

HB

181

STATE OF ALASKA
THE LEGISLATURE

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Mary Van Nimwegen

H. HESS

2-6-87

Original sponsors: Gruenberg and
Zawacki

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 181 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the private manufacture of and
7 the definition of an alcoholic beverage; and provid-
8 ing for an effective date."

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

10 * Section 1. AS 04.21 is amended by adding a new section to read:

11 Sec. 04.21.015. PRIVATE MANUFACTURE OF ALCOHOLIC BEVERAGES. (a)
12 Except as provided in (b) of this section, the provisions of this
13 title do not apply to the private manufacture of alcoholic beverages.

14 (b) This section does not apply to AS 04.16.050, 04.16.051,
15 04.16.080; AS 04.21.010, 04.21.020; alcoholic beverages manufactured
16 in a quantity that exceeds the limit imposed on private manufacture
17 under federal law; or an area that has adopted a local option law
18 under AS 04.11.490 - 04.11.500.

19 * Sec. 2. AS 04.21.080(b)(1) is amended to read:

20 (1) "alcoholic beverage" means spirituous, vinous, malt or
21 other fermented or distilled liquids, whatever the origin, that are
22 intended for human consumption as a beverage and that contain one-half
23 of one percent or more of alcohol by volume, whether produced commer-
24 cially or privately;

25 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).
26
27
28
29

State of Alaska

Committees

CO-CHAIR, HOUSE JUDICIARY
VICE-CHAIR, HOUSE LABOR AND COMMERCE
HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES



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Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

April 6, 1989

MEMORANDUM

TO: Members of the House HESS Committee

FROM: Representative Max Gruenberg *MG*

RE: HB 181, "An Act relating to the private manufacture of an alcoholic beverage; and providing for an effective date."

In 1986 the definition of an alcoholic beverage was rewritten to encompass privately produced alcoholic beverages to eliminate a perceived loophole in local option statutes. Inadvertently, this has been interpreted to ban "homebrewing" in all areas of the state. Although it is within the ABC Board's authority to issue licenses for the private manufacture of homebrew, the Board has declined to do so.

HB 181 would exempt "homebrewing" from most provisions governing alcoholic beverages - mainly those related to licensing. Homebrewing would still be prohibited in both "damp" and "dry" local option areas; municipalities would continue to have the authority to regulate "homebrewing" and possession, consumption or sale of homebrew for persons under age 21 would be prohibited.

The bill has received no opposition, has a zero fiscal note, and is supported by the Department of Revenue.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Private manufacture of an
alcoholic beverage
Sponsor: Rep. Gruenberg
Requestor: House HESS Committee

Agency Affected: Department of Revenue
BRU: Alcoholic Beverage Control
Board
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Patrick L. Sharrock, Director Phone: 277-8638
Division: Alcoholic Beverage Control Board Date: March 1, 1989
Approved by Commissioner: Hugh Malone Date: 3/1/89
Agency: Alcoholic Beverage Control Board

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



Department of Transportation & Public Facilities

POSITION PAPER

BILL NO: SB127

APPROVED: *Mark S. Hily*

TITLE:

DATE: January 23, 1989

"An Act relating to the private manufacture of and the definition of an alcoholic beverage; and providing for an effective date."

Section 2 of CSSB127 changes the definition of alcoholic beverages in Alaska's statutes (04.21.080(b)(1)) by adding a threshold of one-half percent or more of ... by volume to the current definition. The proposed language is identical with the wording that appears in the Code of Federal Regulations, Section 1208.3. Since the language is identical, this change should ensure that Alaska continues to meet the federal requirements for establishment of a National Minimum Drinking Age in each state. Alaska must meet these requirements to avoid the withholding of federal funds for highway construction.

[§ 23394]

(e) **ILLEGALLY PRODUCED WINE.**—Notwithstanding subsection (a), any wine produced in the United States at any place other than the bonded premises provided for in this chapter shall (except as provided in section 5042 in the case of tax-free production) be subject to tax at the rate prescribed in subsection (b) at the time of production and whether or not removed for consumption or sale.

[Sec. 5041 as amended by Act of June 30, 1959, P. L. 86-75, 73 Stat. 157; Act of June 30, 1960, P. L. 86-564, 74 Stat. 290; Act of June 30, 1961, P. L. 87-72, 75 Stat. 194; Act of June 28, 1962, P. L. 87-508, 76 Stat. 114; Act of June 29, 1963, P. L. 88-52; Act of June 30, 1964, P. L. 88-348; Act of June 21, 1965, P. L. 89-44, 79 Stat. 136; Act of Oct. 26, 1974, P. L. 93-490, 88 Stat. 1466; Act of Oct. 4, 1976, P. L. 94-455, 90 Stat. 1520; Act of Nov. 10, 1988, P. L. 100-647, 102 Stat. 3342, applicable to wine removed after Dec. 31, 1988.]

[§ 23395]

Sec. 5042. Exemption from Tax. (a) TAX-FREE PRODUCTION.—(1) **CIDER.**—Subject to regulations prescribed by the Secretary, the noneffervescent product of the normal alcoholic fermentation of apple juice only, which is produced at a place other than a bonded wine cellar and without the use of preservative methods or materials, and which is sold or offered for sale as cider and not as wine or as a substitute for wine, shall not be subject to tax as wine nor to the provisions of subchapter F.

(2) **WINE FOR PERSONAL OR FAMILY USE.**—Subject to regulations prescribed by the Secretary—

(A) **EXEMPTION.**—Any adult may, without payment of tax, produce wine for personal or family use and not for sale.

(B) **LIMITATION.**—The aggregate amount of wine exempt from tax under this paragraph with respect to any household shall not exceed—

(i) 200 gallons per calendar year if there are 2 or more adults in such household, or

(ii) 100 gallons per calendar year if there is only 1 adult in such household.

(C) **ADULTS.**—For purposes of this paragraph, the term "adult" means an individual who has attained 18 years of age, or the minimum age (if any) established by law applicable in the locality in which the

household is situated at which wine may be sold to individuals, whichever is greater.

(3) **EXPERIMENTAL WINE.**—Subject to regulations prescribed by the Secretary, any scientific university, college of learning, or institution of scientific research may produce, receive, blend, treat, and store wine, without payment of tax, for experimental or research use but not for consumption (other than organoleptical tests) or sale, and may receive such wine spirits without payment of tax as may be necessary for such production.

[§ 23396]

(b) **CROSS REFERENCES.**—

(1) For provisions relating to exemption of tax on losses of wine (including losses by theft or authorized destruction), see section 5370.

(2) For provisions exempting from tax samples of wine, see section 5372.

(3) For provisions authorizing withdrawals of wine free of tax or without payment of tax, see section 5362.

[Sec. 5042 as amended by Act of Oct. 4, 1976, P. L. 94-455, 90 Stat. 1520; Act of Oct. 13, 1978, P. L. 95-458, 92 Stat. 1255.]

[§ 23397]

Sec. 5043. Collection of Taxes on Wines. (a) PERSONS LIABLE FOR PAYMENT.—The taxes on wine provided for in this subpart shall be paid—

(1) **BONDED WINE CELLARS.**—In the case of wines removed from any bonded wine cellar, by the proprietor of such bonded wine cellar; except that—

(A) in the case of any transfer of wine in bond as authorized under the provisions of section 5362(b), the liability for payment of the tax shall become the liability of the transferee from the time of removal of the wine from the transferor's premises, and the transferor shall thereupon be relieved of such liability; and

(B) in the case of any wine withdrawn by a person other than such proprietor without payment of tax as authorized under the provisions of section 5362(c), the liability for payment of the tax shall become the liability of such person from the time of the removal of the wine from the bonded wine cellar, and such proprietor shall thereupon be relieved of such liability.

(2) **FOREIGN WINES.**—In the case of foreign wines, by the importer thereof.

(3) **OTHER WINES.**—Immediately, in the case of any wine produced, imported, received, removed, or possessed otherwise than as authorized by law, by any person

brewers under common control where one or more of the brewers is not a corporation.

(3) **TOLERANCES.**—Where the Secretary finds that the revenue will not be endangered thereby, he may by regulations prescribe tolerances for barrels and fractional parts of barrels, and, if such tolerances are prescribed, no assessment shall be made and no tax shall be collected for any excess in any case where the contents of a barrel or a fractional part of a barrel are within the limit of the applicable tolerance prescribed.

[§ 23412]

(b) **ASSESSMENT ON MATERIALS USED IN PRODUCTION IN CASE OF FRAUD.**—Nothing contained in this subpart or subchapter G shall be construed to authorize an assessment on the quantity of materials used in producing or purchased for the purpose of producing beer, nor shall the quantity of materials so used or purchased be evidence, for the purpose of taxation, of the quantity of beer produced; but the tax on all beer shall be paid as provided in section 5054, and not otherwise; except that this subsection shall not apply to cases of fraud, and nothing in this subsection shall have the effect to change the rules of law respecting evidence in any prosecution or suit.

[§ 23412A]

(c) **ILLEGALLY PRODUCED BEER.**—The production of any beer at any place in the United States shall be subject to tax at the rate prescribed in subsection (a) and such tax shall be due and payable as provided in section 5054(a)(3) unless—

(1) such beer is produced in a brewery qualified under the provisions of subchapter G, or

(2) such production is exempt from tax under section 5053(e) (relating to beer for personal or family use).

[Sec. 5051 as amended by Act of June 30, 1959, P. L. 86-75, 73 Stat. 157; Act of June 30, 1960, P. L. 86-564, 74 Stat. 290; Act of June 30, 1961, P. L. 87-72, 75 Stat. 194; Act of June 28, 1962, P. L. 87-508, 76 Stat. 114; Act of June 29, 1963, P. L. 88-52; Act of June 30, 1964, P. L. 88-348; Act of June 21, 1965, P. L. 89-44, 79 Stat. 136; Act of Oct. 4, 1976, P. L. 94-455, 90 Stat. 1520, effective Feb. 1, 1977; Act of Oct. 17, 1976, P. L. 94-529, 90 Stat. 2485; Act of Oct. 13, 1978, P. L. 95-458, 92 Stat. 1255.]

[§ 23413]

Sec. 5052. **Definitions.** (a) **Beer.**—For purposes of this chapter (except when used

§ 23412 26 U. S. C. 5052

with reference to distilling or distilling material) the term "beer" means beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

[§ 23414]

(b) **GALLON.**—For purposes of this subpart, the term "gallon" means the liquid measure containing 231 cubic inches.

[§ 23415]

(c) **REMOVED FOR CONSUMPTION OR SALE.**—Except as provided for in the case of removal of beer without payment of tax, the term "removed for consumption or sale," for the purposes of this subpart, means—

(1) **SALE OF BEER.**—The sale and transfer of possession of beer for consumption at the brewery; or

(2) **REMOVALS.**—Any removal of beer from the brewery.

[§ 23416]

(d) **BREWER.**—

For definition of brewer, see section 5052.

[Sec. 5052 as amended by Act of Jan. 12, 1971, P. L. 91-673, 84 Stat. 2056.]

[§ 23417]

Sec. 5053. **Exemptions.** (a) **REMOVALS FOR EXPORT.**—Beer may be removed from the brewery, without payment of tax, for export, in such containers and under such regulations, and on the giving of such notices, entries, and bonds and other security, as the Secretary may by regulations prescribe.

[§ 23418]

(b) **REMOVALS WHEN UNFIT FOR BEVERAGE USE.**—When beer has become sour or damaged, so as to be incapable of use as such, a brewer may remove the same from his brewery without payment of tax, for manufacturing purposes, under such regulations as the Secretary may prescribe.

[§ 23419]

(c) **REMOVALS FOR LABORATORY ANALYSIS.**—Beer may be removed from the brewery, without payment of tax, for laboratory analysis, subject to such limitations and under such regulations as the Secretary may prescribe.

[§ 23419A]

(d) **REMOVALS FOR RESEARCH, DEVELOPMENT, OR TESTING.**—Under such conditions and regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for use in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials, or equipment relating to beer or brewery operations.

[§ 23419B]

(e) **BEER FOR PERSONAL OR FAMILY USE.**—Subject to regulation prescribed by the Secretary, any adult may, without payment of tax, produce beer for personal or family use and not for sale. The aggregate amount of beer exempt from tax under this subsection with respect to any household shall not exceed—

(1) 200 gallons per calendar year if there are 2 or more adults in such household, or

(2) 100 gallons per calendar year if there is only 1 adult in such household.

For purposes of this subsection, the term "adult" means an individual who has attained 18 years of age, or the minimum age (if any) established by law applicable in the locality in which the household is situated at which beer may be sold to individuals, whichever is greater.

[§ 23420]

(f) **REMOVAL AS SUPPLIES FOR CERTAIN VESSELS AND AIRCRAFT.**—

For exemption as to supplies for certain vessels and aircraft, see section 308 of the Tariff Act of 1930, as amended (19 U. S. C. 1308).

[Sec. 5053 as amended by Act of June 21, 1965, P. L. 89-44, 79 Stat. 136; Act of Jan. 12, 1971, P. L. 91-673; 84 Stat. 2056; Act of Oct. 4, 1976, P. L. 94-455, 90 Stat. 1520; Act of Oct. 13, 1978, P. L. 95-458, 92 Stat. 1255.]

[§ 23421]

Sec. 5054. Determination and Collection of Tax on Beer. (a) **TIME OF DETERMINATION.**—(1) **BEER PRODUCED IN THE UNITED STATES.**—Except as provided in paragraph (3), the tax imposed by section 5051 on beer produced in the United States shall be determined at the time it is removed for consumption or sale, and shall be paid by the brewer thereof in accordance with section 5061.

(2) **BEER IMPORTED INTO THE UNITED STATES.**—Except as provided in paragraph (4), the tax imposed by section 5051 on beer imported

into the United States shall be determined at the time of importation thereof, or, if entered for warehousing, at the time of removal from the 1st such warehouse.

(3) **ILLEGALLY PRODUCED BEER.**—The tax on any beer produced in the United States shall be due and payable immediately upon production unless—

(A) such beer is produced in a brewery qualified under the provisions of subchapter G, or

(B) such production is exempt from tax under sections 5053(a) (relating to beer for personal or family use).

(4) **UNLAWFULLY IMPORTED BEER.**—Beer smuggled or brought into the United States unlawfully shall, for purposes of this chapter, be held to be imported into the United States, and the internal revenue tax shall be due and payable at the time of such importation.

[§ 23422]

(b) **TAX ON RETURNED BEER.**—Beer which has been removed for consumption or sale and is thereafter returned to the brewery shall be subject to all provisions of this chapter relating to beer prior to removal for consumption or sale, including the tax imposed by section 5051. The tax on any such returned beer which is again removed for consumption or sale shall be determined and paid without respect to the tax which was determined at the time of prior removal of the beer for consumption or sale.

[§ 23424]

(c) **APPLICABILITY OF OTHER PROVISIONS OF LAW.**—All administrative and penal provisions of this title, insofar as applicable, shall apply to any tax imposed by section 5051.

[Sec. 5054 as amended by Act of Oct. 4, 1976, P. L. 94-455, 90 Stat. 1520; Act of Oct. 13, 1978, P. L. 95-458, 92 Stat. 1255; Act of Oct. 21, 1986, P. L. 99-509, 9100 Stat. 2786, applicable to removals during immediately periods ending on or after Dec. 31, 1986.]

[§ 23425]

Sec. 5055. Drawback of Tax. On the exportation of beer, brewed or produced in the United States, the brewer thereof shall be allowed a drawback equal in amount to the tax found to have been paid on such beer, to be paid on submission of such evidence, records and certificates indicating exportation, as the Secretary may by regula-

BET

certain, or according as a question disputed between them is settled in one way or the other. *Coulter v. State*, 122 Tex.Cr.R. 9, 53 S.W.2d 477, 480.

A contract by which two or more parties agree that a sum of money, or other thing, shall be paid or delivered to one of them on the happening or not happening of an uncertain event. *Gloms v. Knox*, 25 Ala.App. 153, 142 So. 542.

In a "bet" or "wager" money belongs to the persons paying it, each of whom has a chance to win it, but, in the case of a "purse" or "premium" money belongs to the person offering it, who has no chance to win it, but is certain to lose it. *Tomney v. Fenwick*, 78 Mehl. 166, 243 P. 943, 945, 43 A.L.R. 793.

Bet and wager are synonymous terms. *Woodrock v. McQueen*, 11 Ind. 16; *Shumate v. Com.*, 13 Crat. 154, 640.

BETHLEHEM. See *Bedlam*.

BETTING BOOK. A book kept for registering bets on the result of a race as operated on race track. In a broader sense, the "betting book" is that book which enables the professional bettor to carry on his business, and to promote a race, and it includes the book, the making book and the bookmaker. *State v. Austin*, 142 La. 354, 76 So. 909, 810; *People v. Semmler*, 345 Ill. 272, 178 N.E. 100, 101.

BETRAYAL. A "betrayal," as of a professional secret on the part of a physician, signifies a wrongful disclosure in violation of the trust imposed by the patient. *Simonsen v. Swenson*, 104 Neb. 224, 177 N.W. 831, 832, 9 A.L.R. 1250.

BETROTHED. One who has exchanged promises to marry. The term may be synonymous with "intended wife." *Mace v. Grand Lodge, A. O. U. W. of Massachusetts*, 234 Mass. 299, 125 N.E. 549.

BETROTHMENT, BETROTHAL. Mutual promise of marriage; the plighting of troth; a mutual promise or contract between a man and woman competent to make it, to marry at a future time.

BETTER DESCRIBED. More fully delineated or more fully pictured or painted. *Katzin v. Kravant*, 99 N.J.Eq. 619, 133 A. 516, 517.

BETTER EQUITY. See *Equity*.

BETTERMENT. An improvement put upon an estate which enhances its value more than mere repairs. The improvement may be either temporary or permanent. *People v. Klee*, 782 Ill. 440, 113 N.E. 754, 757.

Also applied to denote the additional value which an estate acquires in consequence of some public improvement, as laying out or widening a street, etc. *Chase v. Sioux City*, 16 Iowa, 621, 51 N.W. 323.

BETTERMENT ACTS. Statutes which provide that a bona fide occupant of real estate making lasting improvements in good faith shall have a lien upon the estate recovered by the real owner to the extent that his improvements have increased the value of the land. Also called "occupying claimant acts." *Jones v. Hotel Co.*, 96 F. 384, 30 C.C.A. 108.

BETWEEN. A space which separates. *Hobson v. Postal Telegraph-Cable Co.*, 161 Tenn. 419, 12 S.

W.2d 1046. Strictly applicable only with reference to two things, but this may be understood as including cases in which a number of things are discriminated collectively as two wholes, or as taken in pairs, or where one thing is set off against a number of others. In re *McShane's Will*, 298 N.Y.S. 680, 682, 158 Misc. 777. Sometimes used synonymously with "among". In re *Moore's Estate*, 157 Pa.Super. 296, 43 A.2d 359.

As a measure or indication of distance, this word has the effect of excluding the two terminals. *Morris & E. R. Co. v. Central R. Co.*, 31 N.J.Law, 312.

If an act is to be done "between" two certain days, it must be performed before the commencement of the latter day. In computing the time in such a case, both the days named are to be excluded. *Hodges v. Fitzgub*, 94 Fla. 943, 114 So. 521, 522. But a clause in a contract of sale to the effect that the purchaser could require the vendor to repurchase between the fifth and sixth year from a certain date means during the sixth year. *Van Demark v. California Home Extension Ass'n*, 43 Cal.App. 643, 185 P. 996, 998.

In case of a devise to A. and B. "between them," these words create a tenancy in common. *Lashbrook v. Cook*, 2 Met. 70.

Between equal equities the law must prevail. This is hardly of general application.

BEVERAGE. A liquor or liquid for drinking. *Burnstein v. U. S.*, C.C.A.Cal. 55 F.2d 599, 602. Especially pleasant or refreshing drink, or a habitual one. *Tennant v. F. C. Whitney & Sons*, 133 Wash. 581, 234 P. 666, 670.

This term is properly used to distinguish a sale of liquor to be drunk for the pleasure of drinking, from liquor to be drunk in obedience to a physician's advice. *Falstaff Corporation v. Allen*, D.C.Mo., 79 F. 643, 645; or from a liquid which it is possible to swallow, but which is not reasonably palatable or fit for drinking. *Tennant v. F. C. Whitney & Sons*, 133 Wash. 581, 234 P. 666. Thus, it is held that pure alcohol is not a "beverage" but a violent irritant. *Chas. L. Joy & Co. v. Carlsbad*, 28 Idaho 642, 134 P. 640, 641.

This term sometimes has a narrower meaning signifying a drink artificially prepared. *Comas Dairy Co. v. Mulder*, 78 Colo. 477, 243 P. 666, 668. *United States v. Robeson*, D.C.Kan., 28 F.3d 991, 992.

BEWARED. O. Eng. Expended. Before the Britons and Saxons had introduced the general use of money, they traded chiefly by exchange of wares. Wharton.

BEYOND A REASONABLE DOUBT. In evidence means fully satisfied, entirely convinced, satisfied to a moral certainty. *State v. Harris*, 28 S.E.2d 232, 237, 223 N.C. 697; and phrase is the equivalent of the words clear, precise and indubitable. *Ferguson Packing Co. v. Mihalic*, 99 Pa.Super. 158, 162.

An accused's guilt must be established "beyond a reasonable doubt," which means that facts proved must be of such a nature as to establish guilt. *People ex rel. Schubert v. Fisher*, 9 N.Y.S.2d 312, 313, 179 Misc. 345.

BEYOND SEA. Beyond the limits of the kingdom of Great Britain and Ireland; outside the United States; out of the state.

Beyond sea, beyond the four seas, beyond the seas, and out of the realm, are synonymous. Prior to the union of the two crowns of England and Ireland, in the accession of James I., the phrase "beyond the four seas," "beyond the seas," and "out of the realm," signified out of the

A non-alcoholic haze

A sloppily written law sometimes mocks the intentions of its author. Look at the statute governing the definition of alcoholic beverages.

In 1986, concerned but careless lawmakers decided that any beverage with even a miniscule amount of alcohol in it should meet the same sales restrictions as beer, wine and the hard stuff. The law also implicitly required the same taxes for real and imitation alcoholic beverages.

Meanwhile, supermarkets, groceries and gourmet shops already were selling beers and wines containing traces of alcohol. That made them lawbreakers, although the Alcoholic Beverage Control Board never enforced the law — and distributors, until at least perhaps a few days ago, never paid taxes.

Near-beers and non-alcoholic wines have less than a half a percent of alcohol in them. Vanilla extract (35 percent alcohol) or Nyquil (25 percent) are far more potent common supermarket products. A tippler will become exhausted drinking fake beer and wine substitutes long before feeling even the slightest effects of alcohol.

Lawmakers should go back and make the statute congruent with common sense. 'Why not adopt the federal standard that defines an alcoholic beverage as anything with .5 percent or more alcohol? That standard would at least make present practices legal.

Customers who want near-beer and wine substitutes shouldn't have to patronize liquor stores. Let them pick up bread, milk and a punchless six-pack in a supermarket that's not violating a flaky section of the law.

From the ANCHORAGE
DAILY NEWS,
March 22, 1989
(ED. section)

'Near-beers' get the boot

Alcohol board wants products
to be sold only in liquor stores

From the
ANCHORAGE DAILY NEWS,
March 18, 1989,
Metro sec.

By JOHN TETPON
Daily News reporter

Reginald "Rusty" Gray, 55, loves his near-beer. He claims there is not an ounce, not even a smidgeon, of alcohol in his cans of Texas Select.

He buys it at the grocery store and sees no problem in that. "I don't get drunk on it," he said indignantly, "because there's no booze in it."

The Alcohol Beverage Control Board disagrees. There is almost a half-percent of alcohol in the brew, and the board says Gray will have to go to a liquor store to buy it.

"If the product has alcohol in it, it is an alcoholic beverage," said Patrick Sharrock, director of the liquor board. And alcoholic beverages may not be sold in grocery stores.

The flap over what is and isn't liquor came to a head last month because the state legislature decided in 1986 — and reinforced it by later rulings — that any beverage "meant for human consumption" with even minute amounts of alcohol is to be treated the same as 80 proof vodka.

But for two years now, Sharrock said, the liquor board has been trying to loosen up on the law, from one that says anything with any amount of alcohol in it is booze, to one that equals the federal definition of an alcoholic beverage — .5 percent.

Sharrock said if the legislature goes along with that, grocery stores will legally be able to sell near beers and de-alcoholized wines.

He denied, however, that the liquor board was trying to force lawmakers to act on their proposal.

Nevertheless, under the new ruling, only retailers with liquor licenses can sell near-

Please see Page C-3, ALCOHOL

ALCOHOL: Board wants 'near-beers,' 'de-alcoholized' wines off grocery store shelves

Continued from Page C-1

beers and de-alcoholized wines, a privilege currently extended only to package liquor stores.

Carrs Sears Mall store manager Terry Hegge said he estimates that fake beer and wines have been displayed in food sections for more than a year. He also said he was not aware of the ABC Board ruling.

The Sears Mall store stocks several brands of near-beer and de-alcoholized wines in its Fancy Foods section.

"No one has notified us to pull anything off the shelves," Carrs official Richard Watts said.

Most of the stores canvassed by the Daily News this week said they were not aware of the ruling, either.

Sharrock admitted that not everyone has been notified and that the ABC Board was relying on liquor wholesalers to get the word out.

"They (wholesalers) have the responsibility to sell the beverages only to those who are licensed," Sharrock said.

Wholesaler Gary Griffith, owner of Specialty Imports, said the ruling defeats the

purpose of having non-alcoholic beverages available. And people who buy non-alcoholic beverages don't generally go to liquor stores, he said.

"It's a stupid, ridiculous ruling on their (ABC Board) part," he said.

Griffith also noted that sales of non-alcoholic drinks do poorly when placed in liquor stores and do well when placed in grocery sections.

The latest squeeze of alcohol rules follows a board decision last Christmas that liqueur-filled candies were really alcoholic beverages and retailers needed liquor licenses to sell them.

Several months later, the board said amateur beer and wine makers could not submit their home brew for the annual Fur Rendezvous ribbons because a Kotzebue judge said home brewing was illegal under current law.

Rather than upset tradition, the legislature exempted the wine and beer competitions from state law for the duration of the festival.

According to Suya Hizer, manager of Safeway Stores Northway Mall liquor store, Safeway does not stock the fake beers and

wines in its food section. "Anyone who wants the beverage has to come to our liquor stores," she said.

Liquor board enforcement officer Bill Roche said although the agency would not be out raiding retailers, grocery stores and restaurants who know about the law and are caught selling fake liquor without a real liquor license can get themselves in plenty of hot water — up to a year in jail and a \$5,000 fine.

In local-option damp communities like Bethel and Kotzebue, where liquor posses-

sion is allowed but sale is prohibited, the penalty is even stiffer.

Selling the stuff without a license is a Class C felony and is punishable by a maximum five-year prison term and a \$50,000 fine, Roche said.

Sharrock said the liquor board likely will have to discuss the issue some more at its meeting in April.

To some, alcohol is alcohol — no matter how little of it there is.