



**Alcoholic Beverage Control Board
Special Meeting Agenda
Third Judicial District**

Zoom

September 29, 2023 at 9:30 am

Join Zoom Meeting

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All times are approximate. Lunch from 12:00 noon to 1:00 pm

● **ADMINISTRATION**

9:30 am

A. Call to Order

9:35 am

B. Roll Call

Dana Walukiewicz, Board Chair and Industry Member, present in person

Diane Thompson, Vice Chair and Industry Member, present in person

Doug Moore, Public Member, present on Zoom

Jan Hill, Public Member, present on Zoom, audio issues – using the chat function

Dave Koch, Public Safety Member, present on Zoom

Joan Wilson, Director, present in person

Kevin Higgins, Assistant Attorney General, present on Zoom

Gabriel Gonzales, Local Government Specialist, present in person

Kristina Serezhenkov, Regulations Specialist, present on Zoom

Carrie Craig, Records and Licensing Supervisor, present in person

James Hoelscher, Enforcement Supervisor, present on Zoom

Steven Johnson, Special Investigator, present on Zoom

C. Approval of Agenda

Diane T. motions to approve the agenda. Doug M. seconds. None opposed, motion carried.

● BOARD GOVERNANCE

9:35 am

There are no changes to report. Dana W. mentions that Diane T. and himself are retail license owners. Jan H. left the meeting, but promptly returned on Zoom.

● REGULATIONS

A. Oral hearing on Title 4 (As 04) Rewrite (Chapter 8, SLA 2022) Regulations, 3 AAC 305, Articles 1, 2, 3, 4, 5, 6, 7 and 8.

TAB 3

(Board to determine how long the hearing will be)

Recordings and transcripts are available on AMCO's website here:

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

Dana W. summarizes the year-long regulation process.

9:44 am: Public Hearing opened.

Lee Ellis, present on Zoom, representing the Brewers Guild, thanks the board and the stakeholder group for their hard work and the Guild is supportive of the regulations.

Sarah Oates, present on Zoom, Alaska CHARR president and CEO, echoes Lee's comments, it has been a lengthy and collaborative process, and they are supportive of this draft language.

*Dana W. moves to the the written comments. Dana W. summarizes Anna Brawley's written comments, writing as an individual, agrees and supportive of the overall focus of the regulations, she provides an interesting perspective. Regarding the Large Resort Endorsement, Director Wilson speaks about the non-recognition of minors on the premises in statute. Dana W. asks for clarify for beverage dispensary and beverage dispensary tourism licenses. Director Wilson reads AS 04.16.049(j) regarding restrictions on minors on licensed premises. There is discussion on the security and enforcement moving forward. There could be a possible future regulation project to put out for public comment. **Diane T. motions to open a regulation project to discuss and clarify the application for large resort endorsements and how they are applicable with beverage dispensary and beverage dispensary tourism licenses for the November meeting. Jan H. seconds. None opposed, motion carried.***

Dana W. addresses Anna Brawley's comments on the package store delivery & shipping endorsements. He clarifies the intent of the legislation.

Dana W. addresses Anna Brawley's comments on the package store sampling endorsement, supportive of language, however, feels there is some overreach in the regulation such as collecting telephone numbers. Dana W. clarifies the intent is to ensure that this was not an activity to provide free alcohol. Lee Ellis, states this already happens in the industry, which is called dry sampling, they already have a communication process.

Dana W. addresses Anna Brawley's comments on the manufacturer direct shipment – how to apply for this license regarding the out of state companies and is a regulation necessary? Director Wilson feels staff can follow statute in issuing these licenses after

the board approves the form. There is always the possibility of future regulation project if necessary.

Dana W. summarizes Joan Diamond's written comments regarding the consumption on package store premises. The board cannot change the statute which allows for sampling onsite.

Matanuska – Susitna Borough wrote they have no comment.

Icy Straits Lodge, licensee, states the regulations look good so far.

Anna Brawley, as an assembly member for the Municipality of Anchorage. Hotel/motel endorsement language excludes long term rental units not subject to bed taxes. Dana W. clarifies the endorsement is for beverage dispensary and beverage dispensary tourism licenses whose focus is promoting tourism and long-term rentals do not meet that requirement. There is a discussion about adding language to further define "substantial long-term rentals". No changes were suggested.

Regarding the keg registration form – noting that the Municipality of Anchorage will drop their form and rely on AMCO's form.

Regarding Enforcement: at what point is information shared with staff, local governing body, police, and the public? Can they get more information? Dana W. states communication with local law enforcement is paramount unless there is an investigation in process/appeal rights.

Steven Johnson agrees and it is a common professional curtsy to share information with law enforcement, not a governing body during an active investigation.

Lee Ellis says it is not common practice for non-life-threatening issues to be shared with a local governing body.

Shawn Watson is requesting clarification on what changes were made to local control. Dana W. states this has been discussed in previous board meetings regarding local governments being able to petition the board for new restaurant or eating place licenses and the various new license types which will be available.

- B. Close hearing for Title 4 Rewrite Regulations, 3 AAC 305 Articles 1, 2, 3, 4, 5, 6, 7 and 8. Consider written and oral comments received and determine action on the proposed regulations.**

Dave K. motions to close the public comment period. Diane T. seconds. None opposed, motion carried. Comment period is closed.

Dave K. motions to adopt 3 AAC 305, Articles 1, 2, 3, 4, 5, 6, 7 and 8. Jan H. seconds. None opposes, motion carried.

- C. Draft Regulations for Board Discussion**

1. Board discussion and public input: Trade Practices

TAB 4

Dana W. summarizes the need for the revamping and clarification of the trade practices and provides a brief history of trade practices federally and at state level.

10:47 am: Break

10:57 am: Reconvened

Dana W. summarizes the need for these exceptions to trade practices prohibitions. Director Wilson summarizes her work and Kristina's on this practice.

She states 3 AAC 305.500 sets out the general prohibition which applies to the manufacturers, wholesales in relation to the retailers. She reads the four prohibitions.

3 AAC 305.510 sets out the tied house prohibitions. Dana W. and Diane T. provide examples of current trade practices that will no longer be allowed for those who are not knowledgeable on this subject. Lee Ellis states there will be federal oversight on trade practices in Alaska once these regulations are in effect.

Director Wilson states 3 AAC 305.515 sets out the exceptions to the tied house prohibitions. Dana W. questions if "furnish" includes for sale. Director Wilson says "furnish" means any means of providing for compensation, whether sold or given if there is record. Lee Ellis confirms. Kevin Higgins does not believe a definition is necessary in the regulations.

Paul Thomas, package store licensee, is present on Zoom, would like to see the dollar amount raised to \$1000 rather than \$400 for product displays.

Don Grasse, with RNDC wholesaler, is present on Zoom, states this was to level the playing field for the industry. They believe \$400 is a fair amount, have been discussing raising the cost to \$750 with CHARR.

Lee Ellis, representing the Brewers Guild, present on Zoom, states the federal standard is \$300. These amounts currently in the draft regulations were chosen to protect the smaller retailer businesses.

Diane T. states the \$400 per brand is a fair limit.

Dave K. states Lee's and Diane's comments helped him to understand and protecting small businesses are important.

Jan H. echoes Dave's comments.

Doug M. agrees.

Dana W. reads the comment in chat from Eric Morrison.

Director Wilson reads the next exception, #3, regarding signs, posters, light fixtures and table tents. Lee Ellis provides additional clarification.

Director Wilson reads #4 asks what is a “temporary retailer”? The definition is on page 10, for permittees for the purposes of this section.

Director Wilson reads exception #5, item(s) sold for not less than the cost of the entity and landed cost and collected within 30 days of installation. Dana W. and Lee Ellis provides explanations. Lee Ellis states this section is regarding glassware, etc. not the draft systems. Director Wilson “except as provided in paragraph 6” – exempt draft equipment which is covered in #6.

Director Wilson reads #6 which is regarding the actual installation of draft systems and drafting equipment. Should be “alcoholic beverage systems”, not “alcohol beverage systems”. Director Wilson suggests, “provide alcoholic beverage dispensing systems including alcoholic beverage taps or drafting equipment...or the installation, maintainance,...” Lee Ellis does not like billing for cleaning services, should be a free service. Kristina S. states they did not change that wording. Don Grasse believes the cleaning is an important service to their customers. Director Wilson suggests taking “cleaning” out of the paragraph.

Dana W. suggests paragraph #6 should be limited to provide the cost of the installation and maintainace of equipment minimal cost, new paragraph #7 subject should be the cleaning of the equipment with no cost.

Director Wilson reads paragraph #8 regarding newspapers, mats, engraved blocks, etc. Lee Ellis further clarifies.

Director Wilson reads paragraph #9 regarding packaging, promotional items.

Director Wilson reads paragraph #10 regarding educational events and costs, not trade shows.

Director Wilson reads paragraph #11 to allow an entity to provide presentations to the general public on a licensed premises.

Director Wilson reads paragraph #12 in regarding to an entity furnishing coupons to consumers.

Director Wilson reads paragraph #13 states the entity may list names and addresses of other retailers selling products in an advertisement. Promote the brand/product, not the retailer.

Director Wilson reads paragraph #14 regarding managed display space. Dana W. provides further clarification on the subject.

Director Wilson reads paragraph #15 which is about the creation of the shelf plan/schematic. Don Grasse provides additional clarification. There are further explanations by Mr. Grasse and Lee Ellis. Lee Ellis discusses the necessity of the retailer notifying others when planning a reset.

Director Wilson reads paragraph #16 which is the management of the resets. Dana W. explains what a reset means and what happens during when it occurs. He asks about “certified mail” requirement.

Sarah Oates states the requirement is archaic and potentially expensive – just give an option of one or the other.

Lee Ellis agrees with Sarah. Language suppliers who sold to the entity in the previous 12 months got tuned down.

Dana w. agrees to take out “certified” and replace with “mail or email”. Another amendment is, “Give notice to only to the entities to the retailer within the past 12 months.”

Paul Thomas, retailer, regarding subsection c – potential problem if a product was not selling and permanently goes away. Lee Ellis speaks to the concern of the topic of movement.

Director Wilson reads paragraph #17 which is about credit from a third-party creditor.

Director Wilson reads paragraph #18 which is about the sale of the entity’s merchandise with cost restrictions.

Director Wilson reads paragraph #19 which is about outdoor signs given by an entity.

Paul Thomas, package store licensee, would like to see the price raised to \$1000.

Lee Ellis clarifies the restrictions and it is speaking to single signs, not multiple signs. He agrees it could go higher but should be conservative.

Diane T. says the board should remain consistent with the other cost restrictions in the regulation. There is no desire from the board to make any changes to the dollar amount.

1:03 pm: Lunch

2:02 pm: Reconvened, all board members are present either in person or on Zoom.

Director Wilson summarizes 3 AAC 305.520. There are no comments or questions.

Director Wilson summarizes 3 AAC 305.525. What is an “as needed basis”? Is a definition needed?

Lee Ellis has no insight to offer – it is in federal law and has been attempting to find an answer.

Scott Stewart, present on Zoom with Odom, does not make sense what they are trying to accomplish.

Dana W. suggests striking 3 AAC 305.525. The board members agree.

Director Wilson summarizes 3 AAC 305.530. Diane T. asks how to enforce not letting the retailer take the prizes for themselves? Perhaps part of the required documentation by retailers?

There is a discussion with Scott Stewart and Lee Ellis about the time frame and documentation. The entity giving away the prize should conduct the drawing, not the retailer.

Dana W. suggests it would be easiest to define “at any one time” at the end. Director Wilson agrees, perhaps a section to say, “the entity must make the draw and keep records for three years.”

Paul Thomas, package store licensee, wants the dollar amount raised.

Discussion on how many contests allowed in a year. Dave K. suggests posting the name of the winner at the store and limiting it to once a month. Maximum of 12 events a year.

Paul Thomas, package store licensee, wants to see per brand and agrees with 30 days.

Sarah Oates states that the dollar amount should be “per brand”, that was part of her conversations with wholesalers.

Scott Stewart echoes Sarah’s comment.

There is further discussion to add “per brand” to the regulation language with the same caps across the board for consistently and 30-day event for a maximum of 12 giveaways per brand. The board members are satisfied with the language.

Director Wilson guides the board back to page 4 about product displays and “at any one time”. Would the definition just created work in this section?

Lee Ellis encourages the board not to define it in 13 and use the definition in lieu of “at any one time”.

Scott Stewart is opposed to the time limit for product displays.

Director Wilson summarizes the exceptions to prohibited practice to enter into consignment sales.

Director Wilson summarizes 3 AAC 305.540 regarding administrative penalties. Dana W. suggests striking the maximum of 10 times the amount of the inducement, there should be no upper limit. The board members agree.

Director Wilson summarizes the minor changes in the two carry overs from 304, the happy hour regulation and the definitions.

Steven Johnson wants clarification of “brands”. Dana W. states it means that a company can have multiple brands, they are marketed differently, packaged differently. Lee Ellis agrees.

Dave K. motions to put this regulation out for a public comment period of 30 day after approval from the Department of Law as conceptually amended. Doug M. seconds. None opposes, motion carried.

3:17 pm: Break
3:27 pm: Reconvened

● **CONTINUED TITLE 4 REWRITE MATTERS**

A. Common Carrier Approval Draft Form AB-41

TAB 5

1. Discussion of scope

Gabriel Gonzales summarizes the scope of the form. Director Wilson would like delegation to her to temporarily approve these applications because they are in effect as of January 1, 2024.

2. Formal vote to approve Form AB-41

Diane T. motions to approve Form AB-41. Jan H. seconds. None opposed, motion carried.

TAB 6

B. Keg Registration Form AB-42

1. Consideration and formal vote to approve Form AB-42

Dana W. summarizes the need to approve this form in a timely manner. Gabriel Gonzales summarizes the form. Dana W. asks if the retailer could use an electronic form, signed electronically. Gabriel G. states that the form will be on the website as a fillable PDF. Kevin Higgins and Director Wilson state it should be allowable as an online form without a regulation project. Jan H. motions to approve Form AB-42. Dave K. seconds. None opposed, motion carried.

C. Overview of AMCO actions Items to achieve timely implementation.

Director Wilson summarizes AK – ACCIS, the new online licensing system, and what items are and will be available mid to late October and moving forward.

● **DELEGATED CONSENT AGENDA – NEW & TRANSFER APPLICATIONS**

TAB 7

THIS SECTION CAN BE APPROVED WITH DELEGATION AS A BLOCK.

Dana W. reads the application information in Tab 7 into the record. There are no questions. Dave K. motions to approve all the applications in Tab 7 with delegation. Doug M. seconds. None opposed, motion carried.

- A. 434 Fiori D’Italia:** Fiori D’Italia, Inc.
2502 McRae Road, Anchorage
Beverage Dispensary
From: Urime Ferati 100%
To: Urime Ferati 50%, Ulber Ferati 50%

Transfer of controlling ownership

Local governing body action: pending Municipality of Anchorage
Pending: Department of Labor, Department of Revenue
Background investigations: pending

B. 757 Bear's Den Liquor: Three Bears Alaska, Inc.

17320 Northgate Drive, Eagle River

Package Store

From: D.A.W.G. Inc. dba Liquor Locker located at 20146 Pilots Road, Suite D

Transfer of ownership and location with a dba name change

Local governing body action: pending Municipality of Anchorage

Pending: Department of Labor, Department of Revenue

Background investigations: complete

C. 2731 Bear's Den Liquor: Three Bears Alaska, Inc.

3330 Badger Road, North Pole

Package Store

From: Petro Star, Inc. dba Sourdough Fuel

Transfer of ownership with a dba name change

Local governing body action: pending City of North Pole, Fairbanks North Star Borough

Pending: Department of Labor, Department of Revenue

Background investigations: complete

D. 4517 Sushi Motto: Sushi Motto, LLC

3020 Minnesota Drive, Anchorage

Restaurant/Eating Place

From: Sushi Spot, Inc. dba Peter's Sushi Spot

Transfer of ownership with a dba name change

Local governing body action: pending Municipality of Anchorage,

Pending: Department of Labor, Department of Revenue

Background investigations: complete

E. 4584 Tracy's King Crab Shack: Genuine Ventures, LLC

No Premises, Juneau

Restaurant/Eating Place

From: Lot C1 Juneau Subport, Section 23, Township 41 S, Range 67 East

Transfer of location

Local governing body action: pending City and Borough of Juneau

Pending: Department of Labor, Department of Revenue

Background investigations: complete

F. 4665 Hutchinson Commercial, LLC: Hutchinson Commercial, LLC

Mile 161 Steese Highway, Circle

Package Store

From: Richard Hutchinson 100%

To: Krista Hutchinson 50% and David Towne 50%

Transfer of controlling ownership

Local governing body action: No Local Government
Pending: Department of Revenue, Department of Labor
Background investigations: complete

- G. 5103 The Bridge, Co:** The Bridge, Co
221 W Ship Creek Avenue
Restaurant/Eating Place
From: Bridge Seafood, Inc. dba The Bridge

Transfer of ownership with a dba name change

Local governing body action: pending Municipality of Anchorage
Pending: Department of Labor, Department of Revenue
Background investigations: complete

- H. 6140 Alaska Waters:** Alaska Waters, Inc.
5 Front Street, Unit 1, Wrangell
Brewery

New license application

Local governing body action: pending City and borough of Wrangell
Pending: State Fire Marshal, Department of Environmental Conservation
Background investigations: complete

- I. 6151 Alaska Bob Brewing:** Alaska Bob Brewing, LLC
6894 W Norms Road, Meadow Lakes
Brewery

New license application

Local governing body action: pending Matanuska-Susitna Borough
Pending: State Fire Marshal, Department of Environmental Conservation
Background investigations: complete

- J. 6157 Stalk Steakhouse:** Driftwood Restaurant Concepts, LLC
12110 Business Boulevard Suite 2, Eagle River
Restaurant/Eating Place

New license application

Local governing body action: pending Municipality of Anchorage
Background investigations: complete

- K. 6167 Stoney Creek TapHouse:** Orca Life, LLC
1716 Leirer Rd, Seward
Brewery

New license application

Local governing body action: pending City of Seward, Kenai Peninsula Borough
Pending: Department of Environmental Conservation

Background investigations: complete

- L. **6168 Stoney Creek CiderHouse:** Orca Life, LLC
1716 Leirer Road, Seward
Winery

New license application

Local governing body action: pending City of Seward, Kenai Peninsula Borough

Pending: Department of Environmental Conservation

Background investigations: complete

● **CONSENT NEW AND TRANSFER APPLICATIONS**

TAB 8

THIS SECTION CAN BE APPROVED AS A BLOCK.

Dana W. reads the license information in Tab 8 into the record. There are no questions. Doug M. motions to approve. Jan H. seconds. None opposed, motion carried.

- A. **6152 St. Elisabeth:** Allen Marine Tours, Inc.
Alaskan Waters
Common Carrier-Vessel

New license application

Background investigations: complete

- B. **6159 Eagle:** Allen Marine Tours, Inc.
Alaskan Waters
Common Carrie-Vessel

New license application

Background investigations: complete

- C. **6163 M/V Hubbard:** Alaska Marine Highway System
Alaskan Waters
Common Carrier-Vessel

New license application

Background investigations: complete

● **TOURISM NEW & TRANSFER APPLICATIONS**

THIS SECTION CAN BE APPROVED WITH DELEGATION AS A BLOCK.

Dana W. reads the license information in Tabs 9 through 11 into the record. There are no questions. Dave K. motions to approve all applications in Tabs 9 through 11 with delegation. Doug M. seconds. None opposed, motion carried.

- A. **6111 Salamatof Cannery Lodge:** Salamatof Cannery Lodge, LLC
2101 Bowpicker Lane, Unit 13, Kenai
Beverage Dispensary – Tourism

TAB 9

New license application

Local governing body action: pending City of Kenai, Kenai Peninsula Borough
Pending: Department of Environmental Conservation
Background investigations: complete

- B. 6137 907 Lounge:** Baranoff Lounge, LLC
404 Sawmill Creek Road, Sitka
Beverage Dispensary – Tourism

TAB 10

New license application

Local governing body action: Pending City and Borough of Sitka
Pending: Department of Environmental Conservation
Background investigations: complete

- C. 6146 Bayside Diner and Bristol Inn:** Quvaq, LLC
104 Main Street, Dillingham
Beverage Dispensary – Tourism

TAB 11

New license application

Local governing body action: pending City of Dillingham
Pending: Department of Environmental Conservation, State Fire Marshal
Background investigations: complete

- DELEGATED CONSENT AGENDA – 2023/2024 RENEWAL APPLICATIONS**
THIS SECTION CAN BE APPROVED WITH DELEGATION AS A BLOCK.

TAB 12

There are no questions. Diane T. motions to approve the renewal applications listed in Tab 12 with delegation. Dave K. seconds. None opposed, motion carried.

License #	DBA	License Type	City	Borough
61	Anchor Bar & Grill	Beverage Dispensary	Cordova	Unorganized Borough
62	Anchor Liquor Store	Package Store	Cordova	Unorganized Borough
757	Liquor Locker	Package Store	Anchorage, Muni. of	Anchorage
2124	Fenders	Beverage Dispensary	Fairbanks	Fairbanks North Star Borough
4448	Glacier View Grill	Restaurant/Eating Place- Seasonal	Outside City Limits	Unorganized Borough
5020	The Last Frontier Brew Pub	Restaurant/Eating Place	Wasilla	Matanuska-Susitna Borough
5104	Kim's Cuisine	Restaurant/Eating Place	Anchorage, Muni. Of	Anchorage
5321	Alpenglow Brewery	Brewery	Anchorage, Muni. Of	Anchorage
5710	Miso Sushi	Restaurant/Eating Place	Anchorage, Muni. Of	Anchorage
5734	Ninja Sushi	Beverage Dispensary- Duplicate	Fairbanks	Fairbanks North Star Borough

- PUBLIC TESTIMONY: On matters outside the agenda**
(If time permits)

*3:53 pm: Public Testimony is open. There is no testimony.
3:54 pm: Closed.*

● **BOARD COMMENTS**

Dave K.: Enjoyed the discussion and education regarding the regulations.

Doug M.: Dreams of the day when we are done with Title 4 and appreciates public comments from industry.

Jan H.: Thoroughly enjoyed the meeting. Public comments were so helpful and educational.

Diane T.: Glad we got through trade practices as well as we did appreciate everyone's hard work, especially the office.

Dana W.: Echoes all comments, enjoys working with the office and the board members – much gratitude.

● **NEXT ABC BOARD MEETING**

The next meeting is scheduled for **November 13-14, 2023 in Sitka**. All applications must be deemed complete and all other information for inclusion in the board's packets must be received by **October 27, 2023**.

● **ADJOURNED |**

4:00 pm Jan H. motions to adjourn. Diane T. seconds. None opposed, motion carried.