

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

April 2, 2019
1:31 p.m.

MEMBERS PRESENT

Senator Lora Reinbold, Chair
Senator Mia Costello, Vice Chair
Senator Chris Birch
Senator Elvi Gray-Jackson

MEMBERS ABSENT

Senator Click Bishop

COMMITTEE CALENDAR

SENATE BILL NO. 83

"An Act relating to the Regulatory Commission of Alaska; relating to the public utility regulatory cost charge; relating to the regulation of telecommunications; relating to exemptions, charges, and rates applicable to telecommunications utilities; relating to regulation of telephone services; and relating to alternate operator services."

- MOVED SB 83 OUT OF COMMITTEE

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."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 83

SHORT TITLE: TELECOMMUNICATIONS REGULATION/EXEMPTIONS

SPONSOR(s): SENATOR(s) BIRCH

03/11/19 (S) READ THE FIRST TIME - REFERRALS
03/11/19 (S) L&C
03/26/19 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/26/19 (S) Heard & Held
03/26/19 (S) MINUTE(L&C)
04/02/19 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 52

SHORT TITLE: ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG
SPONSOR(s): SENATOR(s) MICCICHE

02/11/19 (S) READ THE FIRST TIME - REFERRALS
02/11/19 (S) L&C, JUD, FIN
03/26/19 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/26/19 (S) Heard & Held
03/26/19 (S) MINUTE(L&C)
03/28/19 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/28/19 (S) Heard & Held
03/28/19 (S) MINUTE(L&C)
04/02/19 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

CHRISTINE OCONNOR, Executive Director
Alaska Telecom Association
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 83.

SENATOR PETER MICCICHE
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of SB 52.

EDRA MORLEDGE, Staff
Senator Peter Micciche
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 52.

ANNA BRAWLEY, Title 4 Project Review Coordinator
Senior Associate
Agnew Beck Consulting
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 52.

ERIKA MCCONNELL, Director
Alcohol and Marijuana Control Office, Department of Commerce,
Community, and Economic Development
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 52.

TIFFANY HALL, Executive Director
Recover Alaska
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on SB 52.

ACTION NARRATIVE

[1:31:40 PM](#)

CHAIR LORA REINBOLD called the Senate Labor and Commerce Standing Committee meeting to order at 1:31 p.m. Present at the call to order were Senators Gray-Jackson, Costello, Birch, and Chair Reinbold.

SB 83-TELECOMMUNICATIONS REGULATION/EXEMPTIONS

[1:32:08 PM](#)

CHAIR REINBOLD announced that the first order of business would be SENATE BILL NO. 83, "An Act relating to the Regulatory Commission of Alaska; relating to the public utility regulatory cost charge; relating to the regulation of telecommunications; relating to exemptions, charges, and rates applicable to telecommunications utilities; relating to regulation of telephone services; and relating to alternate operator services."

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At-ease.

[1:35:16 PM](#)

CHAIR REINBOLD reconvened the meeting.

[1:35:22 PM](#)

SENATOR GRAY-JACKSON referred to Section 9, on page 4, line 8, which added language "or a local exchange carrier." She asked

whether local exchange carriers were regulated by municipalities.

[1:35:50 PM](#)

CHRISTINE OCONNOR, Executive Director, Alaska Telecom Association, Anchorage, answered that local exchange carriers or landline providers are not currently regulated by municipalities. She said that one municipal owned telephone company, Ketchikan Public Utilities, is governed by their city council.

SENATOR GRAY-JACKSON asked whether the bill would basically address housekeeping issues.

MS. OCONNOR answered yes, that this bill would update statutes, many of which were nearly 50 years old.

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CHAIR REINBOLD announced that public testimony had been previously closed.

[1:37:07 PM](#)

SENATOR COSTELLO reviewed the fiscal note from the Department of Commerce, Community and Economic Development (DCCED). She said that SB 83 had no fiscal impact and regulation changes would be adopted by December 31, 2023. The bill would establish a universal service fund and requests that the RCA establish a communication carrier section. The RCA anticipated implementing these provisions with existing resources, she said.

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SENATOR BIRCH related his understanding that public testimony had previously been opened and closed. He reported that a similar bill was introduced last year. SB 83 would seek to encourage investment and innovation in the telecommunication industry by updating the statutes relevant to to the landline and long distance services. This bill would provide a comprehensive fix, one that has been needed for some time. He said he appreciated the work the industry has put into this bill over the past several years. He characterized it as a "good bill."

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SENATOR BIRCH thanked his staff, Kim Skipper and Christine O'Connor for their work on this bill.

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SENATOR COSTELLO moved to report SB 83, work order 31-LS0563\M, from committee with individual recommendations and attached fiscal note. There being no objection, SB 83 was reported from the Senate Labor and Commerce Standing Committee.

[1:40:09 PM](#)

At-ease.

SB 52-ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG

[1:42:26 PM](#)

CHAIR REINBOLD reconvened the meeting and announced that the final order of business would be 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."

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SENATOR PETER MICCICHE, Alaska State Legislature, Juneau, as sponsor of SB 52, acknowledged that he had received some responses from the Cabaret, Hotel, restaurant and Retailers Association (CHARR), the Department of Commerce, Community and Economic Development (DCCED), Alaska Berries, and responses to the department related to license transfers.

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CHAIR REINBOLD said she would like to discuss the chart in members' packets and issues that Alaska Berries raised. She remarked that she was unfamiliar with Alaska Berries. She asked whether the sponsor had received anything from CHARR.

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EDRA MORLEDGE, Staff, Senator Peter Micciche, Alaska State Legislature, Juneau, on behalf of the sponsor, stated that she had not received any recent official comments. She acknowledged that the sponsor has had "back and forth" communications during the stakeholder process.

CHAIR REINBOLD highlighted that the committee would like to address issues that CHARR and Alaska Berries raised.

[1:46:23 PM](#)

ANNA BRAWLEY, Title 4 Project Review Coordinator, Senior Associate, Agnew Beck Consulting, Anchorage, began a PowerPoint on SB 52.

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MS. BRAWLEY turned to slide 18, "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.

MS. BRAWLEY offered to continue to review policy changes proposed in SB 52. This presentation would continue to outline highlights of the bill, beginning with license fees. These license fees are set in statute rather than regulation, which was more typically done. Most of these fees were last updated in the 1980s, she said. The Alcohol & Marijuana Control Office (AMCO) is a receipts funded agency, which means that its budget reflects an estimate of the revenue from license fees collected annually. The resources available for enforcement and administration of licensees is set by its funding level. This bill would propose to increase fees and make them more consistent across license types. For example, beverage dispensary license or bar license fees are currently set at \$2,500 biennially whereas the biennial license fee for serving beverages at restaurants is \$600, at distilleries is \$1,000 and at wineries is \$500. She referred members to Table 2 in the Title 4 review report for details on current and proposed fees. The bill would require the board to review these fees every five years and make recommendations to the legislature for fee changes.

[1:49:24 PM](#)

MS. BRAWLEY reviewed slide 19, "Proposed: More Accountability for License Fees Allocated to Local Governments."

- Current Title 4 allows for local governments to receive half of 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.

MS. BRAWLEY said that in current statute half the fees collected are returned to the local government to cover local enforcement and administration of licenses. This bill does not propose changing that allocation, but reporting requirements would become more consistent, which would allow the state to better understand what local governments are doing to enforce Title 4, she said.

[1:50:17 PM](#)

MS. BRAWLEY reviewed slide 20, "Population Limits: Current Title 4."

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

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.

MS. BRAWLEY emphasized that this important concept was currently in statute. The bill would not fundamentally change the policy system for license, but it does make some small changes. She said that population limits were set by the number of residents in each community but were different for each license type. For example, restaurants are allowed to have one license per 1,500 residents, but most other license types were allowed 1 per 3,000 residents. She acknowledged there were some exceptions to this, which she would cover on the following slide.

She emphasized the importance of limits, since limiting the amount of retail outlets for alcohol is considered one of the "best practices" associated with reducing crime rates and impacts on neighborhoods.

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MS. BRAWLEY reviewed slide 21, "Population Limits: Current Title 4."

- 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 of hotel rooms).

MS. BRAWLEY reiterated that population limits are set by community. Each city within a borough that has one or more cities can determine how many of each license type may be issued in each community. Typically, licenses cannot move between boundaries. Typically, a hotel or lodge is exempt from population limits, she said.

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MS. BRAWLEY reviewed 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.

She highlighted that this is relevant since some communities have a small number of residents and qualify for a small number of licenses. However, they may have an interest in serving non-residents or residents visiting the region during the tourism season or they have seasonal workers. One way to address this is by issuing public convenience licenses. This process allows applicants to petition the Alcoholic Control Board (ABC Board) after having collected signatures from surrounding residents requesting a license to be issued outside population limits. She characterized this as a challenging process.

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SENATOR BIRCH said SouthCentral Alaska and the Lower 48 have experienced a proliferation of sharing economies, such as a bed and breakfast and vacation rentals by owner venues. He asked whether these types of businesses would be affected by the bill.

MS. BRAWLEY answered that it would depend on whether the establishment was serving the public, but that it would not likely cover private activity.

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MS. BRAWLEY said the public convenience process has logistical issues. It has the potential to allow for a proliferation of licenses. It is not a consistent process since it depends on individual applicants, so the board has no way to determine if the signatures are valid. The sponsor has proposed three replacements for the public convenience license application that allow for local control and to give cities options for more licenses, especially restaurant licenses. First, one option would propose to convert the public convenience application to full restaurant licenses. This would allow the license to be transferable to a new owner or location whereas a public convenience license is not. If someone was in the process of applying, the applicant could complete the application for a full restaurant license and not be penalized.

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MS. BRAWLEY turned 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:
- Season defined as up to 6 months per year, in any combination - Example: May through September + 1 winter month

MS. BRAWLEY said a second proposal would be to create a new Seasonal REPL license that could be operated for six months per year. It would be available in smaller communities and provide the same privileges as other restaurants. The number of licenses issued would not be determined by residents but by a formula.

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MS. BRAWLEY reviewed slide 24, "Proposed: Local Government Petition for Additional Restaurant Licenses."

MS. BRAWLEY reviewed the third process, in which local government would petition for additional licenses. This option was brought to the attention of stakeholders by the cities of Soldotna and Wasilla. The local government would prepare a petition to Alcoholic Beverage Control Board (ABC Board) to request more restaurant licenses to be issued within its

jurisdictions. The number of restaurants must not be more than 1 to 1,500 with the new population included. The ABC Board would consider the petition and determine the number of new licenses to grant to the city. If the city did not obtain authority to proceed, the entity could revise its application and bring it back to the board. If the entity was granted the new licenses, it would need to wait three year before the party could make another petition. This would allow time for the new restaurants to come online, she said.

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MS. BRAWLEY reviewed 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 said current Title 4 allows for relocation of a bar license (BDL) from a borough to within a city in that borough. This would contemplate jurisdictions with small populations that would like to concentrate those activities to a city within the borough. This would also apply to a package store. For example, if a borough has additional package stores that are not being used, they could be moved to a city within the borough.

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MS. BRAWLEY reviewed slide 26, Proposed: Option to Relocate Some Licenses from a Borough to a City.

- All eligible boroughs have more licenses issued than population limits allow.
- Only the borough's licenses in excess of population limits would be eligible for relocation into a city.

The goal would not be to "hollow out" the borough of the licenses. However, currently there are more licenses for beverage dispensaries and package stores than are allowed in statute under those population limits. The table on slide 26 illustrates this, she said.

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CHAIR REINBOLD asked whether the bill has had any pushback on this concept.

MS. BRAWLEY said this was discussed by the stakeholder group in 2016, with fairly broad agreement. She said the City of Wasilla initially had concerns, but the provisions were developed with the concerns that were shared.

CHAIR REINBOLD asked for further clarification on who is in the stakeholder group.

SENATOR MICCICHE responded that the stakeholder list is in members' packets. The communities asked for additional local control. This was a direct response to the communities, he said. He said that some communities would like to manage every aspect of alcohol licensing. He said that he felt this was a fair compromise to provide local control. He further explained that the seasonal REPL license can "bank" licenses if the community was interested in attracting a restaurant. It would not be necessary to have a restaurant in mind at the time an application was made. The community can reserve a couple of licenses for that purpose.

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CHAIR REINBOLD asked whether anyone besides Wasilla expressed concern.

MS. BRAWLEY answered no, not to her knowledge.

[2:01:51 PM](#)

MS. BRAWLEY reviewed slide 27, Proposed: Regulate Internet 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.

MS. BRAWLEY explained that the next three slides cover a gap, by regulating the online sales of alcohol. She said that three proposals in the bill would help ensure oversight, confirm that the sales are legal, and that the alcohol is delivered to a responsible adult. Currently, in state businesses must obtain a license and pay the state's alcohol taxes for liquor licenses, but someone selling via the internet would not be held to the same standard. The state does not currently know the identity of the providers.

MS. BRAWLEY reviewed slide 28, "Proposed: Regulate Internet Alcohol Sales," which allows wine to be shipped to homes. She said that this essentially would allow out-of-state wineries to fulfill sales from a customer in Alaska and have wine shipped to their homes. Many out-of-state businesses are accustomed to this process and have similar licenses or permits from other states.

She said that under the bill, the company must verify the customer's age, must use an approved carrier, and must limit the allowable amount that could be ordered per year to ensure that it was for personal use. The order must be delivered to the customer in person to verify that the person was an adult. The company could not ship to a local option area.

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CHAIR REINBOLD recalled an earlier testifier. She asked whether this was one of the measures to help prevent alcohol from being sold via the internet to Alaskan youth.

MS. BRAWLEY answered yes.

CHAIR REINBOLD emphasized that it was important to further regulate to ensure that youth do not have access to alcohol.

She further explained that all businesses that sell to Alaskans would be required to pay the state's alcohol tax. The tax would be applied to the destination.

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MS. BRAWLEY, in response to Chair Reinbold, said that it is not possible to assess how many internet sales occur since the sales are not tracked. She reported that the State of Idaho said it had 700 permit holders.

CHAIR REINBOLD remarked that this provision could have the potential to raise state revenue, increase sales, and protect youth.

MS. BRAWLEY agreed.

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MS. BRAWLEY reviewed slide 29, "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.

She said that this third component would help ensure safe alcohol delivery to adults in person and that alcohol is not delivered to someone in a local option area. This would not create a license or permit but would require that the board review the policies of common carriers and publish a list of approved carriers. This would not apply to deliveries to businesses, only to consumers.

[2:07:35 PM](#)

MS. BRAWLEY reviewed slide 30, "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.

The monthly importation limit would be 12 gallons of beer or one half-barrel keg or 24 liters of wine or 32 bottles.

She explained that package stores can currently ship to customers, but they cannot do so through the internet. This bill would allow them to do so. This bill would not change the local option limits. The package store records each order and can change the database to ensure limits are followed. The database can be accessed by law enforcement, she said.

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CHAIR REINBOLD asked for further clarification on exceptions to the limits, for example, for a special event such as a wedding.

MS. BRAWLEY deferred to the department.

[2:09:17 PM](#)

ERIKA MCCONNELL, Director, Alcohol and Marijuana Control Office, Department of Commerce, Community, and Economic Development, Anchorage, said she was not aware of any exceptions for special events.

CHAIR REINBOLD asked whether a resident who wanted to use local wines for a wedding would be permitted to do so.

MS. MCCONNELL said it would depend on the location of the wedding, but typically they do not need to hold permits. In further response to Chair Reinbold, she offered to research whether a person can order above the limit for a special event and respond back to the committee.

CHAIR REINBOLD remarked that the family wanted to buy wine from a local winery in Homer.

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MS. BRAWLEY related her understanding that the limits would only apply to dry communities and Homer is not a dry community so the limits would not apply.

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MS. BRAWLEY reviewed slide 31, "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 is 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.

She said this information would also help communities address the health and safety issues related to alcohol. The bill would keep the community level data for 10 years, protect individual order data, and require the Alcoholic Beverage Control Board (ABC Board) to publish an annual report summarizing the amount of alcohol that is ordered based on the existing data.

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MS. BRAWLEY reviewed slide 32, "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.

This bill would retain class A misdemeanor penalties for serious offenses, retaining current Title 4 felonies, including ones for local option violations. This provision would also change many penalties to minor offenses or violations to allow law enforcement to more easily enforce penalties. For example, during an inspection, law enforcement would issue a citation for noncompliance issues. This would close some reporting loopholes to better track violators, such as a licensee with a dozen violations. It would help identify "bad actors" versus operators who are generally responsible but may have an occasional ticket for a violation. This would provide the board information to act against a licensee during the renewal process or to suspend or revoke the license for an egregious offense.

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MS. BRAWLEY reviewed slide 33, "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.

MS. BRAWLEY highlighted two examples of strengthening penalties would hold licensees more immediately accountable for overserving an adult or a minor on their premises. The licensee would receive an administrative fine automatically from the Alcoholic Beverage Control Board (ABC Board). This would provide a signal to licensees to pay close attention to what happens on their premises. Many owners may be out of state or they may not be involved in the day-to-day operations so the employee or manager may not disclose the incident immediately. This would provide a communication loop but also give the licensee an opportunity to train or discipline employees. Secondly, it would provide a misdemeanor penalty if the licensee knowingly allows this activity to occur on the premises.

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CHAIR REINBOLD related her understanding that this would change the penalty for both statutes to a minor offense with a \$500 fine. She asked for further clarification on the previous penalty.

MS. BRAWLEY answered that it was currently a class A misdemeanor for the employee and no penalty for the licensee except for potential non-renewal of the license.

CHAIR REINBOLD asked for further clarification on what constitutes a minor offense.

MS. BRAWLEY answered that a minor offense, which is listed as a violation in statute, has a maximum of a \$500 fine. This provision would only apply to an employee who serves a minor or overserves an adult. An individual who is not employed by a licensee and serves an adult would still be subject to a class A misdemeanor. She indicated the intent was to institute more automatic enforcement. Some of the discussion with the alcohol

industry was that the misdemeanor penalties often require court appearances or the necessity to hire an attorney and yet do not necessarily result in an automatic accountability.

CHAIR REINBOLD suggested that this should be flagged for the Department of Law to comment. She offered her belief that this appeared to be a significant issue.

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SENATOR MICCICHE remarked that he agreed to this change because enforcement was not issuing many citations or pursuing these cases, in part, due to case overload. Thus, the behavior was not being changed or corrected. This provision would fine the license owner and provide a fairly immediate response. He pointed out that the class A misdemeanor and class C felony penalties would still be in place for more serious offenses.

MS. BRAWLEY agreed the Department of Law (DOL) should provide its current position. She said she recalled that the DOL did not have a specific objection to this.

[2:18:11 PM](#)

MS. BRAWLEY reviewed slide 34, "Proposed; Regulate Trade Practices."

Some activities, known as trade practices, are illegal in federal law: practices of alcohol manufacturers and wholesalers to exert power over retailers' buying decisions, or stopping them from buying competitors' products.

Tied house

Partial ownership of retail license by a manufacturer, to control what products are sold or exclude competitors. Does not apply to 100 percent 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 not to purchase other products.

Consignment sales

Supplier and retailer make deals to take back unsold products.

MS. BRAWLEY explained that regulating trade practices was especially important to the industry. These provisions would protect the three-tier system by not allowing one tier to have an undue influence on the other tiers. These illegal trade practice provisions were originally brought up by wholesalers and manufacturers. These provisions cover activities that are illegal in federal law. Most, if not all, other states have adopted these prohibitions into state law since limited federal enforcement from the Tax and Trade Bureau occurs. She added that the federal law does not cover beer. The prohibition of these practices is intended to not put undue pressure on retailers when they make buying decisions. For example, the exclusive outlet provision relates to a buyer who would coerce a retailer to say they would give them a better discount on their products if the retailer does not sell the competitors' products. She characterized these as anti-competitive practices that have been an issue in the past. That is why these prohibitions have been put in place in other states. This provides the state authority to enforce the laws.

[2:19:41 PM](#)

MS. BRAWLEY reviewed slide 35, "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.

She explained that keg registration addresses another public health priority and is something already being practiced today in Anchorage and Juneau. Keg registration identifies the buyer on the keg and if the keg was confiscated in the presence of underage drinkers, it can be legally traced back to the buyer. She characterized it as a best practice provision. It provides law enforcement with the tool to trace back the illegal alcohol.

SENATOR COSTELLO asked for further clarification on the penalty for serving alcohol to underage minors.

MS. BRAWLEY answered that the current penalty is a class A misdemeanor and it would not be changed under the bill.

2:21:09 PM

MS. BRAWLEY reviewed slide 36, "Proposed: Convert Existing Licenses."

Existing manufacturer licenses will become two licenses: one for production, one for retail sales.

She referred to the graphics on the final slide, which illustrated the transition period. The bill would make a significant number of changes to the licensing system. The Alcoholic Beverage Control Board (ABC Board) and Alcohol & Marijuana Control Office need time to implement changes and the licensees and local government need time to understand the changes. The effective date of the bill anticipates a 12-to-18-month transition period to allow the board to write regulations, notify licensees, and develop educational materials. A few provisions, specifically public convenience license changes, would become effective immediately to provide more restaurant licenses. One provision would provide for conversion of licenses. Most licenses would be renumbered, but other licenses for manufacturers would split into two types of licenses. The bill would also address applications in process.

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CHAIR REINBOLD related her understanding that some people are concerned about fee increases.

MS. BRAWLEY agreed that some fees would increase for some licenses. She related her understanding that the application process would allow applicants to submit a unified application process, but it may allow for more than one license type.

CHAIR REINBOLD recalled that license fees for Alaska Berries would increase from \$1,500 to \$2,500. She asked why the fees would increase that much.

MS. BRAWLEY answered that the rationale was to provide additional resources for Alcohol & Marijuana Control Office because the agency's budget is constrained by the amount of license fees collected. She reported that many fees have not been updated since the 1980s or since the license was created. She directed attention to the table in the Title 4 report for specific amounts. She offered her belief that based on inflation from 1980 until the present time fees would triple. For example,

beverage dispensary license fees would be closer to \$7,000 than the proposed \$2,500.

CHAIR REINBOLD expressed an interest in reviewing the fees. She said that the fee changes would impact local businesses. She further asked whether an audit has recently been conducted on the Alcohol & Marijuana Control Office.

MS. MCCONNELL answered that AMCO had a sunset audit in 2017 related to the extension of the Alcoholic Beverage Control Board (ABC Board). The last legislative session reviewed the sunset audit.

CHAIR REINBOLD expressed an interest in hearing about any issues raised during the audit at a future hearing.

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SENATOR MICCICHE offered that hundreds of licensees commented during the stakeholder process on proposed fee increases. He related that he was aware of one licensee who complained about the license fee increases for wineries. However, overall the vast majority of licensees provided significant support for the changes. The bill would help businesses conduct their businesses more efficiently. He said that the proposed changes would allow the AMCO Board to be more responsive because of code clarifications.

CHAIR REINBOLD remarked that it was pretty amazing that licensees were not complaining about increases in license fees. She indicated that the committee would be watching for that healthy tension in this bill.

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SENATOR COSTELLO asked for further clarification on the Alcohol & Marijuana Control Office budget. She asked what she would do with the additional funds.

MS. MCCONNELL answered that currently the combined budget for alcohol and marijuana oversight is \$3.8 million. She submitted a fiscal note that includes costs to replace the database, which is the most significant need to implement changes in the bill. Further, the fiscal note reflects costs for a long-term non-permanent project manager for two years to help implement the changes. She anticipated software fees and costs for outreach and education in the outgoing years. She also contemplated adding additional law enforcement resources.

SENATOR COSTELLO wondered if the database would speed up the timeframe for license transfers for businesses.

MS. MCCONNELL acknowledged that was the goal, to improve customer service and allow licensees to submit applications through a website and be able to track them online. She envisioned that it would speed up the process, but it would depend on the software.

MS. BRAWLEY added that nothing in the bill directly addresses marijuana. However, those fees were also reviewed. She explained that those fees were set by regulation and most license fees were \$5,000 annually although a few smaller operator license fees were set at \$1,000.

SENATOR BIRCH asked for the split in fee revenue for marijuana and alcohol.

MS. MCCONNELL recalled that AMCO receives approximately \$2 million in revenue from alcohol and the marijuana revenues were approximately \$1.5 to \$2 million. She reported that the marijuana board just increased the license fees and the board anticipates an increase in revenue in the next license renewal period.

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MS. BRAWLEY said that concludes her presentation.

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CHAIR REINBOLD related her understanding that there were 140 stakeholders involved in the process.

MS. BRAWLEY agreed. She clarified that those were individuals who were directly involved in stakeholder discussions, but it does not reflect all of the licensees, members of trade associations, and others who have not directly spoken to her during this process.

CHAIR REINBOLD asked whether the stakeholder list was published. She noted that the report was published on the website [at Senate.labor.and.commerce@akleg.gov].

SENATOR MICCICHE directed attention to the appendix on pages 70-77 of the Alaska Title 4 Review for the Alcoholic Beverage Control Board, February 2019, for a list of the stakeholders and organizations.

CHAIR REINBOLD remarked that the Title 4 review has been a long, hard process. She wanted the public to know the stakeholders who were involved. She said the list was very broad and included the Alaska State Troopers, and the Alaska Mental Health Trust Board.

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SENATOR BIRCH echoed Chair Reinbold's comments. He said that this process started in 2012. He read from the appendix on page 70, "The Steering Committee extends sincere appreciation for the efforts of each individual and organization on this list to carry this project forward." He said that this process spanned seven years and a wide array of stakeholders has been involved. He said that he was proud to support this. He said the bill was presented very well and he appreciated the opportunity to consider SB 52.

SENATOR MICCICHE said that the focus has been to involve every interest group, including municipalities, communities, tribal organizations, and the industry. Further, the primary focus has been on public health and public safety while still supporting a healthy industry, he said.

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CHAIR REINBOLD acknowledged that Ms. Brawley represented Agnew Beck Consulting.

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TIFFANY HALL, Executive Director, Recover Alaska, Anchorage, stated that she is a lifelong Alaskan. SB 52 is the culmination of seven years of work. Members of the ABC Board started the process because they recognized the dire need for revisions to Title 4. The current statutes have some contradictory provisions. The statutes are confusing for license holders and for Alcohol & Marijuana Control Office.

She said that most of SB 52 reorders, redefines, and clarifies current law. It also adds safety and health aspects.

MS. HALL related that Recover Alaska works to reduce excessive alcohol use and its harmful effects throughout Alaska. Recover Alaska is not an abstinence only organization, but advocates for low-risk drinking. For some people that means zero alcohol use, but many people can responsibly drink at moderate levels. Recover Alaska has been working on the content of SB 52 for many years, hand in hand with numerous public health and safety organizations and industry throughout the process. She expressed thanks for the opportunity to develop partnerships with

industry, such as Cabaret, Hotel, Restaurant and Retailers Association (CHARR). For example, she worked with CHARR in Anchorage during St. Patrick's Day "pub crawl." Many of the venues offered non-alcoholic drinks because they recognized that not everyone wants to drink alcohol at each stop. She pointed out that the Narrows bar and Amalga Distillery partnered with Recover Alaska during sobriety awareness month.

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MS. HALL said that Alaska struggles with alcohol issues. Alcohol costs the state \$1.84 billion every year in health care, lost productivity, public safety, and early death. Alaska has higher levels of treatment admissions per capita than the rest of the country. Alaskans binge drink heavier and more often, have the highest fetal alcohol spectrum disorder rates in the nation, and Alaskans are dying at rates nearly three times as high as the rest of the nation.

She directed attention to Article VII, Section 4 of Constitution of the State of Alaska, which states that the legislature shall provide for the promotion and protection of public health. She acknowledged that the committee has heard the goal of SB 52 was to ensure that Alaska has a high-functioning and well-regulated alcohol industry, but it also addresses crime, safety, and health problems related to alcohol.

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MS. HALL emphasized her comments were related to safety and health.

SB 52 would limit youth access to alcohol, promote responsible alcohol use, and reduce the harms of overconsumption. It would hold businesses accountable if an intoxicated person is overserved or if a minor is served, which will allow the ABC Board to intervene sooner to ensure those businesses are taking action to improve. It would allow license holders more financial incentive to ensure their employees are properly trained.

MS. HALL stated that the bill would establish regulation of the internet sales of alcohol. Currently, Alaska is one of few states without any regulation in this area, which means that alcohol can be shipped to dry zip codes or ordered by teenagers and left on their doorsteps. Alaska would also collect license fees and taxes, in addition to mandating identification be verified when internet sales are delivered.

She offered her belief that the license fee increases would make them more equitable. More importantly, this would provide adequate funding for AMCO to provide additional education to license holders, and more effectively conduct enforcement and compliance checks. She reported that compliance checks have not been done in the last three years due to a lack of funding. Compliance checks would also help reduce both public health and criminal-related issues.

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MS. HALL said that under current law, keg registration in Anchorage and Juneau is required. These requirements have not created an undue burden on the licensees or industry. She characterized it as another evidence-based policy, which holds adults who buy alcohol and furnish it to underage minors accountable for their actions.

SB 52 would mandate training for every server prior to serving alcohol to the public, which would close a loophole. The bill would address population limits using creative solutions agreed to by the alcohol industry and municipalities. She acknowledged that concerns about these provisions were initially raised by Soldotna and Wasilla. These communities were invited to attend [stakeholder] meetings to discuss their concerns. In 2016, stakeholders agreed on the three processes Ms. Brawley outlined today. The initial provision in the bill would allow communities to ask for additional licenses every ten years, which was reduced to three years to address concerns communities had that economic growth would be stymied. This change was adopted by the stakeholders, she said.

MS. HALL offered her belief that population limits are one of the most effective public health strategies to reduce diseases, crime, and other harms associated with alcohol.

MS. HALL highlighted that these were the top issues for Recover Alaska, but the entire bill works to create a more easily understandable Title 4, which reduces the burden on both license holders and the state. SB 52 would make it easier for licensees and agencies to follow and easier to enforce. She said, "I believe that the vast majority of people involved in alcohol in our state have really good intentions and want to be positive, safe operators. SB 52 will facilitate that."

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MS. HALL acknowledged that the language in SB 52 was full of compromises. She remarked that if she were to write the bill herself, it would be stronger in terms of public health and safety and one written by industry or local municipalities would lean in another direction.

She emphasized that SB 52 was nearly identical to the bill that passed the Senate last year. That bill had full support from the alcohol industry, public safety, local municipalities, and public health. She said that this bill is the culmination of substantial work and compromises by stakeholders. She appreciated hearing from CHARR with their concerns.

MS. HALL said that during the seven-year process, stakeholders worked to ensure that current business models were not removed. She encouraged people to address issues that arose last year related to manufacturers in other bills, not in SB 52.

MS. HALL expressed concern that the longer the state goes without making the necessary revisions to Title 4, the more frustrations will arise with the ABC Board and AMCO. They have been directed to more closely follow statutes in board decision-making, but it's incredibly difficult to follow current conflicting statutes. She urged members to pass SB 52 this year to assist business owners and license holders and to address the public safety issues.

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SENATOR BIRCH said he has only been in the legislature for a few years. He thanked her for her help and source of information on these issues and the bill.

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CHAIR REINBOLD asked whether she had specific information on the number of deaths from drunk drivers in Alaska.

MS. HALL recalled statistics that related 287 alcohol-related deaths occur in Alaska per year, which was higher than deaths caused by opioids, methamphetamine, and all other illicit substances combined. She said that the mortality rate in the nation is eight deaths per 100,000, but Alaska has a mortality rate three times higher, or 22 per 100,000. However, the incidence in the Alaska Native population is 56 per 100,000.

CHAIR REINBOLD expressed an interest in isolating the number of deaths caused by drunk drivers, so she can report these figures

to her constituents and to justify the reason the legislature was taking on such a large overhaul of Title 4.

[SB 52 was held in committee.]

2:47:00 PM

CHAIR REINBOLD reviewed upcoming committee announcements.

2:48:34 PM

There being no further business to come before the committee, Chair Reinbold adjourned the Senate Labor and Commerce Standing Committee meeting at 2:48 p.m.