

SENATE FINANCE COMMITTEE  
February 11, 2020  
9:05 a.m.

9:05:24 AM

CALL TO ORDER

Co-Chair von Imhof called the Senate Finance Committee meeting to order at 9:05 a.m.

MEMBERS PRESENT

Senator Natasha von Imhof, Co-Chair  
Senator Bert Stedman, Co-Chair  
Senator Click Bishop  
Senator Lyman Hoffman  
Senator Donny Olson  
Senator Bill Wielechowski

MEMBERS ABSENT

Senator David Wilson

ALSO PRESENT

Senator Cathy Giessel; Senator Peter Micciche, Sponsor; Anna Brawley, Title 4 Project Review Coordinator, Agnew Beck Consulting.

PRESENT VIA TELECONFERENCE

Bob Klein, Chairman, Alaska Alcohol and Beverage Control Board.

SUMMARY

SB 52 ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG

SB 52 was HEARD and HELD in committee for further consideration.

#sb52

SENATE BILL NO. 52

"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."

[9:05:55 AM](#)

Co-Chair von Imhof read the title of the bill. She reminded that the committee would not be taking testimony or hearing amendments for the bill during the meeting. She commented on the length of the bill. The goal of the meeting was to be swift and thorough.

[9:07:21 AM](#)

SENATOR PETER MICCICHE, SPONSOR, gave a brief introduction of the bill. He thought the bill was important and commented that there was a reason the bill had been around for eight years. He reminded that alcohol was the leading abused substance in the state and was responsible for many social issues. He thought the industry was also a strong economic driver in the state for those that drank responsibly. He thought the bill had been compared to SB 91 [criminal justice reform legislation passed in 2016] because of its size. He commented on the evolution of the bill through the work of the committee over the years. He cited 120 primary stakeholders and over 13,000 hours spent on the bill. He referenced agreement and letters of support from manufacturers and the Cabaret, Hotel, Restaurant and Retailers Association (CHARR).

Senator Micciche recounted that a very similar bill had passed unanimously in in 2018 (SB 76) but had not passed the other body. He considered that the bill had become imbalanced and worked against free market ideals that impacted one stakeholder. He thought the bill was a balance between public health, public safety, and industry. He referenced amendments to the dates in the bill, and an 18-month phase-in transition period.

Senator Micciche asserted that the bill was about balance, reorganization, and fairness. The bill focused on public safety and would modernize the "patchwork" of statutes that

dictated the way the industry operated. He thought the bill required public safety and health accountability that had been lacking in the past. He shared that with the amendment, the bill carried the support of all the engaged parties that had stalled the bill in the past.

Co-Chair von Imhof referenced the two letters from the Brewer's Guild of Alaska as well as CHARR dated within the previous weekend, and thought the support was a huge accomplishment. She hoped not to see many amendments to the bill.

9:11:38 AM

ANNA BRAWLEY, TITLE 4 PROJECT REVIEW COORDINATOR, AGNEW BECK CONSULTING, discussed the presentation "Alcoholic Beverage Control (ABC) Board - Title 4 Review Project - Overview of Senate Bill 52" (copy on file). She conveyed that the presentation would provide a brief overview of the project and speak to highlights in the bill. She alleged that the bill did not so much create new policy but made Title IV work better through reorganization.

Ms. Brawley looked at slide 2, "Goals of Title 4 Review Process":

Promote a fair business climate and protect public health and safety.

1. Create rational regulation for all tiers of the state's alcohol industry.
2. Limit youth access to alcohol, while ensuring youth are not criminalized
3. Promote responsible alcohol use and reduce the harms of overconsumption.

Make Title 4 a clear and consistent legal framework.

1. Increase swiftness, proportionality and consistency of penalties.
2. Increase local law enforcement of Title 4.
3. Increase licensee accountability before the ABC Board for Title 4 violations.

Ms. Brawley noted that the Title 4 review was initiated by the Alcohol and Beverage Control (ABC) Board because of issues in public health and public safety. The last time Title IV was reviewed and updated was 1980.

Senator Micciche interjected that of the 120 pages of the bill, there were few pages with substantive change and much of the bill text reflected reorganization.

[9:14:26 AM](#)

Ms. Brawley spoke to slide 3, "Diverse Stakeholders":

Diverse Stakeholders

- ABC Board, AMCO (staff)
- Public Safety and Law Enforcement
- Industry
  - Manufacturers
  - Wholesalers
  - Retailers
- Public Health
  - Recover Alaska
  - Department of Health and Social Services
  - Alaska Mental Health Trust Authority
  - Rasmuson Foundation
- Community Advocates
- Local Governments

Ms. Brawley noted that there had been several years of stakeholder meetings that she had documented. There had been a great deal of compromise and analysis of potential unintended consequences.

Ms. Brawley referenced slide 4, "Eight Years of Work":

More than 120 stakeholders and staff spent over 13,000 hours (and counting) to craft Title 4 recommendations for proposed legislation.

Ms. Brawley turned to slide 5, "Key Concepts in Title 4":

- The 3 tier system: separation of manufacturers, wholesalers and retailers to prevent monopolies
- Licenses and permits:
  - License: allows a business to sell, serve, distribute and/or manufacture alcohol for 2 years.
  - Permit: time-limited alcohol sales or service, by a licensee or non-licensed organization.

- Population limits: regulates number of licenses available in each community by type
- Proposed new concept: Endorsements on licenses to expand premises or allowed activities

Ms. Brawley noted that the 3-tier system had been in place in every state since prohibition. The following slide included an illustrative graph.

Ms. Brawley considered slide 6, "The 3-Tier System":

Alcohol must be manufactured, distributed and sold to the public by different businesses. This is designed to prevent monopolies.

Ms. Brawley looked at a flow chart on the slide. She noted that every state had a version of the 3-tier system including manufacturing, wholesale, and retail. She commented on the changes in the industry.

[9:17:59 AM](#)

Ms. Brawley displayed slide 7, "Categories of Recommendations":

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

\* Note: Local Option recommendations are documented in the report, but not included in SB 52. More comprehensive discussion of Local Option laws is needed in the future.

Note: all section references current to CSSB 52 ver. C 4-29-19

Ms. Brawley noted that local option laws had been one of the priorities identified by the stakeholder group.

Senator Micciche noted that there was two pieces of local option improvements included in the bill that would be discussed later in the presentation. The two options were requested by municipalities.

Ms. Brawley highlighted slide 8, "Alaska's Liquor License System: Proposed Changes," which showed a graphical flow chart to illustrate the proposed changes in the bill. She detailed that one of the major pieces of the bill was to create a new chapter to relocate most of the licensing and permitting in one place. The slide showed how each of the licenses was organized into three tiers, as well as the endorsements available to each license type. She added that there was a proposal for the manufacturing and wholesale tiers be exempt from population limits to allow for more commerce without negatively impacting public health since manufacturers did not distribute to the public.

[9:21:37 AM](#)

Ms. Brawley looked at slide 9, "Alaska's Liquor License System: Proposed Changes," which showed a flow chart of retail licenses. She elaborated that retail licenses were currently subject to population limits and would remain so. There were three that were new that made brewery/winery/distillery licenses a separate retail license. The rationale was that the retail access points were of concern rather than manufacturers, and the change would allow manufacturers more options with licenses.

Ms. Brawley addressed slide 10, "Alaska's Liquor License System: Proposed Changes," which showed a flow chart. She mentioned additional retail licenses, most of which already existed and were exempt from population limits because of primarily serving tourists. There were a few licenses proposed for removal, and replacement proposed to streamline the number and organization.

Co-Chair von Imhof asked if Ms. Brawley was describing a section in the bill to remove existing statute.

Ms. Brawley answered in the affirmative. She continued that there was a transition provision for conversion of existing licenses to other license types. she used the example of the brewpub license, which would be converted to be a brewery license with either a beverage dispensary or a restaurant license depending upon how the brewery operated.

Ms. Brawley advanced to slide 11, "Proposed: Conversion of Brewpubs," which showed two pictorial flowcharts. She explained that brewpubs were a license type that allowed

for operation of a restaurant or beverage dispensary to produce beer. There was a limit on the amount that could be produced. With a brewery license there was no limit on manufacturing, but there was a limit on how much that could be sold to the public.

Ms. Brawley looked at slide 12, "Proposed: More Retail Options for Manufacturers," which had a flow chart. She discussed a change in the way breweries operated. The proposed changes would allow breweries to obtain a retail license. She used the example of the Moose's Tooth restaurant - a brewpub in Anchorage that had a strict limit on the barrels of alcohol it could produce each year.

Co-Chair von Imhof noted that Moose's Tooth also had a restaurant in which it could serve beer.

Ms. Brawley stated that the brewpub license had limited manufacturing and a retail license.

Ms. Brawley continued to address slide 12, and informed that the bill would allow manufacturers to own any other type of retail license. It would not allow for ownership of a wholesale license.

[9:25:45 AM](#)

Ms. Brawley spoke to slide 13, "Proposed: Manufacturer Sales Limits by Product Type," which showed a graphical chart illustrating how much each license type could sell onsite. The purpose of the limits was to protect public health. The higher the alcohol content of the product, the lower the amount that could be sold. The statute would be updated to reflect the amount of a keg.

Ms. Brawley referenced slide 14, "Proposed: Endorsements on Licenses":

Add endorsements to existing licenses, giving businesses more flexibility without creating more situation specific license types.

Endorsements would allow sampling on premises, multiple bar rooms, deliveries by package stores, etc.

Section 10, 04.09.400; endorsements defined in 04.09.410 - .520

Co-Chair von Imhof asked how one would go about applying for an endorsement.

Ms. Brawley stated that the endorsement process would be similar to that of applying for a license and would have a \$200 application fee. The endorsement would be attached to and renewed with the license. Endorsements could be applied for at any time.

Co-Chair von Imhof asked where one would apply for an endorsement.

Ms. Brawley answered that one would apply to the Alcohol and Marijuana Control Office (AMCO) and the Alcohol Beverage Control Board.

Senator Micciche discussed the additions to Title 4 that had happened with the advent of new business types. He proposed that the new license types would fit with business models.

Senator Bishop asked for clarification of what cider or mead was.

Ms. Brawley stated that mead was considered a farm product and was made from honey.

Senator Olson asked about the alcohol content of mead.

Ms. Brawley believed the alcohol content of mead was similar to that of wine.

[9:30:28 AM](#)

Ms. Brawley turned to slide 15, "Proposed Endorsements":

- R-7A Bowling Alley Endorsement
- R-7B Package Store Shipping Endorsement
- R-7C Package Store Delivery Endorsement
- R-7D Package Store Re-Packaging Endorsement
- [R-1] Multiple Fixed Counter Endorsement
- [R-1] Hotel/Motel Endorsement
- [R-1] Large Resort Endorsement
- [R-3] Package Store Sampling Endorsement
- [M-1] Brewery Repackaging Endorsement

Section 10, 04.09.410 - .520

Ms. Brawley thought the proposed endorsements put a more logical framework on the way business was being done.

Ms. Brawley considered slide 16, "Proposed: Limited Free Samples for Package Stores":

- In current Title 4, Package Stores cannot allow any consumption on premises
- The bill would allow small free samples, with a Package Store Sampling Endorsement
- Ounce limits defined as: "Any combination of products, not to exceed the alcohol equivalent of any single product type"
- Ex: Customer A chooses 12 oz. beer. Customer B chooses 6 oz. cider and 3 oz. wine. Customer C chooses 2 oz. wine, 2 oz. sake, and 4 oz. beer.

\*Cider and mead limits depend on alcohol content: products below 8.5% ABV have a higher sales limit.

Ms. Brawley noted that many states allowed for free samples but there were health concerns. She discussed the compromise that was reached. She discussed suspension of an endorsement without suspending a license.

Ms. Brawley displayed slide 17, "R-7 Standardize Permits":

- Unlike licenses, permits are typically issued for single events, on or off licensed premises.
- Define all permit types in statute, not just 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 to host an event on premises, in partnership with a BDL

Ms. Brawley highlighted slide 18, "Proposed Permits":

- R 7F | Beverage Dispensary Caterer's Permit (AS 04.11.230; 3 AAC 304.685)
- R 7G | Restaurant Caterer's Dining Permit (3 AAC
- R 7H | Club Caterer's Permit (3 AAC
- 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
- R 7L | Inventory Resale Permit (Retail Stock Sale License, AS 04.11.200)
- R 7M | Package Store Tasting Event Permit (proposed)

Section 10, 04.09.600; permits defined in 04.09.610 - .690

Ms. Brawley discussed the proposed package store tasting event permit details. She asserted that the proposal was a compromise that would expand what the businesses could do without endangering public health.

[9:34:00 AM](#)

Ms. Brawley looked at slide 19, "Proposed: Package Store Tasting Event Permit":

- Allows a package store or manufacturer to host a special tasting event on its own premises, with on-site consumption of alcohol for those attending the event.
- The event may be in the store or another area of the property, such as a special event space.
- Licensees can only offer products in their inventory.

Hosting license

- Event may last up to 4 hours, and must end by 9 p.m.
- Must also serve food
- Each license can host 6 events per year in the same community as the license is located

Co-Chair von Imhof asked about slide 18. She asked if the limits of slide 19 were applied to other permits.

Ms. Brawley stated that the limits on slide 19 did not apply to all the other permits, most of which were unchanged. She qualified that the limits on other permits would be more tied to the venue or specific event rather than being based on the permit itself.

Ms. Brawley addressed slide 20, "Population Limits: Current Title 4":

Population limits determine how many of each license type may be issued in each community.

Restaurants: 1 per 1,500 residents.

All other license types (bars, package stores, golf courses, breweries, etc.): 1 per 3,000 residents.

Some licenses are exempt from population limits: bars located in hotels or airports, restaurants issued for public convenience, and licenses that serve tourists.

[9:35:41 AM](#)

Ms. Brawley advanced to slide 21, "Population Limits: Current Title 4":

(AS 04.11.400)

- Some license types are exempt from population limits: most exempt license types are designed to serve tourists and travelers, such as hotels or outdoor recreation lodges.
- They can be issued if other qualifications are met (ex: minimum number of hotel rooms).

Senator Bishop looked at slide 20 and asked for an example of a scenario in which a restaurant might not be able to obtain a license.

Ms. Brawley could not think of an example in which a restaurant would not be able to obtain a license, unless a community did not have any available licenses, which was true for any license type.

Ms. Brawley looked at slide 22, "Proposed: Convert Public Convenience Licenses and Applications":

Existing public convenience licenses would be converted to regular Restaurant or Eating Place Licenses (REPLs).

Applications that have been completed as of the bill's signing date would be converted to applications for regular REPLs, and could be approved by the ABC Board outside the existing population limits.

Ms. Brawley explained that the following slides illustrated the issue of smaller cities that had trouble growing commerce and economic development because of the limited number of licenses. She discussed the idea of giving more local control. She discussed the idea of "public convenience" as related to licenses.

[9:39:32 AM](#)

Ms. Brawley spoke to slide 23, "Proposed Seasonal REPL Tourism":

- Seasonal restaurant license
- Available in smaller communities (< 40,000 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

Section 10, 04.09.350

Ms. Brawley discussed the seasonal restaurant license and noted that population limits negatively affected smaller communities more than larger communities because of the ratio. She noted that there were several restaurants in the state that operated on a seasonal basis and would find the change attractive.

Ms. Brawley referenced slide 24, "Proposed: Local Government Petition for Additional Restaurant Licenses," which showed a flow chart depicting the process for petitioning. She discussed the application requirements. A city could petition the ABC Board, which would decide how many licenses to grant.

[9:42:45 AM](#)

Senator Bishop asked if it was up to a community how to decide how the awarded licenses would be granted.

Ms. Brawley answered in the affirmative.

Senator Wielechowski asked what standard the ABC Board would use to consider the petitions.

Ms. Brawley thought the outcome would depend upon the quality of the petition. There were basic parameters in the bill that would guide the decision making. She thought a city would need to show the current number of licenses and the number of non-residents that were expected. She thought each situation would be unique.

Senator Micciche addressed Senator Wielechowski's question. He considered Soldotna, which had a large influx of visitors for dip netting. An application would consider the number of visitors and there would be consultation with public safety regarding capacity of services. He stated the idea was not to flood the market but rather give local control. He thought the petition would require local planning with multiple stakeholders and was not easily awarded.

Senator Wielechowski was curious if the decision was appealable to the Superior Court of Alaska. He asked if the bill would create a new standard to follow as to whether to grant the petition. He liked the proposal and was curious how it would work.

Senator Micciche thought the petition application process was much like that of other licenses. There were processes to determine if the applications were appropriate. He did not know how the appeal process worked. He discussed an example of applying for an event license and amending the application for approval.

[9:47:08 AM](#)

Co-Chair von Imhof stated that there were representatives from the ABC Board available to comment on the petition for additional restaurant licenses. She asked about the factors that would go into the decision-making process.

BOB KLEIN, CHAIRMAN, ALASKA ALCOHOL AND BEVERAGE CONTROL BOARD (via teleconference), stated that all board decisions

were appealable to the court system. He thought one of the nice things about the proposed system was that the municipality would bring the need to the ABC Board, the board would hold public hearings and could welcome input from many sources. He thought the system would serve the public. He stated that the board would consider each group separately and reiterated that there was a public process.

Senator Bishop asked if there was a time frame for approval or denial for a local government petition.

Ms. Brawley stated there would not be a time limit. Communities that had more licenses than populations allowed would be grandfathered in.

Senator Bishop pondered the timing of decisions when considering things like a salmon opener.

Senator Micciche clarified that there would be a longer-term planning process rather than a quick decision just before an event.

Senator Bishop thought the question was still relevant. He wondered if there should be time parameters.

Co-Chair von Imhof thought that if there was a public process, she hoped that there would be lots of feedback and public deliberation which would require advance planning. She asked for the sponsor to get back to the committee about the timeframe for turnaround considering applications for endorsements.

Senator Micciche assumed that Mr. Klein could answer the question but was willing to provide the answer at a later time.

Co-Chair von Imhof asked to get the information on paper.

[9:52:33 AM](#)

Ms. Brawley continued to address slide 24. She reminded that the proposed process was long term. She thought the process encouraged cities to look ahead. She clarified that the petition process and seasonal restaurant licenses were not mutually exclusive. She thought that some licenses in Homer were public convenience licenses and operated year-

round, while others were seasonal. The intent of the structure was to accommodate different business models.

Ms. Brawley turned to slide 25, "Proposed: Option to Relocate Some Licenses from a Borough to a City":

- Current Title 4 allows relocation of a bar (BDL) from a borough to a city within that borough.
- The bill proposes also allowing relocation of package stores.

Ms. Brawley stated that the option listed on the slide was not used often. The proposal in the bill was to allow for transfers of licenses for package stores in addition to bars. She discussed package stores and noted that public health stakeholders did not want to see a proliferation of licenses. She mentioned the potential for market disruption with a proliferation of licenses.

[9:55:28 AM](#)

Ms. Brawley considered slide 26, "Proposed: Regulate Trade Practices":

Some trade practices are illegal in federal law: practices of alcohol manufacturers and wholesalers to compel retailers' buying decisions, or stopping them from buying competitors' product.

Proposed: add equivalent sections to Title 4, protect retailers and allow for state enforcement.

- Tied house - Partial ownership of retail license by a manufacturer, to control what products are sold or exclude competitors. Does not apply to 100% manufacturer-owned licenses.
- Exclusive outlet - Agreement between supplier and retailer to exclude other retailers or suppliers.
- Commercial bribery - Supplier pays bonus or provides merchandise in exchange for exclusive arrangement or agreement not to purchase other products.
- Consignment sales - Supplier and retailer make deals to take back unsold products.

Ms. Brawley stated that the wholesaler and manufacturer industry had brought up the topic of regulating trade practices. Part of federal law considered how businesses interacted. Many of the laws in place dealt with not allowing one part of a sector to have undue influence and power over others, and not creating monopolies. She referenced illegal trade practices in which manufactures and wholesalers compelled retailers to buy products and not work with competitors or using other influence over retailers. Part of the bill would put existing federal law into state law and allow for enforcement.

Co-Chair Stedman asked if what Ms. Brawley had described was current practice in the industry.

Ms. Brawley was not familiar how common the situation was. In federal law it was not legal for a wholesaler to install an expensive tap system to compel/pressure purchasing. She deferred to the industry to speak to how common the practice was.

Co-Chair von Imhof asked if the bill aligned state law with federal law.

Ms. Brawley answered in the affirmative.

Co-Chair von Imhof asked if most states had made the same change.

Ms. Brawley answered in the affirmative.

Senator Bishop asked if the goal was prevention of monopolies.

Ms. Brawley answered in the affirmative.

[9:58:48 AM](#)

Ms. Brawley displayed slide 27, "F-1. Adjust License Fees to Reflect Current ABC Budgetary Needs":

- Update license fees according to privileges and administrative costs of each, and collect sufficient revenue to cover the ABC Board's required activities:
  - Administration of licenses & permits
  - Education about Title 4 and related regulations
  - Enforcement of Title 4 and related regulations

- ABC Board required to review license fees at least every 5 years.
- See Appendix, Table 2 of the Title 4 Review report for current license fees and proposed changes.

Section 6, 04.06.090; License fees throughout Section 10

Ms. Brawley noted that AMCO was a receipts-funded agency, and license fees were set in statute. The proposal was not to tie the fees to inflation, but rather to set fees in accordance with the resources that were needed to accomplish the work of the board. She asserted that the change would also make license fees more equitable and reasonable. She stated that the sponsor had worked with licensees to determine an appropriate amount.

Co-Chair von Imhof asked about how the license fees were spent.

Ms. Brawley deferred the question to AMCO staff. She understood that the fees were deposited into the general fund and the AMCO budget was based on that amount.

[10:02:00 AM](#)

Ms. Brawley advanced to slide 28, "Proposed: More Accountability for License Fees Allocated to Local Governments":

- Current Title 4 allows for local governments to receive an allocation equal to the license fees collected in their area, intended for enforcement of Title 4 and related ordinances.
- Reporting on these activities is required, but not defined in statute. Some jurisdictions report regularly, while others do not.
- The bill includes better reporting and prevention about use of these funds and requiring reports about education activities as well as enforcement.

Ms. Brawley continued to address Co-Chair von Imhof's question. A portion of the fees were allocated to local governments. The proposed change was to aid in enforcement, administration, and local government functions in aid of regulating licenses. The bill would not change the system beyond adding a requirement to report activities related to

Title 4 enforcement. She explained that the language in current statute was not strong enough and the reporting had not been happening. The bill also proposed a template for data that would be collected. She discussed items that might be in the report.

Ms. Brawley looked at slide 29, "RB-4. ABC Board as Key Partner for Alcohol Education Efforts":

- The ABC Board and AMCO, subject matter experts on Title 4, would work with other agencies and organizations to develop a coordinated education plan about responsible alcohol use and applicable laws.
- Coordinate with Department of Health and Social Services and other agencies tasked with alcohol-related education.

Section 2, 04.06.075; Section 6, 04.06.090

Ms. Brawley discussed AMCO coordinating with other entities to create an education plan, and used the example of working with police on education relating to overserving.

Ms. Brawley addressed slide 30, "Internet Sales in Alaska: Few Rules":

- Alaska is one of the only states with no rules for Internet sales of alcohol.
- Alaska Package Stores cannot sell alcohol online, only via (paper) written orders.
- Alaska Wineries and Package Stores can ship wine to customers in some circumstances.
- Without state laws restricting online sales, there are currently no limits on purchases of alcohol online from out-of-state sellers.
- Alaska consumers also do not pay state excise tax on online purchases, as they do on products sold and purchased in state.

Ms. Brawley used the example of an underage person buying from an online seller without oversight or excise tax payment. The bill proposed to close loopholes and bring Alaska in line with other states.

[10:05:44 AM](#)

Ms. Brawley highlighted slide 31, "Proposed: Regulate Internet Alcohol Sales":

INT-1. Winery Direct Shipment License

- Create a license available to all U.S. (including Alaska) wineries to ship orders of wine to Alaska customers.
- Prohibit other online sales of alcohol not under this license or the Package Store Shipping endorsement.

INT-2. Collect Alaska Excise Tax for Internet Sales

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

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

- Require all common carriers who transport deliver alcohol directly to consumers in Alaska to be approved by ABC Board.

Section 10, 04.09.360; section 87, 04.16.022

Ms. Brawley noted that the State of Idaho had 600 or 700 permit holders for winery shipments. She reiterated that the proposal was not to restrict what people do but rather to ensure the purchasing was done legally.

Senator Hoffman relayed that there were many dry communities in rural Alaska. He asked how the provision would be monitored to keep people in dry communities from ordering wine online.

Ms. Brawley advanced to slide 32, "Proposed: Regulate Internet Alcohol Sales":

- Alaska does not limit online sales of alcohol. Orders from out of state businesses are not subject to Alaska's alcohol excise tax, and the state cannot track how much alcohol is ordered each year.
- The bill would create a Winery Direct Shipment License and allow online alcohol sales only from U.S. wineries and Alaska package stores.

Alaska customer orders wine online from winery - wine only: no beer or spirits

Winery Direct Shipment Licensee verifies:

- Is customer 21 or older?
- Is customer in a non-Local Option area?
- Is order within limit for personal use?
  - 6 cases per sale
  - 12 cases per year

Common carrier receives, transports and delivers order

Carrier verifies customer is 21+, delivers package in person

Ms. Brawley explained that one of the key provisions of the proposed winery direct shipment license was that one would not be able to sell to a local option area. There was a database that all package stores in the state were connected to, which was not feasible for out of state businesses.

Senator Hoffman asked about the first bullet on slide 31, which referenced "a license available to all U.S. (including Alaska) wineries to ship orders of wine to Alaska customers." He was concerned how the orders would be monitored. He thought educating all U.S. wineries on Alaska's dry communities was a large task.

[10:09:14 AM](#)

Senator Micciche stated that currently there was no regulation of internet alcohol sales in the state. He went back to slide 31 and considered the three issues listed. He looked at slide 32, which showed the ordering and age verification during shipment. The bill would require that the seller would determine that the purchaser was 21 years or older and not in a local option area. The proposal would also require the common carrier to be trained and licensed and following the law.

Senator Hoffman still did not see how the proposed legislation would monitor how alcohol sales would be available to dry communities. He asked about the enforcement mechanism.

Ms. Brawley stated that by creating the license, AMCO would be able to identify if someone was illegally shipping to anywhere in the state. The license would not allow sales in a local option area. The license would not allow for sales to specific areas listed by zip code. She furthered that the Wine Institute had a database of state laws and a list of dry counties. She added that the following slide also discussed the regulations on carriers.

Senator Hoffman asked how the law would be enforced and about penalties.

Ms. Brawley stated one penalty would be that AMCO could go after a seller that was selling illegally.

[10:13:02 AM](#)

Ms. Brawley advanced to slide 33, "Proposed: Regulate Internet Alcohol Sales":

Common carriers must be approved by the ABC board to transport and deliver alcohol to consumers throughout the state.

Carriers must demonstrate that they have policies and train employees to properly handle shipments of alcohol.

Carrier maintains policies:

- Safe alcohol handling
- Delivery to adult, age 21+
- Delivery in-person only

ABC board reviews and approves carrier for alcohol transport and deliver

ABC board publishes list of approved carriers

Ms. Brawley addressed Senator Hoffman's question about transport and delivery. She stated the sponsor had worked closely with UPS and FedEx on the regulation concept. Commercial contracts with UPS and FedEx only allowed shipment of wine and only did in-person deliveries. The carrier companies would be liable if the seller shipped to a dry community or if the delivery got into the hands of an underage person.

Senator Hoffman understood Ms. Brawley's comments, but did not see how the provisions would be enforced. He stated there were many dry communities in his own and Senator Olson's districts. He asked what the mechanism was to make sure the law was being enforced.

Senator Micciche restated that there was currently no system of regulating online alcohol sales. The proposal would include a tracking system. He thought Mr. Klein would be equipped to further answer the question about a person being caught shipping illegally to a local option area.

Co-Chair von Imhof asked Mr. Klein to address how the bill would prohibit carriers from shipping to dry communities.

Mr. Klein asserted that there was a "choke point" in the system at the point of delivery carriers, which were limited. He mentioned FedEx, UPS, and Alaska Airlines. He thought the fact that the ABC Board could license the carriers, request information about what was shipped, and dictate which communities to ship to would provide tremendous information on how to enforce the regulations. He pointed out that once the bill was passed, the board had the tremendous chore of coming up with regulations to enforce and implement the law. He was comfortable in saying that the board had the tools and would implement a level of control that did not currently exist.

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Senator Olson considered the issue related to common carriers and noted that the carriers referenced did not go to rural Alaska, but went to hub communities that were not considered dry. He asked if there was a plan to penalize smaller carriers that were delivering to smaller communities that had opted to be dry.

Ms. Brawley stated that the intent would be to work with all carriers in the state, especially smaller carriers. She emphasized that the first part of enforcement was ensuring knowledge and familiarity with the law.

Co-Chair von Imhof thought Mr. Klein had asserted that the carriers would have to determine the legal age of customers. She thought the proposal put the onus on the pilot.

Ms. Brawley answered in the affirmative and stated that the responsibility of age verification would be on the original seller. Sellers would have a list of dry communities, and sales to such communities could be traced back to the seller.

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Senator Olson thought it was absurd to request a federally regulated pilot or carrier to enforce the proposed regulations. He had been in the air taxi business for the previous 50 or 60 years. He hoped there was no penalties for the common carriers, and he did not think the issue was the responsibility of the pilots or carriers. He did not think the issue was clear. He would not support the bill if there would be penalties for common carriers, particularly 135 operators.

Senator Micciche stated that the online sale of alcohol was not currently regulated. With passage of the bill, sellers would have to be registered and common carriers would be approved and would know the rules. He emphasized that there was no existing system for tracking alcohol sales and shipment into dry communities. He acknowledged that the proposed system would not be perfect but would provide a system that tracked the sales. The ABC Board would have the authority to retract a license for alcohol transport and delivery if there was delivery to a local option area.

Senator Olson mentioned his own business in air carriers and suggested that the proposed mandates would create an added expense to businesses.

Co-Chair von Imhof stated that if the carriers did not want to accept the responsibility of selling and delivering alcohol, it could choose not to. She repeated Senator Micciche's point that there was currently not a tracking system in place. She thought the proposal, although imperfect, was a step in the right direction. She thought there were areas that could be modified.

Senator Olson agreed with Co-Chair von Imhof's remarks. He mentioned the alcohol problem in rural Alaska. He applauded the sponsor for trying to mitigate the situation. He reiterated his concerns about unintended consequences. He discussed the carrier's obligation to move mail.

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Senator Bishop thought the regulatory package for implementation was important and noted that there were carriers that served wet as well as dry communities in his district. He was concerned that a carrier could lose a plane over a glitch from a lack of clarity in the law.

Senator Micciche did not think the bill would cure the smuggling of alcohol into local option areas. He reiterated that the U.S. mail did not ship alcohol. He stated that he understood Senator Bishop's concern. He reiterated that carriers would not carry alcohol into local option areas and would know the registered contents of packages containing alcohol. He thought the proposed system would be a dramatic improvement over the current unregulated online sale of alcohol to local option areas.

Co-Chair von Imhof thought Senator Micciche summed up the situation well. She thought the discussion was important.

Senator Olson asked about regulations regarding sale of alcohol outside of city limits of a local option area.

Senator Micciche stated that the bill did not address the topic. He thought the ABC Board would be the best resource for answering the question.

Senator Olson stated he would address the question to the board at another time.

Ms. Brawley noted that despite the long-standing policy, there was no indication that people were not illegally shipping alcohol via the postal service. She mentioned that there was an existing law that pertained to transportation of alcohol into local option areas and included specific regulations around labelling of packages containing alcohol.

Ms. Brawley referenced slide 34, "Tracking Alcohol Orders in Local Option Areas: Current Title 4":

Residents in Local Option communities that allow importation of alcohol may order a limited amount of alcohol each month for personal and non-commercial use.

Monthly Importation Limit

12 gal. Beer - Or 1 half-barrel (15.5 gal) keg  
24 L wine (32 bottles)  
105 L spirits (14 bottles)

Alaska customer sends order to package store

Licensee verifies:

- Is customer 21 or older?
- Has customer met monthly order limit?
- Is new order within monthly limit?

Licensee records new order in ABC Board database

Access limited to:

- ABC Board
- Package stores
- Law enforcement

Carrier delivers package

Common carrier receives, transports and delivers order

Ms. Brawley discussed local option areas, or dry and damp communities.

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Ms. Brawley turned to slide 35, "Proposed: Publish Community-Level Data from Local Option Order Database":

- In current Title 4, all data in the Local Option order database is private, and deleted after 1 year.
- the bill would keep individual order information private, but retain aggregate data for 10 years and allow the ABC Board to publish annual total sales volume by region or community.
- This valuable information would be available to communities and law enforcement to understand the flow of alcohol into Local Option communities via legal sales.

Ms. Brawley reiterated that the Local Option Order database was not available to the public. Law enforcement had access to the database, which would purge individual data and give communities more information to plan and deal with community issues.

Senator Hoffman noted there were wet, dry, and damp communities. He shared that Bethel was a damp community, and it was critical to monitor importation of alcohol. He explained that many people in Bethel felt that the shipments were not being monitored adequately. He mentioned the problem of bootlegging. He thought there needed to be additional monitoring for damp communities to ensure that the monthly importation limits were strictly enforced.

Ms. Brawley stated that the subject was part of the discussion of the bill proposal. She asserted that the bill would provide communities with the information to address the issue.

Ms. Brawley considered slide 36, "RB-6. Revise Title 4 Penalties":

- Review penalties for all Title 4 sections, and revise as needed to make penalties proportionate to the offense, and more consistently enforced.
- Retain existing Misdemeanor and Felony charges for serious offenses, particularly those causing harm to children.
- Ensure that the ABC Board, and licensee, is informed about Title 4 convictions: require court to send records to AMCO, and AMCO to send to the licensee.
- ABC Board retains authority to impose conditions or additional penalties, including suspending or revoking license.
- See Appendix, Table 3 in Title 4 Review Report for table of all current penalties and proposed changes. Defined throughout; most prohibited acts defined in chapters 11 + 16

Ms. Brawley stated that most penalties in the bill would clarify the level of offense. She mentioned the importance of ensuring the board was informed about Title 4 convictions. There were provisions in the bill that required notification to AMCO and licensees.

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Ms. Brawley displayed slide 37, "Proposed: Revise Penalties for Lesser Offenses":

- In current law, almost all violations of Title 4 are Class A misdemeanors.
- When penalties are set high across the board and perceived to be too strict for most offenses, law enforcement is less likely to issue citations and courts are less likely to pursue those cases.
- In the bill, many penalties would become minor offenses. Serious violations, such as selling alcohol without a license, allowing gambling on the premises, or perjury on a license application would remain misdemeanors or felonies, as they are today.

#### Minor Offense (Violation)

- Up to \$500 fine (most are \$250)
- Community work service
- Does not require court appearance

Example: Failure to post required warning signs, noncompliance with a permit requirement

#### Class A Misdemeanor

- Up to \$10,000 fine
- Up to 1 year in prison
- 10 years probation
- Requires court appearance

Example: Selling alcohol without a license, knowingly allowing underage sales by employees

#### Class C Felony

- Up to \$50,000 fine
- Up to 5 years in prison
- 10 years probation
- Requires court appearance

Example: Perjury on state license application (Class B), importing large amount of alcohol into local option area.

Ms. Brawley explained that the proposal was to make clear the penalty for each section. The stakeholder group had spent time considering the penalties for each section. The bill would ensure that penalties were enforced. She mentioned that the misdemeanors or felonies would remain the same. The intent of the bill was not to lessen enforcement of serious crimes, but rather to rebalance so that crimes could be addressed at the appropriate level.

Co-Chair Stedman asked for discussion of any changes pertaining to bartenders and serving minors.

Ms. Brawley explained that currently selling to a minor was a Class A misdemeanor. The goal of the proposal had been to ensure enforcement. The proposal was to change the penalty to a minor offense with a \$500 fine. In addition to what the court would issue, the owner of a license would be immediately liable for an administrative penalty of \$250, which would let owners know of employee behavior and reduce the issue in the future. The penalty would apply to both serving a minor and overserving an adult, which were identified as key public health priorities to reduce the harms of alcohol.

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Ms. Brawley highlighted slide 38, "Proposed: Licensee Penalties for Overserving an Adult or Serving a Minor":

- In current Title 4, a licensee or employee who knowingly overserves an intoxicated adult or who serves alcohol to a minor is guilty of a Class A Misdemeanor.
- The bill would change the penalty for both statutes to a Minor Offense, with a \$500 fine.
- In addition to the penalty to the person who commits the violation, the owner of the license would receive an administrative (non-criminal) penalty of \$250. This alerts the owner that a violation occurred, holds them immediately accountable and encourages future compliance.

Co-Chair Stedman wanted to clearly understand the current structure versus the proposed structure with regard to underage sales of alcohol. He was concerned about unfairness to bartenders. He thought the bill proposed a \$500 fine per occurrence. He asked about the process for repeat offenses.

Co-Chair von Imhof referenced page 77 of the book "Alaska Title 4 Review" (copy on file) and stated it contained all the proposed penalties. She asked if cumulative offenses would escalate to a misdemeanor.

Senator Micciche stated the currently serving an underage person was a Class A misdemeanor, which was not enforced. With the bill came funding for additional enforcement. If there was a record of infractions when an owner applied for license renewal, there was a risk of denial. He stated that the ABC Board regularly reviewed those that were not following the law. Local communities could also comment on the process of license renewal.

Co-Chair Stedman had spoken with bartenders over the years who had inadvertently sold alcohol to minors. He thought the current structure might be overly aggressive. He asked about bartenders and repeat offenses.

Senator Micciche relayed that the stakeholder group had considered that the \$500 fine was significant but that there was not a connection to the owner of the establishment. He thought involving the owner of an establishment would ensure bartenders were trained and not serving underage patrons.

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Co-Chair von Imhof thought selling to a minor was a very serious offense and pointed out that there were several changes to offenses listed on page 77 of the aforementioned booklet, many of which made sense. She thought it made sense to notify owners if bartenders were serving underage patrons. She was not keen on starting to amend the bill. She suggested not including the change being discussed.

Senator Micciche thought it might be worth considering how many people in the industry that had been charged with a class A misdemeanor. He wanted to improve the long-term outcome and thought existing law was not effective.

Co-Chair Stedman was concerned that the sponsor was claiming that the current system was not working well. He thought the current system might be overly harsh. He thought the proposed \$500 fine for workers was significant. He suggested that a \$200 fine for an establishment was not significant, but any effect on licensure was significant.

[10:47:33 AM](#)

Ms. Brawley looked at slide 39, "Proposed: Require Keg Registration":

Proposed: Require Keg Registration

- Reduces adults' incentive to legally purchase alcohol and supply an underage drinking party.
- Kegs tagged with the purchaser's contact information can be tracked if confiscated at an underage party or other situation where minors are given access to alcohol.
- A person, not a licensee, possessing an untagged keg containing alcohol could be fined.
- Modeled on existing Anchorage and Juneau ordinances.

Ms. Brawley stated that keg registration was a best practice to ensure that kegs were not sold to minors. She cited that a significant number of youths had accessed alcohol through legal purchases. She thought there were many pieces to reducing underage drinking. She described the keg registration as a best practice tracking system to make sure those providing alcohol to minors would be held accountable. The slide showed a graphic illustrating the scenarios of legal and illegal consumption of a keg. The bill would provide a way for law enforcement to track a keg that had been provided to minors.

Co-Chair von Imhof stated the committee would set the bill aside. She wanted to revisit the bill soon to address the fiscal notes and review a sectional analysis.

Senator Wielechowski asked if keg registration required home brewers to register kegs.

Ms. Brawley stated that the proposal only applied to kegs sold by licensees.

Senator Wielechowski thought further discussion was needed and would discuss the matter with Ms. Brawley at a later time.

Co-Chair Stedman was concerned about potential revenue and fiscal impacts of the bill.

Co-Chair von Imhof thought when the bill was next considered, the committee would consider the fiscal notes and funding required to carry out some of the proposed changes.

SB 52 was HEARD and HELD in committee for further consideration.

#

ADJOURNMENT

10:52:10 AM

The meeting was adjourned at 10:52 a.m.