

SENATE BILL NO. 165

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY SENATOR MICCICHE

Introduced: 2/1/16

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the presence of minors in the licensed premises of manufacturers,
2 wholesalers, and retailers of alcoholic beverages; relating to the Alcoholic Beverage
3 Control Board; relating to the offense of minor consuming; relating to revocation of a
4 driver's license for a minor consuming offense; relating to the effect of the revocation of
5 a driver's license for a minor consuming offense on a motor vehicle liability insurance
6 policy; and amending Rule 17, Alaska Rules of Minor Offense Procedure."

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

8 * **Section 1.** AS 04.06.020 is repealed and reenacted to read:

9 **Sec. 04.06.020. Appointment and qualifications.** (a) The board consists of
10 five members appointed by the governor and confirmed by a majority of the members
11 of the legislature in joint session. A member of the board may not hold any other state
12 or federal office, either elective or appointive.

13 (b) Except as provided in (c) and (d) of this section, at the time of appointment

1 or reappointment, one member of the board shall be actively engaged in the public
2 safety sector, one member shall be actively engaged in the public health sector, one
3 member shall have resided in a rural area within the previous five years, and two
4 members shall be actively engaged in the alcoholic beverage industry.

5 (c) If the director, within five years of appointment, was actively engaged in
6 the alcoholic beverage industry, then only one board member may be actively engaged
7 in the alcoholic beverage industry. If the director, within five years of appointment,
8 was actively engaged in the public safety sector or the public health sector, then one
9 board member shall be from the general public. When the governor appoints a new
10 director under AS 04.06.070, the governor shall take the new director's experience in
11 the alcoholic beverage industry, public safety sector, or public health sector into
12 account in making appointments to the board; however, an existing board member
13 with experience in that industry or sector may serve the remainder of that member's
14 term.

15 (d) A member may not hold a wholesale alcoholic beverage license or be an
16 officer, agent, or employee of a wholesale alcoholic beverage enterprise. Not more
17 than two members of the board may be engaged in the same business, occupation, or
18 profession. A board member actively engaged in the public safety sector or public
19 health sector, from a rural area, or representing the general public may not have, or
20 have an immediate family member who has, a financial interest in a business for
21 which a license is issued.

22 (e) In this section,

23 (1) "immediate family member" means a spouse, child, or parent;

24 (2) "public health sector" means a profession that primarily has the
25 responsibility to protect the safety and improve the health of communities through
26 education, policy making, and research for disease and injury prevention;

27 (3) "public safety sector" means a peace officer, a municipal or state
28 prosecutor, a former judicial officer, or a profession that primarily has the authority to
29 provide for the welfare and protection of the general public through the enforcement
30 of municipal, state, or federal laws;

31 (4) "rural area" means a community with a population of 7,000 or less

that is not connected by road or rail to Anchorage or Fairbanks or with a population of 2,000 or less that is connected by road or rail to Anchorage or Fairbanks; in this paragraph,

(A) "community" means a city as that term is defined in AS 29.71.800, and an established village that is located in a borough or the unorganized borough;

(B) "population" means the population of a community as determined under AS 29.60.860(c).

* **Sec. 2.** AS 04.06.030(c) is amended to read:

(c) The board shall select a chair [CHAIRMAN] from among its members.

* **Sec. 3.** AS 04.06.050 is amended to read:

Sec. 04.06.050. Meetings. The board shall meet at the call of the chair [CHAIRMAN]. The board shall also meet at least once each year in each judicial district of the state to study this title and to modify existing board regulations in light of statewide and local problems.

* **Sec. 4.** AS 04.16.049(a) is amended to read:

(a) A person under [THE AGE OF] 21 years of age may not knowingly enter or remain in premises licensed under this title unless

(1) accompanied by a parent, guardian, or spouse who has attained [THE AGE OF] 21 years of age;

(2) the person is at least 16 years of age, the premises are designated by the board as a restaurant for the purposes of this section, and the person enters and remains only for dining;

(3) the person is under [THE AGE OF] 16 years of age, is accompanied by a person over [THE AGE OF] 21 years of age, the parent or guardian of the underaged person consents, the premises are designated by the board as a restaurant for the purposes of this section, and the person enters and remains only for dining; [OR]

(4) the person is permitted on the premises under a club license issued under AS 04.11.110(g); or

(5) otherwise provided under (c), (d), or (g) of this section.

1 * **Sec. 5.** AS 04.16.049(b) is amended to read:

2 (b) Notwithstanding (a) of this section, a licensee or an agent or employee of
3 the licensee may refuse entry to a person under [THE AGE OF] 21 years **of age** to that
4 part of licensed premises in which alcoholic beverages are sold, served, or consumed,
5 may refuse service to a person under [THE AGE OF] 21 years **of age**, or may require
6 a person under [THE AGE OF] 21 years **of age** to leave the portion of the licensed
7 premises in which alcoholic beverages are sold, served, or consumed.

8 * **Sec. 6.** AS 04.16.049(c) is amended to read:

9 (c) Notwithstanding any other provision in this section, a person 16 or 17
10 years of age may enter and remain within the licensed premises of a hotel, **golf course,**
11 **or** restaurant [,] or eating place in the course of employment if (1) the employment
12 does not involve the serving, mixing, delivering, or dispensing of alcoholic beverages;
13 (2) the person has the written consent of a parent or guardian; and (3) an exemption
14 from the prohibition of AS 23.10.355 is granted by the Department of Labor and
15 Workforce Development. The board, with the approval of the governing body having
16 jurisdiction and at the licensee's request, shall designate which premises are hotels,
17 **golf courses,** restaurants, or eating places for the purposes of this subsection.

18 * **Sec. 7.** AS 04.16.049(d) is amended to read:

19 (d) Notwithstanding any other provision in this section, a person 18, 19, or 20
20 years of age may be employed within the licensed premises of a hotel, **golf course, or**
21 restaurant [,] or eating place, may enter and remain within those premises for the
22 purpose of employment, but may not, in the course of employment, sell, serve, deliver,
23 or dispense alcoholic beverages.

24 * **Sec. 8.** AS 04.16.049 is amended by adding new subsections to read:

25 (g) Notwithstanding any other provision in this section, a person under 21
26 years of age may be present on licensed premises on a golf course for the purpose of
27 playing golf or attending golf-related activities if the person

28 (1) is at least 16 years of age; or

29 (2) is under 16 years of age and

30 (A) the person is accompanied by a person who is at least 21
31 years of age; and

(B) a parent or guardian of the underage person consents.

(h) A person under 21 years of age who knowingly enters or remains on premises licensed under this title except as allowed in this section commits the offense of unauthorized presence by a person under 21 years of age on licensed premises.

(i) Unauthorized presence by a person under 21 years of age on licensed premises is a violation, punishable by a fine of \$500. The violation must be charged and filed with the court as a separate case and may not be combined or joined with any other minor offense or criminal charge in one action at the time of filing. A court may reduce the fine to \$50 if the person provides the court, not later than six months after a judgment of conviction is entered, with proof of completion of an alcohol safety action program or a juvenile alcohol safety action program developed, designated, or approved by the Department of Health and Social Services under AS 47.37.

* **Sec. 9.** AS 04.16.050 is repealed and reenacted to read:

Sec. 04.16.050. Possession, control, or consumption by persons under the age of 21. (a) A person under 21 years of age may not knowingly consume, possess, or control alcoholic beverages except those furnished to persons under AS 04.16.051(b).

(b) A person under 21 years of age who knowingly consumes, possesses, or controls an alcoholic beverage other than an alcoholic beverage furnished under AS 04.16.051(b) commits the offense of minor consuming or in possession or control.

(c) Minor consuming or in possession or control is a violation, punishable by a fine of \$500. The violation must be charged and filed with the court as a separate case and may not be combined or joined with any other minor offense or criminal charge in one action at the time of filing. A court may reduce the fine to \$50 if the person provides the court, not later than six months after a judgment of conviction is entered, with proof of completion of an alcohol safety action program or a juvenile alcohol safety action program developed, designated, or approved by the Department of Health and Social Services under AS 47.37.

* **Sec. 10.** AS 04.16.180(d) is amended to read:

(d) In addition to other penalties provided in this chapter, the court may require a person convicted of a crime [AN OFFENSE] under this chapter who was less than 21 years of age at the time the person committed the crime [OFFENSE] to

1 pay for and enroll in a juvenile alcohol safety action program if one is available.

2 * **Sec. 11.** AS 04.21.065(b) is amended to read:

3 (b) The warning signs required by (a) of this section must be at least 11 inches
4 by 14 inches, and the lettering must be at least one-half inch high and in contrasting
5 colors. The first sign must read, "WARNING: Drinking alcoholic beverages such as
6 beer, wine, wine coolers, and distilled spirits or smoking cigarettes during pregnancy
7 can cause birth defects." The second sign must read, "WARNING: A person who
8 provides alcoholic beverages to a person under 21 years of age, if convicted under
9 AS 04.16.051, could be imprisoned for up to five years and fined up to \$50,000." The
10 third sign must read, "WARNING: An unaccompanied [A] person under 21 years of
11 age who enters these premises in violation of law may [COULD], under
12 AS 04.16.049(e), be civilly liable for damages of \$1,500." The license or permit
13 holder shall display the first and second signs in a manner that would make them
14 conspicuous to a person who will be purchasing or consuming alcoholic beverages or
15 smoking cigarettes on the licensed or designated premises and shall conspicuously
16 display the third sign at each door through which customers enter the licensed
17 premises.

18 * **Sec. 12.** AS 04.21 is amended by adding a new section to read:

19 **Sec. 04.21.078. Court records of persons under 21 years of age.** The Alaska
20 Court System may not publish on a publicly available website the court records of a
21 violation of AS 04.16.049 or 04.16.050 if the violation was charged separately and
22 was not joined with any other minor offense or criminal charge at the time of filing.

23 * **Sec. 13.** AS 21.36.210(a) is amended to read:

24 (a) An insurer may not exercise its right to cancel a policy of personal
25 automobile insurance except for the following reasons:

- 26 (1) nonpayment of premium; or
27 (2) the driver's license or motor vehicle registration of either the named
28 insured or of an operator who resides in the same household as the named insured or
29 who customarily operates a motor vehicle insured under the policy has been under
30 suspension or revocation during the policy period or, if the policy is a renewal, during
31 its policy period or the 180 days immediately preceding its effective date [; THIS

1 PARAGRAPH DOES NOT APPLY TO REVOCATION AS DESCRIBED UNDER
2 AS 21.96.027].

3 * **Sec. 14.** AS 28.15.057(a) is amended to read:

4 (a) Except as provided under AS 28.15.051, a person who is at least 16 years
5 of age but not yet 18 years of age may not be issued a driver's license unless the
6 person has

7 (1) been licensed under an instruction permit issued under
8 AS 28.15.051 or under the law of another state with substantially similar requirements
9 for at least six months;

10 (2) held a valid provisional driver's license issued under AS 28.15.055
11 for at least six months; and

12 (3) not been convicted of violating a traffic law [, OR BEEN
13 CONVICTED OF VIOLATING AS 04.16.050(c),] during the six months before
14 applying for a driver's license; in this paragraph, "traffic law" has the meaning given to
15 "traffic laws" in AS 28.15.261.

16 * **Sec. 15.** AS 28.15.191(a) is amended to read:

17 (a) A court that convicts a person of an offense under this title or a regulation
18 adopted under this title, or another law or regulation of this state or a municipal
19 ordinance that regulates the driving of vehicles [, OR A VIOLATION OF
20 AS 04.16.050] shall forward a record of the conviction to the department within five
21 working days. A conviction of a standing or parking offense need not be reported.

22 * **Sec. 16.** AS 28.15.211(g) is amended to read:

23 (g) Except as provided under AS 28.15.183(h), the department may not issue a
24 new license or reissue a license to a person whose driver's license has been revoked
25 under [AS 04.16.050,] AS 28.15.183 [,] or 28.15.185 unless the person, if required to
26 participate in a juvenile alcohol safety action program, has successfully completed any
27 education or treatment recommended. In this subsection, "juvenile alcohol safety
28 action program" has the meaning given in AS 04.21.080.

29 * **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 DIRECT COURT RULE AMENDMENT. Rule 17(a), Alaska Rules of Minor

1 Offense Procedure, is amended to read:

2 (a) **Except as provided in subsection (g), a** [A] prosecutor may join a minor
3 offense with a related criminal offense under the circumstances described in Criminal
4 Rule 8(a).

5 * **Sec. 18.** The uncoded law of the State of Alaska is amended by adding a new section to
6 read:

7 DIRECT COURT RULE AMENDMENT. Rule 17, Alaska Rules of Minor
8 Offense Procedure, is amended by adding a new subsection to read:

9 (g) A prosecutor may not join a minor offense for a violation of AS 04.16.049
10 or 04.16.050 with a related criminal offense.

11 * **Sec. 19.** AS 21.96.027; AS 28.15.176(1), 28.15.181(h), 28.15.185(e); AS 47.12.030(b)(5),
12 47.12.060(b)(4), and 47.12.120(k) are repealed.

13 * **Sec. 20.** The uncoded law of the State of Alaska is amended by adding a new section to
14 read:

15 APPLICABILITY. AS 04.16.049(a) - (d), as amended by secs. 4 - 7 of this Act,
16 AS 04.16.049(g) - (i), added by sec. 8 of this Act, AS 04.16.050, as repealed and reenacted by
17 sec. 9 of this Act, and AS 04.16.180(d), as amended by sec. 10 of this Act, apply to offenses
18 committed on or after the effective date of this Act.

19 * **Sec. 21.** The uncoded law of the State of Alaska is amended by adding a new section to
20 read:

21 TRANSITION. A person who is a member of the Alcoholic Beverage Control Board
22 on the day before the effective date of this Act continues to serve until the expiration of the
23 member's term. The governor shall take the requirements of AS 04.06.020, as repealed and
24 reenacted by sec. 1 of this Act, into account in making new appointments.