



MEMORANDUM

TO: Marijuana Control Board DATE: June 1, 2020
FROM: Jane P. Sawyer, Regulations Specialist RE: Regulations Project – Director
of a Corporation

This regulations project is a recommendation by AMCO in response to comments received regarding the inconsistency between 3 AAC 306.015(b)(4), 3 AAC 306.040, and 3 AAC 306.020(b)(2)(D).

3 AAC 306.020(b)(2). Application for new license. Requires each corporate officer and director of a corporation to be listed on the application, therefore considering a corporate officer and director of a corporation to be a licensee. A licensee must be a resident of the state and pass a background check. Attached is a recommended draft and it would do the following:

- 3 AAC 306.015(b)(4). License conditions. Would add corporate officer, and director of a corporation to be required to be residents of the state.
- 3 AAC 306.040. Ownership change. Is repealed and readopted for logical purposes to add subsection (d) and re-letter subsection (d) to (e). AND would amend the definition of "ownership change" under (f)(3) to include directors.

Options for the board if regulations project is opened:

- Put out draft for public comment
- Amend draft and put out for public comment
- Send draft back to staff for revisions

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

3 AAC 306.015(b)(4) is amended to read:

(4) a corporation unless the corporation is incorporated or qualified to do business in the state and each **corporate officer, each director, and each** shareholder is a resident of the state.

(Eff. 2/21/2016, Register 217; add'l am 2/21/2016, Register 217; am 2/21/2019, Register 229; am 4/11/2019, Register 230; am ____/____/_____, Register _____)

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

3 AAC 306.040 is repealed and readopted to read:

3 AAC 306.040. Ownership Change. (a) An application for an ownership change shall be submitted on a form prescribed by the board.

(b) If any change required to be submitted 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) An individual identified in this section shall be a resident of the state as required under 3 AAC 306.015(b)(4) and 3 AAC 306.015(e)(2).

(e) The director shall approve an ownership change application when any new owner

(1) 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); and

(2) is a resident of the state.

(f) 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, any change of the percentage ownership of an existing shareholder, or any change in its directors. (Eff. 2/21/2016, Register 217; am 7/19/2017, Register 223; am 2/21/2019, Register 229; am ____/____/_____, Register _____)

- Authority:** AS 17.38.010 AS 17.38.070 AS 17.38.121
- AS 17.38.150 AS 17.38.190 AS 17.38.200
- AS 17.38.900

Current language of 3 AAC 306.040 which is being repealed and readopted.

[3 AAC 306.040. Ownership change

(a) AN APPLICATION FOR AN OWNERSHIP CHANGE SHALL BE SUBMITTED ON A FORM PRESCRIBED BY THE BOARD.

(b) IF ANY CHANGE REQUIRED TO BE SUBMITTED 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) 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

Register _____, _____20__

COMMERCE, COMMUNITY, AND EC. DEV.

CURRENTLY AN OWNER, OR ANY CHANGE OF THE PERCENTAGE OWNERSHIP OF
AN EXISTING SHAREHOLDER.]