



MEMORANDUM

TO: Alcoholic Beverage Control Board DATE: September 10, 2019
FROM: Erika McConnell, Director RE: Regulations Project: Server
Education Course

Statutory Authority: AS 04.06.100(a): “The board shall adopt regulations governing the manufacture, barter, sale, consumption, and possession of alcoholic beverages in the state that are consistent with this title and necessary to carry out the purpose of this title in a manner that will protect the public health, safety, and welfare.”

Status: Amended and adopted on July 29, 2019

At the July 29, 2019, meeting, the board amended the draft regulation to move the requirement to submit the zip codes of individuals who take a server education course, proposed in new subsection (m), to 3 AAC 304.465(h), a section which already requires the course provider to submit the names of students trained with their 3-year evaluation request.

As I was working on this amendment, it was unclear to me what zip code the board is requiring. The definition of “rural premises” in 3 AAC 304.465(e) relates to the premises of the license. Is the zip code for the trained individual to be the zip code of the license at which they are employed? Or the zip code where they reside? I am seeking clarification of this amendment.

As the board considers this question, please keep in mind the following:

- 3 AAC 304.465(e) states, “Rural premises are those licensed premises not on a statewide road system or further than 50 miles on a road system from a community where a course is offered at least once every month...A course provider may present training for rural premises by means of an Internet-based program,” which implies that the zip code should be for the location of the license where the individual is employed.
- Some individuals may take the class when not employed by any licensee.
- An individual may live in a location that is more than 50 miles from a community where a course is offered at least once every month, but may be employed at a premises that does not qualify as a rural premises.
- Or, an individual may live in a community where a course is offered at least once every month, but be employed at a rural premises.

Attachments: Regulations project without amendment (as provided at July meeting)
Text of current 3 AAC 304.465

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

3 AAC 304.465(c)(8) is amended to read:

(8) **pricing and marketing** [HAPPY HOUR] laws;

3 AAC 304.465(e) is amended to read:

(e) Rural premises are those licensed premises not on a statewide road system or further than 50 miles on a road system from a community where a course is **held** [OFFERED] at least once every month. For the purpose of training for rural premises, course providers may provide video or audiotapes and written materials to a licensee that cover all topics required under (c) of this section, and conduct telephonic question and answer sessions for the students. A course provider may present training for rural premises by means of an Internet-based program. An Internet-based program must include steps that the course provider takes to verify the identity of the persons receiving the instruction, testing, and certification of alcohol server training. The verification process must be approved by the board and may be reviewed and reevaluated on an annual basis to determine its validity and effectiveness. The students shall, under the supervision of the licensee or licensee's manager, take the test required under (d) of this section. The licensee or licensee's manager, whoever supervises the test, shall certify to the course provider that the student did not receive outside help in taking the test and that no copies of the test have been kept.

3 AAC 304.465(j) is repealed:

(j) Repealed __/__/____.

3 AAC 304.465 is amended by adding a new subsection to read:

(l) The fee for a new server education course is \$800 and the fee for review of an existing server education course is \$250.

3 AAC 304.465 is amended by adding a new subsection to read:

(m) When applying for reapproval of a server education course, a course provider shall submit a list of individuals, identified only by United States postal zip code, who have been issued a server education card.

3 AAC 304.465 is amended by adding a new subsection to read:

(n) For the purposes of this section, “zip code” is defined as the five digit code, followed by a hyphen and four digits the United States Postal Service uses to reference a specific location.

Authority: AS 04.06.090 AS 04.06.110 AS 04.21.025
AS 04.06.100

3 AAC 304.465. Alcohol server education course

(a) While selling or serving alcoholic beverages, a person required under AS 04.21.025 to complete an alcohol server education course and the person's on-duty supervisor shall carry or have available to show a current course card or a photocopy of the card certifying completion of an approved alcohol server education course. The alcohol server education course card is effective for three years from the date of issuance during which time the person shall complete another approved course or successfully complete a written test demonstrating an understanding of the course subjects as required by AS 04.21.025(c). The card must include the name and date of birth of the card holder, the name of the course, and the date of expiration of the card. If the card does not include a photograph of the holder, the person shall also carry a valid identification under 3 AAC 304.425(b). The card or a photocopy of the card must be shown upon request of a peace officer or board representative. If the person cannot show a current card or a copy of it on file on the premises, or show a date of hire less than 30 days earlier, the person shall immediately cease selling or serving alcoholic beverages, or checking identification.

(b) State or nationally recognized organizations or associations that address the subject of responsible alcoholic beverage service may obtain approval of an alcohol server education course by making written application on forms provided by the board. The application must include the course book to be provided to students, any video or audio presentations that will be used, the written test required under (d) of this section, detailed lesson plans, and a description of the qualifications of and training provided to course instructors. The application must identify the communities where the course will be presented and the frequency of the presentation. The applicant shall explain how rural premises will be served under (e) of this section.

(c) In addition to written materials and audio and video presentations provided to students, an instructor shall be available during an alcohol server education course to answer questions from students. Subjects covered by alcohol server education courses must include:

- (1) function of Alcoholic Beverage Control Board, licensing procedures, and types of licenses;
- (2) server responsibilities to the employer, patron, and law;
- (3) criminal and civil liability, including discussion of criminal negligence standard;
- (4) effects of alcohol consumption, including
 - (A) effect of food on alcohol consumption;
 - (B) blood alcohol levels;
 - (C) identifying a drunken person; and
 - (D) fetal alcohol syndrome and fetal alcohol effect;

- (5) drunken persons and intervention;
- (6) underage persons;
 - (A) checking identification;
 - (B) identifying valid identification; and
 - (C) obtaining "statement of proof of age";
- (7) state and local hours of service and cutting off service;
- (8) "happy hour" laws;
- (9) restaurant designation;
- (10) other permits;
- (11) local option provisions;
- (12) warning signs;
- (13) gambling, drugs, and prostitution;
- (14) adulteration;
- (15) penalties for licensees and their agents and employees; and
- (16) sale by package stores in response to written orders.

(d) A provider of an alcohol server education course shall issue a card as described under (a) of this section to a student who successfully completes the course. Before issuing the card, the course provider shall require the student to pass a written test that demonstrates that the student understands the course subjects.

(e) Rural premises are those licensed premises not on a statewide road system or further than 50 miles on a road system from a community where a course is offered at least once every month. For the purpose of training for rural premises, course providers may provide video or audiotapes and written materials to a licensee that cover all topics required under (c) of this section, and conduct telephonic question and answer sessions for the students. A course provider may present training for rural premises by means of an Internet-based program. An Internet-based program must include steps that the course provider takes to verify the identity of the persons receiving the instruction, testing, and certification of alcohol server training. The verification process must be approved by the board and may be reviewed and reevaluated on an annual basis to determine its validity and effectiveness. The students shall, under the supervision of the licensee or licensee's manager, take the test required under (d) of this section. The licensee or licensee's manager, whoever supervises the test, shall certify to the

course provider that the student did not receive outside help in taking the test and that no copies of the test have been kept.

(f) The board will issue a certificate of approval for each alcohol server education course the board approves. Certificates of approval may not be transferred.

(g) A course provider shall

(1) maintain records of each student's participation, and completion of server training, including rural training;

(2) use, at a minimum, the course approved by the board; and

(3) make its records available to peace officers or board investigators.

(h) An organization or association that has received board approval for an alcohol server education course shall apply for board reapproval within 33 months of last board approval. Application must be made on a form provided by the board. If application for reapproval is not approved by the board within 36 months after last board approval, training must cease. The application for reapproval must state the following for training provided since the last application:

(1) the number and names of students trained;

(2) the locations and dates of training; and

(3) the names of instructors.

(i) The board will, in its discretion, terminate approval of a course if the board determines that the course is not being presented as approved, that records are not being maintained as required, that students are being certified who have not successfully completed the course, or for other reasons in the public interest. The board will, in its discretion, make its termination of approval effective immediately, if the board determines that immediate termination is in the public interest.

(j) For the purposes of this section and AS 04.21.025, a person who, before 4/1/94, successfully completed:

(1) Techniques of Alcohol Management (Alaska Cabaret, Hotel, Restaurant and Retailers Association);

(2) Training In Intervention Procedures for Servers (Health Communications, Inc.);

(3) Come of Age (Tesoro Northstar Co.);

(4) Serve Safe (Alaska Professional Bartender School);

(5) Providing Alcohol With Care and Empathy (Stuart Anderson Cattle Co.);

(6) Responsible Establishments Alcohol Consumption Trained Servers (Bartenders Against Drunk Driving); or

(7) Alcohol Servers Knowledge (Alaska Training Academy), has completed an approved course, but shall complete a course approved under (f) of this section within 36 months of 4/1/93.

(k) A provider of an alcohol server education course approved by the board under this section shall advise the board of the methods used to train and certify the instructors providing the training.