

# Notice of Violation

(3AAC 304.525)

This form, all information provided and responses are public documents per Alaska Public Records ACT AS 40.25

Date: 06/01/2018

License #/Type: 5436 / Distillery

Licensee: Hoarfrost Distilling, LLC

Address: 3501 Lathrop Street, Unit F, Fairbanks, AK

DBA: Hoarfrost Distilling

AMCO Case #: AB18-0627

This is a notice to you as licensee that an alleged violation has occurred. If the Alcoholic Beverage Control Board decides to act against your license, under the provisions of AS 44.62.330 - AS 44.62.630 (Administrative Procedures Act) you will receive an Accusation and Notice of your right to an Administrative Hearing.

Note: This is not an accusation or a criminal complaint.

On 03/20/2018, AMCO Enforcement received an anonymous complaint reporting Hoarfrost Distilling, license # 5436, was violating Title 4, relating to pricing and marketing statutes. The complainant provided a screen-shot of an advertisement posted on the Hoarfrost Distilling Facebook page. The advertisement stated "INDUSTRY EMPLOYEES GET THEIR 1ST DRINK FROM OUR SIGNATURE LIST FOR \$5."

After visiting the Hoarfrost Distilling Facebook page I located the post provided by the complainant and additional posts advertising drink specials and "Industry Night" advertising a special price for cocktails on Monday nights for "Industry Members."

Your attention is directed to the following Alaska Statutes:

AS 04.16.015: Pricing and marketing of alcoholic beverages

AS 04.16.150: Licensee responsible for violations

**You are directed to respond in writing to this Notice of Violation within 10 days of receipt to explain what action you have taken to prevent a re-occurrence of this violation. FAILURE TO RESPOND TO THIS NOTICE OF VIOLATION WITHIN 10 DAYS WILL RESULT IN YOUR APPEARANCE, EITHER IN PERSON OR TELEPHONICALLY, BEFORE THE ABC BOARD AT THEIR NEXT REGULARLY SCHEDULED BOARD MEETING.**

**\*Please send your response to the address below and include your alcohol license number in your response.**

3 AAC 304.525 (B) provides that upon receipt of a Notice of Violation, a licensee may request to appear before the Director and be heard regarding the Notice of Violation. The request must be made within ten days after receipt of the Notice and the Director must grant an appearance within ten days after receipt of a request. A Licensee shall respond, either orally or in writing, to the Notice.

Alcohol & Marijuana Control Office

ATTN: Enforcement

550 W. 7<sup>th</sup> Ave, Suite 1600

Anchorage, Alaska 99501

[amco.enforcement@alaska.gov](mailto:amco.enforcement@alaska.gov)

Issuing Investigator: M. Chiesa

Received by:

SIGNATURE: 

SIGNATURE:

Delivered VIA: Mail

Date:



THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

**Department of Commerce, Community,  
and Economic Development**

ALCOHOL & MARIJUANA CONTROL OFFICE  
550 West 7<sup>th</sup> Avenue, Suite 1600  
Anchorage, AK 99501  
Main: 907.269.0350

June 4, 2018

Hoarfrost Distilling, LLC  
DBA Hoarfrost Distilling  
4345 Driftwood Ct.  
Fairbanks, AK 99709

Re: Hoarfrost Distilling, License #5436

Dear Hoarfrost Distilling, LLC:

Last week AMCO issued an advisory to you regarding a potential violation of AS 04.16.015, pricing and marketing, and stated that the advisory would be brought to the Alcoholic Beverage Control Board. Upon further consideration of this matter, I have determined that the best way to bring this issue before the board is through a Notice of Violation.

AMCO is issuing the attached Notice of Violation, which will be brought to the board at their next meeting on June 12, 2018. The meeting will be held in the Atwood Building, at 550 West 7th Avenue, Room 102, and will begin at 9am. A call-in number is available as well and will be listed on the agenda. The agenda will be published on AMCO's website no later than tomorrow. ([www.commerce.alaska.gov/web/amco/Home.aspx](http://www.commerce.alaska.gov/web/amco/Home.aspx))

Please contact me if you have any questions, at [erika.mcconnell@alaska.gov](mailto:erika.mcconnell@alaska.gov).

Sincerely,

Handwritten signature of Erika McConnell in cursive.

Erika McConnell  
Director

CC: License file



**Hoarfrost Distilling**

March 5 at 11:44am · Instagram · ✨



It's industry night again at Hoarfrost. Come on by our Tasting Room for a drink or two tonight from 4 to 8.

# MONDAY IS INDUSTRY NIGHT AT HOARFROST DISTILLING

EVERY MONDAY FROM 4-8  
ENJOY YOUR DAY OFF AND  
HAVE A DRINK!  
HOSPITALITY AND TOURISM  
INDUSTRY EMPLOYEES GET  
THEIR 1ST DRINK FROM OUR  
SIGNATURE LIST FOR \$5.



ALPENGLOW



CPTN HEALY



RHUBARB PIE

 Like

 Comment

 Share



**Hoarfrost Distilling** is at [Hoarfrost Distilling](#).

March 11 at 8:54pm · Fairbanks, AK · 🌟

...

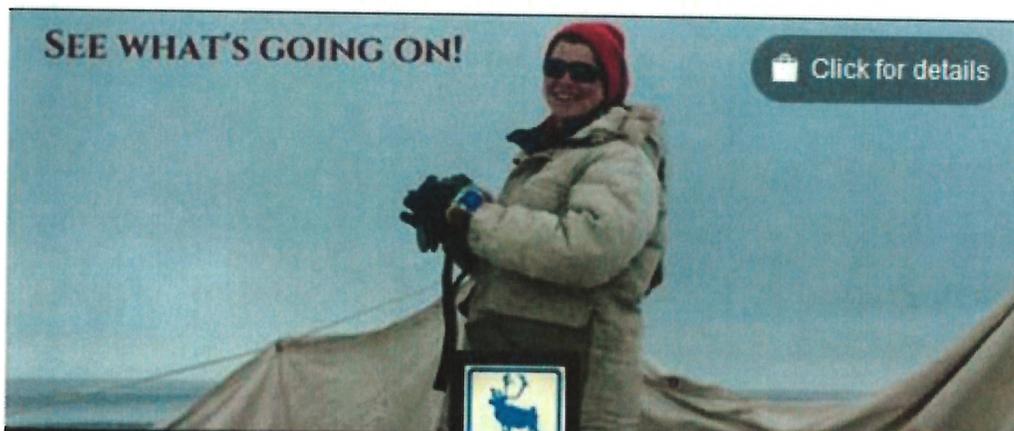
\*\*\* Spring Teacher's Holiday \*\*\*

I was going to mention spring break, but my lawyer says not to do that. While they are notorious gluttons for alcohol, most spring breakers can't drink legally and I am not supposed to encourage them. So let's call it Teacher Appreciation Week! Every teacher gets a \$5 drink to celebrate surviving till the break.

We're doing Industry Night every Monday. Hospitality and Tourism industry folks are invited by to relax on your day off with one of our signature cocktails for \$5.

Tuesday Toivo will do a short class on making infusions for special cocktails. We'll talk a bit about infusion theory and then go through our menu. The class is free and starts at 6 pm. If it goes well, we'll make it a regular thing. Recipes and formulas will be handed out.

Saturday is St. Patrick's Day, and we are planning on a very nice special in the color green. Get an early start on your St. Patty's partying with us.



**SEE WHAT'S GOING ON!** [Click for details](#)



**THIS WEEK IN OUR TASTING ROOM  
12-17 MARCH**

**HOARFROST DISTILLING**

MONDAY - INDUSTRY NIGHT SPECIALS.  
TUESDAY - FREE INFUSIONS DEMO AT 6PM.  
SATURDAY - ST. PATRICK'S DAY. START YOUR NIGHT OFF EARLY WITH ONE OF OUR GREEN SPECIALS!



**Hoarfrost Distilling** is at  Hoarfrost Distilling.

...

March 26 at 5:01pm Fairbanks, AK · ✨

Industry Night is Monday. Your first drink from our signature selection is just \$5. Come take advantage of the slowest day of the week.

This is legal since the ABC Board has us selling alcohol separately from the virgin chaser. We sell you the vodka for the regular price of \$4.50, and the chaser for just \$0.50.

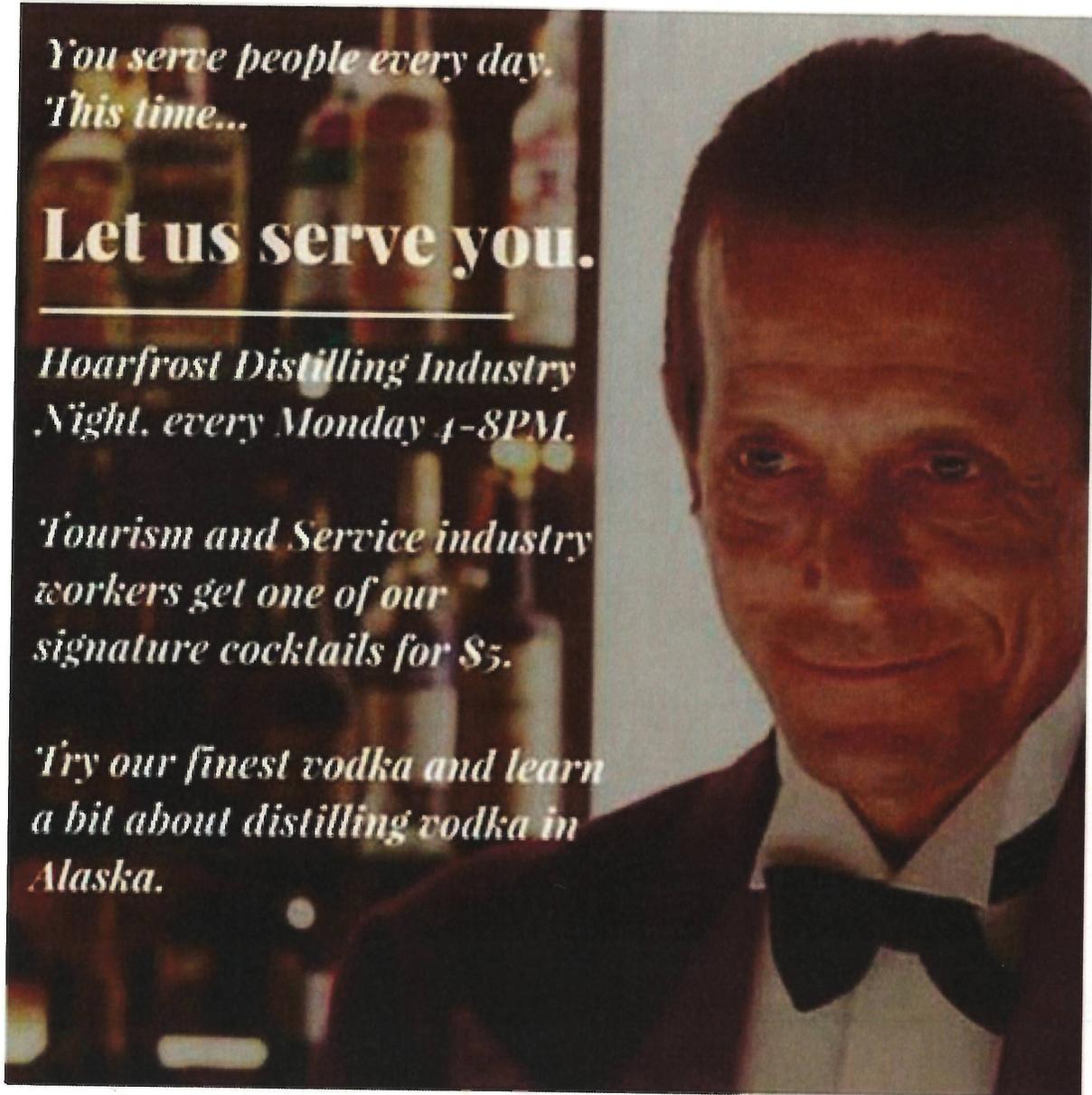
*You serve people every day.  
This time...*

**Let us serve you.**

*Hoarfrost Distilling Industry  
Night, every Monday 4-8PM.*

*Tourism and Service industry  
workers get one of our  
signature cocktails for \$5.*

*Try our finest vodka and learn  
a bit about distilling vodka in  
Alaska.*



**Hoarfrost Distilling**

Distillery

 [Send Message](#)



**Hoarfrost Distilling** is at  Hoarfrost Distilling. ...

March 12 at 3:29pm · Fairbanks, AK · 🌟

\*\*\* Teachers Special \*\*\*

Are you enjoying your break from students? Make the most of this week by visiting our tasting room for a \$5 drink (first drink each day, visit multiple times)! It's cheaper than therapy and works faster.

That's our Crystal vodka at regular price, with a virgin chaser for \$0.50.

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# Toivo Luick Hoarfrost Distilling



4345 Driftwood Court, Fairbanks, AK 99709

License #5436

907-460-7918

[toivo@hoarfrost.vodka](mailto:toivo@hoarfrost.vodka)

13 June 2018

Dear Director McConnell:

I am writing in response to the Notice of Violation that I received (AMCO Case# AB18-0627). Thank you for the notice. I want to start out by saying that I have tried to follow the law as I understand it, but I seem to have strayed especially in the way my ads were written. The NOV is not very clear about what exactly the problem is so I am going to go out on a limb and attempt to address it anyhow.

## **Pricing**

I am guessing that the altering of some of our prices for individuals and/or not within the weekly limit is an issue. E.g. Lower some prices for Industry Night. My thinking there was that since the AMCO office explicitly stated that we are serving shots of vodka completely separately from other non-alcoholic drinks, there should be no issue with our altering the prices of the non-alcoholic beverages that we sell. It is my experience that bars often do the same- giving a coffee or soda water back as a free accompaniment to a shot of spirit.

Since we always sell a shot of our Crystal Vodka for \$4.50, and it was my understanding that AMCO has no authority to regulate non-alcoholic drinks, then our pricing can't be a legal issue. Because my logic isn't flawless I contacted my local ABC Enforcement office and spoke to an Investigator (actually two because another officer was listening in on half the conversation). I append a transcript of that phone call. It appears to confirm my interpretation.

## **Advertising**

I do notice that some of our social media ads seem to be missing the disclaimer that the spirits are sold



at regular price and the discount is only on the non-alcoholic beverages. That is definitely an error because it was my intention to make sure the terms were spelled out clearly each and every time. On top of that, we had a poster in the distillery which clearly defined the terms of the specials. I apologize for the poorly designed ads. Confusingly, some of the ads attached to the NOV as examples do contain the disclaimer language. I do not understand what is the problem with those.

#### **Steps we have taken**

Both of my points above are academic because we have discontinued all such specials, as well as the advertising thereof weeks ago. We will never do anything like that again. They were never popular, but the main reason was the recent passage of SB45. That bill will allow us to mix cocktails once it is signed by the Governor. At that time we will cease selling alcoholic and non-alcoholic beverages separately for the consumer to mix themselves, and any ambiguity about pricing will be removed.

#### **Question my own**

Is it AMCO's opinion that my understanding about pricing is incorrect? We have heard over and over that AMCO has no authority over non-alcoholic beverages from numerous sources. If my pricing is within the law (as I understood it to be) then is point at issue my advertising? I find the NOV to be very unclear.

#### **Confusion about dates**

I have made a good faith attempt to comply with the instructions, but I ran into some confusion. The instructions said to reply within 10 days of receipt. I take that for 10 business days, but the instructions do not specify. I received the NOV and accompanying letter on 04 June, which was the same day that they were sent to me by your office.

The instructions also said that if I didn't respond within 10 days, I'd have to appear in the ABC Board meeting on 12 June. Since that was before the 10 day limit was up, I assume you meant the following Board meeting. I noticed my NOV was not in the meeting packet. I tried to call in anyhow, but the meeting was about 40 minutes ahead of the agenda and was several tabs beyond the NOV discussion as scheduled.

I tried calling your office for guidance and left a message. To date no one has returned my call.

Warm regards,



Toivo Luick  
Hoarfrost Distilling



*Transcript of 3 minute call to Fbks AMCO Enforcement Office on 26 JAN 2018 at 14:26*

*Participants: IS- Investigator Stonecipher, and TL – Toivo Luick, owner of Hoarfrost Distilling*

\* \* \*

- IS Investigator Stonecipher, how can I help you?"
- TL Oh hi, this is Toivo Luick from Hoarfrost Distilling.
- IS Yes. What can I do for you?
- TL I was calling to let you know, and to confirm my interpretation is correct since we sell the vodka as a separate item on our menu from the virgin chaser that would make up the rest of the cocktail if someone was to mix it, we can do discounts however we like on the virgin chaser part, right?
- IS I don't see why not because that's not an alcoholic beverage so that would not be something that we would regulate the price and marketing. Um, you know I didn't listen to that part of the [ABC] Board meeting. Let me put you on hold let me ask the other investigator and just confirm that..
- TL Technically that doesn't come out of the [ABC] Board meeting, because that part won't go through the Governor's office until another 30 days go by or whatever it is...
- IS Right, yeah...
- TL But there are rules about changing and special pricing that it has to be done for an entire week period and it has to be applied to everyone.
- IS Right, but I think that's only just for the alcohol. I don't see why that would affect any non-alcohol beverage like you know as far as like let's say for instance Red Fox decided to discount their cokes and give them away free to designated drivers, I don't see why we would have any regulation authority over that whatsoever so as long as there's no alcohol in it I wouldn't see why we'd have an issue or a violation there. But let me [garbled] just confirm okay?
- TL Let me just specify just one thing because I made an advertisement on our facebook site for former Sam's employees that we would give them a steep discount on the non-alcohol drink...
- IS Okay
- TL and I just wanted to confirm that that seems okay.
- IS Yeah, it does, and the other investigator actually just shook his head and says yeah, it sounds fine to him too so yeah as long as there's no alcohol in it, like I said I know I've been to places where they've offered free drinks to the designated drivers. You know, because it's non-alcoholic so I don't see where we'd have any authority to regulate a non-alcoholic drink. So I think you should be fine. Okay?
- TL Thank you very much. I may call back... <end>





Alaska Alcoholic Beverage Control Board

**Form AB-17: 2020/2021 Renewal License Application**

**What is this form?**

This renewal license application form is required for all individuals or entities seeking to apply for renewal of an existing liquor license that are is due to renew by December 31, 2019. All fields of this form must be complete and correct, or the application will be returned to you in the manner in which it was received, per AS 04.11.270 and 3 AAC 304.105. The Community Council field only should be verified/completed by licensees whose establishments are located within the Municipality of Anchorage or outside of city limits within the Matanuska-Susitna Borough.

**This form must be completed and submitted to AMCO's main office before any license renewal application will be reviewed. Receipt and/or processing of renewal payments by AMCO staff neither indicates nor guarantees that an application will be considered complete, or that a license will be renewed.**

**Section 1 – Establishment and Contact Information**

Enter information for the business seeking to have its license renewed. If any populated information is incorrect, please contact AMCO.

Licensee:	Hoarfrost Distilling, LLC	License #:	5436
License Type:	Distillery		
Doing Business As:	Hoarfrost Distilling		
Premises Address:	3501 Lathrop Street Unit F Fairbanks		
Local Governing Body:	City of Fairbanks (Fairbanks North Star Borough)		
Community Council:	None		
Mailing Address:	4345 Driftwood Court		
City:	Fairbanks	State:	AK
		ZIP:	99709

Enter information for the individual who will be designated as the primary point of contact regarding this application. This individual **must be a licensee** who is required to be listed in and authorized to sign this application.

Contact Licensee:	Toivo Luick	Contact Phone:	907 460 7918
Contact Email:	toivo@hoarfrost.vodka		

**Optional:** If you wish for AMCO staff to communicate with an individual who is not a licensee named on this form (eg: legal counsel) about this application and other matters pertaining to the license, please provide that person's contact information in the fields below.

Name of Contact:	N.A.	Contact Phone:	
Contact Email:			



# Form AB-17: 2020/2021 Renewal License Application

## Section 2 – Entity or Community Ownership Information

Licensees who directly hold a license as an individual or individuals should skip to Section 3. General partnerships and local governments should skip to the second half of this page. All licensees that are **corporations** or **LLCs** must complete this section. Corporations and LLCs are required to be in good standing with the Alaska Division of Corporations, Business & Professional Licensing (CBPL). The CBPL Entity # below is **neither** your EIN/tax ID number, **nor** your business license number. You may view your entity's status or find your CBPL entity number by visiting the following site: <https://www.commerce.alaska.gov/cbp/main/search/entities>

Alaska CBPL Entity #:	10026207
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You must ensure that you are able to certify the following statement before signing your initials in the box to the right: Initials

I certify that this entity is in good standing with CBPL and that all current entity officials and stakeholders (listed below) are also currently and accurately listed with CBPL.

TL

This subsection must be completed by any **community** or **entity**, including a corporation, limited liability company, partnership, or limited partnership, that is applying for renewal. If more space is needed, please attach additional completed copies of this page.

- If the applicant is a **corporation**, the following information must be completed for each **shareholder who owns 10% or more** of the stock in the corporation, and for each **president, vice-president, secretary, and managing officer**.
- If the applicant is a **limited liability organization**, the following information must be completed for each **member with an ownership interest of 10% or more**, and for each **manager**.
- If the applicant is a **partnership**, including a limited partnership, the following information must be completed for each **partner with an interest of 10% or more**, and for each **general partner**.

**Important Note:** The information provided in the below fields (including spelling of names, specific titles, and percentages held) must match that which is listed with CBPL. If one individual holds multiple titles mentioned in the bullets above, all titles must be listed for that individual on this application and with CBPL. Failure to list all required titles constitutes an incomplete application. **You must list ALL of your qualifying officials, additional copies of this page or a separate sheet of paper may be submitted if necessary.**

Name of Official:	Toivo Luick			
Title(s):	MANAGER	Phone:	907 460 7918	% Owned: 95
Mailing Address:	4345 Driftwood Ct			
City:	Fairbanks	State:	AK	ZIP: 99709

Name of Official:				
Title(s):		Phone:		% Owned:
Mailing Address:				
City:		State:		ZIP:

Name of Official:				
Title(s):		Phone:		% Owned:
Mailing Address:				
City:		State:		ZIP:



# Form AB-17: 2020/2021 Renewal License Application

## Section 3 – Sole Proprietor Ownership Information

Entities, such as corporations or LLCs, should skip this section. This section must be completed by any licensee who directly holds the license as an **individual or multiple individuals** and is applying for license renewal. If more space is needed, please attach a separate sheet that includes all of the required information.

The following information must be completed for each licensee and each affiliate.

This individual is an:  applicant  affiliate

Name:				Contact Phone:	
Mailing Address:					
City:		State:		ZIP:	
Email:					

This individual is an:  applicant  affiliate

Name:				Contact Phone:	
Mailing Address:					
City:		State:		ZIP:	
Email:					

## Section 4 – Alcohol Server Education

This section must be completed only by the holder of a **beverage dispensary, club, or pub license or conditional contractor's permit**. The holders of all other license types should skip to Section 5.

Read the line below, and then sign your initials in the box to the right of the statement:

Initials

I certify that all licensees, agents, and employees who sell or serve alcoholic beverages or check identification of a patron have completed an alcohol server education course approved by the ABC Board and keep current, valid copies of their course completion cards on the licensed premises during all working hours, as set forth in AS 04.21.025 and 3 AAC 304.465.

## Section 5 – License Operation

Check a **single box** for each calendar year that best describes how this liquor license was operated:

2018    2019

The license was regularly operated continuously throughout each year.

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
-------------------------------------	-------------------------------------

The license was regularly operated during a specific season each year.

<input type="checkbox"/>	<input type="checkbox"/>
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The license was only operated to meet the minimum requirement of 240 total hours each calendar year.

*If this box is checked, a complete copy of Form AB-30: Proof of Minimum Operation Checklist, and all necessary documentation must be provided with this application.*

<input type="checkbox"/>	<input type="checkbox"/>
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The license was not operated at all or was not operated for at least the minimum requirement of 240 total hours each year, during one or both of the calendar years.

*If this box is checked, a complete copy of Form AB-29: Waiver of Operation Application and corresponding fees must be submitted with this application for each calendar year during which the license was not operated for at least the minimum requirement, unless a complete copy of the form (including fees) has already been submitted for that year.*

<input type="checkbox"/>	<input type="checkbox"/>
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# Form AB-17: 2020/2021 Renewal License Application

## Section 6 – Violations and Convictions

Applicant violations and convictions in calendar years 2018 and 2019:

Yes No

Have any notices of violation (NOVs) been issued for this license in the calendar years 2018 or 2019?

Yes  No

Has any person or entity named in this application been convicted of a violation of Title 04, of 3 AAC 304, or a local ordinance adopted under AS 04.21.010 in the calendar years 2018 or 2019?

Yes  No

If "Yes" to either of the previous two questions, attach a separate page to this application listing all NOVs and/or convictions.

## Section 7 – Certifications

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that all current licensees (as defined in AS 04.11.260) and affiliates have been listed on this application, and that in accordance with AS 04.11.450, no one other than the licensee(s) has a direct or indirect financial interest in the licensed business.

TL

I certify that I have not altered the functional floor plan or reduced or expanded the area of the licensed premises, and I have not changed the business name or the ownership (including officers, managers, general partners, or stakeholders) from what is currently approved and on file with the Alcoholic Beverage Control Board.

TL

I certify on behalf of myself or of the organized entity that I understand that providing a false statement on this form or any other form provided by AMCO is grounds for rejection or denial of this application or revocation of any license issued.

TL

As an applicant for a liquor license renewal, I declare under penalty of perjury that I have read and am familiar with AS 04 and 3 AAC 304, and that this application, including all accompanying schedules and statements, is true, correct, and complete. I agree to provide all information required by the Alcoholic Beverage Control Board or AMCO staff in support of this application and understand that failure to do so by any deadline given to me by AMCO staff will result in this application being returned to me as incomplete.

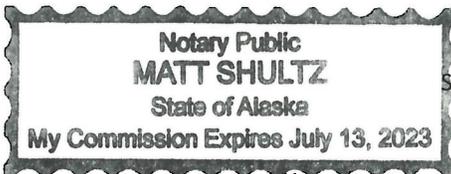
Toivo Luick  
Signature of licensee

[Signature]  
Signature of Notary Public

Toivo Luick  
Printed name of licensee

Notary Public in and for the State of ALASKA

My commission expires: JULY 13, 2023



Subscribed and sworn to before me this 30 day of December, 2019.

Seasonal License?  Yes  No

If "Yes", write your six-month operating period: \_\_\_\_\_

License Fee:	\$ 1000.00	Application Fee:	\$ 300.00	TOTAL:	\$ 1300.00
Miscellaneous Fees:					
GRAND TOTAL (if different than TOTAL):					