

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



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Anchorage, Alaska 99501
907.269.7460
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Linda Mattson
Department of Commerce, Community and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor *AS*
465.4081

DATE: September 27, 2018

RE: Filed Permanent Regulations: Alcohol Beverage Control Board

Alcohol Beverage Control Board regulations re: requirements for application to transfer
liquor license (3 AAC 304.175(e))

Attorney General File: 2018200208 (part 1)

Regulation Filed: 9/27/2018

Effective Date: 10/27/2018

Print: 228, January 2019

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 single page of regulations, dealing with the deadline for transfer of a liquor license, 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: 8/23/18



Erika McConnell, Director

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on 9/27/18, 20____ at 141A.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Lieutenant Governor

Effective: October 27, 2018.

Register: 228, January 2019.

Register 228, January 2019

COMMERCE, COMMUNITY, AND EC. DEV.

3 AAC 304.175(e) is amended to read:

(e) An application for the transfer of a liquor license received after **November 1** [OCTOBER 1] of the year in which the license expires must be accompanied by an application to renew the liquor license. (Eff. 11/29/81, Register 80; am 4/28/84, Register 90; am 5/11/96, Register 138; am 8/24/2001, Register 159; am 6/13/2003, Register 166; am 10/27/2018, Register 228)

Authority:	AS 04.06.090	AS 04.11.040	AS 04.11.360
<u>((bold))</u>	AS 04.06.100	AS 04.11.280	AS 04.11.400

MEMORANDUM

State of Alaska Department of Law


To: The Honorable Byron Mallott
Lieutenant Governor

Date: September 26, 2018

File No.: 2018200208 (Part 1)

Thru:

Tel. No.: 465-3600

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

Re: Alcoholic Beverage Control Board
regulations re: requirements for
application to transfer liquor license
(3 AAC 304.175(e))

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. I have reviewed this project under a specific delegation of authority dated September 21, 2018 from the Regulations Attorney. 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 would extend, from October 1 to November 1, the deadline date for receiving applications for transfer of a liquor license; after that date a licensee would also have to submit an application for renewal of the license.

We note that the Alcoholic Beverage Control Board made this project Part 1 of a multipart project, pending additional board work on other proposed regulations.

We also note that the public notice for these regulations inadvertently omitted AS 04.11.040 as one of the statutes being implemented, interpreted, or made specific. However, the public notice includes citations to AS 04.06.090 and 04.06.100, both of which specify the board's power to regulate the transfer of liquor licenses. We do not find a substantive violation of the Administrative Procedure Act.

The March 14, 2018 public notice and the August 23, 2018 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.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations.

SCW

cc: Erika McConnell, Director
Alcoholic Beverage Control Board
Department of Commerce, Community, and Economic Development

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

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

April Simpson, Notary Administrator
Office of the Lieutenant Governor

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

MEMORANDUM

State of Alaska Department of Law

TO: Hon. Byron Mallott
Lieutenant Governor

DATE: September 21, 2018

FILE NO.: 2018200208 (Part 1)

TELEPHONE NO.: (907) 465-3600

FROM: Susan R. Pollard *SPP*
Chief Assistant Attorney General
and Regulations Attorney
Legislation/Regulations Section

SUBJECT: Specific delegation of authority
regarding regulations review on
Alcoholic Beverage Control
Board regulations re:
requirements for application to
transfer liquor license (3 AAC
304.175(e))

By this memorandum, I am delegating my authority as Regulations Attorney under AS 44.62 to Assistant Attorney General Steven C. Weaver for the above-referenced regulations project. Under this delegation of authority, Steven Weaver has my full authority under AS 44.62 to conduct the legal review under AS 44.62 and take necessary actions on this regulations project.

If you have questions, please let me know.

SCW

cc w/enc: Scott C. Meriwether, AAC Coordinator
Office of the Lieutenant Governor

April Simpson, Notary Administrator
Office of the Lieutenant Governor

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

NOTICE OF PROPOSED CHANGES ON TRANSFERS, REINSTATEMENT AND
RENEWALS OF LICENSES 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 deadlines for transfers, reinstatement and renewals of alcohol licenses, including the following:

3 AAC 304.100 (2) is proposed to extend the period after deadline to renew a license before a new license becomes available.

3 AAC 304.160 (e) is proposed to add a deadline for a licensee to request reinstatement of a license.

3 AAC 304.175(e) is proposed to extend the deadline to transfer a liquor license.

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 7th Avenue, Suite 1600, Anchorage, AK 99501. Additionally, the Alcoholic Beverage Control Board will accept comments by electronic mail at 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, April 27, 2018.

You may submit written questions relevant to the proposed action to Alcoholic Beverage Control Board by email at amco.regs@alaska.gov or at 550 West 7th 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 or call (907) 269-0350 not later than April 16, 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.

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 04.06.010; AS 04.06.080; AS 04.06.090; AS 4.06.100

Statutes being implemented, interpreted, or made specific: AS 04.11.270; AS 04.11.280; AS 04.11.320; AS 04.11.340; AS 04.11.360; AS 04.11.400; AS 04.11.540; AS 04.11.680

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

Date: March 12, 2018



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: Application fees for alcohol licenses
3. Citation of regulation (may be grouped): 3 AAC 304.100; 3 AAC 304.160(e); 3 AAC 304.175(e)
4. Department of Law file number, if any: 2018200208

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 FY <u>18</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>
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 7th 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

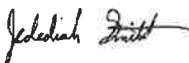
☐ Federal government

☐ General public

☐ Petition for regulation change

☒ Other (identify): Alcoholic Beverage Control Board

11. Date: 3/12/2018

Prepared by: 

Name (printed): Jedediah Smith

Title (printed): Local Government Specialist

Telephone: (907) 269-0350

270221
0001417963
\$308.76



AFFIDAVIT OF PUBLICATION

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

March 14, 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

Subscribed and sworn to before me
this 14th day of March, 2018

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

2/23/2019

NOTICE OF PROPOSED CHANGES ON TRANSFERS, REINSTATEMENT AND RENEWALS OF LICENSES IN THE REGULATIONS OF THE ALCOHOLIC BEVERAGE CONTROL BOARD

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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.

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 04.06.010; AS 04.06.080; AS 04.06.090; AS 4.06.100

Statutes being implemented, interpreted, or made specific: AS 04.11.270; AS 04.11.280; AS 04.11.320; AS 04.11.340; AS 04.11.360; AS 04.11.400; AS 04.11.540; AS 04.11.680

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

Date: March 12, 2018
Erika McConnell, Director
Alaska Alcohol and Marijuana Control Office

Published: March 14, 2018

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

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 304.175(e) regarding deadline for liquor license transfers, 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: 8/23/18

Erika McConnell

Erika McConnell, Director

Subscribed and sworn to before me at Anchorage, Alaska, on 8/23/18.

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 the deadline for transfer of a liquor license (3 AAC 304.175(e)).

Date: 9/20/18

Erika McConnell

Erika McConnell, Director
Alcoholic Beverage Control Board

Subscribed and sworn to before me at Anchorage, Alaska, on 9/20/18
(date)



Jane Sawyer
Notary Public in and for the 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 motion, dealing with the deadline for transfers of liquor licenses, 3 AAC 304.175(e), was passed by the Alcoholic Beverage Control Board during its June 12, 2018, meeting.

Date: 8/23/18

Erika McConnell

Erika McConnell, Director
Alcoholic Beverage Control Board

Subscribed and sworn to before me at Anchorage, Alaska, on 8/23/18
(date)



Jane Sawyer

Notary Public in and for the State of Alaska



**Alcoholic Beverage Control Board
Meeting Minutes
June 12, 2018
Third Judicial District
Atwood Building, Room 104
550 W. 7th Avenue
Anchorage, Alaska
Call-in Number: 1-800-315-6338, code 69173#**

● **ADMINISTRATION**

9:00am

A. Call to Order

B. Roll Call

Board Members Present:

Bob Klein, Chair, Industry Member
Bobby Evans, Rural Member
Sara Erickson, Public Member
Glenn Brady, Industry Member

Staff Members Present:

Erika McConnell, Director
Sarah Oates, Program Coordinator

Legal Counsel Present:

Harriet Milks, Assistant Attorney General

C. Approval of Agenda

9:01am

Glenn Brady moves to move Tab 14 to be considered with the other Executive Session items on the agenda.

Bobby Evans seconds the motion.

None opposed, motion carries.

D. Approval of the April 3, 2018 Meeting Minutes

9:02am

TAB 1

Glenn Brady moves to approve the April 3, April 10, and May 22, 2018 meeting minutes.

None opposed, motion carries.

3. Deadline for Reinstatement and Renewal; Renewals with Transfers (5:27pm) TAB 79

Status: Public comment period closed April 27, 2018
Potential Board Actions: Vote to adopt; OR
Substantially amend and put out for public comment

Glenn Brady moves to adopt the recommended change to 3 AAC 304.175(e) from October 1 to November 1.

Sara Erickson seconds the motion.

None opposed, motion carries.

The Board discusses the public comments received regarding the deadline for reinstatement and renewal.

Erika McConnell suggests that if the Board does not want to implement a drop-dead date, that it considers adding a criterion within the reinstatement provisions that says if this license has been granted to someone else, then you can't get reinstated.

The Board members voice support of Ms. McConnell's recommendation.

Erika McConnell states that she will bring a new draft to the next meeting.

4. Security Interest Transfers/Involuntary Retransfers 5:47pm TAB 80

Status: Public comment period closed June 1, 2018
Potential Board Actions: Vote to adopt; OR
Substantially amend and put out for public comment

*Erika McConnell requests that the Board postpones this, as it is a very complicated issue.
No action – item will be included in August agenda.*

5. Licensed Premises Requirements; Alternating Premises 5:48pm 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 moves to adopt the (alternating premises) regulation changes.

Glenn Brady seconds the motion.

None opposed, motion carries.

Glenn Brady moves to adopt the licensed premises requirements regulation changes.

Sara Erickson seconds the motion.

None opposed, motion carries.

● **NEXT ABC BOARD MEETING**

5:50pm

Agenda deadline for August 14, 2018, meeting: July 27, 2018

Bob Klein states that after the May meeting in Bethel, it came to his attention that the Board's current method of regulations – that public comments must be written and submitted during a specific time period – could be revised to include verbal public testimony.