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Referred: Judiciary and
State Affairs

1 IN THE HOUSE

BY HUBER

2 HOUSE BILL NO. 653

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to alcoholic beverages; and pro-
7 viding for an effective date."

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

9 * Section 1. STATE POLICY. It is the policy of this state to exercise
10 its proper police powers by maintaining close supervision over the impor-
11 tation, distilling, brewing, fermenting and use of alcoholic beverages
12 in the state. It is the further policy of this state to prevent profiteering
13 in the field of alcoholic beverages by establishing the state as the
14 sole wholesaler of alcoholic beverages.

15 * Sec. 2. LEGISLATIVE INTENT. It is the intent of the legislature
16 in the passage of this Act to provide alcoholic beverages to consumers
17 in the state at honest costs and to generate only those revenues
18 to the state which are incidental to legitimate wholesale operations.

19 * Sec. 3. AS 04.05.010 is amended to read:

20 Sec. 04.05.010. CREATION OF BOARD AND OFFICE OF DIRECTOR.

21 (a) There is established an Alcoholic Beverage Control Board
22 within the Department of Revenue consisting of five members
23 appointed for overlapping three-year terms. The board is vested
24 with the duties, powers, and responsibilities involved in the
25 control of alcoholic beverages, including the promulgation of
26 rules and regulations and the hearing of appeals from the action
27 of officers and employees charged with enforcing the alcoholic
28 beverage control laws, rules, and regulations. The board
29 is further vested with the duties and responsibilities

1 of establishing and maintaining wholesale alcoholic beverage outlets
2 as provided for in this Title. The governor shall appoint the board
3 subject to confirmation by the legislature. The governor shall
4 designate the chairman of the board at the time of appointment. No
5 member of the board may hold any other office or position of profit
6 under the United States, the state, its political subdivisions, or in
7 private enterprise [STATE OR FEDERAL OFFICE, EITHER ELECTIVE OR
8 APPOINTIVE. TWO MEMBERS OF THE BOARD SHALL BE ACTIVELY ENGAGED IN
9 THE ALCOHOLIC BEVERAGE INDUSTRY, EXCEPT THAT NO MEMBER MAY BE AN
10 OFFICER, AGENT, OR EMPLOYEE OF A WHOLESALE ALCOHOLIC BEVERAGE ENTER-
11 PRISE. NO THREE MEMBERS OF THE BOARD MAY BE ENGAGED IN THE SAME
12 BUSINESS, OCCUPATION OR PROFESSION]. Three members constitute a
13 quorum for the conduct of business. The board shall meet at least
14 once each year in each of the four judicial districts to study, re-
15 consider and modify existing agency rules and regulations in the light
16 of current local problems.

7 (b) The board [GOVERNOR] shall appoint a director, subject to
18 confirmation by the legislature [, WHO IS THE EXECUTIVE OFFICER OF THE
19 BOARD]. The director shall perform those duties assigned to him from
20 time to time by the board [THE DIRECTOR SHALL ENFORCE THIS TITLE AND
21 THE RULES AND REGULATIONS PROMULGATED BY THE BOARD. THE DIRECTOR IS
22 NOT A MEMBER OF THE BOARD BUT MAY CAST A TIE-BREAKING VOTE. HE SHALL
23 ISSUE ALL LICENSES PROVIDED FOR UNDER THIS TITLE].

24 * Sec. 4. AS 04.05 is amended by adding new sections to read:

25 Sec. 04.05.012. COMPENSATION FOR BOARD MEMBERS. Compensation
26 for board members shall be equal to that for a district judge.

27 Sec. 04.05.013. COMPENSATION OF DIRECTOR AND OTHER EMPLOYEES.
28 The board shall set the amount of compensation for the director and
29 all other employees of the board shall be in the classified service.

1 Sec. 04.05.014. DUTIES OF BOARD AS WHOLESALER. (a) The board
2 is the only authorized wholesaler of alcoholic beverages in the state
3 and shall

4 (1) acquire or construct, as funds are made available from
5 legislative appropriation, sufficient wholesale outlets in the state
6 to adequately service premises and persons licensed to deal in alcoholic
7 beverages under this title;

8 (2) negotiate and enter into contracts with suppliers of
9 alcoholic beverages which are economically most advantageous to the
10 state as a wholesaler;

11 (3) maintain at all times an adequate stock of every lawful
12 type and brand of alcoholic beverage for which there is a demand;

13 (4) determine the fair market value, from the view of a
14 prudent wholesaler, of every brand and type of alcoholic beverage in
15 stock and publish, by mailing semimonthly to the appropriate licensed
16 premises in the state, a listing of each type and brand of alcoholic
17 beverage and the current price;

18 (5) require by appropriate regulations the posting of the
19 current list required by (4) of this section in a conspicuous place
20 on the licensed premises readily available to the consuming public;

21 (6) file quarterly with the Department of Revenue a complete
22 financial statement of all transactions and deposit in the general
23 fund net proceeds from each quarter;

24 (7) prepare and submit to the legislature and the governor
25 no later than 10 days after the convening of a regular session of the
26 legislature a yearly compilation of the statement required in (6) of
27 this section and a comprehensive report on the past year's activities
28 and a projected plan of the coming year's activities;

29 (8) acquire, through eminent domain proceedings, the

1 alcoholic beverage stock located in the state of all licensed wholesale
2 liquor dealers and, if it is in the best interest of the state, the
3 warehouses and real property upon which they are located (determination
4 of the fair market value of the stock or other property condemned
5 under this paragraph shall specifically exclude any consideration of
6 an on-going business or loss to the owner because of revocation of
7 the ability to carry on a wholesale liquor business);

8 (9) implement the state policy and legislative intent
9 expressed in secs. 1 - 2 of this Act by promulgating regulations which
10 restrict the importation of alcoholic beverages into the state for
11 consumption in the state by persons, other governments or instrumen-
12 talities of other governments.

13 (b) As used in this section "supplier" means any source from
14 whom the state can purchase alcoholic beverages under the laws of this
15 state or the United States.

16 Sec. 04.05.015. REMOVAL OF BOARD MEMBERS. Board members may
17 be removed by the governor for malfeasance or misfeasance in office
18 or upon conviction of a crime involving moral turpitude. Board
19 members shall also be removed if they fail to comply with sec. 10 of
20 this chapter. Before removal a board member must be given a written
21 document of the charges against him and given the opportunity to be
22 heard before a panel of three superior court judges within 20 days of
23 presentation of the written charges. The proceeding shall be informal
24 and witnesses may be called and documentation presented by either side.
25 The finding of the panel is final as to the specific charges brought
26 against a board member.

27 * Sec. 5. The following sections are repealed: AS 04.05.040(8);
28 04.10.020(h)(1) - (2); 04.10.110; and 04.10.170.

29 * Sec. 6. AS 04.10.160 is amended to read:

1 Sec. 04.10.160. INTEREST IN PREMISES. No corporation, [WHOLE-
2 SALER,] owner, officer or representative of a [WHOLESALE-
3 winery, bottling works, or distillery may own any interest in a
4 beverage dispensary or retail liquor store, or finance directly or
5 indirectly, a license-holder in procuring quarters, or supplying equip-
6 ment, furnishings, stock or inventory in order to conduct business.

7 * Sec. 7. AS 04.10.460 is amended to read:

8 Sec. 04.10.460. CONDITIONS OF REFUND. Money derived from the li-
9 censes issued [, EXCEPT WHOLESALE LICENSES WITHIN ORGANIZED BOROUGH AND
10 ALL CLASSES OF CITIES,] shall be refunded semi-annually to the boroughs
11 and cities. If the officers of a borough or city fail to actively en-
12 force its ordinances, the laws of the United States, the laws of the
13 state, and the regulations relating to the manufacture and sale of in-
14 toxicating liquors in the state, the commissioner of revenue may deny
15 the refund and no further money may be paid to the local governments
16 until the enforcement of the laws and regulations is actively resumed.

17 * Sec. 8. AS 04.15.030 is amended to read:

18 Sec. 04.15.030. STOCK CONFINED TO LICENSED PREMISES. It is unlaw-
19 ful for a licensee to carry for sale any stock of intoxicating liquor
20 except on the premises indicated on his license. [HOWEVER, STOCKS OF
21 BEER CARRIED IN A DELIVERY TRUCK FOR THE PURPOSE OF SALE BY A LICENSED
22 WHOLESALE TO OTHERS LICENSED UNDER THIS TITLE AND FOR THE PURPOSE OF
23 DELIVERY TO THEIR LICENSED PREMISES ARE NOT SUBJECT TO THIS SECTION.]

24 * Sec. 9. AS 04.15.040 is amended to read:

25 Sec. 04.15.040. LICENSE REQUIREMENTS. Licensees selling to the
26 general public are charged with the knowledge that the [WHOLESALE-
27 distiller, importer, brewer or bottler from whom they purchased
28 intoxicating liquor is properly licensed.

29 * Sec. 10. AS 04.20.010 is amended to read:

1 Sec. 04.20.010. INTOXICATING LIQUOR AND ALCOHOLIC BEVERAGE

2 DEFINED. As used in this title, "intoxicating liquor" and "alcoholic
3 beverage" includes whiskey, brandy, rum, gin, wine, ale, porter,
4 beer and all other spirituous, vinous, malt and other fermented or
5 distilled liquors intended for human consumption and containing more
6 than one per cent alcohol by volume.

7 * Sec. 11. This Act takes effect on January 1, 1973.
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