From:	Brawley, Anna B.
To:	CED AMCO REGS (CED sponsored)
Cc:	Wilson, Joan M (CED)
Subject:	Submitting comments on draft Alcohol Regulations (3 AAC 305)
Date:	Monday, September 25, 2023 4:34:43 PM
Attachments:	image001.png AlcoholRegsComments_Brawley-Assembly_9-25-23.pdf

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Hello,

Please find attached comments submitted by myself as an Anchorage Assembly member, separately from those submitted as an individual, on different topics.

Thanks,
A

Anna B. Brawley
Assembly Member serving West Anchorage | District 3

Municipality of Anchorage
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Dena'inaq ełnen'aq' gheshtnu ch'q'u yeshdu (Dena'ina). *I live and work on the land of the Dena'ina (English).*
Translation by Sondra Shaginoff-Stuart and Joel Isaak
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ANNA BRAWLEY
DISTRICT 3 | WEST ANCHORAGE

September 25, 2023

Comments: Draft Alcohol Regulations, Title 4 Rewrite Implementation

Submitted via e-mail: amco.regs@alaska.gov

Please note: The following comments are submitted as a member of the Anchorage Assembly, from the perspective of how the regulations intersect with the Municipality. I submitted separate comments as an individual, marked as such.

To the Alcoholic Beverage Control Board and Alcohol and Marijuana Control Office staff:

Below are comments on selected draft regulations, and one question.

Each comment cites the section and (where appropriate) draft language being referred to.

3 AAC 305.325. Beverage dispensary tourism licenses

1. Definition of "Hotel" and "Motel" and Length of Rental Period for Tax Purposes

> "(c) For the purposes of AS 04.09.350(c)(1)(A) and AS 04.09.350(c)(1)(2), "hotel" or "motel" excludes establishments that substantially provide long-term rental units or who are not subject to bed taxes if the local government in which it is located collects bed taxes..."

I have no objection to this regulation or definition, just recommending possible alternative language to define establishments that are not hotels:

In Muni code, and commonly in sales tax code as far as I understand, "short-term" is defined as less than 30 days. The same establishment might have short- and long-term rentals on the same property, or the same room may be rented with or without bed tax applied, depending on the length of occupancy. The language in this section could refer to "rental units with 30 or more days of continuous occupancy" (or similar concept) to be clear. It may also be useful to quantify a proportion of the property that is operated with short-term stays, like "a majority" or "at least 60% of rooms," for purposes of

determining whether it is a hotel or motel to qualify for certain licenses. Certainly, the property should be demonstrably operating as a hotel in order to be eligible for a BDL Tourism license, or the Hotel or Motel endorsement; it is, however, also common that some properties have a combination of short- and long-term stays, so having a more specific definition may be helpful.

Municipal website with more information about bed tax collection and definitions:
https://www.muni.org/Departments/finance/treasury/programtaxes/roomtax/Pages/default.aspx

3 AAC 305.680. Keg registration

2. Local Government Code Regarding Keg Registration

To implement this system statewide, the draft regulation refers to "a registration form prescribed by the director or a local governing body with jurisdiction over…," which acknowledges the fact that the City and Borough of Juneau and Municipality of Anchorage both have a similar policy in local code, on which this statute section was modeled. As I stated to AMCO staff this month, it is my intent to propose repeal of the equivalent section in Anchorage Municipal Code (AMC 10.50.050 - Keg or container registration), and instead leave administration and enforcement of this system to the State. I believe this will be less potential for confusion and burden on Anchorage-based businesses, and also a more streamlined implementation system. While it may still be appropriate to reference local codes for places with keg registration already in place, this comment is simply to note that this may be removed from Anchorage code in the near future.

Question about Enforcement (3 AAC 305.830 through -870)

The following question is not a specific comment on the language in these regulations, but seeking to understand how this does, or will, work in practice for enforcement purposes: the topic below is not, in my reading, specifically addressed.

The regulations list verbal warnings, advisory notices, and notices of violations as (usually) sequential steps in addressing noncompliance issues with licensees, when AMCO Enforcement or other peace officers are on the premises conducting inspections. These are intended to be placed in the licensee's file for reference, and would be reviewed by the ABC Board during a renewal application, and other situations.

Who is this information available to? Can it be requested by the public? By staff of a local governing body? And/or local law enforcement?

In reviewing existing Muni code regarding licensing (AMC 10.50), there are multiple sections addressing actions that can be taken to address a problem operator. One of the avenues available is for the Police Chief to put together a case, using police calls and other data, to bring to the Assembly. Other ways this issue has come to the Assembly in the past may be through staff, a community council, or other concerned individuals. Information about violations on file, particularly if they are relevant to the issue at hand (such as, a pattern of over-serving or not following required operating hours), would be useful to include in the discussion about a licensee's impacts on the community, and next steps for any action at the local government level.

There may be understandable concerns about releasing this information to the public, particularly if the noncompliance issues are not serious health and safety concerns, or if for example they were corrected after the issuance of one verbal warning. However, it does seem relevant to preserve a local government's ability to access these records if and when needed – either through the Clerk (a staff member) or through local law enforcement (the Police Chief or designee). Is this already allowed?

Thank you,

Anna Brawley

Member (Seat E) Representing District 3, West Anchorage
Anchorage Assembly