

STATUTES RELATED TO THE ABC BOARD MOVE

Chapter 04.06. ALCOHOLIC BEVERAGE CONTROL BOARD

Sec. 04.06.010. Establishment of board.

There is established in the Department of Public Safety the Alcoholic Beverage Control Board as a regulatory and quasi-judicial agency. The Board is in the Department of Public Safety, but for administrative purposes only.

Sec. 04.06.020. Appointment and qualifications.

(a) The board consists of five members appointed by the governor and confirmed by a majority of the members of the legislature in joint session. A member of the board may not hold any other state or federal office, either elective or appointive. Two members of the board shall be persons actively engaged in the alcoholic beverage industry, except that no member may hold a wholesale license or be an officer, agent, or employee of a wholesale alcoholic beverage enterprise. Not more than two members of the board may be engaged in the same business, occupation, or profession. Three members of the board, at least one of whom shall reside in a rural area, shall represent the general public. A board member representing the general public or an immediate family member of a board member representing the general public may not have any financial interest in the alcoholic beverage industry. In this section,

(1) "immediate family member" means a spouse, child, or parent;

(2) "rural area" means a community that is not connected by road or rail to Anchorage or Fairbanks, that has a population of 6,000 or less or that has a population of more than 6,000 and has participated in a local option election under [AS 04.11.491](#), and that is

(A) a city; for purposes of this subparagraph, "city" has the meaning given in [AS 29.71.800](#);
or

(B) an established village that is located in a borough or in the unorganized borough.

(b) For purposes of (a)(2) of this section, the population of a community is the population of that community as determined under AS 29.60.860(c).

Sec. 04.06.030. Terms of office; chair.

(a) Members of the board shall be appointed for overlapping terms of three years.

(b) A vacancy occurring in the membership of the board shall be filled within 30 days by appointment of the governor for the unexpired portion of the vacated term.

(c) The board shall select a chairman from among its members.

Sec. 04.06.040. Per diem and expenses.

Members of the board do not receive a salary, but are entitled to per diem and travel expenses authorized by law for other boards and commissions.

Sec. 04.06.050. Meetings.

The board shall meet at the call of the chairman. The board shall also meet at least once each year in each judicial district of the state to study this title and to modify existing board regulations in light of statewide and local problems.

Sec. 04.06.060. Quorum and majority.

Three members of the board constitute a quorum for the conduct of business, except that a majority of the whole membership of the board must approve all applications for new licenses, and all renewals, transfers, suspensions, and revocations of existing licenses.

Sec. 04.06.070. Appointment and removal of director.

The governor shall appoint a director to serve as the executive officer of the board. The board may remove the director at its pleasure, and the governor may remove the director for misconduct, misfeasance, or malfeasance in office. The governor may not remove the director unless the director is given a copy of the charges and afforded an opportunity to be publicly heard, in person or by counsel, in defense against the charges upon at least 10 days' notice. If the director is removed for cause, the governor shall file with the lieutenant governor a complete statement of all charges made against the director and the findings based on the charges, together with a complete record of any hearing.

Sec. 04.06.075. Authority of director.

The director shall enforce this title and regulations adopted by the board.

Sec. 04.06.080. Delegation of authority.

The director shall issue, renew, transfer, suspend, or revoke all licenses and permits at the direction of the board. However, notwithstanding [AS 04.11.070](#), the board may delegate authority to the director to temporarily grant or deny the issuance, renewal, or transfer of licenses and permits. The director's temporary grant or denial of the issuance, renewal, or transfer of a license or permit is not binding on the board. The board may delegate to the director any duty imposed by this title except its power to propose and adopt regulations.

Sec. 04.06.090. Powers and duties.

(a) The board shall control the manufacture, barter, possession, and sale of alcoholic beverages in the state. The board is vested with the powers, duties, and responsibilities necessary for the control of alcoholic beverages, including the power to propose and adopt regulations and to hear appeals from actions of the director, and from actions of officers and employees charged with enforcing the alcoholic beverage control laws and the regulations of the board.

(b) The board shall review all applications for licenses made under this title and may order the director to issue, renew, revoke, transfer, or suspend licenses and permits authorized under this title.

(c) When considering an application, the board may reduce the area to be designated the licensed premises below the area applied for when, in the judgment of the board, a reduction in area is necessary to ensure control over the sale and consumption of alcoholic beverages on the premises or is otherwise in the best interests of the public.

(d) The board may employ, directly or through contracts with other departments and agencies of the state, enforcement agents and staff it considers necessary to carry out the purposes of this title. The salaries of personnel of the board in the exempt service shall be set by the Department of Administration.

(e) The board shall promptly notify all licensees and municipalities of major changes to this title and to regulations adopted under this title. However, if changes only affect specific classifications of licenses and permits, the board need only notify those licensees and municipalities directly affected by the changes. Current copies of this title and current copies of the regulations adopted under it shall be made available at all offices in the state of the Department of Public Safety and the detachment headquarters and posts maintained by the division of Alaska state troopers in the Department of Public Safety.

Sec. 04.06.095. Statewide database.

The board, after consulting with package store licensees, shall create and maintain a statewide database that contains a monthly record of the alcohol purchased by, and shipped to, a person who resides in a municipality or established village that has restricted the sale of alcoholic beverages under AS 04.11.491 (a)(1), (2), or (3) or (b)(1) or (2). Except as otherwise specifically provided in this section, the information contained in the database is confidential and is not subject to inspection or copying under AS 40.25.110 - 40.25.220. Information in the database shall be purged one year after entry unless it is needed for criminal investigation or prosecution. Information in the database is available only to

- (1) a package store licensee, agent, or employee to consult before shipping alcohol to a purchaser in a restricted area as provided in AS 04.11.150(g);
- (2) a law enforcement officer;
- (3) a probation or parole officer;
- (4) the board; and
- (5) the person who is the subject of the information; the board shall adopt regulations concerning access by a person to information contained in the database of the purchases by, and shipments to, that person.

Sec. 04.06.100. Regulations.

(a) The board shall adopt regulations governing the manufacture, barter, sale, consumption, and possession of alcoholic beverages in the state that are consistent with this title and necessary to carry out the purpose of this title in a manner that will protect the public health, safety, and welfare. The regulations shall be adopted in accordance with AS 44.62 (Administrative Procedure Act).

(b) The subjects covered by regulations adopted under (a) of this section may include the following matters:

- (1) employment, conduct, and duties of the director and of regular and contractual employees of the board;
- (2) procedures for the issuance, denial, renewal, transfer, revocation, and suspension of licenses and permits;
- (3) terms and conditions of licenses and permits issued;
- (4) fees for licenses and permits issued for which fees are not prescribed by statute;
- (5) conduct of regular and special meetings of the board;
- (6) delegation to the director of routine administrative functions and powers;
- (7) the temporary granting or denial of issuance, transfer, and renewal of licenses;
- (8) manner of giving any notice required by law or regulation when not provided for by statute;
- (9) requirements relating to the qualifications of licensees, the conditions upon which a license may be issued, the accommodations of licensed premises, and board inspection of those premises;
- (10) making of reports by wholesalers;
- (11) purchase of fidelity bonds by the state for the director and the employees of the board;
- (12) prohibition of possession of alcoholic beverages by drunken persons and by minors;
- (13) required reports from corporations licensed under this title, including reports of stock ownership and transfers and changes of officers and directors;
- (14) creation of classifications of licenses or permits not provided for in this title;
- (15) establishment and collection of fees to be paid on application for a license or permit;
- (16) required reports from partnerships and limited partnerships licensed under this title, including reports of transferred interests of 10 percent or more;
- (17) required reports from limited liability organizations licensed under this title, including reports of the transfer of a member's interest if the transfer equals 10 percent or more of the ownership of the limited liability organization and any change of managers.

Sec. 04.06.110. Peace officer powers.

The director and the persons employed for the administration and enforcement of this title may, with the concurrence of the commissioner of public safety, exercise the powers of peace officers when those powers are specifically granted by the board. Powers granted by the board under this section may be exercised only when necessary for the enforcement of the criminally punishable provisions of this title, regulations of the board, and other criminally punishable laws and regulations, including investigation of violations of laws against prostitution and promoting prostitution described in [AS 11.66.100](#) - 11.66.130

and laws against gambling, promoting gambling, and related offenses described in [AS 11.66.200](#) - 11.66.280.

REPEAL:

Title 44. STATE GOVERNMENT

Chapter 44.41. DEPARTMENT OF PUBLIC SAFETY

Sec. 44.41.020. Powers and duties of department.

(e) The Department of Public Safety shall supply necessary clerical and administrative services for the Alcoholic Beverage Control Board.