

Kevin Meyer
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520
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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: Amy Demboski
Department of Commerce, Community, and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: March 17, 2021

RE: Filed Permanent Regulations: Marijuana Control Board

Marijuana Control Board emergency regulations made permanent re: Exterior Window and Curbside Pickup (3 AAC 306.305, .310, and .995)

Attorney General File:	2020200698
Regulation Filed:	3/17/2021
Effective Date:	11/24/2020
Print:	238, July 2021

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

CERTIFICATION OF COMPLIANCE


I, Glen Klinkhart, certify that, as required by AS 44.62.260 in order to make the attached five 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:

Making permanent emergency regulations regarding curbside/window pickup (3 AAC 306.305(a); 3 AAC 306.310(a); 3 AAC 306.995)

This regulation originally was filed as an emergency regulation on November 24, 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: 1/7/2021

DocuSigned by:

3877CBCDD3CA4CA...

Glen Klinkhart, Interim Director

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on March 17,
2021, at 9:29 AM, I filed the attached regulation according to the provisions of AS 44.62.


Lieutenant Governor

Register: 238, July 2021.

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

The emergency amendment of made permanent

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;

display normal font; no bold or underline

(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;

*display normal font;
no bold or underline*

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

(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; em am 4/17/2020 - 8/14/2020, Register 234; am

11 / 24 / 2020, Register 236)

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 306.310(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;

(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;

all display normal font, no bold or underline)))

(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; em am 4/17/2020 -

8/14/2020, Register 234; am 11 / 24 / 2020, Register 236)

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

The repeal and
re-adoption of

made permanent

3 AAC 306.995 is ~~repealed and readopted~~ 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 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 on or before the expiration date described in ^(a) of this section 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 as described under 3 AAC 306.310(a)(2);

(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 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 the existing powers of investigative personnel.

(d) This section applies until the expiration of the governor's November ^{16,} 2020 COVID-19 public health emergency disaster declaration or any extensions or renewals of the declaration.

(e) For purposes of this section,

(1) "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 ~~premise;~~ ^{premises;}

(2) "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. (Eff. 4/17/2020, Register 234; am 8/23/2020, Register 235; am 11 / 24 / 2020, Register 236)

Authority: AS 17.38.010 AS 17.38.150 AS 17.38.900

AS 17.38.070 AS 17.38.190

AS 17.38.121 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 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.

Amendments to 3 AAC 306.995 took effect on November 24, 2020, as emergency regulations, and were first published in Register 236 (January 2021).
In reviewing the "permanent" regulations in accordance with AS 44.62.060 and 44.62.125 (b), the regulations attorney made technical changes to 3 AAC 306.995. The changes appeared in the "permanent" regulations as published in Register 237 (April 2021). The history note does not reflect the changes made by the regulations attorney to the emergency regulations of November 24, 2020.

MEMORANDUM

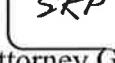
State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: March 12, 2021

File No.: 2020200698

Tel. No.: 465-3600

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

Re: Marijuana Control Board Regulation
re: 3 AAC 306.305, .310, and .995
Emergency Regulations: Exterior
Window and Curbside Pickup

The Department of Law has reviewed against the statutory standards of the Administrative Procedure Act regulations of the Marijuana Control Board regarding exterior window or curbside delivery of marijuana or marijuana product until expiration of Governor Dunleavy's November 16, 2020 disaster declaration or any extensions thereof. Based upon our review, we find no legal problems. 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 as emergency regulations by the board November 23, 2020, and will expire March 23, 2021 unless certified as permanent. The regulations concern exterior window and curbside delivery of marijuana or marijuana product, and although off-premises pickup and delivery will no longer be authorized absent an extension of the Governor Dunleavy's November 16, 2020 disaster declaration 93 AAC 306.995(d)) the board's November, 2020 action was to make them permanent.

The November 27, 2020 public notice and the January 7, 2021 certification of compliance 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.

SRP:srp

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

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

Jane Preston Sawyer, Regulations Specialist
Alcohol and Marijuana Control Board
Department of Commerce, Community, and Economic Development

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

NOTICE OF ADOPTION OF EMERGENCY REGULATION
ON RESPONSE TO COVID-19 OUTBREAK OF MARIJUANA CONTROL BOARD

On November 23, 2020, the Marijuana Control Board adopted, as an emergency regulation, changes in 3 AAC 306 of the Alaska Administrative Code dealing with COVID-19 outbreak, including the following:

- (1) 3 AAC 306.305(a) and 3 AAC 306.310(a) add language to allow for Internet and phone orders; exterior window and curbside pickup service permitted under 3 AAC 306.995.
- (2) 3 AAC 306.995 allows for Internet and phone orders, exterior window and curbside pickup until the expiration of the governor's November 6, 2020, COVID-19 public health emergency disaster declaration or any extensions or renewals of the declaration. It outlines privileges, requirements, and responsibilities of the marijuana retail store licensee providing the service. It defines "curbside pickup" and "exterior window pickup" for the purposes of this regulation.

The emergency regulation took effect November 24, 2020, and will expire March 23, 2021. The Marijuana Control Board intends to make the emergency regulation permanent.

You may comment on the regulation changes, including the potential costs to private persons of complying with the changes, by submitting written comments to Marijuana Control Office at 550 West 7th Avenue, Suite 1600, Anchorage, AK 99501. Additionally, the Marijuana Control Office will accept comments by electronic mail at amco.regs@alaska.gov. Comments also may 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 p.m. on January 4, 2021.**

You may submit written questions relevant to the proposed action to Marijuana Control Office by electronic mail at amco.regs@alaska.gov or 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 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's website. The Marijuana Control Office may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Alcohol and Marijuana Control Office at 907-269-0490 not later than December 14, 2020, to ensure that any necessary accommodation can be provided.

A copy of the emergency regulation is available on the Alaska Online Public Notice System or by contacting Alcohol and Marijuana Control office at amco.regs@alaska.gov or 907-269-0490.

The language of the permanent regulation may be different from that of the original emergency regulation and may include other provisions dealing with the same subject. 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 regulation is not expected to require an increased appropriation.

Date: November 27, 2020

A handwritten signature in dark ink, appearing to read 'Jane Sawyer', is positioned above a horizontal line.

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 306.305 - .310, 3 AAC 306.995
4. Department of Law file number, if any: 2020200698

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: 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>21</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 7th 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 change⁷
☒ Other (identify): Marijuana Control Board

11. Date: November 27, 2020

Prepared by: 
Name (printed): Jane P. Sawyer
Title (printed): Regulations Specialist
Telephone: 907-269-0490

ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

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

Order #: W0019232

Cost: \$393.46

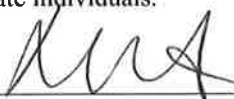
STATE OF ALASKA THIRD JUDICIAL DISTRICT

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

12/01/2020

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 1st day of December 2020.

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

MY COMMISSION EXPIRES

4/14/2021

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

NOTICE OF ADOPTION OF EMERGENCY REGULATION ON RESPONSE TO COVID-19 OUTBREAK OF MARIJUANA CONTROL BOARD

On November 23, 2020, the Marijuana Control Board adopted, as an emergency regulation, changes in 3 AAC 306 of the Alaska Administrative Code dealing with COVID-19 outbreak, including the following:

- (1) 3 AAC 306.305(a) and 3 AAC 306.310(a) add language to allow for Internet and phone orders; exterior window and curbside pickup service permitted under 3 AAC 306.995.
- (2) 3 AAC 306.995 allows for Internet and phone orders, exterior window and curbside pickup until the expiration of the governor's November 6, 2020, COVID-19 public health emergency disaster declaration or any extensions or renewals of the declaration. It outlines privileges, requirements, and responsibilities of the marijuana retail store licensee providing the service. It defines "curbside pickup" and "exterior window pickup" for the purposes of this regulation.

The emergency regulation took effect November 24, 2020, and will expire March 23, 2021. The Marijuana Control Board intends to make the emergency regulation permanent.

You may comment on the regulation changes, including the potential costs to private persons of complying with the changes, by submitting written comments to Marijuana Control Office at 550 West 7th Avenue, Suite 1600, Anchorage, AK 99501. Additionally, the Marijuana Control Office will accept comments by electronic mail at amco.regs@alaska.gov. Comments also may 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 p.m. on January 4, 2021.

You may submit written questions relevant to the proposed action to Marijuana Control Office by electronic mail at amco.regs@alaska.gov or 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 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's website. The Marijuana Control Office may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Alcohol and Marijuana Control Office at 907-269-0490 not later than December 14, 2020, to ensure that any necessary accommodation can be provided.

A copy of the emergency regulation is available on the Alaska Online Public Notice System or by contacting Alcohol and Marijuana Control office at amco.regs@alaska.gov or 907-269-0490.

The language of the permanent regulation may be different from that of the original emergency regulation and may include other provisions dealing with the same subject. 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 regulation is not expected to require an increased appropriation.

Date: November 27, 2020

By: /s/ Jane P. Sawyer,
Regulations Specialist

Published: December 1, 2020

AMCO

DEC - 2 2020

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

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

As required by AS 44.62.250, notice of the November 24, 2020, emergency changes to 3 AAC 306.305, 3 AAC 306.310, 3 AAC 306.995, curbside/window pickup 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 November 24, 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.

Date: 11/27/2020

DocuSigned by:

DF54A1D34C15445...

[original or password-protected electronic signature]
Jane P. Sawyer, Regulations Specialist

State of Alaska
Municipality of Anchorage

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Glen Klinkhart, Interim Director for Alcohol and Marijuana Control Office, under penalty of perjury, 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 making permanent the emergency regulation regarding curbside/window pickup (3 AAC 306.305(a); 3 AAC 306.310(a); 3 AAC 306.995).

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.

Date: 1/7/2021

DocuSigned by:



3877CBCDD3CA4CA...

[original or password-protected electronic signature]

Glen Klinkhart, Interim Director

State of Alaska
Municipality of Anchorage

AFFIDAVIT OF BOARD ACTION


I, Glen Klinkhart, Interim Director for the Marijuana Control Board, under penalty of perjury, state the following:

The attached motion dealing with making permanent emergency regulations regarding curbside/window pickup was passed by the Marijuana Control Board during its January 7, 2021 meeting.

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.

Date: 1/7/2021

DocuSigned by:

3877CBCDD3CA4CA...

[original or password-protected electronic signature]
Glen Klinkhart, Interim Director

State of Alaska
Municipality of Anchorage



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community, and Economic Development

Alcohol and Marijuana Control Office

550 West 7th Avenue, Suite 1600
Anchorage, AK 99501
Main: 907.269.0350

Marijuana Control Board Meeting January 7, 2021, excerpt from unapproved meeting minutes

Curbside/Window Pickup - extension – emergency regulations becoming permanent

TAB 42

Status: public comment closed January 4, 2021. Comments received.

Potential Board Actions: vote to adopt; amend and put out for public comment; send back to staff for revisions; close project without action.

1/7/2021 9:21 am: Jane presents the update and comments. Permanent but still an expiration date between emergency declaration is over and the march board meeting. Temporary measure per the board's directive. **Bruce Schulte motions to adopt. Nick Miller seconds. none opposed, motion carries 4-0 (Casey Dschaak not present)**

Kevin Meyer
Lieutenant Governor
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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

DATE: November 24, 2020

RE: Filed Emergency Regulations: Marijuana Control Board

Marijuana Control Board emergency regulations re: curbside and window pickup (3 AAC 306.305(a); 3 AAC 306.310(a); 3 AAC 306.995)

Attorney General File:	Emergency Regulations
Regulation Filed:	11/24/2020
Effective Date:	11/24/2020
Expiration Date:	March 23, 2021 unless made permanent by the adopting agency
Print:	236, January 2021

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

FINDING OF EMERGENCY

The Marijuana Control Board finds that an emergency exists and that the attached 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 November 6, 2020, the governor declared a public health disaster emergency under AS 26.23.020 due to the outbreak and continued spread of COVID-19: in particular, widespread community transmission. The declaration is effective November 16, 2020 to December 15, 2020 and replaces a prior declaration of public health emergency that expired November 15, 2020.

The United States Centers for Disease Control and Prevention and the 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 where people can maintain the required social distance when inside. Marijuana retail stores continue to operate and are open.

Marijuana retail stores have implemented strict measures, including capacity limitations, physical distancing, and mask requirements, to minimize the spread of COVID-19. Under the prior emergency, the board concluded those efforts were enhanced by permitting window and curbside delivery of retail purchases. The board concludes that so long as patrons are able to enter the premises of retail marijuana stores, it is necessary to take every possible step to protect the health and safety of those patrons and employees engaged in a retail transaction. Therefore, the Board concludes it is necessary to again permit curbside and window delivery of retail orders for the length of this COVID-19 public health emergency, any extension of this emergency, or any new adoption of this emergency by the Governor or Alaska State Legislature

To protect the public health, the board must pass emergency regulations to permit window and curbside delivery.

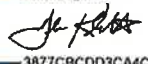
THEREFORE: The Marijuana Control Board finds that it is in the best interest of the state to enact emergency regulations.

ORDER CERTIFYING ADOPTION

I certify that the Marijuana Control Board under the authority of AS 17.38.121 and 17.38.190, adopted at its November 23, 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: 11/24/2020

DocuSigned by:

3877C8CDD3CA4CA

Glen Klinkhart, Interim Director

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on November 24,
2020, at 1:10 pm, I filed the attached regulation according to the provisions of AS 44.62.


for Lieutenant Governor Kevin Meyer

Effective: November 24, 2020.

Register: 236, January 2021.

Expires March 23, 2021
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**

(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;

(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; em am 4/17/2020 - 8/14/2020, Register 234; am 11 / 24 / 2020, Register 236)

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 306.310(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;

(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; em am 4/17/2020 - 8/14/2020, Register 234; am 11 / 24 / 2020, Register 236)

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 306.995 is repealed and readopted 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 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 on or before the expiration date described in (a) of this section 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 as described under 3 AAC 306.310(a)(2);

(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 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 the existing powers of investigative personnel.

(d) This section applies until the expiration of the governor's November 6, 2020 COVID-19 public health emergency disaster declaration or any extensions or renewals of the declaration.

(e) For purposes of this section,

(1) "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 premise;

(2) “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. (Eff. 4/17/2020, Register 234; am 8/23/2020, Register 235; am 11 / 24 / 2020, Register 236)

Authority: AS 17.38.010 AS 17.38.150 AS 17.38.900

AS 17.38.070 AS 17.38.190

AS 17.38.121 AS 17.38.200



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community, and Economic Development

Alcohol and Marijuana Control Office

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Marijuana Control Board Meeting November 23, 2020, Unapproved Minutes

Curbside/Window Pickup – extension – emergency regulation

1:00 p.m. Loren Jones calls the meeting to order.

Loren Jones lists the board members and staff present in the Zoom meeting:

Nick Miller
Casey Dschaak
Christopher Jaime
Bruce Shulte
Loren Jones
Glen Klinkhart
Carrie Craig
Joan Wilson
Jane Sawyer
Nathan Hall

Loren Jones asks whether there are any changes to the agenda. Agenda approved.

Loren Jones addresses board governance on the agenda. No changes. And there is no public testimony.

Loren Jones tells the board they received two emails with the emergency regulations attached, and turns it over to counsel.

Joan Wilson summarizes the reason for the emergency regulations and what they would do. Explains that the Alcoholic Beverage Control Board adopted emergency regulations in response to Title 4 provisions being suspended by the governor. She asks the board to have the discussion.

Bruce Shulte moves to move the packet which is the Emergency Findings and emergency regulations.

Nick Miller seconds.

Discussion:

Bruce Shulte talks about what the board discussed at the last meeting where the board did not want to move forward with extending curbside/window pickup at that time: it was unknown whether the governor was going to extend the emergency declaration, it was prudent to let the emergency regulations sunset. Now that the governor extended the emergency declaration, it changes the dynamic hence the board is reconsidering extending curbside/window pickup.

Nick Miller states he has spoken to customers who are not happy about not having curbside/window pickup. It's hard to explain to customers why marijuana does not have regulations that allow for

curbside/window. He wants to let the board that there is significant public concern about not being able to.

Loren Jones offers some background regarding the emergency regulations. Asks question to Joan Wilson regarding “sunset” of these emergency regulations.

Joan Wilson answers his questions. The emergency regulations are depended upon the governor’s extension of the declaration. She lets the board know what the ABC Board did: sent it out for public comment to adopt as a permanent regulation.

Chris Jaime asks if they move forward with a permanent regulation, would they still have a sunset?

Joan Wilson, yes and she explains further.

Casey Dschaak, would we be adopting these as permanent regulations today?

Joan Wilson, no, they would be sent out for public comment. Today you would only be adopting emergency regulations.

Casey Dschaak expresses his concerns regarding continuing the practice of curbside/window pickup via emergency regulations.

Bruce Schulte asks about the correlation between 120-day to the governor’s declaration. But he believes there is a need for these emergency regulations.

Joan Wilson responds.

Roll call: Mr. Jaime, yes. Mr. Dschaak, no. Mr. Schulte, yes. Mr. Miller, yes. Mr. Jones, yes. Motion passes 4-1.

Consideration of making the emergency regulations permanent.

Bruce Schulte motions to put these regulations out for public comment.

Nick Miller seconds.

Discussion:

Bruce Schulte says the word “permanent” gives him pause. He explains further.

Loren Jones follows up on Bruce Schulte’s comments.

Casey Dschaak asks about what data has been collected regarding curbside/window pickup. Has there been any problems?

Loren Jones, suggest having a special meeting if the regulations do not make it to the January 2021 meeting to have more discussion about the topic.

Nick Miller seconds Casey’s comments. He wants enforcement input. Have there been any problems?

Glen Klinkhart comments on the enforcement side of it.

Joan Wilson states there are enforceability constraints in that AMCO does not have the authority to go inside anyone’s car where these transactions are occurring, and also the fact that children may be inside the vehicle. That’s another thing to take into consideration. To her knowledge most of the states have only made these regulations temporary. She clarifies and lets licensees who are listening know that these emergency regulations will not become effective until the Lt. Governor signs them. She wants people to know that the board’s action is not the end of the process.

Loren Jones recognizes Sarah Oates and reminds her that the board is not taking public comment. Sarah Oates makes comments about the word “permanent” on the alcohol emergency regulations and the confusion it caused to the industry. Makes a recommendation about the public notice for marijuana.

Joan Wilson states that that language is language that needs to be put on the public notice and the way it is clarified is through a FAQ. The same words will be on the public notice to meet the requirements of the Administrative Procedures Act with Department of Law. Joan states that an FAQ or advisory can

advise people regarding the “permanent” confusion should the public/licensees not read the regulations but it is their obligation to read them.

Jane Sawyer asks the board if it will be taking oral comments at the January meeting. She states she will do her best to have them in front of the at the January meeting even though is tight deadline.

Loren Jones states no.

Roll call on the motion to put them out for public comment: Casey Dschaak, yes. Christopher Jaime, yes. Nick Miller, yes. Bruce Schulte, yes. Loren Jones, yes. Motion carries.

1:25 p.m. meeting adjourned

AFFIDAVIT OF BOARD ACTION

I, Glen Klinkhart, Interim Director for the Marijuana Control Board, under penalty of perjury, state the following:


The attached motion dealing with emergency regulations for curbside/window pickup of marijuana or marijuana product was passed by the Marijuana Control Board during its November 23, 2020, meeting.

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.

11/24/2020

Date: _____

DocuSigned by:

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[original or password-protected electronic signature]

Glen Klinkhart, Interim Director

State of Alaska
Municipality of Anchorage