

Kevin Meyer
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520
WWW.LTGOV.ALASKA.GOV



530 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460 269.0263
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Amy Demboski
Department of Commerce Community and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: April 23, 2020

RE: Filed Emergency Regulations: Alcoholic Beverage Control Board

Alcoholic Beverage Control Board emergency regulations re: curbside pickup in response to Covid-19 - Amended (3 AAC 304.925)

Attorney General File:	Emergency Regulations
Regulation Filed:	4/23/2020
Effective Date:	4/23/2020
Expiration Date:	August 13, 2020 unless made permanent by the adopting agency
Print:	234, July 2020

cc with enclosures: Harry Hale, Department of Law
Judy Herndon, LexisNexis
Jane Sawyer, Regulations Specialist

FINDING OF EMERGENCY – Amended

The Alcoholic Beverage Control Board finds that an emergency exists and that the attached regulations are necessary for the immediate preservation of the public peace, health, safety, or general welfare. The facts constituting the emergency include the following:

On March 11, 2020, the governor declared a public health disaster emergency under AS 26.23.020 due to the spread of COVID-19. The Center for Disease Control and Alaska Department of Health and Social Services have warned that COVID-19 is highly contagious and that physical distancing is paramount to containing the spread of the virus. Alaska instituted public health mandates requiring that individuals maintain physical distance from people who are not members of the person's household. The mandates allow for the continued operation of businesses that provide essential services and supplies and businesses where people can maintain the required social distance when inside.

Stores providing essentials, such as groceries and pharmaceuticals, are implementing strict measures to maintain physical distance and increasing the availability of drive-through and curbside pick-up and home delivery options. The board anticipates that so long as patrons are able to enter the premises of alcohol licensees for purchasing, it is necessary to take every possible step to protect the health and safety of those patrons and employees by providing purchasing opportunities that minimize physical distance between patrons and employees.

The governor suspended the following statutes in Title 4, relating to the sales of alcoholic beverages.

Suspended as of April 14, 2020

<u>Authority</u>	<u>Division</u>	<u>Suspended as described below</u>
AS 04.11.090	AMCO	Suspension of the statute only to the extent necessary to allow for: (1) curbside pickup of alcohol; and (2) delivery of beer and wine when included with an order of food being delivered by a licensed restaurant or eating place establishment.
AS 04.11.100	AMCO	Suspension of the statute only to the extent necessary to allow for: (1) curbside pickup of alcohol; and (2) delivery of beer and wine when included with an order of food being delivered by a licensed restaurant or eating place establishment.
AS 04.11.130(b)(1)	AMCO	Suspension of the statute only to the extent necessary to allow for (1) the curbside pickup of beer sales otherwise allowed under the statute; and (2) delivery of beer and wine when included with an order of food being prepared and delivered

		by a licensed restaurant or eating place establishment or by the bona fide restaurant on the licensed premises
AS 04.11.135(a)(3)	AMCO	Suspension of the statute only to the extent necessary to allow for the curbside pickup of beer sales otherwise allowed under the statute.
AS 04.11.135(d)(3)(C)&(e)	AMCO	Suspension of the statute only to the extent necessary to allow for: (1) curbside pickup of alcohol; and (2) delivery of beer and wine when included with an order of food being delivered by a licensed restaurant or eating place establishment.
AS 04.11.140(b)(1)(A)	AMCO	Suspension of the statute only to the extent necessary to allow for (1) the curbside pickup of beer sales otherwise allowed under the statute; and (2) delivery of beer and wine when included with an order of food being prepared and delivered by a licensed restaurant or eating place establishment or by the bona fide restaurant on the licensed premises
AS 04.11.150	AMCO	Suspension of the statute only to the extent necessary to allow for the curbside pickup of alcohol sales otherwise allowed under the statute.
AS 04.11.170	AMCO	Suspension of the statute only to the extent necessary to allow for curbside pickup of alcohol.

The practical effect of these suspensions is that licensees are able to sell alcoholic beverages off of the licensed premises. To provide constraints and avoid confusion, the board must pass emergency regulations so that physical distancing can be balanced with existing public peace, health, and safety protections, including verification that the purchasers are of legal drinking age and are not intoxicated at the time of purchase and protections against alcohol being left unattended.

THEREFORE: The Alcoholic Beverage Control Board finds that upon suspension of the listed Title 4 statutory provisions as stated in the Governor's Suspension Order, effective April 14,

2020, it is in the best interest of the state to enact emergency regulations 3 AAC 304.185(g), 3 AAC 3 AAC 304.920, and 3 AAC 304.925.

ORDER CERTIFYING ADOPTION

I certify that the Alcoholic Beverage Control Board under the authority of AS 04.06.090, adopted at its April 22, 2020 meeting the attached three pages of regulation changes as an emergency regulation to take effect immediately upon filing by the lieutenant governor as provided in AS 44.62.180(3).

This action is not expected to require an increased appropriation.

4/23/2020

Date: _____

DocuSigned by:


3877C8CDD3CA4CA

Glen Klinkhart, Interim Director

FILING CERTIFICATION

April Simpson for

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on April 23rd, 2020, at 2:38 p.m., I filed the attached regulation according to the provisions of AS 44.62.

April Simpson
for Lieutenant Governor *Kevin Meyer*

Effective: April 23, 2020.

Register: 234, July 2020.

Expires August 13, 2020
unless made "permanent"
by the adopting agency

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.**



A handwritten signature in blue ink, appearing to read "K. Meyer", is written over a horizontal dotted line.

**KEVIN MEYER
LIEUTENANT GOVERNOR**

EMERGENCY REGULATION

Register 234, July 2020

COMMERCE, COMMUNITY, AND EC. DEV.

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

3 AAC 304.925 is amended to read:

3 AAC 304.925. Home delivery. (a) Notwithstanding 3 AAC 304.185(a) – (f) and 3 AAC 304.635(b), a beverage dispensary licensee under AS 04.11.090, a restaurant or eating place licensee under AS 04.11.100, a **brewery licensee under AS 04.11.130 operating a bona fide restaurant on premises**, or a brewpub licensee under AS 04.11.135, or a **winery licensee under AS 04.11.140 operating a bona fide restaurant on premises** may permit home delivery of beer or wine sold at retail only if:

(1) the order of beer or wine accompanies an order of a meal **prepared by the licensee or the bona fide restaurant on premises;**

(2) the beer or wine offered for sale is factory sealed;

(3) the licensee is permitted to sell beer or wine under the licensee's current license;

(4) the licensee does not use a third-party delivery service;

(5) a holder of an alcohol server education card who is an agent, excluding

EMERGENCY REGULATION

Register 234, July 2020

COMMERCE, COMMUNITY, AND EC. DEV.

through third-party contract, or employee of the licensee takes the beer or wine from the licensed premises to a residence for home delivery;

(6) the purchaser is at home and available to confirm the purchase at the time of home delivery;

(7) a holder of an alcohol server education card verifies that the purchaser of the alcoholic beverage is 21 years of age or older and is not otherwise restricted from purchasing alcoholic beverages under AS 04.16.160, by requiring the purchaser to produce a valid driver's license or valid identification card; and

(8) the transaction is in accordance with AS 04.16.030.

(b) For purposes of this section,

(1) "factory sealed" means in a closed, manufacturer-sealed or packaged bottle or can or a licensee sealed, tamper proofed, and labeled growler of beer.

(2) "meal" means food purchased at a retail price that is at least fifty percent of

EMERGENCY REGULATION

Register 234, July 2020

COMMERCE, COMMUNITY, AND EC. DEV.

the retail price of the alcohol purchase accompanying the order. (Eff. 4/16/2020, Register 234;

am 4 / 23 / 2020, - 8 / 13 / 2020, Register 234)

Authority: AS 26.23.020

AS 04.06.090

AS 04.06.100



THE STATE
of **ALASKA**
GOVERNOR MIKE 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 April 22, 2020 Excerpt from Unapproved Minutes

Technical clarifications regarding temporary suspension orders -- action required for adoption.
1:01 pm Joan Wilson provides background. 2 business types were excluded from home deliveries – breweries & wineries with bona fide restaurants for home delivery. Food needs to be prepared on licensed premises. Dana W. motions to adopt above clarifications of the temp suspension orders. Sara E. seconds. James Hoelscher asks if mixed drinks are allowed. Glenn B. talks about it. Joan suggests

None opposed, motion carries. *Joan Wilson clarifies the motion: this was a vote to accept both the amended emergency regulations and the amended findings, correct? Glenn Brady: correct.*

AFFIDAVIT OF ALCOHOLIC BEVERAGE CONTROL ACTION

I, Glen Klinkhart, Interim Director, for the Alcoholic Beverage Control Board, under penalty of perjury, state the following:

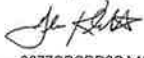
The attached motion dealing with response to COVID-19 outbreak was passed by the Alcoholic Beverage Control Board during its April 22, 2020, meeting.

There is no notary public or other official empowered to administer oaths available to notarize this document as a result of social distancing requirements implemented statewide.

I certify under penalty of perjury that the foregoing is true.

4/23/2020

Date: _____

DocuSigned by:

3877CBCDD3CA4CA...

[original or password-protected electronic signature]
Glen Klinkhart, Interim Director

State of Alaska
Municipality of Anchorage