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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Micaela Fowler, AAC Contact
Department of Commerce, Community and Economic Development

FROM: Scott Meriwether
Special Assistant 
907.465.4081

DATE: February 24, 2015

RE: Filed Emergency Regulations: Alcoholic Beverage Control Board
Emergency Regulations re: definition of "in public" (3 AAC 304.990)

Attorney General File:	Emergency Regulations
Regulation Filed:	February 24, 2015
Effective Date:	February 24, 2015
Expiration Date:	June 23, 2015 unless made permanent by the adopting agency
Print:	213, April 2015

cc with enclosures: Linda Miller, Department of Law
Dean Williams, Administrative Regulation Review Committee
Judy Herndon, LexisNexis

FINDING OF EMERGENCY

The Alcoholic Beverage Control Board finds that an emergency exists and that the attached regulations are necessary for the immediate preservation of the public peace, health, safety, and general welfare. The facts constituting the emergency include the following:

Effective February 24, 2015 Alaska Statute (AS) 17.38 significantly expands the circumstances in which a citizen may lawfully possess, transport, and transfer marijuana. Alaska Statute 17.38.040 expressly makes it unlawful to “consume marijuana in public.” Alaska Statute 17.38.900 defines “consumption” as “the act of ingesting, inhaling, or otherwise introducing marijuana into the human body.” But AS 17.38 does not define “in public.”

Testimony before the legislature and local governing bodies has revealed widespread concern that persons charged with enforcement of Alaska’s existing drug laws as well as the new marijuana law will lack sufficient guidance as to the meaning of “in public” to effectively enforce the new law, and that confusion and disorder will result, putting the public at risk.

Emergency Regulations


Therefore, this emergency regulation is necessary, to give clear and consistent guidance to persons who may consume marijuana in various venues, as well as those charged with enforcing the new law, so that the public peace, health, safety, and general welfare may be protected.

ORDER CERTIFYING ADOPTION

I certify that the Alcoholic Beverage Control Board, under the authority of AS 17.38.040 and 17.38.090, adopted at its February 24, 2015 meeting the attached one page of regulation changes as emergency regulations 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: February 24, 2015,
at Juneau, Alaska.

By: 
Ethan Billings
Member, Alcoholic Beverage Control Board

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on Feb 24, 2015, at 10:15 A.m., I filed the attached regulation according to the provisions of AS 44.62.


Lieutenant Governor Byron Mallott

Effective: February 24, 2015

Register: 213, April, 2015

Expires June 23, 2015
unless made "permanent"
by the adopting agency.

EMERGENCY REGULATION

Register 213, April 2015 COMMERCE, COMMUNITY, AND EC. DEV.

3 AAC 304.990 is amended by adding a new subsection to read:

(b) In AS 17.38.040, "in public" means in a place to which the public or a substantial group of persons has access and includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence.

(Eff. 4/28/84, Register 90; am 6/13/2003, Register 166; am 2/24/2015, Register 213)

Authority: AS 04.06.090 AS 17.38.040 AS 17.38.090
 AS 04.06.100

Alcoholic Beverage Control Board Meeting
February 24, 2015
Excerpt From Unapproved Minutes

Board Members Present Telephonically:

Bob Klein, Chair
Ellen Ganley, Vice Chair
Ethan Billings, Member
Marvin Yoder, Member
Bobby Evans, Member

Staff Members Present Telephonically:

Cynthia Franklin, Director
Sarah Oates, Records & Licensing Supervisor

ABC Board Counsel Present Telephonically:

Harriet Milks, Assistant Attorney General

Board member Ellen Ganley moves and member Ethan Billings
seconds the motion to adopt the finding of emergency as attached.

7:24:03 AM

The motion carries unanimously.

Board member Bobby Evans moves and member Ethan Billings
seconds the following motion regarding the attached draft regulation:

7:27:26 AM

"I move to adopt 3 AAC 304.990(b) as written in the February 24, 2015
draft regulation."

The motion carries unanimously.

Minutes excerpt reviewed and approved by:


Cynthia A. Franklin, Director



Date:

2/24/15

Sarah D. Oates, Records & Licensing Supervisor



Date:

02/24/15

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

AFFIDAVIT OF BOARD ACTION

I, Ethan Billings, for the Alcoholic Beverage Control Board, being duly sworn, state the following:

The attached motion, amending 3 AAC 304.990 to add a definition of "in public" applicable to AS 17.38.040, was passed by the Alcoholic Beverage Control Board during its February 24, 2015 meeting.

Date: 2/24/15
Juneau, Alaska

Ethan Billings
Ethan Billings
Member, Alcoholic Beverage Control Board

SUBSCRIBED AND SWORN TO before me this 24 day of February, 2015



Alberta M. Everson
Notary Public in and for the
State of Alaska
My commission expires: With Office