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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Amy Demboski
Department of Commerce Community and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: July 24, 2020

RE: Filed Permanent Regulations: Alcoholic Beverage Control Board

Alcoholic Beverage Control Board emergency regulations made permanent re: curbside pickup and home delivery (3 AAC 304.185(g); 3 AAC 304.920; 3 AAC 304.925)

Attorney General File: 2020200405

Regulation Filed: 7/24/2020

Effective Date: 4/16/2020, am 4/23/2020, and am 8/23/2020

Print: 235, October 2020

cc with enclosures: Harry Hale, Department of Law
Judy Herndon, LexisNexis
Jane Sawyer, Regulations Specialist

CERTIFICATION OF COMPLIANCE

I, Glen Klinkhart, Interim Director, certify that, as required by AS 44.62.260 in order to make the attached five pages of regulations permanent, as of this date a legal opinion of the Department of Law has been requested under AS 44.62.060, a notice conforming to AS 44.62.200 was issued in compliance with AS 44.62.190, and an opportunity for public comment was provided under AS 44.62.210, for the following emergency regulation:

3 AAC 304.185(g); 3 AAC 304.920; 3 AAC 304.925 regarding curbside and home delivery of alcoholic beverages by certain Title 4 licensees.

This regulation originally was filed as an emergency regulation on April 16, 2020, and amended on April 23, 2020.

In considering the public comments, the Alcoholic Beverage Control Board paid special attention to the cost to private persons of the regulatory action being taken.

Date: 7-16-2020



Glen Klinkhart, Interim Director

FILING CERTIFICATION

April Simpson for

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on July 24th, 2020, at 12:46 P., I filed the attached regulation according to the provisions of AS 44.62.

April Simpson

for Lieutenant Governor *Kevin Meyer*

Register: 235, October 2020.

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF ALCOHOLIC BEVERAGE CONTROL BOARD


The attached five pages of regulations, dealing with curbside/home delivery are certified to be a correct copy of the regulation changes that the Alcoholic Beverage Control Board adopted at its July 16, 2020, meeting, under the authority of AS 04.06.090, AS 26.23.020 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

On the record, in considering public comments, the Alcoholic Beverage Control Board paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor as provided in AS 44.62.180.

Date: 7-16-2020



Glen Klinkhart, Interim Director

FILING CERTIFICATION

April Simpson for

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on

July 24th, 2020 at 12:48 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

April Simpson

for Lieutenant Governor *Kevin Meyer*

Effective: August 23, 2020

Register: 235, October 2020

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

**I, KEVIN MEYER, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA,
designate the following state employees to perform the Administrative Procedures Act
filing functions of the Office of the Lieutenant Governor:**

**Josh Applebee, Chief of Staff
Kady Levale, Notary Administrator
April Simpson, Regulations and Initiatives Specialist**

**IN TESTIMONY WHEREOF, I have
signed and affixed the Seal of the State of
Alaska, in Juneau, on December 11th,
2018.**



K. Meyer
.....

**KEVIN MEYER
LIEUTENANT GOVERNOR**

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

The emergency adoption amendment of 3 AAC 304.185(g) is made permanent and that section is further amended to read:

(g) Notwithstanding (a) – (f) of this section (~~3 AAC 304.185~~), a licensee may permit an an alcoholic beverage agent or employee to take alcohol off of a licensed premises and bring it to a purchaser for curbside pickup or home delivery before November 15, 2020, under the conditions described in 3 AAC 304.920 or 3 AAC 304.925. (Eff. 11/29/81, Register 80; am 12/13/2009, Register 192; am 7/1/2018, Register 226; am 8/17/2018, Register 227; am 04/16/2020, Register 234; am 8 / 23 / 2020, Register 235)

Authority: AS 04.06.090 AS 04.06.100 AS 26.23.020

The emergency adoption amendment of 3 AAC 304.920 is made permanent and that section is further amended to read:

et al.)))
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 ^(c:1)

(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

Nothing in this section limits

peace officers acting in their official capacity. This section is not intended to limit the existing powers of investigative personnel.

(c) A licensee providing curbside pickup shall provide written information regarding

the licensee's
[their]

director → [Director]

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

from

of food or alcoholic beverages or an area not greater than 50 feet [of] an entry to a licensee's

business premises. 2 [.]

(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 / 2020 [#] Register 235).

Authority: AS 04.06.090 AS 04.06.100 AS 26.23.020

adoption (of April 16, 2020 and the emergency amendment of that section of April 23, 2020, are

The emergency amendment of 3 AAC 304.925 is made permanent and that section is further amended to read:

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(u bold)

3 AAC 304.925. **Home delivery.** (a) Notwithstanding 3 AAC 304.185(a) – (f) and 3

AAC 304.635(b), a beverage dispensary licensee under AS 04.11.090, a restaurant or eating

place licensee under AS 04.11.100, a brewery licensee under AS 04.11.130 operating a bona

fide restaurant on premises, or a brewpub licensee under AS 04.11.135, or a winery licensee under AS 04.11.140 operating a bona fide restaurant on premises may permit home delivery of beer or wine sold at retail before November 15, 2020, only if (C:J)

(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;

in person

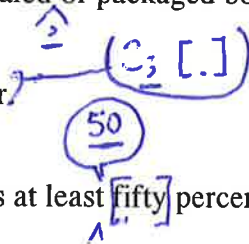
(7) a holder of an alcohol server education card verifies that the purchaser of the as required under 3 AAC 304.425 alcoholic beverage is 21 years of age or older and is not otherwise restricted from purchasing

alcoholic beverages under AS 04.16.160, by requiring the purchaser to produce a valid driver's license or valid identification card; and

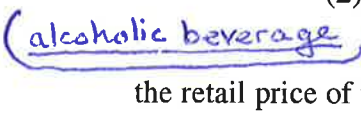
(8) the transaction is in accordance with AS 04.16.030.

(b) For purposes of this section,

(1) "factory sealed" means in a closed, manufacturer-sealed or packaged bottle or can or a licensee sealed, tamper proofed, and labeled growler of beer,



(2) "meal" means food purchased at a retail price that is at least fifty percent of the retail price of the [alcohol] purchase accompanying the order. (Eff. 4/16/2020, Register 234;



am 4/23/2020, Register 234; am 8 / 23 / 2020, Register 235)

Authority: AS 04.06.090 AS 04.06.100 AS 26.23.020