



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: A  
Presentation to Restaurant or Eating  
Place Licensees**

Joan M. Wilson

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# Agenda

- **Title 4 Rewrite Changes for restaurant or Eating Place Licensees**
  - License
  - Endorsements
  - Permits
- **Trade Practices**
  - New license options
  - Prohibited trade practices
- **Timeline for Implementation**
- **Questions**



# 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.



## The Restaurant or Eating Place License – AS 04.09.210

- Move from AS 04.11 to AS 04.09.
- In the retail license class.
- A restaurant or eating place license authorizes the holder to sell or serve on the licensed premises brewed beverages and wine for consumption only on the licensed premises.



## The Restaurant or Eating Place License – AS 04.09.210

- The biennial fee is \$1,250/\$625 seasonal.
- The holder of a restaurant or eating place license
  - 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.
    - (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.





## 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.
- May obtain a Theater License under AS 04.09.250.



### **A restaurant eating place licensee may not**

- Except as provided under AS 04.09.620, 04.09.640, 04.09.645, and AS 04.16.120(c), the holder of a restaurant or eating place license who sells or serves alcoholic beverages off the licensed premises or permits consumption off the premises of alcoholic beverages sold or served on the premises commits the offense of unauthorized restaurant or eating place activity.





## Endorsements

- No endorsements specific to REPL's
- Restaurant endorsements (replacement for restaurant designation permits) similar to REPL license available to other license types (e.g., beverage dispensary license)



## Restaurant Caterer's Dining Permit AS 04.09.620

- A restaurant caterer's dining permit authorizes the holder of a restaurant or eating place license or a seasonal restaurant or eating place tourism license to sell brewed beverages and wine before and during the service of food provided by the licensee at a single dining event held off the holder's licensed premises.



## Art Exhibit Permit AS 04.09.640

- An art exhibit event permit authorizes the holder of a beverage dispensary license, a beverage dispensary tourism license, a restaurant or eating place license, or a seasonal restaurant or eating place tourism license to sell and serve brewed beverages and wine for consumption at a specific art exhibit event.
- The director may issue an art exhibit event permit only for a specific art exhibit event at premises designated in the application for a limited period specified in the application.
- The director may not grant more than 12 art exhibit event permits to a licensee in a calendar year.
- An art exhibit event permit may not be exercised during an event that is expected to attract attendees under 21 years of age.
- Food must be provided in conjunction with the service of brewed beverages and wine under an art exhibit event permit.



## Inventory Resale Permit AS 04.09.680

- An inventory resale permit authorizes any person who no longer holds a license (by regulation or other persons if approved by the board) to sell the remaining inventory of the business.
- The sale may be only to holders of any valid license under AS 04.
- The Director may issue an inventory resale permit for a period of 90 days after the date of expiration or forfeiture of the license.
- The Director may not issue a permit if the license was suspended or revoked.
- The inventory resale permit is \$100.



## Music Festival Event Permit – AS 04.09.645

- A music festival permit authorizes the holder of a restaurant or eating place license to sell or dispense beer and wine for consumption at a festival with multiple live music performances held off the holder's licensed premises.
- The board may issue a music festival permit to the holder of a restaurant or eating place license only if the licensed premises of the restaurant or eating place is located in the unorganized borough.



- **What Is Now Permitted**
  - AS 04.11.450(b) Prohibited Financial Interests is significantly amended.
    - Manufacturers may hold retail licenses in addition to manufacturer retail licenses (e.g., REPL, BDL, and package store).
    - Not available for larger manufacturers (by volume restrictions)



# Trade Practices and Overlapping Premises

- **What This Makes Possible**
  - Overlapping licensed premises (3 AAC 305.660).
  - Sets parameters for what may overlap with a beverage dispensary and a beverage dispensary tourism license.





## Incorporating Federal Law for enforcement purposes

- Manufacturers, wholesalers, and limited wholesalers (including those in other states) may not except as provided by regulation) induce a person holding a license under this title to
  - Operate as a tied house
  - Operate as an exclusive outlet
  - Exclude purchases from other entities
  - Enter into certain agreements



## Tied House (Absent regulatory exception)

- Induce a retailer to purchase products to the exclusion of others by:
  - Furnishing, giving, renting, lending, or selling equipment fixtures, signs, supplies, money, services, or other things of value
  - Paying or crediting the retailer for an advertising, display, or distribution service
  - Guaranteeing a loan or the repayment of a financial obligation of the retailer
  - Extending credit that is not usual and customary for a particular class of transactions
  - Require the retailer to take and dispose of certain quota of products
- Apply federal definition of tied house at 27 U.S.C. 205.



## **Exclusive Outlet (Absent regulatory exception)**

- Requiring a retailer purchase products from an entity to the exclusion, in whole or in part, of alcoholic beverages sold or offered for sale by other entities.
- Apply federal definition of exclusive outlet at 27 U.S.C. 205.



## **Exclude Purchases from Other Entities (Absent regulatory exception)**

- In whole or in part by
  - Commercial bribery (apply federal definition at 27 U.S.C. 205)
  - Offering or giving any bonus, premium, or compensation to an officer, employee, or representative of the licensee



## Enter into Agreements (Absent regulatory exception)

- For consignment sales (apply federal definition at 27 U.S.C. 205) on any basis other than a bona fide sale, except that this paragraph does not apply to the return of merchandise for ordinary and commercial reasons arising after the merchandise has been sold.



## Requirements for Regulatory Exceptions

- Exceptions must be consistent to federal law as of January 1, 2024.
- Necessary to avoid practical difficulty or undue hardship on a licensee.
- In the best interests of the public.
- Consistent with the requirements of AS 04.



# 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 – In Development**
  - Application process, new on-line database, convert licenses, and assist with transition.





# Timeline for Implementation

- **Section 168 (SB 9)**
  - 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

- **Unless already converted from a public convenience REPL, Restaurant or Eating Place licenses Do Not “Convert.”**
  - Governed by new statutes and regulations (so may see re-issuance)
  - A BDL that is a theater will convert into a theater license
  - Exception a duplicate license issued or renewed converts into a multiple fixed counter endorsement (still apply with diagrams)
- **If your license needs to be renewed by December 31, 2023, still submit your application to renew.**
  - Subject to regular process (protest, objection, etc.)
- **If you have an interest in an endorsement, apply for them beginning Sept. 1, 2023.**



# 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.
  - 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](mailto:title4.amco@alaska.gov)



# Alcohol & Marijuana Control Office

**Joan M. Wilson, Director**

Contact Information:

(907) 269-0351

[joan.wilson@alaska.gov](mailto:joan.wilson@alaska.gov)