

Byron Mallott
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520 465.5400 Fax
WWW.LTGOV.ALASKA.GOV



530 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460 269.0263
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Micaela Fowler, AAC Contact
Department of Commerce, Community and Economic Development

FROM: Scott Meriwether
Special Assistant 
907.465.4081

DATE: February 24, 2015

RE: Filed Emergency Regulations: Alcoholic Beverage Control Board
Emergency Regulations re: definition of "in public" (3 AAC 304.990)

| | |
|------------------------|---|
| Attorney General File: | Emergency Regulations |
| Regulation Filed: | February 24, 2015 |
| Effective Date: | February 24, 2015 |
| Expiration Date: | June 23, 2015 unless made permanent by the adopting agency |
| Print: | 213, April 2015 |

cc with enclosures: Linda Miller, Department of Law
Dean Williams, Administrative Regulation Review Committee
Judy Herndon, LexisNexis

FINDING OF EMERGENCY

The Alcoholic Beverage Control Board finds that an emergency exists and that the attached regulations are necessary for the immediate preservation of the public peace, health, safety, and general welfare. The facts constituting the emergency include the following:

Effective February 24, 2015 Alaska Statute (AS) 17.38 significantly expands the circumstances in which a citizen may lawfully possess, transport, and transfer marijuana. Alaska Statute 17.38.040 expressly makes it unlawful to “consume marijuana in public.” Alaska Statute 17.38.900 defines “consumption” as “the act of ingesting, inhaling, or otherwise introducing marijuana into the human body.” But AS 17.38 does not define “in public.”

Testimony before the legislature and local governing bodies has revealed widespread concern that persons charged with enforcement of Alaska’s existing drug laws as well as the new marijuana law will lack sufficient guidance as to the meaning of “in public” to effectively enforce the new law, and that confusion and disorder will result, putting the public at risk.

Emergency Regulations

Therefore, this emergency regulation is necessary, to give clear and consistent guidance to persons who may consume marijuana in various venues, as well as those charged with enforcing the new law, so that the public peace, health, safety, and general welfare may be protected.

ORDER CERTIFYING ADOPTION

I certify that the Alcoholic Beverage Control Board, under the authority of AS 17.38.040 and 17.38.090, adopted at its February 24, 2015 meeting the attached one page of regulation changes as emergency regulations to take effect immediately upon filing by the lieutenant governor, as provided in AS 44.62.180(3).

This action is not expected to require an increased appropriation.

DATE: February 24, 2015,
at Juneau, Alaska.

By: Ethan Billings
Ethan Billings
Member, Alcoholic Beverage Control Board

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on Feb 24, 2015, at 10:15 A.m., I filed the attached regulation according to the provisions of AS 44.62.

Byron Mallott
Lieutenant Governor Byron Mallott

Effective: February 24, 2015

Register: 213, April, 2015

Expires June 23, 2015
unless made "permanent"
by the adopting agency.

EMERGENCY REGULATION

Register 213, April 2015 COMMERCE, COMMUNITY, AND EC. DEV.

3 AAC 304.990 is amended by adding a new subsection to read:

(b) In AS 17.38.040, "in public" means in a place to which the public or a substantial group of persons has access and includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence.

(Eff. 4/28/84, Register 90; am 6/13/2003, Register 166; am 2/24/2015, Register 213)

Authority: AS 04.06.090 AS 17.38.040 AS 17.38.090
 AS 04.06.100

NOTICE OF ADOPTION OF EMERGENCY REGULATIONS:
ALCOHOLIC BEVERAGE CONTROL BOARD

Regarding consumption of marijuana "in public."

BRIEF DESCRIPTION

The Alcoholic Beverage Control Board proposes to make permanent changes to regulations made by emergency regulations in the definitions section, by adding a definition of "in public."

On February 24, 2015, the Alcoholic Beverage Control Board adopted, as emergency regulations, changes in Title 3 of the Alaska Administrative Code dealing with public consumption of marijuana, including the following:

3 AAC 304.990 is proposed for amendment by adding a new subsection to define the term "in public" that appears in AS 17.38.040.

The emergency regulations took effect February 24, 2015, and will expire June 23, 2015. The Alcoholic Beverage Control Board intends to make the emergency regulations permanent.

You may comment on the regulation changes, including the potential costs to private persons of complying with the changes, by submitting written comments to Cynthia Franklin at 2400 Viking Drive, Anchorage, AK 99501. Additionally, the Alcoholic Beverage Control Board will accept comments by facsimile at 907-334-2285 or by electronic mail at cynthia.franklin@alaska.gov. The comments must be received no later than 4:00 p.m. on March 31, 2015.

You may submit written questions relevant to the proposed action to Cynthia Franklin by electronic mail at cynthia.franklin@alaska.gov, or by regular mail to Cynthia Franklin, Alcoholic Beverage Control Board, 2400 Viking Drive, Anchorage, Alaska 99501. The questions must be received at least 10 days before the end of the public comment period. The Alcoholic Beverage Control Board will aggregate its response to substantially similar questions and make the questions and response available on the agency website. The Alcoholic Beverage Control Board may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

Oral comments may also be submitted at a hearing to be held on April 9, 2015, at the Anchorage Legislative Information Office, Room 203, 716 W 4th Avenue, Anchorage, Alaska 99501. The oral hearing at which you may offer comments will be held from 9:00 am – 10:00 am. To participate by telephone, call 1-800-315-6338 and enter the code 69173# when prompted. Testimony at this oral hearing might be limited to a reasonable period of time for each person if necessary to accommodate those who wish to speak, and the hearing might be extended if necessary to accommodate those present who wish to speak. Please note that written comments will not be taken at this hearing.

A copy of the regulation proposed to be made permanent is available on the Alaska Online Public Notice System or by contacting Cynthia Franklin at 2400 Viking Drive, Anchorage, AK 99501, phone: 907-269-

0350, or <http://commerce.state.ak.us/dnn/abc/Home.aspx>.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Gil Nelson at 907-269-0352 no later than March 21, 2015 to ensure that any necessary accommodations can be provided.

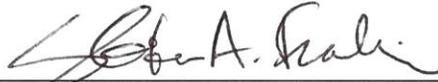
The language of the permanent regulations may be different from that of the original emergency regulations and may include other provisions dealing with the same subject. You should comment during the time allowed if your interests could be affected.

Statutory Authority: AS 17.38.090

Statutes Being Implemented, Interpreted, or Made Specific: AS 17.38.090

Fiscal Information: The regulations are not expected to require an increased appropriation.

DATE: 2/25/15



Cynthia A. Franklin
Director, Alcoholic Beverage Control Board