



## MEMORANDUM

TO: Marijuana Control Board                      DATE: January 22, 2024

FROM: Kristina Serezhenkov, Regulations      RE: Regulations: Broaden  
Specialist    Overlapping Premises

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

### **3 AAC 306.710(d) Restricted access areas**

(d) is amended to remove 'marijuana product storage area' and adds 'a restricted access area' in order to open up the possibility of overlapping restricted access areas for other uses such as 'packaging space'.

### **3 AAC 306.305(c)(1) Retail marijuana store privileges**

Conforming change.

### **3 AAC 306.405(b)(1) Standard marijuana cultivation facility: privileges and prohibited acts**

Conforming change.

### **3 AAC 306.505(b)(1) Marijuana product manufacturing facility privileges**

Conforming change.

#### 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 entire sections are included in this draft.**

**3 AAC 306.710(d) is amended to read:**

(a) A marijuana establishment shall restrict access to any part of the licensed premises where marijuana or a marijuana product is grown, processed, tested, stored, or stocked.

**Commented [KRS1]:** 3 AAC 306.710.  
Restricted access areas

(b) Except as provided in 3 AAC 306.325 for a retail marijuana store, each entrance to a restricted access area must be marked by a sign that says "Restricted access area. Visitors must be escorted." A marijuana establishment shall limit the number of visitors to not more than five visitors for each licensee, employee, or agent of the licensee who is actively engaged in supervising those visitors.

(c) In a restricted access area, a licensee, employee, or agent of the marijuana establishment shall have on display, either on the person or in a readily accessible location on the licensed premises, a current identification badge bearing the person's photograph. A person under 21 years of age may not enter a restricted access area. Any visitor to the restricted access area must

(1) show identification as required in 3 AAC 306.350 to prove that person is 21 years of age or older;

(2) obtain a visitor identification badge before entering the restricted access area;  
and

(3) be escorted at all times by a licensee, employee, or agent of the marijuana establishment.

(d) The board may approve two or more licenses for overlapping premises owned by the same person or same group of persons and within the same building to use in common **a restricted access area** **FOR A MARIJUANA OR MARIJUANA PRODUCT STORAGE AREA** if

**Commented [KRS2]:** Remove 'product storage area' thereby opening up allowance to overlap restricted areas to use the same 'packaging space' and other purposes....

(1) the marijuana or marijuana product is properly accounted for in the marijuana establishment's inventory tracking system required under 3 AAC 306.730;

(2) the marijuana or marijuana product is expressly identified as inventory of the

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appropriate marijuana establishment to which the marijuana or marijuana product belongs; and

(3) the area is in compliance with this section and any other provision of this chapter that applies to restricted access areas, including video surveillance as required under 3 AAC 306.720 and restricted access area provisions specific to the license type to which the marijuana or marijuana product belongs.

(e) Failure to comply with (d) of this section is grounds for issuance of a notice of violation under 3 AAC 306.805(a) or other enforcement action under 3 AAC 306.800 - 3 AAC 306.850. (Eff. 2/21/2016, Register 217; am 12/10/2020, Register 236; am 1/19/2022, Register 241; am 1/5/2024, Register 249; 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 306.305(c)(1) is amended to read:

Commented [KRS3]: 3 AAC 306.305. Retail marijuana store privileges

(a) A licensed retail marijuana store is authorized to

(1) sell marijuana purchased from a licensed marijuana cultivation facility, packaged and labeled as required under 3 AAC 306.345, 3 AAC 306.470, and 3 AAC 306.475 in an amount not exceeding the limit set out in 3 AAC 306.355, to an individual on the licensed premises or as permitted under 3 AAC 306.380 for consumption off the licensed premises;

(2) sell a marijuana product purchased from a licensed marijuana product manufacturing facility, packaged and labeled as required under 3 AAC 306.345, 3 AAC 306.565, and 3 AAC 306.570, in a quantity not exceeding the limit set out in 3 AAC 306.355, to an individual on the licensed premises or as permitted under 3 AAC 306.380 for consumption off the licensed premises;

(3) store marijuana and marijuana products on the licensed premises in a manner consistent with 3 AAC 306.710 - 3 AAC 306.720;

(4) with prior approval of the board, permit consumption of marijuana or a marijuana product purchased on the licensed premises, in a designated area on the licensed premises.

(b) This section does not prohibit a licensed retail marijuana store from refusing to sell

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marijuana or a marijuana product to a consumer.

(c) A licensee of a retail marijuana store may also apply for a marijuana cultivation facility license, marijuana product manufacturing facility license, or both. A licensee of a retail marijuana store who obtains a marijuana cultivation facility license, marijuana product manufacturing facility license, or both shall

(1) **unless approved by the board under 3 AAC 306.710(d)**, conduct any marijuana cultivation operation in a room separate from any other operation and the retail marijuana store, and shall conduct any marijuana product manufacturing operation in a room separate from any other operation and the retail marijuana store; if the rooms are connected and co-located, a secure door must separate the rooms from each other; a secure door must separate any room connected to and co-located with the retail marijuana store; and

(2) comply with each provision of this chapter that applies to any other type of marijuana establishment license that the licensee of a retail marijuana store obtains. (Eff. 2/21/2016, Register 217; em am 4/17/2020 – 8/14/2020, Register 234; am 11/24/2020, Register 236; am 12/10/2020, Register 236; am 12/10/2020, Register 236; am 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

**3 AAC 306.405(b)(1) is amended to read:**

(a) A licensed standard marijuana cultivation facility is authorized to

(1) propagate, cultivate, harvest, prepare, cure, package, store, and label marijuana;

(2) sell marijuana only to a licensed retail marijuana store, to another licensed marijuana cultivation facility, or to a licensed marijuana product manufacturing facility;

(3) provide samples to a licensed marijuana testing facility for testing;

(4) store inventory on the licensed premises; any stored inventory must be secured in a restricted access area and accounted for in the marijuana cultivation facility's marijuana inventory tracking system as required under 3 AAC 306.730;

**Commented [KRS4]: 3 AAC 306.405. Standard marijuana cultivation facility: privileges and prohibited acts**

- (5) transport marijuana in compliance with 3 AAC 306.750;
- (6) conduct in-house testing for the marijuana cultivation facility's own use;
- (7) provide marijuana samples to a licensed retail marijuana store or marijuana product manufacturing facility for the purpose of negotiating a sale;

(8) begin initial operations at the time of preliminary inspection by an employee or agent of the board with

(A) 12 or fewer mature, non-flowering plants, designated and used as mother plants;

(B) any number of immature plants; and

(C) any number of seeds for cultivation on the licensed premises;

(9) Introduce a new strain after written approval by the director on a form prescribed by the board, by

(A) receiving not more than six clones or cuttings from a person 21 years of age or older, without compensation; or

(B) receiving not more than 10 seeds from a person 21 years of age or older, without compensation, for cultivation on the licensed premises.

(b) A licensee of a standard marijuana cultivation facility may also apply for a marijuana product manufacturing facility license, retail marijuana store license, or both. A licensee of a standard marijuana cultivation facility who obtains a marijuana product manufacturing facility license, retail marijuana store license, or both shall

(1) **unless approved by the board under 3 AAC 306.710(d),** conduct any product manufacturing operation in a room separate from any other operation and the marijuana cultivation facility, and shall conduct any retail marijuana store operation in a room separate from any other operation and the marijuana cultivation facility; if the rooms are connected and co-located, a secure door must separate the rooms from each other; a secure door must separate any room connected to and co-located with the marijuana cultivation facility; and

(2) comply with each provision of this chapter that applies to any other type of marijuana establishment license that the licensee of a standard marijuana cultivation facility obtains.

(c) A licensed standard marijuana cultivation facility may not

(1) sell, distribute, or transfer marijuana or a marijuana product to a consumer,

with or without compensation;

(2) allow any person, including a licensee, employee, or agent, to consume marijuana or a marijuana product on the licensed premises or within 20 feet of the exterior of any building or outdoor cultivation facility on the licensed premises;

(3) treat or otherwise adulterate marijuana with any organic or nonorganic chemical or other compound to alter the color, appearance, weight, or odor of the marijuana;

(4) sell marijuana that is not packaged and labeled in compliance with 3 AAC 306.470 and 3 AAC 306.475;

(5) introduce marijuana or a marijuana product, including plants and seeds, onto the licensed premises from any outside source after the initial preliminary inspection, except

(A) as acquired from another licensed marijuana cultivation facility and accounted for in each marijuana cultivation facility's marijuana inventory tracking system as required under 3 AAC 306.730; or

(B) as provided under this section; or

(6) product or possess marijuana concentrate that was extracted using any process described in 3 AAC 306.555 on the marijuana cultivation facility's licensed premises, unless the licensee of the standard marijuana cultivation facility also has a marijuana product manufacturing facility license; a licensed standard marijuana cultivation facility must conduct any extraction or production of marijuana concentrate on the premises

(A) in a room that

(i) is separate as required in (b) of this section from the marijuana cultivation area; and

(ii) is posted with a sign that complies with 3 AAC 306.710(b) and warns unauthorized persons to stay out; and

(B) in compliance with all applicable provisions of 3 AAC 306.500 – 3 AAC 306.570. (Eff. 2/21/2016, Register 217; am 10/20/2018, Register 228; am 12/10/2020, Register 236; 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 306.505(b)(1) is amended to read:

Commented [KR55]: 3 AAC 306.505. Marijuana product manufacturing facility privileges

(a) Except as provided in 3 AAC 306.515, a licensed marijuana product manufacturing facility is authorized to

- (1) purchase marijuana from a marijuana cultivation facility or from another marijuana product manufacturing facility;
- (2) extract marijuana concentrate in compliance with 3 AAC 306.555;
- (3) manufacture, refine, process, cook, package, label, and store marijuana products approved under 3 AAC 306.525, including
  - (A) marijuana concentrate; or
  - (B) any product intended for consumption or use on the body that is comprised of marijuana and other ingredients, including edible products, ointments, salves, patches, or tinctures;
- (4) sell, distribute, or deliver marijuana extract or any marijuana product only to a licensed retail marijuana store or to another licensed marijuana product manufacturing facility;
- (5) provide and transport samples of marijuana concentrate or other marijuana product to a licensed marijuana testing facility for testing;
- (6) provide a sample of marijuana concentrate or a marijuana product approved under 3 AAC 306.525 to a licensed retail marijuana store for the purpose of negotiating a sale;
- (7) store inventory in a restricted access area on the licensed premises as provided in 3 AAC 306.535;
- (8) transport marijuana in compliance with 3 AAC 306.750;
- (9) conduct in-house testing for the marijuana product manufacturing facility's own use.

(b) A licensee of a marijuana product manufacturing facility may also apply for a marijuana cultivation facility license, retail marijuana store license, or both. A licensee of a marijuana product manufacturing facility who obtains a marijuana cultivation facility license, retail marijuana store license, or both shall

- (1) unless approved by the board under 3 AAC 306.710(d), conduct any marijuana cultivation operation in a room separate from any other operation and the marijuana product manufacturing facility, and shall conduct any retail marijuana store operation in a room

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separate from any other operation and the marijuana product manufacturing facility; if the rooms are connected and co-located, a secure door must separate the rooms from each other; a secure door must separate any room connected to and co-located with the marijuana product manufacturing facility; and

(2) comply with each provision of this chapter that applies to any other type of marijuana establishment license that the licensee of a marijuana product manufacturing facility obtains. (Eff. 2/21/2016, Register 217; am 12/10/2020, Register 236; am 4/16/2023, Register 246; 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  
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