

Original sponsor: Health, Education and
Social Services Committee

Offered: 4/27/79
Referred: Judiciary and
Finance

1 IN THE SENATE

BY THE COMMERCE COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 250

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act terminating the existence of the Alcoholic
7 Beverage Control Board, reassigning its responsibili-
8 ties to the Department of Commerce and Economic Devel-
9 opment, amending laws relating to the department's
10 responsibilities; and providing for an effective date."

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

12 * Section 1. AS 04.05.010 is amended to read:

13 Sec. 04.05.010. DIVISION OF ALCOHOLIC BEVERAGE CONTROL [CREATION
14 OF BOARD AND OFFICE OF DIRECTOR]. (a) There is established a division
15 of alcoholic beverage control [AN ALCOHOLIC BEVERAGE CONTROL BOARD]
16 within the Department of Commerce and Economic Development [CONSISTING
17 OF FIVE MEMBERS APPOINTED FOR OVERLAPPING THREE-YEAR TERMS]. The depart-
18 ment [BOARD] is vested with the duties, powers, and responsibilities
19 involved in the control of alcoholic beverages, including the promulga-
20 tion of [RULES AND] regulations. The commissioner shall hear [AND THE
21 HEARING OF] appeals from the action of officers and employees charges
22 with enforcing the alcoholic beverage control laws [, RULES,] and regula-
23 tions. [THE GOVERNOR SHALL APPOINT THE BOARD SUBJECT TO CONFIRMATION BY
24 THE LEGISLATURE. NO MEMBER OF THE BOARD MAY HOLD ANY OTHER STATE OR
25 FEDERAL OFFICE, EITHER ELECTIVE OR APPOINTIVE. TWO MEMBERS OF THE BOARD
26 SHALL BE ACTIVELY ENGAGED IN THE ALCOHOLIC BEVERAGE INDUSTRY, EXCEPT
27 THAT NO MEMBER MAY BE AN OFFICER, AGENT, OR EMPLOYEE OF A WHOLESALE
28 ALCOHOLIC BEVERAGE ENTERPRISE. NO THREE MEMBERS OF THE BOARD MAY BE
29 ENGAGED IN THE SAME BUSINESS, OCCUPATION OR PROFESSION. THREE MEMBERS

1 CONSTITUTE A QUORUM FOR THE CONDUCT OF BUSINESS. THE BOARD SHALL MEET
2 AT LEAST ONCE EACH YEAR IN EACH OF THE FOUR JUDICIAL DISTRICTS TO STUDY,
3 RECONSIDER AND MODIFY EXISTING AGENCY RULES AND REGULATIONS IN THE LIGHT
4 OF CURRENT LOCAL PROBLEMS.]

5 (b) The commissioner [GOVERNOR] shall appoint a director [, SUB-
6 JECT TO CONFIRMATION BY THE LEGISLATURE, WHO IS THE EXECUTIVE OFFICER OF
7 THE BOARD]. The director shall enforce this title and the [RULES AND]
8 regulations of the department under the supervision of the commissioner.
9 The director [PROMULGATED BY THE BOARD. THE DIRECTOR IS NOT A MEMBER OF
10 THE BOARD BUT MAY CAST A TIE-BREAKING VOTE. HE] shall issue all
11 licenses provided for under this title.

12 * Sec. 2. AS 04.05.020 is amended to read:

13 Sec. 04.05.020. REGULATIONS. The department [BOARD] shall adopt
14 [PRESCRIBE RULES AND] regulations consistent with this title governing
15 the manufacture, barter, sale, and possession of intoxicating liquors in
16 the state and shall prescribe application fees.

17 * Sec. 3. AS 04.05.030 is amended to read:

18 Sec. 04.05.030. POWERS, AUTHORITY AND CONTROL. (a) The depart-
19 ment shall [BOARD MAY] control the manufacture, barter, sale and posses-
20 sion of intoxicating liquors in the state, and may adopt necessary
21 [RULES AND] regulations to assure the proper administration of state
22 liquor laws [REGULATIONS] in a manner that will protect the public
23 health, safety and welfare.

24 (b) The department [BOARD] shall review all applications made
25 under this title for licenses and shall issue, reissue, revoke, transfer
26 or suspend all licenses coming within the purview of this title. The
27 licenses shall be issued, reissued, revoked, transferred or suspended as
28 the department [BOARD] considers in the best interests of the public.
29 When a license is denied, the denial shall be made in writing with the

1 reason for the denial set out [FORTH].

2 (c) The department [BOARD] may hold public hearings on applica-
3 tions for licenses when any applications are protested, and require an
4 applicant to answer any pertinent questions.

5 (d) The department [BOARD] may appoint agents, assistants, clerks
6 and stenographic employees as it considers necessary in giving effect to
7 this title.

8 (e) The department [BOARD] may adopt [PROMULGATE] necessary [RULES
9 AND] regulations to effectuate the purpose of this title. These [RULES
10 AND] regulations shall have the effect of law.

11 (f) The Administrative Procedure Act (AS 44.62) governs all pro-
12 ceedings under this title.

13 * Sec. 4. AS 04.05.040 is amended to read:

14 Sec. 04.05.040. SCOPE OF REGULATIONS. The power of the department
15 [BOARD] to adopt [RULES AND] regulations specifically includes, but is
16 not limited to, the following matters:

17 (1) regulating the employment, conduct and duties of the
18 employees of the division of alcoholic beverage control [BOARD];

19 (2) prescribing the forms of application, reports and other
20 forms, and the terms and conditions in permits and licenses issued;

21 (3) prescribing the fees to be paid for permits and licenses
22 issued for which no fees are prescribed by statute, and prescribing the
23 fees for anything done or permitted to be done under the regulations;

24 [(4) PROVIDING FOR REGULAR AND SPECIAL MEETINGS OF THE BOARD
25 AS MAY BE NECESSARY OR PROPER;]

26 (5) providing for the delegation to the director of routine
27 administrative functions and powers, including the issuance, transfer
28 and renewal of licenses and permits where there is no contest or pro-
29 test;

1 (6) prescribing the manner of giving and serving notice
2 required by law or regulation where it is not provided for by statute;

3 (7) prescribing the conditions, accommodations, qualifica-
4 tions, and inspections of each type or kind of license, licensee, or
5 licensed premises;

6 (8) providing for the making of returns and reports by whole-
7 salers of wine, beer and liquor;

8 (9) providing for the giving of fidelity bonds by any or all
9 of the employees of the division [BOARD], the state to pay the premiums
10 for the bonds;

11 (10) providing for the issuance, renewal, reissuance, revoca-
12 tion and suspension of licenses and permits;

13 (11) prohibiting possession of alcoholic beverages by minors;

14 (12) prescribing reports from licensee corporations, including
15 reports of stock ownership, transfers and changes of officers and
16 directors.

17 * Sec. 5. AS 04.05.070 is amended to read:

18 Sec. 04.05.070. VIOLATION OF REGULATIONS OF THE DEPARTMENT
19 [BOARD]. A person, firm, or corporation, who violates a [RULE OR]
20 regulation adopted [PRESCRIBED] by the department [BOARD] governing the
21 manufacture, sale, barter, and possession of intoxicating liquors in the
22 state, or the qualifications of those engaging in the manufacture, sale,
23 barter, and possession of intoxicating liquors in the state, or the
24 payment of license fees and excise taxes, is guilty of a misdemeanor,
25 and upon conviction is punishable as provided in AS 04.15.100.

26 * Sec. 6. AS 04.10.030 is amended to read:

27 Sec. 04.10.030. ISSUANCE OF LICENSES. The licenses described in
28 AS 04.10.040 - 04.10.140 shall be issued by the director [UPON DIRECTION
29 OF THE BOARD].

1 * Sec. 7. AS 04.10.040(a) is amended to read:

2 (a) The holder of a beverage dispensary license may sell for cash
3 or serve on the premises beer, wine and hard liquors for consumption on
4 the premises only. The beverage dispensary license fee is \$500 in all
5 unincorporated communities and incorporated cities having a population
6 not exceeding 1,500 persons and \$1,000 in all unincorporated communities
7 and incorporated cities having a population in excess of 1,500 persons.
8 The population shall be determined at the time of filing the applica-
9 tion. Each applicant for a beverage dispensary license shall file with
10 the application a cash bond or a surety bond executed by a surety
11 company approved by the department [BOARD]. The condition of the bond
12 or undertaking shall be that the applicant or applicants are the sole
13 owners of the business to be licensed, and that no other person is
14 financially interested directly or indirectly, and that the applicant or
15 applicants will conduct the business in accordance with the applicable
16 laws pertaining to intoxicating liquor in the state. The bond shall be
17 in the penal sum of \$2,500. Upon revocation of the license, the bond
18 may be forfeited and the amount deposited into the general fund of the
19 state.

20 * Sec. 8. AS 04.10.070 is amended to read:

21 Sec. 04.10.070. CLUB LICENSE. A club license gives to clubs,
22 fraternal organizations, and patriotic organizations, that have a state
23 or national charter, and that have been so incorporated and active for a
24 period of two years or more, the right to sell intoxicating liquors to
25 members and their families only in their club rooms. The club license
26 fee is \$400, except that where any club has certified to the department
27 [BOARD] that the gross sales of intoxicating liquor for the preceding
28 year were less than \$5,000 the club license fee is \$200. For purposes
29 of this section the term "member" as it applies to patriotic organiza-

1 tions includes military personnel on active duty in uniform upon special
2 occasions.

3 * Sec. 9. AS 04.10.190(c) is amended to read:

4 (c) If it appears to the department [BOARD] that any of the state-
5 ments required in the application are untrue at the time of application
6 for the license, the application may be denied.

7 * Sec. 10. AS 04.10.190(d) is amended to read:

8 (d) If it appears to the department [BOARD] after the granting
9 of the license that any of the statements required to be made in the
10 application are untrue, the department [BOARD] may enter an order revok-
11 ing the license. In that event, license money deposited by the appli-
12 cant is forfeited to the state. Peace officers shall investigate and
13 report to the department [BOARD] any violations of the provisions of this
14 title.

15 * Sec. 11. AS 04.10.200 is amended to read:

16 Sec. 04.10.200. PUBLIC NOTICE. The department [BOARD] shall
17 provide by regulation for adequate notice to inform the public and the
18 local governing body of a proposed issuance of a new license or transfer
19 of an existing license. The notice shall be bilingual when necessary.
20 Notice shall be given by posting at the location of the premises, at the
21 nearest post office, and at one other conspicuous location in the area
22 for a period of at least 10 days a true copy of the application and by
23 public service announcements provided to newspapers and radio and tele-
24 vision stations at least 30 days before filing the application. Paid
25 notice by a new applicant may be required by the department [BOARD]
26 under this section.

27 * Sec. 12. AS 04.10.240 is amended to read:

28 Sec. 04.10.240. TRANSFER OF LICENSE. No license issued under this
29 title may be transferred except after first securing the consent of the

1 department [BOARD]. No license may be transferred out of the election
2 district for the house of representatives within which it was granted,
3 except within an organized borough or a unified municipality established
4 under AS 29.68.240 - 29.68.440. No license may be transferred if the
5 transfer would result in exceeding a population limitation set out in
6 AS 04.10.210. Licenses already issued on April 25, 1960, shall be
7 renewed irrespective of such a limitation, unless the application is
8 denied for reason other than that contained in this section.

9 * Sec. 13. AS 04.10.260(a) is amended to read:

10 (a) The department [BOARD] may, in its discretion, approve the
11 issuance or transfer of a license without regard to the quota provisions
12 of AS 04.10.210 - 04.10.290 when it appears that the issuance or trans-
13 fer will encourage the construction or improvement of a hotel, motel,
14 resort or similar business related to the tourist trade having a minimum
15 accommodation of 10 rooms and a dining facility. The dining facility
16 requirement may be waived if the majority of rooms have kitchen facili-
17 ties.

18 * Sec. 14. AS 04.10.270 is amended to read:

19 Sec. 04.10.270. [HEARING ON] PROTEST OF LOCAL GOVERNING BODY. An
20 application for a transfer, renewal or new license coming from within a
21 municipality shall be transmitted directly to the department [BOARD] and
22 need not bear a recommendation of the governing body of the municipal-
23 ity. Upon deciding to approve an application the department [BOARD]
24 shall transmit written notice of its intent to approve the transfer,
25 renewal or new license requested to the city governing body, if the
26 application is for premises within an incorporated city, or to the
27 borough assembly, if the application is for premises within the area of
28 an organized borough outside the boundaries of an incorporated city. If
29 the local governing body wishes to protest approval, it shall furnish

1 the department [BOARD] with a notice of protest within 30 days of
2 receipt of the [BOARD] notice of intent by the department to approve the
3 application. Upon receipt of a protest by the local governing body, the
4 department [BOARD] may not take final action on the application until it
5 has provided an opportunity for a hearing on the protest in accordance
6 with the requirements of AS 04.10.272 [THE ADMINISTRATIVE PROCEDURE ACT
7 (AS 44.62)].

8 * Sec. 15. AS 04.10 is amended by adding new sections to read:

9 Sec. 04.10.272. HEARING ON PROTEST. On the protest of the local
10 governing body under AS 04.10.270, the department may not approve the
11 application unless the director, after he has provided the local govern-
12 ing body with the opportunity for a hearing, finds that the protest of
13 the local governing body is arbitrary, capricious or clearly unreason-
14 able.

15 Sec. 04.10.274. APPEAL. The decision of the director may be
16 appealed to the commissioner.

17 * Sec. 16. AS 04.10.280 is amended to read:

18 Sec. 04.10.280. [HEARING ON APPLICATION;] REFUND OF FEES. [AT THE
19 TIME SET FOR THE HEARING, THE BOARD SHALL CONSIDER THE APPLICATION AND
20 ANY PROTESTS THAT MAY BE FILED AGAINST IT, AND SHALL HEAR THE APPLICANT
21 OR OTHERS APPEARING IN CONNECTION WITH THE MATTER, AND GIVE JUDGMENT
22 UPON THE APPLICATION.] If the application is rejected, the department
23 [BOARD] shall refund the application fee less the sum of \$25. No
24 license fee may be refunded after the license has been issued.

25 * Sec. 17. AS 04.10.300(a) is amended to read:

26 (a) An adult resident in an area outside a municipality who
27 desires to protest the issuance, reissuance, renewal or transfer of a
28 license for an establishment that is outside a municipality and within
29 two miles of his permanent place of abode or within the established

1 village in which his permanent place of abode is located shall serve
2 upon the applicant and the department [BOARD] a written statement of the
3 reasons for his protest. Upon the receipt of the protest, the depart-
4 ment [BOARD] may give notice and hold a hearing in the area in which the
5 protestant resides, at which all persons interested may be heard.

6 * Sec. 18. AS 04.10.300(b) is amended to read:

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

18 * Sec. 19. AS 04.10.300(c) is amended to read:

19 (c) If the licensed premises is situated or is to be situated
20 outside a municipality or established village and at the hearing the
21 majority of the adult residents having a permanent place of abode within
22 two miles of the premises but outside the municipality or established
23 village object to issuance, renewal or transfer, the department [BOARD]
24 may, if in its opinion the public interest will be served by the refusal
25 or if other grounds for refusal exist by law, refuse to issue or trans-
26 fer the license.

27 * Sec. 20. AS 04.10.310 is amended to read:

28 Sec. 04.10.310. PUBLIC APPROVAL FOR LICENSES IN REMOTE AREAS. No
29 license for the sale of intoxicating liquor may be issued in any area

1 [,) which is 50 miles or more from the incorporated boundaries of a
2 municipality, unless a petition containing the signatures of two-thirds
3 of the bona fide residents, 19 years of age or over, residing within a
4 radius of five miles of the nearest United States post office station,
5 is filed with the department [BOARD] asking that a license be issued
6 within the area. If there are two or more United States post office
7 stations within the vicinity of the place where intoxicating liquor is
8 to be sold, the nearest station to such place constitutes the point of
9 beginning. A petition is not necessary for a reissuance of any license
10 granted under this section. If no post office station exists within a
11 radius of five miles of the place where intoxicating liquor is to be
12 sold, then AS 04.10.440 applies.

13 * Sec. 21. AS 04.10.330 is amended to read:

14 Sec. 04.10.330. APPLICATION FOR TRANSFER OF LICENSES. (a) No
15 license may be transferred by the licensee to any other person except
16 with the written consent of the department [BOARD]. Consent for the
17 transfer of a license may be given upon written application for the
18 transfer [THEREFOR].

19 (b) Application for the transfer of ownership of an existing
20 license shall be accompanied by a statement, under oath, executed by the
21 transferor in which he lists all debts and the amounts which he owes to
22 a creditor of the business and taxes due. The board shall promptly
23 inform each creditor of the application and of the amount owed that
24 creditor. The department [BOARD] shall not approve the application for
25 transfer unless all of the debts and taxes due to the state and any
26 municipality are paid, or the transferor gives security for the payment
27 of them satisfactory to the state or a municipality before [CREDITOR OR
28 TAXING AUTHORITY PRIOR TO] approval of the application.

29 * Sec. 22. AS 04.10.340 is amended to read:

1 Sec. 04.10.340. PROVISIONAL LICENSE. The director shall issue a
2 provisional license upon the payment of the minimum fees for the li-
3 censes mentioned in AS 04.10.110. Not later than February 15 of each
4 year following that for which a license has been issued to a licensee,
5 the licensee shall file with the department [BOARD] an affidavit showing
6 the amount of business done during the preceding year under his license
7 and the location and establishment from which the business was done.
8 The licensee shall pay to the department [BOARD] the license fees accrued
9 during the preceding year at the time of filing the affidavit. Unless
10 the affidavit is filed and fee paid, any license outstanding in the name
11 of the applicant which has been issued under the laws in effect at the
12 time of passage of this chapter shall be immediately cancelled by order
13 of the department [BOARD]. The failure to file the affidavit or the
14 cancellation of an existing license does not relieve any licensee from
15 paying the prescribed fees.

16 * Sec. 23. AS 04.10.350(c)(4)(B) and (C) are amended to read:

17 (B) upon proof satisfactory to the department [BOARD] of
18 good cause for the failure to file and pay; and

19 (C) in accordance with [RULES OR] regulations adopted
20 [PROMULGATED] by the department [BOARD]; the fee for filing an
21 application for reinstatement shall, in addition to the annual fee,
22 include the penalty fee provided in (3) of this subsection, no part
23 of which is returnable to the applicant.

24 * Sec. 24. AS 04.10.360 is amended to read:

25 Sec. 04.10.360. TRANSFER OF LICENSE. A license may be transferred
26 to a new location to be operated by a qualified transferee subject to
27 the limitation contained in AS 04.10.240 - 04.10.250. An application
28 for a transfer of a license to a new location shall contain the informa-
29 tion required by the department [BOARD] and shall be accompanied by

1 proof of posting of application as required in AS 04.10.200. The trans-
2 feree of a license shall have the qualifications required under this
3 title for a new license. No license may be issued, reissued or trans-
4 ferred, unless the application for the license contains all the infor-
5 mation required by this title, nor shall an application be granted which
6 contains any false statements of material fact.

7 * Sec. 25. AS 04.10.370 is amended to read:

8 Sec. 04.10.370. DEATH OF LICENSEE. If a person operating a busi-
9 ness as sole licensee under a license authorized by this title dies, the
10 executor or administrator of his estate shall, within 90 days of the
11 death of the licensee or before December 31 of the year for which the
12 license was issued, whichever date first occurs, make application to the
13 department [BOARD] for transfer of the license. If no application is
14 made within that time the license is forfeited and void. The executor
15 or administrator may continue to operate the business until the transfer
16 is approved or until the license is forfeited. The department [BOARD]
17 may extend the time on petition of the executor or administrator.
18 During the period that the licensed premises or a business license
19 [HEREUNDER] is subject to the control of the executor or administrator,
20 he is personally responsible for the conduct of the business or licensed
21 premises.

22 * Sec. 26. AS 04.10.380 is amended to read:

23 Sec. 04.10.380. REVIEW OF DEPARTMENT [BOARD] ACTION. An action
24 relating to the administrative duties imposed by this title is subject
25 to review by the department [BOARD] at the instance of an aggrieved
26 party. An action or decision by the department [BOARD] relating to the
27 issuance, reissuance, suspension or revocation of a license under this
28 title is subject to review.

29 * Sec. 27. AS 04.10.420 is amended to read:

1 Sec. 04.10.420. ADDITIONAL FEES. Any application fee prescribed
2 by the department [BOARD] as provided in AS 04.05.020 is in addition to
3 any other fee charged under this title and shall be deposited in the
4 general fund.

5 * Sec. 28. AS 04.10.430(a) is amended to read:

6 (a) Whenever 35 per cent of the total number of voters at the last
7 general municipal election held in an incorporated city petition the
8 city council to do so the city council shall place upon a separate
9 ballot at the next municipal election the following question: "For the
10 sale of intoxicating liquors....." (yes or no). The
11 regular election officers shall canvass the ballots and report the
12 results to the city clerk, who shall publish the results. If, upon
13 receipt of the certificate of election, the city clerk finds that a
14 majority of the voters are against the sale of intoxicating liquor in
15 the incorporated city, notice thereof shall be forwarded to the depart-
16 ment [BOARD] and applications for licenses within the city shall there-
17 after be denied and no further licenses shall be issued in the city for
18 a period of one year, nor may the department [BOARD] issue a new beverage
19 dispensary or retail license for premises located within five miles of
20 the city. If a majority of the voters at a subsequent election conducted
21 for the purpose and in accordance with these provisions favor the sale
22 of intoxicating liquor in the city, the department [BOARD] shall, upon
23 application, issue the number and type and license to the same or other
24 premises within the city as were in existence on the date of last elec-
25 tion, at which a majority of the voters prohibited the sale of intoxi-
26 cating liquor. Priority shall be given those applicants who were
27 licensees and whose licenses were not reissued by reason of the last
28 election conducted under the provisions of this title. The department
29 [BOARD] shall issue the license notwithstanding any resulting restric-

1 tions which arose subsequent to the prohibiting election.

2 * Sec. 29. AS 04.10.430(c) is amended to read:

3 (c) If the petition for a local option election is for a community
4 liquor license under AS 04.10.139, the department [BOARD] is precluded
5 from issuing additional new licenses of any other type within the bound-
6 aries of the city opting for the community liquor license. This section
7 does not affect the provisions of AS 04.10.260, or liquor licenses
8 issued before September 10, 1972.

9 * Sec. 30. AS 04.10.440 is amended to read:

10 Sec. 04.10.440. CONSENT OF RESIDENTS OUTSIDE INCORPORATED CITIES.
11 No new license for the sale of intoxicating liquor may be issued under
12 this title in areas outside incorporated cities unless a petition con-
13 taining signatures of a majority of the bona fide residents residing
14 within one mile of the place where intoxicating liquor is to be sold,
15 and over the age of 19 years, is filed with the department [BOARD]
16 asking that a license be issued within the [SAID] area. The department
17 [BOARD] may not require the petition for a reissuance of the license.

18 * Sec. 31. AS 04.15.020(d) is amended to read:

19 (d) Presence of minors on premises. It is unlawful for a person
20 under the age of 19 years to enter or remain upon licensed premises
21 unless he is accompanied by his parent, guardian or spouse who has
22 attained the age of 19 years. A person under the age of 19 years may
23 enter and remain upon licensed premises which are also recognized as a
24 restaurant for the purpose of dining or dancing if accompanied by his
25 parent, guardian, or spouse who has attained the age of 19 years, or by
26 the parent or guardian of any other minor also present, or by any other
27 adult with the consent of the minor's parent or guardian. The depart-
28 ment [ALCOHOLIC BEVERAGE CONTROL BOARD], with the approval of the city
29 council if the premises are within the city or with the approval of the

1 borough assembly if the premises are outside the city but within a
2 borough, shall designate which premises are restaurants for the purposes
3 of this section. Licensed premises are premises holding licenses under
4 AS 04.10.020(a) - 04.10.020(d). The department [ALCOHOLIC BEVERAGE
5 CONTROL BOARD] shall adopt [PROMULGATE] regulations for the designation
6 of restaurants and the continuation or withdrawal of the designation.
7 No establishment may be designated as a restaurant for purposes of
8 dining without the consent of the licensee.

9 * Sec. 32. AS 04.15.020(e) is amended to read:

10 (e) Churches and schools. The department [BOARD] shall not issue
11 a beverage dispensary license or package liquor store license for the
12 sale of intoxicating liquor in any building in which the public entrance
13 is within 200 feet of a school ground or church building measured by the
14 shortest pedestrian route from the outer boundaries of the school ground
15 or public entrance of a church building in which religious services are
16 conducted, within or outside any municipality. A license may be re-
17 issued or transferred from one licensee to another, for the sale of
18 intoxicating liquor in a building in which that sale was authorized by
19 law on April 25, 1960. When a license for the sale of intoxicating
20 liquor in a building within 200 feet of a school ground or church build-
21 ing in which religious services are conducted is forfeited, lapses or is
22 transferred to other premises, no license for the sale of intoxicating
23 liquor at the prior licensed location shall thereafter be issued.
24 However, the location may be relicensed in the event of the removal of
25 either cause of the restriction.

26 * Sec. 33. AS 04.15.020(f) is amended to read:

27 (f) Premises to be accessible for inspection. The premises of
28 licensees under this title shall be easily accessible for inspection by
29 peace officers charged with the enforcement of the provisions of this

1 title, including [MEMBERS OF THE BOARD AND] the director or his agent,
2 during all regular hours of the transaction of business upon the pre-
3 mises.

4 * Sec. 34. AS 04.15.020(g) is amended to read:

5 (g) The governing body of a political subdivision of the state may
6 provide by ordinance that the provisions of (c) of this section do not
7 apply in the political subdivision when elections are being held. The
8 department [ALCOHOLIC BEVERAGE CONTROL BOARD] shall adopt regulations
9 governing the sale of intoxicating liquor on election days in the un-
10 organized areas of the state.

11 * Sec. 35. AS 04.15.035(a)(1) is amended to read:

12 (1) the premises to be used for storage are inspected and
13 approved by the department [BOARD] before their use;

14 * Sec. 36. AS 04.15.050 is amended to read:

15 Sec. 04.15.050. SEIZURE AND SALE OF SHIPMENTS TO UNLICENSED PER-
16 SONS. Any intoxicating liquor shipped into the state for sale other
17 than to licensees is contraband and subject to confiscation by the state
18 and any intoxicating liquor seized shall be sold under the order of the
19 department [BOARD] and the proceeds [THEREOF] deposited [WITH THE
20 DEPARTMENT OF REVENUE AND COVERED] into the general fund. However, this
21 section does not apply to sacramental wine, alcohol or liquor used for
22 industrial, pharmaceutical or medical purposes or other liquor used for
23 filling the prescription of a physician.

24 * Sec. 37. AS 04.15.060(d) is amended to read:

25 (d) A licensee or his employee who questions, or has reason to
26 question, whether a person entering upon licensed premises, or ordering,
27 purchasing, attempting to purchase or otherwise procuring or attempting
28 to procure the serving or delivery of intoxicating liquor, has attained
29 the age of 19 years, shall require that person to sign a statement that

he is over the age of 19 years. This statement shall be made upon a form prepared by and furnished to the licensee by the department [BOARD]. If a licensee, or his employee, in good faith, secures the signed statement he is not subject to criminal prosecution for violation of the provisions of [SUBSECTIONS] (b) and (c) of this section.

* Sec. 38. AS 04.15.100(b) is amended to read:

(b) Upon conviction of a licensee for a violation under (a) of this section, or for violation of a municipal ordinance adopted by a municipality in conformity with AS 04.15.070, the judge having jurisdiction shall send a notification of conviction together with a certified copy of the record of conviction to the department [BOARD]. The department [BOARD] may [, UPON THE DIRECTION OF A MAJORITY OF ITS MEMBERS, THEREUPON] suspend the license as [HEREINAFTER] provided in this section for the first and second violations and upon a third violation may revoke the license and declare the bond forfeited. For the purpose of this section, the terms "second violation" and "third violation" include only those violations which occur within five years of the first violation, but are not limited to repeated violations of the same statutory provision or municipal ordinance.

(1) First violation. The license of the premises involved may be suspended for not less than 10 nor more than 45 days;

(2) Second violation. The license of the premises involved may be suspended for a period of not less than 30 days nor more than 90 days.

* Sec. 39. AS 44.25.020(4) is repealed and re-enacted to read:

(4) administer the provisions of AS 04 relating to alcoholic beverage control.

* Sec. 40. AS 04.05.050 and 04.05.060 are repealed.

* Sec. 41. AS 04.10.210, 04.10.240 and 04.10.260 are repealed.

1 * Sec. 42. AS 04.05.010(a) is amended to read:

2 (a) There is established an Alcoholic Beverage Control Board with-
3 in the Department of Commerce and Economic Development [REVENUE] con-
4 sisting of five members appointed for overlapping three-year terms. The
5 board is vested with the duties, powers, and responsibilities involved
6 in the control of alcoholic beverages, including the promulgation of
7 rules and regulations and the hearing of appeals from the action of
8 officers and employees charged with enforcing the alcoholic beverage
9 control laws, rules, and regulations. The governor shall appoint the
10 board subject to confirmation by the legislature. No member of the
11 board may hold any other state or federal office, either elective or
12 appointive. Two members of the board shall be actively engaged in the
13 alcoholic beverage industry, except that no member may be an officer,
14 agent, or employee of a wholesale alcoholic beverage enterprise. No
15 three members of the board may be engaged in the same business, occupa-
16 tion or profession. Three members constitute a quorum for the conduct
17 of business. The board shall meet at least once each year in each of
18 the four judicial districts to study, reconsider and modify existing
19 agency rules and regulations in the light of current local problems.

20 * Sec. 43. Notwithstanding the provisions of AS 44.66.010(b), the Alco-
21 holic Beverage Control Board shall continue in existence until June 30, 1980,
22 and after that date the Department of Commerce and Economic Development
23 shall have jurisdiction over the control of alcoholic beverages in this state
24 under the provisions of AS 04. During the period until June 30, 1980, the
25 members of the board shall facilitate the orderly transfer of the functions
26 and responsibilities of the board to the department. Nothing in this Act or
27 in AS 44.66 limits the authority of the board under AS 04 before June 30,
28 1980.

29 * Sec. 44. Sections 1 - 40 of this Act take effect July 1, 1980. Section

41 of this Act takes effect July 1, 1983. Sections 42 and 43 of this Act
take effect June 30, 1979.

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