



MEMORANDUM

TO: The Marijuana Control Board

DATE: September 21, 2022

FROM: Joan M. Wilson, Director

RE: Director's Report

INTRODUCTION

This report details AMCO activities from the last meeting of the ABC Board (June 29 -30, 2022) to the present.

STAFF UPDATES/CHANGES:

Jane Sawyer has served as Acting Program Coordinator I for AMCO since July 21, 2022 and will continue to do so through October 18, 2022. She continues to serve as Regulations Specialist. Ms. Sawyer and I will jointly be responsible for regulations development while she also performs the functions of the program coordinator position.

Recruitment periods have closed for AMCO's three open positions. AMCO will be interviewing candidates for the project assistant position, particular to the Title 4 Rewrite, and the two open licensing examiner positions the week following Board meetings.

Although we are currently recruiting for two examiners, we are working to ensure the licensees do not feel the effect of those absences. Ms. Sawyer, Ms. Drulis, Ms. Craig, and I are supporting the licensing examiners. We are also cross training each examiner position to perform licensing review for both alcoholic beverage and marijuana establishment licenses.

LICENSING QUEUE REVIEW LISTENING SESSION

Please see Ms. Sawyer's memorandum for the status of the marijuana licensing queue. AMCO held a listening session with the marijuana establishment licensees regarding the queue on August 22, 2022. Comments were as follows:

- Prioritize the queue for existing licensees versus new licensees.
- Make top priority all approvals that are delegated to the Director
- Increase AMCO's budget to better compensate licensing examiners
- Modernize licensing system with auto-populated applications
- Delegate additional approval authority to the Director, e.g., final approval of M.J.-15's with Director, denied applications forwarded to the Board
- Reduce duplication and redundancy of process (e.g., Fire Marshall can process applications six times faster)
- AMCO should not be accepting applications from companies that are delinquent on their taxes
- Implement transfer of location applications
- Have new licenses expire one year after license is approved and active and then August 31 thereafter
- Provide status of where an application is on the queue and remaining steps for completion
- Have annual registration but pay licensing fees biennially; application fees will be annual
- Separate the queue between a complicated review queue and a simple review queue; have more experienced examiners address the former (e.g. complicated MJ-15's, MJ-16's, and MJ-17's.
- Have an intake person who meets with each licensee for 20 minutes upon intake to prevent simple errors
- Cross train examiners, with all hands-on deck during renewals Licensees expressed the need for an automated licensing application process
- Caterer's requested exceptions to the five-day rule for submission of permits
- Have on-line presentations for applicants on application requirements
- Cap licenses
- Hire industry members into temporary examiner positions
- Regulate marijuana more like alcohol, combine Chapters 4 and 17
- Prioritize queue based on short construction season
- Be completely transparent on the queue, on-line, status, etc.

EXPIRED LICENSES

See Ms. Craig's report for the number and license types for the marijuana establishment licenses that expired on August 31, 2022.

WORK SESSION – ARTICLE 7 REGULATIONS

AMCO held a work session on Friday, September 9, 2022 to begin its review of Article 7 regulations. This group will continue to meet until Article 7 is completed. During the first meeting, the attendees offered comments on 3 AAC 306.750 (Transportation) and 3 AAC 306.770 (Signs, merchandise, advertisements, and promotions)

Transportation

- Licensees requested a revision to regulations that would permit counter to counter delivery of marijuana or marijuana products utilizing air and water carriers
- Licensees requested a revision to regulations that would permit handlers to check in luggage containing marijuana or marijuana products on intra-state flights
- Licensees are requesting additional flexibility on overnight handoffs and hubbing should agents be delayed in reaching all stops on a multi-stop pick up/delivery route
- Agents providing pick up and delivery on behalf of licensees requested metrc access, specifically in cases of delay (question poses of creating a license type for these individuals)
- Licensees requested greater flexibility on not opening sealed packages in transit as set out at 3 AAC 306.750(d) (some discussion of the regulation followed that addressed what may and may not be open during transit, might be remedied through a regulatory change and/or an advisory)
- Ongoing discussion of travel details on a manifest (metrc and Investigator Bankowski will work with licensees to ensure they implemented changes that have already been made to accomplish this aim)
- Request to make hubbing more express in regulation
- Remove vagueness of 3 AAC 306.750(d) of what is an “unnecessary stop”, for example, gassing up, vehicle maintenance, and stopping to pay taxes are not unnecessary stops
- Question raised under 3 AAC 306.750(d) about the need for a “secure storage compartment in the vehicle” on how it is interpreted or whether it is necessary seeing that it is not left unattended
- Metrc requirements, even if not in regulations, are the *de facto* regulations
- Permit marijuana and marijuana products to move backward (e.g. from store to cultivator if purchaser needs to reject for non-conformance, from store to manufacturer should a product not be selling and can still be utilized for another purposes, or from manufacturer to cultivator after extraction so cultivator can supply stores of its choice)
- Request was made from the Department of Law to opine on whether a retailer can deliver to consumers off of a licensed premises (discussion of whether the regulatory definition of delivering codified at 3 AAC 306.990(a)(2) is compatible with the statutory activities retails stores are permitted to engage in AS 17.38.070(a)(6))
- Renewed request to create a wholesaler/distributor license in statute with federal legalization expected in the future

Signs, merchandise, advertisements, and promotions

- Amend 3 AAC 306.770(b) – signs -- to let local governments determine sign requirements (or lack thereof) other than for compliance with AS 19.25.075 (billboard) and no images appealing to children (Ms. Sawyer and I will draft this for the Board’s consideration should it request a regulations project to be opened)
- Amend 3 AAC 306.770(c) to remove the requirement to include license numbers in advertisements (business name should suffice for identification purposes)
- Further amend 3 AAC 306.770(c) to require neither a business name nor a license number if a trade group composed of more than one licensee is advertising

- Participants discussed when an advertisement requires warnings and how warnings took up so much room advertisements not economic (question compatibility of 3 AAC 307.770(d)(1) and 3 AAC 370(g))
- Suggestion to rewrite this section to identify solely prohibited conduct. If prohibition is not express, the conduct is permissible
- Question as to intended reach of 3 AAC 306.770(h) (does this apply to a licensee's own web page or advertisements on a different webpage)
- Rewrite the section with the understanding that one advertises that an intended activity, "buy this". A logo image, sign, or business name is not an advertisement. They are identifiers.
- Revisit 3 AAC 306.770(k) to permit activities that are applicable to alcoholic beverage package stores. For example, if a liquor store can have coupons, so can a retail store)

AMCO will set up continuing meetings on Article 7 regulations following this Board meeting.

BUDGET REPORT AND REQUESTS

See Ms. Ali's memorandum. In addition, AMCO is requesting a capital budget outlay to add marijuana licenses to the case management system being developed for alcoholic beverage licensees.

HEMP DELTA 9

I will provide a verbal report of the joint summary AMCO and the Hemp Plan are writing to the Governor.

GOVERNOR'S TASK FORCE ON RECREATIONAL MARIJUANA

AMIA and the Governor's Officer are discussing launching a task force. That task force would address the existing marijuana taxation structure, the license fee structure, and other AS 17.38 provisions that may be overburdensome, duplicative, or punitive. Should that task force be formed, AMCO will be positioned to participate and meet all deadlines required for reporting.

RECOUPING TAXES THROUGH MARIJUANA AND MARIJUANA PRODUCTS SEIZED UPON EXPIRATION

Board Member Jaime requested research of whether proceeds from the sale of any administratively held plant or product can be applied to the payment of back taxes when a license renewal is denied for failure to pay taxes. I will be working with the Department of Law to research the same and to report back to the Board at its next meeting.

CONCLUSION AND NEXT MEETING

The next MCB meeting is scheduled for December 14 – 15, 2022 in Anchorage.