

SENATE BILL NO. 138

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Introduced: 3/12/97

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to regulation of alcoholic beverages; relating to alcoholic
2 beverage licenses and to regulation of alcoholic beverage licensees; relating to
3 liability of a person who provides alcoholic beverages; and providing for an
4 effective date."

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

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

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

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

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

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

14 (4) fees for licenses and permits issued for which [NO] fees are **not**

1 prescribed by statute;

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

3 (6) delegation to the director of routine administrative functions and
4 powers;

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

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

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

12 (10) making of reports by wholesalers;

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

15 (12) prohibition of possession of alcoholic beverages by drunken
16 persons and by minors;

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

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

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

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

26 **(17) required reports from limited liability companies licensed**
27 **under this title, including reports of the transfer of a member's interest if the**
28 **transfer equals 10 percent or more of the ownership of the limited liability**
29 **company and any change of managers.**

30 * **Sec. 2.** AS 04.11.040(c) is amended to read:

31 (c) A person may not receive or transfer controlling interest in a liquor license

1 issued to a partnership, including a limited partnership, **a limited liability company,**
 2 or a corporation under this title, except with the written consent of the board.

3 * **Sec. 3.** AS 04.11 is amended by adding a new section to read:

4 **Sec. 04.11.045. Reports required of limited liability companies.** (a) A
 5 limited liability company licensed under this title shall report to the board when a
 6 member of the limited liability company transfers 10 percent or more of the ownership
 7 of the company and shall report a change of managers.

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

10 * **Sec. 4.** AS 04.11.135(a) is amended to read:

11 (a) A brewpub license authorizes the holder of a beverage dispensary license
 12 **or a restaurant or eating place license** to

13 (1) manufacture on premises licensed under the beverage dispensary
 14 license **or the restaurant or eating place license** not more than 75,000 gallons of beer
 15 in a calendar year;

16 (2) sell beer manufactured on premises licensed under the beverage
 17 dispensary license **or the restaurant or eating place license** for consumption only on
 18 the licensed premises **where the beer is manufactured or at another beverage**
 19 **dispensary or restaurant or eating place licensed premises if the brewpub licensee**
 20 **also holds the license for the other premises;**

21 (3) [SELL BEER MANUFACTURED ON THE PREMISES
 22 LICENSED UNDER THE BEVERAGE DISPENSARY LICENSE IN QUANTITIES
 23 OF NOT MORE THAN FIVE GALLONS PER DAY TO AN INDIVIDUAL WHO
 24 IS PRESENT ON THE LICENSED PREMISES; AND

25 (4)] provide a small sample of the brewpub's beer manufactured on the
 26 premises free of charge unless prohibited by AS 04.16.030.

27 * **Sec. 5.** AS 04.11.135 is amended by adding new subsections to read:

28 (d) A brewpub licensee may petition the board for a waiver of the 75,000
 29 gallon yearly limit of beer to be manufactured on the brewpub's premises imposed
 30 under (a) of this section. The board shall adopt regulations to implement this
 31 subsection.

1 (e) A brewpub licensee may sell beer manufactured on its licensed premises
2 to a holder of a general wholesale license under AS 04.11.160.

3 * **Sec. 6.** AS 04.11.150(a) is amended to read:

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

15 * **Sec. 7.** AS 04.11.150 is amended by adding new subsections to read:

16 (j) A package store license authorizes the licensee to deliver not more than two
17 bottles of wine or champagne in a gift basket with a floral arrangement to a cruise ship
18 passenger or a hotel guest. The wine or champagne for delivery may be purchased
19 from a package store licensee by a florist or gift basket establishment with a state
20 business license that designates the business as a florist or gift basket establishment.
21 The package store licensee shall keep on file a copy of the Alaska business license of
22 a florist or gift basket establishment to which the licensee sells wine or champagne for
23 delivery to third persons by the package store. The package store must keep a written
24 record of each delivery made under this subsection for a period of at least one year,
25 including the name of the business purchasing the wine or champagne and the name
26 of the person to whom the delivery is made. A delivery under this subsection must
27 be made by the licensee or an employee or agent of the licensee who has completed
28 alcohol server training as required under AS 04.21.025. The board shall issue a permit
29 to each licensee authorized to deliver wine or champagne under this subsection and
30 may by regulation impose an administrative fee for the cost of issuing the permit.

31 (k) A package store license authorizes the licensee to deliver alcoholic

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

18 * **Sec. 8.** AS 04.11.260 is amended by adding a new subsection to read:

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

23 * **Sec. 9.** AS 04.11.360(10) is amended to read:

24 (10) the license was issued under AS 04.11.135, unless the transferor
 25 is also applying to transfer the beverage dispensary license or the restaurant or
 26 eating place license required under AS 04.11.135 to the same transferee.

27 * **Sec. 10.** AS 04.11.390 is amended by adding a new subsection to read:

28 (c) A beverage dispensary license or package store license may not be issued
 29 to a domestic limited liability company or a foreign limited liability company formed
 30 under AS 10.50 unless the domestic limited liability company or foreign limited
 31 liability company has been registered to conduct business in this state for at least one

1 year before the date of the application. However, a beverage dispensary or package
2 store license may be issued to a domestic limited liability company if each of the
3 members of the limited liability company has resided in the state for at least one year
4 immediately preceding the filing of the application.

5 * **Sec. 11.** AS 04.11.430(a) is amended to read:

6 (a) Each license shall be issued to a specific individual or individuals, to a
7 partnership, including a limited partnership, **to a limited liability company**, or to a
8 corporation. If the license is issued to a corporation **or a limited liability company**,
9 the registered agent of the corporation **or limited liability company** must be an
10 individual resident of the state.

11 * **Sec. 12.** AS 04.11.450(b) is amended to read:

12 (b) A person who is a representative or owner of a wholesale business,
13 brewery, winery, bottling works, or distillery may not be issued, solely or together with
14 others, a beverage dispensary license, a restaurant or eating place license, or package
15 store license. A holder of a beverage dispensary license **or a restaurant or eating**
16 **place license** may be issued a brewpub license, subject to the provisions of
17 AS 04.11.135. [THE PROHIBITION AGAINST ISSUANCE OF A RESTAURANT
18 OR EATING PLACE LICENSE IMPOSED UNDER THIS SUBSECTION DOES
19 NOT APPLY TO A RESTAURANT OR EATING PLACE LICENSE ISSUED ON
20 OR BEFORE OCTOBER 1, 1996 OR A RESTAURANT OR EATING PLACE
21 LICENSE ISSUED UNDER AN APPLICATION FOR A RESTAURANT OR
22 EATING PLACE LICENSE APPROVED ON OR BEFORE OCTOBER 1, 1996.]

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

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

26 * **Sec. 14.** AS 04.11.450(e) is amended to read:

27 (e) A holder of either a general wholesale license or a wholesale malt beverage
28 and wine license may not be employed by or act as the agent or employee of the
29 holder of a beverage dispensary **license, a restaurant or eating place license,** or **a**
30 package store license.

31 * **Sec. 15.** AS 04.21.020 is amended by adding a new subsection to read:

1 (b) Notwithstanding (a) of this section, a person who provides alcoholic
2 beverages to another person in violation of AS 04.11.010 may be held civilly liable for
3 injuries resulting from the intoxication of the person who receives the alcoholic
4 beverages.

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

6 **Sec. 04.21.035. Responsibility of limited liability company members.**

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

11 * **Sec. 17.** Section 12 of this Act takes effect September 15, 1997.

12 * **Sec. 18.** Except as provided in sec. 17 of this Act, this Act takes effect July 1, 1997.