

Kevin Meyer  
Lieutenant Governor  
State Capitol  
Juneau, Alaska 99811  
907.465.3520  
WWW.LTGOV.ALASKA.GOV




530 West 7<sup>th</sup> 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:** Amy Demboski  
Department of Commerce Community and Economic Development

**FROM:** April Simpson, Office of the Lieutenant Governor   
465.4081

**DATE:** July 24, 2020

**RE:** Filed Permanent Regulations: Marijuana Control Board

Marijuana Control Board emergency regulations made permanent re: curbside delivery  
and drive-through service (3 AAC 306.995)

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Attorney General File:	2020200408
Regulation Filed:	7/24/2020
Effective Date:	4/17/2020, am 8/23/2020
Print:	235, October 2020

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

## CERTIFICATION OF COMPLIANCE

I, Glen Klinkhar, Interim Director, certify that, as required by AS 44.62.260 in order to make the attached two pages of regulations permanent, as of this date a legal opinion of the Department of Law has been requested under AS 44.62.060, a notice conforming to AS 44.62.200 was issued in compliance with AS 44.62.190, and an opportunity for public comment was provided under AS 44.62.210, for the following emergency regulation:

Emergency regulation 3 AAC 306.995 regarding curbside/window pickup of marijuana and marijuana products becoming permanent

This regulation originally was filed as an emergency regulation on April 17, 2020.

In considering the public comments, the Marijuana Control Board, paid special attention to the cost to private persons of the regulatory action being taken.

Date: 7-17-2020

  
\_\_\_\_\_  
Glen Klinkhart, Interim Director

## FILING CERTIFICATION

*April Simpson for*

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on July 24, 2020, at 12:39 p.m., I filed the attached regulation according to the provisions of AS 44.62.

*for*   
\_\_\_\_\_  
Lieutenant Governor *Kevin Meyer*

Register: 235, October 2020.

ORDER CERTIFYING THE CHANGES TO  
REGULATIONS OF THE MARIJUANA CONTROL BOARD

The attached two pages of regulations, dealing with curbside/window pickup, are certified to be a correct copy of the regulation changes that the Marijuana Control Board adopted at its July 17, 2020, 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: 7-17-2020

  
Glen Klinkhart, Interim Director

FILING CERTIFICATION

*Annel Simpson for*

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on

July 24, 20 20 at 12:40 P.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

*Annel Simpson*  
*for* Lieutenant Governor *Kevin Meyer*

Effective: August 23, 2020

Register: 235, October 2020

**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.**



A handwritten signature in blue ink, appearing to read "K. Meyer", is written over a dotted line.

**KEVIN MEYER  
LIEUTENANT GOVERNOR**

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

The emergency <sup>(adoption of)</sup> ~~Regulation~~ 3 AAC 306.995 is made permanent and that section is <sup>further</sup> amended to read:

~~Notwithstanding 3 AAC 306.305(a) and 3 AAC 306.310(a)(5),~~

~~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 the time of purchase on the licensed premises or at the location designated for exterior window or curbside pickup before November 15, 2020.~~

~~(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 before November 15, 2020, 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 under the influence or drunken person as described under 3 AAC 306.310(a)(<sup>2</sup>);~~

~~(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

that  
~~such~~ change or alteration; and

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

(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.

Nothing in this section limits

~~This section is not intended to limit~~ the existing powers of investigative personnel.

(d) For purposes of this section,

(2) (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.

(1) (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; am 8 / 23 / 2020, Register 235)

Authority: AS 17.38.010

AS 17.38.150

AS 17.38.900

AS 17.38.070

[AS 17.38.071]

AS 17.38.121

AS 17.38.190

AS 17.38.200

Editor's note: Adoption of 3 AAC 306.995 took effect on April 17, 2020, as an emergency regulation, and was first published in Register 234 (July 2020). In reviewing the

"permanent" regulations and "permanent" amendments in accordance with AS 44.62.060 and 44.62.125(b), the regulations attorney made technical changes to 3 AAC 306.995. The technical changes appeared

in the "permanent" regulations as published in Register 235 (October 2020). The history note does not reflect the changes made by the regulations attorney to the emergency regulations of April 17, 2020.

# MEMORANDUM

## State of Alaska Department of Law

**To:** The Honorable Kevin Meyer  
Lieutenant Governor

**Date:** July 23, 2020

**File No.:** 2020200408

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

**Tel. No.:** 465-3600

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

**Re:** Marijuana Control Board emergency  
regulations made permanent re:  
curbside delivery and drive-through  
service (3 AAC 306.995)

The Department of Law has reviewed, against the statutory standards of the Administrative Procedure Act, the attached emergency regulations that the Marijuana Control Board intends to make permanent with further amendments. Based upon our review, we find no legal problems. The emergency regulations were adopted on April 17, 2020, and took effect on that date. The emergency regulations will expire on August 14, 2020 unless made permanent.

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 emergency regulations were approved by the Marijuana Control Board, after the close of the public comment period, as permanent regulations with further permanent amendments. To enable the social distancing necessary for preventing the spread of the COVID-19 virus, the regulations allow the curbside delivery of marijuana or marijuana products from a marijuana retail store to consumers or delivery from an exterior window of the store for drive-through service, and add a "sunset" date of November 15, 2020, the date that--under ch. 10, SLA 2020 (FCCS SB 241)--the governor's disaster emergency declaration in response to the COVID-19 pandemic expires.

The April 17, 2020 certification of adoption order, the April 21, 2020 public notice, the June 15, 2020 public notice, and the July 17, 2020 certification of adoption order all 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. Please note that the Marijuana Control Board's permanent amendments, that will be effective 30 days after filing, are displayed in boldface and underlined, in the standard style for amendments. By contrast, we prepared our technical corrections as changes to the emergency regulations that took

effect on April 17, 2020. The technical changes are covered under that effective date, and not under the effective date of the permanent amendments. An editor's note after 3 AAC 306.995 explains our actions.

In particular, a technical edit to 3 AAC 306.995(a) indicates that 3 AAC 306.995 is an exception to 3 AAC 306.305(a) and 3 AAC 306.310(a)(5). Those provisions contain references to 3 AAC 306.995: part of the emergency regulations of April 17, 2020. Inadvertently, only 3 AAC 306.995 appeared in the regulations to be made permanent, even though that section by its terms operates as an exception to 3 AAC 306.305(a) and 3 AAC 306.310(a)(5). The emergency amendments to 3 AAC 306.305(a) and 3 AAC 306.310(a)(5) expire on August 14, 2020. Accordingly, in the history notes for 3 AAC 306.305 and 3 AAC 306.310, we ask that the publisher change the "am 4/17/2020, Register 234" notation to "em am 4/17/2020 - 8/14/2020, Register 234".

SCW

cc w/enc: Glen Klinkhart, Interim Director  
Marijuana Control Board

Amy Demboski, Regulations Contact  
Department of Commerce, Community, and Economic Development

Jane P. Sawyer, Regulations Specialist  
Alcohol and Marijuana Control Office  
Department of Commerce, Community, and Economic Development

Joan M. Wilson, Senior Assistant Attorney General  
Commercial, Fair Business, and Child Support Section



NOTICE OF PROPOSED CHANGES ON CURBSIDE/WINDOW PICKUP  
IN THE REGULATIONS OF THE MARIJUANA CONTROL BOARD

The Marijuana Control Board proposes to adopt regulation changes in 3 AAC 306 of the Alaska Administrative Code, dealing with curbside/window pickup of marijuana or marijuana product including the following:

1. emergency regulation 3 AAC 306.995 regarding curbside/window pickup is intended to become permanent with a sunset of November 15, 2020.

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 Alcohol and Marijuana Control Office at 550 West 7<sup>th</sup> Avenue, Suite 1600, Anchorage AK 99501. Additionally, the Marijuana Control Board will accept comments by email at [amco.regs@alaska.gov](mailto: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 4:30pm on July 16, 2020**.

You may submit written questions relevant to the proposed action to the Alcohol and Marijuana Control Office at 550 West 7<sup>th</sup> Avenue, Suite 1600, Anchorage, AK 99501 or to [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov). **The questions must be received at least 10 days before the end of the public comment period.** The Alcohol and Marijuana Control Office 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](mailto:amco.regs@alaska.gov) or (907) 269-0350 **not later than June 26, 2020**, 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 [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov) or (907) 269-0490.

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.

The Alcohol and Marijuana Control Office keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all the Marijuana Control Board notices of proposed regulation changes. To be added to or removed from the list, send a request to the AMCO office at [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov), giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

Date: June 12, 2020



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Jane P. Sawyer, Regulations Specialist

ADDITIONAL REGULATION NOTICE INFORMATION  
(AS 44.62.190(d))

1. Adopting agency: Marijuana Control Board
2. General subject of regulation: Curbside/Window Pickup
3. Citation of regulation (may be grouped): 3 AAC 306.995
4. Department of Law file number, if any: 2020200408

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: DCCED/Alcohol and Marijuana Control Office

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

A private person: none known

Another state agency: none known

A municipality: none known

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

	Initial Year FY <u>20</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: Jane P. Sawyer  
Title: Regulations Specialist  
Address: 550 West 7<sup>th</sup> Ave., Ste. 1600, Anchorage, AK 99501  
Telephone: 907-269-0490  
E-mail address: jane.sawyer@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: June 12, 2020

Prepared by:

Name: Jane P. Sawyer

Title: Regulations Specialist

Telephone: 907-269-0490



AFFIDAVIT OF NOTICE OF PROPOSED REGULATION  
AND FURNISHING OF ADDITIONAL INFORMATION

I, Jane P. Sawyer, Regulations Specialist, of the Marijuana Control Board, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of, and changes to, emergency regulation 3 AAC 306.995 regarding curbside/window pickup becoming permanent 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: 7-17-2020

  
Jane P. Sawyer, Regulations Specialist

Subscribed and sworn to before me at Anchorage, Alaska, on July 17, 2020.



  
Notary Public in and for the State of Alaska

AFFIDAVIT OF NOTICE OF ADOPTION  
OF EMERGENCY REGULATION  
AND FURNISHING OF ADDITIONAL INFORMATION

I, Jane P. Sawyer, Regulations Specialist of the Marijuana Control Board under penalty of perjury, state the following:

As required by AS 44.62.250, notice of the April 17, 2020, emergency changes to 3 AAC 306: response to Covid-19 outbreak – curbside/window pick up has been given under AS 44.62.190(a) 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 regulation;
- (6) electronically transmitted 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 April 17, 2020, emergency changes to the regulation described above has been furnished to interested persons and furnished to 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.

There is no notary public or other official empowered to administer oaths available to notarize this document as a result of social distancing requirements implemented statewide.

I certify under penalty of perjury that the foregoing is true.

4/23/2020

Date: \_\_\_\_\_

**DocuSigned by:**



DF54A1D34C15445...

[original or password-protected electronic signature]

Jane P. Sawyer, Regulations Specialist

State of Alaska  
Municipality of Anchorage



# ANCHORAGE DAILY NEWS

## AFFIDAVIT OF PUBLICATION

Account #: 270221 ST OF AK/ALCOHOL AND MARIJUANA  
CONTROL BOARD, ANCHORAGE, AK 99501

Order #: W0016224

Cost: \$393.46

STATE OF ALASKA  
THIRD JUDICIAL DISTRICT

Lisi Misa being first duly sworn on oath deposes and says that 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 afore-said 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

06/15/2020

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 15th day of June 2020.

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

MY COMMISSION EXPIRES

4/14/21  
ANGELA M SIMMONS  
NOTARY PUBLIC  
State of Alaska  
My Commission Expires Apr. 14, 2021

### NOTICE OF PROPOSED CHANGES ON CURBSIDE/WINDOW PICKUP IN THE REGULATIONS OF THE MARIJUANA CONTROL BOARD

The Marijuana Control Board proposes to adopt regulation changes in 3 AAC 306 of the Alaska Administrative Code, dealing with curbside/window pickup of marijuana or marijuana product including the following:

1. emergency regulation 3 AAC 306.995 regarding curbside/window pickup is intended to become permanent with a sunset of November 15, 2020.

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 Alcohol and Marijuana Control Office at 550 West 7th Avenue, Suite 1600, Anchorage AK 99501. Additionally, the Marijuana Control Board will accept comments by email at [amco.regs@alaska.gov](mailto: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 4:30pm on July 16, 2020.

You may submit written questions relevant to the proposed action to the Alcohol and Marijuana Control Office at 550 West 7th Avenue, Suite 1600, Anchorage, AK 99501 or to [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov). The questions must be received at least 10 days before the end of the public comment period. The Alcohol and Marijuana Control Office 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](mailto:amco.regs@alaska.gov) or (907) 269-0350 not later than June 26, 2020, 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 [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov) or (907) 269-0490.

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.

The Alcohol and Marijuana Control Office keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all the Marijuana Control Board notices of proposed regulation changes. To be added to or removed from the list, send a request to the AMCO office at [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov), giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

Date: June 11, 2020  
By: /s/ Jane P. Sawyer,  
Regulations Specialist

Published: June 15, 2020

AMCO

JUN 26 2020





THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

## Department of Commerce, Community, and Economic Development

Alcohol and Marijuana Control Office

550 West 7<sup>th</sup> Avenue, Suite 1600  
Anchorage, AK 99501  
Main: 907.269.0350

### Marijuana Control Board Meeting July 17, 2020, Excerpt from Unapproved Minutes

#### RESPONSE TO COVID19:

09:30 am

Consideration to make permanent regulation project: Curbside/Window Pickup.

**TAB 1**

**No oral comments/testimony will be taken for this project during this meeting. Written comment may be submitted through 7.16.20 by 4:30 pm. Public notice and project draft can be found at this link <http://notice.alaska.gov/198549> or on our website.**

*9:55 am: Jane Sawyer provides a summary to make the emergency regs permanent with a sunset date of 11/15/2020. **Bruce Schulte motions to adopt the regs as is, Nick Miller, 2nds.** Bruce clarifies the word "permanent". Joan Wilson discusses what would happen if the public health emergency is extended – would mean another special board meeting. Christopher asks the Director if Enforcement has had a chance to get out to the locations to check cameras. Glen says some have been done. **None opposed, motion passes (Casey Dschaak – not present)***

AFFIDAVIT OF BOARD ACTION

I, Glen Klinkhart, Interim Director for the Marijuana Control Board, being duly sworn, state the following:

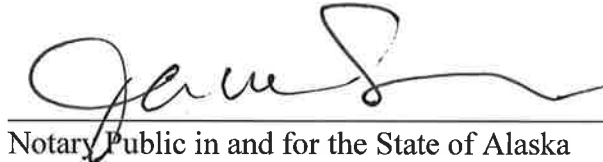
The attached motion dealing with curbside/window pickup of marijuana and marijuana products passed by the Marijuana Control Board during its July 17, 2020, meeting.

Date: 7-17-2020

  
Glen Klinkhart, Interim Director

Subscribed and sworn to before me at Anchorage, Alaska, on 7-17-2020.



  
Notary Public in and for the State of Alaska

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Glen Klinkhart, Interim Director for the Marijuana Control Board being duly sworn, state the following:

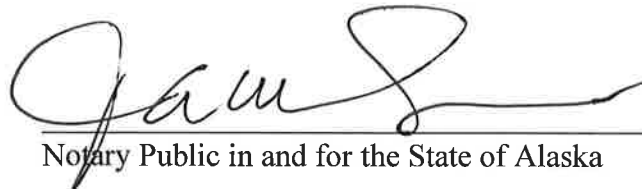
In compliance with AS 44.62.215, the Marijuana Control Board has kept a record of its use or rejection of factual or other substantive information that was submitted in writing and that was relevant to the accuracy, coverage, or other aspect of the Marijuana Control Board regulation on emergency regulation Curbside/Window Pick-up being made permanent.

Date: 7-17-2020

  
Glen Klinkhart, Interim Director

Subscribed and sworn to before me at Anchorage, Alaska, on 7-17-2020.



  
Notary Public in and for the State of Alaska

Kevin Meyer  
Lieutenant Governor  
State Capitol  
Juneau, Alaska 99811  
907.465.3520  
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530 West 7<sup>th</sup> Ave, Suite 1700  
Anchorage, Alaska 99501  
907.269.7460 269.0263  
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**MEMORANDUM**

**TO:** Amy Demboski  
Department of Commerce Community and Economic Development

**FROM:** April Simpson, Office of the Lieutenant Governor   
465.4081

**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)

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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.

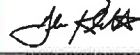
### ORDER CERTIFYING ADOPTION

I certify that the Marijuana Control 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:



3877CBCCDD3CAACA  
Glen Klinkhart, Interim Director

April Simpson for FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on April 17<sup>th</sup>,  
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*  
.....

**KEVIN MEYER  
LIEUTENANT GOVERNOR**



EMERGENCY REGULATION

Register 234, July 2020

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;

## EMERGENCY REGULATION

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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)

<b>Authority:</b>	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)

<b>Authority:</b>	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	