory tracking system

(a) A marijuana establishment shall use a marijuana inventory tracking system capable of sharing information with the system the board implements to ensure all marijuana cultivated and sold in the state, and each marijuana product processed and sold in the state, is identified and tracked from the time the marijuana is propagated from seed or cutting, through transfer to another licensed marijuana establishment, or use in manufacturing a marijuana product, to a completed sale of marijuana or a marijuana product, or disposal of the harvest batch of marijuana or production lot of marijuana product.

(b) Marijuana delivered to a marijuana establishment must be weighed on a scale registered in compliance with 3 AAC 306.745.

3 AAC 306.745. Standardized scales

A marijuana establishment shall use registered scales in compliance with AS 45.75.080 (Weights and Measures Act). A marijuana establishment shall

- (1) maintain registration and inspection reports of scales registered under AS 45.75.080 and 17 AAC 90.920 - 17 AAC 90.935; and
- (2) upon request by the board or the director, provide a copy of the registration and inspection reports of the registered scales to the board or the director for review.

3 AAC 306.805 provides that upon receipt of a Notice of Violation, a licensee may request to appear before the board and be heard regarding the Notice of Violation. The request must be made within ten days after receipt of the Notice. A licensee may respond, either orally or in writing, to the Notice. 3 AAC 306.810(3)(A)(B)(C) failed, within a reasonable time after receiving a notice of violation from the director, to correct any defect that is the subject of the notice of violation of AS 17.38 or this chapter, a condition or restriction imposed by the board or other applicable law.

IT IS RECOMMENDED THAT YOU RESPOND IN WRITING TO DOCUMENT YOUR RESPONSE FOR THE MARIJUANA CONTROL BOARD.

\*Please send your response to the address below and include your Marijuana Establishment License Number in your response.

Alcohol & Marijuana Control Office

ATTN: Enforcement


550 W. 7<sup>th</sup> Ave, Suite 1600

Anchorage, Alaska 99501

[amco.enforcement@alaska.gov](mailto:amco.enforcement@alaska.gov)

Issuing Investigator: K. Whiteman

Received by:

SIGNATURE: 

SIGNATURE:

Delivered VIA: Mail

Date:

Article # 7017 0530 0000 9548 8238



# Birch Horton Bittner & Cherot

*a professional corporation*

**Jason Brandeis**

Respond to Anchorage Office  
T 907.263.7243 • F 907.276.3680  
jbrandeis@bhb.com

April 2, 2018

**VIA ELECTRONIC DELIVERY**  
**AND U.S. MAIL**

Alcohol & Marijuana Control Office  
Attn: Enforcement  
550 W. 7th Avenue, Suite 1600  
Anchorage, AK 99501

RE: Great Northern Cannabis, Inc.  
Response to Notice of Violation for Great Northern Cannabis (License #11966)  
AMCO Case #: AB18-0251  
Our File No.: 507,568.6

Dear Sir/Madam:

This office represents Great Northern Cannabis, Inc. (GNC), a retail marijuana store licensed by the State of Alaska (License #: 11966). We are writing in response to a Notice of Violation (NOV) received from AMCO dated March 8, 2018 (Case # AB18-0251).

This NOV alleges violations of 3 AAC 306.730(a) and (b) and 3 AAC 306.745. While it may at first appear troubling to learn that a retail marijuana store might have a malfunctioning scale, a closer look reveals that there were no violations of any state law or regulation. The facts contained in the NOV do not support the listed violations, and for the reasons explained below, this NOV should be rescinded and dismissed. At most, an advisory report is warranted in this matter.

To begin, 3 AAC 306.730(a) addresses only the use of a marijuana inventory tracking system and is not related to the factual allegations contained in the NOV. The regulation states:

A marijuana establishment shall use a marijuana inventory tracking system capable of sharing information with the system the board implements to ensure all marijuana cultivated and sold in the state, and each marijuana product processed and sold in the state, is identified and tracked from the time the marijuana is propagated from seed or cutting, through transfer to another licensed marijuana establishment, or use in manufacturing a marijuana product, to a completed sale of marijuana or a marijuana product, or disposal of the harvest batch of marijuana or production lot of marijuana product.

The factual statement in the NOV contains no reference to any failure to properly use a marijuana inventory tracking system. The only facts listed relate to an employee's statement that the scale in the store was not accurate. Despite the lack of any factual foundation, the NOV concludes that there was a violation of this section. Since this section does not mention the use of a scale, and is not connected to the factual circumstances underpinning the NOV, any reference to a violation of this section is inappropriate and must be stricken from the NOV. There can be no violation of 3 AAC 306.730(a) if the facts do not mention any impropriety regarding a marijuana inventory tracking system.

Next, 3 AAC 306.730(b) requires that "Marijuana delivered to a marijuana establishment must be weighed on a scale registered in compliance with 3 AAC 306.745." Again, the stated facts do not support a finding that this regulation was violated. The regulations require that any marijuana delivered to an establishment must be weighed, and in this case all marijuana received at the GNC retail store was weighed by the cultivator prior to receipt at the retail store. There is no requirement that marijuana must be weighed upon receipt of delivery, only that delivered marijuana was properly weighed at some point in the supply chain process.

It is improper to issue an NOV concerning failure to properly weigh marijuana when no investigation was conducted to determine whether any improperly weighed marijuana had been received or sold by the licensee. This is an important point because this particular retail establishment sells only pre-packaged marijuana and marijuana products. Marijuana and marijuana products are packaged, delivered to the store, and sold as such without repackaging. GNC does not conduct packaging activities on site, nor does it offer "deli style" service to its customers. Such practices are consistent with the regulations and it would be impractical and inefficient for AMCO to now require retailers to weigh all pre-packaged marijuana received from a cultivation facility. It may be good business practice for retailers to spot-check received shipments and weigh random selections, but that is not a regulatory requirement.<sup>1</sup> All that is required is that the weight of any delivered marijuana has been confirmed at some point using a certified scale and properly logged in Metrc. However, in this case no investigation was conducted to determine if any marijuana delivered to GNC was not weighed on a certified scale or improperly or inaccurately logged. Therefore, any allegation of a violation of 3 AAC 306.730(b) must be dismissed.

Finally, while GNC may not be required to weigh all incoming pre-packaged marijuana, we agree that the regulations require GNC to have a scale on the premises that is registered in compliance with the Alaska Weights and Measures Act. However, we do not agree that the facts as stated in the NOV support a finding that the requirements of 3 AAC 306.745 were violated. This section imposes several requirements on licensees: they must use registered scales, they must maintain registration and inspection reports for said scales, and upon request must submit copies of such reports to the board or director for review. Taking each item in turn,

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<sup>1</sup> GNC's practice is that, upon arrival at the retail store, all of the prepackaged marijuana and marijuana products are counted to verify an exact match with the accompanying manifest and each unit is examined to ensure that it contains marijuana in order to avoid acceptance of any empty packages. Packages may be weighed as part of this process to ensure accuracy.

it is clear that GNC did not violate any of the conditions imposed under this section: GNC had a registered scale available for use, GNC had all required documentation regarding the scale available, and GNC was not asked to provide any information to the board or director for review. On its face this is primarily a record-keeping regulation, and the facts as stated in this NOV do not involve any wrongdoing with respect to such records. With respect to the allegation that there was a violation of 3 AAC 306.745, the facts and the alleged violation do not line up.

Ultimately, this NOV was issued because a GNC employee said that the scale on the premises was not working properly. However, the AMCO Investigator on site did not inspect the scale and no official determination was made as to whether the scale was or was not in good working order. All that can be confirmed is that the scale was certified and registered and was not in use because GNC sells only pre-packaged marijuana and marijuana products that are weighed elsewhere in the supply chain.

It is unclear why an NOV was even issued in this matter. According to the GNC employee who spoke with the AMCO Investigator, the Investigator stated that this matter did not rise to the level of an NOV and that only an Advisory Notice recommending replacement of the scale would be issued.<sup>2</sup> That seems appropriate given the lack of foundation for the allegations and no clear fit between the alleged impropriety and the regulations cited in the NOV.

While GNC understands the concerns expressed in the NOV and agrees that retail marijuana stores must have certified scales available for use, the facts alleged do not support a finding that GNC violated any section of 3 AAC 306.730 or 3 AAC 306.745. GNC does not utilize "deli style" service; all marijuana delivered to the GNC retail store is weighed by a certified scale and entered into Metrc; there is no conclusive evidence that the scale at issue was actually measuring weight inaccurately; and to err on the side of caution, a new scale has been installed and certified per the suggestion of the AMCO Investigator.

Great Northern Cannabis is very serious about maintaining a compliant business and values its reputation. Since the facts of this case do not substantiate any violation of state law, we respectfully request that AMCO rescind and dismiss this NOV. If the NOV is not rescinded or dismissed, GNC requests the opportunity to appear before the Board.

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<sup>2</sup> The day after the inspection, GNC ordered a new scale and paid extra for express shipping. The new scale was certified and on-site with the required documentation at the Great Northern Cannabis retail store before this NOV arrived in the mail on March 22, 2018.

Thank you for your time and attention. Please do not hesitate to contact this office if you have any questions or if you need any additional information.

Sincerely,

BIRCH HORTON BITTNER & CHEROT



Jason Brandeis

JMB:dsg



Alcohol & Marijuana Control Office  
550 West 7th Avenue, Suite 1600  
Anchorage, Alaska 99501

• Sender: Please print your name, address, and ZIP+4® in this box

United States  
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First-Class Mail  
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USPS  
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#GUNDKING#

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- Complete items 1, 2, and 3.
  - Print your name and address on the reverse so that we can return the card to you.
  - Attach this card to the back of the mailpiece, or on the front if space permits.
1. Article Addressed to:

Great Northern Cannabis  
2341 Cinnabar Loop  
Anchorage, AK 99507-3150

**COMPLETE THIS SECTION ON DELIVERY**

- A. Signature  Agent
- B. Received By (Printed Name)  Addressee
- C. Date of Delivery 3/22/14
- D. Is delivery address different from item 1?  Yes  NO  
If YES, enter delivery address below:

**3. Service Type**

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- Certified Mail Restricted Delivery
- Collect on Delivery
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- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
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- Signature Confirmation™
- Signature Confirmation Restricted Delivery

**2. Article Number (Transfer from service label)**

7017 0530 0000 9548 8238