

CS FOR SENATE BILL NO. 165(JUD) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Amended: 4/8/16

Offered: 4/1/16

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 background checks for persons applying to operate**
4 **marijuana establishments; relating to the offense of minor consuming; relating to**
5 **revocation of a driver's license for a minor consuming offense; relating to the effect of**
6 **the revocation of a driver's license for a minor consuming offense on a motor vehicle**
7 **liability insurance policy; and amending Rule 17, Alaska Rules of Minor Offense**
8 **Procedure."**

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

10 *** Section 1.** AS 04.06.020 is repealed and reenacted to read:

11 **Sec. 04.06.020. Appointment and qualifications.** (a) The board consists of
12 five members appointed by the governor and confirmed by a majority of the members

1 of the legislature in joint session. A member of the board may not hold any other state
2 or federal office, either elective or appointive.

3 (b) Except as provided in (c) of this section, at the time of appointment or
4 reappointment, one member of the board shall be actively engaged in the public safety
5 sector, one member of the board shall represent the general public, one member of the
6 board shall have resided in a rural area within the previous five years, and two
7 members of the board shall be actively engaged in the alcoholic beverage industry.

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

16 (d) In this section,

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

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

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

25 (4) "rural area" means a community with a population of 7,000 or less
26 that is not connected by road or rail to Anchorage or Fairbanks or with a population of
27 2,000 or less that is connected by road or rail to Anchorage or Fairbanks; in this
28 paragraph,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

premises in which alcoholic beverages are sold, served, or consumed.

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

(c) Notwithstanding any other provision in this section, a person 16 or 17 years of age may enter and remain within the licensed premises of a hotel, **golf course,** **or** restaurant [,] or eating place in the course of employment if (1) the employment does not involve the serving, mixing, delivering, or dispensing of alcoholic beverages; (2) the person has the written consent of a parent or guardian; and (3) an exemption from the prohibition of AS 23.10.355 is granted by the Department of Labor and Workforce Development. The board, with the approval of the governing body having jurisdiction and at the licensee's request, shall designate which premises are hotels, **golf courses,** restaurants, or eating places for the purposes of this subsection.

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

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

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

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

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

(2) is under 16 years of age and

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

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

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

(i) Unauthorized presence by a person under 21 years of age on licensed premises is a violation, punishable by a fine of \$500. The violation must be charged

1 and filed with the court as a separate case and may not be combined or joined with any
 2 other minor offense or criminal charge in one action at the time of filing. A court may
 3 reduce the fine to \$50 if the person provides the court, not later than six months after a
 4 judgment of conviction is entered, with proof of completion of

5 (1) an alcohol safety action program or a juvenile alcohol safety action
 6 program developed, designated, or approved by the Department of Health and Social
 7 Services under AS 47.37; or

8 (2) a community diversion panel.

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

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

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

17 (c) Minor consuming or in possession or control is a violation, punishable by a
 18 fine of \$500. The violation must be charged and filed with the court as a separate case
 19 and may not be combined or joined with any other minor offense or criminal charge in
 20 one action at the time of filing. A court may reduce the fine to \$50 if the person
 21 provides the court, not later than six months after a judgment of conviction is entered,
 22 with proof of completion of

23 (1) an alcohol safety action program or a juvenile alcohol safety action
 24 program developed, designated, or approved by the Department of Health and Social
 25 Services under AS 47.37; or

26 (2) a community diversion panel.

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

28 (b) The warning signs required by (a) of this section must be at least 11 inches
 29 by 14 inches, and the lettering must be at least one-half inch high and in contrasting
 30 colors. The first sign must read, "WARNING: Drinking alcoholic beverages such as
 31 beer, wine, wine coolers, and distilled spirits or smoking cigarettes during pregnancy

can cause birth defects." The second sign must read, "WARNING: A person who provides alcoholic beverages to a person under 21 years of age, if convicted under AS 04.16.051, could be imprisoned for up to five years and fined up to \$50,000." The third sign must read, "WARNING: An unaccompanied [A] person under 21 years of age who enters these premises in violation of law may [COULD], under AS 04.16.049(e), be civilly liable for damages of \$1,500." The license or permit holder shall display the first and second signs in a manner that would make them conspicuous to a person who will be purchasing or consuming alcoholic beverages or smoking cigarettes on the licensed or designated premises and shall conspicuously display the third sign at each door through which customers enter the licensed premises.

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

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

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

(20) "community diversion panel" means a youth court or other group serving as a sentencing option for a person convicted under this section.

* **Sec. 13.** AS 12.62.400(a) is amended to read:

(a) To obtain a national criminal history record check for determining a person's qualifications for a license, permit, registration, employment, or position, a person shall submit the person's fingerprints to the department with the fee established by AS 12.62.160. The department may submit the fingerprints to the Federal Bureau of Investigation to obtain a national criminal history record check of the person for the purpose of evaluating a person's qualifications for

(1) a license or conditional contractor's permit to manufacture, sell, offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage under AS 04.11;

(2) licensure as a mortgage lender, a mortgage broker, or a mortgage

1 loan originator under AS 06.60;

2 (3) admission to the Alaska Bar Association under AS 08.08;

3 (4) licensure as a collection agency operator under AS 08.24;

4 (5) a certificate of fitness to handle explosives under AS 08.52;

5 (6) licensure as a massage therapist under AS 08.61;

6 (7) licensure to practice nursing or certification as a nurse aide under
7 AS 08.68;

8 (8) certification as a real estate appraiser under AS 08.87;

9 (9) a position involving supervisory or disciplinary power over a minor
10 or dependent adult for which criminal justice information may be released under
11 AS 12.62.160(b)(9);

12 (10) a teacher certificate under AS 14.20;

13 (11) licensure as a security guard under AS 18.65.400 - 18.65.490;

14 (12) a concealed handgun permit under AS 18.65.700 - 18.65.790;

15 (13) licensure as an insurance producer, managing general agent,
16 reinsurance intermediary broker, reinsurance intermediary manager, surplus lines
17 broker, or independent adjuster under AS 21.27;

18 (14) serving and executing process issued by a court by a person
19 designated under AS 22.20.130;

20 (15) a school bus driver license under AS 28.15.046;

21 (16) licensure as an operator or an instructor for a commercial driver
22 training school under AS 28.17;

23 (17) registration as a broker-dealer, agent, investment adviser
24 representative, or state investment adviser under AS 45.55.030 - 45.55.060;

25 **(18) a registration or license to operate a marijuana establishment**
26 **under AS 17.38.**

27 * **Sec. 14.** AS 17.38.200(a) is amended to read:

28 (a) Each application or renewal application for a registration to operate a
29 marijuana establishment shall be submitted to the board. A renewal application may be
30 submitted up to 90 days **before** [PRIOR TO] the expiration of the marijuana
31 establishment's registration. **When filing an application under this subsection, the**

applicant shall submit the applicant's fingerprints and the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check. The board shall forward the fingerprints and fees to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400.

* **Sec. 15.** AS 21.36.210(a) is amended to read:

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

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

* **Sec. 16.** AS 28.15.057(a) is amended to read:

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

- (1) been licensed under an instruction permit issued under AS 28.15.051 or under the law of another state with substantially similar requirements for at least six months;
- (2) held a valid provisional driver's license issued under AS 28.15.055 for at least six months; and
- (3) not been convicted of violating a traffic law [, OR BEEN CONVICTED OF VIOLATING AS 04.16.050(c),] during the six months before applying for a driver's license; in this paragraph, "traffic law" has the meaning given to "traffic laws" in AS 28.15.261.

* **Sec. 17.** AS 28.15.191(a) is amended to read:

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

* **Sec. 18.** AS 28.15.211(g) is amended to read:

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

* **Sec. 19.** The uncoded law of the State of Alaska is amended by adding a new section to read:

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

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

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

DIRECT COURT RULE AMENDMENT. Rule 17, Alaska Rules of Minor Offense Procedure, is amended by adding a new subsection to read:

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

* **Sec. 21.** AS 21.96.027; AS 28.15.176(1), 28.15.181(h), 28.15.185(e); AS 47.12.030(b)(5), 47.12.060(b)(4), and 47.12.120(k) are repealed.

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

APPLICABILITY. AS 04.16.049(a) - (d), as amended by secs. 4 - 7 of this Act, AS 04.16.049(g) - (i), added by sec. 8 of this Act, AS 04.16.050, as repealed and reenacted by

1 sec. 9 of this Act, and AS 04.21.080(b)(20), added by sec. 12 of this Act, apply to offenses
2 committed on or after the effective date of this Act.

3 * **Sec. 23.** The uncoded law of the State of Alaska is amended by adding a new section to
4 read:

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