

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

March 22, 2018

2:03 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

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)
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)
03/20/18 (S) Heard & Held
03/20/18 (S) MINUTE (L&C)
03/22/18 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

ANNA BRAWLEY, Consultant
Agnew Beck Consulting
Anchorage, Alaska

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

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

POSITION STATEMENT: Provided information on SB 76.

LEEANN THOMAS, member
Alaska Cabaret, Hotel, Restaurant and Retailers Association
Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 76.

DANIEL CHEYETTE, Director
Bristol Bay Native Corporation
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 76.

IDALIA FRAZIER, representing self
Homer, Alaska

POSITION STATEMENT: Testified in support of SB 76.

MATT JONES, co-owner
Moose's Tooth, Bear Tooth, and Broken Tooth Brewing Company
Anchorage, Alaska

POSITION STATEMENT: Testified in support of 76.

HILLARY SCHAEFER, representing self
Fairbanks, Alaska

POSITION STATEMENT: Suggested changes to SB 76.

JEFF JESSEE, representing self
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 76.

ANGELA COX, Vice President
External Affairs
Rasmuson Foundation
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 76.

RICHARD M. ROSSIM, General Counsel
Alyeska Resort
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 76.

DYLAN DICK, representing self
Kodiak, 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 on SB 76.

FREDRICK KASNICK, representing self
Juneau, Alaska

POSITION STATEMENT: Suggested changes to SB 76.

ACTION NARRATIVE

[2:03:17 PM](#)

CHAIR MIA COSTELLO called the Senate Labor and Commerce Standing Committee meeting to order at 2:03 p.m. Present at the call to order were Senators Stevens, Meyer, Micciche, Gardner, and Chair Costello.

SB 76-ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG

[2:03:40 PM](#)

CHAIR COSTELLO announced the consideration of SB 76.

[2:05:03 PM](#)

At ease

[2:05:29 PM](#)

CHAIR COSTELLO reconvened the meeting and asked Anna Brawley to finish walking through the sectional analysis.

[2:05:46 PM](#)

ANNA BRAWLEY, Consultant, Agnew Beck Consulting, Anchorage, Alaska, stated that she would start on page 20 of the sectional for SB 76.

Repealers, Transitions, Applicability, Court Rule Amendment, and Effective Dates.

Pages 109-114

Section 149

Amends court rule 17 by adding a statutory reference.

Section 150

Repeals the section reference with the effective date of January 1, 2020.

Section 151

Includes the sections for immediate repeal.

Section 152

Repeals additional sections with an effective date of January 1, 2028.

Section 153

Includes several sections for repeal effective January 1, 2020.

Section 154 - Uncodified law

Applicability. It states that offenses committed on, or after the effective date applicable to the new penalty.

Section 155 - Transition

Covers conversion of applications and licenses. Provides that the board shall convert all necessary licenses and applications within 90 days.

Section 156 - Transition

Creates a seasonal restaurant or eating place license. Converts applications for restaurant or eating place licenses to seasonal restaurant or eating place license application if the establishment serves beer and wine for a period not exceeding six months.

Section 157 - Transition

Regulations. Directs the Department and the Board to create necessary regulations to adopt the bill.

Section 158

Includes an immediate effective date clause for portions of the act.

Section 159

Includes a January 1, 2020 effective date for the remainder of the act.

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CHAIR COSTELLO asked how the transition in Section 156 is affected by the population requirements, if it falls under that provision.

MS. BRAWLEY advised that the purpose of including this in Transition is this is a new license type that some existing restaurant licenses may wish to take advantage of. It is not a license under the population limits defined by permanent residents, but it does include a formula to determine the number of licenses available per community.

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At ease

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CHAIR COSTELLO reconvened the meeting and asked Ms. Brawley to walk through the PowerPoint.

MS. BRAWLEY advised that the presentation is an overview of Chapter 9: bill section 9; Chapter 11: bill sections 10-72; and Transition: bill sections 149-159. She reminded members that other bill sections were covered in prior hearings.

SENATOR GARDNER referenced the note at the bottom of slide 3, "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." She asked if the Local Option recommendations aren't included in SB 76 because the stakeholders didn't reach agreement or because certain issues were particularly thorny.

MS. BRAWLEY said it wasn't a lack of agreement. The Title 4 review group focused on law enforcement and technical issues in the statute that affected Local Option. Through the course of discussion, they identified other, larger issues to review further, such as the number of Local Options and the penalties associated with Local Option. The group did not have sufficient representation, including from rural communities that have Local Options, to tackle some of the larger issues that were identified. A future goal is to dive further into those issues.

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MS. BRAWLEY reviewed the key concepts in Title 4.

- The 3-tier system: Separates manufacturers, wholesalers and retailers to prevent monopolies.
- Population limits: defines the number of license types available in each community, based on the year-round population.
- License transfers: means selling ownership in the business or moving the physical location within the same community it was issued.
- Proposed new concept: Endorsements are license add-ons that allow an expanded physical presence or expanded activities on the license.

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MS. BRAWLEY displayed slide 5 that illustrates that alcohol must be manufactured, distributed, and sold to the public by different businesses. This three-tier system was established after prohibition and was designed to prevent monopolies. The laws have changed over the years, but many of the main tenants of Title 4 are related to the three-tier system.

MS. BRAWLEY advised that population limits are an important concept to understand in Title 4. It is what is known as a limited entry system for most licenses. That means that a certain number of licenses are available in each community and that is determined by the full-year resident population. For most licenses it is one per 3,000 people and for restaurants it is one license per 1,500 people.

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CHAIR COSTELLO recalled that testimony during a previous meeting indicated that the limit for breweries is one license per 9,000 people. She asked for an explanation of that provision.

MS. BRAWLEY said the proposed population limit would be for manufacturer/retail licenses for brewery retail, winery retail, and distillery retail. These would be a higher population limit because each of those product types operating in the same community could result in a great number of alcohol outlets. The proposal is to further limit those in recognition of the new license types and that the population limits are defined by license type.

She displayed slide 7 that illustrates the unintended consequences of having a lot of license types. Even though there is a population limit for each license type, she said this shows it is possible to have a very high density of alcohol outlets overall.

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SENATOR GARDNER asked if SB 76 greatly reduces the potential number of licenses in communities.

MS. BRAWLEY said the goal is to manage the number of license types going forward, but not necessarily to reduce the number of existing licenses because they realize those are operating businesses. It is looking to the future.

CHAIR COSTELLO offered her understanding that the presentation addresses the current Title 4.

SENATOR MICCICHE asked Ms. Brawley to identify the differences between current law and new proposals because there has been some confusion.

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MS. BRAWLEY displayed slide 8, *Population Limits: Current Title 4, AS 04.11.400*. She explained that it is intended to illustrate current law in Title 4. It demonstrates that licenses are defined by community. In places that have cities within a borough, a separate number of license types are available in a city versus a borough. Some license types can be issued outside population limits, generally to serve tourists. She clarified that SB 76 does not propose to change this general mechanism.

MS. BRAWLEY turned to slide 9, P-1. Population Limits Apply to Retail Licenses Only. She said a proposal in SB 76 is to apply population limits to retail-tier licenses only. Licenses focused on tourism and winery direct shipment licenses are excluded. The purpose is due to the public health implications of the number of alcohol outlets focused on service to the public rather than business activity like wholesale.

MS. BRAWLEY reviewed the transfer of ownership or location of a license under current Title 4. She explained that most license types can be transferred to a new owner and/or to a new location within the same community the license was issued.

MS. BRAWLEY explained that the proposed change in SB 76 allows all licenses to be transferred to a new owner. Any existing restrictions of licenses for transfer of location would still apply. In part this is to help family-owned businesses or those that want to do an internal transfer of ownership to not need to go through the process of applying for a new license. She noted that some license types currently are not transferable by owner or location.

MS. BRAWLEY reviewed the license application process in the current Title 4. She explained that the licenses are valid for two years and AMCO [Alcohol and Marijuana Control Office] sends renewal notices to existing licensees. The process includes sending notice of the application to the local governing body and publishing notice. Local governments can protest the license or recommend conditions and individuals can submit objection to a license. The ABC [Alcoholic Beverage Control] Board either approves or denies the license application.

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CHAIR COSTELLO asked Ms. McConnell if SB 76 will help speed up the time-consuming process of transferring a license. She noted that businesses in her district have experienced interruptions due to the current transferring process.

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ERIKA MCCONNELL, Director, Alcohol and Marijuana Control Office (AMCO), Anchorage, Alaska, said she didn't recall that the bill made significant changes to the process of transferring a license. The intent is not to interrupt service, but there are steps that must be taken in a certain order. She explained that a management agreement, which is addressed in regulation, can help manage the gap that occurs when the business changes hands before the license is transferred.

SENATOR GARDNER asked how long the process to transfer a license might take, on average.

MS. MCCONNEL said AMCO tells people to plan on three to six months. Three weeks of advertising is required and there is uncertainty based on when the application is submitted relative to when the board next meets, which is about five times a year.

CHAIR COSTELLO relayed the constituent frustration of going to an established restaurant that has traditionally served beer and wine only to learn that it is unavailable. She said she would be open to a conversation if there is a way to address that issue.

CHAIR COSTELLO asked Ms. Brawley to continue.

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MS. BRAWLEY directed attention to slide 13, *N-6. Improve the License, Endorsement and Permit Application Process:*

- Apply several technical changes to statutes for applications for a license, endorsement or permit.
- Examples:
 - Endorsement renewal part of license renewal
 - Required items in application process: labeled premises diagram, e-mail address for licensees
 - Simpler signature requirements for multiple owners and nonprofit organizations
 - Simpler operating requirements (number of hours) for licenses up for renewal

MS. BRAWLEY said SB 76 makes recommendations to make the application process smoother. One change is to allow the board to send electronic renewal applications.

MS. BRAWLEY said the committee previously reviewed endorsements in SB 76. Endorsements are added to existing licenses, giving businesses more flexibility in terms of physical premises and/or activities allowed on the license. Endorsements allow sampling on premises, service on a golf course, deliveries by package stores, etc.

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MS. BRAWLEY displayed slide 15, *R-7 Create Endorsements:*

- Create endorsements as add-ons to licenses in Title 4

- Endorsements must be issued with a license, renewed biannually with the license, and cannot be transferred to a new location
- Endorsements are not population limited
- Convert some existing sections or activities into endorsements; create new endorsements

MS. BRAWLEY said slide 16, *Proposed Changes to Licenses, Endorsements and Permits*, gives the overview of the reorganization of the license types, endorsements, and permits in Title 4:

SB 76, Section 9: proposed new Chapter 9 in Title 4

04.09.010: Types of Licenses

04.09.020 - .040: Manufacturing Tier Licenses

04.09.100 - .110: Wholesale Tier Licenses

04.09.200 - .360: Retail Tier Licenses

04.09.400: Definition of Endorsements

04.09.410 - .520: Types of Endorsements

04.09.600: Definition of Permits

04.09.610 - .690: Types of Permits

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MS. BRAWLEY said slides 17-19, *Alaska's Liquor License System: Proposed Changes in SB 76*, illustrates the three-tier system, which existing license types fit into that system, which proposed endorsement would apply to each license type, and whether these licenses are subject to population limits. Slide 17 shows the manufacturing/wholesale tier. Slide 18 shows the retail tier. Licenses proposed to be new in statute are highlighted. Slide 19 shows retail licenses that are exempt from population limits that mainly serve tourists and shows the three license types proposed for removal from Title 4 - brewpub, bottling works, and public convenience - that will be replaced by existing license types.

MS. BRAWLEY displayed the recommendations on slide 20, *M-1. Simplify Manufacturing Licenses*:

- Keep three manufacturing license types: Brewery, Winery, Distillery.
- Remove Bottling Works and Brewpub license types from statute.
- Convert existing Brewpub licensees and Bottling Works licensee to one of the three manufacturer types.

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MS. BRAWLEY said slide 21, *Breweries and Brewpubs: Current Title 4*, shows the difference between breweries and brewpubs. They look similar to the general public, but a brewery license has no production limit and limits retail activity. The brewpub is exercised with a retail bar or restaurant license and does have a limit on production and how much can be sold at wholesale.

MS. BRAWLEY said slide 22, *Proposed in SB 76: Conversion of Brewpubs*, illustrates how brewpubs will fit into the new system. Because they will have a brewery license, they will not have a production limit.

MS. BRAWLEY covered the recommendation on slide 23, *M-3. Small Manufacturers Allowed to Hold Retail Licenses*. She said this is with the exception of brewpubs and the retail activities in their licenses now. SB 76 proposes allowing manufacturers that produce under a certain amount defined in the bill to hold retail licenses:

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

MS. BRAWLEY said that slide 23, *Proposed in SB 76: Multiple Retail License Options for Manufacturers*, uses a brewery license as an example but the same system applies for wineries and distilleries. They would either be able to get the retail license, which is often known as a tasting room license, or another retail license, such as a bar, restaurant, or package store, any retail-tier license.

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CHAIR COSTELLO asked what REPL stood for in the slide.

MS. BRAWLEY answered restaurant or eating place.

MS. BRAWLEY said that the next recommendation, *M-2. Manufacturer Retail License + Manufacturer Sampling Endorsement*, is to take

existing retail activities and make them into a retail license specific for each product type:

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

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CHAIR COSTELLO said there is a grandfather provision on the 80:20. She asked if that will be covered in the presentation.

MS. BRAWLEY said it is called out in the bullet "existing licensees converted," but it doesn't specify that, yes, they would be grandfathered from the 80:20 rule.

MS. BRAWLEY said that slide 26, *Proposed in SB 76: Volume Limits for Free Samples from Manufacturers*, demonstrates the volume limits for free samples. Currently the ounce limit for free samples is not defined in statute. The proposed ounce limits are generally specific to the alcohol equivalent for each product type.

MS. BRAWLEY said slide 27, *Proposed in SB 76: Onsite Consumption Limits for Manufacturers, in Standard Product Units*, shows the proposed sales limits for on-site and off-site consumption. They are by product type and the license type. Most of the limits are the same as what is already defined in statute, except that currently the limit is 5 gallons for beer instead of 5.167 gallons for beer and cider. Also, wine currently has no on-site consumption limit.

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CHAIR COSTELLO said she previously asked for information on how these amounts compare to other states and if the 80:20 provision exists in other states.

MS. BRAWLEY said that research is ongoing. Preliminary research shows that some states have defined ounce limits for samples and others do not.

MS. BRAWLEY said that concludes the recommendations for manufacturers. Moving on to wholesalers, she pointed out that wholesalers have multiple types of fees that they are required

to pay in addition to the license fee. *W-1. Adjust Wholesale License Fees and Simplify Supplier Reporting* proposes to slightly reduce the annual business transaction fee for small businesses and retain the maximum fee for the largest businesses. Another proposal is to streamline one of the reporting requirements. Rather than requiring paperwork for every product line, they would report the total number of product lines and would pay a fee accordingly.

MS. BRAWLEY said the chart on slide 29, *Proposed Wholesale Fee Changes*, shows the current and proposed transaction fees.

MS. BRAWLEY said in reference to slide 30, *R-1. Multiple Licensed Premises with a Beverage Dispensary License*, currently duplicate licenses allow one business to have more than one room qualify as licensed premises. In most cases they are only allowed in the same contiguous building. There have been situations allowed beyond that, so the proposal defines that more clearly:

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

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MS. BRAWLEY noted that slide 31, *Proposed in SB 76: Options for Multiple Beverage Dispensary Locations*, illustrates the options.

MS. BRAWLEY reviewed the recommendations on slide 32, *N-3. Expand Package Store Shipping Order Options*:

- Allow orders under a Package Store Shipping endorsement to be received in formats other than a written order from a known customer.
- This allows online ordering from in-state package stores, including customers in Local Option areas.
- Existing requirements in AS 04.11.150(a) for ID, shipping and delivery still apply. Package stores would still be required to report all orders to Local Option areas in Written Order Database.

MS. BRAWLEY said slide 33, *Tracking Alcohol Orders in Local Option Areas: Current Title 4*, illustrates the current process for ordering alcohol in a Local Option area.

MS. BRAWLEY said R-3. *Package Store Onsite Product Sampling Endorsement* would allow package stores to offer free samples of their products:

- Create a separate endorsement to allow onsite sampling at Package Stores.
- Limits volume per customer per day, hours of sampling, public advertising of sampling.
- Providing free samples of products at package stores is a common practice in several other cities and states.

MS. BRAWLEY said slide 35, *Proposed in SB 76: Package Store Sample Limits*, shows that these are the same volume limits proposed for manufacturers.

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MS. BRAWLEY said R-2. *Rename Recreational Site License to Sporting Event License* is not a change to the statute or definition of this license. It is renaming it to be more accurate about the types of events it is used at:

- Ensure the existing statutory definition of "recreation" is consistently applied to Recreational Site license holders.
- Make a sunset provision of 8 years to review and retire licenses that do not meet this definition, if not in compliance with statute.
- Licenses issued outside definition was a finding in 2014 and 2017 audits of the ABC Board.

MS. BRAWLEY said that for slide 37, *R-7 Standardize Permits*, there are not major changes proposed for permits currently defined in statute or regulation. A standard application process is proposed for permits:

- Define all permit types in statute, not only in regulation
- Fee for all permits is \$50 per event day
- Most permits listed are already in statute or regulation

- New permit: Tasting Event Permit, allowing a Package Store or Manufacturer to host an event on premises, in partnership with a BDL [Beverage Dispensary License]

MS. BRAWLEY said slide 38, *Proposed Permits*, shows proposed permits and whether they are currently in regulation or statute:

- R-7F | Beverage Dispensary Caterer's Permit (AS 04.11.230; 3 AAC 304.685)
- R-7G | Restaurant Caterer's Dining Permit (3 AAC 304.680)
- R-7H | Club Caterer's Permit (3 AAC 304.690)
- R-7I | Nonprofit Event Permit (AS 04.11.240)
- R-7J | Art Exhibit Permit (3 AAC 304.697)
- R-7K | Alcoholic Beverage Auction Permit (3 AAC 304.699)
- R-7L | Inventory Resale Permit (Retail Stock Sale License, AS 04.11.200)
- R-7M | Tasting Event Permit (proposed in SB 76)

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MS. BRAWLEY reviewed a proposed permit in slide 39, *Proposed in SB 76: Tasting Event Permit*. This allows a package store or manufacturer to host a special tasting event on its premises working with a beverage dispensary licensee or beverage dispensary licensee tourism. Food must be served and the event may last up to four hours.

MS. BRAWLEY said that for slide 40, *P-3. Retire Public Convenience Process; New Options for REPLs*, the proposal is that the Public Convenience Statute, which is a way of obtaining a restaurant or eating place license outside of population limits, is repealed:

- Repeal Public Convenience statute.
- Convert all existing Public Convenience license holders to standard, fully transferrable REPLs.
- Create a Seasonal Restaurant Tourism License.
- Allow qualifying municipalities to petition the ABC Board to increase the number of REPLs available in their community.

MS. BRAWLEY said slide 41, *Public Convenience Petition Process: Current Title 4*, illustrates the current Public Convenience process in Title 4. The process involves gathering signatures on

a petition and submitting the petition and application to the board. There is no definition of public convenience, and this has resulted in more restaurant licenses issued in some communities that otherwise would not have that many.

MS. BRAWLEY said slide 42, *Proposed in SB 76: Convert Public Convenience Licenses and Applications*, shows one replacement process if the Public Convenience License is repealed. Existing licenses will convert to Restaurant or Eating Place Licenses. The main advantage is that Public Convenience Licenses are not transferable by location or owner. Converting these to regular Restaurant or Eating Place would give licensees that privilege.

MS. BRAWLEY said slide 43, *Proposed Seasonal REPL Tourism*, shows that REPL Tourism License would be available in smaller communities only. It would not be subject to population limits, but there is a formula that determines the number available based on the number of visitors:

- Seasonal restaurant license
- Available in smaller communities (< 20,000 pop.)
- Same operating requirements and privileges as full-year restaurants (REPL)
- Number of licenses per community determined by formula:
5-year average of annual visitors/months in season=Average monthly visitor population
(Residents + average monthly visitors)/1,500=Available Seasonal REP Tourism Licenses
- Season defined as up to 6 months per year, in any combination - Example: May through September + 1 winter month

MS. BRAWLEY said slide 44, *Proposed in SB 76: Local Government Petition for Additional Restaurant Licenses*, illustrates another Public Convenience License replacement. Instead of allowing for individual applications to be considered outside of population limits, first-class cities and unified municipalities will have the ability to petition the ABC Board for an additional number of restaurant licenses. They need to demonstrate they have the enforcement capability to manage any potential impacts from those licenses and they have sufficient non-resident population to support a market for that type of license. If the ABC Board approves the petition and grants new licenses, someone goes through the normal application process to obtain a license.

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MS. BRAWLEY said slide 45, *N-7. Allow Relocation of a Package Store from Borough to City*, is about a change to a mechanism that is already in law allowing relocation of a bar license or package store:

- Amend AS 04.11.400(k) to allow transfers of both BDL and Package Store licenses from a borough to a city within the borough.
- Currently, BDL relocations are allowed in boroughs with at least 60,000 population.
- SB 76 would make relocation available in boroughs with at least 50,000 population and currently operating licenses that exceed population limits.

MS. BRAWLEY said slide 46, *Proposed in SB 76: Option to Relocate Some Licenses from a Borough to a City*, illustrates this concept. Licenses in a borough could be relocated from one community to another.

MS. BRAWLEY said slide 47 illustrates how many licenses would be available. Each borough that would qualify under this section have more than their normally allowed number of licenses already.

MS. BRAWLEY said that slide 48, *RB-1. Strengthen Reporting Requirements for Municipal Enforcement*, relates to license fees for municipal governments. Municipal governments receive half the license fees for licenses in their area, which is currently known as a refund. SB 76 renames it as an allocation, which is more accurate, and strengthens the requirement that municipalities report how those funds are being used:

- Include in statutory requirements (AS 04.11.610) that municipalities submit quarterly reports on Title 4 enforcement and education activities to the ABC Board: violations, educational presentations, other activities related to alcohol control.
- Municipalities with local law enforcement receive a matching allocation ("refund") of license fees collected within their jurisdiction. Funds intended to be used for Title 4 enforcement.

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MS. BRAWLEY said that slide 49, *Proposed in SB 76: Accountability for License Fees Allocated to Local Governments*, illustrates this concept. Reporting is required in statute, but

because it is not well defined, it is not consistently being followed. It gives the department the ability to withhold those funds if they do not receive the reports.

MS. BRAWLEY said that for slide 50, *N-12. Transition Provisions for Existing Licensees*, the goal is not to disrupt what businesses are doing now but to smoothly transition to this new system, which mainly involves renumbering licenses or renaming things:

- Define process for current licensees of certain types to be converted to equivalent license(s) in the new system.
- Also define process of converting applications for repealed or renumbered license types.
- Included in Transition sections of SB 76 (end).
- See table on page 61 of Report for details.

MS. BRAWLEY said slides 51-53 show examples of current licenses and applications completed as of January 1, 2020, being converted.

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MS. BRAWLEY said that concludes the presentation.

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CHAIR COSTELLO turned to public testimony.

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LEEANN THOMAS, member, Alaska Cabaret, Hotel, Restaurant and Retailers Association (CHARR), Juneau, Alaska, testified in support of SB 76. She said many people worked for six years to make improvements to Title 4. She represents Juneau alcohol retailers, some of whom are in the room. Everyone is excited about the rewrite of Title 4. There has been no rewrite for 30 years. This will make things better. The alcohol industry wants and needs Title 4 laws to make sense and work for the industry.

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DANIEL CHEYETTE, Director, Bristol Bay Native Corporation, Anchorage, Alaska, testified in support of SB 76. He said he wanted to speak in particular about Section 57, which is important to the flyout fishing lodge industry. Section 57 would add outdoor recreation lodges to the list of license types that a Local Option community can exempt. Specifically, in 2011 Aleknagik voted to be a Local Option community, but they voted to exempt outdoor recreation lodges. There are a few in the city limits, and they have contributed to the economy of the

community with bed and sales taxes. This past year they learned that the ABC Board was contemplating not renewing the licenses for those lodges because they thought the statutes did not allow for an exemption for outdoor recreation lodges. Section 57 of SB 76 would add outdoor recreation lodges to the list of license types that could be exempted.

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IDALIA FRAZIER, representing self, Homer, Alaska, testified in support of SB 76. She stated that she is in full support of SB 76. "It is a fair and much-needed bill," she said.

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MATT JONES, co-owner, Moose's Tooth, Bear Tooth, and Broken Tooth Brewing Company, Anchorage, Alaska, testified in support of 76. He described the current Title 4 statutes as "a mess." He and his partners have multiple licenses. Every time they have a renewal, everyone at AMCO is confused and no one can come up with a quick answer on what they need to do. He opined that the rewrite represented in SB 76 will be very helpful. He related that they are a brewpub and as a brewpub they have a production limit. For the last ten years the business has not been able to grow the brewing part of the business because of the limit on production. If Title 4 is rewritten they will no longer be considered a brew pub but rather a brewing manufacturer. That will allow them to greatly increase the brewing side of the business and grow the number of jobs at the brewery.

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SENATOR MEYER asked if the Moose's Tooth has a full dispensary license.

MR. JONES confirmed that all their locations have full dispensary licenses that come with the bundle of rights associated with the beverage dispensary license (BDL).

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HILLARY SCHAEFER, representing self, Fairbanks, Alaska, said she and her partner own a full dispensary license and are concerned that the bill will benefit manufacturers and not benefit beverage dispensary license holders. They have experienced a reduction in gross sales since tasting rooms opened. The after-work crowd isn't showing up between 5 p.m. and 8 p.m. or if they do they have been overserved at the tasting rooms, which puts them at a heightened liability. She asked the committee to limit the amount in tasting rooms and the hours.

[2:57:45 PM](#)

JEFF JESSEE, representing self, Anchorage, Alaska, testified in support of SB 76. He said he was the co-chair of the Title 4 Review Steering Committee and Licensing Committee. One issue over the years was interpreting the statutes during ABC Board meetings. It was obvious that Title 4 was well overdue for a comprehensive overhaul. Industry and public health found common ground. They found that violations often resulted in misdemeanor charges which put people at considerable legal risk when what they wanted to do was educate people into complying with the law. SB 76 changes that to a fine system that holds people accountable and focuses on education and remediation. They made accommodations on rules on tasting rooms and internet sales, so they would not have a negative effect on public health. There is also more focus on education. SB 76 achieved an unprecedented partnership between industry and public health.

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ANGELA COX, Vice President, External Affairs, Rasmuson Foundation, Anchorage, Alaska, testified in support of SB 76. She said the foundation has invested for 60 years in various programs and facilities in Alaska dealing with sexual assault, domestic violence, child abuse and neglect, and homelessness. It is a founding member of Recover Alaska. Through Recover Alaska they work to identify and address root problems of alcohol as a challenging social problem. SB 76 will be a step forward: internet sales should be regulated; it would increase fees, providing more resources for education and enforcement of Title 4; and it would reduce alcohol access to youth. Rasmuson and its partners have dedicated hundreds of hours to this process. Rarely have so many stakeholders come together to tackle an issue like this.

[3:03:50 PM](#)

RICHARD M. ROSSIM, General Counsel, Alyeska Resort, Anchorage, Alaska, testified in support of SB 76. He participated in the rewrite of Title 4 statutes. Everyone isn't happy with every aspect, but it is a good compromise. He provided examples of how the new statute helps the Alyeska Resort. In many other states package stores can offer free samples. The statute would allow that and a tasting event by a package store. It introduces the concept of unfair trade practices regulation. These exist at the federal level but are not enforced. It is patterned after the federal statutes. The process for ordering wine from out of state is not perfect but a step in the right direction.

[3:07:15 PM](#)

DYLAN DICK, representing self, Kodiak, Alaska, testified in support of SB 76. He stated that he runs the restaurant Henry's in Kodiak, is a CHARR member, and he supports SB 76. It is a once in a generation opportunity to fix long-standing problems with the alcohol statutes. The bill provides clarity for everyone in the industry regarding the penalties and tries not to harm current licensees. He listed various penalties including staff changing prices twice in a week which could be considered a crime instead of a minor error or something warranting a fine. For the first time it will be not illegal for the bar owner or managers to be in the bar updating books or doing inventory after closing time.

SENATOR GARDNER asked him to expand on the comment that changing prices could be an inadvertent violation

MR. DICK said his understanding is that in Alaska changing prices twice within a week is a violation. He suggested that Mr. Fox could clarify further.

3:09:25 PM

DALE FOX, President, Alaska Cabaret, Hotel, Restaurant and Retailers Association (CHARR), Anchorage, Alaska, stated that the current pricing and marketing statute, which is termed the happy hour law, says a bar cannot change prices within a calendar week. One of the interesting things about the current law is that nobody knows what a calendar week is. It has to be looked up. He isn't sure what it is, but that's the point. Breaking that law is a class A misdemeanor, which calls for up to a year in jail and a \$10,000 fine. SB 76 fixes that by saying that pricing is any seven days. If a price is changed on Wednesday, it can be changed the next Wednesday. With the new law, a mistake wouldn't put someone in jail for a year.

SENATOR GARDNER asked if he knew the rationale for prohibiting a bar from changing prices within a calendar week.

MR. FOX said the idea in the 1980s was to prevent bars from lowering prices to gain customers for happy hour. "They didn't want the price from 5-6 on Mondays to be cheaper," he said.

SENATOR MEYER asked if the [Juneau restaurant] Hangar could offer half price drinks on Fridays.

MR. FOX answered no. Under current law, a bar that runs a special must offer that special for a calendar week. Under SB 76, the bar must offer the special for seven consecutive days.

3:12:00 PM

FREDRICK KASNICK, representing self, Juneau, Alaska, said he is the owner of the Island Pub in Douglas. He asked if any provisions in the bill have a ratio or percentage that manufacturers would be allowed to sell at tasting rooms versus on a wholesale or retail basis.

MS. BRAWLEY said that section is defined for manufacturers that are not operating currently as the current ones would be grandfathered. It is in Section 9 It would be AS 04.09.310 for breweries and .320 for wineries and .330 for distilleries.

MR. KASNICK asked what that percentage is.

MS. BRAWLEY said that for the manufacturers that do not qualify for the grandfather, after eight years they would be allowed to sell up to 20 percent of their total production sales in Alaska through that retail license. This would not apply to a restaurant or a package store or another type of retail license.

MR. KASNICK asked if that means that that retail percentage would be within their premises.

MS. BRAWLEY said yes.

MR. KASNICK asked if the manufacturers that are operating currently would be grandfathered for eight years.

MS. BRAWLEY clarified that the licenses that are currently operating would be permanently grandfathered. These provisions would apply to licenses that are issued after the effective date on January 1, 2020.

MR. KASNICK asked if a currently operating distillery is unlimited in its ability to retail product on their premises.

MS. BRAWLEY replied she understands that there is no limit on total sales. The only limits are the per person per day sales.

MR. KASNICK observed that the bill proposes to limit a distillery to three ounces per visit. He offered his perspective that distilleries are basically bars; they're selling three drinks per person a night, which is what most people drink. He doesn't feel it's right that he pays \$200,000 for a license and distilleries pay about \$1,000 and they're operating as a bar under this proposal.

MR. KASNICK noted that the previous page had a proposal for free drinks and to him that ratio of free drinks should be the retail. A tasting room down south at a winery might charge \$5 for five quarter-ounces glasses, but these [distilleries] are basically able to sell drinks and, under the grandfathered ones, they're able to sell unlimited drinks.

CHAIR COSTELLO said one of the questions the committee has asked the sponsor to provide is a comparison on the amounts in other states, so the members can be more aware of where Alaska falls. That's something they will be looking at.

SENATOR MICCICHE clarified that SB 76 does not change the three-drink limit that exists in statute. The grandfathering provision is about the 80:20 rule, which remains to be somewhat of a problem between the brewers, particularly, and the other groups.

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CHAIR COSTELLO stated her intention to hold SB 76, awaiting amendments from the sponsor.

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