

1 IN THE HOUSE

BY MR. ERWIN BY REQUEST

2 HOUSE BILL NO. 342

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act to amend existing laws relating to
7 intoxicating liquors, creating an Alcoholic
8 Beverage Control Board, and providing for
9 an effective date."

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

11 Section 1. Sec. 1, Ch. 197, SLA 1959, is hereby amended to
12 read as follows:

13 Sec. 1. Sections 35-4-1 through 35-4-6, inclusive,
14 ACLA 1949, as repealed by Chapter 43, SLA 1953, and as re-
15 enacted, amended and new subsections added by Chapter 131,
16 SLA 1957, and as further amended by Chapter 64, SLA 1959,
17 are hereby amended to read as follows:

18 Sec. 35-4-1. Creation of Board and Office of
19 Director.

20 (A) There is hereby established an Alcoholic
21 Beverage Control Board in the Department of Revenue
22 consisting of five ~~THREE~~ members ~~APPOINTED FOR OVER-~~
23 LAPPING THREE-YEAR TERMS; One member of the Board
24 shall be appointed from each of the major Senatorial
25 Districts, for four-year overlapping terms. The
26 Director of the Board shall serve as the fifth voting
27 member, and the Board is hereby vested with the duties,
28 powers, and responsibilities involved in the control of
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1 alcoholic beverages, including the promulgation of rules
2 and regulations and the hearing of appeals from the
3 action of officers and employees charged with enforcing
4 the alcoholic beverage control laws, rules, and regula-
5 tions. The functions and authority heretofore performed
6 and exercised by the Board of Liquor Control are hereby
7 transferred to the Alcoholic Beverage Control Board.
8 The Board shall be appointed by the Governor and con-
9 firmed by the legislature. No member of the Board shall
10 hold any other office, either elective or appointive,
11 under the State or Federal Governments. Two ~~ONE~~
12 members of the Board shall be actively engaged in the
13 alcoholic beverage industry. No two other members of
14 the Board shall be engaged in the same business, occu-
15 pation or profession. Three ~~TWO~~ members shall consti-
16 tute a quorum for the conduct of business. The Alcho-
17 lic Beverage Control Board created by Sec. 1, Ch. 197,
18 SLA 1959, is abolished and shall cease doing business
19 effective upon the appointment of the Board provided
20 herein.

21 (B) The Governor shall appoint a Director who
22 shall serve as a voting member of the Board, subject to
23 confirmation by the legislature, who shall be the exec-
24 utive officer of the Board, and whose duty it shall be
25 to enforce this Act and such rules and regulations as
26 are promulgated by the Board. He shall issue all lic-
27 enses provided for under this Act.
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1 Sec. 35-4-2. Duties: Rules and Regulations. It
2 shall be the duty of the Board to prescribe rules and
3 regulations consistent with this Act governing the manu-
4 facture, barter, sale, and possession of intoxicating
5 liquors in the State of Alaska, in accordance with the
6 limitations hereafter provided, and to prescribe appli-
7 cation fees.

8 Sec. 35-4-3. Powers, Authority and Control.

9 (A) The Board is to have full power, authority and
10 control over the manufacture, barter, sale and possession
11 of intoxicating liquors in the State of Alaska, and
12 power to adopt necessary regulations as follows: AS
13 PROVIDED HEREIN.

14 (1) regulating the employment, conduct and
15 duties of the employees of the Board;

16 (2) prescribing the forms of application,
17 reports and other forms, and the terms and con-
18 ditions to be contained in permits and licenses
19 issued;

20 (3) prescribing the fees payable in respect
21 of permits and licenses issued for which no fees
22 are prescribed by statute, and prescribing the fees
23 for anything done or permitted to be done under the
24 regulations;

25 (4) providing for regular and special meet-
26 ings of the Board at such times and places in the
27 state as may be necessary or proper;
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1 (5) providing for the delegation to the Dir-
2 ector of such routine administrative functions and
3 powers as may be proper, including the issuance,
4 transfer and renewal of licenses and permits where
5 there is no contest or protest;

6 (6) prescribing the manner of giving and ser-
7 ving notices required by law or the regulations,
8 where not provided by statute;

9 (7) prescribing the conditions, accommoda-
10 tions, qualifications, and inspections of each type
11 or kind of license, licensee, or licensed premises;

12 (8) providing for the making of returns and
13 reports by wholesalers of wine, beer and liquor;

14 (9) providing for the giving of fidelity
15 bonds by any or all of the employees of the Board,
16 the premiums therefor to be paid by the state;

17 (10) providing for the issuance, renewal,
18 reissuance, revocation and suspension of licenses
19 and permits;

20 (11) prohibiting possession of alcoholic
21 beverages by minors;

22 (12) prescribing reports from licensee corpo-
23 rations, including reports of stock ownership,
24 transfers, and changes of officers and directors;

25 (B) The Board shall review all applications made
26 under this Act for licenses and shall cause to be issued,
27 reissued, revoked, transferred or suspended all licenses
28 coming within the purview of this Act. Such licenses
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1 shall be issued, reissued, revoked, transferred or sus-
2 pended as the Board deems in the best interests of the
3 public; provided, however, that the denial of any li-
4 cense be made in writing with the reason therefor set
5 forth.

6 ~~THE~~ DIRECTOR SHALL NOT BE A MEMBER OF THE BOARD
7 BUT SHALL HAVE THE RIGHT TO CAST TIE-BREAKING VOTES
8 ONLY.]

9 (C) The Board shall have the power to hold public
10 hearings on applications for licenses when any such
11 applications are protested, and to require an applicant
12 to answer any pertinent questions.

13 (D) The Board shall have power to appoint such
14 agents, assistants, clerks and stenographic employees
15 as it deems necessary in giving effect to this Act.

16 ~~(E)~~ THE BOARD IS HEREBY GRANTED AUTHORITY TO PRO-
17 MULGATE NECESSARY RULES AND REGULATIONS TO EFFECTUATE
18 AND CARRY OUT THE PURPOSE OF THIS ACT, AND SUCH RULES
19 AND REGULATIONS SHALL HAVE THE FULL FORCE AND EFFECT OF
20 LAW.]

21 ~~(F)~~(E) The Administrative Procedures Act shall
22 apply to all procedures under this Act.

23 ~~SEC. 35-4-4. DELEGATION. THE BOARD MAY DELEGATE~~
24 ~~TO THE DIRECTOR ANY DUTY IMPOSED HEREIN EXCEPT ITS POWER~~
25 ~~TO MAKE RULES AND REGULATIONS.]~~

26 Sec. 35-4-5. Providing for Local Option Elections.
27 The Board is hereby authorized and directed to provide
28 a system for the holding of local option elections in
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1 the State of Alaska, as provided for in Section 35-4-17
2 herein, and to prescribe the rules and regulations for
3 the holding of elections and the canvassing of the votes
4 thereof.

5 Sec. 35-4-6, Violation of Board's Rules and Regu-
6 lations a Misdemeanor: Penalty. Any person, firm, or
7 corporation, who shall violate any of the rules or regu-
8 lations prescribed by the said Board governing the manu-
9 facture, sale, barter, and possession of intoxicating
10 liquors in the State of Alaska, or the qualifications of
11 those engaging in the manufacture, sale, barter, and
12 possession of such liquors in the said State, or the pay-
13 ment of license fees and excise taxes therefor, shall be
14 deemed guilty of a misdemeanor, and upon conviction
15 thereof shall be punished as provided in Section 35-4-20
16 herein.

17 Sec. 2. Sec. 35-4-20, ACLA 1949, as amended by Sec. 2, Ch.
18 197, SLA 1959, is hereby amended to read as follows:

19 Sec. 35-4-20. Violation of Act a Misdemeanor: Penalty.
20 A violation of any of the provisions of this Act shall be
21 deemed a misdemeanor, and upon conviction thereof shall be
22 punished by imprisonment of not more than one year, or by a
23 fine of not less than Fifty Dollars (\$50.00) nor more than
24 Five Hundred Dollars (\$500.00), each violation to be con-
25 sidered a separate offense.

26 Provided, further, that upon conviction of a licensee,
27 the commissioner, magistrate, District Judge, or other judge
28 having jurisdiction, as the case may be, shall send a
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1 notification thereof together with the certified transcript
2 of the proceedings to the Board which SHALL may, upon the
3 direction of a majority of the members of the Board, suspend
4 said license as hereinafter provided for the first and
5 second violations during any current license year and SHALL
6 may revoke the license and MAY upon a third violation
7 during any current license year may forfeit the bond.

8 First Violation: The license of the premises involved
9 be suspended for not less than 10 nor more than forty-five
10 (45) days;

11 Second Violation: The license of the premises involved
12 may be suspended for a period of not less than 30 days nor
13 more than ninety (90) days.

14 Sec. 3. Except as otherwise provided herein, the hours
15 of operation of licensed premises in the state are not restric-
16 ted. Provided, however, that incorporated municipalities may
17 provide for closed periods or closing hours by ordinance under
18 the provisions of Sec. 35-4-18, as amended.

19 Sec. 4. This Act shall take effect immediately upon its
20 passage and approval or upon its becoming law without such
21 approval.