

From: [Dale Fox](#)
To: [AMCO Admin \(CED sponsored\)](#)
Subject: Common Carrier
Date: Thursday, December 01, 2016 3:09:50 PM
Attachments: [image001.png](#)

Hello:

I tried to review the common carrier regulations and received an error message and therefore was not able to read the proposed regulation. Can you please send it to me?

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

sitka charr



From: [Dale Fox](#)
To: [AMCO Admin \(CED sponsored\)](#)
Subject: FW: Common Carrier
Date: Tuesday, December 06, 2016 3:37:17 PM
Attachments: [image001.png](#)

Craig:

Naomi from your office called to ask where the error was being found on your web site. Unfortunately she called while I was in a meeting and was leaving her office 10 minutes later.

Can you let her know the error is coming up when people go to see the common carrier regulations that your office is seeking public comment on. I received an error on December 1 which is why I wrote you to ask for the materials. Today December 6 a common carrier called me to ask about the regulation as they could not access the information on the AMCO web site.

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www.alaskacharr.com

sitka charr



From: Dale Fox
Sent: Tuesday, December 06, 2016 10:38 AM
To: 'AMCO Admin (CED sponsored)'
Subject: RE: Common Carrier

Craig:

I have common carriers calling me to say there is an error message on the regulations when they go on your site.

Can you get that fixed so they can read what is proposed.

Dale Fox
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sitka charr



From: AMCO Admin (CED sponsored) [<mailto:amco.admin@alaska.gov>]
Sent: Thursday, December 01, 2016 3:31 PM
To: Dale Fox
Cc: AMCO Admin (CED sponsored)
Subject: RE: Common Carrier

Good Afternoon-

Attached are the attachments to the OPN for Common Carrier Public Comments.

Craig J. Douglas

Administrative Officer I
Alcohol and Marijuana Control Office
<https://www.commerce.alaska.gov/web/amco/>
Main Line 907-269-0350

From: Dale Fox [<mailto:dfox@alaskacharr.com>]
Sent: Thursday, December 01, 2016 3:09 PM
To: AMCO Admin (CED sponsored)
Subject: Common Carrier

Hello:

I tried to review the common carrier regulations and received an error message and therefore was not able to read the proposed regulation. Can you please send it to me?

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sitka charr



From: [Dale Fox](#)
To: [AMCO Admin \(CED sponsored\)](#)
Subject: Comment on Common Carrier dispensary Licence
Date: Thursday, December 15, 2016 3:37:21 PM
Attachments: [image001.png](#)

3AAC 304.340(e)

The proposed regulation requiring 5 staterooms does nothing to solve the problem identified by the floating strip club in Kodiak. The strip club boat probably had 5 staterooms and therefore the regulation proposed would not be effective.

In fact there are whale watching, glacier viewing vessels that do not have 5 staterooms. There is no reason to prevent a real tour or transportation company engaged in coastwise trade from having a Common Carrier Dispensary License.

I would suggest the following language to allow real tourism operations and transportation companies to acquire common carrier dispensary license. I believe the ABC Board has the ability to determine if someone is engaged in wildlife viewing for whales, sea lions, marine birds and beautiful scenery versus the wildlife exhibited at a strip club.

Fox at CHARR Proposal:

Common carrier dispensary license shall be granted to uninspected 100 ton 12 Pack license to vessels who meet one or more of the following conditions of operations:

1. **Actively involved in the Alaska Travel Industry with the ability to show the board, brochures and itineraries designed to show wildlife and scenic beauty of Alaska.**
2. **Providing transportation from one port of call to another.**

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President & CEO
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www.alaskacharr.com

sitka charr





Dean Rand <dean.rand@gmail.com>

Liquor license questions

13 messages

Dean Rand <dean.rand@gmail.com>

Mon, Jul 21, 2014 at 11:45 PM

To: robert.beasley@alaska.gov, Megan Ciana <meganciana@hotmail.com>, Herb Viergutz <hviergutz@hotmail.com>

Hi, this is Dean Rand. I have a Common Carrier Seasonal license for my passenger vessel Discovery. My license number is: 4116. I was recently on the State of Alaska, Alcoholic Control Board web site conducting a search to determine whether or not another small cruise vessel that I compete with has a liquor license. I was surprised to discover that my license is not listed as current and that there's only a long expired license of mine and my ex wife's listed under my name and vessel.

However, I'm not contacting your office at this time in regards to this discrepancy. My interest at this time is whether or not this other passenger cruise vessel has the proper licensing to offer "complimentary liquor" (as stated in their web site) to paying passengers onboard this vessel. This vessel is named the Sea Wolf and the web site states the business is named Sea Wolf Adventures, of Juneau.

When I applied to the state for a liquor license, I clearly remember needing to provide a copy of my vessel's current and valid Certificate of Inspection issued by the US Coast Guard. This document states that my vessel meets strict safety and health standards developed by the US Coast Guard, Vessel Inspections. I know that this other vessel (Sea Wolf) does not have a US Coast Guard issued Certificate of Inspection.

My question is this: Is the State of Alaska now issuing liquor licenses to non USCG certified domestic passenger vessels? If so, then how is the state assuring that the vessel in question meets any structural, safety, fire fighting, and manning standards required for protecting the public's safety?

Thank you,

Dean Rand

herbert viergutz <hviergutz@hotmail.com>

Mon, Jul 21, 2014 at 11:51 PM

To: Dean Rand <dean.rand@gmail.com>

Thank you dean for the information. I shall look into the matter.

Sent from my iPhone

[Quoted text hidden]

Dean Rand <dean.rand@gmail.com>

Tue, Jul 22, 2014 at 12:13 AM

To: herbert viergutz <hviergutz@hotmail.com>

Herb, I copied you on this email to the ABC Board. Let's see if and how they respond to my question. Dean

[Quoted text hidden]

herbert viergutz <hviergutz@hotmail.com>

Tue, Jul 22, 2014 at 9:38 AM

To: Dean Rand <dean.rand@gmail.com>

Let me know what happens Dean.



Date: Mon, 21 Jul 2014 22:13:40 -0800
Subject: Re: Liquor license questions
From: dean.rand@gmail.com
To: hviergutz@hotmail.com
[Quoted text hidden]

Dean Rand <dean.rand@gmail.com>
To: herbert viergutz <hviergutz@hotmail.com>, Megan Ciana <meganciana@hotmail.com>

Tue, Jul 22, 2014 at 9:57 AM

Herb, I asked these very same questions of the state a number of years ago and never got a clear answer as to what the requirements are today for passenger vessel businesses to get a liquor license. That was over the phone when I spoke with their enforcement people. My feeling is that the ABC Board can make decisions based on ... whatever they feel is ok because they have no law stating that a vessel MUST be a certified passenger vessel. Where can we get ahold of whatever the laws are for issuing common carrier liquor licenses to passenger vessels? One of the reasons that I operate an expensive "Certified" passenger vessel is so that I can offer wine, beer, and other liquor to my guests while they are with us and on vacation. Many years ago when I first got a liquor license, the state would not give these licenses to any vessel unless it was a "certified" passenger vessel. If the state's position on this has changed, then I need to know this so that I can be competitive. I recently lost all sorts of business to an uncertified passenger vessel who offers the same service that I do including liquor. Dean

[Quoted text hidden]

Oates, Sarah D (CED) <sarah.oates@alaska.gov>
To: "dean.rand@gmail.com" <dean.rand@gmail.com>
Cc: "Beasley, Robert L (CED)" <robert.beasley@alaska.gov>

Tue, Jul 22, 2014 at 10:46 AM

Good morning, Mr. Rand:

I'm not sure what list you're looking at, but I searched for "Discovery" using the ABC License Search tool on our website, and your license was the first one to show up. It shows an expiration year of [December 31,] 2014, which matches our database. Furthermore, the Master List of All Current Licenses has 4116 listed on there. I'm not sure exactly where you searched on our website, but please let me know so I can get it fixed ASAP!

To answer your other questions: the Sea Wolf is not a liquor licensed vessel in this state. I did find on their website where they offer complementary wine and beer with dinner, and I will have an investigator look into it immediately.

Because AS 04.11.180 states that "A common carrier dispensary license authorizes the holder to sell alcoholic beverages for consumption aboard a vehicle, boat, or train licensed by a state or federal agency for passenger travel...", we do require that each the applicant provides us with a copy of the COI for each vessel with the initial liquor license application. I completely understand your concern and assure you that if/when Sea Wolf Adventures applies for a license for the Sea Wolf, we will require the same from them.

I hope this answers your questions, and please feel free to contact me with any follow-ups that you may have.

Thank you for your concern, and I hope you have a great afternoon,



-Sarah

Sarah D. Oates

Records & Licensing Supervisor | Alcoholic Beverage Control Board

2400 Viking Drive | Phone: 907.269.0356 | Fax: 907.334.2285

Please consider the environment before printing this e-mail.

P Less paper is better for us and our environment.

From: Beasley, Robert L (CED)
Sent: Tuesday, July 22, 2014 8:05 AM
To: Oates, Sarah D (CED)
Subject: FW: Liquor license questions

Sarah, will you look into this and contact Mr. Rand?

Thank you,

Bob



Robert L. Beasley, Investigator IV

Interim Director

State of Alaska

Alcoholic Beverage Control Board

2400 Viking Drive

Anchorage, Alaska 99501



Desk (907) 269-0353

robert.beasley@alaska.gov

From: Dean Rand [mailto:dean.rand@gmail.com]
Sent: Monday, July 21, 2014 9:45 PM
To: Beasley, Robert L (CED); Megan Ciana; Herb Viergutz
Subject: Liquor license questions

[Quoted text hidden]

Oates, Sarah D (CED) <sarah.oates@alaska.gov>
To: "Johnson, Steven M (CED)" <steven.johnson@alaska.gov>
Cc: "dean.rand@gmail.com" <dean.rand@gmail.com>

Tue, Jul 22, 2014 at 10:53 AM

Hey Steve,

Will you please look into the Sea Wolf for me? They do not hold a liquor license with us, and it does say at the following link (click on Gourmet Dining toward the bottom) that they offer complementary wine and beer with dinner.

<http://www.seawolfadventures.net/seawolf/index.html>

Thank you!

[Quoted text hidden]

Hi, this is Dean Rand. I have a Common Carrier Seasonal license for my passenger vessel Discovery. My license number is: 4116. I was recently on the State of Alaska, Alcoholic Control Board web site conducting a search to determine whether or not another small cruise vessel that I compete with has a liquor license. I was surprised to discover that my license is not listed as current and that there's only a long expired license of mine and my ex wife's listed under my name and vessel.

[Quoted text hidden]

Dean Rand <dean.rand@gmail.com>
To: Megan Ciana <meganciana@hotmail.com>, Herb Viergutz <hviergutz@hotmail.com>

Tue, Jul 22, 2014 at 4:32 PM

I'm trying to forward all the correspondence to you two. Dean

----- Forwarded message -----
From: Oates, Sarah D (CED) <sarah.oates@alaska.gov>
Date: Tue, Jul 22, 2014 at 8:53 AM



Subject: FW: Liquor license questions

[Quoted text hidden]

Dean Rand <dean.rand@gmail.com>

Sat, Aug 23, 2014 at 3:05 PM

To: "Oates, Sarah D (CED)" <sarah.oates@alaska.gov>, Herb Viergutz <hviergutz@hotmail.com>

Hi Sarah, this is Dean Rand again. I've not heard anything from your investigation dept regarding the Sea Wolf serving alcoholic beverages on their cruises.

What is the States position on issues such as this? Do you cite them for violating state law or allow them an opportunity to apply for a liquor license?

When I originally applied for and received my liquor license, I was required to provide a valid and current Certificate of Inspection issued by the US Coast Guard. This was needed to show the State ABC Board that the Discovery met strict safety requirements, similar to a building have a building inspection. A US Coast Guard Inspected and Certified Passenger vessel is issued this document only after extensive inspections are completed by a team of US Coast Guard vessel inspectors. This is not a "safety exam" or a vessel "documentation" but a specific document titled "Certificate of Inspection".

The Sea Wolf is NOT a Certificated Passenger Vessel. It does not and can not comply with the requirements of a certified passenger vessel.

I can provide further information and documentation of the difference in vessel inspections and certifications if needed.

Thank you for your attention to this matter.

Captain Dean Rand

[Quoted text hidden]

Oates, Sarah D (CED) <sarah.oates@alaska.gov>

Mon, Aug 25, 2014 at 10:45 AM

To: Dean Rand <dean.rand@gmail.com>, Herb Viergutz <hviergutz@hotmail.com>

Cc: "Beasley, Robert L (CED)" <robert.beasley@alaska.gov>, "Hamilton, Joe (CED)" <joe.hamilton@alaska.gov>

Mr. Rand,

I'm copying Interim Director Bob Beasley on this email so that he and the enforcement unit can update you on this and let you know how enforcement is handled.

As far as the Certificate of Inspection goes, I did mention in my last email that I'm familiar with what a COI is and that we do require copies of them with common carrier applications.

Thank you for your concern,

Sarah D. Oates



Records & Licensing Supervisor | Alcoholic Beverage Control Board

2400 Viking Drive | Phone: 907.269.0356 | Fax: 907.334.2285

Please consider the environment before printing this e-mail.

P Less paper is better for us and our environment.

From: Dean Rand [mailto:dean.rand@gmail.com]
Sent: Saturday, August 23, 2014 1:06 PM
To: Oates, Sarah D (CED); Herb Viergutz
Subject: Re: Liquor license questions

Hi Sarah, this is Dean Rand again. I've not heard anything from your investigation dept regarding the Sea Wolf serving alcoholic beverages on their cruises.

[Quoted text hidden]
[Quoted text hidden]

Dean Rand <dean.rand@gmail.com>
To: Herb Viergutz <hviergutz@hotmail.com>

Mon, Aug 25, 2014 at 3:52 PM

[Quoted text hidden]

Dean Rand <dean.rand@gmail.com>
To: Herb Viergutz <hviergutz@hotmail.com>

Sat, Mar 5, 2016 at 12:07 PM

----- Forwarded message -----
From: **Oates, Sarah D (CED)** <sarah.oates@alaska.gov>
Date: Tue, Jul 22, 2014 at 10:46 AM
Subject: RE: Liquor license questions
To: "dean.rand@gmail.com" <dean.rand@gmail.com>
Cc: "Beasley, Robert L (CED)" <robert.beasley@alaska.gov>

[Quoted text hidden]

Dean Rand <dean.rand@gmail.com>
To: Herb Viergutz <hviergutz@hotmail.com>

Sat, Mar 5, 2016 at 12:07 PM



----- Forwarded message -----
From: **Oates, Sarah D (CED)** <sarah.oates@alaska.gov>
Date: Mon, Aug 25, 2014 at 10:45 AM
Subject: RE: Liquor license questions
To: Dean Rand <dean.rand@gmail.com>, Herb Viergutz <hviergutz@hotmail.com>

Cc: "Beasley, Robert L (CED)" <robert.beasley@alaska.gov>, "Hamilton, Joe (CED)" <joe.hamilton@alaska.gov>

[Quoted text hidden]



**B**

Dean Rand <dean.rand@gmail.com>

Liquor license question

2 messages

Dean Rand <dean.rand@gmail.com>

Tue, Dec 2, 2014 at 7:39 PM

To: "Oates, Sarah D (CED)" <sarah.oates@alaska.gov>, Herb Viergutz <hviergutz@hotmail.com>

Hi, this is Dean W Rand. I have a Common Carrier liquor license # 4116 for my tour business onboard the US Coast Guard inspected and certified passenger vessel Discovery.

I just read in the news that the State of AK recently revoked a Common Carrier Liquor License from a person named Daryl Byler of Kodiak. Apparently, Byler's operation was more in line with a bar than a charter vessel, and so it was determined that his operation was out of terms of his common carrier license.

However, my question is this: Is the State of AK now issuing liquor licenses to un certified passenger vessels, such as Byler's? His vessel is not a certified passenger vessel and does not have a valid Certificate of Inspection (COI) issued by a US Coast Guard Officer in Charge of Marine Inspections.

When I applied to the state of AK for my liquor license, I was informed by the ABC board that I needed to provide the state with a valid and current COI for my passenger vessel Discovery, which I did. A COI is issued only to vessels which meet strict public safety requirements, as set out in The Code of Federal Regulations. A passenger vessel with a valid COI is inherently safer for the publics' use and also, much more expensive to own, operate and maintain.

If the State of Alaska is now issuing Common Carrier liquor licenses to un inspected and un certified passenger vessels, not only would this compromised the traveling publics' safety, this also would greatly impact my business as I have a much greater financial investment and operating costs than other businesses which operate un inspected vessels and which market the same services to consumers.

Thank you,

Captain Dean Rand

Dean Rand <dean.rand@gmail.com>

Thu, Dec 1, 2016 at 8:10 AM

To: Herb Viergutz <hviergutz@hotmail.com>

Herb, this is the email which I sent to the ABC Staff 2 years ago asking them if they're awarding liquor licenses to uncertified passenger vessels, which would be counter to State law. I never received a reply to my question.

Dean

[Quoted text hidden]





Dean Rand <dean.rand@gmail.com>

Notification of Draft Regulations from the ABC office

5 messages

Johnston, Naomi A (CED) <naomi.johnston@alaska.gov>

Mon, May 16, 2016 at 5:55 PM

Good Afternoon,

Today we posted proposed alcohol regulations for public comment related to ALTERNATING LILCENSED PREMISES FOR CERTAIN LICENSE TYPES, COMMON CARRIER DISPENSARY LICENSES, DISTILLERY LICENSES, MANAGEMENT AGREEMENTS AND PROHIBITED FINANCIAL INTEREST, INCLUSION OF PERMITTEES IN SERVER EDUCATION COURSE REQUIREMENTS and RESTAURANT DESIGNATION PERMITS.

We expect the public notice to be advertised in tomorrow's paper. The public comment period ends June 18, 2016. The proposed regulations may be found in the online public notice system and on our website by COB today. You should comment during the time allowed if your interests could be affected.

You can visit our website here <https://www.commerce.alaska.gov/web/amco/>



Naomi Johnston

Office Assistant

907-269-0464

Alcohol & Marijuana Control Office

550 West 7th Avenue, Suite 1600

Anchorage, AK 99501-3569



Dean Rand <dean.rand@gmail.com>
To: Herb Viergutz <hviergutz@hotmail.com>

Thu, May 19, 2016 at 11:14 AM

[Quoted text hidden]

herbert viergutz <hviergutz@hotmail.com>
To: Dean Rand <dean.rand@gmail.com>

Fri, May 20, 2016 at 7:11 AM

Why does the Board deem it necessary to amend the common carrier dispensary license? Thank you for your response.

Date: Thu, 19 May 2016 09:14:28 -0800
Subject: Fwd: Notification of Draft Regulations from the ABC office
From: dean.rand@gmail.com
To: hviergutz@hotmail.com

[Quoted text hidden]

Dean Rand <dean.rand@gmail.com>
To: herbert viergutz <hviergutz@hotmail.com>

Fri, May 20, 2016 at 12:15 PM

Hi herb, did you intend to send this to me or ABC board?
Dean

Sent from my iPhone

On May 20, 2016, at 5:11 AM, herbert viergutz <hviergutz@hotmail.com> wrote:

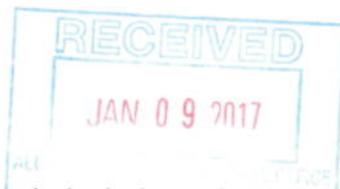
Why does the Board deem it necessary to amend the common carrier dispensary license? Thank you for your response.

Date: Thu, 19 May 2016 09:14:28 -0800
Subject: Fwd: Notification of Draft Regulations from the ABC office
From: dean.rand@gmail.com
To: hviergutz@hotmail.com

----- Forwarded message -----

From: **Johnston, Naomi A (CED)** <naomi.johnston@alaska.gov>
Date: Mon, May 16, 2016 at 3:55 PM
Subject: Notification of Draft Regulations from the ABC office
To:

Good Afternoon,



Today we posted proposed alcohol regulations for public comment related to ALTERNATING LICENSED PREMISES FOR CERTAIN LICENSE TYPES, COMMON CARRIER DISPENSARY LICENSES, DISTILLERY LICENSES, MANAGEMENT AGREEMENTS AND PROHIBITED FINANCIAL INTEREST, INCLUSION OF PERMITTEES IN SERVER EDUCATION COURSE REQUIREMENTS and RESTAURANT DESIGNATION PERMITS.

We expect the public notice to be advertised in tomorrow's paper. The public comment period ends June 18, 2016. The proposed regulations may be found in the online public notice system and on our website by COB today. You should comment during the time allowed if your interests could be affected.

You can visit our website here <https://www.commerce.alaska.gov/web/amco/>

<image001.png> Naomi Johnston
Office Assistant
907-269-0464
Alcohol & Marijuana Control Office
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501-3569

herbert viergutz <hviergutz@hotmail.com>
To: Dean Rand <dean.rand@gmail.com>

Fri, May 20, 2016 at 12:33 PM

Sorry Dean. Disregard that. I meant to send it to them.

Sent from my iPhone

[Quoted text hidden]



D1



Dean Rand <dean.rand@gmail.com>

Common Carrier Dispensary License

1 message

herbert viergutz <hviergutz@hotmail.com>

Sun, May 29, 2016 at 9:25 AM

To: "john.calder@alaska.gov" <john.calder@alaska.gov>

Cc: "dean.rand@gmail.com" <dean.rand@gmail.com>

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?





E

Dean Rand <dean.rand@gmail.com>

FW: Draft Common Carrier Regs & Questions submitted

3 messages

herbert viergutz <hviergutz@hotmail.com>

Thu, Aug 18, 2016 at 3:34 PM

To: Dean Rand <dean@discoveryvoyages.com>, "dean.rand@gmail.com" <dean.rand@gmail.com>



From: joe.samaniego@alaska.gov
To: hviergutz@hotmail.com
Subject: RE: Draft Common Carrier Regs & Questions submitted
Date: Thu, 18 Aug 2016 19:15:35 +0000

Good morning, I will get with you shortly in regards to this manner. I did take over for Mr. Calder once he left our organization, and I know the public comments on Common Carrier has closed. I will contact my supervisor to get clarification on where we are today.

Thank you,

Joe

Joe Samaniego

Administrative Assistant I

joe.samaniego@alaska.gov

Alcohol & Marijuana Control Office

550 West 7th Avenue, Suite 1600

Anchorage, AK 99501-3569

P Please consider the environment before printing this e-mail. Less paper is better for us and our environment.

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

Sent: Thursday, August 18, 2016 11:09 AM

To: Samaniego, Joe P (CED)

Subject: FW: Draft Common Carrier Regs & Questions submitted

Please see email below to Mr. Calder. Nobody has answered any of my questions between March and June. Where do we stand since nobody has contacted me?

From: naomi.johnston@alaska.gov
To: hviergutz@hotmail.com
Subject: RE: Draft Common Carrier Regs & Questions submitted
Date: Thu, 18 Aug 2016 19:01:56 +0000

Hello Herbert,

Mr. Calder no longer works for the AMCO office, the person who has taken over this responsibility is Joe Samaniego. His email address is joe.samaniego@alaska.gov.



Naomi Johnston
Office Assistant
907-269-0464
Alcohol & Marijuana Control Office
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501-3569



From: herbert viergutz [<mailto:hviergutz@hotmail.com>]
Sent: Thursday, August 18, 2016 10:59 AM
To: Johnston, Naomi A (CED)
Subject: Draft Common Carrier Regs & Questions submitted

You earlier referred me to Mr. Calder. Now, my email to him on a status request is returned. Who do I communicate with on this issue? Thank you.

From: postmaster@mail.hotmail.com

To: hviergutz@hotmail.com
Date: Thu, 18 Aug 2016 08:53:10 -0700
Subject: Delivery Status Notification (Failure)

This is an automatically generated Delivery Status Notification.

Delivery to the following recipients failed.

john.calder@alaska.gov

--Forwarded Message Attachment--
From: hviergutz@hotmail.com
Subject: Common carrier liquor license
Date: Thu, 18 Aug 2016 10:53:09 -0500
CC: dean.rand@gmail.com
To: john.calder@alaska.gov

Between March and June of this year, I forwarded numerous questions regarding the above to you on behalf of my client, Discovery Voyages. I have heard nothing from you or anyone from the ABC Board. What is the status of this matter please?

Sent from my iPhone

herbert viergutz <hviergutz@hotmail.com>
To: "Samaniego, Joe P (CED)" <joe.samaniego@alaska.gov>
Cc: Dean Rand <dean@discoveryvoyages.com>

Tue, Nov 29, 2016 at 7:43 AM

Where do we stand on the issue please? Over three and a half months have passed since your most recent email, and nine months have passed since we first addressed the issue to the Board! I would appreciate your prompt response. Thank you.

From: Samaniego, Joe P (CED) <joe.samaniego@alaska.gov>
Sent: Thursday, August 18, 2016 11:15 AM
To: herbert viergutz
Subject: RE: Draft Common Carrier Regs & Questions submitted

Good morning, I will get with you shortly in regards to this manner. I did take over for Mr. Calder once he left our organization, and I know the public comments on Common Carrier has closed. I will contact my supervisor to get clarification on where we are today.

[Quoted text hidden]

herbert viergutz <hviergutz@hotmail.com>
To: Dean Rand <dean.rand@gmail.com>

Tue, Nov 29, 2016 at 2:08 PM



See below.

Sent from my iPhone

Begin forwarded message:

From: "Franklin, Cynthia A (CED)" <cynthia.franklin@alaska.gov>
Date: November 29, 2016 at 1:12:35 PM CST
To: "Samaniego, Joe P (CED)" <joe.samaniego@alaska.gov>, "hviergutz@hotmail.com" <hviergutz@hotmail.com>
Cc: "AMCO Admin (CED sponsored)" <amco.admin@alaska.gov>
Subject: RE: Draft Common Carrier Regs & Questions submitted

Herb,

Common carrier comments are directed to the amco.admin@alaska.gov. Email address. The comment period started 11/28/2016 and runs through 01/13/17. Here is a link to the public notice in the Online Public Notification System.

<https://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=183698>

On a side note, the tone of your email comes across as impatient with my staff. The staff has no control over the pace of regulations projects. If you want to express your frustration, fell free to call me or come to the board meeting and address your complaints directly to the board.

Thanks,

Cynthia Franklin, Director
 Alcohol & Marijuana Control Office
 907-269-0351

From: herbert viergutz [mailto:hviergutz@hotmail.com]
Sent: Tuesday, November 29, 2016 5:44 AM
To: Samaniego, Joe P (CED)
Cc: Dean Rand
Subject: Re: Draft Common Carrier Regs & Questions submitted



[Quoted text hidden]



Less paper is better for us and our environment.

F

From: Dean Rand [mailto:dean.rand@gmail.com]
Sent: Thursday, February 26, 2015 7:59 AM
To: Andrews, Maxine R (CED)
Subject: updated contact phone number for Discovery, M/V

[Quoted text hidden]

Dean Rand <dean.rand@gmail.com>
To: "Andrews, Maxine R (CED)" <maxine.andrews@alaska.gov>

Thu, Feb 26, 2015 at 10:15 AM

Maxine, thank you.

Also, I just remembered that I had emailed the ABC office some time ago, maybe months ago, asking a clarifying question on criteria used to award Common Carrier licenses. I didn't hear back from anyone there so I guessed that you all had your hands full administering the new pot regs.

When I applied for my original liquor license, I had to provide a copy of my current vessel Certificate of Inspection issued by the US Coast Guard. This is a specific document available to only those vessels which meet strict passenger carrying regulations and it was my understanding that only vessels meeting these requirements and having a current COI were to be considered for issuance of a Common Carrier liquor license.

However, it has come to my attention that other vessels without a valid COI have been issued liquor Licenses.

Have the ABC Board requirements for issuing Common Carrier licenses to vessels changed so as to allow vessels without a COI to obtain a liquor license?

Thank you,

Dean
[Quoted text hidden]

Dean Rand <dean.rand@gmail.com>
To: Dean Rand - Discovery Voyages <dean@discoveryvoyages.com>, Herb Viergutz <hviergutz@hotmail.com>

Thu, Mar 3, 2016 at 1:38 PM

[Quoted text hidden]



RECEIVED

JAN 12 2017

Attorney Generals Office
Juneau

LAW OFFICE OF
HERBERT A. VIERGUTZ, P.C.
P.O. Box 111062
Anchorage, AK 99511
Phone: 907-250-3488
Email: hviergutz@hotmail.com

RECEIVED

JAN 17 2017

Executive AGO Anchorage

January 9, 2017

Office of the Attorney General
P.O. Box 110300
Juneau, AK 99811-0300

Re: Legal issues re: Liquor Control Board draft regulation

Dear Persons:

Attached is a transmittal from my client, Mr. Dean Rand of Discovery Voyages, with attachments. The intent of this communication to your office is to provide you with the opportunity to review the numerous legal issues relating to the proposed draft regulation, in order to avoid suit. Mr. Rand has already forwarded the attached to the Board for review. In the event your client proceeds with its apparent intent to make this draft regulation law, then a suit will be filed, obviously including a request for injunctive relief during the pendency of the legal action.

Thank you for taking the time to consider this matter, and I look forward to your response.

Sincerely,



Herbert A. Viergutz

Enclosure

Comments on Proposed Amendments to Common Carrier Dispensary License regulations

To: The State of Alaska, Alcohol Beverage Control Board and staff

From: Dean Rand, holder of Common Carrier Dispensary Liquor License #4116

Subject: Comments on Proposed Amendment to Regarding Common Carrier Dispensary Licenses.

Dated: December 28, 2016

Dear ABC Board and Staff,

My name is Dean Rand. I have had a Common Carrier Dispensary Liquor License for the past 25 years, issued to myself and my vessel, M/V Discovery, for use on my United States Coast Guard (USCG) inspected and certified 12 passenger vessel.

I am writing to the Alcohol Beverage Control Board (ABC Board) with my comments and objections to the proposed amendment (e) to the Common Carrier Dispensary License. This proposed amendment would allow certain "uninspected" vessels to be considered by the ABC Board for issuance of a Common Carrier Dispensary Liquor License

The process involved in licensing a passenger vessel as a Common Carrier Dispensary requires detailed knowledge of multiple government agencies' requirements (law). More specifically, passenger vessels are regulated by the US Dept of Homeland Security Coast Guard (who have laws pertinent to this proposed amendment originating all the way back to maritime laws from the 1700's). Liquor Licensing is handled by the State of Alaska, Alcohol Beverage Control Board. Because of the need to fully understand the applicable laws beyond those of the State of Alaska ABC Board, my arguments against the proposed amendment (e) are lengthy and may seem complex to those not familiar with applicable maritime law.

Additionally, the ABC Staff has offered no explanation or history to the public as to why this proposed amendment is even being put forward. This lack of relevant public information makes it very challenging for any party interested in this proposal's outcome to therefore provide detailed arguments on every possible "thought" that the ABC Staff and Board may have for proposing this amendment.

As presented, this proposed amendment appears to benefit one small fraction of the Alaskan commercial passenger maritime business community at the expense of the rest of the businesses who have been in compliance with State requirements now for many years. Offering one business participant an unfair advantage in a competitive business world is unacceptable and will generate strong opposition and possible court intervention in order to keep the playing field level.

Finally, by allowing any "un-inspected" or "uncertified" passenger vessels to stock and dispense alcoholic beverages in the course of their business would place the traveling publics' safety at a high degree of risk. This "class" of vessel is without a doubt responsible for the most maritime

casualties of any vessel class in the world by virtue of what the term “uninspected” implies. There is little or no reliable independent third party safety oversight, whatsoever, of any part of their entire operation.

However, before addressing the many issues with allowing any uninspected vessel to be considered for issuance of a liquor license, I believe that the Board should review AS 04.11.180(a), a highlighted copy of which is attached and titled A, and review the Board’s proposed 3 AAC 304.340 Chapter 3 with attention to the wording in the last sentence of section (e) where it states that: “No other type of marine vessel qualifies as a common carrier for purpose of obtaining a common carrier dispensary license, UNLESS (my capitalization) it is licensed by a state or federal agency for passenger travel.”

The wording “licensed for passenger travel” has been in this regulation as far back as the early 1990’s, when I first became involved in applying for a liquor License. Since USCG law allows any vessel to carry up to 6 passengers for hire (as I shall further explain), then all vessels meet the state’s requirement of: “licensed for passenger travel”, and so any vessel should be considered for issuance of a liquor license. There is no need to specifically include any other class of vessel (12 pack with 3 staterooms, etc”) in this proposed amendment to the Common Carrier Dispensary license (e).

Considering federal law (US Coast Guard) which regulates (licenses) the carriage of passengers on the navigable waters of the United States of America (and is referenced in the above referenced state code as: “licensed by a federal agency, etc”), it is clear, in USCG law, that all vessels, inspected or uninspected, can carry up to 6 passengers for hire and in some instances, up to 12. These vessels are indeed “licensed for passenger travel” by Federal Code of Regulations, 33, 36, and 46 CFR.

Under the conditions set forth in 3 ACC 304.340 (e), for purposes of AS 04.11.180(a) all vessels meet the definition of “licensed by a federal agency for passenger travel” and so are thereby entitled to be considered for issuance of a Common Carrier Dispensary Liquor License, whether they have “12 passengers and 3 staterooms for overnight passenger travel” or not, or are 5 net tons in displacement or 105 tons, or are rotting rust buckets being run by a crew of drunken pirates! They are all eligible for issuance of State of Alaska liquor licenses.

There exists perhaps in excess of 10,000 vessels just within the state of Alaska which will qualify for liquor license consideration under the terms contained in existing and proposed state of Alaska regulations referenced above. However, it is hard to believe that the State of Alaska, Alcohol Beverage Control Board, ever intended to allow the commercial dispensing of alcoholic beverages on every vessel out there that can legally carry passengers for hire, without consideration of the State of Alaska’s best interest and industry recognized maritime safety standards. If this was the case, then why even have an ABC Board regulating the sale and distribution of alcohol?

The answer to this is that the ABC Board has NOT allowed every vessel out there to be considered for liquor license issuance. The State of Alaska ABC Board has historically required that any vessel in question have a valid Certificate of Inspection (COI) issued by the US Coast Guard before it be considered for issuance of a liquor license.

See attachment C, dated July 21, 2014, 1st and 2nd pages, where the question of vessel licensing qualifications is asked on page one and clearly answered by ABC Board staff on page 2 and again on page 5 as such: "we are familiar with what a COI is and that we do require copies of them with Common Carrier applications".

Although the ABC Board has only considered the COI as the only official document meeting the requirements in AS04.11.180 "licensed", this requirement is not clearly contained in State code. The ABC Board must correct this discrepancy before considering any other amendments to the Common Carrier Dispensary Licensing requirements. Under present state law, it appears that any vessel, inspected or otherwise, must be considered for issuance of a liquor license.

At the time of my original application for a Common Carrier Dispensary License 25 years ago, I was instructed by ABC staff to provide a copy of my vessel's current Certificate of Inspection (COI) issued by the US Coast Guard, Officer in Charge of Marine Safety (OCMI). ABC Staff indicated to me that this document was the only document that they accepted as proof that a vessel met the conditions stated in AS04.11.180 (a) and 3 ACC 304.340(e) last sentence: "a vessel licensed by a state or federal agency for passenger travel", although nowhere in state statute could the specific requirement to produce a COI be found, either 25 years ago or today.

I do operate a USCG Inspected and Certified Passenger Vessel. I provided a copy of my vessel's current COI at the time of my application for a Common Carrier Dispensary License, met all additional requirements, and was issued a Common Carrier Dispensary License.

However, in order to clear up the issue of what is a "vessel licensed for passenger travel", the ABC Board should adopt specific wording allowing only a current and valid Certificate of Inspection issued by the US Coast Guard Officer In Charge of Marine Inspections as proof of "licensing by a state or federal agency for passenger travel". The ABC Board should consider amending language to 3 ACC 304.340 in order to clear up this issue.

Reasons for requesting that the ABC Board change existing and proposed language in and objecting to section (e) are as follows.

As stated above and shown through email correspondence attachment C, dated July 21, 2014, the ABC Board has historically allowed only vessels which pass the USCG testing procedures for inspected and certified vessels to be considered for consideration of awarding liquor licenses to. An Inspected and Certificated vessel leaves no question as to the sea worthiness of a vessel, the supply of and condition of its safety equipment and the competence of the crew operating that vessel being considered for liquor licensing. The public's safety is most assured when traveling on a US Coast Guard Inspected and Certified passenger vessel.

The vessel inspection process, which results in the issuance of a Certificate of Inspection, is similar to any building code inspection in that there are a number of safety standards which must be met. When these safety standards are not met, the public's safety is put at unnecessary risk.

Although not a maritime incident, a very recent example of why requiring safety standards for any premises open to the public are in the public's best interest can be found in the recent December 2, 2016 news where 36 people burned to death while attending a music concert at a commercial art gallery (named The Ghost Ship) housed in an uninspected building in California. Although only the preliminary findings of this public disaster have so far been announced, the local Fire Marshall stated that this building has not had any safety inspections in over 20 years.

Additionally, since a vessel can not only be used as a floating hotel, restaurant, fishing platform, etc., but is also "transporting" passengers, the licensed deck officers and all deck crew on inspected vessels are also required to meet a number of safety standards. After all of these safety criteria are met, the US Coast Guard, Officer In Charge of Marine Safety (OCMI), issues a document called a Certificate of Inspection (COI).

The practice of recognizing the USCG vessel inspection and approval process for Inspected and Certified vessels was adopted by the ABC Board many years ago in the interest of establishing fair and reasonable industry wide public safety standards.

I was required to provide the COI for my vessel before being considered for liquor licensing by the State over 25 years ago. Additionally, a review of the attached copies of written correspondences (attachment C) between myself and Sarah Oates and Robert Beasley of The ABC Board staff from 2014 specifically stating that "the applicant provide us with a copy of the COI for each vessel", on both page 2 and again on page 5, provides recent evidence that the ABC Staff are aware of and do require that any vessel applying for a Common Carrier Dispensary License produce this document.

It is my understanding that today there are some of the ABC Board staff who are not certain as to what vessels can be considered for liquor licensing. I believe this question was answered many years ago with the ABC Board's staff recognition that having a current and valid COI for any and all vessels applying for a liquor license was the only qualifying way to meet the licensing condition stated in AS 04.11.180. The ABC Board recognized that a current and valid Inspected and Certified vessel document was sufficient demonstration as to the best interest of the State of Alaska and the traveling public's safety. Additionally, by accepting only Certificated vessels into the pool of vessels licensed to serve alcoholic beverages, the State of Alaska is removed from taking responsibility for deciding what vessels are suitably safe for the traveling public.

Allowing any uninspected vessel to carry passengers for hire and have a liquor dispensary onboard would pose unnecessary risks to the safety of the traveling public, as I shall explain in detail.

The differences in safety considerations between an uninspected and inspected vessel is enormous. I know of this because I've been a maritime expert in a number of maritime fields for the past 40 years. Not only did I grow up in a maritime industry family, I've crewed for years on crabbers in the Bering Sea winters and halibut schooners in the Gulf of Alaska during the summers. I'm a highly respected Master Shipwright, Marine Engineer and Marine Surveyor. I am frequently consulted on various maritime casualties and salvages. I've held a 100 ton Masters (Captain) license for the past 30 years and have an extensive background in Maritime Law. I presently own and operate the longest operating Inspected and Certified Passenger Vessel in Alaska. This vessel was designed and built in 1958 for the Presbyterian Church Mission Service in Alaska (originally named the Anna Jackman and home ported in Juneau) and has operated on the coast of Alaska in compliance with the USCG inspected passenger vessel requirements now for close to 60 years.

The Code of Federal Regulations which covers inspected vessel requirements is contained in several volumes of federal law. I will highlight only a portion of the potential differences between an inspected and an uninspected vessel requirements to help those at the ABC Board to better understand the differences between inspected and uninspected vessels and why the Board adopted the COI as the standard for determining the safety of the "premises" to be licensed and the safety of the public being transported throughout Alaska's often dangerous maritime environment.

Starting with the vessel's initial design and construction, USCG inspected vessels must, at a minimum, meet American Bureau of Shipping (ABS) standards for "Vessel Construction and Arrangement". These standards address everything from vessel stability (the ability of the vessel to withstand the most extreme sea conditions) to the type, size and weight of construction materials, to firefighting & dewatering systems, electrical systems, propulsion and steering systems and on down to things like the size and locations of doorways, hallways, and bunks.

ABS Vessel Construction and Arrangement standards would be like a building code for a restaurant, hotel, office or commercial building, etc.

Uninspected vessels could be and often are, built to minimal or no standards. There is no law requiring that they be designed and built to meet any maritime safety standards. There is no required inspection process that any of these uninspected vessels must comply with in order to carry passengers for hire, irregardless of whether they are limited to 6 passengers or 12 or how many "staterooms for overnight passenger travel" they may or may not have.

Inspected vessels and crew must be inspected annually by a team of USCG vessel inspectors and pass this annual inspection process in order to continue to carry passengers for hire, irregardless of how many passengers they carry or how many staterooms the vessel has. The vessel and crew must continue to demonstrate that they meet all of the safety requirements spelled out in federal law. Failure to do so results in forfeiture of the vessel COI and it's privilege to carry any more than 6 passengers for hire or in the case of vessels over 100 gross tons, because of a loophole in The Passenger Vessel Safety Act of 1993, 12 passengers for hire.

Uninspected vessels have no legal requirements to be inspected annually. Uninspected vessels can request that a "courtesy exam" be conducted by someone in the Coast Guard. However, this examination is superficial at best, as it only covers safety equipment required on every vessel operating on the navigatable waters of the US (some fire extinguishers, life jackets, a whistle, a bell, etc). This "exam" is not conducted by the official CG vessel inspection office nor does it result in the issuance of a COI document nor is it approved or signed off by the Officer In Charge of Marine Safety (OCMI).

If any uninspected vessel owner claims that they run a safe operation, then they should be willing and able to prove this by producing a current and valid Certificate of Inspection (COI) for their vessel in question.

Inspected and Certified vessels are inspected annually for any structural or mechanical issues which could compromise the safe operation of the vessel. Rusting steel, wood rot, chafed or loose wires, hoses, etc, fire hazards, broken rails, leaking pipes, or anything defective discovered during the annual inspection process is required (in writing) to be fixed before the vessel is allowed to carry passengers. In some extreme instances, the vessel is not allowed to leave port until the issues are remedied to the satisfaction of the Officer In Charge of Marine Safety (OCMI).

Uninspected vessels have no such requirements. This is one of the many reasons why they are called "uninspected".

Inspected vessels must have all safety equipment updated, installed and fully operational and tested at the time of their annual safety exam. This includes USCG approved life rafts, flares,

life jackets with lights, fire extinguishers, emergency position indicating radio beacon, emergency lighting, emergency radios, life rings, high water and fire alarms, dewatering system testing, fixed fire fighting system check, navigational equipment like radar, GPS plotters, etc. are tested, all navigational charts need to be updated, and on and on the list goes.

Inspected vessels have strict “Manning” requirements which are spelled out in federal law. This law dictates how many licensed deck officers a vessel must have in addition to qualified crew members needed for the safe operation of the vessel.

A 12 passenger inspected vessel operating overnight tours (with overnight staterooms for passengers), is required to have a USCG licensed Master (Captain) in addition to a USCG licensed Mate for deck officers. Additionally, an inspected vessel, such as described above, is required to have a minimum of two “deck hands” or additional qualified crew. The Certificate of Inspection clearly spells this out as follows: “when passengers have access to the vessel for more than 12 hours in any 24 hour period, an alternate crew shall be provided.” That’s 4 highly qualified crew members (all inspected vessel crew are drilled by USCG vessel safety inspectors annually) required by USCG law designed to provide the traveling public with a margin of safety on a 12 passenger inspected vessel. Although some crew members may be “off duty” during part of each 24 hour period, (USCG law forbids any crew member on inspected vessels from being on duty more than 12 hours in a 24 hour period) all crew members are still available to assist in emergency situations, if needed. After all, they are at sea on the coast of Alaska and can’t just dial 911 expecting the fire department to show up with EMT’s in 5 minutes.

Uninspected vessels are required to carry only one licensed deck officer who is only required to be licensed as an “operator of uninspected passenger vessel”, which requires minimal testing and experience as compared with a “Licensed Master” required on inspected vessels. The Master’s license requires an additional year of sea time experience and a much higher degree of testing. Uninspected vessels have no requirements for any other qualified crew members.

Inspected passenger vessels have 4 times the crew requirements of uninspected vessels, including higher qualified captains, and highly qualified deck hands.

An operator of an uninspected vessel can elect to have more crew but is not bound by law to do so and has no requirement that any additional crew be properly trained.

Also, under USCG passenger vessel rules, all inspected vessel crew, including all licensed deck officers (the specific wording contained in the CFR’s is: “any crew member working in a safety sensitive position”), are required to pass pre-employment drug testing, maintain enrollment in random drug testing throughout their employment on the vessel, and prove compliance with these rules through regular inspections and extensive documentation.

Uninspected vessels have no required inspection process whereby any of the crew, including the captain, must show drug testing results, maintain enrollment in a certified drug testing program or maintain documentation of any drug and or alcohol prevention program.

An example of how the public's safety was compromised by an uninspected transporter under the influence of narcotics was also recently in the news, when the National Transportation and Safety Board (NTSB) found that the operator of a crashed hot air balloon in Texas, in which 16 people died, was found to be not only using narcotics, but had been doing so for some time.

Inspected vessel crew also must pass annual safety drilling including scenarios for emergencies such as fire-fighting, man overboard, medical emergencies to passengers or crew, vessel running aground, etc.,

Uninspected vessels have no such safety drill requirements.

Inspected vessels must, at any time that they have passengers onboard and experience any kind of mechanical failure that can "effect the safe operation of the vessel or the safety of it's passengers and crew", immediately report the "casualty" to the USCG via VHF radio communications, satellite phone, or cell phone if available. The reasoning behind this requirement is public safety. The USCG does not want a vessel out there broken down and drifting towards the rocks without any help available. Notification that there is a shipboard problem, the nature of the problem, and location is the first step that must be taken to address the problem. This notification process is the law for inspected vessels.

Additionally, any shipboard incident that requires medical attention, even something like a sprained ankle or small cut that requires a quick visit to a medical facility, is considered a "reportable incident" and must be reported in writing to the USCG on a detailed "Maritime Incident Report Form". The USCG and National Transportation Safety Board regularly review these reports in the interest of public safety. Through this review process, if any unsafe conditions are trending, either by individual vessel operations or industry wide, those issues can be addressed before they become larger public hazards.

There are no incident reporting requirements for uninspected vessels.

Inspected vessels must maintain and use alcohol testing "strips" in the event of a reportable incident. All inspected vessel crew members must be immediately tested for alcohol use if anyone onboard, crew member or passenger, experiences any kind of accident that requires medical attention. Alcohol test results are sent to the USCG. If any crew members are found to have been using alcohol, they will not be allowed to continue to crew onboard a vessel in any "safety sensitive positions" until they attend and pass a certified alcohol and substance abuse program. Additionally, alcohol related problems outside of crew members' shipboard duties (DUI's or any type of alcohol related incidents onshore) are reported to the CG and will result in

revocation of a crew member's privileges to work onboard any vessel in a safety sensitive position until they get help for their substance abuse problems.

These requirements were put in place by the USCG in response to the 1989 Exxon Valdez Oil Spill in which it was discovered that Captain Hazelwood, one of Exxon's most experienced captains, was a long time alcoholic whose condition rendered him unfit to safely operate any ship. Hazelwood's alcohol problems were known to company management, although management continued to allow him to be in control of an oil tanker regularly dodging icebergs as it transited Valdez Arm in the dark. Had Exxon been required to have a drug and alcohol abuse program in place prior to 1989, this accident more than likely would not have happened. Today, having a drug and alcohol prevention program in place is the law for all inspected vessel operations including inspected cargo and tank vessels such as the Exxon Valdez.

There are no drug and alcohol testing requirements for uninspected vessels crew.

Inspected vessel operators must be enrolled in an Employee Assistance Program (EAP). The EAP offers any crew member who are in need to consult with a medical professional about any emotional or substance abuse issues, access to a 24 hour hot line.

The reasoning for this requirement is public safety. No one wants to have a passenger vessel or an Amtrak train or a passenger airplane under the control of someone who may need psychological help.

Uninspected vessels have no EAP requirement.

Another example of why the public safety is at risk when traveling on an uninspected vessel was also recently in national news. The readers of this may recall the loss of the sailing vessel Bounty (of the movie "Mutiny On The Bounty" fame), and two lives, in the Atlantic Ocean. Since the loss of this vessel, the US Coast Guard and the NTSB have issued their findings. A simple internet search and quick review of these findings clearly show that, had this vessel been subjected to inspected vessel requirements, this maritime casualty would not have happened. The vessel itself, being large and heavily built, should have easily withstood the seas and winds encountered. However, the NTSB and USCG investigation showed that the vessel was poorly maintained and that the hull condition had deteriorated (because of rot) and was of questionable seaworthiness. The condition of the hull would have come to the attention of Coast Guard vessel inspectors many years ago and the vessel would not have been allowed to operate under inspected vessel law.

Also, contained in the Coast Guard and NTSB findings on the loss of the uninspected passenger vessel Bounty were the faulty decisions of the one required licensed deck officer onboard. It was found that his sole decision making process to run a poorly maintained ship into rough sea conditions was partly to blame for the ship's sinking.

Had this ship been inspected and certified, because of its large displacement, there would have been a mandate for a "3 watch system" whereby there are 3 licensed deck officers available to not only run the minute by minute operation of a ship at sea 24 hours a day, 7 days a week, but can you imagine if one licensed deck officer told another licensed deck officer that: "We're gonna run this worn out poorly maintained rotting hulk of a ship into a hurricane", what the other officer in charge would do? The thought of this provokes the scene of a modern day: "mutiny on the Bounty".

At the time of this writing, the family of the lost crew woman from the Bounty have brought a 90 million dollar wrongful death suit against the Bounty's owners. USCG and NTSB findings have already proven negligence on the part of the Bounty's owners and captain because they chose to risk the safety of the ship and its crew by operating the Bounty as an uninspected passenger vessel, simply to save on their cost of doing business.

Additionally, the USCG and NTSB report on the loss of the sailing ship Bounty indicated that the USCG should begin an official review of all uninspected vessels and the hazards that they may present to the traveling public. That review may not be completed or made public for some time and certainly will provoke backlashes from owners of uninspected vessels who do not want to spend the money to offer the traveling public safe cruising.

Some may argue that passengers are allowed to "bring their own bottle" on any vessels whether the vessel and owner are issued a liquor license or not so why not let all vessels whether uninspected or inspected offer liquor to their passengers.

The difference between BYOB and having an open bar onboard a vessel are enormous.

When a passenger brings along their own liquor for their cruise, that liquor remains in the control of the passenger. It would be stored in their personal cabin or otherwise in the passenger's possession and they could share it if they wished to with other passengers.

When a vessel "stocks and dispenses" onboard liquor for their guests' use, that liquor is in the control of the ship's crew members, licensed and unlicensed. That crew could be onboard the vessel 7 days a week, 24 hours a day. Remembering that the crew of an inspected 12 passenger vessel is strictly regulated by USCG manning requirements which include, 2 licensed deck officers (Masters & Mates), drug testing, safety drilling and mandatory alcohol testing in the event of any shipboard accident, and that the total crew compliment is often much greater in numbers to that of an uncertified vessel, it's not a stretch of the imagination to think that the "on duty" captain and crew of an inspected vessel would be considerably less likely to be using any of the stocked alcohol while in the service of the vessel.

Additionally, with more of and higher trained and tested crew required on inspected vessels available to "watch over" the passengers' use of alcoholic beverages, there's significantly less chance of "problems" arising with the passengers use of the stocked alcohol.

Uninspected vessels have a long history of accidents where alcohol is a factor. With little or no regulations or any monitoring of these vessels' operations, this fact shouldn't come as a surprise.

Inspected vessels are required to meet wastewater discharge laws designed to minimize environmental impacts to coastal waters. Inspected vessels must treat wastewater before discharging overboard or contain wastewater onboard until returning to port where it would be offloaded onto a shore based treatment facility.

Uninspected vessels have no requirement to have their wastewater discharge system inspected or in any way monitored for compliance with applicable laws.

In the news for violation of wastewater discharge law is an uninspected vessel and its' owners, Daryl and Kimberly Byler of Kodiak. The ABC Board and staff may recall that the Bylers were operating a floating bar and strip club onboard their vessel in a bay just outside of the City of Kodiak. Somehow, the ABC Board had issued the Bylers and their uninspected vessel a Common Carrier Dispensary License even though I was instructed by ABC staff over 25 years ago and again in writing in August of 2014 (see attached email from ABC staff) that a vessel's COI was required to be considered for issuance of a liquor license.

Upon review by The ABC Board, of the Byler's operation, it was decided that the Byler's were not operating as "common carriers" and so their liquor license was revoked. The fact that the vessel was not an inspected or certified passenger vessel did not appear to come up in this investigation. In response to learning this, I emailed the ABC Staff asking how the Bylers gained a liquor license. I have attached an email (attachment B) from myself to ABC Staff dated December 2, 2014. In this email the reader can clearly see that I'm asking if the ABC Board has adopted new rules which now allow uninspected vessels to be considered for liquor license issuance. In this same email I clearly state my concerns for the public's safety should the Board allow uninspected vessels to stock and dispense alcoholic beverages onboard and I state that this would greatly impact my business as an owner and operator of an inspected vessel, which has significantly greater operating costs, due to mandatory and reasonable safety considerations, compared with an uninspected vessel's.

I have yet to receive any answers to my questions in this email dated Dec 2, 2014.

What was also discovered at the time that the Byler's were being investigated by local, state, and federal investigators, including the ABC Board, is that the Bylers were also in violation of The Refuse Act by their discharging untreated human waste, from their uninspected 12 passenger vessel, into the local waters.

Although it is appalling that a serious violation of wastewater laws and damage to the public's resources could go undetected for so long, this is a common practice on all uninspected vessels simply because there is no inspection requirement which would reveal this violation of law. Only through a full investigation of Byler's operation, prompted by complaints of criminal behavior, did these serious violations of environmental law get uncovered.

If the Board adopts allowing any uninspected vessel to be considered for issuance of a liquor license they will further place the public and the public's resources at unnecessary risk of harm.

Additionally, should the ABC Board allow uninspected vessels to dispense alcoholic beverages and any of these liquor dispensing vessels become involved in a maritime casualty such as sinking, loss of life, injury to passengers, etc., (this happens regularly but does not show up in the news because uninspected vessels are not monitored or required to report their accidents) and alcohol is determined to be a factor in this casualty, the State of Alaska will certainly be held responsible for some or all of this harm because of the State's issuance of a liquor dispensing license to a sub standard "uninspected passenger vessel".

Additionally, if the ABC Board adopts the proposed amendment in (e), "12 pack with 3 or more staterooms for overnight passenger use", the Board would be allowing one small fraction of the uninspected charter vessel fleet an economic opportunity (serving alcoholic beverages in the course of business) while discriminating against most of the others. If the State believes that an uninspected 12 passenger vessel with some staterooms for passengers is suitable for dispensing liquor then why shouldn't a "6 pack or a 12 pack with no staterooms uninspected" sport fishing charter boat and owner be allowed to sell his clients cold beer for the day when they're on vacation out fishing for a halibut?

The one and only qualification for being a 12 pack uninspected rather than a 6 pack uninspected is the measurement of a vessel's tonnage. "Tonnage" is a measurement originating from British shipping in the 1700's and is the amount of "internal space, enclosed on at least 3 sides, available for the carriage of casks of wine, minus the space needed for vessel navigation or machinery". Believe it or not, this is still in the law books and this method of vessel measurement is used by vessel owners as a way to "move" their vessel from one set of regulations to another, for the benefit of their business model, as I shall explain.

A "ton" of available space for "carriage of a cask of wine" is considered to be 100 cubic feet. Tonnage measurement for any vessel can and is "adjusted" up or down according to the wishes of the vessel owners. This is done by vessel owners so as to remove a vessel from one set of stricter (more expensive) regulations and put the vessel into a more favorable (less expensive) set of regulations. The most popular tonnage magic number today is 100 tons, with "a vessel over 100 tons" being regulated by one set of laws and "a vessel under 100 tons" in another set of laws.

Many vessel owners like to pick and choose the most favorable tonnage laws, for purely economic reasons.

Because of a "rider" in the Passenger Vessel Safety Act of 1993, uninspected vessels over 100 tons can now carry up to 12 passengers for hire. Prior to this loophole in the regs, vessels over 100 tons were required to be inspected and certified to carry any passengers for hire. This rider was placed into the bill in 1993 at the last moment by a Miami congressman who's friend had unknowingly bought a large old beat up boat over 100 tons that he wanted to now get rid of. The boat had absolutely no passenger vessel commerce that it could legally engage in so no one wanted to purchase it. This vessel owner's Congressman friend inserted a one page rider into The Passenger Vessel Safety Act of 1993, allowing vessels over 100 tons to carry up to 12 passengers for hire and be uninspected just so that this old yacht could be sold as an income generating business. This loophole in The Passenger Vessel Safety Act, which created another class of uninspected vessels and that the ABC Board is proposing to now include in section (e), has absolutely nothing to do with passenger safety.

That loophole has opened the door for a number of uninspected and often older worn out tug boats and yachts to jump into the Alaskan small ship cruise business. If the vessel was originally a tug measured at say ... 75 tons, the owner would have a naval architect recompute the vessel tonnage simply by enclosing the open back deck area with canvas on 3 sides thus making that area part of the vessel's "interior space available for the carriage of casks of wine" and get the tonnage up to 101 tons. Presto, that boat is now a "12 pack", although there has been absolutely no consideration of the vessels' stability or safety just as in the case the rest of the uninspected vessel fleet.

The "100 tons or over" uninspected vessel offers absolutely no other safety considerations than any 6 pack uninspected vessel whether they have cabins for overnight travel or not. As a maritime expert, I could easily argue that the bigger the uninspected boat the bigger the maritime casualty will be. The record is full of serious maritime accidents with these over 100 ton uninspected vessels.

I also would like to point out that there's a number of these vessels (12 pack uninspected) presently being used as floating hunting and fishing lodges which will certainly ad "floating bars" to their offerings should the board adopt the amendment allowing them to be considered for liquor licensing. I personally know of two of these vessels operating as such which are moored in protected bays on the coast of Alaska and have their passengers ferried to and from port via water taxis. To avoid Alaska Dept of Natural Resources laws not allowing permanently moored vessels in the public domain, the owners move the vessels a couple miles every two weeks. They could easily circumvent any ABC requirements for "transporting passengers" simply by taking some of the passengers for a ride when they move to the next anchorage for two weeks.

The simplest and fairest solution to the ABC staff's "confusion with what vessels can be considered for liquor licensing?", and the only way the State of Alaska can avoid what will become at best a regulatory minefield or at worse thrown out by the court, is to adopt language in (e) which clearly identifies a USCG issued and current Certificate of Inspection (COI) as the only official "licensing" document recognized for liquor license consideration.

Any vessels which are not inspected and certificated, whose owners claim to be operating with a high degree of public safety and wish to apply for a Common Carrier Dispensary License, can first apply to the USCG for inspection and certification. This is not difficult provided that the vessel has been designed, built, maintained and operated as any responsible mariner should be conducting their business. By accepting only a current and valid COI document as proof that the vessel in question is designed, built, maintained and operated safely, the State of Alaska would be removed from determining and taking responsibility for determining what vessels are safe for the traveling public and what vessels are not. This is clearly in the best interest of the State of Alaska.

Additionally, by adopting only the COI as proof of "licensing for passenger travel", the state would not find themselves dealing with vessels being used as "floating bars". The cost of doing business for a certificated vessel demands that the owner build a reputable cruise business, with high paying clients. A certificated vessel can't afford to sit in some bay awaiting some commerce with a full compliment of licensed crew, 7 days a week, 24 hours a day.

Uncertificated vessels can and do operate as floating lodges, bars and strip clubs simply because uninspected and uncertified vessels cost so little to own and operate.

Additionally, the ABC Board should adopt language in the Common Carrier Dispensary Liquor License renewal process whereby the applicant(s) continue to provide the Board staff with a current and valid COI at renewal times for their Common Carrier Dispensary License.

Today, by conducting a brief internet search for small ship cruises in Alaska, it is easy to find vessels which have been issued liquor licenses which could have had a COI issued in the past but no longer operate under the terms of their COI. They simply allowed the COI to lapse and now operate as uninspected passenger vessels, although the State of Alaska continues to renew their liquor license.

As already stated, the reasons for vessel owners to operate as an uninspected vessel are clearly economic. It's a lot less expensive to hire fewer and less qualified crew members, pay for only one licensed deck officer, let hull and machinery maintenance lapse, not update safety equipment, not be enrolled in drug testing or EAP, etc.

Some additional comments which need to be made are the following.

I received an email notification on May 16, 2016 (attachment D) announcing some of these draft regulations for the Common Carrier Dispensary license from the ABC office and instructions on how I could provide comments or ask questions to ABC staff.

We (myself and my attorney) began responding via email to this public notice on May 20, 2016 and continued to pose questions regarding these proposed amendments right up until the public comment period closing date of June 18, 2016. (attachment D1)

Our questions were first addressed to ABC Staff, Naomi Johnston, and later to John Calder. These questions were clarifying questions regarding the proposed changes to the Common Carrier Dispensary license application. We needed answers to these questions so that we could formulate our comments in an efficient manner. None of our questions received any response from ABC staff. We continued to attempt contact 3 months later in August of 2016 to ABC Staff (attachment E) in order to learn of the status of the proposed amendments. We then learned that there had been a staff change and that the replacement staffer, Joe Samaniego, was not familiar with this subject and that he would contact his supervisor for information. We received no further response from Mr Samaniego.

Three additional months later, on Nov. 28, 2016 we again contacted ABC staff (also in attachment E), this time Mr. Samaniego again, in our attempt to understand what the status of this very important amendment to the Common Carrier Dispensary License was. Mr Samaniego passed our question along to Director Cynthia Franklin on this same day. On that day we received a response from the Director. According to Director Franklin, the public comment period began on Nov 28, 2016 and ran until Jan 13, 2017. There was no reference made to the public comment period which began on May 16, 2016, a full 6 months earlier.

Director Franklin invited us to participate in Board meetings along with calling her on the phone as a way to communicate our concerns. However, we find that phone conversations, although they can offer faster answers, are never a matter of record and therefore offer no value down the road when the facts of what was said in those phone conversations are needed. Upon further investigation we also discovered that the ABC Board will not allow any public testimony on these proposed amendments to the Common Carrier Dispensary Licensing during their Board meetings. Neither phone chats or Board meetings appear to offer the interested public any meaningful answers to questions they may have about ABC Board proposals such as this that we are commenting on in writing, although Director Franklin stated that we should consider participating in the public process in these manners.

Also contained in Director Franklin's email was an internet link to this newest public notice and her reference to our "impatience with her staff".

The record clearly shows our correspondences to ABC staff regarding the issuance of Common Carrier Dispensary Liquor Licenses dating back to July of 2014, with only sporadic responses from ABC Staff. (see attachments B, C, and F) That is almost 2 1/2 years of asking the same questions and getting little or no answer.

We need answers to these questions so that we can run our business. Our business is regulated by fifteen local, state, and federal agencies. We are required to be permitted by, inspected by, pay user fees and taxes to, additionally insure, and to report daily, weekly, monthly or annually to all of these government agencies and in some instances, other departments within each agency. These rules are extensive, complex, and in most instances, failure on my part to comply with, would result in serious charges being brought against me, loss of my business, and possibly jail time.

It has been now close to 7 months since we asked a number of clarifying questions to these important proposed amendments to the Common Carrier Dispensary License issuance. We need the answers to these questions so that we can run our operation responsibly (within the law) and competitively.

I believe that Director Franklin is wrong in her assessment of our attitude. We are not acting impatiently when one considers our many attempts to get our questions answered. However, we certainly are becoming concerned at what is at best, being governed by an understaffed and overworked ABC staff or at worse, being governed by an incompetently managed agency.

To add to the above, it is now the end of December 2016. We are most of the way through the most recent public comment period for these proposed amendments and we have yet received any formal notice, either by email, US postal mail or phone call, from ABC staff of these proposed important amendments.

However, over 6 months ago, in May of 2016, an email notice was sent out to all interested parties, including ourselves, notifying all of these possible changes to the common Carrier Dispensary license requirements along with the opening and closing of the public comment period (May 16 to June 18, 2016).

Why has the ABC staff not sent another email notice out to interested parties, like was done in May, for these newest proposed changes to the Common Carrier Dispensary License issuance?

I have yet to receive any notice from ABC staff except for Director Franklin's personal note in which she determined that we were acting impatiently, and mentioned that there is now a new comment period.

I believe that the public's best interest will not be met if interested parties do not receive proper notice of these important proposals.

Had we not hounded the ABC Staff for now over 2 years, we would not have discovered that we are in the midst of another proposal to amend these vitally important regulations?

I believe that the ABC Board should consider rejecting the proposed amendments to the Common Carrier Dispensary License section (e), while continuing to accept only a current and valid Certificate of Inspection as meeting the terms of “a vessel licensed by a state or federal agency for passenger travel”, as has been the qualification in years past.

Should the Board wish to continue with proposing these same changes to section (e), I strongly urge the Board to initiate a detailed analysis, prior to adoption of these proposals, by an independent maritime expert, of what the public safety considerations could be for an “inspected passenger vessel” verses an “uninspected passenger vessel”, and that the Board considers those findings, in the interest of public safety, before adopting any changes which would allow uninspected vessels to be considered for liquor license issuance.

Should the ABC Board seek such a review by an independent maritime expert, the expert should be familiar with the history and applicability of inspected vessel laws and the “rider” to The Passenger Vessel Safety Act of 1993, which created the 12 pack uninspected passenger vessel classification. An independent maritime expert with this kind of knowledge will more than likely only be found on the east coast of the US in larger sea port areas where maritime transportation is a large dominant industry and this kind of complex maritime law is regularly practiced.

Additionally, should the Board wish to continue to adopt these amendments allowing only certain uninspected vessels to be considered for liquor licensing, I urge the Board to review these highly discriminatory actions in the proposed amendment where only “12 pack uninspected vessels with 3 or more staterooms, etc.”, would qualify as “licensed by a state or federal agency, etc.” for issuance of liquor licenses.

As the former owner of a large (58 foot long) “6 pack uninspected vessel with 3 staterooms for passenger travel”, I can find no reasons why my former vessel should not be allowed these same business opportunities as the “12 pack” uninspected vessel is. As mentioned above, this same reasoning holds true for the owner of a sport charter fishing operation. Why can't the owner of an uninspected sport fishing charter boat offer for sale some beers to his anglers for the day?

I also urge the Board to instruct their law enforcement division to conduct internet searches with keyword phrases such as “Alaskan Small Ship Cruises”, or any word strings which deliver them to the web sites of the “12 pack uninspected” tour boat operations and look at not only the pictures of liquor being served in their marketing but in most instances full lists of the “complimentary liquors” being served in the course of these businesses. Some of these uninspected vessels have State of Alaska issued liquor licenses some do not but all list or picture

complimentary liquor served on their tours. I found 6 businesses in only 15 minutes of internet searches all of which appeared to not hold liquor licenses but serve liquor onboard in the course of business.. One uninspected tour boat even has their own label wines to serve onboard!

Thank you for your consideration of all of this.

Captain Dean Rand
Discovery Voyages

§ 04.11.180. Common carrier dispensary license

(a) A common carrier dispensary license authorizes the holder to sell alcoholic beverages for consumption aboard a vehicle, boat, or train licensed by a state or federal agency for passenger travel, or aboard aircraft operated by an airline licensed by a state or federal agency for passenger travel.

(b) Except for a common carrier that is an airline, a common carrier shall obtain a license for each vehicle, boat, or train in which alcoholic beverages are served. After obtaining an initial license for the first vehicle, boat, or train, the common carrier may obtain additional licenses for additional vehicles, boats, or trains upon making a written request identifying the vehicle, boat, or train in the manner prescribed by the board, and paying the biennial fee for additional licensed premises as required by (c) of this section.

(c) Except as provided for airlines under (d) of this section, the biennial fee for a common carrier dispensary license is \$1,000 for each of the first 10 licenses a common carrier holds and \$100 for each additional license issued to the common carrier after the first 10 licenses.

(d) The biennial fee for a common carrier dispensary license issued to an airline is the fee specified under (c) of this section for each aircraft in which alcoholic beverages are served or \$2,000 for each community served by the airline. An airline shall specify the fee applicable to the license at the time of the airline's application for issuance or renewal of the license.

(e) Upon request of the common carrier and payment of the proportionate prorated applicable fee, the board shall change the license period of a license for a vehicle, boat, or train to allow registration to occur in the biennial period of the balance of the licensee's common carrier licenses.

SLA 1980, ch. 131, § 2; SLA 1993, ch. 63, § 14; SLA 2003, ch. 151, § 1.

Historical and Statutory Notes

SLA 2003, ch. 151, § 2, provides: renewal of a common carrier dispensary license
 "Applicability. This Act applies to issuance of that occurs on or after the effective date of this
 a new common carrier dispensary license or Act."

Cross References

Civil liability of persons providing alcoholic beverages, see § 04.21.020.
 Damages resulting from driving the vehicle of a person under the influence of an alcoholic beverage, see § 09.65.310.
 Purchase and sale of alcoholic beverages, restrictions, see § 04.16.172.

Library References

Intoxicating Liquors ⇐47, 91. C.J.S. Intoxicating Liquors §§ 140 to 142.
 Westlaw Key Number Searches: 223k47; 270.
 223k91.

§ 04.11.190. Repealed by SLA 1995, ch. 101, § 69, eff. July 1, 1995



Dean Rand <dean.rand@gmail.com>

Liquor license question

2 messages

Dean Rand <dean.rand@gmail.com>

Tue, Dec 2, 2014 at 7:39 PM

To: "Oates, Sarah D (CED)" <sarah.oates@alaska.gov>, Herb Viergutz <hviergutz@hotmail.com>

Hi, this is Dean W Rand. I have a Common Carrier liquor license # 4116 for my tour business onboard the US Coast Guard inspected and certified passenger vessel Discovery.

I just read in the news that the State of AK recently revoked a Common Carrier Liquor License from a person named Daryl Byler of Kodiak. Apparently, Byler's operation was more in line with a bar than a charter vessel, and so it was determined that his operation was out of terms of his common carrier license.

However, my question is this: **Is the State of AK now issuing liquor licenses to un certified passenger vessels, such as Byler's?** His vessel is not a certified passenger vessel and does not have a valid Certificate of Inspection (COI) issued by a US Coast Guard Officer in Charge of Marine Inspections.

When I applied to the state of AK for my liquor license, I was informed by the ABC board that I needed to provide the state with a valid and current COI for my passenger vessel Discovery, which I did. A COI is issued only to vessels which meet strict public safety requirements, as set out in The Code of Federal Regulations. A passenger vessel with a valid COI is inherently safer for the publics' use and also, much more expensive to own, operate and maintain.

If the State of Alaska is now issuing Common Carrier liquor licenses to un inspected and un certified passenger vessels, not only would this compromised the traveling publics' safety, this also would greatly impact my business as I have a much greater financial investment and operating costs than other businesses which operate un inspected vessels and which market the same services to consumers.

Thank you,

Captain Dean Rand

Dean Rand <dean.rand@gmail.com>

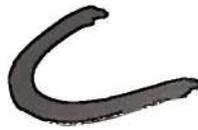
Thu, Dec 1, 2016 at 8:10 AM

To: Herb Viergutz <hviergutz@hotmail.com>

Herb, this is the email which I sent to the ABC Staff 2 years ago asking them if they're awarding liquor licenses to uncertified passenger vessels, which would be counter to State law. I never received a reply to my question.

Dean

[Quoted text hidden]



Dean Rand <dean.rand@gmail.com>

Liquor license questions

13 messages

Dean Rand <dean.rand@gmail.com>

Mon, Jul 21, 2014 at 11:45 PM

To: robert.beasley@alaska.gov, Megan Ciana <meganciana@hotmail.com>, Herb Viergutz <hviergutz@hotmail.com>

Hi, this is Dean Rand. I have a Common Carrier Seasonal license for my passenger vessel Discovery. My license number is: 4116. I was recently on the State of Alaska, Alcoholic Control Board web site conducting a search to determine whether or not another small cruise vessel that I compete with has a liquor license. I was surprised to discover that my license is not listed as current and that there's only a long expired license of mine and my ex wife's listed under my name and vessel.

However, I'm not contacting your office at this time in regards to this discrepancy. My interest at this time is whether or not this other passenger cruise vessel has the proper licensing to offer "complimentary liquor" (as stated in their web site) to paying passengers onboard this vessel. This vessel is named the Sea Wolf and the web site states the business is named Sea Wolf Adventures, of Juneau.

When I applied to the state for a liquor license, I clearly remember needing to provide a copy of my vessel's current and valid Certificate of Inspection issued by the US Coast Guard. This document states that my vessel meets strict safety and health standards developed by the US Coast Guard, Vessel Inspections. I know that this other vessel (Sea Wolf) does not have a US Coast Guard issued Certificate of Inspection.

My question is this: **Is the State of Alaska now issuing liquor licenses to non USCG certified domestic passenger vessels?** If so, then how is the state assuring that the vessel in question meets any structural, safety, fire fighting, and manning standards required for protecting the public's safety?

Thank you,

Dean Rand

herbert viergutz <hviergutz@hotmail.com>

Mon, Jul 21, 2014 at 11:51 PM

To: Dean Rand <dean.rand@gmail.com>

Thank you dean for the information. I shall look into the matter.

Sent from my iPhone

[Quoted text hidden]

Dean Rand <dean.rand@gmail.com>

Tue, Jul 22, 2014 at 12:13 AM

To: herbert viergutz <hviergutz@hotmail.com>

Herb, I copied you on this email to the ABC Board. Let's see if and how they respond to my question. Dean

[Quoted text hidden]

herbert viergutz <hviergutz@hotmail.com>

Tue, Jul 22, 2014 at 9:38 AM

To: Dean Rand <dean.rand@gmail.com>

Let me know what happens Dean.

Date: Mon, 21 Jul 2014 22:13:40 -0800
Subject: Re: Liquor license questions
From: dean.rand@gmail.com
To: hviergutz@hotmail.com
[Quoted text hidden]

Dean Rand <dean.rand@gmail.com> Tue, Jul 22, 2014 at 9:57 AM
To: herbert.vierygutz@hotmail.com, [Megan Ciana <meganciana@hotmail.com>](mailto:meganciana@hotmail.com)

Herb, I asked these very same questions of the state a number of years ago and never got a clear answer as to what the requirements are today for passenger vessel businesses to get a liquor license. That was over the phone when I spoke with their enforcement people. My feeling is that the ABC Board can make decisions based on ... whatever they feel is ok because they have no law stating that a vessel MUST be a certified passenger vessel. Where can we get ahold of whatever the laws are for issuing common carrier liquor licenses to passenger vessels? One of the reasons that I operate an expensive "Certified" passenger vessel is so that I can offer wine, beer, and other liquor to my guests while they are with us and on vacation. Many years ago when I first got a liquor license, the state would not give these licenses to any vessel unless it was a "certified" passenger vessel. If the state's position on this has changed, then I need to know this so that I can be competitive. I recently lost all sorts of business to an uncertified passenger vessel who offers the same service that I do including liquor. Dean

[Quoted text hidden]

Oates, Sarah D (CED) <sarah.oates@alaska.gov> Tue, Jul 22, 2014 at 10:46 AM
To: "dean.rand@gmail.com" <dean.rand@gmail.com>
Cc: "[Beasley, Robert L \(CED\)](mailto:Robert.L.Beasley@alaska.gov)" <robert.beasley@alaska.gov>

Good morning, Mr. Rand:

I'm not sure what list you're looking at, but I searched for "Discovery" using the ABC License Search tool on our website, and your license was the first one to show up. It shows an expiration year of [December 31,] 2014, which matches our database. Furthermore, the Master List of All Current Licenses has 4116 listed on there. I'm not sure exactly where you searched on our website, but please let me know so I can get it fixed ASAP!

To answer your other questions: the Sea Wolf is not a liquor licensed vessel in this state. I did find on their website where they offer complementary wine and beer with dinner, and I will have an investigator look into it immediately.

Because AS 04.11.180 states that "A common carrier dispensary license authorizes the holder to sell alcoholic beverages for consumption aboard a vehicle, boat, or train licensed by a state or federal agency for passenger travel...", we do require that each the applicant provides us with a copy of the COI for each vessel with the initial liquor license application. I completely understand your concern and assure you that if/when Sea Wolf Adventures applies for a license for the Sea Wolf, we will require the same from them.

I hope this answers your questions, and please feel free to contact me with any follow-ups that you may have.

Thank you for your concern, and I hope you have a great afternoon,

-Sarah

Sarah D. Oates

Records & Licensing Supervisor | Alcoholic Beverage Control Board

2400 Viking Drive | Phone: 907.269.0356 | Fax: 907.334.2285

Please consider the environment before printing this e-mail.

P Less paper is better for us and our environment.

From: Beasley, Robert L (CED)
Sent: Tuesday, July 22, 2014 8:05 AM
To: Oates, Sarah D (CED)
Subject: FW: Liquor license questions

Sarah, will you look into this and contact Mr. Rand?

Thank you,

Bob



Robert L. Beasley, Investigator IV

Interim Director

State of Alaska

Alcoholic Beverage Control Board

2400 Viking Drive

Anchorage, Alaska 99501

Desk (907) 269-0353

robert.beasley@alaska.gov

From: Dean Rand [<mailto:dean.rand@gmail.com>]
Sent: Monday, July 21, 2014 9:45 PM
To: Beasley, Robert L (CED); Megan Ciana; Herb Viergutz
Subject: Liquor license questions

[Quoted text hidden]

Oates, Sarah D (CED) <sarah.oates@alaska.gov>
To: "Johnson, Steven M (CED)" <steven.johnson@alaska.gov>
Cc: "dean.rand@gmail.com" <dean.rand@gmail.com>

Tue, Jul 22, 2014 at 10:53 AM

Hey Steve,

Will you please look into the Sea Wolf for me? They do not hold a liquor license with us, and it does say at the following link (click on Gourmet Dining toward the bottom) that they offer complementary wine and beer with dinner.

<http://www.seawolfadventures.net/seawolf/index.html>

Thank you!

[Quoted text hidden]

Hi, this is Dean Rand. I have a Common Carrier Seasonal license for my passenger vessel Discovery. My license number is: 4116. I was recently on the State of Alaska, Alcoholic Control Board web site conducting a search to determine whether or not another small cruise vessel that I compete with has a liquor license. I was surprised to discover that my license is not listed as current and that there's only a long expired license of mine and my ex wife's listed under my name and vessel.

[Quoted text hidden]

Dean Rand <dean.rand@gmail.com>
To: Megan Ciana <meganciana@hotmail.com>, Herb Viergutz <hviergutz@hotmail.com>

Tue, Jul 22, 2014 at 4:32 PM

I'm trying to forward all the correspondence to you two. Dean

----- Forwarded message -----

From: **Oates, Sarah D (CED)** <sarah.oates@alaska.gov>
Date: Tue, Jul 22, 2014 at 8:53 AM

Subject: FW: Liquor license questions

[Quoted text hidden]

Dean Rand <dean.rand@gmail.com>

Sat, Aug 23, 2014 at 3:05 PM

To: "Oates, Sarah D (CED)" <sarah.oates@alaska.gov>, Herb Viergutz <hviergutz@hotmail.com>

Hi Sarah, this is Dean Rand again. I've not heard anything from your investigation dept regarding the Sea Wolf serving alcoholic beverages on their cruises.

What is the States position on issues such as this? Do you cite them for violating state law or allow them an opportunity to apply for a liquor license?

When I originally applied for and received my liquor license, I was required to provide a valid and current Certificate of Inspection issued by the US Coast Guard. This was needed to show the State ABC Board that the Discovery met strict safety requirements, similar to a building have a building inspection. A US Coast Guard Inspected and Certified Passenger vessel is issued this document only after extensive inspections are completed by a team of US Coast Guard vessel inspectors. This is not a "safety exam" or a vessel "documentation" but a specific document titled "Certificate of Inspection".

The Sea Wolf is NOT a Certificated Passenger Vessel. It does not and can not comply with the requirements of a certified passenger vessel.

I can provide further information and documentation of the difference in vessel inspections and certifications if needed.

Thank you for your attention to this matter.

Captain Dean Rand

[Quoted text hidden]

Oates, Sarah D (CED) <sarah.oates@alaska.gov>

Mon, Aug 25, 2014 at 10:45 AM

To: Dean Rand <dean.rand@gmail.com>, Herb Viergutz <hviergutz@hotmail.com>

Cc: "Beasley, Robert L (CED)" <robert.beasley@alaska.gov>, "Hamilton, Joe (CED)" <joe.hamilton@alaska.gov>

Mr. Rand,

I'm copying Interim Director Bob Beasley on this email so that he and the enforcement unit can update you on this and let you know how enforcement is handled.

As far as the Certificate of Inspection goes, I did mention in my last email that I'm familiar with what a COI is and that we do require copies of them with common carrier applications.

Thank you for your concern,

Sarah D. Oates

Records & Licensing Supervisor | Alcoholic Beverage Control Board

2400 Viking Drive | Phone: 907.269.0356 | Fax: 907.334.2285

Please consider the environment before printing this e-mail.

P Less paper is better for us and our environment.

From: Dean Rand [mailto:dean.rand@gmail.com]
Sent: Saturday, August 23, 2014 1:06 PM
To: Oates, Sarah D (CED); Herb Viergutz
Subject: Re: Liquor license questions

Hi Sarah, this is Dean Rand again. I've not heard anything from your investigation dept regarding the Sea Wolf serving alcoholic beverages on their cruises.

[Quoted text hidden]

[Quoted text hidden]

Dean Rand <dean.rand@gmail.com>
To: Herb Viergutz <hviergutz@hotmail.com>

Mon, Aug 25, 2014 at 3:52 PM

[Quoted text hidden]

Dean Rand <dean.rand@gmail.com>
To: Herb Viergutz <hviergutz@hotmail.com>

Sat, Mar 5, 2016 at 12:07 PM

----- Forwarded message -----

From: Oates, Sarah D (CED) <sarah.oates@alaska.gov>
Date: Tue, Jul 22, 2014 at 10:46 AM
Subject: RE: Liquor license questions
To: "dean.rand@gmail.com" <dean.rand@gmail.com>
Cc: "Beasley, Robert L (CED)" <robert.beasley@alaska.gov>

[Quoted text hidden]

Dean Rand <dean.rand@gmail.com>
To: Herb Viergutz <hviergutz@hotmail.com>

Sat, Mar 5, 2016 at 12:07 PM

----- Forwarded message -----

From: Oates, Sarah D (CED) <sarah.oates@alaska.gov>
Date: Mon, Aug 25, 2014 at 10:45 AM
Subject: RE: Liquor license questions
To: Dean Rand <dean.rand@gmail.com>, Herb Viergutz <hviergutz@hotmail.com>

Cc: "Beasley, Robert L (CED)" <robert.beasley@alaska.gov>, "Hamilton, Joe (CED)" <joe.hamilton@alaska.gov>

[Quoted text hidden]



Dean Rand <dean.rand@gmail.com>

Notification of Draft Regulations from the ABC office

5 messages

Johnston, Naomi A (CED) <naomi.johnston@alaska.gov>

Mon, May 16, 2016 at 5:55 PM

Good Afternoon,

Today we posted proposed alcohol regulations for public comment related to ALTERNATING LICENSED PREMISES FOR CERTAIN LICENSE TYPES, COMMON CARRIER DISPENSARY LICENSES, DISTILLERY LICENSES, MANAGEMENT AGREEMENTS AND PROHIBITED FINANCIAL INTEREST, INCLUSION OF PERMITTEES IN SERVER EDUCATION COURSE REQUIREMENTS and RESTAURANT DESIGNATION PERMITS.

We expect the public notice to be advertised in tomorrow's paper. The public comment period ends June 18, 2016. The proposed regulations may be found in the online public notice system and on our website by COB today. You should comment during the time allowed if your interests could be affected.

You can visit our website here <https://www.commerce.alaska.gov/web/amco/>



Naomi Johnston

Office Assistant

907-269-0464

Alcohol & Marijuana Control Office**550 West 7th Avenue, Suite 1600****Anchorage, AK 99501-3569**

Dean Rand <dean.rand@gmail.com>
To: Herb Viergutz <hviergutz@hotmail.com>

Thu, May 19, 2016 at 11:14 AM

[Quoted text hidden]

herbert viergutz <hviergutz@hotmail.com>
To: Dean Rand <dean.rand@gmail.com>

Fri, May 20, 2016 at 7:11 AM

Why does the Board deem it necessary to amend the common carrier dispensary license? Thank you for your response.

Date: Thu, 19 May 2016 09:14:28 -0800
Subject: Fwd: Notification of Draft Regulations from the ABC office
From: dean.rand@gmail.com
To: hviergutz@hotmail.com

[Quoted text hidden]

Dean Rand <dean.rand@gmail.com>
To: herbert viergutz <hviergutz@hotmail.com>

Fri, May 20, 2016 at 12:15 PM

Hi herb, did you intend to send this to me or ABC board?
Dean

Sent from my iPhone

On May 20, 2016, at 5:11 AM, herbert viergutz <hviergutz@hotmail.com> wrote:

Why does the Board deem it necessary to amend the common carrier dispensary license? Thank you for your response.

Date: Thu, 19 May 2016 09:14:28 -0800
Subject: Fwd: Notification of Draft Regulations from the ABC office
From: dean.rand@gmail.com
To: hviergutz@hotmail.com

----- Forwarded message -----

From: **Johnston, Naomi A (CED)** <naomi.johnston@alaska.gov>
Date: Mon, May 16, 2016 at 3:55 PM
Subject: Notification of Draft Regulations from the ABC office
To:

Good Afternoon,

Today we posted proposed alcohol regulations for public comment related to ALTERNATING LILICENSED PREMISES FOR CERTAIN LICENSE TYPES, COMMON CARRIER DISPENSARY LICENSES, DISTILLERY LICENSES, MANAGEMENT AGREEMENTS AND PROHIBITED FINANCIAL INTEREST, INCLUSION OF PERMITTEES IN SERVER EDUCATION COURSE REQUIREMENTS and RESTAURANT DESIGNATION PERMITS.

We expect the public notice to be advertised in tomorrow's paper. The public comment period ends June 18, 2016. The proposed regulations may be found in the online public notice system and on our website by COB today. You should comment during the time allowed if your interests could be affected.

You can visit our website here <https://www.commerce.alaska.gov/web/amco/>

<image001.png> Naomi Johnston
Office Assistant
907-269-0464
Alcohol & Marijuana Control Office
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501-3569

herbert viergutz <hviergutz@hotmail.com>
To: Dean Rand <dean.rand@gmail.com>

Fri, May 20, 2016 at 12:33 PM

Sorry Dean. Disregard that. I meant to send it to them.

Sent from my iPhone

[Quoted text hidden]



D 1

Dean Rand <dean.rand@gmail.com>

Common Carrier Dispensary License

1 message

herbert viergutz <hviergutz@hotmail.com>

Sun, May 29, 2016 at 9:25 AM

To: "john.calder@alaska.gov" <john.calder@alaska.gov>

Cc: "dean.rand@gmail.com" <dean.rand@gmail.com>

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?



Dean Rand <dean.rand@gmail.com>

FW: Draft Common Carrier Regs & Questions submitted

3 messages

herbert viergutz <hviergutz@hotmail.com>

Thu, Aug 18, 2016 at 3:34 PM

To: Dean Rand <dean@discoveryvoyages.com>, "dean.rand@gmail.com" <dean.rand@gmail.com>

~~_____~~

From: joe.samaniego@alaska.gov

To: hviergutz@hotmail.com

Subject: RE: Draft Common Carrier Regs & Questions submitted

Date: Thu, 18 Aug 2016 19:15:35 +0000

Good morning, I will get with you shortly in regards to this manner. I did take over for Mr. Calder once he left our organization, and I know the public comments on Common Carrier has closed. I will contact my supervisor to get clarification on where we are today.

Thank you,

Joe

Joe Samaniego

Administrative Assistant I

joe.samaniego@alaska.gov

Alcohol & Marijuana Control Office

550 West 7th Avenue, Suite 1600

Anchorage, AK 99501-3569



Please consider the environment before printing this e-mail. Less paper is better for us and our environment.

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

Sent: Thursday, August 18, 2016 11:09 AM

To: Samaniego, Joe P (CED)

Subject: FW: Draft Common Carrier Regs & Questions submitted

Please see email below to Mr. Calder. Nobody has answered any of my questions between March and June. Where do we stand since nobody has contacted me?

From: naomi.johnston@alaska.gov
To: hviergutz@hotmail.com
Subject: RE: Draft Common Carrier Regs & Questions submitted
Date: Thu, 18 Aug 2016 19:01:56 +0000

Hello Herbert,

Mr. Calder no longer works for the AMCO office, the person who has taken over this responsibility is Joe Samaniego. His email address is joe.samaniego@alaska.gov.



Naomi Johnston
Office Assistant
907-269-0464
Alcohol & Marijuana Control Office
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501-3569

From: herbert viergutz [<mailto:hviergutz@hotmail.com>]
Sent: Thursday, August 18, 2016 10:59 AM
To: Johnston, Naomi A (CED)
Subject: Draft Common Carrier Regs & Questions submitted

You earlier referred me to Mr. Calder. Now, my email to him on a status request is returned. Who do I communicate with on this issue? Thank you.

From: postmaster@mail.hotmail.com

To: hviergutz@hotmail.com
Date: Thu, 18 Aug 2016 08:53:10 -0700
Subject: Delivery Status Notification (Failure)

This is an automatically generated Delivery Status Notification.

Delivery to the following recipients failed.

john.calder@alaska.gov

--Forwarded Message Attachment--

From: hviergutz@hotmail.com
Subject: Common carrier liquor license
Date: Thu, 18 Aug 2016 10:53:09 -0500
CC: dean.rand@gmail.com
To: john.calder@alaska.gov

Between March and June of this year, I forwarded numerous questions regarding the above to you on behalf of my client, Discovery Voyages. I have heard nothing from you or anyone from the ABC Board. What is the status of this matter please?

Sent from my iPhone

herbert viergutz <hviergutz@hotmail.com>
To: "Samaniego, Joe P (CED)" <joe.samaniego@alaska.gov>
Cc: Dean Rand <dean@discoveryvoyages.com>

Tue, Nov 29, 2016 at 7:43 AM

Where do we stand on the issue please? Over three and a half months have passed since your most recent email, and nine months have passed since we first addressed the issue to the Board! I would appreciate your prompt response. Thank you.

From: Samaniego, Joe P (CED) <joe.samaniego@alaska.gov>
Sent: Thursday, August 18, 2016 11:15 AM
To: herbert viergutz
Subject: RE: Draft Common Carrier Regs & Questions submitted

Good morning, I will get with you shortly in regards to this manner. I did take over for Mr. Calder once he left our organization, and I know the public comments on Common Carrier has closed. I will contact my supervisor to get clarification on where we are today.

[Quoted text hidden]

herbert viergutz <hviergutz@hotmail.com>
To: Dean Rand <dean.rand@gmail.com>

Tue, Nov 29, 2016 at 2:08 PM

See below.

Sent from my iPhone

Begin forwarded message:

From: "Franklin, Cynthia A (CED)" <cynthia.franklin@alaska.gov>
Date: November 29, 2016 at 1:12:35 PM CST
To: "Samaniego, Joe P (CED)" <joe.samaniego@alaska.gov>, "hviergutz@hotmail.com" <hviergutz@hotmail.com>
Cc: "AMCO Admin (CED sponsored)" <amco.admin@alaska.gov>
Subject: RE: Draft Common Carrier Regs & Questions submitted

Herb,

Common carrier comments are directed to the amco.admin@alaska.gov. Email address. The comment period started 11/28/2016 and runs through 01/13/17. Here is a link to the public notice in the Online Public Notification System.

<https://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=183698>

On a side note, the tone of your email comes across as impatient with my staff. The staff has no control over the pace of regulations projects. If you want to express your frustration, fell free to call me or come to the board meeting and address your complaints directly to the board.

Thanks,

Cynthia Franklin, Director

Alcohol & Marijuana Control Office

907-269-0351

From: herbert viergutz [<mailto:hviergutz@hotmail.com>]
Sent: Tuesday, November 29, 2016 5:44 AM
To: Samaniego, Joe P (CED)
Cc: Dean Rand
Subject: Re: Draft Common Carrier Regs & Questions submitted

[Quoted text hidden]

Less paper is better for us and our environment.

F

From: Dean Rand [mailto:dean.rand@gmail.com]
Sent: Thursday, February 26, 2015 7:59 AM
To: Andrews, Maxine R (CED)
Subject: updated contact phone number for Discovery, M/V

[Quoted text hidden]

Dean Rand <dean.rand@gmail.com>
To: "Andrews, Maxine R (CED)" <maxine.andrews@alaska.gov>

Thu, Feb 26, 2015 at 10:15 AM

Maxine, thank you.

Also, I just remembered that I had emailed the ABC office some time ago, maybe months ago, asking a clarifying question on criteria used to award Common Carrier licenses. I didn't hear back from anyone there so I guessed that you all had your hands full administering the new pot regs.

When I applied for my original liquor license, I had to provide a copy of my current vessel Certificate of Inspection issued by the US Coast Guard. This is a specific document available to only those vessels which meet strict passenger carrying regulations and it was my understanding that only vessels meeting these requirements and having a current COI were to be considered for issuance of a Common Carrier liquor license.

However, it has come to my attention that other vessels without a valid COI have been issued liquor Licenses.

Have the ABC Board requirements for issuing Common Carrier licenses to vessels changed so as to allow vessels without a COI to obtain a liquor license?

Thank you,

Dean
[Quoted text hidden]

Dean Rand <dean.rand@gmail.com>
To: Dean Rand - Discovery Voyages <dean@discoveryvoyages.com>, Herb Viergutz <hviergutz@hotmail.com>

Thu, Mar 3, 2016 at 1:38 PM

[Quoted text hidden]

From: [Dean Rand](#)
To: [AMCO Admin \(CED sponsored\)](#)
Cc: [Herb Viergutz](#); [Megan](#)
Subject: Questions / Comments on Common Carrier Requirements
Date: Tuesday, December 06, 2016 1:21:24 AM

Under the proposed amendment to Common Carrier Dispensary licensing, section (e) states that a 12 pack uninspected marine vessel with 5 or more staterooms for overnight passenger travel will be considered as a boat licensed for passenger travel.

Under Additional Regulations Notice Information (AS 44.62.190(d)) the reason for this proposed action is described as "Development of program standards".

Please explain why, what are clearly "sub standard" passenger vessels (all uninspected vessels are considered to be operating under sub standard, minimal, or non existent safety requirements) are being considered as "boats licensed for passenger travel"

Please explain why only one class of uninspected passenger vessel (12 passenger with 5 or more staterooms for overnight passenger travel) is being considered as "a boat licensed for passenger travel".

Your prompt response to these questions is appreciated as that will help me to target any additional questions in a timely manner, should there be any.

Thank you,
Captain Dean Rand