

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

March 20, 2018

1:17 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

**COMMITTEE CALENDAR**

SENATE BILL NO. 157

"An Act relating to the Alaska microloan revolving loan fund and loans from the fund."

- MOVED SB 157 OUT OF COMMITTEE

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 157

SHORT TITLE: MICROLOAN REVOLVING FUND & LOANS

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

|          |     |                                 |
|----------|-----|---------------------------------|
| 01/24/18 | (S) | READ THE FIRST TIME - REFERRALS |
| 01/24/18 | (S) | L&C, FIN                        |

03/20/18 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 76

SHORT TITLE: ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG

SPONSOR(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)  
03/13/18 (S) Heard & Held  
03/13/18 (S) MINUTE(L&C)  
03/15/18 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
03/15/18 (S) Heard & Held  
03/15/18 (S) MINUTE(L&C)  
03/20/18 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

#### **WITNESS REGISTER**

MIKE NAVARRE, Commissioner

Department of Commerce, Community and Economic Development  
Juneau, Alaska

**POSITION STATEMENT:** Provided introductory comments on SB 157.

BRITTENY CIONI-HAYWOOD, Director

Division of Economic Development  
Department of Commerce, Community and Economic Development  
Juneau, Alaska

**POSITION STATEMENT:** Presented SB 157 on behalf of the administration.

JULIET SHEPERD, Project Manager

Fairbanks Economic Development Corporation  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of SB 157.

ANNA BRAWLEY, Consultant

Agnew Beck Consulting  
Anchorage, Alaska

**POSITION STATEMENT:** Delivered the sectional analysis for SB 76.

RYAN LINDSAY, Owner and Brewer

Devil's Club Brewing  
Juneau, Alaska

**POSITION STATEMENT:** Suggested changes to SB 76.

EVAN WOOD, Owner and Brewer  
Devil's Club Brewing  
Juneau, Alaska

**POSITION STATEMENT:** Suggested changes to SB 76.

BRANDON HOWARD, Cofounder  
Amalga Distillery  
Juneau, Alaska

**POSITION STATEMENT:** Suggested changes to SB 76.

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

**POSITION STATEMENT:** Suggested changes to SB 76.

JEREMY PRICE, State Director  
Americans for Prosperity  
Anchorage, Alaska

**POSITION STATEMENT:** Suggested changes to SB 76.

#### **ACTION NARRATIVE**

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**CHAIR MIA COSTELLO** called the Senate Labor and Commerce Standing Committee meeting to order at 1:17 p.m. Present at the call to order were Senators Meyer, Stevens, Gardner, Micciche, and Chair Costello.

#### **SB 157-MICROLOAN REVOLVING FUND & LOANS**

[1:33:14 PM](#)

CHAIR COSTELLO announced the consideration of SB [157].

[1:33:35 PM](#)

MIKE NAVARRE, Commissioner, Department of Commerce, Community and Economic Development (DCCED), Juneau, Alaska, stated that SB 157 offers minor changes to an existing loan fund to allow better access and utilization by residents of Alaska and to help promote the economy.

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BRITTENY CIONI-HAYWOOD, Director, Division of Economic Development, Department of Commerce, Community and Economic Development (DCCED), Juneau, Alaska, said SB 157 amends the revolving microloan fund. The purpose of the fund is to promote economic development in Alaska by assisting small and microbusinesses that may not have access to traditional

financing. This access is badly needed capital that facilitates startups, expansion, and job creation throughout Alaska with a specific policy emphasis on rural communities. New businesses are responsible for 80 percent of new jobs in the United States and small startups and businesses have difficulty obtaining funding. Having an effective microloan fund focuses on lifestyle businesses, particularly those owned by rural Alaskans, immigrant entrepreneurs, and minorities. These loans could unlock a large number of new businesses that could serve as economic anchors in small communities.

MS. CIONI-HAYWOOD said that the legislature created the microloan fund in 2012. The loans are made for working capital, equipment, construction, and other commercial purposes. The applicant must be an Alaska resident for a minimum of a year and loans may not be made to pay for costs incurred six months before the loan application. The current terms and conditions do not provide enough flexibility to allow micro businesses with limited cash flow to take advantage of the opportunity the loan should provide. The terms of the loan are one way to incentivize small businesses to take entrepreneurial risks to create Alaska jobs. The proposed changes in the bill will help propel growth in this sector and once the business is established and growing, it can avail itself of private sector financing.

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MS. CIONI-HAYWOOD said the bill will correct the lower tier for a bank denial from \$34,999 to \$5,000. It increases the maximum loan term from six to 15 years and increases the interest rate calculation by one percentage point. The interest would be 6.25 percent today. It takes it from prime plus one percent to prime plus two percent.

CHAIR COSTELLO stated support for the program.

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SENATOR GARDNER asked the rationale for extending the loan term to 15 years.

MS. CIONI-HAYWOOD cited the example of a loan for \$35,000. The loan payment at 6 percent over five years is almost \$700 a month. Amortizing that over 15 years drops the payment to under \$300 a month. This helps with cash flow, which is often an issue for small and micro businesses. She pointed out that the maximum loan amount is not always granted

SENATOR GARDNER asked if there was a standard for the type of collateral used.

MS. CIONI-HAYWOOD said it's a case-by-case determination.

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SENATOR STEVENS asked her to share information about successful loans.

MS. CIONI-HAYWOOD said nine loans are outstanding and 14 have been approved over the life of the fund. Loans have been used for purchase of a boat trailer for a startup charter business, rebuilding an engine for a water taxi, remodeling a bed-and-breakfast, overhauling an aircraft engine, commercial kitchen equipment, and equipment for a photographer.

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SENATOR MEYER asked if the state has made money off the loans.

MS. CIONI-HAYWOOD said she didn't have information on the amount the state has made. One loan defaulted.

SENATOR MEYER asked where the money goes.

MS. CIONI-HAYWOOD said it stays within the revolving loan fund and is used for additional loans.

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CHAIR COSTELLO opened public testimony on SB 157.

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JULIET SHEPERD, Project Manager, Fairbanks Economic Development Corporation, Fairbanks, Alaska, testified in support of SB 157. She said she works closely with startups and small businesses. Fairbanks Economic Development (FEDC) supports SB 157. FEDC is a trustee for Kiva, which makes zero percent crowdfunding loans from \$10,000 to \$25,000 with a 36-month repayment period. Kiva loans fill a unique niche. The proposed improvements to the Alaska microloan revolving loan fund will help extend the reach of affordable, traditional funding to micro businesses, particularly in rural Alaska, and will help grow the Alaska economy.

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CHAIR COSTELLO closed public testimony on SB 157.

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SENATOR MEYER moved to report SB 157 from committee with individual recommendations and attached fiscal note(s).

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CHAIR COSTELLO announced that without objection SB 157 moved from the Senate Labor and Commerce Standing Committee.

[1:45:38 PM](#)

At ease.

**SB 76-ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG**

[1:48:49 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the continued consideration of SB 76, the Title 4 rewrite.

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ANNA BRAWLEY, Consultant, Agnew Beck Consulting, Anchorage, Alaska, delivered the sectional analysis for SB 76. She began with page two of the sectional analysis dealing with Section 9, which is a proposed new chapter in Title 4, to replace sections defining license types and permit types. These are currently defined in Chapter 11. Many of the sections are not changes in law; they are relocations or renumbering.

**Chapter 09. Licenses, Endorsements, and Permits.**

Pages 5-49

**Article 1. License Types.**

**AS 04.09.010.** Types of licenses. Gives the definition of license, three tiers, and limits license types to those listed in this chapter.

**Article 2. Manufacturer Licenses.**

**AS 04.09.020.** Brewery manufacturer license. Relocates the brewery license from 04.11.130, moves other provisions from current brewery manufacturer's license to endorsements, sets the biennial fee at \$1,500 and requires that at least 80% of the final product of brewed beverages sold be manufactured on licensed premises in Alaska.

**AS 04.09.030.** Winery manufacturer license. Relocates the winery license from 04.11.140, moves other

provisions from current winery license to endorsements, sets the biennial fee at \$1,500 and requires that at least 80% of the final product of wine sold be manufactured on licensed premises in Alaska.

**AS 04.09.040.** Distillery manufacturer license. Relocates the distillery license from 04.11.160, moves other provisions from current winery license to endorsements, sets the biennial fee at \$1,500 and requires that at least 80% of the final product of distilled spirits sold be manufactured on licensed premises in Alaska.

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CHAIR COSTELLO asked if the bill had a definition of manufacturer.

MS. BRAWLEY said no, but there is a definition of the individual product types.

**AS 04.09.050.** Authorized sales. Allows smaller manufacturers to self-distribute to retail, wholesale, permitted and out of state or country licensees. Requires large manufacturers to go through wholesale distributors.

**AS 04.09.060.** Unlicensed manufacturing. Relocates the existing penalty for unlicensed manufacture from 04.11.010.

**AS 04.09.070.** Unlicensed manufacturing in a local option area. Relocates the existing penalty for unlicensed manufacture in a local option area from 04.11.010.

**AS 04.09.080.** Unauthorized manufacturer sale. Defines unauthorized manufacturer sale as violating 04.09.050 and sets the penalty.

**AS 04.09.090.** Definition. Defines "packaging" which is the process of containing alcoholic beverages in bottles or other containers for sale.

### **Article 3. Wholesale Licenses.**

**AS 04.09.100.** General wholesale license. Relocates the general wholesale license from 04.11.160, moves other existing components to other places in the chapter, maintains \$2,000 biennial fee, maintains \$10,000 maximum fee, and reduces annual transaction fees for smaller businesses.

**AS 04.09.110.** Limited wholesale brewed beverage and wine license. Relocates limited wholesale license from previous wholesale license section (AS 04.11.160(b)) in a separate section, maintains \$400 biennial fee, maintains maximum \$10,000 fee, and reduces annual transaction fees for smaller businesses.

**AS 04.09.120.** Annual fee and affidavit. Relocates existing affidavit requirement from previous wholesale licenses section (AS 04.11.160(c)-(d)), requires a wholesale licensee to submit an affidavit to the board stating total value of annual sales, including tax.

**AS 04.09.130.** Wholesaler supplier declaration. Relocates the wholesale supplier declaration from previous wholesale licenses section (AS 04.11.160(e)), maintains current fee structure, and simplifies the required reporting process.

**AS 04.09.140.** Unlicensed wholesale. Relocates unlicensed wholesale provision from 04.11.010 and maintains penalty.

**AS 04.09.145.** Unlicensed wholesale in a local option area. Relocates existing penalty for unlicensed wholesale in a local option area from 04.11.010.

**AS 04.09.150.** Failure to pay annual fee or file affidavit. States that failure to pay an annual wholesale fee or file an affidavit is a violation and sets the penalty.

**AS 04.09.160.** Failure to pay biennial fee or file declaration. States that failure to pay a biennial fee and failure to file a declaration are violations and sets the penalty.

#### **Article 4. Retail Licenses.**

**AS 04.09.200.** Beverage dispensary license. Relocates and simplifies the BDL license language from, maintains the \$2,500 biennial fee, references the multiple fixed counter endorsement, and sets the penalty for unauthorized beverage dispensary activity. Sections in current BDL (AS 04.11.090) for bowling alley and hotel licensees relocated to become separate endorsements.

**AS 04.09.210.** Restaurant and eating place license. Relocates license from 04.11.100, sets biennial fee at \$1250, maintains 1:1 food to alcohol ratio, strikes 1996 exemption, limits the number of annual allowed after-hours entertainment events to six, and sets penalty for failure to comply with license terms.

SENATOR GARDNER asked how the ratio for food to alcohol is measured.

MS. BRAWLEY said it's not specific in current law. The proposal clearly defines that it should be food served on premises and requires certification to the board that the business has met this requirement prior to renewal.

SENATOR GARDNER asked if that means someone has to be eating while drinking or is it ticket sales on the food side vs. the alcohol side.

MS. BRAWLEY said it is not requiring an individual customer to order food. It's total sales. The intent is that the business is a bona fide restaurant serving food, not primarily alcohol.

MS. BRAWLEY said in both those sections there is a penalty for not complying, which is different from current law.

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MS. BRAWLEY continued the sectional for SB 76.

**AS 04.09.220.** Club license. Relocates license from 04.11.110, sets biennial fee at \$2,500, and sets the penalty for failure to comply with license terms.

**AS 04.09.230.** Package store license. Relocates license from 04.11.150, maintains biennial fee of \$1,500, and sets penalty for failure to comply with licenses terms. Sections in current AS 04.11.150 for delivery,

shipping and other activities relocated to become separate endorsements

**AS 04.09.240.** Pub license. Relocates license from 04.11.220, sets biennial fee at \$1,250, and sets penalty for failure to comply with license terms. Adds provision allowing designation of alternating premises, which allows a second location on a university campus that must be operated during mutually exclusive hours from existing license.

**AS 04.09.250.** Theatre license. Relocates license from regulation (3 AAC 304.695), sets biennial fee at \$1,250, and sets the penalty for failure to comply with license terms.

**AS 04.09.260.** Common carrier dispensary license. Relocates license from 04.11.180, maintains current fee schedule, removes "vehicle" as a qualifying premises, and sets penalties for unauthorized common carrier dispensary activity and common carrier dispensary noncompliance. This statute refers to alcohol served on airlines, cruise ships

MS. BRAWLEY said the proposal removes vehicle because to date the ABC [Alcoholic Beverage Control Board] has not granted a license to anyone who has requested it for a vehicle. It is being removed because of concerns about having alcohol in a road vehicle.

SENATOR GARDNER asked if someone who rents a limo can drink while in the limo.

MS. BRAWLEY said she didn't know the rules now, but they wouldn't have this license type.

SENATOR GARDNER said she imagines vehicle was there because someone thought at some point that that could be the case.

MS. BRAWLEY continued the sectional for SB 76.

**AS 04.09.270.** Sporting event license. Relocates and renames recreational site license, sets biennial fee at \$1,250, sets penalty for unauthorized sporting event activity, and establishes 8-year sunset dates for licenses issued under former AS 04.11.210.

**AS 04.09.280.** Outdoor recreation lodge license. Relocates license from 04.11.225, sets biennial fee at \$2,500, and sets penalty for unauthorized outdoor recreation lodge activity.

**AS 04.09.290.** Golf course license. Relocates license from 04.11.115, sets biennial fee at \$1,250, and sets penalty for failure to comply with license terms.

**AS 04.09.300.** Destination resort license. Relocates license from 04.11.255, sets biennial fee at \$2,500, and sets penalty for failure to comply with license terms.

**AS 04.09.310.** Brewery retail license. Creates new license type based on existing language in AS 04.11.130 for brewery retail activities, sets biennial fee at \$1,250, and sets penalty for failure to comply with license terms. Requires new licensees to limit retail sales to 20% of total volume sold in Alaska after 8 years; exempts currently operating brewery licensees with retail operations from this requirement.

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CHAIR COSTELLO asked the rationale for a transition period of eight years.

MS. BRAWLEY said a business needs to build a market and make the case to a retailer to carry the product. This would give time for that. The three-tier system says manufacturers should not be selling directly to the public. This recognizes that after a certain point, manufacturers should be participating in the three-tier system.

CHAIR COSTELLO asked if it's a permanent exemption.

MS. BRAWLEY explained that anybody currently operating or in the process of applying for a license as of the effective date of the bill would be exempt. They in theory could sell 100 percent of the product in the retail space, consistent with what is allowed now.

CHAIR COSTELLO said that seems to set up an unfair environment.

MS. BRAWLEY said this license type had lots of discussion and different stakeholders have different views. Manufacturers want

to showcase their product, but it does undermine the intent of the three-tier system to prevent monopolies. The rationale was to find a balance because some businesses are operating now and have set up their business model accordingly.

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SENATOR GARDNER asked if the eight years starts when sales start or when businesses get their licenses and start brewing or distilling.

MS. BRAWLEY said the clock would start when they start operating their license, either January 1 or whenever they were issued the license.

**AS 04.09.330.** Distillery retail license. Creates new license type based on existing language in AS 04.11.170 for distillery retail activities, sets biennial fee at \$1,250, and sets penalty for failure to comply with license terms. Requires new licensees to limit retail sales to 20% of total volume sold in Alaska after 8 years; exempts currently operating distillery licensees with retail operations from this requirement. It defines per person per day limits for sale. That includes on and of site consumption.

MS. BRAWLEY said each of the license types has a rough alcohol equivalent of the amount of product they can sell per customer per day.

CHAIR COSTELLO asked if she had that information in a chart.

MS. BRAWLEY said it's tab 4 in the report.

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At ease.

[2:14:11 PM](#)

CHAIR COSTELLO reconvened the meeting.

MS. BRAWLEY said it's in the PowerPoint presentation, the report, and the bill. For onsite consumption, a brewery retail license can serve 36 ounces of beer per customer per day or 18 ounces of sake. Alcohol product types are defined by how they are made and what products they are made from. Sake is brewed. Cider is considered a wine. Rough alcohol equivalent amounts are provided to recognize that distilled products have a higher alcohol content than beer, for example.

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SENATOR MICCICHE asked her to talk about how consumption limits are different than current statute and regulations.

MS. BRAWLEY said for on-site consumption, the current limit is 36 ounces of beer, sake is not stated in law now, wine has no defined limit, cider is not stated but would be 36 ounces, the same as beer, and three ounces of distilled spirits is in current law.

CHAIR COSTELLO asked how these amounts compare to other states.

MS. BRAWLEY offered to follow up with the information.

MS. BRAWLEY said for off-site consumption, the amounts are roughly the same as current law. For the brewery license, now they can sell 5 gallons of beer, and 5.167 gallons is proposed, which is more of an industry standard. Sake, wine, and spirits are sold in bottles defined by the liter. The proposal is 9 liters of sake, wine, or mead, the equivalent of one case. Currently they are allowed to sell 5 gallons, but that is not a typical amount. The proposal is 5.167 gallons of cider and 3.75 liters of spirits, which is consistent with current law.

**AS 04.09.340.** Beverage dispensary tourism license. Relocates license from AS 04.11.400(d), maintains biennial fee at \$2,500, and sets penalty for unauthorized beverage dispensary activity. Other language in AS 04.11.400(d) relocated to Hotel or Motel Endorsement.

**AS 04.09.350.** Seasonal restaurant or eating place license. Creates new license type, sets biennial license fee at \$1,250, defines which communities can qualify for having this license type, sets out formula for determining number of allowed licenses per community, and sets penalty for failure to comply with license terms.

MS. BRAWLEY said the seasonal license would be equivalent to the regular restaurant license, but it would be up to six months of the year and available to communities with populations under 20,000. This is a response to interest in smaller communities in providing more opportunities for tourists. It has a formula for determining how many licenses to allow per community.

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CHAIR COSTELLO asked if there are limitations on the number of licenses for brewery, winery, and distillery retail licenses.

MS. BRAWLEY said those are known as population limits and they are in AS 4.11.400.

**AS 04.09.360.** Winery direct shipment license. Creates new license type authorizing direct to consumer (including online) sales of wine for in-state or out-of-state winery, sets biennial license fee at \$200, directs the board to develop an application form specifically for this license, and sets penalty for failure to comply with license terms.

**AS 04.09.370.** Unlicensed retail sale. Relocates existing unlicensed retail sale from 04.11.010 and maintains penalty.

**AS 04.09.380.** Unlicensed retail sale in a local option area. Relocates existing unlicensed retail sale in a local option area from 04.11.010 and maintains penalty.

MS. BRAWLEY said that for Article 4, endorsements are a new concept in Alaska statutes for alcohol licenses. Endorsements are seen in other businesses, such as commercial driver's licenses. It is an add-on to a license. It cannot be exercised by itself. It allows for a larger physical presence, things like another room or golf course, or would allow additional activities not allowed under the base license.

#### **Article 5. Endorsements.**

**AS 04.09.400.** Types of endorsements. Defines endorsements, clarifies that endorsements must be exercised with a license.

**AS 04.09.410.** Manufacturer sampling endorsement. Creates new endorsement for onsite sampling based on existing language from manufacturing licenses, defines per person per day volume limits by product type, sets biennial fee at \$200, sets penalties for unendorsed sampling and endorsement noncompliance.

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SENATOR GARDNER said she would think brewery, winery, and distillery are different kinds of manufacturers.

MS. BRAWLEY said the bill addresses the types of license. This takes care of them with one endorsement.

SENATOR GARDNER clarified that if someone paid the biennial fee for a license they would want to pay the \$200 for an endorsement for retail, on-site sampling.

MS. BRAWLEY agreed. Part of the purpose of endorsements is to offer options to businesses. It also gives the ABC Board flexibility in dealing with noncompliance. Rather than suspending the entire license if the issue is sampling, the board can choose to suspend the endorsement.

**AS 04.09.420.** Multiple fixed counter endorsement. Creates new endorsement for multiple fixed counters with language relocated from duplicate license section in AS 04.11.090, sets biennial fee at \$200, sets initial application fee per counter, sets penalties for endorsement noncompliance and unendorsed service.

CHAIR COSTELLO commented that it's defined by the counter where the product is being sold, not necessarily whether someone has to enter a new room. She asked if an owner currently has to buy several licenses for the same property.

MS. BRAWLEY said yes. For example, Chilkoot Charlie's in Anchorage has one building with multiple rooms. Each room designated as licensed premises must have a fixed counter with fixed plumbing.

SENATOR GARDNER said when the convention center in Juneau has an event, it has multiple places to buy drinks. She asked if they need an endorsement for each location.

MS. BRAWLEY said she cannot speak to that specific situation. The duplicate license system is specific to beverage dispensary licenses.

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SENATOR MICCICHE explained it's a catered event on an unlicensed premise.

CHAIR COSTELLO asked if the response to the endorsement concept from the stakeholders was positive.

MS. BRAWLEY said yes. She continued the sectional for SB 76.

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**AS 04.09.430.** Hotel or motel endorsement. Creates new endorsement using some language relocated from AS 04.11.090, sets biennial fee at \$200, sets penalties for unendorsed hotel or motel service and endorsement noncompliance.

**AS 04.09.440.** Large resort endorsement. Creates new endorsement using some language relocated from AS 04.11.090, defines a large resort, sets biennial fee at \$200, sets penalties for unendorsed large resort service and endorsement noncompliance.

**AS 04.09.450.** Restaurant endorsement. Creates new endorsement using language from the Restaurant Designation Permit currently in regulation, sets biennial fee at \$200, sets penalties for unendorsed restaurant service and endorsement noncompliance.

[2:30:26 PM](#)

SENATOR MICCICHE asked her to explain that some of these were licenses before and are now endorsements. Only a couple of endorsements are new.

MS. BRAWLEY explained that the sampling endorsement is part of the current manufacturers licenses. Multiple fixed counters are in the current beverage dispensary statute as a duplicate license. The language from hotel and motel and part of the language from large resort endorsement are both in the beverage dispensary tourism license. The restaurant endorsement is currently in regulation. She continued the sectional.

**AS 04.09.460.** Package store shipping endorsement. Creates new endorsement by relocating language from AS 04.11.150, allows licensees to accept online orders, sets biennial fee at \$200, sets penalties for unendorsed package store shipping and endorsement noncompliance.

**AS 04.09.470.** Package store delivery endorsement. Creates new endorsement by relocating language from AS 04.11.150, sets biennial fee at \$200, sets penalties

for unendorsed package store delivery and endorsement noncompliance.

**AS 04.09.480.** Package store repackaging endorsement. Creates new endorsement by relocating language from regulation, sets biennial fee at \$200, sets penalties for unendorsed package store repackaging and endorsement noncompliance.

**AS 04.09.490.** Package store sampling endorsement. Creates new endorsement, defines per person per day volume limits by product type, sets biennial fee at \$200, sets penalties for unendorsed package store sampling and endorsement noncompliance.

**AS 04.09.500.** Bowling alley endorsement. Creates new endorsement using language from AS 04.11.090, sets biennial fee at \$200, sets penalties for unendorsed bowling alley service and endorsement noncompliance.

**AS 04.09.510.** Golf course endorsement. Creates new endorsement using language from AS 04.11.115, sets biennial fee at \$200, sets penalties for unendorsed golf course service and endorsement noncompliance.

**AS 04.09.520.** Brewery repackaging endorsement. Creates new endorsement by relocating language from AS 04.11.135, limits availability to licensees currently operating brewpubs, sets biennial fee at \$200, sets penalties for unendorsed golf course service and endorsement noncompliance.

#### **Article 6. Permits.**

**AS 04.09.600.** Types of permits. Defines permits, establishes application process, requires servers to have an alcohol server education card, and sets daily fee for all permit types at least \$50 per event day.

**AS 04.09.610.** Beverage dispensary caterer's permit. Relocates caterer's permit from 04.11.230 and renames.

**AS 04.09.620.** Restaurant caterer's dining permit. Relocates permit from regulations, renames to allow service of meals other than dinner, and requires meal services as part of food to alcohol ratio sales requirement.

**AS 04.09.630.** Club caterer's permit. Relocates permit from regulations and simplifies existing language for application process.

**AS 04.09.640.** Art exhibit permit. Relocates permit from regulations, removes option for annual \$100 fee, and simplifies existing language.

**AS 04.09.650.** Nonprofit organization event permit. Relocates special events permit from 04.11.240 and renames, simplifies existing language for application process.

**AS 04.09.660.** Alcoholic beverage auction permit. Relocates wine auction permit from regulations and renames to allow all alcoholic beverages to be auctioned.

**AS 04.09.670.** Tasting event permit. Creates new permit, allows a beverage dispensary license holder to partner with a manufacturer retail licensee or package store to host a tasting event on the partner's location and serving the partner's product inventory, sets a time limit and food requirement, and limits to six events per partnering license per year.

**AS 04.09.680.** Inventory resale permit. Relocates retail stock sale license from 04.11.200 and renames.

**AS 04.09.690.** Conditional contractors permit. Relocates permit from 04.11.250.

**AS 04.09.700.** Failure to comply with a permit requirement. Sets the penalties for failure to comply with permit requirements.

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## **Chapter 11. Licensing.**

**Section 10** - License or permit required; presumption concerning possession for sale.

**AS 04.11.010(a)** relocates penalties for unlicensed manufacture, sale and offering for sale. Unlicensed sale is addressed in new sections in proposed AS 04.09.

**Section 11 AS 04.11.010(b)** adds reference to the package store shipping license.

**Section 12 AS 04.11.010(c)** adds references to unlicensed sale, corrects term "half-keg" and adds barter to local option violation.

**Section 13 - Purchase from nonlicensee prohibited**

**AS 04.11.015** prohibits barter for alcoholic beverages and adds penalty with \$250 fine.

**Section 14 - Board approval of transfer AS 04.11.040**  
**adds penalty**

**Section 15 - Reports required of limited liability organizations**

**AS 04.11.045** adds penalty for failure to report a change in member interest or manager with \$250 fine.

**Section 16 - Reports required of corporations**

**AS 04.11.050** adds penalty for failure to report a stock transfer or change of officers or board members with \$250 fine.

**Section 17 - Reports required of partnerships**

**AS 04.11.055** adds penalty for failure to report a transfer of partnership interest or change of general partner with \$250 fine.

**Section 18 - Nonresident distiller, brewer, winery, or wholesaler**

**AS 04.11.060** amends reference to general wholesale license.

**Section 19**

**AS 04.11.060** maintains current penalty for violating the section.

**Section 20 - Application for new license, endorsement, or permit**

**AS 04.11.260** adds endorsement, requires phone number and e-mail of applicant, requires annotated premises drawing and adds license references with individual application requirements.

#### **Section 21**

**AS 04.11.260** exempts winery direct shipment license from application process for other license types.

#### **Section 22 - Application for renewal of license or permit**

**AS 04.11.270** adds endorsements, adds conditional contractor's permit, edits reference, and allows renewal applications to be sent via electronic mail.

#### **Section 23**

**AS 04.11.270** exempts winery direct shipment license from renewal process.

#### **Section 24 - Application for transfer of a license to another person**

**AS 04.11.280** adds endorsements as transferrable with a license.

[2:43:27 PM](#)

CHAIR COSTELLO said her constituents are concerned that they can no longer have a glass of wine or beer with their pizza at a certain restaurant as they have in the past. They were told it is because the owner is in the process of transferring license ownership. She asked if this would make that process easier. She noted that Erika McConnell, Division Director of the Alcohol and Marijuana Control Office, was available on line.

MS. BRAWLEY deferred to Ms. McConnell.

MS. BRAWLEY continued the sectional for SB 76.

#### **Section 25 - Criminal justice information and records**

**AS 04.11.295(a)** adds issuance and renewal for conditional contractor's permit.

**Section 26**

**AS 04.11.295(b)(1)** adds reference to conditional contractor's permit.

**Section 27 - Notice of application**

**AS 04.11.310** exempts winery direct shipment license from notice requirements.

**Section 28 - False statement on application.**

**AS 04.11.315** relocates AS 04.16.210 and defines crime of making false statements on an application to as perjury, defined in AS 11.56.200.

**Section 29 - Denial of new licenses and permits**

**AS 04.11.320(a)** adds references to endorsements.

**Section 30 - Denial of license or permit renewal**

**AS 04.11.330(a)** changes 30 eight-hour day minimum operating requirement to 240 hours and removes reference to public convenience license. [effective immediately]

**AS 04.11.315** relocates AS 04.16.210 and defines crime of making false statements on an application to as perjury, defined in AS 11.56.200.

**Section 31**

**AS 04.11.330(a)** duplicate section adds endorsement, adds reference to beverage dispensary tourism license, and adds reference to seasonal restaurant or eating place tourism license. [effective with other licensing changes, 1/1/2020]

**Section 32**

**AS 04.11.330(d)** exempts common carrier dispensary licenses and renames reference to recreational site license.

**Section 33**

AS 04.11.330 exempts winery direct shipment license.

**Section 34 - Denial of request for relocation**

AS 04.11.340 removes reference to public convenience license. [effective immediately]

**Section 35**

AS 04.11.340 duplicate section, adds reference to 04.11.400(k) and removes reference to 04.11.400(d). [effective with other licensing changes, 1/1/2020]

**Section 36 - Denial of transfer of a license to another person.**

AS 04.11.360 removes public convenience license reference. [effective immediately]

**Section 37** AS 04.11.360 duplicate section removes reference to brewpub license. [effective with other licensing changes, 1/1/2020]

**Section 38 - Licensed premises in multi-unit residential housing developments owned or financed by the Alaska Housing Finance Corporation**

AS 04.11.365 adds reference to restaurant endorsement.  
Section 39 - Suspension and revocation of licenses and permits

AS 04.11.370 adds endorsements.

**Section 40 - Board imposed conditions or restrictions**

AS 04.11.395 section title change and adds reference to endorsements

[2:47:20 PM](#)

SENATOR GARDNER asked why page 10 of the sectional has different effective dates.

MS. BRAWLEY said many of the effective immediately provisions have to do with the removal of the public convenience license process. She said she could speak to that now or when it came up later.

SENATOR GARDNER said she would wait.

**Section 41**

**AS 04.11.395** allows the director to impose conditions or restrictions on any permit other than a conditional contractor's permit.

**Section 42 - Population limitations.**

**AS 04.11.400(a)** adds reference to 04.11.405. [effective immediately]

MS. BRAWLEY said several sections have to do with population limits. This is where the number of licenses per community is defined. Generally speaking, a community is allowed to have a certain number of licenses based on their full-year, resident population. There is a formula for how that population is determined. Generally, one license is allowed for every 3,000 residents. Some licenses designed to serve tourists are not subject to this.

CHAIR COSTELLO asked how many distilleries would be allowed in Anchorage.

MS. BRAWLEY said now there are 92 or 93 of that license type. The population limit is not proposed to change. Most licenses would still be 1 to 3,000. Restaurants are 1 to 1,500. For distilleries, part of the proposal is to remove the population limits on licenses that do not directly serve the public. That would be wholesale licenses and manufacturers licenses, just production licenses. The proposal for the distillery, brewery, and winery retail licenses is that each would be subject to a 1 to 9,000 population limit. The rationale is that they are difference license types, but they are functionally the same. They are producing and selling on site. Taken all together, the limit is still 1 to 3,000.

MS. BRAWLEY continued the sectional for SB 76.

**Section 43**

**AS 04.11.400(a)** duplicate section, edits subsection reference, defines five-mile radius outside cities, adds new population limit for manufacturer retail

licenses, adds licenses exempt from population limits and exempts local option populations from calculations. [effective with other licensing changes, 1/1/2020]

**Section 44**

**AS 04.11.400(i)** lists licenses exempt from population limits.

**Section 45**

**AS 04.11.400(k)** edits reference to beverage dispensary license, allows relocation of a package store, lowers borough threshold population, restricts number of licenses eligible for transfer to those exceeding population limits and defines number of allowed transfers by city, not borough.

**Section 46 - Petition for additional restaurant or eating place licenses for certain local governing bodies**

**AS 04.11.405** adds new section that gives certain local governing bodies the ability to petition the board for additional restaurant or eating place licenses allocated to their jurisdiction. [effective immediately]

MS. BRAWLEY said Section 46 is a new statute that proposes allowing a city to petition for additional restaurant or eating place licenses. This is part of the proposal to remove public convenience. Public convenience in statute says that someone can create an appeal to get a restaurant license. They go to residents in their area and ask if they support or do not object to the license. When they have enough signatures, they can go to the ABC Board and apply for a restaurant license and the board may issue that license outside of population limits if it is deemed to support public convenience. There is no definition for public convenience. Some communities have used this because it is helpful for economic development to have more restaurant licenses.

MS. BRAWLEY said the process of getting a public convenience license and the process for AMCO [Alcohol and Marijuana Control Office] reviewing those signatures and

determining whether they are valid has been onerous and can result in inconsistent issuing of licenses. The stakeholder group talked in great detail about this process and the proposal is to repeal the section on public convenience but have some replacements. All current licensees that have public convenience licenses will be converted to restaurants. Public convenience licenses are not transferable now, and this would give them the ability to transfer in the future by selling to another owner or moving to a new location in that community. The reasonable restaurant tourism license is a replacement for those smaller communities. Smaller communities can petition the ABC Board for more restaurant licenses.

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SENATOR GARDNER said currently, if she wants to open a restaurant and serve wine and beer, she can survey the neighborhood, go to the assembly, and if they approve it goes to the board for a license. The change is that the community or the assembly asks for new licenses. Then if she has a new restaurant she petitions the assembly to get a license.

MS. BRAWLEY replied you would not petition the assembly for that. It would just mean that five more licenses are available, for instance, in that community. The applicant would not need to petition the city. The applicant would just apply.

She said the purpose of the sections that look like duplicates is that unlike most of the bill that would take a fair amount of time and regulation development and implementation, the repeal of public convenience would be done immediately because this has been an implementation issue over several years. The replacements for that mechanism would be put into place immediately.

#### **Section 47 - 48**

AS 04.11.405(a)-(b) duplicate sections amending cross-references to restaurant and eating place license. [effective with other licensing changes, 1/1/2020]

#### **Section 49 - Person and location**

AS 04.11.430 updates definition of corporation to match Title 10 and requires additional information from licensees.

**Section 50 - Prohibited financial interest**

**AS 04.11.450(b)** retains restrictions for wholesale licensees from owning a manufacturing tier license or retail tier license, removes restriction on small manufacturers owning retail tier licenses.

MS. BRAWLEY said Section 50 is one of the foundational parts of the three-tier system, but it is becoming more common for manufacturers to have retail operations. This removes restrictions on small manufacturers so anyone operating below a certain production limit defined in the bill could own a retail license.

**Section 51**

**AS 04.11.450(e)** adds reference to limited wholesale license to restriction on acting as an employee or agent of a manufacturer tier license or retail tier license and adds the new statutory license references.

CHAIR COSTELLO suggested that since individuals were waiting to testify that Ms. Brawley find a place to stop today.

[3:02:32 PM](#)

SENATOR MICCICHE suggested it might make sense to get to Chapter 16.

MS. BRAWLEY continued the sectional for SB 76.

**Section 52**

**AS 04.11.450** adds new section that restricts manufacturers above certain annual production from owning a wholesale tier license or retail tier license.

**Section 53 - Prior public approval AS 04.11.460 exempts winery direct shipment license.**

**Section 54 - 56**

**AS 04.11.470 - AS 04.11.480** adds endorsements to allowable objections and protest.

**Section 58 - 60 - Local options**

**AS 04.11.491** renumbers statutory references to license types and adds outdoor recreation lodge as one of license types that can be exempted from restrictions on sale in local option elections.

**Section 61**

**AS 04.11.491(g)** edits reference to package store license and removes the ability for local option areas to opt out of applying C felonies to furnishing or delivery of alcoholic beverages to persons under the age of 21 in a local option area because the need is eliminated in section 92.

**Section 62 - Notice to local governing body**

**AS 04.11.520** clarifies language for notice process and adds endorsements.

**Section 63 - Suspension and revocation based on acts of employees**

**AS 04.11.535(a)** adds endorsements, reference to permittee as applicable and clarifying language.

**Section 64 - 67**

**AS 04.11.537 - AS 04.11.570** adds endorsements or conditional contractors permit to application, renewal and expiration, appeals, refunds and forfeiture of fees procedures.

**Section 68 - Surrender or destruction of a license**

**AS 04.11.580(b)** changes language to "not later than".

**Section 69 - Disposition of money**

**AS 04.11.590(a)** adds reference to endorsements and permits.

**Section 70 - Refund to municipalities**

**AS 04.11.610** changes "refund" to "allocation" throughout and specifies content of reporting by municipalities for how license fee funds were used for alcohol-related education and enforcement.

**Section 71 - Accessibility of license and licensed premises to inspection**

AS 04.11.630(b) adds endorsements, permits and includes premises during a permitted event.

**Section 72 - Duration of licenses and permits**

AS 04.11.680 adds endorsements, conditional contractors permit, states that permits must be issued for a specified time, and removes fee reduction for seasonal licenses.

[3:06:07 PM](#)

CHAIR COSTELLO thanked Ms. Brawley and turned to public testimony.

[3:06:41 PM](#)

RYAN LINDSAY, Owner and Brewer, Devil's Club Brewing, Juneau, Alaska, suggested changes to SB 76. He said he and Mr. Wood came to talk about how unrealistic the 80:20 production split is. If it were a stipulation in law today, Devil's Club Brewing could not open. He said that is about a 50 percent growth in production every year, which is almost physically impossible for a small craft brewer.

[3:07:35 PM](#)

EVAN WOOD, Owner and Brewer, Devil's Club Brewing, Juneau, Alaska, suggested changes to SB 76. He said he and Mr. Lindsay followed their dream of putting a small brewery in their hometown. If the proposed regulation with the 80 percent distribution by year eight for the retail license was part of Title 4, they would not have attempted to open a brewery in Alaska. It wouldn't work. The only way that a small brewery can operate is through the margin of retail sales. Requiring a brewery, even after eight years, to stop that will not allow breweries to operate. In the state now, he can guarantee that less than five breweries would qualify under the 80:20 split as currently drafted.

MR. WOOD said he realizes that Devil's Club Brewery would be exempt under the current language, but he worries that it would be a detriment to a booming national industry in this state. Over the past year, Amalga Distillery, Barnaby Brewing Company, and Devil's Club Brewing Company have opened in Juneau. Together these businesses have invested over \$4 million in the downtown

economy in renovations. None of those businesses would be able to open or operate if they were expected to distribute 80 percent of their volume. It is impossible.

CHAIR COSTELLO said the members were told that this was a consensus bill and everyone was on board. She asked if that wasn't the case or were brewers not a part of that stakeholder process.

MR. WOOD said he couldn't speak on behalf of the Brewers Guild, but he believes the guild opposes the 80 percent split.

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SENATOR GARDNER asked what a realistic adjustment would be.

MR. LINDSAY said he didn't believe any forcing of offsite production is realistic. There is already a long list of things that separate craft breweries and distilleries from bars and that alone is a large hurdle. Any mandatory distribution would be very detrimental to small craft breweries.

SENATOR GARDNER asked if it was never their plan to wholesale a significant portion of their product.

MR. WOOD said they do plan to wholesale a portion of their sales. He didn't recall the numbers they planned on by year five, but they did not plan eight years ahead. Even at year five it made sense to focus on on-premise sales in downtown Juneau. They would not have opened in downtown if they couldn't do on-premise sales because the rent is higher.

CHAIR COSTELLO asked anyone interested to provide testimony in writing.

[3:12:15 PM](#)

BRANDON HOWARD, Cofounder, Amalga Distillery, Juneau, Alaska, suggested changes to SB 76. He said he supports SB 76 overall, but agrees with the fellows from the Devil's Club Brewing Company. The 80:20 split is unachievable. That limit was shot from the hip. There is no research to support it and will deliver the craft industry dead on arrival. In 2017 craft production was the biggest manufacturing industry after plastics and ahead of manufacturing from mining and oil extraction equipment. In the last five years it has doubled the number of jobs it has created. Craft breweries and distilleries are economic powerhouses. Most states are choosing to support and stimulate this growth. Aspects of this bill would stifle their

economic growth and development and young people from investing in their communities and starting small businesses.

[3:14:56 PM](#)

RYAN MAKINSTER, Executive Director, Brewers Guild of Alaska, Anchorage, Alaska, suggested changes to SB 76. He said they support the bill overall but not the 80:20 rule. They have never agreed with that rule and have been up front with that during the process. They have been working with the sponsor to find compromise, so they have not come out in opposition of the bill as an industry. They had hoped for a compromise before this time. It would be impossible to reach that number. Almost all their members would not be in operation if they had to hit that number. If this goes through, the current membership is not affected. They all feel it is more important to grow the industry than protect their own businesses. The bill is designed to limit breweries to those existing today. The retail tasting room is an important aspect to get the businesses off the ground.

MR. MAKINSTER said a wholesaler is necessary to meet the 80:20 rule. That basically says that their brewers, after eight years, will have to be at the whim of another private businessowner who could be a competitor. Alaska has only three distributors. The efforts of one or two distributors may mean that someone's product may not be picked up. Wholesalers have a group of clients and a new brewery may not fit in the product list. The breweries would need to shut their doors. There are other concerns along that line. They operated in good faith to get to the level of compromise. They agreed with the one in 9,000 instead of one in 3,000 with the understanding that the craft brewing industry would continue to be able to operate as they do. They have prohibitions that BDL [beverage dispensary license] owners do not, no entertainment, no gaming, no stools at the bar, and limited hours and limited product they can sell. They are not directly competing with BDL owners.

[3:19:45 PM](#)

JEREMY PRICE, State Director, Americans for Prosperity, Anchorage, Alaska, suggested changes to SB 76. He said he applauds the efforts to streamline the industry and eliminate redundancies in terms of licensing requirements. Their main objection is the 80:20 rule. The committee should get out of the practice of limiting entry. Limiting entry is bad for competition and innovation. The 1 in 9,000 population limit is completely arbitrary and unnecessary. The idea that more licenses, more bars, more tasting rooms, more manufacturers lead

to more negative fallout is untrue. Competition creates better products and services to the customer. They have serious concerns with those two measures.

[3:21:36 PM](#)

CHAIR COSTELLO found no further testimony.

SENATOR MICCICHE said it's no surprise that there is an issue with the 80:20 rule. He noted that he referenced it during the first hearing.

CHAIR COSTELLO held SB 76 in committee with public testimony open.

[3:22:34 PM](#)

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 3:22 p.m.