



MEMORANDUM

TO: Bob Klein, Chair, and Members of the
Alcoholic Beverage Control Board

DATE: January 23, 2018

FROM: Erika McConnell, Director

RE: Regulations Change: Bona
Fide Restaurant; Tribal
Identification

Requested Action: Move to put Bona Fide Restaurant regulations change out for public comment (amend if desired)

Move to put Tribal Identification regulations change out for public comment (amend if desired)

Statutory Authority: AS 04.06.100(a): "The board shall adopt regulations governing the manufacture, barter, sale, consumption, and possession of alcoholic beverages in the state that are consistent with this title and necessary to carry out the purpose of this title in a manner that will protect the public health, safety, and welfare."

Staff Recommendation: Put both regulations changes out for public comment

Background:

Bona Fide Restaurant (3 AAC 304.9xx)

At the last meeting, the board referred this proposed regulations change to a subcommittee of the board with assistance from CHARR. The subcommittee met and suggested changes as shown in the attached draft. A definition of "restaurant" is proposed to implement the intent of the statute that a business holding a restaurant or eating place license has the primary and full function of making and serving food, and the service of alcohol is an enhancement to that primary function.

Tribal Identification (3 AAC 304.425)

At the last meeting, the board asked staff to continue working on the draft of this proposed regulations change. Staff has amended the proposal to clarify that only federally recognized tribes in Alaska would be eligible to use tribal IDs for identification for purchasing alcohol, and that the board must approve a tribal ID before it could be used. The regulation still requires the Tribal ID to conform to standards listed in AS 04.21.050, which require an ID to be made of or encased in plastic, contain a photograph of the card holder, and contain a statement of age or date of birth.

3 AAC 306.9xx. Restaurant definition. (a) The board shall use the following guidelines when determining what qualifies as bona fide restaurant or eating place:

(1) the applicant demonstrates minimum standards for a kitchen to prepare food onsite, in accordance with 18 AAC 31.040(c) or municipal ordinance;

(2) the applicant shall provide a menu of food items, including entrees, that are regularly sold and prepared by the licensee on the licensed premises;

(3) the establishment has tables or counters for consuming food in a dining area on the premises; and

(4) the applicant includes a detailed plan to prevent access of alcohol by minors and introduction or removal of alcoholic beverages. (Eff. 11/29/81, Register 80; am 6/25/88, Register 106; am 5/1/94, Register 130; am 5/11/96, Register 138; am 9/11/98, Register 147; am __/__/__, Register____)

Authority: AS 0406.090 AS 04.06.100 AS 04.11.100

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

3 AAC 304.425 is amended to read:

3 AAC 304.425 Determining age of patron. (a) It is the responsibility of the licensee to obtain a statement of proof-of-age form[s] required under AS 04.21.050. Licensees must retain completed forms for 90 days and make them available upon request for inspection by the board and peace officers.

(b) A valid identification card as used in AS 04.21.050 means an unexpired, unaltered passport; **an unexpired, unaltered identification card issued by a federally recognized tribe in Alaska, which has been approved by the board;** or an unexpired, unaltered driver's license or identification card issued by a federal or state agency authorized to issue driver's licenses or identification cards; that meet the requirements under AS 04.21.050(b). If a licensee or an agent or employee of a licensee has reason to believe that the identification card presented by a person is fraudulent, the licensee, agent, or employee shall refuse entrance to licensed premises and shall refuse service or sale to that person. (Eff. 11/29/81, Register 80; am 5/22/92, Register 122; am 5/11/2012, Register 202,am __/__/____, Register ____)

Authority: AS 04.06.090 AS 04.06.100 AS 04.21.050