

CS FOR SENATE BILL NO. 87(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 3/28/95
Referred: Finance

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to community local options for control of alcoholic beverages;
2 relating to the control of alcoholic beverages; relating to the definition of
3 'alcoholic beverage'; relating to purchase and sale of alcoholic beverages; relating
4 to alcohol server education courses; and providing for an effective date."

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

6 * Section 1. AS 04.11.010(b) is amended to read:

7 (b) Except as provided in this subsection, a [A] person may not solicit or
8 receive orders for the delivery of an alcoholic beverage in an area **that has adopted**
9 **a local option under AS 04.11.491. If the area has adopted a local option under**
10 **AS 04.11.491(a)(1), (2), or (3), or (b)(1) or (2), a package store licensee outside of**
11 **that local option area may receive orders as provided under AS 04.11.150 but may**
12 **not solicit in that area or receive orders through an agent or employee in that**
13 **area. This subsection does not apply to a package store licensee who operates a**
14 **package store in an area that has adopted a local option under**

1 AS 04.11.491(a)(2)(C) or (3)(C) or (b)(2)(C) [WHERE THE RESULTS OF A
2 LOCAL OPTION ELECTION HAVE, UNDER AS 04.11.490 - 04.11.500,
3 PROHIBITED THE BOARD FROM ISSUING, RENEWING, OR TRANSFERRING
4 ONE OR MORE TYPES OF LICENSES OR PERMITS UNDER THIS TITLE,
5 UNLESS THE PERSON IS LICENSED UNDER THIS TITLE AND THE ORDER
6 IS ACTUALLY RECEIVED BY THAT PERSON FROM THE PURCHASER OF
7 THE ALCOHOLIC BEVERAGE]. A person who violates this subsection is
8 punishable upon conviction **as provided** under AS 04.16.200(a) or (b).

9 * **Sec. 2.** AS 04.11.010(c) is amended to read:

10 (c) In a criminal prosecution for possession of alcoholic beverages for sale in
11 violation of (a) of this section, the fact that a person possessed more than 12 liters of
12 distilled spirits, 24 liters or more of wine, or **12 gallons** [45 LITERS] or more of malt
13 beverages in an area where the sale of alcoholic beverages is **restricted or** prohibited
14 under AS 04.11.491 [AS 04.11.490, 04.11.492, 04.11.496, OR 04.11.500] creates a
15 presumption that the person possessed the alcoholic beverages for sale.

16 * **Sec. 3.** AS 04.11.080 is amended to read:

17 Sec. 04.11.080. TYPES OF LICENSES AND PERMITS. Licenses and
18 permits issued under this title are as follows:

- 19 (1) beverage dispensary license;
- 20 (2) duplicate beverage dispensary license for additional rooms;
- 21 (3) restaurant or eating place license;
- 22 (4) club license;
- 23 (5) bottling works license;
- 24 (6) brewery license;
- 25 (7) package store license;
- 26 (8) general wholesale license;
- 27 (9) wholesale malt beverage and wine license;
- 28 (10) distillery license;
- 29 (11) common carrier dispensary license;
- 30 (12) retail stock sale license;
- 31 (13) recreational site license;

- 1 (14) [COMMUNITY LIQUOR LICENSE;
- 2 (15)] pub license;
- 3 (15) [(16)] winery license;
- 4 (16) [(17)] caterer's permit;
- 5 (17) [(18)] special events permit;
- 6 (18) [(19)] conditional contractor's permit;
- 7 (19) [(20)] brewpub license.

8 * **Sec. 4.** AS 04.11.100 is amended by adding a new subsection to read:

9 (f) Notwithstanding the provisions of (b) and (e) of this section, upon written
10 application and approval of the local governing body, the board may issue or reissue
11 a restaurant or eating place license and exempt the licensee from the requirements of
12 (b) and (e) of this section. A licensee exempt as provided in this subsection shall
13 provide food items for sale on the premises as shown on a menu approved by the
14 board and available to patrons. The board may not

15 (1) issue or reissue a license as provided under this subsection if
16 (A) the issuance or reissuance would result in more than one
17 exempt restaurant or eating place license for every 10 restaurant or eating place
18 licenses allowed under the provisions of AS 04.11.400(a)(2) or (3);

19 (B) the premises would be located in a building having a public
20 entrance within 200 feet of the boundary line of a school or a church
21 building in which religious services are being regularly conducted; for purposes
22 of this subparagraph, the 200-foot prohibition is measured from the outer
23 boundary line of the school or the public entrance of the church building by the
24 shortest pedestrian route to the nearest public entrance of the restaurant or
25 eating place;

26 (2) reissue a restaurant or eating place license as exempt as provided
27 under the provisions of this subsection if the license was issued under the provisions
28 of AS 04.11.400(g); or

29 (3) transfer an exempt license issued under this subsection to another
30 person.

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

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

3 (1) manufacture on premises licensed under the beverage dispensary
4 license not more than 75,000 [16,000] gallons of beer in a calendar year; and

5 (2) sell beer manufactured on premises licensed under the beverage
6 dispensary license for consumption only on the licensed premises.

7 * **Sec. 6.** AS 04.11.135(b) is amended to read:

8 (b) Except as provided under AS 04.11.360(10) [AS 04.11.360(12)], the
9 brewpub license is not transferable, shall remain the property of the state, and is not
10 subject to any form of alienation.

11 * **Sec. 7.** AS 04.11.150(a) is repealed and reenacted to read:

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

23 * **Sec. 8.** AS 04.11.150(g) is repealed and reenacted to read:

24 (g) If a shipment is to an area that has restricted the sale of alcoholic
25 beverages under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2), a package store
26 licensee, agent, or employee may not ship to a purchaser more than 12 liters of
27 distilled spirits, 24 liters or more of wine, or 12 gallons or more of malt beverages in
28 a calendar month.

29 * **Sec. 9.** AS 04.11.160 is amended by adding new subsections to read:

30 (f) A person who applies for issuance or renewal of a license under this
31 section shall file, on forms provided by the board, the following information regarding

1 each product line of alcoholic beverages that the person intends to purchase, offer for
2 sale, or sell: (1) the supplier of the product line; (2) the full and correct brand names
3 in the product line; (3) the name of the distiller, brewer, vintner, or importer of the
4 product line; and (4) a certification by the distiller, brewer, vintner, or importer of the
5 product line that the person is the primary source of supply for the product line. In
6 addition to the fees imposed under (a) and (b) of this section, a person filing under this
7 subsection shall pay a biennial filing fee as follows:

8	1 to 25 suppliers	\$ 500
9	26 to 50 suppliers	\$1,000
10	51 to 75 suppliers	\$1,500
11	over 75 suppliers	\$2,000

12 In this subsection, "distiller, brewer, vintner, or importer" includes an exclusive agent
13 of the distiller, brewer, vintner, or importer if the agent's name appears on the label of
14 the brand approved by the Federal Bureau of Alcohol, Tobacco, and Firearms.

15 (g) A person licensed under this section shall notify the board within 10 days
16 of a change in a primary source of supply designation required under (f) of this
17 section.

18 * **Sec. 10.** AS 04.16 is amended by adding a new section to read:

19 Sec. 04.16.172. RESTRICTIONS ON PURCHASE AND SALE OF
20 ALCOHOLIC BEVERAGES. A person licensed under AS 04.11.090, 04.11.100,
21 04.11.110, or 04.11.150 may not purchase, sell, or offer for sale an alcoholic beverage
22 unless the alcoholic beverage being purchased, sold, or offered for sale was obtained
23 from a person licensed under

24 (1) AS 04.11.160 as a primary source of supply for the alcoholic
25 beverage being purchased, sold, or offered for sale; or

26 (2) AS 04.11.130, 04.11.140, or 04.11.170.

27 * **Sec. 11.** AS 04.11.270(b) is amended to read:

28 (b) A license shall be renewed as follows:

29 (1) on or before November 1 [OF EACH YEAR], the director shall
30 mail a renewal application to each licensee whose license, unless renewed, will expire
31 on December 31 of that year; the application shall be mailed to the licensee at the

1 licensed premises or at a mailing address furnished by the licensee;

2 (2) the licensee shall submit the completed renewal application and the
3 biennial license fee to the director before January 1 [ON OR BEFORE
4 DECEMBER 31];

5 (3) a renewal application filed after December 31 is delinquent and
6 must be accompanied by a \$500 [\$200] penalty fee;

7 (4) if December 31 falls on a weekend or a state holiday, the deadline
8 is extended to the first business day following December 31.

9 * **Sec. 12.** AS 04.11.320 is amended to read:

10 Sec. 04.11.320. DENIAL OF NEW LICENSES AND PERMITS. (a) An
11 application requesting issuance of a new license shall be denied if

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

14 (2) issuance of the license is prohibited by AS 04.11.390, relating to
15 residency, or AS 04.11.410, relating to location of premises near churches and schools;

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

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

20 (5) issuance of the license is prohibited under this title as a result of
21 an election conducted under AS 04.11.507 [IN ACCORDANCE WITH
22 AS 04.11.502];

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

26 (7) [THE LICENSED PREMISES ARE TO BE LOCATED IN A
27 MUNICIPALITY, THE TYPE OF LICENSE SOUGHT IS A BEVERAGE
28 DISPENSARY OR PACKAGE STORE LICENSE, AND THAT TYPE OF LICENSE
29 IS ALREADY IN EFFECT IN THE MUNICIPALITY UNDER A COMMUNITY
30 LIQUOR LICENSE, UNLESS THE NEW LICENSE IS TO BECOME EFFECTIVE
31 AFTER THE COMMUNITY LIQUOR LICENSE IS NO LONGER EFFECTIVE,

1 WHETHER AS THE RESULT OF A LOCAL OPTION ELECTION OR
2 OTHERWISE;

3 (8) THE AUTHORITY SOUGHT IS AUTHORITY TO OPERATE A
4 BEVERAGE DISPENSARY OR PACKAGE STORE UNDER A COMMUNITY
5 LIQUOR LICENSE FOR PREMISES TO BE LOCATED IN A MUNICIPALITY
6 WHERE THE AUTHORITY SOUGHT IS ALREADY HELD BY A PRIVATE
7 LICENSEE UNDER A BEVERAGE DISPENSARY OR PACKAGE STORE
8 LICENSE, UNLESS THE COMMUNITY LIQUOR LICENSE IS TO BECOME
9 EFFECTIVE AFTER THE PRIVATELY HELD LICENSE IS NO LONGER
10 EFFECTIVE, WHETHER AS THE RESULT OF A LOCAL OPTION ELECTION OR
11 OTHERWISE;

12 (9) issuance of the license is prohibited under AS 04.11.400(a) or
13 prohibition of issuance of the license is found necessary under AS 04.11.400(b);

14 (8) [(10)] the application contains false statements of material fact;

15 (9) [(11)] the license is sought for the sale of alcoholic beverages in a
16 first or second class city where [IN WHICH] there are no licensed premises at the
17 time of application unless a majority of the voters have voted not to approve [IN] a
18 local option to restrict or prohibit the sale of alcoholic beverages under
19 AS 04.11.491, have voted to approve a local option to allow the type of premises
20 under AS 04.11.491(a)(2) or (3), or have voted to remove a restriction or
21 prohibition on the sale of alcoholic beverages under AS 04.11.495 [ELECTION
22 CONDUCTED IN ACCORDANCE WITH AS 04.11.502 HAVE VOTED "NO" ON
23 THE QUESTION SET OUT IN AS 04.11.490, OR HAVE VOTED "YES" ON A
24 QUESTION SET OUT IN AS 04.11.492 OR 04.11.500]; or

25 (10) [(12)] the license is sought for the sale of alcoholic beverages in
26 an established village where [IN WHICH] there are no licensed premises at the time
27 of application unless a majority of the voters have voted not to approve [IN] a local
28 option to restrict or prohibit the sale of alcoholic beverages under AS 04.11.491,
29 have voted to approve a local option to allow the type of premises under
30 AS 04.11.491(b)(2), or have voted to remove a restriction or prohibition on the
31 sale of alcoholic beverages under AS 04.11.495 [ELECTION CONDUCTED IN

1 ACCORDANCE WITH AS 04.11.502 HAVE VOTED "NO" ON THE QUESTION
2 SET OUT IN AS 04.11.490 OR HAVE VOTED "YES" ON THE QUESTION SET
3 OUT IN AS 04.11.500].

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

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

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

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

11 (4) the permit is sought for the sale of alcoholic beverages in a first or
12 second class city or established village where [IN WHICH] there are no licensed
13 premises at the time of application unless a majority of the voters **have voted not to**
14 **approve** [IN] a local option **to restrict or prohibit the sale of alcoholic beverages**
15 **under AS 04.11.491, have voted to approve a local option to allow the type of**
16 **permit under AS 04.11.491(a)(2) or (b)(2), or have voted to remove a restriction**
17 **or prohibition on the sale of alcoholic beverages under AS 04.11.495** [ELECTION
18 CONDUCTED IN ACCORDANCE WITH AS 04.11.502 HAVE VOTED "NO" ON
19 THE QUESTION SET OUT IN AS 04.11.490].

20 * **Sec. 13.** AS 04.11.330(a) is amended to read:

21 (a) An application requesting renewal of a license shall be denied if

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

24 (2) the license has been revoked for any cause;

25 (3) the applicant has not operated the licensed premises for at least 30
26 eight-hour days during each of the two preceding calendar years, unless the board
27 determines that the licensed premises are under construction or cannot be operated
28 through no fault of the applicant;

29 (4) the board finds that issuance of an existing license under
30 AS 04.11.400(d) has not encouraged tourist trade;

31 (5) the requirements of AS 04.11.420 - 04.11.450 relating to zoning,

1 ownership of the license, and financing of the licensee have not been met;

2 (6) renewal of the license would violate the restrictions pertaining to
3 the particular license under this title **or the license has been operated in violation of**
4 **a condition or restriction imposed by the board;**

5 (7) renewal of the license is prohibited under this title as a result of an
6 election conducted **under AS 04.11.507** [IN ACCORDANCE WITH AS 04.11.502];

7 (8) the application has not been completed in accordance with
8 AS 04.11.270; **or**

9 (9) the license was issued under AS 04.11.400(g), and the board finds
10 that the public convenience does not require renewal.

11 * **Sec. 14.** AS 04.11.340 is amended to read:

12 Sec. 04.11.340. DENIAL OF REQUEST FOR RELOCATION. An application
13 requesting approval for the relocation of licensed premises shall be denied if

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

16 (2) the relocation is prohibited under AS 04.11.400(a) or (b);

17 (3) the license would be relocated out of the established village,
18 incorporated city, unified municipality, or population area established under
19 AS 04.11.400(a) within which it is located;

20 (4) transfer of ownership is to be made concurrently with the relocation
21 of the licensed premises and a ground for denial of the transfer of ownership under
22 AS 04.11.360 is presented;

23 (5) the application has not been completed in accordance with
24 AS 04.11.290;

25 (6) relocation of the license would result in violation of a local zoning
26 law;

27 (7) relocation of the license would violate the restrictions pertaining to
28 the particular license imposed by this title;

29 (8) relocation of the license is prohibited under this title as a result of
30 an election conducted **under AS 04.11.507** [IN ACCORDANCE WITH
31 AS 04.11.502]; **or**

1 (9) [THE LICENSED PREMISES ARE TO BE LOCATED IN A
2 MUNICIPALITY, THE TYPE OF LICENSE SOUGHT TO BE RELOCATED IS A
3 BEVERAGE DISPENSARY OR PACKAGE STORE LICENSE, AND THAT TYPE
4 OF LICENSE IS ALREADY IN EFFECT IN THE MUNICIPALITY UNDER A
5 COMMUNITY LIQUOR LICENSE, UNLESS THE RELOCATION IS TO BECOME
6 EFFECTIVE AFTER THE COMMUNITY LIQUOR LICENSE IS NO LONGER
7 EFFECTIVE, WHETHER AS THE RESULT OF A LOCAL OPTION ELECTION OR
8 OTHERWISE;

9 (10)] the license was issued under AS 04.11.400(d), (e), or (g).

10 * **Sec. 15.** AS 04.11.360 is amended to read:

11 Sec. 04.11.360. DENIAL OF TRANSFER OF A LICENSE TO ANOTHER
12 PERSON. An application requesting approval of a transfer of a license to another
13 person under this title shall be denied if

14 (1) the board finds, after review of all relevant information, that transfer
15 of a license to another person would not be in the best interests of the public;

16 (2) the application has not been completed in accordance with
17 AS 04.11.280;

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

19 (4) the transferor has not paid all debts or taxes arising from the
20 conduct of the business licensed under this title unless

21 (A) the transferor gives security for the payment of the debts
22 or taxes satisfactory to the creditor or taxing authority; or

23 (B) the transfer is pursuant to a promise given as collateral by
24 the transferor to the transferee in the course of an earlier transfer of the license
25 under which promise the transferor is obliged to transfer the license back to the
26 transferee in the event of default in payment for property conveyed as part of
27 the earlier transfer of the license;

28 (5) transfer of the license to another person would result in violation
29 of the provisions of this title relating to identity of licensees and financing of licensees;

30 (6) transfer of the license to another person would violate the
31 restrictions pertaining to the particular license under this title;

1 (7) transfer of the license to another person is prohibited under the
2 provisions of this title as a result of an election conducted under AS 04.11.507 [IN
3 ACCORDANCE WITH AS 04.11.502];

4 (8) the prospective transferee does not have the qualifications required
5 under this title of an original applicant;

6 (9) [THE LICENSED PREMISES ARE LOCATED IN A
7 MUNICIPALITY, THE TYPE OF LICENSE SOUGHT TO BE TRANSFERRED IS
8 A BEVERAGE DISPENSARY OR PACKAGE STORE LICENSE, AND THAT TYPE
9 OF LICENSE IS ALREADY IN EFFECT IN THE MUNICIPALITY UNDER A
10 COMMUNITY LIQUOR LICENSE, UNLESS THE TRANSFER IS TO BECOME
11 EFFECTIVE AFTER THE COMMUNITY LIQUOR LICENSE IS NO LONGER
12 EFFECTIVE, WHETHER AS THE RESULT OF A LOCAL OPTION ELECTION OR
13 OTHERWISE;

14 (10) THE AUTHORITY SOUGHT IS AUTHORITY TO OPERATE
15 A BEVERAGE DISPENSARY OR PACKAGE STORE UNDER A COMMUNITY
16 LIQUOR LICENSE FOR PREMISES TO BE LOCATED IN A MUNICIPALITY
17 WHERE THE AUTHORITY SOUGHT IS ALREADY HELD BY A PRIVATE
18 LICENSEE UNDER A BEVERAGE DISPENSARY OR PACKAGE STORE
19 LICENSE, UNLESS THE TRANSFER IS TO BECOME EFFECTIVE AFTER THE
20 PRIVATELY HELD LICENSE IS NO LONGER EFFECTIVE, WHETHER AS THE
21 RESULT OF A LOCAL OPTION ELECTION OR OTHERWISE;

22 (11)] the license was issued under AS 04.11.100(f) or 04.11.400(g); or
23 (10) [AS 04.11.400(g);

24 (12)] the license was issued under AS 04.11.135, unless the transferor
25 is also applying to transfer the beverage dispensary license required under
26 AS 04.11.135 to the same transferee.

27 * **Sec. 16.** AS 04.11.370 is amended to read:

28 Sec. 04.11.370. SUSPENSION AND REVOCATION OF LICENSES AND
29 PERMITS. A license or permit shall be suspended or revoked if the board finds
30 [THAT ONE OR MORE OF THE FOLLOWING GROUNDS EXISTS:]

31 (1) misrepresentation of a material fact on an application made under

1 this title or a regulation adopted under this title [FOR A LICENSE OR PERMIT];

2 (2) continuation of the manufacture, sale, or service of alcoholic
3 beverages by the licensee or permittee [ACTIVITIES AUTHORIZED UNDER A
4 LICENSE OR PERMIT] would be contrary to the best interests of the public;

5 (3) failure on the part of the licensee to correct a defect [DEFECTS]
6 that constitutes a violation [CONSTITUTE VIOLATIONS] of this title, a condition
7 or restriction imposed by the board, a regulation [REGULATIONS] adopted under
8 this title, or other laws [WITHIN A PRESCRIBED TIME] after receipt of notice
9 issued by the board or its agent;

10 (4) conviction of a licensee of a violation of [A PROVISION OF] this
11 title, a regulation adopted under this title, or an ordinance adopted under AS 04.21.010;

12 (5) conviction of an [THE] agent or employee of a licensee of a
13 violation of this title, a regulation adopted under this title, or an ordinance adopted
14 under AS 04.21.010, if the licensee is found by the board to have either knowingly
15 allowed the violation or to have recklessly or with criminal negligence failed to act in
16 accordance with the duty prescribed under AS 04.21.030 with the result that the [AN]
17 agent or employee violates a law, regulation, or ordinance;

18 (6) failure of the licensee to comply with the public health, fire, or
19 safety laws and regulations [PERTAINING TO PUBLIC HEALTH] in the state;

20 (7) use of the licensed premises as a resort for illegal possessors or
21 users of narcotics, prostitutes, or promoters of prostitution; in addition to any other
22 legally competent evidence, the character of the premises may be proved by the
23 general reputation of the premises in the community as a resort for illegal possessors
24 or users of narcotics, prostitutes, or promoters of prostitution;

25 (8) occurrence of illegal gambling within the limits of the licensed
26 premises;

27 (9) the licensee permitted a [PERMITTING ANY] public offense
28 involving moral turpitude to occur on the licensed premises;

29 (10) violation by a licensee of this title, a condition or restriction
30 imposed by the board, a regulation adopted under this title, or an ordinance adopted
31 under AS 04.21.010; or

1 (11) violation by an agent or employee of a licensee of a provision of
2 this title, **a condition or restriction imposed by the board**, a regulation adopted
3 under this title, or an ordinance adopted under AS 04.21.010, if the licensee is found
4 by the board to have either knowingly allowed the violation or to have recklessly or
5 with criminal negligence failed to act in accordance with the duty prescribed under
6 AS 04.21.030 with the result that the agent or employee violates the law, **condition**
7 **or restriction**, regulation, or ordinance.

8 * **Sec. 17.** AS 04.11 is amended by adding a new section to read:

9 Sec. 04.11.395. BOARD IMPOSED CONDITIONS OR RESTRICTIONS.

10 The board may, in the best interests of the public, impose conditions or restrictions on
11 a license or permit issued under this chapter.

12 * **Sec. 18.** AS 04.11.400(a) is amended to read:

13 (a) Except as provided in (d) - (h) of this section, a new license may not be
14 issued and the board may prohibit relocation of an existing license

15 (1) outside an established village, incorporated city, unified
16 municipality, or organized borough if after the issuance or relocation there would be
17 **(A)** more than one restaurant or eating place license for each 1,500 population or
18 fraction of **that** [1,500] population, or **(B)** more than one license of each other type,
19 including licenses that have been issued under (d) or (e) of this section, for each 3,000
20 population or fraction of **that** [3,000] population, in a radius of five miles of the
21 licensed premises [OR LOCATION OF PREMISES SOUGHT TO BE LICENSED],
22 excluding the populations of established villages, incorporated cities, unified
23 municipalities, and organized boroughs that are wholly or partly included within the
24 radius;

25 (2) inside an established village, incorporated city, or unified
26 municipality if after the issuance or relocation there would be inside the established
27 village, incorporated city, or unified municipality

28 **(A)** more than one restaurant or eating place license for each
29 1,500 population or fraction of **that** [1,500] population; or

30 **(B)** more than one license of each other type, including licenses
31 that have been issued under (d) or (e) of this section, for each 3,000 population

1 or fraction of **that** [3,000] population [INSIDE THE ESTABLISHED
2 VILLAGE, INCORPORATED CITY, OR UNIFIED MUNICIPALITY];

3 (3) inside an organized borough but outside an established village or
4 incorporated city located within the borough, if after the issuance or relocation there
5 would be inside the borough, but outside the established villages and incorporated
6 cities located within the borough,

7 (A) more than one restaurant or eating place license for each
8 1,500 population or fraction of **that** [1,500] population; or

9 (B) more than one license of each other type, including licenses
10 that have been issued under (d) or (e) of this section, for each 3,000 population
11 or fraction of **that** [3,000] population [INSIDE THE BOROUGH,] excluding
12 the population of those established villages that have **adopted a local option**
13 **under AS 04.11.491(b)(1), (3), or (4)** [CONDUCTED AN ELECTION ON A
14 QUESTION SET OUT IN AS 04.11.490, 04.11.496, OR 04.11.500], and
15 excluding the population of incorporated cities located within the organized
16 borough.

17 * **Sec. 19.** AS 04.11.480(a) is amended to read:

18 (a) **A** [IF A] local governing body **may** [WISHES TO] protest the issuance,
19 renewal, **relocation**, [TRANSFER OF LOCATION,] or transfer to another person of
20 a license **by sending** [, IT SHALL FURNISH] the board and the applicant [WITH] a
21 protest and the reasons for the protest within 30 days of receipt from the board of
22 notice of filing of the application. **The local governing body may protest the**
23 **continued operation of a license during the second year of the biennial license**
24 **period by sending the board and the licensee a protest and the reasons for the**
25 **protest by January 31 of the second year of the license. The procedures for**
26 **action on a protest of continued operation of a license are the same as the**
27 **procedures for action on a protest of a renewal application.** The board shall
28 consider a protest and testimony received at a hearing conducted under
29 AS 04.11.510(b)(2) or (4) when it considers the application **or continued operation**,
30 and the protest and the record of the hearing conducted under AS 04.11.510(b)(2) or
31 (4) shall be **kept** [RETAINED] as part of the board's permanent record of its review

1 [OF THE APPLICATION]. If an application or continued operation is protested, the
2 board shall deny [MAY NOT APPROVE] the application or continued operation
3 unless the board finds that the protest is arbitrary, capricious, and unreasonable.

4 * **Sec. 20.** AS 04.11 is amended by adding a new section to read:

5 Sec. 04.11.491. LOCAL OPTIONS. (a) If a majority of the persons voting
6 on the question vote to approve the option, a municipality shall adopt a local option
7 to prohibit

8 (1) the sale of alcoholic beverages;

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

11 (A) a restaurant or eating place licensee;

12 (B) a beverage dispensary licensee;

13 (C) a package store licensee; or

14 (D) a caterer holding a permit under AS 04.11.230 to sell
15 alcoholic beverages at a site within the municipality who is also licensed under
16 a beverage dispensary license for premises outside of the municipality;

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

20 (A) a restaurant or eating place license;

21 (B) a beverage dispensary license; or

22 (C) a package store license;

23 (4) the sale and importation of alcoholic beverages; or

24 (5) the sale, importation, and possession of alcoholic beverages.

25 (b) If a majority of the persons voting on the question vote to approve the
26 option, an established village shall exercise a local option to prohibit

27 (1) the sale of alcoholic beverages;

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

30 (A) a restaurant or eating place licensee;

31 (B) a beverage dispensary licensee;

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(C) a package store licensee; or

(D) a caterer holding a permit under AS 04.11.230 to sell alcoholic beverages at a site within the established village who is also licensed under a beverage dispensary license for premises outside of the established village;

(3) the sale and importation of alcoholic beverages; or

(4) the sale, importation, and possession of alcoholic beverages.

(c) A ballot question to adopt a local option under this section must at least contain language substantially similar to: "Shall (name of municipality or village) adopt a local option to prohibit (local option under (a) or (b) of this section)? (yes or no)."

(d) The ballot for an election on the option set out in (a)(2)(A), (a)(3)(A), or (b)(2)(A) of this section must include a summary explanation of the authority to sell alcoholic beverages given to a restaurant or eating place under AS 04.11.100(a). The ballot for an election on the option set out in (a)(2)(B) or (D), (a)(3)(B), or (b)(2)(B) or (D) of this section must include a statement that a beverage dispensary license is commonly known as a "bar" and a summary explanation of the authority to sell alcoholic beverages given to a beverage dispensary licensee under AS 04.11.090(a). The ballot for an election on the option set out in (a)(2)(C), (a)(3)(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 04.11.150(a).

(e) If a municipality dissolves under AS 29.06.450(a) or (b), a local option adopted by the municipality under (a) of this section shall continue in effect as the corresponding local option under (b) of this section for an established village having the same perimeter as the previous boundaries of the municipality. A license for premises operated by the municipality under AS 04.11.505 expires when the municipality dissolves.

(f) A municipality or established village that has adopted a local option under (a)(1), (2), or (3) 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

1 alcoholic beverages if the alcoholic beverages are imported into the area. This
2 subsection does not apply to the delivery or importation of

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

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

7 * **Sec. 21.** AS 04.11 is amended by adding new sections to read:

8 Sec. 04.11.493. CHANGE OF LOCAL OPTION. (a) If a majority of persons
9 voting on the question vote to approve a different local option, a municipality or
10 established village shall change a local option previously adopted under AS 04.11.491
11 to the different approved option.

12 (b) A ballot question to change a local option under this section must at least
13 contain language substantially similar to: "Shall (name of municipality or village)
14 change the local option currently in effect, that prohibits (current local option under
15 AS 04.11.491), and adopt in its place a local option to prohibit (proposed local option
16 under AS 04.11.491)? (yes or no)."

17 Sec. 04.11.495. REMOVAL OF LOCAL OPTION. (a) If a majority of the
18 persons voting on the question vote to remove the option, a municipality or established
19 village shall remove a local option previously adopted under AS 04.11.491. The
20 option is repealed effective the first day of the month following certification of the
21 results of the election.

22 (b) A ballot question to remove a local option under this section must at least
23 contain language substantially similar to: "Shall (name of municipality or village)
24 remove the local option currently in effect, that prohibits (current local option under
25 AS 04.11.491), so that there is no longer any local option in effect? (yes or no)."

26 (c) When issuing a license in the area that has removed a local option, the
27 board shall give priority to an applicant who was formerly licensed and whose license
28 was not renewed because of the results of the previous local option election. However,
29 an applicant described in this subsection does not have a legal right to a license and
30 the board is not required to approve the application.

31 * **Sec. 22.** AS 04.11 is amended by adding a new section to read:

1 Sec. 04.11.497. EFFECT ON LICENSES OF PROHIBITION OF SALE. If
2 a majority of voters vote to prohibit the sale of alcoholic beverages under
3 AS 04.11.491(a)(1), (a)(4) or (5), (b)(1), or (b)(3) or (4), the board may not issue,
4 renew, or transfer, between persons or locations, a license for premises located within
5 the boundaries of the municipality and in unincorporated areas within five miles of the
6 boundaries of the municipality or within the perimeter of the established village. A
7 license that may not be renewed because of a local option election held under this
8 section is void 90 days after the results of the election are certified. A license that
9 expires during the 90 days after the results of a local option election are certified may
10 be extended, until it is void under this section, by payment of a prorated portion of the
11 biennial license fee.

12 * **Sec. 23.** AS 04.11 is amended by adding a new section to read:

13 Sec. 04.11.499. PROHIBITION OF IMPORTATION AFTER ELECTION. If
14 a majority of the voters vote to prohibit the importation of alcoholic beverages under
15 AS 04.11.491(a)(4) or (5) or (b)(3) or (4), a person, beginning on the first day of the
16 month following certification of the results of the election, may not knowingly send,
17 transport, or bring an alcoholic beverage into the municipality or established village,
18 unless the alcoholic beverage is sacramental wine to be used for bona fide religious
19 purposes based on tenets or teachings of a church or religious body, is limited in
20 quantity to the amount necessary for religious purposes, and is dispensed only for
21 religious purposes by a person authorized by the church or religious body to dispense
22 the sacramental wine.

23 * **Sec. 24.** AS 04.11 is amended by adding a new section to read:

24 Sec. 04.11.501. PROHIBITION OF POSSESSION AFTER ELECTION. (a)
25 If a majority of the voters vote to prohibit the possession of alcoholic beverages under
26 AS 04.11.491(a)(5) or (b)(4), a person may not knowingly possess an alcoholic
27 beverage in the municipality or established village, unless the alcoholic beverage is
28 sacramental wine to be used for bona fide religious purposes based on tenets or
29 teachings of a church or religious body, is limited in quantity to the amount necessary
30 for religious purposes, and is dispensed only for religious purposes, by a person
31 recognized by the church or religious body as authorized to dispense the wine.

1 (b) If there are licensed premises within the municipality or established village,
2 the prohibition on possession is effective beginning 90 days after the results of the
3 election are certified. If there are no licensed premises within the municipality or
4 established village, the prohibition on possession is effective beginning 60 days after
5 the results of the election are certified.

6 (c) Upon the adoption by a municipality of a local option under
7 AS 04.11.491(a)(5), an ordinance is adopted containing the provisions of this section.

8 (d) In this section, "possession" means having physical possession of or
9 exercising dominion or control over an alcoholic beverage, but does not include having
10 an alcoholic beverage within the digestive system of a person.

11 * **Sec. 25.** AS 04.11 is amended by adding a new section to read:

12 Sec. 04.11.503. EFFECT ON LICENSES OF RESTRICTION ON SALE. If
13 a majority of the voters vote under AS 04.11.491(a)(2) or (b)(2) to prohibit sale of
14 alcoholic beverages except by the type or types of licensees or permit holders listed
15 on the ballot, the board may not issue, renew, or transfer between persons or locations
16 a license for premises located within the boundaries of the municipality and in
17 unincorporated areas within five miles of the boundaries of the municipality or within
18 the perimeter of the established village, except the type or types of licenses listed on
19 the ballot. A license in effect within the boundaries of the municipality or perimeter
20 of the established village, and in unincorporated areas within five miles of the
21 boundaries of the municipality, except the type of license listed on the ballot, is void
22 90 days after the results of the election are certified. A license that expires during the
23 90 days after the results of a local option election are certified may be extended, until
24 it is void under this section, by payment of a prorated portion of the biennial license
25 fee.

26 * **Sec. 26.** AS 04.11 is amended by adding a new section to read:

27 Sec. 04.11.505. LICENSING AFTER PROHIBITION ON SALE EXCEPT IN
28 PREMISES OPERATED BY MUNICIPALITY. (a) If a majority of the voters vote
29 under AS 04.11.491(a)(3) to prohibit the sale of alcoholic beverages except on
30 premises operated by the municipality, the board may not issue, renew, or transfer
31 between persons or locations a license for premises located within the boundaries of

1 a municipality and in unincorporated areas within five miles of the boundaries of the
2 municipality, with the exception of the type of license listed on the ballot and operated
3 under a license held by the municipality. A license in effect is void 90 days after the
4 results of the election are certified. A license that expires during the 90 days after the
5 results of a local option election are certified may be extended, until it is void under
6 this subsection, by payment of a prorated portion of the biennial license fee.

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

13 * **Sec. 27.** AS 04.11 is amended by adding new sections to read:

14 Sec. 04.11.507. PROCEDURE FOR LOCAL OPTION ELECTIONS. (a)
15 Elections to adopt a local option under AS 04.11.491, change a local option under
16 AS 04.11.493, or remove a local option under AS 04.11.495, shall be conducted as
17 required in this section.

18 (b) Upon receipt of a petition of a number of registered voters equal to 35
19 percent or more of the number of votes cast at the last regular municipal election, the
20 local governing body of a municipality shall place upon a separate ballot at the next
21 regular election, or at a special election, whichever local option, change in local option,
22 or removal of local option constitutes the subject of the petition. The local governing
23 body shall conduct the election under the election ordinance of the municipality.

24 (c) Upon receipt of a petition of 35 percent or more of the registered voters
25 residing within an established village, the lieutenant governor shall place upon a
26 separate ballot at a special election the local option, change in local option, or removal
27 of local option that constitutes the subject of the petition. The lieutenant governor
28 shall conduct the election under AS 15.

29 (d) A petition filed with the local governing body of a municipality under (b)
30 of this section, that places on the ballot the option set out in AS 04.11.491(a)(5),
31 constitutes a proposed ordinance of the municipality.

1 (e) AS 29.26.110 - 29.26.160 apply to a petition under (b) of this section in
2 a general law municipality except the

3 (1) number of required signatures is determined under (b) of this
4 section rather than under AS 29.26.130;

5 (2) application filed under AS 29.26.110 must at least contain language
6 substantially similar to the questions set out under AS 04.11.491 - 04.11.495 rather
7 than containing an ordinance or resolution;

8 (3) petition must at least contain language substantially similar to the
9 questions set out under AS 04.11.491 - 04.11.495 rather than material required under
10 AS 29.26.120(a)(1) and (2).

11 (f) Notwithstanding any other provisions of law, an election under (b) or (c)
12 of this section to remove a local option or to change to a less restrictive option than
13 the local option previously adopted under AS 04.11.491 may not be conducted during
14 the first 12 months after the local option was adopted or more than once in an
15 18-month period.

16 (g) Notwithstanding AS 29.26.140(a), after a petition has been certified as
17 sufficient to meet the requirements of (b) or (c) of this section, another petition may
18 not be filed or certified until after the question presented in the first petition has been
19 voted on. Only one local option question may be presented in an election.

20 Sec. 04.11.509. NOTICE OF THE RESULTS OF A LOCAL OPTION
21 ELECTION. (a) If a majority of the voters vote to prohibit, change, or remove a
22 local option under AS 04.11.491 - 04.11.495, the clerk of the municipality, or, if the
23 election is in an established village, the lieutenant governor shall notify the board of
24 the results of the election immediately after the results are certified. The board shall
25 immediately notify the Department of Law and the Department of Public Safety of the
26 results of the election.

27 (b) If a majority of the voters vote to prohibit the importation or possession
28 of alcoholic beverages under AS 04.11.491(a)(4) or (5) or (b)(3) or (4), the following
29 actions in addition to those prescribed in (a) of this section shall be taken before the
30 date the prohibition becomes effective:

31 (1) the board shall notify, by certified mail, all package store licensees

1 who sell alcoholic beverages in response to a written solicitation of the local option;
2 and

3 (2) the municipality or established village shall post public notice of
4 the prohibition in a central location in the municipality or village.

5 * **Sec. 28.** AS 04.11.540 is amended to read:

6 Sec. 04.11.540. LICENSE RENEWAL AND EXPIRATION. Notwithstanding
7 AS 04.11.680, an application for renewal of a license issued for the **two** calendar **years**
8 [YEAR] ending December 31 or **of a seasonal license** issued for **parts of those**
9 **calendar years** [A SIX-MONTH PERIOD ENDING IN THE PREVIOUS YEAR] may
10 be submitted up until the next February 28 [, BUT THE AUTHORITY GRANTED
11 UNDER THE LICENSE MAY NOT BE EXERCISED UNTIL THE LICENSE IS
12 RENEWED]. If **a complete** [THE] application for renewal **has** [AND APPLICABLE
13 AFFIDAVITS HAVE] not been filed by February 28 or the required fees and the
14 penalty fees have not been paid by that date, the license expires at 12:00 midnight
15 February 28. A new license may not be issued to the holder of an expired license for
16 the same premises except on proof satisfactory to the board of good cause for the
17 failure to file and pay.

18 * **Sec. 29.** AS 04.11.680(a) is amended to read:

19 (a) Upon application and payment of **one-half** [ONE-QUARTER] of the
20 biennial fee, the board may issue a **seasonal** license under this title that **is** [WILL BE]
21 effective for **the intervals stated on the license. A seasonal license may not be**
22 **effective for more than 12 months in a two-year period** [A CONTINUOUS SIX-
23 MONTH PERIOD]. Otherwise, all licenses issued under this title other than a retail
24 stock sale license are effective for the two calendar years ending December 31, unless
25 a shorter period is prescribed by the board or by law.

26 * **Sec. 30.** AS 04.16.090(a) is amended to read:

27 (a) A person may not maintain a place in which alcohol beverages are received
28 or kept, or to which alcoholic beverages are brought, for consumption by members of
29 the public or by members of a club, corporation, or association [,] unless

30 **(1) the**

31 **(A) person is in an area that has prohibited the sale of an**

1 alcoholic beverage under AS 04.11.491(a);

2 (B) club, corporation, or association is a nonprofit
3 organization incorporated under AS 10.20;

4 (C) consumption by members of the club, corporation, or
5 association is approved by the local governing body under AS 04.21.010;
6 and

7 (D) person complies with the applicable provisions of this
8 title or regulations adopted under this title; or

9 (2) authorized to do so under this title.

10 * Sec. 31. AS 04.16.110 is repealed and reenacted to read:

11 Sec. 04.16.110. SALE OF CERTAIN ALCOHOLIC BEVERAGES
12 PROHIBITED. A person may not sell an alcoholic beverage if it

13 (1) is intended for human consumption and is in powdered form; or

14 (2) contains more than 76 percent alcohol by volume.

15 * Sec. 32. AS 04.16.125(a) is amended to read:

16 (a) A person may not use a common carrier to transport alcoholic beverages
17 into an area that has restricted the sale of alcoholic beverages under
18 AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2) [AS 04.11.490, 04.11.492, OR
19 04.11.500] unless

20 (1) the shipping container holding the alcoholic beverages is clearly
21 labeled as containing alcoholic beverages with letters that contrast in color to the
22 shipping container and that are at least two inches in height; and

23 (2) an itemized invoice showing the quantity and purchase value of
24 distilled spirits, of wine, and of malt [THE ALCOHOLIC] beverages is attached to
25 the outside of the shipping container.

26 * Sec. 33. AS 04.16.125(b) is amended to read:

27 (b) This section does not apply to

28 (1) a person transporting not more than

29 (A) two liters of wine;

30 (B) one gallon of [OR] malt beverages; [,] or

31 (C) [NOT MORE THAN] one liter of distilled spirits; or

1 (2) the transportation of alcoholic beverages for use on premises
2 allowed under AS 04.11.491(a)(2) - (3) or (b)(2) or for use under a permit allowed
3 under AS 04.11.491(a)(2).

4 * **Sec. 34.** AS 04.16.200(b) is amended to read:

5 (b) A person who violates AS 04.11.010 in an area **that has adopted**
6 [WHERE THE RESULTS OF] a local option **under AS 04.11.491** [ELECTION
7 HAVE, UNDER AS 04.11.490 - 04.11.500, PROHIBITED THE BOARD FROM
8 ISSUING, RENEWING, OR TRANSFERRING ONE OR MORE TYPES OF
9 LICENSES OR PERMITS UNDER THIS TITLE IN THE AREA] is, upon conviction,
10 guilty of a class C felony.

11 * **Sec. 35.** AS 04.16.200(e) is amended to read:

12 (e) A person who sends, transports, or brings alcoholic beverages into a
13 municipality or established village in violation of **AS 04.11.499** [AS 04.11.496] is,
14 upon conviction,

15 (1) guilty of a class A misdemeanor if the quantity imported is less
16 than 12 liters of distilled spirits, 24 liters of wine, or **12 gallons** [45 LITERS] of malt
17 beverages; or

18 (2) guilty of a class C felony if the quantity imported is 12 liters or
19 more of distilled spirits, 24 liters or more of wine, or **12 gallons** [45 LITERS] or more
20 of malt beverages.

21 * **Sec. 36.** AS 04.16.205(a) is amended to read:

22 (a) A person who possesses alcoholic beverages in a municipality or
23 established village in violation of **AS 04.11.501** [AS 04.11.498] or an ordinance
24 adopted under **AS 04.11.501** [AS 04.11.498] may, upon conviction, be punished by a
25 fine not to exceed \$1,000 **and shall forfeit the seized alcoholic beverages.** When a
26 peace officer stops or contacts a person concerning a violation of **AS 04.11.501**
27 [AS 04.11.498] or an ordinance **adopted** [ENACTED] under **AS 04.11.501**
28 [AS 04.11.498], the peace officer **shall seize the alcoholic beverages and** may [, IN
29 THE OFFICER'S DISCRETION,] issue a citation to the person as provided in
30 AS 12.25.180.

31 * **Sec. 37.** AS 04.16.205(b) is amended to read:

1 (b) A person cited for a violation of AS 04.11.501 [AS 04.11.498] or an
2 ordinance adopted under AS 04.11.501 [AS 04.11.498] for which a bail amount has
3 been established under (c) of this section may, within 30 days after the date the
4 citation is issued,

5 (1) mail or personally deliver to the clerk of the court in which the
6 citation is filed by the peace officer the amount of bail indicated on the citation and
7 a copy of the citation indicating that the right to an appearance is waived, a plea of no
8 contest is entered, and the bail and all alcoholic beverages seized are forfeited; or

9 (2) perform community work in lieu of payment of the fine or a portion
10 of the fine as provided in (d) of this section.

11 * **Sec. 38.** AS 04.16.205(c) is amended to read:

12 (c) The supreme court shall establish by rule or order a schedule of bail
13 amounts that may be forfeited without a court appearance for a violation of
14 AS 04.11.501 [AS 04.11.498] or an ordinance adopted under AS 04.11.501
15 [AS 04.11.498]. In establishing the bail schedule the supreme court may consider the
16 quantity of alcoholic beverages possessed and the number of prior violations of the
17 person cited. Before establishing or amending the schedule of bail amounts required
18 by this subsection, the supreme court shall appoint and consult with an advisory
19 committee consisting of the following seven persons: one superior court judge, one
20 magistrate from each judicial district in the state, a representative of the Department
21 of Law, and a representative of the Public Defender Agency. The maximum bail
22 amount may not exceed \$1,000, and the issuing officer shall write on the citation the
23 amount of bail applicable to the violation.

24 * **Sec. 39.** AS 04.16.205(d) is amended to read:

25 (d) Community work shall be performed at the direction of the **local** governing
26 body of the municipality or the **local** governing body of the established village. **In the**
27 **absence of a local governing body for an established village, community work**
28 **shall be performed at the direction of the body that has traditionally performed**
29 **public functions on behalf of the entire community.** The value of community work
30 in lieu of a fine is \$5.00 per hour. When the community work is completed, the
31 person cited for the violation shall mail or personally deliver to the clerk of the court

1 in which the citation is filed by the peace officer

2 (1) a form, prescribed by the administrative director of the Alaska
3 Court System, indicating completion of the community work; and

4 (2) a copy of the citation, indicating that the right to an appearance is
5 waived, a plea of no contest is entered, and that the bail is forfeited or community
6 work has been performed and that all alcoholic beverages seized are forfeited.

7 * **Sec. 40.** AS 04.16.205(g) is amended to read:

8 (g) Notwithstanding other provisions of law, if a person cited for a violation
9 of AS 04.11.501 [AS 04.11.498] or an ordinance adopted under AS 04.11.501
10 [AS 04.11.498] for which a bail amount has been established under (c) of this section
11 appears in court and is found guilty, the penalty that is imposed for the offense may
12 not exceed the bail amount for that offense established under (c) of this section.

13 * **Sec. 41.** AS 04.16.205(h) is amended to read:

14 (h) A violation of AS 04.11.501 [AS 04.11.498] or an ordinance adopted under
15 AS 04.11.501 [AS 04.11.498] may not be considered a criminal offense and may not
16 result in imprisonment, nor is a fine imposed for a violation considered criminal
17 punishment. A person cited for a violation does not have a right to a jury trial or
18 court appointed counsel.

19 * **Sec. 42.** AS 04.16.220(a) is amended to read:

20 (a) The following are subject to forfeiture:

21 (1) alcoholic beverages manufactured, sold, offered for sale or
22 possessed for sale, bartered or exchanged for goods and services in this state in
23 violation of AS 04.11.010; alcoholic beverages possessed, stocked, warehoused, or
24 otherwise stored in violation of AS 04.21.060; alcoholic beverages sold, or offered for
25 sale in violation [IN AN AREA WHERE THE RESULTS] of a local option adopted
26 under AS 04.11.491 [ELECTION HAVE, UNDER AS 04.11.490 - 04.11.500,
27 PROHIBITED THE POSSESSION OF ALCOHOLIC BEVERAGES OR
28 PROHIBITED THE BOARD FROM ISSUING, RENEWING, OR TRANSFERRING
29 ONE OR MORE LICENSES OR PERMITS UNDER THIS TITLE IN THE AREA];
30 alcoholic beverages transported into the state and sold to persons not licensed under
31 this chapter in violation of AS 04.16.170(b);

1 (2) materials and equipment used in the manufacture, sale, offering for
2 sale, possession for sale, barter or exchange of alcoholic beverages for goods and
3 services in this state in violation of AS 04.11.010; materials and equipment used in the
4 stocking, warehousing, or storage of alcoholic beverages in violation of AS 04.21.060;
5 materials and equipment used in the sale or offering for sale of an alcoholic beverage
6 in an area in violation [WHERE THE RESULTS] of a local option adopted under
7 AS 04.11.491 [ELECTION HAVE, UNDER AS 04.11.490 - 04.11.500, PROHIBITED
8 THE BOARD FROM ISSUING, RENEWING, OR TRANSFERRING ONE OR
9 MORE LICENSES OR PERMITS UNDER THIS TITLE IN THE AREA];

10 (3) aircraft, vehicles, or vessels used to transport, or facilitate the
11 transportation of

12 (A) alcoholic beverages manufactured, sold, offered for sale or
13 possessed for sale, bartered or exchanged for goods and services in this state
14 in violation of AS 04.11.010;

15 (B) property stocked, warehoused, or otherwise stored in
16 violation of AS 04.21.060;

17 (C) alcoholic beverages imported into a municipality or
18 established village in violation of AS 04.11.499 [AS 04.11.496];

19 (4) alcoholic beverages found on licensed premises that do not bear
20 federal excise stamps if excise stamps are required under federal law;

21 (5) alcoholic beverages, materials or equipment used in violation of
22 AS 04.16.175.

23 * **Sec. 43.** AS 04.16.220(b) is amended to read:

24 (b) Property subject to forfeiture under this section may be actually or
25 constructively seized under an order issued by the superior court upon a showing of
26 probable cause that the property is subject to forfeiture under this section. Constructive
27 seizure is effected upon posting a signed notice of seizure on the item to be forfeited,
28 stating the violation and the date and place of seizure. Seizure without a court order
29 may be made if

30 (1) the seizure is incident to a valid arrest or search;

31 (2) the property subject to seizure is the subject of a prior judgment in

1 favor of the state; or

2 (3) there is probable cause to believe that the property is subject to
3 forfeiture under (a) of this section; except for alcoholic beverages possessed on
4 violation of **AS 04.11.501** [AS 04.11.498] or an ordinance adopted under **AS 04.11.501**
5 [AS 04.11.498], property seized under this paragraph may not be held over 48 hours
6 or until an order of forfeiture is issued by the court, whichever is earlier.

7 * **Sec. 44.** AS 04.16.220(d) is amended to read:

8 (d) Property subject to forfeiture under (a) of this section may be forfeited

9 (1) upon conviction of a person **for a violation of** [UNDER]
10 AS 04.11.010, **04.11.499**, [04.11.496(b), OR] AS 04.21.060, or **AS 04.11.501** [UPON
11 ENTRY OF JUDGMENT UNDER AS 04.11.498] or an ordinance adopted under
12 **AS 04.11.501** [AS 04.11.498]; **or**

13 (2) upon judgment by the superior court in a proceeding in rem that the
14 property was used in a manner subjecting it to forfeiture under (a) of this section.

15 * **Sec. 45.** AS 04.16.220(g) is amended to read:

16 (g) It is no defense in an in rem forfeiture proceeding brought under (d)(2) of
17 this section that a criminal proceeding is pending or has resulted in conviction or
18 acquittal of a person charged with violating AS 04.11.010, **04.11.499** [04.11.496(b)],
19 or AS 04.21.060.

20 * **Sec. 46.** AS 04.16.220(h) is amended to read:

21 (h) Alcoholic beverages forfeited under (d) of this section shall be placed in
22 the custody of a peace officer of the state and destroyed no later than 30 days after
23 forfeiture. All other property forfeited under this section shall be placed in the custody
24 of the commissioner of public safety for disposition according to an order entered by
25 the court. The court shall order destroyed any property forfeited under this section that
26 is harmful to the public **and shall order any property forfeited under this section**
27 **that was seized in a municipality to be transferred to the municipality in which**
28 **the property was seized.** Other property shall be ordered sold and the proceeds used
29 for payment of expenses of the proceedings for forfeiture and sale, including expenses
30 of seizure, custody, and court costs. The remainder of the proceeds shall be deposited
31 in the general fund.

1 * **Sec. 47.** AS 04.21.010(a) is amended to read:

2 (a) A municipality may adopt ordinances governing the importation, barter,
3 sale, and consumption of alcoholic beverages within the municipality and may ban
4 possession of alcoholic beverages under **AS 04.11.491(a)(5)** [AS 04.11.498(d) OR (e)].
5 An ordinance adopted under this section may not be inconsistent with this title or
6 regulations adopted under this title. **In a municipality that has adopted a local**
7 **option under AS 04.11.491(a)(1), (2), or (3), an ordinance is not inconsistent with**
8 **this title if it limits**

9 (1) **the monthly amounts of alcoholic beverages a person may**
10 **import into the municipality;**

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

14 (3) **the type of alcoholic beverage container that may be possessed**
15 **in the municipality.**

16 * **Sec. 48.** AS 04.21.010(b) is amended to read:

17 (b) **After the adoption of a local option under AS 04.11.491(a), a** [IF, AS A
18 RESULT OF AN ELECTION HELD IN ACCORDANCE WITH AS 04.11.502 IN A
19 MUNICIPALITY, THE BOARD IS PROHIBITED FROM ISSUING, RENEWING,
20 OR TRANSFERRING A LICENSE BETWEEN HOLDERS OR LOCATIONS OR IF
21 THE IMPORTATION OF ALCOHOLIC BEVERAGES IS PROHIBITED IN THE
22 MUNICIPALITY, THE] municipality may adopt an ordinance making the sale, [OR]
23 importation, **or possession** of alcoholic beverages a misdemeanor **to the extent**
24 **prohibited under the local option.** The ordinance may not be inconsistent with this
25 title or the regulations adopted under this title.

26 * **Sec. 49.** AS 04.21.010(c) is amended to read:

27 (c) A municipality may not impose taxes on alcoholic beverages except a

28 (1) property tax on alcoholic beverage inventories;

29 (2) sales tax on alcoholic beverage sales if sales taxes are imposed on
30 other sales within the municipality;

31 (3) sales tax on alcoholic beverage sales that was in effect before

1 July 1, 1985; and

2 (4) sales and use tax on alcoholic beverages if the sale of alcoholic
3 beverages within the municipality has been prohibited under AS 04.11.491(a)(1), (4),
4 or (5) [AS 04.11.490].

5 * **Sec. 50.** AS 04.21.015(b) is amended to read:

6 (b) This section does not apply to AS 04.16.050, 04.16.051, 04.16.080;
7 AS 04.21.010, 04.21.020; alcoholic beverages manufactured in a quantity that exceeds
8 the limit imposed on private manufacture under federal law; or an area that has
9 adopted a local option law under AS 04.11.491 [AS 04.11.490 - 04.11.500].

10 * **Sec. 51.** AS 04.21.025(a) is amended to read:

11 (a) As a condition of issuance or renewal of a license and selling alcoholic
12 beverages under a license, the board shall require a licensee who sells or serves
13 alcoholic beverages and a licensee's agents and employees who sell or serve alcoholic
14 beverages or check the identification of a patron to complete an alcohol server
15 education course approved by the board, if the license is for a

16 (1) beverage dispensary;

17 (2) restaurant or eating place;

18 (3) club;

19 (4) package store;

20 (5) [COMMON CARRIER DISPENSARY;

21 (6)] recreational site;

22 (6) [(7) COMMUNITY;

23 (8)] pub;

24 (7) [(9)] conditional contractor.

25 * **Sec. 52.** AS 04.21.025 is amended by adding a new subsection to read:

26 (e) A person licensed as a common carrier dispensary shall train agents and
27 employees who sell or serve alcoholic beverages or who check the identification of a
28 patron on provisions of state law regarding sale of alcoholic beverages, including
29 AS 04.16.015, 04.16.020, 04.16.030, 04.16.051, 04.16.052, 04.16.120, 04.16.125,
30 AS 04.21.030, and 04.21.050. The training must include the subjects of the effects of
31 alcohol consumption, identifying a drunken person, determining valid identification,

1 intervention to prevent unlawful alcohol consumption, and penalties for unlawful acts
2 by agents and employees of licensees. A common carrier licensee shall, once every
3 three years, provide the board with a description of its training program including the
4 subjects taught, teaching method, and testing required.

5 * **Sec. 53.** AS 04.21.065(a) is amended to read:

6 (a) A holder of one of the following types of licenses or permits shall post on
7 the licensed or designated premises two separate warning signs as described in (b) of
8 this section:

- 9 (1) beverage dispensary license;
- 10 (2) restaurant or eating place license;
- 11 (3) club license;
- 12 (4) brewery license; this paragraph applies only to a brewery that
13 permits a person to sample portions of the brewery's product;
- 14 (5) package store license;
- 15 (6) common carrier dispensary license;
- 16 (7) recreational site license;
- 17 (8) [COMMUNITY LIQUOR LICENSE;
- 18 (9)] pub license;
- 19 (9) [(10)] winery license; this paragraph applies only to a winery that
20 permits a person to sample portions of the winery's product;
- 21 (10) [(11)] caterer's permit;
- 22 (11) [(12)] special events permit;
- 23 (12) [(13)] conditional contractor's permit;
- 24 (13) [(14)] another license or permit issued by the board authorizing
25 consumption of alcoholic beverages.

26 * **Sec. 54.** AS 04.21.080(b)(1) is amended to read:

27 (1) "alcoholic beverage" means a spirituous, vinous, malt, or other
28 fermented or distilled liquid, whatever the origin, that is intended for human
29 consumption as a beverage and that contains one-half of one percent or more of
30 alcohol by volume, whether produced commercially or privately; however, in an area
31 that has adopted a **local option under AS 04.11.491** [LOCAL-OPTION

1 PROHIBITION UNDER AS 04.11.490 - 04.11.500], "alcoholic beverage" means a
2 spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that
3 is intended for human consumption as a beverage **by the person who possesses or**
4 **attempts to possess it** and that contains alcohol in any amount if the liquid is
5 produced privately, or that contains one-half of one percent or more of alcohol by
6 volume, if the liquid is produced commercially;

7 * **Sec. 55.** AS 04.21.080(b)(9) is amended to read:

8 (9) "established village" means **an area that does not contain any**
9 **part of an incorporated city or another established village and that is**

10 (A) an unincorporated community that is in the unorganized
11 borough and that has 25 or more permanent residents; or

12 (B) an unincorporated community that is in an organized
13 borough, has 25 or more permanent residents, and

14 (i) is on a road system and is located more than 50
15 miles outside the boundary limits of a unified municipality, or

16 (ii) is not on a road system and is located more than 15
17 miles outside the boundary limits of a unified municipality;

18 * **Sec. 56.** AS 15.07.064(g) is amended to read:

19 (g) In this section, "established village" **means an unincorporated**
20 **community that is in**

21 (A) **the unorganized borough and that has 25 or more**
22 **permanent residents; or**

23 (B) **an organized borough, has 25 or more permanent**
24 **residents, and**

25 (i) **is on a road system and is located more than 50**
26 **miles outside the boundary limits of a unified municipality, or**

27 (ii) **is not on a road system and is located more than**
28 **15 miles outside the boundary limits of a unified municipality**

29 [HAS THE MEANING GIVEN IN AS 04.21.080].

30 * **Sec. 57.** AS 18.65.085(a) is amended to read:

31 (a) There is established in the Department of Public Safety, division of state

1 troopers, a narcotic drugs and alcohol enforcement unit for the purpose of investigating
2 and combating the illicit sale and distribution of narcotic drugs and alcoholic beverages
3 in the state. Enforcement of the alcoholic beverage control laws shall focus primarily
4 on the investigation, apprehension, and conviction of persons who violate
5 AS 04.11.010 by selling, importing, or possessing alcoholic beverages in violation of
6 a local option [AN ORDINANCE] adopted by a municipality or established village
7 under AS 04.11.491 [AS 04.11.490 - 04.11.500].

8 * **Sec. 58.** AS 18.65.085(c) is amended to read:

9 (c) The Department of Public Safety may establish and administer a reward
10 program, and provide grants to municipalities, established villages, and, at the request
11 of a municipality or established village, to a nonprofit association that administers a
12 village public safety officer program, for reward programs leading to the apprehension
13 and conviction of persons who violate AS 04.11.010 by selling, importing, or
14 possessing alcoholic beverages in violation of a local option [AN ORDINANCE]
15 adopted by a municipality or established village under AS 04.11.491 [AS 04.11.490
16 - 04.11.500].

17 * **Sec. 59.** AS 29.20.270(e) is amended to read:

18 (e) The veto does not extend to an ordinance adopted under AS 04.11.501
19 [AS 04.11.498]. This subsection applies to home rule and general law municipalities.

20 * **Sec. 60.** AS 29.25.020(d) is amended to read:

21 (d) This section does not apply to an ordinance proposed under
22 AS 04.11.507(d) [AS 04.11.502(c)].

23 * **Sec. 61.** AS 29.25.070(d) is amended to read:

24 (d) This section does not apply to an ordinance adopted under AS 04.11.501(c)
25 [AS 04.11.498(d) OR (e)].

26 * **Sec. 62.** AS 29.35.080(a) is amended to read:

27 (a) A municipality may regulate the possession, barter, sale, importation, and
28 consumption of alcoholic beverages under AS 04.11.480 - 04.11.509 [IN
29 ACCORDANCE WITH AS 04.11.480 - 04.11.506] and AS 04.21.010.

30 * **Sec. 63.** AS 34.03.360(6) is amended to read:

31 (6) "illegal activity involving alcoholic beverages" means a person's

1 delivery of an alcoholic beverage in violation of AS 04.11.010(b) in an area where the
2 results of a local option election have, under AS 04.11.491 [AS 04.11.490 -
3 04.11.500], prohibited the Alcoholic Beverage Control Board from issuing, renewing,
4 or transferring a liquor license or permit under AS 04;

5 * **Sec. 64.** AS 47.37.045(e) is amended to read:

6 (e) In this section,

7 (1) "established village" means an unincorporated community that
8 is in

9 (A) the unorganized borough and that has 25 or more
10 permanent residents; or

11 (B) an organized borough, has 25 or more permanent
12 residents, and

13 (i) is on a road system and is located more than 50
14 miles outside the boundary limits of a unified municipality, or

15 (ii) is not on a road system and is located more than
16 15 miles outside the boundary limits of a unified municipality
17 [HAS THE MEANING GIVEN IN AS 04.21.080(b)];

18 (2) "local governing body" has the meaning given in AS 04.21.080(b);

19 (3) "nonprofit organization" means an organization that qualifies for
20 exemption from taxation under 26 U.S.C. 501(c)(3) or (4) (Internal Revenue Code).

21 * **Sec. 65.** AS 04.11.090(c), 04.11.190, 04.11.490, 04.11.492, 04.11.496, 04.11.498,
22 04.11.500, 04.11.502, 04.11.504, 04.11.506, and 04.11.510(d) are repealed.

23 * **Sec. 66.** TRANSITION: LOCAL OPTIONS EARLIER ADOPTED. Notwithstanding
24 the provisions of this Act, local options adopted by an area under AS 04.11.490, 04.11.492,
25 04.11.496, 04.11.498, or 04.11.500 or previous local option laws before the effective date of
26 this Act shall continue in effect until changed under AS 04.11.493 or removed under
27 AS 04.11.495. References in this Act to local option elections conducted under AS 04.11.491,
28 04.11.493, 04.11.495, 04.11.497, 04.11.499, 04.11.501, 04.11.503, 04.11.505, and 04.11.507
29 are to be interpreted to include local option elections conducted under AS 04.11.490,
30 04.11.492, 04.11.496, 04.11.498, 04.11.500, or 04.11.502 or previous local option laws in
31 effect before the effective date of this Act.

1 * **Sec. 67.** TRANSITION: EXISTING LOCAL OPTION PETITIONS. A petition to adopt
2 or remove a local option on file with a municipality or the lieutenant governor on the effective
3 date of this section that has not been voted on is void and may not be placed on an election
4 ballot.

5 * **Sec. 68.** TRANSITION: COMMUNITY LIQUOR LICENSES. A community liquor
6 license issued under AS 04.11.190 before the effective date of this Act to operate a beverage
7 dispensary shall continue as a beverage dispensary license under AS 04.11.090. A community
8 liquor license issued under AS 04.11.190 before the effective date of this Act to operate a
9 package store shall continue as a package store license under AS 04.11.150.

10 * **Sec. 69.** TRANSITION. A person licensed under AS 04.11.160 on the effective date of
11 this section shall submit the information required under AS 04.11.160(f), added by sec. 9 of
12 this Act, by September 30, 1995.

13 * **Sec. 70.** TRANSITION: IMPLEMENTATION OF BIENNIAL SEASONAL LICENSES.

14 (a) Approximately one-half of the applicants for 1996 renewal of a seasonal license issued
15 by the Alcoholic Beverage Control Board, as determined by the director of the Alcoholic
16 Beverage Control Board, shall be eligible for a one-year seasonal license. These licenses
17 expire, unless renewed, on December 31, 1996, and may be renewed biennially in even-
18 numbered years after that. The 1996 renewal fee for these licenses is one-half of the seasonal
19 biennial license fee.

20 (b) Applicants whose licenses are not renewed under (a) of this section shall be
21 eligible for a two-year seasonal license. These licenses expire, unless renewed, on
22 December 31, 1997, and may be renewed biennially in odd-numbered years.

23 (c) The director shall notify each licensee in writing as to whether the licensee shall
24 apply for renewal under (a) or (b) of this section, and of the actual amount of the renewal fee.
25 The notice must be given not later than December 1, 1995. However, the failure of the
26 director to provide the notice required in this subsection does not prevent a license from
27 expiring on February 28, 1996, under AS 04.11.540, if the renewal application is not filed on
28 or before that date.

29 * **Sec. 71.** TRANSITION: REGULATIONS. Notwithstanding sec. 75 of this Act, the
30 Alcoholic Beverage Control Board may proceed to adopt regulations necessary to implement
31 this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not

1 before July 1, 1995.

2 * **Sec. 72.** PROHIBITION ON PURCHASE OR CERTAIN ALCOHOLIC BEVERAGES.

3 Beginning July 1, 1995, and ending June 30, 1996, a person licensed as a wholesaler under

4 AS 04.11.160 may not purchase an alcoholic beverage that contains more than 76 percent

5 alcohol by volume.

6 * **Sec. 73.** Section 71 of this Act takes effect immediately under AS 01.10.070(c).

7 * **Sec. 74.** AS 04.16.110(2), enacted in sec. 31 of this Act, takes effect July 1, 1996.

8 * **Sec. 75.** Except as provided in secs. 71 and 74 of this Act, this Act takes effect July 1,

9 1995.