

**ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

April 4, 2011

3:20 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Craig Johnson, Vice Chair
Representative Mike Chenault
Representative Dan Saddler
Representative Steve Thompson
Representative Lindsey Holmes
Representative Bob Miller

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 156

"An Act relating to the chair of the Regulatory Commission of Alaska."

- MOVED OUT OF COMMITTEE

HOUSE BILL NO. 50

"An Act relating to the purchase of alcoholic beverages at a club and to access by certain persons under 21 years of age to a club's licensed premises when alcoholic beverages are present."

- MOVED OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 156

SHORT TITLE: CHAIR OF RCA

SPONSOR(S): REPRESENTATIVE(S) OLSON

02/11/11	(H)	READ THE FIRST TIME - REFERRALS
02/11/11	(H)	L&C
02/16/11	(H)	BILL REPRINTED 2/16/11
04/04/11	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 50

SHORT TITLE: ACCESS TO LICENSED PREMISES

SPONSOR(s): REPRESENTATIVE(s) SADDLER

01/18/11	(H)	PREFILE RELEASED 1/7/11
01/18/11	(H)	READ THE FIRST TIME - REFERRALS
01/18/11	(H)	L&C, JUD
04/04/11	(H)	L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

JENNIFER SENETTE, Staff
Representative Kurt Olson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 156 on behalf of the prime sponsor, Representative Kurt Olson.

REPRESENTATIVE DAN SADDLER
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 50 as prime sponsor of the bill.

SHIRLEY GIFFORD, Director
Alcoholic Beverage Control Board (ABC Board)
Department of Public Safety (DPS)
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 50.

ACTION NARRATIVE

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CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 3:20 p.m. Representatives Olson, Chenault, Johnson, Saddler, Thompson, Holmes, and Miller were present at the call to order.

HB 156-CHAIR OF RCA

[3:20:30 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 156, "An Act relating to the chair of the Regulatory Commission of Alaska."

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JENNIFER SENETTE, Staff, Representative Kurt Olson, on behalf of the prime sponsor, stated that HB 156 would allow the governor to select a commissioner of the Regulatory Commission of Alaska (RCA) to serve as the chair of the RCA for a three year term. The appointment structure differs from the current structure, in which the RCA commissioners select one member to serve as chair for the following fiscal year. Under the bill, the RCA's chair could serve no more than three successive terms, but could sit out for one year and still be eligible to be considered to once again serve as chair. She explained that having the chair appointed by the governor is not a new concept. She referred to a history of the RCA in members' packets that shows from 1970 to 2003 the governor designated the chair of the commission, formerly known as the Alaska Public Utilities Commission (APUC). Currently, 15 boards have a similar leadership structure, including the Commercial Fisheries Entry Commission (CFEC); the Workers' Compensation Appeals Commission (WCAC), the Labor Relations Agency, the Occupational Health and Safety Board, the Board of Marine Pilots, the Knik Arm Bridge and Toll Authority (KABATA), and the Oil and Gas Conservation Commission (OGCC). This bill would provide a three year-term for the RCA's chair, which would provide greater degree of consistency for its leadership. This is important since many of the issues and dockets opened by the RCA span numerous years, so having a leadership structure for more than one year would be advantageous, she said.

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MS. SENETTE provided a section-by-section analysis of the bill. The first section of HB 156 would allow the governor to appoint one member of the RCA as chair and would establish the term at three years. The second section of HB 156 would provide transition language to account for the current RCA chair's term. Under this provision the governor would designate the next chair once the current RCA chair's term ends, she said.

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REPRESENTATIVE HOLMES related her understanding that currently the RCA's chair is limited to three terms. She asked whether HB 156 would allow the chair to serve successive terms.

MS. SENETTE responded that nothing in HB 156 would prevent the governor from designating the RCA's chair for consecutive terms. However, given that the term limit of a commissioner is six years, two successive terms would be the maximum allowed.

REPRESENTATIVE HOLMES recalled the RCA's commissioner terms are staggered terms of six years. Theoretically, a governor would be more likely to choose someone with at least three years remaining of his/her term. However, HB 156 does not require full chair terms be completed, she said.

CHAIR OLSON offered his belief that it was unlikely the governor would select someone as chair who has less than three years of his/her term remaining. He suggested someone on the committee with experience overseeing boards and commissions may wish to comment.

REPRESENTATIVE SADDLER answered that he did not have any recollection on the matter.

CHAIR OLSON reiterated his belief that selecting someone to serve out the chair's term would not be an issue.

REPRESENTATIVE HOLMES related a scenario in which the governor selected someone with two years remaining. She offered her belief that HB 156 would not extend the commissioner's term for another year.

MS. SENETTE related her understanding that it would not do so.

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CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 156.

REPRESENTATIVE HOLMES asked whether the RCA or the Governor's office had a position on the bill.

CHAIR OLSON related his understanding that the RCA and the Governor's office were neutral on HB 156.

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REPRESENTATIVE JOHNSON moved to report HB 156 out of committee with individual recommendations and the accompanying fiscal note. There being no objection, HB 156 was reported from the House Labor and Commerce Standing Committee.

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The committee took an at-ease from 3:27 p.m. to 3:30 p.m.

HB 50-ACCESS TO LICENSED PREMISES

3:30:27 PM

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 50, "An Act relating to the purchase of alcoholic beverages at a club and to access by certain persons under 21 years of age to a club's licensed premises when alcoholic beverages are present."

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REPRESENTATIVE DAN SADDLER, Alaska State Legislature explained that HB 50 does not seek to allow anyone under the age of 21 to legally drink alcoholic beverages. Instead, he stated, HB 50 is an access bill with two basic elements. First, the bill would make it easier for service men and women, who are over the age of 21 to enjoy companionship in the club houses of service and patriotic organizations. Patriotic clubs, such as the American Legion (AL), Veterans of Foreign Wars (VFW), and Disabled American Veterans (DAV) are wonderful institutions where veterans and active duty soldiers can relax and enjoy the special understanding and support from others who have "been there" and who understand the rigors of military life. The legislature has recognized these values. In 2006 the legislature passed a bill, Senate Bill 209, to allow active duty men and women over the age of 21 to enter such clubs using their military identification cards. Some language remains in statute that limits that access only to special occasions. This bill would remove that restriction, he said.

REPRESENTATIVE SADDLER explained that Section 2 of HB 50 pertains to military personnel under the age of 21. This bill would allow minors to enter licensed premises of patriotic clubs only if they are club members or are guests of members. He reiterated that HB 50 does not permit minors to drink alcoholic beverages on club premises. However, commanders often use such clubs as locations for off base "commander calls" which are informal meetings of small units to welcome soldiers home, to send them off in deployment, or to impart important information. Thus, excluding soldiers under the age of 21 could erode the unit's cohesion and could affect their morale. He reiterated that HB 50 would allow soldiers who are minors to enter these patriotic or military clubs by using their military identification so long as they are club members or are guests of club members. He maintained the bill would not authorize underage soldiers to drink alcoholic beverages. It would simply clarify that soldiers over 21 do not have to wait for a special

occasion to visit these patriotic or military clubs. It would also permit soldiers under the age of 21 to visit patriotic or military clubs as members or as guests of members. He concluded that this bill would help demonstrate that Alaska understands and would like to accommodate the special needs of the young men and women in uniform.

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REPRESENTATIVE MILLER asked whether a clear definition of club or patriotic organization" licensed as a club exists.

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REPRESENTATIVE SADDLER answered that the current statutory definition of "club license" is found in AS 04.11.110, which reads:

(a) A club license authorizes a club or organization to sell alcoholic beverages for consumption only on the licensed premises.

(b) A club license may only be issued to a club, fraternal organization, patriotic organization, or social organization that has been (1) chartered by a state or national organization for a period of two consecutive years before application for a license under this section; or (2) chartered by a national organization and the national organization has maintained a chartered club or organization within the state for a period of at least 20 years. The organization licensed under this section must be operated for social, recreational, political, benevolent, or athletic purposes and not for profit. A club license may only be issued to an organization if none of the income from the sale of alcoholic beverages is distributed to its members, directors, or officers. Soliciting of public patronage of the club premises except as approved by the board is a violation of this section.

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REPRESENTATIVE CHENAULT asked whether the military personnel who are members of the clubs can currently patronize the club. He related his understanding that club members over the age of 21, who are soldiers, would meet all requirements and would not be

limited to club premises only for special occasions. He asked whether this proposed change in Section 1 would address soldiers over the age of 21 who are not members of the club or organization.

REPRESENTATIVE SADDLER agreed. He elaborated the purpose of the bill is to eliminate confusion about what might constitute a special occasion and who may decide what would constitute a special occasion.

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REPRESENTATIVE CHENAULT asked whether a member of the VFW, over the age of 21, would be allowed to take a friend into the VFW, who is not a member of the armed services and be served alcoholic beverages.

REPRESENTATIVE SADDLER answered yes. He said he based his answer on his own experience as a guest at a VFW in his district.

REPRESENTATIVE THOMPSON pointed out that the VFW member's guest must sign in as a guest. He explained that a nonmember by state law cannot purchase an alcoholic beverage. The sponsor of the guest must purchase the alcoholic beverage, he said.

REPRESENTATIVE SADDLER clarified that this bill does not apply to the purchase of alcoholic beverages, but pertains to access to licensed premises only.

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REPRESENTATIVE JOHNSON expressed concern about any added liability the owner of the premise would incur if unaccompanied minors are on premises where alcoholic beverages are served. He asked whether guests would be "carded" since identification is normally checked at the bar at the time of purchase.

REPRESENTATIVE SADDLER responded that current law allows those over the age of 16 and under the age of 21 to enter licensed premises if they are with a parent or guardian. Typically, according to one canteen owner, soldiers watch out for their buddies. Thus, he did not envision this as an issue.

REPRESENTATIVE JOHNSON offered his belief the proposed bill would not relieve the club of any liability. He asked whether an establishment's license would be at risk.

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SHIRLEY GIFFORD, Director, Alcoholic Beverage Control Board (ABC Board), Department of Public Safety (DPS), introduced herself.

REPRESENTATIVE JOHNSON asked whether a licensed premise could be held liable if a minor purchased alcoholic beverages in a club or patriotic organization. He also asked whether minors would need to be "carded" by the club, such as the VFW.

MS. GIFFORD confirmed the liability for a minor purchasing alcohol rests with the child. However, bartenders and servers must ensure any person they sell alcoholic beverages to is 21 years of age or older. She agreed some liability exists for the licensee, but only in the event the licensee sold an alcoholic beverage to an underage person.

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REPRESENTATIVE JOHNSON asked whether the ABC Board currently performs compliance checks on service organizations.

MS. GIFFORD advised members that the ABC Board performs compliance checks at service clubs but not as frequently as for private sector clubs. In the past five years, the ABC Board's investigator reported clubs had 36 sales to a non-club member and 16 furnishings of alcoholic beverages to minors. She explained that the ABC Board's effort to require magnetic cards or membership cards was met with considerable resistance from clubs. She reported that the ABC Board "backed away" from its efforts to require membership cards due to the bylaws of the private clubs and organizations and the specific federal laws that apply to them. She expressed concern about the possibility of minor consuming and driving after drinking. She explained that the clubs cooperate with the ABC Board. However, the VFW and similar clubs require identification as people enter their premises, including ABC Board investigators, which hinders compliance checks, she said. She maintained her concern over increased access of minors entering the patriotic organization clubs.

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REPRESENTATIVE JOHNSON asked whether underage persons on premises would constitute a violation in a bar.

MS. GIFFORD answered that underage persons are not allowed in a bar unless they are accompanied by a parent or guardian. Therefore, if an underage person is at a bar, such as Chilkoot Charlies, he/she would be charged.

REPRESENTATIVE JOHNSON related his understanding that under HB 50, this would not be an issue in service organizations.

MS. GIFFORD answered yes. She related that should HB 50 pass, that a person under the age of 21 would be on the premise legally.

CHAIR OLSON asked for clarification that the bill would specifically apply to military personnel under 21 years of age.

REPRESENTATIVE SADDLER answered yes, that is correct.

CHAIR OLSON asked whether the underage soldiers could visit premise that sells alcoholic beverages on a military base.

MS. GIFFORD responded that the ABC Board does not enforce liquor laws on military bases. Thus, she was unsure whether underage soldiers were allowed at military clubs, although she has heard anecdotally both yes and no. She offered to research the issue. She reiterated that the ABC Board does not enforce the state laws on military bases.

REPRESENTATIVE SADDLER related his understanding that the thrust of the question is whether any additional liability would exist to licensed premises with persons under the 21 years of age on premises legally without a parent or guardian. He related that he would answer probably not. He offered his belief that some liability would exist but probably not any additional liability under the bill.

CHAIR OLSON offered his belief that it would be the same as if he took his daughter, if she were under 21 years of age, to a restaurant that also has a full bar.

REPRESENTATIVE SADDLER agreed. He reiterated his understanding that soldiers tend to watch out for one another and bartenders are diligent. He said he is not saying underage drinking never happens but that other soldiers and bartenders watch out for underage military personnel.

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REPRESENTATIVE THOMPSON related a scenario in which three of four soldiers over the age of 21 enter a club and sign in at the door. One person is a minor. One of the adult soldiers approaches the bar and purchases alcoholic beverages for his buddies who sit at table farthest away from the bar. He asked whether the establishment would be held liable for the underage person drinking alcoholic beverages since the bartender did not go to the table to monitor who is drinking the alcohol.

REPRESENTATIVE SADDLER pointed out current laws against underage drinking would apply in that situation.

MS. GIFFORD answered that situation would be monitored as part of any compliance checks. She pointed out that HB 50 would make it more difficult for the ABC Board's enforcement officers to oversee minor consuming in private clubs. It would simply add another element, such as whether the alcoholic beverages are being consumed by the underage person or his/her friends sitting at the table. She maintained that the access of the underage person to alcoholic beverages would make it more challenging to enforce.

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REPRESENTATIVE MILLER offered his belief that HB 50 would seem to place a lot more stress on bar owners, club owners, waiters, waitresses, and the 21-year-olds who are purchasing alcohol when a minor is part of their group. He pointed out that it would require considerable supervision of younger person coming into the facility.

REPRESENTATIVE SADDLER reiterated that his research indicates that issues do not often arise. He recalled testimony given on other bills, such that the DPS has reported underage drinking by the military is not one of their big problems. He offered his belief that not many violations occur with servicemen, which is why not as much effort is needed for compliance checks at service organizations. He stressed that under the bill the current liquor laws would still apply and still allow ABC agents to enter patriotic clubs.

MS. GIFFORD reviewed the violation statistics for the past five years. Clubs had 36 sales to non-club members and 16 furnishings of alcohol to minors, she said. She indicated other violations have also occurred such as sales to inebriated persons. She agreed the ABC Board does not receive calls to clubs as often as for other licensed premises, but some

violations still occur. She pointed out that the ABC Board does not enter clubs as often as other premises. She offered that trying to compare clubs and patriotic organizations to other licensed premises is difficult.

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CHAIR OLSON recalled from his own military service that other consequences exist for soldiers, including that the military can take additional actions against soldiers. He offered his belief that not a lot of underage drinking happens in military establishments.

REPRESENTATIVE SADDLER explained that Section 2 of HB 50 does not open the door wider. It simply eliminates the limitation and reference to special occasions. He recapped that he does not think this bill would increase underage drinking. This is an access bill. It just ensures that those are legally entitled to enter licensed premises can do so without limitations. Additionally, military personnel over 21 years of age would be allowed to enter private clubs and patriotic organizations as guests.

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CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 50.

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REPRESENTATIVE JOHNSON asked for the ABC Board's position on the bill.

MS. GIFFORD responded that the ABC Board does not have any position. She stated that she raised some concerns for the committee to consider in her testimony. She said that the ABC Board does not currently know when special occasions occur at clubs so she does not object to the provisions of the bill. She maintained her concern is limited to the additional access to alcoholic beverages by underage persons.

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REPRESENTATIVE CHENAULT moved to report HB 50 out of committee with individual recommendations and the accompanying fiscal note.

REPRESENTATIVE JOHNSON objected. He then removed his objection. There being no further objection, HB 50 was reported from the House Labor and Commerce Standing Committee.

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ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 3:55 p.m.