

Alcoholic Beverage Control (ABC) Board Title 4 Review Project

Overview of Senate Bill 9

Senate Judiciary Committee

March 2021

Why Alcohol Control? Why Title 4?

- Since repeal of Prohibition in 1933, each state is responsible for regulating alcohol manufacture, distribution and sales in its jurisdiction.
- Alcohol is not like other commodities:
 - Intoxicating substance, not appropriate for children
 - Economic incentives to encourage drinking
 - Has social and public costs: law enforcement, health impacts, violence & assaults, driving under influence (DUI)
 - Licensing regulates the market: ensures oversight of alcohol sales; compliance with laws such as no selling to minors; can address bad operators by revoking license.
- Decades of state and federal law say:
it is in the public interest to regulate alcohol, with a responsible industry and reasonable enforcement.

Nine Years of Work



More than 120 stakeholders and staff spent over 16,000 hours (and counting) to craft Title 4 recommendations for proposed legislation.

Diverse Stakeholders



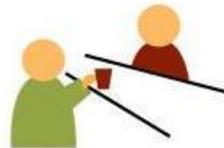
Youth



Local Governments



Public Health



Business



Public Safety



Rural Communities

- ABC Board, AMCO (staff)
- Public Safety and Law Enforcement
- Industry
 - Manufacturers
 - Wholesalers
 - Retailers
- Public Health
 - Recover Alaska
 - Department of Health and Social Services
 - Alaska Mental Health Trust Authority
 - Rasmuson Foundation
- Community Advocates
- Local Governments

Goals of Title 4 Review Process

A comprehensive, systems-level review, and a series of compromises to make Title 4 work better for everyone.

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

1. Create **rational regulation** for all tiers of the state's alcohol industry.
2. **Limit youth access** to alcohol, while ensuring youth are not criminalized
3. Promote **responsible alcohol use** and reduce the harms of overconsumption.

Make Title 4 a clear and consistent legal framework.

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

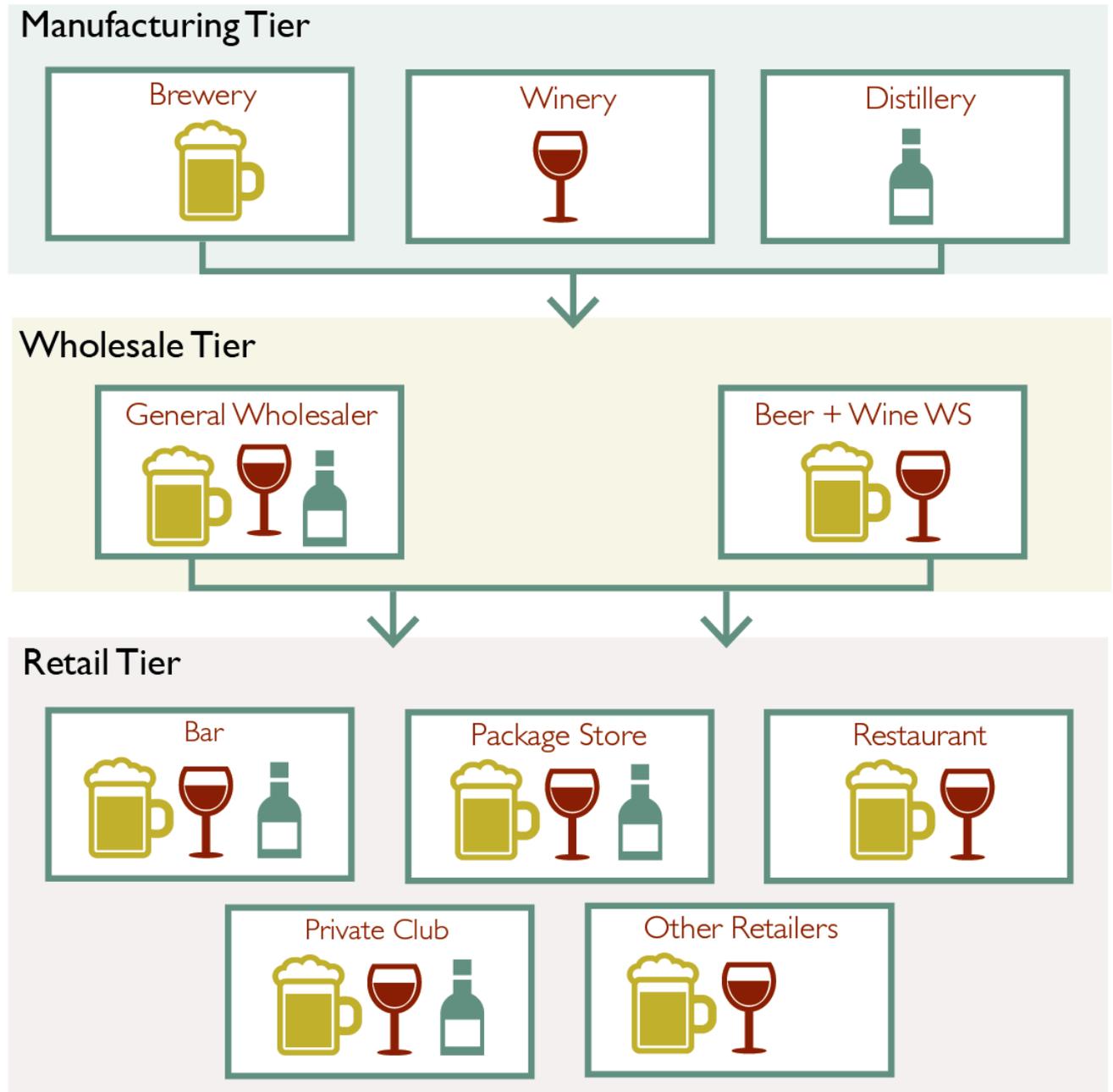
Key Concepts in Title 4

- **The 3 tier system:** separation of manufacturers, wholesalers and retailers to prevent monopolies
- **Licenses and permits:**
 - **License:** allows a business to sell, serve, distribute and/or manufacture alcohol for 2 years.
 - **Permit:** time-limited alcohol sales or service, by a licensee or non-licensed organization.
- **Population limits:** regulates number of licenses available in each community by type
- ***Proposed new concept:* Endorsements** on licenses to expand premises or allowed activities

The 3-Tier System

Alcohol must be manufactured, distributed and sold to the public by different businesses.

This is designed to prevent monopolies.



Categories of Recommendations

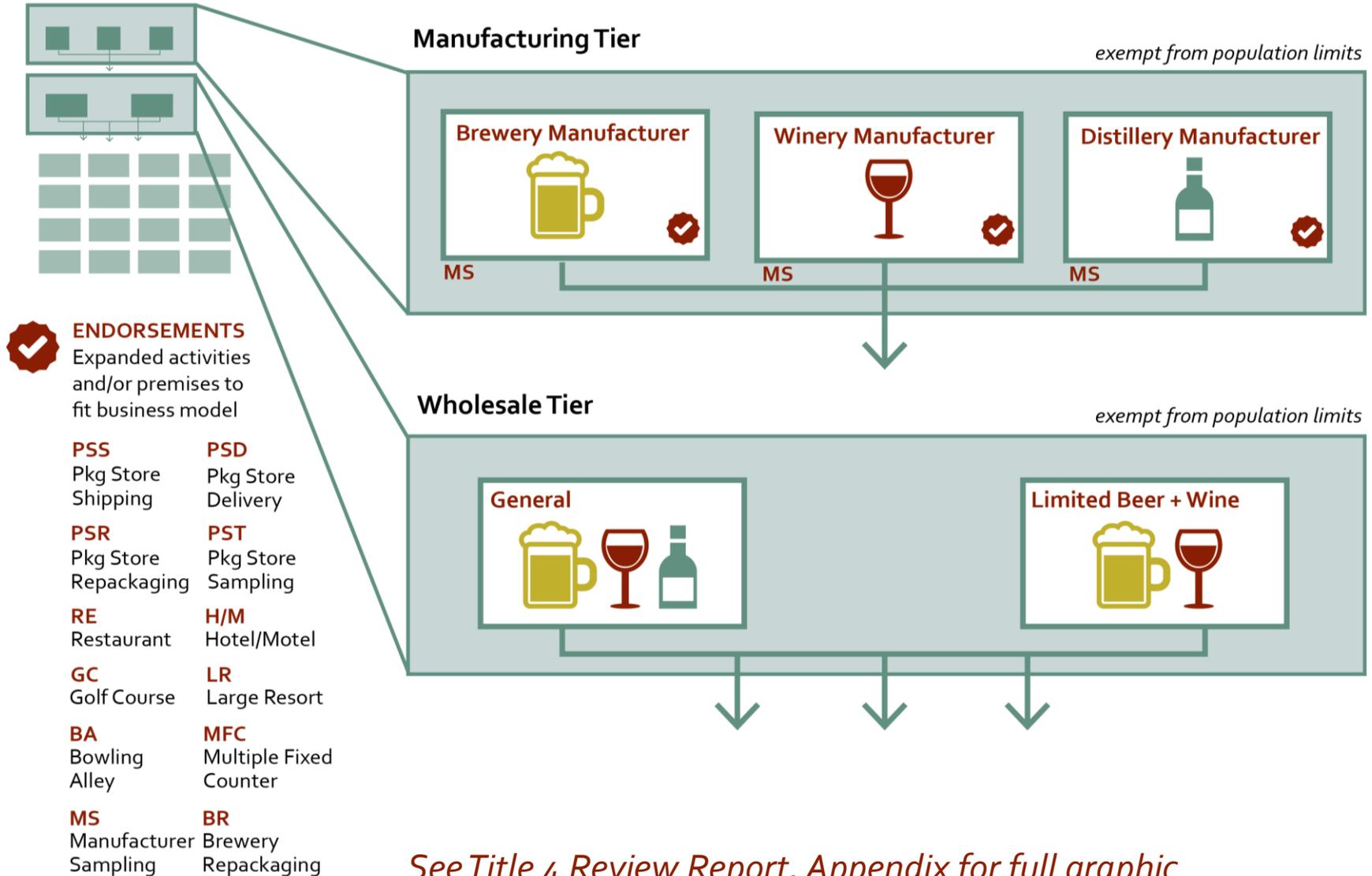
1. Alcohol Licenses, Permits and Trade Practices
2. Role and Functions of the ABC Board and Staff
3. Underage Drinking and Youth Access to Alcohol
4. Regulation of Internet Sales of Alcohol
5. Technical or Administrative Law Changes
6. Local Option Communities*

* Note: Local Option recommendations are documented in the report, but not included in SB 9. More comprehensive discussion of Local Option laws is needed in the future.

Note: all section references current to SB 9 ver. A, 2-12-21

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.



See Title 4 Review Report, Appendix for full graphic

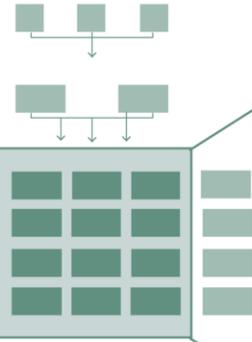
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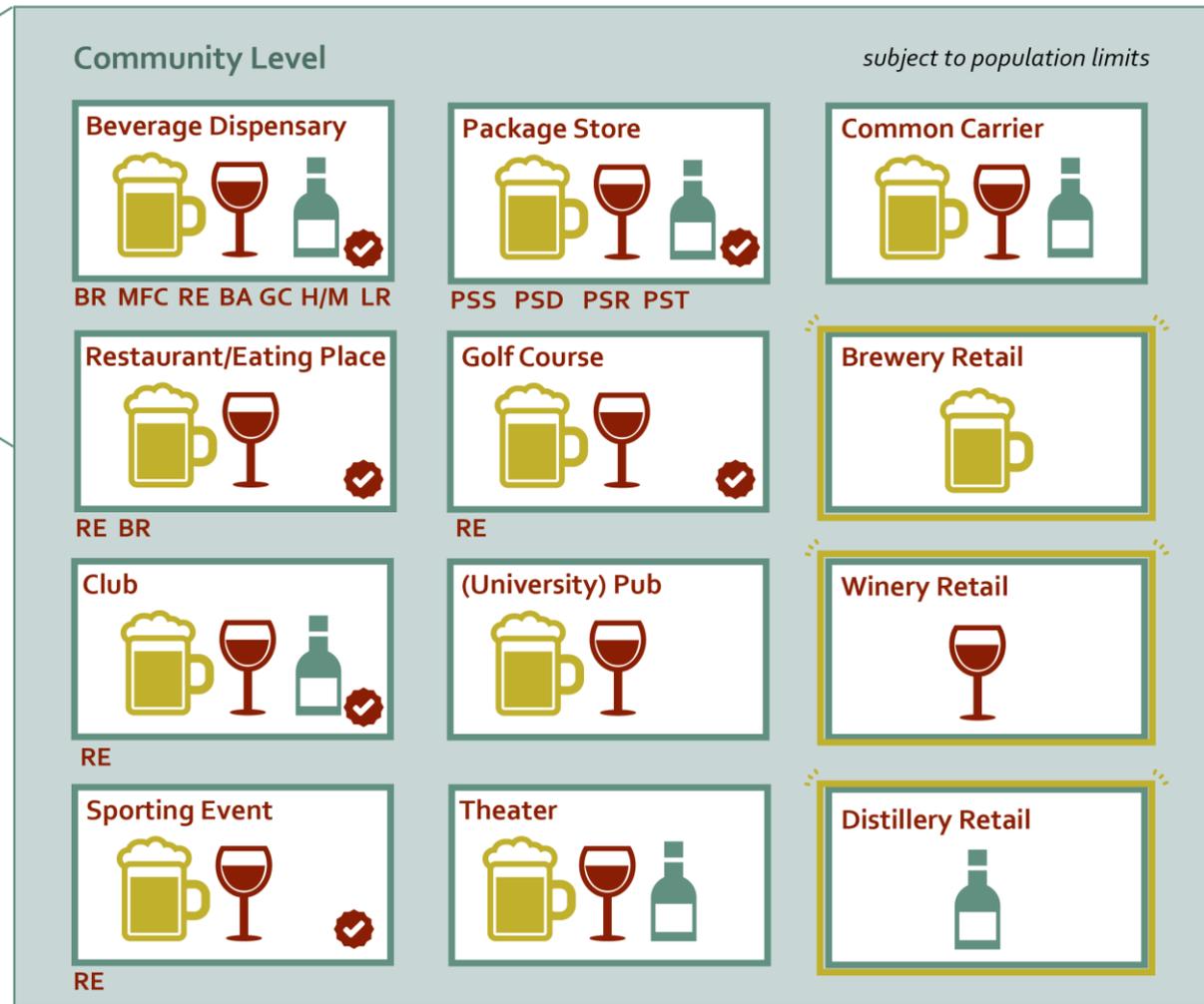
NEW LICENSE
Proposed new license in Title 4

Retail Tier



ENDORSEMENTS
Expanded activities and/or premises to fit business model

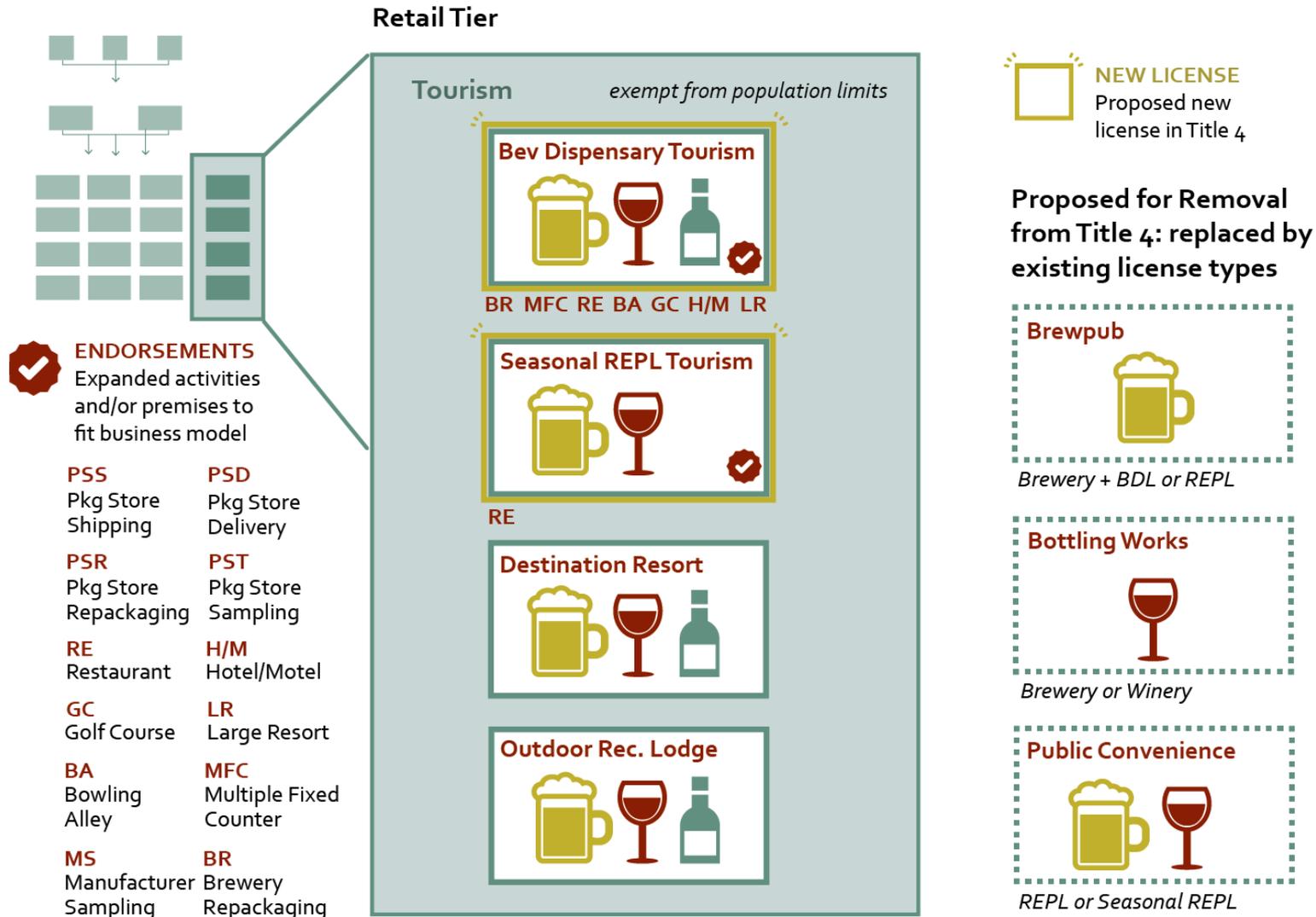
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| PSS
Pkg Store
Shipping | PSD
Pkg Store
Delivery |
| PSR
Pkg Store
Repackaging | PST
Pkg Store
Sampling |
| RE
Restaurant | H/M
Hotel/Motel |
| GC
Golf Course | LR
Large Resort |
| BA
Bowling
Alley | MFC
Multiple Fixed
Counter |
| MS
Manufacturer
Sampling | BR
Brewery
Repackaging |



See Title 4 Review Report, Appendix for full graphic

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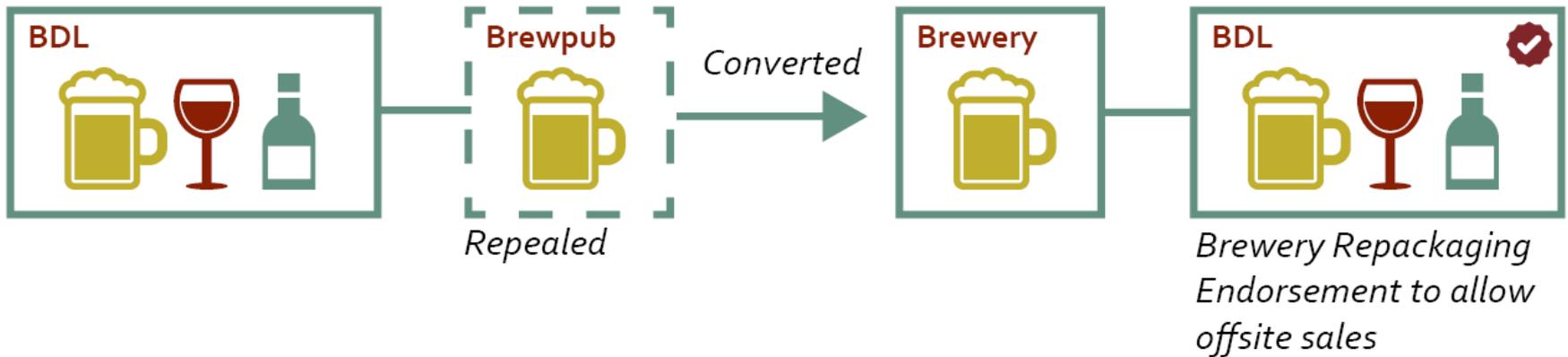
Proposed: More Retail Options for Manufacturers



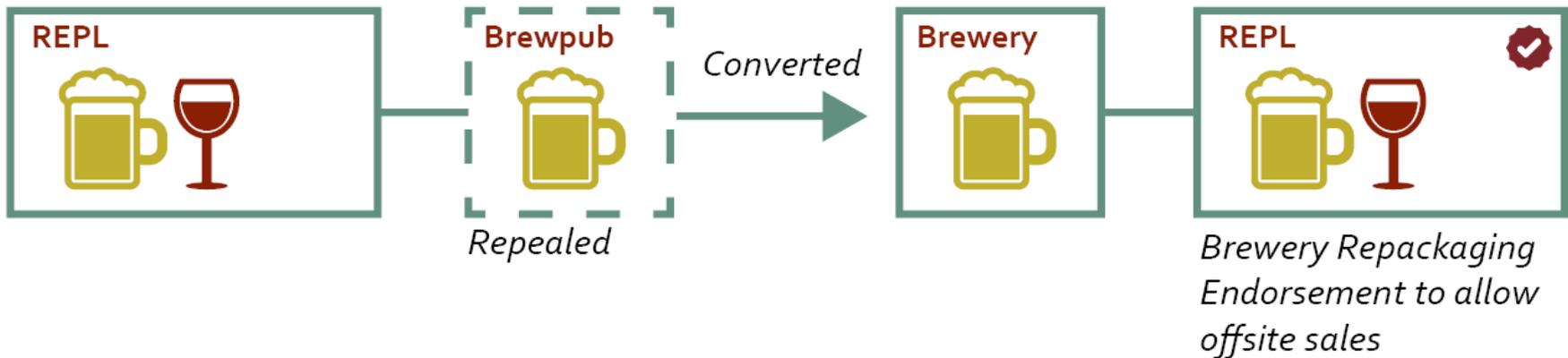
The Brewery license used as an example. The same system applies for wineries and distilleries.

Proposed: Conversion of Brewpubs

Brewpub



"Mini" Brewpub



Proposed: Manufacturer Sales Limits by Product Type

	Brewery Retail	Winery Retail	Distillery Retail
Onsite Sales	<p>36 oz. Beer Equivalent: 3 cans</p>  <p>18 oz. Sake</p> 	<p>18 oz. Wine or Mead * Equivalent: 3 glasses</p>  <p>36 oz. Cider *</p> 	<p>3 oz. Spirits Equivalent: 3 pours (1 oz. each)</p> 
Offsite Sales	<p>5.167 Gallons Beer or Sake Equivalent of 1/6 barrel "pony keg," or 10 growlers</p>  	<p>5.167 Gallons Wine, Cider or Mead Equivalent: 24 bottles (2 cases) or 10 growlers</p>  	<p>3.75 Liters Spirits Equivalent: 5 standard bottles</p> 

* Cider and mead limits for onsite sales depend on alcohol content: products below 8.5% ABV have a higher sales limit.

Proposed: Endorsements on Licenses

Add endorsements to existing licenses, giving businesses more flexibility without creating more situation-specific license types.



BASE LICENSE

ENDORSEMENTS

Expanded activities and/or premises to fit business model

Endorsements would allow sampling on premises, multiple bar rooms, deliveries by package stores, etc.

Section 13, 04.09.400; endorsements defined in 04.09.410 - .520

Proposed Endorsements

- R-7A | Bowling Alley Endorsement
- R-7B | Package Store Shipping Endorsement
- R-7C | Package Store Delivery Endorsement
- R-7D | Package Store Re-Packaging Endorsement
- [R-1] Multiple Fixed Counter Endorsement
- [R-1] Hotel/Motel Endorsement
- [R-1] Large Resort Endorsement
- [R-3] Package Store Sampling Endorsement
- [M-1] Brewery Repackaging Endorsement

Proposed: Limited Free Samples for Package Stores

- In current Title 4, Package Stores cannot allow any consumption on premises
- The bill would allow small free samples, with a Package Store Sampling Endorsement
- Ounce limits defined as: “Any combination of products, not to exceed the alcohol equivalent of any single product type”
- Ex: Customer A chooses 12 oz. beer. Customer B chooses 6 oz. cider and 3 oz. wine. Customer C chooses 2 oz. wine, 2 oz. sake, and 4 oz. beer.

12 oz.	6 oz.	1.5 oz.
<p>Beer</p> 	<p>Wine, Mead *</p> 	<p>Spirits</p> 
<p>Cider *</p> 	<p>Sake</p> 	

* Cider and mead limits depend on alcohol content: products below 8.5% ABV have a higher sales limit.

R-7 Standardize Permits

- Unlike licenses, permits are typically issued for single events, on or off licensed premises.
- Define all permit types in statute, not just in regulation
- Fee for all permits is \$50 per event day
- Most permits listed are already in statute or regulation
- New permit: Tasting Event Permit, allowing a Package Store to host an event on premises

Proposed Permits

- R-7F | Beverage Dispensary Caterer's Permit (AS 04.11.230; 3 AAC 304.685)
- R-7G | Restaurant Caterer's Dining Permit (3 AAC 304.680)
- R-7H | Club Caterer's Permit (3 AAC 304.690)
- R-7I | Nonprofit Event Permit (AS 04.11.240)
- R-7J | Art Exhibit Permit (3 AAC 304.697)
- R-7K | Alcoholic Beverage Auction Permit (3 AAC 304.699)
- R-7L | Inventory Resale Permit (Retail Stock Sale License, AS 04.11.200)
- R-7M | Package Store Tasting Event Permit (proposed)
- [amended ver. E] | Music Festival Permit (proposed)
- [amended ver. E] | Live Music & Entertainment Permit (proposed)

Section 13, 04.09.600; permits defined in 04.09.610 - .690

Proposed: Package Store Tasting Event Permit

- Allows a package store to host a special tasting event on its own premises, with onsite consumption of alcohol for those attending event.
- The event may be in the store or another area of their property, such as a special event space. It may not be held in an offsite location.
- Licensees can only offer products in their inventory.

Hosting license



- Event may last up to 4 hours, and must end by 9 p.m.
- Must also serve food
- Each license can host 6 events per year in the same community as the license is located

Population Limits: *Current Title 4*

(AS 04.11.400)

Population limits determine how many of each license type may be issued in each community.

Bars, Package Stores, etc.



$$= \frac{1}{3,000}$$

Restaurants



$$= \frac{1}{1,500}$$

Restaurants: 1 per 1,500 residents.

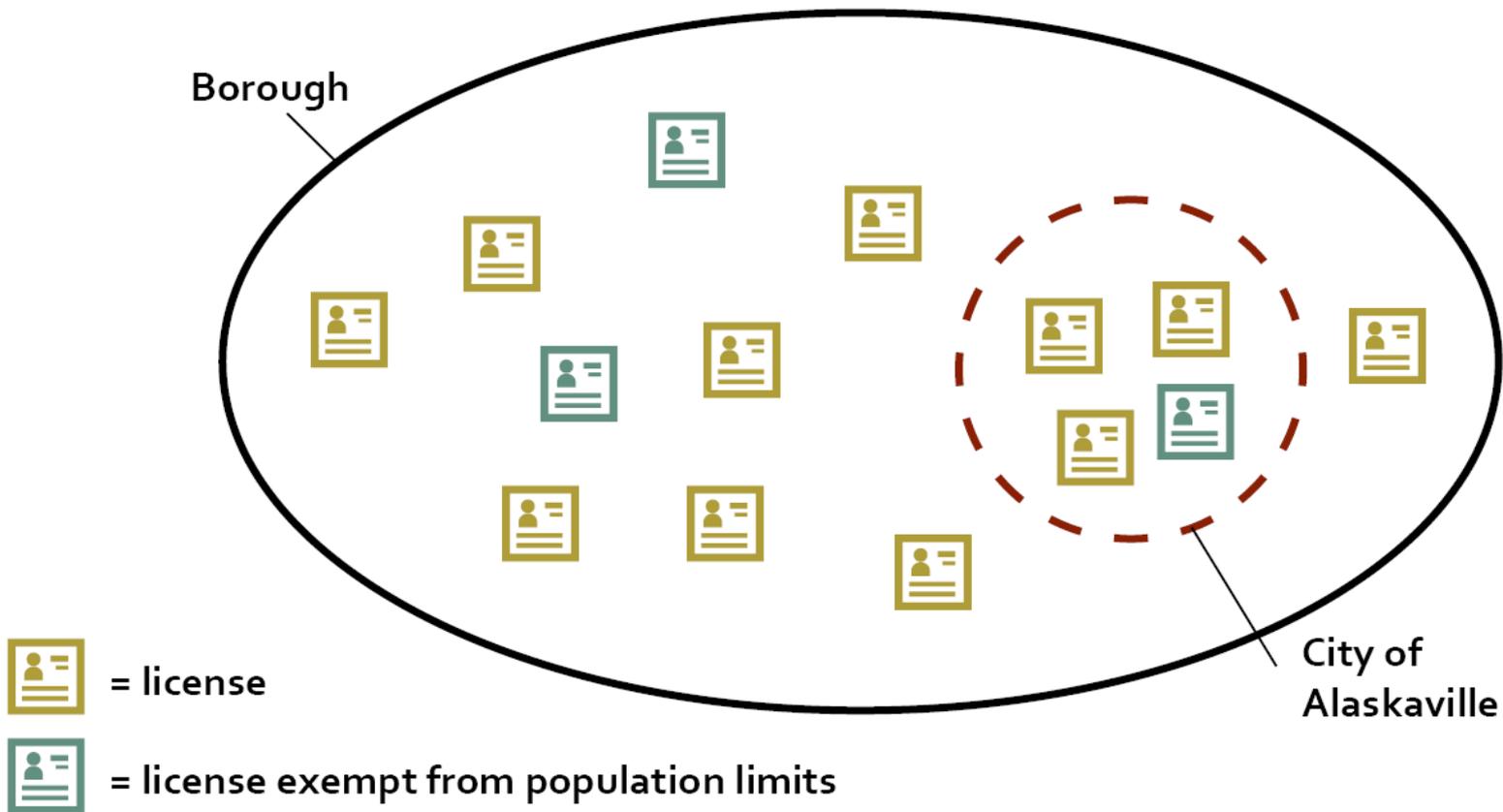
All other license types (bars, package stores, golf courses, breweries, etc.): 1 per 3,000 residents.

Some licenses are exempt from population limits: bars located in hotels or airports, restaurants issued for public convenience, and licenses that serve tourists.

Population Limits: *Current Title 4*

(AS 04.11.400)

- Some license types are exempt from population limits: most exempt license types are designed to serve tourists and travelers, such as hotels or outdoor recreation lodges.
- They can be issued if other qualifications are met (ex: minimum number of hotel rooms).



Proposed Seasonal REPL Tourism

- Seasonal restaurant license
- Available in smaller communities (< 40,000 pop.)
- Same operating requirements and privileges as full-year restaurants (REPL)
- Number of licenses per community determined by formula:

5-year average of annual visitors / months in season = Average monthly visitor population

(Residents + average monthly visitors) / 1,500 = Available Seasonal REPL Tourism licenses

- Season defined as up to 6 months per year, in any combination
 - Example: May through September + 1 winter month

Proposed: Convert Public Convenience Licenses and Applications

Existing Public Convenience licenses would be converted to regular Restaurant or Eating Place Licenses (REPLs).

Public Convenience



Not transferrable



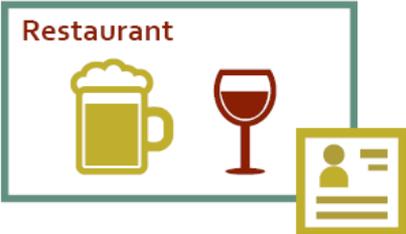
REPL



Transferrable to new owner or location

Applications that have been completed as of the bill's signing date would be converted to applications for regular REPLs, and could be approved by the ABC Board outside the existing population limits.

Public Convenience



Application



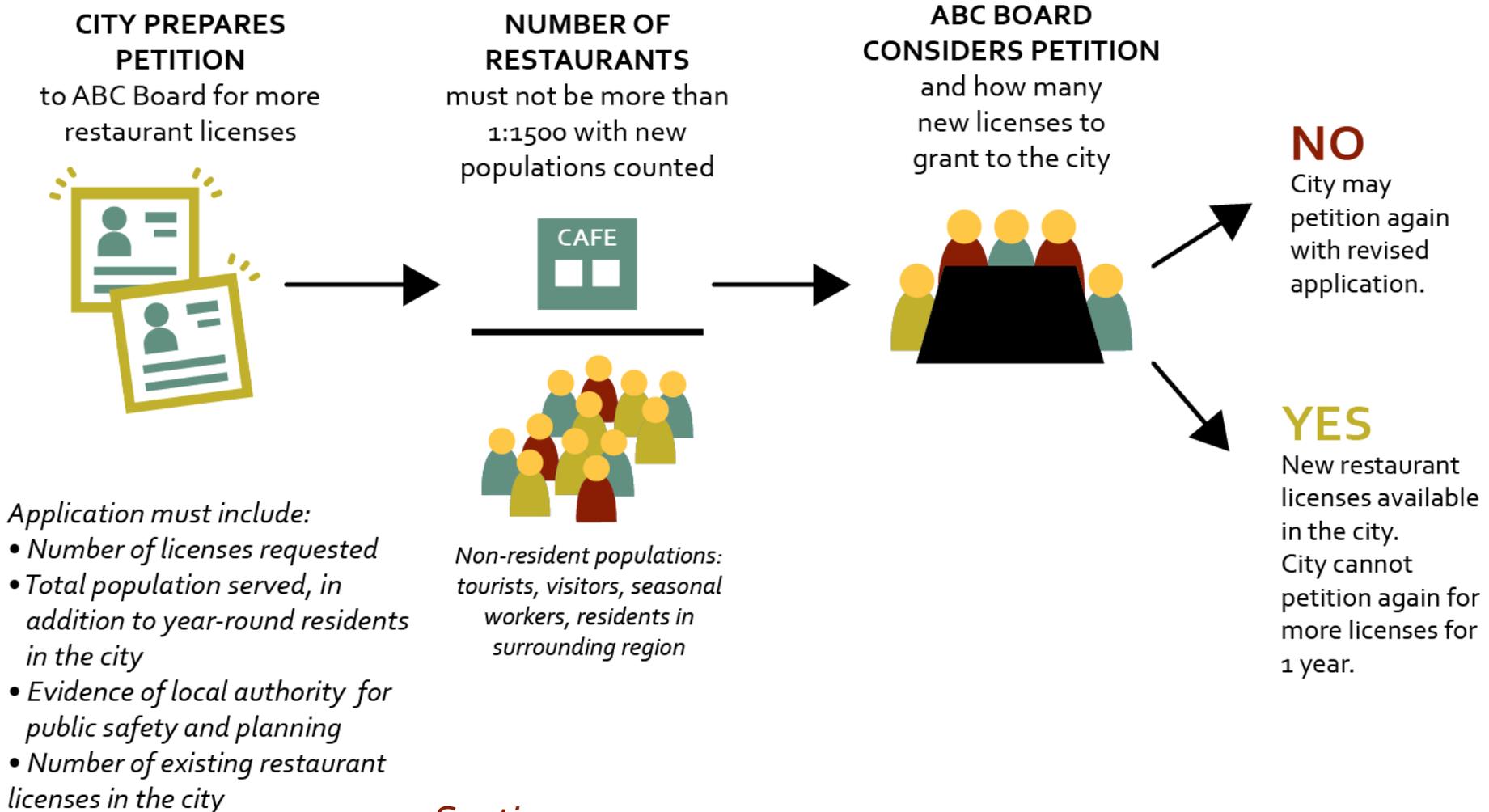
REPL



Can be approved outside of population limits

Proposed: Local Government Petition for Additional Restaurant Licenses

(Proposed AS 04.11.405)

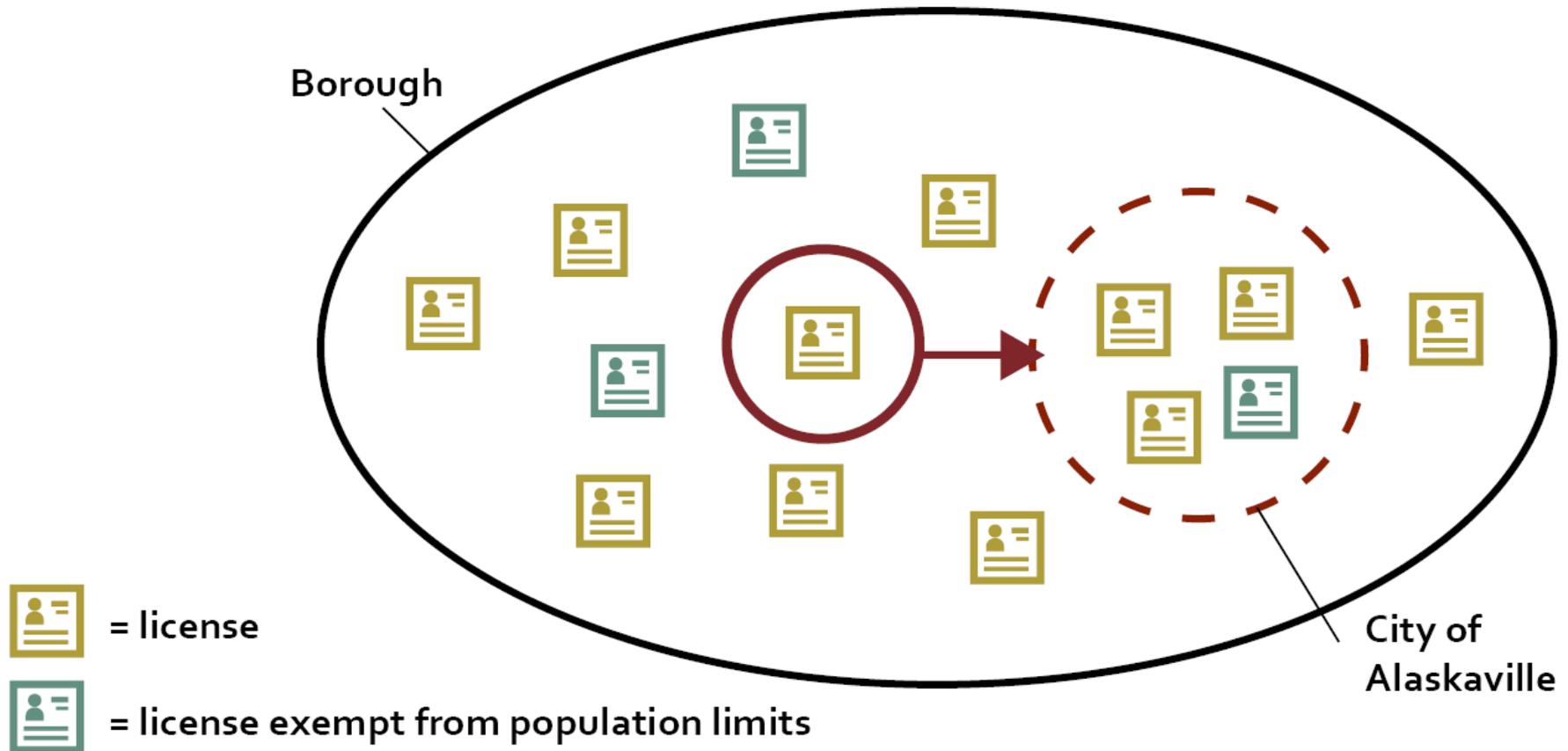


Sections 53-55, 04.11.405

Proposed: Option to Relocate Some Licenses from a Borough to a City

(AS 04.11.400)

- Current Title 4 allows relocation of a bar (BDL) from a borough to a city within that borough.
- The bill proposes also allowing relocation of package stores.



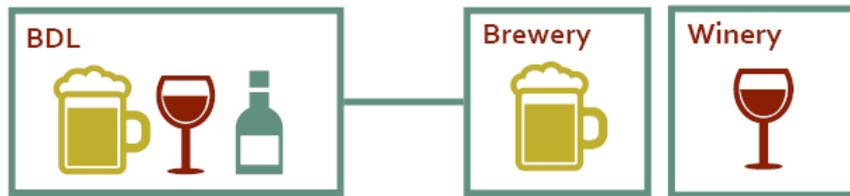
Section 52, 04.11.400(k)

Proposed: Regulate Trade Practices

Some trade practices are illegal in federal law: practices of alcohol manufacturers and wholesalers to compel retailers' buying decisions, or stopping them from buying competitors' products.

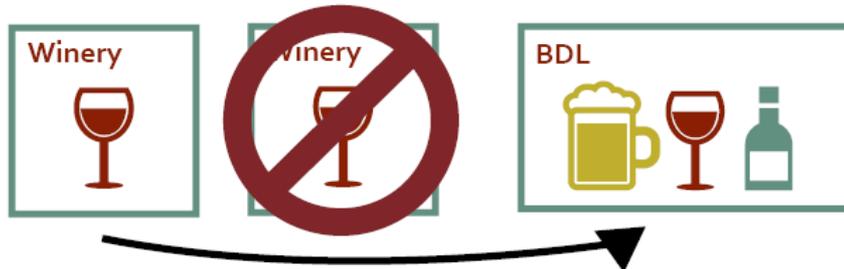
Proposed: add equivalent sections to Title 4, protect retailers and allow for state enforcement.

Tied house



Partial ownership of retail license by a manufacturer, to control what products are sold or exclude competitors. Does not apply to 100% manufacturer-owned licenses.

Exclusive outlet



Agreement between supplier and retailer to exclude other retailers or suppliers.

Commercial bribery



Supplier pays bonus or provides merchandise in exchange for exclusive arrangement or agreement not to purchase other products.

Consignment sales



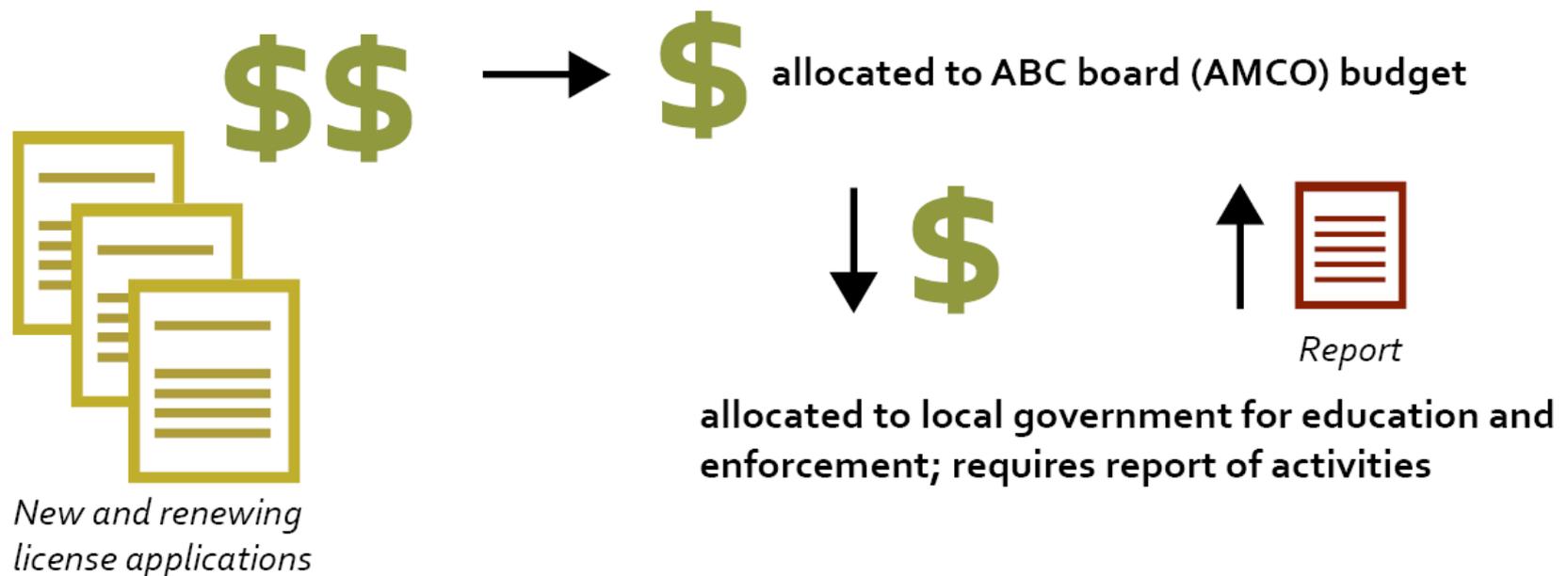
Supplier and retailer make deals to take back unsold products.

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

- Update license fees according to privileges and administrative costs of each, and collect sufficient revenue to cover the ABC Board's required activities:
 - Administration of licenses & permits
 - Education about Title 4 and related regulations
 - Enforcement of Title 4 and related regulations
- ABC Board required to review license fees at least every 5 years.
- See Appendix, Table 2 of the Title 4 Review report for current license fees and proposed changes.

Proposed: More Accountability for License Fees Allocated to Local Governments

- Current Title 4 allows for local governments to receive an allocation equal to the license fees collected in their area, intended for enforcement of Title 4 and related ordinances.
- Reporting on these activities is required, but not defined in statute. Some jurisdictions report regularly, while others do not.
- The bill includes better reporting and prevention about use of these funds, and requiring reports about education activities as well as enforcement.



Section 81, 04.11.610

RB-4. ABC Board as Key Partner for Alcohol Education Efforts

- The ABC Board and AMCO, subject matter experts on Title 4, would work with other agencies and organizations to develop a coordinated education plan about responsible alcohol use and applicable laws.
- Coordinate with Department of Health and Social Services and other agencies tasked with alcohol-related education.

Internet Sales in Alaska: Few Rules

- **Alaska is one of the only states with no rules for Internet sales of alcohol.**
- Alaska Package Stores cannot sell alcohol online, only via (paper) written orders.
- Alaska Wineries and Package Stores can ship wine to customers in some circumstances.
- Without state laws restricting online sales, there are currently no limits on purchases of alcohol online from out-of-state sellers.
- Alaska consumers also do not pay state excise tax on online purchases, as they do on products sold and purchased in state.

Proposed: Regulate Internet Alcohol Sales

- Alaska does not limit online sales of alcohol. Orders from out of state businesses are not subject to Alaska's alcohol excise tax, and the state cannot track how much alcohol is ordered each year.
- The bill would create a Winery Direct Shipment License and allow online alcohol sales only from U.S. wineries and Alaska package stores.



Alaska customer orders wine online from winery



Wine only: no beer or spirits



Winery Direct Shipment Licensee verifies:

- Is customer 21 or older?
- Is customer in a non-Local Option area?
- Is order within limit for personal use?
6 cases per sale
12 cases per year



Common carrier receives, transports and delivers order



Carrier verifies customer is 21+, delivers package in person

Proposed: Regulate Internet Alcohol Sales

- Common carriers must be approved by the ABC board to transport and deliver alcohol to consumers throughout the state.
- Carriers must demonstrate that they have policies and train employees to properly handle shipments of alcohol.



Carrier maintains policies:

- Safe alcohol handling
- Delivery to adult, age 21+
- Delivery in-person only



**ABC board reviews
and approves carrier
for alcohol transport
and delivery**



**ABC board
publishes list of
approved carriers**

Tracking Alcohol Orders in Local Option Areas:

Current Title 4

Residents in Local Option communities that allow importation of alcohol may order a limited amount of alcohol each month for personal and non-commercial use.

Monthly Importation Limit



12 gal. Beer
*Or 1 half-barrel
(15.5 gal) keg*



24 L wine
(32 bottles)



10.5 L spirits
(14 bottles)



Alaska customer sends order to package store



Licensee verifies:

- Is customer 21 or older?
- Has customer met monthly order limit?
- Is new order within monthly limit?



Licensee records new order in ABC Board database

Access limited to:

- *ABC Board*
- *Package stores*
- *Law enforcement*



Carrier delivers package



Common carrier receives, transports and delivers order

Proposed: Publish Community-Level Data from Local Option Order Database

- In current Title 4, *all* data in the Local Option order database is private, and deleted after 1 year.
- The bill would keep individual order information private, but retain aggregate data for 10 years and allow the ABC Board to publish annual total sales volume by region or community.
- This valuable information would be available to communities and law enforcement to understand the flow of alcohol into Local Option communities via legal sales.

Keep community
level data

10
years

Protect individual
order data



ABC Board publishes
annual data reports



RB-6. Revise Title 4 Penalties

- Review penalties for all Title 4 sections, and revise as needed to make penalties proportionate to the offense, and more consistently enforced.
- Retain existing Misdemeanor and Felony charges for serious offenses, particularly those causing harm to children.
- Ensure that the ABC Board, and licensee, is informed about Title 4 convictions: require court to send records to AMCO, and AMCO to send to the licensee.
- ABC Board retains authority to impose conditions or additional penalties, including suspending or revoking license.
- See Appendix, Table 3 in Title 4 Review Report for table of all current penalties and proposed changes.

Defined throughout; most prohibited acts defined in chapters 11 + 16

Proposed: Revise Penalties for Lesser Offenses

- In current law, almost all violations of Title 4 are Class A misdemeanors.
- When penalties are set high across the board and perceived to be too strict for most offenses, law enforcement is less likely to issue citations and courts are less likely to pursue those cases.
- In the bill, many penalties would become minor offenses. Serious violations, such as selling alcohol without a license, allowing gambling on the premises, or perjury on a license application would remain misdemeanors or felonies, as they are today.

Minor Offense (Violation)

- Up to \$500 fine (most are \$250)
- Community work service
- Does not require court appearance



Example: Failure to post required warning signs, noncompliance with a permit requirement

Class A Misdemeanor

- Up to \$10,000 fine
- Up to 1 year in prison
- 10 years probation
- Requires court appearance



Example: Selling alcohol without a license, knowingly allowing underage sales by employees

Class C Felony

- Up to \$50,000 fine
- Up to 5 years in prison
- 10 years probation
- Requires court appearance



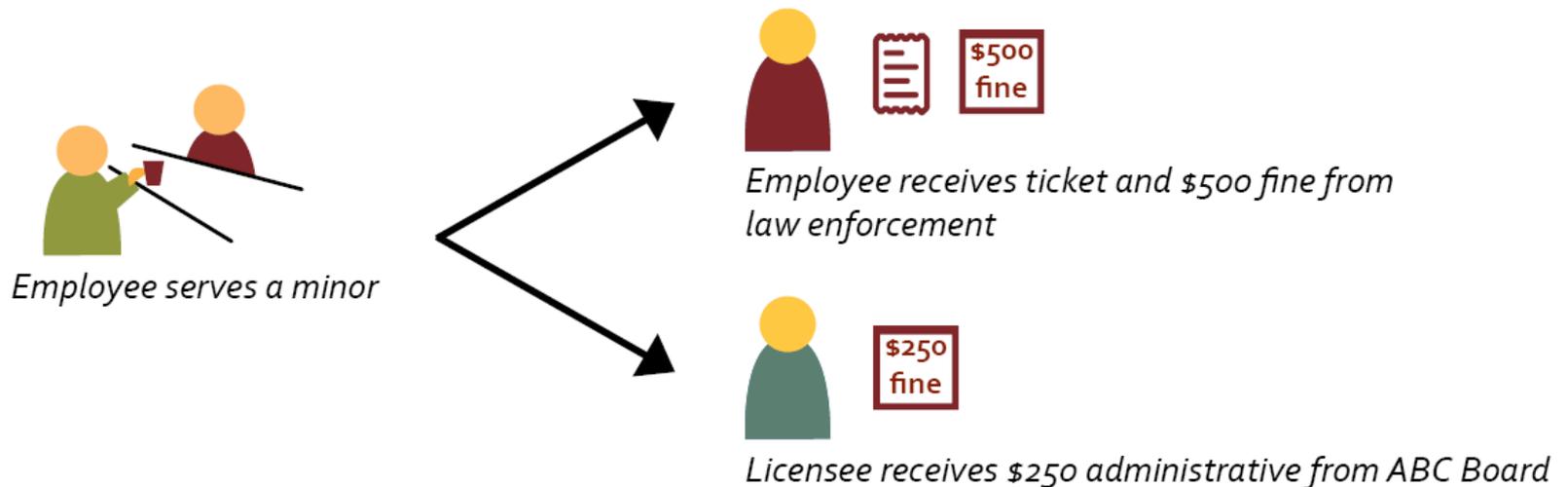
Example: Perjury on state license application (Class B), importing large amount of alcohol into local option area

Defined throughout; most prohibited acts defined in chapters 11 + 16

Proposed: Licensee Penalties for Overserving an Adult or Serving a Minor

(AS 04.16.030 and AS 04.16.052)

- In current Title 4, a licensee or employee who knowingly overserves an intoxicated adult or who serves alcohol to a minor is guilty of a Class A Misdemeanor.
- The bill would change the penalty for both statutes to a Minor Offense, with a \$500 fine.
- In addition to the penalty to the person who commits the violation, the owner of the license would receive an administrative (non-criminal) penalty of \$250. This alerts the owner that a violation occurred, holds them immediately accountable and encourages future compliance.



Section 92, 04.16.030; Section 104, 04.16.052; Sections 127 - 129, 04.16.180

Proposed: Require Keg Registration

- Reduces adults' incentive to legally purchase alcohol and supply an underage drinking party.
- Kegs tagged with the purchaser's contact information can be tracked if confiscated at an underage party or other situation where minors are given access to alcohol.
- A person, not a licensee, possessing an untagged keg containing alcohol could be fined.
- Modeled on existing Anchorage and Juneau ordinances.

