

**AMENDMENT** #1

OFFERED IN THE HOUSE  
TO: CSHB 299(L&C)

Offered by Rep. Foster

- 1 Page 1, line 2, following the second occurrence of "Board;":
- 2 Insert "relating to the application of precedent to decisions of the Alcoholic
- 3 Beverage Control Board;"
- 4
- 5 Page 1, following line 10:
- 6 Insert a new bill section to read:
- 7 "\*\* Sec. 3. AS 04.11.537 is repealed."
- 8
- 9 Renumber the following bill sections accordingly.

## LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

### MEMORANDUM

April 3, 2018

**SUBJECT:** Application of precedent  
(CSHB 299(L&C); Work Order No. 30-LS1281U.2)

**TO:** Representative Adam Wool  
Attn: Laura Stidolph

**FROM:** Linda M. Bruce *Linda Bruce*  
Legislative Counsel

Attached to this memorandum is the amendment that you requested to repeal AS 04.11.537. Under AS 04.11.537, the Alcoholic Beverage Control Board is not required to conform to or distinguish its decisions from actions taken in the past on similar facts. As we discussed over the phone, it appears that no similar provision exists in the statutes for any other board, including the Marijuana Control Board under AS 17.38. It is my opinion that this language could present due process and equal protection problems by treating similarly situated licensees differently and potentially giving different punishments for similar violations.

If I may be of further assistance, please advise.

LBB:dls  
18-197.dls

Attachment

**AMENDMENT** #2

Offered by Rep. Foster

OFFERED IN THE HOUSE

TO: CSHB 299(L&C)

1 Page 1, line 2, following the first occurrence of "Board;":

2 Insert "relating to the authority of the commissioner of commerce, community,  
3 and economic development to reconsider decisions of the Alcoholic Beverage Control  
4 Board; "  
5

6 Page 1, following line 7:

7 Insert new bill sections to read:

8 "\*\* Sec. 2. AS 04.11.070 is amended to read:

9 Sec. 04.11.070. Power limited to the board. Except as provided in  
10 AS 04.11.560(c), only [ONLY] the board may issue, renew, transfer, relocate,  
11 suspend, or revoke a license under this title.

12 \* Sec. 3. AS 04.11.560 is amended by adding new subsections to read:

13 (c) An aggrieved party may request that the commissioner reconsider a  
14 decision by the board relating to the issuance, renewal, transfer, relocation,  
15 suspension, or revocation of a license under this title. A request for reconsideration  
16 must be filed within 30 days after the date the board issues its decision. The  
17 commissioner shall determine, based on the record before the board, whether the  
18 board's decision is supported by substantial evidence and whether the decision is  
19 contrary to law. The commissioner shall issue a written decision affirming, modifying,  
20 or reversing the board's decision within 30 days after receiving the request for  
21 reconsideration.

22 (d) Reconsideration under (c) of this section is not a precondition of an appeal  
23 to the superior court under (b) of this section. If reconsideration is requested under (c)

1 of this section, the decision by the commissioner to affirm, modify, or reverse the  
2 board's decision is the final agency action for purposes of an appeal to the superior  
3 court under AS 44.62.560.

4 (e) The commissioner may stay all or part of an order pending administrative  
5 review or reconsideration or judicial review. The aggrieved party may not appeal a  
6 stay separately from an appeal of the substantive decision.

7 (f) In this section, "commissioner" means the commissioner of commerce,  
8 community, and economic development."  
9

10 Renumber the following bill sections accordingly.

11

12 Page 1, line 12:

13 Delete "Section 2"

14 Insert "Section 4"

**AMENDMENT** <sup>#3</sup>

OFFERED IN THE HOUSE  
TO: CSHB 299(L&C)

Offered by Rep. Foster

1 Page 1, line 1, following "Act":

2 Insert "relating to the Department of Commerce, Community, and Economic  
3 Development;"

4

5 Page 1, following line 4:

6 Insert a new bill section to read:

7 **\*\* Section 1.** AS 04.06.010 is amended to read:

8 **Sec. 04.06.010. Establishment of board.** There is established in the  
9 Department of Commerce, Community, and Economic Development the Alcoholic  
10 Beverage Control Board as a regulatory and quasi-judicial agency. [THE BOARD IS  
11 IN THE DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC  
12 DEVELOPMENT, BUT FOR ADMINISTRATIVE PURPOSES ONLY.]"

13

14 Page 1, line 5:

15 Delete "Section 1"

16 Insert "Sec. 2"

17

18 Renumber the following bill sections accordingly.

19

20 Page 1, line 12:

21 Delete "Section 2"

22 Insert "Section 3"