

LEGAL SERVICES

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MEMORANDUM

April 10, 2015

SUBJECT: Sectional Summary of Title 04 Bill
(Work Order No. 29-LS0586\W)

TO: Senator Peter Micciche
Attn: Chuck Kopp

FROM: Kathryn L. Kurtz 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Repeals and reenacts AS 04.06.020, relating to the appointment and qualifications of members of the Alcoholic Beverage Control Board.

Section 2. In AS 04.06.030 changes "chairman" to "chair".

Section 3. In AS 04.06.050 changes "chairman" to "chair".

Section 4. Amends AS 04.06.075 by adding a subsection requiring the director to prepare a budget for the board.

Section 5. Conforms a reference in AS 04.06.080 to reflect the relocation of AS 04.11.070 to AS 04.06.090(b); adds endorsements.

Section 6. Amends AS 04.06.090(b) to include the language of AS 04.11.070 relating to the exclusive power of the board to issue, renew, transfer, relocate, suspend, or revoke a license, and add references to endorsements. AS 04.11.070 is repealed.

Section 7. Adds new subsections to AS 04.06.090, relating to the power and duties of the board. Subsection (f) requires the board to develop a comprehensive plan to educate the public on the responsible use of alcoholic beverages and update the plan annually. Subsection (g) requires the board to review the fees established in AS 04 and regulations adopted under AS 04 at least every 10 years. Subsection (h) provides that the board may prepare an advisory opinion on legislation amending AS 04.

Section 8. Amends AS 04.06.095, relating to the statewide database on shipments to purchasers in local option areas to require retention of the records in the database for 10 years and add a reference to the new package store shipping endorsement.

Section 9. Adds a subsection to AS 04.06.095 requiring the board to produce a report of aggregate regional and statewide data from the database, including information on the volume of alcohol shipped to each community and the region from which those shipments originated.

Section 10. Takes the existing licensing provisions currently found in AS 04.11.080 - 04.11.255, revises various provisions, and relocates them to a new chapter, AS 04.09. Reorganizes the sections. Specifies fees for each license type, and penalties for noncompliance and operating without the appropriate license. Separates the provisions for manufacturing of alcoholic beverages and retail sales and sampling by manufacturers. Adds a definition of "packaging" applicable to manufacturer licenses. Grandfathers existing retail operations of manufacturers for eight years. Adds a beverage dispensary tourism license and a seasonal restaurant or eating place tourism license. Codifies the theatre license currently provided for in regulation.

Codifies endorsement and permit provisions. Some of the endorsement and permit provisions are drawn from current licensing statutes; some are based on endorsements and permits provided for in regulations. Replaces duplicate licenses under existing statute with a new multiple fixed counter endorsement, but grandfathers existing duplicate licenses for eight years. Creates a new endorsement permitting sampling at package stores.

Section 11. Amends AS 04.11.010(a) to eliminate references to manufacture and sale, and limit the prohibition in the subsection to possession for barter, bartering, and trafficking of alcoholic beverages.

Section 12. Amends AS 04.11.010(b) to change a reference from AS 04.11.150, the former location of the package store license section, to AS 04.09.420, the new package store shipping endorsement section.

Section 13. Amends AS 04.11.010(c), relating to possession or transport of a certain quantity of alcoholic beverages creating a presumption that the alcoholic beverages were possessed or transported for barter or sale. Amends the presumption to include possession for barter, and possession for sale under AS 04.09.060, 04.09.070, 04.09.145, 04.09.320, or 04.09.330.

Section 14. Amends AS 04.11.015(b) to specify a \$100 fine for violation of subsection (a).

Section 15. Adds a new subsection AS 04.11.015(c), changing the penalty for purchasing alcoholic beverages from a nonlicensee from the standard penalty for a violation prescribed under AS 12.55 to a fine of \$100 per liter purchased.

Section 16. Adds specific criminal penalty provisions making violation of AS 04.11.040 a violation.

Section 17. Adds specific criminal penalty provisions making failure of an LLC to report a change in member interest or manager as required under AS 04.11.045 a violation.

Section 18. Adds a specific criminal penalty provision making failure of a corporation to report a stock transfer or change of officers or board members as required under AS 04.11.050 a violation.

Section 19. Adds specific criminal penalty provisions making failure by a partnership to report a transfer of partnership interest or change of general partner as required under AS 04.11.055 a violation.

Section 20. Changes a reference in AS 04.11.060 to reflect the new section number of the general wholesale license statute.

Section 21. Adds two new subsections to AS 04.11.060, defining failure to comply with subsection (a) as a violation, with each liter or fraction of a liter sold as a separate violation punishable by a \$100 fine.

Section 22. Amends AS 04.11.260, relating to applications, to apply to endorsements as well as licenses and permits. Requires applications to include an annotated illustration of the premises. Adds new requirements for various specific types of endorsements and permits.

Section 23. Amends AS 04.11.270 to cover renewal of the specified endorsements and permit as well as licenses.

Section 24. Amends AS 04.11.295(a) relating to fingerprints and criminal justice information required for issuance and renewal of a conditional contractor's permit.

Section 25. Amends AS 04.11.295(b)(1) relating to applications for issuance and renewal of a conditional contractor's permit.

Section 26. Adds a new section AS 04.11.315, relating to the crime of making a false statement on an application under AS 04.11.260 - 04.11.310. Existing AS 04.16.210, relating to false statements on applications, is repealed.

Section 27. Amends AS 04.11.320(a) relating to denial of licenses by the board to encompass denial of endorsements.

Section 28. Amends AS 04.11.330(a), relating to denial of an application for renewal of a license to include endorsements. Changes a reference from AS 04.11.400(d) to the new AS 04.09.300 and 310, requiring the board to decline an application for renewal of a

beverage dispensary tourism license or a seasonal restaurant or eating place tourism license if the board finds the license has not encouraged tourist trade.

Section 29. Amends AS 04.11.330(d) to conform a reference to a section that is now in AS 04.09.

Section 30. Amends AS 04.11.340 relating to grounds for refusal of an application for relocation of a license to add a reference to the new AS 04.09.240, requiring denial of applications to relocate outdoor recreation lodge licenses.

Section 31. Changes references in AS 04.11.360(9), the statute relating to denial of a request to transfer a license to another person. Requires denial of requests to transfer outdoor recreation lodge licenses. Deletes paragraph (10) relating to brewpubs because AS 04.11.135 is repealed.

Section 32. Amends AS 04.11.365 relating to licensed premises in residential housing developments owned or funded by the Alaska Housing Finance Corporation to reflect the new restaurant endorsement statute.

Section 33. Amends AS 04.11.370, relating to suspension and revocation of licenses and permits, to include endorsements.

Section 34. Adds a reference to endorsements in AS 04.11.395, relating to board imposed conditions on licenses, permits, and endorsements.

Section 35. Amends AS 04.11.400(a), relating to licenses and population limits. Adds a limit of one brewery retail, winery retail, or distillery retail license per 10,000 people. Adds a radius to the population limit in paragraph (a)(1).

Section 36. Repeals and reenacts AS 04.11.400(i). The subsection currently excludes golf course licenses from the population limits statute; the reenacted subsection includes a list of nine license types and one permit type to which the requirements of AS 04.11.400 do not apply.

Section 37. Conforms a reference in AS 04.11.400(k).

Section 38. Amends AS 04.11.450(b) to remove a reference to a bottling works, since AS 04.11.120 is being repealed. Removes a sentence relating to brewpubs, since AS 04.11.135, the brewpub statute, is repealed. Adds a sentence prohibiting issuance of a restaurant or eating place license to an owner of a wholesale business or distillery.

Section 39. Conforming change to the name of a license in AS 04.11.450(e).

Section 40. Amends AS 04.11.470 to cover objections to the issuance and renewal of endorsements.

Section 41. Amends AS 04.11.480(a) to cover a local government protest of the issuance, renewal, or operation of an endorsement.

Section 42. Amends AS 04.11.480(b) to add endorsements.

Section 43. Amends AS 04.11.480(c) to cover local government recommendations for conditions on the issuance or renewal of an endorsement.

Section 44. Makes conforming changes to AS 04.11.491(a). Note that AS 04.11.491(a)(4) is repealed in the repealer section.

Section 45. Makes conforming amendments to AS 04.11.491(b). For repeal of paragraph (b)(3), see repealer section.

Section 46. Makes conforming amendments to AS 04.11.491(d).

Section 47. Makes conforming amendments to AS 04.11.491(g), and repeals paragraph (g)(3).

Section 48. Amends AS 04.11.497 relating to the effect of adoption of a prohibition on the sale of alcoholic beverages in a local option area on existing licenses to conform references to reflect renumbering. Expands the boundaries of the area from five to 10 miles. Adds an exception permitting renewal of existing outdoor recreation lodges.

Section 49. Amends AS 04.11.499(a) to delete references to repealed paragraphs. Adds an exception to the prohibition on importation for outdoor recreation lodges.

Section 50. Creates an exception in AS 04.11.501(a) to the prohibition on possession of alcohol in a dry community for outdoor recreation lodge license holders, agents, employees, and guests.

Section 51. Adds a reference to AS 04.11.501(a) in AS 04.11.501(b).

Section 52. Amends AS 04.11.503, relating to the effect of a local option election restricting sale on existing licenses, to permit the board to renew existing outdoor recreation lodge licenses, and provide that outdoor recreation lodge licenses are not void 90 days after the results of a local option election are certified. Also expands the boundary of the area from five miles to 10 miles.

Section 53. Amends AS 04.11.505(a) to change the local option radius and permit renewal of existing outdoor recreation lodges only in areas that opt to allow only licensed premises operated by a municipality. See above re: sec. 47 regarding the second reference to outdoor recreation lodges.

Section 54. Amends AS 04.11.508(a) to expand the perimeter of a local option area for an established village from five miles to 10 miles.

Section 55. Conforms references in AS 04.11.509(b) to reflect the repeal of AS 04.11.491(a)(4) and (b)(3).

Section 56. Amends AS 04.11.520 to limit the requirement of notice to the local government to applications for issuance or renewal of a license or endorsement, or transfer of a license to another person or a new location.

Section 57. Amends AS 04.11.535(a) to include endorsements and permits, records of conviction, and judgments.

Section 58. Amends AS 04.11.537 to cover issuance and renewal of an endorsement.

Section 59. Amends AS 04.11.540 to include endorsements.

Section 60. Amends AS 04.11.560(b) to include endorsements.

Section 61. Amends AS 04.11.570 to include endorsements and permits.

Section 62. Amends AS 04.11.580 to add endorsements.

Section 63. Amends AS 04.11.590(a) to include endorsements and permits.

Section 64. Changes terminology in AS 04.11.610 from "refund" to "allocate," adds municipal reporting requirement.

Section 65. Amends AS 04.11.630(b) to require that endorsements and permits be posted on the licensed or designated premises.

Section 66. Amends AS 04.11.680(a), specifying a default term for sampling endorsements and conditional contractor permits.

Section 67. Amends AS 04.16.010(c), relating to entry on licensed premises between five a.m. and eight a.m. to permit entry by a person conducting business with the licensee, a person who is a common carrier, and maintenance and construction workers.

Section 68. Amends AS 04.16.010, relating to hours of sale and presence on licensed premises, to add crime and penalty subsections. Makes noncompliance a violation, punishable by a fine of \$100, with each hour or part of an hour constituting a separate violation.

Section 69. Amends AS 04.16.015(a) to include the concept of "alcoholic drink" as defined in AS 04.21.080.

Section 70. Amends AS 04.16.015, on pricing and marketing of alcoholic beverages, to add crime and penalty subsections. Makes noncompliance a violation, punishable by a fine of \$50 per alcoholic drink.

Section 71. Adds a new AS 04.16.017, relating to unfair trade practices, modeled on 27 U.S.C. 205.

Section 72. Adds subsections to AS 04.16.020 to make solicitation of alcoholic beverages and purchase on behalf of another violations, punishable by a fine of \$100.

Section 73. Adds references to AS 04.16.025(a), relating to entering and remaining on premises where illegal sale, barter, or trafficking of alcoholic beverages is taking place, to include new sections on operating without a license.

Section 74. Adds crime and penalty provisions to existing AS 04.16.030 to make prohibited conduct relating to drunken persons a violation, rather than a class A misdemeanor.

Section 75. Amends AS 04.16.035 to apply the prohibition on possession of ingredients for homebrew to all local option areas, rather than just those that have adopted a prohibition on sale, importation, and possession.

Section 76. Adds new subsections to AS 04.16.035 specifying that possession of homebrew ingredients is a class A misdemeanor.

Section 77. Amends AS 04.16.040 to use the defined term "licensed premises" rather than "premises licensed under this title."

Section 78. Adds new subsections to AS 04.16.040 making access by a drunken person to licensed premises a violation.

Section 79. Adds new subsections to AS 04.16.045 to make permitting unauthorized consumption on licensed premises a violation; specifies that each drink consumed is a separate violation punishable by a fine of \$50.

Section 80. Adds a subsection to AS 04.16.047 defining conduct prohibited under (a) as a class A misdemeanor.

Section 81. Amends AS 04.16.049(a), relating to access by minors to licensed premises, to replace a reference to designation by the board as a restaurant with a reference to the restaurant endorsement issued under AS 04.09.410. Adds a reference to AS 04.09.180(g), permitting access to club premises by a person under 21 years of age if no alcoholic beverages are present or if the person has an active duty military card. Changes "age of 21 years" to "21 years of age" to conform to current drafting style.

Section 82. Changes "age of 21 years" to "21 years of age" in AS 04.16.049(b) to conform to current drafting style.

Section 83. Amends AS 04.16.049(c) to replace a reference to designation by the board as a restaurant with a reference to the restaurant endorsement issued under AS 04.09.410 and to include golf courses.

Section 84. Amends AS 04.16.049(d) to allow employment of persons who are 18, 19, or 20 years old on golf courses.

Section 85. Adds a new subsection (g) to AS 04.16.049 to permit access by minors to golf courses for the purpose of playing golf. Adds new subsections making unauthorized presence by a minor on licensed premises a violation, punishable by a fine of \$500. The fine may be reduced by a court to \$50 if the minor supplies proof of completion of an alcohol safety action program.

Section 86. Repeals and reenacts AS 04.16.050 to make minor consuming a violation. Note the conforming changes to AS 28.15.057(a), and the repeal of AS 21.96.027, relating to motor vehicle insurance after driver's license revocation under AS 04.16.050 (with a conforming amendment to AS 21.36.210(a)), AS 28.15.181(h), 28.15.185(e), AS 47.12.030(b)(5), 47.12.060(b)(4) (with a conforming amendment to AS 28.15.176, on administrative revocation of driver's license), and AS 47.12.120(k).

Section 87. Repeals and reenacts AS 04.16.051(d) to define the crime of furnishing or delivering to a minor.

Section 88. Adds a new subsection (e) classifying the crime in AS 04.16.051(d) as a class A misdemeanor, except that the conduct identified in current AS 04.16.051(d)(2) remains a class C felony.

Section 89. Adds new subsections to AS 04.16.052 to classify the offense of a licensee furnishing alcohol to a minor as a violation, and sets a fine of at least \$250 but not more than \$500. Also provides for an additional administrative penalty of \$250, and specifies that the board may not order suspension of the license for a first conviction.

Section 90. Adds new subsections to AS 04.16.055 classifying rental of a room in a hotel, motel, resort, or similar business for the purpose of providing alcoholic beverages to a person under 21 years of age as a class A misdemeanor.

Section 91. Amends AS 04.16.057(b) to set a fine of at least \$250 but not more than \$500 for permitting a minor to illegally possess an alcohol beverage in a dwelling.

Section 92. Amends AS 04.16.060 to classify the offense of purchase by or delivery to a person under 21 years of age as a violation, and sets a fine of \$500.

Section 93. Amends AS 04.16.080 to limit the reach of the section to consumption of alcoholic beverages at school events (eliminating the references to sales).

Section 94. Classifies consuming alcohol at a school event as a violation, and provides a penalty of \$100 for each alcoholic drink or fraction of a drink consumed.

Section 95. Amends AS 04.16.090(c) to remove a superfluous "is not limited to" (*see* AS 01.10.040).

Section 96. Adds new subsections to AS 04.16.090 classifying maintaining a bottle club as a class A misdemeanor.

Section 97. Classifies violation of AS 04.16.100, relating to size and type of container, as violation.

Section 98. Classifies violation of AS 04.16.110, prohibiting the sale of powdered alcoholic beverages and alcoholic beverages containing more than 76 percent alcohol, as a class A misdemeanor.

Section 99. Amends AS 04.16.120. Classifies removal of alcoholic beverages from licensed premises and bringing alcoholic beverages onto licensed premises as violations. Each alcoholic drink is a separate offense, punishable by a fine of \$50.

Section 100. Amends AS 04.16.125 to classify unauthorized transportation of alcoholic beverages by common carrier into a local option area as a class A misdemeanor.

Section 101. Amends AS 04.16.130 to classify unauthorized storage of alcoholic beverages by a licensee as a violation.

Section 102. Amends AS 04.16.140 to classify sale or consumption of an alcoholic beverage in a warehouse as a class A misdemeanor.

Section 103. Amends AS 04.16.150 to classify failure by a licensee to ensure compliance with AS 04 by the licensee's agents and employees as a class A misdemeanor.

Section 104. Amends AS 04.16.160 to classify failure to comply with a restriction on purchasing alcoholic beverages as a class A misdemeanor.

Section 105. Rewords AS 04.16.170(a).

Section 106. Adds subsections to AS 04.16.170, prohibiting sale of alcoholic beverages from or to an unlicensed person, to classify the crime as a class A misdemeanor.

Section 107. Updates references in AS 04.16.172.

Section 108. Adds subsections to AS 04.16.172 to make a licensee obtaining alcoholic beverages from an unlicensed seller a class A misdemeanor.

Section 109. Adds subsections to AS 04.16.175 to make furnishing alcoholic beverages in aid of a gambling enterprise a class A misdemeanor.

Section 110. Amends AS 04.16.180(b) to include a reference to the exception in AS 04.16.052.

Section 111. Amends AS 04.16.180(e) to add a definition of "conviction" that includes a conviction of a violation as well as a misdemeanor or felony.

Section 112. Adds new subsections to AS 04.16.180, providing for administrative penalties in addition to criminal penalties, and providing for a hearing on request for a licensee whose license is subject to suspension or revocation.

Section 113. Amends AS 04.16.200(g), a criminal penalty provision, to make those minimum sentences applicable to a class A misdemeanor under (f), for purchasing alcohol in violation of AS 04.11.499(b). Raises the fine amounts.

Section 114. Adds references in AS 04.16.220(a) to the new operating without a license sections.

Section 115. Adds references in AS 04.16.220(d) to the new operating without a license sections.

Section 116. Adds references in AS 04.16.220(g) to the new operating without a license sections.

Section 117. Adds references in AS 04.16.220(i) to the new operating without a license sections.

Section 118. Amends AS 04.21.010(c) to reflect the repeal of AS 04.11.491(4).

Section 119. Adds a new section requiring keg registration.

Section 120. Amends AS 04.21.020(a) to reflect the repeal of AS 04.11.080 - 04.11.220 and the addition of AS 04.09.

Section 121. Adds references in AS 04.21.020(b) to the new operating without a license sections.

Section 122. Repeals and reenacts AS 04.21.025(a), relating to checking identification and completion of an alcohol server education course, and specifies the license and permit types that must comply.

Section 123. Amends AS 04.21.025(b) to include "permittee;" the section applies to a conditional contractor's permit as well as various license types.

Section 124. Amends AS 04.21.025(c) to include "permittee;" the section applies to a conditional contractor's permit as well as various license types.

Section 125. Adds new subsections to AS 04.21.060 to make unauthorized off-premises warehousing of alcoholic beverages by a licensee a violation.

Section 126. Repeals and reenacts AS 04.21.065(a), listing the types of licenses and permits that have a warning sign requirement.

Section 127. Modifies the required language for warning signs in AS 04.21.065(b).

Section 128. Adds default penalty provisions for the title in sec. 04.21.072. Adds a bail forfeiture schedule section in sec. 04.21.074, to enable the court to set a bail forfeiture amount and individuals who have been issued a citation for a violation to clear the matter by paying the fine, without a court appearance. Prohibits the court from suspending a fine or sentence for a violation (but not a misdemeanor or felony) under AS 04 in sec. 04.21.076. Adds a provision in sec. 04.21.078 barring the court system from publishing on a publicly available website the record of a violation of AS 04.16.049 or 04.16.050.

Section 129. Amends AS 04.21.080(b)(5), defining "designated premises."

Section 130. Amends AS 04.21.080(b)(14), the definition of "licensed premises," to include endorsements.

Section 131. Adds several new definitions to AS 04.21.080(b), including definitions of "alcoholic drink," "bona fide restaurant or eating place," "brewed beverage," "distilled spirit," "peace officer," "school grounds," and "wine."

Section 132. Makes a conforming change to a reference in AS 05.15.690(48).

Section 133. Makes a conforming change to a reference in AS 09.65.315(b).

Section 134. Makes conforming changes to references in AS 11.76.100(b).

Section 135. Makes conforming changes to references in AS 11.76.107(a).

Section 136. Changes a reference in AS 12.62.400(a) from AS 04.11 to AS 04.09.

Section 137. Adds a new sec. 12.85.015 to require the court system to send the ABC Board a copy of the judgment of conviction when a person is convicted of an offense under AS 04.

Section 138. Makes conforming changes to references in AS 18.56.230(b). Changes the "designated as a restaurant" language to "covered under a restaurant endorsement" language.

Section 139. Adds references in AS 18.65.085(c) to the new operating without a license sections.

Section 140. Changes reference in AS 18.80.230(b) from AS 04.11 to AS 04.09.

Section 141. Amends AS 21.36.210(a) to remove a reference to AS 21.96.027 due to repeal and reenactment of AS 04.16.050.

Section 142. Amends AS 28.15.057(a) to reflect the repeal and reenactment of AS 04.16.050.

Section 143. Amends AS 28.15.176 to reflect the repeal of AS 47.12.060(b)(4), due to repeal and reenactment of AS 04.16.050.

Section 144. Changes reference in AS 43.70.105(a) from AS 04.11 to AS 04.09.

Section 145. Changes reference in AS 45.45.590(1) from AS 04.11 to AS 04.09.

Section 146. Repeals various sections, including licensing statutes currently located in AS 04.11 that are being moved to AS 04.09. Repeals AS 04.06.100(b)(4) and (15), since those fees will be set in statute, and sections that cite existing AS 04.16.050 due to the significant changes made by the repeal and reenactment of that section.

Section 147. This subsection provides for the delayed repeal of subsections grandfathering existing duplicate licenses and sampling under existing brewery, winery, and distillery licenses. Since these existing duplicate licenses and sampling activities will be grandfathered for eight years, the repeal date is January 1, 2025.

Section 148. Applicability provision: makes changes in crimes and penalties effective going forward only, but references to previous convictions apply to convictions occurring before, on, or after the effective date of the Act.

Section 149. Transition provisions relating to membership on the ABC Board and conversion of a public convenience license to a seasonal restaurant or eating place tourism license.

Section 150. Sets January 1, 2017, as the effective date for the bill.