



## MEMORANDUM

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

DATE: October 15, 2018

FROM: Erika McConnell, Director

RE: Regulations Change: Bona  
Fide Restaurant

**Requested Action:** Consider Bona Fide Restaurant regulations change for adoption

**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:** Adopt regulations change

**Background:** This proposed regulations change adds a new section in Article 9 to better define "restaurant" in order 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.

The board originally voted to adopt this change during its meeting on April 3, 2018. However, when the adopted package was forwarded to the Department of Law, attorneys discovered that the statutory authority provided in the public notice was incomplete. As a result, a draft with the same language but containing accurate statutory authorities was back out for public comment from July 27 to September 7, 2018. No comments were received during either public comment period.

3 AAC 304 is amended by adding a new section to read:

**3 AAC 304.910. 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. \_\_\_\_\_, Register\_\_\_\_\_)

**Authority:** AS 04.06.090 AS 04.06.100 AS 04.11.100  
AS 04.16.010 AS 04.16.049