



MEMORANDUM

TO: Marijuana Control Board DATE: January 22, 2024

FROM: Kristina Serezhenkov, Regulations RE: Regulations: Location of
Specialist Exterior Window Pick-Up

This project was opened at the November 2023 Board meeting. The attached regulations draft is for board discussion. It proposes to amend:

3 AAC 306.380(g) Walk-up or drive-through exterior window pick-up for retail marijuana stores

Subsection (g) is expanded to require the window to be located within the primary licensed premises of the retail store and to clarify that the window may not be in a separate building or in a movable structure. It also prohibits a window from being located so as to access it by going through the licensed premises of another license type (overlapping).

Options for the board:

- Move to approve and send to Law for initial review and (with Law's approval) subsequent public comment
- Move to amend and then send to Law for initial review and (with Law's approval) subsequent public comment
- Move to send back to staff for more work
- Close the regulations project

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

For ease of reading and review the entire section is included in this draft.

3 AAC 306.380(g) is amended to read:

3 AAC 306.380. Walk-up or drive-through exterior window pick-up for retail marijuana stores. (a) Unless prohibited by local law, a licensed retail marijuana store may serve a consumer through a walk-up or drive-through exterior window in compliance with the requirements of this section.

(b) Before accepting orders for sales of marijuana or marijuana products ~~through a walk-~~ up or drive-through exterior window, a licensed retail marijuana store shall submit an **operating plan** or modification of an **operating plan** of the licensed premises to the board for approval. The **operating plan** or modified **operating plan** must depict the walk-up or drive-through exterior window area and the video surveillance of the walk-up or drive-through exterior window area.

(c) The area immediately outside a walk-up or drive-through exterior window must be under the licensee's sole possession and control and may not include any public property including public streets, public sidewalks, or public parking lots.

(d) The licensed retail marijuana store may accept Internet or telephone orders or may accept orders from the consumer at the walk-up or drive-through exterior window. Internet or telephone orders must be paid for and picked up in person by the consumer placing the order. All orders received through the walk-up or drive-through exterior window must be placed by the consumer from a menu. The retail marijuana store may not display marijuana or marijuana products at the walk-up or drive-through exterior window.

(e) Before completing a sale at a walk-up or drive-through exterior window, the licensee

Commented [KRS1]: 306.380(b) also will be amended in another open regs project on operating plan/certifications. Intent of that project is to remove operating plan requirements and replace them with 'certifications that regulatory requirements are met'.

or the employee shall physically view and inspect the consumer's photographic identification. Each person in a vehicle at the drive-through exterior window must be 21 years of age or older, unless the person is the consumer's own child, grandchild, or ward who is not older than seven years of age seated or otherwise required by local or state law to be seated in a car seat or booster seat.

(f) All sales must occur within the licensed premises. This requirement is satisfied if payment is made through the following means:

- (1) by an electronic Internet-based payment platform;
- (2) by a mobile payment point-of-sale system;
- (3) by payment transferred through the walk-up or drive-through exterior window

into the interior of the retail marijuana store.

(g) A walk-up or drive-through exterior window area must

(1) be located so as to minimize compromises to security. For every transfer of marijuana or marijuana product through a walk-up or drive-through exterior window, the licensed retail marijuana store's video surveillance must enable the recording of the licensee or the employee verifying the consumer's photographic identification and the completion of the transaction; and[.]

(2) be located within the primary licensed premises of the retail store. The walk-up or drive-through exterior window may not be:

(A) in a building separate from the primary retail store licensed premises;

(B) in a movable structure such as a trailer or separate drive-through structure; and

Commented [KRS2]: Intent is to ensure that the window will not be located in a separate building from the main retail store but 'within' the retail store itself.

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**(C) accessed only after going through the licensed premises of another
license type or through the overlapping premises with another license type.**

(h) The licensee shall ensure that sales and all interactions at the walk-up or drive-through exterior window are video recorded and the records are stored in compliance with 3 AAC 306.720.

(i) Sales of marijuana or marijuana products via a walk-up or drive-through exterior window are subject to requirements and restrictions imposed by the relevant local government.

(Eff. 8/13/2023, Register 247; 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