



THE STATE
of **ALASKA**

GOVERNOR BILL WALKER

Department of Commerce, Community,
and Economic Development

ALCOHOLIC BEVERAGE CONTROL BOARD
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MEMORANDUM

TO: Robert Klein, Chair and
Members of the Board

FROM: Cynthia Franklin
Director, ABC Board

DATE: July 13, 2016

RE: Regulation Project: Management
Agreements

This was a regulation project intended to clarify several minimum statements of responsibility required to be contained in a management agreement to assure that the agreement does not have the illegal effect of leasing a liquor license which is prohibited by AS 04.11.450.

The draft language in the attached tab was put out for public comment and received public comment which was sent to the board for its review at the end of the public comment period.

The board may review the public comment and determine whether to adopt the regulation as written, add the additional recommended language to the draft, request further work or an additional draft with other language from staff, or close the project without adopting any regulation.

3 AAC 304.980. Prohibited Financial Interest

3 AAC 304.980 Article 8 “Prohibited Financial Interest; representative or owner” is amended to add new numbering (a) and (b) and a new section (b) as follows, and to amend the title of the section to “Prohibited Financial Interest”:

3AAC 304.980 Prohibited Financial Interest

(a) Representative or owner [insert text of current regulation here]

(b) Management agreements

(1) When a liquor licensee enters 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, the agreement must be in writing and signed by the licensee, a majority shareholder of a corporate licensee, or a majority member of a LLC licensee, and by the non-licensee agreeing to manage the operation of the business.

(2) A copy of the signed, written management agreement must be filed with the board to be placed in the license file. When a management agreement has expired or been terminated, or is amended, or a new agreement is entered into, notice of the change must be filed with the board to be placed in the license file within 10 days of the change to the agreement.

(3) A management agreement must be reviewed by the director of the board for compliance with this section, and any errors or omissions must be corrected by the licensee within 10 days of receipt of notification of the error or omission.

(4) A management agreement must comply with AS 04.11.450(a), 04.21.030, and 3

AAC 302.205 and contain language that indicates both parties to the agreement have read and understand those statutes and regulations and agree to comply with them.

- (5) A management agreement may not contain language that is contrary to any of the statutes or regulations set forth in section (4) above.
- (6) 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 but not limited to an agreement for a manager to keep all profit above a certain amount of income when such profit may be derived from the sale of alcoholic beverages.

Authority: AS 04.11.150 AS 04.11 .450