



## MEMORANDUM

TO: Alcoholic Beverage Control Board    DATE: November 12, 2019

FROM: Erika McConnell, Director    RE: Regulations Project: Permits

**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:** Public comment period closed October 30, 2019

**Background:** Many specifics about the operations of permits is not clear in statute or regulations. The board opened a regulations project at the October 2018 meeting to provide more clarity for permits generally and specifically about wine walks and number of locations which can be permitted.

The attached draft was developed in consultation with both licensing and enforcement staff, to address issues they have found with permits. In general, we have seen examples of abuse of permits, which we often find out about after the fact. In a recent case, a for-profit business paid a non-profit organization to obtain a special event permit for an event that was put on by the for-profit business. The for-profit business gave the non-profit a flat fee, rather than the profits from the sale of beer and wine which is required by statute to go to the permit holder. Then the for-profit business proceeded to invite licensees to participate in the event, giving them information that was contrary to the law, which is leading to violations for some of those licensees.

The proposed regulations provide guidance that is supported by Title 4, ensures that the board is controlling the possession and sale of alcoholic beverages as required by AS 04.06.090, and provides clear guidance on issues that have been unclear in the past.

Section by section explanation:

3 AAC 304.675 Permits Generally

This section applies to all permit types.

- A permit is issued for a single location (excepting art exhibit permits in 3 AAC 304.697).
- The licensee to whom the permit is issued should be in the same municipality as the location of the event—if this is not the case, there should be a reasonable explanation (such as there

is no applicable licensee in the municipality). This helps to ensure that the permit holder is actually operating the permit.

- Sets forth what is expected in the application.
- Requires permit applications to be submitted to AMCO three business days in advance of the event (except where statute requires a longer period). This gives the office sufficient time to review the application, get any corrections that may be needed, and get the permit back to the applicant.
- Requires servers and ID checkers at permitted events to have completed an alcohol server education course.
- Defines the length of a permitted event as essentially a continuous period of time within a single day, with exceptions for special event permits and art exhibit permits.
- Prohibits a permit from being used to continue the operation of a license that has been suspended, revoked, or has expired, or to start the operation of a license that has not yet been issued.
- Clarifies that when a permit is used at a location that is also licensed, the operation of the license must cease during the operation of the permit, and the alcohol provided at the permitted event must be owned and provided by the holder of the permit. For a permitted event, the permit holder is essentially extending their license to the permitted location.
- Requires the licensee or an employee of the licensee to be present at the permitted event. This section specifically does not include “agent of the licensee” as this concept is regularly abused.
- Requires the permit and warning signs to be posted at the permitted event.
- States once that permits may not be transferred, relocated, or renewed—so this does not need to be repeated under each permit type.

### 3 AAC 304.680 Restaurant Caterer’s Dinner Permit

- Repeals sections that are covered under the general permit section.
- Defines “banquet or dinner event” to clarify when this permit may be used.

### 3 AAC 304.685 Caterer’s Permit

- Repeals this section as all relevant requirements are covered in the general permit section.

### 3 AAC 304.687 Special Events Permit

- Allows a single special events permit to be valid for up to three days of the same specific occasion at the same location (such as a fair) since a nonprofit organization may only get five special event permits per year by statute.
- Requires the holder of a special events permit (an unlicensed nonprofit organization) to obtain their alcohol from a licensee.
- Requires an authorized representative of the nonprofit holding the permit to be present at the event.
- Addresses violations.

### 3 AAC 304.690 Club License Caterer’s Permit

- Reduces the fee to equal the fee for other permit types.

- Repeals unnecessary subsections.

### 3 AAC 304.697 Art Exhibit Permit

- Allows a single licensee (BDL or REPL) to get a permit for up to five locations for a single event, but may only get one permit per event. This will ensure that a single licensee can manage the locations for which it is responsible during a permitted event. For events such as First Friday that take place at more than five locations, multiple BDL and REPL licensees would need to get permits with each licensee serving at no more than five locations.
- Allows changes to be requested two days before an event rather than seven.

### 3 AAC 304.699 Wine Auction Permit

- Negligible changes—this section of regulations was just updated by the board.

The proposed regulations change was posted for public comment for 37 days. One public comment was received which is attached.

### Board options:

- Vote on whether or not to adopt.
- Amend and put out for public comment.
- Send back to staff for additional revisions.

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

3 AAC 304.675 is repealed and readopted to read:

**3 AAC 304.675. Permits Generally.** (a) A permit authorizes the holder to sell or dispense alcoholic beverages for a specific period of time at locations that are not a licensed premises, or are not the licensed premises of the permit holder. Except as allowed under 3 AAC 304.697, a permit is issued for a single location. If the licensee providing alcohol for the permitted event does not operate a license in the same municipality or established village in which the permitted event is occurring, an explanation shall be provided.

(b) Permits issued under AS 04 and this chapter are as follows:

- (1) caterer's permit;
- (2) special events permit;
- (3) restaurant caterer's dinner permit;
- (4) club license caterer's permit;
- (5) art exhibit permit;
- (6) wine auction permit.

(c) To apply for a permit, an applicant must submit to the board the appropriate, complete application and the permit fee. The application must include a description of the premises to be permitted; a drawing designating the areas for storage, service, and consumption; a security plan for any outdoor areas; a statement of the specific hours of intended operation; a copy of the approval from the proper local authority; and other information required by the application form.

(d) Except as required by AS 04.11.240(b), a complete application for a permit shall be submitted to the board no later than three business days before the start of the permitted event.

(e) Each person who serves or sells alcohol or checks identification of a patron at a permitted event shall complete an alcohol server education course under AS 04.21.025 before the permitted event.

(f) Except as allowed in 3 AAC 304.687 and 3 AAC 304.697, a single permit shall be valid for a specific continuous period of time between 8am on the day of the event for which the permit is sought and 5am the following day. The board may allow a single application for similar events held on different days.

(g) A permit may not be issued at a premises location where a license has been approved but is not yet issued, is suspended, or has expired or was revoked within the preceding 60 days.

(h) When a permit is issued for a premises that is licensed under AS 04, the license issued for the premises must not be operated on the permit premises during the period of the permit. Alcohol served or consumed at the permitted event must be owned and provided by the holder of the permit.

(i) The licensee or an employee of the licensee to whom the permit is issued must be present at the permitted event during all times alcoholic beverages are sold, dispensed, and consumed. This paragraph does not apply to special event permits.

(j) The permit or an exact copy and signs required by AS 04.21.065 must be posted conspicuously at each permitted site during times when alcoholic beverages are served and consumed.

(k) A permit may not be transferred, relocated, or renewed.

(l) All applicable provisions of Title 04 and this chapter apply on the permitted premises during the period of the permit.

(m) Violation by a licensee of a statute, ordinance, or regulation pertaining to alcoholic beverage permits is grounds for suspension or revocation of the license. (Eff. 11/29/81, Register 80; am \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_)

<b>Authority:</b>	AS 04.06.100	AS 04.11.240	AS 04.11.260
	AS 04.11.230	AS 04.11.250	AS 04.11.320

3 AAC 304.680 is amended to read:

**3 AAC 304.680. Restaurant caterer's dinner permit.** (a) A restaurant caterer's permit authorizes the holder of a golf course license or a restaurant or eating place license to sell or dispense beer or wine before and during service of food provided by the licensee at a designated location for a banquet or dinner event held off the holder's licensed premises.

(b) **Repealed** \_\_\_ / \_\_\_ / \_\_\_\_\_. [A PERMIT WILL BE ISSUED ONLY FOR A SPECIFIED PREMISES FOR A SPECIFIC OCCASION, FOR A PERIOD NOT TO EXCEED SEVEN DAYS.]

(c) The application fee for a permit is \$50 for each event, and must accompany the application for a permit.

(d) **Repealed** \_\_\_ / \_\_\_ / \_\_\_\_\_. [A RESTAURANT CATERER'S PERMIT WILL NOT BE TRANSFERRED OR RENEWED.]

(e) The written approval of a law enforcement agency having jurisdiction over the site of the catered event must be obtained and must accompany the application.

**(f) In this section, “banquet or dinner event” means a formal event where a multi-course meal is served to guests seated at tables.** (Eff. 10/24/87, Register 104; am 6/13/2003, Register 166; am \_\_/\_\_/\_\_\_\_, Register \_\_)

**Authority:** AS 04.06.090 AS 04.11.010 AS 04.11.115  
AS 04.06.100 AS 04.11.100

3 AAC 304.685 is repealed.

**3 AAC 304.685. Caterer’s permit.** Repealed. (Eff. 11/29/81, Register 80; repealed \_\_/\_\_/\_\_\_\_, Register \_\_)

3 AAC 304 is amended by adding a new section to read:

**3 AAC 304.687. Special events permit.** (a) A special events permit may be valid for up to three consecutive days of the same specific occasion at the same location.

(b) The holder of a special events permit shall purchase alcohol or have alcohol donated for service at the permitted event from a person licensed under AS 04.

(c) Violation by the permit holder of a statute, ordinance, or regulation pertaining to a special events permit may be grounds for denial of future permit applications. (Eff. \_\_/\_\_/\_\_\_\_, Register \_\_)

**Authority:** AS 04.06.100 AS 04.11.230

3 AAC 304.690 is amended to read:

**3 AAC 304.690. Club license caterer's permit.** (a) A club license caterer's permit authorizes an organization licensed under AS 04.11.110 to sell or dispense alcoholic beverages at events held off of the organization's licensed premises. The permit may only be issued for designated premises for a specific event and for a limited period of time as identified in the application.

(b) Restrictions and prohibitions under AS 04.11.110, regarding club members and their guests, apply at premises designated in the application for permit. No more than three permits will be granted to an organization in any one calendar year.

(c) An application for a club license caterer's permit must be on forms provided by the board. The application must be signed by the presiding officer and secretary of the organization. The written approval of the law enforcement agency having jurisdiction over the designated premises of the event for which the permit is sought must also be obtained and must accompany the application.

(d) A non-refundable application fee of **\$50** [\$100] must accompany an application for club license caterer's permit.

(e) **Repealed** / / . [A CLUB LICENSE CATERER'S PERMIT MAY NOT BE TRANSFERRED, RELOCATED, OR RENEWED.]

(f) **Repealed** / / . [A PERMIT ISSUED UNDER THIS SECTION MUST BE SURRENDERED TO THE BOARD'S OFFICES WITHIN 48 HOURS AFTER ITS EXPIRATION TIME. FAILURE TO SURRENDER THE PERMIT IS CAUSE FOR DENIAL OF AN APPLICATION FOR A CLUB LICENSE CATERER'S PERMIT MADE IN THE



FUTURE BY THE PERMITTEE.] (Eff. 7/30/89, Register 111; am 9/11/98, Register 147; am \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_)

**Authority:** AS 04.06.090 AS 04.06.100 AS 04.11.110

3 AAC 304.697 is amended to read:

**3 AAC 304.697. Art exhibit permit.** (a) An art exhibit permit authorizes the holder of a beverage dispensary license or a restaurant or eating place license to serve beer and wine for consumption at a specified site for an art exhibit event, or at **up to five** [MORE THAN ONE] specified **sites** [SITE] used simultaneously for the same [ART EXHIBIT] event. **A licensee may obtain only one permit for any single event.** Food must be provided in conjunction with the service of beer and wine. Service and consumption of beer and wine may occur only during the designated times in the designated areas of the specified sites as stated on the permit.

(b) An art exhibit permit may not be exercised during events that are expected to attract audiences under 21 years of age.

(c) Only one art exhibit permit may be exercised at any specified site on a single date. A holder may use a specified site for exercise of an art exhibit permit no more than 12 times per calendar year.

(d) The art exhibit permit or an exact copy must be posted conspicuously at each specified site at each art exhibit event during times when beer and wine are served and consumed.

(e) The fee for an art exhibit permit for a single event is \$50. An applicant may apply for no more than 12 single event permits in a calendar year.

(f) The fee for an art exhibit permit for multiple specified events in a calendar year is \$100. A multiple events permit may be exercised at no more than 12 specified events in a calendar year.

(g) An application for an art exhibit permit must be on forms provided by the board and accompanied by the appropriate fee. The written approval of the law enforcement agency having jurisdiction over the specified sites of the art exhibit events for which the permit is sought must also be obtained and submitted with the application.

(h) An application for an art exhibit permit must clearly identify

(1) each art exhibit event date;

(2) each specified site for each event date;

(3) the designated areas for the service and consumption of beer and wine at each specified site for each event date; and

(4) the time during which beer and wine will be served and consumed at each specified site for each event date.

(i) The holder of a multiple events art exhibit permit may submit a written request for amendment of the permit to change event dates, specified sites, designated areas, or designated times. The request must be submitted to the director in writing at least **two business** [SEVEN] days before the event and must include the written approval of the law enforcement agency having jurisdiction over the specified sites.

(j) **Repealed** / / / . [AN ART EXHIBIT PERMIT MAY NOT BE TRANSFERRED, RELOCATED, OR RENEWED.]

(k) For purposes of this section, "art exhibit event" or "event" means a public event involving an art display or similar activity approved by the board that is held on a single date at

one or more art galleries, art studios, art stores, art dealer stores, or museums. (Eff. 6/13/2003, Register 166; am \_\_/\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 04.06.090 AS 04.11.010 AS 04.11.100  
AS 04.06.100 AS 04.11.090

3 AAC 304.699 is amended to read:

**3 AAC 304.699. Wine auction permit.** (a) A wine auction permit authorizes the holder to sell wine for consumption off the designated premises by outcry or silent auction, by wine pull, or, with a permit issued under AS 05.15, by raffle, at a designated premises for a specific occasion and limited period of time. Only organizations that would be eligible for a special events permit under AS 04.11.240(a) are eligible for a wine auction permit, and only if all profits derived from the auction, wine pull, or raffle of wine are paid to the organization and not to an individual.

(b) An application for a wine auction permit must be signed by both the president and secretary of the organization applying for the permit. A sworn affidavit showing the length of time the organization has been in existence must accompany the application, together with a certified copy of the resolution of the board of directors authorizing the application. The written approval of the law enforcement agency having jurisdiction over the designated premises of the occasion for which the permit is sought must also be obtained and accompany the application.

(c) No more than five wine auction permits may be granted to an organization, including its auxiliary, in any one calendar year.

(d) A wine auction permit may be operated in conjunction with a special events permit, caterer's permit, restaurant caterer's permit, or club license caterer's permit or on the licensed

premises of a beverage dispensary, club, or restaurant or eating place. A wine auction permit may be operated on premises where no other liquor license or permit has been issued.

(e) **Repealed** \_\_\_ / \_\_\_ / \_\_\_\_\_. [A WINE AUCTION PERMIT MAY NOT BE TRANSFERRED OR RENEWED.]

(f) The fee for a wine auction permit is \$50 a day.

(g) In this section, “wine pull” means the offering of individual unidentified bottles of wine for a fixed price per bottle, where some bottles are valued at less than the fixed price and other bottles are valued at more than the fixed price. (Eff. 6/13/2003, Register 166; am \_\_\_ / \_\_\_ / \_\_\_\_, Register \_\_\_)

**Authority:** AS 04.06.090 AS 04.06.100 AS 04.11.010

Alaska Cabaret, Hotel,  
Restaurant and Retailers Association



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October 29, 2019

Alcoholic Beverage Control Board  
[amco.regs@alaska.gov](mailto:amco.regs@alaska.gov)

Re: Comments Regarding Proposed Changes to Permit Regulations

Dear members of the Alcoholic Beverage Control (ABC) Board:

The Alaska Cabaret, Hotel, Restaurant, and Retailers Association (CHARR) – as both an Alaska nonprofit and as a representative of Alaska’s alcohol industry as a whole – generally opposes the regulation project which would substantially modify alcohol permitting procedures, privileges, and restrictions in Alaska. As a nonprofit business association with a diverse membership including restaurants, liquor stores, bars, manufacturers, hotels, clubs, and other businesses statewide, we have serious concerns about how this proposed language will impact our industry and nonprofits.

I respectfully request that the ABC Board either reject this regulation project or form a subcommittee that includes members of the industry, one or two representatives from nonprofits who regularly obtain special events or wine auction permits, and me – a representative of both the alcohol industry and of the nonprofit sector.

While there are many problems with this draft, our primary concerns include the following:

**3 AAC 304.675**

- 3 AAC 304.675(a) would now restrict a permit to a single location. There are many instances when a single permit would be appropriate for an event that includes multiple locations, including wine walks, concerts or other events with “dry areas”, or an event in a large venue with multiple, noncontiguous rooms.
- 3 AAC 305.675(d) has multiple issues.
  - While employed by AMCO, I participated in multiple meetings with various police departments around Alaska. More than one police department, including Anchorage Police Department, refuses to accept permit applications that are more than two weeks before the start of the event. After they do accept them, they then hold on to the permit for no less than three days, and usually more than a week before approving it. This leaves an impossibly small window of time for the applicant to pick up the application and submit it to AMCO. This draft would completely disallow events for wakes and many fund raisers, and would prohibit the majority of permits issued in Alaska from being obtained.
  - Even when an applicant is able to submit a signed application prior to three business days, this subsection would require a complete application to be submitted no later than three business days before the start of the event. I can name dozens of permit applicants who have submitted applications that have been rejected and resubmitted numerous times before being determined to be complete by AMCO staff. Further, requirements for what



constitutes a complete application can change dramatically depending on which staff member is reviewing the application on any given day. In short, if an application with a tiny error (that might not have been considered an error by a different AMCO staff member) is submitted before the deadline, it could be rejected if the applicant isn't paying attention to its email every minute of the day, to see whether AMCO needs corrections by the end of the business day.

- 3 AAC 304.675(h) would potentially disallow the existing practice by fraternal organizations of applying for special events permits at their actual club location for membership recruitment, public fund raisers, and other public events. During those events, the permittee and licensee are the same entity, and club members are still able to consume spirits while the public is limited to beer and wine.
- 3 AAC 304.675(i) further restricts what is currently under 3 AAC 304.685(a), which allows for a specified agent to be present on the catered premises rather than requiring a licensee or employee. "Employee" is not defined in this draft, or in existing statute or regulation, but it is common practice for a caterer to assign a specified agent or contractor who is not on payroll to the event. Depending on fluctuating interpretations, licensees' common practices may put them in violation of this proposed section.
- 3 AAC 304.675(j) would require copies of the 11"x14" warning signs to be posted. This may not seem like a big deal, but those signs are not readily available from AMCO except in Anchorage and intermittently in Fairbanks and Juneau. Permittees would have to request that copies get mailed to them, and considering the time constraints mentioned earlier, they're likely not to arrive to the permittee in time for the event. AMCO's current practice is to email PDF copies of the signs to permittees and allow them to print out 8.5"x11" copies, rather than the larger size. This should be specified in the language.

#### **Other Sections**

- 3 AAC 304.687(a) would restrict only special events permits to a limited amount of time. Limiting just this one permit type seems unnecessary, especially when 3 AAC 304.675(f) of the draft already contemplates the board having the discretion to approve additional days.
- 3 AAC 304.697(a) as written would prohibit some of the wine/charity walks that bring money to vital community nonprofits. We believe that up to twelve locations is reasonable while still putting enough limitation to ensure compliance and security.

In short, there are many issues in this draft that need to be resolved before adoption, as they would largely impact the alcohol industry and Alaska nonprofits. I again implore you to reject this draft and/or form a subcommittee to work on resolving these issues.

Thank you for your consideration and interest in continuing to regulate the industry in a responsible and reasonable manner.

Respectfully,

Sarah D. Oates  
President & CEO  
Alaska CHARR