



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 Package Stores**

Joan M. Wilson

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Agenda

- **Title 4 Rewrite Changes for Package Stores**
 - License
 - Endorsements
 - Written and Electronic Orders
 - Permits
- **New Local Option**
- **Trade Practices**
 - New license options
 - Prohibited trade practices
- **Timeline for Implementation**
 - Conversions
 - Renewals
 - Applications for Endorsements and Permits
- **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 Package Store License – AS 04.09.230

- Move from AS 04.11 to AS 04.09
- In the retail license class
- A package store license permits the holder to operate a package store to store alcoholic beverages with federally compliant labels and to sell alcoholic beverages with federally compliant labels to a person present on the licensed premises



The Package Store License

- The license fee is \$1,500.00/\$750 seasonal
- Unless board approved, the licensed premises may not share a door, opening, or other means of passage intended for the access of the general public to an adjacent retail business not licensed under this title.
- A package store license permits the holder to operate a package store to store alcoholic beverages with federally compliant labels and to sell alcoholic beverages with federally compliant labels to a person present on the licensed premises
- The board will determine whether additional entries are necessary if the package store licensee also holds a beverage dispensary license within or adjacent to each other's licensed premises.



The Package Store License

Statutory prohibitions: A package store licensee may not

- Offer or allow for consumption of alcoholic beverages on the licensed premises except as authorized by a package store sampling endorsement or a package store tasting event license (caveat: see overlapping premises)
- Subdivide alcoholic beverages except as authorized by a package store repackaging endorsement
- Offer alcoholic beverages for sale or sell alcoholic beverages to a person not present on the premises who makes an order for shipment except as authorized by a package store shipping endorsement
- Deliver alcoholic beverages to a person not present on the licensed premises except as authorized by a package store delivery endorsement



The Package Store License

Violations

- Failure to have a package store license remains a Class A misdemeanor (AS 04.09.850)
- The holder of a package store license commits the offense of failure to comply with the terms of a package store license if the person stores or sells alcoholic beverages in violation of AS 04.09.230(a), (c), or (e)
- By statute, the fine for such a violation is \$250



Shipping Endorsement AS 04.09.460

- A package store shipping endorsement authorizes the package store licensee to sell alcoholic beverages to a person who makes an order to that licensee for shipment
- The biennial fee for a shipping endorsement is \$200
- An endorsement holder includes the holder of the package store license and employees and agents of the endorsement holder



The Package Store Shipping Endorsement

Statutory Requirements

- An endorsement holder may ship to a purchaser only subject to a written or electronic order
- The shipment may go only to the purchaser's residential address or to an authorized community delivery site for local option communities that have designated these sites (AS 04.11.491(f) exceptions still apply)
- An endorsement holder must provide information on fetal alcohol spectrum disorder to the purchaser in response to the order



The Package Store Shipping Endorsement

Statutory Requirements

- Local option restrictions under AS 04.11.491(a)(1)
 - (3) or b(1)-(2)
 - Monthly Limits to single purchasers
 - The endorsement holder must consult the orders database for purchases within the month and may not ship any amounts of the order that exceeds the monthly limits
 - The endorsement holder shall immediately enter into the written order database the date and the amount of alcoholic beverages shipped to the purchaser
 - The endorsement holder may not divide or combine shipments to circumvent the monthly limits



The Package Store Shipping Endorsement

Violations

- The package store licensee who ships without an endorsement commits the offense of unendorsed package store shipping -- \$500 fine
- The endorsement holder who ships in violation of shipping requirements commits the offense of unendorsed package store shipping -- \$250 fine



The Package Store Shipping Endorsement

Proposed Regulatory Requirements 3 AAC 305.340(b)

- The endorsement holder shall utilize only approved common carriers for shipping
- Shipping must occur no earlier than 24 hours before the receipt of the order



The Package Store Shipping Endorsement

Proposed Regulatory Requirements

- 3 AAC 305.345 (Written or electronic orders)
- 3 AAC 305.350 (Wine clubs)



Delivery Endorsement AS 04.09.470

- A package store delivery endorsement authorizes the package store licensee to deliver alcoholic beverages to the location of a “social event.”
- The biennial fee for a delivery endorsement is \$200.



The Package Store Delivery Endorsement

Statutory Requirements

- The holder may deliver only in response to an order and may deliver only to a responsible adult, who must provide identification acceptable of proof of age and acknowledge receipt in writing



The Package Store Delivery Endorsement

Violations

- The package store licensee who delivers without an endorsement commits the offense of unendorsed package store delivery -- \$500 fine
- The endorsement holder who delivers in violation of delivery requirements commits the offense of unendorsed package store delivery -- \$250 fine



The Package Store Delivery Endorsement

Proposed Regulatory Requirements 3 AAC 305.340(c)

- Delivery must be between 8 a.m. and 5 p.m.
- Order must be written or electronic. The order and written receipt of delivery must be maintained for one year
- Delivery must be at least 48 hours from receipt of payment
- Shipping must occur no earlier than 24 hours before the receipt of the order
- Delivery must be by person who has successfully completed server education



Proposed Regulatory Requirements 3 AAC 305.340(e)

- Social event means a catered event if the delivery of alcoholic beverages is to another licensee responsible for alcoholic beverage service at the event or to a non-licensee for a private, by-invitation-only event, such as a wedding, memorial, graduation, or holiday celebration.



Repackaging Endorsement AS 04.09.480

- A package store repackaging endorsement authorizes the package store licensee to subdivide and sell alcoholic beverages from original packages with federally compliant labels to smaller containers with standard federal government warnings and the product name.
- The biennial fee for a repackaging endorsement is \$200.



The Package Store Repackaging Endorsement

Statutory Requirements

- The holder may
 - Subdivide alcoholic beverages for sale on the licensed premises by opening the original package for the purpose of subdividing the contents into smaller packages or in response to a purchase request from a person who is on the licensed premises or in response to a written or electronic order
 - Permit an agent or employee to subdivide, but not a customer



The Package Store Repackaging Endorsement

Violations

- The package store licensee who repackages without an endorsement commits the offense of unendorsed package store shipping -- \$500 fine
- The endorsement holder who repackages in violation of repackaging requirements commits the offense of unendorsed package store repackaging -- \$250 fine



The Package Store Repackaging Endorsement

Proposed Regulatory Requirements

- There are none



Sampling Endorsement AS 04.09.490

- A package store sampling endorsement authorizes the package store licensee to offer for consumption on the licensed premises at no charge a small sample of an alcoholic beverage from its inventory during a package store's stated hours of business, but not between noon and 8 a.m.
- The biennial fee for a sampling endorsement is \$200.
- The licensee or an agent or employee of the licensee may serve a sample



The Package Store Sampling Endorsement

Statutory Requirements

- Volume limits
 - 12 oz. of brewed beverages or mead or cider, if the mead or cider contains less than 8.5 percent alcohol by volume;
 - 6 oz. of wine, sake, or mead or cider, if the mead or cider contains more than 8.5 percent alcohol by volume;
 - 1.5 oz. of distilled spirits; or
 - The alcoholic equivalent of the above three



The Package Store Sampling Endorsement

Statutory Requirements

- The endorsement holder may not publicly advertise sampling activities, including through print, news, radio, or television
- The endorsement holder may notify existing customers of sampling activities, including by electronic means



The Package Store Repackaging Endorsement

Violations

- The package store licensee who samples without an endorsement commits the offense of unendorsed sampling-- \$500 fine
- The endorsement holder who samples in violation of sampling requirements commits the offense of unendorsed package store sampling -- \$250 fine



The Package Store Repackaging Endorsement

Proposed Regulatory Requirements (3 AAC 305.340(e))

- Notification of existing customers may be by email or text if the email address and phone numbers are gathered from customers while they are on the licensed premises
- No other electronic notification (e.g. social media posts)



Tasting Event Permit AS 04.09.670

- A package store tasting event permit authorizes the package store licensee to sell or dispense alcoholic beverages at a tasting event held on the licensed premises, or unlicensed areas of the property where the package store is located, excluding the parking lot.
- The tasting event must be for the purpose of promoting products available for purchase from the package store licensee
- Only products sold by the package store may be sold or dispensed at the event
- Food must be provided in conjunction with the service of alcoholic beverages.



The Package Store Tasting Event Permit

- Director issued
- 6 events per calendar year (each license distinct)
- Event may not exceed 4 hours and must end by 9:00 p.m.



The Package Store Tasting Event Permit

Proposed Regulatory Requirements (3 AAC 305.150).

- The tasting event permit is \$100 for up to two days, \$50 each additional day
 - Is this accurate (i.e., more than one day?)



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 valid licenses 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.



Manufacturer Direct Shipment License AS 04.09.370

- Summarized here so you are aware of other off-premises consumption licenses
- A brewery retail, winery retail, distilled spirits retail or the holder of a manufacture license issued in another state with this license may sell the holder's product in response to an order for shipment to a person for personal use only and not resale, who is located in the state.
 - Additional detail as AS 04.09.370



Communities exercising local option may now prohibit

- A package store license
- A package store license that sells distilled spirits (permit package stores limited to selling only brewed beverages and wine)



- **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)
 - Exception if the manufacturer and its affiliates annually produce 300,000 barrels or more of brewed beverages or mead or cider containing less than 8.5 percent alcohol by volume, 50,000 nine-liter-equivalent cases or more of wine, sake, or mead or cider containing 8.5 percent or more alcohol by volume, or 50,000 nine-liter equivalent cases or more of distilled spirits (may hold manufacturer direct shipment 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), or to purchase, offer to purchase, or contract to purchase products on consignment, under conditional sale, or with the privilege of return on any basis other than a bona fide sale, or where part of the transaction involves, directly or indirectly, the acquisition by an entity from the licensee, or the entity's agreement to acquire from the licensee, other alcoholic beverages, 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; and
- Consistent with the requirements of AS 04



Timeline for Implementation

- **Regulations -- Now**
 - *Statutes provide broad guidance, with details in regs*
- **Outreach -- Now**
 - *Educate licensees, local governments, public safety, and the public*
- **Implement – In Development**
 - *Application process, new database, convert licenses, 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**
 - License, endorsement, permits take effect January 1, 2024



Timeline for Implementation

- **Package Store Licenses And Applications For Package Store Licenses Do Not Convert**
 - Governed by new statutes and regulations (so may see re-issuance)
- **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 (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



Allocation of license fees to municipalities

Questions?



Alcohol & Marijuana Control Office

Joan M. Wilson, Director

Contact Information:

(907) 269-0351

joan.wilson@alaska.gov