

Kevin Meyer
Lieutenant Governor
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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: March 15, 2021

RE: Filed Permanent Regulations: Alcoholic Beverage Control Board

Alcoholic Beverage Control Board regulations re: Internet-based alcohol server courses
(3 AAC 304.465)

Attorney General File:	2020200547
Regulation Filed:	3/15/2021
Effective Date:	4/14/2021
Print:	238, July 2021

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

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF ALCOHOLIC BEVERAGE CONTROL BOARD


The attached three pages of regulations, dealing Internet-based alcohol server course are certified to be a correct copy of the regulation changes that the Alcoholic Beverages Control Board at its January 5, 2021, 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: 1/6/2021

DocuSigned by:

3877CBCDD3CA4CA...

Glen Klinkhart, Interim Director

April Simpson, for
↑

FILING CERTIFICATION

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

March 15, 2021 at 10:41 9.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

for April Simpson
Lieutenant Governor

Effective: April 14, 2021

Register: 238, July 2021

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 304.465(b) is amended to read:

(b) State or nationally recognized organizations or associations that address the subject of responsible alcoholic beverage service may obtain approval of an alcohol server education course by making written application on forms provided by the board. The application must include the course book or digital materials to be provided to students, any video or audio presentations that will be used, the written or online written test required under (d) of this section, detailed lesson plans, and a description of the qualifications of and training provided to course instructors. The application must identify the communities where the course will be presented and the frequency of the presentation. [THE APPLICANT SHALL EXPLAIN HOW RURAL PREMISES WILL BE SERVED UNDER (e) OF THIS SECTION.]

3 AAC 304.465(d) is amended to read:

(d) A provider of an alcohol server education course shall issue a card as described under (a) of this section to a student who successfully completes the course. Before issuing the card, the course provider shall require the student to pass a written test that demonstrates that the student understands the course subjects. The test may be an online written test if the course is in an Internet-based webinar or video teleconference format as provided in (m) of this section.

3 AAC 304.465(e) is repealed:

(e) Repealed 4 / 14 / 2021.

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

(m) A provider of an alcohol server education course may obtain approval from the board to provide its course to students in an Internet-based webinar or video teleconference format by making a request with an application required under (b) of this section. An Internet-based or video teleconference alcohol server education course provider shall

(1) have a live instructor present the approved alcohol server course material and be available throughout the course to answer questions from students;

(2) check the identity of each student while maintaining confidentiality of personally identifiable information;

(3) provide a printable certificate of completion to each student who passes the written test required under (d) of this section to be used as temporary proof of completion until the student receives the course card described under (a) of this section;

(4) mail the course card not later than five business days after the date the student passed the test; in this paragraph, "business day" means a day other than Saturday, Sunday, or a federal or state holiday;

(5) certify that each instructor has maintained knowledge of current alcoholic beverages statutes and regulations in the state;

(6) update the course material with any applicable change to AS 04 and this chapter not later than 10 days after the effective date of the change; and

(7) provide a printable digital copy of the written course materials to each student. (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; am 4 / 14 / 2021, Register 238)

Register 238, July 2021 COMMERCE, COMMUNITY, AND EC. DEV

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: March 12, 2021

File No.: 2020200547

Thru: Susan R. Pollard ^{DS}
Chief Assistant Attorney General
and Regulations Attorney
Legislation and Regulations Section

Tel. No.: 465-3600

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

Re: Alcoholic Beverage Control Board
regulations re: Internet-based alcohol
server 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. 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 set up detailed requirements by which providers of Internet-based alcohol server courses obtain the approval of the Alcoholic Beverage Control Board for those courses and administer online written tests to alcohol servers.

The August 27, 2020 public notice and the January 6, 2021 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. The regulations were approved by a 4-0 vote of board members.

SCW

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

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

Jane Preston Sawyer, Regulations Specialist
Alcohol and Marijuana Control Board
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 INTERNET-BASED ALCOHOL SERVER
COURSE 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 Internet-based alcohol server course, including the following:

- 3 AAC 304.465(b) proposes to remove rural premises language.
- 3 AAC 304.465(e) regarding rural premises is proposed to be repealed.
- 3 AAC 304.465(m) would be a new section regarding Internet-based alcohol server courses.

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 4:30 p.m. on October 9, 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 September 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 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 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: August 26, 2020



Jane P. Sawyer, Regulations Specialist
Alcohol and Marijuana Control Office

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Alcoholic Beverage Control Board
2. General subject of regulation: Internet-based Alcohol Server Course
3. Citation of regulation (may be grouped): 3 AAC 304.465
4. Department of Law file number, if any: 2020200547

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: 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>21</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: August 26, 2020

Prepared by:



Name (printed): Jane P. Sawyer
Title (printed): 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 #: W0017505

Cost: \$398.44

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 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

08/27/2020

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 27th day of August 2020.

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

MY COMMISSION EXPIRES

7/14/2024

NOTARY PUBLIC
JADA L. NOWLING
STATE OF ALASKA
MY COMMISSION EXPIRES JULY 14, 2024

NOTICE OF PROPOSED CHANGES ON INTERNET-BASED ALCOHOL SERVER COURSE 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 Internet-based alcohol server course, including the following:

- * 3 AAC 304.465(b) proposes to remove reference to rural premises.
- * 3 AAC 304.465(e) regarding rural premises is proposed to be repealed.
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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.

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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 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: August 26, 2020
By: /s/ Jane P. Sawyer,
Regulations Specialist
Alcohol and Marijuana Control Office

Published: August 27, 2020

AMCO

AUG 31 2020

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Jane P. Sawyer, Regulations Specialist, of Alcohol and Marijuana Control Office, under penalty of perjury, certify the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to Internet-based Alcohol Server Course 3 AAC 304.465, 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.

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: 11/4/2020

DocuSigned by:

DF54A1D34C15445...

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

State of Alaska
Municipality of Anchorage

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Glen Klinkhart, Interim Director for the Alcoholic Beverage Control Board under penalty of perjury, 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 Internet-based Alcohol Server Course.

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.

11/4/2020

Date: _____

DocuSigned by:

3877CBCDD3CA4CA...

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

State of Alaska
Municipality of Anchorage

AFFIDAVIT OF BOARD ACTION


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

The attached motion dealing with emergency regulations for Internet-based alcohol server education course was passed by the Alcoholic Beverage Control Board during its January 5, 2021, 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.

Date: 1/6/2021

DocuSigned by:

3877CBCDD3CA4CA...

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

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 January 5, 2021, Excerpt from Unapproved Minutes

A. Internet-based Alcohol Server Course: rekeyed.

TAB 41

Counsel to address board.

Joan Wilson addresses the board and gives information about the rekey of this regulation which are addressed on her memo to the board, but the major edit was the removal of the requirement that the instructor be an Alaska resident.

Sara Erikson moves to adopt rekey. Charlie Cross (back on the line) seconds. Charlie Cross asks questions about the residency issue in caselaw. Joan Wilson answers his question. Charlie Cross speaks more about his thoughts on the issue in relation to local option areas.

Vote: Sara Erikson, yes. Charlie Cross, yes. Dana Walukiewicz, yes. Glenn Brady, yes. Motion Carries 4-0