



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

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: Alcoholic Beverage Control Board      DATE: July 16, 2020  
FROM: Jane P. Sawyer, Regulations Specialist      RE: Regulations Project –  
Curbside/Home Delivery

At the June 9, 2020, meeting, the board sent out emergency regulation project Curbside/Home Delivery for public comment to consider making the regulation permanent through the suspension of certain Title 4 statutes which, as of today, is November 15, 2020.

Public comment was opened for a little over 30 days closing on July 15, 2020. Five comments were received and they are attached.

Options for the board:

- Counsel will address at meeting depending on what the board chooses to do.

(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



July 15, 2020

Glen Klinkhart  
Interim Director  
Alaska Alcohol and Marijuana Control  
550 West 7<sup>th</sup> Avenue, Suite 1600  
Anchorage AK 99501  
Via email: [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov)

Director Klinkhart:

Thank you for the opportunity to comment on proposed changes in 3 ACC 304 of the Alaska Administrative Code dealing with curbside and home delivery of alcoholic beverages. The American Distilled Spirits Alliance (ADSA) is a group of leading companies with common needs and interests in the manufacturing, importation and marketing of distilled spirits products in the United States and around the world. Member companies represent approximately two-thirds of all distilled spirit sales nationwide.

ADSA supports the proposed changes to permit curbside pickup of alcoholic beverages sold at retail through November 2020. The emergency regulations have given Alaska's struggling hospitality industry a much-needed lifeline during the COVID-19 pandemic and the continuation is critical to the survival of these businesses.

As you consider implementing regulations for home delivery, I encourage you to add spirits in addition to beer and wine under 3 AAC 304.925. The restaurant industry more than any other has suffered the most significant sales and job losses since the COVID-19 outbreak began. Uncertainty of another shutdown looms and reduced capacity and social distancing restrictions will continue to limit financial recovery. Allowing the flexibility of home delivery of all alcoholic beverages with meals will certainly help Alaska small businesses endure this unprecedented pandemic.

According to the Distilled Spirits Council, more than 30 states and the District of Columbia allow some form of to-go, pick up or delivery of cocktails or distilled spirits from restaurants or bars. The effects of COVID-19 will be devastating to the entire hospitality industry for years to come. Thank you for considering the addition of spirits to the home delivery regulations. Please contact me if I can be of further assistance.

Matt Dogali

President and CEO

**From:** kathy hanson  
**To:** [CED AMCO REGS \(CED sponsored\)](#)  
**Subject:** changes to alcohol laws  
**Date:** Tuesday, July 14, 2020 4:00:00 PM

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To the members of the Alcohol and Marijuana Control Board:

As a resident of Bethel, a local option community, I am against the covid related changes that have been made in alcohol laws. The specific changes are those that allow a restaurant to sell alcohol out the back door without any requirement for purchasing food along with it. No restrictions and no limits on the quantity that can be purchased.

In a community that voted just last October to close all retail liquor sales in our town, your board has made it possible for a business to circumvent the wishes of the voters, and that is just not right. We struggled with many ugly issues as a "wet" community and people were relieved when the store was finally closed. The police statistics since the closure tell you the story. Now, because of covid and an effort to support the restaurant that was legally selling beer and wine with food, the Board created a new retail liquor store that allows for unlimited sales.

Our City Council is going to consider a resolution to prohibit the covid related liquor sales tonight at their meeting. But you all should think about the position you put us in by declaring from afar that retail liquor sales is just what we needed to prop up our local economy. It was a mistake and I request that you rescind it in your next meeting.

Thank you.

Kathy Hanson  
Bethel, AK



**From:** Michelle DeWitt  
**To:** [CED AMCO REGS \(CED sponsored\)](#)  
**Subject:** Public Testimony: extension of the exemptions of certain Title 4 statutes  
**Date:** Wednesday, July 15, 2020 3:19:51 PM

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Please accept my concerns about the exemptions for curbside pickup at restaurants in local option communities that have a beer and wine license.

Bethel, where I live, has one such establishment. Bethel has been caught up in this loophole.

Delivery, which is a 50/50 food-to-alcohol ratio, seems to be working.

Pickup, which has no mandate for a food-to-alcohol ratio, has resulted in long lines down our street with people treating the restaurant like a de facto beer and wine store.

This was not what the voters voted into when they went into local option/restaurant-beer and wine sales only.

I support curbside pickup to help this restaurant stay in business, but as a compromise, I believe a beer-and-wine-licensed restaurant in a local option community should be required legislatively to have a 50/50 food-to-alcohol purchase ratio for curbside sales.



July 14, 2020

Alaska Alcoholic Beverage Control Board  
c/o Alcohol and Marijuana Control Office (AMCO)  
550 W 7th Avenue, Suite 1600  
Anchorage, Alaska 99501

Dear Chair Glenn Brady and ABC Board Members,

I am writing on behalf of Recover Alaska regarding the draft regulation extending certain suspension of statutes and new allowable activities for licensees to provide curbside and home delivery of alcoholic beverages in response to the COVID-19 pandemic. While the regulation change simply extends the date of these provisions and removes their emergency status, we raise several important health and safety considerations for the Board to consider when deciding to extend these provisions into the future. **We believe that there are concerns regarding consistent enforcement and encourage the Board to direct AMCO to take appropriate response to monitor licensees' activity and ensure compliance, to mitigate the anticipated widespread harms of increased substance misuse during the pandemic.**

Recover Alaska is a multi-sector action group working to reduce excessive alcohol use and its harms across the state. Our vision is for Alaskans to live free from the consequences of alcohol misuse, so we are all empowered to achieve our full potential. We understand the need to maintain both the economy and public safety; we seek to highlight potential risks that should be considered and addressed.

The COVID-19 pandemic has severely impacted Alaska's economy, including alcohol and hospitality businesses. It is also creating or exacerbating already-known risks of and related harms due to alcohol misuse, which in Alaska costs \$2.4 billion per year—in a normal year. Any policy to encourage alcohol sales and support businesses needs to be seriously weighed against the health and safety risks of loosening current alcohol regulations. These risks were already high, and the conditions of the pandemic have likely made them worse.

1. As people must physically distance from their normal social circles and jobs, there are increases in feelings of stress, depression, anxiety, and loneliness. People may turn to alcohol use as a coping strategy, which may result in heavy and binge drinking. It can also result in return to use for people in recovery. In a survey conducted by the Alaska Department of Health and Social Services in May 2020, among households who consume alcohol, one third reported increased alcohol use compared with prior to the pandemic.<sup>1</sup> The survey results also indicate other troubling trends for families' stress levels, rates of depression and other serious concerns.
2. As the pandemic has caused people to stay home, domestic violence, sexual assault, and child abuse have increased. While alcohol is not the cause of violence, it can exacerbate the problem. The pandemic also causes barriers for survivors of violence to get help. As we are asked to stay in our homes, it can become more difficult for a survivor to call someone to get help without being overheard or to leave the home. Due to school closures, teachers and school staff cannot as easily recognize if a student is being abused at home.
3. Social norms around drinking have changed as well. It is now more normal to drink during work hours, attend a virtual happy hour, and to drink at home more generally, whereas people may have previously only consumed alcohol at establishments that served it. All of these factors have contributed to a rise in alcohol consumption in Alaska and across the United States.

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<sup>1</sup> Results: [http://dhss.alaska.gov/dph/wcfh/Documents/mcheipi/Mental\\_Health\\_survey\\_results\\_6\\_09\\_FINAL.pdf](http://dhss.alaska.gov/dph/wcfh/Documents/mcheipi/Mental_Health_survey_results_6_09_FINAL.pdf)



We support and appreciate the important public health protections you have put in to ensure safer consumption, including:

1. Only allowing existing licensees to provide pickup and delivery services
2. Limiting home delivery to beer and wine only, and with a food order
3. Only people with server education (trained in responsible alcohol service) making deliveries, including home deliveries
4. Not allowing third parties to deliver alcoholic products in takeout orders
5. Requiring all staff filling orders to check ID, to verify the person is 21+ and not restricted from purchasing alcohol.
6. Requiring delivery only in person, to the person who placed the order
7. Requiring licensees to notify the ABC Board before proceeding so they are aware of who is engaging in this activity for enforcement purposes

However, these protections are only useful if they are being enforced, and we know from recent, first-hand experience that in some cases alcohol is being distributed without an ID check at point of online purchase or at pick-up. We understand the current situation and the economic hardship of Alaska businesses, including the hospitality industry, but we also know the easier it is to get alcohol the more consumption increases, as well as the harms that go along with alcohol consumption. We understand these will be limited and temporary during this emergency, and not applied on a permanent basis.

We have several questions regarding whether and how licensees have been compliant with these rules, and what if any oversight and enforcement has occurred:

1. Are establishments allowing alcohol sales to be conducted via third party delivery services, and not only by employees?
2. Are staff verifying that the purchaser is of legal age when the sale or transaction is made, before delivery to the customer?
3. Are staff verifying the purchaser's age when delivering to a home or for curbside pick-up?
4. Are alcoholic beverages consistently being sold with food, as required for home delivery?
5. Are alcoholic beverages consistently being delivered to a customer in person, and not left on the doorstep or unattended? How is this addressed if a business offers no-contact delivery?
6. What, if any, compliance checks are being conducted with businesses offering these options, ensuring they are following the provisions in the regulations?
7. What, if any, action is being taken against licensees who have a pattern of violating the required provisions in the regulations?

To ensure safe alcohol consumption, **we recommend the Alcohol and Marijuana Control Office enforcement team proactively monitor these activities, and take swift action if a licensee is not following these rules, as well as ask for local governments' support in enforcing these rules to the extent possible – particularly to avoid youth access to alcohol and to discourage overconsumption.**

We hope you also consider these recommendations when making further decisions regarding these emergency regulations. Please feel free to contact me with any questions regarding this letter. Thank you for your consideration and your service to our state.

Sincerely,

A handwritten signature in black ink, appearing to read "Tiffany Hall", written over a light blue horizontal line.

Tiffany Hall  
Executive Director

Alaska Cabaret, Hotel,  
Restaurant and Retailers Association



1503 W. 31<sup>st</sup> Avenue, Suite 202  
Anchorage, AK 99503  
(907) 274-8133

July 15, 2020

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

Re: Support for Proposed Regulatory Changes Regarding Curbside & Home Delivery

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

The Alaska Cabaret, Hotel, Restaurant, and Retailers Association (CHARR) – as a representative of Alaska’s alcohol industry as a whole – generally supports the regulation project which would extend the guidelines and requirements regarding curbside pick-up and home delivery of alcohol until November 15, 2020, when Governor Dunleavy’s emergency order expires.

It is essential that these rules remain in place throughout the extent of the emergency order and statutory suspensions in order to provide clear guidelines to the industry regarding legal conduct of these activities.

Thank you for your consideration and interest in continuing to responsibly regulate the industry.

Respectfully,

A handwritten signature in green ink, appearing to read 'Sarah D. Oates', is positioned above the typed name.

Sarah D. Oates  
President & CEO  
Alaska CHARR