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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 Emergency Regulations Made Permanent re:
Curbside During COVID-19 Public Health Disaster Declaration (3 AAC 304.185, .920,
.925)

Attorney General File:	2020200680
Regulation Filed:	3/15/2021
Effective Date:	11/17/2020
Print:	238, July 2021

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

CETIFICATION 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 November 17, 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.

1/7/2021

Date: _____

DocuSigned by:

3877CBCDD3CA4CA...

Glen Klinkhart, Interim Director

Amil Simpson, for
↑

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on March 15,
2021, at 5:01 p.m., I filed the attached regulation according to the provisions of AS 44.62.

Amil Simpson
for _____
Lieutenant Governor *Kevin Meyer*

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.



Kevin Meyer

**KEVIN MEYER
LIEUTENANT GOVERNOR**

~~EMERGENCY REGULATION~~

Register 238, July

Register 236, January 2021 COMMERCE, COMMUNITY, AND EC. DEV.

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

The emergency amendment of

made permanent

3 AAC 304.185(g) is amended to read:

(g) Notwithstanding (a) - (f) of this section, a licensee may permit an agent or employee to take an alcoholic beverage 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 4/16/2020, Register 234; am 8/23/2020, Register 235; am 11/17/2020, Register 236)

Authority: AS 04.06.090 AS 04.06.100 AS 26.23.020

3 AAC 304.920 is repealed and readopted 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

- (1) the alcoholic beverage offered for sale is factory sealed;
- (2) the licensee is permitted to sell the type of alcoholic beverage under the

Register 238, July
Register 236, January 2021

~~EMERGENCY REGULATION~~

COMMERCE, COMMUNITY, AND EC. DEV.

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 peace officers acting in their official capacity. Nothing in this section limits the existing powers of investigative personnel.

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

16,

(d) This section applies until the expiration of the governor's November 15, 2020 order, any extensions or renewals of the order, or any new adoptions of orders suspending

AS 04.11.090, 04.11.100, 04.11.130(b)(1), 04.11.135(a)(3), (d)(3)(C), and (e), 04.11.140(b)(1)(A), 04.11.150, and 04.11.170 effective during the COVID-19 public health emergency disaster declaration, ^{governor's November 16, 2020} or any extensions or renewals of the declaration.

Register 238, July

EMERGENCY REGULATION

Register 236, January 2021 COMMERCE, COMMUNITY, AND EC. DEV.

(e) 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 from 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; am 8/23/2020, Register 235; am 11/17/2020, Register 236)

Authority: AS 04.06.090 AS 04.06.100 AS 26.23.020

Insert circled text from page 5 here as a new editor's note

3 AAC 304.925 is repealed and readopted 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, 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;

Register 238, July

~~EMERGENCY REGULATION~~

~~Register 236, January 2021~~ COMMERCE, COMMUNITY, AND EC. DEV.

(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;

(7) a 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

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

(b) This section applies until the expiration of the governor's November 15, 2020 order, any extensions or renewals of the order, or any new adoptions of orders suspending AS 04.11.090, 04.11.100, 04.11.130(b)(1), 04.11.135(a)(3), (d)(3)(C), and (e), 04.11.140(b)(1)(A), 04.11.150, and 04.11.170 effective during the COVID-19 public health emergency disaster declaration, ^{116,} or any extensions or renewals of the declaration. _^ governor's November 16, 2020

(c) 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 50 percent of the retail price of the alcoholic beverage purchase accompanying the order. (Eff. 4/16/2020, Register

(Register 238, July)

~~EMERGENCY REGULATION~~

Register 236, January 2021 COMMERCE, COMMUNITY, AND EC. DEV.

234; am 4/23/2020, Register 234; am 8/23/2020, Register 235; am 11/17/2020, Register 236)

Authority: AS 04.06.090 AS 04.06.100 AS 26.23.020

Editor's note: Amendments to 3 AAC 304.925 took effect on November 17, 2020, as emergency regulations, and were first published in Register 236 (January 2021). In reviewing the "permanent" regulations in accordance with AS 44.62.060 and 44.62.125(b), the regulations attorney made technical changes to 3 AAC 304.925. The changes appeared in the "permanent" regulations as published in Register 237 (April 2021). The history note does not reflect the changes made by the regulations attorney to the emergency regulations of November 17, 2020.

666 Please insert circled text at spot marked on page 3

Editor's note: Amendments to 3 AAC 304.920 took effect on November 17, 2020, as emergency regulations, and were first published in Register 236 (January 2021). In reviewing the "permanent" regulations in accordance with AS 44.62.060 and 44.62.125(b), the regulations attorney made technical changes to 3 AAC 304.920. The changes appeared in the "permanent" regulations as published in Register 237 (April 2021). The history note does not reflect the changes made by the regulations attorney to the emergency regulations of November 17, 2020.