



MEMORANDUM

TO: Alcoholic Beverage Control Board DATE: August 18, 2020
FROM: Jane P. Sawyer, Regulations Specialist RE: Regulations Project –
Repackaging by Package Store

The board opened this regulations project at the January 2020 meeting, in response to licensee request made during public testimony, to expand the type of alcoholic beverages that a Package Store may repackage from kegs. The draft was out for public comment for about 45 days closing on July 31, 2020. Three comments were received and they are attached.

The change under 3 AAC 304.365 would allow a Package Store to repackage not only beer but also wine or distilled spirits from kegs or barrels into other containers for sale on the licensed premises to be consumed off the licensed premises. Another change made to this regulation is rewording language so the regulation is better understood.

Options for the board:

- Vote to adopt
- Amend and put out for public comment
- Send back to staff for revisions
- Close the project without action

Register _____, _____ 20__

COMMERCE, COMMUNITY, AND EC. DEV.

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

3 AAC 304.365 is amended to read:

The holder of a package store license issued under AS 04.11.150 may on the licensed premises repackage beer, **wine, or distilled spirits** from kegs **or barrels** into other containers for sale on the licensed premises and consumption off the licensed premises, **if the size of the other containers is not prohibited** [IF THE OTHER CONTAINERS ARE OF A SIZE

PERMITTED] under AS 04.16.100. (Eff. 7/25/2012, Register 203; am _____, _____, _____,

Register _____)

Authority: AS 04.06.090 AS 04.06.100 AS 04.11.150

Commented [SJP(1): I reworded this because the list under 04.16.100 is of prohibited containers rather than permitted containers.



Alaska
Beer, Wine & Spirits
Wholesalers Association

To whom it may concern;

We appreciate the Alcohol and Marijuana Commission providing our Association the opportunity to comment on the proposed rule change. As you are aware, our state is silent on many alcoholic beverage rules and regulations resulting in a default to federal law. Any support of this resolution to allow repackaging of distilled spirits at off-premise locations would result in Alaska deviating from its philosophy of following federal law.

Federal requirements apply to spirits and how they may be formulated, packaged and labeled. These requirements are established by the Alcohol and Tobacco Tax and Trade Bureau (TTB) and are contained in the Federal Alcohol Administration Act (FAA Act) regulations at 27 Code of Federal Regulations.

- Many distilled spirits products, including those sold in intrastate commerce are subject to formula approval.
 - o See [27 CFR 5.27](#) (formula requirements) requiring a formula approval for, among other activities, "compounding of spirits through the mixing of any coloring, flavoring, wine, or other material with distilled spirits" Formula requirements are applicable to products sold only intrastate (see [27 CFR 19.348](#)) and TTB Distilled Spirits [FAQ S14](#)
- Distilled Spirits products must be in an approved standard of fill when they enter commerce- including intrastate.
 - o [27 CFR 5.45\(a\)](#) states that, with limited exceptions for imported products, no product may be sold, shipped or delivered for sale unless the product is packaged in conformity with the standards of fill regulations. The approved standards of fill for distilled spirits are 50ml, 100ml, 200ml, 375ml, 750ml, 1L, 1.75L for bottles and 50ml, 100ml, 200ml and 355ml for cans. Please see TTB Distilled Spirits [FAQ S14](#) regarding the applicability of standards of fill to products intended for use in intrastate commerce.
- Most distilled spirits products are required to have an approved label (Certificate of Label Approval or COLA). However [27 CFR 5.55](#) does offer an exemption from this requirement when the bottler of the distilled spirits obtains from TTB a certificate of exemption stating that the products "to be bottled are not to be sold, offered for sale, or shipped or delivered for shipment, or otherwise introduced into interstate or foreign commerce."

Our Association contributes to a successful Alaska. Please review the attached information gathered by the Wine and Spirits Wholesalers of America highlighting the economic impact to our state. Note this does not include the beer statistics which can be supplied later.

In closing, the above regulations were adopted for the protection and safety of the consumer. Therefore, the Alaska Beer, Wine and Spirits Wholesalers cannot support this proposed rule change as it's our interpretation that adopting these regulations would be illegal and in violation of the TTB's regulations. We recommend that the commission take the same position.

Alaska
Beer, Wine & Spirits
Wholesalers Association



Brandon High, Southern Glazer's Wine and Spirits of Alaska
Bill Odom, Odom Distributing
Scott Steward, Odom Corporation
Don Grasse, K&L Distributing
Shawn Beck, Specialty Distributing



WINE & SPIRITS
WHOLESALERS
OF AMERICA

Economic Impact of Alaska's Wine & Spirits Distributors

American family-owned wine and spirits distributors are the local marketing and logistics experts in every state and every district.

WSWA's 370 member companies deliver the widest variety of beverage alcohol products found anywhere in the world in a manner that is safe, transparent, well-regulated, and efficiently taxed.

Wholesalers are important contributors to their local economies, employing more than 87,722 Americans in 3,120 locations nationwide. These employees receive \$7.46 billion in wages annually. (Data 2018)

The three-tier system efficiently moves America's favorite alcoholic beverage products from producer to consumer, connecting all corners of the country.

Wholesalers help keep the market safe and accountable, protecting consumers and non-consumers alike. Responsible distribution practices save Alaska's government money by accurately and efficiently collecting and remitting \$27.93 million in state excise taxes.

Distributors employ 184
people in Alaska

\$64.62 million in State Tax
Revenue from Alcohol
Sales¹



The Wine and Spirits
Industry creates 5,162
jobs in Alaska.



Alaska's wholesaler
employees receive
\$11.25 million in wages.



Wholesalers employ
184 people in Alaska.

AMERICA'S WINE & SPIRITS DISTRIBUTORS

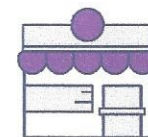
Driving the U.S. Economy



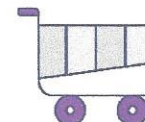
U.S./IMPORTED
WINE & SPIRITS



DISTRIBUTORS



ON PREMISE
(Bars & Restaurants)



OFF PREMISE
(Retail Stores)

¹ Includes business and personal taxes paid by industry firms and employees, as well as excise, state sales, and other special taxes paid by consumers on wine and spirits both at on- and off-premise retailers.



WINE & SPIRITS
WHOLESALE
OF AMERICA

Economic Impact of Alaska's Wine & Spirits Distributors

American, family-owned wine and spirits distributors are the local marketing and logistics experts in every state and every district.

	Jobs	Wages	Economic Impact
Direct Impacts			
Wineries	9	\$241,100	\$2,546,000
Distilleries	41	\$1,197,700	\$37,072,000
Distributors	184	\$11,248,800	\$44,160,200
Retailers	2,858	\$95,261,900	\$182,917,400
Total Direct Impacts	3,092	\$107,949,500	\$266,695,600

Supplier Impacts			
Agriculture	73	\$2,231,900	\$8,042,900
Business & Personal Services	248	\$15,790,400	\$32,444,200
Mining	43	\$6,046,200	\$27,035,400
Construction	18	\$1,433,900	\$2,948,800
FIRE	104	\$4,353,600	\$25,882,300
Manufacturing General	76	\$2,191,800	\$17,260,600
Retail	17	\$606,100	\$1,304,300
Transportation & Communications	105	\$7,679,200	\$31,305,900
Travel and Entertainment	74	\$1,414,900	\$3,765,200
Wholesaler	34	\$2,148,400	\$8,328,100
Government	18	\$1,749,200	\$3,433,100
Other	0	\$0	\$0
Total Supplier Impacts	810	\$45,645,600	\$161,750,800

Induced Impacts			
Agriculture	25	\$831,600	\$2,497,300
Business & Personal Services	483	\$27,536,800	\$49,412,800
Mining	29	\$4,240,600	\$19,346,700
Construction	15	\$1,147,100	\$2,436,100
FIRE	134	\$6,480,800	\$50,676,700
Manufacturing General	55	\$3,070,500	\$22,399,100
Retail	181	\$6,416,300	\$14,707,800
Transportation & Communications	72	\$5,342,900	\$25,118,000
Travel and Entertainment	190	\$5,084,900	\$13,604,200
Wholesaler	31	\$1,920,400	\$7,536,100
Government	15	\$1,276,500	\$3,551,000
Other	30	\$1,304,500	\$525,600
Total Induced Impacts	1,260	\$64,652,900	\$211,811,400

	Jobs	Wages	Economic Impact
Total Economic Impacts	5,162	\$218,248,000	\$640,257,800

Fiscal Impacts	Business Taxes	Consumer Taxes
Federal Taxes	\$49,918,400	\$17,160,600
State Taxes	\$36,691,200	\$27,925,500
Total Taxes	\$86,609,600	\$45,086,100

Alaska Cabaret, Hotel, Restaurant, and
Retailers Association



1503 W. 31st Avenue, Suite 102
Anchorage, AK 99503
(907) 274-8133

July 30, 2020

Alcoholic Beverage Control Board
amco.regs@alaska.gov

Re: Opposition to Proposed Regulatory Changes Regarding Repackaging by Package Stores

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

The Alaska Cabaret, Hotel, Restaurant, and Retailers Association (CHARR) – as a representative of Alaska’s alcohol industry as a whole – opposes the regulation project which would amend the language in section 3 AAC 304.365 to allow package stores to repackage wine or distilled spirits from kegs or barrels into other containers.

As you are aware, there have been substantial efforts to pass an omnibus Title 04 bill through the Alaska Legislature with the intention of clarifying, modernizing, and streamlining existing alcohol laws. These efforts are completely dependent upon the many compromises that have been reached after nine years of robust discussion between all stakeholders – including all three tiers of the industry – which would be uprooted by this current project. I respectfully request that the Board take no action except to close or table this regulation project until after the next legislative session, when we will know whether an omnibus bill will be adopted.

Thank you for your consideration and interest in continuing to responsibly regulate the industry.

Respectfully,

A handwritten signature in green ink, appearing to read 'Sarah D. Oates', is written over a faint, light green circular watermark or background element.

Sarah D. Oates
President & CEO



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WASHINGTON, DC 20005

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WWW.WSWA.ORG

Alaska Alcoholic Beverage Control Board
amco.regs@alaska.gov

July 31, 2020

To Whom it May Concern,

The Wine & Spirits Wholesalers of America (WSWA) respectfully submits the following comments regarding the proposed regulation change to 3 AAC 304.365 to allow package stores to repackage wine or distilled spirits from kegs or barrels.

WSWA is the national trade association representing the distribution tier of the wine and spirits industry, dedicated to advancing the interests and independence of distributors and brokers of wine and spirits. Founded in 1943, WSWA has more than 380 member companies in 50 states and the District of Columbia, and its members distribute more than 80 percent of all wine and spirits sold at wholesale in the United States. We submit these comments to share WSWA's experience in other states and note that our aim throughout is to ensure the preservation of public health and safety while maintaining a fair, robust and dynamic beverage alcohol marketplace.

We write to note that various Federal Alcohol Administration Act (FAA Act) regulations apply to distilled spirits formulation, labeling, and container size and are of relevance to the proposed regulation. As such, the proposed sale of spirits products in kegs or barrels to package retailers raises federal compliance questions that we believe warrant further inquiry. In particular, we would note the FAA regulations in 27 Code of Federal Regulations governing formula approvals, certificate of label approvals, and standards of fill.

We thank you for your time and consideration of these matters, and welcome further discussion should questions arise.

Respectfully,

Jake Hegeman

Assistant General Counsel, Legal and Regulatory Affairs
Wine and Spirits Wholesalers of America, Inc.
