

Original sponsor: Rules Committee (for Title 4
Code Revision Committee)

Offered: 4/2/80
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 239

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to alcoholic beverages; and providing
7 for an effective date."

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

9

* Section 1. AS 04 is amended by adding a new chapter to read:

10

CHAPTER 06. ALCOHOLIC BEVERAGE CONTROL BOARD.

11

Sec. 04.06.010. ESTABLISHMENT OF BOARD. The Alcoholic Beverage
12 Control Board is established as a regulatory and quasi-judicial agency.
13 The board is in the Department of Revenue, but for administrative pur-
14 poses only.

15

Sec. 04.06.020. APPOINTMENT AND QUALIFICATIONS. The board con-
16 sists of five members appointed by the governor and confirmed by a
17 majority of the members of the legislature in joint session. A member
18 of the board may not hold any other state or federal office, either
19 elective or appointive. Two members of the board shall be persons
20 actively engaged in the alcoholic beverage industry, except that no
21 member may hold a wholesale license or be an officer, agent, or employee
22 of a wholesale alcoholic beverage enterprise. No three members of the
23 board may be engaged in the same business, occupation, or profession.

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Sec. 04.06.030. TERMS OF OFFICE. (a) Members of the board shall
25 be appointed for overlapping terms of three years.

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(b) A vacancy occurring in the membership of the board shall be
27 filled within 30 days by appointment of the governor for the unexpired
28 portion of the vacated term.

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(c) The board shall select a chairman from among its members.

1 Sec. 04.06.040. PER DIEM AND EXPENSES. Members of the board
2 receive no salary, but are entitled to per diem and travel expenses
3 authorized by law for other boards and commissions.

4 Sec. 04.06.050. MEETINGS. The board shall meet at the call of the
5 chairman. The board shall also meet at least once each year in each
6 judicial district of the state to study this title and to modify exist-
7 ing board regulations in light of statewide and local problems.

8 Sec. 04.06.060. QUORUM AND MAJORITY. Three members of the board
9 constitute a quorum for the conduct of business, except that a majority
10 of the whole membership of the board must approve all applications for
11 new licenses, and all renewals, transfers, suspensions and revocations
12 of existing licences. If a majority of the board is present and voting,
13 the director, with the consent of the members present, may cast a tie-
14 breaking vote.

15 Sec. 04.06.070. APPOINTMENT AND REMOVAL OF DIRECTOR. The governor
16 shall appoint a director to serve as the executive officer of the board.
17 The board may remove the director at its pleasure, and the governor may
18 remove the director for misconduct, misfeasance or malfeasance in
19 office. The governor may not remove the director unless the director is
20 given a copy of the charges against him and afforded an opportunity to
21 be publicly heard, in person or by counsel, in his own defense upon at
22 least 10 days notice. If the director is removed for cause, the
23 governor shall file with the lieutenant governor a complete statement of
24 all charges made against the director and the findings based on the
25 charges, together with a complete record of any hearing.

26 Sec. 04.06.075. AUTHORITY OF DIRECTOR. The director shall enforce
27 this title and regulations adopted by the board.

28 Sec. 04.06.080. DELEGATION OF AUTHORITY. The director shall
29 issue, renew, transfer, suspend, or revoke all licenses and permits at

1 the direction of the board. However, notwithstanding AS 04.11.070, the
2 board may delegate authority to the director to temporarily grant or
3 deny the issuance, renewal, or transfer, of licenses and permits. The
4 director's temporary grant or denial of the issuance, renewal, or trans-
5 fer of a license or permit is not binding on the board. The board may
6 delegate to the director any duty imposed by this title except its power
7 to propose and adopt regulations.

8 Sec. 04.06.090. POWERS AND DUTIES. (a) The board shall control
9 the manufacture, barter, sale, consumption, and possession of alcoholic
10 beverages in the state. The board is vested with the powers, duties,
11 and responsibilities necessary for the control of alcoholic beverages,
12 including the power to propose and adopt regulations and to hear appeals
13 from actions of the director, and from actions of officers and employees
14 charged with enforcing the alcoholic beverage control laws and the
15 regulations of the board.

16 (b) The board shall review all applications for licenses made
17 under this title and may order the director to issue, renew, revoke,
18 transfer or suspend licenses and permits authorized under this title.

19 (c) When considering an application, the board may reduce the area
20 to be designated the licensed premises below the area applied for when,
21 in the judgment of the board, a reduction in area is necessary to insure
22 control over the sale and consumption of alcoholic beverages on the
23 premises or is otherwise in the best interests of the public.

24 (d) The board may employ, directly or through contracts with other
25 departments and agencies of the state, enforcement agents and staff it
26 considers necessary to carry out the purposes of this title. The
27 salaries of personnel of the board in the exempt service shall be set by
28 the Department of Administration.

29 (e) The board shall promptly notify all licensees and municipali-

1 ties of major changes to this title and to regulations adopted under
2 this title. However, if changes only affect specific classifications of
3 licenses and permits, the board need only notify those licensees and
4 municipalities directly affected by the changes. Current copies of this
5 title and current copies of the regulations adopted under it shall be
6 made available at all offices of the Department of Revenue and the
7 detachment headquarters and posts maintained by the division of Alaska
8 state troopers, Department of Public Safety, in the state.

9 Sec. 04.06.100. REGULATIONS. (a) The board shall adopt regula-
10 tions governing the manufacture, barter, sale, consumption, and posses-
11 sion of alcoholic beverages in the state which are consistent with this
12 title and necessary to carry out the purpose of this title in a manner
13 that will protect the public health, safety, and welfare. The regula-
14 tions shall be adopted in accordance with the Administrative Procedure
15 Act (AS 44.62).

16 (b) The subjects covered by regulations adopted under (a) of this
17 section may include, but are not limited to, the following matters:

18 (1) employment, conduct, and duties of the director and of
19 regular and contractual employees of the board;

20 (2) procedures for the issuance, denial, renewal, transfer,
21 revocation, and suspension of licenses and permits;

22 (3) terms and conditions of licenses and permits issued;

23 (4) fees for licenses and permits issued for which no fees
24 are prescribed by statute;

25 (5) conduct of regular and special meetings of the board;

26 (6) delegation to the director of routine administrative
27 functions and powers;

28 (7) the temporary granting or denial of issuance, transfer,
29 and renewal of licenses;

1 (8) manner of giving any notice required by law or regulation
2 when not provided for by statute;

3 (9) requirements relating to the qualifications of licensees,
4 the conditions upon which a license may be issued, the accommodations of
5 licensed premises, and board inspection of those premises;

6 (10) making of reports by wholesalers;

7 (11) purchase of fidelity bonds by the state for the director
8 and the employees of the board;

9 (12) prohibition of possession of alcoholic beverages by
10 intoxicated persons and by minors;

11 (13) required reports from corporations licensed under this
12 title, including reports of stock ownership and transfers and changes of
13 officers and directors;

14 (14) creation of classifications of licenses or permits not
15 provided for in this title;

16 (15) establishment and collection of fees to be paid on appli-
17 cation for a license or permit.

18 Sec. 04.06.110. PEACE OFFICER POWERS. The director and the per-
19 sons employed for the administration and enforcement of this title may
20 exercise the powers of peace officers when those powers are specifically
21 granted by the board. Powers granted by the board under this section
22 may be exercised only when necessary for the enforcement of the crimi-
23 nally punishable provisions of this title, regulations of the board, and
24 other criminally punishable laws and regulations governing the manu-
25 facture, barter, sale, consumption, and possession of alcoholic bever-
26 ages in the state.

27 * Sec. 2. AS 04 is amended by adding a new chapter to read:

28 CHAPTER 11. LICENSING.

29 ARTICLE 1. LICENSING AND REPORTING REQUIREMENTS.

1 Sec. 04.11.010. LICENSE OR PERMIT REQUIRED. (a) Except as pro-
2 vided in AS 04.11.020, a person may not manufacture, sell, offer for
3 sale, possess for sale or barter, traffic in, or barter an alcoholic
4 beverage unless under license or permit issued under this title.

5 (b) A person may not solicit or receive orders for the delivery of
6 an alcoholic beverage in an area where the results of a local option
7 election have, under AS 04.11.490, prohibited the board from issuing,
8 renewing or transferring any licenses or permits under this title,
9 unless the person is licensed under this title and the order is actually
10 received by that person from the purchaser of the alcoholic beverage. A
11 person who violates this subsection is punishable upon conviction under
12 AS 04.16.200(a) or (b).

13 Sec. 04.11.020. EXCEPTIONS: LICENSE OR PERMIT NOT REQUIRED. (a)
14 A license or permit is not required to authorize sales made by a person
15 under a judgment and decree of foreclosure, under the bankruptcy law of
16 the United States (11 U.S.C. 1101 et seq), or under order of the board
17 or a court under AS 04.16.220.

18 (b) A license or permit is not required to serve alcoholic bever-
19 ages in exchange for valuable contributions at a private gathering of a
20 bona fide group of co-workers or of a professional, social, or fraternal
21 organization if equal contributions are made by all in attendance and
22 only the amount required to purchase the alcoholic beverages is contri-
23 buted. All other applicable provisions of this title and regulations
24 under this title shall be observed at these private gatherings.

25 Sec. 04.11.030. DEATH OF LICENSEE. (a) The executor or adminis-
26 trator of the estate of a person who was operating a business as a sole
27 licensee under a license authorized by this title may continue to oper-
28 ate the licensed business until an application for transfer of a license
29 to another person is approved or until the license is forfeited under

1 (b) of this section.

2 (b) If an application for the transfer of ownership of a license
3 from the deceased licensee is not made within 90 days of the death of
4 the licensee or within an additional 90 days if an application for
5 transfer of ownership made by the executor is denied, or no petition is
6 made to the board for an extension of time under (c) of this section
7 within that time, the license shall be forfeited.

8 (c) The board may extend the time limits in (b) of this section on
9 petition of the executor or administrator.

10 (d) This section does not authorize the transfer of a liquor
11 license by an administrator or executor to the estate of a decedent.

12 (e) The board may transfer a license to an executor or adminis-
13 trator only in the executor's or administrator's individual capacity.

14 Sec. 04.11.040. BOARD APPROVAL OF TRANSFERS. (a) A license
15 issued under this title may not be transferred to another person except
16 with the written consent of the board.

17 (b) A license or permit issued under this title may not be trans-
18 ferred to a new location except with the written consent of the board.

19 (c) A person may not receive or transfer controlling interest in a
20 liquor license issued to a corporation under this title except with the
21 written consent of the board.

22 Sec. 04.11.050. REPORTS REQUIRED OF CORPORATIONS. (a) A corpora-
23 tion issued a license under this title shall report to the board when 10
24 per cent or more of its corporate stock is transferred and shall also
25 report any change in its corporate officers or in the membership of its
26 board of directors.

27 (b) The report to the board shall be made in writing in duplicate
28 and must be sent within 10 days after the transfer of the stock or the
29 change in officers or directors.

1 (c) This section does not apply to a corporation whose stock is
2 listed on a stock exchange, a corporation which is required by law to
3 file periodic reports with the United States Securities Exchange Commis-
4 sion, or to a bank, trust company, financial institution, or title
5 company to which a license is issued in a fiduciary capacity.

6 Sec. 04.11.060. NONRESIDENT DISTILLER, BREWER, WINERY OR WHOLE-
7 SALER. A distiller, brewer, winery or wholesaler whose plant or prin-
8 cipal place of business is outside the state may not sell products
9 directly to licensees in the state without

- 10 (1) obtaining a general wholesale license under AS 04.11.-
11 160(a) for each wholesale distributing point in the state;
12 (2) appointing an agent upon whom process can be served; and
13 (3) obtaining other applicable licenses under the provisions
14 of this title.

15 Sec. 04.11.070. POWER LIMITED TO THE BOARD. Only the board may
16 issue, renew, transfer, suspend, or revoke a license under this title.

17 ARTICLE 2. LICENSES AND PERMITS.

18 Sec. 04.11.080. TYPES OF LICENSES AND PERMITS. Licenses and
19 permits issued under this title are as follows:

- 20 (1) beverage dispensary license;
21 (2) duplicate beverage dispensary license for additional
22 rooms;
23 (3) restaurant or eating place license;
24 (4) club license;
25 (5) bottling works license;
26 (6) brewery license;
27 (7) package store license;
28 (8) general wholesale license;
29 (9) wholesale malt beverage and wine license;

- 1 (10) distillery license;
- 2 (11) common carrier dispensary license;
- 3 (12) retail stock sale license;
- 4 (13) recreational site license;
- 5 (14) community liquor license;
- 6 (15) pub license;
- 7 (16) winery license;
- 8 (17) caterer's permit;
- 9 (18) special events permit;
- 10 (19) conditional contractor's permit.

11 Sec. 04.11.090. BEVERAGE DISPENSARY LICENSE. (a) A beverage
12 dispensary license authorizes the holder to sell or serve on the li-
13 censed premises alcoholic beverages for consumption on the licensed
14 premises only.

15 (b) The annual beverage dispensary license fee is \$1,250.

16 (c) An applicant for a beverage dispensary license must file with
17 the application a cash bond or a surety bond executed by a surety com-
18 pany approved by the board. The bond shall be in the sum of \$2,500.
19 Upon revocation of the license under AS 04.11.370(4), the bond shall be
20 forfeited and the amount deposited in the general fund of the state.

21 (d) The area designated as the licensed premises under a beverage
22 dispensary license issued to a hotel, motel, resort or similar business
23 which caters to the traveling public as a substantial part of its busi-
24 ness may include the dining room, banquet room, guests' rooms, and other
25 public areas approved by the board.

26 (e) A holder of a beverage dispensary license may not maintain
27 upon the licensed premises more than one room in which there is regu-
28 larly maintained a fixed counter or service bar at which alcoholic
29 beverages are sold or served to members of the public for consumption

1 unless he is issued by the board, after investigation, a duplicate of
2 the original license for each of the rooms. The holder of the beverage
3 dispensary license shall pay to the board with each application for a
4 duplicate license an amount equal to the fee payable for the original
5 beverage dispensary license under (b) of this section. If the licensed
6 premises are located within a municipality, a duplicate beverage dis-
7 pensary license may not be issued unless approved by the council or
8 assembly, as appropriate.

9 (f) The area designated as the licensed premises under a beverage
10 dispensary license issued to a bowling alley may include the concourse
11 or lane areas of the bowling alley. Notwithstanding AS 04.16.049, the
12 board may, upon application, authorize access by persons under 19 years
13 of age to the concourse or lane areas designated part of the bowling
14 alley's licensed premises during hours when no alcoholic beverages are
15 being sold, served, or consumed.

16 Sec. 04.11.100. RESTAURANT OR EATING PLACE LICENSE. (a) A res-
17 taurant or eating place license authorizes a restaurant or eating place
18 to sell beer and wine for consumption only on the licensed premises.

19 (b) A license may be issued under this section only if the board
20 determines that the premises to be licensed is a bona fide restaurant or
21 eating place.

22 (c) A license may be issued under this section only if the sale
23 and service of food and alcoholic beverages and any other business
24 conducted on the licensed premises of the restaurant or eating place is
25 under the sole control of the licensee.

26 (d) The annual fee for a restaurant or eating place license is
27 \$300.

28 Sec. 04.11.110. CLUB LICENSE. (a) A club license authorizes a
29 club or organization to sell alcoholic beverages for consumption only on

1 the licensed premises.

2 (b) A club license may only be issued to a club, fraternal organi-
3 zation, patriotic organization, or social organization chartered by a
4 state or national organization for a period of two consecutive years
5 before application for a license under this section. The organization
6 licensed under this section must be operated for social, recreational,
7 political, benevolent or athletic purposes and not for profit. A club
8 license may only be issued to an organization if none of the income
9 from the sale of alcoholic beverages is distributed to its members,
10 directors, or officers. Soliciting of public patronage of the club
11 premises except as approved by the board is a violation of this section.

12 (c) The annual club license fee is \$600.

13 (d) Alcoholic beverages sold under a club license may be purchased
14 only by (1) members of the club and their families, (2) widows or
15 widowers of deceased members who have been accorded club privileges, and
16 (3) military personnel in uniform on active duty who are extended the
17 privilege by patriotic organizations upon special occasions. Alcoholic
18 beverages may be purchased only in the portion of the club rooms which
19 are part of the licensed premises.

20 (e) Guests who enter the club premises on the invitation of a
21 member and in the company of the member may be served but not sold
22 alcoholic beverages. A guest must leave the premises immediately upon
23 the departure of the member who extended the invitation to enter.

24 (f) Alcoholic beverages purchased by a club or organization li-
25 censed under this section may not be used or consumed off the licensed
26 premises of the club or organization by any person, including club
27 members and employees.

28 (g) Notwithstanding AS 04.16.049, the board may authorize access
29 by persons under 19 years of age to a club's licensed premises during

1 hours when no alcoholic beverages are sold, served or consumed.

2 (h) In this section, "member" means a holder of paid-up membership
3 entitling the holder to all voting rights and privileges of membership
4 under the constitution or bylaws of the club or organization.

5 Sec. 04.11.120. BOTTLING WORKS LICENSE. (a) A bottling works
6 license authorizes the holder to operate a bottling works where beer and
7 wine may be bottled and sold.

8 (b) A sale under a bottling works license may be made only to a
9 person licensed under this title and only in quantities of more than
10 five wine gallons.

11 (c) The annual bottling works license fee is \$250.

12 Sec. 04.11.130. BREWERY LICENSE. (a) A brewery license autho-
13 rizes the holder to operate a brewery where beer is manufactured and
14 bottled or barreled for sale.

15 (b) A brewery license authorizes the holder to sell beer in
16 quantities of more than five wine gallons to persons licensed to sell
17 beer under this title.

18 (c) The holder of a brewery license may permit a person to sample
19 small portions of the brewery's product free of charge unless prohibited
20 by AS 04.16.030.

21 (d) The annual brewery license fee is \$500.

22 Sec. 04.11.140. WINERY LICENSE. (a) A winery license authorizes
23 the holder to operate a winery where wine is manufactured and bottled or
24 barreled for sale.

25 (b) A winery license authorizes the holder to sell wine to persons
26 licensed under this title in quantities of more than five wine gallons.

27 (c) The holder of a winery license may permit a person to sample
28 small portions of the wine on the premises free of charge unless pro-
29 hibited by AS 04.16.030.

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(d) The annual winery license fee is \$250.

Sec. 04.11.150. PACKAGE STORE LICENSE. (a) A package store license authorizes the holder to sell alcoholic beverages to a person in response to a verbal solicitation for purchase received from the person present on the licensed premises or in response to a written solicitation made by a person known to the licensee for a purchase to be received by the person making the solicitation.

(b) The annual package store license fee is \$750.

(c) The holder of a package store license may not sell alcoholic beverages requiring Internal Revenue strip stamps unless the stamps are intact on the packages.

(d) The consumption of alcoholic beverages on premises licensed under this section is prohibited.

(e) The business premises occupied by a holder of a package store license may not be connected by a door, opening, or other means of passage intended for the access of the general public to an adjacent retail business not licensed under this title.

(f) When the holder of a package store license is also a holder of a beverage dispensary license and the package store premises are contained within or are adjacent to the premises of the beverage dispensary and the only public entrance to the package store is by a door or other means within the premises of the beverage dispensary, the board shall determine if additional entrances to the package store are necessary for enforcement purposes, to meet health and fire safety standards, or for the convenience of the public.

(g) "Business premises" means that part of the licensed premises to which the public has access.

Sec. 04.11.160. WHOLESALE LICENSES. (a) A general wholesale license authorizes the holder to sell alcoholic beverages in the origi-

1 nal package, and wine in bulk, in quantities of not less than five
 2 gallons. A holder of a general wholesale license may not sell to a
 3 person not licensed under this title, except as provided in AS 04.21.-
 4 040. A holder of a general wholesale license may not sell alcoholic
 5 beverages requiring Internal Revenue strip stamps unless the alcoholic
 6 beverages have the stamps intact on the package. A wholesaler must
 7 obtain a general wholesale license for each distributing point. The
 8 annual general wholesale license fee is \$1,000 for the first \$100,000 of
 9 business transacted, payable at the time of making an original applica-
 10 tion or an application for renewal. In addition, the following annual
 11 fees shall be paid by a holder of a general wholesale license:

Business Transacted During Year	Fee
over \$100,000 and not over \$150,000	\$ 500
over \$150,000 and not over \$200,000	\$ 1,000
over \$200,000 and not over \$250,000	\$ 1,500
over \$250,000 and not over \$300,000	\$ 2,000
over \$300,000 and not over \$350,000	\$ 2,500
over \$350,000 and not over \$400,000	\$ 3,000
over \$400,000 and not over \$500,000	\$ 4,000
over \$500,000 and not over \$600,000	\$ 5,000
over \$600,000 and not over \$700,000	\$ 6,000
over \$700,000 and not over \$800,000	\$ 7,000
over \$800,000 and not over \$1,000,000	\$ 9,000
over \$1,000,000	\$10,000

25 (b) A wholesale malt beverage and wine license authorizes the
 26 holder to sell malt beverages and wine in the original packages in
 27 quantities of not less than five wine gallons. The holder of a whole-
 28 sale malt beverage and wine license may not sell to a person not
 29 licensed under this title except as provided in AS 04.21.040. The

1 annual wholesale malt beverage and wine license fee is \$200 for the
2 first \$20,000 of business transacted during a year, payable at the time
3 of making an original application or application for renewal. In addi-
4 tion, the following annual fees shall be paid by a holder of a wholesale
5 malt beverage and wine license:

6 Business Transacted During Year	Fee
7 over \$20,000 and not over \$50,000	\$ 300
8 over \$50,000 and not over \$100,000	\$ 1,000
9 over \$100,000 and not over \$150,000	\$ 1,500
10 over \$150,000 and not over \$200,000	\$ 2,000
11 over \$200,000 and not over \$400,000	\$ 4,000
12 over \$400,000 and not over \$600,000	\$ 6,000
13 over \$600,000 and not over \$800,000	\$ 8,000
14 over \$800,000	\$10,000

15 (c) In this section, the "total business transacted" means the
16 total value of business transacted by the wholesale business, including
17 the excise tax imposed by AS 43.60.010.

18 (d) No later than February 28 of each year following that for
19 which a license has been issued under this section, the licensee shall
20 file with the board an affidavit showing the total amount of business
21 transacted during the preceding year under his license and the location
22 of the licensed premises at which the business was transacted. At the
23 time of filing the affidavit, the licensee shall pay the license fees
24 accrued under (a) and (b) of this section during the preceding year.

25 (e) Failure to file an affidavit under (d) of this section or the
26 expiration of a license under AS 04.11.540 does not relieve a licensee
27 from paying the prescribed fees.

28 (f) For the purposes of this section, "distributing point" means a
29 location where alcohol is distributed from a warehouse.

1 Sec. 04.11.170. DISTILLERY LICENSE. (a) A distillery license
2 authorizes the holder to operate a distillery where alcoholic beverages
3 are distilled and bottled or barreled for sale.

4 (b) A distillery license authorizes the holder to sell alcoholic
5 beverages to persons licensed under this chapter in quantities of more
6 than five gallons.

7 (c) The annual distillery license fee is \$500.

8 Sec. 04.11.180. COMMON CARRIER DISPENSARY LICENSE. (a) A common
9 carrier dispensary license authorizes the holder to sell alcoholic
10 beverages for consumption aboard a vehicle, boat, aircraft, or railroad
11 buffet car licensed by a state or federal agency for passenger travel.

12 (b) The annual fee for a common carrier dispensary license is \$350
13 for each vehicle, boat, aircraft, or railroad buffet car in which al-
14 coholic beverages are served.

15 Sec. 04.11.190. COMMUNITY LIQUOR LICENSE. (a) A community liquor
16 license authorizes a city to sell alcoholic beverages to the same extent
17 authorized under a beverage dispensary or package store license, or
18 both, subject to the same requirements regarding conditions and payment
19 of fees applying to those licenses.

20 (b) A city that has within its boundaries privately owned premises
21 licensed as a beverage dispensary or a package store before June 1,
22 1970, and operated continuously since the date of licensure is not eli-
23 gible for a community liquor license.

24 (c) A city which has within its boundaries privately owned
25 premises licensed as a beverage dispensary or package store after
26 June 1, 1970, and operated continuously since the date of licensure is
27 eligible for a community liquor license which does not duplicate the
28 privately owned beverage dispensary or package store license.

29 (d) A city council shall apply for a community liquor license

1 whenever the majority of the voters at a local option election favors
2 the issuance of a community liquor license. Unless prohibited by the
3 results of an earlier local option election, a city council may also
4 apply on its own motion for a community liquor license.

5 Sec. 04.11.200. RETAIL STOCK SALE LICENSE. (a) A retail stock
6 sale license authorizes the holder to sell the remaining stock of a
7 package liquor store when the owner wishes to close out or terminate the
8 business of the store.

9 (b) A sale by a holder of a retail stock sale license may only be
10 in quantities of five wine gallons or more per sale and may only be to
11 persons licensed under this chapter.

12 (c) The retail stock sale license shall be issued for a period of
13 90 days from the expiration or forfeiture of the package store license
14 and is not renewable.

15 (d) The retail stock sale license shall be issued only if the
16 owner of the package store business does not have a current package
17 store license. However, if the owner had a package store license which
18 was suspended or revoked, the retail stock sale license may not be
19 issued.

20 (e) The retail stock sale license fee is \$100.

21 Sec. 04.11.210. RECREATIONAL SITE LICENSE. (a) The holder of a
22 recreational site license may sell beer and wine at a recreational site
23 during and one hour before and after a recreational event which is not a
24 school event, for consumption on designated areas at the site.

25 (b) The annual fee for a recreational site license is \$400.

26 (c) In this section, "recreational site" means, but is not limited
27 to, a location where baseball games, car races, hockey games, dog sled
28 racing events, or curling matches are regularly held during a season.

29 Sec. 04.11.220. PUB LICENSE. (a) A pub license authorizes the

1 holder to sell beer and wine for consumption only at a designated pre-
2 mises located on the campus of an accredited college or university.

3 (b) Only one pub license may be issued or renewed for each college
4 or university campus in the state.

5 (c) A pub license may not be issued or renewed without the written
6 approval of the governing body of the college or university.

7 (d) The annual fee for a pub license is \$400.

8 (e) In this section, an "accredited college or university" means a
9 college or university accredited by the Northwest Association of Sec-
10 ndary and Higher Schools.

11 Sec. 04.11.230. CATERER'S PERMIT. (a) A caterer's permit autho-
12 rizes the holder of a beverage dispensary license to sell or dispense
13 alcoholic beverages at conventions, picnics, social gatherings, sporting
14 events, or similar affairs held off the holder's licensed premises. The
15 permit may only be issued for designated premises for a specific occa-
16 sion and for a limited period of time.

17 (b) The written approval of a law enforcement agency having
18 jurisdiction over the site of the occasion for which the permit is
19 sought must be obtained and accompany the application.

20 (c) A caterer's permit may not be transferred or renewed.

21 (d) A caterer's permit must be surrendered to the board, its
22 agent, or the law enforcement agency approving the permit within 48
23 hours of its expiration time. Failure to surrender the permit is cause,
24 in the discretion of the board, for denial of applications for permits
25 made in the future by the permittee.

26 (e) The fee for a caterer's permit is \$50 and shall accompany the
27 application for a permit.

28 Sec. 04.11.240. SPECIAL EVENTS PERMIT. (a) A special events
29 permit authorizes the holder to sell or dispense beer or wine for con-

1 sumption at designated premises for a specific occasion and limited
2 period of time. Only nonprofit fraternal, civic, or patriotic organiza-
3 tions active for a period of at least two years before application and
4 incorporated under AS 10.20 are eligible for a special events permit,
5 and only if all profits derived from the sale of beer or wine are paid
6 to the organization and not to an individual.

7 (b) An application for a special events permit must be received in
8 the main office of the board at least 10 days before the date for which
9 the permit is requested. The application must be signed by both the
10 president and secretary of the organization applying for the permit. A
11 sworn affidavit showing the length of time the organization has been in
12 existence must accompany the application, together with a certified copy
13 of the resolution of the board of directors authorizing the application.
14 The written approval of the law enforcement agency having jurisdiction
15 over the designated premises of the occasion for which the permit is
16 sought must also be obtained and accompany the application.

17 (c) The special events permit must be surrendered to the board,
18 its agent, or the law enforcement agency approving the permit, within 48
19 hours of its expiration time. Failure to surrender the permit is cause,
20 in the discretion of the board, for denial of applications for permits
21 made in the future by the organization. No more than five special
22 events permits may be granted to an organization, including its auxili-
23 ary, in any one calendar year.

24 (d) A special events permit may not be transferred or renewed.

25 (e) The fee for a special events permit is \$50 a day.

26 Sec. 04.11.250. **CONDITIONAL CONTRACTOR'S PERMIT.** (a) A condi-
27 tional contractor's permit authorizes the holder to sell beer or wine
28 for consumption and sale only on designated premises for one year from
29 the date of issuance of the permit at construction sites which are

1 located outside a city and inside the boundaries of a military or naval
2 reservation.

3 (b) An applicant for a conditional contractor's permit must obtain
4 and file with the board written permission from the commanding officer
5 of the military or naval reservation and the prime contractor of the
6 remotely situated project for the conduct of the activities authorized
7 by the permit. A conditional contractor's permit may be renewed annu-
8 ally upon reapplication for a permit and may be revoked or suspended at
9 the discretion of the commanding officer or the prime contractor.

10 (c) A conditional contractor's permit may not be transferred and
11 is not valid after the completion of the holder's contract or the clos-
12 ing of the military or naval reservation.

13 (d) The annual conditional contractor's permit fee is \$600.

14 ARTICLE 3. APPLICATION FOR LICENSE OR PERMIT.

15 Sec. 04.11.260. APPLICATION FOR NEW LICENSE OR PERMIT. (a) An
16 applicant for a new license or permit shall file with the director a
17 written application, signed and sworn to by the applicant, giving his
18 name and address. If the applicant is a corporation, the application
19 shall be executed by the authorized officers of the corporation. The
20 application shall include:

21 (1) the type of license or permit desired;

22 (2) a description of the premises for which the license or
23 permit is desired, giving the address by street and number, or other
24 information, so that the location of the premises can be definitely
25 determined;

26 (3) a statement of the residency of the applicant;

27 (4) the license fee;

28 (5) the duration of the license or permit desired;

29 (6) any other information required by the board.

1 (b) A corporation applying for a license or permit shall provide
2 the names and addresses of the president, vice-president, secretary,
3 managing officer, and all stockholders who own 10 percent or more of
4 the stock in the corporation, together with any other information re-
5 quired by the board.

6 (c) An applicant for a new license or permit must include with his
7 application

8 (1) proof that notice required by AS 04.11.310 has been
9 given;

10 (2) any petitions required to be secured under AS 04.11.460
11 before a license may be issued;

12 (3) evidence of any approval by public authorities required
13 to be obtained under AS 04.11.090(e), 04.11.220(c), 04.11.230(b), 04.-
14 11.240(b), or 04.11.250(b), before a license may be issued.

15 Sec. 04.11.270. APPLICATION FOR RENEWAL OF LICENSE OR PERMIT. (a)
16 Each application for renewal of a license or renewal of a conditional
17 contractor's permit shall include:

18 (1) the information required for a new license under AS 04.-
19 11.260 except that proof of notice under AS 04.11.310 is not required;
20 and

21 (2) a list of all convictions of the applicant of violations
22 of this title, a regulation adopted under this title, or an ordinance
23 adopted under AS 04.21.010, which occurred in the preceding year.

24 (b) A license shall be renewed as follows:

25 (1) On or before November 1 of each year, the director shall
26 mail an application to renew the license to each licensee at his li-
27 censed premises or at a mailing address furnished by the licensee.

28 (2) An application to renew a license may be filed on or
29 before December 31 and shall be accompanied by the annual fee required

1 for the license. An application to renew the license may be filed after
2 December 31 and on or before February 28 if accompanied by the annual
3 fee for the license, plus a penalty equal to the annual fee or \$100,
4 whichever is less.

5 Sec. 04.11.280. APPLICATION FOR TRANSFER OF A LICENSE TO ANOTHER
6 PERSON. (a) An application for transfer of a license to another person
7 shall contain the same information about the transferee as is required
8 of an applicant for a new license under AS 04.11.260 and shall include
9 other information required by the board.

10 (b) An application for the transfer of a license to another person
11 shall be accompanied by a statement, under oath, executed by the trans-
12 feror, listing all debts of the business and all taxes due by the busi-
13 ness. The board shall promptly inform each listed creditor of the
14 application and the amount shown as owed to that creditor.

15 Sec. 04.11.290. APPLICATION FOR TRANSFER OF LICENSE LOCATION. An
16 application for a transfer of a license to a new location shall contain
17 the information required by the board and shall be accompanied by proof
18 that the notice required in AS 04.11.310 has been given and by any peti-
19 tions required to be secured under AS 04.11.460 before a license may be
20 transferred.

21 Sec. 04.11.300. STATE TROOPER INVESTIGATION. The state troopers
22 shall assist the director in the investigation of applicants for new
23 licenses and applicants for the transfer of existing licenses before the
24 applications are considered by the board.

25 Sec. 04.11.310. NOTICE OF APPLICATION. Before a new license is
26 issued, or transfer of location or transfer of a license to another
27 person is approved, the applicant must post a copy of the application
28 for 10 days at the location of the proposed licensed premises and at any
29 additional locations designated by the board. The board may require the

1 applicant (1) to provide a copy of the application to newspapers, radio
2 and television stations for public service announcement or (2) to pro-
3 vide paid notice of the application for not exceeding 30 days in a news-
4 paper, or by radio or television. The notice required in this subsec-
5 tion shall be in more than one language when the board decides it is
6 necessary.

7 ARTICLE 4. DENIAL, SUSPENSION, OR REVOCATION
8 OF LICENSES AND PERMITS.

9 Sec. 04.11.320. DENIAL OF NEW LICENSES AND PERMITS. (a) An
10 application requesting issuance of a new license shall be denied if

11 (1) the board finds, after review of all relevant informa-
12 tion, that issuance of the license would not be in the best interests of
13 the public;

14 (2) issuance of the license is prohibited by AS 04.11.390,
15 relating to residency, or AS 04.11.410, relating to location of premises
16 near churches and schools;

17 (3) the application has not been completed in accordance with
18 AS 04.11.260;

19 (4) issuing the license would violate the restrictions per-
20 taining to the particular license imposed under this title;

21 (5) issuance of the license is prohibited under this title as
22 a result of an election conducted in accordance with AS 04.11.490 or
23 04.11.500;

24 (6) the requirements of AS 04.11.420 - 04.11.450 relating to
25 zoning, ownership and location of the license, and the identity and
26 financing of a licensee have not been met;

27 (7) the authority sought under the license would duplicate
28 authority already granted under a community liquor license unless the
29 new license is to become effective after the termination of the com-

1 munity liquor license;

2 (8) issuance of the license is prohibited under AS 04.11.-
3 400(a) or prohibition of issuance is found necessary under AS 04.11.-
4 400(f);

5 (9) the application contains false statements of material
6 fact;

7 (10) the license is sought for the sale of alcoholic beverages
8 in an incorporated city in which, on June 19, 1976, there was no li-
9 censed premises, unless a local option election on the sale of alcoholic
10 beverages in the city is conducted as provided in AS 04.11.490(a).

11 (b) An application requesting issuance of a new permit shall be
12 denied if

13 (1) the board finds, after review of all relevant informa-
14 tion, that issuance of the permit would not be in the best interests of
15 the public;

16 (2) the board finds that any of the statements made in the
17 application are untrue;

18 (3) the application has not been completed in accordance with
19 AS 04.11.260;

20 (4) the permit is sought for the sale of alcoholic beverages
21 in an incorporated city in which, on June 19, 1976, there was no
22 licensed premises, unless a local option election on the sale of alco-
23 holic beverages in the city is conducted as provided in AS 04.11.490(a).

24 Sec. 04.11.330. DENIAL OF LICENSE OR PERMIT RENEWAL. (a) An
25 application requesting renewal of a license shall be denied if

26 (1) the board finds, after review of all relevant informa-
27 tion, that renewal of the license would not be in the best interests of
28 the public;

29 (2) the license has been revoked for any cause;

1 (3) the applicant has not operated the licensed premises for
2 at least 30 eight-hour days during the immediately preceding calendar
3 year, unless the board determines that the licensed premises are under
4 construction or cannot be operated through no fault of the applicant;

5 (4) the board finds that issuance of an existing license
6 issued under AS 04.11.400(g) has not encouraged tourist trade;

7 (5) the requirements of AS 04.11.420 - 04.11.450 relating to
8 zoning, ownership of the license, and financing of the licensee have not
9 been met;

10 (6) renewal of the license would violate the restrictions
11 pertaining to the particular license under this title;

12 (7) renewal of the license is prohibited under this title as
13 a result of an election conducted in accordance with AS 04.11.490 or
14 04.11.500;

15 (8) the application has not been completed in accordance with
16 AS 04.11.270.

17 (b) An application for renewal of a license may be denied if the
18 applicant is delinquent in the payment of taxes if the tax liability
19 arises in whole or in part out of the licensed business.

20 (c) An application requesting renewal of a conditional contrac-
21 tor's permit shall be denied if

22 (1) the board finds, after review of all relevant informa-
23 tion, that issuance of the permit would not be in the best interests of
24 the public;

25 (2) the application has not been completed in accordance with
26 AS 04.11.270.

27 Sec. 04.11.340. DENIAL OF TRANSFER OF LOCATION. An application
28 requesting approval of a transfer of location of licensed premises shall
29 be denied if

1 (1) the board finds, after review of all relevant informa-
2 tion, that transfer of location of the license would not be in the best
3 interests of the public;

4 (2) the transfer of location of the license is prohibited
5 under AS 04.11.400(a) or prohibition of transfer is found necessary
6 under AS 04.11.400(f);

7 (3) the license would be transferred out of the election
8 district within which it was originally issued, unless the election
9 district into which the license would be transferred is within the
10 incorporated city, organized borough or unified municipality within
11 which the license was originally issued;

12 (4) transfer of ownership is to be made concurrently with the
13 transfer of the location of the licensed premises and a ground for
14 denial of the transfer of ownership under AS 04.11.360 is presented;

15 (5) the application has not been completed in accordance with
16 AS 04.11.290;

17 (6) transfer of location of the license would result in
18 violation of a local zoning law;

19 (7) transfer of location of the license would violate the
20 restrictions pertaining to the particular license imposed by this title;

21 (8) transfer of location of the license is prohibited under
22 this title as a result of an election conducted in accordance with
23 AS 04.11.490 or 04.11.500.

24 Sec. 04.11.360. DENIAL OF TRANSFER OF A LICENSE TO ANOTHER PERSON.
25 An application requesting approval of a transfer of a license to another
26 person under this title shall be denied if

27 (1) the board finds, after review of all relevant informa-
28 tion, that transfer of a license to another person would not be in the
29 best interests of the public;

1 (2) the application has not been completed in accordance with
2 AS 04.11.280;

3 (3) the application contains false statements of material
4 fact;

5 (4) the transferor has not paid all debts or taxes arising
6 from the conduct of the business licensed under this title unless

7 (A) he gives security for the payment of the debts or
8 taxes satisfactory to the creditor or taxing authority; or

9 (B) the transfer is pursuant to a promise given as
10 collateral by the transferor to the transferee in the course of an
11 earlier transfer of the license under which promise the transferor
12 is obliged to transfer the license back to the transferee in the
13 event of default in payment for property conveyed as part of the
14 earlier transfer of the license;

15 (5) transfer of the license to another person would result in
16 violation of the provisions of this title relating to identity of li-
17 censees and financing of licensees;

18 (6) transfer of the license to another person would violate
19 the restrictions pertaining to the particular license under this title;

20 (7) transfer of the license to another person is prohibited
21 under the provisions of this title as a result of an election conducted
22 in accordance with AS 04.11.490 or 04.11.500;

23 (8) the prospective transferee does not have the qualifica-
24 tions required under this title of an original applicant.

25 Sec. 04.11.370. SUSPENSION AND REVOCATION OF LICENSES AND PERMITS.
26 A license or permit shall be suspended or revoked if the board finds
27 that one or more of the following grounds exists:

28 (1) misrepresentation of a material fact on an application
29 for a license or permit;

1 (2) continuation of activities authorized under a license or
2 permit would be contrary to the best interests of the public;

3 (3) failure on the part of the licensee to correct objection-
4 able conditions within a prescribed time after receipt of notice issued
5 by the board or its agent;

6 (4) conviction of a licensee of a violation of a provision of
7 this title, a regulation adopted under this title, or an ordinance
8 adopted under AS 04.21.010;

9 (5) conviction of the agent or employee of a licensee of a
10 violation of this title, a regulation adopted under this title, or an
11 ordinance adopted under AS 04.21.010, if the licensee is found by the
12 board to have either knowingly allowed the violation or to have reck-
13 lessly or with criminal negligence failed to act in accordance with the
14 duty prescribed under AS 04.21.030 with the result that an agent or
15 employee violates a law, regulation, or ordinance;

16 (6) failure of the licensee to comply with the laws and
17 regulations pertaining to public health in the state;

18 (7) use of the licensed premises as a resort for illegal
19 possessors or users of narcotics, prostitutes, pimps, or panderers; in
20 addition to any other legally competent evidence, the character of the
21 premises may be proved by the general reputation of the premises in the
22 community as a resort for illegal possessors or users of narcotics,
23 prostitutes, pimps, or panderers;

24 (8) occurrence of illegal gambling within the limits of the
25 licensed premises;

26 (9) occurrence of any public offense involving moral turpi-
27 tude on the licensed premises;

28 (10) violation by a licensee of this title, a regulation
29 adopted under this title, or an ordinance adopted under AS 04.21.010;

1 (11) violation by an agent or employee of a licensee of a
2 provision of this title, a regulation adopted under this title, or an
3 ordinance adopted under AS 04.21.010, if the licensee is found by the
4 board to have either knowingly allowed the violation or to have reck-
5 lessly or with criminal negligence failed to act in accordance with the
6 duty prescribed under AS 04.21.030 with the result that the agent or
7 employee violates the law, regulation, or ordinance.

8 ARTICLE 5. RESTRICTIONS ON ISSUANCE AND TRANSFER OF LICENSES.

9 Sec. 04.11.390. RESIDENCE. A beverage dispensary license or
10 package store license may not be issued to a person or association of
11 persons who have not resided in the state for at least one year before
12 the date of application. A beverage dispensary license or package store
13 license may not be issued to either a domestic corporation which has not
14 been issued a certificate of incorporation or a foreign corporation
15 which has not been issued a certificate of authority to transact busi-
16 ness in the state at least one year before the date of the application.

17 Sec. 04.11.400. POPULATION LIMITATIONS. (a) Except as provided
18 in (g) and (h) of this section, a new license may not be issued or an
19 existing license transferred to a new location

20 (1) outside an incorporated city, a unified municipality, or
21 an established village if after the issuance or transfer there would be
22 more than one license of each type for each 1,500 population or fraction
23 of 1,500 population, including licenses which have been issued under (g)
24 or (h) of this section, in a radius of five miles of the licensed prem-
25 ises or location of premises sought to be licensed;

26 (2) inside an established village, an incorporated city, or a
27 unified municipality if after the issuance or transfer there would be
28 more than one license of each type for each 1,500 population or fraction
29 of 1,500 population, including licenses which have been issued under (g)

1 or (h) of this section, inside the boundaries of the village, city or
2 unified municipality.

3 (b) If the application is for a license outside of an established
4 village, incorporated city, or unified municipality and the radius
5 described in (a)(1) of this section encompasses all of the established
6 village, incorporated city, or unified municipality and the population
7 resident inside and outside the village, city, or municipality but
8 inside the radius described in (a)(1) of this section is less than
9 1,500, the board may deny the issuance or transfer of the license.

10 (c) In this section "unified municipality" means a unified muni-
11 cipality established under AS 29.68.

12 (d) In this section "radius" means the circular area or distance
13 limited by the sweep of a straight line originating at the proposed
14 licensed premises and extending outward.

15 (e) In (a)(1) of this section, "population" includes only those
16 persons residing inside the radius but outside of an established
17 village, an incorporated city, or a unified municipality as of
18 December 31 of the year preceding the date of application.

19 (f) In (a)(2) of this section, "population" includes only those
20 persons residing inside an established village, an incorporated city, or
21 a unified municipality as of December 31 of the year preceding the date
22 of application.

23 (g) The board may, in its discretion, approve the issuance or
24 transfer of location of a beverage dispensary or restaurant or eating
25 place license without regard to (a) of this section if it appears that
26 the issuance or transfer will encourage the tourist trade by encouraging
27 the construction or improvement of

28 (1) a hotel, motel, resort, or similar business relating to
29 the tourist trade having

- 1 (A) a minimum of 10 rental rooms, and
2 (B) a dining facility, which requirement may be waived
3 if most of the rental rooms have kitchen facilities; or
4 (2) an airport terminal.
- 5 (h) A restaurant or eating place license may be issued or trans-
6 ferred notwithstanding (a) of this section if
- 7 (1) the premises of the restaurant or eating place are more
8 than 18 miles from the corporate limits of a city or unified municipali-
9 ty;
- 10 (2) the premises will serve food to the traveling public; and
11 (3) the board finds that the public convenience will be
12 served by the issuance or transfer.
- 13 (i) An application requesting a transfer of location of licensed
14 premises shall be granted notwithstanding (a) of this section if the new
15 location is less than one mile from the original location and
- 16 (1) no ground for denial exists under AS 04.11.340(1) or (3);
17 and
- 18 (2) relocation of the licensed premises is necessary due to
19 (A) termination of a lease or rental agreement;
20 (B) condemnation of the premises;
21 (C) the substantial destruction of the premises by any
22 cause.

23 Sec. 04.11.410. RESTRICTION OF LOCATION NEAR CHURCHES AND SCHOOLS.

- 24 (a) A beverage dispensary or package store license may not be issued
25 or renewed nor may the location of an existing license be transferred if
26 the licensed premises would be located in a building the public entrance
27 of which is within 200 feet of a school ground or church building,
28 measured by the shortest pedestrian route from the outer boundaries of
29 the school ground or the public entrance of a church building in which

1 religious services are regularly conducted. However, a license issued
2 before April 25, 1960 may be renewed or transferred to a person notwith-
3 standing this subsection.

4 (b) If a beverage dispensary or package store license for premises
5 located within 200 feet of a school ground or church building in which
6 religious services are regularly conducted is revoked, expires or is
7 transferred to another location, a beverage dispensary or package store
8 license may not be issued or transferred to the formerly licensed
9 premises.

10 Sec. 04.11.420. ZONING LIMITATIONS. (a) A person may not be
11 issued a license or permit in a municipality if a zoning regulation or
12 ordinance prohibits the sale or consumption of alcoholic beverages
13 unless a variance of the regulation or ordinance has been approved.

14 (b) The municipality shall inform the board of zoning regulations
15 or ordinances which prohibit the sale or consumption of alcoholic bever-
16 ages.

17 Sec. 04.11.430. PERSON AND LOCATION. Each license shall be issued
18 to a specific individual or individuals or to a corporation. If the
19 license is issued to a corporation, the registered agent of the
20 corporation must be an individual resident of the state. Except for a
21 license authorizing the sale of alcoholic beverages on a common carrier,
22 a specific location shall be indicated on the license or permit as the
23 licensed premises, the principal address of which shall be indicated on
24 the license or permit. The mailing address of a licensee or, if the
25 licensee is a corporation, the address of the registered office of the
26 corporation must be kept current and on file in the main office of the
27 board.

28 Sec. 04.11.450. PROHIBITED FINANCIAL INTEREST. (a) No person
29 other than a licensee may have a direct or indirect financial interest

1 in the business for which the license is issued.

2 (b) A person who is a representative or owner of a wholesale
3 business, brewery, winery, bottling works, or distillery may not be
4 issued, solely or together with others, a beverage dispensary license or
5 package store license.

6 (c) In this section, "direct or indirect financial interest" means
7 holding a legal or equitable interest in the operation of a business
8 licensed under this title. However, credit extended by a distiller, a
9 brewery or a winery to a wholesaler, or credit extended by a wholesaler
10 to persons licensed under this title, is not considered a financial
11 interest in a business licensed under this title.

12 (d) A license may not be leased by a licensee to another person or
13 corporation.

14 (e) For the purposes of this section, a lessor under a graduated
15 or percentage lease-rent agreement involving premises licensed under
16 this title does not hold a financial interest in the business.

17 Sec. 04.11.460. PRIOR PUBLIC APPROVAL. (a) A new license or the
18 transfer of location of an existing license may not be approved by the
19 board in an area outside but within 50 miles of the boundaries of a
20 municipality unless a petition asking that the license be issued or
21 transferred within the area containing signatures of a majority of the
22 permanent residents residing within one mile of the proposed premises is
23 filed with the board.

24 (b) A license may not be issued in an area which is 50 miles or
25 more from the boundaries of a municipality unless a petition asking that
26 the license be issued within the area containing the signatures of
27 two-thirds of the permanent residents residing within a radius of five
28 miles of the United States post office station nearest to the proposed
29 licensed premises, is filed with the board. A petition is not required

1 for the renewal of a license issued in accordance with this subsection
2 unless specifically required by the board. If

3 (1) there are two or more United States post office stations
4 in the vicinity of the proposed licensed premises, the nearest to the
5 premises constitutes the point of beginning under this subsection;

6 (2) there is no United States post office station within a
7 radius of five miles of the proposed licensed premises, the applicant
8 must obtain the signatures of two-thirds of the permanent residents
9 residing within a five mile radius of the proposed licensed premises.

10 (c) For the purposes of this section, "permanent resident" means a
11 person 19 years of age or older who has established a permanent place of
12 abode.

13 ARTICLE 6. PROCEDURES FOR PUBLIC INFLUENCE.

14 Sec. 04.11.470. OBJECTION. A person may object to an application
15 for issuance, renewal, transfer of location, or transfer to another
16 person of a license, or for issuance of a permit by serving upon the
17 applicant and the board the reasons for the objection. The board shall
18 consider the objections and testimony received at a hearing conducted
19 under AS 04.11.510(b)(2) when it considers the application, and the
20 objection and the record of the hearing conducted under AS 04.11.510-
21 (b)(2) shall be retained as part of the board's permanent record of its
22 review of the application.

23 Sec. 04.11.480. PROTEST. (a) If a local governing body wishes to
24 protest the issuance, renewal, transfer of location or transfer to
25 another person of a license, it shall furnish the board and the appli-
26 cant with a protest within 30 days of receipt from the board of notice
27 of filing of the application. The board shall consider a protest and
28 testimony received at a hearing conducted under AS 04.11.510(b)(2) or
29 (4) when it considers the application, and the protest and the record of

1 the hearing conducted under AS 04.11.510(b)(2) or (4) shall be retained
2 as part of the board's permanent record of its review of the applica-
3 tion.

4 (b) If the permanent residents residing outside of but within two
5 miles of an incorporated city or an established village wish to protest
6 the issuance, renewal, or transfer of a license within the city or
7 village, they shall file with the board a petition meeting the require-
8 ments of AS 04.11.510(b)(3) requesting a public hearing within 30 days
9 of the posting of notice required under AS 04.11.310, or by December 31
10 of the year application is made for renewal of a license. The board
11 shall consider testimony received at a hearing conducted under AS 04.-
12 11.510(b)(3) when it considers the application, and the record of a
13 hearing conducted under AS 04.11.510(b)(3) shall be retained as part of
14 the board's permanent record of its review of the application.

15 Sec. 04.11.490. LOCAL OPTION ELECTION. (a) A local governing
16 body shall, whenever 35 percent of the total number of voters at the
17 last general municipal election petition the local governing body to do
18 so, place upon a separate ballot at the next municipal election
19 whichever of the following questions is the subject of the petition:

20 (1) "Should the sale of alcoholic beverages in (name
21 of municipality) be prohibited?" (yes or no);

22 (2) "Should the sale of alcoholic beverages be prohibited in
23 (name of city) unless sold by a (either a beverage dispen-
24 sary or a package store operated under a community liquor license)?"
25 (yes or no);

26 (3) "Should the sale of alcoholic beverages be allowed in
27(name of city) if sold by (either a beverage
28 dispensary or a package store operated under a community liquor
29 license)?" (yes or no);

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(4) "Should the sale of alcoholic beverages be prohibited by
..... (either a beverage dispensary or a package store, or both)
in(name of city) unless under a community liquor license?"
(yes or no);

(5) "Should the sale of alcoholic beverages be prohibited in
..... (name of municipality) except if sold under a restaurant or
eating place license?" (yes or no).

(b) The lieutenant governor shall conduct the election, canvass
the ballots, and publish the results.

(c) When the lieutenant governor certifies that a majority of
those voting on (a)(1), (2), (3), (4) or (5) of this section have voted
"yes" on any of the questions, the lieutenant governor shall immediately
notify the board and the local governing body.

(d) When the lieutenant governor certifies to the board that a
majority of those voting are in favor of the question in (a)(1) of this
section, the board may not issue, renew, or transfer the location of any
license or permit provided for under this title within the municipality.

(e) When the lieutenant governor certifies to the board that a
majority of those voting are in favor of the question in (a)(2) of this
section, the board may not issue, renew, or transfer the location of a
license other than a community liquor license, or issue a permit within
the city. However, the board may consider the city's application for a
community liquor license and, if statutory requirements are met, may
issue the license.

(f) When the lieutenant governor certifies to the board that a
majority of those voting are in favor of the question in (a)(3) of this
section, the board may issue a community liquor license to a city which
previously prohibited the sale of alcoholic beverages if all statutory
requirements are met.

1 (g) When the lieutenant governor certifies to the board that a
2 majority of those voting are in favor of the question in (a)(4) of this
3 section, the board may not renew, transfer the location of, or issue in
4 the city the type of license prohibited by the results of the election.
5 However, the board may consider an application for a community liquor
6 license authorizing a city to sell alcoholic beverages as specified in
7 the question placed on the ballot under (a)(4) of this section. If
8 statutory requirements are met, the board may issue the community liquor
9 license.

10 (h) If the lieutenant governor certifies to the board that a
11 majority of those voting are in favor of the question in (a)(5) of this
12 section, the board may not issue, renew, or transfer the location of a
13 license or a permit other than a restaurant or eating place license in
14 the city.

15 (i) If the lieutenant governor certifies that a majority of those
16 voting are in favor of a question in (a)(1), (2), (3), (4) or (5) of
17 this section, licenses and permits which may not be renewed are void as
18 of midnight December 31 of the year the election occurred. The results
19 of an election held under this section may not result in the suspension
20 of a license during the year for which it was issued.

21 (j) After receipt of notification under (d), (e), (f), (g) or (h)
22 of this section, the board may not issue a new beverage dispensary or
23 package store license in an unincorporated area outside but within five
24 miles of the recognized boundaries of the area in which the election was
25 held, and the board may not renew or transfer the location of an exist-
26 ing beverage dispensary or package store license within that radius if
27 the board considers such action would not be in the best interests of
28 the public.

29 (k) If, after an election under this section prohibiting the sale

1 of alcoholic beverages, a majority of the voters in a subsequent elec-
2 tion conducted in accordance with (a) of this section favors the sale of
3 alcoholic beverages by private persons under one or more of the type of
4 license terminated as a result of the previous election, the board shall
5 consider all applications for licenses and may issue the number of
6 licenses of each type favored by the voters in the subsequent election
7 and which were terminated by the voters in the previous election.
8 Licenses may be issued for premises previously licensed or for other
9 premises. However, if fewer licenses would be issued if the provisions
10 prescribing the ratio of population to licensed premises in AS 04.11.-
11 400(a) are applied and the local governing body requests that AS 04.11.-
12 400(a) apply, only the number of licenses authorized under AS 04.11.-
13 400(a) may be issued. Priority shall be given applicants who were
14 formerly licensees and whose licenses were not renewed because of the
15 results of the previous election. However, these applicants have no
16 legal right to a license and the board is not required to approve the
17 application.

18 Sec. 04.11.500. LOCAL OPTION ELECTION IN UNINCORPORATED AREAS.

19 (a) When 35 percent or more of the residents who are 19 years of age
20 or older (1) having a permanent place of abode within an established
21 village where a licensed premises is situated or is to be situated and
22 (2) having a permanent place of abode within two miles of any point on
23 the circumference of the circle comprising the boundaries of that
24 village petition the board to do so, the board shall provide for a
25 special election conducted by the lieutenant governor.

26 (b) All persons eligible to sign the petition may vote in the
27 election.

28 (c) If at the election the majority of the adult residents eli-
29 gible to vote in the election under both (a)(1) and (2) of this section

1 object to the sale of alcoholic beverages, the board may not issue,
2 renew or transfer the location of a license in, into, or within the area
3 determined under this section.

4 ARTICLE 7. BOARD PROCEDURES.

5 Sec. 04.11.510. PROCEDURE FOR ACTION ON LICENSE APPLICATIONS,
6 SUSPENSIONS, AND REVOCATIONS. (a) Unless a legal action relating to
7 the license, applicant or premises to be licensed is pending, the board
8 shall decide whether to grant or deny an application within 90 days of
9 receipt of the application at the main office of the board. However,
10 the decision may not be made before the 30 days allowed for protest
11 under AS 04.11.480 have elapsed unless received by the municipality.

12 (b) The board may review an application for the issuance, renewal,
13 transfer of location, or transfer to another person, of a license with-
14 out affording the applicant notice or hearing, except

15 (1) if an application is denied, the notice of denial shall
16 be furnished the applicant immediately in writing stating the reason for
17 the denial in clear and concise language; the notice of denial shall
18 inform the applicant that he is entitled to an informal conference with
19 either the director or the board, and that, if not satisfied by the
20 informal conference, he is then entitled to a formal hearing before the
21 board; if the applicant requests a formal hearing, the board shall
22 adhere to AS 44.62.330 - 44.62.630; all interested persons may be heard
23 at the hearing and unless waived by the applicant and the board, the
24 formal hearing shall be held in the area for which the application is
25 requested;

26 (2) the board may, on its own initiative or in response to an
27 objection or protest, hold a hearing to ascertain the reaction of the
28 public or a local governing body to an application of a hearing is not
29 required under (1), (3), or (4) or this subsection;

1 (3) if a petition containing the signatures of 35 percent of
2 the adult residents having a permanent place of abode outside of but
3 within two miles of an incorporated city or an established village is
4 filed with the board, the board shall hold a public hearing on the
5 question of whether the issuance, renewal, or transfer of the license in
6 the city or village would be in the public interest;

7 (4) if a protest to the issuance, renewal, transfer of loca-
8 tion or transfer to another person of a license made by a local govern-
9 ing body is based on a question of law, the board shall hold a public
10 hearing.

11 (c) Unless the grounds for the suspension or revocation are under
12 AS 04.11.370(4), board proceedings to suspend or revoke a license shall
13 be conducted in accordance with AS 44.62.330 - 44.62.630 (Administrative
14 Procedure Act), except that the licensee is entitled to an opportunity
15 to informally confer with the director or the board within 10 days after
16 the accusation is served upon him. Notice of the opportunity for an
17 informal conference shall be served upon the licensee along with the
18 accusation. If an informal conference is requested, the running of the
19 period of time specified in AS 44.62.380 for filing a notice of defense
20 is tolled from the date of receipt of the request for the conference
21 until the day following the date of the conference unless extended by
22 the board. After the conference, the licensee, if not satisfied by the
23 results of the conference, may obtain a hearing by filing a notice of
24 defense as provided in AS 44.62.390. If the grounds for suspension or
25 revocation are under AS 04.11.370(4), the licensee is not entitled to
26 notice and hearing under AS 44.62.330 - 44.62.630 on the merits of the
27 suspension or revocation. However, the board shall afford the licensee
28 notice and hearing on the issue of what administrative sanction to
29 impose under AS 04.16.180.

1 Sec. 04.11.520. NOTICE. After receipt of an application from
2 within (1) an established village, (2) an incorporated city, (3) an
3 organized borough, or (4) a unified municipality, the board shall trans-
4 mit written notice to the local governing body within 10 days so that
5 the local governing body may protest under AS 04.11.480.

6 Sec. 04.11.530. CONSIDERATION OF REPORTS. A license may not be
7 suspended or revoked under AS 04.11.370(4) or (5) unless the board takes
8 into consideration the reports prepared by arresting and investigating
9 officers and the sentencing report sent to the board under AS 12.55.-
10 025(b).

11 Sec. 04.11.535. SUSPENSION AND REVOCATION BASED ON ACTS OF EM-
12 PLOYEES. (a) If, in a proceeding to suspend or revoke a license under
13 AS 04.11.370(5), the board finds that a sentencing report sent to the
14 board under AS 12.55.025(b), or reports prepared by the investigating or
15 arresting officers in connection with the violation, contain information
16 which if uncontradicted or unexplained would provide a basis for sus-
17 pension or revocation under AS 04.11.370(5), the licensee has the burden
18 of proof to establish that he neither knowingly allowed the violation
19 nor recklessly or with criminal negligence failed to act in accordance
20 with the duty prescribed under AS 04.21.030, thereby resulting in the
21 unlawful action.

22 (b) If the board suspends or revokes a license on grounds that a
23 licensee knowingly allowed or recklessly or with criminal negligence
24 failed to act in accordance with the duty prescribed under AS 04.21.030
25 resulting in unlawful action of an agent or employee, the board shall
26 file a criminal complaint charging the licensee with violation of AS
27 04.16.150.

28 Sec. 04.11.537. APPLICATION OF PRECEDENT. In determining whether
29 issuance, renewal, transfer, suspension, or revocation of a license is

1 in the best interests of the public, the board need not conform to or
2 distinguish its decision from any action it has taken in the past on
3 applications presenting similar facts, but may instead base its decision
4 only on the particular facts before it.

5 ARTICLE 8. EXPIRATION OF LICENSES.

6 Sec. 04.11.540. LICENSE RENEWAL AND EXPIRATION. Notwithstanding
7 AS 04.11.680, an application for renewal of a license issued for the
8 calendar year ending December 31 or issued for a six-month period ending
9 in the previous year may be submitted up until the next February 28 but
10 the authority granted under the license may not be exercised until the
11 license is renewed. If the application for renewal and applicable
12 affidavits have not been filed by February 28 or the required fees and
13 the penalty fees have not been paid by that date, the license expires at
14 12:00 midnight February 28. A new license may not be issued to the
15 holder of an expired license for the same premises except on proof
16 satisfactory to the board of good cause for the failure to file and pay.

17 Sec. 04.11.550. NOTICE OF EXPIRATION. On or before February 15,
18 the director shall mail a notice of expiration to each licensee who has
19 not either (1) filed an application to renew his license, along with any
20 applicable affidavits and all fees due, or (2) notified the director of
21 his intent not to do so. Failure of the director to mail this notice of
22 expiration does not waive the requirement that the application for
23 renewal be filed by February 28.

24 ARTICLE 9. MISCELLANEOUS PROVISIONS.

25 Sec. 04.11.560. APPEALS. (a) An action of an officer, employee
26 or agent of the board relating to the administration or enforcement of
27 this title may be appealed to the board by the aggrieved party.

28 (b) A decision by the board relating to the issuance, renewal,
29 transfer, suspension, or revocation of a license under this title may be

1 appealed to the superior court under AS 44.62.560.

2 Sec. 04.11.570. REFUND AND FORFEITURE OF FEES. (a) If an appli-
3 cation for a license is denied, the board shall refund the license fee
4 less the application fee.

5 (b) A license fee may not be refunded after the license has been
6 issued unless the board determines it has erred in the issuance through
7 no fault of the applicant.

8 (c) If a license is revoked on grounds that statements made in the
9 application are untrue, the license fee paid by the applicant is for-
10 feited to the state.

11 Sec. 04.11.580. SURRENDER OR DESTRUCTION OF LICENSE. (a) A
12 license issued under this title shall, if the board so directs, be sur-
13 rendered on demand to a peace officer, agent, or officer of the board.

14 (b) The licensee shall surrender his current license to the board
15 within 10 days after the loss or vacation of his licensed premises.

16 (c) If the license is destroyed, the licensee shall so notify the
17 board.

18 Sec. 04.11.590. DISPOSITION OF FUNDS. (a) Money collected from
19 licenses under this title shall be transferred by the board to the
20 Department of Revenue and deposited in the general fund.

21 (b) A fee prescribed by the board in addition to fees authorized
22 under this title shall be transferred to the Department of Revenue and
23 deposited in the general fund.

24 Sec. 04.11.610. REFUND TO MUNICIPALITIES. (a) Annual license
25 fees, excluding annual wholesale license fees, collected within a mu-
26 nicipality shall be refunded semi-annually to the municipality.

27 (b) If the officers of a municipality fail to actively enforce
28 local ordinances, laws of the United States and the state, and the
29 regulations relating to the manufacture and sale of alcoholic beverages

1 in the state, the commissioner of revenue may deny the refund provided
2 for under (a) of this section until the board finds the enforcement of
3 the ordinances, laws and regulations is resumed.

4 (c) The Department of Revenue shall recover any amounts errone-
5 ously refunded under (a) of this section. The Department of Revenue
6 shall schedule repayments of erroneously refunded amounts over a suffi-
7 cient period of time to minimize financial hardship to the municipality
8 involved.

9 Sec. 04.11.630. ACCESSIBILITY OF LICENSE AND LICENSED PREMISES TO
10 INSPECTION. (a) A licensee shall, upon request, make his licensed pre-
11 mises and places authorized for storage under AS 04.21.060 available for
12 inspection by officers charged with the enforcement of this title,
13 including members of the board and the director or his employee, during
14 all regular business hours.

15 (b) A license issued under this title shall be posted within the
16 licensed premises so as to be easily available for inspection upon
17 request by a peace officer or other person during regular business
18 hours.

19 Sec. 04.11.660. LICENSE A PRIVILEGE. (a) A license issued under
20 this title is a personal privilege, not a property right.

21 (b) The privilege conferred upon the licensee is personal in
22 nature and affords protection to the licensee only.

23 Sec. 04.11.670. FORECLOSURE. A license issued under this title is
24 not subject to foreclosure, and may not be used as collateral to secure
25 a debt. However, if a license is transferred to another person, the
26 transferor may secure payment for real and personal property conveyed to
27 the transferee upon the promise of the transferee to transfer the
28 license back to the transferor upon default in payment.

29 Sec. 04.11.680. DURATION OF LICENSES AND PERMITS. (a) Upon

1 application and payment of one-half of the annual fees, the board may
2 issue a license for a continuous six-month period. Otherwise, all
3 licenses issued under this title other than a retail stock sale license
4 shall be issued for the calendar year ending December 31, unless a
5 shorter period is prescribed by the board.

6 (b) A permit issued under this title shall be for the period
7 prescribed by the board, which period shall be clearly designated on the
8 permit.

9 Sec. 04.11.690. DISCOURAGEMENT OF MONOPOLIES. (a) In a general
10 sense, it is against the public interest that the issuance, renewal or
11 transfer of licenses issued under this title will create, or assist in
12 the creation of, a monopoly.

13 (b) The board may submit proposals to the governor and the legis-
14 lature addressed to the discouragement of the creation of monopolies.

15 (c) The board may not by regulation adopt a definition of a mono-
16 poly.

17 * Sec. 3. AS 04 is amended by adding a new chapter to read:

18 CHAPTER 16. REGULATION OF SALES AND DISTRIBUTION.

19 ARTICLE 1. PROHIBITED ACTS.

20 Sec. 04.16.010. HOURS OF SALE AND PRESENCE ON LICENSED PREMISES
21 (STANDARD CLOSING HOURS). (a) A person may not sell, offer for sale,
22 give, furnish, deliver or consume an alcoholic beverage on premises
23 licensed under this title between the hours of 5:00 a.m. and 8:00 a.m.
24 each day.

25 (b) A licensee, his agent, or employee may not permit a person to
26 consume alcoholic beverages on the licensed premises between the hours
27 of 5:00 a.m. and 8:00 a.m. each day.

28 (c) A licensee, his agent, or employee may not permit a person to
29 and a person may not enter premises licensed under this title between

1 the hours of 5:00 a.m. and 8:00 a.m. each day. This subsection does not
2 apply to common carriers, as defined in AS 42.10.420(2), or to an em-
3 ployee of the licensee who is on the premises to prepare for the next
4 day's business or to persons remaining on the premises of a restaurant
5 or eating place licensed under this title to consume food or nonalco-
6 holic beverages.

7 (d) A municipality may provide for additional hours of closure
8 under AS 04.21.010.

9 Sec. 04.16.020. SOLICITATION OF ALCOHOLIC BEVERAGES. (a) A
10 person may not pay or receive from another a salary, percentage or
11 commission to solicit or encourage a patron of licensed premises to
12 purchase alcoholic or other beverages for consumption by a person other
13 than the patron.

14 (b) A licensee, his agent, or employee may not knowingly permit a
15 person to loiter within or about premises licensed under this title for
16 the purpose of begging or soliciting a patron or visitor to purchase
17 alcoholic or other beverages for the person who is begging or solicit-
18 ing.

19 Sec. 04.16.030. SALE OR DISPOSITION OF ALCOHOLIC BEVERAGES TO
20 DRUNKEN PERSONS. A licensee, his agent, or employee may not with cri-
21 minal negligence

22 (1) sell, give, or barter alcoholic beverages to a drunken
23 person;

24 (2) allow another person to sell, give, or barter an alco-
25 holic beverage to a drunken person within a licensed premises;

26 (3) allow a drunken person to enter and remain within li-
27 censed premises or to consume an alcoholic beverage within a licensed
28 premises;

29 (4) permit a drunken person to sell or serve alcoholic bever-

1 ages.

2 Sec. 04.16.040. ACCESS OF DRUNKEN PERSONS TO LICENSED PREMISES. A
3 drunken person may not knowingly enter or remain on premises licensed
4 under this title.

5 Sec. 04.16.041. OBLIGATION TO ENFORCE RESTRICTIONS IN LICENSED
6 PREMISES. A licensee, his agent or employee may not permit the consump-
7 tion of alcoholic beverages by any person within licensed premises
8 unless it is permitted by the license.

9 Sec. 04.16.049. ACCESS OF PERSONS UNDER THE AGE OF 19 TO LICENSED
10 PREMISES. (a) A person under the age of 19 years may not knowingly
11 enter or remain in premises licensed under this title unless

12 (1) accompanied by a parent, guardian or spouse who has at-
13 tained the age of 19 years;

14 (2) accompanied by a person over the age of 19 years and with
15 the consent of the person's parent or guardian if the premises are
16 licensed as a restaurant or eating place and the persons enter and
17 remain only for dining.

18 (b) Notwithstanding (a) of this section, a licensee, his agent, or
19 employee may refuse entry to a person under the age of 19 years to that
20 part of licensed premises in which alcoholic beverages are sold, served
21 or consumed, may refuse service to a person under the age of 19 years,
22 or may require a person under the age of 19 years to leave the portion
23 of the licensed premises in which alcoholic beverages are sold, served,
24 or consumed.

25 (c) Notwithstanding this section, a person between 16 and 19 years
26 of age may enter and remain within the licensed premises of a hotel,
27 restaurant, or eating place in the course of his employment if (1) the
28 employment does not involve the serving, mixing, delivering, or dis-
29 pensing of alcoholic beverages; (2) the person has the written consent

1 of a parent or guardian; and (3) an exemption from the prohibition of
2 AS 23.10.355 is granted by the Department of Labor. The board, with the
3 approval of the governing body having jurisdiction and at the licensee's
4 request, shall designate which premises are hotels, restaurants or
5 eating places for the purposes of this subsection.

6 Sec. 04.16.050. POSSESSION OR CONSUMPTION BY PERSONS UNDER THE AGE
7 OF 19. A person under the age of 19 years may not knowingly consume,
8 possess, or control alcoholic beverages except those furnished persons
9 under AS 04.16.051(b).

10 Sec. 04.16.051. FURNISHING OF ALCOHOLIC BEVERAGES TO PERSONS UNDER
11 THE AGE OF 19. (a) No person may furnish an alcoholic beverage to a
12 person under the age of 19 years.

13 (b) This section does not prohibit the furnishing of an alcoholic
14 beverage

15 (1) by a parent to his child, by a guardian to his ward, or
16 by a spouse to his or her legal spouse if the furnishing occurs off
17 licensed premises; or

18 (2) by a licensed physician or nurse to a patient in the
19 course of administering medical treatment.

20 (c) Acts unlawful under AS 11.51.130 are not made legal by (b) of
21 this section.

22 Sec. 04.16.052. FURNISHING OF ALCOHOLIC BEVERAGES TO PERSONS UNDER
23 THE AGE OF 19 BY LICENSEES. A licensee, his agent, or employee may not
24 with criminal negligence

25 (1) allow another person to sell, barter, or give an alco-
26 holic beverage to a person under the age of 19 years within a licensed
27 premises;

28 (2) allow a person under the age of 19 years to enter and
29 remain within licensed premises except as provided in AS 04.16.049(c);

1 (3) allow a person under the age of 19 years to consume an
2 alcoholic beverage within a licensed premises;

3 (4) allow a person under the age of 19 years to sell or serve
4 alcoholic beverages.

5 Sec. 04.16.060. PURCHASE BY PERSONS UNDER THE AGE OF 19. (a) A
6 person under the age of 19 years may not purchase alcoholic beverages or
7 solicit another to purchase alcoholic beverages on his behalf.

8 (b) A person may not influence the sale, gift, or service of an
9 alcoholic beverage to a person under the age of 19 years, by misrepresenting
10 the age of that person.

11 (c) A person may not order or receive an alcoholic beverage from a
12 licensee, his agent, employee, or another person, for the purpose of
13 selling, giving, or serving it to a person under the age of 19 years.

14 (d) A person under the age of 19 years may not enter licensed
15 premises where alcoholic beverages are sold and offer or present to a
16 licensee, his agent, or employee a birth certificate or other written
17 evidence of age, which is fraudulent or false or which is not actually
18 his own, or otherwise misrepresent his age, for the purpose of inducing
19 the licensee, his agent, or employee to sell, give, serve, or furnish
20 alcoholic beverages contrary to law.

21 (e) A person who has attained the age of 19 years accompanying a
22 person under the age of 19 who is seeking to enter and remain in a
23 licensed premises under AS 04.16.049(a)(2) may not misrepresent having
24 obtained the consent of the parent or guardian of the person under the
25 age of 19 years.

26 Sec. 04.16.070. SALES ON ELECTION DAY. (a) It is unlawful to
27 sell, barter, give, consume, or dispose of alcoholic beverages within
28 licensed premises

29 (1) in the state on a day on which a statewide special,

1 primary, or general election is held for the purpose of voting for a
2 candidate for public office, until the polls have closed;

3 (2) in a municipality on a day on which a local option elec-
4 tion or an election is held for the purpose of voting for a candidate
5 for public office, until the polls are closed.

6 (b) The governing body of a municipality may provide by ordinance
7 that the provisions of this section do not apply in a municipality.

8 Sec. 04.16.080. SALES OR CONSUMPTION AT SCHOOL EVENTS. It is
9 unlawful to sell or consume alcoholic beverages during a school event at
10 the site of the event.

11 Sec. 04.16.090. PROHIBITION OF BOTTLE CLUBS. (a) A person may
12 not maintain a place in which alcoholic beverages are received or kept,
13 or to which alcoholic beverages are brought, for consumption by members
14 of the public or by members of a club, corporation, or association,
15 unless the person is authorized to do so under this title.

16 (b) A person may not maintain, operate, or lease premises for the
17 purpose of providing, for a consideration, a place for drinking alco-
18 holic beverages by members of the public or other persons, unless the
19 person is authorized to do so under this title.

20 (c) For the purposes of this section, "consideration" includes but
21 is not limited to cover charge, the sale of food, ice, mixers, or other
22 liquids used with alcoholic beverage drinks, or the furnishing of glass-
23 ware or other containers for use in the consumption of alcoholic bever-
24 ages.

25 Sec. 04.16.100. RESTRICTION ON SIZE OF CONTAINERS. A person may
26 not sell alcoholic beverages in 1/6 gallon or 1/10 gallon containers,
27 nor may a person sell alcoholic beverages in a container deceptively
28 similar in appearance to a container of a different volume. This
29 section does not apply to 1/10 gallon or 1/6 gallon containers sold in

1 the state before August 15, 1962.

2 Sec. 04.16.110. SALE OF POWDERED ALCOHOL PROHIBITED. No substance
3 having alcoholic content and intended for human consumption may be sold
4 in the state unless in liquid form.

5 Sec. 04.16.120. REMOVAL OR INTRODUCTION OF ALCOHOLIC BEVERAGES.

6 (a) A person may not remove from a licensed premises alcoholic bever-
7 ages which have been sold or furnished for consumption only on the
8 premises.

9 (b) A person may not bring an alcoholic beverage into licensed
10 premises for use or consumption by himself or another person on the
11 premises unless that person is a licensee, his agent, employee, or
12 common carrier in the regular course of employment.

13 Sec. 04.16.130. STOCK CONFINED TO LICENSED PREMISES. (a) Unless
14 authorized under AS 04.21.060, a licensee may not store before sale any
15 alcoholic beverages elsewhere than on the premises indicated on his
16 license.

17 (b) This section does not apply to stocks of beer carried on a
18 delivery truck by a licensed wholesaler if carried for the purpose of
19 sale and delivery to persons licensed under this title in quantities of
20 not less than 10 wine gallons for each sale.

21 Sec. 04.16.140. SALE OR CONSUMPTION OF ALCOHOLIC BEVERAGES IN A
22 WAREHOUSE. Alcoholic beverages may not be sold or consumed on premises
23 approved for storage under AS 04.21.060.

24 Sec. 04.16.150. LICENSEE RESPONSIBLE FOR VIOLATIONS. A licensee
25 may neither knowingly allow his agents or employees to violate this
26 title or regulations adopted under this title nor recklessly or with
27 criminal negligence fail to act in accordance with the duty prescribed
28 under AS 04.21.030 with the result that an agent or employee of the
29 licensee violates a law or regulation.

1 Sec. 04.16.170. SOURCE OF ALCOHOLIC BEVERAGES. (a) Alcoholic
2 beverages for consumption by the purchaser may not be sold unless ob-
3 tained from a person licensed under this title.

4 (b) A person transporting alcoholic beverages into the state may
5 not sell those alcoholic beverages to a person not licensed under this
6 title, unless the alcoholic beverages are used for religious, industrial,
7 pharmaceutical, or medical purposes.

8 Sec. 04.16.175. FURNISHING ALCOHOLIC BEVERAGES IN AID OF GAMBLING
9 ENTERPRISE. An agent or employee of a gambling enterprise as defined by
10 AS 11.66.280(4) may not furnish an alcoholic beverage to a player as
11 defined by AS 11.66.280(6).

12 ARTICLE 2. PENALTIES AND FORFEITURES.

13 Sec. 04.16.180. PENALTIES FOR VIOLATION. (a) Except as provided
14 in AS 04.16.200 - 04.16.210, a person who violates a provision of this
15 title or a regulation adopted by the board is guilty upon conviction of
16 a class A misdemeanor. Each violation is a separate offense.

17 (b) A suspension or revocation of a license ordered by the board
18 under AS 04.11.370(4) and (5) shall be as follows:

19 (1) On first conviction: the license of the premises involved
20 may not be revoked, but may be suspended for not more than 45 days.

21 (2) On second conviction: the license of the premises in-
22 volved may not be revoked, but may be suspended for not more than 90
23 days.

24 (3) On third conviction: the license of the premises involved
25 may be suspended or revoked.

26 (c) In this section, the terms "second conviction" and "third
27 conviction" include only convictions for violations which occur within
28 five years of the first conviction. The terms refer to the cumulative
29 number of convictions of a licensee of any combination of violations of

1 the provisions of this title, regulations adopted under this title, or
2 ordinances adopted under AS 04.21.010. The terms "second conviction"
3 and "third conviction" include a conviction of the agent or employee of
4 a licensee of a violation of a law, regulation, or ordinance if the
5 conviction constitutes a ground for suspension or revocation under
6 AS 04.11.370(5).

7 (d) This section does not affect the authority of the board to
8 suspend or revoke a license when the board determines that continuance
9 of activities under a license would not be in the best interests of the
10 public.

11 Sec. 04.16.200. UNLICENSED PERSONS. (a) A person who violates
12 AS 04.11.010 is upon conviction guilty of a class A misdemeanor.

13 (b) A person who violates AS 04.11.010 in an area where the re-
14 sults of a local option election have, under AS 04.11.490(d), prohibited
15 the board from issuing, renewing or transferring any licenses or permits
16 under this title in the area is upon conviction guilty of a class C
17 felony, if

18 (1) he has previously been convicted of a violation of
19 AS 04.11.010;

20 (2) he has engaged in conduct demonstrating an intent to sell
21 or offer for sale alcoholic beverages to more than one person; or

22 (3) the sale or offer for sale was made to a person under 19
23 years of age.

24 (c) It is an affirmative defense to a prosecution under this
25 section that no profit was involved in the solicitation or receipt of an
26 order for the delivery of an alcoholic beverage.

27 (d) For a conviction under (a) of this section for a violation of
28 AS 04.11.010 in an area where the results of a local option election
29 have, under AS 04.11.490(d), prohibited the board from issuing, renewing

1 or transferring any licenses or permits under this title in the area,
2 the court shall impose a minimum sentence of imprisonment of not less
3 than 10 consecutive days. The execution of the sentence may not be
4 suspended and probation or parole may not be granted until the minimum
5 imprisonment provided in this subsection has been served. Imposition of
6 sentence may not be suspended except upon the condition that the defen-
7 dant be imprisoned for no less than the minimum period provided in this
8 subsection.

9 Sec. 04.16.210. PENALTY FOR MAKING FALSE STATEMENT. If a false
10 statement is made in an application under AS 04.11.260, the applicant is
11 guilty of perjury and, upon conviction, is subject to the penalty pro-
12 vided by law for the crime of perjury under AS 11.56.200.

13 Sec. 04.16.220. FORFEITURES. (a) The following are subject to
14 forfeiture:

15 (1) alcoholic beverages manufactured, sold, offered for sale
16 or possessed for sale, bartered or exchanged for goods and services in
17 this state in violation of AS 04.11.010; alcoholic beverages stocked,
18 warehoused, or otherwise stored in violation of AS 04.21.060; alcoholic
19 beverages sold or offered for sale in an area where a local option
20 election has made the sale illegal; alcoholic beverages transported into
21 the state and sold to persons not licensed under this chapter in viola-
22 tion of AS 04.16.170(b);

23 (2) materials and equipment used in the manufacture, sale,
24 possession for sale, barter or exchange of alcoholic beverages for goods
25 and services in this state in violation of AS 04.11.010; materials and
26 equipment used in the stocking, warehousing, or storage of alcoholic
27 beverages in violation of AS 04.21.060; materials and equipment used in
28 the sale or offering for sale of an alcoholic beverage in an area where
29 a local option election has made the sale illegal;

1 (3) aircraft, vehicles, or vessels used to transport, or
2 facilitate the transportation of

3 (A) alcoholic beverages manufactured, sold, offered for
4 sale or possessed for sale, bartered or exchanged for goods and
5 services in this state in violation of AS 04.11.010;

6 (B) property stocked, warehoused, or otherwise stored in
7 violation of AS 04.21.060;

8 (C) alcoholic beverages sold or offered for sale in an
9 area where a local option election has made these sales illegal;

10 (4) alcoholic beverages found on licensed premises which do
11 not bear federal excise stamps if excise stamps are required under
12 federal law;

13 (5) alcoholic beverages, materials or equipment used in
14 violation of AS 04.16.175.

15 (b) Property subject to forfeiture under this section may be
16 actually or constructively seized under an order issued by the superior
17 court upon a showing of probable cause that the property is subject to
18 forfeiture under this section. Constructive seizure is effected upon
19 posting a signed notice of seizure on the item to be forfeited, stating
20 the violation and the date and place of seizure. Seizure without a
21 court order may be made if

22 (1) the seizure is incident to a valid arrest or search;

23 (2) the property subject to seizure is the subject of a prior
24 judgment in favor of the state; or

25 (3) there is probable cause to believe that the property is
26 subject to forfeiture under (a) of this section; property seized under
27 this paragraph may not be held over 48 hours or until an order of for-
28 feiture is issued by the court, whichever is earlier.

29 (c) Within 30 days of a seizure under this section the Department

1 of Public Safety shall make reasonable efforts to ascertain the identity
2 and whereabouts of any person holding an interest or an assignee of a
3 person holding an interest in the property seized, including a right to
4 possession, a lien, mortgage, or conditional sales contract. The
5 Department of Public Safety shall notify the person ascertained to have
6 an interest in property seized of the impending forfeiture, and before
7 forfeiture the Department of Law shall publish, once a week for four
8 consecutive calendar weeks, a notice of the impending forfeiture in a
9 newspaper of general circulation in the judicial district in which the
10 seizure was made, or if no newspaper is published in that judicial
11 district, in a newspaper published in the state and distributed in that
12 judicial district.

13 (d) Property subject to forfeiture under (a) of this section may
14 be forfeited

15 (1) upon conviction of a person under AS 04.11.010, AS 04.-
16 16.190 or AS 04.21.060;

17 (2) upon judgment by the superior court in a proceeding in
18 rem that the property was used in a manner subjecting it to forfeiture
19 under (a) of this section.

20 (e) The owner of property subject to forfeiture under (a) of this
21 section is entitled to relief from the forfeiture in the nature of
22 remission of the forfeiture if in an action under (d) of this section
23 the owner shows that he was not a party to the violation and had no
24 actual knowledge that the property was used or was to be used in viola-
25 tion of the law.

26 (f) A person, other than the owner, holding or the assignee of a
27 lien, mortgage, conditional sales contract on, or the right to posses-
28 sion to property subject to forfeiture under (a) of this section is
29 entitled to relief from the forfeiture in the nature of remission of the

1 forfeiture if in an action under (d) of this section the person shows
2 that he was not a party to the violation subjecting the property to
3 forfeiture and had no actual knowledge that the property was used or was
4 to be used in violation of the law.

5 (g) It is no defense in an in rem forfeiture action brought by the
6 Department of Law under (d)(2) of this section that a criminal proceed-
7 ing is pending or has resulted in conviction or acquittal of a person
8 charged with violating AS 04.11.010, AS 04.16.190, or AS 04.21.060.

9 (h) Property forfeited under this section shall be placed in the
10 custody of the commissioner of public safety for disposition according
11 to an order entered by the court. The court shall order destroyed any
12 property forfeited under this section which is harmful to the public.
13 Other property shall be ordered sold and the proceeds used for payment
14 of expenses of the proceedings for forfeiture and sale, including
15 expenses of seizure, custody and court costs. The remainder of the
16 proceeds shall be deposited in the general fund.

17 * Sec. 4. AS 04 is amended by adding a new chapter to read:

18 CHAPTER 21. GENERAL PROVISIONS.

19 Sec. 04.21.010. MUNICIPAL REGULATION. (a) A municipality may
20 adopt those ordinances governing the sale, barter, consumption, and
21 possession of alcoholic beverages within its boundaries which are neces-
22 sary to the orderly conduct of the business of selling alcoholic bever-
23 ages. The ordinance must be consistent with this title and the regu-
24 lations adopted under this title.

25 (b) A municipality may impose no taxes on alcoholic beverages
26 except (1) property taxes on alcoholic beverage inventories and (2)
27 sales taxes on alcoholic beverage sales if levied on other property or
28 sales within the municipality.

29 Sec. 04.21.020. LIMITATION ON CIVIL LIABILITY. A licensee, or the

1 employee or agent of a licensee, who furnishes an alcoholic beverage to
2 an individual on premises licensed under this title may not be held
3 civilly liable for injuries resulting from the intoxication of that
4 individual unless the furnishing of alcoholic beverages occurred in
5 violation of AS 04.16.030, 04.16.051, or 04.16.052.

6 Sec. 04.21.030. RESPONSIBILITY OF LICENSEES, AGENTS AND EMPLOYEES.

7 The licensee has a duty to exercise that degree of care which a reason-
8 able person would observe to insure that a business under his control is
9 lawfully conducted. This duty of the licensee includes, but is not
10 limited to,

11 (1) insuring the compliance by agents or employees with this
12 title and regulations adopted under this title, including acting with
13 reasonable diligence to determine that his agents or employees are
14 advised of the provisions of this title and the regulations adopted
15 under this title, either by securing the agent's or employee's written
16 acknowledgement of posted instructions or otherwise; and

17 (2) insuring the compliance of the premises with public
18 health, fire, and safety codes and ordinances of the state or munici-
19 pality having jurisdiction.

20 Sec. 04.21.040. SALES ON FEDERAL RESERVATIONS. (a) A wholesaler
21 of alcoholic beverages may sell alcoholic beverages to a person who does
22 not have a license under this title who has a fixed place of business on
23 land in the state maintained by the United States government as a mili-
24 tary or naval reservation, a national park, or other federal reserva-
25 tion. A sale may be made under this section only if the purchaser is a
26 ship's service store, officers club, officers mess, post exchange, or
27 similar organization. The wholesaler may deliver alcoholic beverages
28 only to persons specified and at places designated in a written order
29 issued by the federal organization for which the purchase is made. A

1 licensee making sales and deliveries under this section shall keep the
2 original order attached to the copy of the invoice on file at his prem-
3 ises.

4 (b) Alcoholic beverages received on federal reservations under
5 this section may not be removed for use outside the federal reservation.

6 (c) A wholesaler who sells alcoholic beverages on a federal reser-
7 vation under this section shall pay the state excise tax imposed by
8 AS 43.60.010 on the alcoholic beverages sold and may subsequently claim
9 credit for the excise taxes paid if the sale is made to an organization
10 which is an instrumentality of the federal government.

11 Sec. 04.21.050. PROOF OF AGE. (a) If a licensee, or an agent or
12 employee of the licensee questions or has reason to question whether a
13 person entering a licensed premises, or ordering, purchasing, attempting
14 to purchase, or otherwise procuring or attempting to procure alcoholic
15 beverages has attained the age of 19 years, that licensee, agent, or
16 employee shall require the person to furnish proof of age acceptable
17 under (b) of this section. If the person questioned does not furnish
18 proof of age acceptable under (b) of this section, or if a licensee,
19 agent, or employee questions or has reason to question the validity of
20 the proof of age furnished, the licensee, employee or agent shall re-
21 quire the person to sign a statement that he is over the age of 19
22 years. This statement shall be made upon a form prepared by and furn-
23 ished to the licensee by the board.

24 (b) A valid driver's license or a valid identification card is
25 acceptable as proof of age when used for identification in the purchase
26 of alcoholic beverages and for securing entry to and remaining on pre-
27 mises where alcoholic beverages are sold if the license or identifica-
28 tion card is made of or encased in plastic and contains a photograph of
29 the licensee or card holder and a statement of his age or date of birth.

1 (c) A licensee, or an agent or employee of the licensee, may not
2 be charged for a violation of AS 04.16.051 - 04.16.052 if a signed
3 statement as provided in (b) of this section is secured in good faith,
4 or a valid driver's license or identification card is presented indi-
5 cating that the owner and possessor of the presented driver's license or
6 identification card is 19 years of age or over.

7 Sec. 04.21.060. WAREHOUSING OF ALCOHOLIC BEVERAGES. A licensee
8 may stock, warehouse, or otherwise store alcoholic beverages in a place
9 elsewhere than premises indicated on his license if

10 (1) the premises to be used for storage are inspected and
11 approved by the board before their use;

12 (2) the use of the premises for storage is authorized by
13 local zoning ordinances; and

14 (3) the premises are accessible for inspection as provided in
15 AS 04.11.630.

16 Sec. 04.21.070. ENFORCEMENT. Peace officers shall investigate and
17 report to the board violations of this title.

18 Sec. 04.21.080. DEFINITIONS. (a) In this title

19 (1) a person acts with "criminal negligence" with respect to
20 a result or to a circumstance described by a provision of law defining
21 an offense when he fails to perceive a substantial and unjustifiable
22 risk that the result will occur or that the circumstance exists; the
23 risk must be of such a nature and degree that the failure to perceive it
24 constitutes a gross deviation from the standard of care that a reason-
25 able person would observe in the situation;

26 (2) a person acts "knowingly" with respect to conduct or to a
27 circumstance described by a provision of law defining an offense when he
28 is aware that his conduct is of that nature or that the circumstance
29 exists; when knowledge of the existence of a particular fact is an

1 element of an offense, that knowledge is established if a person is
2 aware of a substantial probability of its existence, unless he actually
3 believes it does not exist; a person who is unaware of conduct or a
4 circumstance of which he would have been aware had he not been intoxi-
5 cated acts knowingly with respect to that conduct or circumstance;

6 (3) a person acts "recklessly" with respect to a result or to
7 a circumstance described by a provision of law defining an offense when
8 he is aware of and consciously disregards a substantial and unjusti-
9 fiable risk that the result will occur or that the circumstance exists;
10 the risk must be of such a nature and degree that disregard of it con-
11 stitutes a gross deviation from the standard of conduct that a reason-
12 able person would observe in the situation; a person who is unaware of a
13 risk of which he would have been aware had he not been intoxicated acts
14 recklessly with respect to that risk.

15 (b) In this title

16 (1) "alcoholic beverage" includes, but is not limited to,
17 whiskey, brandy, rum, gin, wine, ale, porter, beer, and all other spiri-
18 tous, vinous, malt and other fermented or distilled liquors intended for
19 human consumption and containing more than one per cent alcohol by
20 volume;

21 (2) "board" means the Alcoholic Beverage Control Board;

22 (3) "designated premises" means any or all designated por-
23 tions of a building or structure, rooms or enclosures in the building or
24 structure, or real estate leased, used, controlled, or operated by a
25 licensee for the purpose for which the permit is issued by the board at
26 the location of the site for which the permit is issued;

27 (4) "director" means the director of the Alcoholic Beverage
28 Control Board;

29 (5) "drunken person" means a person whose physical or mental

1 conduct is substantially impaired as a result of the introduction of an
2 alcoholic beverage into his body and who exhibits those plain and easily
3 observed or discovered outward manifestations of behavior commonly known
4 to be produced by the use of alcoholic beverages;

5 (6) "established village" means an unincorporated area that

6 (A) is within the circumference of a circle described by
7 drawing a one-mile radius around the licensed premises or premises
8 sought to be licensed under this title; and

9 (B) has 25 or more permanent residents;

10 (7) "licensed premises" means any or all designated portions
11 of a building or structure, rooms or enclosures in the building or
12 structure, or real estate leased, used, controlled, or operated by a
13 licensee in the conduct of business for which he is licensed by the
14 board at the specific address for which the license is issued;

15 (8) "local governing body" means, as appropriate, a city
16 council, a borough assembly, or a traditional village council, but does
17 not include a corporation established under the Alaska Native Claims
18 Settlement Act;

19 (9) "municipality" means an incorporated city, an organized
20 borough, or a unified municipality established under AS 29.68.

21 * Sec. 5. AS 09.35.087 is amended to read:

22 Sec. 09.35.087. EXEMPTION FOR LIQUOR LICENSES. In addition to the
23 exemptions set out in AS 09.35.080 and 09.35.085, the liquor license of
24 a judgment debtor is exempt from attachment, garnishment, and execution.

25 * Sec. 6. AS 12.55.025(a) is amended to read:

26 (a) When imposing a sentence of imprisonment exceeding 180 days
27 or upon a conviction of a violation of AS 04, a regulation adopted
28 under AS 04, or an ordinance adopted in conformity with AS 04.21.010,
29 the court, shall prepare, as a part of the record, a sentencing report

1 which includes the following:

2 (1) a verbatim record of the sentencing hearing and any other
3 in-court sentencing procedures;

4 (2) findings on material issues of fact and on factual ques-
5 tions required to be determined as a prerequisite to the selection of
6 the sentence imposed;

7 (3) a clear statement of the terms of the sentence imposed;
8 and

9 (4) recommendations as to the place of confinement or the
10 manner of treatment.

11 * Sec. 7. AS 12.55.025(b) is repealed and re-enacted to read:

12 (b) The sentencing report required under (a) of this section shall
13 be furnished within 30 days after imposition of sentence to the Depart-
14 ment of Law, the defendant, the division of corrections, the state Board
15 of Parole if the defendant will be eligible for parole, and to the Alco-
16 holic Beverage Control Board if the defendant is to be sentenced for a
17 conviction of a violation of AS 04, a regulation adopted under AS 04, or
18 an ordinance adopted under AS 04.21.010.

19 * Sec. 8. AS 29.33.090 is amended by adding a new subsection to read:

20 (e) A zoning ordinance adopted or amended under (a) of this sec-
21 tion may not preclude an activity authorized under a license or permit
22 issued under AS 04 if the activity was licensed or permitted by the
23 Alcoholic Beverage Control Board before the adoption of the zoning
24 ordinance or zoning ordinance amendment.

25 * Sec. 9. AS 39.25.110 is amended by adding a new paragraph to read:

26 (22) officers, agents, and employees of the Alcoholic Beverage
27 Control Board granted limited peace officer powers by the Alcoholic
28 Beverage Control Board under AS 04.06.110.

29 * Sec. 10. AS 04.05, AS 04.10, AS 04.15, AS 04.20, and AS 44.62.330(17)

1 are repealed.

2 * Sec. 11. Notwithstanding AS 04.06, members of the Alcoholic Beverage
3 Control Board on the effective date of this Act continue in office until the
4 expiration of their terms.

5 * Sec. 12. Sections 6 and 7 of this Act take effect January 1, 1981.

6 * Sec. 13. Sections 1 - 5 and secs. 8 - 11 of this Act take effect
7 July 1, 1980.

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