

S B

157

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 157

SPONSOR Governor

BILL TITLE Civil fine for violation of ABC statutes,
regulatory or ordinance

DATE REFERRED 2-8-89

HEARING SCHEDULED 4-26-89, 5-3-89

FISCAL NOTE PREPARED ✓

SPONSOR CONTACTED

INTERESTED PARTIES CONTACTED

Teleconference
1:30 - 2:30



✓ Pat Sharrock 277-8638
~~586-6201~~
no ✓ Matt Felix, SOADA 586-6201
will call
Cliff Guth, DOR 2300
maybe ✓ CHARR Kim Hutchinson 586-1776

OTHER

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 4-20-89
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 5-4-89

2/8/89

Mr. President:

STATE AFFAIRS Committee considered SB 157

imposition of a civil fine for violation of a statute, regulation, or ordinance related to alcoholic beverages

and recommended:

replace with CS SB 157 (st aff) same title
 attached amendment(s) and new title

letter of intent adopted

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
updated

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Jan. Smith
Tom Kelly

Pat Lambert do pass

Chairman signature and recommendation

Committee backup attached

adopted

SB 157, CIVIL FINES FOR VIOLATIONS OF ALCOHOL BEVERAGE LAWS

AMENDMENT #1

Page 1, line 17. Insert a new subsection to read:

(b) The board shall by regulation adopt a schedule of fines that a licensee may be required to pay under this section. A fine may not exceed the greater of:

(1) \$100,000; or

(2) an amount which is three times the pecuniary gain realized by the licensee as a result of the violation.

AMENDMENT #2

Page 1, line 13. Amend to read:

"... licensee or permittee that the board determines, at a proceeding [HEARING] under ..."

RATIONALE: This would allow for resolution of a violation prior to a formal hearing, but would not preclude a formal hearing if the licensee or the Board desired one.

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2

SENATE BILL NO. 157

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 imposition of a civil fine for
7 violation of a statute, regulation, or ordinance
8 related to alcoholic beverages."

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

10 * Section 1. AS 04.11 is amended by adding a new section to read:

11 Sec. 04.11.575. CIVIL FINE. In addition to any other penalties
12 imposed under this title, the board may impose a civil fine upon a
13 licensee or permittee that the board determines, at a hearing under
14 AS 04.11.510(c), has violated a provision of this title, a regulation
15 adopted under this title, or an ordinance adopted in accordance with
16 AS 04.21.010.

17 * Sec. 2. AS 04.11.590(a) is amended to read:

18 (a) Money collected from licenses and civil fines under this
19 title shall be transferred by the board to the Department of Revenue
20 and deposited in the general fund.

21 * Sec. 3. AS 04.11.590 is amended by adding a new subsection to read:

22 (c) The commissioner of administration shall separately account
23 for all application fees, license fees, and civil fines collected
24 under this title that the Department of Revenue deposits in the gener-
25 al fund. The annual estimated balance in the account may be used by
26 the legislature to make appropriations to the department to carry out
27 the purposes of AS 04.06.

ABC Board

SB 157 CIVIL FINES FOR VIOLATIONS OF ALCOHOL LAWS

TO TESTIFY

PAT SHARROCK, A.B.C. BOARD (TELECONFERENCE FROM ANCHORAGE) ---

HE'LL SPEAK TO THE AMENDMENTS

F.Y.I.

BILL WAS HEARD 4/26/89.

CONCERN THAT BOARD WOULD HAVE TOO MUCH DISCRETION IN SETTING FINES. AMENDMENT #1 ADDRESSES THIS --

1. FINE SCHEDULE IN REGULATIONS (THIS IS HOW OREGON AND WASHINGTON DO IT. DIFFERENT LEVEL OF FINE FOR DIFFERENT TYPES OF OFFENSE, TYPE OF LICENSE (BASED PRIMARILY ON SIZE OF ESTABLISHMENT -- INTENDED TO RECOGNIZE MONETARY LOSS THAT WOULD OCCUR IF BAR WERE CLOSED DOWN AS A RESULT OF VIOLATION), AND IF REPEAT OFFENSE.
2. ESTABLISHES MAXIMUM FINE

AMENDMENT #2 - REQUESTED BY SHARROCK --

REFERENCE "PROCEEDING" INSTEAD OF "HEARING" -- GIVES BOARD AND LICENSEE FLEXIBILITY IN RESOLVING VIOLATION. COULD "SETTLE" PRIOR TO GOING TO TO A FORMAL HEARING.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Civil fine for violation of laws related to alcoholic beverages.
Sponsor: Sen. Rules by Governor request
Requestor: Sen. State Affairs Committee

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
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
LANDS & 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
REVENUE	Note	--	--	--	--	--

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:

Note: Revenue generated from civil fines imposed by the board cannot be projected.

Prepared By: Patrick L. Sharrock, Director Phone: 277-8638
Division: Alcoholic Beverage Control Board Date: March 6, 1989

Approved by Commissioner: Hugh Malone *Ray* Date: March 6, 1989
Agency: Department of Revenue *For*

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

The changes made in the state affairs CS have no fiscal effect. This fiscal note is appropriate.
S. Schubert
5/3/89

Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman
Sen. Al Adams
Sen. Tim Kelly
Sen. Rick Uehling



P.O. Box V
State Capitol
Juneau, Alaska 99811

907-465-3712

Senate State Affairs Committee

MEMORANDUM

TO: Senate State Affairs Committee
FROM: Senator Pat Pourchot, Chairman
RE: May 3 Committee Hearing
DATE: May 2, 1989

On Wednesday, May 3 at 1:30 p.m. in the Beltz Room the following bills will be back before the Senate State Affairs Committee:

SB 154, An Act relating to equipment lease-financing and authorizing a master equipment lease-financing project

SB 154 would authorize the Alaska State Building Authority to finance and acquire equipment for lease to the state. Individual lease-purchases from all state agencies would be consolidated into one or more "master leases". The advantage would be a reduction in interest cost.

At our earlier hearing on SB 154, there was concern that savings realized by state agencies through a master lease not be spent on other agency budget items, but used to reduce agency budgets. Attached is an amendment that would require the Department of Administration to annually report lease savings to the legislature on an agency-by-agency basis, thus allowing the legislature the opportunity to reduce agency budgets accordingly.

SB 157, An Act relating to imposition of a civil fine for violation of a statute, regulation, or ordinance related to alcoholic beverages

SB 157 would authorize the Alcohol Beverage Control Board to assess civil fines against liquor licensees who violate liquor laws. As introduced, the bill did not specify the amount of the fines, leaving fine setting to the sole discretion of the board.

Attached is an amendment which would require the ABC Board to establish a schedule of fines in regulation, and would limit any fine to the greater of \$100,000 or an amount which is three times the pecuniary gain realized by the licensee as a result of the violation. This is patterned after the existing provision in Alaska's criminal code regarding fines.

Committee Memo
May 3, 1989
Page 2

In addition, the following bills will be heard:

HJR 19am, Ratifying an amendment to the Constitution of the United States concerning the compensation of members of the United States Congress

HJR 19 would ratify an amendment to the U.S. Constitution that would disallow any increases in pay for members of Congress from going into effect until after an intervening election had taken place. The amendment was proposed in 1789 and to date has been ratified by 26 states. To become effective, it must be approved by 38 states.

CSHB 83(Fin), An Act relating to legal holidays; and establishing Martin Luther King, Jr., Day as a legal holiday

HB 83 would establish the third Monday of January, known as Martin Luther King, Jr.'s Birthday, as a legal holiday. Lincoln's and Washington's birthdays would be combined on the third Monday in February as President's Day. This would result in an observance for Dr. King without the addition of another paid day of leave.

The bill also provides that King's birthday would be a legal holiday for state employees only if provided for in their collective bargaining agreements.

Martin Luther King Day was statutorially established as a day of commemoration in 1982. Governor Cowper issued a proclamation in January 1989 designating it a legal holiday for this year.

CSHB 87(Fin)am, An Act relating to the state budget and to long-term financial plans for the state

HB 87 would require that the Governor annually submit to the legislature a long-term financial plan. The plan must include projections of expenditures for the next six fiscal years and projections of revenues for the next ten fiscal years. The legislature would be required to adopt or revise the plan.

In addition, HB 87 would require that the Governor's annual capital improvements proposal include the estimated annual maintenance and operation costs for the useful life of each project.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Civil fine for violation of laws related to alcoholic beverages.
Sponsor: Sen. Rules by Governor request
Requestor: Sen. State Affairs Committee

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

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
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
LANDS & 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
REVENUE	Note	--	--	--	--	--

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:

Note: Revenue generated from civil fines imposed by the board cannot be projected.

Prepared By: Patrick L. Sharrock, Director
Division: Alcoholic Beverage Control Board

Phone: 277-8638

Date: March 6, 1989

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: March 6, 1989

Distribution (by preparer):

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

Sec. 12.55.035. Fines. (a) Upon conviction of an offense, a defendant may be sentenced to pay a fine as authorized in this section or as otherwise authorized by law. In determining the amount and method of payment of a fine, the court shall take into account the financial resources of the defendant and the nature of the burden its payment will impose. No defendant may be imprisoned solely because of inability to pay a fine.

(b) Upon conviction of an offense, a defendant who is not an organization may be sentenced to pay, unless otherwise specified in the provision of law defining the offense, a fine of no more than

(1) \$75,000 for murder in the first or second degree, attempted murder in the first degree, sexual assault in the first degree, sexual abuse of a minor in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree;

(2) \$50,000 for a class A, B, or C felony;

(3) \$5,000 for a class A misdemeanor;

(4) \$1,000 for a class B misdemeanor;

(5) \$300 for a violation.

(c) Upon conviction of an offense, a defendant that is an organization may be sentenced to pay a fine not exceeding the greater of

(1) \$100,000; or

Criminal Code

285

(2) an amount which is three times the pecuniary gain realized by the defendant as a result of the offense.

(d) If a defendant is sentenced to pay a fine, the court may grant permission for the payment to be made within a specified period of time or in specified installments. (§ 12 ch 166 SLA 1978; am § 17 ch 45 SLA 1982; am § 26 ch 143 SLA 1982; am § 4 ch 59 SLA 1988; am § 18 ch 85 SLA 1988)

Effect of amendments. — The first 1988 amendment inserted "attempted murder in the first degree" in subsection (b)(1).

The second 1988 amendment, effective June 2, 1988, inserted "sexual abuse of a

minor in the first degree" in subsection (b)(1).

While neither amendment gave effect to the other, both have been given effect in this section as set out above.

NOTES TO DECISIONS

Court is under duty to consider defendant's earning capacity in connection with any imposition of a fine or restitution. Failure to do so requires automatic reversal and remand. *Ashton v. State, Ct. App. Op. No. 712 (File No. A-1944), 737 P.2d 1365 (1987).*

Applied in *Wilson v. State, Ct. App. Op. No. 816 (File No. A-1948), P.2d (1988).*

Cited in *Constantine v. State, Ct. App. Op. No. 717 (File Nos. A-1247, A-1409, A-1414), P.2d (1987).*

Sec. 12.55.045. Restitution. (a) The court may order a defendant convicted of an offense to make restitution as provided in this section, including restitution to the victim, to a public, private, or private nonprofit organization that has provided counseling, medical, or shelter services to the victim, or as otherwise authorized by law. A defendant is presumed to have the ability to pay restitution unless the defendant establishes the inability to pay by a preponderance of the evidence. In determining the amount and method of payment of restitution, the court shall take into account the

(1) public policy that favors requiring criminals to compensate for damages and injury to their victims;

(2) financial burden placed on the victim and those who provide services to the victim as a result of the criminal conduct of the defendant; and

(3) financial resources of the defendant and the nature of the burden its payment will impose on dependents of the defendant.

(b) An order of restitution under this section does not limit any civil

- (B) lubricating oils;
- (C) waste oil and waste oil mixtures; and
- (D) crude oils;
- (3) low dispersibility
 - (A) bunker and residual fuel oils;
 - (B) asphalt;
 - (C) tars; and
 - (D) other petroleum, petroleum products, and byproducts not otherwise listed in (1) or (2) of this section. (Eff. 4/19/78, Register 66)

Authority: AS 46.03.758

18 AAC 75.570. SCHEDULE OF CIVIL PENALTIES. The schedule of civil penalties for which a person may be held liable under AS 46.03.758(e) is established as follows:

18 AAC 75.570 ALASKA ADMINISTRATIVE CODE 18 AAC 75.570

(1) The base civil penalty for discharges into various receiving environments is as follows:

	Freshwater	Marine	Public Land
Critical environmental resources	\$10.00	\$2.50	\$1.00
Very sensitive environmental resources	N/A	N/A	.75
Sensitive environmental resources	5.00	2.00	.50
Without significant environmental resources	1.00	1.00	.25

(2) Toxicity, degradability and dispersibility factors are as follows:

	Factor
(A) toxicity*	
(i) highly toxic	1.0
(ii) moderately toxic	0.75
(iii) less toxic	0.5
(iv) relatively nontoxic	0.25
(B) degradability**	
(i) low degradability	1.0
(ii) moderate degradability	0.5
(iii) high degradability	0.25
(C) dispersibility	
(i) high dispersibility	0.15
(ii) moderate dispersibility	0.5
(iii) low dispersibility	1.0

(3) The net civil penalty which will be assessed per gallon of oil discharged is calculated by multiplying the base penalty established in (1) of this section by the arithmetic mean of the toxicity, degradability, and dispersibility factors established in (2) of this section. If a portion of the oil enters more than one receiving environment, the civil penalty will be based upon the most sensitive receiving environment which that portion of the oil enters. (Eff. 4/19/78, Register 66)

Authority: AS 46.03.758

*To determine the toxicity factor for a particular oil, the factor from the table is multiplied by a fraction whose numerator is the percent concentration of aromatics in the oil and whose denominator is 45. In no event shall the toxicity factor exceed 1.0.

The toxicity factor in crude oil is .75 multiplied by a fraction whose numerator is the API gravity of the crude oil and whose denominator is 30.

**The degradability factor for crude oil is .5 multiplied by a fraction whose numerator is 30 and whose denominator is the API gravity of the crude oil.

DEC
regs.

(8) "vessel" means any form or manner of watercraft, whether or not capable of self-propulsion, except offshore platforms. (§ 1 ch 129 SLA 1977; am §§ 1-3 ch 128 SLA 1978; am § 110 ch 59 SLA 1982; am § 19 ch 59 SLA 1986)

Reviser's notes. — In 1987, a reference in paragraph (b)(1) of this section was changed to "(2) of this section" to correct a manifest error.

Cross references. — For provision that actions brought under this section may be brought directly against insurers or other persons providing evidence of financial responsibility, see AS 46.04.040(e).

For schedule of civil penalties under (b) of this section, see 18 AAC 75.510 — 18 AAC 75.600.

Effect of amendments. — The 1986 amendment repealed subsection (k), concerning the "oil spill mitigation account."

Editor's notes. — The effective date (referred to in (e) of this section) of the regulation adopting the schedules is April 19, 1978.



Sec. 46.03.760. Civil action for pollution; damages. (a) A person who violates or causes or permits to be violated a provision of this chapter other than AS 46.03.250 — 46.03.314, or a provision of AS 46.04 or AS 46.09, or a regulation, a lawful order of the department, or a permit, approval, or acceptance, or term or condition of a permit, approval, or acceptance issued under this chapter or AS 46.04 or AS 46.09 is liable, in a civil action, to the state for a sum to be assessed by the court of not less than \$500 nor more than \$100,000 for the initial violation, nor more than \$5,000 for each day after that on which the violation continues, and that shall reflect, when applicable,

(1) reasonable compensation in the nature of liquidated damages for any adverse environmental effects caused by the violation, which shall be determined by the court according to the toxicity, degradability and dispersal characteristics of the substance discharged, the sensitivity of the receiving environment, and the degree to which the discharge degrades existing environmental quality;

(2) reasonable costs incurred by the state in detection, investigation, and attempted correction of the violation;

(3) the economic savings realized by the person in not complying with the requirement for which a violation is charged.

(b) Except as determined by the court under (f)(4) of this section, actions under this section may not be used for punitive purposes, and sums assessed by the court must be compensatory and remedial in nature.

(c) The court, upon motion of the department or upon its own motion, may defer assessment of all or part of that portion of the sum imposed upon a person under (a)(3) of this section conditioned upon the person complying, within the shortest feasible time, with the requirement for which a violation is shown.

(d) As used in this section, "economic savings" means that sum which a person would be required to expend for the planning, acquisi-

siting, construction, installation and operation of facilities necessary to effect compliance with the standard violated.

(e) In addition to liability under (a) — (d) of this section, a person who violates or causes or permits to be violated a provision of AS 46.03.740 — 46.03.750 is liable to the state, in a civil action brought under AS 46.03.822, for the full amount of actual damages caused to the state by the violation, including direct and indirect costs associated with the abatement, containment or removal of the pollutant, restoration of the environment to its former state, and all incidental administrative costs.

(f) A person who violates or causes or permits to be violated a provision of AS 46.03.250 — 46.03.314, or a regulation, a lawful order of the department, or a permit, approval, or acceptance, or term or condition of a permit, approval, or acceptance issued under AS 46.03.250 — 46.03.314 is liable, in a civil action, to the state for a sum to be assessed by the court of not less than \$500 nor more than \$100,000 for the initial violation, nor more than \$10,000 for each day after that on which the violation continues, and that shall reflect, when applicable,

(1) reasonable compensation in the nature of liquidated damages for any adverse environmental effects caused by the violation, that shall be determined by the court according to the toxicity, degradability and dispersal characteristics of the substance discharged, the sensitivity of the receiving environment, and the degree to which the discharge degrades existing environmental quality;

(2) reasonable costs incurred by the state in detection, investigation, and attempted correction of the violation;

(3) the economic savings realized by the person in not complying with the requirement for which a violation is charged; and

(4) the need for an enhanced civil penalty to deter future noncompliance. (§ 3 ch 120 SLA 1971; am § 9 ch 220 SLA 1976; am § 5 ch 266 SLA 1976; am §§ 5, 6 ch 116 SLA 1980; am §§ 5 — 7 ch 77 SLA 1984; am § 9 ch 59 SLA 1986)

Cross references. — For oil pollution control, see AS 46.04. For provision that actions brought under (a) and (e) of this section may be brought directly against insurers or other persons providing evidence of financial security, see AS 46.04.040(e).

Effect of amendments. — The 1984 amendment substituted "other than AS 46.03.250 — 46.03.314, or a provision of"

for "or" in the introductory language of subsection (a) and made a series of technical changes through the rest of this subsection, added "Except as determined by the court under (f)(4) of this section" at the beginning of subsection (b), and added subsection (f).

The 1986 amendment in the introductory language of subsection (a) inserted "or AS 46.09" in two places.

DEC statute

Washington
all
copied

WASHINGTON STATE LIQUOR CONTROL BOARD

Olympia

July 12, 1988

SUMMARY OF BOARD ORDERS ISSUED BY WASHINGTON STATE LIQUOR CONTROL BOARD DISPOSING OF CHARGES OF VIOLATIONS BY LICENSEES.

Asiamer Corporation
System I
440 16th Avenue NE - Bldg. B
Auburn, Washington 98002

Class H
Hearing File No. 13,783
License No. 072120

ORDER VACATING LICENSE SUSPENSION

Charge: Licensee or employee thereof allowed a person apparently under the influence of liquor consume liquor on the licensed premises.

Penalty: License suspension vacated on payment of a monetary penalty in the amount of \$774.00.

Consolidated Restaurants, Inc.
Elliott's On The Pier Steamer-Fishbar
1203 Alaskan Way - Pier 56
Seattle, Washington

Class M-1
Hearing File No. 13,630
License No. 356126

ORDER VACATING LICENSE SUSPENSION

Charge: Licensee sold liquor at special occasions without having obtained from the Board approval for the date and location of the special occasion.

Penalty: License suspension vacated on payment of a monetary penalty in the amount of \$227.36.

Tom Coffal
Marie Coffal
Sundown Saloon
118 East Washington
Sequim, Washington 98382

Class BCEP
Hearing File No. 13,779
License No. 352383

ORDER OF SUMMARY LICENSE SUSPENSION

Charge: Licensees permitted persons apparently under the influence of liquor to consume liquor on the licensed premises.

Penalty: License suspension vacated on payment of a monetary penalty in the amount of \$33.53.

Les E. Tomajka
Marvin Ray Wolever
Sumner Builders, A Partnership
Sharkey's 'A' Pub
1005 Main Street
Sumner, Washington 98390

Class BSEP
Hearing File No. 13,773
License No. 352772

ORDER VACATING LICENSE SUSPENSION

Charge: Licensees served and allowed to be consumed upon the licensed premises liquor between the hours of 2 a.m. and 6 a.m.

Penalty: License suspension vacated on payment of a monetary penalty in the amount of \$500.00.

Express Lane, Ltd. Partnership
Gull Industries, Inc., Gen. Partner
Express Lane Food Mart No. 1634
478 Grand Road
East Wenatchee, Washington 98802

Class EF
License No. 366921
Hearing File No. 13,775 & 13,776

ORDER VACATING LICENSE SUSPENSION

Charge: Licensee supplied liquor for off-premises consumption to persons under the age of twenty-one years.

Penalty: License suspension vacated on payment of a monetary penalty in the amount of \$1,000.00.

Lloyd E. Fryhoyer
Ninoska M. Fryhoyer
North Avenue Market
1816 North Wenatchee Avenue
Wenatchee, Washington 98801

Class KF
Hearing File No. 13,781
License No. 367573

ORDER VACATING LICENSE SUSPENSION

Charge: Licensees supplied liquor for off-premises consumption to a person under the age of 21 years.

Penalty: License suspension vacated on payment of a monetary penalty in the amount of \$500.00.

L. W. Pedersen

L. W. PEDERSEN, CHAIRMAN OF THE BOARD

SIGN OFF
LIST

A B C D E F G

Oregon

845-06-200 (5) MAJOR VIOLATIONS PENALTY SCHEDULE

STATUTES	ADMIN. RULE	VIOLATIONS	SUCCESSIVE VIOLATIONS				All violations subject to cancellation	
			1st	2nd	3rd	4th		
			Suspension	Fine	Suspension	Fine	Suspension	Fine
471.210 471.315(1)(c) 472.180(3)		Failed to maintain bond		\$650 plus suspension until bond provided	\$650 plus suspension until bond provided	\$1300 plus suspension until bond provided		
471.305		Brewery or wholesaler delivered to unlicensed location	5 days	325	10 days	650	30 days	1950
471.315(1)(b) 471.385(1)(a) 472.180(2)		Made false representation or statement	15 days	975	Cancel *			
471.315(1)(d) 472.180(5)		Maintained noisy establishment	30 days	650	20 days	1300	Cancel *	
		Maintained lewd or disorderly establishment	15 days	975	Cancel *			
471.315(1)(f) 472.180(7)		Used alcoholic liquor or drugs to excess	15 days	975	Cancel *			
471.315(1)(g) 471.410 472.180(8) 472.310(3)	*	Knowingly sold to minor	7 days	455	15 days	975	30 days	1950
		Made liquor available to minor						
		OR						
	*	Knowingly sold to visibly intoxicated person	10 days	650	20 days	1300	Cancel *	
		Made liquor available to visibly intoxicated person						
471.315(1)(h) 471.425(3) 472.137(9) 472.317(7)		Misrepresented liquor sold	7 days	455	15 days	975	Cancel *	
471.315(1)(i) 471.395(1)(b) 472.180(10)		Convicted of felony	Cancel					

EXHIBIT 1
845-06-200(5)

* Applies only to successive offense of this particular violation

369374 1P # 9.907 5869544: # 4

5-1-89 10:39AM

SENT BY: A

845-06-200 (5) MAJOR VIOLATIONS PENALTY SCHEDULE

STATUTES	ADMIN. RULE	VIOLATIONS	SUCCESSIVE VIOLATIONS				All violations subject to cancellation	
			1st Suspension	1st Fine	2nd Suspension	2nd Fine		3rd Suspension
471.330(1) 471.365		Failed to permit examination of records or premises	10 days	\$650 and provide records	20 days	\$1300	Cancel *	
471.360(1)(b)		Allowed employee to sell without permit	5 days	325	10 days	650	20 days	\$1300
471.360(1)(c)		Failed to show permit to inspector	10 days	650	20 days	1300	Cancel *	
471.365(2)		Allowed use of permit by another	Cancel					
471.365(2)		Failed to verify identification	5 days	325	10 days	650	20 days	1300
471.375(1)		Licensee failed to send permit application and fee to Commission	5 days	325	10 days	650	20 days	1300
471.375(2)		Licensee failed to verify applicant's age	7 days	455	15 days	975	30 days	1950
471.405(1) 472.310(1)		Delivered to unlicensed premises Sold liquor other than license permits	10 days	650	20 days	1300	Cancel *	
471.465 471.415 471.470	845-06-070 845-06-075(1)	Financial assistance	5 days	325	10 days	650	20 days	1300
471.675		Interfered with enforcement	10 days	650	Cancel *			
472.310(1)		Private club sold to non-member	7 days	455	15 days	975	30 days	1950

845-06-230 (5) MAJOR VIOLATIONS PENALTY SCHEDULE

STATUTES	ADMIN. RULE	VIOLATIONS	SUCCESSIVE VIOLATIONS								
			1st		2nd		3rd		4th		
			Suspension	Fine	Suspension	Fine	Suspension	Fine	Suspension	Fine	All violations subject to cancellation
OREGON ADMINISTRATIVE RULES, CHAPTER 845											
	845-06-010	True name not on application			Cancel						
		Failed to notify prior to complete change of ownership			Cancel						
		Willful hidden ownership			Cancel						
		Negligent hidden ownership	7 days	\$455	Cancel *						
	845-06-030	After hours operation	7 days	455	15 days	875	30 days	1950			
	845-06-035(2)(a)	Permitted minor to consume	5 days	325	10 days	650	20 days	1300			
	845-06-035(2)(b)	Permitted minor to enter or remain	3 days	195	5 days	325	10 days	650			
	(3)(c)	Permitted minor entertainer to mingle									
	845-06-035(3)(a)	Permitted minor to work in prohibited area	3 days	195	7 days	455	15 days	975			
	845-06-035(4)(b)	Permitted minor to unlawfully sell or serve	7 days	455	15 days	975	30 days	1950			
	845-06-045(1)	Drinking on duty	7 days	455	15 days	975	30 days	1950			
	845-06-045(2)	Permitted disorderly or boisterous conduct	7 days	455	15 days	975	30 days	1950			
	845-06-045(4)	Permitted criminal conduct on premises	10 days	650	15 days	975	30 days	1950			
	845-06-050	Allowed unauthorized liquor on premises	5 days	325	10 days	650	20 days	1300			

* Applies only to successive offense of this particular violation

845-06-230 (5) MAJOR VIOLATIONS PENALTY SCHEDULE

STATUTES	NOMIN. RULE	VIOLATIONS	SUCCESSIVE VIOLATIONS							
			1st		2nd		3rd		4th	
			Suspension	Fine	Suspension	Fine	Suspension	Fine	All violations subject to cancellation	
	845-06-105(3)	Failed to reopen premises	Cancel							
	845-08-010 845-08-015(1)	Failed to keep records of food and liquor sales	5 days	\$325	10 days	\$650	20 days	\$1300		
	845-09-015	Food service violation	7 days	455	15 days	975	Cancel *			
	845-10-170 845-06-070(13)	Manufacturer, wholesaler or importer failed to maintain required records	5 days	325	10 days	650	20 days	1300		

* Applies only to successive offense of this particular violation

36997-4 # 9.907 5869544; # 6

5-1-89 10:41AM

SENT BY: A

845-06-200 (6) MIROR VIOLATIONS PENALTY SCHEDULE

STATUTES	ADMIN. RULE	VIOLATIONS	SUCCESSIVE VIOLATIONS								All violations subject to cancellation
			1st Suspension	1st Fine	2nd Suspension	2nd Fine	3rd Suspension	3rd Fine	4th Suspension	4th Fine	
471.250(1) 471.265(1) 472.110(2) or (3) 472.205		(Unlawfully permitted liquor to leave premises	3 days	\$195	5 days	\$325	10 days	\$650	15 days	\$975	
471.315(1)(a) 471.385(1)(b) 472.180(10)		Convicted of misdemeanor	3 days	195	5 days	325	10 days	650	15 days	975	
471.375(1)		Licenses failed to keep service permit application on premises	3 days	195	5 days	325	10 days	650	15 days	975	
471.478	845-06-085	Failed to comply with bag sale law	3 days	195	5 days	325	10 days	650	15 days	975	
471.480	845-06-035(4)(a)	Allowed juvenile to sell (PS license only)	3 days	195	5 days	325	10 days	650	15 days	975	
471.485		Payment upon delivery	3 days	195	5 days	325	10 days	650	15 days	975	
471.495		Wholesaler failed to inform Commission of receipt of NSF check	3 days	195	5 days	325	10 days	650	15 days	975	

EXHIBIT 2
845-06-200(6)

369977 1st # 9.907 5869544: # 9

; 5-1-69 10:42AM ;

SENT BY: A

845-06-200 (6) MINOR VIOLATIONS PENALTY SCHEDULESUCCESSIVE VIOLATIONS

STATUTES	ADMIN. RULE	VIOLATIONS	SUCCESSIVE VIOLATIONS										
			1st		2nd		3rd		4th		5th		
			Suspension	Fine	Suspension	Fine	Suspension	Fine	Suspension	Fine	Suspension	Fine	All violations subject to cancellation
<u>OREGON ADMINISTRATIVE RULES, CHAPTER 845</u>													
845-06-020		Corporate licenses failed to advise of change	3 days	\$195	5 days	\$325	10 days	\$650	15 days	\$975			
845-06-040		Improper minor posting	3 days	195	5 days	325	10 days	650	15 days	975			
845-06-055		Gave liquor as prize	3 days	195	5 days	325	10 days	650	15 days	975			
845-06-060		License certificate not in public view	3 days	195	5 days	325	10 days	650	15 days	975			
845-06-065		NSF check		Letter of Reprimand		Cash basis (money order, cashier's check, certified check) for 6 months or 3 days	\$195	for 12 months or 5 days	\$325	10 days	none		
845-06-100		Altered without approval	3 days	195	5 days	325	10 days	650	15 days	975			and restore premises if alteration unsatisfactory
845-06-105		Failed to notify Commission of closure	3 days	195	5 days	325	10 days	650	15 days	975			
845-07-005 -- 845-07-035		Advertising	3 days	195	5 days	325	10 days	650	15 days	975			
845-08-005		Retailer failed to maintain required records	3 days	195	5 days	325	10 days	650	15 days	975			
845-08-025		Closed premises for private party without notice	3 days	195	5 days	325	10 days	650	15 days	975			
845-08-035		Failed to post public notice of pre-mixed drinks	3 days	195	5 days	325	10 days	650	15 days	975			

845-06-200 (6) MINOR VIOLATIONS PENALTY SCHEDULE

STATUTES	ADMIN. RULE	VIOLATIONS	SUCCESSIVE VIOLATIONS									
			1st		2nd		3rd		4th		5th	
			Suspension	Fine	Suspension	Fine	Suspension	Fine	Suspension	Fine	All violations subject to cancellation	
	845-10-160	Driver-salesman without employer permit	3 days	\$195	5 days	\$325	10 days	\$650	15 days	\$975		
	845-10-210	Price posting violation	3 days	195	5 days	325	10 days	650	15 days	975		
459.820 459.830 459.840 459.850		Beverage Container Act violation	3 days	195	5 days	325	10 days	550	15 days	975		

Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Falks, Vice Chairman
Sen. Al Adams
Sen. Tim Kelly
Sen. Rick Uehling



P.O. Box V
State Capitol
Juneau, Alaska 99811

907-465-3712

Senate State Affairs Committee

MEMORANDUM

TO: Senate State Affairs Committee Members
FROM: Senator Pat Pourchot, Chairman
RE: April 26 Committee Memo
DATE: April 25, 1989

On Wednesday, April 26 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hear the following bills:

SJR 46, Supporting the establishment of a Joint Commission on the Status of Alaska Natives by Congress

SJR 46 would support the establishment of a Joint Commission on the Status of Alaska Natives and commit the state to actively participate on the commission. The commission would be charged with conducting a comprehensive review of federal and state policies affecting Alaska Natives and the current health, social, and economic status of Alaska Natives.

The resolution that would establish the Commission is pending introduction in the U.S. Senate. The effort stems from the recently published AFN Report on the Status of Alaska Natives.

SSSB 72, An Act relating to registration and licensing of contractors; prohibiting the use of state money for certain residential work unless the work is performed by a licensed residential contractor

SB 72 would require that contractors who construct or alter privately-owned residential structures of one to four units have a residential endorsement on their license. To receive the endorsement, the contractor would need to pass a written or practical exam which tests competence in arctic construction techniques, and complete the Alaska Craftsman Home program or a postsecondary course in arctic engineering or its equivalent.

The Labor and Commerce C.S. clarified that the residential requirement would be an endorsement to the general contractor's license rather than a separate license, allowed participation in programs equivalent to the Alaska Craftsman Home program, and allowed the exemptions in current statute for small projects and owner-built projects.

SB 157. An Act relating to imposition of a civil fine for violation of a statute, regulation, or ordinance related to alcoholic beverages

SB 157 would authorize the Alcoholic Beverage Control Board to assess civil fines against liquor licensees who violate liquor laws. The fine would be in addition to license suspension or revocation, and would follow the suspension/revocation hearing required under current statute. The amount of the fine would be determined by the Board.

The bill would also provide the Board with program receipt authority. Fees and fines would be separately accounted for and could be appropriated by the legislature to fund the Board's operation.

SB 192. An Act relating to legislators' eligibility for long-term per diem

SB 192, which would limit eligibility for long term per diem during the interim to days spent attending meetings of a legislative committee or subcommittee, was heard by the State Affairs Committee on April 10. No action was taken pending action by the Legislative Council on a revised per diem policy.

The Council policy, adopted April 24, is attached. It provides that to qualify for interim per diem a legislator must attend a meeting for a legislative or public purpose, or spend at least four hours of that day on legislative and constituent business.

Also attached is a fiscal note for SB 192, indicating savings of \$161,700. Fiscal impact of the new Council policy has not yet been determined.

CSHB 93(Jud). An Act relating to a duty of the director of the division of elections and to voter registration by the Department of Public Safety

HB 93 would require that the Division of Elections provide voter registration forms to the Division of Motor Vehicles, and that DMV advise persons registering their vehicles or applying for drivers' licenses that they may also register to vote.

According to the Division of Elections, most motor vehicle registration outlets currently provide voter registration services. Elections provides training to DMV personnel; DMV forwards completed voter registration forms to Elections.

In addition, SJR 38. Proposing an amendment to the Constitution of the State of Alaska relating to terms of legislators, will be before the committee. Due to time constraints, the bill was not heard on April 24 as scheduled.

157POOP.TXT
4/26/89

SB 157 CIVIL FINE FOR VIOLATION OF A.B.C. LAWS

TO TESTIFY:

PAT SHARROCK, A.B.C. BOARD (TELECONFERENCE FROM ANCHORAGE)

I NOTIFIED: KIM HUTCHINSON, C.H.A.R.R.
MATT FELIX, S.O.A.D.A.

F.Y.I.

THE FINE WOULD BE IN ADDITION TO LICENSE SUSPENSION OR
REVOCATION. AMOUNT OF FINE WOULD BE DETERMINED BY BOARD --
SHOULD WE PUT SOME LIMITS ON IT?

SEC. 3 IS THE STANDARD PROGRAM RECEIPT LANGUAGE.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

157

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 gives the Alcoholic Beverage Control (ABC) Board the authority to assess a civil fine against a liquor licensee or permittee if the board finds that the licensee violated a statute, a regulation, or a local ordinance relating to alcoholic beverages.

Under AS 04.11.370, the board currently must suspend or revoke a liquor license or permit for certain reasons, including violation of provisions of AS 04, regulations adopted under AS 04, and local ordinances pertaining to liquor. The ABC Board does not, however, have the authority to assess a fine against a liquor licensee or permittee who is found to have violated a provision of the law, either personally or through an agent or employee. Many instances have arisen where the ABC Board has felt that a fine would be an appropriate, additional sanction.

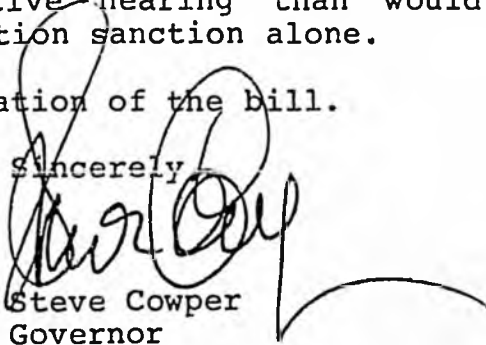
Under the bill, the board may impose a fine following the suspension/revocation hearing under AS 04.11.510(c). The due process rights of licensees and permittees are thus protected.

This bill should have an overall beneficial effect on state finances in that it does not require an additional appropriation and could potentially result in the generation of additional revenue through the assessment of fines. The added regulatory flexibility through the assessment of

fines could also reduce administrative expense in that that
 sanction would be less likely to result in a lengthy, and
 often expensive, administrative hearing than would the
 existing suspension or revocation sanction alone.

I ask your favorable consideration of the bill.

Sincerely,


 Steve Cowper
 Governor