

H B

536

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

May, 1988

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

Mary Van Nimwegen

H. JUD.	4-18-88	1:30p.m.
H. JUD.	4-12-88	6:30p.m.
H. JUD.	4-8-88	1:30p.m.

5-0828L ✓

Ford
4/15/88

Original sponsor: Labor and Commerce
Committee

Adopted
4-18

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 536 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the sale, pricing, and marketing
7 of alcoholic beverages; and prohibiting persons from
8 being on premises involving alcoholic beverages under
9 certain circumstances."

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

11 * Section 1. AS 04.16.015(a) is amended to read:

12 (a) On premises where alcoholic beverages are sold by the drink,
13 a licensee or a licensee's agent or employee may not

14 (1) offer or deliver, as a marketing device to the general
15 public, free alcoholic beverages to a patron;

16 (2) deliver an alcoholic beverage to a person already
17 possessing two or more;

18 (3) sell, offer to sell, or deliver [ALCOHOLIC BEVERAGES TO
19 A PERSON OR GROUP OF PERSONS AT A PRICE LESS THAN THE PRICE REGULARLY
20 CHARGED FOR THE BEVERAGES DURING THE SAME CALENDAR WEEK, EXCEPT AT
21 PRIVATE FUNCTIONS NOT OPEN TO THE GENERAL PUBLIC;

22 (4) SELL, OFFER TO SELL, OR DELIVER] an unlimited number of
23 alcoholic beverages to a person or group of persons during a set
24 period of time for a fixed price;

25 (4) except at private functions not open to the general
26 public, [(5)] sell, offer to sell, or deliver a particular type or
27 brand of alcoholic beverage [BEVERAGES] to a person or group of per-
28 sons on any one calendar day

29 (A) at a price [PRICES] less than that [THOSE] charged

1 the general public on that day; or

2 (B) during only part of the hours that the licensed
3 premises are open during that day [, EXCEPT AT PRIVATE FUNCTIONS
4 NOT OPEN TO THE GENERAL PUBLIC];

5 (5) [(6)] encourage or permit an organized game or contest
6 on the licensed premises that involves drinking alcoholic beverages or
7 the awarding of alcoholic beverages as prizes.

8 * Sec. 2. AS 04.16.015(c) is amended to read:

9 (c) This section may not be construed as prohibiting a licensee
10 or a licensee's agent or employee from

11 (1) offering free food or entertainment at any time;

12 (2) [, FROM] serving wine by the bottle or carafe or beer
13 by the pitcher with or without meals;

14 (3) [, OR FROM] including an alcoholic beverage as part of
15 a meal package; or

16 (4) increasing prices during times when entertainment is
17 provided; in this paragraph, "entertainment" means a live performance,
18 or a television broadcast of an event that actually occurs at the time
19 it is viewed and for which the licensee pays a one-time fee for the
20 right to show the event on the licensed premises.

21 * Sec. 3. AS 04.16 is amended by adding a new section to read:

22 Sec. 04.16.025. ILLEGAL PRESENCE ON PREMISES INVOLVING ALCOHOLIC
23 BEVERAGES. (a) A person may not knowingly enter or remain on prem-
24 ises

25 (1) in which alcoholic beverages are manufactured, sold,
26 offered for sale, possessed for sale or barter, trafficked in, or
27 bartered in violation of

28 (A) AS 04.11.010; or

29 (B) a municipal ordinance adopted under AS 04.21.-

1 010(a) or (b); or

2 (2) licensed under this title during hours in which the
3 person's presence on the premises is a violation of a municipal ordi-
4 nance adopted under authority of AS 04.16.010(d) providing for hours
5 of closure that are outside the hours of closure prescribed by AS 04.-
6 16.010(c).

7 (b) A person who violates this section is guilty of a violation.

8 * Sec. 4. AS 04.16.180(a) is amended to read:

9 (a) Except as provided in AS 04.16.025 and 04.16.200 - 04.16.-
10 210, a person who violates a provision of this title or a regulation
11 adopted by the board is guilty, upon conviction, of a class A misde-
12 meanor. Each violation is a separate offense.

[Arena] Public Facility

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2

HOUSE BILL NO. 536

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the sale, pricing, and marketing
of alcoholic beverages; and prohibiting persons from
being on premises involving alcoholic beverages under
certain circumstances."

7

8

9

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

11

* Section 1. AS 04.11.080 is amended by adding a new paragraph to read:

12

(20) arena license.

13

* Sec. 2. AS 04.11 is amended by adding a new section to read:

14

Sec. 04.11.225. ARENA LICENSE. (a) An arena license authorizes

15

Sullivan
arena
a municipality to sell beer and wine at public conventions, sporting
events, concerts, trade shows, or exhibitions for consumption only on
the licensed premises.

16

17

18

(b) The board may not issue a license under this section unless
the board determines that the premises to be licensed are used for
public conventions, sporting events, concerts, trade shows, or exhi-
bitations.

19

20

21

22

(c) The annual fee for an arena license is \$500.

23

* Sec. 3. AS 04.16.015(a) is amended to read:

24

(a) On premises where alcoholic beverages are sold by the drink,
a licensee or a licensee's agent or employee may not

25

26

(1) offer or deliver, as a marketing device to the general
public, free alcoholic beverages to a patron;

27

28

(2) deliver an alcoholic beverage to a person already
possessing two or more;

29

1 (3) sell, offer to sell, or deliver [ALCOHOLIC BEVERAGES TO
2 A PERSON OR GROUP OF PERSONS AT A PRICE LESS THAN THE PRICE REGULARLY
3 CHARGED FOR THE BEVERAGES DURING THE SAME CALENDAR WEEK, EXCEPT AT
4 PRIVATE FUNCTIONS NOT OPEN TO THE GENERAL PUBLIC;

5 (4) SELL, OFFER TO SELL, OR DELIVER] an unlimited number of
6 alcoholic beverages to a person or group of persons during a set
7 period of time for a fixed price;

8 (4) except at private functions not open to the general
9 public, [(5)] sell, offer to sell, or deliver a particular type or
10 brand of alcoholic beverage [BEVERAGES] to a person or group of per-
11 sons on any one calendar day

12 (A) at a price [PRICES] less than that [THOSE] charged
13 the general public on that day; or

14 (B) during only part of the hours that the licensed
15 premises are open during that day [, EXCEPT AT PRIVATE FUNCTIONS
16 NOT OPEN TO THE GENERAL PUBLIC];

17 (5) [(6)] encourage or permit an organized game or contest
18 on the licensed premises that involves drinking alcoholic beverages or
19 the awarding of alcoholic beverages as prizes.

20 * Sec. 4. AS 04.16.015(c) is amended to read:

21 (c) This section may not be construed as prohibiting a licensee
22 or a licensee's agent or employee from

23 (1) offering free food or entertainment at any time;

24 (2) [, FROM] serving wine by the bottle or carafe or beer
25 by the pitcher with or without meals;

26 (3) [, OR FROM] including an alcoholic beverage as part of
27 a meal package; or

28 (4) increasing prices during times when entertainment is
29 provided; in this paragraph, "entertainment" means a live performance,

1 or a television broadcast of an event that actually occurs at the time
2 it is viewed and for which the licensee pays a one-time fee for the
3 right to show the event on the licensed premises.

4 * Sec. 5. AS 04.16 is amended by adding a new section to read:

5 Sec. 04.16.025. ILLEGAL PRESENCE ON PREMISES INVOLVING ALCOHOLIC
6 BEVERAGES. A person may not knowingly enter or remain on premises

7 (1) in which alcoholic beverages are manufactured, sold,
8 offered for sale, possessed for sale or barter, trafficked in, or
9 bartered in violation of

10 (A) AS 04.11.010; or

11 (B) a municipal ordinance adopted under AS 04.21.-
12 010(a) or (b); or

13 (2) licensed under this title during hours in which the
14 person's presence on the premises is a violation of a municipal ordi-
15 nance adopted under authority of AS 04.16.010(d) providing for hours
16 of closure that are outside the hours of closure prescribed by AS 04.-
17 16.010(c).

Class A
Misdemeanor

A M E N D M E N T

Ellis

Offered in the HOUSE

TO: HB 536

Page 1, line 12:

Delete "arena"

Insert "public facility"

Page 1, line 14:

Delete "ARENA"

Insert "PUBLIC FACILITY"

Delete "An arena"

Insert "A public facility"

Page 1, line 22:

Delete "an arena"

Insert "a public facility"

HBS36

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX V, JUNEAU 99811

(907) 465-3892

October 22, 1987

To: Members, House Labor and Commerce Committee

From: Representative Dave Donley, Chair
House Labor and Commerce Committee *DB*

Re: Proposed amendments to Alaska's "happy hour" law

On September 18, the House Labor and Commerce Committee held a public hearing on proposed changes to Alaska's "happy hour" law.

During that hearing, Committee staff was instructed to draft proposed legislation in response to testimony taken during the hearing. That new draft bill is attached, along with a copy of the draft bill under discussion during the hearing, and a copy of the minutes from the proceedings.

This material has been distributed among participants of the hearing and other interested parties. A copy is also included in your files retained in the Committee office. If there is anyone else you would like us to contact, please give me or Ginger at call at 561-7629.

I'd appreciate hearing from you by Friday, December 4 as to whether you find the present version acceptable so that I may instruct our legal services to prepare the measure in final for introduction as a Committee bill next session.

cc: Participants, September 18, 1987
House L&C Hearing

1 IN THE HOUSE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to pricing and marketing alcoholic
7 beverages."

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

9 * Section 1. AS 04.10.015(a) is amended to read:

10 (a) On premises where alcoholic beverages are sold by the
11 drink, a licensee or a licensee's agent or employee may not

12 (1) offer or deliver, as a marketing device to the general
13 public, free alcoholic beverages to a patron;

14 (2) deliver an alcoholic beverage to a person already
15 possessing two or more;

16 (3) sell, offer to sell, or deliver

17
18
19
20
21 an unlimited number of
22 alcoholic beverages to a person or group of persons during a set
23 period of time for a fixed price;

24 (4) except at private functions not open to the general
25 public, sell, offer to sell, or deliver a particular type or
26 brand of alcoholic beverage to a person or group of per-
27 sons on any one calendar day

28 (A) at a price less than that charged
29 the general public on that day ; or

(B) during only part of the hours that the licensed

1 premises are open during that day

2
3 (5) encourage or permit an organized game or contest
4 on the licensed premises that involves drinking alcoholic beverages or
5 the awarding of alcoholic beverages as prizes.

6 * Sec. 2. AS 04.16.015(c) is amended to read:

7 (c) This section may not be construed as prohibiting a licensee
8 or a licensee's agent or employee from

9 (1) offering free food or entertainment at any time;

10 (2) serving wine by the bottle or carafe or beer
11 by the pitcher with or without meals;

12 (3) including an alcoholic beverage as part of
13 a meal package; or

14 (4) increasing prices during times when entertainment is
15 provided; in this paragraph, "entertainment" means a live performance,
16 or a television broadcast of an event that actually occurs at the time
17 it is viewed and for which the licensee pays a one-time fee for the
18 right to show the event on the licensed premises.

HOUSE LABOR AND COMMERCE COMMITTEE
September 18, 1987
1:30 p.m. (Anchorage, Alaska)

MEMBERS PRESENT:

Rep. Dave Donley, Chairman
Rep. Niilo Koponen, Vice Chair
Rep. Walt Furnace
Rep. Johnny Ellis

MEMBERS ABSENT:

Rep. Red Boucher
Rep. Cliff Davidson
Rep. Curt Menard

COMMITTEE CALENDAR:

Proposed Committee legislation (Work Draft 5-082B) making amendments to the state "happy hour" law (AS 04.16.015)

WITNESS REGISTER:

Barbara Mills
Mothers Against Drunk Driving (MADD)
Anchorage Chapter
19445 Middleton Loop Road
Anchorage, Alaska
694-3269
Position Statement: Opposes any changes to current law.

Charlene Konte
MADD - Anchorage Chapter
4510 Wright Street, #16
Anchorage, Alaska
561-2459
Position Statement: Opposes changes to current law.

Evelyn A. Livesay
1213 E 26th Avenue
Anchorage, Alaska
272-2884
Position Statement: Opposes changes to current law.

Jim E. LeTasky
6820 Foothill Drive
Anchorage, Alaska
333-1524
Position Statement: Drunk Driving victim - Opposes changes to current law.

Alan Schmiedeberg
6820 Foothill Drive
Anchorage, Alaska
333-1524
Position Statement: Observer

Patrick L. Sharrock, Executive Director
Alcohol Beverage Control Board
550 W 7th Ave
Anchorage, Alaska 99501
277-8638
Position Statement: Explained ABC Boards experience with
current law - answered questions from
the committee.

Don Adams, ABC Board
550 W 7th Ave.
Anchorage, Alaska 99501
277-8638
Position Statement: Observer

Katherine Bigler
MADD - Alaska Chapter
2526 Arlington Drive
Anchorage, Alaska
277-5835
Position Statement: Opposes changes to current law.

Stuart Bigler
2526 Arlington Drive
Anchorage, Alaska
277-5835
Position Statement: Observer

Mike Gordon, Owner
Chilkoot Charlies
2435 Spenard Road
Anchorage, Alaska 277-3374
Position Statement: Supports proposed changes to current law.

Kristie Keelf
Cabaret, Hotel & Restaurant Owners Association (CHAR)
P.O. Box 104839
Anchorage, Alaska
272-8133
Position Statement: Observer

PREVIOUS ACTION:

ACTION NARRATIVE:

TAPE ONE, SIDE ONE
Number 000

NOTE: The following section (in parenthesis) was omitted when the tape malfunctioned.

(Rep. Donley called the meeting to order at 2:38 p.m. Present were: Representatives Ellis, Koponen, Furnace and Donley.)

Barbara Mills, President, Anchorage Chapter of Mothers Against Drunk Driving (MADD), testified in opposition to any changes to current law.

Rep. Donley reminded the witness that the draft bill before us (Work Order 5-0828) was a draft for the purposes of discussion only and that the Committee had not taken any position on the issue of amending current law.

Barbara Mills said she believed the current law works well as it stands now. Alcohol related deaths are down. This draft allows loopholes. She questioned the definition of live entertainment. She objected to proposed changes in language in AS 04.16.15(a)(1) and said she preferred the existing language on page 1, line 12-13 "as a marketing device to the general public", and also preferred existing law that requires prices to be set by the week instead of by the day, as proposed in the work draft.

Number 052

Charlene Konte, Vice President - Anchorage Chapter of MADD - spoke in opposition to the proposed amendments and spoke in support of existing law.

Number 060

Evelyn Livesay, member of MADD, spoke in opposition to any changes in existing "happy hour" law.

Number 066

Jim Letasky spoke in opposition to any changes in existing law. He said he was a victim of a drunk driver and said he supported any law that kept alcohol away from people who couldn't handle it. He attributed his accident to happy hour liquor promotion.

Number 085

Rep. Donley said that under the proposed draft it would still be illegal to give away free alcohol or to encourage people to drink.

Number 093

Rep. Donley said they needed to change the proposed language allowing prices to be set by the day instead of the week so that a beverage had to be available at the set price for the entire day, not just specific times of the day.

Number 104

Barbara Mills said she was concerned that by allowing prices to be set by the day we would go from "happy hours" to "happy days"

Number 118

Katherine Bigler, State Coordinator for MADD, said every MADD chapter was against any changes in existing law. She said MADD did have a lawyer look at the existing law and at the draft bill and they were very concerned about potential problems will nickel beer and "women's night".

Number 146

Katherine Bigler testified that she preferred existing language in AS 04.16.015. She reiterated that MADD opposed any changes in existing law but if "you have to change the law" MADD would like to work on the proposed draft. She also said alcohol deaths were down, the existing law had been in effect just over a year, and it should be given a chance to work before we changed it.

Number 162

Representative Donley said the prime sponsor of the existing law told him the way the law was being interpreted was not what the legislature had in mind when they adopted the bill.

Number 168

Katherine Bigler agreed that the intent of the legislature was to allow prices to be raised but not lowered but the way the law was written prohibited any changes in prices at all.

Number 180

Katherine Bigler said MADD did not oppose proposed language that would allow prices to be raised when entertainment was present.

Number 190

Rep. Donley said the draft made three changes to current law. One, it cleared up questions about when certain behavior was prohibited on the part of licensees, two, it allowed pricing

by the day instead of by the week, and three, it allowed prices to be raised when live entertainment was present.

Number 211

Representative Donley suggested that the Committee draft a letter of intent to clarify what a licensee is permitted to do under certain circumstances such as whether they can replace a spilled drink for free.

Number 222

Katherine Bigler said that every industry is hurting right now, not just the alcohol industry.

Number 225

Barbara Mills, asked about language defining live entertainment and objected to language that included live broadcasts aired in liquor establishments.

Number 246

Rep. Donley said the intent of the language was to include broadcasts that cost the licensee money to air, not just soap operas or regular television.

Number 249

Rep. Furnace asked about taped sports events and Rep. Donley replied that those would be taped, and not live, and were not included in the definition.

Number 259

Katherine Bigler supported the definition if it was amended to only include events that involved some kind of one-time-only fee to the licensee to air.

Number 284

Rep. Johnny Ellis observed that simple market economics would dictate that people would drink less if the price were higher and that he was confused as to why there was concern about allowing higher prices if the purpose of the law was to discourage immoderate drinking.

Number 304

Katherine Bigler reiterated that MADD did not want the law changed at all but if you were going to change it, MADD had no objections to allowing prices to be raised for live entertainment.

Number 319

Rep. Ellis said it may be in the best interests of all of us if we encourage live entertainment because people would drink less if the prices were higher they would be dancing and drinking less. He said it didn't matter, therefore, how we defined live entertainment.

Number 342

Rep. Donley explained that the concern was if prices could be set at a certain price for the day, the licensee could turn a television on between the hours of noon and 5:00 p.m. and raise the price, turn the television off during the hours of 5:00 p.m. to 7:00 p.m., thus lowering the price, then raising it again after 7:00 p.m. by reinstating the "entertainment". The effect of this would be to create an artificial happy hour.

Number 349

Katherine Bigler said MADD was very leery about changes in the law because last year the dram shop bill had only two words changed (criminal intent) and it "made that bill absolutely useless".

Number 372

Mike Gordon, testifying on behalf of the industry, made reference to an agreement he had made with Katherine Bigler about the proposed changes and said he supported the existing "marketing device to the general public" language in AS 04.16.015(a)(1) as opposed to the proposed changes.

Mike Gordon said of the three changes proposed in the draft, the first, allowing prices to be set by the day, was asked for by the industry, and the other two were asked for by MADD.

Mike Gordon said that the Anchorage municipal ordinance prohibited happy hours but did allow him to set different prices in a given day by permitting prices to change during a shift change so that prices could go down after 9:00 p.m when the night shift began.

Number 448

Mike Gordon said that he had also agreed with MADD that language should be incorporated in the draft to prohibit setting a certain discounted price on a particular type or brand of alcohol such as a "Hamm's night". He referred to draft language prepared by MADD's attorney, Mr. White, that prohibited this practice and further said he supported the language.

Number 514

Rep. Furnace asked if Mr. Gordon and representatives of MADD thought that when a licensee bought the rights to air a broadcast of a sporting event that constituted live entertainment because of the additional cost.

Both Mike Gordon and Katherine Bigler indicated to the affirmative in reply.

Number 526

Rep. Donley suggested amending the proposed language so that when prices were set by the day drinks had to be available at that price for the entire calendar day.

Number 564

Mike Gordon said they had already had a problem with licensee's who also sell food because the food wasn't always available for the entire day.

Number 576

Rep. Donley agreed that the existing language in AS 04.16.015(a)(1) is superior to the proposed changes and again suggested that the committee adopt a letter of intent to clarify prohibited behavior on the part of licensee's

Number 609

Representative Donley asked if there was a concern in the industry that innocent acts would be misinterpreted under existing law.

Number 620

Mike Gordon said he did not think there was a serious problem with the current interpretation of the law at this time.

Number 655

Discussion continued between Mike Gordon, Katherine Bigler, and members of the committee about how to amend the live entertainment definition.

Number 675

Rep. Donley suggested "entertainment" means a live performance or a television broadcast of an event actually occurring at the time it is viewed and representing a one-time expenditure on the part of the licensee.

Number 704

Rep. Ellis asked if the language from MADD's attorney regarding pricing of specific brands was available. Committee staff replied that it was available and would be incorporated in the new draft bill.

Number 714

Rep. Donley asked for a new draft bill that returned to existing language under AS 04.16.015(a)(1), that allowed pricing by the calendar day as long as the beverage was available for the entire calendar day, and that included live broadcasts under the definition of live entertainment so long as it involved a one-time cost to the licensee.

Number 724

Representative Ellis asked that the new draft be circulated among concerned parties as soon as it was prepared.

Number 732

Patrick Sharrock, Executive Director of the Alcoholic Beverage Control Board, testified that the new draft bill Rep. Donley requested would adequately address the issues and questions about the happy hour statute that the ABC Board has seen.

Number 750

Rep. Donley said the committee staff would draft up another bill and circulate it among concerned parties in order to prepare it for introduction as a committee bill next session.

Number 764

Katherine Bigler reiterated the desire of MADD to work with the committee on any proposed changes to existing law.

Number 773

Rep. Donley adjourned the meeting at 3:35 p.m.

LAW OFFICES OF

PRESTON, THORGRIMSON, ELLIS & HOLMAN

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TELECOPY (503) 248-9085

April 7, 1987

NOTE: Suggested language regarding pricing by brand or type (see page 3) is incorporated in new bill draft dated 9/30/87.

Ms. Katherine Bigler
President, Statewide Chapter
Mothers Against Drunk Drivers
2205 E. Tudor Road
Anchorage, Alaska 99504

Dear Ms. Bigler:

You have asked me to review certain amendments that have been proposed to AS 04.16.015(c), which is known as the "happy hour" law. The proposed amendments are contained in a document entitled Work Draft 5 - 0828A Ford 3/12/87 by Donley. Attached to the work draft is a memorandum from Representative Donley to the members of the House Labor and Commerce Committee.

In sum, the amendments would enable establishments that serve alcoholic beverages to easily evade the purposes of the "happy hour" law. As I view the proposed amendments, the most significant change is that which would allow increased prices for alcoholic beverages during times that entertainment is provided, AS 04.16.015(c)(4). The effect of this will be very significant. Assuming that many establishments which serve alcoholic beverages have entertainment from 8:00 p.m. on, this amendment would allow differing price structures based upon the time of day. In other words, an establishment could have "special" prices for drinks prior to 8:00 p.m. The only requirement would be that those prices be in effect the entire time the establishment is open, with the exception of that period of time in which entertainment is provided. Since such a large percentage of drinking occurs in the afternoon, post-work time period, establishments could offer "happy hour" pricing up until the entertainment starts as long as the prices are consistent during all of the pre-entertainment hours. This amendment would change the effect of the "happy hour" law to enlarge the period of time during which special pricing occurs in regard to the sale of alcoholic beverages.

Significantly lacking is a definition of what constitutes "entertainment". Is a jukebox entertainment? Is a humorous cocktail waitress entertainment? These questions need to be

Page 2.
Ms. Katherine Bigler
April 7, 1987

addressed or else establishments will be able to have "entertainment" from opening until 5:00 p.m., and from 8:00 p.m. until closing. The effect, of course, would be to allow special pricing from 5:00 p.m. until 8:00 p.m. If establishments wish to recoup the cost of the entertainment they provide, an alternative to this proposal is the imposition of a cover charge during the entertainment.

The other significant change to the "happy hour" law is that contained in AS 04.16.015(a)(6). Under current law, that provision provides that the holder of a license to sell alcoholic beverages may not:

encourage or permit an organized game or contest on the licensed premises that involves drinking alcoholic beverages or the awarding of alcoholic beverages as prizes.

The proposed change would read:

encourage or promote an organized game or contest on the licensed premises that involves drinking alcoholic beverages or the awarding of alcoholic beverages as prizes.

The change proposed would have the effect of allowing such promotions to occur on premises which serve alcoholic beverages as long as it was not encouraged or promoted by the license holder. The license holder would be free to allow and permit the activity on the premises as long as the establishment did not encourage or promote the acts.

If holders of alcoholic dispensary licenses are concerned about their culpability for private contests between two individuals sitting in a bar of which they are not aware, there is a simpler solution than that proposed by Representative Donley. The provision in question could be changed to provide that license holders may not:

knowingly encourage or knowingly permit an organized game or contest on the licensed premises that involves drinking alcoholic beverages or the awarding of alcoholic beverages as prizes.

This change would protect the license holder from what may be a legitimate fear of punishment for acts committed by patrons of which the license holder reasonably is not aware.

Page 3.
Ms. Katherine Bigler
April 7, 1987

If any amendments are contemplated to AS 04.16.015(a), changes should be sought by MADD which would close some of the loopholes. I am told that one method of evading the law that some local establishments have been utilizing is that there are promotions on certain types of drinks during the day. To evade the provisions of the law, those drinks simply are not sold at night. For instance, Brand X beer will only be sold from 5:00 p.m. until 8:00 p.m. Brand X will sell for a price significantly lower than for other brands sold by the establishment. Since Brand X is not sold any other time of day, their "price break" during "happy hour" is not prohibited by the law. Thus, I would suggest if AS 04.16.015 is going to be amended, that another section be added which would provide that a license holder may not:

(7) sell a particular brand of an alcoholic beverage or a particular type of an alcoholic beverage unless that brand or type is available at the same price during all hours that the establishment is open.

This change would solve what has been reported to me as a means of evading the intent of the legislature as expressed in its passage of AS 04.16.015.

In sum, the proposed changes to AS 04.16.015 would eviscerate the "happy hour" law.

If I can be of further assistance to you in your efforts to save lives, please don't hesitate to contact me.

Sincerely,

PRESTON, THORGRIMSON,
ELLIS & HOLMAN

By:


Michael N. White

1320.MNW/mmm
cc: Barbara Mills

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX V, JUNEAU 99811

(907) 465-3892



September 14, 1987

To: Members, House Labor and Commerce Committee

From: Representative Dave Donley, Chair
House Labor and Commerce Committee

Re: Committee packet for September 18, 1987 hearing
on proposed amendments to the "happy hour" law

Attached is backup material and a draft bill for the September 18 hearing before the House Labor and Commerce Committee on proposed amendments to Alaska's law prohibiting "happy hours" and certain other alcohol promotion practices.

The hearing will begin at 2:30 p.m. at the Anchorage LIO groundfloor conference room on Friday, September 18.

The draft bill makes three changes to existing law: 1) amends language prohibiting certain practices by license holders when those practices constitute "a marketing device to the general public" so that the practices are prohibited if they are done "in order to encourage the consumption of alcoholic beverages", 2) allows prices to be set by the day instead of the week, as required by current law and, 3) allows prices to be raised when "live" entertainment is present.

The Committee discussed proposed amendments to the happy hour law several times during the last session. Since that time, representatives from Mothers Against Drunk Driving and the liquor license industry have met and agreed to the live entertainment and pricing by the day amendments.

The change in the "marketing device to the general public" language was incorporated in response to requests by some license holders and is presented in the draft for the purposes of discussion. As you know, some license holders have experienced difficulty with the existing language (see enclosed memo to Tam Cook) and have asked that we try to clarify the language.

The attorney who drafted the original law and representatives from MADD have not agreed that the current language needs changed. Further, Pat Sharrock, Executive Director of the ABC Board, said that he is unaware of any widespread problem with the interpretation of current law in so far as the "marketing device" language is concerned. Mr. Sharrock will be available for questions at Friday's hearing.

Please call me or Ginger at 561-7629 if you have any questions or need additional information before the hearing.

1 IN THE HOUSE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to pricing and marketing alcoholic
7 beverages."

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

9 * Section 1. AS 04.16.015(a) is amended to read:

10 (a) On premises where alcoholic beverages are sold by the
11 drink, a licensee or a licensee's agent or employee may not

12 (1) offer or deliver [, AS A MARKETING DEVICE TO THE
13 GENERAL PUBLIC,] free alcoholic beverages to a patron in order to
14 encourage the consumption of alcoholic beverages;

15 (2) deliver an alcoholic beverage to a person already
16 possessing two or more;

17 (3) [SELL, OFFER TO SELL, OR DELIVER ALCOHOLIC BEVERAGES TO
18 A PERSON OR GROUP OF PERSONS AT A PRICE LESS THAN THE PRICE REGULARLY
19 CHARGED FOR THE BEVERAGES DURING THE SAME CALENDAR WEEK, EXCEPT AT
20 PRIVATE FUNCTIONS NOT OPEN TO THE GENERAL PUBLIC;

21 (4)] sell, offer to sell, or deliver an unlimited number of
22 alcoholic beverages to a person or group of persons during a set
23 period of time for a fixed price;

24 (4) [(5)] sell, offer to sell, or deliver alcoholic bever-
25 ages to a person or group of persons on any one day at prices less
26 than those charged the general public on that calendar day, except at
27 private functions not open to the general public;

28 (5) [(6)] encourage or permit an organized game or contest
29 on the licensed premises that involves drinking alcoholic beverages or

1 the awarding of alcoholic beverages as prizes.

2 * Sec. 2. AS 04.16.015(c) is amended to read:

3 (c) This section may not be construed as prohibiting a licensee
4 or a licensee's agent or employee from

5 (1) offering free food or entertainment at any time;

6 (2) [, FROM] serving wine by the bottle or carafe or beer
7 by the pitcher with or without meals;

8 (3) [, OR FROM] including an alcoholic beverage as part of
9 a meal package; or

10 (4) increasing prices during times when entertainment is
11 provided; in this paragraph, "entertainment" means a live performance
12 or a television broadcast of an event actually occurring at the time
13 it is viewed.

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HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX V, JUNEAU 99811

(907) 465-3892



September 3, 1987

M E M O R A N D U M

To: Tam Cook, Director
Legislative Legal Services

From: Representative Dave Donley, Chair D
House Labor and Commerce Committee

Re: Bill drafting request and

I am writing to request draft legislation amending Alaska's current "happy hours" statute, to be introduced as a House Labor and Commerce Committee bill next year.

Mike Ford prepared several drafts for us last year, none of which satisfied the Committee or other concerned members of the public. (No reflection on Mr. Ford, only on our inability to reach a consensus).

The Committee asked that representatives from the liquor industry and from Mothers Against Drunk Driving work out a compromise and it appears that they have done so. Consequently, we've scheduled a public hearing in Anchorage on Friday, September 18 to consider draft legislation making the following changes in existing law:

1. Liquor prices can be set (and changed) by the day as opposed to the week as required by current law.
2. Daily prices may be changed when "live" entertainment is present. The draft should incorporate a definition of "live entertainment" that includes televised broadcasts when the event being broadcast is actually occurring at the time it is being viewed.

There is a third change to existing law that should be incorporated in the bill draft, and it is a difficult one. Current law prohibits liquor license holders and/or their agents from certain acts when those actions constitute "a marketing device to the general public".

This qualifying language was incorporated into the original bill (SB 138, adopted in 1986) in order to give licensees "room to move" in unusual circumstances.

For instance, a bar owner in Skagway gives a visiting tour boat captain a drink "on the house", as a gesture of good will. Or a cocktail waitress spills a drink while delivering it and gives the customer a "free" drink to replace it. Or a couple on the way to a honeymoon suite stop by the local pub and the owner gives them a free glass of champagne, or your mom stops in your bar on the way home and you "buy" her a beer, etc.

It is the intent of our Committee (and the sponsor of the existing law) to prohibit marketing and promotion practices to the general public that encourage irresponsible drinking. The Committee did not feel that the above described activities are prohibited under current law since they occur on a case by case basis and are not "a marketing device for the general public".

However, license holders are understandably troubled by the vagueness of existing statute and are apparently getting mixed signals from the ABC Board as to what they are allowed or not allowed to do. They have asked that we "fix it" by adopting a clearer definition of prohibited and permitted activity.

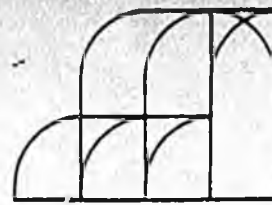
I leave it to you and Mr. Ford to work out a perfect solution and give us language that everyone (including the license holder, patrons, MADD, and the ABC Board) can easily understand.

I'd appreciate a bill draft as soon as possible in order to prepare for the September 18 hearing. Please contact me or Ginger Baim at 561-7629 if you have any questions or need additional information.

And thanks.



sullivan
arena



William A. Egan
civic and
convention center

February 11, 1988

Mr. Michael W. Gordon
Chairman
ALCOHOL BEVERAGE CONTROL BOARD
2207 Sorbus Way
Anchorage, Alaska 99508

Dear Mr. Gordon,

Ogden Facility Management of Alaska, Inc. operates the Sullivan Arena and Egan Center under a management contract with the Municipality of Anchorage. Over the years, we've experienced frustration and added expense to our dispensing of beer and wine due to the limitations of our present license and procedures necessary to use other licensees.

At the Arena, we presently have a limited recreational license. This allows us to sell beer and wine at professional sporting events, including collegiate events. The present situation is workable, but in the future we would like the Board and the Legislature to consider an "Arena license". As you know, there presently is no provision in the law or regulation for a license of this type that would allow sale of beer and wine in all areas of the Arena without the present requirement of designated or "wet" areas. This type of license is in place in every other Arena in the country, including the Kingdome, Tacomadome, Forum in Los Angeles, Superdome in Louisiana, etc.

Due to the present attitude on alcohol, the timing may not be right for an Arena license such as I described. I would appreciate your thoughts on what options we have in exploring improvement in this area.

The biggest problem in the Arena in terms of administration and revenue is beer and wine events other than professional sports. We have numerous events, such as concerts, trade shows, and exhibitions, where the public, the promoter, and the building, would all like the availability of beer and wine. Presently, this requires the Arena to work out an arrangement with a holder of a beverage dispensary license, and a catering permit must be obtained, all requiring extra time and money. The result is extra administration and loss of revenue to the Arena.

MANAGED BY



Ogden Facility Management of Alaska, Inc.

555 West 5th Avenue, Anchorage, Alaska 99501 907/263-2800

Michael W. Gordon
February 11, 1988
Page 2


In addition, many of these events are not cost-effective in terms of the time and effort of the beverage dispensary licensee. Consequently, in many cases licensees are not interested in working with us, therefore we end up without beer and wine at these events. In the hospitality industry such as arena management, it's critical that our client, the public, be happy and enjoy their visit to the event. Beer and wine, in many cases, add to this enjoyment even though from a cost effective standpoint, it may not be a big revenue producer.

Due to the fact we can, through the catering permit process, obtain the right to sell beer and wine, it appears to me that there should be a way for the Arena to shortcut this process and obtain some type of license that would allow us to dispense, without going through the process of obtaining a catering permit, etc. I consider this a priority item, and respectfully request the Board to consider a regulation that would allow the Sullivan Arena to obtain a license that would allow the sale of beer and wine under these circumstances.

In considering the Sullivan Arena, you might also consider the Egan Convention Center, the Valdez Convention Center, the Centennial Hall in Juneau, and the Big Dipper Ice Rink in Fairbanks as facilities that have the same general problems. Representatives from these areas have discussed with me the same frustrations they've had on the law and how it affects their operation and bottom line.

Your review and recommendations would be greatly appreciated.

Sincerely yours,



Tom Anderson
General Manager

TA/vg

HOUSE COMMITTEE REPORT

(7)

Date referred: 3/2/88

FURTHER REFERRALS:

HESS
Judiciary

DATE: 3/8/88

The Labor & Commerce Committee has considered HB 536

"An Act relating to the sale, pricing, and marketing of alcoholic beverages; and prohibiting persons from being on premises involving alcoholic beverages under certain circumstances."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

David Douley
W. Furnace
Scott H. ...
D. B. ...
Mike Kosma
H. ...

SIGNING OTHER RECOMMENDATIONS:

Cliff Davidson (no rec)
W. Furnace
...

David Douley
 Chairman's signature

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to the sale, pricing, and marketing of alcoholic beverages; prohibiting persons from being on the premises involving alcoholic beverages under certain circumstances."
Sponsor: Labor & Commerce Committee
Requestor: Labor & Commerce Committee

Agency Affected: Revenue
BRU: ABC Board
Components: Operating

EXPENDITURES, REVENUES: (Thousands of Dollars)

	FY 86	FY 85	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
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: Alcoholic Beverage Control Board/Division Date: 03/07/88

Approved by Commissioner: Hugh Malone Date: 03/07/88
Agency: Department of Revenue

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
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Office of Management and Budget
Impacted Agency(ies)