



MEMORANDUM

TO: Robert Klein, Chair, and
Members of the Board

DATE: November 13, 2017

FROM: Erika McConnell, Director

RE: Potential Regulations Project:
Restaurant or Eating Place – Public
Convenience

The board directed staff, at the September 2017 meeting, to provide draft language on changes to the restaurant or eating place – public convenience license (3 AAC 304.335) for the board to consider opening a regulations project. At that meeting, the board indicated it was interested in eliminating the requirement for an REPL - PC applicant to provide a petition, and would like to consider something similar to what is proposed in SB 76.

The exact language of SB 76 can't be used, as the board does not have the statutory authority to increase the number of restaurant or eating place licenses, which is what SB 76 proposes. Instead staff envisions that local governments would be able to petition the board to grant a certain number of REPL – PC licenses by providing information showing that the restaurants within the local government area serve a greater population than just that living within the local government's boundaries.

This methodology is a change from current REPL – PC licenses, because it sets a limit on how many can be issued, whereas under today's regulations, there is no specific limit of the number the board could approve.

Staff has developed a rough draft, attached, but would like additional time to refine the draft language, confer with the Department of Law, and prepare some data for the board on the impact of this proposal. I recommend that the board postpone any action on this draft until the January meeting, although the board could open a regulations project at this time.

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

3 AAC 304.335 is repealed and reinstated to read:

3 AAC 304.335. Determining public convenience for the purposes of issuing restaurant or eating place – public convenience licenses.

(a) A first class city, a home rule city, or a unified municipality may submit a resolution to the board, adopted by its legislative body, petitioning the board to determine that the issuance of a certain number of restaurant or eating place – public convenience licenses in accordance with AS 04.11.400(g) is necessary for the public convenience.

(b) The board, following a public hearing, may issue one or more restaurant or eating place – public convenience licenses under AS 04.11.400(g), within the boundaries of the municipality, if the board finds that

(1) the municipality

(A) serves as a center for commercial activity within and outside the boundaries of the municipality by providing goods and services to a population that is greater than the permanent resident population within the boundaries of the municipality;

(B) maintains a local law enforcement department; and

(C) exercises planning and land-use authority;

(2) the number of restaurant or eating place – public convenience licenses does not exceed the number of restaurant or eating place – public convenience licenses requested by the municipality in the petition; and

(3) granting the licenses is in the public interest.

(c) A resolution submitted by a municipality under (a) of this section must include

(1) information demonstrating that the petitioner meets the criteria in (b) of this section;

(2) the most recent estimate of the number of people who claim residency or work outside the boundaries of the municipality and who are served by the municipality, including the

(A) number and geographic area of the population located outside the boundaries of the municipality that relies on the municipality for goods and services;

(B) visitor population; and

(C) nonresident worker population that temporarily resides in the municipality, but that is not counted in the latest federal or state census for the municipality;

(4) information showing that the combined number of restaurant or eating place licenses and requested restaurant or eating place – public convenience licenses does not exceed one license for each 1,500 population of the population identified under (2) of this subsection; and

(5) additional justification, as necessary, to demonstrate that granting of the restaurant or eating place – public convenience licenses is in the public interest.

(d) If the board grants a petition for restaurant or eating place – public convenience licenses under this section to a municipality, the board may not authorize additional restaurant or eating place – public convenience licenses to the same municipality under this section for the following 10 years.

(e) In a municipality other than a first class city, a home rule city, or a unified municipality, or in an established village, with a population of 20,000 or less and that receives more than 4,000 visitors a year as determined by the Department of Commerce, Community, and

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Economic Development, the board may determine that it is necessary for the public convenience to issue, transfer, and renew a restaurant or eating place – public convenience licenses in accordance with AS 04.11.400(g), if the combined number of restaurant or eating place licenses and requested restaurant or eating place – public convenience licenses does not exceed one license for each 1,500 population of the year-round population and the average yearly visitor population over the previous five years.