



**Alcoholic Beverage Control Board
Special Meeting Agenda
May 2, 2023
Third Judicial District
Atwood Building at 550 W. 7th Avenue,
16th Floor, Suite, 1600
Anchorage, Alaska**

We strongly encourage participation over Zoom as our conference room is small

Join Zoom Meeting

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All times are approximate. Lunch from 12:00 noon to 1:00 pm unless amended by the board.

● ADMINISTRATION

9:30 am

A. Call to Order

9:30 am

B. Roll Call

Dana Walukiewicz, Board Chair and Industry Member, in person

Diane Thompson, Vice Chair and Industry Member, in person

Doug Moore, Public Member, on Zoom

Dave Koch, Public Safety Member, not present

Jan Hill, Public Member, on Zoom

Joan Wilson, Director, in person

Jane Sawyer, Program Coordinator, on Zoom

Kevin Higgins, Assistant Attorney General, on Zoom

*Gabriel Gonzales, Local Government Specialist, in person
Kristina Serezhenkov, Regulations Specialist 2, in person
Carrie Craig, Records and Licensing Supervisor, on Zoom
Investigator Johnson is available to answer questions for Chief Hoelscher, on Zoom*

C. Approval of Agenda

Diane T. moves to approve agenda. Doug M. seconds. None opposed, motion passes.

D. AMCO Meeting Code of Conduct

TAB 1

E. Top 10 Zoom FAQ

TAB 2

● **REGULATIONS**

1. Project(s) for board action

TAB 3

- **Licensed Premises – Outdoor Seating public comment closed 4/24/23.**

*Dana W. summarizes the Memo and paraphrases the public comment from Recover Alaska as generally in support of the proposed regulations. No Board comment on the draft of proposed regulations. No additional public comment received. **Diane T. motions to approve the proposed regulations. Jan H. seconds. None opposed, motion carries.***

Director Wilson states her hopes to have this proposed regulation available for summer.

2. Board discussion and public hearing on Articles 1 and 2 of the proposed new Chapter (305) Alcoholic Beverage Control Board, in Title 3 of the Alaska Administrative Code (3 AAC)

(Board to determine how long board discussion and public hearing will be)

- **Article 1: Board; Administration; Licensing; Fees**

TAB 4

Dana W. opens up discussion on Article 1 for public comments. Maia Danielson, possible Winery license applicant in the city of Ketchikan, on zoom, comments that the small population count in her city doesn't allow for additional Brewery, Winery, Distillery Retail licenses once Title 4 is implemented on 1.24.23 although there are 1.5 million tourists a year in Ketchikan. Dana W. goes over history of Title 4 rewrite and notes the Board cannot make new license types or change population caps defined in statute. He comments that Brewery Manufacturer licenses are not limited by population. There is further discussion on the changes and possible license types that will be available and actions Maia Danielson might take. Maia Danielson suggests Title 4 rewrite creates a monopoly that prevents any new Brewery/Winery/Distillery from opening. Dana W. calls on Lee Elis to comment. Lee Ellis, Brewers Guild and Midnight Sun Brewery, notes that there are currently Winery licenses available in Ketchikan and that the population counts for Winery Retail licenses don't exist until 1.24.23 (Title 4 implementation date) so advises possible applicants who wish to avoid population caps to get application in now and that statutes will not be changed at this time. Lee Ellis clarifies that each license type will have its own possible Retail license, and these will be available based on population count. Director Wilson comments that Maia Danielson may contact AMCO office, and our office will work with her on her options. No further discussion.

Director Wilson notes that she wishes to amend Article 1 to make all fees available in one article as a reference. **Diane T. motions to open up Article 1 to make all fees available in one spot. Jan H. seconds. None opposed, motion carries.**

Dana W. summarizes all written comments from Recover Alaska. Recover Alaska makes a specific recommendation to change terminology of fetal alcohol syndrome (FAS) to Fetal Alcohol Spectrum Disorder. **Jan H. motions to change FAS definition as requested by Recover Alaska wherever it might occur. Diane T. seconds. None opposed, motion carries to change terminology to Fetal Alcohol Spectrum Disorder.**

Diane T. motions to close public testimony and approve the proposed regulation as amended. Jan H. seconds. None opposed, motion carries.

- **Article 2: Manufacturer Licenses, Endorsements, Permits**

TAB 5

Dana W. opens discussion for public comment. Seeing none, Dana W. reads written comments from Recover Alaska out loud. Recover Alaska wishes to clarify server education in regulation and notes that a sampling endorsement may be held by a licensee who does not have a retail operation, and therefore does not serve the public, and would not normally be required to maintain server education cards. Dana W. comments it may be wise to reiterate server education requirements in both statute and regulation. Kevin H., Assistant Attorney General, makes comments on the review and editing process when drafting regulations as regards the practice to not repeat in regulations that which is already in statute. Director Wilson notes that the wish is for regulations to be clear for licensees. Board discussion. Lee Ellis, Brewers Guild and Midnight Sun Brewery, comments that he has no objection to amend regulations but also notes Kevin H.'s comments and suggests the information on server education is clarified on an application rather than in regulations. There is additional board discussion. Doug M. comments that he likes Lee Ellis's idea. Dana W. comments that he sees no strong desire to adopt change in regulations. No other public testimony. **Doug M. moves to adopt regulation as is and close public comment. Jan. H. seconds. None opposed, motion carries.**

3. End board discussion and public hearing on Articles 1 and 2. Determine action Articles 1 and 2.

10:15am

4. Board discussion on Articles 3, 6, and 7 of the proposed new Chapter (305), Alcoholic Beverage Control Board, in Title 3 of the Alaska Administrative Code (3 AAC)

- **Article 3: Retail licenses, Endorsements, Permits**

TAB 6

Director Wilson begins summary of Article 3 and remarks that new chapter is created but many sections from old chapter (304) were moved to new chapter with few changes. Summary of 305.300, 305.305, 305.310. Carrie C. comments no application for seasonal restaurant or eating place tourism license yet received. Diane T. asks if this license type is available today to apply for. Director W. answers yes. Further board discussion. Director Wilson continues with summary at 305.315. Dana W. gives history of Club license regulation as far as the term 'guest' and over problem with clubs serving to non-members. There is further discussion on Club licenses and this past history. Dana W. continues the summary 305.320 of Article 3 for common carriers. Director Wilson notes that the word 'vehicle' is not included in definition of common carrier. There is further board discussion. Diane T. asks if there is a regulation on limos and the answer is no-there is none. Dana W. opens for public comment and Jessica Brown, cruise ship representative, comments that she would like the Board to define a 'boat' and include language to have tonnage requirements for common carrier vessels and says the common carrier license is for cruise

ships and larger tour boats. Jessica Brown also comments that waiver of operations requirement issues exist and are burdensome for vessels, specifically large cruise ships that might come in every other year and notes the importance of the cruise ship industry to the State. There is further discussion on the issue of small versus larger vessels and a tonnage requirement for boats. Lee Ellis, Brewers Guild and Midnight Sun Brewery, comments he is against adopting any tonnage requirements. Dana W. comments he does not see legislative intent to make significant changes to existing regulation. Discussion on the waiver of operations requirements for boats and the circumstances in granting a 3rd waiver. The location of waiver regulations is discussed and found by Kevin H. in Article 1 at 305.120. Dana W. notes that AMCO should know who is operating in its waters and that they should fulfill licensing requirements. Further board discussion. **Diane T. makes motion to amend Article 1, 305.120 to amend waiver of operations requirements for boats only (not trains or planes) weighing over 1000 tons to allow for 3rd and subsequent consecutive applications at the Board's discretion. Jan H. seconds. None opposed, motion carries.**

Director Wilson comments on the new Department of Law processes and points out that all articles will go out for public comment one last time in August. Kevin H. comments on receiving public comments and the new processes mentioned by Director Wilson.

Director Wilson moves back to Article 3 and 305.325 is summarized. 305.330- 305.335 is summarized by Dana W. Board discussion touches on the definition of 'contiguous' and 'adjacent'. Discussion on minors on premises, bona fide restaurants and the restaurant endorsement. Diane T. asks to clarify if restaurant endorsement replaces restaurant designation with same requirements. Director Wilson and Dana W. advise yes that is the intent.

11:06am Break

11:16am Back to Order

Dana W. takes up summary at 305.340, endorsements available to package store licenses. Board discussion on definition of 'social event' as a private event as mentioned in delivery endorsement requirements. Diane T. comments that the word 'private' is the key word to understand the phrase in delivery endorsement 'or to a private person for invitation only events'. Director Wilson continues with the summary of Article 3 at 305.345 and 305.350 and references the addition of 'electronic orders'. No questions by the board members. Dana W. summarizes 305.355 and Dana W. strikes from record Director Wilson notes regarding club licenses surrendering their permit after Director Wilson confirms these notes do not belong there.

Dana W. summarizes 305.360 and board discusses art exhibit 'wine walks' and discuss terminology of at 'specific event' and 'specific sites'. Doug M. asks where is it defined that consumption must only be at each individual art gallery. Dana W. comments this may be in the definition of 'premises' when the applicant must provide a diagram for designated areas of consumption. Diane T. comments that it should be specified that consumption only allowed on each site. Dana W. finds language already in regulations for this. Board discussion on 'transport' between sites and no consumption off of allowed premises. Dana W. comments on language that event is held on a 'single day'. Board discussion and board agrees to change language to event held for a 'limited period'. Dana W. gives summary of 305.365 so called 'Chickenstock' amendment. 305.370 through 305.385 summarized by Dana W. Director Wilson and Dana W. go over history when a tenant's landlord had a situation where excess alcohol from the tenant (licensee) was left on site. Kevin H. comments with question on draft section wording and Director Wilson clarifies draft wording. No questions. 305.390-305.395 summarized by Dana W. with Director Wilson clarifying 'prime contractors' not 'sub-contractors'. Discussion. Investigator Johnson- gives some

history on contractors permits with last one issued on Shemya Island for the military. 305.397 summarized by Dana W. Director Wilson adds historic information on definitions but notes this might get a flag from law. Kevin H. notes draft wording 'for the purposes of this section' which is self-referential and so wording should be 'this chapter' or 'this article'. If it is for the whole chapter then it should go in Article 9. Director Wilson believes it is referenced only for article 3 and may not need to move to article 9. No questions.

12:06 Lunch Break

1:05 Back to Order

- **Article 6: Provisions Applicable to More Than One License Type**

TAB 7

Doug M. present on Zoom, Jan H. present on Zoom, Dana W present in person, Diane T present in person;

Dana W. summarizes 305.600 to 305.610. Director Wilson notes 305.610 prohibited financial interest, representative or owner; management agreements has substantial changes and outlines some of those changes. Jane S. comments and outlines the change that retail facilities will be able to own manufacturing facilities and vice versa in the new Title 4. Board discussion. No questions. Director Wilson summarizes 305.615, 305.620 and 305.625 all addressing death of licensee's. No further questions. 305.360, licensed premises, summarized by Director Wilson. Kevin H. refers to language that reads 'compare to AS 04.11.090(d)' and notes this is being repealed. Director Wilson confirms this is note to her and is okay to remove and not referred to in this section. Director Wilson notes paragraph (h) regards premises issues for licensee 'Muse'. Diane T. brings up premises dealt with at last board meeting for licensee 'Sip'. Discussion of these premises issues. Diane T. asks if outdoor seating is 'endorsement' and is answered it is not. No questions. Director Wilson summarizes 305.640. Discussion on adding clarification so that 'the holder of a wholesale license may sell to licensees who hold seasonal licenses out of their season. Dana W. states this might go into the 'wholesaler' section. Doug M. questions why we limit when a seasonal license holder can purchase alcohol. Director Wilson verifies that this is only in regulation. Further board discussion. Dana W. suggests removing 30 day limit and fixing language to 'before seasonal dates becomes effective' to allow a wholesaler more discretion to sell to seasonal licensees outside of their season Discussion. Board okays removing 30 day limit wording and drafting change accepted. 305.650 summarized by Director Wilson. Carrie C. advises .650 already had a fee but seasonal alternating didn't have a fee. Board discussion. 305.655 summarized by Director Wilson. Director Wilson brings up that this is a "permit" and asks if it should be something else? Discussion. Dana W. believes this is a permit for a particular event and the permit wording should remain. Investigator Johnson provides history that this regulation was for smaller towns that might have few structures for large gatherings, such as a prom. Diane T. questions why the 3 days limitation? Further discussion. Jane S. notes this is for 'retail licenses'. Investigator Johnson states a Brewery license cannot be de-designated as all 'alcohol' must be removed. No further discussion.

305.660, overlapping premises, summarized by Dana W and goes over possible examples including how a current Brewpub license holder will convert under Title 4. Board discussion. Director Wilson states she will work with Lee Ellis on this section mentioning prior holders of Brewpubs and brings up example of Restaurant or eating place/Distillery license co-located and explains how that would work. Diane T. asks if the licenses are in the same space and gives example of a Package Store and a Beverage Dispensary license? Dana W. answers yes but comments that this is addressed in wording later on in the section. Discussion. Director Wilson reads out AS 04.09.230(d) package store license that also holds beverage dispensary license. Dana W. outlines (h) as a key subsection. Diane T. questions subsection (g) wholesalers. Dana W. comments this is a grandfathering of already existing overlapping wholesalers. 305.665 summarized by Dana W. No discussion 305.670 summarized by Dana W and 305.680 which is a

new regulation. No questions. 305.690 summarized by Dana W. Director Wilson and Dana W. make comments about Boards wish to receive public input and comments.

- **Article 7: Alcohol Server Education Courses**

TAB 8

Dana W. notes not much change. Director Wilson notes another reference to FAS to replace wording to Fetal Alcohol Spectrum Disorder. Dana W. asks if Recover Alaska's request to address server card issues for manufacturers should be in the article dealing with manufacturers or in this article. Dana W. remembers Lee Ellis comments to include server education in application wording rather than in regulations. No questions.

5. Public Comment

2:37 Dana W. opens for public comments but with caveat that the Board will also put the regulations discussed at this meeting out for unofficial comment period and that Board will meet again to assess any comments.

No public comments.

Next regular board meeting is May 30 – 31, 2023

● **BOARD COMMENTS**

Kevin H.- remarks on 'closing public comment' as this is very unofficial public input process at this point. Dana W. remarks on change to Article 1 relating to waiver of operations for common carrier boats over 1000 tons and only wants to put out that section for public input. Jane S. agrees with this as this is for unofficial public input.

Diane T. motions to send out for public comment (unofficially) Articles 3, 6, 7 as well as comments on waiver of operations in Article 1. Jan H. seconds. None opposed, motion carries.

Director Wilson speaks about long pending applications in delegated status that AMCO staff have been dealing with and will provide a report on at a future meeting.

Dana W. asks if there is an email list for these delegated and receives answer, yes staff have been reaching out.

Director Wilson speaks of possible filling of Licensing Examiner positions and to bring on Short Term position to work on queue for alcohol.

Doug M. thanks all for the hard work. Jan H. appreciates all the helpful hard work and questions answered. She is planning to be in Anchorage for next meeting. Diane T. comments on her efforts for 18-20 yr olds to be allowed to be servers and that there are two bills not yet introduced in legislature regarding this. She notes that Zach Fields is contact for one of those bills and that Charr's lobbyist is working with Zach Fields. She asks for industry people to contact legislature to get these bills through. Dana W. comments that the industry is going through tough times due to lack of servers. Director Wilson mentions Wisconsin bill to have servers age lowered to 14. Diane T. says Princess Tours and Brewers Guild are backing this bill. Director Wilson advises that the Board can endorse legislation (as of 1/1/2024) if it so chooses.

● **ADJOURN**

Diane T. moves to adjourn. Jan H. seconds. None opposed, motion passes. Adjourned 2:55pm.