

Article 4. Marijuana Cultivation Facilities.

Section

- 400. Marijuana cultivation facility license required
- 405. Standard marijuana cultivation facility: privileges and prohibited acts
- 410. Limited marijuana cultivation facility: privileges and prohibited acts
- 415. Marijuana cultivation broker facility: privileges and prohibited acts
- 420. Application for marijuana cultivation license
- 425. Health and safety requirements
- 430. Marijuana handler permit required
- 435. Restricted access area
- 440. Marijuana inventory tracking system
- 445. Production of marijuana concentrate prohibited
- 450. Standards for cultivation and preparation
- 455. Required laboratory testing
- 460. Promotional samples
- 465. Random sampling
- 470. Packaging of marijuana products
- 475. Labeling of marijuana products
- 480. Marijuana tax to be paid

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, and 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 of 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 to a person operating a marijuana cultivation facility with 500 or more square feet under cultivation;

(2) a limited marijuana cultivation facility license to a person operating a marijuana cultivation facility with 500 or fewer 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 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 shall

(1) submit an application for the license on a form the board prescribes, including the information set out at 3 AAC 306.020 and 3 AAC 306.420;

(2) demonstrate to the board's satisfaction that it will operate in compliance with
(A) each applicable requirement for a marijuana cultivation facility set out in 3 AAC 306.400 - 3 AAC 306.480; and

(B) each applicable general marijuana establishment requirement set out in 3 AAC 306.700 - 3 AAC 306.760.

(c) A licensee of any marijuana cultivation facility, or an employee or agent of a

marijuana product manufacturing facility, may not have an ownership interest in, or a direct or indirect financial interest in any licensed marijuana testing facility. (Eff. ___/___/____, Register ___)

Authority: AS 17.38.010 AS 17.38.030 AS 17.38.070
AS 17.38.084 AS 17.38.090 AS 17.38.100
AS 17.38.900

3 AAC 306.405. Standard marijuana cultivation facility license: 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, or to a licensed marijuana product manufacturing facility;
- (3) provide samples to a licensed marijuana testing lab for testing; and
- (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 306.760
- (5) transport marijuana in compliance with 3 AAC 306.745;
- (6) conduct in-house testing for the marijuana cultivation facility's own use.

(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 and retail marijuana store operation in a room completely separated from the cultivation facility by a secure door; and

(2) comply with all regulations applicable 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 smell of the marijuana; and

(4) except as permitted under a marijuana product manufacturing facility license, extract marijuana concentrate, using any process, at the licensed premises. (Eff. ___/___/___, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
 AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.410. Limited marijuana cultivation facility license: 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 less than 500 square feet under cultivation;

(2) provide marijuana samples to a licensed marijuana cultivation broker facility for the purpose of negotiating a sale;

(3) sell marijuana only to a licensed marijuana cultivation broker facility with

which the limited cultivation facility has a written agreement that

(A) assigns responsibility for arranging transportation and testing by a licensed marijuana testing facility; and for 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 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 to provide these services:

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

(B) transport marijuana to a licensed marijuana testing facility or the marijuana cultivation broker facility 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, or to any marijuana establishment that does not hold a marijuana cultivation broker facility license and

(4) sell marijuana to a marijuana cultivation broker facility without a written agreement in which the broker facility agrees to pay the excise tax required under AS 43.61.010 and AS 43.61.020. (Eff. ___/___/___, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900
AS 43.61.010 AS 43.61.020

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 another licensed marijuana cultivation facility, a licensed retail marijuana store, or 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 a limited marijuana cultivation facility sells to the marijuana cultivation broker 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 all regulations applicable to any other type of marijuana establishment license that the cultivation broker facility obtain

(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 306.465 - 3 AAC 306.470; or

(5) sell marijuana that has not been reported to the department of revenue with excise tax paid as required under AS 43.61.020. (Eff. ___/___/___, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900
AS 43.61.010 AS 43.61.020

3 AAC 306.420. Application for marijuana cultivation facility license. (a) An applicant for a new standard marijuana cultivation facility license shall file an application on a form the board prescribes including

(1) the information required under 3 AAC 306.020; and
(2) the proposed marijuana cultivation facility's operating plan, including, in addition to the information required under 3 AAC 306.020(c):

- (A) the size of the space intended to be under cultivation;
- (B) the growing medium to be used;
- (C) fertilizers, chemicals, gases and delivery systems, including CO2 management, to be used;
- (D) the irrigation and waste water systems to be used;
- (E) waste disposal arrangements;
- (F) odor control; and
- (G) the testing procedure and protocols the marijuana cultivation facility

will follow.

(b) An applicant for a limited marijuana cultivation facility license must submit

(1) the information required for a new marijuana establishment license set out in 3 AAC 306.020, and (a)(2) of this section.

(c) An applicant for a marijuana cultivation broker facility license must submit

(1) the information required for a new marijuana establishment license set out in 3 AAC 306.020 and

(2) in addition to the operating plan required in 3 AAC 306.020(c) a form of agreement with a limited marijuana cultivation facility that the applicant intends to use to

(A) promise to submit the monthly reports and pay the excise tax specified under AS 43.61.010 and AS 43.61.020 on all marijuana it purchases; and

(B) provide other services the marijuana cultivation broker facility offers to a limited marijuana cultivation facility. (Eff. ___/___/___, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.425. Health and safety requirements. A marijuana cultivation facility must comply with all applicable health and safety requirements set out in 3 AAC 306.730, and the additional requirements set out in this section.

(b) A marijuana cultivation facility shall ensure that any licensee, employee, or agent who is present at the marijuana cultivation facility and in contact with any marijuana

(1) wears clean clothing appropriate for the duties that person performs;

(2) wears protective apparel, such as head, face, hand and arm coverings, as

necessary to protect marijuana from contamination; and

(3) practices good sanitation and health habits. (Eff. ___/___/____, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.430. Marijuana handler permit required. A marijuana cultivation facility must ensure that

(1) each licensee, employee, or agent obtains a marijuana handler permit as provided in 3 AAC 306.715 before being licensed or employed at a marijuana cultivation facility; and

(2) each licensee, employee, or agent has that person's marijuana handler permit card in that person's immediate possession at all times when present on the marijuana cultivation facility's licensed premises. (Eff. ___/___/____, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.435. Restricted access area. (a) A marijuana cultivation facility licensee shall comply with 3 AAC 306.710 and shall conduct any operation in a restricted area as provided in this section.

(b) A licensed marijuana cultivation facility shall conduct any marijuana growing operation within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.

(c) A marijuana cultivation facility shall ensure that any marijuana at the cultivation facility

(1) cannot be observed by the public from outside the cultivation facility; and
(2) does not emit an odor that is detectable by the public from outside the cultivation facility.

(d) A marijuana cultivation facility shall have full video surveillance of the licensed premises as required under 3 AAC 306.725, including any area where marijuana is grown, processed, packaged, or stored, or where marijuana waste is destroyed. (Eff. ___/___/___, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
 AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.440. Marijuana inventory tracking system. (a) A marijuana cultivation facility shall use an inventory tracking system in compliance with 3 AAC 306.760 to ensure all marijuana propagated, grown, or cultivated on the marijuana cultivation facility's premises is identified and tracked from the time the marijuana is propagated from seed, clones or cuttings, through transfer to another licensed marijuana establishment or destruction. The marijuana cultivation facility must give each plant over 8 inches tall a tracking number. When harvested, bud and flowers, clones or cuttings, or leaves and trim may be combined in batches of distinct strains, not exceeding five pounds; each harvest batch must be given a tracking number for inventory control. Clones or cuttings are limited to batches of up to 50 plants and identified by a batch tracking number.

(b) A marijuana cultivation facility shall record in its inventory control system each sale and transport of each batch, and shall generate a valid transport manifest to accompany each transported batch.

(c) A marijuana cultivation facility shall record in its inventory control system record all

marijuana used to provide a sample authorized under 3 AAC 306.460 for the purpose of negotiating sales, including

- (1) the amount of each sample;
- (2) the retail marijuana store or marijuana product manufacturing facility that received the sample; and
- (3) the disposal of any sample returned to the marijuana cultivation facility.

(Eff. ___/___/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.445. Production of marijuana concentrate prohibited. (a) A marijuana cultivation facility may not produce or possess marijuana concentrate on its licensed premises unless the marijuana cultivation facility also has a current marijuana product manufacturing facility license. Any extraction or production of marijuana concentrate on the premises of a licensed marijuana cultivation facility shall

- (1) be in a separate room that
 - (A) is physically separated by a secure door from any cultivation area;

and

- (B) has a sign that clearly identifies the room as a marijuana concentrate production area, and warns unauthorized persons to stay out; and

- (2) comply with all applicable parts of 3 AAC 306.500 - 3 AAC 306.570. (Eff. ___/___/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.450. Standards for cultivation and preparation. A marijuana cultivation facility shall use certified scales in compliance with AS 45.75.080 and 3 AAC 306.740. (Eff. ___/___/___, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.455. Required laboratory testing. (a) Except as provided in (d) of this section, a marijuana cultivation facility shall provide samples 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.

(a) 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 an affidavit showing that each sample has been randomly selected for testing;

(B) provide the affidavit 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 306.745.

(b) 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 analysis 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. 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. (Eff. ___/___/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
 AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.460. Promotional samples. (a) A marijuana cultivation facility may provide a free sample of marijuana to a retail marijuana store only if packaged in a sample jar containing no more than 3 1/2 grams of marijuana and protected by a plastic or metal mesh screen to allow customers to smell the product before purchase. A retail marijuana store that receives marijuana in a sample jar may not sell the marijuana sample to a customer; and shall either

- (1) return the marijuana sample to the cultivation facility that provided the sample; or
- (2) destroy the marijuana sample after use and document the destruction in its

marijuana inventory control system.

(b) A marijuana cultivation facility may provide a free sample of marijuana to a marijuana product manufacturing facility as follows:

(1) a sample provided for the purpose of negotiating a sale may be no more than two grams;

(2) a marijuana cultivation facility may not provide any one licensed marijuana product manufacturing facility with more than four grams of marijuana per month free of charge for the purpose of negotiating a sale. (Eff. ___/___/___, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.465. Random sampling. (a) The board or the director will from time to time require a standard or limited marijuana cultivation facility to provide samples of the growing medium, soil amendments, fertilizers, crop production aids, pesticides, or water for random compliance checks. The sample may be screened for pesticides and chemical residues, unsafe levels of metals, and used for other laboratory tests the director finds to be in the interests of the public. The marijuana cultivation facility shall bear all costs of testing under this subsection.

(b) When the board or the director orders random sampling under this section, the director will identify a licensed marijuana testing facility to perform the testing. The marijuana testing facility will collect the test samples; the marijuana cultivation facility shall cooperate to facilitate the collection of samples. (Eff. ___/___/___, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.470. Packaging of marijuana. (a) A licensed marijuana cultivation facility, including a 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 U.S.C.1700, the Poison Prevention Packaging Act, to be significantly difficult for children under five years of age to open; but not normally difficult for adults to use properly as defined by 16 C.F.R. 1700.20. 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; 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; and

(4) be resealable to childproof standards if the marijuana package contains multiple servings or is intended for more than a single use.

(c) Each package prepared in compliance with this section must be identified by a tracking tag or 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) and (b) of this section within a sealed, tamper-evident shipping container;

(2) affixing a label in compliance with 3 AAC 306.470 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. (Eff. ___/___/___, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084

AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.475. Labeling of marijuana. (a) 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; and

(2) the name of the licensed marijuana testing facility that performed any required laboratory test and the results of each required laboratory test.

(b) A marijuana cultivation facility may not label marijuana as organic unless permitted by the United States Department of Agriculture in accordance with the Organic Foods Production Act, 7 U.S.C. 6501.

(c) A marijuana cultivation facility shall affix a label containing the following information to each package of marijuana sold to another marijuana establishment.

(1) the name and license number of the marijuana cultivation facility where the marijuana was grown;

(2) the harvest batch number assigned to the marijuana in the package;

(3) the net weight of the marijuana in the package, not including weight of the shipping container, using a standard of measure compatible with the inventory tracking system; and

(4) a complete list of all pesticides, fungicides, and herbicides used in cultivation of the marijuana.

(d) If a marijuana cultivation facility transports wholesale marijuana to another marijuana establishment for sale at retail or for use in manufacturing a marijuana product, then a label must be affixed to the shipping container showing that a licensed marijuana testing facility has tested each harvest batch in the shipment as provided in 3 AAC 306.645. The label must report the test results, including the following information:

(1) a cannabinoid potency profile expressed as a range of percentages that extends from the lowest percentage to highest percentage of concentration for each cannabinoid

listed from every test conducted on that strain of marijuana from the same marijuana cultivation facility within the last three months;

(2) a statement listing any of the following contaminants for which the product was tested:

- (A) molds, mildew and filth;
- (B) microbials;
- (C) herbicides, pesticides, and fungicides,; and
- (D) harmful chemicals.

(e) If a marijuana cultivation facility ships wholesale marijuana from a harvest batch that has not been tested for each contaminant listed in (d)(2) of this section, the label for that batch must include a statement identifying each contaminant listed in (d)(2) of this section for which that harvest batch has not been tested. (Eff. ___/___/____, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.480. Marijuana tax to be paid. (a) A standard marijuana cultivation facility licensee shall submit monthly reports to the department of revenue and pay the excise tax required under AS 43.61.010 and AS 43.61.020.

(b) A marijuana cultivation broker facility shall submit monthly reports to the department of revenue and pay the excise tax required under AS 43.61.010 and AS 43.61.020 on all marijuana it has obtained from a limited marijuana cultivation facility. The broker shall agree to comply with this section in a written agreement with each limited marijuana cultivation facility from which it purchases marijuana, and shall provide a copy of the monthly report required under AS 43.61.020 to each limited marijuana cultivation facility from which it

purchases marijuana. If a cultivation broker facility fails to pay the required tax, the limited marijuana cultivation facility shall pay the required tax.

(c) When a marijuana cultivation facility, including a cultivation broker facility, sells or distributes any marijuana to a retail marijuana store or a marijuana product manufacturing facility, the marijuana cultivation facility or broker must provide verification of tax payment to the purchaser. (Eff. ___/___/____, Register ____)

| | | | |
|-------------------|--------------|--------------|--------------|
| Authority: | AS 17.38.010 | AS 17.38.030 | AS 17.38.070 |
| | AS 17.38.084 | AS 17.38.090 | AS 17.38.100 |
| | AS 17.38.900 | AS 43.61.010 | AS 43.61.020 |

Article 5. Marijuana Product Manufacturing Facilities.

Section

- 500. Marijuana product manufacturing facility license required
- 505. Marijuana product manufacturing facility privileges
- 510. Acts prohibited at marijuana product manufacturing facility
- 515. Marijuana extraction manufacturing facility license
- 520. Application for marijuana product manufacturing facility license
- 525. Health and safety standards
- 530. Marijuana handler permit and food safety worker training
- 535. Restricted access area and storage
- 540. Marijuana inventory tracking system
- 545. Approval of concentrates and marijuana products
- 550. Production of marijuana concentrate
- 555. Required laboratory testing
- 560. Potency limits per serving and transaction
- 565. Packaging of marijuana products
- 570. Labeling of marijuana products

3 AAC 306.500. Marijuana product manufacturing facility license required.

(a) A person may not extract marijuana concentrate for sale, or formulate or manufacture any marijuana product for sale unless that person has obtained a marijuana product manufacturing facility license from the board in compliance with this chapter. The board will issue

- (1) a standard marijuana product manufacturing facility license; and

(2) a marijuana concentrate manufacturing facility license.

(b) A person seeking any type of marijuana product manufacturing facility license shall

(1) submit an application for a license on a form the board prescribes, including the information set out at 3 AAC 306.020 and 3 AAC 306.520; and

(2) demonstrate that it will operate in compliance with

(A) 3 AAC 306.500 - 3 AAC 306.570 and
3 AAC 306-700 - 3 AAC 306.760; and

(B) all applicable public health, fire, and safety codes and ordinances of the state and the municipality in which the applicant's proposed licensed premises are located. (Eff. ___/___/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.505. Marijuana product manufacturing facility privileges. (a)

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

(1) purchase marijuana from a marijuana cultivation facility including a marijuana cultivation broker facility, or from another marijuana product manufacturing facility;

(2) transport purchased marijuana from the source directly to the licensed marijuana product manufacturing facility's own licensed premises, and transport marijuana product from the licensed marijuana product manufacturing facility's licensed premises to a retail marijuana store or to another licensed marijuana product

manufacturing facility;

(3) extract marijuana concentrate in compliance with 3 AAC 306.545;

(4) manufacture, refine, process, cook, package, label, and store approved marijuana products, including

(A) marijuana concentrate; or

(B) any product intended for consumption or use on the body that is comprised of marijuana and other ingredients, including edible products, ointments, salves, patches, or tinctures;

(5) sell or distribute and deliver marijuana extract or any marijuana product only to a licensed retail marijuana store or to another licensed marijuana product manufacturing facility;

(6) provide and transport samples of marijuana concentrate or other marijuana product to a certified marijuana testing lab for testing;

(7) provide samples of marijuana extract or a marijuana product approved under 3 AAC 306.545 to a licensed retail marijuana store for the purpose of negotiating a sale; and

(8) store inventory in a restricted access area on the licensed premises as provided in 3 AAC 306.535. (Eff. ___/___/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.510. Acts prohibited at marijuana product manufacturing facility. (a) A licensed marijuana product manufacturing facility, including a licensed extract - only marijuana product 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) 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;

(4) allow any person to consume marijuana, marijuana concentrate, or a marijuana product on its licensed premises; and

(5) operate in a location that is a retail or wholesale food establishment.

(b) in this section, “closely resembles” or “looks 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 licensee of any marijuana product manufacturing facility, or an employee, or agent of a marijuana product manufacturing facility, may not have an ownership interest in, or direct or indirect financial interest in any licensed marijuana testing facility.

(d) A marijuana product manufacturing facility may not receive any marijuana from a marijuana cultivation facility or another marijuana product manufacturing facility unless it receives a transport manifest showing the source and destination of the marijuana, and all marijuana is properly identified with a tag or label generated in the licensee's tracking system.

(e) 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 43.61.0101 has been paid on that marijuana, the marijuana product manufacturing facility is liable for payment of the tax. (Eff. ___/___/___, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
 AS 17.38.090 AS 17.38.100 AS 17.38.900
 AS 43.61.010

3 AAC 306.515. Marijuana extraction manufacturing facility license. A marijuana product manufacturing facility with an extraction only license has the privileges set out in 3 AAC 306.505 except that it may not

(1) manufacture, process, cook, package, label or store any marijuana product other than marijuana concentrate;

(2) sell, distribute, or deliver any marijuana product other than marijuana concentrate, to a retail marijuana store or to another marijuana product manufacturing facility; or

(3) provide and transport a sample of any marijuana product other than marijuana concentrate to a licensed marijuana testing lab for testing. (Eff. ___/___/___, Register _____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.520. Application for marijuana product manufacturing facility license. An applicant for a marijuana product manufacturing facility license shall file an application on a form the board prescribes, and provide all information required under 3 AAC 306.020 and the following:

- (1) a copy of the food safety permit required under 18 AAC 31.020(a);
- (2) a diagram of the proposed licensed premises required in 3 AAC 306.020, identifying the area where
 - (A) in-house testing, if any, will occur; and
 - (B) marijuana and any marijuana product, including marijuana concentrate, will be stored;
- (3) in the applicant's operating plan required under 3 AAC 306.020(c), a description of
 - (A) the equipment and solvents, gases, chemicals, and other compounds used to create concentrates and the processes to be used;
 - (B) each marijuana product the applicant intends to process at this location; the product description must include the color, shape, texture, ingredients and standard production procedure to be used;
 - (C) the packaging to be used for each type of product; and

(D) sample labels showing how the labeling information required in 3 AAC 306.570 will be set out. (Eff. ___/___/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.525. Health and safety standards. (a) A marijuana product manufacturing facility shall comply with the health and safety standards set out in 3 AAC 306.730, the Alaska Food Safety Code, 18 AAC 31, if applicable, and any local kitchen related health and safety standards for retail food establishments.

(b) In addition to inspection by the director or an employee of the board, a marijuana product manufacturing facility is subject to inspection by local safety officials, including a local fire department, building inspector, or code enforcement officer. (Eff. ___/___/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.530. Marijuana handler permit and food safety worker training.

(a) A marijuana product manufacturing facility shall ensure that

(1) each licensee, employee, or agent obtains a marijuana handler permit as provided in 3 AAC 306.715 before being licensed or employed at a marijuana product manufacturing facility; and keeps that card in that person's immediate possession when on the licensed premises of the marijuana product manufacturing facility.

(b) Any licensee, employee or agent who handles marijuana at a licensed marijuana product manufacturing 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. (Eff.

___/___/___, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.535. Restricted access and storage areas. (a) A marijuana product manufacturing facility shall conduct any extraction or product manufacturing operation in a restricted area in compliance with 3 AAC 306.710.

(b) A marijuana product manufacturing facility shall have full video surveillance of the licensed premises as provided in 3 AAC 306.725, including any area where

- (1) marijuana concentrate is produced;
- (2) any operation involved in manufacturing any product containing marijuana occurs,
- (3) marijuana or a marijuana product is stored or stockpiled; or
- (4) marijuana waste is destroyed.

(c) Any area where marijuana or a marijuana product is stored shall be moisture and temperature controlled and protected from pests and vermin. (Eff. ___/___/___,

Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.540. Marijuana inventory tracking system. (a) A marijuana product manufacturing facility shall use an inventory tracking system as provided in 3 AAC 306.760 to ensure all marijuana and marijuana product in the product manufacturing facility's possession is identified and tracked from the time the marijuana

product manufacturing facility receives any marijuana or marijuana product through the sale or transfer to another licensed marijuana establishment, or disposal of the marijuana or marijuana product.

(b) When marijuana from a marijuana cultivation facility or marijuana product from another marijuana product manufacturing facility is delivered or transported to the licensed premises of a marijuana product manufacturing facility, the marijuana product manufacturing facility shall immediately enter tracking information for that marijuana or marijuana product into the inventory tracking system. A marijuana product manufacturing facility may not accept any marijuana or marijuana product that does not have a valid transport manifest generated from the inventory tracking system.

(c) A marijuana product manufacturing facility shall track received marijuana to its use in a marijuana product, and shall reconcile each transaction to its inventory tracking system at the close of business each day.

(d) A marijuana product manufacturing facility shall account for any variance in the quantity of marijuana or marijuana product the facility received and the quantity the facility sold, transferred or disposed of. (Eff. ___/___/___, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
 AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.545. Approval of concentrates and marijuana products. (a) A marijuana product manufacturing facility, including a marijuana extraction manufacturing facility, must obtain the board's approval for each product it manufactures and sells. The board will not approve any marijuana concentrate or product with THC potency equal to or greater than 76 percent.

(b) A marijuana product manufacturing facility may request the board's approval of its intended products with a new license application by including a list of those products, along with a photograph, drawing, or graphic representation of the expected appearance of the final product. the applicant's proposed standard production procedure and detailed manufacturing process for each product shall be included in the operating plan filed with its license application.

(c) When a licensed marijuana product manufacturing facility wishes to add a new product to its line of marijuana products, the marijuana product facility must submit a new product approval request to the board on a form the board prescribes, along with a fee of \$250. The board will not approve any product that is prohibited under 3 AAC 306.510(a)(3).

(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 shall be made available for inspection by the the director or an employee of the board (Eff. ___/___/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
 AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.550. Production of marijuana concentrate. (a) Before producing any marijuana concentrate for sale, a marijuana product manufacturing facility shall develop standard operating procedures, good manufacturing practices, and a training plan for each individual employed in an extraction process.

(b) A marijuana product manufacturing facility may create marijuana concentrates

only as follows:

(1) water-based marijuana concentrate may be produced by extracting cannabinoids from marijuana by using only water, ice or dry ice;

(2) food-based marijuana concentrate may be produced by extracting cannabinoids from marijuana through the use of propylene glycol, glycerin, butter, olive oil, or other typical cooking fats; infused dairy butter and oils or fats derived from natural sources may be used to prepare infused edible products, but they may not be prepared as stand-alone edible products for sale;

(3) solvent-based marijuana concentrate may be produced using the hydrocarbons N-butane, isobutane, propane, or heptane or other solvents or gases the board approves that exhibit low to minimal potential human health-related toxicity; approved solvents must be of at least ninety-nine percent purity and must be used

(A) in a professional grade closed loop extraction system designed to recover the solvents;

(B) in an environment with proper ventilation, and

(C) with control of all sources of ignition if a flammable atmosphere is or may be present.

(c) A marijuana product manufacturing facility using a professional grade closed loop gas extraction system must assure that

(1) every vessel is rated to a minimum of six hundred pounds per square inch;

(2) any CO₂ used is of at least ninety-nine percent purity;

(3) any person using solvents or gases to create marijuana concentrates in

the closed looped system must be fully trained on how to use the system, have direct access to applicable material safety data sheets, and handle and store the solvents and gases safely;

(4) a licensed engineer must certify that the professional grade closed loop system was commercially manufactured, is safe for its intended use, and is built to codes of recognized and generally accepted engineering practices, including those adopted by:

- (A) The American Society of Mechanical Engineers (ASME);
- (B) American National Standards Institute (ANSI);
- (C) Underwriters Laboratories (UL); or
- (D) The American Society for Testing and Materials (ASTM);

(5) any professional grade closed loop system, and other equipment and facilities used in the extraction process must be approved for their use by the local fire code official and must meet any required fire, safety, and building code requirements specified in:

- (A) National Fire Protection Association (NFPA) standards;
- (B) International Building Code (IBC);
- (C) International Fire Code (IFC); and
- (D) Other applicable standards including following all applicable

fire, safety, and building codes in processing and the handling and storage of the solvent or gas.

(d) A marijuana product manufacturing facility may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to

create kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.

(e) A marijuana product manufacturing facility may use food grade glycerin, ethanol, and propylene glycol solvents to create extracts. All ethanol must be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere. (Eff. ___/___/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.555. Required laboratory testing. (a) A marijuana product manufacturing facility shall provide a sample of each marijuana product manufactured at the facility to a 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 an affidavit showing that each sample has been randomly selected for testing;

(B) provide the affidavit 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's licensed premises in compliance with 3 AAC 306.745.

(c) 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 lot in a secure, cool, and dry location to prevent the marijuana product from becoming contaminated or losing its efficacy. The facility that provided the sample 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 books and records (Eff. ___/___/___, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.560. Potency limits per serving and transaction. (a) A marijuana product manufacturing facility may not prepare any product with potency levels exceeding the following, as tested in compliance with 3 AAC 306.6___:

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

THC content must be homogenous, or evenly distributed throughout the marijuana infused product;

(3) for a single unit of marijuana concentrate maximum of one gram.

(Eff. ___/___/___, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

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 marijuana product produced by a marijuana product manufacturing facility must be designed or constructed in compliance with 16 U.S.C.1700, the Poison Prevention Packaging Act, to be significantly difficult for children under five years of age to open; but not normally difficult for adults to use properly as defined by 16 C.F.R. 1700.20; and 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 product;

(2) must 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) must be opaque so that the product cannot be seen without opening the packaging material; and

(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 16 U.S.C.1700.

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

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

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

(2) affixing a label in compliance with 3 AAC 306.470 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. (Eff. ___/___/___, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.570. Labeling of marijuana products. (a) With each production lot of marijuana product sold, a marijuana product manufacturing facility must disclose in writing the name of the licensed marijuana testing facility that performed any required required test and the results of each required required test.

(b) A marijuana product may not be labeled as organic unless permitted by the United States Department of Agriculture in accordance with the Organic Foods Production Act, 7 U.S.C.6501.

(c) A marijuana cultivation facility shall affix a label containing the following information to each package of marijuana product sold to a retail store for resale to a consumer:

(1) the name and license number of the marijuana product manufacturing facility where the marijuana product was prepared;

(2) the production lot number assigned to the product in the package;

(3) the net weight of the product in the package, not including weight of packaging, using a standard of measure compatible with the inventory tracking system.

(e) A marijuana product manufacturing facility transporting wholesale marijuana product to a retail marijuana store shall affix a label to the shipping container showing that a licensed marijuana testing facility has tested each lot of marijuana product in the shipment and giving the test results, including the following information:

(1) a cannabinoid potency profile expressed as a range of percentages that extends from the lowest percentage to highest percentage of concentration for each cannabinoid listed from every test conducted on that production lot from the same marijuana product manufacturing facility within the last three months;

(2) a statement listing any of the following contaminants for which the product was tested:

(A) molds, mildew and filth;

(B) microbials;

(C) herbicides, pesticides, and fungicides, and

(D) harmful chemicals.

(e) If a marijuana product manufacturing facility ships wholesale marijuana products from a lot of marijuana product that has not been tested for each contaminant listed in (d)(2) of this section, the label for that lot must include a statement identifying each contaminant listed in (d)(2) of this section for which that harvest batch has not been tested. (Eff. ___/___/____, Register ____)

| | | | |
|-------------------|--------------|--------------|--------------|
| Authority: | AS 17.38.010 | AS 17.38.070 | AS 17.38.084 |
| | AS 17.38.090 | AS 17.38.100 | AS 17.38.900 |

7/30/2015

Article 6. Marijuana Testing Facilities.

Section

- 600. Applicability
- 605. Marijuana testing facility license required
- 610. Marijuana testing facilities: privileges and prohibitions
- 615. Application for marijuana testing facility license
- 620. Approval of testing facility
- 625. Proficiency testing program
- 630. Scientific director
- 635. Testing methodologies
- 640. Standard operating procedure manual
- 645. Laboratory testing of marijuana and marijuana products
- 650. Chain of custody
- 655. Marijuana inventory tracking system
- 660. Failed materials, retests
- 665. Supplemental marijuana quality testing
- 670. Reporting, verification
- 675. Records retention

3 AAC 306.600. Applicability. (a) The provisions of 3 AAC 306.600 - 3 AAC 306.675 apply to any person offering any service testing, analyzing, or certifying potency, moisture content, pesticide or solvent residue, mold, mildew, bacteria, or other contaminant in marijuana or any marijuana product to any other person including a marijuana establishment or any member of the public, whether for compensation or not, as a independent or third party

7/30/2015
testing facility.

(b) The provisions of 3 AAC 306.600 - 3 AAC 306.675 do not apply to any licensed marijuana establishment that controls marijuana testing equipment used solely for its own in-house testing of its cultivated crop, of products produced or manufactured at its own facility, or of retail products placed or offered for sale in its marijuana retail store. (Eff. ___/___/___, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.605. Marijuana testing facility license required. (a) A person may not offer or provide any marijuana testing service or test results unless the person has obtained a marijuana testing facility license from the board in compliance with this chapter.

(b) A person seeking a marijuana testing facility license shall

(1) submit an application for a marijuana testing facility license on a form the board prescribes, including the information set out at 3 AAC 306.020 and 3 AAC 306.615; and

(2) demonstrate to the board’s satisfaction that the applicant

(A) does not hold any marijuana establishment license in Alaska other than a testing facility license, or have any financial interest in common with any person who is a licensee of a marijuana establishment in Alaska other than a testing facility license; a person who is a licensee, employee, or agent of a licensed marijuana testing facility may not hold any other marijuana establishment license in the state;

(B) will operate in compliance with 3 AAC 306.600 – 3 AAC 306.675, and 3 AAC 306.700 - 3 AAC 306.760; and

(C) meets the board’s standards for approval as set out in 3 AAC 306.620

7/30/2015

- 3 AAC 306.625. (Eff. ___/___/___, Register _____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.610. Marijuana testing facilities: privileges and prohibitions. (a) A licensed marijuana testing facility may have any amount of marijuana and marijuana product on its premises at any given time so long as the testing facility’s marijuana inventory tracking system and other records document that all marijuana and marijuana products are on the premises only for the testing purposes described in 3 AAC 306.600 – 3 AAC 3306.675.

(b) A licensed marijuana testing facility may not

- (1) have any licensee, employee, or agent that holds any type of marijuana establishment license other than a marijuana testing facility license issued under this chapter;
- (2) sell, distribute, or transfer any marijuana or marijuana product to a consumer, with or without compensation; or
- (3) allow any person to consume marijuana or marijuana product on its licensed premises. (Eff. ___/___/___, Register _____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.615. Application for marijuana testing facility license. An applicant for a new marijuana testing facility license shall file an application on a form the board prescribes, including

- (1) the information required under 3 AAC 306.020; and
- (2) the proposed marijuana testing facility’s operating plan, including, in addition to the information required under 3 AAC 306.020(c), the following:

7/30/2015

(A) each test the marijuana testing facility will offer;

(B) the facility’s standard operating procedure for each test the facility will offer; and

(C) the acceptable range of results for each test the facility will offer.

| | | | |
|-------------------|--------------|--------------|--------------|
| Authority: | AS 17.38.010 | AS 17.38.070 | AS 17.38.084 |
| | AS 17.38.090 | AS 17.38.100 | AS 17.38.900 |

3 AAC 306.620. Approval of testing facility. (a) A person seeking a marijuana testing facility license must first obtain approval by the board or the board’s contractor by showing competence to perform each test the licensee will offer as an independent third party testing facility, including

- (1) THC, THCA, CBD, CBDA and CBN potency;
- (2) harmful microbials including E. coli or salmonella;
- (3) residual solvents;
- (4) poisons or toxins;
- (5) harmful chemicals;
- (6) dangerous molds, mildew or filth;
- (7) pesticides.

(b) In evaluating whether a person will be approved under this section, the board or its contractor may

- (1) conduct an on-site inspection of the applicant’s premises;
- (2) require the applicant to demonstrate proficiency in testing; and
- (3) examine compliance with any applicable requirement of 3 AAC 306.635 -

7/30/2015

3AAC 306.675, and 3 AAC 306.700 - 3AAC 306.760, including

- (A) qualifications of personnel;
- (B) standard operating procedure for each testing methodology the facility will use;
- (C) proficiency testing results;
- (D) quality control and quality assurance;
- (E) security;
- (F) chain of custody;
- (G) specimen retention;
- (H) space;
- (I) records: and
- (J) reporting of results.

(c) In this section, “approval” means the board or its contractor has examined the qualifications and procedures of the marijuana testing facility license applicant and found them generally in compliance with good laboratory practices; “approval” does not mean the board guarantees that the testing facility can or will protect the public from all potential hazards of marijuana including microbials, poisons or toxins, residual solvents or pesticides, or other contaminants.

(Eff. ___/___/___, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
 AS 17.38.090 AS 17.38.100 AS 17.38.900

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

7/30/2015

marijuana testing facility license to participate successfully in a proficiency testing program within 12 months before receiving a license. The proficiency testing program must require a participating testing facility to analyze test samples using the same procedures with the same number of replicate analyses, standards, testing analysts and equipment as used for product testing. Successful participation means the positive identification of 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.

(b) Before renewing the license of a marijuana testing laboratory, the board may require the facility to participate in a proficiency program with documentation of continued performance satisfactory to the board. The license of a marijuana testing facility may be limited, suspended, or revoked if the facility fails to participate and receive a passing score in a proficiency testing program.

(c) The scientific director and each testing analyst of an applicant for a marijuana testing facility license and each licensed marijuana testing facility that participated in a proficiency test shall sign a corresponding attestation statement. The scientific director must review and evaluate each proficiency test result.

(d) An applicant for a marijuana testing facility license, and a licensed marijuana testing facility participating in the proficiency testing program shall take and document remedial action when the applicant or the facility meets the standards of (a) of this section, but scores less than 100 percent in a proficiency test. "Remedial action" means the marijuana testing facility's scientific director shall, at a minimum, review all samples tested and results reported since the marijuana testing facility's last successful proficiency test. (Eff. ___/___/___, Register ___)

7/30/2015

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|-------------------|--------------|--------------|--------------|
| Authority: | AS 17.38.010 | AS 17.38.070 | AS 17.38.084 |
| | AS 17.38.090 | AS 17.38.100 | AS 17.38.900 |

3 AAC 306.630. Scientific director. (a) A marijuana testing facility must employ a scientific director who must be responsible for

- (1) overseeing and directing the lab’s scientific methods;
- (2) ensuring that the laboratory achieves and maintains quality standards of practice; and
- (3) supervising all staff of the laboratory.

(b) The scientific director of a marijuana testing facility must have the following qualifications:

- (1) a doctorate degree in chemical or biological sciences from an accredited college or university and have at least 2 years of post-degree laboratory experience;
- (2) a master’s degree in chemical or biological sciences from an accredited college or university and have at least 4 years of post-degree laboratory experience; or
- (3) a bachelor’s degree in chemical or biological sciences from an accredited college or university and have at least 6 years of post-degree laboratory experience. (Eff. ___/___/___, Register _____)

| | | | |
|-------------------|--------------|--------------|--------------|
| Authority: | AS 17.38.010 | AS 17.38.070 | AS 17.38.084 |
| | AS 17.38.090 | AS 17.38.100 | AS 17.38.900 |

3 AAC 306.635. Testing methodologies. (a) An applicant for a marijuana testing facility license and a licensed marijuana testing facility shall

- (1) use the following materials, which are hereby adopted by reference, as guidelines or references for testing methodologies:

7/30/2015

(A) *Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control, Revision 2014* published by the American Herbal Pharmacopoeia; and

(B) UNODC: Recommended methods for the identification and analysis of cannabis and cannabis products, United Nations 2009.

(2) notify the board of any alternative scientifically valid testing methodology the facility proposes to use for each laboratory test it conducts; the board may require third-party validation of any monograph, peer reviewed scientific journal article, or analytical method the marijuana testing facility proposes to follow to ensure the methodology produces comparable and accurate results.

(b) An applicant for a marijuana testing facility license and a marijuana testing facility licensee shall be familiar with, and to the extent possible, integrate into their operations the good laboratory practices as documented by the following materials, hereby adopted by reference

(1) FDA in 21 CFR 58 - Good Laboratory Practice For Nonclinical Laboratory Studies; and

(2) *OECD Principles of Good Laboratory Practice and Compliance Monitoring* published by the Organization for Economic Co-operation and Development (OECD).

(c) The board or the board's contractor may inspect the practices, procedures, and programs adopted, followed, and maintained by the applicant or the licensed marijuana testing facility; and may examine all records of the applicant or the licensed marijuana testing facility that are related to the inspection. The board may require an applicant or a licensed marijuana testing facility to have an independent third-party inspect and monitor laboratory operations to assess testing competency and the facility's compliance with its quality program. The board may require random validation of a marijuana testing facility's execution of all testing methodologies

7/30/2015

the facility uses. The marijuana testing facility must pay all costs of validation. (Eff. ___/___

/____, Register _____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

Editor's note: The *Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control, Revision 2014*, published by the American Herbal Pharmacopoeia may be obtained from the American Herbal Pharmacopoeia, P.O. Box 66809, Scotts Valley, California 95067, or at the Internet address <http://www.herbal-ahp.org/>

UNODC: Recommended methods for the identification and analysis of cannabis and cannabis products, United Nations 2009 is available at the internet address <https://www.unodc.org/documents/scientific/ST-NAR-40-Ebook.pdf>

21 CFR 58 - Good Laboratory Practice For Nonclinical Laboratory Studies is available at the internet address <http://www.gpo.gov/fdsys/pkg/CFR-2011-title21-vol1/pdf/CFR-2011-title21-vol1-part58.pdf>

The *OECD Principles of Good Laboratory Practice and Compliance Monitoring* published by the Organisation for Economic Co-operation and Development A copy of that publication may be obtained free of charge from the Organisation for Economic Co-operation and Development at the Internet address <http://www.oecd.org/env/ehs/testing/oecdseriesonprinciplesofgoodlaboratorypracticeglpandcompliancemonitoring.htm>

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;
- (2) reagent, solution, and reference standard preparation;
- (3) instrument setup, where applicable;

7/30/2015

- (4) standardization of volumetric reagent solutions, as applicable;
- (5) data acquisition; and
- (6) calculation of results.

(b) The scientific director of a licensed marijuana testing facility shall approve, sign, and date each standard operating procedure, and each revision to any standard operating procedure.

(Eff. ___/___/___, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.645. Laboratory Testing of Marijuana and Marijuana Products. (a)

Each 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 and 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 all marijuana dried flower, plant concentrate, marijuana extracts and edible marijuana products, 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:

7/30/2015

(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 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:

7/30/2015

| Substance | Acceptable Limits Per Gram | Product to be Tested |
|---|---------------------------------|---|
| –Shiga-toxin producing Escherichia coli (STEC)*- Bacteria | < 1 Colony Forming Unit (CFU/g) | Flower; Retail Marijuana Products; Water- and Food-Based Concentrates |
| Salmonella species* – Bacteria | < 1 Colony Forming Unit (CFU/g) | |
| Aspergillus fumigatus, Aspergillus flavus, Aspergillus niger - Fungus | < 1 Colony Forming Unit (CFU/g) | |

(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** | < 1 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 | |

(Eff. ___/___/___, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.650. Chain of custody. A marijuana testing facility must establish an adequate chain of custody and sample requirement instructions that include

- (1) issuing instructions for the minimum sample requirements and storage requirements;
- (2) documenting the condition of the external package and integrity seals utilized to prevent contamination of, or tampering with, the sample;
- (3) documenting the condition and amount of sample provided at the time the sample is received at the facility;
- (4) documenting each person handling the original samples, aliquots, and

7/30/2015

extracts;

(5) documenting any transfer of samples, aliquots, and extracts to another marijuana testing facility for additional testing or at the request of the marijuana cultivation facility or marijuana product manufacturer that provided the testing sample;

(6) maintaining a current list of authorized personnel and restricting entry to the facility to those authorized persons;

(7) securing the facility during non-working hours;

(8) securing short-term and long-term storage areas when not in use;

(9) using a secured area to log in and aliquot samples;

(10) ensuring samples are stored appropriately; and

(11) documenting the disposal of samples, aliquots, and extracts. (Eff. ___/___

/___, Register ___)

| | | | |
|-------------------|--------------|--------------|--------------|
| Authority: | AS 17.38.010 | AS 17.38.070 | AS 17.38.084 |
| | AS 17.38.090 | AS 17.38.100 | AS 17.38.900 |

3 AAC 306.655. Marijuana inventory tracking system. (a) A marijuana testing facility shall use an inventory tracking system as provided in 3 AAC 306.760 to ensure all marijuana transported to the marijuana testing facility’s premises is identified and tracked from the time the marijuana arrives at the testing facility to the use and destruction of the marijuana in testing, or return of the sample to the marijuana establishment that provided the sample, or disposal in compliance with 3 AAC 306.735.

(b) When a marijuana testing facility completes any testing, use, or research, it shall immediately return or 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

7/30/2015

disposal of the sample using its inventory control system.

(Eff. ___/___/___, Register _____)

| | | | |
|-------------------|--------------|--------------|--------------|
| Authority: | AS 17.38.010 | AS 17.38.070 | AS 17.38.084 |
| | AS 17.38.090 | AS 17.38.100 | AS 17.38.900 |

3 AAC 306.660. Failed materials, retests. (a) If a sample tested by a marijuana testing facility does not pass the required tests based on the standards set out in 3 AAC 306.645, the facility that provided the sample shall

(1) dispose of the entire harvest batch or production lot from which the sample was taken; and

(2) document the disposal of the sample using its marijuana inventory control system.

(b) If a sample of marijuana fails a required test, any marijuana plant trim, leaf and other usable material from the same plants automatically fails the required test. The board may approve a request to allow a batch of marijuana that fails a required test to be used to make a CO2 or solvent-based extract. After processing, the CO2 or solvent-based extract must pass all required tests.

(c) If a marijuana cultivation facility or a marijuana product manufacturing facility petitions for a re-test of marijuana or a marijuana product that failed a required test, the board may authorize a retest to validate the test results. The marijuana cultivation facility or a marijuana product manufacturing facility must pay all costs of a retest. (Eff. ___/___/___, Register _____)

| | | | |
|-------------------|--------------|--------------|--------------|
| Authority: | AS 17.38.010 | AS 17.38.070 | AS 17.38.084 |
| | AS 17.38.090 | AS 17.38.100 | AS 17.38.900 |

7/30/2015

3 AAC 306.665. Supplemental marijuana quality testing. (a) The board may at any time determine that the interests of the public require random supplemental testing of marijuana or a marijuana product. When the board requires random supplemental marijuana testing, the board will direct the marijuana cultivation facility that produced the marijuana, or the marijuana product manufacturing facility that manufactured the product to submit a specified sample, batch, or packaged product to a designated marijuana testing facility. The material must be packaged in a manner that ensures the testing facility will be able to confirm that it has received and is testing the correct supplemental sample.

(b) When a marijuana testing facility receives a sample for supplemental laboratory testing under this section, the marijuana testing facility shall

- (1) perform any required laboratory test the board requests; and
- (2) report its results to the board and the facility that provided the sample.

(c) A marijuana testing facility that conducts laboratory testing under this section shall bill all costs directly to the marijuana cultivation facility or the marijuana product manufacturing facility that provided the samples for testing. (Eff. ___/___/___, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
 AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.670. Reporting, verification. (a) A marijuana testing facility must report the result of each required laboratory test directly into its marijuana inventory control system within twenty-four hours after the test is completed. A marijuana testing facility must provide the final report

- (1) to the facility that submitted the sample in a timely manner; and

7/30/2015

(2) to the board within 72 hours when results of tested samples exceed maximum levels of allowable contamination.

(b) A marijuana testing facility shall establish procedures to ensure that reported results are accurate, precise and scientifically valid. To ensure reported results are valid, a marijuana testing facility must include in all final reports :

- (1) the name and location of the marijuana testing facility;
- (2) the unique sample identifier assigned by the testing facility;
- (3) submitting client;
- (4) the sample identifier(s) provide by the client;
- (5) sample received date;
- (6) Chain of Custody identifier;
- (7) date of report;
- (8) type of product tested;
- (9) test results;
- (10) units of measure; and
- (11) any other information or qualifiers needed for interpretation when applicable

to the test method and results being reported, including any identified and documented discrepancy. (Eff. ___/___/___, Register ___)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.675. Records retention. A marijuana testing facility shall maintain the records required under 3 AAC 306.755 for the period of time specified in that section. The books and records required under 3 AAC3-6/755(a)(1) include:

7/30/2015

- (1) test results;
- (2) quality control and quality assurance records;
- (3) standard operating procedures;
- (4) chain of custody records;
- (5) proficiency testing records; and
- (6) analytical data to include printouts generated by the instrumentation;
- (7) accession numbers;
- (8) specimen type;
- (9) raw data of calibration standards and curves, controls and subject results;
- (10) final and amended reports;
- (11) acceptable reference range parameters;
- (12) identity of analyst; and
- (13) date of analysis. (Eff. ___/___/____, Register _____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

8/5/2015

Article 8. Enforcement and Civil Penalties.

Section

800. Inspection and investigation

805. Notice of violation

810. Suspension and revocation of license

815. Suspension and revocation based on act of employee

820. Procedure for action on license suspension or revocation

825. Summary suspension to protect public health, safety, and welfare.

830. Seizure of marijuana or marijuana product

835. Hearing

840. Civil fines

845. Appeal

850. Surrender or destruction of license

3 AAC 306.800. Inspection and investigation. (a) The director, an enforcement agent or employee of the board, or a peace officer acting in an official capacity, may

(1) inspect the licensed premises of any marijuana establishment, including all marijuana and marijuana products on the premises, equipment used in cultivating, processing, testing, or storing marijuana, the marijuana establishment's inventory tracking system, business records, and computers, at any reasonable time and in a reasonable manner;

(2) issue a notice of violation; and

(3) exercise peace officer powers and take any other action the director determines is necessary, as authorized in AS 17.38.085.

(b) A licensee shall cooperate with the director, an enforcement agent or employee of the

8/5/2015

board, or a peace officer acting in an official capacity to enforce the laws related to marijuana, including

(1) permitting entry upon and inspection of the licensed premises; and

(2) providing access to business records at reasonable times upon request of the director, an enforcement agent or employee of the board, or a peace officer. (Eff. ___/___/___,

Register _____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084

AS 17.38.085 AS 17.38.087 AS 17.38.090

AS 17.38.100 AS 17.38.900

3 AAC 306.805. Notices of violation. (a) The director, an enforcement agent or employee of the board, or a peace officer acting in an official capacity may issue an inspection report, an advisory report or a notice of violation before taking action to suspend or revoke a marijuana establishment license.

(b) An inspection report documents an investigator’s inspection of a licensed premises. An inspection report must be prepared on a form the board prescribes and include information prescribed by statute, regulation, or the board.

(c) The director, an enforcement agent or employee of the board, or a peace officer may issue an advisory notice when an incident occurs or a defect is noted that could result in a violation of a statute, regulation or municipal ordinance. An advisory notice may result from an inspection report, but is not a basis for administrative action unless the incident or defect continues or is not corrected.

(d) The director, an enforcement agent or employee of the board, or a peace officer may issue a notice of violation when an inspection report or other credible information shows a

8/5/2015

marijuana establishment is in violation of marijuana laws. The notice of violation must be delivered to the marijuana establishment at its licensed premises, and to the board. The notice must describe any violation, and cite applicable statute, regulation or order of the board. A marijuana establishment that receives a notice of violation may respond to the notice orally or in writing, and may, within ten days after receiving the notice, request an opportunity to appear before the board. A notice of violation may be the basis of a proceeding to suspend or revoke a marijuana establishment's license as provided in 3 AAC 306.810.

3 AAC 306.810. Suspension and revocation of license. (a) The board will suspend or revoke a marijuana establishment license issued under this chapter when any licensee is convicted of a felony, or the board becomes aware that a licensee did not disclose a previous felony conviction.

(b) The board may suspend or revoke a license issued under this chapter, refuse to renew a license, or impose a civil fine, if the board finds that a person that holds a license for any marijuana establishment

(1) misrepresented a material fact on an application for a marijuana establishment license under AS 17.38 or a regulation in this chapter, 3 AAC 306;

(2) is following any practice or procedure that is contrary to the best interests of the public, including using any process not approved by the board for extracting or manufacturing marijuana concentrate or products, or selling or distributing any marijuana concentrate or product that has not been approved by the board;

(3) failed, within a reasonable time after receiving a notice of violation from the board or the director, to correct any defect that is the subject of the notice of violation of

(A) AS 17.38 or a regulation adopted under AS 17.38;

8/5/2015

(B) a condition or restriction imposed by the board; or

(C) other applicable law;

(4) knowingly allowed an employee or agent to violate AS 17.38, a condition or restriction imposed by the board, or a regulation adopted under this chapter;

(5) failed to comply with any public health, fire, or safety law or regulation in the state;

(6) used the licensed premises for any illegal purpose including illegal gambling, illegal possession or use of narcotics other than marijuana, prostitutes, or sex traffickers.

(c) A local governing body may notify the director when it obtains evidence that a marijuana establishment has violated a provision of AS 17.38, this chapter, or a condition the board has imposed on the marijuana establishment. Unless the board finds that the local governing body's notice is arbitrary, capricious, and unreasonable, the director will prepare the notice and supporting evidence as an accusation against the marijuana establishment under AS 44.62.360, and conduct proceedings to resolve the matter as described under 3 AAC 306.820.

(Eff. ___/___/___, Register _____)

| | | | |
|-------------------|--------------|--------------|--------------|
| Authority: | AS 17.38.010 | AS 17.38.070 | AS 17.38.084 |
| | AS 17.38.085 | AS 17.38.087 | AS 17.38.090 |
| | AS 17.38.100 | AS 17.38.900 | |

3 AAC 306.815. Suspension and revocation based on act of employee. If, in a proceeding to suspend or revoke a marijuana establishment license under AS 17.38, evidence shows that an employee or agent of a license marijuana establishment was responsible for an act that would justify suspension or revocation of the marijuana establishment's license if committed by a licensee, the board may find that licensee knowingly allowed the act if

8/5/2015

(1) the licensee was physically present when the violation occurred and knew or should have known the violation was occurring and took no action to stop it;

(2) the licensee failed to adequately supervise the agent or employee;

(3) the licensee failed to adequately train the agent or employee in the requirements of AS 17.38 relating to marijuana; or

(4) the licensee was reckless or careless in hiring the agent or employee.

(Eff. ___/___/___, Register _____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.085 AS 17.38.087 AS 17.38.090
AS 17.38.100 AS 17.38.900

3 AAC 306.820. Procedure for action on license suspension or revocation. A

proceeding to suspend or revoke a license must be initiated by service of an accusation on the marijuana establishment in compliance with AS 44.63.360 and AS 44.62.380, and conducted in compliance with AS 44.62.330 – AS 44.62.630. Service will be made at the address of the licensed premises, or at the address of the licensee who is responsible for management and compliance with laws as listed in the marijuana establishment license application in compliance with 3 AAC 306.020(b)(5). The marijuana establishment is entitled to a hearing as provided in AS 44.62.390. (Eff. ___/___/___, Register _____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.085 AS 17.38.087 AS 17.38.090
AS 17.38.100 AS 17.38.900

3 AAC 306.825. Summary suspension to protect public health, safety, and welfare.

(a) If the director finds that a person holding a marijuana establishment license has acted and

8/5/2015

appears to be continuing to act in a way that constitutes an immediate threat to the public health and safety, the director may issue an order immediately suspending the license of that person, and ordering an immediate stop to the activity that constitutes the threat to the public health and safety.

(b) If the director issues a summary suspension under this section, the director will immediately give notice to the marijuana establishment subject to the summary suspension order of the reasons for the summary suspension and of an expedited hearing before the board. Unless the marijuana establishment subject to the summary suspension order requests a delay, the hearing will be held within five days after the director gives notice of the reasons for the summary suspension and the right to a hearing. (Eff. ___/___/____, Register _____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.085 AS 17.38.087 AS 17.38.090
AS 17.38.100 AS 17.38.900

3 AAC 306.830. Seizure of marijuana or marijuana product. (a) The director, an enforcement agent or employee of the board, or a peace officer acting in an official capacity may seize marijuana or any marijuana product from a 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; or
- (3) any marijuana or marijuana product that is not properly packaged and labeled as provided in 3 AAC 306.465-470 or 3AAC 306.565-570.

8/5/2015

(b) If the director, an enforcement agent or employee of the board, or a peace officer acting in an official capacity seizes marijuana or a marijuana product under this section, the director will immediately give notice to the marijuana establishment from which the marijuana or marijuana product was seized of the reasons for the seizure and the right to a hearing before the board. Unless the marijuana establishment from which the marijuana or marijuana product was seized requests a delay the hearing will be held within ten days after the director gives notice of the reasons for seizure and right to a hearing. If the seizure occurs in connection with a summary suspension, the hearing will be combined with a hearing made available under 3 AAC 306.825.

(c) If the marijuana establishment from which the marijuana or marijuana product was seized does not request or participate in a hearing under this section, or if, after a hearing the board finds that seizure of the marijuana or marijuana product was justified, the marijuana or marijuana product will be destroyed by burning, crushing, or mixing with other material to make the marijuana or marijuana product unusable as provided in 3 AAC 306.735.

(d) If a seizure under this section is of marijuana plants in place in a licensed standard or limited marijuana cultivation facility, the seizure order may direct the cultivation facility to continue care of the plants until the hearing, but prohibit any transfer, sale, or other commercial activity related to the plants. (Eff. ___/___/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
 AS 17.38.085 AS 17.38.087 AS 17.38.090
 AS 17.38.100 AS 17.38.900

3 AAC 306.835. Hearing. Except as provided in 3 AAC 306.825 or 3 AAC 306.830, any person aggrieved by an action of the director or an officer or employee of the board, may

8/5/2015

request a hearing in compliance with AS 44.62.390 by filing a notice of defense within 15 days after receiving a written accusation. Failure to file a notice of defense as provided in this section constitutes a waiver of the right to a hearing.

(b) The office of administrative hearings will conduct the hearing in compliance with due process, the Alaska Administrative Procedure Act, AS 44.62.330-44.62.630, and the applicable regulations adopted by the office of administrative hearings at 2 AAC 64.100-2 AAC 64.990. (Eff. ___/___/___, Register _____)

| | | | |
|-------------------|--------------|--------------|--------------|
| Authority: | AS 17.38.010 | AS 17.38.070 | AS 17.38.084 |
| | AS 17.38.085 | AS 17.38.087 | AS 17.38.090 |
| | AS 17.38.100 | AS 17.38.900 | |

3 AAC 306.840. Civil fines. (a) Except as provided in (c) of this section, the board may, in addition to any other penalties imposed under this title, impose a civil fine on a marijuana establishment that the board determines has violated a provision of AS 17.38 or this chapter.

(b) In a proceeding under 3 AAC 306.810 – 3 AAX 306.830, the board may impose a civil fine upon a marijuana establishment, not to exceed the greater of

- (1) an amount that is three times the monetary gain realized by the licensee as a result of the violation, as determined by the board;
- (2) \$10,000 for the first violation;
- (3) \$30,000 for the second violation; or
- (4) \$50,000 for the third or subsequent violation.

(c) In a proceeding against a marijuana establishment, the board may impose a civil fine of \$5,000 for each illegal sale. The board may suspend all or part of the fine based on the

8/5/2015

circumstances of the illegal sales. In this section, "sale" means a single delivery on a single date to a single purchaser. (Eff. ___/___/___, Register _____)

| | | | |
|-------------------|--------------|--------------|--------------|
| Authority: | AS 17.38.010 | AS 17.38.070 | AS 17.38.084 |
| | AS 17.38.085 | AS 17.38.087 | AS 17.38.090 |
| | AS 17.38.100 | AS 17.38.900 | |

3 AAC 306.845. Appeal. (a) An aggrieved party may appeal regarding any action of the director, or any officer or employee charged with enforcing AS 17.38 and this chapter, including any decision issued in a hearing on a suspension or revocation or seizure of marijuana under 3 AAC 306.810 - 3 AAC 306.835, or a civil fine issued under 3 AAC 306.840 to the board.

(b) A person aggrieved by a final decision of the board suspending or revoking a license under this chapter, or imposing a civil fine may appeal to the superior court under AS 44.62.560. (Eff. ___/___/___, Register _____)

| | | | |
|-------------------|--------------|--------------|--------------|
| Authority: | AS 17.38.010 | AS 17.38.070 | AS 17.38.084 |
| | AS 17.38.085 | AS 17.38.087 | AS 17.38.090 |
| | AS 17.38.100 | AS 17.38.900 | |

3 AAC 306.850. Surrender or destruction of license. A license issued under this chapter must be surrendered to the director, or an agent or employee of the board on demand if the director or board so directs. A license issued under this chapter must be surrendered within 10 days after the marijuana establishment loses or vacates the licensed premises. If a license is destroyed, the marijuana establishment shall promptly notify the board. (Eff. ___/___/___, Register _____)

| | | | |
|-------------------|--------------|--------------|--------------|
| Authority: | AS 17.38.010 | AS 17.38.070 | AS 17.38.084 |
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Register _____, _____ 2015

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8/5/2015

AS 17.38.085

AS 17.38.087

AS 17.38.090

AS 17.38.100

AS 17.38.900

8/5/2015

Article 9. General Provisions.

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. (Eff. ___/___/___, Register _____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.905. Public records. Marijuana establishment applications are public records. The board may, at the request of any applicant, designate materials confidential if they

- (1) contain proprietary information including trade secrets; or
- (2) are required to be kept confidential by any federal or state law or regulation.

(Eff. ___/___/___, Register _____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900
AS 40.25.110.

8/5/2015

3 AAC 306.910. Refusal to sell marijuana. Nothing in this chapter prohibits a licensee from refusing to sell marijuana or marijuana products to any person unless that refusal is a violation of AS 18.80.210. (Eff. ___/___/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.990. Definitions. (a) In AS 17.38,

() “assist” does not include

(A) using, displaying, purchasing, or transporting marijuana in excess of the amount allowed in AS 17.38.020;

(B) possessing, growing, processing, or transporting marijuana plants in excess of the amount allowed in AS 17.38.020;

(C) growing marijuana plants for another person in a place other than that other person's primary residence, a garage, shed, or other place under the other person’s control;

() “deliver” means hand to a person who purchases the product on licensed premises only; “deliver” does not mean transfer or transport to a consumer off a licensed premises;

() “flowering” means a marijuana plant which has visible crystals, buds, or flowers, or for which the exposure to light is scheduled with the intent to produce crystals, buds or flowers;

() “immature” means a plant with no visible crystals, buds, or flowers, and in which the exposure to light is scheduled with the intent to prevent formation of crystals, buds or flowers;

8/5/2015

() “personal cultivation” does not include

(A) using, displaying, purchasing, or transporting marijuana in excess of the amount allowed in AS 17.38.020;

(B) possessing, growing, processing, or transporting marijuana plants in excess of the amount allowed in AS 17.38.020;

(C) growing marijuana plants for another person in a place other than that other person's primary residence, garage, shed, or similar place under the other person’s control.

() “possess” means having physical possession or control over property;

() “transport” or “transfer” means to deliver between licensed marijuana establishments as provided in 3 AAC 306.745.

(b) In this chapter, unless the context requires otherwise,

() "adulterated food or drink product" means a product that is intended to be consumed orally and that existed without marijuana in a form ready for consumption before marijuana was added by any process; an adulterated food or drink product does not include raw ingredients that are combined with marijuana in a manufacturing process;

() “agent”

(A) means a representative who is authorized to act for another;

(B) includes a contractor or subcontractor;

() “batch” or ”harvest batch” means a specifically identified quantity of plant trim, leaf and other usable product from marijuana plants that are uniform in strain, cultivated in one place and under the same conditions, using the same medium and agricultural chemicals

8/5/2015

including pesticides and fungicides, and harvested at the same time.

() “bud and flower” means the hairy, sticky, or crystal covered parts of mature female marijuana plants generally harvested for their high potency content;

() “clones” or “cuttings” means small starter plants less than 8 inches tall used to propagate marijuana plants;

() “compensation” means money, bartered objects or services, or anything else of value;

() “contaminant” means any of the following:

(A) harmful microbials including E. coli or salmonella;

(B) residual solvents;

(C) poisons or toxins;

(D) harmful chemicals; including pesticides;

(E) dangerous molds, mildew or filth;

() “controlling interest” means ownership or control of

(A) 50 percent or more of the ownership interest or voting shares of a corporation; or

(B) less than 50 percent if a person and family members jointly exert actual control as demonstrated by

(i) making decisions for the corporation without independent participation of other owners;

(ii) exercising day-to-day control over the corporation's affairs;

(iii) disregarding formal legal requirements;

(iv) using corporation funds for personal expenses or investments,

8/5/2015

or intermingling corporation finances with personal finances; or

(v) taking other actions that indicate the corporation is a mere instrumentality of the individual;

() “edible” and "edible marijuana product" means any marijuana product that is intended to be consumed orally, including any type of food or drink; an edible marijuana product does not include adulterated food or drink products;

() “extraction” or “marijuana extraction” means production of marijuana concentrate by any water-based, food-based, or solvent-based method;

() “homogenous” means a component or quality, such as THC, is spread evenly throughout the product, or can be found in equal amounts in each part of a multi-serving unit;

() “licensed,” means any marijuana establishment, that holds a current and valid license issued by the board under this chapter, including a conditional license; a marijuana establishment is not “licensed” if a license it formerly held has expired, or has been suspended or revoked;

() “licensee” means all the persons identified in 3 AAC 306.020 who must be listed in an application for a marijuana establishment license under this chapter;

() “licensed premises” means any or all designated portions of a building or structure, rooms or enclosures in the building or structure, used, controlled, or operated by a licensee in the conduct of business for which the licensee is licensed by the board at the specific address for which the license is issued;

() “lot” or “production lot” means a group of marijuana products that were prepared at the same time from the same batch of marijuana, using the same recipe or process;

() "marijuana" means all parts of the plant of the genus cannabis whether

8/5/2015

growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does not include fiber produced from the stalks, cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products

() "marijuana concentrate" means resin, oil, wax, or any other substance derived from the marijuana plant by any method which isolates the THC-bearing resins of the plant;

() "marijuana cultivation facility" has the meaning given in AS 17.38; ***or alternatively*** means an entity *licensed* to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers;

() "marijuana plant" means a living organism of the genus *Cannabis* capable of absorbing water and inorganic substances through its roots, and synthesizing nutrients in its leaves by photosynthesis;

() "marijuana product" means any concentrated marijuana and marijuana product that is comprised of marijuana and any other ingredient and is intended for use or consumption including any edible product, ointment, and tincture;

() "marijuana product manufacturing facility" means an entity licensed to purchase marijuana; manufacture, prepare, and package any approved marijuana product; and sell marijuana and marijuana products to any other marijuana product manufacturing facility or marijuana retail store, but not to a consumer;

() "person" means has the meaning given in AS 01.10.060.;

8/5/2015

() “process” or “processing” means harvesting, curing, drying, trimming of a marijuana plant;

() "retail marijuana store" means an entity licensed to purchase marijuana from a marijuana cultivation facility, to purchase marijuana and any approved marijuana product from a marijuana product manufacturing facility, and to sell marijuana and any approved marijuana product to a consumer.

() "square feet under cultivation" means an area of the licensed premises of a standard or limited cultivation facility that is used for growing marijuana, measured on the perimeter of the marijuana crop or the canopy formed by marijuana plant branches and foliage; "square feet under cultivation" does not include hallways, equipment storage areas, or other areas within the licensed premises that are not used for growing marijuana such as an office, or a processing or storage area.

Eff. ___/___/____, Register _____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084

AS 17.38.090 AS 17.38.100 AS 17.38.900