

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

April 11, 2001

3:25 a.m.

DRAFT

MEMBERS PRESENT

Representative Lisa Murkowski, Chair
Representative Andrew Halcro, Vice Chair
Representative Kevin Meyer
Representative Pete Kott
Representative Norman Rokeberg
Representative Harry Crawford
Representative Joe Hayes

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 182

"An Act relating to motor vehicles; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 225

"An Act relating to municipal taxation of alcoholic beverages and increasing the alcoholic beverage tax rates."

- HEARD AND HELD

PREVIOUS ACTION

BILL: HB 182

SHORT TITLE: MOTOR VEHICLE SALES AND DEALERS

SPONSOR(S): REPRESENTATIVE(S) MURKOWSKI

Jrn-Date	Jrn-Page		Action
03/14/01	0586	(H)	READ THE FIRST TIME - REFERRALS
03/14/01	0586	(H)	L&C, FIN
03/14/01	0586	(H)	REFERRED TO LABOR & COMMERCE
04/11/01	0970	(H)	COSPONSOR(S): HALCRO
04/11/01		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 225

SHORT TITLE:ALCOHOLIC BEVERAGE TAX

SPONSOR(S): REPRESENTATIVE(S)MURKOWSKI

Jrn-Date	Jrn-Page		Action
03/30/01	0789	(H)	READ THE FIRST TIME - REFERRALS
03/30/01	0789	(H)	L&C, FIN
04/03/01	0830	(H)	COSPONSOR(S): HUDSON
04/09/01		(H)	L&C AT 3:15 PM CAPITOL 17
04/09/01		(H)	Heard & Held MINUTE(L&C)
04/10/01		(H)	L&C AT 3:00 PM CAPITOL 120
04/10/01		(H)	Heard & Held MINUTE(L&C)
04/11/01		(H)	L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

[Witnesses for HB 187 are forthcoming.]

ACTION NARRATIVE

TAPE 01-57, SIDE A
Number 0001

CHAIR LISA MURKOWSKI called the House Labor and Commerce Standing Committee meeting to order at 3:25 a.m. Representatives Murkowski, Halcro, Kott, and Crawford were present at the call to order. Representatives Meyer, Rokeberg, and Hayes arrived as the meeting was in progress.

HB 182-MOTOR VEHICLE SALES AND DEALERS

[The minutes pertaining to HB 182 are forthcoming.]

TAPE 01-58, SIDE A
Number 0001

CHAIR MURKOWSKI reconvened the House Labor and Commerce Standing Committee at 7:13 p.m. Members present at the call to order were Representatives Murkowski, Halcro, Meyer, Rokeberg, Crawford, and Hayes. Representative Kohring was also in attendance.

#hb225

HB 225-ALCOHOLIC BEVERAGE TAX

DRAFT

CHAIR MURKOWSKI announced that the committee would now take up HOUSE BILL NO. 225, "An Act relating to municipal taxation of alcoholic beverages and increasing the alcoholic beverage tax rates." [Before the committee is a proposed committee substitute labeled 22-LS0806\L, Cook, 4/9/01.]

CHAIR MURKOWSKI informed the committee that the public hearing on HB 225 had been closed at the April 10, 2001 hearing. She announced her intention to move this bill from committee today. She reminded the committee that Representative Rokeberg had an amendment that he intended to introduce. She pointed out that the committee had received an outline entitled, "Economic Costs Estimate for Alaska: Negative Consequences of Alcohol Abuse and Dependence," which specifies where the \$250 million comes from. Additionally, the committee should have a packet of written testimony that was received since the last hearing.

Number 0240

REPRESENTATIVE ROKEBERG moved that the committee adopt Amendment 1 [22-LS0806\L.2, Cook, 4/11/01], which reads as follows:

Page 2, line 9:

Delete "Every"

Insert "Except as provided in (c) of this section, every [EVERY]"

Page 2, following line 20:

Insert a new bill section to read:

"* **Sec. 4.** AS 43.60.010 is amended by adding a new subsection to read:

(c) A brewer shall pay a tax at the rate of 35 cents a gallon on sales of the first 120,000 barrels of beer sold in the state each fiscal year beginning July 1, 2001, for beer produced in the United States if the producing brewery meets the qualifications of 26 U.S.C. 5051(a)(2). To qualify for the tax rate

under this subsection, the brewer must file with the department a copy of a Bureau of Alcohol, Tobacco and Firearms acknowledged copy of the brewer's Notice of Brewer to Pay Reduced Rate of Tax required under 27 C.F.R. 25.167 for the calendar year in which the fiscal year begins for which the partial exemption is sought. If proof of eligibility is not received by the department before June 1, the tax rate under this subsection does not apply until the first day of the second month after the month the notice is received by the department. For purposes of applying this subsection, a barrel of beer may contain no more than 31 gallons."

REPRESENTATIVE HALCRO objected.

REPRESENTATIVE ROKEBERG explained that Amendment 1 includes a provision that would allow for an exemption of any increase in tax above the current \$.35 a gallon on the first 120,000 barrels of beer sold by a local manufacturer or brewery. This amendment is consistent with federal law and the provisions in the Bureau of Alcohol, Tobacco, and Firearms regulations that allow a partial exemption for a local manufacturer while requiring that anyone considered a small brewery, 2 million barrels, be allowed the same exemption for importation into Alaska from the other 49 states. This would exclude any foreign brewed beer.

Number 0360

REPRESENTATIVE ROKEBERG explained that the purpose of Amendment 1 is to foster the development of breweries and brewpubs in Alaska. This provision is modeled after the State of Washington's provision, except that the Washington statute as well as the standard provision in federal law is limited to 60,000 barrels of beer. Representative Rokeberg explained that he chose to limit this to 120,000 barrels because it relates to the largest manufacturer of beer in Alaska. The Alaskan Brewing Company, with its new expansion, is projected to either reach [the 120,000 barrels] or come close. Representative Rokeberg commented that the Alaskan Brewing Company has done a marvelous job of identifying Alaska [with its beer] and has created significant economic activity in Juneau and throughout the state.

REPRESENTATIVE ROKEBERG related his understanding that this would comprise less than 15 percent of the total importation and consumption of malt beverages in Alaska. Therefore, it would

have a modest effect on any revenue derived from this legislation. Furthermore, this acknowledges the state policy of fostering economic development in the state.

REPRESENTATIVE HALCRO related his understanding that this would refer to Alaskan brewers as well as those outside the state. Therefore, he inquired as to who that would include.

REPRESENTATIVE ROKEBERG answered that he believes it would include, for example, the Seattle microbreweries that already sell in Alaska. Therefore, those that meet the federal regulation of less than 2 million a barrel would qualify and thus be exempt from any increase in tax above \$.35.

REPRESENTATIVE HALCRO inquired as to how one would apply for this tax exemption. Furthermore, he inquired as to what check and balance is in place to ensure that one doesn't exceed the limit.

REPRESENTATIVE ROKEBERG assumed that there is an application. He related his belief that the Department of Revenue would have to establish that policy.

Number 0579

CHAIR MURKOWSKI remarked that the 60,000 barrel [limit] in the federal statute seems to have some justification. However, she said that she wasn't able to make the leap [under Amendment 1] to the 120,000 [barrel limit] other than [the fact that] the Alaskan Brewing Company, the largest brewer, is almost at that figure. She asked her understanding is correct.

REPRESENTATIVE ROKEBERG answered in the affirmative.

CHAIR MURKOWSKI inquired as to the next largest brewer in the state and the levels they are at.

REPRESENTATIVE ROKEBERG surmised from the testimony that [the largest brewers] are the Moose's Tooth and the Silver Gulch, both of which are not even approaching 150,000 gallons.

REPRESENTATIVE HALCRO specified that the Moose's Tooth brews about 65,000 to 70,000 gallons and the Silver Gulch brews about 60,000 gallons.

REPRESENTATIVE ROKEBERG recalled that [the Moose's Tooth] testified that if it could service outside accounts under a

beverage dispensary license, then it would approach 120,000 gallons.

REPRESENTATIVE HALCRO said that [the next largest brewers] were the Moose's Tooth, Glacier Brewhouse, and then the Silver Gulch. The next largest brewer brewed about 20,000 gallons and thus there is a fairly big difference.

REPRESENTATIVE ROKEBERG remarked that the only brewer that would benefit at this juncture would be the Alaskan Brewing Company. However, he noted that one can't predict the future.

CHAIR MURKOWSKI expressed her wish that [the legislation] didn't have to provide "this reciprocity" but rather could specifically address beer produced in Alaska. She agreed that this is a fledgling industry that is growing and employing Alaskans. Although she didn't object to helping with that, she expressed the need to recognize that this also helps those microbreweries from outside the state. Therefore, Chair Murkowski questioned whether the increase to 120,000 barrels really helps Alaskan brewers or the outside microbrewers. Chair Murkowski announced that she objected to Amendment 1 with the 120,000 barrels and thus noted she would be amenable to amending Amendment 1 to refer to 60,000 barrels in order to reflect the federal statute.

REPRESENTATIVE ROKEBERG said that he stood by his amendment, although he acknowledged that a smaller cap might be helpful from an economic standpoint because it would give a distinct advantage to some other outside microbreweries. The argument can be made in both directions.

REPRESENTATIVE HAYES asked if Representative Rokeberg was agreeing that 60,000 barrels would be more competitive for Alaskan companies.

Number 0912

CHAIR MURKOWSKI moved that the committee adopt the following amendment to Amendment 1, which would change "120,000" to "60,000" in the new subsection (c).

REPRESENTATIVE ROKEBERG objected.

A roll call vote was taken. Representatives Halcro, Crawford, Hayes, and Murkowski voted for the amendment to Amendment 1. Representatives Meyer and Rokeberg voted against the amendment

to Amendment 1. Therefore, the amendment to Amendment 1 was adopted.

CHAIR MURKOWSKI asked if there was objection to Amendment 1 as amended. There being no objection, Amendment 1 as amended was adopted.

Number 1052

REPRESENTATIVE HAYES moved that the committee adopt the following conceptual amendment, Amendment 2:

Page 2, line 15, after "beverages",
Insert "and hard cider"

CHAIR McGUIRE related her understanding then that malt beverages and hard cider would be in the same category.

REPRESENTATIVE MEYER objected.

REPRESENTATIVE HAYES, in response to Representative Meyer, explained that hard cider is packaged like beer and looks like beer. However, it is classified as a wine and thus he felt that hard cider should be classified the same as beer. Hard cider has the same alcohol content as malt beverages.

CHAIR MURKOWSKI noted that committee members should have received information regarding what is happening in other states. Apparently, the trend is to change the classification of hard cider from wine to beer. Chair Murkowski related her belief that the tax probably doesn't matter because it's not a very potable drink.

Number 1196

REPRESENTATIVE MEYER withdrew his objection.

REPRESENTATIVE HALCRO asked if the drafters should be provided a definition of hard cider to include in statute because without a definition it could be debatable.

CHAIR MURKOWSKI remarked that she was certain there is some definition for malt beverage. She pointed out that this is a conceptual amendment, which should afford the drafter the ability to pen clarifying language, if necessary.

REPRESENTATIVE HAYES mentioned that he had language if it was needed.

CHAIR MURKOWSKI asked if there was any further discussion or objection to conceptual Amendment 2. There being none, conceptual Amendment 2 was adopted.

Number 1280

REPRESENTATIVE ROKEBERG moved that the committee adopt conceptual Amendment 3, which would delete Sections 1 and 2 of [version L].

CHAIR MURKOWSKI objected.

REPRESENTATIVE ROKEBERG related his belief that these two provisions do several things that are contrary to the best interest of state policy. First, these [provisions] remove the state's ability to directly tax the wholesale levels of alcohol, which he believes should fall under the state's purview. Representative Rokeberg expressed his concern in giving municipal governments greater freedom to impose special alcohol taxes. He pointed out that the Municipality of Anchorage rejected this concept by election and have continued to illustrate its [opposition] to any type sales tax. Representative Rokeberg reiterated that it's not in the best interest of the state to devolve its taxing power to municipal governments. "What I see, the coming problems that this state is going to experience fiscally that we should be doing this as a matter of policy," he said.

CHAIR MURKOWSKI noted that a couple years ago the portion Representative Rokeberg is seeking to delete came before the House Community and Regional Affairs Standing Committee Representative Davis and at that time, she supported it. Although she still feels that it makes sense, she expressed concern "that you going to have this dime a drink thing and then the municipalities or the city can then turn around and give us a double whammy and then we really, really, really will be hurt." She emphasized that it is not her intent to drive anyone out of business or leave hard-working Alaskans without a job. Although she still feels that this provision makes sense, perhaps the timing of it is creating too much paranoia in the minds of the Alaskans in this industry, to which she is sensitive. Therefore, although she would like for everything to remain [in the bill], she reiterated that she is conscious of messages that would place fear in the hearts of working

Alaskans. She concluded by saying that she would probably support conceptual Amendment 3.

REPRESENTATIVE HALCRO agreed with Chair Murkowski. As discussed at the prior hearing, this tax is not an attempt to demonize those who sell alcohol but rather it attempts to recoup revenue in order to defer some of the costs that this product causes for state government. Since the state is paying most of the costs of alcohol-related problems, Representative Halcro said that he would not have a problem eliminating the ability for municipalities to take it upon themselves to tax without proper precautions. Therefore, Representative Halcro announced that he would also support conceptual Amendment 3.

CHAIR MURKOWSKI withdrew her objection and asked if there was any further objection to conceptual Amendment 3. In response to Representative Meyer, Chair Murkowski explained that with the adoption of conceptual Amendment 3 only Section 3 and the new Section 4 would remain, which would be renumbered.

REPRESENTATIVE ROKEBERG pointed out that the adoption of conceptual Amendment 3 would require a title change.

CHAIR MURKOWSKI announced that the committee had adopted conceptual Amendment 3.

Number 1769

REPRESENTATIVE MEYER inquired as to where the dollar amounts for each type of beverage were derived.

CHAIR MURKOWSKI explained that \$.10 a drink was added to the existing tax; that was done for all three categories. Chair Murkowski noted that "we" have no control over the markup that the industry would impose. This is the tax imposed when the product leaves the bonded warehouse. Therefore, she agreed that the retailer may absorb that tax or pass it on to the consumer.

Number 1829

REPRESENTATIVE HAYES expressed his desire to see a statutory designation for this new money to be used for alcohol rehabilitation programs or as a piece in the long-term fiscal plan. From the testimony, Representative Hayes understood that people don't want this money to go into [the general fund]. Therefore, he felt it would behoove the [Finance Committee members] to use this revenue for alcohol rehabilitation programs

or to openly admit that this revenue will go towards the long-term fiscal plan.

CHAIR MURKOWSKI pointed out that without an amendment to the Alaska State Constitution, the legislature can't dedicate revenue.

REPRESENTATIVE HAYES interjected that there could be a statutory designation.

REPRESENTATIVE ROKEBERG mentioned that this revenue could be treated as was the tobacco tax, which was placed in the school fund that is one of the few remaining pre-statehood dedicated funds. He related his belief that the tobacco tax being placed into the school fund was largely done to garner support for the legislation. However, this is a tax. He pointed out that this isn't a tax to increase treatment for those in Alaska or to enforce a 0.8 blood alcohol level or minors while in possession. He said, "The nexus between our constitution and our general fund if we raise this tax is not there." He remarked that this bill, even as amended, is extremely regressive. He said, "That 300 percent increase in all categories (indisc.) is too much of an increase. It makes no sense from a business standpoint and to portray it as anything else is, I don't think correct. It is a tax."

REPRESENTATIVE ROKEBERG informed the committee that the House Finance Committee passed HB 3, which will provide an additional \$40 million in general fund this fiscal year. Therefore, the money for the alcohol package can be taken from that as well as money for treatment. He recalled that one of the argument the committee has heard is the elasticity of demand, which is that as prices increase consumption decreases. However, when the committee heard the bootleg bill, HB 132, that alcohol prices have increased to extraordinary amounts. He related his belief that in the areas where many problems occur, there is not much elasticity. He didn't believe that the price elasticity argument worked when speaking of [alcoholics]. Representative Rokeberg remarked that Alaska drinking patterns are a little different than those in the Lower 48 and this should be realized. He expressed the need for more treatment and more money for treatment. However, he has trouble supporting this tax, although he announced that he would support legislation for increased taxation on the alcohol industry but not a 300 percent increase, which is too high. He likened this to the Bolsted (ph) Act and the endeavor to prevent the consumption of alcohol.

Number 2065

REPRESENTATIVE ROKEBERG informed the committee that he voted for the tobacco tax because he didn't believe there is no redeeming value for tobacco. However, the use of alcohol can have medicinal and healthful benefits if it used responsibly. Therefore, the problem in Alaska is that alcohol is abused. He recalled that 75 or 80 dry communities in Alaska, where bootlegging goes on. In those communities, raising the price will have no impact. He expressed his concern with the possibility of shifting alcohol [problems] to drug [problems] because the drugs are cheaper than the alcohol.

REPRESENTATIVE ROKEBERG reiterated that he would support a reasonable tax. However, he didn't believe that this bill embodied a reasonable tax due to the 300 percent increase. Furthermore, he believes that the industry's testimony has indicated that it too would agree to a modest increase. Representative Rokeberg pointed out that the information the committee has received indicates that an inflation adjusted amount from the last increase equals about \$5.3 million. Therefore, he said that he would be more comfortable with [a tax] in that range. In conclusion, Representative Rokeberg reiterated that he would have to oppose this bill because it is bad public policy at this time, and furthermore, as a Republican, he doesn't like taxes.

Number 2149

REPRESENTATIVE HALCRO noted that he didn't disagree with anything Representative Rokeberg said. However, some of Representative Rokeberg's comments actually made the case for an increase in this tax. This tax hasn't been raised since 1983, 18 years, which alone isn't reason to raise the tax. However, the cost that the state spends on alcohol-related problems does justify an increase in the tax. Furthermore, if there is no effect on the increase in price, then the point for [increasing the tax] has been made because [binge drinkers] cost the state more. He pointed out that if the elasticity has an effect on underage drinking it would be beneficial to raise this tax.

REPRESENTATIVE HALCRO said that he understood where some of these bar owners are coming from because he is in an industry that was faced with a tax last year. He said, "It's not fair for my customers to pay a tax, simply so unrelated people can have the benefits. But the fact is, there's no such thing as a perfect tax." However, there is the fact that the state spends

more money each year on the cost of alcohol-related illnesses. He stressed that everyone in the state pays for these and thus he didn't believe it is too unfair to ask for an additional contribution. Even with this tax, Representative Halcro had difficulty believing that anyone would be driven out of business. He did believe that it would effect underage drinkers and perhaps even deter them as well as providing additional revenue to help fund some of the social service programs that are used to pay for the effects of alcohol. In conclusion, he emphasized that this is a user tax.

Number 2349

REPRESENTATIVE MEYER inquired as to how much revenue this legislation, with the new Section 4, would generate.

REPRESENTATIVE ROKEBERG answered that he didn't think it would be significant and estimated that it wouldn't be more than a couple hundred thousand a year.

CHAIR MURKOWSKI, in response to Representative Meyer, said that before the amendment the Department of Revenue estimated that the revenue would be between \$28 and \$30 [thousand].

REPRESENTATIVE MEYER agreed that alcohol creates a lot of costs to government. However, he believes that 10 percent of the people are causing 90 percent of the problems related to alcohol. Therefore, he indicated the need to deal with those 10 percent, which he believes would be dealt with under HB 4. Frankly, the only way to decrease these costs to society is to get those with serious drinking problems into treatment. Therefore, Representative Meyer favored wellness and therapeutic courts and tough DWI laws rather than taxation. He did express concern that the tax would effect [social] drinkers, who aren't the people causing the problem. He agreed that an increase is needed, but he too wasn't sure that a 300 percent increase is necessary.

TAPE 01-58, SIDE B

REPRESENTATIVE HAYES remarked that the House Finance Committee will make the actual dollar call. Therefore, he suggested people discussing financial concerns with House Finance Committee members.

REPRESENTATIVE CRAWFORD related his belief that this is a step in the correct direction because there are many problems caused

by the consumption of alcohol. He emphasized that he concurred with raising the alcohol tax because he believes it is necessary for treatment, education, and prevention.

REPRESENTATIVE ROKEBERG said that it's important for people to realize that if he purchases a bottle of one at a local liquor store, \$.75 of that will go to the Department of Environmental Conservation to close down the Red Dog Mine because where the money goes can't be controlled. He said that he didn't like that.

Number 2339

CHAIR MURKOWSKI noted that she has "taken some hits" on the amount [of this tax]. Therefore, she pointed out that there is logic behind the number, which has been compromised considerably. At the beginning of the process [the tax] was \$.25, a 700 percent increase, when the Criminal study said that the number one thing to do would be to raise the excise tax on alcohol. Chair Murkowski pointed out that alcohol is a legal drug and there are reasons why it is treated differently than soda.

CHAIR MURKOWSKI acknowledged that the alcohol industry is doing in order to be responsible with their product. She did believe the industry is doing a good job in dealing with a legal drug that causes people to do dangerous things when they use it irresponsibly.

CHAIR MURKOWSKI, in conclusion, said that those who choose to drink have an obligation and possible consequences, which may include a greater financial burden. She recalled a witness who spoke of the Hickel philosophy of owner state. That witness reminded Chair Murkowski that currently everyone is paying the price of alcohol.

REPRESENTATIVE HALCRO recalled an overriding theme of the testimony, which was that this tax won't solve the problem. To that he emphasized that the tax is to help address paying for the problem. For example, there is a gas tax that doesn't prevent potholes but rather goes into a fund to help pay for the repair of roads. Therefore, although the alcohol tax increase won't solve all the problems, it will help pay for the costs.

Number 2080

REPRESENTATIVE HAYES moved to report CSHB 225 as amended out of committee with individual recommendations and the accompanying fiscal note.

REPRESENTATIVE ROKEBERG objected.

A roll call vote was taken. Representatives Hayes, Halcro, Crawford, and Murkowski voted to report CSHB 225 [22-LS0806\L, Cook, 4/9/01] as amended from committee. Representatives Meyer and Rokeberg voted against reporting CSHB 225 as amended from the committee. Therefore, CSHB 225(L&C) was reported from the House Labor and Commerce Standing Committee with a vote of 4-2.

REPRESENTATIVE ROKEBERG gave notice of reconsideration of his vote on HB 225.

REPRESENTATIVE ROKEBERG moved that the committee adjourn.

[It was later determined that notice of reconsideration cannot be served in a committee and thus at the April 18, 2001, hearing CSHB 225(L&C) was reported from the House Labor and Commerce Standing Committee.]

DRAFT

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ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 8:11 p.m.