

**CS FOR HOUSE BILL NO. 69(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIRST LEGISLATURE - FIRST SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered: 3/26/99**

**Referred: Rules**

**Sponsor(s): REPRESENTATIVE ROKEBERG**

**A BILL**

**FOR AN ACT ENTITLED**

**1 "An Act requiring certain reports or information from alcoholic beverage licensees  
2 that are also limited liability organizations; relating to powers of employees of the  
3 Alcoholic Beverage Control Board to investigate violations of certain criminal laws;  
4 relating to regulation of alcoholic beverage licenses issued to limited liability  
5 organizations; relating to brewpub licenses; relating to package store licenses;  
6 relating to consumption of alcoholic beverages on licensed premises; relating to the  
7 liability of a member of a limited liability organization who also holds an  
8 alcoholic beverage license; extending the termination date of the Alcoholic Beverage  
9 Control Board to June 30, 2003; relating to residency requirements for obtaining  
10 an alcoholic beverage license; and providing for an effective date."**

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

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

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

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

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

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

8 (4) fees for licenses and permits issued for which [NO] fees are **not**  
9 prescribed by statute;

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

11 (6) delegation to the director of routine administrative functions and  
12 powers;

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

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

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

20 (10) making of reports by wholesalers;

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

23 (12) prohibition of possession of alcoholic beverages by drunken  
24 persons and by minors;

25 (13) required reports from corporations licensed under this title,  
26 including reports of stock ownership and transfers and changes of officers and  
27 directors;

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

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

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

3 **(17) required reports from limited liability organizations licensed**  
4 **under this title, including reports of the transfer of a member's interest if the**  
5 **transfer equals 10 percent or more of the ownership of the limited liability**  
6 **organization and any change of managers.**

7 \* **Sec. 2.** AS 04.06.110 is amended to read:

8 **Sec. 04.06.110. Peace officer powers.** The director and the persons employed  
9 for the administration and enforcement of this title may, with the concurrence of the  
10 commissioner of public safety, exercise the powers of peace officers when those  
11 powers are specifically granted by the board. Powers granted by the board under this  
12 section may be exercised only when necessary for the enforcement of the criminally  
13 punishable provisions of this title, regulations of the board, and other criminally  
14 punishable laws and regulations, **including investigation of violations of laws against**  
15 **prostitution and promoting prostitution described in AS 11.66.100 - 11.66.130 and**  
16 **laws against gambling, promoting gambling, and related offenses described in**  
17 **AS 11.66.200 - 11.66.280** [GOVERNING THE MANUFACTURE, BARTER, SALE,  
18 CONSUMPTION, AND POSSESSION OF ALCOHOLIC BEVERAGES IN THE  
19 STATE].

20 \* **Sec. 3.** AS 04.11.040(c) is amended to read:

21 (c) A person may not receive or transfer controlling interest in a liquor license  
22 issued to a partnership, including a limited partnership, **a limited liability**  
23 **organization**, or a corporation under this title, except with the written consent of the  
24 board.

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

26 **Sec. 04.11.045. Reports required of limited liability organizations.** (a) A  
27 limited liability organization licensed under this title shall report to the board when a  
28 member of the limited liability organization transfers 10 percent or more of the  
29 ownership of the organization and shall report a change of managers.

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

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

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

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

6 (2) sell beer manufactured on premises licensed under the beverage  
7 dispensary license for consumption [ONLY] on the licensed premises **or other**  
8 **licensed premises of the beverage dispensary licensee;**

9 (3) sell beer manufactured on the premises licensed under the beverage  
10 dispensary license in quantities of not more than five gallons per day to an individual  
11 who is present on the licensed premises; [AND]

12 (4) provide a small sample of the brewpub's beer manufactured on the  
13 premises free of charge unless prohibited by AS 04.16.030; **and**

14 **(5) sell beer manufactured on the premises licensed under the**  
15 **beverage dispensary license to a person licensed as a wholesaler under**  
16 **AS 04.11.160.**

17 \* **Sec. 6.** AS 04.11.135 is amended by adding a new subsection to read:

18 (d) Notwithstanding (a) of this section, the holder of a brewpub license who  
19 under the provisions of AS 04.11.450(b) formerly held a brewery license and a  
20 restaurant or eating place license and who, under the former brewery license,  
21 manufactured beer at a location other than the premises licensed under the former  
22 restaurant or eating place license may

23 (1) manufacture not more than 75,000 gallons of beer in a calendar year  
24 on premises other than the premises licensed under the beverage dispensary license;

25 (2) provide a small sample of the manufactured beer free of charge at  
26 the location the beer is manufactured unless prohibited by AS 04.16.030; and

27 (3) sell the beer authorized to be manufactured under this subsection  
28 (A) on the premises licensed under the beverage dispensary  
29 license or other licensed premises of the beverage dispensary licensee;

30 (B) to a wholesaler licensed under AS 04.11.160; or

31 (C) to an individual who is present on the premises where the

1 beer is manufactured in quantities of not more than five gallons per day.

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

17 \* **Sec. 9.** AS 04.11.260(a) is amended to read:

18 (a) An applicant for a new license or permit shall file with the director a  
 19 written application, signed and sworn to by the applicant, giving the applicant's name  
 20 and address. If the applicant is a corporation, the application shall be executed by the  
 21 authorized officers of the corporation. If the applicant is a partnership, including a  
 22 limited partnership, the application shall be executed by an authorized general partner.  
 23 The application must include:

24 (1) the type of license or permit desired;

25 (2) a description of the premises for which the license or permit is  
 26 desired, giving the address by street and number, or other information, so that the  
 27 location of the premises can be definitely determined;

28 (3) [A STATEMENT OF THE RESIDENCY OF THE APPLICANT;

29 (4)] the license fee;

30 (4) [(5)] the duration of the license or permit desired;

31 (5) [(6)] any other information required by the board.

1 \* **Sec. 10.** AS 04.11.260 is amended by adding a new subsection to read:

2 (e) A limited liability organization that applies for a license or permit shall  
3 provide information required by the board, including the names and addresses of all  
4 members with an ownership interest of 10 percent or more and the names and  
5 addresses of all managers.

6 \* **Sec. 11.** AS 04.11.320(a) is amended to read:

7 (a) An application requesting issuance of a new license shall be denied if

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

10 (2) issuance of the license is prohibited by [AS 04.11.390, RELATING  
11 TO RESIDENCY, OR] AS 04.11.410, relating to location of premises near churches  
12 and schools;

13 (3) the application has not been completed in accordance with  
14 AS 04.11.260;

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

17 (5) issuance of the license is prohibited under this title as a result of  
18 an election conducted under AS 04.11.507;

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

22 (7) issuance of the license is prohibited under AS 04.11.400(a) or  
23 prohibition of issuance of the license is found necessary under AS 04.11.400(b);

24 (8) the application contains false statements of material fact;

25 (9) the license is sought for the sale of alcoholic beverages in a first  
26 or second class city where there are no licensed premises at the time of application  
27 unless a majority of the voters have voted not to approve a local option to restrict or  
28 prohibit the sale of alcoholic beverages under AS 04.11.491, have voted to approve a  
29 local option to allow the type of premises under AS 04.11.491(a)(2) or (3), or have  
30 voted to remove a restriction or prohibition on the sale of alcoholic beverages under  
31 AS 04.11.495; or

1 (10) the license is sought for the sale of alcoholic beverages in an  
 2 established village where there are no licensed premises at the time of application  
 3 unless a majority of the voters have voted not to approve a local option to restrict or  
 4 prohibit the sale of alcoholic beverages under AS 04.11.491, have voted to approve a  
 5 local option to allow the type of premises under AS 04.11.491(b)(2), or have voted to  
 6 remove a restriction or prohibition on the sale of alcoholic beverages under  
 7 AS 04.11.495.

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

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

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

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

17 \* **Sec. 14.** AS 04.16.120(b) is amended to read:

18 (b) **Except as provided in this subsection, a** [A] person may not bring an  
 19 alcoholic beverage into licensed premises for use or consumption by oneself or another  
 20 person on the premises unless that person is a licensee, an agent, employee, or  
 21 common carrier in the regular course of employment. **With the permission of the**  
 22 **licensee, a person may bring wine into premises licensed as a beverage dispensary**  
 23 **or a restaurant or eating place for consumption by the person while eating food**  
 24 **served at a table on the licensed premises. The beverage dispensary or restaurant**  
 25 **or eating place may charge a corkage fee for serving wine supplied by a customer.**

26 \* **Sec. 15.** AS 04.21 is amended by adding a new section to read:

27 **Sec. 04.21.035. Responsibility of limited liability organization members.**

28 Notwithstanding any other provision of AS 10.50 or AS 32.05, a member of a limited  
 29 liability organization holding a license under this title is not relieved of the obligation  
 30 or the liability otherwise imposed upon a holder of a liquor license under this title  
 31 solely because the license is held by a limited liability organization.

1 \* **Sec. 16.** AS 04.21.080(b) is amended by adding new paragraphs to read:

2 (12) "foreign limited liability company" has the meaning given in  
3 AS 10.50.990;

4 (13) "foreign limited liability partnership" has the meaning given in  
5 AS 32.05.990;

6 (14) "limited liability company" means an organization under AS 10.50;

7 (15) "limited liability organization" means a limited liability company,  
8 a foreign limited liability company, a limited liability partnership, or a foreign limited  
9 liability partnership;

10 (16) "limited liability partnership" means an organization that is  
11 registered under AS 32.05.415.

12 \* **Sec. 17.** AS 44.66.010(a)(1) is amended to read:

13 (1) Alcoholic Beverage Control Board (AS 04.06.010) -- June 30, **2003**  
14 [1999];

15 \* **Sec. 18.** AS 04.11.390 is repealed.

16 \* **Sec. 19.** Section 17 of this Act takes effect immediately under AS 01.10.070(c).

17 \* **Sec. 20.** Except as provided in sec. 19 of this Act, this Act takes effect July 1, 1999.