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**C&RA COMMITTEE
THURSDAY
MARCH 23, 1989**

**SB 155: AN ACT RELATING TO THE TRANSFER OF CERTAIN ALCOHOLIC
BEVERAGE LICENSES
SPONSOR: RULES/GOV
FISCAL; NONE**

THE NEXT BILL BEFORE THE COMMITTEE IS SENATE BILL 155, AN ACT RELATING TO THE TRANSFER OF CERTAIN ALCOHOLIC BEVERAGES LICENSES. THIS BILL CORRECTS A CONFUSING PORTION OF THE STATUTES RELATING TO RESTAURANT AND EATING PLACE LICENSES THAT ALLOW THESE INSTITUTIONS TO PROVIDE BEER AND WINE.

PAT SHARROCK FROM THE ALCOHOL BEVERAGE CONTROL BOARD IS ON TELECONFERENCE TO TESTIFY FURTHER.

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 2 3.18.89
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

FIN

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 3.23.89

2/8/89

Mr. President:

C&RA

Committee considered

SB 155

transfer of certain alcoholic beverage licenses; efd

and recommended:

- replace with CS _____ same title
- attached amendment(s) and new title
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) attached zero
 appropriation no FN attached

fiscal impact
 Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Handwritten Signature]

[Handwritten Signature]
Chairman signature and recommendation

Committee backup attached

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Transfer of alcoholic beverage licenses
Sponsor: Sen. rules by Governor request
Requester: Sen. C & RA 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: 3/6/89
 Agency: Revenue

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



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 3, 1989

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that makes changes in existing law to eliminate an inconsistency, and resultant confusion, regarding transfer of certain alcoholic beverage licenses.

AS 04.11.360(11) and AS 04.11.400(j) relate to "restaurant or eating place licenses," which are the licenses permitting restaurants to dispense beer or wine. These exception licenses are issued without regard to the population of a given locality if the Alcoholic Beverage Control (ABC) Board determines that new licenses are necessary for the public convenience.

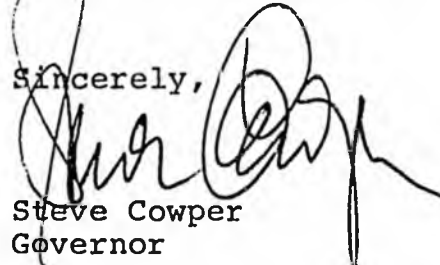
Because restaurant or eating place licenses issued under AS 04.11.400(j) are not subject to population limitations, there is no "quota" that limits the number that may be issued in a given locality. Accordingly, the licenses do not have an inherent "market value"; and as many restaurant or eating place licenses may be issued in a locality as the board finds are necessary for the public convenience. There is, therefore, no recognizable interest of a licensee in being able to market a license in conjunction with the sale of a restaurant or eating place. A person purchasing or starting a restaurant can, under strict board regulation, apply for a new beer and wine license without regard to the population levels at the time of the application. There is, therefore, no reason to permit the transfer of these licenses. Additionally, under AS 04.11.330(9), the board is required to deny renewal of a license issued under AS 04.11.400(j) if the public convenience does not require renewal.

Currently, AS 04.11.360(11) prohibits the transfer of such licenses. AS 04.11.400(j), however, creates confusion by permitting the board to approve the issuance or transfer of ownership of a restaurant or eating place license when it

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is necessary for the public convenience. This inconsistency would be resolved by deleting the provision in AS 04.11.400(j) which permits the board to approve transfer of ownership of such a license. This amendment will eliminate confusion and conflicting direction in present law.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the word "Sincerely,".

Steve Cowper
Governor

vately held license is no longer effective, whether as the result of a local option election or otherwise;

(11) the license was issued under AS 04.11.400(j);

(12) the license was issued under AS 04.11.135, unless the transferor is also applying to transfer the beverage dispensary license required under AS 04.11.135 to the same transferee. (§ 2 ch 131 SLA 1980; am § 4 ch 111 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 7, 1988, added paragraph (12).

Article 5. Restrictions on Issuance and Transfer of Licenses.

Section

400. Population limitations

450. Prohibited financial interest

Sec. 04.11.400. Population limitations. (a) Except as provided in (g), (h), (i), (j), and (k) of this section, a new license may not be issued and the board may prohibit relocation of an existing license

(1) outside an established village, incorporated city, unified municipality, or organized borough if after the issuance or relocation there would be more than one restaurant or eating place license for each 1,500 population or fraction of 1,500 population or more than one license of each other type, including licenses that have been issued under (g) or (h) of this section, for each 3,000 population or fraction of 3,000 population in a radius of five miles of the licensed premises or location of premises sought to be licensed, excluding the populations of established villages, incorporated cities, unified municipalities, and organized boroughs that are wholly or partly included within the radius;

(2) inside an established village, incorporated city, or unified municipality if after the issuance or relocation there would be inside the established village, incorporated city, or unified municipality more than one restaurant or eating place license for each 1,500 population or fraction of 1,500 population or more than one license of each other type, including licenses that have been issued under (g) or (h) of this section, for each 3,000 population or fraction of 3,000 population inside the established village, incorporated city, or unified municipality;

(3) inside an organized borough but outside an established village or incorporated city located within the borough, if after the issuance or relocation there would be inside the borough, but outside the established villages and incorporated cities located within the borough, more than one restaurant or eating place license for each 1,500 population or fraction of 1,500 population or more than one license of each other type, including licenses that have been issued under (g) or (h) of

this section, for each 3,000 population or fraction of 3,000 population inside the borough, excluding the population of those established villages that have conducted an election on a question set out in AS 04.11.490, 04.11.496, or 04.11.500, and excluding the population of incorporated cities located within the organized borough.

(b) If the radius described in (a)(1) of this section encompasses all of an established village, incorporated city, or unified municipality and the population resident inside and outside the established village, incorporated city, or unified municipality but inside the radius described in (a)(1) of the section is less than 3,000, the board may deny the issuance or relocation of the license.

(c) *(Repealed, § 88 ch 74 SLA 1985.)*

(d) In this section "radius" means the circular area or distance limited by the sweep of a straight line originating at the proposed licensed premises and extending outward.

(e) In (a)(1) of this section, "population" includes only those persons residing inside the radius not later than the date the application is received by the board and not earlier than 60 days before the application is received by the board.

(f) In (a)(2) and (3) of this section, "population" includes only those persons residing inside the established village, incorporated city, unified municipality, or organized borough as of December 31 of the year preceding the date of application.

(g) The board may approve the issuance or transfer of ownership of a beverage dispensary or restaurant or eating place license without regard to (a) of this section if it appears that the issuance or transfer will encourage the tourist trade by encouraging the construction or improvement of

(1) a hotel, motel, resort, or similar business relating to the tourist trade with a dining facility or having kitchen facilities in a majority of its rental rooms and at least a minimum number of rental rooms required according to the population of the established village, incorporated city, unified municipality or population area established under AS 04.11.400(a) in which the facility will be located, as follows:

- (A) 10 rental rooms if the population is less than 1,501;
- (B) 20 rental rooms if the population is between 1,501 and 2,500;
- (C) 25 rental rooms if the population is between 2,501 and 5,000;
- (D) 30 rental rooms if the population is between 5,001 and 15,000;
- (E) 35 rental rooms if the population is between 15,001 and 25,000;
- (F) 40 rental rooms if the population is between 25,001 and 50,000;

and

- (G) 50 rental rooms if the population is greater than 50,000; or
- (2) an airport terminal.

(h) The board may approve the issuance or transfer of ownership of a restaurant or eating place license without regard to (a) of this section if

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(i) An applicatio is limited under regard to (a) of the from the original

(1) no ground fo

(2) relocation of

(A) termination

(B) condemnatio

(C) the substant

(j) The board ma restaurant or eatin

(a) of this section license is necessar

(k) Except as pr city, unified munic may be issued, and approved by the l

(1) the issuance limitation contain resolution adopted organized borough relocated; and

(2) after issuanc porated city or un but outside the in than one club lice population. (§ 2 cl — 16 ch 93 SLA

Effect of amendm amendment, effective stituted "(i), (j), and (k)

Sec. 04.11.450.

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(b) A person wh ness, brewery, wir solely or together age store license. issued a brewpub

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(1) the premises of the restaurant or eating place are more than 18 miles from the corporate limits of a city or unified municipality;
(2) the premises will serve food to the traveling public; and
(3) the board finds that the public convenience will be served by the issuance or transfer.

(i) An application requesting a transfer of location of licensed premises limited under (a) or (b) of this section shall be granted without regard to (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.

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

(k) Except as provided in (i) of this section, within an incorporated city, unified municipality or an organized borough, a new club license may be issued, and the relocation of an existing club license may be approved by the board if

(1) the issuance or relocation of club licenses under the population limitation contained in (2) of this subsection has been approved by resolution adopted by the incorporated city, unified municipality, or organized borough within which the club license is to be issued or relocated; and

(2) after issuance or relocation there would not be, inside the incorporated city or unified municipality, or inside the organized borough but outside the incorporated cities located within the borough, more than one club license for each 1,500 population or fraction of 1,500 population. (§ 2 ch 131 SLA 1980; am § 88 ch 74 SLA 1985; am §§ 9 — 16 ch 93 SLA 1985; am §§ 3, 4 ch 17 SLA 1988)

Effect of amendments. — The 1988 amendment, effective April 8, 1988, substituted "(i), (j), and (k)" for "(i), and (j)" in the introductory language of subsection (a) and added subsection (k).

Sec. 04.11.450. Prohibited financial interest. (a) A person other than a licensee may not have a direct or indirect financial interest in the business for which a license is issued.

(b) A person who is a representative or owner of a wholesale business, brewery, winery, bottling works, or distillery may not be issued, solely or together with others, a beverage dispensary license or package store license. A holder of a beverage dispensary license may be issued a brewpub license, subject to the provisions of AS 04.11.135.