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**OFFICE OF THE LIEUTENANT GOVERNOR
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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:

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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;

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(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;

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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;

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(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 repeated 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.