

3 AAC is amended by adding a new article to chapter 305 to read:

Chapter 305. Alcoholic Beverage Control Board.

Article

6. Provisions Applicable to More Than One License Type (3 AAC 305.600 – 3 AAC 305.680)

Article 6. Provisions applicable to more than one license type

Section

600. Exercise of authority

605. Surrender of license

610. Prohibited financial interest; representative or owner; management agreements

615. Death of a sole licensee

620. Death of an individual with a controlling interest in a license issued to a business entity

625. Death of an individual with less than controlling interest in a license issued to a business entity

630. Licensed premises

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660. Overlapping licensed premises

665. Resealing wine served with a meal for removal from licensed premises.

670. Storing, warehousing, and transporting

680. Keg Registration

690. Definitions

3 AAC 305.600 (old 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 or operating under a management services agreement under 3 AAC 305.610(a) 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: AS 04.06.090 AS 04.06.100 AS 04.11.450
AS 04.11.580

3 AAC 305.605 (old 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: AS 04.06.090 AS 04.06.100 AS 04.11.580

3 AAC 305.610 (old 304.980). Prohibited financial interest; representative or owner; management agreements. (a) For purposes of AS 04.11.450 (prohibited financial interest), an alcoholic beverage licensee may enter into a management agreement with a person who does not have an ownership interest in the alcoholic beverage license, for the purpose of giving that person responsibility for the day-to-day operations of an alcoholic beverage license.

(b) A management agreement under this section must be in writing and signed by a licensee **or transferor** whose name is required to be provided with an application for a new license under AS 04.11.260, and by the non-licensee or **transferee** agreeing to manage the operation of the business. A copy of the signed, written management agreement must be filed with the Alcohol & Marijuana Control Office. 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.

(c) 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.

(d) 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 305.600 and contain language that indicates both

parties to the agreement have read, understand, and agree to comply with hose statutes and regulations. (Eff. ___/___/___, Register _____)

Authority: AS 04.06.090 AS 04.06.100 AS 04.09.010
AS 04.09.450

3 AAC 305.615 (old 304.215). Death of a 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 305.060; 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, personal representative, 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. **A written request to extend the applicable deadline must include an estimate from the administrator, personal representative, or executor of the length of time required for the extension and a description of factors that support the requested timeline. Upon receipt of a time extension request, the board may grant an extension not to exceed the time reasonably necessary to close the affairs of the deceased individual, as determined by the board.**

(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: AS 04.06.090 AS 04.06.100 AS 04.09.010
AS 04.11.030 AS 04.11.040

3 AAC 305.620 (old 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** days after the individual's death, a transfer application as required under AS 04.11.040 and 3 AAC 305.060 or a time extension request under (b) of this section. If a transfer application or time extension request is not filed by the 180-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 the time reasonably necessary to close the affairs of the deceased individual, as determined by the board. 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. A written request must include an estimate from the business entity of the length of time required for the extension and a description of factors that support the requested timeline. Additional extensions may be granted by the board for good cause. (Eff. ___/___/___, Register _____)

Authority: AS 04.06.090 AS 04.06.100 AS 04.09.010
AS 04.11.030 AS 04.11.040

3 AAC 305.625 (old 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** 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 305.060 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 the time reasonably necessary to close the affairs of the deceased individual, as determined by the board. 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. A written request must include an estimate from the business entity of the length of time required for the extension and a description of factors that support the requested timeline. Additional extensions may be granted by the board for good cause. (Eff. ___/___/___, Register ___)

Authority: AS 04.06.090 AS 04.06.100 AS 04.09.010
AS 04.11.030 AS 04.11.040

3 AAC 305.630 (old 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 or addresses 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,**

a destination resort license, **and an outdoor seating area on a street or sidewalk authorized by the local government for sole control by an alcoholic beverage licensee**, the licensed premises must be one area, but may include separate rooms if the rooms are adjacent to one another or if they are rooms **designated as the licensed premises of a destination resort lodge, a beverage dispensary tourism license, or a beverage dispensary licensee that holds a hotel or motel endorsement (compare to 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** is required for the additional rooms. A recreational site license, a destination resort license, **and a licensee for whom a local government has approved use of an adjoining public right of way for an outdoor seating area** 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 an application for transfer of ownership or location. A request for a business name or line drawing change for a 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) Notwithstanding (a) through (f) of this section, a licensee with an approved licensed premises that includes non-contiguous rooms may permit an agent or employee to take an alcoholic beverage through the passage linking non-contiguous areas during the licensee's business hours so long as the passage is part of the undesignated portion of the premises during its regular 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 issued at the specific address or addresses for which the license is issued. (Eff.

___/___/___, Register _____)

Authority: AS 04.06.090 AS 04.06.100 AS 04.06.09.010
AS 04.21.080

3 AAC 305.640 (old 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: AS 04.06.090 AS 04.06.100 AS 04.09.200
AS 04.09.210 AS 04.09.220 AS 04.09.230
AS 04.09.240 AS 04.09.250 AS 04.09.270

AS 04.09.280

AS 04.09.300

AS 04.09.310

AS 04.09.350

3 AAC 305.650 (old 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 of a retail license licensed for onsite consumption to alternate as a licensed or unlicensed premises 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) 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;

(3) 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;

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

(5) a permits issued under AS 04.09.610, AS 04.09.620, AS 04.09.630, AS 04.09.645, AS 04.09.650, AS 04.09.660, and AS 04.09.685 may be exercised in the alternating area during the times the identified area is unlicensed premises;

(6) 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;

(7) 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). (Eff. ___/___/____, Register _____)

Authority:	AS 04.06.090	AS 04.06.100	AS 04.09.200
	AS 04.09.210	AS 04.09.260	AS 04.09.270
	AS 04.09.300	AS 04.09.310	AS 04.09.350
	AS 04.09.360	AS 04.09.610	AS 04.11.330

3 AAC 305.655. (old 304.660) Temporary de-designation of licensed premises. (a) A de-designation permit allows the holder of a retail license for onsite consumption to use the licensed premises or a portion of the licensed premises, on a temporary basis, for an event at which persons under the age of twenty-one will be present. Alcoholic beverages may not be sold, served, or consumed at the licensed premises during the period beginning two hours before and ending one hour after the times identified in the permit during which under-age persons will be on the premises. A permit may not be exercised during hours of closure under AS 04.16.010

(b) Application for a de-designation permit must be made on forms provided by the board. A non-refundable application fee of \$50 must accompany the application. A permit may be approved by the director for no more than three consecutive days for an event.

(c) An application for a de-designation permit must include information about the relevant event as required by the board and must include proof of written notice to the law enforcement agency having jurisdiction over the designated premises of the event for which the permit is sought.

(d) Unless the director grants an exception to address a more immediate need for an event, an application for a de-designation permit must be filed with the director no later than three business days before the event for which the permit is requested.

(e) Before applying for a de-designation permit, a licensee's licensed premises must be certified as suitable for the purposes of this section. Certification must be requested by the licensee on an application form provided by and filed with the board. Certification must include a detailed diagram showing the proposed de-designated area and provide a security plan to keep unaccompanied minors separated from the designated licensed premises. . A non-refundable \$50 application must accompany an application for certification.

(f) The director, as appropriate, may place limitations or restrictions on the premises certification and the permit as necessary to assure adequate security and control in the public interest.

(f) The de-designation permit and a copy of the approved application for certification must be conspicuously posted at the main entrance to the licensed premises during the time a permit is exercised The licensee must also forward a copy of the approved application for certification to the law enforcement agency having jurisdiction over the designated premises of the event for which the permit is sought

(g) A de-designation permit may not be transferred, relocated, or renewed.

(h) Any person possessing or consuming or suspected of possessing or consuming alcoholic beverages, or exhibiting characteristics of intoxication, on the de-designated premises during the permit period must be removed immediately from the entire licensed premises for the duration of the event.

(i) The director, or a peace officer whose jurisdiction includes the licensed premises, may terminate a permit at any time in the public if any conditions on the de-designation permit are violated.

(j) During the time when a permit is exercised, the premises are still a licensed premises under AS 04. Violation of any statute, regulation, or local ordinance governing alcoholic beverages on the licensed premises is grounds for suspension or revocation of the licensee's premises certification and license. A debt that is incurred for or during an event for which a de-designation permit is granted is still considered a debt incurred in the operation of the license for purposes of transfer of ownership of the holder's license under AS 04.11.360. (Eff.

___/___/___, Register _____)

Authority:	AS 04.06.090	AS 04.06.100	AS 04.09.200
	AS 04.09.210	AS 04.09.260	AS 04.09.270
	AS 04.09.300	AS 04.09.310	AS 04.09.350
	AS 04.09.360	AS 04.09.610	AS 04.11.330

3 AAC 305.660. Overlapping licensed premises. (a) Other than as provided in paragraph (h), 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 required to be identified in an application submitted under AS 04.11.260 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; or
- (G) seasonal restaurant eating place licenses issued under AS 04.09.360.

(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 subject to the requirements 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 overlap with a package store license as described under AS 04.09.230.

(f) Licensed premises for package stores under AS 04.09.230 may overlap with the licensed premises of a restaurant or eating place license subject to the controlled access conditions required by the board.

(g) 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.

(h) In any case, permissible consumption on and sales for off premises consumption and compliance with AS 04.16.049 is determined by the combination of licenses.

(i) If the board has approved any overlapping premises for two of more licenses prior to January 1, 2024, the restriction that both licenses must be held by the same person or group of persons set forth in paragraph(a) does not apply.

(Eff. ___/___/____, Register _____)

Authority:	AS 04.06.090	AS 04.06.100	AS 04.06.010
	AS 04.09.020	AS 04.09.030	AS 04.09.040
	AS 04.09.100	AS 04.09.110	AS 04.09.200
	AS 04.09.210	AS 04.09.230	AS 04.09.320
	AS 04.09.330	AS 04.09.340	AS 04.09.350
	AS 04.09.360	AS 04.09.370	AS 04.11.135

3 AAC 305.665 (old 304.410). Resealing wine served with a meal for removal from the licensed premises. For purposes of AS 04.16.120(c), one opened bottle of wine served with a meal may be removed from licensed premises if

(1) the original cork or a similar type of cork is reinserted by the licensee into the bottle so that the top of the cork is flush with the bottle opening and can only be removed by a corkscrew or other similar device;

(2) the original or a similar screw-on cap is placed tightly on the bottle and sealed with tamper-evident tape; or

(3) the resealed bottle is placed in a single-use bag that has a tamper-evident seal and that is manufactured expressly for the removal of partially consumed bottles of wine from licensed premises. (Eff. ___/___/____, Register _____)

Authority: AS 04.06.090 AS 04.06.100 AS 04.16.120

3 AAC 305.670 (old 304.415). 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.

(b) 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: AS 04.06.090 AS 04.06.100 AS 04.06.09.010
AS 04.21.060

3 AAC 305.680. 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 manufacturer license described in AS 04.09.020, AS 04.09.030, or AS 04.09.040 or a package store license issued under AS 04.09.230 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.

(d) Kegs or containers donated to a permittee under AS 04.09.650 Or AS 04.09.660 are exempt from the requirements set forth in paragraphs (a) – (c) of this section.

(e) Kegs or containers owned and supplied by a purchaser are exempt from the requirements set forth in paragraphs (a) – (c) of this section. (Eff. ___/___/___, Register _____)

Authority: AS 04.06.090 AS 04.06.100 AS 04.21.012

AS 04.21.050

3 AAC 305.690. Definitions. (a) Unless otherwise defined at 3 AAC 305.330(b):

(1) “adjacent” means on the same legal property, on a property adjoining the legal property containing the licensed premises, or across a public right of way from the legal property containing the licensed premises.”

(2) “adjoining” means meeting and touching at some point or line.

(3) “contiguous” means having contact on all or most of one side.

(4) “passage” means a hallway or defined pathway between adjoining rooms of licensed premises.

(5) “purchaser” means a patron or customer of a licensee who does not also hold an alcoholic beverage license or permit issued under AS 04.09.650 or AS 04.09.660.

(b). Notwithstanding the definitions set forth at 3 AAC 690(1) through (4), the board may approve a non-contiguous, non-adjacent, or non-adjoining licensed premises as it existed prior to January 1, 2024. The board may also approve the transfer of ownership of a license subject to this section and maintain the non-contiguous, non-adjacent, or non-adjoining licensed premises.

___/___/___, Register _____)

Authority: AS 04.06.090 AS 04.06.100 AS 04.06.09.010

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