

FINDING OF EMERGENCY

The Alcoholic Beverage Control Board finds that an emergency exists and that the attached regulations are necessary for the immediate preservation of the public peace, health, safety, or general welfare. The facts constituting the emergency include the following:

On November 6 2020, the governor declared a public health disaster emergency under AS 26.23.020 due to the spread of COVID-19. According to the declaration, an outbreak of Covid-19 is occurring in Alaska due to widespread community transmission. The declaration is effective November 16, 2020 to December 15, 2020 and replaces a prior declaration of public health emergency that expired November 15, 2020.

The Center for Disease Control and Alaska Department of Health and Social Services have warned that COVID-19 is highly contagious and that physical distancing is paramount to containing the spread of the virus. Alaska instituted public health mandates requiring that individuals maintain physical distance from people who are not members of the person's household. The mandates allow for the continued operation of businesses where people can maintain the required social distance when inside.

Stores, restaurants, and bars have implemented strict measures to maintain physical distance and increasing the availability of drive-through and curbside pick-up and home delivery options. The board concludes so long as patrons are able to enter the premises of alcohol licensees for purchasing, it is necessary to take every possible step to protect the health and safety of those patrons and employees by providing purchasing opportunities that minimize physical distance between patrons and employees.

On November 15, 2020, the governor issued Covid Outbreak Health Order No. 1, Relating to the Suspension of Sections of Alaska Administrative Code and Sections of Alaska Statutes. The order suspends the following statutes in Title 4, relating to the sales of alcoholic beverages, through the duration of the Public Health Emergency Disaster Declaration effective November 16, 2020 at 12:01 a.m.

| <u>Authority</u> | <u>Division</u> | <u>Suspended as described below</u> |
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| AS 04.06.050 | AMCO | To suspend the requirement that the Alcoholic Beverage Control Board meet at least once each year in each judicial district. |
| AS 04.11.090 | AMCO | Suspension of the statute only to the extent necessary to allow for: (1) curbside pickup of alcohol; and (2) delivery of beer and wine when included with an order of food being |

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| | | delivered by a licensed restaurant or eating place establishment. |
| AS 04.11.100 | AMCO | Suspension of the statute only to the extent necessary to allow for: (1) curbside pickup of alcohol; and (2) delivery of beer and wine when included with an order of food being delivered by a licensed restaurant or eating place establishment. |
| AS 04.11.130 | AMCO | Suspension of the statute only to the extent necessary to allow for (1) the curbside pickup of beer sales otherwise allowed under the statute; and (2) delivery of beer and wine when included with an order of food being prepared and delivered by a licensed restaurant or eating place establishment or by the bona fide restaurant on the licensed premises. |
| AS 04.11.135(a)(3) | AMCO | Suspension of the statute only to the extent necessary to allow for the curbside pickup of beer sales otherwise allowed under the statute. |
| AS 04.11.135(d)(3)(C) & (e) | AMCO | Suspension of the statute only to the extent necessary to allow for: (1) curbside pickup of alcohol; and (2) delivery of beer and wine when included with an order of food being delivered by a licensed restaurant or eating place establishment. |
| AS 04.11.140 | AMCO | Suspension of the statute only to the extent necessary to allow for (1) the curbside pickup of wine sales otherwise allowed under the statute; and (2) delivery of beer and wine when included with an order of food being prepared and delivered by a licensed restaurant or eating place establishment or by the bona fide restaurant on the licensed premises. |
| AS 04.11.150 | AMCO | Suspension of the statute only to the extent necessary to allow for the curbside pickup of alcohol sales otherwise allowed under the statute. |
| AS 04.11.170 | AMCO | Suspension of the statute only to the extent necessary to allow for curbside pickup of alcohol. |

The practical effect of these suspensions is that licensees are able to sell alcoholic beverages off of the licensed premises. To provide constraints and avoid confusion, the board must pass emergency regulations so that physical distancing can be balanced with existing public peace, health, and safety protections, including verification that the purchasers are of legal drinking age and are not intoxicated at the time of purchase and protections against alcohol being left unattended.

THEREFORE: The Alcoholic Beverage Control Board finds that upon suspension of the listed Title 4 statutory provisions as stated in the Governor's Suspension Order, effective November 16, 2020, it is in the best interest of the state to enact emergency regulations 3 AAC 304.185(g) 3 AAC 3 AAC 304.920, and 3 AAC 304.925.

ORDER CERTIFYING ADOPTION

I certify that the Alcoholic Beverage Control Board under the authority of AS 04.06.090, adopted at its November 17, 2020 meeting the attached five pages of regulation changes as an emergency regulation to take effect immediately upon filing by the lieutenant governor as provided in AS 44.62.180(3).

This action is not expected to require an increased appropriation.

Date: _____

Glen Klinkhart, Interim Director

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on _____, 20____, at _____, I filed the attached regulation according to the provisions of AS 44.62.

Lieutenant Governor

Effective: _____.

Register: _____.