

Byron Mallott  
Lieutenant Governor  
State Capitol  
Juneau, Alaska 99811  
907.465.3520  
WWW.LTGOV.ALASKA.GOV




530 West 7<sup>th</sup> Ave, Suite 1700  
Anchorage, Alaska 99501  
907.269.7460  
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**MEMORANDUM**

**TO:** Linda Mattson  
Department of Commerce, Community & Economic Development

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

**DATE:** July 18, 2018

**RE:** Filed Permanent Regulations: Alcoholic Beverage Control Board  
  
Alcoholic Beverage Control Board regulation re: Licensed Premises (3 AAC 304.185; 3 AAC 304.225)

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|                        |                   |
|------------------------|-------------------|
| Attorney General File: | 2018200369        |
| Regulation Filed:      | 7/18/2018         |
| Effective Date:        | 8/17/2018         |
| Print:                 | 227, October 2018 |

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 two pages of regulations, dealing with the noncontiguous premises and alternating premises, is certified to be a correct copy of the regulation changes that the Alcoholic Beverage Control Board adopted at its June 12, 2018, meeting, under the authority of AS 04.06.100 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: \_\_\_\_\_

6/20/18

Erika McConnell

Erika McConnell, Director

FILING CERTIFICATION

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

July 18, 20 18 at 940A .m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

[Signature]

Lieutenant Governor

Effective: \_\_\_\_\_

August 17, 2018

Register: \_\_\_\_\_

227, October 2018

3 AAC 304.185 is amended to read:

**3 AAC 304.185. Licensed premises.**

(a) A license is issued for a specific place which is the licensed premises and which must be clearly designated in a line drawing accompanying an application. **The address of the licensed premises and the business name under which the licensee is doing business at that address must be indicated on the license application.**

**(b) With the exception of a recreational site license and a destination resort license,**  
**the**[THE] licensed premises must be one area, but may include separate rooms if the rooms are adjacent to one another or if they are rooms described in AS 04.11.090(d). [THE ADDRESS OF THE LICENSED PREMISES AND THE BUSINESS NAME UNDER WHICH THE LICENSEE IS DOING BUSINESS AT THAT ADDRESS MUST BE INDICATED ON THE LICENSE APPLICATION.] If the licensed premises consist of more than one room in which a fixed counter or service bar is regularly maintained, a duplicate license is required for the additional rooms. **A recreational site license and a destination resort license may have multiple separate licensed premises areas with the approval of the board.**

**(c)**[(B)] The licensee shall conspicuously post the license within the licensed premises.

**(d)**[(C)] A licensee may not alter the functional floor plan, reduce or expand the area, or change the business name of the licensed premises without the prior written approval of the director. The licensee must provide a new line drawing showing the proposed changes in the premises. A licensee must pay fee of \$250 for changing the business name of the licensee's licensed premises when the name change is not part of a transfer of ownership or location. A request for a business name change for licensed premises not part of a transfer must be made on a form prescribed by the board.

**(e)**[(D)] If a business establishment or facility consists of both licensed premises and an unlicensed area, the licensee shall clearly segregate the licensed premises and the unlicensed area. (Eff. 11/29/81, Register 80; am 12/13/2009, Register 192; am 8/17/2018, Register 227)

|                   |              |              |              |
|-------------------|--------------|--------------|--------------|
| <b>Authority:</b> | AS 04.06.090 | AS 04.11.090 | AS 04.11.255 |
|                   | AS 04.06.100 | AS 04.11.210 | AS 04.11.260 |

3 AAC 304.225(a) is amended to read:

(a) Upon a licensee's written request accompanied by a detailed premises diagram, the board may approve a portion of a premises licensed under **AS 04.11.090 (beverage dispensary license)**, AS 4.11.100 (restaurant eating place license), AS 4.11.115 (golf course license), AS 04.11.180 (common carrier dispensary license), AS 04.11.210 (recreational site license), AS 04.11.225 (outdoor recreational lodge license), AS 04.11.255 (destination resort license), or AS 04.11.400(d) to alternate as a licensed or unlicensed premises under the following conditions:  
(Eff. 12/16/2016, Register 220; am 8/17/2018, Register 227)

|                   |              |              |              |
|-------------------|--------------|--------------|--------------|
| <b>Authority:</b> | AS 04.06.090 | AS 04.11.090 | AS 04.11.400 |
|                   | AS 04.06.100 | AS 04.11.180 |              |

# MEMORANDUM

## State of Alaska Department of Law

To: The Honorable Byron Mallott  
Lieutenant Governor

Date: July 13, 2018

File No.: 2018200369

Tel. No.: 465-3600

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

Re: Alcoholic Beverage Control Board:  
Regulation re: 3 AAC 304.185, 3  
AAC 304.225: Licensed Premises

The Department of Law has reviewed the attached regulations of the Alcoholic Beverage Control Board against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. 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 regulations were adopted by the Alcoholic Beverage Control Board after the close of the public comment period. The regulations concern licensed premises to allow recreational site and destination resort licenses—with board approval—to have multiple licensed premises all under one license and within the licensed premises. Further, beverage dispensary licenses would be added to the list of those that may be allowed to designate alternate (licensed, unlicensed) premises.

The public notice and the 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.

SRP

cc: (*via email*)

Erika McConnell, Executive Director  
Alcohol and Marijuana Control Office  
Department of Commerce, Community, and Economic Development

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

Linda Mattson, Regulations Contact  
Department of Commerce, Community, and Economic Development

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

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



NOTICE OF PROPOSED CHANGES ON PREMISES DIAGRAMMS AND  
NONCONTIGUOUS PREMISES IN THE REGULATIONS OF THE ALCOHOLIC  
BEVERAGE CONTROL BOARD

The State of Alaska Alcoholic Beverage Control Board proposes to adopt regulation changes in 3 AAC 304 of the Alaska Administrative Code, dealing with licensed premises, including the following:

3 AAC 304.185 is proposed to allow noncontiguous licensed premises for destination resort licenses and recreation site licenses.

3 AAC 304.225 is proposed add beverage dispensary licenses to the list of license types that can have areas of the premises that may alternate between licensed and unlicensed under specific conditions.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to the Alcohol and Marijuana Control Office at 550 West 7<sup>th</sup> Avenue, Suite 1600, Anchorage, AK 99501. Additionally, the Alcoholic Beverage Control Board will accept comments by electronic mail at [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov). Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system and using the comment link. The comments must be received not later than 4:30 pm on Friday, June 1, 2018.

You may submit written questions relevant to the proposed action to Alcoholic Beverage Control Board by email at [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov) or at 550 West 7<sup>th</sup> Avenue, Suite 1600, Anchorage, AK 99501. The questions must be received at least 10 days before the end of the public comment period. The Alcoholic Beverage Control Board will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and AMCO Website.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact the Alcohol and Marijuana Control Office at [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov) or call (907) 269-0350 not later than May 18, 2018, to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting the Alcohol and Marijuana Control Office at (907) 269-0350 or [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov).

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

**Statutory authority:** AS 04.06.090; AS 04.06.100; AS 04.11.090; AS 04.11.180; AS 04.11.400;

**Statutes being implemented, interpreted, or made specific:** AS 04.11.090

**Fiscal information:** The proposed regulation changes are not expected to require an increased appropriation.

Date: April 26, 2018

A handwritten signature in black ink that reads "Erika McConnell". The signature is written in a cursive, flowing style.

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Erika McConnell, Director  
Alaska Alcohol and Marijuana Control Office



ADDITIONAL REGULATION NOTICE INFORMATION  
(AS 44.62.190(d))

1. Adopting agency: Alcoholic Beverage Control Board
2. General subject of regulation: noncontiguous licensed premises
3. Citation of regulation (may be grouped): 3 AAC 304.185; 3 AAC 304.225
4. Department of Law file number, if any: JU2018200369
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): \_\_\_\_\_
- (x) Development of program standards
- ( ) Other (identify): \_\_\_\_\_

6. Appropriation/Allocation: \_\_\_\_\_

7. Estimated annual cost to comply with the proposed action to:

A private person: \$0 \_\_\_\_\_

Another state agency: \$0 \_\_\_\_\_

A municipality: \$0 \_\_\_\_\_

8. Cost of implementation to the state agency and available funding (in thousands of dollars):


|                               | Initial Year<br>FY <u>18</u> | Subsequent<br>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/<br>program | \$ <u>0</u>                  | \$ <u>0</u>         |
| Other (identify)              | \$ <u>0</u>                  | \$ <u>0</u>         |

9. The name of the contact person for the regulation:

Name: Jedediah Smith  
Title: Local Government Specialist  
Address: 550 West 7<sup>th</sup> Ave, 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): Alcoholic Beverage Control Board

11. Date: 4/26/2018 Prepared by: 

Name (printed): Jedediah Smith  
Title (printed): Local Government Specialist  
Telephone: (907) 269-0350

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION  
AND FURNISHING OF ADDITIONAL INFORMATION

I, Erika McConnell, Director of the Alcoholic Beverage Control Board, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 3 AAC 304.185 regarding noncontiguous premises and 3 AAC 304.225, regarding alternating premises, 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: 6/20/18

Erika McConnell

Erika McConnell, Director

Subscribed and sworn to before me at Anchorage, Alaska, on 6/20/18

Jane Sawyer  
Notary Public in and for the State of Alaska



AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Erika McConnell, Director of the Alcoholic Beverage Control Board, being duly sworn, state the following:

The Alcoholic Beverage Control Board 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 Alcoholic Beverage Control Board regulation changes regarding noncontiguous premises (3 AAC 304.185) and alternating premises (3 AAC 304.225).

Date: 6/20/18

Erika McConnell

Erika McConnell, Director  
Alcoholic Beverage Control Board

Subscribed and sworn to before me at Anchorage, Alaska, on 6/20/18.  
(date)

Jane Sawyer

Notary Public in and for the State of Alaska





4/29

# ANCHORAGE DAILY NEWS

## AFFIDAVIT OF PUBLICATION

Account #: 270221

ST OF AK/ALCOHOL AND MARIJUANA  
CONTROL BOARD  
550 W 7TH AVE #1600  
ANCHORAGE AK 99501

Order#  
Cost

0001420440  
\$288.84

Product ANC-Anchorage Daily News  
Placement 0300  
Position 0301

### STATE OF ALASKA THIRD JUDICIAL DISTRICT

Joleesa Stepetin

being first duly sworn on oath deposes and says that he/she is a representative of the Anchorage Daily 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

April 29, 2018

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 Joleesa Stepetin  
Joleesa Stepetin

Subscribed and sworn to before me  
this 30th day of April, 2018

Britney Thompson  
Notary Public in and for  
The State of Alaska.  
Third Division  
Anchorage, Alaska

MY COMMISSION EXPIRES

2/23/2019

### NOTICE OF PROPOSED CHANGES ON PREMISES DIAGRAMMS AND NONCONTIGUOUS PREMISES IN THE REGULATIONS OF THE ALCOHOLIC BEVERAGE CONTROL BOARD

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Statutory authority: AS 04.06.090; AS 04.06.100; AS 04.11.090; AS 04.11.180; AS 04.11.400;

Statutes being implemented, interpreted, or made specific: AS 04.11.090

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

Date: April 26, 2018

Erika McConnell, Director  
Alaska Alcohol and Marijuana Control Office

Published: April 29, 2018

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

RECEIVED  
MAY 03 2018  
ALCOHOL MARIJUANA CONTROL OFFICE  
STATE OF ALASKA

AFFIDAVIT OF ALCOHOLIC BEVERAGE CONTROL BOARD ACTION

I, Erika McConnell, Director of the Alcoholic Beverage Control Board, being duly sworn, state the following:

The attached motions dealing with regulation changes to noncontiguous licensed premises and alternating premises were passed by the Alcoholic Beverage Control Board during its June 12, 2018, meeting.

Date: 6/20/18

Erika McConnell

Erika McConnell, Director  
Alcoholic Beverage Control Board

Subscribed and sworn to before me at Anchorage, Alaska, on 6/20/18  
(date)

Jane Sawyer

Notary Public in and for the State of Alaska







**Alcoholic Beverage Control Board  
Excerpt from unapproved meeting minutes  
June 12, 2018  
Third Judicial District  
Atwood Building, Rooms 102 & 104  
550 W. 7<sup>th</sup> Avenue  
Anchorage, Alaska**

● **REGULATIONS**

**B. Open Regulations Projects**

**5. Bona Fide Restaurant**

**TAB 81**

**Status:** Public comment period closed June 1, 2018

**Potential Board Actions:** Vote to adopt; OR  
Substantially amend and put out for public comment

*Sara Erickson motions to adopt the proposed regulation changes to 3 AAC 304.185. Glenn Brady seconds the motion. Motion passes 3-0.*

*Glenn Brady motions to adopt the proposed regulation changes to 3 AAC 304.225. Sara Erickson seconds the motion. Motion passes 3-0.*