

MEMORANDUM


State of Alaska Department of Law

TO: Scott C. Meriwether, AAC Coordinator
Office of the Lieutenant Governor

DATE: August 31, 2018

FILE NO.:

TELEPHONE NO.: 465-3600

FROM: Steven C. Weaver 
Sr. Assistant Attorney General
and Assistant Regulations Attorney
Legislation/Regulations Section

SUBJECT: Corrections to the Alaska
Administrative Code (AAC):
3 AAC 304.185

In accordance with the authority of the regulations attorney under AS 44.62.125(b), please forward to the publisher the corrections to the Alaska Administrative Code (AAC) described below. I have forwarded these corrections under a specific delegation dated December 1, 2015 from the regulations attorney. These revisions correct manifest errors resulting from two regulations projects amending the same section.

The regulation to be revised is 3 AAC 304.185. In a project with Department of Law file number 2017200816, the Alcoholic Beverage Control Board amended 3 AAC 304.185(c) and added 3 AAC 304.185(e). We approved those regulations with Department of Law technical edits, and your office filed them on April 25, 2018, with a special effective date of July 1, 2018; those regulations are in print in the July 2018 quarterly supplement (Register 226). However, in a project with Department of Law file number 2018200369, the Alcoholic Beverage Control Board amended all of 3 AAC 304.185, in order to split 3 AAC 304.185(a) into two subsections, and to retag the subsections that followed accordingly. But the draft omitted the recent changes to 3 AAC 304.185(c) and the addition of the new text in 3 AAC 304.185(e). We approved those regulations, your office filed them July 18, 2018, and they took effect August 17, 2018; they are slated for publication in the October 2018 quarterly supplement (Register 227).

When 3 AAC 304.185 is printed in the October 2018 quarterly supplement (Register 227), please request the publisher to arrange the text as follows:

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 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). 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) The licensee shall conspicuously post the license within the licensed premises.

(d) 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 a fee of \$250 for changing the business name or line drawing of the licensee's licensed premises when the name or line drawing change is not part of a transfer of ownership or location. A request for a business name or line drawing change for licensed premises not part of a transfer must be made on a form prescribed by the board.

(e) 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.

(f) A licensee may request to have a portion of its licensed premises alternate as licensed or unlicensed premises on a seasonal basis under the following conditions:

- (1) the request is made on a form prescribed by the board, accompanied by a detailed premises diagram and \$250 fee;
- (2) a debt that is incurred during times when the identified area is unlicensed will be considered a debt incurred in the operation of the licensed business for purposes of transfer of the license under AS 04.11.360;
- (3) at any time with written notice to the licensee, the board may withdraw its approval of use of the identified area as alternating premises; and
- (4) during times the identified area is designated as an unlicensed premises, all alcoholic beverages must either be removed from the identified area or be stored in a location approved by the board to be secure from the public. (Eff. 11/29/81, Register 80; am 12/13/2009, Register 192; am 7/1/2018, Register 226; am 8/17/2018, Register 227)

Authority:	AS 04.06.090	AS 04.11.210	AS 04.16.130
	AS 04.06.100	AS 04.11.255	AS 04.21.060
	AS 04.11.090	AS 04.11.260	

In addition, in the editor's note following 3 AAC 304.185, please add a new paragraph at the end to read as follows:

Effective July 1, 2018 (Register 226), the Alcoholic Beverage Control Board amended 3 AAC 304.185(c) and added new 3 AAC 304.185(e). Effective August 17, 2018 (Register 227), the Alcoholic Beverage Control Board made additional amendments to 3 AAC 304.185, splitting former 3 AAC 304.185(a) into 3 AAC 304.185(a) and (b), making amendments to those two subsections, and relettering the following subsections accordingly. However, the board inadvertently made those amendments to the older version of 3 AAC 304.185, and set out the older version in its entirety. As a result, the draft inadvertently omitted

the July 1, 2018 amendments to 3 AAC 304.185. The regulations attorney, acting under AS 44.62.125(b)(6) to harmonize the board's changes to 3 AAC 304.185, incorporated the July 1, 2018 amendments into the subsection formerly designated 3 AAC 304.185(c) and now designated 3 AAC 304.185(d) to reflect the splitting out of 3 AAC 304.185(a) into two subsections. The regulations attorney also incorporated the board's July 1, 2018 adoption of a new subsection, originally designated "(e)" but now designated "(f)" to reflect the splitting out of 3 AAC 304.185(a) into two subsections. Finally, the regulations attorney displayed changes to the authority citation that follows 3 AAC 304.185, combining the changes to that citation made in the July 1, 2018 amendments and the August 17, 2018 amendments.

We have confirmed that, in making the amendments to 3 AAC 304.185 that took effect August 17, 2018, the Alcoholic Beverage Control Board did not intend to repeal the amendments to 3 AAC 304.185(c) and (e) that took effect July 1, 2018. We have confirmed that the arrangement of material as specified in this memorandum does not call for conforming changes to other provisions of 3 AAC 304. Thank you for your assistance, and please contact me if you have additional questions.

SCW

cc: Linda Mattson, Regulations Contact
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