

Introduced: 3/17/78  
Referred: Commerce and  
Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY REQUEST

2 SENATE BILL NO. 550

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to administration and enforcement of  
7 alcoholic beverage control statutes and regulations."

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

9 \* Section 1. AS 04.05.030(c) and (d) are amended to read:

10 (c) The board shall [MAY] hold public hearings on applications for  
11 new licenses and on applications for license renewals, reissuances or  
12 transfers when any applications are protested in the manner provided in  
13 AS 04.10.270 - 04.10.300, and require an applicant to answer any per-  
14 tinent questions.

15 (d) The board may appoint agents, assistants, clerks and steno-  
16 graphic employees as it considers necessary in giving effect to this  
17 title. Agents and assistants employed by the board to enforce the pro-  
18 visions of this title are "peace officers" within the meaning of the  
19 term as defined in AS 01.10.060.

20 \* Sec. 2. AS 04.10.270 is repealed and re-enacted to read:

21 Sec. 04.10.270. PROTEST IN CITIES AND UNIFIED MUNICIPALITIES. (a)  
22 An application for a transfer, renewal, or new license coming from with-  
23 in a city or a unified municipality shall be transmitted directly to the  
24 board and need not bear a recommendation of the governing body of the  
25 municipality. Upon receipt of an application under this section, the  
26 director shall immediately transmit written notice of receipt of the  
27 transfer, renewal, or new license application to the governing body of  
28 the city or unified municipality.

29 (b) The governing body of the city or unified municipality shall

1 have 30 days from receipt of the director's written notice to protest  
2 approval of the transfer, renewal or issuance of a new license. Not  
3 less than 10 nor more than 20 days before expiration of the period  
4 allowed for protest, the governing body shall provide opportunity at a  
5 regular or special meeting for the receipt of public comments with re-  
6 spect to a license application.

7 (c) The license application shall be protested by the governing  
8 body of the municipality

9 (1) for licensed premises within a city, if not less than 10  
10 per cent of the residents of the city petition the council to object to  
11 the license application; or

12 (2) for licensed premises within a unified municipality, if  
13 not less than 10 per cent of the residents of a service area of the  
14 unified municipality within which the premises for which application is  
15 submitted is located or, if the unified municipality has no service  
16 areas, if not less than 10 per cent of the residents of the unified  
17 municipality petition the assembly to object to the license application.

18 (d) The license application may be protested by the governing body  
19 of the municipality for any other valid reason.

20 (e) Upon receipt of a protest under (c) or (d) of this section,  
21 the board may not take final action on the application until it has pro-  
22 vided for a hearing on the protest in accordance with the requirements  
23 of the Administrative Procedure Act (AS 44.62).

24 \* Sec. 3. AS 04.10.300(a) and (b) are amended to read:

25 Sec. 04.10.300. PROTEST IN AREAS OUTSIDE CITIES AND UNIFIED  
26 MUNICIPALITIES. (a) An adult resident in an area outside a city or  
27 unified municipality who desires to protest the issuance, reissuance,  
28 renewal or transfer of a license for an establishment that is outside  
29 the city or the unified [A] municipality and within five [TWO] miles of

1 his permanent place of abode or within the established village in which  
2 his permanent place of abode is located shall serve upon the applicant  
3 and the director [BOARD] a written statement of the reasons for his pro-  
4 test. Upon the receipt of the protest, the director, after consulting  
5 with members of the board, may give notice and schedule [HOLD] a board  
6 hearing in the area in which the protestant resides, at which all per-  
7 sons interested may be heard.

8 (b) If the protest is made in writing to the board by at least 35  
9 per cent of the adult residents having a permanent place of abode within  
10 the established village where the licensed premises is situated or is to  
11 be situated and within five [TWO] miles of the established village, a  
12 special election conducted by the Department of Community and Regional  
13 Affairs held within the protest area [VILLAGE] is mandatory. If at the  
14 election the majority of the adult residents having a permanent place of  
15 abode within the established village and within five [TWO] miles of the  
16 established village object to issuance, reissuance, renewal or transfer,  
17 the board may not issue, reissue, renew or transfer any licenses in, or  
18 within five [TWO] miles of, the established village.

19 \* Sec. 4. AS 04.15.300(c) is repealed and re-enacted to read:

20 (c) If the licensed premises is situated or is to be situated  
21 outside a city or unified municipality or established village and at the  
22 hearing more than 20 per cent of the adult residents having a permanent  
23 place of abode within five miles of the premises but outside the city or  
24 unified municipality or established village object to issuance, re-  
25 issuance, renewal or transfer, the board shall refuse to issue, reissue,  
26 renew or transfer the license unless, in the opinion of the board, no  
27 grounds for refusal exist by law and no substantial harm will occur to  
28 the health, safety or general welfare of the residents. A decision of  
29 the board under this subsection shall be accompanied by a statement of

1 the findings of the board and the reasons supporting the decision of the  
2 majority of the board.

3 \* Sec. 5. AS 04.10.350(a) is repealed and re-enacted to read:

4 (a) A license issued under this chapter is renewable automatically  
5 if the fee is paid in accordance with secs. 40 - 149 of this chapter.  
6 However, a license may not be automatically renewed if

7 (1) protest to renewal has been made in accordance with secs.  
8 270 - 300 of this chapter; or

9 (2) the licensee has been convicted under AS 04.15.100.

10 \* Sec. 6. AS 04.15.100(b) is amended to read:

11 (b) Upon conviction of a licensee for a violation under (a) of  
12 this section, or for violation of a municipal ordinance adopted by a  
13 municipality in conformity with sec. 70 of this chapter, the judge  
14 having jurisdiction shall send a notification of conviction together  
15 with a certified copy of the record of conviction to the board. The  
16 board shall [MAY, UPON THE DIRECTION OF A MAJORITY OF ITS MEMBERS,  
17 THEREUPON] suspend the license as [HEREINAFTER] provided in this sub-  
18 section for the first and second violations and upon a third violation  
19 shall [MAY] revoke the license and declare the bond forfeited. For the  
20 purpose of this section, the terms "second violation" and "third vio-  
21 lation" include only those violations which occur within five years of  
22 the first violation, but are not limited to repeated violations of the  
23 same statutory provision or municipal ordinance.

24 (1) First violation. The license of the premises involved  
25 shall [MAY] be suspended for not less than 10 consecutive days nor more  
26 than 45 consecutive days;

27 (2) Second violation. The license of the premises involved  
28 shall [MAY] be suspended for a period of not less than 30 consecutive  
29 days nor more than 90 consecutive days.