



MEMORANDUM

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

DATE: October 15, 2018

FROM: Erika McConnell, Director

RE: Staff Recommendations for
Regulations Projects

1. On-line Alcohol Server Education Course—Staff recommends allowing the use of internet-based server education courses to all Alaskans.

AS 04.21.025 requires a licensee and a licensee's agent/employee who sells or serves alcoholic beverages to complete an alcohol server education course approved by the board for eight license types. Each course is required to cover 16 subjects, and the licensee/agent/employee is required to keep proof of successful completion of the course on the licensed premises during working hours. A card indicating successful completion of a course is valid for three years. The board is required to review each server education course at least once every three years.

The statute specifically states that "the board shall consider the needs of both urban and rural licensees regarding access to an approved alcohol server education course." This language has been in statute at least since 1993, before the internet was widely available.

In regulations adopted by the board at 3 AAC 304.465(e), 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. For the purpose of training for rural premises, course providers may provide video or audiotapes and written materials to a licensee that cover all topics required under (c) of this section, and conduct telephonic question and answer sessions for the students. A course provider may present training for rural premises by means of an Internet-based program. An Internet-based program must include steps that the course provider takes to verify the identity of the persons receiving the instruction, testing, and certification of alcohol server training.

This means that the only individuals permitted to take an internet-based server education course are those persons who live either off a statewide road system, or further than 50 miles on a road system from a community where a course is offered at least once a month.

Alcohol server education is required in some states and voluntary in others. According to 2003 information found online, eleven states have mandatory server education. I was able to find information on nine states, and in each of the nine, required server education is available in person and online. (Delaware, Montana, New Hampshire, New Mexico, Oregon, Rhode Island, Utah, Washington, Wisconsin) Although I did not do an exhaustive search, I could find no state other than Alaska that prohibits or limits online server education.

Close to 20 percent of all NOV's issued to alcohol licensees are for expired or missing server education. Allowing for online server education would provide licensees and their agents and employees with more opportunities to take a server education course at a time that is most convenient for their lives.

2. Fee for Review of Alcohol Server Education Course—AS 04.21.025 requires the board to review each server education course at least once every three years. Sometime in the past, the board delegated the review of new server education courses, and the three-year review of approved courses, to the enforcement staff. Staff review of courses is time consuming, often requiring multiple reviews when changes are necessary to conform to the statutes and regulations. A fee for a new server education course and for the three year review of an approved server education course would pay for staff's time.

3. Define “Moral Turpitude” and Re-evaluate the Public Interest—3 AAC 304.180 provides factors that the board will consider when determining whether it is in the public interest to deny, suspend, revoke, or refuse to renew or transfer a license. Some of the factors relate to an applicant's criminal history. Applicants who have committed a felony within the 10 years preceding the date of application must disclose this information to the board for its consideration. Applicants who have committed an “act that constitutes a crime involving moral turpitude” at any time in their past must disclose this information to the board for its consideration.

It is not clear to applicants and the public what is a “crime involving moral turpitude.” “Moral turpitude” is defined in multiple places in state statute and regulation, including:

AS 15.80.010(10): “felony involving moral turpitude’ includes those crimes that are immoral or wrong in themselves such as murder, manslaughter, assault, sexual assault, sexual abuse of a minor, unlawful exploitation of a minor, robbery, extortion, coercion, kidnapping, incest, arson, burglary, theft, forgery, criminal possession of a forgery device, offering a false instrument for recording, scheme to defraud, falsifying business records, commercial bribe receiving, commercial bribery, bribery, receiving a bribe, perjury, perjury by inconsistent statements, endangering the welfare of a minor, escape, promoting contraband, interference with official proceedings, receiving a bribe by a witness or a juror, jury tampering, misconduct by a juror, tampering with physical evidence, hindering prosecution, terroristic threatening, riot, criminal possession of explosives, unlawful furnishing of explosives, sex trafficking, criminal mischief, misconduct involving a controlled substance or an imitation controlled substance, permitting an escape, promoting gambling, possession of gambling records, distribution of child pornography, and possession of child pornography;”

20 AAC 10.035: “For the purposes of AS 14.20.030(a)(2), (1) ‘moral turpitude’ means conduct that is wrong in itself even if no statute were to prohibit the conduct; and (2) "a crime involving moral turpitude" includes (A) homicide; (B) manslaughter; (C) assault; (D) stalking; (E) kidnapping; (F) sexual assault; (G) sexual abuse of a minor; (H) unlawful exploitation of a minor; (I) robbery; (J) extortion; (K) coercion; (L) theft; (M) burglary; (N) arson; (O) criminal mischief; (P) forgery; (Q) criminal impersonation; (R) bribery; (S) perjury; (T) unsworn falsification; (U) interference with official proceedings; (V) witness tampering; (W) jury tampering; (X) terroristic threatening; (Y) possession or distribution of child pornography; (Z) unlawful distribution or possession for distribution of a controlled substance; (AA) unlawfully furnishing alcohol to a minor; (BB) felony possession of a controlled substance.”

12 AAC 40.967(17): “...under this paragraph, a "crime involving moral turpitude" includes the following: (A) homicide; (B) manslaughter; (C) assault; (D) stalking; (E) kidnapping; (F) sexual assault; (G) sexual abuse of a minor; (H) unlawful exploitation of a minor, including possession or distribution of child pornography; (I) indecent exposure; (J) unlawful distribution or possession for distribution of a controlled substance; for purposes of this subparagraph, "controlled substance" has the meaning given in AS 11.71.900;”

Staff recommends that the board define or at minimum reference a definition of “moral turpitude” for clarity for applicants (and staff), and consider that some crimes of moral turpitude may not need to be disclosed to the board if a certain length of time has passed, similar to a felony conviction.

Should the board wish to pursue any of these changes, the board should open a regulations project. Where drafts have been provided, the board may put the drafts out for public comment, amend the draft and put it out for comment, or return the draft to staff for additional work.