



## MEMORANDUM

TO: Alcoholic Beverage Control Board

DATE: December 24, 2020

FROM: Glen Klinkhart, Interim Director

RE: Dean Rand Complaint

**Requested Action:** Complainant requests financial restitution and revocation of all licenses held Common Carrier – Vessels that do not have a US Coast Guard Certificate of Compliance on file.

**Statutory Authority:** AS 04.11.560(a): “An action of an officer, employee, or agent of the board relating to the administration of enforcement of this title may be appealed to the board by the aggrieved party.”

**Background:**

The statutes governing alcohol licensing give the board oversight to ensure the public health, safety, and welfare is protected in relation to alcohol licensing. AS 04.11.370 states that a license or permit may be suspended or revoked if the licensee fails to comply with public health, fire, or safety laws and regulations in the state. Clearly the safety of the premises is expected to be a concern of the board, as well as the control of alcoholic beverages.

AMCO has noted three categories of vessels that apply for common carrier licenses:

- Vessels that receive US Coast Guard inspections and are issued a Certificate of Inspection (COI)
- Foreign vessels that receive inspections in their home country, verified by the US Coast Guard through a Certificate of Compliance (COC)
- Vessels that are not required to be inspected by the US Coast Guard.

In 2019, staff developed the following policy: for vessels that are not required to be inspected by the US Coast Guard and do not have a US Coast Guard Certificate of Compliance (COC-for foreign vessels), AMCO requires participation in the 5-Star Safety Program, which is a no-cost program where the US Coast Guard conducts a limited inspection of the vessel and upon a successful inspection, provide a two-year 5-Star Decal.

The above information and additional detail was provided to the ABC Board on April 30, 2019 (and attached in this packet) where the board agreed with the former Director’s amended policy to allow Common Carrier-Vessels to provide a copy of their US Coast Guard Certificate of Compliance or a copy of the 5-Star Decal or the Certificate of Compliance with new and transfer license applications.

Attachment: Request to present complaint to the ABC Board (pgs 1-6)  
Complaint for Breach of Contract (pgs 7-13)  
Exhibits (pgs 14-56)

April 30, 2019 Board Minutes regarding requirements for Common Carrier-Vessels (pgs 57-59)

April 30, 2019 Board packet regarding previous minutes (pgs 60-82)

**From:** Herbert Viergutz  
**To:** [Alcohol Licensing, CED ABC \(CED sponsored\)](#)  
**Cc:** [dean.rand@gmail.com](mailto:dean.rand@gmail.com)  
**Subject:** Re: Complaint  
**Date:** Friday, December 18, 2020 12:54:21 PM

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January 5 would work. Should we prepare a summary presentation, or what is the procedure?  
Thank you.

Sent from my iPhone

On Dec 17, 2020, at 9:23 AM, Alcohol Licensing, CED ABC (CED sponsored) <[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)> wrote:

Good morning,

Our Assistant Attorney General responded with information that an OAH hearing is not the appropriate venue to hear Mr. Rand's complaint. OAH works for the boards and serves as a neutral hearing officer to help them reach decisions. There is no private right of action there.

She suggests that the complaint be presented to the ABC Board for their consideration at the next meeting which is January 5<sup>th</sup> if Mr. Rand wishes to do so.

Please let me know within the next few days if he would like to do so because the agenda will be finalized by COB 12/23 and no changes can be made after that date.

The following ABC meeting after January is scheduled for March 30, 2021.

Sincerely,

*Carrie Craig*

Records and Licensing Supervisor  
Alcohol and Marijuana Control Office  
550 West 7<sup>th</sup> Avenue, Suite 1600  
Anchorage, AK 99501  
907-269-0350

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**From:** Herbert Viergutz [<mailto:PenguinH1969@outlook.com>]  
**Sent:** Wednesday, December 16, 2020 4:39 PM  
**To:** Alcohol Licensing, CED ABC (CED sponsored) <[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)>  
**Cc:** [dean.rand@gmail.com](mailto:dean.rand@gmail.com)

**Subject:** Re: Complaint

Thank you for your response.

Sent from my iPhone

On Dec 16, 2020, at 10:05 AM, Alcohol Licensing, CED ABC (CED sponsored) <[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)> wrote:

Good morning,

The OAH request has been submitted to our Administrative Officer, our Assistant Attorney General and to the Director. A representative from our office will be in touch once everyone has a chance to review the documentation.

Sincerely,

*Carrie Craig*

Records and Licensing Supervisor  
Alcohol and Marijuana Control Office  
550 West 7<sup>th</sup> Avenue, Suite 1600  
Anchorage, AK 99501  
907-269-0350

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**From:** Herbert Viergutz <[PenguinH1969@outlook.com](mailto:PenguinH1969@outlook.com)>  
**Sent:** Monday, December 14, 2020 6:21 AM  
**To:** Alcohol Licensing, CED ABC (CED sponsored) <[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)>  
**Cc:** [dean.rand@gmail.com](mailto:dean.rand@gmail.com)  
**Subject:** Fwd: Complaint

Will we be extended the courtesy of a response?

Sent from my iPhone

Begin forwarded message:

**From:** Herbert Viergutz <[PenguinH1969@outlook.com](mailto:PenguinH1969@outlook.com)>  
**Date:** November 30, 2020 at 5:00:02 AM AKST  
**To:** "Alcohol Licensing, CED ABC (CED sponsored)" <[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)>  
**Cc:** "[dean.rand@gmail.com](mailto:dean.rand@gmail.com)" <[dean.rand@gmail.com](mailto:dean.rand@gmail.com)>



**Subject: Re: Complaint**

I would appreciate a status update on this matter, and thank you in advance for your time involved in responding.

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**From:** Alcohol Licensing, CED ABC (CED sponsored)  
<[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)>  
**Sent:** Friday, November 13, 2020 4:00 PM  
**To:** Herbert Viergutz <[PenguinH1969@outlook.com](mailto:PenguinH1969@outlook.com)>;  
Alcohol Licensing, CED ABC (CED sponsored)  
<[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)>  
**Cc:** [dean.rand@gmail.com](mailto:dean.rand@gmail.com) <[dean.rand@gmail.com](mailto:dean.rand@gmail.com)>  
**Subject:** RE: Complaint

Good afternoon,

I have received both emails and their attachments, thank you. I will review them with our Director next week and we will be in touch.

Thanks again for sending those and you have a great weekend!

*Carrie Craig*

Records and Licensing Supervisor  
Alcohol and Marijuana Control Office  
550 West 7<sup>th</sup> Avenue, Suite 1600  
Anchorage, AK 99501  
907-269-0350

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**From:** Herbert Viergutz  
[<mailto:PenguinH1969@outlook.com>]  
**Sent:** Friday, November 13, 2020 3:50 PM  
**To:** Alcohol Licensing, CED ABC (CED sponsored)  
<[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)>  
**Cc:** [dean.rand@gmail.com](mailto:dean.rand@gmail.com)  
**Subject:** Re: Complaint

Transmittal No. 2. We understand it will take some time to review and discuss this matter internally, and proceed accordingly. We will do nothing further for the

remainder of this month, and await your response.  
Thank you.

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**From:** Alcohol Licensing, CED ABC (CED sponsored)  
<[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)>  
**Sent:** Friday, November 13, 2020 2:48 PM  
**To:** Herbert Viergutz <[PenguinH1969@outlook.com](mailto:PenguinH1969@outlook.com)>  
**Subject:** Re: Complaint

Ok, that makes sense. For some reason I assumed it was emailed - my apologies. I look forward to reviewing the documents & I will do my best to figure this out for you.

Thanks!

Get [Outlook for iOS](#)

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**From:** Herbert Viergutz <[PenguinH1969@outlook.com](mailto:PenguinH1969@outlook.com)>  
**Sent:** Friday, November 13, 2020 1:52:45 PM  
**To:** Alcohol Licensing, CED ABC (CED sponsored)  
<[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)>  
**Subject:** Re: Complaint

It was not an email, but a priority mailing which was tracked as accepted. Total was over 50 pages. I will see if I can email it over the weekend. Thank you.

Sent from my iPhone

On Nov 13, 2020, at 12:21 PM, Alcohol Licensing, CED ABC (CED sponsored) <[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)> wrote:

Good afternoon, Mr. Viergutz

You seem to have me at a loss. The only email we received at [alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov) from [PenguinH1969@outlook.com](mailto:PenguinH1969@outlook.com) is the one below with "Please see below" in the body of the email.

Could you please provide more detail - such as the nature of the OAH hearing, license number/dba and provide the documentation

you referenced below and I can look into it further. Due to the Covid-19 pandemic, AMCO staff has been working remotely and have yet to be issued state cell phones, therefore communication must be via email at this time.

Respectfully,

*Carrie Craig*

Records and Licensing Supervisor  
Alcohol and Marijuana Control Office  
550 West 7<sup>th</sup> Avenue, Suite 1600  
Anchorage, AK 99501  
907-269-0350

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**From:** Herbert Viergutz  
<[PenguinH1969@outlook.com](mailto:PenguinH1969@outlook.com)>  
**Sent:** Friday, November 13, 2020 12:11 PM  
**To:** Alcohol Licensing, CED ABC (CED sponsored) <[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)>  
**Subject:** Fw: Complaint

Please see below.

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**From:** Herbert Viergutz  
**Sent:** Friday, November 13, 2020 9:35 AM  
**To:** [alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)  
<[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)>  
**Cc:** Dean Rand <[dean.rand@gmail.com](mailto:dean.rand@gmail.com)>  
**Subject:** Complaint

On September 28, 2020, I forwarded correspondence, with attached Complaint, including Exhibits, asking that your forward same to OAH for filing and disposition. To date, I have received no response. As a result, I assume that you are waiving your right to engage in the Administrative Hearing process prior to Superior Court involvement. In the event my analysis is in

error, please provide evidence of forwarding to OAH. Failing to receive same, I will proceed accordingly. Thank you for taking the time to consider this matter.

LAW OFFICE OF HERBERT A. VIERGUTZ  
645 G STREET, SUITE 100-624  
ANCHORAGE, AK 99501  
(907) 250-3488  
PENGUINH1969@OUTLOOK.COM

September 28, 2020

Alcohol and Marijuana Control Office  
550 West 7<sup>th</sup> Ave., Suite 1600  
Anchorage, Ak 99501

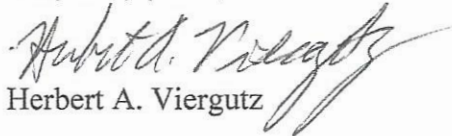
*Re: Complaint*

Dear Persons:

Please forward the attached Complaint to OAH for filing. The attempts to deal with this matter with the agency have been futile, as evidenced by exhibit 2 to the Complaint, and the available administrative remedies have therefor been exhausted.

Should you have any questions with regard to the above, please feel free to contact me at your convenience.

Very truly yours,

  
Herbert A. Viergutz

1 **BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS**

2 DISCOVERY VOYAGES LLC; AND DEAN  
3 RAND

4 Plaintiffs,

5 v.

6 ALCOHOL AND MARIJUANA OFFICE,  
7 DEPARTMENT OF COMMERCE AND  
8 ECONOMIC DEVELOPMENT, STATE OF  
ALASKA,

Defendants.

OAH No. \_\_\_\_\_

9 **COMPLAINT FOR BREACH OF CONTRACT; MISREPRESENTATION; AND**  
10 **DECLARATORY JUDGMENT**

11 I.

12 INTRODUCTION

13 COMES NOW the Plaintiff, Discovery Voyages LLC (hereinafter "Discovery"), by and  
14 through its counsel of record, The Law Office of Herbert A. Viergutz, P.C., and states as  
15 follows:

16 1. Discovery is an Alaska Limited Liability Company which is duly registered in the State  
17 of Alaska, and has complied with the laws of the State of Alaska that are prerequisite to  
18 bringing of this action.

19 2. Upon knowledge and belief Defendant, the Alcohol and Marijuana Control Board is an  
20 agency of the State of Alaska, Department of Commerce & Economic Development,  
21 (hereinafter "AMCB").

22 3. Dean Rand (hereinafter "Rand") is a private individual who, prior to incorporation, owned  
23 and operated Discovery Voyages as a dba.

24 II.

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1 **FACTS RELEVANT TO ACTION**

2 4. AS 04.11.180(a) states: "A common carrier dispensary license authorizes the holder to  
3 sell alcoholic beverages for consumption aboard a vehicle, boat, or train licensed by a state or  
4 federal agency for passenger travel, or aboard aircraft operated by an airline licensed by a  
5 state or federal agency for passenger travel."

6 5. AMCB has historically required that any vessel in question have a valid Certificate of  
7 Inspection (COI) issued by the U.S. Coast Guard before it be considered for issuance of a  
8 liquor license.

9 6. Plaintiffs have had, and presently have, a COI, an example of which is attached hereto  
10 as Exhibit 1.

11 7. In fact, on July 21, 2014, the AMCB specifically and clearly confirmed, "we are familiar  
12 with what a COI is and that we do require copies of them [a COI] with Common Carrier  
13 applications." (See Exhibit 2 hereto, counsel's May 30, 2018 correspondence to AMCB, with  
14 Discovery's/Rand's letter with lettered Exhibits- Exhibit C, at page 2).

15 8. Hence, AMCB has considered the COI as the only official document that is accepted as  
16 proof that a vessel has met the conditions stated in AS 04.11.180(a) and 3 ACC 304.340(e),  
17 the final sentence of which states in pertinent part, "a vessel licensed by a state or federal  
18 agency for passenger travel".

19 9. Approximately 25 years ago, Rand and Discovery provided their COI, along with  
20 additional required documentation to AMCB, at which time they were granted a liquor  
21 license by the State of Alaska. Since that date, Rand and Discovery have paid their  
22 required fees, have submitted their required documentation, including COI's, thus  
23 enabling their business to possess a liquor license on a yearly basis since said date.

24 10. AMCB has violated its own policies, requirements and regulations, as well as existing  
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1 law, by issuing common carrier liquor licenses to uninspected vessels carrying passengers for  
2 hire, thus allowing liquor dispensary onboard uninspected vessels, which poses an  
3 unnecessary risk to the safety of the traveling public, to say nothing of the monetary damages  
4 suffered by Discovery and Rand as a result of AMCB's actions/jnactions.

5 11. Discovery/Rand have made repeated attempts over the course of a five year period to  
6 have the matter investigated; appropriately addressed; and resolved by AMCB (See Exhibit 2  
7 hereto).

8 12. However, despite repeated assurances to the contrary (See Exhibit 3 hereto, AMCB letter  
9 dated June 25, 2018) Discovery/Rand has never, at any point in time, been informed either  
10 why AMCB has disregarded the law in issuing numerous common carrier liquor licenses to  
11 uninspected vessels, i.e. those absent COI's; nor has AMCB informed Discovery/Rand of the  
12 status of any investigation or enforcement action.

13 13. All of the above occurring concurrently with financial losses being suffered by  
14 Discovery/Rand directly attributable to AMCB issuing common carrier dispensary licenses to  
15 vessels absent COI's.

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### III.

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#### CLAIMS FOR RELIEF

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##### 1. Breach of Contract:

20 14. Discovery and Rand reallege the allegations contained in paragraphs 1 thorough 13  
21 above, as though set forth verbatim herein.

22 15. AMCB has materially breached its agreement with Discovery and Rand by failing to  
23 require all vessels that are to be issued common carrier dispensary licenses to provide a COI  
24 at the time of application; issuance of the license; on a yearly basis, and at all times pertinent

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1 to the period of the license.

2 16. AMCB's material breach of its agreement with Discovery and Rand has resulted in damage  
3 to Discovery and Rand an amount in excess of \$100,000.00, the exact amount to be  
4 determined at Trial.

5 **2. Misrepresentation**

6 17. Discovery and Rand reallege the allegations contained in paragraphs 1 through 16  
7 above, as though set forth verbatim herein.

8 18. AMCB knew or should have known at the time it entered into its agreement with  
9 Discovery and Rand, that there were inaccuracies in the information provided by AMCB to  
10 Discovery and Rand.

11 19. Discovery and Rand could not reasonably have been aware of these inaccuracies,  
12 which foreseeably would adversely affect the financial condition of Discovery/Rand. In fact,  
13 Discovery and Rand were entitled to rely and did rely on the information as inaccurately  
14 portrayed by AMCB.

15 20. AMCB's misrepresentations were negligent and/or intentional.

16 21. The information provided by AMCB to Discovery and Rand with regard to the necessity  
17 of obtaining and at all times possessing a current COI on board, was a substantial and  
18 material inducement for Discovery and Rand to enter into the agreement to obtain a common  
19 carrier dispensary license, a factor of which AMCB had both actual and constructive  
20 knowledge.

21 22. In these and other particulars to be established at Trial, AMCB misrepresented  
22 essential underlying aspects of the agreement, which a reasonably prudent business such as  
23 Discovery and Rand would deem relevant and material.

24 23. As a result of AMCB's misrepresentations, Discovery and Rand have been damaged in  
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1 an amount in excess of \$100,000.00, the exact amount to be determined at Trial. The  
2 egregious conduct of AMCB in this matter is such that Discovery and Rand are entitled to  
3 recovery.

### 4 **3. Declaratory Judgment**

5 24. Discovery and Rand reallege the allegations contained within paragraphs 1-23 above,  
6 as though set forth verbatim herein.

7 25. Discovery and Rand have suffered, and continue to suffer, financial loss as a result  
8 being required to obtain and submit a COI as a requirement of obtaining a common carrier  
9 dispensary license, while other similarly situated vessels have been able to obtain common  
10 carrier dispensary licenses absent submitting a current COI.

11 26. As a result of AMCB's actions/inactions, Discovery and Rand have been damaged in  
12 an amount in excess of \$100,000.00, the exact amount to be determined at Trial.

13 27. Discovery and Rand request that the Hearing Officer also issue his/her declaration that  
14 AMCB cease issuing common carrier dispensary licenses absent vessels providing a  
15 current COI ; and that investigations be commenced to determine those vessels which  
16 have been issued common carrier dispensary licenses absent current COI's. The Hearing  
17 Officer should further declare that such licenses be revoked immediately, as causing a  
18 substantial safety risk to the public.

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### **IV.**

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### **PRAYER FOR RELIEF**

22 1. For Judgment against AMCB in an amount in excess of \$100,000.00, the exact amount  
23 to be determined at Trial.

24 2. For a declaration consistent with the content of paragraph 27 above.

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- 1 3. For pre-judgment interest on all elements of Discoverys' and Rands' damages at the  
2 maximum allowable rate.
- 3 4. For costs and attorney fees incurred in pursuing this matter pursuant to AS 45.55.930  
4 and Civil Rule 82..
- 5 5. For post-judgment interest on the final amount due and owing at the maximum  
6 allowable rate until satisfaction.
- 7 8. For such other and further relief as is allowed by law and that this Hearing Officer may  
8 deem just and appropriate under the circumstances.

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Dated this 28 day of September, 2020

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Herbert A. Viergutz, AK Bar No. 8506088

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# Certificate of Inspection

For ships on international voyages this certificate fulfills the requirements of SOLAS 74 as amended, regulation V/14, for a SAFE MANNING DOCUMENT.

Vessel Name	Official Number	IMO Number	Call Sign	Service
DISCOVERY	276175		WDD2619	Passenger (Inspected)

Hailing Port	Hull Material	Horsepower	Propulsion
CORDOVA, AK	Steel	400	Diesel Reduction
UNITED STATES			

Place Built	Delivery Date	Keel Laid Date	Gross Tons	Net Tons	DWT	Length
JACKSONVILLE FL	15Dec1958	01Jan1958	R-59	R-49		R-57.3
UNITED STATES			1-	1-		10

Owner	Operator
DEAN W RAND DISCOVERY WHITTIER BOAT HARBOR (WHITTIER, AK)205 E DIAMOND BLVD, # 609 ANCHORAGE, AK 99515 UNITED STATES	DEAN W RAND DISCOVERY WHITTIER BOAT HARBOR (WHITTIER, AK)205 E DIAMOND BLVD, # 609 ANCHORAGE, AK 99515 UNITED STATES

This vessel must be manned with the following licensed and unlicensed Personnel. Included in which there must be 0 Certified Lifeboatmen, 0 Certified Tankermen, 0 HSC Type Rating, and 0 GMDSS Operators.

1 Masters	0 Licensed Mates	0 Chief Engineers	0 Oilers
0 Chief Mates	0 First Class Pilots	0 First Assistant Engineers	
0 Second Mates	0 Radio Officers	0 Second Assistant Engineers	
0 Third Mates	0 Able Seamen	0 Third Assistant Engineers	
0 Master First Class Pilot	0 Ordinary Seamen	0 Licensed Engineers	
0 Mate First Class Pilots	1 Deckhands	0 Qualified Member Engineer	

In addition, this vessel may carry 18 Passengers, 0 Other Persons in crew, 0 Persons in addition to crew, and no Others. Total Persons allowed: 20

Route Permitted And Conditions Of Operation:  
**---Coastwise---**  
 Gulf of Alaska, between Cape St. Elias and Cape Douglas, Alaska, including the Kodiak Archipelago, not more than twenty (20) nautical miles offshore.  
 If the vessel is away from the dock, or passengers are on board or have access to the vessel for a period exceeding twelve (12) hours in a twenty-four (24) hour period an alternate crew shall be provided.  
 One child-size life preserver shall be provided for each person weighing less than ninety (90) pounds.  
 When engaged in activities listed in 46 USC 2101 (18), the vessel is designated as an Oceanographic Research  
**\*\*\*SEE NEXT PAGE FOR ADDITIONAL CERTIFICATE INFORMATION\*\*\***

With this Inspection for Certification having been completed at Anchorage, AK, UNITED STATES, the Officer in Charge, Marine Inspection, PRINCE WILLIAM SOUND certified the vessel, in all respects, is in conformity with the applicable vessel inspection laws and the rules and regulations prescribed thereunder.

Annual/Periodic/Re-Inspection				This Amended certificate issued by: <i>Justin W. Jacobs</i> J. W. Jacobs, CDR, USCG, By Direction Officer in Charge, Marine Inspection Western Alaska Inspection Zone
Date	Zone	A/P/R	Signature	
20Jul2018	SEC Anchorage	A	JEROME JAY	
20May2019	SEC Anchorage	A	GREIDANUS RICHARD	
28May2020	SEC Anchorage	A	GREIDANUS RICHARD	



# Certificate of Inspection

Vessel Name: DISCOVERY

Vessel (ORV) under the authority of 46 CFR 3.10-1(c)(1). When operating as an ORV, passengers or freight for hire shall not be carried in accordance with 46 USC 443. All route restrictions and equipment requirements contained in this COI remain in effect. Explosives and other hazardous materials required by the vessel's oceanographic research activities shall be subject to either the requirements of 49 CFR 171-179 and applicable portions of 33 CFR 6, 125, 126, or 46 CFR 194.

When engaged in oceanographic research, carriage of gasoline is limited to two hundred (200) gallons in properly packaged drums in an appropriate rack.

When engaged in oceanographic research, a maximum of twelve (12) scientific personnel may be carried.

The owner, charterer, master, or managing operator of a vessel carrying overnight passengers shall have a suitable number of watchmen patrol throughout the vessel during the nighttime, whether or not the vessel is underway, to guard against, and give alarm in case of, a fire, man overboard, or other dangerous situation.

When operating as an uninspected passenger vessel carrying six (6) or less passengers for hire, the crew may be reduced to one (1) "Operator of Uninspected Passenger Vessels" or equivalent. Vessel must be in compliance with the requirements of 46 CFR 25.

Overnight accommodations for 12 passengers.

### ---Hull Exams---

Exam Type	Next Exam	Last Exam	Prior Exam
DryDock	31Oct2020	14May2018	20May2014
Internal Structure	31May2022	28May2020	14May2018

### ---Stability---

Type	Issued Date	Office
Letter	01Dec2011	Anchorage, AK

### ---Lifesaving Equipment---

Total Equipment for 20 Persons

Primary Lifesaving Equipment	Quantity	Capacity	Required
Lifeboats (Total)	0	0	Life Preservers (Adult) 20
Lifeboats (Port)	0	0	Life Preservers (Child) 2
Lifeboats (Starboard)	0	0	Ring Buoys (Total) 2
Motor Lifeboats	0	0	With Lights 1
Lifeboats With Radio	0	0	With Line Attached 1
Rescue Boats/Platforms	0	0	Other 0
Inflatable Rafts	1	20	Immersion Suits 0
Life Floats/Buoyant App	0	0	Portable Lifeboat Radios 0
Inflatable Buoyant Apparatus (IBA)	0	0	Equipped With EPIRB? YES

### --- Fire Fighting Equipment ---

\*Fire Extinguishers - Hand portable and semi-portable\*

Quantity	Class Type
7	B-I
3	B-II

### ---Certificate Amendments---

Amending Unit	Amendment Date	Amendment Remark
Marine Safety Unit Valdez	10May2018	CONDUCTED CREDIT DRYDOCK EXAM

AMCO Received 11/13/2020





# Certificate of Inspection

Vessel Name: DISCOVERY

Marine Safety Unit Valdez	10Oct2019	ADDED REQUIREMENT FOR WATCHMAN AND ADDITIONAL UPV OPERATOR FOR VOYAGES GREATER THAN 12 HOURS.
Marine Safety Unit Valdez	01Nov2019	Changed wording in COI to "THE OWNER, CHARTERER, MASTER, OR MANAGING OPERATOR OF A VESSEL CARRYING OVERNIGHT PASSENGERS SHALL HAVE A SUITABLE NUMBER OF WATCHMEN PATROL THROUGHOUT THE VESSEL DURING THE NIGHTTIME, WHETHER OR NOT THE VESSEL IS UNDERWAY, TO GUARD AGAINST, AND GIVE ALARM IN CASE OF, A FIRE, MAN OVERBOARD, OR OTHER DANGEROUS SITUATION."
Marine Safety Unit Valdez	06Dec2019	REMOVAL OF OPERATING AS AN OUPV PAST 12 HOURS.
Sector Anchorage	28May2020	Completed 3rd annual inspection, added keel laid date, & updated hull examination dates.

\*\*\*END\*\*\*

LAW OFFICE OF  
**HERBERT A. VIERGUTZ, P.C.**  
P.O. BOX 111062  
ANCHORAGE, ALASKA 99511  
(907) 250-3488  
EMAIL:HVIERGUTZ@HOTMAIL.COM

May 30, 2018

Alcohol and Marijuana Control Office  
550 West 7<sup>th</sup> Ave., Suite 1600  
Anchorage, Ak 99501

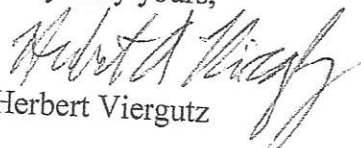
*Re: Common Carrier Liquor License*

Dear Persons:

On December 28, 2016, my client, Mr. Dean Rand of Discovery Voyages, forwarded detailed correspondence (18 pages, with exhibits A-F, copies of which are attached for your convenience) to your office describing the issue related to common carrier dispensary licenses pursuant to AS 04.11.180. No meaningful response was received to that communication. Prior as well as subsequent thereto, additional exchanges between my client and your office occurred. On August 25, 2014, Ms. Sarah Oates from your office stated, in relevant part "As far as the Certificate of Inspection goes, I did mention in my last email that I'm familiar with what a COI is and that we do require copies of them with common carrier applications" (copy attached). On May 3, 2017, Mr. Jeff Rukes from your office affirmed, "Yes, you do need to be approved by the coast guard first". On May 9, 2017 Mr. Rukes continued, "Vessels need a certificate of inspection from the coast guard before being licensed with AMCO." Mr. Rukes concluded on May 10, 2017 saying, "I don't [know] how much clearer I can be on this. Vessels need a certificate of inspection from the co it has to be current. No, we do not accept liquor licenses from other states (copies attached)." In the interim, Mr. Rand provided information on vessels which were not in compliance with the law, but your office took no action. As recent as May 21, 2018, Mr. Rand provided an email to your office containing significant detailed information on two vessels which are operating contrary to law, but no response was received. Discovery Voyages incurs significant costs being in compliance with the law, but loses significant revenue as a result of vessel operations which are out of compliance with the law. As a result, my client has instructed me to file an administrative action against the State addressing your office's failure to enforce the law unless action is taken immediately.

Should you have any questions with regard to the above, please feel free to contact me at your convenience.

Very truly yours,

  
Herbert Viergutz

AMCO Received 11/13/2020

EXHIBIT 2



## **Comments on Proposed Amendments to Common Carrier Dispensary License regulations**

**To:** The State of Alaska, Alcohol Beverage Control Board and staff

**From:** Dean Rand, holder of Common Carrier Dispensary Liquor License #4116

**Subject:** Comments on Proposed Amendment to Regarding Common Carrier Dispensary Licenses.

**Dated:** December 28, 2016

Dear ABC Board and Staff,

My name is Dean Rand. I have had a Common Carrier Dispensary Liquor License for the past 25 years, issued to myself and my vessel, M/V Discovery, for use on my United States Coast Guard (USCG) inspected and certified 12 passenger vessel.

I am writing to the Alcohol Beverage Control Board (ABC Board) with my comments and objections to the proposed amendment (e) to the Common Carrier Dispensary License. This proposed amendment would allow certain "uninspected" vessels to be considered by the ABC Board for issuance of a Common Carrier Dispensary Liquor License

The process involved in licensing a passenger vessel as a Common Carrier Dispensary requires detailed knowledge of multiple government agencies' requirements (law). More specifically, passenger vessels are regulated by the US Dept of Homeland Security Coast Guard (who have laws pertinent to this proposed amendment originating all the way back to maritime laws from the 1700's). Liquor Licensing is handled by the State of Alaska, Alcohol Beverage Control Board. Because of the need to fully understand the applicable laws beyond those of the State of Alaska ABC Board, my arguments against the proposed amendment (e) are lengthy and may seem complex to those not familiar with applicable maritime law.

Additionally, the ABC Staff has offered no explanation or history to the public as to why this proposed amendment is even being put forward. This lack of relevant public information makes it very challenging for any party interested in this proposal's outcome to therefore provide detailed arguments on every possible "thought" that the ABC Staff and Board may have for proposing this amendment.

As presented, this proposed amendment appears to benefit one small fraction of the Alaskan commercial passenger maritime business community at the expense of the rest of the businesses who have been in compliance with State requirements now for many years. Offering one business participant an unfair advantage in a competitive business world is unacceptable and will generate strong opposition and possible court intervention in order to keep the playing field level.

Finally, by allowing any "un-inspected" or "uncertified" passenger vessels to stock and dispense alcoholic beverages in the course of their business would place the traveling publics' safety at a high degree of risk. This "class" of vessel is without a doubt responsible for the most maritime



casualties of any vessel class in the world by virtue of what the term “uninspected” implies. There is little or no reliable independent third party safety oversight, whatsoever, of any part of their entire operation.

However, before addressing the many issues with allowing any uninspected vessel to be considered for issuance of a liquor license, I believe that the Board should review AS 04.11.180(a), a highlighted copy of which is attached and titled A, and review the Board’s proposed 3 AAC 304.340 Chapter 3 with attention to the wording in the last sentence of section (e) where it states that: “No other type of marine vessel qualifies as a common carrier for purpose of obtaining a common carrier dispensary license, UNLESS (my capitalization) it is licensed by a state or federal agency for passenger travel.”

The wording “licensed for passenger travel” has been in this regulation as far back as the early 1990’s, when I first became involved in applying for a liquor License. Since USCG law allows any vessel to carry up to 6 passengers for hire (as I shall further explain), then all vessels meet the state’s requirement of: “licensed for passenger travel”, and so any vessel should be considered for issuance of a liquor license. There is no need to specifically include any other class of vessel (12 pack with 3 staterooms, etc”) in this proposed amendment to the Common Carrier Dispensary license (e).

Considering federal law (US Coast Guard) which regulates (licenses) the carriage of passengers on the navigable waters of the United States of America (and is referenced in the above referenced state code as: “licensed by a federal agency, etc”), it is clear, in USCG law, that all vessels, inspected or uninspected, can carry up to 6 passengers for hire and in some instances, up to 12. These vessels are indeed “licensed for passenger travel” by Federal Code of Regulations, 33, 36, and 46 CFR.

Under the conditions set forth in 3 ACC 304.340 (e), for purposes of AS 04.11.180(a) all vessels meet the definition of “licensed by a federal agency for passenger travel” and so are thereby entitled to be considered for issuance of a Common Carrier Dispensary Liquor License, whether they have “12 passengers and 3 staterooms for overnight passenger travel” or not, or are 5 net tons in displacement or 105 tons, or are rotting rust buckets being run by a crew of drunken pirates! They are all eligible for issuance of State of Alaska liquor licenses.

There exists perhaps in excess of 10,000 vessels just within the state of Alaska which will qualify for liquor license consideration under the terms contained in existing and proposed state of Alaska regulations referenced above. However, it is hard to believe that the State of Alaska, Alcohol Beverage Control Board, ever intended to allow the commercial dispensing of alcoholic beverages on every vessel out there that can legally carry passengers for hire, without consideration of the State of Alaska’s best interest and industry recognized maritime safety standards. If this was the case, then why even have an ABC Board regulating the sale and distribution of alcohol?

The answer to this is that the ABC Board has NOT allowed every vessel out there to be considered for liquor license issuance. The State of Alaska ABC Board has historically required that any vessel in question have a valid Certificate of Inspection (COI) issued by the US Coast Guard before it be considered for issuance of a liquor license.

See attachment C, dated July 21, 2014, 1st and 2nd pages, where the question of vessel licensing qualifications is asked on page one and clearly answered by ABC Board staff on page 2 and again on page 5 as such: "we are familiar with what a COI is and that we do require copies of them with Common Carrier applications".

Although the ABC Board has only considered the COI as the only official document meeting the requirements in AS04.11.180 "licensed", this requirement is not clearly contained in State code. The ABC Board must correct this discrepancy before considering any other amendments to the Common Carrier Dispensary Licensing requirements. Under present state law, it appears that any vessel, inspected or otherwise, must be considered for issuance of a liquor license.

At the time of my original application for a Common Carrier Dispensary License 25 years ago, I was instructed by ABC staff to provide a copy of my vessel's current Certificate of Inspection (COI) issued by the US Coast Guard, Officer in Charge of Marine Safety (OCMI). ABC Staff indicated to me that this document was the only document that they accepted as proof that a vessel met the conditions stated in AS04.11.180 (a) and 3 ACC 304.340(e) last sentence: "a vessel licensed by a state or federal agency for passenger travel", although nowhere in state statute could the specific requirement to produce a COI be found, either 25 years ago or today.

I do operate a USCG Inspected and Certified Passenger Vessel. I provided a copy of my vessel's current COI at the time of my application for a Common Carrier Dispensary License, met all additional requirements, and was issued a Common Carrier Dispensary License.

However, in order to clear up the issue of what is a "vessel licensed for passenger travel", the ABC Board should adopt specific wording allowing only a current and valid Certificate of Inspection issued by the US Coast Guard Officer In Charge of Marine Inspections as proof of "licensing by a state or federal agency for passenger travel". The ABC Board should consider amending language to 3 ACC 304.340 in order to clear up this issue.



## Reasons for requesting that the ABC Board change existing and proposed language in and objecting to section (e) are as follows.

As stated above and shown through email correspondence attachment C, dated July 21, 2014, the ABC Board has historically allowed only vessels which pass the USCG testing procedures for inspected and certified vessels to be considered for consideration of awarding liquor licenses to. An Inspected and Certificated vessel leaves no question as to the sea worthiness of a vessel, the supply of and condition of its safety equipment and the competence of the crew operating that vessel being considered for liquor licensing. The public's safety is most assured when traveling on a US Coast Guard Inspected and Certified passenger vessel.

The vessel inspection process, which results in the issuance of a Certificate of Inspection, is similar to any building code inspection in that there are a number of safety standards which must be met. When these safety standards are not met, the public's safety is put at unnecessary risk.

Although not a maritime incident, a very recent example of why requiring safety standards for any premises open to the public are in the public's best interest can be found in the recent December 2, 2016 news where 36 people burned to death while attending a music concert at a commercial art gallery (named The Ghost Ship) housed in an uninspected building in California. Although only the preliminary findings of this public disaster have so far been announced, the local Fire Marshall stated that this building has not had any safety inspections in over 20 years.

Additionally, since a vessel can not only be used as a floating hotel, restaurant, fishing platform, etc., but is also "transporting" passengers, the licensed deck officers and all deck crew on inspected vessels are also required to meet a number of safety standards. After all of these safety criteria are met, the US Coast Guard, Officer In Charge of Marine Safety (OCMI), issues a document called a Certificate of Inspection (COI).

The practice of recognizing the USCG vessel inspection and approval process for Inspected and Certified vessels was adopted by the ABC Board many years ago in the interest of establishing fair and reasonable industry wide public safety standards.

I was required to provide the COI for my vessel before being considered for liquor licensing by the State over 25 years ago. Additionally, a review of the attached copies of written correspondences (attachment C) between myself and Sarah Oates and Robert Beasley of The ABC Board staff from 2014 specifically stating that "the applicant provide us with a copy of the COI for each vessel", on both page 2 and again on page 5, provides recent evidence that the ABC Staff are aware of and do require that any vessel applying for a Common Carrier Dispensary License produce this document.

It is my understanding that today there are some of the ABC Board staff who are not certain as to what vessels can be considered for liquor licensing. I believe this question was answered many years ago with the ABC Board's staff recognition that having a current and valid COI for any and all vessels applying for a liquor license was the only qualifying way to meet the licensing condition stated in AS 04.11.180. The ABC Board recognized that a current and valid Inspected and Certified vessel document was sufficient demonstration as to the best interest of the State of Alaska and the traveling public's safety. Additionally, by accepting only Certificated vessels into the pool of vessels licensed to serve alcoholic beverages, the State of Alaska is removed from taking responsibility for deciding what vessels are suitably safe for the traveling public.

Allowing any uninspected vessel to carry passengers for hire and have a liquor dispensary onboard would pose unnecessary risks to the safety of the traveling public, as I shall explain in detail.

The differences in safety considerations between an uninspected and inspected vessel is enormous. I know of this because I've been a maritime expert in a number of maritime fields for the past 40 years. Not only did I grow up in a maritime industry family, I've crewed for years on crabbers in the Bering Sea winters and halibut schooners in the Gulf of Alaska during the summers. I'm a highly respected Master Shipwright, Marine Engineer and Marine Surveyor. I am frequently consulted on various maritime casualties and salvages. I've held a 100 ton Masters (Captain) license for the past 30 years and have an extensive background in Maritime Law. I presently own and operate the longest operating Inspected and Certified Passenger Vessel in Alaska. This vessel was designed and built in 1958 for the Presbyterian Church Mission Service in Alaska (originally named the Anna Jackman and home ported in Juneau) and has operated on the coast of Alaska in compliance with the USCG inspected passenger vessel requirements now for close to 60 years.

The Code of Federal Regulations which covers inspected vessel requirements is contained in several volumes of federal law. I will highlight only a portion of the potential differences between an inspected and an uninspected vessel requirements to help those at the ABC Board to better understand the differences between inspected and uninspected vessels and why the Board adopted the COI as the standard for determining the safety of the "premises" to be licensed and the safety of the public being transported throughout Alaska's often dangerous maritime environment.

Starting with the vessel's initial design and construction, USCG inspected vessels must, at a minimum, meet American Bureau of Shipping (ABS) standards for "Vessel Construction and Arrangement". These standards address everything from vessel stability (the ability of the vessel to withstand the most extreme sea conditions) to the type, size and weight of construction materials, to firefighting & dewatering systems, electrical systems, propulsion and steering systems and on down to things like the size and locations of doorways, hallways, and bunks.



ABS Vessel Construction and Arrangement standards would be like a building code for a restaurant, hotel, office or commercial building, etc.

Uninspected vessels could be and often are, built to minimal or no standards. There is no law requiring that they be designed and built to meet any maritime safety standards. There is no required inspection process that any of these uninspected vessels must comply with in order to carry passengers for hire, irregardless of whether they are limited to 6 passengers or 12 or how many "staterooms for overnight passenger travel" they may or may not have.

Inspected vessels and crew must be inspected annually by a team of USCG vessel inspectors and pass this annual inspection process in order to continue to carry passengers for hire, irregardless of how many passengers they carry or how many staterooms the vessel has. The vessel and crew must continue to demonstrate that they meet all of the safety requirements spelled out in federal law. Failure to do so results in forfeiture of the vessel COI and it's privilege to carry any more than 6 passengers for hire or in the case of vessels over 100 gross tons, because of a loophole in The Passenger Vessel Safety Act of 1993, 12 passengers for hire.

Uninspected vessels have no legal requirements to be inspected annually. Uninspected vessels can request that a "courtesy exam" be conducted by someone in the Coast Guard. However, this examination is superficial at best, as it only covers safety equipment required on every vessel operating on the navigatable waters of the US (some fire extinguishers, life jackets, a whistle, a bell, etc). This "exam" is not conducted by the official CG vessel inspection office nor does it result in the issuance of a COI document nor is it approved or signed off by the Officer In Charge of Marine Safety (OCMI).

If any uninspected vessel owner claims that they run a safe operation, then they should be willing and able to prove this by producing a current and valid Certificate of Inspection (COI) for their vessel in question.

Inspected and Certified vessels are inspected annually for any structural or mechanical issues which could compromise the safe operation of the vessel. Rusting steel, wood rot, chafed or loose wires, hoses, etc, fire hazards, broken rails, leaking pipes, or anything defective discovered during the annual inspection process is required (in writing) to be fixed before the vessel is allowed to carry passengers. In some extreme instances, the vessel is not allowed to leave port until the issues are remedied to the satisfaction of the Officer In Charge of Marine Safety (OCMI).

Uninspected vessels have no such requirements. This is one of the many reasons why they are called "uninspected".

Inspected vessels must have all safety equipment updated, installed and fully operational and tested at the time of their annual safety exam. This includes USCG approved life rafts, flares,

life jackets with lights, fire extinguishers, emergency position indicating radio beacon, emergency lighting, emergency radios, life rings, high water and fire alarms, dewatering system testing, fixed fire fighting system check, navigational equipment like radar, GPS plotters, etc. are tested, all navigational charts need to be updated, and on and on the list goes.

Inspected vessels have strict "Manning" requirements which are spelled out in federal law. This law dictates how many licensed deck officers a vessel must have in addition to qualified crew members needed for the safe operation of the vessel.

A 12 passenger inspected vessel operating overnight tours (with overnight staterooms for passengers), is required to have a USCG licensed Master (Captain) in addition to a USCG licensed Mate for deck officers. Additionally, an inspected vessel, such as described above, is required to have a minimum of two "deck hands" or additional qualified crew. The Certificate of Inspection clearly spells this out as follows: "when passengers have access to the vessel for more than 12 hours in any 24 hour period, an alternate crew shall be provided." That's 4 highly qualified crew members (all inspected vessel crew are drilled by USCG vessel safety inspectors annually) required by USCG law designed to provide the traveling public with a margin of safety on a 12 passenger inspected vessel. Although some crew members may be "off duty" during part of each 24 hour period, (USCG law forbids any crew member on inspected vessels from being on duty more than 12 hours in a 24 hour period) all crew members are still available to assist in emergency situations, if needed. After all, they are at sea on the coast of Alaska and can't just dial 911 expecting the fire department to show up with EMT's in 5 minutes.

Uninspected vessels are required to carry only one licensed deck officer who is only required to be licensed as an "operator of uninspected passenger vessel", which requires minimal testing and experience as compared with a "Licensed Master" required on inspected vessels. The Master's license requires an additional year of sea time experience and a much higher degree of testing. Uninspected vessels have no requirements for any other qualified crew members.

Inspected passenger vessels have 4 times the crew requirements of uninspected vessels, including higher qualified captains, and highly qualified deck hands.

An operator of an uninspected vessel can elect to have more crew but is not bound by law to do so and has no requirement that any additional crew be properly trained.

Also, under USCG passenger vessel rules, all inspected vessel crew, including all licensed deck officers (the specific wording contained in the CFR's is: "any crew member working in a safety sensitive position"), are required to pass pre-employment drug testing, maintain enrollment in random drug testing throughout their employment on the vessel, and prove compliance with these rules through regular inspections and extensive documentation.



Uninspected vessels have no required inspection process whereby any of the crew, including the captain, must show drug testing results, maintain enrollment in a certified drug testing program or maintain documentation of any drug and or alcohol prevention program.

An example of how the public's safety was compromised by an uninspected transporter under the influence of narcotics was also recently in the news, when the National Transportation and Safety Board (NTSB) found that the operator of a crashed hot air balloon in Texas, in which 16 people died, was found to be not only using narcotics, but had been doing so for some time.

Inspected vessel crew also must pass annual safety drilling including scenarios for emergencies such as fire-fighting, man overboard, medical emergencies to passengers or crew, vessel running aground, etc..

Uninspected vessels have no such safety drill requirements.

Inspected vessels must, at any time that they have passengers onboard and experience any kind of mechanical failure that can "effect the safe operation of the vessel or the safety of it's passengers and crew", immediately report the "casualty" to the USCG via VHF radio communications, satellite phone, or cell phone if available. The reasoning behind this requirement is public safety. The USCG does not want a vessel out there broken down and drifting towards the rocks without any help available. Notification that there is a shipboard problem, the nature of the problem, and location is the first step that must be taken to address the problem. This notification process is the law for inspected vessels.

Additionally, any shipboard incident that requires medical attention, even something like a sprained ankle or small cut that requires a quick visit to a medical facility, is considered a "reportable incident" and must be reported in writing to the USCG on a detailed "Maritime Incident Report Form". The USCG and National Transportation Safety Board regularly review these reports in the interest of public safety. Through this review process, if any unsafe conditions are trending, either by individual vessel operations or industry wide, those issues can be addressed before they become larger public hazards.

There are no incident reporting requirements for uninspected vessels.

Inspected vessels must maintain and use alcohol testing "strips" in the event of a reportable incident. All inspected vessel crew members must be immediately tested for alcohol use if anyone onboard, crew member or passenger, experiences any kind of accident that requires medical attention. Alcohol test results are sent to the USCG. If any crew members are found to have been using alcohol, they will not be allowed to continue to crew onboard a vessel in any "safety sensitive positions" until they attend and pass a certified alcohol and substance abuse program. Additionally, alcohol related problems outside of crew members' shipboard duties (DUI's or any type of alcohol related incidents onshore) are reported to the CG and will result in

revocation of a crew member's privileges to work onboard any vessel in a safety sensitive position until they get help for their substance abuse problems.

These requirements were put in place by the USCG in response to the 1989 Exxon Valdez Oil Spill in which it was discovered that Captain Hazelwood, one of Exxon's most experienced captains, was a long time alcoholic whose condition rendered him unfit to safely operate any ship. Hazelwood's alcohol problems were known to company management, although management continued to allow him to be in control of an oil tanker regularly dodging icebergs as it transited Valdez Arm in the dark. Had Exxon been required to have a drug and alcohol abuse program in place prior to 1989, this accident more than likely would not have happened. Today, having a drug and alcohol prevention program in place is the law for all inspected vessel operations including inspected cargo and tank vessels such as the Exxon Valdez.

There are no drug and alcohol testing requirements for uninspected vessels crew.

Inspected vessel operators must be enrolled in an Employee Assistance Program (EAP). The EAP offers any crew member who are in need to consult with a medical professional about any emotional or substance abuse issues, access to a 24 hour hot line.

The reasoning for this requirement is public safety. No one wants to have a passenger vessel or an Amtrak train or a passenger airplane under the control of someone who may need psychological help.

Uninspected vessels have no EAP requirement.

Another example of why the public safety is at risk when traveling on an uninspected vessel was also recently in national news. The readers of this may recall the loss of the sailing vessel Bounty (of the movie "Mutiny On The Bounty" fame), and two lives, in the Atlantic Ocean. Since the loss of this vessel, the US Coast Guard and the NTSB have issued their findings. A simple internet search and quick review of these findings clearly show that, had this vessel been subjected to inspected vessel requirements, this maritime casualty would not have happened. The vessel itself, being large and heavily built, should have easily withstood the seas and winds encountered. However, the NTSB and USCG investigation showed that the vessel was poorly maintained and that the hull condition had deteriorated (because of rot) and was of questionable seaworthiness. The condition of the hull would have come to the attention of Coast Guard vessel inspectors many years ago and the vessel would not have been allowed to operate under inspected vessel law.

Also, contained in the Coast Guard and NTSB findings on the loss of the uninspected passenger vessel Bounty were the faulty decisions of the one required licensed deck officer onboard. It was found that his sole decision making process to run a poorly maintained ship into rough sea conditions was partly to blame for the ship's sinking.



Had this ship been inspected and certified, because of its large displacement, there would have been a mandate for a "3 watch system" whereby there are 3 licensed deck officers available to not only run the minute by minute operation of a ship at sea 24 hours a day, 7 days a week, but can you imagine if one licensed deck officer told another licensed deck officer that: "We're gonna run this worn out poorly maintained rotting hulk of a ship into a hurricane", what the other officer in charge would do? The thought of this provokes the scene of a modern day: "mutiny on the Bounty".

At the time of this writing, the family of the lost crew woman from the Bounty have brought a 90 million dollar wrongful death suit against the Bounty's owners. USCG and NTSB findings have already proven negligence on the part of the Bounty's owners and captain because they chose to risk the safety of the ship and its crew by operating the Bounty as an uninspected passenger vessel, simply to save on their cost of doing business.

Additionally, the USCG and NTSB report on the loss of the sailing ship Bounty indicated that the USCG should begin an official review of all uninspected vessels and the hazards that they may present to the traveling public. That review may not be completed or made public for some time and certainly will provoke backlashes from owners of uninspected vessels who do not want to spend the money to offer the traveling public safe cruising.

Some may argue that passengers are allowed to "bring their own bottle" on any vessels whether the vessel and owner are issued a liquor license or not so why not let all vessels whether uninspected or inspected offer liquor to their passengers.

The difference between BYOB and having an open bar onboard a vessel are enormous.

When a passenger brings along their own liquor for their cruise, that liquor remains in the control of the passenger. It would be stored in their personal cabin or otherwise in the passenger's possession and they could share it if they wished to with other passengers.

When a vessel "stocks and dispenses" onboard liquor for their guests' use, that liquor is in the control of the ship's crew members, licensed and unlicensed. That crew could be onboard the vessel 7 days week, 24 hours a day. Remembering that the crew of an inspected 12 passenger vessel is strictly regulated by USCG manning requirements which include, 2 licensed deck officers (Masters & Mates), drug testing, safety drilling and mandatory alcohol testing in the event of any shipboard accident, and that the total crew compliment is often much greater in numbers to that of an uncertified vessel, it's not a stretch of the imagination to think that the "on duty" captain and crew of an inspected vessel would be considerably less likely to be using any of the stocked alcohol while in the service of the vessel.

Additionally, with more of and higher trained and tested crew required on inspected vessels available to "watch over" the passengers' use of alcoholic beverages, there's significantly less chance of "problems" arising with the passengers use of the stocked alcohol.

Uninspected vessels have a long history of accidents where alcohol is a factor. With little or no regulations or any monitoring of these vessels' operations, this fact shouldn't come as a surprise.

Inspected vessels are required to meet wastewater discharge laws designed to minimize environmental impacts to coastal waters. Inspected vessels must treat wastewater before discharging overboard or contain wastewater onboard until returning to port where it would be offloaded onto a shore based treatment facility.

Uninspected vessels have no requirement to have their wastewater discharge system inspected or in any way monitored for compliance with applicable laws.

In the news for violation of wastewater discharge law is an uninspected vessel and its' owners, Daryl and Kimberly Byler of Kodiak. The ABC Board and staff may recall that the Bylers were operating a floating bar and strip club onboard their vessel in a bay just outside of the City of Kodiak. Somehow, the ABC Board had issued the Bylers and their uninspected vessel a Common Carrier Dispensary License even though I was instructed by ABC staff over 25 years ago and again in writing in August of 2014 (see attached email from ABC staff) that a vessel's COI was required to be considered for issuance of a liquor license.

Upon review by The ABC Board, of the Byler's operation, it was decided that the Byler's were not operating as "common carriers" and so their liquor license was revoked. The fact that the vessel was not an inspected or certified passenger vessel did not appear to come up in this investigation. In response to learning this, I emailed the ABC Staff asking how the Bylers gained a liquor license. I have attached an email (attachment B) from myself to ABC Staff dated December 2, 2014. In this email the reader can clearly see that I'm asking if the ABC Board has adopted new rules which now allow uninspected vessels to be considered for liquor license issuance. In this same email I clearly state my concerns for the public's safety should the Board allow uninspected vessels to stock and dispense alcoholic beverages onboard and I state that this would greatly impact my business as an owner and operator of an inspected vessel, which has significantly greater operating costs, due to mandatory and reasonable safety considerations, compared with an uninspected vessel's.

I have yet to receive any answers to my questions in this email dated Dec 2, 2014.

What was also discovered at the time that the Byler's were being investigated by local, state, and federal investigators, including the ABC Board, is that the Bylers were also in violation of The Refuse Act by their discharging untreated human waste, from their uninspected 12 passenger vessel, into the local waters.



Although it is appalling that a serious violation of wastewater laws and damage to the public's resources could go undetected for so long, this is a common practice on all uninspected vessels simply because there is no inspection requirement which would reveal this violation of law. Only through a full investigation of Byler's operation, prompted by complaints of criminal behavior, did these serious violations of environmental law get uncovered.

If the Board adopts allowing any uninspected vessel to be considered for issuance of a liquor license they will further place the public and the public's resources at unnecessary risk of harm.

Additionally, should the ABC Board allow uninspected vessels to dispense alcoholic beverages and any of these liquor dispensing vessels become involved in a maritime casualty such as sinking, loss of life, injury to passengers, etc., (this happens regularly but does not show up in the news because uninspected vessels are not monitored or required to report their accidents) and alcohol is determined to be a factor in this casualty, the State of Alaska will certainly be held responsible for some or all of this harm because of the State's issuance of a liquor dispensing license to a sub standard "uninspected passenger vessel".

Additionally, if the ABC Board adopts the proposed amendment in (e), "12 pack with 3 or more staterooms for overnight passenger use", the Board would be allowing one small fraction of the uninspected charter vessel fleet an economic opportunity (serving alcoholic beverages in the course of business) while discriminating against most of the others. If the State believes that an uninspected 12 passenger vessel with some staterooms for passengers is suitable for dispensing liquor then why shouldn't a "6 pack or a 12 pack with no staterooms uninspected" sport fishing charter boat and owner be allowed to sell his clients cold beer for the day when they're on vacation out fishing for a halibut?

The one and only qualification for being a 12 pack uninspected rather than a 6 pack uninspected is the measurement of a vessel's tonnage. "Tonnage" is a measurement originating from British shipping in the 1700's and is the amount of "internal space, enclosed on at least 3 sides, available for the carriage of casks of wine, minus the space needed for vessel navigation or machinery". Believe it or not, this is still in the law books and this method of vessel measurement is used by vessel owners as a way to "move" their vessel from one set of regulations to another, for the benefit of their business model, as I shall explain.

A "ton" of available space for "carriage of a cask of wine" is considered to be 100 cubic feet. Tonnage measurement for any vessel can and is "adjusted" up or down according to the wishes of the vessel owners. This is done by vessel owners so as to remove a vessel from one set of stricter (more expensive) regulations and put the vessel into a more favorable (less expensive) set of regulations. The most popular tonnage magic number today is 100 tons, with "a vessel over 100 tons" being regulated by one set of laws and "a vessel under 100 tons" in another set of laws.

Many vessel owners like to pick and choose the most favorable tonnage laws, for purely economic reasons.

Because of a "rider" in the Passenger Vessel Safety Act of 1993, uninspected vessels over 100 tons can now carry up to 12 passengers for hire. Prior to this loophole in the regs, vessels over 100 tons were required to be inspected and certified to carry any passengers for hire. This rider was placed into the bill in 1993 at the last moment by a Miami congressman who's friend had unknowingly bought a large old beat up boat over 100 tons that he wanted to now get rid of. The boat had absolutely no passenger vessel commerce that it could legally engage in so no one wanted to purchase it. This vessel owner's Congressman friend inserted a one page rider into The Passenger Vessel Safety Act of 1993, allowing vessels over 100 tons to carry up to 12 passengers for hire and be uninspected just so that this old yacht could be sold as an income generating business. This loophole in The Passenger Vessel Safety Act, which created another class of uninspected vessels and that the ABC Board is proposing to now include in section (e), has absolutely nothing to do with passenger safety.

That loophole has opened the door for a number of uninspected and often older worn out tug boats and yachts to jump into the Alaskan small ship cruise business. If the vessel was originally a tug measured at say ... 75 tons, the owner would have a naval architect recompute the vessel tonnage simply by enclosing the open back deck area with canvas on 3 sides thus making that area part of the vessel's "interior space available for the carriage of casks of wine" and get the tonnage up to 101 tons. Presto, that boat is now a "12 pack", although there has been absolutely no consideration of the vessels' stability or safety just as in the case the rest of the uninspected vessel fleet.

The "100 tons or over" uninspected vessel offers absolutely no other safety considerations than any 6 pack uninspected vessel whether they have cabins for overnight travel or not. As a maritime expert, I could easily argue that the bigger the uninspected boat the bigger the maritime casualty will be. The record is full of serious maritime accidents with these over 100 ton uninspected vessels.

I also would like to point out that there's a number of these vessels (12 pack uninspected) presently being used as floating hunting and fishing lodges which will certainly add "floating bars" to their offerings should the board adopt the amendment allowing them to be considered for liquor licensing. I personally know of two of these vessels operating as such which are moored in protected bays on the coast of Alaska and have their passengers ferried to and from port via water taxis. To avoid Alaska Dept of Natural Resources laws not allowing permanently moored vessels in the public domain, the owners move the vessels a couple miles every two weeks. They could easily circumvent any ABC requirements for "transporting passengers" simply by taking some of the passengers for a ride when they move to the next anchorage for two weeks.



The simplest and fairest solution to the ABC staff's "confusion with what vessels can be considered for liquor licensing?", and the only way the State of Alaska can avoid what will become at best a regulatory minefield or at worse thrown out by the court, is to adopt language in (e) which clearly identifies a USCG issued and current Certificate of Inspection (COI) as the only official "licensing" document recognized for liquor license consideration.

Any vessels which are not inspected and certificated, whose owners claim to be operating with a high degree of public safety and wish to apply for a Common Carrier Dispensary License, can first apply to the USCG for inspection and certification. This is not difficult provided that the vessel has been designed, built, maintained and operated as any responsible mariner should be conducting their business. By accepting only a current and valid COI document as proof that the vessel in question is designed, built, maintained and operated safely, the State of Alaska would be removed from determining and taking responsibility for determining what vessels are safe for the traveling public and what vessels are not. This is clearly in the best interest of the State of Alaska.

Additionally, by adopting only the COI as proof of "licensing for passenger travel", the state would not find themselves dealing with vessels being used as "floating bars". The cost of doing business for a certificated vessel demands that the owner build a reputable cruise business, with high paying clients. A certificated vessel can't afford to sit in some bay awaiting some commerce with a full compliment of licensed crew, 7 days a week, 24 hours a day.

Uncertificated vessels can and do operate as floating lodges, bars and strip clubs simply because uninspected and uncertified vessels cost so little to own and operate.

Additionally, the ABC Board should adopt language in the Common Carrier Dispensary Liquor License renewal process whereby the applicant(s) continue to provide the Board staff with a current and valid COI at renewal times for their Common Carrier Dispensary License.

Today, by conducting a brief internet search for small ship cruises in Alaska, it is easy to find vessels which have been issued liquor licenses which could have had a COI issued in the past but no longer operate under the terms of their COI. They simply allowed the COI to lapse and now operate as uninspected passenger vessels, although the State of Alaska continues to renew their liquor license.

As already stated, the reasons for vessel owners to operate as an uninspected vessel are clearly economic. It's a lot less expensive to hire fewer and less qualified crew members, pay for only one licensed deck officer, let hull and machinery maintenance lapse, not update safety equipment, not be enrolled in drug testing or EAP, etc.

Some additional comments which need to be made are the following.

I received an email notification on May 16, 2016 (attachment D) announcing some of these draft regulations for the Common Carrier Dispensary license from the ABC office and instructions on how I could provide comments or ask questions to ABC staff.

We (myself and my attorney) began responding via email to this public notice on May 20, 2016 and continued to pose questions regarding these proposed amendments right up until the public comment period closing date of June 18, 2016. (attachment D1)

Our questions were first addressed to ABC Staff, Naomi Johnston, and later to John Calder. These questions were clarifying questions regarding the proposed changes to the Common Carrier Dispensary license application. We needed answers to these questions so that we could formulate our comments in an efficient manner. None of our questions received any response from ABC staff. We continued to attempt contact 3 months later in August of 2016 to ABC Staff (attachment E) in order to learn of the status of the proposed amendments. We then learned that there had been a staff change and that the replacement staffer, Joe Samaniego, was not familiar with this subject and that he would contact his supervisor for information. We received no further response from Mr Samaniego.

Three additional months later, on Nov. 28, 2016 we again contacted ABC staff (also in attachment E), this time Mr. Samaniego again, in our attempt to understand what the status of this very important amendment to the Common Carrier Dispensary License was. Mr Samaniego passed our question along to Director Cynthia Franklin on this same day. On that day we received a response from the Director. According to Director Franklin, the public comment period began on Nov 28, 2016 and ran until Jan 13, 2017. There was no reference made to the public comment period which began on May 16, 2016, a full 6 months earlier.

Director Franklin invited us to participate in Board meetings along with calling her on the phone as a way to communicate our concerns. However, we find that phone conversations, although they can offer faster answers, are never a matter of record and therefore offer no value down the road when the facts of what was said in those phone conversations are needed. Upon further investigation we also discovered that the ABC Board will not allow any public testimony on these proposed amendments to the Common Carrier Dispensary Licensing during their Board meetings. Neither phone chats or Board meetings appear to offer the interested public any meaningful answers to questions they may have about ABC Board proposals such as this that we are commenting on in writing, although Director Franklin stated that we should consider participating in the public process in these manners.

Also contained in Director Franklin's email was an internet link to this newest public notice and her reference to our "impatience with her staff".



The record clearly shows our correspondences to ABC staff regarding the issuance of Common Carrier Dispensary Liquor Licenses dating back to July of 2014, with only sporadic responses from ABC Staff. (see attachments B, C, and F) That is almost 2 1/2 years of asking the same questions and getting little or no answer.

We need answers to these questions so that we can run our business. Our business is regulated by fifteen local, state, and federal agencies. We are required to be permitted by, inspected by, pay user fees and taxes to, additionally insure, and to report daily, weekly, monthly or annually to all of these government agencies and in some instances, other departments within each agency. These rules are extensive, complex, and in most instances, failure on my part to comply with, would result in serious charges being brought against me, loss of my business, and possibly jail time.

It has been now close to 7 months since we asked a number of clarifying questions to these important proposed amendments to the Common Carrier Dispensary License issuance. We need the answers to these questions so that we can run our operation responsibly (within the law) and competitively.

I believe that Director Franklin is wrong in her assessment of our attitude. We are not acting impatiently when one considers our many attempts to get our questions answered. However, we certainly are becoming concerned at what is at best, being governed by an understaffed and overworked ABC staff or at worse, being governed by an incompetently managed agency.

To add to the above, it is now the end of December 2016. We are most of the way through the most recent public comment period for these proposed amendments and we have yet received any formal notice, either by email, US postal mail or phone call, from ABC staff of these proposed important amendments.

However, over 6 months ago, in May of 2016, an email notice was sent out to all interested parties, including ourselves, notifying all of these possible changes to the common Carrier Dispensary license requirements along with the opening and closing of the public comment period (May 16 to June 18, 2016).

Why has the ABC staff not sent another email notice out to interested parties, like was done in May, for these newest proposed changes to the Common Carrier Dispensary License issuance?

I have yet to receive any notice from ABC staff except for Director Franklin's personal note in which she determined that we were acting impatiently, and mentioned that there is now a new comment period.

I believe that the public's best interest will not be met if interested parties do not receive proper notice of these important proposals.

Had we not hounded the ABC Staff for now over 2 years, we would not have discovered that we are in the midst of another proposal to amend these vitally important regulations?

I believe that the ABC Board should consider rejecting the proposed amendments to the Common Carrier Dispensary License section (e), while continuing to accept only a current and valid Certificate of Inspection as meeting the terms of "a vessel licensed by a state or federal agency for passenger travel", as has been the qualification in years past.

Should the Board wish to continue with proposing these same changes to section (e), I strongly urge the Board to initiate a detailed analysis, prior to adoption of these proposals, by an independent maritime expert, of what the public safety considerations could be for an "inspected passenger vessel" verses an "uninspected passenger vessel", and that the Board considers those findings, in the interest of public safety, before adopting any changes which would allow uninspected vessels to be considered for liquor license issuance.

Should the ABC Board seek such a review by an independent maritime expert, the expert should be familiar with the history and applicability of inspected vessel laws and the "rider" to The Passenger Vessel Safety Act of 1993, which created the 12 pack uninspected passenger vessel classification. An independent maritime expert with this kind of knowledge will more than likely only be found on the east coast of the US in larger sea port areas where maritime transportation is a large dominant industry and this kind of complex maritime law is regularly practiced.

Additionally, should the Board wish to continue to adopt these amendments allowing only certain uninspected vessels to be considered for liquor licensing, I urge the Board to review these highly discriminatory actions in the proposed amendment where only "12 pack uninspected vessels with 3 or more staterooms, etc.", would qualify as "licensed by a state or federal agency, etc." for issuance of liquor licenses.

As the former owner of a large (58 foot long) "6 pack uninspected vessel with 3 staterooms for passenger travel", I can find no reasons why my former vessel should not be allowed these same business opportunities as the "12 pack" uninspected vessel is. As mentioned above, this same reasoning holds true for the owner of a sport charter fishing operation. Why can't the owner of an uninspected sport fishing charter boat offer for sale some beers to his anglers for the day?

I also urge the Board to instruct their law enforcement division to conduct internet searches with keyword phrases such as "Alaskan Small Ship Cruises", or any word strings which deliver them to the web sites of the "12 pack uninspected" tour boat operations and look at not only the pictures of liquor being served in their marketing but in most instances full lists of the "complimentary liquors" being served in the course of these businesses. Some of these uninspected vessels have State of Alaska issued liquor licenses some do not but all list or picture



complimentary liquor served on their tours. I found 6 businesses in only 15 minutes of internet searches all of which appeared to not hold liquor licenses but serve liquor onboard in the course of business.. One uninspected tour boat even has their own label wines to serve onboard!

Thank you for your consideration of all of this.

Captain Dean Rand  
Discovery Voyages

A

§ 04.11.180. Common carrier dispensary license

(a) A common carrier dispensary license authorizes the holder to sell alcoholic beverages for consumption aboard a vehicle, boat, or train licensed by a state or federal agency for passenger travel, or aboard aircraft operated by an airline licensed by a state or federal agency for passenger travel.

(b) Except for a common carrier that is an airline, a common carrier shall obtain a license for each vehicle, boat, or train in which alcoholic beverages are served. After obtaining an initial license for the first vehicle, boat, or train, the common carrier may obtain additional licenses for additional vehicles, boats, or trains upon making a written request identifying the vehicle, boat, or train in the manner prescribed by the board, and paying the biennial fee for additional licensed premises as required by (c) of this section.

(c) Except as provided for airlines under (d) of this section, the biennial fee for a common carrier dispensary license is \$1,000 for each of the first 10 licenses a common carrier holds and \$100 for each additional license issued to the common carrier after the first 10 licenses.

(d) The biennial fee for a common carrier dispensary license issued to an airline is the fee specified under (c) of this section for each aircraft in which alcoholic beverages are served or \$2,000 for each community served by the airline. An airline shall specify the fee applicable to the license at the time of the airline's application for issuance or renewal of the license.

(e) Upon request of the common carrier and payment of the proportionate prorated applicable fee, the board shall change the license period of a license for a vehicle, boat, or train to allow registration to occur in the biennial period of the balance of the licensee's common carrier licenses.

SLA 1980, ch. 131, § 2; SLA 1993, ch. 63, § 14; SLA 2003, ch. 151, § 1.

Historical and Statutory Notes

SLA 2003, ch. 151, § 2, provides: renewal of a common carrier dispensary license  
"Applicability. This Act applies to issuance of that occurs on or after the effective date of this  
a new common carrier dispensary license or Act."

Cross References

Civil liability of persons providing alcoholic beverages, see § 04.21.020.  
Damages resulting from driving the vehicle of a person under the influence of an alcoholic beverage, see § 09.65.310.  
Purchase and sale of alcoholic beverages, restrictions, see § 04.16.172.

Library References

Intoxicating Liquors 47, 91. C.J.S. Intoxicating Liquors §§ 140 to 142,  
Westlaw Key Number Searches: 223k47; 270.  
223k91.

§ 04.11.190. Repealed by SLA 1995, ch. 101, § 69, eff. July 1, 1995





Dean Rand &lt;dean.rand@gmail.com&gt;

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**Liquor license question**

2 messages

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**Dean Rand** <dean.rand@gmail.com>

Tue, Dec 2, 2014 at 7:39 PM

To: "Oates, Sarah D (CED)" &lt;sarah.oates@alaska.gov&gt;, Herb Viergutz &lt;hviergutz@hotmail.com&gt;

Hi, this is Dean W Rand. I have a Common Carrier liquor license # 4116 for my tour business onboard the US Coast Guard inspected and certified passenger vessel Discovery.

I just read in the news that the State of AK recently revoked a Common Carrier Liquor License from a person named Daryl Byler of Kodiak. Apparently, Byler's operation was more in line with a bar than a charter vessel, and so it was determined that his operation was out of terms of his common carrier license.

However, my question is this: Is the State of AK now issuing liquor licenses to un inspected and un certified passenger vessels, such as Byler's? His vessel is not a certified passenger vessel and does not have a valid Certificate of Inspection (COI) issued by a US Coast Guard Officer in Charge of Marine Inspections.

When I applied to the state of AK for my liquor license, I was informed by the ABC board that I needed to provide the state with a valid and current COI for my passenger vessel Discovery, which I did. A COI is issued only to vessels which meet strict public safety requirements, as set out in The Code of Federal Regulations. A passenger vessel with a valid COI is inherently safer for the publics' use and also, much more expensive to own, operate and maintain.

If the State of Alaska is now issuing Common Carrier liquor licenses to un inspected and un certified passenger vessels, not only would this compromised the traveling publics' safety, this also would greatly impact my business as I have a much greater financial investment and operating costs than other businesses which operate un inspected vessels and which market the same services to consumers.

Thank you,

Captain Dean Rand

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**Dean Rand** <dean.rand@gmail.com>

Thu, Dec 1, 2016 at 8:10 AM

To: Herb Viergutz &lt;hviergutz@hotmail.com&gt;

Herb, this is the email which I sent to the ABC Staff 2 years ago asking them if they're awarding liquor licenses to uncertified passenger vessels, which would be counter to State law. I never received a reply to my question.

Dean

[Quoted text hidden]



M Gmail

C

Herb's  
Copy

Dean Rand &lt;dean.rand@gmail.com&gt;

**Liquor license questions**

13 messages

**Dean Rand** <dean.rand@gmail.com>

Mon, Jul 21, 2014 at 11:45 PM

To: robert.beasley@alaska.gov, Megan Ciana &lt;meganciana@hotmail.com&gt;, Herb Viergutz &lt;hviergutz@hotmail.com&gt;

Hi, this is Dean Rand. I have a Common Carrier Seasonal license for my passenger vessel Discovery. My license number is: 4116. I was recently on the State of Alaska, Alcoholic Control Board web site conducting a search to determine whether or not another small cruise vessel that I compete with has a liquor license. I was surprised to discover that my license is not listed as current and that there's only a long expired license of mine and my ex wife's listed under my name and vessel.

However, I'm not contacting your office at this time in regards to this discrepancy. My interest at this time is whether or not this other passenger cruise vessel has the proper licensing to offer "complimentary liquor" (as stated in their web site) to paying passengers onboard this vessel. This vessel is named the Sea Wolf and the web site states the business is named Sea Wolf Adventures, of Juneau.

When I applied to the state for a liquor license, I clearly remember needing to provide a copy of my vessel's current and valid Certificate of Inspection issued by the US Coast Guard. This document states that my vessel meets strict safety and health standards developed by the US Coast Guard, Vessel Inspections. I know that this other vessel (Sea Wolf) does not have a US Coast Guard issued Certificate of Inspection.

My question is this: Is the State of Alaska now issuing liquor licenses to non USCG certified domestic passenger vessels? If so, then how is the state assuring that the vessel in question meets any structural, safety, fire fighting, and manning standards required for protecting the public's safety?

Thank you,

Dean Rand

**herbert viergutz** <hviergutz@hotmail.com>

Mon, Jul 21, 2014 at 11:51 PM

To: Dean Rand &lt;dean.rand@gmail.com&gt;

Thank you dean for the information. I shall look into the matter.

Sent from my iPhone

[Quoted text hidden]

**Dean Rand** <dean.rand@gmail.com>

Tue, Jul 22, 2014 at 12:13 AM

To: herbert viergutz &lt;hviergutz@hotmail.com&gt;

Herb, I copied you on this email to the ABC Board. Let's see if and how they respond to my question. Dean

[Quoted text hidden]

**herbert viergutz** <hviergutz@hotmail.com>

Tue, Jul 22, 2014 at 9:38 AM

To: Dean Rand &lt;dean.rand@gmail.com&gt;

Let me know what happens Dean.

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Date: Mon, 21 Jul 2014 22:13:40 -0800  
Subject: Re: Liquor license questions  
From: dean.rand@gmail.com  
To: hviergutz@hotmail.com  
[Quoted text hidden]

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Dean Rand <dean.rand@gmail.com> Tue, Jul 22, 2014 at 9:57 AM  
To: herbert viergutz <hviergutz@hotmail.com>, Megan Ciana <meganciana@hotmail.com>

Herb, I asked these very same questions of the state a number of years ago and never got a clear answer as to what the requirements are today for passenger vessel businesses to get a liquor license. That was over the phone when I spoke with their enforcement people. My feeling is that the ABC Board can make decisions based on ... whatever they feel is ok because they have no law stating that a vessel MUST be a certified passenger vessel. Where can we get ahold of whatever the laws are for issuing common carrier liquor licenses to passenger vessels? One of the reasons that I operate an expensive "Certified" passenger vessel is so that I can offer wine, beer, and other liquor to my guests while they are with us and on vacation. Many years ago when I first got a liquor license, the state would not give these licenses to any vessel unless it was a "certified" passenger vessel. If the state's position on this has changed, then I need to know this so that I can be competitive. I recently lost all sorts of business to an uncertified passenger vessel who offers the same service that I do including liquor. Dean

[Quoted text hidden]

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Oates, Sarah D (CED) <sarah.oates@alaska.gov> Tue, Jul 22, 2014 at 10:46 AM  
To: "dean.rand@gmail.com" <dean.rand@gmail.com>  
Cc: "Beasley, Robert L (CED)" <robert.beasley@alaska.gov>

Good morning, Mr. Rand:

I'm not sure what list you're looking at, but I searched for "Discovery" using the ABC License Search tool on our website, and your license was the first one to show up. It shows an expiration year of [December 31,] 2014, which matches our database. Furthermore, the Master List of All Current Licenses has 4116 listed on there. I'm not sure exactly where you searched on our website, but please let me know so I can get it fixed ASAP!

To answer your other questions: the Sea Wolf is not a liquor licensed vessel in this state. I did find on their website where they offer complementary wine and beer with dinner, and I will have an investigator look into it immediately.

Because AS 04.11.180 states that "A common carrier dispensary license authorizes the holder to sell alcoholic beverages for consumption aboard a vehicle, boat, or train licensed by a state or federal agency for passenger travel...", we do require that each the applicant provides us with a copy of the COI for each vessel with the initial liquor license application. I completely understand your concern and assure you that if/when Sea Wolf Adventures applies for a license for the Sea Wolf, we will require the same from them.

I hope this answers your questions, and please feel free to contact me with any follow-ups that you may have.

Thank you for your concern, and I hope you have a great afternoon,



-Sarah

# Sarah D. Oates

**Records & Licensing Supervisor | Alcoholic Beverage Control Board**

2400 Viking Drive | Phone: 907.269.0356 | Fax: 907.334.2285

Please consider the environment before printing this e-mail.

**P** Less paper is better for us and our environment.

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**From:** Beasley, Robert L (CED)  
**Sent:** Tuesday, July 22, 2014 8:05 AM  
**To:** Oates, Sarah D (CED)  
**Subject:** FW: Liquor license questions

Sarah, will you look into this and contact Mr. Rand?

Thank you,

Bob



Robert L. Beasley, Investigator IV

Interim Director

State of Alaska

Alcoholic Beverage Control Board

2400 Viking Drive

Anchorage, Alaska 99501



Desk (907) 269-0353

robert.beasley@alaska.gov

**From:** Dean Rand [mailto:dean.rand@gmail.com]  
**Sent:** Monday, July 21, 2014 9:45 PM  
**To:** Beasley, Robert L (CED); Megan Ciana; Herb Viergutz  
**Subject:** Liquor license questions

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**Oates, Sarah D (CED)** <sarah.oates@alaska.gov>  
**To:** "Johnson, Steven M (CED)" <steven.johnson@alaska.gov>  
**Cc:** "dean.rand@gmail.com" <dean.rand@gmail.com>

Tue, Jul 22, 2014 at 10:53 AM

Hey Steve,

Will you please look into the Sea Wolf for me? They do not hold a liquor license with us, and it does say at the following link (click on Gourmet Dining toward the bottom) that they offer complementary wine and beer with dinner.

<http://www.seawolfadventures.net/seawolf/index.html>

Thank you!

[Quoted text hidden]

Hi, this is Dean Rand. I have a Common Carrier Seasonal license for my passenger vessel Discovery. My license number is: 4116. I was recently on the State of Alaska, Alcoholic Control Board web site conducting a search to determine whether or not another small cruise vessel that I compete with has a liquor license. I was surprised to discover that my license is not listed as current and that there's only a long expired license of mine and my ex wife's listed under my name and vessel.

[Quoted text hidden]

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**Dean Rand** <dean.rand@gmail.com>  
**To:** Megan Ciana <meganciana@hotmail.com>, Herb Viergutz <hviergutz@hotmail.com>

Tue, Jul 22, 2014 at 4:32 PM

I'm trying to forward all the correspondence to you two. Dean

----- Forwarded message -----

**From:** Oates, Sarah D (CED) <sarah.oates@alaska.gov>  
**Date:** Tue, Jul 22, 2014 at 8:53 AM

Subject: FW: Liquor license questions

[Quoted text hidden]

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Dean Rand <dean.rand@gmail.com>

Sat, Aug 23, 2014 at 3:05 PM

To: "Oates, Sarah D (CED)" <sarah.oates@alaska.gov>, Herb Viergutz <hviergutz@hotmail.com>

Hi Sarah, this is Dean Rand again. I've not heard anything from your investigation dept regarding the Sea Wolf serving alcoholic beverages on their cruises.

What is the States position on issues such as this? Do you cite them for violating state law or allow them an opportunity to apply for a liquor license?

When I originally applied for and received my liquor license, I was required to provide a valid and current Certificate of Inspection issued by the US Coast Guard. This was needed to show the State ABC Board that the Discovery met strict safety requirements, similar to a building have a building inspection. A US Coast Guard Inspected and Certified Passenger vessel is issued this document only after extensive inspections are completed by a team of US Coast Guard vessel inspectors. This is not a "safety exam" or a vessel "documentation" but a specific document titled "Certificate of Inspection".

The Sea Wolf is NOT a Certificated Passenger Vessel. It does not and can not comply with the requirements of a certified passenger vessel.

I can provide further information and documentation of the difference in vessel inspections and certifications if needed.

Thank you for your attention to this matter.

Captain Dean Rand

[Quoted text hidden]

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Oates, Sarah D (CED) <sarah.oates@alaska.gov>

Mon, Aug 25, 2014 at 10:45 AM

To: Dean Rand <dean.rand@gmail.com>, Herb Viergutz <hviergutz@hotmail.com>

Cc: "Beasley, Robert L (CED)" <robert.beasley@alaska.gov>, "Hamilton, Joe (CED)" <joe.hamilton@alaska.gov>

Mr. Rand,

I'm copying Interim Director Bob Beasley on this email so that he and the enforcement unit can update you on this and let you know how enforcement is handled.

As far as the Certificate of Inspection goes, I did mention in my last email that I'm familiar with what a COI is and that we do require copies of them with common carrier applications.

Thank you for your concern.

**Sarah D. Oates**

**Records & Licensing Supervisor | Alcoholic Beverage Control Board**

2400 Viking Drive | Phone: 907.269.0356 | Fax: 907.334.2285

Please consider the environment before printing this e-mail.

**P** Less paper is better for us and our environment.

**From:** Dean Rand [mailto:dean.rand@gmail.com]  
**Sent:** Saturday, August 23, 2014 1:06 PM  
**To:** Oates, Sarah D (CED); Herb Viergutz  
**Subject:** Re: Liquor license questions

Hi Sarah, this is Dean Rand again. I've not heard anything from your investigation dept regarding the Sea Wolf serving alcoholic beverages on their cruises.

[Quoted text hidden]

[Quoted text hidden]

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**Dean Rand** <dean.rand@gmail.com>  
**To:** Herb Viergutz <hviergutz@hotmail.com>

Mon, Aug 25, 2014 at 3:52 PM

[Quoted text hidden]

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**Dean Rand** <dean.rand@gmail.com>  
**To:** Herb Viergutz <hviergutz@hotmail.com>

Sat, Mar 5, 2016 at 12:07 PM

----- Forwarded message -----

**From:** Oates, Sarah D (CED) <sarah.oates@alaska.gov>  
**Date:** Tue, Jul 22, 2014 at 10:46 AM  
**Subject:** RE: Liquor license questions  
**To:** "dean.rand@gmail.com" <dean.rand@gmail.com>  
**Cc:** "Beasley, Robert L (CED)" <robert.beasley@alaska.gov>

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**Dean Rand** <dean.rand@gmail.com>  
**To:** Herb Viergutz <hviergutz@hotmail.com>

Sat, Mar 5, 2016 at 12:07 PM

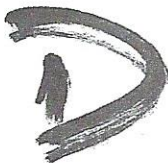
----- Forwarded message -----

**From:** Oates, Sarah D (CED) <sarah.oates@alaska.gov>  
**Date:** Mon, Aug 25, 2014 at 10:45 AM  
**Subject:** RE: Liquor license questions  
**To:** Dean Rand <dean.rand@gmail.com>, Herb Viergutz <hviergutz@hotmail.com>



Cc: "Beasley, Robert L (CED)" <robert.beasley@alaska.gov>, "Hamilton, Joe (CED)" <joe.hamilton@alaska.gov>

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Dean Rand <dean.rand@gmail.com>

## Notification of Draft Regulations from the ABC office

5 messages

**Johnston, Naomi A (CED)** <naomi.johnston@alaska.gov>

Mon, May 16, 2016 at 5:55 PM

Good Afternoon,

Today we posted proposed alcohol regulations for public comment related to ALTERNATING LICENSED PREMISES FOR CERTAIN LICENSE TYPES, COMMON CARRIER DISPENSARY LICENSES, DISTILLERY LICENSES, MANAGEMENT AGREEMENTS AND PROHIBITED FINANCIAL INTEREST, INCLUSION OF PERMITTEES IN SERVER EDUCATION COURSE REQUIREMENTS and RESTAURANT DESIGNATION PERMITS.

We expect the public notice to be advertised in tomorrow's paper. The public comment period ends June 18, 2016. The proposed regulations may be found in the online public notice system and on our website by COB today. You should comment during the time allowed if your interests could be affected.

You can visit our website here <https://www.commerce.alaska.gov/web/amcol/>



**Naomi Johnston**

**Office Assistant**

**907-269-0464**

**Alcohol & Marijuana Control Office**

**550 West 7<sup>th</sup> Avenue, Suite 1600**

**Anchorage, AK 99501-3569**

Dean Rand <dean.rand@gmail.com>  
To: Herb Viergutz <hviergutz@hotmail.com>

Thu, May 19, 2016 at 11:14 AM

[Quoted text hidden]

---

herbert viergutz <hviergutz@hotmail.com>  
To: Dean Rand <dean.rand@gmail.com>

Fri, May 20, 2016 at 7:11 AM

Why does the Board deem it necessary to amend the common carrier dispensary license? Thank you for your response.

---

Date: Thu, 19 May 2016 09:14:28 -0800  
Subject: Fwd: Notification of Draft Regulations from the ABC office  
From: dean.rand@gmail.com  
To: hviergutz@hotmail.com  
[Quoted text hidden]

---

Dean Rand <dean.rand@gmail.com>  
To: herbert viergutz <hviergutz@hotmail.com>

Fri, May 20, 2016 at 12:15 PM

Hi herb, did you intend to send this to me or ABC board?  
Dean

Sent from my iPhone

On May 20, 2016, at 5:11 AM, herbert viergutz <hviergutz@hotmail.com> wrote:

Why does the Board deem it necessary to amend the common carrier dispensary license? Thank you for your response.

---

Date: Thu, 19 May 2016 09:14:28 -0800  
Subject: Fwd: Notification of Draft Regulations from the ABC office  
From: dean.rand@gmail.com  
To: hviergutz@hotmail.com

----- Forwarded message -----

From: Johnston, Naomi A (CED) <naomi.johnston@alaska.gov>  
Date: Mon, May 16, 2016 at 3:55 PM  
Subject: Notification of Draft Regulations from the ABC office  
To:

Good Afternoon,

Today we posted proposed alcohol regulations for public comment related to ALTERNATING LICENSED PREMISES FOR CERTAIN LICENSE TYPES, COMMON CARRIER DISPENSARY LICENSES, DISTILLERY LICENSES, MANAGEMENT AGREEMENTS AND PROHIBITED FINANCIAL INTEREST, INCLUSION OF PERMITTEES IN SERVER EDUCATION COURSE REQUIREMENTS and RESTAURANT DESIGNATION PERMITS.



We expect the public notice to be advertised in tomorrow's paper. The public comment period ends June 18, 2016. The proposed regulations may be found in the online public notice system and on our website by COB today. You should comment during the time allowed if your interests could be affected.

You can visit our website here <https://www.commerce.alaska.gov/web/amco/>

<image001.png> Naomi Johnston  
Office Assistant  
907-269-0464  
**Alcohol & Marijuana Control Office**  
**550 West 7<sup>th</sup> Avenue, Suite 1600**  
**Anchorage, AK 99501-3569**

---

herbert viergutz <hviergutz@hotmail.com>  
To: Dean Rand <dean.rand@gmail.com>

Fri, May 20, 2016 at 12:33 PM

Sorry Dean. Disregard that. I meant to send it to them.

Sent from my iPhone

[Quoted text hidden]



D 1

Dean Rand &lt;dean.rand@gmail.com&gt;

---

**Common Carrier Dispensary License**

1 message

---

**herbert viergutz** <hviergutz@hotmail.com>

Sun, May 29, 2016 at 9:25 AM

To: "john.calder@alaska.gov" &lt;john.calder@alaska.gov&gt;

Cc: "dean.rand@gmail.com" &lt;dean.rand@gmail.com&gt;

I first forwarded an emailed question to an employee at the Board on May 20, 2016, which was emailed to you on May 24. I have not had a response to that question, and the same is sought. Additionally, (2) Who authored the proposed language, and from what sources was the information obtained to enable the construction of the proposed language; (3) What difference does it make if a vessel has any staterooms for "overnight passenger travel" if the boat operates day tours only and is a "12-pack uninspected marine vessel"; (4) Why shouldn't a day tour vessel which is a 12-pack uninspected passenger vessel be allowed the same opportunities as one with staterooms for overnight passenger travel; (5) Why is the ABC Board proposing to only allow "12-pack uninspected vessels" to apply for a liquor license when there are an entire fleet of "6-pack" uninspected vessels suitable for, and many engaged in, the tourism trade; (6) Isn't the Board really considering allowing ANY uninspected passenger vessel to distribute alcoholic beverages; (7) An inspected and certified vessel is subject to mandatory annual safety exams, random drug testing for the crew throughout the work season, biannual dry dock exams, extensive life saving equipment requirements, and a ton of other items which are all designed to provide the traveling public with the highest quality of safety in the world. Further, an inspected passenger vessel is subjected to a very thorough structural exam at least every two and often every year by a team of highly trained Coast Guard vessel inspectors. If they discover any questionable structural or mechanical items, the vessel owner is ordered to make proper repairs and then the vessel is subjected to follow-up exams to guarantee that it is fully in compliance. An uninspected vessel has no requirement for independent inspections, ergo "uninspected". Often, uninspected vessel owners pick a marine surveyor of their liking to do a "condition & valuation survey" for their insurance underwriter, which inspection does not serve the same independent purpose. Does the ABC Board not consider safety, and if you allege that they do, then how do you justify the decrease in potential safety as a result of the proposed regulation?



E

Dean Rand <dean.rand@gmail.com>

**FW: Draft Common Carrier Regs & Questions submitted**

3 messages

herbert viergutz <hviergutz@hotmail.com>

Thu, Aug 18, 2016 at 3:34 PM

To: Dean Rand <dean@discoveryvoyages.com>, "dean.rand@gmail.com" <dean.rand@gmail.com>



From: joe.samaniego@alaska.gov  
To: hviergutz@hotmail.com  
Subject: RE: Draft Common Carrier Regs & Questions submitted  
Date: Thu, 18 Aug 2016 19:15:35 +0000

Good morning, I will get with you shortly in regards to this manner. I did take over for Mr. Calder once he left our organization, and I know the public comments on Common Carrier has closed. I will contact my supervisor to get clarification on where we are today.

Thank you,

Joe

Joe Samaniego

Administrative Assistant I

joe.samaniego@alaska.gov

Alcohol & Marijuana Control Office

550 West 7<sup>th</sup> Avenue, Suite 1600

Anchorage, AK 99501-3569

Please consider the environment before printing this e-mail. Less paper is better for us and our environment.

From: herbert viergutz [mailto:hviergutz@hotmail.com]  
Sent: Thursday, August 18, 2016 11:09 AM  
To: Samaniego, Joe P (CED)



**Subject:** FW: Draft Common Carrier Regs & Questions submitted

Please see email below to Mr. Calder. Nobody has answered any of my questions between March and June. Where do we stand since nobody has contacted me?

---

**From:** naomi.johnston@alaska.gov  
**To:** hviergutz@hotmail.com  
**Subject:** RE: Draft Common Carrier Regs & Questions submitted  
**Date:** Thu, 18 Aug 2016 19:01:56 +0000

Hello Herbert,

Mr. Calder no longer works for the AMCO office, the person who has taken over this responsibility is Joe Samaniego. His email address is [joe.samaniego@alaska.gov](mailto:joe.samaniego@alaska.gov).



Naomi Johnston  
Office Assistant  
907-269-0464  
Alcohol & Marijuana Control Office  
550 West 7<sup>th</sup> Avenue, Suite 1600  
Anchorage, AK 99501-3569

---

**From:** herbert viergutz [mailto:[hviergutz@hotmail.com](mailto:hviergutz@hotmail.com)]  
**Sent:** Thursday, August 18, 2016 10:59 AM  
**To:** Johnston, Naomi A (CED)  
**Subject:** Draft Common Carrier Regs & Questions submitted

You earlier referred me to Mr. Calder. Now, my email to him on a status request is returned. Who do I communicate with on this issue? Thank you.

**From:** [postmaster@mail.hotmail.com](mailto:postmaster@mail.hotmail.com)

To: hviergutz@hotmail.com  
Date: Thu, 18 Aug 2016 08:53:10 -0700  
Subject: Delivery Status Notification (Failure)

This is an automatically generated Delivery Status Notification.

Delivery to the following recipients failed.

john.calder@alaska.gov

--Forwarded Message Attachment--

From: hviergutz@hotmail.com  
Subject: Common carrier liquor license  
Date: Thu, 18 Aug 2016 10:53:09 -0500  
CC: dean.rand@gmail.com  
To: john.calder@alaska.gov

Between March and June of this year, I forwarded numerous questions regarding the above to you on behalf of my client, Discovery Voyages. I have heard nothing from you or anyone from the ABC Board. What is the status of this matter please?

Sent from my iPhone

---

herbert viergutz <hviergutz@hotmail.com>  
To: "Samaniego, Joe P (CED)" <joe.samaniego@alaska.gov>  
Cc: Dean Rand <dean@discoveryvoyages.com>

Tue, Nov 29, 2016 at 7:43 AM

Where do we stand on the issue please? Over three and a half months have passed since your most recent email, and nine months have passed since we first addressed the issue to the Board! I would appreciate your prompt response. Thank you.

---

**From:** Samaniego, Joe P (CED) <joe.samaniego@alaska.gov>  
**Sent:** Thursday, August 18, 2016 11:15 AM  
**To:** herbert viergutz  
**Subject:** RE: Draft Common Carrier Regs & Questions submitted

Good morning, I will get with you shortly in regards to this manner. I did take over for Mr. Calder once he left our organization, and I know the public comments on Common Carrier has closed. I will contact my supervisor to get clarification on where we are today.

[Quoted text hidden]

---

herbert viergutz <hviergutz@hotmail.com>  
To: Dean Rand <dean.rand@gmail.com>

Tue, Nov 29, 2016 at 2:08 PM

See below.

Sent from my iPhone

Begin forwarded message:

**From:** "Franklin, Cynthia A (CED)" <cynthia.franklin@alaska.gov>  
**Date:** November 29, 2016 at 1:12:35 PM CST  
**To:** "Samaniego, Joe P (CED)" <joe.samaniego@alaska.gov>, "hviergutz@hotmail.com" <hviergutz@hotmail.com>  
**Cc:** "AMCO Admin (CED sponsored)" <amco.admin@alaska.gov>  
**Subject:** RE: Draft Common Carrier Regs & Questions submitted

Herb,

Common carrier comments are directed to the amco.admin@alaska.gov. Email address. The comment period started 11/28/2016 and runs through 01/13/17. Here is a link to the public notice in the Online Public Notification System.

<https://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=183698>

On a side note, the tone of your email comes across as impatient with my staff. The staff has no control over the pace of regulations projects. If you want to express your frustration, fell free to call me or come to the board meeting and address your complaints directly to the board.

Thanks,

Cynthia Franklin, Director

Alcohol & Marijuana Control Office

907-269-0351

---

**From:** herbert viergutz [mailto:hviergutz@hotmail.com]  
**Sent:** Tuesday, November 29, 2016 5:44 AM  
**To:** Samaniego, Joe P (CED)  
**Cc:** Dean Rand  
**Subject:** Re: Draft Common Carrier Regs & Questions submitted



Less paper is better for us and our environment.

F

**From:** Dean Rand [mailto:dean.rand@gmail.com]  
**Sent:** Thursday, February 26, 2015 7:59 AM  
**To:** Andrews, Maxine R (CED)  
**Subject:** updated contact phone number for Discovery, M/V

[Quoted text hidden]

---

**Dean Rand** <dean.rand@gmail.com>  
**To:** "Andrews, Maxine R (CED)" <maxine.andrews@alaska.gov>

Thu, Feb 26, 2015 at 10:15 AM

Maxine, thank you.

Also, I just remembered that I had emailed the ABC office some time ago, maybe months ago, asking a clarifying question on criteria used to award Common Carrier licenses. I didn't hear back from anyone there so I guessed that you all had your hands full administering the new pot regs.

When I applied for my original liquor license, I had to provide a copy of my current vessel Certificate of Inspection issued by the US Coast Guard. This is a specific document available to only those vessels which meet strict passenger carrying regulations and it was my understanding that only vessels meeting these requirements and having a current COI were to be considered for issuance of a Common Carrier liquor license.

However, it has come to my attention that other vessels without a valid COI have been issued liquor Licenses.

Have the ABC Board requirements for issuing Common Carrier licenses to vessels changed so as to allow vessels without a COI to obtain a liquor license?

Thank you,

Dean

[Quoted text hidden]

---

**Dean Rand** <dean.rand@gmail.com>  
**To:** Dean Rand - Discovery Voyages <dean@discoveryvoyages.com>, Herb Viergutz <hviergutz@hotmail.com>

Thu, Mar 3, 2016 at 1:38 PM

[Quoted text hidden]

^ Folders

- Inbox
- Junk Email
- Drafts
- Sent Items**
- Deleted Items
- Archive

^ Categories

- contactlist
- inbox
- sent

### Fwd: Coast Guard Inspection prior to Liquor License

HV herbert viergutz  
Wed 5/10, 9:19 AM  
dean.rand@gmail.com

See below.

Sent from my iPhone

Begin forwarded message:

**From:** "Rukes, Jeffrey B (CED)" <jeff.rukes@alaska.gov>  
**Date:** May 10, 2017 at 5:52:45 PM GMT+2  
**To:** herbert viergutz <hviergutz@hotmail.com>  
**Subject:** RE: Coast Guard Inspection prior to Liquor License

correct



*Jeff Rukes*  
 Investigator  
 Alcohol and Marijuana Control Office  
 550 W. 7<sup>th</sup> Ave, Ste 1600, Anchorage, AK 99501  
 Office (907) 334-0893 Fax (907) 334-2285  
 Cell (907)382-7392  
[jeff.rukes@alaska.gov](mailto:jeff.rukes@alaska.gov)

**From:** herbert viergutz [mailto:hviergutz@hotmail.com]  
**Sent:** Tuesday, May 09, 2017 8:17 PM  
**To:** Rukes, Jeffrey B (CED) <jeff.rukes@alaska.gov>  
**Cc:** dean.rand@gmail.com  
**Subject:** Fwd: Coast Guard Inspection prior to Liquor License

Sir, would the answers to questions 3&4 be yes, and the answer to question 5 be no then?

Sent from my iPhone

Begin forwarded message:

**From:** herbert viergutz <hviergutz@hotmail.com>  
**Date:** May 10, 2017 at 5:18:13 AM GMT+2  
**To:** "Rukes, Jeffrey B (CED)" <jeff.rukes@alaska.gov>  
**Cc:** "dean.rand@gmail.com" <dean.rand@gmail.com>  
**Subject:** Re: Coast Guard Inspection prior to Liquor License

Thank you sir.

Sent from my iPhone

On May 10, 2017, at 12:25 AM, Rukes, Jeffrey B (CED) <jeff.rukes@alaska.gov> wrote:

I don't how much clearer I can be on this. Vessels need a certificate of inspection from the co it has to be current.

No, we do not accept liquor licenses from other states.

Upgrade to Premium



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Junk Email 370

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Sent Items

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inbox

sent

## RE: Coast Guard Inspection prior to Liquor License

RB

Rukes, Jeffrey B (CED) &lt;jeff.rukes@alaska.gov&gt;

Tue 5/9, 8:10 AM

You v

You forwarded this message on 5/9/2017 9:36 AM

Vessels need a certificate of Inspection from the coast guard before being licensed with AMCO.

*Jeff Rukes**Investigator**Alcohol and Marijuana Control Office**550 W. 7<sup>th</sup> Ave, Ste 1600, Anchorage, AK 99501**Office (907) 334-0893 Fax (907) 334-2285**Cell (907)382-7392**[jeff.rukes@alaska.gov](mailto:jeff.rukes@alaska.gov)***From:** herbert viergutz [mailto:hviergutz@hotmail.com]**Sent:** Friday, May 05, 2017 8:48 AM**To:** Rukes, Jeffrey B (CED) <jeff.rukes@alaska.gov>**Subject:** Re: Coast Guard Inspection prior to Liquor License

I apologize once again. I transmitted the identical 2 pages in my previous email. Attached is the second page. I appreciate your patience.

**From:** Rukes, Jeffrey B (CED) <jeff.rukes@alaska.gov>**Sent:** Wednesday, May 3, 2017 11:53 AM**To:** [hviergutz@hotmail.com](mailto:hviergutz@hotmail.com)**Subject:** Coast Guard Inspection prior to Liquor License

Yes, you do need to be approved by the coast guard first.

*Jeff Rukes**Investigator**Alcohol and Marijuana Control Office**550 W. 7<sup>th</sup> Ave, Ste 1600, Anchorage, AK 99501**Office (907) 334-0893 Fax (907) 334-2285**Cell (907)382-7392**[jeff.rukes@alaska.gov](mailto:jeff.rukes@alaska.gov)*

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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 25, 2018

Herbert A. Viergutz  
PO Box 111062  
Anchorage, AK 99511

Re: Common Carrier Liquor Licenses

Dear Mr. Viergutz:

Thank you for your letter outlining a multi-year correspondence between your client, Dean Rand, and this office. I understand and appreciate the frustration Mr. Rand must be feeling.

There has been significant change in this office since 2014, both in our responsibilities (which have increased considerably) and in personnel. AMCO's limited enforcement resources do not allow us to resolve every issue as fast as a complainant may wish.

That said, the Enforcement Unit has opened an investigation into this issue. I will keep you informed as to the status of the investigation. As for the specific ships listed in the various correspondence we've had from Mr. Rand, I can report that about half of them appear to have licenses.

I will be your point of contact on this issue—please send all correspondence to me at [erika.mccconnell@alaska.gov](mailto:erika.mccconnell@alaska.gov).

Sincerely,

Handwritten signature of Erika McConnell in cursive.

Erika McConnell  
Director

**Alcoholic Beverage Control Board  
Meeting Minutes Continued  
April 30, 2019**

● **ADMINISTRATION**

9:01 am

A. Call to Order

B. Roll Call

**Board Members Present**

*Bob Klein, Chair, Industry Member  
Rex Leath, Vice Chair, Public Safety Member  
Glenn Brady, Industry Member  
Charlie Cross, Rural Member  
Sara Erickson, Public Member*

**Staff Present**

*Erika McConnell, Director  
Mikal Milton, Records and Licensing Supervisor*

**Legal Counsel Present**

*Harriet Milks, Assistant Attorney General*

● **BOARD CONSIDERATION**

9:01 am

L.

[REDACTED]  
Alaskan Waters

**License: Common Carrier**

TAB 22

**Applicant is appealing staff decision regarding incomplete application for new license.**

*Erika McConnell summarizes Tab 22.*

*The phone is reset due to interference.*

[REDACTED] *applicant, is present via phone to testify. He states that his vessel is uninspected as designated between 100 and 300 tons in weight. 143 ton vessel is required to have a licensed mariner on board (200 ton captain).*

*Glenn Brady asks about the other licensed vessels held by this individual and he asks for clarification on why the applicant chose not to participate in the 5 star program.*

*Bob Newman stated that the remainder of his vessels are all "inspected" passenger vessels. There will be a "licensed mariner" who is authorized for 200 ton vessels. He states that the vessel would not pass a "regular" USCG inspection. He states that he does not have a problem getting a 5 star inspection but the safety requirements for the 5 star is substantially lower than the requirements already in place for his vessel.*

Bob Klein states that the requirement is in place to confirm that the vessels are safe like a fire inspection. He states that if a 5 star is received the matter would be settled.

Bob Newman states that he can receive the inspection.

**Glenn Brady moves to approve with delegation (including receipt of the 5 Star inspection and rating).  
Charlie Cross seconds the motion.**

Rex Leath states that he does not see where the applicant doesn't comply with the law.

Glenn Brady states that he also feels that nothing was done wrong by the licensee but that the only way for staff to determine the safety of the vessel is through some sort of inspection document.

Erika McConnell explains that for land-based premises the board's staff (enforcement) goes out and inspects the establishment. Additionally, the AMCO also receives approvals from inspecting authorities such as the Fire Marshal. However, at water-based premises (common carrier-vessels), AMCO staff does not perform an inspection and no approvals are received from additional safety authorities. While the vessel in question appears to have additional safety requirements (the 200 ton licensed captain) there will be a variety of vessels that fall under this category and staff is attempting to create a policy that assures vessel safety.

Rex Leath states that he doesn't support requiring a waiver (Bob Klein confirms that no waiver is required). He finds this operator not to be in violation of any type of law and doesn't see the 5 star inspection to be sufficient to prove safety of the vessel.

Glenn Brady states that he concurs that the applicant has not done anything wrong in this situation, but that this matter will be arising more in the future. He is hesitant to open a regulations project but a more coherent discussion may be necessary to address this matter. The Coast Guard may be interested in coming to speak to the board.

Sara Erickson asks how long it takes the Coast Guard to do the inspection. She asks how the 5 star rating requirement came about.

Erika McConnell states that when the board considered this matter previously, the board wouldn't approve licenses for vessels that fell outside the Certificate Of Inspection (COI) requirements. However, there are a variety of vessels that fall under this type of license. The 5 star/Certificate of Compliance (COC)/COI policy created by staff was a minimal policy to put in place to provide for public health and safety but also allow for other vessels that may not receive a COI.

Sarah Oates, individual, is present in person to discuss the matter. She provides additional information regarding the history of common carrier inspection licenses and previous board action. She states that there was a previous directive by former AMCO Director Cynthia Franklin that required all vessels to hold a COI under 3 AAC 304.155. This directive was issued due to a vessel being licensed that was parked in Kodiak waters that was a stationary platform and not an operating vessel.

Rex Leath states that the vessel Oates references would have passed a 5 Star inspection. He states that the 5 Star does not



Sara Erickson states that based on Rex Leath's testimony, requiring a 5 Star rating would not have prevented the licensure of the above mentioned vessel.

Sarah Oates clarifies that the previous directive was to only license vessels that had COI's which would have prevented the vessel from being licensed. However, Erika McConnell has since amended the directive to include COCs and 5 Star ratings to allow for more vessels to be licensed.

Glenn Brady states that without the amendment, the vessel that has requested consideration would not be eligible at all. He asks the applicant if the Coast Guard requires a liquor license for this vessel based on the proposed operations.

The applicant states that he is required to have the 200 ton Master on board, regardless of the liquor license. There are substantial consequences from the USCG if the requirements regarding his vessel are not met, possibly including the revocation of the masters license. The USCG does not have requirements regarding liquor license possession.

Regarding the main motion:

**Motion carries 4-1. Sara Erickson votes no.**

M.

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]



## MEMORANDUM

TO: Bob Klein, Chair, and Members of the Alcoholic Beverage Control Board      DATE: April 29, 2019

FROM: Erika McConnell, Director

RE: [REDACTED]

**Requested Action:** Appeal determination of incomplete application

**Statutory Authority:** AS 04.11.560(a): "An action of an officer, employee, or agent of the board relating to the administration or enforcement of this title may be appealed to the board by the aggrieved party."

**Staff Rec.:** Uphold staff determination of an incomplete application

**Background:** [REDACTED] submitted a new application for license [REDACTED] for a common carrier license to be located on the M/V [REDACTED]. Because the applicant does not have a Certificate of Inspection from the US Coast Guard, nor a 5-Star Decal through the 17<sup>th</sup> Coast Guard District's 5-Star Safety Program, the application was deemed incomplete and returned to the applicant. The applicant is appealing the determination.

The statutes governing alcohol licensing give the board oversight to ensure the public health, safety, and welfare is protected in relation to alcohol licensing. AS 04.11.370 states that a license or permit may be suspended or revoked if the licensee fails to comply with public health, fire, or safety laws and regulations in the state. Clearly the safety of the premises is expected to be a concern of the board, as well as the control of alcoholic beverages.

AMCO has noted three categories of vessels that apply for common carrier licenses:

- Vessels that receive US Coast Guard inspections and are issued a Certificate of Inspection (COI)
- Foreign vessels that receive inspections in their home country, verified by the US Coast Guard through a Certificate of Compliance (COC)
- Vessels that are not required to be inspected by the US Coast Guard.

This third type of vessel is the subject of this situation. According to the US Coast Guard Auxiliary, "An uninspected passenger vessel is any vessel (typically under 100 gross tons) carrying six or fewer passengers for hire." Such vessels are expected to comply with all applicable laws and carry all

required safety equipment, but there appears to be no way for the board to determine whether these safety requirements are being met.

According to public comment received by the board during a 2016 regulations project on common carriers, such uninspected vessels have no set standards for being designed for maritime safety. There are no minimum qualifications of any crew beyond the required “licensed mariner.” There is no yearly inspection to ensure against structural or mechanical issues with the vessel, that the vessel carries appropriate safety equipment, or that the crew are appropriately trained in safety drills.

In 2016, the board considered a regulations project regarding what types of vessels would qualify for a common carrier license. The board’s first draft stated that the only type of uninspected marine vessel that would qualify for a common carrier license would be a 12-pack with three or more staterooms for overnight passenger travel. Ultimately the board determined not to move forward with this language, although the minutes do not relate why. Comments from a common carrier licensee submitted during the project attest that the board has always required a Certificate of Inspection for every common carrier license, although that appears not to be the case.

In our efforts to assure the safety of the premises in which alcohol will be served, staff has developed the following policy: for vessels that are not required to be inspected by the US Coast Guard and do not have a US Coast Guard Certificate of Compliance (COC—for foreign vessels), AMCO requires participation in the 5-Star Safety Program.

The 5-Star Safety Program is a no-cost program where the US Coast Guard conducts a limited dockside examination and, upon passage, provides a two-year 5-Star Decal. A decal with five stars, which is the level required by AMCO, would certify the following:

- “Vessel is in compliance with existing regulations including the requirements found in 46 CFR, Subchapter C and the operator must also have a safety-training program established and a system of record keeping showing drills and training are conducted regularly. The program should include drills on emergency procedures and use of safety equipment.
- Vessel has a properly installed bilge pump and audible bilge alarm, or if the vessel is designed without a bilge, suitable reserve buoyancy to float the vessel in a totally swamped condition.
- Vessel has a handheld VHF FM radio with a minimum 5 watts of power. A portable satellite phone can be used as an equivalent level of safety.
- Vessel has a properly mounted and registered 406 MHz Emergency Position Indicating Radio Beacon (EPIRB), Class I or II.
- Vessel has on board, a properly installed and serviced, Coast Guard approved inflatable life raft or inflatable buoyant apparatus (IBA), canister or valise type, with minimum capacity for all passengers on board. An equivalent level of safety is level floatation vessel that meets Coast Guard standards or, if the vessel operates exclusively inside the Boundary Line, a commercial quality inflatable skiff in good condition that is fully inflated, stowed for immediate use, and has the capacity equal to the total number of passengers carried.”  
([https://alaska5star.us/program\\_info](https://alaska5star.us/program_info))

According to the program website, there were over 3,000 uninspected passenger vessels in Alaska in 2009. That number is likely much higher today. This policy has been put into place to work to

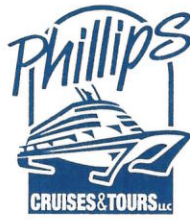


ABC Board April 29, 2019

Page 3

ensure that licensed premises are safe. The board may wish to consider opening a regulations project to address the requirements for common carrier vessels.

Attachments: Applicant correspondence  
License application



PHILLIPS CRUISES & TOURS, LLC

March 13, 2019

To Whom It May Concern;

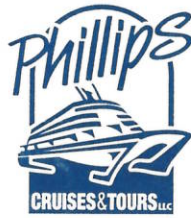
Phillips Cruises & Tours, LLC wishes to appeal the reason for the return of the Seasonal Common Carrier Liquor License Application for the "Sound Endeavor". The reason stated in the letter was the "Sound Endeavor" needed a Coast Guard Certificate of Inspection.

The "Sound Endeavor" falls into the Coast Guard's category for Uninspected Passenger Vessels as set forth by (CFR reference) therefore there is no inspection documentation available for this specific vessel. Please see additional statement for the more information.

Sincerely,

Robert G. Neumann  
Manager and Member  
Phillips Cruises & Tours, LLC  
Manager and Member





PHILLIPS CRUISES & TOURS, LLC

March 13, 2019

To Whom It May Concern;

Phillips Cruises & Tours, LLC wishes to choose not to opt into the 5 Star Program and have any other inspections in reference to the vessel "Sound Endeavor".

The "Sound Endeavor" falls into the Coast Guard Category of licensed "Uninspected Passenger Vessel (UPV);

- The "Sound Endeavor" is over 100 gross tons and under 300 gross tons (46 CFR §24.10-1)
- Carrying not more than 12 passengers, including at least one passenger-for-hire; or
- Is chartered with the crew provided or specified by the owner or owner's representative and carrying not more than 12 passengers
- The "Sound Endeavor" is under the command of an individual holding a license or MMC endorsed as master (46 CFR §26.20-1)

Please let us know if you have any questions concerning the Liquor License Application for the "Sound Endeavor".

Sincerely,

Robert G. Neumann  
Manager and Member  
Phillips Cruises & Tours, LLC  
Manager and Member





§ 24.05-5

46 CFR Ch. I (10-1-99 Edition)

§ 24.05-5 Specific application noted in text.

(a) At the beginning of the various parts, subparts, and sections, a more specific application is generally given for the particular portion of the text involved. This application sets forth the types, sizes, or services of vessels to which the text pertains, and in many cases limits the application of the text to vessels contracted for before or after a specific date. As used in this subchapter, the term *vessels contracted for* includes not only the contracting for the construction of a vessel, but also the contracting for a material alteration to a vessel, the contracting for the conversion of a vessel to a passenger vessel, and the changing of service or route of a vessel if such change increases or modifies the general requirements for the vessel or increases the hazards to which it might be subjected.

(b) [Reserved]

**Subpart 24.10—Definition of Terms Used in This subchapter**

§ 24.10-1 Approved.

This term means approved by the Commandant unless otherwise stated.

§ 24.10-2 Barge.

This term means any vessel not equipped with means of self-propulsion. [CGFR 68-32, 33 FR 5711, Apr. 12, 1968]

§ 24.10-3 Carrying passengers for hire.

The carriage of any person or persons by a vessel for a valuable consideration, whether directly or indirectly flowing to the owner, charterer, operator, agent or any other person interested in the vessel.

§ 24.10-5 Carrying freight for hire.

The carriage of any goods, wares, or merchandise or any other freight for a valuable consideration, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person interested in the vessel.

§ 24.10-7 Commandant.

This term means the Commandant of the Coast Guard.

§ 24.10-9 Coast Guard District Commander.

This term means an officer of the Coast Guard designated as such by the Commandant to command all Coast Guard activities within his district, which include the inspection, enforcement, and administration of Subtitle II, Title 46 U.S. Code, Title 46 and Title 33 U.S. Code, and regulations issued under these statutes.

[CGFR 65-50, 30 FR 16650, Dec. 30, 1965, as amended by CGD 95-028, 62 FR 51196, Sept. 30, 1997]

§ 24.10-11 Headquarters.

This term means the Office of the Commandant, Washington, DC.

§ 24.10-13 International voyage.

(a) This section describes those voyages which are considered to be "international voyages" for the purposes of this subchapter.

(b) Except as provided in paragraph (c) of this section, the term *international voyage* as used in this subchapter shall have the same meaning as that contained in Regulation 2(d), chapter I of the International Convention for Safety of Life at Sea, 1974, i.e., "*International voyage* means a voyage from a country to which the present convention applies to a port outside such country, or conversely."

(c) The International Convention for Safety of Life at Sea, 1974, does not apply to vessels "solely navigating the Great Lakes of North America and the River St. Lawrence as far east as a straight line drawn from Cap de Rosiers to West Point, Anticosti Island and, on the north side of Anticosti Island, the 63d Meridian." Accordingly, such vessels shall not be considered as being on an *international voyage* for the purpose of this subchapter.

(d) In addition, although voyages between the continental United States and Hawaii or Alaska, and voyages between Hawaii and Alaska are not *international voyages* under the provisions of the International Convention for Safety of Life at Sea, 1974, such voyages are similar in nature and shall be considered as *international voyages* for the purposes of this subchapter.

[CGD 90-008, 55 FR 30659, July 26, 1990]

**Pt. 26**

NOTE: 33 CFR 151.67 prohibits the discharge of plastic or garbage mixed with plastic into the sea or the navigable waters of the United States. "Plastic" and "garbage" are defined in 33 CFR 151.05.

[CGD 88-002A, 56 FR 8880, Mar. 1, 1991]

**PART 26—OPERATIONS**

**Subpart 26.01—Application**

Sec.

26.01-1 Applicable to all vessels.

**Subpart 26.03—Special Operating Requirements**

- 26.03-1 Safety orientation.
- 26.03-2 Emergency instructions.
- 26.03-5 Action required after accident.
- 26.03-10 Signaling light.

**Subpart 26.08—Notice and Reporting of Casualty and Voyage Records**

26.08-1 Notice and reporting of casualty and voyage records.

**Subpart 26.15—Boarding**

26.15-1 May board at any time.

**Subpart 26.20—Exhibition of Motorboat Operator's License**

26.20-1 Must be available.

**Subpart 26.25 [Reserved]**

**Subpart 26.30—Work Vest**

- 26.30-1 Approved unicellular plastic foam work vests.
- 26.30-5 Use.
- 26.30-10 Stowage.

AUTHORITY: 46 U.S.C. 3306, 4104, 6101, 8105; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277.; 49 CFR 1.46.

SOURCE: CGFR 65-50, 30 FR 16656, Dec. 30, 1965, unless otherwise noted.

**Subpart 26.01—Application**

**§ 26.01-1 Applicable to all vessels.**

(a) The provisions of this part shall apply to all vessels except as specifically noted.

**46 CFR Ch. I (10-1-99 Edition)**

**Subpart 26.03—Special Operating Requirements**

**§ 26.03-1 Safety orientation.**

(a) Before getting underway in any vessel carrying 6 or fewer passengers for hire, the operator in charge shall ensure that suitable public announcements, instructive placards or both are provided in a manner which affords all passengers the opportunity to become acquainted with:

- (1) Stowage locations of life preservers;
- (2) Proper method of donning and adjusting life preservers of the type(s) carried on the vessel;
- (3) The type and location of all life-saving devices carried on the vessel; and
- (4) The location and contents of the *Emergency Checkoff List* required by § 26.03-2.

(b) Vessels subject to this subpart engaged in tender service at yacht clubs and marinas, and vessels being demonstrated for a potential purchaser by a yacht broker, are excluded from the requirements of § 26.03-1 and § 26.03-2.

[CGD 78-009, 45 FR 11109, Feb. 19, 1980]

**§ 26.03-2 Emergency instructions.**

(a) The operator in charge of each vessel carrying 6 or fewer passengers for hire shall ensure that an emergency checkoff list is posted in a conspicuous, continuously accessible place to serve as a notice to the passengers and a reminder to the crew of precautionary measures which may be necessary in the event of an emergency situation.

(b) Except where any part of the emergency instructions are deemed unnecessary by the Officer in Charge, Marine Inspection, the emergency checkoff list must contain not less than the applicable portions of the sample emergency checkoff list which follows:

**SAMPLE EMERGENCY CHECKOFF LIST**

Measures to be considered in the event of:

- (a) *Rough weather at sea or crossing hazardous bars.*
  - All weathertight and watertight doors, hatches and airports closed to prevent taking water aboard.
  - Bilges kept dry to prevent loss of stability.

## Coast Guard, DOT

## § 26.15-1

- Passengers seated and evenly distributed.
  - All passengers wearing life preservers in conditions of very rough seas or if about to cross a bar under hazardous conditions.
  - An international distress call and a call to the Coast Guard over radiotelephone made if assistance is needed (if radiotelephone equipped).
  - Ring buoy thrown overboard as close to the victim as possible.
  - Lookout posted to keep the victim in sight.
  - Crewmember, wearing a life preserver and lifeline, standing by ready to jump into the water to assist the victim back aboard.
  - Coast Guard and all vessels in the vicinity notified by radiotelephone (if radiotelephone equipped).
  - Search continued until after radiotelephone consultation with the Coast Guard, if at all possible.
- (b) *Man overboard.*
- Air supply to the fire cut off by closing hatches, ports, doors, and ventilators, etc.
  - Portable extinguishers discharged at the base of the flames of flammable liquid or grease fires or water applied to fires in combustible solids.
  - If fire is in machinery spaces, fuel supply and ventilation shut off and any installed fixed firefighting system discharged.
  - Vessel maneuvered to minimize the effect of wind on the fire.
  - Coast Guard and all vessels in the vicinity notified by radiotelephone of the fire and vessel location (if radiotelephone equipped).
  - Passengers moved away from fire and wearing life preservers.

(c) When in the judgment of the cognizant Officer in Charge, Marine Inspection, the operation of any vessel subject to this section does not present the hazards listed on the emergency checkoff list or when any vessel has no suitable mounting surface, an exclusion from the requirements of § 26.03-2(a) and (b) is granted by letter.

[CGD 78-009, 45 FR 11109, Feb. 19, 1980]

### § 26.03-5 Action required after accident.

(a) Whenever an undocumented vessel is involved in a marine casualty, the master or individual in charge shall:

(1) Render necessary assistance to each individual affected to save that affected individual from danger caused

by a marine casualty, so far as the master or individual in charge can do so without serious danger to the master's or the individual's vessel or to individuals on board; and

(2) Give the master's or individual's name and address and identification of the vessel to the master or individual in charge of any other vessel involved in the casualty, to any individual injured, and to the owner of any property damaged.

(b) Undocumented vessels involved in marine casualties shall report the casualty in accordance with the requirements of 33 CFR part 173, subpart C.

[CGD 95-028, 62 FR 51197, Sept. 30, 1997, as amended by USCG-1998-4442, 63 FR 52189, Sept. 30, 1998]

### § 26.03-10 Signaling light.

All vessels of over 150 gross tons, when engaged on an international voyage, shall be equipped with an efficient daylight signaling lamp in accordance with the requirements of subchapter J (Electrical Engineering) of this chapter.

[CGFR 68-32, 33 FR 5711, Apr. 12, 1968, as amended by CGD 97-057, 62 FR 51042, Sept. 30, 1997]

## Subpart 26.08—Notice and Reporting of Casualty and Voyage Records

AUTHORITY: 46 U.S.C. 6101; 46 CFR 1.46.

### § 26.08-1 Notice and reporting of casualty and voyage records.

The requirements for providing notice and reporting of marine casualties and for retaining voyage records are contained in part 4 of this chapter.

[CGD 84-099, 52 FR 47535, Dec. 14, 1987; 53 FR 13117, Apr. 21, 1988]

## Subpart 26.15—Boarding

### § 26.15-1 May board at any time.

(a) To facilitate the boarding of vessels by the commissioned, warrant, and petty officers of the U.S. Coast Guard in the exercise of their authority, every uninspected vessel, as defined in 46 U.S.C. 2101(43), if underway and upon being hailed by a Coast Guard vessel,



**§ 26.20-1**

must stop immediately and lay to, or must maneuver in such a way to permit the Coast Guard boarding officer to come aboard. Failure to permit a Coast Guard boarding officer to board a vessel or refusal to comply will subject the operator or owner of the vessel to the penalties provided in law.

(b) Coast Guard boarding vessels will be identified by the display of the Coast Guard ensign as a symbol of authority and the Coast Guard personnel will be dressed in Coast Guard uniform. The Coast Guard boarding officer upon boarding a vessel will identify himself to the master, owner, or operator and explain his mission.

[CGFR 65-50, 30 FR 16656, Dec. 30, 1965, as amended by CGD 72-132R, 38 FR 5750, Mar. 2, 1973; CGD 95-027, 61 FR 25997, May 23, 1996]

**Subpart 26.20—Exhibition of Motorboat Operator's License**

**§ 26.20-1 Must be available.**

(a) Any person to whom a license as a motorboat operator has been issued shall have such license in his possession and available for immediate production to any Coast Guard boarding officer at all times during which any vessel which he is operating is carrying passengers for hire.

**Subpart 26.25 [Reserved]**

**Subpart 26.30—Work Vest**

SOURCE: CGFR 68-65, 33 FR 19982, Dec. 28, 1968, unless otherwise noted.

**§ 26.30-1 Approved unicellular plastic foam work vests.**

(a) Buoyant work vests carried under the permissive authority of this subpart shall be of an approved type, and shall be constructed, listed, and labeled in accordance with subpart 160.053 of subchapter Q (Specifications) of this chapter.

**§ 26.30-5 Use.**

(a) Approved buoyant work vests are considered to be items of safety apparel and may be carried aboard vessels to be worn by crew members when working near or over the water under favorable working conditions.

**46 CFR Ch. I (10-1-99 Edition)**

(b) When carried, approved buoyant work vests shall not be accepted in lieu of any portion of the required number of approved lifesaving appliances required by § 25.25-10 of this subchapter.

**§ 26.30-10 Stowage.**

(a) The approved buoyant work vests shall be stowed separately from the regular stowage of required lifesaving equipment.

**PART 28—REQUIREMENTS FOR COMMERCIAL FISHING INDUSTRY VESSELS**

**Subpart A—General Provisions**

- Sec.
- 28.10 Authority.
- 28.20 OMB control numbers.
- 28.30 Applicability.
- 28.40 Incorporation by reference.
- 28.50 Definition of terms used in this part.
- 28.60 Exemption letter.
- 28.65 Termination of unsafe operations.
- 28.70 Approved equipment and material.
- 28.73 Accepted organizations.
- 28.76 Similarly qualified organizations.
- 28.80 Report of casualty.
- 28.90 Report of injury.
- 28.95 Right of appeal.

**Subpart B—Requirements for All Vessels**

- 28.100 Applicability.
- 28.105 Lifesaving equipment—general requirements.
- 28.110 Life preservers or other personal flotation devices.
- 28.115 Ring life buoys.
- 28.120 Survival craft.
- 28.125 Stowage of survival craft.
- 28.130 Survival craft equipment.
- 28.135 Lifesaving equipment markings.
- 28.140 Operational readiness, maintenance, and inspection of lifesaving equipment.
- 28.145 Distress signals.
- 28.150 Emergency Position Indicating Radio Beacons (EPIRBs).
- 28.155 Excess fire detection and protection equipment.
- 28.160 Portable fire extinguishers.
- 28.165 Injury placard.

**Subpart C—Requirements for Documented Vessels That Operate Beyond the Boundary Lines or With More Than 16 Individuals On Board, or for Fish Tender Vessels Engaged in the Aleutian Trade**

- 28.200 Applicability.
- 28.205 Fireman's outfit and self-contained breathing apparatus.

DHS, USCG, CG-1270 (REV. 06-04)

OMB APPROVED

1625-0027


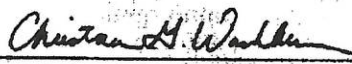


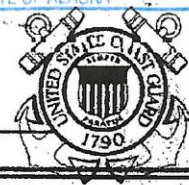
# UNITED STATES OF AMERICA

DEPARTMENT OF HOMELAND SECURITY  
UNITED STATES COAST GUARD

NATIONAL VESSEL DOCUMENTATION CENTER

## CERTIFICATE OF DOCUMENTATION

VESSEL NAME SOUND ENDEAVOR		OFFICIAL NUMBER 1133352	IMO OR OTHER NUMBER NME07602H202	YEAR COMPLETED 2002
HAILING PORT ANCHORAGE AK		HULL MATERIAL FRP (FIBERGLASS)		MECHANICAL PROPULSION YES
CROSS TONNAGE 143 GRT	NET TONNAGE 115 NRT	LENGTH 77.0	DRAUGHT 21.8	DEPTH 12.8
PLACE BUILT ANACORTES WA				
OWNERS PHILLIPS CRUISES & TOURS LLC COMPRISED OF TWO MEMBERS		OPERATIONAL ENDORSEMENTS REGISTRY COASTWISE		
MANAGING OWNER PHILLIPS CRUISES & TOURS LLC 510 WEST FOURTH AVE ANCHORAGE AK 99501				
RESTRICTIONS NONE				
ENTITLEMENTS NONE				
REMARKS NONE				
ISSUE DATE SEPTEMBER 06, 2017				
THIS CERTIFICATE EXPIRES SEPTEMBER 30, 2018				
		 DIRECTOR, NATIONAL VESSEL DOCUMENTATION CENTER		





This certificate is not valid for operation of the vessel until the vessel is marked with the name, official number, and hailing port as shown on the certificate. The original certificate must be kept aboard the vessel at all times when in operation and must be presented upon the demand of federal, state or local officials for law enforcement purposes. Vessels with only a recreational endorsement may not engage in commercial trade.

Documented vessels may be registered by states for tax and other purposes and may be required to display a state decal. This certificate is valid for one year. Renewal is the responsibility of the owner. This certificate must be surrendered to the National Vessel Documentation Center (NVDC), 792 T J Jackson Drive, Falling Waters, West Virginia 25419, upon a change in ownership, change in state of incorporation, or a change in any other element shown on the certificate other than change of address. This certificate is invalid for any vessel other than one documented solely for recreation when the vessel is placed under the command of a person who is not a citizen of the U.S. The vessel and its equipment are liable to seizure and forfeiture to the U.S. government and the owner is liable for a civil penalty of not more than \$10,000.00 per violation. Each day of a continuing violation is a separate violation.

Any change in address of the managing owner must be reported promptly to the NVDC. You may contact us at (304) 271 2400.

**Note:** The certificate on the face of this document is not conclusive evidence of title in any proceeding where ownership is in issue. Complete records are on file at the NVDC. The sale or transfer section below is provided for convenience only.

**SALE OR TRANSFER OF VESSEL**

100% OF THE VESSEL IDENTIFIED HEREIN IS SOLD (TRANSFERRED) BY THE OWNER(S) NAMED ON THE FACE OF THIS CERTIFICATE TO THE FOLLOWING PERSON(S). ADDRESS MUST BE INCLUDED.

IF SOLD (TRANSFERRED) TO MORE THAN ONE PERSON, THE PURCHASER(S)/TRANSFEREE(S) ARE TENANTS IN COMMON, EACH OWNING AN EQUAL UNDIVIDED INTEREST, UNLESS OTHERWISE INDICATED HEREIN. CHECK ONLY ONE OF THE FOLLOWING BLOCKS TO SHOW ANOTHER FORM OF OWNERSHIP.

- JOINT TENANCY WITH RIGHT OF SURVIVORSHIP
- TENANCY BY THE ENTIRETIES
- COMMUNITY PROPERTY
- OTHER

SIGNATURE OF SELLER(S)/TRANSFEROR(S) OR PERSONS SIGNING ON BEHALF OF SELLER(S)/TRANSFEROR(S):

DATE SIGNED:

NAME(S) OF PERSON(S) SIGNING ABOVE, AND LEGAL CAPACITY IN WHICH SIGNED (E.G. OWNER, AGENT, TRUSTEE, EXECUTOR)

ACKNOWLEDGMENT (TO BE COMPLETED BY NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED BY A LAW OR A STATE OR THE UNITED STATES TO TAKE OATHS.)

ON \_\_\_\_\_ THE PERSON(S) NAMED STATE: \_\_\_\_\_  
(DATE) COUNTY: \_\_\_\_\_

ABOVE ACKNOWLEDGED EXECUTION OF THE FOREGOING INSTRUMENT IN THEIR STATED CAPACITY(IES) FOR THE PURPOSES THEREIN CONTAINED.

NOTARY PUBLIC  
MY COMMISSION EXPIRES:

**PRIVACY ACT STATEMENT**

IN ACCORDANCE WITH 5 USC 552(A) THE FOLLOWING INFORMATION IS PROVIDED TO YOU WITH REGARD TO PERSONAL INFORMATION TO THE U.S. COAST GUARD:

- AUTHORITY. SOLICITATION OF THIS INFORMATION IS AUTHORIZED BY 46 USC CHAPTER 313 AND 46 CFR. PART 67.
- THE PRINCIPAL PURPOSES FOR WHICH THIS INSTRUMENT IS TO BE USED ARE:
  - (A) TO PROVIDE A RECORD, AVAILABLE FOR PUBLIC INSPECTION AND COPYING, OF THE SALE OR OTHER CHANGE IN OWNERSHIP OF A VESSEL WHICH IS DOCUMENTED, WILL BE DOCUMENTED, OR HAS BEEN DOCUMENTED PURSUANT TO 46 USC CHAPTER 121.
  - (B) RETENTION FOR EXAMINATION BY GOVERNMENTAL AUTHORITIES AND MEMBERS OF THE GENERAL PUBLIC.
- THE KEYLINE USE WHICH MAY BE MADE OF THIS INFORMATION INCLUDES DEVELOPMENT OF STATISTICAL DATA CONCERNING REGISTERED VESSELS.
- DISCLOSURE OF THE INFORMATION REQUESTED ON THIS FORM IS VOLUNTARY. HOWEVER, FAILURE TO PROVIDE THE INFORMATION COULD PRECLUDE FILING OF A BILL OF SALE AND DOCUMENTATION OF THE VESSEL NAMED HEREIN PURSUANT TO 46 USC CHAPTER 121. MOREOVER, BILLS OF SALE WHICH ARE NOT FILED ARE NOT DEEMED TO BE VALID AGAINST ANY PERSON HAVING ACTUAL KNOWLEDGE OF THE SALE. (46 USC 31321 (A)).

AN AGENCY MAY NOT CONDUCT OR SPONSOR, AND A PERSON IS NOT REQUIRED TO RESPOND TO A COLLECTION OF INFORMATION UNLESS IT DISPLAYS A VALID OMB CONTROL NUMBER.

THE COAST GUARD ESTIMATES THAT THE AVERAGE BURDEN FOR THIS FORM IS 20 MINUTES FOR COMPLETING AND 5 MINUTES FOR FILING. YOU MAY SUBMIT ANY COMMENTS CONCERNING THE ACCURACY OF THIS BURDEN ESTIMATE OR ANY SUGGESTIONS FOR REDUCING THE BURDEN TO: U.S. COAST GUARD, NATIONAL VESSEL DOCUMENTATION CENTER, 792 T J JACKSON DRIVE, FALLING WATERS, WEST VIRGINIA 25419 OR OFFICE OF MANAGEMENT AND BUDGET, PAPERWORK REDUCTION PROJECT (1625-0027), WASHINGTON, DC 20503.

**AQ 520031822419**





with other ingredients, including mixers, juices, or garnishes, that are not alcoholic beverages.

(g) In this section, "distillery's product" means an alcoholic beverage distilled on the licensed premises.

**Sec. 04.11.180. Common carrier dispensary license.**

(a) A common carrier dispensary license authorizes the holder to sell alcoholic beverages for consumption aboard a vehicle, boat, or train licensed by a state or federal agency for passenger travel, or aboard aircraft operated by an airline licensed by a state or federal agency for passenger travel.

(b) Except for a common carrier that is an airline, a common carrier shall obtain a license for each vehicle, boat, or train in which alcoholic beverages are served. After obtaining an initial license for the first vehicle, boat, or train, the common carrier may obtain additional licenses for additional vehicles, boats, or trains upon making a written request identifying the vehicle, boat, or train in the manner prescribed by the board, and paying the biennial fee for additional licensed premises as required by (c) of this section.

(c) Except as provided for airlines under (d) of this section, the biennial fee for a common carrier dispensary license is \$1,000 for each of the first 10 licenses a common carrier holds and \$100 for each additional license issued to the common carrier after the first 10 licenses.

(d) The biennial fee for a common carrier dispensary license issued to an airline is the fee specified under (c) of this section for each aircraft in which alcoholic beverages are served or \$2,000 for each community served by the airline. An airline shall specify the fee applicable to the license at the time of the airline's application for issuance or renewal of the license.

Effective 10/11/18 – NOT AN OFFICIAL COPY



Alcohol and Marijuana Control Office  
 550 W 7<sup>th</sup> Avenue, Suite 1600  
 Anchorage, AK 99501  
[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)  
<https://www.commerce.alaska.gov/web/amco>  
 Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

**Form AB-00: New License Application**

**What is this form?**

This new license application form is required for all individuals or entities seeking to apply for a new liquor license. Applicants should review **Title 04 of Alaska Statutes** and **Chapter 304 of the Alaska Administrative Code**. All fields of this form must be completed, per AS 04.11.260 and 3 AAC 304.105.

This form must be completed and submitted to AMCO's main office, along with all other required forms and documents, before any license application will be considered complete.

**Section 1 - Establishment and Contact Information**

Enter information for the business seeking to be licensed.

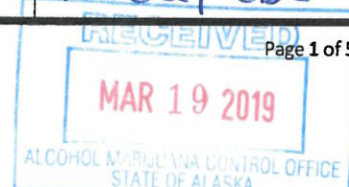
Licensee:	PHILLIPS CRUISES & TOURS, LLC		
License Type:	COMMON CARRIER - SEASONAL	Statutory Reference:	04.11.180
Doing Business As:	M/V SOUND ENDEAVOR		
Premises Address:	<del>PRINCE WILLIAM SOUND</del> <sup>PPD</sup> ALASKAN WATERS		
City:		State:	ALASKA
Local Governing Body:	N/A		
Community Council:	N/A		

Mailing Address:	519 WEST 4TH AVENUE		
City:	ANCHORAGE	State:	ALASKA
		ZIP:	99501

Designated Licensee:	ROBERT G. NEUMANN		
Contact Phone:	907 265-5888	Business Phone:	907 279-2039
Contact Email:	bneumann@26glaciers.com		

Seasonal License?  Yes  No If "Yes", write your six-month operating period: May 1st - October 31st

OFFICE USE ONLY			
Complete Date:	3/19/19	License Years:	19/20
Board Meeting Date:	4/29/19	Transaction #:	77423 77697, 77698
Issue Date:		BRE:	Mkol / CDE





Alaska Alcoholic Beverage Control Board

# Form AB-00: New License Application

## Section 2 – Premises Information

Premises to be licensed is:

- an existing facility       a new building       a proposed building

The next two questions must be completed by beverage dispensary (including tourism) and package store applicants only:

What is the distance of the shortest pedestrian route from the public entrance of the building of your proposed premises to the outer boundaries of the nearest school grounds? Include the unit of measurement in your answer.

N/A

What is the distance of the shortest pedestrian route from the public entrance of the building of your proposed premises to the public entrance of the nearest church building? Include the unit of measurement in your answer.

N/A

## Section 3 – Sole Proprietor Ownership Information

This section must be completed by any sole proprietor who is applying for a license. Entities should skip to Section 4.

If more space is needed, please attach a separate sheet with the required information.

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

This individual is an:  applicant       affiliate

Name:					
Address:					
City:		State:		ZIP:	

This individual is an:  applicant       affiliate

Name:					
Address:					
City:		State:		ZIP:	







Alaska Alcoholic Beverage Control Board

**Form AB-00: New License Application**

**Section 4 – Entity Ownership Information**

This section must be completed by any entity, including a corporation, limited liability company (LLC), partnership, or limited partnership, that is applying for a license. Sole proprietors should skip to Section 5.

If more space is needed, please attach a separate sheet with the required information.

- If the applicant is a corporation, the following information must be completed for each *stockholder 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*.

Entity Official:	ROBERT G. NEUMANN			
Title(s):	MANAGING MEMBER	Phone:	907 265-5888	% Owned: 50%
Address:	1433 WEST 13TH AVENUE			
City:	ANCHORAGE	State:	ALASKA	ZIP: 99501

Entity Official:	CAROLYN F. NEUMANN			
Title(s):	MEMBER	Phone:	907 792-6264	% Owned: 50%
Address:	1433 WEST 13TH AVENUE			
City:	ANCHORAGE	State:	ALASKA	ZIP: 99501

Entity Official:				
Title(s):		Phone:		% Owned:
Address:				
City:		State:		ZIP:

Entity Official:				
Title(s):		Phone:		% Owned:
Address:				
City:		State:		ZIP:





Alaska Alcoholic Beverage Control Board

## Form AB-00: New License Application

This subsection must be completed by any applicant that is a corporation or LLC. Corporations and LLCs are required to be in good standing with the Alaska Division of Corporations (DOC) and have a registered agent who is an individual resident of the state of Alaska.

DOC Entity #:	82471D	AK Formed Date:	09/19/2003	Home State:	ALASKA
Registered Agent:	ROBERT G. NEUMANN		Agent's Phone:	907 265-5888	
Agent's Mailing Address:	519 WEST 4TH AVENUE				
City:	ANCHORAGE	State:	ALASKA	ZIP:	99501

Residency of Agent: Yes No

Is your corporation or LLC's registered agent an individual resident of the state of Alaska?

### Section 5 – Other Licenses

Ownership and financial interest in other alcoholic beverage businesses: Yes No

Does any representative or owner named in this application have any direct or indirect financial interest in any other alcoholic beverage business that does business in or is licensed in Alaska?

If "Yes", disclose which individual(s) has the financial interest, what the type of business is, and if licensed in Alaska, which license number(s) and license type(s):

ROBERT G. AND CAROLYN F. NEUMANN - OPERATING IN THE PRINCE WILLIAM SOUND  
KLONDIKE EXPRESS - LICENSE #3334 - GLACIER QUEST - LICENSE #5138  
BOTH LICENSES ARE SEASONAL AND BOTH LICSESES ARE COMMON CARRIER LICENSES

### Section 6 – Authorization

Communication with AMCO staff: Yes No

Does any person other than a licensee named in this application have authority to discuss this license with AMCO staff?

If "Yes", disclose the name of the individual and the reason for this authorization:

GAYLE M. CATES - FINANCIAL MANAGER OF PHILLIPS CRUISES & TOURS, LLC







Alaska Alcoholic Beverage Control Board  
**Form AB-00: New License Application**

**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 proposed licensees (as defined in AS 04.11.260) and affiliates have been listed on this application.

*REN*

I certify that all proposed licensees have been listed with the Division of Corporations.

*REN*

I certify 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.

*REN*

I certify that all licensees, agents, and employees who sell or serve alcoholic beverages or check the identification of a patron will complete an approved alcohol server education course, if required by AS 04.21.025, and, while selling or serving alcoholic beverages, will carry or have available to show a current course card or a photocopy of the card certifying completion of approved alcohol server education course, if required by 3 AAC 304.465.

*REN*

I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application.

*REN*

As an applicant for a liquor license, 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.

*Robert G. Neumann*  
Signature of licensee

**ROBERT G. NEUMANN**

Printed name of licensee

*Gayle M. Cates*  
Signature of Notary Public

Notary Public in and for the State of Alaska

My commission expires: 06/18/2018

Subscribed and sworn to before me this 26<sup>th</sup> day of March, 2018.







Alcohol and Marijuana Control Office  
550 W 7<sup>th</sup> Avenue, Suite 1600  
Anchorage, AK 99501  
[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)  
<https://www.commerce.alaska.gov/web/amco>  
Phone: 907.269.0350

## Alaska Alcoholic Beverage Control Board Form AB-02: Premises Diagram

### What is this form?

A detailed diagram of the proposed licensed premises is required for all liquor license applications, per AS 04.11.260 and 3 AAC 304.185. Your diagram must include dimensions and must show all entrances and boundaries of the premises, walls, bars, fixtures, and areas of storage, service, consumption, and manufacturing. If your proposed premises is located within a building or building complex that contains multiple businesses and/or tenants, please provide an additional page that clearly shows the location of your proposed premises within the building or building complex, along with the addresses and/or suite numbers of the other businesses and/or tenants within the building or building complex.

The second page of this form is not required. Blueprints, CAD drawings, or other clearly drawn and marked diagrams may be submitted in lieu of the second page of this form. The first page must still be completed, attached to, and submitted with any supplemental diagrams. An AMCO employee may require you to complete the second page of this form if additional documentation for your premises diagram is needed.

This form must be completed and submitted to AMCO's main office before any license application will be considered complete.

Yes No

I have attached blueprints, CAD drawings, or other supporting documents in addition to, or in lieu of, the second page of this form.

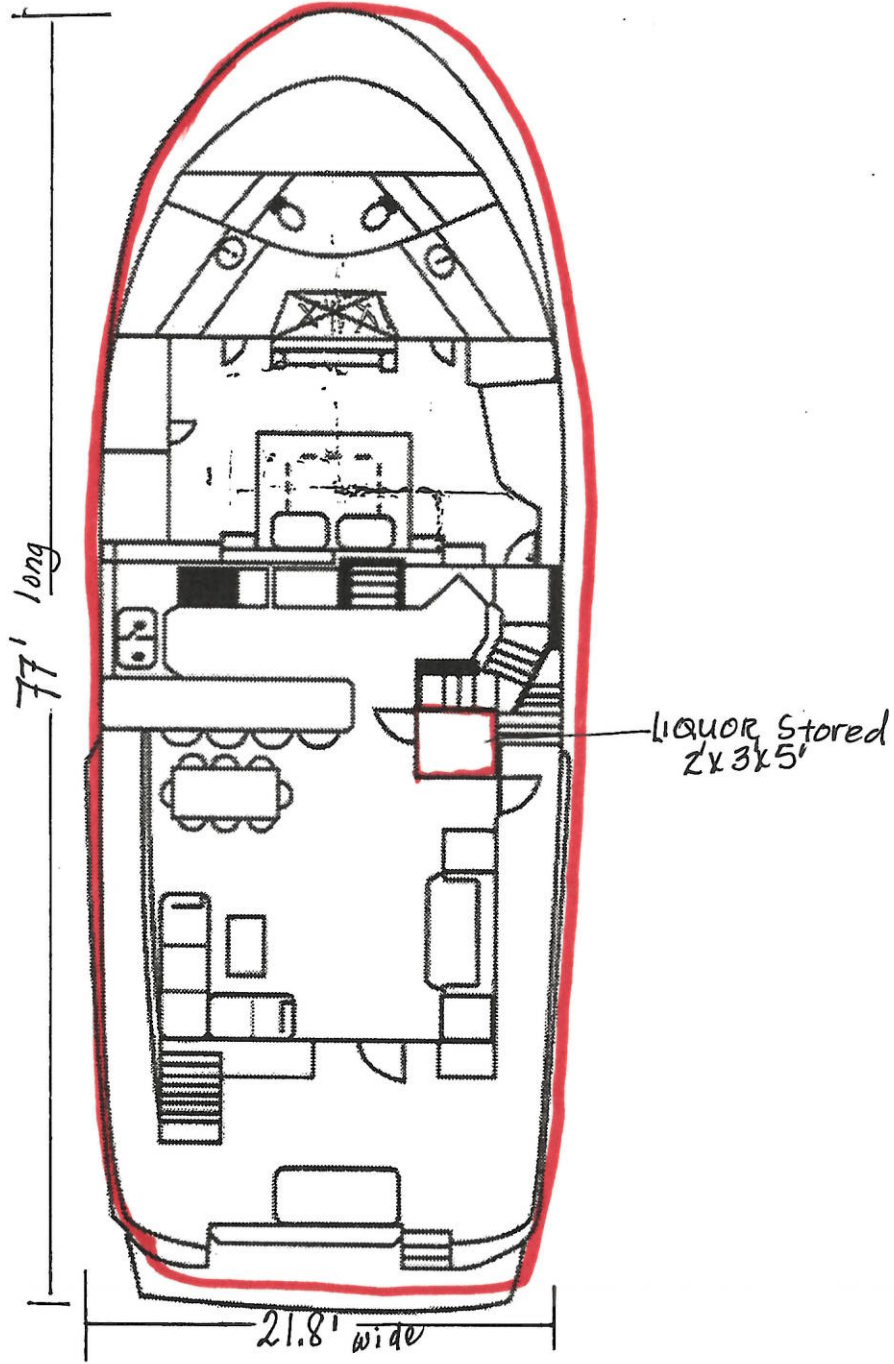
### Section 1 - Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	<del>ROBERT G. NEUMANN</del>	License Number:	5659		
License Type:	COMMON CARRIER - SEASONAL				
Doing Business As:	M/V SOUND ENDEAVOR				
Premises Address:	<del>PRINCE WILLIAM SOUND</del> ALASKAN WATERS				
City:		State:	ALASKA	ZIP:	



# Sound Endeavor



RECEIVED  
MAY 03 2018  
ALCOHOL MARIJUANA CONTROL OFFICE  
STATE OF ALASKA

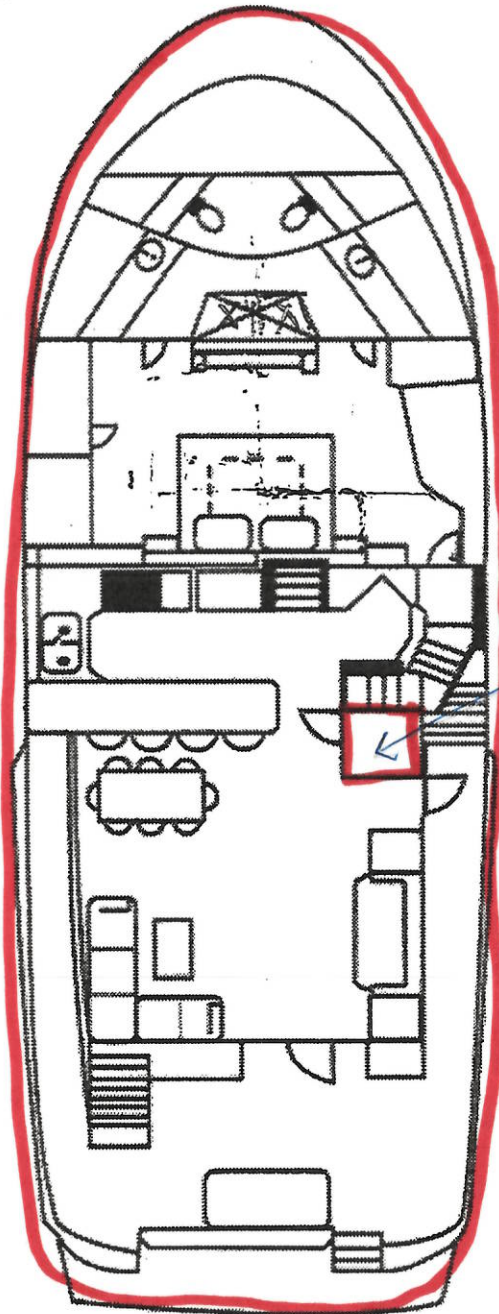




## Alaska Alcoholic Beverage Control Board Form AB-02: Premises Diagram

### Section 2 – Detailed Premises Diagram

Clearly indicate the boundaries of the premises and the proposed licensed area within that property. Clearly indicate the interior layout of any enclosed areas on the proposed premises. Clearly identify all entrances and exits, walls, bars, and fixtures, and outline in red the perimeter of the areas designated for alcohol storage, service, consumption, and manufacturing. Include dimensions, cross-streets, and points of reference in your drawing. You may attach blueprints or other detailed drawings that meet the requirements of this form.



LOCKED  
LIQUOR  
STORAGE





**From:** Carrie Craig  
**To:** [Craig, Carrie D \(CED\)](#)  
**Subject:** Fwd: USCG COI/COC/Decal & 5 star safety rating  
**Date:** Tuesday, September 4, 2018 3:32:16 PM

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Sent from my iPhone

Begin forwarded message:

**From:** "Milton, Mikal C (CED)" <[mikal.milton@alaska.gov](mailto:mikal.milton@alaska.gov)>  
**Date:** September 4, 2018 at 2:01:47 PM AKDT  
**To:** "McConnell, Erika B (CED)" <[erika.mcconnell@alaska.gov](mailto:erika.mcconnell@alaska.gov)>, "Oates, Sarah D (CED)" <[sarah.oates@alaska.gov](mailto:sarah.oates@alaska.gov)>  
**Cc:** Carrie Craig <[carriedcraig@gmail.com](mailto:carriedcraig@gmail.com)>  
**Subject:** RE: USCG COI/COC/Decal & 5 star safety rating

Hello,

Per our meeting last week regarding COI/COC/Decals I contacted the USCG and found an informational website for the Decal program that we could possibly send licensees to. <https://alaska5star.us/>

The website states (and I confirmed with Cecil McNutt from the USCG) the following-

**The program costs nothing to participate in.**

**Inspections may be requested at any time of year** with the busy seasons being spring and fall.

Information not from the website but that Cecil conveyed via phone is the following  
Inspections take approximately **2 hours** but the time varies by vessel size.

**"Permanently moored"** vessels would **not be able to receive the Decal/5 star**. (AKA no stripper boat)

There is not a hard and fast rule for determining what vessels (aside from the passenger/weight requirements) would be eligible for the program, however, they need to be **operated in "navigable waters"** as defined by the USCG. (There are lists of "navigable waters" available online.)

Additionally, Cecil confirmed that the decals were issued only to vessels **"within reason"**. This means that **a canoe with a motor permanently affixed would NOT be eligible for the decal**. However, the eligibility requirements were written broadly on purpose so as to not impede creative commerce.

Based on our conversation and my summary of our concerns, Cecil stated that there are no vessels that they would consider issuing a Decal to that she believes we would have concerns with.

She has offered that if any of our team wish to discuss this further she can be contacted at [Cecil.D.McNuttjr@uscg.mil](mailto:Cecil.D.McNuttjr@uscg.mil) or 463-2808.

Thank You

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**From:** Milton, Mikal C (CED)  
**Sent:** Thursday, August 09, 2018 11:59 AM  
**To:** McConnell, Erika B (CED) <[erika.mcconnell@alaska.gov](mailto:erika.mcconnell@alaska.gov)>; Oates, Sarah D (CED) <[sarah.oates@alaska.gov](mailto:sarah.oates@alaska.gov)>  
**Subject:** USCG COI/COC/Decal & 5 star safety rating - Particularly License 5708

Hello,

I have made contact with the USCG (LT Collin Schembri, Chief of Vessel Inspections, Juneau) Regarding the Certificate of Inspection requirements for vessels. The following is an abbreviated summary of our communications with the full, relevant emails attached.

COI's are generally issued only to US vessels that are over 100 gross tons, carrying over 12 passengers and under 100 gross tons carrying more than 6 passengers.

**Foreign vessels** (over 12 passengers) receive **Certificates of Compliance** which are issued based on the paperwork that the vessel receives from it's "flag states" that prove that it meets the safety requirements.

**US vessels** that are either **Over 100** gross tons and **carry at or below 12** passengers and **Under 100** gross tons carrying **at or below 6 passengers** are "uninspected vessels". They would not be able to receive a COI.

There is a Voluntary "decal"/5 star safety rating program that these uninspected vessels can participate in. This is an inspection for minimum safety requirements See 3<sup>rd</sup> attached email/UPV Exam Checklist. The 5 Stars are indicative of safety features above and beyond the minimum requirements.

**Based on my communications with LT Schembri I would suggest that –**

For vessels that are considered "uninspected" vessels we require the following

- <!--[if !supportLists]-->1) <!--[endif]-->Proof of tonnage (EX Certificate of documentation or original Decal Program form)
- <!--[if !supportLists]-->2) <!--[endif]-->Some sort of statement regarding the number of passengers (#27 on the UPV checklist? Or notarized statement?) (I don't know that we actually need this, they wouldn't give a decal to a vessel that needed a COI)
- <!--[if !supportLists]-->3) <!--[endif]-->Picture of the Decal and any received "stars" (LT Schembri says that the original checklist is not required to be kept but that anyone who received the Decal and

stars would have them displayed on their vessel.  
For foreign vessels we accept the Certificate of Compliance

**This is relevant because I have a license application (5708 M/Y Golden Eagle) that was completed on the 7<sup>th</sup> that is for a Less than 1000 ton vessel that takes on 12 or fewer passengers that has received their Decal and 5 star rating that they submitted in lieu of the COI and I need to know if we can consider that sufficient for a substitute.**

Thanks!

Mikal Milton

Occupational Licensing Examiner  
Alcohol and Marijuana Control Office  
Department of Commerce, Community and Economic Development