MEMORANDUM

State of Alaska
Department of Law

TO: Marijuana Control Board

DATE: October 20, 2020

FILE NO.: 2019200634

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FROM: Joan M. Wilson
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Section

SUBJECT: Agency-Attorney Review Memorandum: Rekey of 3 AAC 306.405-.990: Marijuana Control Board: Marijuana Overlapping Premises

Attached for Board consideration and final adoption is a rekey of 3 AAC 306.405-.990, Marijuana Overlapping Premises. The changes are as follows. Unless the board spots an issue I did not see, I recommend that the Board adopt the rekey.

- Page 1, 3 AAC 306.020(b)(8):
- Page 1, 3 AAC 306.047(c)(3):

The rekey changes the use of the term "areas" to "overlapping premises." It is the least unwieldy and amenable to consistent usage. The change to "overlapping premises" is made throughout the rekey.

- Page 2, 3 AAC 306.305(c):

This change clarifies that marijuana establishments do not apply for licenses or requests for overlapping premises, but that licensees apply for licenses. The change here is made throughout the rekey. All these edits stress a key point: that a licensee who obtains one or more additional licenses must operate each marijuana establishment separately, and is not allowed to blur operations across the establishments.

- Page 2, 3 AAC 306.305(c)(1):

This change clarifies text to reflect the division of operations where there are overlapping premises.

- Pages 2 - 3, new amendment to 3 AAC 306.405(b):

Conforming changes are made to 3 AAC 306.405(b), to track the edits to 3 AAC 306.305 and 3 AAC 306.505 regarding licensees applying for multiple licenses, not establishments.

- Pages 4, 3 AAC 306.405(c)(6):

Conforming changes like those made to 3 AAC 306.305(c). In addition, a cross-reference is made to 3 AAC 306.405(b), to reduce redundancy.

- Page 5, new amendment to 3 AAC 306.505(5):

A new amendment is made to 3 AAC 306.505(5) to fix a typo.

- Pages 5 - 6, 3 AAC 306.505(b):

Edits here track the edits to 3 AAC 306.305(c) regarding separated operations.

- Page 7, 3 AAC 306.705(a) (introductory language):

The original proposed regulation states:

> Licensed premises must be contiguous, except that the board may approve noncontiguous portions of the licensed premises that are not a restricted access area under 3 AAC 306.710.

The use of the word "contiguous" as used by AMCO is different from the plain meaning use of the term, which generally implies neighboring lots, not neighboring rooms in buildings. As such the new proposed language substitutes "adjacent" for "continuous" and states:

> Unlicensed areas may not separate portions of licensed premises, except that the board may approve noncontiguous portions of the licensed premises that are not a restricted access area under 3 AAC 306.710.

I believe this change reflects board intent and conforms to the definition of "licensed premises," but please determine whether you agree.

- Page 7, 3 AAC 306.705(b)

The MCB has to date created only one kind of endorsement, the onsite consumption endorsement. There is a potential the board may create additional endorsements in the future. Therefore, reference to "3 AAC 306.110 and 3 AAC 306.370" is changed to "3 AAC 306.110, including 3 AAC 306.370,"

- Page 8, 3 AAC 306.705(d):

Changes made here track changes made to 3 AAC 306.305(c).

- Page 8, 3 AAC 306.710(d) (introductory language):

"Marijuana or marijuana product storage area" is in singular number, for agreement with 3 AAC 306.710(d)(3).

- Page 9, 3 AAC 306.710(d)(3):

A change to the last sentence clarifies that there a more enforcement tools than notices of violation.

"A licensee will be issued a notice of violation under 3 AAC 306.805(a) if it fails to comply with this subsection," is changed to "Failure to comply with this subsection is grounds for issuance of a notice of violation under 3 AAC 306.805(a) or other enforcement action under 3 AAC 306, Article 8."