

Kevin Meyer
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**

MEMORANDUM

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

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: January 23, 2019

RE: Filed Permanent Regulations: Marijuana Control Board

Marijuana Control Board regulations re: residency requirements (3 AAC 306.015; 3 AAC 306.035)

Attorney General File:	2018200746
Regulation Filed:	1/22/2019
Effective Date:	2/21/2019
Print:	229, April 2019

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

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF MARIJUANA CONTROL BOARD

The attached two pages of regulations, dealing with residency requirements for marijuana licensees, are certified to be a correct copy of the regulation changes that the Marijuana Control Board adopted at its October 17, 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.

On the record, in considering public comments, 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: 11/13/18



Erika McConnell, Director

FILING CERTIFICATION

~~I,  Valerie Nunn,  Davidson,~~ Lieutenant Governor for the State of Alaska, certify that on January 22, 2019 at 10:25 Am., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Lieutenant Governor

Effective: February 21, 2019.

Register: 229, April 2019.

3 AAC 306.015(b) is amended to read:

(b) **Except as allowed in 3 AAC 306.035(h), the**[THE] board will not issue, **renew, or transfer** a marijuana establishment license to

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

(2) a partnership unless each partner is a resident of the state;

(3) a limited liability company unless the limited liability company is qualified to do business in the state and each member of the limited liability company is a resident of the state; or

(4) a corporation unless the corporation is incorporated or qualified to do business in the state and each shareholder is a resident of the state.

3 AAC 306.015(e)(2) is amended to read:

(2) "resident of the state" means a person who **is eligible at the time of application for the most recent**[MEETS THE RESIDENCY REQUIREMENT UNDER AS 43.23 FOR A] permanent fund dividend ^(under AS 43.23) [IN THE CALENDAR YEAR IN WHICH THAT PERSON APPLIES FOR A MARIJUANA ESTABLISHMENT LICENSE UNDER THIS CHAPTER]. (Eff. 2/21/2016, Register 217; add'l am 2/21/2016, Register 217; am 2 / 21 / 2019, Register 229)

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 306.035 is amended to add a new subsection to read:

(h) The board may renew a license where ^{one}~~one or more~~ licensees ^{is}~~are~~ is not considered a resident of the state as defined at 3 AAC 306.015(e)(2), if, as part of the renewal application, the licensee submits documentation to the board's satisfaction that

(1) the licensee's primary residence is in the state;

(2) the licensee has good cause for not meeting the requirements to be a resident of the state as defined at 3 AAC 306.015(e)(2); and

(3) the cause of not meeting the requirements to be a the resident of the state as defined at 3 AAC 306.015(e)(2) is temporary. (Eff. 2/21/2016, Register 217; am 12/28/2017, Register 224; am 2/21/2019, Register 229)

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 Kevin Meyer
Lieutenant Governor

Date: December 14, 2018

File No.: 2018200746

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: residency requirements (3 AAC
306.015; 3 AAC 306.035)

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 delegation dated December 3, 2018 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 clarify the definition of "resident of the state" that ties residency to eligibility for the permanent fund dividend (AS 43.23), and adopt a provision to give renewing licensees who are not considered residents under that definition an alternate route to demonstrate residency.

The August 2, 2018 public notice and the November 13, 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.

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 w/enc: Hon. Julie Anderson, Commissioner
Department of Commerce, Community, and Economic Development

Erika McConnell, Director
Alcohol and Marijuana Control Office
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

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

MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: December 3, 2018

Tel. No.: 465-3600

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

Re: Delegation of Authority for
Regulations Matters
(2018200636)

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/hjh

cc: April Simpson, AAC Coordinator
Office of the Lt. Governor

Ed Sniffen, Deputy Attorney General
Civil Division

Joanne Grace, Statewide Office Chief
Civil Division

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

Linda Miller, Legal Editor
Legislation and Regulations Section

Laura Duval, Legal Editor
Legislation and Regulations Section

NOTICE OF PROPOSED CHANGES TO RESIDENCY REQUIREMENTS FOR
MARIJUANA LICENSEES

The State of Alaska MARIJUANA Control Board proposes to adopt regulation changes in 3 AAC 306 of the Alaska Administrative Code, dealing with residency requirements for marijuana licenses:

3 AAC 306.015 is proposed to add renewals and transfers to the current regulation and define eligibility for “residents of the state.”

3 AAC 306.035 is proposed to add documentation for residency requirements in a renewal application.

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 and 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 Friday, Sept 7, 2018.

You may submit written questions relevant to the proposed action to 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 Alcoholic Beverage Control Board will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and AMCO Website.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact the Alcohol and Marijuana Control Office at amco.regs@alaska.gov or call (907) 269-0350 not later than August 27, 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 and 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.

Statutory 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

Statutes being implemented, interpreted, or made specific: AS 17.38.070; AS 17.38.200; AS 17.38.210.

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

Date: July 31, 2018



Erika McConnell, Director
Alaska Alcohol and Marijuana Control Office

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Marijuana Control Board
2. General subject of regulation: Residency Requirements for marijuana licensees
3. Citation of regulation (may be grouped): 3 AAC 306.015(b); 3 AAC 306.015(e)(2); 3 AAC 306.035
4. Department of Law file number, if any: 2018200746

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 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 <u>19</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>
Other (identify)	\$ <u>0</u>	\$ <u>0</u>

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:

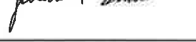
☐ Staff of state agency

☐ Federal government

☐ General public

☐ Petition for regulation change

☒ Other (identify): Marijuana Control Board

11. Date: 7/31/2018 Prepared by: 

Name (printed): Jedediah Smith

Title (printed): Local Government Specialist

Telephone: (907) 269-0350

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 306.015-.035 regarding residency requirements for marijuana licensees has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to every person who has filed a request for notice of proposed action with the state agency;
- (3) furnished to appropriate state officials;
- (4) furnished to interested persons;
- (5) furnished to the Department of Law, along with a copy of the proposed regulation;
- (6) furnished electronically to incumbent State of Alaska legislators;
- (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).

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 (2), (4) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: 11/13/18

Erika McConnell
Erika McConnell, Director

Subscribed and sworn to before me at Anchorage, Alaska, on 11/13/18.



[Signature]
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 residency requirements for marijuana licensees.

Date: 11/13/18

Erika McConnell

Erika McConnell, Director

Subscribed and sworn to before me at Anchorage, Alaska, on 11/13/18.



[Signature]

Notary Public in and for the State of Alaska

ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 270221

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

Order# 0001425477
Cost \$303.80

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

August 02, 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

Subscribed and sworn to before me
this 2nd day of August, 2018

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 TO RESIDENCY REQUIREMENTS FOR MARIJUANA LICENSEES

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Statutory 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

Statutes being implemented, interpreted, or made specific:
AS 17.38.070; AS 17.38.200; AS 17.38.210.

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

Date: July 31, 2018
/s/ Erika McConnell,
Director
Alaska Alcohol and Marijuana Control Office

Published: August 2, 2018

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 residency requirements for marijuana licensees regulation was passed by the Marijuana Control Board during its October 17, 2018, meeting.

Date: 11/13/18

Erika McConnell
Erika McConnell, Director

Subscribed and sworn to before me at Anchorage, Alaska, on 11/13/18.



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



Marijuana Control Board
DRAFT EXCERPT Meeting Minutes
October 17, 2018
Third Judicial District
145 Main Street Loop
Kenai, Alaska

● **REGULATIONS**

Public Comments Received

1. Definition of Residency

3:41pm

TAB 19

Status:

Public comment period closed September 7, 2018

Potential Board Actions:

Vote to adopt; OR

Substantially amend and put out for public comment

Loren Jones moves that the Board vote to adopt.

Jeff Ankerfelt seconds the motion.

The Board members discuss public comments received.

Motion carries unanimously.