



MEMORANDUM

TO: Bob Klein, Chair, and Members of the
Alcoholic Beverages Control Board

DATE: November 13, 2017

FROM: Erika McConnell, Director

RE: Manufacturing License Issues

In April of 2016, the board reviewed a number of decisions made by then-director Franklin. One issue that she raised at that time regarded what were permitted events at Brewery, Winery, and Distillery licensed premises. In her board memo she brought the following information to the board:

- 3) Permitted Events at Brewery, Winery and Distillery Licensed Premises
 - a. Certain license types have restrictions prohibiting sales and service of alcohol after 8 pm, service of more than a set amount of alcohol, and offering live entertainment
 - b. The Director and Enforcement Supervisor have noted an increasing amount of permit applications for Catering permits on said licensed premises to extend hours and privileges
 - c. Policy discussion with board on how to accommodate events at Brewery, Winery, and Distillery licensed premises without effectively allowing such premises to regularly operate outside of the restrictions imposed by their license type

The minutes reflect the following:

3. Permits at Manufacturing Licensed Premises
Cynthia Franklin states for the record that each application will continue to be considered on a case-by-case basis, but that when more than one per month is applied for, there will be additional inquiry and possible denial if the permits are being used to operate a manufacturing facility like a bar.

Marvin Yoder, Bob Klein, and Bobby Evans voice support.

As was the case last year, staff is seeking the board's direction on what is authorized for a manufacturing license. Last year, the director noted a frequency of permit applications. Now we are seeing activities at manufacturing license premises before and after the permitted hours of operations, as well as some activities during the hours of operations that seem contrary to the statutory intent of a manufacturing license.

Some examples:

- Renting out the facility for weddings, parties, and similar events (whether a permit is always sought is unclear)
- Festivals, parties, and fundraisers, including food and “fun” and at times, music
- Allowing tours after permitted business hours
- Hosting “alcohol inks and brews”—a painting party with alcohol
- Stein Holding and Yodeling competitions
- Yoga class prior to opening for normal operations—the fee for the yoga class includes a drink after the premises opens to the public
- Poetry readings and signings
- Sales of local crafts on the premises

I’m told the board is already aware of the restaurant in a manufacturing licensed premises, used as their location for sampling small portions of the product and selling limited amounts for onsite consumption.

I request that the board clarify on the record its interpretation of the intent of a manufacturing license and the parameters around “extracurricular” activities and events.

Initial consideration of the subject could lead a regular person to conclude that the intent of a manufacturing license is to allow the holder to manufacture the type of alcohol permitted by the license, and the onsite consumption provisions are there to allow members of the public who may wish to purchase the product, to taste it to see if they like it, purchase or not purchase, and leave. The license type does not suggest that members of the public should be encouraged to linger through food service and events, and the prohibition on entertainment supports that interpretation. That said, there is nothing in the statute or regulation that prohibits food service or the sale of other products.

I would submit for the board’s consideration:

- Statute and regulation (AS 04.11.130(e)(3); AS 04.11.170(e)(3); and 3 AAC 304.380(3) and (4)) make similar statements: that the room where consumption occurs is not to be open before 9am, but that in the evening, the serving of the product must end by 8pm—it does not state that the room must be closed at 8pm. Thus any use of the consumption area before 9am should be prohibited, but any sorts of activities the board finds to be acceptable would not have to end by 8pm, as long as there was no service of alcohol after 8pm.
- That festivals, parties, painting parties, yodeling competitions, poetry readings, and the like appear to be entertainment and thus prohibited.