

CS FOR SENATE BILL NO. 165(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 3/9/16

Referred: Judiciary

Sponsor(s): SENATOR MICCICHE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the presence of minors in the licensed premises of manufacturers,
2 wholesalers, and retailers of alcoholic beverages; relating to the Alcoholic Beverage
3 Control Board; relating to the offense of minor consuming; relating to revocation of a
4 driver's license for a minor consuming offense; relating to the effect of the revocation of
5 a driver's license for a minor consuming offense on a motor vehicle liability insurance
6 policy; and amending Rule 17, Alaska Rules of Minor Offense Procedure."

7 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 * **Section 1.** AS 04.06.020 is repealed and reenacted to read:

9 **Sec. 04.06.020. Appointment and qualifications.** (a) The board consists of
10 five members appointed by the governor and confirmed by a majority of the members
11 of the legislature in joint session. A member of the board may not hold any other state
12 or federal office, either elective or appointive.

13 (b) Except as provided in (c) of this section, at the time of appointment or

1 reappointment, one member of the board shall be actively engaged in the public safety
 2 sector, one member of the board shall be actively engaged in the public health sector,
 3 one member of the board shall have resided in a rural area within the previous five
 4 years, and two members of the board shall be actively engaged in the alcoholic
 5 beverage industry.

6 (c) A member of the board may not hold a wholesale alcoholic beverage
 7 license or be an officer, agent, or employee of a wholesale alcoholic beverage
 8 enterprise. Not more than two members of the board may be engaged in the same
 9 business, occupation, or profession. A board member actively engaged in the public
 10 safety sector or public health sector, from a rural area, or representing the general
 11 public may not have, or have an immediate family member who has, a financial
 12 interest in a business for which a license is issued.

13 (d) In this section,

14 (1) "immediate family member" means a spouse, child, or parent;

15 (2) "public health sector" means a profession that primarily has the
 16 responsibility to protect the safety and improve the health of communities through
 17 education, policy making, and research for disease and injury prevention;

18 (3) "public safety sector" means a peace officer, a municipal or state
 19 prosecutor, a former judicial officer, or a profession that primarily has the authority to
 20 provide for the welfare and protection of the general public through the enforcement
 21 of municipal, state, or federal laws;

22 (4) "rural area" means a community with a population of 7,000 or less
 23 that is not connected by road or rail to Anchorage or Fairbanks or with a population of
 24 2,000 or less that is connected by road or rail to Anchorage or Fairbanks; in this
 25 paragraph,

26 (A) "community" means a city as that term is defined in
 27 AS 29.71.800, and an established village that is located in a borough or the
 28 unorganized borough;

29 (B) "population" means the population of a community as
 30 determined under AS 29.60.860(c).

31 * **Sec. 2.** AS 04.06.030(c) is amended to read:

1 (c) The board shall select a **chair** [CHAIRMAN] from among its members.

2 * **Sec. 3.** AS 04.06.050 is amended to read:

3 **Sec. 04.06.050. Meetings.** The board shall meet at the call of the **chair**
4 [CHAIRMAN]. The board shall also meet at least once each year in each judicial
5 district of the state to study this title and to modify existing board regulations in light
6 of statewide and local problems.

7 * **Sec. 4.** AS 04.16.049(a) is amended to read:

8 (a) A person under [THE AGE OF] 21 years **of age** may not knowingly enter
9 or remain in premises licensed under this title unless

10 (1) accompanied by a parent, guardian, or spouse who has attained
11 [THE AGE OF] 21 years **of age**;

12 (2) the person is at least 16 years of age, the premises are designated
13 by the board as a restaurant for the purposes of this section, and the person enters and
14 remains only for dining;

15 (3) the person is under [THE AGE OF] 16 years **of age**, is
16 accompanied by a person over [THE AGE OF] 21 years **of age**, the parent or guardian
17 of the underaged person consents, the premises are designated by the board as a
18 restaurant for the purposes of this section, and the person enters and remains only for
19 dining; [OR]

20 (4) the person is permitted on the premises under **a club license issued**
21 **under** AS 04.11.110(g); **or**

22 **(5) otherwise provided under (c), (d), or (g) of this section.**

23 * **Sec. 5.** AS 04.16.049(b) is amended to read:

24 (b) Notwithstanding (a) of this section, a licensee or an agent or employee of
25 the licensee may refuse entry to a person under [THE AGE OF] 21 years **of age** to that
26 part of licensed premises in which alcoholic beverages are sold, served, or consumed,
27 may refuse service to a person under [THE AGE OF] 21 years **of age**, or may require
28 a person under [THE AGE OF] 21 years **of age** to leave the portion of the licensed
29 premises in which alcoholic beverages are sold, served, or consumed.

30 * **Sec. 6.** AS 04.16.049(c) is amended to read:

31 (c) Notwithstanding any other provision in this section, a person 16 or 17

1 years of age may enter and remain within the licensed premises of a hotel, **golf course,**
 2 **or** restaurant [,] or eating place in the course of employment if (1) the employment
 3 does not involve the serving, mixing, delivering, or dispensing of alcoholic beverages;
 4 (2) the person has the written consent of a parent or guardian; and (3) an exemption
 5 from the prohibition of AS 23.10.355 is granted by the Department of Labor and
 6 Workforce Development. The board, with the approval of the governing body having
 7 jurisdiction and at the licensee's request, shall designate which premises are hotels,
 8 **golf courses,** restaurants, or eating places for the purposes of this subsection.

9 * **Sec. 7.** AS 04.16.049(d) is amended to read:

10 (d) Notwithstanding any other provision in this section, a person 18, 19, or 20
 11 years of age may be employed within the licensed premises of a hotel, **golf course, or**
 12 restaurant [,] or eating place, may enter and remain within those premises for the
 13 purpose of employment, but may not, in the course of employment, sell, serve, deliver,
 14 or dispense alcoholic beverages.

15 * **Sec. 8.** AS 04.16.049 is amended by adding new subsections to read:

16 (g) Notwithstanding any other provision in this section, a person under 21
 17 years of age may be present on licensed premises on a golf course for the purpose of
 18 playing golf or attending golf-related activities if the person

19 (1) is at least 16 years of age; or

20 (2) is under 16 years of age and

21 (A) the person is accompanied by a person who is at least 21
 22 years of age; and

23 (B) a parent or guardian of the underage person consents.

24 (h) A person under 21 years of age who knowingly enters or remains on
 25 premises licensed under this title except as allowed in this section commits the offense
 26 of unauthorized presence by a person under 21 years of age on licensed premises.

27 (i) Unauthorized presence by a person under 21 years of age on licensed
 28 premises is a violation, punishable by a fine of \$500. The violation must be charged
 29 and filed with the court as a separate case and may not be combined or joined with any
 30 other minor offense or criminal charge in one action at the time of filing. A court may
 31 reduce the fine to \$50 if the person provides the court, not later than six months after a

1 judgment of conviction is entered, with proof of completion of an alcohol safety action
 2 program, a juvenile alcohol safety action program, or a community diversion panel
 3 developed, designated, or approved by the Department of Health and Social Services
 4 under AS 47.37.

5 * **Sec. 9.** AS 04.16.050 is repealed and reenacted to read:

6 **Sec. 04.16.050. Possession, control, or consumption by persons under 21**
 7 **years of age.** (a) A person under 21 years of age may not knowingly consume,
 8 possess, or control alcoholic beverages except those furnished to persons under
 9 AS 04.16.051(b).

10 (b) A person under 21 years of age who knowingly consumes, possesses, or
 11 controls an alcoholic beverage other than an alcoholic beverage furnished under
 12 AS 04.16.051(b) commits the offense of minor consuming or in possession or control.

13 (c) Minor consuming or in possession or control is a violation, punishable by a
 14 fine of \$500. The violation must be charged and filed with the court as a separate case
 15 and may not be combined or joined with any other minor offense or criminal charge in
 16 one action at the time of filing. A court may reduce the fine to \$50 if the person
 17 provides the court, not later than six months after a judgment of conviction is entered,
 18 with proof of completion of an alcohol safety action program, a juvenile alcohol safety
 19 action program, or a community diversion panel developed, designated, or approved
 20 by the Department of Health and Social Services under AS 47.37.

21 * **Sec. 10.** AS 04.21.065(b) is amended to read:

22 (b) The warning signs required by (a) of this section must be at least 11 inches
 23 by 14 inches, and the lettering must be at least one-half inch high and in contrasting
 24 colors. The first sign must read, "WARNING: Drinking alcoholic beverages such as
 25 beer, wine, wine coolers, and distilled spirits or smoking cigarettes during pregnancy
 26 can cause birth defects." The second sign must read, "WARNING: A person who
 27 provides alcoholic beverages to a person under 21 years of age, if convicted under
 28 AS 04.16.051, could be imprisoned for up to five years and fined up to \$50,000." The
 29 third sign must read, "WARNING: An unaccompanied [A] person under 21 years of
 30 age who enters these premises in violation of law may [COULD], under
 31 AS 04.16.049(e), be civilly liable for damages of \$1,500." The license or permit

1 holder shall display the first and second signs in a manner that would make them
 2 conspicuous to a person who will be purchasing or consuming alcoholic beverages or
 3 smoking cigarettes on the licensed or designated premises and shall conspicuously
 4 display the third sign at each door through which customers enter the licensed
 5 premises.

6 * **Sec. 11.** AS 04.21 is amended by adding a new section to read:

7 **Sec. 04.21.078. Court records of persons under 21 years of age.** The Alaska
 8 Court System may not publish on a publicly available website the court records of a
 9 violation of AS 04.16.049 or 04.16.050, or a similar ordinance of a municipality, if the
 10 violation was charged separately and was not joined with any other minor offense or
 11 criminal charge at the time of filing.

12 * **Sec. 12.** AS 04.21.080(b) is amended by adding a new paragraph to read:

13 (20) "community diversion panel" means a youth court or other group
 14 selected by the court to serve as a sentencing option for a person convicted under this
 15 section.

16 * **Sec. 13.** AS 21.36.210(a) is amended to read:

17 (a) An insurer may not exercise its right to cancel a policy of personal
 18 automobile insurance except for the following reasons:

19 (1) nonpayment of premium; or

20 (2) the driver's license or motor vehicle registration of either the named
 21 insured or of an operator who resides in the same household as the named insured or
 22 who customarily operates a motor vehicle insured under the policy has been under
 23 suspension or revocation during the policy period or, if the policy is a renewal, during
 24 its policy period or the 180 days immediately preceding its effective date [~~THIS~~
 25 ~~PARAGRAPH DOES NOT APPLY TO REVOCATION AS DESCRIBED UNDER~~
 26 ~~AS 21.96.027~~].

27 * **Sec. 14.** AS 28.15.057(a) is amended to read:

28 (a) Except as provided under AS 28.15.051, a person who is at least 16 years
 29 of age but not yet 18 years of age may not be issued a driver's license unless the
 30 person has

31 (1) been licensed under an instruction permit issued under

1 AS 28.15.051 or under the law of another state with substantially similar requirements
2 for at least six months;

3 (2) held a valid provisional driver's license issued under AS 28.15.055
4 for at least six months; and

5 (3) not been convicted of violating a traffic law [, OR BEEN
6 CONVICTED OF VIOLATING AS 04.16.050(c),] during the six months before
7 applying for a driver's license; in this paragraph, "traffic law" has the meaning given to
8 "traffic laws" in AS 28.15.261.

9 * **Sec. 15.** AS 28.15.191(a) is amended to read:

10 (a) A court that convicts a person of an offense under this title or a regulation
11 adopted under this title, or another law or regulation of this state or a municipal
12 ordinance that regulates the driving of vehicles [, OR A VIOLATION OF
13 AS 04.16.050] shall forward a record of the conviction to the department within five
14 working days. A conviction of a standing or parking offense need not be reported.

15 * **Sec. 16.** AS 28.15.211(g) is amended to read:

16 (g) Except as provided under AS 28.15.183(h), the department may not issue a
17 new license or reissue a license to a person whose driver's license has been revoked
18 under [AS 04.16.050,] AS 28.15.183 [,] or 28.15.185 unless the person, if required to
19 participate in a juvenile alcohol safety action program, has successfully completed any
20 education or treatment recommended. In this subsection, "juvenile alcohol safety
21 action program" has the meaning given in AS 04.21.080.

22 * **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 DIRECT COURT RULE AMENDMENT. Rule 17(a), Alaska Rules of Minor
25 Offense Procedure, is amended to read:

26 (a) **Except as provided in subsection (g), a** [A] prosecutor may join a minor
27 offense with a related criminal offense under the circumstances described in Criminal
28 Rule 8(a).

29 * **Sec. 18.** The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 DIRECT COURT RULE AMENDMENT. Rule 17, Alaska Rules of Minor

1 Offense Procedure, is amended by adding a new subsection to read:

2 (g) A prosecutor may not join a minor offense for a violation of AS 04.16.049
3 or 04.16.050 with a related criminal offense.

4 * **Sec. 19.** AS 21.96.027; AS 28.15.176(1), 28.15.181(h), 28.15.185(e); AS 47.12.030(b)(5),
5 47.12.060(b)(4), and 47.12.120(k) are repealed.

6 * **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 APPLICABILITY. AS 04.16.049(a) - (d), as amended by secs. 4 - 7 of this Act,
9 AS 04.16.049(g) - (i), added by sec. 8 of this Act, and AS 04.16.050, as repealed and
10 reenacted by sec. 9 of this Act, apply to offenses committed on or after the effective date of
11 this Act.

12 * **Sec. 21.** The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 TRANSITION. A person who is a member of the Alcoholic Beverage Control Board
15 on the day before the effective date of this Act continues to serve until the expiration of the
16 member's term. The governor shall take the requirements of AS 04.06.020, as repealed and
17 reenacted by sec. 1 of this Act, into account in making new appointments.