



MEMORANDUM

TO: Alcoholic Beverage Control Board DATE: January 26, 2024
FROM: Kristina Serezhenkov, Regulations Specialist RE: Title 4 Rewrite: Trade Practices

The draft regulations attached add new sections to the new chapter 3 AAC 305 covering Trade Practices.

- 3 AAC 305.500. This new section covers trade practice prohibitions as laid out at AS 04.16.017.
- 3 AAC 305.510. This new section outlines and clarifies the prohibition against operating a tied house.
- 3 AAC 305.515. This new section outlines exceptions to tied house prohibitions.
- 3 AAC 305.520. This new section outlines and clarifies the prohibition against operating as an exclusive outlet.
- 3 AAC 305.525. This new section outlines clarifies practices not considered commercial bribery.
- 3 AAC 305.530. This new section outlines exceptions to consignment sales prohibitions.
- 3 AAC 305.540. This new section establishes and outlines administrative penalties.
- 3 AAC 305.550. This section prohibits adulteration, misbranding and false advertising of alcoholic beverages and requires that a licensee, when selling or serving an alcoholic beverage made with a wine product rather than a distilled beverage, disclose that the alcoholic beverage is 'wine based'.
- 3 AAC 305.560. This section prohibits a licensee from setting a period of time during the day that alcoholic beverages can be sold or delivered that is less than the hours that the licensed premises is open to the general public.
- 3 AAC 305.590. Definitions section.
- 3 AAC 305.880 This is a proposed new section to be added to the article entitled Enforcement; Civil Penalties. It outlines the metric the board will use to determine civil fines for violations of trade practices.

The board approved the draft at the November, 2023, meeting. Upon Law review and approval, the draft regulations were sent out for official public comment on December 14, 2023. The written public comments period closed January 26, 2024. Written comments were received and are attached to this memo packet. An oral hearing is scheduled for January 29, 2024 to take oral comments.

Options for the board:

- Move to adopt and send to Law for final review.
- Move to amend and adopt then send to Law for final review in advance of additional public comment.
- Move to send back to staff for more work.

3 AAC is amended by adding new sections to read:

Chapter 305. Alcoholic Beverage Control Board.

Article

5. Trade Practices (3 AAC 305.500 – 3 AAC 305.590)

Article 5. Trade Practices.

Section

500. Trade practices prohibitions

510. Tied house prohibitions

515. Exceptions to tied house prohibitions

520. Exclusive outlet prohibitions

525. Practices that do not amount to commercial bribery

530. Exceptions to consignment sales prohibitions

540. Administrative penalties

550. Adulteration, misbranding, and false advertising of alcoholic beverages

560. Pricing and marketing of alcoholic beverages

590. Definitions

3 AAC 305.500. Trade practices prohibitions. (a) Except as provided in 3 AAC 305.500 - 3 AAC 305.590, a person holding a brewery manufacturer license under AS 04.09.020, a person holding a winery manufacturer license under AS 04.09.030, a person holding a distillery manufacturer license under AS 04.09.040, a person holding a general wholesale license under AS 04.09.100, a person holding a limited wholesale brewed beverage and wine license under AS 04.09.110, a person engaged in the alcoholic beverage industry in another state or country as a brewer, vintner, distiller, wholesaler, or importer, or a person engaged in the alcoholic beverage

industry in another state or country as an agent of a brewer, vintner, distiller, wholesaler, or importer may not induce a person holding a license under AS 04.09 to

- (1) operate a tied house;
- (2) operate as an exclusive outlet;
- (3) engage in commercial bribery; or
- (4) engage in consignment sales.

(b) In this section, "commercial bribery," "consignment sales," "exclusive outlet," and "tied house" have the meaning set out in AS 04.16.017(d). (Eff. ____/____/_____, Register _____)

Authority: AS 04.06.090 AS 04.06.100 AS 04.16.017

3 AAC 305.510. Tied house prohibitions. In addition to the prohibitions set out under AS 04.16.017(a)(1), a person described in 3 AAC 305.500(a) may not induce a person holding a retail license under AS 04.09.200 - 04.09.370 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

- (1) providing, purchasing, or supplying the retailer with advertising services, including all forms of print, media, or Internet advertising;
- (2) paying or crediting the retailer for an advertising, display, or distribution service;
- (3) requiring the retailer to condition the purchase of product by requiring the purchase of any other product or a minimum quantity of any brand;
- (4) building, constructing, or otherwise erecting permanent or semi-permanent shelving, refrigeration, or other fixtures for stocking and displaying alcohol beverages at the retailer's premises, or moving retailer fixtures in a manner that obscures or hides other alcoholic

beverage products from view;

(5) serving alcohol to the general public on a retailer's premises; or

(6) rearranging or resetting the alcoholic beverages of a competing manufacturer or wholesaler or resetting the retailer's premises. (Eff. ___/___/_____, Register _____)

Authority: AS 04.06.090 As 04.06.100 AS 04.16.017

3 AAC 305.515. Exceptions to tied house prohibitions. (a) The practices set out in this section are exceptions to the practices listed under AS 04.16.017(a)(1) or 3 AAC 305.510. Under this section, an entity may

(1) furnish equipment, inside signage, supplies, services, or other things of value to a person holding a retail license under AS 04.09.200 - 04.09.370 if the entity furnishing those items maintains records, including commercial records or invoices, of all items furnished to the person holding the retail license, for a three-year period; the entity's records must show

(A) the retailer's name and address;

(B) the date the item was furnished to the retailer;

(C) a description of the item furnished to the retailer;

(D) the entity's cost of the furnished item, calculated at the invoice price and landed price to the entity's licensed premises in the state; and

(E) charges to the retailer for the furnished item;

(2) give or sell a product display to the person holding a retail license under AS 04.09.200 - 04.09.370, if

(A) the total value of the product display given or sold by the entity to the retailer does not exceed \$400 per brand at any one time in any single licensed premises or \$1,600 per brand if the retailer has two or more licensed premises, excluding installation

costs; under this subparagraph, entities may not pool or combine dollar limitations to provide a retailer a product display valued at more than \$400 per brand;

(B) the product display identifies the featured product or information about the product's manufacturer in a manner that is conspicuous, identifiable, and securely affixed; the name and address of the retailer may also appear on the product display; and

(C) a conditioned purchase of the alcoholic beverage on the product display does not exceed the quantity necessary for the initial completion of that display; under this subparagraph, the entity may not impose any other condition on the retailer for the retailer to receive or get the product display;

(3) give, sell, or loan indoor signage, indoor posters, table tents, place mats, menus, pamphlets, writing utensils, product description sheets, light fixtures, and other non-consumable similar items to a person holding a retail license under AS 04.09.200 - 04.09.370 if

(A) the item identifies the featured product or information about the product's manufacturer in a manner that is conspicuous, identifiable, and securely affixed; the name and address of the retailer may also appear on the item; and

(B) the entity does not directly or indirectly pay or credit the retailer for using or distributing the item or for an expense incidental to the item's use;

(4) give or sell outside signage to a person holding a retail license under AS 04.09.200 - 04.09.370 if

(A) the sign bears information about a featured product or the product's manufacturer in a manner that is conspicuous, identifiable, and securely affixed;

(B) the retailer is not compensated, directly or indirectly, for displaying the sign; and

(C) the cost of a single sign does not exceed \$400 per location or \$1,600 for a retailer with two or more licensed premises;

(5) furnish things of value to a temporary retailer;

(6) except as provided in (7) of this subsection, provide equipment, consumable supplies, or service ware to a person holding a retail license under AS 04.09.200 - 04.09.370 if

(A) the equipment, supplies, or service ware are sold at a price not less than the cost to the entity who initially purchased them and the landed price to the entity's registered address in the state; and

(B) the purchase cost is collected from the retailer not later than 30 days after the date of delivery or installation of the equipment, supplies, or service ware;

(7) provide or install an alcoholic beverage dispensing system, including alcoholic beverage taps or drafting equipment, to a person holding a retail license under AS 04.09.200 - 04.09.370, if

(A) the cost of the original purchase or installation is billed to the retailer at a price not less than the cost to the entity who initially purchased them and the landed price to the entity's registered address in the state;

(B) the purchase or installation cost is collected from the retailer not later than 30 days after the date of the purchase or installation; and

(C) the purchase or installation is not conditioned on the exclusion, in part or whole, of other entities' products;

(8) provide for the maintenance or cleaning of an alcoholic beverage dispensing system, including alcoholic beverage taps or drafting equipment, to a person holding a retail license under AS 04.09.200 - 04.09.370; maintenance costs exceeding \$50 shall be billed to the retailer and collected not later than 30 days after the date of performance of the service; cleaning

may be provided free of cost to the retailer;

(9) provide traditional or digital artwork to a person holding a retail license under AS 04.09.200 - 04.09.370 for use in advertising that features the entity's products;

(10) package and distribute alcoholic beverages in combination with other non-alcoholic items for sale to consumers at a retailer's premises;

(11) give or sponsor educational seminars for employees of a person holding a retail license holder under AS 04.09.200 – 04.09.370; seminars may be held at the entity's facility, a third-party location, or the retailer's facility; the entity may not pay the retailer's expenses for attendance, including travel and lodging costs; an entity may provide nominal hospitality during the event, including non-alcoholic beverages or hors d'oeuvres;

(12) provide a presentation to the general public on the licensed premises of a person holding a retail license under AS 04.09.200 - 04.09.370, including describing featured products during consumer-sampling activities;

(13) furnish coupons at the licensed premises of a person holding a retail license under AS 04.09.200 - 04.09.370 to consumers to redeem for alcoholic beverages or related accessories, if

(A) all licensed retailers within the market where the coupon offer is made may redeem those coupons;

(B) the entity does not reimburse a retailer for more than the face value of all coupons redeemed;

(C) the coupons are only created and provided by a manufacturer of an alcoholic beverage; and

(D) the coupons are only offered for products sold for off-premises consumption;

(14) list the names and addresses of two or more unaffiliated retailers licensed under AS 04.09.200 - 04.09.370 that are selling the products of an entity in an advertisement of the entity if

(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;

(15) manage display space at the licensed premises of a person holding a retail license under AS 04.09.200 - 04.09.370 on a nondiscriminatory basis; that display-space management may include

(A) product rotation of alcoholic beverages, either on retail shelves or in displays or from storage areas to retail shelves and display;

(B) storage area, retail shelf, and display stocking;

(C) construction of freestanding, special, and nonpermanent floor displays;

and

(D) delivery and placement of products to the retailer-designated storage areas;

(16) recommend a shelf plan or shelf schematic for alcoholic beverages to a person holding a retail license under AS 04.09.200 - 04.09.370, if the final decision of the placement of product is made by the retailer;

(17) reset the licensed premises of a person holding retail license under AS 04.09.200 - 04.09.370 if

(A) the retailer sends notice by mail or electronic mail to all entities from

which the retailer received alcoholic beverages within the past 12 months or distributors of those entities; notice under this subparagraph must

(i) include the date and time of the contemplated movement or reset; and

(ii) be sent not less than two weeks before the contemplated reset date;

(B) employees of an entity are not used as employees of, or required to provide services to, the retailer on any basis;

(C) the resultant movement of products or reset does not exclude a competing entity from the premises; and

(D) all entities are allowed to participate in the reset;

(18) extend credit to a person holding a retail license under AS 04.09.200 - 04.09.370 for the purchase of alcoholic beverages at standard market price on credit with a line of credit provided by a third-party financial institution, including finance charges and processing fees; and

(19) sell other merchandise, including groceries or pharmaceuticals, to a person holding a retail license under AS 04.09.200 - 04.09.370, if the entity is also in business as a bona fide producer or vendor of that merchandise and

(A) the merchandise is sold at the manufacturer's invoice price and if applicable, landed price to the entity in the state;

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

(C) the normal manufacturer's invoice price of the merchandise appears on

the retailer's purchase invoices or other records; and

(D) the individual selling prices of merchandise and alcoholic beverages sold in a single transaction can be determined from commercial documents covering the sales transaction.

(b) For the purposes of this section,

(1) "product display" means custom fixtures or special presentations that are used to attract and entice the buying public;

(2) "temporary retailer" means a person who does not hold a retail license under AS 04.09.200 - 04.09.370, but who is supplied with an alcoholic beverage permit not more than five times in a calendar year and where each event does not exceed four days. (Eff.

____ / ____ / _____, Register _____)

Authority: AS 04.06.090 As 04.06.100 AS 04.16.017

3 AAC 305.520. Exclusive outlet prohibitions. For the purposes of AS 04.16.017(a)(2), an entity may not induce a person holding a retail license under AS 04.09.200 - 04.09.370 to operate as an exclusive outlet for an entity by requiring the retailer to purchase alcoholic beverages from an entity to the exclusion, in whole or in part, of alcoholic beverages sold or offered for sale from other entities, where a required transaction operates by one or more of the following:

(1) an oral promise or written contract;

(2) requiring the retailer to purchase a specific or minimum quantity during the term of an oral promise or written contract; or

(3) a third-party arrangement that does not directly involve the entity, which compels a retailer to purchase alcoholic beverages, in whole or in part, to the exclusion of

products for sale by other entities. (Eff. ____/____/____, Register _____)

Authority: AS 04.06.090 AS 04.06.100 AS 04.16.017

3 AAC 305.525. Practices that do not amount to commercial bribery. The practices set out in this section do not constitute commercial bribery under AS 04.16.017(a)(3). Under this section, an entity may

(1) participate in an association activity of a person holding a retail license under AS 04.09.200 - 04.09.370 by

- (A) displaying the entity's products at a convention or trade show;
- (B) renting display booth space, if the rental fee is the same as that charged and paid for by all exhibitors at the event;
- (C) providing hospitality independent from an association-sponsored activity;
- (D) purchasing tickets to a function;
- (E) paying registration fees for an entity's participation in a conference, event, or tradeshow, if the payment or fee is the same as those paid by all attendees, participants, or exhibitors at the event; or
- (F) paying for an advertisement in a program or brochure issued by the association at a convention or trade show, if the total payments made by an entity for all such advertising do not exceed \$25,000 per year for any retailer association;

(2) provide a sample of alcoholic beverages to a person holding a retail license under AS 04.09.200 - 04.09.370, in not more than the following sizes:

- (A) one gallon per brand of brewed beverage;
- (B) one liter per brand of wine; and

(C) one liter per brand of distilled spirits;

(3) if a brand of brewed beverage, wine, or distilled spirits is not available in the sample size set out in (2) of this subsection, furnish the next larger size of that brand to a retailer as a sample;

(4) offer a contest prize, premium offer, or like item not more than 12 times per year, per brand, to the consumers of a person holding a retail license under AS 04.09.200 - 04.09.370 if

(A) the event at which the prize, premium offer, or like item is featured does not exceed 30 days in length;

(B) the contest prize, premium offer, or like item does not exceed \$400 in value on a single licensed premises or \$1,600 in value if the retailer has two or more licensed premises;

(C) officers, employees, or representatives of the entity and the retailer are excluded from participation;

(D) the entity determines the winner of the contest prize, premium offer, or like item and the name of the winner is posted on the licensed premises of the retailer where the event occurred for a period of 30 days; and

(E) the entity keeps records of prize, offer, or like item winners for a period of three years. (Eff. ___/___/___, Register ___)

Authority: AS 04.06.090 As 04.06.100 AS 04.16.017

3 AAC 305.530. Exceptions to consignment sales prohibitions. Notwithstanding the practices set out in AS 04.16.017(a)(4), an entity may accept returned merchandise for ordinary and usual commercial reasons arising after the merchandise has been sold, including return of

products that are

(1) unmarketable because of product deterioration, leaking containers, damaged labels, or missing or mutilated tamper evident closures; under this paragraph, products may be exchanged for an equal quantity of identical products or may be returned for cash or credit against outstanding indebtedness, except if the products were damaged after delivery to the retailer;

(2) in error, because of a discrepancy between products ordered and products delivered if the return of products occurs within a reasonable period after delivery, not to exceed 30 days; under this paragraph, delivered products may be exchanged for products that were originally ordered or returned for cash or credit against outstanding indebtedness;

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

(4) in inventory stock on the licensed premises when a retailer terminates operations, excluding seasonal shutdowns; under this paragraph, products may be returned for cash or credit against outstanding indebtedness;

(5) in inventory stock on the licensed premises when a retailer's distribution agreement with an entity has terminated; under this paragraph, products may be returned for cash or credit against outstanding indebtedness;

(6) subject to 27 C.F.R. 11.46 (seasonal products), changed in formula, proof, label, or container; under this paragraph, products may be exchanged for equal quantities of the new version of that product;

(7) from a discontinued production or importation of a product; under this paragraph, products may be returned for cash or credit against outstanding indebtedness;

(8) on the licensed premises of a retailer that operates only seasonally; under this paragraph, products may be returned for cash or for credit against outstanding indebtedness; or

(9) from a permittee approved by the Alcohol and Marijuana Control Office, who is not also licensed under AS 04. (Eff. ____/____/_____, Register _____)

Authority: AS 04.06.090 As 04.06.100 AS 04.16.017

3 AAC 305.540. Administrative penalties. (a) The board may levy administrative penalties for violation of this section against all participants in an unlawful trade practice at not less than two times the value of the inducement. The penalty imposed may be joint or severable against one or more participants. If applicable,

(1) the value of the inducement permitted under this section may be included in the calculation of the value of the administrative penalty; and

(2) the value of the inducement may include the identifiable market value of the inducement or comparable market value, or reasonable estimated market value.

(b) Administrative penalties will be levied in addition to any other fines levied by another governmental entity of the United States.

(c) The board may calculate the penalty allowed under (a) of this section by considering the severity of the violation and the prior violations of 3 AAC 305.500 - 3 AAC 305.590. by the parties involved in the inducement. (Eff. ____/____/_____, Register _____)

Authority: AS 04.06.090 As 04.06.100 AS 04.16.017

3 AAC 305.550. Adulteration, misbranding, and false advertising of alcoholic beverages. (a) Adulteration, misbranding, or false advertising of alcoholic beverages is prohibited.

(b) If a person holding a retail license under AS 04.09.200 - 04.09.370 or the retailer's employee or agent sells or serves a mixed alcoholic beverage made with a wine product instead of a distilled spirit, the entity or retailer that furnished the product shall disclose that the alcoholic beverage is "wine based" in all advertising, labeling, or descriptions of the mixed alcoholic beverage made with a wine product. It is prohibited to advertise, label, or make any written or oral representation, about an alcoholic beverage containing wine in a manner that may imply that the alcoholic beverage contains a distilled spirit. (Eff. ____/____/_____, Register _____)

Authority: AS 04.06.090 AS 04.06.100 AS 04.16.017

3 AAC 305.560. Pricing and marketing of alcoholic beverages. For the purpose of AS 04.16.015, except as provided for the holder of a package store sampling endorsement under AS 04.09.490, a person holding a retail license under AS 04.09.200 - 04.09.370 or the retailer's employee or agent 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: AS 04.06.090 AS 04.16.015 AS 04.16.017

AS 04.06.100

3 AAC 305.590. Definitions. For the purposes of 3 AAC 305.500 – 3 AAC 305.590,

(1) "brand" means a type of product manufactured by a particular company under a particular name;

(2) "entity" means

(A) a person holding a

- (i) brewery manufacturer license under AS 04.09.020;
- (ii) winery manufacturer license under AS 04.09.030;
- (iii) distillery manufacturer license under AS 04.09.040;
- (iv) general wholesale license under AS 04.09.100; or
- (v) limited wholesale brewed beverage and wine license under AS 04.09.110;

(B) a brewer, vintner, distiller, wholesaler, or importer that is located outside of the state; or

(C) an agent of a brewer, vintner, distiller, wholesaler, or importer that is located outside of the state;

(3) "product" means any alcoholic beverage;

(4) "retailer" means an entity licensed under AS 04.09.200 - 04.09.370. (Eff.

____/____/____, Register _____).

Authority: AS 04.06.090 AS 04.06.100 AS 04.16.017

3 AAC is amended by adding a new section to read:

3 AAC 305.880. Fines for trade practice prohibition violations. In addition to administrative penalties, civil fines for violations of 3 AAC 305.500 - 3 AAC 305.590 will be determined by the board on a case-by-case basis. (Eff. ____/____/____, Register _____)

Authority: AS 04.06.090 AS 04.06.100 AS 04.16.017

From: [William St.Pierre](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Re: NOTICE OF PROPOSED NEW SECTIONS ON TRADE PRACTICES ADDED TO A NEW CHAPTER (305) OF THE ALCOHOLIC BEVERAGE CONTROL BOARD UNDER TITLE 3 OF THE ALASKA ADMINISTRATIVE CODE
Date: Thursday, December 14, 2023 9:27:01 AM

You don't often get email from aktender@hotmail.com. [Learn why this is important](#)

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

Kristina,

Thank you very much. I've looked through each document but can't seem to find a basic summary of what the changes would be. Do you generally provide a layman's summary somewhere in these correspondence?

Thank you!
Billy

Get [Outlook for Android](#)

From: CED AMCO REGS (CED sponsored) <amco.reg@alaska.gov>
Sent: Thursday, December 14, 2023 8:09:36 AM
Cc: CED AMCO REGS (CED sponsored) <amco.reg@alaska.gov>
Subject: NOTICE OF PROPOSED NEW SECTIONS ON TRADE PRACTICES ADDED TO A NEW CHAPTER (305) OF THE ALCOHOLIC BEVERAGE CONTROL BOARD UNDER TITLE 3 OF THE ALASKA ADMINISTRATIVE CODE

Dear Licensees,

Please see attached proposed regulations regarding proposed new sections on trade practices added to a new chapter (305) of the Alcoholic Beverage Control Board under Title 3 of the Alaska Administrative Code. This regulation is open for public comment until January 26, 2024 at 4:30 p.m. Comments and questions may be submitted to the Alcohol and Marijuana Control Office at amco.reg@alaska.gov or through the Online Public System <http://notice.alaska.gov/213589>.

Respectfully,

Kristina Serezhenkov
Regulations Specialist
Alcohol & Marijuana Control Office
550 W 7th Avenue, Ste. 1600
Anchorage, AK 99501

From: [Serezhenkov, Kristina R \(CED\)](#)
To: Jmhill2020@outlook.com
Cc: [CED AMCO REGS \(CED sponsored\)](#)
Subject: RE: Regulation question
Date: Wednesday, December 13, 2023 12:14:42 PM

Hello Jan,

I have been out of office for a few days and just returned so I apologize for the delayed response. I can't give a definitive response at this time. I am sending out the Trade Practices regulations for public comment this week and planning an oral hearing at the January Board meeting. The question the Meadery poses below should be part of the public comment process and so I will add this comment/question to the written comments.

Thank you,

Kristina Serezhenkov
Regulations Specialist 2
Alcohol and Marijuana Control Office
550 West 7th Avenue, Suite 1600
Anchorage, Alaska 99501

907-269-0359

From: Jmhill2020@outlook.com <Jmhill2020@outlook.com>
Sent: Friday, December 8, 2023 10:21 AM
To: Serezhenkov, Kristina R (CED) <kristina.serezhenkov@alaska.gov>
Subject: Regulation question

You don't often get email from jmhill2020@outlook.com. [Learn why this is important](#)

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

Good morning, Kristina,

A licensee asked me a clarification question that I cannot answer confidently! Carrie referred me to you, so here goes.....the 3 Northmen (Meadery) is selling their product

out of Haines now. They provide a display shelf that fits the theme of their business to each retailer that they ship to. Will they still be able to do this?

The question came when they got the recent email they received explaining some changes. I don't have the regs, or email, in front of me, but am hoping you can help me with this.

Thanks so much,
Jan Hill

From: [Eric Forst](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: trade practice revisions
Date: Monday, January 22, 2024 12:27:32 PM
Attachments: [image002.png](#)

You don't often get email from eric@reddogsaloon.com. [Learn why this is important](#)

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

Hello,

I am writing today to express my disagreement with the proposed changes to the business relationships between alcohol manufacturers, distributors, and retailers. As a BDL license holder, I have read the proposed changes and I feel that they are way overboard in their restriction. Many operators in Alaska are small independent businesses that rely on their distributors for help in promoting their business and for attracting new customers. Key to this is the ability for the retailer to obtain prizes or promotional help from their distributor. The distributor has access to many items that the local retailer may never be able to obtain. The new regulations will make it even more difficult to succeed in a very competitive environment for BDL license holders. Especially after the relaxation of rules regarding breweries and distilleries. BDL holders face more competition than ever before and restricting their ability to promote their businesses is not good for the industry.

The recommended changes proposed by CHARR I believe allow for continued cooperation between distributors and retailers while still putting in place some limits to prevent abuses.

I strongly urge you to adopt the CHARR recommendations or something similar.

Here are the CHARR recommendations for your reference:

Under 3 AAC 305.515 - Exceptions to Tied House Prohibitions

- Product Displays
 - Text: the total value of the product display given or sold by the entity to the retailer does not exceed \$400 per brand at any one time in any single licensed premises or \$1,600 per brand if the retailer has two or more
 - **Alaska CHARR recommendation: change \$400 per brand at any time to \$10,000 and drop the language regarding entities.** This was decided based on a per-year recommendation. \$400 is far too low under a per-year recommendation.
- Outside Signs
 - Text: the cost of the single sign does not exceed \$400 per location or

\$1600 for a retailer with two or more licensed premises.

- **Alaska CHARR recommendation: Change \$400 to \$10,000.**
- Coupons
 - Text: furnish coupons at the licensed premises of a person holding a retail license
 - **Alaska CHARR recommendation: Remove this section.** It does not need to be in regulation. These decisions should be made between a wholesaler and manufacturer.

3 AAC 305.525 - Practices that do not amount to commercial bribery

- Retail Association Activity
 - Text: for an advertisement in a program or brochure issued by the association at a convention or trade show with the total payments made by an entity for all such advertising do not exceed \$25,000 per year for any retail association
 - **Alaska CHARR recommendation: Change \$25,000 per year to \$100,000 per year or this section eliminated completely.** Retail associations rely on donations. \$25,000/year in perpetuity will just lead to more legislation in the future, due to inflation.
- Contest prizes
 - Text: offer a contest prize, premium offer, or like item not more than 12 times per year per brand to the consumers of a person holding a retail license under AS 04.09.200 - 04.09.370
 - **Alaska CHARR recommendation:** We recommend changing \$400 to \$10,000 to keep the language used in previous sections.

Thank you for your time and consideration of this matter that affects the livelihood of many of Alaska's BDL license holders.

Eric Forst

General Manager/Partner

Red Dog Saloon and Mercantile

278 S. Franklin St.

Juneau AK, 99801

(907)463-3658 ext. 1

(907)723-1275 cell

eric@reddogsaloon.com



www.reddogsaloon.com

From: [Jason Hemphill](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: New Regulations
Date: Thursday, December 14, 2023 10:52:01 AM

You don't often get email from corksandhops@yahoo.com. [Learn why this is important](#)

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

I didn't see any return/pick up exception for off condition/bad product.

This would include corked wine, bad beer kegs, etc. This is something that retailers deal with often. Passing the loss down to the retailers instead of the manufactures is unacceptable. They need to stand by their product and make sure it meets minimum standards.

Jason Hemphill
Owner
907-720-9921

From: [Peggy Horton](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: FW: SUPPLEMENTAL NOTICE OF NEW SECTIONS ON TRADE PRACTICES ADDED TO A NEW CHAPTER (305) OF THE ALCOHOLIC BEVERAGE CONTROL BOARD UNDER TITLE 3 OF THE ALASKA ADMINISTRATIVE CODE- ORAL HEARING
Date: Friday, January 12, 2024 2:54:47 PM
Attachments: [image001.png](#)
[2023200110.002 SUPPLEMENTAL public notice OPN.pdf](#)
[2023200110.002 Draft regulations approved for notice.pdf](#)

You don't often get email from peggy.horton@matsugov.us. [Learn why this is important](#)

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

Mat-Su Borough Development Services Division has no comments.

Respectfully,
Peggy Horton
Current Planner
Matanuska-Susitna Borough
350 E. Dahlia Avenue
Palmer AK 99645
907-861-7862



From: CED AMCO REGS (CED sponsored) <amco.regs@alaska.gov>
Sent: Thursday, January 11, 2024 2:12 PM
Cc: CED AMCO REGS (CED sponsored) <amco.regs@alaska.gov>
Subject: SUPPLEMENTAL NOTICE OF NEW SECTIONS ON TRADE PRACTICES ADDED TO A NEW CHAPTER (305) OF THE ALCOHOLIC BEVERAGE CONTROL BOARD UNDER TITLE 3 OF THE ALASKA ADMINISTRATIVE CODE- ORAL HEARING

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Dear Local Governments,

Please see attached supplemental notice adding to the notice of proposed regulations regarding new sections on trade practices added to a new chapter (305) of the Alcoholic Beverage Control Board under Title 3 of the Alaska Administrative Code that was issued on December 14, 2023. This supplemental notice advises that the board will hold an oral hearing to take oral testimony on the proposed new sections. The oral hearing will be held during the Board Meeting on January 29, 2024. Comments and questions may be submitted to the Alcohol and Marijuana Control Office at amco.regs@alaska.gov. The online public notice can be accessed with this link: <http://notice.alaska.gov/213881>.

Respectfully,

Kristina Serezhenkov
Regulations Specialist
Alcohol & Marijuana Control Office
550 W 7th Avenue, Ste. 1600
Anchorage, AK 99501



January 24th, 2024

To: Director Wilson and the Alcohol Beverage Control Board,

The Brewer's Guild of Alaska reviewed the recently proposed regulations 3 AAC 305.500 and strongly supports adopting the regulations as proposed with some minor changes. The regulations before the ABC Board represent the final compromise of the almost 12-year Title IV update process. Regulating an aspect of the alcohol industry that has gone unregulated since prohibition will be an adjustment for all industry members. However, Alaska is the last state in the US to adopt trade practice regulations and the time has come for the final piece of modernization to materialize.

The proposed 3 AAC 305.500 will level the playing field for manufacturers both large and small, providing the consumer with more access to options. Small retailers will likely receive the same benefits that large retailers currently enjoy, allowing independent businesses to better compete in an ever-consolidating retail market.

However, we do request that a few changes be considered to ensure that the manufacturers in Alaska are compliant with both AS 04 and 3 AAC 305.500.

Under AS 04.09, breweries, wineries, and distilleries with the new manufacturer retail licenses are required to only sell the products of their adjacent manufacturing operation. 3 AAC 305.500 makes no exception for retail licensees who are wholly owned by a manufacturing operation. 3 AAC 305.510 and 3 AAC 305.520 prohibit a retail licensee from offering products to the exclusion of other manufacturers, however AS 04.09.340 - 360 requires this very activity. Therefore, we are requesting that the ABC Board consider adopting one or more of the following options to the proposed regulations:

- 1) 3 AAC 305.515 Section 20 (addition) proposed:**
Any retail licensee being wholly owned by and operated adjacent to or overlapping with a manufacturing licensee is exempt from tied-house prohibitions.

Purpose: Using the proposed language of option 1, any retail establishment operated by a manufacturer remains exempt from tied house prohibitions as long as the retail operation is



located with the manufacturing operation. The downside is that a manufacturer that owns a retail license in whole or in part that is located in a non-adjacent location would not be able to supply equipment, which may create a de facto situation of prohibited financial interest.

(OR)

2) 3 AAC 305.515 Section 20 (addition) proposed:

Any retail license being wholly owned and operated by an entity that also wholly owns a manufacturing license under AS 04.09.020 - .040 is exempt from tied house prohibitions.

Purpose: Option 2 opens the door much wider and solves the question of how a manufacturer/off site retail operation relationship may occur. Option two would still limit partial ownership operations. If a manufacturer owns a stake in a retail operation, it would still be required to bill for materials and may not provide inducements to secure market share. This regulation would limit the opportunities for manufacturers to buy stakes in retailers in a back door “pay to play” situation.

(OR)

3) 3 AAC 305.590 Section 4 (amend) proposed:

“retailer” means an entity licensed under AS.04.09.200 – 310 and 350-370.

Purpose: Option 3 would strictly limit the exemption of all trade practice regulations to the manufacturer/manufacturer retail license relationship. This would be the most limited exemption and may be problematic for manufacturers that operate or are planning to operate a retail type operation beyond the MRL.

In addition to the tied house prohibitions, Manufacturers also raised concerns with two other items which are related but covered under different sections. The first section is:

3 AAC 305.515 (14) list the names and addresses of two or more unaffiliated retailers licensed under AS 04.09.200 - 04.09.370 that are selling the products of an entity in an advertisement of the entity if

(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;

Manufacturers are concerned that they will not be able to promote and advertise sampling, beer dinners, presentations such as those allowed under 3 AAC 305.515 Section 12, and other collaborative events with retailers. In order to preserve the ability to promote and inform the public of special events featuring and an entity's products, the BGA proposes the following language change to section 14 of 3 AAC 305.515:

(14) list the names and addresses of a [~~two or more unaffiliated~~] retailers licensed under AS 04.09.200 - 04.09.370 that ~~are is~~ selling the products of an entity in an advertisement of the entity if

(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; or,

(Proposed addition)

(D) the advertisement is for an event of limited duration such as a permitted event, a non profit fundraiser or a sampling or food pairing event.

The final issue for the BGA, is 3 AAC 305.510 section 5. While the members of the BGA are generally supportive of limiting or prohibiting entity's serving alcohol on another licensee's premise, we are concerned that certain events that have occurred for many years in Alaska will now be prohibited. Such an example is the University of Alaska Fairbanks "Pub Fest" event that occurs in April. The event is held in the Pub on the UAF campus and features manufacturers from around the state. Additionally, the AK Crafted Festival was held at Williwaw in Anchorage this year. In order to preserve these long running events, the BGA proposes the following addition;

3 AAC 305.515 section 21 (addition)

Serve products that are manufactured or sold normally by the entity on a retail licensee's premise for limited entry, ticketed events, no more than 4 times per year, per retail licensee.

Purpose: The above proposed language allows for licensees to host festivals, product exhibits and the like if they choose. However, a cap is provided to ensure that the system is not abused.



The Brewer's Guild of Alaska believes that the forementioned changes would be in line with CFR's regulating trade practices, be in the best interest of the public, and preserve activities that currently occur in the state and do not result in exclusion of any other entity's products.

Regards,

Executive Director

Stephanie Haskins

Brewers Guild of Alaska Board of Directors

Lee Ellis, President

Evan Wood, Vice President

Ben Millstein, At-Large

Robert McCormick, Treasurer

Riley Prestegard, Secretary

Brewers Guild of Alaska Government Affairs Committee

Lee Ellis, Midnight Sun Brewing Co.

Evan Wood, Devils Club Brewing Co.

Josh Hegna, Girdwood Brewing Co.

Cindy Drinkwater, Cynosure Brewing Co.

Marcy Larson, Alaskan Brewing Co.

John Blasco, Anchorage Distillery

Skye Stokoll, Forbidden Peaks Brewing Co.

Greg Haas, Stoney Creek Brewhouse

From: [Lee Ellis](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Comments for proposed 3 AAC 305.500
Date: Wednesday, January 24, 2024 11:20:45 AM
Attachments: [3 AAC 305 Comments.docx](#)

You don't often get email from lee@midnightsunbrewing.com. [Learn why this is important](#)

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

Please see attached. Thanks!

Logo



Lee Ellis

President (MSBC) | Board President (BGA)

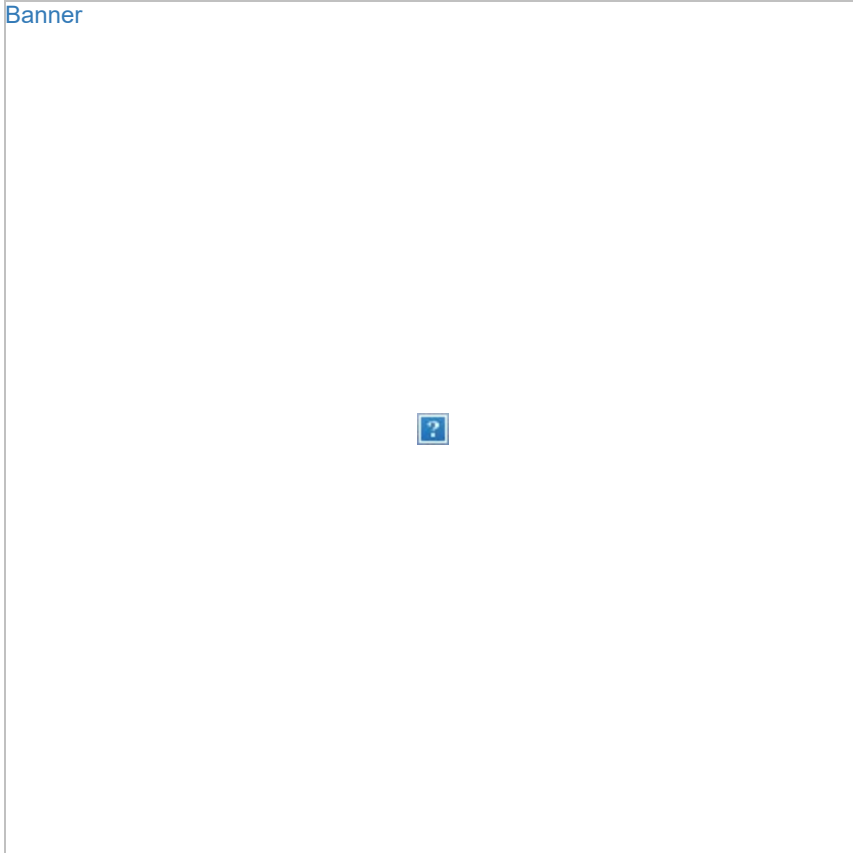
T: (907) 748-5427

E: lee@midnightsunbrewing.com | midnightsunbrewing.com

8111 Dimond Hook Dr. | Anchorage, AK 99507



Banner



From: [Sean Heismann](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Proposed trade practice regulations
Date: Wednesday, January 24, 2024 11:37:45 AM

You don't often get email from sean@insidepassagebrewing.com. [Learn why this is important](#)

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

Director Wilson and the Honorable Members of the Alcohol Beverage Control Board:

AMCO has recently proposed regulations 3 AAC 305.500 for the regulation of trade practices. As an alcohol industry member operating (your business), I support the adoption of the regulations with the recommended changes from the Brewer's Guild of Alaska. The proposed regulations are a fair compromise between manufacturers, wholesalers, and retail alcohol businesses and will enhance competition to the benefit of consumers across the state.

For too long, unregulated trade practices in Alaska have denied small, locally owned manufacturers a fair opportunity to sell their products. Consumers have been denied access to new and exciting products, and small retailers have been extremely challenged in trying to compete with larger retailers who benefit significantly from inducements.

Please adopt 3 AAC 305.500 and modernize Alaska's regulations.

Sincerely,

Sean Heismann
Bawden Street Brewing Company
Inside Passage Brewing Co., LLC.
513-324-0762 (cell), 907-225-4722 (office)
License #5611

A veteran-owned & operated company



Kodiak Island Brewing & Still

Ben Millstein; manager/brewer

117 Lower Mill Bay Rd.

Kodiak, Alaska 99615

907-486-ALES (2537)

bmills@ak.net

www.kodiakbrewery.com

To: Director Wilson and the Honorable Members of the Alcohol Beverage Control Board,

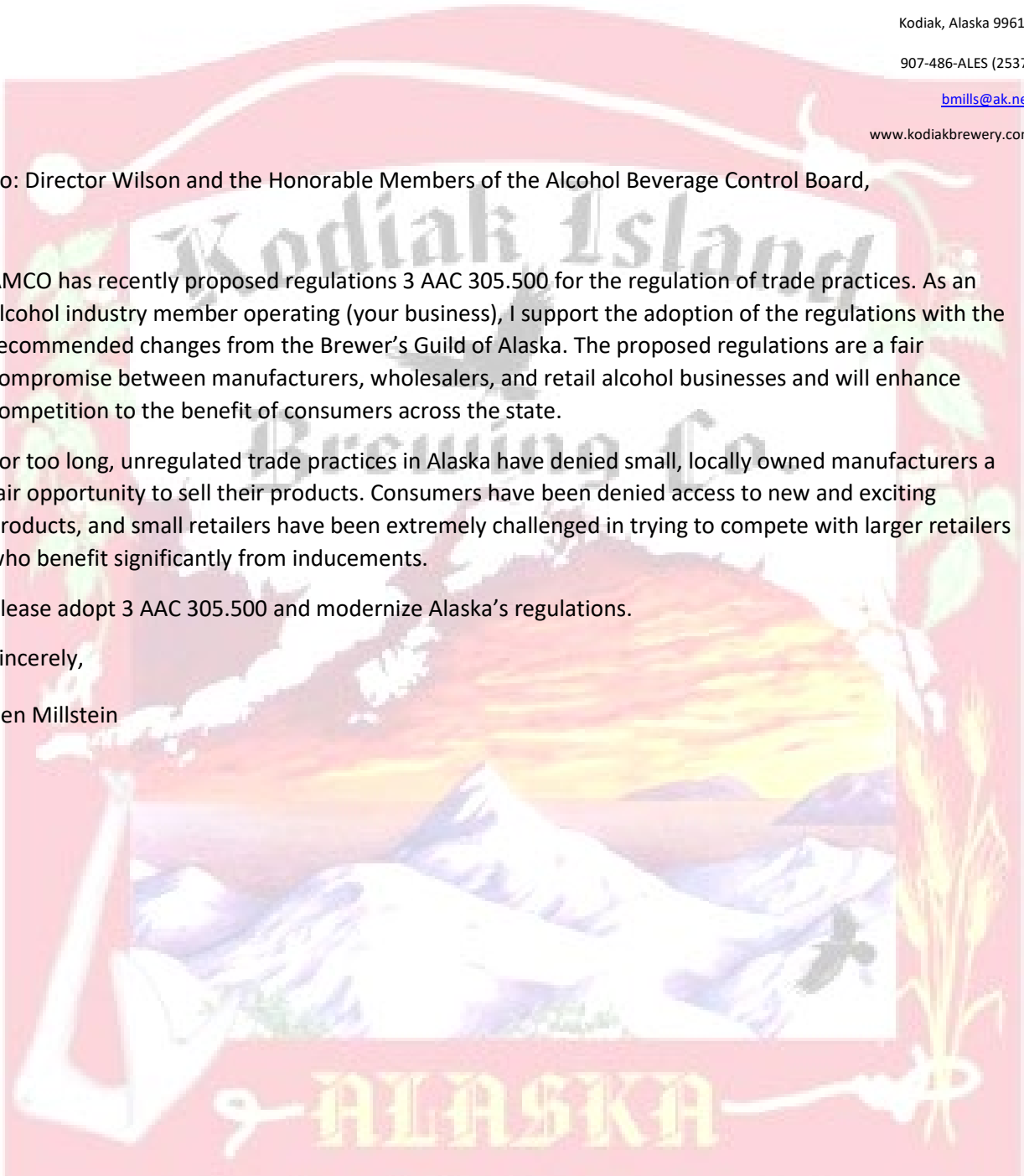
AMCO has recently proposed regulations 3 AAC 305.500 for the regulation of trade practices. As an alcohol industry member operating (your business), I support the adoption of the regulations with the recommended changes from the Brewer's Guild of Alaska. The proposed regulations are a fair compromise between manufacturers, wholesalers, and retail alcohol businesses and will enhance competition to the benefit of consumers across the state.

For too long, unregulated trade practices in Alaska have denied small, locally owned manufacturers a fair opportunity to sell their products. Consumers have been denied access to new and exciting products, and small retailers have been extremely challenged in trying to compete with larger retailers who benefit significantly from inducements.

Please adopt 3 AAC 305.500 and modernize Alaska's regulations.

Sincerely,

Ben Millstein



From: [Ben Millstein](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: comment
Date: Wednesday, January 24, 2024 11:40:34 AM
Attachments: [AMCO LETTER.doc](#)

You don't often get email from millstein.ben@gmail.com. [Learn why this is important](#)

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

To: Director Wilson and the Honorable Members of the Alcohol Beverage Control Board,

AMCO has recently proposed regulations 3 AAC 305.500 for the regulation of trade practices. As an alcohol industry member operating (your business), I support the adoption of the regulations with the recommended changes from the Brewer's Guild of Alaska. The proposed regulations are a fair compromise between manufacturers, wholesalers, and retail alcohol businesses and will enhance competition to the benefit of consumers across the state.

For too long, unregulated trade practices in Alaska have denied small, locally owned manufacturers a fair opportunity to sell their products. Consumers have been denied access to new and exciting products, and small retailers have been extremely challenged in trying to compete with larger retailers who benefit significantly from inducements.

Please adopt 3 AAC 305.500 and modernize Alaska's regulations.

--
Ben Millstein

Kodiak Island Brewing & Still
www.kodiakbrewery.com
907-486-ALES (2537)

From: [Ana Fisk](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Cc: [Amy Shimek](#)
Subject: Liquor Stores USA North, Inc. Comments
Date: Wednesday, January 24, 2024 5:19:04 PM
Attachments: [LSUN 1.24.24.pdf](#)

You don't often get email from afisk@afognak.com. [Learn why this is important](#)

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

Good evening,

Thank you for the opportunity to submit comments regarding the Alcoholic Beverage Control Board's proposed new chapter (305) under Title 3 of the Alaska Administrative Code. Attached is the letter containing LSUN's comments for consideration.

Sincerely,

Ana

Ana B. Fisk

Vice President

Afognak Commercial Group, LLC

3909 Arctic Boulevard, Suite 500 | Anchorage, Alaska 99503

(O) (907) 222-9579 | (M) (907) 244-4377

afisk@afognak.com

acg.afognak.com

CONFIDENTIALITY NOTICE

This email transmission and any documents accompanying it may contain proprietary, confidential and/or other information protected from disclosure. The information transmitted is intended only for the use of the individual(s) named above. If you are not the intended recipient of the transmitted information, you are hereby notified that disclosing, copying, distributing, or taking action in reliance on the contents of this message is strictly prohibited. If you have received this transmission in error, notify the sender, and delete the information.



3909 Arctic Boulevard, Suite 500
Anchorage, Alaska 99503
Office: (907) 222-9500
Fax: (907) 222-9501

Submitted electronically via the AMCO Public Input Email:
AMCO.regs@alaska.gov

January 24, 2024

Dana Walukiewicz, Chair
Alcohol And Marijuana Control Board

Joan Wilson, Director
Alcohol And Marijuana Control Office

Re: Request for Public Input for Proposed Articles in a New Chapter of the Alcoholic Beverage Control Board Under Title 3 of Alaska Administrative Code

Dear Mr. Walukiewicz and Ms. Wilson:

Liquor Stores USA North Inc. dba Brown Jug ("Brown Jug") and its wholly owned subsidiary Cody Alaska Liquors, Inc. dba Gold Rush Liquor ("Gold Rush" and collectively, with Brown Jug, "LSUN") is pleased to submit these comments regarding the Alcoholic Beverage Control Board's proposed new chapter (305) under Title 3 of the Alaska Administrative Code.

I. Introduction

As background, Afognak Commercial Group, LLC (a wholly owned subsidiary of Afognak Native Corporation) acquired Brown Jug in 2020 from its Canada-based owner Alcanna, Inc. bringing home local ownership of the recognized brand "Brown Jug" found throughout Alaska. In 2020, LSUN operated twenty-one package stores in Anchorage, Eagle River and Fairbanks. In 2023, LSUN added one brand-new store in Anchorage and also acquired Gold Rush with its one retail liquor store in Anchorage, bringing LSUN's total to twenty-three package stores.

II. Comments regarding Draft Article 5 Trade Practices Regulations.

a. Making Alaska's Trade Practices consistent with Federal Law

Applicable Statute: Sec. 04.16.017(b)

(b) 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.

In its July 2023 Public Comment Letter to AMCO, LSUN commented on the yet-to-be drafted regulations for Trade Practices. As LSUN stated then, LSUN appreciated that, under AS 04.16.017(b), the new regulations would align Alaska regulations with federal regulations, as this would make the law clearer and more consistent for licensees. It is important for LSUN and other licensees that any exceptions to the Trade Practices provided in draft regulations match the current federal exceptions (27 C.F.R. 6.81 et al.) so that licensees have a clear understanding for their operations after implementation on January 1, 2024. These federal exceptions are integral to the business models of the industry.

Unfortunately, the draft Article 5 Trade Practices Regulations are not consistent with federal regulations in the ways discussed below.

b. Exceptions to Tied House Prohibitions

The draft of proposed regulation 3 AAC 305.515 provides:

(a)(2) give or sell a product display to the person holding a retail license under AS 04.09.200 - 04.09.370, if (A) the total value of the product display given or sold by the entity to the retailer does not exceed \$400 per brand at any one time in any single licensed premises or \$1,600 per brand if the retailer has two or more licensed premises, excluding installation costs; under this subparagraph, entities may not pool or combine dollar limitations to provide a retailer a product display valued at more than \$400 per brand;
(underline emphasis added)

(a)(4) give or sell outside signage to a person holding a retail license under AS 04.09.200 - 04.09.370 if (C) the cost of a single sign does not exceed \$400 per location or \$1,600 for a retailer with two or more licensed premises;
(underline emphasis added)

However, under the corresponding federal regulation, there is no total dollar restriction per brand for retailers with more than one location. Instead, the per dollar restriction is limited to each retail establishment.

27 CFR Part 6 § 6.83 Product displays

(1) The total value of all product displays given or sold by an industry member under paragraph (a) of this section may 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.
(underline emphasis added)

Under the draft proposed regulation, a single location retailer could receive a \$400 display, while a retailer with more than one location would have to choose a considerably less valuable display per location or choose different brand display strategies for each location. For example, LSUN would have to spread the \$1600 permitted for retailers with two or more licensed premises amongst its 23 stores which equates to approximately one \$70 product display per store, while a retailer with a single location is permitted a \$400 product display. As currently drafted, the proposed Alaska regulation puts retailers with multiple locations at a substantial competitive disadvantage, whereas the federal regulation puts all retail locations on the same footing. It is fundamentally fair that each package store has the same product display dollar limitation, which

LSUN believes is the equitable result that AMCO is aiming for. Accordingly, LSUN respectfully requests that AMCO delete "or \$1,600 per brand if the retailer has two or more licensed premises" from the proposed regulation so that 3 AAC 305.515(a)(2) reads as follows:

(a)(2) give or sell a product display to the person holding a retail license under AS 04.09.200 - 04.09.370, if (A) the total value of the product display given or sold by the entity to the retailer does not exceed \$400 per brand at any one time in any single licensed premises, excluding installation costs; under this subparagraph, entities may not pool or combine dollar limitations to provide a retailer a product display valued at more than \$400 per brand;
(underline emphasis added to indicate deleted language)

For the same reason, LSUN respectfully requests that AMCO delete "or \$1,600 for a retailer with two or more licensed premises" from proposed regulation 3 AAC 305.515(a)(4) so that it reads as follows:

(a)(4) give or sell outside signage to a person holding a retail license under AS 04.09.200 - 04.09.370 if (C) the cost of a single sign does not exceed \$400 per location;
(underline emphasis added to indicate deleted language)

c. Practices that do not amount to commercial bribery

The draft of proposed regulation 3 AAC 305.525 provides:

(4) offer a contest prize, premium offer, or like item not more than 12 times per year, per brand, to the consumers of a person holding a retail license under AS 04.09.200 - 04.09.370 if
(A) the event at which the prize, premium offer, or like item is featured does not exceed 30 days in length;
(B) the contest prize, premium offer, or like item does not exceed \$400 in value on a single licensed premises or \$1,600 in value if the retailer has two or more licensed premises;
(C) officers, employees, or representatives of the entity and the retailer are excluded from participation;
(D) the entity determines the winner of the contest prize, premium offer, or like item and the name of the winner is posted on the licensed premises of the retailer where the event occurred for a period of 30 days; and
(E) the entity keeps records of prize, offer, or like item winners for a period of three years.
(underline emphasis added)

Under the corresponding federal regulations, there are no total dollar restrictions for retailers related to promotions.

27 CFR Part 6 § 6.84 Point of sale advertising materials and consumer advertising specialties.

27 CFR Part 6 § 6.86 Consumer promotions

Therefore, LSUN respectfully requests that the total dollar restrictions be removed from the proposed 3 AAC 305.525 in conformity with federal regulation. Further, if the draft regulation is implemented, retailers with more than one location will be substantially disadvantaged. As noted above, with the proposed \$1,600 multiple location limit, LSUN would be restricted to an approximately \$70 prize for each of its locations, while a retailer

with a single store could offer a \$400 prize. Finally, the proposed dollar amounts in the regulation create a low ceiling for prize offerings, particularly with the high cost of goods in Alaska.

Accordingly, LSUN respectfully requests that AMCO delete "(B) the contest prize, premium offer, or like item does not exceed \$400 in value on a single licensed premises or \$1,600 in value if the retailer has two or more licensed premises" from the proposed regulation to eliminate the dollar restriction requirement, so that 3 AAC 305.255(4) reads in its entirety as follows:

- (4) offer a contest prize, premium offer, or like item not more than 12 times per year, per brand, to the consumers of a person holding a retail license under AS 04.09.200 - 04.09.370 if
 - (A) the event at which the prize, premium offer, or like item is featured does not exceed 30 days in length;
 - (B) officers, employees, or representatives of the entity and the retailer are excluded from participation;
 - (C) the entity determines the winner of the contest prize, premium offer, or like item and the name of the winner is posted on the licensed premises of the retailer where the event occurred for a period of 30 days; and
 - (D) the entity keeps records of prize, offer, or like item winners for a period of three years.

d. Privacy Concerns with 3 AAC 305.525(4)(D)

LSUN is concerned that the draft of proposed regulation 3 AAC 305.525(4)(D) includes a requirement that would infringe on an individual's right to privacy:

- (D) the entity determines the winner of the contest prize, premium offer, or like item and the name of the winner is posted on the licensed premises of the retailer where the event occurred for a period of 30 days;

There is no apparent justification for the need to publicly post the individual's name on the licensed premises. A prize winner should have the right to choose to remain anonymous as far as the general public; for example, a prize winner may be worried that if their name becomes known to the public, they may be subject to harassment or unwanted solicitation, or otherwise suffer negative publicity. Also, public posting of a winner's name might discourage customers from participating in a contest. LSUN therefore respectfully requests that 3 AAC 305.525(4)(D) be deleted.

e. Definitions

The draft regulations 3 AAC 305.500 – 3 AAC 305.590 include definitions for terms not used elsewhere in the Chapter 305 Alcohol Beverage Control Board regulations. The introduction of the term "retailer" is of particular concern.

- (4) "retailer" means an entity licensed under AS 04.09.200 - 04.09.370.

This draft regulation will apply to every type of "Retail License" under the new Title 4 statute. Yet, in the general sense of the word, some license holders may only think of package stores as "retailers." This may lead to confusion among certain license holders because they may not realize that these new draft regulations will apply to their operations. Besides missing their opportunity to submit public comments, it could cause many license holders to be out of compliance.

LSUN respectfully requests clarification of both the intent and language in the definition of “retailer”. Specifically, it should be clarified whether the draft regulations are meant to apply to all the license holders as written, or if the regulations are meant to apply to package store license holders only.

V. Conclusion.

In summary, the new Title 4 statute specifically requires the Board to adopt regulations providing exceptions to the Trade Practices provided at AS 04.16.017 that are consistent with federal law. The draft regulations fail to meet this standard. They are not only inconsistent with Federal regulations but also disrupt the Alaska alcohol industry’s operations that were previously consistent with Federal law.

We appreciate AMCO’s dedicated work and the opportunity to provide these comments. Please contact us if you have any questions or concerns regarding these comments.

Sincerely,



Ana Fisk

Vice President

Liquor Stores USA North Inc. dba Brown Jug and Cody Alaska Liquors, Inc. dba Gold Rush Liquor

cc: Amy J. Shimek, Chief Legal Officer & General Counsel, Afognak Native Corporation

From: [Amber Chambers](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Comment on Proposed Trade Practice Regulations
Date: Wednesday, January 24, 2024 1:34:14 PM

You don't often get email from amber@onsitebrewing.com. [Learn why this is important](#)

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

Hello,

I'd like to comment on the proposed trade practice regulations.

With the rate that social media is progressing, it would be impossible for regulation to keep up. I ask that all unpaid social media restrictions/recommendations be removed from the law. By allowing unpaid use of social media, this would be fair for all parties. Keeping the regulation for paid ads on social media more specifically targets the intention of equalizing the playing field for all entities.

Thank you for your time.

Cheers,
Amber Chambers
Onsite Brewing Company
<https://www.onsitebrewing.com/>

From: [Gregory Haas](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Comment on Proposed Trade Practice Regulations
Date: Wednesday, January 24, 2024 1:44:14 PM

You don't often get email from scakbwarehouse@gmail.com. [Learn why this is important](#)

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

January 24th, 2024

To: Director Wilson and the Honorable Members of the Alcohol Beverage Control Board,

AMCO has recently proposed regulations 3 AAC 305.500 for the regulation of trade practices. As an alcohol industry member operating Stoney Creek BrewHouse, I support the adoption of the regulations with the recommended changes from the Brewer's Guild of Alaska. The proposed regulations are a fair compromise between manufacturers, wholesalers, and retail alcohol businesses and will enhance competition to the benefit of consumers across the state.

I'm pretty much the case study for how distributors and "free" merchandise have choked out the smaller folks - numerous times have promised free equipment, services, and merchandise to persuade retailers away from comparable products.

We need some help and this is the best method to level the playing field.

For too long, unregulated trade practices in Alaska have denied small, locally owned manufacturers a fair opportunity to sell their products. Consumers have been denied access to new and exciting products, and small retailers have been extremely challenged in trying to compete with larger retailers who benefit significantly from inducements.

Please adopt 3 AAC 305.500 and modernize Alaska's regulations.

Sincerely,

Greg Haas

Stoney Creek BrewHouse, #5921

From: [Evan Wood](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Comment on Proposed Trade Practice Regulations
Date: Wednesday, January 24, 2024 1:50:32 PM

You don't often get email from evan@devilsclubbrewing.com. [Learn why this is important](#)

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

Hello,

I'd like to comment on the proposed trade practice regulations. We support the current regs as long as it is made clear that manufacturers' own licenses/businesses won't be viewed as tied-houses, or consequently induced by our own company.

Thanks,

Evan Wood | Co-Founder
Devil's Club Brewing Company
Juneau, Alaska
(c) (907) 209-8451
www.devilsclubbrewing.com
[@devilsclubbeer](#)

January 24th, 2024

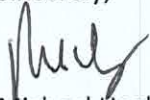
To: Director Wilson and the Honorable Members of the Alcohol Beverage Control Board,

AMCO has recently proposed regulations 3 AAC 305.500 for the regulation of trade practices. As an alcohol industry member operating (your business), I support the adoption of the regulations with the recommended changes from the Brewer's Guild of Alaska. The proposed regulations are a fair compromise between manufacturers, wholesalers, and retail alcohol businesses and will enhance competition to the benefit of consumers across the state.

For too long, unregulated trade practices in Alaska have denied small, locally owned manufacturers a fair opportunity to sell their products. Consumers have been denied access to new and exciting products, and small retailers have been extremely challenged in trying to compete with larger retailers who benefit significantly from inducements.

Please adopt 3 AAC 305.500 and modernize Alaska's regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Healy", written in a cursive style.

Michael Healy

Skagway Brewing Company, License #5739

From: [Michael Healy](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Trade Practices
Date: Thursday, January 25, 2024 11:57:12 AM
Attachments: [BRWD46A6A5A4630_000008122.pdf](#)

You don't often get email from mike@skagwaybrewing.com. [Learn why this is important](#)

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

Hello. Please find my attached letter, supporting the proposed regulations of trade practices.

Mike Healy
General Manager
Skagway Brewing Company
The Salty Siren Eats & Taphouse
www.skagwaybrewing.com
(907) 973-2337 (mobile)

From: [Jacob Hegeman](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Cc: [Mary Clarke](#)
Subject: WSWA Comment on Proposed Trade Practice Regulations
Date: Friday, January 26, 2024 12:23:43 PM
Attachments: [image001.png](#)
[2024.01.26 WSWA Alaska TP Comment.pdf](#)

You don't often get email from jake.hegeman@wswa.org. [Learn why this is important](#)

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

Dear Chair Walukiewicz,

Thank you for the opportunity to comment on the proposed trade practice regulations published December 14, 2023. Attached please find the comments of the Wine & Spirits Wholesalers of America. Please do not hesitate to contact me if you have any questions.

Sincerely,

Jake Hegeman



Jake Hegeman

General Counsel | Senior Vice President | Legal & Regulatory
Wine & Spirits Wholesalers of America

O: (202) 371-9792 | C: (202) 568-1472

jake.hegeman@wswa.org

wswa.org

805 15th Street, NW, Suite 1120, Washington, DC 20005



Dana Walukiewicz, Chair
Alaska Department of Commerce, Community and Economic Development
Alcohol and Marijuana Control Office
Alcoholic Beverage Control Board
550 W 7th Ave., Suite 1600
Anchorage, AK 99501

Via email: amco.regs@alaska.gov

January 26, 2024

RE: Proposed Trade Practice Regulations: New Chapter (305) of the Alcoholic Beverage Control Board under Title 3 of the Alaska Administrative Code

Dear Chair Walukiewicz,

Thank you for the opportunity to comment on the proposed trade practice regulations that create Chapter 305 within Title 3 of the Alaska Administrative Code (AAC). These regulations are a great step in ensuring clarity for all industry members and a well-regulated marketplace.

The Wine & Spirits Wholesalers of America (WSWA) is the national trade association representing the wholesale tier of the wine and spirits industry. Founded in 1943, WSWA represents nearly 400 companies in all 50 States and the District of Columbia that hold federal permits and state licenses to act as wine and/or spirits distributors and/or brokers. WSWA believes trade practice regulations create a critical framework that, in conjunction with state legislation and federal regulation, lays the groundwork for the dynamic beverage alcohol market we enjoy today.

Specific to the trade practice regulations proposed by the Alcoholic Beverage Control Board, we offer several specific comments below, but as a general matter write to support your efforts to create a close parallel between federal and state trade practice regulations. Promoting consistency of this type promotes compliance for all industry members.

COMMENTS

I. Exceptions to Tied House Prohibitions (305.515)

a. Paragraph 305.515 (1) re: Things of Value

We read the exception noted in paragraph 305.515 (1) as an overarching exception to the general tied house prohibition and the subsequent exceptions in paragraphs 305.515 (2) through (19) as working in conjunction to temper and add detail to paragraph (1). This is

achieved, in part, through sale requirements and financial caps on thing of value that are given or sold by an entity to a retail licensee. Including language in .515 (1) indicating that the subsequent financial caps, sale requirements, and other limitations apply to .515(1) as well would help clarify that it is not a stand-alone exception, but is tethered to the subsequent paragraphs of the subsection.

b. Paragraphs 305.515 (15) and (17) re: Management of Display Space and Reset of the Licensed Premises.

Paragraphs 305.515 (15) and (17), as drafted, appear to permit the distributor to manage the display space and reset the retailer's premises for *all* products, including those not sold by the distributor. Limiting the exception to products that are manufactured or distributed by the industry member is a needed clarification.

c. Paragraph 305.515 (18) re: Credit Extension

Paragraph 305.515 (18) allows an industry member to extend credit to a retail licensee but does not provide a maximum credit period. To match the federal credit limit provided in 27 CFR 6.65 this provision would benefit from clarification that the credit period be limited to 30 days from the date of product delivery.

II. Practices that do not amount to Commercial Bribery (305.525)

a. Paragraph 305.525 (1) re: Participation in an Association Activity

As drafted, paragraph 305.525 (1) allows for industry member participation in “an association activity” of a person holding a retail license. This statement could be broadly construed to include non-alcohol industry associations and would benefit from tailoring to read “retailer associations”.

b. Subparagraph 305.525 (1) (f) re: Payments to Association for Advertisement

Subparagraph 305.525 (1) (f) allows an industry member to pay for an advertisement in a program or brochure issued by an association at a convention or tradeshow not to exceed \$25,000 per year for any retailer association. In comparison to other states that allow for the same conduct and assign a monetary cap, this \$25,000 threshold is significantly higher. At least three states allow a nearly identical permission and assign a \$300 cap. Fla. Admin. Code R. 61A-1.01018(1) (h); 185 IAC 16.16(123) (2) (e); Tenn. Comp. R. & Regs. 0100-06-.03. Accordingly, we request that this monetary limit be lowered to better reflect limits in other states.

c. Paragraph 305.525(2) re: Samples to Retail Licensees

Subsection 305.525(2) permits industry members to provide sample alcoholic beverages to retail licensees. Many states also allow this practice but limit this permission to retail licensees that have not purchased the sampled product for a certain amount of time; often 12 months. Without the time limitation, the sample provision could be subject to abuse.



Accordingly, we request that exception be limited in a similar manner; requiring that the product sampled must be a product not purchased by the retail licensee within the preceding 12 months. See e.g., AZ Admin. Code, R19-1-320 (o); Conn. Regs. §30-6-A33 (a) (Sampling); IA Admin Code 185.16.8 (Sampling); K.S.A. 41-306 (f); COMAR 14.23.01.09 (C) (Samples to Licensed Retailers); NYSLA Advisory #2010-1 (Distribution of Sample Containers of Alcoholic Beverages); W.A.C. 314-64 (Liquor Samples to Retail Licensees).

III. Exceptions to Consignment Sales Prohibitions (305.530)

- a. Paragraph 305.530 (5) re: Return of Inventory Stock due to Ceased Operations
Paragraph 305.530 (5) allows an industry member entity to accept returned merchandise after the merchandise has been sold if a “retailer’s distribution agreement” has terminated. We read this to mean the retailer has ceased operation and, if so, could be addressed through the existing proposed language in .530(4). If it has separate meaning, clarification on what constitutes such an agreement would be useful.

We thank you for your time and consideration of these comments, and welcome further discussion on these items. Please do not hesitate to contact us with any questions.

Sincerely,

A handwritten signature in black ink that reads 'Jake Hegeman'.

Jake Hegeman
General Counsel, SVP, Legal and Regulatory Affairs
Wine & Spirits Wholesalers of America

From: [Tom Perrick](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Trade Practices Comment Letter
Date: Friday, January 26, 2024 11:29:12 AM
Attachments: [ADSA Comment Letter - Alaska Alcoholic Beverage Control - Trade Practices - 01-26-24.pdf](#)

You don't often get email from tom@americandistilledspirits.org. [Learn why this is important](#)

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

Alaska Alcoholic Beverage Control Board,

Please see attached Comment Letter regarding: Notice of Proposed New Sections on Trade Practices Added to a New Chapter (305) of the Alcohol Beverage Control Board Under Title 3 of the Alaska Administrative Code.

Thank you for your consideration.

--



Tom Perrick | Director of State Government Affairs
tom@americandistilledspirits.org | 503-312-0636

American Distilled Spirits Alliance
www.americandistilledspirits.org



January 26, 2024

Alaska Alcohol and Marijuana Control Office
550 W. 7th Avenue, Suite 1600
Anchorage, Alaska, 99501
amco.regs@alaska.gov

Dear Alcoholic Beverage Control Board Staff:

On behalf of the American Distilled Spirits Alliance (ADSA), I respectfully submit the following comments with regard to the newly proposed Trade Practice Regulations being added to the new Chapter (305) of the Alcoholic Beverage Control Board under Title 3 of the Alaska Administrative Code (collectively, the "Proposed Regulations").

ADSA is a group of industry leaders in manufacturing, importing, and marketing of distilled spirits in the United States and around the world. Our Alliance represents hundreds of spirits brands and nearly 70% of all distilled spirits sales in the US.

We are pleased that your office is taking steps to clarify and codify trade practice and related rules in Alaska. The clarity is appreciated by the industry. ADSA has reviewed the proposed rules as published. We provide the following feedback and also propose certain modifications to the language, as outlined in additional detail below.

First of all, we appreciate the Board's move to codify the product display dollar limit in 3 ACC §305.515. While we appreciate and are aligned to a \$400 per brand per location dollar limit for these displays, we do have concerns regarding the potential ambiguity of the \$1,600.00 per brand limitation for multi-location retailers as outlined in section 515.2(A).

As currently drafted, section 305.515.2(A) could be read to limit chain retailers from receiving even the most basic of product display units in all of their Alaska locations. For example, if an industry member sought to provide Alaska retailers with an otherwise legal display rack valued at \$300 per unit (a very common industry price point recognized under Federal law), retail chains with more than 5 locations in Alaska would not be entitled to receive this display at all of their locations since the total value for all displays would exceed \$1,600.00.

Adding to the ambiguity of that section, the regulation as currently drafted could also be read another way to actually *allow* industry members to provide a product display valued up to \$1,600.00 to each chain retailer location so long as that retailer has two or more licensed premises.



AMERICAN DISTILLED SPIRITS ALLIANCE

Alaska Alcohol and Marijuana Control Office
Trade Practice Regulations Comment Letter
Page Two

We believe that there is not an intent to either unfairly prejudice or benefit large chain retailers in Alaska. As such, in order to remove any ambiguity, we would respectfully request that the \$1,600.00 limitation be removed from the proposed regulation. We would note that neither the TTB regulations (27 CFR 6.83) nor, to our knowledge, any other state, has a multi-location retailer dollar value exception similar to what is being proposed in this current regulation.

We also note that this same \$1,600.00 multi-location retailer limitation is included in the outside signage exception in 305.515(4)(C) of the Proposed Regulations, and we would respectfully request that this section also be revised to mirror the updated product display rules above.

The Proposed Regulations also include (in section 3 AAC § 305.510(4)) a prohibition on industry members building, constructing, or otherwise erecting permanent or semi-permanent shelving, refrigeration, or other fixtures for stocking and displaying alcohol beverages at a retailer's premises. While we understand and appreciate that the intent of this section is to prohibit the giving of large, expensive fixtures or similar installations to retailers, we would respectfully ask the regulation be further clarified to remove the words "semi-permanent", so as to avoid any ambiguity between these large prohibited fixture items and otherwise permissible product displays.

Lastly, we would ask the contest and sweepstakes language in proposed section 305.525 be adjusted to make clear that industry member sponsored sweepstakes and contests that are not tied to any specific retailer not be included in the limitations proposed in this section. It is a longstanding and common market practice for industry members of all sizes to offer and promote sweepstakes and contests offering things like trips, premier event tickets, cash and any number of other high value prizes directly to consumers. These industry member sweepstakes and contests are routinely promoted via brand point of sale items like posters, table tents, etc. which are offered and available to all retailers in Alaska.

We would ask that these types of large, industry member sponsored sweepstakes and contest promotions which do not otherwise involve a retailer other than through the occasional placement of promotional signage and the like not be included in the dollar, timing and event limits currently proposed in this section.

We appreciate having the opportunity to comment on the proposed rules and thank you for your consideration. Should you have any questions, please feel free to contact the undersigned.

Sincerely,

Thomas A. Perrick
Director of State Government Affairs
American Distilled Spirits Alliance
tom@americandistilledspirits.org

From: [Paul J Thomas](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Coment on reg projects Trade Practices
Date: Friday, January 26, 2024 1:56:57 PM

You don't often get email from akcacheliqor@gmail.com. [Learn why this is important](#)

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

Trade Practices

Comments for 3 AAC 305.515 Exceptions to Tied House Prohibition

The current language for Product Displays/ Outside Signs/ and Coupons is to strict dollar wise and has been left ambiguous by not clearly stating a time frame criteria.

As a small business not associated with a large chain. I like most others rely on help from distributors to promote my business and products I sell. The \$400 limit is way to small especially with the language *(entities may not pool or combine dollar limitations to provide a retailer a product display valued at more than \$400 per brand)*.

Some reason for this:

- The Dollar amounts listed have no definition of a time frame. While the federal language seems to indicate 30 days there is nothing in Alaska language. The whole point of the rewrite of title 4 was to make it more clear and understandable to licensees it is unreasonable for a licensee to dig through all of title 04 and the associated regulations to try and determine a time period for this and then finding none have to go to the federal regulation try and determine which section applies and if it has been superseded by local regulation or not to figure out how to apply this section.
- The dollar amount even at 30 days is too low especially with the combining/pooling language. And it will be hard to determine a value on product Displays that get reused in multiple locations or are designed for extended use. Many promotions, all indoor product displays, All outdoor signage, and even most indoor signage use run over multiple months. Basically, this would limit displays to only the cheap small cardboard displays that would need to be replaced many times. Creating large waste, increased costs in shipping, and lower impact. There is a large difference between preventing wholesales from providing permanent fixtures or even signage to a retailer and being able to properly promote a product with a nice functional temporary display or signage. The same problems also applies to promotional giveaways. \$400 is overly limiting and will hurt the small retailer with out having a effect on the desired goal on trade practices
- Coupons don't really belong in this section. Taking a reduction at the register and submitting a coupon back for redemption to the retailer is more a thing of the past. The customer submitting it to the wholesaler/manufacturer electronically by use of QR code or other is more the norm and has no effect on this section.

Fixes to Problems in this regulation:

- Clearly define the time frame as 30 days for the dollars amounts used in this section either right with the dollar amounts or clearly referred to in a definition. Remember the reason behind this revision was to make clear and understandable don't make licensees dig to

understand the rules they are trying their best to follow.

- Raise the dollar amount to at least \$2000.00 per 30day period if not allowing pooling or combining or maybe \$1000 if allowing combining to more accurately reflect the usage over signage displays and giveaways over multiple months. If the period is per year to mitigate the pooling or combining language the dollar amount should be \$12,000 or more.
- Remove the section on Coupons altogether or modify. *B) the entity does not reimburse a retailer for more than the face value of all coupons redeemed.* to make redemption of coupon go directly to the customer from the wholesaler/manufacture.

Also under 3 AAC 305.525 Retail Association Activity

- Advertisements in trade association programs or brochure have no effect on Trade practices between an individual retailer or even a group and a manufacturer. Associations rely on these donations and it is outside the scope of manufacture applying pressure on retailers therefore it should be removed or increased to \$150,000 dollars per year
- Contest Prizes premium offer or like limit dollar amount currently set at \$400 need to be raised to \$10,000 like other sections above and reasoning used in this section \$400 is just absurdly low even on a 12 times a year limitation

Paul Thomas
Alaska Cache Liquor
Juneau, Alaska



Paul J Thomas
Alaska Cache Liquor Inc.
156 South Franklin Street
Juneau, Alaska 99801
907-586-2232

Paul J Thomas
Alaska Cache Liquor Inc.
156 South Franklin Street
Juneau, Alaska 99801
907-586-2232

From: [Karen Berger/Homer Brewing Co.](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Comment on proposed trade practice regulations
Date: Friday, January 26, 2024 3:49:50 PM

You don't often get email from homerbrew96@gmail.com. [Learn why this is important](#)

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

To: Director Wilson and members of the Alcohol Beverage Control Board,

We, the Homer Brewing Company, Inc. (License 4136) support the regulations with the recommended changes from the Brewer's Guild of Alaska. We have no further comments or changes to be considered.

Sincerely,
Karen Berger/Stephen McCasland
Homer Brewing Co., Inc.

From: [Sheri Musgrave](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: comments on upcoming changes
Date: Friday, January 26, 2024 12:04:05 PM
Attachments: [image001.png](#)

You don't often get email from sheri@alaskastatefair.org. [Learn why this is important](#)

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

Hi There,
I would like to put in my two cents regarding the following:

Under 3 AAC 305.515 - Exceptions to Tied House Prohibitions

- Product Displays
 - Text: the total value of the product display given or sold by the entity to the retailer does not exceed \$400 per brand at any one time in any single licensed premises or \$1,600 per brand if the retailer has two or more
change \$400 per brand at any time to \$10,000 and drop the language regarding entities. This was decided based on a per-year recommendation. \$400 is far too low under a per-year recommendation.
- Outside Signs
 - Text: the cost of the single sign does not exceed \$400 per location or \$1600 for a retailer with two or more licensed premises.
Change \$400 to \$10,000.
- Coupons
 - Text: furnish coupons at the licensed premises of a person holding a retail license
Remove this section. It does not need to be in regulation. These decisions should be made between a wholesaler and manufacturer.

3 AAC 305.525 - Practices that do not amount to commercial bribery.

- Retail Association Activity
 - Text: for an advertisement in a program or brochure issued by the association at a convention or trade show with the total payments made by an entity for all such advertising do not exceed \$25,000 per year for any retail association
Change \$25,000 per year to \$100,000 per year or this section eliminated completely. Retail associations rely on donations. \$25,000/year in perpetuity will just lead to more legislation in the future, due to inflation.
- Contest prizes.
 - Text: offer a contest prize, premium offer, or like item not more than 12 times per year per brand to the consumers of a person holding a retail license under AS 04.09.200 - 04.09.370
Change \$400 to \$10,000 to keep the language used in previous sections.

Thank you,

sheri
sheri musgrave

[Facility Rental](#) and Beverage Manager
[Alaska State Fair, Inc](#)
A Private Non-Profit 501C3 Corporation
2075 Glenn Hwy
Palmer, AK 99645
907-746-7173 Desk
907-745-4827 Main



From: [Joan Travostino](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: comments from Three Bears Alaska on proposed 3 AAC 305.
Date: Friday, January 26, 2024 12:11:06 PM
Attachments: [final trade practices regulation comments 01 26 2024 20240126 120350.pdf](#)

You don't often get email from joan@threebears.store. [Learn why this is important](#)

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

Please see attached comments in response to January 11, 2024 notice from Kristina Serezhenkov.

Joan Travostino
VP, Business Development
Three Bears Alaska, Inc.
Cell: 907-242-4322

CONFIDENTIAL NOTICE. The information contained in this email message is confidential and legally privileged. It is intended solely for the use of the addressee. Any unauthorized dissemination, distribution or copying of this email is expressly prohibited. If you have received this email message in error, please notify the sender immediately and delete this message and any attachments.



THREE BEARS ALASKA, INC.

500 S. Triple B Street
Wasilla, Alaska 99623
☎ (907) 357-4311 📠 (907) 357-4312

January 26, 2024

Via the AMCO Public Input Email

Dana Walukiewicz, Chair
Alcoholic Beverage Control Board

Joan Wilson, Director
Alcohol and Marijuana Control Office

Re: Request for Public Input for Proposed articles in a New Chapter of the Alcoholic Beverage Control Board Under Title 3 of the Administrative Code

Dear Ms. Walukiewicz and Ms. Wilson:

Three Bears Alaska, Inc., dba Bear's Den Liquor, Three Bears, and Three Bears Minimart ("Three Bears") accepts the opportunity to submit this comment letter regarding the Alcoholic Beverage Control Board's proposed new chapter (305) under Title 3 of the Alaska Administrative Code.

Background

Three Bears has been in operation as grocer, including convenience stores and fuel sales, since 1981 beginning in Tok, Alaska. Three Bears currently operates 17 package store liquor licenses under its own name, and one liquor license through a management agreement with a pending package store license transfer application. In addition, Three Bears has one additional pending package store license transfer application.

Comments on Proposed Regulations

Three Bear's understanding is that the Alcoholic Beverage Control Board has undertaken to develop the regulations proposed as the new chapter 305 in the Alaska Administrative Code in response to AS 04.16.017(b):

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.

It is important that any exceptions to the prohibited trade practices provided in the draft regulations match the current federal exceptions (27 C.F.R. 6.81 et al.) so that licenses have a clear understanding for their operations after implementations on January 1, 2024. The federal exceptions are understood industry wide and do not create confusion.

The regulations in the comments below are not consistent with federal regulations and are not in the best interests of the public.



THREE BEARS ALASKA, INC.

500 S. Triple B Street

Wasilla, Alaska 99623

☎ (907) 357-4311 📠 (907) 357-4312

Page 2

1. 3 AAC 305.515.

Proposed Section (a)(2) allows (as an exception to prohibited trade practices) an entity to give or sell a product display to the person holding a retail license under AAS 04.09.200-04.09.370, if (A) the total value of the product display given or sold by the entity to the retailer does not exceed \$400 per brand at any one time in any signage licensed premises or \$1,600 per brand if the retailer has two or more licensed premises, excluding installation costs, under the subparagraph, entities may not pool or combine dollar limitations to provide a retailer a product display valued at more than \$400 per brand; . . .

Proposed Section (a) (4) allows (as an exception to prohibited trade practices) an entity to give or sell outside signage a person holding a retail license under 04.09.200-04.09.370 if (C) the cost of a single sign does not exceed \$400 per location or \$1,600 for a retailer with two or more licensed premises.

The above regulations do not comply with the statutory direction to be consistent with the federal law at the time of the effective date of this section. Federal regulations do not limit the total dollars available to a single license holder. The federal regulations limit the dollars spent at a single establishment. 27 CFR Part 6 Section 6.83 provides:

(1) The total value of all product displays given or sold by an industry member under paragraph (a) of his section may not exceed \$300 per brand as 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.

There are two ways to read (a)(2) and (a)(4). One way to read the language after \$400 per location is that \$1600 is a substitute for the \$400 limit if the business has two or more licenses. This interpretation would increase the limit to \$1600 per location. Another way to read the language after \$400 per location is that instead of using the limit of \$400 per location, the limit is \$1,600 for a retailer with two or more license premises (meaning the possibility of \$800 per location, and then declining based on the number of locations). This is a limit based on the retailer. The regulation is unclear. Because trade practices are an important protection for fair competition and because of the large penalties possible under the proposed regulation, it is critical that the regulation is clear. The present language is not clear.

In addition, the proposed language, if it is interpreted as setting a limit on a retailer, is inconsistent with the federal law at the time of the effective date of the rewrite of Title 4. The federal law contains a limit for a retail establishment, not a limit on a retailer. Setting a limit on a retailer is inconsistent with the federal law.

Finally, it is not in the best interest of the public to penalize those businesses that hold multiple licenses. If the intent of the regulations is to limit Three Bears, who holds 17 package store licenses, to a limit of \$94 for displays and signage per store, while a retailer owning two licenses can have \$800 for displays and licenses per store, it is not in the public interest to impose such a competitive disadvantage to



THREE BEARS ALASKA, INC.

500 S. Triple B Street

Wasilla, Alaska 99623

☎ (907) 357-4311 📠 (907) 357-4312

Page 3

larger retailer. The public interest is best served by diverse sizes of businesses, each competing in the marketplace under fair and equitable regulations.

The solution is to delete “or \$1,600 per brand is the retailer has two or more licensed premises” in both sections (sections 515(a)(2) and 515(a)(4)) of the proposed regulations to make the proposed regulations consistent with the federal law.

2. 3 AAC 305.525(4)(B).

Proposed Section (4)(B) permits an entity to offer a contest prize, premium offer, or like item not more than 12 times per year, per brand, to the consumers of a person holding a retail license under AS 04.09.200- 04.09.370 if . . . (B) the contest prize, premium offer, or like item does not exceed \$400 in value on a signal licensed premises or \$1,600 in value if the retailer has two or more licensed premises.

The above regulation does not comply with the statutory direction to be consistent with the federal law at the time of the effective date of this section. Federal regulations do not limit the total dollars available to a single license holder for contest prizes.

27 CFR Part 6, Section 6.96 (b) states “Contest prizes, premium offers, refunds, and like items may be offered by industry members directly to consumer. Officer, employees and representatives of wholesalers or retailers are excluded from participation.”

Since there is no dollar limit on contest prizes in the federal law, the proposed regulation which sets a dollar value on contest limits does not comply with the Alaska statute that gives the authority to the Alcoholic Beverage Control Board to adopt the regulations on trade practices.

There is an additional problem with the regulation: It is ambiguous. The use of the word “or” in any regulation can be a problem if the alternatives are not clear. Section 525(4)(B) is not clear. The regulation could mean that if a retailer has two or more licensed premises, the “\$400” is changed to “\$1600”. An alternative reading of the regulation is \$400 for a single licensed premises (a per licensed premise limitation), but if the license holder has more than one licensed premise, the limit is \$1600 in total for division among all of the licensed premises held by the license holder (a per license holder entity limitation). Because trade practices are an important protection for fair competition and because of the large penalties possible under the proposed regulation, it is critical that the regulation is clear. The present language is not clear.

In addition, the proposed language, because it sets a limit on contest prizes is inconsistent with the federal law at the time of the effective date of the rewrite of Title 4. The federal law contains no limits on the value of a contest prize. A state regulation which sets a limit on a contest prize is not consistent with a federal regulation which sets no limit, and therefore is not in compliance with AS 04.16.017(b).

In addition, a limit on the value of a contest prize for the public does not benefit the public interest. The public interest of the consumer gains a benefit from flexibility in potential prizes.



THREE BEARS ALASKA, INC.

500 S. Triple B Street

Wasilla, Alaska 99623

☎ (907) 357-4311 📠 (907) 357-4312

Page 4

The proposed regulation should be changed to remove any reference to a dollar limit on the value of contest prizes, premium offers, or like items.

3. 3 AAC 305.325(4)(D).

Section (4)(D) requires that the owner of the licensed premises where the contest is held post the winner's name for 30 days.

In this age of consumer privacy, it is inconsistent with the public interest of the consumer to require that the consumer allow their name to be publicly posted for 30 days after winning a contest. It is unknown what general public interest in having the names posted in public outweighs the privacy concern. For comparison, the State of Alaska raffle and lottery regulations (15 AAC 160.640 to .770) do not require posting of the name of the winner. Three Bears requests that the proposed Section (4)(D) be deleted.

We appreciate the work of the Alcoholic Beverage Control Board members and staff to implement the changes to Title 4 at the same time as introducing the online license portal to the license holders. Both programs required significant effort from the board members and department staff. We respectfully request that the board members take another look at the Alaska statutory requirements for the trade practices regulations and the applicable federal law, and revise the regulations to be consistent with federal law and the public interest.

Sincerely,

Joan Travostino

Vice President for Business Development
Three Bears Alaska, Inc.

From: [Leeann Thomas](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: In support of Alaska CHARR Trade Practices recommendations
Date: Friday, January 26, 2024 11:30:07 AM

You don't often get email from triangleclubbar@hotmail.com. [Learn why this is important](#)

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

AMCO Board,

As a small business owner for the last twenty-five years in Alaska, I feel like it is very important for you to listen to Alaska CHARR Government Affairs Committee's recommendations regarding the trade practices. Increasing the amount of money for product displays and outside sign will benefit the small Mom and Pop bars. One example is promotional signage, it's difficult to produce quality signage and expensive, receiving a signage allows me to up sell new types of beer. People must know you have the beer to sell it. Bigger companies can afford to buy signs or have staff that can produce them themselves. Having the distributors be able to give me some signage and promotional items helps me; the little guy be able to sell new items occasionally.

I support all the recommendations. I would also point out another important issue for me, the contest prizes. We do not receive very many contest prizes, but when we do it really helps bring in the community for perhaps a chili contest or a fundraiser like donating to our locate city to buy flags and flowerpots for the summer.

Please support and listen to the recommendations by Alaska CHARR on Trade Practices.

Leeann Thomas
Triangle Club Bar
907-209-5656



Alaska Cabaret, Hotel, Restaurant, and Retailers Association
1503 W. 31st Avenue, Suite 102
Anchorage, AK 99503
Office (907) 274-8133
www.alaskacharr.com

January 26, 2024

Alcoholic Beverage Control Board
amco.regs@alaska.gov

Re: Requested Changes for Proposed Regulations Regarding Trade Practices

Dear members of the Alcoholic Beverage Control (ABC) Board:

The Alaska Cabaret, Hotel, Restaurant, and Retailers Association (Alaska CHARR) – as a representative of over 1,500 businesses that comprise the retail tier of Alaska’s alcohol industry – has received a substantial amount of input from bar, restaurant, retail store, and hotel owners and operators around Alaska regarding the proposed new regulations for trade practices.

We appreciate the ABC Board’s desire to ensure that consistent and fair regulations are adopted in the interests of public safety and commerce. The proposed language would result in significant changes to current business practices and relationships in Alaska, adding little to no additional protection of public welfare while shifting business costs from huge national corporations to small Alaska business owners who are still trying to recover from years of pandemic-related hardships and losses.

Alaska CHARR recommends the following important changes:

3 AAC 305.515 - Exceptions to Tied House Prohibitions

- Product Displays
 - Current text: the total value of the product display given or sold by the entity to the retailer does not exceed \$400 per brand at any one time in any single licensed premises or \$1,600 per brand if the retailer has two or more licensed premises.
 - **Alaska CHARR recommendation: change \$400 per brand at any time to \$10,000 per year and drop the language regarding entities.** This was decided based on a per-year recommendation. \$400 is far too low based on current business practices.
- Outside Signs
 - Current text: the cost of the single sign does not exceed \$400 per location or \$1,600 for a retailer with two or more licensed premises.
 - **Alaska CHARR recommendation: change \$400 to \$10,000 to keep the amount consistent with other sections.**



- Coupons
 - Current text: furnish coupons at the licensed premises of a person holding a retail license.
 - **Alaska CHARR recommendation: remove this section.** This does not need to be in regulation; these decisions should be made between businesses.

3 AAC 305.525 - Practices that do not amount to commercial bribery

- Retail Association Activity:
 - Current text: for an advertisement in a program or brochure issued by the association at a convention or trade show with the total payments made by an entity for all such advertising to not exceed \$25,000 per year for any retail association.
 - **Alaska CHARR recommendation: change \$25,000 per year to \$100,000 per year or this section eliminated completely.** Associations rely on donations and sponsorships to provide essential support for their members. \$25,000/year in perpetuity will just lead to more legislation in the future due to inflation. These types of limitations do not exist for other types of associations.
- Contest prizes
 - Current text: offer a contest prize, premium offer, or like item not more than 12 times per year per brand to the consumers of a person holding a retail license under AS 04.09.200 - 04.09.370 if the contest prize, premium offer, or like item does not exceed \$400 in value on a single licensed premises or \$1,600 in value if the retailer has two or more licensed premises.
 - **Alaska CHARR recommendation: change \$400 to \$10,000 to keep the amount consistent with other sections.** The limit in the current draft would eliminate a significant number of the contest prizes currently given.

Emergency actions taken by the ABC Board and Alcohol & Marijuana Control Office team throughout the pandemic and in partnership with Alaska CHARR were instrumental in enabling businesses to survive. While the shutdowns are over, hospitality businesses across Alaska still face significant, ongoing challenges. Some of the restrictions and prohibitions in the current draft regulations would be detrimental to many small locally-owned businesses across Alaska.

Thank you for your consideration and interest in continuing to support and responsibly regulate small Alaska businesses.

Respectfully,

Sarah Daulton Oates
President & CEO

From: [Sarah Oates](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Public Comment -- Trade Practices
Date: Monday, January 29, 2024 7:22:05 AM
Attachments: [image001.png](#)
[Public Comment - Trade Practices.pdf](#)

soates@alaskacharr.com appears similar to someone who previously sent you email, but may not be that person. [Learn why this could be a risk](#)

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

Good afternoon,

Please forward the attached comment regarding the proposed trade practices regulations to the ABC Board for consideration.

Thank you and have a great weekend!

Sarah

Sarah Daulton Oates

President & CEO

Alaska Cabaret, Hotel, Restaurant, & Retailers Association

Alaska CHARR Future Hospitality Leaders Program

Alaska CHARR Educational Fund

O: 907.274.8133 | C: 907.229.9972

www.alaskacharr.com



From: [David Croffut](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Title 04 rewrite
Date: Friday, January 26, 2024 11:45:10 AM

You don't often get email from pioneerbarak@gmail.com. [Learn why this is important](#)

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

Dear ABC Board;

My name is David Croffut and I urge you to take into consideration the suggested changes in language that CHARR has recommended to you. If passed in its current state it will harm small businesses. The suggested changes are as follows:

Under 3 AAC 305.515 - Exceptions to Tied House Prohibitions

- Product Displays
 - Text: the total value of the product display given or sold by the entity to the retailer does not exceed \$400 per brand at any one time in any single licensed premises or \$1,600 per brand if the retailer has two or more
 - **Alaska CHARR recommendation: change \$400 per brand at any time to \$10,000 and drop the language regarding entities.** This was decided based on a per-year recommendation. \$400 is far too low under a per-year recommendation.
- Outside Signs
 - Text: the cost of the single sign does not exceed \$400 per location or \$1600 for a retailer with two or more licensed premises.
 - **Alaska CHARR recommendation: Change \$400 to \$10,000.**
- Coupons
 - Text: furnish coupons at the licensed premises of a person holding a retail license
 - **Alaska CHARR recommendation: Remove this section.** It does not need to be in regulation. These decisions should be made between a wholesaler and manufacturer.

3 AAC 305.525 - Practices that do not amount to commercial bribery.

- Retail Association Activity
 - Text: for an advertisement in a program or brochure issued by the association at a convention or trade show with the total payments made by an entity for all such advertising do not exceed \$25,000 per year for any retail association
 - **Alaska CHARR recommendation: Change \$25,000 per year to \$100,000 per year or this section eliminated completely.** Retail associations rely on donations. \$25,000/year in perpetuity will just lead to more legislation in the

future, due to inflation.

- Contest prizes.
 - Text: offer a contest prize, premium offer, or like item not more than 12 times per year per brand to the consumers of a person holding a retail license under AS 04.09.200 - 04.09.370
 - **Alaska CHARR recommendation: Change \$400 to \$10,000** to keep the language used in previous sections.

Thank you for your time.
David Croffut

From: [Theodore Ellsworth](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Cc: [Dick](#)
Subject: Title 4 changes
Date: Friday, January 26, 2024 3:25:35 PM

[You don't often get email from shawondassee1@icloud.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

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

To: ABC Board Members
Re: changes below.

Please vote for the changes CHARR recommends!

Most appreciative,
Dick and Joni Ellsworth
Ivory Jacks
Fairbanks

The Alaska CHARR Government Affairs Committee (GAC) has met multiple times to discuss the proposed changes and makes the following recommendations:

Under 3 AAC 305.515 - Exceptions to Tied House Prohibitions

- Product Displays
 - Text: the total value of the product display given or sold by the entity to the retailer does not exceed \$400 per brand at any one time in any single licensed premises or \$1,600 per brand if the retailer has two or more
 - **Alaska CHARR recommendation: change \$400 per brand at any time to \$10,000 and drop the language regarding entities.** This was decided based on a per-year recommendation. \$400 is far too low under a per-year recommendation.
- Outside Signs
 - Text: the cost of the single sign does not exceed \$400 per location or \$1600 for a retailer with two or more licensed premises.
 - **Alaska CHARR recommendation: Change \$400 to \$10,000.**
- Coupons
 - Text: furnish coupons at the licensed premises of a person holding a retail license
 - **Alaska CHARR recommendation: Remove this section.** It does not need to be in regulation. These decisions should be made between a wholesaler and manufacturer.

3 AAC 305.525 - Practices that do not amount to commercial bribery.

- Retail Association Activity
 - Text: for an advertisement in a program or brochure issued by the association at a convention or trade show with the total payments made by an entity for all such advertising do not exceed \$25,000 per year for any retail association
 - **Alaska CHARR recommendation: Change \$25,000 per year to \$100,000 per year or this section eliminated completely.** Retail associations rely on donations. \$25,000/year in perpetuity will just lead to more legislation in the future, due to inflation.
- Contest prizes.
 - Text: offer a contest prize, premium offer, or like item not more than 12 times per year per brand to the consumers of a person holding a retail license under AS 04.09.200 - 04.09.370
 - **Alaska CHARR recommendation: We recommend changing \$400 to \$10,000 to keep the language used in previous sections.**

From: [Mike Ward](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Title IV rewrite
Date: Friday, January 26, 2024 11:39:34 AM

You don't often get email from mikeward907@gmail.com. [Learn why this is important](#)

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

Dear ABC Board;

My name is Mike Ward and I urge you to take into consideration the suggested changes in language that CHARR has recommended to you. If passed in its current state it will harm small businesses. the suggested changes are as follows:

Under 3 AAC 305.515 - Exceptions to Tied House Prohibitions

- Product Displays
 - Text: the total value of the product display given or sold by the entity to the retailer does not exceed \$400 per brand at any one time in any single licensed premises or \$1,600 per brand if the retailer has two or more
 - **Alaska CHARR recommendation: change \$400 per brand at any time to \$10,000 and drop the language regarding entities.** This was decided based on a per-year recommendation. \$400 is far too low under a per-year recommendation.
- Outside Signs
 - Text: the cost of the single sign does not exceed \$400 per location or \$1600 for a retailer with two or more licensed premises.
 - **Alaska CHARR recommendation: Change \$400 to \$10,000.**
- Coupons
 - Text: furnish coupons at the licensed premises of a person holding a retail license
 - **Alaska CHARR recommendation: Remove this section.** It does not need to be in regulation. These decisions should be made between a wholesaler and manufacturer.

3 AAC 305.525 - Practices that do not amount to commercial bribery.

- Retail Association Activity
 - Text: for an advertisement in a program or brochure issued by the association at a convention or trade show with the total payments made by an entity for all such advertising do not exceed \$25,000 per year for any retail association
 - **Alaska CHARR recommendation: Change \$25,000 per year to \$100,000 per year or this section eliminated completely.** Retail associations rely on donations. \$25,000/year in perpetuity will just lead to more legislation in the

future, due to inflation.

- Contest prizes.
 - Text: offer a contest prize, premium offer, or like item not more than 12 times per year per brand to the consumers of a person holding a retail license under AS 04.09.200 - 04.09.370
 - **Alaska CHARR recommendation: Change \$400 to \$10,000** to keep the language used in previous sections.

Thank you for your time.

From: [Stephanie Haskins](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Cc: [Jake Hovenden](#); [Carey Fristoe](#)
Subject: Trade Practice Regulation Comments
Date: Friday, January 26, 2024 12:11:43 PM

You don't often get email from stephanie@blacksprucebeer.com. [Learn why this is important](#)

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

Good morning, AMCO board members,

Thank you for reviewing our comments for the proposed trade practice regulations associated with the Title IV rewrite. My business partners, Carey Fristoe and Jake Hovenden, and I have reviewed the proposed regulations, and you'll find our comments below.

Under AS 04.09, breweries, wineries, and distilleries with the new manufacturer retail licenses are required to only sell the products of their adjacent manufacturing operation. 3 AAC 305.500 makes no exception for retail licensees who are wholly owned by a manufacturing operation. 3 AAC 305.510 and 3 AAC 305.520 prohibit a retail licensee from offering products to the exclusion of other manufacturers, however AS 04.09.340 - 360 requires this very activity. Therefore, we are requesting that the ABC Board consider adopting the following option to the proposed regulations:

***3 AAC 305.515 Section 20 (addition) proposed:
Any retail license being wholly owned and operated by an entity that also wholly owns a manufacturing license under AS 04.09.020 - .040 is exempt from tied house prohibitions.***

This language is the same as language proposed by the Brewers Guild of Alaska and opens the door much wider and solves the question of how a manufacturer/off site retail operation relationship may occur. This option would still limit partial ownership operations. If a manufacturer owns a stake in a retail operation, it would still be required to bill for materials and may not provide inducements to secure market share. This regulation would limit the opportunities for manufacturers to buy stakes in retailers in a back door "pay to play" situation.

In addition to the tied house prohibitions, my partners and I are also concerned with two other items which are related but covered under different sections. The first section is:

***3 AAC 305.515 (14) list the names and addresses of two or more unaffiliated retailers licensed under AS 04.09.200 - 04.09.370 that are selling the products of an entity in an advertisement of the entity if
(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;*

We are concerned that they will not be able to promote and advertise sampling, beer dinners, presentations such as those allowed under 3 AAC 305.515 Section 12, and other collaborative events with retailers. In order to preserve the ability to promote and inform the public of special events featuring and an entity's products, my partners and I agree with the BGA's proposition of the following language change to section 14 of 3 AAC 305.515:

*(14) list the names and addresses of a **[two or more unaffiliated]** retailers licensed under AS 04.09.200 - 04.09.370 that **are is** selling the products of an entity in an advertisement of the entity if*

(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; or,

(Proposed addition)

(D) the advertisement is for an event of limited duration such as a permitted event, a non profit fundraiser or a sampling or food pairing event.

We are concerned about section 5 of 3 AAC 305.150, which pertains to entities being able to "[serve] alcohol to the general public on a retailer's premises." As written, this will prohibit manufacturers and wholesalers from being able to pour at long-standing events, including the Alaska Craft Brew & Barley Wine Festival (formerly the Great Alaska Beer & Barley Wine Festival) and the Taste of Alaska Beer Festival at the Pub at the University of Alaska Fairbanks. My partners and I want to see many of these events continue, specifically those whose proceeds benefit in-state non-profits. However, we take issue with for-profit organizations and retailers deriving profit from free labor and, in many cases, free product. My partners and I propose the following language additions for exclusions to section 5 of 3 AAC 305.510.

*(5) serving alcohol to the general public on a retailer's premises; **(proposed addition) except for events that are limited entry, ticketed and featuring five or more entities serving products that are manufactured or sold normally by those entities and only if product for events is purchased by the retailer***

This proposed language does not make exceptions for events that are held on a retailer's licensed premises with the intention of donating proceeds from the event to a non-profit organization. Anecdotally, most if not all such events that our business has been invited to do not offer transparency as to which percentages of funds go to the hosting retailer and which go to a non-profit. These events often end up being mixed profit events with the retailers deriving proceeds from manufacturers and wholesalers donated labor and product. My partners and I do not support this model of event and wish to see it ended. We would support reporting requirements for such

events, if they were proposed.

We would like to see the following language added to article A of section 17 of 3 AAC 305.15.

(Proposed Addition) (iii) include a schematic of the proposed movement or reset; schematic should include product, package sizes and number of facings

We support section 18 of 3 AAC 305.15.

We would like to see the following proposed language added to section 2 of 3 AAC 305.520 Exclusive outlet prohibitions.

(Proposed Addition) (a) a minimum quantity or value may be required by an entity in order for the entity to provide delivery to the retailer

This proposed language does not directly pertain to exclusive outlets, per se. However, because Alaska is geographically unique in its vastness, it is reasonable for entities to be required to offer delivery for small orders whose values may not cover the cost of the delivery itself or whose execution may be otherwise prohibitive to the entity.

I will be happy to answer any questions that you may have about our comments or to clarify any points of confusion. Thank you again for your consideration and for your work on this regulatory project.

Thank you,

Stephanie Haskins
Certified Cicerone®
Owner/Head of Hospitality and Sales
Black Spruce Brewing Company
Brewery Retail License # 15068
3290 Peger Rd., STE B
Fairbanks, AK 99709
Brewery: (907) 328-0448
Cell: (509) 499-1318

From: jmmanning@gci.net
To: [CED AMCO REGS \(CED sponsored\)](#); [Paul Thomas](#)
Subject: Trade Practices
Date: Friday, January 26, 2024 4:23:52 PM

You don't often get email from jmmanning@gci.net. [Learn why this is important](#)

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

Dear AMCO

I am writing today to encourage your support of CHARR'S recommendations of trade practices. When CHARR met and held several discussions on this topic with the various license types, the historical knowledge was very impressive. Some of these low dollar figures (\$400) seem random. Coupons nowadays are printed on the product and are between the manufacturer and end customer. There is examples of manufacturers buying ads in Safe Ride programs to support those activities at the CHARR local level. Thank you for your time Jack Manning

From: [STEVEN KANTOR](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: WRITTEN COMMENTS FOR JAN 29TH MEETING
Date: Friday, January 26, 2024 11:13:50 AM

You don't often get email from usspirits.ktn@gmail.com. [Learn why this is important](#)

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

As President of Ketchikan CHARR. Licensee of permit 3378 & 3379. Alaska CHARR Board Member & Member of the Alaska CHARR (GAC). I fully support the Alaska CHARR Government Affairs Committee (GAC) and our recommendations to the proposed changes:

Under 3 AAC 305.515 - Exceptions to Tied House Prohibitions

- Product Displays
 - Text: the total value of the product display given or sold by the entity to the retailer does not exceed \$400 per brand at any one time in any single licensed premises or \$1,600 per brand if the retailer has two or more
 - **Alaska CHARR recommendation: change \$400 per brand at any time to \$10,000 and drop the language regarding entities.** This was decided based on a per-year recommendation. \$400 is far too low under a per-year recommendation.
- Outside Signs
 - Text: the cost of the single sign does not exceed \$400 per location or \$1600 for a retailer with two or more licensed premises.
 - **Alaska CHARR recommendation: Change \$400 to \$10,000.**
- Coupons
 - Text: furnish coupons at the licensed premises of a person holding a retail license
 - **Alaska CHARR recommendation: Remove this section.** It does not need to be in regulation. These decisions should be made between a wholesaler and manufacturer.

3 AAC 305.525 - Practices that do not amount to commercial bribery.

- Retail Association Activity
 - Text: for an advertisement in a program or brochure issued by the association at a convention or trade show with the total payments made by an entity for all such advertising do not exceed \$25,000 per year for any retail association
 - **Alaska CHARR recommendation: Change \$25,000 per year to \$100,000 per year or this section eliminated completely.** Retail associations rely on donations. \$25,000/year in perpetuity will just lead to more legislation in the future, due to inflation.
- Contest prizes.
 - Text: offer a contest prize, premium offer, or like item not more than 12 times per year per brand to the consumers of a person holding a retail license under AS 04.09.200 - 04.09.370
 - **Alaska CHARR recommendation: Change \$400 to \$10,000** to keep the language used in previous sections.

Steven Kantor
K&T Investments LLC
Ketchikan CHARR Inc
T&S Properties LLC