

From: herbert.viergutz
To: [Calder, John P. \(CED\)](mailto:Calder,John.P.(CED))
Subject: FW: liquor license issue
Date: Monday, June 13, 2016 8:23:16 AM
Importance: High

Please review the below input from my client, Dean Rand, d/b/a Discovery Voyages, as his comment to the proposed amendment to the common carrier dispensary regulations.

From: dean.rand@gmail.com
Date: Wed, 8 Jun 2016 08:01:25 -0800
Subject: Re: liquor license issue
To: hviergutz@hotmail.com

Ok, when & if the time comes here's some more pertinent info:

As you already pointed out, un inspected passenger vessels are inherently unsafe when compared to inspected. Often so, un inspected vessels are grossly unsafe as exemplified just last week in Glacier Bay where an un inspected passenger vessel rolled over and sank unexpectedly with the loss of two lives.

We not only oppose allowing any un inspected vessels the issuance of liquor licenses because of the obvious safety at sea issues that are inherent in those water craft, but also because these water craft could become even more unsafe with the addition of possibly widespread liquor consumption on the part of the passengers and more than likely, the crew. Crew on un inspected vessels are not kept in a drug & alcohol testing program as are crew on inspected vessels.

Also, for business reasons we oppose the Board's plan because we have worked hard and invested millions into owning, maintaining, manning, and operating inspected passenger vessels so that we can legally serve fine wines, craft beers, and other liquors on our up scale tours. To now allow un inspected vessels this same privilege is most certainly unfair to those who have invested like we have now for over 25 years.

Additionally, to now open the flood gates of "liquor sales at sea on un inspected passenger vessels" would certainly result in tarnishing the high safety reputation that we in the "small ship cruise" industry have developed in the past 35 years. Statistically, the small inspected passenger vessel is the safest passenger vessels operating in the US.

On Wed, Jun 8, 2016 at 5:56 AM, herbert viergutz <hviergutz@hotmail.com> wrote:

Generally, the questions are answered at the conclusion of the question period,

at least in State procurement construction projects, and I suspect the State is following the same procedure in this instance. It may be more timely to receive the answers and then file an objection.

From: dean.rand@gmail.com

Date: Tue, 7 Jun 2016 14:13:43 -0800

Subject: liquor license issue

To: hviergutz@hotmail.com; info@discoveryvoyages.com

Herb, have you heard anything from those dumb asses at the ABC Board?

Today is the first deadline so I wonder if you should fire off an email to them stating that we oppose allowing any uninspected vessels receiving liquor licenses.

Dean

From: [Jack Manning](#)
To: [Calder, John P. \(CED\)](#); [Jack Manning](#)
Subject: Draft regs
Date: Tuesday, June 07, 2016 4:03:40 PM
Importance: High

Hello John Jack Manning here I just have a few questions regarding the Draft Regulations. Alternating License Premise does this include BDL's I am thinking for example roadhouses in rural areas and If not Why not? I had several questions for the common carrier license. Line one should that read licensed by a state agency not for a state agency. I am confused as to what an uninspected vessel is? I don't know of any boats that are for hire or carry passengers that are not inspected. I am concerned as to the effect of this change on Excursion, Whale watching boats that have Common Carrier Licenses. My experience in the Juneau and southeast area is that these boats typically do not have any staterooms. One more question How does a regulation change like these happen? how do they come forward? Thanks for your time Jack Manning 907 789 4637

From: [Paul Thomas](#)
To: [Calder, John P. \(CED\)](#)
Subject: Proposed Regulation 3 ACC 304.340
Date: Tuesday, June 07, 2016 10:53:13 AM
Importance: High

Proposed ABC Regulation
Comments and Questions for the Board

Attn: John Calder / ABC Board

3 ACC 304.340 Common Carrier Dispensary License

I believe that these revisions are aimed at preventing a recurrence of an incident in the past of a vessel at anchor functioning as a bar not actually transporting people. However, since there was no explanation in the submission of this regulation for public comment, I'm not sure what is really being attempted here. A small clip of a new regulation without the accompanying reason it is needed makes it very hard to to solicit constructive comments from industry persons who are familiar with the regulations already and almost impossible for members of the true public outside of industry.

Question: What is this aimed at, prevention or clarifying?

Question: Why isn't something like "The Vessel must be in motion" or "Actively transporting persons on a given route" used here to simply and effectively make it possible for enforcement to stop unintended exploitation of this license type as we have seen recently?

The rationale behind amending this regulation should be stopping abuse such as what occurred in Kodiak. I do not believe that the intent of the current proposed language does that and it could be easily defeated through creative interpretation of the language.

Paul J. Thomas
Alaska Cache Liquor Inc.
P.O. Box 20977
Juneau, Alaska 99801
Ph 907-586-2232
Fax 888-517-5531

From: herbert.viergutz
To: [Calder, John P. \(CED\)](mailto:Calder, John P. (CED))
Cc: dean.rand@gmail.com
Subject: Common Carrier Dispensary License
Date: Sunday, May 29, 2016 7:25:32 AM
Importance: High

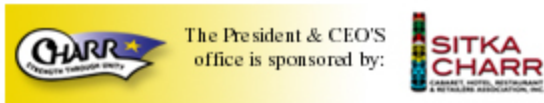
I first forwarded an emailed question to an employee at the Board on May 20, 2016, which was emailed to you on May 24. I have not had a response to that question, and the same is sought. Additionally, (2) Who authored the proposed language, and from what sources was the information obtained to enable the construction of the proposed language; (3) What difference does it make if a vessel has any staterooms for "overnight passenger travel" if the boat operates day tours only and is a "12-pack uninspected marine vessel"; (4) Why shouldn't a day tour vessel which is a 12-pack uninspected passenger vessel be allowed the same opportunities as one with staterooms for overnight passenger travel; (5) Why is the ABC Board proposing to only allow "12-pack uninspected vessels" to apply for a liquor license when there are an entire fleet of "6-pack" uninspected vessels suitable for, and many engaged in, the tourism trade; (6) Isn't the Board really considering allowing ANY uninspected passenger vessel to distribute alcoholic beverages; (7) An inspected and certified vessel is subject to mandatory annual safety exams, random drug testing for the crew throughout the work season, biannual dry dock exams, extensive life saving equipment requirements, and a ton of other items which are all designed to provide the traveling public with the highest quality of safety in the world. Further, an inspected passenger vessel is subjected to a very thorough structural exam at least every two and often every year by a team of highly trained Coast Guard vessel inspectors. If they discover any questionable structural or mechanical items, the vessel owner is ordered to make proper repairs and then the vessel is subjected to follow-up exams to guarantee that it is fully in compliance. An uninspected vessel has no requirement for independent inspections, ergo "uninspected". Often, uninspected vessel owners pick a marine surveyor of their liking to do a "condition & valuation survey" for their insurance underwriter, which inspection does not serve the same independent purpose. Does the ABC Board not consider safety, and if you allege that they do, then how do you justify the decrease in potential safety as a result of the proposed regulation?

From: [Dale Fox](#)
To: [Calder, John P. \(CED\)](#)
Subject: Regulations Questions and Comments
Date: Tuesday, June 07, 2016 9:37:51 AM
Attachments: [image001.png](#)
[ABC Regulations Comments Draft.docx](#)
Importance: High

John:

Attached are several Questions and Comments on the proposed regulation from the ABC Board.

Dale Fox
President & CEO
Alaska CHARR
1503 W 31st Ave Ste 202
Anchorage, AK 99503
907-274-8133 or Toll Free in Alaska 800-478-2427
www.alaskacharr.com



To: ABC Board

From: Alaska CHARR

Re: Comments and Questions on 3 AAC 304.225 Alternating Licensed Premise for Certain Licensed Types

We would like to encourage a dialog with the industry when new regulations are proposed. We frankly do not know what problem this new regulation is proposing to fix. If there was a discussion, we missed it.

Comments:

a.

Question: Why does this provision not cover all license types?

a.1 The wording to allow this altering of the premises if you will stimulate tourism or promote activities open to the general public fits almost all commercial operations, all of the time.

Question: Why would this option not be available for a private event or convention?

Question: Why have the wording that this must stimulate tourism?

a.4 Catering: This appears to contradict section 5 of this regulation. 5 says unlicensed premises must remove all alcohol and section 4 seems to allow catering.

Question: Does Section 5 conflict with section 4? Please explain.

Question: Why would an operator designate their premise as unlicensed and then set up a catering operation in the formerly licensed area?

To: ABC Board

From: Alaska CHARR

Re: Comments & Questions on 3 AAC 304.340 Common Carrier Dispensary License

We would like to encourage a dialog with the industry when new regulations are proposed. We frankly do not know what problem this new regulation is proposing to fix. If there was a discussion we missed it.

Comments:

e. This seems to be an attempt to allow 12-pack or, more appropriately, 100-ton vessels, to have alcohol if there are 3 or more staterooms. Larger tour vessels do not need staterooms; we do not understand how or why the 3 staterooms requirement was developed.

Question: Should this be written as 100 ton vessel instead of 12 pack?

Question: Why is a 3 stateroom requirement proposed?

We do not believe the proposed regulation deals with problems like the Kodiak boat anchored in the bay with a common carrier permit acting as a full beverage dispensary license in a fixed location. In fact, he probably had 3 staterooms but the key was he was not taking anyone anywhere.

Question: Why does this common carrier license regulation change not address problems like those in Kodiak?

Question: Why don't we define common carrier as a vessel that actually transports people?

To: ABC Board

From: Alaska CHARR

Re: Comments & Questions on 3 AAC 304.375 Distillery License

We would like to encourage a dialog with the industry when new regulations are proposed. We frankly do not know what problem this new regulation is proposing to fix. If there was a discussion we missed it.

Comments:

a.

Question: Is there a minimum size operation in terms of number of gallons for a distillery?

b. Flavoring ethanol or alcohol: It appears that the market is wide open for those who want to ship in the majority of their alcohol, add a flavor and call it an Alaskan-made product. If b was adopted this would not prevent this activity. A licensee would get a license for the smallest distilling process allowed under a. Then, while they may be producing low volumes of their own distilled product, the outside alcohol could still be brought in with no problem under this description.

Question: Could a person put in a very small distillery operation to get a license?

Question: Wouldn't allowing a flavor to be added to outside spirits kill the local distillery businesses?

Question: If Alaskan Blueberries were added to a distilled spirit from outside would the resulting product be Alaskan made?

To: ABC Board

From: Alaska CHARR

Re: Comments on 3 AAC 304.980 Prohibited Financial Interest

We would like to encourage a dialog with the industry when new regulations are proposed. We frankly do not know what problem this new regulation is proposing to fix. If there was a discussion we missed it.

Comments:

This entire section seems to be administrative dotting of i's and crossing of t's but it does not address some of the real issues related to prohibited financial interest.

B1.

Question: Are these agreements open to public inspection?

B6.

For example: The recent ill-advised decision to allow for lease and lease-back provisions on hotels. The statute 04.11.400 and the original intent were to allow hotels that support the visitor industry to have a beverage dispensary license. These licenses were clearly directly associated with the rooms of the hotel.

Now we have hotel owners leasing their entire property to a bar and restaurant operator with a lease-back of the rooms to the hotel owner. This is all done to meet the needs of the prohibited financial interest regulations.

The public is harmed by this creative practice. Instead of issuing new licenses, as was recently done, the hotel owner should be responsible for clearing up debts caused by the bar and restaurant owner. After all, this Beverage Dispensary License was given to the hotel as a result of the hotel rooms.

The public is harmed as a result of creative operators being allowed to break the intent of the prohibited financial interest law. The result is that a bad restaurant and bar operator under these lease-back arrangements is allowed to run up debts for alcohol, services and taxes and simply walk away. This causes no problem for the hotel as they just apply for another new license. We believe the granting of a license to a hotel is tied to the rooms and the owner of the rooms should be responsible if their leasing arrangement does not work.

Question: Why doesn't this rewrite address the real problems of lease backs as described above?

Question: Why would we not tie the Hotel Tourism license to the hotel, so that debts on the license would be paid before a transfer to a new operator?

From: [icharr](#)
To: [Calder, John P. \(CED\)](#)
Cc: [Dale Fox](#)
Subject: Questions on ABC Board proposed regulations 3 AAC 304.340 Common Carrier Dispensary License
Date: Monday, June 06, 2016 2:09:37 AM
Attachments: [ABC Regs Common Carrier.doc](#)
Importance: High

I have attached a letter with questions on the above-referenced regulation under the guidelines specified in the public notice.

I await your response.

Larry J. "Hack" Hackenmiller
I-CHARR Sec./Treas.



President Dick Ellsworth
Vice-president Gary Falls
Secretary/Treasurer
Larry Hackenmiller

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June 6, 2016

John Calder
Alcoholic Beverage Control Board
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Anchorage, Alaska 99501

john.calder@alaska.gov

NOTICE OF PROPOSED REGULATIONS – QUESTIONS
3 AAC 304.340 Common Carrier Dispensary License

Question #1. If I meet all the requirements for a registered boat for passenger travel to get a common carrier dispensary license do I have to register any nautical miles on the boat or can I just leave it docked at the same location?

Question #2. Do these regulations allow my legally registered boat to travel a specific distance from the dock location to an anchor point?

Question #3. Do these regulations allow my legally registered boat to provide alcohol beverage service if my boat is not moving, or traveling?

Larry J. "Hack" Hackenmiller
Sec. /Treasurer I-CHARR

Cc: I-CHARR Board, Alaska CHARR

From: herbert.viergutz
To: [Calder, John P. \(CED\)](mailto:Calder,John.P.(CED))
Subject: Fwd: Common carrier dispensary license
Date: Tuesday, May 24, 2016 7:25:48 AM
Importance: High

Please see below question. Thank you.

Sent from my iPhone

Begin forwarded message:

From: "Johnston, Naomi A (CED)" <naomi.johnston@alaska.gov>
Date: May 24, 2016 at 9:14:11 AM MDT
To: herbert viergutz <hviergutz@hotmail.com>
Subject: RE: Common carrier dispensary license

Herbert,

I can forward your comment however it would not be considered a valid comment. His email address is listed in the public notice, about halfway down the page.

Naomi Johnston

-----Original Message-----

From: herbert viergutz [<mailto:hviergutz@hotmail.com>]

Sent: Tuesday, May 24, 2016 6:57 AM

To: Johnston, Naomi A (CED)

Subject: Re: Common carrier dispensary license

Would you please forward my email to you to Mr. John Calder, as there is no email address provided for him in the Notice. Thank you.

Sent from my iPhone

On May 23, 2016, at 10:01 AM, Johnston, Naomi A (CED)
<naomi.johnston@alaska.gov> wrote:

Good Morning Herbert,

Please review the public notice that is posted on our website located below, It contains the contact information for the person who will be handling the public comments and will do their best to get answers to questions as soon as possible.

Please remember to reference the Draft Regulation project that you are inquiring about as we have multiple open at the moment. It will help us ensure we get you the proper information.

<https://www.commerce.alaska.gov/web/amco/Home.aspx>

-----Original Message-----

From: herbert viergutz [<mailto:hviergutz@hotmail.com>]

Sent: Friday, May 20, 2016 10:38 AM

To: Johnston, Naomi A (CED)

Subject: Common carrier dispensary license

Why does the Board deem it necessary to seek an amendment of the above as reflected in the public comment process now under way?
Thank you.

Sent from my iPhone