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IN THE SENATE

BY SENATOR MCNEES

SENATE BILL NO. 55

IN THE LEGISLATURE OF THE STATE OF ALASKA

SECOND LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to excise tax on intoxicating liquors; authorizing bonded warehouses for storage of intoxicating liquors; amending Sec. 35-4-31, ACLA 1949, as amended by Ch. 73, SLA 1957, Sec. 35-4-32, ACLA 1949 as last amended by Ch. 42, SLA 1957, and Sec. 34-4-33, as last amended by Ch. 72, SLA 1955; and providing for an effective date."

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

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

Sec. 35-4-31. PERSONS REQUIRED TO PAY TAX: RATE OF TAX. (1) Every brewer, distiller, bottler, jobber, retailer, wholesaler or manufacturer, who sells intoxicating liquors in the State [TERRITORY] of Alaska or who consigns shipment of same into the State [TERRITORY] of Alaska, regardless of whether such liquors are brewed, distilled, bottled or manufactured within or without Alaska, shall pay on all malt beverages (alcoholic content of one percent (1%) or more by volume), wines and hard distilled liquors, the following prescribed taxes; malt beverages at the rate of twenty-five (25¢) per gallon, or fraction thereof; wine or any other liquor of twenty-one (21%) per cent of alcohol

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

6 Sec. 2. Sec. 35-4-32, ACLA 1949, as amended by Ch. 70, SLA  
7 1951, as amended by Ch. 79, SLA 1953, as amended by Ch. 42, SLA  
8 1957, is amended to read:

9 Sec. 35-4-32. WEEKLY [MONTHLY] STATEMENT AS TO LIQUOR  
10 SOLD: QUARTERLY [MONTHLY] PAYMENTS: PENALTY AND INTEREST.  
11 Each such brewer, distiller, bottler, jobber, wholesaler,  
12 manufacturer or other consignor shall on or before the last  
13 day of each calendar week [MONTH], airmail, postage prepaid,  
14 to the [TERRITORIAL TAX] Commissioner of Revenue at Juneau,  
15 Alaska, a statement containing a true account of the total  
16 number of gallons, including fractional gallons, together  
17 with the respective names and Alaskan addresses of, and  
18 itemized as to the respective gallonage of each such kind of  
19 liquor sold to, or consigned to, the respective buyers or  
20 any consignee thereof which such brewer, distiller, bottler,  
21 jobber, wholesaler, or manufacturer sold or consigned to such  
22 buyers or consignees in Alaska during the immediately pre-  
23 ceding calendar week [MONTH], and shall pay on or before the  
24 thirty-first day of March, the thirtieth day of June, the  
25 thirtieth day of September, and the thirty-first day of  
26 December, respectively, [MONTHLY] to the [TERRITORIAL TAX]  
27 Commissioner of Revenue, all taxes, computed at the foregoing  
28 or the then prevailing rates, on the respective total quanti-  
29 ties of such respective classes of liquor so sold or consigned

1 to such buyers or consignees during the immediately preceding  
2 calendar quarter [MONTH]. However, if a brewer, distiller,  
3 bottler, jobber, wholesaler or manufacturer makes use of a  
4 bonded warehouse, as defined by law, he shall only pay taxes  
5 on the respective total of the respective classes of liquors  
6 withdrawn from the warehouse, in the manner provided by law,  
7 during the immediately preceding quarter. [THE MONTHLY RETURN  
8 SHALL BE FILED AND THE TAX PAID ON OR BEFORE THE LAST DAY OF  
9 EACH CALENDAR MONTH TO COVER THE IMMEDIATELY PRECEDING  
10 CALENDAR MONTH.]

11 Provided, however, that each brewer, distiller, bottler,  
12 jobber, wholesaler, manufacturer or other consignor shall be  
13 entitled to a credit for any and all excise taxes paid on all  
14 malt [SUCH ALCOHOLIC] beverages as may have been sold and de-  
15 livered to any U. S. Government operated vessel for ship  
16 stores, ship's service stores, and to any post exchange,  
17 officers club, non-commissioned officers club, or any club  
18 maintained for enlisted personnel, and to any and all other  
19 authorized beverage dispensers on any military, naval, air  
20 force or Governmental reservation within the State [TERRITORY]  
21 of Alaska upon furnishing proof in the form of signed and  
22 certified invoices evidencing such sales to such military,  
23 naval, air force or Governmental liquor dispensary. Upon  
24 receipt, by the [TERRITORIAL TAX] Commissioner of Revenue, of  
25 the weekly [MONTHLY] statement hereinabove provided for, said  
26 Commissioner shall promptly allow credit to the account of,  
27 and issue a notice showing the amount of credit allowed to,  
28 such brewer, distiller, bottler, jobber, wholesaler, manu-  
29 facturer or other consignor for that portion of the excise

1 taxes which shall have been paid on sales of malt beverages  
2 made to any U. S. Government operated vessel for ships stores,  
3 ship's service stores, and to any post exchange, officers club  
4 non-commissioned officers club, or to any other club main-  
5 tained for enlisted personnel, and to any and all authorized  
6 military, naval, air force or Governmental dispensaries, as  
7 evidences by properly signed and certified invoices proving  
8 such sales. The amount of credit allowed on sales made to any  
9 U. S. Government vessel for ship stores, ship's service stores  
10 or to any post exchange, officers club, or any club main-  
11 tained for enlisted personnel and to military, naval, air  
12 force or Governmental liquor dispensaries in the State [TER-  
13 RITORY] of Alaska shall be applied only against the excise  
14 taxes becoming due to the State [TERRITORY] of Alaska from  
15 said brewer, distiller, bottler, jobber, wholesaler, manufac-  
16 turer or other consigner because of sales of malt beverages  
17 [INTOXICATING LIQUORS] made from and after the effective date  
18 of Ch. 79, SLA 1953. In order to obtain the excise tax cre-  
19 dit herein provided for, the claimant shall in making the  
20 weekly [MONTHLY] statement required by law, certify as to the  
21 truthfulness of the invoice and quantities upon which such  
22 claim to said credit is based. Provided, however, that no credit  
23 shall be claimed or allowed on account of sales made to civil-  
24 ian clubs or stores located on military, naval, air force or  
25 Governmental reservations.

26 In the case of any failure to make and file a return  
27 and remit the tax within the time prescribed by law or pre-  
28 scribed by the [TAX] Commissioner of Revenue in pursuance  
29 of law, unless such failure is due to reasonable cause and

1 not due to willful neglect, there shall be added to the tax,  
2 5 per cent if the failure is for not more than 30 days, with  
3 an additional 5 per cent for each additional 30 days or  
4 fraction thereof during which such failure continues, not  
5 exceeding 25% in the aggregate. The amount so added to any  
6 tax shall be collected at the same time and in the same  
7 manner and as a part of the tax unless the tax has been  
8 paid before the discovery of the neglect, in which case the  
9 amount so added should be collected in the same manner as  
10 the tax; Provided, that in all cases of delinquency the  
11 legal rate of interest shall be assessed.

12 Sec. 3. Sec. 35-4-33, ACLA 1949, as amended by Ch. 70, SLA  
13 1951, as amended by Ch. 72, SLA 1955, is amended to read:

14 Sec. 35-4-33. LIABILITY AND BOND FOR PAYMENT OF TAXES:  
15 LIEN FOR TAXES: ENFORCEMENT BY SEIZURE AND SALE: FAILURE TO  
16 FILE RETURNS, TO OBTAIN A LICENSE, SUBMIT INFORMATION OR PAY  
17 THE TAX: PERJURY: FRAUD. (1) Each brewer, distiller,  
18 bottler, jobber, wholesaler or manufacturer shall be primarily  
19 liable for the payment of said excise taxes on such liquors  
20 so sold, and shall furnish a good and sufficient surety  
21 bond in the amount of Twenty-five Thousand (\$25,000.00)  
22 Dollars payable to the [TAX] Commissioner of Revenue and  
23 approved by the Attorney General, and failure of any whole-  
24 saler to pay the tax to the State [TERRITORY] of Alaska  
25 shall forfeit the bond and its license shall be revoked  
26 except that the Commissioner of Revenue, in his discretion,  
27 may issue permits in lieu of bond to resident holders of  
28 wholesale, malt beverages, and wine licenses, doing business  
29 wholly within the State [TERRITORY], upon payment of said

1 excise tax in advance of shipment and except further that  
2 each brewer, distiller, bottler, jobber, wholesaler or  
3 manufacturer making use of a bonded warehouse in the manner  
4 prescribed by law shall be entitled to the permit in lieu of  
5 bond. Upon receipt of the bond and its subsequent approval,  
6 the [TAX] Commissioner of Revenue shall issue a license  
7 certificate authorizing the brewer, distiller, bottler,  
8 jobber, wholesaler or manufacturer, liable for the payment  
9 of the tax, to sell intoxicating liquors in the State  
10 [TERRITORY] of Alaska or to consign shipments of same into  
11 the State [TERRITORY] of Alaska and it shall be unlawful for  
12 any such brewer, distiller, bottler, jobber, wholesaler or  
13 manufacturer to sell intoxicating liquors in the State  
14 [TERRITORY] of Alaska or to consign shipments of same into  
15 the State [TERRITORY] of Alaska without first furnishing  
16 the required bond and obtaining the license certificate or  
17 permit from the [TAX] Commissioner of Revenue. Provided,  
18 however, that the license certificate shall not be taken  
19 as permission to sell intoxicating liquors in the State  
20 [TERRITORY] of Alaska or to consign same into the State  
21 [TERRITORY] of Alaska without having complied with the other  
22 requirements of the laws of the State [TERRITORY] of Alaska  
23 or of the United States. The retailer or buyer shall be  
24 secondarily liable for such taxes on such of said liquors  
25 as are sold to such retailer or buyer, and the State  
26 [TERRITORY] of Alaska is also hereby given a lien upon, and  
27 is hereby authorized and empowered to seize, confiscate and  
28 sell, for the satisfaction of the payment of such taxes and  
29 of all costs incurred in such proceedings, all such liquors

1 wheresoever and in whomsoever's possession found, and if  
2 unfound or not identifiable, to seize, confiscate and sell  
3 an equal quantity of like kind of such liquor found in the  
4 possession of the retailer or other buyer to whom such  
5 liquors were sold on which such taxes were not paid.

6 (2) Any person required under this Act to pay excise  
7 tax, or required to make a return, keep or display any  
8 records, or supply any information, for the purposes of the  
9 computation, assessment or collection of excise tax imposed  
10 by the Act, who wilfully fails to obtain such license cer-  
11 tificate or permit, pay the excise tax, make such return,  
12 keep or display such records, or supply such information,  
13 at the time or times required by law or regulations, shall,  
14 in addition to other penalties provided by law, be guilty  
15 of a misdemeanor, and, upon conviction thereof, be fined not  
16 more than \$1,000.00, or imprisonment for not less than one  
17 year, or both, together with the cost of prosecution.

18 (3) Any person who wilfully makes and subscribes a  
19 return which he does not believe to be true and correct as  
20 to every material matter shall be guilty of a felony, and,  
21 upon conviction thereof, shall be subject to the penalties  
22 prescribed for perjury under the laws of the State  
23 [TERRITORY] of Alaska.

24 The term "person" as used in this section includes an  
25 officer, agent or employee of a corporation or a member,  
26 agent or employee of a partnership, who, as such officer,  
27 agent, employee or member, is under duty to perform the  
28 act in respect of which the violation occurs.

29 (4) If any part of any deficiency in the tax is due to

1 fraud with intent to evade tax, then 50 per cent of the total  
2 amount of the deficiency (in addition to such deficiency)  
3 shall be assessed and collected.

4 Sec. 4. LIQUOR STORED IN BONDED WAREHOUSES. Intoxicating  
5 liquors may be imported into Alaska by brewers, distillers,  
6 bottlers, jobbers, wholesalers, or manufacturers and stored  
7 in bonded warehouses without the payment of the excise tax levied  
8 under this Act. However, the tax shall be payable on removal of  
9 the liquor from the bonded warehouse.

10 Sec. 5. GENERAL REGULATIONS. The entire stock of intox-  
11 icating liquors of each licensed brewer, distiller, bottler,  
12 jobber, wholesaler, or manufacturer, except in the case of a  
13 distillery where those liquors are in the process of distillation  
14 or manufacture, shall be kept in a bonded warehouse. The Com-  
15 missioner of Revenue shall prescribe the records which the  
16 proprietor of a bonded warehouse shall keep concerning liquor  
17 while in the process of manufacture or distillation and after  
18 those liquors are delivered to bonded warehouses.

19 Sec. 6. RECEIPTS AND WITHDRAWING OF LIQUOR FROM BONDED  
20 WAREHOUSES. When intoxicating liquors are received by brewers,  
21 distillers, bottlers, jobbers, wholesalers or manufacturers  
22 making use of bonded warehouses, entries of the receipts to the  
23 bonded warehouses shall be made under the rules and upon the  
24 forms issued by the Commissioner of Revenue. Intoxicating  
25 liquors stored in bonded warehouses may be withdrawn under the  
26 rules and upon the forms issued by the Commissioner of Revenue and  
27 upon payment of the tax.

28 Sec. 7. BOND. Each brewer, distiller, bottler, jobber,  
29 wholesaler, or manufacture, or combination of them, who makes

1 use of a bonded warehouse, shall give an annual bond for that  
2 warehouse in the sum and form the Commissioner of Revenue shall  
3 prescribe, never less in amount than \$5,000.00, conditioned that  
4 he or they shall pay the excise tax or other taxes or duties  
5 imposed by law before removal of any intoxicating liquors from  
6 that bonded warehouse when the liquors sold or furnished to any  
7 licensed retail liquor dealers or distributors within the State  
8 of Alaska, and, that he or they will faithfully make and file  
9 true and accurate weekly reports required by the Commissioner of  
10 Revenue, and will remit quarterly to the commissioner the taxes  
11 or duties required by the laws of this state.

12 Sec. 8. PENALTIES. The Commissioner of Revenue, or his  
13 duly authorized agent, may measure, gauge or check the intoxi-  
14 cating liquors in bond in any bonded warehouse, and if the amount  
15 of liquor on hand does not correspond with the reports filed with  
16 the commissioner by the brewer, distiller, bottler, jobber,  
17 wholesaler or manufacturer making use of the bonded warehouse,  
18 the proprietor or proprietors of the warehouse shall have his  
19 or their licenses revoked, and in addition shall be guilty of a  
20 misdemeanor and upon conviction thereof shall be fined a sum  
21 not exceeding \$1,000, or be imprisoned not more than 60 days, or  
22 punished by both fine and imprisonment.

23 Sec. 9. DEFINITION OF BONDED WAREHOUSE. Each licensed  
24 brewer, distiller, bottler, jobber, wholesaler or manufacturer  
25 of intoxicating liquors may individually or jointly with one or  
26 more other licensed brewer, distiller, bottler, jobber or manu-  
27 facturer, provide a warehouse to be situated in Alaska, and to  
28 be used only for the storage of intoxicating liquors manufactured  
29 or distributed by him or them for purposes of resale until the

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tax levied on the intoxicating liquors are paid. The warehouse, when approved by the Commissioner of Revenue, shall be a bonded warehouse of the State of Alaska, and shall be under the control of the Commissioner. He may assign one or more of his revenue agents to be known as "inspectors" to enforce the provisions of this Act with respect to the warehouse or warehouses.

Sec. 10. EFFECTIVE DATE. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

SB#