

Kevin Meyer  
Lieutenant Governor  
State Capitol  
Juneau, Alaska 99811  
907.465.3520  
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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**

**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   
465.4081

**DATE:** January 23, 2019

**RE:** Filed Permanent Regulations: Alcoholic Beverage Control Board  
  
Alcoholic Beverage Control Board regulations re: license reinstatement and renewal  
(3 AAC 304.100; 3 AAC 304.160)

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Attorney General File:	2018200208 (part 2)
Regulation Filed:	1/22/2019
Effective Date:	2/21/2019
Print:	229, April 2019

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

ORDER CERTIFYING THE CHANGES TO  
REGULATIONS OF ALCOHOLIC BEVERAGE CONTROL BOARD

The attached two pages of regulations, dealing with deadlines for reinstatement and renewal, are certified to be a correct copy of the regulation changes that the Alcoholic Beverage Control Board adopted at its October 15, 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.

On the record, in considering public comments, 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:

10/31/18

Erika McConnell

Erika McConnell, Director

FILING CERTIFICATION

I, ~~Valerie Nunn~~ <sup>Kerin Meyer</sup> ~~araaduk Davidson~~, Lieutenant Governor for the State of Alaska, certify that on

January 22, 2019 at 10:29 Am., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

Keri Meyer

Lieutenant Governor

Effective: February 21, 2019.

Register: 229, April 2019.

3 AAC 304.100 is amended to read:

**3 AAC 304.100. When licenses become available.** Except as provided in 3 AAC 304.110, an application will be denied if it is received by the board at a time when there are no available licenses of the kind applied for. In this chapter, a license becomes available

(1) on the date the director determines the relevant population under 3 AAC 304.905, where the license becomes available because of an increase in the population during the preceding year;

(2) 30[10] days after the period for renewing licenses has expired, where the license becomes available because a license has expired and has not been renewed;

(3) on the conclusion of all appeals of the revocation, or on waiver of appeal by the licensee, whichever is later, where the license becomes available because of the revocation of another license;

(4) on the date determined by the board or the director in any other case. (Eff. 4/28/84, Register 90; am 2/21/2019, Register 229)

**Authority:** AS 04.06.080

AS 04.06.090

AS 04.06.100

AS 04.11.340

AS 04.11.400

AS 04.11.320

[AS 04.11.400(a)]

[AS 04.11.340(2)]

[AS 04.11.320(a)]

3 AAC 304.160(e) is amended to read:

(e) For the purposes of AS 04.11.540, if a license has expired for failure to file a complete application for renewal by February 28 or for failure to pay the required fees and penalty fees by that date, the board will consider a written request to reinstate the license if the request is accompanied by

(1) a complete application;

Register 229, April 2019 COMMERCE, COMMUNITY, AND EC. DEV.

**(2) a reinstatement fee of \$1,000;**

**(3)[(2)] all other required fees and penalty fees; and**

**(4)[(3)] proof of good cause for the failure to file and pay by February 28.**

(Eff. 9/11/98, Register 147; am 6/13/2003, Register 166; am   /  /  , Register   )

3 AAC 304.160(f) is amended to read:

(f) The board will deny a request for reinstatement submitted under (e) of this section if

**(1) the license became available in accordance with 3 AAC 304.100(2) and was issued to a different applicant, unless the limit of licenses under AS 04.11.400 has not been reached; or**

**(2)** the board finds that the failure to timely file or pay was caused by

**(A)[(1)]** the licensee's failure to notify the board of a change of the licensee's mailing address;

**(B)[(2)]** a transfer of ownership of the business for which the license was issued without written approval of the board in violation of AS 04.11.040;

**(C)[(3)]** a lease of the licensed business to another person in violation of AS 04.11.450(c); or

**(D)[(4)]** any other action of the licensee whether active or tacit that the board finds constitutes a failure to lawfully operate the business for which the license was issued.

(Eff. 9/11/98, Register 147; am 6/13/2003, Register 166; am 2/21/2019, Register 229)

<b>Authority:</b>	AS 04.06.090	AS 04.11.270	AS 04.11.680
<u>229</u>	AS 04.06.100	AS 04.11.540	

# MEMORANDUM

## State of Alaska Department of Law


**To:** The Honorable Kevin Meyer  
Lieutenant Governor

**Date:** December 12, 2018

**File No.:** 2018200208 (Part 2)

**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: license reinstatement  
and renewal (3 AAC 304.100; 3 AAC  
304.160)

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 delegation dated December 3, 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 concern license reinstatement and renewals. If a license expires for failure to timely renew, the regulations extend the period before that license becomes available to another applicant. The regulations also establish a fee for reinstatement of an expired license and provide for denial of reinstatement if the license became available to and was issued to a different applicant.

The Alcoholic Beverage Control Board split this project into two parts; Part 2 includes original supporting documents. The September 9, 2018 public notice and the October 31, 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 w/enc: Hon. Julie Anderson, Commissioner  
Department of Commerce, Community, and Economic Development

Erika McConnell, Director  
Alcohol and Marijuana Control Office  
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

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

# MEMORANDUM

State of Alaska  
Department of Law

To: The Honorable Kevin Meyer  
Lieutenant Governor

Date: December 3, 2018

Tel. No.: 465-3600

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

Re: Delegation of Authority for  
Regulations Matters  
(2018200636)

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/hjh

cc: April Simpson, AAC Coordinator  
Office of the Lt. Governor

Ed Sniffen, Deputy Attorney General  
Civil Division

Joanne Grace, Statewide Office Chief  
Civil Division

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

Linda Miller, Legal Editor  
Legislation and Regulations Section

Laura Duval, Legal Editor  
Legislation and Regulations Section

NOTICE OF PROPOSED CHANGES ON 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 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 fee for license reinstatement.

3 AAC 304.160(f) is proposed to add language regarding denial of a license unless populations limits have not been met.

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 October 10, 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 October 1, 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 04.06.010; 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: September 6, 2018



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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: Application fees for alcohol licenses
3. Citation of regulation (may be grouped): 3 AAC 304.100; 3 AAC 304.160(e); 3 AAC 306.160(f)
4. Department of Law file number, if any: 2018200208.002

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 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: 3/12/2018 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 duly sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 3 AAC 304.100 and 3 AAC 304.160 regarding license reinstatement and renewal, has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to every person who has filed a request for notice of proposed action with the state agency;
- (3) furnished to appropriate state officials;
- (4) furnished to interested persons;
- (5) furnished to the Department of Law, along with a copy of the proposed regulation;
- (6) furnished electronically to incumbent State of Alaska legislators;
- (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).

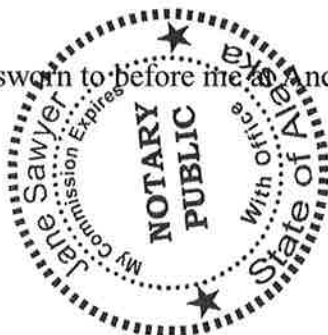
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (2), (4) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: 10/31/18

Erika McConnell

Erika McConnell, Director

Subscribed and sworn to before me at Anchorage, Alaska, on 10/31/18.



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:

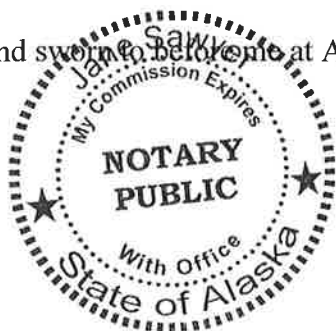
In compliance with AS 44.62.215, the Alcoholic Beverage Control Board has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Alcoholic Beverage Control Board regulation on license reinstatement and renewal.

Date: 10/31/18

Erika McConnell

Erika McConnell, Director

Subscribed and sworn to before me at Anchorage, Alaska, on 10/31/18.



Jane Sawyers

Notary Public in and for the State of Alaska

# 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#

0001427311

Product ADN-Anchorage Daily News

Cost

\$368.52

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

September 09, 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

Subscribed and sworn to before me  
this 10th day of September, 2018

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 CHANGES ON REINSTATEMENT AND RENEWALS OF LICENSES IN THE REGULATIONS OF THE ALCOHOLIC BEVERAGE CONTROL BOARD

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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: September 6, 2018

Erika McConnell, Director  
Alaska Alcohol and Marijuana Control Office

Published: September 9, 2018

AFFIDAVIT OF ALCOHOLIC BEVERAGE CONTROL BOARD ACTION

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

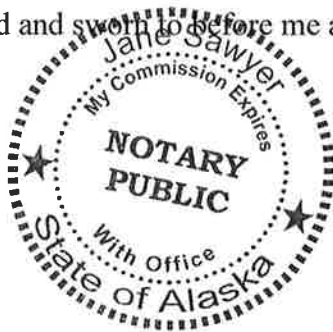
The attached motion dealing with alcohol license reinstatement and renewal was passed by the Alcoholic Beverage Control Board during its October 15, 2018, meeting.

Date: 10/31/18

Erika McConnell

Erika McConnell, Director

Subscribed and sworn to before me at Anchorage, Alaska, on 10/31/18.



Jane Sawyer

Notary Public in and for the State of Alaska





**Alcoholic Beverage Control Board  
Excerpt Draft Meeting Minutes  
October 15, 2018  
Third Judicial District  
145 Main Street Loop  
Kenai, Alaska**

● **REGULATIONS**

**1. Deadline for Reinstatement and Renewal**

**3:41pm**

**TAB 38**

**Status:** Public comment on revised draft closed October 10, 2018

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

*Bobby Evans moves to adopt (the regulations project).*

*Glenn Brady seconds the motion.*

*None opposed, motion carries.*