

Nancy Dahlstrom  
Lieutenant Governor  
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**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**M E M O R A N D U M**

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

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

**DATE:** July 14, 2023

**RE:** Filed Permanent Regulations: Alcohol and Marijuana Control Office

Department of Commerce, Community, and Economic Development, Alcohol and Marijuana Control Office regulations re: Exterior Window Pickup (3 AAC 306.005; 306.300-.310; 306.350; 306.380; 306.995)

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Attorney General File:	2022200505
Regulation Filed:	7/14/2023
Effective Date:	8/13/2023
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  
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July 13, 2023

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

Re: 2022200505 – Department of Commerce,  
Community, and Economic Development,  
Alcohol and Marijuana Control Office – 3 AAC  
306.005; 306.300-.310; 306.350; 306.380;  
306.995: Non-APA Personnel Board - Exterior  
Window Pickup.

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 letter 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 implement permanent changes to authorize the use of exterior service windows for the purchase and pick of marijuana and marijuana products. The regulations also repeal expired emergency regulations authorizing the same activities.

The regulations were adopted by the Department on January 5, 2023, after the close of the public comment period. Supplemental public notice was issued on January 19, 2023, to account for changes made to the regulations after the close of the public notice period. The board certified the adoption of the amended regulations on June 13, 2023.

To: The Honorable Nancy Dahlstrom  
Our file: 2022200505

July 13, 2023  
Page 2 of 2

The October 25, 2022, public notice, January 19, 2023, supplemental public notice, and the June 13, 2023, certification order all state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

We have made some technical corrections in accordance with AS 44.62.060. The corrections are shown on the attached copy of the regulations.

Sincerely,

TREG R. TAYLOR  
ATTORNEY GENERAL

By: **Rebecca C. Polizzotto**  
Digitally signed by  
Rebecca C. Polizzotto  
Date: 2023.07.13  
13:44:18 -08'00'  
Rebecca C. Polizzotto  
Chief Assistant Attorney General  
Legislation, Regulations, and  
Legislative Research Section

RCP:kmd

CC w/enclosure: Joan Wilson, Executive Director AMCO  
Department of Commerce, Community, and Economic  
Development

Kevin Higgins, Sr. Assistant Attorney General  
Department of Law

Kevin Dilg, Assistant Attorney General  
Department of Law

APPENDIX J: Certification Order

ORDER CERTIFYING THE CHANGES TO  
REGULATIONS OF MARIJUANA CONTROL BOARD

The attached <sup>five</sup> ~~six~~ pages of regulations, dealing with exterior window pick-up, 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.

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

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor as provided in AS 44.62.180.

Date:

June 13, 2023

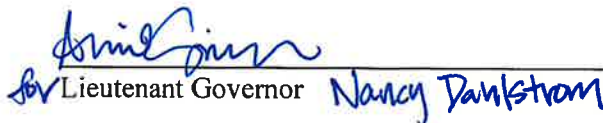
  
Joan M. Wilson, Director

FILING CERTIFICATION

*April Simpson for*

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on

July 14, 2023 at 1:02 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:

August 13, 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 306.005(1) is amended to read:

(1) a retail marijuana store license, granting authority for activities allowed under AS 17.38.070(a), and subject to the provisions of 3 AAC 306.300 - 3 AAC 306.380 [3 AAC 306.300 - 3 AAC 306.370] and 3 AAC 306.700 - 3 AAC 306.770;

(Eff. 2/21/2016, Register 217; am 10/17/2018, Register 228; am 9/1/2021, Register 239; am

8 / 13 / 2023, Register 247 )

<b>Authority:</b>	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 306.305(a)(1) is amended to read:

(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 306.380 [3 AAC 306.995] for consumption off the licensed premises;

3 AAC 306.305(a)(2) is amended to read:

(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 306.380 [3 AAC 306.995] for consumption off 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; am 8 / 13 / 2023, Register 247 )

<b>Authority:</b>	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)(5) is repealed:

(5) repealed 8 / 13 / 2023 ;

(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; am 8 / 13 / 2023, Register 247 )

<b>Authority:</b>	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 306.315(a)(2)(A) is amended to read:

(A) each applicable provision of 3 AAC 306.300 - 3 AAC 306.380 [3 AAC 306.300 - 3 AAC 306.370] and 3 AAC 306.700 - 3 AAC 306.770;

(Eff. 2/21/2016, Register 217; am 7/27/2017, Register 223; am 1/22/2023, Register 245; am

8 / 13 / 2023, Register 247 )

<b>Authority:</b>	AS 17.38.010	AS 17.38.150	AS 17.38.200
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AS 17.38.070      AS 17.38.190      AS 17.38.900  
AS 17.38.121

3 AAC 306.350(a) is amended to read:

**3 AAC 306.350. Identification requirement to prevent sale to person under 21.** (a) A retail marijuana store shall refuse to sell marijuana or a marijuana product or complete a walk-up or drive-through exterior window order of marijuana or marijuana product to a person who does not produce a form of valid photographic identification showing that person is 21 years of age or older.

(Eff. 2/21/2016, Register 217; am 9/24/2021, Register 239; am 8 / 13 / 2023, Register 247)

**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 is amended by adding a new section to read:

**3 AAC 306.380. Walk-up or drive-through exterior window pick-up for retail marijuana stores.** (a) Unless prohibited by local law, a licensed retail marijuana store may serve a consumer through a walk-up or drive-through exterior window in compliance with the requirements of this section.

(b) Before accepting orders for sales of marijuana or marijuana products through a walk-up or drive-through exterior window, a licensed retail marijuana store shall submit an operating



plan or modification of an operating plan of the licensed premises to the board for approval. The operating plan or modified operating plan must depict the walk-up or drive-through exterior window area and the video surveillance of the walk-up or drive-through exterior window area.

(c) The area immediately outside a walk-up or drive-through exterior window must be under the licensee's sole possession and control and may not include any public property including public streets, public sidewalks, or public parking lots.

(d) The licensed retail marijuana store may accept Internet or telephone orders or may accept orders from the consumer at the walk-up or drive-through exterior window. Internet or telephone orders must be paid for and picked up in person by the consumer placing the order. All orders received through the walk-up or drive-through exterior window must be placed by the consumer from a menu. The retail marijuana store may not display marijuana or marijuana products at the walk-up or drive-through exterior window.

(e) Before completing a sale at a walk-up or drive-through exterior window, the licensee or the employee shall physically view and inspect the consumer's photographic identification. Each person in a vehicle at the drive-through exterior window must be 21 years of age or older, unless the person is the consumer's own child, grandchild, or ward who is not older than seven years of age seated or otherwise required by local or state law to be seated in a car seat or booster seat.

(f) All sales must occur within the licensed premises. This requirement is satisfied if payment is made through the following means:

- (1) by an electronic Internet-based payment platform;
- (2) by a mobile payment point-of-sale system;

(3) by payment transferred through the walk-up or drive-through exterior window into the interior of the retail marijuana store.

(g) A walk-up or drive-through exterior window area must be located so as to minimize compromises to security. For every transfer of marijuana or marijuana product through a walk-up or drive-through exterior window, the licensed retail marijuana store’s video surveillance must enable the recording of the licensee or the employee verifying the consumer’s photographic identification and the completion of the transaction.

(h) The licensee shall ensure that sales and all interactions at the walk-up or drive-through exterior window are video recorded and the records are stored in compliance with 3 AAC 306.720.

(i) Sales of marijuana or marijuana products via a walk-up or drive-through exterior window are subject to requirements and restrictions imposed by the relevant local government.

(Eff. 8 / 13 / 2023, Register 247 )

<b>Authority:</b>	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:

**3 AAC 306.995. Internet and phone orders.** Repealed. (Eff. 4/17/2020, Register 234; am 8/23/2020, Register 235; am 11/24/2020, Register 236; repealed 8 / 13 / 2023, Register 247 )