



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of Commerce, Community,
and Economic Development**

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November 17, 2016

To: Chairman Robert Klein and Members of the Alcohol Beverage Control Board

From: Enforcement Supervisor James Hoelscher

A handwritten signature in black ink, appearing to read "James Hoelscher".

RE: Online Eligibility for Server Education

During inspections of licensed Alcohol Establishments, Enforcement has recognized that expired server education is the number one violation that occurs across the state. There are numerous reasons cited by individuals, as we would expect. The concern is a common complaint among Rural residents is that they are not able to take an online course.

We have received numerous complaints and questions about server education from people that need server education or whose server education has expired. The one common thing that we are being told is that they have to wait until CHARR holds their class to receive the required education. This is a complaint being received from rural areas, such as Prince of Wales, Nome, Kodiak, Talkeetna and Tok. I realize that some of the people that have expired server education will use a multitude of justifications, but after looking at CHARR's website for online courses and speaking with Dale Fox, the complaints appear to be valid.

I spoke with the AMCO Investigators in Anchorage, Fairbanks and Juneau and found that there was a concern surrounding who is eligible for the online server education course. Looking at 3AAC 304.465(e), specifically at the definition of Rural, it states "Rural premises are those licensed premises not on a statewide road system or further than 50 miles on a road system from a community where a course is offered at least once every month." I requested a clarification on the statute from our attorney and was informed that my interpretation was correct that this indicates two ways a community would be considered "Rural".

I met and spoke with Dale Fox from CHARR regarding server education, AS 04.21.025 and 3AAC 304.465(e) to request him to have CHARR stop telling people that they are unable to take an online course if they are in a Rural area off the road system or in a community more than 50 miles where the class is being held. He replied that classes are offered in Nome once a month and people have to take the class in person because of this.

Mr. Fox also cited that in-person trainings are more effective than on-line courses and stated that there this is backed up by studies. This may have been accurate in years past, but with numerous fully accredited colleges/universities offering degrees online, numerous web based training for companies and governments increasing, I feel that on-line classes can educate the person just as much as an in-person course. On-line courses are not a step backwards, in my opinion it is the opposite. Currently all marijuana education courses are online. The enforcement team knows that not taking a course is far worse than taking a course online.

CHARR also states that they provide classes in rural communities, this works if the classes are guaranteed, but there are numerous factors that can prevent a class from occurring. I have been informed by AMCO Investigators that this has been brought up a few times by Rural residents. Another issue brought up is that classes fill up quickly, preventing some from attending. This will inadvertently cause new employees to pass their 30 day grace period for required server education and would easily be remedied if they were able to take an online course.

In Mr. Fox's letter he emphasizes "Rural premises are those licensed premises not on a statewide road system or further than 50 miles on a road system from a community where a course is offered at least once every month." He also states "It could also be argued that Kodiak, Ketchikan, Sitka and Juneau are on the marine highway which may be considered a road system by some definitions."

By this definition, a person who lives in Hoonah, which is 30 miles away from Juneau and a stop on the ferry system, would have to travel to Juneau to take a TAP class. That is simply not the way the statute reads and twisting the statute to require it creates the perception that CHARR has the authority to decide what statutes and regulations say. CHARR has their erroneous interpretation posted on their website.

Enforcement understands the complications of Rural Premises surrounding inspections, investigating complaints and compliance checks. CHARR's stance that they can instruct persons wanting training to wait months to get an in-person class while still selling and serving alcohol without a card violates the statute. Allowing CHARR's interpretation would encourage licensees and their agents and employees to break the law when they become expired. In addition CHARR created the perception that they alone are in charge of server training, even overruling our own enforcement.

If a course is offered once a month in a community off the road system, should this prevent the people in that community from taking an online course? I am requesting that the board allow individuals that meet statutory requirements in a rural area to take the class online as the statute and regulation allows.

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To: ABC Board

From: Dale Fox

Re: Enforcement staff request for clarification

ABC Enforcement staff wants to clarify with the Board who is eligible to take alcohol server training on-line versus in-person. Alcohol Server Education course is found at 04.21.025 and it says, in part, under section 7b:

In approving alcohol server education courses, the board shall consider the needs of both urban and rural licensees regarding access to an approved alcohol server education course.

The Board has developed regulations that follow the direction of the statute; 3AAC 304.465 16e defines rural premises as it relates to access to an approved alcohol server education course:

Rural premises are those licensed premises not on a statewide road system OR further than 50 miles on a road system from a community where a course is offered at least once every month.

Traditional Reading: Alaska CHARR has been offering classes across the state for over 35 years. The interpretation of this line in the regulation has been that an in-person class was required if there was an instructor in your area and you could reach the class by a road.

This means people in Ketchikan, Sitka, Juneau, Kodiak, Nome and others who have classes available at least once a month have been required to take the in-person class if they were on the local road system in that community. However, if they had a lodge or operation that was not on the road system making access to the class inconvenient, a remote or on-line class was available.

Public Health & Safety Reasons:

Numerous studies show that in-person training (a) increases server knowledge and improves attitudes toward responsible beverage service (b) increase server's promotion of food and non-alcoholic beverages (c) reduces the risk of patron intoxication and (d) decreases service to minors.

Reports published by the Center for Substance Abuse Prevention, the National Institute on Alcohol Abuse and Alcoholism, the Pacific Institute for Research and Evaluation and studies published in Public Health Reports, all suggest that role-playing and dialogue are the key

strategies for influencing server behavior and that static films and computer programs do not produce the same positive results.

Public health and safety consideration alone should lean toward an interpretation requiring in-person classes if at all possible.

Common Sense Reasons:

“Rural” has a real definition in our state which does not include some of our largest communities off the road system.

It could also be argued that Kodiak, Ketchikan, Sitka and Juneau are on the marine highway which may be considered a road system by some definitions.

The way we read this line is if there is an in-person class that you can drive to on a road system that you should take the in-person class. Therefore Nome residents, while clearly rural, have a class that they can drive to, and should do so.

Why would Alaska want to take a step backwards in its alcohol server educational delivery system?

Conclusion:

The ABC board should interpret its regulations requiring in-person alcohol server classes where they are available. The board has historically interpreted the regulation favoring in-person classes. Further, it is best for the public health and safety, and I believe the wording clearly requires in-person classes where they are available. If the board disagrees with my interpretation of the wording you should improve the wording to make it clear that an in-person class is required if available rather than throw out a policy that has been working for all of Alaska.