

Alcoholic Beverage Control Board

Police Department Enforcement and Reporting and Municipal Refunds

February 2014

Introduction

Municipal enforcement of Title IV laws and the requirement that municipalities report quarterly of the enforcement results to the ABC Board have been of interest to various entities. Alcohol enforcement efforts undertaken by municipalities are supported in part by refunds to municipalities in which alcoholic beverage licenses are issued. Some police departments were not reporting at all and those that reported did so in a variety of formats covering different time periods. In January 2012 the director reminded the 36 municipalities having police departments of the requirement and provided a quarterly reporting form for their convenience.

In May 2012 the ABC Board Stakeholders Group was created. In January 2013 five subcommittees of the Stakeholders Group were formed based upon the feedback of the stakeholders. In three of the subcommittees – Role of the ABC Board, Underage Drinking, and Licensing the subject of municipal refunds was discussed both for the purpose of enforcement and reporting, and as a means to capture valuable data related to alcohol abuse. At the Steering Committee meeting of December 5, 2013 the members decided the Role of the ABC Board was the appropriate subcommittee to address the issues surrounding the refunds and the reporting.

Recommendations

1. Incorporate the language of 3 AAC 304.610 into AS 04.11.610
2. Require uniformity in police department reporting
3. Work with police departments to develop enforcement, education, and prevention plans that are connected to the refunds

History of statute and regulation

Under the authority of Alaska Statute 04.06.090 the ABC Board controls the manufacture, barter, possession, and sale of alcoholic beverages in the state. The governor appoints a director to serve as the executive officer of the board. The director hires a number of employees within the constraints of the budget to assist in licensing and enforcement. Because there is one supervisor and only four investigators to cover the entire state, the Board depends upon municipalities with police departments to enforce Title 4. In exchange, the Board refunds the licensing fees collected within each jurisdiction. The refunds are made to the municipality but are not specifically tied to the police department budget for Title 4 enforcement.

In 1937 in the Territory of Alaska the Thirteenth Regular Session of the Territorial Legislature passed Resolutions and Memorials under Session Laws. Under Section 9. Local Option (C) entitled Disposition of Funds, the Legislature authorized that all moneys collected for licenses within incorporated cities may be refunded semi-annually if the officers actively enforced all ordinances of the city, the law of the United States, the laws of the Territory of Alaska, and those regulations relative to the manufacture and sale of

intoxicating liquors. If the ordinances, laws, and regulations are not enforced the Treasurer may deny refunds and no moneys will be paid until enforcement is actively resumed.

In 1958 in the Alaska Compiled Laws, annotated in the cumulative supplement of the Constitution of Alaska a change was made to the law passed in 1937. Instead of depositing all moneys collected with the Territorial Treasurer the words, "and covered into the General Fund" were added.

In 1959 in the Alaska Compiled Laws, the Territory of Alaska was changed to the State of Alaska and wholesale license fees were excluded as refundable. The Treasurer for the State of Alaska remained as the person authorized to deny the refund if the ordinances, laws, and regulations were not enforced.

In 1962 the Legislature enacted two separate statutes to deal with the disposition of funds and the conditions. The funds were to be deposited with the Department of Revenue and covered into the General Fund. The Commissioner of Revenue had the authority to deny refunds.

In 2000 a regulation was effected. The original Administrative Code under the Department of Revenue was 15 AAC 104.610. When the ABC Board was moved from the Department of Revenue to the Department of Public Safety in 2003 the code changed to 13 AAC 104.610. In 2012 the ABC Board was moved to the Department of Commerce, Community, and Economic Development and the code changed to 3 AAC 304.610. Except to reflect the authority to deny refunds the regulation has not changed since the effective year of 2000.

Municipal reporting

On January 13, 2012 the director for the ABC Board notified via e-mail the chiefs of police for the 36 municipalities having local law enforcement that refunds of licenses in their jurisdictions would be contingent upon enforcement (AS 04.21.070) and quarterly reporting. The chiefs of police were provided with the language of the statutes and regulation pertaining to enforcement and quarterly reporting:

Alaska Statute **Sec. 04.11.610. Refund to municipalities** states the following:

(a) Biennial license fees, excluding annual wholesale fees and biennial wholesale license fees, collected within a municipality shall be refunded semi-annually to the municipality.

(b) If the officers of a municipality fail to actively enforce local ordinances, laws of the United States and the state, and the regulations relating to the manufacture and sale of alcoholic beverages in the state, the commissioner of public safety may deny the refund provided for under (a) of this section until the board finds the enforcement of the ordinances, laws, and regulations is resumed.

(c) The Department of Public Safety shall recover any amounts erroneously refunded under (a) of this section. The Department of Public Safety shall schedule repayments of erroneously refunded amounts over a sufficient period of time to minimize financial hardship to the municipality involved.

Regulation **13 AAC 104.610. Refunds to municipalities** states the following:

(a) For the purposes of AS 04.11.610 a municipality's failure to actively enforce local ordinances, laws of the United States and the state, and the provisions of this chapter relating to the manufacture and sale of alcoholic beverages in the state includes the failure of the municipality's peace officers to comply with AS 04.21.070 .

(b) The director shall recommend that the commissioner of revenue deny the refund of biennial license fees under AS 04.11.610 if the director determines that the municipality's peace officers have not provided the director with quarterly reports of violations of AS 04 occurring on licensed premises within the municipality.

Alaska Statute Sec. 04.21.070. Enforcement states the following:

Sec. 04.21.070. Enforcement.

Peace officers shall investigate and report to the board violations of this title.

The chiefs were advised they could email the quarterly reports during the first week of April (1st quarter), first week of July (2nd quarter), first week of October (3rd quarter), and first week of January (4th quarter) for the director's review on a semi-annual basis when the refunds to municipalities are processed.

The director provided a form listing AS 04.16 statutes relating to alcoholic beverages laws:

Report of Violations within Municipalities
 Relating to Manufacture and Sale of Alcoholic Beverages
 Calendar Quarter _____ Year _____
 City _____

Statute	Arrest	Summons	Citation	Warning
04.16.010 Hours of sale				
04.16.015 Pricing and marketing				
04.16.020 Solicitation of alcoholic beverages				
04.16.025 Illegal presence and municipal ordinances				
04.16.030 Drunken persons (not allowed by licensee)				
04.16.035 Homebrew ingredients				
04.16.040 Drunken person				
04.16.045 Restrictions on premises				
04.16.047 Restricted persons				
04.16.049 Underage persons				
04.16.050 Minor in possession				
04.16.051 Furnishing				
04.16.052 Furnishing by licensee				
04.16.055 Furnishing in a rental room				
04.16.057 Minor possessing in a dwelling				

04.16.059 Furnishing by sex offender				
04.16.060 Purchase by underage person				
04.16.070 Sales on election day				
04.16.080 Sales or consumption at school events				
04.16.090 Bottle clubs				
Statute	Arrest	Summons	Citation	Warning
04.16.100 Size of containers				
04.16.110 Certain alcoholic beverage content				
04.16.120 Removal or introduction				
04.16.125 Transportation by common carrier				
04.16.130 Stock confined to licensed premises				
04.16.140 Sale or consumption in warehouse				
04.16.150 Licensees responsible				
04.16.160 Restriction on purchasing				
04.16.170 Source and supply				
04.16.172 Purchase and sale from licensee				
04.16.175 Furnishing in aid of gambling				

Comments (please include any information pertinent to the control and/or prevention of alcoholic beverage abuse):

The form was provided for convenience in reporting, but was not made mandatory. Police departments continued to be allowed to report daily by e-mailing police reports, e-mailing reports of no violations, e-mailing the attached form or a different form of their choice, or by sending via regular mail letters outlining enforcement activity. Uniformity in reporting had not been required.

Reporting Trends

Thirty-six municipalities that have liquor licensed establishments also have police departments. About 80 percent of the departments have reported consistently in each of the quarters. The other 20 percent are doing better with periodic reminders via emails or telephone calls.

Inconsistencies in enforcement exists amongst the police departments. A couple of police departments send e-mails as incidents are reported. A couple of police departments report on a monthly basis. Some police departments use their own forms and some categorize the enforcement efforts using different categories than what is provided on the form.

If a law enforcement agency reported no violations it is unclear if violations actually did not occur, if preventative measures were successful, or if no enforcement actions were taken. One community leader advised that when ships were scheduled for docking in their small community the officers take preventative measures to meet with the licensees and remind the licensees of the Title 4 laws. Having shared this information at the ABC Board of Directors meeting of July 23, 2013 the Board directed the director to include space for comments on the form to capture this kind of information.

Municipal refunds

Alaska Statute 04.11.610 provides for refunds to municipalities with police officers who actively enforce local ordinances, laws of the United States and the state, and the regulations relating to the manufacture and sale of alcoholic beverages in the state. The funds derive from the biennial license fees, excluding annual wholesale fees and biennial wholesale license fees. The fees are refunded on a semi-annual basis. The following table shows the amount of the refunds for the calendar years for each of the 36 municipalities that have licenses as well as police coverage.

City	CY2010	CY2011	CY2012
Adak	1,500	3,100	1,500
Anchorage	329,300	375,975	325,450
Bristol Bay Borough	17,850	6,875	16,600
Cordova	3,725	20,850	4,300
Craig	10,500	1,800	10,100
Dillingham	7,100	1,500	6,800
Fairbanks	74,150	87,750	55,150
Ft. Yukon	1,500	0	1,500
Galena	1,500	2,500	1,500
Haines	8,300	15,950	10,600
Homer	21,900	22,000	19,450
Hoonah	0	7,100	1,225
Juneau	45,450	57,150	52,200
Kenai	17,225	19,800	18,075
Ketchikan	31,850	41,875	32,700
King Cove	2,500	4,000	1,500
Klawock	0	1,500	0
Kodiak	23,300	20,000	14,300
Kotzebue	1,500	1,500	0
Nome	11,700	18,100	12,250
North Pole	5,200	4,800	2,100
Palmer	10,500	13,200	10,200
Petersburg	4,600	8,900	8,800
Saint Paul	4,600	600	4,000
Sand Point	2,100	7,500	4,600
Seldovia	4,900	2,725	300
Seward	17,850	17,300	12,450
Sitka	25,025	18,800	23,875
Skagway	7,825	9,250	9,300

Soldotna	9,400	15,800	17,400
Unalaska	3,750	14,200	2,500
Valdez	8,200	16,900	13,500
Wasilla	26,200	31,850	18,000
Whittier	5,250	5,600	1,550
Wrangell	13,200	8,400	5,500
Yakutat	4,000	6,500	4,000
TOTALS	\$763,450	\$891,650	\$723,275

Although AS 04.11.610 permits the commissioner of whatever department the ABC Board is housed (the ABC Board has been housed under revenue, public safety and currently commerce) to deny a refund if officers fail to actively enforce the laws and regulations surrounding alcoholic beverages it has not been done. In 2009 the director and enforcement unit supervisor traveled to a small community to speak with a fairly new police chief who had directed his officers not to conduct bar checks, which left officers to believe Title 4 should not be enforced. Once the police chief was made aware of the statutes he willingly retracted his directive to his officers.

Alaska Administrative Code 3 AAC 304.610(b) requires quarterly reports of violations of Title 4 occurring on licensed premises within the municipality. At the July 23, 2013 ABC Board meeting the board directed the director to request the commissioner to deny refunds if the local police did not report quarterly. Since refunds are made semi-annually if a police department reported in one quarter but not the other then one-half of the semi-annual fee should be denied. With reminders to chiefs of police the reporting has improved substantially with only two departments (that normally consistently report on time) still outstanding.

Conclusion

With recommendations for statute changes being considered, the incorporation of the language of 3 AAC 304.610 into AS 04.11.610 would provide clarity for chiefs of police of the requirement for municipalities to report quarterly. With additional resources the ABC Board staff could work more closely with police departments on enforcement, education, and prevention plans. Uniformity in reporting enforcement efforts would provide measures that would be useful in planning strategies to combat alcoholic beverage abuse.