

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 14, 2018

3:18 p.m.

MEMBERS PRESENT

Representative Sam Kito, Chair
Representative Adam Wool, Vice Chair
Representative Andy Josephson
Representative Louise Stutes
Representative Chris Birch
Representative Gary Knopp
Representative Colleen Sullivan-Leonard

MEMBERS ABSENT

Representative Mike Chenault (alternate)
Representative Bryce Edgmon (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 299

"An Act extending the termination date of the Alcoholic Beverage Control Board; and providing for an effective date."

- MOVED CSHB 299(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 301

"An Act relating to the renewal and transfer of ownership of a beverage dispensary license or restaurant or eating place license."

- MOVED CSHB 301(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 277

"An Act relating to the regulation of broadband Internet; and making certain actions by broadband Internet service providers unlawful acts or practices under the Alaska Unfair Trade Practices and Consumer Protection Act."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: HB 299

SHORT TITLE: EXTEND: ALCOHOLIC BEVERAGE CONTROL BOARD
SPONSOR(s): REPRESENTATIVE(s) WOOL

01/24/18	(H)	READ THE FIRST TIME - REFERRALS
01/24/18	(H)	L&C, FIN
01/31/18	(H)	L&C AT 3:15 PM BARNES 124
01/31/18	(H)	Heard & Held
01/31/18	(H)	MINUTE(L&C)
02/10/18	(H)	L&C AT 1:00 PM BARNES 124
02/10/18	(H)	<Bill Hearing Canceled>
02/12/18	(H)	FIN AT 1:30 PM HOUSE FINANCE 519
02/12/18	(H)	<Bill Hearing Canceled>
02/14/18	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 301

SHORT TITLE: ALCOHOL LIC.: BEV DISPENSARY/RESTAURANT
SPONSOR(s): REPRESENTATIVE(s) WOOL

01/24/18	(H)	READ THE FIRST TIME - REFERRALS
01/24/18	(H)	L&C, FIN
01/31/18	(H)	L&C AT 3:15 PM BARNES 124
01/31/18	(H)	Heard & Held
01/31/18	(H)	MINUTE(L&C)
02/14/18	(H)	L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

LAURA STIDOLPH, Staff
Representative Adam Wool
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 299 on behalf of
Representative Wool, prime sponsor.

ERIKA McCONNELL, Director
Alcohol and Marijuana Control Office (AMCO)
Anchorage, Alaska

POSITION STATEMENT: Answered questions in the hearing on HB
299.

LAURA STIDOLPH, Staff
Representative Adam Wool
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced changes to HB 301 on behalf of
Representative Wool, prime sponsor.

ERIKA McCONNELL, Director
Alcohol and Marijuana Control Office (AMCO)
Anchorage, Alaska

POSITION STATEMENT: Answered questions in the hearing on HB 301.

ACTION NARRATIVE

[3:18:35 PM](#)

CHAIR SAM KITO called the House Labor and Commerce Standing Committee meeting to order at 3:18 p.m. Representatives Sullivan-Leonard, Stutes, Josephson, Knopp, Wool, Birch, and Kito were present at the call to order.

HB 299-EXTEND: ALCOHOLIC BEVERAGE CONTROL BOARD

[3:19:20 PM](#)

CHAIR KITO announced that the first order of business would be HOUSE BILL NO. 299, "An Act extending the termination date of the Alcoholic Beverage Control Board; and providing for an effective date."

[3:19:57 PM](#)

LAURA STIDOLPH, Staff, Representative Adam Wool, Alaska State Legislature, introduced HB 299 on behalf of Representative Wool, prime sponsor. She gave a brief overview of the proposed bill. She stated HB 301 would extend the Alcohol Beverage Control (ABC) Board to June 30, 2022.

[3:21:02 PM](#)

CHAIR KITO opened public testimony on HB 299. Upon ascertaining that no one was available to testify, closed public testimony.

[3:21:39 PM](#)

REPRESENTATIVE WOOL moved to adopt Amendment 1, labeled 30-LS1281\A.2, Bruce, 2/8/18, which read as follows:

Page 1, line 1, following "**Act**":

Insert "**relating to the authority of the director of the Alcoholic Beverage Control Board;**"

Page 1, following line 3:

Insert a new bill section to read:

"* **Section 1.** AS 04.06.075 is amended by adding a new subsection to read:

(b) The director is not a member of the board and may not vote on a matter before the board."

Page 1, line 4:

Delete "**Section 1**"

Insert "**Sec. 2**"

Renumber the following bill section accordingly.

Page 1, following line 6:

Insert a new bill section to read:

"* **Sec. 3.** 3 AAC 304.025(c) is annulled."

Renumber the following bill section accordingly.

Page 1, line 7:

Delete "This"

Insert "Section 2 of this"

CHAIR KITO objected for purposes of discussion.

[3:21:48 PM](#)

REPRESENTATIVE WOOL began to explain Amendment 1 when an at-ease was called.

[3:21:55 PM](#)

The committee took an at-ease from 3:21 p.m. to 3:29 p.m.

[3:29:50 PM](#)

CHAIR KITO brought the committee back to order and noted that Representative Wool moved to adopt Amendment 1, and he had objected.

REPRESENTATIVE WOOL explained that Amendment 1 puts into statute that the director is not a voting member of the board. He noted that it was previously in statute, it was rescinded but it stayed on as a regulation. He speculated that it may have been an omission and was not removed when the statute was rescinded.

[3:30:54 PM](#)

REPRESENTATIVE JOSEPHSON asked about the specifics of the director's casting vote.

ERIKA McCONNELL, Director, Alcohol and Marijuana Control Office (AMCO), answered questions in the hearing on HB 299. She said that she had never used the vote to break a tie. She stated the vote had been removed from statute but had remained in regulation. She said the board contains five members meaning that if one member is not present, there could be a tie. She added that should the vote be removed, the issue to be voted on could be brought before the board at a later date or fail as a tie.

[3:32:37 PM](#)

REPRESENTATIVE JOSEPHSON said it seemed that the removal of the voting power would not jeopardize her position.

MS. McCONNELL said the board had authorized her to use her vote at the recent meeting, but it had not come to pass.

[3:33:04 PM](#)

CHAIR KITO removed his objection. There being no other objections, Amendment 1 was adopted.

[3:33:43 PM](#)

REPRESENTATIVE WOOL stated that concerns regarding the Open Meetings Act had been brought to his attention. He added he had been present at a meeting and had observed an unnoticed executive session. He asked whether Ms. McConnell thought that was good practice.

MS. McCONNELL answered the board takes legal counsel from an assistant attorney general. She shared her understanding that when the board is taking advice from their lawyer, the board is not required to meet in accordance with the Open Meetings Act. She specified that the board did not take board action or deliberate during those meetings, only take legal advice. She added it did happen at the most recent meeting in Juneau, Alaska.

REPRESENTATIVE WOOL said in the meeting he attended the board did not appear to have counsel on hand. He suggested there be an announcement that the board was going to confer with counsel in executive session.

MS. McCONNELL clarified the meeting with counsel is not in executive session. She added that executive sessions do have to be notified. She spoke to the meeting in question and explained that the meeting had been delayed and the board had met with their lawyer in that time.

[3:36:46 PM](#)

REPRESENTATIVE STUTES asked whether there was a violation of the Open Meetings Act.

MS. McCONNELL restated her understanding that there was no violation as the meeting had not yet begun, according to the board's lawyer.

REPRESENTATIVE STUTES said she thought if the meeting had a quorum and executive session was not announced, there would be a violation of the Open Meeting Act.

MS. McCONNELL said she would be happy to get more information together, but the meeting had not yet begun at the time.

REPRESENTATIVE STUTES stated that even if the board were out to dinner, the Open Meeting Act would still apply.

[3:38:24 PM](#)

CHAIR KITO said he thought that applied to municipal officials and would apply differently to the state.

[3:38:42 PM](#)

REPRESENTATIVE JOSEPHSON asked whether there was a title change with the amendment.

CHAIR KITO said there was a title change. He said he did not know whether a resolution was needed given that the title change was in the same body.

REPRESENTATIVE SULLIVAN-LEONARD suggested the information about the title change would be in the memorandum from Legislative Legal and Research Services.

MS. STIDOLPH said Legislative Legal and Research Services did not advise and there was not a memorandum on the title change.

[3:40:10 PM](#)

REPRESENTATIVE KNOPP asked about the semi-colon in the amendment language.

REPRESENTATIVE JOSEPHSON said it did look like the amendment included the title change.

[3:41:18 PM](#)

REPRESENTATIVE WOOL moved to report HB 299 as amended out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 299 was reported out of the House Labor and Commerce Standing Committee.

[3:41:49 PM](#)

The committee took an at-ease from 3:41 p.m. to 3:42 p.m.

HB 301-ALCOHOL LIC.: BEV DISPENSARY/RESTAURANT

[3:42:37 PM](#)

CHAIR KITO announced that the final order of business would be HOUSE BILL NO. 301, "An Act relating to the renewal and transfer of ownership of a beverage dispensary license or restaurant or eating place license."

[3:44:56 PM](#)

REPRESENTATIVE WOOL moved to adopt CS for HB 301 as the working document.

[3:45:13 PM](#)

CHAIR KITO asked for a review of the changes in the committee substitute.

REPRESENTATIVE WOOL gave an overview of the proposed bill and changes. He stated it would add language regarding how many hours beverage dispensary licensed premises must be open throughout the year. He said the requirement would change from 30 8-hour days to 240 total hours. He added that the list of types of licenses that communities could opt out of was expanded.

[3:46:49 PM](#)

LAURA STIDOLPH, Staff, Representative Adam Wool, Alaska State Legislature, introduced the changes to HB 301. She restated that the committee substitute would capture a few more businesses that were not addressed in the previous version.

[3:47:40 PM](#)

REPRESENTATIVE BIRCH asked for the total number of licenses.

MS. STIDOLPH answered there were 30 under the pre-1985 status quo. She explained the changes to the original version of HB 301 [covered in the Sectional Analysis, below].

[3:49:28 PM](#)

REPRESENTATIVE JOSEPHSON asked for confirmation that the effect of the changes would be to prevent transferred licensees from having to expand their premises.

MS. STIDOLPH answered in the affirmative. She went on to paraphrase the sectional analysis of version M of HB 301 [included in committee packet], which reads as follows [original punctuation provided]:

Section 1 - Amends AS 04.11.330(a) by changing the annual operating hours requirement for license holders from 30 eight-hour days to 240 hours.

Section 2 - Amends 04.11.360 by adding language to ensure that an application may not be denied because a prospective transferee does not have qualifications required under AS 4.11.400(d)(1).

Section 3 - Amends AS 04.11.400(d) by adding language to allow for renewal or transfer of ownership of a tourism beverage dispensary license if the holder operates a hotel, motel, resort, or similar business in the tourist trade; has a licensed dining facility or kitchen facilities in a majority of its rental rooms and maintains the minimum number of rental rooms that it had at time of initial licensure or that were required at initial licensure. Also allows for premises inside an airport terminal.

Section 4 - Amends AS 04.11.491(a) to add an outdoor recreation lodge license to the licenses that may be

approved by voters in a municipality on a local option ballot.

Section 5 - Amends AS 04.11.491(b) to add an outdoor recreation lodge license to the licenses that may be approved by voters in an established village on a local option ballot.

Section 6 - Applicability - Section 4 & Section 5 apply to outdoor recreation lodge licenses issued before, on, or after the effective date of this Act.

[3:53:07 PM](#)

REPRESENTATIVE JOSEPHSON asked whether the outdoor recreation lodge license already existed in statute.

MS. STIDOLPH answered in the affirmative. She added the outdoor lodge license needed to be added to the list for local options.

[3:53:49 PM](#)

REPRESENTATIVE KNOPP asked whether the director understood the intent of the bill and whether she thought the issue would be resolved for the 34 licensees who were currently in jeopardy.

ERIKA McCONNELL, Director, Alcohol and Marijuana Control Office (AMCO), stated the intent was very clear and the issues for those licensees would be resolved.

[3:54:45 PM](#)

REPRESENTATIVE JOSEPHSON asked whether the license holders of future roadhouses would have to adhere to the requirement for rooms under the demographic area for the unorganized boroughs.

MS. McCONNELL answered that they would have to meet the rental rooms requirement for their population area.

REPRESENTATIVE WOOL specified that the requirements were "new" since 1985.

[3:56:03 PM](#)

CHAIR KITO removed his objection.

CHAIR KITO stated that public testimony had remained open from a previous hearing. Upon ascertaining that no one was available to testify, he closed public testimony on HB 301.

REPRESENTATIVE JOSEPHSON said he thought the changes constitute "a good fix."

REPRESENTATIVE SULLIVAN-LEONARD acknowledged Representative Rauscher's contribution to the bill.

[3:57:46 PM](#)

REPRESENTATIVE JOSEPHSON moved to report HB 301 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, it was so ordered.

[3:59:32 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 3:59 p.m.