



MEMORANDUM

TO: Alcoholic Beverage Control Board

DATE: September 10, 2019

FROM: Erika McConnell, Director

RE: Director's Report

OPERATIONS

Jane Sawyer, who has been an occupational licensing examiner at AMCO for five years, has been selected for the regulations specialist position. Jane will bring her extensive knowledge of both the alcohol and marijuana programs to the position, allowing her to hit the ground running. The examiner position is posted and we expect to have it filled within a month.

REGULATIONS

Attached to this report is a regulations projects status spreadsheet.

ISSUES

Quarterly Reporting by Municipalities

AS 04.11.610 states that license fees shall be refunded semi-annually to the municipality within which the license is located. However, the commissioner of the Department of Commerce, Community, and Economic Development may deny the refund if the "officers of the municipality fail to actively enforce local ordinances, laws of the United States and the state, and the regulations relating to the manufacture and sale of alcoholic beverages in the state." 3 AAC 304.610 requires municipalities to send quarterly reports of violations of Title 4 occurring on licensed premises within the municipality.

Quarterly reporting has been very infrequent in the last several years—only a few municipalities have sent in reports. In the 2017 Legislative Audit, Recommendation #7 states, "The board and AMCO director should improve procedures to ensure municipalities report violations of alcoholic beverage laws."

Last month, Commissioner Anderson sent a letter to the chief of police in municipalities with liquor licenses and police departments, to remind them of their quarterly reporting obligations. Included with the letter was a reporting form, which is also posted on AMCO's website. My staff and I will be tracking the receipt of the quarterly reports, in order to inform the commissioner semi-annually regarding municipalities' activities to enforce alcohol laws.

Delegated Licenses and De Facto Denials

At the July 9, 2019, meeting, the board adopted the administrative law judge's decision on the appeal of the denial of a fourth waiver request and license renewal for beverage dispensary license 4733, No DBA, held by Triplets Inc. The decision concludes that not effectuating the transfer because the

licensee had not fulfilled all the requirements was a “de facto” denial of which the licensee was not notified, in violation of his due process rights.

The adopted decision makes AMCO staff responsible for monitoring the exact status of each application in delegated status and providing communications with each applicant regarding next steps that are sufficient to meet individual licensees’ particular circumstances. In addition, the adopted decision gives authority to me, the director, to deny a license at some undefined point in the process.

In order to ensure that all delegated approvals are treated consistently with this adopted decision, I am requesting specific guidance from the board regarding the following questions:

- What form of notification should staff send, and how frequently, to remind a licensee in delegated status of matters that have not been resolved? How should staff prioritize these notifications in relation to review of applications?
- How should the staff treat non-responses?
- At what point does a license in delegated status become subject to the director’s authority to issue a ‘de facto’ denial and thus be sent a notice of denial under AS 04.11.510(b)(1)?

2020 MEETINGS

The meeting schedule for 2020 is based on the statutory requirement that complete applications be brought to the board within 90 days. The 90 days is calculated from the date that applications must be complete in order to be on the agenda, which is approximately two and a half weeks before each meeting.

Date	Location	Apps Complete/Docs Due
January 21*-22	Juneau	January 3
March 31*-April 1	Anchorage	March 13
June 9	Fairbanks	May 22
August 18	Nome	July 31
October 27	Anchorage	October 9
January 4*-5, 2021	Juneau	December 18

*Starting at 1pm on first day

NEXT MEETING

The next ABC Board meeting is scheduled for November 12. The meeting was originally planned to be held in Palmer, but as we have been unable to find an available meeting location in Palmer, the meeting will be in Anchorage.

Applications must be complete and any other documents for the board must be submitted to our office by October 25 to be on the November meeting agenda.