

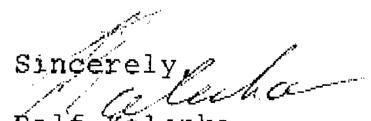
2.18.2011

RE: HB-125

Dear Mr. Jackson:

Please be advised that we support HB 125. See attached documentation.

Sincerely

  
Ralf Kalenka  
Family Restaurants Inc.  
dba Ralfs Sports Bar



# State of Alaska

## Department of Public Safety

# Alcoholic Beverage Control Board

Sean Parnell, Governor  
Joseph A. Masters, Commissioner

December 22, 2009

Mr. Uwe Kalenka  
d.b.a. Family Restaurant Inc.  
Post Office Box 92824  
Anchorage, Alaska 99509

Re: Ralf's Sports Bar, Lic. No. 1811

Dear Mr. Kalenka:

On Monday, December 21, 2009 at approximately 8:54 p.m., Investigators with the Alcoholic Beverage Control Board (ABC) conducted a routine compliance check at your establishment, Ralf's Sports Bar.

As part of these checks, an underage agent enters and attempts to get served an alcoholic beverage, as permitted under Alaska Statute 04.16.049(f). These types of compliance checks are conducted throughout the nation and are considered an exceptional tool in the prevention of minors having easy access to alcohol.

Investigators have indicated that each time your establishment has been subject to a compliance check you have consistently passed. We commend you for your quick action of refusing service, and on most occasions, seizing the identification used.

However, what has come to my attention is that each time ABC Investigators have dealt with you as the result of a compliance check and despite passing the check you have been uncooperative and hostile. In addition to being cooperative once the identification card has been seized, you must turn the identification, undamaged, over to the investigator.

13 AAC 104.515(b) states as follows: *Licensees shall do all things reasonably necessary and appropriate to cooperate with investigative personnel and employees of the board and peace officers acting in their official capacity to enforce the statutes, regulations and ordinances related to alcoholic beverages, including permitting entry upon and inspection of the licensed premises and providing access, upon request at reasonable times, to business records at the written direction of the director.*

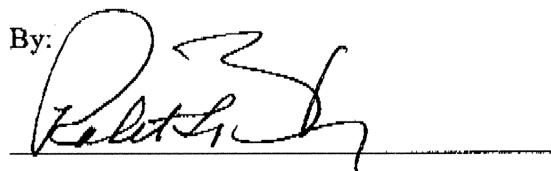
This letter serves as a warning that you are not only required to pass compliance checks but also cooperate with investigative personnel and peace officers. Any future behavior such as the behavior exhibited in past contacts will be dealt with more seriously - up to and including recommendation of suspension of your license.

Thank you in advance for your cooperation. If you should have any questions or concerns, please do not hesitate to contact me at your convenience. My direct phone number is 269-0353.

Sincerely,

SHIRLEY A. GIFFORD,  
DIRECTOR

By:



Robert L. Beasley,  
Enforcement Unit Supervisor

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1942 - 2009

February 17, 2010

Robert L. Beasley, Enforcement Unit Supervisor  
Alcoholic Beverage Control Board  
5848 E. Tudor Road  
Anchorage, AK 99507

Re: Ralf's Sports Bar, License No. 1811  
Date of Incident: 12/21/2009  
Our File No.: 5959-317

Dear Mr. Beasley:

This firm represents Ralf Kalenka and Ralf's Sports Bar, a licensed establishment, regarding a letter sent on December 22, 2009. The purpose of this letter is to request that the informal warning issued on December 22, 2009 (copy enclosed) by the ABC Board be withdrawn as it is factually mistaken and it violates my clients' right to due process.

By way of history, this licensed establishment has been in business over 20 years without any licensing infraction. The Kalenkas run a tight ship and comply with all alcohol laws. Your letter even notes that "each time your establishment has been subject to a compliance check you have consistently passed." What we object to is any "finding" that Uwe Kalenka ("Uwe") has been "uncooperative and hostile." There has never been a hearing on any such allegation. If that finding was based on what occurred on December 21, 2009, here is the real story. There is nothing hostile or uncooperative about this:

On December 21, 2009 at approximately 9:00 p.m., Uwe was in the process of closing Ralf's Sports Bar ("the Bar") when a young man entered the bar and ordered a beer. Uwe asked to see the young man's identification. The man gave Uwe a State of Alaska identification card which showed he was born in 1991. As such, the man was under age and unlawfully on the premises. Uwe confiscated the man's identification card and told the young man to leave, and the young man left the bar in a huff. Uwe followed behind him and locked up the bar. At no time did Uwe know that he was employed by the ABC doing an under cover investigation. Nor could he have known if the agent was competent as under cover investigator.

What happened next is not in dispute. Uwe closed the bar for the evening. The bar closes early when he decides there is not enough business to stay open. Uwe then took the drawer out of the cash

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Robert L. Beasley, Enforcement Unit Supervisor  
Alcoholic Beverage Control Board  
February 16, 2010

register and went into the office to count the daily receipts. A few minutes later, he heard banging at the rear door that he had locked earlier. The banging became louder and Uwe became concerned that it was a break in or forced entry, so he called his brother, Ralf Kalenka ("Ralf"). Ralf advised Uwe to ignore the banging at the door, as it is the Bar's policy not to open the door after the business is closed for the night, and because Uwe was by himself with the cash. When the banging at the door did not stop, and grew louder, Uwe again called Ralf, telling him that it sounded like someone was trying to break in. Ralf decided to call Anchorage Police Department ("APD") while Uwe locked himself in the office.

Both men thought the bar was being attacked from the outside and that one or more people were trying to break in. Ralf Kalenka called 911 saying that there are "people trying to break in the back door" and he reported that Uwe Kalenka was "afraid" and that the door was getting kicked in and that "it sounds like they are breaking in." The 911 operator called Uwe, and Uwe told her that he thought some "underage guys were up to no good" and might be angry because he had confiscated the fake ID. Uwe specifically asked the 911 operator if the people outside were police officers, because he thought someone was yelling "police." The 911 operator then told Uwe that the people kicking in the door were not the police and not to open the door.

Later, the 911 operator advised that uniformed police officers were at the front door, Uwe went to unlock the door and speak with the officers. Uwe noticed two other individuals in civilian clothing. These people appeared to be very agitated. They did not identify themselves, but threatened to arrest Uwe. As Uwe asked one of the APD officers what was going on, one of the two civilians accused him of not cooperating while a so-called compliance check was made on the Bar. The APD officers requested entry into the facility, Uwe then opened it up.

One of the two civilians demanded the identification card of the juvenile whom Uwe had earlier refused to serve. Uwe advised that he would go get the identification card. As he went into the Bar, everyone followed him in. Uwe surrendered the juvenile's identification card. One of the unidentified civilians then began to question Uwe. He implied that Uwe should have known the juvenile was a plant for a compliance check by the ABC Board. He demanded to know why Uwe did not open the doors while they were trying to gain entry into the Bar. Uwe pointed out that the Bar closes early on nights when there is no one left to serve. Since the Bar is located in Mountain View and since Uwe was working alone, he was extremely careful. The ABC agents then threatened action against Uwe and promised to file a complaint against the Bar's liquor license.

The actions of the ABC agents here were unprofessional, improper and abusive. Uwe Kalenka had a legitimate and objective fear that people were trying to break into the bar. He was advised by an APD officer not to open the door because there were no police there at the time, even though Uwe thought he heard someone yell "police." Uwe acted appropriately in carding the young man, confiscating the fake ID, and kicking the minor out. Uwe acted laudably and commendably. But instead of noting that, the ABC now seeks to sanction the license as if it did something improper.

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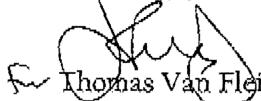
Robert L. Beasley, Enforcement Unit Supervisor  
Alcoholic Beverage Control Board  
February 16, 2010

The only improper actions that night were the ABC agents who damaged a steel door by kicking it and who threatened to go after Uwe who properly carded an undercover agent. Uwe was told by APD not to open the door until uniformed officers arrived. When they arrived, he opened up the bar. Uwe had a legitimate fear that the person he kicked out was angry and was trying to break in from the rear of the bar and would rob him or assault him. The Bar itself is located in Mountain View. Crime is not unheard of there.

Under these circumstances, it is inappropriate for the ABC Board to have sent the December 22, 2009 warning to Uwe Kalenka and/or Ralf's Sports Bar. We ask that the Board withdraw this letter and formally apologize to the licensee. This unfortunate situation could have been avoided had the ABC officers acted in a more professional manner and identified themselves as ABC officers, instead of trying to kick in the back door of the Bar at night after the business had closed. Uwe Kalenka had a reasonable fear that some person or persons were attempting to break into the Bar and that his safety was threatened. Uwe acted appropriately by making sure that APD was contacted and by refusing to allow anyone entry to the premises until APD officers arrived at the Bar.

We respectfully request on behalf of Ralf's Sports Bar that the December 22, 2009 warning issued by the ABC Board be withdrawn. If it is not withdrawn, we request notice of the Kalenka's administrative rights to contest the findings in the letter. Please feel free to contact me if you have any questions or concerns. Thank you for looking into this.

Very truly yours,

  
Thomas Van Flein, for  
CLAPP, PETERSON, VAN FLEIN  
TIEMESSEN & THORSNESS, LLC

Enclosure: As stated.

Cc: Uwe Kalenka  
Ralf Kalenka  
Jane L. Wilkes



**Alcoholic Beverage Control Board  
5848 East Tudor Road  
Anchorage, AK 99507**

Date: 4-4-07  
Number: 07-0769  
Page 1 of 2 Pages

## Notice of Violation

(15AAC 104.525)

Licensee	License Number	Type of License
<b>Family Restaurant Inc</b>	<b>1811</b>	<b>Beverage Dispensary</b>
<b>D.B.A. Ralf's Sports Bar 3515 Mountain View Dr</b>	<b>How Delivered [ ] Certified Mail # [ x ] In Person</b>	<b>Law Enforcement Agency ALASKA STATE TROOPERS</b>
<b>Street or P.O. Box PO Box 92824</b>	<b>City, State Anchorage, Alaska</b>	<b>Zip 99509</b>

This is a notice to you as licensee that an alleged violation has occurred. If the Alcoholic Beverage Control Board decides to act against your license, under the provisions of AS 44.62.330 - AS 44.62.630 (Administrative Procedures Act) you will receive an Accusation and Notice of your right to an Administrative Hearing.

**Note: This is not an accusation or a criminal complaint.**

**VIOLATION:** On 4-3-07, at about 1800 hours, Uwe Kalenka passed an alcohol compliance check. After becoming aware of the check, Uwe Kalenka and Ralph Kalenka became verbally abusive toward Inv. F.R. Hamilton, Alaska State Troopers. Inv. Hamilton advised the Kalenka's that a premises inspection was being initiated but neither person cooperated in answering questions. Both were advised of their requirements to cooperate but still refused. Both Kalenka's at one point told Inv. Hamilton to "Get the Fuck Out". Required signage was not observed. Alcohol compliance checks with a minor are not violations of the law.

Your attention is directed to **13AAC104.515: Inspection**

- (a) Licensees are considered to consent to the entry upon the licensed premises and inspection of the licensed premises 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 for the purpose of enforcing statutes and regulations related to alcoholic beverages.
- (b) Licensees shall do all things reasonably necessary and appropriate to cooperate with investigative personnel and employees of the board and peace officers acting in their official capacity to enforce the statutes, regulations and ordinances related to alcoholic beverages, including permitting entry upon and inspection of the licensed premises and providing access, upon request at reasonable times, to business records at the written direction of the director.

Your attention is directed to **AS 04.16.150: Licensee Responsible for Violations**

A licensee may neither knowingly allow agents or employees to violate this title or regulations adopted under this title nor recklessly or with criminal negligence fail to act in accordance with the

duty prescribed under AS 04.21.030 with the result that an agent or employee of the licensee violates a law or regulation.

Your attention is directed to **AS 04.16.049(f): Access of persons under the age of 21 to licensed premises.**

(f) A person under 21 years of age does not violate this section if the person enters or remains on premises licensed under this title at the request of a peace officer, if the peace officer accompanies, supervises, or otherwise observes the person's entry or remaining on premises, and the purpose for the entry or remaining on premises is to assist in the enforcement of this section.

Your attention is directed to **AS 04.21.065: Posting of warning signs**.

(a) ....The license or permit holder shall display the first and second signs in a manner that would make them conspicuous to a person who will be purchasing or consuming alcoholic beverages or display the third sign at each door through which customers enter the licensed premises.

You are directed to respond to the Director of the Alcohol Beverage Control Board in writing to this notice of violation within 10 days to explain what action you have taken to prevent a reoccurrence of this violation.

### **A Response is Required**

15 AAC 104.525 (B) provides that upon receipt of a Notice of Violation, a licensee may request to appear before the Director and be heard regarding the Notice of Violation. The request must be made within ten days after receipt of the Notice and the Director must grant an appearance within ten days after receipt of a request. A Licensee shall respond, either orally or in writing, to the Notice.

Receipt:	Violation Observed By: Investigator F.R. (Joe) Hamilton
Filed By: 	Title Corporal, Department of Public Safety

April 5, 2007

Director  
Alcohol Beverage Control Board  
5848 East Tudor Road  
Anchorage, Alaska 99507

RE: Your notice of violation dated 4-4-07

On April 3, 07 at approximately 6:00 PM, a middle aged man entered our facility and ordered a softdrink, stating he only wanted to use the bathroom. At the same time an underaged male sat down at the other end of the bar. I happened to be behind the bar and asked for the young man's identification. His ID showed that he was only 17 years old and clearly in violation of the law entering our facility. I returned the ID to this person and advised him to immediately "Get the Fuck Out". We assumed that both individuals were together and my brother told the older man to leave as well. This individual became red in his face and visibly agitated and produced a badge identifying himself as Joe Hamilton AST Investigator. He demanded to see our Picture Identifications and our Tam Cards which are valid. He then announced that he was now going to conduct a premises inspection. I advised him that he was welcome to look around. Mr. Hamilton looked for any violations which he would nail us with, shouting questions at us like a KGB interrogator. He wanted to know among other things if we had a bleach activated dishwasher (which we have) and he complained about not observing any signage. My brother removed one of our posted signs off the wall at our entrance and held it up to him to see. His contention that there was no signage is an outright lie. The situation quickly deteriorated to the point that we decided not to answer his questions until my Attorney arrived who was called at my request. When he realized that he could not nail us for any violations he announced that he will not give us a ticket threw my ID and Tam card on my desk and left the bar. All this was witnessed by our customers. Mr. Hamilton returned to our facility on April 4, 07 at 5:30 PM with 3 new signs for posting, signs we already had posted. Our facility has now signage all over the entrance and walls.

We have operated our facility for over 30 years without any violations as your records will show nor are we a problem Bar. That can be verified by the Anchorage Police Department. We do not serve underage individuals, never have, and have always complied with the law. We can only speculate why we should be targeted now by the ABC Board

with our clean record. These underhanded, immoral Gestapo tactics bringing minors into our facility attempting to set us up may be legal but are wrong.

This is the second time that this has been done to us which we are aware of and needless to say we are not amused. Anchorage has a good share of known criminals and problem bars and the skills of these investigators would be better utilized to pursue them instead of law abiding businessmen.

Our facility is available for inspection by the ABC Board at any time with our full cooperation. However, we request that investigators not sneak into our facility like burglars and thieves under false pretences but identify themselves properly first and conduct themselves in a professional manner.

*Ralf Kalenka*  
Sincerely,  
Ralf Kalenka

Ralf's Sports Bar

CC: Walt Monegan, Commissioner of Public Safety  
Office of the Governor  
Ken Jacobus, Esq.



**State of Alaska**  
**Department of Public Safety**  
**Alcoholic Beverage Control Board**

**Sarah Palin, Governor**  
**Walt Monegan, Commissioner**

May 1, 2007

Ralf Kalenka  
d/b/a Ralf's Sports Bar, License #1811  
PO Box 92824  
Anchorage, AK 99509

Dear Mr. Kalenka,

Thank you for responding to Notice of Violation 07-0769. You are to be commended for not failing underage sale compliance checks on the two occasions that they were conducted on your licensed premises. I realize that license holders do not like to be regularly tested on their willingness and ability to comply with Alaska's alcoholic beverage laws. However, consumption of alcoholic beverages by underage persons is a major public safety and health problem in Alaska. We have found that compliance checks are an effective method to reduce sales of alcoholic beverages to underage persons. When the program started we experienced a compliance check failure rate over 50%. Today, after several years conducting compliance checks, the failure rate has dropped to about 10% in Anchorage.

In the spirit of fairness, the Alcoholic Beverage Control Board cannot exclude any Anchorage retail liquor licensee from being tested. The fact that your bar has only experienced two compliance checks in a period of nearly two years is an indication that your establishment does not have a reputation for sales to underage persons and we have not received complaints about your business. Liquor licensees that have failed compliance checks are tested on a much more frequent basis.

Compliance checks are a valid enforcement tool that the ABC Board will continue to use to deter underage drinking. I cannot promise you that you will never experience another compliance check. I can promise you that as long as you continue to do as good a job of complying with the alcoholic beverage laws as you have previously, you will not be tested as frequently as some other licensed businesses.

Sincerely,

Douglas B. Griffin  
Director

cc: Colonel Audie Holloway, Alaska State Troopers, Department of Public Safety