



MEMORANDUM

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

DATE: July 11, 2017

FROM: Erika McConnell
Director, ABC Board

RE: Potential Regulations Project –
Background Checks

Summary: In certain circumstances, when a licensee is a corporation that is not based in Alaska or even in the United States, it can be difficult to obtain fingerprints for background checks. This regulation would still require criminal background checks, but allows for exceptions for officers of certain corporations, and only if the corporation is not based in Alaska and the majority of the officers listed with the corporation hold primary residence outside of the United States. The regulation would require a signed affidavit in lieu of the criminal background check.

The board has not voted to open a regulations project on this matter yet. AS 04.06.080 states that the board may not delegate authority to propose or adopt regulations.

Recommendation: Move to open a regulations project on Background Checks. Move to put the attached language out for public comment.

ABC DRAFT Regulation: **BACKGROUND CHECKS**

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

3 AAC 304.105(b) is amended to read:

(b) An application for a new license or for renewal, relocation, or transfer of an existing license, must contain the information required by AS 04.11.260 - 04.11.290. In addition, as appropriate, the application must contain the following:

(1) written authorization **on a form prescribed by the board** for release of conviction and arrest records of a new applicant or transferee, and that person's affiliates, along with a listing of the convictions of any of those individuals in any state or territory for a crime or for a violation of liquor laws;

(2) if the new applicant or transferee is a corporation, written authorization for release of the conviction and arrest records of each officer **required to be listed under AS 4.11.260 [AND DIRECTOR], except as provided under (3) of this section,** unless the applicant is a corporation described in AS 04.11.050(c), of each individual shareholder owning 10 percent or more of the corporation's stock;

(3) if the applicant or transferee is a corporation, an affidavit may be submitted on a form prescribed by the board, in lieu of the requirement under (2) of this section, for officers whose primary residencies are outside of the United States, listing any act described in 3 AAC 304.180(a)(1), only if:

(A) the corporation's home state is not Alaska;

(B) the corporation has ten or more officers listed with the Alaska

Division of Corporations; and

(C) the majority of the corporation's officers have primary residency outside of the United States. Each officer whose primary residency is within the United States must submit a complete copy of the form required under (2) of this section;

(4) [3] a statement that no one other than the applicant has a financial interest in the business to be licensed;

(5) [4] if the new applicant or transferee is a partnership or joint venture, a copy of its partnership or joint venture agreement, or, if the new applicant or transferee is a corporation, a copy of its certificate of incorporation and a statement of the applicant that the corporation is in good standing;

(6) [5] a statement that the applicant or its principals have read and are familiar with AS 04 and with this chapter;

(7) [6] copies of deeds, lease agreements, or other documents that show right or title to, or interest in, land and buildings at the location of the business to be licensed; and

(8) [7] if the new applicant or transferee is a limited liability organization, a statement of the applicant that the limited liability organization is in good standing, and if it is a

(A) limited liability company, a copy of its articles of organization, certificate of organization, and operating agreement; or

(B) limited liability partnership, a copy of its statement of qualification.

(c) The required biennial license fee must accompany an application for a new license or permit, or for renewal of an existing license or permit.

(d) A non-refundable application fee of \$100 must accompany an application for a new license, relocation, or transfer of an existing license. A non-refundable application fee of \$200 must accompany an application for license renewal.

(e) An application that is incomplete or that is not accompanied by the required fees will be returned to the applicant. (Eff. 11/29/81, Register 80; am 10/4/87, Register 104; am 7/30/89, Register 111; am 5/1/94, Register 130; am 5/11/96, Register 138; am 6/13/2003, Register 166; am __/__/____, Register __)

Authority: AS 04.06.090 AS 04.11.260 AS 04.11.290
AS 04.06.100 AS 04.11.270 AS 04.11.450
AS 04.11.045 AS 04.11.280 AS 04.11.670
AS 04.11.050