



**Alcoholic Beverage Control Board  
Special Meeting Minutes  
October 16, 2017  
Telephonic Meeting**

**Board Members Present:**

Bob Klein, Chair of ABC Board  
Ellen Ganley, Vice Chair, Public Member  
Bobby Evans, Rural Member  
Thomas Manning, Industry Member  
Rex Leath, Public Safety Member

**Staff Members Present:**

Erika McConnell, Director  
James Hoelscher, Enforcement Supervisor  
Harriet Milks, Assistant Attorney General

● **CALL TO ORDER**

- **5569 Porter House Grill**  
The Porterhouse Grill LLC  
44619 Sterling Hwy, Ste 6, Soldotna  
**License: Restaurant Eating Place**

*Erika McConnell provided testimony that this is the third time before board. Applicant supplied 2<sup>nd</sup> petition, attesting to needing 402 signatures, only provided 362 signatures.*

*Two concerns. One, reliable data that indicates that there are closer to 700 adults within a one mile range 402. Two, the applicant has stated that vacant homes and no-soliciting signs have prohibited his required signatures, but we do not know how many have refused to sign the petition. Additionally the AMCO office received information on Oct 13<sup>th</sup> that in the middle in July the applicant had an active license, and as such placed an order from a distributor for alcohol for his restaurant, and that order was delivered and never returned to the retailer. This applicant was unlicensed at the time of delivery.*

*Ms. McConnell states that to her understanding per the above reasons, this application is not in compliance with 3AAC 304.335.*

*Chair Klein asks if all correspondence has been shared with the board members.*

*Ms. McConnell answers in the affirmative.*

*Chair Klein asks, regarding the petition pages, if the map was correct, and about clarifications regarding X's and check marks.*

*Ms. McConnell responds that the X's were outside of the 1 mile radius.*

*Chair Klein asks Steve Drolet from the Porterhouse Grill how he reconciles the difference of door to door, and the findings of our staff of rejected petitions.*

*Mr. Drolet responds that he used a square map rather than the circular map, the 200 signatures might be 60ft, 100 yards outside of the radius. He states that in all of the city that no one is contesting this. He states that outside of the circle he has the required 500 and over signature count. Admits to purchasing the alcohol and states that it is still sitting in the restaurant.*

*Ms. Ganley asked if at the last meeting if we asked the licensee to go back to the city, or what we asked them to do.*

*Chair Klein responded that we sent the applicant back to Soldotna and that general numbers are not applicable here. And names were rejected due to being outside of the circle.*

*Mr. Manning asked if the signatures are intended for the local governing body or for the board regarding local convince.*

*Ms. McConnell responds that there must be community support, which is shown by a petition of adults 21 and over within 1 mile of the establishment and that the local governing body must approve the application. Ms. McConnell determines that the petition is to show the board that there is local support.*

*Stephanie McQueen with the City of Soldotna, stated that even the local governing body does not have exact numbers, as stated in a previous letter to the board. The city is flexible to number of people in the area due to travel in the fall winter and incomplete data. However the city is in support of the application.*

*Ms. McConnell states that the applicant's submittal attests to needing 402 signatures, and that number was not achieved. She goes on to state that there is no number that satisfies all parties involved. She has asked for the board to make a determination.*

*Chair Klein asks for a motion to approve the license with delegation.*

*Motion carries with delegation.*

● **Distillery serving cocktails on their premises with ingredients that they interpret as being produced on the premises.**

*Chair Klein declares a conflict and recuses himself, turning the chair over to Vice Chair Ganley.*

*Director McConnell opens by asking the board to clarify the phrase “the distillery’s product” from previous meetings, in terms of interpreting and enforcing the advisory.*

*Ms. Ganley opens the floor to public comments.*

*Robert Grove from Fairbanks – states that wording of the license is vague in some areas. Nothing is clarified about mixing a drink, or just the bare product being sold. Asks for a clarification to regulations, and has no idea how this could cause harm, other than to other bars in the form of competition.*

*Nick Elsword from Ivory Jacks – approves for the tasting rooms, and approves of them paying the alcohol taxes. Approves of the employment and income for the area from out of state visitors. They are not hurting anyone.*

*Marisa Sharrah with Fairbanks Chamber of Commerce – states that over the years of operations for these distilleries they have become accustomed to certain interpretations of the statutes and regulations, she also states that new interpretations to old regulations is hurting the livelihood of these businesses. Asks that if there are revisions that they be done through a bill or statutes rather than the board’s ruling where conflicts may arise.*

*Rob Borland from Ursa Major – Strongly disagrees with director’s comments, stating that this is not about the law, but about interpretations trying to restrict them even further, due to a few bars wanting to regulate competition. States that from the beginning they have been using fresh squeezed juice. States that he would rather give a mixed drink over a full 3oz of alcohol and then send someone on their way home.*

*Paul Gardier of Juneau – would like to state that there is a problem with public service is being handled. He states that the board and AMCO cannot regulate non-alcoholic beverages. Relates this issue to a tasting room at a salmon smoke house and the regulation of the crackers that are the side for the fish dip.*

*Mr. Louis – states that there is inherent competition between distillery’s and bars. States that there is already limitations such as lack of bar stools, limited serving quantity, restricted entertainment and restricted hours. States that the clientele are mutually exclusive between bars and distilleries.*

*Brandan Howard – Wants to share regulations from other states, of 50 states, 33 have tasting rooms for spirits and cocktails. Some spirits are meant to be served as cocktails. Of the 33, only 27 can sell by the glass. Meaning we would be the only state that allows sales by the glass, but restricts cocktails.*

*Sean Mossan – Concerned about the slippery slope about regulation ingredients in the manufacturing process. Worried about the Ready to Drink Cocktail. Contains blueberries, simple syrup, concerned about not being able to bring these products to market, wants to sell products to other retailers that are pre measured and ready to serve.*

*Hillary Lockhart – biggest concern is that she was told to read title 4, and that the laws for distilleries and brewery are similar. Breweries can add flavor or V8 as well as food, but the title 4 does not specify about that. If the items are not in the title, then they are prohibited, that is a slippery slope. Does not specify that distilleries can or cannot have juices.*

*Sean Copeland – Wanted to make a point that a few complaints, and email, was what brought this to their attention. Also received a letter by the legislator that says that the distillers are acting in good conscious and that mixed drinks were assumed to be served.*

*Jerry Jay – states that 3oz of alcohol is a set amount regardless if it is drunk with a mixer or straight. Slippery slope for business model.*

*Channelin – the no name complaint came from Juneau, or if the only complaints came from Juneau? Wants to raise the point of cost for license fees, which are close to each other, and that the cost of a license that is from a private seller is not a price from the state.*

*Sally Keeper – nothing preventing bars from making their own liquors, using their own juices and vodka. They are featuring their spirits for public enjoyment until 8pm, for people to enjoy.*

*Marv – Distribution is not required by the law, and they are allowed to release product only on site.*

*Close of public comments.*

*Board members state their opinions.*

*Ms. Ganley moves to reconsider the upholding of the advisory. Motion dies for lack of a second.*

*Mr. Manning moves to support the interpretation that mixing cocktails is not the intent of a tasting room. Mr. Evans seconds. Mr. Hoelscher clarifies what the staff is asking for. Mr. Manning amends his motion to clarify that the manufacturing process is the distilling process. Mr. Evans, the second, agrees. Mr. Evans asks if giving away mixed drinks is ok? Ms. McConnell responds that the statues are the same for sales and samples. The motion fails 2-2.*

*The board and AAG Milks discuss the meaning of the distillery's product.*

*Mr. Leath moves that if beverages containing alcohol not produced onsite are served, enforcement action needs to be taken on that tasting room. Motion dies for lack of a second.*

*The board continues to discuss the issue.*

*Mr. Leath moves that in tasting rooms that the combined serving size of distilled spirits produced on site cannot be greater than 3oz. Motion fails for lack of a second.*

*Ms. McConnell states that it appears that the board is in a stalemate and thus the situation should remain as it is for the moment, and suggests that the board pick this up again in November with the draft regulations project.*

*Ms. Ganley agrees with this statement.*

*In terms of enforcement, if a distillery is producing what they are selling on their premises then there will be no violation. The board will continue to examine this issue through the upcoming regulations project.*

*Chair Klein closes the meeting.*