



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

**DEPARTMENT OF COMMERCE, COMMUNITY AND
ECONOMIC DEVELOPMENT
ALCOHOL & MARIJUANA CONTROL OFFICE**

Wednesdays at 1 for 1

Title 4 Rewrite Implementation:

**Moving from Restaurant Designation Permits to
Restaurant or Eating Place License and
Restaurant Endorsement.**

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August 9, 2023



Agenda

- Moving from the Restaurant Designation Permit to the Restaurant or Eating Place License and Restaurant Endorsement.
- Plans for Implementation.
- Questions.



AS 04.16.049

- **Access by Persons Under the Age of 21 to Licensed Premises**
 - A person under 21 years of age may not knowingly enter or remain on the licensed premises under this title unless:
 - Accompanied by a parent, guardian, or spouse who has attained the age of 21.
 - The person is at least 16 years of age, the premises are designated by the board as a restaurant for the purposes of this section, and the person enters and remains only for dining.
 - The person is under 16, is accompanied by a person over 21, the parent or guardian of the underaged person consents, the premises are designated by the board as restaurant for the purposes of this section, and the person enters and remains only for dining.



AS 04.16.049

- **Access by Persons Under the Age of 21 to Licensed Premises (continued)**
 - A person under 21 years of age may not knowingly enter or remain on licensed premises under this title unless:
 - The person is permitted on the premises of a club under a club license.
 - Otherwise provided under:
 - (c) Course of employment of minors.
 - (d) Course of employment of individuals 18, 19, and 20.
 - (g) Options on golf course when not present for purposes of dining.



AS 04.16.049

- **This is strictly a violation by the minor, not the licensee.**
 - Violators commit the offense of unauthorized presence by a person under 21 years of age on licensed premises.
 - A licensee may bring a civil action against a person who violates this section.
 - Likely this is not a licensee's first choice:
 - A licensee is obligated under AS 04.21.030 to exercise that degree of care a reasonable person would observe to ensure that a business under the person's control is lawfully conducted.
 - A licensee will not be fulfilling that obligation if it is not monitoring and addressing the presence of minors.



So what was the fix?

3 AAC 304 Article 7 – Restaurant Designation Permits

- ABC Board Regulatory Solution to permitting minors on premises for purposes of dining 3 AAC 304.725 (stay tuned for employment).
 - (a)(2) The person is at least 16 years of age, the premises *are designated by the board* as a restaurant for the purposes of this section, and the person enters and remains only for dining.
 - (a)(3) The person is under 16, is accompanied by a person over 21, the parent or guardian of the underaged person consents, the premises *are designated by the board* as a restaurant for the purposes of this section, and the person enters and remains only for dining.



So what was the fix?

3 AAC 304 Article 7 – Restaurant Designation Permits

- Upon application under 3 AAC 304.715 for a designation under (a)(2) or (3) the board will, in its discretion, designate a licensed premises for dining by a person under the age of 21 who is not accompanied by a parent, legal guardian, or spouse over 21, only if it finds:
 - The premises are a bona fide restaurant;
 - There is supervision adequate to ensure individuals under 21 will not obtain alcoholic beverages; and
 - It is unlikely a person under 21 will enter and remain on the premises for a purpose other than dining.
- Bona fide restaurant presumptions:
 - Premises are already licensed as a restaurant or eating place;
 - At least 50% of gross revenue of the licensed business is from food and non-alcoholic beverages; or
 - The premises are at a facility at which the patron's primary activity is dining.



So what was the fix?

3 AAC 304 Article 7 – Restaurant Designation Permits

- Additional presumption
 - The Board generally will presume that the premises are unlikely to be entered by persons under the age of 21 for purposes other than dining if no “entertainment” other than dining is provided or available.
- However
 - All presumptions may be rebutted.
 - The board may find a facility qualifies under either, none, or both of the exceptions.
- Additional approval required – local governing body.



So what was the fix?

3 AAC 304 Article 7 – Restaurant Designation Permits

- ABC Board Regulatory Solution to permitting minors on premises for purposes of employment (3 AAC 304.745).
 - The board must find the premises are a bona fide hotel, restaurant and eating place license, and all other requirements of AS 04.16.049(c) are met.
 - A person under 21 is not in possession of alcoholic beverages if supervised by a present person over 21 and that person buses empty or partially empty glasses.



So what was the fix?

3 AAC 304 Article 7 – Restaurant Designation Permits

- 3 AAC 304.775 – The director will issue a certificate of designation to be displayed prominently by the licensee (most obligations delegated).
- 3 AAC 304.785 - A designation terminates with the expiration, revocation, transfer or relocation of the license.
- 3 AAC 304.795 – A designation is “a privilege over and above that of a license.” The board may suspend or revoke the privilege for good cause without a hearing under the Administrative Procedure Act. The board will give the licensee the opportunity to be heard.



Where are we now

A Restaurant Designation Permit is “a privilege over and above that of a license.”

- Currently close to 750 Restaurant Designation Permits in existence – that’s 750 retail licensees we need to be thinking of here at AMCO to ensure continuation of the privilege.
- The Title 4 Rewrite sets up a statutory system that creates and expands upon this idea.



License, Endorsement, Permit

Defining Terms

- **License:** A license defines activities allowed daily on licensed premises. License type is a general category of license activity based on a three-tier system of alcohol regulation: manufacturer, wholesale, and retail.
- **Endorsement:** An endorsement expands the boundaries of a licensed premises or the authorized activities of a licensed business.
- **Permit:** A permit allows catering and serving activities for a specific period of time on a single specified premises and allows an eligible nonprofit organization to host a fundraising or not-for-profit event.



License, Endorsement, Permit

Defining Terms

- As such, makes logical sense that what was considered a Restaurant Designation Permit must transform into something more durable and long lasting.
- The Statutory Answer. This happens in two ways:
 - Built into a Restaurant or Eating Place License (including seasonal tourism) – If you qualify as an REPL authorized to have individuals under 21 as part of your license.
 - Adopted as a Restaurant Endorsement for other retail licensees.



The Restaurant or Eating Place License – AS 04.09.210

- **The holder of a restaurant or eating place license is authorized**
 - To sell brewed beverages and wine for consumption only on the licensed premises.
 - To allow a person who is at least 16 years of age but under 21 to enter and remain on the premises for dining only.
 - To allow a person who is under 16 years of age to enter and remain on the premises for dining only if the person is accompanied by a person who is 21 or older and the parent or guardian of the person consents to the minor being on the premises.



The Restaurant or Eating Place License – AS 04.09.210

- The licensed premises must meet the definition of a bona fide restaurant as defined in AS 04.21.080(b).
- Bona fide restaurant means an establishment or a portion of an establishment where, during all times alcoholic beverages are served and consumed:
 - **The patron's principal activity is consumption of food;** and
 - A variety of types of food items appropriate for meals is prepared on site and available for sale as shown on a menu provided to patrons and filed with the board.



The Restaurant or Eating Place License – AS 04.09.210

- There must be supervision on the premises adequate to reasonably ensure that a person under 21 years of age will not obtain alcoholic beverages.
- It must be unlikely that persons under 21 years of age who are not employed on the premises will enter and remain for purposes other than dining.
- The sale and service of food and alcoholic beverages and any other business conducted on the licensed premises of the restaurant or eating place is under the sole control of the licensee.
- May employ a person who is at least 16 years of age but under 21 on the premises if the employer provides adequate supervision to ensure that the person does not obtain alcoholic beverages.
- The licensee shall ensure that gross receipts from the sale of food are not less than the total of the gross receipts from the sale of alcoholic beverages in each calendar year.
- May provide entertainment on or adjacent to the premises only between the hours of 10:00 am and 11:00 pm, unless additional hours are approved by the AMCO director.
 - “Entertainment” includes dancing, karaoke, live performances, or similar activities but does not include recorded or broadcast performances without live participation.



See proposed regulation 3 AAC 305.397.

- For purposes of this article and the statutory definition of “bona fide restaurant” as codified at AS 04.21.080(b)(21) “a variety of types of food items appropriate for meals prepared on site” means that the meals are prepared on site in a commercial kitchen and that the majority of meal preparation involves more than warming or rewarming food in movable kitchen appliances, such as slow-cookers and microwave ovens.



Option for Non-REPL's

Restaurant Endorsement – Option for Certain Licensees that are Not REPL's



Restaurant Endorsement – 04.09.450

Sec. 04.09.450. Restaurant endorsement. (a) A restaurant endorsement authorizes the holder of a **beverage dispensary license, fair license, golf course license, sporting activity or event license, club license, outdoor recreation lodge license, destination resort license, or beverage dispensary tourism license** to allow a person;

(1) under 21 years of age access as provided in (e) of this section to the premises of a bona fide restaurant on the licensed premises; and

(2) to enter or remain on the licensed premises to consume food or nonalcoholic beverages as authorized under AS 04.16.010(c)(5).



Restaurant Endorsement – 04.09.450

Sec. 04.09.450. Restaurant endorsement.

- (d) The board may issue a restaurant endorsement only if it finds:
- That the establishment or portion of the establishment is a bona fide restaurant.
 - There is supervision on the premises adequate to ensure that a person under 21 will not obtain alcoholic beverages.
 - Unless there for employment, it is unlikely persons on the premises are on site for purposes other than dining.



Restaurant Endorsement – 04.09.450

Sec. 04.09.450. Restaurant endorsement.

(e) A restaurant endorsement authorizes the holder to:

- Allow a person who is at least 16 but under 21 to enter and remain on the licensed premises for dining only.
- Allow a person under 16 to enter and remain for the purposes of dining if accompanied by a person 21 years or older and with parent or guardian consent.
- Employ a person 16 to 21 as permitted under AS 04.16.049.



Restaurant Endorsement

3 AAC 305.335. (a) In addition to the licenses identified at 3 AAC 305.330(a)(4), a restaurant endorsement as described under AS 04.09.450 is available to holders of club licenses, sporting activity or event licenses, outdoor recreation lodge licenses, fair licenses, golf course licenses, and destination resort licenses if the establishment or portion of establishment for which the endorsement is sought is a bona fide restaurant as defined at AS 04.21.080(b).

(b) An application for a restaurant endorsement must include a premises diagram specifying the establishment or portion of the premises to be subject to the endorsement and a security plan that demonstrates how the endorsement holder will comply with AS 04.09.450(d)(2)-(3) and AS 04.16.049 as applicable.



Timeline for Implementation

- **Section 168 (SB9)**

To timely provided for the issuance, renewal, and transfer of licenses, endorsements, and permits beginning on January 1, 2024, the ABC Board may begin to send notices, accept applications, and collect fees by September 1, 2023 (on new online licensing system).

- **Section 171**

The ABC Board may adopt regulations necessary to implement SB 9, but the regulations will take effect upon the effective date of the law implemented by the regulation.

- **Section 177**

Licenses, endorsements can take effect January 1, 2024. Board also has 90 days to complete the conversion.



Timeline for Implementation

- **Regulations – Now**
 - Statutes provide broad guidance, with details in regulations.
- **Outreach – Now**
 - Educate licensees, local governments, public safety, and the public.
- **Implement – Now**
 - Application process, new on-line database, testing now



Timeline for Implementation

- **Implement – Now**
 - What we are looking out for in our testing:
 - License Holders Will Be Able to Claim Their Licenses
 - Once claimed, will likely add attestations/diagrams to REPL licensees to satisfy statutory requirements for REPL that are specific to minors on premises
 - Once other licenses are claimed, apply for restaurant endorsement
 - Will release to external group for testing once we have completed our review and changes incorporated
 - Guided by the following statutory sections and deadlines



Timeline for Implementation

- **Goals**
 - Seamless for you as possible.
 - As much training as you require.
 - Online licensing system that works the day we go live.
 - Meeting all effective dates.
 - Treating you like the business leaders you are.
 - I respectfully ask you in turn treat our license examiners as professionals.



Timeline for Implementation

QUESTIONS?

Answers will be added to our FAQ's

In addition, email title4.amco@alaska.gov

If you want to know....you gotta' go:

<https://www.commerce.alaska.gov/web/amco/Title4Rewrite.aspx>



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