



THE STATE  
of **ALASKA**  
GOVERNOR MICHAEL J. DUNLEAVY

**Department of Commerce, Community,  
and Economic Development**


ALCOHOL & MARIJUANA CONTROL OFFICE

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**MEMORANDUM**

TO: Marijuana Control Board

DATE: Wednesday, February 13, 2019

FROM:  James Hoelscher, Enforcement Supervisor

RE: Enforcement Report, Marijuana

AMCO Enforcement has started out this year running; we have seen a substantial increase in questions in the form of emails and telephone calls. This can be attributed in part to alcohol renewals and new marijuana regulations, but it is important to document that this shows a clear pattern that many licensees are contacting enforcement for clarification, which translates into fewer violations and increased licensee compliance. I hope to continue moving forward in this proactive manner as the health and safety of the people of Alaska, along with the prevention of underage drinking, marijuana use, and the sale of alcohol and/or marijuana to minors remain the top priorities for AMCO Enforcement.

Finding in depth studies for marijuana use and health risks in Alaska is difficult, but DHSS, Office of Misuse and Addiction Prevention, has an [informative website](#) that is updated frequently.

- The percentage of high school students who have ever used marijuana declined 3% between 2007 (45%) and 2017 (42%). In 2017, Alaska Native high school students were the most likely to have ever used marijuana (56%). The percentage of female high school students who ever used marijuana increased 9% between 2015 (35%) and 2017 (44%). The percentage of high school students who first tried marijuana before age 13 has not changed from 2007 (12%) to 2017 (11%), though females and Alaskan Natives in this age group first trying marijuana is still increasing (Alaska Department of Health and Social Services, Office of Substance Misuse and Addiction Prevention, 2018).
- Marijuana use in the past year has consistently been highest among 18–25 year olds. In the 2014–2015 survey, about 18% of respondents ages 12–17, 41% of those ages 18–25, and 19% of those ages 26 and older reported marijuana use in the past year.

In summary, an increasing amount of young Alaskan adults, many under 21, are trying marijuana. A lot of this, in my opinion, can be attributed to marijuana being “culturally acceptable” in television, music, movies and being legalized for recreational use in Alaska.

The statistics across the country show a definite need for alcohol law enforcement. Some highlights that reinforce the need for alcohol enforcement are:

- To prevent underage drinking and related harms
  - In 2014 nationally, 22.8% of underage people (ages 12-20) were current alcohol users (drank within the past 30 days), 13.8% were binge alcohol users (five or more drinks on one occasion), and 3.4% were heavy alcohol users (five or more drinks on the same occasion 5 or more days in the past 30 days). (SAMHSA, 2015)
  - Alcohol is a factor in approximately 4,300 deaths among underage youth in the U.S. each year. (CDC, 2016)
  - In 2010 nationally, there were approximately 189,000 emergency room visits by persons under age 21 for injuries and other conditions linked to alcohol. (SAMHSA, 2012)
- To prevent impaired driving
  - In 2014 nationally, there were 9,967 fatalities in motor vehicle crashes involving a driver with a BAC of .08 or higher – 31% of total fatal crashes. (NHTSA, 2015)
  - An average of one alcohol-impaired-driving fatality occurred every 53 minutes in the U.S. in 2014. (NHTSA, 2015)
  - Approximately 50 percent of the people arrested for driving under the influence consumed their last drink at an on-sale licensed establishment. (NHTSA, 2005)
  - Nationally, 65-79% of alcohol establishments will serve alcohol to patrons who appear obviously intoxicated. (Lenk, Toomey, & Erickson, 2006; Toomey et al., 2004)
- To prevent violent crimes and death
  - The National Council on Alcoholism and Drug Dependence estimates that alcohol is a factor in 40 percent of all violent crimes in the US, and is often an element in non-stranger violence, including intimate partner violence, sexual assault, and child abuse. (Rivera, Marny; & Hall, Tiffany. (2016). "Recover Alaska: Healing Alaska's Alcohol Problems)
  - In Alaska, parental alcohol abuse has been cited by the Office of Children's Services (OCS) as the reason for a child's removal from the home in 31 to 47 percent of all maltreatment cases between 2011 and 2015. (Rivera, Marny; & Hall, Tiffany. (2016). "Recover Alaska: Healing Alaska's Alcohol Problems)
  - The alcohol-induced mortality rate for all Alaskans has remained at least twice as high as the average U.S. rate for over a decade, and has remained at least six times as high for Alaska Natives. In 2014, the age-adjusted alcohol-induced mortality rate in Alaska was 17.8 per 100,000 Alaskans while the average rate for the U.S. was 8.5 per 100,000 (Rivera, Marny; & Hall, Tiffany. (2016). "Recover Alaska: Healing Alaska's Alcohol Problems)
  - Alcohol continues to be the most abused substance in Alaska. According to the State of Alaska Epidemiology Bulletin dated May 7, 2018, Alaskans experience higher rates of alcohol-attributable mortality compared to most other states, and twice as many deaths are alcohol-attributable each year as methamphetamine and opioid deaths combined (Pachoe, 2018). The abuse of alcohol also continues to be a prominent factor in violence against persons, suicide, and accidental death. Between 2006–2016, 47,427 alcohol-attributable criminal justice convictions occurred in Alaska, which represents 18% of all convictions during that time period (Pachoe, 2018). In 2017, 109 communities prohibited sale, importation, and/or possession of alcoholic beverages through "local option ordinances". (2017 AST SDEU Report)
  - A significant number of crimes can be directly attributed to alcohol abuse, including driving under the influence, sale of illegal substances, and many cases of assault, theft, and other violent and nonviolent

crimes. The cost of these crimes includes criminal justice system costs (police protection and law enforcement, legal and adjudication, and incarceration) and the costs to crime victims (both tangible and intangible). Additionally, a portion of child protective services are associated with substance abuse. (The Economic Costs of Alcohol Abuse in Alaska, 2016 – Prepared by McDowell Group for Alaska Mental Health Trust Authority)

- In 2014, there were 9,438 arrests/offenses and 7,313 crime victims attributed to alcohol abuse in Alaska. These arrests/offenses represented 25 percent of all offenses in Alaska and affected 17 percent of all crime victims. The estimated cost of alcohol abuse to the criminal justice system, including tangible costs (such as medical care costs, lost earnings, and property loss/damage to victims and Child Protective Services in Alaska), is \$194.4 million. Victim intangible costs (such as pain and suffering, decreased quality of life, and psychological distress) adds another \$604.9 million for a total of just under \$874.7 million. (The Economic Costs of Alcohol Abuse in Alaska, 2016 – Prepared by McDowell Group for Alaska Mental Health Trust Authority)

In summary, enforcement of Title 4 and alcohol regulations has a direct impact on public safety. Much of what we enforce is difficult to draw a direct line to this conclusion, but the line becomes much clearer when we take some time to evaluate the impacts alcohol has across Alaska.

Enforcement firmly believes consistent, fair, and proper enforcement of alcohol and marijuana laws affects and impacts the overall safety of all Alaskans.

Enforcement Activity	2016 Total	2017 Total	2018 Total	1/1/19 to 2/1/19
Investigations	138	240	432	50
Alcohol Walk-throughs	622	410	435	53
Alcohol Inspections	647	608	388	70
Alcohol NOVs	85	102	155	21
Alcohol Advisory Notices	82	31	44	6
Alcohol Permits reviewed	397	953	878	53
Marijuana Walk-throughs	*	196	169	11
Marijuana Inspections	54	193	180	13
Marijuana NOVs	*	60	74	16
Marijuana Advisory Notices	*	26	48	1
Marijuana Background Conducted (MJ-18)	19	103	29	2
Marijuana Handler Cards Issued	567	2,470	1,867	223
Compliance Checks/Shoulder Taps	*	*	5	0
Criminal Charges	*	*	2	0
Training Provided	*	*	22	0
Public Appearance	*	*	6	1
Enforcement Calls/Requests/General Enforcement Email	Half Year Stat 1,216	7,274	11,904	1,579

\*Stat not tracked or available for this item

### **3 AAC 306.325. Access restricted at retail marijuana store**

Where is a licensee required to check identification for proof of age? Staff has interpreted 3 AAC 306.025(a), in part based on board comments, as requiring that licensees check customer identification at the entrance (**3 AAC 306.325(a)**). However it has come to our attention that some retail store licensees are not checking IDs at the store entrance, but are only checking at the time of sale (**3 AAC 306.350**), and when entering a restricted access area (**3 AAC 306.710**). Board clarification is requested.

### **3 AAC 306.4309(c)(2) Restricted access area**

Odor complaints are taking up a significant amount of enforcement's time to investigate, and we have written numerous NOV's, often for licensees that we have received numerous complaints about. Many of the complainants are becoming aggravated, often directing the frustration towards enforcement regarding their complaints "going nowhere". This has quickly become an issue where the credibility of AMCO comes into question with the complainants due to a reported problem not being corrected. The common complaints I have heard is "Why is nothing being done with my complaint?", "I don't smoke marijuana and have no issue with it being legal, but I do not expect to smell it every day and make me miserable". This paints a public perception that AMCO, MCB, and the licensees do not take complaints regarding violations seriously. I am requesting that the board seriously consider the violations that are occurring and impose fines as a deterrent and to show the public that the board, industry, and AMCO do take the violations of regulations seriously and steps are taken to prevent further violations.

### **3 AAC 306.770. Signs, merchandise, advertisements, and promotions**

Enforcement has seen an increasing amount of licensees placing signs/decals on their doors and windows in addition to their business signs (3 AAC 306.770(b)). The signs vary, but often state that the store is a marijuana retail, but using words like "Alaska's premier Cannabis Store" "Cannabis Outlet", etc.

Is this practice approved by the board and do the signs count towards the three that are authorized?

Radio advertisements – Is a radio ad exempt from providing the license number? If a licensee provides more than their business name, logo, business type, contact information, location, and hours of operation, would this be a violation? If a licensee provides information regarding their type of license, telling people to shop at their locations, would this require the warnings and do we know the demographics of the radio audience?

### **3 AAC 306.745. Standardized scales**

Weights and Measures (DOT) provides an informational guideline on [measurement standards on commercial weighing of marijuana \(see attached\)](#).

The context below is provided:

*"Marijuana businesses that need to weigh large amounts marijuana products for tacking in METRC, may use scales with a 10-gram minimum division size. (These scales are not for commercial transactions.)"*

AMCO had interpreted the use of scales with a 10 gram variance, only to be used during the weighing of wet harvested plants.

The guideline goes on to say:

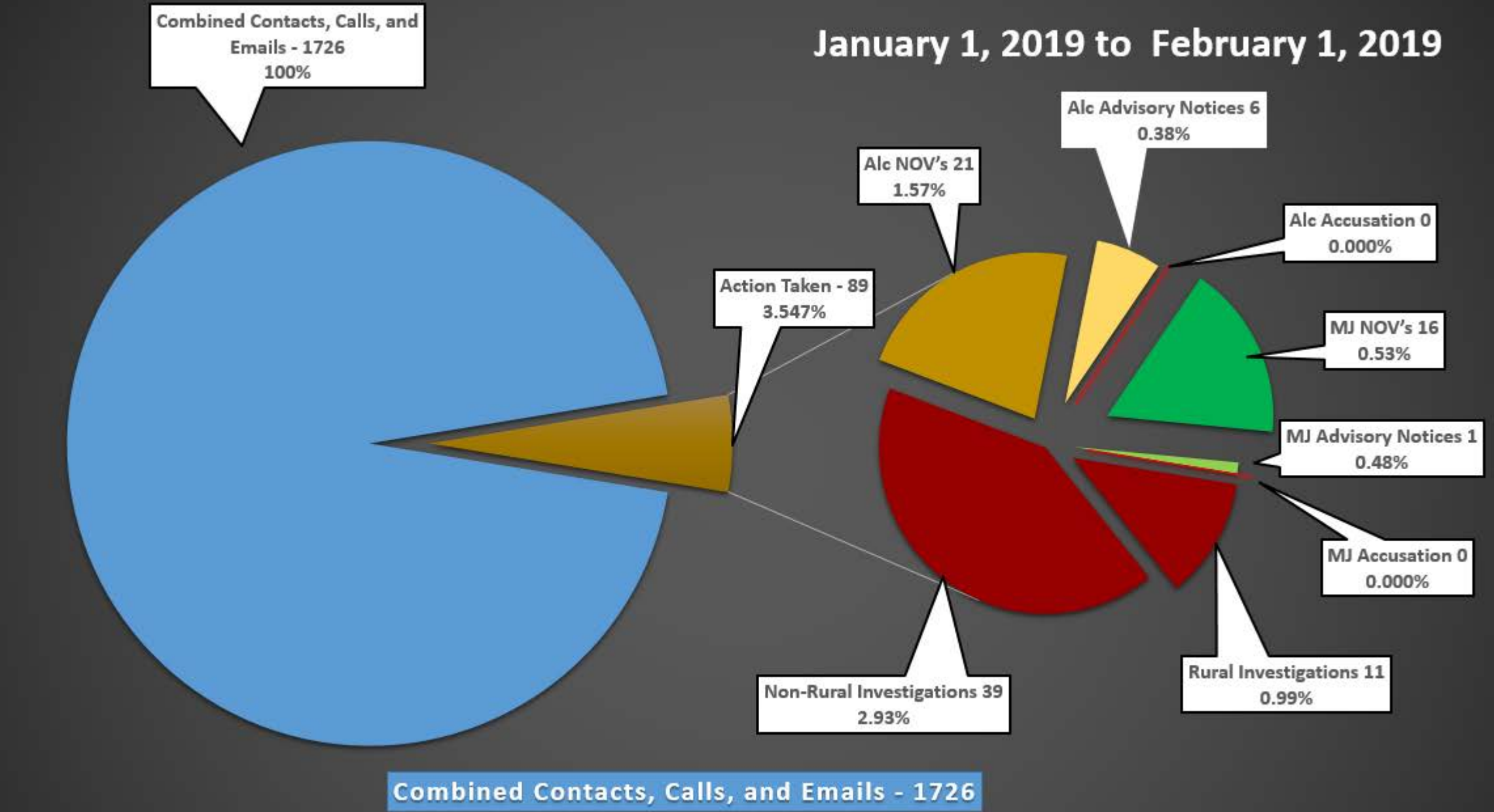
*“If buying or selling more than one ounce of marijuana product you must use a NTEP approved scale and at least a Class III scale with a division size of 1.0 gram or less.”*

And

*“If you are packaging products in quantities one ounce or less, use a NTEP approved Class II scale with 0.1 gram divisions or less.”*

We are seeking reaffirmation that the board is comfortable with these accuracy levels. Considering that cultivators both weigh during harvesting and weigh for sale to other licensees, some cultivators may need to have two scales.

January 1, 2019 to February 1, 2019



Combined Contacts, Calls, and Emails - 1726

Alc NOV's 21

MJ NOV's 16

Rural Investigations 11

Alc Advisory Notices 6

MJ Advisory Notices 1

Non-Rural Investigations 39

Alc Accusation 0

MJ Accusation 0



THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

## DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

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### State of Alaska

#### Measurement Standards Information on Commercial Weighing of Marijuana

Regulation of Marijuana Industry - 3 AAC 306.745 Standardized scales: "A marijuana establishment shall use certified scales in compliance with AS 45.75.080, the Alaska Weights and Measures Act. A marijuana establishment shall

- (1) Maintain registration and inspection reports of certified scales: and
- (2) Upon request by the board or the director, provide a copy of the registration and inspection reports of the certified scales to the board or the director for review."

#### General requirements for commercial scales

Scales used for commercial transactions must show they meet strict standards for accuracy. In Alaska, this means they must have a National Type Evaluation Program (NTEP) Certificate of Conformance (CC). New scales that meet these requirements will have a CC number xx-xxx on the identification plate.

All commercial scales are classified into groups. The device ID plate will identify the class of scale used. Accuracy class II and III scales are acceptable for use in the marijuana industry. A recommended minimum load of 20 scale divisions for class III scales meets National Institute of Standards and Technology (NIST) Hand Book 44 2.20 UR 3.1 Table 8 requirements. If buying or selling more than one ounce of marijuana product you must use a NTEP approved scale and at least a Class III scale with a division size of 1.0 gram or less.

Products packaged and labeled for retail sale are subject to net contents regulatory inspection. If you are packaging products in quantities one ounce or less, use a NTEP approved Class II scale with 0.1 gram divisions or less. Packaging rules and regulations may be found in NIST handbooks 130 and 133.

Marijuana businesses that need to weigh large amounts marijuana products for tacking in METRC, may use scales with a 10-gram minimum division size. (These scales are not for commercial transactions.)

#### 17 AAC 90.925. Registration Required

A person who uses, or has in possession for the purpose of using, for a commercial purpose specified in AS 45.75.080, a new or used weighing or measuring device not previously used in commerce, must contact the division to register the device and pay the applicable registration fee described in 17 AAC 90.920, when billed. Upon completion of registration and receipt of the registration fee, the division will provide a certificate or other evidence of device registration compliance to the registrant.

*"Keep Alaska Moving through service and infrastructure."*



Contact the Division of Measurement Standards and Commercial Vehicle enforcement to schedule an inspector to come to your place of business for testing and certification of your weighing devices or if you have questions concerning packaging and labeling.

For more information, please contact the Chief of Weights and Measures at (907) 365-1222 or by email at [MSCVE@alaska.gov](mailto:MSCVE@alaska.gov)

## Resources

State of Alaska:

State of Alaska Measurement Standards Information and contacts –

<http://dot.alaska.gov/mscve/index.cfm?go=mscve.wm>

AS 45.75.080 - Weights and Measures Act

<http://www.legis.state.ak.us/basis/statutes.asp#45.75>

17 AAC, Chapter 90 – Weights and Measures Regulation

<http://www.legis.state.ak.us/basis/aac.asp#17.90> amended effective 04/09/2016

3 AAC, Chapter 306 - Marijuana Regulation

<https://www.commerce.alaska.gov/web/Portals/9/pub/MCB/StatutesAndRegulations/MarijuanaRegulations.pdf>

National Institute of Standards and Technology (NIST):

Handbook 44 – Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices

<http://www.nist.gov/pml/wmd/pubs/hb44.cfm>

Handbook 130 – Uniform Laws and Regulations

<http://www.nist.gov/pml/wmd/pubs/hb130.cfm>

Handbook 133 – Checking the Net Content of Packaged Goods

<http://www.nist.gov/pml/wmd/pubs/hb133.cfm>

NTEP Search - Used to see if a device has a CC # (is Legal for trade)

[http://www.ncwm.net/ntep/cert\\_search](http://www.ncwm.net/ntep/cert_search)