

NOTICE OF PROPOSED CHANGES ON EXTERIOR WINDOW PICKUP IN THE  
REGULATIONS OF THE MARIJUANA CONTROL BOARD

Brief description: The Marijuana Control Board proposes to change regulations in Title 3, Chapter 306 of the Alaska Administrative Code dealing with exterior window pick-up for retail marijuana stores.

The Marijuana Control Board proposes to adopt regulation changes in 3 AAC 306 of the Alaska Administrative Code, dealing with exterior window pickup, including the following:

3 AAC 306.380 is a new section that would permit, upon filing an application and receiving approval, a licensed retail marijuana store to have a walk-up or drive-through exterior window.

3 AAC 306.005, 306.300, 306.305, would make conforming changes due to the proposed new section.

3 AAC 306.310(a)(5) is proposed to be repealed.

3 AAC 306.350 proposes a minor amendment regarding verification of the consumer's photographic identification to conform with the proposed new section.

3 AAC 306.995 is proposed to be repealed. This section was only active during the emergency declaration of COVID19.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Alcohol and Marijuana Control Office at 550 West 7<sup>th</sup> Avenue, Suite 1600, Anchorage AK 99501. Additionally, the Marijuana Control Board will accept comments by email at [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov). Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system and using the comment link. **The comments must be received not later than 4:30pm on December 12, 2022.**

You may submit written questions relevant to the proposed action to the Alcohol and Marijuana Control Office at 550 West 7<sup>th</sup> Avenue, Suite 1600, Anchorage, AK 99501 or to [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov). The questions must be received at least 10 days before the end of the public comment period. The Alcohol and Marijuana Control Office will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and AMCO website.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact the Alcohol and Marijuana Control Office at [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov) or (907) 269-0490 not later than November 15, 2022, to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting the Alcohol and Marijuana Control Office at [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov) or (907)

269-0490.

After the public comment period ends, the Marijuana Control Board will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected. Written comments received are public records and are subject to public inspection.

**Statutory authority:** AS 17.38.010; AS 17.38.070; AS 17.38.121; AS 17.38.150; AS 17.38.190; AS 17.38.200; AS 17.38.900

**Statutes being implemented, interpreted, or made specific:** AS 17.38.070; AS 17.38.200

**Fiscal information:** The proposed regulation changes are not expected to require an increased appropriation.

The Alcohol and Marijuana Control Office keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all of the Marijuana Control Board notices of proposed regulation changes. To be added to or removed from the list, send a request to the AMCO office at [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov) , giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

Date: October 25, 2022

Jane Preston  
Sawyer

Digitally signed by Jane  
Preston Sawyer  
Date: 2022.10.25 13:44:12  
-08'00'

Jane P. Sawyer, Acting Program Coordinator  
Marijuana Control Board

ADDITIONAL REGULATION NOTICE INFORMATION  
(AS 44.62.190(d))

1. Adopting agency: Marijuana Control Board
2. General subject of regulation: Exterior Window Pickup
3. Citation of regulation (may be grouped): (3 AAC 306.005; 306.300 - .310; 306.350; 306.380; 306.995)
4. Department of Law file number, if any: 2022200505

5. Reason for the proposed action:

- Compliance with federal law or action (identify): \_\_\_\_\_
- Compliance with new or changed state statute
- Compliance with federal or state court decision (identify): \_\_\_\_\_
- Development of program standards
- Other (identify): \_\_\_\_\_

6. Appropriation/Allocation: DCCED/Alcohol and Marijuana Control Office

7. Estimated annual cost to comply with the proposed action to:

A private person: unknown

Another state agency: unknown

A municipality: unknown

8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year	Subsequent
	FY <u>23</u>	Years
Operating Cost	\$ <u>0</u>	\$ <u>0</u>
Capital Cost	\$ <u>0</u>	\$ <u>0</u>
1002 Federal receipts	\$ <u>0</u>	\$ <u>0</u>
1003 General fund match	\$ <u>0</u>	\$ <u>0</u>
1004 General fund	\$ <u>0</u>	\$ <u>0</u>
1005 General fund/ program	\$ <u>0</u>	\$ <u>0</u>
Other (identify)	\$ <u>0</u>	\$ <u>0</u>

9. The name of the contact person for the regulation:

Name: Jane P. Sawyer  
Title: Regulations Specialist  
Address: 550 West 7<sup>th</sup> Ave., Ste. 1600, Anchorage, AK 99501  
Telephone: 907-269-0490  
E-mail address: jane.sawyer@alaska.gov

10. The origin of the proposed action:

Staff of state agency  
 Federal government  
 General public  
 Petition for regulation change<sup>7</sup>  
 Other (identify): Marijuana Control Board

11. Date: October 26, 2022

Prepared by: 

Digitally signed by  
Jane P. Sawyer  
Date: 2022.10.26  
10:21:06 -08'00'

Name (printed): Jane P. Sawyer

Title (printed): Regulations Specialist

Telephone: 907-269-0490

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

3 AAC 306.005(a)(1) is amended to read:

(a) A marijuana establishment may not operate in the state unless it has obtained the applicable marijuana establishment license from the board. The board will issue the following marijuana establishment licenses under this chapter:

(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 306.370] 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 \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

- 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 306.300(a)(2)(A) is amended to read:

(A) each applicable provision of 3 AAC 306.300 – 3 AAC 306.380 [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; \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**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 306.305(a)(1) 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 306.380 [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 12/10/2020, Register 236; am \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**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) repealed \_\_\_\_/\_\_\_\_/\_\_\_\_\_[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;]

(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; am \_\_\_\_/\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**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 306.350(a) is amended to read:

(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)

**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 to the Board for approval an operating plan or modification of an operating plan of its licensed premises that depicts 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 such as public streets, public sidewalks, or public parking lots.

(d) The licensed retail marijuana store may accept Internet or telephone 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 window must be placed by the consumer from a menu. The retail marijuana store may not display marijuana or marijuana products at the window.

(e) Prior to 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. All individuals in a vehicle at the drive-through exterior window must be 21 years of age or older, unless the individual is the consumer's own child, grandchild, or ward who is no older than seven years old 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; or

(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 employee verifying the consumer’s photographic identification and 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. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**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 306.995 is repealed:

**3 AAC 306.995. Internet and phone orders; exterior window or curbside pickup.**

Repealed. (Eff. 4/17/2020, Register 234; am 8/23/20, Register 235; am 11/24/2020, Register 236; repealed \_\_\_\_/\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

- 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 306.995. 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 (D) 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 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.