



MEMORANDUM

TO: Alcoholic Beverage Control Board

DATE: November 12, 2024

FROM: Sonya Irwin, Licensing Supervisor

RE: 3282 No DBA, Holiday Alaska,
LLC, 3rd 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.

(l) 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.

Attachment: Memo, 3rd Waiver Application for 2024, 2nd Waiver Application for 2023 (approved administratively), 1st Waiver Application for 2022 (approved administratively) and Covid Waiver Application for 2021.



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 2nd 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:		License Number:			
License Type:					
DBA:					
Premises Address:					
City:		State:	Alaska	ZIP:	
Local Governing Body:					

Section 2 – Request Number and Calendar Year

<input type="checkbox"/> 1 st Request	<input type="checkbox"/> 3 rd Request	<input type="checkbox"/>	<input type="checkbox"/> Other _____
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Request for Calendar Year _____



Alaska Alcoholic Beverage Control Board

Form AB-29: Waiver of Operation Application

Section 3 – Reason for Non-operation

Provide an explanation as to why the licensed premises were not operated:

Section 4 – Certifications

The following must be completed for establishments located within the boundaries of a local governing body:

Read the line below, and then sign your initials in the box to the right of the statement:

Initials

I certify that I will provide a true copy of this application to the local governing body listed on Page 1 of this form prior to ABC Board consideration of this application.

6/18

I hereby certify that I am the person herein named and subscribing to this application and that I have read the complete application, and I know the full content thereof. I declare that all of the information contained herein, and evidence or other documents submitted are true and correct. I understand that any falsification or misrepresentation of any item or response in this application, or any attachment, or documents to support this application, is sufficient grounds for denying or revoking a license/permit. I further understand that it is a Class A misdemeanor under Alaska Statute 11.56.210 to falsify an application and commit the crime of unsworn falsification.

6/18

Printed name of licensee

Signature of licensee

Office Use Only

Waiver Application Fee:	\$3000	Late Fee:	None	Transaction #:	100947583
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Alaska Alcoholic Beverage Control Board

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Section 1 – Establishment Information

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Licensee:		License Number:	
License Type:			
DBA:			
Premises Address:			
City:		State:	Alaska
		ZIP:	
Local Governing Body:			

Section 2 – Request Number and Calendar Year

☐ 1st Request ☐ 2nd Request ☐ 3rd Request ☐ Other _____

Request for Calendar Year 2023



Alaska Alcoholic Beverage Control Board

Form AB-29: Waiver of Operation Application

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6/1/18

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6/1/18

Printed name of licensee

Signature of licensee

Office Use Only

Waiver Application Fee:	\$1,500.00	Late Fee:	\$1,000.00	Transaction #:	100947557
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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

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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:	
Local Governing Body:	Fairbanks North Star Borough				

Section 2 – Request Number and Calendar Year

☒ 1st Request ☐ 2nd Request ☐ 3rd Request ☐ Other _____

Request for Calendar Year 2022



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

Section 3 – Reason for Non-operation

Provide an explanation as to why the licensed premises were not operated:

COVID-delayed acquisition and build-out of new location for statewide chain of station stores.

Section 4 – Certifications

The following must be completed for establishments located within the boundaries of a local governing body:

Read the line below, and then sign your initials in the box to the right of the statement:

Initials

I certify that I will provide a true copy of this application to the local governing body listed on Page 1 of this form prior to ABC Board consideration of this application.

GB

I hereby certify that I am the person herein named and subscribing to this application and that I have read the complete application, and I know the full content thereof. I declare that all of the information contained herein, and evidence or other documents submitted are true and correct. I understand that any falsification or misrepresentation of any item or response in this application, or any attachment, or documents to support this application, is sufficient grounds for denying or revoking a license/permit. I further understand that it is a Class A misdemeanor under Alaska Statute 11.56.210 to falsify an application and commit the crime of unsworn falsification.

GB

Gary Brant

Printed name of licensee

Signature of licensee

Office Use Only

Waiver Application Fee:	750	Late Fee:	1000	Transaction #:	1750
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Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
alcohol.licensing@alaska.gov
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License Type:	Package Store				
DBA:	NO DBA				
Premises Address:					
City:	Fairbanks	State:	Alaska	ZIP:	
Local Governing Body:	Fairbanks North Star Borough				

Section 2 – Request Number and Calendar Year

☐ 1st Request ☐ 2nd Request ☐ 3rd Request ☒ Other COVID

Request for Calendar Year 2021



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

Section 3 – Reason for Non-operation

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Gary Brant

Printed name of licensee

Signature of licensee

Office Use Only			
Waiver Application Fee:		Late Fee:	
Transaction #:			