



## MEMORANDUM

TO: Alcoholic Beverage Control Board

DATE: November 25, 2022

FROM: Kristina Serezhenkov, OLE

RE: #5073 Alaskan Dream

**Requested Action:** Refund request for AB-29 Waiver of Operation fees for 2022 and to remove the first strikes against the license.

**Statutory and Regulatory Authority:**

**Sec. 04.11.330. Denial of license or permit renewal.**

(a) An application requesting renewal of a license shall be denied if

(1) the board finds, after review of all relevant information, that renewal of the license would not be in the best interests of the public;

(2) the license has been revoked for any cause;

(3) 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;

**3 AAC 304.170. 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 if the licensed premises were not operated for the time required by AS 04.11.330(a)(3) or (d).

(b) A licensee may apply to the board, requesting that the board waive the operating requirement of 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) An application for waiver for a calendar year must be made in writing to the board and must be accompanied by a 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 year's waiver application;

(d) In an application for waiver, the licensee must explain why the licensed premises were not operated. Additionally, the licensee must provide a copy of the application to the local governing body, if any, having jurisdiction over the license and licensed premises.

(e) The board will, in its discretion, deny a third or subsequent consecutive application for waiver unless the licensee clearly shows that the licensed premises were not operated because the premises were condemned or substantially destroyed by any cause. If the premises identified on an applicant's license are not leased or owned by the licensee, the

third or subsequent application will, in the board's discretion, be denied. Additionally, a third or subsequent consecutive application for waiver that does not identify a licensed premises location will, in the board's discretion, be denied.

(f) The board will, in its discretion, impose conditions along with the approval of an application for waiver.

(g) If an application for waiver 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).

(h) 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 waiver is requested.

(i) In circumstances of death of a licensee, destruction of the premises, or comparable circumstances showing extraordinary hardship, the board will, in its discretion, waive the fees under (c) and (h) of this section.

(j) If a license is exercised only to satisfy the minimum operating requirement under AS 04.11.330(a)(3) or 3 AAC 304.107(c)(1), a licensee shall operate in a similar fashion to other licensed premises of the same type by meeting the following operating requirements if appropriate for the license type:

(1) provide signage, of sufficient size and visibility to show that the premises is open for business, stating business name and hours of operations;

(2) offer for sale at the licensed premises, as appropriate to the type of license, a variety of malt beverages, wines, and distilled spirits;

(3) visibly display the alcoholic beverages stock in a licensed package store premises;

(4) provide seating in beverage dispensary licensed premises 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.

(k) The licensee has the burden of proof to show that the licensed premises was operated for the minimum required period of time and met the operating requirements under (j) 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.

**Staff Rec.:** Evaluate refund request in accordance with above statutes and regulation

**Background:** The licensee is requesting a refund of the fees associated with the AB-29 Waiver of Operations and to remove the first strike against the license. In 2022 to date, AMCO has received 17 AB-29 Waiver of Operations forms and fees for this year, including those for Allen Marine Tours Inc.

**Attachment:** Letter of Explanation & Refund Request  
AB-29 form

**From:** [Susan Ginn](#)  
**To:** [Alcohol Licensing, CED ABC \(CED sponsored\)](#)  
**Cc:** [Jamey Cagle](#)  
**Subject:** Alaska Catamaran AB-29 Forms 2021 and 2022  
**Date:** Thursday, October 20, 2022 2:49:31 PM  
**Attachments:** [#5074 - Baranof Dream Form AB-29 2021.pdf](#)  
[#5073 - Alaskan Dream Form AB-29 2022.pdf](#)

---

**CAUTION:** This email originated from outside the State of Alaska mail system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

Attached are the AB-29 forms for the Alaska Catamaran vessels that did not operate due to Covid.

#5074 – Baranof Dream – 2021

#5073 – Alaskan Dream – 2022

We understand that not operating in 2022 would typically be a strike against Alaskan Dream, however, this vessel did not operate due to the lingering effects of Covid. A large amount of repairs and maintenance needed to be done on this vessel before we could get a COI, and we were unable to complete the work due to supply chain issues and a lack of shipyard laborers. We respectfully request that the Alcoholic Beverage Control Board consider waiving the strike and penalty fee for not operating the Alaskan Dream in 2022 since it was due to Covid's effects.

Please let me know what decision is made. If we owe the fee for the Alaskan Dream, please have someone call me and I'll give a credit card number over the phone.

Thank you for your consideration,

*Susan Ginn*

*Accounting Manager*

*Allen Marine/Alaskan Dream Cruises*

*907-966-8130 direct line*

AMCO Received 10/20/2022



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 1<sup>st</sup> request, an amount equal to ½ the applicable biennial license fee; or
- for a 2<sup>nd</sup> 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:	Alaska Catamaran, LLC	License Number:	5073		
License Type:	Common Carrier - Seasonal				
DBA:	Alaskan Dream				
Premises Address:	Alaska Waters				
City:	None	State:	Alaska	ZIP:	
Local Governing Body:	None				

## Section 2 – Request Number and Calendar Year

- 1<sup>st</sup> Request     
  2<sup>nd</sup> Request     
  3<sup>rd</sup> Request     
  Other Covid

Request for Calendar Year 2022



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 has had lingering effects on our company that directly impacted our ability to operate our full fleet in 2022.

Supply chain and manufacturing issues caused materials and parts needed for maintenance to be delayed or unavailable, workforce shortages caused an inability to hire enough shipyard workers to complete necessary repairs and maintenance, workforce shortages also caused an inability to hire enough support staff and crew to operate some of the boats we did have ready to go, and inflation and rising fuel costs have increased the financial strain that our company is already suffering from due to Covid.

All of these factors were taken into consideration when making the decision that this boat would need to be kept out of service for 2022. Please consider not holding this as a strike against this license since we did not operate this boat due to Covid-related issues.

## 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.

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.

Jamey Cagle

Printed name of licensee

Signature of licensee

Office Use Only

Waiver Application Fee:		Late Fee:		Transaction #:	
-------------------------	--	-----------	--	----------------	--