



**Alcoholic Beverage Control Board
Meeting Agenda**

***Subject to change due to viral emergency**

Wednesday, April 15, 2020

Third Judicial District

April 15, 2020 at 2:00 pm

Call-in Number: 1-800-315-6338, code 69173#

All times are approximate.

● **ADMINISTRATION**

2:00 pm

A. Call to Order

2:01 pm

B. Roll Call

*Rex Leath, Public Safety Member
Charles "Charlie" Milton Cross, Rural Public Member
Sara Belle Erickson, Public Member
Glenn Brady, Industry Member
Dana Walukiewicz, Industry Member*

*Glen Klinkhart, Interim Director
Carrie Craig, Records and Licensing Supervisor
Joan Wilson, Assistant Attorney General*

● **EMERGENCY MEETING TO DISCUSS THE ABC BOARD'S ONGOING RESPONSE RELATED TO COVID19 MATTERS**

Joan Wilson, Assistant Attorney General, provides background and introduction about the two documents they received just prior to the meeting. She discusses Glenn Brady's suggestions for 3 AAC 304.185. Agent doesn't extend to a 3rd party delivery contract. Joan will add a sentence to clarify the definition of the agent. Glenn Brady states that the prohibition in 3 AAC 304.635(a) will stand – DoorDash, Uber Eats are not part of this. Glenn B. says the intent is clear.

Glenn Brady mentions 3 AAC 304.920: The one item he noted was that the wording is clear on item 5 page 2 – use of not intoxicated vs. visibly intoxicated – drunken person. The board must apply the same standards for service and they are not creating a new definition of impairment or intoxication.

Rex L. mentions that under AS 04.16.030 references a person receiving compensation for transporting alcohol. Glenn B. says chain of responsibility must be maintained and that he was referencing the illegal state of intoxication with respect to service.

Discussion on the word “verified” – requirements to check every identification. Charlie C. speaks (phone breaks up) about the mental state of the person making the delivery. Glenn B. says there is no expectation that licensees will be breathalyzing customers. The transaction must occur in person with safe distancing by the licensee or agent. The standard is AS 04.16.030. Should make it simpler by adding the word “shall”.

Section C on page 2, “shall or shall not” regarding updating premises to include curbside. The Director and the board would like this process streamlined/digital. Need to list license number, address and intent in the email. Include a description of where the curbside will occur. The licensee shall provide written notice of their declaration to the AMCO office.

Section 2 page 3: The definition of “factory sealed”. No repackaging allowed. Growlers being filled by the brewery are considered “factory sealed” and this is okay as this has been happening. This is only temporary. Conversation with Dana W. - public health risk is the priority, not economics. Rex L. talks about factory, manufacture and licensee sealed – someone with a TTB permit. Doesn’t cover beverage dispensaries and restaurant/eating place licenses and its literally called repackaging when packaging stores fill growlers. Does not want to open the door for to-go margaritas. Charlie C. has concerns regarding non-factory labeling. What are the ingredients? Inclusion of growlers that are factory sealed. Glenn B. asks to strike “or growler sealed by licensee” throughout. Glenn B. says a growler is a bottle, sealed at the production factory (TTB permit holder).

Page 4 contains the same language about “intoxicated”.

Dana W. asks if home delivery is only for beverage dispensaries (who have a restaurant designation permit) and restaurant/eating place licenses. Glenn B. says yes. What about breweries who have food service (either kitchens onsite or food truck partnerships)? Glenn B. says the board is trying to provide some form of mitigation to licensees and businesses directly impacted by the public health mandates – food trucks are not in this category.

Dana W. suggests any licensees that have food service should be allowed – on premises dining. Glenn B. says it needs to be a licensee-controlled, bona fide restaurant which precludes food trucks and other 3rd party entities. Any license type.

Dominic and Cara Jones, with Arctic Bar in Ketchikan, says that Ketchikan does not have food trucks and all the bars are closed.

Sara E. agrees with Dana W. and misunderstood Glenn’s intent. Glenn B. reiterates the purpose behind home deliveries – the board is trying to provide a mechanism for economic assistance to licensees that have been crushed by circumstances beyond their control. The board is trying to do this in a fair and equitable way as possible that does not increase the risk of public health exposure. The requirement for delivery is food and alcohol and if any licensee has a food service operation that is closed for in-premises dining, would be

allowed for deliveries and curb side pickup. They are allowing alcohol sales from those licensees in a restricted manner. Rex L. says this is an emergency, temporary fix and they are not going to find a perfect resolution. The board should find a middle ground to expediate this process.

Dominic, with Arctic Bar, asks what is going to be done for the bars (without restaurants) regarding curbside? Glenn B. says the board is doing the best they can and knows it's a shortcoming. He says it is not intended to single them out. Joan Wilson verifies that beverage dispensaries can do curbside but not home delivery. Food is specific to delivery.

Kerby Coman, licensee, talks about bars allowing growlers to be filled for curbside. Glenn B. says it is a matter of repackaging – these temporary regulations are not perfect.

Arlette Lavelle, licensee for Lavelle's Taphouse, has a beverage dispensary that has 36 taps of beer. She is worried about losing product (going bad) and loss of finances. Dana W. says the board should address the labeling on the growlers.

Mike, licensee in Fairbanks, asks Dana W. to explain more about beverage dispensaries labeling the growlers. Dana W. discusses concerns that certain licensees can only sell certain types of alcohol. Glenn B. asks the board if they are okay with growlers being repackaged by beverage dispensaries.

Sarah Oates, President and CEO of CHARR, speaks about the ability for licensees to order products in bottles and cans and disregard kegs. What about the licensees in remote areas that have ordered product well in advance – in some cases for the entire year? Not to allow them to sell the alcohol they currently have and require them to buy new types of alcohol to meet packaging requirements would be unbelievably difficult. These communities are already being hit hard with the loss of tourism dollars.

Adam Wood with Devil's Club Brewing, discusses labeling – adopting the federal guidelines for language on the labels. Glenn B. says to leave that language as written and not strike it through regarding the growler packaging. Sara E. agrees.

*Dominic, licensee, speaks again – stickers or tags, the bartenders would continue to do their job. Joan Wilson suggests some language – "licensee sealed tamper proof growler". Glenn B. says that meets the intent. He wants to come out of this meeting with action to give relief to licensees. **Sara E. motions to adopt the amended emergency regulations.***

Dana W. asks about the value of meal. Glenn B. proposes 50%. Joan Wilson defines "meal" as food purchased at a value at least equal to the alcohol purchase accompanying the food order. Sara E. says the board can't cover every possible scenario and what if situation.

Dominic, licensee, verifies that the board was discussing third party food vendors being allowed to deliver with alcohol. Glenn B. says no, the board is strictly prohibiting that.

Mary Magnuson, with the Mean Queen – beverage dispensary with a restaurant designation in Sitka, says that making a 50% rule would prevent the sale of higher end alcohol products. Urges the board to use a reasonable meal cost.

Bob Klein, former board chair and licensee, reminds everyone that the 50% is for overall sales not individual sales. Glenn B. says there is no clean way to do this in every circumstance with these temporary regulations.

Eugene Haberman, member of the public, comments about the public process.

Joan has a proposal (phone breaks up). The food order must be 50% of the alcohol value. Charlie C. says that the licensees understand that they are required to meet the 50% food sales for the year. They have to trust licensees to follow regulations. Sara E. mentions removing some language (phone breaks up).

Joan Wilson suggests the board goes with “what is a meal/a main course” instead of the price of food. Glenn B. advocates for a set percentage even though it will be arbitrary and not perfect and not make everyone whole. Sara E. likes the 33/66 – it’s a good compromise.

Joan says, “meal” means food purchased at a retail price that is at least 50% of the retail price of the alcohol purchase accompanying the order. Glenn B. states that the pricing and marketing statutes are still in place.

Sara Erickson amends her earlier motion to adopt the emergency regulations as amended as of 3:45 pm with Joan’s language: “meal” means food purchased at a retail price that is at least 50% of the retail price of the alcohol purchase accompanying the order. Dana W. seconds. Joan mentions language that says, the licensee will not use a third-party delivery service – is that the will of the board. Glenn B. says, yes. None opposed, motion carries.

Rex L. motions to adopt the emergency findings. Charlie C. seconds. None opposed, motion carries.

Joan W. asks if she should request the Governor’s office to extend the home delivery suspension to other license types that operate bona fide restaurants under their control? Glenn B. say, yes.

Glenn B. wishes to keep the April 22nd emergency meeting – agenda is strictly for matters pertaining to Covid-19 and the board’s response.

Joan W. clarifies: when bars are offering filled growlers, those are not mixed drinks, correct? Glenn B. says it is beer or wine only.

Glenn B. says to the public it is his intent to maintain responsiveness and openness for the public and the industry.

Regulations take effect upon filing by the Lieutenant Governor’s office. Licensees will be notified via our website. It will not be immediate, but very soon.

● **Adjourn**

3:55 pm: Sara E. motions to adjourn. Charlie C. seconds. None opposed, motion passes.