THE STATE of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community, and Economic Development

Alcohol and Marijuana Control Office

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MEMORANDUM

TO: Alcoholic Beverage Control Board

DATE: September 26, 2023

FROM: Kristina Serezhenkov, Regulations Specialist

RE: Title 4 Rewrite: 3 AAC 305, Article 5 - Trade Practices

Trade Practices is a new law created by SB9 and is laid out at AS 04.16.017. The draft regulations attached create a new article, article 5, also entitled Trade Practices, to fulfil the mandate at 04.16.017(b) that reads;

"The board shall adopt regulations providing exceptions to the practices listed under (a) of this section (prohibited trade practices) that are

1. consistent with federal law at the time of the effective date of this section;
2. necessary to avoid practical difficulty or undue hardship on a licensee;
3. in the best interests of the public; and
4. consistent with the requirements of this title.

A new proposed section regarding proposed civil fines for trade practice prohibition violations is also attached. This proposed new section is to be inserted into the current **Article 7, Enforcement; Civil Penalties.**

This memo also includes a copy of AS 04.16.017 as an additional attachment for ease of refence.

3 AAC 305.500. Trade practice prohibitions.
This new section covers trade practice prohibitions as laid out at AS 04.16.017. The four trade practice prohibitions covered are;

1. operating as a tied house,
2. operating as an exclusive outlet,
3. engaging in commercial bribery and
4. engaging in consignment sales.

3 AAC 305.510. Tied house prohibitions.
This new section outlines and clarifies the prohibition against operating a tied house.

3 AAC 305.515. Exceptions to tied house prohibitions.
This new section outlines exceptions to tied house prohibitions and lists eighteen exceptions.

3 AAC 305.520. Exclusive outlet prohibitions.
This new section outlines and clarifies the prohibition against operating as an exclusive outlet.

3 AAC 305.525. Exceptions to exclusive outlet prohibitions.
This new section outlines exceptions to operating as an exclusive outlet.

3 AAC 305.530. Practices that do not amount to commercial bribery.

This new section outlines clarifies practices not considered commercial bribery and lists three practices.

3 AAC 305.535. Exceptions to consignment sales prohibitions.

This new section outlines exceptions to consignment sales prohibitions and lists nine exceptions.

3 AAC 305.540. Administrative penalties.

This new section establishes and outlines administrative penalties as required by AS 04.16.017(c).

3 AAC 305.550. Adulteration, misbranding and false advertising of alcoholic beverages.

This section is brought over from existing alcohol regulations and is not substantially changed. It prohibits adulteration, misbranding and false advertising of alcoholic beverages and requires that a licensee, when selling or serving an alcoholic beverage made with a wine product rather than a distilled beverage, disclose that the alcoholic beverage is 'wine based'.

3 AAC 305.560. Pricing and marketing of alcoholic beverages.

This section is brought over from existing alcohol regulations and is not substantially changed. It relates to pricing and marketing of alcoholic beverages as outlined at AS 04.16.015. It prohibits a licensee from setting a period of time during the day that alcoholic beverages can be sold or delivered that is less than the hours that the licensed premises is open to the general public. *A copy of AS 04.16.015 (unofficial) is attached for ease of reference.*

3 AAC 305.570. Definitions.

3 AAC 305.880. Fines for trade practice prohibition violations.

This is a proposed new section to be added to the article entitled **Enforcement; Civil Penalties**. It outlines the metric the board will use to determine civil fines for violations of trade practices.

Options for the board:

- Move to approve and send to Law for initial review and (with Law's approval) subsequent public comment
- Move to amend and then send to Law for initial review and (with Law's approval) subsequent public comment
- Move to send back to staff for more work