



MEMORANDUM

TO: Alcoholic Beverage Control Board DATE: November 12, 2019
FROM: Erika McConnell, Director RE: Regulations Project: When a Petition
is Required by AS 04.11.460(b)

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: Second draft for board consideration

The board opened a regulations project to clarify when a petition is required under AS 04.11.460(b) at the July 29, 2019, board meeting. At the September 10, 2019, meeting, the board requested that staff amend the proposal to ensure that an individual couldn't “leapfrog” locations in order to move into a new community without a petition.

The attached draft proposes the following:

- New subsection (c) is brought over from 3 AAC 304.615, which is then repealed.
- New subsection (d) proposes that for licenses located outside of but within 50 miles of the boundary of a municipality, petitions are not required for transfers of location when the new location is less than one mile from the old location, with the caveat that only two transfers may occur without filing a petition.
- New subsection (e) proposes that for licenses located outside of and 50 miles or more from the boundary of a municipality, petitions are not required for transfers of ownership, and petitions are not required for transfers of location when the new location is less than one mile from the old location, with the caveat that only two transfers may occur without filing a petition.
- New subsection (f) is brought over from 3 AAC 304.905(d), but subsection 905(d)(1) is proposed to be eliminated as duplicative. 3 AAC 304.905(d) is repealed.

The distance of less than one mile in new subsections (d) and (e) is proposed because it is consistent with AS 04.11.400(f), which allows transfers of location to new locations less than one mile from the original location to ignore population limits under certain circumstances.

Board options:

- Put out for public comment.
- Amend and put out for public comment.
- No action.

3 AAC 304.115 is amended to read:

(a) If required by statute or regulation, a petition is a necessary part of an application for a new license, and for renewal, transfer, or relocation of an existing license. An application submitted without the required petition is incomplete. All petitions must be on forms prescribed by the board. Petition signatures must be obtained within the 90-day period immediately preceding the submission of the application. After an application has been filed, no additional signatures may be added to the petition, and no signatures may be withdrawn.

(b) A person signing a petition relating to a license must be 21 years of age or older and must be a permanent resident of the geographical area relevant to the petition. A person may have only one permanent residence.

(c) Municipal boundaries shall be disregarded when gathering petition signatures.

(d) For purposes of AS 04.11.460(a), a petition is not required for transfer of location of a license when the new location is less than one mile from the current location, except that only two transfers of the location of the license are allowed without filing a petition.

(e) For purposes of AS 04.11.460(b), a petition is not required for

(1) transfer of ownership of a license;

(2) transfer of location of a license when the new location is less than one mile from the current location, except that only two transfers of the location of the license are allowed without filing a petition.

(f) When submitting a petition under AS 04.11.460, an applicant shall assist in the determination of population by submitting the following information with the application:

(1) a graphic designation on a United States Geodetic Survey map with a scale of at least one inch to the mile showing the population within a circle of the applicable radius, and showing where petition signatures were obtained; and

(2) the population within the applicable area and a narrative of how the population was determined. (Eff. 11/29/81, Register 80; am 10/24/87, Register 104; am ___/___/_____, Register _____)

Authority: AS 04.06.100 AS 04.11.460

3 AAC 304.615 is repealed.

3AAC 304.905(d) is repealed.