

**HB**

**213**

**HFIN**

**FILE**



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## Alaska State Legislature



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House District 10

### House of Representatives

### Sponsor Statement

#### HB 213

HB 213 will work to make it easier for alcohol servers to maintain their livelihood by removing unnecessary coursework for those competent enough to pass their alcohol server education test.

HB 213 works to amend current laws and allow bartenders to renew their alcohol server education card, by passing a written test, demonstrating understanding of the course subjects. Previously, an alcohol server would have to take the alcohol server education course every three years.

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### Sectional Summary

### HB 213/Renewal of Alcohol Server Education Cards

### Work Order 24-LS0753\A

**Section 1.** States that a person who sells or serves alcoholic beverages shall keep their alcohol server identification card on the licensed premises during work hours.

**Section 2.** Amends the requirement for renewing an alcohol server education card. Under this bill, a licensee, agent, or employee may renew their alcohol server education card by passing a written test demonstrating an understanding of the course subjects, without having to retake the whole four-hour course.

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: HB 213  
(H) Publish Date: 4/18/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
Title: "An Act relating to alcohol server RDU Alcohol Beverage Control Board  
education." Component: Alcohol Beverage Control Board  
Sponsor: Representative Ramras  
Requester: House Finance Committee Component No.: 2690

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS.** (Attach a separate page if necessary)

Section 1 amends state law pertaining to alcohol server training to require a card demonstrating successful completion of the approved alcohol server education course.

Section 2 adds that upon completion of this training course, a written test has to be taken to show sufficient mastery of the subject of safely serving alcohol. An appropriate card will be issued by the course provider to reflect that the individual bearing the card has completed the course work and passed the written test. The card is valid for three years and may be renewed by passing another written test at that time. This means the alcohol server does not need to sit through the 4 to 5 hour training course every three years.

Passage of this legislation is not anticipated to have a fiscal impact on the Department of Public Safety.

Prepared by: Director Douglas B. Griffin Phone: 907-269-0751  
Division: Alcoholic Beverage Control Board Date/Time: 4/18/05 10:25 AM  
Approved by: Commissioner William Tarduske Date: 4/18/2005  
Agency: Department of Public Safety

alcoholic beverages manufactured in a quantity that exceeds the limit imposed on private manufacture under federal law; or an area that has adopted a local option law under AS 04.11.491.

Sec. 04.21.020. Civil liability of persons providing alcoholic beverages.

(a) Except as provided under (b) and (d) of this section, a person who provides alcoholic beverages to another person may not be held civilly liable for injuries resulting from the intoxication of that person unless the person who provides the alcoholic beverages holds a license authorized under AS 04.11.080 - 04.11.220 or is an agent or employee of such a licensee and

(1) the alcoholic beverages are provided to a person under the age of 21 years in violation of AS 04.16.051, unless the licensee, agent, or employee secures in good faith from the person a signed statement, liquor identification card, or driver's license meeting the requirements of AS 04.21.050 (a) and (b), that indicates that the person is 21 years of age or older; or

(2) the alcoholic beverages are provided to a drunken person in violation of AS 04.16.030.

(b) A person who sells or barter an alcoholic beverage to another person in violation of AS 04.11.010 is strictly liable (1) to the recipient or another person for civil damages if, while under the influence of the alcoholic beverage, the person receiving the alcoholic beverage engages in conduct that results in civil damages and the recipient's being under the influence of the alcoholic beverage substantially contributes to the civil damages; and (2) for the cost to the state or a political subdivision of the state to criminally prosecute a person who receives an alcoholic beverage from a person who violates AS 04.11.010 if the prosecution results from the violation of AS 04.11.010 described in this subsection.

(c) In an action under (b) or (d) of this section, it is not a defense that the person receiving the alcoholic beverage voluntarily consumed the alcoholic beverage or that the person receiving the alcoholic beverage was voluntarily under the influence of the alcoholic beverage.

(d) A person who knowingly furnishes or delivers an alcoholic beverage to a person under 21 years of age in violation of AS 04.16.051 is civilly liable to the recipient or another person for civil damages if, while under the influence of the alcoholic beverage, the person receiving the alcoholic beverage engages in conduct that results in civil damages and the recipient's being under the influence of the alcoholic beverage substantially contributes to the civil damages.

(e) In this section, "civil damages" includes damages for personal injury, death, or injury to property of a person, including the state or a political subdivision of the state.

Sec. 04.21.025. Alcohol server education course.

(a) As a condition of issuance or renewal of a license and selling alcoholic beverages under a license, the board shall require a licensee who sells or serves alcoholic beverages and a licensee's agents and employees who sell or serve alcoholic beverages or check the identification of a patron to complete an alcohol server education course approved by the board, if the license is for a

(1) beverage dispensary;

(2) restaurant or eating place;

- (3) club;
- (4) package store;
- (5) recreational site;
- (6) pub;
- (7) conditional contractor.

(b) The subjects that are included in an approved alcohol server education course shall be determined under regulations adopted by the board. In approving alcohol server education courses, the board shall consider the needs of both urban and rural licensees regarding access to an approved alcohol server education course. A licensee, agent, or employee who sells or serves alcoholic beverages shall keep proof acceptable to the board of successful completion of an approved alcohol server education course on the licensed premises during working hours.

(c) A licensee, agent, or employee shall complete the course required under (a) of this section not more than 30 days after being licensed or employed.

(d) The board shall review an approved alcohol server education course at least once every three years.

(e) A person licensed as a common carrier dispensary shall train agents and employees who sell or serve alcoholic beverages or who check the identification of a patron on provisions of state law regarding sale of alcoholic beverages, including AS 04.16.015, 04.16.020, 04.16.030, 04.16.051, 04.16.052, 04.16.120, 04.16.125, AS 04.21.030, and 04.21.050. The training must include the subjects of the effects of alcohol consumption, identifying a drunken person, determining valid identification, intervention to prevent unlawful alcohol consumption, and penalties for unlawful acts by agents and employees of licensees. A common carrier licensee shall, once every three years, provide the board with a description of its training program including the subjects taught, teaching method, and testing required.





### 13 AAC 104.465. Alcohol server education course

(a) While selling or serving alcoholic beverages, a person required under AS 04.21.025 to complete an alcohol server education course and the person's on-duty supervisor shall carry a current course card certifying completion of an approved alcohol server education course. The card is effective for three years from date of issuance during which time the person shall complete another approved course. The card must be made of or encased in plastic, and must include the name and birth date of the card holder, the name of the course, date of expiration of the card, and a signature of an authorized course representative. If the card does not include a photograph of the holder, the person shall also carry a valid identification under 13 AAC 104.425(b). The card must be shown upon request of a peace officer or board representative. If the person cannot show a current card or a copy of it on file on the premises, or show a date of hire less than 30 days earlier, the person shall immediately cease selling or serving alcoholic beverages.

(b) State or nationally recognized organizations or associations that address the subject of responsible alcoholic beverage service may obtain approval of an alcohol server education course by making written application on forms provided by the board. The application must include the course book to be provided to students, any video or audio presentations that will be used, the written test required under (d) of this section, detailed lesson plans, and a description of the qualifications of and training provided to course instructors. The application must identify the communities where the course will be presented and the frequency of the presentation. The applicant shall explain how rural premises will be served under (e) of this section.

(c) In addition to written materials and audio and video presentations provided to students, an instructor shall be available during a alcohol server education course to answer questions from students. Subjects covered by alcohol server education courses must include:

- (1) function of Alcoholic Beverage Control Board, licensing procedures, and types of licenses;
- (2) server responsibilities to the employer, patron, and law;
- (3) criminal and civil liability, including discussion of criminal negligence standard;
- (4) effects of alcohol consumption, including
  - (A) effect of food on alcohol consumption;
  - (B) blood alcohol levels;
  - (C) identifying a drunken person; and
  - (D) fetal alcohol syndrome and fetal alcohol effect;
- (5) drunken persons and intervention;
- (6) underage persons;

- (A) checking identification;
- (B) identifying valid identification; and
- (C) obtaining "statement of proof of age";
- (7) state and local hours of service and cutting off service;
- (8) "happy hour" laws;
- (9) restaurant designation;
- (10) other permits;
- (11) local option provisions;
- (12) warning signs;
- (13) gambling, drugs, and prostitution;
- (14) adulteration;
- (15) penalties for licensees and their agents and employees; and
- (16) sale by package stores in response to written orders.

(d) A provider of an alcohol server education course shall issue a card as described under (a) of this section to a student who successfully completes the course. Before issuing the card, the course provider shall require the student to pass a written test that demonstrates that the student understands the course subjects.

(e) Rural premises are those licensed premises not on a state-wide road system or further than 50 miles on a road system from a community where a course is offered. For the purpose of training for rural premises, course providers may provide video or audiotapes and written materials to a licensee that cover all topics required under (c) of this section, and conduct telephonic question and answer sessions for the students. The students shall, under the supervision of the licensee or licensee's manager, take the test required under (d) of this section. The licensee or licensee's manager, whoever supervises the test, shall certify to the course provider that the student did not receive outside help in taking the test and that no copies of the test have been kept.

(f) The board will issue a certificate of approval for each alcohol server education course the board approves. Certificates of approval may not be transferred.

(g) A course provider shall

- (1) maintain records of each student's participation, and completion of server training, including rural training;
- (2) use, at a minimum, the course approved by the board; and

(3) make its records available to peace officers or board investigators.

(h) An organization or association that has received board approval for an alcohol server education course shall apply for board reapproval within 33 months of last board approval. Application must be made on a form provided by the board. If application for reapproval is not approved by the board within 36 months after last board approval, training must cease. The application for reapproval must state the following for training provided since the last application:

(1) the number and names of students trained;

(2) the locations and dates of training; and

(3) the names of instructors.

(i) The board will, in its discretion, terminate approval of a course if the board determines that the course is not being presented as approved, that records are not being maintained as required, that students are being certified who have not successfully completed the course, or for other reasons in the public interest. The board will, in its discretion, make its termination of approval effective immediately, if the board determines that immediate termination is in the public interest.

(j) For the purposes of this section and AS 04.21.025 , a person who, before 4/1/94, successfully completed:

(1) Techniques of Alcohol Management (Alaska Cabaret, Hotel, Restaurant and Retailers Association);

(2) Training In Intervention Procedures for Servers (Health Communications, Inc.);

(3) Come of Age (Tesar Northstar Co.);

(4) Serve Safe (Alaska Professional Bartender School);

(5) Providing Alcohol With Care and Empathy (Stuart Anderson Cattle Co.);

(6) Responsible Establishments Alcohol Consumption Trained Servers (Bartenders Against Drunk Driving); or

(7) Alcohol Servers Knowledge (Alaska Training Academy), has completed an approved course, but shall complete a course approved under (f) of this section within 36 months of 4/1/93.

(k) A provider of an alcohol server education course approved by the board under this section shall advise the board of the methods used to train and certify the instructors providing the training.

**History:** Eff. 4/1/94, Register 129; am 8/24/2001, Register 159

**Authority:** AS 04.06.090

AS 04.06.100

AS 04.21.025

Editor's note: As of Register 166 (July 2003), and acting under AS 44.62.125 (b)(6), the regulations attorney relocated former 15 AAC 104.465 to 13 AAC 104.465, and made a conforming technical change to 13 AAC 104.465(a), to reflect Executive Order 110 (2003). Executive Order 110 relocated the Alcoholic Beverage Control Board from the Department of Revenue to the Department of Public Safety. The history note for 13 AAC 104.465 carries forward the history from former 15 AAC 104.465.

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## Article 5 Enforcement

### Section

505. Powers of investigative personnel.

515. Inspection.

525. Communication with licensees.

535. Suspension and revocation of license.

540. Civil fine.

545. Effect of revocation.

### 13 AAC 104.505. Powers of investigative personnel

(a) The board's investigative personnel may

(1) conduct inspections of licensed premises and investigations of licensees, applicants, transferees and other persons with respect to applications, the possession and sale of alcoholic beverages, or licensed premises;

(2) issue notices of violation;

(3) seize alcoholic beverages which are subject to forfeiture under AS 04.16.220 ;

(4) serve subpoenas issued by a hearing officer in a board adjudicative proceeding;

(5) execute search warrants;

(6) exercise specified peace officer powers upon the written concurrence of the commissioner of public safety filed with the lieutenant governor and the director, but only if necessary for the enforcement of the criminally punishable provisions of AS 04 and regulations adopted under AS 04;

(7) take such other action as is considered necessary by the director to assure the enforcement of AS 04 and is not in conflict with a law or regulation.

(b) Consistent with federal, state, and local law, the board's investigative personnel may carry firearms in the performance of their duties, if individually authorized by the board.