

Municipal Clerk's Office

Approved

Date: June 23, 2020

Submitted by: Chair of the Assembly at the  
Request of the Mayor  
Prepared by: Finance and Law Department  
For reading: June 23, 2020

**ANCHORAGE, ALASKA  
AO No. 2020-57(S)**

1 AN ORDINANCE AMENDING THE ANCHORAGE MUNICIPAL CODE BY  
2 ENACTING CHAPTER 12.65, ALCOHOLIC BEVERAGES RETAIL SALES TAX,  
3 TO ESTABLISH THE REQUIREMENTS AND PROCEDURES FOR THE  
4 ADMINISTRATION, COLLECTION, AND ENFORCEMENT OF THE ALCOHOLIC  
5 BEVERAGES RETAIL SALES TAX APPROVED BY THE VOTERS, INCLUDING  
6 BUT NOT LIMITED TO PROVISIONS REGARDING: DEFINITIONS, TAX RATE,  
7 RETAILER REGISTRATION, TAX RETURNS, PROHIBITED ACTS, PENALTIES  
8 AND INTEREST, APPLICATION OF PAYMENTS, RECORDS RETENTION,  
9 INSPECTION AND CONFIDENTIALITY, TAX REFUNDS, AND TAXPAYER  
10 REMEDIES; AND AUTHORIZING PROSPECTIVE MUNICIPAL PARTICIPATION  
11 AND MEMBERSHIP IN THE ALASKA REMOTE SELLER SALES TAX  
12 COMMISSION.

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14 **THE ANCHORAGE ASSEMBLY ORDAINS:**

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16 **Section 1.** Anchorage Municipal Code title 12 is hereby amended by enacting a  
17 new chapter 12.65 to read as follows:

18  
19 Chapter 12.65 ALCOHOLIC BEVERAGES RETAIL SALES TAX

20  
21 **12.65.010 Definitions.**

22  
23 Any words, terms and phrases not defined in this section shall, if  
24 defined therein, have the meaning given in Alaska Statutes and Regulations,  
25 or otherwise shall have their ordinary and common meaning. The following  
26 words, terms, and phrases, when used in this chapter, shall have the  
27 meanings ascribed to them in this section, except where the context clearly  
28 indicates a different meaning:

29  
30 *Alcoholic beverage* includes, but is not limited to, whiskey, brandy,  
31 rum, gin, wine, ale, porter, beer, and all other spirituous, vinous, malt or other  
32 fermented or distilled liquors, whatever the origin, intended for human  
33 consumption as a beverage and containing one-half of one percent (0.5%) or  
34 more of alcohol by volume.

35  
36 *Alcoholic beverages retail sales tax* means the sales tax levied by  
37 Charter section 14.07 and this chapter on retail alcoholic beverages sold by  
38 a retailer and paid by the consumer, pursuant to this chapter.  
39

1            *Alaska Statutes and Regulations* means Alaska Statutes (Title 4) and  
2 Regulations (Title 3 Alaska Administrative Code, Chapter 304), and the  
3 regulations enacted by the ABC Board and enforced by the Alcohol and  
4 Marijuana Control Office (AMCO).

5  
6            *Certificate* or *Certificate of registration* means a standard license or a  
7 temporary special-use certificate issued by the department authorizing a  
8 specified retailer to assess, collect, and timely remit to the department the  
9 retail alcoholic beverages sales tax levied by this chapter.

10  
11           *Chief fiscal officer* means the chief fiscal officer of the municipality or  
12 designee.

13  
14           *Common carrier* shall have the meaning as given in AS  
15 04.16.125(c)(1).

16  
17           *Consideration* means something of value given by each party to a  
18 contract that induces that party to enter into the agreement to exchange  
19 mutual performances. Consideration must have a value that can be  
20 objectively determined.

21  
22           *Consumer* means a person who purchases retail alcoholic beverages  
23 for consumption from a person licensed by the State of Alaska as a retail  
24 seller of alcohol.

25  
26           *Department* means the finance department of the municipality.

27  
28           *Fiduciary* means a retailer or a person or responsible party acting on  
29 behalf of a retailer, to whom the duties to collect, segregate, and remit the  
30 taxes authorized by this chapter is entrusted for purposes specified in this  
31 chapter.

32  
33           *Funds* means money, assets or intangible assets that can be  
34 converted to United States currency and/or coin.

35  
36           *Inventory count* means the effective date and details of a count by  
37 description, including the trade name and brand, purchase price, and total  
38 quantity on-hand of all alcoholic beverages.

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40           *Manufacturer sale* means the act of selling any alcoholic beverage by  
41 a person licensed with the State of Alaska as a brewer, distillery, or winery.

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43           *Municipality* shall have the meaning as given in section 1.05.020.

44  
45           *Person* includes an individual, company, partnership, limited liability  
46 partnership, joint venture, joint agreement, limited liability company,  
47 association (mutual or otherwise), corporation, estate, trust, business trust,  
48 receiver, trustee, syndicate, or any combination acting as a unit.

1            *Responsible party* means a person who has a level of control over, or  
2 entitlement to, the funds or assets of a retailer that, as a practical matter,  
3 enables the individual, directly or indirectly, to control, manage, or direct the  
4 retailer or the retail operations.  
5

6            *Retailer* means any person or responsible party who is required to be  
7 licensed or permitted by the State of Alaska under Alaska Statutes and  
8 Regulations and the municipality to sell alcoholic beverages within the  
9 municipality to consumers.  
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11           *Retail sale* means any exchange or barter, in any manner or by any  
12 means whatsoever, for consideration, of an alcoholic beverage to a consumer  
13 where: (1) the consumer takes possession of, or title to, the purchased  
14 alcoholic beverage within the municipality; or (2) the seller receives  
15 consideration for the purchased alcoholic beverage within the municipality.  
16

17           *Sale(s) price* means the consideration, whether money, rights, credit  
18 or other property expressed in the terms of money paid or delivered by a  
19 consumer to a retailer after reduction by any special offer, without deduction  
20 for the cost of property sold, materials used, labor cost, discount(s) provided  
21 based on other paid consideration, delivery costs or any other expense  
22 whatsoever paid or accrued and without deduction on account of losses.  
23

24           *Special offer* means a temporary reduction in sales price of an  
25 alcoholic beverage offered to any purchaser as a promotion, such as a  
26 holiday or anniversary sale price reduction; or a price reduction for which the  
27 retailer receives no consideration; or in recognition of a consumer's unpaid  
28 loyalty to the retailer such as for a preferred customer based on frequency of  
29 patronage, purchases, or other activity; or other similar price reduction  
30 offered without any consideration paid for by, or on behalf of, the purchaser  
31 to the retailer or any third party.  
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33           *Tax return* means the monthly report to be submitted to the department  
34 as required by section 12.65.160.  
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36           *Temporary special-use certificate* means a temporary license issued  
37 by the department to a person who has received a permit from the State of  
38 Alaska under Alaska Statutes and Regulations, and who does not already  
39 hold a standard license from the department, authorizing the holder to  
40 assess, collect, and timely remit to the department the retail alcoholic  
41 beverages sales tax levied by this chapter.  
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43           *Wholesale sale* means the act of selling any alcoholic beverage by a  
44 person licensed with the State of Alaska as a wholesale alcohol seller.  
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1           **12.65.020    Applicability of chapter.**  
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3           Unless provided otherwise, this chapter shall apply to the taxation of  
4 all retail alcoholic beverage sales within the municipality to consumers.  
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6           **12.65.030    Alcoholic beverages retail sales tax.**  
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8           A.       There is hereby levied a tax on all retail sales of alcoholic beverages  
9 in an amount equal to five percent (5%) of the sales price paid.  
10

11           B.       Every retailer making a taxable retail sale under this chapter shall  
12 collect the alcoholic beverages retail sales tax from the consumer at  
13 the time of collection of the sales price, and shall deliver the same to  
14 the municipality in accordance with the requirements of this chapter.  
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16           **12.65.040    Tax exemptions.**  
17

18           A.       The following transactions are exempt from the tax levied by section  
19 12.65.030:  
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21                   1.       Wholesale and manufacturer sales of alcoholic beverages to  
22 retailers;

23                   2.       Corkage fees, as described in AS 04.16.120;

24                   3.       Component parts, as defined by the department, including  
25 separately charged and reusable components (e.g., keg,  
26 growler);  
27

28                   4.       Sales of alcoholic beverages on a common carrier within the  
29 municipality;

30                   5.       Sales of alcoholic beverages by the United States or any  
31 instrumentality thereof; and  
32

33                   6.       Sales of alcoholic beverages to a customer who is an officer or  
34 employee of a foreign government which is exempt from  
35 taxation by law or treaty.  
36

37           **12.65.050    Intent and purpose of chapter and taxpayer.**  
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39           It is the intent and purpose of this chapter to collect the tax from the  
40 person who purchases alcoholic beverages from a retailer located within the  
41 municipality. Notwithstanding anything to the contrary contained in this  
42 chapter, the taxpayer shall be those persons described in this section and no  
43 others.  
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**12.65.060 Tax receipts to be segregated and held in trust for the municipality.**

- A. Taxes collected pursuant to this chapter belong to the municipality at the time collected from the consumer by the retailer. The retailer has a fiduciary duty to the municipality for these taxes. The taxes shall be segregated from the retailer's funds, at least by book account, and held in trust for the exclusive benefit of the municipality until remitted to the municipality.
- B. When the circumstances described in subsection 12.65.150D. have occurred, the chief fiscal officer may require the retailer to maintain a separate account, as directed, for segregating tax monies collected. The retailer required to establish an account under this section shall deposit tax monies therein upon collection. Any costs incurred to maintain the separate account shall be borne by the retailer.

**12.65.070 Certificate of registration: eligibility.**

- A. To be eligible for a certificate of registration, a retailer applying for a certificate shall:
1. Possess a current business license as required by AS 43.70, and a current State of Alaska alcohol retail license or permit as required by AS 04.11. Copies of applicable licenses and permits must be provided to the municipality before a certificate of registration will be issued; and
  2. The retailer must disclose any of the following:
    - a. if at any time in the most recent five-year period the retailer has been convicted of a crime related to theft of tax dollars, attempted theft of tax dollars, failure to remit taxes due, embezzlement, theft, or similar financial crimes, and whether the retailer has satisfied all court-ordered restitution judgments related to past convictions of same;
    - b. if the retailer at any time during the most recent five-year period has had a certificate of registration under this chapter revoked more than once;
    - c. if the retailer has delinquent tax obligations to the municipality or substantially unpaid delinquent financial obligations to the municipality; and
    - d. if the retailer has any unresolved issues regarding a prior certificate of registration issued under this chapter.

- 1                   3.     If any of the provisions of subsection 12.65.070A.2. apply, the  
2                   retailer may still be eligible for a certificate, but may be subject  
3                   to additional requirements under subsection 12.65.150A. to  
4                   obtain a certificate of registration.  
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6                   **12.65.080     Certificate of registration: required.**  
7

- 8                   A.     Except as otherwise provided in this chapter, every retailer shall obtain  
9                   a certificate of registration for each location at which the business of  
10                  retail sales of alcoholic beverages to consumers are conducted, prior  
11                  to operating as a retailer within the municipality.  
12

- 13                  B.     A retailer operating under a permit issued by the State of Alaska will  
14                  not be required to obtain a temporary special-use certificate under this  
15                  chapter if the estimated retail sales of alcoholic beverages under the  
16                  permit do not exceed \$5,000, or \$250 in alcoholic beverages retail  
17                  sales taxes due.  
18

- 19                  C.     There shall be no charge for issuing a certificate of registration. There  
20                  shall be a prepaid tax deposit required for the issuance of a temporary  
21                  special-use certificate, in an amount to be determined by the  
22                  department that is based on a percentage of estimated alcohol sales  
23                  under the temporary special-use certificate.  
24

- 25                  D.     Retailers shall display their certificate of registration in a conspicuous  
26                  place where it can be readily viewed by consumers at the registered  
27                  place of business. A retailer who has no regular place of business shall  
28                  attach such certificate to its stand, truck, or other merchandising  
29                  device.  
30

- 31                  E.     A certificate of registration issued under this chapter shall state the  
32                  following:  
33

- 34                   1.     business name and business address of the retailer;  
35                   2.     name of the person(s) owning the retail business, **if the retailer**  
36                   **is owned by a business entity**;  
37                   3.     retailer's form of business organization; and  
38                   4.     issue date of the certificate.  
39

- 40                  F.     Except as otherwise provided in this chapter, a certificate issued  
41                  under this chapter is valid until it expires, pursuant to section  
42                  12.65.110, unless it is revoked or suspended, pursuant to section  
43                  12.65.120.  
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- 1 G. Failure to register prior to operating as a retailer within the municipality  
2 shall result in penalties, pursuant to section 12.65.270.  
3  
4 H. A retailer whose certificate is lost, stolen or defaced shall immediately  
5 file an application with the department for reissuance of the certificate.  
6  
7 I. A certificate issued by this chapter is in addition to any other license  
8 required by law.  
9  
10 J. A certificate issued under this section is a privilege for a retailer to  
11 have and there is no right, entitlement or property interest created by  
12 the issuance of a certificate to a retailer.

13  
14 **12.65.090 Certificate of registration: application.**  
15

- 16 A. Application for registration to operate as a retailer, including operating  
17 under a temporary special-use certificate, within the municipality shall  
18 be made to the chief fiscal officer on a form provided by the  
19 department, containing such information as the department may  
20 require, including:  
21  
22 1. The retailer's name and mailing address;  
23  
24 2. Names and addresses of all owners of the retailer and all  
25 responsible parties for the retailer, including as follows:  
26  
27 a. Corporation: names and addresses of the principal  
28 officers including president, vice-president, secretary,  
29 managing officer, and all stockholders who own 10  
30 percent (10%) or more of the stock in the corporation;  
31  
32 b. Partnership, including a limited partnership: names and  
33 addresses of all general partners and all partners with  
34 an interest of 10 percent (10%) or more; or  
35  
36 c. Limited Liability Company: names and addresses of all  
37 members with an ownership interest of 10 percent  
38 (10%) or more and the names and addresses of all  
39 managers;  
40  
41 3. A copy of the retailer's current State of Alaska business  
42 license, including the line of business (LOB) code or  
43 equivalent;  
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45 4. A copy of the retailer's current State of Alaska alcohol retail  
46 license(s) or permit(s);  
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5. The name under which the retailer will conduct business operations;
6. The physical location of each retail business operation where the retailer will conduct business within the municipality;
7. The signature of a responsible party for the retailer, constituting acknowledgment of, and firmly binding the retailer, its owners, and all responsible parties to, the following:
  - a. an agreement that any contemporaneous or future complaints filed by the department in the Alaska Court System related to responsibilities, duties, consequences, or disputes associated with this chapter shall at all times be within the venue of the Anchorage District or Superior courts located in Anchorage, Third Judicial District;
  - b. an obligation, in the event that an owner, partner, managing member, responsible party, or employee of the retailer subsequently commits civil fraud, as defined by this chapter and demonstrated by a preponderance of the evidence to have occurred, to remit to the municipality an amount that equals the taxes that would have been paid to the municipality if all the retail sales taxes collected had been remitted, pursuant to this chapter; and
  - c. an acknowledgment of a responsible party for the retailer that the retailer and any person involved in a civil fraud, as defined by this chapter and demonstrated by a preponderance of evidence to have occurred, will become ineligible to register or hold a certificate under this section for a period of five (5) years, beginning with the date of conviction of fraud or the date of revocation of the retailer's registration in accordance with section 12.65.120;
8. The signature of a responsible party for the retailer authorizing the State of Alaska to release information provided by or related to the retailer in accordance with Alaska Statutes and Regulations to the department at the request of the department;
9. The signature of a responsible party for the retailer confirming that the retailer fully understands the relevant compliance requirements of this chapter; and



1                   10.    Such other information as the department may require.  
2

3           B.    A retailer having more than one retail location within the municipality  
4           shall apply with the department for a certificate to register each  
5           separate location on a form provided by the department, which shall  
6           include:

7  
8                   1.    A copy of the retailer's current State of Alaska alcohol retail  
9                   license for each additional location;

10  
11                   2.   A copy of the retailer's certificate of registration for its main  
12                   or original retail location, or indicate such main application is  
13                   pending; and

14  
15                   3.    Such other information as the department may require.  
16

17           C.    All retailers applying for registration under this chapter shall affirm  
18           that the retailer is in compliance with all relevant municipal and State  
19           of Alaska laws and administrative requirements related to the  
20           registered business at the time of application, including but not  
21           limited to: business license, AMCO rules and regulations, special  
22           municipal permits (e.g., land use, health), and any related required  
23           periodic reporting.  
24

25           D.    All retailers applying for registration under this chapter shall affirm  
26           that the retailer is current with all financial obligations due to the  
27           municipality. If the applicant is a business entity, then all persons  
28           identified in subsection A.2. shall make the affirmation.  
29

30           E.    A retailer applying for a certificate of registration under this chapter  
31           shall provide security for its fiduciary performance, if required, in  
32           accordance with section 12.65.150. If fiduciary performance is  
33           required, evidence of such security shall be submitted to the  
34           department with the application.  
35

36           F.    An application for and acceptance of the certificate issued under this  
37           chapter constitutes confirmation and acknowledgement on behalf of  
38           the retailer and all responsible parties for the retailer of the fiduciary  
39           duties pursuant to this chapter.  
40

41           G.    Each signature on the application shall be by a person or agent  
42           having such authority to sign and bind the retailer and shall be under  
43           penalty of prosecution for unsworn falsification.  
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45           **12.65.100    Certificate of registration: denial.**  
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47           A.    The department may deny an application for registration if:

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1. there is reasonable cause to believe that the retailer or a responsible party for the retailer has willfully withheld information requested to determine the retailer's eligibility to receive a certificate of registration;
2. there is reasonable cause to believe that information submitted in the application is false or misleading and is not made in good faith;
3. there is reasonable cause to believe that the retailer's business organization has been structured to avoid payment of taxes, penalties, interest, or costs due under this chapter;
4. the retailer has an unpaid financial obligation due to the municipality;
5. the retailer had a certificate under this chapter revoked by the department within the previous five (5) years; and
6. the application is not complete.

- B. The department shall deny an application if the retailer does not currently possess all other licenses required by law.
- C. The department shall provide the reasons for a denial in writing to the retailer. The retailer may appeal the denial in accordance with section 12.65.280.

**12.65.110 Certificate of registration: expiration.**

- A. A certificate of registration issued under this chapter shall automatically expire if any of the following occur:
1. The retailer moves the business to another location within the municipality. The retailer shall immediately file an application with the department for issuance of a replacement certificate for the new location.
  2. If applicable, on the last day of the term of a surety bond, deposit in escrow, or letter of credit submitted as financial guarantee, unless the retailer has either renewed the surety bond, deposit in escrow, or letter of credit, or provided a new financial guarantee, or the department has waived the requirement for financial guarantee. The retailer must immediately reapply, pursuant to section 12.65.090, to obtain a new certificate.

- 1                   3.     A retailer ceases to engage in business as a retailer, ceases  
2                   to engage in business at its registered place(s) of business,  
3                   changes its name or changes the name by which the  
4                   registered retail business operation is advertised or marketed  
5                   by the retailer that requires the State of Alaska to issue a new  
6                   business or alcohol retail license.

7  
8                   **4.[B.]** A ~~retailer must immediately submit an updated~~  
9                   ~~application, as prescribed by the chief fiscal officer, upon~~  
10                   ~~any~~ change in form of ownership, or if the retailer is owned  
11                   by a business entity, a ~~upon any~~ change in the owners of  
12                   the business entity ~~[who owns the retailer], as follows:~~

- 13  
14                   a. Corporation: stockholders who own 10 percent  
15                   (10%) or more of the stock in the corporation;  
16  
17                   b. Partnership, including a limited partnership:  
18                   general partners and all partners with an interest  
19                   of 10 percent (10%) or more; or  
20  
21                   c. Limited Liability Company: members with an  
22                   ownership interest of 10 percent (10%) or more.

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24                   **A retailer must immediately submit an updated**  
25                   **application, as prescribed by the chief fiscal officer.** The  
26                   chief fiscal officer will review the updated application,  
27                   pursuant to this chapter. A new certificate of registration will  
28                   not be issued until the department has received the expired  
29                   certificate.

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32                   **12.65.120     Certificate of registration: surrender, suspension, or**  
33                   **revocation.**

- 34  
35                   A.     A retailer shall surrender its certificate of registration to the department  
36                   as follows:  
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38                   1.     within ten (10) days after its certificate expires; or  
39  
40                   2.     immediately, upon suspension or revocation by the department.  
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42                   B.     The department may suspend or revoke a certificate issued under this  
43                   chapter for any violation of this chapter.  
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45                   C.     A certificate of registration shall be automatically revoked:

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1. when the retailer's required financial guarantee lapses, is not renewed, expires, is modified without the written consent of the chief fiscal officer, is cancelled, or is otherwise terminated;
2. in the event the municipality exercises a claim against the financial guarantee and the retailer fails to replace, renew or replenish its financial guarantee, in an amount equal to the amount of the paid claim or in an aggregate amount as required by section 12.65.150, no later than thirty (30) days after the date such claim was paid; or
3. the retailer's liquor license is denied or revoked due to a liquor license protest by the municipality, or any other action by the State of Alaska that does not allow the retailer to operate.

D. The department shall revoke a certificate of registration if:

1. a retailer fails to remit substantially all (at least ninety-five percent (95%)) of the taxes due under this chapter within forty-five (45) calendar days of the due date;
2. a retailer fails to provide a financial guarantee within thirty (30) days of receiving notice from the department of such requirement;
3. subsequent to the issuance of the certificate the department discovers that the retailer or a responsible party for the retailer has willfully withheld information requested to determine the retailer's eligibility to receive a certificate, or there is reasonable cause to believe that information submitted in the application was false or misleading and was not made in good faith; or
4. when the retailer's circumstances change to a point where it no longer meets eligibility requirements set forth in section 12.65.070.

E. If the department decides to revoke a certificate issued under this chapter, based on any violation of this chapter, the department shall notify the retailer of the date it intends to enforce such revocation. A retailer may apply to the department to request a hearing before the chief fiscal officer on the department's action or determination, as set forth in section 12.65.280.

1           **12.65.130    Certificate of registration: transfer or assignment.**  
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3           *Non-transferable.* The certificate of registration issued under this  
4 chapter is not assignable or transferable, except that in the case of death,  
5 bankruptcy, receivership, or incompetency of the retailer (or its principals if  
6 the retailer is an entity), or if the certificate is transferred to another by  
7 operation of law, the department may extend the certificate for a limited time  
8 to the executor, administrator, trustee, receiver, or the transferee.  
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10           **12.65.140    Fiduciary duties.**  
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12           A.     The fiduciary duties include at a minimum:  
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- 14           1.     determining, implementing, and enforcing sufficient and  
15                relevant policies and practices to ensure proper performance of  
16                fiduciary duties;
- 17           2.     charging, collecting, and safeguarding all taxes required by this  
18                chapter to be collected by the retailer;
- 19           3.     directing and reviewing the actions of each member, officer,  
20                director, employee, and contractor employed or used by the  
21                retailer in the exercise of the fiduciary duties under this chapter;
- 22           4.     performing all acts, not prohibited by this chapter, whether or  
23                not expressly authorized, that a reasonable and prudent person  
24                would consider necessary or proper in administering and  
25                safeguarding the taxes collected under this chapter; and  
26           5.     maintaining accounting records associated with taxes collected  
27                under this chapter in accordance with generally accepted  
28                accounting principles.  
29

30           B.     The fiduciary is liable for a breach of a duty that is assigned or  
31                delegated. However, the fiduciary is not liable for a breach of a duty  
32                that has been delegated to another person if the duty is assigned by  
33                law to another person, except to the extent that the fiduciary:  
34

- 35           1.     knowingly participates in, or knowingly undertakes to conceal,  
36                an act or omission of another person knowing that the act or  
37                omission is a breach of that person's duties under this chapter;  
38                or
  - 39           2.     by failure to comply with this section in the administration of  
40                specific responsibilities, enables another person to commit a  
41                breach of duty.  
42
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- 1 C. Funds held in a fiduciary capacity shall be clearly identified in a  
2 retailer's financial statement and, if maintained in an account at a  
3 financial institution, the account shall be clearly identified as a fiduciary  
4 account.  
5

6 **12.65.150 Security for fiduciary performance.**  
7

- 8 A. *Guarantee.* To ensure that a retailer performs its fiduciary  
9 responsibility to timely collect, account for, safeguard, and remit taxes  
10 levied by this chapter, the retailer may be required to provide a  
11 guarantee, pursuant to subsection B. of this section, by one or more  
12 of the methods specified in this section. The amount of the guarantee  
13 shall be in the amount that the chief fiscal officer estimates to be an  
14 average amount of periodic sales tax collected by the retailer, a  
15 comparable retailer(s), or industry averages, whichever is higher.  
16 Except as specified in subsection D. of this section, a required  
17 guarantee shall remain in force for the entire period the retailer is  
18 registered in accordance with section 12.65.080.  
19

- 20 B. *Required.* Security for fiduciary performance shall be required if the  
21 following occurs:  
22

- 23 1. A retailer, upon initial application, meets any of the following  
24 criteria:  
25

- 26 a. the retailer has had any certificate of registration  
27 previously issued under this chapter revoked by the  
28 department, pursuant to section 12.65.120;  
29  
30 b. the department has reasonable cause to believe that the  
31 retailer is a related party or related entity to another  
32 retailer or prior retailer whose certificate of registration  
33 has previously been revoked under this chapter; or  
34  
35 c. a responsible party was ineligible for a five-year period  
36 under a limitation in subsection 12.65.070A., and the  
37 five-year period has passed.  
38

- 39 2. A retailer fails to file a tax return and remit the associated taxes  
40 to the department by the due dates prescribed herein for two  
41 (2) consecutive reporting periods. The department will issue a  
42 notice to the retailer of the required financial guarantee, and the  
43 retailer shall provide the guarantee within thirty (30) days of  
44 receiving notice from the department of such requirement.  
45 Failure to provide the financial guarantee shall result in the  
46 revocation of the retailer's certificate, pursuant to subsection  
47 12.65.120D. A retailer that remits all past-due taxes after  
48 receiving a notice from the department of the financial

1                   guarantee requirement shall still be required to provide the  
2                   financial guarantee; or

- 3  
4                   3.     A retailer, or any of its owners, partners, members, or  
5                   responsible parties, had a liquor license denied or revoked  
6                   within the previous five (5) years due to a liquor license protest.

7  
8                   C.     *Methods.* A retailer that is required to provide a guarantee shall include  
9                   one or more of the following methods to guarantee performance of its  
10                  fiduciary responsibilities:

- 11  
12                  1.     *Surety bond.* The retailer may elect to provide a surety bond,  
13                  in an amount defined in subsection A. of this section, from a  
14                  company authorized to do such business in the state. The bond  
15                  shall be in a form acceptable to the municipal attorney. The  
16                  bond shall be payable to the municipality and shall be  
17                  conditioned upon payment in full of the tax, including penalties  
18                  and interest due and to become due and owing to the  
19                  municipality by said retailer during the effective period of the  
20                  bond under the provisions of this chapter. The surety may  
21                  terminate this bond, except as to any liability already incurred  
22                  or accrued, and may do so upon giving the retailer and the chief  
23                  fiscal officer written notice to that effect. The surety shall  
24                  provide written notice to the chief fiscal officer not less than  
25                  thirty (30) days before the expiration, non-renewal, lapse,  
26                  termination, or other similar event affecting such surety bond.  
27                  Thirty (30) days after receipt by the chief fiscal officer of such  
28                  notice or upon a later date specified in the notice, or upon the  
29                  filing and acceptance of a new bond, the existing bond shall  
30                  terminate and be of no more force and effect, except as to any  
31                  liabilities or indebtedness incurred or accrued thereunder as of  
32                  the date of termination.

- 33  
34                  2.     *Deposit in escrow.* The retailer may elect to deposit a cash  
35                  sum, in an amount defined in subsection A. of this section, in  
36                  escrow with a responsible financial institution authorized to do  
37                  such business in the state. In the case of an escrow account,  
38                  the retailer shall file with the municipality an escrow agreement,  
39                  which includes the following terms:

- 40  
41                         a.     funds of the escrow account shall be held in trust until  
42                         released by the municipality and may not be used or  
43                         pledged by the retailer as security in any matter during  
44                         that period other than payment of the tax, penalties, and  
45                         interest due and to become due and owing to the  
46                         municipality under this chapter; and  
47

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b. in the case of a failure on the part of the retailer to remit taxes due under this chapter by the required due date, the institution shall immediately make all funds in such account available to the municipality for use in satisfying those taxes due, along with any related penalties and interest as provided for in this chapter.

3. *Letter of credit.* The retailer may elect to provide, from a bank or other responsible financial institution authorized to do such business in the state, a letter of credit in a form acceptable to the municipal attorney. Such letter shall be filed with the municipality and shall certify the following:

a. the financial institution irrevocably guarantees funds in an amount defined in subsection A. of this section; and

b. in the case of failure on the part of the retailer to remit taxes due under this chapter by the required due date, the financial institution shall pay to the municipality immediately and without further action such funds as are necessary to satisfy those taxes due, along with any related penalties and interest as provided for in this chapter, up to the limit of credit stated in the letter.

D. Once a retailer has filed a tax return and remitted the full amount of taxes due under this chapter, by the due date prescribed by this chapter, for twenty-four (24) consecutive reporting periods, the retailer may submit a written request to the chief fiscal officer for a waiver of the requirement for the retailer to post a guarantee. The chief fiscal officer shall provide written approval of such request, stating the date the requirement for a guarantee shall expire, except when the following circumstances apply:

1. the retailer has had any certificate of registration previously issued under this chapter revoked by the department, pursuant to section 12.65.120; or

2. the department has reasonable cause to believe that the retailer is a related party or related entity to another retailer or prior retailer whose certificate of registration has previously been revoked under this chapter.

E. The chief fiscal officer may require the retailer to provide a financial guarantee that is double the amount established by subsection A. of this section, based on the following:

1. a responsible party was ineligible for a five-year period under a limitation in subsection 12.65.070A., and the five-year period



1 has passed;

2  
3 2. the retailer has incurred penalties under this chapter for three  
4 (3) consecutive reporting periods; or

5  
6 3. the retailer has incurred penalties under this chapter in at least  
7 six (6) reporting periods out of nine (9) consecutive months.

8  
9 F. The agreement or contract and other evidence of a guarantee under  
10 this section is subject to inspection upon demand by the department.

11  
12 **12.65.160 Tax return and remittance.**

13  
14 A. On or before the last day of each calendar month, every retailer shall  
15 submit to the department a tax return and shall remit therewith all taxes  
16 required to be collected by this chapter during the immediately  
17 preceding calendar month.

18  
19 B. To the extent that electronic filing is available, the tax return must be  
20 filed electronically, and the taxes due must be paid electronically,  
21 through the department's tax revenue management system. If  
22 electronic filing or payment is impractical or impossible for the  
23 taxpayer, then the taxpayer must receive department approval to file  
24 a return on a paper form prescribed by the department or to submit  
25 payment in the form of a check or cash. Unapproved paper filings are  
26 subject to being assessed an administrative processing fee of \$50 per  
27 filing.

28  
29 C. A tax return shall be filed even if there are no taxes due for the period  
30 being reported, except for temporary special-use certificate holders  
31 who must file for only the periods in which their certificate is valid. Tax  
32 returns and taxes to be remitted under this chapter must be actually  
33 received by the department within the time required by this section.

34  
35 1. The tax return shall be electronically signed under penalty of  
36 perjury by an officer of the retailer and shall include the  
37 following for that reporting period:

38  
39 a. the name and mailing address of the retailer;

40  
41 b. the name and title of the person filing the tax return;

42  
43 c. the aggregate amount of the retail sales of alcoholic  
44 beverages within the municipality transacted by the  
45 retailer, with taxable sales of alcoholic beverages  
46 reported separately from non-taxable sales of alcoholic  
47 beverages;

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- d. the aggregate amount of any allowable deductions;
- e. the amount of retail sales tax due;
- f. the amount of retail sales tax collected; and
- g. such other relevant information and supporting documentation as the department may require.

2. Every retail alcoholic beverage sale made within the municipality, unless explicitly exempted by section 12.65.040, shall be presumed to be subject to the tax imposed under this chapter in any action to enforce the provisions herein.
3. If a retailer fails to file a tax return under this section or when the chief fiscal officer finds that a tax return filed by a retailer is not supported by the records required to be maintained under this chapter, the chief fiscal officer may prepare and file an involuntary tax return on behalf of the retailer. Taxes due on an involuntary tax return may be premised upon any information that is available to the chief fiscal officer including comparative data for similar businesses. A retailer shall be liable for the taxes stated on an involuntary tax return, together with penalties and interest provided in this chapter.
4. The department shall notify the retailer of an involuntary tax return, the basis of the department's calculations, the retailer's rights under section 12.65.280, and provide written notice that payment of the taxes, penalties, and interest is due immediately.
5. Unless otherwise determined by the chief fiscal officer in a decision under section 12.65.280, taxes due under this section shall be due on the same date as if a tax return had been filed by the retailer in accordance with this chapter, and interest, penalties, and costs thereon shall accrue from such date.
6. A tax return prepared by the chief fiscal officer is prima facie evidence of taxes due, and the penalties and interest accruing from said tax liability. In an application under section 12.65.280, it is the retailer's burden to rebut the presumed sufficiency of a tax return prepared by the department.
7. A retailer with multiple locations must either file a separate tax return for each location or use a supporting schedule that clearly identifies the data and balances associated with each separate location.

1           **12.65.170    Amended tax returns.**  
2

3           Any tax return filed under subsection 12.65.160A. may be amended  
4 by the retailer.  
5

6           **12.65.180    Application of payments.**  
7

8           Any payment submitted to the department for taxes, interest, penalties  
9 or costs due under any tax return, provision of this chapter, or any finding or  
10 determination by the department under this chapter shall be credited to the  
11 tax period for which remitted, but shall be credited first to the payment of costs  
12 and then to the payment of penalties, interest, and taxes due, in that order.  
13

14           **12.65.190    Tax refunds.**  
15

16           A.   If the department determines after an audit that a retailer's tax  
17 remittance exceeds the actual amount due, the department shall, upon  
18 written request of the retailer, refund the excess to the retailer without  
19 interest.  
20

21           B.   The retailer shall apply for a refund in writing on a form provided by  
22 the department no later than two (2) years from the date the excess  
23 payment was transmitted to the department. Any claim for a refund  
24 filed more than two (2) years after the date of the excess payment is  
25 forever barred. For purposes of this section, a "refund" means  
26 payment by the municipality to the retailer or book entry by the  
27 municipality to offset other current or future amounts due from the  
28 retailer.  
29

30           C.   If a retailer discovers that it has miscalculated the retail alcoholic  
31 beverages sales tax, and a consumer paid more tax than should have  
32 been collected, the excess tax shall be remitted to the municipality  
33 pursuant to section 12.65.160.  
34

35           D.   If the prepaid tax deposit under subsection 12.65.080B. by a  
36 temporary special-use certificate holder exceeds the amount of tax  
37 due, the temporary special-use certificate holder shall apply for a  
38 refund in writing on a form provided by the department no later than  
39 thirty (30) days after submitting the final tax return and remitting all  
40 taxes due to the department. Upon the department's determination  
41 that the prepaid tax deposit exceeds the actual amount due, the  
42 department shall refund the excess to the temporary special-use  
43 certificate holder without interest.  
44

45           **12.65.200    Confidentiality of records.**  
46

47           A.   All tax returns filed under this chapter, all data obtained from such tax  
48 returns, and all financial information obtained from an inspection of

1 records in accordance with this chapter are confidential and may not  
2 be released except upon court order, when necessary to enforce the  
3 provisions of or to collect the taxes due under this chapter and except  
4 for inspection by the mayor, the chief fiscal officer, the municipal  
5 attorney, the internal auditor and municipal assessor or the assembly  
6 in the performance of their official duties.

7  
8 B. Except when necessary to the performance of their official duties to  
9 enforce the provisions of or to collect taxes due under this chapter, no  
10 person may divulge, without express written permission by the retailer,  
11 to another any information, data or financial information of a retailer, a  
12 retailer's records or a tax return filed under this chapter unless the  
13 person receiving such information, data or financial information is a  
14 person authorized by this chapter to inspect the tax return, information,  
15 data or financial information.

16  
17 C. It is the duty of the chief fiscal officer to safely keep tax returns, all data  
18 taken therefrom, and all financial information obtained from an  
19 inspection of the retailer's records secure from public and private  
20 inspection, except as provided by this chapter.

21  
22 D. This section does not prohibit the municipality from compiling and  
23 publishing statistical information concerning the data submitted,  
24 provided no identification of particular tax returns or retailer  
25 information, data or financial information is made.

26  
27 E. This section shall not prohibit the chief fiscal officer from sharing  
28 information obtained from tax returns, documents, records, and/or  
29 reports filed with the municipality pursuant to this chapter with any  
30 local, state, inter-governmental agency, or federal government agency  
31 for the purpose of enforcing this chapter or for tax purposes of the  
32 other government agency, provided the chief fiscal officer determines  
33 the other government agency provides adequate safeguards for the  
34 confidentiality of the shared information and that it will be used for tax  
35 purposes only.

36  
37 **12.65.210 Maintenance and inspection of documents and records.**

38  
39 A. Every retailer subject to this chapter shall keep a complete and  
40 accurate record of all alcoholic beverages acquired and sold within the  
41 municipality by such person.

42  
43 B. It shall be the responsibility of the retailer to obtain and preserve  
44 evidence sufficient to support all acquisitions of alcoholic beverages  
45 and retail sale transactions and allowable deductions subject to this  
46 chapter, and all claimed exemptions from payment, collection, or  
47 remittance of the retail alcoholic beverages sales taxes under this  
48 chapter. Specification in this chapter of the records to be kept by a

1 retailer shall not relieve the retailer of its responsibility to keep  
2 sufficient records. Unless a longer period is ordered by the chief **fiscal**  
3 **[financial]** officer under section 12.65.220 or a court of competent  
4 jurisdiction, a retailer shall keep and preserve all required records  
5 within the municipality for not less than three (3) calendar years after  
6 the end of the calendar year in which such records are created and  
7 shall make available such records for inspections by the department  
8 upon request. Sufficient records shall include, but not necessarily be  
9 limited to:

- 10  
11 1. Except for retail sales under a temporary special-use certificate  
12 that may be recorded in summary form, each retail sale of  
13 alcoholic beverages within the municipality shall be recorded by  
14 the retailer and the record shall include, at minimum: the date  
15 of sale, the type of alcoholic beverage sold, the quantity of  
16 alcoholic beverages sold, the sales price, the amount of retail  
17 sales taxes due on the sale, and the amount and method of  
18 payment received. A comparable receipt of sale shall be offered  
19 to each consumer at the time of purchase;
- 20  
21 2. As applicable, all periodic statements and records from  
22 financial institutions provided to, or available to, the retailer for  
23 accounts in which retail alcoholic beverages sales taxes were  
24 deposited;
- 25  
26 3. As applicable, all periodic statements provided to the retailer  
27 from credit or debit card processors containing details of  
28 consumer payment transactions for retail sales or retail  
29 alcoholic beverages sales taxes;
- 30  
31 4. Books of account, journals, ledgers, and other compilations of  
32 source documents that reconcile to total retail sales and retail  
33 alcoholic beverages sales taxes collected as listed on the tax  
34 returns filed with the department under the authority of this  
35 chapter;
- 36  
37 5. Periodic inventory counts and maintenance of detailed  
38 inventory records;
- 39  
40 6. Alcoholic beverage acquisition data; and
- 41  
42 7. Sufficient documentation confirming eligibility under section  
43 12.65.070.

44  
45 C. Persons subject to this chapter shall keep such other documents and  
46 records as the department prescribes.  
47

- 1 D. All records and documents required by this chapter to be kept or  
2 retained are subject to inspection within the municipality upon demand  
3 by the department.  
4
- 5 E. The chief fiscal officer, upon presentation of proper identification, may  
6 inspect the records which a person is required to maintain under this  
7 section, whether on-site or at an off-site location, or inspect the records  
8 of a person whom the chief fiscal officer has probable cause to believe  
9 is a retailer or a person subject to this chapter in order to determine  
10 whether that person is a retailer or is subject to this chapter.  
11
- 12 1. Upon notice of the department's intent to inspect records, a  
13 person or retailer subject to this chapter shall retain such  
14 records and preserve their availability to the department until  
15 released by the department in writing, regardless of whether  
16 such retention and preservation continues beyond the three-  
17 year period specified in this section.  
18
- 19 2. The chief fiscal officer's authority to inspect records shall not be  
20 limited to records within the three (3) calendar year retention  
21 period. If a person subject to this chapter has possession or  
22 control of records described in this section that are older than  
23 the three-year period specified in this section, the person  
24 subject to this chapter shall make such records available for  
25 inspection upon request.  
26
- 27 F. The chief fiscal officer may enter the business premises of a retailer  
28 where alcoholic beverages are kept or stored, so far as it may be  
29 necessary for the purpose of examining such alcoholic beverages and  
30 the related business records.  
31
- 32 G. The department may inspect records required by this chapter of all  
33 responsible parties who had control of, or access to, funds collected  
34 from consumers of the retailer, and such persons shall be subject to  
35 the requirements of this section.  
36
- 37 H. Where the Constitution of the United States or of the State of Alaska  
38 so requires, the chief fiscal officer shall obtain an administrative search  
39 warrant authorizing an inspection and shall exhibit the warrant to the  
40 person in charge of the premises before conducting the inspection.  
41 The chief fiscal officer shall apply to the trial courts of the State of  
42 Alaska to obtain an administrative search warrant, stating in the  
43 application the name and address of the premises to be inspected, the  
44 authority to conduct the inspection, the nature and extent of the  
45 inspection, and the facts and circumstances justifying the inspection.  
46 Warrants issued under this section shall be returned to the court by  
47 which issued within ten (10) days after the date issued.  
48

**12.65.220 Tax avoidance, civil fraud.**

A. *Tax avoidance.* If the department has reasonable cause to believe that a retailer or a responsible party for the retailer has structured a retail sale transaction to avoid collecting or remitting the retail alcoholic beverages sales tax levied under this chapter, or has wrongfully deceived consumers or the department, the department may take one or both of the following actions:

1. declare there is a rebuttable presumption that the substance of a specific retail sale is a taxable transaction under this chapter and proceed to establish, levy and collect the tax together with costs, penalties and interest as provided for in this chapter; or
2. prepare and file an involuntary return(s) on behalf of the retailer, as provided in section 12.65.160.

B. *Civil fraud.* If the department finds a tax deficiency or part of a tax deficiency is due to fraud, then a penalty shall be assessed against the person committing the fraud. A civil fraud penalty may be assessed against a person in addition to a penalty for failure to file or failure to pay.

1. Fraud is the intentional misrepresentation of a material fact with the intent to evade payment of tax which the person believed to be owing. The person must have had knowledge of its falsity and intended that it be acted upon or accepted as the truth. The department must prove fraud by a preponderance of the evidence.
2. An intent to evade tax may be demonstrated by any relevant evidence, including but not limited to the following:
  - a. The person provided false explanations regarding understated or omitted acquisitions of alcoholic beverages;
  - b. The person provided falsified or incomplete source documents;
  - c. The person has not justified an omission or understatement of a significant amount of acquisitions of alcoholic beverages;
  - d. The person substantially overstated a deduction and has failed to justify the overstatement; or
  - e. The person knowingly provided false statements,

1 falsified documents, or falsified evidence to acquire a  
2 significant amount of alcoholic beverages in a manner  
3 that results in the evasion of payment for taxes due  
4 under this chapter.

- 5  
6 f. The person, without possessing valid State of Alaska  
7 and municipal licenses, exchanged or bartered, in any  
8 manner or by any means whatsoever, for consideration,  
9 alcoholic beverages to a consumer.

10  
11 **12.65.230 Tax lien.**

12  
13 A. Taxes due and not paid on the date required by this chapter, together  
14 with all interest, penalties and costs accruing thereafter, shall  
15 immediately become a lien in favor of the municipality upon all of the  
16 retailer's real and personal property, including rights to such property.  
17 Such lien shall continue until all taxes, penalties, interest and costs  
18 due the municipality have been paid, or the lien released in whole or  
19 in part.

20  
21 1. A separate notice of such lien shall be given each retailer liable  
22 for the taxes by mail, and shall be recorded in the Anchorage  
23 Recording District, Third Judicial District, State of Alaska and  
24 any other recording district the department may choose.

25  
26 2. Notice of the lien shall specify the person(s) liable for payment  
27 of the tax, the amount of taxes and the date they were due, a  
28 statement of the interest, penalties and costs accrued and  
29 which may thereafter accrue, the tax period for which the taxes  
30 were due and such other information as the department may  
31 determine or as may be required by law.

32  
33 B. No failure or defect in the notice of lien, except as to amount if different  
34 than the recording thereof, shall adversely affect the existence or  
35 priority of the lien created under this section to the extent of the correct  
36 amount which is the same or less than that stated in the recorded lien.

37  
38 **12.65.240 Collection of taxes, interest, penalties, and costs.**

39  
40 Taxes, interest, penalties, and costs due under this chapter and  
41 unpaid may be collected by any lawful means, including a civil action for the  
42 collection of a debt, by executing a claim against security provided under  
43 section 12.65.150, by foreclosure of the tax lien in accordance with AS  
44 09.45.170 through 09.45.220 or similar statutes in substitution thereof, or by  
45 any combination of the above.  
46



**12.65.250 Prohibited acts.**

- 1  
2  
3 A. No person shall engage in business as a retailer or conduct any  
4 exchange or barter for consideration, in any manner or by any means  
5 whatsoever, of alcoholic beverages to a consumer in the municipality  
6 without a proper and current registration under this chapter.  
7  
8 B. No person shall fail or refuse to pay the tax imposed by this chapter.  
9  
10 C. A retailer ~~[or responsible party]~~ shall not advertise or state to the  
11 public or to any consumer directly or indirectly that the tax or any part  
12 of it will be assumed or absorbed by the retailer, or that the tax will not  
13 be added to the retail sale, or that the tax will be refunded except as  
14 provided in this chapter.  
15  
16 D. A retailer ~~[or responsible party]~~ shall not absorb or fail to add the tax  
17 or any part of it or fail to state the tax separately to the consumer.  
18  
19 E. No retailer ~~[or responsible party]~~ shall deny the chief fiscal officer,  
20 subsequent to proper identification, access to the retailer's required  
21 records and inventory of alcoholic beverages for purposes of  
22 inspection under this chapter.  
23  
24 F. No person, retailer, or responsible party shall charge or collect in  
25 excess of the proper amount of tax due under this chapter.  
26  
27 G. No person, retailer, or responsible party shall fail to make a required  
28 remittance to the department of funds collected and to be held in trust  
29 for the municipality.  
30  
31 H. A person shall not divert or otherwise appropriate for business or  
32 personal use funds required to be held in a fiduciary capacity under  
33 this chapter. Use of funds held in a fiduciary capacity under this  
34 chapter for any purpose other than the one for which the funds are  
35 being held is prohibited. Prohibited purposes under this section  
36 include, but are not limited to, using funds held or received in a  
37 fiduciary capacity to:  
38  
39 1. pledge as collateral to secure an amount owing;  
40  
41 2. guarantee a contract of surety; or  
42  
43 3. assign.  
44  
45 I. A person required under AMC chapter 12.65 to collect from the  
46 consumer and remit to the department a retail alcoholic beverages  
47 sales tax shall not fail to collect the tax from the consumer at the time  
48 of sale, regardless of billing practices, installment agreements, credit

1                    procedures, or bad debts.

2  
3            J.     A person shall not prepare and submit to the department a false tax  
4            return with the intent to fail to remit taxes due pursuant to this chapter.

5  
6            K.     No person whose certificate is expired, suspended or revoked shall  
7            acquire, sell, or offer to sell alcoholic beverages or permit alcoholic  
8            beverages to be sold or offered for sale during the period of the  
9            suspension or revocation on any premises occupied or controlled by  
10           that person.

11  
12           L.     A retailer shall not sell alcoholic beverages except in transactions  
13           authorized by state law.

14  
15           M.     A person shall not knowingly use, allow or permit the use of real  
16           property in the municipality by a retailer for use in conducting its  
17           business as a retailer, unless the retailer is properly registered with the  
18           department under this chapter. Providing such real property after  
19           notice from the department that such provision of real property violates  
20           this subsection is prima facie evidence of the violation.

21  
22           N.     A person shall not knowingly provide advertising, web hosting, or other  
23           marketing services to a retailer in the municipality that is not properly  
24           registered under this chapter. Providing such services after notice from  
25           the department that such provision of services violates this subsection  
26           is prima facie evidence of the violation.

27  
28           O.     A person licensed by the State of Alaska as a wholesaler shall not  
29           knowingly sell alcohol to a retailer that does not hold a current  
30           certificate of registration issued by the department. Failure to comply  
31           may result in the department filing a liquor license protest against the  
32           licensed wholesaler with AMCO.

33  
34           **12.65.260     Interest.**

35  
36           In addition to any penalties imposed by this chapter, interest at the rate  
37           of 12 percent (12%) per annum shall accrue daily and be due from the retailer  
38           on the unremitted balance of taxes after the date on which their remittance  
39           was due.

40  
41           **12.65.270     Penalties.**

42  
43           A.     A retailer who fails to file a tax return within seven (7) calendar days  
44           following its due date shall automatically incur a civil penalty for each  
45           tax return not filed equal to ten percent (10%) of the taxes actually due  
46           the municipality. A retailer who fails to remit the full amount of any tax  
47           due within seven (7) calendar days following its due date shall incur

1 and pay a civil penalty of ten percent (10%) of the actual amount of  
2 taxes due but remaining unpaid after such date. If a retailer fails to pay  
3 the full amount of the tax due or file a tax return or report required  
4 under this chapter within sixteen (16) calendar days after its due date,  
5 each of the aforementioned civil penalties shall be increased from ten  
6 percent (10%) to twenty-five percent (25%).

7  
8 1. The penalty shall be computed on the unpaid balance of the tax  
9 liability as determined by the department.

10  
11 2. Notice of the penalties incurred and to be incurred shall be  
12 given to the person responsible for payment of the taxes or filing  
13 the tax return or report when such tax payment or tax return or  
14 report is delinquent for seven (7) calendar days after its due  
15 date.

16  
17 3. The penalties provided for in this subsection shall be in addition  
18 to all other penalties and interest provided for under this  
19 chapter.

20  
21 B. The department may revoke a certificate of registration issued under  
22 this chapter for any violation of this chapter.

23  
24 C. If a retailer fails to remit at least ninety-five percent (95%) of the taxes  
25 due under this chapter within forty-five (45) calendar days of the due  
26 date, the department shall revoke the retailer's certificate of  
27 registration issued under this chapter and the retailer shall incur a civil  
28 penalty up to and including an amount equal to the unpaid delinquent  
29 taxes.

30  
31 D. A retailer ~~[or responsible party]~~ who fails to collect or remit the tax  
32 levied by this chapter shall incur a civil penalty equal to twice the  
33 amount of the tax which should have been collected.

34  
35 E. A retailer who fails to obtain a certificate of registration prior to  
36 operating as a retailer within the municipality, pursuant to section  
37 12.65.080, shall automatically incur a penalty of \$250 for failure to  
38 register. No penalty for late registration will be assessed prior to March  
39 15, 2021, to allow a grace period for initial registration under this  
40 chapter.

41  
42 F. The penalty for a civil fraud, as defined in section 12.65.220, is 200  
43 percent (200%) of the deficiency due or \$1,000, whichever is greater.  
44 The penalty is computed on the total amount of the deficiency due. If  
45 more than one person is found culpable for the fraudulent act(s) or  
46 omission(s), each person shall be jointly and severally liable for the  
47 penalty under this section.  
48

- 1 G. A managing member, officer, director, owner or responsible party of  
2 an enterprise engaged in business as a retailer without a certificate of  
3 registration issued under this chapter is personally liable for all taxes  
4 which should have been collected and remitted to the municipality,  
5 plus a penalty equal to twenty-five percent (25%) of the tax which  
6 should have been collected, in addition to all costs, taxes, interest and  
7 other penalties due under this chapter.  
8
- 9 H. The municipal attorney may petition the court for injunctive relief  
10 against a person engaged in business as a retailer without a certificate  
11 of registration issued under this chapter.  
12
- 13 I. In addition to any other remedy or penalty provided by this chapter, a  
14 retailer, responsible party or any person who violates or threatens to  
15 violate a provision of this chapter or a valid order of the department or  
16 chief fiscal officer authorized under this chapter, shall be subject to a  
17 civil penalty as described in this section, or injunctive relief to restrain  
18 the person from continuing the violation or threat of violation, or both  
19 such civil penalty and injunctive relief. Upon application by the  
20 municipality for injunctive relief and a finding that a person is violating  
21 or threatening to violate a provision of this chapter or a valid order of  
22 the department or chief fiscal officer authorized under this chapter, the  
23 Superior Court shall grant injunctive relief to restrain the violation.  
24
- 25 J. Any person who violates any provision of this chapter shall be liable  
26 for a civil penalty of up to \$1,000 for each separate violation. Where  
27 multiple instances of the same violation occur, each instance shall  
28 constitute a separate violation.  
29
- 30 K. Civil and criminal penalties shall be cumulative remedies and shall not  
31 relieve a retailer, responsible party, or person conducting retail sales  
32 of alcoholic beverages of the duties imposed under this chapter.  
33
- 34 L. A person who owns or controls the real property where an  
35 unregistered retailer is operating and who, after being notified by the  
36 department that the continued operation of the unregistered retailer is  
37 in violation of this chapter, allows the unregistered retailer to continue  
38 to operate on the property is complicit in a prohibited act under section  
39 12.65.250 and shall be subject to penalties set forth in this section.  
40
- 41 M. A person who provides advertising, web hosting, or other marketing  
42 services to a retailer in the municipality not having a certificate of  
43 registration under this chapter after receiving notice from the  
44 department to cease such services is complicit in a prohibited act  
45 under section 12.65.250 and shall be subject to penalties set forth in  
46 this section.  
47

- 1 N. A person who holds a State of Alaska alcohol retail license is subject  
2 to liquor license protest for any violation under this chapter, as allowed  
3 under Alaska statutes and regulations.  
4
- 5 O. A person who commits an act prohibited by this chapter is subject to  
6 prosecution pursuant to title 8.  
7

8 **12.65.280 Remedies for a person aggrieved.**  
9

- 10 A. Any person aggrieved by any action or determination of the  
11 department under this chapter may apply to the department and  
12 request a hearing before the chief fiscal officer on the department's  
13 action or determination within thirty (30) days from the date the  
14 department transmits by mail, e-mail, fax, hand delivery or other  
15 delivery method notice of the department's action or determination.  
16
- 17 1. An application for a hearing must notify the department of the  
18 specific action or determination complained of and, if  
19 applicable, the amount of tax, interest, cost or penalty contested  
20 and the reason for such contest.  
21
- 22 2. The uncontested portion of any tax due under this chapter shall  
23 be paid when due regardless of any application for a hearing.  
24 Payment of the total amount due may be made at any time  
25 before the hearing. If the department has reasonable cause to  
26 believe that collection of the total amount due might be  
27 jeopardized by delay, immediate payment of the total amount  
28 may be demanded and the department may pursue any  
29 collection remedies provided by law. Payment in full does not  
30 affect a person's right to a hearing.  
31
- 32 B. Upon timely application for a hearing under subsection A. of this  
33 section, the chief fiscal officer shall hold a hearing and render a  
34 decision or determination in accordance with chapter 3.60 to  
35 determine whether a correction or reversal of the department's action  
36 or determination is warranted.  
37
- 38 1. If a person requesting a hearing fails to appear at the  
39 hearing, the chief fiscal officer may issue a decision  
40 without taking evidence from that person, unless the  
41 person shows reasonable cause for failure to appear within  
42 seven (7) days after the date scheduled for the hearing.  
43
- 44 C. Within thirty (30) days after receipt of a written decision by the chief  
45 fiscal officer, a person aggrieved by the decision may appeal the  
46 decision to the Superior Court of the Third Judicial District.  
47

- 1                   1.     The person aggrieved shall be given access to the  
2                             department's file in the matter for preparation of such appeal.  
3
- 4                   2.     Taxes, costs, penalties, and interest declared to be due in the  
5                             decision of the chief fiscal officer must be paid within thirty (30)  
6                             days after the date of the decision or a supersedeas bond  
7                             guaranteeing their payment must be filed with the court in  
8                             accordance with Alaska Court Rules of Appellate Procedures.  
9

10           D.     If after the appeal to the Superior Court is heard it appears that the  
11                             action or determination of the department and/or the decision of the  
12                             chief fiscal officer was correct, the court shall confirm such action,  
13                             determination or decision, as the case may be. If the department's  
14                             action or determination or the decision of the chief fiscal officer's  
15                             decision was incorrect, the court may determine the proper action,  
16                             determination or decision. If the person aggrieved is entitled to recover  
17                             all or part, of any tax due or paid, the court shall order the repayment  
18                             and the department shall pay such amount within fourteen (14) days  
19                             and attach a certified copy of the judgment to the payment.  
20

21           E.     Hearings before the chief fiscal officer under this chapter may, at the  
22                             option of the chief fiscal officer, be conducted by an administrative  
23                             hearing officer designated by the chief fiscal officer. If the chief fiscal  
24                             officer refers such matter to an administrative hearing officer, the  
25                             administrative hearing officer shall conduct the hearing and prepare  
26                             findings and conclusions. These findings and conclusions shall be  
27                             forwarded to the chief fiscal officer for adoption, rejection or  
28                             modification and issuance of a final order or decision by the chief fiscal  
29                             officer.  
30

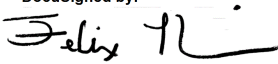
31     **Section 2.**   If the Municipality evaluates and considers that participation in the  
32     Alaska Remote Seller Sales Tax Commission ("Commission") is warranted for the  
33     purpose of collecting the alcoholic beverages retail sales tax from remote sellers  
34     located outside of the municipality who sell to local consumers, the Assembly hereby  
35     grants the following:  
36

- 37           A.     *Authorization.*   The Mayor or Manager is authorized to negotiate,  
38                             execute, and submit all necessary documents to obtain and maintain  
39                             membership in the Commission.  
40
- 41           B.     *Representation.* The Mayor, Manager, Chief Fiscal Officer or designee  
42                             is designated as the Municipality's representative on the Commission.  
43
- 44           C.     *Governance.*   The Alaska Remote Seller Sales Tax Code shall be  
45                             adopted by reference for the exclusive purpose of collecting the  
46                             alcoholic beverages retail sales tax from remote sellers located  
47                             outside of the municipality who sell to local consumers.  
48


1 D. *Effective Date.* Collection of taxes under the Alaska Remote Seller  
2 Sales Tax Code shall occur no sooner than February 1, 2021.  
3

4 **Section 3.** This ordinance shall become effective immediately upon passage and  
5 approval by the Anchorage Assembly, and retailers shall begin assessing the  
6 Alcoholic Beverages Retail Sales Tax on February 1, 2021.  
7

8  
9 PASSED AND APPROVED by the Anchorage Assembly this 23rd day of June,  
10 2020.  
11

12 DocuSigned by:  
13   
14 1EF044AF78C94AE...  
15 \_\_\_\_\_  
16 Chair

17 ATTEST:

18 DocuSigned by:  
19   
20 D968C7461BE245A...  
21 \_\_\_\_\_  
Municipal Clerk



# MUNICIPALITY OF ANCHORAGE

## Assembly Memorandum

No. AM 306-2020(A)

Meeting Date: June 23, 2020

1 **From: MAYOR**

2  
3 **Subject: AN ORDINANCE AMENDING THE ANCHORAGE MUNICIPAL CODE BY**  
4 **ENACTING CHAPTER 12.65, ALCOHOLIC BEVERAGES RETAIL SALES**  
5 **TAX, TO ESTABLISH THE REQUIREMENTS AND PROCEDURES FOR THE**  
6 **ADMINISTRATION, COLLECTION, AND ENFORCEMENT OF THE**  
7 **ALCOHOLIC BEVERAGES RETAIL SALES TAX APPROVED BY THE**  
8 **VOTERS, INCLUDING BUT NOT LIMITED TO PROVISIONS REGARDING:**  
9 **DEFINITIONS, TAX RATE, RETAILER REGISTRATION, TAX RETURNS,**  
10 **PROHIBITED ACTS, PENALTIES AND INTEREST, APPLICATION OF**  
11 **PAYMENTS, RECORDS RETENTION, INSPECTION AND**  
12 **CONFIDENTIALITY, TAX REFUNDS, AND TAXPAYER REMEDIES; AND**  
13 **AUTHORIZING PROSPECTIVE MUNICIPAL PARTICIPATION AND**  
14 **MEMBERSHIP IN THE ALASKA REMOTE SELLER SALES TAX**  
15 **COMMISSION.**

16  
17 This memorandum describes the changes recommended compared to the originally  
18 submitted AO 2020-57, in accordance with Anchorage Municipal Code subsection  
19 2.30.050E.

20  
21 The substantive changes in the S-version are:

- 22  
23 1. Clarify that the certificate of registration issued by Treasury will include the name  
24 of the owner of the retailer only if the retailer is owned by a business entity.  
25  
26 2. Change the automatic expiration of the certificate of registration, based on a  
27 change of ownership of the retailer or the owner of the retailer, if the owner is a  
28 business entity, to only occur when there is a change in stockholders, partners, or  
29 members with an ownership interest of ten percent (10%) or more.  
30  
31 3. Remove the redundancies in the Prohibited Acts and Penalties sections.

32  
33  
34 **THE ADMINISTRATION RECOMMENDS APPROVAL OF THE S-VERSION.**

35  
36 Prepared by: Daniel Moore, Municipal Treasurer  
37 Approved by: Alexander Slivka, CFO  
38 Concur: Lance Wilber, Director, Office of Management and Budget  
39 Concur: Kathryn R. Vogel, Municipal Attorney  
40 Concur: William D. Falsey, Municipal Manager  
41 Respectfully submitted: Ethan A. Berkowitz, Mayor