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4



Senator Vic Fischer

Alaska State Legislature
Pouch V • Juneau, Alaska 99811 • (907) 465-4954

March 29, 1983
3:00pm

Butrovich Room
Capitol Bldg.

Members Present

Senator Vic Fischer, Chair
Senator Bill Ray, Vice-Chair
Senator Arlis Sturgulewski
Senator Tim Kelly
Senator Pat Rodey

SB 4--Repeal of the beverage dispensary license board

Senator Sturgulewski (prime sponsor) stated that the provision to be repealed is never used and is thus unnecessary.

Senator Rodey moved and asked unanimous consent to pass the bill out of committee with individual recommendations. There was no objection.

SB 132--Establishing an Alaska Administrative Journal

Senator Fahrenkamp (prime sponsor) testified for the bill. The idea of the bill is to promote efficiency in administrative action. She proposed a committee substitute and outlined its contents. She stated that the bill could be implemented without great cost for an 18 month trial period. At the end of the trial period, cost and demand for the journal will be known.

Lt. Governor Steven McAlpine testified that the 18 month trial period was a positive feature of the bill and that the fiscal note was his highest guess. The big question is the demand for such a publication and how much revenue it will generate.

Senator Ray asked if the "no effect until publication" section would work. Lt. Governor McAlpine responded that this problem was covered in subsection "d" of the committee substitute.

Arthur Peterson, Department of Law, testified that the CS takes care of many of the problems he had identified in the original bill. He stated that he had some concern that the project may be taking on too much. He went through the list of things to be included in the journal and commented on each one. He discussed the benefits of the provision which disclaims liability for the contents of the journal.

Senator Rodey moved and asked for unanimous consent to pass the bill from committee with individual recommendations. There were no objections.

SB 194--Relating to "ice classics"

Senator Sackett (prime sponsor) testified that he had been asked to help create a "Kuskokwim Ice Classic" by Bethel Social Services. This group wants to reduce their dependence on state money.

Senator Ray suggested that the title of the bill be changed to "An Act relating to Establishment of the Kuskokwim Ice Classic".

Senator Fischer suggested a minor change on line 13 of the bill.

Senator Ray moved and asked unanimous consent that these changes be incorporated in a committee substitute, that the committee substitute be adopted and passed out of committee with individual recommendations. There was no objection.

SB 137--Requiring public employees to comply with the Regulation of Lobbying Act.

Senator Faiks (prime sponsor) testified that she had contemplated a sponsor substitute but decided against it. She reviewed the substance of the bill and described the current situation where municipal and university lobbyists do not have to register and disclose while private sector lobbyists do. She described lobbying laws in other states. She stated that it was very difficult to get information on lobbying expenditures from the Municipality of Anchorage.

Senator Ray asked if, for example, a municipal attorney who answered questions for a legislator or legislative staff person would have to register. Senator Faiks responded that that would be true if the public employee was lobbying for money. She pointed out that "substantial and regular" portions of this person's salary must come from lobbying.

Senator Ray asked if legislators would be required to comply with the Act if this bill were passed. Senator Faiks was of the opinion that this legislation would not affect legislators.

Senator Ray suggested that municipal lobbyists were a local problem which would best be addressed by local ordinance. Senator Faiks disagreed saying that the crux of the problem is spending public money through lobbying to get more public money.

Vickie Rippie, A.P.O.C. assistant director, referred to APOC's position paper and summarized its content. This bill would apply to legislators and staff. She stated that the Commission feels that government productivity might suffer as 2000 employees could be affected.

Senator Rodey suggested that the bill be held over for further study. The committee agree by consensus to hold the bill over.

SB 190--Special appropriation for Wrangell Totem Poles

Senator Ferguson testified in favor of the bill. He stated that this bill would help save some important elements of the Native culture.

Senator Kelly asked if section 2 of the bill was duplicated by the programs. Senator Ferguson said that this was not the case.

David Katzeek, Sealaska Heritage Foundation, testified for the bill. He described various foundation activities to save and display valuable artifacts.

Senator Sturgulewski asked if the project which is the subject of this bill will extend into future years and require further funding. Mr. Katzeek stated that this depended on the process laid out in the bill.

Senator Ray moved and asked unanimous consent that the bill pass from committee with individual recommendations. There was no objection.

The remainder of the calendar was not taken up.

Senator Fischer adjourned the meeting at 4:23pm.

COMMITTEE REPORT
SENATE

1/18/83

FURTHER: JUDICIARY

Date: 3-29-83

Mr. President:

The Committee on STATE AFFAIRS has had SENATE BILL NO

A: Act repealing the requirement that an applicant for a beverage dispensary license file a bond.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s) same title
- replace with CS for _____ new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Tom Hall

John H. ...

Paul ...

John ...

...

MEMBERS HAVING
OTHER RECOMMENDATIONS:

W. Fisher do pass

CHAIRMAN

Article 2. Licenses and Permits.

Section	Section
80. Types of licenses and permits	170. Distillery license
90. Beverage dispensary license	180. Common carrier dispensary license
100. Restaurant or eating place license	190. Community liquor license
110. Club license	200. Retail stock sale license
120. Bottling works license	210. Recreational site license
130. Brewery license	220. Pub license
140. Winery license	230. Caterer's permit
150. Package store license	240. Special events permit
160. Wholesale license	250. Conditional contractor's permit

Sec. 04.11.080. Types of licenses and permits. Licenses and permits issued under this title are as follows:

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- (2) duplicate beverage dispensary license for additional rooms;
- (3) restaurant or eating place license;
- (4) club license;
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- (17) caterer's permit;
- (18) special events permit;
- (19) conditional contractor's permit. (§ 2 ch 131 SLA 1980)

Am. Jur. 2d and C.J.S. references. — 48 C.J.S. Intoxicating Liquors
45 Am. Jur. 2d, Intoxicating Liquors, §§ 121-128.
§§ 124-133.

Sec. 04.11.090. Beverage dispensary license. (a) A beverage dispensary license authorizes the holder to sell or serve on the licensed premises alcoholic beverages for consumption on the licensed premises only.

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

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

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

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

(f) The area designated as the licensed premises under a beverage dispensary license issued to a bowling alley may include the concourse or lane areas of the bowling alley. Notwithstanding AS 04.16.049, the board may, upon application, authorize access by persons under 19 years of age to the concourse or lane areas designated part of the bowling alley's licensed premises during hours when no alcoholic beverages are being sold, served, or consumed. (§ 2 ch 131 SLA 1980)

Former law construed. — See In re
Liquor License of Larry's, Inc., 12 Alaska
503 (1949).

Sec. 04.11.100. Restaurant or eating place license. (a) A restaurant or eating place license authorizes a restaurant or eating place to sell beer and wine for consumption only on the licensed premises.

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

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

(d) The annual fee for a restaurant or eating place license is \$300. (§ 2 ch 131 SLA 1980)

Sec. 04.11.110. Club license. (a) A club license authorizes a club or organization to sell alcoholic beverages for consumption only on the licensed premises.



OFFICIAL BUSINESS

Alaska State Legislature
Senate

DAVE

POUCH V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

MEMORANDUM

January 24, 1983

TO: Senator Vic Fischer, Chair
State Affairs Committee

FROM: Senator Arliss Sturgulewski *(initials)*

RE: SB 4

SB 4, a bill which I sponsored, has been assigned to the State Affairs Committee. For your committee records, I am attaching back-up materials. I have copied the relevant pages of a 1978 Sunset audit of the Alcoholic Beverage Control Board and the assenting response of the agency.

If there is anything further that I can do to be of assistance, please let me know.

Enclosures

Rec 6

A PERFORMANCE REVIEW
OF THE
ALCOHOLIC BEVERAGE CONTROL BOARD

November 3, 1978

Commissioner of the Department
of Revenue
Deputy Commissioner of the
Department of Revenue
Acting Deputy Commissioner of
the Department of Revenue

Sterling Gallagher
John R. Messenger
Pete Bushre

Members of the
Alcoholic Beverage Control Board

Chairman
Member
Member
Member
Member

Timothy G. Middleton
Elvin Elkins
Albert P. Adams
Robert J. Gonze
John Kohler

Project, Dennis Kelso, Ph.D., Project Director in Working Papers: Descriptive Analysis of the Impact of Alcoholism and Alcohol Abuse in Alaska, 1975.

Recommendation No. 5

Renewals of licenses should be made in a timely manner.

A review of 99 renewals indicated that the average processing time is 70 days, ten days longer than the average processing time for new applications. We were able to determine two major causes of this delay. One is due solely to volume for although the application process for renewal of licenses is almost identical for the application process for new licenses, all alcoholic beverage licenses are renewed at the same time each year, thus causing a large backlog for several months each year.

The second cause for the delay results from conflicting statutory requirements for renewing licenses. AS 04.10.270 requires the Board to transmit written notice of its intent to approve the renewal of a license to the local governing body (city or borough), allowing it 30 days in which to protest its issuance. However, AS 04.10.350 requires the Board to renew licenses automatically if the fee is paid except in the case of conviction of the licensee or protest of a license that is outside a municipality.

ABC licensing staff estimated that of the approximately 1300 licenses renewed in 1978 only 50 were protested by local governing bodies and most, if not all of those protests, were for non-payment of local property taxes. The need for causing the processing delay of all applications to accomplish this tax collection service should be reviewed for its merits. If found to be without merit, AS 04.10.270 should be amended to exclude renewals from the section.

If found to be of merit, however, the following alternative should be considered to reduce processing delays: blanket notification to municipalities or boroughs prior to the renewal period of the ABC Board's intent to renew all liquor licenses in their jurisdiction subject to receipt of application and fees. This would allow the protest period to run concurrent with, rather than subsequent to, the renewal period, thus allowing for automatic renewal unless a protest has been received.

Recommendation No. 6

The requirement for a \$2500 cash or surety bond for a beverage dispensary license should be eliminated from AS 04.10.040.

The requirement of a cash or surety bond in the amount of \$2500 for beverage dispensary license was established by a 1939 amendment to the Laws of Alaska. At that time beverage dispensary licenses had no economic value and the amount of the bond was established as a penal sum to be forfeited upon revocation of a license.

Since 1939, however, beverage dispensary licenses have gained economic value in areas where the quota for that type of license has been reached. Thus, the revocation of a beverage dispensary license is a financially penalizing action in its own right. Additionally, with the rate of economic growth experienced in Alaska in the last 39 years it is obvious that \$2500 no longer has the penal impact it did in 1939.

A review of the ABC Board records disclosed no evidence of the Board requiring forfeiture of the bond in the past five years. The bond requirement does, however, create additional work for the licensing staff and occasional delays in the application process. The need for this cash or surety bond requirement has become obsolete.

Recommendation No. 7

The Office of the Governor should keep appointments of members of the Alcoholic Beverage Control Board current and stagger them as required by AS 39.05.060.

During our review of ABC Board appointments during the period of January 1, 1974 to June 30, 1978, we noted the following exception. The ABC Board was allowed to operate without a five-member complement as required by law during the following periods:

1. February 1, 1974 through February 27, 1974: one vacancy for 27 days.
2. March 14, 1974 through March 23, 1975: one vacancy for 336 days, two vacancies for 35 days, three vacancies for 4 days. Total time period: 375 days.
3. November 20, 1976 through January 17, 1977: one vacancy for 59 days.
4. February 1, 1978 through February 8, 1978: three vacancies for 8 days.

As a result of these vacancies, the ABC Board was not in compliance with AS 04.05.010 which created it. Additionally, the ratio of public representation to industry representation established by AS 04.05.010 was upset allowing a possible unfavorable bias to enter into the Board's decision-making process.

Mr. Gerald Wilkerson, Legislative Auditor
February 6, 1979
Page Three

Recommendation #4 is not really that important. See my response of November 13, 1978 for a complete response. This change would have no real impact and is probably going to raise emotions unnecessarily. The text suggests "industry" domination of the Board is possible. I suspect on only a very few issues, if any, has there been an "industry" position.

Recommendation #5 is hard to argue with - but I don't think we ought to remove the notice to the local government, so it can protest. However, we should find a way to speed up renewals. Perhaps by delegating renewals and licenses issuances to the Director we could speed up the process. Also, as in all municipal protests, there should be a clear protest set forth with specific reasons, not necessarily including non-payment of taxes. (As an aside, we should also review the merits of requiring creditors be satisfied prior to transfer.)

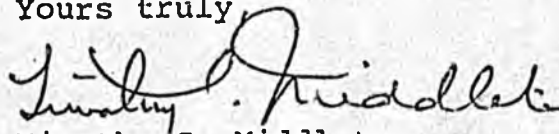
Recommendations #6 and #7, are meritorious.

An area of specific concern to me is the so called hotel-motel license exception to the population quota. This section could result in the elimination of the small neighborhood bar.

In summary, the number one priority of the legislature should be a complete and sensible re-write of Title 4, the other suggestions will not be of much use unless that is accomplished. Indeed, if only your suggestions are adopted, the problem of enforcement of ABC laws will be exacerbated, because there will be a feeling the problem is solved. The priority of the Board should be adoption of a comprehensive set of regulations.

Thank you for an opportunity to comment on your report.

Yours truly,


Timothy G. Middleton

TGM/lh

Rec'd
2/15/83
8:45 P.M.

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 4
Title An act repealing beverage dispensary license applicant bonding
Requested by State Affairs and Judiciary Date 2/8/83

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Public Protection
BRU, Program, Or Subprogram(s) Affected Alcoholic Beverage Control Board
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-			

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This bill has no fiscal impact

LEGISLATIVE FINANCE

RECEIVED
FEB 15 1983

Robert D. Heath

IV. DATE February 8, 1983 PREPARED BY Robert D. Heath
AGENCY Department of Revenue

Original: Legislative Finance PHONE 465-2300
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82) OMB Reviewed by: Gary Sofor *[Signature]*

Article 2. Licenses and Permits.

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

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

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

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(f) The area designated as the licensed premises under a beverage dispensary license issued to a bowling alley may include the concourse or lane areas of the bowling alley. Notwithstanding AS 04.16.049, the board may, upon application, authorize access by persons under 19 years of age to the concourse or lane areas designated part of the bowling alley's licensed premises during hours when no alcoholic beverages are being sold, served, or consumed. (§ 2 ch 131 SLA 1980)

Former law construed. — See In re
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Section	Section
80. Types of licenses and permits	170. Distillery license
90. Beverage dispensary license	180. Common carrier dispensary license
100. Restaurant or eating place license	190. Community liquor license
110. Club license	200. Retail stock sale license
120. Bottling works license	210. Recreational site license
130. Brewery license	220. Pub license
140. Winery license	230. Caterer's permit
150. Package store license	240. Special events permit
160. Wholesale licenses	250. Conditional contractor's permit

Sec. 04.11.080. Types of licenses and permits. Licenses and permits issued under this title are as follows:

- (1) beverage dispensary license;
- (2) duplicate beverage dispensary license for additional rooms;
- (3) restaurant or eating place license;
- (4) club license;
- (5) bottling works license;
- (6) brewery license;
- (7) package store license;
- (8) general wholesale license;
- (9) wholesale malt beverage and wine license;
- (10) distillery license;
- (11) common carrier dispensary license;
- (12) retail stock sale license;
- (13) recreational site license;
- (14) community liquor license;
- (15) pub license;
- (16) winery license;
- (17) caterer's permit;
- (18) special events permit;
- (19) conditional contractor's permit. (§ 2 ch 131 SLA 1980)

Am. Jur. 2d and C.J.S. references. — 48 C.J.S. Intoxicating Liquors
45 Am. Jur. 2d, Intoxicating Liquors, §§ 121-128.
§§ 124-133.

Sec. 04.11.090. Beverage dispensary license. (a) A beverage dispensary license authorizes the holder to sell or serve on the licensed premises alcoholic beverages for consumption on the licensed premises only.

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

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

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

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

(f) The area designated as the licensed premises under a beverage dispensary license issued to a bowling alley may include the concourse or lane areas of the bowling alley. Notwithstanding AS 04.16.049, the board may, upon application, authorize access by persons under 19 years of age to the concourse or lane areas designated part of the bowling alley's licensed premises during hours when no alcoholic beverages are being sold, served, or consumed. (§ 2 ch 131 SLA 1980)

Former law construed. — See In re
Liquor License of Larry's, Inc., 12 Alaska
503 (1949).

Sec. 04.11.100. Restaurant eating place license. (a) A restaurant or eating place license authorizes a restaurant or eating place to sell beer and wine for consumption only on the licensed premises.

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

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

(d) The annual fee for a restaurant or eating place license is \$300. (§ 2 ch 131 SLA 1980)

Sec. 04.11.110. Club license. (a) A club license authorizes a club or organization to sell alcoholic beverages for consumption only on the licensed premises.

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

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Sec. 04.11.100. Restaurant or eating place license. (a) A restaurant or eating place license authorizes a restaurant or eating place to sell beer and wine for consumption only on the licensed premises.

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

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

(d) The annual fee for a restaurant or eating place license is \$300.
(§ 2 ch 131 SLA 1980)

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

(d) The annual fee for a restaurant or eating place license is \$300. (§ 2 ch 131 SLA 1980)

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