

Kevin Meyer
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520
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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: January 24, 2020

RE: Filed Permanent Regulations: Alcoholic Beverage Control Board

Alcoholic Beverage Control Board regulation re: alcohol server education courses (3 AAC 304.465)

Attorney General File:	2019200005
Regulation Filed:	1/24/2020
Effective Date:	2/23/2020
Print:	233, April 2020

cc with enclosures: Harry Hale, 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 server education course, are certified to be a correct copy of the regulation changes that the Alcohol Beverage Control Board adopted at its November 12, 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: 12/24/2019



Glen Klinkhart, Interim Director

FILING CERTIFICATION

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

Jan. 24th, 2020 at 10:32 A.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Lieutenant Governor

Effective: February 23, 2020

Register: 233, April 2020

~~(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)~~

3 AAC 304.465(c)(8) is amended to read:

(8) **pricing and marketing** ["]~~[HAPPY HOUR]~~_" laws;

3 AAC 304.465(e) is amended to read:

(e) Rural premises are those licensed premises not on a statewide road system or further than 50 miles on a road system from a community where a course is **held** ~~[OFFERED]~~ at least once every month. For the purpose of training for rural premises, course providers may provide video or audiotapes and written materials to a licensee that cover all topics required under (c) of this section, and conduct telephonic question and answer sessions for the students. A course provider may present training for rural premises by means of an Internet-based program. An Internet-based program must include steps that the course provider takes to verify the identity of the persons receiving the instruction, testing, and certification of alcohol server training. The verification process must be approved by the board and may be reviewed and reevaluated on an annual basis to determine its validity and effectiveness. The students shall, under the supervision of the licensee or licensee's manager, take the test required under (d) of this section. The licensee or licensee's manager, whoever supervises the test, shall certify to the course provider that the student did not receive outside help in taking the test and that no copies of the test have been kept.

3 AAC 304.465(j) is repealed:

(j) Repealed 2/23/2020.

3 AAC 304.465 is amended by adding a new subsection to read:

(l) The fee for a new server education course is \$800 and the fee for review of an existing server education course is \$250.

(Eff. 4/1/94, Register 129; am 8/24/2001, Register 159; am 12/13/2009, Register 192; am 9/16/2017, Register 223; am 2/23/2020, Register 233)

Authority: AS 04.06.090 AS 04.06.110 AS 04.21.025
AS 04.06.100

MEMORANDUM


State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: January 10, 2020

File No.: 2019200005

Tel. No.: 465-3600

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

Re: Alcoholic Beverage Control Board
regulations re: alcohol server
education courses (3 AAC 304.465)

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 these regulations 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 requirements for alcohol server education courses.

The May 12, 2019 public notice, the July 28, 2019 supplemental public notice, and the December 24, 2019 certification of adoption order all 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:hjh

cc: Julie Anderson, Commissioner
Department of Commerce, Community, & Economic Development

Glen Klinkhart, Interim Director
Alcohol and Marijuana Control Office
Department of Commerce, Community, & Economic Development

Jane Sawyer, Regulations Specialist
Department of Commerce, Community, & Economic Development

NOTICE OF PROPOSED CHANGES ON ALCOHOL SERVER EDUCATION COURSES
IN THE REGULATIONS OF THE ALCOHOLIC BEVERAGE CONTROL BOARD

The Alcoholic Beverage Control Board proposes to adopt regulation changes in 3 AAC 304.465 of the Alaska Administrative Code, dealing with alcohol server education courses, including the following:

3 AAC 304.465(c)(8) is proposed to change “happy hour” to “pricing and marketing”

3 AAC 304.465(e) is proposed to change where a server education course is “offered” to “held”

3 AAC 304.465(j) is proposed to be repealed

3 AAC 304.465(l) is proposed to add a fee of \$800 to review any new server education courses and \$250 to review an existing course applying for reapproval.

3 AAC 304.465(m) is proposed to require server education course providers applying for reapproval, submit to the board a list of all individuals, identified only by US Postal Zip Code.

3 AAC 304.465(n) is proposed to further define “zip code”

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 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. 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 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 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 04.06.110; AS 04.21.025

Statutes being implemented, interpreted, or made specific: AS 04.21.025

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

The Alcoholic and Marijuana Control Office 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 550 W. 7th Avenue, Suite 1600, Anchorage, Alaska 99501 giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

Date: May 9, 2019



Erika McConnell, Director

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Alcoholic Beverage Control Board
2. General subject of regulation: Alcohol Server Education Course
3. Citation of regulation (may be grouped): 3 AAC 304.465
4. Department of Law file number, if any: 2019200005

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: none

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

A private person: Up to \$800 for developers of server education courses;

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>19</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) 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 change⁷
☒ 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

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

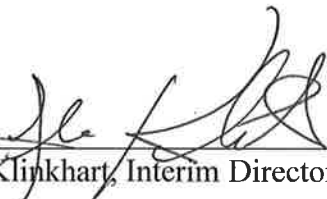
I, Glen Klinkhart, Interim Director, of the Alcoholic Beverage Control Board being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to server education courses 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.

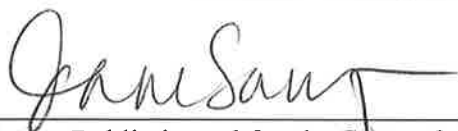
Date: Nov 27, 2019



Glen Klinkhart, Interim Director

Subscribed and sworn to before me at Anchorage, Alaska, on Nov. 27, 2019.





Notary Public in and for the State of Alaska

AFFIDAVIT OF ORAL HEARING

I, Mikal Martin, Records and Licensing Supervisor, of the Alcohol and Marijuana Control Office, being sworn, state the following:

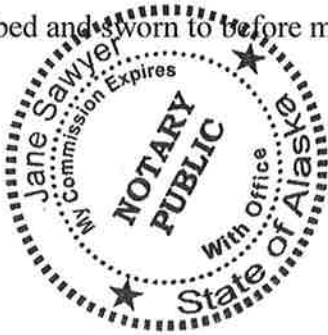
On July 29, 2019, at 1:40pm, in room 102, 550 West 7th Avenue, Anchorage, AK 99501, a public hearing presided over by the Alcohol Beverage Control Board was held in accordance with AS 44.62.210 for the purpose of taking testimony in connection with the adoption of changes to 3 AAC 304.465, server education course.

Date: 11/22/2019



Mikal Martin, Records and Licensing Supervisor

Subscribed and sworn to before me at Anchorage, Alaska, on 11/22/2019.



Notary Public in and for the State of Alaska

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Glen Klinkhart, Interim Director for 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 and orally as public comment and that was relevant to the accuracy, coverage, or other aspect of the Alcoholic Beverage Control Board regulation on server education course.

Date: Nov 27, 2019


Glen Klinkhart, Interim Director

Subscribed and sworn to before me at Anchorage, Alaska, on Nov. 27, 2019.




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#
Cost

0001438074
\$448.22

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
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

7/14/2020

STATE OF ALASKA
NOTARY
PUBLIC
Jada L. Nowling

NOTICE OF PROPOSED CHANGES ON ALCOHOL SERVER EDUCATION COURSES IN THE REGULATIONS OF THE ALCOHOLIC BEVERAGE CONTROL BOARD

The Alcoholic Beverage Control Board proposes to adopt regulation changes in 3 AAC 304.465 of the Alaska Administrative Code, dealing with alcohol server education courses, including the following:

3 AAC 304.465(c)(8) is proposed to change "happy hour" to "pricing and marketing"

3 AAC 304.465(e) is proposed to change where a server education course is "offered" to "held"

3 AAC 304.465(i) is proposed to be repealed

3 AAC 304.465(l) is proposed to add a fee of \$800 to review any new server education courses and \$250 to review an existing course applying for reapproval.

3 AAC 304.465(m) is proposed to require server education course providers applying for reapproval, submit to the board a list of all individuals, identified only by US Postal Zip Code.

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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 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. 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 re

appear for 1 month

TH PACKAGE

RENTALS

line!

Contact Rick Richardson
907-205-9516

"Price an ad in the classifieds and turn your
"dust collector" into cash! 257-4444

SUPPLEMENTAL NOTICE OF ORAL PUBLIC HEARING ON PROPOSED CHANGES
REGARDING RENEWAL OR TRANSFERS OF LICENSES AND PUBLIC INTEREST
FINDINGS, NEW LICENSE EXEMPTIONS FOR WAIVERS AND ALCOHOL SERVER
EDUCATION COURSES IN THE REGULATIONS OF THE ALCOHOLIC BEVERAGE
CONTROL BOARD

The Alcoholic Beverage Control Board proposes to adopt regulation changes in 3 AAC 304 of the Alaska Administrative Code, dealing with the definition of moral turpitude, licenses issued late in the year, and server education courses, 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.

3 AAC 304.170 is proposed to exempt new licenses issued between November 20 and December 31 from filing a waiver of annual operating requirements in that year.

3 AAC 304.465 is proposed to make changes dealing with alcohol server education courses.

This is a SUPPLEMENTAL NOTICE adding a NOTICE OF ORAL PUBLIC HEARING to the NOTICE OF PROPOSED CHANGES that were issued on May 9, 2019, concerning these proposed regulations contained in the Department of Law file numbers 2019200180, 2019200413, and 2019200005. This SUPPLEMENTAL NOTICE is being issued because the Alcoholic Beverage Control Board has decided to hold oral hearings on the regulation projects involving moral turpitude, exemptions of new licenses and server education requirements. The hearing will be held during the upcoming Alcoholic Beverage Control Board meeting on July 29, 2019 between 1:00 p.m.-2:30 p.m. The oral public hearing will take place telephonically. You may access the meeting by telephone: 1-800-315-6338, and enter access code 69173#.

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 (907) 265-0350 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 or (907) 265-0350.

Statutory authority: AS 04.06.090; AS 04.06.100; AS 04.11.110; AS 04.11.320; AS 04.11.330; AS 04.11.340; AS 04.11.360; AS 04.11.370; AS 04.11.480; AS 04.21.025

Statutes being implemented, interpreted, or made specific: AS 04.06.080; AS 04.06.090; AS 04.11.330; AS 04.21.025

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

Date: July 26, 2019

Erika McConnell

Erika McConnell, Director
Alcoholic Beverage Control Board

ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 270221 Order #: 1441056 Cost: \$303.80

AMCO

SEP 09 2019

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Leilisi Misa
being first duly sworn on oath
deposes and says that 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 newspaApril 3

July 28, 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 KMS

Subscribed and sworn to before

me this 5 day of Sept.

20 19

Jade M. Nowling
Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska
MY COMMISSION EXPIRES
7/14/2020

SUPPLEMENTAL NOTICE OF ORAL PUBLIC HEARING ON PROPOSED CHANGES REGARDING RENEWAL OR TRANSFERS OF LICENSES AND PUBLIC INTEREST FINDINGS, NEW LICENSE EXEMPTIONS FOR WAIVERS AND ALCOHOL SERVER EDUCATION COURSES 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 amco.regs@alaska.gov or (907) 265-0350.

Statutory authority: AS 04.06.090; AS 04.06.100; AS 04.11.110; AS 04.11.320; AS 04.11.330; AS 04.11.340; AS 04.11.360; AS 04.11.370; AS 04.11.480; AS 04.21.025

Statutes being implemented, interpreted, or made specific: AS 04.06.080; AS 04.06.090; AS 04.11.330; AS 04.21.025

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

Erika McConnell, Director
Alcoholic Beverage Control Board

Published: July 28, 2019

AFFIDAVIT OF BOARD ACTION

I, Glen Klinkhart, Interim Director, for the Alcoholic Beverage Control Board, being duly sworn, state the following:

The attached motion dealing with server education course was passed by the Alcoholic Beverage Control Board during its November 12, 2019, meeting.


Date: Nov 27, 2019



Glen Klinkhart, Interim Director

Subscribed and sworn to before me at Anchorage, Alaska, on Nov 27, 2019.





Notary Public in and for the State of Alaska



THE STATE
of **ALASKA**
GOVERNOR MICHAEL J. DUNLEAVY

Department of Commerce, Community, and Economic Development

Alcohol and Marijuana Control Office

550 West 7th Avenue, Suite 1600
Anchorage, AK 99501
Main: 907.269.0350

Alcoholic Beverage Control Board Meeting November 12, 2019 Excerpt from Unapproved Minutes

1. Server Education Course

TAB 1

Status: Board amended and adopted on 7/29/19; at 9/10/19 meeting,
Board reconsidered and sent back to staff for clarification.
Potential Board Actions: Amend and/or put out for public comment

Glenn Brady moves to remove the language that is bolded in section 1 including (A) and (B), and then adopt the regulation.

Rex Leath seconds the motion.

None opposed, motion carries.