

Byron Mallott
Lieutenant Governor
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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Micaela Fowler
Commerce, Community, and Economic Development

FROM: Scott Meriwether, Office of the Lieutenant Governor
465.4081

A handwritten signature in blue ink, likely of Scott Meriwether, the author of the memorandum.

DATE: June 27, 2017

RE: Filed Permanent Regulations: Marijuana Control Board

Marijuana Control Board update to regulations regarding the effect on licenses of a restriction on the sale of marijuana and marijuana products or the operation of marijuana establishments (3 AAC 306.250)

Attorney General File:	JU2016200838
Regulation Filed:	6/27/2017
Effective Date:	7/27/2017
Print:	223, October 2017

cc with enclosures: Linda Miller, Department of Law
Judy Herndon, LexisNexis

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF THE ALCOHOL & MARIJUANA CONTROL OFFICE

The attached single page of regulations, dealing with the effect on licenses of restriction on sale is certified to be a correct copy of the regulation changes that the Marijuana Control Board adopted at its April 5, 2017, meeting, under the authority of AS 17.38.121 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

Although no public comments were received, the Marijuana Control Board paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor as provided in AS 44.62.180.

Date: May 3, 2017

Erika McConnell
Erika McConnell, Director

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on June 27, 2017 at 1045A .m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

Byron Mallott
Lieutenant Governor

Effective: July 27, 2017

Register: 223, OCTOBER 2017

Register 223, OCTOBER 2017 COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT

3 AAC 306.250 is amended to read:

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0.5" tab, or
rather
than
a 0.25"
tab ///*

3 AAC 306.250. Effect on licenses of restriction on sale. *(a)* If a majority of the voters vote under 3 AAC 306.200(a) to prohibit sale of marijuana and marijuana products or the operation of marijuana establishments, or if the assembly or city council passes an ordinance to the same effect, the board will not issue, renew, or transfer to another person a license for a marijuana establishment with premises located within the boundary of the local government [OR IN THE UNINCORPORATED AREA WITHIN 10 MILES OF THE BOUNDARIES OF THE LOCAL GOVERNMENT].

(b) A license for a marijuana establishment within the boundary of the local government [OR IN THE UNINCORPORATED AREA WITHIN 10 MILES OF THE BOUNDARY OF THE LOCAL GOVERNMENT] is void 90 days after the results of the election are certified, or after the effective date of an ordinance to the same effect if the local government opted out by ordinance.

*(c) bolds and
underlines
the comma ///*

(c) A license that expires during the 90 days after the certification of a local option election, or during the period of time between adoption or passage of an ordinance to the same effect and the effective date of that ordinance, may be extended until it is void under this section, by payment of a prorated portion of the annual license fee. (Eff.

2/21/2016, Register 217, am 7/27/2017, Register 223)

(b bolds)

Authority: AS 17.38.020 AS 17.38.200 AS 17.38.900
AS 17.38.190 AS 17.38.210

MEMORANDUM


State of Alaska
Department of Law

To: Hon. Byron Mallott
Lieutenant Governor

Date: June 23, 2017

File No.: JU2016200838

Tel. No.: 465-3600

From: Steven C. Weaver 
Sr. Assistant Attorney General
and Assistant Regulations Attorney
Legislation and Regulations Section

Marijuana Control Board update to regulations regarding the effect on licenses of a restriction on the sale of marijuana and marijuana products or the operation of marijuana establishments (3 AAC 306.250)

We have reviewed the attached regulations from the Marijuana Control Board against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a specific delegation dated June 23, 2017 from the regulations attorney. The regulations update provisions to address the effect on licenses of a restriction by a local government on the sale of marijuana and marijuana products or the operation of marijuana establishments.

We find no legal problems with the regulations. Though the attached affidavit of agency record refers to the Alcohol and Marijuana Control Office not receiving public comments, the office serves as support staff to the Marijuana Control Board: the agency that considers public comments and formally keeps the record of public comments if any are received. The certification of adoption order indicates that the board paid special attention to the cost to private persons of the regulations, even though public comments were not received for this project. The informal reference in the affidavit to the board's support staff is not a substantive violation of the Administrative Procedure Act. Also, though the title of the certification of adoption order reads "Alcohol & Marijuana Control Office", the substantive body of the order plainly states that the adopting body is the Marijuana Control Board, as do the accompanying affidavit of board action and informal minutes. The clerical error in the title of the certification of adoption order is not a substantive violation of the Administrative Procedure Act.

This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations.

The February 28, 2017 public notice and the May 3, 2017 certification of adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

Hon. Byron Mallott, Lieutenant Governor
Our file: JU2016200838

June 23, 2017
Page 2

We have made some technical corrections to the regulations in accordance with AS 44.62.125, as shown on the attached copy.

SCW

cc w/enc: (via email)

Erika McConnell, Executive Director
Alcoholic Beverage Control Board and Marijuana Control Board

Micaela Fowler, Regulations Contact
Department of Commerce, Community, and Economic Development

Sara Chambers, Operations Manager
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community, and Economic Development

Jedediah Smith
Alcohol and Marijuana Control Office
Department of Commerce, Community, and Economic Development

Harriet Dinegar Milks, Assistant Attorney General
Commercial and Fair Business Section

MEMORANDUM

State of Alaska Department of Law

TO: Hon. Byron Mallott
Lieutenant Governor

DATE: June 23, 2017

FILE NO.: JU2016200838

TELEPHONE NO.: (907) 465-3600

FROM: Susan R. Pollard *SRP*
Chief Assistant Attorney General
and Regulations Attorney
Legislation/Regulations Section

SUBJECT: Specific delegation of authority
regarding regulations review on
Marijuana Control Board update
to regulations regarding the effect
on licenses of a restriction on the
sale of marijuana and marijuana
products or the operation of
marijuana establishments (3 AAC
306.250)

By this memorandum, I am delegating my authority as Regulations Attorney under AS 44.62 to Assistant Attorney General Steven C. Weaver for the above-referenced regulations project. Under this delegation of authority, Steven Weaver has my full authority under AS 44.62 to conduct the legal review under AS 44.62 and take necessary actions on this regulations project.

If you have questions, please let me know.

SRP

cc w/enc: Scott C. Meriwether, AAC Coordinator
Office of the Lieutenant Governor

Steven C. Weaver
Sr. Assistant Attorney General and
Assistant Regulations Attorney
Legislation/Regulations Section—Juneau

NOTICE OF PROPOSED REGULATIONS
REGARDING EFFECT ON LICENSES
OF RESTRICTION ON SALE
MARIJUANA CONTROL BOARD

The Marijuana Control Board proposes to amend 3 AAC 306.250, relating to the effect on licenses of restriction on sale in a local option area.

The Marijuana Control Board proposes to adopt regulations in Title 3 of the Alaska Administrative Code, relating to the effect on licenses of restriction on sale in a local option area including the following:

- (1) 3 AAC 306.250(a)- Proposes removing the 10 mile boundary in the unincorporated area around a local government that has exercised a local option.
- (2) 3 AAC 306. 250(b)- Proposes removing the 10 mile boundary in the unincorporated area around a local government that has exercised a local option.
- (3) 3 AAC 306.250(c)- Proposes language for effect of opting out by ordinance as well as election

You may comment in writing on the proposed regulations, including the potential costs to private persons of complying with the proposed regulations, by submitting written comments to Jedediah Smith, Alcohol & Marijuana Control Office at 550 W. 7th Ave, Suite 1600, Anchorage, AK 99501. Additionally, the Alcohol & Marijuana Control Office will accept written comments by electronic mail at amco.regs@alaska.gov. Please notate "Comment on Local Option Effect Regulations" on the subject line of any emailed comment. Written comments may also be submitted through the Alaska Online Public Notice System, by accessing this notice on the system and using the "comment" link. Please indicate the article and section number to which each comment refers, if applicable. **Please indicate in the subject line "Comment on Local Option Effect requirements".** All written comments must be received no later than 4:30 p.m. on March 30, 2017.

You may submit written questions relevant to the proposed regulations by email to amco.regs@alaska.gov or to Jedediah Smith at the above physical address. Please do not submit questions through the Alaska Online Public Notice System. The written questions must be received at least 10 days before the end of the public comment period, by March 20, 2017 at 4:30 p.m. The Alcohol & Marijuana Control Office will aggregate its response to substantially similar written questions and make the questions and response available on the Alcohol & Marijuana Control Office website. The Alcohol & Marijuana Control Office may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Jedediah Smith at (907) 334-2195 no later than March 20, 2017 to ensure that any necessary accommodations can be provided.

A copy of the proposed regulations are available through the electronic link to the complete text on the Alaska Online Public Notice System, on the Marijuana Control Board website at <https://www.commerce.alaska.gov/web/amco/> or by contacting Jedediah Smith at amco.regs@alaska.gov or 550 W. 7th Ste 1600, Anchorage, AK 99501.


After the written public comment period ends, the Marijuana Control Board will either adopt the proposed regulations or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. **You should comment in writing during the time allowed if your interests could be affected.** No verbal public comment will be taken on the proposed changes

Statutory Authority: AS 17.38.190

Statutes Being Implemented, Interpreted, or Made Specific: AS 17.38.190

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

DATE: March 21, 2017

A handwritten signature in cursive script that reads "Erika McConnell". The signature is written in dark ink and is positioned above a horizontal line.

Erika McConnell, Director
Alcohol & Marijuana Control Office

NOTICE OF PROPOSED REGULATIONS
REGARDING EFFECT ON LICENSES
OF RESTRICTION ON SALE
MARIJUANA CONTROL BOARD

The Marijuana Control Board proposes to amend 3 AAC 306.250, relating to the effect on licenses of restriction on sale in a local option area.

The Marijuana Control Board proposes to adopt regulations in Title 3 of the Alaska Administrative Code, relating to the effect on licenses of restriction on sale in a local option area as follows:

- (1) 3 AAC 306.250(b) - Proposes removing the 10 mile boundary in the unincorporated area around a local government that has exercised a local option.
- (2) 3 AAC 306. 250(c) - Proposes removing the 10 mile boundary in the unincorporated area around a local government that has exercised a local option.
- (3) 3 AAC 306.250(d) - Proposes language for effect on licenses if local government opts out by ordinance

You may comment in writing on the proposed regulations, including the potential costs to private persons of complying with the proposed regulations, by submitting written comments to Jedediah Smith, Alcohol & Marijuana Control Office at 550 W. 7th Ave, Suite 1600, Anchorage, AK 99501. Additionally, the Alcohol & Marijuana Control Office will accept written comments by electronic mail at amco.regs@alaska.gov. Please notate "Comment on Local Option Effect Regulations" on the subject line of any emailed comment. Written comments may also be submitted through the Alaska Online Public Notice System, by accessing this notice on the system and using the "comment" link. Please indicate the article and section number to which each comment refers, if applicable. **Please indicate in the subject line "Comment on Local Option Effect requirements".** All written comments must be received no later than 4:30 p.m. on March 30, 2017.

You may submit written questions relevant to the proposed regulations by email to amco.regs@alaska.gov or to Jedediah Smith at the above physical address. Please do not submit questions through the Alaska Online Public Notice System. The written questions must be received at least 10 days before the end of the public comment period, by March 20, 2017 at 4:30 p.m. The Alcohol & Marijuana Control Office will aggregate its response to substantially similar written questions and make the questions and response available on the Alcohol & Marijuana Control Office website. The Alcohol & Marijuana Control Office may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

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After the written public comment period ends, the Marijuana Control Board will either adopt the proposed regulations or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. **You should comment in writing during the time allowed if your interests could be affected.** No verbal public comment will be taken on the proposed changes

Statutory Authority: AS 17.38.190

Statutes Being Implemented, Interpreted, or Made Specific: AS 17.38.190

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

DATE: February 24, 2017

Sara Chambers, Acting Director
Alcohol & Marijuana Control Office

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Marijuana Control Board
2. General subject of regulation: Effect on Licenses of Restriction on Sale
3. Citation of regulation (may be grouped): 3 AAC 306.250
4. Department of Law file number, if any: JU2016200838

5. Reason for the proposed action:
☐ Compliance with federal law or action (identify): _____
☐ Compliance with new or changed state statute
☐ Compliance with Federal or state court decision (identify) _____
☒ Development of program standards
☐ Other (identify): _____

6. Appropriation/Allocation: _____

7. Estimated annual costs in the aggregate to comply with the proposed action to:
Private Persons: \$0
Other State Agencies: \$0
Municipalities: \$0

8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY <u>17</u>	Subsequent Years
Operating Cost	\$ <u>0</u>	\$ <u>0</u>
Capital Cost	\$ <u>0</u>	\$ <u>0</u>
1002 Federal receipts	\$ <u>0</u>	\$ <u>0</u>
1003 General fund match	\$ <u>0</u>	\$ <u>0</u>
1004 General fund	\$ <u>0</u>	\$ <u>0</u>
1005 General fund/ program	\$ <u>0</u>	\$ <u>0</u>
1037 General fund/ mental health	\$ <u>0</u>	\$ <u>0</u>
Other	\$ <u>0</u>	\$ <u>0</u>

9. The name of the contact person for the regulations:
Name: Cynthia A. Franklin
Title: Director, Marijuana Control Board

Address: 550 W. 7th Avenue, Suite 1600
Anchorage, AK 99501

Telephone: (907)269-0350
E-mail address Cynthia.franklin@alaska.gov

10. The origin of the proposed action:

☒ Staff of state agency
☐ Federal government
☐ General public
☐ Petition for regulation change
☐ Other (identify) _____

11. Date: 11/22/2016

Prepared by



Name (printed): Cynthia A. Franklin
Title (printed): Director, Marijuana Control Board
Telephone: (907)269-0350

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Erika McConnell, director for the Alcohol & Marijuana Control Office, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 3 AAC 306.250, effect on licenses of restriction on sale has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to interested persons;
- (3) furnished to appropriate state officials;
- (4) furnished to the Department of Law, along with a copy of the proposed regulation;
- (5) furnished electronically to incumbent State of Alaska legislators;
- (6) furnished to the Legislative Affairs Agency, Division of Legal and Research Services;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);
- (8) furnished electronically, along with a copy of the proposed regulation, to the Legislative Affairs Agency, the chair of the Labor and Commerce Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: May 3, 2017

Erika McConnell
Erika McConnell, Director

Subscribed and sworn to before me at Anchorage, Alaska, on May 3, 2017.



[Signature]
Notary Public in and for the State of Alaska

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Erika McConnell, director for the Alcohol & Marijuana Control Office, being duly sworn, state the following:

The Alcohol and Marijuana Control Office did not receive any factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Alcohol & Marijuana Control Office regulation the effect on licenses of restriction of sale.

Date: May 3, 2017

Erika McConnell

Erika McConnell, Director

Subscribed and sworn to before me at Anchorage, Alaska, on May 3, 2017.



Sdr
Notary Public in and for the State of Alaska

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\$378.50

AFFIDAVIT OF PUBLICATION

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Emma Dunlap
being first duly sworn on oath deposes and
says that he/she is a representative of the
Alaska Dispatch News, a daily newspaper.
That said newspaper has been approved
by the Third Judicial Court, Anchorage,
Alaska, and it now and has been published
in the English language continually as a
daily newspaper in Anchorage, Alaska, and
it is now and during all said time was
printed in an office maintained at the
aforesaid place of publication of said
newspaper. That the annexed is a copy of
an advertisement as it was published in
regular issues (and not in supplemental
form) of said newspaper on

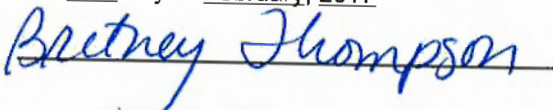
February 28, 2017

and that such newspaper was regularly
distributed to its subscribers during all of
said period. That the full amount of the fee
charged for the foregoing publication is not
in excess of the rate charged private
individuals.

Signed



Subscribed and sworn to before me
this 28th day of February, 2017



Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska
MY COMMISSION EXPIRES

2/23/2019
Notary Public
BRITNEY L. THOMPSON
State of Alaska
Commission Expires Feb 23, 2019

NOTICE OF PROPOSED REGULATIONS REGARDING EFFECT ON LICENSES OF RESTRICTION ON SALE MARIJUANA CONTROL BOARD

The Marijuana Control Board proposes to amend 3 AAC 306.250, relating to the effect on licenses of restriction on sale in a local option area.

The Marijuana Control Board proposes to adopt regulations in Title 3 of the Alaska Administrative Code, relating to the effect on licenses of restriction on sale in a local option area as follows:

- (1) 3 AAC 306.250(b) - Proposes removing the 10 mile boundary in the unincorporated area around a local government that has exercised a local option.
- (2) 3 AAC 306.250(c) - Proposes removing the 10 mile boundary in the unincorporated area around a local government that has exercised a local option.
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If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Jedediah Smith at (907) 334-2195 no later than March 20, 2017 to ensure that any necessary accommodations can be provided.

A copy of the proposed regulations are available through the electronic link to the complete text on the Alaska Online Public Notice System, on the Marijuana Control Board website at <https://www.commerce.alaska.gov/web/amco/> or by contacting Jedediah Smith at amco.regs@alaska.gov or 550 W. 7th Ste. 1600, Anchorage, AK 99501.

After the written public comment period ends, the Marijuana Control Board will either adopt the proposed regulations or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. You should comment in writing during the time allowed if your interests could be affected. No verbal public comment will be taken on the proposed changes.

Statutory Authority: AS 17.38.190

Statutes Being Implemented, Interpreted, or Made Specific:
AS 17.38.190

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

DATE: February 24, 2017

Sara Chambers, Acting Director
Alcohol & Marijuana Control Office

Published: February 28, 2017

AFFIDAVIT OF MARIJUANA CONTROL BOARD ACTION

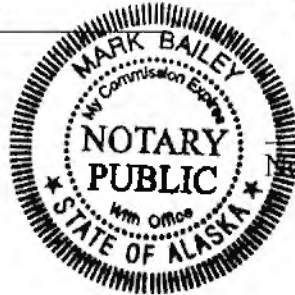
I, Erika McConnell, director for the Alcohol & Marijuana Control Office, being duly sworn, state the following:

The attached motion dealing with the effect on license of restriction of sale was passed by the Marijuana Control Board during its April 5, 2017 meeting.

Date: 5/24/17

Erika McConnell
Erika McConnell, Director

Subscribed and sworn to before me at Anchorage, Alaska on
May 24, 2017
(date)



[Signature]
Notary Public in and for the State of Alaska



Marijuana Control Board
Excerpt from Unapproved Meeting Minutes
April 5, 2017
Third Judicial District
Atwood Building
Rooms 102 & 104
Anchorage, Alaska

● **REGULATIONS**

B. Effect on Restriction of Sale (if Opt-out by Ordinance) 10:12am

1. Draft (No New Public Comments Received)

TAB 45

Mark Springer motions to adopt 3 AAC 306.250 as amended.

Brandon Emmett seconds the motion.

Motion carries unanimously.

C. Food Safety Permit 10:13am

1. Draft; New Public Comment Received

TAB 46

Mark Springer motions to adopt 3 AAC 306.315 and 3 AAC 306.520 as amended.

Brandon Emmett seconds the motion.

The Board members consider the public comment received.

Motion carries unanimously.

D. Ownership Change Requirements 10:14am

1. Draft (No New Public Comments Received)

TAB 47

Mark Springer motions to adopt 3 AAC 306.040 and 3 AAC 306.100 as amended.

Brandon Emmett seconds the motion.

Motion carries unanimously.

E. Retail Marijuana Store Notice Requirements

10:14am

1. Draft; New Public Comment Received

TAB 48

Mark Springer motions to adopt new section 3 AAC 306.365.

Brandon Emmett seconds the motion.

The Board members consider the public comment received.

Motion carries unanimously.

F. Testing Requirements

10:15am

1. Draft (No New Public Comments Received)

TAB 49

Mark Springer motions to adopt 3 AAC 306.645 and 3 AAC 306.660 as amended.

Brandon Emmett seconds the motion.

Motion carries unanimously.

Minutes prepared by:



Sarah D. Oates
Program Coordinator