

S B

276

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907.465.3800

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

House Judiciary:

1988 - April 27

HOUSE COMMITTEE REPORT

(7)

Date referred: 4/5/88

FURTHER REFERRALS: Finance

DATE: 4/27/88

The Judiciary Committee has considered CSSB 276(Fin)

"An Act relating to brewpub, brewery, and beverage dispensary liquor licenses; and to prohibited financial interests in a licensed liquor business; and providing for an effective date."

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 3/28/88
- zero with analysis

SIGNING DO PASS:

[Handwritten signatures]

SIGNING OTHER RECOMMENDATIONS:

[Handwritten signature]

Chairman's signature

Alaska State Legislature

SENATOR BETTYE FAHRENKAMP
CHAIRMAN, LEGISLATIVE COUNCIL
CHAIRMAN, OIL AND GAS COMMITTEE
515 7TH AVE., SUITE 130
FAIRBANKS, ALASKA 99701
OFFICE (907) 452-4882
HOME (907) 456-2899



WHILE IN JUNEAU
P.O. BOX V
JUNEAU, ALASKA 99811
CAPITOL ROOM 125
OFFICE (907) 465-3834
HOME (907) 780-6027

Senate

MEMORANDUM

TO: House Judiciary Committee

FROM: Senator Bettye Fahrenkamp

DATE: April 22, 1988

RE: CSSB 276 (Fin) An Act relating to the brewpub, brewery, and beverage dispensary liquor licenses; and to prohibited financial interests in a licensed liquor business; and providing for an effective date.

INTRODUCTION

If this bill passes, a new industry would be fostered in Alaska, i.e. brewpubs which are growing in number in other states. A brewpub is the industry term for an establishment that consists of a bar and/or restaurant and a brewery.

WHAT THE BILL DOES

There is an interest by holders of beverage dispensary licenses to be able to brew their own beer on the premises for sale to their patrons to be consumed on the premises only.

This bill would create a new type of license to provide clear authority to the ABC and give them specific conditions under which they would be able to issue these new "brewpub" licenses. Production is limited to 16,000 gallons per year, which is 516 barrels, or 1032 kegs.

The bill would also fix an ambiguity in the current statutes which unintentionally limits to whom a brewer can sell its products. Under current law, an Alaskan brewer can only sell to a wholesaler licensed by the state. Inadvertently, this would prohibit an Alaska brewer from selling beer in Washington or Japan, for example. It also makes a change in the section of the law dealing with prohibited financial interests to allow a brewer to receive a consulting fee from other license holders.

A brewpub license would not be transferable by itself, only in conjunction with a beverage dispensary license.

The CS has the support of the ABC and zero fiscal notes from the Departments of Revenue and Environmental Conservation.

Sectional Analysis of CSSB 276 (Fin)

Section 1. AS 04.11.080 Types of Licenses and Permits

Amended to include brewpub license.

Section 2. AS 04.11.130(b) Brewery License

Deletes archaic language, i.e. changes "wine gallons" to "gallons". Amended to allow a brewer to sell beer to persons licensed to sell beer in other states and countries.

Section 3. AS 04.11.135 Brewpub License

Describes what is authorized under a brewpub license.

(a)(1) the manufacture of not more than 16,000 gallons (516 barrels or 1032 kegs) in a year. Must be brewed on the premises.

(a)(2) must be consumed on the premises.

(b) states that the brewpub license is not transferable except under the provisions of AS04.11.360(12) as amended under this bill.

(c) sets a annual fee of \$250.

Section 4. AS 04.11.360 Denial of Transfer of a license to another person.

Prohibits the transfer of a brewpub license unless it is being transferred with a beverage dispensary license.

Sections 5 and 6. AS 04.11.450 Prohibited Financial Interest

(b) Amended to authorize the holder of beverage dispensary license to obtain a brewpub license, subject to AS 04.11.135.

(c) Amends the definition of "direct or indirect financial interest" to exclude a consulting fee received from persons licensed under the alcohol beverage statutes. In this manner, the holder of a brewery license could assist the holder of a brewpub license in the start up of a brewpub, for example.

Section 7. Makes the bill effective immediatly.

Provided by Senator Fahrenkamp's office 4/22/88

Questions and Answers:

*Will passage of this bill increase alcohol consumption?

No. The issue is product displacement. Beer consumers will have a choice, and hopefully they will choose to drink an Alaskan made brew instead of one shipped from the lower 48 or elsewhere.

*Can the holder of a restaurant and eating license obtain a brewpub license under this bill?

No, the ABC does not support such a proposition. The board feels that the restaurant and eating licenses now issued are subject to abuse. The Board intends to examine the problems of this category of licenses, and until then, prefers no new privileges be granted to holders of restaurant and eating place licenses.

*How often will brewpubs be inspected?

DEC will inspect them once per year, or upon complaint, on a "Best Management Practice", the industry standard they use for all Food Processing and Storage Facilities, and the same standard used by other state when inspecting brewing facilities.

*Can a holder of a brewing license obtain a beverage dispensary license?

No, current law prohibits such.

*Can a holder of a brewing license obtain a restaurant and eating place license?

Yes, current law does not prohibit such.

*Does our one Alaskan brewery support the bill?

Yes. The bill fixes two problems in current brewery statutes. They also feel that if more Alaskan made beer is available, as long as it a quality product, will benefit all brewers, large or small. At least one potential brewpub owner plans to stock Chinook as well as sell his own brew.

*How can there be a zero fiscal note, when there is a \$250 license fee established in the bill and under existing regs, there is a \$100 application fee?

It's likely that there will be only a handful of brewpub licenses issued in the near future, resulting in revenue barely in the thousands. Revenue derived from the fee, under existing law, will be shared back with 100% municipalities. This is done to pay the costs associated with, for example, local police having to respond to a violation of drinking age requirements. The application fee of \$100 would go towards processing paperwork.

*What is a wine gallon?

It's an archaic industry term for a standard U.S. gallon. The Revisor of Statutes recommended it be changed to gallon.

Prepared by Senator Fahrenkamp's Office.

FISCAL NOTE

REQUEST:

Revision Date: 2/19/88
Title: An Act Relating to Issuance of a Brewery License
Sponsor: Senator Fahrenkamp
Requestor: Senate Finance

Agency Affected: Revenue
BRU: Alcoholic Beverage Control Board
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	0	0	0	0	0	0
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) Though the bill would establish a license fee of \$250.00 (and require a \$100.00 application fee) it is not possible to estimate its potential revenues. It should be noted that whatever revenues are generated from the new license fee 100% would be shared back to the communities within which the revenues are derived.

Prepared By: Royce Weller Phone: 765-2300
Division: Commissioner's Office Date: February 19, 1988

Approved by Commissioner: Hugh Malone Date: February 19, 1988
Agency: Department of Revenue

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

STATE OF ALASKA

DEPARTMENT OF REVENUE

ALCOHOLIC BEVERAGE CONTROL BOARD

STEVE COWPER, GOVERNOR

550 W. 7TH AVE
ANCHORAGE, ALASKA 99501-6698

January 26, 1988

The Honorable Jay Kerttula, Chairman
Senate Judiciary Committee
P.O. Box V
Juneau, Alaska 99811

Dear Senator Kerttula:

At its meeting of January 20, the Alcoholic Beverage Control Board reviewed and discussed SB 276 and proposed changes. The board approves of the legislation.

If I can answer any questions from your committee, please do not hesitate to let me know.

Sincerely,



Patrick L. Sharrock
Director
(907) 277-8638

PLS:cr

cc: Senator Bettye M. Fahrenkamp

88-23

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CS SB-276

PUBLISH DATE: 2-3-88

FISCAL NOTE

REQUEST:

Revision Date:
Title: An Act relating to brewpub, brewery, and beverage dispensary liquor licenses;*
Sponsor: Betty Fahrenkamp
Requestor: Senate Finance

Agency Affected: Environmental Conservation
BRU: Environmental Health
Components: Sanitation

* and to prohibit financial interest in a licensed liquor business.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Passage of this legislation will not have a significant fiscal impact on the public facility inspection program.

Prepared by: Douglas C. Donegan
Division: Environmental Health

Phone: 465-2609
Date: 2-22-88

Approved by Commissioner: Dennis D. Kelso
Agency: Environmental Conservation

Date: 2/23/88

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)



STATE OF ALASKA
OFFICE OF THE GOVERNOR

FEB 26 1988

BILL ANALYSIS

DEPARTMENT Environmental Conserv.	DIVISION Environmental Health	BILL NUMBER CS SB 276	SPONSOR Fahrenkamp
SHORT TITLE OF BILL "An Act relating to brewpub, brewery, and beverage dispensary licenses."			
DEPARTMENT POSITION The Department believes this bill may provide opportunities for economic growth and presents no regulatory difficulties.			
PREPARED BY Douglas Donegan	DATE 2/23/88	COMMISSIONER'S SIGNATURE	DATE

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Revenue.	CONSTITUENT GROUPS AFFECTED BY BILL Bar and brewery operators, consumers.
ORGANIZATIONAL SUPPORT FOR BILL We assume bar and brewery operators may support this bill.	ORGANIZATIONAL OPPOSITION TO BILL We know of no opposition to this bill.

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

Bill would allow the licensing of "brewpubs" which are a combination of a bar and a brewery.

ANALYSIS OF BILL/PROGRAM EFFECTS

This bill would have little to no effect on the Department of Environmental Conservation. The department currently inspects bars and breweries. The creation of "brewpubs" would mean that these inspection duties would be combined in some circumstances.

AMENDMENTS PROPOSED

None.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

Alaska State Legislature

SENATOR BETTYE FAHRENKAMP
CHAIRMAN, LEGISLATIVE COUNCIL
CHAIRMAN, OIL AND GAS COMMITTEE
515 7TH AVENUE, SUITE 130
FAIRBANKS, ALASKA 99701
OFFICE (907) 452-4882
HOME (907) 456-2899



WHILE IN JUNEAU
PO. BOX V
JUNEAU, ALASKA 99811
CAPITOL ROOM 125
OFFICE (907) 465-3834
HOME (907) 780-6027

Senate

MEMORANDUM

TO: Senate Judiciary Committee
FROM: Senator Bettye Fahrenkamp
DATE: January 29, 1988
RE: Sanitary Inspections of Breweries and Brewpubs

CALIFORNIA

In California, brewpubs and breweries are treated the same, receiving sanitary inspections from the Department of Health Services on the same "Good Management Practices" basis as used in Alaska. These "GMP's" were developed by the federal Food and Drug Administration and apply to all food manufacturing operations exclusive of meat, poultry, and dairy.

The frequency of inspection in California is not set in statute or by regulation. By department policy, they inspect breweries of all sizes annually and upon complaint. However, due to budget cuts, some breweries will not be inspected for as long as ten years, as they are considered low priority since they have a low likelihood of causing a public health problem, according to California officials.

ILLINOIS

In Illinois, breweries receive sanitary inspections, like any other beverage manufacturer, from the Illinois Department of Public Health; Food, Drug, and Dairy Division, on the "Good Management Practices" basis once per year or upon complaint. The frequency is not set by statute or regulation.

The city of Chicago exerts municipal control over health and sanitation in the city. The Chicago Health Department, Food Protection Division inspects all food dispensers twice per year as per municipal ordinances. They treat a brewpub the same as any other food retailer.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

INFORMATION ON "BREW PUBS"

JANUARY, 1988

Bar operations are regulated as food service establishments under 18 AAC 31. Breweries are regulated under 18 AAC 30.220-290, regulations governing Food Processing and Storage Facilities.

Both bars and breweries must be in compliance with water, wastewater and solid waste regulations. A plan review and a pre-opening inspection are required prior to operation. A permit is required for bars.

Breweries are inspected as food processing facilities to ensure that Good Manufacturing Practices are used during the production process.

A brew pub would be inspected as a bar and a brewery. The risks of disease transmission associated with breweries or bars are substantially less than those associated with restaurants or other kinds of food manufacturing plants because potentially hazardous foods are not used in the brewing process. Hazardous foods are those that, if mishandled, can pose a health hazard to the public. The primary concern during an inspection of a brewery is to ensure that the product is not subject to contamination. This requires particular attention to the manufacturing process. General sanitation, chemical and raw product storage, utensil washing and sanitizing, employee hygiene, product labeling, rodent and insect control, facility construction and water supply and plumbing would be items of public health concern in a food processing and bar operation.

Inspections of bars and breweries are conducted annually with followup inspections conducted as necessary. This represents an adequate inspection frequency for bars considering the relatively low public health significance of such facilities. Breweries would likely be inspected twice a year if resources for the public facilities inspection program were adequate.

The proposed "brew pub" legislation will not have a significant impact on the environmental sanitation program in itself because the number of "brew pub" facilities will almost certainly be small compared to the overall number of public facilities. There are more than 6,200 public facilities in Alaska, and the number of brew pubs likely to be built is in the tens. However, the Department has requested an increment in its proposed FY 89 operating budget to bring inspection levels for all public facilities back up to acceptable levels. Due to budget reductions, inspection levels are currently substantially below the frequency necessary to protect public health.

**GOLD DREDGE NUMBER 8
NATIONAL HISTORIC DISTRICT**

P.O. Box 81941
Fairbanks, Alaska 99708
457-6038

1-14-88

Senator Jay Kerttula
Chairman
Judiciary Committee
Alaska State Senate
Juneau, Alaska

Greetings Senator Kerttula and members of the Judiciary Committee

I have just been informed that you will be accepting testimony on Senate Bill 276 this afternoon.

I would like to speak in favor of passage that bill. I am licensed to buy and dispense alcoholic beverages and I would like to be able to brew some of the beer I sell in the restaurant and bar myself. These are called brewpubs but for a better understanding you should think of them as a micro-micro brewery.

Brewpubs are becoming increasingly popular as are micro breweries in the U.S.. They are an emerging industry that have resulted from the success and failures of microbreweries catering to regional tastes. Brewpubs stem from a high level of technology applied to peoples desire to enjoy locally produced brew. (ie. Chinook Beer is a good example of this)

This bill if passed will also create new jobs and this industry is also a new growth industry in Alaska. I am sure I am not the only entrepreneur around the State that would foster the development of the industry. Please pardon the pun. If I am to sell ten draft beers to my customers for instance or ten beers brewed and bottled in St. Louis I would much rather sell the drafts brewed on premises. I believe my customers would also prefer the locally brewed product as long as it's good. Because of the small scale I can afford to spare no expense on insuring nothing but the highest quality beverage will be served.

I also understand this bill may be amended to allow brewers in this state to act as consultants to people such as myself. I understand it is illegal for them to do so now. I support passage of that amendment. I see no reason why I should have to hire an out of state consultant if the talent is available in State. (ie. Juneau)

Thank you for the opportunity to submit this testimony. Please pass SB 276 so I can get my show on the road.

Sincerely,



John Reeves

club. — Where the business affairs of a club, including the purchase and keeping and sale to members of liquor, are so inextricably intermingled with those of

the manager of the club, the manager has an interest in the business and a license may not be lawfully issued. In re Alaska Labor Trades Ass'n, 10 Alaska 472 (1945).

Collateral references. — 48 C.J.S., Intoxicating Liquors, § 229.

Criminal responsibility of club, authorized generally to sell intoxicating liquors, for particular illegal sale thereof by employee or agent. 139 ALR 306.

Knowledge and intent as elements determining responsibility for illegal sale by employee or agent. 139 ALR 313.

Sale of liquor by club or bar as within statute or ordinance imposing tax on sales at retail. 139 ALR 391.

Sec. 04.11.120. Bottling works license. (a) A bottling works license authorizes the holder to operate a bottling works where beer and wine may be bottled and sold.

(b) A sale under a bottling works license may be made only to a person licensed under this title and only in quantities of more than five wine gallons.

(c) The annual bottling works license fee is \$250. (§ 2 ch 131 SLA 1980)

Sec. 04.11.130. Brewery license. (a) A brewery license authorizes the holder to operate a brewery where beer is manufactured and bottled or barreled for sale.

(b) A brewery license authorizes the holder to sell beer in quantities of more than five wine gallons to persons licensed to sell beer under this title.

(c) The holder of a brewery license may permit a person to sample small portions of the brewery's product free of charge unless prohibited by AS 04.16.030.

(d) The annual brewery license fee is \$500. (§ 2 ch 131 SLA 1980)

Sec. 04.11.140. Winery license. (a) A winery license authorizes the holder to operate a winery where wine is manufactured and bottled or barreled for sale.

(b) A winery license authorizes the holder to sell wine to persons licensed under this title in quantities of more than five wine gallons.

(c) The holder of a winery license may permit a person to sample small portions of the wine on the premises free of charge unless prohibited by AS 04.16.030.

(d) The annual winery license fee is \$250. (§ 2 ch 131 SLA 1980)