



MEMORANDUM

TO: Marijuana Control Board DATE: March 19, 2020

FROM: Jane P. Sawyer, Regulations Specialist RE: Regulations Project – Sales
Limits under 3 AAC 306.355

The board opened this regulations project at the July 2019 meeting to clarify the limits on quantity sold of marijuana or marijuana products by a retail marijuana store, and sent the project out for public comment at January 2020 meeting. The public comment period was about 45 days long closing on March 13, 2020. We received six comments which are attached.

The change would eliminate the conflict between 3 AAC 306.355(a)(1) and (a)(3) which exists when an ounce of usable marijuana has more than 5,600 milligrams of THC. It would make it clear that a retail marijuana store may not sell to any one person per day more than 5,600 milligrams of THC in combined sales of marijuana and marijuana products.

Simple example (not to be taken out of context), Jane can buy one ounce of usable marijuana even if the THC content is more than 5,600 milligrams, or she can buy seven grams of marijuana concentrate for inhalation, or she can buy a combination of usable marijuana and marijuana products in which the total combined THC content is 5,600 milligrams or less.

In addition, a technical amendment is being made to 3 AAC 306.355(b).

Options for the board:

- Vote to adopt
- Amend and put out for public comment
- Send back to staff for revisions
- Close the project without action

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

3 AAC 306.355(a) is amended to read:

3 AAC 306.355. Limits on quantity sold. (a) A retail marijuana store may not sell to any one person per day

- (1) more than one ounce of usable marijuana;
- (2) more than seven grams of marijuana concentrate for inhalation;[,] or
- (3) **more than 5,600 milligrams of THC in combined sales of marijuana and**

marijuana products. [MARIJUANA OR MARIJUANA PRODUCTS IF THE TOTAL AMOUNT OF MARIJUANA, MARIJUANA PRODUCTS, OR BOTH MARIJUANA AND MARIJUANA PRODUCTS SOLD CONTAINS MORE THAN 5,600 MILLIGRAMS OF THC.]

3 AAC 306.355(b) is amended to read:

(b) **The limits set out in (a) of this section** [THESE LIMITS] include marijuana or marijuana product sold for onsite consumption under 3 AAC 306.370(a)(2). (Eff.

2/21/2016, Register 217; am 4/11/2019, Register 230; 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

Comments on: NOTICE OF PROPOSED CHANGES ON SALES LIMITS IN THE REGULATIONS OF THE MARIJUANA CONTROL BOARD

Submitted By	Comment
<p>2/10/2020 8:20:40 PM</p> <p>Cheryl Bowie cherylwbab@gmail.com</p> <p>Seattle, WA, US Anonymous User</p>	<p>I am writing in opposition of this regulation as it only deals with current recreational regulations while other aspects of the industry are still be written and developed.</p> <p>A different aspect of this regulation is the transportation burden it puts in certain people living in different places or patients utilizing cannabis in their medical therapies.</p> <p>If we want to encourage and develop a robust industry we need to ensure that customers can purchase the amount of legal cannabis to keep them out of current grey areas. Illinois allows up to five ounces a month per medical marijuana patient in their regulatory and legal model.</p> <p>The recreational and medical marijuana dispensaries in Illinois have to serve the medical marijuana patients first because they are using it for a medical purpose so they have to keep a months supply per patient, this allows a type of reservation system so the growers can more readily estimate their business needs and anticipate changes and it distributes the tax burden more readily.</p> <p>Other areas this limit does not account for is commercial or industrial usage, some industries won't be purchasing cannabis for human consumption.</p> <p>I would encourage the Alaska marijuana control board identify other commercial, industrial and medical marijuana programs and present something about them in future marijuana control board meetings to educate the public on different regulatory models.</p> <p>I also encourage the AMCO board and staff attend the pharmacy and therapeutics committee to gain a different view or understanding of a board similar to itself that is vastly familiar with Alaska laws and regulations.</p> <p>The state of Alabama allowed the University of Alabama to conduct research on CBD and they have already published their research.</p> <p>Alaska has not tapped other sides to this area of development and we are certainly further ahead of the game policy wise so we have that, it's just the biggest and most investment friendly aspects of the industry are not operational in Alaska yet and for an industry that's in dire need to stabilize I'd suggest widening the platform so to speak to carry recreational through the growing pains they're experiencing.</p> <p>I've included some other points for consideration to review.</p> <p>Listen to my testimony starting at 2:13:36 (Cheryl Bowie with @dreamgbutterfly botanicals). ??? 2018 Farm Bill Webinar on Domestic Hemp Production Program Follow-up https://t.co/drCh8RBhFH https://t.co/hx6Com6zs2</p> <p>Readers And Tweeters Take Dialysis Providers To Task: Nowhere But In The USA: The Battle For Uniform Excellence In Tribal Care https://khn.org/OTg4NTQ2</p> <p>Comment from Cheryl Bowie: This is a Comment on the Food and Drug Administration https://www.regulations.gov/document?D=FDA-2019-N-0767-3583</p> <p>I support all sides of this industry from the adult use to medical, industrial, commercial and research. I think there should be considerations for different models that are not operating in Alaska yet before setting such a limit.</p> <p>Sincerely,</p> <p>Cheryl Bowie @dreamgbutterfly botanicals cherylwbab@gmail.com</p>



March 13, 2020

Via email

Subject: Public Comment on 3 AAC 306 - PROPOSED CHANGES ON SALES LIMITS

Dear Honorable Marijuana Control Board Members,

The Marijuana Control Board proposes to adopt regulation changes in 3 AAC.306. **We do not support this regulation change** as written. This project and the section of regulation it seeks to change are inconsistent with AS 17.38 and should be amended accordingly.

17.38.190(9)(b) In order to ensure that individual privacy is protected, the board shall not require a consumer to provide a retail marijuana store with personal information other than government-issued identification to determine the consumer's age, and a retail marijuana store shall not be required to acquire and record personal information about consumers.

The proposed change would require retailers to not sell more than 5,600 milligrams of THC to any one person per day. In order to comply with this regulation, retail licensees would be required to track sales in a way that is expressly prohibited by state law.

Additionally, no other legal state limits sales by milligrams of THC. In fact, this regulation change would make Alaska by far the most restrictive when it comes to legal cannabis sales limits. That is the wrong direction to steer the Alaska cannabis industry, which faces an uphill battle in competing with the unregulated market that is fueled by overproduction in the Lower 48.

Implementation of this proposed regulation would also disrupt Alaska's legal cannabis retailers. Point-of-sale programs developed for the cannabis industry generally do not track flower potency by milligrams, but instead by THC percentage.

Most legal cannabis consumers already know that they can purchase up to a full ounce of flower at a licensed retail; many who still buy on the unregulated market purchase more than an ounce at a time. Because cannabis flower sold in Alaska retail stores commonly tests above 20% THC, instituting a 5,600 milligram limit would prevent consumers from purchasing a full ounce of flower.

Since the proposed regulation changes do nothing to address health or safety concerns, and they potentially benefit the unregulated market, it will be quite difficult to explain to customers why the Alcohol and Marijuana Control Office sees this as a necessary change. AMCO staff should seek industry input before developing regulations that impact daily operations.

Respectfully,

Alaska Marijuana Industry Association
Board of Directors

The Alaska Marijuana Industry Association is Alaska's only statewide cannabis industry trade group. Our mission is to promote and advocate for a vibrant and reasonably regulated Alaska-based marijuana industry. The AMIA serves to strengthen and enhance a network of connected, independent, informed, regionally and community directed Alaska marijuana organizations.

www.alaskamarijuanaindustry.org

From: [Ashley Jaquish](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Proposed Changes to Marijuana Purchase Limit
Date: Thursday, January 30, 2020 11:57:00 AM

To whom it may concern,

If my calculations are correct, the proposed regulation, limiting a purchaser's THC per transaction per day to 5600mg, would make it so that an individual could only purchase an ounce of cannabis up to 20% thc and nothing higher (and no other product that day). This seems inconvenient, impractical, and unnecessary. The current limitations have been safe, within reason, and not abused. As a consumer and industry employee, it is my personal and professional opinion that this would NOT be an advisable move, for the retail stores or public. Thank you for your consideration.

-Ashley Insalaco

From: Cheryl Bowie
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Public Comment On NOTICE OF PROPOSED CHANGES ON SALES LIMITS IN THE REGULATIONS OF THE MARIJUANA CONTROL BOARD
Date: Monday, February 10, 2020 5:39:05 PM

I am writing in opposition of this regulation as it only deals with current recreational regulations while other aspects of the industry are still be written and developed.

A different aspect of this regulation is the transportation burden it puts in certain people living in different places or patients utilizing cannabis in their medical therapies.

If we want to encourage and develop a robust industry we need to ensure that customers can purchase the amount of legal cannabis to keep them out of current grey areas. Illinois allows up to five ounces a month per medical marijuana patient.

The recreational and medical marijuana dispensaries in Illinois have to serve the medical marijuana patients first because they are using it for a medical purpose so they have to keep a months supply per patient, this allows a type of reservation system so the growers can more readily estimate their business needs and anticipate changes and it distributes the tax burden more readily.

Other areas this limit does not account for is commercial or industrial usage, some industries won't be purchasing cannabis for human consumption.

I would encourage the Alaska marijuana control board identify other commercial, industrial and medical marijuana programs and present something about them in future marijuana control board meetings to educate the public on different regulatory models.

I also encourage the AMCO board and staff attend the pharmacy and therapeutics committee to gain a different view or understanding of a board similar to itself that is vastly familiar with Alaska laws and regulations.

The state of Alabama allowed the University of Alabama to conduct research on CBD and they have already published their research.

Alaska has not tapped other sides to this area of development and we are certainly further ahead of the game policy wise so we have that, it's just the biggest and most investment friendly aspects of the industry are not operational in Alaska yet and for an industry that's in dire need to stabilize I'd suggest widening the platform so to speak to carry recreational through the growing pains they're experiencing.

I think there should be considerations for different models that are not operating in Alaska yet before setting such a limit.

Sincerely,

Cheryl Bowie
@dreamgbutterfly botanicals
cherylbwab@gmail.com

From: [Chris Farris](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Public Comment on Sales Limits
Date: Monday, February 03, 2020 6:26:26 PM

AMCO Board and Staff,

I would like to start by saying that I do not approve of this regulation change as written. This regulation still needs quite a bit of work and the proposed change is a minor change that doesn't really address the real issues.

The main issue with this regulation is a conflict between the sections below of 17.38 and 3 AAC 306:

Sec. 17.38.190. Rulemaking, Subsection (b) In order to ensure that individual privacy is protected, the board shall not require a consumer to provide a retail marijuana store with personal information other than government- issued identification to determine the consumer's age, and a retail marijuana store shall not be required to acquire and record personal information about consumers.

3 AAC 306.355. Limits on quantity sold. (a) A retail marijuana store may not sell to any one person per day (1) more than one ounce of usable marijuana; (2) more than seven grams of marijuana concentrate for inhalation;[,] or (3) more than 5,600 milligrams of THC in combined sales of marijuana and marijuana products.

Due to the section in 17.38, retail stores are not able to retain the necessary information to ensure that a per day limit is followed. This regulation is impossible to follow and should be changed to a per transaction limit.

The other problem that needs to be addressed is the 5600mg limit. 17.38 does not specify a sales limit but does limit personal possession to not more than 1 ounce of marijuana and it gives marijuana the following definition: "marijuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does not include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant that is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products, or industrial hemp as defined in AS 03.05.100;

It is clear that 17.38 meant to set the personal possession limit at 1 ounce of marijuana whether it is flower, concentrates or an ingredient in an edible or topical. The 5600mg limit does not prevent someone from leaving a retail store with more than 1 ounce of marijuana per the definition in 17.38 and it is overly difficult and burdensome to calculate at the point of sale to a customer. For those reasons, we need to revisit this part of the sales limit and come up with a better way to not only follow the rules set forth in 17.38 but to make it simple to calculate at the point of sale.

I believe the best option would be to have 17.38 changed to allow possession of 1 ounce of marijuana flower, AND 7 grams of marijuana concentrates, AND 5600mg of marijuana in

edible or topical form. Then we would change 3 AAC 306 to match. This way each category has its own set limit and there is no need for burdensome calculations when sales of two or more categories are combined.

Without changing 17.38, I believe the best option would be to leave the limits as is, but instead of 5600mg THC total for combined sales of marijuana and marijuana product, it be a 1 ounce total of marijuana using the definition of marijuana in 17.38. Not only will this follow precisely what is written in 17.38, it will also be much easier to calculate at the point of sale. Someone can purchase 1 ounce of marijuana flower, or 27grams of flower and 1gram of concentrate, or 26grams of flower and 2grams of concentrates and so on. The only additional change that would be needed with a change to this system is to require marijuana products to list the weight of the oil per serving or per package. That way we can use that weight to calculate the combined weight. An example of what this section would look like is below:

3 AAC 306.355. Limits on quantity sold. (a) A retail marijuana store may not sell to any one person per transaction (1) more than one ounce of usable marijuana; (2) more than seven grams of marijuana concentrate for inhalation; (3) more than 5,600 milligrams of THC in edible or topical form; or (4) more than one ounce of marijuana in combined sales of marijuana and marijuana products not to exceed the individual limits of each one.

Thank you for your time.

Best Regards,
Chris Farris
CFO | Co-Owner
Green Jar