

**ALASKA STATE LEGISLATURE**  
**SENATE LABOR AND COMMERCE STANDING COMMITTEE**

April 16, 2019

1:32 p.m.

**MEMBERS PRESENT**

Senator Lora Reinbold, Chair  
Senator Mia Costello, Vice Chair  
Senator Click Bishop  
Senator Chris Birch

**MEMBERS ABSENT**

Senator Elvi Gray-Jackson

**COMMITTEE CALENDAR**

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."

- MOVED CSSB 52(L&C) OUT OF COMMITTEE

SENATE BILL NO. 50

"An Act imposing an annual educational facilities maintenance and construction tax on net earnings from self-employment and wages; relating to the administration and enforcement of the educational facilities maintenance and construction tax; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

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)  
04/02/19 (S) Heard & Held  
04/02/19 (S) MINUTE(L&C)  
04/04/19 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
04/04/19 (S) -- MEETING CANCELED --  
04/09/19 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
04/09/19 (S) Heard & Held  
04/09/19 (S) MINUTE(L&C)  
04/11/19 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
04/11/19 (S) Heard & Held  
04/11/19 (S) MINUTE(L&C)  
04/16/19 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 50

SHORT TITLE: EMPLOYMENT TAX FOR EDUCATION FACILITIES  
SPONSOR(s): SENATOR(s) BISHOP

02/11/19 (S) READ THE FIRST TIME - REFERRALS  
02/11/19 (S) L&C, FIN  
04/16/19 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

LEE ELLIS, President  
Brewers Guild of Alaska  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 52.

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

**POSITION STATEMENT:** Answered questions during the discussion of SB 52.

TIFFANY HALL, Executive Director  
Recover Alaska  
Anchorage, Alaska

**POSITION STATEMENT:**

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

**POSITION STATEMENT:** Testified and answered questions during the hearing SB 52.

DARWIN PETERSON, Staff  
Senator Click Bishop  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified on behalf of the sponsor, Senator Click Bishop during the hearing on SB 50.

### **ACTION NARRATIVE**

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**CHAIR LORA REINBOLD** called the Senate Labor and Commerce Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Birch, Bishop, Costello, and Chair Reinbold.

### **SB 52-ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG**

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CHAIR REINBOLD announced that the first 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 COSTELLO moved to adopt Amendment 7, work order 31-LS0004\U.8, Bruce, 4/5/19:

### **AMENDMENT 7**

Page 6, line 13:

Delete "At least 80 percent of each final product that contains"

Insert "The fermentation process of all"

Page 6, line 14:  
Delete "be manufactured"  
Insert "occur"

Page 6, line 20:  
Delete "At least 80 percent of each final product  
that contains"  
Insert "The fermentation process of all"

Page 6, line 21:  
Delete "be manufactured"  
Insert "occur"

CHAIR REINBOLD objected for discussion purposes.

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SENATOR MICCICHE said that Amendment 7 would address an issue that arose last year. He stated that AS 04.09.020 (c) contains language that defines a manufacturer in Alaska. This would clarify that any business in Alaska manufacturing alcohol must manufacture the alcoholic product in Alaska and not simply import and relabel it. Federal law currently prohibits this activity, but state law does not. This would protect small business owners since SB 52 clearly defines regulation of manufacturers in Alaska. This language seeks to protect consumers who want to purchase locally made beverages. It would also protect the limited license system related to tasting rooms from being monopolized by large manufacturers. It would close a loophole allowing a large manufacturer that would otherwise not be allowed to sell direct to consumers, own a tasting room, or a licensed premise from creating a subsidiary company and selling the parent company's product under a subsidiary name thereby creating a "shell brewery." These large outside companies desire to take over the industry in Alaska, he said.

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SENATOR COSTELLO asked whether industry has provided any negative response.

SENATOR MICCICHE answered no. He said that that he worked with industry on this language and has not had any opposition.

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SENATOR BIRCH asked whether anyone in Alaska brings in a barrel of Everclear grain alcohol to use as a base. He recalled his relative made cranberry liqueur using it. He asked whether

Amendment 7 would prevent someone from making home liqueur as an unintended consequence.

SENATOR MICCICHE related his understanding that manufacturers use local materials, but it was not possible to ferment without bringing in some products. That was the rationale for the 80 percent language, he said. He said that spruce tip, hops and Mat-Su Valley grains are used, but Alaska is limited in what it can grow due to its short growing season.

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CHAIR REINBOLD expressed concern about the language, "The fermentation process of all." She asked whether this would adversely impact wineries or distilleries.

SENATOR MICCICHE answered that it would not. He said this means the fermentation process must happen in Alaska. He explained that it was difficult to meet the 80 percent threshold. It would free manufacturers since it does not limit where the businesses purchase the raw materials.

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LEE ELLIS, President, Brewers Guild of Alaska, Anchorage, stated that the industry asked for a language change from the 80/20 percent because it is confusing to determine. He explained that fermentation is the production of alcohol. He related that 90 percent of the product is water and the remaining percentage was malt and hops. Ingredients like berries and spruce tips would fall under the Federal Drug Administration (FDA). He said that the guild is very happy with this language.

MR. ELLIS related his understanding that the distilleries retained the 80/20 language. The federal Alcohol and Tobacco Tax and Trade Bureau (TTB) and FDA regulate the ingredients that can be used, he said. He did not believe that Amendment 7 would have negative consequences since it more clearly defines who is a manufacturer. Amendment 7 was developed because a distillery brought alcohol in from the Lower 48, mixed in spices and resold it as "Alaskan made." He cautioned that if manufacturers are not regulated that issues arise in managing the three-tier system. In response to a question, he stated that he absolutely supported Amendment 1. He said he could not speak for distilleries or wineries, but it will work for breweries. He related that distilleries sometimes import wash for the distillation process, so distilleries chose to keep the 80/20 ratio.

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CHAIR REINBOLD removed her objection.

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SENATOR BISHOP reviewed the fiscal note from the Department of Commerce, Community and Economic Development (DCCED), Division of Corporations, Businesses, and Professional Licensing (CBPL) zero fiscal note prepared by Sara Chambers. The Office of Management and Budget (OMB) component is 2360, he said. He reviewed the fiscal analysis:

SB 52 modifies the exemption from the Alaska business licensing requirement for businesses that sell only liquor to reflect the updated statutory reference. If the business sells anything in addition to liquor, they would be required to obtain an Alaska business license.

There is no anticipated fiscal impact to the Division of Corporations, Business, and Professional Licensing. Business licensing fees are set per AS 43.70, and revenue in excess of authorized budgeted expenses revert to the State of Alaska general fund.

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CHAIR REINBOLD asked to put on the record that she was working with the sponsor and the Department of Law. Some changes will be requested during the next committee of referral, the Senate Judiciary Committee. She noted that the Legislative Budget and Audit Division had several suggestions. She would also like to resolve winery license fees for the half dozen wineries.

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ANNA BRAWLEY, Title 4 Project Review Coordinator, Senior Associate, Agnew Beck Consulting, Anchorage, echoed her thanks.

[1:49:07 PM](#)

TIFFANY HALL, Executive Director, Recover Alaska, Anchorage, expressed her sincere thanks to the committee.

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ERIKA MCCONNELL, Director, Alcohol and Marijuana Control Office (AMCO), Anchorage, echoed her thanks.

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SENATOR BIRCH said he was supportive of passing a similar bill last year. He said thousands of hours have been put forth by the

public, the industry and stakeholders. He said this bill cuts a fine balance and was a good and positive step forward.

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SENATOR BISHOP asked whether this bill would raise new revenue.

SENATOR MICCICHE agreed it would raise revenue, most of which would be put towards better management of alcohol sales and the impacts of alcohol in Alaska.

SENATOR BISHOP asked whether the state would start recovering some of the funds from internet sales.

SENATOR MICCICHE agreed that it has a positive fiscal note. He related that he began working on the bill because alcohol was about 95 percent of the adverse substance abuse problem in the state.

SENATOR BISHOP thanked the sponsor and staff.

CHAIR REINBOLD thanked Senator Costello for her work on the committee.

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SENATOR COSTELLO moved to report SB 52, Version 31-LS0004\U, as amended, from committee with individual recommendations and attached fiscal note(s). There being no objection, the CSSB52 (L&C) was reported from the Senate Labor and Commerce Standing Committee.

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At-ease.

### **SB 50-EMPLOYMENT TAX FOR EDUCATION FACILITIES**

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CHAIR REINBOLD reconvened the meeting and announced that the final order of business would be SENATE BILL NO. 50, "An Act imposing an annual educational facilities maintenance and construction tax on net earnings from self-employment and wages; relating to the administration and enforcement of the educational facilities maintenance and construction tax; and providing for an effective date."

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SENATOR BISHOP made opening remarks. He said that SB 50 has been around since 1970s. He paraphrased his sponsor statement:

From 1919-1980, Alaska had an annual employment head tax for the purpose of collecting revenues to fund schools. The tax went through numerous transformations, but it always charged an equal amount to each employed individual. When it was repealed in 1980, the tax was \$10 per person which has the equivalent value of \$30 today.

SB 50 proposes to revive the repealed head tax on employed individuals, both resident and nonresident, with income from a source in Alaska. The "Alaska Education Facilities, Maintenance, and Construction Tax" would collect \$30 from each person employed in the state. The tax would be withheld from an employee's first paycheck each year while self-employed individuals would be required to remit payment to the Alaska Department of Revenue. The tax would be deductible on an individual's federal income tax return.

According to the most recent statistics from the Alaska Department of Labor and Workforce Development and the U.S. Census Bureau, there are approximately 441,596 employed individuals in Alaska. Roughly 20% of those workers who earn their living in Alaska do not reside here resulting in \$2.5 billion in nonresident income that leaves Alaska's economy each year and, in most cases, gets taxed by a nonresident's home state. It is estimated that this tax would generate \$13 million each year. The revenue collected would be deposited into the state's general fund and accounted for separately to pay for the growing maintenance and construction needs of Alaska's schools.

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SENATOR BISHOP said the state has had a minimal budget for the past five years. He expressed concern about the level of deferred maintenance for schools in disrepair. In 1980, the head tax was repealed. However, a bill to recreate the head tax has been introduced in the legislature 15 times. In fact, he has introduced this concept in the last three legislatures.

He reported that the Department of Education and Early Development (DEED) indicates that the state has \$112 million in deferred maintenance and \$190 million in school

construction debt. He said that \$2.5 billion in nonresident income leaves Alaska's economy each year. These nonresidents are most likely taxed in their home states and those taxes help provide education in their home states. The state has had limited capital budgets based on federal matching funds. The deferred maintenance is not getting better, he said. He remarked that he worked for Joe Jackovich when he attended high school. Mr. Jackovich explained to him that the \$5 school tax helped pay for his high school education.

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DARWIN PETERSON, Staff, Senator Click Bishop, Alaska State Legislature, Juneau, on behalf of the sponsor, reiterated that from 1919 to 1980 Alaska had an annual employment head tax for the purpose of collecting revenues to help fund its schools. The tax was established to charge an equal amount to each employed individual. When it was repealed in 1980, the tax was \$10 per person, which would be equivalent to \$30 today, if adjusted for inflation. SB 50 proposes to revive the repealed head tax on those employed, both residents and nonresidents.

MR. PETERSON said that this bill would collect \$30 withheld from the first paycheck each calendar year and is deductible on federal income tax returns.

He provided statistics from Department of Labor & Workforce Development and the U.S. Census Bureau, such that 20.0 percent or 85,000 of 441,596 employees are nonresidents, which results in \$2.5 billion leaving the state's economy each year. In 2017, 407,255 of the 441,596 employees were wage and salary workers. He said that 11,329 of the self-employed Alaskans work in the business sector and the remainder are self-employed in non-incorporated businesses.

MR. PETERSON said that based on those figures, the education head tax would bring in \$13 million in revenue per year to the state's general fund to pay for growing maintenance and construction needs. The Department of Education and Early Development (DEED) indicates that the state's share of the FY 2020 major school maintenance list totals \$112-113 million and the FY 2020 school construction list totals \$190 million totaling over \$300 million. He pointed out that it costs districts money to place something on the list, so the total does not reflect all of the needs. He referred to members' packets and letters of support.

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SENATOR COSTELLO asked whether this is considered a dedicated fund, and if not, how does the legislature avoid it.

MR. PETERSON answered no. He referred to page 4, lines 13-19, to language that states it does not create a dedicated fund. AS 43.45.061 read:

(a) The tax and penalties collected by the department under this chapter shall be deposited into the general fund and accounted for separately.

(b) The legislature may appropriate the estimated amounts to be collected and separately accounted for under (a) of this section into the educational facilities maintenance and construction fund established under AS 37.05.560. Nothing in this section creates a dedicated fund.

MR. PETERSON explained that the legislature is constitutionally prohibited from creating dedicated funds. The legislature may appropriate and separately account for and place the funds in an account with the intent to pay for construction and deferred maintenance.

SENATOR COSTELLO asked whether this would be considered an income tax.

MR. PETERSON agreed that it would create an income tax, but it is a flat tax, not a bracketed income tax.

SENATOR COSTELLO asked for further clarification as to why maintenance was not included as part of school construction.

MR. PETERSON answered that over the last five years, the operations are ongoing but capital budgets can be held back while the legislature waits for additional revenue.

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SENATOR BISHOP said he likes the title of the bill, which relates to facilities and construction tax. It read:

"An Act imposing an annual educational facilities maintenance and construction tax on net earnings from self-employment and wages; relating to the administration and enforcement of the educational facilities maintenance and construction tax; and providing for an effective date."

He characterized this matter as a policy question.

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SENATOR BIRCH commended the sponsor for bringing this forward. He also recalled his first pay stub signed by Jim Dalton. The Dalton Highway was named after him. He recalled the head tax was \$10 and he understood it went to education. He said that maintenance is important and deferred maintenance needs to happen but can be pushed off for a while. These deferred maintenance costs are significant ones in rural communities. He characterized this as a step in the right direction. He said he thought it may help educate a new generation of Alaskans that it is necessary to pay for things.

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CHAIR REINBOLD raised the concern that home schools must absorb property taxes. She asked whether this tax would apply to everyone, whether these residents have kids in the system or not.

MR. PETERSON answered yes. He said that everyone who is employed would be subject to a \$30 head tax per year. Not everyone in the state has the ability to homeschool their children. However, the state is constitutionally required to provide a public school system for all children, and everyone in the state benefits from having an educated population.

CHAIR REINBOLD argued that it does not mean that the state must have 54 school districts and a \$2.2 billion budget, with some of the lowest outcomes in some areas. She expressed frustration to see "common core" math standards that she characterized as some of the worst possible. She emphasized that she is resistant to increasing education funding at this time. She highlighted that her constituents question their high property taxes when other residents pay none. She asked how to track where the money is spent. Since designated funds are prohibited, this could result in additional general fund monies.

MR. PETERSON pointed out that employed rural residents that do not currently pay property taxes would be contributing \$30.

CHAIR REINBOLD expressed concern that the funding would not be tied to the local community. She said she preferred local community control.

MR. PETERSON referred to the prioritized DEED major maintenance fund list and school construction fund list in members packets. The funds would be allocated towards those projects in priority order.

CHAIR REINBOLD related her understanding that there would not be any guarantee that funds would be spent in the area in which the funds were collected.

MR. PETERSON agreed that it was a statewide effort.

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CHAIR REINBOLD expressed concern that the initial fees could dramatically increase over time. She offered her belief that government always wants more, so this could just become a general bracketed income tax.

MR. PETERSON agreed that it was always the prerogative of future legislatures. Future legislatures could abandon this approach and impose an income tax based on net income. He remarked that doing nothing was not an answer, either.

CHAIR REINBOLD said this sets up the framework for a full-fledged income tax so it could become a vehicle for that to occur.

SENATOR BISHOP did not disagree. However, he said that he could not in good conscious propose addressing the issue by taking funding out of savings. He emphasized that he was trying to do something to address deferred maintenance. He pointed out that some school kids in his district have not had drinking water in three years. He maintained that it was not an option to do nothing.

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CHAIR REINBOLD said she appreciated his courage since there is significant resistance to taxes. She expressed concern over the inequalities in school districts, such that some schools have great facilities whereas others do not. She would like a program that engages students to care for school lawns and encourage school pride. She said that one thing she liked about the bill is that the fees were the same fee for everyone.

[SB 50 was held in committee.]

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CHAIR REINBOLD reviewed upcoming committee announcements.

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There being no further business to come before the committee, Chair Reinbold adjourned the Senate Labor and Commerce Standing Committee meeting at 2:21 p.m.