

HOUSE BILL NO. 288

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES KURKA, Eastman

Introduced: 1/21/22

Referred: Community and Regional Affairs, Labor and Commerce

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to the authority of first class cities, second class cities, home rule cities,
2 and unified municipalities to issue, renew, deny, suspend, revoke, and regulate licenses
3 involving alcoholic beverages; and relating to the Alcoholic Beverage Control Board."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 04.06.090(a) is amended to read:

6 (a) **Except as provided in AS 04.11.800, the** [THE] board shall control the
7 manufacture, barter, possession, and sale of alcoholic beverages in the state. The board
8 is vested with the powers, duties, and responsibilities necessary for the control of
9 alcoholic beverages, including the power to propose and adopt regulations and to hear
10 appeals from actions of the director, and from actions of officers and employees
11 charged with enforcing the alcoholic beverage control laws and the regulations of the
12 board.

13 * **Sec. 2.** AS 04.06.090(b) is amended to read:

14 (b) **Except as provided in AS 04.11.800, the** [THE] board shall review all

1 applications for licenses made under this title and may order the director to issue,
 2 renew, revoke, transfer, or suspend licenses and permits authorized under this title.

3 * **Sec. 3.** AS 04.11.080 is amended to read:

4 **Sec. 04.11.080. Types of licenses and permits.** Licenses and permits issued
 5 under this title are as follows:

- 6 (1) beverage dispensary license;
- 7 (2) duplicate beverage dispensary license for additional rooms;
- 8 (3) restaurant or eating place license;
- 9 (4) club license;
- 10 (5) bottling works license;
- 11 (6) brewery license;
- 12 (7) package store license;
- 13 (8) general wholesale license;
- 14 (9) wholesale malt beverage and wine license;
- 15 (10) distillery license;
- 16 (11) common carrier dispensary license;
- 17 (12) retail stock sale license;
- 18 (13) recreational site license;
- 19 (14) pub license;
- 20 (15) winery license;
- 21 (16) caterer's permit;
- 22 (17) special events permit;
- 23 (18) conditional contractor's permit;
- 24 (19) brewpub license;
- 25 (20) golf course license;
- 26 (21) outdoor recreation lodge license;
- 27 (22) destination resort license;

28 **(23) municipal alcoholic beverage license.**

29 * **Sec. 4.** AS 04.11.495(c) is amended to read:

30 (c) When issuing a license in the area that has removed a local option, the
 31 board, **or a city or unified municipality in the case of a premises licensed under**

1 AS 04.11.800, shall give priority to an applicant who was formerly licensed and
 2 whose license was not renewed because of the results of the previous local option
 3 election. However, an applicant described in this subsection does not have a legal right
 4 to a license and the board, or a city or unified municipality in the case of an
 5 application for a license under AS 04.11.800, is not required to approve the
 6 application.

7 * **Sec. 5.** AS 04.11.497 is amended to read:

8 **Sec. 04.11.497. Effect on licenses of prohibition of sale.** If a majority of
 9 voters vote to prohibit the sale of alcoholic beverages under AS 04.11.491(a)(1), (a)(4)
 10 or (5), (b)(1), or (b)(3) or (4), the board, or a city or unified municipality with
 11 authority over alcoholic beverage licensing under AS 04.11.800, may not issue,
 12 renew, or transfer, between persons or locations, a license for premises located within
 13 the boundaries of the municipality and in unincorporated areas within five miles of the
 14 boundaries of the municipality or within the perimeter of the established village. A
 15 license that may not be renewed because of a local option election held under this
 16 section is void 90 days after the results of the election are certified. A license that
 17 expires during the 90 days after the results of a local option election are certified may
 18 be extended, until it is void under this section, by payment of a prorated portion of the
 19 biennial license fee.

20 * **Sec. 6.** AS 04.11.503 is amended to read:

21 **Sec. 04.11.503. Effect on licenses of restriction on sale.** If a majority of the
 22 voters vote under AS 04.11.491(a)(2) or (b)(2) to prohibit sale of alcoholic beverages
 23 except by the type or types of licensees or permit holders listed on the ballot, the
 24 board, or a city or unified municipality with authority over alcoholic beverage
 25 licensing under AS 04.11.800, may not issue, renew, or transfer between persons or
 26 locations a license for premises located within the boundaries of the municipality and
 27 in unincorporated areas within five miles of the boundaries of the municipality or
 28 within the perimeter of the established village, except the type or types of licenses
 29 listed on the ballot. A license in effect within the boundaries of the municipality or
 30 perimeter of the established village, and in unincorporated areas within five miles of
 31 the boundaries of the municipality, except the type of license listed on the ballot, is

void 90 days after the results of the election are certified. A license that expires during the 90 days after the results of a local option election are certified may be extended, until it is void under this section, by payment of a prorated portion of the biennial license fee.

* **Sec. 7.** AS 04.11.505(a) is amended to read:

(a) If a majority of the voters vote under AS 04.11.491(a)(3) to prohibit the sale of alcoholic beverages except on premises operated by the municipality, the board, or a city or unified municipality with authority over alcoholic beverage licensing under AS 04.11.800, may not issue, renew, or transfer between persons or locations a license for premises located within the boundaries of a municipality and in unincorporated areas within five miles of the boundaries of the municipality, with the exception of the type of license listed on the ballot and operated under a license held by the municipality. A license in effect is void 90 days after the results of the election are certified. A license that expires during the 90 days after the results of a local option election are certified may be extended, until it is void under this subsection, by payment of a prorated portion of the biennial license fee.

* **Sec. 8.** AS 04.11 is amended by adding a new section to read:

Article 10. Municipal Licenses.

Sec. 04.11.800. Municipal authority over alcoholic beverage licenses. (a)

Notwithstanding AS 04.11.030 - 04.11.070, 04.11.090 - 04.11.480, and 04.11.510 - 04.11.690, a first class city, second class city, home rule city, or unified municipality may issue, renew, deny, suspend, revoke, and regulate licenses for the manufacture and sale of alcoholic beverages in the city or unified municipality if the local governing body of the city or unified municipality

(1) votes to exempt the city or unified municipality from the requirements of AS 04.11.030 - 04.11.070, 04.11.090 - 04.11.480, and 04.11.510 - 04.11.690; and

(2) informs the board that the city or unified municipality has voted to exempt the city or unified municipality from the requirements of AS 04.11.030 - 04.11.070, 04.11.090 - 04.11.480, and 04.11.510 - 04.11.690.

(b) The board may not issue, renew, or transfer to another person or a new

1 location a license or permit under AS 04.11.090 - 04.11.255 in a first class city,
 2 second class city, home rule city, or unified municipality that is exempted under (a) of
 3 this section.

4 * **Sec. 9.** AS 04.16.049(a) is amended to read:

5 (a) A person under 21 years of age may not knowingly enter or remain in
 6 premises licensed under this title unless

7 (1) accompanied by a parent, guardian, or spouse who has attained 21
 8 years of age;

9 (2) the person is at least 16 years of age, the premises are designated
 10 by the board, **or by a city or unified municipality in the case of a premises licensed**
 11 **under AS 04.11.800,** as a restaurant for the purposes of this section, and the person
 12 enters and remains only for dining;

13 (3) the person is under 16 years of age, is accompanied by a person
 14 over 21 years of age, the parent or guardian of the underaged person consents, the
 15 premises are designated by the board, **or by a city or unified municipality in the**
 16 **case of a premises licensed under AS 04.11.800,** as a restaurant for the purposes of
 17 this section, and the person enters and remains only for dining;

18 (4) the person is permitted on the premises under a club license issued
 19 under AS 04.11.110(g); or

20 (5) otherwise provided under (c), (d), or (g) of this section.

21 * **Sec. 10.** AS 04.16.049(c) is amended to read:

22 (c) Notwithstanding any other provision in this section, a person 16 or 17
 23 years of age may enter and remain within the licensed premises of a hotel, golf course,
 24 or restaurant or eating place in the course of employment if (1) the employment does
 25 not involve the serving, mixing, delivering, or dispensing of alcoholic beverages; (2)
 26 the person has the written consent of a parent or guardian; and (3) an exemption from
 27 the prohibition of AS 23.10.355 is granted by the Department of Labor and Workforce
 28 Development. **At a licensee's request, the** [THE] board, with the approval of the
 29 governing body having jurisdiction, **or, for a premises licensed under AS 04.11.800,**
 30 **a city or unified municipality** [AND AT THE LICENSEE'S REQUEST], shall
 31 designate which premises are hotels, golf courses, restaurants, or eating places for the

1 purposes of this subsection.

2 * **Sec. 11.** AS 04.16.172 is amended to read:

3 **Sec. 04.16.172. Restrictions on purchase and sale of alcoholic beverages.** A
4 person licensed under AS 04.11.090, 04.11.100, 04.11.110, or 04.11.150 may not
5 purchase, sell, or offer for sale an alcoholic beverage unless the alcoholic beverage
6 being purchased, sold, or offered for sale was obtained from a person licensed under

7 (1) AS 04.11.160 as a primary source of supply for the alcoholic
8 beverage being purchased, sold, or offered for sale;

9 (2) AS 04.11.150 and the alcoholic beverage being purchased, sold, or
10 offered for sale was obtained from a person licensed under AS 04.11.160 as a primary
11 source of supply; or

12 (3) AS 04.11.130, 04.11.140, [OR] 04.11.170, or 04.11.800.

13 * **Sec. 12.** AS 04.16.210 is amended to read:

14 **Sec. 04.16.210. Penalty for making false statement.** If a false statement is
15 made in an application to the board under AS 04.11.260 - 04.11.290 or in an
16 application to a city or unified municipality under AS 04.11.800, the applicant is
17 guilty of perjury and, upon conviction, is subject to the penalty provided by law for the
18 crime of perjury under AS 11.56.200.

19 * **Sec. 13.** AS 04.21.020(a) is amended to read:

20 (a) Except as provided under (b) and (d) of this section, a person who provides
21 alcoholic beverages to another person may not be held civilly liable for injuries
22 resulting from the intoxication of that person unless the person who provides the
23 alcoholic beverages holds a license authorized under AS 04.11.080 - 04.11.220 or
24 04.11.800 or is an agent or employee of such a licensee and

25 (1) the alcoholic beverages are provided to a person under the age of
26 21 years in violation of AS 04.16.051, unless the licensee, agent, or employee secures
27 in good faith from the person a signed statement, liquor identification card, or driver's
28 license meeting the requirements of AS 04.21.050(a) and (b), that indicates that the
29 person is 21 years of age or older; or

30 (2) the alcoholic beverages are provided to a drunken person in
31 violation of AS 04.16.030.

1 * **Sec. 14.** AS 04.21.060 is amended to read:

2 **Sec. 04.21.060. Warehousing of alcoholic beverages.** A licensee may stock,
3 warehouse, or otherwise store alcoholic beverages in a place elsewhere than premises
4 indicated on the license if

5 (1) the premises to be used for storage are inspected and approved by
6 the board, or by a city or unified municipality in the case of a premises licensed
7 under AS 04.11.800, before their use;

8 (2) the use of the premises for storage is authorized by local zoning
9 ordinances; and

10 (3) the premises are accessible for inspection as provided in
11 AS 04.11.630.

12 * **Sec. 15.** AS 04.21.080(b)(15) is amended to read:

13 (15) "licensed premises" means any or all designated portions of a
14 building or structure, rooms or enclosures in the building or structure, or real estate
15 leased, used, controlled, or operated by a licensee in the conduct of business for which
16 the licensee is licensed by the board or a city or unified municipality at the specific
17 address for which the license is issued;

18 * **Sec. 16.** AS 09.65.315(b) is amended to read:

19 (b) A person licensed under AS 04.11.080 - 04.11.255 or 04.11.800, or an
20 agent or employee of the person, is not liable for damages resulting from a motor
21 vehicle accident described under (a) of this section. A person or entity that participates
22 in making arrangements for transportation of a vehicle under (a) of this section is not
23 liable for damages resulting from a motor vehicle accident described in (a) of this
24 section.

25 * **Sec. 17.** AS 12.55.025(a) is amended to read:

26 (a) When imposing a sentence for conviction of a felony offense or a sentence
27 of imprisonment exceeding 90 days or upon a conviction of a violation of AS 04, a
28 regulation adopted under AS 04, or an ordinance adopted in conformity with
29 AS 04.11.800 or AS 04.21.010, the court shall prepare, as a part of the record, a
30 sentencing report that includes the following:

31 (1) a verbatim record of the sentencing hearing and any other in-court

1 sentencing procedures;

2 (2) findings on material issues of fact and on factual questions required
3 to be determined as a prerequisite to the selection of the sentence imposed;

4 (3) a clear statement of the terms of the sentence imposed; if a term of
5 imprisonment is imposed, the statement must include

6 (A) the approximate minimum term the defendant is expected
7 to serve before being released or placed on mandatory parole if the defendant
8 is eligible for and does not forfeit good conduct deductions under
9 AS 33.20.010; and

10 (B) if applicable, the approximate minimum term of
11 imprisonment the defendant must serve before becoming eligible for release on
12 discretionary parole;

13 (4) any recommendations as to the place of confinement or the manner
14 of treatment; and

15 (5) in the case of a conviction for a felony offense, information
16 assessing

17 (A) the financial, emotional, and medical effects of the offense
18 on the victim;

19 (B) the need of the victim for restitution; and

20 (C) any other information required by the court.

21 * **Sec. 18.** AS 12.55.025(b) is amended to read:

22 (b) The sentencing report required under (a) of this section shall be furnished
23 within 30 days after imposition of sentence to the Department of Law, the defendant,
24 the Department of Corrections, the state Board of Parole if the defendant will be
25 eligible for parole, and to the Alcoholic Beverage Control Board if the defendant is to
26 be sentenced for a conviction of a violation of AS 04, a regulation adopted under
27 AS 04, or an ordinance adopted under AS 04.11.800 or AS 04.21.010.

28 * **Sec. 19.** AS 12.55.025(m) is amended to read:

29 (m) When imposing a sentence for conviction of a felony offense or a
30 sentence of imprisonment exceeding 90 days or, upon a conviction of a violation of
31 AS 04, a regulation adopted under AS 04, or an ordinance adopted in conformity with

1 **AS 04.11.800 or** AS 04.21.010, the court shall orally state on the record the terms of
 2 the sentence of imprisonment imposed and the approximate minimum sentence that
 3 must be served before the defendant may be eligible for mandatory parole and that the
 4 period of active incarceration may be reduced under other provisions of law.

5 * **Sec. 20.** AS 18.56.230(b) is amended to read:

6 (b) The corporation may not authorize the commercial use of space in a multi-
 7 unit residential housing development owned or financed by the corporation for

8 (1) a business that offers adult entertainment;

9 (2) the sale of alcoholic beverages, unless the sale is in a restaurant or
 10 eating place licensed under AS 04.11.100 or is in premises designated **as a restaurant**
 11 **under AS 04.16.049** by the Alcoholic Beverage Control Board **or, in the case of a**
 12 **premises licensed under AS 04.11.800, by a city or unified municipality** [AS A
 13 RESTAURANT UNDER AS 04.16.049];

14 (3) substance abuse treatment; or

15 (4) a business that primarily sells, transfers, or stores cigarettes or
 16 tobacco-related products.

17 * **Sec. 21.** AS 29.35.080(a) is amended to read:

18 (a) A municipality may regulate the possession, barter, sale, importation, and
 19 consumption of alcoholic beverages under AS 04.11.480 - 04.11.509 and
 20 AS 04.21.010. **This subsection applies to home rule and general law**
 21 **municipalities.**

22 * **Sec. 22.** AS 29.35.080 is amended by adding a new subsection to read:

23 (c) A first class city, second class city, home rule city, or unified municipality
 24 may issue, renew, deny, suspend, revoke, and regulate alcoholic beverage licenses
 25 under AS 04.11.800.

26 * **Sec. 23.** AS 29.35.310(a) is amended to read:

27 (a) **Except for the powers granted to a city under AS 04.11.800, a** [A] city
 28 in a first or second class borough may transfer to the borough in which it is located
 29 any of its powers or functions, subject to the approval of the assembly.

30 * **Sec. 24.** AS 34.03.360(6) is amended to read:

31 (6) "illegal activity involving alcoholic beverages" means a person's

1 delivery of an alcoholic beverage in violation of AS 04.11.010(b) in an area where the
2 results of a local option election have, under AS 04.11.491, prohibited the Alcoholic
3 Beverage Control Board, **or a city or unified municipality in the case of a premises**
4 **licensed under AS 04.11.800,** from issuing, renewing, or transferring a liquor license
5 or permit under AS 04;

6 * **Sec. 25.** AS 29.35.080(b) is repealed.