

**Office of the City Clerk
City of Ketchikan, Alaska**

**Kim Stanker, City Clerk
Taylor Lee, Deputy City Clerk**

To: Mayor and City Council

From: Kim Stanker, City Clerk

Date: August 25, 2022

Subject: Alcohol Permits - Stores Serving Alcohol to their Customers

As directed by the City Council at its regular Council meeting of August 18, 2022, the City Clerk was instructed to contact the Alcohol and Marijuana Control Office regarding permits storeowners could obtain to serve alcohol to customers while in their stores, and the result is herewith transmitted.

I contacted the Alcohol and Marijuana Control Office on Tuesday, August 23, 2022, and was later contacted by email by Criminal Justice Technician II, Jason M. Davis, who directed me to the license requirements under Alaska Statutes 04.11.010. Upon reading the state statutes I could not find a permit or license that storeowners could obtain to legally offer free alcohol to their customers while shopping. I suggest the names of the stores that are serving alcohol be turned over to the AMCO Enforcement Division for further action. Mr. Davis informed me they do have an enforcement officer for Southeast Alaska, and encouraged us to contact him.

Kim Stanker

From: Davies, Jason M (CED) <jason.davies@alaska.gov>
Sent: Tuesday, August 23, 2022 12:26 PM
To: Kim Stanker
Cc: CED AMCO Enforcement (CED sponsored); Johnson, Steven M (CED)
Subject: Jewelry Store - providing alcoholic tastings

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: External Email

This email originated from a source outside the City of Ketchikan. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Afternoon Kim,

Thank you for taking my call. **In order to provide alcoholic drinks or even tastings, a license is required under AS 04.11.010.** Otherwise they could be charged for violating that statute. If you know of any establishments allowing tastings from brewery's in Ketchikan, please forward this information to amco.enforcement@alaska.gov. Any future questions or concerns, you may relay them there and/or to Inv. Johnson at steven.johnson@alaska.gov.

Regards,



Jason M. Davies
Criminal Justice Technician II
AMCO Enforcement
Alcohol & Marijuana Control Office
550 W. 7th Ave, Suite 1600
Anchorage, AK 99501
Office (907) 754-3410
jason.davies@alaska.gov

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- (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 sex trafficking described in AS 11.66.100 — 11.66.135 and laws against gambling, promoting gambling, and related offenses described in AS 11.66.200 — 11.66.280. Unless authorized by a search warrant described in AS 12.35, nothing in this section authorizes the use of metal keys, magnetic card keys, or identification cards to access private clubs.

Chapter 10. LICENSING.

[Repealed, § 12 ch 131 SLA 1980. For current law, see AS 04.11.]

Chapter 11. LICENSING.

Article 1. LICENSING AND REPORTING REQUIREMENTS.

Sec. 04.11.010. License or permit required; presumption concerning possession for sale.

(a) Except as provided in AS 04.11.020, a person may not knowingly manufacture, sell, offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage unless under license or permit issued under this title.

(b) Except as provided in this subsection, a person may not solicit or receive orders for the delivery of an alcoholic beverage in an area that has adopted a local option under AS 04.11.491. If the area has adopted a local option under AS 04.11.491(a)(1), (2), or (3), or (b)(1) or (2), a package store licensee outside of that local option area may receive orders as provided under AS 04.11.150 but may not solicit in that area or receive orders through an agent or employee in that area. This subsection does not apply to a package store licensee who operates a package store in an area that has adopted a local option under AS 04.11.491(a)(2)(C) or (3)(C) or (b)(2)(C). A person who violates this subsection is punishable upon conviction as provided under AS 04.16.200(a) or (b).

(c) Unless a municipality or established village has adopted a more restrictive local option under AS 04.11.491(g), in a criminal prosecution for possession of alcoholic beverages for sale in violation of (a) of this section, the fact that a person

(1) possessed more than 10 1/2 liters of distilled spirits or 24 liters or more of wine, or either a half-keg of malt beverages or 12 gallons or more of malt beverages in individual containers in an area where the sale of alcoholic beverages is restricted or prohibited under AS 04.11.491 creates a presumption that the person possessed the alcoholic beverages for sale;

(2) sends, transports, or brings more than 10 1/2 liters of distilled spirits or 24 liters or more of wine, or either a half-keg of malt beverages or 12 gallons or more of malt beverages in individual containers to an area where the sale of alcoholic beverages is restricted or prohibited under AS 04.11.491 creates a presumption that the person sent, transported, or brought the alcoholic beverages for sale in the area.

(d) In this section,

(1) "bring" has the meaning given in AS 04.11.499;

(2) "send" has the meaning given in AS 04.11.499;

(3) "transport" has the meaning given in AS 04.11.499.

Sec. 04.11.015. Purchase from nonlicensee prohibited.

(a) A person may not purchase alcoholic beverages from a person who is not a licensee, permittee, or an agent or employee of a licensee or permittee.

(b) A person who violates this section is guilty of a violation.

Sec. 04.11.020. Exceptions: license or permit not required.

(a) A license or permit is not required to authorize sales made by a person under a judgment and decree of foreclosure, under the bankruptcy law of the United States, or under order of the board or a court under AS 04.16.220.

(b) A license or permit is not required to serve alcoholic beverages in exchange for valuable contributions at a private gathering of a bona fide group of co-workers or of a professional, social, or fraternal organization if equal contributions are made by all in attendance and only the amount required to purchase the alcoholic beverages is contributed. All other applicable

provisions of this title and regulations under this title shall be observed at these private gatherings.

Sec. 04.11.030. Death of licensee.

(a) The executor or administrator of the estate of a person who was operating a business as a sole licensee under a license authorized by this title may continue to operate the licensed business until an application for transfer of a license to another person is approved or until the license is forfeited under (b) of this section.

(b) If an application for the transfer of ownership of a license from a deceased licensee is not made within 90 days of the death of the licensee or within an additional 90 days if an application for transfer of ownership made by the executor is denied, or no petition is made to the board for an extension of time under (c) of this section within the time, the license is forfeited.

(c) The board may extend the time limits in (b) of this section on petition of the executor or administrator.

(d) This section does not authorize the transfer of a liquor license by an administrator or executor to the estate of a decedent.

(e) The board may transfer a license to an executor or administrator only in the executor's or administrator's individual capacity.

Sec. 04.11.040. Board approval of transfers.

(a) A license issued under this title may not be transferred to another person except with the written consent of the board.

(b) A license or permit issued under this title may not be transferred to a new location except with the written consent of the board.

(c) A person may not receive or transfer controlling interest in a liquor license issued to a partnership, including a limited partnership, a limited liability organization, or a corporation under this title, except with the written consent of the board.

Sec. 04.11.045. Reports required of limited liability organizations.

(a) A limited liability organization licensed under this title shall report to the board when a member of the limited liability organization transfers 10 percent or more of the ownership of the organization and shall report a change of managers.

(b) The report to the board shall be made in writing in duplicate and shall be sent within 10 days after the change in member interest or manager.

Sec. 04.11.050. Reports required of corporations.

(a) A corporation issued a license under this title shall report to the board when 10 percent or more of its corporate stock is transferred and shall also report any change in its corporate officers or in the membership of its board of directors.

(b) The report to the board shall be made in writing in duplicate and shall be sent within 10 days after the transfer of the stock or the change in officers or directors.

(c) This section does not apply to a corporation whose stock is listed on a stock exchange, a corporation that is required by law to file periodic reports with the United States Securities Exchange Commission, or to a bank, trust company, financial institution, or title company to which a license is issued in a fiduciary capacity.

Sec. 04.11.055. Reports required of partnerships.

(a) A partnership, including a limited partnership, issued a license under this title shall report to the board when a partnership interest of 10 percent or more is transferred and shall report a change of general partners.

(b) The report to the board shall be made in writing in duplicate and shall be sent within 10 days after the change in interest or change of general partners.

Sec. 04.11.060. Nonresident distiller, brewer, winery, or wholesaler.

A distiller, brewer, winery, or wholesaler whose plant or principal place of business is outside the state may not sell products directly to licensees in the state without

- (1) obtaining a general wholesale license under AS 04.11.160(a) for each wholesale distributing point in the state;
- (2) appointing an agent upon whom process can be served; and
- (3) obtaining other applicable licenses under the provisions of this title.

Sec. 04.11.070. Power limited to the board.

Only the board may issue, renew, transfer, relocate, suspend, or revoke a license under this title.

Article 2. LICENSES AND PERMITS.

Sec. 04.11.080. Types of licenses and permits.

Licenses and permits issued under this title are as follows:

- (1) beverage dispensary license;
- (2) duplicate beverage dispensary license for additional rooms;
- (3) restaurant or eating place license;
- (4) club license;

(c) In this section, “outdoor recreation lodge” means a licensed business that provides overnight accommodations and meals, is primarily involved in offering opportunities for persons to engage in outdoor recreation activities, and has a minimum of two guest rooms.

Sec. 04.11.230. Caterer’s permit.

(a) A caterer’s permit authorizes the holder of a beverage dispensary license to sell or dispense alcoholic beverages at conventions, picnics, social gatherings, sporting events, or similar affairs held off the holder’s licensed premises. The permit may only be issued for designated premises for a specific occasion and for a limited period of time.

(b) The written approval of a law enforcement agency having jurisdiction over the site of the occasion for which the permit is sought must be obtained and accompany the application.

(c) A caterer’s permit may not be transferred or renewed.

(d) A caterer’s permit must be surrendered to the board, its agent, or the law enforcement agency approving the permit within 48 hours of its expiration time. Failure to surrender the permit is cause, in the discretion of the board, for denial of applications for permits made in the future by the permittee.

(e) The fee for a caterer’s permit is \$50 and shall accompany the application for a permit.

Sec. 04.11.240. Special events permit.

(a) A special events permit authorizes the holder to sell or dispense beer or wine for consumption at designated premises for a specific occasion and limited period of time. Only nonprofit fraternal, civic, or patriotic organizations active for a period of at least two years before application and incorporated under AS 10.20 are eligible for a special events permit, and only if all profits derived from the sale of beer or wine are paid to the organization and not to an individual.

(b) An application for a special events permit must be received in the main office of the board at least 10 days before the date for which the permit is requested. The application must be signed by both the president and secretary of the organization applying for the permit. A sworn affidavit showing the length of time the organization has been in existence must accompany the application, together with a certified copy of the resolution of the board of directors authorizing the application. The written approval of the law enforcement agency having jurisdiction over the designated premises of the occasion for which the permit is sought must also be obtained and accompany the application.

(c) The special events permit must be surrendered to the board, its agent, or the law enforcement agency approving the permit, within 48 hours of its expiration time. Failure to surrender the permit is cause, in the discretion of the board, for denial of applications for permits made in the future by the organization. No more than five special events permits may be granted to an organization, including its auxiliary, in any one calendar year.

(d) A special events permit may not be transferred or renewed.

(e) The fee for a special events permit is \$50 a day.

Sec. 04.11.250. Conditional contractor's permit.

(a) A conditional contractor's permit authorizes the holder to sell beer or wine for consumption only on designated premises for two years from the date of issuance of the permit at construction sites that are located outside a city and inside the boundaries of a military or naval reservation.

(b) An applicant for a conditional contractor's permit must obtain and file with the board written permission from the commanding officer of the military or naval reservation and the prime contractor of the remotely situated project for the conduct of the activities authorized by the permit. A conditional contractor's permit may be renewed biennially upon reapplication for a permit and may be revoked or suspended at the discretion of the commanding officer or the prime contractor.

(c) A conditional contractor's permit may not be transferred and is not valid after the completion of the holder's contract or the closing of the military or naval reservation.

(d) The biennial conditional contractor's permit fee is \$1,200.

Sec. 04.11.255. Destination resort license.

(a) A destination resort license authorizes the holder to sell alcoholic beverages at a destination resort for consumption on the licensed premises in conjunction with the visitor activities provided by the licensee to cruise ship passengers and staff and other visitors while the cruise ship is in port at this resort. A destination resort license may not be transferred.

(b) The biennial fee for a destination resort license is \$1,250.

(c) For purposes of this section, the term "destination resort" means a business that owns a site of at least 20 acres that is used principally as a destination for cruise ships and other vessels that carry a minimum of 50 passengers and that does not provide overnight lodging on its premises for visitors.

Article 3. APPLICATION FOR LICENSE OR PERMIT.

Sec. 04.11.260. Application for new license or permit.

(a) An applicant for a new license or permit shall file with the director a written application, signed and sworn to by the applicant, giving the applicant's name and address. If the applicant is a corporation, the application shall be executed by the authorized officers of the corporation. If the applicant is a partnership, including a limited partnership, the application shall be executed by an authorized general partner. The application must include

(1) the type of license or permit desired;

(2) a description of the premises for which the license or permit is desired, giving the address by street and number, or other information, so that the location of the premises can be definitely determined;

August 18, 2022

Mayor Kiffer questioned what the status was regarding some of the downtown stores serving alcohol to their customers.

Police Chief Walls said we can go down and talk to them, but apparently, some of the businesses have applied for a permit, and there is not much of a fine for this. He said the Bureau of Alcohol, Tobacco Firearms and Explosives (ATF) would be the primary party to enforce it. He said they would give the party a warning and have them apply for a permit.

Clerk Stanker said her office could contact the State Office of Alcohol & Marijuana Control Office (AMCO) to see what the regulations are and what permits can be obtained.

Schedule of General Government and KPU Appropriated Reserves Through the City Council Meeting of August 4, 2022

Acting City Manager Simpson attached for Council review a schedule of the current balance of Appropriated Reserves of the various funds of General Government and KPU through the City Council meeting of August 4, 2022.

Conclusion of Contract No. 22-03 – Totem Heritage Center Ramp Replacement – Dawson Construction, Inc.

Acting City Manager Simpson attached for Council review an informational memorandum from Public Works Engineering Project Manager Robinson regarding the conclusion of Contract No. 22-03, Totem Heritage Center Ramp Replacement awarded to Dawson Construction, Inc.

K.P.U. MANAGER’S REPORT

Project Status Reports of the KPU Division Managers – July 2022

Acting General Manager Simpson provided for Council review the project status reports of the KPU Division Managers for the month of July 2022.

Report of July 17, 2022 Power Outage

Acting General Manager Simpson provided the Council a memorandum from Acting Electric Division Manager Bynum regarding the power outage of July 17, 2022.

CITY CLERK’S FILE

City Clerk Stanker reminded the City Council Candidacy period for the two three-year Council seats and the one one-year seat closes on August 25, 2022 at 5:00 p.m. She indicated applications can be obtained from the City of Ketchikan’s website or in the Clerk’s office at City Hall. She said to please let the Clerk’s office know if you plan on attending Southeast Conference so we can register you. She said this year’s conference will be hosted in Ketchikan.