



ALASKA TITLE 4 REVIEW

FOR THE
Alaska Alcoholic Beverage
Control Board

Recommendations for Statutory Change

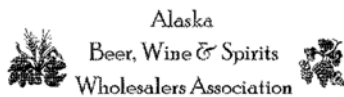
Updated January 2018



ACKNOWLEDGEMENTS

The Title 4 Review stakeholder group took on a monumental policy project in 2012, and would not have succeeded without the participation and commitment of many diverse perspectives brought by the individuals and organizations listed in this report.

Some of these many organizations are recognized below:



ABOUT THIS REPORT

This report summarizes the original recommendations from the Title 4 stakeholder group, the intent of the proposed changes, and if relevant, implications that will require resolution during the implementation phase through ABC Board regulations and policies. Where recommendations have significantly changed since this report was first published in February 2015, the changes are noted with a brief explanation.

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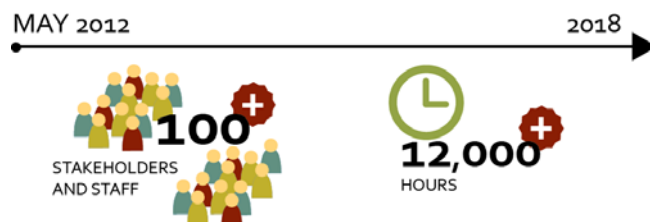
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INTRODUCTION + 2017 UPDATE

"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..." AS 04.06.090(a)

The recommendations in this report are built from a five-year process initiated by the Alcoholic Beverage Control (ABC) Board to engage a diverse group of more than 100 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.

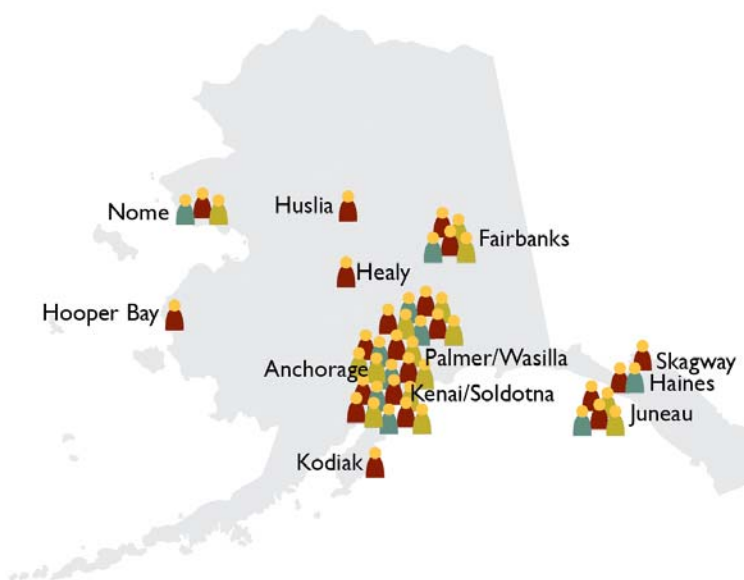


WHY REVIEW TITLE 4?

Title 4 is recognized to be in many ways outdated, confusing or otherwise ineffective in carrying out the intent of the statutes. Much of the statute has not been updated since 1980; incremental updates to the statutes, inconsistent interpretation of the rules, and changing industry trends have reduced the effectiveness of Title 4 for businesses, communities and regulators alike.

The ABC Board, supported by the director and staff of the Alcohol and Marijuana Control Office, is tasked with interpreting, administering and enforcing the laws of Title 4. A systematic review of the statutes helps the Board carry out its mission and will benefit organizations and individuals whose work, community or business is affected by alcohol laws and regulations.

Stakeholders from across the state representing the alcohol industry, public health, local governments, law enforcement, public safety, education, and community advocacy sectors have dedicated over 11,000 hours to date to craft recommendations to improve Title 4. This group, working with the Title 4 Review Steering Committee, has remained involved in the process throughout, helping to refine the original recommendations and analyze new ideas brought forward since the original set of recommendations were put forward.



GOALS OF TITLE 4 REVIEW

Stakeholders in this process established shared goals as the foundation for all recommendations:

Promote a fair business climate and protect public health and safety.

- Create rational regulation for all tiers of the state's alcohol industry.
- Limit youth access to alcohol.
- Promote responsible alcohol use and reduce the harms of overconsumption.

Make Title 4 a clear and consistent legal framework for the ABC Board, licensees and law enforcement.

- Increase swiftness, proportionality and consistency of penalties.
- Increase local Title 4 law enforcement.
- Increase licensee accountability before the ABC Board for Title 4 violations.

Stakeholders identified five topic areas in which to focus on making recommendations:

- 1. Alcohol Licenses, Permits and Trade Practices**
- 2. Role and Functions of the ABC Board and Staff**
- 3. Underage Drinking and Youth Access to Alcohol**
- 4. Regulation of Internet Sales of Alcohol**
- 5. Local Option Communities**

STAKEHOLDER PROCESS (2012 - 2015)

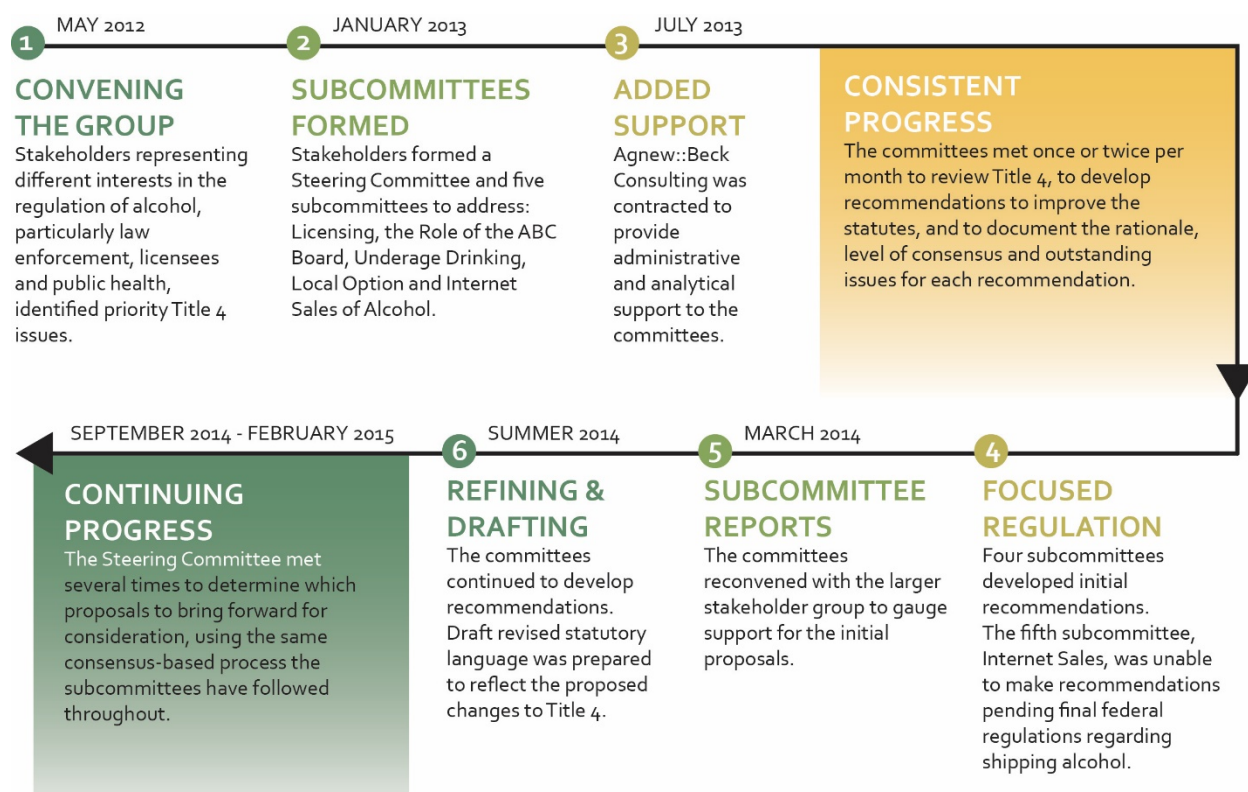
In May 2012, the ABC Board convened a stakeholder group of people engaged in the alcohol industry, public health, local governments, law enforcement, public safety, education, community advocacy and other sectors. The group identified some of the priority issues in statute to address.

Stakeholders met again in January 2013 to form five committees 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 committee formed to coordinate the work of the five committees and make decisions about which proposals to include in the final set of recommendations. Agnew::Beck Consulting was contracted in July 2013 by Recover Alaska, a partnership to reduce the negative harms of alcohol in Alaska, to provide facilitation, administrative support and analysis to the committees while each conducted their review of Title 4 and relevant regulations in the Alaska Administrative Code (3 AAC 304).

The committees met at least 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 committees developed sets of recommendations that were presented for inclusion in the first legislative package in 2015. The fifth committee, Internet Sales, 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 and may be entering Local Option areas

illegally. While this committee’s recommendations had not been developed in time for inclusion in the original package, the group has since produced three recommendations included in this report and in the forthcoming legislative package.

On March 25, 2014, the committees prepared summary presentations and shared their progress to date with the larger stakeholders group to gauge the level of stakeholder support for the committees’ proposals. Following the stakeholders’ meeting, the committees 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 committees. The Steering Committee reviewed the committees’ 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 consensus-based process that the committees 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.



LEGISLATIVE + REFINEMENT PROCESS (2015 - PRESENT)

April 2015 | Senator Peter Micciche introduced Senate Bill 99, which included the legislative language to enact all of the Title 4 Review recommendations. While efforts were made to thoroughly review the language for accuracy and fidelity to the group’s intent, the bill had several flaws. At 100 pages, the bill also required more time than the 2015 session allowed. Sen. Micciche and the group determined to improve the bill during the interim and re-introduce in the following year.

Summer - Fall 2015 | Alaska CHARR's Government Affairs Committee and several other industry stakeholders conducted a complete review of the bill language, identifying areas where more work may be needed and submitting comments, suggestions or new proposals. Staff for the Title 4 Review project met regularly with representatives to discuss each issue with the bill language, and the Steering Committee began revision of some recommendations, ensuring that the changes still reflected the stakeholders' overall goals for the process and balanced in the interest of all sides.

December 2015 | Recognizing that the package still needed significant work, and knowing that the 2016 legislative session would be focused on large policy issues like the state's fiscal crisis, the Steering Committee recommended a new, two-track process for Title 4 rewrite. The Steering Committee worked with Sen. Micciche to craft a streamlined bill (SB 165) with some priority recommendations that could be implemented sooner than the more complicated changes to licenses and permits. A new version of the comprehensive package would come forward in the next session.

February 2016 | Sen. Micciche introduced SB 165, with proposed changes to ABC Board composition, changes to Minor Consuming Alcohol (MCA) and Minor on Premises penalties. See the following section for more information about SB 165.

July 2016 | After committee hearings and passage of the bill in both the House and Senate, SB 165 was signed into law by Governor Walker on July 6, 2016.

August 2016 | Senator Micciche re-affirmed his commitment to work with the Title 4 Review group to prepare a new version of the comprehensive bill. He and the Steering Committee convened interested members of the stakeholder group to refine the contents of the comprehensive bill, starting with the language in SB 99, for introduction in the 2017 legislative session. Stakeholders submitted items for further discussion, as well as technical changes that were overlooked previously.

Fall 2016 | Stakeholders met regularly to discuss each item brought for consideration, coming to consensus as much as possible on each issue. Additionally, the Internet Sales recommendations were further developed and refined with a group including Alaska stakeholders, representatives from major shipping carriers and a representative for out of state wineries.

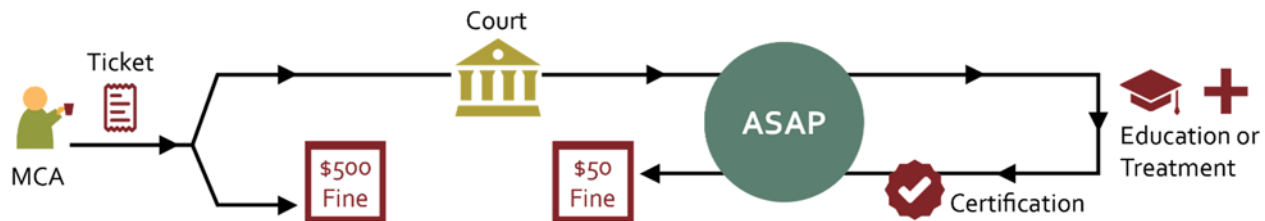
November 2016 - Spring 2017 | Following direction from the discussions throughout the fall, Title 4 Review staff worked with Senator Micciche's staff and Legislative Legal Services to draft new bill language based on the original work, and updated to reflect the current set of recommendations. While the group anticipates further discussion throughout the legislative process, the goal for the new draft bill is to ensure that it accurately reflects the intent of the group's work and addresses any drafting issues from the previous bill. At the time of writing, the stakeholder group is awaiting a complete draft for final review prior to its introduction during this 2017 session.

SB 165: PRIORITY RECOMMENDATIONS ENACTED IN 2016

Some of the Title 4 recommendations, included in SB 165, became law in 2016. Changes include reducing penalties imposed on minors who are found possessing or consuming alcohol (AS 04.16.050), or who enter licensed premises illegally (AS 04.16.049). The changes enacted in SB 165 are supported by a state plan, *Alaska's Strategies to Prevent Underage Drinking*, the work of several state agencies and departments, including the Department of Health and Social Services, Alcoholic Beverage Control Board, Division of Juvenile Justice, Alaska Native Justice Center, University of Alaska Anchorage Justice Center, Alaska Mental Health Trust Authority, and Alaska Court System.

Recommendation UAD-5 | Minor on Premises and Minor Consuming Alcohol, MCA

The new law restores Minor Consuming Alcohol to a true violation, with an opportunity to reduce the fine if the individual seeks alcohol prevention education or, if needed, treatment:



- Each offense carries a fine of \$500, regardless of the number of prior convictions.
- If the youth appears in court, the fine may be reduced upon completion of a state-approved alcohol education or treatment program or community diversion panel within six months of the court hearing. For first and second convictions, the fine is reduced to \$50; for subsequent convictions, the fine is reduced to \$250. The fine reduction creates an incentive for the minor to seek education or treatment.
- The state's Alcohol Safety Action Program (ASAP) /Juvenile Alcohol Safety Action Program (JASAP) office would refer the young person to qualifying programs, certify completion of the program, and forward certification to the Court for the fine reduction.
- Removed from statutory penalties: mandatory completion of alcohol education or treatment, community work service, potential jail time, and suspension or revocation of driver's license.
- No information about convictions under AS 04.16.049 or -.050 will appear in the individual's record on Court View, regardless of the outcome of the case or the age of the individual.
- If a violation is unpaid and the individual does not appear in court, the fine will be deducted from the minor's Permanent Fund Dividend. This is also a financial incentive against repeat offenses, since it requires education or treatment to get a fine reduction again.
- The same penalty applies for Minor on Licensed Premises (04.16.049), which was previously a Class A Misdemeanor in Title 4, the default penalty for most violations of that title. This new process is intended to ensure swift and consistent enforcement of laws limiting youth access to alcohol, without a long-term stigma for a person for their behavior as a minor.

Recommendation RB-5 | Composition of the ABC Board

Alcohol affects many aspects of life in Alaska, and good regulation depends on balanced perspectives and consideration of how the ABC Board's decisions impact businesses, communities, and individuals. The Title 4 Review group recognizes the important role of the Board in carrying out the intent of Title 4, and recommended that balanced representation on the Board is necessary.

The five-member board previously had three designated seats, two for members of the alcohol industry and one for a member of the public representing a rural area; the other two seats were for members of the public. Rather than adding new seats to the Board, SB 165 changes the composition of the board as follows: the two designated industry seats are retained, as is the rural public member. One of the public seats is now designated for someone representing the public safety sector, which may include someone from law enforcement, the legal system, and others involved in this field. The

original recommendation of the stakeholder group (described in this report) included a designated seat for a member of the public health field, but this was changed during the legislative process to instead retain one seat for a public member. The most recent appointment to the ABC Board, Rex Leath, Jr. of Wasilla, is the first public safety designee on the board following passage of SB 165.

OVERALL BENEFITS OF THE RECOMMENDATIONS PACKAGE

The Title 4 Review process relies on building consensus: finding common ground and crafting recommendations that, considered overall, will benefit all stakeholders. Each decision required compromise. Where possible, the group found mutually beneficial solutions. While full consensus was not possible on all the individual recommendations, the group reviewed the package and considered the extent to which each sector gains overall more than it loses by enacting the proposed changes to Title 4. Below are some benefits for key stakeholder groups:

Benefits for Youth

- Helps prevent youth access to alcohol, while not criminalizing youth for one mistake.
- Incentivizes youth who need it to seek alcohol education, treatment, or community-based justice.
- Holds adults accountable who supply alcohol to youth.
- Creates a monetary incentive for youth to seek alcohol education, treatment, or participate in community-based justice.
- Holds adults accountable who supply alcohol to youth.

Benefits for the Alcohol Industry

- A streamlined, user-friendly Title 4 will be easier to understand and comply with for all businesses, as well as prospective businesses seeking to understand the laws before applying.
- Manufacturers can expand production and continue to serve customers in retail establishments, including restaurants and tasting rooms.
- Wholesalers have less administrative burden and are protected against unfair trade practices.
- Retailers have more opportunities to innovate, such as providing product samples at package stores, while protecting existing business investments.

Benefits for Public Health and Safety

- Preserves limits on the density of retail alcohol outlets in communities: having many access points for alcohol is correlated with negative health and safety impacts.
- Promotes responsible service and consumption of alcohol at establishments and special events by requiring that anyone serving alcohol have a server education card.
- Fairly regulates all alcohol purchases shipped directly to customers through online sales.
- Increases availability of aggregated data on alcohol orders in local option areas, and local enforcement of Title 4.
- Provides more resources for state- and local-level education and enforcement of Title 4.

Benefits for Local Governments

- Provides options for economic development, tourism and hospitality with more liquor licenses.
- Increases resources for educating local governments about their role in alcohol control.

SUMMARY RECOMMENDATIONS

Alcohol Licenses, Permits and Trade Practices

F-1. Adjust License Fees to Reflect Current ABC Budgetary Needs	Update license fees according to the relative privileges and administrative costs of each, and collect sufficient revenue to cover the ABC Board's required activities (see RB-3: Revise ABC Board Budget to Adequately Fund Necessary Activities).
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 from statute.
M-2. Manufacturer Retail License + Manufacturer Sampling Endorsement	Add-on retail licenses specifically for manufacturers to allow limited onsite consumption and offsite sales, and a separate endorsement for free samples.
M-3. Small Manufacturers Allowed to Hold Retail Licenses	Remove the restriction in Prohibited Financial Interest (AS 04.11.450), which does not allow manufacturers to hold retail licenses, for smaller manufacturers.
W-1. Adjust Wholesale License Fees and Simplify Supplier Reporting	Adjust fees for both Wholesale licenses (both defined 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-focused licenses and Winery Direct Shipment License).
P-2. ABC Board Advisory Opinion on Proposed Legislation	Enable the ABC Board to issue a formal advisory opinion on any proposed legislation regarding Title 4.
P-3. Retire Public Convenience Process; New Options for REPLs	Convert all existing Public Convenience license holders to standard, fully transferrable REPLs; repeal Public Convenience; allow qualifying municipalities to petition the ABC Board to increase the number of REPLs available in their community.
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 Multiple Fixed Counter endorsement, Hotel/Motel endorsement, and Large Resort endorsement.
R-2. Rename Recreational Site License to Sporting Event License	Ensure the definition of "recreation" is consistently applied to Recreational Site license holders; make sunset provision to review and retire licenses that do not meet this definition (AS 04.11.210).
R-3. Package Store Onsite Product Sampling Endorsement	Create a separate endorsement to allow onsite sampling at Package Stores (AS 04.11.150).

R-4. Clarify Restaurant Food Requirement	Clearly define in statute the ratio of food to alcohol sales for restaurants: food sales receipts must be greater than those of alcohol sales receipts for onsite consumption.
R-5. Golf Course License and Endorsement	Retain the current Golf Course license (AS 04.11.115); create a Golf Course endorsement for a BDL; 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. Theater License	Move the Theater 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	Create a clear statutory framework for endorsements and Permits, with all types defined in statute and with clear and consistent requirements.
Role and Functions of the ABC Board and Staff	
RB-1. Strengthen Reporting Requirements for Municipal Enforcement	Include in statutory requirements 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 direct shipment orders of alcohol in local option communities to be made publicly available, aggregated at the region or community level, for analysis and community planning.
RB-3. Revise ABC Board Budget to Adequately Fund Necessary Activities	Determine the funding level to carry out the ABC Board's mission and core functions, and adjust revenue (fee amounts) accordingly to meet that need (see also Licensing, F-1).
RB-4. ABC Board as Lead Agency for Alcohol Education Efforts	Designate the ABC Board and AMCO as the 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 <i>Enacted in SB 165 (2016)</i>	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. Revise Title 4 Penalties	Review penalties for all Title 4 sections; revise penalties to be more proportionate to the crime and more consistently enforced; reduce most current Class A Misdemeanor offenses to Minor Offenses.
Underage Drinking and Youth Access to Alcohol	
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 for violations of 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 <i>Enacted in SB 165 (2016)</i>	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 <i>Enacted in SB 165 (2016)</i>	Restore Minor Consuming Alcohol (AS 04.16.050) to a true violation.
Regulating Internet Sales of Alcohol	
INT-1. Winery Direct Shipment License	Create a license available to U.S. wineries to ship orders of wine to Alaska customers; prohibit online sales through this license in Local Option areas; prohibit other online sales of alcohol not under this license or the Package Store Shipping endorsement.
INT-2. Collect Alaska Excise Tax for Internet Sales	In addition to maintaining current collection of excise tax on sales from in-state wineries, require all out-of-state holders of a Winery Direct Shipment license to pay the same excise tax on Alaska orders.
INT-3. Board Approval of Common Carriers for Alcohol Delivery	Require all common carriers who deliver alcohol directly to consumers in Alaska to be approved by the ABC Board.
Local Option Communities	
LO-1. Repeal Local Option #4 <i>Withdrawn for Further Discussion</i>	Repeal AS 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 <i>Withdrawn for Further Discussion</i>	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 <i>Withdrawn for Further Discussion</i>	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 <i>Withdrawn for Further Discussion</i>	Increase the mandatory minimum penalty for bootlegging at the Misdemeanor level defined in 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 <i>Included in SB 76</i>	Clarify that possession of homebrew ingredients and/or equipment with intent to produce alcohol is illegal in all local option communities.
Additional Recommendations (2017)	
N-1. Define Qualifications for Alaska Manufacturing Licenses	Require in Brewery, Winery, and Distillery Manufacturer licenses that at least 80 percent of alcohol products for sale were made on the Alaska licensed premises.

N-2. Change Sample and Sales Volumes for Certain Products	Cider under 8.5% ABV follows per-ounce volume limits for beer; sake and mead follows volume limits for wine.
N-3. Expand Package Store Shipping Order Options	Allow orders under a Package Store Shipping endorsement to be received in formats other than a written order from a known customer.
N-4. Pub License Alternating Premises	Allow a university with a Pub license to designate a second licensed premises, operated during mutually exclusive hours.
N-5. Make Licenses Transferrable to a New Owner	Allow most license types to be transferred to a new owner, except Winery Direct Shipment License; retain any existing restrictions on licenses for transfer of location.
N-6. Improve the License, Endorsement and Permit Application Process	Apply several technical changes to statutes for applications for a license, endorsement or permit.
N-7. Allow Relocation of a Package Store from Borough to City	Amend AS 04.11.400(k) to allow transfers of both BDL and Package Store licenses from a borough to a city within the borough.
N-8. Allow Business Activities on Licensed Premises During Off Hours	Retain required closing hours (5:00 to 8:00 a.m.) for service and sales of alcohol to consumers, but allow other non-serving business activities on the premises.
N-9. Licensee Liability for Overservice by Employees	Apply the same administrative penalty and mitigating circumstances proposed in Recommendation UAD-2 for violations of AS 04.16.030.
N-10. Allow Minors on Some Licensed Premises for Employment or Travel	Allow limited employment of minors by Wholesalers, Common Carriers, and Outdoor Recreation Lodges; clarify that minors are allowed at certain businesses.
N-11. Repeal Alcohol Sales Restriction on Election Day	Repeal outdated statute prohibiting sales of alcohol during federal, state and local elections.
N-12. Transition Provisions for Existing Licensees	Define process for current licensees of certain types to be converted to equivalent license(s) in the new system.

ALCOHOL LICENSES, PERMITS AND TRADE PRACTICES

The Licensing Committee reviewed the statutes related to alcohol licensing (Chapter 04.11), as well as accompanying regulations regarding licensing (3 AAC 304, Articles 2, 3 and 4). The committee took a comprehensive approach to reviewing individual license types, seeking to create a rational system of licensing of alcohol businesses in order to achieve the following goals:

- Balance preserving and promoting a fair business climate for Alaska businesses with protecting public health and safety;
- Retain the framework of the three-tier system of alcohol regulation, while considering changes to these rules that have other economic, social or regulatory benefits; and
- Make Title 4 a clear and consistent framework for use by licensees, the ABC Board and enforcement personnel.

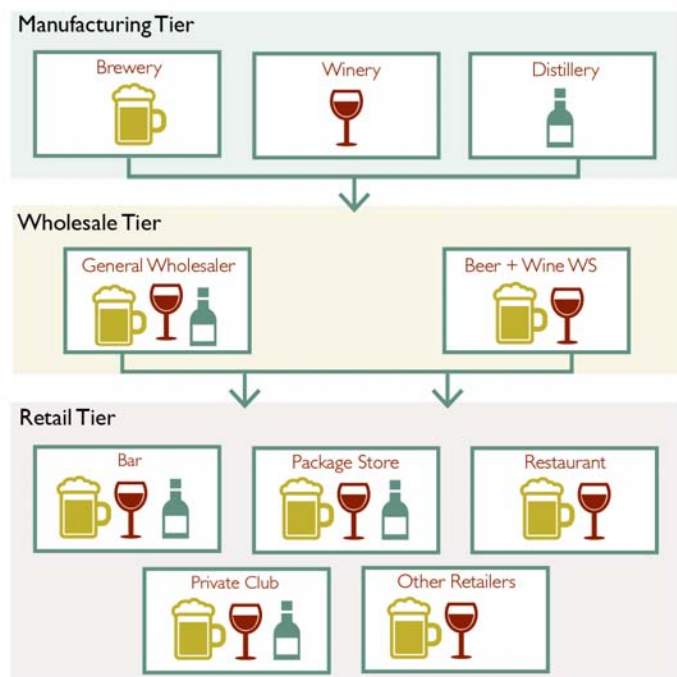
The most significant change proposed to the licensing system is the use of endorsements, a system in which a business applies for an endorsement on their current alcohol license which allows them to expand their licensed premises or conduct additional activities not allowed in the base license itself. This system is compatible with current license types while reducing the need to create new license types to suit specific situations, which affects current business investments as well as the density of outlets for alcohol. In addition to the specific endorsements proposed to meet today's needs, the endorsement concept can be employed in the future to include new business concepts not covered in these recommendations.



ENDORSEMENTS
Expanded activities and/or
premises to fit business model

ABOUT THE THREE TIER SYSTEM

The alcohol industry, unlike most other industries in the U.S., is regulated by a system in state laws that separates the supply chain among unaffiliated companies to prevent formation of monopolies over alcohol manufacturing and sales. Known as the three-tier system, some form of these laws were adopted by each state following the end of Prohibition in 1933, and continue to exist in various forms today. The graphic at right illustrates how each tier performs a distinct function in the market. In a pure application of the three-tier system, manufacturers are only allowed to sell their products to wholesalers, who sell to retailers, who then sell alcohol to consumers.



The three-tier system is codified in state law by prohibiting financial interest in multiple tiers simultaneously, restricting which tiers can sell to which customers, and other laws. The industry has evolved over recent decades, however, and the emergence of craft production, brewpubs, and tasting rooms have challenged the three-tier system as manufacturers have begun participating in the retail sector directly. Businesses in each tier have different interests at stake when considering whether and how to strengthen or loosen the three-tier system, and these conflicting interests were at the heart of many committee discussions and subsequent work with stakeholders. The Title 4 Review recommendations attempt to find middle ground between these interests, as well as preserving key components consistent with the law's original intent to prevent monopolies.

RECOMMENDATIONS

The recommendations are inter-related and intended to work effectively as a whole to improve the structure overall. Each proposal below should be considered in the context of the other proposals, as well as what is not recommended for change in the statutes.

Recommendation F-1. Adjust License Fees to Reflect Current ABC Budgetary Needs |

Update license fees according to the relative privileges and administrative costs of each, and collect sufficient revenue to cover the ABC Board's required activities, recommended in RB-3: Revise ABC Board Budget to Adequately Fund Necessary Activities.

INTENT OF PROPOSED CHANGES

This recommendation is the result of several discussions that each committee had about the ABC Board budget, and the fiscal impacts that the other recommendations may have. While the Role of the ABC Board Committee primarily addressed expenditures (enforcement, education and other activities of the ABC Board), the Licensing Committee focused on the revenues of the Board, which determines its projected annual budget.

As a state board supported by the staff of the Alcohol and Marijuana Control Office, the ABC Board's annual budget is prepared by the Director and is not to exceed the estimated revenue that the Board collects through fees for license applications, renewals and other administrative fees each year (AS 04.11.590). The biennial license fees have generally not been increased since the statutes were originally enacted in 1980. Although the number of licenses has increased along with growth in population, the amounts are set in statute and have not kept up with inflation or increasing administrative costs. As a receipts-funded agency, this constrains the Board's ability to conduct its mandated education and enforcement activities. Some of the recommendations in this proposal may also require additional resources, primarily staff FTEs, to implement (see Recommendation RB-1).

The committee reviewed current license and permit fees, as well as the application, renewal, transfer, permit and administrative fees set in regulation. Using information from the ABC Board's budget, the committee estimated the current total revenue available to the Board from these fees. As a comparison exercise, the committee also projected that if fees had been tied to inflation between 1980 and 2017, they would now be almost triple the current amounts (a factor of 2.95). See Table 2 in the Appendix for a list of current and proposed license fees, as well as comparison to inflation.

Based on the following assumptions about the resources needed to fund the Board's activities and the relative administrative and enforcement costs of all license types, the committee developed a proposed fee structure by license tier and individual license type. Assumptions include:

- Some license types require more enforcement than others, and those with a great deal of interaction with the public (retail licenses) require more enforcement and compliance activities on the part of agency staff.
- New license applications and transfers have much higher administrative costs than renewals and most fees, particularly staff time to process the applications and conduct due diligence required by statute. These fees are set in regulation; the Board should consider increasing fees for new applications and transfers, relative to the fees collected for renewals.
- The proposed license fees, due with each license's biennial renewal, reflect the fact that although some licenses (particularly those considered seasonal) may have limited operations, the administrative costs for processing an application and ongoing enforcement costs are similar for full-year and part-year licenses. The group recommends eliminating the current allowance for seasonal licenses to pay only half of the license fee specified in statute.
- In addition to the costs of administering the license system, there are many other education and enforcement costs related to alcohol regulation: investigating unlicensed establishments and illegal alcohol sales, enforcing local option laws, and consulting with local law enforcement on cases. Fees should be more equitably borne by all licensees to cover these other costs. These activities are important to public health, public safety and (particularly when dealing with unlicensed establishments) protecting the investments of businesses that do follow the laws and regulations.

The proposed license fee increases will not only benefit the ABC Board by increasing receipts which form the basis of their budget, but also local governments who have their own law enforcement, who currently receive matching funds based on license fees collected from businesses operating within their jurisdiction (AS 04.11.610). The opportunity for increased revenue to local governments also underscores the importance of increasing accountability of how those funds are spent, as detailed in Recommendation RB-1.

The committee also considered the process of reviewing fees: without a mechanism for regular updates to license fees, the gap between revenue and cost will grow again in the future. The recommendation is to keep all license fees in statute and include statutory language requiring periodic review of license fees by the ABC Board not less than every ten years, or during alternate cycles of the agency's five-year sunset review. The committee does not recommend tying fee increases to inflation, but to consider the effect of rising costs on the agency's budget over time.

The committee strongly advises that this recommendation be accompanied by, and not enacted without, requiring the ABC Board to adopt a plan regarding the activities and programs it will conduct with this increased revenue, and that the Director prepare a draft budget based on the parameters provided through this review process. AMCO staff indicated that the primary increase in expense would be staff resources to complete additional compliance and education activities. One idea discussed is to hire Level 1 or 2 investigators to complete routine compliance checks: in recent years, compliance has been completed by Level 3 and 4 investigators, whose experience would be better applied to complex investigations.

2017 Update: AMCO now oversees two sets of licenses for alcohol and marijuana establishments, operating with revenue from and expenses for administration and enforcement for both types. There are currently many fewer marijuana licenses in Alaska, but these licenses are renewed annually, with a license fee ranging from \$1,000 to \$5,000, depending on the license type.

Recommendation 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 from statute.

INTENT OF PROPOSED CHANGES

The committee identified two license types within the Manufacturing tier that can be converted to other license types and addressed other recommended changes. There are three basic categories of alcoholic beverages that can be legally manufactured: brewed beverages, including beer, malt beverages and sake; wine, including cider, mead and other products made from fruit, and distilled spirits. This recommendation is primarily aimed at simplifying and reducing the number of license types, while retaining distinctions among the three product types, consistent with other federal and state laws. To differentiate between this license and the retail operations outlined in Recommendation M-2, the licenses would be renamed as Manufacturing licenses (Brewery Manufacturing, Winery Manufacturing, Distillery Manufacturing). The other two manufacturing licenses, Bottling Works and Brewpub, would be converted into one of these three license types. However, in order to remove Brewpub, other changes need to be made to statute (see M-2, M-3 and R-7) to provide an equivalent framework for the privileges current Brewpub licensees have.

IMPLICATIONS TO CONSIDER

- Provide a mechanism to convert current Bottling Works and Brewpub licensees into the new corresponding license types, and ensure that Brewpubs' retail operations are not in conflict with the changes to AS 04.11.450 Prohibited Financial Interest (see Recommendation M-3).

Recommendation M-2. Manufacturer Retail License + Manufacturer Sampling Endorsement | Add-on retail licenses specifically for manufacturers to allow limited onsite consumption and offsite sales, and a separate endorsement for free samples.

INTENT OF PROPOSED CHANGES

A strict interpretation of the three-tier system does not allow manufacturers to engage in any retail operations, but it is now common in American craft production to include retail components for on- or offsite consumption. Alaska currently allows some of these activities for each product type, but the two available options are limited: a Brewpub licensee may also hold a Beverage Dispensary or Restaurant license and operate as a retailer while producing their own beer, but have an annual production limit on beer made under that license. Other manufacturers are currently not allowed to hold retail licenses, and Breweries and Distilleries have restrictions on their retail operations: limited hours, limits on daily sales per customer, no live entertainment, and no bar seating.

Recommendations M-2 and M-3 propose to allow manufacturers to have clearly-defined access to retail licenses. The first proposal (M-2) would create three license types that correspond with the three Manufacturer licenses; a licensee would only be eligible for an add-on license if the licensee first holds the corresponding license to manufacture that product. The terms for onsite and offsite sales are comparable to what is currently allowed for Breweries and Distilleries, including restrictions on hours and entertainment. The retail add-on license would allow the licensee to:

- Sell limited quantities for onsite consumption, proportional to the current statutory limits: 36 oz. of beer or cider, 18 oz. of wine, mead or sake, 3 oz. of distilled spirits. Onsite operations have all of the restrictions currently in the Brewery license (no seats at a fixed bar, no live

entertainment, limited hours of operation).¹ Like all retail licenses, these would be subject to server education (AS 04.21.025) and signage (AS 04.21.065) requirements.

- Sell limited quantities to individuals for offsite consumption, proportional to the alcohol content of the product and following current industry standard units of measurement for containers of the different product types: 5.167 gal of beer (one-sixth barrel keg), 9L (twelve 750 mL bottles, or one case) of wine; 3.75L (five 750 mL bottles) of distilled spirits.

The retail add-on license would relocate some activities currently in manufacturers' licenses, making the three Manufacturer license types solely for production. The base Manufacturer license would only allow sales to other licensees and out-of-state entities. If a licensee obtains a Manufacturer Sampling Endorsement, they can provide free samples of their products at their licensed premises for production. The endorsement would give manufacturers the opportunity to provide small samples of their product to consumers without investing in a retail license, while ensuring that service of alcohol to the public is regulated consistently. Daily per-person sample limits (12 oz. beer, 6 oz. wine or 1.5 oz. distilled spirits), advertising restrictions, and server education requirements are consistent with the proposed Package Store Sampling Endorsement (see Recommendation R-3).

The (add-on) Manufacturer Retail license would, unlike Manufacturer licenses, be subject to statutory population limits for the same jurisdiction in which the base license is located, and would be higher than other license types: one license per every 9,000 population or part of population (see Recommendations P-1 and P-3 for more about population limits). Maintaining the population limit reflects the public health principle of limiting the number of retail outlets that provide public access to alcohol, particularly in small communities with few allowed retail licenses. Additionally, each production licensee would only be eligible for one Manufacturer Retail license, which must be co-located with or physically adjacent to their production premises. However, as a separate license, a Manufacturer Retail license would be subject to its own application and review process, and the retail license could be suspended or revoked independently from the base license if retail operations are consistently in violation of the law.

Because Manufacturer Retail licenses would have a high population limit, and retail activities are currently allowed for anyone who holds a Brewery, Winery or Distillery license, the recommendation also includes a provision for current Manufacturer licensees to apply for or be converted to both a Manufacturing and a Retail license, even where the population limits would not otherwise allow it. This ensures that businesses that began operation under the current laws are not negatively impacted, while bringing current licensees into the new system and not having two sets of rules.

2017 Update: Since this recommendation was originally made, stakeholders have developed additional recommendations regarding manufacturers' participation in the retail tier. The most significant change is a limit on any future manufacturers (who do not currently hold or who are not in the process of applying for a Brewery, Winery or Distillery license) who sell products to the public through a Manufacturer Retail license. This issue has been difficult to resolve, and illustrates the essential difference in the interests of manufacturers and retailers: under the traditional three tier system, manufacturers are not in direct competition with retailers, but current Title 4 and changes in other states have increased manufacturers' opportunity to serve the public and bypass the existing distribution system through wholesalers and retailers. The solution reached is recognized to be imperfect, but attempts to find common ground between these two groups.

¹ See the Additional Recommendations section for more about adjustments to volume limits for products such as cider.

In current law, a Brewery, Winery or Distillery may operate a retail “tasting room” to sell products to customers for onsite or offsite consumption. As noted above, there are per-customer, per-day quantity limits for each license, but no overall restriction on sales. This recommendation allows any existing licensees, or those in process of applying for a license under the current rules, to continue this practice with no limits beyond those in the original recommendation. For future licensees, the Manufacturer Retail license would require that no more than 20 percent of the business’s total production volume can be sold directly to the public under that license. A new licensee would be exempt from this requirement for their first eight years of operation (four renewal periods), and subject to it for all future years of operation. The group recognizes that new businesses substantially benefit from direct sales, as they work to perfect their products and build brand recognition, and most manufacturers who plan to scale up operations are interested in building relationships with wholesalers and retailers to distribute their products to larger markets. However, the group also raised concerns about preserving the three-tier system by limiting the degree to which manufacturers can sell to the public through a tasting room. This limit on sales would be reviewed by the Board during each license renewal, measured over the previous two years.

IMPLICATIONS TO CONSIDER

- The Board may need to adopt regulations to define how this sales requirement will be monitored, and protocols to address a licensee who does not meet this requirement.

Recommendation M-3. Small Manufacturers Allowed to Hold Retail Licenses | Remove the restriction in Prohibited Financial Interest (AS 04.11.450), which does not allow manufacturers to hold retail licenses, for smaller manufacturers.

INTENT OF PROPOSED CHANGES

As noted in M-2, a strict interpretation of the three-tier system does not allow manufacturers to engage in retail operations, but it is increasingly common for craft manufacturers operate tasting rooms, restaurants and other direct-to-consumer sales. Prohibited Financial Interest (AS 04.11.450) prohibits a Manufacturer licensee from holding a Beverage Dispensary License or Restaurant Eating Place License, and a current Brewery or Distillery license only allows limited onsite consumption with an earlier closing time than most retail establishments. The exception currently in statute is the Brewpub license, which allows a BDL licensee or REPL licensee to manufacture and sell a limited volume of product annually.

Recommendation M-3 removes the restriction on Brewery, Winery and Distillery Manufacturer licensees holding and operating any retail license in Title 4, including a Beverage Dispensary, Restaurant or Eating Place, Package Store, or Golf Course. Manufacturing licensees would have the same privileges and requirements as other owners of a given license type; for example, any holder of a Restaurant or Eating Place is subject to a minimum ratio of food sales to alcohol sales on the restaurant’s licensed premises (see Recommendation R-4). This proposal would not change the manufacturer’s existing ability to distribute to other licensees in and out of the state, a privilege granted to the production license.

It should be noted that this recommendation may be viewed as facilitating creation of “tied houses,” where a manufacturer dominates a market by operating retail outlets that feature exclusively or primarily their own products (see Recommendation W-2 for more on trade practices). To mitigate

this threat, the recommendation limits the ability to hold retail licenses to relatively small manufacturers, whose operations under the production license and any affiliated production operations produce less than the following annual volume thresholds: 300,000 barrels of beer, or 50,000 9-liter case equivalents of wine or spirits. Manufacturers whose total production volume exceeds these thresholds would not be eligible to hold any retail license, including the Manufacturer Retail license.

This change complements removing the Brewpub license (Recommendation M-1); it allows the same activities while remaining under the population limits existing retail licenses. This provision gives manufacturers more flexibility in retail operations, while requiring that they participate in the same market for retail licenses as other prospective business owners. Manufacturers could choose to produce their products with no retail operations, or apply for a Manufacturer Retail license and conduct activities that are currently allowed under existing licenses, and/or acquire a retail license.

2017 Update: The original recommendation was narrower in scope, and would have allowed a Brewery or Winery to own a Restaurant or Eating Place license, if one was available in their community according to the population limits; Distilleries were excluded because the only product they make, distilled spirits, are not allowed to be served under a Restaurant or Eating Place License. In 2016 the stakeholder group recommended broadening this to all manufacturer licenses and all Retail licenses, but limiting this privilege to manufacturers below an annual production threshold.

Recommendation W-1. Adjust Scaling of Wholesale License Fees and Simplify Supplier Reporting | Adjust fees for both Wholesale licenses (both defined 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.

INTENT OF PROPOSED CHANGES

Wholesalers have the most complicated fee structure of any license type, and are subject to multiple reporting requirements. There are two separate license types in the Wholesale license statute (AS 04.11.160): General Wholesale and Malt Beverage and Wine Wholesale, with separate schedules of annual and biennial fees that are scaled according to the size of the licensee's business (dollar sales transacted) and the number of suppliers whose brands they carry. Wholesale licensees pay multiple fees: a biennial license fee; for General Wholesale licenses, a flat fee for each distribution point; and two other fees scaled by sales volume and number of suppliers. In addition, Wholesale licensees must provide written letters of certification from all suppliers every two years to verify that they are the primary suppliers in Alaska for each product, another feature within the three-tier system that prevents wholesalers from having competing relationships with a supplier of a particular brand.

This recommendation is to simplify Wholesale licenses by defining them as two separate types in statute, retain a fee structure that is fair to all distributors but places less financial burden on small distributors, and retain the primary source supplier system while reducing administrative burden by streamlining reporting requirements. The recommendation halves the fees owed for each tier of business transacted, except that the maximum allowable fee remains the same at the highest tier (over \$1 million in annual sales), detailed in the table below. Because large wholesalers conduct business well above \$1 million annually and smaller operators rarely approach this number, it is a reasonable threshold to maintain without disclosing confidential business information.

General Wholesale: Proposed Fee Scale			Limited Wholesale: Proposed Fee Scale		
Annual Business (\$ sales)	Current	Proposed	Annual Business (\$ sales)	Current	Proposed
up to \$100k	\$0	\$0	up to \$20k	\$0	\$0
>\$100k to \$150k	\$500	\$250	>\$20k to \$50k	\$300	\$150
>\$150k to \$200k	\$1,000	\$500	>\$50k to \$100k	\$1,000	\$500
>\$200k to \$250k	\$1,500	\$750	>\$100k to \$150k	\$1,500	\$750
>\$250k to \$300k	\$2,000	\$1,000	>\$150k to \$200k	\$2,000	\$1,000
>\$300k to \$350k	\$2,500	\$1,250	>\$200k to \$400k	\$4,000	\$2,000
>\$350k to \$400k	\$3,000	\$1,500	>\$400k to \$600k	\$6,000	\$3,000
>\$400k to \$500k	\$4,000	\$2,000	>\$600k to \$800k	\$8,000	\$4,000
>\$500k to \$600k	\$5,000	\$2,500	over \$800k	\$10,000	\$10,000
>\$600k to \$700k	\$6,000	\$3,000			
>\$700k to \$800k	\$7,000	\$3,500			
>\$800k to \$1M	\$9,000	\$4,500			
over \$1M	\$10,000	\$10,000			

In addition, the committee discussed the primary source reporting requirement, in which all Wholesale licensees must provide a current supplier list for all the products they sell, and submit any changes in supplier or product line to the ABC Board within 10 days. This provision creates an administrative burden on both licensees and AMCO staff, who do not proactively review the lists to identify any conflicting supplier relationships. The recommendation includes a simpler requirement that Wholesale licensees must, on application or renewal of the license, sign an affidavit that they are the duly appointed wholesaler for all product lines they represent. Because wholesalers have a business interest in ensuring that they have exclusive relationships with suppliers, any issue of a non-exclusive supplier would likely be discovered and brought to the Board's attention by the licensees. The Board would still be able to request a supplier list from the Wholesale licensee when a question arises, according to the licensee's signed affidavit. Because there is an annual fee calculated based on the licensee's number of suppliers, the licensee's affidavit would simply require self-reporting on the affidavit using the range already in current statute (1 to 25, 26 to 50, 51 to 75 and over 75 suppliers).

Recommendation 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.

INTENT OF PROPOSED CHANGES

This recommendation addresses provisions currently missing in state statutes regarding the relationships between manufacturers, wholesalers and retailers. While the Federal Alcohol Administration Act and the Alcohol Tax and Trade Bureau (TTB) have regulations defining prohibited trade practices for wine and distilled spirits, beer and malt beverages are exempted, leaving the matter to states. Alaska is one of a few states that do not address trade practices in state law.

The provisions are decades old and address problems that were rampant in the alcohol industry prior to Prohibition. In 1933, a report published by the Rockefeller Foundation, *Toward Liquor Control* (commonly known as the "Rockefeller Report"), provided guidance to policymakers as they

set up regulatory systems for alcohol after repeal of Prohibition. Issues identified included a variety of practices that hampered retailers' ability to make independent purchasing decisions about which products to sell, and could potentially lead to monopolies. The intent of the provisions is to prevent undue influence over, or coercion of, retailers by manufacturers or wholesalers, which may prevent a retailer from purchasing products from or conducting business with whomever they choose.

This recommendation would enact a state law similar to the Federal Alcohol Administration Act (Title 27, Chapter 8, Subchapter 1, Section 205), which defines “unfair competition and unlawful practices” within relationships between suppliers/wholesalers and retailers as the following acts:

- **Commercial Bribery** | providing a bribe, promotional bonuses or other compensation by a distributor to a retailer in exchange for an exclusive relationship or an agreement not to purchase other products.
- **Tied House** | part ownership by a manufacturer in a retail establishment, which provides leverage for selling some products and not others.
- **Exclusive Outlet** | requiring a retailer to have an exclusive relationship with a distributor.
- **Consignment Sales** | conditional sales of products that may involve the trade of other products in exchange to circumvent normal distribution relationships.

While these practices are illegal under federal law for wine and distilled spirits and are therefore already illegal in Alaska, there are no locally-based federal enforcement staff tasked with monitoring Alaska licensees, and lack of equivalent state laws prevents the ABC Board and other law enforcement from being able to act if there are violations. To avoid excessive detail in statute, the recommendation assumes that most of the specific language about these practices would be adopted in regulation, with broad enabling language in statute defining and prohibiting the practices listed above. The regulations should adhere as closely as possible to current federal regulations, and should not be more restrictive than current federal law. Proposed penalties for engaging in prohibited trade practices would be defined as administrative penalties in regulation.

Recommendation P-1. Population Limits Apply to Retail Licenses Only | Apply population limitations on the number of licenses only to retail-tier licenses (excluding tourism-focused licenses and Winery Direct Shipment License).

INTENT OF PROPOSED CHANGES

There is a shared interest among community members, public health advocates and license holders to regulate the number of available licenses; to find the best mechanisms to regulate the public's access to alcohol in Alaska's communities; and to protect the investment value of existing licenses. The number of allowed liquor licenses of each type is determined by each community or borough's qualifying population (AS 04.11.400).² The goal of the system is to control public access to alcohol and mitigate the social costs of alcohol consumption in a community by setting limits on the density of retail outlets. The effect of the system, because some retail licenses are in high demand and most

² Per current regulation (3 AAC 304.905), the ABC Board determines population for purposes of AS 04.11.400 by using current population estimates published by DCCED and subtracting the following populations: prison inmates, university students and military personnel who are not considered local residents and are therefore counted in another community.

licenses are transferrable to a new owner or location, is to create a limited supply of licenses, which sets the secondary market value for some license types for a sale and transfer among businesses.³

The current system allows a much higher density of outlets than the statute intended. Statute allows each community or borough to have one REPL and one Club per 1,500 people, and one per 3,000 people for each of the other 14 license types under population limits, rounding up to one additional license for any remainder population (e.g., a community of 3,001 is allowed two licenses, not one). Population limits currently apply to most licenses, other than those designed to primarily serve tourists and others specifically exempted in the statute. Most communities are also over-licensed with some types of retail establishments because existing licensees were not impacted when limitations were codified (for example, Seward is only allotted one BDL and one Package Store license, but currently has 7 BDLs and 4 Package Stores). When a new license type is added in statute, another set of new licenses is created under the population limits, increasing total alcohol outlet density in communities as these new licenses are issued.

Local Government	Net Pop. (2016)	Allowed per Type (1:3000)	Allowed per Type (1:1500)	Actual Lic., Pop. Limits (2017)	Actual Lic., w/ Tourism (2017)	Density: License per Pop.
Anchorage	264,485	89	177	470	511	1 per 518
Bristol Bay Borough	942	1	1	10	15	1 per 63
Cordova	2,286	1	2	13	16	1 per 143
Denali Borough	1,576	1	2	15	41	1 per 38
Anderson	209	1	1	3	3	1 per 70
Fairbanks North Star Borough	60,895	21	41	84	94	1 per 648
Fairbanks, City	24,603	9	17	91	97	1 per 254
Haines Borough	2,537	1	2	12	15	1 per 169
Juneau, City and Borough	32,132	11	22	77	87	1 per 369
Kenai Peninsula Borough	37,174	13	25	74	96	1 per 387
Homer	5,099	2	4	25	40	1 per 127
Kachemak	460	1	1	4	4	1 per 115
Kenai	6,758	3	5	20	26	1 per 260
Seldovia	233	1	1	3	5	1 per 47
Seward	2,243	1	2	15	26	1 per 86
Soldotna	4,311	2	3	15	22	1 per 196
Ketchikan Gateway Borough	5,092	2	4	9	12	1 per 424
Ketchikan City	8,243	3	6	38	44	1 per 187
Kodiak Island Borough	6,756	3	5	9	12	1 per 563
Kodiak City	6,329	3	5	21	23	1 per 275
Matanuska Susitna Borough	81,770	28	55	113	135	1 per 606
Houston	1,965	1	2	3	4	1 per 491
Palmer	5,449	2	4	17	19	1 per 287
Wasilla	6,906	3	5	28	42	1 per 164

³ Most people unfamiliar with the alcohol licensing system are aware that many licenses are expensive: a license may be sold for more than \$300,000 in a community with a limited number of, and high demand for, that license type. This “cost” is separate from the license fees, which is paid directly to the state during the application process. The transaction takes place between two private parties, and the purchase is technically not the license itself, but participation with the seller in the license transfer process.

Local Government	Net Pop. (2016)	Allowed per Type (1:3000)	Allowed per Type (1:1500)	Actual Lic., Pop. Limits (2017)	Actual Lic., w/ Tourism (2017)	Density: License per Pop.
Nome	3,606	2	3	16	21	1 per 172
Sitka, City and Borough	9,005	4	7	24	28	1 per 322
Skagway	1,031	1	1	12	26	1 per 40
Wrangell, City and Borough	2,406	1	2	10	11	1 per 219
Valdez	3,932	2	3	12	17	1 per 231

The recommendation is to make population limits apply only to Retail licenses, not to Manufacturing (production) and Wholesale licenses. Manufacturer (Brewery, Winery, Distillery) Retail licenses would be further limited to one license per 9,000 people: each type is specific to a product category, but collectively the three are essentially one new license type. Tourism-serving licenses (BDL Tourism, Seasonal REPL Tourism, Destination Resort, Outdoor Recreation Lodge) would remain exempt. Considered jointly with the other recommendations, the intended effect is to control the maximum number of retail licenses that can be issued per community by limiting the number of license types. Because new license types are often created with a very specific purpose or to allow an activity not currently allowed in other licenses, the recommendation is also closely connected with the creation of endorsements to existing licenses: endorsements are not limited by population, but allow additional premises or activities to occur under an existing license (see Recommendation R-7 for more about endorsements).

Recommendation P-2. ABC Board Advisory Opinion on Proposed Legislation | Enable the ABC Board to issue a formal advisory opinion on any proposed legislation regarding Title 4.

INTENT OF PROPOSED CHANGES

Like all statutes, any change to Title 4 is brought to the Legislature for consideration. Legislators and their staff typically call upon AMCO staff for information about the impacts of proposed legislation, and staff is available during committee hearings to answer questions. However, deliberation is not currently conducted by the Board to consider an official opinion on a bill, even when the statutory change may have significant impacts on other portions of Title 4 or on the overall alcohol regulation system. The ABC Board is not currently prohibited by law from issuing opinions on proposed legislation related to Title 4, but despite being the regulatory body charged with implementing and enforcing these laws, in practice the Board has no formal advisory role in proposed changes.

The committee recognizes that statutes must not constrain the Legislature's decision-making process, but contends that the process of statutory change for Title 4 would benefit from the formal input and perspective of the ABC Board. This recommendation would formally empower, but not require, the ABC Board to issue an advisory opinion on active legislation for proposed changes to Title 4, as a benefit to legislators as they deliberate on a proposed change to Title 4. The Board could issue an opinion on its own, or seek stakeholders' input to inform its opinion on the matter.

Recommendation P-3. Retire Public Convenience Process; New Options for REPLs |
Convert all existing Public Convenience license holders to standard, fully transferrable REPLs; repeal Public Convenience; allow qualifying municipalities to petition the ABC Board to increase the number of REPLs available in their community.

INTENT OF PROPOSED CHANGES

As noted in Recommendation P-1, most but not all license types are subject to the statutory population limits. A Public Convenience license is one exception: the current Population Limitations statute (AS 04.11.400(e),(g)) allows an REPL to be located 18 or more miles outside of a city's limits, or in a city with a signed petition of surrounding residents. Public Convenience Licenses are not transferrable, and therefore have no market value. There are currently 68 Public Convenience licenses, 18 of which are seasonal.⁴ Most are located in small communities that have otherwise been issued the maximum number of allowed REPLs, primarily in Homer (12), Seward (9), Wasilla (8), Skagway (4), and Soldotna (3). To date, most Public Convenience licensees have not been associated with significant enforcement problems. However, they do undermine the intent of the population limits, and from the public health perspective, increases the number of alcohol retail access points in a community. From the industry perspective, unlimited license types create a loophole to obtain a retail license at a lower cost, since they do not need to be purchased on the secondary market like regular REPLs would be. The process for obtaining a license is also an administrative challenge for the ABC Board, which is not equipped to determine whether petition signatures are valid, and no clear guidance what constitutes "public convenience," which has no definition in statute.

2017 Update: The ABC Board and all stakeholders recognize the demand for and economic value of providing establishments to serve Alaska's many visitor populations, including tourists, seasonal workers, and in-state travelers who live in one place and work, shop or vacation in another place. This was likely the original intent of allowing more REPLs to be issued than the population limits allowed, but has in practice resulted in some communities being significantly over-licensed, and an entire class of restaurant licenses that are not transferrable to another location. The original recommendation of this group was to place a moratorium on issuing any new Public Convenience license, and to grant existing licensees only one future transfer of ownership, with the intent of phasing out these licenses and encouraging businesses to acquire a regular REPL or, for seasonal businesses, a Seasonal REPL Tourism license. This proposal was controversial and ultimately withdrawn by the stakeholder group, since it would have negatively impacted existing businesses.

The stakeholder group worked closely with staff from two local governments, Soldotna and Wasilla, to craft a recommendation for some communities to request additional REPLs within their boundaries, as well as to review and re-affirm support for creation of a seasonal restaurant license for small communities with large annual visitor populations. In addition to recommending that Public Convenience be repealed, the stakeholder group developed new options to meet demand:

Existing Recommendation: Seasonal Restaurant or Eating Place Tourism license. A Seasonal Restaurant or Eating Place (REP) Tourism license functions as a restaurant, but would be seasonal, operating up to six months of each calendar year. The season would not necessarily be contiguous, to accommodate businesses with summer and winter visitors. The intended operating period would be stated on a new application and with each renewal application to the Board.

⁴ This number continues to increase: at the time of this report's original publication in 2015, there were 57 Public Convenience.

The number of Seasonal REP Tourism licenses would be subject to their own population limit, which the ABC Board would establish in regulation using a formula for each local government. Licenses would only be available within local governments with a permanent resident population below 20,000 and who receives more than 4,000 visitors annually. To determine the number allowed per community, the Board would rely on available visitor numbers published by DCCED, which can provide visitor counts for communities who receive above 4,000 visitors annually. One formula for consideration uses a rolling multi-year average of visitor counts and the current number of year-round residents, divided by the length of the season (up to six months), to establish the average number of people present in the community on a given peak-season month:

$$\text{5-year average of annual visitors} / \text{months in season} = \text{Average monthly visitor population}$$

This estimate of typical visitor population would be added to the number of permanent residents, and divided by the existing REPL population limit (1:1,500) to yield the number of available licenses:

$$(\text{Residents} + \text{average monthly visitors}) / 1,500 = \text{Available Seasonal REP Tourism licenses}$$

Seasonal REP Tourism licenses would be transferrable to a new owner and have the same privileges and restrictions as standard REPLs, including holding any permits for which REPLs qualify. This recommendation is intended to be implemented concurrently with repeal of Public Convenience, to ensure that prospective businesses in smaller communities have available options immediately.

2017 Recommendation: Convert existing Public Convenience licenses to regular REPLs.

Rather than penalizing existing businesses with Public Convenience licenses, all existing licensees would be converted to full REPLs, including the ability to transfer to a new location. This results in no net change in the number of licenses in the community, but provides existing businesses more privileges than their license affords now. All but one Public Convenience license is a restaurant; the only Public Convenience Beverage Dispensary, the Double Musky, would be converted to a BDL. Applicants who have submitted a completed Public Convenience application by the conversion date would be converted to an REPL application, with a provision that their application cannot be denied on the basis of population limits, to ensure their application is reviewed on its original merits.

2017 Recommendation: Local Government Petition for Additional REPLs. As noted above, most Public Convenience licenses have been issued in a few communities whose permanent resident population is relatively small, but who serve a larger population including surrounding residents, visitors, tourists and/or seasonal workers. Some of these cities approached the stakeholder group to request more input on the number of licenses issued in their communities, pointing out that they have the law enforcement, zoning, and health resources to properly manage any negative effects of increased alcohol outlets in their community. This new recommendation, intended to achieve the same goals as the Public Convenience license but maintain limits consistent with existing limits for REPLs, allows qualifying local governments with no available restaurant licenses to petition the ABC Board to issue a specific number of available REPLs, without changing the underlying population limits. The petition would not be associated with a particular application, but would increase the number available in that community to be issued to new businesses.

Title 29, Alaska's statutes concerning the creation and powers of local governments, provides for multiple levels of government with specified powers designated to each. First class cities, home rule municipalities, and boroughs are granted the ability to maintain local law enforcement and create

and enforce land use regulations, including zoning to control which uses are allowed in which areas. These jurisdictions would qualify to initiate a petition the ABC Board for more REPLs, provided that there are none available in the community at the time of petition. The petition would include a specific number of additional licenses, with the following information and rationale:

- Documentation of additional population that visits the community annually for purposes of recreation, shopping, tourism, employment or other reasons. This may include permanent residents outside the city but who regularly visit the city, such as the populations of the Kenai Peninsula and Mat-Su Boroughs who regularly travel to cities such as Soldotna, Homer, Wasilla and Palmer for shopping, employment or other reasons.

Unlike the population limits established in AS 04.11.400(a), these numbers are not required to be mutually exclusive with other jurisdictions, including other cities who petition for licenses; it would be extremely difficult to track whether two or more petition application have claimed the same portion of the population. This may result in double- or triple-counting current Alaska residents for purposes of issuing alcohol licenses, but recognizes that individuals patronize businesses in many different communities if they travel around the region or state.

- Using the population number identified above, a calculation demonstrating that the number of additional REPLs requested in the petition does not exceed the ratio of 1:1,500 non-resident population, in keeping with the intent of the population limits. Expressed as a fraction, the number of additional licenses (numerator) could not exceed the additional population claimed (denominator) divided by 1,500.
- The number of existing REPLs issued within their boundaries and, if the additional population includes residents in surrounding areas, the number of existing REPLs issued in that area, as information for the Board about the number of existing licenses in the area.

Upon receiving a petition, the ABC Board would consider the request as an agenda item in a meeting, and determine whether the request is reasonable and in the public interest to grant additional licenses. The Board could issue a number of available licenses, not to exceed the original amount requested, or deny the request and provide a rationale for denial and any recommendations for how to strengthen the merits of the petition. If the city's petition is successful, the community would not be eligible to submit another petition for ten years; if the petition is denied, the city may re-petition with the same or a modified request.

This recommendation, like the Seasonal REP Tourism license, would be implemented concurrently with repeal of Public Convenience, to provide communities the opportunity to seek additional restaurant licenses to serve their non-resident population. Public Convenience licenses can also be issued in areas outside of any local government, which is less common but usually serves a specific visitor population. For a license application in an unincorporated area, the ABC Board will continue to use the existing petition procedure outlined in AS 04.11.460(b), which applies to any license type. Verifying petitions is still difficult to administer, but provides a process for obtaining a license in a rural area with few permanent residents and no local government structure.

Recommendation 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 Multiple Fixed Counter endorsement, Hotel/Motel endorsement, and Large Resort endorsement.

INTENT OF PROPOSED CHANGES

Beverage Dispensary licenses (BDLs) have a specific definition of licensed premises. “Licensed premises” is defined as one room with a fixed counter or service bar. Additional rooms require Duplicate licenses, even in the same building, and Duplicates are not intended to cover additional non-contiguous buildings. Exceptions include hotels, motels and similar businesses, which have been permitted Duplicate licenses within “convenient walking distance” of the original license. Resorts and large hotels with multiple establishments on a multi-acre property have also been granted Duplicates. Lack of clarity regarding who qualifies for Duplicate licenses has made it difficult for the ABC Board to consistently determine when a Duplicate is appropriate. Single establishments with multiple bar rooms have Duplicates, while other establishments, not meeting the definition of hotel or motel, have used Duplicates to create what appear to be two different establishments that are physically adjacent and under the same business entity. Others have applied to use a Duplicate for a second establishment on the same property, citing the example of existing resorts or hotels that have been granted Duplicates as precedent.

This recommendation presents a logical framework for authorizing multi-room licensed premises for BDLs, and clarifies when this option is available to the holder of a BDL. The proposals below allow businesses some flexibility in operation decisions, but restrict the situations in which more than a single room would be allowed. The definition of BDL licensed premises remains the same: a single room with a fixed, plumbed counter or bar.

- *Multiple Fixed Counter:* if the additional counter(s) in the same building, in establishments held by the same owner, and separated either by unlicensed or contiguous licensed premises.
- *Hotel/Motel:* if the licensee is a hotel, motel, resort or similar business catering to the travelling public, allowing Secondary Location(s) in the same building or readily accessible within convenient walking distance.
- *Large Resort:* the licensee offers overnight guest accommodations, outdoor recreation activities, and has a resort with 10 or more contiguous acres, allowing Secondary Location(s) within the resort boundaries, operated by the same business entity.

Multiple Fixed Counter Endorsement | Rather than using Duplicates to extend licensed premises, a Multiple Fixed Counter (MFC) endorsement would be available to licensees for use within a single building and which own or lease all of the portions of the premises they propose to include. Only one MFC endorsement would be required per license; to obtain more than one additional counter, a licensee would pay the initial per-counter fee of \$1,250 and indicate the rooms on the premises diagram. The licensed premises could, for example, be designated as an entire building with one or more additional counters, or a single large room with multiple counters. All licensed premises would be under a single license, subject to existing rules regarding renewal.

Hotel/Motel Endorsement | If the licensee is a hotel, motel, resort or similar business catering to the travelling public, they can obtain a Hotel/Motel endorsement, allowing them to hold a Multiple

Fixed Counter endorsement at one or more secondary locations, either in the same building or readily accessible within convenient walking distance. Several provisions pertaining only to these types of businesses would be removed from the BDL statute and placed into this endorsement, with no changes to allowable activities: stocking guest rooms, designating banquet rooms or gathering places as licensed premises, and requiring a key system for storing beverages.

Large Resort Endorsement | Because the design and operation of a large resort property or hotel is materially different from a BDL with multiple rooms, the recommendation also creates a Large Resort endorsement. It is conceptually similar to the Hotel/Motel endorsement and includes all of the same provisions, except that the licensee is exempt from the requirement that the secondary location(s) be within walking distance. The Large Resort endorsement would not need to “layer” with a Hotel/Motel endorsement; a licensee would seek one or the other. A Large Resort would be defined as 10 or more acres, with outdoor recreational activities and overnight lodging for the public. All licensed premises must be operated within resort boundaries and under the licensee’s control (i.e., not leased to or operated by a separate entity).

2017 Update: The original recommendation for current Duplicate licenses was for the Board to review which Duplicate premises do not conform to the definition above, including the requirement that they be under the same roof, as well as the same building, and those not conforming with the definition would lose the Duplicate after four renewal periods, or eight years. While the stakeholder group believed that most current Duplicates would fit the proposed definition, there were likely some establishments that would no longer qualify. Rather than negatively impacting current licensees, the new recommendation is to simply convert existing Duplicate licenses to Multiple Fixed Counter endorsements, and either a Hotel/Motel or Large Resort endorsement as appropriate, without regard to whether they meet the new definition.

Recommendation R-2. Rename Recreational Site License to Sporting License | Ensure the definition of “recreation” is consistently applied to Recreational Site license holders; make sunset provision to review and retire licenses that do not meet this definition (AS 04.11.210).

INTENT OF PROPOSED CHANGES

There are currently two primary licenses that allow onsite consumption of alcohol by the public: the BDL and the REPL, both of which are in high demand due to the population limitations on retail licenses. There are other license types that allow onsite beer and wine consumption in specific circumstances, including: Recreational Site, Golf Course, (University) Pub, and Theater. The ABC Board has received several applications for other license types, particularly the Recreational Site, with many attempts to stretch the definition of “recreation” beyond the statutory definition of a sporting event. The statute was broadly interpreted by a 2011 memo issued by the Attorney General’s office, which outlines “event based” and “activity based” forms of recreation, all of which would be eligible for a Recreational Site license. While the “event based” definition conforms to AS 04.11.210, the “activity based” definition reads as follows: “An activity-based recreational site license would allow the licensee to sell beer and wine during times the recreational activity is taking place. An activity-based recreational site license includes the following recreational activities, or other recreational activities having substantially similar characteristics: baseball, softball, football, soccer, running, skiing, skating, dog sledding, curling, gymnastics, zip lines, volleyball, climbing, hiking, fitness activities, golf, bowling, billiards, hiking, rafting, and boating.”

A number of licenses have been issued under this broadened definition, many of which would not qualify if evaluated under the statutory definition. It is difficult for the ABC Board to make fair and consistent decisions and to comply with the intent and letter of statute, as these other license types become more available or broadly interpreted. Current licensees voice concerns that the value of BDLs are diminished by expansion of other license types. Public health and community advocates want to avoid proliferation of licenses that increases the density of retail outlets beyond statutory intent. Given the limited number of most license types available, pressure on the Board is likely to continue in the future to creatively adapt this and other license types.

After reviewing the existing statute and the proposed regulation to define “recreational activities” issued by the ABC Board for review in August 2013, the committee determined that the issue is not in statute, but with how it has been interpreted. This recommendation finds that the statute itself is sufficient and should be interpreted more narrowly when future license applications are reviewed, and the policy memo that broadens the intent of the statute should be nullified because it does not appear to have statutory basis. To clarify the intended use of the license, its name should be changed to “Sporting Event” to better reflect its intended use at specific recreational events, not necessarily all recreational activities.

The remaining issue with returning to a strict statutory interpretation is whether existing licenses granted under the broader definition of recreational activities should be revoked, as they were issued without proper legal basis. The committee weighed existing licensees’ investments against the benefits of closing this growing loophole, and recommends that the ABC Board not renew licenses that do not fit the strict statutory definition, with a sunset period to allow non-conforming licensees to depreciate their investment in the license or alter their operations to comply with that definition. The ABC Board would issue a memo explaining that all previously Recreational Site licenses will be reviewed by staff, with a recommendation to the Board about which meet the statutory definition of a Sporting Event license. Licensees would be given four renewal periods (eight years) to submit an appeal to the ABC Board explaining how they comply with statute or which operational changes they would make (e.g. instituting a seasonal league) to comply. At the end of this period, licenses that are no longer in compliance would not be renewed.

Recommendation R-3. Package Store Onsite Product Sampling Endorsement | Create a separate endorsement to allow onsite sampling at Package Stores (AS 04.11.150).

INTENT OF PROPOSED CHANGES

Currently Brewpubs, Wineries and Breweries allow onsite sampling of products and limited sales to individuals for offsite consumption (Recommendation M-2). Package Store licenses prohibit onsite consumption of alcohol, but the “growler bar provision” (subdividing containers) was added in regulation to allow package stores to re-package beer by filling a growler (a 32-oz. or 64-oz. container filled at the tap) or splitting up multi-unit cases for consumption offsite. Some industry members on the committee advocated to allow onsite sampling at Package Stores. Alaska has not allowed this activity in the past, but many other states allow sampling at liquor stores where consumption is not otherwise allowed, provided by an employee or a third party such as a distributor for the product being sampled.

The recommendation would create a new Package Store Sampling endorsement, which would allow a Package Store licensee to provide a limited number of free samples of alcoholic beverages on

premises. The *total* allowable amount of equivalent-alcohol samples served are consistent with the Manufacturer Sampling endorsement recommendations: no more than 12 oz. of beer, 6 oz. of wine or 1.5 oz. of distilled spirits, or a combination not to exceed the equivalent of any of the three. Determining how to track the total product(s) sampled per customer would be left to the licensee, who would present their plan to the ABC Board. Sampling activities would be allowed during package stores' hours of operation.

Because this proposal substantially expands the type of activities allowed at a Package Store, the committee discussed ways to mitigate the potential neighborhood impacts of free sampling at establishments with no previous onsite consumption. The endorsement would be reviewed periodically as part of the license or renewal application process, and on the local level, communities could use a Conditional Use process to mitigate potential impacts. Further limitations on sampling activities could be placed on the business through a conditional use permit, e.g. allowing sampling only for four consecutive hours, or not before noon. To address concerns that free sampling would be promoted as public advertising for free alcohol, the recommendation includes codifying restrictions in statute and in regulation regarding public advertising. Public advertising of sampling would not be permitted, including exterior-facing signs on the premises, ads in newspapers and circulars, TV and radio ads, or handheld signs on street corners. Direct advertising to existing customers would be permitted, including opt-in mailing lists, social media directed toward a network of followers, and banners or flyers inside the store that are not visible from the exterior.

Recommendation R-4. Clarify Restaurant Food Requirement | Clearly define in statute the ratio of food to alcohol sales for restaurants: food sales receipts must be greater than those of alcohol sales receipts for onsite consumption.

INTENT OF PROPOSED CHANGES

The committee discussed the ratio of food to alcohol required as part of a Restaurant Eating Place license to define a bona fide restaurant, as well as examples of businesses that may or may not meet the statutory requirement and are acting more like a BDL. The committee identified an ambiguity in statute: the statute requires “that gross receipts from the sale of food upon the licensed premises constitute no less than 50 percent of the gross receipts of the licensed premises for each of the two preceding calendar years.” As defined, non-food sales could include alcohol, merchandise or other receipts. Restaurants would be required to report that they met this requirement each year.

The committee discussed the food requirement particularly in the context of a Manufacturer holding an REPL and whether they could successfully meet this requirement. This recommendation would change the statute language to indicate a more specific calculation: gross receipts of food sales measured against gross receipts of alcohol sold for on-premises consumption. This ratio excludes any other sales, such as merchandise or alcohol sales for off-premises consumption.

Recommendation R-5. Golf Course License and Endorsement | Retain the current Golf Course license (AS 04.11.115); create a Golf Course endorsement for a BDL; 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.

The portion of this recommendation regarding minors was enacted in 2016 in SB 165.

INTENT OF PROPOSED CHANGES

In reviewing the Golf Course license and Restaurant endorsement (previously Restaurant Designation Permit), the committee discovered that, unlike a provision for restaurants, there is no provision permitting minors to work on or play on a golf course if it has been designated a licensed premises. While the general intent of Title 4 is to not allow minors to be on licensed premises and not serve alcohol as part of employment, the lack of a provision regarding minors on licensed golf course premises appeared to be an oversight and, to the committee's knowledge, is not currently being enforced because it would prevent minors from participating in any golfing activities. The holder of a Golf Course license is also currently prohibited from holding a BDL per AS 04.11.115. Although beer and wine may be sold throughout the licensed property (clubhouse and course), there has been pressure in the past to allow all alcohol products to be served under this license.

This recommendation would retain the Golf Course license as a beer and wine license, and create a Golf Course endorsement with the same privileges that can be added to a BDL; the essential feature of each is that alcohol can be served on all or part of the outdoor course. The applicant and the Board would determine which portion(s) of the course are within the boundaries of the licensed premises. Without the endorsement, the BDL could be operated at a golf course but its premises would be limited to a one-room clubhouse; with the endorsement, part or all of the course itself could be considered licensed premises.

2017 Update: Rather than including provision for youth employment or playing golf in an individual endorsement, this language was included in changes to Minor on Licensed Premises (AS 04.16.049) and enacted in SB 165. The language allows a person under 21 but of working age to be employed on the licensed premises, or to engage in golf activities (playing, caddying), as long as they do not have access to purchase, consume or serve alcohol while on the premises. A new recommendation also includes similar provisions for some other license types (see Recommendation N-10).

Recommendation R-6. Theater License | Move the Theater license into statute and out of regulation 3 AAC 304.695 as an add-on license to a BDL or REPL.

INTENT OF PROPOSED CHANGES

The Theater license, which functions as a license type, is not in statute but in regulation (3 AAC 304.695). It must be held by a BDL or REPL licensee, and allows the holder to provide concessions at a theater at its own establishment or a site separate from its own licensed premises. In practice, it functions as a year-round concessions contract between a licensee and otherwise non-licensed premises, and allows the site to serve alcohol beyond the current limit in Anchorage on the number of events allowable at a single venue in a calendar year. This recommendation would codify this license type in statute. Despite the current way in which the one license is used, the regulation does not mandate an exclusive contract with a single venue. The committee identified this perception of exclusivity as being a point of frustration for other retail license holders, but is not currently (and is not recommended to be) required in statute or regulation.

Recommendations R-7A through M. Endorsements and Permits | Create a clear statutory framework for endorsements and Permits, with all types defined in statute and with clear and consistent requirements.

INTENT OF PROPOSED CHANGES

As noted throughout the recommendations, the current system of licenses, designations and permits is inconsistent or convoluted, in part because several new license types have been added to address a variety of special situations. Many of these situations have to do with the extent of the licensed premises and which activities are or are not allowed on the premises: for example, a Bowling Alley is treated with a special provision within the BDL statute, while a Golf Course and a Recreational Site are two separate license types. Furthermore, there are permits or licenses that are defined only in regulation, and other activities that are defined within specific license statutes but are more functionally similar to endorsements. Finally, the system of permits, particularly Catering Permits, has been difficult to monitor and implement both at the state and local level.

The committee's general approach to this topic was to examine which provisions should be a distinct license defined in statute, which provisions allowed licensees to conduct certain activities and/or expand the boundaries of their premises (suggesting the need for an endorsement), and which provisions were truly temporary permits that should be defined in statute, not regulation. Recommendations R-7A through M are based the following guidelines for each category:

- *License* defines activities allowed daily on a specific location or premises.
- *License Type* is a general category of license activities based on the three-tier system: Manufacturer, Wholesale, and Retail.
- *Endorsement* expands the boundaries of the licensed premises to suit activities associated with specific businesses: bowling alley, golf course, Theater, etc.; it is similar to the Restaurant designation in current statute.
- *Permit* allows time-limited catering and serving activities on other premises, and allows eligible non-profit organizations to host fundraising events.

Some endorsements have already been defined in previous recommendations because they apply directly that issue. The remaining recommended endorsements and permits below are proposed to be inserted as a series of statutes. In most cases, the language describing the permit or endorsement has not changed, only relocated. In other cases, language may be expanded or narrowed to clarify the intended use of the endorsement or permit, and to which license(s) it applies.

Licensees currently holding Duplicate license(s) would be eligible to obtain a Multiple Fixed Counter Endorsement, or if their operations do not conform to the guidelines below, will have a grandfather period of eight years to obtain another license.

R-7A | Bowling Alley Endorsement | The committee proposes removing this provision from the BDL statute (AS 04.11.090), and making it available to BDL holders. Because there was previously no definition for a bowling alley, it is recommended that “bowling alley” be defined in regulation. This endorsement application requires information about the specific premises and hours during which alcohol is to be served, when minors are not allowed in the area.

R-7B | Package Store Shipping Endorsement | This recommendation would relocate AS 04.11.150(g-h) into a new statute as an endorsement on a Package Store license. The endorsement would not require renewal, but is non-transferrable. This endorsement would allow a Package Store to ship in compliance with Local Option laws.

R-7C | Package Store Delivery Endorsement | This recommendation would relocate AS 04.11.150(i-j) into a new statute as an endorsement on a Package Store license, allowing delivery of alcohol for planned social events such as wedding receptions, and not general home delivery.

R-7D | Package Store Re-Packaging Endorsement | This recommendation would relocate this portion of regulation 3 AAC 304.365 into a new statute, and available to a Package Store license.

Manufacturer Sampling Endorsement | See Recommendation M-2.

Multiple Fixed Counter Endorsement | See Recommendation R-1.

Hotel/Motel Endorsement | See Recommendation R-1.

Large Resort Endorsement | See Recommendation R-1.

Package Store Sampling Endorsement | See Recommendation R-3.

2017 Update to Endorsements: The original recommendation proposed that endorsements would require a one-time application, have fees scaled according to how much administrative burden they would create for the ABC Board, and that only some (Manufacturer Sampling and Package Store Sampling) would require renewal and community approval separate from the application process. The group discussed the practicality of having a second review process, as well as the pros and cons of allowing endorsements to be transferred with licenses. The new recommendation is that all endorsements be renewable on the same cycle as the underlying license, and that the application and review process be combined with the license itself. All endorsements have a biennial fee of \$200, with the MFC endorsement also having a one-time \$1,250 counter fee. Endorsements would not be subject to population limits, but transferrable only with the underlying license and to another person, not by location, because the endorsement was issued for a specific physical premises.

2017 Update, Brewery Repackaging Endorsement: The original recommendations did not address an activity currently allowed for Brewpub licensees: the ability to sell beer produced by the licensee, in growlers or in individual packages, on the licensed premises of their BDL or REPL. This endorsement would allow the holder of a Brewery license that also owns a BDL or REPL to repackage their own beer and sell to individuals for offsite consumption. The endorsement can only be used at the retail premises, not at the manufacturing premises, and would only be available to current Brewpub licensees who sell products for offsite consumption at their retail premises.

R-7E | Permits | This recommendation provides that all permits be clearly defined in statute, with language that limits alcohol service permits to those defined in Title 4. This provision would eliminate the creation of new permits in regulation, which has resulted in inconsistent rules and confusion over which permits are available to whom. A new statute would define a permit as time-limited, list the types of permits, and provide general rules that apply to all permits. After reviewing the cost associated with issuing, inspecting and enforcing permits, the recommended fee for permits should be at least \$50 per day, except Inventory Resale (previously the Retail Stock Sale to sell inventory within 90 days after closing a business) and Conditional Contractor (functionally a license type for certain federal and military installations). AMCO staff indicated that multi-day events tend to have a higher administrative cost because they are larger scale and have more elaborate operations or multiple serving areas. Because enforcement costs for permits will likely rise over time with inflation, the language in statute should read “no less than \$50 per day,” which gives the Board discretion to increase permit fees in regulation in the future to better reflect the cost of enforcement.

Provisions that should apply to all permit types:

- Remove the provision that permits must be surrendered back to the ABC Board after their use (AS 04.11.230 and AS 04.11.240). This requirement dates to the practice of issuing permits in hardcopy only, with the only copy given to the permit holder to be returned to the ABC Board following the event. Staff verified that permits are recorded electronically.
- To clarify the application process, this recommendation includes outlining in the general Permits statute the procedure for applying for a permit: obtaining approval from local law enforcement and other local authorities to conduct the event, submitting to the ABC Board an annotated diagram to indicate the licensed premises for the permitted activity (including entrances, exits, serving points and other considerations), and other procedural issues duplicated across individual permits.

R-7F | Beverage Dispensary Caterer's Permit (AS 04.11.230; 3 AAC 304.685) | The current statute is named “Caterer’s Permit” and has a fee of \$50 per event. Because it is specific to BDL holders, it is recommended that the name be changed to Beverage Dispensary Caterer’s Permit. Originally defined in statute to be used for events such as conventions, sporting events and picnics, it includes a provision that allows its use for “social gatherings,” which has been very broadly applied. This catering permit is intended for events with a specific attraction or celebrating a holiday. Other events that are not open to the public (e.g., family gatherings, weddings, company parties) do not require a catering permit under most circumstances. The recommendation is to remove “social gathering” and add more examples of allowed events (e.g. street fairs, concerts, festivals).

R-7G | Restaurant Caterer's Dining Permit (3 AAC 304.680) | This permit, currently in regulation, allows an REPL or a Golf Course to provide beer and wine for a dinner event. This recommendation would change the phrase “banquet or dinner event” to “meal or dining event” to broaden the allowable events to a brunch or lunch event. This permit requires food service at the event and is subject to the REPL’s food sales requirement.

R-7H | Club Caterer's Permit (3 AAC 304.690) | This recommendation would move the permit from regulation into statute. It would not change the activities of this permit, but the fee would be changed from \$100 per permit to \$50 per day like all permits. Currently organizations are limited to three events per calendar year.

R-7I | Nonprofit Event Permit (AS 04.11.240) | This recommendation would rename the “Special Event Permit,” as the name causes considerable confusion and the permit it is only available to nonprofit service, civic or professional organizations for fundraising events or membership meetings. This permit does not allow service of distilled spirits, only beer and wine. This permit is already in statute (AS 04.11.240) and allows an organization up to five events per calendar year.

R-7J | Art Exhibit Permit (3 AAC 304.697) | Currently, an organization can pay \$50 per event or a total of \$100 for a year-round permit of up to 12 events. This recommendation would move the permit to statute, change the fee to \$50 per day, and remove the full-year fee option.

R-7K | Alcoholic Beverage Auction Permit (3 AAC 304.699) | This recommendation would rename this permit from “Wine Auction Permit,” move the permit from regulation into statute, and allow any alcoholic beverage to be auctioned, not just wine. This permit would only be available to non-profit organizations and could be used with or without another event permit, at the licensed

premises of a BDL, REPL, Club, or at non-licensed premises. It would not allow onsite consumption of the products being auctioned.

R-7L | Inventory Resale Permit (Retail Stock Sale License, AS 04.11.200) | The existing license is effectively a 90-day permit for a Package Store to sell its inventory to any other licensee prior to closing its operation, an activity normally prohibited under the three-tier system. Because this is a special situation and requires a Package Store license to qualify, this recommendation would change this license to a permit. The fee would remain at \$100 for the entire 90-day period, rather than \$50 per day like other permits.

R-7M | Tasting Event Permit | In place of using a BDL Caterer's Permit for industry-sponsored tasting events, a new permit would be created that allows some other license types to host a specific event promoting their products, in place of a broad interpretation of "social gathering" (see Recommendation R-7F). The proposed permit would enable a BDL to partner with a Package Store or Manufacturer Retail licensee to produce a tasting event in order to promote the products of that package store, brewery, winery or distillery. The permit, while held by a BDL, would be limited based on the partnering license, with up to six events per Package Store or Manufacturer Retail license per calendar year, and would be required to be held in the same geographic area in which the partnering license is issued (for example, a Fairbanks BDL may partner with an Anchorage Brewery, but must hold the event in Anchorage). The recommendation would allow the event to be held on- or off-premises of the partnering licensee, and the host would be limited to serving products currently produced or sold by that partnering licensee. The event must not be more than four hours, with no alcohol served after 9 p.m.; food would be required to be served with the alcoholic beverages. The host could charge attendees a flat fee for admission, but not per drink, as wine tasting events and nonprofit fundraisers currently allow. The permit applicant would be required to hold a BDL and demonstrate that they are working with a partnering licensee who holds a Manufacturer Retail license or Package Store license. A company that holds one or more qualifying partner licenses would be allowed six events per individual license location, not per company.

ROLE AND FUNCTIONS OF THE ABC BOARD AND STAFF

The Role of the ABC Board committee reviewed the statutes related to the powers, duties and structure of the ABC Board itself, as well as the Board's larger role in promoting responsible alcohol industry operations, responsible consumption of alcohol and enforcement of the law. These laws include Chapter 6 of Title 4 (AS 04.06.010 to 04.06.110).

RECOMMENDATIONS

Recommendation RB-1. Strengthen Reporting Requirements for Municipal Enforcement |

Include in statutory requirements that municipalities submit quarterly reports on Title 4 enforcement activities to the ABC Board.

INTENT OF PROPOSED CHANGES

The ABC Board depends upon municipal police and peace officers, VPSOs and Alaska State Troopers to enforce Title 4, as well as AMCO's investigator staff. Where local municipalities have their own police departments, the State provides 100 percent matching funds back to the local police department (commonly but erroneously referred to as a "refund") from the General Fund, equal to the license fees collected for licenses within that jurisdiction. In FY 2016, the Department of Revenue reported that 36 municipalities received these license fees, a total of \$938,675.⁵

The funds are nominally required to be used for Title 4 enforcement activities; municipalities are required by regulation 3 AAC 304.610 to provide quarterly reports on enforcement activities, but this has been difficult to enforce. Furthermore, the ABC Board currently has no formal mechanism to engage in planning efforts with local governments on education and enforcement, beyond coordinating on individual investigations. Police departments are required by regulation to report on their activities, but receive no guidelines about what enforcement is most appropriate or how best to allocate the funds. In the past municipalities respond with varying levels of detail, or not at all. If a law enforcement agency does not report any violations, it is unclear if violations did not occur, if preventative measures were successful, or if no action was taken. Lack of clarity about what is required and why reduces the efficacy of this reporting requirement, and means that there is no accountability for how the matching funds are spent by local governments.

In 2014, Shirley Coté, a former director of the ABC Board, issued a white paper recommending:

1. Current specific reporting requirements in code (3 AAC 304.610) be written into statute (AS 04.11.610);
2. Municipal police department reporting be standardized into a uniform format; and
3. The ABC Board work with local municipalities to develop enforcement, education and prevention plans to make best use of the refunds.

In addition to reporting on enforcement activities as recommended in the white paper, this recommendation requires that municipalities document in their reports their intended use of these funds for education and prevention activities, including developing action plans in collaboration

⁵ Department of Revenue, Tax Division, *Revenue Sources Book, Fall 2016*. Accessed February 2017.

with AMCO staff. Including these activities in statute, rather than regulation, emphasizes that they are required, which will result in more consistent reporting from local governments. The reporting format should allow police departments to comment on education and prevention activities, and would not mandate that the funds be specifically spent on enforcement of Title 4. The requirements are not intended to be so onerous as to place a burden on local enforcement agencies, so the recommendation assumes some flexibility in the format of reporting (for example, an electronic system as well as a hardcopy template as two options).

IMPLICATIONS TO CONSIDER

- The resources necessary for AMCO to work with municipalities to develop enforcement, prevention and education plans should be considered; see Recommendation RB-3 regarding the new AMCO staff designated as a Local Government Specialist.
- Prior to releasing a template, requirements or other guidelines for reporting, AMCO should solicit input from and discuss with the local law enforcement community, to ensure that it is an effective and feasible structure for all.

Recommendation RB-2. Community Analysis of Local Option Order Database | Allow data about direct shipment orders of alcohol in local option communities to be made publicly available, aggregated at the region or community level, for analysis and community planning.

INTENT OF PROPOSED CHANGES

Currently, all written orders for alcoholic beverages (direct shipments to consumers through Package Stores) to local option communities in the state must be recorded in a database maintained by the ABC Board (AS 04.06.095; 3 AAC 304.645).⁶ This database is used to track individual orders to local option communities that allow alcohol importation, allow coordination among individual stores receiving orders, and to enforce a monthly maximum purchase of alcoholic beverages allowed per individual by these communities. The data are confidential, currently available only to the ABC Board, law enforcement officers, probation or parole officers, and to participating package store licensees and their employees to determine whether they can legally fill an order. Individuals may request reports of their own data, but the information is not available to the public, and all information in the database is purged annually. The database is generally seen as a successful tool, and the data it contains is potentially valuable information for communities to understand the flow of alcohol in their region. Because all data is required to be confidential, not having any access to the information—at even an aggregated level—is a missed opportunity.

This recommendation adjusts the statute language to preserve the confidentiality of individual purchasers and Package Stores, while allowing aggregated data (at the community, ZIP code or region level) to be published on a regular basis and available to researchers, communities, and others interested in Local Option issues. This change would require a longer archival period for the data than the current annual purge, but would only make aggregated data available to the general public.

⁶ The Local Option order database was created in 2007, in response to the problem of individuals in local option communities making several maximum orders at different package stores and thereby exceeding the monthly limit per individual and circumventing the intent of the statutes. Package stores enter the amount of alcohol ordered by an individual to ensure that the order will not exceed the monthly maximum per individual that is set by state law. Effectively, the database plays the monitoring role of a community distribution center in communities without a central distribution facility.

Recommendation RB-3. Revise ABC Board Budget to Adequately Fund Necessary Activities | Determine the funding level to carry out the ABC Board’s mission and core functions, and adjust revenue (fee amounts) accordingly to meet that need, outlined in Recommendation F-1.

INTENT OF PROPOSED CHANGES

The ABC Board’s budget includes costs associated with Board meetings, enforcement activities, education activities for applicant and current licensees, and administrative functions associated with licensing and other Title 4 provisions. The AMCO Director develops the budget based on the estimated amount of fees collected through applications, renewals of licenses, and other fees. No fines or penalties are included in this budget, regardless of how they are collected, but are deposited directly in the state’s General Fund—this ensures that there is no incentive for AMCO to conduct more enforcement activities or issue more penalties as a means of raising agency revenue.

The committee compared the Board’s current budget to the costs of its current duties and additional work needed to implement the recommended changes to Title 4, and determined that the budget need to increase to better perform the Board’s enforcement duties and to engage in more education and outreach (Recommendation RB-4). Additional activities proposed by the committee include:

- Increased funding for research and data evaluation to measure program performance;
- Additional Board outreach and education activities (e.g., additional Board meetings or listening sessions in rural communities, beyond the current requirement of holding at least one meeting in the four state judicial districts);
- Additional investigation and enforcement resources for addressing issues such as non-licensed establishments and sales;
- Investigator I and II staff tasked with performing routine compliance checks, which would allow Investigator III and IV staff to focus on complex investigations; and
- Additional staff resources to investigate and prosecute local option cases.

The committee strongly advises that this recommendation be accompanied by a requirement for the AMCO Director to produce a detailed plan for the increased expenditures. This recommendation is offered in conjunction with the Licensing Committee’s Recommendation F-1, which proposes a scheme for increasing revenue increase through adjustments to current license and permit fees (see F-1 and Table 2 in the Appendix for recommended changes to license fees). Education conducted by AMCO staff should be adequately funded, including: informing licensees of changes to statute or regulation, providing licensees and industry employees with information regarding other related changes (e.g., the new Alaska driver’s license design implemented in 2014), and educating local governments and other partners on effective implementation of the law (Recommendation RB-4).

2017 Update: In FY 2017, AMCO secured an additional position, classified within DCCED as a Local Government Specialist, to oversee education and outreach to local governments and other constituencies who interact with Title 4 on a regular basis. This new position, filled in December 2016, would be tasked with implementing some of these proposed changes, particularly education.

The implementation of Ballot Measure 2 legalizing recreational marijuana has also placed considerable additional burden on AMCO staff, who were tasked with supporting the MCB to develop regulations in accordance with AS 17.38 and implementing a new licensing system. Changes to the agency’s budget overall should be considered in the context of new marijuana license fees, and the additional administrative burden of overseeing both sets of licenses.

Recommendation RB-4. ABC Board as Lead Agency for Alcohol Education Efforts |

Designate the ABC Board and AMCO as the lead agency in a multi-department, public-private sector education effort about responsible alcohol use and applicable laws.

INTENT OF PROPOSED CHANGES

The ABC Board is responsible for approving the alcohol server education courses provided by private entities (AS 04.21.025). Although the ABC Board does not have an explicit charge in statute to provide alcohol education, AMCO staff conduct training classes upon request to licensees and their agents and employees, law enforcement, university students and citizens. Among the Board's statutory powers defined in AS 04.06.090, the Board can undertake necessary activities to control and regulate alcohol production and sale, but the only activities specified include granting licenses, conducting enforcement, and notifying licensees of changes to Title 4 and associated regulations. ABC Board staff, industry members, local governments, enforcement agencies and other partners value the Board's role in educating stakeholders to better understand and comply with the law, particularly to prevent youth access to alcohol. In addition to the ABC Board efforts, there are many efforts through the Alaska Mental Health Trust Authority, the State of Alaska Department of Health and Social Services, and other partners on alcohol education, but there is no formal coordination of these public and private sector education efforts.

The committee discussed the importance of education to various audiences (licensees, employee servers, law enforcement, youth, local governments, and the public) in promoting responsible use and sales of alcohol. This recommendation would designate the ABC Board as the lead agency in developing a comprehensive plan and budget for education about the responsible use of alcohol and following alcohol laws, in cooperation with other agencies and stakeholders. This effort would not replace existing programs such as the Alcohol Safety Action Program (ASAP) or the grants that fund substance abuse prevention through the Division of Behavioral Health, but provide a more formal role for the ABC Board to share information about Title 4 and associated regulations, on which they are subject matter experts and play a critical role.

The ABC Board is the primary agency with which licensees interact regarding Title 4 and other alcohol policy issues. Coordination between the ABC Board and other agencies focused on reducing financial and social costs of alcohol use would promote better communication about issues among all stakeholders. The existing relationship with the alcohol industry is ideal for communicating necessary information (e.g., changes in statute, regulation or policy) that affects business operations or requirements. Other education activities for the Board include educating the public through messaging campaigns about alcohol laws, particularly regarding furnishing minors; social host laws; open container laws; and when a catering permit is required. While local governments may produce educational materials on these topics, the ABC Board could produce materials such as a Frequently Asked Questions (FAQ) document or brochures to educate the general public about alcohol laws.

IMPLICATIONS TO CONSIDER

- Education and collaboration with partners in the public and private sector are not currently included in the ABC Board's mission, either in Title 4 or in the Governor's Budget documentation for the agency. The committee discussed, but did not make a specific language change recommendation, for including these functions explicitly in the Board's mission statement or its powers and duties.

- Assemble a plan and budget for educational efforts led by the ABC Board to address: target audiences (e.g., public, licensees, servers); identifying responsibility for implementing and evaluating program effectiveness of these educational activities; and key messages that the education activities should convey.

Recommendation 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.

This recommendation was implemented in 2016 in SB 165, with changes noted below.

INTENT OF PROPOSED CHANGES

The qualifications for ABC Board members are defined in AS 04.06.020, specifying that two members must be engaged in the industry; that no two members can be in the same line of business; that three members should represent the general public, one from a rural area; and that the public members or their immediate family cannot have a financial interest in the industry. While members of other sectors involved with alcohol regulation, particularly public health and public safety, have served on the Board in past years, there was no formal designation for these seats. The ABC Board is tasked with controlling alcohol because it has serious social costs in Alaska communities. Law enforcement and protection of public health are important aspects of the Board's mission, but had no designated representation on the Board unless a person with those qualifications is appointed. Members of Board, and the AMCO Director, are appointed by the Governor.

This recommendation retains the current number of Board members, but creates designated seats from within the five seats. Of the three existing public seats, one would become a seat for someone with a public health background, defined as an individual working within the last five years in the field whose charge is to promote wellness and prevent disease through research, evaluation, community-level health interventions, and other activities (a distinct field from medical and health care). Another seat would be designated for someone with a public safety background, defined as an individual charged with enforcing and upholding law, which may include police, Village Public Safety Officers (VPSOs), defense or prosecution attorneys, and others. The third public seat would remain a member of the general public who lives in a rural area, as currently defined in statute, and the other two seats would remain industry representatives.

Furthermore, the composition of the Board may be altered if the ABC Board Director, considered a non-voting member of the Board, has the same background as any sector listed above. If the Director, based on their profession or experience, could qualify for the public health, public safety or industry seat, the corresponding seat would become another public member: a Director with an industry background would mean one industry seat on the Board; a Director with a public health background would mean no designated seat for public health; and a Director with a public safety background would mean no designated seat for public safety. The Director is not a Board member, but the position affords the Director a great deal of influence over the Board's policies: the Director issues permits, issues temporary licenses, often drafts regulations for the Board to consider, and works with the Chair to develop meeting agendas.

The committee also discussed the current definition of financial interest, as non-industry members on the Board are restricted from having industry ties through their own or their immediately family's interests. This recommendation would define "financial interest" consistently with the relevant

definition in AS 04.11.450, which specifically defines the term as an ownership stake in a business holding an alcohol license.

2017 Update: This recommendation was enacted in SB 165, with two significant changes by the Legislature. First, the provisions regarding the Director’s experience were removed, with the rationale that no other state board or commission requires consideration of the agency staff’s qualifications, and this additional requirement would unreasonably restrict the power of the Governor to make appointments. Second, the designated seat for a public health representative was removed, instead retaining one seat for a public member. SB 165 states that no sitting members should be removed, but as individual members’ terms end, new appointments should be consistent with the new composition. The first of these new appointments occurred in February 2017 with the selection of Rex Leath Jr. as a public safety representative.

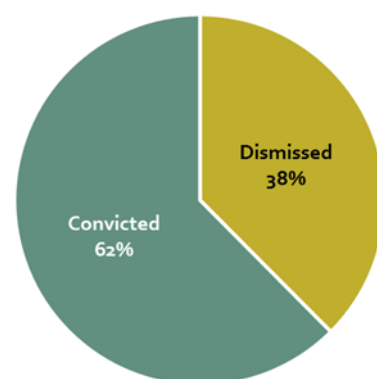
Following passage of Ballot Measure 2 in November 2014, Alaska legalized the recreational use of marijuana. In May 2015, HB 123 was signed, creating a new Marijuana Control Board (MCB) to oversee the licensing and regulations related to this new industry. Both boards are now supported by the staff of the Alcohol and Marijuana Control Office (AMCO), overseen by one Director. The composition of the MCB was based directly on the recommendation of this group for the ABC Board; the original bill made the same proposal regarding the Director’s experience, but this was also removed. The MCB now consists of one public safety member, one public health member, one rural member, one industry member, and one seat designated for either industry or the general public.

Recommendation RB-6. Revise Title 4 Penalties | Review penalties for all Title 4 sections; revise penalties to be more proportionate to the crime and more consistently enforced; reduce most current Class A Misdemeanor offenses to Minor Offenses.

INTENT OF PROPOSED CHANGES

This recommendation would revise penalties for Title 4 provisions, including reducing many of the current Class A Misdemeanors to Minor Offenses (violations with a set fine). These revised penalties continue to treat certain activities as serious offenses, such as selling without a license, or selling illegally in a Local Option area. Serious offenses are proposed to remain at the felony or misdemeanor level, as currently defined in statute. Most other activities would be treated as undesirable, but more likely to be deterred if the law is consistently enforced as Minor Offenses with a single fine, such as noncompliance with license requirements or failing to update an expired server education card. See Table 3 in the Appendix.

All Title 4 Charges, 2009-2013



Source: Alaska Court System, 2009-2013

With some exceptions, most criminal penalties for violations of Title 4 are currently Class A Misdemeanors, defined as the “default” penalty in AS 04.16.180(a). In the experience of those working in enforcement and prosecution of Title 4, as well as an examination of Alaska’s court data from the past five years, this penalty is perceived as being too high for many violations, resulting in inconsistent enforcement and prosecution of the offenses. Of the 21,000 cases related to Title 4 filed in the last five years, nearly 40 percent (37.8%) were dismissed, suggesting a lack of resources to prosecute and/or a disinterest in pursuing charges on the part of the State. If penalties are strict but

inconsistently enforced, they are not effective deterrents, and information about actual violations may not be reaching the ABC Board, who is ultimately tasked with overseeing all licensees and ensuring that they are operating responsibly.

Minor offense violations are less onerous to initiate into the court system. A law enforcement officer can issue a ticket to the individual, with options for them to pay the fine or attend a court hearing; if the offender does not attend a court hearing, the Court will simply require payment of a fine. Reducing the severity of most penalties in the statute, but making them easier to be applied when violations occur, is intended to increase the consistency of enforcement and address the concern of fines being treated by irresponsible operators as a cost of doing business.

By making the enforcement process more streamlined for law enforcement officers (who write the tickets) and the courts (who act on the cases), these changes are also intended to bring more cases and convictions before the ABC Board, who can then review the case and impose additional administrative sanctions as appropriate. This recommendation includes statutory language requiring the Court to provide the Board with notifications of all Title 4 convictions, not only those initiated by ABC Board investigative staff. Currently, those cases initiated by local law enforcement agencies do not always reach the Board, and staff are not equipped to seek out this information. Receiving more data about Title 4 violations will help the Board establish whether a licensee has a pattern of behavior that requires additional assistance and education to conduct business in a lawful manner, or if the licensee has disregarded the law because they believe it is more profitable to do so than to be a responsible operator, which requires punitive action. Additionally, to ensure that licensees are aware of violations by employees that occur on their premises, the ABC Board would be required to inform a licensee of any Title 4 violations by employees that occur on their premises. If an employee is charged with a violation and does not disclose this to the employer, the licensee may not have an opportunity to take corrective action before learning of the violation during their license renewal.

This recommendation would retain the current system of administrative sanctions in which the Board has discretion to act based on the facts of the case. Currently, administrative sanctions are based on precedent sanctions applied: the AMCO Director maintains a table of past sanctions applied and provides it as a reference when the Board considers sanctions for current violations. Based on precedents, there is now a general standard (e.g., a 45-day license suspension) but no formal structure to the administrative sanction(s) applied to individual cases. The Board is ultimately given the discretion to follow or disregard its own precedent and to focus on the circumstances of each case (AS 04.11.537). The committee also recommends that the Board consider a policy of increasing compliance checks or inspections upon conviction of a Title 4 violation, to follow up with the licensee and ensure that they have taken steps to correct the issue that caused a violation.

The group recognized the need to review penalties in Local Option areas: in many places in Title 4, penalties increase if the crime occurs in a Local Option area. As with the other Local Option recommendations, however, the group was ultimately reluctant to propose significant change without seeking input from these communities. The original intent appears to be to treat alcohol-related offenses more harshly in places that have restricted alcohol to some degree, but harsh penalties have had serious unintended consequences on individuals in rural communities. Local Option penalties should be reviewed, along with Local Option laws overall, in a future phase.

UNDERAGE DRINKING AND YOUTH ACCESS TO ALCOHOL

The Underage Drinking committee reviewed the statutes related to reducing and preventing underage consumption of alcohol. Because of the difficulties of effectively addressing underage drinking through law enforcement alone, the committee discussed Title 4 within the context of a multi-strategy approach that includes enforcement, education, prevention and changing social norms. This policy approach is informed by the following principles:

- Underage alcohol consumption is a significant public health and public safety concern.
- Local municipal strategies (aligned with state regulations) can be tailored to individual communities to address local needs (e.g., minor curfew, truancy laws, alternative courts).
- Evidence shows that a strong focus on efforts to decrease alcohol availability to underage individuals – both in social and retail settings – reduces youth alcohol use.
- No single strategy can create sustainable and significant community and population change.

These recommendations are supported by a state plan, *Alaska's Strategies to Prevent Underage Drinking*, which represents the work of several state agencies and other partners, including the Department of Health and Social Services, the Alcoholic Beverage Control Board, the Division of Juvenile Justice, the Alaska Native Justice Center, the University of Alaska Anchorage Justice Center, the Alaska Mental Health Trust Authority, and the Alaska Court System.

RECOMMENDATIONS

Recommendation 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.

INTENT OF PROPOSED CHANGES

As currently written, AS 04.16.052: Furnishing of Alcoholic Beverages to Persons Under the Age of 21 by Licensees, applies to licensees, their agents or employees. It is a Class A Misdemeanor with a penalty that may include fines and jail time, as well as potentially suspension or revocation of the license if the individual is convicted. As a misdemeanor, the penalty is perceived to be too severe and disproportionate to the offense to be effectively and consistently enforced. This recommendation reduces the penalty to a minor offense violation to ensure swifter and more consistent enforcement. The proposed change would reduce the penalty for a licensee, agent or employee of a licensee selling alcohol to an underage person from a misdemeanor to a violation with a fine range of \$250 to \$500. The range gives the judge or magistrate some discretion in adjusting the penalty for mitigating circumstances.

Research shows that effective deterrents must have a credible threat that a negative consequence will occur, and the threat must be perceived to be swift and certain for its effect to be maintained over time. This recommendation is considered a best practice by the Pacific Institute for Research and Evaluation, and is also included as a recommendation in the UAA Justice Center Report *Analysis of Strategies Designed to Reduce Sales of Alcohol and Tobacco to Underage Persons Preliminary Report* (2012).

Recommendation UAD-2. Sanctions to Employers for Employee Sales to Minors | Increase the consistency and certainty of sanctions to licensees for violations of AS 04.16.052.

INTENT OF PROPOSED CHANGES

As noted in Recommendation UAD-1, AS 04.16.052 applies to licensees, their agents or employees. This recommendation would require the ABC Board to issue an additional administrative sanction, a \$250 fine, against a licensee upon conviction of the licensee, agent or employee for violating AS 04.16.052. Administrative remedies are already available to the ABC Board, but existing statutes give the Board very broad discretion to set fines and suspend or revoke licenses, making it uncertain which, if any, penalties licensees can expect. The proposed penalty is defined as an administrative penalty because it would be issued by the Board, not the Court, and would not in itself be considered a conviction. It is possible that the license holder may receive both penalties, if he or she is the individual convicted under this statute, but most servers are employees, not the owner.

The fines are intended to be punitive for licensed businesses with a pattern of violations (greater than simply a cost of doing business), but not punitive to a generally well-managed licensed business with occasional violations that may occur. By increasing the certainty of administrative sanctions to the licensee, these proposed provisions are intended to create a stronger incentive for the licensee to increase and improve oversight to ensure their agents and employees do not sell alcohol to minors.

Recommendation UAD-3. Statewide Keg Registration | Require all beer kegs purchased in the state to be registered.

INTENT OF PROPOSED CHANGES

The proposed addition to statute would require the registration of all beer kegs purchased in the state. This recommendation proposes a minimum container size of four gallons to ensure that the regulation will apply to standard kegs (15.5 gallons), pony kegs (5.5 gallons), and brewery sampler kegs (5.167 gallons). This provision does not apply to growlers, which are typically 32 or 64 oz; typically a customer purchases or brings their own growler for filling, whereas a person “purchasing” a keg is actually renting the container from the licensee for a one-time use.

The ability to track the purchase of a keg confiscated at a party would be beneficial in pursuing charges for adults who supply alcohol to underage persons. The seller, a package store or other licensee, would complete a form indicating the name and contact information of the purchaser, and keep a copy of the form on file for reference. The keg would be labeled with a tag with the same information until it is returned to the seller; if the individual removes the tag and it is confiscated at a party, they would be liable for possessing an unregistered keg containing alcohol. Having a paper trail for legally-registered kegs that are used at parties with underage drinkers also benefits licensees, who have no control over how the keg is used once it is legally purchased by an adult, and would therefore not be liable if they followed the correct procedures.

Anchorage and Juneau municipal codes currently require registration for all keg purchases. In Juneau and nationally, reports from law enforcement agencies suggest that keg registration substantially reduces young people’s keg use. Implementation of beer keg registration is considered a best practice by the Institute for the Study of Social Change and the Pacific Institute for Research and Evaluation. This is also a recommendation from *Alaska’s Strategies to Prevent Underage Drinking* (2013).

Recommendation 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.

This recommendation was implemented in 2016 in SB 165.

INTENT OF PROPOSED CHANGES

AS 04.21.065(b) requires that warning signs posted at licensee establishments including one that says, “A person under 21 years of age who enters these premises in violation of law could, under AS 04.16.049(e) be civilly liable for damages of \$1,000.”

The civil fine amount listed in AS 04.16.049(e) is \$1,500. This recommendation would change the required language for this signage to read:

“WARNING: An unaccompanied person under 21 years of age who enters these premises in violation of law ~~could~~ can, under AS 04.16.049(e) be civilly liable for damages of \$1,500 and be subject to criminal charges.”

The proposed language is intended to clarify the intent of the signage and more effectively deter minors from illegally entering licensed establishments. The ineffectiveness of existing signage is reflected in a recent case involving a minor entering a retail establishment and attempting to purchase alcohol, in which the minor claimed that he did not know he was not supposed to be there. The jury decided that despite the licensee posting the warning signs as required by law, it was still not clear to the minor that he was prohibited from being on premises.

Recommendation UAD-5. Minor Consuming Alcohol (MCA) as Violation | Restore Minor Consuming Alcohol (AS 04.16.050) to a true violation.

This recommendation was implemented in 2016 in SB 165, with changes noted below.

INTENT OF PROPOSED CHANGES

This recommendation makes the Minor Consuming Alcohol offense (AS 04.16.050) a true violation with a fine of \$500 regardless of the number of prior convictions, with provisions for the fine to be reduced upon completion of a state-approved alcohol education or treatment program, or a community diversion panel such as tribal or youth courts, within six months of the court hearing. The proposal removes mandatory completion of alcohol education or treatment, community work service, and suspension or revocation of driver’s license.

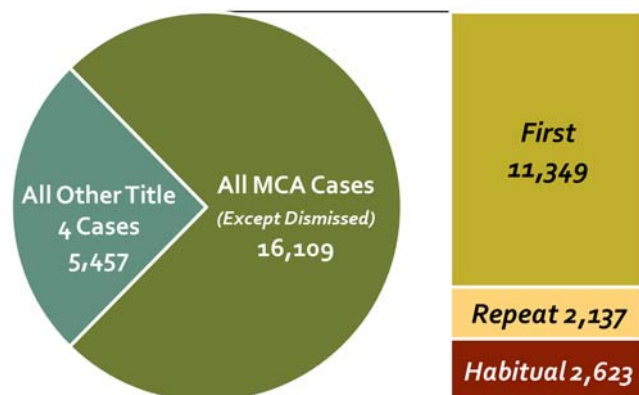
This proposal would restore AS 04.16.050 to a minor offense violation. As an unclassified offense that has been interpreted more closely to a misdemeanor than a violation, the penalty is perceived to be too severe and disproportionate to the offense to be effectively and consistently enforced. A minor with a first-time or repeat MCA commits an offense that is permanently, publicly maintained in Court View. A third (“habitual”) MCA offense becomes a Class B Misdemeanor that may result in penalties that are less harsh than those for first-time or repeat MCA. For example, if the minor is under age 18, the case is referred to the Division of Juvenile Justice, which has strict confidentiality rules and would not make the records publicly available. If the minor is 18 to 20 years old, the case would be referred to District Court, where it again would be maintained in Court View and available for the public to search. An individual with a permanent public record may have difficulty securing

employment, enlisting in the military, and face other barriers by having such a record. By restoring AS 04.16.050 to a true violation, this proposal is intended to ensure swift and consistent enforcement while not creating a long-term stigma for a person for their behavior as a minor. As a violation, the offense would no longer go on the permanent public record.

The recommendation is to make the penalty the same regardless of the number of prior convictions, intended to result in more immediate consequences for the minor, and to make the offense more easily enforceable. If unpaid, the fine will be deducted from the minor's Permanent Fund Dividend (PFD), which may alert a parent or guardian if they are not already aware of the charge against their child. For subsequent convictions, the fine amounts will accrue, and this is believed to be an adequate deterrent to repeat offenses.

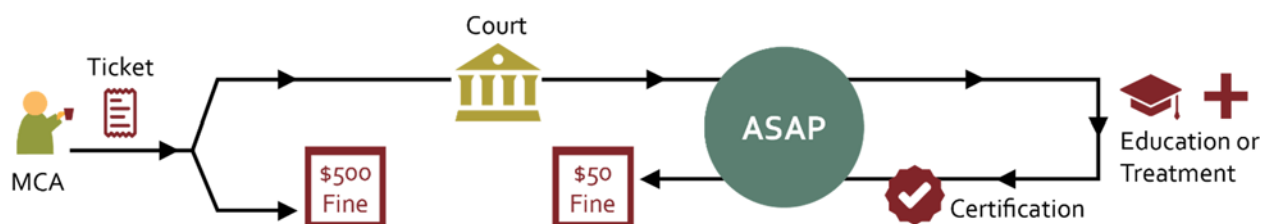
Court data indicated that a significant majority of MCA cases are first offenses, suggesting that most individuals only offend once: over 70 percent of cases between 2009 and 2013 were classified as first offenses, and at least one-third of cases in each category were dismissed. The highest dismissal rate was for Habitual MCA cases at 42 percent.

Minor Consuming Alcohol Cases by Offense Type, 2009-2013



Source: Alaska Court System, 2009-2013

Removing mandatory completion of alcohol education or treatment, community work service, and suspension or revocation of driver's license are all necessary to restore the MCA to a true violation.⁷ To accomplish the aim of providing restorative justice, the proposal includes a fine reduction for the completion of a state-approved alcohol education or treatment program or a community diversion panel within six months of the court hearing. The minor would be directed to the state Alcohol Safety Action Program (ASAP)/Juvenile Alcohol Safety Action Program (JASAP) office to identify a program that would satisfy this provision; the ASAP office would certify completion and forward the certification to the Court for the fine reduction. The fine reduction is intended to create an incentive for the minor to seek and complete the education or treatment.



⁷ Prior to passage of SB 165, Minor Consuming Alcohol was considered an unclassified offense: AS 04.16.050 was defined as a violation, but the Alaska Supreme Court ruled that it must be treated as a criminal offense. The Alaska Supreme Court decided that if his or her driver's license was affected, then the individual is entitled to a defense lawyer, jury trial, etc. There are five minor offenses in this group: 1) first MCA, 2) repeat MCA, 3) refusing to submit to a chemical test, 4) driving after consuming, 5) operating a vehicle within two days of receiving an MCA (first or repeat). These are found in Rule 18 of the Minor Offense Code, which lists minor offenses that must be filed as criminal cases, assigned criminal case numbers, and for which criminal procedures apply.

2017 Update: This new penalty structure was implemented in SB 165 for AS 04.16.049 (Minor on Licensed Premises) and AS 04.16.050 (Minor Consuming Alcohol). The previous conviction for Minor on Licensed Premises was a Class A Misdemeanor; the charge was much less common in the court records than MCA cases, but the steep penalty was too harsh on underage individuals who illegally enter licensed premises. SB 165 also broadened the options for alternative justice by adding community diversion panels, including youth and tribal courts, as qualified activities for fine reduction. The Legislature also lessened the fine reduction for third and subsequent offenses, allowing only a reduction to \$250 rather than \$50 if the individual has two or more previous charges.

There is a third statute related to minors and alcohol, AS 04.16.060, which addresses a minor purchasing or attempting to purchase alcohol, as well as an adult purchasing alcohol for a minor or misrepresenting their age for purposes of obtaining alcohol. To be consistent with how minors are treated in Title 4, the recommendation is to reduce the penalty from a Class A Misdemeanor to a \$500 fine for both adults and underage individuals; however, minors (less than 21 years old) charged under this statute would have the same fine reduction opportunity as outlined in AS 04.16.050.

Concurrent with passage of SB 165 in 2016, the Legislature passed SB 91, a comprehensive criminal justice reform bill designed to reduce recidivism, restructure penalties to avoid excessive incarceration, and support individuals who need mental health or substance use treatment, a significant proportion of Alaska's offenders. The new law also restricted use of the Alcohol Safety Action Program (ASAP) to Driving Under the Influence (DUI) offenses, however, which made this program unavailable to minors convicted of an MCA, as intended in SB 165. This conflict was resolved in a subsequent bill (SB 55) passed in the 2017 session with a variety of adjustments to SB 91's reforms; SB 55 added citations for the relevant Title 4 sections to the list of offenses that qualify for ASAP (AS 47.37.040).

REGULATING INTERNET SALES OF ALCOHOL

The Internet Sales committee was tasked with finding solutions to the issue of unregulated direct-to-consumer shipments of alcohol in Alaska, primarily through online sales, which is increasingly common across the U.S. but bypasses the state's regulatory and taxation system. While current law may be interpreted to prohibit these sales (AS 04.11.015 prohibits purchasing alcohol from an individual not licensed or permitted under Title 4), in practice Alaska is one of the few states that does not prohibit or regulate online sales for any alcohol product. The committee's original work focused on regulating movement of alcohol by common carriers (UPS, FedEx, and others), the narrowest point in the distribution chain from sellers to consumers, but previously proposed federal legislation to allow the U.S. Post Office to ship alcoholic beverages threatened to further complicate this plan, and the committee tabled further work until the federal question had been decided.

Alaska collects excise taxes on alcoholic beverages made or sold in the state, paid by the manufacturer or wholesaler selling the product. Alcohol sold within Alaska is subject to this excise tax; alcohol sales directly to Alaska consumers by out-of-state sellers are currently not regulated, and are therefore not subject to this tax. Current law does identify some situations in which a consumer can purchase alcohol from an Alaska licensee without being physically present on licensed premises:

- Written orders to a Package Store from a customer “known to the licensee,” generally interpreted to mean a person whose identification is on file with the seller. In areas that have adopted a Local Option but allow importation, a customer may order products, up to a monthly limit and provided that the seller consult and enter the order in the database maintained by the ABC Board (AS 04.06.095, AS 04.11.150(g)).
- Shipment of an order up to five gallons of wine from a winery directly to a customer, including a Local Option area (AS 04.11.140(b), 3 AAC 304.640).
- A “wine club” arrangement between a Package Store and customer, defined as a standing order of periodic shipments of wine, including to a Local Option area (3 AAC 304.642).

In all cases, the purchaser or another adult signing for the delivery must receive the package in person and show proof of age. Otherwise, Alaska licensees who sell to the public products for consumption off the premises (Breweries, Wineries, Distilleries, and Package Stores) are not allowed to sell to a customer who is not physically present. Therefore, current law places more restrictions on Alaska licensees than sellers from other states, because other forms of direct shipment are not addressed in state law or regulation.

There is no available data about how many direct shipment orders are made by or delivered to Alaska customers, so it is difficult to estimate the scale of this activity today. While individual online sellers often take precautions to verify the age of a purchaser, it is possible that some alcohol is being ordered by or delivered to underage individuals who misrepresent their age in order to purchase alcohol. It is also likely that at least some shipments of alcohol are arriving in Local Option areas, circumventing the intent of Local Option laws to limit the flow of alcohol into communities who opt for such a law.

Recommendation INT-1. Winery Direct Shipment License | Create a license available to U.S. wineries to ship orders of wine to Alaska customers; prohibit online sales through this license in Local Option areas; prohibit other online sales of alcohol not under this license or the Package Store Shipping endorsement.

INTENT OF PROPOSED CHANGES

The committee discussed multiple options for addressing the issue of unregulated sales of alcohol to Alaska customers, from banning all online sales to creating a legal mechanism for all alcoholic beverages, including retail stores. Alaska is one of the few remaining states who not have created rules either regulating or prohibiting this activity, other than existing law allowing Alaska wineries to ship to customers: 44 states allow direct shipment of wine from wineries, three states do not allow any direct shipping, 14 states allow direct shipping for retailers, five states allow shipment of distilled spirits, and eight states allow shipment of beer. Overall, the group sought to balance consumer choice against the integrity of the three tier system; ensure that Alaska businesses are not disadvantaged for following the rules; and mitigate the public health and safety risks of shipping alcohol directly to consumers, who may misrepresent their age or order in quantities that exceed what most would understand as “personal use.” The group also learned from two major carriers, UPS and FedEx, their policies allow shipment of wine to consumers, but not beer or spirits.

Based on the most common practices of other states and the concerns noted above, the group ultimately recommended creating a new license type to allow wineries, in and out of state, to ship to Alaska customers, and prohibiting direct shipments of beer and distilled spirits. The Winery Direct Shipment license would allow consumers to purchase wine from a winery whose underlying license allows them to produce and sell wine to the public. The shipment must be delivered in person to an adult by a common carrier approved by the ABC Board to transport alcohol (see Recommendation INT-3). All sales to Alaska consumers would be subject to the state’s excise tax, already paid on products made or imported into the state by Alaska manufacturers and wholesalers (see Recommendation INT-2). In Alaska, a qualifying business must hold a Winery Retail license; because each state has a different licensing structure, the privileges granted by an individual business’s license would determine eligibility. This will provide a more level playing field between Alaska wineries, whose product prices already include the cost of the tax, and out of state wineries, who do not currently collect Alaska excise tax on products sold directly to consumers in Alaska.

Because this license would be issued to a business already licensed in Alaska or in another state, the recommendation proposes that this license be exempt from population limits and follow a simplified application process, exempting it from the application process in AS 04.11.260. Instead, the biennial license fee would be \$200, and the application requirements would be determined in regulation. Licensees would be required to provide a copy of their state license, as well as their federal license issued by the TTB, and AMCO would be able to coordinate with these other agencies should a problem arise with a business’s Alaska license or if its underlying license(s) is revoked.

Winery Direct Shipment licensees may ship wine orders to Alaska customers, according to these rules:

- The order may only be placed by, and delivered to, a person age 21 or older. The licensee must require some form of age verification; if an individual misrepresents their age in order to purchase, they would be in violation of an existing statute, AS 04.16.060.

- Orders are intended to be for personal use only and not for resale. A purchaser may not order more than six 9 L-equivalent cases (54 L) in a single transaction, and no more than 12 cases per winery, per year. It would be difficult to restrict overall volume of sales per business, so the recommendation only proposes per-customer, per-sale and per-year limits.
- As is already required for Package Store shipments, the licensee must provide educational information about fetal alcohol spectrum disorders (FASD) with the order. AMCO provides licensees with a fact sheet produced by DHSS, and would make hardcopy and electronic versions of this document available to licensees to send via e-mail or within each order.
- The committee recommends prohibiting any sales under this license to a customer in a Local Option area. Integrating potentially hundreds of new licensees into the Local Option database would be a significant administrative burden for out-of-state businesses and for AMCO staff, and without access to this tool a winery would not be able to determine whether a customer has already exceeded their monthly order limit for wine. The Package Store Shipping endorsement, crafted from existing privileges in the Package Store license, does allow customers in any place in Alaska to order products directly from an in-state store; customers in Local Option areas could work with these businesses to obtain a special order of a product not already in their inventory.

It is difficult to estimate how many in-state and out-of-state businesses may opt to become Direct Shipment licensees, but based on information from other states with similar licenses, there may be dozens or even hundreds of wineries who choose to make their products available directly to Alaska customers. The state of Idaho, for example, shared a list of current direct shipment permit holders, available only to wineries; 780 businesses held permits as of December 2016.

IMPLICATIONS TO CONSIDER

- Restricting shipments to Local Option areas may have the unintended consequence of limiting shipments to adjacent, non-restricted rural communities who share a zip code. Winery representatives and the major common carriers shared that their existing systems to determine shipping costs rely solely on zip code, and do not have the ability to filter further by individual community. The recommendation requires that the ABC Board maintain a publicly-available list of Local Option communities, including zip code, to inform wineries of who they may or may not be able to ship to. The Board may indicate on this list which non-Local-Option communities share a zip code, but wineries may be restricted by their current ordering systems and opt not to take the risk of filling an order in a zip code listed as restricted. In these cases, a customer may need to order from a Package Store instead.

Recommendation INT-2. Collect Alaska Excise Tax for Internet Sales | In addition to maintaining current collection of excise tax on sales from in-state wineries, require all out-of-state holders of a Winery Direct Shipment license to pay the same excise tax on Alaska orders.

INTENT OF PROPOSED CHANGES

As noted above, current online sales of alcohol shipped to Alaska customers from out-of-state businesses is unregulated, and therefore not subject to Alaska excise tax like sales from in-state businesses. This places in-state businesses at a disadvantage, and deprives the state of tax revenue on sales of alcohol to individuals within Alaska, as required in AS 43.60.010. It is unknown how much

lost revenue these sales represent today, but one comparable state, Idaho, provided data that in FY 2016, direct shipment permit holders paid a total of \$55,055 in wine excise tax on sales associated with that permit.⁸ Alaska has approximately one-third of that state's population, but a higher excise tax on wine; applying these two ratios to Idaho's revenue suggests that, if per-capita orders are comparable, tax revenue from online could be over \$100,000 annually. This number is approximate, and assumes that Alaska customers would order wine online at a comparable rate, but illustrates that the currently lost tax revenue is not insignificant. Furthermore, it reinforces the intent of alcohol excise taxes, that no sales to in-state customers should be exempted, regardless of method of sale.

This recommendation would only impact out-of-state Winery Direct Shipment license holders, as all in-state manufacturers and wholesalers are already required to pay excise taxes on alcohol sales. Details of collection and reporting would be determined by the Department of Revenue, who oversees and enforces collection of excise taxes. Licensees are required to report monthly on total volume of sales (in gallons) for purposes of calculating taxed owed, and records are subject to inspection and audit to ensure compliance. The committee recommends leaving these details to the Department of Revenue, but that reports on the total volume and revenue collected from these licenses be publicly available, as is current alcohol excise tax data.

IMPLICATIONS TO CONSIDER

- Online sales, and collection of tax on these sales, is an ongoing legal issue being debated in several states. A 1992 court case, *Quill Corp. v. North Dakota*, required that a state collecting sales tax from out-of-state transactions must demonstrate an essential nexus between collection of taxes and the presence of the business in state. This case has since been applied to Internet-based sales, in which companies often do not have a physical presence in the same state as the customer placing the order. However, there is also existing case law concerning alcohol as being distinct from other sales: *Granholm v. Heald* (2005) concerned a challenge to restricting online alcohol sales by out-of-state manufacturers, in favor of in-state manufacturers, and found that such restrictions violate the Interstate Commerce Clause established in the 14th Amendment. The case also found, however, that states can collect the same taxes on alcohol sales from in-state and out-of-state businesses, provided that all are treated equally. It is on this basis that the group believes that this recommendation is legally sound. There are, however, ongoing legal challenges in other states related to Internet sales, and it is possible that a future federal court decision specifically on direct-to-consumer sales of alcohol across state lines may impact this proposed law.
- Because the scope of the Title 4 Review project was limited to state statutes and policies, this recommendation did not consider the implications for any sales or alcohol taxes collected by Alaska municipalities, and focused only on state excise tax. A municipality seeking to collect additional taxes on online alcohol sales would need to conduct additional legal research on whether and how it can be done; existing case law (above) suggests that this may be difficult without establishing a clear legal basis for collecting such a tax.

⁸ Idaho has an wine excise tax rate of \$0.45 per gallon. Alaska's equivalent tax is \$2.50 per gallon, except on cider, which is classified as wine but in Alaska law is taxed at the same rate as beer, \$1.07 per gallon.

Recommendation INT-3. Board Approval of Common Carriers for Alcohol Delivery | Require all common carriers who deliver alcohol directly to consumers in Alaska to be approved by the ABC Board.

INTENT OF PROPOSED CHANGES

This recommendation was built on the initial work of the committee, who identified common carriers as potential partners in ensuring that transport and delivery of alcohol to consumers is done responsibly. Many companies, including the major carriers UPS and FedEx, maintain their own policies regarding shipment of alcohol: both require that the shipper complete an alcohol shipping agreement, only allow shipments of wine, and that a shipment of alcohol be delivered in person to a recipient age 21 or older. Other local carriers in Alaska may have similar alcohol shipping policies, but there is currently no oversight of these practices beyond individual company policies. Because carriers ultimately make deliveries to consumers, however, ensuring that employees do not deliver packages to an underage person or leave them at a destination unattended is important.

This recommendation would require common carriers to apply to the ABC Board to be included on a list of approved carriers for alcohol transport and delivery to consumers, demonstrating that they maintain and enforce policies regarding clear labeling of packages containing alcoholic beverages, and in-person delivery to an individual age 21 years or older. This would not create a new license or permit, but would indicate which carriers within or into Alaska are allowed to deliver alcohol to consumers. Because the primary concern is ensuring alcohol is delivered responsibly to consumers, this would also impact common carriers who service alcohol licensees shipping products in or out of the state to another licensed business (such as, a wholesaler receiving a shipment of inventory), unless they also deliver directly to consumers. This recommendation is also separate from the existing Common Carrier Dispensary license, which is a license allowing carriers such as airlines and ferries to serve alcoholic drinks to passengers for consumption on the vessel.

The details of this recommendation, including the approval process and process for addressing a noncompliant approved carrier, would be left to the ABC Board, and may be generally similar to the existing process for the ABC Board to review and approve entities who provide alcohol server education classes. The list of approved carriers would be maintained and published by AMCO, to inform businesses who ship alcohol about which carriers they may use. This recommendation will need to align with an existing statute that addresses transport of alcohol by common carriers into Local Option areas (AS 04.16.125), which includes detailed labeling requirements.

IMPLICATIONS TO CONSIDER

- Carriers have only limited control over and liability for the contents of shipments they transport, and rely on the seller to determine whether they can legally ship an item to the intended recipient. Carriers therefore rely on the representations of the seller when accepting items, and do not necessarily inspect the contents of packages unless there is reason for suspicion that the item is illegal or noncompliant with the carrier's policies. Regulating carriers to control shipments of alcohol is part, but not all, of the solution; sellers must also be held responsible if they conceal or misrepresent an alcohol shipment.

LOCAL OPTION COMMUNITIES

The Local Option committee reviewed statutes related to AS 04.11.491, which allows communities to limit or prohibit the availability of alcohol within their community. The Local Option system was created in the 1980s and substantially revised in 1995. The general principle that states, counties or individual communities can restrict sales or importation of alcohol has been upheld since before Prohibition, and some states or counties in the U.S. maintain restrictions on sales, such as prohibiting alcohol sales on Sundays. In Alaska, Local Option was created in response to many rural communities' concern about the harms of alcohol and a desire to have more local control. Unlike Native communities in the rest of the U.S., only one Alaska tribal community lives on a reservation; alcohol sales are banned by default on reservations, unless the community enacts legislation to allow this activity, but Alaska tribal communities are not subject to this policy. Local Option is therefore a means of restricting availability of alcohol for communities who choose to do so through an election and adoption of one of five options defined in AS 04.11.491.

REVISED PLAN AND TIMELINE

Since developing the original set of recommendations in 2015, the Title 4 Review stakeholder group received feedback, questions and concerns about some of the Local Option proposals, and a desire to do more work before bringing them forward in legislation. Despite several efforts to work further with rural communities and other stakeholders on the proposed changes, the group was not successful in completing another thorough review of this work, and recommends not implementing changes that have not had sufficient input from the communities they will impact, and which may not take into account other priorities that the group has not yet discussed. Only Recommendation LO-5 is recommended to move forward at this time.

Recommendation LO-4 in particular, which proposes increasing fines for bootlegging activity, is not in keeping with other changes to the criminal justice system recommended by the Criminal Justice Commission and enacted in SB 91 in 2016. The group acknowledges the profound impacts that existing high penalties for alcohol-related crimes have in Local Option areas, and some stakeholders are interested in exploring future recommendations to improve the Local Option system as a tool for communities to reduce the negative impacts of alcohol. This exploration needs to include Local Option communities at the table for careful deliberation about the best solution.

The proposal to regulate Internet Sales is expected to have some benefits for Local Option communities: there is no available data on how much alcohol may be shipped into these areas from direct-to-consumer sales, which bypass the existing order database established in AS 04.06.095 to allow the ABC Board and package stores to comply with the monthly purchase limits in place in Local Option areas. The proposed Winery Direct Shipment license would prohibit sales to consumers located in Local Option areas, and other online alcohol sales would be made clearly illegal in statute. However, current law allows an Alaska package store to serve customers via mail, including in Local Option areas, provided that the licensee consults the database prior to filling an order and then records the new order in the database. This purchase option will still be available to rural customers, while ensuring that all alcohol sales to Alaska consumers are taxed, documented, and compliant with the law.

RECOMMENDATIONS

Recommendation LO-1. Repeal Local Option #4 | Repeal AS 04.11.491(b)(4) (Local Option #4), which bans the sale and importation of alcohol, not possession.

This recommendation has been withdrawn for further discussion and revision, and will not be included in the 2017 proposed legislation.

INTENT OF PROPOSED CHANGES

This recommendation would repeal AS 04.11.491(b)(4), the fourth Local Option available to communities. Originally, AS 04.11.491(b) included four choices for communities; the fourth bans the sale and importation of alcohol, but not possession. Because selling, importing or producing alcohol is illegal but possession is not in these communities, it is difficult for law enforcement to seize, destroy, investigate and successfully prosecute a case because an individual may claim they “found” the product and were not connected with the other, explicitly illegal activities.

The fifth option, which bans “sale, importation and possession” of alcohol, was later added to statute as a means of closing the loophole created by Local Option 4. Few communities have chosen to adopt Local Option 4 since Local Option 5 was available, but few have chosen to change from Local Option 4 to Local Option 5 because changing among the local options requires a repeal of the current option and a new vote of the community through the detailed election process outlined in AS 04.11.493 and AS 04.11.507. Currently, 43 communities have adopted Local Option 4, and 34 have adopted Local Option 5. Under this recommendation, the communities that have Local Option 4 currently would either hold a new election or be grandfathered in for a period of time.

Recommendation 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.

This recommendation has been withdrawn for further discussion and revision, and will not be included in the 2017 proposed legislation.

INTENT OF PROPOSED CHANGES

This recommendation would dedicate additional staff resources to the Alaska State Troopers Statewide Drug Enforcement Unit (SDEU) to investigate Local Option offenses, and increase the number of dedicated state prosecutors for Title 4, Local Option related crimes. As of 2017, SDEU has six investigative task forces focused on alcohol, narcotics and other drugs; statewide budget cuts and reduced federal resources significantly decreased available law enforcement staff and prosecutors for Title 4 cases. This recommendation’s intent is to provide more resources to investigate and prosecute alcohol related crimes in rural Alaska, crimes that often lead to serious violent crimes. In addition to limited staff capacity of local police, VPSOs, Title 4 investigators and State Troopers in rural areas, limited staff and turnover of Assistant District Attorneys is a barrier to prosecuting cases. Without sufficient prosecution staff, cases will continue to be dismissed.

2017 Update: While the stakeholder group recognizes the need for more resources to handle Local Option related cases, Alaska’s budget crisis will continue to put a strain on all state law enforcement and criminal justice resources; this recommendation cannot be enacted in this current fiscal climate.

Recommendation 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.

This recommendation has been withdrawn for further discussion and revision, and will not be included in the 2017 proposed legislation.

INTENT OF PROPOSED CHANGES

This recommendation would expand the Local Option area to a 10-mile radius from the boundaries of a municipality or the designated center of the community. The current boundary in statute is defined as 5 miles' radius from the boundaries of a municipality, or for "established villages" without specific physical boundaries, as 5 miles' radius from the post office or other defined central public building in the community. In some areas of the state, several villages have enacted Local Option laws, but with the limited 5-mile radius, there is a patchwork of enforceable and unenforceable territory surrounding these communities. Extending the defined boundaries to close the gaps between Local Option areas would make it easier to enforce the law across a larger region, following the general intent of communities who enact these laws. Expanding the Local Option area would also make it more difficult for bootleggers to continue the practice of traveling just outside the perimeter created by the 5-mile radius to conduct their illegal sales and operations. Transporting alcohol the extra distance would drive up the cost of doing business because of the high cost of fuel, potentially enough to deter some illegal operations.

Under this recommendation, lodges that have been legally operating under an outdoor recreation lodge license (AS 04.11.225) within the expanded perimeter would need to be grandfathered in under the expanded radius, such that a lodge with the outdoor recreation lodge license could operate and serve alcohol beyond the 5-mile radius and within the new 10-mile radius. Any overlapping jurisdictions are already accounted for in AS 04.11.508 subsections (b) and (c).

Recommendation LO-4. Increase Mandatory Minimum Penalty for Bootlegging | Increase the mandatory minimum penalty for bootlegging at the Misdemeanor level defined in 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.

This recommendation has been withdrawn for further discussion and revision, and will not be included in the 2017 proposed legislation.

INTENT OF PROPOSED CHANGES

AS 04.16.200 defines the penalties for bootlegging, which include Class A Misdemeanor and Class C Felony offense levels. Because of the lucrative nature of bootlegging in rural areas and perceived low level of risk if caught, threat of punishment under AS 04.16.200 is not a deterrent for the misdemeanor level offense.

The minimum penalty upon conviction of a Class A Misdemeanor includes imprisonment and fines that increase with prior convictions as detailed in AS 04.16.200(g). This recommendation would raise the minimum fine to \$3,000 (instead of \$1,500) for the first offense and increase subsequent fines by \$1,500, up to a maximum fine of \$10,000 under this scheme, the maximum fine allowed for this offense class.

2017 Update: As noted above, this recommendation is in conflict at a general policy level with the criminal justice reforms enacted in SB 91. Bootlegging remains a significant concern, especially because it can be very lucrative and entice individuals to take legal risks for high potential profit. However, given the shift in policy direction toward reducing punishments for non-violent offenses and rethinking how the criminal justice and corrective system is used to achieve broader social goals, this recommendation should be reconsidered and made consistent with the intent of SB 91.

Recommendation LO-5. Clarify Language Regarding Homebrew Ingredients | Clarify that possession of homebrew ingredients and/or equipment with intent to produce alcohol is illegal in all local option communities.

This recommendation is considered a technical change to communicate existing statutory intent, and will be included in the 2017 proposed legislation.

INTENT OF PROPOSED CHANGES

This recommendation would revise AS 04.16.035 so that “A person residing in ~~an area that has adopted a local option to prohibit the sale, importation, and possession of alcoholic beverages under AS 04.11.491(a)(5) or (b)(4)~~ **a local option area** may not possess sugar, artificial sugar, malt, yeast, or any other material or equipment with the intent to use them to create an alcoholic beverage.”

As currently written, the statute is enforceable only in 34 communities, those who have adopted Local Option 5. The proposed statute change would make AS 04.16.035 clearly enforceable in all 108 Local Option communities. This is in keeping with the existing language in AS 04.21.015 regarding the private manufacture of alcoholic beverages, which allows individuals to produce alcohol for their own personal use except as prohibited by other state or federal laws, and prohibited in an area that is subject to any Local Option in AS 04.11.491.

ADDITIONAL RECOMMENDATIONS (2017)

The Title 4 Review stakeholder group completed a comprehensive set of recommendations for statutory changes in February 2017. These recommendations were the basis of SB 99, introduced in April 2015 in the 29th Legislature, but several pieces in the package had unresolved issues or were determined to need more work. Over the last two years, the stakeholder group has continued to refine the package of recommendations, as well as addressing several other emerging issues raised in the last two years by original members of the group or new stakeholders.

Some items were changes to the original recommendations, and have been integrated into the stakeholder recommendations in the previous sections of this report. Others were new standalone items incorporated into the new set of recommendations in 2017, briefly described below.

RECOMMENDATIONS

Recommendation N-1. Define Qualifications for Alaska Manufacturing Licenses | Require in Brewery, Winery, and Distillery Manufacturer licenses that at least 80 percent of alcohol products for sale were made on the Alaska licensed premises.

Manufacturing licenses are intended for businesses that brew, distill, or otherwise make alcoholic beverages onsite, then package products for sale to distributors, retailers, or directly to the public if they have a retail operation as well. In practice, there are several ways to make a final product, including combining already-finished ingredients or purchasing partially-finished products to further refine onsite. The question of who may qualify for a manufacturer license has come before the ABC Board within the last year, with a proposal to obtain a Distillery license to combine finished ingredients (distilled alcohol and various flavorings) and package them for sale. This resulted in a draft regulation that to qualify for an Alaska Distillery license, at least 80 percent of the manufacturer's final products must have been made on that licensed premises, including at least part of the alcohol production process.

This recommendation adds this definition to each of the Manufacturer licenses, clarifying that the license is intended to be used for alcohol production, not just adding additional flavors to already-produced alcohol. The 80 percent rule is also intended to provide flexibility to licensees, particularly those who rely on outside sources for key ingredients such as wine for grapes, hops and yeast for beer, and other raw materials. Placing the limit on final products ensures that the requirement does not disqualify bona fide manufacturers who necessarily use components produced outside Alaska.

Recommendation N-2. Change Sample and Sales Volumes for Certain Products | Cider under 8.5% ABV follows per-ounce volume limits for beer; sake and mead follows volume limits for wine.

Cider is technically defined as “wine” in both federal and state law, because it is an alcoholic beverage made from a fruit. In terms of marketing and typical percent alcohol by volume (ABV), however, cider is generally considered to be more like beer. Mead is also defined as wine by the TTB, made not from fruit but from honey, an “agricultural product,” but has similar ABV to grape wine. Conversely, sake (a fermented rice beverage) is classified as a “brewed beverage” like beer, but its typical alcohol content is closer to that of most wines. The proposed ounce limits on sales and sampling for manufacturers and package stores is intended to provide alcohol-equivalent volume

limits for products with different potencies. For other products that are atypical of their category in terms of alcohol content, however, it is appropriate to adjust sales and sampling limits for these products and place them in another category only for purposes of these limits. The recommendation keeps each product type in its existing license category, as is consistent with current federal and state laws. In terms of sampling and sales volume limits, however, cider below 8.5% ABV (a threshold defined in federal alcohol licenses) may be served up to the limits defined for beer. Sake, at higher average ABV than most beer, and mead will be limited to the same limits as wine.

Recommendation N-3. Expand Package Store Shipping Order Options | Allow orders under a Package Store Shipping endorsement to be received in formats other than a written order from a known customer.

Alaska Package Stores can currently fill orders from customers who are not physically present if they 1) receive the order in writing and 2) “know” the customer, typically interpreted to mean that they have previously provided a copy of their ID to the licensee. The group reviewed the current shipping rules to determine how they should align with the proposed Winery Direct Shipment license, and recommended that Package Stores should be afforded the same options for accepting orders as those under the new license type. Removing the requirement that the order be written, and from an already-known customer, will allow a Package Store with a Package Store Shipping endorsement to offer more ordering formats to Alaska customers. The licensee would still be required to verify that the customer is of legal age to place an order, consult the Local Option Database for orders originating in Local Option areas, provide an electronic or hardcopy information sheet about FASD to the customer with their order, and ship an order through an approved common carrier (see Recommendation INT-3). These changes ensure that both license types allow the same variety of options for ordering, and follow the same requirements.

Recommendation N-4. Pub License Alternating Premises | Allow a university with a Pub license to designate a second licensed premises, operated during mutually exclusive hours.

The Pub license (AS 04.11.220) allows a university to operate one beer and wine license on its campus; the only current Pub license has been issued to an establishment serving students at University Alaska Fairbanks. In addition to adjusting statute language to clarify that only one Pub license may be issued at each campus, not one license in the state overall, the group considered the University of Alaska’s request to amend statute to allow a second license per campus. UAF sought this license specifically to allow service of beer and wine at the Museum of the North, also located on campus and primarily attracting members of the general public and tourists, rather than students. While this particular proposal did not necessarily pose serious public health and safety risks, the group was concerned about the possibility of future impacts on other campuses, and whether it would promote more youth alcohol use on college campuses.

The ABC Board had previously developed the concept of an alternating designated premises, allowing a single licensee to set specific time periods in which one or another location was considered licensed premises. Rather than creating a second license, the recommendation allows a Pub licensee to request two locations to be licensed premises, provided that they are not physically adjacent and that only one is operating as licensed premises at a given time. When not in operation, the other premises must be closed to the public or all alcoholic beverages must be safely placed in locked storage. The recommendation includes these provisions because while it is only being applied to one specific license type, and will impact only one licensed location in the foreseeable future, it

sets precedent in Title 4 for this concept to be expanded and applied to other license types. By requiring that hours of operation not overlap and that the locations not be co-located, the risk of using alternating premises to permanently expand one license's premises may be mitigated if this concept is replicated elsewhere in the law.

Recommendation N-5. Make Licenses Transferrable to a New Owner | Allow most license types to be transferred to a new owner, except Winery Direct Shipment License; retain any existing restrictions on licenses for transfer of location.

The Licensing committee discussed at length the impacts of population limits and the ability to transfer licenses to a new owner or location; both of these features of licenses create a secondary market value for any licenses that are limited in number and can be sold. Generally, the stakeholder group decided not to make changes to transferability, particularly transfer of location, which is much more valuable than transfer of ownership because it makes the license portable within the community it was issued. Many of the non-transferrable licenses in statute are not currently subject to population limits, and therefore a transfer is not attractive to a prospective business owner, who can apply directly to the ABC Board for a new license rather than purchasing a transfer from an existing license holder. However, restricting transfers of ownership can also be problematic for licensees who make internal changes of ownership among business partners, or allowing a family member to take control of a business upon retirement or death of the current owner(s), requiring creation of a new license rather than transfer of the existing asset.

The recommendation retains any licenses' restrictions on transfer of location already defined in Title 4, but changes any non-transferrable licenses to allow transfer of ownership only. The exception, the Winery Direct Shipment license, would remain non-transferrable; it is an add-on to an existing license and its application process will be much simpler than other Alaska licenses, and therefore adds no burden to apply for a new license instead of a transfer.

Recommendation N-6. Improve the License, Endorsement and Permit Application Process | Apply several technical changes to statutes for applications for a license, endorsement or permit.

While reviewing the statutes outlining the application process for new licenses, renewals, and permits, ABC Board members and AMCO staff identified several issues with current language that make the application process difficult for applicants, the Board and staff, including vague or missing requirements in some places and overly-detailed language in others. Examples include:

- When considering renewals, the Board may not renew a license if it has not been operated for at least 30 eight-hour days each year, a requirement that can be difficult to meet for stores and distribution centers in small communities. The recommendation changes this language to require at least 240 hours of operation each year, achieving the same intent without specifying a schedule of hours.
- Current language in AS 04.11.260 requires that an application be executed (signed) by “the authorized officers of the corporation,” which may include up to dozens of individuals who hold ownership in a large company. The applicant must provide information about all owners and shareholders, but a signature from all these individuals to submit the application is an unnecessary administrative burden. The recommendation requires a signature from at least one authorized officer, and retains the existing requirement to provide a list of owners.
- Statute requires that the applicant provide an illustration of the licensed premises, indicating where alcohol will be stored, served and which areas of the establishment will be licensed

(allow consumption of alcohol). The ABC Board receives a wide variety of submissions for this requirement, from scale diagrams to a basic drawing of a rectangle to indicate the bar room, with no additional information about the location. The recommendation to add the phrase “annotated illustration” will clarify that some explanation is needed on the drawing to satisfy the requirements of submitting a premises diagram. Annotation means adding comments or written explanation to a document or image, and does not necessarily require a specific technical or architectural rendering; the applicant is simply required to add notes about key features of the premises, such as: counter or bar, licensed and unlicensed portions of a restaurant or bowling alley, storage area in a warehouse, and building entrances.

Recommendation N-7. Allow Relocation of a Package Store from Borough to City (AS 04.11.400(k)) | Amend AS 04.11.400(k) to allow transfers of both BDL and Package Store licenses from a borough to a city within the borough.

In Title 4, AS 04.11.400(k) allows permanent relocation of a Beverage Dispensary license (BDL) that is operated as a restaurant, hotel or similar business with a restaurant, from a borough to a city within that borough, with no more than three transfers per borough per decade (ten years). While the stakeholder group was not specifically aware of the original intent of this provision, it is currently available to two boroughs that are large enough to qualify and have cities within them: Fairbanks North Star Borough and Matanuska-Susitna Borough. This provision is not used often, but aligns with cities’ overall goals to promote economic development and increase the number of hospitality businesses in their jurisdiction, and encouraging business development in centralized areas where land use and police enforcement are available.

Representatives from Soldotna and Wasilla approached the stakeholder group to consider issuing additional Package Store licenses in communities, specifically to attract retailers such as Costco and Walgreens to locate within their cities and who may be hesitant to make investment in a new store if they cannot include alcohol sales as a portion of their business operation. Creating additional Package Store licenses would not be consistent with the goals of the Title 4 Review project, but the group instead considered changes to AS 04.11.400(k) to allow relocation of a Package Store as well: while all Package Store licenses have been issued in communities within these three boroughs, there is an excess of existing licenses in the borough itself.

The recommendation is to adjust AS 04.11.400(k) as follows:

- Decrease the qualifying population threshold to 50,000, to include Kenai Peninsula Borough.
- Allow relocation only of licenses that exist in excess of the allowed number of that type: allowing unlimited transfer out of a borough, beyond the number of licenses they have been allocated in AS 04.11.400(a), would potentially deprive borough businesses of licenses to which they would otherwise be able to apply for, according to the current population limit.
- Increase the allowed number of transfers to three per city, not three per borough; this allows individual cities to request relocation of licenses independently, provided licenses are still available from within the borough.

The stakeholder group found this solution to have multiple benefits: it provides cities a mechanism to have additional available Package Stores in their community, but utilizes an existing license rather than creating a new one. The limit on relocations to “excess” licenses in the borough creates some scarcity for available licenses to transfer, but each of the three boroughs has several available qualifying BDLs and Package Store licenses that may be relocated, outlined in the table below. The

recommendation does not change the qualification that the BDL must be operated as a restaurant or in a hotel, but does not place restrictions on the operations of the Package Store.

Borough (excluding population of incorporated cities)	Allowed Lic. (1:3000)	Beverage Dispensary (BDL)		Package Store (<i>Proposed</i>)	
		<i>Currently Issued</i>	<i>Qualify for Relocation</i>	<i>Currently Issued</i>	<i>Qualify for Relocation</i>
Fairbanks North Star	21	27	6	26	5
Kenai Peninsula	13	25	12	29	16
Matanuska-Susitna	28	31	3	33	5

Recommendation N-8. Allow Business Activities on Licensed Premises During Off Hours (AS 04.16.010) | Retain required closing hours (5:00 to 8:00 a.m.) for service and sales of alcohol to consumers, but allow other non-serving business activities on the premises.

Title 4 prohibits any activity on licensed premises between the hours of 5:00 and 8:00 a.m. Many local governments have enacted ordinances to further limit these hours, e.g., not allowing service of alcohol prior to 10:00 a.m. or after 2:00 a.m. The intent of this law is to establish closing hours for alcohol establishments and prevent 24-hour alcohol sales, which may have significant public health and safety consequences in communities. As written, however, the statute prohibits any activity on the premises during these hours. Industry stakeholders pointed out that this also restricts other legitimate business activities that do not involve sales or service of alcohol to customers: completing a sale of inventory with another licensee, performing routine maintenance or renovations of the premises, and completing payroll or other administrative tasks.

The recommendation retains the overall intent of the statute, to establish daily hours during which alcohol sales are not allowed, but includes an exception for business-related activities that do not involve service of alcohol. This provides businesses the ability to conduct other business on their premises as needed, as long as it does not involve alcohol sales for consumption.

Recommendation N-9. Licensee Liability for Overservice by Employees (AS 04.16.030) | Apply the same administrative penalty and mitigating circumstances proposed in Recommendation UAD-2 for violations of AS 04.16.030.

Law enforcement officials have identified overservice of alcohol (serving to an already intoxicated person) as a significant public safety issue, and for this reason alcohol server education always includes information about how to determine whether someone is too intoxicated to be served another drink, and whether they may be a risk to themselves and others. Additionally, current AS 04.06.100(b)(12) authorizes the Board to create regulations to prohibit “possession of alcoholic beverages by drunken persons and by minors.” Title 4 defines the offense of serving a drunken person or allowing a drunken person to remain on licensed premises, with criminal negligence, as a Class A Misdemeanor (AS 04.16.030). The phrase “criminal negligence” is significant: a person knows that they are serving an intoxicated person, understands the consequences, and does so anyway. Determining level of intoxication is more art than science, as each person has a different level of alcohol tolerance. It is possible to assess someone’s mental state incorrectly, and existing law does not define a mistake as an offense of AS 04.16.030. As is the case with an employee who serves a minor, the licensee may or may not be aware that this type of violation had occurred on their premises, leading to no opportunity for corrective action on their part if an employee is willfully disregarding the law regarding overserving.

This recommendation applies the same penalty structure outlined in Recommendations UAD-1 and UAD-2 for serving a minor (AS 04.16.052): the employee would be charged with a Minor Offense with a \$250 to \$500 fine, and the employer (licensee) would receive a \$250 administrative penalty. The licensee would have the same opportunity to demonstrate to the Board any mitigating circumstances to reduce other penalties, such as having a training program in place or working with the employee directly to correct the issue, for a violation of either AS 04.16.030 or AS 04.16.052.

A second change was made to both AS 04.16.030 and AS 04.16.052, inserting existing language from AS 04.16.150 which holds a licensee responsible for knowingly allowing employees to violate Title 4, and “recklessly and with criminal negligence” failing to act if this violation is known. The current penalty for this offense is a Class A Misdemeanor, retained in these two specific sections, indicating the seriousness of both of these offenses and licensees’ responsibility to monitor the performance of their employees. Because AS 04.16.150 could be construed to hold licensees responsible for a misdemeanor-level offense for any violation of Title 4 regardless of how serious the original offense, however, the penalty for that general section would be reduced to a violation with a \$250 fine.

Recommendation N-10. Allow Minors on Some Licensed Premises for Employment or Travel (AS 04.16.049) | Allow limited employment of minors by Wholesalers, Common Carriers, and Outdoor Recreation Lodges; clarify that minors are allowed at certain businesses.

In current law (AS 04.16.049), licenses designated as restaurants may employ minors, aged 16 to 20, at their business, provided that the underage employee does not handle alcoholic beverages and remains on the premises only for employment; underage individuals are also permitted to dine at the restaurant, accompanied by a guardian if they are younger than 16. Recommendation R-5 expands these privileges to Golf Courses, allowing minors to be employed or attend golf related activities.

The group further reviewed existing license types and discussed other situations in which these exceptions to AS 04.16.049 are appropriate, provided that the underage person does not have access to alcohol, does not serve alcoholic beverages, and is on the premises for other legitimate reasons. In many cases, it is commonly understood that minors are allowed at the establishment, such as a hotel, but the law does not specifically provide this exception. This recommendation would extend the same opportunities for minors to be present on licensed premises for some license types, for employment or to engage in activities specific to that business, such as travel, in situations other than those currently covered by provisions for bona fide restaurants: Wholesaler (both licenses), Common Carrier Dispensary, holder of a Hotel/Motel or Large Resort endorsement, and Outdoor Recreation Lodge. Wholesalers are included on this list because unlike other license types, wholesalers never sell directly to the public and handle alcohol beverages in large cases like any other warehouse inventory, and therefore alcoholic beverages would not be opened and served at these establishments. Allowing individuals under 21 years of age to be employed in basic warehouse operations provides a larger labor pool for wholesalers and does not expose underage employees to open containers of alcohol or situations in which they would be serving customers.

Recommendation N-11. Repeal Alcohol Sales Restriction on Election Day (AS 04.16.070) | Repeal outdated statute prohibiting sales of alcohol during federal, state and local elections.

Historically, consumption of alcohol was closely tied to public discourse about promoting a healthy democracy: in the 18th and 19th century, taverns were common gathering places for political discussion, and unscrupulous political machines were known to use free drinks to entice working-class men to vote for their candidates. This practice fell out of fashion long ago, and few people are

even aware that there are still laws prohibiting alcohol sales on election days. Alaska has such a law in Title 4, AS 04.16.070, prohibiting sales of alcohol until the polls have closed for any election day, but offering municipalities the option to pass an ordinance to negate the statute and allow alcohol sales. Many cities have passed ordinances allowing sales on election day, but this outdated law remains in effect for the rest of the state, and is likely not currently enforced. The recommendation is to simply repeal this law, as it hearkens back to a political problem of centuries past.

Recommendation N-12. Transition Provisions for Existing Licensees | Define process for current licensees of certain types to be converted to equivalent license(s) in the new system.

The proposed recommendations represent significant changes to Title 4, and the ABC Board and AMCO staff would take on the complex task of implementing the shift to a new system. Most license types will not be significantly affected, other than a change to the statutory citation of their license and addition of one or more endorsements on their license. Others will require conversion to new licenses, including applicants for new licenses whose application is still in progress.

The details of the transition process will be left to the ABC Board, but in some situations guidance should be provided in statute. For example, existing Brewery, Winery and Distillery licensees with retail operations should be issued the appropriate Manufacturer Retail license, even if it would exceed the new population limit. Applications submitted under the existing rules should be reviewed on their own merits, even if population limits would restrict issuing the license. Public Convenience license applicants will be protected from denial on the basis of having no REPLs available in the community, as this will be the case in any community with demand for Public Convenience licenses. The table below illustrates the anticipated transition process for the most impacted licenses.

Current License Type	Current Statute	Statute (SB 76 v.A)	New License Type(s)	Transition Process
Brewery	04.11.130	04.09.020 04.09.310	Brewery Manufacturer Brewery Retail	Convert current licensees Convert applications to new
Winery	04.11.140	04.09.030 04.09.320	Winery Manufacturer Winery Retail	Convert current licensees Convert applications to new
Distillery	04.11.170	04.09.040 04.09.330	Distillery Manufacturer Distillery Retail	Convert current licensees Convert applications to new
Bottling Works	04.11.120	<i>Repealed</i>	Brewery or Winery Manufacturer	Convert current licensee
Brewpub	04.11.135	<i>Repealed</i>	Brewery Manufacturer	Convert current licensees
Wholesale	04.11.160(a)	04.09.100	General Wholesale	Convert current licensees
Beer + Malt Bev. Wholesale	04.11.160(b)	04.09.110	Limited Brewed Bev. + Wine Wholesale	Convert current licensees
Duplicate BDL	04.11.090(e)	04.09.420	MFC Endorsement	Convert to endorsements
Public Convenience	04.11.400 (e), (g)	<i>Repealed</i>	Restaurant/Eating Place BDL (1 licensee)	Convert current licensees Convert applications to REPL
Beverage Disp. Tourism	04.11.400(d)	04.09.340	Beverage Dispensary Tourism	Convert current licensees
All Other Licenses	N/A	N/A	New License Citations Endorsements	Convert current licensees to applicable endorsements

APPENDIX

Table 1. Title 4 Review Stakeholders and Organizations

Over 100 stakeholders participated in this process since 2012, including several who have changed positions in the last few years. Organizations and agencies have also shown an ongoing commitment to the project by designating one or more representatives to participate on the organization's behalf at various points in this process. The Steering Committee extends sincere appreciation for the efforts of each individual and organization on this list to carry this project forward. It is important to note, however, that this list includes participation in the process, not necessarily endorsement of the final product.

An individual marked with asterisk (*) denotes serving, currently or previously, on the Title 4 Steering Committee.

Name	Organization	Sector(s) Represented
1 Bob Klein *	ABC Board, Chair; Anchorage Distillery	ABC Board; Licensee (Distillery)
2 Tom Manning	ABC Board, Industry Member	ABC Board; Licensee (Pkg. Store)
3 Ellen Ganley *	ABC Board, Public Member	ABC Board; Public Health
4 Bobby Evans	ABC Board, Rural Member	ABC Board; Tribal Communities
5 Ethan Billings	[former] ABC Board, Industry Member	Licensee (Package Store)
6 Marvin Yoder	[former] ABC Board, Public Member	ABC Board
7 Erika McConnell *	AMCO Director; [former] Muni. Anchorage	ABC Board; Administrative
8 Sara Chambers *	[former] ABC Board, Acting Director	ABC Board; Administrative
9 Joe Hamilton	ABC Board, AMCO Staff	Public Safety
10 Sarah Oates	ABC Board, AMCO Staff	ABC Board; Administrative
11 Jedediah Smith	ABC Board, AMCO Staff	ABC Board; Local Government
12 Shirley Côté *	[former] ABC Board Director	ABC Board; Public Safety
13 Cynthia Franklin *	[former] AMCO Director	ABC Board; Public Safety
14 Bob Beasley	[former] ABC Board Staff	ABC Board; Public Safety
15 Christine Lambert	[former] ABC Board Staff	ABC Board; Administrative
16 James Hoelscher	[former] VPSO; ABC Board, AMCO Staff	Public Safety; ABC Board
17 Sen. Peter Micciche	Alaska Senate	Alaska Legislature
18 Rep. Chuck Kopp	Alaska House; [former] Office of Sen. Micciche	Alaska Legislature
19 Brian Olson	Alaska Berries	Licensee (Winery)
20 Paul Thomas	Alaska Cache Liquor	Licensee (Package Store)
21 Dale Fox	Alaska CHARR	Retail Industry Member
22 Pete Hanson	Alaska CHARR	Retail Industry Member
23 Bob Winn	Alaska Hospitality Retailers	Retail Industry Member
24 Kate Burkhart	[former] Alaska Mental Health Board + ABADA	Public Health
25 Teri Tibbett	Alaska Mental Health Board + ABADA	Public Health
26 Katie Baldwin-Johnson *	Alaska Mental Health Trust Authority	Public Health
27 Natasha Pineda	[former] Alaska Mental Health Trust Authority	Public Health
28 Amber Willis	Alaska State Fair	Licensee (Recreational Site)
29 Sheri Musgrave	Alaska State Fair	Licensee (Recreational Site)
30 Chris Thompson	Alaska State Troopers	Public Safety
31 Curtis Vik	Alaska State Troopers	Public Safety
32 Eric Olsen	Alaska State Troopers	Public Safety

	Name	Organization	Sector(s) Represented
33	James Cockrell	Alaska State Troopers	Public Safety
34	Kevin Blanchette	Alaska State Troopers	Public Safety
35	Marcy Larson	Alaskan Brewing Co.	Licensee (Brewery)
36	Rich Sayers	Anchorage Golf Course	Licensee (Golf Course)
37	Anthony Henry	Anchorage Police Department	Public Safety
38	Eric Pratt	Anchorage Police Department	Public Safety
39	Jared McKay	Anchorage Police Department	Public Safety
40	Mark Mew	[former] Anchorage Police Department	Public Safety
41	Matt Jones	Bear Tooth Grill + Theaterpub	Licensee (Brewpub, Bev. Disp.)
42	Ryan Makinster	Brewers Guild of Alaska	Manufacturing Industry Member
43	Gerald Proctor	Brown Jug	Licensee (Package Store)
44	Doran Powell	Chilkoot Charlie's	Licensee (Beverage Dispensary)
45	Kathy Hosford	Chilkoot Outpost Lodge	Licensee (Outdoor Rec. Lodge)
46	Beth McEwen	City and Borough of Juneau	Local Government
47	Clinton Singletary	City and Borough of Juneau	Local Government
48	Mark Dixon	City of Soldotna	Local Government
49	Stephanie Queen	City of Soldotna	Local Government
50	Bert Cottle	City of Wasilla	Local Government
51	Lyn Carden	City of Wasilla	Local Government
52	Tina Crawford	City of Wasilla	Local Government
53	Sassan Mossanen	Denali Brewing Co.	Licensee (Brewery)
54	L. Diane Casto *	[former] Dept. of Health and Social Services	Public Health; Youth
55	Sara Clark *	Department of Health and Social Services	Public Health
56	Joe Darnell	Department of Health and Social Services	Public Health
57	Tony Newman	Department of Health and Social Services	Public Health
58	John Novak	Department of Law	Administrative
59	Walt Monegan *	Department of Public Safety	Public Safety
60	Michael Duxbury	Department of Public Safety	Public Safety
61	Emily Walker	Department of Revenue	Administrative
62	Janis Hales	Department of Revenue	Administrative
63	Brandon Spanos	Department of Revenue	Administrative
64	Brandon Howard	Distillers Guild of Alaska	Licensee (Distillery)
65	Dick Rosston	Dorsey + Whitney	Retail Industry Member
66	Galen Jones	Double Shovel Cider	Licensee (Winery)
67	John Lau	Double Shovel Cider	Licensee (Winery)
68	Randy McCain	Eagles Lodge	Licensee (Club)
69	Peggy Phillips	[former] Fairbanks North Star Borough	Local Government
70	Mike Yadon	FedEx	Common Carrier
71	Lindsay Bard	FedEx	Common Carrier
72	Dustin Pickens	FedEx	Common Carrier
73	Kyle Wark	First Alaskans Institute	Tribal Communities; Youth
74	Liz Medicine-Crow	First Alaskans Institute	Tribal Communities; Youth
75	Robert McCormick	Glacier Brewhouse, Orso	Licensee (Beverage Dispensary)
76	Susan Osborne	Gold Hill Liquor	Licensee (Package Store)
77	Jan Hill *	Haines Borough	Tribal Communities; Local Option
78	Philippe Janicka	Holland America - Princess	Licensee (Common Carrier Disp.)

	Name	Organization	Sector(s) Represented
79	Molly Poland	Hooligans	Licensee (Beverage Dispensary)
80	Mike Dodge	[former] HottStixx	Licensee (Beverage Dispensary)
81	Fred Odsen	Hughes Gorski Seedorf Odsen + Tervooren	Retail Industry Member
82	Pete Burns	Humpy's Alaskan Alehouse, Williwaw	Licensee (Beverage Dispensary)
83	Don Grasse	K & L Distributors	Licensee (Wholesale)
84	Johni Blankenship	Kenai Peninsula Borough	Local Government
85	Laura Porter	Mat-Su Borough School District	Education
86	Elizabeth Ripley	Mat-Su Health Foundation	Public Health
87	Ray Michaelson	Mat-Su Health Foundation	Public Health
88	Barb Miller	Midnight Sun Brewing	Licensee (Brewery)
89	Amanda Moser	Municipality of Anchorage	Local Government
90	Anna Nowak	[former] Municipality of Anchorage	Local Government
91	Matt Felix	[former] NCADD-Juneau	Public Health; Youth
92	Joel Kadarauch	Odom Corporation	Licensee (Wholesale)
93	Dorcas Bloom	[former] Public Health Nurse	Public Health; Education
94	Aleesha Towns-Bain *	[former] Rasmuson Foundation; Recover AK	Public Health
95	Jordan Marshall	[former] Rasmuson Foundation	Public Health
96	Tiffany Hall *	Recover Alaska	Public Health; Youth
97	Glenn Brady	Silver Gulch Brewing	Licensee (Brewpub, Bev. Disp.)
98	Rebecca Neagle	Sitnasuak Native Corporation	Tribal Communities
99	Melanie Lesh	Snug Harbor Liquor	Licensee (Package Store)
100	Danna Grammer	[former] Stellar Wines Distributing	Licensee (Wholesale)
101	Chris Simon *	Tanana Chiefs Conference	Education
102	George Gatter	Tony's Bar	Licensee (Beverage Dispensary)
103	Kim Hutchison	Trust Consultants	Retail Industry Member
104	Jeff Jessee *	University of Alaska; [former] AMHTA	Public Health
105	Marny Rivera	[former] University of Alaska Anchorage	Education; Youth
106	Mike O'Brien	University of Alaska Fairbanks	Education
107	Kristal Fiser	UPS	Common Carrier
108	Charlie Daniels	Volunteers of America, Alaska	Public Health; Youth
109	Trish Smith	Volunteers of America, Alaska	Public Health; Youth
110	Katie Jacoy	Wine Institute	Manufacturing Industry Member
	Rachel Hanke	Office of Sen. Peter Micciche, Staff	Alaska Legislature
	Thea Agnew Bemben	Agnew::Beck Consulting	Staff Support
	Anna Brawley	Agnew::Beck Consulting	Staff Support
	Heather Stewart	Agnew::Beck Consulting	Staff Support
	Carmen Gutierrez	Justice Improvement Solutions	Staff Support

Alaska's Liquor License System: Proposed Changes

Alaska's license system is based on the 3-tier system of alcohol regulation: separate entities **manufacture**, **distribute**, and **sell** alcohol to the public.

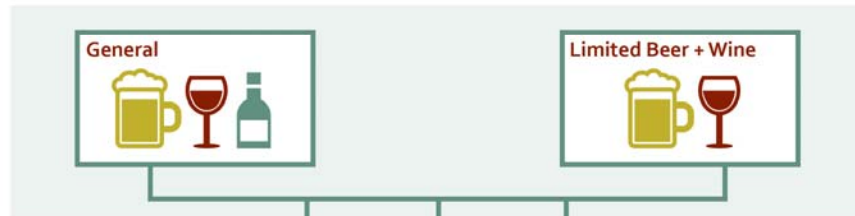
Manufacturing Tier

exempt from population limits



Wholesale Tier

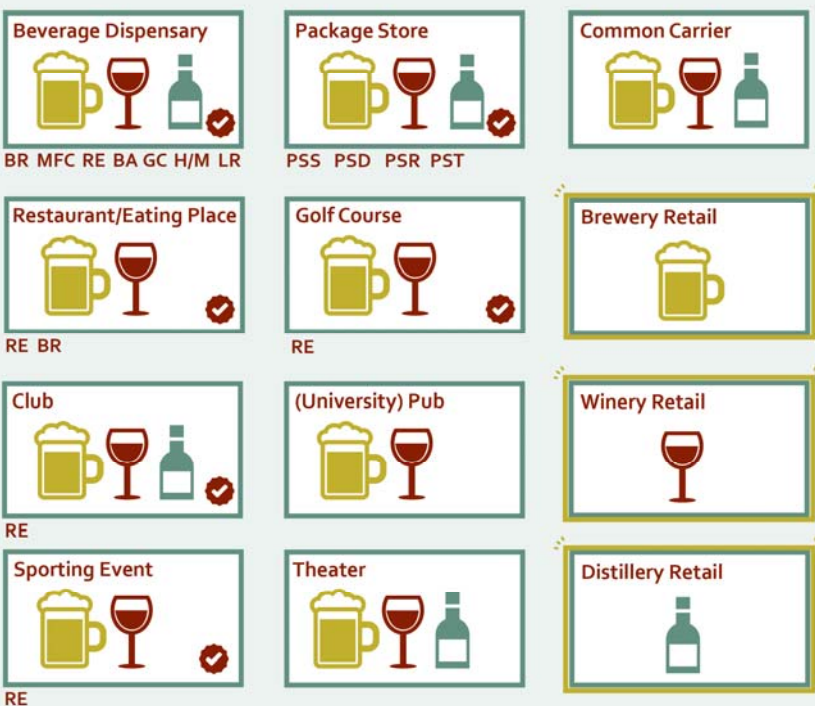
exempt from population limits



Retail Tier

Community Level

subject to population limits



Tourism

exempt from population limits



Proposed for Repeal: replaced by existing license types



Other

exempt from population limits



NEW LICENSE
Proposed new license in Title 4

ENDORSEMENTS
Expanded activities and/or premises to fit business model

PSS
Pkg Store
Shipping

PSD
Pkg Store
Delivery

PSR
Pkg Store
Repackaging

PST
Pkg Store
Sampling

RE
Restaurant

H/M
Hotel/Motel

GC
Golf Course

LR
Large Resort

BA
Bowling
Alley

MFC
Multiple Fixed
Counter

MS
Manufacturer
Sampling

BR
Brewery
Repackaging

Table 2. Proposed Changes to License Fees

License Type	Current Statute	Bill Citation	Current Fee	Proposed Fee	Dollar Increase	Percent Increase	Comparison: Inflation (1980-2017)
Manufacturing Tier Licenses							
Brewery Manufacturer	04.11.130	04.09.020	\$1,000	\$1,500	\$500	50%	\$2,929.04
Winery Manufacturer	04.11.140	04.09.030	\$500	\$1,500	\$1,000	200%	\$1,464.52
Distillery Manufacturer	04.11.160	04.09.040	\$1,000	\$1,500	\$500	50%	\$2,929.04
Brewpub	04.11.135	Repealed	\$500	Current licensees converted to Brewery Manufacturers			
Bottling Works	04.11.120	Repealed	\$500	Current licensee converted to Winery Manufacturer			
Brewery Retail	04.11.131	04.09.310	New license	\$1,250		N/A	
Winery Retail	04.11.140	04.09.320	New license	\$1,250		N/A	
Distillery Retail	04.11.170	04.09.330	New license	\$1,250		N/A	
Wholesale Tier Licenses							
General Wholesale *	04.11.160	04.09.100	\$2,000 + annual supplier, transaction fees	Rescaled transaction fees for smaller businesses			\$5,858.08
Limited Beer + Wine Wholesale *	04.11.160	04.09.110	\$400 + annual supplier, transaction fees	Rescaled transaction fees for smaller businesses			\$1,171.62
Retail Tier Licenses: Serving Beer, Wine and Spirits							
Beverage Dispensary, BDL	04.11.090	04.09.200	\$2,500	\$2,500	\$0	0%	\$7,322.60
Beverage Dispensary Tourism	04.11.400(d)	04.09.340	\$2,500	\$2,500	\$0	0%	\$7,322.60
Club	04.11.110	04.09.220	\$1,200	\$2,500	\$1,300	108%	\$3,514.85
Destination Resort	04.11.255	04.09.300	\$1,250	\$2,500	\$1,250	100%	\$3,514.85
Outdoor Recreation Lodge	04.11.225	04.09.280	\$1,250	\$2,500	\$1,250	100%	\$3,661.30
Package Store **	04.11.150	04.09.230	\$1,500	\$1,500	\$0	0%	\$4,393.56
Common Carrier Dispensary ***	04.11.180	04.09.260	\$1,000 per vessel up to 10; \$2,000 per destination		\$0	0%	\$2,929.04
Retail Tier Licenses: Serving Beer and Wine Only							
Restaurant or Eating Place, REPL	04.11.100	04.09.210	\$600	\$1,250	\$650	108%	\$1,757.42
Seasonal Restaurant or Eating Place Tourism	04.11.100	04.09.350	New license	\$1,250		N/A	
Golf Course	04.11.115	04.09.290	\$400	\$1,250	\$850	213%	\$1,171.62
Pub	04.11.220	04.09.240	\$800	\$1,250	\$450	56%	\$2,343.23
Sporting Event (Recreational Site)	04.11.210	04.09.270	\$800	\$1,250	\$450	56%	\$2,343.23
Theater (Currently in regulation)	3 AAC 304.695	04.09.250	\$600	\$1,250	\$650	108%	\$1,757.42

Notes

* Wholesalers pay multiple fees to the ABC Board depending on the amount of transacted business each year and the number of product suppliers. The lower tiers of the annual transaction fees are proposed to be reduced to support smaller businesses (see Recommendation W-1). The maximum transaction fees for both General and Limited Wholesale Licenses remains \$10,000 annually.

** Several Package Store activities currently included in the license are proposed as add-on endorsements, each with a \$200 fee per renewal period. The license fee would not increase, but total fees will increase if the licensee opts for one or more endorsements.

*** Common Carrier Dispensary licensees pay scaled fees according to the number of vessels and specific destinations operated as licensed premises. Carriers pay \$1,000 per vessel, up to 10, and an \$100 per vessel above that number. No fee changes are proposed.

Table 3. Proposed Changes to Penalties for Title 4 Offenses

Title 4 currently defines specific penalties for violations of some statutes within the title, either referring to the offense as a violation with no defined penalty, defining a range of penalties to apply, or specifying a minimum penalty. The title contains generally increased penalties for crimes in Local Option areas, as well as provisions for forfeiture and seizure of assets (typically alcohol) involved with a Title 4 case. Unless otherwise defined in these sections, the “default” penalty for any violation of Title 4 is a Class A Misdemeanor, as stated in AS 04.16.180(a).

Additionally, Title 4 defines a range of administrative penalties that the ABC Board can take against a licensee, including monetary fines, additional restrictions on a license, and suspension or revocation of the license in serious cases or in response to repeated violations. These are not represented in the table below, which only concerns criminal penalties, but are discussed in Recommendations RB-6 and UAD-2. The rationale for changing most Title 4 offenses to Minor Offenses (violations with a fine that do not require a court appearance) is also outlined in RB-6. Proposed changes to penalties are indicated in **bold**.

Citation (SB 76 v.A)	New Statute Title	Current Penalty	Proposed Penalty	Proposed Fine	Notes + Applicability of Offense
04.09.060	Unlicensed Manufacturing	Misdo A (04.11.010)	Misdo A	Defined in AS 12.55	Sell, manufacture or operate without a license
04.09.070	Unlicensed Manuf.: Local Option	Felony C (04.11.010)	Felony C	Defined in AS 12.55	Sell, manufacture or operate without a license in a Local Option area
04.09.080	Unauthorized Manufacturer Sale	Misdo A	Minor Offense	\$250	License holder sells to a buyer not listed in AS 04.09.050
04.09.140	Unlicensed Wholesale Sale	Misdo A (04.11.010)	Misdo A	Defined in AS 12.55	Sell or operate a wholesale business without a license
04.09.145	Unlicensed Wholesale Sale: Local Option	Felony C (04.11.010)	Felony C	Defined in AS 12.55	Sell or operate a wholesale business without a license in a Local Option area
04.09.150	Failure to Pay Annual Fee or File Affidavit	Misdo A	Minor Offense	\$250	Wholesale licensee fails to pay or file required documentation for annual fees
04.09.160	Failure to Pay Fee or File Declaration	Misdo A	Minor Offense	\$250	Wholesale licensee fails to pay or file required documentation for supplier fees
04.09.200	Beverage Dispensary License	Misdo A	Minor Offense	\$250	Noncompliance with license terms; sale in violation of license restrictions
04.09.210	Restaurant or Eating Place License	Misdo A	Minor Offense	\$250	Noncompliance with license terms; sale in violation of license restrictions
04.09.220	Club License	Misdo A	Minor Offense	\$250	Noncompliance with license terms; sale in violation of license restrictions
04.09.230	Package Store License	Misdo A	Minor Offense	\$250	Noncompliance with license terms; sale in violation of license restrictions
04.09.240	Pub License	Misdo A	Minor Offense	\$250	Noncompliance with license terms; sale in violation of license restrictions
04.09.250	Theater License	Misdo A	Minor Offense	\$250	Noncompliance with license terms; sale in violation of license restrictions
04.09.260	Common Carrier Dispensary License	Misdo A	Misdo A	Defined in AS 12.55	Violates section (a): operates additional unlicensed vessel(s)
04.09.260	Common Carrier Dispensary License	Misdo A	Minor Offense	\$500 per vessel	Noncompliance with license terms; sale in violation of license restrictions
04.09.270	Sporting Event (Rec. Site) License	Misdo A	Minor Offense	\$250	Noncompliance with license terms; sale in violation of license restrictions
04.09.280	Outdoor Recreation Lodge License	Misdo A	Minor Offense	\$250	Noncompliance with license terms; sale in violation of license restrictions

Citation (SB 76 v.A)	New Statute Title	Current Penalty	Proposed Penalty	Proposed Fine	Notes + Applicability of Offense
04.09.290	Golf Course License	Misdo A	Minor Offense	\$250	Noncompliance with license terms; sale in violation of license restrictions
04.09.300	Destination Resort License	Misdo A	Minor Offense	\$250	Noncompliance with license terms; sale in violation of license restrictions
04.09.310	Brewery Retail License	Misdo A (04.11.130)	Minor Offense	\$250	Noncompliance with license terms; sale in violation of license restrictions
04.09.320	Winery Retail License	Misdo A (04.11.140)	Minor Offense	\$250	Noncompliance with license terms; sale in violation of license restrictions
04.09.330	Distillery Retail License	Misdo A (04.11.170)	Minor Offense	\$250	Noncompliance with license terms; sale in violation of license restrictions
04.09.340	BDL Tourism License	Misdo A (04.11.400)	Minor Offense	\$250	Noncompliance with license terms; sale in violation of license restrictions
04.09.350	Seasonal REPL Tourism License	<i>New license</i>	Minor Offense	\$250	Noncompliance with license terms; sale in violation of license restrictions
04.09.360	Winery Direct Shipment License	<i>New license</i>	Minor Offense	\$250	Noncompliance with license terms; sale in violation of license restrictions
04.09.370	Unlicensed Retail Sale	Misdo A (04.11.010)	Misdo A	Defined in AS 12.55	Selling or operating a retail operation without a license
04.09.380	Unlicensed Retail Sale: Local Option	Felony C (04.11.010)	Felony C	Defined in AS 12.55	Selling or operating a retail operation without a license in a Local Option area
04.09.410	Manufacturer Sampling Endors.t	Misdo A	Minor Offense	w/o: \$500 other: \$250	Providing samples without endorsement Noncompliance with endorsement terms
04.09.420	Multiple Fixed Counter Endorsement	Misdo A (04.11.090)	Minor Offense	w/o: \$500 other: \$250	Operating without endorsement Noncompliance with endorsement terms
04.09.430	Hotel or Motel Endorsement	Misdo A (04.11.090)	Minor Offense	w/o: \$500 other: \$250	Operating without endorsement Noncompliance with endorsement terms
04.09.440	Large Resort Endorsement	Misdo A (04.11.090)	Minor Offense	w/o: \$500 other: \$250	Operating without endorsement Noncompliance with endorsement terms
04.09.450	Restaurant Endorsement	Misdo A (04.16.049)	Minor Offense	w/o: \$500 other: \$250	Operating without endorsement Noncompliance with endorsement terms
04.09.460	Package Store Shipping Endors.t	Misdo B (04.11.150)	Minor Offense	w/o: \$500 other: \$250	Operating without endorsement Noncompliance with endorsement terms
04.09.470	Package Store Delivery Endors.t	Misdo A (04.11.150)	Minor Offense	w/o: \$500 other: \$250	Operating without endorsement Noncompliance with endorsement terms
04.09.480	Package Store Repackaging Endors.t	Misdo A (04.11.150)	Minor Offense	w/o: \$500 other: \$250	Operating without endorsement Noncompliance with endorsement terms
04.09.490	Package Store Sampling Endors.t	<i>New section</i>	Minor Offense	w/o: \$500 other: \$250	Providing samples without endorsement Noncompliance with endorsement terms
04.09.500	Bowling Alley Endorsement	Misdo A (04.11.090)	Minor Offense	w/o: \$500 other: \$250	Operating without endorsement Noncompliance with endorsement terms
04.09.510	Golf Course Endorsement	Misdo A (04.11.115)	Minor Offense	w/o: \$500 other: \$250	Operating without endorsement Noncompliance with endorsement terms
04.09.520	Brewery Repackaging Endorsement	Misdo A (04.11.135)	Minor Offense	w/o: \$500 other: \$250	Operating without endorsement Noncompliance with endorsement terms
04.09.600	Failure to Comply with Permit Req.t	Misdo A	Minor Offense	\$250	Applies to all event permits under 04.09.600 - 670
		Misdo A	Minor Offense	\$500	Applies to Inventory Stock Sale (-.680), Conditional Contractor (-.690) Permits
04.11.010(a)	License or Permit	Misdo A	Misdo A	Defined in	Removed sale, manufacture, operations:

Citation (SB 76 v.A)	New Statute Title	Current Penalty	Proposed Penalty	Proposed Fine	Notes + Applicability of Offense
	Required; Possession for Sale			AS 12.55	now defined in AS 04.09. Remaining actions prohibited: barter, trafficking
04.11.010(b)	License or Permit Required; Possession for Sale	Felony C	Felony C	Defined in AS 12.55	Receiving or soliciting order for alcohol delivered to Local Option area (except under Pkg. Store Shipping Endorsement)
04.11.010(c)	License or Permit Required; Possession for Sale	Misdo A or Felony C [by volume]	Misdo A or Felony C	Defined in AS 12.55	Presumption about sale if possessing above a certain amount; severity depends on amount in question
04.11.015	Purchase from Nonlicensee Prohibited	Minor Offense	Minor Offense	\$250	Already violation in Title 4; added specific fine amount
04.11.040	Board Approval of Transfers	Misdo A	Minor Offense	\$250	Failure to seek approval of license transfer
04.11.045	Reports Required of Limited Liability Corporations	Misdo A	Minor Offense	\$250	Failure to report ownership change
04.11.050	Reports Required of Corporations	Misdo A	Minor Offense	\$250	Failure to report ownership change
04.11.055	Reports Required of Partnerships	Misdo A	Minor Offense	\$250	Failure to report ownership change
04.11.060	Nonresident Distiller, Brewer, Winery or Wholesaler	Misdo A	Misdo A	Defined in AS 12.55	Selling to in-state licensees without obtaining needed license(s)
04.11.315	False Statement on Application	Felony B (04.16.210)	Felony B	Defined AS 11.56.200	No policy change, statute moved; false statement "knowingly"
04.11.370	Suspension and Revocation of Licenses, et al.	<i>N/A – board-imposed penalties on licensees for violation of Title 4</i>			Defines administrative penalties that the board can impose on licenses; no changes to existing structure
04.11.499(a)	Prohibition of Importation, Purchase (Local Option)	Misdo A/ Felony C	Misdo A/ Felony C	Defined in AS 12.55	Bans importation into Local Option area; severity depends on amount
04.11.499(b)	Prohibition of Importation, Purchase (Local Option)	Misdo A	Misdo A	Defined in AS 12.55	Bans purchase from someone who illegally imported into Local Option area
04.11.501(a)	Prohibition of Possession (Local Option)	Minor Offense	Minor Offense	Fine up to \$1000 (04.16.205)	Court sets fine schedule, forfeiture, etc., for Local Option area banning possession
04.11.535(a)	Suspension and Revocation Based on Acts of Employees	<i>N/A – board-imposed penalties on licensees for violation of Title 4</i>			Establishes burden of proof for licensee; ties violation specifically with offenses under 04.16.150
04.11.560(b)	Appeals	<i>N/A – Defines appeal process</i>			Appeal of board decision go to superior court (44.62.560)
04.16.010	Hours of Sale, Presence on Licensed Premises	Misdo A	Minor Offense	\$250	Noncompliance for serving alcohol outside allowed hours of operation
04.16.015	Pricing and Marketing of Alcoholic Bev.s	Misdo A	Minor Offense	\$250	Noncompliance with limits on sales, amounts of sale, sales or over-service
04.16.017	Trade Practices	<i>New section</i>	<i>N/A – administrative penalties to be defined</i>		Penalties for trade practices administrative only, detailed in future regulations

Citation (SB 76 v.A)	New Statute Title	Current Penalty	Proposed Penalty	Proposed Fine	Notes + Applicability of Offense
04.16.020	Solicitation of Alcoholic Beverages; Purchase for Another	Misdo A	Minor Offense	\$100	Third party paid to encourage patrons to purchase; ordering for person in Local Option area to circumvent ordering limits
04.16.022	Online Alcohol Sales (Beer, Wine, Spirits)	<i>New section</i>	Misdo A	Defined in AS 12.55	Sale of alcohol online to AK consumer, unless under AS 04.09.360 or 04.09.460
		<i>New section</i>	Minor Offense	\$250	Purchase by consumer from online source, unless licensed or endorsed under Title 4
04.16.025	Illegal Presence on Premises Involving Alcoholic Beverages	Minor Offense	Minor Offense	\$250	May not remain on illegal/non-licensed premises with activities in violation of Local Option
04.16.030	Prohibited Conduct Relating to Drunken Persons	Misdo A	Minor Offense	\$250 to \$500	Licensee/employee sells to drunken person (DP); patron gives to DP on premises; allows DP to stay on premises
		<i>New section</i>	Misdo A	Defined in AS 12.55	Licensee knowingly allows violation of this section (adapted from previous 04.16.150)
		<i>New section</i>	Admin. Penalty to licensee	\$250	Licensee receives administrative penalty if employee violates this section. License cannot be suspended for first conviction.
04.16.035	Possession of Homebrew Ingredients in Certain Areas	Misdo A	Misdo A	Defined in AS 12.55	Possess homebrew ingredients with intent to manufacture
04.16.040	Access of Drunken Persons to Licensed Premises	Misdo A	Minor Offense	\$250	Drunken person may not access licensed premises
04.16.045	Obligation to Enforce Restrictions in Licensed Premises	Misdo A	Minor Offense	\$250	Licensee cannot serve alcohol except as allowed in license
04.16.047	Access of Persons with Restriction on Purchasing Alcohol	Misdo A	Misdo A	Defined in AS 12.55	Person cannot enter licensed premises if restricted from purchasing alcohol.
04.16.049	Access Under Age 21 to Licensed Premises	Misdo A	Minor Offense	\$500; \$50 w/ASAP	<i>Enacted in SB165</i>
04.16.050	Possession, Control, Consumption by Under Age 21	Minor Offense (multiple penalties)	Minor Offense	\$500; \$50 w/ASAP	<i>Enacted in SB165</i>
04.16.051	Furnishing or Delivery of Alcoholic Beverages to Persons Under Age 21	Misdo A	Minor Offense	\$500	Applies to an adult (other than licensee) providing a minor with alcohol
		Felony C	Felony C	Defined in AS 12.55	If minor causes injury or death, adult is liable; penalty for repeat offense repealed
04.16.052	Furnishing of Alcoholic Beverages to Persons Under Age 21 by Licensees	Misdo A	Minor Offense	\$250 to \$500	Licensee or employee receives penalty for serving a minor (whoever directly serves)
		<i>New section</i>	Misdo A	Defined in AS 12.55	Licensee knowingly allows violation of this section (adapted from previous 04.16.150)
		<i>New section</i>	Admin. Penalty to licensee	\$250	Licensee receives administrative penalty if employee violates this section. License cannot be suspended for first conviction.
04.16.055	Room Rental for Consuming Alcoholic Beverages	Misdo A	Minor Offense	\$500	Renting room for purpose of providing alcohol to person under 21

Citation (SB 76 v.A)	New Statute Title	Current Penalty	Proposed Penalty	Proposed Fine	Notes + Applicability of Offense
04.16.057	Permitting Minor to Illegally Possess Liquor in Dwelling	Minor Offense	Minor Offense	\$500	Already violation; added fine. Range of fines require court appearance for sentencing.
04.16.059	Aggravated Penalties Involving Under 21, and by Sex Offender	<i>Step-up of existing penalty of underlying offenses in specific cases [no change proposed]</i>			Increases penalties for anyone who is registered sex offender or child kidnapper. e.g. Misdo A goes to Felony C
04.16.060	Purchase or Delivery to Under Age 21	Misdo A	Minor Offense	\$500; \$50 w/ ASAP	Penalty for underage person purchasing or attempting to purchase; proposed to match changes made in SB 165
		Misdo A	Minor Offense	\$500	Delivery to or purchase for underage person by an adult
04.16.065	Civil Penalty for Violations of AS 04.16.060	<i>Civil penalty: \$1500+fees [no change proposed]</i>			Licensee can pursue minor 18+ or emancipated minor for civil damages if violated 04.16.060
04.16.065	Civil Penalty for Violations of AS 04.16.060	<i>Civil penalty \$1000+fees [no change proposed]</i>			Licensee can pursue guardian of >18 minor if violated 04.16.060
04.16.080	Consumption at School Events	Misdo A	Minor Offense	\$100	Consuming at school event, at site of event
04.16.090	Prohibition of Bottle Clubs	Misdo A	Misdo A	Defined in AS 12.55	Same as selling or operating w/o license
04.16.110	Sale of Certain Alcoholic Beverages Prohibited	Misdo A	Misdo A	Defined in AS 12.55	Selling products: powdered alcohol, more than 76 percent ABV
04.16.120	Removal + Introduction of Alcohol	Misdo A	Minor Offense	\$100	Brings alcohol onto licensed premises, or takes off premises
04.16.125	Alcohol Transported by Common Carrier	Misdo A	Misdo A	Defined in AS 12.55	Limits on amounts transported to LO areas, exception for small amts
		<i>New section</i>	Minor Offense	\$500	Delivery by common carrier not approved by ABC Board to deliver alcohol
04.16.125	Alcohol Transported by Common Carrier	<i>New section</i>	Minor Offense	\$250	Noncompliance with delivery requirements by approved common carrier
04.16.130	Stock Confined to Licensed Premises	Misdo A	Minor Offense	\$250	Storing alcohol outside of designated areas licensed for storage
04.16.140	Sale or Consumption of Alcohol in a Warehouse	Misdo A	Minor Offense	\$250	Selling or allowing consumption of alcohol in warehouse licensed for storage
04.16.150	Licensee Responsible for Violations	Misdo A	Minor Offense	\$250	Licensee knowingly allows other violations on premises (see 04.16.030 and 04.16.052)
04.16.160	Restriction on Purchasing Alcohol	Misdo A	Misdo A	Defined in AS 12.55	Requires restricted individual to have current marked ID, avoid alcohol
04.16.170	Source of Alcoholic Beverages	Misdo A	Misdo A	Defined in AS 12.55	Requires purchase from licensee, with exceptions e.g. medicinal, religious
04.16.172	Restrictions on Purchase and Sales of Alcoholic Beverages	Misdo A	Misdo A	Defined in AS 12.55	Prohibits purchase from seller not listed as primary source supplier (wholesaler or manufacturer)
04.16.175	Furnishing Alcoholic Beverages in Aid of Gambling Enterprise	Misdo A	Misdo A	Defined in AS 12.55	Gambling enterprise may not furnish alcohol to player; does not apply to businesses licensed under Title 4

Citation (SB 76 v.A)	New Statute Title	Current Penalty	Proposed Penalty	Proposed Fine	Notes + Applicability of Offense
04.16.180	Penalties for Violation	<i>N/A – board-imposed penalties on licensees for violation of Title 4</i>			Addresses range of board-imposed penalties for violations of Title 4
04.16.180(b)	Penalties for Violation	<i>New section</i>	<i>N/A – board-imposed penalties on licensees</i>		Includes specific penalties for violation of 04.16.030 and -052
04.16.180(e)	Penalties for Violation	<i>New section</i>	<i>N/A – for reference</i>		Defines conviction (applies to felony, misdo, minor offense)
04.16.180(f)	Penalties for Violation	<i>New section</i>	<i>N/A – for reference</i>		Clarifies that licensee convicted of Title 4 offense also subject to board penalties
04.16.180(g)	Penalties for Violation	<i>New section</i>	<i>N/A – for reference</i>		Allows board to reduce penalties on licensee if licensee demonstrates attempt to follow laws, mitigating circumstances
04.16.200	Penalties for Violation of 04.11.010, -.499	Misdo A or Felony C	Misdo A or Felony C	Defined in AS 12.55	Penalties vary by volume of alcohol, number of prior convictions
04.16.200(g)	Penalties for Violation of 04.11.010, -.499	Misdo A	Misdo A	Incl. repeat offenses	Penalties for selling, importing in LO area increased fine amts.
04.16.205	Penalties for Violation of 04.11.501 and Related Ordinances	Minor Offense	Minor Offense	Up to \$1,000	Penalty for possession; section (h) states specifically that violation is not considered a criminal offense, but a minor offense
04.16.220	Forfeitures and Seizures	<i>N/A – for reference</i>			Forfeit and seizure of property related to offenses of Title 4
04.21.012	Keg Registration	<i>New section</i>	Minor Offense	\$250	Licensee sells or rents an unregistered keg
		<i>New section</i>	Minor Offense	\$100	Person possesses unregistered keg containing alcohol
04.21.020	Civil Liability for Providing Alcohol	<i>N/A – for reference</i>			Includes liability for consequences from alcohol consumed when sold illegally
04.21.025	Alcohol Server Education Course	Misdo A	Minor Offense	\$250	Failure to maintain server card if expired
04.21.060	Warehousing of Alcoholic Beverages	Misdo A	Minor Offense	\$250	Can store beverages offsite if approved by board, allowed by local zoning
04.21.065	Posting of Warning Signs	Minor Offense	Minor Offense	\$20 to \$300 per day	Posting of warning signs; bail schedule; doesn't preclude license suspension
04.21.072(a)	Fines and Other Criminal Penalties	Misdo A (04.16.180)	Minor Offense	\$250	Unless specified otherwise, violation of Title 4 is a \$250 fine; replaces 04.16.180(a)
04.21.072(b)	Fines and Other Criminal Penalties	Misdo / Felony	Misdo / Felony	Defined in AS 12.55	Unless specified otherwise, penalties for Misdo/ Felony are defined in Title 12
04.21.074	Bail Forfeiture Schedule	<i>N/A – for reference</i>			Provides outline of bail forfeiture (if ticket is paid) and conviction for minor offenses
04.21.076	Suspension of Fine or Sentence	<i>N/A – for reference</i>			Court cannot suspend fine or sentence for minor offenses; requires enforcing
12.85.015	Record of Judgment of Conviction	<i>N/A – for reference</i>			Requires court to send convictions of Title 4 to ABC Board.
Repeal of 04.16.180(a)	Repeal: Default Penalty in Title 4	Misdo A	(See AS 04.21.072)		Removes default as Misdo A; is now Minor Offense, in 04.21.072