

SENATE CS FOR CS FOR HOUSE BILL NO. 69(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE

Offered: 5/18/99

Referred: Today's Calendar

Sponsor(s): REPRESENTATIVE ROKEBERG

A BILL

FOR AN ACT ENTITLED

1 "An Act requiring certain reports or information from alcoholic beverage
2 licensees that are also limited liability organizations; relating to powers of
3 employees of the Alcoholic Beverage Control Board to investigate violations of
4 certain criminal laws; relating to regulation of alcoholic beverage licenses issued
5 to limited liability organizations; relating to brewpub licenses; relating to package
6 store licenses; relating to a licensee's violation of laws relating to alcoholic
7 beverage licensing, sales, and distribution and to imposition, monitoring, and
8 enforcement of conditions imposed on alcohol beverage licensees that are
9 recommended by a local governing body and that are required to be imposed
10 on an alcohol beverage licensee unless the Alcoholic Beverage Control Board
11 determines the recommended conditions are arbitrary, capricious, or unreasonable;
12 relating to consumption of alcoholic beverages on licensed premises; relating to

1 the liability of a member of a limited liability organization who also holds an
2 alcoholic beverage license; extending the termination date of the Alcoholic
3 Beverage Control Board to June 30, 2003; relating to residency requirements for
4 obtaining an alcoholic beverage license; and providing for an effective date."

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

6 * Section 1. AS 04.06.100(b) is amended to read:

7 (b) The subjects covered by regulations adopted under (a) of this section may
8 include [, BUT ARE NOT LIMITED TO,] the following matters:

9 (1) employment, conduct, and duties of the director and of regular and
10 contractual employees of the board;

11 (2) procedures for the issuance, denial, renewal, transfer, revocation,
12 and suspension of licenses and permits;

13 (3) terms and conditions of licenses and permits issued;

14 (4) fees for licenses and permits issued for which [NO] fees are not
15 prescribed by statute;

16 (5) conduct of regular and special meetings of the board;

17 (6) delegation to the director of routine administrative functions and
18 powers;

19 (7) the temporary granting or denial of issuance, transfer, and renewal
20 of licenses;

21 (8) manner of giving any notice required by law or regulation when not
22 provided for by statute;

23 (9) requirements relating to the qualifications of licensees, the
24 conditions upon which a license may be issued, the accommodations of licensed
25 premises, and board inspection of those premises;

26 (10) making of reports by wholesalers;

27 (11) purchase of fidelity bonds by the state for the director and the
28 employees of the board;

29 (12) prohibition of possession of alcoholic beverages by drunken

persons and by minors;

(13) required reports from corporations licensed under this title, including reports of stock ownership and transfers and changes of officers and directors;

(14) creation of classifications of licenses or permits not provided for in this title;

(15) establishment and collection of fees to be paid on application for a license or permit;

(16) required reports from partnerships and limited partnerships licensed under this title, including reports of transferred interests of 10 percent or more;

(17) required reports from limited liability organizations licensed under this title, including reports of the transfer of a member's interest if the transfer equals 10 percent or more of the ownership of the limited liability organization and any change of managers.

* Sec. 2. AS 04.06.110 is amended to read:

Sec. 04.06.110. Peace officer powers. The director and the persons employed for the administration and enforcement of this title may, with the concurrence of the commissioner of public safety, exercise the powers of peace officers when those powers are specifically granted by the board. Powers granted by the board under this section may be exercised only when necessary for the enforcement of the criminally punishable provisions of this title, regulations of the board, and other criminally punishable laws and regulations, **including investigation of violations of laws against prostitution and promoting prostitution described in AS 11.66.100 - 11.66.130 and laws against gambling, promoting gambling, and related offenses described in AS 11.66.200 - 11.66.280** [GOVERNING THE MANUFACTURE, BARTER, SALE, CONSUMPTION, AND POSSESSION OF ALCOHOLIC BEVERAGES IN THE STATE].

* Sec. 3. AS 04.11.040(c) is amended to read:

(c) A person may not receive or transfer controlling interest in a liquor license issued to a partnership, including a limited partnership, **a limited liability organization**, or a corporation under this title, except with the written consent of the

board.

* **Sec. 4.** AS 04.11 is amended by adding a new section to read:

Sec. 04.11.045. Reports required of limited liability organizations. (a) A limited liability organization licensed under this title shall report to the board when a member of the limited liability organization transfers 10 percent or more of the ownership of the organization and shall report a change of managers.

(b) The report to the board shall be made in writing in duplicate and shall be sent within 10 days after the change in member interest or manager.

* **Sec. 5.** AS 04.11.135(a) is amended to read:

(a) A brewpub license authorizes the holder of a beverage dispensary license to

(1) manufacture on premises licensed under the beverage dispensary license not more than 75,000 gallons of beer in a calendar year;

(2) sell beer manufactured on premises licensed under the beverage dispensary license for consumption [ONLY] on the licensed premises or other licensed premises of the beverage dispensary licensee that are also licensed as a beverage dispensary;

(3) sell beer manufactured on the premises licensed under the beverage dispensary license in quantities of not more than five gallons per day to an individual who is present on the licensed premises; [AND]

(4) provide a small sample of the brewpub's beer manufactured on the premises free of charge unless prohibited by AS 04.16.030; and

(5) sell beer manufactured on the premises licensed under the beverage dispensary license to a person licensed as a wholesaler under AS 04.11.160.

* **Sec. 6.** AS 04.11.135 is amended by adding a new subsection to read:

(d) Notwithstanding (a) of this section, the holder of a brewpub license who under the provisions of AS 04.11.450(b) formerly held a brewery license and a restaurant or eating place license and who, under the former brewery license, manufactured beer at a location other than the premises licensed under the former restaurant or eating place license may

1 (1) manufacture not more than 75,000 gallons of beer in a calendar year
2 on premises other than the premises licensed under the beverage dispensary license;

3 (2) provide a small sample of the manufactured beer free of charge at
4 the location the beer is manufactured unless prohibited by AS 04.16.030; and

5 (3) sell the beer authorized to be manufactured under this subsection
6 (A) on the premises licensed under the beverage dispensary
7 license or other licensed premises of the beverage dispensary licensee that are
8 also licensed as a beverage dispensary;

9 (B) to a wholesaler licensed under AS 04.11.160; or

10 (C) to an individual who is present on the premises where the
11 beer is manufactured in quantities of not more than five gallons per day.

12 * **Sec. 7.** AS 04.11.150(a) is amended to read:

13 (a) Except as provided under (g), (j), and (k) of this section, a package store
14 license authorizes the licensee to sell alcoholic beverages to a person present on the
15 licensed premises or to a person known to the licensee who makes a written
16 solicitation to that licensee for shipment. A licensee, agent, or employee may only
17 ship alcoholic beverages to the purchaser. Before commencing the practice of shipping
18 alcoholic beverages, and with each subsequent application to renew the license, a
19 licensee shall notify the board in writing of the licensee's intention to ship alcoholic
20 beverages in response to a written solicitation. The package store licensee, agent, or
21 employee shall include written information on fetal alcohol syndrome and fetal alcohol
22 effects resulting from a woman consuming alcohol during pregnancy in a shipment of
23 alcoholic beverages sold in response to a written solicitation.

24 * **Sec. 8.** AS 04.11.150 is amended by adding new subsections to read:

25 (j) A package store license authorizes the licensee to deliver not more than two
26 bottles of wine or champagne in a gift basket with a floral arrangement to a cruise ship
27 passenger or a hotel guest. The wine or champagne for delivery may be purchased
28 from a package store licensee by a florist or gift basket establishment with a state
29 business license that designates the business as a florist or gift basket establishment.
30 The package store licensee shall keep on file a copy of the Alaska business license of
31 a florist or gift basket establishment to which the licensee sells wine or champagne for

1 delivery to third persons by the package store. The package store must keep a written
 2 record of each delivery made under this subsection for a period of at least one year,
 3 including the name of the business purchasing the wine or champagne and the name
 4 of the person to whom the delivery is made. A delivery under this subsection must
 5 be made by the licensee or an employee or agent of the licensee who has completed
 6 alcohol server training as required under AS 04.21.025. The board shall issue a permit
 7 to each licensee authorized to deliver wine or champagne under this subsection and
 8 may by regulation impose an administrative fee for the cost of issuing the permit.

9 (k) A package store license authorizes the licensee to deliver alcoholic
 10 beverages between the hours of 8:00 a.m. and 5:00 p.m. to a responsible adult at the
 11 location of a wedding or wedding reception or other social event as defined by
 12 regulation of the board. A delivery under this subsection may be made only after a
 13 sale by written order received from a person present on the licensed premises who
 14 makes payment in full at least 48 hours before the delivery. The written order must
 15 include the name and address of the purchaser and the date, time, and address of the
 16 delivery, as well as the name and address of the responsible adult who will receive the
 17 delivery of alcoholic beverages. A delivery authorized under this subsection must be
 18 made by the licensee or an employee or agent of the licensee who has completed
 19 alcohol server training as required under AS 04.21.025. Delivery may only be made
 20 to a responsible adult at the delivery address on the written order. The responsible
 21 adult must provide identification and proof of age as defined in AS 04.21.050, and
 22 must acknowledge receipt of the alcoholic beverages in writing. The package store
 23 licensee shall retain the written order and the responsible adult's written
 24 acknowledgment for at least one year after delivery. The board shall issue a permit
 25 to each licensee authorized to deliver alcoholic beverages under this subsection and
 26 may by regulation impose an administrative fee for the cost of issuing the permit.

27 * **Sec. 9.** AS 04.11.260(a) is amended to read:

28 (a) An applicant for a new license or permit shall file with the director a
 29 written application, signed and sworn to by the applicant, giving the applicant's name
 30 and address. If the applicant is a corporation, the application shall be executed by the
 31 authorized officers of the corporation. If the applicant is a partnership, including a

limited partnership, the application shall be executed by an authorized general partner.

The application must include:

(1) the type of license or permit desired;

(2) a description of the premises for which the license or permit is desired, giving the address by street and number, or other information, so that the location of the premises can be definitely determined;

(3) [A STATEMENT OF THE RESIDENCY OF THE APPLICANT;

(4)] the license fee;

(4) [(5)] the duration of the license or permit desired;

(5) [(6)] any other information required by the board.

* **Sec. 10.** AS 04.11.260 is amended by adding a new subsection to read:

(e) A limited liability organization that applies for a license or permit shall provide information required by the board, including the names and addresses of all members with an ownership interest of 10 percent or more and the names and addresses of all managers.

* **Sec. 11.** AS 04.11.320(a) is amended to read:

(a) An application requesting issuance of a new license shall be denied if

(1) the board finds, after review of all relevant information, that issuance of the license would not be in the best interests of the public;

(2) issuance of the license is prohibited by [AS 04.11.390, RELATING TO RESIDENCY, OR] AS 04.11.410, relating to location of premises near churches and schools;

(3) the application has not been completed in accordance with AS 04.11.260;

(4) issuance of the license would violate the restrictions pertaining to the particular license imposed under this title;

(5) issuance of the license is prohibited under this title as a result of an election conducted under AS 04.11.507;

(6) the requirements of AS 04.11.420 - 04.11.450 relating to zoning, ownership and location of the license, and the identity and financing of a licensee have not been met;

1 (7) issuance of the license is prohibited under AS 04.11.400(a) or
 2 prohibition of issuance of the license is found necessary under AS 04.11.400(b);

3 (8) the application contains false statements of material fact;

4 (9) the license is sought for the sale of alcoholic beverages in a first
 5 or second class city where there are no licensed premises at the time of application
 6 unless a majority of the voters have voted not to approve a local option to restrict or
 7 prohibit the sale of alcoholic beverages under AS 04.11.491, have voted to approve a
 8 local option to allow the type of premises under AS 04.11.491(a)(2) or (3), or have
 9 voted to remove a restriction or prohibition on the sale of alcoholic beverages under
 10 AS 04.11.495; or

11 (10) the license is sought for the sale of alcoholic beverages in an
 12 established village where there are no licensed premises at the time of application
 13 unless a majority of the voters have voted not to approve a local option to restrict or
 14 prohibit the sale of alcoholic beverages under AS 04.11.491, have voted to approve a
 15 local option to allow the type of premises under AS 04.11.491(b)(2), or have voted to
 16 remove a restriction or prohibition on the sale of alcoholic beverages under
 17 AS 04.11.495.

18 * **Sec. 12.** AS 04.11.430(a) is amended to read:

19 (a) Each license shall be issued to a specific individual or individuals, to a
 20 partnership, including a limited partnership, **to a limited liability organization,** or to
 21 a corporation. If the license is issued to a corporation **or a limited liability**
 22 **organization,** the registered agent of the corporation **or limited liability organization**
 23 must be an individual resident of the state.

24 * **Sec. 13.** AS 04.11.450(c) is amended to read:

25 (c) A license may not be leased by a licensee to another person, **partnership,**
 26 **limited liability organization,** or corporation.

27 * **Sec. 14.** AS 04.11.480 is amended by adding new subsections to read:

28 (c) A local governing body may recommend that a license be issued, renewed,
 29 relocated, or transferred with conditions. The board shall consider recommended
 30 conditions and testimony received at a hearing conducted under AS 04.11.510(b)(2)
 31 or (4) when it considers the application or continued operation, and the recommended

conditions and the record of the hearing conducted under AS 04.11.510(b)(2) or (4) shall be kept as part of the board's permanent record of its review. If the local governing body recommends conditions, the board shall impose the recommended conditions unless the board finds that the recommended conditions are arbitrary, capricious, or unreasonable. If a condition recommended by a local governing body is imposed on a licensee, the local governing body shall assume responsibility for monitoring compliance with the condition, except as otherwise provided by the board.

(d) In addition to the right to protest under (a) of this section, a local governing body may notify the board that the local governing body has determined that a licensee has violated a provision of this title or a condition imposed on the licensee by the board. Unless the board finds that the local governing body's determination is arbitrary, capricious, or unreasonable, the board shall prepare the determination as an accusation against the licensee under AS 44.62.360 and conduct proceedings to resolve the matter as described under AS 04.11.510(c).

* **Sec. 15.** AS 04.16.120(b) is amended to read:

(b) **Except as provided in this subsection, a** [A] person may not bring an alcoholic beverage into licensed premises for use or consumption by oneself or another person on the premises unless that person is a licensee, an agent, employee, or common carrier in the regular course of employment. **With the permission of the licensee, a person may bring wine into premises licensed as a beverage dispensary or a restaurant or eating place for consumption by the person while eating food served at a table on the licensed premises. The beverage dispensary or restaurant or eating place may charge a corkage fee for serving wine supplied by a customer.**

* **Sec. 16.** AS 04.21 is amended by adding a new section to read:

Sec. 04.21.035. Responsibility of limited liability organization members.

Notwithstanding any other provision of AS 10.50 or AS 32.05, a member of a limited liability organization holding a license under this title is not relieved of the obligation or the liability otherwise imposed upon a holder of a liquor license under this title solely because the license is held by a limited liability organization.

* **Sec. 17.** AS 04.21.080(b) is amended by adding new paragraphs to read:

(12) "foreign limited liability company" has the meaning given in

1 AS 10.50.990;

2 (13) "foreign limited liability partnership" has the meaning given in
3 AS 32.05.990;

4 (14) "limited liability company" means an organization under AS 10.50;

5 (15) "limited liability organization" means a limited liability company,
6 a foreign limited liability company, a limited liability partnership, or a foreign limited
7 liability partnership;

8 (16) "limited liability partnership" means an organization that is
9 registered under AS 32.05.415.

10 * **Sec. 18.** AS 44.66.010(a)(1) is amended to read:

11 (1) Alcoholic Beverage Control Board (AS 04.06.010) -- June 30, **2003**
12 [1999];

13 * **Sec. 19.** AS 04.11.390 is repealed.

14 * **Sec. 20.** Section 18 of this Act takes effect immediately under AS 01.10.070(c).

15 * **Sec. 21.** Except as provided in sec. 20 of this Act, this Act takes effect July 1, 1999.