

Byron Mallott  
Lieutenant Governor  
State Capitol  
Juneau, Alaska 99811  
907.465.3520 465.5400 Fax  
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530 West 7<sup>th</sup> Ave, Suite 1700  
Anchorage, Alaska 99501  
907.269.7460 269.0263  
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**MEMORANDUM**

**TO:** Micaela Fowler  
Commerce, Community, and Economic Development

**FROM:** Scott Meriwether, Office of the Lieutenant Governor *cm*  
465.4081

**DATE:** June 20, 2017

**RE:** Filed Permanent Regulations: Alcoholic Beverage Control Board  
  
Alcoholic Beverage Control Board regulations re: consumption on the licensed premises  
of wineries (3 AAC 304.380)

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Attorney General File: JU2016200647  
Regulation Filed: 6/19/2017  
Effective Date: 7/19/2017  
Print: 223, October 2017

cc with enclosures: Linda Miller, Department of Law  
Judy Herndon, LexisNexis

ORDER CERTIFYING THE CHANGES TO REGULATIONS OF THE  
ALCOHOLIC BEVERAGE CONTROL BOARD

The attached one page of regulations, dealing with consumption of alcohol on a licensed winery premises, is certified to be a correct copy of the regulation changes that the Alcoholic Beverage Control Board adopted at its April 13, 2017 meeting, under the authority of AS 04.06.090, 04.06.100, and AS 04.11.140 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

Although no public comments were received, the Alcoholic Beverage Control Board paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: 6/6/17



\_\_\_\_\_  
Erika McConnell, Executive Director  
Alcoholic Beverage Control Board



FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on

June 19, 2017 at 4:03 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



\_\_\_\_\_  
Byron Mallott  
Lieutenant Governor

Effective: July 19, 2017.

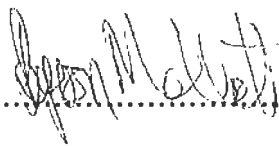
Register: 223, October 2017

**FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY**

**I, BYRON MALLOTT, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employee to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:**

**Claire Richardson, Special Assistant**

**IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on January 7<sup>th</sup> 2015.**

  
.....

**BYRON MALLOTT  
LIEUTENANT GOVERNOR**



EC. DEV.

no bold or underline

3 AAC 304 is amended <sup>by adding</sup> to add a new section: <sup>to Article 3 to read</sup>

3 AAC 304.380 Winery License <sup>(a)</sup> Unless prohibited by AS 04.16.030, a holder of a

winery license may sell each day to a person for consumption on the licensed premises not

more than

(1) 18 ounces of <sup>the winery's</sup> wine, mead, or cider or

(2) 36 ounces of <sup>any of the winery's</sup> cider <sup>that</sup> if the cider contains less than 8.5 percent alcohol by volume, <sup>if the winery does not</sup>

(b) A holder of a winery license may not

(1) allow live entertainment, televisions, pool tables, dart games, dancing,

electronic or other games, game tables, or other recreational or gaming

opportunities on the premises where the consumption occurs;

(2) provide seats at the counter or bar where the product is served;

(3) open the room where the consumption occurs before 9:00 a.m.; or

(4) serve any of its product after 8:00 p.m. (Eff. 7/19/2017, Register 223)

Authority: AS 04.06.100

AS 04.11.140

no bold or underline

# MEMORANDUM

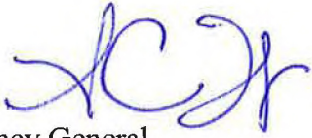
State of Alaska  
Department of Law

**To:** Hon. Byron Mallott  
Lieutenant Governor

**Date:** June 12, 2017

**File No.:** JU2016200647

**Tel. No.:** 465-3600

**From:** Steven C. Weaver   
Sr. Assistant Attorney General  
and Assistant Regulations Attorney  
Legislation and Regulations Section

Alcoholic Beverage Control Board  
regulations re: consumption on the  
licensed premises of wineries (3 AAC  
304.380)

We have reviewed the attached regulations from the Alcoholic Beverage Control Board against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a general delegation dated December 5, 2014 from the regulations attorney. The regulations adopt requirements regarding consumption of alcoholic beverages on the licensed premises of a winery.

We find no legal problems with the regulations. Though the attached affidavit of agency record refers to the Alcohol and Marijuana Control Office not receiving public comments, the office serves as support staff to the Alcoholic Beverage Control Board: the agency that considers public comments and formally keeps any record of public comments. The certification of adoption order indicates that the board paid special attention to the cost to private persons of the regulations, even though public comments were not received for this project. The informal reference in the affidavit to the board's support staff is not a substantive violation of the Administrative Procedure Act. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations.

The February 28, 2017 public notice and the June 6, 2017 certification of adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

Hon. Byron Mallott, Lieutenant Governor  
Our file: JU2016200647

June 12, 2017  
Page 2

We have made some technical corrections to the regulations in accordance with AS 44.62.125, as shown on the attached copy.

SCW

cc w/enc: (via email)

Erika McConnell, Executive Director  
Alcoholic Beverage Control Board and Marijuana Control Board

Micaela Fowler, Regulations Contact  
Department of Commerce, Community, and Economic Development

Sara Chambers, Operations Manager  
Division of Corporations, Business, and Professional Licensing  
Department of Commerce, Community, and Economic Development

Jedediah Smith  
Alcohol and Marijuana Control Office  
Department of Commerce, Community, and Economic Development

Harriet Dinegar Milks, Assistant Attorney General  
Commercial and Fair Business Section

# MEMORANDUM

State of Alaska  
Department of Law

**To:** The Honorable Byron Mallott  
Lieutenant Governor

**Date:** December 5, 2014

**From:** Susan R. Pollard *Susan R. Pollard*  
Chief Assistant Attorney General  
and Regulations Attorney  
Legislation and Regulations Section

**Tel. No.:** 465-3600

**Re:** Delegation of Authority for  
Regulations Matters

In my absence, when I am traveling or otherwise out of the office, Senior Assistant Attorney General and Assistant Regulations Attorney Steven C. Weaver is designated as Acting Regulations Attorney. Under this delegation, Steve Weaver has my full authority under AS 44.62 to conduct the legal review of regulations or take necessary actions as Acting Regulations Attorney.

This delegation is effective immediately and is in effect until revoked by me.

If you have any questions, please let me know.

SRP/pav

cc: Scott Meriwether, AAC Coordinator  
Office of the Lt. Governor

Jim Cantor, Deputy Attorney General  
Civil Division

Nancy Gordon, Statewide Office Chief  
Civil Division

Steven C. Weaver, Sr. Assistant Attorney General  
and Assistant Regulations Attorney  
Legislation and Regulations Section

Cori Mills, Assistant Attorney General  
Legislation and Regulations Section

Linda Miller, Legal Editor  
Legislation and Regulations Section

Lisa Rickey, Legal Editor  
Legislation and Regulations Section

NOTICE OF PROPOSED REGULATIONS  
REGARDING WINERY LICENSES AND CONSUMPTION ALLOWED ON WINERY  
PREMISES  
ALCOHOLIC BEVERAGE CONTROL BOARD

The Alcoholic Beverage Control Board proposes to amend 3 AAC 304.380, relating to the amount of wine or cider permitted to be sold for consumption on the licensed premises of a winery or cider manufacturer.

The Alcoholic Beverage Control Board proposes to adopt regulations in Title 3 of the Alaska Administrative Code, dealing with the requirements for winery licenses and consumption on the premises of wineries:

3 AAC 304.380- Regulations specifying the amount of wine or cider permitted to be sold to a person for consumption on the licensed premises.

You may comment in writing on the proposed regulations, including the potential costs to private persons of complying with the proposed regulations, by submitting written comments to Jedediah Smith, Alcohol & Marijuana Control Office at 550 W. 7<sup>th</sup> Ave, Suite 1600, Anchorage, AK 99501. Additionally, the Alcohol & Marijuana Control Office will accept written comments by electronic mail at [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov). Please notate "Comment on Winery On-Site Consumption" on the subject line of any emailed comment. Written comments may also be submitted through the Alaska Online Public Notice System, by accessing this notice on the system and using the "comment" link. Please indicate the article and section number to which each comment refers, if applicable. **Please indicate in the subject line "Comment winery on-site consumption".** All written comments must be received no later than 4:30 p.m. on March 30, 2017.

You may submit written questions relevant to the proposed regulations by email to [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov) or to Jedediah Smith at the above physical address. Please do not submit questions through the Alaska Online Public Notice System. The written questions must be received at least 10 days before the end of the public comment period, by March 20, 2017 at 4:30 p.m. The Alcohol & Marijuana Control Office will aggregate its response to substantially similar written questions and make the questions and responses available on the Alcohol & Marijuana Control Office website. The Alcohol & Marijuana Control Office may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Jedediah Smith at (907) 334-2195 or [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov) no later than March 20, 2017 to ensure that any necessary accommodations can be provided.

A copy of the proposed regulations are available through the electronic link to the complete text on the Alaska Online Public Notice System, on the Alcohol & Marijuana Control Board website at <https://www.commerce.alaska.gov/web/amco/> or by contacting [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov) or in person at 550 W. 7<sup>th</sup> Ste 1600, Anchorage, AK 99501.

After the written public comment period ends, the Alcoholic Beverage Control Board will either adopt the proposed regulations or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. **You should comment in writing during the time allowed if your interests could be affected.** No verbal public comment will be taken on the proposed changes

**Statutory Authority:** AS 04.06.100 and AS 04.11.140

**Statutes Being Implemented, Interpreted, or Made Specific:** AS 04.11.140

**Fiscal Information:** The proposed regulations are not expected to require an increased appropriation.

DATE: March 21, 2017



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Erika McConnell, Director  
Alcohol & Marijuana Control Office

NOTICE OF PROPOSED REGULATIONS  
REGARDING WINERY LICENSES AND CONSUMPTION ALLOWED ON WINERY  
PREMISES  
ALCOHOLIC BEVERAGE CONTROL BOARD

The Alcoholic Beverage Control Board proposes to adopt new regulations under 3 AAC 304, relating to the amount of wine or cider permitted to be sold for consumption on the licensed premises of a winery.

The Alcoholic Beverage Control Board proposes to add a new section in Title 3 of the Alaska Administrative Code, dealing with the requirements for winery licenses and consumption on the premises of wineries:

3 AAC 304.380- Regulations specifying the amount of wine or cider permitted to be sold to a person for consumption on the licensed premises of a winery.

You may comment in writing on the proposed regulations, including the potential costs to private persons of complying with the proposed regulations, by submitting written comments to Jedediah Smith, Alcohol & Marijuana Control Office at 550 W. 7<sup>th</sup> Ave, Suite 1600, Anchorage, AK 99501. Additionally, the Alcohol & Marijuana Control Office will accept written comments by electronic mail at [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov). Please notate "Comment on Winery On-Site Consumption" on the subject line of any emailed comment. Written comments may also be submitted through the Alaska Online Public Notice System, by accessing this notice on the system and using the "comment" link. Please indicate the article and section number to which each comment refers, if applicable. **Please indicate in the subject line "Comment winery on-site consumption"**. All written comments must be received no later than 4:30 p.m. on March 30, 2017.

You may submit written questions relevant to the proposed regulations by email to [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov) or to Jedediah Smith at the above physical address. Please do not submit questions through the Alaska Online Public Notice System. The written questions must be received at least 10 days before the end of the public comment period, by March 20, 2017 at 4:30 p.m. The Alcohol & Marijuana Control Office will aggregate its response to substantially similar written questions and make the questions and responses available on the Alcohol & Marijuana Control Office website. The Alcohol & Marijuana Control Office may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

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A copy of the proposed regulations are available through the electronic link to the complete text on the Alaska Online Public Notice System, on the Alcohol & Marijuana Control Board website at <https://www.commerce.alaska.gov/web/amco/> or by contacting [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov) or in person at 550 W. 7<sup>th</sup> Ste 1600, Anchorage, AK 99501.

After the written public comment period ends, the Alcoholic Beverage Control Board will either adopt the proposed regulations or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. **You should comment in writing during the time allowed if your interests could be**

**affected.** No verbal public comment will be taken on the proposed changes

**Statutory Authority:** AS 04.06.100 and AS 04.11.140

**Statutes Being Implemented, Interpreted, or Made Specific:** AS 04.11.140

**Fiscal Information:** The proposed regulations are not expected to require an increased appropriation.

DATE: February 24, 2017

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Sara Chambers, Acting Director  
Alcohol & Marijuana Control Office

ADDITIONAL REGULATIONS NOTICE INFORMATION  
(AS 44.62.190(d))

1. Adopting agency: Alcoholic Beverage Control Board
2. General subject of regulation: amount of wine or cider sold for consumption at a licensed winery
3. Citation of regulation (may be grouped): 3 AAC 304.380
4. Department of Law file number, if any: JU2016200647
5. Reason for the proposed action:  
 Compliance with federal law or action (identify): \_\_\_\_\_  
 Compliance with new or changed state statute  
 Compliance with Federal or state court decision (identify) \_\_\_\_\_  
 Development of program standards  
 Other (identify): \_\_\_\_\_
6. Appropriation/Allocation: \_\_\_\_\_
7. Estimated annual costs in the aggregate to comply with the proposed action to:  
Private Persons: \$0  
Other State Agencies: \$0  
Municipalities: \$0
8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY <u>17</u>	Subsequent Years
Operating Cost	<u>\$ 0</u>	<u>\$ 0</u>
Capital Cost	<u>\$ 0</u>	<u>\$ 0</u>
1002 Federal receipts	<u>\$ 0</u>	<u>\$ 0</u>
1003 General fund match	<u>\$ 0</u>	<u>\$ 0</u>
1004 General fund	<u>\$ 0</u>	<u>\$ 0</u>
1005 General fund/ program	<u>\$ 0</u>	<u>\$ 0</u>
1037 General fund/ mental health	<u>\$ 0</u>	<u>\$ 0</u>
Other	<u>\$ 0</u>	<u>\$ 0</u>

9. The name of the contact person for the regulations:  
Name: Sara Chambers

Title: Acting Director, Alcohol & Marijuana Control Office  
Address: 550 W. 7<sup>th</sup> Avenue, Suite 1600  
Anchorage, AK 99501

Telephone: (907)269-0350  
E-mail address amco.regs.alaska.gov

10. The origin of the proposed action:

- Staff of state agency
- Federal government
- General public
- Petition for regulation change
- Other (identify) \_\_\_\_\_

11. Date: 02/27/2017 Prepared by: \_\_\_\_\_  
[signature]

Name (printed): Sara Chambers  
Title (printed): Acting Director, Alcohol & Marijuana Control Office  
Telephone: (907)269-0350

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION  
AND FURNISHING OF ADDITIONAL INFORMATION

I, Erika McConnell, director for the Alcohol & Marijuana Control Office, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 3 AAC 304.380, consumption on the licensed premises of a winery, has been given by being

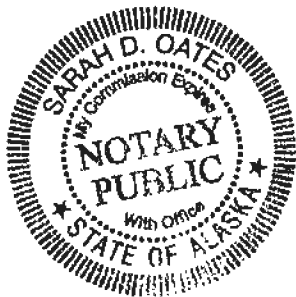
- (1) published in a newspaper or trade publication;
- (2) furnished to interested persons;
- (3) furnished to appropriate state officials;
- (4) furnished to the Department of Law, along with a copy of the proposed regulation;
- (5) furnished electronically to incumbent State of Alaska legislators;
- (6) furnished to the Legislative Affairs Agency, Division of Legal and Research Services;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);
- (8) furnished electronically, along with a copy of the proposed regulation, to the Legislative Affairs Agency, the chair of the Labor and Commerce Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: May 3, 2017

Erika McConnell  
Erika McConnell, Director

Subscribed and sworn to before me at Anchorage, Alaska, on May 3, 2017.



[Signature]  
Notary Public in and for the State of Alaska

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

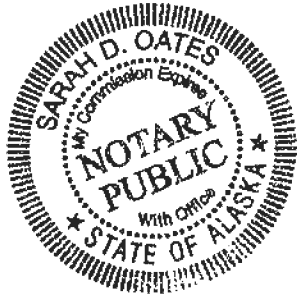
I, Erika McConnell, director for the Alcohol & Marijuana Control Office, being duly sworn, state the following:

The Alcohol & Marijuana Control Office did not receive any factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Alcohol & Marijuana Control Office regulation on consumption of alcohol on the licensed premises of a winery.

Date: May 3, 2017

Erika McConnell  
Erika McConnell, Director

Subscribed and sworn to before me at Anchorage, Alaska on  
May 3, 2017  
(date)



Sdr  
Notary Public in and for the State of Alaska

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0001400856  
\$368.54

# AFFIDAVIT OF PUBLICATION

STATE OF ALASKA  
THIRD JUDICIAL DISTRICT

Emma Dunlap  
being first duly sworn on oath deposes and  
says that he/she is a representative of the  
Alaska Dispatch News, a daily newspaper.  
That said newspaper has been approved  
by the Third Judicial Court, Anchorage,  
Alaska, and it now and has been published  
in the English language continually as a  
daily newspaper in Anchorage, Alaska, and  
it is now and during all said time was  
printed in an office maintained at the  
aforesaid place of publication of said  
newspaper. That the annexed is a copy of  
an advertisement as it was published in  
regular issues (and not in supplemental  
form) of said newspaper on

February 28, 2017

and that such newspaper was regularly  
distributed to its subscribers during all of  
said period. That the full amount of the fee  
charged for the foregoing publication is not  
in excess of the rate charged private  
individuals.

Signed Emma Dunlap

Subscribed and sworn to before me  
this 28th day of February, 2017  
Britney Thompson

Notary Public in and for  
The State of Alaska.  
Third Division  
Anchorage, Alaska  
MY COMMISSION EXPIRES

2/23/2019  
Notary Public  
BRITNEY L. THOMPSON  
State of Alaska  
My Commission Expires Feb 23, 2019

**NOTICE OF PROPOSED REGULATIONS  
REGARDING WINERY LICENSES AND CONSUMPTION ALLOWED  
ON WINERY PREMISES  
ALCOHOLIC BEVERAGE CONTROL BOARD**

The Alcoholic Beverage Control Board proposes to adopt new regulations under 3 AAC 304, relating to the amount of wine or cider permitted to be sold for consumption on the licensed premises of a winery.

The Alcoholic Beverage Control Board proposes to add a new section in Title 3 of the Alaska Administrative Code, dealing with the requirements for winery licenses and consumption on the premises of wineries:

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You may comment in writing on the proposed regulations, including the potential costs to private persons of complying with the proposed regulations, by submitting written comments to Jedediah Smith, Alcohol & Marijuana Control Office at 550 W. 7th Ave, Suite 1600, Anchorage, AK 99501. Additionally, the Alcohol & Marijuana Control Office will accept written comments by electronic mail at [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov). Please notate "Comment on Winery On-Site Consumption" on the subject line of any emailed comment. Written comments may also be submitted through the Alaska Online Public Notice System, by accessing this notice on the system and using the "comment" link. Please indicate the article and section number to which each comment refers, if applicable. **Please indicate in the subject line "Comment winery on-site consumption"**. All written comments must be received no later than 4:30 p.m. on March 30, 2017.

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**Statutory Authority:** AS 04.06.100 and AS 04.11.140

**Statutes Being Implemented, Interpreted, or Made Specific:** AS 04.11.140

**Fiscal Information:** The proposed regulations are not expected to require an increased appropriation.

DATE: February 24, 2017 \_\_\_\_\_  
Sara Chambers, Acting Director  
Alcohol & Marijuana Control Office

Published: February 28, 2017

AFFIDAVIT OF ALCOHOL BEVERAGE CONTROL BOARD ACTION

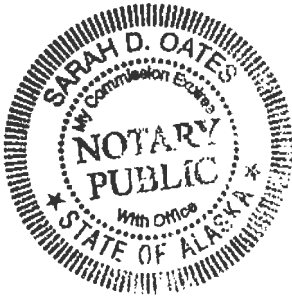
I, Erika McConnell, Director for the Alcohol & Marijuana Control Office, being duly sworn, state the following:

The attached draft meeting minutes dealing with the consumption of alcohol on a licensed premises of a winery reflect action approved by the Alcohol Beverage Control Board during its April 13, 2017, meeting.

Date: May 3, 2017

Erika McConnell  
Erika McConnell, Director

Subscribed and sworn to before me at Anchorage, Alaska, on May 3, 2017.



Sdr  
Notary Public in and for the State of Alaska



**Alcoholic Beverage Control Board  
Excerpt from Unapproved Meeting Minutes  
April 13, 2017  
Telephonic Meeting**

● **REGULATIONS**

**2:55pm**

*Erika McConnell informs the Board that the projects for A, B, and C are being brought back to the Board because of public noticing errors, and that items D, E, and F are drafts that are being brought to the Board at the Board's request to consider opening regulations projects.*

*Jed Smith speaks to the Board about the common carriers, alcohol server education, and consumption at wineries regulations projects and states that the projects would require a new vote by the Board.*

*The Board members agree that they have considered this public comment regarding common carriers before.*

*Rex Leath motions to adopt the alcohol server education, common carriers, and consumption at wineries regulations drafts.*

*Tom Manning seconds the motion.*

*Motion carries unanimously.*

**A. Alcohol Server Education**

- 1. Draft (No New Public Comments Received)

**TAB 60**

**B. Common Carriers**

- 1. Draft; New Public Comment Received

**TAB 61**

**C. Consumption at Wineries**

- 1. Draft (No New Public Comments Received)

**TAB 62**

Minutes prepared by:

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**Sarah D. Oates**  
Program Coordinator