



## MEMORANDUM

TO: Alcoholic Beverage Control Board      DATE: July 9, 2019  
FROM: Erika McConnell, Director      RE: Regulations Project: Definition  
of "In the Public Interest"

**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:** Second public comment period closed June 19, 2019

This project was started as a revision to the definition of "moral turpitude" at 3 AAC 304.180. After a first round of public comments, the board amended the draft at the April meeting and put it out for a second round of public comments.

**Proposal:** The changes proposed to 3 AAC 304.180:

- An applicant or an applicant's affiliate must disclose to the board a felony conviction in the 15 years immediately preceding the date of application, changed from 10 years.
- An applicant or an applicant's affiliate is no longer required to disclose to the board the commission of a crime of moral turpitude (excepting those which resulting in felony convictions in the 15 years prior to the date of application).

Two public comments were received and are attached.

Board options:

- Vote to adopt.
- Amend and put out for public comment.
- Send back to staff for additional revisions.

3 AAC 304.180 is repealed and readopted to read:

**3 AAC 304.180. Denial, suspension, revocation, or refusal to renew or transfer, in the public interest.** (a) The factors the board may consider in determining whether it is in the public interest to deny, revoke, suspend, or refuse to renew or transfer a license include

(1) the applicant's, the applicant's affiliates', the transferee's, or the transferee's affiliates' histories of conviction of a felony in this state, the United States, or another state or territory during the 15 years immediately preceding the date of application;

(2) the applicant's, the applicant's affiliates', the transferee's, or the transferee's affiliates' histories of commission of

(A) a violation of AS 04 or regulations adopted by the board; or

(B) a violation of the alcoholic beverage control laws of another state, as a licensee of that state;

(3) whether the applicant, the applicant's affiliates, the transferee, or the transferee's affiliates are untrustworthy, unfit to conduct a licensed business, or a potential source of harm to the public;

(4) whether the applicant, the applicant's affiliates, the transferee, or the transferee's affiliates have permitted, on licensed premises belonging to that person, the occurrence of sexual contact between persons; for the purpose of this paragraph, "sexual contact" means the touching of genitals, anus, or female breast or the intrusion of any object into the genital or anal opening regardless of whether the act was consensual; and

(5) all other factors the board in its discretion determines relevant to the public interest.

(b) The grounds on which a local governing body may properly protest an application under AS 04.11.480 include the grounds set out in (a) of this section. (Eff. 4/28/84, Register 90; am 5/1/94, Register 130; am 5/11/96, Register 138; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_)

<b>Authority:</b>	AS 04.06.090	AS 04.11.330	AS 04.11.370
	AS 04.06.100	AS 04.11.340	AS 04.11.480
	AS 04.11.320	AS 04.11.360	

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June 19, 2019

Alcoholic Beverage Control Board  
[amco.regs@alaska.gov](mailto:amco.regs@alaska.gov)

Re: Proposed Regulatory Changes Regarding Moral Turpitude

Dear members of the Alcoholic Beverage Control (ABC) Board:

I recommend that you adopt the proposed changes to 3 AAC 304.180 as currently written. It doesn't make sense that the ABC Board would consider nonfelonious crimes involving moral turpitude during an indefinite time period. Requiring a 60-year-old applicant who forged his mother's signature when he was 18 years old, for example, to come before the ABC Board and testify to his credibility and fitness as a potential licensee can be embarrassing to him and useless to the Board if he has no other criminal history.

The proposed changes would clean up existing issues and confusion around moral turpitude, while still ensuring that licenses are being issued in the best interest of public health and welfare.

Thank you for your consideration and interest in continuing to protect Alaskans and issue licenses responsibly and appropriately.

Respectfully,

A handwritten signature in green ink, appearing to read 'Sarah D. Oates', is written over a faint, light blue circular watermark or background graphic.

Sarah D. Oates  
President & CEO  
Alaska CHARR

**From:** [Doran Powell](#)  
**To:** [CED AMCO REGS \(CED sponsored\)](#)  
**Subject:** ATTN: Jed Smith RE: Morals Regs  
**Date:** Friday, May 10, 2019 12:15:03 AM

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Hello Mr. Smith.

I have received the proposed regs regarding updating moral clauses in regs. I would like to point out some potential problems in the wording.

The proposed regs refer to "Female Breast". Is there a conflict with the State constitution in the enforcement of laws that apply to only Female breast and not male breast? Equal protection concepts say that we cannot enforce a law against female without doing so against male? We can't have a law that only applies to women.

Another point I would like to comment on is the touching issue. Understandably any kind of sexual penetration should be banned as well as touching of bare anus or vagina but touching breast, butts and crotch over clothing is now a standard dancing practice in nightclubs in Alaska and the USA. The average dancer in a nightclub will see people wrapping legs and hands around each other, touching each other all over. Ballroom dancing as in "Dancing with the Stars" do this with every dance. We can expect real enforcement of these new regs and should not be the dancing police.

Will it be a violation if people bump into each other walking in a tight hallway, going to the bathroom? Kissing in a corner with heavy petting over clothing maybe trashy but should it rise to a ABC violation? Not in my opinion. It does not seem to be causing a problem so it should not added to current regs. Watching for intoxicated patrons should be the priority. Dancing styles should not be a State concern.

Thank you for your consideration,

Doran Powell  
Koot's Managing Partner  
907-223-7817