



MEMORANDUM

TO: Marijuana Control Board DATE: October 23, 2020

FROM: Glen Klinkhart, Interim Director RE: Regulations Project – Infants on
Jane P. Sawyer, Regulations Specialist Premises

At the August 2020 meeting, the board sent out a revised draft on infants on premises for public comment. The draft was out for about 62 days closing on October 23, 2020. Comments were received and they are attached.

The draft would

- amend access restricted at retail marijuana store section, 3 AAC 306.325, to exempt infants 12 months of age and younger from the restriction of entering licensed premises.
- add section breastfeeding on licensed premises, 3 AAC 306.712,
 - to allow a licensee or employee of a licensee to bring a child, who is the child of the licensee or employee, onto a licensed premises, excluding a restricted access area or an onsite consumption area, for the purpose of breastfeeding the licensee or employee's child
 - for a licensee to be able to designate an area, that is not a restricted access area, for breastfeeding or for the expression of breast milk.

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 306.325(a) is amended to read:

(a) **Except as provided under 3 AAC 306.712, a** [A] person under 21 years of age may not enter a retail marijuana store.

(Eff. 2/21/2016, Register 217; am 5/9/2019, 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

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

3 AAC 306.712. Breastfeeding on Licensed Premises. (a) A licensee or employee of a licensee may bring a child up to 12 months of age, who is the child of the licensee or employee, onto a licensed premises, excluding a restricted access area described under 3 AAC 306.710 and an onsite consumption area described under 3 AAC 306.370, for the purpose of breastfeeding the licensee or employee's child.

(b) A licensee may designate an area for breastfeeding or for the expression of breast milk. A designated area may not include a restricted access area described under 3 AAC 306.710 or an onsite consumption area described under 3 AAC 306.370.

(c) This section may not be construed to supersede or change the requirements of 29 U.S.C. 207 (Section 7 of the Fair Labor Standards Act of 1938) or any other law applicable to breastfeeding in the workplace. (Eff. ____/____/_____, 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

From: Barret Goodale
To: [CED AMCO REGS \(CED sponsored\)](#)
Cc: [Trevor Haynes](#); [Christian Hood](#); [Greg Allison](#)
Subject: NOTICE OF PROPOSED CHANGES ON INFANTS ON PREMISES IN THE REGULATIONS
Date: Friday, September 4, 2020 3:58:06 PM

Members of the Board,

I appreciate this issue being addressed again. I am in full support of this change. It is reasonable and fair. Furthermore, it is an important move in the development of this legitimate industry.

Sincerely,

C. Barret Goodale
GOOD Cultivation Manager
907-699-9478

Follow GOOD on [Instagram](#), [Twitter](#), and [Facebook](#)
Alaska Marijuana Industry Association member

Comments on: NOTICE OF PROPOSED CHANGES ON INFANTS ON PREMISES IN THE REGULATIONS OF THE MARIJUANA CONTROL BOARD

Submitted By	Comment
8/22/2020 12:41:52 PM Christopher Farris cfarris@greenjarak.com Wasilla, AK, US Anonymous User	I approve of this regulation as written but I do believe that it is overly restrictive and makes it difficult or in some cases impossible for licensees to provide a designated space to their employees. As written an employee or licensee is only allowed to bring an infant into a non-restricted access area of the licensed premise. This severely limits our ability as a licensee to designate an area for breastfeeding because it has to be non-restricted access and needs to be accessible from outside or through a non-restricted area. Some facilities would have to be completely redone just to provide a non-restricted access area for breastfeeding. I feel that the designated breastfeeding area should be allowed to also be a restricted access area or at the very least we should be able to bring an infant through a restricted access area to get to a designated breastfeeding area. I don't see how breastfeeding an infant in a room where marijuana is stored is any less safe than in a room where it is not. If there are specific concerns about having infants in a restricted access area those should be addressed individually rather than not allowing it to be a restricted access area at all. If there is a concern with having an infant in a room where marijuana is actively being processed that could be addressed in the regulation. Many businesses have an office or storage area that is only used for storing marijuana and would be a suitable area to be designated for breastfeeding, however, they are either restricted access or are accessed from a restricted access area. Like I said, I support this regulation as it is a small step in the right direction but I do not believe it needs to be so overly restrictive and we should be given some leeway to allow this to work in any facility regardless of how it is set up.

From: Terriann Shell
To: [Marijuana, CED ABC \(CED sponsored\); CED AMCO REGS \(CED sponsored\)](#)
Subject: Regulation project: Accommodation for breastfeeding
Date: Sunday, August 23, 2020 1:29:40 PM

Dear AMCO,

It is a Federal requirement, as you state, that stipulates that breastfeeding parents need to be accommodated with a time and place (that is clean, has a lock, and not the bathroom) to express milk (does not say the baby must be brought in). Even businesses that do not have 50 employees must show it is an undue burden not to accommodate an employee.

First before making a decision, please read the actual Act!

In 2010, Section 7 of the Fair Labor Standards Act (FLSA) was amended to require employers to provide basic accommodations, such as time and space, for breastfeeding mothers at work. This is call the Break Time for Nursing Mothers Act.

Marijuana facilities SHOULD be held to this requirement (not that they have the choice since it IS a Federal Act) because:

1. The employee is trained for their job and capable of working. Alaska Governor Dunleavy is mandating the “right-touch” regulations and disregarding this Federal requirement would be barring some people from working so that they can continue to breastfeed which is against what our Governor is directing. This would not be the “right-touch” at all!
2. These businesses should want to retain this employee since it would take time and money to train another person if they did not accommodate this employee and the employee terminated employment.
3. It is good for the employer to have an employee who continues to breastfed their baby since the baby is sick less (less missed time for the employee from work) and the employee gains lifelong health benefits.
4. Over 93% of Alaska newborns are breastfed at birth and local, state, and federal efforts are ongoing to increase this percentage for the benefits of our families. You would be discriminating against employees who give birth. If not accommodated, the employee may be facing issues such as low milk production and mastitis causing increased health issues for the employee and their child.
5. You cannot regulate what people do on their off-time breaks or lunchtimes.
6. It is good for Alaska to provide what a breastfeeding parent needs to continue breastfeeding especially after return to employment by raising a healthier population.
7. No where in the Break Time for Nursing Mothers Act does it say the child needs to be brought onto the premises! It would be beneficial if the child could direct feed during the day (there are special benefits to that), but that can be left to the health department to prove there is any harm in allowing visits. **YOU added the “infants on premise” to this argument which just confuses the issue!**

More information can be found at the Office of Women’s Health:

<https://www.womenshealth.gov/supporting-nursing-moms-work/what-law-says-about-breastfeeding-and-work>

I am ready, willing, and able to consult with businesses (at no fee) that wants to explore how to comply with this Federal requirement. There is no excuses not to comply!

Sincerely,
Terriann Shell, International Board Certified Lactation Consultant
Big Lake, Alaska



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October 23, 2020

Transmitted via electronic mail

Re: Support for Regulation Change Allowing Breastfeeding Infants on Licensed Premises

Dear Honorable Members of the Alaska Marijuana Control Board:

Please accept this letter in support of the proposed regulation changes to 3 AAC 306.325(a) and the addition of 3 AAC 306.712 Breastfeeding on Licensed Premises.

At this time, there is no accommodations for breastfeeding mothers allowed for in the Marijuana Control Board Regulations. Understandably, minors are prevented from accessing marijuana and marijuana businesses to protect their wellbeing. Marijuana use at an early age has been shown to be detrimental to children's brain development and overall health. This hard and steadfast rule has created unintended victims: licensees and employees of marijuana establishments and their infant children. Current regulations discriminate against working mothers by unfairly restricting their ability to breastfeed their children. I have had a plethora of clients bring this issue up to me and explain how it negatively impacts their employees and, in some cases, their own baby's health and wellbeing. For example, imagine you are a single mom and you finally got a job with great pay, team environment, and you love what you do. Except there's one catch, unlike most businesses, there is zero way for you to naturally feed your baby inside your place of employment. A client of mine explained the story to me as follows:

"I love my employee, she is great – she just had a baby and she really wanted to get back to work and I love her go getter attitude. She asked me if she could have her baby (which is only a few months old) in the office with her while she does the books, paperwork and other administrative tasks. I told her I have to talk to you, my attorney, before I say yes. You told me that based on the rules I couldn't have her bring the baby into the licensed premises at all... I explained the baby is so young it only sees shapes and colors and you still said no... So, much to my employees disappointed I relied the news. She was not pleased but she said she'd try to make it work by having her mother bring the baby every two hours to the facility to feed. So, in



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the dead of winter my employee goes and sits in the car with her baby and feeds. I hate that I cannot provide a designated space for her to feed her infant inside the facility. Eventually, my employee's mother couldn't keep up with having to drive in the winter to the facility every two hours to feed, so my employee had to quit, as it was ultimately hurting the wellbeing of the baby. Isn't there a better solution? Couldn't the MCB come up with a more creative way to address restricting children to facilities but still allowing an employee the basic human right of feeding their infant?"

Although I didn't have a good answer at the time, there has since been important regulation brought forth to address the problems that so many of my clients have faced. Right now, there simply is no wiggle room in the regulations to allow for breast feeding in the facility. AMCO staff has done a great job at addressing this issue in the regulation change that is now before you for adoption. There needs to be accommodation for breastfeeding mothers – we already have an economy that historically values woman less than men, lower wages¹, hiring discrimination against pregnant or single mothers, etc. According to the National Partnership for Women and Families, in the state of Alaska more than 28,000 household families are headed by women, and about 21% of those 28,000 families fall below the poverty line. For this industry to move forward in an equitable manner, we must adopt these proposed regulations.

Your role as regulators is to regulate this industry in a manner that protects health, families and public safety, foster business growth and diversification of our economy. You cannot fulfill this role if your regulations discriminate against women. The proposed change needs to be adopted by this Honorable Board so that the regulations do not force licensees to engage in employment practices that have the effect of fostering gender-based occupational segregation by excluding new working moms from engaging in gainful employment in the marijuana industry.

This Board is a thoughtful and progressive group of community leaders. We hope you will adopt Staff's carefully crafted proposed regulation change, which will aid in the progression of inclusion and equity for all employees and licensees. Thank you for your consideration and thank

¹ Woman in Alaska are paid 80 cents per every dollar paid to men, which amounts to an annual gender wage gap of \$12,206.00. <https://www.nationalpartnership.org/our-work/economic-justice/wage-gap/the-wage-gap-in-alaska.html>
See attached Fact Sheet for more stats.



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you for your continued hard work, dedication, and commitment to the success of this regulated industry.

Truly and Sincerely Yours,



Jana D. Weltzin, Esq