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

**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**MEMORANDUM**

**TO:** Debbie Morgan  
Department of Commerce Community and Economic Development

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

**DATE:** October 29, 2019

**RE:** Filed Permanent Regulations: Alcoholic Beverage Control Board  
Alcoholic Beverage Control Board Regulation re: Moral Turpitude (3 AAC 304.180)

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Attorney General File:	2019200180
Regulation Filed:	10/29/2019
Effective Date:	11/28/2019
Print:	232, January 2020

cc with enclosures: Harry Hale, 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 denial, suspension, revocation or refusal to renew or transfer, in the public interest ("moral turpitude"), are certified to be a correct copy of the regulation changes that the Alcoholic Beverage Control Board adopted at its July 29, 2019, meeting, under the authority of AS 04.06.090 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: 8/9/19

Erika McConnell

Erika McConnell, Director  
Alcoholic Beverage Control Board

FILING CERTIFICATION

April Simpson for

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on

October 29, 2019 at 10:24 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

April Simpson  
for Lieutenant Governor Kevin Meyer

Effective: November 28, 2019.

Register: 232, January 2020.

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

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

**Josh Applebee, Chief of Staff  
Kady Levale, Notary Administrator  
April Simpson, Regulations and Initiatives Specialist**

**IN TESTIMONY WHEREOF, I have  
signed and affixed the Seal of the State of  
Alaska, in Juneau, on December 11th,  
2018.**



*K-Meyer*  
.....

**KEVIN MEYER  
LIEUTENANT GOVERNOR**

3 AAC 304.180 is repealed and readopted to read:

**3 AAC 304.180. Denial, suspension, revocation, or refusal to renew or transfer, in the public interest.** (a) The ~~factors~~ <sup>the following factors</sup> the board may consider in determining whether it is in the public interest to deny, revoke, suspend, or refuse to renew or transfer a license ~~include~~ <sup>include</sup>

(1) the applicant's, the applicant's affiliates', the transferee's, or the transferee's affiliates' histories of conviction of a felony in this state, the United States, or another state or territory during the 15 years immediately preceding the date of application;

(2) the applicant's, the applicant's affiliates', the transferee's, or the transferee's affiliates' histories of commission of

(A) a violation of AS 04 or regulations adopted by the board; or

(B) a violation of the alcoholic beverage control laws of another state, as a licensee of that state;

(3) whether the applicant, the applicant's affiliates, the transferee, or the transferee's affiliates are untrustworthy, unfit to conduct a licensed business, or a potential source of harm to the public;

(4) whether the applicant, the applicant's affiliates, the transferee, or the transferee's affiliates have permitted, on licensed premises belonging to that person, the occurrence of sexual contact between persons; for the purpose of this paragraph, "sexual contact" means the touching of genitals, anus, or female breast or the intrusion of any object into the genital or anal opening regardless of whether the act was consensual; and

(5) all other factors the board in its discretion determines relevant to the public interest.

(b) ~~The grounds on which~~ <sup>using the factors</sup> a local governing body may properly protest an application under AS 04.11.480 ~~include the grounds~~ set out in (a) of this section. (Eff. 4/28/84, Register 90; am 5/1/94, Register 130; am 5/11/96, Register 138; am 11 / 28 / 2019, Register 232)

<b>Authority:</b>	AS 04.06.090	AS 04.11.330	AS 04.11.370
	AS 04.06.100	AS 04.11.340	AS 04.11.480
	AS 04.11.320	AS 04.11.360	

# MEMORANDUM

## State of Alaska Department of Law

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

**Date:** October 17, 2019

**File No.:** 2019200180

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

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

**Re:** Alcoholic Beverage Control Board  
Regulation re: 3 AAC 304.180:  
Alcoholic Beverage Control Board;  
Moral Turpitude

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 the basis for denial, suspension, revocation, or refusal to renew or transfer a license in the public interest.

The May 12, 2019, public notice and the August 9, 2019, 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.

SRP:sjw

**cc:** Honorable Julie Anderson, Commissioner  
Department of Commerce, Community & Economic Development  
Erika McConnell, Director  
Alcoholic Beverage Control Board  
Jane Sawyer, Regulations Specialist  
Department of Commerce, Community & Economic Development  
Debbie Morgan, Administrative Specialist  
Department of Commerce, Community & Economic Development  
Glenn Hoskinson, Special Assistant  
Department of Commerce, Community & Economic Development

NOTICE OF PROPOSED CHANGES TO LICENSING DECISIONS IN THE PUBLIC  
INTEREST IN THE REGULATIONS OF THE ALCOHOLIC BEVERAGE CONTROL  
BOARD

The Alcoholic Beverage Control Board proposes to adopt regulation changes in 3 AAC 304.180 of the Alaska Administrative Code, dealing with licensing decisions in the public interest, including the following:

3 AAC 304.180 is proposed to be repealed and readopted to establish criteria for denying, suspending, revoking, or refusing to renew or transfer in the public interest.

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 p.m. on June 19, 2019.

You may submit written questions relevant to the proposed action to the Alcohol and Marijuana Control Office at 550 West 7<sup>th</sup> Avenue, Suite 1600, Anchorage, AK 99501 or to [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov). The questions must be received at least 10 days before the end of the public comment period. The Alcohol and Marijuana Control Office 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 (907) 265-0350 not later than June 11, 2019, 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 [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov) or (907) 265-0350.

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. Written comments received are public records and are subject to public inspection.

**Statutory authority:** AS 04.06.090; AS 04.06.100; AS 04.11.320; AS 04.11.330; AS 04.11.340; AS 04.11.360; AS 04.11.370; AS 04.11.480

**Statutes being implemented, interpreted, or made specific:** AS 04.06.080; AS 04.06.090

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

The Alcoholic Beverage Control Board keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all of the Alcoholic Beverage Control Board notices of proposed regulation changes. To be added to or removed from the list, send a request to the Alcohol and Marijuana Control Office at [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov), giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

Date: May 9, 2019



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Erika McConnell, Director  
Alcoholic Beverage Control Board



ADDITIONAL REGULATION NOTICE INFORMATION  
(AS 44.62.190(d))

1. Adopting agency: Alcoholic Beverage Control Board
2. General subject of regulation: denial, suspension, revocation in public interest
3. Citation of regulation (may be grouped): 3 AAC 304.180
4. Department of Law file number, if any: 2019200180

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
- ( x ) Other (identify): \_\_\_\_\_

6. Appropriation/Allocation: none

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

A private person: none

Another state agency: none

A municipality: none

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

	Initial Year FY <u>20</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) 334-2195  
E-mail address: Jedediah.smith@alaska.gov

10. The origin of the proposed action:

☐ Staff of state agency  
☐ Federal government  
☐ General public  
☐ Petition for regulation change<sup>7</sup>  
☒ Other (identify): Alcoholic Beverage Control Board

11. Date: May 9, 2019

Prepared by: 

Name (printed): Jedediah Smith  
Title (printed): Local Government Specialist  
Telephone: (907) 334-2195

# 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

0001438072  
\$378.50

Product ADN-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

May 12, 2019

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 13th day of May, 2019

Notary Public in and for  
The State of Alaska.

Third Division  
Anchorage, Alaska

MY COMMISSION EXPIRES

STATE OF ALASKA  
NOTARY  
PUBLIC  
Jada L. Nowling

### NOTICE OF PROPOSED CHANGES TO LICENSING DECISIONS IN THE PUBLIC INTEREST IN THE REGULATIONS OF THE ALCOHOLIC BEVERAGE CONTROL BOARD

The Alcoholic Beverage Control Board proposes to adopt regulation changes in 3 AAC 304.180 of the Alaska Administrative Code, dealing with licensing decisions in the public interest, including the following:

3 AAC 304.180 is proposed to be repealed and readopted to establish criteria for denying, suspending, revoking, or refusing to renew or transfer in the public interest.

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](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 p.m. on June 19, 2019.

You may submit written questions relevant to the proposed action to the Alcohol and Marijuana Control Office at 550 West 7th Avenue, Suite 1600, Anchorage, AK 99501 or to [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov). The questions must be received at least 10 days before the end of the public comment period. The Alcohol and Marijuana Control Office 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 (907) 265-0350 not later than June 11, 2019, 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 [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov) or (907) 265-0350.

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. Written comments received are public records and are subject to public inspection.

**Statutory authority:** AS 04.06.090; AS 04.06.100; AS 04.11.320; AS 04.11.330; AS 04.11.340; AS 04.11.360; AS 04.11.370; AS 04.11.480

**Statutes being implemented, interpreted, or made specific:** AS 04.06.080; AS 04.06.090

**Fiscal Information:** The proposed regulation changes are not

• Lawn Refurbishing  
• Custom Planters  
• Patios/Pavers

LANDSCAPING  
LAWNS

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 304.180, regarding denial, suspension, revocation or refusal to renew or transfer, in the public interest ("moral turpitude") 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).

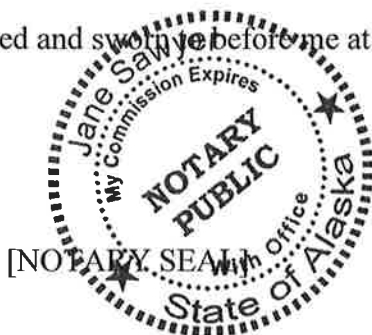
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (2), (4) and (6) of the list above. The additional regulation notice information also has been posted on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

Date: 8/9/19

Erika McConnell

Erika McConnell, Director  
Alcoholic Beverage Control Board

Subscribed and sworn to before me at Anchorage, Alaska, on 8/9/19  
(date)



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:

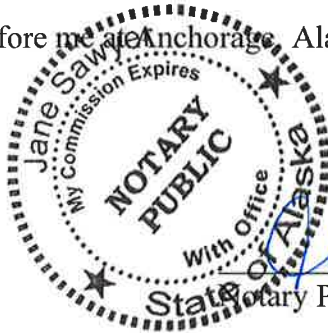
In compliance with AS 44.62.215, the Alcoholic Beverage Control Board has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Alcoholic Beverage Control Board regulation on denial, suspension, revocation, or refusal to renew or transfer, in the public interest ("moral turpitude").

Date: 8/9/19

Erika McConnell

Erika McConnell, Director  
Alcoholic Beverage Control Board

Subscribed and sworn to before me at Anchorage, Alaska, on 8/9/19.  
(date)



Jane Sawyer

Notary Public in and for the State of Alaska



**Alcoholic Beverage Control Board  
Draft Meeting Minutes Excerpt  
July 29, 2019  
Anchorage, Alaska**

**1. Revised Definition of "In the Public Interest"**

**TAB 68**

**Status:** Public comment period closed June 19, 2019  
**Potential Board Actions:** Vote to adopt; OR  
Substantially amend and put out for public comment

*Erika McConnell summarizes Tab 68.*

***Glenn Brady moves to adopt project "In the Public Interest".  
Sara Erickson seconds the motion.***

*Charlie Cross states that the "applicants or applicants affiliate" must disclose. He asks if someone has served a 16 year sentence and then is released on probation shortly before they apply for a liquor license, does the board care?*

*Harriet Milks states that the probation period consideration can be added or the board could say it depends on the end of the probation period.*

*Rex Leath states that the probation matter is of concern. He states that regarding Doran Powell's comment the board is only considering criminal convictions not interactions between persons. He asks if anything prevents a currently incarcerated individual from applying for a license.*

*The board and director discuss the possibility and they all find it remote. McConnell states that there are other methods by which the board or staff may learn that someone is incarcerated such as a prison phone number or address.*

***None opposed, motion carries.***

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 denial, suspension, revocation, or refusal to renew or transfer, in the public interest, ("moral turpitude") was passed by the Alcoholic Beverage Control Board during its July 29, 2019, meeting.

Date: 8/9/19

Erika McConnell

Erika McConnell, Director  
Alcoholic Beverage Control Board

Subscribed and sworn to before me at Anchorage, Alaska, on 8/9/19.  
(date)



Jane Sawyer

Notary Public in and for the State of Alaska