

SB

154

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

MEMORANDUM

March 6, 1987

SUBJECT: Issuance of liquor licenses - SB 154
TO: Senator Mitch Abood
FROM: Michael F. Ford *m.f.*
Legislative Counsel

The following is a sectional analysis of SB 154:

Section 1 - Adds subsection (k) enacted in section 2 of the bill as an exception to the population restrictions on issuing and relocation of a liquor license contained in AS 04.11.400(a).

Section 2 - Gives the Alcoholic Beverage Control Board the authority to issue a restaurant or eating place license if the restaurant or eating place will encourage tourism, will seat at least 200 persons, and will operate less than six months in a calendar year. Prohibits the board from approving transfer of ownership or location of the license.

MFF:mkr
m9/104

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST _____

Bill Version: SB 154
Publish Date: _____

Revision Date: _____
Title: Act relating to issuance of
Licor Licenses
Sponsor: Senator Mitch Ahood
Requestor: Senate State Affairs

Agency Affected: Revenue
DRU: ABC Board
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
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: Royce Weller
Division: Office of the Commissioner

Phone: 465-2300
Date: March 9, 1987

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: 3/9/87

Distribution (by Agency preparing fiscal note):

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

AMENDMENT TO AS 04.11.100
RESTAURANT/EATING PLACE LICENSE

D
My New Deal
Barney
CV

Approximately three years ago, the number of allowable beer and wine licenses in Anchorage was exhausted. Similar to the beverage dispensary licenses, they immediately began to take on an inflated value. Today they sell for between \$20,000 and \$25,000.

I agree with the concept of limiting beverage dispensary licenses. Partly because they have been traded for so long that many would be terribly hurt financially if the licensing procedure were altered.

In the case of beer & wine, the limit has just been reached in Anchorage and no one would be financially damaged should the limit be altered.

As you may know, I own and operate the Old Anchorage Salmon Bake. In just three short years we have become one of the most popular visitor attractions in downtown Anchorage. Being a tourism business, we ONLY operate 3 1/2 months each year. Our limited operation makes the cost of a current license nearly four times more expensive than other year round restaurants.

Every legitimate restaurant should be able to serve a glass of beer or wine with lunch or dinner. I for one have no problem with a restriction that would limit beer and wine sales to a percentage of gross or that food must be purchased with beer and wine. We were allowed by the ABC Board for the past three summers to use a caterers permit while we were applying for a license. During those three years, our bar sales, including soft drinks, never exceeded 10% of our gross. Now that all the beer and wine licenses are gone, the ABC Board will not and cannot allow us to cater.

We have visitors from all over the United States and the World and they do not understand why they cannot have a beer or a glass of wine with dinner.

In talking with leaders of the liquor industry, I find no opposition to this concept as long as beer and wine sales are a minor part of a restaurant's business. The industry would only be opposed if the change allowed for creation of beer and wine taverns.

I hope you'll give strong consideration to this proposal. I personally need a solution before this coming tourist season.

Thank you very much.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

AMENDMENT TO AS 04.11.100
RESTAURANT/EATING PLACE LICENSE

D
My New Grill
Backup
CV

Approximately three years ago, the number of allowable beer and wine licenses in Anchorage was exhausted. Similar to the beverage dispensary licenses, they immediately began to take on an inflated value. Today they sell for between \$20,000 and \$25,000.

I agree with the concept of limiting beverage dispensary licenses Partly because they have been traded for so long that many would be terribly hurt financially if the licensing procedure were altered.

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Thank you very much.

STATE OF ALASKA

DEPARTMENT OF REVENUE

ALCOHOLIC BEVERAGE CONTROL BOARD

STEVE COWPER, GOVERNOR

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

March 9, 1987

The Honorable Mitchell Abood
Alaska State Senate
P.O. Box V
Juneau, AK 99811

Dear Senator Abood:

You asked that I provide some comment about your SB 154 concerning restaurant or eating place liquor licenses.

At its meeting of February 4-5 the Alcoholic Beverage Control Board reviewed a similar proposal. The board understands and appreciates the dilemma at hand. However, under present statutes as AS 04.11.400(j) and related board regulation 15 AAC 104.335 a restaurant or eating place license may be granted without regard to population limitations. Because of this provision in law, the board believes that additional exceptions to population limitations are unnecessary. I have enclosed copies of current statutes and regulations for your convenience.

If I can provide you any further information or clarification, please do not hesitate to let me know.

Sincerely,



Patrick L. Sharrock
Director
(907) 277-8638

PLS:cr
Enclosure

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MAR 10 1987

STATE OF ALASKA

DEPARTMENT OF REVENUE

ALCOHOLIC BEVERAGE CONTROL BOARD

March 12, 1987

STEVE COWPER, GOVERNOR

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

POSITION PAPER

The Honorable Mitchell Abood
Alaska State Senate
P.O. Box V
Juneau, AK 99811

Dear Senator Abood:


This is a follow-up letter to my letter of March 9 for purposes of identifying this letter as a "position paper."

You asked that I provide some comment about your SB 154 concerning restaurant or eating place liquor licenses.

At its meeting of February 4-5 the Alcoholic Beverage Control Board reviewed a similar proposal. The board understands and appreciates the dilemma at hand. However, under present statutes as AS 04.11.400(j) and related board regulation 15 AAC 104.335 a restaurant or eating place license may be granted without regard to population limitations. Because of this provision in law, the board believes that additional exceptions to population limitations are unnecessary. I have enclosed copies of current statutes and regulations for your convenience.

If I can provide you any further information or clarification, please do not hesitate to let me know.

Sincerely,



Patrick L. Sharrock
Director
(907) 277-8638

PLS:cr

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Chapter 93

and

(3) the board finds that the public convenience will be served by the issuance or transfer.

* Sec. 15. AS 04.11.400(i) is amended to read:

(1) An application requesting a transfer of location of licensed premises limited under (a) or (b) of this section shall be granted without regard to [NOTWITHSTANDING] (a) of this section if the new location is less than one mile from the original location and

(1) no ground for denial exists under AS 04.11.340(1) or (3); and

(2) relocation of the licensed premises is necessary due to

(A) termination of a lease or rental agreement;

(B) condemnation of the premises;

(C) the substantial destruction of the premises by any cause.

* Sec. 16. AS 04.11.400(j) is amended to read:

(j) The board may approve the issuance or transfer of ownership of [ISSUE] a restaurant or eating place [NEW] license in a municipality without regard to [NOTWITHSTANDING THE PROVISIONS OF] (a) of this section if the board finds that issuance or transfer of the license is necessary for the public convenience.

✓ * Sec. 17. AS 04.11.430(a) is amended to read:

(a) Each license shall be issued to a specific individual or individuals, to a partnership, including a limited partnership, or to a corporation. If the license is issued to a corporation, the registered agent of the corporation must be an individual resident of the state.

* Sec. 18. AS 04.11.504(a) is amended to read:

(a) If a prohibition imposed on the issuance, renewal, [OR]

15 AAC 104.335. LICENS: ISSUED FOR PUBLIC CONVENIENCE. (a) The board will, in its discretion, issue a new license under AS 04.11.400(j) upon a showing that

(1) present facilities are unable to adequately serve the public;

(2) there is community support, which must be shown by a petition signed by a majority of the residents 21 years of age or over who reside within one mile of the proposed premises; and

(3) the governing body of the municipality in which the licensed premises are to be located approves the application.

(b) A license issued under AS 04.11.400(j) may be suspended or revoked if it ceases to be necessary to the public convenience. (Eff. 11/29/81, Reg. 80; am 3/31/85, Reg. 93)

Authority: AS 04.06.100
AS 04.11.400

**ARTICLE 4.
GENERAL PROVISIONS REGARDING
LICENSEES AND LICENSED PREMISES**

Section

- 405. Adulteration, misbranding and false advertising
- 415. Storing, warehousing and transporting
- 425. Determining age of patron
- 435. Presence of minors on licensed premises
- 445. Employment of minors
- 455. Recordkeeping requirements

15 AAC 104.405. ADULTERATION, MISBRANDING AND FALSE ADVERTISING. Adulteration, misbranding and false advertising of alcoholic beverages are prohibited. (Eff. 11/29/81, Reg. 80)

Authority: AS 04.06.090
AS 04.06.100

15 AAC 104.415. STORING, WAREHOUSING AND TRANSPORTING. (a) A licensee may not stock, warehouse, or otherwise store alcoholic beverages in a place other than

upon the licensed premises except as provide in AS 04.21.060.

(b) Alcoholic beverages may not be sold or consumed at an approved storage facility, nor may they be removed from the facility except at the direction of the licensee.

(c) Vehicles used to transport alcoholic beverages must at all times be physically secure or must be under observation by the licensee or the agent or employee of the licensee to assure the vehicle is secure against public access. (Eff. 11/29/81, Reg. 80)

Authority: AS 04.06.100
AS 04.21.060

15 AAC 104.425. DETERMINING AGE OF PATRON. It is the responsibility of the licensee to obtain proof-of-age forms required under AS 04.21.050. Licensees must retain complete forms for 90 days and make them available upon request for inspection by the board and peace officers. (Eff. 11/29/81, Reg. 80)

Authority: AS 04.06.100
AS 04.21.050

15 AAC 104.435. PRESENCE OF MINOR ON LICENSED PREMISES. A minor may enter and remain on premises designated by the board as a bona fide restaurant when accompanied by a person over the age of 21 years, for dining only, upon presentation to the licensee of written consent of a parent or legal guardian on a form prescribed by the board. The consent must (1) identify the premises to which access is permitted; (2) specify the date of access; (3) identify the accompanying person over the age of 21 years; (4) be dated; and (5) be signed by the parent or guardian and witnessed by the accompanying person. The consent must be surrendered to the licensee upon access to the licensed premises. No consent is valid if signed more than 30 days before the date access is permitted. No consent is valid for more than one day of access. (Eff. 11/29/81, Reg. 80; am 3/31/85, Reg. 93)

Authority: AS 04.06.100
AS 04.16.04

15 AAC 104.445. EMPLOYMENT OF MINORS. (a) A beverage dispensary licensee whose licensed premises are located within a hotel or restaurant and a restaurant or other place licensee may permit minors to come into

SUGGESTED AMENDMENT TO SB 154, "An Act relating to issuance of liquor licenses."

PAGE 2, LINE 21 - Delete [200] and add 135.

POSITION PAPER
ON
SENATE BILL 154

"An Act relating to issuance of liquor licenses."

From a public health and public safety perspective the Department of Health and Social Services is opposed to Senate Bill 154 for the following reasons:

1. Its passage would exempt this class of license from public review since neither a citizen petition nor local government assembly approval would be a requirement of issuance;
2. Its passage would run counter to recent Legislative action taken two years ago to limit, rather than increase, the overall availability of liquor licenses in Alaska. In that action the population requirement for beverage dispensary and package store licenses was increased from one per 1500 population to one per 3000 population;
3. Within Title 04 adequate provision for tourism related licenses appears to already exist. Within the existing legal framework an applicant should be able, with adequate local citizen review, to obtain a tourism related restaurant or eating place license under A.S. 04.11.400(H)(3) "A restaurant or eating place license may be issued.....if the board finds that the public convenience will be served by the issuance....."

This Department has convincing evidence that increased availability of alcohol contribute to increased alcohol related problems, with the attendant human and financial costs.

Research has shown availability along with cost influence per capita consumption of beverage alcohol. The consumption rate of any given population is a major mitigating factor of a wide range of health and social ills. Alaska serves as a sad example of this relationship between consumption and problems. Alaska's per capita consumption is one of the highest in the United States with a rate of 3.5-3.8 gallons of absolute (pure) alcohol for everyone over the age of 14 years. We also have the highest rate of divorce, suicide, alcohol related felonies, etc.

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Presently, Alaska issues many classes of liquor licenses. Another "type" of license could only add to the serious problems of alcohol abuse and undermine the intent of recent legislation. The present intent of Title 04 is to give more local control. Local government review authority would be seriously compromised with this legislation.

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

Date: *3/26/87*
.....

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

Date: *March 26, 1987*
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