



THE STATE  
*of* ALASKA

# Department of Commerce, Community, and Economic Development

ALCOHOL AND MARIJUANA CONTROL OFFICE  
550 West 7<sup>th</sup> Avenue, Suite 1600  
Anchorage, AK 99501  
Main: 907.269.0350

## **MEMORANDUM**

TO: Bob Klein, Chair, and Members of the Alcoholic Beverage Control Board DATE: April 29, 2019  
FROM: Erika McConnell, Director RE: Director's Report

OPERATIONS

In accordance with 3 AAC 304.905, new population figures were published on AMCO's website, under "Other Alcohol Resources," on April 15, 2019.

New statute/regulations books have been printed. A book will be mailed to each licensee in the near future.

Two vacancies currently exist in AMCO: the Program Coordinator I position and the Regulations Specialist position. I have been evaluating AMCO's needs and will be moving to fill and/or modify the positions shortly.

## OUTREACH AND EDUCATION

AMCO's Local Government Specialist, Jed Smith, reports on some significant activities in the first quarter of 2019:

- Working with the Department of Law's Office of Special Prosecution to update local option database.
  - Presented to UAF Chemistry of Cannabis class
  - Presented Title 4 rewrite (SB52) to Homer Chamber of Commerce
  - Presented alcohol licensing information to the Northeast Community Council (Anchorage)
  - Ongoing collaboration and information sharing with organizations and departments (CHARR, AMIA, OSMAP, Municipality of Anchorage)
  - Assisted in three academic research studies involving alcohol or marijuana licensing and regulation.

## ISSUES

APSIN/ARMS

As I reported to you at the last meeting, DPS agreed to provide specific information contained in APSIN and ARMS to AMCO investigators when requested for specific investigations. To date, some information has been provided in a timely manner, but some requests have been ignored or go unfilled even after repeated requests for information. In addition, Major Greenstreet promised in his 11/1/18 letter to “provide AMCO with a list and brief summary of all AMCO and Alcoholic Beverage Control (ABC) Office incidents from ARMS” after the termination of AMCO’s access to ARMS. This information has not been provided.

At the February meeting, the board requested that Major Greenstreet, author of the letter informing AMCO that access to APSIN/ARMS was being removed, come to the next board meeting to answer questions from the board. I relayed this request to DPS Commissioner Amanda Price. Commissioner Price responded:

Major Greenstreet is not available to attend the board's next meeting. While the extensive communications sent to date effectively outline the CJIS criteria and why the decision was made, if the board has specific questions please collect them and send to me, I would be happy to review and respond.

I recommend the board ask the following questions, at a minimum:

1. There has been a long-standing interpretation that ABC Board/AMCO investigators are peace officers. What is the benefit to public safety in changing this interpretation?
2. If the concern of investigators having access to APSIN/ARMS relates to the conflict between state and federal law regarding marijuana, why can't ABC Board investigators have access to APSIN/ARMS for the purposes of enforcement of Title 04 and the alcohol program?
3. Is it your intention that all criminal enforcement of Title 04 should be performed by the Alaska State Troopers? If yes, why?
4. From the perspective of your department, what is hindering full cooperation between AMCO and DPS?

#### Governor's Budget and Proposals

In February, the board passed a motion to take a formal position on Governor Dunleavy's proposal to eliminate the Alcoholic Beverage Control Board and the Marijuana Control Board, and Chair Klein proposed that a resolution be drafted. Since then, Governor Dunleavy has decided not to put forward legislation that proposes to repeal both boards. Because of that, no resolution has been drafted for your consideration.

I have received no additional information regarding the move of AMCO investigators into the Department of Law.

As noted at the last meeting, the Governor's FY20 budget reduces AMCO's budget by \$48,700 from the FY19 Management Plan. The cut is entirely from Travel, leaving a travel budget of \$135,000. I was informally told that there is an expectation that AMCO's actual travel expenditures in FY20 be reduced from FY19 by 50%. In accordance with a memo from Chief of Staff Babcock, I have submitted to the Commissioner's Office a travel plan that sets forth all projected trips for FY20. The plan includes board travel to regularly scheduled board meetings. Naturally it is not possible to anticipate every trip that may need to be taken by an investigator over the next year. I have estimated investigator travel based on the number of trips taken in the past couple of years. The estimated costs of FY20 travel are similar to FY19 travel costs and do not reflect a 50% reduction—the planned trips are necessary to meet our statutory and regulatory obligations. I have not yet been informed whether or not the FY20 travel plan is approved.

## **LEGISLATION**

### SB 16

SB 16 has passed the Senate and been introduced in the House and referred to House Labor & Commerce and then House Finance. The version that passed the Senate is attached.

The bill was amended in Senate Finance to grandfather in all recreational site licenses that were valid as of 12/31/18, and to create a music festival permit which allows a restaurant or eating place license to cater one music festival per year.

### SB 52 (Title 4 Rewrite)

SB 52 has passed through Senate Labor & Commerce and is in Senate Judiciary as of the writing of this report.

### SB 96 and HB 107

Senator Wilson and Representative Sullivan-Leonard, by request, have introduced companion bills that create two new license types, allow first class cities and home rule cities to petition the ABC Board to issue more manufacturing licenses than allowed under population limits, and require the ABC Board to approve qualifying petitions to give a first class city or home rule city the authority to issue, renew, deny, suspend, revoke, and regulate the two new license types created in the bill. The two new license types are a municipal restaurant or eating place license and a municipal package store license. The municipal package store license is limited to retail businesses who primarily sell household products or dispense pharmaceuticals, with the licensed premises for alcohol sales required to be less than 15% of the total business square footage.

Neither bill has had a hearing scheduled.

### HB 103

Representative Sullivan-Leonard has introduced a bill to create a State Gaming Commission within the Department of Revenue which is authorized to issue one card room license per borough. The card room license authorizes the holder to operate a card room and conduct card games (poker, blackjack, pai gow, super pan 9, and other card games approved in regulation). The holder is required to host a card tournament at least once per quarter, with proceeds to be distributed to a nonprofit educational institution or group. A \$100,000 license fee is proposed and the state would also receive a 9.5 percent tax on gross receipts. The definition of "gambling" is modified to exempt activities authorized by the State Gaming Commission.

The State Gaming Commission must provide notice of a violation of the card game statutes to the ABC Board if the card game licensee also holds a license or permit under Title 4.

The bill repeals AS 04.16.175, which prohibits an agent or employee of a gambling enterprise from furnishing players with alcohol, and defines "gambling enterprise" and "player" by referring to AS 11.66.280. Additionally, the bill repeals AS 04.16.220(a)(5), which states that alcoholic beverages, materials, and equipment used in violation of AS 04.16.175 are subject to forfeiture.

No hearing has been scheduled for this bill.

## **REGULATIONS**

Attached to this report is a regulations projects status spreadsheet.

## **NEXT MEETING**

The next ABC Board meeting is scheduled for July 8-9 in Fairbanks. Considering that the workload of the board has not been such recently as to warrant even a full day and a half meeting, I suggest the board change this to a one day meeting on Tuesday, July 9.

Applications must be complete and any other documents for the board must be submitted to our office by June 21 to be on the July meeting agenda.

Please note that the September meeting in Nome has been moved to September 9-10. Similar to the July meeting, I recommend that this meeting be changed to a one day meeting on Tuesday, September 10.

**CS FOR SENATE BILL NO. 16(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/1/19

Referred: Rules

Sponsor(s): SENATORS MICCICHE, Hughes, Wilson, Shower, Kiehl, Birch, Bishop, Reinbold, Stevens, Costello, Gray-Jackson, Stedman

**A BILL**

**FOR AN ACT ENTITLED**

1   **"An Act relating to certain alcoholic beverage licenses and permits; relating to the bond**  
2   **requirement for certain alcoholic beverage license holders; and providing for an**  
3   **effective date."**

4   **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5   \* **Section 1.** AS 04.11.080 is amended to read:

6                 **Sec. 04.11.080. Types of licenses and permits.** Licenses and permits issued

7                 under this title are as follows:

- 8                     (1) beverage dispensary license;
- 9                     (2) duplicate beverage dispensary license for additional rooms;
- 10                  (3) restaurant or eating place license;
- 11                  (4) club license;
- 12                  (5) bottling works license;
- 13                  (6) brewery license;
- 14                  (7) package store license;

- (8) general wholesale license;
  - (9) wholesale malt beverage and wine license;
  - (10) distillery license;
  - (11) common carrier dispensary license;
  - (12) retail stock sale license;
  - (13) recreational site license;
  - (14) pub license;
  - (15) winery license;
  - (16) caterer's permit;
  - (17) special events permit;
  - (18) conditional contractor's permit;
  - (19) brewpub license;
  - (20) golf course license;
  - (21) outdoor recreation lodge license;
  - (22) destination resort license;  
**(23) performing arts theater license;**  
**(24) fair license;**  
**(25) concert permit;**  
**(26) music festival permit.**

\* **Sec. 2.** AS 04.11 is amended by adding a new section to read:

**Sec. 04.11.205. Performing arts theater license.** (a) A performing arts theater license authorizes the holder of a beverage dispensary license to sell alcoholic beverages and the holder of a restaurant or eating place license to sell beer and wine at multiple noncontiguous locations at a specified performing arts theater site for consumption on the licensed premises.

(b) The biennial performing arts theater license fee is \$1,250.

(c) The holder of a performing arts theater license may not sell or serve alcoholic beverages as provided under the license during an event that is expected to attract an audience predominantly composed of attendees under 21 years of age.

(d) The holder of a performing arts theater license may sell or serve alcoholic beverages as provided under the license only

(1) in designated areas on the licensed premises; and

(2) for a period beginning two hours before the event until one hour after the event.

(e) The holder of a performing arts theater license shall post the license conspicuously in the performing arts theater during times when alcoholic beverages are sold.

(f) The board may not approve an application for the transfer of a performing arts theater license to another location.

(g) An application for a performing arts theater license must clearly identify designated areas for the sale and consumption of alcoholic beverages, which may include portions of the audience viewing area at the performing arts theater site. The board may approve an application for a performing arts theater license only if the application is approved by the local governing body of the municipality in which the performing arts theater site is located or, for a performing arts theater site outside a municipality, approved by the law enforcement agency that has jurisdiction over the performing arts theater site.

(h) In this section, "performing arts theater" means a location where events are presented by live performers on a stage, such as plays, operas, orchestra concerts, readings, and similar activities as determined by the board.

\* Sec. 3. AS 04.11.210(a) is amended to read:

(a) The holder of a recreational site license may sell beer and wine at a recreational site during and one hour before and after a recreational **activity** [EVENT] that is not a school event, for consumption on designated areas at the site.

\* Sec. 4. AS 04.11.210(c) is amended to read:

(c) In this section, "recreational site" includes a location where sporting activities such as baseball games, car races, hockey games, dog sled racing, skiing or snowboarding [EVENTS], or curling matches [ARE] regularly take place [HELD] during a season.

\* **Sec. 5.** AS 04.11.210 is amended by adding a new subsection to read:

(d) The board may not deny an application for renewal of a license issued under this section or an application to transfer a license issued under this section to

1 another person solely because the board determines that the licensed premises is not a  
 2 "recreational site" as defined under (c) of this section if the applicant

3                   (1) held a license under this section or received a transferred license  
 4 under this section that was valid on December 31, 2018; and

5                   (2) operates the license under the same conditions required at the time  
 6 of initial licensure.

7 \* **Sec. 6.** AS 04.11 is amended by adding a new section to read:

8                   **Sec. 04.11.215. Fair license.** (a) A fair license authorizes the holder to sell  
 9 beer and wine at multiple noncontiguous locations at fairs and other events held on  
 10 fairgrounds for consumption on licensed premises.

11                   (b) The biennial fair license fee is \$800.

12                   (c) The board may issue a fair license only to a nonprofit organization that is  
 13 incorporated under AS 10.20.

14                   (d) In this section, "fair" means an annual gathering of residents of all or a  
 15 portion of the state that offers competitive exhibitions of livestock and agricultural  
 16 crops, carnival amusement rides and games, displays of arts and crafts, or outdoor  
 17 entertainment.

18 \* **Sec. 7.** AS 04.11 is amended by adding a new section to read:

19                   **Sec. 04.11.235. Concert permit.** (a) A concert permit authorizes the holder of  
 20 a recreational site license to sell or dispense beer and wine for consumption on the  
 21 licensed premises of the recreational site during a period beginning one hour before  
 22 and concluding at the end of a concert or similar entertainment event with a performer  
 23 and an audience.

24                   (b) A concert permit may not be transferred or renewed.

25                   (c) The fee for a concert permit is \$50 and must accompany the application for  
 26 the concert permit.

27 \* **Sec. 8.** AS 04.11.240(c) is amended to read:

28                   (c) Not [THE SPECIAL EVENTS PERMIT MUST BE SURRENDERED TO  
 29 THE BOARD, ITS AGENT, OR THE LAW ENFORCEMENT AGENCY  
 30 APPROVING THE PERMIT, WITHIN 48 HOURS OF ITS EXPIRATION TIME.  
 31 FAILURE TO SURRENDER THE PERMIT IS CAUSE, IN THE DISCRETION OF

1 THE BOARD, FOR DENIAL OF APPLICATIONS FOR PERMITS MADE IN THE  
 2 FUTURE BY THE ORGANIZATION. NO] more than 12 [FIVE] special events  
 3 permits may be granted to an organization, including its auxiliary, in any one calendar  
 4 year.

5 \* **Sec. 9.** AS 04.11 is amended by adding a new section to read:

6       **Sec. 04.11.245. Music festival permit.** (a) A music festival permit authorizes  
 7 the holder of a restaurant or eating place license to sell or dispense beer and wine for  
 8 consumption at a festival with multiple live music performances held off the holder's  
 9 licensed premises.

10      (b) The board may issue a music festival permit only for a designated  
 11 premises and for a limited period, not to exceed 10 calendar days. The board may not  
 12 issue more than one music festival permit to the holder of a restaurant or eating place  
 13 license in a calendar year.

14      (c) A music festival permit may not be transferred or renewed.

15      (d) An applicant for a music festival permit under this section shall obtain the  
 16 written approval of a law enforcement agency having jurisdiction over the site of the  
 17 event for which the music festival permit is sought and provide the written approval to  
 18 the board with the application.

19      (e) The fee for a music festival permit is \$50 for each day of the event and  
 20 must accompany the application for the permit.

21 \* **Sec. 10.** AS 04.11.260(c) is amended to read:

22      (c) An applicant for a new license or permit must include with the application  
 23           (1) proof that notice required by AS 04.11.310 has been given;  
 24           (2) any petitions required to be secured under AS 04.11.460 before a  
 25 license may be issued;  
 26           (3) evidence of any approval by public authorities required to be  
 27 obtained under AS 04.11.220(c) [AS 04.11.090(e), 04.11.220(c)], 04.11.230(b),  
 28 04.11.240(b), 04.11.245(d), or 04.11.250(b), before a license or permit may be issued.

29 \* **Sec. 11.** AS 04.11.330(d) is amended to read:

30      (d) Notwithstanding (a)(3) of this section, a performing arts theater license  
 31 issued under AS 04.11.205 and a recreational site license issued under AS 04.11.210

1 may be renewed if the license was exercised at least once during each of the two  
 2 preceding calendar years.

3 \* **Sec. 12.** AS 04.21.065(a) is amended to read:

4                 (a) A holder of one of the following types of licenses or permits shall post on  
 5 the licensed or designated premises three separate warning signs as described in (b) of  
 6 this section:

7                             (1) beverage dispensary license;

8                             (2) restaurant or eating place license;

9                             (3) club license;

10                             (4) brewery license; this paragraph applies only to a brewery that  
 11 permits a person to sample portions of the brewery's product;

12                             (5) package store license;

13                             (6) common carrier dispensary license;

14                             (7) recreational site license;

15                             (8) pub license;

16                             (9) winery license; this paragraph applies only to a winery that permits  
 17 a person to sample portions of the winery's product;

18                             (10) distillery license; this paragraph applies only to a distillery that  
 19 permits a person to sample portions of the distillery's product;

20                             (11) caterer's permit;

21                             (12) special events permit;

22                             (13) conditional contractor's permit;

23                             (14) **performing arts theater license;**

24                             (15) **fair license;**

25                             (16) **concert permit;**

26                             (17) **music festival permit;**

27                             (18) another license or permit issued by the board authorizing  
 28 consumption of alcoholic beverages.

29 \* **Sec. 13.** AS 43.60.040(a) is amended to read:

30                             (a) Each brewer, distiller, bottler, jobber, wholesaler, or manufacturer is  
 31 primarily liable for the payment of the excise taxes on alcoholic beverages sold, and,

1       **except as provided under (i) of this section,** shall furnish a good and sufficient  
 2       surety bond of \$25,000 payable to the department and approved by the Department of  
 3       Law. If a wholesaler fails to pay the tax to the state, the wholesaler forfeits the bond  
 4       and the wholesaler's license shall be revoked. The department, in its discretion, may  
 5       issue permits in place of bonds to resident holders of wholesale, malt beverage, and  
 6       wine licenses doing business wholly in the state who pay the tax before shipment.

7       \* **Sec. 14.** AS 43.60.040(b) is amended to read:

8               (b) Upon receipt of the bond and its subsequent approval, the department shall  
 9       issue a license certificate authorizing the brewer, distiller, bottler, jobber, wholesaler,  
 10      or manufacturer, liable for the payment of the tax, to sell alcoholic beverages in the  
 11      state or to consign shipments of alcoholic beverages to the state. **Except as provided**  
 12      **under (i) of this section, it** [IT] is unlawful for a brewer, distiller, bottler, jobber,  
 13      wholesaler, or manufacturer to sell alcoholic beverages in the state or to consign  
 14      shipments of alcoholic beverages into the state without first furnishing the required  
 15      bond and obtaining the license certificate or permit from the department. The license  
 16      certificate does not constitute permission to sell alcoholic beverages in the state or to  
 17      consign them to the state without having complied with other requirements of state or  
 18      federal law.

19       \* **Sec. 15.** AS 43.60.040 is amended by adding a new subsection to read:

20               (i) The department may not require a brewer, distiller, bottler, jobber,  
 21      wholesaler, or manufacturer who has timely filed monthly tax returns and paid  
 22      monthly taxes to the department over the most recent three consecutive years to  
 23      maintain a bond if the brewer, distiller, bottler, jobber, wholesaler, or manufacturer  
 24      continues to remain in compliance with AS 43.60. The department shall notify the  
 25      brewer, distiller, bottler, jobber, wholesaler, or manufacturer of any noncompliance  
 26      that requires the brewer, distiller, bottler, jobber, wholesaler, or manufacturer to file a  
 27      bond under (a) of this section. The brewer, distiller, bottler, jobber, wholesaler, or  
 28      manufacturer shall, within 30 days after receiving the notice of noncompliance, file  
 29      with the department a bond under (a) of this section.

30       \* **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to  
 31      read:

1           TRANSITION. The board shall reconsider an application for renewal of a recreational  
2 site license or transfer of a recreational site license to another person and apply  
3 AS 04.11.210(d), enacted by sec. 5 of this Act, if

4                 (1) the application was denied between December 31, 2018, and the effective  
5 date of this Act; and

6                 (2) the board denied the application because the board determined that the  
7 licensed premises was not a "recreational site" as defined under AS 04.11.210(c).

8                 \* **Sec. 17.** AS 04.11.230(d) is repealed.

9                 \* **Sec. 18.** The uncodified law of the State of Alaska is amended by adding a new section to  
10 read:

11                 RETROACTIVITY. Section 5 of this Act is retroactive to December 31, 2018.

12                 \* **Sec. 19.** This Act takes effect immediately under AS 01.10.070(c).

## ABC REGULATIONS PROJECTS

DOL Project Number	Topic	Date Opened by ABC	FY	Board mbr point person(s)	Current Status/Notes	Date Adopted by ABC	Effective Date
	Emergency Regulation: definition of "in public"					2/24/15	
	Marijuana Regulations				Started by ABC Board; shifted to MCB once constituted	N/A	N/A
	Recreational Site Licenses				Board voted unanimously to close project on 7/1/15	N/A	N/A
JU2016200416	Alcohol Server Education	2/10/16	16	Evans	Sent to Law on 5/5/17; sent to Lt. Gov 8/16/17 Most of text was deleted by Law	4/13/17	9/16/17
JU2016200417	Common Carriers	2/10/16	16	Evans	Signed by Lt. Gov. 6/19/17	4/13/17	7/19/17
JU2016200418	Distillery	2/10/16	16	Evans	signed by Lt. Gov. 11/16/16	7/20/16	12/16/16
JU2016200419	Management Agreements	2/10/16 7/20/16	17	Evans	signed by Lt. Gov. 11/16/16	7/20/16	12/16/16
JU2016200420	Alternating Premises	2/10/16	16	Evans	signed by Lt. Gov. 11/16/16	7/20/16	12/16/16
JU2016200422	Restaurant Designation Permit	2/10/16	16	Evans	signed by Lt. Gov. 11/16/16	7/20/16	12/16/16
JU2016200647	Consumption at Wineries	7/20/16	17	Yoder	Signed by Lt. Gov. 6/19/17	4/13/17	7/19/17
JU2016200646	Tourism Licenses Parameters	7/20/16	17	Manning	Staff is researching; closed for inaction 2/26/19	N/A	N/A
JU2017200479-2	Background Checks	7/11/17	18	Ganley	Voted out for public comment 7/11/17; comment period ends 9/11/17; approved 11/13/17; sent to DOL	11/13/17	
JU2017200479-1	Bona Fide Restaurant	4/13/17	17	Manning	adopted 4/3/18; sent to DOL 4/17/18; needs to be re-posted with correct authority and re-adopted; cmts due 9/7/18; adopted 10/15/18; sent to DOL; to Lt. Gov 1/8/19; signed by Lt Gov 1/22/19	4/3/18 (void) 10/15/18	2/21/19
	Tribal Identification	4/13/17	17		postponed indefinitely 6/12/18	N/A	N/A
JU2017200816	Fee for premises changes; Seasonal premises changes	11/13/17	18	Ganley	Signed by Lt. Gov 4/25/18	1/23/18	7/1/18
	Application fees		18			1/23/18	7/1/18
	Public convenience REPL				Draft to board 11/13/17; returned for more work 11/13/17		
JU2017200778	Distilleries/mixed drinks	9/13/17	18	Manning	Statutory change in 2018 made regulation null	1/23/18 (void)	N/A
JU2018200415	Security interest transfers/ involuntary retransfers	11/13/17	18	Klein	Draft to board 4/3/18; voted out for public comment 4/3/18; posted 4/26/18; cmts due 6/1/18; tabled to August; tabled to October; revised for December; voted out for comment 12/17/18; cmts due 2/8/19; adopted 2/19/19; to DOL @3/18/19	2/19/19	

DOL Project Number	Topic	Date Opened by ABC	FY	Board mbr point person(s)	Current Status/Notes	Date Adopted by ABC	Effective Date
JU2018200208.002	Deadline for Reinstatement and Renewal	1/23/18	18	Ganley	to Lt. Gov 12/12/18; signed 1/22/19	10/15/18	2/21/19
JU2018200208.001	Renewals with Transfers	1/23/18	18	Manning	Signed by Lt. Gov 9/27/18	6/12/18	10/27/18
	Definition of "recreational opportunities"	1/23/18	18	Ganley	Draft to board 6/12/18; tabled for more work		
JU2018200369	Licensed Premises Requirements	4/3/18	18		Signed by Lt. Gov 7/18/18	6/12/18	8/17/18
	Alternating Premises	4/3/18	18			6/12/18	8/17/18
JU2018200830	Wine Auction Permit	8/14/18	19		signed by Lt Gov 1/22/19	10/15/18	2/21/19
	Seasonal Licenses	6/12/18	18	Evans			
	Operating Requirements	8/14/18	19				
	Local Governing Body Protests	8/14/18	19				
JU2019200005	On-line server education course; fee for server education course	10/15/18	19		Initial draft voted out for comment 12/17/18; cmts due 2/8/19; amended and sent out for comment 2/19/19; comments due 4/19/19		
	Definition of moral turpitude	10/15/18	19		Out for comment 2/19/19; comments due 4/12/19		
	Permits	10/15/18	19	Brady	Draft on 2/19/19 agenda; to subcommittee (Brady) for work		
	Issuance of Licenses Late in the Year				Initial draft on April agenda		