

HOUSE FINANCE COMMITTEE
March 28, 2020
9:09 a.m.

9:09:34 AM

CALL TO ORDER

Co-Chair Johnston called the House Finance Committee meeting to order at 9:09 a.m.

MEMBERS PRESENT

Representative Jennifer Johnston, Co-Chair
Representative Dan Ortiz, Vice-Chair
Representative Ben Carpenter
Representative Andy Josephson
Representative Gary Knopp
Representative Bart LeBon
Representative Kelly Merrick (via teleconference)
Representative Colleen Sullivan-Leonard
Representative Cathy Tilton
Representative Adam Wool

MEMBERS ABSENT

Representative Neal Foster, Co-Chair

ALSO PRESENT

Senator Peter Micciche, Sponsor; Konrad Jackson, Staff,
Senator Peter Micciche; Senator Peter Micciche, Sponsor.

PRESENT VIA TELECONFERENCE

Doug Wooliver, Deputy Administrative Director, Alaska Court System; Ryan Fitzpatrick, Temporary Legislative Liaison, Department of Revenue; Glenn Klinkhart, Interim Director, Alcohol and Marijuana Control Office, Department of Commerce, Community and Economic Development.

SUMMARY

CSSB 52 (FIN) am
ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG

CSSB 52(FIN) was REPORTED out of committee with three "do pass" recommendations, five "no recommendation" recommendations, and one "amend" recommendation and with two previously published fiscal impact notes: FN6 (CED) and FN8 (AJS); one previously published indeterminate note: FN7 (REV); and one previously published zero note: FN9 (SFIN/Combined).

Co-Chair Johnston reviewed the meeting agenda.

#sb52

CS FOR SENATE BILL NO. 52(FIN) am

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

[9:10:17 AM](#)

Co-Chair Johnston communicated that the committee would be hearing amendments during the meeting. She asked for a review of the fiscal notes first.

DOUG WOOLIVER, DEPUTY DIRECTOR, ALASKA COURT SYSTEM (via teleconference), reviewed the fiscal note from the Alaska Court System [OMB Component Number 768] that included three months of an attorney's time. He explained that the bill would change approximately 63 misdemeanor offences to violations or minor offences. Additionally, the court system would adopt a bail schedule, change instructions, and reprogram the computer system for the new offence codes. The work would require a three-month position at a one-time expense.

[9:11:44 AM](#)

RYAN FITZPATRICK, TEMPORARY LEGISLATIVE LIAISON, DEPARTMENT OF REVENUE (via teleconference), reviewed the indeterminate fiscal note [OMB Component Number 2476] by the Department

of Revenue (DOR). He detailed that Section 155 of the bill would extend the existing alcohol tax of \$2.50/gallon to holders of a new winery direct shipment license. The change would extend the tax to incoming out-of-state shipments, which were not currently taxed. The department did not have data on the volume of shipments coming in through out-of-state direct shipments; therefore, DOR could not estimate the revenue change amount. The change would result in an increase in revenue collected. Additionally, there was a small capital item that would take care of some reprogramming changes in the Tax Division's Tax Revenue Management System and the outward facing revenue online portal, which allowed taxpayers to file tax returns online.

[9:13:15 AM](#)

GLENN KLINKHART, INTERIM DIRECTOR, ALCOHOL and MARIJUANA CONTROL OFFICE, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, (via teleconference), reviewed the fiscal impact note [OMB Component Number 3119] from the Department of Commerce, Community and Economic Development. The note showed a 4 percent increase over the past year. He detailed that the Alcohol and Marijuana Control Office was fully funded by incoming receipts. The fiscal note was designed to follow the same process. The changes in the bill would generate slightly more receipt revenue than the resulting cost.

[9:14:28 AM](#)

Co-Chair Johnston noted that Amendments 1 and 2 would move to the bottom of the list [note: Amendments 1 and 2 were withdrawn at approximately 10:10 a.m.].

Representative Knopp WITHDREW Amendment 3,
31-LS00004\E.A.25 (Radford, 3/25/20) (copy on file).

[9:15:08 AM](#)

Representative Wool MOVED to ADOPT Amendment 4,
31-LS00004\E.A.10 (Radford, 3/23/20) (copy on file):

Page 70, line 13:
Delete "12,000"
Insert "9,000"

Page 70, line 29:

Delete "12,000"
Insert "9,000"

Page 71, line 14:
Delete "12,000"
Insert 119,000"

Vice-Chair Ortiz OBJECTED.

Representative Wool began to review the amendment [note: an "at ease" was taken to fix the audio quality].

9:15:39 AM

AT EASE

9:16:21 AM

RECONVENED

Representative Wool explained the amendment. He detailed that alcohol license limits were one per 3,000 [people]. He was unclear whether the limit was one per 3,000 per type or three per 9,000 per type related to manufacturing and tasting rooms. He knew the number had been changed to 12,000, but he did not know what the previous number had been. He was concerned the bill was developing an equity situation for manufacturing and tasting room licenses, which already existed for BDLs [beverage dispensary licenses]. He explained that it was part of the problem with the so called bar wars. He elaborated that some [licenses], due to population limits and the quota system, had significant value and people paid to get into the game. He expounded that numerous new players had entered the game.

Representative Wool understood that under the "bargain," the brewers would receive expanded hours but would give up the population limit in order to reduce the number of breweries. He noted it was a bargain the brewers did not want to make. He asserted that the bargain would help brewers. For example, if a town of 20,000 had a brewery, it would not be possible for another brewery to open if the limit was one per 12,000. He stated it would mean reduced competition. He highlighted that the bill sponsor had stated he loved competition at the previous bill hearing.

Representative Wool believed providing an expanded population cap, which would mean fewer brewers and

distillery tasting rooms, would reduce competition and increase the value of licenses. He believed it was the wrong direction to take. He stated that as revolutionary as the bill was being presented to be, he believed it was "the same animal with a different haircut" in many areas. He acknowledged that some of the changes were significant. He was still unclear on the proposal to reduce the cap to three per 9,000. He wondered if there could be a distillery, brewery, and winery per 9,000. He stated it was his understanding.

Representative Wool stated that reducing the number from 12,000 to 9,000 increased the ability for other people to get into the business under the current law. He believed the change was positive. He believed the change resisted the trend towards overvaluing or adding equity. He predicted the same problem would occur in the future when the licenses became extremely valuable and someone wanted to do another kind of similar business - those individuals would be in the same situation as the BDLs. The amendment would reduce the number from 12,000 to 9,000. He pointed out that the 12,000 limit had only been in place for approximately one month.

[9:19:38 AM](#)

Representative Sullivan-Leonard opposed the amendment. She shared that her district was currently ripe for commerce and there were many young people who found opening a brewery to be enticing. She did not want to hinder young entrepreneurs trying to start a business and make it work in a small community. The population of her district was currently slightly over 10,000. She stated that the 12,000 threshold was important to enable new breweries to be established in Wasilla. She highlighted the substantial work that had gone into the bill over a period of six to eight years. She wanted to see how things would work over the coming year to determine whether changes were needed the following year. She did not want to make it difficult for people wanting to invest.

Representative Knopp supported the amendment. He was still trying to wrap his head around the entire bill. He understood there could be multiple breweries, but they could not have a tasting room. He believed the tasting room concept went away under the bill and breweries would have a retail license. His concern was about the possibility of a

brewery with a tasting room and a couple of breweries without a tasting room or retail license. He highlighted that when breweries started, one of the reasons for being allowed to sell samples was the immediate need for cashflow and revenue. He believed any new breweries would have the same need for cashflow and revenue to sustain the manufacturing. He could see a need for breweries to have tasting rooms or a retail license to sell samples sooner rather than later. He did not want to neglect the opportunity for businesses to do so. He supported the reduction back to the previous number.

9:22:29 AM

Representative LeBon supported the amendment. He characterized the amendment as a compromise within the compromise. He considered that perhaps a 3,000 population cap was too low, and a 12,000 cap was too high. He thought the 12,000 cap would discourage competition, the free marketplace, and a new brewery from opening. He stated that a 9,000 cap was a softening of the limit and would allow for more opportunity for a new brewery to establish itself in the marketplace. He recognized that the capital investment to open a brewery or something similar was considerable. He pointed out there was a barrier to entry beyond a population cap. He reiterated his support for the amendment.

Vice-Chair Ortiz appreciated the ideas and sound arguments, but he opposed the amendment. He communicated his intention to oppose all of the amendments. He had spoken to BDL owners, the president of CHARR [Cabaret, Hotel, Restaurant and Retailers Association] in his district, and brewery owners. He relayed that the consistent message he received was support for the passage of the bill during the current session. Additionally, the stakeholders felt that any new changes made to the bill could "upset the apple cart." He referenced Representative Sullivan-Leonard's point that the process leading to the current bill had been lengthy. He reported that stakeholders had been concerned the previous day when they had heard the bill may not pass during the current session. He thought amending the bill could mean it would get lost in the legislative process.

9:25:09 AM

Representative Josephson was told that BDL holders saw advantage in the proposed change because they knew what the lay of the land would look like in the out years (i.e. who the other players were). He asked for the amendment sponsor's impression.

Representative Wool did not know that he had an answer for the question. He had heard from the brewers, the Brewers Guild, and brewers' lobbyists who at one point had said they liked the change. He referenced Representative Sullivan-Leonard's comments that she did not want to change the cap. He clarified that the amendment to increase the cap [to 12,000] had happened four weeks earlier in the Senate Finance Committee. He understood the time consideration given that it may be the last day the legislature met for some time. He thought the current law may have a cap of 9,000, but he was uncertain. The existing law allowed one license per 3,000 [people] per license type. He explained that the cap of 12,000 meant there could be one license for every 12,000 people. He reasoned that if Wasilla had a population of 20,000, it could have one brewery under the cap. However, if the cap was one per 9,000, Wasilla could have two breweries. He believed it was the existing system.

Representative Wool thought one could argue that increasing the number of breweries in a community would increase the competition for breweries. He thought brewers wanted to increase the cap, so there were fewer breweries to choose from. He thought it was a win for the brewers to increase the cap to [one license per] 12,000. However, he believed it was a loss for competition. He highlighted that equity in licenses was the hole the state needed to dig itself out of. He did not know whether BDL holders believed there would be less competition; however, the brewers did believe there would be less competition. The amendment would reverse the change made four weeks earlier in the Senate Finance Committee.

[9:28:35 AM](#)

Co-Chair Johnston remarked that while the bill was not perfect and could be amended, she had received the same input from constituents as Vice-Chair Ortiz had voiced. Her constituents wanted support for the current bill version without additional amendments. She agreed with some changes and would like to see the issue of equity in liquor

licensing; however, she agreed with the bill sponsor's past statement that it was the system they were working with. She looked forward to future discussions on the topic and noted it was not currently the time for those discussions.

Vice-Chair Ortiz MAINTAINED his OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Wool, Knopp, LeBon

OPPOSED: Tilton, Carpenter, Merrick, Ortiz, Sullivan-Leonard, Josephson, Johnston

The MOTION to adopt Amendment 3 FAILED (3/7).

Representative Wool WITHDREW Amendment 5 31-LS00004\E.A.11 (Radford, 3/23/20) (copy on file).

[9:31:07 AM](#)

Representative Wool MOVED to ADOPT Amendment 6 31-LS00004\E.A.9 (Radford, 3/23/20) (copy on file):

Page 22, line 21:
Delete "10:00 p.m."
Insert "9:00 p.m."

Page 23, line 30:
Delete "10:00 p.m."
Insert "9:00 p.m."

Page 25, line 5:
Delete "10:00 p.m."
Insert "9:00 p.m."

Page 50, line 20:
Delete "10:00 p.m."
Insert "9:00 p.m."

Page 87, line 13:
Delete "10:00 p.m."
Insert "9:00 p.m."

Vice-Chair Ortiz OBJECTED.

Representative Wool reviewed the amendment. He felt it was his job as a legislator to try to amend legislation. He

shared that he received calls on both sides of the issue and had his own feelings, which he tried to represent once in a while as well. The amendment would change the proposed new closing time for tasting rooms from 10:00 p.m. to 9:00 p.m. He detailed that tasting rooms had closed at 8:00 p.m., beginning around 2008 for breweries and 2014 for distilleries. He had not noticed any problem with how they were working, and he remarked that customers appeared to be flocking to the businesses. He shared that he was a patron of the businesses and believed they served a good purpose. He had not heard from patrons that the businesses needed to stay open a couple of hours longer. He understood that owners wanted to stay open longer because it would bring in more revenue.

Representative Wool referred to a bill that had allowed the sale of samples in manufacturing tasting rooms. He detailed that in 2006, Craig Johnson, a legislative staffer (who later served as a legislator to former Senator Lesil McGuire) stated in a Labor and Commerce Committee meeting, "while there have been concerns regarding breweries acting as taverns, this legislation includes restrictions such as limited onsite sales, restricted hours of operation, and well defined environment." He cited testimony from the same meeting by Robert McCormick from the Glacier Brewhouse [in Anchorage] and the Brewers Guild of Alaska who said, "the concern is that the law may be misinterpreted and breweries may turn into taverns; however, with restrictions in place, this will not happen." Another testifier, Glen Brady of Silver Gulch Brewing and chair of Alaska CHARR, who was currently a member of the Alcoholic Beverage Control Board stated, "to avoid the creation of taverns, would not allow the sale of product after 8:00 p.m."

Representative Wool cited testimony by Representative Chris Tuck in 2014 with relation to a distillery bill that had passed, allowing distilleries to sell samples. Representative Tuck stated, "similar to wineries and breweries, HB 309 would prevent distilleries from acting as a de facto bar by prohibiting bar-like amenities, such as limited hours of operation." He stated that the whole thing had been started with limits, specifying that tasting rooms would not be taverns or bars and they would close at 8:00 p.m. Additionally, tasting rooms could not have live entertainment and were required to limit the amount individuals were allowed to consume. He stressed that SB 52 blew the requirements open by changing the closing time to

10:00 p.m. and allowing live entertainment. He thought the businesses should just be called bars and taverns if the initial rules were not followed. He was inclined to adhere to the original intent. He thought crossing the line would make it easier to continue adjusting the closing time later and later. He thought it could lead to more entertainment being hosted in the locations. He pointed out that public safety and public health workers liked the businesses because the number of drinks a person could consume was limited. He highlighted that a 10:00 p.m. closure would allow individuals to visit multiple places and gave more time to increase alcohol consumption.

Representative Wool summarized that the current closure time [for distilleries and breweries] was 8:00 p.m., the same as it had been since inception. The bill proposed a closure time of 10:00 p.m. Amendment 6 would change the time to 9:00 p.m. He thought perhaps distilleries and breweries may determine that they did not want patrons after 9:00 p.m. because they may be too inebriated. He thought 9:00 p.m. had been considered earlier in the bill deliberations, but he believed breweries had pushed back. He remarked that breweries and CHARR had a lobbyist and had some muscle. He thought the amendment represented a good compromise.

[9:35:30 AM](#)

Representative LeBon supported the amendment. He had hoped the population limit would be decreased to 9,000 and the closing hours would be dropped to 9:00 p.m. He noted that the first had failed and he hoped the second passed.

Representative Knopp expressed uncertainty about the amendment. He noted he did not have clarity on all aspects of the bill. He asked if the existing three-drink limit went away when tasting rooms were no longer referred to as tasting rooms and they were replaced by retail licenses. He referenced a concern that had arisen during discussion on music festivals. There had been feedback that it was unrealistic to think a business hosting a music festival would have a three-drink limit. His support for the amendment would depend on the answer to the question. He asked if the three-drink limit would still exist.

SENATOR PETER MICCICHE, SPONSOR, answered that the three-drink limit was not affected by the amendment. He reminded

the committee that there was currently a soft close of 8:00 p.m., which meant the business had to stop serving alcohol at that time; however, patrons were allowed to stay to finish their drinks and food past that time. The bill would implement a 10:00 p.m. hard close, which was part of the deal resulting in support letters from various entities. He explained that a hard close meant that patrons had to be out by 10:00 p.m. The bill would add time to the open hours but did not change what could be served.

Representative Knopp asked for verification that the same hard close and three-drink limit would apply to music festivals and other entertainment events at breweries and distilleries.

Senator Micciche agreed. He detailed that businesses would be allowed to remain open until 10:00 p.m. Patrons would have to be out no later than 10:00 p.m.

[9:38:17 AM](#)

Representative Wool provided wrap up on Amendment 6. He stated that no one was trying to change the drink limit yet. He speculated that someone would try to make the change in the future, which would also include a 12:00 a.m. closing time and weekly music events. He shared that he had been in the bar business 25 years and knew all about hard and soft close times. He highlighted changes in bar closing times in Fairbanks over the years. He pointed out that it was possible to buy a drink five minutes prior to bar close. He noted that with a hard close at 10:00 p.m., a person could purchase a beer at 9:45 p.m. and be out the door 15 minutes later. Whereas, with a soft close, it was possible for a person to purchase a beer five minutes prior to close and sip it for 30 minutes. He did not have a problem with the latter scenario. He thought all bars should have a wind-down time, which would allow patrons time to get a cab. He considered the question of live music and reported that some of the venues he had been to held hundreds of people. He planned to offer a related amendment.

Representative Wool summarized that the amendment would implement a 9:00 p.m. close and the drink limit would remain the same. He stated that a 10:00 p.m. close could take away time a person may have spent in another establishment. He thought 9:00 p.m. was a fair compromise.

He thought patrons supported the earlier close and the early family atmosphere. He understood that patrons supporting the earlier close could leave when they chose, but he thought the establishments would take on a different tenure under the later close time. He highlighted that a close time of 9:00 p.m. still reflected expanded hours.

Vice-Chair Ortiz MAINTAINED his OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Wool, LeBon

OPPOSED: Carpenter, Josephson, Knopp, Merrick, Ortiz, Sullivan-Leonard, Tilton, Johnston

The MOTION to adopt Amendment 6 FAILED (2/8).

[9:41:43 AM](#)

Representative Wool MOVED to ADOPT Amendment 7, 31-LS0004\E.A.18 (Radford, 3/24/20) (copy on file):

Page 11, line 27:

Delete "AS 04.09.610,"

Insert "AS 04.09.530, 04.09.610,"

Page 31, line 24:

Delete "04.09.520"

Insert "04.09.530"

Page 32, line 1:

Delete "04.09.520"

Insert "04.09.530"

Page 44, following line 24:

Insert a new section to read:

"Sec. 04.09.530. Beverage dispensary repackaging endorsement. (a) A beverage dispensary repackaging endorsement authorizes the holder of a beverage dispensary license to offer alcoholic beverages for sale for consumption off the licensed premises and to subdivide and sell alcoholic beverages from the original packages to smaller containers with federally compliant labels showing the standard federal government warnings and the product name.

(b) The biennial fee for a beverage dispensary repackaging endorsement is \$200.

(c) A beverage dispensary licensee with a beverage dispensary repackaging endorsement

(1) may repackage alcoholic beverages for sale on the licensed premises for consumption off the licensed premises by opening the original package for the purpose of subdividing the contents into smaller packages.

(2) is authorized to sell, each day to a person on the licensed premises for consumption off the licensed premises, not more than 5.167 gallons of beer;

(3) may permit an agent or employee to repackage alcoholic beverages, but may not permit a customer or another person who is not an agent or employee of the licensee to repackage alcoholic beverages

(4) is authorized to sell alcoholic beverages for consumption off the licensed premises during the time allowable under local ordinance.

(d) The holder of a beverage dispensary license who repackages alcoholic beverages without an endorsement under this section commits the offense of unendorsed beverage dispensary repackaging.

(e) The holder of a beverage dispensary repackaging endorsement who fails to comply with the requirements of this section commits the offense of beverage dispensary repackaging endorsement noncompliance.

(f) Unendorsed beverage dispensary repackaging is a violation and is punishable by a fine of \$500.

(g) Beverage dispensary repackaging endorsement noncompliance is a violation."

Representative Carpenter OBJECTED.

Representative Wool reviewed the amendment. He noted that the amendment topic was not addressed in Title IV and therefore, the amendment did not constitute a deletion. The amendment would allow the numerous BDL's to repackage and sell off premises. He explained that BDL's were currently closed; however, all of the other alcohol establishments

open to the public could sell alcohol. He detailed that liquor stores could sell alcohol and were also able to sell growlers. Additionally, brewery tasting rooms could sell growlers. It was not currently possible to drink on premise, but they could be taken offsite. The amendment would allow BDLs to do the same. He stated that the tasting rooms were encroaching on some of the things BDLs were allowed to do, such as live entertainment. He noted that tasting rooms had not yet had the ability to host live music, but they wanted that to change. He explained there were few things BDLs could do that manufacturers could not do - entertainment was one of those things. He reiterated that the amendment would enable BDLs to sell growlers for consumption off premise, which was something that manufacturers and other package stores could do. He stated that during the current economic time, any revenue stream would be positive.

Representative LeBon spoke in support of the amendment. He stated it would allow for a customer of a BDL establishment to make a one-stop shop - to purchase food and a growler to go. He detailed that the amendment would expand a BDL's business opportunity at a time with limited opportunity, given that doors were currently locked.

Vice-Chair Ortiz requested to ask the bill sponsor a question.

[9:44:42 AM](#)

Vice-Chair Ortiz asked if the issue in Amendment 7 had been addressed in any way as a part of the "grand bargain" on the bill.

Senator Micciche replied that the topic had not been discussed in eight years of discussions, which was one of the things he feared about changes on the fly. He recognized that the issue may be worthy of discussion in the future. He elaborated that it was not something that anyone had asked for. He highlighted that he stopped counting at 13,000 hours - many meetings had taken place over the past interim since the last time the bill had stalled. He reiterated that the subject had never come up during that time.

Representative LeBon remarked that he had heard from a BDL holder in Fairbanks that they would appreciate the

flexibility. He thought that up until recently, the sense that a business would be closed for an extended period of time had never entered into the mind of a restaurant or bar operator. He stressed that businesses were closed, and a reopening date was uncertain. He stated it had become a sense of urgency. He acknowledged that the issue had not been discussed in the past; however, times had changed.

Senator Micciche responded that the effective date of the bill did not help the situation in the current year. He agreed it was worthy of discussion in the future. He noted there would be some cleanup on the bill needed the following year and it could be discussed at that time. He suggested that public safety could be brought into the conversation as well.

[9:47:16 AM](#)

Representative Josephson relayed that he had driven by the Alaskan Brewery warehouse near Costco in Juneau. He asked if the amendment would allow a person to take a growler into a bar in downtown Juneau to have it refilled.

Representative Wool answered affirmatively. He had spoken to CHARR and brewers about the issue. He was surprised the issue had not come up during past conversations on the bill. He relayed that he had thought about the issue for some time. He shared that when he had been in the business in the past, people would come in and ask if he could fill a growler, but it had not been allowed. He reported that it was possible to go to the Moose's Tooth pizzeria in Anchorage to buy a growler to go. He noted that the restaurant did not brew beer, but it had a brewpub license. He thought it was a great idea. He had sold pizza at a restaurant in the past, but he could not sell any alcohol to go. He highlighted that it was not a new concept - it was allowed many places. He shared that CHARR and brewers had told him they were amenable to the change. He would prefer to deal with the issue at present instead of opening a can of worms the following year. He had not heard any opposition to the idea. He stated it was some "give" to the BDL owners to participate in an activity that seemingly everyone else could do.

Representative Carpenter MAINTAINED his OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Josephson, Knopp, LeBon, Ortiz, Wool
OPPOSED: Carpenter, Merrick, Sullivan-Leonard, Tilton,
Johnston

The MOTION to adopt Amendment 7 FAILED (5/5).

[9:50:16 AM](#)

Representative Wool MOVED to ADOPT Conceptual Amendment 1
(copy on file):

Prohibits breweries, distilleries, and wineries in
possession of a retail endorsement from providing free
samples.

Vice-Chair Ortiz OBJECTED.

Representative Wool reviewed the amendment that would
remove free samples at a manufacturing tasting room that
sold samples. He noted that it could be argued that 36
ounces of beer was not a sample. He shared his
understanding that sample sizes in tasting rooms needed
some clarification. He believed the free sample sizes for
liquor stores at 12 ounces of beer, 6 ounces of wine, and
1.5 ounces of liquor were the same amounts allowed for
tasting rooms. He questioned why a business needed to give
alcohol away for free if it had an endorsement to sell
alcohol. For example, he thought that breweries had the
ability to sell 36 ounces of beer and could legally give a
patron another 12 ounces "for the road." He did not see it
as necessary. He stated that breweries had the ability to
tell a customer if they bought three beers, they could get
a fourth for free. He stated that bars could not give out
12 ounces of beer or anything for free. He considered that
a small sip of something for a taste was one thing, but he
thought the allowable sample size in the bill was much
larger. He disagreed with the ability for a business to
sell alcohol and have the ability to give it away for free.

[9:52:50 AM](#)

Senator Micciche clarified that the law stated the total
allowable consumption was 36 ounces. He detailed that a
sample was included in the 36 ounces. A business could not
give a customer a drink to go or an amount above 36 ounces.
He stated that the bill provided significant enforcement.

He explained that if a compliance officer witnessed a business giving out three beers and an additional tasting, the business would be out of compliance and would be cited.

Co-Chair Johnston asked the sponsor and his staff to remain at the testifier table.

Representative Josephson asked if the same limit on total consumption applied to wineries and distilleries.

Senator Micciche replied that he was not certain a BDL would have a scale to measure precise amounts, but the hard cap applied to the sample amount at distilleries, breweries, and wineries.

Representative Wool was familiar with the cap and he was glad to hear the same cap applied whether a beverage was for sale or free. He asked what the sample size limit was for a retail tasting room.

Senator Micciche answered there was not a specific sample size. The cap was 36 ounces. He explained that if a compliance officer witnessed a business give out 39 ounces including a sample, the business would be breaking the law.

Representative Wool knew the sample size for liquor stores was established. He had thought there was a sample size for tasting rooms. He had asked a manufacturer in the past couple of years what they would be willing to give up. He recalled that the manufacturer had told him they did not really need the ability to give free samples because they were selling product. He shared that he owned a bar and could not give out free drinks. He wondered why they should not take the ability to give out free drinks away if the tasting rooms were also selling drinks. He wondered why tasting rooms were allowed to do both. He reasoned that a tasting room could tell patrons if they bought two drinks, they could get a third for free. He stressed that the option was not available to bars.

[9:56:33 AM](#)

Representative Josephson asked if the intent of the amendment was to protect the BDL economic interest or to avoid over intoxication. He thought there may be other reasons. He referenced the disparity highlighted by the

amendment sponsor that BDLs were not allowed to give samples. He asked if those were the issues at play.

Representative Wool answered that because the limit was the limit it would not affect intoxication levels. He did not see any enforcement officers in any of the businesses. He believed there was one officer in Fairbanks, who had their hands full. He noted the issue was about equity and about cleanup. He thought the free samples had been established prior to the ability to do retail sales. He noted that many manufacturers provided samples. For example, Guinness samples were given out on their factory tours. He stated that legally businesses could offer a promotion by telling customers they could get a third drink free if they bought two between certain hours. He emphasized that he was not claiming a business would offer a promotion, but they had the ability to legally do so. He did not see the need. He noted that a restaurant could not give out free wine. He stressed that public safety workers were adamant about the fact that it was not legal to give out free alcohol. However, tasting rooms were able to do so. He thought the law should be consistent across license types.

[9:58:33 AM](#)

Vice-Chair Ortiz MAINTAINED his OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: LeBon, Wool

OPPOSED: Josephson, Knopp, Merrick, Ortiz, Sullivan-Leonard, Tilton, Carpenter, Johnston

The MOTION to adopt Conceptual Amendment 1 FAILED (2/8).

[9:59:18 AM](#)

Representative Wool MOVED to ADOPT Conceptual Amendment 2 (copy on file):

Requires breweries, distilleries, and wineries with a tasting room to establish a standardized system of tracking a customer's consumption of product. This system must be reported to and approved by the Alcohol Beverage Control Board or the Board may develop their own methodology.

Representative Carpenter OBJECTED.

Representative Wool reviewed the amendment. The amendment would establish a system to track a customer's consumption of product. He had been to many places and had heard anecdotally that it was difficult to track the number of drinks customers consumed when there was a room of 200 people with three people pouring beer. He shared that he had been places that stamped patrons' hands for each drink consumed, while other places did not. He shared that some places that used to stamp hands had stopped. He noted that some places gave patrons a card to carry, but cards could be moved around. He was not claiming people had bad intentions, but he had heard stories that the limit was not always adhered to.

Representative Wool asked how businesses tracked the number of drinks its patrons consumed during a concert with 300 to 500 attendees. He pointed out that the businesses were now open from 9:00 a.m. to 10:00 p.m. He believed there should be a standardized system. The amendment would require a business to develop and report a standardized system to the Alcohol Beverage Control Board (ABC Board) or the ABC Board could develop a uniform methodology. He reasoned a small room holding 20 people was one thing, but he did not know how places that could hold hundreds of people with outdoor areas were able to adhere to the drink limit. He had been asked by a server in the past whether he had consumed a drink. He thought the servers should know. He reasoned it was sometimes good to have rules. The amendment would require establishing a system to track drink limits.

Representative Knopp could support the amendment if it was limited to the music festivals and places with large numbers of people, but he did not support it on a smaller everyday business scale. He thought the amendment sponsor had a valid point about the difficulty of tracking the number of drinks a customer had consumed during a large event.

[10:02:19 AM](#)

Representative Josephson addressed the bill sponsor and asked why the requirement would be objectionable to the brewing industry, for example.

Senator Micciche answered that he was not certain the requirement would be objectionable after some discussion. He shared that his office had taken the bill around the building several times and the bill had been reviewed by the House twice. He stated that the issue had not come up previously. He shared there was a brewery he liked to go to fairly regularly. He stated that he and his family did not go to bars. He liked the Kenai River Brewing Co. because it had a family setting, it had never had a police call, and he had never seen anyone get drunk there.

Senator Micciche reported that brewery servers were trained the same way bartenders were trained. He believed the amendment topic should be discussed the following year. He thought the discussion should extend to BDLs as well. He highlighted that BDLs faced challenges with overserving. He considered that perhaps the number of drinks a person consumed should be counted; however, he believed it was a longer discussion. He thought it may be worth talking about, but he did not want it to be on the fly. He stated that the bill did not represent the end all, be all of alcohol laws. There would continue to be discussion about many things that may be improvements in the future. He stated that some places tracked consumption voluntarily. He did not believe it was a problem currently. He reported that he had seen no evidence of a problem in any of the breweries he had been to around the state.

[10:04:31 AM](#)

Representative Josephson respected the hard work that had gone into the legislation; however, he pointed out that the game was not yet over.

Representative Knopp remarked that the bill sponsor had stated that Amendments 2 and 7 contained great ideas, but he was not supportive at the time because they had not been discussed by all of the user groups. He highlighted that the amendments passed in Senate Finance Committee were substantial. He asked if those amendments had "made it around the block" and been discussed. He pointed out that those amendments were more substantial than any of the amendments proposed during the current meeting. He wondered about the situation with the amendments passed previously, given the bill sponsor's opposition to any new amendments because they had not been discussed by user groups.

Senator Micciche corrected that he had not stated that any of the amendments [offered in the current meeting] were "a great idea." He clarified that he had stated they were worthy of discussion and there may be something of value that came out of them. He had stated he did not want to make changes on the fly without involving the professionals including BDL license holders, manufacturers, and public health and safety. He stated that the bill was not a lot of work because something he had personally done, but because of all of the different players involved. He reiterated that some of the ideas were worthy of discussion. He stated that the relatively large amendment that passed in the Senate Finance Committee was the agreement between the three entities. He elaborated on his resistance to see the amendment changed because it had been agreed on by all of the parties.

Representative Knopp asked for verification that all of the amendments passed in the Senate Finance Committee had been floated [to stakeholders] and had not been crafted on the Senate Finance Committee floor. He remarked that the amendments had not been included in the original bill. He asked for detail.

Senator Micciche agreed. He referred to the only other amendment added as the "chicken stock" amendment. He reported that it had been in an earlier bill and he believed it had been removed in the House Finance Committee a couple of years back. He explained it had been discussed with all of the user groups and he had not been opposed. He explained that all of the amendments in the bill in the Senate Finance Committee had gone through the process and were agreed on by all of the entities.

[10:07:10 AM](#)

Representative Wool provided wrap up on the amendment. He stated that the issue had come up in the past. He shared that he had talked about the concept of enforcing drink limits with CHARR in the past several years. He referenced the idea of putting drink limits on BDLs [mentioned by Senator Micciche] for public safety and stated, "I guess we put french-fry limits too." He thought increasing the hours to 10:00 p.m. would result in people with a higher blood alcohol level because they could patron various places. He had been to places with 200 people outside on regular days. He was not certain people had envisioned large gathering

spots when the concept had been floated in the beginning. He thought that if a limit existed, there should be some way of tracking it. He understood that a limit may not be necessary in a small facility with three tables; however, some facilities were large and could use a system.

Representative Carpenter MAINTAINED his OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Wool, Josephson,
OPPOSED: Merrick, Sullivan-Leonard, Tilton, Carpenter,
Knopp, LeBon, Ortiz, Johnston

The MOTION to adopt Conceptual Amendment 2 FAILED (2/8).

[10:09:37 AM](#)

AT EASE

[10:10:55 AM](#)

RECONVENED

Representative Josephson WITHDREW Amendment 1, 31-LS00004\E.A.6 (Radford, 3/20/20) (copy on file).

Co-Chair Johnston WITHDREW Amendment 2, 31-LS00004\E.A.19 (Radford, 3/24/20) and Amendment 8, 31-LS00004\E.A.20 (Radford, 3/24/20) (copy on file).

[10:11:22 AM](#)

Representative Wool thanked Co-Chair Johnston for allowing him to present amendments on what he believed was the last day the legislature would be in town. He was aware of the "grand bargain" that had been made recently regarding the changing of the hours and the live entertainment, which he found to be fundamental in changing the definition of a tasting room and differentiating it from a tavern or bar. He believed "we've cracked that egg" and that it would be forever changed. He understood that people liked going to tasting rooms. He stated he was partial because he had been a BDL owner in the past. He shared that he had friends who owned package stores, distilleries, and other BDLs. He stated many of the businesses would be impacted by the bill. He elaborated that businesses would primarily be impacted by being closed [due to COVID-19] and unable to sell anything. He stressed there would be many

bankruptcies. He added that many of the businesses had been teetering anyway.

Representative Wool noted that some businesses were changing and adapting. He detailed that some BDL owners in Fairbanks had opened what looked like brewery tasting rooms with up to 40 types of beer offered. He described them as clean, nice, and bright. He continued that people were adapting in other ways; younger people were buying licenses and adding their own twists, which he thought was good. He was concerned there would be numerous bankruptcies and many licenses for sale.

Representative Wool supported that the bill allowed manufacturers to purchase BDLs, which would enable them to sell drinks, have live entertainment, and stay open later. He thought there would be numerous BDLs for sale at a cheap cost. He stressed that the bill also gave manufacturers the ability to do many of the aforementioned activities without buying a license. He wished that manufacturers would purchase BDL licenses if they wanted to stay open later and have music. He continued that many of the places sold food and were likely qualified in their sales ratios to get a restaurant eating place license. He pointed out that businesses could then sell wine as well. He knew there were people who went to breweries and liked wine as well. He emphasized that the bill provided a disincentive for manufacturers to buy BDL licenses because it enabled businesses to do the activities without one. He worried about the industry and restaurant industry. He stated that restaurants sold beer and wine because they made money off of alcohol. He noted it was the reason everyone wanted to sell alcohol including fairs, bowling alleys, ski areas, nonprofits, races, and other. He elaborated that selling alcohol was fairly easy and it did not spoil.

Representative Wool wanted to see more restaurants have the ability to sell beer and wine. He did not like the population limits on restaurant eating place licenses. He thought it would add equity in the wrong direction. He believed the bill contained numerous positive things including cleanup and technical fixes pertaining to registration and licensing. However, he believed expanding the hours of operation from the original intent of the legislation and allowing live entertainment for manufacturers, essentially put them in the same category as

taverns and bars, which past legislators had worked to avoid.

[10:15:12 AM](#)

Co-Chair Johnston asked if there were any objections to the bill.

Vice-Chair Ortiz MOVED to REPORT CSSB 52(FIN) out of committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CSSB 52(FIN) was REPORTED out of committee with three "do pass" recommendations, five "no recommendation" recommendations, and one "amend" recommendation and with two previously published fiscal impact notes: FN6 (CED) and FN8 (AJS); one previously published indeterminate note: FN7 (REV); and one previously published zero note: FN9 (SFIN/Combined).

[10:16:20 AM](#)

Co-Chair Johnston thanked committee staff for their work during the session. She RECESSED the meeting to a call of the chair [note: the meeting never reconvened].

#

RECESSED

[10:17:10 AM](#)