

ALASKA STATE LEGISLATURE
SENATE JUDICIARY COMMITTEE

May 13, 2002
1:20 p.m.

MEMBERS PRESENT

Senator Robin Taylor, Chair
Senator Dave Donley, Vice Chair
Senator John Cowdery
Senator Gene Therriault
Senator Johnny Ellis

MEMBERS ABSENT

All Members Present

COMMITTEE CALENDAR

CS FOR HOUSE BILL NO. 152(RLS)
"An Act relating to brewpub licenses; and providing for an effective date."

MOVED SCS CSHB 152(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

HB 152 - See Labor and Commerce minutes dated 5/1/01 and Judiciary minutes dated 5/5/01, 5/6/01, and 5/7/01.

WITNESS REGISTER

Mr. Doug Griffin
Alcohol Beverage Control Board
550 /w 7th Ave., Suite 540
Anchorage, AK 99501-3510

POSITION STATEMENT: Supports SCS CSHB 152(JUD).

Karen Berger
Silver Gulch
Homer, AK

POSITION STATEMENT: Supports a limit on the "super license" of a brewpub with a beverage dispensary license.

ACTION NARRATIVE

TAPE 02-33, SIDE A
Number 001

CHAIRMAN ROBIN TAYLOR called the Senate Judiciary Committee meeting to order at 1:20 p.m. Senators Cowdery, Therriault, Ellis and Chair Taylor were present. Chairman Taylor noted that Senator Donley would arrive momentarily. The committee took up CSHB 152(RLS).

#HB152

CSHB 152(RLS)-BREW PUB LICENSES

CHAIRMAN TAYLOR informed members that a proposed committee substitute had been prepared.

SENATOR ELLIS moved to adopt the proposed committee substitute (labeled Ford, 5/11/02, Version S) as the working draft before the committee.

CHAIRMAN TAYLOR announced that with no objection, Version S was adopted as the working draft before the committee. He then announced the arrival of Senator Donley and took an at-ease.

CHAIRMAN TAYLOR called the meeting back to order and asked Mr. Griffin to describe the committee substitute to members.

MR. DOUG GRIFFIN, Director of the Alcohol Beverage Control Board (ABC Board), testifying from Anchorage, informed members that the committee substitute will allow brewpubs to manufacture an additional quantity of beer, which solves the problem for some of the new businesses that are doing well by being able to manufacture a product in Alaska. It will also give some flexibility to lower-capitalized businesses that want to get "their foot in the door" without having to supplement more of a restaurant-type of business. The big difference is that a brewpub tied to a beverage dispensary license will be allowed to sell wholesale up to 15,000 gallons of its product to other licensed establishments. The ABC Board is very supportive of the committee substitute as it encourages businesses that want to make beer on their premises to supplement more of a restaurant-type of approach without having to spend hard earned capital on licenses. It also allows those businesses with a beverage dispensary license to brew more beer without having to look outside of the state for contracts. He noted the limit on production of 15,000 gallons through wholesalers is key in that it protects the breweries that only brew beer and provides a check and balance. The ABC Board believes this legislation is a good compromise that will help the growth of the brewing industry in Alaska, which is one of Alaska's success stories.

CHAIRMAN TAYLOR asked Mr. Griffin to explain how the committee

substitute might impact current license holders, in particular, George Malecos (ph).

MR. GRIFFIN said Mr. Malecos would be able to continue the operation of his restaurant without a beverage dispensary license. He could operate his very small on-site brewery with a restaurant eating place license as it meets the criteria in Section 3. Other businesses could do the same without having to purchase a beverage dispensary license.

SENATOR THERRIAULT asked what the impact of this legislation will be on the Silver Gulch Brewery. He asked whether it will increase competition for that brewery as it will now be competing with larger volumes made by the brewpubs.

MR. GRIFFIN said that is a valid concern that was expressed by Mr. Grady of the Silver Gulch Brewery and Mr. Larson of the Alaska Brewing Company. That issue has created the tension within this discussion: people in the brewery business feel that Alaska does not have a level playing field because the people in the restaurant business are brewing as a sideline and the brewing is their "bread and butter." He noted that is why the limitation of no more than 15,000 gallons of beer that could be sold by the restaurants was included. He said he does not know why the number 15,000 was chosen but he thought it locks them into the level currently being produced so that they cannot increase their market share. He felt that future legislatures need to be diligent about requests to raise that number to make sure an increase does not create unfair competition to the straight brewery operations.

CHAIRMAN TAYLOR said Alaska statute has not contained a limitation in the past.

MR. GRIFFIN clarified that the limitation was on overall manufacturing in the amount of 75,000 gallons, which the ABC Board believed was adequate at the time. He explained that the owners of the Moose's Tooth and the Bear Tooth Theater came up against the limit when they converted from breweries to brewpubs. Relief is provided for the brewers because once the brewpubs reach the 150,000-gallon limit, they can only wholesale 10 percent of their product (15,000 gallons) in competition with straight breweries.

CHAIRMAN TAYLOR maintained that the business Senator Therriault was inquiring about will now, for the first time, have a limit upon competition.

MR. GRIFFIN said that is correct.

CHAIRMAN TAYLOR took public testimony.

MS. KAREN BERGER informed members that she did not have a copy of the committee substitute. She stated the Silver Gulch Brewing Company, Alaska Brewing Company, Haines Brewing Company and Homer Brewing Company felt the Moose's Tooth should be able to brew as much as it wanted but it should be out of the wholesale market because the brewers do not want to compete with their customers and do not want to see "super licenses" created. She said the cap on 15,000 gallons for wholesale is not 100 percent of what the brewers wanted but is valid.

CHAIRMAN TAYLOR asked Ms. Berger if the 15,000-gallon cap is not as low as she would like but that she is glad a cap is in place.

MS. BURGER said she believes some sort of cap on the wholesale sales needs to be put in place to put a harness on the super license of a brewpub with a beverage dispensary license.

CHAIRMAN TAYLOR said he believes that is the intent of the legislation.

MS. BURGER commented that this committee substitute came around so quickly the other companies have not had a chance to confer on it.

CHAIRMAN TAYLOR said he was aware of that but the Legislature is running out of time so if people want a cap, this is the way to get it at this point in time. He thanked Ms. Berger for her testimony.

SENATOR DONLEY asked for an explanation of the differences in the committee substitute (Version S).

CHAIRMAN TAYLOR said the major difference is the limit of the 15,000-gallon cap on wholesaled beer. The original bill provided for wholesale sales of up to 75,000 gallons.

SENATOR DONLEY asked if the final House version provided for wholesaling up to 75,000 gallons.

CHAIRMAN TAYLOR said that is correct but the Senate Judiciary Committee substitute restricts that amount to 15,000 gallons. He explained that the competition between the parties was in the wholesale arena and the parties actually ended up competing on their own brands.

SENATOR DONLEY asked if the committee substitute will allow a business to wholesale that cannot wholesale now.

CHAIRMAN TAYLOR explained those businesses are allowed to wholesale up to 75,000 gallons now.

SENATOR DONLEY asked if that law expired.

CHAIRMAN TAYLOR said that is a permanent law. He explained that it worked both ways because the manufacturing limitation was set at 75,000 gallons so they could have wholesaled all of their capacity. He indicated that Section 3 in the committee substitute was also changed. It now allows a person who has a small restaurant facility to utilize the premises without purchasing more liquor licenses, as long as the owner stays within certain limitations. He said that opportunity was not available before.

SENATOR DONLEY asked how that will affect the maximum number of licenses available in a community under existing law.

CHAIRMAN TAYLOR said it will not expand the available number of liquor licenses.

SENATOR DONLEY asked if this bill will change the types of licenses and whether it will provide licenses for different types of premises.

CHAIRMAN TAYLOR said it only applies to existing businesses. He added that at one time, new liquor licenses were not issued. A person who wanted to buy one had to buy it from an existing business.

SENATOR DONLEY said he strongly opposes the expansion of the number of liquor licenses per community. He asked if a person must already have a liquor license to be eligible to utilize this legislation.

CHAIRMAN TAYLOR said that is correct and it is designed to save those businesses that are struggling.

[Discussion ensued about member's positions on this legislation as represented by a member of the other body.]

SENATOR COWDERY moved SCS CSHB 152(JUD) from committee with individual recommendations and its accompanying fiscal notes.

SENATOR DONLEY objected.

SENATOR ELLIS moved to excise, from the committee packet and the official record, the memo from the sponsor [April 10 memo from Representative Halcro to Chairman Taylor requesting a hearing] as it is not of importance in itself and it colors the debate.

SENATOR COWDERY withdrew his motion to move SCS CSHB 152(JUD) from committee with individual recommendations.

CHAIRMAN TAYLOR announced with no objection to Senator Ellis's motion, the motion carried.

SENATOR COWDERY again moved SCS CSHB 152(JUD) from committee.

SENATOR DONLEY objected.

A roll call vote was taken. The motion to move SCS CSHB 152(JUD) from committee was adopted with Senators Cowdery, Ellis and Chairman Taylor in favor and Senators Therriault and Donley opposed.

CHAIRMAN TAYLOR announced that SCS CSHB 152(JUD) moved from committee and that the committee would stand in recess to a call of the Chair.

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