

1 IN THE HOUSE

BY THE COMMITTEE ON COMMERCE & LABOR

2 CS FOR 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 relating to alcoholic beverages;
7 amending certain sections of law pertaining
8 thereto; and providing for an effective
9 date."

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

11 Section 1. Sec. 35-4-1, ACLA 1949, as repealed by Ch. 43,
12 SLA 1953, as re-enacted by Ch. 131, SLA 1957, and as amended by
13 Sec. 10, Ch. 64, SLA 1959 and by Ch. 197, SLA 1959, is amended to
14 read as follows:

15 Sec. 35-4-1. CREATION OF BOARD AND OFFICE OF DIRECTOR.

16 (A) There is hereby established an Alcoholic Beverage
17 Control Board in the Department of Revenue consisting of
18 three members appointed for overlapping three-year terms; and
19 the Board is hereby vested with the duties, powers, and
20 responsibilities involved in the control of alcoholic bever-
21 ages, including the promulgation of rules and regulations
22 and the hearing of appeals from the action of officers and
23 employees charged with enforcing the alcoholic beverage con-
24 trol laws, rules, and regulations. The functions and
25 authority heretofore performed and exercised by the Board of
26 Liquor Control are hereby transferred to the Alcoholic
27 Beverage Control Board. The Board shall be appointed by the
28 Governor and confirmed by the legislature. No member of the
29 Board shall hold any other office, either elective or

1 appointive, under the State or Federal Governments. One
2 member of the Board shall be actively engaged in the al-
3 colohic beverage industry. No two members of the Board
4 shall be engaged in the same business, occupation or pro-
5 fession. Two members shall constitute a quorum for the con-
6 duct of business. The Board shall meet at least once each
7 year in each of the four judicial districts to study, re-
8 consider and modify existing agency rules and regulations
9 in the light of current local problems.

10 (B) The Governor shall appoint a Director, subject to
11 confirmation by the legislature, who shall be the executive
12 officer of the Board, and whose duty it shall be to enforce
13 this Act and such rules and regulations as are promulgated
14 by the Board. He shall issue all licenses provided for under
15 this Act.

16 Sec. 2. Subsec. (A) of Sec. 35-4-3, ACLA 1949, as repealed
17 by Ch. 43, SLA 1953, as re-enacted, amended and new subsections
18 added by Ch. 131, SLA 1957, and as amended by Sec. 10, Ch. 64,
19 SLA 1959 and by Ch. 197, SLA 1959, is amended to read as follows:

20 (A) The Board is to have full power, authority and
21 control over the manufacture, barter, sale and possession
22 of intoxicating liquors in the State of Alaska, and has power
23 to adopt necessary rules and regulations to assure the
24 proper administration of state liquor regulations in a manner
25 that will protect the public health, safety and welfare.
26 The power of the Board to adopt rules and regulations speci-
27 fically includes, but is not limited to the following
28 matters: [AS PROVIDED HEREIN.]

29 (1) regulating the employment, conduct and duties

- 1 N of the employees of the Board;
- 2 (2) prescribing the forms of application, re-
- 3 ports and other forms, and the terms and conditions to be
- 4 E contained in permits and licenses issued;
- 5 (3) prescribing the fees payable in respect of
- 6 permits and licenses issued for which no fees are pres-
- 7 W cribed by statute, and prescribing the fees for anything
- 8 done or permitted to be done under the regulations;
- 9 (4) providing for regular and special meetings
- 10 of the Board at such times and places in the state as may
- 11 be necessary or proper;
- 12 (5) providing for the delegation to the Director
- 13 of such routine administrative functions and powers as may
- 14 M be proper, including the issuance, transfer and renewal of
- 15 licenses and permits where there is no contest or protest;
- 16 (6) prescribing the manner of giving and serving
- 17 A notices required by law or the regulations, where not provided
- 18 by statute;
- 19 (7) prescribing the conditions, accommodations,
- 20 T qualifications, and inspections of each type or kind of
- 21 license, licenseec, or licensed premises;
- 22 (8) providing for the making of returns and
- 23 T reports by wholesalers of wine, beer and liquor;
- 24 (9) providing for the giving of fidelity bonds
- 25 by any or all of the employees of the Board, the premiums
- 26 E therefor to be paid by the state;
- 27 (10) providing for the issuance, renewal, re-
- 28 issuance, revocation and suspension of licenses and permits;
- 29 R (11) prohibiting possession of alcoholic bevel-

1 ages by minors;
2 (12) prescribing reports from licensee corporations,
3 including reports of stock ownership, transfers and changes
4 of officers and directors.

5 Sec. 3. Sec. 35-4-3, ACLA 1949, as repealed by Ch. 43, SLA
6 1953, as re-enacted, amended and new subsections added by Ch. 131,
7 SLA 1957, and as amended by Sec. 10, Ch. 64, SLA 1959 and by Ch.
8 197, SLA 1959, is amended by adding a new subsection (G) to read
9 as follows:

10 (G) As to all classes of licenses, the hours of
11 operation shall be 21 hours per day; each such license shall
12 designate the particular hours during the 24 hours when the
13 premises are to be open, and such hours shall be stated on
14 the face of the license; provided, however, that within
15 incorporated municipalities, all hours of operation may be
16 established by ordinance.

17 Sec. 4. Sec. 35-4-13, ACLA 1949, as amended is amended to
18 read as follows:

19 Sec. 35-4-13. APPLICATION FOR LICENSE: CONSENT OF
20 CITIZENS: PROCEEDINGS AND HEARING ON APPLICATION: POSTING
21 LICENSE. TRANSFER OF LICENSE. REFUND OF FEES. Unless other-
22 wise provided, no application for a new license shall be
23 approved for any location outside an incorporated town and
24 not licensed at the time of application where the total of
25 licensed premises in the aggregate at one time would exceed
26 one license of each type for each 1,500 population or fraction
27 thereof, within a radius of five miles of the proposed loca-
28 tion nor shall any application for a new license be approved
29 for any location within an incorporated city and not licensed

1 at the time of application where the total of licensed
2 premises in the aggregate at one time would exceed one license
3 of each type for each 1,500 population or fraction thereof
4 within such city; save and except that no licensee holding
5 a license shall be denied a renewal of said license for
6 another location where, because of the termination of the
7 licensee's lease on the location or because of condemnation
8 or substantial destruction of the premises by fire or other
9 cause, it becomes necessary to relocate, or where public
10 convenience is better served by said transfer; provided,
11 however, that in the event said licensee is so deprived of
12 his licensed location his application for another acceptable
13 location must be made within three months of the time when
14 the relocation becomes necessary, provided however, that no
15 licensee shall operate any beverage dispensary or retail
16 liquor store in any area of an incorporated city where said
17 city's zoning regulations prohibit the sale of intoxicating
18 liquors therein, without the approval of the city council. In
19 no event shall a license be transferred out of the election
20 district for the House of Representatives within which it was
21 granted or into an area that exceeds one license of each type
22 for each 1,500 population or fraction thereof. Provided,
23 however, that licenses already issued at the time of the
24 enactment of this Act shall be renewed irrespective of such
25 ratio, unless the application shall be denied for reason
26 other than that contained in this section. Provided, however,
27 that no person shall own or have an interest in more than
28 three Beverage Dispensary Licenses. Provided further, that
29 the Board may, in its discretion approve the issuance or

1 transfer of a license [INTO AN AREA OUTSIDE AN INCORPORATED
2 MUNICIPALITY] without regard to the quota provisions of this
3 section where it appears that such issuance or transfer will
4 encourage the construction or improvement of a hotel, motel,
5 resort or similar business related to the tourist trade where
6 such hotel, motel, or resort or similar business related to
7 the tourist trade has a minimum accommodation of ten rooms.

8 Provided, however, that any application for a transfer,
9 renewal or new license coming from within an incorporated
10 town shall have attached to the application in lieu of the
11 consent required in Subsection (5) of Section 35-4-14 herein,
12 a recommendation of the city council of said incorporated
13 town and shall be forwarded to the Board, in addition to a
14 list of at least five references from within the corporate
15 boundaries of said town, as to the integrity of the applicant
16 and the desirability of the issuing of a license for the
17 premises mentioned therein. Such recommendation shall be
18 binding on the Board unless the Board after a hearing as
19 herein provided shall determine that the city council acted
20 in a capricious or arbitrary manner, and sets forth in writing
21 its findings in what respects the council was acting capri-
22 ciously or arbitrarily. A failure of the city council to
23 act upon applications for licenses within thirty days of
24 receipt of any such application shall be considered a default
25 and shall subject the city to the penalty of losing its right
26 to a refund as herein provided. At the time set for the
27 hearing, the Board shall consider the application and any
28 protests that may be filed against the same, and also hear
29 the applicant or others appearing in connection with the

1 matter, and give its judgment in regard to the application.
2 If the application is rejected the fee accompanying the same
3 shall be returned less the sum of Twenty-Five Dollars. The
4 licensee shall cause the license to be posted in a conspicuous
5 position in his place of business, so that anyone entering
6 the premises may easily read it. No license issued under the
7 provisions of this Act shall be transferred except after
8 first securing the consent of the Board. No refund of
9 license fees will be allowed after the issuance of license.
10 Sec. 5. Sec. 35-4-15 (5), ACLA 1949, as amended by Ch. 83,
11 SLA 1949, as amended by Ch. 116, SLA 1953, as amended by Ch. 131,
12 SLA 1957, as amended by Ch. 197, SLA 1959, is amended to read as
13 follows:

14 Sec. 35-4-15 (5) No beverage dispensary license or
15 package liquor store license shall be issued for the sale of
16 any intoxicating liquor in any building within two hundred
17 feet of any school ground or church building measured by the
18 shortest direct line from such school ground or church build-
19 ing in which religious services are conducted, within any
20 corporate municipality, nor within two hundred (200) feet of
21 any school ground or church building where such school ground
22 or church building is located outside the corporate limits
23 of a municipality. No license shall be issued for use in
24 any building within 200 feet [TWO MILES] of any accredited
25 college or university certified by Northwest Association for
26 the Accrediting of Institutions of Formal Education. Provided,
27 however, that a license may be reissued or transferred from
28 one licensee to another, for the sale of intoxicating liquor
29 in any building in which such sale was authorized by law on

1 the effective date of this Act.

2 When a license for the sale of intoxicating liquor in
3 any building within two hundred (200) feet of a school ground
4 or church building in which religious services are conducted,
5 is forfeited, lapses or is transferred to other premises, no
6 license for the sale of intoxicating liquor at the prior
7 licensed location shall thereafter be issued; provided,
8 however said location may be relicensed in the event of the
9 removal of either cause of the restriction.

10 Sec. 6. Sec. 35-4-20, ACLA 1949, as amended by Sec. 2, Ch.
11 131, SLA 1957, as amended by Sec. 2, Ch. 197, SLA 1959, is hereby
12 amended to read as follows:

13 Sec. 35-4-20. VIOLATION OF ACT A MISDEMEANOR: PENALTY.
14 A violation of any of the provisions of this Act shall be
15 deemed a misdemeanor, and upon conviction thereof shall be
16 punished by imprisonment of not more than one year, or by a
17 fine of not [LESS THAN FIFTY DOLLARS (\$50.00) NOR] more than
18 Five Hundred Dollars (\$500.00), each violation to be con-
19 sidered a separate offense.

20 Provided, further, that upon conviction of a licensee,
21 the [COMMISSIONER,] magistrate [, DISTRICT JUDGE,] or other
22 judge having jurisdiction, as the case may be, shall send
23 a notification thereof together with the certified transcript
24 of the proceedings to the Board which may, [SHALL] upon the
25 direction of a majority of the members of the Board, suspend
26 said license as hereinafter provided for the first and second
27 violations and may [SHALL] revoke the license and may upon
28 a third violation forfeit the bond. For the purpose of this
29 section, the terms "second violation" and "third violation"

1 include only those violations which occur within five years
2 of the first violation.

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

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

9 Sec. 7. Sec. 35-4-22, ACLA 1949, as amended by Ch. 131, SLA
10 1957, as amended by Ch. 197, SLA 1959 is hereby amended in sub-
11 section (K) and by adding new subsections (N) and (O) to read as
12 follows:

13 (K) The business premises occupied by a holder of
14 a retail license issued under this Act shall not be connected
15 by a door, opening or any other means of passage for the
16 purpose of sales or for the purpose of passage by the general
17 public to any other retail business establishment, except
18 those licensed under this Act.

19 (N) All hotels, motels, resorts or similar businesses
20 which hold a beverage dispensary license and which have as
21 a substantial part of their business the catering to the
22 traveling public, shall have the right to serve alcoholic
23 beverages in their dining rooms, banquet rooms and to guests
24 in their rooms.

25 (O) Each application for the transfer of ownership
26 of an existing license shall be accompanied by a statement,
27 under oath, executed by the transferor in which he lists all
28 debts, and the amounts thereof, owed by him to any creditor
29 of the business or taxes due. Each creditor to whom a debt

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is owed shall be promptly informed of the application by the Board and of the amount owed said creditor. No application for such transfer shall be approved by the Board unless all said debts are paid, or security for their payment satisfactory to the creditor or taxing authority is provided by the transferor prior to approval of the application.

Sec. 8. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.