

CS FOR SENATE BILL NO. 138(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/4/98
Referred: Finance

Sponsor(s): SENATE FINANCE COMMITTEE

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 licensed under the beverage
 22 dispensary license in quantities of not more than five gallons per day to an individual
 23 who is present on the licensed premises; and

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

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

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

31 (e) A brewpub licensee may sell beer manufactured on its licensed premises

1 to a holder of a general wholesale license under AS 04.11.160.

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

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

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

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

30 (k) A package store license authorizes the licensee to deliver alcoholic
31 beverages between the hours of 8:00 a.m. and 5:00 p.m. to a responsible adult at the

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

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

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

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

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

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

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

1 store license may be issued to a domestic limited liability company if each of the
 2 members of the limited liability company has resided in the state for at least one year
 3 immediately preceding the filing of the application.

4 * **Sec. 11.** AS 04.11.400(d) is amended to read:

5 (d) The board may approve the issuance or transfer of ownership of a beverage
 6 dispensary or restaurant or eating place license without regard to (a) of this section if
 7 it appears that the issuance or transfer will encourage the tourist trade by encouraging
 8 the construction or improvement of

9 (1) a hotel, motel, resort, or similar business relating to the tourist trade
 10 with a dining facility or having kitchen facilities in a majority of its rental rooms and
 11 at least a minimum number of rental rooms required according to the population of **or**
 12 **number of existing beverage dispensary or club licenses in** the established village,
 13 incorporated city, unified municipality, or population area established under (a) of this
 14 section in which the facility will be located, as follows:

15 (A) 10 rental rooms if the population is less than 1,501;

16 (B) 20 rental rooms if the population is 1,501 - 2,500;

17 (C) 25 rental rooms if the population is 2,501 - 5,000;

18 (D) 30 rental rooms if the population is 5,001 - 15,000;

19 (E) 35 rental rooms if the population is 15,001 - 25,000;

20 (F) 40 rental rooms if the population is 25,001 - 50,000; and

21 (G) 50 rental rooms if the population is greater than 50,000;

22 **and**

23 **(H) 35 rental rooms if the total number of existing beverage**
 24 **dispensary or club licenses in the established village, incorporated city,**
 25 **unified municipality, or population area is greater than four times the**
 26 **number of beverage dispensary licenses that is allowed under (a) of this**
 27 **section; or**

28 (2) an airport terminal.

29 * **Sec. 12.** AS 04.11.430(a) is amended to read:

30 (a) Each license shall be issued to a specific individual or individuals, to a
 31 partnership, including a limited partnership, **to a limited liability company,** or to a

1 corporation. If the license is issued to a corporation **or a limited liability company**,
 2 the registered agent of the corporation **or limited liability company** must be an
 3 individual resident of the state.

4 * **Sec. 13.** AS 04.11.450(b) is amended to read:

5 (b) A person who is a representative or owner of a wholesale business,
 6 brewery, winery, bottling works, or distillery may not be issued, solely or together with
 7 others, a beverage dispensary license, a restaurant or eating place license, or package
 8 store license. A holder of a beverage dispensary license **or a restaurant or eating**
 9 **place license** may be issued a brewpub license, subject to the provisions of
 10 AS 04.11.135. The prohibition against issuance of a restaurant or eating place license
 11 imposed under this subsection does not apply to a restaurant or eating place license
 12 issued on or before October 1, 1996 or a restaurant or eating place license issued under
 13 an application for a restaurant or eating place license approved on or before October
 14 1, 1996.

15 * **Sec. 14.** AS 04.11.450(c) is amended to read:

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

18 * **Sec. 15.** AS 04.11.450(e) is amended to read:

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

23 * **Sec. 16.** AS 04.16.170(b) is amended to read:

24 (b) A person transporting alcoholic beverages into the state may not sell those
 25 alcoholic beverages [TO A PERSON NOT LICENSED UNDER THIS TITLE,] unless
 26 the alcoholic beverages **are sold to a person licensed under AS 04.11.160 or** are
 27 used for religious, industrial, pharmaceutical, or medical purposes.

28 * **Sec. 17.** AS 04.16.170 is amended by adding new subsections to read:

29 (c) If the director determines that a person has violated (b) of this section, the
 30 director shall by certified mail order the person to cease and desist further violations.

31 If a person receiving the notice to cease and desist does not, within 30 days after

1 receiving the notice, produce evidence that the applicable alcoholic beverage tax
2 imposed under AS 43.60 has been paid, it shall be presumed that the person has
3 violated (b) of this section. This subsection does not apply to a person who holds a
4 permit issued by the Federal Bureau of Alcohol, Tobacco and Firearms authorizing
5 interstate shipment of alcoholic beverages.

6 (d) If the director determines that a person holding a permit issued by the
7 Federal Bureau of Alcohol, Tobacco and Firearms authorizing interstate shipment of
8 alcoholic beverages has violated (b) of this section, the director shall notify the Federal
9 Bureau of Alcohol, Tobacco and Firearms of the violation by certified mail and request
10 the bureau to take appropriate action.

11 * **Sec. 18.** AS 04.21 is amended by adding a new section to read:

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

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

17 * **Sec. 19.** Section 13 of this Act takes effect September 15, 1998.

18 * **Sec. 20.** Except as provided in sec. 19 of this Act, this Act takes effect July 1, 1998.