



MEMORANDUM

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

DATE: June 12, 2018

FROM: Erika McConnell, Director

RE: Potential Regulations Change:
Operating Requirements

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.”

Status: No draft proposed as yet

Background: 3 AAC 304.170(j) states:

(j) If a license is exercised only to satisfy the minimum operating requirement under AS 04.11.330(a)(3) or 3 AAC 304.107(c)(1), a licensee has the burden of proof to show that the licensed premises was operated in a similar fashion to other licensed premises of the same type and shall, at a minimum,

- (1) provide signage, of sufficient size and visibility to show that the premises is open for business, stating business name and hours of operations;
- (2) offer for sale at the licensed premises, as appropriate to the type of license, a variety of malt beverages, wines, and distilled spirits;
- (3) visibly display the alcoholic beverages stock in a licensed package store premises;
- (4) provide seating in beverage dispensary licensed premises for at least one-half of the maximum number allowed by the occupancy permit;
- (5) comply with all state or municipal health, fire, and zoning laws or ordinances required for the operation of business;
- (6) maintain a record of all purchases of alcoholic beverages for resale on the licensed premises; and
- (7) record sales with a cash register that retains a record of transactions.

At times, as with certain licenses on this agenda, a licensee is unable to provide all the required documents of 3 AAC 304.170(j), but the documents that are provided give sufficient evidence that the licensee has met minimum operating requirements.

Potential Regulations Change: Minimum Operations

ABC Board June 12, 2018

Page 2

Staff proposes to amend this regulation to give more flexibility to what is provided for proof of minimum operations, and to consider whether any changes are needed due to the likely upcoming statutory amendment (SB 45) that changes minimum operating requirements from 30 eight-hour days to 240 hours per year.

In addition, staff proposes to change the regulation at 3 AAC 304.170(h) to require waivers to be submitted for the last board meeting of the year, rather than the last meeting before November 30. Depending on the meeting schedule, this can require (as it would for this year) waiver applications to be submitted in September for an October meeting. (3 AAC 304.170(h): “In addition to the application fee under (c) of this section, the applicant shall pay \$1,000 for an application that is received too late for board consideration at its meeting before November 30 of the year for which waiver is requested.”)

If the board is amenable to these ideas, staff will bring a draft to the next meeting.