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HOUSE STATE AFFAIRS COMMITTEE

NEXT COMMITTEE: HESS

BILL: HB 500

CURRENT VERSION:

SCHEDULED: MARCH 28, 1988

SPONSOR: ULMER

PHONE NO: JUDY K.

CONTACT FILE: \LLSA\HB500.DBF

BILL SUBJECT: MEMBERSHIP ON THE ALCOHOLIC BEVERAGE CONTROL BOARD AND SUSPENSION OR REVOCATION OF LIQUOR LICENSE

SPONSOR BACKUP: IN FILES

AFFECTED AGENCIES:

<u>DEPARTMENT</u>	<u>CONTACT/PHONE</u>	<u>COMMENT</u>
ABC BOARD		
LAW	PETER FROELICH	
DPS	GAYLE HORETSKI	

FISCAL NOTES

<u>AGENCY</u>	<u>REQUESTED</u>	<u>DATED</u>	<u>FY 88 AMT</u>	<u>FY 89 AMT</u>
REVENUE	2/25/88	3/2/88	-0-	-0-
H&SS/ALCOHOL & DRUG ABUSE		3/4/88	-0-	-0-

ACTION

<u>DATE</u>	<u>COMMENT</u>
3/4/88	HEARING -- HELD FOR FURTHER CONSIDERATION
3/28/88	CS ADOPTED AND PASSED FROM HOUSE STATE AFFAIRS

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

House State Affrs:

March 4 ~ 1988

March 28 - 1988

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 2, 1988

SUBJECT: Sectional analysis - SSBH 500 (State Affairs)  
TO: Representative Fran Ulmer  
Chair, House State Affairs Committee  
FROM: Michael F. Ford *M.F.*  
Legislative Counsel

The following is a sectional analysis of the work draft for CSHB 500 (State Affairs):

Section 1 - Imposes additional qualifications on board members.

Section 2 - Authorizes the board to impose a fine under AS 04.11.575.

Section 3 - Removes the requirement that an agent or employee act knowingly, recklessly or with criminal negligence, before a license or permit is suspended.

Section 4 - Creates authority for the board to impose civil fine upon a licensee. Requires notice and opportunity for a hearing before a fine can be imposed.

Section 5 - Imposes a mandatory license suspension or revocation upon a licensee who sells alcohol to a person under age 21.

Section 6 - Transition language that allows a sitting board member to finish their term notwithstanding the changes to board qualifications in section 1.

Section 7 - Repealer.

MFF:bb  
WKB3:062



ALASKA COUNCIL ON PREVENTION OF ALCOHOL AND DRUG ABUSE, INC.

March 1, 1988

Rep. Fran Ulmer, Chairwoman  
House State Affairs Committee  
P.O. Box V  
Juneau, AK 99811

Dear Chairwoman Ulmer:

I understand that two bills regarding alcohol will be considered in House State Affairs Committee on Friday, March 4. The Alaska Council supports both pieces of legislation and asks that the following comments be read into the record at that time, if at all possible.

HB 500:

The Alaska Council on Prevention of Alcohol and Drug Abuse supports HB 500 which relates to membership on the Alcoholic Beverage Control Board. Public awareness of the severity of alcohol abuse in Alaska is increasing and this bill will help continue that process. The Alaska Council is encouraged by the proposed changes which would require that one member of the board be knowledgeable of alcohol and substance abuse problems. The presence of a substance abuse professional on the ABC Board would be a responsible step toward increasing awareness of the effects of alcohol on individuals and communities.

The Alcoholic Beverage Control Board's decisions impact the health and well being of the citizens of Alaska. The Alaska Council feels that informed, responsible decision making at the state level is crucial to alcohol prevention efforts. Passage of HB 500 will send a positive message that legislators recognize the need for continued awareness of the problems associated with alcohol use and abuse.

HB 521:

The Alaska Council supports HB 521, relating to open containers of alcoholic beverages in motor vehicles. Drinking and driving are a dangerous, often fatal, combination which should be strongly discouraged.



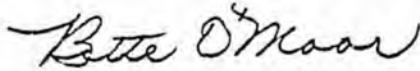
March 1, 1988  
Page Two

In 1985, 58 traffic accidents resulted in 69 alcohol-related deaths in Alaska. Youth under age 21 accounted for 14 percent of these driving fatalities even though this same age group only holds 7.1 percent of the drivers licenses. Measures, such as enacting HB 521, need to be taken to reduce the number of lives that are lost each year in alcohol-related accidents.

The Alaska Council hopes that the House State Affairs Committee will act favorably on HB 521 and take this opportunity to help protect the lives of Alaskans.

Thank you, Chairwoman Ulmer, for sponsoring HB 500 and hearing other bills in House State Affairs Committee which support prevention of alcohol and drug abuse in our state.

Sincerely,

A handwritten signature in cursive script that reads "Bette O'Moor".

Bette O'Moor  
Executive Director

cc: Rep. Steve Frank

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
PHONE: (907) 276-3550

1st NATIONAL CENTER  
100 CUSHMAN ST.  
SUITE 400  
FAIRBANKS, ALASKA 99701-4679

P O BOX K—STATE CAPITOL  
JUNEAU, ALASKA 99811-0300  
PHONE (907) 465-3600

March 4, 1988

The Honorable Fran Ulmer, Chair  
House State Affairs Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Re: Draft CS HB 500(SA) on ABC  
Board membership and penalties

Dear Chairperson Ulmer:

At the request of the committee's staff, I have reviewed the 2/26/88 Work Draft CS for HB 500 (State Affairs) concerning membership of the Alcoholic Beverage Control Board and penalties for violation of alcohol control laws. In general, the draft CS does not present any constitutional or other legal difficulties.

The first section of the bill would require that the five member ABC Board include two public members and one member (who could be one of the two public members) who is "knowledgeable in the diagnosis or treatment of alcohol or substance abuse problems." Current AS 04.06.020 requires little more than that at least two members of the board be "actively engaged in the alcoholic beverage industry" other than the wholesale aspect of it. The new requirements would ensure that the Board include members with a different perspective on the regulation of alcoholic beverages than that of the industry the Board regulates. At least the public member requirement is typical of regulatory boards. Under the status quo, whether the Board includes any true public members (who are not, for example, former licensees) has depended on the particular appointments made by the governor who happens to be in office when vacancies occur. Having made these observations about section 1 of the Draft CS, it is important to note that the issue of limiting the currently very broad

gubernatorial discretion in ABC board appointments is purely a policy decision for the legislature, with no real legal implications at all.

The Draft CS also increases the disciplinary or penalty options of the ABC Board by adding the power to impose civil fines of up to \$5,000 (secs. 2 & 4). This could result in greater deterrence of licensees from violating AS 04 or 15 AAC 104. We believe generally that the possibility of a fine of this magnitude will not be considered by the courts to be a "criminal" penalty that trigger the rights to counsel and to a jury. State v. O'Neill Investigations, Inc., 609 P.2d 520, 537-38 (Alaska 1980).

Sections 3 and 7 of the Draft CS eliminate provisions in current statutes that make it difficult to hold a licensee responsible in a license suspension or revocation case for the conduct of the licensee's employees. Currently, no action can be taken against a licensee who negligently fails to prevent employees from breaking the law, or, in the words of AS 04.21.030, fails to "exercise that duty of care that a reasonable person would observe to insure that a business under the person's control is lawfully conducted," unless the licensee acted knowingly, recklessly, or with criminal negligence. (AS 04.11.370(5) & (7) and 04.11.535) Because this sort of criminal state of mind is so difficult to prove license suspensions or revocations based even on repeated criminal convictions of employees are extremely rare. Elimination of these provisions essentially leaves us with the ordinary negligence standard set out in AS 04.21.030.

Lastly, sec. 5 of the Draft CS Would limit the current discretion of the board regarding the appropriate suspension for conviction of the licensee (not the licensee's employees) of serving a minor. Now only a ceiling of 45 days suspension for the first conviction of any violation of AS 04 is set by AS 04.16.180, and a ceiling of 90 days license suspension for the second conviction. This section would set minimums to ensure that some meaningful action was taken. One suggestion on this part of the bill is that perhaps the existing ceilings should be eliminated to allow harsher suspensions, when appropriate. Another suggestion is that perhaps the section should be expanded to apply to all criminal convictions of licensees, not just to those involving serving minors. This could be accomplished by changing sec. to an amendment of current AS 04.16.180(a) instead of an addition of a new subsection (e) to the same provision.

The Honorable Fran Ulmer, Chair  
House State Affairs Committee

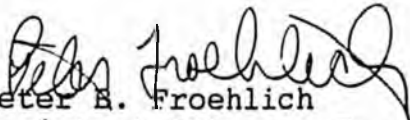
March 4, 1988  
Page 3

Please let me know if I can provide you or the committee with anything further regarding this bill.

Sincerely yours,

GRACE BERG SCHAIBLE  
ATTORNEY GENERAL

By:

  
Peter E. Froehlich  
Assistant Attorney General

PBF:jf

cc:Bob Evans  
Art Peterson

POSITION PAPER  
ON  
HOUSE BILL NO. 500

"An Act relating to membership on the Alcoholic Beverage Control Board and to suspension or revocation of a liquor license."

Discussion

AS 04.06. authorizes Alcohol Beverage Control Board (ABC) to make decisions regarding the disposition of alcohol in the state. These decisions directly effect the availability of alcohol in Alaska's communities.

Passage of this bill would require that one of five ABC Board members be knowledgeable in the diagnosis or treatment of alcohol or substance abuse problems. Given the extent of alcohol problems experienced in Alaska, it makes good sense to attempt to bridge the gap between the control and regulation of alcohol activity and the prevention and treatment of alcohol problems. Requiring a member of the ABC Board to be knowledgeable in the treatment of alcohol and drug abuse will help to heighten the awareness of the ABC Board with regard to the effect of its actions.

Position

From a public health and public safety perspective the Department of Health and Social Services is highly supportive of the approach taken in HB 500.

Recommended by: Matthew C. Felix  
Matthew C. Felix  
Coordinator  
State Office of Alcoholism  
and Drug Abuse

Date: 3/2/88

Approved by: Myra M. Munson  
Myra M. Munson  
Commissioner  
Department of Health and  
Social Services

Date: 3/4/88

March 3, 1988

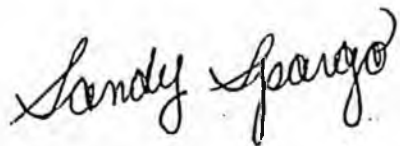
Senate Affairs Committee  
State of Alaska

House Bill No. 500 is a reasonable bill, in that it calls for one member of the Board to consist of a person who is knowledgeable in the diagnosis or treatment of alcohol or substance abuse.

The Bill states, "The Board shall control the manufacture, barter, possession, and sale of alcoholic beverages in the State. The Board is vested with the powers, duties, and responsibilities necessary for the control of alcoholic beverages, including the power to impose a fine under AS 04.11.575. . . ."

The person who is knowledgeable in the diagnosis or treatment of alcohol or substance abuse will, undoubtedly, raise the awareness level of the other Board members of the alcohol and drug abuse problem in Alaska, but how does this person's background contribute beyond this point? Will the drug statistics and stories curb the manufacture, barter, possession, and sale of alcoholic beverages in the State?

It is my hope that the change in the Board membership structure will toughen the stance taken with liquor stores that sell alcohol to minors.



Sandy Spargo  
ALASKANS FOR DRUG-FREE YOUTH  
965 Goldbelt  
Juneau, Alaska 99801

Anchorage Daily News  
February 28, 1988

Winner, 1976 Pulitzer Prize Gold Medal for Public Service  
Gerald E. Grilly Publisher      Howard Weaver  
Managing Editor

Michael Carey  
Editorial Page Editor

Katherine Fanning, Editor and Publisher 1971 to 1983  
Lawrence Fanning, Editor and Publisher 1967 to 1971

Founded in 1946 by Norman C. Brown

## Toward a new era for the ABC board

Gov. Steve Cowper can't change state liquor laws by himself, but he can change those charged with implementing liquor laws, the members of the Alcoholic Beverage Control Board. Now that he has an opportunity to make two appointments to the five-member board, the governor shouldn't hesitate to select Alaskans who won't settle for business as usual.

The ABC board has wide-ranging powers over the manufacture, barter, sale, consumption and possession of alcohol. It can put long-time sellers out of business and permit new sellers to enter the industry. It can dictate the terms of licenses and the regulations liquor purveyors must follow.

Given the physical and emotional damage alcohol has done in Alaska the board's charge should be clear: The health, safety and welfare of Alaskans come first.

Last year, board Chairman Mike Gordon said the board should "rationally, intelligently assist the industry, nudging it in the right direction as far as meeting local concerns, and keeping the industry healthy, too."

This is a conventional view of government that holds regulators should both regulate and protect the industry under their control. But this view is hopelessly out of date and inaccurate. Nowhere is the board charged with keeping the industry healthy.

The alcohol industry is one of — if not *the* — "healthiest" industries in this state. Good times or bad, Alaskans rich and poor drink vast quantities of alcohol. Television, magazines — and, yes, newspapers — send the message that drinking can make people happier, more attractive and even more successful.

The debate over how to improve the human condition is endless. Some say the system won't be improved until human nature improves; others says human nature won't improve until the system improves. The ABC board can't change human nature. But Gov. Cowper can improve the system by which alcohol is regulated by mandating a re-examination of the ABC board's role and appointing board members whose first consideration is the health, welfare and safety of their fellow citizens.

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE ULMER

NAME: LINDA CREED  
TITLE:  
ADDRESS: P.O.BOX 102092  
CITY: ANCHORAGE  
PHONE: 563-3989  
ZIP: 99510  
BILL NO: HB 500  
SUBJECT: ABC BOARD MEMBERS/LICENSE SUSPENSION  
MESSAGE: AS PRESIDENT OF THE BOARD OF THE ALASKA COUNCIL ON PREVENTION OF ALCOHOL AND DRUG ABUSE, WE STRONGLY SUPPORT HB 500. WE FEEL THIS WOULD MAKE THE BOARD MORE REPRESENTATIVE OF THE PEOPLE OF THE STATE OF ALASKA. WE ASK FOR YOUR SUPPORT.

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DATE: 03/01/88  
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COPIES: REPRESENTATIVES

BOUCHER  
DAVISON  
DONLEY  
HOFFMAN  
MARTIN  
MENARD

1 IN THE HOUSE

BY ULMER, SWACKHAMMER  
AND GOLL

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 500

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 Alcoholic Beverage Control  
7 Board; to suspension or revocation of a liquor li-  
8 cense or permit; and to imposition of a civil fine  
9 for violation of laws and regulations related to  
10 alcohol."

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

12 \* Section 1. AS 04.06.020 is amended to read:

13 Sec. 04.06.020. APPOINTMENT AND QUALIFICATIONS. The board  
14 consists of five members appointed by the governor and confirmed by a  
15 majority of the members of the legislature in joint session. A member  
16 of the board may not hold any other state or federal office, either  
17 elective or appointive. Two members of the board shall be persons  
18 actively engaged in the alcoholic beverage industry, except that a  
19 [NO] member may not hold a wholesale license or be an officer, agent,  
20 or employee of a wholesale alcoholic beverage enterprise. One member  
21 shall be knowledgeable in the diagnosis or treatment of alcohol or  
22 substance abuse problems. Two members shall be public members who are  
23 not presently and have not previously engaged in the alcohol industry.  
24 No three members of the board may be engaged in the same business,  
25 occupation, or profession.

26 \* Sec. 2. AS 04.06.090(a) is amended to read:

27 (a) The board shall control the manufacture, barter, possession,  
28 and sale of alcoholic beverages in the state. The board is vested  
29 with the powers, duties, and responsibilities necessary for the

1 control of alcoholic beverages, including the power to impose a fine  
2 under AS 04.11.575, to propose and adopt regulations and to hear  
3 appeals from actions of the director, and from actions of officers and  
4 employees charged with enforcing the alcoholic beverage control laws  
5 and the regulations of the board.

6 \* Sec. 3. AS 04.11.370 is amended to read:

7 Sec. 04.11.370. SUSPENSION AND REVOCATION OF LICENSES AND PER-  
8 MITS. A license or permit shall be suspended or revoked if the board  
9 finds that one or more of the following grounds exists:

10 (1) misrepresentation of a material fact on an application  
11 for a license or permit;

12 (2) continuation of activities authorized under a license  
13 or permit would be contrary to the best interests of the public;

14 (3) failure on the part of the licensee to correct defects  
15 that constitute violations of this title, regulations adopted under  
16 this title, or other laws within a prescribed time after receipt of  
17 notice issued by the board or its agent;

18 (4) conviction of a licensee of a violation of a provision  
19 of this title, a regulation adopted under this title, or an ordinance  
20 adopted under AS 04.21.010;

21 (5) conviction of the agent or employee of a licensee of a  
22 violation of this title, a regulation adopted under this title, or an  
23 ordinance adopted under AS 04.21.010, if the licensee is found by the  
24 board to have [EITHER KNOWINGLY ALLOWED THE VIOLATION OR TO HAVE  
25 RECKLESSLY OR WITH CRIMINAL NEGLIGENCE] failed to act in accordance  
26 with the duty prescribed under AS 04.21.030 with the result that an  
27 agent or employee violates a law, regulation, or ordinance;

28 (6) failure of the licensee to comply with the laws and  
29 regulations pertaining to public health in the state;

1 (7) use of the licensed premises as a resort for illegal  
2 possessors or users of narcotics, prostitutes, or promoters of prosti-  
3 tution; in addition to any other legally competent evidence, the  
4 character of the premises may be proved by the general reputation of  
5 the premises in the community as a resort for illegal possessors or  
6 users of narcotics, prostitutes, or promoters of prostitution;

7 (8) occurrence of illegal gambling within the limits of the  
8 licensed premises;

9 (9) permitting any public offense involving moral turpitude  
10 to occur on the licensed premises;

11 (10) violation by a licensee of this title, a regulation  
12 adopted under this title, or an ordinance adopted under AS 04.21.010;

13 (11) violation by an agent or employee of a licensee of a  
14 provision of this title, a regulation adopted under this title, or an  
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17 RECKLESSLY OR WITH CRIMINAL NEGLIGENCE] failed to act in accordance  
18 with the duty prescribed under AS 04.21.030 with the result that the  
19 agent or employee violates the law, regulation, or ordinance.

20 \* Sec. 4. AS 04.11 is amended by adding a new section to read:

21 Sec. 04.11.575. CIVIL FINE. (a) In addition to any other  
22 penalties imposed under this title, the board may impose a civil fine  
23 in an amount not to exceed \$5,000 upon a licensee that the board  
24 determines has violated a provision of this title or a regulation  
25 adopted under this title.

26 (b) The board may not impose a fine under (a) of this section  
27 unless the board has notified the licensee of the violation and the  
28 amount of the fine and given the licensee an opportunity for a hear-  
29 ing.

was amended by FRODO

1 \* Sec. 5. AS 04.16.180 is amended by adding a new subsection to read:

2 (e) A suspension or revocation of a license ordered by the board  
3 under AS 04.11.370(4) for a violation of AS 04.16.052 shall be as  
4 follows:

5 (1) on second conviction the license of the premises in-  
6 volved shall be suspended for at least 15 days and may be suspended up  
7 to 45 days; and <sup>^</sup> consecutive

8 (2) on third conviction the license of the premises in-  
9 volved shall be suspended for at least 30 days and may be suspended up  
10 to 90 days. <sup>^</sup> consecutive

11 \* Sec. 6. Notwithstanding the amendments made to AS 04.06.020 by sec. 1  
12 of this Act, a member serving on the Alcoholic Beverage Control Board on  
13 the effective date of this Act may continue to serve until the member's  
14 term expires.

15 \* Sec. 7. AS 04.11.535 is repealed.

Original sponsors: Ulmer, Swackhammer  
and Goll

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 500 (State Affairs)

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 Alcoholic Beverage Control  
7 Board; to suspension of a liquor license or permit;  
8 and to imposition of a civil fine for violation of  
9 laws and regulations related to alcohol."

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

11 \* Section 1. AS 04.06.020 is amended to read:

12 Sec. 04.06.020. APPOINTMENT AND QUALIFICATIONS. The board  
13 consists of five members appointed by the governor and confirmed by a  
14 majority of the members of the legislature in joint session. A member  
15 of the board may not hold any other state or federal office, either  
16 elective or appointive. Two members of the board shall be persons  
17 actively engaged in the alcoholic beverage industry, except that a  
18 [NO] member may not hold a wholesale license or be an officer, agent,  
19 or employee of a wholesale alcoholic beverage enterprise. Two members  
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28 under AS 04.11.575, to propose and adopt regulations and to hear  
29 appeals from actions of the director, and from actions of officers and

1 employees charged with enforcing the alcoholic beverage control laws  
2 and the regulations of the board.

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4 Sec. 04.11.370. SUSPENSION AND REVOCATION OF LICENSES AND PER-  
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6 finds that one or more of the following grounds exists:

7 (1) misrepresentation of a material fact on an application  
8 for a license or permit;

9 (2) continuation of activities authorized under a license  
10 or permit would be contrary to the best interests of the public;

11 (3) failure on the part of the licensee to correct defects  
12 that constitute violations of this title, regulations adopted under  
13 this title, or other laws within a prescribed time after receipt of  
14 notice issued by the board or its agent;

15 (4) conviction of a licensee of a violation of a provision  
16 of this title, a regulation adopted under this title, or an ordinance  
17 adopted under AS 04.21.010;

18 (5) conviction of the agent or employee of a licensee of a  
19 violation of this title, a regulation adopted under this title, or an  
20 ordinance adopted under AS 04.21.010, if the licensee is found by the  
21 board to have [EITHER KNOWINGLY ALLOWED THE VIOLATION OR TO HAVE  
22 RECKLESSLY OR WITH CRIMINAL NEGLIGENCE] failed to act in accordance  
23 with the duty prescribed under AS 04.21.030 with the result that an  
24 agent or employee violates a law, regulation, or ordinance;

25 (6) failure of the licensee to comply with the laws and  
26 regulations pertaining to public health in the state;

27 (7) use of the licensed premises as a resort for illegal  
28 possessors or users of narcotics, prostitutes, or promoters of prosti-  
29 tution; in addition to any other legally competent evidence, the

1 character of the premises may be proved by the general reputation of  
2 the premises in the community as a resort for illegal possessors or  
3 users of narcotics, prostitutes, or promoters of prostitution;

4 (8) occurrence of illegal gambling within the limits of the  
5 licensed premises;

6 (9) permitting any public offense involving moral turpitude  
7 to occur on the licensed premises;

8 (10) violation by a licensee of this title, a regulation  
9 adopted under this title, or an ordinance adopted under AS 04.21.010;

10 (11) violation by an agent or employee of a licensee of a  
11 provision of this title, a regulation adopted under this title, or an  
12 ordinance adopted under AS 04.21.010, if the licensee is found by the  
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14 RECKLESSLY OR WITH CRIMINAL NEGLIGENCE] failed to act in accordance  
15 with the duty prescribed under AS 04.21.030 with the result that the  
16 agent or employee violates the law, regulation, or ordinance.

17 \* Sec. 4. AS 04.11 is amended by adding a new section to read:

18 Sec. 04.11.575. CIVIL FINE. (a) In addition to any other  
19 penalties imposed under this title, the board may impose a civil fine  
20 in an amount not to exceed \$5,000 upon a licensee that the board  
21 determines has violated a provision of this title or a regulation  
22 adopted under this title.

23 (b) The board may not impose a fine under (a) of this section  
24 unless the board has notified the licensee of the violation and the  
25 amount of the fine and given the licensee an opportunity for a hear-  
26 ing.

27 \* Sec. 5. AS 04.16.180 is amended by adding a new subsection to read:

28 (e) Upon the third conviction of a licensee, or an agent or  
29 employee of a licensee for a violation of AS 04.16.052, the board

1 shall suspend the license of the premises involved for at least 15  
2 consecutive days and may suspend the license of the premises involved  
3 up to 45 days.

4 \* Sec. 6. Notwithstanding the amendments made to AS 04.06.020 by sec. 1  
5 of this Act, a member serving on the Alcoholic Beverage Control Board on  
6 the effective date of this Act may continue to serve until the member's  
7 term expires.

8 \* Sec. 7. AS 04.11.535 is repealed.  
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# HOUSE COMMITTEE REPORT

(7)

Date referred: 3/4/88

FURTHER REFERRALS: HESS  
Finance

DATE: 3/28/88

The State Affairs Committee has considered SSHB 500

"An Act relating to the Alcoholic Beverage Control Board; to suspension or revocation of a liquor license or permit; and to imposition of a civil fine for violation of laws and regulations related to alcohol."

**RECOMMENDS:**

- replace with CS SS HB 500 (SA)  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 \_\_\_\_\_
- 2  zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

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**SIGNING OTHER RECOMMENDATIONS:**

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\_\_\_\_\_  
 Chairman's signature

FISCAL NOTE

REQUEST:

Revision Date: 04/21/88  
 Title: "An Act relating to membership on the Alcoholic Beverage Control Board & to suspension or revocation of a liquor license."  
 Sponsor: Ulmer & Swackhammer  
 Requestor: house Finance

Agency Affected: Revenue  
 bku: Alcohol Beverage Control board

Components: \_\_\_\_\_

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)

Prepared by: Patrick L. Sharrock, Director Phone: 277-8638  
 Division: Alcoholic Beverage Control Division Date: 04/21/88

Approved by Commissioner: Hugh Malone Date: 04/21/88  
 Agency: Department of Revenue

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- requestor
- Office of Management and budget
- Impacted Agency(ies)

A M E N D M E N T

Offered in the HOUSE

By Ulmer

TO: SSHB 500

Page 1, line 7:

Delete "or"

Insert ", "

After "revocation":

Insert ", or renewal"

Page 2, after line 5:

Insert a new bill section to read:

"\* Sec. 3. AS 04.11.330 is amended by adding a new subsection to read:

(e) An application requesting renewal of a beverage dispensary license, restaurant or eating place license, package store license, or club license shall be denied unless the licensee and the licensee's employees have completed a liquor server awareness training program approved by the board."

Renumber the remaining bill sections accordingly.

November 12, 1985

Ruby Smith, Clerk  
Municipality of Anchorage  
Fouch 6-650  
Anchorage, AK 99502

Re: Municipality of Anchorage Ordinance,  
AO No. 85-128(s), AHC 10.50(B) - Training

Dear Ruby:

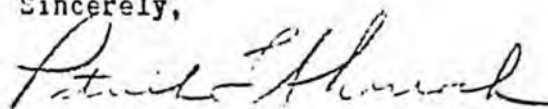
At its meeting of October 31 the Alcoholic Beverage Control Board considered its authority to act on the matter of training programs mentioned in the above ordinance. The board discussed its role under the municipal ordinance in light of the absence of a statute or regulation which outlines criteria for training programs.

Because the training of sellers/servers of alcoholic beverages is beneficial to the industry and the public, the board determined that it would consider training programs, but only in a broad conceptual way. Therefore, having heard brief presentations and reviewed some course materials at its meeting of September 18-19, the board decided the TAM (Techniques in Alcohol Management) and TIPS (Training for Intervention Procedures) programs are reputable and would be acceptable training programs for purposes of the ordinance. Additionally, the board decided that it would be acceptable and appropriate for either program to train and certify instructor personnel from licensees' staff to allow for training by licensees.

The board noted that this action applies for purposes of the Municipality of Anchorage ordinance only and should not be construed by licensees to create a statewide requirement or policy.

If you or the assembly have any questions, please do not hesitate to call.

Sincerely,



Patrick L. Sharrock  
Director

PLS:vk

AMENDED AND APPROVED  
DATE 8-13-85

Submitted by: Assembly Members Baker,  
Brockway, Flynn, Mystrom  
Walsh

Prepared by: Department of Law  
For Reading: July 23, 1985

ANCHORAGE, ALASKA  
AO NO. 85-128 (S)

AN ORDINANCE AMENDING CHAPTER 10.50 AND SECTION 21.45.170 OF THE ANCHORAGE MUNICIPAL CODE RELATING TO ASSEMBLY CONSIDERATION OF ISSUE, RENEWAL AND TRANSFER OF LIQUOR LICENSES.

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THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code 10.50 is amended by  
addition of a new section to read:

10.50 Standards Governing Assembly Protests to Alcoholic  
Beverage Control Board.

In the exercise of its powers under AS 04.11.480, and 15 AAC 104.145 to protest issue, renewal, and transfer of alcoholic beverage licenses within the Municipality of Anchorage, the Assembly shall consider whether the proposed license meets each and every factor and standard set forth below:

- A. Concentration and Land Use. Whether <sup>transfer of location or issue</sup> ~~issue or transfer of the~~ requested license will increase or ~~perpetuate~~ <sup>the</sup> a concentration of uses involving the sale or service of alcoholic beverages within the area affected and will conform to the separate standards of AMC 21.50.020(A) applicable to conditional land uses involving the sale or dispensing of alcoholic beverages.
- B. Training. If application is made for issue, renewal or transfer of a beverage dispensary license, restaurant or eating place license, or package store license, whether the applicant can demonstrate prospective or continued compliance with a Liquor Server Awareness Training Program approved by the State of Alaska Alcoholic Beverage Control Board, such as or similar to the program for techniques in alcohol management (T.A.M.). Until such plan is approved, training by a licensee's employees in the T.A.M. shall constitute compliance with this ordinance.

This subsection shall become effective December 1, 1985.

- C. Operations procedures. If application is made for issue, renewal or transfer of a license, whether the applicant can demonstrate prospective or continued compliance with operations procedures for licenses premises set forth in Section 10.50 \_\_\_\_\_ of this code.

Section 2. Anchorage Municipal Code 10.50 is amended by addition of a new section to read:

10.50. \_\_\_\_\_. Operations procedures for licensed premises.

- A. Except as otherwise provided in this subsection, the Operations procedures set forth in B of the section shall apply to all persons seeking the issue, renewal or transfer of any license issued by the State Alcoholic Beverage Control Board by virtue of AS 04 and other applicable provisions of law allowing the sale or service of alcoholic beverages. Subsections B (1) and B (5) shall not apply to persons or firms seeking the issue, transfer or renewal of licenses issued under AS 04 which do not authorize the sale or service of alcoholic beverages for consumption on the premises licensed.
- B. Persons or firms seeking the issue, transfer or renewal of licenses issued by the State Alcoholic Beverage Control Board under AS 04 and other applicable provisions of law shall comply with the following operations procedures:
1. Happy Hours. No licensee may:
    - a. Sell more than one drink for the price of a single alcoholic drink, or sell a drink with increased alcoholic content, or sell a multiple of any number of drinks in a manner which has the effect of selling more than one drink for the price of a single drink.
    - b. Advertise, promote or put in public notice the giving of free alcoholic drinks to customers.
    - c. ~~Sell~~ Advertise, promote or put in public notice the sale of alcoholic beverages at a reduced price at certain times of the day or days of the week. Nothing in this subsection shall prohibit a licensee from increasing prices during times when entertainment is provided.

This subsection shall not be construed to prohibit licensees from giving away or selling at a reduced price food items to customers and patrons.

2. Games or contests. No operator may allow, sanction, or permit games or contests to be conducted on premises which include in their competition the consumption of alcohol or in which awards are given by the establishment to patrons in the form of alcoholic beverage products.
3. Public Transportation. Licensees shall make available to their patrons access to means of public transportation to permit patrons to make arrangements for transportation to a hotel, private residence or other lodging.
4. Notice of penalties. Within 45 days of the passage of this ordinance, operators shall place, at conspicuous locations within licensed premises, a clear and legible sign describing applicable penalties for driving while intoxicated, and for service or sale of alcoholic beverages to minors or intoxicated persons.
5. Availability of nonalcoholic drinks. Operators shall have nonalcoholic drinks available for their patrons.
6. Compliance determination. In order to determine whether applicants seeking issue, renewal or transfer of alcoholic beverage licenses have complied with the provisions of this chapter, all applicants shall, at the time application is made to the Alcoholic Beverage Control Board for issue, renewal or transfer of licenses, submit to the Municipal Clerk such information as is required on a municipal form prepared by the Municipal Clerk known as the Municipality of Anchorage Alcoholic Beverage Licensee Compliance Form. Operators shall also provide the Municipal Clerk with certificates from all current employees demonstrating that those employees have successfully completed a "Liquor Service Awareness Training Program" such as the program for techniques in alcohol management (T.A.M.) as approved by the State of Alaska Alcoholic Beverage Control Board.

AO NO. 85- \_\_\_\_\_  
Page 4

Section 3. Except as provided in Section 1B and 2B4 of this ordinance, this ordinance shall become effective upon passage.

PASSED AND APPROVED by the Anchorage Municipal Assembly, this \_\_\_\_\_ day of \_\_\_\_\_, 1985.

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Municipal Clerk

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: "An Act relating to membership on on the  
Alcoholic Beverage Control Board and to  
suspension or revocation of a liquor license."  
Sponsor: Ulmer and Swackhammer  
Requestor: N/A

Agency Affected: Health & Social Services  
BRU: Alcoholism & Drug Abuse  
Components: Alcohol Abuse Grant

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	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

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: Matthew Felix *M.F.* Phone: 586-6201  
Division: Alcoholism and Drug Abuse Date: 3/1/88

Approved by Commissioner: Melba M. Munson *M.M.* Date: 3/4/88  
Agency: Health & Social Services

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

FISCAL NOTE

REQUEST:

Revision Date: 03/02/88  
 Title: "An Act relating to membership on the Alcoholic Beverage Control Board & to suspension or revocation of a liquor license."  
 Sponsor: Ulmer & Swackhammer  
 Requestor: house State Affairs

Agency Affected: Revenue  
 BKU: ABC BOARD  
 Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
<b>OPERATING</b>						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-	-	-	-	-	-
<b>CAPITAL</b>	-	-	-	-	-	-
<b>REVENUE</b>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<b>TOTAL</b>	-	-	-	-	-	-

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 Division Date: 03/02/88  
 Approved by Commissioner: Hugh Malone Date: 03/02/88  
 Agency: Department of Revenue

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