3 AAC 306.800(a) is amended to read:

(a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, may

(1) inspect the licensed premises of a marijuana establishment, including any marijuana and marijuana product on the premises, equipment used in cultivating, processing, testing, or storing marijuana, the marijuana establishment's marijuana inventory tracking system, business records, and computers, at any reasonable time and in a reasonable manner;

(2) issue a report or notice as provided in 3 AAC 306.805; [AND]

(3) **seize or place an administrative hold on marijuana or any marijuana product as provided in 3 AAC 306.830; and**

(4) as authorized under AS 17.38.131, exercise peace officer powers and take any other action the director determines is necessary.

(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

3 AAC 306.830 is repealed and readopted to read:

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

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

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

(3) if the marijuana establishment has 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;

(4) if the marijuana establishment has not renewed its license as required under 3 AAC 306.035;

(5) upon the development of reasonable grounds to believe that any marijuana or marijuana product

(A) constitutes evidence of a violation of a state statute or regulation; or

(B) poses an immediate threat to worker or public health, safety, or welfare; or

(6) if the marijuana establishment has engaged or attempted to engage in

(A) the diversion of marijuana or a marijuana product; or

(B) a crime on the establishment's licensed premises; in this subparagraph, "crime" has the meaning given in AS 11.81.900(b).

(b) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity may choose, for a reason set out in (a) of this section, whether to place an administrative hold on marijuana or a marijuana product or seize the marijuana or

marijuana product. The director may change an administrative hold to a seizure. The director shall update the marijuana inventory control tracking system to reflect the administrative hold or seizure or a change from an administrative hold to a seizure.

(c) If marijuana or a marijuana product is placed on an administrative hold, the marijuana establishment shall

(1) physically separate the marijuana or marijuana product from the public and store it in a secured and restricted-access area of the establishment's licensed premises; and

(2) receive the express written consent of the director to sell, move, transfer, or engage in any other commercial activity relating to the marijuana or marijuana product,

(A) after the conclusion of the investigation of the reason for the administrative hold, the payment of any civil fine, the lifting of any suspension, and the conclusion of any informal conference, any formal hearing, and any hearing under AS 44.62.330 - 44.62.630 (Administrative Procedure Act) and, if applicable, 2 AAC 64.100 - 2 AAC 64.990;

(B) if seizure of the marijuana or marijuana product has not been ordered under (d) of this section; and

(C) if destruction of the marijuana or marijuana product has not been ordered under (j) of this section.

(d) 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 ensure that the items physically removed from the establishment's licensed premises are stored in a reasonable manner.

(e) The director shall immediately give the marijuana establishment at which the marijuana or marijuana product was placed on administrative hold or from which the item was seized notice of whether the action is an administrative hold or seizure and the reasons for the administrative hold or seizure. In the notice, the director shall state that the marijuana establishment may request, not later than 15 days after receiving the notice,

(1) an informal conference, before either the director or the board, if the establishment is aggrieved by an administrative hold; the director shall also state in the notice that selection of an informal conference does not affect the establishment's right to request a formal hearing from the administrative hold; or

(2) a formal hearing before the board from an administrative hold or seizure; in the notice, the director shall schedule a date and time for a formal hearing that is not later than 15 days after the establishment receives the notice, unless the establishment requests a delay.

(f) If the marijuana establishment aggrieved by an administrative hold elects an informal conference

(1) with the director, the informal conference must be held at a time and place convenient to the establishment and the director, but not later than 15 days after the establishment receives notice of the administrative hold, unless the establishment elects a later time for the conference; an informal conference with the director may be conducted telephonically; or

(2) with the board, the informal conference must be held at a time and place convenient to the establishment and the board, but not later than the next scheduled meeting of the board; an informal conference with the board may be conducted telephonically.

(g) If the informal conference does not resolve the matter of an administrative hold to the satisfaction of the marijuana establishment, the establishment, not later than 15 days after the last day of the informal conference, may request a formal hearing. The hearing will be held not later than 15 days after the director's receipt of the request for a formal hearing.

(h) If the request for formal hearing is from an informal conference regarding an administrative hold, the director shall send the marijuana establishment a notice with the date and time of the formal hearing, scheduled as described in (g) of this section, unless the establishment has requested a delay. If the request for formal hearing is from an administrative hold or seizure, and the establishment did not request an informal conference, the formal hearing will be held on the date and time scheduled in the notice sent under (e)(2) of this section, unless the establishment has requested a delay. If the administrative hold or 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.

(i) If an administrative hold is on marijuana plants in a licensed standard or limited marijuana cultivation facility, the order setting the administrative hold must

(1) direct the facility to continue care of the plants until the conclusion of any informal conference, any formal hearing, and any hearing under AS 44.62.330 - 44.62.630 (Administrative Procedure Act) and, if applicable, 2 AAC 64.100 - 2 AAC 64.990; and

(2) prohibit any transfer, sale, or commercial activity related to the plants, until the conclusion of any informal conference, any formal hearing, and any hearing under AS 44.62.330 - 44.62.630 (Administrative Procedure Act) and, if applicable, 2 AAC 64.100 - 2 AAC 64.990.

(j) If after a formal hearing the administrative hold or seizure is upheld as justified, the marijuana establishment at or from which the marijuana or marijuana product was placed on administrative hold or seized may request, as provided in 3 AAC 306.835, a hearing under AS 44.62.330 - 44.62.630 and, if applicable, 2 AAC 64.100 - 2 AAC 64.990. If the marijuana establishment from which the marijuana or marijuana product was placed on administrative hold or seized does not request or participate in an informal conference, a formal hearing, or a hearing under AS 44.62.330 - 44.62.630 and, if applicable, 2 AAC 64.100 - 2 AAC 64.990, or if after any informal conference and any final hearing the administrative hold on or seizure of the marijuana or marijuana product is upheld as justified, the board may order the destruction of the marijuana or marijuana product, in addition to or in place of any fines or civil remedies. The marijuana or marijuana product must 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.

(k) The board will not consider marijuana or a marijuana product placed on administrative hold or seized to be part of a marijuana establishment's physical inventory until the administrative hold is lifted or the marijuana or marijuana product is removed from seizure. The director shall notify, for their information, local governments and taxing authorities with jurisdiction over a marijuana establishment subject to the administrative hold or seizure not later than 30 days after the administrative hold or seizure is put in place or lifted. (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

3 AAC 306.845(b) is amended to read:

(b) A person aggrieved by a final decision of the board suspending or revoking a license under this chapter**,** [OR] imposing a civil fine **under this chapter, or upholding as justified an administrative hold on or the seizure of marijuana or a marijuana product** may appeal to the superior court under AS 44.62.560. (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	