

1 IN THE HOUSE

BY MR. KALAMARIDES

2 HOUSE BILL NO. 154

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing bonded warehouses for
7 storage of intoxicating liquors prior to
8 taxes being payable thereon; and amending
9 Sec. 35-4-31, ACLA 1949, as amended by
10 Ch. 73, SLA 1957, Sec. 35-4-32, ACLA 1949,
11 as amended by Ch. 70, SLA 1951, as amended
12 by Ch. 79, SLA 1955, as amended by Ch. 42,
13 SLA 1957, and Sec. 34-4-33, ACLA 1949, as
14 amended by Ch. 70, SLA 1951, as amended by
15 Ch. 72, SLA 1955."

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

17 Section 1. Section 35-4-31, ACLA 1949, as amended by Ch. 73,
18 SLA 1957, is hereby amended to read as follows:

19 Sec. 35-4-31. PERSONS REQUIRED TO PAY TAX: RATE OF
20 TAX. (1) Every brewer, distiller, bottler, jobber, re-
21 tailer, wholesaler or manufacturer, who sells intoxicating
22 liquors in the State TERRITORY of Alaska or who consigns
23 shipments of same into the State TERRITORY of Alaska, re-
24 gardless of whether such liquors are brewed, distilled,
25 bottled or manufactured within or without Alaska, shall pay
26 on all malt beverages (alcoholic content of one percent (1%)
27 or more by volume), wines and hard distilled liquors, the
28 following prescribed taxes; malt beverages at the rate of
29 twenty-five (25c) per gallon, or fraction thereof; wine or

1 any other liquor of twenty-one (21%) per cent of alcohol by
2 volume or less, at the rate of fifty (50¢) cents per gallon,
3 or fraction thereof; any other liquors having a content of
4 more than twenty-one (21%) per cent of alcohol by volume shall
5 pay at the rate of three dollars fifty cents (\$3.50) per
6 gallon.

7 N (2) LIQUOR STORED IN BONDED WAREHOUSES. Intoxicating
8 E liquors may be imported into Alaska by brewers, distillers,
9 W bottlers, jobbers, wholesalers, or manufacturers and stored
10 in bonded warehouses, as hereinafter defined, without the
11 M payment of the excise tax levied hereunder, which tax shall
12 A be payable on removal of any such liquor from such bonded
13 T warehouse.

14 T (a) BONDED WAREHOUSE: DEFINITION. Each licensed
15 E brewer, distiller, bottler, jobber, wholesaler or manu-
16 R facturer of intoxicating liquors may individually or
17 jointly with one or more other such brewer, distiller,
18 bottler, jobber or manufacturer, provide a warehouse to
19 be situated in Alaska, to be kept separate and distinct
20 N from the distillery or premises of such person, and to
21 E be used only for the storage of intoxicating liquors
22 W manufactured or distributed by him for purposes of re-
23 sale until the tax levied thereon shall have been paid.
24 N Such warehouse, when approved by the Tax Commissioner,
25 A shall be a bonded warehouse of the State of Alaska.

26 T (b) SAME: GENERAL REGULATIONS. The entire stock
27 T of intoxicating liquors of such brewer, distiller, bot-
28 E tler, jobber, wholesaler, or manufacturer, except in the
29 R case of a distillery where such liquors are in the pro-

1 N cess of distillation or manufacture, shall be kept in
2 E such warehouse. The Tax Commissioner shall prescribe
3 W the records which the proprietor of such warehouse shall
4 keep as regards to such liquor while in the process of
5 manufacture or distillation and after such liquors shall
6 M have been delivered to bonded warehouses.

7 A (c) SAME: RECEIPTS AND WITHDRAWING OF LIQUOR.
8 T Intoxicating liquors stored in such bonded warehouses
9 T may, on payment of the tax thereon, pursuant to the
10 E rules of the Tax Commissioner, be withdrawn, on such
11 R forms as the commissioner shall prescribe, from the ware-
12 house; and one original of each such entry of withdrawal
13 shall be transmitted to the commissioner. In case of
14 receipt of such liquors by brewers, distillers, bottlers,
15 jobbers, wholesalers or manufacturers making use of
16 bonded warehouses, entries of such receipts to such
17 warehouses shall be made, and one original of each of
18 such entries of receipts shall be transmitted forthwith
19 N by the proprietor of the warehouse to the commissioner.

20 E (d) SAME: BOND: CONDITIONS. Each brewer, dis-
21 W tiller, bottler, jobber, wholesaler, or manufacturer
22 or combination thereof, as the case may be, who makes
23 use of a bonded warehouse, shall give an annual bond
24 M for such warehouse in such sum and form as the Tax
25 A Commissioner shall prescribe, never less in amount than
26 T five thousand (\$5,000.00) dollars, that he or they
27 T shall pay the excise tax or other taxes or duties im-
28 E posed by law before removal of any of such intoxicating
29 R liquors from such bonded warehouse when such liquors are

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H sold or furnished to any licensed retail liquor dealers
E or distributors within the state of Alaska; and, that
W he or they will faithfully make and file true and ac-
curate weekly reports required by the Tax Commissioner,
and will quarterly remit to the commissioner the taxes
or duties required by the laws of this state.

(c) SAME: PENALTIES. The Tax Commissioner, or his
duly authorized agent, is hereby authorized to measure,
gauge or check such intoxicating liquors in bond in any
bonded warehouse, and if the amount of liquor on hand
does not correspond with the reports filed with the
commissioner of the brewer, distiller, bottler, jobber,
wholesaler or manufacturer making use of such bonded
warehouse, the proprietor or proprietors of such ware-
house shall have his or their licenses revoked, and in
addition thereto shall be deemed guilty of a misdemea-
nor and upon conviction thereof shall be fined in any
sum not exceeding one thousand (\$1,000.00) dollars, or
be imprisoned not exceeding sixty (60) days, or both
such fines and imprisonment.

Sec. 2. Sec. 35-4-32, ACLA 1949, as amended by Ch. 70, SLA
1951, as amended by Ch. 79, SLA 1953, as amended by Ch. 42, SLA
1957, is hereby amended to read as follows:

Sec. 35-4-32. WEEKLY ~~MONTHLY~~ STATEMENT AS TO LIQUOR
SOLD: QUARTERLY ~~MONTHLY~~ PAYMENTS: PENALTY AND INTEREST.
Each such brewer, distiller, bottler, jobber, wholesaler,
manufacturer or other consignor shall on or before the last
day of each calendar week ~~MONTH~~, airmail, postage prepaid,
to the State ~~TERRITORIAL~~ Tax Commissioner at Juneau, Alaska

1 a statement containing a true account of the total number of
2 gallons, including fractional gallons, together with the res-
3 pective names and Alaskan addresses of, and itemized as to
4 the respective gallonage of each such kind of liquor sold to,
5 or consigned to, the respective buyers or any consignee
6 thereof which such brewer, distiller, bottler, jobber, whole-
7 saler, or manufacturer sold or consigned to such buyers or
8 consignees in Alaska during the immediately preceding calen-
9 dar week MONTH, and shall pay on or before the thirty-first
10 day of March, the thirtieth day of June, the thirtieth day
11 of September, and the thirty-first day of December, respec-
12 tively, MONTHLY to the TERRITORIAL Tax Commissioner, all
13 taxes, computed at the foregoing or the then prevailing
14 rates, on the respective total quantities of such respective
15 classes of liquor so sold or consigned to such buyers or con-
16 signees during the immediately preceding calendar quarter
17 MONTH. Provided, that if such brewer, distiller, bottler,
18 jobber, wholesaler or manufacturer makes use of a bonded
19 warehouse, as defined by law, he shall only pay such taxes
20 on the respective total of such respective classes of liquors
21 as are withdrawn from such warehouse, in the manner provided
22 by law, during the immediately preceding quarter. THE
23 MONTHLY RETURN SHALL BE FILED AND THE TAX PAID ON OR BEFORE
24 THE LAST DAY OF EACH CALENDAR MONTH TO COVER THE IMMEDIATELY
25 PRECEDING CALENDAR MONTH

26 Provided, however, that each brewer, distiller, bottler,
27 jobber, wholesaler, manufacturer or other consignor shall be
28 entitled to a credit for any and all excise taxes paid on
29 such alcoholic beverages as may have been sold and delivered

1 to any U. S. Government operated vessel for ship stores,
2 ship's service stores, and to any post exchange, officers
3 club, non-commissioned officers club, or any club maintained
4 for enlisted personnel, and to any and all other authorized
5 beverage dispensers on any military, naval, air force or
6 Governmental reservation within the State ~~TERRITORY~~ of
7 Alaska upon furnishing proof in the form of signed and cer-
8 tified invoices evidencing such sales to such military, naval,
9 air force or Governmental liquor dispensary. Upon receipt,
10 by the ~~TERRITORIAL~~ Tax Commissioner, of the weekly
11 ~~MONTHLY~~ statement hereinabove provided for, said Commis-
12 sioner shall promptly allow credit to the account of, and
13 issue a notice showing the amount of credit allowed to, such
14 brewer, distiller, bottler, jobber, wholesaler, manufacturer
15 or other consignor for that portion of the excise taxes
16 which shall have been paid on sales made to any U. S. Govern-
17 ment operated vessel for ships stores, ship's service stores,
18 and to any post exchange, officers club, non-commissioned
19 officers club, or to any other club maintained for enlisted
20 personnel, and to any and all authorized military, naval,
21 air force or Governmental dispensaries, as evidenced by pro-
22 perly signed and certified invoices proving such sales. The
23 amount of credit allowed on sales made to any U. S. Govern-
24 ment vessel for ship stores, ship's service stores, or to
25 any post exchange, officers club, or any club maintained for
26 enlisted personnel and to military, naval, air force or
27 Governmental liquor dispensaries in the State ~~TERRITORY~~ of
28 Alaska shall be applied only against the excise taxes be-
29 coming due to the State ~~TERRITORY~~ of Alaska from said

1 brewer, distiller, bottler, jobber, wholesaler, manufacturer
2 or other consignor because of sales of intoxicating liquors
3 made from and after the effective date of Ch. 79, SLA 1953.
4 In order to obtain the excise tax credit herein provided for,
5 the claimant shall in making the weekly ~~MONTHLY~~ statement
6 required by law, certify as to the truthfulness of the in-
7 voice and quantities upon which such claim to said credit is
8 based. Provided, however, that no credit shall be claimed
9 or allowed on account of sales made to civilian clubs or
10 stores located on military, naval, air force or Governmental
11 reservations.

12 In the case of any failure to make and file a return
13 and remit the tax within the time prescribed by law or pre-
14 scribed by the Tax Commissioner in pursuance of law, unless
15 such failure is due to reasonable cause and not due to will-
16 ful neglect, there shall be added to the tax, 5 per cent if
17 the failure is for not more than 30 days, with an additional
18 5 per cent for each additional 30 days or fraction thereof
19 during which such failure continues, not exceeding 25% in
20 the aggregate. The amount so added to any tax shall be col-
21 lected at the same time and in the same manner and as a part
22 of the tax unless the tax has been paid before the discovery
23 of the neglect, in which case the amount so added should be
24 collected in the same manner as the tax; Provided, that in all
25 cases of delinquency the legal rate of interest shall be
26 assessed.

27 Sec. 3. Sec. 35-4-33, ACLA 1949, as amended by Ch. 70, SLA
28 1951, as amended by Ch. 72, SLA 1955, is hereby amended to read
29 as follows:

1 Sec. 35-4-33. LIABILITY AND BOND FOR PAYMENT OF TAXES:
2 LIEN FOR TAXES: ENFORCEMENT BY SEIZURE AND SALE: FAILURE TO
3 FILE RETURNS, TO OBTAIN A LICENSE, SUBMIT INFORMATION OR PAY
4 THE TAX: PERJURY: FRAUD. (1) Each brewer, distiller, bottler,
5 jobber, wholesaler or manufacturer shall be primarily liable
6 for the payment of said excise taxes on such liquors so sold,
7 and shall furnish a good and sufficient surety bond in the
8 amount of Twenty-five Thousand (\$25,000.00) Dollars payable
9 to the Tax Commissioner and approved by the Attorney General,
10 and failure of any wholesaler to pay the tax to the State
11 /TERRITORY/ of Alaska shall forfeit the bond and its license
12 shall be revoked except that the Commissioner, in his dis-
13 cretion, may issue permits in lieu of bond to resident holders
14 of wholesale, malt beverages, and wine licenses, doing busi-
15 ness wholly within the State /TERRITORY/, upon payment of
16 said excise tax in advance of shipment and except further
17 that each brewer, distiller, bottler, jobber, wholesaler or
18 manufacturer making use of a bonded warehouse in the manner
19 prescribed by law shall be entitled to such permit in lieu of
20 bond. Upon receipt of the bond and its subsequent approval,
21 the Tax Commissioner shall issue a license certificate auth-
22 orizing the brewer, distiller, bottler, jobber, wholesaler
23 or manufacturer, liable for the payment of the tax, to sell
24 intoxicating liquors in the State /TERRITORY/ of Alaska or to
25 consign shipments of same into the State /TERRITORY/ of
26 Alaska and it shall be unlawful for any such brewer, distiller,
27 bottler, jobber, wholesaler or manufacturer to sell intoxi-
28 cating liquors in the State /TERRITORY/ of Alaska or to con-
29 sign shipments of same into the State /TERRITORY/ of Alaska

1 without first furnishing the required bond and obtaining the
2 license certificate or permit from the Tax Commissioner
3 Provided, however, that the license certificate shall not be
4 taken as permission to sell intoxicating liquors in the
5 State TERRITORY of Alaska or to consign same into the
6 State TERRITORY of Alaska without having complied with the
7 other requirements of the laws of the State TERRITORY
8 of Alaska or of the United States. The retailer or buyer
9 shall be secondarily liable for such taxes on such of said
10 liquors as are sold to such retailer or buyer, and the State
11 TERRITORY of Alaska is also hereby given a lien upon, and
12 is hereby authorized and empowered to seize, confiscate and
13 sell, for the satisfaction of the payment of such taxes and
14 of all costs incurred in such proceedings, all such liquors
15 wheresoever and in whomsoever's possession found, and if un-
16 found or not identifiable, to seize, confiscate and sell an
17 equal quantity of like kind of such liquor found in the
18 possession of the retailer or other buyer to whom such
19 liquors were sold on which such taxes were not paid.

20 (2) Any person required under this Act to pay excise
21 tax, or required to make a return, keep or display any
22 records, or supply any information, for the purposes of the
23 computation, assessment or collection of excise tax imposed
24 by the Act, who wilfully fails to obtain such license cer-
25 tificate or permit, pay the excise tax, make such return,
26 keep or display such records, or supply such information, at
27 the time or times required by law or regulations, shall, in
28 addition to other penalties provided by law, be guilty of
29 a misdemeanor, and, upon conviction thereof, be fined not

1 more than \$1,000.00, or imprisonment for not less than one
2 year, or both, together with the cost of prosecution.

3 (3) Any person who wilfully makes and subscribes a
4 return which he does not believe to be true and correct as
5 to every material matter shall be guilty of a felony, and,
6 upon conviction thereof, shall be subject of the penalties
7 prescribed for perjury under the laws of the State TERRI-
8 TORY of Alaska.

9 The term "person" as used in this section includes an
10 officer, agent or employee of a corporation or a member,
11 agent or employee of a partnership, who, as such officer,
12 agent, employee or member, is under duty to perform the
13 act in respect of which the violation occurs.

14 (4) If any part of any deficiency in the tax is due to
15 fraud with intent to evade tax, then 50 per cent of the total
16 amount of the deficiency (in addition to such deficiency)
17 shall be assessed and collected.
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