



MEMORANDUM

TO: Alcoholic Beverage Control Board DATE: April 9, 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.

At the January 2024 board meeting the board held an oral hearing and considered both oral and written comments. The board amended the draft and it was sent out for a second official public comment period. The written public comment period closed April 9, 2024. Written comments were received and are attached to this memo packet. An oral hearing is scheduled for April 16, 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
- Move to amend and send out for third round of 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.

(b) The practices prohibited under AS 04.16.017(a)(1) or 3 AAC 305.510 do not apply to

(1) an entity that holds both a brewery manufacturer license under AS 04.09.020 and a brewery retail license under AS 04.09.320;

(2) an entity that holds both a winery manufacturer license under AS 04.09.030 and a winery retail license under AS 04.09.330; or

(3) an entity that holds both a distillery manufacturer license under AS 04.09.040 and a distillery retail license under AS 04.09.340.

(c) 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 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 by the entity to the retailer does not exceed \$800 per brand at any one time in any single licensed premises or \$4,800 per brand if the retailer has six 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 \$800 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 an exterior single sign does not exceed \$400 per location;

(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.

(d) 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 any single licensed premises and that dollar value may not be pooled or combined across multiple 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

Register _____, _____ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

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: [Ana Fisk](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Cc: [Amy Shimek](#)
Subject: LSUN Comments - Trade Practices
Date: Friday, April 5, 2024 4:17:36 PM
Attachments: [Ltr to AMCO re Trade Practices 4 5 2024.pdf](#)

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Good afternoon,

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
President

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

April 5, 2024

Dana Walukiewicz, Chair
Alcohol And Marijuana Control Board

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:

Liquor Stores USA North Inc. dba Brown Jug ("Brown Jug") and Gold Rush Liquor ("Gold Rush" and collectively, with Brown Jug, "LSUN") submits these comments regarding the Alcoholic Beverage Control Board's proposed new chapter (305) under Title 3 of the Alaska Administrative Code.

I. Introduction

LSUN is particularly concerned that the Board is exceeding legislative intent and scope in several areas of the proposed regulations. Rather than implementing the 10+ year stakeholder consensus process that culminated in the Legislature's passage of the comprehensive alcohol statute update, the Board's draft regulations would make significant changes to several areas including business operations and public health areas that were not discussed or included in the bill enacted by the Legislature. In addition, the Board's draft regulations include an effort to advantage some businesses over others based on incorrect justification that they are consistent with Federal law – which they are not.

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(c) provides:

(c)(2) give 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 by the entity to the retailer does not exceed \$800 per brand at any one time in any single licensed premises or \$4,800 per brand if the retailer has six 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 \$800 per brand;

However, under the corresponding federal regulation, there is no total dollar restriction per brand for retailers with more than six locations. 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 an \$800 display, while a retailer with more than six locations would have to choose a considerably less valuable display per location or choose different brand display strategies for each location. As currently drafted, the proposed Alaska regulation puts retailers with multiple locations at a substantial competitive disadvantage, whereas the federal regulation puts each retail location on the same footing. It is fundamentally fair that each package store has the same product display dollar limitation, which accomplishes an equitable result, and addresses concerns voiced by the ABC Board regarding inducement of licensees. In addition, because the display value in the draft proposed regulations greatly exceeds that of the corresponding Federal regulations, LSUN respectfully requests that AMCO delete "or \$4,800 per brand if the retailer has six or more licensed premises" and updates references to \$800 values down to \$300 in 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 the total value of the product display given or sold by the entity to the retailer does not exceed \$300 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 \$300 per brand;
(underline emphasis added to indicate amended language)

The draft of proposed regulation 3 AAC 305.515 provides:

(c)(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;

The corresponding federal regulation does not require the retailer to continue correspondence and inclusion of all entities in ongoing retail operations as they relate to the partial reset of a licensed premises:

§ 6.99 Stocking, rotation, and pricing service.

(a) General. Industry members may, at a retail establishment, stock, rotate and affix the price to distilled spirits, wine, or malt beverages which they sell, provided products of other industry members are not altered or disturbed. The rearranging or resetting of all or part of a store or liquor department is not hereby authorized.

(b) Shelf plan and shelf schematics. The act by an industry member of providing a recommended shelf plan or shelf schematic for distilled spirits, wine, or malt beverages does not constitute a means to induce within the meaning of section 105(b)(3) of the Act.

The draft proposed regulations remove an element of autonomy from retailers to determine which entities they allow to participate in resetting a portion of their licensed premises. In addition, subsection (C) disallows the exclusion of a competing entity because of a reset, undermining the authority of a retailer to maintain the product assortment they choose to sell on their licensed premises. Resets are completely voluntary in nature, and at all times the retailer maintains full authority over final product assortment and placement. The draft regulations provide authority to outside entities over key operational decisions of a retailer. Accordingly, LSUN respectfully requests that AMCO delete Section (c)(17) in 3 AAC 305.515 from the draft regulations.

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 any single licensed premises and that dollar value may not be pooled or combined across multiple 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.*

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 proposed dollar amount in the regulation be removed as it creates a low ceiling for prize offerings, particularly with the high cost of goods in Alaska.

In addition, 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; 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.

Accordingly, LSUN respectfully requests that AMCO delete "*(B) the contest prize, premium offer, or like item does not exceed \$400 in value on any single licensed premises and that dollar value may not be pooled or combined across multiple licensed premises;*" and "*(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;*" from the proposed regulation to eliminate the dollar restriction requirement and to protect privacy rights, so that 3 AAC 305.525(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 keeps records of prize, offer, or like item winners for a period of three years.*

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.

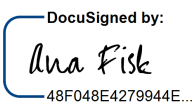
This draft regulation will apply to every type of “Retail License” under the new Title 4 statute. Yet, in the general sense of the word, some license holders may only think of package stores as “retailers.” This may lead to confusion among certain license holders because they may not realize that these 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,

DocuSigned by:

48F048E4279944E...

Ana Fisk
Director

Liquor Stores USA North Inc. dba Brown Jug and Gold Rush Liquor

cc: Amy J. Shimek, Chief Legal Officer & General Counsel, Afognak Native Corporation
Joan Wilson, Director Alcohol and Marijuana Control Office
Kris Curtis, Chief Legislative Auditor, Alaska Division of Legislative Audit
Representative Ben Carpenter, Chair, Alaska Legislative Budget & Audit Committee
Senator Bert Stedman, Vice Chair, Alaska Legislative Budget & Audit Committee
Representative DeLena Johnson, Legislative Budget & Audit Committee
Representative Sarah Vance, Legislative Budget & Audit Committee
Representative Frank Tomaszewski, Legislative Budget & Audit Committee
Representative Andy Josephson, Legislative Budget & Audit Committee
Representative Mike Cronk, Legislative Budget & Audit Committee
Senator Bill Wielechowski, Legislative Budget & Audit Committee
Senator Lyman Hoffman, Legislative Budget & Audit Committee
Senator James Kaufman, Legislative Budget & Audit Committee

Senator Scott Kawasaki, Legislative Budget & Audit Committee
Senator Click Bishop, Legislative Budget & Audit Committee

From: [Eric Forst](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Proposed Tied house changes
Date: Sunday, March 24, 2024 2:55:57 PM
Attachments: [image002.png](#)

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Dear board,

I have read the proposed revised regulations and although they are an improvement over previous versions, they are still too restrictive for many operators. Cleaning of lines is just one area that needs to be expanded. This function is essential for providing a safe and quality product to the public. This process often involves replacing lines, regulators, or towers to insure proper taste and yield. Manufacturers are uniquely qualified to perform this task for their customers as we do not have the time nor resources to do this work.

The Charr governments affairs committee has made several recommendations that would both standardize and simplify the regulations for operator and yet still allow for promotions and maintenance to occur. I strongly urge you to adopt these recommendations.

Under 3 AAC 305.515 - Exceptions to Tied House Prohibitions

- Manufacturer Retail Exceptions - (b)(1) – (3)
 - Text: “The practiced prohibited under AS 04.16.017(a)(1) or 3 AAC 305.510 do not apply to an entity that holds both a brewery/winery/distillery manufacturer license... and a brewery/winery/distillery retail license...”
 - **Recommendations:**
 - 1. This exemption should only apply to qualifying manufacturing/retail licenses that are collocated.**

Otherwise, this creates unfair competition and literally forms tied houses. How would this apply to businesses with common shareholders that own minority percentages? If the licensee(s) also own other licenses, those other licenses should have to abide by the same restrictions and prohibitions as all other retailers.
- Product Displays - (c)(2)(A)
 - Text: “the total value of the product display given by the entity to

the retailer does not exceed \$800 per brand at any one time in any single licensed premises or \$4,800 per brand if the retailer has six 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 \$800 per brand”

- **Recommendations:**

- 1. Raise the limit per brand to \$1,000 (or \$6,000 if the retailer has six or more premises).**
- 2. Remove the second part of the section regarding pooling, as it is unclear.**

- Outdoor Signs - (c)(4)(C)

- Text: “the cost of an exterior single sign does not exceed \$400 per location”

- **Recommendations:**

- 1. Increase \$400 to \$1,000, maintaining consistency throughout sections regarding amounts.** The outdoor “signs” this activity is typically used for are banners for promotions or events (Iditarod, Moose Dropping Festival, etc.), not the permanent sign for the business name.
- 2. Clarify that the dollar limit should be per brand or event.**
- 3. Include a time frame (“at any one time”) like other sections.**
- 4. Clarify that multiple signs (banners) could be included at each location.** The current language could limit this to one sign ever, which is not the intended use.

- Maintenance or Cleaning - (c)(8)

- Text: “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”
- **Recommendation: Increase the cost of maintenance to \$250 and clarify that the dollar limit is specific to parts and equipment (not labor or chemicals).**

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

- Contest prizes – (4)(B)
 - 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
 - (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 any single licensed premises and that dollar value may not be pooled or combined across multiple premises...”
- **Recommendations:**
 - 1. Remove the 30-day maximum contest length.** What is this trying to accomplish? Many giveaways run for months. Limiting this to 30 days does nothing to protect the public. The language in (4) already limits a retailer to 12 giveaways per brand per year. What harm would there be in allowing a retailer to hold four per year at three months each (for example)?
 - 2. Increase \$400 to \$1,000, maintaining consistency throughout sections regarding amounts.** Many retailers offer prizes such as Yeti Coolers, engraved Solo Stoves, and other mid-tier type items which start at \$400 before engraving/personalization. These items are incredibly popular in Alaska but would be excluded under the proposed limitation. A \$1,000 limit would allow for those items that seemed reasonable to the board, allows room for inflation and increases in market costs (which have skyrocketed the past four years), and still prohibit items like fourwheelers and snowmachines.

I thank you for your time and attention to this vital area of cooperation between operators and manufacturers.

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: [Dave](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Trade practice comments
Date: Tuesday, March 5, 2024 1:27:52 PM

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Dear Amco 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. As a small business owner I do not agree with the proposed changes. 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: [Ak CacheLiquor@gmail.com](mailto:AkCacheLiquor@gmail.com)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Trade Practice Reg Comments
Date: Tuesday, April 9, 2024 11:33:22 AM
Attachments: [Trade Practices regulation comments 2.pdf](#)

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Trade Practices

Comments for 3 AAC 305.515 Exceptions to Tied House Prohibition

From Reg Project:

(b) The practices prohibited under AS 04.16.017(a)(1) or 3 AAC 305.510 do not apply to:

Sec 1,2,3 ie. (manufactures)

Fair competition was one of the guiding principles during the rewrite of Title 4. This, however, acts against that. If a manufacturer can ignore the trade practices or any part of them for any license they acquire, this puts every other license at a distinct disadvantage. This raises other issues, as well. How are the licenses are deemed connected. If this is to be included hard fast rules on how the license are connected need to be established. The two license licensees listed should match as well as the stockholders/owners of the two companies at the same percentage in both companies. All the scenarios that will be purposed of x percentage or a partner of etc. should be ignored. Otherwise, this is just a loophole to avoid your regulation and gain an unfair advantage.

If anything along these lines is considered, it should **ONLY** be at a license on the same property as the manufacturing site.

From Reg Project:

the total value of the product display given by the entity to the retailer does not exceed \$800 per brand at any one time in any single licensed premises or \$4,800 per brand if the retailer has six 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 \$800 per brand

Raise the Limit per brand to \$1000 minimum and the multiple retailer to 6000.

I would still prefer \$2000, as it would insulate this regulation from natural price increases while maintaining the goal of preventing a manufacturer from swaying a retailer by paying for permanent fixtures. Good single-product displays are expensive, even more so for small manufacturers that can't use quantity to lower the price per unit. Good displays are also sometimes used in multiple locations. By setting this so low, you are limiting us to cheap cardboard displays that can't be cleaned and end up filling the landfill, increasing the cost to all.

From Reg Project:

(C) the cost of an exterior single sign does not exceed \$400 per location;

Raise the limit to \$1000 minimum. When discussing this last time, I believe you were focused on the permanent signage for the store's identity; I can't remember the term you kept using. While I agree with you that a manufacturer really has no business paying for this sign. I believe this section really is aimed at Banners, not that identity sign.

This section also has other issues regarding clarity. It should be clarified similarly to other sections per brand and possibly per event, as these are often used specifically for an event. It needs to clarify a timing mechanism or "at one time" like other sections. Also needs clarification that multiple banners would be allowed.

The current interpretation of the reg could literally be ONE sign period for the life of the license.

From Reg Project:

(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 any single licensed premises and that dollar value may not be pooled or combined across multiple licensed premises;

The 30-day Maximum needs to be removed. It makes no sense and doesn't follow what is now common practice for many retailers. This section already has a 12-times-per-year restriction, so adding 30 days is just over-restricting. Many retailers, like me, run giveaways over multiple months or during sporting seasons, etc., not necessarily tied to a 30-day limit. This does not affect the public or influence.

The \$400 limit needs to be raised to \$1000. Many of the giveaways are now at \$400 without even being personalized to the product with engraving or logos specific to the size of the product. Think Yeti coolers, solo stoves, and mountain bikes, which are common now. \$1000 should cover these reasonable prizes and allow for inflation in the future. While eliminating the snowmobile and four-wheeler giveaways at the large chain stores, previously inaccessible to the mom-and-pop stores causing unfair competition.

From Reg Project:

(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

Please raise this to \$250 and clarify that this is being applied to parts replaced during maintenance, not labor and chemicals. This piece is important to the health and safety of the public. If wholesalers/manufacturers can't come in and do regular maintenance without sending the retailer a bill each time, they will not be able to ensure the quality of their delivered product. Without this slightly larger dollar amount, the timely cleaning cycles of tap systems will be degraded, with smaller locations pushing time out trying to escape yet another bill. Even at 10 times the requested amount of \$250, this stops the installation of a full tap system that has occurred in the past in its tracks, accomplishing the actual desire of this regulation.

<!--[if !vml]--><!--[endif]-->

Paul Thomas

Alaska Cache Liquor

Juneau, Alaska



Trade Practices

Comments for 3 AAC 305.515 Exceptions to Tied House Prohibition

From Reg Project:

*(b) The practices prohibited under AS 04.16.017(a)(1) or 3 AAC 305.510 do not apply to:
Sec 1,2,3 ie. (manufactures)*

Fair competition was one of the guiding principles during the rewrite of Title 4. This, however, acts against that. If a manufacturer can ignore the trade practices or any part of them for any license they acquire, this puts every other license at a distinct disadvantage. This raises other issues, as well. How the licenses are deemed connected. If this is to be included hard fast rules on how the license are connected need to be established. The two license licensees listed should match as well as the stockholders/owners of the two companies at the same percentage in both companies. All the scenarios that will be purposed of x percentage or a partner of etc. should be ignored. Otherwise, this is just a loophole to avoid your regulation and gain an unfair advantage.

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This section also has other issues regarding clarity. It should be clarified similarly to other sections per brand and possibly per event, as these are often used specifically for an event. It needs to clarify a

timing mechanism or “at one time” like other sections. Also needs clarification that multiple banners would be allowed.

The current interpretation of the reg could literally be ONE sign period for the life of the license.

From Reg Project:

(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 any single licensed premises and that dollar value may not be pooled or combined across multiple licensed premises;

The 30-day Maximum needs to be removed. It makes no sense and doesn't follow what is now common practice for many retailers. This section already has a 12-times-per-year restriction, so adding 30 days is just over-restricting. Many retailers, like me, run giveaways over multiple months or during sporting seasons, etc., not necessarily tied to a 30-day limit. This does not affect the public or influence.

The \$400 limit needs to be raised to \$1000. Many of the giveaways are now at \$400 without even being personalized to the product with engraving or logos specific to the size of the product. Think Yeti coolers, solo stoves, and mountain bikes, which are common now. \$1000 should cover these reasonable prizes and allow for inflation in the future. While eliminating the snowmobile and four-wheeler giveaways at the large chain stores, previously inaccessible to the mom-and-pop stores causing unfair competition.

From Reg Project:

(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

Please raise this to \$250 and clarify that this is being applied to parts replaced during maintenance, not labor and chemicals. This piece is important to the health and safety of the public. If wholesalers/manufacturers can't come in and do regular maintenance without sending the retailer a bill each time, they will not be able to ensure the quality of their delivered product. Without this slightly larger dollar amount, the timely cleaning cycles of tap systems will be degraded, with smaller locations pushing time out trying to escape yet another bill. Even at 10 times the requested amount of \$250, this stops the installation of a full tap system that has occurred in the past in its tracks, accomplishing the actual desire of this regulation.

Paul Thomas
Alaska Cache Liquor
Juneau, Alaska



From: [Darwin A. Biwer, Jr.](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Trade Practices
Date: Tuesday, April 9, 2024 1:02:13 PM

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I am the sole owner of "Darwin's Theory" the small downtown bar in Anchorage. I have owned an operated Darwin's for 43 years in the same location. I have been involved with the rewrite of Title IV that was recently passed by the legislature. That took hundred of hours and ten years to reach that much needed milestone.

The Trade Practices proposed regulations have taken the same amount of consideration. But with the understanding that those regulations must withstand 30 years of evolution in the industry. The hundreds of years of experience by the combined expertise of members of all aspects of the industry, contributed to the recommendations of Alaska CHARR.

Therefore, it is my recommendation that the Alaska CHARR suggestions be incorporated into the final version of the Trade Practices regulations.

Thank You!!!

- Darwin A. Biwer, Jr.

From: jmmanning@gci.net
To: [CED AMCO REGS \(CED sponsored\)](#)
Cc: [Sarah Oates](#); [Paul Thomas](#)
Subject: trade practices
Date: Monday, April 8, 2024 12:20:37 PM
Attachments: [Trade Practices.docx](#)

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Trade Practicess

The title 4 rewrite was a compromise between retailers manufactures wholesalers and the public.

Maybe the biggest compromise was between industry members allowing manufacturers to buy retail type licenses. Now retailers and manufacturers will be competitors. Why would manufacturers be allowed an advantage by being exempt from tied house laws at the retail license wherever it is located or whoever the owners are? This would be an unfair trade practice that is why it is prohibited in the federal regs. I would say to manufactures be careful what you wish for. It was from a brewer that warned me about the evils of tied houses and that international beer brands are doing this already primarily in high tourist areas.

I personally pushed hard for title 4 to address the unregulated untaxed internet sales into our state.

I believe a strongly worded letter from AMCO to as many internet sites as possible would do a lot to at least slow it down. There was another compromise for out of state manufacturers to be able to continue to sell into the state. At the last AMCO meeting I attended an out of state manufacturer said half of what she sells she does manufacture herself. Will her winery be able sell into the state what they do not manufacture?

As to dollar amounts for display and promos, they need to make sense in regards to length of time.

Jack Manning Owner DUCK CREEK MARKET

From: [Sarah Oates](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Cc: [Sawyer, Jane Preston \(CED\)](#)
Subject: Public Comment -- Trade Practices, Round 2
Date: Tuesday, April 9, 2024 4:23:42 PM
Attachments: [image001.png](#)
[Public Comment - Trade Practices Round 2.pdf](#)

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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 week!

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





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

April 9, 2024

Alcoholic Beverage Control Board
amco.regs@alaska.gov

Re: Requested Changes for Proposed Regulations Regarding Trade Practices, Round 2

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 second round of 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:

Under 3 AAC 305.515 - Exceptions to Tied House Prohibitions

- Manufacturer Retail Exceptions - (b)(1) – (3)
 - Text: “The practiced prohibited under AS 04.16.017(a)(1) or 3 AAC 305.510 do not apply to an entity that holds both a brewery/winery/distillery manufacturer license... and a brewery/winery/distillery retail license...”
 - **Recommendations:**
 1. **This exemption should only apply to qualifying manufacturing/retail licenses that are collocated.** Otherwise, this creates unfair competition and literally forms tied houses. How would this apply to businesses with common shareholders that own minority percentages? If the licensee(s) also own other licenses, those other licenses should have to abide by the same restrictions and prohibitions as all other retailers.
- Product Displays - (c)(2)(A)



- Text: “the total value of the product display given by the entity to the retailer does not exceed \$800 per brand at any one time in any single licensed premises or \$4,800 per brand if the retailer has six 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 \$800 per brand”
- **Recommendations:**
 1. **Raise the limit per brand to \$1,000 (or \$6,000 if the retailer has six or more premises).**
 2. **Remove the second part of the section regarding pooling, as it is unclear.**
- Outdoor Signs - (c)(4)(C)
 - Text: “the cost of an exterior single sign does not exceed \$400 per location”
 - **Recommendations:**
 1. **Increase \$400 to \$1,000, maintaining consistency throughout sections regarding amounts.** The outdoor “signs” this activity is typically used for are banners for promotions or events (Iditarod, Moose Dropping Festival, etc.), not the permanent sign for the business name.
 2. **Clarify that the dollar limit should be per brand or event.**
 3. **Include a time frame (“at any one time”) like other sections.**
 4. **Clarify that multiple signs (banners) could be included at each location.** The current language could limit this to one sign ever, which is not the intended use.
- Maintenance or Cleaning - (c)(8)
 - Text: “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”
 - **Recommendation: Increase the cost of maintenance to \$250 and clarify that the dollar limit is specific to parts and equipment (not labor or chemicals).**

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

- Contest prizes – (4)(B)
 - 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
 - (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 any single licensed premises and that dollar value may not be pooled or combined across multiple premises...”
- **Recommendations:**
 - 1. Remove the 30-day maximum contest length.** What is this trying to accomplish? Many giveaways run for months. Limiting this to 30 days does nothing to protect the public. The language in (4) already limits a retailer to 12 giveaways per brand per year. What harm would there be in allowing a retailer to hold four per year at three months each (for example)?
 - 2. Increase \$400 to \$1,000, maintaining consistency throughout sections regarding amounts.** Many retailers offer prizes such as Yeti Coolers, engraved Solo Stoves, and other mid-tier type items which start at \$400 before engraving/personalization. These items are incredibly popular in Alaska but would be excluded under the proposed limitation. A \$1,000 limit would allow for those items that seemed reasonable to the board, allows room for inflation and increases in market costs (which have skyrocketed the past four years), and still prohibit items like fourwheelers and snowmachines.

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,

A handwritten signature in green ink, appearing to read "Sarah", is written over a faint, light green circular watermark or background.

Sarah Daulton Oates
President & CEO