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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Amy Demboski
Department of Commerce Community and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor
465.4081

A handwritten signature in blue ink, appearing to be "AS", is written over the "FROM:" line.

DATE: April 17, 2020

RE: Filed Emergency Regulations: Marijuana Control Board

Marijuana Control Board emergency regulation re: measures to maintain physical distance in response to COVID-19 (3 AAC 306.305; 3 AAC 306.310; 3 AAC 306.995)

Attorney General File:	Emergency Regulations
Regulation Filed:	4/17/2020
Effective Date:	4/17/2020
Expiration Date:	August 14, 2020 unless made permanent by the adopting agency
Print:	234, July 2020

cc with enclosures: Harry Hale, Department of Law
Judy Herndon, LexisNexis
Jane Sawyer, Regulations Specialist

FINDING OF EMERGENCY

The Marijuana Control Board finds that an emergency exists and that the attached emergency regulations are necessary for the immediate preservation of the public peace, health, safety, or general welfare. The facts constituting the emergency include the following:

On March 11, 2020, the governor declared a public health disaster emergency under AS 26.23.020 due to the spread of COVID-19. The Center for Disease Control and Alaska Department of Health and Social Services have warned that COVID-19 is highly contagious and that physical distancing is paramount to containing the spread of the virus. Alaska instituted public health mandates requiring that individuals maintain physical distance from people who are not members of the person's household. The mandates allow for the continued operation of businesses that provide essential services and supplies where people can maintain the required social distance when inside.

Stores providing essentials, such as groceries and pharmaceuticals, are implementing stricter measures to maintain physical distance and increasing the availability of drive-through and curbside pick-up. The Marijuana Control Board anticipates that so long as patrons are able to enter the premises of licensed marijuana retail stores for purchasing, it is necessary to take every possible step to protect the health and safety of those patrons and employees by providing purchasing opportunities that minimize physical distance between patrons and employees.

To provide constraints and avoid confusion, the board must pass emergency regulations so that enhanced physical distancing can be balanced with existing public peace, health, and safety protections, including verification that the purchasers are of eligible age.

THEREFORE: The Marijuana Control Board finds it is in the best interest of the state to enact emergency regulations 3 AAC 306.305(as amended), 3 AAC 306.310 (as amended), and 3 AAC 306.995.

ORDER CERTIFYING ADOPTION

I certify that the Marijuana Control Board under the authority of AS 17.38.121, adopted at its April 17, 2020 meeting the attached five pages of regulation changes as an emergency regulation to take effect immediately upon filing by the lieutenant governor as provided in AS 44.62.180(3).

This action is not expected to require an increased appropriation.

Date: 4/17/2020

DocuSigned by:



3877CBDD3CA4CA...
Glen Klinkhart, Interim Director

April Simpson for FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on April 17th,
20 20, at 5:34 p..m., I filed the attached regulation according to the provisions of AS 44.62.

April Simpson
for Lieutenant Governor Kevin Meyer

Effective: April 17, 2020

Register: 234, July 2020.

Expires August 14, 2020
unless made "permanent"
by the adopting agency

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, KEVIN MEYER, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

**Josh Applebee, Chief of Staff
Kady Levale, Notary Administrator
April Simpson, Regulations and Initiatives Specialist**

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on December 11th, 2018.



K. Meyer
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**KEVIN MEYER
LIEUTENANT GOVERNOR**

EMERGENCY REGULATION

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COMMERCE, COMMUNITY, AND EC. DEV.

(Words in boldface and underlined indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)

3 AAC 306.305 (a) is amended to read:

(a) A licensed retail marijuana store is authorized to

(1) sell marijuana purchased from a licensed marijuana cultivation facility, packaged and labeled as required under 3 AAC 306.345, 3 AAC 306.470, and 3 AAC 306.475 in an amount not exceeding the limit set out in 3 AAC 306.355, to an individual on the licensed premises **or as permitted under 3 AAC 306.995** for consumption off the licensed premises;

(2) sell a marijuana product purchased from a licensed marijuana product manufacturing facility, packaged and labeled as required under 3 AAC 306.345, 3 AAC 306.565, and 3 AAC 306.570, in a quantity not exceeding the limit set out in 3 AAC 306.355, to an individual on the licensed premises **or as permitted under 3 AAC 306.995** for consumption off the licensed premises;

(3) store marijuana and marijuana products on the licensed premises in a manner consistent with 3 AAC 306.710 – 3 AAC 306.720;

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(4) with prior approval of the board, permit consumption of marijuana or a marijuana product purchased on the licensed premises, in a designated area on the licensed premises.

(Eff. 2/21/2016, Register 217; am 4 / 17 / 2020, Register 234)

Authority: AS 17.38.010 AS 17.38.071 AS 17.38.121 AS 17.38.150
AS 17.38.190 AS 17.38.200 AS 17.38.900

3 AAC 306.310(a) is amended to read:

(a) A licensed retail marijuana store may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver, marijuana or a marijuana product

(1) to a person under 21 years of age;

(2) to a person that is under the influence of an alcoholic beverage, inhalant, or controlled substance;

(3) that is not labeled and packaged as required in 3 AAC 306.345 and

(A) 3 AAC 306.470 and 3 AAC 306.475; or

(B) 3 AAC 306.565 and 3 AAC 306.570;

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

(5) **unless permitted under 3 AAC 306.995** over the Internet; a licensed retail marijuana store may only sell marijuana or a marijuana product to a consumer who is physically present on the licensed premises **or who is physically present at the location designated for exterior window or curbside pickup as described and permitted under 3 AAC 306.995;**

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

(Eff. 2/21/2016, Register 217; am 4/11/2019, Register 230; am 4 / 17 / 2020, Register 234)

Authority:	AS 17.38.010	AS 17.38.071	AS 17.38.121	AS 17.38.150
	AS 17.38.190	AS 17.38.200	AS 17.38.900	

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

3 AAC 306.995. Internet and Phone Orders; Exterior Window or Curbside Pickup. (a). A retail marijuana store licensed under 3 AAC 306.300 may accept internet or telephonic orders of marijuana or marijuana products from consumers if consumers intend to be physically present at

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the time of purchase on the licensed premises or at the location designated for exterior window or curbside pickup.

(b) A retail marijuana store licensed under 3 AAC 306.300 may provide exterior window or curbside pickup of marijuana and marijuana products sold at retail only if:

(1) the marijuana or marijuana product offered for sale does not exceed the amounts set out under 3 AAC 306.355 and is packaged as required under 3 AAC 306.345;

(2) A holder of a marijuana handler permit completing the sale verifies the requirements of 3 AAC 306.350 are satisfied and that the purchaser is not an intoxicated or drunken person as described under 3 AAC 306.310(a)(4);

(3) the licensee extends the video surveillance requirements of 3 AAC 306.720 to include the area designated for exterior window or curbside pickup;

(4) the licensee submits, as applicable, a request for an operating plan change in accordance with 3 AAC 306.703 or a request for licensed premises alteration in accordance with 3 AAC 306.705, for which fees shall be waived, and the director provides written approval of such change or alteration; and

(5) the licensee provides written assurance that the local government permits the change or alteration.

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(c) A licensee that offers marijuana or marijuana products for exterior window or curbside pickup must consent to inspections of the areas designated for exterior window or curbside pickup, excluding private vehicles, at all reasonable times and in a reasonable manner by investigative personnel of the board or by other peace officers acting in their official capacity. This section is not intended to limit the existing powers of investigative personnel.

(d) For purposes of this section,

(1) “exterior window pickup” means a drive-through or sliding or opening window of a marijuana retail store from which marijuana or marijuana products may be purchased without consumers entering the licensed premises;

(2) “curbside pickup” means parking spots designated by a licensee for pickup of marijuana or marijuana products or an area immediately adjacent to an entrance to a licensee’s business premises. (Eff. 4 / 17 / 2020, Register 234)

Authority: AS 17.38.010 AS 17.38.071 AS 17.38.121 AS 17.38.150
AS 17.38.190 AS 17.38.200 AS 17.38.900