

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

March 13, 2018

1:34 p.m.

MEMBERS PRESENT

Senator Mia Costello, Chair
Senator Kevin Meyer, Vice Chair
Senator Gary Stevens
Senator Berta Gardner
Senator Peter Micciche

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Adam Wool

COMMITTEE CALENDAR

PRESENTATION: UPDATE OF THE 2020 CENSUS OPERATIONS

- HEARD

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 76

"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

PREVIOUS COMMITTEE ACTION

BILL: SB 76

SHORT TITLE: ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG

SPONSOR(S): SENATOR(S) MICCICHE

03/03/17 (S) READ THE FIRST TIME - REFERRALS
03/03/17 (S) L&C, JUD
05/11/17 (S) SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
05/11/17 (S) L&C, JUD
03/13/18 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

JULIE LAM, Assistant Regional Director
Los Angeles Regional Office
U.S. Census Bureau
Anchorage, Alaska

POSITION STATEMENT: Delivered the presentation: Update of 2020 Census Operations.

JAMEY CHRISTY, Regional Director
Los Angeles Regional Office
U.S. Census Bureau

POSITION STATEMENT: Presented information on the 2020 census.

ANNA BRAWLEY, Consultant
Agnew Beck Consulting
Anchorage, Alaska

POSITION STATEMENT: Presented SB 76 on behalf of the sponsor.

RACHEL HANKE, Staff
Senator Micciche
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented information on SB 76 on behalf of the sponsor.

AMANDA RANGLES
Southeast Alaska State Fair
Haines, Alaska

POSITION STATEMENT: Suggested changes to SB 76.

ELIZABETH RIPLEY, CEO
Mat-Su Health Foundation
Wasilla, Alaska

POSITION STATEMENT: Testified in support of SB 76.

MARNY RIVERA, representing self
Portland, Oregon

POSITION STATEMENT: Testified in support of SB 76.

TIFFANY HALL, Executive Director

Recover Alaska
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 76.

DALE FOX, President
Alaska Cabaret, Hotel, Restaurant and Retailers Association
Anchorage, Alaska

POSITION STATEMENT: Provided information related to SB 76.

ERIKA MCCONNELL, Director
Alcohol and Marijuana Control Office
Anchorage, Alaska

POSITION STATEMENT: Provided information related to SB 76.

RYAN MAKINSTER, Executive Director
Brewers Guild of Alaska
Anchorage, Alaska

POSITION STATEMENT: Provided information related to SB 76.

ACTION NARRATIVE

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CHAIR MIA COSTELLO called the Senate Labor and Commerce Standing Committee meeting to order at 1:34 p.m. Present at the call to order were Senators Gardner, Meyer, Micciche, Stevens, and Chair Costello.

Presentation: Update of the 2020 Census Operations

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CHAIR COSTELLO announced the first order of business would be an update on the 2020 census.

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JULIE LAM, Assistant Regional Director, Los Angeles Regional Office, U.S. Census Bureau, presented the census PowerPoint. The first slide presented the reason for doing the census. She pointed out that in each state, census data is used for apportioning the state legislature and apportioning and distributing federal money.

- Article 1, Section 2 of the U.S. Constitution
The actual Enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct.

- Key purpose is apportioning the U.S. House of Representatives.

MS. LAM said the first operation is the Local Update of Census Addresses (LUCA). This is a program offered to tribal, state, and local governments to review and comment on U. S. Census Bureau residents' address list prior to the 2020 census. The Census Bureau needs a complete, accurate master address list in order to reach every household and associated population to get a good count.

MS. LAM said LUCA is important for the following reasons:

- ensure accurate counts for communities
- help the government distribute \$600 billion in federal funds for infrastructure and programs, and
- help communities plan for future needs.

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She reviewed the LUCA status for Alaska.

- July 2017
 - Invitation mailing to highest elected official and working contacts
- October/ November 2017
 - In person trainings and Alaska specific webinars hosted by the Alaska State Data Center
 - Reminder letter mailing
- December/January 2018
 - Targeted contacts by SDC and regional office to large governments
 - Email reminders and closeouts to all contacts
 - Reminder and closeout mailing
- 30 percent of governments participating, including the State of Alaska
- 100 percent of the population is covered through the participation by the State of Alaska
- 89 percent of the population is covered through boroughs/Alaska Native Regions/cities
- Next steps
 - Materials produced and delivered though April 2018
 - 23 percent of participants have received their materials

- o 120-day calendar review period

MS. LAM said that to prepare for the 2020 census, Anchorage will be one of the 248 Area Census Offices (ACO) in the nation. She presented the following information:

- Anchorage ACO is scheduled to open in Jan 2019 to support the 2020 Census field operations
 - o Address canvassing in the fall of 2019
 - o Remote Alaska enumeration
 - o Non-response follow-up in early summer of 2020

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CHAIR COSTELLO asked what it costs to set up the 250 offices and do the census.

JAMEY CHRISTY, Regional Director, U.S. Census Bureau, Los Angeles, California, said the estimate is about \$16 billion for the entire census.

CHAIR COSTELLO asked the portion for Alaska.

MR. CHRISTY said he did not know.

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SENATOR GARDNER asked about LUCA and the rationale to know the address for every person in the nation because some people might not be comfortable with that. She understands it is to have an accurate count. She asked if addresses are updated back to government offices if inaccuracies are identified.

MR. CHRISTY said no. They need to know addresses for purposes of redistricting. Public Law 94171 in the U.S. Code mandates that they provide census population counts at the block level. The census is two parts. First is the list of all the addresses. The second is a mailed invitation to those addresses. They sync the response to where people live on the ground.

MR. CHRISTY said the Local Update of Census Addresses (LUCA) is a federal law that allows them to share confidential lists of addresses with local governments for the purposes of the census only. Local governments take an oath that they will only use this for purposes of improving the census address list. They review the list and use their sources of information to identify places where they have missed units or coded them incorrectly. In the last census over 4 million addresses were added, which translates into a better count.

SENATOR GARDNER clarified that she was referring to people who want to live off the radar completely. She wants to honor that.

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MS. LAM reviewed how the census is taken. This is the first time in history that the public can respond through the internet.

1. Advance Notice:
 - 2/3 will get mailing
 - 1/4 will get mail delivery
2. Online response - expecting 60 percent - 70 percent will respond online
3. Will hire staff to follow-up on non-response
4. Number 1 doesn't equal to 100 percent

CHAIR COSTELLO asked how the estimate of 60 percent to 70 percent responding online came about.

MR. CHRISTY acknowledged that it's an estimate, but it is based on much research and testing, including participation in other online programs. They have contingencies for a lower response rate.

CHAIR COSTELLO asked if other countries do a similar census project.

MR. CHRISTY said yes; he cited Canada and Australia.

MS. LAM discussed the special operations the census will have to count people in the remote areas of Alaska.

- Conducted in January - April 2020
 - First person in the 2020 Census will be counted in Alaska
- Military
 - Conducted in cooperation with the Dept. of Defense
 - Most captured administratively
- Other Populations
 - Group Quarters
 - Homeless
 - Transitory locations

MS. LAM said the next step for the census is recruiting, hiring, and staffing to support the field operations. She covered the plans for the Anchorage Area Census Office (ACO) positions.

- Summer 2018
 - ACO Management (approx. 10)
- Fall 2018
 - ACO Office Staff, Recruiting Assistants (approx. 25)
 - Partnership Specialists (TBD)
- Spring 2019
 - Address canvassing field staff (300 plus)
 - Remote Alaska field staff (TBD)
- Fall 2019
 - Non-Response follow-up field staff (TBD)

MS. LAM said that applications would be done online, although a paper alternative will be available. The pay rates will be competitive. Currently, the estimate is that the ACO manager hourly pay will be \$35 to \$47, the field supervisor and recruiting assistants will be as high as \$31 per hour, office support staff around \$22, and enumerator around \$28. Census workers have to be U.S. citizens and pass a background check. Veterans receive the highest preference.

MS. LAM reviewed the Census Partnership and Engagement Program (CPEP). Doing the census is a challenging job. It is extremely important the Census Bureau partner with tribes and Alaska Native regional governments, grassroots organizations, and stakeholders to promote the importance of the census.

MS. LAM reviewed the CPEP goals:

- Improve public cooperation
- Leverage existing networks and "trusted voices"
- Focus on communities who are less likely to respond
- Formation of Complete Count Committees
- Support operational efforts

MS. LAM said the CPEP in Alaska started early:

- Partnership Specialist stationed in Alaska since 10/2016
- Met with tribes and Alaska Native Regional governments to promote LUCA and build contact lists
- Continue working with partners/stakeholders to promote the important of the 2020 Census
- Continue to expand and increase our partnership presence in Alaska

- Alaska Working Group is a great example

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CHAIR COSTELLO thanked the presenters for the update. She asked what is asked on the survey.

MS. LAM said the basic questions are: name, sex, residence, race/ethnicity, and whether someone owns or rents a house.

CHAIR COSTELLO asked what kind of security is provided to ensure this information doesn't fall into the wrong hands.

MS. LAM said all workers take an oath for life with penalty of jail or fine. The information is behind a firewall and for statistical use only. It has levels of security to protect it.

CHAIR COSTELLO asked when the first census was conducted.

MS. LAM said 1790.

SENATOR STEVENS said he appreciates the information from 1796. It can be used for a family tree. It's a concern that the information that is currently asked isn't the same as in the turn of the century, like names of children and when their parents were born. He asked why. He is also concerned about too much security. He asked how someone can investigate a family tree if that person cannot get into those documents.

MR. CHRISTY said Title 13 protects the information for 72 years, which is the average life of an individual when the legislation was enacted. It's a fascinating research study to look at the changes in questions that are asked. One census asked whether someone was an idiot or infirm. This census will provide relationships on children and relationships. The census asks who the householder is and what the relationship is to the householder. The census does not ask for place of birth; that is captured elsewhere. There is broad interest in minimizing the response burden for the American public.

CHAIR COSTELLO thanked the presenters.

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At ease

SB 76-ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG

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CHAIR COSTELLO reconvened the meeting and announced the consideration of SB 76. She noted that this was the first hearing of Senator Micciche's Title 4 rewrite.

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ANNA BRAWLEY, Consultant, Agnew Beck Consulting, Anchorage, Alaska, thanked the committee for hearing SB 76 and invited questions during the presentation. She explained that the Alcoholic Beverage Control (ABC) Board started this process in 2012 when stakeholders recognized that the Title 4 laws weren't working. Many things are outdated and confusing and have not been updated since 1980. The ABC Board realized that it was important to bring the stakeholders together to address the problems.

MS. BRAWLEY said the goals of the process were to promote a fair business climate and protect public health and safety. The stakeholders included the manufacturing, wholesaling, and retailing tiers from the alcohol industry; members of public health and advocacy; members of public safety; local governments; and youth advocates. It was a delicate process to find consensus on the issues.

MS. BRAWLEY said the following broad goals were applied to the individual discussions:

- Create rational regulation for all tiers of the state's alcohol industry.
- Limit youth access to alcohol, while ensuring youth are not criminalized
- Promote responsible alcohol use and reduce the harms of overconsumption.
- Make Title 4 a clear and consistent legal framework.

MS. BRAWLEY said many things in Title 4 worked once and do not work now or have created a lot of confusion. They are making sure the laws are being enforced effectively, making the penalty fit the level of the offense, holding licensees accountable, and helping local law understand and effectively use Title 4.

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MS. BRAWLEY encouraged the members to focus on the recommendations, which fall into six general categories.

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 SB 76. More comprehensive review and discussion of Local Option laws is needed in the future.)

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SENATOR STEVENS asked for a definition of local option communities.

MS. BRAWLEY explained that the designation is part of Title 4. It gives communities the ability to hold an election and limit the manufacture, sale, importation, or possession of alcohol. The options range from no alcohol possession at all through certain businesses can operate but others cannot. Over the years many communities have voted to enact a local option.

MS. BRAWLEY gave the overview of the presentation.

Today's Overview of SB 76

- **Chapter 6:** sections 1 - 8, pp. 1 - 5
- **Chapter 16:** sections 73 - 121, pp. 79 - 97
- **Chapter 21:** sections 122 - 136, pp. 97 - 104
- **Changes in other titles:** sections 137 - 148, pp. 104 - 109

Chapter 11 (Licensing and Permits), proposed new **Chapter 9**, and transition sections related to licenses in the bill will be covered in a separate presentation.

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MS. BRAWLEY noted that the title on slide 6 begins with the code RB-4. Recommendations have codes that refer to the stakeholder group report [Alaska Title 4 Review for the Alaska Alcoholic Beverage Control Board: Recommendations for Statutory Change].

RB-4. ABC Board as Lead Agency for Alcohol Education Efforts

- Designate the ABC Board and AMCO [Alcohol and Marijuana Control Office] as the lead agency in a multi-department, public private sector education effort about responsible alcohol use and applicable laws.

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

SB 76: section 1, 04.06.075; section 5, 04.06.090

MS. BRAWLEY said this recommendation was identified as something that would help the ABC Board more effectively carry out its mission. The ABC Board's niche is that they understand Title 4 and they have a role to play in educating licensees, people applying for licenses, local government, law enforcement, and the general public about how to responsibly use Title 4. The recommendation is not that they duplicate other efforts, but that they focus on what they know best.

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SENATOR STEVENS asked if this was different than the responsibility of the board in the past. If it is different, he asked, how is education of the public and other entities being funded.

MS. BRAWLEY said education hasn't been explicitly part of the board or agency's mission. They do outreach to licensees and answer questions for applicants, so it's something they're already doing. Putting it in the statute elevates it to a core part of their mission. The more education a licensee receives regarding complying with the law, the less likely they are to receive a violation.

SENATOR STEVENS commented that this seems to be a new and large responsibility for the board. He again asked how the education is funded.

MS. BRAWLEY said she'd address that later in the presentation.

CHAIR COSTELLO asked if the legislation contemplates specific expertise in messaging or if it would be left to the board.

MS. BRAWLEY replied part of it would be left to the board. It could be a messaging campaign, but it could also be dedicating staff to answer questions. Another way to make those resources available is through the local government specialist that the agency recently added. She noted that he is currently working on one community's local option election.

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MS. BRAWLEY noted that for the next recommendation is technically allowed now, but it's not something the ABC Board generally does. The thinking is that they are the agency that looks most closely at the licensing system.

P-2. ABC Board Advisory Opinion on Proposed Legislation

- Enable the ABC Board to issue a formal advisory opinion on any proposed legislation regarding Title 4.
- This would include potential creation of a new license type in statute.

SB 76: section 5, 04.06.090

SENATOR GARDNER asked if the ABC Board can already issue an opinion on proposed legislation. She asked if this is a new provision.

MS. BRAWLEY said they are not prohibited from doing that now but putting it in statute makes the duty clearer. This is an effort to make it more user friendly, including for the board and the staff.

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MS. BRAWLEY said recommendation F-1 spans most of the title. The general proposal is to adjust license fees. A lot of the fees have not been raised in many years and some license types have much lower fees even though they do similar activities as other licenses. The stakeholder group wanted to be consistent about fees.

F-1. Adjust License Fees to Reflect Current ABC Budgetary Needs

- Update license fees according to privileges and administrative costs of each, and collect sufficient revenue to cover the ABC Board's required activities:
 - Administration of licenses & permits
 - Education about Title 4 and related regulations
 - Enforcement of Title 4 and related regulations
- ABC Board required to review license fees at least every 10 years.
- (see also RB-3: Revise ABC Board Budget to Adequately Fund Necessary Activities).
- See Appendix, Table 2 on page 66 of the report.

SB 76: Section 5, 04.06.090; License fees throughout Section 9

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CHAIR COSTELLO noted that Representative Wool had joined the committee.

SENATOR MICCICHE informed the committee that the sectional for SB 76 is color coded. Yellow signifies existing in statute today; green is existing in regulations today; pink is a new concept; and white is carrying on the language of the section.

He asked his staff if Section 5 is new.

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RACHEL HANKE, Staff, Senator Peter Micciche, Alaska State Legislature, Juneau, Alaska, explained that it's an existing statute but subsections are added describing the powers and duties of the ABC Board.

CHAIR COSTELLO referenced the first bullet on slide 8 about updating license fees according to privileges and the need of the board to cover the required activities. She asked Ms. Brawley to talk about whether the stakeholders disagreed or needed to negotiate the fees.

MS. BRAWLEY said she can't speak for every licensee, but she didn't recall any specific disagreement on a license type. If the fees were adjusted for inflation since 1980 or based on the consumer price index, the fees would be higher than what is proposed. The fees were instead increased to be consistent across the board.

SENATOR GARDNER referenced paragraph (17) in Section 8, the board can do restrictions on the manufacture, packaging, sale, and distribution of products containing alcohol that are intended for human consumption. She asked if that is new or already in statute.

MS. BRAWLEY said the current law says the ABC Board regulates alcoholic beverages. A current market trend is to have ice cream and other products infused with alcohol at a sufficient quantity that they could be considered a beverage, but they are not a drink. Paragraph (17) gives the board the ability to regulate those products.

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MS. BRAWLEY turned to the next recommendation and noted that it is something the board and AMCO do now, but they are limited in their ability to provide good data to communities.

RB-2. Community Analysis of 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.
- SB 76 would retain privacy for individual information, but allow publication of aggregated data for a region or Local Option community.

SB 76: sections 6-7, 04.06.095

MS. BRAWLEY displayed slide 10 to show how tracking alcohol orders in local option areas works.

CHAIR COSTELLO offered her understanding that this changes how long the data is kept.

MS. BRAWLEY agreed. She explained that by statute none of the data can be released, whether it is identifying information or not. It's all purged after one year. The proposal is to keep the data for 10 years, but not release any of the data about the individual order or the business that filled the order. The ABC Board would publish an aggregated annual report of the total sales by community or region.

SENATOR GARDNER asked if the limitation is by individual or address.

MS. BRAWLEY said she believes it is by individual.

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MS. BRAWLEY said this would give communities the ability to understand how much alcohol is being shipped into the area legally.

SENATOR STEVENS said he hopes that the public realizes that the fee increases are substantial. For example, a golf course fee increases by \$850, a destination resort increases by \$1,250, and an outdoor recreation lodge increases by \$1,250.

SENATOR MICCICHE directed attention to page 4 to illustrate that this was a stakeholder-driven process that has been ongoing since 2012. He said there may be some folks who want to amend the bill and that is not a surprise.

SENATOR STEVENS said he was pointing out that the public should be looking at the proposed increases.

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MS. BRAWLEY said the next recommendation jumped ahead to Chapter 16. Again, this is not a major change to statute, but something that has been challenging for licensees to deal with because no one has been allowed on premises, which could be someone replacing light fixtures.

N-8. Allow Business Activities on Licensed Premises During Off Hours

- Retain required closing hours (5:00 to 8:00 a.m.) for service and sales of alcohol to consumers but allow other non-serving business activities on the premises.
- Local communities are already allowed to set stricter hours by ordinance.

SB 76: section 73, 04.16.010

MS. BRAWLEY noted the next recommendation is in Section 77 in Chapter 16. This is something the manufacturers and wholesalers brought to the group's attention.

W-2. Align State Statute with Federal Law Regarding Trade Practices

- Add provisions in Title 4 to match current federal law regarding trade practices and agreements between retailers and wholesalers or manufacturers.
- Alaska is the only state without any laws regarding trade practices, and federal enforcement of existing laws is limited.

SB 76: section 77, 04.16.017

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MS. BRAWLEY displayed slide 14 to illustrate the proposal to regulate trade practices. The language in the bill was taken and adapted from federal law. One reason why it is advisable to

include it in state law is that there is very limited, if any, federal enforcement of these laws in Alaska. The second reason is that there are no federal laws that apply to beer.

MS. BRAWLEY said that the next recommendation applied to most of Title 4 because the group took a hard look at penalties. Currently, almost all of Title 4 penalties are Class A misdemeanors. That ranges from serious offenses such as committing felony-level service to a minor to not filling out paperwork correctly.

RB-6. Revise Title 4 Penalties

- Review penalties for all Title 4 sections, and revise as needed to make penalties proportionate to the offense, and more consistently enforced.
- Reduce most current Class A Misdemeanors to Minor Offenses.
- Retain existing Misdemeanor and Felony charges for serious offenses, particularly those causing harm to children.
- Ensure that the ABC Board, and licensee if applicable, is informed about Title 4 convictions by requiring the court to send records to AMCO, and AMCO to send to the licensee.
- ABC Board retains its authority to impose conditions or additional penalties, including suspending or revoking license. See Appendix, Table 3, pp. 67-72 in Report for table of all current penalties and proposed changes.

SB 76: defined throughout; most prohibited acts are defined in chapter 16

MS. BRAWLEY explained that prosecutors were dismissing Minor Consuming Alcohol charges or tickets were not written in the first place; the penalties were seen as too high for the offense or not worth the resources. The idea is to increase enforcement of Title 4 by making the penalties proportional to the offenses.

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MS. BRAWLEY said the next recommendations deal with penalties for employers and employees. The goal is to make Title 4 more enforceable by not requiring court appearances, legal counsel, etc.

UAD-1. Employee Penalty for Selling Alcohol to a Minor

- Reduce the penalty for a licensee, agent or employee selling alcohol to a minor (AS 04.16.052) from a Class A Misdemeanor to a Minor Offense with \$500 fine.

**UAD-2. Licensee Liability for Employee Sales to Minors N-9.
Licensee Liability for Overservice by Employees**

- Increase the consistency and certainty of sanctions to licensees for violations of AS 04.16.030 and -052.
- A licensee whose employee incurs either violation receives an administrative penalty of \$250.

SB 76: section 81, 04.16.030; section 94, 04.16.052

MS. BRAWLEY said SB 76 provides licensees more instant information about employee violations, holding them accountable for what happened on their premises and giving them an opportunity to correct it before the next renewal cycle.

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MS. BRAWLEY said minors are already allowed on some licensed premises, but the group discussed other situations where it should be allowed.

N-10. Allow Minors on Some Licensed Premises for Employment or Travel

- Allow limited employment of minors by Wholesalers, Common Carriers, and Outdoor Recreation Lodges.
- Consistent with existing rules for Restaurants.
- Clarify that minors are allowed at certain licensed businesses, in some circumstances: ex. restaurants, common carriers (SB 165)

SB 76: sections 88, 89, 90, 91; 04.16.049

SENATOR MEYER asked if this would pertain to underage band members who play in a nightclub; they would be allowed to play but not be served alcohol.

MS. BRAWLEY said she wasn't sure that situation is covered. It would probably depend on whether the business has a restaurant designation permit. She offered to do some research and follow up with a more complete answer.

SENATOR MEYER said he was thinking about a full dispensary license. He shared that constituents have complained that their kids cannot play in their band at a nightclub because they are underage.

MS. BRAWLEY said another similar situation that was discussed was common carrier dispensaries, such as airplanes.

MS. BRAWLEY said the next recommendation came from the stakeholder group. Parts of it were enacted in 2016 with SB 165.

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UAD-5. Minor Consuming Alcohol (MCA) and Related Violations

- Enacted in 2016: Restore Minor Consuming Alcohol (AS 04.16.050) to a true violation; same changes to Minor on Premises (AS 04.16.049), previously Misdemeanor A.
- Proposed in SB 76: similar changes to penalties for Minor Purchasing or Attempting to Purchase (04.16.060).
- Similar to already enacted changes above, youth charged with 04.16.060 would not appear in Courtview.

SB 76: section 98, 04.16.060

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MS. BRAWLEY said the next recommendation was to apply an existing law in Anchorage and Juneau statewide.

UAD-3. Statewide Keg Registration

- Require all beer kegs purchased in the state to be registered (and tagged with customer's name).
- Law enforcement who confiscate a keg at an underage party can determine who legally purchased the keg and hold adults responsible for furnishing alcohol to minors.
- Modeled on existing laws in Anchorage and Juneau.
- Applies to kegs (containers) 4 gal. or larger.
- Licensee keeps customer information about keg purchase on file for a period of time.
- Purchaser can be fined for removing tag on a full keg.

SB 76: section 122, 04.21.012

MS. BRAWLEY said this is a best practice that says the purchaser's information is included on the keg and is removed when the keg is returned to the licensee. The idea is that if the keg is confiscated at an underage party, the purchasing adult would be held responsible.

CHAIR COSTELLO asked what the penalties are for providing alcohol to minors.

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MS. BRAWLEY advised that for somebody who is not a licensee, it is a Class A misdemeanor. That is AS 04.16.051, page 70 of the report. The bill proposes changing that to a minor offense with a \$500 fine. Similarly, it is a Class A misdemeanor for a licensee to furnish alcohol to a minor. The proposal is to change that to a minor offense with an administrative penalty to the licensee.

CHAIR COSTELLO asked if that would be the highest penalty available if an adult furnished alcohol to a minor who then injured someone with a car.

MS. BRAWLEY replied AS 04.16.051 also says that for a minor who causes serious injury or death, the adult is liable for a Class C felony. That is existing law and is not proposed to change.

She directed attention to slide 23 that illustrates how the keg registration process would work. Penalties apply if a licensee sells untagged kegs and if someone tears the tag off the keg after purchase.

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MS. BRAWLEY continued the presentation.

Require Server Education Card for All Retail Sales & Service of Alcohol

- Server education includes training in verifying age and identification, responsible alcohol service, overserving, and applicable penalties for violations.
- Some, but not all, license types are required that servers (employees) have alcohol server education cards. Also not required for servers at permitted events.

- Proposed in SB76: Require all license types who serve the public, including sampling activities, to maintain server education cards.
- Require servers for permitted events to be certified prior to the actual event.

SB 76: sections 125, 126, 127; 04.21.025

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MS. BRAWLEY said Alaska is one of the few states without rules about internet sales of alcohol. Most states have restrictions on internet sales.

Current Title 4: Few Rules

- Alaska Package Stores cannot sell alcohol online, only via written order to "known" customers with ID on file.
- Alaska Wineries and Package Stores can ship wine to customers in some circumstances.
- Without state laws restricting online sales, there are currently no limits on purchases of alcohol online from out-of-state sellers.

MS. BRAWLEY said the first proposal is a new license type. Although this is included in Section 9 of the bill, which will be covered later, she brought it up because it is part of the internet-related recommendations.

INT-1. Winery Direct Shipment License

- 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.

SB 76: (Chapter 9) section 9, 04.09.360; section 79, 04.16.022

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SENATOR MEYER asked what the current law is for purchasing wine from Napa Valley, for example. He specifically asked if the licensee checks the age of the purchaser and if the company that delivers the wine does a similar check.

MS. BRAWLEY said right now there is no state law regulating whether the business has to check ID. Many states have a form of this winery direct shipment license, so businesses are probably accustomed to checking ID and using age verification. Nothing in current law regulates shipping, but UPS and FedEx have internal policies for the shipment of alcohol. They only allow commercial shipment of wine, no beer or spirit deliveries.

SENATOR MEYER asked how the state knows how to collect alcohol tax on the purchase.

MS. BRAWLEY said the state isn't currently collecting alcohol tax for online sales.

SENATOR MEYER asked if he can assume that he is paying the California alcohol tax if he buys wine from a winery in that state.

MS. BRAWLEY replied it would depend on the laws in that state.

SENATOR MICCICHE asked Ms. Brawley to talk about the idea that Alaska businesses are disadvantaged because of current taxation and the fact that any underage person can make online purchases of alcohol. He said he believes those are more important changes on internet sales.

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MS. BRAWLEY said instate businesses are required to collect excise tax on alcohol sales but out-of-state don't have that requirement. Both pay the federal excise tax but nothing to the state from out-of-state sales. Without anything in state law, it's difficult for the state to address underage online sales.

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MS. BRAWLEY said the intent of the common carrier proposal is not to create a new license but to ensure that the carriers follow Alaska law by getting board approval. This would signal

to businesses, especially out-of-state businesses, with winery direct shipping licenses what carrier to use.

INT-3. Board Approval of Common Carriers for Alcohol Delivery

- Require all common carriers who transport deliver alcohol directly to consumers in Alaska to be approved by the ABC Board.
- Carriers must maintain policies for age verification, safe handling of alcohol, and in-person delivery to an adult customer.
- Does not apply to shipments of alcohol from business to business, only customer orders.

SB 76: section 105, 04.16.125

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MS. BRAWLEY showed slide 30 to show how internet alcohol sales would be regulated.

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SENATOR GARDNER asked how common carriers would know they need approval from the ABC Board to ship alcohol.

MS. BRAWLEY said there isn't a mechanism to do that right now. Going forward, it would be an education process to reach out to carriers to ensure they are aware of the changes in law. The internal policies that FedEx and UPS have are consistent with what is drafted in the bill. The U.S. Mail does not ship or deliver alcohol currently.

CHAIR COSTELLO referred to the revision of penalties on slide 17. SB 91 required the Department of Corrections to develop a risk assessment tool and promulgate regulations. They just put the program out without any public input. She asked Ms. Brawley if she has cross referenced the penalties with the risk assessment tool that would not line up with, for example, the prison terms in the proposed penalties. She asked if she had looked at the assessment tool.

MS. BRAWLEY said they had not done that analysis.

SENATOR MICCICHE said now almost all these offenses are Class A misdemeanors. Some were moved to Class C and some were moved to a minor offense. Nothing changes how they'll be addressed by the courts. If it's not working today, this doesn't change that.

SENATOR MEYER said some businesses pride themselves in the number of patrons they turn away who maybe didn't have a proper license or was already intoxicated. If a store did sell to a minor now the fine would be \$500, under this proposal.

MS. BRAWLEY answered yes.

SENATOR MEYER said he sponsored some bills in the past that would allow a retail outfit or a nightclub to take civil action against a patron who tried to come in with a fake ID. He asked if this would impact the civil penalties.

MS. BRAWLEY said it would not.

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CHAIR COSTELLO opened public testimony on SB 76.

[2:44:05 PM](#)

AMANDA RANGLES, Southeast Alaska State Fair, Haines, Alaska, asked the committee to consider a rural exemption for nonprofit special event permittees. Section 127 would require all servers and carders at nonprofit special events be cardholders, and it would be very difficult in small areas. It would limit the volunteer pool and impact their ability to hold events. They host brewers during the Great Alaska Craft Beer and Home Brew Festival. Some are from Outside and some from Canada. She does not want to have to ask them to get licensed for a one-day event once a year when they donate their time to them.

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ELIZABETH RIPLEY, CEO, Mat-Su Health Foundation, Wasilla, Alaska, testified in support of SB 76. She said that in their surveys, residents have ranked alcohol and drug abuse as their number one health issue. Police have identified alcohol as the number one substance problem. The systematic redraft of Title 4 in SB 76 will help the ABC Board carry out its mission and will benefit organizations and individuals whose work, community, or business are affected by alcohol. The Mat-Su Health Foundation is particularly interested in the evidence-based public health policy of Title 4 reform, which will preserve limits on the density of alcohol outlets (density correlates with negative health and safety impacts), promotes responsible service and consumption of alcohol at licensed establishments and special events, increases accountability of alcohol licensees and employees to comply with Title 4, and regulates Internet sales of alcohol. The registration of kegs is key to reducing minors'

social access to alcohol. SB 76 provides more resources for education and enforcement of Title 4. This represents a big step forward in reducing Alaska's alcohol problem. It's not often that so many stakeholders come together to tackle a project as large as the Title 4 reform.

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MARNY RIVERA, representing self, Portland, Oregon, testified in support of SB 76. She served on the underage drinking subcommittee of the ABC Board and worked closely with the state when she was a faculty member in the University of Alaska Anchorage Justice Center. The provisions in SB 76 are an important part of a multipronged approach to reducing underage drinking. The subcommittee reviewed extensive evidence on how to reduce underage drinking. One example is licensee liability. It is a best practice to hold employers immediately accountable for their employees. Keg registration holds adults accountable for keeping alcohol out of the hands of young people.

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TIFFANY HALL, Executive Director, Recover Alaska, Anchorage, Alaska, testified in support of SB 76. She said Recover Alaska has been one of the stakeholders working on Title 4 since 2012. If this were solely a public health and safety bill or solely an industry bill, it would look different, but neither version would be as strong as it is today. All sides had to find common solutions. Things that they could not come to agreement on were left out of the bill to be discussed at a later time. This bill exemplifies the importance of diversity of thought at the table. They stand behind it as a unified front. Healthy Alaskans 2020 identified alcohol as the number health issue to the state, and it costs \$1.84 billion per year.

MS. HALL said her favorite provisions include online sales regulation. Research shows that when underage youth ordered alcohol online, 40 percent of the time alcohol was delivered. With the penalties the bill will ensure that if a bartender serves to a minor or overintoxicated person, both the bartender and the licensee will receive a penalty and the ABC Board can better regulate bad actors and ensure everyone gets the appropriate training. SB 76 will close the loophole created by public convenience licenses. The committee did not hear about license types today, but it is set up to allow places to bypass population limits. Population limits are evidence-based best practice to reduce the harms of alcohol.

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CHAIR COSTELLO listed the individuals available to answer questions.

SENATOR MICCICHE asked Mr. Fox about the underage band question and the consensus process.

[2:55:49 PM](#)

DALE FOX, President, Alaska Cabaret, Hotel, Restaurant and Retailers Association (CHARR), Anchorage, Alaska, explained that the parent needs to accompany the minor, who can then play. The consensus is a minor should not be in a bar without a parent. Regarding the consensus process, he agreed with Ms. Hall about what the bill would look like if either public health or industry had written it. Together they spent almost six years in discussion and many concessions were made by lots of people. The CHARR board has 19 members from every part of the industry and they unanimously support SB 76. This doesn't happen often, and it took a while to get there. He listed the things that made CHARR members "gulp," such as license fees and written order database, but overall there are good reasons and it's a good balance.

[2:59:00 PM](#)

SENATOR GARDNER asked about Amanda Randles' testimony suggesting an exemption for rural nonprofits. One part of Section 127 says a person may not sell or serve alcoholic beverages without a valid [alcohol server education] card issued beforehand.

MR. FOX said the purpose is to make sure that everyone involved in the service has the education so they can make the right decisions. One problem they discovered in these endless meetings was that groups all over the state had once-a-year events with volunteers. The groups said they had a 30-day grace period and so didn't need the cards, every year. Public health and industry want everyone to do the right thing. People need the education to do a good job, even if it's a once a year event. Results can be tragic if they don't do the job right.

SENATOR GARDNER asked if she as an organizer who is not serving can ask for and check IDs.

MR. FOX said they'd like her to get the card. If she is the supervisor, she needs the card even if she is not the doorman and server.

SENATOR GARDNER said, "It's a good answer." She asked what it cost to get a card.

MR. FOX said \$35 for CHARR members and \$45 for non-members. There are classes online or in person. Anchorage has three classes a week.

SENATOR MICCICHE asked if it takes time to take the certification or could it be done the day of the event.

MR. FOX said with his program for alcohol server cards, participants get the card immediately while others take several weeks.

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SENATOR MEYER asked that now that there will be penalties instead of criminal charges, which he supports, will ABC still track the number of times an establishment receives a fine.

MR. FOX said yes. These penalties will be surer. Now, if someone doesn't have the three required signs on the wall, that's a Class A misdemeanor. If someone is cited for that, that person could potentially go to jail for a year and receive a \$10,000 fine. In the new system, someone will get a ticket and a \$250 fine. By paying the fine, someone is admitting the fault. On the tally sheet at the ABC they will track the mistakes. If there is a pattern, for underage service, for example, it will be serious when the next license comes up. Now everyone lawyers up. About 60 percent of the cases get dropped. For public health and industry, the perspective is that the industry gets a system where the fines are more reasonable and the public health gets a better reflection of that operator's activities. This will allow the identification of bad operators more quickly than under the old system.

SENATOR STEVENS asked if the ABC Board can handle the education requirements.

MR. FOX said the idea is to not have the only tool be a ticket. It would be education in which an officer provides a sign that isn't posted. Education also includes an officer working with servers to identify what constitutes drunk or overconsumption. The idea that education will be a massive campaign probably won't happen, but training education needs to be part of the mission to communicate with all the different audiences. Underage people need to understand how much they can mess up their lives if they consume alcohol. He cited an example of not knowing the technicalities of the law. Good communication is the key to the process.

SENATOR STEVENS said he believes that educating all underage kids through the ABC Board will be difficult.

MR. FOX said there are many organizations working on that. ABC will work with them.

SENATOR GARDNER asked if the student in the story who violated the law by taking an alcohol order but not serving it would be in violation if he had said, "Table 2 needs you."

MR. FOX said it would have been proper to tell his boss to go to table 2.

SENATOR GARDNER commented semantics.

SENATOR MICCICHE asked Ms. McConnell to talk about the work Recover Alaska does to educate young people so they don't give the impression that the ABC Board will be going to every high school in the state.

[3:12:43 PM](#)

ERIKA MCCONNELL, Director, Alcohol and Marijuana Control Office, Anchorage, Alaska, said her understanding is that they will be working with those organizations that work on alcohol education, including Recover Alaska and the Department of Health and Social Services. The ABC Board will focus on the laws surrounding alcohol use and service and where they can supplement, they will. The thrust of their educational efforts will be compliance with state laws that they enforce.

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SENATOR STEVENS said the committee could revisit and clarify what the board is being asked to do. SB 76 says the board will be the lead agency for alcohol education. He does not think that is the case. He would appreciate clarification.

CHAIR COSTELLO noted the comment.

[3:15:06 PM](#)

SENATOR GARDNER asked what SB 76 does as currently written to distilleries such as Amalga Distillery and the dispute about whether they can serve mixed drinks.

CHAIR COSTELLO said they'll bring that up later.

SENATOR MICCICHE said all the shareholders know they're being heard. It's clear that the brewers are not thrilled with every aspect of the current bill and hopefully, they will come a little closer on that issue by working together with the various stakeholders. He asked Mr. Makinster if that is a fair statement.

RYAN MAKINSTER, Executive Director, Brewers Guild of Alaska, Anchorage, Alaska, said that's a fair statement. Overall, the Brewers Guild supports the bill, but there are a couple of outlying issues that he's discussed and hopes will be addressed.

[3:17:18 PM](#)

CHAIR COSTELLO found no further question. She kept public testimony open on SB 76 and held the bill in committee.

SENATOR GARDNER asked if SB 76 would impact Amalga Distillery.

CHAIR COSTELLO said yes, but she would prefer to wait until that section is covered.

SENATOR MICCICHE said it affects everyone in minor ways. It's an amazing effort. He referenced materials in the packets that would help members understand SB 76.

[SB 76 was held in committee with public testimony open.]

[3:18:57 PM](#)

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 3:18 p.m.