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STATE OF ALASKA
THE LEGISLATURE

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JUNEAU, ALASKA 99811
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May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

Senate Community and Regional Affairs

2/28/85, 3:37

3/14/85, 3:37

4/4/85, 3:45

MEMORANDUM

TO: Senator Coghill
FROM: Mike Dalton *MD*
RE: SB 69, licensing and regs re liquor licenses
DATE: Monday, March 4

You asked Senator DeVries to hold back SB 69 so you could call a couple roadhouse operators regarding the 90-day amendment versus 30 days that is currently in the law.

Want me to call somebody for you.

Need some phone numbers?

Back to 30 DAYS

bill attached

Introduced: 1/21/85
Referred: Community and Regional
Affairs and Judiciary

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2

SENATE BILL NO. 69

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to licensing and regulation of the
7 sale and distribution of alcoholic beverages; and
8 providing for an effective date."

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

10 * Section 1. AS 04.11.240(b) is amended to read:

11 (b) An application for a special events permit [MUST BE RECEIVED
12 IN THE MAIN OFFICE OF THE BOARD AT LEAST 10 DAYS BEFORE THE DATE FOR
13 WHICH THE PERMIT IS REQUESTED. THE APPLICATION] must be signed by
14 both the president and secretary of the organization applying for the
15 permit. A sworn affidavit showing the length of time the organization
16 has been in existence must accompany the application, together with a
17 certified copy of the resolution of the board of directors authorizing
18 the application. The written approval of the law enforcement agency
19 having jurisdiction over the designated premises of the occasion for
20 which the permit is sought must also be obtained and accompany the
21 application.

22 * Sec. 2. AS 04.11.330(a)(3) is amended to read:

23 (3) the applicant has not operated the licensed premises
24 for at least 90 [30] eight-hour days during the immediately preceding
25 calendar year, unless the board determines that the licensed premises
26 are under construction or cannot be operated through no fault of the
27 applicant;

28 * Sec. 3. AS 04.11.330(a) is amended by adding a new paragraph to read

29 (10) the application contains false statements of material

1 fact.

2 * Sec. 4. AS 04.11.490(c) is amended to read:

3 (c) If a majority of the voters vote "no" on the question set
4 out in (a) of this section or vote "yes" on a question set out in
5 AS 04.11.492 or 04.11.500 in an election conducted in accordance with
6 AS 04.11.502 after an election in which the voters voted "yes" on the
7 question set out in (a) of this section, the board shall be notified
8 immediately after certification of the results of the election.
9 Thereafter, the prohibitions imposed under (b) of this section on the
10 issuance, renewal, or transfer of licenses between holders and lo-
11 cation as a result of the earlier election are removed except insofar
12 as those prohibitions are imposed in accordance with the results of
13 the subsequent election and under AS 04.11.504(b) and AS 04.11.510(d).

14 * Sec. 5. AS 04.11.492(c) is amended to read:

15 (c) If a majority of the voters vote "no" on the question set
16 out in (a) of this section or vote "yes" on a question set out in
17 AS 04.11.490, 04.11.496, or 04.11.500 in an election conducted in
18 accordance with AS 04.11.502 after an election in which the voters
19 voted "yes" on the question set out in (a) of this section, the board
20 shall be notified immediately after a certification of the results of
21 the election. The prohibitions imposed under (b) of this section on
22 the issuance, renewal, or transfer of licenses between holders and
23 locations as a result of the earlier election are removed 90 days
24 after the results of the election are certified except insofar as
25 those prohibitions are imposed in accordance with the results of the
26 subsequent election and under AS 04.11.504(b) and AS 04.11.510(d).

27 * Sec. 6. AS 04.11.496(c) is amended to read:

28 (c) If a majority of the voters vote "no" on the question set
29 out in (a) of this section or vote "yes" on the questions set out in

1 AS 04.11.492 or 04.11.500 in an election conducted in accordance with
2 AS 04.11.502 after an election in which the voters voted "yes" on the
3 question set out in (a) of this section, the prohibition on the impor-
4 tation of alcoholic beverages and the prohibition on the issuance,
5 renewal, or transfers of licenses between holders and locations,
6 imposed as a result of the earlier election in which the voters voted
7 "yes" on the question set out in (a) of this section are removed
8 effective on the first day of the month following certification of the
9 results of the election except as those prohibitions continue to be
10 imposed in accordance with the results of the subsequent election and
11 under AS 04.11.504(b) and AS 04.11.510(d).

12 * Sec. 7. AS 04.11.500(c) is amended to read:

13 (c. If the majority of the voters vote "no" on the question set
14 out in (a) of this section or vote "yes" on the questions set out in
15 AS 04.11.490, 04.11.492, or 04.11.496[, OR THIS SECTION IF DIFFERENT
16 TYPES OF LICENSES ARE LISTED ON THE BALLOT] in an election conducted
17 in accordance with AS 04.11.502 after an election in which the voters
18 voted "yes" on the question set out in (a) of this section, the board
19 shall be notified immediately after certification of the results of
20 the election. Licenses in effect in the municipality and [,] in the
21 unincorporated area outside of but within five miles of the boundaries
22 of the municipality or established village which were excepted from
23 the prohibition on sale in accordance with the results of the earlier
24 election are void 90 days after the results of the election are cer-
25 tified. Thereafter the board may not issue, renew, or transfer be-
26 tween holders or locations a license for licensed premises located
27 within the boundaries of the municipality, [OR] within the perimeter
28 of an established village, or in an unincorporated area within five
29 miles of the boundaries of the municipality, except a license which

1 may be issued to a municipality or to one of the types of licenses
2 listed on the ballot as a result of a majority of the voters voting
3 "yes" on the question set out in AS 04.11.492 or this section, respec-
4 tively. A license which will expire during the 90 days after the
5 results of a local option election under this section are certified
6 may be extended, until it is void under this subsection, by payment of
7 a prorated portion of the annual license fee.

8 * Sec. 8. AS 04.11.502(b) is amended to read:

9 (b) The lieutenant governor, whenever 35 percent of the regis-
10 tered voters residing within an established village petition the
11 lieutenant governor to do so, shall place upon a separate ballot at a
12 special election that question or combination of questions set out in
13 AS 04.11.490, 04.11.496, and [--] 04.11.500 which constitutes the
14 subject of the petition. The lieutenant governor shall conduct the
15 election in the general manner prescribed by the Alaska Election Code
16 (AS 15.05.010 -- AS 15.60.020).

17 * Sec. 9. AS 04.11.506(b)(1) is amended to read:

18 (1) the board shall notify by registered or certified mail
19 all holders of package store licenses of the prohibition;

20 * Sec. 10. AS 04.11.510(d) is amended to read:

21 (d) The board may not accept an application for the issuance,
22 renewal, or transfer of a license within one year after a local option
23 election, other than an application for a temporary extension of a
24 license under AS 04.11.490(b), 04.11.492(b), 04.11.496(b), or 04.11.-
25 500(b).

26 * Sec. 11. AS 04.16.030(1) is amended to read:

27 (3) allow a drunken person to ^{consume an alcoholic beverage} enter or [AND] remain within
28 licensed premises or to consume an alcoholic beverage within licensed
29 premises;

1 * Sec. 12. AS 04.21.080(b)(8) is amended to read:

2 (8) "established village" means [(A)] an unincorporated
3 community [THAT IS IN THE UNORGANIZED BOROUGH AND] that

4 (A) has 25 or more permanent residents; [OR]

5 (B) is within a circle, with a five-mile radius,
6 around a United States post office or, if there is no United
7 States post office, around another site reasonably designated by
8 the local governing body or, if there is no local governing body,
9 by the board; and

10 (C) if it [(B) AN UNINCORPORATED COMMUNITY THAT] is in
11 an organized borough, [HAS 25 OR MORE PERMANENT RESIDENTS, AND]

12 (i) is on a road system and is located more than
13 50 miles outside the boundary limits of a unified municipal-
14 ity, or

15 (ii) is not on a road system and is located more
16 than 15 miles outside the boundary limits of a unified
17 municipality;

18 * Sec. 13. Section 2 of this Act takes effect January 1, 1986.

19 * Sec. 14. Sections 1 and 3 -- 12 of this Act take effect immediately
20 in accordance with AS 01.10.070(c).

Senator John B. (Jack) Coghill
Alaska State Legislature

Pouch V
Juneau, Alaska 99811
(907) 465-1715

Box 158
Nenana, Alaska 99760
(907) 852-5171



TO: Senator DeVries

FROM: Senator Coghill

RE: SB69

Sec. 11. AS 04.16.030(3) of SB 69 as amended would prohibit a licensee, his agent or his employee from allowing a drunken person to enter or remain within the licensee's premises. I do not agree with this. I believe this will create more harm than good. It effectively places the drunken driver back on the street. And in terms of the Dram Shop Act and stricter court rulings in regard to drunken drivers, I have serious concerns about the bar owners liability when he turns this inebriated person back on the street.

I am proposing the attached amendment which will create a new section dealing with this issue. The licensee, his agent or employee would be unable to evict a person from the premises if the person is drunk. If the person was evicted, affirmative defenses relating to the licensee's knowledge of alternative means of leaving would be allowed. If the premises were closing the local police would be called.

A M E N D M E N T

Offered in the SENATE

By Coghill

TO: SB 69

Page 4, lines 27 - 28:

Delete: "enter or [AND] remain within licensed premises or to"

Insert: "[ENTER AND REMAIN WITHIN LICENSED PREMISES OR TO]"

Page 4, following line 29, insert new bill sections to read:

** Sec. 12. AS 04.16.040 is repealed and reenacted to read:

Sec. 04.16.040. POSSESSION OR CONSUMPTION BY DRUNKEN PERSONS WITHIN LICENSED PREMISES. A drunken person may not knowingly consume, possess, or control alcoholic beverages within licensed premises.

* Sec. 13. AS 04.16 is amended by adding a new section to read:

Sec. 04.16.043. DRUNKEN PERSONS ON PREMISES. (a) Except as otherwise provided by law, a licensee or a licensee's agent or employee may not evict from licensed premises a person known by the licensee or agent to be drunken.

(b) In a prosecution under (a) of this section it is an affirmative defense that at the time the drunken person was evicted

(1) the licensee or the licensee's agent or employee reasonably believed that the person resided within walking distance of the premises and intended to walk to the person's residence;

(2) the licensee or the licensee's agent or employee reasonably believed that a third party who escorted the drunken person

from the premises was sober and would provide transportation to the drunken person's residence; or

(3) the premises were closed to business and a state or local law enforcement officer with jurisdiction over the premises had been notified that a drunken person was being evicted."

Renumber succeeding sections accordingly.

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 69 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE -- FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to licensing and regulation of the
7 sale and distribution of alcoholic beverages; and
8 providing for an effective date."

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10 * Section 1. AS 04.11.240(b) is amended to read:

11 (b) An application for a special events permit [MUST BE RECEIVED
12 IN THE MAIN OFFICE OF THE BOARD AT LEAST 10 DAYS BEFORE THE DATE FOR
13 WHICH THE PERMIT IS REQUESTED. THE APPLICATION] must be signed by
14 both the president and secretary of the organization applying for the
15 permit. A sworn affidavit showing the length of time the organization
16 has been in existence must accompany the application, together with a
17 certified copy of the resolution of the board of directors authorizing
18 the application. The written approval of the law enforcement agency
19 having jurisdiction over the designated premises of the occasion for
20 which the permit is sought must also be obtained and accompany the
21 application.

22 * Sec. 2. AS 04.11.330(a)(3) is amended to read:

23 (3) the applicant has not operated the licensed premises
24 for at least 45 [30] eight-hour days during the immediately preceding
25 calendar year, unless the board determines that the licensed premises
26 are under construction or cannot be operated through no fault of the
27 applicant;

28 * Sec. 3. AS 04.11.330(a) is amended by adding a new paragraph to read:

29 (10) the application contains false statements of material

1 fact.

2 * Sec. 4. AS 04.11.490(c) is amended to read:

3 (c) If a majority of the voters vote "no" on the question set
4 out in (a) of this section or vote "yes" on a question set out in
5 AS 04.11.492 or 04.11.500 in an election conducted in accordance with
6 AS 04.11.502 after an election in which the voters voted "yes" on the
7 question set out in (a) of this section, the board shall be notified
8 immediately after certification of the results of the election.
9 Thereafter, the prohibitions imposed under (b) of this section on the
10 issuance, renewal, or transfer of licenses between holders and lo-
11 cation as a result of the earlier election are removed except insofar
12 as those prohibitions are imposed in accordance with the results of
13 the subsequent election and under AS 04.11.504(b) and AS 04.11.510(d).

14 * Sec. 5. AS 04.11.492(c) is amended to read:

15 (c) If a majority of the voters vote "no" on the question set
16 out in (a) of this section or vote "yes" on a question set out in
17 AS 04.11.490, 04.11.496, or 04.11.500 in an election conducted in
18 accordance with AS 04.11.502 after an election in which the voters
19 voted "yes" on the question set out in (a) of this section, the board
20 shall be notified immediately after a certification of the results of
21 the election. The prohibitions imposed under (b) of this section on
22 the issuance, renewal, or transfer of licenses between holders and
23 locations as a result of the earlier election are removed 90 days
24 after the results of the election are certified except insofar as
25 those prohibitions are imposed in accordance with the results of the
26 subsequent election and under AS 04.11.504(b) and AS 04.11.510(d).

27 * Sec. 6. AS 04.11.496(c) is amended to read:

28 (c) If a majority of the voters vote "no" on the question set
29 out in (a) of this section or vote "yes" on the questions set out in

AS 04.11.492 or 04.11.500 in an election conducted in accordance with AS 04.11.502 after an election in which the voters voted "yes" on the question set out in (a) of this section, the prohibition on the importation of alcoholic beverages and the prohibition on the issuance, renewal, or transfers of licenses between holders and locations, imposed as a result of the earlier election in which the voters voted "yes" on the question set out in (a) of this section are removed effective on the first day of the month following certification of the results of the election except as those prohibitions continue to be imposed in accordance with the results of the subsequent election and under AS 04.11.504(b) and AS 04.11.510(d).

* Sec. 7. AS 04.11.500(c) is amended to read:

(c) If the majority of the voters vote "no" on the question set out in (a) of this section or vote "yes" on the questions set out in AS 04.11.490, 04.11.492, or 04.11.496 [, OR THIS SECTION IF DIFFERENT TYPES OF LICENSES ARE LISTED ON THE BALLOT] in an election conducted in accordance with AS 04.11.502 after an election in which the voters voted "yes" on the question set out in (a) of this section, the board shall be notified immediately after certification of the results of the election. Licenses in effect in the municipality and [,] in the unincorporated area outside of but within five miles of the boundaries of the municipality or established village which were excepted from the prohibition on sale in accordance with the results of the earlier election are void 90 days after the results of the election are certified. Thereafter the board may not issue, renew, or transfer between holders or locations a license for licensed premises located within the boundaries of the municipality, [OR] within the perimeter of an established village, or in an unincorporated area within five miles of the boundaries of the municipality, except a license which

1 may be issued to a municipality or to one of the types of licenses
2 listed on the ballot as a result of a majority of the voters voting
3 "yes" on the question set out in AS 04.11.492 or this section, respec-
4 tively. A license which will expire during the 90 days after the
5 results of a local option election under this section are certified
6 may be extended, until it is void under this subsection, by payment of
7 a prorated portion of the annual license fee.

8 * Sec. 8. AS 04.11.502(b) is amended to read:

9 (b) The lieutenant governor, whenever 35 percent of the regis-
10 tered voters residing within an established village petition the
11 lieutenant governor to do so, shall place upon a separate ballot at a
12 special election that question or combination of questions set out in
13 AS 04.11.490, 04.11.496, and [-] 04.11.500 which constitutes the
14 subject of the petition. The lieutenant governor shall conduct the
15 election in the general manner prescribed by the Alaska Election Code
16 (AS 15.05.010 - AS 15.60.020).

17 * Sec. 9. AS 04.11.506(b) is amended to read:

18 (b) If a majority of the voters vote "yes" on a question set out
19 in AS 04.11.496, the following actions, in addition to those pre-
20 scribed in (a) of this section, shall be undertaken before the date
21 the prohibition on importation becomes effective:

22 (1) the board shall notify by registered or certified mail
23 all holders of package store licenses of the prohibition;

24 (2) the municipality or established village shall post
25 notice of the prohibition in the municipality or village.

26 * Sec. 10. AS 04.11.510(d) is amended to read:

27 (d) The board may not accept an application for the issuance,
28 renewal, or transfer of a license within one year after a local option
29 election, other than an application for a temporary extension of a

1 license under AS 04.11.490(b), 04.11.492(b), 04.11.496(b), or 04.11.-
2 500(b).

3 * Sec. 11. AS 04.21.080(b)(8) is amended to read:

4 (8) "established village" means [(A)] an unincorporated
5 community [THAT IS IN THE UNORGANIZED BOROUGH AND] that

6 (A) has 25 or more permanent residents; [OR,

7 (B) is within a circle, with a five-mile radius,
8 around a United States post office or, if there is no United
9 States post office, around another site reasonably designated by
10 the local governing body or, if there is no local governing body,
11 by the board; and

12 (C) if it [(B) AN UNINCORPORATED COMMUNITY THAT] is in
13 an organized borough, [HAS 25 OR MORE PERMANENT RESIDENTS, AND]

14 (i) is on a road system and is located more than
15 50 miles outside the boundary limits of a unified municipal-
16 ity, or

17 (ii) is not on a road system and is located more
18 than 15 miles outside the boundary limits of a unified
19 municipality;

20 * Sec. 12. Section 2 of this Act takes effect January 1, 1986.

21 * Sec. 13. Sections 1 and 3 - 11 of this Act take effect immediately in
22 accordance with AS 01.10.070(c).

Introduced: 1/21/85
Referred: Community and Regional
Affairs and Judiciary

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2

SENATE BILL NO. 69

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

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A BILL

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13 WHICH THE PERMIT IS REQUESTED. THE APPLICATION] must be signed by
14 both the president and secretary of the organization applying for the
15 permit. A sworn affidavit showing the length of time the organization
16 has been in existence must accompany the application, together with a
17 certified copy of the resolution of the board of directors authorizing
18 the application. The written approval of the law enforcement agency
19 having jurisdiction over the designated premises of the occasion for
20 which the permit is sought must also be obtained and accompany the
21 application.

22 * Sec. 2. AS 04.11.330(a)(3) is amended to read:

23 (3) the applicant has not operated the licensed premises
24 for at least ⁴⁵~~90~~ [30] eight-hour days during the immediately preceding
25 calendar year, unless the board determines that the licensed premises
26 are under construction or cannot be operated through no fault of the
27 applicant;

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1 fact.

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6 AS 04.11.502 after an election in which the voters voted "yes" on the
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9 Thereafter, the prohibitions imposed under (b) of this section on the
10 issuance, renewal, or transfer of licenses between holders and lo-
11 cation as a result of the earlier election are removed except insofar
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18 accordance with AS 04.11.502 after an election in which the voters
19 voted "yes" on the question set out in (a) of this section, the board
20 shall be notified immediately after a certification of the results of
21 the election. The prohibitions imposed under (b) of this section on
22 the issuance, renewal, or transfer of licenses between holders and
23 locations as a result of the earlier election are removed 90 days
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3 question set out in (a) of this section, the prohibition on the impor-
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23 election, other than an application for a temporary extension of a
24 license under AS 04.11.490(b), 04.11.492(b), 04.11.496(b), or 04.11.-
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COMMITTEE REPORT
SENATE

FURTHER: JUDICIARY

1/21/85

Date April 4, 1985

Mr. President

The Committee on C&RA considered SB 69

licensing and regulation of the sale and distribution of alcoholic beverages; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 69 (C&RA)
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" [] NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
[Signature]
Julius Sturgulevski

MEMBERS HAVING
OTHER RECOMMENDATIONS

Edo De Vries
Chairman

Do Pass
Chairman recommendation

COMMITTEE REPORT
SENATE

FURTHER:

JUDICIARY

1/21/85

Date April 4, 1985

Mr. President

The Committee on C&RA considered SB 69

licensing and regulation of the sale and distribution of alcoholic beverages; *afd.*

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MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

[Signature]
Chairman

[Signature]
Chairman recommendation



Official Business

Alaska State Legislature

Community & Regional Affairs Committee

Pouch V
State Capitol
Juneau, Alaska 99811

C&RA Committee Meeting -- March 28, 1985

SB 69 -- "An Act relating to licensing and regulation of the sale and distribution of alcoholic beverages -- ZERO Fiscal Note by the Governor

Heard by Committee on Feb 28

Extended testimony by Pat Sharrock as an overview of bill

Senator Coghill asked that the bill be held pending an amendment

Heard by Committee on March 14

Amendment #1 by Coghill ==
Page 1, Line 24 -- delete [90] and insert "45"

Passed unanimously

Additional amendment discussed --- no wording agreed to ---- bill held over

March 28 --

Amendment proposed by Senator Coghill is attached.....

Pat Sharrock will be available
by phone hook-up for discussion
on this - at 3:30p.

Senator John B. (Jack) Coghill
Alaska State Legislature

Pouch V
Juneau, Alaska 99811
(907) 465-4745

Box 458
Nenana, Alaska 99760
(907) 852-5471



Rec'd 3/21/85 ya

TO: Senator DeVries

FROM: Senator Coghill

RE: SB69

Sec. 11. AS 04.16.030(3) of SB 69 as amended would prohibit a licensee, his agent or his employee from allowing a drunken person to enter or remain within the licensee's premises. I do not agree with this. I believe this will create more harm than good. It effectively places the drunken driver back on the street. And in terms of the Dram Shop Act and stricter court rulings in regard to drunken drivers, I have serious concerns about the bar owners liability when he turns this inebriated person back on the street.

I am proposing the attached amendment which will create a new section dealing with this issue. The licensee, his agent or employee would be unable to evict a person from the premises if the person is drunk. If the person was evicted, affirmative defenses relating to the licensee's knowledge of alternative means of leaving would be allowed. If the premises were closing the local police would be called.

A M E N D M E N T

Offered in the SENATE

By Coghill

TO: SB 69

Page 4, lines 27 - 28:

Delete: "enter or [AND] remain within licensed premises or to"

Insert: "[ENTER AND REMAIN WITHIN LICENSED PREMISES OR TO]"

Page 4, following line 29, insert new bill sections to read:

"* Sec. 12. AS 04.16.040 is repealed and reenacted to read:

Sec. 04.16.040. POSSESSION OR CONSUMPTION BY DRUNKEN PERSONS WITHIN LICENSED PREMISES. A drunken person may not knowingly consume, possess, or control alcoholic beverages within licensed premises.

* Sec. 13. AS 04.16 is amended by adding a new section to read:

Sec. 04.16.043. DRUNKEN PERSONS ON PREMISES. (a) Except as otherwise provided by law, a licensee or a licensee's agent or employee may not evict from licensed premises a person known by the licensee or agent to be drunken.

(b) In a prosecution under (a) of this section it is an affirmative defense that at the time the drunken person was evicted

(1) the licensee or the licensee's agent or employee reasonably believed that the person resided within walking distance of the premises and intended to walk to the person's residence;

(2) the licensee or the licensee's agent or employee reasonably believed that a third party who escorted the drunken person

from the premises was sober and would provide transportation to the drunken person's residence; or

(3) the premises were closed to business and a state or local law enforcement officer with jurisdiction over the premises had been notified that a drunken person was being evicted."

Renumber succeeding sections accordingly.

Reinwand
amend.

* Sec. 2. AS 04.11.330(a)(3) is amended to read:

(3) the applicant has not operated the licensed premises for at least 90 [30] eight-hour days during the immediately preceding calendar year, or 30 days for a license issued or approved for a six-month period under AS 04.11.680, unless the board determines that the licensed premises are under construction or cannot be operated through no fault of the applicant.



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

4/8/85

Amendments pas. ed by Senate C&RA 4/4/85 - **SB-69**

Page 1, line 24

delete [90] and insert "45"

Page 4, line 27

delete [to enter or [AND] remain]

insert "to enter and remain"

(Note: the Page 4, line 27 amendment goes back to the language as it is presently in the statute.)



Official Business

Alaska State Legislature

Community & Regional Affairs Committee

Pouch V
State Capitol
Juneau, Alaska 99811

C&RA Committee Meeting -- March 28, 1985

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Additional amendment discussed --- no wording agreed to ---- bill held over

March 28 --

Amendment proposed by Senator Coghill is attached.....

Pat Sharrock will be available by phone hook-up for discussion on this - at 3:30p.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

SB 69 2869

January 21, 1985

The Honorable Don Bennett
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the licensing and regulation of the sale and distribution of alcoholic beverages.

This bill, which was requested by the Alcoholic Beverage Control Board, includes mostly technical, housekeeping amendments to AS 04.11, "Licensing," and a technical amendment to AS 04.16, "Regulation of Sales and Distribution." The most substantive of the amendments made by this bill are at sec. 2 and sec. 12.

Section 2 of the bill increases from 30 days to 90 days the minimum number of days for which all businesses with liquor licenses must operate each year. Businesses that do not operate for the minimum period are denied license renewal unless the premises are under construction or cannot be operated for another reason that is not the fault of the owner.

Section 12 of the bill amends the definition of the term "established village" to allow for ready determination of the boundaries of such a village. Before 1983, these boundaries were determined by drawing a circle, with a five-mile radius, around a U.S. post office. That provision was deleted as part of an extensive revision to the definition in 1983, and under present law there is no clear way of determining village boundaries. The attached bill restores the five-mile-radius method of determining the boundaries, and also makes provision for villages that do not have a U.S. post office. Several provisions of AS 04 cannot be adequately implemented in the absence of readily determinable village boundaries. These provisions include: (1) AS 04.11.480, under which a village council may "protest" the issuance of a liquor license inside the

sh 69

village; (2) AS 04.11.400, under which the number of licenses that may be issued inside a village is based upon the size of the population residing inside the village; and (3) AS 04.11.490 -- 04.11.502, under which established villages may, on the approval of a majority of residents within the village, exercise a "local option" restricting or prohibiting the sale or importation of alcohol inside the village and within a fixed distance beyond the "perimeter" of the village. The selection of five miles as the length of the radius is based on previous law. The substitution of any other reasonable distance would also resolve the problems this section of the bill is intended to resolve.

Section 1 of the attached bill deletes from AS 04.11.240(b) the requirement that requests for special events permits be received by the board 10 days before the event. The 10-day requirement is often impossible to meet and is unnecessary.

Section 9 of the bill amends AS 04.11.506(b)(1) to give the board the option of using certified mail rather than registered mail to notify all package stores in the state of the results of local option elections under AS 04.11.496. The present requirement is too costly and unnecessary.

The other amendments in the bill are more technical in nature and either add or remove cross references to other sections of AS 04.11 and 04.16; eliminate inconsistencies between sections (such as between AS 04.11.330(a) [denial of license renewal] and AS 04.11.320(a) [denial of initial license]); or eliminate unnecessary, confusing, or repetitive language (such as in AS 04.11.500(c), in which the deleted language is covered by AS 04.11.500(b)).

I join with the board in urging passage of this bill.

Sincerely,



Bill Sheffield
Governor

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No: 69
 Title: Technical Amendments
to AS Title 04
 Sponsor: Governor
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Department of Revenue
 Program Category Affected: Consumer
Protection
 BRU, Program or Subprogram(s) Affected:
Alcoholic Beverage Control Board

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Patrick L. Sharrock, Director Phone: 277-8638
 Division: _____ Date: _____
 Approved by Commissioner: James Mills Date: 1/15/85
 Agency: Department of Revenue

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84

§ 04.16.010

70 House Journal report on ch. 53, see 1973 House report on ch. B 246 am S), see 144.

tribution.

under the age of

at school events
clubs
containers
alcohol prohibited
consumption of alcoholic

licensed premises
consumption of alcoholic
house
for violations
beverages
beverages in
surprise

in licensed
not sell, offer
beverage on
10:00 a.m. and

a person to
between the

person to and
between the
person does not
), or to an
for the next
restaurant
consumption of alcoholic

pressure under

§ 04.16.020

ALCOHOLIC BEVERAGES

§ 04.16.045

ALR and C.J.S. references. — Power of municipality to require Sunday closing, 29 ALR 407, 420; 37 ALR 575.

Validity, construction and application of statute or ordinance requiring closing,

during certain hours, of place where intoxicating liquor is sold, as affected by fact that such places are also used for other business, 139 ALR 756.

48 C.J.S. Intoxicating Liquors § 207.

Sec. 04.16.020. Solicitation of alcoholic beverages. (a) A person may not pay or receive from another a salary, percentage or commission to solicit or encourage a patron of licensed premises to purchase alcoholic or other beverages for consumption by a person other than the patron.

(b) A licensee, his agent, or employee may not knowingly permit a person to loiter within or about premises licensed under this title for the purpose of begging or soliciting a patron or visitor to purchase alcoholic or other beverages for the person who is begging or soliciting. (§ 3 ch 131 SLA 1980)

Former law construed. — See Alaska Alcoholic Beverage Control Bd. v. Malcolm, Inc., Sup. Ct. Op. No. 208 (File No. 363), 391 P.2d 441 (1964).

Am. Jur. 2d and C.J.S. references. — 45 Am. Jur. 2d Intoxicating Liquor §§ 297, 298. 48 C.J.S. Intoxicating Liquors § 267.

Sec. 04.16.030. Sale or disposition of alcoholic beverages to drunken persons. A licensee, his agent, or employee may not with criminal negligence

- (1) sell, give, or barter alcoholic beverages to a drunken person;
- (2) allow another person to sell, give, or barter an alcoholic beverage to a drunken person within licensed premises;
- (3) allow a drunken person to enter and remain within licensed premises or to consume an alcoholic beverage within licensed premises;
- (4) permit a drunken person to sell or serve alcoholic beverages. (§ 3 ch 131 SLA 1980)

Am. Jur. 2d and C.J.S. references. — 45 Am. Jur. 2d Intoxicating Liquors §§ 265, 266.

48 C.J.S. Intoxicating Liquors §§ 257, 258.

Sec. 04.16.040. Access of drunken persons to licensed premises. A drunken person may not knowingly enter or remain on premises licensed under this title. (§ 3 ch 131 SLA 1980)

Sec. 04.16.045. Obligation to enforce restrictions in licensed premises. A licensee, his agent or employee may not permit the consumption of alcoholic beverages by any person within licensed premises unless it is permitted by the license. (§ 3 ch 131 SLA 1980)

Revisor's note. — This section was originally enacted as AS 04.16.041 but was renumbered by the revisor of statutes.

Cross reference. — As to responsibility of licensee for violations, see AS 04.16.150.



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

C&RA Committee Meeting -- April 4, 1985

Work session -- SB 69

"An Act relating to licensing and regulation of the sale and distribution of alcoholic beverages; and providing for an effective date

Review -- Committee has passed one amendment to the bill --

Page 1, line 24, change [90] to 45

Senator Coghill has proposed amendments which would change Sec 11, page 4, line 27

No amendments to this section have passed the committee

TODAY ----- Pat Sharrock, Director ABC Board will be on line for teleconference

Brian Porter, Chief of Police, Municipality of Anchorage will be on line

Mayor of Delta: Frank Geiger and 2 constituents
Don Davis and Bob Cramer
will testify from Delta

Mayor of North Pole, Carleta Lewis will testify from Fairbanks

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF REVENUE

ALCOHOLIC BEVERAGE CONTROL BOARD

550 West 7th Avenue
~~2047EASSTXSTALXAKENISE~~
ANCHORAGE, ALASKA 99501

April 12, 1985

Senator Edna B. DeVries
Chairman, Community & Regional
Affairs Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator DeVries:

At the March 28, 1985 meeting of your Committee Senator Vic Fischer requested that I discuss with members of the Alcoholic Beverage Control Board current problems which confront most liquor licensees in Alaska. Additionally, the Committee requested the board to render some thoughts and recommendations.

The board met in Anchorage on March 29 and discussed the request. As a result of that meeting the board directed me to develop a response for its review. Having been reviewed by the board, comments and suggestions are forwarded in this letter.

First, because of the continuing controversy about alcohol and recognizing that many persons easily become emotional, rightfully so, with exhaustive deliberations and discussion about the subject, the board must request that the contents of this communication be received not as a white paper, firm position, or policy which guides the board in exercising its responsibilities. The board fully recognizes the delicacy of the subject and certainly does not want to appear to be infringing on positions or policies of other persons, agencies or organizations. The board does not want to dilute any integrity or credibility it may presently enjoy. With these statements the board believes it is appropriate to identify itself.

Members are:

William K. Smith - chairman. Member of the board for five years and chairman for 2 1/2 years. An industry member and associated with a package store licensed business for 29 years in Anchorage.

E. L. "Red" Holloway - Twice former board member and present board member for two years. Presently retired in Juneau and former owner of the Prospector Hotel in Juneau.

Jane Perkins - Member for 1 1/2 years, retired and resident of Nome for 56 years.

James McNamee - Member designate since September 1984 from Fairbanks. Presently with a prominent insurance company and former Deputy Director with Division of Insurance, Alaska Department of Commerce.

Jack Griffin - Former member of the board from 1975 to 1978 and presently a member designate from Anchorage. Former licensee in Anchorage and presently owner of The Bayside Lounge in Homer.

At each board meeting the board reviews and decides on more than 70 agenda items for new issuance and transfer applications and other requests by licensees. Almost all licensees diligently attempt to follow the law. However, we must admit many licensees have not familiarized themselves with the law even though they may instruct employees about portions of the law which focus on responsibilities related to forbidden classes--minors and drunken persons. The board has noted many times that it is a few poor operators who create a bad climate in the public's eye. The board believes that the present record does not clearly indicate that alcohol problems, drunk driving in particular, arise from violations of law by licensees. However, the record is clear that alcohol consumption is heavy in Alaska and the source of alcoholic beverages in the state is from licensees licensed by the board.

By this letter the board is certainly not promoting enhancement of licensed business profits by suggesting that insurance expense is too high. The board is only suggesting that licensed businesses under its jurisdiction appear to be subjected to an inordinate degree of responsibility/blame/exposure for the acts/actions of the public at large and some irresponsible licensees.

The board believes that:

- 1 - Licensees, their agents and employees who violate laws which are in force to protect the public must receive swift identifiable sanctions.
- 2 - The public must be made aware that licensees are charged with operating an orderly business which distributes a controlled substance for a profit and when a licensee withholds the privilege of consuming or purchase from a customer that the licensee is enforcing a strict public policy that the public must be willing to accept.
- 3 - Licensees must also be charged without fail to:
 - a - firmly educate their people about responsibilities related to sale of alcoholic beverages.
 - b - firmly and continually educate the public that Alaska's licensed operators will not and cannot condone misuse or abuse within their premises.

These charges must of necessity be instilled in licensees by threat of loss of their licensed privilege without regard to any perceived or actual value which may have attached to the license/privilege. With this thought the board believes that with its capacity as a quasi-judicial body a specific schedule of sanctions/penalties be articulated in law. Criteria which could mitigate a prescribed penalty are suggested below. These criteria, if supported by facts before the board, are the criteria which are apparently accepted as those which could also be used to mitigate civil liability suits.

1. Formal training of employees.
2. No happy hours or reduced price drinks.
3. No advertising of alcoholic beverages.
4. Past performance policies of a licensee.
5. No rowdy house.
6. Employees consuming on duty.
7. Availability of food and non-alcoholic beverages.

Some would say that the above suggestions might place a great deal of authority/power in the board. However, the board firmly believes that the industry expects and prefers that its members who violate the law at everyone's expense must suffer penalty.

With all due respect to and consideration for all who participate in this seemingly never ending dialogue, the board submits the following recommendations for your consideration:

1. Retain present law for determining the measure of civil liability.
2. As state policy emphatically put licensees and the public on notice that illegal use of substances will not be condoned in the State of Alaska.
3. Require for incidents involving DWI that the offending party also be subjected to tests to ascertain if other substances are present in the person's body which also may have caused intoxication.
4. When possible and appropriate require DWI incident investigating officers to determine where and when an offending person last obtained an intoxicating substance. If from a licensee, this information be provided to the board.
5. Provide that an incident involving a licensed business or premises be reported in writing by the appropriate law enforcement authority having jurisdiction. If not reported by local authorities, then refund of license fees to a municipality be terminated without fail.
6. Following the Governor's Task Force on Drunk Driving, require that a mandatory course of instruction about alcohol and alcohol laws be provided by the industry to its employees.
7. Appoint an interim committee to draft amendments to law for submission during the next session of this legislature.

April 12, 1985

Unless you prefer to substantially modify Alaska's law, present law places responsibility for alcohol on everyone from health programs, schools, law enforcement, local governments, licensees, the public and the board. It is a collective problem and a collective responsibility. The present law is certainly not without its faults, but it works and has the ingredients for dealing with licensees who do not exercise their license in the best interest of the public.

The board would like to express one point for further discussion or clarification. When an intoxicated person causes injury to a third party and the level of intoxication is determined to be .10 BAC for the intoxicated person, and if it is intended that licensees, their agents or employees be held civilly liable, this is poor public policy and is tantamount to prohibition. Licensees who serve alcoholic beverages for consumption on the premises would be unable to operate. No licensee, agent or employee can determine a .10 BAC of a person without using some measuring device. Following service of one or two beverages at a licensed premises the public would not accept the imposition of having to submit to a form of electronic or physical test.

The board has traditionally convened a meeting in Juneau during the month of February of each year for two purposes. First, to fulfill its responsibility under AS 04.06.050, and second, to have the opportunity to meet with legislators and legislative committees during legislative sessions. However, because of present interest, concerns, and your request for the board's written comments, the board is scheduled to be in Juneau again this year on April 30, and following days if appropriate or necessary. The board and staff will be happy to provide you with any additional information which may be of help.

Sincerely,



Patrick L. Sharrock
Director

PLS:vk

cc: Senator Frank Ferguson
Senator Jack Coghill
Senator Vic Fischer
Senator Arliss Sturgulewski

SB 69 -- An Act relating to licensing and regulation of
the sale and distribution of alcoholic beverages

AMENDMENT NO. 1 By Senator Coghill

Page 1, line 24 -- delete [90] and insert "45"

March 28, 1985

CVRA - JB 69 -


Alcohol Bill - Coghill amendment



Vic
Fischer

Board advise Comm so week as to
effect of dram shop law on
insurance for bar owners

Josephson

Ins. Prem. from \$4000 to \$26000
Has met w/ Gov - Comm of Insurance
many options being discussed

Sturgeon - Proposed  - would this amend
have any impact on issue of liability

Sharrack - Board concerned  places heavy burden
on licensee - def. of drunk is person
can't  himself then damages fall to
bar owner

Coghill - agree but Leg can't tell barkeep how to
run his business
failsafe "except as otherwise provided
by law"

Amend Sec 3 --

Sharrack - Allow bar owner to put person in
special area - where they can be held

Fischer

answer might be hang-up keys -
might cause real problem for people who are
trying to run a clean establishment

Ferguson -

Request hold until we hear
from ABC Board -

Fischer -

want testimony from Law enforcement -
Anc policemen, as well as from
bar owners / insurance people

Sturg -

How import in Leg

Sharrock -

last section important -
on defining a village

3/14/85

Amend #1 - Coghill moved - adopted
90 to 45 unanimously

Amend #2 - Coghill moved --
discussion

Coghill requested to hold over

Fischer - invite troopers to testify on this and
draw shop law

Coghill moved - unanimous consent

SB 159

Sen. Paul Fischer -

Kenai will float a \$70 Mil bond
issue next year for schools

Steve Hale

Pg 2 line 15 ref to \$25

State Board is opposed to bill

I'm tired - I flew to Wash D.C. Sunday - went to meetings Mon - Tues - flew home Wed - Now it's Thurs.

2/28/85

SB-69 Pat Sharrock -

1st Section: accommodate ^{temporary special events} non profit permit to non profit corp - requires blessing of local law enforcement

Sec 2 - raises min. operating a permit from ~~30~~ to 90 days - Board can waive if there are real reasons for not

Sec 3 -

Sec 4, 5, 6, 7, 8 Sec 490 is local option provision

Sec 9 option of mailing notices by reg. or certified mail

Sec 10

Sec 11 - (3) "OR." can that work
Ziegler

Sturg - do licensed premises do all they can to keep folks from drinking too much

Sharrock - The Board is concerned

Sturgen - Is pub convenience law working

Sharrock - Since 1981 - granted 6 under this law

Sturq - licenses - what are you doing

Sharrock - Bud promoted law to increase population.
HB 34

Sturgen - Do you have Regs for pub con law

Sharrock - Yes -

License is 66¢
✓ to apply → obtain signatures of all
people in local area
local gov. must approve

Sturq - Is a 4 of 7 to raise 47

Sharrock - yes

Coghill - safety valve in whole thing is local
gov overview - but have to look out
for less populated areas