

Nancy Dahlstrom
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520
WWW.LTGOV.ALASKA.GOV



530 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Victoria Caltagirone

FROM: Department of Commerce, Community and Economic Development
April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: June 23, 2023

RE: Filed Permanent Regulations: Alcohol and Marijuana Control Office

Department of Commerce, Community, and Economic Development - Alcohol and Marijuana Control Office regulations re: enforcement action process (3 AAC 306)

Attorney General File: 2021200506

Regulation Filed: 6/23/2023

Effective Date: 7/23/2023

Print: 247, October 2023

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



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Law

CIVIL DIVISION

P.O. Box 110300
Juneau, Alaska 99811
Main: 907.465.3600
Fax: 907.465.2520

June 13, 2023

The Honorable Nancy Dahlstrom
Lieutenant Governor
State of Alaska
P.O. Box 110015
Juneau, AK 99811-0015

Re: 2021200506 -- Department of Commerce,
Community, and Economic Development,
Alcohol and Marijuana Control Office;
amendments to 3 AAC 306; enforcement action
process

Dear Lieutenant Governor Dahlstrom:

The Department of Law has reviewed the attached regulations of the Alcohol and Marijuana Control Office against the statutory standards of the Administrative Procedure Act. 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 Alcohol and Marijuana Control Office adopted the regulations after the close of the public comment period. The regulations primarily concern amendment of 3 AAC 306 to update and repeal provisions related to the enforcement action process for commercial marijuana permittees. Relatedly, the regulations also amend 3 AAC 306 to update requirements concerning administrative holds, civil fines, and the appeal process for a permittee who has been aggrieved by the enforcement action process.

The January 24, 2022 public notice, the February 2, 2022 supplemental notice, and the June 2, 2023 order certifying changes to regulations 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.

To: The Honorable Nancy Dahlstrom
Our file: 2021200506

June 13, 2023
Page 2 of 2

In accordance with AS 44.62.060 we have made a number of technical corrections to the regulations. The corrections are incorporated into the attached copy of the regulations.

Sincerely,

TREG R. TAYLOR
ATTORNEY GENERAL

By: **Rebecca C. Polizzotto**
Rebecca C. Polizzotto
Chief Assistant Attorney General
Legislation, Regulations, and
Legislative Research Section

Digitally signed by
Rebecca C. Polizzotto
Date: 2023.06.13
10:42:11 -08'00'

RCP:bws

CC w/enclosure: Jane Sawyer, Regulations Contact
Department of Commerce, Community and Economic Development

Brad Sharp, Assistant Attorney General
Department of Law

Kevin Higgins, Assistant Attorney General
Department of Law

Steven C. Weaver, Assistant Attorney General
Department of Law

APPENDIX J: Certification Order

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF THE MARIJUANA CONTROL BOARD

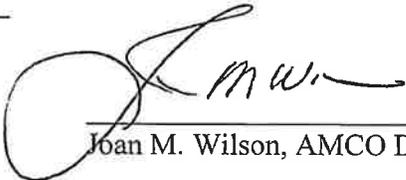
The attached ^{21 JMW} 15 pages of regulations, dealing with enforcement action, are certified to be a correct copy of the regulation changes that the Marijuana Control Board adopted at its June 1, 2023, meeting, under the authority of AS 17.38.121 and after compliance with the Administrative Procedure 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.

Although no public comments were 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 2, 2023


Joan M. Wilson, AMCO Director

April Simpson for

FILING CERTIFICATION

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on June 23, 2023 at 12:38 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.


for Lieutenant Governor Nancy Dahlstrom

Effective: July 23, 2023

Register: 247, October 2023

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, NANCY DAHLSTROM, 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:

April Simpson, Regulations and Initiatives Specialist

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on May 15th, 2023.



A handwritten signature in blue ink, reading "Nancy Dahlstrom", is written over a horizontal dotted line.

**NANCY DAHLSTROM
LIEUTENANT GOVERNOR**

3 AAC 306.800 is repealed:

3 AAC 306.800. Inspection and investigation. Repealed. (Eff. 2/21/2016, Register 217; am 12/6/2020, Register 236; am 12/10/2020, Register 236; repealed 7/23/2023, Register 247)

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

3 AAC 306.801. Powers and duties. (a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity may

(1) inspect, at a reasonable time and in a reasonable manner, the licensed premises of a marijuana establishment, including

(A) overlapping premises approved by the board under 3 AAC 306.705(d) and 3 AAC 306.710(d);

(B) marijuana and marijuana products;

(C) equipment used in cultivating, processing, testing, or storing marijuana, and

(D) the marijuana establishment's marijuana inventory tracking system, business records, and computers;

(2) issue a verbal warning, an inspection report, an advisory notice, or a notice of violation as set out under 3 AAC 306.806;

(3) seize or place an administrative hold on marijuana or any marijuana product as set out under 3 AAC 306.830;

(4) execute a search warrant;

(5) exercise peace officer powers as authorized under AS 17.38.131;

(6) file an accusation for suspension, revocation, or other disciplinary action on a license, permit, or endorsement; and

(7) take any other action the director considers necessary to ensure the enforcement of AS 17.38 and this chapter.

(b) A marijuana establishment, licensee, employee, or agent in charge shall cooperate with the director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity to enforce AS 17.38 or this chapter including to

(1) permit entry to and inspection of the licensed premises; and

(2) provide access to business records not later than 10 business days after a request by the director, an enforcement agent, an employee of the board, or a peace officer. (Eff.

7/23/2023, Register 247)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

3 AAC 306.805 is repealed:

3 AAC 306.805. Report or notice of violation. Repealed. (Eff. 2/21/2016, Register 217; repealed 7/23/2023, Register 247)

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

3 AAC 306.806. Verbal warning, inspection report, advisory notice, or notice of violation. (a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity may issue a verbal warning, an inspection report, an advisory notice, or a notice of violation on a license, permit, or endorsement.

(b) A verbal warning may be issued to address a situation where a violation of a statute, regulation, or local law on the licensed premises is quickly correctable and does not pose an immediate risk to public safety or health. A verbal warning may be documented in the licensee's enforcement file maintained by the director.

(c) An inspection report may be issued to document an inspection of the licensed premises. An inspection report must be prepared on a form prescribed by the board and include information set out under AS 17.38, this chapter, or required by the board. An inspection report must be documented in the licensee's enforcement file maintained by the director.

(d) A written advisory notice may be issued to document an incident or defect that violates statute, regulation, or local law for which a verbal warning is not provided. The advisory notice may be issued based on information recorded on an inspection report or another record maintained by the director. An advisory notice may be grounds for issuance of a notice of violation or accusation. The advisory notice must be documented in the licensee's enforcement file maintained by the director.

(e) A written notice of violation may be issued to address more serious or repetitive violations of AS 17.38, this chapter, or local law that has occurred or is occurring on the licensed premises, including overlapping premises. It may be issued as a stand-alone document or based

on a single event described in a previously issued inspection report or advisory notice. A notice of violation must meet the requirements set out under 3 AAC 306.809. (Eff. 7/23/2023, Register 247)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

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

3 AAC 306.809. Notice of violation. (a) A notice of violation must be in writing on a form approved by the board and include

- (1) a description of each violation;
- (2) a statement of applicable statutes, regulations, or local laws that were violated;
- (3) a description of any history of prior violations of AS 17.38 and this chapter by the licensee;
- (4) the recommended disciplinary action, including a fine or probation; and
- (5) the signature of the investigator from the office.

(b) The notice of violation must be delivered to the licensee at the licensee’s licensed premises, filed with the board, and, if applicable, delivered to the appropriate law enforcement agency. The notice of violation must be documented in the licensee’s enforcement file maintained by the director.

(c) A licensee may contest a notice of violation or a recommended disciplinary action by filing a written response to the director not later than 10 days after licensee’s receipt of the

notice. In the written response, the licensee may either contest the notice of violation as an appeal of the director's decision as described under 3 AAC 306.845 or request an informal conference with the director under 3 AAC 306.844.

(d) If a licensee's written response requests an informal conference with the director under 3 AAC 306.844, the director shall schedule the conference not later than 10 days after receipt of the request. Thereafter, the director may uphold the recommended disciplinary action, reduce the disciplinary action, or dismiss the notice of violation. The director's decision to uphold the recommended disciplinary action, reduce the disciplinary action, or dismiss the notice of violation must be documented in the licensee's enforcement file maintained by the director.

(e) If the licensee requests that the notice of violation be addressed by the board, either after or without conferencing with the director, the board will consider the notice of violation as an appeal of a director's decision at its next regularly scheduled meeting. At that meeting, the director shall present information and witnesses sufficient to prove to the satisfaction of the board that the violation occurred and the recommended fine or other disciplinary action is consistent with board precedent; the licensee may present information and witnesses to contest the disciplinary action and rebut the director's presentation.

(f) Following the presentation described in (e) of this section, the board shall determine whether a preponderance of evidence supports upholding the notice of violation and, if so, determine the appropriate fine or other disciplinary action based on board precedent. The board may vacate the notice of violation, decrease the recommended disciplinary action, or order additional disciplinary action, including a request that the director prepare an accusation for suspension or revocation of the license.

(g) A decision by the board relating to a notice of violation, civil fine, or other disciplinary action may be appealed to the superior court under AS 44.62.560, excluding a request that the director prepare an accusation for suspension or revocation of a license.

(h) A notice of violation may be the basis of a proceeding to suspend or revoke a marijuana establishment's license as set out under 3 AAC 306.810. (Eff. 7/23/2023, Register 247)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

The introductory language of 3 AAC 306.810(b) is amended to read:

(b) The board may suspend or revoke a license issued under this chapter, refuse to renew a license, **order probation as described under 3 AAC 306.836**, or impose a civil fine **as described under 3 AAC 306.840** [,] if the board finds that a licensee for a marijuana establishment

...

The introductory language of 3 AAC 306.810(b)(3) is amended to read:

(3) failed, within a reasonable time [AFTER RECEIVING A NOTICE OF VIOLATION FROM THE DIRECTOR], to correct any defect that is the subject of **an advisory notice or** the notice of violation of

...

3 AAC 306.810(b)(5) is amended to read:

(5) **violated a condition or restriction imposed by the board** [FAILED TO COMPLY WITH ANY APPLICABLE PUBLIC HEALTH, FIRE, SAFETY, OR TAX STATUTE, ORDINANCE, REGULATION, OR OTHER LAW IN THE STATE];

3 AAC 306.810(b)(6) is amended to read:

(6) **failed to comply with any applicable public health, fire, safety, or tax statute, ordinance, regulation, or other law in the state; or** [USED THE LICENSED PREMISES FOR AN ILLEGAL PURPOSE INCLUDING GAMBLING, POSSESSION OR USE OF NARCOTICS OTHER THAN MARIJUANA, PROSTITUTION, OR SEX TRAFFICKING.]

3 AAC 306.810(b) is amended by adding a new paragraph to read:

(7) used the licensed premises for an illegal purpose including gambling, possession or use of narcotics other than marijuana, prostitution, or sex trafficking.

3 AAC 306.810(c) is amended to read:

(c) A local government may notify the director if it obtains evidence that a marijuana establishment has violated a provision of AS 17.38, this chapter, or a condition or restriction the board has imposed on the marijuana establishment. Unless the board finds that the local government's notice is arbitrary, capricious, and unreasonable, the director shall prepare the

notice and supporting evidence as an accusation against the marijuana establishment under AS 44.62.360, and conduct proceedings to resolve the matter as described under **3 AAC 306.810** – **3 AAC 306.816** [3 AAC 306.820]. (Eff. 2/21/2016, Register 217; am 7/23/2023, Register 247)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

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

3 AAC 306.811. Suspension or revocation of a license based on the act of an employee. If, in a proceeding to suspend, revoke, or otherwise discipline a marijuana establishment license under 3 AAC 306.809, 3 AAC 306.810, or 3 AAC 306.836, evidence shows that an employee or agent of a licensed marijuana establishment was responsible for an act that would justify suspension, revocation, or other discipline of the marijuana establishment’s license if committed by a licensee, the board may find that the licensee knowingly allowed the act if

- (1) the licensee
 - (A) was physically present when the violation occurred;
 - (B) knew or should have known the violation was occurring; and
 - (C) did not take action to stop the violation;
- (2) the licensee failed to adequately supervise the employee or agent;

(3) the licensee failed to adequately train the employee or agent on the requirements of AS 17.38 and this chapter relating to marijuana; or

(4) the licensee was reckless or careless in hiring the employee or agent. (Eff. 7/23/2023, Register 247)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

3 AAC 306.812 is repealed and readopted to read:

3 AAC 306.812. Suspension or revocation of marijuana handler permit. (a) The board may suspend or revoke a permit issued under 3 AAC 306.700, impose probation under 3 AAC 306.836, or impose a civil fine under 3 AAC 306.840 if the board finds that a marijuana handler permit holder acted in violation of a statute, regulation, or local law.

(b) The director may issue a director’s decision to discipline a permit holder under 3 AAC 306.700 by submitting to the board a written statement of reasons for the requested discipline. The permit holder may appeal the director’s decision by submitting to the director and to the board a written statement of reasons for the appeal.

(c) The director shall provide an electronic notice to a permit holder at the electronic mail address provided by the permit holder in the holder’s permit application that a hearing conducted in compliance with 3 AAC 306.845 will take place at the board’s next regularly scheduled meeting.

(d) The director shall maintain a list of suspended, revoked, expired, or otherwise disciplined permit holders. Upon request, the list shall be made available to licensees and the public.

(e) Notwithstanding the requirements of (a) - (d) of this section, the director may suspend a permit issued under 3 AAC 306.700 if a permit holder's check is returned for any reason by the withdrawing financial institution until the permit fee and any associated fees are paid. (Eff. 5/23/2018, Register 226; am 3/25/2020, Register 233; am 7 / 23 / 2023, Register 247)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

Editor's note: To request the list referenced in 3 AAC 306.812(d), contact the Alcohol and Marijuana Control Office at 550 W 7th Ave., Ste. 1600, Anchorage, Alaska 99501 or at AMCO.enforcement@alaska.gov.

3 AAC 306.815 is repealed:

3 AAC 306.815. Suspension or revocation based on act of employee. Repealed. (Eff. 2/21/2016, Register 217; repealed 7 / 23 / 2023, Register 247)

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

3 AAC 306.816. Accusation. (a) A proceeding to suspend, revoke, or otherwise discipline a license, excluding proceedings under 3 AAC 306.809 and 3 AAC 306.836, must be

initiated by service of an accusation on the licensee in compliance with AS 44.62.360 and 44.62.380.

(b) The accusation must be served at the address of the licensed premises or at the address of the licensee responsible for management of the marijuana establishment and compliance with state laws listed in the marijuana establishment license application under 3 AAC 306.020(b)(5).

(c) A licensee served with an accusation under this section is entitled to a hearing as provided under AS 44.62.390. If a notice of defense is filed, a hearing shall be held in compliance with AS 44.62.330 - 44.62.630 before the office of administrative hearings created under AS 44.64.010. Failure to file a notice of defense under AS 44.62.390 constitutes a waiver of the right to further appeal.

(d) A person aggrieved by a final decision of the board following a hearing conducted in compliance with AS 44.62.330 - 44.62.630 may appeal to the superior court under AS 44.62.560.

(Eff. 7/23/2023, Register 247)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

3 AAC 306.820 is repealed:

3 AAC 306.820. Procedure for action on license suspension or revocation. Repealed.

(Eff. 2/21/2016, Register 217; repealed 7/23/2023, Register 247)

3 AAC 306.830 is repealed and readopted to read:

3 AAC 306.830. Seizure of or administrative hold on marijuana or marijuana products. (a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity may seize or place an administrative hold on marijuana or any marijuana product from a licensed or previously licensed marijuana establishment

(1) if the marijuana establishment has any marijuana or marijuana product not properly logged into the marijuana establishment's marijuana inventory tracking system;

(2) if the marijuana establishment has any adulterated marijuana food or drink product prohibited under 3 AAC 306.510(a)(4);

(3) if the marijuana establishment has any marijuana or marijuana product that is not properly packaged and labeled as provided in

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

(B) 3 AAC 306.565 and 3 AAC 306.570;

(4) if the marijuana establishment has not renewed its license as required under 3 AAC 306.035 or if the board has denied renewal of the marijuana establishment's license under 3 AAC 306.080(b);

(5) upon the development of reasonable grounds to believe that any marijuana or marijuana product

(A) constitutes evidence of a violation of a state statute or regulation; or

(B) poses an immediate threat to worker or public health, safety, or

welfare; or

(6) if the marijuana establishment has engaged or attempted to engage in

(A) the diversion of marijuana or a marijuana product; or

(B) a crime on the establishment's licensed premises; in this subparagraph, "crime" has the meaning given in AS 11.81.900(b).

(b) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity may choose, for a reason set out in (a) of this section, whether to place an administrative hold on marijuana or a marijuana product or seize the marijuana or marijuana product. The director may change an administrative hold to a seizure. The director shall update the marijuana inventory control tracking system to reflect the administrative hold or seizure or a change from an administrative hold to a seizure.

(c) If marijuana or a marijuana product is placed on an administrative hold, the marijuana establishment shall

(1) physically separate the marijuana or marijuana product from the public and store it in a secured and restricted-access area of the establishment's licensed premises; and

(2) receive the express written consent of the director to sell, move, transfer, or engage in any other commercial activity relating to the marijuana or marijuana product

(A) after the conclusion of the investigation of the reason for the administrative hold, the payment of any civil fine, the lifting of any suspension, and the conclusion of any informal conference, any formal hearing, and any hearing under AS 44.62.330 - 44.62.630 (Administrative Procedure Act) and, if applicable, 2 AAC 64.100 - 2 AAC 64.990;

(B) if seizure of the marijuana or marijuana product has not been ordered under (d) of this section; and

(C) if destruction of the marijuana or marijuana product has not been ordered under (j) of this section.

(d) If the director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity seizes marijuana or a marijuana product under this section, the director shall ensure that the items physically removed from the establishment's licensed premises are stored in a reasonable manner.

(e) The director shall immediately give the marijuana establishment at which the marijuana or marijuana product was placed on administrative hold or from which the item was seized notice of whether the action is an administrative hold or seizure and the reasons for the administrative hold or seizure. In the notice, the director shall state that the marijuana establishment may request, not later than 15 days after receiving the notice,

(1) an informal conference, before either the director or the board, if the establishment is aggrieved by an administrative hold; the director shall also state in the notice that selection of an informal conference does not affect the establishment's right to request a formal hearing from the administrative hold; or

(2) a formal hearing before the board from an administrative hold or seizure; in the notice, the director shall schedule a date and time for a formal hearing that is not later than 15 days after the establishment receives the notice, unless the establishment requests a delay.

(f) If a marijuana establishment aggrieved by an administrative hold selects an informal conference

(1) with the director, the informal conference must be held at a time and place convenient to the establishment and the director, but not later than 15 days after the

establishment receives notice of the administrative hold, unless the establishment elects a later time for the conference; an informal conference with the director may be conducted telephonically; or

(2) with the board, the informal conference must be held at a time and place convenient to the establishment and the board, but not later than the next scheduled meeting of the board; an informal conference with the board may be conducted telephonically.

(g) If an informal conference does not resolve the matter of an administrative hold to the satisfaction of a marijuana establishment, the establishment, not later than 15 days after the last day of the informal conference, may request a formal hearing. The hearing will be held not later than 15 days after the director's receipt of the request for a formal hearing.

(h) If a marijuana establishment's request for a formal hearing is from an informal conference regarding an administrative hold, the director shall send the establishment a notice with the date and time of the formal hearing, scheduled as described in (g) of this section, unless the establishment has requested a delay. If the request for the formal hearing is from an administrative hold or seizure, and the establishment did not request an informal conference, the formal hearing will be held on the date and time scheduled in the notice sent under (e)(2) of this section, unless the establishment has requested a delay. If the administrative hold or seizure occurs in connection with a summary suspension under 3 AAC 306.825, the hearing will be combined with a hearing on the summary suspension.

(i) If an administrative hold is on marijuana plants in a licensed standard or limited marijuana cultivation facility, the order setting the administrative hold must

(1) direct the facility to continue care of the plants until the conclusion of any informal conference, any formal hearing, and any hearing under AS 44.62.330 - 44.62.630 (Administrative Procedure Act) and, if applicable, 2 AAC 64.100 - 2 AAC 64.990; and

(2) prohibit any transfer, sale, or commercial activity related to the plants, until the conclusion of any informal conference, any formal hearing, and any hearing under AS 44.62.330 - 44.62.630 (Administrative Procedure Act) and, if applicable, 2 AAC 64.100 - 2 AAC 64.990.

(j) If after a formal hearing the administrative hold or seizure is upheld as justified, the marijuana establishment at or from which the marijuana or marijuana product was placed on administrative hold or seized may request a hearing under AS 44.62.330 - 44.62.630 and, if applicable, 2 AAC 64.100 - 2 AAC 64.990.

(k) If a marijuana establishment from which marijuana or marijuana product was placed on administrative hold or seized does not contest the seizure or hold, or if after any informal conference and any final hearing the administrative hold on or seizure of the marijuana or marijuana product is upheld as justified, the board may order the destruction of the marijuana or marijuana product, in addition to or in place of any fines or civil remedies. The marijuana or marijuana product must be destroyed by burning, crushing, or mixing with other material to make the marijuana or marijuana product unusable as provided in 3 AAC 306.740.

(l) The board will not consider marijuana or marijuana product placed on administrative hold or seized to be part of a marijuana establishment's physical inventory until the administrative hold is lifted or the marijuana or marijuana product is removed from seizure. The director shall notify, for information purposes, local governments and taxing authorities with

jurisdiction over a marijuana establishment subject to the administrative hold and seizure not later than 30 days after the administrative hold or seizure is put in place or lifted. (Eff.

2/21/2016, Register 217; am 12/6/2020, Register 236; am 7 / 23 / 2023, Register 247)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

3 AAC 306.835 is repealed:

3 AAC 306.835. Hearing. Repealed. (Eff. 2/21/2016, Register 217; repealed 7 / 23 / 2023, Register 247)

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

3 AAC 306.836. Probation. (a) In a disciplinary decision on a notice of violation or suspension order, the board may place a license, permit, or endorsement on probation for a period of no greater than three years. To ensure good faith performance of all obligations by a party while under probation, the board may suspend any portion of time of suspension or civil fines owed.

(b) The director may file a probation violation at their discretion. To initiate a probation violation, the director shall detail in a written communication to the board

- (1) a description of the circumstances that support that request;
- (2) a statement of statutes, regulations, or local laws that were violated;

(3) prior violations or criminal history of the licensee and any violations recorded on the licensed premises;

(4) a recommendation of the amount of unsuspended time or fines to levy; and

(5) the signature of the investigator from the office.

(c) The written communication described in (b) of this section must be documented in the licensee's enforcement file maintained by the director. A copy of the communication must be delivered to the licensee, filed with the board, and, if applicable, delivered to the appropriate law enforcement agency.

(d) An aggrieved party may contest a probation violation or the recommended disciplinary action issued under (a) of this section as an appealed director's decision by filing a written response to the director not later than 10 days after the licensee's receipt of the notice. If the licensee does not contest the violation and sanction, the director shall impose the violation and sanction.

(e) If the aggrieved party contests the probation violation, the board will consider the violation at its next regularly scheduled meeting. At that meeting the director shall present information and witnesses sufficient to prove to the satisfaction of the board that the violation occurred and the recommended unsuspended time or fine is consistent with board precedent. The licensee may present information and witnesses to contest the probation violation and rebut the director's presentation.

(f) Following the presentation described in (e) of this section, the board shall determine whether there is substantial evidence to uphold the probation violation, and if so, determine whether the penalty imposed by the director is appropriate. The board may vacate the probation

violation, decrease the recommended disciplinary action, or order additional disciplinary action, including a request that the director prepare an accusation for suspension or revocation of the license.

(g) A decision by the board related to a notice of violation, civil fine, or other disciplinary action, excluding a request that the director prepare an accusation for suspension or revocation of a license, may be appealed to the superior court under AS 44.62.560.

(h) Nothing in this section limits the authority of the board to suspend or revoke a license for a violation of AS 17.38 or this chapter. (Eff. 7 / 23 / 2023, Register 247)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

3 AAC 306.840(b) is amended to read:

(b) In a proceeding under 3 AAC 306.810 - 3 AAC 306.830, the board may impose a civil fine, not to exceed the greater of

(1) **the fine imposed in the fine schedule adopted by reference in (a) of this section;**

(2) an amount that is three times the monetary gain realized by the marijuana establishment, licensee, or person as a result of the violation, as determined by the board [(2) THE AMOUNT IMPOSED IN THE FINE SCHEDULE IN (a) OF THIS SECTION]; or

(3) if applicable because of the seriousness of the conduct and the related facts,

(A) \$10,000 for the first violation;

(B) \$30,000 for the second violation; or

(C) \$50,000 for the third or subsequent violation. (Eff. 2/21/2016,

Register 217; am 1/19/2022, Register 241; am 7 / 23 / 2023, Register 247)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

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

3 AAC 306.844. Informal conference. An aggrieved licensee or permittee subject to any action under 3 AAC 306.800 - 3 AAC 306.840 may request an informal conference with the director. The director will set the informal conference not later than ten days after receipt of the request. (Eff. 7 / 23 / 2023, Register 247)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

3 AAC 306.845(a) is amended to read:

3 AAC 306.845. Appeal. [(a)] An aggrieved party may appeal to the board regarding any **other** action of the director, an enforcement agent, or an employee of the board charged with enforcing AS 17.38 or this chapter [, INCLUDING SUSPENDING OR REVOKING A LICENSE, SEIZING MARIJUANA OR A MARIJUANA PRODUCT, OR IMPOSING A

CIVIL FINE]. **The board will consider the appeal at the next regularly scheduled meeting of the board.**

3 AAC 306.845(b) is repealed:

(b) Repealed 7 / 23 / 2023. (Eff. 2/21/2016, Register 217; am 12/6/2020, Register 236; am 7 / 23 / 2023, Register 247)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

3 AAC 306.990(b) is amended by adding a new paragraph to read:

(51) “office” means the Alcohol and Marijuana Control Office. (Eff. 2/24/2015, Register 213; am 2/21/2016, Register 217; am 10/11/2017, Register 224; am 8/11/2018, Register 227; am 10/20/2018, Register 228; am 4/11/2019, Register 230; am 5/9/2019, Register 230; am 3/13/2020, Register 233; am 12/6/2020, Register 236; am 12/10/2020, Register 236; am 8/7/2021, Register 239; am 7 / 23 / 2023, Register 247)

Authority:	AS 17.38.010	AS 17.38.121	AS 17.38.900
	AS 17.38.040	AS 17.38.190	AS 18.35.301
	AS 17.38.070	AS 17.38.200	