

NOTICE OF PROPOSED CHANGES TO IN THE REGULATIONS OF THE MARIJUANA
CONTROL BOARD REGARDING THE ADDITION OF AN ONSITE MARIJUANA
CONSUMPTION ENDORSMENT TO THE RETAIL MARIJUANA LICENSE

The Marijuana Control Board proposes to adopt regulation changes in 3 AAC 306 of the Alaska Administrative Code, dealing with onsite marijuana consumption endorsements for retail marijuana establishments, including the following:

- (1) 3 AAC 306.370 proposes to allow retail marijuana licensees to apply for an onsite consumption endorsement if certain conditions are met.
- (2) 3 AAC 306.990 proposes to define “marijuana consumption area” and “retail marijuana store premises.”

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 the Alcohol & Marijuana Control Office at 550 West 7th Avenue, Suite 1600, Anchorage, AK 99501. Additionally, the Marijuana Control Board will accept comments by electronic mail at 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 4:30 pm on October 27, 2017.

You may submit written questions relevant to the proposed action to the Marijuana Control Board by email at amco.regs@alaska.gov or at 550 West 7th Avenue, Suite 1600, Anchorage, AK 99501. The questions must be received at least 10 days before the end of the public comment period. The Alcohol & 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.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Jedediah Smith at amco.regs@alaska.gov or (907) 269-0350 not later than October 16, 2017 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 & Marijuana Control Office at (907) 269-0350 or amco.regs@alaska.gov.

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 AS 17.38.210

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

Date: August 21, 2017

A handwritten signature in black ink that reads "Erika McConnell". The signature is written in a cursive, flowing style.

Erika McConnell, director

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Marijuana Control Board
2. General subject of regulation: Onsite Marijuana Consumption Endorsement
3. Citation of regulation (may be grouped): 3 AAC 306.370; 3 AAC 306.990
4. Department of Law file number, if any: JU2017200548

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: \$0

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

- A private person: \$0
- Another state agency: \$0
- A municipality: \$0

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


	Initial Year FY <u>18</u>	Subsequent 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: Jedediah Smith
Title: Local Government Specialist
Address: 550 West 7th Ave, Suite 1600 Anchorage, AK 99501
Telephone: (907) 269-0350
E-mail address: amco.regs@alaska.gov

10. The origin of the proposed action:

- Staff of state agency
- Federal government
- General public
- Petition for regulation change
- Other (identify): Marijuana Control Board

11. Date: August 21, 2017 Prepared by: 

Name (printed): Jedediah Smith
Title (printed): Local Government Specialist
Telephone: (907) 269-0350

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

3 AAC 306.370. Onsite consumption endorsement for retail marijuana stores.

(a) A licensed retail marijuana store with an approved onsite consumption endorsement is authorized to

(1) sell marijuana and marijuana product, excluding marijuana concentrates, to patrons for consumption on the licensed premises only in an area designated as the marijuana consumption area and separated from the remainder of the premises, either by being in a separate building or by a secure door and having a separate ventilation system;

(2) sell for consumption on the premises

(A) marijuana bud or flower in quantities not to exceed one gram to any one person in a single transaction, unless prohibited by local ordinance or state law;

(B) edible marijuana products in quantities not to exceed 10 mg of THC to any one person in a single transaction; and

(C) food or beverages not containing marijuana or alcohol; and

(3) allow a person to remove from the licensed premises marijuana or marijuana product that has been purchased on the licensed premises for consumption under this section, provided it is packaged in accordance with 3 AAC 306.345.

(b) A licensed retail marijuana store with an approved onsite consumption endorsement may not

(1) sell marijuana concentrate for consumption in the marijuana consumption area;

(2) allow any licensee, employee, or agent of a licensee to consume marijuana or marijuana product, including marijuana concentrate, during the course of a work shift;

(3) allow a person to consume tobacco or tobacco products in the marijuana consumption area;

(4) allow intoxicated or drunken persons to enter or to remain in the marijuana consumption area;

(5) sell, give, or barter marijuana or marijuana product to an intoxicated or drunken person;

(6) allow a person to bring into or consume in the marijuana consumption area any marijuana or marijuana product that was not purchased at the licensed retail marijuana store;

(7) deliver marijuana or marijuana product to a person already known to be in possession of marijuana or marijuana product that was purchased for consumption on the premises;

(8) sell, offer to sell, or deliver marijuana or marijuana product at a price less than the price regularly charged for the marijuana or marijuana product during the same calendar week;

(9) sell, offer to sell, or deliver an unlimited amount of marijuana or marijuana product during a set period of time for a fixed price;

(10) sell, offer to sell, or deliver marijuana or marijuana product on any one day at prices less than those charged the general public on that day;

(11) encourage or permit an organized game or contest on the licensed premises that involves consuming marijuana or marijuana product or the awarding of marijuana or marijuana product as prizes; or

(12) advertise or promote in any way, either on or off the premises, a practice prohibited under this section.

(c) An applicant for an onsite consumption endorsement must file an application on a form the board prescribes, including the documents and endorsement fee set out in this section, which must include

(1) the applicant's operating plan, in a format the board prescribes, describing the retail marijuana store's plan for

(A) security, in addition to what is required for a retail marijuana store, including:

- (i) doors and locks;
- (ii) windows;
- (iii) measures to prevent diversion; and
- (iv) measures to prohibit access to persons under the age of 21;

(B) ventilation. If consumption by inhalation is to be permitted, ventilation plans must be

- (i) signed and approved by a licensed mechanical engineer;
- (ii) sufficient to remove visible smoke; and
- (iii) consistent with all applicable building codes and ordinances;

(C) isolation of the marijuana consumption area from other areas of the retail marijuana store. The marijuana consumption area must

- (i) include a smoke-free area for employees monitoring the marijuana consumption area; and
- (ii) be entirely outdoors in a designated smoking area or separated from other retail areas by a wall with a secure door;

(D) unconsumed marijuana, by disposal or by packaging in accordance with 3 AAC 306.345; and

(E) preventing introduction into the marijuana consumption area of marijuana or marijuana products not sold by the retail marijuana store; and

(2) a detailed premises diagram showing the location of

(A) serving area or areas;

(B) ventilation exhaust points, if applicable;

(C) doors, windows, or other exits;

(D) access control points; and

(E) adequate separation from non-consumption areas of the retail marijuana store and consistent with 3 AAC 306.370(a)(1).

(d) An application for a new onsite consumption endorsement must meet the requirements of 3 AAC 306.025(b) and include in that notice the license number of the retail marijuana store requesting the endorsement.

(e) The non-refundable fee for a new or renewal onsite consumption endorsement is \$1,000.

(f) The retail marijuana store holding an onsite consumption endorsement under this chapter shall

(1) destroy all unconsumed marijuana left abandoned or unclaimed in the marijuana consumption area in accordance with the operating plan and 3 AAC 306.740;

(2) maintain a ventilation system that directs air from the marijuana consumption area to the outside of the building through a filtration system adequate to reduce odor;

- (3) include in the security plan how the licensee intends to restrict access to the marijuana consumption area to persons under the age of 21;
- (4) monitor patrons for overconsumption;
- (5) display all warning signs required under 3 AAC 360.360 within the marijuana consumption area, visible to all consumers;
- (6) provide written materials containing marijuana dosage and safety information for each type of marijuana or marijuana product sold for consumption in the marijuana consumption area at no cost to patrons; and
- (7) label all marijuana or marijuana product sold for consumption on the premises as required in 3 AAC 306.345.

(g) The right of local governments to protest the issuance or renewal of individual retail marijuana store onsite consumption endorsements is separate from the right to protest the issuance of a retail marijuana store license. Not later than 60 days after the director sends notice of an application for a new or renewal onsite consumption endorsement, a local government may protest the application by sending the director and the applicant a written protest and the reasons for the protest. The director may not accept a protest received after the 60-day period. If a local government protests an application for a new or renewal onsite consumption endorsement, the board will deny the application unless the board finds that the protest is arbitrary, capricious and unreasonable.

(h) A local government may recommend that the board approve an application for a new or renewal onsite consumption endorsement with conditions. The board will impose a condition recommended by a local government unless the board finds the recommended condition to be arbitrary, capricious and unreasonable. If the board imposes a condition recommended by a local

government, the local government will assume responsibility for monitoring compliance with the condition unless the board provides otherwise.

(i) The holder of an onsite consumption endorsement must apply for renewal annually at the time of renewal of the underlying retail marijuana store license.

3 AAC 306.990 (b) is amended to add the following subsections:

(27) “marijuana consumption area” means a designated area within the licensed premises of a retail marijuana store that holds a valid onsite consumption endorsement, where marijuana and marijuana products, excluding marijuana concentrates, may be consumed.

(28) “retail marijuana store premises” means an area encompassing both the retail marijuana store and any marijuana consumption area.