

SENATE FINANCE COMMITTEE
February 19, 2020
9:03 a.m.

9:03:42 AM

CALL TO ORDER

Co-Chair von Imhof called the Senate Finance Committee meeting to order at 9:03 a.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Bert Stedman, Co-Chair

ALSO PRESENT

Senator Peter Micciche, Sponsor; Konrad Jackson, Staff, Senator Peter Micciche; Beth McEwen, Self, Juneau; Nancy Meade, General Counsel, Alaska Court System; Matt Davidson, Program Officer, Division of Juvenile Justice, Department of Health and Social Services; Brandon Spanos, Deputy Director, Tax Division, Department of Revenue.

PRESENT VIA TELECONFERENCE

Anna Brawley, Agnew Beck Consulting; Sarah Oates, Alaska Cabaret, Hotel, Restaurant and Retailers Association, Anchorage; Mike Abbot, CEO, Alaska Mental Health Trust Authority (AMHTA), Anchorage; Tiffany Hall, Recover Alaska, Anchorage; Glen Klinkhart, Interim Director, Alcohol and Marijuana Control Office, Department of Commerce, Community and Economic Development.

SUMMARY

SB 52 ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG

CSSB 52(FIN) was REPORTED out of committee with two "do pass" recommendations, two "no recommendation" recommendations, and one "amend" recommendation; and with one new fiscal impact note from the Department of Commerce, Community and Economic Development, one indeterminate fiscal note from the Department of Revenue, one fiscal impact note from the Judiciary, and one statement of zero fiscal impact for the Department of Commerce, Community and Economic Development and the Department of Health and Social Services.

#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."

[9:04:08 AM](#)

Co-Chair von Imhof noted that SB 52 had been heard previously on February 11, and the committee would continue the presentation and consider the sectional analysis, fiscal notes, and public testimony. If there was sufficient time the committee would consider amendments.

[9:05:05 AM](#)

SENATOR PETER MICCICHE, SPONSOR, commented that the bill was the result of an 8-year effort. He thought everyone knew there was a group of stakeholders working in the same direction.

[9:06:02 AM](#)

KONRAD JACKSON, STAFF, SENATOR PETER MICCICHE, commented that the bill was long and somewhat intimidating. He added that the sectional analysis was long, and many sections of

the bill were reordered and reorganized for clarity, which had been lacking in Title 4. He stated that he would only quickly mention the reordered sections, which were highlighted in yellow. Other sections with changes were highlighted in magenta and green.

Mr. Jackson addressed the Sectional Analysis (copy on file) [secretary's note: only portions of the sectional analysis that were discussed are included due to document length]:

Sectional Analysis - Version K
5/2/2019
Alcoholic Beverage Control; Alcohol Regulation
Title 4, Chapter 6: Alcoholic Beverage Control Board

Sections 1-9 Authority and duties of the board; Pages 1-5

Section 1: Declaration of Policy; purpose; finding.
Adds a new section AS 04.06.005 (Pages 1-2)

Section 2: Authority of director. Adds a new subsection AS 04.06.075 to require that the director of the Alcoholic Beverage Control board (ABC board) shall include in the agency's budget resources for administration, enforcement, education, training, and prevention activities under Title 4. (Page 2)

Mr. Jackson explained that Sections 3, 4, and 5 were simply reordered. He addressed other sections in the sectional analysis:

Section 6: Powers and duties. Amends AS 04.06.090 to add a new subsection (f) that directs the board to prepare a Title 4 education plan for public safety, industry, youth, municipalities, and the public with annual revision.

Adds new subsections (g-j) which direct the board to review fees every 5 years, allow opinions on legislation amending this title, requires the board to provide notice of violations to licensees after receiving from the court system, and to post FASD information online. (Page 3)

Mr. Jackson noted that Section 7 was reordered. He continued to read from the sectional analysis:

Subsection 8: Statewide database. Adds a new subsection AS 04.06.095, which directs the board to produce a report of aggregate regional sales of alcohol in local option areas, based on information retained in database and not including identifying data about an individual purchaser or seller. (Page 4)

Mr. Jackson noted that Section 7 was reordered. He continued to read from the sectional analysis:

New Chapter 9: Licenses, Endorsements and Permits

Section 10: Adds the new Chapter 09 to Title 4 - Licenses, Endorsements and Permits. Relocates and renumbers many existing licenses and permits from Chapter 11. Organizes into articles of licenses listed by the 3 tiers: manufacture, wholesale, retail; endorsements; and permits. (Pages 5-51)

Mr. Jackson noted that in Article 2 there were four sections that were reordered. He continued to read from the sectional analysis:

AS 04.09.050. Authorized sales. Retains existing privileges for smaller manufacturers to self-distribute to retail, wholesale, permitted and out of state or country licensees. Requires large manufacturers to go through wholesale distributors. (Pages 6-7)

AS 04.09.060. Unlicensed manufacturing. Relocates existing penalty for unlicensed manufacture from 04.11.010. (Page 7)

[9:08:57 AM](#)

Mr. Jackson continued to address parts of the sectional analysis:

Mr. Jackson noted that Article 3 was reordered, with the reduction in annual transaction fees for smaller businesses. He continued to read from the sectional analysis:

AS 04.09.110. Limited wholesale brewed beverage and wine license. Relocates limited wholesale license from previous wholesale license section (AS 04.11.160(b)) in a separate section, maintains \$400 biennial fee, maintains maximum \$10,000 fee, and reduces annual transaction fees for smaller businesses. (Page 9)

AS 04.09.150. Failure to pay annual fee or file affidavit. States that failure to pay an annual wholesale fee or file an affidavit is a violation and sets the penalty. (Page 11)

AS 04.09.160. Failure to pay biennial fee or file declaration. States that failure to pay a biennial fee and failure to file a declaration are violations and sets the penalty. (Page 11)

Article 4. Retail Licensees

AS 04.09.200. Beverage dispensary license. Relocates and simplifies the BDL license language from 04.11.090, maintains the \$2,500 biennial fee, references the multiple fixed counter endorsement, and sets the penalty for unauthorized beverage dispensary activity. Sections in current BDL for bowling alley and hotel licensees relocated to become separate endorsements. (Pages 11-12)

AS 04.09.210. Restaurant and eating place license. Relocates license from 04.11.100, sets biennial fee at \$1250, defines the 1:1 food to alcohol ratio, limits the number of annual allowed after-hours entertainment events to six, defines when minors can be on the premises, and sets penalty for failure to comply with license terms. (Pages 12-14)

AS 04.09.310. Brewery retail license. Creates new license type based on relocated existing language in AS 04.11.130 for brewery retail activities, sets biennial fee at \$1,250, requires retail license to be adjacent to manufacturing location, and sets penalty for failure to comply with license terms. (Pages 21-22)

AS 04.09.320. Winery retail license. Creates new license type based on existing language in AS 04.11.140 for winery retail activities, sets biennial fee at \$1,000, requires retail license to be adjacent to manufacturing location, defines sales volume limits for cider and mead depending on alcohol content, and sets penalty for failure to comply with license terms. (Pages 22-23)

AS 04.09.330. Distillery retail license. Creates new license type based on existing language in AS 04.11.170 for distillery retail activities, sets biennial fee at \$1,250, requires retail license to be adjacent to manufacturing location, and sets penalty for failure to comply with license terms. (Pages 23-24)

AS 04.09.340. Beverage dispensary tourism license. Relocates license from AS 04.11.400(d), maintains biennial fee at \$2,500, maintains exemption from number of rooms required for renewing licenses, and sets penalty for unauthorized beverage dispensary activity. Other language in AS 04.11.400(d) relocated to Hotel or Motel Endorsement. (Pages 24-26)

AS 04.09.350. Seasonal restaurant or eating place license. Creates new license type, sets biennial license fee at \$1,250, defines which communities can qualify for having this license type, sets out formula for determining number of allowed licenses per community, and sets penalty for failure to comply with license terms. (Pages 26-28)

AS 04.09.360. Winery direct shipment license. Creates new license type authorizing direct to consumer (including online) sales of wine for in-state or out-of-state winery, sets biennial license fee at \$200, directs the board to develop an application form specifically for this license, prohibits sales by this license type to local option areas, and sets penalty for failure to comply with license terms. (Pages 28-30)

Mr. Jackson continued to speak to the sectional analysis:

AS 04.09.370. Unlicensed retail sale. Relocates existing unlicensed retail sale from 04.11.010 and maintains misdemeanor A penalty. (Page 30)

Mr. Jackson addressed Article 5, which defined the types of endorsements which could be added to a license. He read the various possible endorsements. He noted that all sections also included penalties for non-compliance with the endorsement.

Mr. Jackson addressed Article 6 which defined the types of permits. Most of the sections were reordered and reorganized. A new section created a package store tasting event permit. The end of article 6 included penalties for failure to comply permit requirements.

[9:13:06 AM](#)

Mr. Jackson addressed Article 7 under the bill:

AS 04.09.750. Common carrier approval. Requires the board to approve a common carrier to transport and deliver alcoholic beverages to consumers within the state in response to a consumer's order, and sets requirements and penalties for common carriers. (Pages 49-51)

Mr. Jackson pointed out that under Article 7 there were new penalties related to licensing. The bill maintained a misdemeanor penalty for the license and permit for possession and sale of alcohol. There were a couple of other sections that were reordered and reorganized. He noted that under Section 14, there were new penalties of \$250 for violation that dealt with the purchase or barter of alcoholic beverages from a non-licensee.

Mr. Jackson addressed a portion of the sectional analysis:

Section 16: Board approval of transfers. Adds new subsections to AS 04.11.040 (d) and (e) to make it a minor offense and provide for a penalty for the unauthorized transfer of an alcoholic beverage license or permit. It is a violation. (Page 52)

Section 17: Reports required of limited liability organization. Adds new subsections to AS 04.11.045 (c) and (d) to set the penalty for failure to report a change in member interest or manager at a \$250 fine. (Page 53)

Section 18: Reports required of corporations. Adds new subsections to AS 04.11.050 (c) and (d) to set the penalty for failure to report a stock transfer or change of officers or board members at a \$250 fine. (Pages 53)

Section 19: Reports required of partnerships. Adds new subsections to AS 04.11.055 (c) and (d) to set the penalty for failure to report a transfer of partnership interest or change of general partner at a \$250 fine. (Page 53)

Mr. Jackson addressed Section 20, which was reordered and dealt with a nonresident distiller manufacturing license. Section 21 added a new subsection to maintain the existing misdemeanor A penalty. He noted that Section 22 was reordered. He spoke to the new concept in Section 23:

Section 23: Application for new license or permit. Amends AS 04.11.260 to exempt winery direct shipment license from the application process for other license types, defined instead in AS 04.09.360 (Page 55)

Mr. Jackson noted that Section 24 was reordered. He continued to address the sectional analysis:

Section 25: Application for renewal of license or permit. Amends AS 04.11.270 to exempt winery direct shipment license from the renewal process, defined instead in AS 04.09.360. (Page 56)

Section 26: Application for transfer of a license to another person. Amends AS 04.11.280 to add endorsements as transferrable with a license. (Page 56)

Section 27: Adds a provision for automatic transfer of a REPL or seasonal REPL license if the board takes no action within 90 days. (Pages 56-57)

Section 29: Criminal justice information and records. Amends AS 04.11.295(c)(1) adds reference to conditional contractor's permit to the definition of "applicant." (Page 58)

Section 30: Notice of application. Adds new subsection AS 04.11.310 (c) to exempt winery direct shipment

license from notice requirements that do not pertain to this type of license. (Page58)

Section 31: False statement on application. Adds a new subsection to AS 04.11.315, relocating AS 04.16.210 and defines the crime of making false statements on an application as perjury, with the existing felony C penalty defined in AS 11.56.200. (Page58)

Mr. Jackson detailed that Section 32 was reordered, as was Section 33 through Section 36. He informed that Section 37 was a new concept:

Section 37: Denial of license or permit renewal. Adds new subsection 04.11.330 (e) to exempt a winery direct shipment license from certain provisions in the denial of an application section that do not pertain to this type of license. (Page 61)

Mr. Jackson noted that Section 38 through Section 44 were simply reordered.

[9:16:19 AM](#)

Mr. Jackson addressed Section 45 on page 11 of the sectional analysis:

Section 45: Adds a new subsection AS 04.11.395(b) to allow the board delegate authority to the director to impose conditions or restrictions on any permit other than a conditional contractor's permit. The director reviews permit applications and issues all permits. (Page 67)

Mr. Jackson informed that Section 46 was reordered. He continued to address the sectional analysis:

Section 47: Population limitations. Amends AS 04.11.400(a) (duplicate section), to edit subsection references, adds new population limit of 1:9,000 for new manufacturer retail licenses, adds licenses exempt from population limits and exempts local option populations from calculations. [Effective with other licensing changes, 1/1/2021] (Pages 68-70)

Section 48: Population limitations. Repeals and reenacts AS 04.11.400(i) to list licenses exempt from

population limits, including manufacturer (production only) licenses, wholesale licenses and currently exempt retail licenses that primarily cater to tourists and travelers. (Page70)

Section 49: Population limitations. Amends AS 04.11.400(k) to edit reference to beverage dispensary license, allows relocation of a package store, lowers borough threshold population for qualifying boroughs, restricts number of licenses eligible for transfer to those exceeding population limits and defines number of allowed transfers by city, not borough.(Pages 70-71)

Section 50: Petition for additional restaurant or eating place licenses for certain local governing bodies. Adds new section AS 04.11.405 that gives first class cities, home rule cities, or unified municipalities the ability to petition the board for additional restaurant or eating place licenses allocated to their jurisdiction.[Effective immediately] (Pages71-72)

Mr. Jackson informed that Section 51 through Section 54 were reorganized. He spoke to Section 55 and Section 56:

Section 55: Person and location. Amends AS 04.11.430 to allow licenses to be issued to government entities and tribal organizations. Place residency requirements on corporations and limited liability organizations. Adds a reference to endorsements in relation to information required, including telephone number, and email address. [Effective immediately] (Pages73-74)

Mr. Jackson addressed Section 56:

Section 56: Prohibited financial interest. Amends AS 04.11.450(b)to clarify that a wholesaler cannot own a manufacturer license or a retail license, removes restrictions on manufacturers owning a retail license, and removes references to repealed licenses. (Page74)

Mr. Jackson noted that Section 57 was reorganized. He addressed Section 58 and Section 59:

Section 58: Prohibited financial interest. Adds new subsections to AS 04.11.450 (g-h) to restrict

manufacturers above a certain annual production level from owning a wholesale license or retail license, and defines thresholds for production by product type. (Page75)

Section 59: Prior public approval. Amends AS 04.11.460 to exempt a winery direct shipment license boundary restrictions that do not pertain to this type of license. (Page75)

Mr. Jackson noted that Section 60 through Section 80 were all reorganized and re-worded. He addressed Chapter 16:

Section 81: Hours of sale and presence on licensed premises (standard closing hours). Amends AS 04.16.010(c) to clarify the hours that a person cannot be on the licensed premises outside of allowed operating hours (8:00 a.m. to 5:00 a.m.)unless to conduct business with the licensee, maintenance or improvements or is the holder of a common carrier license, and adds restaurant endorsement reference. (Page 85)

Section 82: Hours of sale and presence on licensed premises (standard closing hours). Amends AS 04.16.010 to add new a penalty section(e), making it a violation. (Page 85)

Section 83: Pricing and marketing of alcoholic beverages. Amends AS 04.16.015(a) to exempt manufacturer and package store sampling endorsements from the prohibition on providing alcohol free of charge, and defines a week as seven days for pricing and marketing of alcoholic beverages. (Page 85-86)

Section 84: Pricing and marketing of alcoholic beverages. Amends AS 04.16.015 by adding a new subsection (e) to set the penalty for violating this section as a violation. (Page 86)

Section 85: Trade practices. Adds a new section AS 04.16.017 to specify illegal practices by manufacturers as defined in federal law, and directs the board to adopt regulations defining exceptions to these rules and define administrative penalties for violations. (Pages 86-88)

Section 86: Solicitation of alcoholic beverages; purchase on behalf of another. Amends AS 04.16.020 to set the penalty(\$100 fine) for unauthorized solicitation or purchase of alcoholic beverages.(Page 88)

Section 87: Online sale and purchase of alcoholic beverages. Adds a new section AS 04.16.022 prohibiting online purchase and sale to Alaska consumers unless the licensee has a winery direct shipment license or package store shipping endorsement and sets penalties. (Page 88)

[9:20:59 AM](#)

Mr. Jackson continued to address the sectional analysis:

Section 88: Illegal presence on premises involving alcoholic beverages. Amends AS 04.16.025(a) to add statutory references to all penalties involving sale without a license. (Pages88-89)

Section 89: Prohibited conduct relating to drunken persons. Amends AS 04.16.030 to change existing penalty for prohibited conduct relating to a drunken person, adds administrative penalty to licensee if employee is convicted of a violation of this section, and adds misdemeanor penalty for licensee who knowingly allows employees to violate this section.(Page89)

Mr. Jackson noted that Section 90 was reordered and reorganized. He addressed the sectional analysis:

Section 91: Possession of ingredients for homebrew in certain areas. Adds new subsections to AS 04.16.035 (b-c) to clarify current penalty for possession of ingredients for homebrew. (Page89)

Section 92: Access of drunken persons to licensed premises. Adds new subsections to AS 04.16.040 to relocate and change the penalty for prohibited access by a drunken person. (Page 90)

Section 93: Obligation to enforce restrictions in licensed premises. Adds new subsections to AS 04.16.045 (b-c) to relocate and change penalty for

permitting consumption not authorized under a license.
(Page 90)

Section 94: Access of persons with restriction on purchasing alcohol. Amends AS 04.16.047 to reference the existing penalty for entering and remaining on licensed premises defined in AS 04.16.160. (Page 90)

Mr. Jackson highlighted that Section 95 through Section 98 were reordered for organizational purposes. He addressed the sectional analysis:

Section 99: Furnishing or delivery of alcoholic beverages to persons under the age of 21. Repeals and reenacts AS 04.16.051(d) to define existing offense of furnishing or delivering alcohol to a minor. (Page 92)

Section 100: Furnishing or delivery of alcoholic beverages to persons under the age of 21. Adds a new subsection to AS 04.16.051 (e) to relocate the existing C felony penalty for furnishing or delivering to a minor by a person, for situations involving serious harm, repeat offenses, and if the violation occurs in a local option area. (Page 92)

Section 101: Furnishing of alcoholic beverages to person under the age of 21 by licensees. Amends AS 04.16.052 to change the penalties for furnishing or delivering alcohol to a minor by a licensee or employee, adds administrative penalty to licensee if an employee is convicted of a violation of this section and shifts misdemeanor penalty in AS 04.16.150 to the licensee who knowingly allows employees to violate this section. (Pages 92-93)

Section 102: Room rental for purposes of consuming alcoholic beverages. Amends AS 04.16.055 to maintain the current penalty of class A misdemeanor for renting a room for the purpose of providing alcoholic beverages to a person under 21 years of age. (Page 93)

Section 103: Permitting minor to illegally possess liquor in a dwelling. Amends AS 04.16.057(b) to maintain current penalty as a violation and adds \$500 fine. (Page 93)

Mr. Jackson noted that Section 104 was reordered. Section 105 was a penalty section dealing with purchase by or delivery to persons under the age of 21. Section 106 was reordered. Section 107 was a penalty section that dealt with consumption at school events.

Mr. Jackson detailed that Section 108 was not highlighted in the sectional analysis; it was just a clarification. He continued to address the document:

Section 109: Prohibition of bottle clubs. Adds new subsections to AS 04.16.090 (d-e) to define the crime of maintaining a bottle club, relocates and maintains current penalty. (Page 95)

Section 110: Sale of certain alcoholic beverages prohibited. Amends AS 04.16.110 to define sale of a prohibited alcoholic beverage, relocates and maintains current penalty. (Page 95)

Section 111: Removal or introduction of alcoholic beverages. Amends AS 04.16.120 to define removal or introduction of alcoholic beverages, sets penalty and exemptions. (Page 95-96)

Sections 112-114: Alcoholic beverages transported by common carrier. Repeals and reenacts AS 04.16.125(a) to allow for delivery to a person over the age of 21 and adds clarifying language to how the delivery must be labeled. Maintains penalty for unauthorized transportation of alcoholic beverages by common carrier into a local option area and makes noncompliance a violation. (Page 96)

Section 115: Stock confined to licensed premises. Adds a new subsection to AS 04.16.130 (c) to set the penalty for unauthorized storage of alcoholic beverages as a violation. (Pages 96-97)

Section 116: Sale or consumption of alcoholic beverages in a warehouse. Amends AS 04.16.140 to add sections (b-c) to set the penalty for consuming alcoholic beverages in a warehouse as a violation. (Page 97)

Section 117: Licensee responsible for violations. Amends AS 04.16.150 to set the penalty for failure to

ensure compliance as a violation. (Page 97) Section 118: Restriction on purchasing alcoholic beverages. Amends AS 04.16.160 to add new sections (c-d) to maintain existing penalty for noncompliance on a restriction for purchasing alcohol. (Page97)

[9:24:07 AM](#)

Mr. Jackson continued to address the sectional analysis:

Section 119: Source of alcoholic beverages. Amends AS 04.16.170 to exempt winery direct shipment license, maintains penalties for sale of alcoholic beverages from or to an unlicensed person. (Page 97)

Section 120: Source of alcoholic beverages. Amends AS 04.16.170 to add new subsections (c-d) to maintain the existing penalty for violating this section as class A misdemeanor. (Page97)

Section 121: Restrictions on purchase and sale of alcoholic beverages. Amends AS 04.16.172 to renumber and a statutory reference to the new license types and maintains current misdemeanor A penalty for licensee obtaining alcoholic beverages from an unlicensed seller. (Pages 97-98)

Section 122: Restrictions on purchase and sale of alcoholic beverages. Amends AS 04.16.172 to add new subsections (b-c) to maintain the existing misdemeanor A penalty for violating this section. (Page 98)

Section 123: Furnishing alcoholic beverages in aid of gambling enterprise. Amends AS 04.16.175to add new subsections that maintain the existing misdemeanor A penalty for the crime of furnishing an alcoholic beverage in aid of a gambling enterprise. (Page 98)

Mr. Jackson informed that Section 124 was reordered. Section 125 would add a definition for "conviction."

Mr. Jackson addressed Section 126:

Section 126: Penalties for violation. Amends AS 04.16.180 to add new subsections (f-g), adds clarification that licensees are subject to administrative penalties imposed by the board for

violations of AS 04.16.030 and AS 04.16.052, and adds mitigating circumstances for licensees. (Pages 126-100)

Mr. Jackson relayed Section 127 through 130 were reordered and reorganized.

Mr. Jackson addressed Section 131 in the sectional analysis:

Section 131: Keg registration. Adds a new section 04.21.012 establishing a keg registration process including proof of age, registration form requirements, identification tags, and establishes the penalties for possession and sale of alcoholic beverages in an unregistered keg. (Pages 102-103)

Mr. Jackson explained that Section 132 through Section 136 were reordered.

Mr. Jackson noted that Section 136 also included a new concept:

Section 136: Alcohol server education course. Amends section AS 04.21.025(c) to require permittees (along with licensees, agents, and employees) to take and pass an alcohol server education course within 30 days after being licensed, permitted, or employed. Additionally, a person may not sell or serve alcoholic beverages, or check the ID of a patron at a permitted event unless that person possesses a valid alcohol server card. (Page 104)

Mr. Jackson summarized that Section 137 and 138 were reordered; and Section 137 had a small penalty piece defining the failure to comply and setting the penalty as a violation. He continued that Section 139 was a penalty section dealing with the warehousing of alcoholic beverages, and Section 140 was reordered.

Mr. Jackson referenced the sectional analysis:

Section 139: Warehousing of alcoholic beverages. Amends AS 04.21.060 to add a new subsection (b), which define the penalty of storing alcoholic beverages and sets it at a violation. (Page106)

Section 140: Posting of warning signs. Repeals and reenacts AS 04.21.065(a) to update the license and permit types required to post warning signs, and adds statutory references. (Pages106-107)

Section 141: Fines and other criminal penalties. Adds a new section AS 04.21.072, 04.21.074, and 04.21.076 to set penalties for other violations, misdemeanors or felonies, unless otherwise specified. Directs the supreme court to establish a bail schedule and places requirements on the courts for suspending fines or imposition/execution of sentence. (Page 107)

Mr. Jackson detailed that Section 142 through Section 144 were reordered. Section 145 defined some of the new terms in the bill.

Mr. Jackson spoke to the sectional analysis:

Section 156: Winery direct shipment tax; statement; audit. Adds a new section AS 43.60.060 to establish tax collection on direct wine shipments from out of state business holding this license and outlines requirements for the Department of Revenue. (Page 115)

Mr. Jackson noted that Section 157 and Section 158 were reordered. He explained that the last page of the sectional analysis included transition and effective dates for the legislation.

Co-Chair von Imhof appreciated the color coding on the sectional analysis.

Senator Micciche clarified that the penalty sections were highlighted, and few had been changed. He thought it mistakenly gave the impression that all the penalties had been changed.

Co-Chair von Imhof supposed that that amount of magenta highlighted on the document was not indicative of new penalties.

Senator Micciche agreed.

Senator Olson asked for more clarity on Article 7 pertaining to common carriers. He asked how the section pertained to 135 operators that were vital to rural travel.

9:29:06 AM

AT EASE

9:33:34 AM

RECONVENED

Co-Chair von Imhof asked Senator Olson to restate his question.

Senator Olson referenced Article 7 and common carriers. He asked if small air taxi operators (that transported mail, food, and passengers) had weighed in on the bill.

Senator Micciche deferred the question to a consultant. He reminded that it was currently a crime to transport alcohol to a dry community.

9:34:40 AM

ANNA BRAWLEY, AGNEW BECK CONSULTING (via teleconference), understood that alcohol shipments were illegal for the United States Mail Service. She used the example of a winery in another state, which would use a carrier such as FedEx. She understood that contractors of the United States Mail Service would also not deliver alcohol.

Senator Olson clarified that his question was if 135 operators had been consulted on the bill content, particularly with regard to the penalties.

Mr. Brawley stated that the operators were not contacted to her knowledge.

Senator Olson shared that he had grave concerns. He thought that understanding the penalties was very important and thought the operators should weigh in on the subject.

9:36:33 AM

Senator Micciche recalled a previous conversation and reminded that there was no existing system that accounted for the sale and delivery of alcohol in Alaska, particularly in dry communities. He emphasized that the bill did not change the impacts on companies that could not legally transport alcohol. He asked Senator Olson to consider the fact that the bill provided a system for legal

orders from out of state to be delivered to communities that were not dry and were not local option communities.

Co-Chair von Imhof asked if there were current penalties if an operator delivered alcohol to a dry community.

Senator Micciche was not prepared to explain the current penalties and reiterated that it was currently illegal and there were penalties for delivering alcohol to a dry community.

Co-Chair von Imhof assumed there was not a current process by which alcohol was delivered to a community that was not dry.

Senator Micciche answered in the affirmative.

Co-Chair von Imhof asked how alcohol was delivered to the communities.

Senator Micciche deferred to Ms. Brawley.

Ms. Brawley understood that deliveries were dependent upon whether a local option community allowed for importation of alcohol. She was not familiar with the specific carriers that were used for package store deliveries. She thought UPS and FedEx had internal policies and only allowed for wine delivery through commercial contracts. She imagined that the companies would have internal policies that were being followed. She thought some local option communities had distribution centers where alcohol would be delivered, and the customer would pick it up.

[9:39:37 AM](#)

Senator Olson was not concerned with major carriers such as UPS and FedEx or large airports. He was concerned about carriers that were serving small communities such as Koyuk, Shaktoolik and Diomed. He listed Ravn Air, Bering Air, and Grant Air; and expressed concern about potential violations. He was concerned that if one of a village's two carriers received a violation, it would jeopardize important passenger and freight service to the village. He thought the bill should stay in committee until members heard from operators or the Alaska Air Carriers Association.

Co-Chair von Imhof pondered the committee's responsibility in contacting all interested parties affected by the numerous bills the committee considered. She wondered if it made sense to have a conceptual amendment requiring letters to be sent to make carriers aware that the bill was happening. She questioned if the carriers had a problem with being regulated via provisions of the bill. She wondered about the outcome Senator Olson was looking for.

Senator Olson was not certain where Co-Chair von Imhof was coming from. He thought it was too burdensome to contact all carriers, but pointed out that there was an association that spoke on behalf of carriers. He was asking for the carriers or the association to weigh in on the issue. He thought it was a serious issue that affected his constituents.

[9:42:57 AM](#)

Senator Micciche commented that bootlegging was illegal in Alaska. He reiterated that the bill simply set up a common carrier approval process so that the individuals would be trained on the legal delivery of alcohol ordered from in the state or from a winery out of state. He thought the concerns being expressed were in current law. The bill set up a system for delivering alcohol to areas where it was legal. He asserted that stakeholders would be contacted through the regulation process. He reminded that there was a region of the state where alcohol was a primary cause of issues.

Co-Chair von Imhof thought Senator Olson was trying to make the point that there could be added burdensome activities for air carriers. She thought Senator Micciche had made a good point that forthcoming regulations were potentially more of a concern than the bill itself.

[9:45:12 AM](#)

AT EASE

[9:46:19 AM](#)

RECONVENED

Co-Chair von Imhof reminded that the issue at hand was the weighing in of the Alaska Air Carriers Association.

Senator Olson understood that a phone call was made and there did not seem to be any changes that would jeopardize the air carrier operator certificates if the legislation were to pass. The issues he had raised had been addressed and he withdrew any objection to the legislation.

Senator Micciche thought that Senator Olson had brought up a good point. He noted that the bill had three more committees to go through. He stated he would specifically reach out to the Alaska Air Carrier's Association to ensure it was aware of the changes. He reminded that the changes in the bill were there to ensure that alcohol was not delivered to minors.

Co-Chair von Imhof clarified that the Senate Finance Committee was the last committee the bill would pass through before going to the other body.

[9:48:13 AM](#)

Senator Bishop addressed a new fiscal note from the Department of Commerce, Community and Economic Development, OMB Component 3119. He discussed the operating expenditures. The funding source was designated general funds.

Senator Bishop noted there was a total operating expense shown as \$241,000 for FY 21; \$387,500 for FY 22; \$254,300 for FY 23; and \$229,300 for FY 24 through FY 26. He read portions from the analysis on page 2 and page 3 of the fiscal note:

This bill is a result of recommendations from a five-year process initiated by the Alcoholic Beverage Control (ABC) Board to improve the structure, organization, specific policies, and associated implementation issues in alcohol regulation.

EXPENDITURES (in thousands)

The liquor licensing functions of the Alcohol and Marijuana Control Office (AMCO) are fully funded by program receipts from licensing fees.

Passage of this legislation will start a very short year and half for AMCO and the ABC Board to prepare for full implementation. The capacity of the current

staffing level is not sufficient to manage the transition. A long-term non-perm Project Assistant (range 16) for two years will be needed to successfully prepare the board, the office, and the licensees for the transition. A new Occupational Licensing Examiner (range 14) is added to assist with license transitions, ensuring that normal application review that is unrelated to the transition is not slowed, which would negatively affect applicants and licensees.

Improved enforcement is a stated goal of this legislation. The addition of a Special Investigator I position (range 19) starting in FY2022 will enable the ABC Board to better fulfill its responsibilities, including limiting youth access to alcohol and reducing the harms of overconsumption.

As a result of this bill, regulations across 3 AAC 304 will need to be rewritten by the ABC Board and adopted by the effective date of January 1, 2022.

Senator Bishop commented on the aggressive schedule for proposed changes, which necessitated the additional positions. He continued to read portions of the analysis on page 2 of the fiscal note:

The aged alcohol licensing database needs to be replaced with licensing workflow/database software to comply with data collection, research, and reporting requirements. The new database is estimated to cost \$750.0 for initial development, implementation, and support and maintenance. A capital appropriation for the Alcohol and Marijuana Control Office Licensing and Enforcement Solutions Project will allow AMCO to develop an alcohol licensing system that will serve as a comprehensive solution for licensing. In addition to being a fully-functioning licensing software, the alcohol system will replace the current written order database for mail-order alcohol purchases; may interface with the existing marijuana licensing system to provide a comprehensive view of AMCO's licensees; and may interface with or provide for tracking of complaints and enforcement actions related to licensees. The project may be developed in-house or via contract. The capital appropriation is anticipated to be funded by \$100.0 general funds and \$650.0 alcohol

licensing receipts, which will be collected from annual revenue collections as they are available and unused.

Senator Bishop discussed the analysis on page 3 of the fiscal note:

2000 Travel

- Board travel costs for four additional days of meetings: \$3.2/year for the first two years (\$1.6/meeting day)
- Local Government Specialist travel for two-day trips to each of the four judicial districts per year: \$5.6/year (\$1.4/two-day trip)
- Travel for new Special Investigator I positions: \$10.0/year for each position

3000 Services

- Attorney review of regulations: \$12.0/year in each of the first two years (75 hours/year)
- Printing, design, and publication costs for education materials: \$10.0/year in FY2021 and \$34.0/year in FY2022
- Public notice advertisements: \$5.0/year for the first two years
- Postage: \$1.0/year in FY2021 and \$3.0/year in FY2022
- Statewide core services and allocated costs: \$15.0/year per position

Senator Bishop mentioned an additional few thousand dollars in costs for setting up the new employees.

[9:53:08 AM](#)

Senator Bishop addressed a new fiscal note from the Department of Revenue, OMB Component 2476. He read from the analysis on page 2:

Section 155 of the bill would extend the existing tax on wine of \$2.50/gallon to holders of a winery direct shipment license. The winery direct shipment license is a new license type that would be created by this bill. Under current statutes, direct shippers of alcoholic beverages do not have a tax filing or payment obligation--currently, the excise tax on alcoholic beverages is paid only by businesses that have a physical presence in the state.

The Tax Division has consistently collected around \$2.4 million in taxes on wine over the past several years. Extending the tax to out-of-state, direct shippers of wine would have a positive effect on tax revenues. However, the Tax Division does not have data on direct shipments of wine, therefore, the change in tax revenue is indeterminate.

Senator Bishop addressed a new fiscal note from the Judiciary, OMB Component 768. He detailed that there was a total operating appropriation request for FY 21 was \$38,500. He read from the analysis on page 2:

Senate Bill 52 substantially reorganizes Title 4, Alcohol Beverages, by adding new provisions, revising existing provisions, and reorganizing the Title around chapters that concern distinct aspects of the alcohol industry and its operations.

SB 52 also changes the penalty category and specifies an exact penalty that must be imposed upon conviction for many alcohol-related offenses. Specifically, the bill changes about 63 offenses that are currently classified as misdemeanors and would classify them as violations instead. Section 141 would require the supreme court to establish a schedule of bail amounts for the violations.

The court system's current staff does not have the extra time or capacity to undertake implementing SB 52 without additional resources. To do so, the court system would need to hire a short-term staff attorney in the administrative office to prepare the bail schedule, which is a substantial undertaking that will take a significant amount of time. In addition, the attorney would need to draft instructions for clerks and judicial officers, and work with the IT staff on the tasks related to re-classification of offenses, such as developing codes for charging documents and entering into CourtView.

The court system anticipates that it will need one-time funds for an attorney to be retained for three months during FY 21 to accomplish the tasks related to implementation of Senate Bill 52. The court system

therefore submits this fiscal note for that one-time expense of \$38,500 to fund that position.

Co-Chair von Imhof opened PUBLIC TESTIMONY.

9:57:50 AM

SARAH OATES, ALASKA CABARET, HOTEL, RESTAURANT AND RETAILERS ASSOCIATION, ANCHORAGE (via teleconference), spoke in favor of the bill. She explained that the association had entered the ninth year of robust stakeholder work toward meaningful alcohol regulatory reform. She detailed that CHARR and the Alaska Brewer's Guild had met throughout 2019 to discuss the most contentious sections of Title 4, which had caused previous iterations of the bill to stall out in the legislative process. She thought consensus had been reached between multiple parties and all three industry tiers. She spoke to facets of the bill. She had worked with the Alcohol and Marijuana Control Office (AMCO) for 7.5 years. While at AMCO she had participated in the stakeholder group as a subject matter expert and had recommended changes that were incorporated in the bill. She requested on behalf of the Alaska Cabaret, Hotel, Restaurant and Retailers Association (CHARR) that the committee pass an amendment to clarify entertainment activities and operating hours. She stated that CHARR offered its full support with the changes.

10:00:01 AM

MIKE ABBOT, CEO, ALASKA MENTAL HEALTH TRUST AUTHORITY (AMHTA), ANCHORAGE (via teleconference), spoke in support of the bill. He noted that the trust had been working as a stakeholder in the process to develop the legislation over several years. The trust continued to believe that its beneficiaries were better off with the legislation being enacted. He thought the bill had many positive public health and public safety impacts, which was why the trust recommended the adoption of the bill in a timely fashion during legislative session.

10:01:33 AM

TIFFANY HALL, RECOVER ALASKA, ANCHORAGE (via teleconference), spoke in support of the bill. She noted that Recover Alaska was an organization that worked to reduce excessive alcohol use and its harms across the

state. Her organization had been working on the content of the bill for eight or nine years. She commented on the state's problems caused by alcohol. She cited that alcohol cost the state \$2.4 billion per year; and that Alaskans were dying at rates three times the national average. She appreciated that the bill would limit youth access to alcohol. She liked the regulation of internet sales of alcohol as proposed in the bill. She like the provisions for statewide keg registration and mandatory trainings. She appreciated changes to penalties for overserving or serving of minors. She thought the bill closed the current loophole on population limits. She thought the entire bill clarified Title 4. She commended the stakeholder groups for compromising on areas of the bill to allow it to move forward. She acknowledged that there were other issues related to alcohol that were not addressed in the bill, but understood it was critical to have compromise with the many stakeholders.

[10:05:29 AM](#)

BETH MCEWEN, SELF, JUNEAU, spoke in support of the bill. She was the municipal clerk for the City of Juneau and had served on the stakeholder's task force group since the inception of the bill. She thought the bill reached a good compromise. She supported the bill and encouraged its passage.

Co-Chair von Imhof CLOSED public testimony.

[10:06:56 AM](#)

Co-Chair von Imhof wanted to consider amendments.

Senator Bishop clarified that the new fiscal note from the Judiciary (OMB Component 768) still stood. He noted that the Statement of Zero Fiscal Impact indicated that the Department of Commerce, Community and Economic Development and the Department of Health and Social Services did not anticipate any fiscal impact for FY 21 through FY 26.

[10:08:06 AM](#)

Senator Bishop MOVED to ADOPT Amendment 1.

Co-Chair von Imhof OBJECTED for discussion.

Co-Chair von Imhof explained that the amendment would add concepts that had been vetted and approved by the committee and the Senate the previous session in another piece of legislation but had been removed in the other body. The amendment related to music festival permits and the number of special permit events a non-profit could host each year.

Senator Bishop relayed that a music festival permit authorized the holder of a restaurant or eating place license to sell beer and wine at a music festival held off the license holder's premises. A permit could only be issued in the unorganized borough, one time per year, not to exceed four days for music festivals that had existed at the same location for at least 10 years prior to application. The special events permit would allow non-profits to host up to 10 special events, while current law only allowed for 5. He used the example of the Veteran's of Foreign Wars.

Co-Chair von Imhof understood that Senator Bishop and his staff had worked with the stakeholders on the music festival language, and there was no opposition to the amendment.

Senator Micciche did not think the amendment had a major impact and was specific to an event that occurred in one location where the logistics were challenging. He did not have an objection to the amendment.

Co-Chair von Imhof WITHDREW her objection. There being NO further OBJECTION, it was so ordered. Amendment 1 was ADOPTED.

[10:11:09 AM](#)

Senator Bishop MOVED to ADOPT Amendment 2.

Co-Chair von Imhof OBJECTED for discussion.

Co-Chair von Imhof explained that the amendment related to large resort license holders and would simply clarify language to better describe what was intended by the section. The section allowed a customer at a large resort to take a glass of wine from the fire pit to the customer's room. The amendment had been vetted by stakeholders and there had been no objection.

Senator Micciche spoke to the amendment, which he thought met the intent of the bill. He asserted that the purpose of the bill was for common sense and eliminating unnecessary obstacles to reasonable behavior. He supported the amendment.

Co-Chair von Imhof WITHDREW her objection. There being NO further OBJECTION, it was so ordered.

[10:12:29 AM](#)

Senator Bishop MOVED to ADOPT Amendment 3.

Co-Chair von Imhof OBJECTED for discussion.

Senator Micciche explained that the amendment was the "grand compromise" that brought the three parties together in support of the bill. The amendment would change the population and limits on manufacturers from 1 in 9,000 to 1 in 12,000. The amendment would grandfather in existing manufacturing facilities, and changed the operating hours of tasting rooms from 8 o'clock to 10 o'clock in the evening. The amendment allowed for some entertainment and allowed for events per year (such as a concert). Fundraisers would also be allowed. He thought the amendment allowed for manufacturers with tasting rooms to more fully utilize facilities. He asserted that the amendment met the concerns of CHARR. He strongly commended the parties for coming together on the amendment. He supported the amendment.

Co-Chair von Imhof WITHDREW her objection. There being NO further OBJECTION, it was so ordered. Amendment 3 was ADOPTED.

[10:14:16 AM](#)

Senator Wilson MOVED to ADOPT Amendment 4.

Co-Chair von Imhof OBJECTED for discussion.

Senator Wilson explained that the bill would remove public convenience licenses and replaced them with a process for municipalities to petition the ABC Board to issue additional licenses above and beyond the population limits. The amendment would amend the proposed changes to allow local government positions to add restaurant licenses. The

amendment would allow cities to petition for more package store licenses and would remove the necessity for proving the population served by the city.

Senator Wilson continued to address the amendment and discussed package stores. He explained that the only municipalities able to petition for additional restaurant licenses were first class cities, home rule municipalities and boroughs. He mentioned commercial centers. He thought it made sense to allow business to expand within their jurisdictions with police powers and zonings rather than outside city limits. He thought the amendment would encourage package stores to operate within city limits.

Senator Wilson spoke to population limits and the petition process. He thought population limits were ineffective and that there was no way to account for a population surrounding an area that utilized a municipal center. He thought the working group had acknowledged that population limits would likely be inaccurate through the petition process. He quoted the task force's recommendations for statute change. He used the example of a person that participated in economic activities in three different cities in the Mat-Su area in one day. He thought if a municipality had the capacity to deal with additional licenses, it should be able to do so. He supported local control of a municipality driving its own economic future. He asked for support for the amendment.

[10:17:53 AM](#)

Co-Chair von Imhof asserted that population limits were addressed in the bill, and referenced slide 21 of the presentation at the previous bill hearing. She referenced page 66 of the Alaska Title 4 Review. She understood that the collaborative effort of the major stakeholders had addressed population centers. She asked if Senator Wilson had vetted the amendment with the Brewer's Guild, CHARR, and DHSS.

Senator Wilson asserted that the three entities listed were not the only stakeholders. He considered municipalities and communities were major stakeholders. He stated he had a draft letter of support from the Alaska Municipal League. He discussed population surveys. He thought signatures had been de-validated in the City of Soldotna. He cited that there were more people that worked in the City of Wasilla

than lived in the city. He mentioned a food security issue. He was concerned with economic growth.

[10:20:48 AM](#)

Senator Micciche stated that the municipalities were a valuable part of the stakeholder's process that had worked on the bill. He discussed population counts and alcohol licensing and did not see an issue. The bill allowed for petition for additional licenses. He thought there needed to be sound systems in place. He noted that the bill allowed for petition pertaining to the seasonal increase in population. He referenced Senator Wielechowski's earlier comments on dip netters. He thought the bill contained a viable compromise.

Senator Micciche continued to address the amendment. He thought the legislature should not be driving policy based on one potential business that might be moving to an area. He thought there were adequate processes in place. He supported the bill's expansion of the ability for municipalities to have some control of additional licenses.

[10:23:38 AM](#)

Co-Chair von Imhof agreed that the issue had already been vetted. The issue had been presented to the committee during the bill presentation, and she felt comfortable with the level of addressing the topic and the flexibility in the bill.

Co-Chair von Imhof MAINTAINED her objection.

Senator Wilson could name 8 businesses that wanted to move to a growing area of the state.

A roll call vote was taken on the motion.

IN FAVOR: Hoffman, Wilson

OPPOSED: Bishop, Wielechowski, von Imhof

The MOTION FAILED (2/3).

[10:25:04 AM](#)

AT EASE

[10:25:29 AM](#)

RECONVENED

Senator Wilson MOVED to ADOPT Amendment 5.

Co-Chair von Imhof OBJECTED for discussion.

Senator Wilson spoke to the amendment. He noted that the current bill had a three-year cooling off period for municipalities if granted extra licenses through the petition process. The amendment proposed to have a one-year cooling off period. If a city petitioned for five licenses and was only granted one, the cooling off period would apply to the other four license. He thought a one-year period would give a community to adjust to new licenses and allow it to accommodate for dynamic population changes. He thought the amendment proposed a more moderate change and would improve the petition process.

Co-Chair von Imhof asked if Senator Micciche wanted to comment on the amendment.

[10:27:02 AM](#)

AT EASE

[10:27:57 AM](#)

RECONVENED

Senator Wilson thought that it was necessary to have more time to talk with other members and share history and information on the topic of the amendment. He would offer the amendment at a later time and date.

Senator Wilson WITHDREW Amendment 5. There being NO OBJECTION, it was so ordered.

Senator Bishop had not heard all of the questions regarding Amendment 1. He wanted to comment that he had contacted all the stakeholders and the groups were fine with the amendment.

Co-Chair von Imhof asked for agency commentary as to whether the adopted amendments would necessitate a revision in the fiscal notes.

[10:29:23 AM](#)

GLEN KLINKHART, INTERIM DIRECTOR, ALCOHOL AND MARIJUANA CONTROL OFFICE, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT (via teleconference), did not think that the adopted amendments would be cause for changes in the fiscal note.

[10:30:03 AM](#)

NANCY MEADE, GENERAL COUNSEL, ALASKA COURT SYSTEM, testified that the amendments would not cause changes to the fiscal note.

[10:30:23 AM](#)

MATT DAVIDSON, PROGRAM OFFICER, DIVISION OF JUVENILE JUSTICE, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, informed that the amendments would not have an impact on the fiscal notes.

[10:30:48 AM](#)

BRANDON SPANOS, DEPUTY DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE, testified that there would be no change to the fiscal note.

Co-Chair von Imhof stated that it had been her intent to move the bill from committee. The bill still needed to pass through the other body. She wanted a quick discussion about member's comfort level with moving the bill.

[10:31:33 AM](#)

AT EASE

[10:31:55 AM](#)

REVONV

Co-Chair von Imhof remarked that the bill had been a multi-year process. The concepts in the bill had been vetted by the committee in previous legislation. The bill had been vetted by many stakeholders in collaboration over many years. She mentioned some stakeholders. She felt comfortable moving the bill from committee.

Senator Bishop 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 two "do pass" recommendations, two "no recommendation" recommendations, and one "amend" recommendation; and with one new fiscal impact note from the Department of Commerce, Community and Economic Development, one indeterminate fiscal note from the Department of Revenue, one fiscal impact note from the Judiciary, and one statement of zero fiscal impact for the Department of Commerce, Community and Economic Development and the Department of Health and Social Services.

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ADJOURNMENT

10:33:26 AM

The meeting was adjourned at 10:33 a.m.