



## MEMORANDUM

TO: Alcoholic Beverage Control Board      DATE: April 9, 2024

FROM: Kristina Serezhenkov, Regulations Specialist      RE: Regulations Issue- Overlapping Premises and Manufacturer Direct Shipment License

Staff presents this regulations issue as a potential project to amend regulations regarding overlapping premises and manufacturer direct shipment licenses (MDSL).

Currently, 3 AAC 305.360 Overlapping licensed premises, allows for a manufacturer direct shipment license to overlap premises with a brewery, winery, or distillery **manufacturer license**.

However, per AS 04.09.370, a holder of a manufacturer direct shipment license (MDSL) only qualifies for their license by having an existing brewery, winery, or distillery **retail license**.

**AS 04.09.370. Manufacturer direct shipment license. reads:**

(a) A manufacturer direct shipment license authorizes the holder of a brewery retail license issued under AS 04.09.320, winery retail license issued under AS 04.09.330, or distillery retail license issued under AS 04.09.340, or the holder of a manufacturer license issued in another state, to sell the holder's product in response to an order for shipment to a person.....

Many licensees have overlapping licensed premises with a typical example of a brewery manufacturer overlapping premises with its corresponding brewery retail license. Other licensees may have their manufacturing licensed premises adjacent/near to their retail licensed premises and do not overlap these spaces.

The regulations draft attached proposes to add the manufacturer direct shipment licensee's corresponding brewery retail, winery retail and distillery retail to the list of possible overlapping premises to align with statute and to give licensees more choices in their business models.

**The draft proposes to amend:**

**3 AAC 305.660(a)(2) and (b). Overlapping licensed premises.**

This expands the list of license types that may overlap with a manufacturer direct shipment licensed premises to include both the brewery/winery/distillery manufacturer and the brewery/winery/distillery retail licenses.

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 305.660(a)(2) is amended to read:

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

**3 AAC 305.660. Overlapping licensed premises.** (a) Except as provided in (h) of this section, the board may approve an application for overlapping premises for two or more licenses owned by the same person or group of persons required to be identified in an application submitted under AS 04.11.260. The application must be in writing and include a detailed premises diagram. The board may approve an overlapping premises application under the following conditions:

(1) licensed premises for manufacturer licenses issued under AS 04.09.020 (brewery manufacturer), AS 04.09.030 (winery manufacturer), and AS 04.09.040 (distillery manufacturer) may overlap with each other as permissible under federal law;

(2) licensed premises for a **manufacturer direct shipment license issued under AS 04.09.370 may overlap with the following licenses:**

**(A) brewery** manufacturer license issued under AS 04.09.020  
[(BREWERY MANUFACTURER)];

**(B) winery manufacturer license issued under** AS 04.09.030  
[(WINERY MANUFACTURER), AND];

**(C) distillery manufacturer license issued under** AS 04.09.040  
[(DISTILLERY MANUFACTURER)];

**(D) brewery retail license issued under AS 04.09.320;**

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**(E) winery retail licenses issued under AS 04.09.330;**

**(F) distillery retail licenses issued under AS 04.09.340** [MAY  
OVERLAP WITH A MANUFACTURER DIRECT SHIPMENT LICENSE ISSUED  
UNDER AS 04.09.370];

(3) licensed premises for a manufacturer license issued under AS 04.09.020  
(brewery manufacturer), AS 04.09.030 (winery manufacturer), and AS 04.09.040 (distillery  
manufacturer) may overlap with the following retail licenses for consumption on the licensed  
premises:

(A) beverage dispensary licenses issued under AS 04.09.200;

(B) restaurant or eating place licenses issued under AS 04.09.210;

(C) beverage dispensary tourism licenses issued under AS 04.09.350;

(D) brewery retail licenses issued under AS 04.09.320;

(E) winery retail licenses issued under AS 04.09.330;

(F) distillery retail licenses issued under AS 04.09.340;

(G) seasonal restaurant or eating place tourism licenses issued under  
AS 04.09.360.

3 AAC 305.660(b) is amended to read:

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(b) Unless provided otherwise in AS 04.09.520 **or AS 04.09.370**, overlapping licensed premises may not be utilized to offer the license holder's alcoholic beverages for sale for consumption off the licensed premises or to subdivide and sell the license holder's alcoholic beverages from original packages with federally compliant labels to smaller containers with the standard federal government warnings and the product name.

(c) In addition to overlapping premises permissible under (b) of this section, licensed premises for a brewery retail license issued under AS 04.09.320, winery retail license issued under AS 04.09.330, or distillery retail license issued under AS 04.09.340 may overlap with the following retail licenses for consumption on the licensed premises:

(1) beverage dispensary licenses issued under AS 04.09.200;

(2) restaurant or eating place licenses issued under AS 04.09.210;

(3) seasonal restaurant or eating place tourism licenses issued under AS 04.09.360;

(4) beverage dispensary tourism licenses issued under AS 04.09.350.

(d) Licensed premises for a package store issued under AS 04.09.230 may overlap with the following retail licenses for consumption off the licensed premises:

(1) beverage dispensary licenses subject to the requirements described under AS 04.09.230(d);

(2) brewery retail licenses issued under AS 04.09.320;

(3) winery retail licenses issued under AS 04.09.330;

(4) distillery retail licenses issued under AS 04.09.340.

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(e) Licensed premises for manufacturer licenses issued under AS 04.09.020 (brewery manufacturer), AS 04.09.030 (winery manufacturer), and AS 04.09.040 (distillery manufacturer) may overlap with a package store license as described under AS 04.09.230.

(f) Licensed premises for a package store issued under AS 04.09.230 may overlap with the licensed premises of a restaurant or eating place license or a seasonal restaurant or eating place tourism license, subject to the controlled access conditions required by the board.

(g) Licensed premises for general wholesalers issued under AS 04.09.100 or limited wholesale brewed beverage and wine licenses issued under AS 04.09.110 may share overlapping premises.

(h) For all overlapping licensed premises permitted under this section, the permissible consumption on premises, permissible sales for off premises consumption, and compliance with AS 04.16.049 is determined by the specific combination of licenses.

(i) The restriction that both licenses must be held by the same person or group of persons as described in (a) of this section does not apply to an overlapping premises for two or more licenses approved by the board before January 1, 2024.

(Eff. 1/1/2024, Register 248; am \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

<b>Authority:</b>	AS 04.06.090	AS 04.09.100	AS 04.09.330
	AS 04.06.010	AS 04.09.110	AS 04.09.340
	AS 04.06.100	AS 04.09.200	AS 04.09.350
	AS 04.09.020	AS 04.09.210	AS 04.09.360
	AS 04.09.030	AS 04.09.230	AS 04.09.370
	AS 04.09.040	AS 04.09.320	AS 04.11.135