



## MEMORANDUM

TO: Alcoholic Beverage Control Board      DATE: September 10, 2019

FROM: Erika McConnell, Director      RE: Regulations Project: Death of a Licensee

**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:** First draft for board consideration

The board opened a regulations project to clarify AS 04.11.030, Death of a licensee, at the April 29, 2019, board meeting.

The attached draft repeals and replaces 3 AAC 3 AAC 304.215 and proposes the following:

- Subsection (a) is essentially what is currently in the regulation, but clarifies that this applies to licensees who are sole proprietors or sole owners of entities.
- Subsection (b) proposes that upon the death of a licensee who owns 50% or more of an entity holding a license, the surviving licensees may continue to operate the license but a transfer application or request for extension must be filed within 90 days of the individual’s death. If the transfer or extension request is not submitted, the business must cease operating until a transfer is filed. Only one extension is allowed, unless there is a delay in appointing a personal representative for the estate of the deceased licensee which is cause for allowing additional extensions.
- Subsection (c) proposes that upon the death of a licensee who owns less than 50% of an entity holding a license, the surviving licensees may continue to operate the license but must submit a transfer application or report a change of ownership within 90 days of the individual’s death. (Should the surviving licensees not comply with that requirement, an NOV can be issued and if appropriate, an accusation can be served.)

Board options:

- Put out for public comment.
- Amend and put out for public comment.
- No action.

3 AAC 304.215 is repealed and readopted to read:

**3 AAC 304.215. Death of a licensee.** (a) Upon the death of an individual who is the sole owner of a license, either individually or as the sole owner of the licensed entity, the business must cease operation until the appointment of a personal representative by the superior court. Upon written request made by the personal representative accompanied by an order of the superior court showing the appointment as personal representative of the estate of a deceased individual licensee, the director will grant permission to the personal representative to operate the business upon the licensed premises under AS 04.11.030. In accordance with AS 04.11.030, an application for transfer of ownership of the license or a request for a time extension shall be made within 90 days of the death of the individual. The board may consider subsequent requests for a time extension if they are received before the applicable deadline.

(b) Upon the death of an individual who owns 50 percent or more of a limited liability organization, corporation, or partnership, including a limited partnership, that holds a license under this title, the surviving owners may continue to operate the licensed business but must file a transfer application within 90 days of the death of the individual. If a transfer application or time extension request is not filed by the 90 day deadline, the business must cease operation until the transfer application is filed. Upon receipt of an extension request filed before the 90 day deadline, the board may grant one 90 day extension. Additional extensions may be granted by the board only if a request is filed before a deadline, and only if the extension is needed to allow time for a personal representative to be appointed in order to sign the transfer application.

(c) Upon the death of an individual who owns less than 50 percent of a limited liability organization, corporation, or partnership, including a limited partnership, that holds a license under this title, the surviving owners may continue to operate the licensed business but shall

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report a change of ownership under AS 04.11.045, 04.11.050, or 04.11.055, or shall file a transfer application if required by AS 04.11.040, within 90 days of the death of the individual.

(Eff. 11/29/81, Register 80; am \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:**    AS 04.06.090            AS 04.06.100            AS 04.11.030