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Referred: State Affairs
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1 IN THE SENATE

BY FAHRENKAMP

2

SENATE BILL NO. 295

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to liquor cards; and providing for
7 an effective date."

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

9 * Section 1. AS 04.16 is amended by adding a new section to read:

10 Sec. 04.16.015. SALES TO PERSONS WITHOUT LIQUOR CARDS. A liquor
11 licensee or an employee or agent of a liquor licensee may not sell an
12 alcoholic beverage to a person if the licensee, employee, or agent
13 knows that the person

14 (1) has been physically present in the state for more than
15 90 days;

16 (2) intends to remain in the state; and

17 (3) does not have a valid liquor card in possession.

18 * Sec. 2. AS 04.16.180(a) is amended to read:

19 (a) Except as provided in AS 04.16.200 - 04.16.210 and AS 04.-
20 16.300 - 04.16.385, a person who violates a provision of this title or
21 a regulation adopted by the board is guilty, upon conviction, of a
22 class A misdemeanor. Each violation is a separate offense.

23 * Sec. 3. AS 04.16 is amended by adding new sections to read:

24 ARTICLE 3. LIQUOR CARDS.

25 Sec. 04.16.300. DUTIES OF THE DEPARTMENT. The department

26 (1) may issue liquor cards under this chapter;

27 (2) shall notify each person licensed under AS 04.11.090,
28 04.11.100, 04.11.110, 04.11.150, 04.11.180, 04.11.190, 04.11.210,
29 04.11.220, 04.11.230, 04.11.240, or 04.11.250 of the name and resident

1 address of each person whose liquor card has been canceled, suspended
2 or revoked;

3 (3) may adopt regulations necessary to carry out the pur-
4 poses of AS 04.16.300 - 04.16.385.

5 Sec. 04.16.305. LIQUOR CARD REQUIRED. (a) Except as provided
6 in AS 04.16.310, a person purchasing, consuming, or furnishing an
7 alcoholic beverage to another must be a liquor card holder.

8 (b) Except as provided in AS 04.16.310 and in (c) of this sec-
9 tion, a person may not enter licensed premises without a valid liquor
10 card.

11 (c) A person who does not have a valid liquor card may enter and
12 remain in a licensed premises if the person enters for the purpose of
13 employment or if the premises are designated as a restaurant and the
14 person enters and remains only for the purpose of dining.

15 (d) A municipality may not require a person to obtain a liquor
16 card to purchase, consume, or furnish alcoholic beverages.

17 Sec. 04.16.310. PERSONS EXEMPT FROM LIQUOR CARD REQUIREMENTS.
18 The following persons are exempt from the liquor card requirements
19 under AS 04.16.300 - 04.16.385:

20 (1) a person who has a current nonresident driver's license
21 or other current nonresident identification; and

22 (2) a member of the armed forces of the United States.

23 Sec. 04.16.315. REQUIREMENTS FOR LIQUOR CARD. (a) Before
24 applying for a liquor card a person shall successfully complete

25 (1) the required alcohol education course under (b) of this
26 section; and

27 (2) the required examination under (c) of this section.

28 (b) The department shall provide an alcohol education course on
29 a regular basis and at no charge to prospective applicants for liquor

1 cards. The course shall cover

- 2 (1) the difference between the use and abuse of alcohol;
- 3 (2) the symptoms of alcoholism;
- 4 (3) the medical problems associated with alcohol abuse;
- 5 (4) the effects of the use of alcohol in conjunction with
- 6 other drugs;
- 7 (5) the effects of alcohol on a person's ability to drive a
- 8 motor vehicle; and
- 9 (6) the laws relating to driving while intoxicated.

10 (c) After completing the alcohol education course in (b) of this
11 section, a person shall pass a written examination administered by the
12 department that tests the person's knowledge of the material taught in
13 the course.

14 Sec. 04.16.320. APPLICATION FOR LIQUOR CARD. (a) After com-
15 pleting the course and test required under AS 04.16.315, a person may
16 apply for a liquor card. Application shall be on a form furnished by
17 the department. The applicant shall state

18 (1) the applicant's name, date and place of birth, and
19 mailing and residence addresses;

20 (2) whether a liquor card issued to the applicant has ever
21 been canceled, suspended, or revoked, or whether an application for a
22 liquor card has ever been denied and, if so, the reason for the can-
23 cellation, suspension, revocation, or denial;

24 (3) when and where the applicant successfully completed the
25 course and examination required under AS 04.16.315; and

26 (4) other information the department may require to deter-
27 mine the applicant's identity and eligibility for a liquor card.

28 (b) An application for a liquor card shall be accompanied by an
29 application fee established by the department by regulation.

1 Sec. 04.16.325. ISSUANCE OF LIQUOR CARD. (a) A liquor card
2 issued to a person 19 or 20 years of age shall be a probationary
3 liquor card.

4 (b) If the conduct of the holder of a probationary liquor card,
5 including convictions and the accumulation of points under AS 04.16.-
6 345, would be grounds for the revocation or suspension of a permanent
7 liquor card for more than 90 days, the department shall revoke the
8 probationary card until the holder is at least 21 years of age. If a
9 probationary liquor card is canceled under AS 04.16.340(1), the card
10 holder may reapply for a probationary liquor card after 30 days. If
11 the probationary liquor card is canceled under AS 04.16.340(2), the
12 card holder may not reapply until the person is at least 21 years of
13 age.

14 (c) Upon reaching 21 years of age, a person may apply for a
15 permanent liquor card under AS 04.16.320. Before issuing a permanent
16 liquor card, the department shall review the record of the applicant,
17 including the applicant's convictions for alcohol-related offenses
18 reportable under AS 04.16.365, any fines levied against the applicant
19 or reprimands received while under probation, and the applicant's
20 efforts to learn to use alcohol with care.

21 (d) The department shall issue a permanent liquor card to an
22 otherwise qualified applicant if it determines through the review of
23 the applicant's record that the applicant is likely to use alcoholic
24 beverages in a responsible manner.

25 (e) If the applicant has been convicted of an offense during the
26 probationary period that would have resulted in the applicant's liquor
27 card being under suspension at the time of the application for the
28 permanent card had the applicant been a permanent card holder at the
29 time of the conviction, the department shall delay the issuance of the

1 permanent liquor card to the applicant until the time when the period
2 of suspension would have expired or until the determination under (d)
3 of this section has been made, whichever is later.

4 (f) A card holder whose probationary liquor card is revoked
5 under (b) of this section has the right to a hearing and a review in
6 the manner prescribed in AS 04.16.380 at the applicant's request.

7 Sec. 04.16.330. LIQUOR CARD TO BE EXHIBITED. A person required
8 to have a liquor card for purchasing an alcoholic beverage or entering
9 premises licensed under this title shall allow the following persons
10 to inspect the person's liquor card:

11 (1) the licensee of the licensed premises or an agent or
12 employee of the licensee; or

13 (2) a peace officer.

14 Sec. 04.16.335. EXPIRATION AND RENEWAL OF LIQUOR CARD. A liquor
15 card expires on the card holder's date of birth in the fifth year
16 following issuance of the liquor card and must be renewed within 30
17 days after that date by applying for a new liquor card under AS 04.-
18 16.320, except that no new course or examination shall be required.

19 Sec. 04.16.340. CANCELLATION OF LIQUOR CARD. The department
20 shall cancel a liquor card upon determining that

21 (1) the card holder failed to give the required or correct
22 information in the application; or

23 (2) the liquor card was obtained fraudulently.

24 Sec. 04.16.345. POINT SYSTEM. (a) The department shall adopt
25 regulations establishing a uniform system for the suspension, revoca-
26 tion, or denial of a liquor card by assigning demerit points for con-
27 victions reported under AS 04.16.365. The regulations shall include a
28 designated level of point accumulation that identifies persons who are
29 habitually reckless or negligent in the use of alcoholic beverages or

1 who, through frequent convictions reported under AS 04.16.365, evi-
2 dence a disregard for the safety of other persons.

3 (b) Notice of each assessment of points may be given and notice
4 shall be given when the point accumulation reaches 50 percent of the
5 number at which suspension, revocation, or denial of a liquor card is
6 required.

7 (c) The department shall adopt regulations

8 (1) establishing a uniform system for the reduction of
9 points based on periods of time within which no additional points are
10 accumulated by a card holder;

11 (2) providing procedures for reinstating suspended or
12 revoked liquor cards and for issuing liquor cards to persons initially
13 denied them, including the reduction of point accumulations under (1)
14 of this subsection.

15 Sec. 04.16.350. PERSONS NOT TO BE ISSUED LIQUOR CARDS. (a) The
16 department may not issue a permanent liquor card to a person who is
17 under the age of 21. The department may issue a probationary liquor
18 card to a person who is 19 or 20 years of age.

19 (b) The department may not issue an original or duplicate liquor
20 card to, or reinstate the liquor card of, a person

21 (1) whose liquor card is canceled, suspended or revoked,
22 except under AS 04.16.345 and AS 04.16.355;

23 (2) during the period when the person's driver's license is
24 suspended for driving while intoxicated.

25 Sec. 04.16.355. PROCEDURES FOR RELICENSING. Upon application to
26 the department, the department shall issue a permanent liquor card to
27 an otherwise qualified applicant at least 21 years of age whose
28 license has been canceled, suspended, revoked, destroyed, lost or
29 stolen as follows:

- 1 (1) to a person whose liquor card has been canceled
2 (A) 30 days after cancellation if the liquor card was
3 canceled under AS 04.16.340(1);
4 (B) one year after cancellation if the liquor card was
5 canceled under AS 04.16.340(2);
6 (2) to a person whose liquor card has been suspended, after
7 the period of suspension;
8 (3) to a person whose liquor card has been revoked, after
9 any conditions for reinstatement established by the department at the
10 time of the revocation have been met;
11 (4) a duplicate card to a person whose liquor card has been
12 destroyed, lost or stolen, if the person's liquor card has not been
13 canceled, suspended or revoked, or if the conditions of paragraphs
14 (1) - (3) of this section have been met.

15 Sec. 04.16.360. RECORDS. (a) The department shall maintain a
16 record of

- 17 (1) applications received for a liquor card;
18 (2) each liquor card issued;
19 (3) each liquor card that has been suspended, revoked, or
20 denied and the reasons for those actions.

21 (b) The records maintained under this section are not public
22 records and are not subject to inspection or disclosure under AS 09.-
23 25.110 or AS 09.25.120.

24 Sec. 04.16.365. COURT REPORTS TO DEPARTMENT. (a) A court of
25 the state shall send to the department a record of each conviction of

- 26 (1) a provision of AS 04.16.300 - 04.16.385;
27 (2) a regulation adopted under AS 04.16.300 - 04.16.385;
28 (3) driving while intoxicated; or
29 (4) an offense in which the person has been determined to

1 have been under the influence of alcohol while engaged in conduct
2 causing or threatening serious bodily injury.

3 (b) As used in (a) of this section, "conviction" includes

4 (1) a plea of nolo contendere accepted by the court;

5 (2) a forfeiture of bail or collateral deposited to secure
6 a defendant's appearance in court that has not been vacated.

7 Sec. 04.16.370. PENALTIES. (a) A court shall fine a person who
8 enters licensed premises without a valid liquor card in the person's
9 possession, except as provided in AS 04.16.305(c), as follows:

10 (1) for the first offense, \$10;

11 (2) for the second offense, \$25;

12 (3) for the third and subsequent offenses, \$50.

13 (b) A court may not suspend a fine levied under (a) of this
14 section.

15 (c) The licensee of the licensed premises is subject to the
16 fines in (a) of this section if the licensee knowingly permits a
17 person to remain on licensed premises without a valid liquor card in
18 possession.

19 (d) On a first offense, the court shall suspend for three years
20 the liquor card of a person who furnishes an alcoholic beverage to a
21 person without a valid liquor card in possession or to a person whose
22 liquor card has been canceled, suspended or revoked. The court also
23 shall fine the person \$100 for furnishing the alcoholic beverage. On
24 the second offense, the court shall revoke the liquor card and may
25 imprison the person furnishing the alcoholic beverage for not more
26 than 90 days.

27 (e) The court shall suspend the liquor card of a person con-
28 victed of driving while intoxicated for one year for the first offense
29 and for five years for the second offense. The court shall revoke the

1 license for the third offense.

2 (f) For a minor alcohol-related offense, as determined by regu-
3 lations adopted by the department,

4 (1) for the first two offenses, a magistrate shall reprimand and fine the offender at the magistrate's discretion and according to guidelines established by the department's regulations;

7 (2) for the third offense, the court shall refer the offender to a counseling program for problem drinkers and shall suspend the liquor card for at least 30 days.

10 Sec. 04.16.375. VIOLATION OF REGULATIONS. Violation of a regulation adopted under AS 04.16.300 - 04.16.385 is a class B misdemeanor.

13 Sec. 04.16.380. HEARING AND REVIEW. (a) Upon the request of a card holder or applicant, and before the department may suspend, revoke, or deny a liquor card, the department shall conduct an administrative hearing. A hearing shall be informal, but the person who requests a hearing may be represented by an attorney. In making a determination, the hearing officer must state the reasons for the determination and indicate the evidence relied on. The hearing officer may order the department to suspend, revoke, or deny the liquor card.

22 (b) A person aggrieved by a decision of a hearing officer may within 30 days file a notice of appeal under the Rules of the Supreme Court. The court shall conduct a hearing de novo. The action of the department suspending, revoking, or denying a liquor card is stayed and does not take effect during the pendency of an appeal.

27 Sec. 04.16.385. DEFINITIONS. In AS 04.16.300 - 04.16.385

28 (1) "department" means the Department of Public Safety;

29 (2) "liquor card" means a probationary liquor card issued

1 to a person 19 or 20 years of age or a permanent liquor card issued to
2 a person at least 21 years of age.

3 * Sec. 4. This Act takes effect January 1, 1984.