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Subject: URGENT: Request for Concurrence with ABC Board Advisory Votes
Date: Wednesday, April 8, 2020 5:34:00 PM
Attachments: [ABC Board Emergency Regulations-consolidated industry edits \(004\).docx](#)
Importance: High

Governor Dunleavy,

I have appreciated the many steps you have taken to protect the health and welfare of Alaskans and of our economy during these trying times. The second largest industry in our great state needs you now more than ever.

A survey conducted in late March showed that 7% of Alaska restaurants **permanently** closed their doors on March 23, with that number increasing to 14% by April 1. That means that one out of every seven restaurants in this state is expected to have its doors closed permanently due to the economic impacts of COVID-19. Alaska hospitality will inevitably be impacted far more significantly than will the industry in other states, due primarily to Alaska's heavy dependence on tourism dollars.

A subsequent survey was sent to industry members yesterday evening, and preliminary findings show that 60% of the 133 respondents' same-store sales are **down more than 70%** from this week in 2019, and that **50% expect year-end sales for 2020 to be down 50% or greater from 2019**. Those numbers are astonishing, especially considering that only 19% of the respondents to date are seasonal businesses.

As you are aware, the Alcoholic Beverage Control (ABC) Board unanimously passed two advisory votes on Wednesday, April 1, requesting that you exercise your emergency powers to temporarily suspend enforcement of small portions of statutes. In doing so, this would:

1. Allow for restaurants, bars, and other establishments that sell alcohol for on-premises consumption to now sell factory-sealed beer/wine/cider to-go; and
2. Allow for liquor stores, breweries, cideries, and distillers to conduct curbside delivery of alcohol in order to reduce the number of individuals who are entering their premises, and help with social distancing and sanitation.

This afternoon, the ABC Board held an emergency meeting where it – among other things – adopted the attached emergency regulations. These regulations provide a clear set of guidelines that businesses must follow, while maintaining responsible, controlled regulation of alcoholic beverages in Alaska.

My understanding is that there are potentially two necessary next steps before these regulations may be implemented:

1. Your concurrence with the ABC Board via temporary suspension of enforcement of small portions of specific statutes; and

2. A potential subsequent emergency meeting after Department of Law review, for the ABC Board to adopt additional emergency regulatory language that defines “sealed packaging” and “curbside delivery”.

I’m hearing that establishments are terrified. Some restaurants have closed (hopefully temporarily) because of rumors about former guests contracting COVID. Others have closed (again, hopefully temporarily) for the guaranteed protection of employees and their loved ones who are immunocompromised or otherwise high-risk. The ones who are staying open for delivery and take-out orders are having varied results. Restaurants run on extremely tight profit margins – typically between 1-7%. Those with higher margins are usually benefitting from alcohol sales – something that is currently prohibited for them.

The federal relief and stimulus packages will help many, but they still aren’t enough. Those are primarily targeted at protecting workers – which is obviously essential – but I’m concerned that without additional swift federal assistance targeted primarily at businesses, many of those workers will not have jobs to return to.

Even if only a handful of businesses are saved from permanent closure or spared from additional debt, your concurrence with the ABC Board on these votes would be well worth it. I hope that you will consider doing so immediately.

Please contact me at this email or on my personal cell at 907-632-6433 any time with any questions or concerns that you may have.

Thank you for your consideration and for your continued service to Alaskans and our state.

Very respectfully,

Sarah Daulton Oates

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Emergency Regulations of the Alcoholic Beverage Control Board Related to COVID 19 Public Health Emergency

FINDINGS. (a) The Alcoholic Beverage Control Board (ABC Board) finds that:

(1) in December 2019, a novel coronavirus known as severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) was first detected in Wuhan, Hubei province, People's Republic of China, leading to outbreaks of novel coronavirus disease (COVID-19) that have now spread globally;

(2) on January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency under 42 U.S.C. 247d (Public Health Service Act);

(3) to date, 50 states have confirmed cases of COVID-19, including confirmation of community transmission of COVID-19;

(4) on March 11, 2020, the commissioner of health and social services certified to the governor that there is a high probability that COVID-19 presents a credible threat of an imminent outbreak of the disease in the state, meeting the definition of disaster under AS 26.23.900(2)(E);

(5) on March 11, 2020, the governor issued a declaration of a public health disaster emergency under AS 26.23.020 in anticipation of the spread of COVID-19 to the state;

(6) in the disaster declaration issued March 11, 2020, the governor found that a statewide response under AS 18.15.390 is required to address the public health disaster emergency and authorized the commissioner of health and social services and the adjutant general of military and veterans' affairs to take all actions necessary to address the public health disaster emergency;

(7) on March 12, 2020, the Department of Health and Social Services and the governor announced that the first case of COVID-19 was diagnosed in an individual in Anchorage;

(8) additional cases of COVID-19 continue to be diagnosed across the state; as of April 8, 2020, and excluding presumptive positives, 213 cases of COVID-19 have been diagnosed in Alaska and six residents of Alaska have succumbed to the illness;

(9) the chief medical officer in the Department of Health and Social Services and the commissioner of health and social services have determined that it will take months of monitoring and active public health management, including closing public facilities, limiting public events, closing restaurants and other eating establishments for in-dining services, and establishing quarantine and isolation protocols and enforcement under AS 18.15.390, to contain the spread of COVID-19;

(10) the adjutant general of the Alaska organized militia has determined that it may be necessary for the Department of Military and Veterans' Affairs, under the guidance of the commissioner of health and social services, to use personnel and other resources of the Department of Health and

Social Services to institute actions under AS 26.23.020, including provisions to perform or facilitate performance of disaster emergency services;

(11) To minimize human interaction to prevent the spread of COVID 19, the Department of Health and Social Services and the Governor are considering the suspension of various AS 04.11, AS 04.16, AS 04.21 and 3 AAC 304 provisions to permit curbside business and home delivery of alcoholic beverages by Title 4 licensees;

(12) Should those suspensions be mandated, the ABC Board believes additional emergency measures must be put in place to permit these activities yet prevent the diversion of alcoholic beverages or the sale of alcoholic beverages to minors and others restricted from purchasing or consuming alcoholic beverages;

THEREFORE: The ABC Board finds that upon suspension of the best interest of the state to enact emergency regulation 3 AAC 304.910

3 AAC 304.930. Emergency regulations to respond to COVID 19 Outbreak.

Notwithstanding any other provision of 3 AAC 304 and to implement the Governor of the State of Alaska's suspension order, curbside delivery of alcoholic beverages is permitted by Title 4 licensees as follows:

(1) a restaurant or eating place licensee, a restaurant designation permit holder, or a beverage dispensary licensee may permit curbside delivery of alcoholic beverages, solely if:

(A) the product offered for sale is sealed and is limited to wine and brewed beverages; and

(B) the licensee ensures, and a holder of a TAP card verifies, the recipient of the alcohol is permitted to purchase alcohol in the State of Alaska.

(2) A package store, brewery, brewpub, winery, or distillery licensee may permit curbside delivery of alcohol, solely if:

(A) the product offered for sale is sealed and is solely the alcoholic beverage the licensee is permitted to sell on premises; and

(B) the licensee ensures, and a holder of a TAP card verifies, the recipient of the alcohol is permitted to purchase alcohol in the State of Alaska.

(3) The AMCO Director may impose additional and reasonable emergency conditions necessary to prevent diversion of alcoholic beverages to minors or individuals restricted from purchasing alcohol.

(4) The following categories of licensees are impacted: AS 04.11.090, AS 04.11.100, AS 04.11.130, AS 04.11.135, AS 04.11.140, AS 04.11.150, AS 04.11.170.