

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

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1 IN THE SENATE

BY THE FREE CONFERENCE COMMITTEE

2

FREE CONFERENCE CS 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 continuing the Alcoholic Beverage Control Board  
7 and revising the laws relating to the regulation of  
8 alcoholic beverages; and providing for an effective  
9 date."

10

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

11

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

12

CHAPTER 06. ALCOHOLIC BEVERAGE CONTROL BOARD.

13

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

17

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

26

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

28

(b) A vacancy occurring in the membership of the board shall be  
29 filled within 30 days by appointment of the governor for the unexpired

1 portion of the vacated term.

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

3 Sec. 04.06.040. PER DIEM AND EXPENSES. Members of the board  
4 do not receive a salary, but are entitled to per diem and travel ex-  
5 penses authorized by law for other boards and commissions.

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

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

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

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

1           Sec. 04.06.080. DELEGATION OF AUTHORITY. The director shall  
2 issue, renew, transfer, suspend, or revoke all licenses and permits at  
3 the direction of the board. However, notwithstanding AS 04.11.070, the  
4 board may delegate authority to the director to temporarily grant or  
5 deny the issuance, renewal, or transfer, of licenses and permits. The  
6 director's temporary grant or denial of the issuance, renewal, or trans-  
7 fer of a license or permit is not binding on the board. The board may  
8 delegate to the director any duty imposed by this title except its power  
9 to propose and adopt regulations.

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

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

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

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

1 the Department of Administration.

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

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

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

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

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

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

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

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

28 (6) delegation to the director of routine administrative  
29 functions and powers;

- 1 (7) the temporary granting or denial of issuance, transfer,  
2 and renewal of licenses;
- 3 (8) manner of giving any notice required by law or regulation  
4 when not provided for by statute;
- 5 (9) requirements relating to the qualifications of licensees,  
6 the conditions upon which a license may be issued, the accommodations of  
7 licensed premises, and board inspection of those premises;
- 8 (10) making of reports by wholesalers;
- 9 (11) purchase of fidelity bonds by the state for the director  
10 and the employees of the board;
- 11 (12) prohibition of possession of alcoholic beverages by  
12 drunken persons and by minors;
- 13 (13) required reports from corporations licensed under this  
14 title, including reports of stock ownership and transfers and changes of  
15 officers and directors;
- 16 (14) creation of classifications of licenses or permits not  
17 provided for in this title;
- 18 (15) establishment and collection of fees to be paid on appli-  
19 cation for a license or permit.

20 Sec. 04.06.110. PEACE OFFICER POWERS. The director and the per-  
21 sons employed for the administration and enforcement of this title may,  
22 with the concurrence of the commissioner of public safety, exercise the  
23 powers of peace officers when those powers are specifically granted by  
24 the board. Powers granted by the board under this section may be exer-  
25 cised only when necessary for the enforcement of the criminally punish-  
26 able provisions of this title, regulations of the board, and other  
27 criminally punishable laws and regulations governing the manufacture,  
28 barter, sale, consumption, and possession of alcoholic beverages in the  
29 state.

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

2 CHAPTER 11. LICENSING.

3 ARTICLE 1. LICENSING AND REPORTING REQUIREMENTS.

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

8 (b) A person may not solicit or receive orders for the delivery of  
9 an alcoholic beverage in an area where the results of a local option  
10 election have, under AS 04.11.490 - 04.11.500, prohibited the board from  
11 issuing, renewing or transferring one or more types of licenses or  
12 permits under this title, unless the person is licensed under this title  
13 and the order is actually received by that person from the purchaser of  
14 the alcoholic beverage. A person who violates this subsection is punish-  
15 able upon conviction under AS 04.16.200(a) or (b).

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

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

28 Sec. 04.11.030. DEATH OF LICENSEE. (a) The executor or adminis-  
29 trator of the estate of a person who was operating a business as a sole

1 licensee under a license authorized by this title may continue to oper-  
2 ate the licensed business until an application for transfer of a license  
3 to another person is approved or until the license is forfeited under  
4 (b) of this section.

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

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

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

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

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

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

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

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

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

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

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

13 (1) obtaining a general wholesale license under AS 04.11.-  
14 160(a) for each wholesale distributing point in the state;

15 (2) appointing an agent upon whom process can be served; and

16 (3) obtaining other applicable licenses under the provisions  
17 of this title.

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

20 ARTICLE 2. LICENSES AND PERMITS.

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

23 (1) beverage dispensary license;

24 (2) duplicate beverage dispensary license for additional  
25 rooms;

26 (3) restaurant or eating place license;

27 (4) club license;

28 (5) bottling works license;

29 (6) brewery license;

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

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

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

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

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

1 (e) A holder of a beverage dispensary license may not maintain  
2 upon the licensed premises more than one room in which there is regu-  
3 larly maintained a fixed counter or service bar at which alcoholic  
4 beverages are sold or served to members of the public for consumption  
5 unless he is issued by the board, after investigation, a duplicate of  
6 the original license for each of the rooms. The holder of the beverage  
7 dispensary license shall pay to the board with each application for a  
8 duplicate license an amount equal to the fee payable for the original  
9 beverage dispensary license under (b) of this section. If the licensed  
10 premises are located within a municipality, a duplicate beverage dis-  
11 pensary license may not be issued unless approved by the council or  
12 assembly, as appropriate.

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

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

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

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

1 (d) The annual fee for a restaurant or eating place license is  
2 \$300.

3 Sec. 04.11.110. CLUB LICENSE. (a) A club license authorizes a  
4 club or organization to sell alcoholic beverages for consumption only on  
5 the licensed premises.

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

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

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

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

28 (f) Alcoholic beverages purchased by a club or organization li-  
29 censed under this section may not be used or consumed off the licensed

1 premises of the club or organization by any person, including club  
2 members and employees.

3 (g) Notwithstanding AS 04.16.049, the board may authorize access  
4 by persons under 19 years of age to a club's licensed premises during  
5 hours when no alcoholic beverages are sold, served or consumed.

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

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

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

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

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

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

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

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

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

29 (b) A winery license authorizes the holder to sell wine to persons

1 licensed under this title in quantities of more than five wine gallons.

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

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

6 Sec. 04.11.150. PACKAGE STORE LICENSE. (a) A package store  
7 license authorizes the holder to sell alcoholic beverages to a person in  
8 response to a verbal solicitation for purchase received from the person  
9 present on the licensed premises or in response to a written sollicita-  
10 tion made by a person known to the licensee for a purchase to be re-  
11 ceived by the person making the solicitation.

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

13 (c) The holder of a package store license may not sell alcoholic  
14 beverages unless any stamps required to be affixed to the package by  
15 state or federal law are intact on the packages.

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

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

23 (f) When the holder of a package store license is also a holder of  
24 a beverage dispensary license and the package store premises are con-  
25 tained within or are adjacent to the premises of the beverage dispensary  
26 and the only public entrance to the package store is by a door or other  
27 means within the premises of the beverage dispensary, the board shall  
28 determine if additional entrances to the package store are necessary for  
29 enforcement purposes, to meet health and fire safety standards, or for

1 the convenience of the public.

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

4 Sec. 04.11.160. WHOLESale LICENSES. (a) A general wholesale  
5 license authorizes the holder to sell alcoholic beverages in the origi-  
6 nal package, and wine in bulk, in quantities of not less than five  
7 gallons. A holder of a general wholesale license may not sell to a  
8 person not licensed under this title, except as provided in AS 04.21.-  
9 040. A holder of a general wholesale license may not sell alcoholic  
10 beverages unless any stamps required to be affixed to the package by  
11 state or federal law are intact on the package. A wholesaler must  
12 obtain a general wholesale license for each distributing point. The  
13 annual general wholesale license fee is \$1,000 for the first \$100,000 of  
14 business transacted, payable at the time of making an original applica-  
15 tion or an application for renewal. In addition, the following annual  
16 fees shall be paid by a holder of a general wholesale license:

17	Business Transacted During Year	Fee
18	over \$100,000 and not over \$150,000 .....	\$ 500
19	over \$150,000 and not over \$200,000 .....	\$ 1,000
20	over \$200,000 and not over \$250,000 .....	\$ 1,500
21	over \$250,000 and not over \$300,000 .....	\$ 2,000
22	over \$300,000 and not over \$350,000 .....	\$ 2,500
23	over \$350,000 and not over \$400,000 .....	\$ 3,000
24	over \$400,000 and not over \$500,000 .....	\$ 4,000
25	over \$500,000 and not over \$600,000 .....	\$ 5,000
26	over \$600,000 and not over \$700,000 .....	\$ 6,000
27	over \$700,000 and not over \$800,000 .....	\$ 7,000
28	over \$800,000 and not over \$1,000,000 .....	\$ 9,000
29	over \$1,000,000 .....	\$10,000

1 (b) A wholesale malt beverage and wine license authorizes the  
2 holder to sell malt beverages and wine in the original packages in  
3 quantities of not less than five wine gallons. The holder of a whole-  
4 sale malt beverage and wine license may not sell to a person not  
5 licensed under this title except as provided in AS 04.21.040. The  
6 annual wholesale malt beverage and wine license fee is \$200 for the  
7 first \$20,000 of business transacted during a year, payable at the time  
8 of making an original application or application for renewal. In addi-  
9 tion, the following annual fees shall be paid by a holder of a wholesale  
10 malt beverage and wine license:

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

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

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

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

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

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

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

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

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

18 Sec. 04.11.190. COMMUNITY LIQUOR LICENSE. (a) A community liquor  
19 license authorizes a municipality to operate a beverage dispensary or a  
20 package store, or both, subject to the same conditions and fees appli-  
21 cable to beverage dispensary or package store licenses.

22 (b) If a majority of the voters vote "yes" on the question set out  
23 in AS 04.11.492(a), the local governing body of a municipality shall  
24 apply for a community liquor license to operate a beverage dispensary or  
25 package store, or both, depending on which type of premises were speci-  
26 fied on the ballot. Unless prohibited by the results of an earlier  
27 local option election, a local governing body may also apply on its own  
28 motion for a community liquor license.

29 Sec. 04.11.200. RETAIL STOCK SALE LICENSE. (a) A retail stock

1 sale license authorizes the holder to sell the remaining stock of a  
2 package liquor store when the owner wishes to close out or terminate the  
3 business of the store.

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

7 (c) The retail stock sale license shall be issued for a period of  
8 90 days from the expiration or forfeiture of the package store license  
9 and is not renewable.

10 (d) The retail stock sale license shall be issued only if the  
11 owner of the package store business does not have a current package store  
12 license. However, if the owner had a package store license which was  
13 suspended or revoked, the retail stock sale license may not be issued.

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

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

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

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

23 Sec. 04.11.220. PUB LICENSE. (a) A pub license authorizes the  
24 holder to sell beer and wine for consumption only at a designated pre-  
25 mises located on the campus of an accredited college or university.

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

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

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

2 (c) In this section, an "accredited college or university" means a  
3 college or university accredited by the Northwest Association of Second-  
4 ary and Higher Schools.

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

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

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

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

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

22 Sec. 04.11.240. SPECIAL EVENTS PERMIT. (a) A special events  
23 permit authorizes the holder to sell or dispense beer or wine for con-  
24 sumption at designated premises for a specific occasion and limited  
25 period of time. Only nonprofit fraternal, civic, or patriotic organiza-  
26 tions active for a period of at least two years before application and  
27 incorporated under AS 10.20 are eligible for a special events permit,  
28 and only if all profits derived from the sale of beer or wine are paid  
29 to the organization and not to an individual.

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

11 (c) The special events permit must be surrendered to the board,  
12 its agent, or the law enforcement agency approving the permit, within 48  
13 hours of its expiration time. Failure to surrender the permit is cause,  
14 in the discretion of the board, for denial of applications for permits  
15 made in the future by the organization. No more than five special  
16 events permits may be granted to an organization, including its auxil-  
17 iary, in any one calendar year.

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

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

20 Sec. 04.11.250. CONDITIONAL CONTRACTOR'S PERMIT. (a) A condi-  
21 tional contractor's permit authorizes the holder to sell beer or wine  
22 for consumption only on designated premises for one year from the date  
23 of issuance of the permit at construction sites which are located out-  
24 side a city and inside the boundaries of a military or naval reserva-  
25 tion.

26 (b) An applicant for a conditional contractor's permit must obtain  
27 and file with the board written permission from the commanding officer  
28 of the military or naval reservation and the prime contractor of the  
29 remotely situated project for the conduct of the activities authorized

1 by the permit. A conditional contractor's permit may be renewed annu-  
2 ally upon reapplication for a permit and may be revoked or suspended at  
3 the discretion of the commanding officer or the prime contractor.

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

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

8 ARTICLE 3. APPLICATION FOR LICENSE OR PERMIT.

9 Sec. 04.11.260. APPLICATION FOR NEW LICENSE OR PERMIT. (a) An  
10 applicant for a new license or permit shall file with the director a  
11 written application, signed and sworn to by the applicant, giving his  
12 name and address. If the applicant is a corporation, the application  
13 shall be executed by the authorized officers of the corporation. The  
14 application shall include:

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

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

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

21 (4) the license fee;

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

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

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

29 (c) An applicant for a new license or permit must include with his

1 application

2 (1) proof that notice required by AS 04.11.310 has been  
3 given;

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

6 (3) evidence of any approval by public authorities required  
7 to be obtained under AS 04.11.090(e), 04.11.220(c), 04.11.230(b), 04.-  
8 11.240(b), or 04.11.250(b), before a license may be issued.

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

12 (1) the information required for a new license under AS 04.-  
13 11.260 except that proof of notice under AS 04.11.310 is not required;  
14 and

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

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

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

22 (2) An application to renew a license may be filed on or  
23 before December 31 and shall be accompanied by the annual fee required  
24 for the license. An application to renew the license filed after  
25 December 31 and on or before February 28 shall be accompanied by the  
26 annual fee for the license, plus a penalty equal to the annual fee or  
27 \$100, whichever is less.

28 Sec. 04.11.280. APPLICATION FOR TRANSFER OF A LICENSE TO ANOTHER  
29 PERSON. (a) An application for transfer of a license to another person

1 shall contain the same information about the transferee as is required  
2 of an applicant for a new license under AS 04.11.260 and shall include  
3 other information required by the board.

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

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

15 Sec. 04.11.300. STATE TROOPER INVESTIGATION. The state troopers  
16 shall assist the director in the investigation of applicants for new  
17 licenses and applicants for the transfer of existing licenses before the  
18 applications are considered by the board.

19 Sec. 04.11.310. NOTICE OF APPLICATION. Before a new license is  
20 issued, or transfer of location or transfer of a license to another  
21 person is approved, the applicant must post a copy of the application  
22 for 10 days at the location of the proposed licensed premises and at any  
23 additional locations designated by the board. The board may require the  
24 applicant (1) to provide a copy of the application to newspapers, radio  
25 and television stations for public service announcement or (2) to pro-  
26 vide paid notice of the application once each week for three successive  
27 weeks in a newspaper or by radio. The notice required in this subsec-  
28 tion shall be in more than one language when the board decides it is  
29 necessary.

1                   ARTICLE 4. DENIAL, SUSPENSION, OR REVOCATION  
2                                   OF LICENSES AND PERMITS.

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

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

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

11                   (3) the application has not been completed in accordance with  
12 AS 04.11.260;

13                   (4) issuance of the license would violate the restrictions  
14 pertaining to the particular license imposed under this title;

15                   (5) issuance of the license is prohibited under this title as  
16 a result of an election conducted in accordance with AS 04.11.502;

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

20                   (7) the licensed premises are to be located in a municipali-  
21 ty, the type of license sought is a beverage dispensary or package store  
22 license, and that type of license is already in effect in the munici-  
23 pality under a community liquor license, unless the new license is to  
24 become effective after the community liquor license is no longer effec-  
25 tive, whether as the result of a local option election or otherwise;

26                   (8) the authority sought is authority to operate a beverage  
27 dispensary or package store under a community liquor license for premises  
28 to be located in a municipality where the authority sought is already  
29 held by a private licensee under a beverage dispensary or package store

1 license, unless the community liquor license is to become effective after  
2 the privately held license is no longer effective, whether as the result  
3 of a local option election or otherwise;

4 (9) issuance of the license is prohibited under AS 04.11.-  
5 400(a) or prohibition of issuance of the license is found necessary  
6 under AS 04.11.400(b);

7 (10) the application contains false statements of material  
8 fact;

9 (11) the license is sought for the sale of alcoholic beverages  
10 in a first or second class city in which there are no licensed premises  
11 at the time of application unless a majority of the voters in a local  
12 option election conducted in accordance with AS 04.11.502 have voted  
13 "no" on the question set out in AS 04.11.490, or have voted "yes" on a  
14 question set out in AS 04.11.492 or 04.11.500;

15 (12) the license is sought for the sale of alcoholic beverages  
16 in an established village in which there are no licensed premises at the  
17 time of application unless a majority of the voters in a local option  
18 election conducted in accordance with AS 04.11.502 have voted "no" on  
19 the question set out in AS 04.11.490 or have voted "yes" on the question  
20 set out in AS 04.11.500.

21 (b) An application requesting issuance of a new permit shall be  
22 denied if

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

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

28 (3) the application has not been completed in accordance with  
29 AS 04.11.260;

1 (4) the permit is sought for the sale of alcoholic beverages  
2 in a first or second class city or established village in which there  
3 are no licensed premises at the time of application unless a majority of  
4 the voters in a local option election conducted in accordance with  
5 AS 04.11.502 have voted "no" on the question set out in AS 04.11.490.

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

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

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

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

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

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

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

23 (7) renewal of the license is prohibited under this title as  
24 a result of an election conducted in accordance with AS 04.11.504;

25 (8) the application has not been completed in accordance with  
26 AS 04.11.270;

27 (9) the license was issued under AS 04.11.400(j), and the  
28 board finds that the public convenience does not require renewal.

29 (b) An application for renewal of a license may be denied if the

1 applicant is delinquent in the payment of taxes if the tax liability  
2 arises in whole or in part out of the licensed business.

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

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

8 (2) the application has not been completed in accordance with  
9 AS 04.11.270.

10 Sec. 04.11.340. DENIAL OF TRANSFER OF LOCATION. An application  
11 requesting approval of a transfer of location of licensed premises shall  
12 be denied if

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

16 (2) the transfer of location of the license is prohibited  
17 under AS 04.11.400(a) or prohibition of transfer is found necessary  
18 under AS 04.11.400(b);

19 (3) the license would be transferred out of the election  
20 district within which it was originally issued, unless the election  
21 district into which the license would be transferred is within the  
22 incorporated city, organized borough or unified municipality within  
23 which the license was originally issued;

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

27 (5) the application has not been completed in accordance with  
28 AS 04.11.290;

29 (6) transfer of location of the license would result in

1 violation of a local zoning law;

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

4 (8) transfer of location of the license is prohibited under  
5 this title as a result of an election conducted in accordance with  
6 AS 04.11.502;

7 (9) the licensed premises are to be located in a municipali-  
8 ty, the type of license sought to be transferred is a beverage dispens-  
9 ary or package store license, and that type of license is already in  
10 effect in the municipality under a community liquor license, unless the  
11 transfer is to become effective after the community liquor license is no  
12 longer effective, whether as the result of a local option election or  
13 otherwise;

14 (10) the license was issued under AS 04.11.400(j).

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

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

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

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

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

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

29 (B) the transfer is pursuant to a promise given as

1 collateral by the transferor to the transferee in the course of an  
2 earlier transfer of the license under which promise the transferor  
3 is obliged to transfer the license back to the transferee in the  
4 event of default in payment for property conveyed as part of the  
5 earlier transfer of the license;

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

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

11 (7) transfer of the license to another person is prohibited  
12 under the provisions of this title as a result of an election conducted  
13 in accordance with AS 04.11.502;

14 (8) the prospective transferee does not have the qualifica-  
15 tions required under this title of an original applicant;

16 (9) the licensed premises are located in a municipality, the  
17 type of license sought to be transferred is a beverage dispensary or  
18 package store license, and that type of license is already in effect in  
19 the municipality under a community liquor license, unless the transfer  
20 is to become effective after the community liquor license is no longer  
21 effective, whether as the result of a local option election or other-  
22 wise;

23 (10) the authority sought is authority to operate a beverage  
24 dispensary or package store under a community liquor license for  
25 premises to be located in a municipality where the authority sought is  
26 already held by a private licensee under a beverage dispensary or pack-  
27 age store license, unless the transfer is to become effective after the  
28 privately held license is no longer effective, whether as the result of  
29 a local option election or otherwise;

1 (11) the license was issued under AS 04.11.400(j).

2 Sec. 04.11.370. SUSPENSION AND REVOCATION OF LICENSES AND PERMITS.

3 A license or permit shall be suspended or revoked if the board finds  
4 that one or more of the following grounds exists:

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

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

9 (3) failure on the part of the licensee to correct defects  
10 which constitute violations of this title, regulations adopted under  
11 this title, or other laws within a prescribed time after receipt of  
12 notice issued by the board or its agent;

13 (4) conviction of a licensee of a violation of a provision of  
14 this title, a regulation adopted under this title, or an ordinance  
15 adopted under AS 04.21.010;

16 (5) conviction of the agent or employee of a licensee of a  
17 violation of this title, a regulation adopted under this title, or an  
18 ordinance adopted under AS 04.21.010, if the licensee is found by the  
19 board to have either knowingly allowed the violation or to have reck-  
20 lessly or with criminal negligence failed to act in accordance with the  
21 duty prescribed under AS 04.21.030 with the result that an agent or  
22 employee violates a law, regulation, or ordinance;

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

25 (7) use of the licensed premises as a resort for illegal  
26 possessors or users of narcotics, prostitutes, or pimps; in addition to  
27 any other legally competent evidence, the character of the premises may  
28 be proved by the general reputation of the premises in the community as  
29 a resort for illegal possessors or users of narcotics, prostitutes, or

1 pimps;

2 (8) occurrence of illegal gambling within the limits of the  
3 licensed premises;

4 (9) permitting any public offense involving moral turpitude  
5 to occur on the licensed premises;

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

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

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

16 Sec. 04.11.390. RESIDENCE. A beverage dispensary license or  
17 package store license may not be issued to a person or association of  
18 persons who have not resided in the state for at least one year before  
19 the date of application. A beverage dispensary license or package store  
20 license may not be issued to either a domestic corporation which has not  
21 been issued a certificate of incorporation or a foreign corporation  
22 which has not been issued a certificate of authority to transact busi-  
23 ness in the state at least one year before the date of the application.

24 Sec. 04.11.400. POPULATION LIMITATIONS. (a) Except as provided  
25 in (g), (h), (i), and (j) of this section, a new license may not be  
26 issued or an existing license transferred to a new location

27 (1) outside an incorporated city, a unified municipality, or  
28 an established village if after the issuance or transfer there would be  
29 more than one license of each type for each 1,500 population or fraction

1 of 1,500 population, including licenses which have been issued under (g)  
2 or (h) of this section, in a radius of five miles of the licensed prem-  
3 ises or location of premises sought to be licensed;

4 (2) inside an established village, an incorporated city, or a  
5 unified municipality if after the issuance or transfer there would be  
6 more than one license of each type for each 1,500 population or fraction  
7 of 1,500 population, including licenses which have been issued under (g)  
8 or (h) of this section, inside the boundaries of the village, city or  
9 municipality.

10 (b) If the application is for a license outside of an established  
11 village, incorporated city, or unified municipality and the radius  
12 described in (a)(1) of this section encompasses all of the established  
13 village, incorporated city, or unified municipality and the population  
14 resident inside and outside the village, city, or municipality but  
15 inside the radius described in (a)(1) of this section is less than  
16 1,500, the board may deny the issuance or transfer of the license.

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

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

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

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

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

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

8 (A) a minimum of 10 rental rooms, and

9 (B) a dining facility, which requirement may be waived  
10 if most of the rental rooms have kitchen facilities; or

11 (2) an airport terminal.

12 (h) A restaurant or eating place license may be issued or trans-  
13 ferred notwithstanding (a) of this section if

14 (1) the premises of the restaurant or eating place are more  
15 than 18 miles from the corporate limits of a city or unified municipali-  
16 ty;

17 (2) the premises will serve food to the traveling public; and

18 (3) the board finds that the public convenience will be  
19 served by the issuance or transfer.

20 (i) An application requesting a transfer of location of licensed  
21 premises shall be granted notwithstanding (a) of this section if the new  
22 location is less than one mile from the original location and

23 (1) no ground for denial exists under AS 04.11.340(1) or (3);

24 and

25 (2) relocation of the licensed premises is necessary due to

26 (A) termination of a lease or rental agreement;

27 (B) condemnation of the premises;

28 (C) the substantial destruction of the premises by any

29 cause.

1 (j) The board may issue a new license in municipalities notwith-  
2 standing the provisions of (a) of this section if the board finds that  
3 issuance of the license is necessary for the public convenience.

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

5 (a) A beverage dispensary or package store license may not be issued  
6 and the location of an existing license may not be transferred if the  
7 licensed premises would be located in a building the public entrance of  
8 which is within 200 feet of a school ground or a church building in  
9 which religious services are regularly conducted, measured by the  
10 shortest pedestrian route from the outer boundaries of the school ground  
11 or the public entrance of the church building. However, a license  
12 issued before the presence of either cause of restriction within 200  
13 feet of the licensed premises may be renewed or transferred to a person  
14 notwithstanding this subsection.

15 (b) If a beverage dispensary or package store license for premises  
16 located within 200 feet of a school ground or church building in which  
17 religious services are regularly conducted is revoked, expires or is  
18 transferred to another location, a beverage dispensary or package store  
19 license may not be issued or transferred to the formerly licensed pre-  
20 mises until the cessation of either cause of restriction.

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

25 (b) The municipality shall inform the board of zoning regulations  
26 or ordinances which prohibit the sale or consumption of alcoholic bever-  
27 ages.

28 Sec. 04.11.430. PERSON AND LOCATION. Each license shall be issued  
29 to a specific individual or individuals or to a corporation. If the

1 license is issued to a corporation, the registered agent of the cor-  
2 poration must be an individual resident of the state. Except for a  
3 license authorizing the sale of alcoholic beverages on a common carrier,  
4 a specific location shall be indicated on the license or permit as the  
5 licensed premises, the principal address of which shall be indicated on  
6 the license or permit. The mailing address of a licensee or, if the  
7 licensee is a corporation, the address of the registered office of the  
8 corporation must be kept current and on file in the main office of the  
9 board.

10 Sec. 04.11.450. PROHIBITED FINANCIAL INTEREST. (a) No person  
11 other than a licensee may have a direct or indirect financial interest  
12 in the business for which the license is issued.

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

17 (c) In this section, "direct or indirect financial interest" means  
18 holding a legal or equitable interest in the operation of a business  
19 licensed under this title. However, credit extended by a distiller, a  
20 brewery or a winery to a wholesaler, or credit extended by a wholesaler  
21 to persons licensed under this title, is not considered a financial  
22 interest in a business licensed under this title.

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

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

28 (f) A holder of either a general wholesale license or a wholesale  
29 malt beverage and wine license may not be employed by or act as the

1 agent or employee of the holder of a beverage dispensary or package  
2 store license.

3 Sec. 04.11.460. PRIOR PUBLIC APPROVAL. (a) A new license or the  
4 transfer of location of an existing license may not be approved by the  
5 board in an area outside but within 50 miles of the boundaries of a  
6 municipality unless a petition asking that the license be issued or  
7 transferred within the area containing signatures of a majority of the  
8 permanent residents residing within one mile of the proposed premises is  
9 filed with the board.

10 (b) A license may not be issued in an area which is 50 miles or  
11 more from the boundaries of a municipality unless a petition asking that  
12 the license be issued within the area containing the signatures of  
13 two-thirds of the permanent residents residing within a radius of five  
14 miles of the United States post office station nearest to the proposed  
15 licensed premises, is filed with the board. A petition is not required  
16 for the renewal of a license issued in accordance with this subsection  
17 unless specifically required by the board. If

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

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

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

28 **ARTICLE 6. PROCEDURES FOR PUBLIC INFLUENCE.**

29 **Sec. 04.11.470. OBJECTION.** A person may object to an application

1 for issuance, renewal, transfer of location, or transfer to another  
2 person of a license, or for issuance of a permit by serving upon the  
3 applicant and the board the reasons for the objection. The board shall  
4 consider the objections and testimony received at a hearing conducted  
5 under AS 04.11.510(b)(2) when it considers the application. An objec-  
6 tion and the record of a hearing conducted under AS 04.11.510(b)(2)  
7 shall be retained as part of the board's permanent record of its review  
8 of the application.

9 Sec. 04.11.480. PROTEST. (a) If a local governing body wishes to  
10 protest the issuance, renewal, transfer of location or transfer to an-  
11 other person of a license, it shall furnish the board and the applicant  
12 with a protest within 30 days of receipt from the board of notice of  
13 filing of the application. The board shall consider a protest and  
14 testimony received at a hearing conducted under AS 04.11.510(b)(2) or  
15 (4) when it considers the application, and the protest and the record of  
16 the hearing conducted under AS 04.11.510(b)(2) or (4) shall be retained  
17 as part of the board's permanent record of its review of the application.  
18 If an application is protested, the board may not approve the applica-  
19 tion unless the board finds that the protest is arbitrary, capricious,  
20 and unreasonable.

21 (b) If the permanent residents residing outside of but within two  
22 miles of an incorporated city or an established village wish to protest  
23 the issuance, renewal, or transfer of a license within the city or  
24 village, they shall file with the board a petition meeting the require-  
25 ments of AS 04.11.510(b)(3) requesting a public hearing within 30 days  
26 of the posting of notice required under AS 04.11.310, or by December 31  
27 of the year application is made for renewal of a license. The board  
28 shall consider testimony received at a hearing conducted under AS 04.-  
29 11.510(b)(3) when it considers the application, and the record of a

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

3 Sec. 04.11.490. PROHIBITION OF THE SALE OF ALCOHOLIC BEVERAGES.

4 (a) The following question, appearing alone, may be placed before the  
5 voters of a municipality or an established village in accordance with  
6 AS 04.11.502: "Shall the sale of alcoholic beverages in .....(name of  
7 municipality or village) be prohibited? (yes or no)".

8 (b) If a majority of the voters vote "yes" on the question set out  
9 in (a) of this section, the board shall be notified immediately after  
10 certification of the results of the election and thereafter the board  
11 may not issue, renew, or transfer between holders or locations a license  
12 for licensed premises located within the boundaries of a municipality  
13 and in unincorporated areas within five miles of the boundaries of the  
14 municipality or within the perimeter of an established village. As of  
15 midnight December 31 of the year in which the results of the election  
16 are certified, licenses which may not be renewed are void. The results  
17 of an election held under this section are not a ground for the suspen-  
18 sion of a license during the year for which the license was issued or  
19 renewed.

20 (c) If a majority of the voters vote "no" on the question set out  
21 in (a) of this section or vote "yes" on a question set out in AS 04.11.-  
22 492 or 04.11.500 in an election conducted in accordance with AS 04.11.-  
23 502 after an election in which the voters voted "yes" on the question  
24 set out in (a) of this section, the board shall be notified immediately  
25 after certification of the results of the election. Thereafter, the  
26 prohibitions imposed under (b) of this section on the issuance, renewal,  
27 or transfer of licenses between holders and location as a result of the  
28 earlier election are removed except insofar as those prohibitions are  
29 imposed in accordance with the results of the subsequent election.

1           Sec. 04.11.492. COMMUNITY LIQUOR LICENSE; COMPLETE PROHIBITION ON  
2 SALES. (a) The following question, appearing alone, may be placed  
3 before the voters of a municipality in accordance with AS 04.11.502:  
4 "Shall the sale of alcoholic beverages be prohibited in .....(name of  
5 municipality) unless sold by a .....(either a beverage dispensary or  
6 package store, or both, operated under a community liquor license)?  
7 (yes or no)".

8           (b) If a majority of the voters vote "yes" on the question set out  
9 in (a) of this section, the board shall be notified immediately after  
10 certification of the results of the election and thereafter may not  
11 issue, renew, or transfer between holders or locations a license for  
12 licensed premises located within the boundaries of a municipality and in  
13 unincorporated areas within five miles of the boundaries of the muni-  
14 cipality, with the exception of a beverage dispensary or package store  
15 operated under a community liquor license held by the municipality. As  
16 of midnight December 31 of the year in which the results of the election  
17 are certified, licenses in effect are void. The results of an election  
18 held under this section are not a ground for the suspension of a license  
19 during the year for which the license was issued or renewed.

20           (c) If a majority of the voters vote "no" on the question set out  
21 in (a) of this section or vote "yes" on a question set out in AS 04.11.-  
22 490, 04.11.496, or 04.11.500 in an election conducted in accordance with  
23 AS 04.11.502 after an election in which the voters voted "yes" on the  
24 question set out in (a) of this section, the board shall be notified  
25 immediately after a certification of the results of the election. As of  
26 midnight December 31 of the year in which the results of the election  
27 are certified, the prohibitions imposed under (b) of this section on the  
28 issuance, renewal, or transfer of licenses between holders and locations  
29 as a result of the earlier election are removed except insofar as those

1 prohibitions are imposed in accordance with the results of the subsequent  
2 election. The results of an election held under this section are not a  
3 ground for the suspension of a license during the year for which the  
4 license was issued or renewed.

5 Sec. 04.11.496. PROHIBITION OF SALE AND IMPORTATION OF ALCOHOLIC  
6 BEVERAGES. (a) The following question, appearing alone, may be placed  
7 before the voters of a municipality or an established village in accord-  
8 ance with AS 04.11.502: "Shall the sale and importation of alcoholic  
9 beverages be prohibited in .....(name of municipality or village)? (yes  
10 or no)".

11 (b) If a majority of the voters vote "yes" on the question set out  
12 in (a) of this section, a person, beginning on the first day of the  
13 month following certification of the results of the election, may not  
14 knowingly send, transport, or bring alcoholic beverages into the munici-  
15 pality or established village. The board shall be notified immediately  
16 after certification of the results of the election and thereafter may  
17 not issue, renew, or transfer between holders or locations a license for  
18 licensed premises located within the boundaries of the municipality and  
19 within unincorporated areas within five miles of the boundaries of the  
20 municipality or within the perimeter of the established village. As of  
21 midnight December 31 of the year in which the results of the election  
22 are certified, licenses which may not be renewed are void. The results  
23 of an election held under this section are not a ground for the suspen-  
24 sion of a license during the year for which the license was issued or  
25 renewed.

26 (c) If a majority of the voters vote "no" on the question set out  
27 in (a) of this section or vote "yes" on the questions set out in AS 04.-  
28 11.492 or 04.11.500 in an election conducted in accordance with AS 04.-  
29 11.502 after an election in which the voters voted "yes" on the question

1 set out in (a) of this section, the prohibition on the importation of  
2 alcoholic beverages and the prohibition on the issuance, renewal, or  
3 transfers of licenses between holders and locations, imposed as a result  
4 of the earlier election in which the voters voted "yes" on the question  
5 set out in (a) of this section are removed effective on the first day of  
6 the month following certification of the results of the election except  
7 as those prohibitions continue to be imposed in accordance with the  
8 results of the subsequent election.

9 Sec. 04.11.500. PROHIBITION OF THE SALE OF ALCOHOLIC BEVERAGES  
10 EXCEPT BY SELECTED LICENSES. (a) The following question, appearing  
11 alone, may be placed before the voters of a municipality or an estab-  
12 lished village in accordance with AS 04.11.502: "Shall the sale of  
13 alcoholic beverages be prohibited in .....(name of municipality or  
14 village) except by ..... (listing of the types of licenses which  
15 premises would be exempted from the prohibition on the sale of liquor if  
16 the measure passes)? (yes or no)".

17 (b) If a majority of the voters vote "yes" on the question set out  
18 in (a) of this section, the board shall be notified immediately after  
19 certification of the results of the election and thereafter may not  
20 issue, renew, or transfer between holders or locations a license for  
21 licensed premises located within the boundaries of the municipality and  
22 in unincorporated areas within five miles of the boundaries of the muni-  
23 cipality or within the perimeter of the established village, except  
24 those types of licenses listed on the ballot. As of midnight  
25 December 31 of the year in which the results of the election are certi-  
26 fied, licenses in effect within the boundaries of the municipality or  
27 perimeter of the established village, and in an unincorporated area  
28 outside of but within five miles of the boundaries of the municipality,  
29 except those types of licenses listed on the ballot, are void.

1 (c) If a majority of the voters vote "no" on the question set out  
2 in (a) of this section or vote "yes" on the questions set out in AS 04.-  
3 11.490, 04.11.492, 04.11.496, or 04.11.500 if different types of li-  
4 censes are listed on the ballot in an election conducted in accordance  
5 with AS 04.11.502 after an election in which the voters voted "yes" on  
6 the question set out in (a) of this section, the board shall be notified  
7 immediately after certification of the results of the election. As of  
8 midnight December 31 of the year in which the results of the election  
9 are certified, licenses in effect in the municipality in the unincor-  
10 porated area outside of but within five miles of the boundaries of the  
11 municipality or established village which were excepted from the prohib-  
12 ition on sale in accordance with the results of the earlier election are  
13 void. Thereafter the board may not issue, renew, or transfer between  
14 holders or locations a license for licensed premises located within the  
15 houndaries of the municipality or within the perimeter of an established  
16 village, or in an unincorporated area within five miles of the boundaries  
17 of the municipality, except a license which may be issued to a munici-  
18 pality or to one of the types of licenses listed on the ballot as a  
19 result of a majority of the voters voting "yes" on the question set out  
20 in AS 04.11.492 or this section, respectively.

21 Sec. 04.11.502. PROCEDURE FOR LOCAL OPTION ELECTIONS. (a) The  
22 local governing body of a municipality, whenever a number of registered  
23 voters equal to at least 35 percent of the number of votes cast at the  
24 last regular municipal election petition the local governing body to do  
25 so, shall place upon a separate ballot at the next regular election  
26 whichever question or combination of questions set out in AS 04.11.490 -  
27 04.11.500 constitutes the subject of the petition. The lieutenant  
28 governor shall conduct the election in the general manner prescribed by  
29 the Alaska Election Code (AS 15.05 - 15.60).

1 (b) The lieutenant governor, whenever 35 percent of the registered  
2 voters residing within an established village petition the lieutenant  
3 governor to do so, shall place upon a separate ballot at a special  
4 election that question or combination of questions set out in AS 04.11.-  
5 490 - 04.11.500 which constitutes the subject of the petition. The  
6 lieutenant governor shall conduct the election in the general manner  
7 prescribed by the Alaska Election Code (AS 15.05 - 15.60).

8 Sec. 04.11.504. REINSTATEMENT OF LICENSES. If a prohibition  
9 imposed on the issuance, renewal, or transfer of licenses between  
10 holders and locations under AS 04.11.490 - 04.11.500 is removed by a  
11 vote of "no" on a question for which the majority of the people voted  
12 "yes" in an earlier election, the board shall, upon application, issue  
13 the same number and type of licenses which were in effect in the munici-  
14 pality or established village on the date of certification of the earlier  
15 election. If the prohibition imposed on issuance, renewal, or transfer  
16 of licenses between holders and locations is removed by a "yes" vote on  
17 a question set out in AS 04.11.492 and 04.11.500, the board may issue  
18 the types of licenses specified in the question presented to the voters  
19 in the subsequent election. Licenses may be issued for the same or  
20 other premises within the municipality or established village which were  
21 licensed on the date of certification of the earlier election. However,  
22 if the local governing body requests that fewer licenses of a particular  
23 type be issued than would otherwise be issued if the provisions pre-  
24 scribing the ratio of population to licensed premises in AS 04.11.400(a)  
25 are applied, only the number of licenses of that particular type re-  
26 quested by the local governing body may be requested by the board.  
27 Priority shall be given applicants who were formerly licensees and whose  
28 licenses were not renewed because of the results of the previous elec-  
29 tion. However, these applicants have no legal right to a license and

1 the board is not required to approve the application.

2 Sec. 04.11.506. NOTICE OF THE RESULTS OF A LOCAL OPTION ELECTION.

3 (a) If a majority of the voters vote "yes" on a question set out in  
4 AS 04.11.490 - 04.11.500, the board shall immediately notify the Depart-  
5 ment of Law and the Department of Public Safety of the results of the  
6 election.

7 (b) If a majority of the voters vote "yes" on a question set out  
8 in AS 04.11.496, the following actions, in addition to those prescribed  
9 in (a) of this section, shall be undertaken before the date the prohibi-  
10 tion on importation becomes effective:

11 (1) the board shall notify by registered mail all holders of  
12 package store licenses of the prohibition;

13 (2) the municipality or established village shall post notice  
14 of the prohibition in the municipality or village.

15 ARTICLE 7. BOARD PROCEDURES.

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

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

26 (1) if an application is denied, the notice of denial shall  
27 be furnished the applicant immediately in writing stating the reason for  
28 the denial in clear and concise language; the notice of denial shall  
29 inform the applicant that he is entitled to an informal conference with

1 either the director or the board, and that, if not satisfied by the  
2 informal conference, he is then entitled to a formal hearing before the  
3 board; if the applicant requests a formal hearing, the board shall  
4 adhere to AS 44.62.330 - 44.62.630; all interested persons may be heard  
5 at the hearing and unless waived by the applicant and the board, the  
6 formal hearing shall be held in the area for which the application is  
7 requested;

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

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

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

22 (c) Unless the grounds for the suspension or revocation are under  
23 AS 04.11.370(4), board proceedings to suspend or revoke a license shall  
24 be conducted in accordance with AS 44.62.330 - 44.62.630 (Administrative  
25 Procedure Act), except that the licensee is entitled to an opportunity  
26 to informally confer with the director or the board within 10 days after  
27 the accusation is served upon him. Notice of the opportunity for an  
28 informal conference shall be served upon the licensee along with the  
29 accusation. If an informal conference is requested, the running of the

1 period of time specified in AS 44.62.380 for filing a notice of defense  
2 is tolled from the date of receipt of the request for the conference  
3 until the day following the date of the conference unless extended by  
4 the board. After the conference, the licensee, if not satisfied by the  
5 results of the conference, may obtain a hearing by filing a notice of  
6 defense as provided in AS 44.62.390. If the grounds for suspension or  
7 revocation are under AS 04.11.370(4), the licensee is not entitled to  
8 notice and hearing under AS 44.62.330 - 44.62.630 on the merits of the  
9 suspension or revocation. However, the board shall afford the licensee  
10 notice and hearing on the issue of what administrative sanction to  
11 impose under AS 04.16.180.

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

17 Sec. 04.11.530. CONSIDERATION OF REPORTS. A license may not be  
18 suspended or revoked under AS 04.11.370(4) or (5) unless the board  
19 considers the reports prepared by arresting and investigating officers  
20 and the sentencing report sent to the board under AS 12.55.025(b).

21 Sec. 04.11.535. SUSPENSION AND REVOCATION BASED ON ACTS OF EM-  
22 PLOYEES. (a) If, in a proceeding to suspend or revoke a license under  
23 AS 04.11.370(5), the board finds that a sentencing report sent to the  
24 board under AS 12.55.025(b) or a report prepared by the investigating or  
25 arresting officers in connection with the violation, contains infor-  
26 mation which if uncontradicted or unexplained would provide a ground for  
27 suspension or revocation under AS 04.11.370(5), the licensee has the  
28 burden of proof to establish that he neither knowingly allowed the  
29 violation nor recklessly or with criminal negligence failed to act in

1 accordance with the duty prescribed under AS 04.21.030.

2 (b) If the board suspends or revokes a license on grounds that a  
3 licensee knowingly allowed or recklessly or with criminal negligence  
4 failed to act in accordance with the duty prescribed under AS 04.21.030  
5 resulting in unlawful action of an agent or employee, the board shall  
6 file a criminal complaint charging the licensee with violation of  
7 AS 04.16.150.

8 Sec. 04.11.537. APPLICATION OF PRECEDENT. In determining whether  
9 issuance, renewal, transfer, suspension, or revocation of a license is  
10 in the best interests of the public, the board need not conform to or  
11 distinguish its decision from any action it has taken in the past on  
12 applications presenting similar facts, but may instead base its decision  
13 only on the particular facts before it.

14 ARTICLE 8. EXPIRATION OF LICENSES.

15 Sec. 04.11.540. LICENSE RENEWAL AND EXPIRATION. Notwithstanding  
16 AS 04.11.680, an application for renewal of a license issued for the  
17 calendar year ending December 31 or issued for a six-month period ending  
18 in the previous year may be submitted up until the next February 28 but  
19 the authority granted under the license may not be exercised until the  
20 license is renewed. If the application for renewal and applicable  
21 affidavits have not been filed by February 28 or the required fees and  
22 the penalty fees have not been paid by that date, the license expires at  
23 12:00 midnight February 28. A new license may not be issued to the  
24 holder of an expired license for the same premises except on proof  
25 satisfactory to the board of good cause for the failure to file and pay.

26 Sec. 04.11.550. NOTICE OF EXPIRATION. On or before February 15,  
27 the director shall mail a notice of expiration to each licensee who has  
28 not either (1) filed an application to renew his license, along with any  
29 applicable affidavits and all fees due, or (2) notified the director of

1 his intent not to do so. Failure of the director to mail this notice of  
2 expiration does not waive the requirement that the application for  
3 renewal be filed by February 28.

4 ARTICLE 9. MISCELLANEOUS PROVISIONS.

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

8 (b) A decision by the board relating to the issuance, renewal,  
9 transfer, suspension, or revocation of a license under this title may be  
10 appealed to the superior court under AS 44.62.560.

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

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

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

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

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

25 (c) If the license is destroyed, the licensee shall so notify the  
26 board.

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

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

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

7 (b) If the officers of a municipality fail to actively enforce  
8 local ordinances, laws of the United States and the state, and the  
9 regulations relating to the manufacture and sale of alcoholic beverages  
10 in the state, the commissioner of revenue may deny the refund provided  
11 for under (a) of this section until the board finds the enforcement of  
12 the ordinances, laws and regulations is resumed.

13 (c) The Department of Revenue shall recover any amounts errone-  
14 ously refunded under (a) of this section. The Department of Revenue  
15 shall schedule repayments of erroneously refunded amounts over a suffi-  
16 cient period of time to minimize financial hardship to the municipality  
17 involved.

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

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

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

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

3 Sec. 04.11.670. FORECLOSURE. A license issued under this title is  
4 not subject to foreclosure, and may not be used as collateral to secure  
5 a debt. However, if a license is transferred to another person, the  
6 transferor may secure payment for real and personal property conveyed to  
7 the transferee upon the promise of the transferee to transfer the  
8 license back to the transferor upon default in payment.

9 Sec. 04.11.680. DURATION OF LICENSES AND PERMITS. (a) Upon  
10 application and payment of one-half of the annual fee, the board may  
11 issue a license under this title which will be effective for a continuous  
12 six-month period. Otherwise, all licenses issued under this title other  
13 than a retail stock sale license shall be effective for the calendar  
14 year ending December 31, unless a shorter period is prescribed by the  
15 board.

16 (b) A permit issued under this title shall be for the period  
17 prescribed by the board, which period shall be clearly designated on the  
18 permit.

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

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

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

27 Sec. 04.11.700. REFUSAL OF SERVICE. A licensee, his agent, or  
28 employee may refuse to sell, give, or serve alcoholic beverages to a  
29 person if the licensee, his agent, or employee reasonably believes that

1 the consumption of alcohol by that person may result in serious harm to  
2 that person or to others.

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

4 CHAPTER 16. REGULATION OF SALES AND DISTRIBUTION.

5 ARTICLE 1. PROHIBITED ACTS.

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

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

14 (c) A licensee, his agent, or employee may not permit a person to  
15 and a person may not enter premises licensed under this title between  
16 the hours of 5:00 a.m. and 8:00 a.m. each day. This subsection does not  
17 apply to common carriers, as defined in AS 42.10.420(2), or to an em-  
18 ployee of the licensee who is on the premises to prepare for the next  
19 day's business or to persons remaining on the premises of a restaurant  
20 or eating place licensed under this title to consume food or nonalco-  
21 holic beverages.

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

24 Sec. 04.16.020. SOLICITATION OF ALCOHOLIC BEVERAGES. (a) A  
25 person may not pay or receive from another a salary, percentage or  
26 commission to solicit or encourage a patron of licensed premises to  
27 purchase alcoholic or other beverages for consumption by a person other  
28 than the patron.

29 (b) A licensee, his agent, or employee may not knowingly permit a

1 person to loiter within or about premises licensed under this title for  
2 the purpose of begging or soliciting a patron or visitor to purchase  
3 alcoholic or other beverages for the person who is begging or solicit-  
4 ing.

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

8 (1) sell, give, or barter alcoholic beverages to a drunken  
9 person;

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

12 (3) allow a drunken person to enter and remain within li-  
13 censed premises or to consume an alcoholic beverage within a licensed  
14 premises;

15 (4) permit a drunken person to sell or serve alcoholic bever-  
16 ages.

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

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

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

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

29 (2) accompanied by a person over the age of 19 years and with

1 the consent of the person's parent or guardian if the premises are  
2 licensed as a restaurant or eating place and the persons enter and  
3 remain only for dining.

4 (b) Notwithstanding (a) of this section, a licensee, his agent, or  
5 employee may refuse entry to a person under the age of 19 years to that  
6 part of licensed premises in which alcoholic beverages are sold, served  
7 or consumed, may refuse service to a person under the age of 19 years,  
8 or may require a person under the age of 19 years to leave the portion  
9 of the licensed premises in which alcoholic beverages are sold, served,  
10 or consumed.

11 (c) Notwithstanding this section, a person between 16 and 19 years  
12 of age may enter and remain within the licensed premises of a hotel,  
13 restaurant, or eating place in the course of his employment if (1) the  
14 employment does not involve the serving, mixing, delivering, or dis-  
15 pensing of alcoholic beverages; (2) the person has the written consent  
16 of a parent or guardian; and (3) an exemption from the prohibition of  
17 AS 23.10.355 is granted by the Department of Labor. The board, with the  
18 approval of the governing body having jurisdiction and at the licensee's  
19 request, shall designate which premises are hotels, restaurants or  
20 eating places for the purposes of this subsection.

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

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

28 (b) This section does not prohibit the furnishing of an alcoholic  
29 beverage

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

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

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

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

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

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

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

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

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

23 (b) A person may not influence the sale, gift, or service of an  
24 alcoholic beverage to a person under the age of 19 years, by misrepre-  
25 senting the age of that person.

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

29 (d) A person under the age of 19 years may not enter licensed

1 premises where alcoholic beverages are sold and offer or present to a  
2 licensee, his agent, or employee a birth certificate or other written  
3 evidence of age, which is fraudulent or false or which is not actually  
4 his own, or otherwise misrepresent his age, for the purpose of inducing  
5 the licensee, his agent, or employee to sell, give, serve, or furnish  
6 alcoholic beverages contrary to law.

7 (e) A person who has attained the age of 19 years accompanying a  
8 person under the age of 19 who is seeking to enter and remain in a  
9 licensed premises under AS 04.16.049(u)(2) may not misrepresent having  
10 obtained the consent of the parent or guardian of the person under the  
11 age of 19 years.

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

15 (1) in the state on a day on which a statewide special,  
16 primary, or general election is held for the purpose of voting for a  
17 candidate for public office, until the polls have closed;

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

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

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

26 Sec. 04.16.090. PROHIBITION OF BOTTLE CLUBS. (a) A person may  
27 not maintain a place in which alcoholic beverages are received or kept,  
28 or to which alcoholic beverages are brought, for consumption by members  
29 of the public or by members of a club, corporation, or association,

1 unless the person is authorized to do so under this title.

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

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

11 Sec. 04.16.100. RESTRICTION ON SIZE OF CONTAINERS. A person may  
12 not sell alcoholic beverages in 1/6 gallon or 1/10 gallon containers,  
13 nor may a person sell alcoholic beverages in a container deceptively  
14 similar in appearance to a container of a different volume.

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

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

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

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

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

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

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

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

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

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

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

25 ARTICLE 2. PENALTIES AND FORFEITURES.

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

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

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

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

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

10 (c) In this section, the terms "second conviction" and "third  
11 conviction" include only convictions for violations which occur within  
12 five years of the first conviction. The terms refer to the cumulative  
13 number of convictions of a licensee of any combination of violations of  
14 the provisions of this title, regulations adopted under this title, or  
15 ordinances adopted under AS 04.21.010. The terms "second conviction"  
16 and "third conviction" include a conviction of the agent or employee of  
17 a licensee of a violation of a law, regulation, or ordinance if the  
18 conviction constitutes a ground for suspension or revocation under  
19 AS 04.11.370(5).

20 (d) This section does not affect the authority of the board to  
21 suspend or revoke a license when the board determines that continuance  
22 of activities under a license would not be in the best interests of the  
23 public.

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

26 (b) A person who violates AS 04.11.010 in an area where the re-  
27 sults of a local option election have, under AS 04.11.490 - 04.11.500,  
28 prohibited the board from issuing, renewing, or transferring one or more  
29 types of licenses or permits under this title in the area is, upon

1 conviction, guilty of a class C felony, if

2 (1) he has previously been convicted of a violation of  
3 AS 04.11.010;

4 (2) the sale or offer for sale was made to a person under 19  
5 years of age; or

6 (3) the quantity of alcoholic beverages sold or offered for  
7 sale is 12 liters or more of distilled spirits, 24 liters or more of  
8 wine, or 45 liters or more of malt beverages.

9 (c) It is an affirmative defense to a prosecution under (a) of  
10 this section that no profit was involved in the solicitation or receipt  
11 of an order for the delivery of an alcoholic beverage. However, the  
12 affirmative defense created under this subsection is not available in a  
13 prosecution of a person charged with selling or offering for sale al-  
14 cholic beverages to a person under 19 years of age.

15 (d) Upon conviction of a person of a violation under (a) of this  
16 section, the court shall impose a minimum sentence of imprisonment of  
17 not less than 10 consecutive days. The execution of the sentence may  
18 not be suspended and probation or parole may not be granted until the  
19 minimum imprisonment provided in this subsection has been served.  
20 Imposition of sentence may not be suspended except upon the condition  
21 that the defendant be imprisoned for no less than the minimum period  
22 provided in this subsection.

23 (e) A person who sends, transports, or brings alcoholic beverages  
24 into a city or established village in violation of AS 04.11.496 is, upon  
25 conviction,

26 (1) guilty of a class A misdemeanor if the quantity imported  
27 is less than 12 liters of distilled spirits, 24 liters of wine, or 45  
28 liters of malt beverages; or

29 (2) guilty of a class C felony if the quantity imported is 12

1       liters or more of distilled spirits, 24 liters or more of wine, or 45  
2       liters or more of malt beverages.

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

7           Sec. 04.16.220. FORFEITURES. (a) The following are subject to  
8       forfeiture:

9           (1) alcoholic beverages manufactured, sold, offered for sale  
10       or possessed for sale, bartered or exchanged for goods and services in  
11       this state in violation of AS 04.11.010; alcoholic beverages stocked,  
12       warehoused, or otherwise stored in violation of AS 04.21.060; alcoholic  
13       beverages sold or offered for sale in an area where the results of a  
14       local option election have, under AS 04.11.490 - 04.11.500, prohibited  
15       the board from issuing, renewing, or transferring one or more licenses  
16       or permits under this title in the area; alcoholic beverages transported  
17       into the state and sold to persons not licensed under this chapter in  
18       violation of AS 04.16.170(b);

19           (2) materials and equipment used in the manufacture, sale,  
20       offering for sale, possession for sale, barter or exchange of alcoholic  
21       beverages for goods and services in this state in violation of AS 04.-  
22       11.010; materials and equipment used in the stocking, warehousing, or  
23       storage of alcoholic beverages in violation of AS 04.21.060; materials  
24       and equipment used in the sale or offering for sale of an alcoholic  
25       beverage in an area where the results of a local option election have,  
26       under AS 04.11.490 - 04.11.500, prohibited the board from issuing,  
27       renewing, or transferring one or more licenses or permits under this  
28       title in the area;

29           (3) aircraft, vehicles, or vessels used to transport, or

1 facilitate the transportation of

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

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

7 (C) alcoholic beverages imported into a municipality or  
8 established village in violation of AS 04.11.496;

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

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

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

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

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

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

28 (c) Within 30 days of a seizure under this section the Department  
29 of Public Safety shall make reasonable efforts to ascertain the identity

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

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

14 (1) upon conviction of a person under AS 04.11.010, 04.11.-  
15 496(b), or AS 04.21.060;

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

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

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

1 that he was not a party to the violation subjecting the property to  
2 forfeiture and had no actual knowledge that the property was used or was  
3 to be used in violation of the law.

4 (g) It is no defense in an in rem forfeiture proceeding brought  
5 under (d)(2) of this section that a criminal proceeding is pending or  
6 has resulted in conviction or acquittal of a person charged with violat-  
7 ing AS 04.11.010, 04.11.496(b), or AS 04.21.060.

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

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

17 CHAPTER 21. GENERAL PROVISIONS.

18 Sec. 04.21.010. MUNICIPAL REGULATION. (a) A municipality may  
19 adopt ordinances governing the barter, sale, and consumption, of alco-  
20 holic beverages within the municipality as necessary for the orderly  
21 conduct of the business of selling alcoholic beverages within the muni-  
22 cipality. An ordinance adopted under this section may not be inconsis-  
23 tent with this title or regulations adopted under this title.

24 (b) If, as a result of an election held in accordance with AS 04.-  
25 11.502 in a municipality, the board is prohibited from issuing, re-  
26 newing, or transferring a license between holders or locations or if the  
27 importation of alcoholic beverages is prohibited in the municipality,  
28 the municipality may adopt an ordinance making the sale or importation  
29 of alcoholic beverages a misdemeanor. The ordinance may not be incon-

1           sistent with this title or the regulations adopted under this title.

2           (c) A municipality may not impose taxes on alcoholic beverages  
3           except (1) property taxes on alcoholic beverage inventories and (2)  
4           sales taxes on alcoholic beverage sales.

5           Sec. 04.21.030. RESPONSIBILITY OF LICENSEES, AGENTS AND EMPLOYEES.  
6           The licensee has a duty to exercise that degree of care which a reason-  
7           able person would observe to insure that a business under his control is  
8           lawfully conducted. This duty of the licensee includes, but is not  
9           limited to,

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

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

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

1 original order attached to the copy of the invoice on file at his prem-  
2 ises.

3 (b) Alcoholic beverages received on federal reservations under  
4 this section may not be removed for resale or public use outside the  
5 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  
27 premises where alcoholic beverages are sold if the license or identi-  
28 fication card is made of or encased in plastic and contains a photograph  
29 of the license or card holder and a statement of his age or date of

1 birth.

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

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

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

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

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

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

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

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

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

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

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

16 (b) In this title

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

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

23 (3) "bottling" means to put into a bottle, can, or other con-  
24 tainer;

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

1 (5) "director" means the director of the Alcoholic Beverage  
2 Control Board;

3 (6) "distributing point" means a location where alcoholic  
4 beverages are distributed from a warehouse;

5 (7) "drunken person" means a person whose physical or mental  
6 conduct is substantially impaired as a result of the introduction of an  
7 alcoholic beverage into his body and who exhibits those plain and easily  
8 observed or discovered outward manifestations of behavior commonly known  
9 to be produced by the overconsumption of alcoholic beverages;

10 (8) "established village" means an unincorporated area that

11 (A) is within the circumference of a circle described by  
12 drawing a five-mile radius around a post office station;

13 (B) has 25 or more permanent residents;

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

19 (10) "local governing body" means, as appropriate, a city  
20 council, a borough assembly, or a traditional village council, but does  
21 not include a corporation established under the Alaska Native Claims  
22 Settlement Act;

23 (11) "municipality" means an incorporated city, an organized  
24 borough, or a unified municipality established under AS 29.68.

25 \* Sec. 5. AS 04.21 is amended by adding a new section to read:

26 Sec. 04.21.020. CIVIL LIABILITY OF PERSONS PROVIDING ALCOHOLIC  
27 BEVERAGES. A person who provides alcoholic beverages to another person  
28 may not be held civilly liable for injuries resulting from the intoxica-  
29 tion of that person unless

1 (1) the person who provides the alcoholic beverages holds a  
2 license authorized under AS 04.11.080 - 04.11.220, or is an agent or  
3 employee of such a licensee; and

4 (2) the alcoholic beverages are provided to a person under  
5 the age of 19 years in violation of AS 04.16.051, unless the licensee,  
6 agent, or employee secures in good faith from the person a signed state-  
7 ment, liquor identification card, or driver's license meeting the re-  
8 quirements of AS 04.21.050(a) and 04.21.050(b), which indicates that the  
9 person is 19 years of age or older; or

10 (3) the alcoholic beverages are provided to a drunken person  
11 in violation of AS 04.16.030.

12 \* Sec. 6. AS 09.35.087 is amended to read:

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

16 \* Sec. 7. AS 12.55.025(a) is amended to read:

17 (a) When imposing a sentence of imprisonment exceeding 90 [180]  
18 days or upon a conviction of a violation of AS 04, a regulation adopted  
19 under AS 04, or an ordinance adopted in conformity with AS 04.21.010,  
20 the court, shall prepare, as a part of the record, a sentencing report  
21 which includes the following:

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

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

27 (3) a clear statement of the terms of the sentence imposed;  
28 and

29 (4) recommendations as to the place of confinement or the

1 manner of treatment.

2 \* Sec. 8. AS 12.55.025(b) is repealed and re-enacted to read:

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

10 \* Sec. 9. AS 29.33.090 is amended by adding a new subsection to read:

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

16 \* Sec. 10. AS 39.25.110 is amended by adding a new paragraph to read:

17 (23) officers, agents, and employees of the Alcoholic Beverage  
18 Control Board granted limited peace officer powers by the Alcoholic  
19 Beverage Control Board under AS 04.06.110.

20 \* Sec. 11. AS 44.66.010(a)(1) is amended to read:

21 (1) Alcoholic Beverage Control Board (AS 04.06.010) [(AS 04.-  
22 05.010)] -- June 30, 1981 [1979];

23 \* Sec. 12. AS 04.05, AS 04.10, AS 04.15, AS 04.20, and AS 44.62.330(17)  
24 are repealed.

25 \* Sec. 13. AS 09.65.097 is repealed.

26 \* Sec. 14. Notwithstanding AS 04.06, members of the Alcoholic Beverage  
27 Control Board serving on the board on the effective date of this Act continue  
28 in office until the expiration of their terms.

29 \* Sec. 15. Sections 7 and 8 of this Act take effect January 1, 1981.

1 \* Sec. 16. Sections 1 - 6 and secs. 9 - 12, and 14 of this Act take  
2 effect July 1, 1980.

3 \* Sec. 17. Section 13 of this Act takes effect upon the enactment of  
4 House CS for CS for Senate Bill No. 115 (Rules), "An Act relating to the  
5 civil liability of providers of intoxicating liquor."

6 \* Sec. 18. Sections 15 - 18 of this Act take effect immediately in accor-  
7 dance with AS 01.10.070(c).

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