

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

April 11, 2018

3:15 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. 357

"An Act relating to alcoholic beverages; relating to the regulation of manufacturers, wholesalers, retailers, and common carriers of alcoholic beverages; relating to licenses, endorsements, and permits involving alcoholic beverages; relating to the Alcoholic Beverage Control Board; relating to offenses involving alcoholic beverages; amending Rule 17, Alaska Rules of Minor Offense Procedure; and providing for an effective date."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR SS FOR SENATE BILL NO. 108 (FIN)

"An Act relating to the State Medical Board; relating to the licensing of physicians, osteopaths, and podiatrists; relating to the certification of medical assistants; relating to the practice of medicine; relating to the practice of podiatry; relating to the practice of osteopathy; relating to assault of a medical professional; and providing for an effective date."

- BILL HEARING POSTPONED

PREVIOUS COMMITTEE ACTION

BILL: HB 357

SHORT TITLE: ALCOHOLIC BEVERAGE CONTROL/REGULATION
SPONSOR(s): REPRESENTATIVE(s) KOPP

02/16/18 (H) READ THE FIRST TIME - REFERRALS
02/16/18 (H) L&C, JUD
04/11/18 (H) L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE CHUCK KOPP
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 357 as prime sponsor.

ANNA BRAWLEY, Title 4 Project Coordinator
Juneau, Alaska

POSITION STATEMENT: Presented a PowerPoint on Alcoholic Beverage Control (ABC) Board, Title 4 Review Project.

ACTION NARRATIVE

[3:21:06 PM](#)

CHAIR SAM KITO called the House Labor and Commerce Standing Committee meeting to order at 3:15 p.m. Representatives Birch, Knopp, Sullivan-Leonard, Josephson, Wool, and Kito were present at the call to order. Representative Stutes arrived as the meeting was in progress.

HB 357-ALCOHOLIC BEVERAGE CONTROL/REGULATION

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CHAIR KITO announced that the only order of business would be HOUSE BILL NO. 357, "An Act relating to alcoholic beverages; relating to the regulation of manufacturers, wholesalers, retailers, and common carriers of alcoholic beverages; relating to licenses, endorsements, and permits involving alcoholic beverages; relating to the Alcoholic Beverage Control Board; relating to offenses involving alcoholic beverages; amending Rule 17, Alaska Rules of Minor Offense Procedure; and providing for an effective date."

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REPRESENTATIVE KOPP, Alaska State Legislature, presented HB 357 as prime sponsor. He explained that Alaska alcohol laws have

not been updated since the early 1980s and the industry has evolved at a rate with which the statutes have not kept pace. He said the aim of the proposal is to ensure that enforcement can be carried out. He added it offers clear and defined statutes for just outcomes. He introduced Ms. Brawley and spoke to the history of the proposal.

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ANNA BRAWLEY, Title 4 Project Coordinator, presented a PowerPoint on Alcoholic Beverage Control (ABC) Board, Title 4 Review Project [included in committee packet]. She gave a brief overview of the history of the project and presented the goals: make Title 4 a clear and consistent legal framework; increase swiftness, proportionality and consistency of penalties; increase local law enforcement of Title 4; and increase licensee accountability before the ABC Board for Title 4 violations. She added that to date there has been approximately 6 years of work for a total of 12,000 hours in the project.

MS. BRAWLEY pointed out that the project involves five topic-based subcommittees which operate under the steering committee.

REPRESENTATIVE KNOPP asked about the local option subcommittee and what they were charged to do.

MS. BRAWLEY said the subcommittee looked at communities' ability to vote to restrict alcohol in statute.

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MS. BRAWLEY moved to slide 10 to present the sectional summary, which reads as follows:

- AS 04. Chapter 6: sections 1 - 8, pp. 1 - 5
- AS 04. Chapter 9: section 9, pp. 5 - 49
- AS 04. Chapter 11: sections 10 - 72, pp. 50 - 79
- AS 04. Chapter 16: sections 73 - 121, pp. 79 - 97
- AS 04. Chapter 21: sections 122 - 136, pp. 97 - 104
- Other Titles' Changes: sections 137 - 148, pp. 104 - 109
- Transition: sections 149 - 159, pp. 109 - 114

MS. BRAWLEY presented the six categories of recommendations in slide 11:

1. Alcohol Licenses, Permits and Trade Practices
2. Role and Functions of the ABC Board and Staff
3. Underage Drinking and Youth Access to Alcohol
4. Regulation of Internet Sales of Alcohol
5. Technical or Administrative Law Changes
6. Local Option Communities*

* Note: Local Option recommendations are documented in the report, but not included in HB 357. More comprehensive discussion of Local Option laws is needed in the future.

REPRESENTATIVE KNOPP stated his concern about local options was that, given the fiscal situation, communities could be given some of the responsibilities currently held by the state.

CHAIR KITO said that one of the issues that has arisen regarding local options is the Bethel, Alaska, decision and the consequences of that decision.

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MS. BRAWLEY continued to slide 12-18 detailing the key concepts of Title 4:

- The 3-tier system: separation of manufacturers, wholesalers and retailers to prevent monopolies
- Population limits: regulates number of licenses available in each community by type
- Licenses and permits:
 - o License: allows a business to sell, serve, distribute and/or manufacture alcohol for 2 years.
 - o Permit: time-limited alcohol sales or service, by a licensee or non-licensed organization.
- Proposed new concept: Endorsements on licenses to expand premises or allowed activities

REPRESENTATIVE WOOL asked about "changing trends and values" and how they have affected the rewrite of Title 4.

MS. BRAWLEY gave the examples of online sales and direct sales of craft manufacturing.

REPRESENTATIVE WOOL asked about the three-tier system. He disclosed that he holds a beverage license and is subject to the laws in question. He asked about tensions in the industry.

MS. BRAWLEY answered that the tensions do still exist. She added that the proposed law was not attempting to be the "be all and end all" of the issue.

REPRESENTATIVE WOOL asked about the distinctions between boroughs and cities and about population limits for the purposes of regulation.

MS. BRAWLEY answered that population limits had been examined. The stakeholder group had concluded that no changes would be suggested, with a couple of exceptions.

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REPRESENTATIVE BIRCH asked about exclusions from the population count. He asked why children were not excluded.

MS. BRAWLEY answered the count was not directly related to the census.

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REPRESENTATIVE WOOL spoke to the introduction of the new license for tasting rooms. He asked about discussions of eliminating the quota system.

MS. BRAWLEY shared her understanding that language on tasting rooms was added to the current license and was not a new license. She said the group had opted not to keep the discussion on the table because there was no consensus.

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REPRESENTATIVE SULLIVAN-LEONARD mentioned the supporting documentation for the bill. She asked why some allowed types [of licenses] for population density are not in compliance with the new proposal.

CHAIR KITO asked whether there is any interested in getting closer to the limit with the bars and retail establishments that currently exist.

MS. BRAWLEY answered that some businesses had been grandfathered in and this was reflected in the high density in some areas. She said the statute does not contemplate the total number of licenses in an area, only each type. She added that the stakeholders had opted not to add a new license type every time a new issue emerged.

REPRESENTATIVE KNOPP pointed to the table on slide 16 and asked for an explanation of population limits.

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CHAIR KITO pointed out that there are separate limits applied to cities and to boroughs. He said that [on the slide] the icons in teal represent licenses exempt from population limits, and the icons in goldenrod represent part of the license limits.

REPRESENTATIVE KNOPP suggested there are population limits in cities, and they just depend on the type of license.

MS. BRAWLEY answered in the affirmative.

REPRESENTATIVE KNOPP asked about population calculations for boroughs versus cities.

MS. BRAWLEY answered that the population for incorporated cities would be excluded as they have their own licenses.

REPRESENTATIVE WOOL asked about the purpose of the population limit. He asked whether most cities exceed the population limit.

MS. BRAWLEY answered the most cities do have more licenses than statute would allow and suggested that is due to grandfathered licenses.

REPRESENTATIVE KOPP added that the population limit protects the value of the license as well as public safety.

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REPRESENTATIVE WOOL asked why population limits are so "out of whack" with statute.

REPRESENTATIVE KOPP said the motivation behind the proposed bills is the seeming randomness and disparity of license

allocation. He reiterated that effort is to standardize the system.

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REPRESENTATIVE STUTES asked whether licenses are not transferable in the new bill.

MS. BRAWLEY answered that existing licenses can be grandfathered so do not go away.

REPRESENTATIVE STUTES asked whether a grandfathered business can transfer the license.

MS. BRAWLEY answered that population limits do not apply to individual licenses.

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CHAIR KITO remarked that the working group seems to recognize the issue was politically volatile and said that the working group had stated it did not have consensus. He said the issue of the number of licenses per population should be addressed legislatively.

REPRESENTATIVE JOSEPHSON asked whether a cap on licenses was being proposed.

REPRESENTATIVE KOPP answered there is nothing in the proposed law that would cause licenses to proliferate. He said it would allow the ABC Board to be more responsive to the changing dynamics of communities. He said he was very sensitive to devaluing current licenses.

REPRESENTATIVE WOOL commented the recent addition of on-premise tasting rooms does affect existing licenses.

REPRESENTATIVE KOPP said the proposed bill has not passed yet.

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MS. BRAWLEY addressed the role of the Alcoholic Beverage Control Board ("ABC Board"). She outlined the recommendations as follows:

- Designate the ABC Board and AMCO as the agency to develop a multi-department, public-private sector

education plan about responsible alcohol use and applicable laws.

- Coordinate with Department of Health and Social Services and other agencies tasked with alcohol-related education.

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MS. BRAWLEY spoke to the recommendation to establish a written order database.

- Allow data about direct shipment orders of alcohol in local option communities to be made publicly available, aggregated at the region or community level, for analysis and community planning.
- Written order database can only be accessed by AMCO enforcement staff, other law enforcement, and package store licensees who fill written orders.
- Personal information would be kept confidential.

REPRESENTATIVE JOSEPHSON asked what would be done with the information collected in the database.

MS. BRAWLEY answered that information would be collected to give local communities information on how much alcohol is coming into the community.

REPRESENTATIVE JOSEPHSON suggested the information would be used by some entity.

REPRESENTATIVE KOPP answered the information would be for communities and law enforcement to understand the flow of alcohol in the area.

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REPRESENTATIVE WOOL asked about fees.

MS. BRAWLEY deferred to AMCO staff.

REPRESENTATIVE KOPP added that the fees also pay for the public health education.

MS. BRAWLEY said most haven't been changed since the 1980s.

REPRESENTATIVE STUTES asked about the benefit of publishing the community-level data.

REPRESENTATIVE KOPP answered there is an approval process for any package liquor store to sell alcohol to rural communities. They have to identify the person they are selling to. He reminded that communities have opted to regulate the sale of alcohol. He said publishing helps communities to examine collectively the movement of alcohol.

REPRESENTATIVE STUTES said she can understand keeping the records but not publishing the data.

CHAIR KITO said data can provide decision-making tools for the board.

REPRESENTATIVE STUTES reiterated she doesn't understand the need for publishing the data.

CHAIR KITO said that was a concern that should be addressed during discussion of the proposed bill.

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MS. BRAWLEY addressed Chapter 9 on licenses, endorsements, and permits. She said all of the proposals would be moved into one chapter in the bill. She said most license types would not change, just be renumbered.

MS. BRAWLEY said slides 28-30 show how the system would operate. She briefly mentioned license types and exemptions. She said some license types are set for repeal and would be replaced by an existing license type.

MS. BRAWLEY spoke to population limits. She said the limits apply only to retail licenses and would not affect wholesale, manufacturing, tourism, or Winery Direct Shipment licenses.

MS. BRAWLEY spoke to simplifying manufacturing licenses as shown on slide 32:

- Keep three manufacturing license types:
Brewery (AS 04.11.130), Winery (AS 04.11.140),
Distillery (AS 04.11.170).
- Remove Bottling Works (AS 04.11.120) and Brewpub
(AS 04.11.135) license types from statute.

MS. BRAWLEY explained the definitions for qualifications for Alaska manufacturing licenses shown on slide 34.

- Require in Brewery, Winery, and Distillery Manufacturer licenses that at least 80 percent of alcohol products for sale were made on the Alaska licensed premises.
- Based on ABC Board regulation for distilleries.

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MS. BRAWLEY said that small manufacturers would be allowed to hold retail licenses. The recommendations appear on slide 35 as follows:

- Remove the restriction in Prohibited Financial Interest (AS 04.11.450), which does not allow manufacturers to hold retail licenses, for smaller manufacturers.
- Only manufacturers who produce less than a certain amount of product annually would be eligible.
- Large manufacturers would be limited to production.
- The proposed thresholds exceed the current production of Alaska's largest manufacturing licensees.

MS. BRAWLEY spoke to the recommendation to allow manufacturing retail licenses to allow limited onsite consumption and offsite sales.

- Add-on retail licenses specifically for manufacturers to allow limited onsite consumption and offsite sales.
 - Existing licensees converted
 - New retail licenses have 1:9,000 population limit
 - After 8 years, new licensees limited to only 20 percent of sales volume in retail room, or waiver from Board
- A separate endorsement for free samples.

MS. BRAWLEY mentioned the onsite and offsite consumption limits for breweries, wineries, and distilleries.

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MS. BRAWLEY discussed recommendations for wholesale licenses. She indicated there were fewer recommended changes for this group.

- Adjust fees for both Wholesale licenses (both defined in AS 04.11.160) to retain current maximum but reduce burden on small operators.
- Remove the requirement to provide a full list of suppliers to the ABC Board.

MS. BRAWLEY moved to the recommendations for "Multiple Licensed Premises with a Beverage Dispensary License" on slides 42-43.

- Clarify the parameters that would allow and require multiple fixed counters for a Beverage Dispensary license (AS 04.11.090).
- Replace Duplicate licenses with Multiple Fixed Counter endorsements.
- Create a Hotel/Motel endorsement, and a Large Resort endorsement, which allows additional licenses in separate buildings.

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MS. BRAWLEY spoke to recommendations for pub licensing for alternating premises on slide 44.

- Allow a university with a Pub license to designate a second licensed premises, operated during mutually exclusive hours.
- Example: existing Pub License at UAF (Fairbanks) could alternate with service of alcohol at the UA Museum of the North during daytime hours

MS. BRAWLEY spoke to renaming Recreational Site Licenses to Sporting Event License.

- Ensure the definition of "recreation" is consistently applied to Recreational Site license holders.
- Make a sunset provision of 8 years to review and retire licenses that do not meet this definition

(AS 04.11.210), if they are not in compliance with the statute.

MS. BRAWLEY spoke to seasonal REPL tourism licenses in slide 46:

- Seasonal restaurant license
- Available in smaller communities (< 20,000 pop.)
- Same operating requirements and privileges as full-year restaurants (REPL)
- Number of licenses per community determined by formula
- Season defined as up to 6 months per year, in any combination
 - Example: May through September + 1 winter month

MS. BRAWLEY spoke to internet direct sales. She mentioned that Alaska is one of the few states with no rules about Internet sales of alcohol. She said that there are currently no limits purchases of alcohol online from out-of-state sellers.

- Create a license available to U.S. wineries to ship orders of wine to Alaska customers.
- Prohibit online sales through this license in Local Option areas.
- Prohibit other online sales of alcohol not under this license or the Package Store Shipping endorsement.
- Modeled on similar licenses or permits for wineries that exist in 44 other states.
- Requires age verification and delivering to the customer in person, including a signature to acknowledge receipt.
- Exempt from Alaska population limits.

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MS. BRAWLEY stated one of the motivations regarding the recommendations for Internet sales was to ensure the state could collect Alaska Excise Tax for Internet Sales.

- In addition to maintaining current collection of excise tax on sales from in-state wineries,

require all out-of-state holders of a Winery Direct Shipment license to pay the same excise tax on Alaska orders.

- Currently, no tax is collected from online sales of alcohol to Alaska customers.
- Legal precedent for collecting state alcohol tax from out-of-state alcohol manufacturers: Granholm v. Heald (2005)

[4:36:01 PM](#)

REPRESENTATIVE STUTES asked about brewery manufacturing licenses. She asked whether an onsite sample provision is included.

MS. BRAWLEY answered that breweries would need a manufacturing retail license or a separate retail license.

REPRESENTATIVE STUTES surmised there would be a limit to amount or size of samples.

MS. BRAWLEY answered samples would be limited in the new proposal.

[4:38:01 PM](#)

REPRESENTATIVE WOOL asked whether there is a food component in the pub provision.

MS. BRAWLEY returned to slide 33. She explained there are two different types of brewpubs in the statute. She said the Restaurant Eating Place License (REPL) requires sales be 50 percent food. The Beverage Distribution License (BPL) allows breweries to produce and distribute onsite.

REPRESENTATIVE WOOL suggested a brewpub could keep the current license, produce beer, and have a tasting room.

MS. BRAWLEY answered the license would be converted from the brewpub license to a brewery license. They could then decide to get a tasting room license.

REPRESENTATIVE WOOL spoke to free sampling. He suggested other states are either free sampling or for sale sampling states. He asked whether Alaska is both.

MS. BRAWLEY said that is what is in current law.

REPRESENTATIVE WOOL spoke to mental health issues in the state. He asked whether the proposal contains anything that would help reduce alcohol problems in the state.

MS. BRAWLEY said that part of the goal is to ensure that the laws are clear and easy to follow. She said there are recommendations ensuring that people serving alcohol are trained and recommendations for safeguarding youth.

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REPRESENTATIVE BIRCH asked about non-profits selling alcohol during events.

MS. BRAWLEY said for individual licenses she would defer to AMCO. She said the proposal does not change most of the permits.

REPRESENTATIVE KOPP answered that catering permits would not change in the proposed bill.

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REPRESENTATIVE STUTES asked about samples in the various licenses.

MS. BRAWLEY said that sampling would not change in the retail license.

REPRESENTATIVE STUTES asked whether there are any ounce limits in the proposal.

MS. BRAWLEY answered that brewpubs already have retail licenses and would not be limited. Manufacturers would be limited. She underlined the ounce limits proposed are for manufacturers.

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REPRESENTATIVE WOOL asked why public convenience licenses would be eliminated.

MS. BRAWLEY answered that proposed replacements for the licenses to be repealed would be addressed further in the presentation.

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REPRESENTATIVE WOOL spoke to seasonal tourism licenses. He gave the example of Juneau, Alaska, with seasonal establishments that would go away in the new proposal due to the population limit of 20,000.

MS. BRAWLEY answered the seasonal license would not be eliminated. She said the proposal is for a new license type and current operating establishments would not be affected.

REPRESENTATIVE WOOL suggested it would curtail any new business.

MS. BRAWLEY answered that the license type does not currently exist. She said that would mean Juneau, Alaska, businesses would have to apply for a standard restaurant license.

[4:50:19 PM](#)

REPRESENTATIVE KNOPP asking why the recreational license was being renamed.

MS. BRAWLEY answered that the proposal is merely to rename the license. She said there is a specific definition for sporting events and the proposal does not change that definition.

REPRESENTATIVE KOPP said that under the Recreational Site License, a health club could get a beer and wine license. He said renaming it to involve sporting events, it truly reflects what the license type was intended to be.

REPRESENTATIVE KNOPP said it seems the proposal attempts to "tighten the reins" on the definition.

REPRESENTATIVE KOPP answered in the affirmative.

REPRESENTATIVE WOOL asked whether the University of Alaska, Fairbanks pub license is the only pub license in the state.

MS. BRAWLEY answered that is her understanding.

REPRESENTATIVE WOOL suggested it would create a license specifically for the UAF museum. He asked whether the museum area that served alcohol would be closed off from those under age.

MS. BRAWLEY said the language states alcohol would have to be secured on the premises.

CHAIR KITO said there may be other university premises in the state which may wish to take advantage of the proposal in the future.

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REPRESENTATIVE JOSEPHSON asked whether consensus has been achieved among the stakeholders.

REPRESENTATIVE KOPP answered that the communication in the group has been "extraordinary" and the effort to arrive at consensus has been strong. He mentioned Dale Fox from Alaska Cabaret, Hotel, Restaurant and Retailers Association (Alaska CHARR). He said he did not expect the committee to be besieged by industry members with complaints.

REPRESENTATIVE JOSEPHSON spoke to the issue of criminal justice reform. He mentioned Senate Bill 91 and asked whether Representative Kopp has any comment or recommendation.

REPRESENTATIVE KOPP answered that he supports a strong public safety effort and supports the licensees. He said the Department of Law had recommended some penalties. He stated the proposal before the committee predates the 2016 bill.

[5:00:17 PM](#)

REPRESENTATIVE WOOL asked whether Representative Kopp feels the proposal is a "tenuous balance."

REPRESENTATIVE KOPP answered that it is a sensitive issue. He said it takes tremendous consensus to get the proposal to move forward. He said it is a different kind of a bill due to the amount of collective work that went into it.

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CHAIR KITO said the rest of the presentation could be examined online.

[HB 357 was held over.]

[5:03:51 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:03 p.m.