From: CED MCB AMCO (CED sponsored)
To: "Dru Malone"; CED MCB AMCO (CED sponsored)
Subject: RE: 306-770(g)
Date: Friday, October 30, 2026 10:42:00 AM
Attachments: Dru Malone.pdf
image001.png

Good morning,

Your comment related to the repeal of 3 AAC 306.770(g) as well as this response will be included in the MCB Mailbox at the upcoming 11/18-19, 2026 MCB meeting.

I am reaching out to let you know that there does exist a regulations project named 'advertising, marketing, and promotions' which includes a repeal 306.770(g). The board discussed this project at the February 2026 meeting and at the September 22, 2026 meeting. At the September meeting, the board amended an initial draft and approved it to send to Law for file opening and initial review and upon Law's approval of the draft, out for 30 days public comment period.

The status of this regulations project is that is with Law for initial review. We are still fairly early in this process, and the 30 days public comment period will not open for some time.

A comment received at this point in the regulations process doesn't have an effect on the project right now, though the board will see your comment at the upcoming November meeting. To ensure your comment carries weight, I encourage you to submit your comment within the official 30 days public comment period. I also encourage you to sign up for **listserv** so that you receive a notice when the public comment period opens for this project. You can do that by accessing the listserv sign up for updates: https://list.state.ak.us/mailman/listinfo/amco.marijuana and entering your email address to subscribe.

Regards,

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Formal Description of Grounds: Arbitrary Classification and Disparate Impact

REGULATORY REGIME AT ISSUE: 3 AAC 306.770(g) (Signs, Public Health Warnings, or Operational Restrictions)

CONSTITUTIONAL PROTECTIONS INVOKED: Alaska Constitution, Article I, Section 1 (Equal Protection Clause)

1. Identification of the Discriminatory Classification

The Alcohol and Marijuana Control Office maintains a dual regulatory framework over two classes of recreational intoxicants: licensees under Title 4 (Alcohol) and licensees under Title 3, Chapter 306 (Marijuana). Under 3 AAC 306.770(g), the Marijuana Control Board imposes severe operational, structural, or warning thresholds on cannabis establishments that are entirely absent from Title 4 alcohol establishments. This regulatory asymmetry creates a distinct, disadvantaged class of commercial operators who are forced to project an artificially inflated image of danger to the public, directly harming their consumer goodwill, brand reputation, and operational parity.

2. Absence of a Legitimate or Compelling State Interest

Under Alaska's sliding-scale Equal Protection analysis, the state must demonstrate that any discriminatory classification is backed by a legitimate governmental purpose. AMCO's disparate treatment fails this test:

- **The Intoxicant Relativity Flaw:** Public health data establishes that alcohol consumption carries an inherently higher risk profile regarding chemical dependency, physical organ toxicity, and fatal overdose compared to cannabis.

- **Arbitrary Burdening:** There is no rational public safety or health basis for requiring cannabis establishments to conform to restrictive mandates under subsection (g) while allowing establishments serving highly concentrated spirituous liquors to operate free of equivalent stigmatizing restrictions.

- **The "Dangerousness" Illusion:** By enforcing rules that selectively over-regulate cannabis, the state actively misleads consumers into perceiving cannabis as the more hazardous substance. This undercuts the state's broader public policy interest in transparent, evidence-based consumer safety information.

3. Lack of Substantial Relationship Between Means and Goals

Even if the Board asserts that subsection (g) protects public safety, the means chosen are grossly unconstitutional. The current tracking, testing, and closed-loop compliance mandates applied to cannabis under 3 AAC 306 are already vastly superior to those applied to alcohol. Piling additional, unique punitive measures onto cannabis operators under 3 AAC 306.770(g) functions as an arbitrary economic penalty. The rule serves only to suppress the economic viability of cannabis licensees relative to their direct commercial competitors in the retail alcohol sector.

4. **Remedy**

AMCO should call for the immediate repeal of 3 AAC 306.770(g).

From: Dru Malone <drumalone@gmail.com>
Sent: Friday, October 23, 2026 1:11 PM
To: CED MCB AMCO (CED sponsored) <mcb.amco@alaska.gov>
Subject: 306-770(g)

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CAUTION: This email originated from outside the State of Alaska mail system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I have attached a document to be discussed at the upcoming board meeting.

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Dru Malone
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