

Sec. 8. Refunds may be made in the manner prescribed by law from the general fund in any amount due.

Sec. 9. This Act takes effect July 1, 1960.

Approved April 25, 1960

CHAPTER 183

AN ACT

Relating to alcoholic beverages; amending certain sections of law pertaining thereto; and providing for an effective date.

(C.S.H.B. 342)

Be it enacted by the Legislature of the State of Alaska:

Section 1. Sec. 35-4-1, ACLA 1949, as repealed by Ch. 43, SLA 1953, as re-enacted by Ch. 131, SLA 1957, and as amended by Sec. 10, Ch. 64, SLA 1959 and by Ch. 197, SLA 1959, is amended to read as follows:

Sec. 35-4-1. Creation of Board and Office of Director.

(A) There is hereby established an Alcoholic Beverage Control Board in the Department of Revenue consisting of three members appointed for overlapping three-year terms; and the Board is hereby vested with the duties, powers, and responsibilities involved in the control of alcoholic beverages, including the promulgation of rules and regulations and the hearing of appeals from the action of officers and employees charged with enforcing the alcoholic beverage control laws, rules, and regulations. The functions and authority heretofore performed and exercised by the Board of Liquor Control are hereby transferred to the Alcoholic Beverage Control Board. The Board shall be appointed by the Governor and confirmed by the Legislature. No member of the Board shall hold any other office, either elective or appointive, under the State or Federal Governments. One member of the Board shall be actively engaged in the alcoholic beverage industry. No two members of the Board shall be engaged in the same business, occupation or profession. Two members shall constitute a quorum for the conduct of business. The Board shall meet at least once each year in each of the four judicial districts to study, re-

consider and modify existing agency rules and regulations in the light of current local problems.

(B) The Governor shall appoint a Director, subject to confirmation by the legislature, who shall be the executive officer of the Board, and whose duty it shall be to enforce this Act and such rules and regulations as are promulgated by the Board. He shall issue all licenses provided for under this Act.

Sec. 2. Subsec. (A) of Sec. 35-4-3, ACLA 1949, as repealed by Ch. 43, SLA 1953, as re-enacted, amended and new subsections added by Ch. 131, SLA 1957, and as amended by Sec. 10, Ch. 64, SLA 1959 and by Ch. 197, SLA 1959, is amended to read as follows:

(A) The Board is to have full power, authority and control over the manufacture, barter, sale and possession of intoxicating liquors in the State of Alaska, and has power to adopt necessary rules and regulations to assure the proper administration of state liquor regulations in a manner that will protect the public health, safety and welfare. The power of the Board to adopt rules and regulations specifically includes, but is not limited to the following matters:

(1) regulating the employment, conduct and duties of the employees of the Board;

(2) prescribing the forms of application, reports and other forms, and the terms and conditions to be contained in permits and licenses issued;

(3) prescribing the fees payable in respect of permits and licenses issued

for which no fees are prescribed by statute, and prescribing the fees for anything done or permitted to be done under the regulations;

(4) providing for regular and special meetings of the Board at such times and places in the state as may be necessary or proper;

(5) providing for the delegation to the Director of such routine administrative functions and powers as may be proper, including the issuance, transfer and renewal of licenses and permits where there is no contest or protest;

(6) prescribing the manner of giving and serving notices required by law or the regulations, where not provided by statute;

(7) prescribing the conditions, accommodations, qualifications, and inspections of each type or kind of license, licensee, or licensed premises;

(8) providing for the making of returns and reports by wholesalers of wine, beer and liquor;

(9) providing for the giving of fidelity bonds by any or all of the employees of the Board, the premiums therefor to be paid by the state;

(10) providing for the issuance, renewal, re-issuance, revocation and suspension of licenses and permits;

(11) prohibiting possession of alcoholic beverages by minors;

(12) prescribing reports from licensee corporations, including reports of stock ownership, transfers and changes of officers and directors.

Sec. 3. Sec. 35-4-3, ACLA 1949, as repealed by Ch. 43, SLA 1953, as re-enacted, amended and new subsections added by Ch. 131, SLA 1957, and as amended by Sec. 10, Ch. 64, SLA 1959 and by Ch. 197, SLA 1959, is amended by adding a new subsection (G) to read as follows:

(G) No person may consume, sell, offer for sale, give, furnish or deliver from an authorized licensee any intoxicating liquor on any licensed premises within the state between the hours of 5:00 a.m. to 8:00 a.m. each day of

the week. However, incorporated municipalities may provide for additional closing hours pursuant to Sec. 35-4-18, ACLA 1949, as amended.

Sec. 4. Sec. 35-4-13, ACLA 1949, as amended is amended to read as follows:

Sec. 35-4-13. Application for License: Consent of Citizens: Proceedings and Hearing on Application: Posting License. Transfer of License. Refund of Fees. Unless otherwise provided, no application for a new license shall be approved for any location outside an incorporated town and not licensed at the time of application where the total of licensed premises in the aggregate at one time would exceed one license of each type for each 1,500 population or fraction thereof, within a radius of five miles of the proposed location nor shall any application for a new license be approved for any location within an incorporated city and not licensed at the time of application where the total of licensed premises in the aggregate at one time would exceed one license of each type for each 1,500 population or fraction thereof within such city; save and except that no licensee holding a license shall be denied a renewal of said license for another location where, because of the termination of the licensee's lease on the location or because of condemnation or substantial destruction of the premises by fire or other cause, it becomes necessary to relocate, or where public convenience is better served by said transfer; provided, however, that in the event said licensee is so deprived of his licensed location his application for another acceptable location must be made within three months of the time when the relocation becomes necessary, provided however, that no licensee shall operate any beverage dispensary or retail liquor store in any area of an incorporated city where said city's zoning regulations prohibit the sale of intoxicating liquors therein, without the approval of the city council. In no event shall a license be transferred out of the election district for the House of Representatives within which it was granted or into an area that exceeds one license of each type for each 1,500 population or fraction thereof. Provided, however, that licenses already issued at the time of the

enactment of this Act shall be renewed irrespective of such ratio, unless the application shall be denied for reason other than that contained in this section. Provided, however, that no person shall own or have an interest in more than three Beverage Dispensary Licenses. Provided further, that the Board may, in its discretion approve the issuance or transfer of a license into an area outside an incorporated municipality without regard to the quota provisions of this section where it appears that such issuance or transfer will encourage the construction or improvement of a hotel, motel, resort or similar business related to the tourist trade where such hotel, motel, or resort or similar business related to the tourist trade has a minimum accommodation of ten rooms.

Provided, however, that any application for a transfer, renewal or new license coming from within an incorporated town shall have attached to the application in lieu of the consent required in Subsection (5) of Section 35-4-14 herein, a recommendation of the city council of said incorporated town and shall be forwarded to the Board, in addition to a list of at least five references from within the corporate boundaries of said town, as to the integrity of the applicant and the desirability of the issuing of a license for the premises mentioned therein. Such recommendaton shall be binding on the Board unless the Board after a hearing as herein provided shall determine that the city council acted in a capricious or arbitrary manner, and sets forth in writing its findings in what respects the council was acting capriciously or arbitrarily. A failure of the city council to act upon applications for licenses within thirty days of receipt of any such application shall be considered a default and shall subject the city to the penalty of losing its right to a refund as herein provided. At the time set for the hearing, the Board shall consider the application and any protests that may be filed against the same, and also hear the applicant or others appearing in connection with the matter, and give its judgment in regard to the application. If the application is rejected the fee accompanying the same shall be returned less the sum

of Twenty-Five Dollars. The licensee shall cause the license to be posted in a conspicuous position in his place of business, so that anyone entering the premises may easily read it. No license issued under the provisions of this Act shall be transferred except after first securing the consent of the Board. No refund of license fees will be allowed after the issuance of license.

Sec. 5. Sec. 35-4-15 (5), ACLA 1949, as amended by Ch. 83, SLA 1949, as amended by Ch. 116, SLA 1953, as amended by Ch. 131, SLA 1957, as amended by Ch. 197, SLA 1959, is amended to read as follows:

Sec. 35-4-15 (5) No beverage dispensary license or package liquor store license shall be issued for the sale of any intoxicating liquor in any building within two hundred feet of any school ground or church building measured by the shortest direct line from such school ground or church building in which religious services are conducted, within any corporate municipality, nor within two hundred (200) feet of any school ground or church building where such school ground or church building is located outside the corporate limits of a municipality. No license shall be issued for use in any building within two miles of any accredited college or university certified by Northwest Association for the Accrediting of Institutions of Formal Education. Provided, however, that a license may be reissued or transferred from one licensee to another, for the sale of intoxicating liquor in any building in which such sale was authorized by law on the effective date of this Act.

When a license for the sale of intoxicating liquor in any building within two hundred (200) feet of a school ground or church building in which religious services are conducted, is forfeited, lapses or is transferred to other premises, no license for the sale of intoxicating liquor at the prior licensed location shall thereafter be issued; provided, however said location may be relicensed in the event of the removal of either cause of the restriction.

Sec. 6. Sec. 35-4-20, ACLA 1949, as amended by Sec. 2, Ch. 131, SLA 1957,

as amended by Sec. 2, Ch. 197, SLA 1959, is hereby amended to read as follows:

Sec. 35-4-20. Violation of Act a Misdemeanor: Penalty. A violation of any of the provisions of this Act shall be deemed a misdemeanor, and upon conviction thereof shall be punished by imprisonment of not more than one year, or by a fine of not more than Five Hundred Dollars (\$500.00), each violation to be considered a separate offense.

Provided, further, that upon conviction of a licensee, the magistrate or other judge having jurisdiction, as the case may be, shall send a notification thereof together with the certified transcript of the proceedings to the Board which may, upon the direction of a majority of the members of the Board, suspend said license as hereinafter provided for the first and second violations and may revoke the license and may upon a third violation forfeit the bond. For the purpose of this section, the terms "second violation" and "third violation" include only those violations which occur within five years of the first violation.

First Violation: The license of the premises involved may be suspended for not less than 10 nor more than forty-five (45) days;

Second Violation: The license of the premises involved may be suspended for a period of not less than 30 days nor more than ninety (90) days.

Sec. 7. Sec. 35-4-22, ACLA 1949, as amended by Ch. 131, SLA 1957, as amended by Ch. 197, SLA 1959 is hereby amended in subsection (K) and by adding new

subsections (N) and (O) to read as follows:

(K) The business premises occupied by a holder of a retail license issued under this Act shall not be connected by a door, opening or any other means of passage for the purpose of sales or for the purpose of passage by the general public to any other retail business establishment, except those licensed under this Act.

(N) All hotels, motels, resorts or similar business which hold a beverage dispensary license and which have as a substantial part of their business the catering to the traveling public, shall have the right to serve alcoholic beverages in their dining rooms, banquet rooms and to guests in their rooms.

(O) Each application for the transfer of ownership of an existing license shall be accompanied by a statement, under oath, executed by the transferor in which he lists all debts, and the amounts thereof, owed by him to any creditor of the business or taxes due. Each creditor to whom a debt is owed shall be promptly informed of the application by the Board and of the amount owed said creditor. No application for such transfer shall be approved by the Board unless all said debts are paid, or security for their payment satisfactory to the creditor or taxing authority is provided by the transferor prior to approval of the application.

Sec. 8. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

Became law without signature April 25, 1960

CHAPTER 184

AN ACT

Repealing Ch. 159, SLA 1959; creating within the Office of the Governor a division of state planning; establishing duties; authorizing the reception and expenditure of funds; and providing for an effective date.

(C.S.S.B. 191)

Be it enacted by the Legislature of the State of Alaska:

Section 1. Ch. 159, SLA 1959 is repealed.