



MEMORANDUM

TO: Bob Klein, Chair,
and Members of the Board

DATE: August 14, 2018

FROM: Erika McConnell, Director

RE: Proposed Regulations Change:
Deadline for Reinstatement and Renewal

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: Revised proposal for board consideration

Revised proposal: The revisions to this proposal add a new criterion for the board to evaluate requests for reinstatement and renewal, which is that if the license became available after the licensee failed to renew, and it was issued to another applicant, then the license cannot be reinstated. The revision also includes a proposed reinstatement fee. The draft continues to propose that the time at which licenses become available after February 28 be extended from 10 days to 30 days.

Background: A license expires if the licensee does not submit a complete renewal application by February 28 of the year after their two-year license period. 3 AAC 304.160(e) allows a licensee to request reinstatement by the board, but does not set a deadline for such a request.

3 AAC 304.100(2) states that licenses become available “10 days after the period for renewing licenses has expired, where the license becomes available because a license has expired and has not been renewed.” This section, combined with an open-ended allowance for requesting reinstatement results in the potential for licenses to be issued over the population limits of AS 04.11.400.

If a licensee misses their renewal, their license becomes available 10 days after the expiration (on February 28 per AS 04.11.540). If that license is issued to someone else after it becomes available, but the original licensee requests reinstatement some months or a year later, what happens?

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

3 AAC 304.100 is amended to read:

3 AAC 304.100. When licenses become available. Except as provided in 3 AAC 304.110, an application will be denied if it is received by the board at a time when there are no available licenses of the kind applied for. In this chapter, a license becomes available

(1) on the date the director determines the relevant population under 3 AAC 304.905, where the license becomes available because of an increase in the population during the preceding year;

(2) **30**[10] days after the period for renewing licenses has expired, where the license becomes available because a license has expired and has not been renewed;

(3) on the conclusion of all appeals of the revocation, or on waiver of appeal by the licensee, whichever is later, where the license becomes available because of the revocation of another license;

(4) on the date determined by the board or the director in any other case. (Eff. 4/28/84, Register 90; am ___/___/___, Register ___)

Authority: AS 04.06.080 AS 04.06.100 AS 04.11.400
 AS 04.06.090 AS 04.11.340 AS 04.11.320

3 AAC 304.160(e) is amended to read:

(e) For the purposes of AS 04.11.540, if a license has expired for failure to file a complete application for renewal by February 28 or for failure to pay the required fees and

penalty fees by that date, the board will consider a written request to reinstate the license if the request is accompanied by

(1) a complete application;

(2) a reinstatement fee of \$1,000;

(3)[(2)] all other required fees and penalty fees; and

(4)[(3)] proof of good cause for the failure to file and pay by February 28.

(Eff. 9/11/98, Register 147; am 6/13/2003, Register 166; am __/__/____, Register ____)

3 AAC 304.160(f) is amended to read:

(f) The board will deny a request for reinstatement submitted under (e) of this section if

(1) the license became available in accordance with 3 AAC 304.100(2) and was issued to a different applicant, unless the limit of licenses under AS 04.11.400 has not been reached; or

(2) the board finds that the failure to timely file or pay was caused by

(A)[(1)] the licensee's failure to notify the board of a change of the licensee's mailing address;

(B)[(2)] a transfer of ownership of the business for which the license was issued without written approval of the board in violation of AS 04.11.040;

(C)[(3)] a lease of the licensed business to another person in violation of AS 04.11.450(c); or

(D)[(4)] any other action of the licensee whether active or tacit that the board finds constitutes a failure to lawfully operate the business for which the license was issued.

(Eff. 9/11/98, Register 147; am 6/13/2003, Register 166; am __/__/____, Register ____)

Authority: AS 04.06.090 AS 04.11.270 AS 04.11.680
AS 04.06.100 AS 04.11.540