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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Sara Chambers, Department of Commerce, Community and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor *AS*
465.4081

DATE: July 24, 2024

RE: Filed Permanent Regulations: Alcoholic Beverage Control Board

Alcoholic Beverage Control Board regulations re: Package Store Orders; Direct Shipments (3 AAC 305.345 - .350; 810)

Attorney General File:	2024200050
Regulation Filed:	7/24/2024
Effective Date:	8/23/2024
Print:	251, October 2024

cc with enclosures:

Colleen Bailey, Department of Law
Judy Herndon, LexisNexis
Jane P. Sawyer, Regulations Specialist
Kristina Serezhenkov, Regulations Specialist



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Law

CIVIL DIVISION

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July 23, 2024

The Honorable Nancy Dahlstrom
Lieutenant Governor
State of Alaska
P.O. Box 110015
Juneau, AK 99811-0015

Re: *3 AAC 305.345-.350; 810 - ABC Board - Package Store Orders; Direct Shipments*
Our file: 2024200050

Dear Lieutenant Governor Dahlstrom:

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 letter constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations were adopted by the Alcoholic Beverage Control Board after the close of the public comment period.

The regulations concern amendments under 3 AAC 305 to update licensee, order, and shipping requirements for written and electronic orders for shipments of alcoholic beverages.

Both the May 3, 2024 public notice and the July 1, 2024 order certifying changes to the regulations state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.060 is not required.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.060. The corrections are incorporated into the attached copy of the regulations.

Sincerely,

TREG TAYLOR
ATTORNEY GENERAL

By: **Rebecca C. Polizzotto**
Digitally signed by
Rebecca C. Polizzotto
Date: 2024.07.23
09:35:45 -08'00'
Rebecca C. Polizzotto
Chief Assistant Attorney General
Legislation, Regulations, and
Legislative Research Section

RCP/bws

CC w/enclosure: Kristina Serezhenkov, Regulations Specialist
Department of Commerce, Community and Economic Development

Kevin Higgins, Assistant Attorney General
Department of Law

Brad Sharp, Assistant Attorney General
Department of Law

APPENDIX J: Certification Order

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF ALCOHOLIC BEVERAGE CONTROL BOARD

The attached eleven pages of regulations, dealing with the of changes to 3 AAC 305, regarding package store orders and manufacturer direct shipments, are certified to be a correct copy of the regulation changes that the Alcoholic Beverage Control Board adopted at its June 28, 2024, 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: 7/1/2024



Jane P. Sawyer, Acting Director

for *Steph Simpson*

FILING CERTIFICATION

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on

July 24, 2024 at 2:58 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

for 
Lieutenant Governor *Nancy Dahlstrom*

Effective: August 23, 2024

Register: 25, October 2024

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, NANCY DAHLSTROM, 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:

April Simpson, Regulations and Initiatives Specialist

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on May 15th, 2023.



A handwritten signature in blue ink, reading "Nancy Dahlstrom", is written over a horizontal dotted line.

**NANCY DAHLSTROM
LIEUTENANT GOVERNOR**

3 AAC 305.345 is repealed and readopted to read:

3 AAC 305.345. Shipments from a package store licensee with a shipping endorsement. (a) A package store licensee with a shipping endorsement issued under AS 04.09.460 may sell alcoholic beverages in response to a written or electronic order.

(b) The licensee shall verify the age of the person who submitted the order by

(1) retaining a clear photocopy or an electronic copy of one of the following documents that includes the purchaser's signature and shows by date of birth or statement of age that the purchaser is at least 21 years of age:

(A) valid government-issued photographic identification from a state or territory of the United States;

(B) a tribal identification card issued by a federally recognized tribe with physical security features, as identified in AS 28.15.111(a)(4);

(C) a foreign or domestic passport; or

(2) using an Internet age and identification verification service; a licensee that uses an Internet age and identification verification service to verify the age of the purchaser shall retain a clear photocopy or an electronic copy of one of the identification documents described in (b)(1) of this section.

(c) A package store licensee with a shipping endorsement under AS 04.09.460 may only sell alcoholic beverages in response to a written or electronic order if the order

(1) is signed and dated by the purchaser;

(2) describes the type and quantity of alcoholic beverages ordered in reasonable detail;

(3) includes the license or identification number of the purchaser's proof-of-age

document required by (b) of this section;

(4) includes a signature reasonably determined by the licensee to match that on the proof-of-age document;

(5) states the physical residential address of the purchaser in a manner that is sufficient for the licensee to determine whether the zip code of the purchaser is within an area that has restricted the sale, importation, or possession of alcoholic beverages under AS 04.11.491;

(6) includes the community delivery site's physical address if delivery is at a community delivery site designated under AS 04.11.491(f); and

(7) is entered into the written and electronic order database established under AS 04.06.095 if the alcoholic beverages are to be shipped to an area that has restricted the sale of alcoholic beverages under AS 04.11.491(a)(1), (2), or (3) or AS 04.11.491(b)(1) or (2); an order subject to this paragraph may not be for an amount of alcoholic beverages that exceeds the amount authorized for the purchaser in a calendar month under AS 04.09.460(e), as indicated in the database.

(d) A written or electronic order may be modified by the licensee not later than five working days after the licensee receives the written or electronic order if the modification is in accordance with an oral or written communication from the purchaser. If the licensee makes an order modification, the licensee shall note the date of the modification and the manner in which the purchaser requested the modification on the original order. Alcoholic beverages shipped in response to a written or electronic order must be packaged and shipped within five working days

after the licensee, licensee's agent, or licensee's employee receives the initial written or electronic order.

(e) Except as provided under (d) of this section, a written or electronic order that is required under AS 04.09.460(e) to be entered into the written or electronic order database established under AS 04.06.095 may not be modified after it is entered into the database. A licensee shall calculate whether alcoholic beverages may be shipped to a purchaser under AS 04.09.460(e) by using the date that the order is entered into the database to determine if the amount ordered, combined with the amount already shipped in that calendar month to the purchaser, exceeds the amount authorized under AS 04.09.460(e) as indicated in the database. If the amount ordered

(1) does not exceed the amount authorized under AS 04.09.460(e), alcoholic beverages shipped in response to the written or electronic order must be packaged and shipped not later than five working days after the licensee, licensee's agent, or licensee's employee receives the written or electronic order; or

(2) exceeds the amount authorized under AS 04.09.460(e), the licensee shall

(A) hold the order for up to 72 hours and reenter it into the database for the next calendar month as a new order; or

(B) return the order to the purchaser unfilled if the licensee cannot reenter the order as a new order within 72 hours after the licensee, licensee's agent, or licensee's employee receives the order.

(f) In response to a written or electronic order, a licensee

(1) shall provide written or electronic information to the purchaser on fetal alcohol spectrum disorder and fetal alcohol effects resulting from a woman's consumption of

alcohol during pregnancy;

(2) may only package or deliver alcoholic beverages or enter a written or electronic order into the electronic or written order database established under AS 04.06.095 if the licensee has received full payment for the order at the licensed premises;

(3) may personally deliver alcoholic beverages on the licensed premises to a purchaser or an individual who may legally possess alcoholic beverages and is specifically authorized in the order to receive the purchase and deliver the alcoholic beverages to the purchaser; to verify the identity of the purchaser or the individual specifically authorized in the order to receive the purchase, the licensee shall require the purchaser or the authorized individual to present an original of one of the forms of identification listed in (b) of this section;

(4) unless the licensee personally delivers alcoholic beverages on the licensed premises under paragraph (3) of this subsection, the licensee shall ship the alcoholic beverages to the purchaser by a common carrier approved under AS 04.09.750; if the order is to be shipped to a community that has specified a delivery site under AS 04.11.491(f), the licensee shall ship the order to the purchaser at that delivery site address;

(5) shall package an order that is delivered or shipped under this subsection in a shipping container that

- (A) is affixed with labelling that
 - (i) identifies the licensee;
 - (ii) shows the written order number assigned under (i) of this section; and
 - (iii) contains the words "alcoholic beverages"; and

(B) contains one copy of the sales invoice enclosed in a sealed envelope that is securely attached to the shipping container; the sales invoice

(i) must be legibly handwritten or typed;

(ii) must be prepared by the licensee, licensee's agent, or licensee's employee;

(iii) must show the description, quantity, unit price, extended price, and total value of the alcoholic beverages in the container;

(iv) may be retained by a municipality if the container is addressed to a delivery site in a municipality that imposes a sales and use tax on alcoholic beverages under AS 04.21.010(c)(4) or controls the quantity that may be imported under AS 04.21.010(a)(1).

(g) A community delivery site must be secure from unauthorized access, reasonably located for access by the public, clean and heated, and controlled by the local governing body to assure protection of a purchaser's order. The site must be open for the purchaser to pick-up the order at least once a week for three hours between 8:00 a.m. and 8:00p.m. Only the purchaser named on the container may claim alcoholic beverages from the community delivery site. The purchaser shall sign for the order on a form that states that the beverages are not for resale. The local governing body may impose reasonable storage and handling fees chargeable to the purchaser and may label or mark alcoholic beverage containers processed through the community delivery site. Upon approval of a community delivery site, the board will notify licensees that written or electronic orders for shipment into the community may only be shipped to the community delivery site.

(h) The board shall maintain a list of persons convicted after October 24, 1987 of a

violation of AS 04.11.010 under AS 04.16.200 and provide the list to package store licensees. A licensee may not sell alcoholic beverages by written or electronic order to a person whose name appears on the list unless the board gives written notice to the licensee that sales to that person are no longer prohibited.

(i) A package store licensee with a shipping endorsement issued under AS 04.09.460 shall keep a physical or electronic copy of the documents pertaining to a written order, including the purchaser's proof-of-age document, on file for not less than one year after the order is delivered. The licensee shall maintain a log of written orders that

- (1) is able to cross-reference to the documents for each order;
- (2) assigns an order number to each written order; and
- (3) shows, for each order, the
 - (A) purchaser's name;
 - (B) dates the order was received, modified, and shipped or delivered; and
 - (C) address to which shipment or delivery was made.

(j) A licensee who sells alcoholic beverages in response to a written or electronic order

- (1) shall promptly notify the board of a person who
 - (A) places one or more written or electronic orders in a single week for, in the aggregate,
 - (i) more than 36 gallons of brewed beverages;
 - (ii) more than 12 cases of wine; or
 - (iii) more than 36 liters of distilled spirits; or
 - (B) engages in a regular practice of ordering alcoholic beverages in similarly large quantities to those listed under (A) of this paragraph;

(2) shall, if the alcoholic beverages are to be shipped to an area that has restricted the sale of alcoholic beverages under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2), notify the board not more than 24 hours after calculating that the amount ordered exceeds the amount authorized under AS 04.09.460, as indicated in the database when added to the amount already shipped in that calendar month to the purchaser.

(k) If alcoholic beverages are not delivered to a purchaser personally on the licensed premises, title to the alcoholic beverages passes from the licensee to the purchaser at the time the alcoholic beverages are packed, addressed to the purchaser, and payment is received, which constitutes a sale of the alcoholic beverages on the licensed premises.

(l) The licensee may not ship alcoholic beverages

(1) to a person other than the purchaser;

(2) in response to a telephonic order; or

(3) by a common carrier not approved by the board under AS 04.09.750.

(m) If a local option municipality submits written notification to the board that the municipality has imposed a sales and use tax on alcoholic beverages under AS 04.21.010(c)(4), a licensee that sells alcoholic beverages by written solicitation under AS 04.09.460 may not ship or deliver alcoholic beverages to that municipality until payment for the taxes is collected at the licensed premises in accordance with the ordinances of that municipality. The licensee shall remit the payment of taxes to the municipality for which the tax was collected. (Eff. 1/1/2024,

Register 248; am 8 / 23 / 2024, Register 251)

Authority:	AS 04.06.090	[AS 04.09.370]	AS 04.09.480
	AS 04.06.100	AS 04.09.460	AS 04.09.490
	AS 04.09.230	AS 04.09.470	

3 AAC 305 is amended by adding a new section to read:

3 AAC 305.347. Shipments from a manufacturer direct shipment licensee. (a) A holder of a manufacturer direct shipment license issued under AS 04.09.370 may sell and ship alcoholic beverages in response to a written, telephonic, or electronic order.

(b) A manufacturer direct shipment licensee shall verify the age of a person who submitted an order and, if the recipient of the shipment is not the same person as the person who submitted the order, the age of the recipient, by

(1) retaining a clear photocopy or an electronic copy of one of the following documents that includes the person's signature and shows by date of birth or statement of age that the person is at least 21 years of age:

(A) valid government-issued photographic identification from a state or territory of the United States;

(B) a tribal identification card issued by a federally recognized tribe with physical security features, as identified in AS 28.15.111(a)(4);

(C) a foreign or domestic passport; or

(2) using an Internet age and identification verification service.

(c) A manufacturer direct shipment licensee may only sell alcoholic beverages in response to a written, telephonic, or electronic order if the order

(1) describes the type and quantity of alcoholic beverages ordered in reasonable detail;

(2) does not exceed the limits of AS 04.09.370(e)(2); and

(3) states the physical residential address of the purchaser and, if the recipient is not the same person as the purchaser, the recipient, in a manner that is sufficient for the licensee

to determine whether the zip code of the purchaser or recipient is within an area that has restricted the sale, importation, or possession of alcoholic beverages under AS 04.11.491.

(d) In response to a written, telephonic, or electronic order, a licensee

(1) shall provide written or electronic information to the person who submitted the order and the named recipient of the alcoholic beverages on fetal alcohol spectrum disorder and fetal alcohol effects resulting from a woman's consumption of alcohol during pregnancy;

(2) may package or ship alcoholic beverages only if the licensee has received full payment for the order at the licensed premises;

(3) shall ship the alcoholic beverages by a common carrier approved by the board under AS 04.09.750; and

(4) shall package an order that is sold or shipped under this subsection in a shipping container that is affixed with labelling that

(A) identifies the licensee; and

(B) contains the words "alcoholic beverages" and a statement that upon delivery, the order requires signature by a person who is at least 21 years of age.

(e) A licensee shall keep a physical or electronic copy of the documents pertaining to an order, including the purchaser's and, if applicable, the recipient's proof-of-age document or proof of Internet-based age and identification verification service for not less than two years after the order is delivered. The licensee shall maintain a log of orders that

(1) is able to cross-reference to the documents for each order;

(2) assigns an order number to each order; and

(3) shows, for each order, the

(A) purchaser's name and, if different from the purchaser, recipient's

name;

(B) dates the order was received, paid for, modified, and shipped or delivered; and

(C) address to which shipment or delivery was made. (Eff.

8 / 23 / 2024, Register 251)

Authority: AS 04.06.090 AS 04.09.370 AS 04.09.750
AS 04.06.100

3 AAC 305.350(b) is amended to read:

(b) A licensee shall consult the database maintained by the board under AS 04.06.095 in the manner required under AS 04.09.460(e) before shipping wine to an area that has restricted the sale of alcoholic beverages under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2). Shipment of the wine must be in compliance with applicable provisions of 3 AAC 305.345(d), (e), and (f) [3 AAC 305.345(d) AND (e)].

(Eff. 1/1/2024, Register 248; am 8 / 23 / 2024, Register 251)

Authority: AS 04.06.090 AS 04.09.460 AS 04.09.480
AS 04.06.100 AS 04.09.470 AS 04.09.490
AS 04.09.230

3 AAC 305.810(a) is amended to read:

3 AAC 305.810. Recordkeeping requirements. (a) Except for a holder of a manufacturer direct shipment license subject to the record-keeping requirements under 3 AAC 305.347(e), a [A] licensee shall retain records of the sales, purchases, and expenses of

Register 251, October 2024

COMMERCE, COMMUNITY, AND EC. DEV.

the business for **not less than** [AT LEAST] one year, including records sufficient to show the license was actively exercised for at least 240 hours during each of the two preceding calendar years, as set out in AS 04.11.330(a)(3).

(Eff. 1/1/2024, Register 248; am 8 / 23 / 2024, Register 251)

Authority: AS 04.06.090 AS 04.06.100 AS 04.11.330