

# Department of Commerce, Community, and Economic Development

Alcohol and Marijuana Control Office

550 West 7<sup>th</sup> Avenue, Suite 1600 Anchorage, AK 99501 Main: 907.269.0350

### **MEMORANDUM**

TO: Alcoholic Beverage Control Board DATE: November 12, 2024

FROM: Sonya Irwin, Licensing Supervisor RE: 3282 No DBA, Holiday Alaska,

LLC, 3<sup>rd</sup> Waiver of Operations

Applicable statute: AS 04.11.330(a)(3). An application requesting renewal of a license or endorsement shall be denied if the applicant has not operated the licensed premises for at least 240 hours during each of the two preceding calendar years, unless the board determines that the licensed premises are under construction or cannot be operated through no fault of the applicant;...

Applicable regulation: 3 AAC 305.120 Waiver of annual operating requirement and minimum operating requirements. (a) Except as provided in this section, the board will deny an application for renewal of a license or a license with one or more endorsements if the licensed premises were not operated for the time required under AS 04.11.330(a)(3) or (d).

- (b) A licensee may submit a waiver application to the board to request a waiver of the operating requirement in AS 04.11.330 (a)(3) or (d). Under AS 04.11.330(a)(3), the board will determine whether, through no fault of the licensee or because the premises are under construction, the licensed premises could not be operated for the required time during the preceding calendar year.
- (c) A waiver application for a calendar year must be made in writing to the board and must be accompanied by the non-refundable application fee of (1) an amount equal to one-half the applicable biennial license fee if a waiver application was not made for the previous year; or (2) double the amount of the fee paid for the previous waiver application.
- (d) A waiver application must include a statement from the licensee explaining why the licensed premises was not in compliance with AS 04.11.330(a)(3) or (d). The licensee must provide a copy of the waiver application to any local governing body with jurisdiction over the license and licensed premises.
- (e) The board may deny a third or subsequent, consecutive application for waiver (1) unless the licensee clearly shows that the licensed premises were not operated, because the premises were condemned or substantially destroyed by any cause; or (2) the licensee holds a common carrier dispensary license and is a boat weighing over 1,000 tons;
- (f) Absent circumstances to the contrary, the board will deny a third or subsequent, consecutive application for waiver in the event of condemnation or destruction of the premises if the premises

identified on an applicant's license are not leased or owned by the licensee Additionally, a third or subsequent consecutive application for waiver that does not identify a licensed premises location will be denied.

- (g) The board may impose conditions along with the approval of a waiver application.
- (h) If a waiver application is denied, an application for license renewal for the succeeding license period will be denied by the board under AS 04.11.330(a)(3).
- (i) In addition to the application fee under (c) of this section, the applicant shall pay \$1,000 for an application that is received too late for board consideration at its last meeting of the calendar year for which the waiver is requested.
- (j) In the event of the death of a licensee, destruction of the premises, or comparable circumstances showing extraordinary hardship, the board may waive the fees required under (c) and (i) of this section.
- (k) If a license is exercised only to satisfy the minimum operating requirement under AS 04.11.330(a)(3) or 3 AAC 305.110, a licensee shall operate in a similar fashion to other licensed premises of the same type by meeting the following operating requirements as appropriate for the license type: (1) provide signage of sufficient size and visibility to show that the premises is open for business, including the business name and hours of operation; (2) offer a variety of brewed beverages, wines, and distilled spirits for sale at the licensed premises, as appropriate to the type of license, (3) for a licensed package store premises, visibly display the alcoholic beverages stock; (4) for a beverage dispensary licensed premises, provide seating for at least one-half of the maximum number allowed by the occupancy permit; (5) comply with all state or municipal health, fire, and zoning laws or ordinances required for the operation of business; (6) maintain a record of all purchases of alcoholic beverages for resale on the licensed premises; and (7) record sales with a cash register or point of sale system that retains a record of transactions.
- (1) The licensee has the burden of proof to show that the licensed premises were operated for the minimum required period of time and met the operating requirements under (k) of this section. The licensee may provide receipts, invoices, photographs, permits, timecards, and other records to meet the burden of proof. If the licensee fails to provide proof that one or more of the operating requirements was met, the board may consider additional documentation provided by the licensee to determine whether the licensee has met the burden of proof.
- (m) If a new license is issued between November 20 and December 31, the licensee is exempt from filing a waiver of annual operating requirement for that year.

Background: This is the third waiver requested for this license. Licensee states difficulties with landlord construction.

**Attachmen**t: Memo, 3<sup>rd</sup> Waiver Application for 2024, 2<sup>nd</sup> Waiver Application for 2023 (approved administratively), 1<sup>st</sup> Waiver Application for 2022 (approved administratively) and Covid Waiver Application for 2021.



alcohol.licensing@alaska.gov

https://www.commerce.alaska.gov/web/amco

Phone: 907.269.0350

### **Alaska Alcoholic Beverage Control Board**

## Form AB-29: Waiver of Operation Application

#### Why is this form needed?

This form is the means by which a licensee may request that the Alcoholic Beverage Control (ABC) Board waive the operating requirement of AS 04.11.330(a)(3) or (d). If a recreational site license has not been operated at least once in a calendar year, or if a license of any other type has not been operated for at least 240 hours in each calendar year, then a complete copy of this form and the corresponding fees must be submitted for that calendar year, per 3 AAC 304.170.

This application must be accompanied by a non-refundable waiver application fee of:

- for a 1st request, an amount equal to ½ the applicable biennial license fee; or
- for a 2<sup>nd</sup> or subsequent request, double the amount of the fee paid for the previous waiver application.

The ABC Board will determine whether, through no fault of the licensee or because the premises are under construction, the licensed premises count not be operated for the required time during the calendar year. The ABC Board may impose conditions along with the approval of an application for waiver, and it may deny a third or subsequent application for waiver. If an application for waiver is denied, an application for license renewal for the succeeding license period will be denied by the Board. In addition to the waiver application fee, the applicant must pay a late fee of \$1,000 for an application that is received too late for Board consideration at its meeting before November 30 of the year for which the waiver is requested. Please check AMCO's website for meeting agenda deadlines.

Please note that a licensee must submit a separate completed copy of this form and pay a separate corresponding fee for <u>each license</u> and for <u>each calendar year</u> during which a license was not operated in compliance with AS 04.11.330.

	Section 1 – E	stablishment Inf	formati	on		
Enter information for the licen	se that has not been opera	ated for the time required (	under AS 04	1.11.330.		
Licensee:			License	Number:		
License Type:						
DBA:						
Premises Address:						
City:			State:	Alaska	ZIP:	
Local Governing Body:						
S	Section 2 – Reque	est Number and (	Calenda	ar Year		
1 <sup>st</sup> Request	3 <sup>rd</sup> Request			Oth	er	
Request for Calendar Year						

[Form AB-29] (rev 3/1/2022) Page 1 of 2



alcohol.licensing@alaska.gov

https://www.commerce.alaska.gov/web/amco

Phone: 907.269.0350

### **Alaska Alcoholic Beverage Control Board**

## Form AB-29: Waiver of Operation Application

	Section 3	- Reaso	n for Non-operat	tion	
Provide an explanation as	to why the licensed prem	ises were not	operated:		
The following must be con			Certifications hin the boundaries of a lo	cal governing boo	ly:
Read the line below, and t	hen sign your initials in th	ne box to the	right of the statement:		Initials
I certify that I will provide a ABC Board consideration o		tion to the loo	cal governing body listed o	on Page 1 of this f	orm prior to
I hereby certify that I am the application, and I know the other documents submitted response in this application denying or revoking a licent 11.56.210 to falsify an application of the submitted response in the submitted response in this application denying or revoking a licent submitted response in the submitted response in th	e full content thereof. I de d are true and correct. I u n, or any attachment, or d se/permit. I further under	clare that all on the clare that all on the clark and that it is the clark and that it is the clark and that it	of the information contain at any falsification or misr support this application, is is a Class A misdemeanor	ned herein, and ever epresentation of a s sufficient ground	idence or any item or ds for
Printed name of licensee		Sign	nature of licensee	St	_
		Office	Use Only		
Waiver Application Fee:	\$3000	Late Fee:	None	Transaction #:	100947583

[Form AB-29] (rev 3/1/2022) Page 2 of 2



alcohol.licensing@alaska.gov

https://www.commerce.alaska.gov/web/amco

Phone: 907.269.0350

### **Alaska Alcoholic Beverage Control Board**

## Form AB-29: Waiver of Operation Application

#### Why is this form needed?

This form is the means by which a licensee may request that the Alcoholic Beverage Control (ABC) Board waive the operating requirement of AS 04.11.330(a)(3) or (d). If a recreational site license has not been operated at least once in a calendar year, or if a license of any other type has not been operated for at least 240 hours in each calendar year, then a complete copy of this form and the corresponding fees must be submitted for that calendar year, per 3 AAC 304.170.

This application must be accompanied by a non-refundable waiver application fee of:

- for a 1st request, an amount equal to ½ the applicable biennial license fee; or
- for a 2<sup>nd</sup> or subsequent request, double the amount of the fee paid for the previous waiver application.

The ABC Board will determine whether, through no fault of the licensee or because the premises are under construction, the licensed premises count not be operated for the required time during the calendar year. The ABC Board may impose conditions along with the approval of an application for waiver, and it may deny a third or subsequent application for waiver. If an application for waiver is denied, an application for license renewal for the succeeding license period will be denied by the Board. In addition to the waiver application fee, the applicant must pay a late fee of \$1,000 for an application that is received too late for Board consideration at its meeting before November 30 of the year for which the waiver is requested. Please check AMCO's website for meeting agenda deadlines.

Please note that a licensee must submit a separate completed copy of this form and pay a separate corresponding fee for each license and for each calendar year during which a license was not operated in compliance with AS 04.11.330.

	Section 1 – Es	stablishment Inf	ormati	on		
Enter information for the licen	se that has not been operat	ed for the time required u	ınder AS 04	1.11.330.		
Licensee:			License	Number:		
License Type:						
DBA:						
Premises Address:						
City:			State:	Alaska	ZIP:	
Local Governing Body:						
S	Section 2 – Reque	st Number and (	Calenda	ar Year		
1 <sup>st</sup> Request	2 <sup>nd</sup> Request	3 <sup>rd</sup> Request		Oth	er	
		Request for C	alendar Y	'ear <mark>202</mark> 3	<u> </u>	

[Form AB-29] (rev 3/1/2022) Page 1 of 2



alcohol.licensing@alaska.gov

https://www.commerce.alaska.gov/web/amco

Phone: 907.269.0350

### **Alaska Alcoholic Beverage Control Board**

## Form AB-29: Waiver of Operation Application

	Section 3	- Reaso	n for Non-operat	tion	
Provide an explanation as	to why the licensed prem	nises were not	t operated:		
The following must be con			<b>Certifications</b> hin the boundaries of a lo	ocal governing boo	ly:
Read the line below, and t	hen sign your initials in th	ne box to the	right of the statement:		Initials
I certify that I will provide ABC Board consideration of		tion to the loo	cal governing body listed o	on Page 1 of this f	orm prior to
I hereby certify that I am to application, and I know the other documents submittee response in this application denying or revoking a licen 11.56.210 to falsify an app	e full content thereof. I de ed are true and correct. I u n, or any attachment, or d nse/permit. I further unde	clare that all on Inderstand the Iocuments to Istand that it	of the information contain at any falsification or misr support this application, is is a Class A misdemeanor	ned herein, and ever representation of a s sufficient ground	ordence or any item or ds for
Printed name of licensee		Sign	nature of licensee	St	_
		Office	Use Only		

[Form AB-29] (rev 3/1/2022) Page 2 of 2



Alcohol and Marijuana Control Office 550 W 7th Avenue, Suite 1600 Anchorage, AK 99501 alcohol.licensing@alaska.gov https://www.commerce.alaska.gov/web/amco

Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

## Form AB-29: Waiver of Operation Application

#### Why is this form needed?

This form is the means by which a licensee may request that the Alcoholic Beverage Control (ABC) Board waive the operating requirement of AS 04.11.330(a)(3) or (d). If a recreational site license has not been operated at least once in a calendar year, or if a license of any other type has not been operated for at least 240 hours in each calendar year, then a complete copy of this form and the corresponding fees must be submitted for that calendar year, per 3 AAC 304.170.

This application must be accompanied by a non-refundable waiver application fee of:

- for a 1<sup>st</sup> request, an amount equal to ½ the applicable biennial license fee; or
- for a 2<sup>nd</sup> or subsequent request, double the amount of the fee paid for the previous waiver application.

The ABC Board will determine whether, through no fault of the licensee or because the premises are under construction, the licensed premises count not be operated for the required time during the calendar year. The ABC Board may impose conditions along with the approval of an application for waiver, and it may deny a third or subsequent application for waiver. If an application for waiver is denied, an application for license renewal for the succeeding license period will be denied by the Board. In addition to the waiver application fee, the applicant must pay a late fee of \$1,000 for an application that is received too late for Board consideration at its meeting before November 30 of the year for which the waiver is requested. Please check AMCO's website for meeting agenda deadlines.

Please note that a licensee must submit a separate completed copy of this form and pay a separate corresponding fee for <u>each license</u> and for <u>each calendar year</u> during which a license was not operated in compliance with AS 04.11.330.

## Section 1 - Establishment Information

License Type:	Package Store				<u> </u>	
DBA:	NO DBA					
Premises Address:						· · · · · · · · · · · · · · · · · · ·
City:	Fairbanks		State:	Alaska	ZIP:	
Local Governing Body:	Fairbanks North	Star Borough		<u> </u>	J.,	
	Section 2 – Requ	est Number and (	Calend	ar Year		
1 <sup>st</sup> Request	2 <sup>nd</sup> Request	3 <sup>rd</sup> Request		Oth	er	



Alcohol and Marijuana Control Office 550 W 7<sup>th</sup> Avenue, Suite 1600 Anchorage, AK 99501 alcohol.licensing@alaska.gov

Phone: 907.269.0350

https://www.commerce.alaska.gov/web/amco

Alaska Alcoholic Beverage Control Board

# Form AB-29: Waiver of Operation Application

COVID-delayed a	cquisitio	n and build	d-out of ne	w location	for states	wide chain of	stationstore	
		, E-		e "	;	At a	0124011010101	.J.
And a second process of the design of the second process of the se				nggypropriet to Police State of American State of The Confession o		interension—two decisions of sergion—colors are correct from the objections of sergion—colors in the		
·								
								•
		, , , , , , , , , , , , , , , , , , ,					<u> </u>	
NOW SERVICE AND SE	****							
The following must be co Read the line below, and		r establishme	ents located v		ndaries of a	local governing b	ody:	
						· · · · · · · · · · · · · · · · · · ·	en a transcription of the second of the seco	Initials
certify that I will provide ABC Board consideration (	of this appli	of this application.	cation to the	local governin	g body lister	d on Page 1 of this	s form prior to	GB
hereby certify that I am tapplication, and I know th	he person h	erein named	l and subscrib	ing to this ap	olication and	that I have read t	the complete	<u> </u>
other documents submitte	ed are true a	and correct	inderstand t	nor the inform	nation conta	lined herein, and e	evidence or	GB
lenying or revoking a licer	ise/permit.	I further und	erstand that	support this	application,			
1.56.210 to falsify an app	lication and	commit the	crime of unsy	vorn falsificati	nisaemeano Ion.	r under Alaska Sta	atute	
Gary Brant				/		5+		
rinted name of licensee		,	Się	nature of lice	nsee		·	
		· · · · · · · · · · · · · · · · · · ·				· · · · · · · · · · · · · · · · · · ·		
Makes Application			Offic	e Use Only				
Waiver Application Fee:	750		Late Fee:	1000		Transaction #:	1750	

[Form AB-29] (rev 3/1/2022)

#100532034

Page 2 of 2



Alcohol and Marijuana Control Office 550 W 7th Avenue, Suite 1600 Anchorage, AK 99501 alcohol.licensing@alaska.gov

https://www.commerce.alaska.gov/web/amco

Phone: 907.269.0350

### Alaska Alcoholic Beverage Control Board

## Form AB-29: Waiver of Operation Application

#### Why is this form needed?

This form is the means by which a licensee may request that the Alcoholic Beverage Control (ABC) Board waive the operating requirement of AS 04.11.330(a)(3) or (d). If a recreational site license has not been operated at least once in a calendar year, or if a license of any other type has not been operated for at least 240 hours in each calendar year, then a complete copy of this form and the corresponding fees must be submitted for that calendar year, per 3 AAC 304.170.

This application must be accompanied by a non-refundable waiver application fee of:

- for a 1st request, an amount equal to 1/2 the applicable biennial license fee; or
- for a 2<sup>nd</sup> or subsequent request, double the amount of the fee paid for the previous waiver application.

The ABC Board will determine whether, through no fault of the licensee or because the premises are under construction, the licensed premises count not be operated for the required time during the calendar year. The ABC Board may impose conditions along with the approval of an application for waiver, and it may deny a third or subsequent application for waiver. If an application for waiver is denied, an application for license renewal for the succeeding license period will be denied by the Board. In addition to the waiver application fee, the applicant must pay a late fee of \$1,000 for an application that is received too late for Board consideration at its meeting before November 30 of the year for which the waiver is requested. Please check AMCO's website for meeting agenda deadlines.

Please note that a licensee must submit a separate completed copy of this form and pay a separate corresponding fee for each license and for each calendar year during which a license was not operated in compliance with AS 04.11.330.

#### Section 1 - Establishment Information Enter information for the license that has not been operated for the time required under AS 04.11.330. Licensee: Holiday Alaska, LLC License Number: 3282 License Type: Package Store DBA: NO DBA **Premises Address:** City: Fairbanks State: Alaska ZIP: Fairbanks North Star Borough Local Governing Body:

	Section 2 – Req	uest Number and Cale	ndar Year
1st Request	2 <sup>nd</sup> Request	3 <sup>rd</sup> Request	Other COVID
Request for Calendar Yo	ear 2021	<del>-</del>	V
[Form AB-29] (rev 3/1/2022)		A STATE OF THE STA	6.68



Alcohol and Marijuana Control Office 550 W 7<sup>th</sup> Avenue, Suite 1600 Anchorage, AK 99501 alcohol.licensing@alaska.gov

https://www.commerce.alaska.gov/web/amco

Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

## Form AB-29: Waiver of Operation Application

COVID-delayed ac	equisition and	build-out of	new location for state	ewide chain of stationstore	es.
CONSIL PRO CORP. (SECONDO) CONSIDERAÇÃO, CONSIDERAÇÃO DE CONSI	in the second contract of the	The Section Section of the Section Sec	cranna t and an arion and are a superior and the common and are a superior and a superior and a superior and a	ermanner i remane esta la respensa como esta de la como esta como esta como esta como esta como esta como esta Como esta como esta la respensa como esta	- Object contribute and the state of the sta
. ,		- 170		And the control	
24	· -				
	mpleted for estab	blishments locat	4 - Certifications ed within the boundaries of to the right of the statemen	f a local governing body:	Initials
hereby certify that I am tapplication of the hereby certify that I am tapplication, and I know the hereby there documents submitted	of this application he person herein e full content the ed are true and co	named and sub- reof. I declare th prrect. I understa	scribing to this application a lat all of the information co and that any falsification or	and that I have read the complete ntained herein, and evidence or misrepresentation of any item or	GB GB
hereby certify that I am to application, and I know the other documents submitted the common application or revoking a licer	of this application he person herein e full content the ed are true and co n, or any attachm nse/permit. I furth	named and sub- reof. I declare the prrect. I understa pent, or document her understand t	scribing to this application a lat all of the information col and that any falsification or nts to support this application that it is a Class A misdemea	and that I have read the complete ntained herein, and evidence or misrepresentation of any item or	
hereby certify that I am tapplication of the polication, and I know the polication of the polication o	of this application he person herein e full content the ed are true and co n, or any attachm nse/permit. I furth	named and sub- reof. I declare the prrect. I understa pent, or document her understand t	scribing to this application a lat all of the information col and that any falsification or nts to support this application that it is a Class A misdemea	and that I have read the complete ntained herein, and evidence or misrepresentation of any item or	
hereby certify that I am tapplication of application, and I know the other documents submitteresponse in this application denying or revoking a licer 11.56.210 to falsify an application of a licer applicati	of this application he person herein e full content the ed are true and co n, or any attachm nse/permit. I furth	named and sub- reof. I declare the prrect. I understa pent, or document her understand t	scribing to this application a lat all of the information col and that any falsification or nts to support this application that it is a Class A misdemea	and that I have read the complete ntained herein, and evidence or misrepresentation of any item or	
application, and I know the other documents submitte response in this applicatio	of this application he person herein e full content the ed are true and co n, or any attachm nse/permit. I furth	named and sub- reof. I declare the prrect. I understa pent, or document her understand t	scribing to this application a lat all of the information cor and that any falsification or nts to support this application that it is a Class A misdemea unsworn falsification.	and that I have read the complete ntained herein, and evidence or misrepresentation of any item or	