3 AAC 304
REGULATIONS FOR THE ALCOHOLIC BEVERAGE CONTROL BOARD

UPDATED 8/23/2020

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ALOCOHOL REGULATIONS CHANGES

(This table was started in June 2019. Previous changes to 3 AAC 304 are not reflected, but any changes to a regulation section are reflected at the end of each regulation section. Do not rely on the explanation on this page, you must read the regulation, understand it, and know how to apply it to your business)

Effective Date of Change	Index Number of updated regulation
June 22, 2019	3 AAC 304.106 is a new section regarding security interest transfers. 3 AAC 304.107, regarding security interest transfers, is repealed and readopted.
November 28, 2019	3 AAC 304.170 allows a licensee to operate a new license between November 20 and December 31 without having to file for a waiver of operation. 3 AAC 304.180 is repealed and readopted.
February 23, 2020	3 AAC 304.465(c)(8) amended the phrase "Happy Hour" to 'pricing and marketing'. 3 AAC 304.465(e) changed the word 'offered' to 'held'. 3 AAC 304.465(j) is repealed. 3 AAC 304.465(*l*) is a new subsection to require a fee for new and renewal of server education courses.
April 11, 2020	3 AAC 304.615. Petitions is repealed and moved to 3 AAC 304.115. 3 AAC 304.905(d) is repealed and moved to 3 AAC 304.115 No other changes to 3 AAC 304.115.
April 16, 2020	3 AAC 304.185; 3 AAC 304.920; 3 AAC 304.925 – These are emergency regulations in response to Covid-19 outbreak: allow curbside delivery and/or home delivery by certain Title 4 licensee. They are not intended to become permanent regulations. Emergency regulations are found at the end of this book.
April 23, 2020	3 AAC 304.925 – Emergency regulation amended to include breweries and wineries for home delivery.
July 24, 2020	Emergency regulations 3 AAC 304.185(g), 3 AAC 304.920, and 3AAC 304.925 become permanent. Those sections are moved up to their respective order in the regular section of the regulations.
August 23, 2020	Adds the sunset of November 15, 2020, to 3 AAC 304.185(g), 3 AAC 304.920, 3 AAC 304.925.

Article 1

Administration

3 AAC 304.005. Submissions to the board

Except as otherwise specifically provided in this chapter, applications and communications of a formal nature must be submitted in writing, upon prescribed forms as appropriate, to the board at its main office, and are not considered timely filed until received there. (Eff. 11/29/81, Register 80; am 9/11/98, Register 147)

3 AAC 304.015. Staff

(a) The director of the board is responsible for the management of the board's offices, the administration of the board's functions and the enforcement of AS 04 and this chapter.

(b) The director will employ and supervise necessary clerical and investigative personnel and will prescribe their duties and authority.

(c) The director will prescribe forms for application for new licenses, transfers, renewals and for permits, petitions, and other necessary documents. (Eff. 11/29/81, Register 80)

3 AAC 304.025. Conduct of board meetings

(a) The board will, at the first meeting of each calendar year, select a chairman from among its members to preside over board meetings during the ensuing year.

(b) The board will meet at the call of the chairman after reasonable public notice is given.

(c) *[Annulled by sec. 5, ch. 38, SLA 2018]*

(d) The director is responsible for preparing an informative agenda for each board meeting. A copy of the agenda will be available for inspection by persons who request it. (Eff. 11/29/81, Register 80; am 5/11/96, Register 138)

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3 AAC 304.035. Public comment at board meetings

(a) At its public meetings, the board will receive public comment upon items of agenda business and other issues of public interest related to alcoholic beverages, including the conduct of business by licensees and the compliance by licensees and others with the statutes and regulations related to alcoholic beverages. Public comment may also be submitted to the board in writing by any person at any time.

(b) The right to be heard provided for in this section does not constitute intervention in a proceeding or exhaustion of an administrative remedy. (Eff. 11/29/81, Register 80)

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Article 2

Licensing

3 AAC 304.100. When licenses become available

Except as provided in 3 AAC 304.110, an application will be denied if it is received by the board at a time when there are no available licenses of the kind applied for. In this chapter, a license becomes available

(1) on the date the director determines the relevant population under 3 AAC 304.905, where the license becomes available because of an increase in the population during the preceding year;

(2) 30 days after the period for renewing licenses has expired, where the license becomes available because a license has expired and has not been renewed;

(3) on the conclusion of all appeals of the revocation, or on waiver of appeal by the licensee, whichever is later, where the license becomes available because of the revocation of another license;

(4) on the date determined by the board or the director in any other case. (Eff. 4/28/84, Register 90; am 2/21/2019, Register 229)

3 AAC 304.105. Application generally

(a) An application must be on a form prescribed by the board.

(b) An application for a new license or for renewal, relocation, or transfer of an existing license, must contain the information required by AS 04.11.260 - 04.11.290. In addition, as appropriate, the application must contain the following:

(1) written authorization for release of conviction and arrest records of a new applicant or transferee, and that person's affiliates, along with a listing of the convictions of any of those individuals in any state or territory for a crime or for a violation of liquor laws;

(2) if the new applicant or transferee is a corporation, written authorization for release of the conviction and arrest records of each officer and director and, unless the applicant is a corporation described in AS 04.11.050(c), of each individual shareholder owning 10 percent or more of the corporation's stock;

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(3) a statement that no one other than the applicant has a financial interest in the business to be licensed;

(4) if the new applicant or transferee is a partnership or joint venture, a copy of its partnership or joint venture agreement, or, if the new applicant or transferee is a corporation, a copy of its certificate of incorporation and a statement of the applicant that the corporation is in good standing;

(5) a statement that the applicant or its principals have read and are familiar with AS 04 and with this chapter;

(6) copies of deeds, lease agreements, or other documents that show right or title to, or interest in, land and buildings at the location of the business to be licensed; and

(7) if the new applicant or transferee is a limited liability organization, a statement of the applicant that the limited liability organization is in good standing, and if it is a

(A) limited liability company, a copy of its articles of organization, certificate of organization, and operating agreement; or

(B) limited liability partnership, a copy of its statement of qualification.

(c) The required biennial license fee must accompany an application for a new license or permit, or for renewal of an existing license or permit.

(d) A non-refundable application fee of $500 must accompany an application for a new license, relocation, or transfer of an existing license. A non-refundable application fee of $300 must accompany an application for license renewal.

(e) An application that is incomplete or that is not accompanied by the required fees will be returned to the applicant. (Eff. 11/29/81, Register 80; am 10/4/87, Register 104; am 7/30/89, Register 111; am 5/1/94, Register 130; am 5/11/96, Register 138; am 6/13/2003, Register 166; am 7/1/2018, Register 226)

3 AAC 304.106. Security interest transfers

(a) A licensee wishing to establish a security interest in a license being transferred to a new owner shall submit the following documents with the transfer application:

(1) a leasehold conveyance or contract of sale of real property made in the course of the license transfer;

(2) a list of personal property being conveyed from the transferor to the transferee, along with the value of the property and a draft UCC financing statement in which a security interest in the license is claimed under AS 04.11.670, AS 04.11.360(4)(B), containing the following statement: "Under the terms of AS 04.11.670, AS 04.11.360(4)(B), and 3 AAC 304.106, the transferor/lessor retains a security interest in the liquor license that is the subject of this conveyance, and may, as a result, be able to obtain a retransfer of the license without satisfaction of other creditors."; the value of the personal property must be sufficient for the board to determine that the license is not being used as collateral except as provided under AS 04.11.670;

(3) all transaction and security documents relating to the lease or sale of real property and sale of personal property in conjunction with the license transfer.

(b) The transferor must include in the published notice of transfer required by AS 04.11.310(a), the following statement: "Under the terms of AS 04.11.360(4)(B), AS 04.11.670, and 3 AAC 304.106, the transferor/lessor retains a security interest in the liquor license that is the subject of this conveyance, and may, as a result, be able to obtain a retransfer of the license without satisfaction of other creditors."

(c) After board approval, a copy of the recorded leasehold conveyance or contract of sale of real property, and the recorded UCC financing statement must be provided to the director before the transferred license may be operated.

(d) A security interest in a license may not be established when the license transfer contemplates a transfer of less than 100 percent of the interest in the license.

(e) A license with an established security interest may not be transferred to a new owner unless all obligations under the security interest are satisfied before or as part of the transfer, except that the board may make an exception in the case of the death of a licensee. (Eff. 6/22/2019, Register 230)

3 AAC 304.107. Compelled transfer of license; security interest

(a) If a former licensee seeks to compel the transfer of a license because of a promise under AS 04.11.670 given as collateral by the current licensee to the former licensee in the course of an earlier transfer of the license, followed by a default in payment in connection with property conveyed or a lease made in the course of the previous transfer, the board will deny the

transfer if creditors are not satisfied under AS 04.11.360(4)(A) unless it clearly appears that

(1) the security interest was established in the previous transfer in accordance with 3 AAC 304.106;

(2) the former licensee operated the license that was transferred for at least 240 hours;

(3) the term of a security interest in a license to secure payment for personal property did not exceed 10 years.

(b) The director may identify, in board meeting agendas, those applications for transfer of ownership that are secured as described in this section.

(c) After the foreclosure of real property that secures payment of a debt also secured by a promise under AS 04.11.670, a license may not be retransferred without satisfaction of creditors under AS 04.11.360(4)(A) unless

(1) the board approved an application for retransfer before the foreclosure; or

(2) the amount owed to the former licensee for the real property at the time of foreclosure exceeds the fair market value of the property; the former licensee carries the burden of proof to show that the fair market value is less than the amount owed. (Eff. 7/30/89, Register 111; am 5/1/94, Register 130; am 6/22/2019, Register 230)

3 AAC 304.110. Mutually exclusive and competing applications

(a) When the board receives applications for more licenses of a type than can be supported by the population under AS 04.11.400(a), so that the board is required to deny one or more applications, the applications are "mutually exclusive" under this section.

(b) The board will consider, and grant or deny, mutually exclusive applications in the order in which they are received. However, all "competing applications," as defined under (c) of this section, will be treated as if they were received at the same time, and will be considered together.

(c) "Competing applications" are those mutually exclusive applications for licenses

(1) inside a unified municipality, organized borough, or incorporated city that,

(A) if the applications are for one or more licenses which have become available because of a change of local option or a change in population, are received

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during the 30-day period beginning on the date the license or licenses first become available; or

(B) if the applications are for the last available license other than a license described in (A) of this paragraph, are received within the same 30-day period beginning on the date the board received the first application for the license; and

(2) outside a unified municipality, organized borough, or incorporated city, that are received 30 days or less after the immediately preceding application for the license.

(d) Nothing in this section may be interpreted to allow the 90-day time limit for a decision on an application, set by AS 04.11.510, to be exceeded. (Eff. 4/28/84, Register 90; am 5/1/94, Register 130)

3 AAC 304.112. Selection among competing applications within incorporated cities, organized boroughs, and unified municipalities

(a) Within an incorporated city, organized borough, or unified municipality, all competing applications, as defined in 3 AAC 304.110(c), will be considered together by the board under this section.

(b) If affiliates, or persons who are related by birth or marriage, have filed competing applications for premises at a single location, the board will, in its discretion, deny all but one of those applications.

(c) The board will deny any competing applications which are required to be denied under AS 04.11.320, 04.11.340, or 04.11.480.

(d) If the denial of one or more competing applications under (b) or (c) of this section causes any other competing applications to cease to be mutually exclusive, the board will, in its discretion, approve the applications which are no longer mutually exclusive.

(e) If there continue to be competing applications after the steps in (b), (c), and (d) of this section are taken, the board will, in its discretion, grant any applications the board considers most in the public interest. The factors the board will, in its discretion, consider in determining the public interest include the safety, suitability, and proximity to other licensed premises of the location of the proposed premises; the size of the proposed premises; community amenities associated with the premises, including entertainment, dining facilities, and tourist accommodations; and preferences or priorities expressed by the local governing body.

(f) If there continue to be competing applications after the steps in (b), (c), (d), and (e) of this section are taken, the board will, in its discretion, conduct a drawing to determine which remaining competing applications to approve.

(g) A competing application not granted under this section will be denied without prejudice to future application.

(h) A license granted under this section will be issued after the time within which unsuccessful competing applicants may appeal the denial of their applications, and after all statutory requirements are met by the successful applicant. (Eff. 4/28/84, Register 90; am 5/19/85, Register 94; am 5/1/94, Register 130)

3 AAC 304.115. Petitions

(a) If required by statute or regulation, a petition is a necessary part of an application for a new license, and for renewal, transfer, or relocation of an existing license. An application submitted without the required petition is incomplete. All petitions must be on forms prescribed by the board. Petition signatures must be obtained within the 90-day period immediately preceding the submission of the application. After an application has been filed, no additional signatures may be added to the petition, and no signatures may be withdrawn.

(b) A person signing a petition relating to a license must be 21 years of age or older and must be a permanent resident of the geographical area relevant to the petition. A person may have only one permanent residence.

(c) Municipal boundaries shall be disregarded when gathering petition signatures.

(d) When submitting a petition under AS 04.11.460, an applicant shall assist in the determination of population by submitting the following information with the application:

(1) a graphic designation on a United States Geodetic Survey map with a scale of at least one inch to the mile showing the population within a circle of the applicable radius, and showing where petition signatures were obtained; and

(2) the population within the applicable area and narrative of how the population was determined. (Eff. 11/29/81, Register 80; am 10/24/87, Register 104; am 4/11/2020, Register 234)

3 AAC 304.125. Public notice

(a) The notice required by AS 04.11.310 must be given as follows:

(1) by posting for a period of at least 10 days a true copy of the application at

(A) the location of the proposed premises; and

(B) one other conspicuous location in the area of the proposed premises; and

(2) by an announcement, published once a week for three consecutive weeks in a newspaper of general circulation in the area or broadcast twice a week for three consecutive weeks by a radio station serving the area, stating

(A) the name of the applicant and the transferee if applicable;

(B) the name and location of the proposed premises;

(C) the type of license applied for;

(D) that any comment or objection may be submitted to the board; and

(E) whether the application is for a new license or transfer of an existing license.

(b) Proof of posting and of publication or broadcast must be made by affidavit which must be attached to the application.

(c) If the director considers it necessary to provide adequate public notice, or if the director is requested to do so by a local governing body or village counsel, the director will, in his discretion, require that the announcement described in (a) of this section be given in the Native language as well as in English.

(d) The public notice must be given within the 60 days immediately preceding the filing of the application.

(e) Notwithstanding (a)(2) of this section, within the municipality of Anchorage, the City and Borough of Juneau, and the Fairbanks North Star Borough, the applicant shall provide notice of the application by an announcement, published once a week for three consecutive weeks in a

newspaper of general circulation in the area. In the communities specified in this subsection, broadcast notice by a radio station may not substitute for newspaper notice.

(f) A newspaper notice of an application must be by display advertisement measuring a minimum of one column inch by three inches.

(g) A broadcast notice of an application by radio station must occur during triple A advertising time. (Eff. 11/29/81, Register 80; am 5/1/94, Register 130)

3 AAC 304.135. Action upon application

Repealed 5/11/1996

3 AAC 304.145. Local governing body protest

(a) To protest an application or the continued operation of a license, a local governing body must set out its reasons in a written protest filed with the board and copied to the applicant. 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.

(b) The board will not take final action upon an application until at least

(1) 60 days after the receipt of the notice required by AS 04.11.520 by a local governing body unless it advises the director in writing before the end of the 60 days that it is waiving its right to protest the application; and

(2) 15 days after completion of public notice of the application.

(c) Repealed 5/11/96.

(d) A local governing body that protests an application shall allow the applicant a reasonable opportunity to defend the application before a meeting of the local governing body.

(e) A local governing body protest may be based upon facts that render the particular application objectionable to the local body, or may be based upon a general public policy. If based on a general public policy, the policy must have a reasonable basis in fact, may not be contrary to law, and may not be patently inapplicable to the particular application being

protested. The board will not substitute its judgment for that of the local governing body on matters of public policy that have reasonable factual support.

(f) If the application is denied because of the protest, and the applicant requests a hearing, the local governing body must, at the board's request, appear or otherwise meaningfully participate in the hearing and must assist in or undertake the defense of its protest.

(g) In addition to the other grounds for protest set out in this section, a local governing body may protest the

(1) renewal or transfer of a license based on nonpayment of delinquent taxes of at least $200 arising in whole or in part from the conduct of the licensed business; and

(2) transfer of a license if the

(A) local governing body has adopted an ordinance under which it may estimate the amount of taxes due in the tax year of the proposed transfer and arising in whole or in part from the conduct of the licensed business, and require the licensee to pay the estimated amount; and

(B) licensee fails to pay that amount or give security under AS 04.11.360.

(h) The board may uphold a protest of an application or continued operation with a single abeyance period not to exceed 180 days if the local governing body indicates that the protest is subject to rescission and that it will be withdrawn if the applicant meets conditions set by the local governing body. If the local governing body notifies the board within the period of the abeyance that the protest has been removed, the application or continued operation is approved when all other applicable requirements have been met. If the local governing body has not notified the board within the period of the abeyance that it has removed the protest, the application or continued operation is denied. The period of abeyance may not be extended or renewed. (Eff. 11/29/81, Register 80; am 4/28/84, Register 90; am 5/22/92, Register 122; am 5/11/96, Register 138; am 2/21/2019, Register 229)

3 AAC 304.147. Processing fees for renewals after late payment of taxes

(a) A licensee shall pay the following additional fee for renewal of a license after a local governing body protests renewal under 3 AAC 304.145(g)(1):

(1) if the delinquent taxes are paid after the local governing body files a protest with the board and before the board denies license renewal under AS 04.11.510(a), $50;

(2) if the delinquent taxes are paid, after protest, but before appointment of a hearing officer to hear an appeal of the board's denial of license renewal, $200;

(3) if the delinquent taxes are paid, after appointment of a hearing officer, but before an administrative hearing on the appeal of the board's denial of license renewal, $1,000; or

(4) if the delinquent taxes are paid, after an administrative hearing, but before the board adopts a hearing officer's recommendation to deny license renewal, $2,000.

(b) A fee under (a) of this section will not be charged or will be refunded if the board finds that the local governing body has withdrawn the protest on the basis that the protest was made in error.

(c) Failure to remit fees under this section within 10 days following receipt of written notice from the director is additional grounds for the board to deny an application for renewal. (Eff. 5/1/94, Register 130)

3 AAC 304.150. Procedure on objection or protest; appeals

(a) If the board receives an objection described in AS 04.11.470, a protest described in AS 04.11.480(a) and 3 AAC 304.145, or a protest described in AS 04.11.480(b), the board will follow the following procedures:

(1) In the case of an objection described in AS 04.11.470, the board will, at the first meeting at which it considers the application after the objection is received, determine whether it is appropriate to hold a public hearing under AS 04.11.510(b)(2) to ascertain the reaction of the public or a local governing body to the application. If the board determines that it is appropriate to hold a public hearing, the board will follow the procedures in (b) of this section.

(2) If the board receives a protest of an application from a local governing body described in AS 04.11.480(a), the board will review the protest at its first regular meeting at which it considers the application after the protest is received. If the board has any indication that the protest might be arbitrary, capricious, or unreasonable, the board will first determine whether the protest is based on a question of law. If the protest is found to be based in whole or in part on a question of law, the board will schedule the matter for a public hearing under (b) of this section and AS 04.11.510(b)(4). Unless a hearing is required by another provision of

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law, if the protest is found not to be based on a question of law the board will, in its discretion, and if appropriate, conduct a public hearing under (b) of this section to ascertain the reaction of the public or a local governing body to the application in question. If the board has no indication that the protest is arbitrary, capricious, or unreasonable, it will, in its discretion, vote to uphold the protest, and the applicant and the board will follow the procedure set in AS 04.11.510(b)(1). If the board decides to overrule the protest, the local governing body may appeal the board's decision under AS 44.62.

(3) If a protest is received as described in AS 04.11.480(b), the board will, under (b) of this section, conduct a public hearing as required by AS 04.11.510(b)(3).

(b) A public hearing under this subsection will, in the board's discretion, be conducted, after proper notice to interested parties and members of the public, by the board's staff or the board sitting alone. The board shall exercise all other powers relating to the conduct of the hearing. If the hearing is conducted by the board's staff, the director or the director's designee shall prepare a written report to the board.

(c) A hearing conducted under this section will, in the discretion of the director, be recorded by a qualified court reporter or the board's staff.

(d) A hearing required to be held under AS 44.62 is delegated to a hearing officer alone, unless the board decides to sit along with a hearing officer for a specific matter. (Eff. 7/30/89, Register 111)

3 AAC 304.155. Issuance of license

Upon approval of an application for a new license or the renewal or transfer of an existing license, receipt by the board of necessary public health and public safety approvals and completion of any inspection considered necessary by the director, the director will issue an appropriate license. (Eff. 11/29/81, Register 80)

3 AAC 304.160. License renewals

(a) For purposes of AS 04.11.270(b), a license renewal is timely and not delinquent if received at the board's main office or postmarked on or before December 31.

(b) For purposes of AS 04.11.540, an application for renewal of a license as described in that section is considered submitted by February 28 if the renewal application is received at the board's main office or postmarked on or before February 28.

(c) If a mailed renewal application has an illegible postmark or an undated postmark, the postmark date is rebuttably presumed to be five calendar days before the application was received in the board's office.

(d) In this section, "postmark" means the official cancellation stamp used by the United States Postal Service that records the date and place of mailing.

(e) For the purposes of AS 04.11.540, if a license has expired for failure to file a complete application for renewal by February 28 or for failure to pay the required fees and penalty fees by that date, the board will consider a written request to reinstate the license if the request is accompanied by

(1) a complete application;

(2) a reinstatement fee of $1,000;

(3) all other required fees and penalty fees; and

(4) proof of good cause for the failure to file and pay by February 28.

(f) The board will deny a request for reinstatement submitted under (e) of this section if

(1) the license became available in accordance with 3 AAC 304.100(2) and was issued to a different applicant, unless the limit of licenses under AS 04.11.400 has not been reached; or

(2) the board finds that the failure to timely file or pay was caused by

(A) the licensee's failure to notify the board of a change of the licensee's mailing address;

(B) a transfer of ownership of the business for which the license was issued without written approval of the board in violation of AS 04.11.040;

(C) a lease of the licensed business to another person in violation of AS 04.11.450(c); or

(D) any other action of the licensee whether active or tacit that the board finds constitutes a failure to lawfully operate the business for which the license was issued. (Eff. 9/11/98, Register 147; am 6/13/2003, Register 166; am 2/21/2019, Register 229)

3 AAC 304.165. Renewals

Repealed 5/11/1996, Register 138

3 AAC 304.170. Waiver of annual operating requirement and minimum operating requirements

(a) Except as provided in this section, the board will deny an application for renewal of a license if the licensed premises were not operated for the time required by AS 04.11.330(a)(3) or (d).

(b) A licensee may apply to the board, requesting that the board waive the operating requirement of AS 04.11.330 (a)(3) or (d). Under AS 04.11.330(a)(3), the board will determine whether, through no fault of the licensee or because the premises are under construction, the licensed premises could not be operated for the required time during the preceding calendar year.

(c) An application for waiver for a calendar year must be made in writing to the board and must be accompanied by a non-refundable application fee of:

(1) an amount equal to one-half the applicable biennial license fee if a waiver application was not made for the previous year; or

(2) double the amount of the fee paid for the previous year's waiver application;

(d) In an application for waiver, the licensee must explain why the licensed premises were not operated. Additionally, the licensee must provide a copy of the application to the local governing body, if any, having jurisdiction over the license and licensed premises.

(e) The board will, in its discretion, deny a third or subsequent consecutive application for waiver unless the licensee clearly shows that the licensed premises were not operated because the premises were condemned or substantially destroyed by any cause. If the premises identified on an applicant's license are not leased or owned by the licensee, the third or subsequent application will, in the board's discretion, be denied. Additionally, a third or subsequent

consecutive application for waiver that does not identify a licensed premises location will, in the board's discretion, be denied.

(f) The board will, in its discretion, impose conditions along with the approval of an application for waiver.

(g) If an application for waiver is denied, an application for license renewal for the succeeding license period will be denied by the board under AS 04.11.330(a)(3).

(h) In addition to the application fee under (c) of this section, the applicant shall pay $1,000 for an application that is received too late for board consideration at its last meeting of the calendar year for which waiver is requested.

(i) In circumstances of death of a licensee, destruction of the premises, or comparable circumstances showing extraordinary hardship, the board will, in its discretion, waive the fees under (c) and (h) of this section.

(j) If a license is exercised only to satisfy the minimum operating requirement under AS 04.11.330(a)(3) or 3 AAC 304.107(c)(1), a licensee shall operate in a similar fashion to other licensed premises of the same type by meeting the following operating requirements if appropriate for the license type:

(1) provide signage, of sufficient size and visibility to show that the premises is open for business, stating business name and hours of operations;

(2) offer for sale at the licensed premises, as appropriate to the type of license, a variety of malt beverages, wines, and distilled spirits;

(3) visibly display the alcoholic beverages stock in a licensed package store premises;

(4) provide seating in beverage dispensary licensed premises for at least one-half of the maximum number allowed by the occupancy permit;

(5) comply with all state or municipal health, fire, and zoning laws or ordinances required for the operation of business;

(6) maintain a record of all purchases of alcoholic beverages for resale on the licensed premises; and

(7) record sales with a cash register or point of sale system that retains a record of transactions.

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(k) The licensee has the burden of proof to show that the licensed premises was operated for the minimum required period of time and met the operating requirements under (j) of this section. The licensee may provide receipts, invoices, photographs, permits, timecards, and other records to meet the burden of proof. If the licensee fails to provide proof that one or more of the operating requirements was met, the board may consider additional documentation provided by the licensee to determine whether the licensee has met the burden of proof.

(*l*) If a new license is issued between November 20 and December 31, the licensee is exempt from filing a waiver of annual operating requirement for that year. (Eff. 11/30/90, Register 116; am 5/22/92, Register 122; am 5/1/94, Register 130; am 5/11/96, Register 138; am 2/21/2019, Register 229; am 11/28/2019, Register 232)

3 AAC 304.175. Transfers

(a) Repealed 5/11/96.

(b) An application for the transfer of a license or of a controlling interest in a license issued to a corporation or limited liability organization must contain the same information about the transferee as required of an applicant for a new license.

(c) The transfer of a controlling interest in a corporation or limited liability organization that is the holder of a license issued under AS 04.11.400(g) is prohibited.

(d) Without limitation, the board will, in its discretion, deny an application to transfer a license to another person if the license was issued to the licensee less than one year before the date of the proposed transfer. This subsection applies only to new licenses first applied for on or after April 30, 1984.

(e) An application for the transfer of a liquor license received after November 1 of the year in which the license expires must be accompanied by an application to renew the liquor license. (Eff. 11/29/81, Register 80; am 4/28/84, Register 90; am 5/11/96, Register 138; am 8/24/2001, Register 159; am 6/13/2003, Register 166; am 10/27/2018, Register 228)

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3 AAC 304.180. Denial, suspension, revocation, or refusal to renew or transfer, in the public interest

(a) The board may consider the following factors in determining whether it is in the public interest to deny, revoke, suspend, or refuse to renew or transfer a license:

(1) the applicant's, the applicant's affiliates', the transferee's, or the transferee's affiliates' histories of conviction of a felony in this state, the United States, or another state or territory during the 15 years immediately preceding the date of application;

(2) the applicant's, the applicant's affiliates', the transferee's, or the transferee's affiliates' histories of commission of

(A) a violation of AS 04 or regulations adopted by the board; or

(B) a violation of the alcoholic beverage control laws of another state, as a licensee of that state;

(3) whether the applicant, the applicant's affiliates, the transferee, or the transferee's affiliates are untrustworthy, unfit to conduct a licensed business, or a potential source of harm to the public;

(4) whether the applicant, the applicant's affiliates, the transferee, or the transferee's affiliates have permitted, on licensed premises belonging to that person, the occurrence of sexual contact between persons; for the purpose of this paragraph, "sexual contact" means the touching of genitals, anus, or female breast or the intrusion of any object into the genital or anal opening regardless of whether the act was consensual; and

(5) all other factors the board in its discretion determines relevant to the public interest.

(b) A local governing body may properly protest an application under AS 04.11.480 using the factors set out in (a) of this section. (Eff. 4/28/84, Register 90; am 5/1/94, Register 130; am 5/11/96, Register 138; am 11/28/2019, Register 232)

3 AAC 304.185. Licensed premises

(a) A license is issued for a specific place which is the licensed premises and which must be clearly designated in a line drawing accompanying an application. The address of the licensed

premises and the business name under which the licensee is doing business at that address must be indicated on the license application.

(b) With the exception of a recreational site license and a destination resort license, the licensed premises must be one area, but may include separate rooms if the rooms are adjacent to one another or if they are rooms described in AS 04.11.090(d). If the licensed premises consist of more than one room in which a fixed counter or service bar is regularly maintained, a duplicate license is required for the additional rooms. A recreational site license and a destination resort license may have multiple separate licensed premises areas with the approval of the board.

(c) The licensee shall conspicuously post the license within the licensed premises.

(d) A licensee may not alter the functional floor plan, reduce or expand the area, or change the business name of the licensed premises without the prior written approval of the director. The licensee must provide a new line drawing showing the proposed changes in the premises. A licensee must pay a fee of $250 for changing the business name or line drawing of the licensee's licensed premises when the name or line drawing change is not part of a transfer of ownership or location. A request for a business name or line drawing change for licensed premises not part of a transfer must be made on a form prescribed by the board.

(e) If a business establishment or facility consists of both licensed premises and an unlicensed area, the licensee shall clearly segregate the licensed premises and the unlicensed area.

(f) A licensee may request to have a portion of its licensed premises alternate as licensed or unlicensed premises on a seasonal basis under the following conditions:

(1) the request is made on a form prescribed by the board, accompanied by a detailed premises diagram and $250 fee;

(2) a debt that is incurred during times when the identified area is unlicensed will be considered a debt incurred in the operation of the licensed business for purposes of transfer of license under AS 04.11.360;

(3) at any time with written notice to the licensee, the board may withdraw its approval of use of the identified area as alternating premises; and

(4) during times the identified area is designated as an unlicensed premises, all alcoholic beverages must either be removed from the identified area or be stored in a location approved by the board to be secure from the public.

(g) Notwithstanding (a) – (f) of this section, a licensee may permit an agent or employee to take an alcoholic beverage 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 4/16/2020, Register 234; am 8/23/2020, Register 235)

3 AAC 304.190. Seasonal license

(a) Except as provided in this section, the rights, privileges, and restrictions of a license issued under AS 04 are limited to the interval stated on the seasonal license.

(b) The holder of a seasonal package store license or a seasonal license that serves alcohol for consumption on the premises may purchase alcohol intended for resale starting 30 days before the seasonal license is effective.

(c) The holder of a seasonal package store license or a seasonal license that serves alcohol for consumption on the premises may, during the period of the year when the seasonal license is not effective, store alcohol in accordance with AS 04.21.060. (Eff. 2/21/2019, Register 229)

3 AAC 304.195. Surrender of license

Within 10 days after the loss or surrender of the licensed premises, or if a licensee ceases to conduct business upon the licensed premises for a period expected to continue for one month or more, the licensee shall inform the director and surrender the license to the director. The license will be reissued upon request when the conduct of business is resumed or upon transfer of the license. (Eff. 11/29/81, Register 80)

3 AAC 304.196. Transfer of location of licenses under AS 04.11.400(k)

(a) An application for a transfer under AS 04.11.400(k) must comply with the requirements for notice under AS 04.11.280 and 04.11.290, as applicable. The criteria for denial

of relocation under AS 04.11.340, and for denial of transfer of a license to another person under AS 04.11.360 apply to a transfer under AS 04.11.400(k).

(b) If the board approves the transfer under AS 04.11.400(k) of a beverage dispensary license, the license becomes a license of the municipality where it is relocated. The license may be transferred to a new location and new person within the receiving municipality. If a license is transferred with a security interest under AS 04.11.360(4)(B) and 04.11.670, the retransfer back to the previous owner may not be made to the location of the former municipality.

(c) A license that is located in a municipality as a result of annexation is not counted as a new license for purposes of AS 04.11.400(k).

(d) When the board receives applications for a transfer that exceeds the number allowed per decade under AS 04.11.400(k), the board will approve the completed application that the board first received, if the application meets other applicable requirements of AS 04 and this chapter. (Eff. 12/13/2009, Register 192)

3 AAC 304.197. Process for transfer of a beverage dispensary license under AS 04.11.400(k)

(a) Within 10 days after receiving an application to transfer a beverage dispensary license under AS 04.11.400(k), the board will notify the affected municipalities in writing. In the notice, the board will include the date the complete application was received by the board, the license number, the present or previous business name of the license to be transferred, the names of the transferee and the transferor if applicable, and the proposed location of the license.

(b) Each municipality affected by the transfer request under AS 04.11.400(k) may respond to the notice under (a) of this section within 60 days after receipt. A municipality may request an extension of time to respond. The board may grant a request for extension up to 120 additional days.

(c) In addition to other requirements in AS 04 and this chapter for the transfer of a beverage dispensary license, both municipalities must agree to a transfer under AS 04.11.400(k) for the transfer to be approved. If either municipality does not respond to the notice within the time allowed under (b) of this section, the transfer request will be denied. (Eff. 12/13/2009, Register 192)

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3 AAC 304.205. Exercise of authority

A licensee must personally or through employees and agents exercise actual authority and responsibility over the conduct of business upon the licensed premises. Until the licensee surrenders the license to the board, and so long as business is conducted under the license upon the licensed premises, the licensee is solely responsible and liable for the conduct of the business. A person not acting as an agent or employee of the licensee may not exercise actual authority over the conduct of business upon the licensed premises without transfer of the license upon approval of the board. (Eff. 11/29/81, Register 80)

3 AAC 304.215. Death of a licensee

Upon the death of an individual who is the sole licensee of a licensed premises, the business must cease operation until the appointment of a personal representative by the superior court. Upon written request made by the personal representative accompanied by an order of the superior court showing the appointment as personal representative of the estate of a deceased individual licensee, the director will grant permission to the personal representative to operate the business upon the licensed premises under AS 04.11.030. (Eff. 11/29/81, Register 80)

3 AAC 304.225 Alternating licensed premises

Upon a licensee's written request accompanied by a detailed premises diagram, the board may approve a portion of a premises licensed under AS 04.11.090 (beverage dispensary license), AS 4.11.100 (restaurant eating place license), AS 4.11.115 (golf course license), AS 04.11.180 (common carrier dispensary license), AS 04.11.210 (recreational site license), AS 04.11.225 (outdoor recreational lodge license), AS 04.11.255 (destination resort license), or AS 04.11.400(d)to alternate as a licensed or unlicensed premises under the following conditions:

(1) approval will be granted only if the board finds that use of the identified area as alternating premises will stimulate tourism or promote activities open to the general public;

(2) a debt that is incurred during times when the identified area is unlicensed will be considered a debt incurred in the operation of the licensed business for purposes of transfer of the license under AS 04.11.360;

(3) at any time with written notice to the licensee, the board may withdraw its approval of use of the identified area as alternating premises.

(4) caterer's permits issued under AS 04.11.090 may be exercised in the alternating area during the times the identified area is unlicensed premises;

(5) during times the identified area is designated as an unlicensed premises, all alcoholic beverages must either be removed from the identified area or be stored in a location approved by the board to be secure from the public;

(6) A licensee may apply hours that it is operating as an alternating unlicensed premises to meet the operating requirement set out in AS 04.11.330(a)(3). (Eff. 12/16/2016, Register 220; am 8/17/2018, Register 227)

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Article 3

Licenses

3 AAC 304.305. Restaurant or eating place license

(a) In AS 04.11.100 and this section, a "bona fide restaurant or eating place" is an establishment, or portion of an establishment, where, during all times that beer or wine is served or consumed,

(1) the patron's principal activity is consumption of food; and

(2) a variety of types of food items appropriate for meals is available for sale as shown on a menu provided to patrons and filed with the board;

(3) repealed 9/11/98.

(b) In considering an application for issuance, transfer, or relocation of a restaurant or eating place license, the board will determine the portion of the premises or proposed premises that constitutes a restaurant or eating place, and will license only that portion for the sale and consumption of alcoholic beverages.

(c) Repealed 5/11/96.

(d) The board will, in its discretion, require the licensed premises to be separated from the unlicensed portion of the business in a manner acceptable to the board. Changes in the structure, layout, or use of any portion of the licensed premises must have the prior approval of the board.

(e) Gross receipts generated from business conducted on unlicensed portions of a licensed business are excluded from the calculation of gross receipts for purposes of this section and AS 04.11.100.

(f) Repealed 12/16/2016. (Eff. 11/29/81, Register 80; am 6/25/88, Register 106; am 5/1/94, Register 130; am 5/11/96, Register 138; am 9/11/98, Register 147; am 12/16/2016, Register 220)

3 AAC 304.315. Beverage dispensary license

The licensed premises of a beverage dispensary licensee may include the designated lane area of a bowling alley if that area is adjacent to the main bar area. The licensee must show that he or

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she has authority, and will exercise control over conduct of the licensed business in that area. Access to the lane area by persons under 21 years of age is permitted only during designated periods when no alcoholic beverages are served or consumed there. The periods during which persons under 21 years may be permitted access must be clearly posted on the premises. The licensee must apply for prior board approval of that access. (Eff. 11/29/81, Register 80; am 3/31/85, Register 93)

3 AAC 304.325. License issued to encourage tourism

(a) The board will, in its discretion, approve the issuance or transfer of location of a beverage dispensary or restaurant or eating place license under AS 04.11.400(d) only upon a showing that

(1) the approval will encourage the construction or improvement of a tourist facility which would not be financially feasible without a liquor license; and

(2) construction or improvement of the tourist facility will encourage tourism, and tourist business will constitute a substantial portion of the business of the tourist facility.

(b) Repealed 10/24/87.

(c) The licensee must show, upon application for renewal, that issuance of the license encouraged tourism, that the facility was constructed or improved in accordance with the application, and that the facility continues to be operated by the licensee. If the licensee does not make the showings required by this subsection, renewal will be denied.

(d) A license issued or transferred under AS 04.11.400(d) may be transferred only to a person to whom the tourist facility is also being transferred. The license will not be renewed and will, in the board's discretion, be revoked if the tourist facility is transferred to a new owner without transfer of the license to the new owner.

(e) A license issued under AS 04.11.400(d) may not be transferred to a new location.

(f) In this section, "improvement" means expenditure of labor and capital which increases the value of the premises, and which can be depreciated for federal income tax purposes.

(g) If two or more persons are named on a beverage dispensary license issued or transferred to encourage tourism and are also named on a related duplicate license for that tourist facility, those licensees may be separately licensed if

(1) the licensees have previously been identified as licensees in the tourism facility in applications that were filed and approved by the board before 11/29/81;

(2) one or more licensees do not have a financial interest in the tourist facility as required under (d) of this section, but operate a restaurant in the tourist facility and dispense alcoholic beverages in that restaurant under the duplicate license;

(3) in order to remove one or more licensees without a financial interest in the tourist facility from the primary license, the licensees file an application for transfer under the procedures set out in AS 04.11.280 and the transfer meets the requirements of AS 04.11.360; and

(4) in order to remove the licensees with the financial interest in the tourist facility from the separate duplicate license, the licensees concurrently file an application for transfer under the procedures set out in AS 04.11.280 and the transfer meets the requirements of AS 04.11.360.

(h) A separate duplicate license issued under (g) of this section

(1) does not create a new license for the purpose of population limitations set out in AS 04.11.400;

(2) may not be transferred to a new location;

(3) may be transferred under the procedures and requirements set out in AS 04.11.280 and 04.11.360, to another person who operates a restaurant in the tourist facility on the same licensed premises, but the license has no value and may not be transferred in exchange for anything of value;

(4) terminates if the tourist facility, for which the primary beverage dispensary license was issued, ceases to exist;

(5) will not be renewed if the board finds that the separate duplicate license has not encouraged tourism at the tourist facility; and

(6) is not subject to suspension, revocation or other action by the board due to the conduct of the primary beverage dispensary licensee. (Eff. 11/29/81, Register 80; am 5/19/85, Register 94; am 10/24/87, Register 104; am 5/22/92, Register 122)

<u>3 AAC 304.335. License issued for public convenience</u>

(a) The board may issue a restaurant or eating place license under AS 04.11.400(g) upon a showing that

(1) repealed 8/24/2001;

(2) there is community support, which must be shown by a petition signed by a majority of the residents 21 years of age or over who reside within one mile of the proposed premises; and

(3) the governing body of the municipality in which the licensed premises are to be located approves the application.

(b) Renewal of a license issued under AS 04.11.400(g) will, in the board's discretion, be denied if the license ceases to be necessary to the public convenience. (Eff. 11/29/81, Register 80; am 3/31/85, Register 93; am 10/24/87, Register 104; am 8/24/2001, Register 159)

3 AAC 304.340. Common carrier dispensary license

(a) A separate common carrier dispensary license is required for each train on which alcoholic beverages are served. The licensed premises of a common carrier dispensary license for a train comprises all the passenger cars of the common carrier used on the set route specified on the license. For the purposes of AS 04.11.180 and this subsection, "train" means a set route traveled by a series of one or more passenger cars owned or operated by a common carrier.

(b) Upon application for issuance or renewal of a common carrier license for an airline, the applicant must indicate on the application whether the fee for the license is to be calculated under AS 04.11.180(c) or (d).

(c) The fee for a common carrier dispensary license for an airline under AS 04.11.180(c) requires payment of the specified fee for each aircraft in which alcoholic beverages are served on an intrastate flight operated by the airline.

(d) The fee for a common carrier dispensary license for an airline under AS 04.11.180(d) requires payment of the specified fee for each community served. For the purposes of AS 04.11.180(d) and this subsection, "each community served" means each community in which an airport is located at which the airline has an incoming or outgoing intrastate flight segment on which alcoholic beverages are served.

(e) A person 16 or 17 years of age may enter and remain within the licensed premises of a common carrier in the course of employment if

(1) the employment does not involve the serving, selling, mixing, delivering, or dispensing of alcoholic beverages;

(2) the person has the written consent of a parent or guardian; and

(3) an exemption from the prohibition of AS 23.10.355 is granted by the Department of Labor and Workforce Development.

(f) A person 18, 19, or 20 years of age may enter and remain within the licensed premises of a common carrier in the course of employment if the employment does not involve serving, selling, mixing, delivering, or dispensing of alcoholic beverages.

(g) A person under 21 years of age may enter and remain within the licensed premises of a common carrier during passenger travel without a parent or guardian. (Eff. 11/6/2004, Register 172; am 7/19/2017, Register 223)

3 AAC 304.345. Golf course license

(a) The holder of a golf course license issued under AS 04.11.115 may not allow a person to bring alcoholic beverages onto the course or other adjacent property associated with the course, including the parking lot, driving range, and club house, for consumption by that person or another person unless the person who brings the alcoholic beverages is the licensee or an agent or employee of the licensee in the regular course of employment.

(b) Food items and nonalcoholic beverages must be available at all locations designated as licensed premises under AS 04.11.115(f)(2). The holder of a golf course license shall submit a sample menu of food items and nonalcoholic beverages that will be offered for sale on vending carts to the director for approval. (Eff. 7/19/2000, Register 155)

3 AAC 304.355. Club license

The holder of a club license issued under AS 04.11.110 may not allow a club member working as a bartender or server of alcoholic beverages to sign in, as a guest, a person who is not a member of the club. (Eff. 12/13/2009, Register 192)

3 AAC 304.365. Package store license repackaging

The holder of a package store license issued under AS 04.11.150 may on the licensed premises repackage beer from kegs into other containers for sale on the licensed premises and

consumption off the licensed premises, if the other containers are of a size permitted under AS 04.16.100. (Eff. 7/25/2012, Register 203)

3 AAC 304.375. Distillery License

(a) A person operates a distillery under AS 04.11.170 if the person manufactures beverage-grade spirit alcohol by distillation of a mixture produced from alcoholic fermentation.

(b) At least 80 percent of the final product offered for sale by a distillery must be distilled on the licensed premises in this state.

(c) Flavoring ethanol or alcohol that was not manufactured in the distillery does not qualify as operating a distillery for purposes of obtaining a license under AS 04.11.170. (Eff. 12/16/2016, Register 220)

3 AAC 304.380. Winery License

Unless prohibited under AS 04.16.030, a holder of a winery license may sell each day to a person for consumption on the licensed premises not more than 18 ounces of the winery's wine, mead, or cider or 36 ounces of any of the winery's cider that contains less than 8.5 percent alcohol by volume, if the winery does not

(1) allow live entertainment, televisions, pool tables, dart games, dancing, electronic or other games, game tables, or other recreational or gaming opportunities on the premises where the consumption occurs;

(2) provide seats at the counter or bar where the product is served;

(3) open the room where the consumption occurs before 9:00 a.m.; or

(4) serve any of its product after 8:00 p.m. (Eff. 7/19/2017, Register 223)

Article 4

General Provisions Regarding Licensees and Licensed Premises

3 AAC 304.405. Adulteration, misbranding and false advertising

(a) Adulteration, misbranding and false advertising of alcoholic beverages are prohibited.

(b) If a licensee or the licensee's employee or agent sells or serves an alcoholic beverage made with a wine product rather than a distilled beverage, the licensee shall disclose that the alcoholic beverage is "wine based" in all advertising, labeling or descriptions of the mixed alcoholic beverage drink made with a wine product. Advertising, labeling, or making any representation, written or oral, about an alcoholic beverage containing wine in a manner that does or could cause confusion that the beverage contains a distilled beverage when it does not is prohibited. (Eff. 11/29/81, Register 80; am 9/11/98, Register 147)

3 AAC 304.410. Resealing wine served with a meal for removal from licensed premises

For purposes of AS 04.16.120(c), one opened bottle of wine served with a meal may be removed from licensed premises if

(1) the original cork or a similar type of cork is reinserted by the licensee into the bottle so that the top of the cork is flush with the bottle opening and can only be removed by a corkscrew or other similar device;

(2) the original or a similar screw-on cap is placed tightly on the bottle and sealed with tamper-evident tape; or

(3) the resealed bottle is placed in a single-use bag that has a tamper-evident seal and that is manufactured expressly for the removal of partially consumed bottles of wine from licensed premises. (Eff. 8/23/2009, Register 191)

3 AAC 304.415. Storing, warehousing and transporting

(a) A licensee may not stock, warehouse, or otherwise store alcoholic beverages in a place other than upon the licensed premises except as provided in AS 04.21.060.

(b) Alcoholic beverages may not be sold or consumed at an approved storage facility, nor may they be removed from the facility except at the direction of the licensee.

(c) Repealed 10/24/87. (Eff. 11/29/81, Register 80; am 10/24/87, Register 104)

3 AAC 304.425. Determining age of patron

(a) It is the responsibility of the licensee to obtain a statement of proof-of-age form[s] required under AS 04.21.050. Licensees must retain completed forms for 90 days and make them available upon request for inspection by the board and peace officers.

(b) A valid identification card as used in AS 04.21.050 means an unexpired, unaltered passport or an unexpired, unaltered driver's license or identification card issued by a federal or state agency authorized to issue driver's licenses or identification cards that meet the requirements under AS 04.21.050(b). If a licensee or an agent or employee of a licensee has reason to believe that the identification card presented by a person is fraudulent, the licensee, agent, or employee shall refuse entrance to licensed premises and shall refuse service or sale to that person. (Eff. 11/29/81, Register 80; am 5/22/92, Register 122; am 5/11/2012, Register 202)

3 AAC 304.430. Compliance checks and surveys by nongovernmental organizations

A nongovernmental organization may, as a service to liquor licensees, conduct compliance checks and surveys of a licensee or a licensee's agent or employee. The compliance checks and surveys may only use personnel 21 years of age or older. Alcoholic beverages purchased as part of compliance checks or surveys may be resold to any licensee willing to purchase them for the retail price, if the director gives prior written approval for the purchase. (Eff. 12/13/2009, Register 192)

3 AAC 304.435. Presence of minors on licensed premises

Repealed 10/24/87.

3 AAC 304.440. Pricing and marketing of alcoholic beverages

For the purpose of AS 04.16.015, a licensee or licensee's agent or employee may not set a period of time during a day that an alcoholic beverage drink or a brand of alcoholic beverage is sold or delivered that is less than the hours that the licensed premises is open to the general public. (Eff. 5/11/96, Register 138)

3 AAC 304.445. Employment of minors

Repealed 10/24/87.

3 AAC 304.455. Recordkeeping requirements

(a) A licensee shall retain for at least one year records of the sales, purchases, and expenses of the business, including records sufficient to show the license was actively exercised for at least 30 days during each of the two preceding calendar years as described in AS 04.11.330(a)(3).

(b) Licensees shall maintain records of the purchase and sale of alcoholic beverages separate and apart from records of the sale of other goods or services.

(c) Wholesale licensees shall retain for three years a record of all sales made in the conduct of the business. (Eff. 11/29/81, Register 80; am 5/1/94, Register 130)

3 AAC 304.465. Alcohol server education course

(a) While selling or serving alcoholic beverages, a person required under AS 04.21.025 to complete an alcohol server education course and the person's on-duty supervisor shall carry or have available to show a current course card or a photocopy of the card certifying completion of an approved alcohol server education course. The card is effective for three years from the date of issuance during which time the person shall complete another approved course or successfully complete a written test demonstrating an understanding of the course subjects as required by AS 04.21.025(c). The card must include the name and date of birth of the card holder, the name of the course, and the date of expiration of the card. If the card does not include a photograph of the holder, the person shall also carry a valid identification under 3 AAC 304.425(b). The card or a photocopy of the card must be shown upon request of a peace officer or board representative. If the person cannot show a current card or a copy of it on file on the premises, or show a date of hire less than 30 days earlier, the person shall immediately cease selling or serving alcoholic beverages, or checking identification.

(b) State or nationally recognized organizations or associations that address the subject of responsible alcoholic beverage service may obtain approval of an alcohol server education course by making written application on forms provided by the board. The application must include the course book to be provided to students, any video or audio presentations that will be

used, the written test required under (d) of this section, detailed lesson plans, and a description of the qualifications of and training provided to course instructors. The application must identify the communities where the course will be presented and the frequency of the presentation. The applicant shall explain how rural premises will be served under (e) of this section.

(c) In addition to written materials and audio and video presentations provided to students, an instructor shall be available during an alcohol server education course to answer questions from students. Subjects covered by alcohol server education courses must include:

(1) function of Alcoholic Beverage Control Board, licensing procedures, and types of licenses;

(2) server responsibilities to the employer, patron, and law;

(3) criminal and civil liability, including discussion of criminal negligence standard;

(4) effects of alcohol consumption, including

(A) effect of food on alcohol consumption;

(B) blood alcohol levels;

(C) identifying a drunken person; and

(D) fetal alcohol syndrome and fetal alcohol effect;

(5) drunken persons and intervention;

(6) underage persons;

(A) checking identification;

(B) identifying valid identification; and

(C) obtaining "statement of proof of age";

(7) state and local hours of service and cutting off service;

(8) pricing and marketing laws;

(9) restaurant designation;

(10) other permits;

(11) local option provisions;

(12) warning signs;

(13) gambling, drugs, and prostitution;

(14) adulteration;

(15) penalties for licensees and their agents and employees; and

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(16) sale by package stores in response to written orders.

(d) A provider of an alcohol server education course shall issue a card as described under (a) of this section to a student who successfully completes the course. Before issuing the card, the course provider shall require the student to pass a written test that demonstrates that the student understands the course subjects.

(e) Rural premises are those licensed premises not on a statewide road system or further than 50 miles on a road system from a community where a course is held at least once every month. For the purpose of training for rural premises, course providers may provide video or audiotapes and written materials to a licensee that cover all topics required under (c) of this section, and conduct telephonic question and answer sessions for the students. A course provider may present training for rural premises by means of an Internet-based program. An Internet-based program must include steps that the course provider takes to verify the identity of the persons receiving the instruction, testing, and certification of alcohol server training. The verification process must be approved by the board and may be reviewed and reevaluated on an annual basis to determine its validity and effectiveness. The students shall, under the supervision of the licensee or licensee's manager, take the test required under (d) of this section. The licensee or licensee's manager, whoever supervises the test, shall certify to the course provider that the student did not receive outside help in taking the test and that no copies of the test have been kept.

(f) The board will issue a certificate of approval for each alcohol server education course the board approves. Certificates of approval may not be transferred.

(g) A course provider shall

(1) maintain records of each student's participation, and completion of server training, including rural training;

(2) use, at a minimum, the course approved by the board; and

(3) make its records available to peace officers or board investigators.

(h) An organization or association that has received board approval for an alcohol server education course shall apply for board reapproval within 33 months of last board approval. Application must be made on a form provided by the board. If application for reapproval is not approved by the board within 36 months after last board approval, training must cease. The

application for reapproval must state the following for training provided since the last application:

(1) the number and names of students trained;

(2) the locations and dates of training; and

(3) the names of instructors.

(i) The board will, in its discretion, terminate approval of a course if the board determines that the course is not being presented as approved, that records are not being maintained as required, that students are being certified who have not successfully completed the course, or for other reasons in the public interest. The board will, in its discretion, make its termination of approval effective immediately, if the board determines that immediate termination is in the public interest.

(j) repealed 02/23/2020

(k) A provider of an alcohol server education course approved by the board under this section shall advise the board of the methods used to train and certify the instructors providing the training.

(*l*) The fee for a new server education course is $800 and the fee for review of an existing server education course is $250. (Eff. 4/1/94, Register 129; am 8/24/2001, Register 159; am 12/13/2009, Register 192; am 9/16/2017, Register 223; am 2/23/2020)

Article 5

Enforcement

3 AAC 304.505. Powers of investigative personnel

(a) The board's investigative personnel may

(1) conduct inspections of licensed premises and investigations of licensees, applicants, transferees and other persons with respect to applications, the possession and sale of alcoholic beverages, or licensed premises;

(2) issue notices of violation;

(3) seize alcoholic beverages which are subject to forfeiture under AS 04.16.220;

(4) serve subpoenas issued by a hearing officer in a board adjudicative proceeding;

(5) execute search warrants;

(6) exercise specified peace officer powers upon the written concurrence of the commissioner of public safety filed with the lieutenant governor and the director, but only if necessary for the enforcement of the criminally punishable provisions of AS 04 and regulations adopted under AS 04;

(7) take such other action as is considered necessary by the director to assure the enforcement of AS 04 and is not in conflict with a law or regulation.

(b) Consistent with federal, state, and local law, the board's investigative personnel may carry firearms in the performance of their duties, if individually authorized by the board. (Eff. 11/29/81, Register 80; am 3/13/99, Register 149)

3 AAC 304.515. Inspection

(a) Licensees are considered to consent to the entry upon the licensed premises and inspection of the licensed premises 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 for the purpose of enforcing statutes and regulations related to alcoholic beverages.

(b) Licensees shall do all things reasonably necessary and appropriate to cooperate with investigative personnel and employees of the board and peace officers acting in their official

capacity to enforce the statutes, regulations and ordinances related to alcoholic beverages, including permitting entry upon and inspection of the licensed premises and providing access, upon request at reasonable times, to business records at the written direction of the director. (Eff. 11/29/81, Register 80)

3 AAC 304.525. Communication with licensees

(a) The board recognizes that self-regulation by licensees is a necessary ingredient for enforcement of alcoholic beverage statutes, regulations, and municipal ordinances. Therefore, the board adopts the following methods for communicating with licensees, to assist them in conducting their licensed businesses in the public interest and in conformity with existing statutes and regulations:

(1) Notice of violation.

(A) A notice of violation is intended to be an informal means of communicating to a licensee that a violation of a statute, regulation, or municipal ordinance might have occurred or might be occurring on the licensed premises. Investigative personnel of the board may issue a notice of violation to a licensee whenever a violation of the laws related to alcoholic beverages is found to exist. The notice may be issued from information recorded on an inspection report. A copy of the notice of violation shall be delivered to the licensee and the appropriate law enforcement agency, and shall be filed with the board. A "violation" includes those elements listed in AS 04.11.370. In the director's discretion, a notice of violation will not be issued during the course of an investigation.

(B) Upon receipt of a notice of violation, a licensee may request to appear before the director and be heard regarding the notice of violation. The request must be made within 10 days after receipt of the notice, and the director shall grant an appearance within 10 days after receipt of the request. A licensee shall respond, either orally or in writing, to the notice of violation.

(C) A notice of violation and a response to a notice of violation will, in the board's discretion, be reviewed by the board in considering whether to suspend, revoke, or renew, a license, but does not alone constitute grounds for suspension, revocation, or

refusal to renew. A violation itself does constitute such grounds, however, if proven by evidence at a hearing.

(D) A notice of violation is issued at the discretion of investigative personnel, and becomes a permanent record of the licensee to whom the notice was issued. A notice shall be on a form approved by the board. The director may dismiss a notice.

(2) Advisory notice. An advisory notice may be issued by investigative personnel to a licensee when an incident occurs or a defect is identified that could result in a violation of a statute, regulation, or municipal ordinance. The notice may be issued from information recorded on an inspection report. An advisory notice may not constitute grounds for administrative or judicial action against a licensee, but may be grounds for issuance of a notice of violation if the incident or defect continues uncorrected. A copy of an advisory notice will be filed only in a licensee's enforcement file.

(3) Inspection report. An inspection report is intended to document an investigator's inspection of a licensed premises. An inspection report shall be prepared on a form approved by the board, and shall reflect information prescribed by statute or regulation, or required by the board.

(b) Any notice or report issued to a licensee under this section may be reviewed by the board, at the licensee's written request, before initiation of any other administrative proceeding by the board's staff.

(c) Nothing in this section limits the authority of the board to suspend or revoke a license on grounds stated in AS 04.11.370. (Eff. 11/29/81, Register 80; am 7/30/89, Register 111)

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3 AAC 304.535. Suspension and revocation of license

(a) The board will, in its discretion, suspend or revoke a license on the grounds stated in AS 04.11.370. In addition, the board will, in its discretion, suspend or revoke a license upon conviction of the licensee for a felony.

(b) Upon conviction of an agent or employee of the licensee, the board may find under AS 04.11.370(5) that the licensee knowingly allowed the violation, or recklessly or with criminal negligence failed to act in accordance with the duty prescribed under AS 04.21.030, if

(1) the licensee was physically present when the violation occurred and knew or should have known the violation was occurring and took no action to stop it;

(2) the licensee failed to adequately supervise the agent or employee;

(3) the licensee failed to adequately train the agent or employee in the requirements of AS 04 relating to alcoholic beverages; or

(4) the licensee was reckless or careless in hiring the agent or employee.

(c) If the licensee is a corporation, the conviction of a shareholder holding 10 percent or more of the outstanding common stock of the corporation or of an officer or director of the corporation is considered to be a conviction of the licensee.

(d) A duplicate beverage dispensary license and the beverage dispensary license to which it relates are considered to be a single license for purposes of suspension or revocation.

(e) If the licensee is a limited liability organization, the conviction of a manager or a member who holds 10 percent or more of the limited liability organization's ownership interest is considered to be a conviction of the licensee. (Eff. 11/29/81, Register 80; am 6/13/2003, Register 166)

3 AAC 304.540. Civil fine

(a) Except as provided in (b) of this section, in a proceeding under AS 04.11.510(c), the board may impose a civil fine upon a licensee, in accordance with AS 04.11.575, not to exceed the greater of

(1) an amount that is three times the monetary gain realized by the licensee as determined by the board as a result of the violation;

(2) $10,000 for the first violation;

(3) $30,000 for the second violation; or

(4) $50,000 for the third or subsequent violation.

(b) In a proceeding against a general wholesale licensee under AS 04.11.510(c) for a violation of AS 04.11.160 pertaining to the sale of alcoholic beverages to unlicensed persons, the board may impose a civil fine of $5,000 for each illegal sale. The board may suspend all or part of the fine based on the circumstances of the illegal sales. For the purpose of this section, "sale" means a single delivery on a single date to a single purchaser. (Eff. 5/22/92, Register 122; am 8/24/2001, Register 159)

3 AAC 304.545. Effect of revocation

A person whose license is revoked by the board may not apply for a license of any type until at least one year after the effective date of the revocation. (Eff. 11/29/81, Register 80)

Article 6

Miscellaneous Provisions

3 AAC 304.605. Determining population criteria

Repealed 4/28/84.

3 AAC 304.610. Refunds to municipalities

(a) For the purposes of AS 04.11.610 a municipality's failure to actively enforce local ordinances, laws of the United States and the state, and the provisions of this chapter relating to the manufacture and sale of alcoholic beverages in the state includes the failure of the municipality's peace officers to comply with AS 04.21.070.

(b) The director shall recommend that the commissioner of commerce, community, and economic development deny the refund of biennial license fees under AS 04.11.610 if the director determines that the municipality's peace officers have not provided the director with quarterly reports of violations of AS 04 occurring on licensed premises within the municipality. (Eff. 7/19/2000, Register 155; am 12/13/2009, Register 192)

3 AAC 304.615. Petitions

3 AAC 304.615. Petitions. Repealed. (Eff. 11/29/81, Register 80; repealed 4/11/2020, Register 234)

3 AAC 304.620. Colleges and universities

(a) For purposes of granting a caterer's permit, special events permit, or restaurant caterer's permit under AS 04.11.230, AS 04.11.240, or 3 AAC 304.680, where prohibitions are imposed under AS 04.11.410, and AS 04.16.080, "school" does not include an accredited college or university as defined in AS 04.11.220.

(b) Along with other approvals required by statute or regulation, an application for a permit for a designated premises at a college or university event must be approved by the board of regents or similar governing body of the college or university, or its designee.

(c) A holder of a recreational site license issued under AS 04.11.210 for a site where college or university sporting events are held may petition the board for designation of premises at the site where beer and wine may be sold during a college or university sporting event. (Eff. 7/30/89, Register 111)

3 AAC 304.625. Community prohibitions on alcoholic beverages

The director shall maintain a list of the established villages and municipalities that have adopted a local option under AS 04.11.491. (Eff. 11/29/81, Register 80; am 5/11/96, Register 138; am 9/11/98, Register 147)

3 AAC 304.635. Third-party purchases for consideration

(a) A person may not purchase alcoholic beverages for another person nor may a person solicit the purchase of alcoholic beverages by another person for consideration in addition to the purchase price.

(b) No person other than a regulated common carrier or a regulated contract carrier may, for consideration, transport alcoholic beverages. (Eff. 11/29/81, Register 80)

3 AAC 304.640. Direct winery shipments for personal use

(a) A winery that ships wine under AS 04.11.140(b)(1)(B) may sell and ship wine only to a person 21 years of age or older. Wine shipped directly to a person must be for the person's personal use and not for resale.

(b) Wine sold and shipped directly to a person must be shipped in containers that are conspicuously labeled with the words: "Contains alcohol: Signature of person 21 years of age or older required for delivery." The winery must require the shipping carrier to obtain the signature of an individual 21 years of age or older before delivering wine shipped under this section.

(c) A winery that ships wine under AS 04.11.140(b)(1)(B) to a person in an area that has restricted the sale of alcoholic beverages under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2) shall consult a package store licensee, agent, or employee

(1) to determine if the wine may be shipped to the purchaser under AS 04.06.095, AS 04.11.150(g), and 3 AAC 304.645; and

(2) if the wine may be shipped under AS 04.06.095, AS 04.11.150(g), and 3 AAC 304.645, to request that the package store licensee, agent, or employee enter the sale and delivery in the written order database established under AS 04.06.095. (Eff. 12/13/2009, Register 192)

3 AAC 304.642. Wine clubs

(a) A package store licensee may enter into a standing shipment order agreement with a purchaser for periodic shipment of wine of the licensee's choice to the purchaser if

(1) the licensee has an original or clear photocopy of a proof-of-age document in accordance with 3 AAC 304.645(b);

(2) the agreement is signed and dated by the purchaser and contains the information required for written orders under 3 AAC 304.645(c)(2)- (6); and

(3) the agreement requires that payment for the wine be received by the licensee at least five working days before the date of shipment and allows the licensee or purchaser to terminate the agreement by giving five days' written notice of termination.

(b) Before shipping wine into an area that has restricted the sale of alcoholic beverages under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2), the licensee shall consult the database maintained by the board under AS 04.06.095 in the manner required under AS 04.11.150(g). Shipment of the wine must be in compliance with applicable provisions of 3 AAC 304.645(e)(2)(B), (3), and (f).

(c) For each standing shipment order agreement, a licensee shall keep a file that contains the agreement along with a copy of all documents required under this section. The licensee shall retain the agreement file for at least one year after termination of the agreement. In addition, the licensee shall maintain a log of monthly shipments of wine in a manner that allows cross-reference to the documents for each order. The log must assign an order number to each shipment, and must show for each order the date payment for the shipment was received, the date the order was shipped, and the address to which shipment was made.

(d) If the agreement requires the licensee to ship wine to an area that has restricted the sale of alcoholic beverages under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2), the licensee

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shall enter a written order, not later than 24 hours after receiving full payment, into the written order database established under AS 04.06.095.

(e) After written notification to the board by a municipality that it has imposed a sales and use tax on alcoholic beverages under AS 04.21.010(c)(4), a package store licensee may not ship wine under a standing shipment order agreement into that municipality until payment for the taxes is collected at the licensed premises in accordance with the ordinances of that municipality. The licensee shall remit the payments of taxes to the municipality for which the tax was collected. (Eff. 8/18/2013, Register 207)

3 AAC 304.645. Written orders for alcoholic beverages; other transporting of alcoholic beverages; local governing body authority

(a) Repealed 5/11/96.

(b) Alcoholic beverages may be sold in response to a written order only if the licensee has the original or a clear photocopy of one of the following documents that bears the purchaser's signature and that shows by date of birth or statement of age that the purchaser is at least 21 years of age:

(1) valid government-issued photographic identification from any state;

(2) a foreign passport.

(c) Alcoholic beverages may be sold in response to a written order only if the written order

(1) is signed and dated by the purchaser;

(2) describes in reasonable detail the type and quantity of alcoholic beverages being ordered;

(3) refers by number to the purchaser's proof-of-age document required by (b) of this section;

(4) bears a signature reasonably determined by the licensee to match that on the proof-of-age document;

(5) states the physical residence address of the purchaser; the address must be sufficient for the licensee to determine whether the residence is within an area that has restricted the sale, importation, or possession of alcoholic beverages under AS 04.11.491; and

(6) is entered into the written order database established under AS 04.06.095, if the alcoholic beverages are to be shipped to an area that has restricted the sale of alcoholic beverages under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2); an order that is subject to this paragraph may not be for an amount of alcoholic beverages that, when added to the amount already shipped in a calendar month to the purchaser, exceeds the amount authorized under AS 04.11.150(g) as indicated in the database.

(d) A written order

(1) except as provided in (2) of this subsection, may be modified by the licensee within five working days after receipt of the written order if the modification is in accordance with an oral or written communication from the purchaser; if a modification is made, the licensee shall note on the original order the date of modification and the manner in which the modification was requested by the purchaser; alcoholic beverages shipped in response to a written order must be packaged and shipped within five working days after receipt of the written order by the licensee or the licensee's agent or employee;

(2) that is required, under AS 04.11.150(g) or 3 AAC 304.640, to be entered into the written order database established under AS 04.06.095 may not be modified after it is entered into the database; in calculating whether alcoholic beverages may be shipped to a purchaser under AS 04.11.150(g), the licensee shall use the date that the order is entered into the database; if the amount ordered, when added to the amount already shipped in a calendar month to the purchaser, exceeds the amount authorized under AS 04.11.150(g) as indicated in the database, the licensee may hold the order for up to 72 hours and reenter it into the database for the next month as a new order; however, if the licensee cannot reenter the order as a new order within 72 hours after receipt, the licensee shall return the order to the purchaser unfilled; if they may be shipped to a purchaser under AS 04.11.150(g) and (e) of this section, alcoholic beverages shipped in response to the written order must be packaged and shipped within five working days after receipt of the written order by the licensee or the licensee's agent or employee.

(e) In response to a written order, a licensee

(1) may not package or deliver alcoholic beverages, or enter a written order into the written order database established under AS 04.06.095, until full payment is received at the licensed premises;

(2) may

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(A) personally deliver the alcoholic beverages on the licensed premises to the purchaser or to an individual who may legally possess alcoholic beverages and who is specifically authorized in the written order to receive the purchase and deliver it to the purchaser; to verify the identity of the purchaser or the individual specifically authorized in the written order to receive the purchase, the licensee shall require the purchaser or that individual to present an original of one of the forms of identification listed in (b) of this section; or

(B) ship the alcoholic beverages by common or regulated carrier to the purchaser; if the order is to be shipped to a community that has specified a delivery site under AS 04.11.491(f), the order must be shipped to the purchaser at that delivery site address; and

(3) must package an order that is delivered or shipped under this subsection in a shipping container that bears a non-removable label that identifies the licensee, shows the written order number assigned under (m) of this section, and contains the words "alcoholic beverages" in letters at least two inches high and drawn in lines one- quarter inch wide; additionally, one copy of the sales invoice must be enclosed in a non-removable, sealed envelope securely attached to the shipping container; invoices must be legibly hand written or typed, prepared by the licensee or licensee's agent or employee, and show the description, quantity, unit price, extended price, and total value of the alcoholic beverages in the container; if the container is addressed to a delivery site in a municipality that imposes a sales and use tax on alcoholic beverages under AS 04.21.010(c)(4), or controls the quantity that may be imported under AS 04.21.010(a)(1), the invoice may be retained by a municipality.

(f) The community delivery site must be secure from unauthorized access, reasonably located for access by the public, clean and heated, and controlled by the local governing body to assure protection of orders for purchasers. The site must be open for pick-up by purchasers at least once a week, for three hours between 8 a.m. and 8 p.m. Alcoholic beverages may be claimed from the community delivery site only by the purchaser named on the container. The purchaser shall sign for the order on a form stating that the beverages are not for resale. The local governing body may impose reasonable storage and handling fees chargeable to the purchaser, and may label or mark alcoholic beverage containers processed through the community delivery site. Upon approval of a community delivery site, the board will notify package store licensees

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who have filed the notice required in AS 04.11.150(a) that written orders for shipment into the community may only be shipped to the community delivery site.

(g) Repealed 5/11/96

(h) Repealed 5/11/96

(i) Repealed 5/11/96

(j) Repealed 9/11/98

(k) Repealed 5/11/96

(*l*) The board will, in its discretion, maintain a list of persons who, under AS 04.16.200, are convicted after 10/24/87 of a violation of AS 04.11.010, and will, in its discretion, provide this list to package store licensees. A licensee who receives the list may not sell alcoholic beverages by written order to a person whose name appears on it until the board gives written notice to the licensee that such sales are no longer prohibited.

(m) A licensee shall fasten together the documents pertaining to each written order, and shall keep them on file with the purchaser's proof- of-age document. The licensee shall retain the order documents for at least one year after delivery of the order. In addition, the licensee shall maintain a log of written orders in a manner that allows cross- reference to the documents for each order. The log must assign an order number to each written order, and must show for each order the purchaser's name, dates the order was received, modified, and shipped or delivered, and the address to which shipment was made.

(n) A package store licensee who sells alcoholic beverages in response to written orders

(1) shall promptly notify the board of any person who places one or more written orders in a single week for, in the aggregate, more than 36 gallons of malt beverages, more than 12 cases of wine, or more than 36 liters of distilled spirits, and of any customer who engages in a regular practice of ordering alcoholic beverages in similarly large quantities;

(2) shall, if the alcoholic beverages are to be shipped to an area that has restricted the sale of alcoholic beverages under AS 04.11.491(a)(1), (2), (3) or (b)(1) or (2),

(A) enter a written order, within 24 hours after receiving full payment, into the written order database established under AS 04.06.095; and

(B) notify the board within 24 hours if the amount ordered, when added to the amount already shipped in a calendar month to the purchaser, exceeds the amount authorized under AS 04.11.150(g) as indicated in the database.

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(o) If alcoholic beverages are not delivered to the purchaser personally on the licensed premises, title to the alcoholic beverages passes from the licensee to the purchaser at the time the alcoholic beverages are packed and addressed to the purchaser and payment is received, and these actions are sufficient to constitute a sale on the licensed premises.

(p) A package store licensee may not ship alcoholic beverages

(1) to a person other than the purchaser;

(2) in response to a telephonic order; or

(3) by taxi cab.

(q) After written notification to the board by a local option municipality that it has imposed a sales and use tax on alcoholic beverages under AS 04.21.010(c)(4), a package store licensee that sells alcoholic beverages by written solicitation under AS 04.11.150(a) may not ship or deliver alcoholic beverages into that municipality until payment for the taxes is collected at the licensed premises in accordance with the ordinances of that municipality. The licensee shall remit the payments of taxes to the municipality for which the tax was collected. (Eff. 11/29/81, Register 80; am 3/31/85, Register 93; am 10/24/87, Register 104; am 7/30/89, Register 111; am 5/1/94, Register 130; am 5/11/96, Register 138; am 9/11/98, Register 147; am 7/19/2000, Register 155; am 8/24/2001, Register 159; am 12/13/2009, Register 192; am 3/14/2012, Register 201)

3 AAC 304.647. Package store license delivery permit

(a) A package store licensee may obtain a non-transferable permit to deliver wine or champagne in a gift basket with a floral arrangement to a cruise ship or hotel under AS 04.11.150(i) by submitting a completed permit application on the form prescribed by the board along with a $50 application fee. A permit issued under this subsection is valid until there is a transfer of ownership of the package store license, or the permit is voluntarily surrendered by the permittee or revoked by the board. The board may prescribe forms for the required written record of deliveries made under AS 04.11.150(i).

(b) A package store licensee may obtain a non-transferable permit to deliver alcoholic beverages to a wedding or wedding reception or other social event under AS 04.11.150(j) by submitting a completed permit application on the form prescribed by the board along with a $50 application fee. A permit issued under this subsection is valid until there is a transfer of

ownership of the package store license, or the permit is voluntarily surrendered by the permittee or revoked by the board. The board may prescribe forms for the required written record of deliveries made under AS 04.11.150(j). (Eff. 8/24/2001, Register 159)

3 AAC 304.650. Alcoholic beverages stocked in guest rooms

(a) This section applies to all stocking, sales, and consumption of alcoholic beverages in a refrigerated unit in a guest room under a permit issued under AS 04.11.090(g).

(b) A holder of a beverage dispensary license issued under AS 04.11.090 may apply to the board for a permit issued under AS 04.11.090(g). A holder of a beverage dispensary license issued under AS 04.11.090 may not stock or sell alcoholic beverages in a refrigerated unit in a guest room without first obtaining a permit issued under AS 04.11.090(g).

(c) A permittee may provide a unit key or access code to a refrigerated unit in a guest room only to the permittee's agent or the permittee's employee, or to a guest who is 21 years of age or older and who occupies that guest room. A permittee, the permittee's agent, or the permittee's employee may not provide a unit key or access code to a refrigerated unit in a guest room to a drunken person nor to a person under the age of 21.

(d) A permittee may sell the following alcoholic beverages in their original closed containers from a refrigerated unit in a guest room:

(1) distilled spirits in containers of not less than one ounce nor more than two ounces;

(2) wine or vinous liquors in containers of not more than 13 fluid ounces; or

(3) beer, ale, or malt liquor in containers of not more than 12 fluid ounces.

(e) A permittee, the permittee's agent, or the permittee's employee may not stock or restock the supply of alcoholic beverages in a refrigerated unit in a guest room if that permittee, agent, or employee determines that

(1) a drunken person is in the room;

(2) a person under the age of 21 is consuming alcohol in the room;

(3) illegal gambling, illegal drug use or sales, or prostitution is occurring in the room; or

(4) the amount of alcoholic beverages in the guest room, including that in the refrigerated unit, would exceed the capacity of the refrigerated unit.

(f) A refrigerated unit stocked with alcoholic beverages must be equipped to require a unit key or coded access to prevent access to the alcoholic beverages except to a person authorized to have the unit key or coded access to the refrigerated unit. The key or coded access to the refrigerated unit in a guest room must be different from the key or coded access to the guest room.

(g) A permittee shall adhere to the following stocking restrictions:

(1) all employees handling distilled spirits, wine, beer, ale, or malt liquor being stocked in the refrigerated unit in a guest room must be 21 years of age or older;

(2) a refrigerated unit may not be restocked or replenished during any hours that a beverage dispensary licensee is prohibited from selling alcoholic beverages under AS 04.16.010(a) and (d) or a local ordinance under AS 04.21.010;

(3) a refrigerated unit shall be maintained, serviced, or stocked with alcoholic beverages only by a permittee, the permittee's agent, or the permittee's employee, and no other person, with the exception of the guest who occupies the guest room, may add alcoholic beverages to a refrigerated unit or remove alcoholic beverages from a refrigerated unit; and

(4) a permittee shall adhere to the standards of quality and purity of alcoholic beverages required by state and federal law, and shall destroy any alcoholic beverages contained in a refrigerated unit in a guest room on the date considered by the manufacturer of the alcoholic beverage to be the date the product becomes inappropriate for sale to a consumer.

(h) A person who purchases an alcoholic beverage stocked in a refrigerated unit in a guest room may not remove the alcoholic beverage from that guest room, as prohibited under AS 04.11.090(g).

(i) A violation of a provision of AS 04 or a regulation adopted under AS 04 by a permittee, the permittee's agent, or the permittee's employee in stocking or providing access to

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alcoholic beverages stocked in a refrigerated unit in a guest room is grounds for suspension, revocation, or nonrenewal of the permittee's beverage dispensary license.

(j) A permittee may not sell any alcoholic beverage from a coin- operated machine or similar device.

(k) A non-refundable initial and biennial fee for a refrigerated unit permit is $25 for each installed refrigerated unit in a guest room and must accompany the initial written request for a permit and each application for a biennial renewal.

(*l*) In this section,

(1) "beverage dispensary license" means a license issued under AS 04.11.090;

(2) "drunken person" has the same meaning as in AS 04.21.080(b)(8);

(3) "permittee" means a holder of a beverage dispensary license issued under AS 04.11.090 who is also authorized under AS 04.11.090(g) to stock alcoholic beverages for sale and consumption in guest rooms. (Eff. 3/31/96, Register 137)

3 AAC 304.655. Involuntary transfer of license

Repealed 7/30/89.

3 AAC 304.660. Temporary dedesignation of licensed premises

(a) A dedesignation permit allows the holder of a beverage dispensary or restaurant or eating place license to use the licensed premises or a portion of the licensed premises, on a temporary basis, for an event at which persons 17 years of age or older will be present. Alcoholic beverages may not be sold, served, or consumed at the licensed premises during the period beginning two hours before and ending one hour after the times identified in the permit during which under-age persons will be on the premises. A permit may not be exercised during hours of closure under AS 04.16.010.

(b) Application for a dedesignation permit must be made on forms provided by the board. A non-refundable application fee of $50 must accompany the application. A permit may be approved by the director for no more than three consecutive days for an event.

(c) An application for a dedesignation permit must include information about the relevant event as required by the board, and must include the written approval of the law enforcement

agency having jurisdiction over the designated premises of the event for which the permit is sought.

(d) An application for a dedesignation permit must be filed with the director no later than 24 hours before the event for which the permit is requested.

(e) Before applying for a dedesignation permit, a licensee's licensed premises must be certified as suitable for the purposes of this section. Certification must be requested by the licensee on an application form provided by and filed with the board. Upon receiving an application for certification, the board will forward a copy of the application to the local governing body having jurisdiction over the area in which the licensed premises is located or, if no local governing body exists, to a school board whose students would be expected to attend an event at the licensed premises. Unless the board, and either the local governing body or school board as appropriate, approve an application for certification, an application for a dedesignation permit under this section will not be approved by the director. A non-refundable $50 application fee and a detailed diagram showing the proposed certified area must accompany an application for certification.

(f) The dedesignation permit and a copy of the approved application for certification must be conspicuously posted at the main entrance to the licensed premises during the time a permit is exercised.

(g) A permit may not be transferred, relocated, or renewed.

(h) Any person possessing or consuming or suspected of possessing or consuming alcoholic beverages, or exhibiting characteristics of intoxication, at the licensed premises during the permit period must be removed immediately from the premises for the duration of the event.

(i) During the time when a permit is exercised, the premises is still a "licensed premises" under AS 04. Violation of any statute, regulation, or local ordinance governing alcoholic beverages on the licensed premises is grounds for suspension or revocation of the licensee's premises certification and license. A debt that is incurred for or during an event for which a dedesignation permit is granted is still considered a debt incurred in the operation of the license for purposes of transfer of ownership of the holder's license under AS 04.11.360.

(j) In connection with its functions under (c), (e), and (k) of this section, a school board, a local governing body, or a law enforcement organization, as appropriate, may place limitations or restrictions on the premises certification and the permit as necessary to assure adequate

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security and control in the public interest. The director, or a peace officer whose jurisdiction includes the licensed premises, may terminate a permit at any time in the public interest.

(k) A premises certification under this section is a privilege above that of a license, and is granted with the understanding that the board will, in its discretion, suspend or revoke the certification for good cause without a hearing under AS 04.11.510 or the Administrative Procedure Act (AS 44.62). The director will notify a licensee in writing not less than 10 days before board consideration of suspension or revocation of a licensee's premises certification. The board will afford the licensee an opportunity to be heard. A local governing body or school board may withdraw its approval of a certification at any time by written notice to the board and licensee.

(*l*) For purposes of this section, "event" includes a banquet, ball, graduation celebration, and entertainment. (Eff. 7/30/89, Register 111)

3 AAC 304.665. Employment of parolees and probationers

Repealed 3/31/85.

3 AAC 304.670. Municipal golf course license

[Annulled by Sec. 6, Ch. 125, SLA 1998, effective 7/1/98]

3 AAC 304.675. Permits

(a) To apply for a permit, an applicant must submit to the board the proper application form, together with the application fee and permit fee. The application must include a description of the proposed premises, a drawing designating which areas are for storage, service, and consumption, a statement of the specific hours of intended operation, a copy of the approval from the proper local authority, and other information required by the application form.

(b) The director will approve or deny all applications for permits. If an application is denied, the applicant may appeal to the board.

(c) Permits are not transferable.

(d) The holder of a permit shall comply with all statutes, ordinances, and regulations pertaining to the possession and sale of alcoholic beverages. (Eff. 11/29/81, Register 80)

3 AAC 304.680. Restaurant caterer's dinner permit

(a) A restaurant caterer's permit authorizes the holder of a golf course license or a restaurant or eating place license to sell or dispense beer or wine before and during service of food provided by the licensee at a designated location for a banquet or dinner event held off the holder's licensed premises.

(b) A permit will be issued only for a specified premises for a specific occasion, for a period not to exceed seven days.

(c) The application fee for a permit is $50 for each event, and must accompany the application for a permit.

(d) A restaurant caterer's permit will not be transferred or renewed.

(e) The written approval of a law enforcement agency having jurisdiction over the site of the catered event must be obtained and must accompany the application. (Eff. 10/24/87, Register 104; am 6/13/2003, Register 166)

3 AAC 304.685. Caterer's permit

(a) The caterer, or a specified employee or agent of the caterer, shall be present on the catered premises at all times alcoholic beverages are possessed, served, or consumed there under the permit.

(b) Violation by a caterer of a statute, ordinance, or regulation pertaining to alcoholic beverages is grounds for suspension or revocation of the caterer's beverage dispensary license. (Eff. 11/29/81, Register 80)

3 AAC 304.690. Club license caterer's permit

(a) A club license caterer's permit authorizes an organization licensed under AS 04.11.110 to sell or dispense alcoholic beverages at events held off of the organization's licensed premises. The permit may only be issued for designated premises for a specific event and for a limited period of time as identified in the application.

(b) Restrictions and prohibitions under AS 04.11.110, regarding club members and their guests, apply at premises designated in the application for permit. No more than three permits will be granted to an organization in any one calendar year.

(c) An application for a club license caterer's permit must be on forms provided by the board. The application must be signed by the presiding officer and secretary of the organization. The written approval of the law enforcement agency having jurisdiction over the designated premises of the event for which the permit is sought must also be obtained and must accompany the application.

(d) A non-refundable application fee of $100 must accompany an application for club license caterer's permit.

(e) A club license caterer's permit may not be transferred, relocated, or renewed.

(f) A permit issued under this section must be surrendered to the board's offices within 48 hours after its expiration time. Failure to surrender the permit is cause for denial of an application for a club license caterer's permit made in the future by the permittee. (Eff. 7/30/89, Register 111; am 9/11/98, Register 147)

3 AAC 304.695. Theatre license

(a) A theatre license authorizes a beverage dispensary licensee or a restaurant or eating place licensee to sell alcoholic beverages for consumption on licensed premises at a specified theatre site, except that a restaurant or eating place licensee with a theatre license may only sell beer and wine. Sale and consumption may occur only during intermissions and one hour before an event. Alcoholic beverages may only be sold and consumed in designated areas at the site. Alcoholic beverages may not be sold or consumed in the audience viewing area at the theatre site.

(b) A theatre license may not be exercised during events that are expected to attract audiences under 21 years of age.

(c) The biennial fee for a theatre license is $600.

(d) A theatre license may not be transferred or relocated.

(e) An application for theatre license must clearly identify designated areas for the sale and consumption of alcoholic beverages. An application will be approved by the board only if it is approved by the local governing body of the municipality in which the theatre site is located, or, for a theatre site outside a municipality, approved by the law enforcement agency that has jurisdiction over the theatre site.

(f) An application for renewal of a theatre license must be accompanied by the fee required by (c) of this section and must contain the information required for a new license.

(g) The board will, in its discretion, deny renewal of a theatre license that was not exercised for at least one event during each calendar year of the license period.

(h) The license must be conspicuously posted in the theatre during times when alcoholic beverages are sold.

(i) For purposes of this section, "theatre" means a location where events, including plays, operas, orchestra concerts, readings, and similar activities approved by the board, are presented by live performers on a stage. (Eff. 10/24/87, Register 104; am 7/30/89, Register 111; am 5/1/94, Register 130; am 8/24/2001, Register 159)

3 AAC 304.697. Art exhibit permit

(a) An art exhibit permit authorizes the holder of a beverage dispensary license or a restaurant or eating place license to serve beer and wine for consumption at a specified site for an art exhibit event, or at more than one specified site used simultaneously for the same art exhibit event. Food must be provided in conjunction with the service of beer and wine. Service and consumption of beer and wine may occur only during the designated times in the designated areas of the specified sites as stated on the permit.

(b) An art exhibit permit may not be exercised during events that are expected to attract audiences under 21 years of age.

(c) Only one art exhibit permit may be exercised at any specified site on a single date. A holder may use a specified site for exercise of an art exhibit permit no more than 12 times per calendar year.

(d) The art exhibit permit or an exact copy must be posted conspicuously at each specified site at each art exhibit event during times when beer and wine are served and consumed.

(e) The fee for an art exhibit permit for a single event is $50. An applicant may apply for no more than 12 single event permits in a calendar year.

(f) The fee for an art exhibit permit for multiple specified events in a calendar year is $100. A multiple events permit may be exercised at no more than 12 specified events in a calendar year.

(g) An application for an art exhibit permit must be on forms provided by the board and accompanied by the appropriate fee. The written approval of the law enforcement agency having jurisdiction over the specified sites of the art exhibit events for which the permit is sought must also be obtained and submitted with the application.

(h) An application for an art exhibit permit must clearly identify

(1) each art exhibit event date;

(2) each specified site for each event date;

(3) the designated areas for the service and consumption of beer and wine at each specified site for each event date; and

(4) the time during which beer and wine will be served and consumed at each specified site for each event date.

(i) The holder of a multiple events art exhibit permit may submit a written request for amendment of the permit to change event dates, specified sites, designated areas, or designated times. The request must be submitted to the director in writing at least seven days before the event and must include the written approval of the law enforcement agency having jurisdiction over the specified sites.

(j) An art exhibit permit may not be transferred, relocated, or renewed.

(k) For purposes of this section, "art exhibit event" or "event" means a public event involving an art display or similar activity approved by the board that is held on a single date at one or more art galleries, art studios, art stores, art dealer stores, or museums. (Eff. 6/13/2003, Register 166)

3 AAC 304.699. Wine auction permit

(a) A wine auction permit authorizes the holder to sell wine for consumption off the designated premises by outcry or silent auction, by wine pull, or, with a permit issued under AS 05.15, by raffle, at designated premises for a specific occasion and limited period of time. Only organizations that would be eligible for a special events permit under AS 04.11.240(a) are eligible for a wine auction permit, and only if all profits derived from the auction, wine pull, or raffle of wine are paid to the organization and not to an individual.

(b) An application for a wine auction permit must be signed by both the president and secretary of the organization applying for the permit. A sworn affidavit showing the length of

time the organization has been in existence must accompany the application, together with a certified copy of the resolution of the board of directors authorizing the application. The written approval of the law enforcement agency having jurisdiction over the designated premises of the occasion for which the permit is sought must also be obtained and accompany the application.

(c) No more than five wine auction permits may be granted to an organization, including its auxiliary, in any one calendar year.

(d) A wine auction permit may be operated in conjunction with a special events permit, caterer's permit, restaurant caterer's permit, or club license caterer's permit or on the licensed premises of a beverage dispensary, club, or restaurant or eating place. A wine auction permit may be operated on premises where no other liquor license or permit has been issued.

(e) A wine auction permit may not be transferred or renewed.

(f) The fee for a wine auction permit is $50 a day.

(g) In this section, “wine pull” means the offering of individual unidentified bottles of wine for a fixed price per bottle, where some bottles are valued at less than the fixed price and other bottles are valued at more than the fixed price. (Eff. 6/13/2003, Register 166; am 2/21/2019, Register 229)

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Article 7

Restaurant Designation Permits

3 AAC 304.715. Application for designation

(a) A licensee desiring designation under 3 AAC 304.715 - 3 AAC 304.795 as a bona fide restaurant, hotel, or eating place for purposes of AS 04.16.010(c) or 04.16.049 must file with the director an application, on a form prescribed by the board, together with an initial application fee of $50. Designation will be granted only to a holder of a beverage dispensary, club, recreational site, golf course, outdoor recreation lodge, destination resort, or restaurant or eating place license, and only if the requirements of 3 AAC 304.725 and 3 AAC 304.745, as applicable, are met.

(b) The designation application must include

(1) a statement of the type of designation requested, whether for employment under AS 04.16.049(c), for dining under AS 04.16.010 after standard closing hours, for dining under AS 04.16.049 (a)(2), for dining under AS 04.16.049(a)(3), or for any combination of those designations;

(2) a description of the location of the premises for which the designation is desired;

(3) a listing of meals to be offered to patrons; if a menu is not available, the applicant shall state what the menu is expected to be;

(4) a detailed floor plan of the proposed designated and undesignated areas of the licensed business;

(5) a description of any entertainment offered or available within the licensed business, and on the proposed designated portions of the premises;

(6) a description of the manner of food and beverage service offered or anticipated, whether table service, buffet service, counter service, or other;

(7) a statement of whether an owner, manager, or assistant manager is always present on the premises during business hours; and

(8) any other information required by the board.

(c) The board will, in its discretion, reduce the premises area requested to be designated in the application.

(d) A restaurant designation granted to the holder of a golf course license is limited to the clubhouse. (Eff. 10/24/87, Register 104; am 9/11/98, Register 147; am 7/19/2000, Register 155; am 12/16/2016, Register 220)

3 AAC 304.725. Dining by persons under the age of 21

(a) Upon application under 3 AAC 304.715 for a designation under AS 04.16.049(a)(2) or (3), or both, the board will, in its discretion, designate a licensed premises for dining by a person under the age of 21 who is not accompanied by a parent, legal guardian, or spouse who has attained the age of 21, only if it finds that

(1) the premises are a bona fide restaurant;

(2) there is supervision on the premises adequate to reasonably ensure that a person under the age of 21 will not obtain alcoholic beverages; and

(3) it is unlikely persons under the age of 21 will enter and remain on the premises for purposes other than dining.

(b) The board will generally presume that the premises are a bona fide restaurant for purposes of (a)(1) of this section if

(1) the premises are licensed as a restaurant or eating place;

(2) at least 50 percent of the gross revenue of the licensed business is from the sale of food and non-alcoholic beverages; or

(3) the premises are a facility at which the patron's primary activity is dining.

(c) For purposes of (a)(3) of this section, the board generally will presume that premises are unlikely to be entered by persons under the age of 21 other than for purposes of dining if no entertainment other than dining is provided or available. "Entertainment" includes live music, dancing, pool and other table games, sports, pinball, and video games.

(d) The presumptions in (b) and (c) of this section are neither conclusive nor exclusive. The board will, in its discretion, find that premises that satisfy the presumptions are not a bona fide restaurant or do not provide adequate supervision. The board will, in its discretion, find that

premises not satisfying the presumptions in (b) and (c) of this section are nonetheless a bona fide restaurant with adequate supervision.

(e) An application for a new designation of premises under this section will be approved by the board only if it is approved by the local governing body having jurisdiction over the area in which the licensed premises exists. (Eff. 10/24/87, Register 104)

3 AAC 304.745. Employment of persons under the age of 21

(a) Upon application under 3 AAC 304.715 for a designation under AS 04.16.049(c), the board will, in its discretion, designate licensed premises for employment of persons between the ages of 16 and 19 years only if the board finds that the premises are a bona fide hotel, restaurant, or eating place, and if all the other requirements of AS 04.16.049(c) are met.

(b) For the purpose of AS 04.16.050, an underaged person, who is employed in compliance with AS 04.16.049, is not in possession or control of alcohol if, while supervised by a person over the age of 21 who is also present on the licensed premises, the underaged employee handles empty or partially empty glassware and containers of alcoholic beverages while busing tables or washing dishes. Any remaining alcohol in the glassware or container must be discarded as soon as possible by placing it in the wastewater, if available, or in a waste container. (Eff. 10/24/87, Register 104; am 5/1/94, Register 130)

3 AAC 304.765. Limitation of designation

(a) The board will, in its discretion, designate only a portion of a licensed premises under 3 AAC 304.725 and 3 AAC 304.745, and will, in its discretion, limit the hours when persons under the age of 21 may be present on the designated premises.

(b) A licensee may make changes to the designated premises only with the prior approval of the board. (Eff. 10/24/87, Register 104)

3 AAC 304.775. Certificate of designation

Upon approval by the board of a designation application, the director will issue a certificate of designation of premises, which will state whether the designation is under AS 04.16.049(a)(2),

AS 4.16.049(a)(3), AS 04.16.049(c), or a combination of those statutes. The certificate must be prominently displayed in the license premises. (Eff. 10/24/87, Register 104)

3 AAC 304.785. Termination of designation

A designation issued under 3 AAC 304.715 - 3 AAC 304.795 terminates upon expiration, revocation, transfer, or relocation of the holder's alcoholic beverage license. A local governing body may protest continuation of a designation in the same manner it protests other license actions under AS 04.11.480. (Eff. 10/24/87, Register 104)

3 AAC 304.795. Suspension or revocation of designation

A designation under 3 AAC 304.715 - 3 AAC 304.795 is a privilege over and above that of a license, and is issued with the understanding that the board will, in its discretion, suspend or revoke the designation for good cause without a hearing under AS 04.11.510 or the Administrative Procedure Act, AS 44.62. The director will notify a licensee in writing not less than 10 days before board consideration of suspension or revocation of a licensee's designation. The board will afford the licensee an opportunity to be heard. (Eff. 10/24/87, Register 104)

Article 8

General Provisions

3 AAC 304.905. Determining population criteria

(a) The board will use population figures generated by the Department of Commerce, Community, and Economic Development to establish a population figure for determining the quota of licenses available under AS 04.11.400(a)(2). The Department of Commerce, Community, and Economic Development figures will be adjusted, however, in the following respects:

(1) prison populations will be excluded;

(2) the populations of colleges and universities will be discounted by the number of students who, according to best available information, are domiciled outside of the applicable population area;

(3) the population of military bases and installations will be discounted by the number of military personnel and their families who, according to best available information, are domiciled outside of the applicable population area.

(b) The population of incorporated cities and unified municipalities will be determined annually by the director, within a reasonable time after the figures generated by the Department of Commerce, Community, and Economic Development are made available to the director.

(c) If figures of the Department of Commerce, Community, and Economic Development are not available to the director by March 31 of any year, the director shall employ the best available information to establish, not later than April 30, the population figures under AS 04.11.400(m) in determining the quota of available licenses.

(d) Repealed 4/11/2020. (Eff. 4/28/84, Register 90; am 10/24/87, Register 104; am 4/11/2020, Register 234)

3 AAC 304.910. Restaurant definition

(a) The board will use the following guidelines when determining what qualifies as a bona fide restaurant or eating place:

(1) the applicant demonstrates minimum standards for a kitchen to prepare food onsite, in accordance with 18 AAC 31.040(c) or municipal ordinance;

(2) the applicant provides a menu of food items, including entrees, that are regularly sold and prepared by the licensee on the licensed premises;

(3) the establishment has tables or counters for consuming food in a dining area on the premises; and

(4) the applicant includes a detailed plan to

(A) prevent access to alcohol by minors; and

(B) ensure that introduction or removal of alcoholic beverages is in compliance with AS 04.16.120. (Eff. 4/28/84, Register 90; am 10/24/87, Register 104)

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. Nothing in this section limits the existing powers of investigative personnel.

(c) A licensee providing curbside pickup shall provide written information regarding the licensee's 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 from 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 8/23/20, Register 235).

<u>3 AAC 304.925. Home delivery.</u> (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, 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 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

(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 50 percent of the retail price of the alcoholic beverage purchase accompanying the order. (Eff. 4/16/2020, Register 234; am 4/23/2020, Register 234; am 8/23/20, Register 235)

3 AAC 304.980. Prohibited financial interest; representative or owner; management agreements

(a) For purposes of AS 04.11.450 (prohibited financial interest), a representative or owner of a partnership, joint venture, limited liability organization, or corporation is an individual, partner, joint venture, limited liability organization member, or corporation that individually holds an interest of more than 10 percent or that aggregately holds an interest of more than 15 percent in a partnership, joint venture, limited liability organization, or corporation.

(b) A liquor licensee may enter into a management agreement with a person who does not have an ownership interest in the liquor license, for the purpose of giving that person responsibility for the day-to-day operations of a liquor license. A management agreement under this section must be in writing and signed by a licensee whose name is required to be provided with an application for a new license under AS 04.11.260, and by the non-licensee agreeing to manage the operation of the business. A copy of the signed, written management agreement must be filed with the board. The licensee who signs the management agreement must notify the board of any change to the management agreement, including expiration, termination, or amendment, not later than 10 days after the change to the management agreement. The director shall review a management agreement for compliance with this section, and any errors or omissions must be corrected by the licensee not later than 10 days after receipt of notification of the error or

omission. The director may declare void a management agreement that does not comply with this section. A management agreement must comply with AS 4.11.450(a), AS 04.21.030, and 3 AAC 304.205 and contain language that indicates both parties to the agreement have read and understand those statutes and regulations and agree to comply with them. A management agreement may not create a mechanism for a manager who is not a licensee to derive profit from the sale of alcohol in violation of AS 04.11.450, including an agreement for a manager to keep all profit above a certain amount of income when that profit may be derived from the sale of alcoholic beverages. (Eff. 7/25/2012, Register 203; am 12/16/2016, Register 220)

3 AAC 304.990. Definition

In this chapter, "affiliate" includes

(1) an individual's general partners and joint venturers, any corporation of which the individual owns 10 percent or more of the stock, any corporation of which the individual is an officer or director, any limited liability organization of which the individual is a member who holds 10 percent or more of the limited liability organization's ownership interest, and any limited liability organization of which the individual is a manager;

(2) a partnership's partners or joint venturers, any affiliates of a partnership's partners or joint venturers, any corporation of which the partnership or any individual partner holds 10 percent or more of the stock, any corporation of which any individual partner is an officer or director, any limited liability organization of which the partnership or any individual partner is a member who holds 10 percent or more of the limited liability organization's ownership interest, and any limited liability organization of which any individual partner is a manager;

(3) a corporation's shareholders who hold 10 percent or more of the corporation's stock, a corporation's officers and directors, a corporation's partners or joint venturers, any affiliates of a corporation's partners or joint venturers, any other corporation of which the subject corporation owns 10 percent or more of the stock, any other corporation for which the subject corporation appoints one or more directors, any other corporation of which 10 percent or more of the stock is held by a shareholder holding 10 percent or more of the subject corporation's stock, any limited liability organization of which the subject corporation is a member and of which the subject corporation holds 10 percent or more of the limited liability

organization's ownership interest, any limited liability organization for which the subject corporation appoints a manager, any limited liability organization of which a shareholder holding 10 percent or more of the subject corporation's stock is a member who holds 10 percent or more of the limited liability organization's ownership interest, and any limited liability organization of which a shareholder holding 10 percent or more of the subject corporation's stock is a manager;

(4) other persons determined by the board to have significant control or influence over a person;

(5) a limited liability organization's manager, a limited liability organization's members who hold 10 percent or more of the limited liability organization's ownership interest, a limited liability organization's partners or joint venturers, any affiliates of a limited liability organization's partners or joint venturers, any other limited liability organization of which the subject limited liability organization is a member, any corporation of which the limited liability organization owns 10 percent of more of the stock, any corporation for which the limited liability organization appoints one or more directors, and any corporation of which 10 percent of more of the stock is held by a member holding 10 percent or more of the subject limited liability organization's ownership interest. (Eff. 4/28/84, Register 90; am 6/13/2003, Register 166)

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