



MEMORANDUM

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

DATE: June 12, 2018

FROM: Erika McConnell, Director

RE: Operation of Duplicate
Licenses

Requested Action: Provide guidance on whether or not duplicate licenses may operate if the primary license is not operated

Statutory Authority: AS 04.06.090(a) states, "The board shall control the manufacture, barter, possession, and sale of alcoholic beverages in the state. The board is vested with the powers, duties, and responsibilities necessary for the control of alcoholic beverages,..."

Staff Recommendation: Duplicate beverage dispensary licenses should not be operated if the beverage dispensary license to which the duplicate relates is not being operated

Background: Recently the staff encountered a situation where the licensed premises of a beverage dispensary – tourism license burned down. The licensee is in the process of rebuilding the facility, but in the meantime, the duplicate license for this BDL-tourism license has continued to operate. The duplicate license is in a separate building, as allowed by AS 04.11.090(d), and was unaffected by the fire.

Title 4 has one reference to duplicate licenses, which are only available for beverage dispensary licenses.

AS 04.11.090. Beverage dispensary license.

(e) A holder of a beverage dispensary license may not maintain upon the licensed premises more than one room in which there is regularly maintained a fixed counter or service bar at which alcoholic beverages are sold or served to members of the public for consumption unless the licensee is issued by the board, after investigation, a duplicate of the original license for each of the rooms. The holder of the beverage dispensary license shall pay to the board with each application for a duplicate license an amount equal to the fee payable for the original beverage dispensary license under (b) of this section. If the licensed premises are located within a municipality, a duplicate beverage dispensary license may not be issued unless approved by the council or assembly, as appropriate.

There are three references to duplicate licenses in the regulations.

3 AAC 304.185. Licensed premises

(a) A license is issued for a specific place which is the licensed premises and which must be clearly designated in a line drawing accompanying an application. The licensed premises must be one area, but may include separate rooms if the rooms are adjacent to one another or if they are rooms described in AS 04.11.090(d). The address of the licensed premises and the business name under which the licensee is doing business at that address must be indicated on the license application. If the licensed premises consist of more than one room in which a fixed counter or service bar is regularly maintained, a duplicate license is required for the additional rooms.

3 AAC 304.325. License issued to encourage tourism

(g) If two or more persons are named on a beverage dispensary license issued or transferred to encourage tourism and are also named on a related duplicate license for that tourist facility, those licensees may be separately licensed if

(1) the licensees have previously been identified as licensees in the tourism facility in applications that were filed and approved by the board before 11/29/81;

(2) one or more licensees do not have a financial interest in the tourist facility as required under (d) of this section, but operate a restaurant in the tourist facility and dispense alcoholic beverages in that restaurant under the duplicate license;

(3) in order to remove one or more licensees without a financial interest in the tourist facility from the primary license, the licensees file an application for transfer under the procedures set out in AS 04.11.280 and the transfer meets the requirements of AS 04.11.360; and

(4) in order to remove the licensees with the financial interest in the tourist facility from the separate duplicate license, the licensees concurrently file an application for transfer under the procedures set out in AS 04.11.280 and the transfer meets the requirements of AS 04.11.360.

(h) A separate duplicate license issued under (g) of this section

(1) does not create a new license for the purpose of population limitations set out in AS 04.11.400; may not be transferred to a new location;

(2) may be transferred under the procedures and requirements set out in AS 04.11.280 and 04.11.360, to another person who operates a restaurant in the tourist facility on the same licensed premises, but the license has no value and may not be transferred in exchange for anything of value;

(3) terminates if the tourist facility, for which the primary beverage dispensary license was issued, ceases to exist;

(4) will not be renewed if the board finds that the separate duplicate license has not encouraged tourism at the tourist facility; and

(5) is not subject to suspension, revocation or other action by the board due to the conduct of the primary beverage dispensary licensee.

3 AAC 304.535. Suspension and revocation of license

(d) A duplicate beverage dispensary license and the beverage dispensary license to which it relates are considered to be a single license for purposes of suspension or revocation.

Operation of Duplicate Licenses

ABC Board June 12, 2018

Page 3

Licenses are limited by population, so the duplicate license can't be considered a separate license, as that would increase the number of beverage dispensary licenses over the population limits. When a beverage dispensary license is suspended or revoked, the duplicate is also suspended or revoked. These concepts lead me to conclude that a duplicate license may not be operated if the beverage dispensary license to which the duplicate relates is not being operated.