

**3 AAC 305**  
**Regulations Relating to Alcoholic Beverages**

Article 4: Retail Licenses, Endorsements, Permits

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For discussion

## Article 4

### **Retail Licenses, Endorsements, Permit**

#### **3 AAC 305.400. License required**

(a) With the exception of manufacturer sampling endorsements under AS 04.09.410, a license is required to sell or serve for consumption only on the licensed premises, alcoholic beverages as set forth at AS 04.09.200 (beverage dispensary license), AS 04.09.220 (club license)(address need for 3 AAC 304.355), AS 04.09.250 (theater license held by a beverage dispensary licensee), AS 04.09.260 (common carrier dispensary license) license (compare to 3 AAC 304.340), AS 04.09.310 (destination resort license), AS 04.09.350 (beverage dispensary tourism license) (determine if any provision of 3 AAC 304.325 goes unaddressed by beverage dispensary tourism license statute)

(b) With the exception of manufacturer sampling endorsements under AS 04.09.410, a license is required to sell or sell and serve for consumption only on the licensed premises, brewed beverages or wine as set forth at AS 04.09.210 (restaurant or eating place license), AS 04.09.240 (pub license), AS 04.09.250 (theater license), AS 04.09.270 (sporting activity or event license), AS 04.09.290 , AS 04.09.250 (theater license held by a restaurant or eating place licensee), AS 04.09.290 (fair license), AS 04.09.300 (golf course license), and AS 04.09.360 (seasonal restaurant or eating place tourism license). [determine if presence of minors should be addressed here or separately, particularly for golf course licensees]

(c) With the exception of manufacturer sampling endorsements under AS 04.09.410, a license is required to store, sell, or serve on the license premises distilled spirits, brewed beverages, or wine for consumption on and off the licensed premises as set forth at AS 04.09.320 (brewery retail license), AS 04.09.330 (winery retail license), and AS 04.09.240 (distillery retail license).

(d) A license is required to operate a package store to store and sell alcoholic beverages for consumption off the licensed premises as set forth at AS 04.09.230 (package store license).

(e) A license is required for the holder of a brewery retail license (AS 04.09.320), a winery retail license (AS 04.09.330), a distillery retail license (AS 04.09.340), or the holder of a manufacturer license issued in another state to sell the holder's product in response to an order for shipment to a person, for personal use only and not for resale) located in the state as set forth as AS 04.09.370. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:**

**3 AAC 304.410. Seasonal restaurant or eating place tourism license**

(a) Subject to the limitations of licenses as set forth at 3 AAC 305.412(3 AAC 304.908), the board may approve an application for a seasonal restaurant eating place license, as described at AS 04.09.360 or an application for the transfer of ownership of a seasonal restaurant eating place license that is located in a municipality or established village that has a population of 40,000 or less and receives more than 4,000 visitors a year, as determined under 3 AAC 305.910 (3 AAC 304.907), to a person who files a license application under AS 04.11.260 and whose licensed premises qualifies as a bona fide restaurant or eating place under the sole control of the applicant.

(a) The holder of a seasonal restaurant or eating place tourism license may provide entertainment as described and identified at AS 04.09.360. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 04.09.360

**3 AAC 305.420(304.908). Determining Available Seasonal Restaurant Eating Place Licenses**

(a) The board will not issue a seasonal restaurant or eating place tourism licenses in municipalities or established villages that qualify for this license type if there would be more than one seasonal restaurant or eating place tourism license per 1500 visitors per visitor day.

(b) Visitor count or fraction of visitor per visitor day is calculated by dividing the total annual

visitor count as determined under 3 AAC 305.10104 by 182.

(c) The Board may further limit the available seasonal restaurant and eating place tourism licenses upon application if the number of restaurant and eating place licenses issued under AS 04.11.100 exceed the restaurant and eating place licenses permissible under AS 04.11.400(a). (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_)

**Authority:** AS 04.09.360

**3 AAC 305.430. Endorsements available to beverage dispensary and beverage dispensary tourism licenses.**

(a) A beverage dispensary licensee or a beverage dispensary tourism licensee may hold

(1) a multiple fixed counter endorsement as set forth at AS 04.09.410. With the exception of beverage dispensary and beverage dispensary licensees that also hold a hotel or motel endorsement, multiple fixed counters must be located in the same building under the same contiguous premises as defined at 3 AAC 305.\_\_\_\_.

(2) a hotel or motel endorsement as set forth at AS 04.09.430, if the licensee is a hotel, motel, resort, or similar business premises that caters to the traveling public. The endorsement permits the holder to sell or serve alcoholic beverages on the licensed premises, including a dining room, banquet room, other public areas approved by the board, and in guest rooms. The endorsement holder must also hold a multiple fixed endorsement for secondary locations located in different buildings from the primary premises as described at AS 04.09.430(c). Subject to the requirements for provision of alcoholic beverages by employees who are 21 and older as described at AS 04.09.430(d), the holder of the hotel and motel endorsement may stock alcoholic beverages in guest rooms for sale and consumption only in the guest room.

(3) a large resort endorsement, if the licensee is a large resort as defined at AS 04.09.440(h). The endorsement permits the holder to sell or serve alcoholic beverages on the licensed

premises, including in a dining room, banquet room, open air venue, and ingress or egress routes between those areas. The endorsement holder must also apply for a multiple fixed counter endorsement to sell or serve alcoholic beverages from multiple locations within the large resort's property as described at AS 04.09.440(c) – (f). Subject to the requirements for provision of alcoholic beverages by employees who are 21 and older as described at AS 04.09.430(g), the holder of the hotel and motel endorsement may stock alcoholic beverages in guest rooms for sale and consumption only in the guest room.

(4) a restaurant endorsement as set forth at AS 04.09.450 if the establishment or portion of establishment for which the endorsement is sought is a bona fide restaurant as defined at AS 04.21.080(b).

(5) a bowling alley endorsement as set forth at AS 04.09.500. The endorsement permits the license holder to sell or serve alcoholic beverages in the concourse or lane areas of the bowling alleys adjacent to the main area. For purposes of this section, adjacent is defined as

“ \_\_\_\_\_.”

(6) a golf course endorsement as set forth at AS 04.09.510. The endorsement permits the license holder to sell or serve alcoholic beverages on the golf course, driving range, club house, and other buildings located on the course and by vending cart on, to, and from the course, excluding parking lots. A person under the age of 21 years of age may be present on the premises subject to the endorsement for the purpose of playing golf or attending golf-related events as set forth at AS 04.16.049(g);

(b) \_\_\_\_\_ (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_).

**Authority:**

Address guest room restocking provisions in 3 AAC 304.650 and what about the permit fee for each refrigerator in a guest room.

**3 AAC 305.440. Restaurant Endorsements**

In addition to availability as described as 3 AAC 305.410(a)(4), a restaurant endorsement as described at AS 04.09.350 is available to holders of fair licenses, golf course licenses, sporting activity or

event licenses, club licenses, outdoor recreation lodge licenses, and destination resort licenses if the establishment or portion of establishment for which the endorsement is sought is a bona fide restaurant as defined at AS 04.21.080(b). (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_).

**Authority:**

Are there overlapping or other premises concerns we need to address?

**3 AAC 305.450. Endorsements available to package store licenses**

(a) A package store licensee may hold:

(1) a package store shipping endorsement as set forth at AS 04.09.460;

Determine what sections of 3 AAC 304.645 (written orders) and 3 AAC 304.642 (wine clubs) to include.

(2) a package store repackaging endorsement as set forth at AS 04.09.480

Determine what, if any, portions of 3 AAC 304.365 (repackaging to retain)

(3) a package store sampling endorsement as set forth at AS 04.09.490. Note under AS 04.09.490(c), should the board define publicly advertise to include social media posts?

(4) a package store delivery endorsement as set forth under AS 04.09.470.

Board must define social event and manner of delivery -- Compare to 3 AAC 304.647

Compare to definition of event in designation regulation – 3 AAC 304.660

(b) (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_).

**Authority:**

**3 AAC 305.460. Caterer's permits**

(a) A beverage dispensary licensee or a beverage dispensary tourism licensee may hold a caterer's permit to sell or dispense alcoholic beverages at conventions, picnics, sporting activities or events,

concerts, street festivals, or similar affairs held off the holder's licensed premises for which a beverage dispensary license or a beverage dispensary tourism license would not otherwise be required. The permit may be issued only for designated premises for a specific occasion and for a limited period. The caterer, or a specified employee or agent of the caterer, shall be present on the catered premises at all times alcoholic beverages are possessed, served, or consumed there under the permit. Violation by a caterer of a statute, ordinance, or regulation pertaining to alcoholic beverages is grounds for suspension or revocation of the caterer's beverage dispensary license. **Compare to 3 AAC 304.685**

(b) A restaurant and eating place licensee or a seasonal restaurant and eating place tourism license may hold a restaurant caterer's permit 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. The licensee shall comply with the requirements for gross receipts from food sales for a restaurant or eating place license under AS 04.09.210(e) or a seasonal restaurant or eating place tourism license under AS 04.09.360(g). **Compare to 3 AAC 304.680.**

(c) A club licensee may hold a club caterer's permit to sell or dispense alcoholic beverages at an event held off the club's licensed premises. The director may not issue more than three club caterer's permit to a club license in a calendar year. **Compare to 3 AAC 304.630** (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_).

**Authority:**

**3 AAC 305.470. Art Exhibit and Music Festival Permits**

(a) A beverage dispensary licensee, a beverage dispensary tourism licensee, a restaurant or eating place licensee, or a seasonal restaurant or eating place tourism licensee may hold an art exhibit permit to sell and serve brewed beverages and wine for consumption at a specific art exhibit event as set forth at AS 04.09.640. **Compare to 3 AAC 304.697**

(b) A restaurant or eating place licensee may hold a musical festival permit to sell or dispense beer and

wine for consumption at a festival with multiple live music performances held off the holder's licensed premises as set forth at AS 04.09.650. Compare to 3 AAC 304. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_).

**Authority:**

**3 AAC 305.475(304.620). Colleges and Universities**

(a) For purposes of granting a **beverage dispensary** caterer's permit, [or] **a** restaurant caterer's permit, **or a nonprofit organization** [special events permit], under AS 04.09.610, AS 04.09.620, AS 04.09.650, where prohibitions are imposed under AS 04.11.410, and AS 04.16.080, "school" does not include an accredited college or university as defined in AS 04.11.220.

(b) Along with other approvals required by statute or regulation, an application for a permit for a designated premises at a college or university event must be approved by the board of regents or similar governing body of the college or university, or its designee. (verify whether amend in rewrite)

(c) A holder of **a sporting activity or event license under AS 04.09.270 or** a recreational site license issued under AS 04.11.210 for a site where college or university sporting events are held may petition the board for designation of premises at the site where **brewed beverages** [beer] and wine may be sold during a college or university sporting event. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_).

**Authority:**

**3 AAC 305.480. Permits available to package store licensees**

A package store licensee may hold a tasting event permit as set forth at AS 04.09.670. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_).

**Authority:**



**3 AAC 305.490. Permits available to brewery retail, winery retail, and distillery retail licensees**

A brewery retail licensee, a winery retail licensee, or a distillery retail licensee may hold a live event permit as set forth at AS 04.09.685. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_).

**Authority:**

**3 AAC 305.492. Inventory resale permits**

An inventory resale permit authorizes the holder to sell the remaining inventory of alcoholic beverages of a business when the owner of the business no longer has a valid license under this title as set forth at AS 04.09.680. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_).

**Authority:**

**3 AAC 305.493. Permits Available to Nonprofit Organizations**

(a) A nonprofit organization may hold a nonprofit events permit as set forth at AS 04.09.650.

(b) A nonprofit organization may hold an alcoholic beverage auction permit as set forth at AS 09.09.660.

(Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_).

**Authority:**

**3 AAC 305.495. Conditional Contractor's Permit**

A \_\_\_\_\_ may hold a conditional contractor's permit on construction sites as set forth at AS 04.09.690 and AS 04.11.680. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_).

**Authority:**

**Determine where to place Common Carrier Approval( AS 04.09.750) regulations, if regulations necessary**

Determine ongoing need for 3 AAC 304.410 (resealing wine); review other regulations specific to retail sales and delivery of alcoholic beverages

**Other**

Determine if regulation is needed to implement AS 04.06.095 statewide database provisions, particularly as it relates to package stores

For discussion

**Article 5**  
**Wholesale Licenses**

**3 AAC 305.500. License Required.**

A license is required to sell alcoholic beverages at wholesale as set forth under AS 04.09.100 and a license is required to sell solely brewed beverages and wine at wholesale as set forth under AS 04.09.110. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_).

**Authority:**

Discuss need of any additional regulations. Fees, and declarations are in Article 5.

**Article 6**  
**Trade Practices**

**3 AAC 305.600. Trade Practices Prohibitions.**

(a) A person holding a brewery manufacturer license under AS 04.09.020, a winery manufacturer license under 04.09.030, a distillery manufacturer license under 04.09.040, a general wholesaler license under 04.09.100, or a limited wholesaler brewed beverages and wine license under 04.09.110 or a person engaged in the alcoholic beverage industry in another state or country as a brewer, vintner, distiller, wholesaler, or importer, or as an agent of a brewer, vintner, distiller, wholesaler, or importer, may not, except as provided in this article, induce a person holding a license under AS 04.09 to

(1) induce a retailer engaged in the sale of alcoholic beverages to purchase products from an entity to the exclusion, in whole or in part, of products sold or offered for sale by other entities by

(A) furnishing, giving, renting, lending, or selling to the retailer equipment, fixtures, signs, supplies, money, services, or other things of value, except those excluded in regulation and determined to be not contrary to the public interest or contrary to the intent of this subsection;

(B) paying or crediting the retailer for an advertising, display, or distribution service;

(C) guaranteeing a loan or the repayment of a financial obligation of the retailer;

(D) extending to the retailer credit for a period in excess of the credit period usual and customary to the industry for the particular class of transactions; or

(E) requiring the retailer to take and dispose of a certain quota of the products.

(2) operate as an exclusive outlet by requiring that a retailer engaged in the sale of alcoholic beverages purchase products from an entity to the exclusion, in whole or in part, of alcoholic beverages sold or offered for sale by other entities:

(3) purchase products from an entity to the exclusion, in whole or part, of products sold or

offered for sale by other entities by

(A) commercial bribery; or

(B) offering or giving any bonus, premium, or compensation to an officer, employee, or representative of the licensee;

(4) enter into an agreement for consignment sales, 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,

(b) The following practices are exceptions to the practices listed under (a)(1) of this section and thus are not violations of AS 04.16.017. The holder of a license under AS 04.09.020, AS 04.09.030, AS 04.09.40, AS 04.09.100, and AS 04.09.110 may

(1) furnish a retailer equipment, inside signs, supplies, services, or other things of value, if the licensee

(A) keeps and maintain records on the permit or licensee's premises, for a three year period, of all items furnished to retailers. Commercial records or invoices may be used to satisfy this recordkeeping requirement if all required information is shown. These records shall show:

(i) The name and address of the retailer receiving the item;

(ii) The date furnished;

(iii) The item furnished;

(iv) The industry member's cost of the item furnished (determined by the manufacturer's invoice price); and

(v) Charges to the retailer for any item;

(2) give or sell product displays, provided

(A) The total value of all product displays given or sold by the licensee does not exceed \$300 per brand at any one time in any one retail establishment. Industry members may not pool or combine dollar limitations in order to provide a retailer a product display valued in excess of \$300 per brand. The value of a product display is the actual cost to the industry member who initially purchased it. Transportation and installation costs are excluded;

(B) All product displays must bear conspicuous and substantial advertising matter on the product or the industry member which is permanently inscribed or securely affixed. The name and address of the retailer may appear on the product displays; and

(C) The giving or selling of such product displays may be conditioned upon the purchase of the distilled spirits, wine, or malt beverages advertised on those displays in a quantity necessary for the initial completion of such display. No other condition can be imposed by the industry member on the retailer in order for the retailer to receive or obtain the product display;

(3) give or sell advertising materials and consumer advertising materials to a retailer provided:

(A) all point of sale advertising materials and consumer advertising specialties must bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed. The name and address of the retailer may appear on the point of sale advertising materials; and

(B) The licensee may not directly or indirectly pay or credit the retailer for using or distributing these materials or for any expense incidental to their use;

(4) furnish things of value to a temporary retailer. For purposes of this subsection a temporary retailer is a person who is not engaged in business as a retailer for more than four consecutive days per event, and for not more than five events in a calendar year;

(5) sell equipment or supplies to a retailer provided the equipment or supplies are sold at a

price not less than the cost to the industry member who initially purchased them, and if the price is collected within 30 days of the date of the sale. The act by a wholesaler or limited wholesaler of installing dispensing accessories at the retailer's establishment does not constitute a means to induce within the meaning of the Act as long as the retailer bears the cost of initial installation. The act by an industry member of furnishing, giving, or selling coil cleaning service to a retailer of distilled spirits, wine, or malt beverages does not constitute a means to induce.

(6) furnish or give a sample of distilled spirits, wine, or malt beverages to a retailer who has not purchased the brand from that industry member within the last 12 months provided the licensee does not give more than 3 gallons of any brand of brewed beverage, not more than 3 liters of any brand of wine, and not more than 3 liters of distilled spirits. If a particular product is not available in a size within the quantity limitations of this section, an industry member may furnish to a retailer the next larger size.

(7) provide newspaper cuts, mats, or engraved blocks for use in retailers' advertisements featuring the industry member's products;

(8) package and distribute brewed beverages, wine, or distilled spirits in combination with other (non-alcoholic) items for sale to consumers;

(9) give or sponsor educational seminars for employees of retailers either at the licensee's premises or at the retail establishment, provided the licensee does not pay the retailer's expenses for attending (such as travel and lodging). Providing nominal hospitality during the event is permissible;

(10) conduct tasting or sampling activities at a retail establishment. The licensee may purchase the products to be used from the retailer, but may not purchase them from the retailer for more than the ordinary retail price;

(11) furnish to consumers coupons which are redeemable at a retail establishment, provided the following conditions are met:

(A) all retailers within the market where the coupon offer is made may redeem such

coupons; and

(B) the licensee does not reimburse a retailer for more than the face value of all coupons redeemed, plus a usual and customary handling fee for the redemption of coupons.

(12) offer contest prizes, premium offers, refunds, and like items to consumers, provided officers, employees and representatives of licensees or retailers are excluded from participation:

(13) list the names and addresses of two or more unaffiliated retailers selling the products of an industry member in an advertisement of the licensee, provided:

(A) the advertisement does not also contain the retail price of the product;

(B) the listing is the only reference to the retailers in the advertisement and is relatively inconspicuous in relation to the advertisement as a whole, and

(C) the advertisement does not refer only to one retailer or only to retail establishments controlled directly or indirectly by the same retailer.

(14) stock, rotate and affix the price at a retailer to distilled spirits, wine, or brewed beverages which they sell, provided products of other industry members are not altered or disturbed. The rearranging or resetting of all or part of a store or liquor department is not authorized;

(15) recommend shelf plan or shelf schematic for distilled spirits, wine, or brewed beverages;

(16) participate in the following retailer association activities,

(A) displaying its products at a convention or trade show;

(B) renting display booth space if the rental fee is the same as paid by all exhibitors at the event;

(C) providing its own hospitality which is independent from association sponsored activities;

(D) purchasing tickets to functions and paying registration fees if the payments or



fees are the same as paid by all attendees, participants or exhibitors at the event; and

(E) making payments for advertisements in programs or brochures issued by retailer associations at a convention or trade show if the total payments made by an industry member for all such advertisements do not exceed \$300 per year for any retailer association; and

(17) if also in business as a bona fide producer or vendor of other merchandise (for example, groceries or pharmaceuticals), sell that merchandise to a retailer, provided

(A) the merchandise is sold at its fair market value;

(B) the merchandise is not sold in combination with distilled spirits, wines, or malt beverages, except for packaging and distributing distilled spirits, wine, or malt beverages in combination with other (non-alcoholic) items for sale to consumers;

(C) the acquisition or production costs of the merchandise appears on the licensee's purchase invoices or other records; and

(D) the individual selling prices of merchandise and distilled spirits, wines, or brewed beverages sold in a single transaction can be determined from commercial documents covering the sales transaction. The act of providing equipment, fixtures, signs, glassware, supplies, services, and advertising specialties to retailers are treated as described in other sections of this paragraph; and

(18) give or sell outside signs to a retailer provided that:

(A) The sign must bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed;

(B) The retailer is not compensated, directly or indirectly such as through a sign company, for displaying the signs; and

(C) The cost of the signs may not exceed \$400.

(c) The following practice is an exception to the practices listed under (a)(2) of this section and does not amount to a violation of AS 04.16.017. The holder of a license under AS 04.09.020, AS

04.09.030, AS 04.09.40, AS 04.09.100, and AS 04.09.110 may enter into an agreement for one year or less with a retailer under which the industry member agrees to sell distilled spirits, wine, or malt beverages to the retailer on an “as needed” basis.

(d) The following practices are exceptions to the practices listed under (a)(3) of this section and thus are not violations of AS 04.16.017.

**§ 10.53 Practices not resulting in exclusion. [Reserved]**

(e) The following practices are exceptions to the practices listed under (a)(4) of this section and thus are not violations of AS 04.16.017. The holder of a license under AS 04.09.020, AS 04.09.030, AS 04.09.40, AS 04.09.100, and AS 04.09.110 may return merchandise for ordinary and usual commercial reasons arising after the merchandise has been sold, including return of products, which are:

(1) unmarketable because of product deterioration, leaking containers, damaged labels or missing or mutilated tamper evident closures may be exchanged for an equal quantity of identical products or may be returned for cash or credit against outstanding indebtedness;

(2) in error, because of a discrepancy between products ordered and products delivered, within a reasonable period after delivery, by exchange of the products delivered for those which were ordered, or by a return for cash or credit against outstanding indebtedness;

(3) no longer lawfully sold, including due to change in regulation or administrative procedure, which may be returned for cash or credit against outstanding indebtedness;

(4) on hand at the time a retailer terminates operations, excluding seasonal shutdowns, for cash or credit against outstanding indebtedness;

(5) on hand when a retailer has sold products for cash or credit to a licensee and the distributorship arrangement is subsequently terminated, for cash or credit against outstanding indebtedness;

(6) changed in formula, proof, label or container (subject to [§ 11.46](#)) for equal quantities of

the new version of that product;

(7) from a discontinued production or importation of a product for cash or credit against outstanding indebtedness; or

(8) from a retailer that operates only seasonally, if the products are likely to spoil during the off season for cash or for credit against outstanding indebtedness;

(f) The board establishes the following administrative penalties for a violation of this section.

(Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:**

**3 AAC 305.610 (304.405) Adulteration, misbranding and false advertising of alcoholic beverages.**

(a) If a licensee or the licensee's employee or agent sells or serves an alcoholic beverage made with a wine product rather than a distilled beverage, the licensee shall disclose that the alcoholic beverage is "wine based" in all advertising, labeling or descriptions of the mixed alcoholic beverage drink made with a wine product. Advertising, labeling, or making any representation, written or oral, about an alcoholic beverage containing wine in a manner that does or could cause confusion that the beverage contains a distilled beverage when it does not is prohibited. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:**

(is this still needed?)

**3 AAC 305.620. (304.440) Pricing and marketing of alcoholic beverages.**

(a) For the purpose of AS 04.16.015, a licensee or licensee's agent or employee may not set a period of time during a day that an alcoholic beverage drink or a brand of alcoholic beverage is sold or

delivered that is less than the hours that the licensed premises is open to the general public. (Eff.

\_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:**

The following article incorporates TTB exceptions to prohibited trade practices. Per the C.F.R. TTB has promulgated regulations at [27 CFR part 6](#) (“Tied-House”) specifying the practices that are means to induce under section 105(b) of the FAA Act, criteria for determining whether a practice is a violation of section 105(b) of the FAA Act, and exceptions to section 105(b)(3) of the FAA Act. TTB has promulgated regulations at [27 CFR part 8](#) (“Exclusive Outlets”) specifying arrangements which are exclusive outlets under section 105(a) of the FAA Act and criteria for determining whether a practice is a violation of section 105(a) of the FAA Act. TTB has promulgated regulations at [27 CFR part 10](#) (“Commercial Bribery”) specifying practices which may result in violations of section 105(c) of the FAA Act and criteria for determining whether a practice is a violation of section 105(c) of the FAA Act. TTB has promulgated regulations at [27 CFR part 11](#) (“Consignment Sales”) specifying arrangements which are consignment sales under section 105(d) of the FAA Act and containing guidelines concerning returns or exchanges of distilled spirits, wine and malt beverages from a retailer or wholesaler.

The board shall adopt regulations providing exceptions to the practices listed under (a) of this section that are: (1) consistent with federal law at the time of the effective date of this section; (2) necessary to avoid practical difficulty or undue hardship on a licensee; (3) in the best interests of the public; and (4) consistent with the requirements of this title.

**Article 7****Provisions Applicable to More than One License Type**

Discuss whether there is need for a regulation for a sampling endorsement in overlapping premises.

**3 AAC 305.700(304.205). Exercise of authority.**

A licensee must personally or through employees and agents exercise actual authority and responsibility over the conduct of business upon the licensed premises. Until the licensee surrenders the license to the board, and so long as business is conducted under the license upon the licensed premises, the licensee is solely responsible and liable for the conduct of the business. A person not acting as an agent or employee of the licensee may not exercise actual authority over the conduct of business upon the licensed premises without transfer of the license upon approval of the board. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:****3 AAC 305.705(304.195). Surrender of license.**

Within 10 days after the loss or surrender of the licensed premises, or if a licensee ceases to conduct business upon the licensed premises for a period expected to continue for one month or more, the licensee shall inform the board and surrender the license to the director. The license will be reissued upon request when the conduct of business is resumed or upon transfer of the license. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:****3 AAC 305.710(304.980). Prohibited financial interest; representative or owner; management agreements.**

- (a) For purposes of AS 04.11.450 (prohibited financial interest), a representative or owner of a

partnership, joint venture, limited liability organization, or corporation is an individual, partner, joint venture, limited liability organization member, or corporation that individually holds an interest of more than 10 percent or that aggregately holds an interest of more than 15 percent in a partnership, joint venture, limited liability organization, or corporation.

(b) A liquor licensee may enter into a management agreement with a person who does not have an ownership interest in the liquor license, for the purpose of giving that person responsibility for the day-to-day operations of a liquor license. A management agreement under this section must be in writing and signed by a licensee whose name is required to be provided with an application for a new license under AS 04.11.260, and by the non-licensee agreeing to manage the operation of the business. A copy of the signed, written management agreement must be filed with the board. The licensee who signs the management agreement must notify the board of any change to the management agreement, including expiration, termination, or amendment, not later than 10 days after the change to the management agreement. The director shall review a management agreement for compliance with this section, and any errors or omissions must be corrected by the licensee not later than 10 days after receipt of notification of the error or omission. The director may declare void a management agreement that does not comply with this section. A management agreement must comply with AS 4.11.450(a), AS 04.21.030, and 3 AAC

304.205 and contain language that indicates both parties to the agreement have read and understand those statutes and regulations and agree to comply with them. A management agreement may not create a mechanism for a manager who is not a licensee to derive profit from the sale of alcohol in violation of AS 04.11.450, including an agreement for a manager to keep all profit above a certain amount of income when that profit may be derived from the sale of alcoholic beverages. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:**

**3 AAC 305.715(304.215). Death of a sole licensee.**

(a) Upon the death of an individual who is the sole owner of a license or the sole owner of the licensed entity, the business operating the license shall cease operation unless and until an administrator or executor of the estate files with the director written proof of

(1) the administrator, **personal representative**, or executor's authority to act on behalf of the licensee or the estate of the deceased; and

(2) a written request to continue operations.

(b) Upon the director's validation of the **administrator's, personal representative's**, or executor's authority and conclusion that the director has not filed or will not file an accusation seeking suspension or revocation of the license, the director will grant permission to operate the business upon the licensed premises as permitted under AS 04.11.030. That permission expires upon

(1) legal appointment of a different administrator, **personal representative**, or executor of the estate;

(2) approval of an application for transfer of the license submitted in accordance with 3 AAC 305.\_\_\_\_; or

(3) license forfeiture in accordance with AS 04.11.030(b).

(c) An application for transfer of the license from the deceased licensee must be made in compliance with the time limitations set out in AS 04.11.030(b). Failure to do so forfeits the licensee, unless the board approves a written request from the administrator or executor to extend the applicable deadline. A written request to extend the applicable deadline must be submitted before the expiration of applicable deadline, unless the board approves a request submitted after the deadline for good cause and the licensee is still available for transfer.

(d) In this section, "administrator, **personal representative**, or executor" includes an agent or

personal representative within the meaning given in AS 13.06.050. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:**

**3 AAC 305.720(304.216). Death of an individual with a controlling interest in a license issued to a business entity.**

(a) Upon the death of an individual who owns a controlling interest in a partnership, including a limited partnership, a limited liability company, or a corporation that holds a license under AS 04 and this chapter, the business entity may continue to operate the licensed business but shall file, not later than **180**[90] days after the individual's death, a transfer application as required under AS 04.11.040 and 3 AAC 305.2\_\_ or a time extension request under (b) of this section. If a transfer application or time extension request is not filed by the **180** [90]-day deadline, the business shall cease operation until a transfer application is filed.

(b) Upon receipt of a time extension request, the board may grant an extension not to exceed \_\_\_\_ year. A written request to extend the applicable deadline must be submitted before the expiration of the applicable deadline, unless the board approves a request submitted after the deadline for good cause. Additional extensions may be granted by the board [only] for good cause. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:**

**3 AAC 305.725(304.217). Death of an individual with less than a controlling interest in a license issued to a business entity.**

(a) Upon the death of an individual who owns less than a controlling interest in a partnership, including a limited partnership, a limited liability company, or a corporation that holds a license under AS



04 and this chapter, the business entity may continue to operate the licensed business but shall, not later than **180** [90] days after the individual's death,

(1) report, as applicable, a change of ownership under AS 04.11.045, 04.11.050, or 04.11.055; or

(2) file a transfer application if required by AS 04.11.040 and 3 AAC 305.2\_\_ or a time extension request under (b) of this section.

(b) Upon receipt of a time extension request, the board may grant an extension not to exceed one year. A written request to extend the applicable deadline must be submitted before the expiration of applicable deadline, unless the board approves a request submitted after the deadline for good cause. Additional extensions may be granted by the board only for good cause. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:**

**3 AAC 305.730(304.185). Licensed premises.**

(a) A license is issued for a specific place which is the licensed premises and which must be clearly designated in a line drawing accompanying an application. The address of the licensed premises and the business name under which the licensee is doing business at that address must be indicated on the license application.

(b) With the exception of a recreational site license, **a sporting activity or event license**, and a destination resort license, **an outdoor seating area on a street or sidewalk authorized by the local government for sole control by a restaurant or eating place licensee, beverage dispensary licensee who also has an approved restaurant eating place designation, and any other licensee who has a bona fide restaurant**, licensed premises must be one area, but may include separate rooms if the rooms

are adjacent to one another or if they are rooms described in AS 04.11.090(d). If the licensed premises consist of more than one room in which a fixed counter is regularly maintained, **a multiple fixed counter endorsement** [duplicate license] is required for the additional rooms. A recreational site license [AND] a destination resort license, **and a licensee for whom a local government has approved use of an adjoining public right of way** may have multiple separate licensed premises areas with the approval of the board.

(c) The licensee shall conspicuously post the license within the licensed premises.

(d) A licensee may not alter the functional floor plan, reduce or expand the area, or change the business name of the licensed premises without the prior written approval of the director. The licensee must provide a new line drawing showing the proposed changes in the premises. A licensee must pay a fee of **\$250** for changing the business name or line drawing of the licensee's licensed premises when the name or line drawing change is not part of a transfer of ownership or location. A request for a business name or line drawing change for licensed premises not part of a transfer must be made on a form prescribed by the board.

(e) If a business establishment or facility consists of both licensed premises and an unlicensed area, the licensee shall clearly segregate the licensed premises and the unlicensed area.

(f) A licensee may request to have a portion of its licensed premises alternate as licensed or unlicensed premises on a seasonal basis under the following conditions:

(1) the request is made on a form prescribed by the board, accompanied by a detailed premises diagram and **\$250 fee**;

(2) a debt that is incurred during times when the identified area is unlicensed will be considered a debt incurred in the operation of the licensed business for purposes of transfer of license under AS 04.11.360;

(3) at any time with written notice to the licensee, the board may withdraw its approval of

use of the identified area as alternating premises; and

(4) during times the identified area is designated as an unlicensed premises, all alcoholic beverages must either be removed from the identified area or be stored in a location approved by the board to be secure from the public.

**(g) Notwithstanding (a) through (f) of this section, a licensee with an approved outdoor seating area on a public right of way may permit an agent or employee to take an alcoholic beverage across a portion of the public right of way still open for public access and the outdoor seating area for which the local government has granted sole control to the licensee during the licensee's business hours.**

**(h) For purposes of applying the definition of "licensed premises" at AS 04.21.080(b)(15), the outdoor seating area the local government approves for use on a public right of way in front of or otherwise adjacent to a licensed establishment shall be considered at the specific address for which the licensee is issue.** (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:**

**3 AAC 305.740(304.190). Seasonal license.**

(a) Except as provided in this section, the rights, privileges, and restrictions of a license issued under AS 04 are limited to the interval stated on the seasonal license.

(b) The holder of a seasonal package store license or a seasonal **retail** license that serves alcohol for consumption on the premises may purchase alcohol intended for resale starting 30 days before the seasonal license is effective.

(c) The holder of a seasonal package store license or a seasonal **retail** license that serves alcohol for consumption on the premises may, during the period of the year when the seasonal license is not

effective, store alcohol in accordance with AS 04.21.060. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

Authority:

**3 AAC 305.750(304.225). Alternating licensed premises.**

Upon a licensee's written request accompanied by a detailed premises diagram, the board may approve a portion of a premises licensed under AS 04.09.200 (beverage dispensary license), AS 04.09.210 (restaurant eating place license), AS 04.09.360 (seasonal restaurant or eating place tourism license), AS 4.09.300 (golf course license), AS 04.09.260 (common carrier dispensary license), AS 04.11.210 (recreational site license), AS 04.09.270 (sporting activity of event license) AS 04.09.310 (destination resort license) or AS 04.11.400(d) to alternate as a licensed or unlicensed premises under the following conditions:

(1) approval will be granted only if the board finds that use of the identified area as alternating premises will stimulate tourism or promote activities open to the general public;

(2) a debt that is incurred during times when the identified area is unlicensed will be considered a debt incurred in the operation of the licensed business for purposes of transfer of the license under AS 04.11.360;

at any time with written notice to the licensee, the board may withdraw its approval of use of the identified area as alternating premises.

(3) caterer's permits issued under AS 04.09.610 (verify just bdl caterer's permits) may be exercised in the alternating area during the times the identified area is unlicensed premises;

during times the identified area is designated as an unlicensed premises, all alcoholic beverages must either be removed from the identified area or be stored in a location approved by the board to be secure from the public;

(4) A licensee may apply hours that it is operating as an alternating unlicensed premises to meet the operating requirement set out in AS 04.11.330(a)(3). ( \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:**

Address ongoing need for 304.660 (temporary de-designation of licensed premises) in light of alternating premises availability.

**3 AAC 305.760. Overlapping licensed premises.**

(a) Upon a licensee's written request accompanied by a detailed premises diagram, the board may approve overlapping premises for two or more licenses **owned by the same person or group of persons** under the following conditions:

(1) licensed premises for manufacturer licenses under AS 04.09.020 (brewery manufacturer), AS 04.09.030 (winery manufacturer), and AS 04.09.040 (distillery manufacturer) may overlap with each other as permissible under federal law;

(2) licensed premises for manufacturer licenses under AS 04.09.020 (brewery manufacturer); AS 04.09.030 (winery manufacturer), and AS 04.09.040 (distillery manufacturer) may overlap with a manufacturer direct shipment license issued under AS 04.09.370;

(3) licensed premises for manufacturer licenses under AS 04.09.020 (brewery manufacturer), AS 04.09.030 (winery manufacturer), and AS 04.09.040 (distillery manufacturer) may overlap with the following retail licenses for consumption on the licensed premises:

(A) beverage dispensary licenses issued under AS 04.09.200;

(B) restaurant or eating place licenses issued under AS 04.09.210;

(C) beverage dispensary tourism licenses issued under AS 04. 09.350;

(D) brewery retail licenses issued under AS 04.09.320;

(E) winery retail licenses issued under AS 04.09.330;

(F) distillery retail licenses issued under AS 04.09.340:

(G) seasonal restaurant eating place licenses issued under AS 04.09.360. In such case, permissible consumption is determined by the lawful hours of operation of the license.

(b) Excepting the brewery repackaging endorsement available to brewery manufacturers who held a license a brew pub under former AS 04.11.135 and was operating a brewpub on the day before the effective date of this section and who also holds, wholly or in part, a beverage dispensary license issued under AS 04.09.200, beverage dispensary license tourism issued under AS 04.09.350, restaurant or eating place license issued under AS 04.09.210, or restaurant or eating place tourism licenses issued under AS 04.09.360, overlapping licensed premises may not be utilized to offer the holder's alcoholic beverages for sale for consumption off the licenses premises or to subdivide and sell the holder's alcoholic beverages from original packages with federally compliant labels to smaller containers with the standard federal government warnings and the product name.

(c) In addition to permissible overlapping premises permissible under (b) of this section, licensed premises for brewery retail licenses issued under AS 04.09.320, winery retail licenses issued under AS 04.09.330, or distillery retail licenses issued under AS 04.09.340 may overlap with the following retail licenses for consumption on the licensed premises:

(1) beverage dispensary licenses issued under AS 04.09.200;

(2) restaurant or eating place licenses issued under AS 04.09.210; and

(3) seasonal restaurant eating place licenses issued under AS 04.09.360.

(d) Licensed premises for package stores under AS 04.09.230 may overlap with the licensed premises of a beverage dispensary license as described at AS 04.09.230(d).

(e) Licensed premises for manufacturer licenses under AS 04.09.020 (brewery manufacturer), AS 04.09.030 (winery manufacturer), and AS 04.09.040 (distillery manufacturer) may/may not overlap with a package store license under AS 04.09.230 so long as \_\_\_\_\_.

(f) Licensed premises for general wholesalers issued under AS 04.09.100 or limited wholesale brewed beverage and wine licenses issued under AS 04.09.110 may share overlapping premises with other general. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_)

Authority:

**3 AAC 305.770(304.230). Storing, warehousing and transporting.**

(a) A licensee may not stock, warehouse, or otherwise store alcoholic beverages in a place other than upon the licensed premises except as provided in AS 04.21.060.

Alcoholic beverages may not be sold or consumed at an approved storage facility, nor may they be removed from the facility except at the direction of the licensee. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_)

Authority:

**3 AAC 305.780. Keg registration.**

(a) On a registration form prescribed by the director or a local governing body with jurisdiction over the sale or offer, a licensee or an agent or employee of a licensee who sells or offers for sale a keg or similar container holding four or more gallons of an alcoholic beverage shall require a purchaser to show acceptable proof of age under AS 04.21.050(b) and sign a sworn statement.

(b) The licensee shall complete the registration form and affix a temporary tag with a unique identifier to the keg or container before releasing the container to the purchaser.

(c) The licensee shall retain a copy of the form for one year and make the form available for inspection. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_)

**Authority:**

Discuss need for continuous of any portion of 3 AAC 304.715 - .795 (restaurant designation permits or whether there is a need to include these provisions for restaurant endorsements under AS 04.09.450.

FOR discussion



**Article 8****Alcohol Server Education Courses****3 AAC 305.800 (3 AAC 304.465). Alcohol server education course.**

(a) While selling or serving alcoholic beverages, a person required under AS 04.21.025 to complete an alcohol server education course and the person's on-duty supervisor shall carry or have available to show a current course card or a photocopy of the card certifying completion of an approved alcohol server education course. The card is effective for three years from the date of issuance during which time the person shall complete another approved course or successfully complete a written test demonstrating an understanding of the course subjects as required by AS 04.21.025(c). The card must include the name and date of birth of the card holder, the name of the course, and the date of expiration of the card. If the card does not include a photograph of the holder, the person shall also carry a valid identification under 3 AAC 304.425(b). The card or a photocopy of the card must be shown upon request of a peace officer or board representative. If the person cannot show a current card or a copy of it on file on the premises, or show a date of hire less than 30 days earlier, the person shall immediately cease selling or serving alcoholic beverages, or checking identification.

(b) State or nationally recognized organizations or associations that address the subject of responsible alcoholic beverage service may obtain approval of an alcohol server education course by making written application on forms provided by the board. The application must include the course book or digital materials to be provided to students, any video or audio presentations that will be used, the written test required or online written test required under (d) of this section, detailed lesson plans, and a description of the qualifications of and training provided to course instructors. The application must identify the communities where the course will be presented and the frequency of the presentation.

(c) In addition to written materials and audio and video presentations provided to students, an

instructor shall be available during an alcohol server education course to answer questions from students.

Subjects covered by alcohol server education courses must include:

- (1) function of Alcoholic Beverage Control Board, licensing procedures, and types of licenses;
- (2) server responsibilities to the employer, patron, and law;
- (3) criminal, **administrative**, and civil liability, including discussion of criminal negligence standard;
- (4) effects of alcohol consumption, including
  - (A) effect of food on alcohol consumption;
  - (B) blood alcohol levels;
  - (C) identifying a drunken person; and
  - (D) fetal alcohol syndrome and fetal alcohol effect;
- (5) drunken persons and intervention;
- (6) underage persons;
  - (A) checking identification;
  - (B) identifying valid identification; and
  - (C) obtaining “statement of proof”
- (7) state and local hours of service and cutting off service;
- (8) pricing, [and] marketing **and trade practice prohibition** laws;
- (9) endorsements [restaurant designation];
- (10) [other] permits;
- (11) local option provisions;
- (12) warning signs;
- (13) gambling, drugs, and prostitution;

(14) adulteration;

(15) penalties for licensees and their agents and employees; and

(16) sale by package stores in response to written orders.

(d) A provider of an alcohol server education course shall issue a card as described under (a) of this section to a student who successfully completes the course. Before issuing the card, the course provider shall require the student to pass a written test that demonstrates that the student understands the course subjects. The test may be an online written test if the course is in an Internet-based webinar or video teleconference format as provided in m) of this section.

(e) The board will issue a certificate of approval for each alcohol server education course the board approves. Certificates of approval may not be transferred.

(f) A course provider shall

(1) maintain records of each student's participation, and completion of server training, including rural training;

(2) use, at a minimum, the course approved by the board; and

(3) make its records available to peace officers or board investigators.

(g) An organization or association that has received board approval for an alcohol server education course shall apply for board reapproval within 33 months of last board approval. Application must be made on a form provided by the board. If application for reapproval is not approved by the board within 36 months after last board approval, training must cease. The application for reapproval must state the following for training provided since the last application:

(1) the number and names of students trained;

(2) the location and dates of training; and

(3) the names of instructors.

(h) The board will, in its discretion, terminate approval of a course if the board determines that the

course is not being presented as approved, that records are not being maintained as required, that students are being certified who have not successfully completed the course, or for other reasons in the public interest. The board will, in its discretion, make its termination of approval effective immediately, if the board determines that immediate termination is in the public interest.

(i) A provider of an alcohol server education course approved by the board under this section shall advise the board of the methods used to train and certify the instructors providing the training.

(j) A provider of an alcohol server education course may obtain approval from the board to provide its course to students in an Internet-based webinar or video teleconference format by making a request with an application required under (b) of this section. An Internet-based or video teleconference alcohol server education course provider shall:

(1) have a live instructor present the approved alcohol server education course material and be available throughout the course to answer questions from students:

(2) check the identity of each student while maintaining the confidentiality of personally identifiable information;

(3) provide a printable certificate of completion to each student who passes the written test required under (d) of this section to be used as temporary proof of completion until the student receives the course card described under (a) of this section:

(4) mail the course card not later than five business days after the date the student passed the test; in this paragraph, “business day” means a day other than Saturday, Sunday, or a federal or state holiday:

(5) certify that each instructor has maintained knowledge of current alcoholic beverage statutes and regulations in the state;

(6) update the course material with any applicable change to AS 04 and this chapter not later than **10 days** after the effective date of the change; and

(7) provide a printable digital copy of the written course materials to each student.

(Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_).

**Authority:**

Discussion point: discussing upcoming changes with course providers and request training in advance of

10 days after the effective date for the major Title 4 Rewrite provisions

For discussion

**Article Nine****Enforcement****3 AAC 305.900(304.425). Determining age of patron.**

(a) It is the responsibility of the licensee to obtain a statement of proof-of-age form[s] required under AS 04.21.050. Licensees must retain completed forms for 90 days and make them available upon request for inspection by the board and peace officers.

A valid identification card as used in AS 04.21.050 means an unexpired, unaltered passport or an unexpired, unaltered driver's license or identification card issued by a federal or state agency authorized to issue driver's licenses or identification cards that meet the requirements under AS 04.21.050(b). If a licensee or an agent or employee of a licensee has reason to believe that the identification card presented by a person is fraudulent, the licensee, agent, or employee shall refuse entrance to licensed premises and shall refuse service or sale to that person. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_).

**Authority:****3 AAC 305.910(304.430). Compliance checks and surveys by nongovernmental organizations.**

A nongovernmental organization may, as a service to liquor licensees, conduct compliance checks and surveys of a licensee or a licensee's agent or employee. The compliance checks and surveys may only use personnel 21 years of age or older. Alcoholic beverages purchased as part of compliance checks or surveys may be resold to any licensee willing to purchase them for the retail price, if the director gives prior written approval for the purchase. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_).

**Authority:****3 AAC 305.920(304.455). Recordkeeping requirements.**

(a) A licensee shall retain for at least one year records of the sales, purchases, and expenses of the business, including records sufficient to show the license was actively exercised for at least 30 days during each of the two preceding calendar years as described in AS 04.11.330(a)(3).

(b) Licensees shall maintain records of the purchase and sale of alcoholic beverages separate and apart from records of the sale of other goods or services.

Wholesale licensees shall retain for three years a record of all sales made in the conduct of the business. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_).

**Authority:****3 AAC 305.930(304.505). Powers of investigative personnel.**

- (a) The board's investigative personnel may
- (1) conduct inspections of licensed premises and investigations of licensees, applicants, transferees and other persons with respect to applications, the possession and sale of alcoholic beverages, or licensed premises;
  - (2) issue **verbal warnings, advisory notices, or** notices of violation;
  - (3) seize alcoholic beverages [WHICH ARE] subject to forfeiture under AS 04.16.220;
  - (4) serve subpoenas issued by a hearing officer in a board adjudicative proceeding;
  - (5) execute search warrants;

(6) exercise specified peace officer powers upon the written concurrence of the commissioner of public safety filed with the lieutenant governor and the director, but only if necessary for the enforcement of the criminally punishable provisions of AS 04 and regulations adopted under AS 04;

(7) **file accusations for suspension or revocation of licenses or permits on the grounds listed under AS 04.11.370; and**

**(8) take such other action as is considered necessary by the director to assure the enforcement of AS 04 and this chapter.**

(b) Consistent with federal, state, and local law, the board's investigative personnel may carry firearms in the performance of their duties, if individually authorized by the board. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_).

Authority:

**3 AAC 305.940(304.510). Communications and inspection.**

**(a) The board recognizes that self- regulation by a licensee is a necessary ingredient for the enforcement of alcoholic beverage statutes, regulations, and local laws and that communication with licensees is necessary to assist licensees in conducting the licensee's licensed business in the public interest and in conformity with existing statutes and regulations.**

**(b) Licensees are considered to consent to the entry upon the licensed premises and inspection of the licensed premises at all reasonable times and in a reasonable manner by investigative personnel of the board or by other peace officers acting in an official capacity.**

**(c) Licensees shall do all things reasonably necessary and appropriate to cooperate with investigative personnel and employees of the board and peace officers acting in an official capacity to enforce the statutes, regulations and ordinances related to alcoholic beverages, including**



**permitting entry upon and inspection of the licensed premises and providing access, upon request at reasonable times, to business records at the written direction of the director.** (Eff. \_\_\_/\_\_\_/\_\_\_,

Register \_\_\_)

**Authority:** AS 04.06.090 AS 04.06.100 AS 04.11.630

**3 AAC 305.950. Verbal warning.**

(a) A verbal warning is intended to address a situation where a violation of a statute, regulation, or local law on the licensed premises is quickly correctable and does not pose an immediate risk to public safety or health.

(b) Issuing a verbal warning is at the discretion of investigative personnel of the board. A verbal warning must be documented in the licensee's enforcement file maintained by the director. Logging or documentation of the warning must be made available to the licensee upon request. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_).

**Authority:** AS 04.06.075 AS 04.06.090 AS 04.06.100

**3 AAC 305.960. Advisory notice.**

(a) A written advisory notice may be issued by investigative personnel to a licensee when an incident occurs or a defect is identified that results in a violation of a statute, regulation, or local law and the investigative personnel elect not to provide a verbal warning.

(b) The notice may be issued from information recorded on an inspection report or elsewhere. An advisory notice may be grounds for issuance of a notice of violation or accusation if the incident or defect continues uncorrected. Issuing an advisory notice is at the discretion of investigative personnel of the board. An advisory notice must be documented in the licensee's enforcement file maintained by the

director. A copy of the advisory report must be delivered to the licensee when issued and made available to the licensee at a later time, upon request. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_).

**Authority:** AS 04.06.075 AS 04.06.090 AS 04.06.100

**3 AAC 305.970(304.530). Notice of violation.**

(a) **A notice of violation is intended to address more serious or repetitive violations of statute, regulation, or local law that has occurred or are occurring on the licensed premises or for violations of statute, regulation, or local law that continued after receiving a verbal warning or advisory notice under the same or similar circumstances.** [A notice of violation is intended to be an informal means of communicating to a licensee that a violation of a statute, regulation, or municipal ordinance might have occurred or might be occurring on the licensed premises.] A notice of violation is issued at the discretion of investigative personnel or director.

(b) A notice of violation must be in writing on a form approved by the board and must detail

- (1) a description of the circumstances of the violation or violations;
- (2) a description of applicable violated statutes, regulations, or local law;
- (3) prior disciplinary history, including verbal warnings, advisory notices, notices of violation, and accusation as well as criminal history of the licensee and of the licensed premises; and
- (4) the signature of the investigating officer.

(c) A notice of violation may be issued as a stand-alone document or from circumstances described in an inspection report. It may be issued even if an inspection report not issued or if it is not preceded by either a verbal warning or advisory notice. It may include conduct identified in AS 04.11.370 as grounds for suspension or revocation of licenses or permits.

(d) Upon receipt of a notice of violation, a licensee may request to appear before the director and

be heard regarding the notice of violation. The request must be made within 10 days after receipt of the notice, and the director shall grant an appearance within 10 days after receipt of the request. A licensee shall respond, either orally or in writing, to the notice of violation.

(e) A notice of violation and a response to a notice of violation will, in the board's discretion, be reviewed by the board in considering whether to suspend, revoke, or renew, a license, but does not alone constitute grounds for suspension, revocation, or refusal to renew. A violation itself does constitute such grounds, however, if proven by evidence at a hearing.

(f) A notice of violation is issued at the discretion of investigative personnel, and becomes a permanent record of the licensee to whom the notice was issued. A notice shall be on a form approved by the board. The director may dismiss a notice.

(g) Nothing in this section limits the authority of the board to suspend or revoke a license on grounds stated in AS 04.11.370. (Eff. \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 04.06.075 AS 04.06.090 AS 04.06.100

**For purposes of issuances of enforcement actions under 3 AAC 305. Unless it is possible to determine the responsible licensee, any violation of AS 04 or these regulations on a shared licensed premises is the violation of all licensees operating in the shared licensed space.**

**3 AAC 305.980(304.535). Suspension and revocation of license.**

(a) The board will, in its discretion, suspend, **summarily suspend**, or revoke a license on the grounds stated in AS 04.11.370. In addition, the board will, in its discretion, suspend or revoke a license upon conviction of the licensee for a felony.

(b) Upon conviction of an agent or employee of the licensee, the board may find under AS 04.11.370(5) that the licensee knowingly allowed the violation, or recklessly or with criminal negligence

failed to act in accordance with the duty prescribed under AS 04.21.030, if

- (1) the licensee was physically present when the violation occurred and knew or should have known the violation was occurring and took no action to stop it;
  - (2) the licensee failed to adequately supervise the agent or employee;
  - (3) the licensee failed to adequately train the agent or employee in the requirements of AS 04 relating to alcoholic beverages; or
  - (4) the licensee was reckless or careless in hiring the agent or employee.
- (c) If the licensee is a corporation, the conviction of a shareholder holding 10 percent or more of the outstanding common stock of the corporation or of an officer or director of the corporation is considered to be a conviction of the licensee.
- (d) If the licensee is a limited liability organization, the conviction of a manager or a member who holds 10 percent or more of the limited liability organization's ownership interest is considered to be a conviction of the licensee.
- (e) **Unless the grounds for suspension or revocation are under AS 04.11.510(c), the licensee may request an informal conference with the director no later than 10 days after an accusation is served. The licensee requesting an informal conference under this section tolls the time for filing a notice of defense required under AS 44.62.390.**

[A duplicate beverage dispensary license and the beverage dispensary license to which it relates are considered to be a single license for purposes of suspension or revocation] (Eff. \_\_/\_\_\_\_/\_\_\_\_,

Register \_\_\_\_)

**Authority:**

**3 AAC 305.990. Summary suspension to protect public health, safety, or welfare.**

- (a) If the director finds that a licensee has acted and appears to be continuing to act in a way**

**that constitutes an immediate threat to the public health, safety, or welfare, the director may issue an order immediately suspending the license of that person, and ordering an immediate stop to the activity that constitutes the threat to the public health, safety, or welfare.**

**(b) When the director issues a summary suspension under this section, the director shall immediately give the licensee subject to the summary suspension order notice of the reasons for the summary suspension, and of the time and place for an expedited hearing before the board. Unless the licensee subject to the summary suspension order requests a delay, the hearing will be held before the board not later than five business days after the director gives notice of the reasons for the summary suspension and the scheduled hearing. (Eff. \_\_\_\_ / \_\_\_\_ / \_\_\_\_, Register \_\_\_\_ )**

**Authority:** AS 04.06.090 AS 04.06.100 AS 04.11.370

**3 AAC 305.995(304.540). Civil Fines.**

(a) Except as provided in (b) of this section, in a proceeding under AS 04.11.510(c), the board may impose a civil fine upon a licensee, in accordance with AS 04.11.575, not to exceed the greater of

- (1) an amount that is three times the monetary gain realized by the licensee as determined by the board as a result of the violation;
- (2) \$10,000 for the first violation;
- (3) \$30,000 for the second violation; or
- (4) \$50,000 for the third or subsequent violation.

(b) In a proceeding against a general wholesale licensee **or a limited wholesale brewed beverages and wine license** under AS 04.11.510(c) for a violation of AS 04.11.160 pertaining to the sale of alcoholic beverages to unlicensed persons, the board may impose a civil fine of \$5,000 for each illegal sale. The board may suspend all or part of the fine based on the circumstances of the illegal sales. For the purpose of this section, "sale" means a single

delivery on a single date to a single purchaser. (Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_)

**Authority:**

Confirm ongoing validity

**3 AAC 305.996. Probation, suspended time, and fines.**

**(a) In addition to suspension and revocation of a license, the board may elect to place a license on probation for a period of no greater than three years. To ensure good faith performance of a licensee's obligations while under probation, the board may suspend any portion of time of suspension of civil fines owed.**

**(b) Upon filing of an accusation presented by the director to the board, the board may elect to fine the licensee a portion of or the remainder of the suspended fine for any violation of the conditions of probation or additional violation of AS 04 or this chapter.**

**(c) Nothing in this section limits the authority of the board to suspend or revoke a license on grounds stated in AS 04.11.370.** (Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_)

**Authority:** AS 04.06.090 AS 04.06.100 AS 04.11.370

**3 AAC 305.997 (304.545). Effect of revocation.**

A person whose license is revoked by the board may not apply for a license of any type until at least **one** year after the effective date of the revocation. (Eff. \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_)

**Authority:**

Address bail schedule and challenges to fines under bail schedule

**Article 10****General Provisions****3 AAC 305.1000(304.905). Determining population criteria**

(a) The board will use population figures generated by the Department of Commerce, Community, and Economic Development to establish a population figure for determining the quota of licenses available under AS 04.11.400(a)(2). The Department of Commerce, Community, and Economic Development figures will be adjusted, however, in the following respects:

(1)prison populations will be excluded;

(2)the populations of colleges and universities will be discounted by the number of students who, according to best available information, are domiciled outside of the applicable population area;

(3)the population of military bases and installations will be discounted by the number of military personnel and their families who, according to best available information, are domiciled outside of the applicable population area.

(b) The population of incorporated cities and unified municipalities will be determined annually by the director, within a reasonable time after the figures generated by the Department of Commerce, Community, and Economic Development are made available to the director.

If figures of the Department of Commerce, Community, and Economic Development are not available to the director by March 31 of any year, the director shall employ the best available information to establish, not later than April 30, the population figures under AS 04.11.400(m) in determining the quota of available licenses. . (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:****3 AAC 305.1010(304.907). Determining visitor population.**

(a) For purposes of determining whether a municipality or established village receives more than 4,000 visitors a year, the Board may rely on visitor statistics generated annually **by the Alaska Department of Labor and Workplace Development**, another reliable government or commercial source, or other information presented by the municipality or established village that would qualify for a seasonal restaurant eating place license, the applicant for a seasonal restaurant or eating place tourism license, or the applicant for a transfer of ownership of a seasonal restaurant or eating place tourism license

(b) The board will apply the same annual visitor count to every application filed under AS 04.11.260 for a seasonal restaurant or eating place tourism license in a specific qualifying municipality or established village during each calendar year. The board may reconsider that visitor count and how it calculates that visitor count each calendar year. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 04.09.360

**3 AAC 305.1030 (304.610). Allocations(Refunds) to municipalities**

(a) For the purposes of AS 04.11.610, a municipality's failure to actively enforce local ordinances, laws of the United States and the state, and the provisions of this chapter relating to the manufacture and sale of alcoholic beverages in the state includes, **but is not limited to**, the failure of the municipality's peace officers to comply with AS 04.21.070.

(b) The director shall recommend that the commissioner of commerce, community, and economic development deny the refund of biennial license fees under AS 04.11.610 if the director determines that the municipality's peace officers have not provided the director with quarterly reports of violations of AS 04 occurring on licensed premises within the municipality **or with quarterly reports that evidence lack of active enforcement of local ordinances, laws of the United States and the state, and the provisions of this chapter relating to the manufacture and sale of alcoholic beverages in the state.** (Eff.

\_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_\_)



**Authority:****3 AAC 305.1040(304.620). Colleges and universities**

(a) For purposes of granting a caterer's permit, special events permit, or restaurant caterer's permit under AS 04.11.230, AS 04.11.240, or 3 AAC 304.680, where prohibitions are imposed under AS 04.11.410, and AS 04.16.080, "school" does not include an accredited college or university as defined in AS 04.11.220.

(b) Along with other approvals required by statute or regulation, an application for a permit for a designated premises at a college or university event must be approved by the board of regents or similar governing body of the college or university, or its designee.

(c) A holder of a recreational site license issued under AS 04.11.210 **or a sporting activity or event license under AS 04.09.270** for a site where college or university sporting events are held may petition the board for designation of premises at the site where beer and wine may be sold during a college or university sporting event. (Eff. \_\_/\_\_/\_\_, Register \_\_)

**Authority:****3 AAC 305.1050(304.625). Community prohibitions on alcoholic beverages**

The director shall maintain a list of the established villages and municipalities that have adopted a local option under AS 04.11.491. (Eff. \_\_/\_\_/\_\_, Register \_\_)

**Authority:****3 AAC 305.1060(304.635). Third-party purchases for consideration**

(a) A person may not purchase alcoholic beverages for another person nor may a person solicit

the purchase of alcoholic beverages by another person for consideration in addition to the purchase price.

(is this necessary to set out in regulation?)

(b) No person other than **an approved** [a regular] common carrier **as set forth at AS 04.09.750** may, for consideration, transport alcoholic beverages. (Eff. \_\_/\_\_/\_\_, Register \_\_)

**Authority:**

**3 AAC 305.1060(304.990). Definitions**

In this chapter,

(a) "affiliate" includes

(1) an individual's general partners and joint venturers, any corporation of which the individual owns 10 percent or more of the stock, any corporation of which the individual is an officer or director, any limited liability organization of which the individual is a member who holds 10 percent or more of the limited liability organization's ownership interest, and any limited liability organization of which the individual is a manager;

(2) a partnership's partners or joint venturers, any affiliates of a partnership's partners or joint venturers, any corporation of which the partnership or any individual partner holds 10 percent or more of the stock, any corporation of which any individual partner is an officer or director, any limited liability organization of which the partnership or any individual partner is a member who holds 10 percent or more of the limited liability organization's ownership interest, and any limited liability organization of which any individual partner is a manager;

(3) a corporation's shareholders who hold 10 percent or more of the corporation's stock, a corporation's officers and directors, a corporation's partners or joint venturers, any affiliates of a corporation's partners or joint venturers, any other corporation of which the subject corporation owns 10

percent or more of the stock, any other corporation for which the subject corporation appoints one or more directors, any other corporation of which 10 percent or more of the stock is held by a shareholder holding 10 percent or more of the subject corporation's stock, any limited liability organization of which the subject corporation is a member and of which the subject corporation holds 10 percent or more of the limited liability organization's ownership interest, any limited liability organization for which the subject corporation appoints a manager, any limited liability organization of which a shareholder holding 10 percent or more of the subject corporation's stock is a member who holds 10 percent or more of the limited liability organization's ownership interest, and any limited liability organization of which a shareholder holding 10 percent or more of the subject corporation's stock is a manager;

(4) other persons determined by the board to have significant control or influence over a person;

(5) a limited liability organization's manager, a limited liability organization's members who hold 10 percent or more of the limited liability organization's ownership interest, a limited liability organization's partners or joint venturers, any affiliates of a limited liability organization's partners or joint venturers, any other limited liability organization of which the subject limited liability organization is a member, any corporation of which the limited liability organization owns 10 percent or more of the stock, any corporation for which the limited liability organization appoints one or more directors, and any corporation of which 10 percent or more of the stock is held by a member holding 10 percent or more of the subject limited liability organization's ownership interest. (Eff. \_\_/\_\_/\_\_, Register \_\_)

**Authority:**