



MEMORANDUM

TO: Alcoholic Beverage Control Board DATE: April 9, 2024
FROM: Kristina Serezhenkov, Regulations Specialist RE: Regulations Issue- Transfer of Location and Endorsements

Staff presents this regulations issue as a potential project to fix regulation contradiction regarding transfer of location and endorsements. A draft is attached for board consideration.

History:

AS 04.09.400(c) allows a transfer of an endorsement to another person but **not** to another location and reads in part.....*An endorsement expires if the licensed premises are relocated, the license expires, or the license is revoked.*

Corresponding regulations at **3 AAC 305.115 Consideration of endorsement** read:

(a) An endorsement is valid only in conjunction with a license. An endorsement may be transferred to another person only if the license for which the endorsement was issued is also transferred to that person. An endorsement expires if the licensed premises are relocated, the license expires, or the license is revoked.

The draft proposes to amend:

3 AAC 305.070. Application for transfer of location.

Any mention of endorsements transferring location are removed throughout.

3 AAC 305.085(a)(1)(C) Local governing body protest.

Removes mention of the ability for a local governing body to protest a transfer of location for an endorsement.

3 AAC 305.145. License and endorsement application and biennial fees.

Wording is clarified to allow a fee for a transfer of a license with an existing endorsement to another person and to allow a fee for an existing license to transfer location.

Options for the board:

- Consider opening a regulations project or take no action.
- Move to send back to staff for more work.
- If regulations project is opened, send draft to Law for initial review and (with Law's approval) subsequent public comment.
- If regulations project is opened, move to amend regulations and then send to Law for initial review and (with Law's approval) subsequent public comment.

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

3 AAC 305.070 is amended to read:

Commented [KRS1]: Entire section included for ease of reading

3 AAC 305.070. Application for transfer of location. (a) An applicant to transfer an alcoholic beverage license **[OR AN ALCOHOLIC BEVERAGE LICENSE WITH ONE OR MORE ENDORSEMENTS]** to a new location must file an application on a form prescribed by the board. The application must include the information and documentation described in this section. The application may be initiated and completed electronically.

(b) An application to transfer an alcoholic beverage license **[OR AN ALCOHOLIC BEVERAGE LICENSE WITH ONE OR MORE ENDORSEMENTS]** to a new location must contain the information required by AS 04.11.260 for the new location and be executed as described under AS 04.11.260(a). The application must also contain proof of public notice under AS 04.11.310 and 3 AAC 305.075 for the new location and any petitions required under AS 04.11.460.

(c) In addition to the requirements set out in (b) of this section, an application for a transfer of an alcoholic beverage license **[OR AN ALCOHOLIC BEVERAGE LICENSE WITH ONE OR MORE ENDORSEMENTS]** to a new location must contain the following:

(1) a copy of a deed, lease agreement, or other documentation that shows right or title to, or interest in, the land and buildings at the location of the business to be licensed;

(2) a statement identifying whether the transfer to a new location is subject to AS 04.11.400(k) and identifying the involved borough and incorporated city; and

(3) a non-refundable application fee under 3 AAC 305.145

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(d) If a transfer of an alcoholic beverage license [OR AN ALCOHOLIC BEVERAGE LICENSE WITH ONE OR MORE ENDORSEMENTS] to another location is subject to AS 04.11.400(k), before the application is submitted to the board:

(1) not more than 10 business days after the board office determines that the application is complete and the prerequisites of AS 04.11.400(k) are satisfied, the office of the board will notify the affected borough and incorporated city of the transfer of location application, and, if applicable, an accompanying transfer of license to another person; the notice will include

- (A) the date the board office received the complete application;
- (B) the license number;
- (C) the present or previous business name of the license to be transferred;
- (D) the names of the transferee and the transferor, if the application

includes a request to transfer a license [OR A LICENSE WITH ONE OR MORE ENDORSEMENTS] to another person; and

- (E) the proposed new location of the license;

(2) the borough and incorporated city affected by the transfer request under AS 04.11.400(k) may respond to the notice under (a) of this section not later than 60 days after receipt of the notice; the borough and incorporated city may request an extension of time to respond. The board may grant a request for an extension of up to 120 additional days;

(3) within the notification period, the borough and the municipality must provide written notification that they agree to the transfer under AS 04.11.400(k) to be approved by the

Commented [KRS2]: Though this refers to 'transfer to another person' removing language here because transfer under 400k necessarily contemplates transfer of location- which is not possible for endorsements

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office of the board; the board will not approve a transfer of location if the notification required by this paragraph is not received within the time allowed under (d)(2) of this section; if the borough and municipality timely respond, the board may consider whether to approve the relocation under 3 AAC 305.130. (Eff. 1/1/2024, Register 248; am ____/____/_____, Register _____)

Authority: AS 04.06.005 AS 04.11.050 AS 04.11.290
AS 04.06.090 AS 04.11.260 AS 04.11.450
AS 04.06.100 AS 04.11.270 AS 04.11.670
AS 04.11.045 AS 04.11.280

3 AAC 305.085(a)(1)(C) is amended to read:

3 AAC 305.085. Local governing body protest. (a) A local governing body may protest an application filed under this chapter. The protest must be in writing, filed with the board, and copied to the applicant, and must include the governing body's reason for the protest. The reasons stated by a local governing body must be logical grounds for opposing the application or continued operation of the license and have a reasonable basis in fact. Under this section, a protest may be filed for

(1) an application to

(A) issue a new license, a license with one or more endorsements, or endorsement;

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(B) renew an existing license, a license with one or more endorsements, or endorsement;

(C) transfer the location of an existing license[, **A LICENSE WITH ONE OR MORE ENDORSEMENTS, OR ENDORSEMENT**];

(D) transfer an existing license, a license with one or more endorsements, or endorsement to another person; or

(2) the continued operation of a license or endorsement issued under this chapter; under this paragraph, a local governing body may only protest the continued operation of a license or endorsement during the second year of the biennial license period if the local governing body files the protest and the reasons for the protest with the board and copies the licensee not later than January 31 of the second year of the license.

(Eff. 1/1/2024, Register 248; am ___ / ___ / _____, Register _____)

Authority:	AS 04.06.005	AS 04.11.330	AS 04.11.510
	AS 04.06.090	AS 04.11.360	AS 04.11.520
	AS 04.06.100	AS 04.11.480	

3 AAC 305.145(a) is amended to read:

3 AAC 305.145. License and endorsement application and biennial fees. (a) A non-refundable application fee of \$500 must accompany an application for a

(1) new license;

(2) new license with one or more endorsements;

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(3) transfer of an existing license to another location **[OR TO ANOTHER PERSON]**; or

(4) a transfer of an existing license **or an existing license** with one or more endorsements **[TO ANOTHER LOCATION OR]** to another person.

(Eff. 1/1/2024, Register 248; am ___ / ___ / _____, Register _____)

Authority: AS 04.06.005 AS 04.06.090 AS 04.06.100