




ALASKA TITLE 4 REVIEW

FOR THE
Alaska Alcoholic Beverage
Control Board

Executive Summary

Recommendations for Statutory Change

February 2015



EXECUTIVE SUMMARY

“The board shall control the manufacture, barter, possession, and sale of alcoholic beverages in the state. The board is vested with the powers, duties and responsibilities necessary for the control of alcoholic beverages...” ASo4.06.090(a)

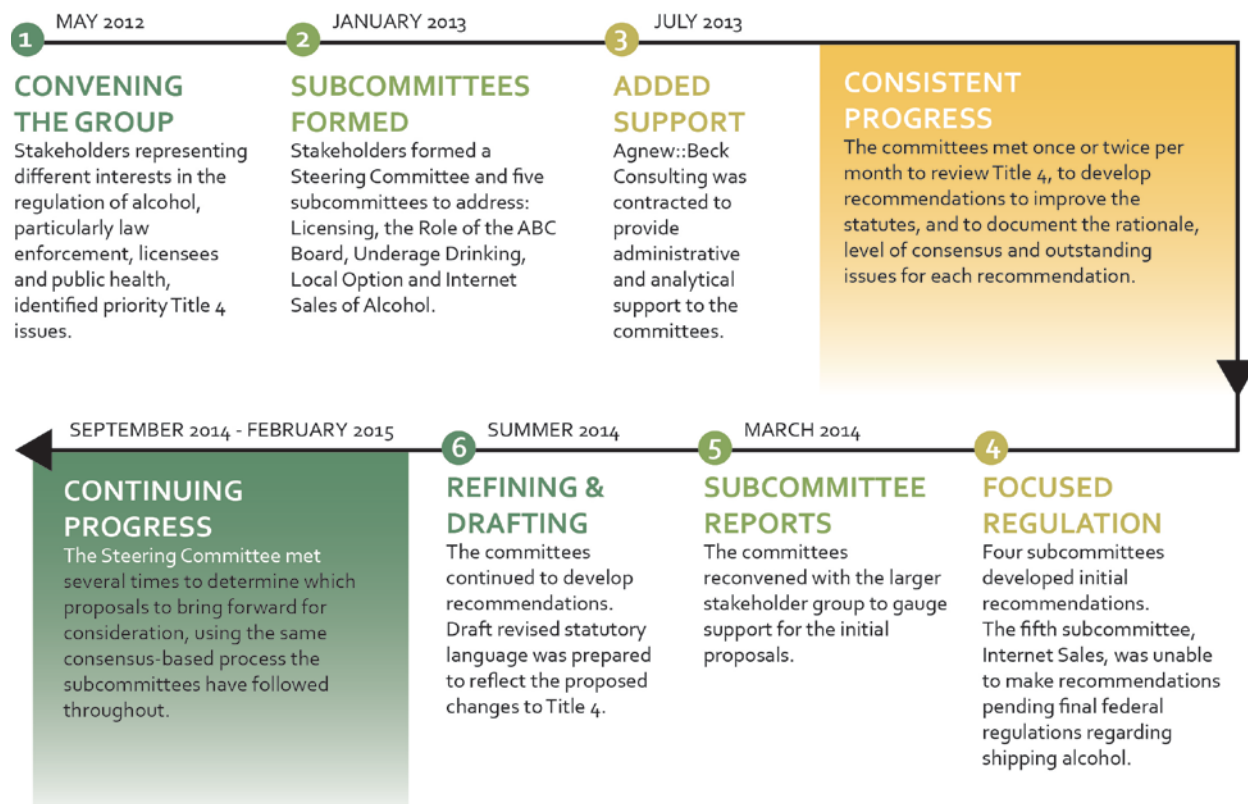
The recommendations in this report are built from a two-year process initiated by the Alcoholic Beverage Control (ABC) Board to engage a diverse group of more than 70 stakeholders to determine how to improve the structure, organization, specific policies and associated implementation issues in Title 4, Alaska’s statutes regarding regulation and control of alcoholic beverages in the state. Title 4 is recognized to be in many ways outdated, confusing or otherwise ineffective in carrying out the intent of the statutes. The ABC Board is tasked with interpreting and enforcing the laws of Title 4. This process is intended to benefit the Board as it carries out its mission, as well as benefitting the many other organizations and individuals whose work, community or business is affected by alcohol control laws and regulations.

In May 2012, the ABC Board convened a stakeholder group of people engaged in the alcohol industry, public health, local government, law enforcement, public safety, education, community advocacy and other sectors. The group identified some of the priority issues in statute to address. Stakeholders met again in January 2013 to form five subcommittees to address the priority topics identified by the large group: Licensing, the Role of the ABC Board, Underage Drinking, Local Option and Internet Sales of Alcohol. A Steering Committee composed of ABC Board members, staff and the chairs of each subcommittee formed to coordinate the work of the five subcommittees and make decisions about which proposals to include in the final set of recommendations. Agnew::Beck Consulting was contracted in July 2013 to provide administrative and analytical support to the subcommittees in conducting their review of the Statutes and associated Alaska Administrative Code sections.

The subcommittees met once or twice monthly to review their assigned portions of the statutes and regulations related to Title 4, to develop recommendations for improving the statutes and to document their rationale, level of consensus and further issues to be resolved for each recommendation. Four of the subcommittees have developed sets of recommendations that have since been presented for inclusion in this legislative package. The fifth subcommittee, Internet Sales, has discussed the issue of shipments of alcohol from out-of-state companies to individuals through online sales, which bypasses the state’s regulatory and taxation system. The subcommittee identified the point in the shipment process to focus regulation: the major package carriers (UPS, FedEx, DHL), through which alcohol travels into the state. Because the U.S. Postal Service is also considering allowing shipment of alcohol, however, the subcommittee has no recommendation until this decision is made at the federal level.

On March 25, 2014, the subcommittees prepared summary presentations and shared their progress to date with the larger stakeholders group to gauge the level of stakeholder support for the subcommittees’ proposals. Following the stakeholders’ meeting, the subcommittees continued to refine and develop additional recommendations within their topic areas. In preparation for the legislative process and the introduction of a draft bill, legal consultant Carmen Gutierrez was

contracted to prepare draft statute language to reflect the changes to Title 4 proposed by the subcommittees. The Steering Committee reviewed the subcommittees’ sets of recommendations and determined which would be included in the final package described in this summary through a series of meetings from September 2014 to February 2015. The Steering Committee relied on the same consensus-based process that the subcommittees have used to determine which proposals to bring forward for consideration, as well as reviewing the entire set of recommendations to ensure logical consistency and balance across the stakeholder constituencies’ interests.



The tables on the following pages provide a summary of the recommendations, grouped by subcommittee. The full summary report summarizes the final set of recommendations, the intent of the proposed changes, and if relevant, implications that will require resolution during the legislative process or through ABC Board regulations.

RECOMMENDATIONS BY SUBCOMMITTEE

Licensing Subcommittee	
F-1. Adjust License Fees to Reflect Current ABC Budgetary Needs	Update license fees according to the relative administrative costs of each, and collect sufficient revenue to cover the ABC Board’s required activities, as recommended in RB-3.
M-1. Simplify Manufacturing Licenses	Keep three manufacturing license types: Brewery (AS 04.11.130), Winery (AS 04.11.140), Distillery (AS 04.11.170). Remove Bottling Works (AS 04.11.120) and Brewpub (AS 04.11.135) license types.
M-2. Manufacturer Retail License + Manufacturer Sampling Endorsement	Add-on retail licenses specifically for manufacturers to allow limited on-site consumption and off-site sales, and a separate endorsement for free samples.
M-3. Manufacturer Allowed to Hold a Restaurant Eating Place License	Remove the restriction in Prohibited Financial Interest (AS 04.11.450), which does not allow Manufacturers to hold an REPL (04.11.100).
W-1. Adjust Scaling of Wholesale License Fees and Simplify Supplier Reporting	Adjust fees for both Wholesale licenses (both listed in AS 04.11.160) to retain current maximum but reduce burden on small operators; remove the requirement to provide a full list of suppliers to the ABC Board.
W-2. Align State Statute with Federal Law Regarding Trade Practices	Add provisions in Title 4 to match current federal law regarding trade practices and agreements between retailers and wholesalers or manufacturers.
P-1. Population Limits Apply to Retail Licenses Only	Apply population limitations on the number of licenses only to retail-tier licenses (excluding Tourism and Public Convenience).
P-2. ABC Board Advisory Opinion on Proposed Legislation	Enable the ABC Board to issue a formal advisory opinion on proposed legislation regarding Title 4.
P-3. Seasonal Tourism Restaurant License	Place a permanent moratorium on issuing new Public Convenience licenses, and replace existing licenses with a new license type that allows for seasonal REPL licenses in small communities and unincorporated areas.
R-1. Multiple Licensed Premises with a Beverage Dispensary License	Clarify the parameters that would allow and require multiple fixed counters for a Beverage Dispensary License (AS 04.11.090): create a Multiple Fixed Counter Endorsement, a Hotel/Motel Endorsement, and a Large Resort Endorsement.
R-2. Recreational Site License	Ensure that the definition of “Recreation” is applied to current and potential Recreational Site License holders; implement a sunset provision to review and revoke any licenses that do not meet this definition (AS 04.11.210).
R-3. Package Store On-Site Product Sampling Endorsement	Create a separate Endorsement to allow on-site sampling at Package Stores (AS 04.11.150).
R-4. Clarify Restaurant Food Requirement	Clearly define in statute the calculation of 50% food sales (AS 04.11.100) as the ratio of food sales receipts to alcohol sales receipts for on-site consumption.

Licensing Subcommittee

R-5. Golf Course License and Endorsement	Retain the current Golf Course License (AS 04.11.115), allow a Golf Course to hold a BDL, create a Golf Course Endorsement; adapt AS 04.16.049, 3 AAC 304.715, 3 AAC 304.725 and 3 AAC 304.745 to allow minors to play or work on the golf course or clubhouse.
R-6. Theatre License	Move the Theatre License into statute and out of regulation 3 AAC 304.695 as an add-on license to a BDL or REPL.
R-7A through M. Endorsements and Permits	<p>Create a clear statutory framework for Endorsements and Permits, with all types defined in statute as well as regulation.</p> <ul style="list-style-type: none"> • R-7A <i>Bowling Alley Endorsement</i> • R-7B <i>Package Store Shipping Endorsement</i> • R-7C <i>Package Store Delivery Endorsement</i> • R-7D <i>Package Store Re-Packaging Endorsement</i> • R-7E <i>Permits, generally</i> • R-7F <i>Beverage Dispensary Caterer's Permit</i> • R-7G <i>Restaurant Caterer's Dining Permit</i> • R-7H <i>Club Caterer's Permit</i> • R-7I <i>Nonprofit Event Permit</i> • R-7J <i>Art Exhibit Permit</i> • R-7K <i>Alcoholic Beverage Auction Permit</i> • R-7L <i>Retail Stock Permit</i> • R-7M <i>Tasting Event Permit</i>

Role of the ABC Board Subcommittee

RB-1. Strengthen Reporting Requirements for Municipal Enforcement	Include in statute that municipalities submit quarterly reports on Title 4 enforcement activities to the ABC Board.
RB-2. Community Analysis of Written Order Database	Allow data about alcohol purchases (written orders) in local option communities to be reported/made available, aggregated at the region or community level, for analysis and community self-assessment.
RB-3. Revise ABC Board Budget to Adequately Fund Needed Activities	Determine the necessary funding level to carry out the ABC Board's mission and core functions; adjust revenue (fees) accordingly to meet that need, as recommended in F-1.
RB-4. ABC Board as Lead Agency for Alcohol Education Efforts	Designate the ABC Board as lead agency in a multi-department, public-private sector education effort about responsible alcohol use and applicable laws.
RB-5. Composition of the ABC Board	Retain the current number of members but add designated seats: 1 public health, 1 public safety, 2 industry and 1 rural public member; include provision for Director's background in filling the designations.
RB-6. Update Title 4 Sanctions	Review sanctions for all Title 4 sections; revise penalties to be more proportionate to the offense and consistently enforced.

Local Option Subcommittee

LO-1. Repeal Local Option #4	Repeal section 04.11.491(b)(4) (Local Option #4), which bans the sale and importation of alcohol, not possession.
LO-2. Increase Enforcement and Prosecution Resources	Include in recommendation RB-3 (revised ABC Board budget to adequately fund needed activities) adequate budget for increased dedicated prosecutors and investigators for Title 4, particularly local option law enforcement.
LO-3. Increase Local Option Perimeter	Increase the local option perimeter boundary from a 5-mile radius from the village center defined by AS 04.11.508 to a 10-mile radius.
LO-4. Increase Mandatory Minimum Penalty for Bootlegging	Increase the mandatory minimum penalty for bootlegging at the class A misdemeanor level (AS 04.16.200(g)), with increasing penalties for multiple offenses and per-unit fine for the volume of alcohol being illegally sent, brought or transported into the local option community.
LO-5. Clarify Language Regarding Homebrew Ingredients	Make possession of homebrew ingredients and/or equipment with intent to produce alcohol illegal in all local option communities.

Underage Drinking Subcommittee

UAD-1. Employee Penalty for Selling Alcohol to a Minor	Reduce the penalty for a licensee, agent or employee selling alcohol to a minor (AS 04.16.052) from a class A misdemeanor to a minor offense violation.
UAD-2. Sanctions to Employers for Employee Sales to Minors	Increase the consistency and certainty of sanctions to licensees upon conviction of violating AS 04.16.052.
UAD-3. Statewide Keg Registration	Require all beer kegs purchased in the state to be registered.
UAD-4. Clarify Wording on Required Signage	Revise the ABC requirements for warning signs posted at licensee establishments to make it clear that minors are prohibited from being on premises, with the exception of certain circumstances.
UAD-5. Minor Consuming Alcohol (MCA) as Violation	Restore Minor Consuming Alcohol (AS 04.16.050) to a true violation.

TITLE 4 REVIEW STAKEHOLDERS

	Name	Organization or Agency	Sector(s) Represented
1	Aleesha Towns-Bain *	Rasmuson Foundation	Public Health
2	Amanda Moser	Municipality of Anchorage	Licensing Specialist
3	Amber Willis	Alaska State Fair	Recreational Site Licensee
4	Anna Nowak	Anchorage Municipality [former]	Former Licensing Specialist
5	Anthony Henry	Anchorage Police Department	Law Enforcement
6	Barb Miller *	Midnight Sun Brewing	Brewery Licensee
7	Beth McEwen *	City and Borough of Juneau	Local Governing Body
8	Bob Beasley *	ABC Board Staff	Acting Director / Enforcement
9	Bob Klein *	ABC Board	Industry Member
10	Bob Winn *	Self Employed	Liquor Industry
11	Bobby Evans	ABC Board	General Public Member/Rural
12	Charlie Daniels *	Volunteers of America	Public Health
13	Chris Lambert	ABC Board Licensing Supervisor	Law Enforcement
14	Chris Simon *	Department of Education	Education
15	Chris Thompson	Alaska State Troopers	Law Enforcement
16	Christine Lambert *	ABC Board [former]	Former Licensing Specialist
17	Curtis Vic	Alaska State Troopers	Law Enforcement
18	Cynthia Franklin *^	Anchorage Municipality [former]	Local Governing Body [former]
19	Dale Fox *	Alaska CHARR	Liquor Industry
20	Danna Grammer *	Stellar Wines Distributing	Wholesale Licensee
21	Dick Rosston *	Private Attorney	Rep. Resort+Package Store Lic.
22	Don Grasse *	K & L Distributors	Wholesale Licensee
23	Doran Powell	Chilkoot Charlie's	Beverage Dispensary Licensee
24	Dorcas Bloom *	Retired	Public Health/Education
25	Ellen Ganley *	ABC Board	General Public Member
26	Eric Olsen	ABC Board Investigator	Law Enforcement
27	Eric Pratt *	Anchorage Police Department	Law Enforcement
28	Ethan Billings	ABC Board	Industry Member
29	Fred Odsen *	Private Attorney	Rep. Package Store+Rec. Site Lic.
30	George Gatter *	Tony's Bar	Beverage Dispensary Licensee
31	Glenn Brady *	Silver Gulch Brewing	Brewery+Package Store Licensee
32	James Cockrell	Alaska State Troopers	Law Enforcement
33	James Hoelscher	Village Public Safety	Law Enforcement
34	Jan Hill *	SEARHC	Tribal Health
35	Jeff Jessee *	Mental Health Trust Authority	Public Health
36	Joe Darnell	Behavioral Health	Public Health
37	Joe Hamilton	ABC Board Staff	Law Enforcement
38	Joel Kadarrauch	Odom Corporation	Wholesale Licensee
39	John Novak	Asst. Attorney General, Dept. Public Safety	Law Enforcement

	Name	Organization or Agency	Sector(s) Represented
40	Johni Blankenship	Kenai Peninsula Borough	Local Governing Body
41	Katie Baldwin-Johnson *	Mental Health Trust Authority	Public Health
42	Kate Burkhart	ABADA	Public Health
43	Kevin Blanchette *	Alaska State Troopers	Law Enforcement
44	Kyle Wark *	First Alaskans	Tribal Health
45	L. Diane Casto *	Behavioral Health	Public Health
46	Laura Porter	Mat-Su School District	Education
47	Liz Medicine-Crow *	First Alaskans	Tribal Health
48	Mark Mew	Anchorage Police Department	Law Enforcement
49	Marny Rivera *	University of Alaska Anchorage	Education
50	Marvin Yoder *	ABC Board	General Public Member
51	Matt Felix	NCADDJ-retired	Public Health
52	Matt Jones *	Bear Tooth Grill + Theatrepub	Beverage Dispensary Licensee
53	Mike Dodge	HottStixx	Beverage Dispensary Licensee
54	Molly Poland	Hooligans	Beverage Dispensary Licensee
55	Natasha Pineda	Mental Health Trust Authority	Public Health
56	Paul Thomas *	Alaska Cache Liquor	Package Store Licensee
57	Peggy Phillips	Fairbanks North Star Borough	Local Governing Body
58	Pete Burns *	Humpy's Alaskan Alehouse	Beverage Dispensary Licensee
59	Randy McCain	Eagles Lodge	Club Licensee
60	Rebecca Neagle	Sitnasuak Native Corporation	Public Health
61	Rich Sayers	Anchorage Golf Course	Golf Course Licensee
62	Robert McCormick	Glacier Brewhouse/Orso	Beverage Dispensary Licensee
63	Sara Clark *	Behavioral Health	Public Health
64	Sarah Oates	ABC Board Staff	Licensing Specialist
65	Sheri Musgrave *	Alaska State Fair	Recreational Site Licensee
66	Shirley Coté *	ABC Board Staff [retired]	Former Director
67	Susan Osborne	Gold Hill Liquor	Package Store Licensee
68	Teri Tibbett	ABADA	Public Health
69	Trish Smith	Volunteers of America, Alaska	Public Health
70	Tony Newman	Division of Juvenile Justice	Public Health
71	Walt Monegan *	Retired	Law Enforcement

* All of the stakeholders listed above were invited to the March 25, 2014 meeting and have been involved in the process since 2012. Names indicated with (*) attended the March meeting.

^ Cynthia Franklin, formerly a prosecutor with the Municipality of Anchorage, became the next ABC Board Director as of September 22, 2014. Her participation in this process was both as a stakeholder and subsequently as a member of the Steering Committee, representing the ABC Board Staff.