

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**

**MEMORANDUM**

**TO:** Victoria Caltagirone  
Department of Commerce, Community and Economic Development

**FROM:** Kady Levale, Office of the Lieutenant Governor *KJ*  
465.3509

**DATE:** June 30, 2022

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

Marijuana Control Board regulations re: limited reinstatement of lapsed license (3 AAC 306.035, 3 AAC 306.080 - 3 AAC 306.100)

---

Attorney General File:	2020200666
Regulation Filed:	6/30/2022
Effective Date:	7/30/2022
Print:	243, October 2022

cc with enclosures: Colleen Bailey, Department of Law  
Judy Herndon, LexisNexis  
Jane Sawyer, Regulations Specialist

ORDER CERTIFYING THE CHANGES TO  
REGULATIONS OF MARIJUANA CONTROL BOARD

The attached nine pages of regulations, dealing with reinstatement of license – failure to renew, are certified to be a correct copy of the regulation changes that the Marijuana Control Board adopted as amended at its April 13-14, 2022, 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 received, 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: June 10, 2022

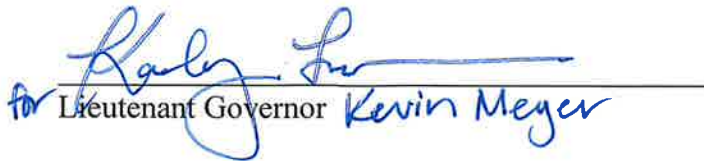
  
\_\_\_\_\_  
Joan M. Wilson, Director

FILING CERTIFICATION

*Kady Levale for*

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

June 30, 2022 at 11:35 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

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

Effective: July 30, 2022.

Register: 24<sup>th</sup> October 2022

**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.**



*Kevin Meyer*

**KEVIN MEYER  
LIEUTENANT GOVERNOR**

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

*The section heading of*  
3 AAC 306.035 introductory language is amended to read:

3 AAC 306.035. Application for renewal of license; reinstatement for failure to timely

renew.

*(((the period is bold only)))*

3 AAC 306.035(d) is amended to read:

(d) The director may require an applicant for renewal or reinstatement of a license under this chapter to submit fingerprints and pay fees as required by 3 AAC 306.055(a).

3 AAC 306.035(g) is amended to read:

(g) If a marijuana establishment required to submit a renewal application under (a) of this section fails to deliver a complete license renewal application or fails to pay the required renewal fee and the late renewal application fee on or before August 31 of each year, that marijuana establishment license expires at 12:00 midnight on August 31 of that year. A holder of an expired license shall immediately surrender the license to the board. Any holder of an expired license that seeks authority to operate must file a complete new application under 3 AAC 306.020, and 3 AAC 306.025, along with the required fees. A holder of an expired license may apply for reinstatement as described in (i) of this section.

3 AAC 306.035 is amended by adding a new subsection to read:

Register 243, October 2022 COMMERCE, COMMUNITY, AND EC. DEV.

(i) A holder of an expired license under (g) of this section may apply to the board for reinstatement of a license <sup>not</sup> ~~no~~ later than September 30 of the year on which the license expired.

When applying for reinstatement, the applicant shall <sup>o</sup>

(1) submit a statement of reason, on a form prescribed by the board, for not submitting a renewal application on time;

(2) submit a complete renewal application as required in (b) of this section, including the license renewal fees, and, if applicable, fingerprint <sup>CS</sup> and fees as required by 3 AAC 306.055(a);

(3) attest that the applicant has not been granted reinstatement under this section during the prior five years;

(4) satisfy any additional requirements for reinstatement of the license as required by the board <sup>or CS; and</sup>

(5) pay the non-refundable license reinstatement fee set out under 3 AAC 306.100(b).

3 AAC 306.035 is amended by adding a new subsection to read:

(j) Nothing in (i) of this section gives any person a right to reinstatement of the license. License reinstatement will be granted solely as described under this chapter.

3 AAC 306.035 is amended by adding a new subsection to read:

(k) Granting license reinstatement does not prevent the board from taking additional disciplinary action against the licensee. (Eff. 2/21/2016, Register 217; am 12/28/2017, Register

Register 243, October 2022 COMMERCE, COMMUNITY, AND EC. DEV.

224; am 2/21/2019, Register 229; am 3/25/20, Register 233; am 7 / 30 / 2022, Register 243)

**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

3AAC 306.080 is repealed and readopted to read:

((bolded))  
3 AAC 306.080. **Denial of license or endorsement application.** (a) After review of the application, including the applicant's proposed operating plan and all relevant information, the board will deny an application for a new license or new onsite consumption endorsement if the board finds that

(1) the application is not complete as required under the applicable provisions of 3 AAC 306.020 - 3 AAC 306.055, or contains any false statement of material fact;

(2) the license or endorsement would violate any restriction in 3 AAC 306.010 or 3 AAC 306.015;

(3) the license or endorsement would violate any restriction applicable to the particular license type authorized under this chapter;

(4) the license or endorsement is prohibited under this chapter as a result of an ordinance or election conducted under AS 17.38.210, 3 AAC 306.200, or 3 AAC 306.230;

(5) the applicant's actions or the operating plan does not adequately demonstrate that the applicant will comply with applicable provisions of this chapter;

(6) the license or endorsement would not be in the best interests of the public; or

Register ~~243~~, October 2022 COMMERCE, COMMUNITY, AND EC. DEV.

(7) a protest by the local governing body is not arbitrary, capricious, and unreasonable.

(b) After review of the application and all relevant information, the board will deny an application for renewal of a marijuana establishment license if the board finds

(1) any cause listed in (a) of this section;

(2) that the license or endorsement has been operated in violation of a condition or restriction the board previously imposed;

(3) that the applicant is delinquent in the payment of taxes due in whole or in part from operation of the licensed business;

(4) that a protest by the local governing body is not arbitrary, capricious, and unreasonable; or

(5) that the applicant has lost right to possession of the applicant's licensed premises.

(c) After review of the application and all relevant information, the board will deny an application for reinstatement of license due to failure to submit a timely renewal if the board finds

(1) any cause listed in (a) or (b) of this section;

(2) violation of any terms of administrative hold <sup>OR</sup> or seizure of marijuana or

<sup>any</sup> marijuana product as described in 3 AAC 306.830;

(3) the application was submitted later than September 30 of the given applicable year;

(4) the applicant has had an application for reinstatement granted during the five years before application submittal; or

(5) the failure to submit a timely renewal application is due to inexcusable oversight; inexcusable oversight includes failure to submit a renewal application, if the director proves that the licensee

(A) was sent communications by the director that an application was due but ignored the notice; or

(B) engaged in other conduct evidencing bad faith or disregard of the application requirements.

(d) After review of the application and all relevant information, the board will deny an application for transfer of license to another person if the board finds

(1) any cause listed in (a) of this section;

(2) that the transferor has not paid all debts or taxes arising from the operation of the business licensed under this chapter unless the transferor gives security for the payment of the debts or taxes satisfactory to the creditor or taxing authority;

(3) that transfer of the license to another person would result in violation of the provisions of this chapter relating to identity of licensees and financing of licensees;

(4) that the prospective transferee does not have the qualifications of an original applicant required under this chapter; or

(5) that a protest by the local governing body is not arbitrary, capricious, and unreasonable.



Register 243, October 2022 COMMERCE, COMMUNITY, AND EC. DEV.

(e) If the board denies an application for a new license, renewal of a license, reinstatement of license, license conversion, or transfer of a license to another person, the board will, not later than 15 days after the board meeting at which the application was denied, furnish a written statement of issues to the applicant, explaining the reason for the denial in clear and concise language, and identifying any statute or regulation on which the denial is based. In the notice of denial the board will inform the applicant of the right to an informal conference under 3 AAC 306.085 and to a formal hearing under 3 AAC 306.090.

(f) After review of the application and all relevant information, the board will deny an application for license conversion if the board finds that

- (1) the application contains any false statement of material fact;
- (2) the license would violate any restriction applicable to the particular license type authorized under this chapter;
- (3) the license is prohibited under this chapter as a result of an ordinance or election conducted under AS 17.38.210, 3AAC 306.200, or 3 AAC 306.230;
- (4) the applicant's actions or the application does not adequately demonstrate that the applicant will comply with applicable provisions of this chapter;
- (5) a protest by the local governing body is not arbitrary, capricious, and unreasonable; or
- (6) the license conversion would not be in the best interest of the public.

(Eff. 2/21/2016, Register 217; am 2/21/19, Register 229; am 8/21/2019, Register 231; am 8/7/2021, Register 239; Eff.

am 7/30/2022, Register 243)

Register 243, October 2022 COMMERCE, COMMUNITY, AND EC. DEV.

**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 306.085(a) is amended to read:

(a) If an applicant for a new license, renewal of a license, **license reinstatement**, license conversion, or transfer of a license to another person is aggrieved by an action of the board denying the application, the applicant may, not later than 15 days after the date of the written notice of denial, request an informal conference with the director or the board. An informal conference requested under this section must be held at a time and place convenient to the applicant and the board, but not later than the next scheduled meeting of the board. An informal conference may be conducted telephonically.

(Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229; am 7/30/2022; Register 243)

**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 306.090(a) is amended to read:

(a) If an applicant for a new license, renewal of a license, **license reinstatement**, license conversion, or transfer of a license is aggrieved by an action of the board denying the application, the applicant may request a formal hearing by filing a notice of defense in

*← (u. bold / u. d. ))*

Register 243, October 2022 COMMERCE, COMMUNITY, AND EC. DEV.

compliance with AS 44.62.390 not later than 15 days after the date of the written notice of the denial, or as provided in 3 AAC 306.085(b) if the applicant requested and participated in an informal conference. Failure to file a notice of defense as provided in this section constitutes a waiver of the right to a formal hearing. (Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229; am Eff. 7 / 30 / 2022 , Register 243)

**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 306.095 is amended to read:

(a) An aggrieved applicant or marijuana establishment license holder may appeal to the board regarding any action of the director, or an employee or agent of the board regarding an application for a new license, a license renewal, <sup>a</sup> license reinstatement, a license conversion, or a transfer of license to another person.

(b) An applicant or marijuana establishment license holder aggrieved by a final decision of the board regarding an application for a new license, a license renewal, <sup>a</sup> license reinstatement, a license conversion, or a transfer of license to another person may appeal to the superior court under AS 44.62.560. (Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229; am ~~Eff.~~ 7 / 30 / 2022 , Register 243)

**Authority:** AS 17.38.010 AS 17.38.150 AS 17.38.200

Register 243, October 2022 COMMERCE, COMMUNITY, AND EC. DEV.

AS 17.38.070                      AS 17.38.190                      AS 17.38.900

AS 17.38.121

3 AAC 306.100(b) is amended to read:

(b) The non-refundable application fee for a license renewal application is \$600. If a renewal application is late as provided under 3 AAC 306.035(e), an additional non-refundable late renewal application fee is \$1,000. The non-refundable application fee for renewal of an onsite consumption endorsement is \$600. **The non-refundable reinstatement fee for an expired license under 3 AAC 306.035(i) is equal to 100 percent of the applicable renewal license fee in addition to the applicable renewal fees.**

(Eff. 2/21/2016, Register 217; am 7/19/2017, Register 223; am 8/11/2018, Register 227; am 2/21/2019, Register 229; am 4/11/2019, Register 230; am 5/1/2019, Register 230; am 5/9/2019, Register 230; am 3/25/2020, Register 233; am ~~Eff.~~ 7/30/2022, Register 243)

**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