

HB

372

Revision Date: _____ Dept. Affected: Revenue
 Title: Restaurant & Eating Place liquor license BRU: Alcoholic Beverage Control Board
Hb 372 Component: A&C Board
 Sponsor: Rep. Rokeberg
 Requestor: House Labor Commerce Committee COMPONENT SERIAL NO. 100

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1007 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost \$ _____

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Douglas B. Griffin
 Division: Alcoholic Beverage Control Board
 Approved by Commissioner: _____
 Agency: Department of Revenue

Phone: 907-277-8638
 Date: 1/16/96
 Date: 1/19/96

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Submitted by: Assemblymember Bell
Prepared by: Assembly Policy and Budget Office
For reading: February 27, 1996

CLERK'S OFFICE
APPROVED
Date: 2-27-96

ANCHORAGE, ALASKA
AR NO. 96-45

**A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY SUPPORTING
STATE HOUSE BILL 372 RELATING TO LIQUOR LICENSES ISSUED TO A
RESTAURANT OR EATING PLACE**

WHEREAS, Senate Bill 87, passed during the last legislative session, allows for ten (10) percent of restaurant or eating place licenses to be exempt from the fifty (50) percent food provision of license requirements; and

WHEREAS, in Alaska, the statutory authority to sell beer and wine in restaurants has historically been limited, allowing eating establishments the ability to compliment their food menu with alcohol, but not provide a full bar service, and

WHEREAS, Senate Bill 87 creates a tavern industry in Alaska, where beer and wine can be sold with a limited or token food menu; and

WHEREAS, House Bill 372, introduced this session and sponsored by State Representative Norman Rokeberg, repeals the specific section [AS 04 11 100(F)] allowing such a tavern industry (see attached copy of bill and current statute language); and

WHEREAS, House Bill 372 is scheduled to be heard by the State Affairs Committee, possibly next week.

NOW, THEREFORE, the Anchorage Municipal Assembly resolves:

Section 1: That the Assembly supports House Bill 372 and encourages the State Legislature to pass this legislation

Section 2: That this resolution is effective upon passage and approval

PASSED AND APPROVED by the Anchorage Municipal Assembly this
day of _____, 1996

ATTEST

Chair

Municipal Clerk

FISCAL NOTE

Revision Date: _____ Dept. Affected: Revenue
 Title: Restaurant & Eating Place Liquor License BRU: Alcoholic Beverage Control Board
Hb 372 Component: ABC Board
 Sponsor: Rep. Rokeberg
 Requestor: House Labor Commerce Committee COMPONENT SERIAL NO. 100

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost \$ _____

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Douglas B. Quinn *[Signature]* Phone: 907-277-8638
 Division: Alcoholic Beverage Control Board Date: 1/16/96
 Approved by Commissioner: *[Signature]* Date: 1/19/96
 Agency: Department of Revenue

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COMMITTEE COPY

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSHB 379(JUD)

1 Page 7, after line 28:

2 Insert a new bill section to read:

3 "* Sec. 4. REVISOR'S INSTRUCTION. In the event SCS CSSSHB 387(JUD), passed
4 by the Nineteenth Alaska State Legislature, becomes law, the amendment to AS 47.10.020(a)
5 made in sec. 2 of this Act shall be treated as an amendment to AS 47.12.040; the amendment
6 to AS 47.10.080(u) made in sec. 3 of this Act shall be treated as an amendment to
7 AS 47.12.120; and AS 47.10.267, enacted by sec. 4 of this Act, shall be renumbered by the
8 revisor to place it in AS 47.12, with conforming changes made to AS 22.35.020, enacted by
9 sec. 1 of this Act."

Juvenile Code Revision (Curfew Provisions)

**SENATE CONCURRENT RESOLUTION NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION**

BY THE SENATE JUDICIARY COMMITTEE

Introduced:

Referred:

A RESOLUTION

1 Suspending Uniform Rules 24(c), 35, 41(b), and 42(e) of the Alaska State
2 Legislature concerning House Bill No. 372, relating to liquor licenses.

3 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 That under Rule 54 of the Uniform Rules of the Alaska State Legislature, the
5 provisions of Rules 24(c), 35, 41(b), and 42(e) of the Uniform Rules, regarding changes to the
6 title of a bill, are suspended in consideration of House Bill No. 372, relating to liquor licenses.

9-LS1358VZ
Ford
5/4/96

SENATE CS FOR CS FOR HOUSE BILL NO. 572()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, B.Davis, Brown

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a restaurant or eating place license; relating to the
2 Alcoholic Beverage Control Board; and providing for an effective date."

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

4 * Section 1. AS 04.11.100(f) is amended to read:

5 (f) Notwithstanding the provisions of (b) [AND (c)] of this section, upon
6 written application and approval of the local governing body, the board may renew
7 [ISSUE OR REISSUE] a restaurant or eating place license and exempt the licensee
8 from the requirements of (b) [AND (c)] of this section if the license was issued under
9 the provisions of this subsection before the effective date of this Act. (A
10 LICENSEE EXEMPT AS PROVIDED IN THIS SUBSECTION SHALL PROVIDE
11 FOOD ITEMS FOR SALE ON THE PREMISES AS SHOWN ON A MENU
12 APPROVED BY THE BOARD AND AVAILABLE TO PATRONS.] The board may
13 not

14 (1) renew [ISSUE OR REISSUE] a license as provided under this

1 subsection if

2 (A) the renewal [ISSUANCE OR REISSUANCE] would result
3 in more than one exempt restaurant or eating place license for every 10
4 restaurant or eating place licenses allowed under the provisions of
5 AS 04.11.400(a)(2) or (3);

6 (B) the premises would be located in a building having a public
7 entrance within 200 feet of the boundary line of a school or a church building
8 in which religious services are being regularly conducted; for purposes of this
9 subparagraph, the 200-foot prohibition is measured from the outer boundary
10 line of the school or the public entrance of the church building by the shortest
11 pedestrian route to the nearest public entrance of the restaurant or eating place;

12 or

13 (2) [REISSUE A RESTAURANT OR EATING PLACE LICENSE
14 AS EXEMPT AS PROVIDED UNDER THE PROVISIONS OF THIS SUBSECTION
15 IF THE LICENSE WAS ISSUED UNDER THE PROVISIONS OF AS 04.11.400(g).
16 OR

17 (3)] transfer an exempt license issued under this subsection to another
18 person.

19 • Sec. 2. AS 04.11.100 is amended by adding a new subsection to read:

20 (g) A restaurant or eating place licensee

21 (1) operating under a license issued under (f) of this section shall offer
22 a full-service menu of food items available to the public during all times that beer or
23 wine is served or consumed; the menu must be approved by the board.

24 (2) may only provide entertainment on the licensed premises between
25 the hours of 6:00 p.m. and 11:00 p.m. unless approved by the director after written
26 request by the licensee for a specific occasion; in this paragraph, "entertainment"
27 includes dancing, karaoke, live performances, or similar activities, but does not include
28 recorded or broadcast performances without live participation.

29 • Sec. 3. AS 04.11.450(b) is amended to read:

30 (b) A person who is a representative or owner of a wholesale business,
31 brewery, winery, bottling works, or distillery may not be issued, solely or together with

1 others, a beverage dispensary license, a restaurant or eating place license, or package
2 store license. A holder of a beverage dispensary license may be issued a brewpub
3 license, subject to the provisions of AS 04.11.135. The prohibition against issuance
4 of a restaurant or eating place license imposed under this subsection does not
5 apply to a restaurant or eating place license issued on or before the effective date
6 of this Act or a restaurant or eating place license issued under an application for
7 a restaurant or eating place license approved on or before the effective date of
8 this Act.

9 * Sec. 4. REQUIRED HEARING. The Alcoholic Beverage Control Board shall hold a
10 public hearing on or before January 1, 1997, for the purpose of discussing the alcoholic
11 beverage licenses currently being issued by the board and the interrelationship between those
12 licenses.

13 * Sec. 5. This Act takes effect July 1, 1996.

9-L.S1881A
Ford
5/2/96

**HOUSE CONCURRENT RESOLUTION NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION**

BY

**Introduced:
Referred:**

A RESOLUTION

**1 Suspending Uniform Rules 24(c), 35, 41(b), and 42(c) of the Alaska State
2 Legislature concerning House Bill No. 372, relating to liquor licenses.**

3 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

**4 That under Rule 54 of the Uniform Rules of the Alaska State Legislature, the
5 provisions of Rules 24(c), 35, 41(b), and 42(c) of the Uniform Rules, regarding changes to the
6 title of a bill, are suspended in consideration of House Bill No. 372, relating to liquor licenses.**

Via Facsimile

From: Mark Wilson Ph(907) 276-4115, Fx(907) 276-5859
re: HB-372

The current Alaska statutes require and limit Exempt Licensing for Restaurant and Eating Places by :

1) **Local Approval**

Local approval by each community council, municipal assembly, public hearing and of the Alaska Alcoholic Control Board for license issuance and renewals. Another regulation like HB-372 is not needed.

2) **Limits Entertainment in the Evening**

Entertainment is not permitted during certain periods thereby prevents Karaoke Bars and other "Tavern type" entertainment. Current Alaska statutes are not pro-Tavern --- HB-372 is not needed. But, HB-372 speaks to special interests and does restrict reasonable competition.

3) **Current Statutes Respond to the Practical Issues Business of the Industry --HB-372 does not!**

Current statute recognizes that restaurants in the normal course of business sell beer and wine in excess of 50% of the per check amount. HB-372 does not recognize this circumstance. As an example, the newly opened Restaurant and Brewery combinations in Anchorage, Alaska are large full scale restaurants that sell higher priced fresh beer. In this case, HB-372 will cause these restaurant operations to violate state law.

Example: A restaurant patron buying a hamburger with fries and two micro beers would exceed the 50% limit. The current Alaska statutes reflect the practicality of this situation -- HB-372 does not.

4) **Excludes Transferability --**

HB-372 does not allow transferability. As proposed, HB-372 does not allow for new a partner to be taken into a restaurant business or allow the licensed business to expand into another or even an adjoining building space. HB-372 makes licensed business unsaleable and prevents economic growth. HB-372 is unfair.

5) **Current Statutes Allows Local Government and Public Process to Control the Approval of Exempt License**

At the very least, let the ABC Board make a clarifications and statutory recommendation for each license applicant --Allow the public process to take place. Let communities determine execute the public process.

6) **Current Statutes Comply with Federal Alcohol Tobacco and Firearms Code of Regulations. HB-372 is not needed.**

VOTE NO on HB-372

Snow Goose Restaurant

Sleeping Lady Brewery

Correspondence Address:

PO BOX 220569
Anchorage, Alaska
99522-0569
PH: (907) 276-4115
Fax: (907) 276-5859
e-mail: Wilson@alaska.net

Facsimile Transmission

May 3, 1996

From: Mark Wilson
re: HB-372

The proposed HB-372 will eliminate the exemption designation for Restaurants and Eating Places. The apparent justification for this change is to eliminate the prospect of the creation of additional liquor licenses in the form of "Taverns".

State of Alaska statutes provides for an "exemption" license. This exemption statute allows for the ratio of revenue derived from the sale of alcohol products to exceed 50% as compared to sales of food products by restaurants. As an example, the current exemption statute allows an applicant that has been granted a license for a pizza restaurant to sell pizzas equaling \$50.00 and, at the same time, to sell \$55.00 of beer or wine. The sale of micro-brewed beers or wine in a pizza parlor can exceed 50% of the total dinner price. Appropriately, the current statute takes into consideration that some beer and wine products are very expensive.

I believe that you can appreciate that in Alaska it is possible for the cost of the fine wine served during dinner to exceed the purchase price of the meal itself. The current statutes respond to this

occurrence and reasonably allow fine dining to occur in conjunction with expensive beverages.

Also, the current statutes take into consideration that before an applicant is granted approval for licensing by the Alcoholic Beverage Control Board the applicant must first obtain approval by the community, municipality or borough where the business is to be located. This review procedure enforces upon the applicant the will and required acceptance by the individual community and local government where the applicant intends to operate the business. The applicant is required to renew state licensing biennially, including the exemption license. All state liquor licenses may be revoked by the ABC Board if protested by the community or the applicant is found to be in violation of the intent or specific limitations of the license.

The creation of HB-372 is the result of the desires of other license holders and competitors in the restaurant and bar industry. It is counterproductive legislation that has no basis in any other aspect of the alcoholic beverage industry except the special interests of a few.

I urge you not to pass HB-372.

But, if HB-372 is moved out of committee I urge you to amend the current bill as follows:

- A) Allow Exemption licenses to be transferred -- Delete the non transferability clause.

Explanation:

- 1) It is one of the nuances of the liquor statutes that any change in ownership of the licensed business cancels the current licensing.

Each and every time a new partner is taken into the company the old license becomes invalid and a new license must be approved --- this is called a transfer.

Because of the price of micro-brewed beer verse the price of restaurant food in a brewery restaurant it is likely that the 50% revenue ratio will be exceeded. The new brewery restaurants in Anchorage are aware of this situation and have, in part, based their operating plan on the approval of the exemption licenses.

In the case of the Railway Restaurant and Brewery (under construction in the railway terminal building of Anchorage), the company is a Limited Liability Company. The Railway Restaurant Brewery (RRB) has an approved Restaurant and Eating Place License with an exemption. The owners of RRB can sell their individual units. If one or more of the RRB owners sell their units the license must be transferred to the new owner.

If HB-372 is passes, the Railway Restaurant and Brewery License cannot be transferred. Also, because HB-372 disallows new exemption licenses the RRB will not be able to obtain a new exemption license. I ask you: Who would buy the owners shares or buy a business that cannot legally operate or properly comply with Alaska law? It is a trap for the restaurant brewery operations that has huge financial implications for the investor owners.

2) The exemption licensed business cannot move to a new premise or even expand into an adjoining space.

Again, it is one of the complicated issues related to Alaska liquor statutes. Upon application to the ABC Board, each exempt license holder must provide a specific dimensional drawing of the licensed space, showing the location of all tables, kitchen, storage areas and areas where any alcohol is to be consumed. This is called the licensed premises. If the licensee changes the licensed premise --- such as expanding or moving next door or adding new square footage to their business their current exempt license becomes invalid and they must apply for a transfer.

Certainly, you can appreciate how unfair this is to the exempt license holder. Especially, if the exempt licensed holder cannot transfer or even apply for a new replacement exempt license -- HB-372 prevents new licenses.

B) Prevent the new statute from taking effect until 90 days after the effective day of the Act.

The Snow Goose Restaurant and Brewery is currently transferring licenses. The Snow Goose originally applied for a exemption licensing as did Railway Restaurant and Brewing. Railway Restaurant and Brewing exempt license has been approved. Because the ABC Board meets approximately every other month all pending license applications and approvals are on hold by the Municipality Assembly. It is important to our business that we are permitted a license parallel to our competitor. Further, it is likely that our license application, posting period and public process will take at least 90 days to transpire.

Please contact the Alaska Alcoholic Control Board, Mr. Bill Roach, 277-8638 or myself if you require further clarification.

I recommend that you please do not allow HB-372 to pass as it currently is proposed.

Very truly yours,

Mark Wilson

Urgent News !!

State of Alaska Karaoke Kops!!

State of Alaska debates creating new music POLICE for Alaska

Today, Senate Judiciary hears that HB-372 creates new occupation for the employees of the state of Alaska Department of Alcoholic Beverage Control -- *Music police.*

HB-372 creates a whole new and absurd occupational category of employment. The passage of HB-372 will actually legislate that the enforcement officers of the state of Alaska Department of Revenue Alcoholic Beverage Control Board become Karaoke Cops.

Implementation of HB-372 will require that the officers of the ABC Board inspect and enforce music limits upon restaurants and eating places in the evening. Incredibly, HB-372 will legislate that restaurants cannot play live music after 9pm.

HB-372 will require that the ABC officers will be forced to fine restaurants and eating places for playing a banjo or chamber music or solo guitarist after 9pm.

The ABC officers must turn in their official badges to be replaced by little golden clef music symbols for their lapels. Hopefully, the Senate Judiciary will put a stop to this madness.

It's true -- House Bill 372 is ill conceived.

Vote No on HB-372

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS

OIL & GAS CHAIR
LABOR & COMMERCE VICE CHAIR
ADMINISTRATIVE REGULATION REVIEW VICE CHAIR
HEALTH, EDUCATION & SOCIAL SERVICES MEMBER
ECONOMIC DEVELOPMENT MEMBER



INTERIM
716 WEST 4TH AVENUE SUITE 200
ANCHORAGE, AK 99501
PHONE (907) 258 8101

SESSION
STATE CAPITOL
JUNEAU, AK 99801 1147
PHONE (907) 465 4568
FAX (907) 465 2949

Representative Norman Rokeberg

Sponsor Statement CSHB 372(L&C) am

"An Act relating to liquor licenses issued to a restaurant or eating place; and providing for an effective date"

A bill passed last session allows for ten percent of restaurant or eating place licenses to be exempt from the fifty percent food provision of license requirements. Thus, this bill creates a tavern industry in Alaska.

HB 372 repeals that section of the law authorizing such establishments and "grandfathers" in those businesses that have received a license exemption.

In Alaska, liquor licenses have been issued based on population. Inside an established village, incorporated or unified municipality, one full service liquor license is allowed for every 3,000 people and one restaurant license allowed for every 1,500. In Anchorage, there are 117 liquor licenses -- 27% are in Spenard, which only has 6% of the population. Our neighborhoods don't need additional establishments that offer alcohol.

Exemptions to the restaurant statutes allow licensees who have paid \$600 to now be in direct competition with a full-service beverage dispensary licensees, who paid \$150,000 to \$300,000 for their licensee and also biennial renewal fee of \$2,500. The exemption gives ten percent of restaurant owners an economic advantage over the other 90 percent, in addition to allowing this special class of compete against bars.

I believe this exemption allows for taverns in Alaska, whereby beer and wine can be sold with a limited or token food menu. The exemption that passed the legislature last year does not require 50 percent of their revenues be derived from the sale of food items. This is a policy call with far-reaching impacts that I believe was not intended by many of the supporters of the omnibus legislation last year.

Bottom line-- this bill repeals the exemption and makes taverns function more like a restaurant rather than a bar.

I urge your support on HB 372.

SPONSOR STATEMENT

RESOLUTION
OF THE
SPENARD COMMUNITY COUNCIL
SCCR ____-95

A RESOLUTION ESTABLISHING SUPPORT FOR REPEAL OF A PORTION OF HCS CSSB 87(JUD) RELATING TO ALCOHOLIC BEVERAGE CONTROL.

WHEREAS, the Anchorage Municipal Charter Article VIII grants unto a duly recognized Community Council the basic right of self-determination, and

WHEREAS, the Spenard Community Council being a duly organized community council under Section 2.40.010 of the Municipal Code, and

WHEREAS, the Spenard Community Council area has one hundred and seventeen liquor licences within it's boundaries, and

WHEREAS, Spenard has twenty seven percent of all Anchorage liquor licenses within it's boundaries, and

WHEREAS, Spenard has only six percent of the population of Anchorage within it's boundaries, and

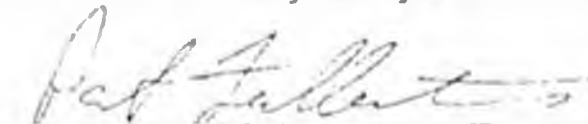
WHEREAS, the Spenard Community Council has experienced a long and ongoing negative effect from the ravages of alcohol, and

WHEREAS, because of our ongoing experiences with the alcohol industry, and

WHEREAS, alcohol influences eighty percent of all convicted criminals in the state of Alaska, and

WHEREAS, the availability of alcohol increases consumption, and

BE IT THEREFORE RESOLVED, that the Spenard Community Council requests and supports the repeal of that section of HCS CSSB 87(JUD) which allows ten percent of Restuarant or eating place licenses to be exempt from the fifty percent food provision of license requirements. We further ask that no exempt licenses approved subsequent to this act be given grandfather rights.



Chairman, Pat Fullerton

SUPPORTING DOCUMENTS

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Submitted by: Assemblymember Bell
Prepared by: Assembly Policy and Budget Office
For reading: February 27, 1996

CLERK'S OFFICE

APPROVED

Date: 2-27-96

ANCHORAGE, ALASKA

AR NO. 96-45

**A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY SUPPORTING
STATE HOUSE BILL 372 RELATING TO LIQUOR LICENSES ISSUED TO A
RESTAURANT OR EATING PLACE**

WHEREAS, Senate Bill 87, passed during the last legislative session, allows for ten (10) percent of restaurant or eating place licenses to be exempt from the fifty (50) percent food provision of license requirements; and

WHEREAS, in Alaska, the statutory authority to sell beer and wine in restaurants has historically been limited, allowing eating establishments the ability to compliment their food menu with alcohol, but not provide a full bar service; and

WHEREAS, Senate Bill 87 creates a tavern industry in Alaska, where beer and wine can be sold with a limited or token food menu; and

WHEREAS, House Bill 372, introduced this session and sponsored by State Representative Norman Rokeberg, repeals the specific section [AS 04.11.100(F)] allowing such a tavern industry (see attached copy of bill and current statute language), and

WHEREAS, House Bill 372 is scheduled to be heard by the State Affairs Committee, possibly next week.

NOW, THEREFORE, the Anchorage Municipal Assembly resolves:

Section 1: That the Assembly supports House Bill 372 and encourages the State Legislature to pass this legislation.

Section 2: That this resolution is effective upon passage and approval

PASSED AND APPROVED by the Anchorage Municipal Assembly this
day of _____, 1996.

ATTEST

Chair

Municipal Clerk

FEB 08 1996



*Alaska Cabaret, Hotel,
Restaurant & Retailers Association*

321 E. 5th, Suite 200 • Anchorage, Alaska 99501
(907) 563-8133 • Fax (907) 563-8640
Toll Free in Alaska (800) 478-2221

February 2, 1996

Representative Norman Rokeberg
Alaska State Legislature
Juneau, Alaska

Dear Representative Rokeberg,

At the January 30, 1996 CHARR Board of Directors meeting, House Bill No. 372 which you have sponsored was discussed at great length. The Board has directed me to communicate our position to you. CHARR supported the adoption of Senate Bill 87 last year which was introduced to correct problems in existing ABC statutes. CHARR historically has opposed the concept of increasing the number of any type of retail beverage alcohol license available and we continue to oppose any expansion of this number. We support this intent of your legislation but we do feel that the title of House Bill No. 372 is unnecessarily broad.

We appreciate the opportunity to comment on the legislation and the consideration you have shown us.

Yours truly,

Carol Wilson
Executive Director

1207 West 36th Avenue
Anchorage, Ak 99503

March 27, 1996

Representative Norman Rokeberg
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Representative Rokeberg:

As the maker of the notion at the Spenard Community Council to support Representative Rokeberg's Bill concerning exempt liquor licenses I urge you to support House Bill 372 when it comes to the floor of the house. As you know, Anchorage and Alaska has serious problems with alcohol abuse. Exempt liquor licenses add another venue for people to abuse alcohol when, by State of Alaska statute, we have far more liquor outlets than the population can support.

I feel that exemptions proposed by Representative Brown as in order to grandfather those license exemptions already in existence but I feel that we should not exacerbate the problem by adding more. Because of my involvement with the liquor license problem I have come to know many people in the liquor industry and the responsible owners generally agree that the exempt license category is not a good idea.

An important item to me is to protect those businesses that have the exempt licenses already and that is to be accomplished per conversations with Representative Rokeberg and Brown's staff. I am equally concerned that no additional exempt licenses be allowed and that too will be accomplished by this bill.

The Anchorage Assembly passed the attached Resolution Tuesday night to insure there would be no more exempt licenses passed pending your and the Senates action.

Thank you for your consideration.

Sincerely,


Thomas J. McGrath
(907) 562-8730

1207 West 36th Avenue
Anchorage, Ak 99503

September 13, 1995

Ms. Debra Bonito
3601 'C' Street, Suite 758
Anchorage, Ak 99503

Dear Ms. Bonito:

I am following up on our meeting with Marla Huss on August 23, 1995 concerning HCS CSSB 87(JUD) during which we discussed exempt restaurant or eating place licenses which were enabled by the Act.

In Anchorage we are allowed by law 77 package, 77 dispensary and 77 club licenses and 154 restaurant or eating place licenses. That works out to one restaurant or eating place license for 1500 residents and one each of package, dispensary or club license for 3000 residents. Anchorage currently has 108 package licenses, 147 dispensary licenses and 24 club licenses. Overages are due to grandfather rights. We have 146 restaurant or eating place licenses with 6 licenses applied for. Very close to the limit.

HCS CSSB 87(JUD) or Senate Bill 87 was approved by the Governor on June 29, 1995 which was an act to change some of the rules we have previously dealt with. This act allows ten percent of Restaurant licenses to be exempt from the fifty per cent rule for food. In the past fifty per cent of gross receipts had to be from food and this stipulation had to be proven to the ABC Board. Although an exempt license cannot be transferred it does allow a new kind of establishment. What is envisioned by me is a tavern like business which potentially makes these fifteen licenses substantially more valuable than the usual Restaurant licenses.

At the present time two businesses in Spenard, one business in Campbell Park, and one in downtown are applying for exempt licenses. Two of the four have recently been denied conditional uses by the Anchorage Assembly. They have reapplied even though one year has not elapsed as has been the requirement in the past after a denial.

The law says no more than ten percent but it does not mandate the first one. I am of the opinion that we currently have enough liquor being served in Anchorage and issuance of even one more business where the principle business is serving alcohol would be a mistake. No, I am not asking that any current business be closed. I am saying, however, that since in gross numbers we are way over what lawmakers deemed was adequate, we should not enable any more.

This issue came up at the Anchorage Assembly meeting of September 12, 1995 and it became obvious that most assemblymen did not know of the new law nor what the application was. Currently there are

no regulations forthcoming from the ABC Board office nor have they indicated that there will be any regulations.

You, Marla Huss, nor anyone else outside of the ABC Board office knew of this provision before I brought it to their attention. There were no public hearings on this matter that I can determine. I request that the administration order regulations be written concerning this matter and that no exempt licenses be issued until the public and the Anchorage Assembly can give input.

I would also request that the Governor forward legislation to the Legislature nullifying the applicable portions of Senate Bill 87.

Tom McGrath
Tom McGrath
(907) 562-8730

cc: Marla Huss, P.O. Box 110001, Juneau, Ak 99811-0001
Anchorage Assembly Persons

MAR 12 1996

STATE OF ALASKA

Tony Knowles, Governor

ADVISORY BOARD
ON
ALCOHOLISM AND DRUG ABUSE

P.O. Box 110608
Juneau, Alaska 99811-0608
Phone: (907) 465-8920
Fax: (907) 465-4410

March 11, 1996

Representative Norman Rokeberg
Alaska State House of Representatives
Room 110
State Capitol
Juneau, Alaska 99801-1182

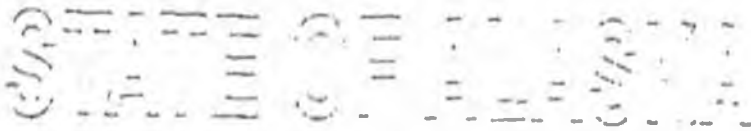
Dear Representative Rokeberg:

The Advisory Board on Alcoholism and Drug Abuse, Legislative Committee supports the provisions of House Bill 372 which you introduced this session. We recognize that without repeal of AS 04.11.100(f), a Tavern industry is formed that increases consumption of alcohol and subverts the intent of the statute that created limited sales of alcoholic beverages in food establishments. Passage of this legislation will result in the reduction of per capita consumption of alcoholic beverages in our state which is among the highest in the nation. Reducing per capita consumption of alcohol especially in two target groups, younger Alaskans and problem drinkers is a goal described in Alaska's Strategic Plan, "Meeting the Challenge"

House Bill 372, if enacted, helps us in this effort. Please call on us for any assistance that we may offer in passage of this legislation.

Sincerely,


Don Dapcevich
Executive Director



DEPARTMENT OF REVENUE

ALCOHOLIC BEVERAGE CONTROL BOARD

TONY KNOWLES, GOVERNOR

300 W. 7TH AVE
ANCHORAGE, ALASKA 99501-6658

February 9, 1996

Representative Norman Rokeberg
Alaska State House of Representatives
State Capitol
Juneau, Alaska 99801-1182
FAX: 907-465-2040

RE: HB 372 - Liquor licenses issued to a restaurant or eating place

Dear Representative Rokeberg:

This letter is drafted in response to our telephone conversation on February 8, 1996. We discussed HB 372, a bill you have introduced to repeal AS 04.11.100(f). This provision, passed last year as part of SB 87, allows a restaurant or eating place licensee (commonly referred to as a beer and wine license) to become "exempt" from some requirements normally placed on a bona fide restaurant.

An exempt licensee would need to provide food items, but would not need to necessarily meet the requirement of AS 04.11.100(e) that 50 percent of gross receipts of a licensed premises come from the sale of food. Under the "exempt" status the establishment could also be exempt from the constraint of 15 AAC 104.305 that live entertainment be provided only from 6 p.m. to 9 p.m.

Based on my research of the history of SB 87, the "exempt" provision was a compromise designed to address a request from some restaurant owners that wished to provide entertainment later into the evening and entertainment purveyors who wanted the ability to serve beer and wine. There was discussion of creating a new type of license or additional licenses like those allowed for the promotion of tourism (AS 04.11.400(d)) or public convenience (AS 04.11.400(g)). However, this alternative would have created additional licenses in a market that is already saturated based on population quotas contained in the statute.

The "exempt" approach to restaurant and eating place licenses was decided to best meet the expressed need because it would:

- 1) not create additional licenses, but merely allow existing licensees within the population quota to expand entertainment offerings;
- 2) require approval of the local governing body to exempt the licensee;
- 3) limit the number of exempt licensees to 10% of the restaurant or eating place licensee (the calculation based on general population limitations of one restaurant license for each 1,500 population or fraction of the adjusted population would be as follows for the Municipality of Anchorage: 229,775 divided by 1,500 = 154 x 10% = 15; Based on the same formula the City of Fairbanks: 2 exempt licenses and the City and Borough of Juneau: 2 exempt license;
- 4) require the sale of food items as shown on a menu approved by the ABC Board;
- 5) prohibit issuance of an eating place exemption to establishments licensed under public convenience provisions (AS 04.11.400(g)) and (15 AAC 104.335), and
- 6) prohibit transfer of an exempt license to another person.

These controls are important and valuable. However, it is clear, as noted in the testimony before the Senate Finance Committee last year (see enclosed minutes), the intent and result of the exempt provision is to allow the application of a beer and wine license beyond a setting where dining is the preeminent activity. This allows for a limited number of beer and wine licensees to operate, at times, as a tavern or, to use the words of Mr. Sharrock in explaining Section 4 of SB 87 to the Senate Finance Committee, a "semi-tavern."

To date, the ABC Board has approved "exempt" status for Legal Pizza and Railway Brewing Company in Anchorage and the ABC Board will consider the request from Chandalar Inn in the Matanuska-Susitna Borough at its board meeting of February 14 to 16. China Express, Ichiban Japanese Restaurant, Sushi Gardens, and Fiori D'Italia of Anchorage are in the process of requesting exempt designations and will be considered at a subsequent ABC Board meeting.

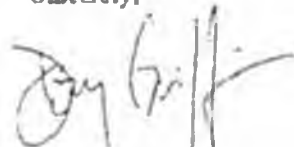
SB 87 contained a number of provisions important to the hospitality industry. The ABC Board and its staff acted to assist the Legislature and the industry in drafting legislation that would strike the proper balance between adequately regulating the alcoholic beverage trade and allowing freedom for entrepreneurs to meet public demand for expanded entertainment and recreation options.

I stand by the considered and informed consent demonstrated by the Nineteenth Legislature during its first session last year and Governor Knowles' general agreement with SB 87 when he signed it into law as Chapter 3, SLA 1995. The ABC Board is proceeding in implementing the provisions of this new law. I and the Board stand ready to work with you on HB 372 or any other legislation you wish to offer to find the proper balance in regulation of the alcoholic beverage industry for the welfare of all Alaskans.

The ABC board will be in Juneau February 15 and 16 and will be available to discuss your bill further. The Board meetings will be held at the Juneau Assembly Chambers and the board is staying at the Westmark the evening of February 15, 1996.

Feel free to contact me further regarding HB 372 or any other matter related to alcoholic beverage regulations.

Sincerely,



Douglas B. Griffin
Director

Enclosures: Senate Finance Committee Minutes

cc: ABC Board Members
Bob Bartholomew, Legislative Liaison

AUG 30 1995



neighbor to neighbor

COMMUNITY COUNCILS: AT THE ROOT OF GOOD GOVERNMENT

ANCHORAGE, ALASKA

SEPTEMBER 1995

From the Chair

Headaches, hangovers: New liquor licenses

From time to time a liquor license issue comes up that necessitates a trip to the Alcoholic Beverage Control Board. The person I usually deal with is Donna who is extremely knowledgeable of Title 4 of Alaska Statutes, which is entitled Alcoholic Beverage Control. Liquor licenses are controlled and the legislature has even decided how many of each type of license can exist. They did grandfather all existing licenses upon establishment of the Act.

There are 20 types of licenses but we generally only deal with four. They are package store, restaurant or eating place, beverage dispensary and club licenses. From time to time we see a brewpub license request appear, but they are the new kid on the block. Several beverage dispensary licenses also have duplicate beverage dispensary license for additional rooms.

In Anchorage we are allowed by law 77 package, 77 dispensary and 77 club licenses and 154 restaurant or eating place licenses. That works out to one restaurant or eating place license for 1,500 residents and one each of package, dispensary or club

See Liquor, Page 2

Awards will cite beautification

The Mayor's Beautification Task Force and the Urban Design Commission will present the newly dubbed "Celebration of Anchorage Awards" for Beautification and Urban Design at a special awards luncheon at the Egan Center on Dec. 6.

Award categories will recognize excellence in building design, northern design principles, landscape design, maintenance, flowers, lighting, and contribution of the quality of life in Anchorage. Nominations are requested for private, commercial, residential, military and public projects.

Submission deadline is Oct. 6. Four color slides must accompany the Award entry form.

Contact: Pantena Redwood, Community Planning and Development, 343-4298 or Kathy Kingston, 343-4527.



See Related Article,
Pages 7-8

FCC bylaws reviewed again; in mail soon

A conflict between the Federation of Community Councils Articles of Incorporation and the bylaws forced the Board of Directors to revamp its plans to send the changed governing rules out to the 37 Community Councils for ratification.

At the August meeting, the FCC Board made the two documents compatible. The key change is that the Board of Directors has been changed to a Board of Delegates.

And under the new rules, five at-large delegates can be selected to the FCC Board, but each Community Council will be limited to one vote. George Guguzis, representative from the Northeast Area Community Council, proposed the limitation.

The bylaws now will be distributed to the 37 Community Councils which are being urged to address the FCC bylaw changes during their September or October meetings. All responses need to be in the Community Councils Center by Oct. 18, the day the FCC Board holds its regular monthly meeting. Two-thirds approval of the changes must come from those Councils who consider the proposals.

Liquor licenses

Continued from Page 1

of package, dispensary or club license for 3,000 residents. Anchorage currently has 108 package licenses, 147 dispensary licenses and 24 club licenses. We have 146 restaurant or eating place licenses with six licenses applied for. Very close to the limit.

Anchorage also has a whole host of rules for alcoholic beverages control. These are contained in Title 10 of the Anchorage Municipal Code. Where alcoholic beverages may be sold from is a land-use question and the rules are contained in Title 21 of the Code. The land use part of the code was substantially revised starting in 1993 and finished in 1994. These changes tightened up the application for conditional use process and caused a significant awareness.

HCS CSSB 87(JUD) or Senate Bill 87 was approved by the governor on June 29, changing some of the rules we have previously dealt with. This act allows 10 percent of restaurant licenses to be exempt from the 50 percent rule for food. In the past 50 percent of gross receipts had to be from food and this stipulation had to be proven to the ABC Board. Although an exempt license can not be transferred it does allow a new kind of establishment. What is envisioned by me is a tavern like business which potentially makes these ten licenses substantially more valuable than the usual restaurant licenses.

At the present time two businesses in Spenard and one business in Campbell Park are applying for exempt licenses. Two of the three have recently been denied conditional uses by the Anchorage Assembly. They have reapplied even though one year has not elapsed as has been the requirement in the past after a denial.

It will be interesting to see how the Anchorage Assembly deals with this exempt license provision and whether they allow any at all.

The law says no more than 10 percent but it does not mandate the first one. I am of the opinion that we currently have enough liquor being served in Anchorage and issuance of even one more license where the principle business is serving alcohol would be a mistake. No, I am not asking that any current business be closed. I am saying, however, that since in gross numbers we are way over what lawmakers deemed adequate, we should not enable any more.

Tom McGrath
Chair

Federation of Community Councils

Federation of Community Councils



Chair: Tom McGrath
Vice-Chair: Seth Eames
Secretary: Deanna Murray
Treasurer: Eileen Zaiser
Past Chair: Jim Putman

Councils Center Manager:
Harry McFarland

Community Councils

Community Councils in Anchorage are neighborhood associations authorized by Municipal Charter. They provide local citizens with a voice that is heard and usually heeded by members of boards and commissions, agency staff, Assembly members and state legislators.

Contact the Community Councils Center to learn how to join your neighborhood's Community Council.

Councils Center

The Federation of Community Councils is an organization made up of the 37 Community Councils within the Municipality of Anchorage. The Federation operates the Community Councils Center at 301 E. Fireweed Lane, Suite 101.

The Center provides a work area for Councils and other non-profit groups to produce informational flyers and newsletters to communicate with their members and the public. If you have any questions about the Federation or the Councils Center, call 277-1977.

Neighbor to Neighbor

"Neighbor to Neighbor" is a monthly newsletter written and published by the Federation of Community Councils staff to help provide communication within Community Councils and within the community as a whole.

If you would like to receive "Neighbor to Neighbor" free each month, call the Center at 277-1977.

**Deadline
for October
is Sept. 20**

BASIS 12 PAGES SELECTED Committee Minutes

Mr. Scharrock responded that there was nothing in the legislation that would detract from the Board's ability to pursue enforcement activity. He stated that he was in disagreement because he is the one to enforce the law and initiating enforcement actions against licensees. Mr. Scharrock said that the budget is part of the problem. In response to Senator Donley's inquiry to page 4, line 4, he stated that 75,000 gallons is what is needed to establish a brew pub.

Co-chair Halford requested a section by section explanation of the legislation.

Mr. Scharrock began with Section 1. He stated that a current licensee could NOT solicit or have someone in the area receive orders on his or her behalf. He said that this bill removes the name community license. Discussion was had on this section.

Section 3, eliminates the name of the community liquor

Selection=>		PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
PF1	PF2	EXIT	MENU		PRINT	HWD	FWD		FIRST	LAST	QUIT
HELP											
SNA	02	A01C117				NUM IPT1					A

BASIS 12 PAGES SELECTED Committee Minutes

*San F.W.
4/6/95*

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HELP											
SNA	02	A01C117				NUM IPT1					A

BASIS 12 PAGES SELECTED Committee Minutes

license because that has been changed in the local option provisions.

Section 4, is a suggestion by the Board itself. It is new, and a result of restaurants holding a beer and wine license instituting entertainment on their premises, where at times.

the primary activity of patrons is not dining, but rather entertainment. The law and the class of license did not intend for that to happen. Even the regulations by the Board, state that primary activity must be dining. The Board tried to address it through regulation saying that restaurants could have entertainment between the hours of 6 and 9 p.m. That was unsatisfactory to most licensees. What this amendment does is allow one license for each 10, to come under this except provision that says all they have to have is food available. It addresses the issue of either changing times or the desire of licensees to do different things. The Board has referred to it at times as a semi-tavern license. It does not create an additional class of license. The Board did not want to do that. In essence,

Selection=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU		PRINT	BWD	FWD		FIRST	LAST	QUIT
SNA 02	A01C117					NUM LPT1					

BASIS 12 PAGES SELECTED

Committee Minutes

for eating or restaurants offering beer and/or wine, they cannot have more than 50% of gross revenues from the sale of alcohol removed for the license.

Joe Ambrose, Legislative Aid from Senator Taylor's office. He pointed out a provision that would make the licenses non-transferable to another person. Eventually, there would be a reduction in the number of licenses, because as people went out of business, that license would cease to exist. Additionally, it requests the Board to take action, and must be approved by the local governing body who has authority and responsibility over the area in which the premises exists. Additional discussion regarding the particulars of this section continued.

Teresa Williams, Dept. of Law, Anchorage interjected that the semicolon on line 18 means or.

Section 6 relates to a number change related to another

Selection=>											
PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU		PRINT	BWD	FWD		FIRST	LAST	QUIT
SNA 02	A01C117					NUM	LIST				A

BASIS 24 PAGES SELECTED Committee Minutes
language would prohibit those purchases.

See 7/17/95

Mr. Farleigh next directed attention to Sec. 4 and advised that it poses a more immediate concern. He advised that while he was generally in support of the language, he did not need provisions (b) and (c). He explained that the problem is that he cannot have live music in his pizza parlor after 10:00 p.m.

Mr. Farleigh further objected to prohibitions within subsection (J) of Sec. 4, which would disallow transfer of an exempt license to another person. He asked what would happen in the event of the death or retirement of the license holder. Noting that it is difficult to sell pizza without beer, Mr. Farleigh stressed his desire to maintain the value of his business and pass it along to his heirs.

Mr. Farleigh reiterated his wish to provide entertainment beyond the 9:00 p.m. deadline and asked if there could be another way to achieve that goal.

Selection=>											
PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU		PRINT	BWD	FWD		FIRST	LAST	QUIT
SNA 02	A01C117					NUM	IPT1				A

Cross references. — For legislative findings and purpose in connection with the 1995 enactment of subsection (g), see 1 L. ch. 3, SLA 1995 in the Temporary and Special Acts.

Effect of amendments. — The first

1995 amendment, effective July 9, 1995, added subsection (g).

The second 1995 amendment, effective July 1, 1995, repealed subsection (c), relating to filing of a \$2,500 cash bond or surety bond with the application.

Sec. 04.11.100. Restaurant or eating place license. (a) A restaurant or eating place license authorizes a restaurant or eating place to sell beer and wine for consumption only on the licensed premises.

(b) A license may be issued under this section only if the board determines that the premises to be licensed are a bona fide restaurant or eating place.

(c) A license may be issued under this section only if the sale and service of food and alcoholic beverages and any other business conducted on the licensed premises of the restaurant or eating place is under the sole control of the licensee.

(d) The biennial fee for a restaurant or eating place license is \$600.

(e) A license may be renewed under this section only if the licensee provides evidence to the board's satisfaction that gross receipts from the sale of food upon the licensed premises constitute no less than 50 percent of the gross receipts of the licensed premises for each of the two preceding calendar years.

(f) Notwithstanding the provisions of (b) and (e) of this section, upon written application and approval of the local governing body, the board may issue or reissue a restaurant or eating place license and exempt the licensee from the requirements of (b) and (e) of this section. A licensee exempt as provided in this subsection shall provide food items for sale on the premises as shown on a menu approved by the board and available to patrons. The board may not

(1) issue or reissue a license as provided under this subsection if

(A) the issuance or reissuance would result in more than one exempt restaurant or eating place license for every 10 restaurant or eating place licenses allowed under the provisions of AS 04 11 400(a)(2) or (3);

(B) the premises would be located in a building having a public entrance within 200 feet of the boundary line of a school or a church building in which religious services are being regularly conducted; for purposes of this subparagraph, the 200-foot prohibition is measured from the outer boundary line of the school or the public entrance of the church building by the shortest pedestrian route to the nearest public entrance of the restaurant or eating place;

(2) reissue a restaurant or eating place license as exempt as provided under the provisions of this subsection if the license was issued under the provisions of AS 04 11 400(g); or

(3) transfer an exempt license issued under this subsection to another person. (1995 2 ch 131 SLA 1980, am 4 ch 93 SLA 1985, am 11 2, 3 ch 63 SLA 1993, am 5 ch 101 SLA 1995)