

HOUSE BILL NO. 168

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE FOSTER

Introduced: 4/24/23

Referred: Community and Regional Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to alcohol; relating to local option elections; relating to the statewide**
2 **database of alcohol purchases; relating to alcohol licenses, endorsements, and permits;**
3 **relating to municipal regulation and taxation of alcoholic beverages; and providing for**
4 **an effective date."**

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

6 * **Section 1.** AS 04.06.095(a), as amended by sec. 10, ch. 8, SLA 2022, is amended to read:

7 (a) The board, after consulting with package store licensees, shall create and
8 maintain a statewide database that contains a monthly record of the alcohol purchased
9 by, and shipped to, a person who resides in a municipality or established village that
10 has restricted the sale of alcoholic beverages under AS 04.11.491(a)(1), (2), [OR] (3),
11 or (6) or (b)(1) or (2).

12 * **Sec. 2.** AS 04.09.460(c), enacted by sec. 13, ch. 8, SLA 2022, is amended to read:

13 (c) An endorsement holder may ship alcoholic beverages only to the purchaser
14 and may ship alcoholic beverages only in response to an order. The endorsement

holder may not, in response to an order, ship alcohol to a purchaser at an address other than the address where the purchaser resides or, if the purchaser resides in a municipality or established village that has adopted a local option under AS 04.11.491(a)(1), (2), [OR] (3), or (6) or (b)(1) or (2) for which a community delivery site has been designated under AS 04.11.491(f), to an address other than that community delivery site except as provided by AS 04.11.491(f)(1) and (2).

* **Sec. 3.** AS 04.09.460(e), enacted by sec. 13, ch. 8, SLA 2022, is amended to read:

(e) If a shipment is to an area that has restricted the sale of alcoholic beverages under AS 04.11.491(a)(1), (2), [OR] (3), or (6) or (b)(1) or (2), an endorsement holder may not ship to a purchaser more than 10.5 liters of distilled spirits or 24 liters or more of wine, or either a half-barrel keg of brewed beverages or 12 gallons or more of brewed beverages in individual containers in a calendar month, or a lower amount of distilled spirits, wine, or brewed beverages if the municipality or established village has adopted the lower amount by local option under AS 04.11.491(g). Before shipping alcohol to a purchaser in a restricted area, an endorsement holder shall consult the database maintained by the board under AS 04.06.095 for any alcoholic beverage shipments made to the purchaser during that calendar month by a package store. An endorsement holder may not ship an amount of alcoholic beverages to a purchaser in a restricted area that, when added to the amount already shipped, exceeds the amount authorized by this subsection. An endorsement holder shall immediately enter into the database the date and the amount of alcoholic beverages shipped to the purchaser.

* **Sec. 4.** AS 04.11.010(b), as amended by sec. 15, ch. 8, SLA 2022, is amended to read:

(b) Except as provided in this subsection, a person may not solicit or receive orders for the delivery of an alcoholic beverage in an area that has adopted a local option under AS 04.11.491. If the area has adopted a local option under AS 04.11.491(a)(1), (2), [OR] (3), or (6) or (b)(1) or (2), a package store licensee outside of that local option area may receive orders as provided under a package store shipping endorsement under AS 04.09.460 but may not solicit in that area or receive orders through an agent or employee in that area. This subsection does not apply to a package store licensee who operates a package store in an area that has adopted a local option under AS 04.11.491(a)(2)(C), [OR] (3)(C), or (6)(C) or (b)(2)(C). A person

1 who violates this subsection is punishable upon conviction as provided under
 2 AS 04.16.200(a) or (b).

3 * **Sec. 5.** AS 04.11.320(a), as amended by sec. 35, ch. 8, SLA 2022, is amended to read:

4 (a) An application requesting issuance of a new license or endorsement shall
 5 be denied if

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

8 (2) issuance of the license is prohibited by AS 04.11.410, relating to
 9 location of premises near churches and schools;

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

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

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

16 (6) the requirements of AS 04.11.420 - 04.11.450 relating to zoning,
 17 ownership and location of the license, and the identity and financing of a licensee have
 18 not been met or the requirements of AS 04.11.430(b) relating to location of the
 19 endorsement have not been met;

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

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

23 (9) the license is sought for the sale of alcoholic beverages in a first or
 24 second class city where there are no licensed premises at the time of application unless
 25 a majority of the voters have voted not to approve a local option to restrict or prohibit
 26 the sale of alcoholic beverages under AS 04.11.491, have voted to approve a local
 27 option to allow the type of premises under AS 04.11.491(a)(2), [OR] (3), **or (6),** or
 28 have voted to remove a restriction or prohibition on the sale of alcoholic beverages
 29 under AS 04.11.495; or

30 (10) the license is sought for the sale of alcoholic beverages in an
 31 established village where there are no licensed premises at the time of application

1 unless a majority of the voters have voted not to approve a local option to restrict or
 2 prohibit the sale of alcoholic beverages under AS 04.11.491, have voted to approve a
 3 local option to allow the type of premises under AS 04.11.491(b)(2), or have voted to
 4 remove a restriction or prohibition on the sale of alcoholic beverages under
 5 AS 04.11.495.

6 * **Sec. 6.** AS 04.11.320(b) is amended to read:

7 (b) An application requesting issuance of a new permit shall be denied if

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

10 (2) the board finds that any of the statements made in the application
 11 are untrue;

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

14 (4) the permit is sought for the sale of alcoholic beverages in a first or
 15 second class city or established village where there are no licensed premises at the
 16 time of application unless a majority of the voters have voted not to approve a local
 17 option to restrict or prohibit the sale of alcoholic beverages under AS 04.11.491, have
 18 voted to approve a local option to allow the type of permit under AS 04.11.491(a)(2)
 19 or (6) or (b)(2), or have voted to remove a restriction or prohibition on the sale of
 20 alcoholic beverages under AS 04.11.495.

21 * **Sec. 7.** AS 04.11.491(a), as amended by sec. 69, ch. 8, SLA 2022, is amended to read:

22 (a) If a majority of the persons voting on the question vote to approve the
 23 option, a municipality shall adopt a local option to prohibit

24 (1) the sale of alcoholic beverages;

25 (2) the sale of alcoholic beverages except by one or more of the
 26 following listed on the ballot:

27 (A) a restaurant or eating place licensee;

28 (B) a beverage dispensary licensee;

29 (C) a package store licensee;

30 (D) a caterer holding a beverage dispensary caterer's permit
 31 under AS 04.09.610 to sell alcoholic beverages at a site within the municipality

1 who is also licensed under a beverage dispensary license for premises outside
2 of the municipality;

3 (E) a winery manufacturer licensee;

4 (F) a winery manufacturer licensee, except that sales may occur
5 only to a person licensed under this title or in another state or country;

6 (G) an outdoor recreation lodge licensee; or

7 (H) a package store licensee limited to selling only beer and
8 wine;

9 (3) the sale of alcoholic beverages except on premises operated by the
10 municipality and under a type of licensed premises listed on the ballot, that may
11 include one or more of the following:

12 (A) a restaurant or eating place license;

13 (B) a beverage dispensary license; or

14 (C) a package store license;

15 (4) the sale and importation of alcoholic beverages; [OR]

16 (5) the sale, importation, and possession of alcoholic beverages; or

17 **(6) the sale of alcoholic beverages except by one or more of the**
18 **following listed on the ballot:**

19 **(A) a restaurant or eating place licensee;**

20 **(B) a beverage dispensary licensee;**

21 **(C) a package store licensee on premises operated by the**
22 **municipality.**

23 * **Sec. 8.** AS 04.11.491(d), as amended by sec. 71, ch. 8, SLA 2022, is amended to read:

24 (d) The ballot for an election on the option set out in (a)(2)(A), (a)(3)(A), or
25 (b)(2)(A) of this section must include a summary explanation of the authority to sell
26 alcoholic beverages given to a restaurant or eating place under AS 04.09.210(a). The
27 ballot for an election on the option set out in (a)(2)(B) or (D), (a)(3)(B), or (b)(2)(B) or
28 (D) of this section must include a statement that a beverage dispensary license is
29 commonly known as a "bar" and a summary explanation of the authority to sell
30 alcoholic beverages given to a beverage dispensary licensee under AS 04.09.200. The
31 ballot for an election on the option set out in (a)(2)(C), (a)(3)(C), **(a)(6)(C),** or

(b)(2)(C) of this section must include a statement that a package store license is commonly known as a "liquor store" and a summary explanation of the authority to sell alcoholic beverages given to a package store licensee under AS 04.09.230.

* **Sec. 9.** AS 04.11.491(f) is amended to read:

(f) A municipality or established village that has adopted a local option under (a)(1), (2), [OR] (3), or (6) or (b)(1) or (2) of this section may designate a site for the delivery of alcoholic beverages to individuals in the area or a site for a person to bring alcoholic beverages if the alcoholic beverages are imported into the area. This subsection does not apply to the delivery or importation of

(1) one liter or less of distilled spirits, two liters or less of wine, or one gallon or less of malt beverages; or

(2) alcoholic beverages to a premises licensed under (a)(2), (3), or (6) [(a)(2) - (3)] or (b)(2) of this section.

* **Sec. 10.** AS 04.11.491(g), as amended by sec. 72, ch. 8, SLA 2022, is amended to read:

(g) If a municipality or established village has adopted a local option under (a)(1), (2), (3), [OR] (4), or (6) or (b)(1), (2), or (3) of this section, the municipality or established village, as part of the local option question or questions placed before the voters, may

(1) adopt an amount of alcoholic beverages that may be imported that is less than the amounts set out in AS 04.09.460(e);

(2) adopt an amount of alcoholic beverages that would give rise to a presumption that the person possessed the alcoholic beverages for sale; the amounts adopted under this paragraph may be lower than those set out in AS 04.11.010(c);

(3) opt to not apply a class C felony to violations of AS 04.16.051 that apply solely by reason of the municipality or established village adopting a local option under this section.

* **Sec. 11.** AS 04.11.503 is amended to read:

Sec. 04.11.503. Effect on licenses of restriction on sale. If a majority of the voters vote under AS 04.11.491(a)(2) or (6) or (b)(2) to prohibit sale of alcoholic beverages except by the type or types of licensees or permit holders listed on the ballot, the board may not issue, renew, or transfer between persons or locations a

license for premises located within the boundaries of the municipality and in unincorporated areas within five miles of the boundaries of the municipality or within the perimeter of the established village, except the type or types of licenses listed on the ballot. A license in effect within the boundaries of the municipality or perimeter of the established village, and in unincorporated areas within five miles of the boundaries of the municipality, except the type of license listed on the ballot, is void 90 days after the results of the election are certified. A license that expires during the 90 days after the results of a local option election are certified may be extended, until it is void under this section, by payment of a prorated portion of the biennial license fee.

* **Sec. 12.** AS 04.11.505 is amended to read:

Sec. 04.11.505. Licensing after prohibition on sale except in premises operated by municipality. (a) If a majority of the voters vote under AS 04.11.491(a)(3) or (6) to prohibit the sale of alcoholic beverages except on premises operated by the municipality, the board may not issue, renew, or transfer between persons or locations a license for premises located within the boundaries of a municipality and in unincorporated areas within five miles of the boundaries of the municipality, with the exception of the type of license listed on the ballot and operated under a license held by the municipality. A license in effect is void 90 days after the results of the election are certified. A license that expires during the 90 days after the results of a local option election are certified may be extended, until it is void under this subsection, by payment of a prorated portion of the biennial license fee.

(b) The local governing body of a municipality shall apply for a license to operate the type of licensed premises listed on the ballot under AS 04.11.491(a)(3) or (6)(C) and approved by a majority of the voters. The municipality shall operate the premises subject to the conditions and fees applicable to the type of license. Nothing in this section precludes a municipality from applying to be a licensee under other provisions of this title.

* **Sec. 13.** AS 04.21.010(a) is amended to read:

(a) A municipality may adopt ordinances governing the importation, barter, sale, and consumption of alcoholic beverages within the municipality and may ban possession of alcoholic beverages under AS 04.11.491(a)(5). An ordinance adopted

1 under this section may not be inconsistent with this title or regulations adopted under
2 this title. In a municipality that has adopted a local option under AS 04.11.491(a)(1),
3 (2), [OR] (3), or (6), an ordinance is not inconsistent with this title if it limits

4 (1) the monthly amounts of alcoholic beverages a person may import
5 into the municipality;

6 (2) the percent of alcohol by volume that an alcoholic beverage may
7 contain; a limit imposed under this paragraph may not be less than 40 nor more than
8 76 percent alcohol by volume; or

9 (3) the type of alcoholic beverage container that may be possessed in
10 the municipality.

11 * **Sec. 14.** This Act takes effect January 1, 2024.