



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

**Department of Commerce,
Community, and Economic
Development**

ALCOHOL AND MARIJUANA CONTROL OFFICE
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MEMORANDUM

TO: The Alcoholic Beverage Control Board

DATE: September 14, 2022

FROM: Joan M. Wilson, Director

RE: Director's Report

INTRODUCTION

This report details AMCO activities from the last meeting of the ABC Board (June 28, 2022) to the present.

STAFF UPDATES/CHANGES:

Staff updates are as follows:

Jane Sawyer serves as the Acting Program Coordinator I for AMCO through October 18, 2022. She continues to serve as Regulations Specialist. Ms. Sawyer and I will jointly be responsible for regulations development while she also performs the functions of the program coordinator position. This includes working on the roll out of the Title 4 Rewrite regulations, which we will discuss later in the meeting.

Recruitment periods have closed for AMCO's three open positions. AMCO will be interviewing candidates for the project assistant position, particular to the Title 4 Rewrite, and the two open licensing examiner positions the week following Board meetings.

Although we are currently recruiting for two examiners, we are working to ensure the licensees do not feel the effect of those absences. Ms. Sawyer, Ms. Drulis, Ms. Craig, and I are supporting the licensing examiners. We are also cross training each examiner position to perform licensing review for both alcoholic beverage and marijuana establishment licenses.

LICENSING QUEUE REVIEW LISTENING SESSION

Ms. Craig will address the status of the alcoholic beverage licensing queue. While we are happy to report that the alcoholic beverage queue is of low to moderate length, AMCO held a listening session with alcoholic beverage licensees regarding the queue. Comments were as follows:

General Queue Comments

- Licensees expressed the need for an automated licensing application process
- Caterers requested exceptions to the five-day rule for submission of permits
- Cruise ship industry representatives request temporary licenses in advance of coast guard certification
- The speakers at the meeting did not object to the first-in-line/first-in-response framework for addressing the queue, noting that the wait times for transfer of applications are still too long and helping licensees with short-term emergencies further delays review

Title 4 Rewrite and Other Comments

- Many speakers wanted to know AMCO's plan for getting information out regarding the Title IV rewrite
- Downtown Anchorage would like to be able to provide sidewalk cafes during the summer season
- The Anchorage Performing Arts Center advocates to extend the permitted activities under a theater license (see discussion below)
- There is a new business model in the lower 48 that licensees may request in the future called a grocerant. A grocerant is a hybrid of grocery store and restaurant. Grocerants offer freshly prepared, ready-to-eat, or ready-to-heat foods and beer and wine inside a store setting. Holders of REPL's expressed an interest in permitting this option, but also permitting the consumer to purchase alcohol for off-premises consumption.

TITLE 4 REWRITE

AMCO has taken the following steps regarding the Title 4 Rewrite.

- AMCO has completed two months of thrice-weekly meetings reviewing SB 9. Participants included the Director, Program Coordinator, Records and Licensing Supervisor, Regulations Specialist, Local Government Specialist, and Administrative Officer
- ABC's Board Chair and the Director have considered whether to build the licensing system in-house or issue a request for proposal for a vendor-sourced management system. I will report on this analysis to the Board in verbal comments.
- AMCO held regular external stakeholder meetings with representatives of CHARR, the Alaska Brewers' Guild, Recover Alaska, and Senator Micciche's Office
- AMCO has prepared a schedule for regulations drafting, consideration, and public comment periods, which we will discuss later in the meeting.

LEGISLATIVE INITIATIVES

At a prior meeting of this Board, Ms. Thompson requested a legislative initiative to amend AS 04.16.049(d) to permit persons aged 18, 19, and 20 to deliver alcoholic beverages to patrons of restaurant eating places so long as those individuals are supervised by individuals over 21 who are properly trained and certified in alcohol server education. I forwarded this request to the Governor's Office, which has expressed an interest in the legislation. I will be asking the Board as a whole whether it endorses this initiative.

At the request of the Alaska Center for the Performing Arts, other AMCO staff and I inspected service areas at the Performing Arts Center, in great part to hear about the ongoing concern the organization has about moving crowds around the licensed areas for alcoholic beverage service. Absent statutory change, there is little that can be done to accommodate the request. The ACPA will likely seek a sponsor of a bill similar to one introduced in the last legislature (SB 230), but too late for inclusion in the Title 4 Rewrite. The bill would permit the service of alcoholic beverages at multiple non-contiguous sites for a period of two hours before an event and one hour after an event. It would further amend AS 04.16.049 to permit persons 16 and over to be unaccompanied on the license premises of a performing arts theater so long as the individuals are there to view a live event. Board approval is not being sought at this time, but it may be worthwhile to discuss.

Last, AMCO has responded to the Municipality of Anchorage's request to amend either statute or regulation to permit the services of alcoholic beverages at sidewalk and street cafes affiliated or adjacent to licensees. The current statutory definition of "licensed premises" codified at AS 04.21.080(15) makes this difficult. This is because it requires the licensed premises to be "at the specific address for which the license is issued." At issue, is whether a public sidewalk or street is at the same address. Should the Board desire to open a regulations project, AMCO is working with the Attorney General's Office to determine if the ABC Board can clarify this definition through regulation. AMCO is requesting local representatives supportive of this business model to make the same request to its legal counsel.

ENFORCEMENT ISSUES FOR REVIEW

AMCO continues to review mixed cocktail kegs and for-hire vehicle issues. It has further investigated the entry of alcohol infused ice cream into the unregulated marketplace. Initial tests of the ice cream are instead evidencing inaccurate branding. AMCO is working with the manufacturer, the distributor, and the Consumer Protection Unit of the Department of Law and the best means to resolve the issue. If the product continues to be branded as intoxicating, it cannot escape AMCO jurisdiction by also asserting a low content ABW. If it is such a low content ABW as to not be an alcoholic beverage, it should stop misleading the Alaskan consumer.



COMPLIANCE CHECK PROGRAMS

AMCO best served the people of the State of Alaska when it had a working compliance check program that guarded against selling alcohol to minors. Since the compliance program lost federal funding in over ten years ago, it has largely defunct. AMCO is reviewing our projected budget to find funding for at least some of the eight part time positions it will seek to resurrect this program. Ms. Ali will join me in speaking to this issue at the meeting, but the immediate message for licensees is the program is returning. I also will be looking for federal grants to support the same. At its height, AMCO's prior efforts found that service to minors was occurring at 10 percent of liquor stores and 30 percent of retail licensees. AMCO also will be requesting a change to AS 17.38 to permit compliance checks by unlicensed buyers in licensed marijuana establishments. In addition to preventing harm to minors, this would provide another funding source for the program.

CONCLUSION AND NEXT MEETING

The next ABC Board meeting is scheduled for December 13, 2022. We will discuss expanding this meeting to a two-day meeting when we address the regulations schedule for the Title 4 Rewrite.

