

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



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

**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Linda Mattson
Department of Commerce, Community and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor
465.4081

A handwritten signature in dark ink, appearing to be "AS", located to the right of the "FROM:" line.

DATE: September 17, 2018

RE: Filed Permanent Regulations: Marijuana Control Board

Marijuana Control Board regulations re: advertising, promotions, and related conforming changes (3 AAC 306.005; 3 AAC 306.300(a)(2)(A); 3 AAC306.360; 3 AAC 306.770)

Attorney General File:	JU2017200533
Regulation Filed:	9/17/2018
Effective Date:	10/17/2018
Print:	228, January 2019

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

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF THE MARIJUANA CONTROL BOARD

The attached four pages of regulations, dealing with the advertising and promotions for marijuana businesses, is certified to be a correct copy of the regulation changes that the Marijuana Control Board adopted at its June 15, 2018, 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.

In considering public comment, 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: 9/10/18

Erika McConnell

Erika McConnell, Director

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on

9/17, 2018 at 2:50 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

Byron Mallott
Lieutenant Governor

Effective: October 17, 2018.

Register: 228, January 2019.

(locate circled hand-written text from page 4 here.))

3 AAC 306.360 is repealed:

3 AAC 306.360. Restriction on advertising of marijuana and marijuana products

Repealed. (Eff. 2/21/2016, Register 217; Repealed 10/17/2016, Register 228)

to Article 7

3 AAC 306 is amended by adding a new subsection to read:

3 AAC 306.700. Signs, merchandise, advertisements, and promotions.

(a) Business cards and merchandise, including t-shirts, hats, and stickers, that are distributed by a licensed marijuana ^{establishment} facility and contain only the business name and logo, licensee name, and location and contact information, are not advertising or promotions.

(b) A licensed marijuana ^{establishment} facility may have not more than three signs that are visible to the general public from the public right-of-way. Two of the three signs may only be placed in the marijuana facility's window or attached to the outside of the licensed premises. The size of each sign may not exceed 4,800 square inches. A sign meeting these requirements is not advertising or promotions.

(c) An advertisement for a licensed marijuana ^{establishment} facility and for marijuana or a marijuana product must include the business name and license number.

(d) An advertisement for a licensed marijuana ^{establishment} facility is exempt from providing the warning statements in (g) ^{of this section} below if

(1) the advertisement contains only the business name, logo, business type, contact information, location, and hours of operation; ^{and}

(2) the advertisement does not contain any written information about marijuana or a marijuana product or any photographic or illustrative depictions of marijuana or a marijuana product, other than depictions contained within the established business name font and logo.

(e) A logo or an advertisement for a licensed marijuana establishment [↑] and for marijuana or a marijuana product may not contain a statement or illustration that

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

(f) An advertisement for a licensed marijuana establishment [↑] and for marijuana or a marijuana product may not be placed

- (1) within 1,000 feet of the perimeter of any child-centered facility, including a school, a child care facility or other facility providing services to children, a playground or recreation center, a public park, a library, or a game arcade that is open to persons under 21 years of age, except when included in an established publication intended for general readership;
- (2) on or in a public transit vehicle or public transit shelter;
- (3) on or in a publicly owned or operated property;
- (4) within 1,000 feet of a substance abuse or treatment facility; or
- (5) on a campus for postsecondary education.

(g) An advertisement for marijuana or any marijuana product must contain each of the following warnings, that [↑] which must be plainly visible and at least half the font size of an advertisement on a sign, and no smaller than size nine [↑] font when the advertisement is in printed form. ^{lowercase} Warnings in audio advertisements must be intelligible and played at the same speed as the advertisement. [↓] i

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

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

(3) "There are health risks associated with consumption of marijuana.";

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

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

(h) A licensed marijuana establishment facility that advertises by means of a web page must utilize appropriate measures to ensure that individuals visiting the web page are 21 years of age or older.

(i) A licensed marijuana establishment facility may not engage in advertising by means of marketing directed towards location-based devices, including ~~but not limited to~~ cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and the application includes a permanent and easy opt-out feature.

(j) As long as no more than 30 percent of the event's participants and audience is establishment reasonably expected to be under 21 years of age, a licensed marijuana facility may sponsor

(1) an industry trade show;

(2) a charitable event;

(3) a sports event or competition;

(4) a concert; or

(5) any other event approved in advance by the board.

(k) A licensed marijuana establishment facility may not encourage the sale of marijuana or a marijuana product

- (1) by using giveaway coupons for marijuana or a marijuana product as promotional materials;
- (2) by conducting games or competitions related to the consumption of marijuana or a marijuana product;
- (3) by providing promotional materials or activities of a manner or type that would be especially appealing to children; or
- (4) by holding promotional activities outside of the licensed premises. (Eff.

10/17/2018, Register 228)

Authority: AS 17.38.010 AS 17.38.150 AS 17.38.200
 AS 17.38.070 AS 17.38.190 AS 17.38.900
 AS 17.38.121

*(locate this text
 at top of page 1,
 at identified spot !!!)*



3 AAC 306.005 is amended to read:
 3 AAC 306.005. License required. A marijuana establishment may not operate in the state unless it has obtained the applicable marijuana establishment license from the board. The board will issue the following marijuana establishment licenses under this chapter:
 (1) a retail marijuana store license, granting authority for activities allowed under AS 17.38.070(a), and subject to the provisions of 3 AAC 306.300 - 3 AAC 306.365 [3 AAC 306.300 - 3 AAC 306.360] and 3 AAC 306.700 - 3 AAC 306.770 [3 AAC 306.700 - 3 AAC 306.755];
 (2) a marijuana cultivation facility license, as described in 3 AAC 306.405 and 3 AAC 306.410, granting authority for activities allowed under AS 17.38.070(b), and subject to the provisions of 3 AAC 306.400 - 3 AAC 306.480 and 3 AAC 306.700 - 3 AAC 306.770 [3 AAC 306.700 - 3 AAC 306.755];
 (3) a marijuana product manufacturing facility license, as described in 3 AAC 306.505 and 3 AAC 306.515, granting authority for activities allowed under AS 17.38.070(c), and subject to the provisions of 3 AAC 306.500 - 3 AAC 306.570 and 3 AAC 306.700 - 3 AAC 306.770 [3 AAC 306.700 - 3 AAC 306.755]; and
 (4) a marijuana testing facility license, granting authority for activities allowed under AS 17.38.070(d), and subject to the provisions of 3 AAC 306.600 - 3 AAC 306.675 and 3 AAC 306.700 - 3 AAC 306.770 [3 AAC 306.700 - 3 AAC 306.755]. (Eff. 2/21/2016, Register 217; am 10/17/2018, Register 228)

Authority: AS 17.38.010 AS 17.38.150 AS 17.38.200
 AS 17.38.070 AS 17.38.190 AS 17.38.900
 AS 17.38.121

3 AAC 306.300(a)(2)(A) is amended to read:
 (A) each applicable provision of 3 AAC 306.300 - 3 AAC 306.365 [3 AAC 306.300 - 3 AAC 306.360] and 3 AAC 306.700 - 3 AAC 306.770 [3 AAC 306.700 - 3 AAC 306.755]; and
 (Eff. 2/21/2016, Register 217; am 10/17/2018, Register 228)

Authority: AS 17.38.010 AS 17.38.150 AS 17.38.200
 AS 17.38.070 AS 17.38.190 AS 17.38.900
 AS 17.38.121

MEMORANDUM

State of Alaska Department of Law


To: The Honorable Byron Mallott
Lieutenant Governor

Date: September 14, 2018

File No.: JU2017200533

Thru:

Tel. No.: 465-3600

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

Re: Marijuana Control Board regulations
re: advertising, promotions, and
related conforming changes (3 AAC
306.005; 3 AAC 306.300(a)(2)(A);
3 AAC 306.360; 3 AAC 306.770)

The Department of Law has reviewed the attached regulations of the Marijuana Control Board against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. I have reviewed this project under a general delegation of authority dated December 5, 2014 from the Regulations Attorney. 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 regulations were adopted by the Marijuana Control Board after the close of the public comment period. The regulations concern signs, merchandise, advertisements, and promotions; are applicable to all marijuana establishments; and include related conforming changes.

The April 29, 2018 public notice and the September 10, 2018 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.

MEMORANDUM

State of Alaska Department of Law

To: The Honorable Byron Mallott
Lieutenant Governor

Date: December 5, 2014

From: Susan R. Pollard *Susan R. Pollard*
Chief Assistant Attorney General
and Regulations Attorney
Legislation and Regulations Section

Tel. No.: 465-3600

Re: Delegation of Authority for
Regulations Matters

In my absence, when I am traveling or otherwise out of the office, Senior Assistant Attorney General and Assistant Regulations Attorney Steven C. Weaver is designated as Acting Regulations Attorney. Under this delegation, Steve Weaver has my full authority under AS 44.62 to conduct the legal review of regulations or take necessary actions as Acting Regulations Attorney.

This delegation is effective immediately and is in effect until revoked by me.

If you have any questions, please let me know.

SRP/pav

cc: Scott Meriwether, AAC Coordinator
Office of the Lt. Governor

Jim Cantor, Deputy Attorney General
Civil Division

Nancy Gordon, Statewide Office Chief
Civil Division

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

Cori Mills, Assistant Attorney General
Legislation and Regulations Section

Linda Miller, Legal Editor
Legislation and Regulations Section

Lisa Rickey, Legal Editor
Legislation and Regulations Section

We have made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations.

SCW

cc: Erika McConnell, Director
Marijuana Control Board
Department of Commerce, Community, and Economic Development

Linda Mattson, Regulations Contact
Department of Commerce, Community, and Economic Development

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

April Simpson, Notary Administrator
Office of the Lieutenant Governor

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



Marijuana Control Board
Excerpt from unapproved meeting minutes
June 15, 2018
Third Judicial District
Atwood Building
550 W. 7th Avenue, Rooms 102 & 104
Anchorage, Alaska

● **REGULATIONS**

1. Advertising and Promotional Activities

3:08pm

TAB 14

Status: Comment period closed June 1, 2018
Potential Board Actions: Vote to adopt; OR
Substantially amend and put out for public comment

The Board members discuss the public comments received.

Loren Jones moves that the Board adopt regulations on advertising in 3 AAC 306.360 and 3 AAC 306.760.

Nick Miller seconds the motion.

Motion carries unanimously.

Minutes prepared by:

A handwritten signature in green ink, appearing to read "S. Oates".

Sarah D. Oates
Program Coordinator

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Erika McConnell, Director of the Marijuana Control Board, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 3 AAC 306.360 and 3 AAC 306.760, regarding advertising and promotion activity for marijuana businesses, 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: _____

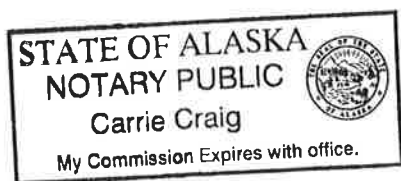
7/9/18

Erika McConnell

Erika McConnell, Director

Subscribed and sworn to before me at Anchorage, Alaska, on _____

7/9/18



Carrie Craig

Notary Public in and for the State of Alaska

AFFIDAVIT OF MARIJUANA CONTROL BOARD ACTION

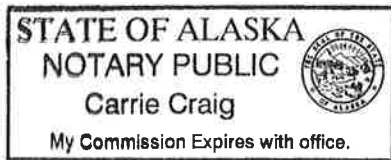
I, Erika McConnell, Director of the Marijuana Control Board, being duly sworn, state the following:

The attached motion dealing with regulation changes to advertising and promotions for marijuana businesses was passed by the Marijuana Control Board during its June 15, 2018, meeting.

Date: 7/9/18

Erika McConnell
Erika McConnell, Director
Marijuana Control Board

Subscribed and sworn to before me at Anchorage, Alaska, on 7/9/18.
(date)



Carrie Craig
Notary Public in and for the State of Alaska

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Erika McConnell, Director of the Marijuana Control Board, being duly sworn, state the following:

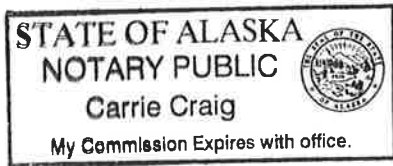
In compliance with AS 44.62.215, the Marijuana Control Board has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Marijuana Control Board regulation on advertising and promotional activities for marijuana businesses (3 AAC 306.360 and 3 AAC 306.760).

Date: 7/9/18

Erika McConnell

Erika McConnell, Director
Marijuana Control Board

Subscribed and sworn to before me at Anchorage, Alaska, on 7/9/18
(date)



Carrie Craig

Notary Public in and for the State of Alaska

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE MARIJUANA
CONTROL BOARD TO ADVERTISING AND PROMOTIONS RESTRICTIONS

The Marijuana Control Board proposes to adopt regulation changes in 3 AAC 306 of the Alaska Administrative Code, dealing with marijuana plant count, including the following:

3 AAC 306.360 is proposed to be repealed

3 AAC 306.760 is a new section proposed to regulate signs, merchandise, advertisements and promotions for licensed marijuana businesses.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to the Alcohol & Marijuana Control Office at 550 West 7th Avenue, Suite 1600, Anchorage, AK 99501. Additionally, the Marijuana Control Board will accept comments by electronic mail at amco.regs@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system and using the comment link. The comments must be received not later than 4:30 pm on June 1, 2018.

You may submit written questions relevant to the proposed action to the Marijuana Control Board by email at amco.regs@alaska.gov or at 550 West 7th Avenue, Suite 1600, Anchorage, AK 99501. The questions must be received at least 10 days before the end of the public comment period. The Marijuana Control Board will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System.

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 amco.regs@alaska.gov or (907) 269-0350 not later than May 18, 2018 to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting the Alcohol & Marijuana Control Office at (907) 269-0350 or amco.regs@alaska.gov.

After the public comment period ends, the Marijuana Control Board will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected. Written comments received are public records and are subject to public inspection.

Statutory authority: AS 17.38.010; AS 17.38.070; AS 17.38.121; AS 17.38.150; AS 17.38.190; AS 17.38.200; AS 17.38.900

Statutes being implemented, interpreted, or made specific: AS 17.38.070; AS 17.38.200

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

Date: April 26, 2018

A handwritten signature in black ink that reads "Erika McConnell". The script is cursive and fluid, with the first name "Erika" and last name "McConnell" clearly distinguishable.

Erika McConnell, director

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Marijuana Control Board
2. General subject of regulation: Advertising and Promotion restrictions for licensed marijuana businesses.
3. Citation of regulation (may be grouped): 3 AAC 306.360; 3 AAC 306.760
4. Department of Law file number, if any: JU2017200533

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): _____
- (x) Development of program standards
- () Other (identify): _____

6. Appropriation/Allocation: \$0

7. Estimated annual cost to comply with the proposed action to:

A private person: \$0

Another state agency: \$0

A municipality: \$0

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

	Initial Year FY 19	Subsequent Years
Operating Cost	\$ 0	\$ 0
Capital Cost	\$ 0	\$ 0
1002 Federal receipts	\$ 0	\$ 0
1003 General fund match	\$ 0	\$ 0
1004 General fund	\$ 0	\$ 0
1005 General fund/ program	\$ 0	\$ 0
Other (identify)	\$ 0	\$ 0

9. The name of the contact person for the regulation:

Name: Jedediah Smith

Title: Local Government Specialist

Address: 550 West 7th Ave, Suite 1600 Anchorage, AK 99501

Telephone: (907) 269-0350

E-mail address: amco.regs@alaska.gov

10. The origin of the proposed action:

☐ Staff of state agency

☐ Federal government

☐ General public

☐ Petition for regulation change

☒ Other (identify): Marijuana Control Board

11. Date: April 26, 2018

Prepared by:



Name (printed): Jedediah Smith

Title (printed): Local Government Specialist

Telephone: (907) 269-0350

ANCHORAGE DAILY NEWS

4/29

AFFIDAVIT OF PUBLICATION

Account #: 270221

ST OF AK/ALCOHOL AND MARIJUANA
CONTROL BOARD
550 W 7TH AVE #1600
ANCHORAGE AK 99501

Order#
Cost

0001420532
\$278.88

Product ANC-Anchorage Daily News
Placement 0300
Position 0301

STATE OF ALASKA THIRD JUDICIAL DISTRICT

Joleesa Stepetin

being first duly sworn on oath deposes and says that he/she is a representative of the Anchorage Daily 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

April 29, 2018

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

Joleesa Stepetin
Joleesa Stepetin

Subscribed and sworn to before me
this 30th day of April, 2018

Britney Thompson
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
My Commission Expires Feb 23, 2019

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE MARIJUANA CONTROL BOARD TO ADVERTISING AND PROMOTIONS RESTRICTIONS

The Marijuana Control Board proposed to adopt regulation changes in 3 AAC 306 of the Alaska Administrative Code, dealing with advertising and promotions restrictions, including the following:

3 AAC 306.360 is proposed to be repealed

3 AAC 306.760 is a new section proposed to regulate signs, merchandise, advertisements and promotions for licensed marijuana businesses.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to the Alcohol & Marijuana Control Office at 550 West 7th Avenue, Suite 1600, Anchorage, AK 99501. Additionally, the Marijuana Control Board will accept comments by electronic mail at amco.regs@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system and using the comment link. The comments must be received not later than 4:30 pm on June 1, 2018.

You may submit written questions relevant to the proposed action to the Marijuana Control Board by email at amco.regs@alaska.gov or at 550 West 7th Avenue, Suite 1600, Anchorage, AK 99501. The questions must be received at least 10 days before the end of the public comment period. The Marijuana Control Board will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System.

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Statutory authority: AS 17.38.010; AS 17.38.070; AS 17.38.121; AS 17.38.150; AS 17.38.190; AS 17.38.200; AS 17.38.900

Statutes being implemented, interpreted, or made specific: AS 17.38.070; AS 17.38.200

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

Date: April 26, 2018

Erika McConnell, director

Published: April 29, 2018

