

## Amendments to 3 AAC 306

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### Mylnarik's Amendments:

#### #1- Eliminate Cultivation Broker Licenses

**Strike 3 AAC 306.415. Marijuana cultivation broker facility: privileges and prohibited acts and references to this facility found in:**

**3 AAC 306.100(d)(4)**

**3 AAC 306.400(a) and (a)(3)**

**3 AAC 306.410(a)(2), (a)(3), (a)(3)(B), (a)(4), (a)(4)(B), (b)(4), and (b)(5)**

**3 AAC 306.420(c)**

**3 AAC 306.455(d)**

**3 AAC 306.470(a)**

**3 AAC 306.480(b)**

**3 AAC 306.505(a)(1)**

**3 AAC 306.750(a)(1) and (a)(2)**

#### Rationale:

I believe the board was overstepping its authority in creating this new license type. Although it is listed under a cultivation facility it doesn't actually perform any of the basic cultivation activities. The intent behind this appears to be to allow smaller cultivation operations to function and to bring the "black market" operators into legal compliance. I do believe it was within the board's power to create the limited cultivation license at a reduced fee. This model is still viable and, based on a good deal of public comment, does not need a broker to facilitate sales. Although noble, it is not the Board's responsibility to draft regulations to bring a hereto illegal operator into a legal environment. Without the broker there is still the opportunity for a small illegal operator to turn legit. I do not see broad public support for the broker license either.

**Amend 3 AAC 306.350. Identification requirement to prevent sale to person under 21.** (a) A licensed retail marijuana store shall refuse to sell marijuana or a marijuana product to any person who does not produce a form of valid **photo** identification showing that person is 21 years of age or older.

#### Rationale:

The word "photo" was added to ensure the identity of the person making the purchase. Some of the forms of ID listed in "(b)" of this section may not require a photo. An example of this would be an Alaska off-highway driver's license which does not require a photo.

## #2- Revise retail store prohibitions

**3 AAC 306.310 Acts prohibited at retail marijuana store.** (a) A licensed retail marijuana store may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver, marijuana or any marijuana product

(1) to any person under the age of 21;

(1)(2) to any person that is under the influence of an alcoholic beverage, inhalant, or controlled substance.

(2)(3) that is not labeled and packaged as required in 3 AAC 306.345, and in 3 AAC 306.470 and 3 AAC 306.475 or 3 AAC 306.565 and 3 AAC 306.570;

(3)(4) in a quantity exceeding the limit set out in 3 AAC 306.355;

(4)(5) over the internet; a licensed retail marijuana store may only sell marijuana or marijuana product to a consumer who is physically present on the licensed premises;

(5)(6) after the expiration date shown on the label of the marijuana or marijuana product.

Adds selling to persons under the influence and renumbers.

Rationale:

This should be added for obvious public safety concerns. It would bring more accountability to a retailer. I believe this was an oversight not to have been added earlier. It also would bring it more in line with AS 04.16.030.

## #3- Amend labeling requirements

**3 AAC 306.475. Labeling of marijuana.** (b) With each harvest batch of marijuana sold, a marijuana cultivation facility must disclose in writing

(1) (+) each soil amendment, fertilizer, and other crop production aid applied to the growing medium or marijuana plant included in the batch, including any pesticide, herbicide, or fungicide that was used

Include tracked change.

Rationale:

This gives a more complete picture of what is in the marijuana which is both useful to the retailer and consumer.

## #4- Revise seizure provisions

**3 AAC 306.830. Seizure of marijuana or marijuana product.** (a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, may seize marijuana

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or any marijuana product from a licensed or previously licensed marijuana establishment if the marijuana establishment has

- (1) any marijuana or marijuana product not properly logged into the marijuana establishment's marijuana inventory tracking system;
- (2) any adulterated marijuana food or drink product forbidden under 3 AAC 306.510(a)(4); or

~~(3) (3)~~ any marijuana or marijuana product that is not properly packaged and labeled as provided in 3 AAC 306.465 and 3 AAC 306.470 or 3 AAC 306.565 and 3 AAC 306.570.

(4) not renewed its license per the requirements set forth in 3 AAC 306.035

Add tracked changes.

Rationale:

There is certain to be times that a business does not renew and there is still marijuana or marijuana product that is on site. The only other option to a civil seizure under this chapter is to charge the licensee with criminal possession with intent to distribute.

#### #4- Require GPS coordinates

**3 AAC 306.020. Application for new license. (b) (8)** the address of the premises to include GPS coordinates where the applicant intends to operate a marijuana establishment; and a detailed diagram of the proposed licensed premises; the diagram must show all entrances and boundaries of the premises, restricted access areas, and storage areas;

Rationale:

This is especially important for cultivation facilities that are outdoors and off the grid. This will facilitate finding the locations in areas where street numbering is lacking.

#### #5 Clarify kitchen provisions

**3 AAC 306.510 (a) (5)** ~~operate in a location that is a retail or wholesale food establishment.~~

Operate at a location that processes, packages, stores, distributes, offers for sale, or serves food for human consumption that does not contain marijuana or marijuana concentrate as an ingredient.

Rationale:

This needs to be more clearly defined.

#### #6 Clarify testing program

**3 AAC 306.625. Proficiency testing program. (a)** When an accredited proficiency testing program becomes available in the state, the board may require an applicant for a marijuana testing facility license to participate successfully in a proficiency testing program within 12 months before

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receiving a license. The proficiency testing program must require an applicant for a marijuana testing facility license or a participating licensed marijuana testing facility to analyze test samples using the same procedures with the same number of replicate analyses, standards, testing analysts, and equipment that will be used for product testing. Successful participation means the positive identification of 100 percent of the target analytes that the testing facility reports, and must include successful quantitative results minimally 80 percent of the time, when applicable. ~~80 percent of the target analytes that the testing facility reports, and must include quantitative results when applicable.~~ Any false positive results reported will be considered an unsatisfactory score for the proficiency test.

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Rationale:

There needs to be a higher standard.

#### #7- Clarify operating manual for testing facilities

**3 AAC 306.640. Standard operating procedure manual.** (a) An applicant for a marijuana testing facility license and a licensed marijuana testing facility must have a written procedures manual with detailed instructions explaining how to perform each testing method the applicant or marijuana testing facility uses, and minimum standards for each test. The written procedures manual must be available to each employee of the marijuana testing facility at all times. A standard operating procedures manual must cover at least the following procedures:

- (1) sample preparation; for each matrix that will be tested.
- (2) reagent, solution, and reference standard preparation;
- (3) instrument setup, where applicable;
- (4) standardization of volumetric reagent solutions, as applicable;
- (5) data acquisition; and
- (6) calculation of results.
- (7) Identification criteria
- (8) QC frequency
- (9) QC acceptance criteria
- (10) Corrective action protocol

Rationale:

A more complete set of procedures.

#### #8 Clarify testing standards

**3 AAC 306.645. Laboratory Testing of Marijuana and Marijuana Products (b)** (3) testing for the listed residual solvents and metals on the listed marijuana products is required as follows:

Substance	Acceptable Limits per gram	Product to be Tested
Butanes	< 800 Parts Per Million (PPM)	Solvent-Based Concentrates
Heptanes	< 500 Parts Per Million (PPM)	
Benzene**	< <u>4.025</u> Parts Per Million (PPM)	
Toluene**	< 1 Parts Per Million (PPM)	
Hexane**	< 10 Parts Per Million (PPM)	
Total Xylenes (m,p, o-xylenes)**	< 1 Parts Per Million (PPM)	

~~Any solvent not permitted for use pursuant to Rule R 605~~ None Detected

Rationale:

Bring Benzene in line with what the State uses for soil samples.  
Remove reference to CO 605 rule.

**#9 Clarify waste disposal**

**3 AAC 306.655. Marijuana inventory tracking system.** ~~(b) When a marijuana testing facility completes any testing, use, or research, it shall immediately dispose of any sample received under this section. If a marijuana testing facility disposes of a sample received under this section, the testing facility shall document the disposal of the sample using its inventory control system.~~

Rationale:

This section should be deleted because it is in conflict with requiring three day's notice before disposal in 3 AAC 306.740 (c) (1) and compliance should be gained through the tracking in (a) of this section.

**#10 Clarify definitions**

**3 AAC 306.990. Definitions. (b) (20)** "in-house testing"

(A) means laboratory testing as provided in 3 AAC 306.635;

(B) does not include consumption of any marijuana or marijuana product on the licensed premises;

~~(C) does not meet the requirements of 3 AAC 306.645~~

Rationale:

So as not to confuse this with required testing under 3 AAC 306.645

**3 AAC 306.990. Definitions (b) (28)** "Marijuana Infused Product" means a product that contains marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused product" does not include useable marijuana.

Add this definition after "Marijuana Product" and renumber the following defined terms.

Rationale:

This is not a common term and therefore should be defined.

## #11 Add to license restrictions

**3 AAC 306.010. License restrictions.** (c) (2) has been found guilty of  
(A) selling alcohol without a license in violation of AS 04.11.010; or  
(B) selling alcohol to a minor in violation of AS 04.16.051 or AS 04.16.052; or  
(C) a misdemeanor crime involving controlled substances, violence against a person, a weapon, or dishonesty within the proceeding five years.

Rationale:

This is a good way to insure that these regulations will be followed.

**3 AAC 306.010. License restrictions.** (a) The board will not issue a marijuana establishment license if the licensed premises will be located within 1000 feet of a school, a recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility.

Rationale:

This makes it consistent with the 3AAC 306.360 (c) (1). It is just as or more important that the actual establishment be this far from the sensitive areas as the signage.

## #12 Shorten operating hours at retail stores

**3 AAC 306.310. Acts prohibited at retail marijuana store.** (b) A licensed retail marijuana store may not

- (1) conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises between the hours of 10:00 a.m. and 11:00 p.m. each day;

Rationale:

This is more in line with regular business hours. This is an industry that we should move slowly with and not allow such liberal hours.

## #13- Add to labeling requirements

Labeling in sections **3 AAC 306.345 (b) (2) (A-E)**

**.475 (a) (1-5)**

**.570 (c) (4) (A-E)**

"Marijuana has intoxicating effects and may be habit forming and addictive;"

"Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence;"

"There are health risks associated with consumption of marijuana;"

"For use only by adults twenty-one and older. Keep out of the reach of children" and

"Marijuana should not be used by women who are pregnant or breast feeding

Rationale:

The language needs to be strengthened based on research in the New England Journal of Medicine and other places.

**#14 Add provisions to reasons for suspension and revocation**

**3 AAC 306.810. Suspension or revocation of license.** (a) The board will suspend or revoke a marijuana establishment license issued under this chapter if any licensee is convicted of a felony or a crime listed in 3 AAC 306.010 (c) (2), or if the board becomes aware that a licensee did not disclose a previous felony conviction or a conviction of a crime listed in 3 AAC 306.010 (c) (2) .

**Rationale:**

If these crimes prevent a person from getting a license than they certainly should be added as those that would cause a suspension or revocation.

## Emmett's Amendment #1

AAC 306.015 Licensing Conditions:

(a) The board will issue each marijuana establishment license to a specific individual, to a partnership, including a limited partnership, to a limited liability company, to a corporation, or to a local government. A person other than a licensee may not have a direct or indirect financial interest in the business for which a marijuana establishment license is issued, **unless information required by the board, such as, but not limited to, that persons name and address is provided in the license application.**

(b)The board will not issue a marijuana establishment license to

(1) an individual or a sole proprietorship unless the individual or proprietor is a resident of the state.

(2) a partnership unless at least **seventy-five percent (75%) of the partners or ownership** interest are held by residents of the state.

(3) a limited liability company, unless the LLC is qualified to do business in the state and at **least seventy five percent (75%) of the members and ownership interest are held by residents of the state.**

(4) a corporation, unless the corporation is qualified to do business in the state and at **least seventy five percent (75%)** of the shareholders and ownership interest are held by residents of the state.

Add subsection (f):

**(f) Any partner or ownership of the proposed marijuana establishment and not a resident of the state must agree to provide any and all information requested by the Marijuana Control Board, including name, address, date of birth, complete set of fingerprints and written permission to authorize the State to forward the fingerprints to the Marijuana Control Board for submission to the Federal Bureau of Investigation for its report. Cost of such report shall be paid for by on behalf of the marijuana establishment.**

JONE'S AMENDMENT:

The amendment I would offer is to add back in the following:

Language was taken out earlier and this would add it back but leaving out the issue of "adjacent".

*[It would look like this, but perhaps the numbering would be different since the numbering was changed when the board removed the provision on August 11-CF]*

306.010(b)

(b) The board will not issue a marijuana establishment license if the licensed premises will be located in ~~or immediately adjacent to~~ a liquor license premises.

AMENDMENTS BROUGHT FORWARD BY VIRGINIA/HARRIET/STAFF

Proposed amendments to Oct 1, 2015 draft regulations (November 15, 2015)

1. p. 4. 3 AAC 306.010(c)(3) replace language of paragraph 3 in Oct 1 draft with the following:

(3) has been convicted of a class A misdemeanor within two years of submitting an application, relating to selling, furnishing, or distributing marijuana or operating an establishment where marijuana is consumed contrary to state law.

2. p. 7. 3 AAC 306 .020(b)(1) Remove EIN

3. p. 3 AAC 306.230. Procedure for local option elections. Replace this entire section with the following language.:

When it receives a petition to adopt, change, or remove a local option under 3 AAC 306,200 3 AAC 306.220, the local government shall conduct the election in compliance with the initiative process under the local government's election ordinances and regulations and the applicable provisions of AS 29.

4. Remove tax payment provisions in the following paragraphs or subsections because tax isn't due until a month after marijuana is sold.

3 AAC 306.310(c)

3 AAC 306.405(c)(6)

3 AAC 306.415(c)(5)

3 AAC 306.480(c)

3 AAC 306.510(d)

5. p. 16. 3 AAC 306.035(g) Delete last sentence of (g) which reads:

The board will not issue a new license for the same premises to the holder of an expired license unless the expired license holder's application contains proof satisfactory to the board of good cause for the failure to file a license renewal application,.

6. p. 22. 3 AAC 306.070. Shorten the last sentence of this section to specify the statutory due process requirement instead of additional details.

The director will send notice of a hearing **under this section as provided in AS 44.62.** [NOT LATER THAN 20 DAYS BEFORE THE HEARING DATE TO EACH PERSON THAT HAS FILED AN OBJECTION, TO

EACH LOCAL GOVERNMENT THAT HAS FILED A PROTEST, TO EACH COMMUNITY COUNCIL IN THE AREA OF THE PROPOSED PREMISES AND TO ANY NONPROFIT COMMUNITY ORGANIZATION THAT HAS REQUESTED NOTICE. ANY INTERESTED PERSON MAY BE HEARD AT A HEARING UNDER THIS SUBSECTION UNLESS THE APPLICANT AND THE BOARD WAIVE THIS REQUIREMENT, THE BOARD WILL HOLD THE HEARING IN THE AREA WHERE THE PROPOSED LICENSED PREMISES ARE LOCATED, OR WILL ARRANGE FOR TELEPHONIC APPEARANCE. ]

7. p. 36 3 AAC 306.305(4) with approval of the board, (to be developed in a later regs project) p. \_\_\_\_\_Retail license endorsement. See Bruce’s amendment.

8. p. 37. 310(3)(B) add “marijuana product” so this section would read:

(3) offer or deliver to a consumer, as a marketing promotion or for any other reason:

(A) free marijuana or marijuana product, including a sample; or

(B) a consumable product other than marijuana **or a marijuana product**, including cigarettes, tobacco products, alcoholic or non alcoholic beverages, or food, free or for compensation.

9. p. 42 3 AAC 306.355(a)(1) replace undefined term “usable” marijuana with the following:

(1) one ounce of marijuana bud and flower

10. Remove references to federal regulations in

3 AAC 306.470(d),

3 AAC 306.475(c) and

3 AAC 306.570.

11. p. 68. 3 AAC 306.510(a)(5) add language as follows:

(5) operate in a location that is a retail or wholesale food establishment **that is subject to the requirements of**

**(A) AS 17.20 and 18 AAC 31(Alaska food Code); and**

**(B) any food safety ordinances and regulations of a Municipality with authority delegated under AS 17.20.072 and 18 AAC 31.945.**

12. p. 69. 3 AAC 306.520(1) Add the following language

An applicant for a marijuana product manufacturing facility license, including a marijuana concentrate manufacturing facility, must file an application on a form the board prescribes, and provide the information required under 3 AAC 306.020 and the following:

(1) a copy of a food safety permit if required under 18 AAC 31.020 **from the Department of Environmental Conservation or a municipality with authority delegated under AS 17.20.072 and 18 AAC 31.945;**

13. p. 89. 3 AAC 306.635(b). Revise as follows:

(b) An applicant for a marijuana testing facility license and the holder of a marijuana testing facility license must **observe good laboratory practices.** [BE FAMILIAR WITH, AND TO THE EXTENT POSSIBLE, INTEGRATE INTO THE FACILITY'S OPERATIONS THE GOOD LABORATORY PRACTICES SET OUT IN THE FOLLOWING MATERIALS, HEREBY ADOPTED BY REFERENCE

(1) 21 C.F.R. 58, AS REVISED AS OF DEC. 22, 1978; AND

(2) *PRINCIPLES OF GOOD LABORATORY PRACTICE AND COMPLIANCE MONITORING* PUBLISHED BY THE ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD), AS REVISED AS OF 1999. ]

14. p. 132. Definition of "in public"

3 AAC 304.990 is repealed and readopted to read:

3 AAC 306.990(a)

(6) "in public"

(A) means in a place to which the public or a substantial group of persons has access;

(B) except as provided in (C) of this paragraph, 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;

(C) does not include an area on the premises of a licensed marijuana retail store designated for on-site consumption under 3 AAC 306.305. (Eff. 2/24/2015, Register 213; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** AS 17.38.040 AS 17.38.090

Editor's note: The definition of "in public" set out in 3 AAC 306.990 was originally adopted as an emergency regulation with the designation 3 AAC 304.990(b) , and with an effective date of February 24, 2015. The emergency regulation appears as 3 AAC 304.990(b) in Register 213 (April 2015) and Register 214 (July 2015). When the emergency regulation appeared as a permanent regulation in Register 215 (October 2015), the regulations attorney in accordance with AS 44.62.125 (b)(6) reassigned the provision to 3 AAC 306.990. The history of 3 AAC 306.990 reflects the effective date of the Alcoholic Beverage Control Board's emergency adoption of the definition of "in public."

Schulte's Proposed amendments by article

11/18/2015 Page 1 | 2

1) Offset distances for licensed businesses

Section 306.010

2) Limited out-of-state investment

Section 306.015

3) Onsite consumption endorsement

Section 306.305 / 306.310

4) Sale of non-cannabis merchandise

Section 306.310 (b)(3)(B)

5) Marijuana Handler Card in possession

Section 306.320 / 306.425 / 306.530

6) Marijuana Handler Card requirement and process

Section 306.320 / 306.425 / 306.530 / 306.700

7) Limits on quantity of edible products

Section 306.345 / 306.355

8) Distribution of branded merchandise

Section 306.360 (d)

9) Clarification of advertising restrictions

Section 306.360

10) Clarification of marketing restriction

Section 306.360

11) Allow brokers greater latitude to transact with different businesses

Section 306.400

12) Make Broker optional for limited cultivators

Section 306.410 (A) (3)

13) Testing requirements – Alternate means and methods

Section 306.455 / 306.550

14) Comprehensive packaging policy

Section 306.345 / 306.470 / 306.565 / 306.570

15) Allow manufacturing in existing retail & wholesale food locations

Section 306.510 (a) (5) / 306.545

16) Allow for sale of refrigerated products

Section 306.510

17) Revise 76% potency limit on extracts

Section 306.525 (a) (1)

18) Single serving potency limit

Section 306.560 (a)(1)

19) Single serving potency limit (medical card holder)

Section 306.560

20) Clarification of test failure parameters

Section 306.645

21) Remove prohibition on Marijuana Clubs

Section 306.900

Resolutions

1) Support for different tax on trim and flower

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Amendment #: B-1 – Revision to offset distance from other facilities

Description: Revision to required offset distance for licensed marijuana businesses

Introduction: Current draft requirements call for a minimum 500-foot separation between any marijuana business and a school, a recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility.

Public feedback indicates that in some communities, a 500-foot blanket offset could have the effect of barring all marijuana businesses from the community.

The boards’ decision to require a 500-foot separation from schools is supported by Alaska criminal statutes which define a 500-foot drug-free zone around schools.

However, there is no such statute to support a 500-foot setback from a building in which religious services are regularly conducted nor are churches mentioned in the Cole Memo. At least one community, Fairbanks, has adopted a local offset from churches of only 100 feet.

This amendment would reduce the offset requirement from buildings in which religious services are conducted to 200 feet. This amendment preserves the 500-foot offset from schools, recreation or youth center, or correctional facilities.

Note:

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-1 – Revision to offset distance from other facilities

Amended text:

**3 AAC 306.010. License restrictions.** (a) The board will not issue a marijuana establishment license if

the licensed premises will be located within 500 feet of a school, a recreation or youth center, **or a correctional facility, or within 200 feet of** a building in which religious services are regularly conducted

[, OR A CORRECTIONAL FACILITY]. The distance specified in this subsection must be measured by the shortest pedestrian route from the public entrance of the building in which the licensed premises would be located to the outer boundaries of the school, recreation or youth center, or the main public entrance of the building in which religious services are regularly conducted, or the correctional facility.

This section does not prohibit the renewal of an existing marijuana establishment license or the transfer of an existing marijuana establishment license to another person if the licensed premises were in use before the school, recreation or youth center, or the correctional facility began use of a site within 500 feet, or the building in which religious services are regularly conducted,[OR THE CORRECTIONAL FACILITY] began use of a site within **200** [500] feet.

If an existing marijuana establishment license for premises located within 500 feet of a school, a recreation or youth center, [A BUILDING IN WHICH RELIGIOUS SERVICES ARE REGULARLY CONDUCTED], or a correctional facility, **or within 200 feet of a building in which religious services are regularly**

**conducted** is revoked, or expires, the board will not issue another marijuana establishment license for the same premises unless the school, the recreation or youth center, the building in which religious services are regularly conducted, or the correctional facility no longer occupies the site within 500 feet.

(b) The board will not issue a marijuana establishment license when a local government protests an application under 3 AAC 306.060 on the grounds [THAT] that the applicant’s proposed licensed premises are located in a place within the local government where a local zoning ordinance prohibits the marijuana establishment, unless the local government has approved a variance from the local ordinance.

- (c) The board will not issue a marijuana establishment license to a person that
- (1) is prohibited under AS 17.38.100(i) from receiving a marijuana establishment license because of a conviction of a felony; if the applicant is a partnership, limited liability company, or corporation, the board will not issue a license if any person named in 3 AAC 306.020(b)(2) is prohibited under AS 17.38.100(i) from obtaining a license; in this paragraph, “conviction of a felony” includes a suspended imposition of sentence;
  - (2) has been found guilty of
    - (A) selling alcohol without a license in violation of AS 04.11.010; or
    - (B) selling alcohol to a minor in violation of AS 04.16.051 or AS 04.16.052; or
  - (3) operated a marijuana delivery service, a marijuana club, or a marijuana establishment illegally without a license issued under this chapter, or otherwise violated AS 17.38, during the two years before the date the person files the application, unless the board finds that person has diligently worked with the board to comply with all current laws and regulations relating to marijuana.

Amendment #: B-2 – Allowing for limited outside investment

Description: Allowing for limited outside investments

Introduction: Current draft regulations require 100% Alaska-based controlling interest in any marijuana business.

Public feedback suggests a desire for at least limited out-of-state investment so that licensed businesses can pursue investment funds that might not be available within Alaska.

This amendment seeks to expand the list of potential investment sources while maintaining the ability to conduct thorough background checks on outside investors.

Note:

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-2 – Allowing for limited outside investment

Amended text:

**3 AAC 306.015. License conditions.** (a) The board will issue each marijuana establishment license to a specific individual, to a partnership, including a limited partnership, to a limited liability company, to a corporation, or to a local government. A person other than a licensee may not have a direct or indirect financial interest in the business for which a marijuana establishment license is issued.

(b) The board will not issue a marijuana establishment license to

(1) an individual or a sole proprietorship unless the individual or proprietor is a resident of the state;

(2) a partnership unless **seventy-five percent (75%) of the partners or ownership interest are held by residents of the state.** [EACH PARTNER IS A RESIDENT OF THE STATE];

(3) a limited liability company unless the limited liability company is qualified to do business in the state, and **at least seventy-five percent (75%) of the members and ownership interest are held by residents of the state.** [EACH MEMBER OF THE LIMITED LIABILITY COMPANY IS A RESIDENT OF THE STATE]; or

(4) a corporation unless the corporation is incorporated or qualified to do business in the state, and **at least seventy-five (75%) of the shareholders and ownership interest are held by residents of the state.** [EACH SHAREHOLDER WHO OWNS THE CORPORATION’S SHARES IS A RESIDENT OF THE STATE].

(c) The board will issue each license for a specific location identified on the license as the licensed premises. A marijuana establishment must have a right to possession of its licensed premises at all

times, and may not lease its licensed premises to another person for any reason. If a marijuana establishment wishes to reduce or expand the area of the licensed premises used for a marijuana establishment, the marijuana establishment must submit a new line drawing showing the proposed changes to the premises, and must obtain the board's written approval. A marijuana establishment may not relocate its licensed premises to a different place. A marijuana establishment that proposes to operate in any new premises must apply for a new marijuana establishment license.

(d) The board will impose other conditions or restrictions on a license issued under this chapter when it finds that it is in the interests of the public to do so.

(e) In this section,

(1) "direct or indirect financial interest" means

(A) a legal or equitable interest in the operation of a business licensed under this chapter;

(B) does not include a person's right to receive

(i) rental charges on a graduated or percentage lease-rent agreement for real estate leased to a licensee; or

(ii) a consulting fee from a licensee for services that are allowed under this chapter;

Amendment #: B-2 – Allowing for limited outside investment

(2) "resident of the state" means a person who meets the residency requirement under AS 43.23 for a permanent fund dividend in the calendar year in which that person applies for a marijuana establishment license under this chapter.

**(f) Any partner or ownership of the proposed marijuana establishment and not a resident of the state must agree to provide any and all information requested by the Marijuana Control Board, including name, address, date of birth, complete set of fingerprints and written permission authorizing the State to forward them to the Federal Bureau of Investigation for its report.**

Amendment #: B-3 – Onsite Consumption Endorsement

Description: Revision to allow optional onsite consumption endorsement for retail licensees

Introduction: Current draft requirements prohibit onsite consumption of marijuana. There has been extensive feedback from the public and from local governments that the MCB make allowances for some sort of licensed facility.

This amendment seeks to create an optional license endorsement for licensed Retail Marijuana Stores that would allow onsite consumption in designated areas of the licensed premises. The amendment includes conforming changes to Article 9 "Definitions".

Note:

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-3 – Onsite Consumption Endorsement

Amended text:

**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 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 an amount not exceeding the limit set out in 3 AAC 306.355, to an individual on the licensed premises. [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 and marijuana products purchased on the licensed premises, in a designated area on the licensed premises.**

(b) This section does not prohibit a licensed retail store from refusing to sell marijuana or marijuana product to any consumer.

Amendment #: B-3 – Onsite Consumption Endorsement

**3 AAC 306.310. Acts prohibited at retail marijuana store.** (a) A licensed retail marijuana store may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver, marijuana or any marijuana product

(1) to any person under the age of 21;

(2) that is not labeled and packaged as required in 3 AAC 306.345, and in 3 AAC 306.470 and 3 AAC 306.475 or 3 AAC 306.565 and 3 AAC 306.570;

(3) in a quantity exceeding the limit set out in 3 AAC 306.355;

(4) over the internet; a licensed retail marijuana store may only sell marijuana or marijuana product to a consumer who is physically present on the licensed premises;

(5) after the expiration date shown on the label of the marijuana or marijuana product.

(b) A licensed retail marijuana store may not

(1) conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises between the hours of 5:00 a.m. and 8:00 a.m. each day;

(2) allow any person to consume marijuana or any marijuana product on the retail marijuana store's licensed premises **except as provided in 3 AAC 306.305(a)(4)**;

(3) offer or deliver to a consumer, as a marketing promotion or for any other reason:

(A) free marijuana or marijuana product, including a sample; or

(B) a consumable product other than marijuana, including cigarettes, tobacco products, alcoholic or non alcoholic beverages, or food, free or for compensation.

(c) A retail marijuana store may not purchase any marijuana or marijuana product for resale without a certificate showing the tax due under AS 43.61.010 has been paid to the state.

Amendment #: B-3 – Onsite Consumption Endorsement

**3 AAC 306.990. Definitions.** (a) In AS 17.38 and this chapter, "in public"

(A) 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];

**(B) except as provided in (C) of this paragraph, 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;**

**(C) does not include an area on the premises of a licensed marijuana retail store designated for on-site consumption under 3 AAC 306.305.**

Amendment #: B-4 – Sale of non-cannabis products

**Description:** Allowing for the sale of non-cannabis products on licensed premises

**Introduction:** Draft regulations prohibit the sale of any consumable product other than marijuana. The rationale was that customers or inspectors might be unable to distinguish between infused and noninfused

products or that individuals under the age of 21 might be confused as to the content of a product in the store.

Sections of these regulations require that all marijuana and marijuana-infused products be labelled with their THC or CBD potency and with several other warnings on the label. Thus, it should be clear which products are infused and which are not. Other sections stipulate that persons must be 21 or older to enter a licensed premise, thus it seems unlikely that anyone under the age of 21 would be in a position to view the products or to be confused by non-infused products. Additional restrictions stipulate that licensees may not adulterate products – by infusing familiar products with THC, further ensuring a distinction between infused and non-infused products.

Prohibiting licensees from selling non-cannabis products in order to supplement their revenue would pose an unreasonable restriction on commerce while gaining little in the way of public safety or welfare. Current federal tax codes make it extremely difficult for licensees to deduct costs associated with their business. Allowing them to sell other goods could help them moderate the negative effects of those tax codes.

This amendment seeks to remove this obstacle to commerce and allow licensed businesses to sell additional products just as alcohol stores, tobacco stores and others are able to. This amendment preserves the prohibition on the sale of alcoholic beverages on licensed premises.

Note:

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-4 – Sale of non-cannabis products

**Amended text:**

**3 AAC 306.310. Acts prohibited at retail marijuana store.** (a) A licensed retail marijuana store may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver, marijuana or any marijuana product

(1) to any person under the age of 21;

(2) that is not labeled and packaged as required in 3 AAC 306.345, and in 3 AAC 306.470 and 3 AAC 306.475 or 3 AAC 306.565 and 3 AAC 306.570;

(3) in a quantity exceeding the limit set out in 3 AAC 306.355;

(4) over the internet; a licensed retail marijuana store may only sell marijuana or marijuana product to a consumer who is physically present on the licensed premises;

(5) after the expiration date shown on the label of the marijuana or marijuana product.

(b) A licensed retail marijuana store may not

(1) conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises between the hours of 5:00 a.m. and 8:00 a.m. each day;

(2) allow any person to consume marijuana or any marijuana product on the retail marijuana store's licensed premises;

(3) offer or deliver to a consumer, as a marketing promotion or for any other reason:

- (A) free marijuana or marijuana product, including a sample; or
- (B) [A CONSUMABLE PRODUCT OTHER THAN MARIJUANA, INCLUDING CIGARETTES, TOBACCO PRODUCTS,] alcoholic [OR NON ALCOHOLIC] beverages, [OR FOOD,] free or for compensation.
- (c) A retail marijuana store may not purchase any marijuana or marijuana product for resale without a certificate showing the tax due under AS 43.61.010 has been paid to the state.

Amendment #: B-5 – Marijuana Handler Card in Possession

Description: Allowing for marijuana handler card to be on-file on the licensed premises.

Introduction: Draft regulations require that individuals have their marijuana handlers card on their person when on the licensed premises.

While this requirement seems reasonable on the surface, it could have the effect of causing someone to miss a days' work merely because their handlers card was misplaced, lost or damaged. It could also lead to wasted time and confusion when inspectors are onsite and have to verify credentials with their office.

Similar requirements for Alcohol businesses allow a copy of the credentials to be kept onsite for reference (3 AAC 304.465).

This amendment seeks to allow licensees to keep a copy of each employees' card on-file, on the licensed premises for review upon request.

Note:

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-5 – Marijuana Handler Card in Possession

Amended text:

**3 AAC 306.320. Marijuana handler permit required.** A retail marijuana store shall ensure that (1) each licensee, employee, or agent obtains a marijuana handler permit as provided in 3 AAC 306.700 before being licensed or employed at a retail marijuana store; and (2) each licensee, employee, or agent has that person's marijuana handler permit card in that person's immediate possession, **or a valid copy on file on the premises**, when on the licensed premises of the retail marijuana store.

**3 AAC 306.425. Marijuana handler permit required.** A marijuana cultivation facility must ensure that each licensee, employee, or agent

(1) obtains a marijuana handler permit as provided in 3 AAC 306.700 before being present or employed at the marijuana cultivation facility's licensed premises; and

(2) has the marijuana handler permit card in the person's immediate possession **or a valid copy on file on the premises**, at all times while on the marijuana cultivation facility's licensed premises.

**3 AAC 306.530. Marijuana handler permit and food safety worker training.** (a) A marijuana product manufacturing facility shall ensure that each licensee, employee, or agent

(1) obtains a marijuana handler permit as provided in 3 AAC 306.700 before being present or employed at the marijuana product manufacturing facility's licensed premises; and

(2) has the marijuana handler permit card in the person's immediate possession **, or a valid copy on file on the premises**, at all times while on the marijuana product manufacturing facility's licensed premises.

(b) A licensee, employee, or agent of a licensed marijuana product manufacturing facility who handles marijuana at the facility shall obtain a food safety worker card in compliance

with AS 18.31.330, and keep that card in that person's possession at all times while on the licensed premises of the marijuana product manufacturing facility.

Amendment #: B-6 – Marijuana Handler Card requirements and process

Description: Amends regulations to require marijuana handlers cards only for employees and agents who are handling marijuana on licensed premises.

Introduction: Draft regulations require a marijuana handlers card for every licensee, employee and agent. However, it's likely that some licensees will not actually be part of daily operations on the licensed premises and therefore would not need the training required to obtain the handlers card.

This amendment seeks to amend the regulations so that only licensees, employees and agents who have business on the licensed premises are required to obtain a marijuana handlers card. It further removes the requirement that an applicant provide a criminal justice report along with the application.

Note:

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-6 – Marijuana Handler Card requirements and process

Amended text:

**3 AAC 306.320. Marijuana handler permit required.** A retail marijuana store shall ensure that

(1) each licensee, employee, or agent **who is required or permitted to be physically present on the licensed premises at any time** obtains a marijuana handler permit as provided in 3

AAC 306.700 before being licensed or employed at a retail marijuana store; and

(2) each licensee, employee, or agent has that person's marijuana handler permit card in that person's immediate possession when on the licensed premises of the retail marijuana store.

**3 AAC 306.425. Marijuana handler permit required.** A marijuana cultivation facility must ensure that each licensee, employee, or agent **who is required or permitted to be physically present on the licensed premises at any time**

(1) obtains a marijuana handler permit as provided in 3 AAC 306.700 before being present or employed at the marijuana cultivation facility's licensed premises; and

(2) has the marijuana handler permit card in the person's immediate possession at all times while on the marijuana cultivation facility's licensed premises.

**3 AAC 306.530. Marijuana handler permit and food safety worker training.** (a) A marijuana product manufacturing facility shall ensure that each licensee, employee, or agent **who is required or permitted to be physically present on the licensed premises at any time**

(1) obtains a marijuana handler permit as provided in 3 AAC 306.700 before being present or employed at the marijuana product manufacturing facility's licensed premises; and

(2) has the marijuana handler permit card in the person's immediate possession at all times while on the marijuana product manufacturing facility's licensed premises.

(b) A licensee, employee, or agent of a licensed marijuana product manufacturing facility who handles marijuana at the facility shall obtain a food safety worker card in compliance with AS 18.31.330, and keep that card in that person's possession at all times while on the licensed premises of the marijuana product manufacturing facility.

Amendment #: B-6 – Marijuana Handler Card requirements and process

**3 AAC 306.700. Marijuana handler permit.** (a) A marijuana establishment and each licensee, employee, or agent of the marijuana establishment who sells, cultivates, manufactures, tests, or transports marijuana or a marijuana product, or who checks the identification of a consumer or visitor, shall obtain a marijuana handler permit from the board before being licensed or beginning employment at a marijuana establishment.

(b) To obtain a marijuana handler permit, a person shall complete a marijuana handler permit education course approved by the board, pass a written test demonstrating an understanding of the course material, and obtain a certificate of course completion from the course provider. An approved marijuana handler permit education course must cover at least the following topics:

- (1) AS 17.37, AS 17.38, and this chapter;
- (2) the effects of consumption of marijuana and marijuana products;
- (3) how to identify a person impaired by consumption of marijuana;
- (3) how to determine valid identification;
- (4) how to intervene to prevent unlawful marijuana consumption; and
- (5) the penalty for an unlawful act by a licensee, an employee, or an agent of a marijuana establishment.

(c) To obtain a marijuana handler permit, a person who has completed the marijuana handler permit course described under (b) of this section shall present the course completion certificate[, ALONG WITH A REPORT OF CRIMINAL JUSTICE INFORMATION OBTAINED FROM THE DEPARTMENT OF PUBLIC SAFETY UNDER AS 12.62.160] to the director. The director shall issue a marijuana handler permit card valid for three years from the date of issue. A person may renew a card issued under this section by passing a written test demonstrating an understanding of the course subjects.

(d) A licensee, employee, or agent of a marijuana establishment shall keep the marijuana handler permit card described in (c) of this section in that person's immediate possession when on the licensed premises of the retail marijuana store.

(e) The board will review an approved marijuana handler permit education course at least once every three years, and may rescind approval of the course if the board finds that the education course contents are insufficient or inaccurate.

Amendment #: B-07 – Revise limits on sale of edible products

Description: Revises the limits on edible products that may be sold in a retail store

Introduction: Draft regulations place limits on the quantity of edible products that may be sold in a retail store. While this strategy makes some sense, the actual values stated are open to challenge. This amendment seeks to apply a more rigorous methodology to the setting of these limits.

One place to start is with the voter initiative itself which places a limit of 1-ounce of marijuana in personal possession. If we assume a 20% THC potency of high-grade flower, that equates to approximately 5,600mg THC which is an amount perfectly legal to have in ones' possession.

If we take that as a baseline and compare it to infused products, one can see a broad disparity between total weight and the amount of THC contained within.

3.5oz (100g) Chocolate bar → 50-100mg THC

1g Lozenges → 5-10mg THC

11.5 fluid oz Infused beverage → 10-100mg THG

16 oz bread loaf → 50-100mg THC

Rather than apply limits based on the weight of the finished product(s). It makes more sense to

limit a retail transaction to the total amount of THC contained in all products.

This amendment seeks to bring a more rational basis to limits on retail sales by limiting the total quantity of THC in all products rather than attempting to interpolate equivalent values in numerous, different products.

Public feedback was uniformly in support of changing these limits

Note:

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-07 – Revise limits on sale of edible products

Amended text:

**3 AAC 306.345. Packaging and labeling.** (a) A retail marijuana store shall assure that

(1) any marijuana sold on its licensed premises is packaged and labeled in compliance with 3 AAC 306.470 and 3 AAC 306.475, except that 3 AAC 306.470(b)(2) does not apply to the packaging of wholesale flower and bud sold by weight to a consumer; and

(2) any marijuana product sold on its licensed premises is packaged and labeled in compliance with 3 AAC 306.565 and 3 AAC 306.570, except that 3 AAC 306.565(b)(2) does not apply to the packaging of wholesale marijuana products that are not edible marijuana products.

(b) In addition to labeling requirements provided in (a) of this section, a retail marijuana store shall affix a label to each package of marijuana or marijuana product that

(1) identifies the marijuana retail store selling the marijuana product by name or distinctive logo and marijuana establishment license number; and

(2) contains the following statements:

(A) "Marijuana has intoxicating effects and may be habit forming;"

(B) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence;"

(C) "There may be health risks associated with consumption of marijuana;" and

(D) "For use only by adults twenty-one and older. Keep out of the reach of children"

(E) "Marijuana should not be used by women who are pregnant or breast feeding."

**(3) States the total estimated amount of THC contained in the labelled product**

**3 AAC 306.355. Limit on quantity sold.** (a) A licensed retail marijuana store shall not sell more than the following quantity of marijuana or marijuana product in a single transaction:

(1) one ounce of usable marijuana;

[(2) SIXTEEN OUNCES OF MARIJUANA-INFUSED PRODUCT IN SOLID FORM; ]

(3) seven grams of marijuana-[INFUSED] extract for inhalation, or

[(4) SEVENTY-TWO OUNCES OF MARIJUANA-INFUSED PRODUCT IN LIQUID FORM].

**(3) Marijuana or marijuana products containing more than 5600 milligrams of THC**

Amendment #: B-8 – Sale of branded merchandise

Description: Allowing for the distribution of branded merchandise

Introduction: Draft regulations prohibit the distribution of branded-merchandise for marketing purposes. In any successful consumer business one key to success lies in establishing a unique identity in the marketplace. Branded merchandise does that.

Branded merchandise in the alcohol industry is fairly common and has not been shown to be counter to public welfare.

Banning of branded merchandise offers little in the way of public welfare and places an unnecessary restriction to commerce on licensed businesses.

This amendment seeks to remove the prohibition on branded merchandise.

Note:

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-8 – Sale of branded merchandise

Amended text:

**3 AAC 306.360. Restriction on advertising of marijuana and marijuana products.** (a) A retail marijuana store may have no more than three signs, visible to the general public from the public right of way, that identify the store by its business name. A sign may be placed in the store's window or attached to the outside of the licensed premises. The size of each sign may not exceed 4800 square inches.

(b) An advertisement for marijuana or marijuana product may not contain any statement or illustration that

(1) is false or misleading;

(2) promotes excessive consumption;

(3) represents that the use of marijuana has curative or therapeutic effects;

(4) depicts a person under the age of 21 consuming marijuana; or

(5) includes an object or character, including a toy, a cartoon character, or any other depiction designed to appeal to a child or other person under the age of 21, that promotes consumption of marijuana.

(c) A retail marijuana store may not place an advertisement for marijuana or a marijuana product, except as provided in (a) of this section,

(1) within one thousand feet of the perimeter of any child-centered facility, including a school, daycare or other facility providing services to children, a playground or recreation center, a public park, a library, or a game arcade that is open to persons under the age of 21;

(2) on or in a public transit vehicle or public transit shelter; or

(3) on or in a publicly owned or operated property;

(4) within 1000 feet of a substance or treatment facility; or

(5) on a college campus.

(d) A retail marijuana store may not use giveaway coupons [~~OR DISTRIBUTE BRANDED MERCHANDISE~~] as promotional materials, or conduct promotional activities such as games or competitions to encourage sale of marijuana or marijuana products.

(e) All advertising for marijuana or any marijuana product must contain the following warnings:

(1) "Marijuana has intoxicating effects and may be habit forming;"

(2) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence;"

(3) "There may be health risks associated with consumption of marijuana;" and

(4) "For use only by adults twenty-one and older. Keep out of the reach of children"

(5) "Marijuana should not be used by women who are pregnant or breast feeding."

Amendment #: B-9 – Clarification of marketing restriction

Description: Clarify allowable distance of marketing from schools

Introduction: Draft regulations include a 500-foot offset between a marijuana business and a school but 1,000-feet of separation for any form of marketing or signage. This would effectively require that a retail store could not post anything in their own windows even if they were more

than the minimum 500 feet from a school but less than 1,000 feet.

This amendment seeks to bring the advertising restriction into line with the 500-foot drug-free zone and to revise the terminology for offset distances to match what is used elsewhere in the regulations.

Note:

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-9 – Clarification of marketing restriction

Amended text:

**3 AAC 306.360. Restriction on advertising of marijuana and marijuana products.** (a) A retail marijuana store may have no more than three signs, visible to the general public from the public right of way, that identify the store by its business name. A sign may be placed in the store's window or attached to the outside of the licensed premises. The size of each sign may not exceed 4800 square inches.

(b) An advertisement for marijuana or marijuana product may not contain any statement or illustration that

- (1) is false or misleading;
- (2) promotes excessive consumption;
- (3) represents that the use of marijuana has curative or therapeutic effects;
- (4) depicts a person under the age of 21 consuming marijuana; or
- (5) includes an object or character, including a toy, a cartoon character, or any other depiction designed to appeal to a child or other person under the age of 21, that promotes consumption of marijuana.

(c) A retail marijuana store may not place an advertisement for marijuana or a marijuana product, except as provided in (a) of this section,

(1) within [ONE THOUSAND] **five hundred** feet of the perimeter of a **school, a recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility.** [ANY CHILD-CENTERED FACILITY, INCLUDING A SCHOOL, DAYCARE OR OTHER FACILITY PROVIDING SERVICES TO CHILDREN, A PLAYGROUND OR RECREATION CENTER, A PUBLIC PARK, A LIBRARY, OR A GAME ARCADE THAT IS OPEN TO PERSONS UNDER THE AGE OF 21;]

- (2) on or in a public transit vehicle or public transit shelter; or
- (3) on or in a publicly owned or operated property;
- (4) within [ONE THOUSAND] **five hundred** feet of a substance [OR] **abuse** treatment facility; or
- (5) on a college campus.

(d) A retail marijuana store may not use giveaway coupons, or distribute branded merchandise as promotional materials, or conduct promotional activities such as games or competitions to encourage sale of marijuana or marijuana products.

(e) All advertising for marijuana or any marijuana product must contain the following warnings:

- (1) "Marijuana has intoxicating effects and may be habit forming;"
- (2) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence;"
- (3) "There may be health risks associated with consumption of marijuana;" and
- (4) "For use only by adults twenty-one and older. Keep out of the reach of children"
- (5) "Marijuana should not be used by women who are pregnant or breast feeding."

Amendment #: B-10 – Clarification of advertising requirements

Description: Clarification of requirements for print, radio, or television advertising

Introduction: Draft regulations require the same five warnings for advertising as are required for warning labels on marijuana products. Those warning labels are intended to educate an individual who has purchased or is about to purchase a marijuana product. Advertising is distinctly different in that it is primarily intended to make the public aware that a retail establishment exists and where it is located.

It appears that the text for this section was mistakenly copied from the section that addresses labelling of retail marijuana products.

This amendment seeks to correct an apparent drafting error and bring advertising guidelines in line with other regulated substances by requiring the most important public-safety warnings that a non-customer would need to know without imposing burdensome requirements on licensed businesses.

Note:

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-10 – Clarification of advertising requirements

Amended text:

**3 AAC 306.360. Restriction on advertising of marijuana and marijuana products.** (a) A retail marijuana store may have no more than three signs, visible to the general public from the public right of way, that identify the store by its business name. A sign may be placed in the store's window or attached to the outside of the licensed premises. The size of each sign may not exceed 4800 square inches.

(b) An advertisement for marijuana or marijuana product may not contain any statement or illustration that

- (1) is false or misleading;
- (2) promotes excessive consumption;
- (3) represents that the use of marijuana has curative or therapeutic effects;
- (4) depicts a person under the age of 21 consuming marijuana; or
- (5) includes an object or character, including a toy, a cartoon character, or any other depiction designed to appeal to a child or other person under the age of 21, that promotes consumption of marijuana.

(c) A retail marijuana store may not place an advertisement for marijuana or a marijuana product, except as provided in (a) of this section,

- (1) within one thousand feet of the perimeter of any child-centered facility, including a school, daycare or other facility providing services to children, a playground or recreation center, a public park, a library, or a game arcade that is open to persons under the age of 21;
- (2) on or in a public transit vehicle or public transit shelter; or
- (3) on or in a publicly owned or operated property;
- (4) within 1000 feet of a substance or treatment facility; or
- (5) on a college campus.

(d) A retail marijuana store may not use giveaway coupons, or distribute branded merchandise as promotional materials, or conduct promotional activities such as games or competitions to encourage sale of marijuana or marijuana products.

(e) All advertising for marijuana or any marijuana product must contain the following warnings:

- (1) "**For adult use only, twenty-one and older.**"[MARIJUANA HAS INTOXICATING EFFECTS AND MAY BE HABIT FORMING;"]
- (2) "**Do not operate a vehicle or machinery after consuming marijuana.**"[MARIJUANA CAN IMPAIR CONCENTRATION, COORDINATION, AND JUDGMENT. DO NOT OPERATE A VEHICLE OR MACHINERY UNDER ITS INFLUENCE;"]
- (3) "THERE MAY BE HEALTH RISKS ASSOCIATED WITH CONSUMPTION OF MARIJUANA;" AND
- (4) "FOR USE ONLY BY ADULTS TWENTY-ONE AND OLDER. KEEP OUT OF THE REACH OF CHILDREN"
- (5) "MARIJUANA SHOULD NOT BE USED BY WOMEN WHO ARE PREGNANT OR BREAST FEEDING."]

Amendment #: B-11 – Allow Brokers greater latitude

Description: Allow Marijuana Brokers to transact with a broader range of licensees.

Introduction: Draft regulations limit business interaction of a Marijuana Broker to purchasing from a limited cultivator and selling to a retail store.

There has been significant public input asking that the role of the broker be less restricted and to allow such a business to purchase from any type of cultivator and to sell to any processor or retail store.

This amendment seeks to broaden the allowable interaction of the Marijuana Broker license while preserving the requirements for testing and payment of tax.

Note:

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-11 – Allow Brokers greater latitude

Amended text:

**3 AAC 306.400. Marijuana cultivation facility license required.** (a) Except as provided under AS 17.38.020, a person may not plant, propagate, cultivate, harvest, trim, dry, cure, or package, label, or sell marijuana grown at a place under that person's control, directly or through a marijuana cultivation broker facility, to any marijuana establishment unless the person has obtained a marijuana cultivation facility license from the board in compliance with this chapter, or is an employee or agent acting for a licensed marijuana cultivation facility. The board will issue the following types of marijuana cultivation facility licenses, with the privileges and subject to the prohibitions set out in sections 3 AAC 306.405 - 3 AAC 306.415:

- (1) a standard marijuana cultivation facility license;
  - (2) a limited marijuana cultivation facility license to a person operating a marijuana cultivation facility with fewer than 500 square feet under cultivation; and
  - (3) a marijuana cultivation broker facility license for a person providing essential business functions [OF A LIMITED MARIJUANA CULTIVATION FACILITY,] including storing marijuana, purchasing or arranging the purchase of a [THE LIMITED] marijuana cultivation facility's marijuana crop, arranging testing and transportation of marijuana, and filing the reports and paying the marijuana excise tax required under AS 43.61.010 and AS 43.61.020.
- (b) A person seeking any type of marijuana cultivation facility license as provided in (a) of this section must
- (1) submit an application for the applicable marijuana cultivation facility license on a form the board prescribes, including the information set out at 3 AAC 306.020 and 3 AAC

306.420; and

(2) demonstrate to the board's satisfaction that it will operate in compliance with

(A) each applicable provision of 3 AAC 306.400 - 3 AAC 306.480 and 3 AAC 306.700 - 3 AAC 306.755; and

(B) each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises are located.

(c) A licensee of any marijuana cultivation facility, or an employee or agent of a marijuana cultivation facility, may not have an ownership interest in, or a direct or indirect financial interest in any licensed marijuana testing facility.

Amendment #: B-11 – Allow Brokers greater latitude

**3 AAC 306.405. Standard marijuana cultivation facility: privileges and prohibited acts.** (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, **to a marijuana broker**, or to a licensed marijuana product manufacturing facility;

(3) provide samples to a licensed marijuana testing lab 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 inventory tracking system as required under 3 AAC 306.730;

(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, **a marijuana broker**, or marijuana product manufacturing facility for the purpose of negotiating a sale.

(b) A licensed standard marijuana cultivation facility may also apply for a marijuana product manufacturing facility license and a retail marijuana store license. A standard marijuana cultivation facility that obtains any other marijuana establishment license shall

(1) conduct any product manufacturing or retail marijuana store operation in a room completely separated from the cultivation facility by a secure door when co-located; and

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

(c) A licensed standard marijuana cultivation facility may not

(1) sell, distribute, or transfer any marijuana or 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) except as permitted under a marijuana product manufacturing facility license, extract marijuana concentrate, using any process described in 3 AAC 306.555, at the licensed premises;

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

(6) sell marijuana that has not been reported to the Department of Revenue with excise tax paid as required under AS 43.61.010 and AS 43.61.020.

Amendment #: B-11 – Allow Brokers greater latitude

**3 AAC 306.415. Marijuana cultivation broker facility: privileges and prohibited acts.** (a) A licensed marijuana cultivation broker facility is authorized to

- (1) purchase marijuana from any number of licensed [LIMITED] marijuana cultivation facilities;
  - (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) arrange laboratory testing of marijuana obtained from a [LIMITED] cultivation facility, and provide the necessary testing samples to a licensed marijuana testing facility;
  - (4) arrange transportation of marijuana to a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store; and
  - (5) submit to the Department of Revenue the monthly statements and pay the excise tax specified under AS 43.61.010 and AS 43.61.020 on all marijuana the marijuana cultivation broker facility purchases from a [LIMITED] marijuana cultivation facility.
- (b) A licensed marijuana cultivation broker facility may apply for a marijuana product manufacturing facility license and a retail marijuana store license. A marijuana cultivation broker facility that obtains any other marijuana establishment license shall
- (1) conduct any product manufacturing and retail marijuana store operation in a room completely separated from the cultivation broker facility by a secure door; and
  - (2) comply with each provision of this chapter that applies to any other type of marijuana establishment license that the cultivation broker facility has obtained.
- (c) A licensed marijuana cultivation broker facility may not
- (1) do any act prohibited under 3 AAC 306.405(c);
  - (2) grow marijuana;
  - (3) extract concentrate from marijuana unless the broker facility has obtained a marijuana manufacturing facility license;
  - (4) sell marijuana that is not packaged and labeled in compliance with 3 AAC 306.470 and 3 AAC 306.475; or
  - (5) sell marijuana that has not been reported to the Department of Revenue with excise tax paid as required under AS 43.61.010 and AS 43.61.020.

Amendment #: B-12 – Make Brokers optional for a Limited Cultivator

Description: Allow Limited Cultivators to transact with a broader range of licensees.

Introduction: Draft regulations limit business interaction of a Limited Cultivator to selling only through a Marijuana Broker.

There has been significant public input asking that the Limited Cultivator have the option of selling directly to a marijuana processing facility or marijuana retail store.

This amendment seeks to broaden the options available to a Limited Cultivator by allowing them to sell their harvest to other licensed businesses. This amendment does not preclude a Limited Cultivator from transacting with a broker, nor does it remove the requirement that tax be paid on their crop.

Note:

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-12 – Make Brokers optional for a Limited Cultivator

Amended text:

**3 AAC 306.410. Limited marijuana cultivation facility: privileges and prohibited acts.** (a) A licensed limited cultivation facility is authorized to

- (1) propagate, cultivate, harvest, and prepare marijuana for sale in a marijuana cultivation facility with fewer than 500 square feet under cultivation;
- (2) provide marijuana samples to a licensed marijuana cultivation broker facility, **marijuana processing facility, or marijuana retail store** for the purpose of negotiating a sale;
- (3) sell marijuana only to a licensed marijuana cultivation broker facility, **marijuana processing facility, or marijuana retail store** with which the limited cultivation facility has a written agreement that

(A) assigns responsibility for

- (i) arranging transportation and testing by a licensed marijuana testing facility; and for

**(ii) filing of reports and payment of the excise tax as required under AS 43.61.010 and AS 43.61.020 for all marijuana that the limited marijuana cultivator sells; and**

**(iii) [(II)] other services as agreed between the parties; [AND]**

**[(B) REQUIRES THE MARIJUANA CULTIVATION BROKER FACILITY TO FILE REPORTS AND PAY THE EXCISE TAX AS REQUIRED UNDER AS 43.61.010 AND AS 43.61.020 FOR ALL MARIJUANA THE MARIJUANA CULTIVATION BROKER FACILITY PURCHASES FROM THE LIMITED MARIJUANA CULTIVATION FACILITY;]**

- (4) if a written agreement as provided in paragraph (a)(3) of this section does not provide for the marijuana cultivation broker facility, **marijuana processing facility, or marijuana retail store** to provide these services:

(A) arrange for testing by a licensed marijuana testing facility; and

(B) transport marijuana to a licensed marijuana testing facility, **marijuana processing facility**, [OR THE] marijuana cultivation broker facility, **or marijuana retail store** with which the limited marijuana cultivation facility has an agreement under (a)(3) of this section.

(b) A licensed limited marijuana cultivation facility may not

- (1) do any act prohibited under 3 AAC 306.405(c);
- (2) hold any other type of marijuana establishment license;
- (3) sell directly to a consumer,

**[(4) SELL TO ANY MARIJUANA ESTABLISHMENT EXCEPT THROUGH A MARIJUANA CULTIVATION BROKER FACILITY; AND]**

(5) sell marijuana to **another marijuana licensee** [A MARIJUANA CULTIVATION BROKER FACILITY] without a written agreement [IN WHICH THE MARIJUANA CULTIVATION BROKER FACILITY AGREES TO] establishing responsibility for filing of each report and payment of excise tax [FILE EACH REPORT AND PAY THE EXCISE TAX] required under AS 43.61.010 and AS 43.61.020.

Amendment #: B-13 – Alternate testing methods.

**Description:** Allow for alternate testing methods.

**Introduction:** Draft regulations identify several specific tests that must be performed on marijuana and marijuana products. While it is appropriate and in the interest of public welfare to require such tests, there exists a set of conditions that make it practically impossible for some potential licensees to meet the requirement.

First, federal prohibition on the transport of marijuana, even within a state where it is legal makes it impossible for a licensee to regularly, and legally transport samples to a testing lab in another community.

Second, because of the relatively small market to be served and the cost of setting up a fullscale lab, it is possible that only one or two labs will be established within the state. One would expect that such labs will be located in larger communities with access to the road system in order to have a viable customer base. Thus Alaska’s rural communities, often accessible only by air will be effectively blocked from participating in a regulated marijuana industry.

In addition, testing equipment of all types tends to evolve as needs change. The testing of DNA samples which required considerable facilities and time just ten years ago, can now be reliably accomplished through the use of much smaller and cheaper equipment.

This amendment seeks to create an option for alternative methods of compliance, available only when no testing lab is accessible to community.

**Note:**

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-13 – Alternate testing methods.

**Amended text:**

**3 AAC 306.455. Required laboratory testing.** (a) Except as provided in (d) of this section, a marijuana cultivation facility shall provide a sample of each harvest batch of marijuana produced at the facility to a marijuana testing facility, and may not sell or transport any marijuana until all laboratory testing required by 3 AAC 306.645 has been completed.

(b) To comply with (a) of this section, a marijuana cultivation facility shall

(1) collect a random, homogenous sample for testing by segregating harvested marijuana into batches of individual strains of bud and flower, then selecting a random sample from each batch in an amount required by the marijuana testing facility;

(2) designate an individual responsible for collecting each sample; that individual shall (A) prepare a signed statement showing that each sample has been randomly selected for testing;

(B) provide the signed statement to the marijuana testing facility; and

(C) maintain a copy as a business record under 3 AAC 306.755;

(3) transport the sample to the marijuana testing facility’s licensed premises in compliance with 3 AAC 306.750.

(c) A marijuana cultivation facility shall segregate the entire batch from which the testing sample was selected until the marijuana testing facility reports the results from its tests. During this period of segregation, the marijuana cultivation facility that provided the sample shall maintain the batch in a secure, cool, and dry location to prevent the marijuana from becoming contaminated or losing its efficacy. The facility that provided the sample may not sell or transport any marijuana from the segregated batch until the marijuana testing facility has completed its testing and provided those

results, in writing, to the marijuana cultivation facility that provided the sample. The marijuana cultivation facility shall maintain the testing results as part of its business books and records.

(d) A limited marijuana cultivation facility may contract with a marijuana cultivation broker facility to arrange the laboratory testing required in this section, and transportation of marijuana to the marijuana testing facility. A marijuana cultivation broker facility's contract to perform these services must be in writing and must be maintained in the limited marijuana cultivation facility's business records.

**(e) When geographic location and transportation limitations make it unfeasible for a cultivation facility to transport testing samples to a lab, an applicant for licensure may propose alternative means of testing to meet the requirements of this code.**

Amendment #: B-13 – Alternate testing methods.

**3 AAC 306.550. Required laboratory testing.** (a) A marijuana product manufacturing facility shall provide a sample of each marijuana product manufactured at the facility to a licensed marijuana testing facility, and may not sell or transport any marijuana product until all laboratory testing required by 3 AAC 306.645 has been completed.

(b) To comply with (a) of this section, a marijuana product manufacturing facility shall

(1) collect a random sample for testing by selecting a product from each production lot in an amount required by the marijuana testing facility;

(2) designate an individual responsible for collecting each sample; that individual shall

(A) prepare a signed statement showing that each sample has been randomly selected for testing;

(B) provide the signed statement to the marijuana testing facility; and

(C) maintain a copy as a business record under 3 AAC 306.755, and

(3) transport the sample to the marijuana testing facility in compliance with 3 AAC 306.750.

(c) After collecting and transporting a sample for testing, a marijuana product manufacturing facility shall segregate the entire production lot from which the testing sample was selected until the marijuana testing facility reports the results from its tests. During this period of segregation, the marijuana product manufacturing facility that provided the sample shall maintain the production lot in a secure, cool, and dry location to prevent the marijuana product from becoming contaminated or losing its efficacy. The marijuana product manufacturing facility may not sell or transport any marijuana product from the segregated lot until the marijuana testing facility has completed its testing and analysis and provided those results, in writing, to the marijuana product manufacturing facility that provided the sample. The marijuana product manufacturing facility shall maintain the testing results as part of its business records.

**(e) When geographic location and transportation limitations make it unfeasible for a manufacturing facility to transport testing samples to a lab, an applicant for licensure may propose alternative means of testing to meet the requirements of this code.**

Amendment #: B-14 – Comprehensive Packaging Policy

**Description:** Establish and articulate a comprehensive packaging policy

**Introduction:** Draft regulations identify multiple levels of packaging that strive to make every single retail item child-resistant at all times and all places but do not establish a clear strategy. The matter of child-safety cannot be over-stressed however, current regulations lack a specific strategy for achieving this in a practical manner.

This amendment seeks to define / strengthen a clear strategy for labelling and packaging as follows:

- Packages and products on display within a retail store may be transparent to allow

inspection by consumers

- All products / packages must be labelled per regulations
- Products already contained within opaque, child-resistant packaging need not be placed in another container. Products in transparent or non-child resistant packaging must be placed in an exit package.
- All products must be in a child-resistant, re-sealable, opaque package upon exiting the retail store.

This amendment does not diminish or remove the requirement for child-resistant packaging as a customer leaves a retail store. Rather, it establishes a specific boundary beyond which the license holder can no longer control what a customer does with the products.

Regulations stipulate numerous warnings related to child safety and if a customer keeps their products in their child-resistant exit packaging then they will maintain that level of protection. However, as with guns, prescription drugs, alcohol, toxic cleaners and fuels, the individual is ultimately responsible for ensuring a safe home environment for their children and no amount of regulation can change that fact.

Note:

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-14 – Comprehensive Packaging Policy

Amended text:

**3 AAC 306.345. Packaging and labeling.** (a) A retail marijuana store shall assure that (1) any marijuana sold on its licensed premises is packaged and labeled in compliance with 3 AAC 306.470 and 3 AAC 306.475, except that 3 AAC 306.470(b)(2) does not apply to the packaging of wholesale flower and bud sold by weight to a consumer; and (2) any marijuana product sold on its licensed premises is packaged and labeled in compliance with 3 AAC 306.565 and 3 AAC 306.570, except that 3 AAC 306.565(b)(2) does not apply to the packaging of wholesale marijuana products that are not edible marijuana products.

**(3) All marijuana products must be packaged in opaque, re-sealable, child-resistant packaging upon exiting the retail premises. Exit packaging must be designed or constructed in compliance with 16 C.F.R. 1700.01 – 1700.20, as amended Dec.30, 1983 to**

**be significantly difficult for children under five years of age to open; but not normally difficult for adults to use properly**

(b) In addition to labeling requirements provided in (a) of this section, a retail marijuana store shall affix a label to each package of marijuana or marijuana product that

(1) identifies the marijuana retail store selling the marijuana product by name or distinctive logo and marijuana establishment license number; and

(2) contains the following statements:

(A) "Marijuana has intoxicating effects and may be habit forming;"

(B) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence;"

(C) "There may be health risks associated with consumption of marijuana;" and

(D) "For use only by adults twenty-one and older. Keep out of the reach of children"

(E) "Marijuana should not be used by women who are pregnant or breast feeding."

**(3) States the total estimated amount of THC contained in the labelled product**

Amendment #: B-14 – Comprehensive Packaging Policy

**3 AAC 306.470. Packaging of marijuana.** (a) A licensed marijuana cultivation facility, including a marijuana cultivation broker facility, shall package its marijuana bud and flower for sale as follows:

(1) to a retail marijuana store, either

(A) in a package not exceeding one ounce for resale to consumers without additional handling by the retail marijuana store except to add the retail marijuana store's own identifying name or logo and license number; or

(B) in a wholesale package not exceeding five pounds for re - packaging by the retail marijuana store; or

(2) to a marijuana product manufacturing facility in a wholesale package not exceeding five pounds, consisting of a single strain or a mixture of strains as identified on the label.

(b) When a licensed marijuana cultivation facility packages marijuana for a retail marijuana store to sell to a consumer without re-packaging, the [PACKAGING MUST BE DESIGNED OR CONSTRUCTED IN COMPLIANCE WITH 16 C.F.R. 1700.01 – 1700.20, AS AMENDED DEC.30, 1983 TO BE SIGNIFICANTLY DIFFICULT FOR CHILDREN UNDER FIVE YEARS OF AGE TO OPEN; BUT NOT NORMALLY DIFFICULT FOR ADULTS TO USE PROPERLY. THE] packaging may not have any printed images, including cartoon characters, that specifically target individuals under the age of 21. In addition, the packaging must

(1) protect the product from contamination and must not impart any toxic or damaging substance to the marijuana;

[(2) BE FOUR MIL OR GREATER THICKNESS PLASTIC, HEAT SEALED, AND WITH NO EASY-OPEN CORNER, DIMPLE OR FLAP;

(3) BE OPAQUE SO THAT THE PRODUCT CANNOT BE SEEN WITHOUT OPENING THE PACKAGING MATERIAL.]

(c) Each package prepared in compliance with this section must be identified by a tracking label generated for tracking by the marijuana cultivation facility's marijuana inventory control system.

(d) A marijuana cultivation facility shall prepare marijuana for transport or transfer to another marijuana establishment by

(1) placing marijuana packaged in compliance with (a) - (c) of this section within a sealed, tamper-evident shipping container;

(2) affixing a label in compliance with 3 AAC 306.475 to the shipping container; and

(3) generating a transport manifest from the marijuana cultivation facility's marijuana inventory system; the transport manifest must remain with the marijuana at all times while being transported, and a copy must be given to the licensed marijuana establishment that receives the shipment.

Amendment #: B-14 – Comprehensive Packaging Policy

**3 AAC 306.565. Packaging of marijuana products.** (a) A marijuana product manufacturing facility shall observe the potency limits set out in 3 AAC 306.560 in packaging each product for resale by a retail marijuana store.

(b) A container or packaging for any edible marijuana product produced by a marijuana product manufacturing facility [MUST BE DESIGNED OR CONSTRUCTED IN COMPLIANCE WITH 16 C.F.R. 1700.01 – 1700.20, AS AMENDED DEC. 30, 1983 TO BE SIGNIFICANTLY DIFFICULT FOR CHILDREN UNDER FIVE YEARS OF AGE TO OPEN; BUT NOT NORMALLY DIFFICULT FOR ADULTS TO USE PROPERLY. THE CONTAINER OR PACKAGING] may not have any printed images, including cartoon characters, that specifically target individuals under the age of 21. In addition, the packaging must

(1) protect the product from contamination and not impart any toxic or damaging substance to the product;

[(2) BE FOUR MIL OR GREATER THICKNESS PLASTIC, HEAT SEALED AND WITH NO EASY-OPEN CORNER, DIMPLE OR FLAP; MARIJUANA PRODUCT IN LIQUID FORM MAY ALSO BE SEALED USING A METAL CROWN PRODUCT;

(3) BE OPAQUE SO THAT THE PRODUCT CANNOT BE SEEN WITHOUT OPENING THE PACKAGING MATERIAL;

(4) IF THE MARIJUANA PACKAGE CONTAINS MULTIPLE SERVINGS OR IS INTENDED FOR MORE THAN A SINGLE USE, THE PACKAGING MUST BE RESEALABLE TO CHILDPROOF STANDARDS IN COMPLIANCE WITH C.F.R. 1700.01 – 1700.20, AS AMENDED DEC. 30, 198; AND]

(5) if the marijuana product contains multiple servings, the product itself must have markings or demarcations clearly delineating each serving of the product. For liquid marijuana products with multiple servings the packaging must indicate the number and size of individual servings.

(c) A licensed marijuana product manufacturing facility may transfer marijuana products that are not edible marijuana products to another licensed facility in wholesale packages not to exceed 5 pounds.

(d) Each packaged marijuana product must be identified by a tracking label generated by the marijuana product manufacturing facility's marijuana inventory control system.

(e) A licensed marijuana product manufacturing facility shall prepare marijuana products for transfer to another marijuana establishment by

(1) placing marijuana products within a sealed, tamper-evident shipping container;

(2) affixing a label that complies with 3 AAC 306.570(d) to the shipping container; and

(3) generating a transport manifest from the marijuana product manufacturing facility's marijuana inventory system; the transport manifest must remain with the marijuana products at all times while being transported, and a copy must be given to the licensed marijuana establishment that receives the shipment.

Amendment #: B-15 – Allow manufacturing in existing retail & wholesale food locations

Description: Allowing manufacturing in existing retail and wholesale food locations.

Introduction: Current draft regulations stipulate that kitchen facilities used for any other purpose (such as existing commercial kitchens that are no longer in regular, daily use or kitchens available for time-sharing or lease) may not be used to produce marijuana products. The rationale behind this was fear of cross-contamination from infused products to non-infused products.

Public feedback is overwhelmingly in support of being allowed to use existing kitchens to produce infused products.

The board has received oral and written testimony in support of dual-use kitchens. The arguments offered in support included:

1) Operators of commercial kitchens are well-versed in segregating not just fish and meats, which can produce bacteria if handled improperly but also such potentially toxic foods as shellfish and peanut oil. Procedures are well-established for handling such foods safely. It is worth pointing out that THC and CBD even in greater than trace amounts have never been shown to be toxic in the way that a simple peanut sauce can be.

2) Marijuana Processors are required under this code to hold a Food Handlers Permit so they will be familiar with the procedures necessary to maintain a sanitary kitchen.

3) Breweries around the state routinely handle different beverages without cross contamination.

4) There are numerous, commercial-grade kitchens around the state available for use. To require that a licensee build a new, dedicated kitchen to serve a fledgling industry would impose a significant financial obstacle.

This amendment seeks to allow and encourage the use of existing commercial facilities by removing the prohibition on their use to produce marijuana products.

Note:

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-15 – Allow manufacturing in existing retail & wholesale food locations

Amended text:

**3 AAC 306.510. Acts prohibited at marijuana product manufacturing facility.** (a) A licensed marijuana product manufacturing facility, including a licensed marijuana concentrate manufacturing facility, may not

(1) sell, deliver, distribute, or transfer marijuana, marijuana concentrate, or a marijuana product directly to a consumer, with or without compensation;

(2) sell marijuana, marijuana concentrate, or a marijuana product that is not manufactured, packaged, and labeled in compliance with 3 AAC 306.500 – 3 AAC 306.570;

(3) allow any person, including a licensee, employee, or agent, to consume marijuana, marijuana concentrate, or a marijuana product on its licensed premises;

(4) manufacture or sell any product that

(A) is an adulterated food or drink;

(B) is a marijuana product containing any food that requires temperature-controlled storage to keep it safe for human consumption;

(C) closely resembles any familiar food or drink item including candy; or

(D) is packaged to look like candy, or in bright colors or with cartoon characters or other pictures or images that would appeal to children; and

[(5) OPERATE IN A LOCATION THAT IS A RETAIL OR WHOLESALE FOOD ESTABLISHMENT.]

(b) In this section, “closely resemble” or “look like” means the product or its packaging has a shape, color, markings, or decorative patterns that are familiar to the public from a widely distributed branded food product, so that the marijuana product could easily be mistaken for that branded product, especially by children.

(c) A marijuana product manufacturing facility may not accept any marijuana from a marijuana cultivation facility or another marijuana product manufacturing facility unless

(1) all marijuana in the shipment is properly identified with a label generated in the marijuana inventory tracking system of the licensed marijuana establishment that provided the marijuana; and

(2) a valid transport manifest showing the source and destination of the marijuana is attached to the shipment.

(d) A marijuana product manufacturing facility may not purchase or receive any marijuana from a marijuana cultivation facility, or another marijuana product manufacturing facility unless it receives evidence that tax due under AS 43.61.010 has been paid. If a marijuana product manufacturing facility has marijuana on its premises without a certificate showing the excise tax imposed under AS 43.61.010 has been paid on that marijuana, the marijuana product manufacturing facility is liable for payment of the tax.

Amendment #: B-16 – Allow for refrigerated products

**Description:** Removes the prohibition on products that require refrigeration

**Introduction:** Draft regulations prohibit the sale of any marijuana products that require refrigeration. The stated reason for this prohibition was that products could spoil and if

consumers became ill from spoiled dairy or other infused products, it might reflect poorly on the marijuana industry in general.

This is a valid concern however, portions of these regulations also require a Food Handlers permit for the production and sale of such products. The training required for such a permit includes guidance on handling perishable foods and foods that require refrigeration. Any restaurant or retail store selling food faces the same challenges of keeping food fresh and safe yet most are able to follow good practices and keep food fresh until it's expiration date when it must then be discarded.

Public feedback was uniformly in opposition to this prohibition.

This amendment seeks to remove the prohibition on the production and sale of products that require refrigeration.

Note:

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-16 – Allow for refrigerated products

Amended text:

**3 AAC 306.510. Acts prohibited at marijuana product manufacturing facility.** (a) A licensed marijuana product manufacturing facility, including a licensed marijuana concentrate manufacturing facility, may not

(1) sell, deliver, distribute, or transfer marijuana, marijuana concentrate, or a marijuana product directly to a consumer, with or without compensation;

(2) sell marijuana, marijuana concentrate, or a marijuana product that is not manufactured, packaged, and labeled in compliance with 3 AAC 306.500 – 3 AAC 306.570;

(3) allow any person, including a licensee, employee, or agent, to consume marijuana, marijuana concentrate, or a marijuana product on its licensed premises;

(4) manufacture or sell any product that

(A) is an adulterated food or drink;

[**(B) IS A MARIJUANA PRODUCT CONTAINING ANY FOOD THAT REQUIRES TEMPERATURE-CONTROLLED STORAGE TO KEEP IT SAFE FOR HUMAN CONSUMPTION;**]

(C) closely resembles any familiar food or drink item including candy; or

(D) is packaged to look like candy, or in bright colors or with cartoon characters or other pictures or images that would appeal to children; and (5) operate in a location that is a retail or wholesale food establishment.

(b) In this section, “closely resemble” or “look like” means the product or its packaging has a shape, color, markings, or decorative patterns that are familiar to the public from a widely distributed branded food product, so that the marijuana product could easily be mistaken for that branded product, especially by children.

(c) A marijuana product manufacturing facility may not accept any marijuana from a marijuana cultivation facility or another marijuana product manufacturing facility unless

(1) all marijuana in the shipment is properly identified with a label generated in the marijuana

inventory tracking system of the licensed marijuana establishment that provided the marijuana; and

(2) a valid transport manifest showing the source and destination of the marijuana is attached to the shipment.

(d) A marijuana product manufacturing facility may not purchase or receive any marijuana from a marijuana cultivation facility, or another marijuana product manufacturing facility unless it receives evidence that tax due under AS 43.61.010 has been paid. If a marijuana product manufacturing

facility has marijuana on its premises without a certificate showing the excise tax imposed under AS 43.61.010 has been paid on that marijuana, the marijuana product manufacturing facility is liable for payment of the tax.

Amendment #: B-17 – Remove cap on concentrates purity

**Description:** Removes the cap on concentrate potency

**Introduction:** Draft regulations impose a limit of 76% purity on marijuana concentrates.

The intent was to limit the potency available to retail consumers. The value chosen was derived directly from alcohol regulations which limit alcohol potency to 151-proof (76% alcohol). There are several fundamental problems with this strategy:

This is an example of trying to regulate marijuana \*as\* alcohol rather than \*like\* alcohol. The substances are tremendously different. Whereas alcohol is known to be fatally toxic in sufficient quantity and strength there is no credible data to suggest that marijuana could be. Thus, to simply copy the limit imposed on alcohol is a flawed strategy.

If one were to accept that any limit were even necessary then a more-objective metric might be used to establish that number:

Much has been made of the dangers of using butane to extract hash-oil (BHO). Most people agree that the practice is potentially dangerous and the argument has been made that the most effective way to discourage the practice would be to allow a better-quality, cheaper product to be sold in regulated retail stores. The question then becomes – “What level of quality should we allow in stores?”. Public testimony indicates that home-extraction can range in quality from 50% purity to roughly 85% purity. If one wanted to ensure that a better product was available in retail stores then a rational number would likely be 85%-90%. A professional lab, using highpressure

equipment and trained personnel can produce potency of 80%-95%.

If we accept that discouraging home-extraction BHO is an appropriate goal and that a retail product of 85%-90% purity might achieve that goal but that professionally-produced products are only slightly greater purity (80%-95%) then one must ask “Why create an artificial limit at all and what would be achieved in doing so?”

Requiring producers to adulterate their own products to reduce their potency down to an artificially-derived value would achieve little public benefit and could perpetuate the use of butane at home in uncontrolled settings with the associated dangers.

Public input – oral and written - is overwhelmingly in opposition to a cap on potency.

This amendment seeks to remove this cap and allow retail stores to sell a quality product.

**Note:**

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-17 – Remove cap on concentrates purity

**Amended text:**

**3 AAC 306.525. Approval of concentrates and marijuana products.** (a) A marijuana product manufacturing facility, including a marijuana concentrate manufacturing facility, must obtain the board’s approval for each product it will manufacture for sale or transfer to another licensed marijuana establishment. The board will not approve

[(1) ANY MARIJUANA CONCENTRATE OR PRODUCT INTENDED FOR SALE DIRECTLY TO A CONSUMER IF THE CONCENTRATE OR PRODUCT WILL HAVE THC POTENCY EQUAL TO OR GREATER THAN 76 PERCENT; OR ]

(2) any product that is prohibited under 3 AAC 306.510(a)(4).

(b) An applicant for a marijuana product manufacturing facility license may request the board's approval of its intended products with a new license application by including, in its operating plan

(1) a photograph, drawing, or graphic representation of the expected appearance of each final product; and

(2) the proposed standard production procedure and detailed manufacturing process for each product.

(c) A licensed marijuana product manufacturing facility may at any time submit a new product approval request to the board on a form the board prescribes along with a fee of \$250.

(d) A licensed marijuana product manufacturing facility shall keep its ingredient list and potency limits for any food product containing marijuana on file at the marijuana product manufacturing facility's licensed premises. The ingredient list and potency limits for any product manufactured at the facility must be made available for inspection on request by the director, or an employee or agent of the board.

Amendment #: B-18 – Single-serving potency limit

**Description:** Establishes a maximum single-serving potency limit of 10mg of THC

**Introduction:** Draft regulations limit single-serving potency to 5mg of THC with a maximum limit of 50mg in a single package. The rationale offered was that this limit would make Alaska regulations stricter than other states.

Each of the other states that have legalized cannabis for recreational use have established 10mg THC as a reasonable maximum potency for public safety. Colorado considered both 20mg and 10mg as possible limits before settling on the more conservative value of 10mg.

Public input on this issue has been overwhelmingly in support of a 10mg limit.

It should be noted that any limitations placed on regulated businesses will likely be exploited by non-regulated participants in the industry thus any perceived safety benefit could have the unintended consequence of promoting unregulated products instead.

This amendment seeks to establish a safe, reasonable single-serving potency limit in line with a developing multi-state consensus and consistent with the interests of public welfare. This amendment also clarifies, by changing the title of the section, that the limit is on single servings and individual packages, not on a specific transaction which could include multiple products.

**Note:**

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-18 – Single-serving potency limit

**Amended text:**

**3 AAC 306.560. Potency limits per serving and package [TRANSACTION] for edible marijuana products.** (a) A marijuana product manufacturing facility may not prepare any product

with potency levels exceeding the following, as tested in compliance with 3 AAC 306.645:

(1) for a single serving of marijuana product, [FIVE] **ten** milligrams active tetrahydrocannabinol (THC) or Delta 9;

(2) in a single packaged unit of marijuana product to be eaten or swallowed, not more than ten

servings, or [FIFTY] **one hundred** milligrams of active THC or Delta 9; the THC content must be homogenous, or evenly distributed throughout the marijuana infused product.

Amendment #: B-19 – Single-serving potency limit for medical-card holders

**Description:** Establishes a maximum single-serving potency limit of 25mg of THC for medical-card holders.

**Introduction:** Draft regulations apply a single-serving THC limit to products intended for sale to the general public. While such a limit makes sense for the general public it fails to address the needs of individuals – many with debilitating medical conditions – who consume marijuana products for medicinal or therapeutic purposes. Those individuals typically have a much higher tolerance to THC such that the lower limit suitable for the general public would offer little benefit.

It's pertinent to point out that while Alaska as had medical marijuana laws on the books for many years, consumers who held medical marijuana cards have been unable to purchase such products for lack of any retail infrastructure. These consumers include veterans, individuals battling cancer, and others with severe neurological conditions.

This amendment seeks to establish a reasonable single-serving potency limit for sale only to persons with a valid medical marijuana card issued by Alaska or another state which has a formal medical marijuana program. This amendment further stipulates that these higherpotency

products must be individually packaged and labelled appropriately.

Note:

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-19 – Single-serving potency limit for medical-card holders

**Amended text:**

**3 AAC 306.560. Potency limits per serving and transaction for edible marijuana products.** (a) A marijuana product manufacturing facility may not prepare any product with potency levels exceeding the following, as tested in compliance with 3 AAC 306.645:

(1) for a single serving of marijuana product, five milligrams active tetrahydrocannabinol (THC) or Delta 9;

**(2) for a single serving of marijuana product, to be sold only to holders of a medical marijuana card, twenty five milligrams active tetrahydrocannabinol (THC) or Delta 9;**

(3) in a single packaged unit of marijuana product to be [EATEN OR SWALLOWED] **ingested**, not more than ten servings, or fifty milligrams of active THC or Delta 9; the THC content must be homogenous, or evenly distributed throughout the marijuana infused product.

**(4) in a single packaged unit of marijuana product to be ingested, for sale to medical marijuana card holders, not more than one serving, or twenty five milligrams of active**

**THC or Delta 9; the THC content must be homogenous, or evenly distributed throughout the marijuana infused product.**

Amendment #: B-20 – Testing failure tolerances

**Description:** Clarifies tolerances for testing and allowable test range

**Introduction:** Draft regulations specify a testing tolerance (+/- 20%) for measuring homogeneity of a product or a single serving, and a different tolerance of 0% for total THC content.

Testing of any type must have appropriate test tolerances, particularly when measuring small quantities of admixtures in a much larger batch of inert material.

This amendment seeks to establish a consistent testing tolerance of +/- 20% for distribution of THC and CBD in a product and total THC / CBD in a serving or package.

**Note:**

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-20 – Testing failure tolerances

**Amended text:**

**3 AAC 306.645. Laboratory Testing of Marijuana and Marijuana Products.** (a) A licensed marijuana testing facility must use the general body of required laboratory tests for marijuana plant material, any extract or concentrate of marijuana, and any edible marijuana products as listed in the tables in this section. Required tests may include potency analysis, moisture content, foreign matter inspection, microbial screening, pesticide, other chemical residue, and metals screening, and residual solvents levels. A marijuana testing facility shall establish a schedule of fees and sample size required for each test it offers.

(b) The tests required for each marijuana type or marijuana product, are as follows:

(1) potency testing is required on marijuana bud and flower, marijuana concentrate, and marijuana product, and is subject to the following rules:

(A) required cannabinoid potency test must at least determine the concentration of THC, THCA, CBD, CBDA and CBN cannabinoids; a marijuana testing facility may test and report results for any additional cannabinoid provided the test is conducted in compliance with a validated method;

(B) a marijuana testing facility shall report potency test results as follows:

(i) for a potency test on marijuana and marijuana concentrate, by listing for each required cannabinoid a single percentage concentration that represents an average of all samples within the test batch; alternatively, the sum of THC + THCA may be reported as total THC; the sum of CBD + CBDA may be reported as total CBD;

(ii) for a potency test on a marijuana product, whether conducted on each individual production lot or using process validation, by listing for each cannabinoid the total number of milligrams contained within a single retail marijuana product unit for sale; and

(iii) for testing whether the THC content is homogenous, the THC content of each single serving in a multi-unit package must be reported, and must be within 20% of the manufacturer's target; for example, in a 25 mg total THC package with 5 servings, each serving must contain between 4 and 6 mg of THC;

(C) edible marijuana products will be considered to have failed potency testing if:

(i) an individually packaged edible retail marijuana product contained within a test lot is determined to **contain 20% greater or less than the stated or labelled amount of THC [HAVE MORE THAN 50 MG OF THC WITHIN IT]**, then the test batch is considered to have failed potency testing;

(ii) if the THC content of an edible marijuana product is not homogenous, then it is considered to have failed potency testing;

(2) microbial testing for the listed substances on the listed marijuana products is required as follows:

Amendment #: B-21 – Remove prohibition of marijuana clubs

Description: Revision to remove explicit prohibition of marijuana clubs

Introduction: Current draft requirements explicitly prohibit marijuana clubs.

There has been significant feedback, some from qualified legal observers to suggest that this prohibition is legally questionable.

This amendment seeks to resolve legal ambiguity by removing the entire section prohibiting marijuana clubs. This amendment is not intended to sanction, endorse, or promote social clubs or other unlicensed venues where consumption is the model but merely to resolve an apparent legal contradiction.

Note:

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-21 – Remove prohibition of marijuana clubs

Amended text:

**[3 AAC 306.900. MARIJUANA CLUBS PROHIBITED.** (A) A PERSON MAY NOT MAINTAIN A PLACE WHERE MARIJUANA OR MARIJUANA PRODUCTS ARE RECEIVED OR KEPT, OR TO WHICH MARIJUANA OR MARIJUANA PRODUCTS ARE BROUGHT FOR CONSUMPTION BY THE PUBLIC OR BY MEMBERS OF A CLUB, ASSOCIATION, OR CORPORATION UNLESS THE PERSON IS AUTHORIZED TO DO SO UNDER THIS TITLE. (B) A PERSON MAY NOT MAINTAIN, OPERATE, OR LEASE PREMISES FOR THE PURPOSE OF PROVIDING A PLACE FOR CONSUMING MARIJUANA OR MARIJUANA PRODUCTS FOR CONSIDERATION BY MEMBERS OF THE PUBLIC OR OTHER PERSONS, UNLESS THE PERSON IS AUTHORIZED TO DO SO UNDER THIS TITLE. (C) IN THIS SECTION, "CONSIDERATION" INCLUDES A MEMBERSHIP FEE, A COVER CHARGE, THE SALE OF FOOD, ICE, MIXERS, OR OTHER DRINKS, OR THE FURNISHING OF MARIJUANA ACCESSORIES FOR USE IN THE CONSUMPTION OF MARIJUANA OR ANY MARIJUANA PRODUCT. (D) A PERSON VIOLATING THIS SECTION IS SUBJECT TO A CIVIL FINE AS PROVIDED IN 3 AAC 306.840.]

Delete entire section

Re-number subsequent sections.

Resolution 2015-11-01

Whereas Ballot Measure 2 specified a fifty-dollar (\$50) per ounce excise tax on marijuana to be paid to the State of Alaska;

Whereas Ballot Measure 2 included provisions (43.61.010) for a lesser tax on certain parts of the marijuana plant stating: "The Department may establish a rate lower than \$50 per ounce for certain parts of the marijuana plant"; and

Whereas the lower-grade byproduct or "Trim" that is produced during harvest and processing has a significantly lower value; now, therefore, be it

*Resolved*, that the Marijuana Control Board:

1) Recommends that the Alaska Department of Revenue exercise its option to tax different parts of the cannabis plant at different levels by establishing a tax rate for lower-grade byproduct or "trim" at a level equal to 20% of the tax rate for marijuana.