



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community, and Economic Development

Alcohol and Marijuana Control Office

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MEMORANDUM

TO: Alcoholic Beverage Control Board DATE: May 29, 2020
FROM: Jane P. Sawyer, Regulations Specialist RE: Regulations Project –
Curbside/Home Delivery

Emergency regulations may not be extended beyond the 120-day period provided by AS 44.62.260. The emergency regulations that allow for curbside and home delivery of alcoholic beverages will expire August 13, 2020, but the Governor extended the suspension of Title 4 provisions through November 15, 2020. Therefore, your regulations will expire even though the statutory suspension permits the conduct. The board will need to make the regulations permanent as proposed here to avoid the conflict.

If the board wishes to make these emergency regulations permanent, it must go through the normal 30-day public notice and comment process, including oral hearings if the board wishes, adoption, and Department of Law review: all before the emergency regulations expire. (There will only be about 63 days left to accomplish this from June 9, 2020).

The proposed regulations build in a sunset date that would prohibit curbside and home delivery after November 15, 2020.

Attached is the draft that would go out for public comment.

(Words in boldface and underlined indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)

The emergency amendment of 3 AAC 304.185(g) is made permanent and that section is further amended to read:

(g) Notwithstanding (a) – (f) of this section (3 AAC 304.185), a licensee may permit an agent or employee to take alcohol off of a licensed premises and bring it to a purchaser for curbside pickup or home delivery **before November 15, 2020**, under the conditions described in 3 AAC 304.920 or 3 AAC 304.925. (Eff. 11/29/81, Register 80; am 12/13/2009, Register 192; am 7/1/2018, Register 226; am 8/17/2018, Register 227; am 04/16/2020, Register 234; am ____/____/_____, Register _____)

Authority: AS 04.06.090 AS 04.06.100 AS 26.23.020

The emergency amendment of 3 AAC 304.920 is made permanent and that section is further amended to read:

3 AAC 304.920. **Curbside pickup.** (a) Notwithstanding 3 AAC 304.185(a) – (f), a beverage dispensary licensee under AS 04.11.090, a restaurant or eating place licensee under AS 04.11.100, a brewery licensee under AS 04.11.130, a brewpub licensee under AS 04.11.135, a winery licensee under AS 04.11.140, a package store licensee under AS 04.11.150, or a

distillery licensee under AS 04.11.170 may permit curbside pickup of alcoholic beverages sold at retail **before November 15, 2020**, only if:

(1) the alcoholic beverage offered for sale is factory sealed;

(2) the licensee is permitted to sell the type of alcoholic beverage under the licensee's current license;

(3) a holder of an alcohol server education card who is an agent, excluding through third-party contract, or employee of the licensee takes the alcoholic beverage from the licensed premises to the location designated for curbside pickup;

(4) the holder of an alcohol server education card verifies in person that the purchaser of the alcoholic beverage is 21 years of age or older as required under 3 AAC 304.425 and is not otherwise restricted from purchasing alcoholic beverages under AS 04.16.160, by requiring the purchaser to produce a valid driver's license or valid identification card; and

(5) the transaction is in accordance with AS 04.16.030.

(b) A licensee that offers alcoholic beverages for curbside pickup must consent to inspections of the areas designated for curbside pickup, excluding private vehicles, at all reasonable times and in a reasonable manner by investigative personnel of the board or by other

peace officers acting in their official capacity. This section is not intended to limit the existing powers of investigative personnel.

(c) A licensee providing curbside pickup shall provide written information regarding their license and curbside service on a form designated by the Director.

(d) For purposes of this section,

(1) “curbside pickup” means a parking place designated by a licensee for pickup of food or alcoholic beverages or an area not greater than 50 feet of an entry to a licensee’s business premises.

(2) “factory sealed” means in a closed, manufacturer-sealed or packaged bottle or can, or a licensee sealed, tamper proofed, and labeled growler of beer. (Eff. 4/16/2020, Register 234, am ____/____/_____, Register _____).

Authority: AS 04.06.090 AS 04.06.100 AS 26.23.020

The emergency amendment of 3 AAC 304.925 is made permanent and that section is further amended to read:

3 AAC 304.925. **Home delivery.** (a) Notwithstanding 3 AAC 304.185(a) – (f) and 3 AAC 304.635(b), a beverage dispensary licensee under AS 04.11.090, a restaurant or eating place licensee under AS 04.11.100, a brewery licensee under AS 04.11.130 operating a bona

fide restaurant on premises, or a brewpub licensee under AS 04.11.135, or a winery licensee

under AS 04.11.140 operating a bona fide restaurant on premises may permit home delivery of

beer or wine sold at retail **before November 15, 2020**, only if:

(1) the order of beer or wine accompanies an order of a meal prepared by the licensee or the bona fide restaurant on premises;

(2) the beer or wine offered for sale is factory sealed;

(3) the licensee is permitted to sell beer or wine under the licensee's current license;

(4) the licensee does not use a third-party delivery service;

(5) a holder of an alcohol server education card who is an agent, excluding through third-party contract, or employee of the licensee takes the beer or wine from the licensed premises to a residence for home delivery;

(6) the purchaser is at home and available to confirm the purchase at the time of home delivery;

(7) a holder of an alcohol server education card verifies that the purchaser of the alcoholic beverage is 21 years of age or older and is not otherwise restricted from purchasing alcoholic beverages under AS 04.16.160, by requiring the purchaser to produce a valid driver's

license or valid identification card; and

(8) the transaction is in accordance with AS 04.16.030.

(b) For purposes of this section,

(1) “factory sealed” means in a closed, manufacturer-sealed or packaged bottle or can or a licensee sealed, tamper proofed, and labeled growler of beer.

(2) “meal” means food purchased at a retail price that is at least fifty percent of the retail price of the alcohol purchase accompanying the order. (Eff. 4/16/2020, Register 234; am 4/23/2020, Register 234; am_____/_____/_____, Register _____)

Authority: AS 04.06.090 AS 04.06.100 AS 26.23.020