

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
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Amy Demboski
Department of Commerce Community and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: July 24, 2020

RE: Filed Permanent Regulations: Alcoholic Beverage Control Board

Alcoholic Beverage Control Board emergency regulations made permanent re: curbside pickup and home delivery (3 AAC 304.185(g); 3 AAC 304.920; 3 AAC 304.925)

Attorney General File:	2020200405
Regulation Filed:	7/24/2020
Effective Date:	4/16/2020, am 4/23/2020, and am 8/23/2020
Print:	235, October 2020

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

CERTIFICATION OF COMPLIANCE

I, Glen Klinkhart, Interim Director, certify that, as required by AS 44.62.260 in order to make the attached five pages of regulations permanent, as of this date a legal opinion of the Department of Law has been requested under AS 44.62.060, a notice conforming to AS 44.62.200 was issued in compliance with AS 44.62.190, and an opportunity for public comment was provided under AS 44.62.210, for the following emergency regulation:

3 AAC 304.185(g); 3 AAC 304.920; 3 AAC 304.925 regarding curbside and home delivery of alcoholic beverages by certain Title 4 licensees.

This regulation originally was filed as an emergency regulation on April 16, 2020, and amended on April 23, 2020.

In considering the public comments, the Alcoholic Beverage Control Board paid special attention to the cost to private persons of the regulatory action being taken.

Date: 7-16-2020



Glen Klinkhart, Interim Director

FILING CERTIFICATION

April Simpson for

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on July 24th, 2020, at 12:46 P., I filed the attached regulation according to the provisions of AS 44.62.

April Simpson

for Lieutenant Governor *Kevin Meyer*

Register: 235, October 2020.

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF ALCOHOLIC BEVERAGE CONTROL BOARD

The attached five pages of regulations, dealing with curbside/home delivery are certified to be a correct copy of the regulation changes that the Alcoholic Beverage Control Board adopted at its July 16, 2020, meeting, under the authority of AS 04.06.090, AS 26.23.020 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: 7-16-2020



Glen Klinkhart, Interim Director

FILING CERTIFICATION

April Simpson for

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

July 24th, 2020 at 12:48 p.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: August 23, 2020

Register: 235, October 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**

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

The emergency adoption amendment of 3 AAC 304.185(g) is made permanent and that section is further amended to read:

(g) Notwithstanding (a) – (f) of this section ~~(3 AAC 304.185)~~, a licensee may permit an (an alcoholic beverage) agent or employee to take [alcohol] off of a licensed premises and bring it to a purchaser for curbside pickup or home delivery before November 15, 2020, under the conditions described in 3 AAC 304.920 or 3 AAC 304.925. (Eff. 11/29/81, Register 80; am 12/13/2009, Register 192; am 7/1/2018, Register 226; am 8/17/2018, Register 227; am 04/16/2020, Register 234; am 8 / 23 / 2020, Register 235)

Authority: AS 04.06.090 AS 04.06.100 AS 26.23.020

The emergency adoption amendment of 3 AAC 304.920 is made permanent and that section is further amended to read:

at bold)))
3 AAC 304.920. **Curbside pickup.** (a) Notwithstanding 3 AAC 304.185(a) – (f), 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, a brewpub licensee under AS 04.11.135, a winery licensee under AS 04.11.140, a package store licensee under AS 04.11.150, or a

distillery licensee under AS 04.11.170 may permit curbside pickup of alcoholic beverages sold at retail before November 15, 2020, only if (1)

(1) the alcoholic beverage offered for sale is factory sealed;

(2) the licensee is permitted to sell the type of alcoholic beverage under the licensee's current license;

(3) a holder of an alcohol server education card who is an agent, excluding through third-party contract, or employee of the licensee takes the alcoholic beverage from the licensed premises to the location designated for curbside pickup;

(4) the holder of an alcohol server education card verifies in person that the purchaser of the alcoholic beverage is 21 years of age or older as required under 3 AAC 304.425 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

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

(b) A licensee that offers alcoholic beverages for curbside pickup must consent to inspections of the areas designated for curbside pickup, excluding private vehicles, at all reasonable times and in a reasonable manner by investigative personnel of the board or by other

Nothing in this section limits
 peace officers acting in their official capacity. This section is not intended to limit the existing
 powers of investigative personnel.

(c) A licensee providing curbside pickup shall provide written information regarding
the licensee's director Director
their license and curbside service on a form designated by the Director.

(d) For purposes of this section,

(1) "curbside pickup" means a parking place designated by a licensee for pickup
from
 of food or alcoholic beverages or an area not greater than 50 feet of an entry to a licensee's
 business premises. (32 [.])

(2) "factory sealed" means in a closed, manufacturer-sealed or packaged bottle
 or can, or a licensee sealed, tamper proofed, and labeled growler of beer. (Eff. 4/16/2020,

Register 234 am 8 / 23 / 2020 # Register 235).

Authority: AS 04.06.090 AS 04.06.100 AS 26.23.020

adoption (of April 16, 2020 and the emergency amendment of that section
 The emergency amendment of 3 AAC 304.925 is made permanent and that section is further of April
23, 2020,
are
 amended to read:

(a bold)
one
0.5"
tabr !!! 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 before November 15, 2020, 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 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;

in person

(7) a holder of an alcohol server education card verifies that the purchaser of the as required under 3 AAC 304.425 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
(C; [.])
50
^
[.]

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

(alcoholic beverage)
^
[alcohol]

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

am 4/23/2020, Register 234; am ⁸ / 23 / 2020, Register 235)

Authority: AS 04.06.090

AS 04.06.100

AS 26.23.020

MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer Lieutenant Governor	Date: July 23, 2020
	File No.: 2020200405
Thru: Susan R. Pollard <i>SRP</i> Chief Assistant Attorney General and Regulations Attorney Legislation and Regulations Section	Tel. No.: 465-3600
From: Steven C. Weaver <i>SCW</i> Senior Assistant Attorney General Legislation and Regulations Section	Re: Alcoholic Beverage Control Board emergency regulations made permanent re: curbside pickup and home delivery (3 AAC 304.185(g); 3 AAC 304.920; 3 AAC 304.925)

The Department of Law has reviewed, against the statutory standards of the Administrative Procedure Act, the attached emergency regulations that the Alcoholic Beverage Control Board intends to make permanent with further amendments. Based upon our review, we find no legal problems. The emergency regulations were adopted on April 15, 2020, and took effect April 16, 2020. Emergency amendments were made on April 23, 2020, and took effect on that date. All the emergency regulations will expire on August 13, 2020 unless made permanent.

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 emergency regulations were approved by the Alcoholic Beverage Control Board, after the close of the public comment period, as permanent regulations with further permanent amendments. The regulations allow for the curbside delivery or home delivery of alcoholic beverages to customers, during the period of the governor's suspension of alcohol beverage control statutes as a response the COVID-19 pandemic, and add a "sunset" date of November 15, 2020, corresponding to the date on which the public health disaster emergency declaration is presently set to expire (sec. 1 (b), ch. 10, SLA 2020).

The April 16, 2020 certification of adoption order, the April 16, 2020 public notice, the April 23, 2020 certification of adoption order, the April 24, 2020 public notice, the June 12, 2020 public notice, and the July 16, 2020 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

cc w/enc: Glen Klinkhart, Interim Director
Alcoholic Beverage Control Board

Amy Demboski, Regulations Contact
Department of Commerce, Community, and Economic Development

Jane P. Sawyer, Regulations Specialist
Alcohol and Marijuana Control Office
Department of Commerce, Community, and Economic Development

Joan M. Wilson, Senior Assistant Attorney General
Commercial, Fair Business, and Child Support Section

NOTICE OF PROPOSED CHANGES ON CURBSIDE/HOME DELIVERY 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 curbside/home delivery of alcoholic beverages including the following:

- (1) emergency regulations 3 AAC 304.185(g); 3 AAC 304.920; 3 AAC 304.925 regarding curbside and home delivery of alcohol beverages by certain Title 4 licensees are intended to become permanent with a sunset of November 15, 2020.

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 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 email 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 **4:30pm on July 15, 2020**

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) 269-0490 not later than **June 25, 2020**, 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) 269-0490.

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 26.23.020

Statutes being implemented, interpreted, or made specific: AS 04.11.090; AS 04.11.100; AS 04.11.130; AS 04.11.135; AS 04.11.140; AS 04.11.150

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

The Alcohol 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 AMCO office at amco.regs@alaska.gov, giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

Date: June 10, 2020



Jane P. Sawyer, Regulations Specialist

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Alcoholic Beverage Control Board
2. General subject of regulation: Curbside/Home Delivery made permanent
3. Citation of regulation (may be grouped): 3 AAC 304.185(g); 3 AAC 304.920 - .925
4. Department of Law file number, if any: 2020200405

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
- ☐ Other (identify): _____

6. Appropriation/Allocation: DCCED/Alcohol and Marijuana Control Office

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

A private person: none known

Another state agency: none known

A municipality: none known

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: Jane P. Sawyer
Title: Regulations Specialist
Address: 550 W. 7th Ave., Ste. 1600, Anchorage, AK 99501
Telephone: 907-269-0490
E-mail address: jane.sawyer@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: June 10, 2020

Prepared by:



Name: Jane P. Sawyer
Title: Regulations Specialist
Telephone: 907-269-0490

ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 270221 ST OF AK/ALCOHOL AND MARIJUANA
CONTROL BOARD, ANCHORAGE, AK 99501

Order #: W0016143

Cost: \$383.5

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Lisi 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 afore-said 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

06/12/2020

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 15th day of June 2020.

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

MY COMMISSION EXPIRES

ANGELA M SIMMONS
NOTARY PUBLIC
State of Alaska
My Commission Expires Apr. 14, 2021

NOTICE OF PROPOSED CHANGES ON CURBSIDE/HOME DELIVERY 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 curbside/home delivery of alcoholic beverages including the following:

(1) emergency regulations 3 AAC 304.185(g); 3 AAC 304.920; 3 AAC 304.925 regarding curbside and home delivery of alcohol beverages by certain Title 4 licensees are intended to become permanent with a sunset of November 15, 2020.

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 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 email 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 4:30pm on July 15, 2020.

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) 269-0490 not later than June 25, 2020, 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) 269-0490.

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 26.23.020

Statutes being implemented, interpreted, or made specific:
AS 04.11.090; AS 04.11.100; AS 04.11.130; AS 04.11.135; AS 04.11.140; AS 04.11.150

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

The Alcohol 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 AMCO office at amco.regs@alaska.gov, giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

Date: June 10, 2020
By: /s/ Jane P. Sawyer,
Regulations Specialist

Published: June 12, 2020

AMCO

JUN 26 2020

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION


I, Jane P. Sawyer, Regulations Specialist, of the Alcoholic Beverage Control Board, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of, and changes to, emergency regulation 3 AAC 304.185(g); 3 AAC 304.920-.925 regarding curbside/home delivery becoming permanent 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).

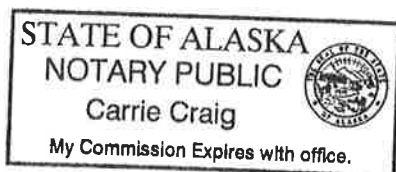
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (2), (4) and (6) of the list above. The additional regulation notice information also has been posted on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

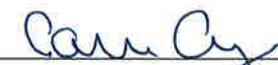
Date: July 16, 2020



Jane P. Sawyer, Regulations Specialist

Subscribed and sworn to before me at Anchorage, Alaska, on July 16, 2020.





Notary Public in and for the State of Alaska

AFFIDAVIT OF NOTICE OF ADOPTION
OF EMERGENCY REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Jane P. Sawyer, Regulations Specialist of the Alcoholic Beverage Control Board under penalty of perjury, state the following:

As required by AS 44.62.250, notice of the April 23, 2020, amendment to emergency regulation 3 AAC 304.925, has been given under AS 44.62.190(a) 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 regulation;
- (6) electronically transmitted 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 April 23, 2020, emergency changes to the regulation described above has been furnished to interested persons and furnished to 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.

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.

Date: 4/27/2020

DocuSigned by:


DF54A1D34C15445...

[original or password-protected electronic signature]
Jane P. Sawyer, Regulations Specialist

State of Alaska
Municipality of Anchorage

AFFIDAVIT OF NOTICE OF ADOPTION
OF EMERGENCY REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Jane P. Sawyer, Regulations Specialist of the Alcoholic Beverage Control Board under penalty of perjury, state the following:

As required by AS 44.62.250, notice of the April 15, 2020, emergency changes to 3 AAC 304: adding a new sections in response to COVID19 outbreak has been given under AS 44.62.190(a) 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 regulation;
- (6) electronically transmitted 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 April 15, 2020, emergency changes to the regulation described above has been furnished to interested persons and furnished to 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.

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.

Date: 4/23/2020

DocuSigned by:



DF54A1D34C15445

[original or password-protected electronic signature]

Jane P. Sawyer, Regulations Specialist

State of Alaska
Municipality of Anchorage



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 July 16, 2020, Excerpt from Unapproved Minutes

- **Consideration to make permanent regulation project: Curbside/Home Delivery** **TAB 1**
No oral comments/testimony will be taken for this project during this meeting. Written comment may be submitted through 7.15.20 by 4:30 pm. Public notice and project draft can be found at this link <http://notice.alaska.gov/198520> or on our website.

11:19 am Dana Walukiewicz motions to adopt as perm but has a sunset clause of 11/15/2020. Sara Erickson, seconds.

Dana: what would happen if the governor extends beyond November?

Joan: the date is drawn from suspension order – title 4. Not specify a date. If they extend past that date that we would need another perm reg project. Comfortable with the latter. Doesn't know if she could do the technical amendment.

Brady: the intent is that is linked with the governor's health mandates.

Joan: says the governor's authority is linked to the public health emergency.

Discussion of local option. Future discussion in August. More data on how to resolve this. Brady asks if the board can advise? Joan says yes, but they will be making the decisions regardless. Has the city of Bethel been in communication with the licensee?

None opposed, motion carries. – Charlie Cross not on the phone

Enforcement verifying compliance responses to covid? Glen says yes, but limited – travel.

AFFIDAVIT OF BOARD ACTION

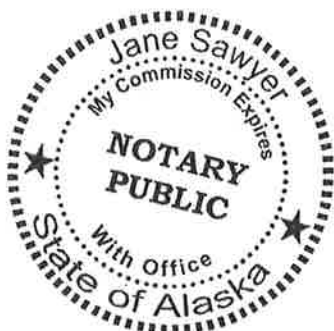
I, Glen Klinkhart, Interim Director, for the Alcoholic Beverage Control Board, being duly sworn, state the following:

The attached motion dealing with making emergency regulation Curbsie/Home Delivery permanent was passed by the Alcoholic Beverage Control Board during its July 16, 2020, meeting.

Date: 7-16-2020


Glen Klinkhart, Interim Director

Subscribed and sworn to before me at Anchorage, Alaska, on 7-16-2020.





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 that was relevant to the accuracy, coverage, or other aspect of the Alcoholic Beverage Control Board regulation on emergency regulation Curbside/Home Delivery being made permanent.

Date: 7-16-2020


Glen Klinkhart, Interim Director

Subscribed and sworn to before me at Anchorage, Alaska, on 7-16-2020.




Notary Public in and for the State of Alaska

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

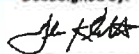
2020, it is in the best interest of the state to enact emergency regulations 3 AAC 304.185(g), 3 AAC 3 AAC 304.920, and 3 AAC 304.925.

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.

Date: 4/23/2020

DocuSigned by:

3877C8CDD03CA4CA

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 2:28 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.**



K. Meyer
.....

**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

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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

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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Amy Demboski
Department of Commerce Community and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor
465.4081

DATE: April 16, 2020

RE: Filed Emergency Regulations: Alcoholic Beverage Control Board

Alcoholic Beverage Control Board Emergency Regulations re: suspension of statutes in response to COVID-19 pandemic (3 AAC 304.185(g); 3 AAC 304.920; 3 AAC 304.925)

Attorney General File:	Emergency Regulations
Regulation Filed:	4/16/2020
Effective Date:	4/16/2020
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

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 the curbside pickup of beer sales otherwise allowed under the statute.
AS 04.11.135(a)(3)	AMCO	Suspension of the statute only to the extent necessary to allow for the curbside

AS 04.11.135(d)(3)(C)&(e)	AMCO	pickup of beer sales otherwise allowed under the statute. 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 the curbside pickup of wine sales otherwise allowed under the statute.
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 15, 2020, meeting the attached five 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.

4/16/2020

Date: _____

DocuSigned by:



387ZCHGDDJCAACA

Glen Klinkhart, Interim Director

FILING CERTIFICATION

April Simpson for

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on April 16th, 2020, at 12:37 p.m., I filed the attached regulation according to the provisions of AS 44.62.

April Simpson
for Lieutenant Governor Kevin Meyer

Effective: April 16, 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.**



Kevin Meyer
.....

**KEVIN MEYER
LIEUTENANT GOVERNOR**

EMERGENCY REGULATION

Register 234, July 2020

COMMERCE, COMMUNITY, AND EC. DEV.

3 AAC 304.185 is amended by adding a new section to read:

(g) Notwithstanding (a) – (f) of this section, a licensee may permit an agent or employee to take alcohol off of a licensed premises and bring it to a purchaser for curbside pickup or home delivery under the conditions described in 3 AAC 304.920 or 3 AAC on 304.925. (Eff. 11/29/81,

Register 80; am 12/13/2009, Register 192; am 7/1/2018, Register 226; am 8/17/2018, Register

227; am 4 / 16 / 2020, Register 234)

Authority: AS 26.23.020 AS 04.06.090 AS 04.06.100

3 AAC 304 is amended by adding a new section to read:

3 AAC 304.920. Curbside pickup. (a) Notwithstanding 3 AAC 304.185(a) – (f), 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, a brewpub licensee under AS 04.11.135, a winery licensee under AS 04.11.140, a package store licensee under AS 04.11.150, or a distillery licensee under AS 04.11.170 may permit curbside pickup of alcoholic beverages sold at retail only if:

EMERGENCY REGULATION

Register 234, July 2020

COMMERCE, COMMUNITY, AND EC. DEV.

(1) the alcoholic beverage offered for sale is factory sealed;

(2) the licensee is permitted to sell the type of alcoholic beverage under the

licensee's current license;

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

through third-party contract, or employee of the licensee takes the alcoholic beverage from the

licensed premises to the location designated for curbside pickup;

(4) the holder of an alcohol server education card verifies in person that the

purchaser of the alcoholic beverage is 21 years of age or older as required under 3 AAC 304.425

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

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

EMERGENCY REGULATION

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(b) A licensee that offers alcoholic beverages for curbside pickup must consent to inspections of the areas designated for curbside pickup, excluding private vehicles, at all reasonable times and in a reasonable manner by investigative personnel of the board or by other peace officers acting in their official capacity. This section is not intended to limit the existing powers of investigative personnel.

(c) A licensee providing curbside pickup shall provide written information regarding their license and curbside service on a form designated by the Director.

(d) For purposes of this section,

(1) "curbside pickup" means a parking place designated by a licensee for pickup of food or alcoholic beverages or an area not greater than 50 feet of an entry to a licensee's business premises.

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

4 / 16 / 2020, Register 234)

Authority: AS 26.23.020

AS 04.06.090

AS 04.06.100

EMERGENCY REGULATION

Register 234, July 2020

COMMERCE, COMMUNITY, AND EC. DEV.

3 AAC 304 is amended by adding a new section 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, or a brewpub licensee under AS 04.11.135 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;
- (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 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;

EMERGENCY REGULATION

Register 234 July 2020

COMMERCE, COMMUNITY, AND EC. DEV.

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

Authority: AS 26.23.020

AS 04.06.090

AS 04.06.100