

Offered: 4/15/85
Referred: Finance

Original sponsors: M.M. Miller and
Boucher

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

CS FOR HOUSE BILL NO. 34 (Judiciary)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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For an Act entitled: "An Act relating to the administration of liquor
licenses and the licensing of partnerships; and
providing for an effective date."

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

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* Section 1. AS 04.06.100(b) is amended by adding a new paragraph to
read:

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(16) required reports from partnerships and limited part-
nerships licensed under this title, including reports of transferred
interests of 10 percent or more.

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* Sec. 2. AS 04.11.040(c) is amended to read:

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(c) A person may not receive or transfer controlling interest in
a liquor license issued to a partnership, including a limited partner-
ship, or a corporation under this title except with the written con-
sent of the board.

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* Sec. 3. AS 04.11 is amended by adding a new section to read:

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Sec. 04.11.055. REPORTS REQUIRED OF PARTNERSHIPS. (a) A part-
nership, including a limited partnership, issued a license under this
title shall report to the board when a partnership interest of 10
percent or more is transferred and shall report a change of general
partners.

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(b) The report to the board shall be made in writing in dupli-
cate and shall be sent within 10 days after the change in interest or
change of general partners.

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* Sec. 4. AS 04.11.100 is amended by adding a new subsection to read:

1 (e) A license may be renewed under this section only if the
2 licensee provides evidence to the board's satisfaction that gross
3 receipts from the sale of food upon the licensed premises constitute
4 no less than 50 percent of the gross receipts of the licensed premises
5 for the preceding license year.

6 * Sec. 5. AS 04.11.260(a) is amended to read:

7 (a) An applicant for a new license or permit shall file with the
8 director a written application, signed and sworn to by the applicant,
9 giving the applicant's [HIS] name and address. If the applicant is a
10 corporation, the application shall be executed by the authorized
11 officers of the corporation. If the applicant is a partnership,
12 including a limited partnership, the application shall be executed by
13 an authorized general partner. The application shall include:

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

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

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

20 (4) the license fee;

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

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

23 * Sec. 6. AS 04.11.260 is amended by adding a new subsection to read:

24 (d) A partnership, including a limited partnership, that applies
25 for a license or permit shall provide information required by the
26 board including the names and addresses of all general partners and
27 all partners with an interest of 10 percent or more.

28 * Sec. 7. AS 04.11.310 is amended by adding a new subsection to read:

29 (b) Upon receipt of an application for the issuance, renewal,

1 relocation, or transfer of ownership of a license within an area of a
2 municipality under the jurisdiction of a community council established
3 by municipal charter or ordinance to advise the municipal governing
4 body, the board shall

5 (1) immediately provide to the community council written
6 notice of the application; and

7 (2) at least 10 days before the date set for board action
8 on the application provide to the community council written notice of
9 the proposed action and the time and place for a hearing.

10 * Sec. 8. AS 04.11.340 is amended to read:

11 Sec. 04.11.340. DENIAL OF REQUEST FOR RELOCATION [TRANSFER OF
12 LOCATION]. An application requesting approval for the relocation [OF
13 A TRANSFER OF LOCATION] of licensed premises shall be denied if

14 (1) the board finds, after review of all relevant informa-
15 tion, that relocation [TRANSFER OF LOCATION] of the license would not
16 be in the best interests of the public;

17 (2) the relocation [TRANSFER OF LOCATION OF THE LICENSE] is
18 prohibited under AS 04.11.400(a) or (b) [AS 04.11.400(a) OR PROHIBI-
19 TION OF TRANSFER IS FOUND NECESSARY UNDER AS 04.11.400(b)];

20 (3) the license would be relocated [TRANSFERRED] out of the
21 established village, incorporated city, unified municipality, or
22 population area established under AS 04.11.400(a) [ELECTION DISTRICT]
23 within which it is located [WAS ORIGINALLY ISSUED, UNLESS THE ELECTION
24 DISTRICT INTO WHICH THE LICENSE WOULD BE TRANSFERRED IS WITHIN THE
25 INCORPORATED CITY, ORGANIZED BOROUGH OR UNIFIED MUNICIPALITY WITHIN
26 WHICH THE LICENSE WAS ORIGINALLY ISSUED];

27 (4) transfer of ownership is to be made concurrently with
28 the relocation [TRANSFER OF THE LOCATION] of the licensed premises and
29 a ground for denial of the transfer of ownership under AS 04.11.360 is

1 presented;

2 (5) the application has not been completed in accordance
3 with AS 04.11.290;

4 (6) relocation [TRANSFER OF LOCATION] of the license would
5 result in violation of a local zoning law;

6 (7) relocation [TRANSFER OF LOCATION] of the license would
7 violate the restrictions pertaining to the particular license imposed
8 by this title;

9 (8) relocation [TRANSFER OF LOCATION] of the license is
10 prohibited under this title as a result of an election conducted in
11 accordance with AS 04.11.502;

12 (9) the licensed premises are to be located in a municipal-
13 ity, the type of license sought to be relocated [TRANSFERRED] is a
14 beverage dispensary or package store license, and that type of license
15 is already in effect in the municipality under a community liquor
16 license, unless the relocation [TRANSFER] is to become effective after
17 the community liquor license is no longer effective, whether as the
18 result of a local option election or otherwise;

19 (10) the license was issued under AS 04.11.400(g), (h), or
20 (j) [AS 04.11.400(j)].

21 * Sec. 9. AS 04.11.400(a) is amended to read:

22 (a) Except as provided in (g), (h), (i), and (j) of this sec-
23 tion, a new license may not be issued and the board may prohibit
24 relocation of [OR] an existing license [TRANSFERRED TO A NEW LOCATION]

25 (1) outside an established village, incorporated city, [A]
26 unified municipality, or organized borough [AN ESTABLISHED VILLAGE] if
27 after the issuance or relocation [TRANSFER] there would be more than
28 one restaurant or eating place license [OF EACH TYPE] for each 1,500
29 population or fraction of 1,500 population or more than one license

1 of each other type, including licenses which have been issued under
2 (g) or (h) of this section, for each 3,000 population or fraction of
3 3,000 population in a radius of five miles of the licensed premises or
4 location of premises sought to be licensed, excluding the populations
5 of established villages, incorporated cities, unified municipalities,
6 and organized boroughs that are wholly or partly included within the
7 radius;

8 (2) inside an established village, [AN] incorporated city,
9 or [A] unified municipality if after the issuance or relocation
10 [TRANSFER] there would be inside the established village, incorporated
11 city, or unified municipality more than one restaurant or eating place
12 license [OF EACH TYPE] for each 1,500 population or fraction of 1,500
13 population or more than one license of each other type, including
14 licenses which have been issued under (g) or (h) of this section, for
15 each 3,000 population or fraction of 3,000 population inside the
16 established [BOUNDARIES OF THE] village, incorporated city, or unified
17 municipality;

18 (3) inside an organized borough but outside an established
19 village or incorporated city located within the borough, if after the
20 issuance or relocation there would be inside the borough, but outside
21 the established villages and incorporated cities located within the
22 borough, more than one restaurant or eating place license for each
23 1,500 population or fraction of 1,500 population or more than one
24 license of each other type, including licenses that have been issued
25 under (g) or (h) of this section, for each 3,000 population or
26 fraction of 3,000 population inside the borough, excluding the
27 population of those established villages that have conducted an
28 election on a question set out in AS 04.11.490, 04.11.496, or
29 04.11.500, and excluding the population of incorporated cities located

1 within the organized borough.

2 * Sec. 10. AS 04.11.400(b) is amended to read:

3 (b) If [THE APPLICATION IS FOR A LICENSE OUTSIDE OF AN ESTAB-
4 LISHED VILLAGE, INCORPORATED CITY, OR UNIFIED MUNICIPALITY AND] the
5 radius described in (a)(1) of this section encompasses all of an [THE]
6 established village, incorporated city, or unified municipality and
7 the population resident inside and outside the established village,
8 incorporated city, or unified municipality but inside the radius
9 described in (a)(1) of the section is less than 3,000 [1,500], the
10 board may deny the issuance or relocation [TRANSFER] of the license.

11 * Sec. 11. AS 04.11.400(e) is amended to read:

12 (e) In (a)(1) of this section, "population" includes only those
13 persons residing inside the radius not later than the date the appli-
14 cation is received by the board and not earlier than 60 days before
15 the application is received by the board [BUT OUTSIDE OF AN ESTAB-
16 LISHED VILLAGE, AN INCORPORATED CITY, OR A UNIFIED MUNICIPALITY AS OF
17 DECEMBER 31 OF THE YEAR PRECEDING THE DATE OF APPLICATION].

18 * Sec. 12. AS 04.11.400(f) is amended to read:

19 (f) In (a)(2) and (3) of this section, "population" includes
20 only those persons residing inside the [AN] established village, [AN]
21 incorporated city, [OR A] unified municipality, or organized borough
22 as of December 31 of the year preceding the date of application.

23 * Sec. 13. AS 04.11.400(g) is repealed and reenacted to read:

24 (g) The board may approve the issuance or transfer of ownership
25 of a beverage dispensary or restaurant or eating place license without
26 regard to (a) of this section if it appears that the issuance or
27 transfer will encourage the tourist trade by encouraging the construc-
28 tion or improvement of

29 (1) a hotel, motel, resort, or similar business relating to

1 the tourist trade with a dining facility or having kitchen facilities
2 in a majority of its rental rooms and at least a minimum number of
3 rental rooms required according to the population of the established
4 village, incorporated city, unified municipality or population area
5 established under AS 04.11.400(a) in which the facility will be
6 located, as follows:

7 (A) 15 rental rooms if the population is less than
8 1,501;

9 (B) 20 rental rooms if the population is between 1,501
10 and 2,500;

11 (C) 25 rental rooms if the population is between 2,501
12 and 5,000;

13 (D) 30 rental rooms if the population is between 5,001
14 and 15,000;

15 (E) 35 rental rooms if the population is between
16 15,001 and 25,000;

17 (F) 40 rental rooms if the population is between
18 25,001 and 50,000; and

19 (G) 50 rental rooms if the population is greater than
20 50,000; or

21 (2) an airport terminal.

22 * Sec. 14. AS 04.11.400(h) is amended to read:

23 (h) The board may approve the issuance or transfer of ownership
24 of a [A] restaurant or eating place license without regard to [MAY BE
25 ISSUED OR TRANSFERRED NOTWITHSTANDING] (a) of this section if

26 (1) the premises of the restaurant or eating place are more
27 than 18 miles from the corporate limits of a city or unified municipi-
28 pality;

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

1 and

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

4 * Sec. 15. AS 04.11.400(i) is amended to read:

5 (i) An application requesting a transfer of location of licensed
6 premises limited under (a) or (b) of this section shall be granted
7 without regard to [NOTWITHSTANDING] (a) of this section if the new
8 location is less than one mile from the original location and

9 (1) no ground for denial exists under AS 04.11.340(1) or
10 (3); and

11 (2) relocation of the licensed premises is necessary due to
12 (A) termination of a lease or rental agreement;
13 (B) condemnation of the premises;
14 (C) the substantial destruction of the premises by any
15 cause.

16 * Sec. 16. AS 04.11.400(j) is amended to read:

17 (j) The board may approve the issuance or transfer of ownership
18 of [ISSUE] a restaurant or eating place [NEW] license in a municipal-
19 ity without regard to [NOTWITHSTANDING THE PROVISIONS OF] (a) of this
20 section if the board finds that issuance or transfer of the license is
21 necessary for the public convenience.

22 * Sec. 17. AS 04.11.430(a) is amended to read:

23 (a) Each license shall be issued to a specific individual or
24 individuals, to a partnership, including a limited partnership, or to
25 a corporation. If the license is issued to a corporation, the regis-
26 tered agent of the corporation must be an individual resident of the
27 state.

28 * Sec. 18. AS 04.11.504(a) is amended to read:

29 (a) If a prohibition imposed on the issuance, renewal, [OR]

1 transfer, or relocation of licenses between holders and locations
2 under AS 04.11.490 - 04.11.500 is removed by a vote of "no" on a
3 question for which the majority of the people voted "yes" in an
4 earlier election, the board shall, upon application, issue the same
5 number and type of licenses which were in effect in the municipality
6 or established village on the date of certification of the earlier
7 election. If the prohibition imposed on issuance, renewal, [OR]
8 transfer, or relocation of licenses between holders and locations is
9 removed by a "yes" vote on a question set out in AS 04.11.492 and
10 04.11.500, the board may issue the types of licenses specified in the
11 question presented to the voters in the subsequent election. Licenses
12 may be issued for the same or other premises within the municipality
13 or established village which were licensed on the date of certifica-
14 tion of the earlier election. However, if the local governing body
15 requests that fewer licenses of a particular type be issued than would
16 otherwise be issued if the provisions prescribing the ratio of popu-
17 lation to licensed premises in AS 04.11.400(a) are applied, only the
18 number of licenses of that particular type requested by the local
19 governing body may be issued by the board. Priority shall be given
20 applicants who were formerly licensees and whose licenses were not
21 renewed because of the results of the previous election. However,
22 these applicants have no legal right to a license and the board is not
23 required to approve the application.

24 * Sec. 19. AS 04.21.010 is amended by adding a new subsection to read:

25 (d) At least 10 days before the date set for municipal action on
26 an application for the issuance, renewal, relocation, or transfer of
27 ownership of a proposed license, the municipality shall provide writ-
28 ten notice of the proposed action and the time and place for a hearing
29 to a community council that

1 (1) is established by municipal charter or ordinance to
2 advise the municipal governing body; and

3 (2) has jurisdiction over the area affected by the proposed
4 action.

5 * Sec. 20. This Act takes effect immediately in accordance with AS 01.-
6 10.070(c).