

1 IN THE SENATE

BY SENATORS ROBISON AND SNIDER  
BY REQUEST

2 SUBSTITUTE FOR SENATE BILL NO. 13

3 IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

4 TWENTY-FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the control of intoxi-  
7 cating liquors within the Territory of  
8 Alaska, and amending:

9 Subsection 2, Section 35-4-15 ACLA 1949,  
10 affecting the presence of  
11 minors on premises;

12 Subsection 3, Section 35-4-15 ACLA 1949,  
13 affecting proximity of  
14 liquor establishments to  
15 schools or churches;

16 Section 35-4-13 ACLA 1949; Subsection 5  
17 of Section 35-4-14 ACLA 1949;  
18 Section 35-4-17 (B) ACLA 1949  
19 affecting the consents of  
20 residents;

21 Section 35-4-18 ACLA 1949, prohibiting  
22 municipalities from increas-  
23 ing punishments or limiting  
24 opening or closing hours, and  
25 providing for municipal regu-  
26 lation;

27 Section 35-4-21 ACLA 1949, limiting the  
28 number of licenses to be  
29 issued;

1 Section 35-4-21 (A) establishing the  
2 qualification of employees  
3 in liquor establishments;  
4 Chapter 4, Article 2, ACLA 1949, by adding  
5 Section 35-4-24 providing  
6 for uniform opening and  
7 closing hours for liquor  
8 establishments.

9 BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF ALASKA:

10 Section 1. That subsection (2) of Section 35-4-15 ACLA  
11 1949, is amended to read as follows:

12 (2) [Presence of Minors on Premises.] (IT SHALL BE UNLAW-  
13 FUL TO PERMIT ANY PERSON UNDER THE AGE OF TWENTY-ONE YEARS  
14 TO ENTER ANY BEVERAGE DISPENSARY UNLESS THE SAID MINOR IS  
15 ACCOMPANIED BY HIS PARENT OR GUARDIAN.) Every person  
16 under the age of twenty-one years and over the age of six-  
17 teen years who goes upon the premises licensed under the  
18 provisions of this Act, unless a retail store or in an  
19 establishment regularly serving meals and when accompanied  
20 by his parent, guardian or other adult person in charge of  
21 his custody, or who purchases or attempts to purchase in-  
22 toxicating liquor shall be subject to the punishment pre-  
23 scribed under this Act, and it shall be unlawful to permit  
24 any minor except those hereinbefore excepted on the  
25 premises.

26 That Subsection (3) of Section 35-4-15 ACLA 1949  
27 as amended by Chapter 83 SLA 1949 is amended to read as follows:

28 (3) Proximity to School or Church. No beverage dispensary  
29 license or package liquor store license shall be issued

1 for the sale of any intoxicating liquor in any building  
2 within two hundred feet of any school (BUILDING) ground  
3 or church building by shortest direct line from such  
4 school ground or church building, (TO ANY SUCH BUILDING)  
5 within any corporate municipality, nor within one quarter  
6 of a mile of any school ground or church building where  
7 such school ground or church building is located outside  
8 the corporate limits of a municipality. For the purpose  
9 of this section an igloo, aerie, parlor or lodge of an  
10 American national fraternal organization seeking a club  
11 license shall not be deemed to be within the classification  
12 of a dispensary with respect to proximity to a church. An  
13 American national fraternal organization as used in this  
14 section means only such organizations as function in not  
15 less than 36 States of the Union and have not less than  
16 500 local units in said 36 States, and have been in active  
17 and continuous existence for 20 years. Provided, however,  
18 that a license may be reissued for the sale of intoxicating  
19 liquor in any building in which the sale of intoxicating  
20 liquor was at the time of the passing of this Act, author-  
21 ized by law.

22 Be it further provided, however, that when a license  
23 for the sale of intoxicating liquor in any building within  
24 200 feet of a school (HOUSE) ground or church building,  
25 within the corporate limits of a municipality, or within  
26 a quarter of a mile, in areas outside the corporate limits  
27 of a municipality, is forfeited by reason of a violation  
28 of law, no license for the sale of intoxicating liquor on  
29 these premises shall thereafter be issued.

1        Section 2. Section 35-4-13 ACLA 1949 is hereby amended to  
2 read as follows:

3            Application for license: Consent of citizens: Proceed-  
4 ings and hearing on application: Posting license: Transfer  
5 of license: Refund of fees. Before any license is granted,  
6 as provided in this Act, it shall be shown to the satisfaction  
7 of the Court that a majority of the citizens over the age of  
8 twenty-one years, residing within two miles of the place  
9 where intoxicating liquor is to be manufactured, bartered,  
10 sold and exchanged, or bartered, sold or exchanged, have  
11 in good faith consented to the manufacture, barter, sale and  
12 exchange, or the barter, sale and exchange of the same; and  
13 the burden shall be upon the applicant or applicants to show  
14 to the satisfaction of the Court that a majority of the citi-  
15 zens over twenty-one years of age have consented thereto  
16 and no license shall be granted in the absence of such  
17 evidence; provided, that when it is made to appear that a  
18 majority of said citizens over the age of twenty-one years  
19 of any one place have consented to the manufacture, barter,  
20 sale and exchange or the barter, sale and exchange of intox-  
21 icating liquor, no further proof of the consent of the  
22 citizens of the place where such intoxicating liquor is to  
23 be manufactured, bartered, sold and exchanged, or bartered,  
24 sold and exchanged, will be required for twelve months there-  
25 after.

26            Provided, however, that any application for a license  
27 coming from within an incorporated town shall have attached  
28 thereto in lieu of a majority of the citizens of that district,  
29 a list of at least five references as to the integrity of

1. the applicant and the desirability of the issuing of a  
2 license for the premises mentioned therein. The Clerk  
3 of the Court, upon receipt of each application from within  
4 an incorporated town, shall notify the city council of that  
5 town of the necessity for action on the application by the  
6 council, in regular or special meeting and the filing with  
7 the Clerk of the Court of a certificate showing the action  
8 taken. A failure of the municipal officers to act upon  
9 applications for licenses within the period specified in the  
10 notice furnished them shall be considered a default and shall  
11 subject the city to the penalty of losing its right to a re-  
12 fund as herein provided. At the time set for the hearing,  
13 the Court shall consider the application and any protests  
14 that may be filed against the same, and shall also hear the  
15 applicant or others appearing in connection with the matter,  
16 and give its judgment, which shall be final. If the appli-  
17 cation is rejected the fee accompanying the same shall be  
18 returned. The licensee shall cause the license to be posted  
19 in a conspicuous position in his place of business, so that  
20 anyone entering the premises may easily read it. No license  
21 issued under the provisions of the Act shall be transferred  
22 except after first securing the consent of the Court. No  
23 refund of license fees will be allowed after the issuance of  
24 license.

25 Provided further that before any new application for a  
26 license coming from outside an incorporated town where the  
27 location of the place where intoxicating liquor is to be  
28 manufactured, bartered, sold and exchanged, is within  
29 three miles of the corporate limits of any municipality.

1 is granted, it shall be shown to the satisfaction of the  
2 Court that, in addition to the other requirements of this  
3 Act, a majority of the citizens over the age of twenty-one  
4 years, residing within a quarter of a mile of the place  
5 where intoxicating liquor is to be manufactured, bartered,  
6 sold and exchanged, have in good faith consented to the  
7 manufacture, barter, sale, and exchange of the same.

8 Provided further than no application for a license  
9 shall be entertained by the Court where the Court has denied  
10 such application for the same location or by the same appli-  
11 cant within the six months preceding.

12 Section 35-4-14 ACLA 1949, Sub-Paragraph (5) is amended  
13 to read as follows:

14 "(5) (TOGETHER WITH THE CONSENT OF A MAJORITY OF THE  
15 CITIZENS OVER THE AGE OF TWENTY-ONE YEARS, RESIDING WITHIN  
16 TWO MILES OF THE PLACE WHERE THE INTOXICATING LIQUOR OR  
17 LIQUORS ARE TO BE MANUFACTURED, BARTERED, SOLD, AND EX-  
18 CHANGED,") "Together with the consent of a majority of the  
19 citizens over the age of twenty-one years, residing within  
20 a quarter mile radius of the place where the intoxicating  
21 liquor or liquors are to be manufactured, bartered, sold  
22 and exchanged." That if any false material statement is made  
23 in any part of such application the applicant or applicants  
24 shall be deemed guilty of perjury and upon conviction thereof  
25 shall be subject to the penalty provided by law for the  
26 crime of perjury.

27 That should it appear to the District Court that any  
28 of the statements above enumerated and required in the appli-  
29 cation are untrue at the time of application for such lic-

1           ense, such application shall be denied.

2           That should it appear to the District Court after the  
3           granting of such license that any of the statements above  
4           enumerated and required to be made in the application are  
5           untrue, it shall be the duty of the Court to forthwith enter  
6           and order revoking such license and all license moneys de-  
7           posited by the applicant shall be thereby forfeited to the  
8           Territory, and it shall be the duty of the United States  
9           Marshals and their deputies, and United States Attorneys and  
10          their assistants, and all chiefs of police and other peace  
11          officers in their respective Divisions, Districts, Towns or  
12          settlements to investigate and report to the District Court  
13          any violation of any of the provisions of this Act.

14           Section 35-4-17 (B) AOLA 1949, as amended by Chapter 16  
15          SLA 1951 is amended to read as follows:

16           (B)(Consent of residents outside incorporated cities  
17          or towns.) No licenses for the sale of intoxicating liquor  
18          shall be issued under this Act in precincts outside of in-  
19          corporated cities or towns unless a petition having signa-  
20          tures of a majority of the bona fide residents residing with-  
21          in two miles of the place where intoxicating liquor is to be  
22          sold, and over the age of twenty-one years, is filed with  
23          the Clerk of the District Court asking that licenses be  
24          issued within the said precinct. Only those persons shall  
25          be considered "bona fide residents" within the meaning of  
26          this sub-section who shall have been physically present,  
27          living and residing within the two mile area, for more than  
28          six out of the 12 months immediately preceding the filing  
29          of said petition; provided, that except as to new licenses,

1 petitions shall not be circulated during the period between  
2 April 1 and October 15.

3 Provided further that, in addition to the other re-  
4 quirements of this Act, no license for the sale of intoxi-  
5 cating liquor shall be issued under this Act in precincts  
6 outside of incorporated cities or towns where the location  
7 of the place where intoxicating liquor is to be sold is  
8 within three miles of the corporate limits of any munici-  
9 pality, unless a petition having signatures of a majority  
10 of the bona fide residents residing within a quarter of a  
11 mile of the place where intoxicating liquor is to be sold,  
12 and over the age of twenty-one years, is filed with the  
13 Clerk of the District Court asking that licenses be issued  
14 within the said precinct.

15 It is further provided that no license shall be granted  
16 for the sale of intoxicating liquor, outside of incorporated  
17 cities or towns, on any land which is part of a school  
18 section owned by the Territory of Alaska.

19 Subsection (B) of Section 35-4-17 (B) is amended to read as follows:

20 Election Outside of Incorporated Towns. Provided, how-  
21 ever, that whenever 35% of the total number of voters in  
22 the last general election in any precinct outside of an  
23 incorporated city or town shall petition the Court so to do  
24 the Court shall order an election to be held within the  
25 precinct which order shall fix a date not less than 30 days  
26 from the date of the order and the polling place and name  
27 judges and clerks of the election and shall set forth the  
28 proposition to be voted on <sup>or</sup> such election. The order shall  
29 further provide for notice by publication in the manner

1 deemed by the Court to be most likely to properly appraise  
2 the voters of such election. The forms of oath and Cer-  
3 tificates of Election results shall be provided in the order  
4 of the Court authorizing the election.

5 Petitions for local option elections under this section  
6 may request an election on the issue as to whether or not  
7 any establishment shall be licensed for the sale of in-  
8 toxicating liquor under the provisions of this article and  
9 in the event the sale of intoxicating liquor is to be per-  
10 mitted in the precinct, whether establishments for the sale  
11 of intoxicating liquor shall be limited to those to be  
12 licensed under any one or more of the specific types of  
13 licenses such as beverage dispensary, restaurants, retail  
14 establishments, etc., as defined in this article.

15 All the cost and expense incidental to the conduct of  
16 any election held under the provisions of this subsection  
17 shall be defrayed by the petitioners.

18 It is hereby provided, however, that no existing lic-  
19 ense shall be forfeited or terminated by operation of the  
20 provisions of this subsection and that licenses may be re-  
21 newed or reissued to the holders of existing licenses who  
22 otherwise comply with the provisions of this article.

23 Section 3. Section 35-4-15 AOLA 1949, Subsection (1)  
24 is amended to read as follows:

25 Sale, etc., to Minors, Intoxicated Persons or Drunkards:  
26 Credit Sales: Classification of Premises. It shall be un-  
27 lawful to give, barter or sell any intoxicating liquors, in-  
28 cluding beer and wine, to any person under the age of twenty-  
29 one years, to any intoxicated person, or to any habitual

1 drunkard; and it shall be unlawful for any licensee to  
2 permit the giving, selling, bartering or drinking of any  
3 intoxicating liquor within the premises covered by any  
4 license to or by any of the forbidden classes, nor shall  
5 such licensee permit the drinking of hard or distilled  
6 liquors by any person upon the premises covered by his  
7 license, unless the same is permitted under the classi-  
8 fication of his license. All sales of intoxicating liquor  
9 made within the Territory of Alaska for consumption on the  
10 premises  
11 or under any retail license shall be for cash and it shall  
12 be unlawful to make any such sale on any time or credit  
13 basis.

14 [Revocation of License: Persons deemed Minors.] The  
15 drinking of intoxicating liquors on the premises covered  
16 by any license by any of the forbidden classes, or the  
17 presence of any intoxicated person on such premises, shall  
18 be cause for revocation of any such license, and further,  
19 that any person attending any grade or high school shall be  
20 considered less than twenty-one years of age, and the burden  
21 of determining the age shall be on the licensee.

22 [Sales on Election Day.] It shall be unlawful to give,  
23 barter, sell or in any way dispose of any intoxicating  
24 liquor, including beer and wine, upon any day which any  
25 general, special, or Primary Election is held in the Terri-  
26 tory or in any Municipality or other Political Subdivision  
27 thereof until the polls have been closed on such day.

28 Section 4. Section 35-4-18 ACLA 1949 is hereby amended  
29 to read as follows:

Section 35-4-18 Municipal Regulations. Incorporated

1 municipalities, in the Territory of Alaska may, by ordinance  
2 duly enacted, provide such additional rules and regulations  
3 governing the barter, sale and possession of intoxicating  
4 liquor within such municipalities as may be deemed necessary  
5 to the orderly conduct of the business of selling intox-  
6 icating liquor; provided, however, that such ordinances or  
7 ordinance shall not be inconsistent with this Act, and that  
8 no municipality shall impose any additional license fees or  
9 taxes, nor shall any municipality limit the hours of furnish-  
10 ing liquor other than as set forth in this Act, nor shall  
11 any municipality establish or impose punishments for violation  
12 of any municipal ordinance or of this Act beyond the amount  
13 of punishment set forth in this Act.

14 Section 35-4-21 ACLA 1949 is hereby amended to read as  
15 follows:

16 (A) Beverage Dispensary Licenses: (Bond: Penalties: Revoca-  
17 tion: Employees: Existing licenses:) A Beverage Dispensary  
18 license shall give to the holder thereof the right to sell  
19 or serve on the premises beer, wine and hard liquors for  
20 consumption on the premises only. Provided, however, that the  
21 premises for which such license is issued shall not be con-  
22 nected by doors or otherwise with premises covered by any  
23 other license issued under these regulations; and provided  
24 further, that the sales under Beverage Dispensary Licenses  
25 are limited to less than five wine gallons to any one person  
26 in any one day. A Beverage Dispensary License Fee shall be  
27 Five Hundred Dollars (\$500.00) in all towns, villages,  
28 settlements and places of population not exceeding fifteen  
29 hundred persons and One Thousand Dollars (\$1,000.00)

1 in all towns, villages and incorporated cities having the  
2 population in excess of fifteen hundred persons and all  
3 applicants desiring a Beverage Dispensary License, at the time  
4 of filing with the District Court, (?) the applicant for  
5 such license shall also file a bond, either in cash or a  
6 surety company bond, to be approved by the Court, the con-  
7 dition of such bond or undertaking shall be, that the lic-  
8 ensee or licensees are the sole owners and that no other  
9 persons are financially interested either directly or in-  
10 directly and will conduct said business in accordance with  
11 the existing laws pertaining to the manufacture and sale of  
12 intoxicating liquor in Alaska. Such bond shall be in the  
13 penal sum of Twenty-five Hundred Dollars (\$2,500.00). Upon  
14 conviction for violation of the laws of Alaska pertaining  
15 to the manufacture and sale of intoxicating liquor or upon  
16 revocation of a license, said bond shall be forfeited and  
17 covered into the Territorial Treasury.

18 The Judge of the District Court for the Territory of  
19 Alaska is hereby empowered and authorized to revoke any  
20 license hereafter granted, as well as those now issued.  
21 Complaints for revocation of licenses under this Act shall be  
22 filed by the U. S. Attorney, his assistants or any Federal  
23 or any Territorial Enforcement Officer. Such complaints  
24 shall be filed with the Clerk of the U. S. District Court.  
25 Upon such complaint being filed, duly verified, the U. S.  
26 District Judge shall issue an order to show cause against  
27 the licensee and upon hearing the same, or upon default  
28 of the licensee, the said Judge shall issue his judgment  
29 and order in the matter.

1           Penalty for violation of any of the provisions of this  
2 Act shall be as follows:

3           For the first violation, the licensed premises shall  
4 be closed for a period of (FORTY-FIVE (45)) five (5) days;

5           For the second violation, the licensed premises shall  
6 be closed for a period of (NINETY (90)) fifteen (15) days;

7           For the third violation, the bond shall be forfeited,  
8 the license cancelled and the premises abated for one year  
9 for use as a beverage dispensary.

10          The holder of any license which has been revoked as  
11 herein provided shall not be entitled to apply for and re-  
12 ceive another license under this Act for a period of five  
13 years from the date of the Order of Revocation.

14          (ALL EMPLOYEES SERVING INTOXICATING LIQUOR IN A BEVERAGE  
15 DISPENSARY SHALL BE MALE CITIZENS OF THE UNITED STATES, OVER  
16 THE AGE OF 21 YEARS AND OF GOOD MORAL CHARACTER.) All em-  
17 ployees serving intoxicating liquor in a beverage dispensary  
18 shall be citizens of the United States over the age of 21  
19 years and of good moral character. Females, other than  
20 managers or licensees, shall be prohibited from mixing or  
21 concocting any intoxicating drink. Any such employee of  
22 such place violating the provisions of this Act shall be  
23 equally guilty with the holder of the license and shall be  
24 punished accordingly. The Treasurer of Alaska is empowered  
25 and directed, with respect to existing licenses, to make any  
26 and all adjustments necessary by extending credit on new  
27 licenses or making refunds to the licensees for the unused  
28 portion of the licenses heretofore issued at the option  
29 of the licensee.

1            Provided that such beverage dispensary licensee shall  
2 be permitted to continue in operation during the period for  
3 which his present license is effective, if he shall so elect.  
4 Provided, however, such license shall not be extended to  
5 include intoxicating liquor other than beer or wine unless  
6 he first obtain a new license and post bond as provided  
7 hereinbefore.

8            Section 35-4-21 ACLA 1949 is further amended by adding  
9 thereto the following:

10           (L) The number of premises for which a beverage dispensary  
11 license or retail license is issued shall be limited as  
12 follows:

13           (1) Within incorporated municipalities, two licenses  
14 for each 1500 of population in the municipality, determined  
15 by multiplying by 3.5 the total number of dwelling units  
16 shown on the last assessment roll of the municipality; the  
17 determination of the number of dwelling units by the City  
18 Council of the municipality shall be conclusive. Nothing  
19 herein contained shall preclude municipalities from making  
20 further reasonable rules and regulations regarding the trans-  
21 fers of said licenses.

22           (2) Within areas outside of incorporated municipalities  
23 two licenses for each 1500 of population within each Record-  
24 ing District, determined by multiplying by 2 the total number  
25 of those voting in the Recording District and outside of  
26 municipalities at the last general election.

27           PROVIDED, however, that licensees or their transferees,  
28 otherwise qualified, already licensed at the time of the  
29 passage of this Section shall be relicensed annually for

1 such location within such municipalities and Recording  
2 Districts irrespective of such limitation, and except that  
3 beverage dispensary licenses may be granted irrespective of  
4 such ratio for establishments located in bona fide hotels ha  
5 having 50 or more rooms or apartments, and to which there is  
6 an interior public entrance to the establishment in said  
7 hotel.

8 (3) No person or corporation shall be eligible under  
9 this Act for more than three beverage dispensary licenses  
10 and three retail liquor licenses within any one Recording  
11 District. No person or corporation shall have any direct or  
12 indirect interest in more than three beverage dispensary  
13 licenses and three retail liquor licenses within any one  
14 Recording District. Persons or corporations having licenses  
15 or interests in more than three beverage dispensaries and  
16 more than three retail liquor stores at the time of the  
17 enactment of this Subsection shall not be precluded from  
18 retaining or renewing said licenses or interests. The  
19 District Courts of each Judicial Division shall make such  
20 necessary rules and regulations as to effectuate the  
21 purposes of this Subsection.

22 Section 4, Chapter 4, Article 2, ACLA 1949 is hereby amended  
23 by adding thereto a Section to be known as Section 35-4-24.

24 Section 35-4-24. No person shall sell, furnish, give  
25 or deliver any intoxicating liquor between the hours of one  
26 o'clock A.M. and eight o'clock A.M. EXCEPT that establish-  
27 ments presenting live entertainment for which there is paid  
28 the federal tax on cabarets, roof gardens, etc., under the  
29 provisions of Section 1700, Chapter 10, United States

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Internal Revenue Code as amended, may additionally sell, furnish, give or deliver intoxicating liquor during the hours of one o'clock A.M. and two o'clock A.M. Mechanical sound contrivances, mechanical music, juke boxes, radios, sound units or devices, shall not constitute live entertainment.