



MEMORANDUM

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

DATE: August 15, 2018

FROM: Erika McConnell, Director
Marijuana Control Board

RE: Staff Recommendations for
Regulations Projects

1. All licensees must have handler permits—staff’s understanding of the board’s intent at the time of initial adoption of the regulations was that all licensees must have handler permits. However, recent events have not only illuminated lack of clarity within the regulatory language, but have also shown that AMCO has not been evaluating whether all licensees have handler permits. A recent check shows that approximately 60 licensees (out of slightly over 400 licensees) do not have handler permits. Staff recommends that the regulations be clarified to require all licensees to have handler permits. Even those licensees who are not directly involved in running the business have a responsibility to understand the rules, and if the licensees to do run the business are suddenly incapacitated for some reason, the other licensees who will have to step in should know the regulations and the information provided in a handler course. Should the board wish to modify the regulations to clarify this requirement, draft regulations are attached as “A.”

2. Handler permit renewal fee—staff recommends opening a regulations project to require a handler permit renewal fee of \$50, which was inadvertently left out of the initial regulations.

3. Effective date of ownership change—3 AAC 306.040 allows for some ownership change in a licensee without the need for a board-approved transfer. However, the intent of the statute and regulations is that persons with certain criminal histories (as described in 3 AAC 306.010(d)) be disqualified from holding a license. 3 AAC 306.040 does require proposed new licensees to submit fingerprints for a background check, but also allows the ownership change can take place before the submittal of the fingerprints or the completion of the background check. The proposed draft regulation attached as “B” requires the completion of the background check, as well as confirmation that the new proposed licensee is a resident of the state and isn’t restricted from being a licensee by holding a different type of licensee (a testing licensee can’t be a cultivation, manufacturer, or retail licensee and vice versa), before the ownership change can be effectuated.

4. Follow Metrc rules—specific requirements of the seed-to-sale tracking system are not included in the regulations for obvious reasons. However, it would be beneficial to clarify that the board requires licensees to follow the instructions given by Metrc for proper use of the tracking system.

5. Follow approved operating plan—clarify in the regulations that licensees must operate in accordance with their approved operating plan.

6. Inspection to cover all operations—amend regulations to clarify that inspection includes any location, on or off the licensed premises, that includes elements of business operations approved by the board.

7. Sample jars—At a previous meeting, the board requested a draft regulations change to have the sampling provisions required of cultivators be applied to retailers showing samples to consumers. A draft is provided as “C.”

8. Increase fees—during the legislature’s review of SB 273, the extension of the Marijuana Control Board, the legislature was clear that they expect AMCO to repay to the general fund the approximately \$4 million that was “advanced” to AMCO to establish the commercial marijuana licensing program. This year, FY19, is the last year that AMCO is receiving any general funds. Starting next year, the marijuana program must be entirely self-supported. The marijuana program would also benefit from additional staff, such as a regulations specialist, another licensing examiner, and additional enforcement staff. I encourage the board to start discussing increasing the licensing fees to address these upcoming needs.

9. Fine schedule—In May of this year, the board expressed interest in a table of violations and penalties. Attached as “D” is a proposed regulations change that would establish a table of violations and penalties, changing “notice of violation” to “citation of violation.” There are two tables proposed—the second sets a penalty schedule for repeated violations within a three year period. The first includes such significant violations that they continue to accumulate with no expiration after a certain number of years. The project includes some other tweaks to the enforcement provisions in Article 8 that staff recommends.

Should the board wish to pursue any of these changes, the board should open a regulations project. Where drafts have been provided, the board may put the drafts out for public comment, amend the draft and put it out for comment, or return the draft to staff for additional work.

3 AAC 306.320 is amended to read:

3 AAC 306.320. Marijuana handler permit required. A retail marijuana store shall ensure that

(1) each [LICENSEE, EMPLOYEE, OR] agent who is required or permitted to be physically present on the licensed premises at any time, **each licensee, and each employee** obtains a marijuana handler permit as provided in 3 AAC 306.700 before being licensed or employed at a retail marijuana store; and

(2) each licensee, employee, or agent has that person's marijuana handler permit card in that person's immediate possession, or a valid copy on file on the premises, at all times when on the licensed premises of the retail marijuana store. (Eff. 2/21/2016, Register 217; am. ___/___/____, Reg.____)

3 AAC 306.425 is amended to read:

3 AAC 306.425. Marijuana handler permit required. A marijuana cultivation facility shall ensure that each [LICENSEE, EMPLOYEE, OR] agent who is required or permitted to be physically present on the licensed premises at any time, **each licensee, and each employee**

(1) obtains a marijuana handler permit as provided in 3 AAC 306.700 before being **licensed** [PRESENT] or employed at the marijuana cultivation facility's licensed premises; and

(2) has the marijuana handler permit card in the person's immediate possession, or a valid copy on file on the premises, at all times while on the marijuana cultivation facility's licensed premises. (Eff. 2/21/2016, Register 217; am. ___/___/____, Reg.____)

3 AAC 306.530 is amended to read:

3 AAC 306.530. Marijuana handler permit and food safety worker training. (a) A marijuana product manufacturing facility, including a marijuana concentrate manufacturing facility, shall ensure that each [LICENSEE, EMPLOYEE, OR] agent who is required or permitted to be physically present on the licensed premises at any time, each licensee, and each employee

(1) obtains a marijuana handler permit as provided in 3 AAC 306.700 before being licensed [PRESENT] or employed at the marijuana product manufacturing facility's licensed premises; and

(2) has the marijuana handler permit card in the person's immediate possession, or a valid copy on file on the premises, at all times while on the marijuana product manufacturing facility's licensed premises.

(b) A licensee, employee, or agent of a marijuana product manufacturing facility who handles marijuana at the facility shall obtain a food worker card in compliance with 18 AAC 31.330 and keep that card in that person's possession at all times while on the licensed premises of the marijuana product manufacturing facility. (Eff. 2/21/2016, Register 217; am.

___/___/____, Reg. _____)

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

3 AAC 306.622. Marijuana handler permit required. A marijuana testing facility shall ensure that each agent who is required or permitted to be physically present on the licensed premises at any time, each licensee, and each employee

(1) obtains a marijuana handler permit as provided in 3 AAC 306.700 before being licensed or employed at the marijuana testing facility's licensed premises; and

(2) has the marijuana handler permit card in the person's immediate possession, or a valid copy on file on the premises, at all times while on the marijuana cultivation facility's licensed premises. (Eff. ___/___/____, Reg. _____)

3 AAC 306.700(a) is amended to read:

(a) **Each** [A MARIJUANA ESTABLISHMENT AND EACH LICENSEE, EMPLOYEE, OR] agent of the marijuana establishment who sells, cultivates, manufactures, tests, or transports marijuana or a marijuana product, or who checks the identification of a consumer or visitor, **and each licensee and employee** must obtain a marijuana handler permit from the board before being licensed or beginning employment at a marijuana establishment.

(Eff. 2/21/2016, Register 217; am. 5/23/2018, Reg. 226; am. x/x/2018, Reg. xxx; am. ___/___/____, Reg. _____)

- 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 | | |

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3 AAC 306.040 is amended to read:

3 AAC 306.040. Ownership change [TO BE REPORTED]. (a) **An application for an ownership change shall be submitted** [A LICENSED MARIJUANA ESTABLISHMENT SHALL, NOT LATER THAN 10 DAYS AFTER AN OWNERSHIP CHANGE, REPORT THE CHANGE] on a form prescribed by the board.

(b) If any change required to be **submitted** [REPORTED] under this section will result in a change in controlling interest of the marijuana establishment license, the marijuana establishment must file an application for transfer of license to another person under 3 AAC 306.045.

(c) An individual identified in this section shall submit the individual's fingerprints and the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information. The director shall follow the procedure set out in 3 AAC 306.055(b) for submitting the fingerprints of any individual added under this section.

(d) The director shall approve an ownership change application when any new owner is not disqualified under 3 AAC 306.010(d), 3 AAC 306.015(b), 3 AAC 306.300(b), 3 AAC 306.400(c), 3 AAC 306.500(c), or 3 AAC 306.605(c).

(e)[(D)] In this section, "ownership change" means

(1) if the licensee is a partnership, including a limited partnership, any change in the identity of the partners, or in the ownership percentages held by any partners;

(2) if the licensee is a limited liability company, any change in the identity of the members **or managers**, or in the ownership percentage held by any member; or

(3) if the licensee is a corporation, **any change in its corporate officers**, any sale of corporate stock to a person not currently an owner, or any change of the percentage ownership

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of an existing shareholder. (Eff. 2/21/2016, Register 217; am 7/19/2017, Register 223; 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

(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)

3 AAC 306.325 is amended by adding a new subsection to read:

(d) If a retail marijuana store displays marijuana to a consumer for the purpose of smelling the marijuana before purchase, the retail marijuana store shall package the marijuana in a sample jar containing not more than three and one-half grams of marijuana that is protected by a plastic or metal mesh screen. (Eff. 2/21/2016, Register 217; am __/__/____, Register __)

3 AAC 306.460(a) is amended to read:

(a) A marijuana cultivation facility may provide a free sample of marijuana to a retail marijuana store if packaged in a sample jar containing not more than three and one-half grams of marijuana and protected by a plastic or metal mesh screen to allow **the retail marijuana store** [CUSTOMERS] to smell the product before purchase.

(Eff. 2/21/2016, Register 217; am 5/25/2018, Register 226; 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 306.805 is amended to read:

3 AAC 306.805. Report [OR NOTICE OF VIOLATION]. (a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, may issue an inspection report[, or an advisory report[, OR A NOTICE OF VIOLATION BEFORE TAKING ACTION TO SUSPEND OR REVOKE A MARIJUANA ESTABLISHMENT LICENSE].

(b) An inspection report documents an investigator's inspection of licensed premises. An inspection report must be prepared on a form the board prescribes and include information prescribed under AS 17.38 or this chapter or that the board requires.

(c) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity may issue an advisory notice when an incident occurs or a defect is noted that could result in a violation of a 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.

[(D) THE DIRECTOR, AN ENFORCEMENT AGENT, AN EMPLOYEE OF THE BOARD, OR A PEACE OFFICER ACTING IN AN OFFICIAL CAPACITY MAY ISSUE A NOTICE OF VIOLATION IF AN INSPECTION REPORT OR OTHER CREDIBLE INFORMATION SHOWS A MARIJUANA ESTABLISHMENT IS IN VIOLATION OF AS 17.38, THIS CHAPTER, OR OTHER LAW RELATING TO MARIJUANA. THE NOTICE OF VIOLATION MUST BE DELIVERED TO THE MARIJUANA ESTABLISHMENT AT ITS LICENSED PREMISES, AND TO THE BOARD. THE NOTICE MUST DESCRIBE ANY VIOLATION, AND CITE THE APPLICABLE STATUTE, REGULATION, OR ORDER OF THE BOARD. A MARIJUANA ESTABLISHMENT THAT RECEIVES A NOTICE OF

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VIOLATION MAY RESPOND TO THE NOTICE ORALLY OR IN WRITING, AND MAY, NOT LATER THAN 10 DAYS AFTER RECEIVING THE NOTICE, REQUEST AN OPPORTUNITY TO APPEAR BEFORE THE BOARD. A NOTICE OF VIOLATION MAY BE THE BASIS OF A PROCEEDING TO SUSPEND OR REVOKE A MARIJUANA ESTABLISHMENT'S LICENSE AS PROVIDED UNDER 3 AAC 306.810.] (Eff. 2/21/2016, Register 217; am ___/___/____, Register _____)

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

3 AAC 306.807. Citation of Violation. (a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity may issue a citation of violation if an inspection report or other credible information shows a marijuana establishment is in violation of as 17.38, this chapter, or other law relating to marijuana. The citation of violation must be delivered to the marijuana establishment at its licensed premises, and to the board. The citation must describe any violation, and cite the applicable statute, regulation, or order of the board.

(b) A citation of violation shall be issued as follows:

Violation Type	1 st Violation	2 nd Violation	3 rd Violation	4 th Violation
Marijuana obtained from an non-licensee 3 AAC 306.305 3 AAC 306.405 3 AAC 306.505	Accusation for revocation of license			
Marijuana sold to a non-licensee 3 AAC 306.305 3 AAC 306.405 3 AAC 306.505	Accusation for revocation of license			

Violation Type	1 st Violation	2 nd Violation	3 rd Violation	4 th Violation
Sale to minor 3 AAC 306.310	30-day suspension	Accusation for revocation of license		
Consumption on licensed premises 3 AAC 306.310 3 AAC 306.405 3 AAC 306.510 3 AAC 306.610	10-day suspension or \$15,000 monetary fine	30-day suspension	Accusation for revocation of license	
Sale of untested marijuana 3 AAC 306.340	30-day suspension	Accusation for revocation of license		
Allowing a minor on premises 3 AAC 306.710	\$5,000 monetary fine	\$10,000 monetary fine	\$30,000 monetary fine	Accusation for revocation of license
Refusal to allow inspection 3 AAC 306.800	30-day suspension or \$30,000 monetary fine	Accusation for revocation of license		

Violation Type	1 st Violation	2 nd Violation in a three-year window	3 rd Violation in a three-year window	4 th Violation in a three-year window
License transfer without approval 3 AAC 306.045	Suspension until approval and \$10,000 monetary fine			
Prohibited acts (if not addressed in other category) 3 AAC 306.310 3 AAC 306.405 3 AAC 306.410 3 AAC 306.510 3 AAC 306.610	5-day suspension or \$2,500 monetary fine	10-day suspension or \$5,000 monetary fine	30-day suspension	Accusation for revocation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Licensee/employee failure to display marijuana handler permit or ID badge; maintain handler permit on person or premises 3 AAC 306.320 3 AAC 306.425 3 AAC 306.530 3 AAC 306.700 3 AAC 306.710	Warning	\$1,000 monetary fine	\$5,000 monetary fine	\$10,000 monetary fine
Unauthorized access in restricted access areas 3 AAC 306.325 3 AAC 306.430 3 AAC 306.535 3 AAC 306.710	5-day suspension or \$2,500 monetary fine	10-day suspension or \$5,000 monetary fine	30-day suspension	Accusation for revocation of license
Failure to utilize and/or maintain marijuana inventory tracking system 3 AAC 306.330 3 AAC 306.435 3 AAC 306.540 3 AAC 306.655 3 AAC 306.730	\$1,000 monetary fine	\$2,500 monetary fine	10-day suspension or \$5,000 monetary fine	Accusation for revocation of license
Health and safety standards 3 AAC 306.335 3 AAC 306.440 3 AAC 306.545 3 AAC 306.735	5-day suspension or \$2,500 monetary fine	10-day suspension or \$5,000 monetary fine	30-day suspension	Accusation for revocation of license
Packaging and labeling violations 3 AAC 306.345 3 AAC 306.470 3 AAC 306.475 3 AAC 306.565 3 AAC 306.570	5-day suspension or \$2,500 monetary fine	10-day suspension or \$5,000 monetary fine	30-day suspension	Accusation for revocation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Advertising and consumer notice violations 3 AAC 306.365 3 AAC 306.7xx	Warning	\$5,000 monetary fine	\$10,000 monetary fine	\$15,000 monetary fine
Employment without handler permit 3 AAC 306.700	5-day suspension or \$2,500 monetary fine	10-day suspension or \$5,000 monetary fine	30-day suspension	Accusation for revocation of license
Unauthorized alteration of licensed premises 3 AAC 306.705	5-day suspension or \$2,500 monetary fine	10-day suspension or \$5,000 monetary fine	30-day suspension	Accusation for revocation of license
Visitor failure to display ID badge; be escorted 3 AAC 306.710	5-day suspension or \$2,500 monetary fine	10-day suspension or \$5,000 monetary fine	30-day suspension	Accusation for revocation of license
Failure to maintain security alarm systems and lock standards 3 AAC 306.715	5-day suspension or \$2,500 monetary fine	10-day suspension or \$5,000 monetary fine	30-day suspension	Accusation for revocation of license
Failure to maintain video surveillance system, records 3 AAC 306.720	5-day suspension or \$2,500 monetary fine	10-day suspension or \$5,000 monetary fine	30-day suspension	Accusation for revocation of license
Failure to meet marijuana waste disposal requirements 3 AAC 306.740	5-day suspension or \$2,500 monetary fine	10-day suspension or \$5,000 monetary fine	30-day suspension	Accusation for revocation of license
Transportation violations 3 AAC 306.750	5-day suspension or \$2,500 monetary fine	10-day suspension or \$5,000 monetary fine	30-day suspension	Accusation for revocation of license
Manifest violations	Warning	\$1,000 fine	\$5,000 fine	\$15,000 fine

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Failure to maintain/provide business records 3 AAC 306.755	5-day suspension or \$2,500 monetary fine	10-day suspension or \$5,000 monetary fine	30-day suspension	Accusation for revocation of license
(Retail) Displaying products in a manner visible to the general public from a public right of way AS 17.38.070(a)(1)	\$2,500 monetary fine	\$5,000 monetary fine	\$10,000 monetary fine	\$15,000 monetary fine
(Retail) Sales/consumer access outside allowed hours 3 AAC 306.310(b)(1)	5-day suspension or \$5,000 monetary fine	10-day suspension or \$15,000 monetary fine	30-day suspension	Accusation for revocation of license
(Retail) Marijuana or marijuana product given away for free 3 AAC 306.310(b)(3)	5-day suspension or \$1,000 monetary fine	10-day suspension or \$5,000 monetary fine	30-day suspension	Accusation for revocation of license
(Retail) Failure to check ID 3 AAC 306.350	5-day suspension	30-day suspension	Accusation for revocation of license	
(Retail) Sales in excess of limit on quantity sold 3 AAC 306.355	10-day suspension or \$5,000 monetary fine	30-day suspension	Accusation for revocation of license	
Failure to maintain standardized scale requirements 3 AAC 306.445 3 AAC 306.745	5-day suspension or \$2,500 monetary fine	10-day suspension or \$5,000 monetary fine	30-day suspension	Accusation for revocation of license
Required laboratory testing 3 AAC 306.455 3 AAC 306.550	10-day suspension or \$5,000 monetary fine	30-day suspension or \$15,000 monetary fine	Accusation for revocation of license	

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Samples and quality control 3 AAC 306.460 3 AAC 306.557	Warning	5-day suspension or \$2,500 monetary fine	10-day suspension or \$5,000 monetary fine	30-day suspension
(Manufacturing) Unauthorized production methods or unapproved products 3 AAC 306.525 3 AAC 306.555	5-day suspension or \$2,500 monetary fine, and seizure of product	10-day suspension or \$5,000 monetary fine, and seizure of product	30-day suspension and seizure of product	Accusation for revocation of license
(Manufacturing) Exceeding potency limits 3 AAC 306.560	5-day suspension or \$2,500 monetary fine	10-day suspension or \$5,000 monetary fine	30-day suspension	Accusation for revocation of license
Retest without authorization 3 AAC 306.660	5-day suspension or \$5,000 monetary fine	10-day suspension or \$15,000 monetary fine	30-day suspension	Accusation for revocation of license

(c) A marijuana establishment that receives a citation of violation shall, not later than 10 days after receiving the citation,

(1) appeal the citation to the board by submitting a written request to the director; the appeal shall be presented to the board at the next available meeting; or

(2) respond to the notice in writing indicating whether a suspension or monetary fine is chosen when such choice is available, except that a marijuana cultivation facility shall always pay the monetary fine; a monetary fine shall be submitted with the response; the director shall determine the time of the suspension period.

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(d) A citation of violation may be the basis of a proceeding to suspend or revoke a marijuana establishment's license as provided under 3 AAC 306.810. (Eff. ___/___/_____, Register ___)

3 AAC 306.810 is amended to read:

3 AAC 306.810. Suspension or revocation of license. (a) The board will suspend or revoke a marijuana establishment license issued under this chapter if any licensee is convicted of a felony or of a crime listed in 3 AAC 306.010(d)(2) or (3), or if the board becomes aware that a licensee did not disclose a previous felony conviction or a conviction of a crime listed in 3 AAC 306.010(d)(2) or (3).

(b) The board may suspend or revoke a license issued under this chapter, refuse to renew a license, or impose a civil fine, if the board finds that a licensee for any marijuana establishment

(1) misrepresented a material fact on an application for a marijuana establishment license, or an affidavit, report, or signed statement under AS 17.38 or this chapter; [OR]

(2) is following any practice or procedure that is contrary to the best interests of the public, including

(A) using any process not approved by the board for extracting or manufacturing marijuana concentrate or products; [OR]

(B) selling or distributing any marijuana concentrate or product that has not been approved by the board; **or**

(C) selling or distributing any marijuana or marijuana product that has not been tested as required by this chapter;

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(3) failed, within a reasonable time after receiving a **citation** [NOTICE] of violation from the director, to correct any defect that is the subject of the **citation** [NOTICE] of violation of

(A) AS 17.38 or this chapter;

(B) a condition or restriction imposed by the board; or

(C) other applicable law;

(4) **violated or** knowingly allowed an employee or agent to violate AS 17.38, this chapter, or a condition or restriction imposed by the board;

(5) failed to comply with any applicable public health, fire, safety, **labor**, or tax statute, ordinance, regulation, or other law in the state; or

(6) used the licensed premises for an illegal purpose including gambling, possession or use of narcotics other than marijuana, prostitution, or sex trafficking.

(c) A local government may notify the director if it obtains evidence that a marijuana establishment has violated a provision of AS 17.38, this chapter, or a condition or restriction the board has imposed on the marijuana establishment. Unless the board finds that the local government's notice is arbitrary, capricious, and unreasonable, the director shall prepare the notice and supporting evidence as an accusation against the marijuana establishment under AS 44.62.360, and conduct proceedings to resolve the matter as described under 3 AAC 306.820.

(d) When indicated in 3 AAC 306.807 and without appeal, a license will be suspended without specific board action. (Eff. 2/21/2016, Register 217; am ___/___/____, Register _____)

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3 AAC 306.820 is amended to read:

3 AAC 306.820. Procedure for action on license suspension or revocation. Except for suspensions set forth by 3 AAC 306.807, a[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 - 44.62.630. The accusation must be served at the address of the licensed premises, or at the address of the licensee who is responsible for management and compliance with laws as listed in the marijuana establishment license application in compliance with 3 AAC 306.020(b)(5). The marijuana establishment is entitled to a hearing as provided under AS 44.62.390. (Eff. 2/21/2016, Register 217; am ___/___/_____, Register _____)

3 AAC 306.830 is amended to read:

3 AAC 306.830. Seizure of marijuana or marijuana product. (a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, may seize marijuana or any marijuana product from a licensed or previously licensed marijuana establishment if the marijuana establishment has

(1) any marijuana or marijuana product not properly logged into the marijuana establishment's marijuana inventory tracking system;

(2) any adulterated marijuana food or drink product prohibited under 3 AAC 306.510(a)(4);

(3) any marijuana or marijuana product that is not properly packaged and labeled as provided in

(A) 3 AAC 306.470 and 3 AAC 306.475; or

(B) 3 AAC 306.565 and 3 AAC 306.570; [OR]

(4) not renewed its license as required under 3 AAC 306.035;

(4) any marijuana or marijuana product that has not been tested as required by this chapter; or

(5) had its license revoked by the board under 3 AAC 306.810.

(b) If the director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity seizes marijuana or a marijuana product under this section, the director shall update the marijuana inventory control tracking system to reflect the seizure and ensure that the seized items are stored in a reasonable manner. **Except for seizures authorized by 3 AAC 306.807, the**[THE] director shall immediately give the marijuana establishment from which the marijuana or marijuana product was seized notice of the reasons for the seizure and the time and place of a hearing before the board. Unless the marijuana establishment from which the marijuana or marijuana product was seized requests a delay, the hearing will be held not later than 10 days after the director gives notice of the reasons for seizure and the scheduled hearing. If the seizure occurs in connection with a summary suspension under 3 AAC 306.825, the hearing will be combined with a hearing on the summary suspension.

(c) If the marijuana establishment from which the marijuana or marijuana product was seized does not request or participate in a hearing under this section, or if after a hearing the board finds that seizure of the marijuana or marijuana product was justified, the marijuana or marijuana product will be destroyed by burning, crushing, or mixing with other material to make the marijuana or marijuana product unusable as provided in 3 AAC 306.740.

(d) If a seizure under this section is of marijuana plants in place in a licensed standard or limited marijuana cultivation facility, the seizure order may direct the marijuana cultivation

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facility to continue care of the plants until the hearing, but prohibit any transfer, sale, or other commercial activity related to the plants. (Eff. 2/21/2016, Register 217; am ___/___/_____, Register _____)

3 AAC 306.840(a) is amended to read:

(a) The board may, in addition to any other penalties **and civil fines** imposed under this chapter, impose a civil fine on a marijuana establishment, licensee, or person that the board determines has violated a provision of AS 17.38 or this chapter.

(Eff. 2/21/2016, Register 217; am ___/___/_____, Register _____)

3 AAC 306.845(a) is amended to read:

(a) An aggrieved party may appeal to the board regarding any action of the director, an enforcement agent, or an employee of the board charged with enforcing AS 17.38 or this chapter, including suspending [OR REVOKING] a license, seizing marijuana or a marijuana product, or imposing a civil fine.

(Eff. 2/21/2016, Register 217; am ___/___/_____, Register _____)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	