

**HB**

**240**

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT  
MAY 06 2006  
SENATE FINANCE COMMITTEE

DATE: 5/1/06

FURTHER:

DATE TURNED  
IN TO OFFICE: 6 May 2006

Finance Committee considered CS FOR HOUSE BILL NO. 240(RLS) am

HB 240-BREWERY & BREWPUB LICENSEE/SALES BY WINERY

CS FOR HOUSE BILL NO. 240(RLS) am

"An Act relating to brewery and brewpub licensing and relating to sales of wine by a winery licensee."

and recommends:

- be replaced with 5 CS CS HB 240 (FIN)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

CS Senate Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
SCS House Bill:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
DPS	3/21/06			✓	#1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	2			
<i>[Signature]</i>			✓	
<i>[Signature]</i>				✓
<i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

# FISCAL NOTE

REPORTED OUT  
MAY 06 2006  
SENATE FINANCE COMMITTEE

STATE OF ALASKA  
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSHB 240(L&C)  
(H) Publish Date: 4/18/06

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
Title: "An Act relating to brewery and brew pub licensing." RDU: Alcoholic Beverage Control Board  
Component: ABC Board  
Sponsor: House Judiciary Committee  
Requester: House Labor and Commerce Committee Component No. 2690

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2006) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

POSITIONS	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
This legislation will not have a fiscal impact on expenditures for the Department of Public Safety. A very small increase in revenues could be realized if any of the existing brewpubs were to upgrade to a brewery and pay the corresponding increased license fees.

Prepared by: Director Douglas B. Griffin Phone 907-269-0351  
Division: Alcoholic Beverage Control Board Date/Time 3/21/06 9:02 AM  
Approved by: Commissioner William Tandesku Date 3/21/2006  
Agency: Department of Public Safety



Official Business

# Alaska State Senate

Senate Finance Committee

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

## FAX COVER SHEET

DATE: 6 May 2006 TIME: 9:30 am

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 1

FROM: MINDY ROWLAND  
SENATE FINANCE COMMITTEE SECRETARY  
PHONE: 465-4935  
FAX: 465-2187

NOTES: Final Please

SCS CS HB 240 (FIN)

24-LS0734 \ W Luckhaupt 5/5/06

no changes

Thanks

Mindy

SENATE CS FOR CS FOR HOUSE BILL NO. 240(FIN)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): HOUSE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to brewery and brewpub licensing and relating to sales of wine by a  
2 winery licensee."

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

4 \* Section 1. AS 04.11.130(b) is amended to read:

5 (b) The holder of a brewery license may sell beer in quantities of

6 (1) not more [LESS] than five gallons a day to an individual who is  
7 present on the licensed premises for consumption off the premises;

8 (2) more than five gallons a day to a person who is licensed under this  
9 title, or in another state or country.

10 \* Sec. 2. AS 04.11.130 is amended by adding a new subsection to read:

11 (c) Unless prohibited by AS 04.16.030, a holder of a brewery license may sell  
12 not more than 36 ounces a day of the brewery's product to a person for consumption  
13 on the premises if

14 (1) the brewery does not allow live entertainment, televisions, pool

1 tables, dart games, dancing, electronic or other games, game tables, or other  
2 recreational or gaming opportunities on the premises where the consumption occurs;

3 (2) the brewery does not provide seats at the counter or bar where the  
4 product is served; and

5 (3) the room where the consumption occurs is not open before 9:00  
6 a.m. and serving of the product ends not later than 8:00 p.m.

7 \* Sec. 3. AS 04.11.135(a) is amended to read:

8 (a) A brewpub license authorizes the holder of a beverage dispensary license  
9 to

10 (1) manufacture on premises licensed under the beverage dispensary  
11 license not more than 465,000 [150,000] gallons of beer in a calendar year;

12 (2) sell beer manufactured on premises licensed under the beverage  
13 dispensary license for consumption on the licensed premises or other licensed  
14 premises of the beverage dispensary licensee that are also licensed as a beverage  
15 dispensary;

16 (3) sell beer manufactured on the premises licensed under the beverage  
17 dispensary license in quantities of not more than five gallons a [PER] day to an  
18 individual who is present on the licensed premises for consumption off the premises;

19 (4) provide a small sample of the brewpub's beer manufactured on the  
20 premises free of charge unless prohibited by AS 04.16.030; [AND]

21 (5) sell beer manufactured on the premises licensed under the beverage  
22 dispensary license to a person licensed as a wholesaler under AS 04.11.160; sales  
23 under this paragraph may not exceed 37,200 gallons in a calendar year, including  
24 sales under (6) of this subsection; and

25 (6) sell not more than 6,200 gallons in a calendar year of beer  
26 manufactured on the premises to a person who is licensed under this title, or in  
27 another state or country, if the premises licensed under the beverage dispensary  
28 license are located in a community with a population of 75,000 or more [15,000  
29 GALLONS OR THE AMOUNT SOLD UNDER THIS PARAGRAPH IN  
30 CALENDAR YEAR 2001, PLUS 10 PERCENT, WHICHEVER AMOUNT IS  
31 GREATER].

1 \* Sec. 4. AS 04.11.135(d) is amended to read:

2 (d) Notwithstanding (a) of this section, the holder of a brewpub license who,  
3 under the provisions of AS 04.11.450(b), formerly held a brewery license and a  
4 restaurant or eating place license and who, under the former brewery license,  
5 manufactured beer at a location other than the premises licensed under the former  
6 restaurant or eating place license may

7 (1) manufacture not more than 465,000 [150,000] gallons of beer in a  
8 calendar year on premises other than the premises licensed under the beverage  
9 dispensary license;

10 (2) provide a small sample of the manufactured beer free of charge at  
11 the location the beer is manufactured unless prohibited by AS 04.16.030; and

12 (3) sell the beer authorized to be manufactured under this subsection

13 (A) on the premises licensed under the beverage dispensary  
14 license or other licensed premises of the beverage dispensary licensee that are  
15 also licensed as a beverage dispensary;

16 (B) to a wholesaler licensed under AS 04.11.160; sales under  
17 this subparagraph may not exceed 37,200 gallons in a calendar year,  
18 including sales under (D) of this paragraph; [15,000 GALLONS OR THE  
19 AMOUNT SOLD UNDER THIS SUBPARAGRAPH IN CALENDAR YEAR  
20 2001, PLUS 10 PERCENT, WHICHEVER AMOUNT IS GREATER; OR]

21 (C) to an individual who is present on the premises described  
22 under (A) of this paragraph, or where the beer is manufactured, in quantities of  
23 not more than five gallons a [PER] day for consumption off the premises;  
24 and

25 (D) to a person licensed under this title, or in another state  
26 or country, if the premises where the beer is manufactured are located in  
27 a community with a population of 75,000 or more; sales under this  
28 subparagraph may not exceed 6,200 gallons in a calendar year.

29 \* Sec. 5. AS 04.11.135(e) is amended to read:

30 (e) Notwithstanding (a) of this section, a brewpub license authorizes the  
31 holder of a restaurant or eating place license to (1) manufacture on premises licensed

1 under the restaurant or eating place license not more than 465,000 [150,000] gallons of  
2 beer in a calendar year; (2) sell beer manufactured on premises licensed under the  
3 restaurant or eating place license for consumption on the licensed premises; (3) sell  
4 beer manufactured on the premises licensed under the restaurant or eating place  
5 license in quantities of not more than five gallons a [PER] day for consumption off  
6 the premises to an individual who is present on the licensed premises; and (4) provide  
7 a small sample of the brewpub's beer manufactured on the premises free of charge  
8 unless prohibited by AS 04.16.030. A person who holds a brewpub license under this  
9 subsection may not hold more than one brewpub license.

10 \* Sec. 6. AS 04.11.140(b) is amended to read:

11 (b) The holder of a winery license may sell wine in quantities of

12 (1) not more [LESS] than five gallons to an individual who is present  
13 on the licensed premises;

14 (2) more than five gallons to a person who is licensed under this title,  
15 or in another state or country.

1 \* Sec. 4. AS 04.11.135(d) is amended to read:

2 (d) Notwithstanding (a) of this section, the holder of a brewpub license who,  
3 under the provisions of AS 04.11.450(b), formerly held a brewery license and a  
4 restaurant or eating place license and who, under the former brewery license,  
5 manufactured beer at a location other than the premises licensed under the former  
6 restaurant or eating place license may

7 (1) manufacture not more than 465,000 [150,000] gallons of beer in a  
8 calendar year on premises other than the premises licensed under the beverage  
9 dispensary license;

10 (2) provide a small sample of the manufactured beer free of charge at  
11 the location the beer is manufactured unless prohibited by AS 04.16.030; and

12 (3) sell the beer authorized to be manufactured under this subsection

13 (A) on the premises licensed under the beverage dispensary  
14 license or other licensed premises of the beverage dispensary licensee that are  
15 also licensed as a beverage dispensary;

16 (B) to a wholesaler licensed under AS 04.11.160; sales under  
17 this subparagraph may not exceed 37,200 gallons in a calendar year,  
18 including sales under (D) of this paragraph; [15,000 GALLONS OR THE  
19 AMOUNT SOLD UNDER THIS SUBPARAGRAPH IN CALENDAR YEAR  
20 2001, PLUS 10 PERCENT, WHICHEVER AMOUNT IS GREATER; OR]

21 (C) to an individual who is present on the premises described  
22 under (A) of this paragraph, or where the beer is manufactured, in quantities of  
23 not more than five gallons a [PER] day for consumption off the premises;  
24 and

25 (D) to a person licensed under this title, or in another state  
26 or country, if the premises where the beer is manufactured are located in  
27 a community with a population of 75,000 or more; sales under this  
28 subparagraph may not exceed 6,200 gallons in a calendar year.

29 \* Sec. 5. AS 04.11.135(e) is amended to read:

30 (e) Notwithstanding (a) of this section, a brewpub license authorizes the  
31 holder of a restaurant or eating place license to (1) manufacture on premises licensed

1 under the restaurant or eating place license not more than 465,000 [150,000] gallons of  
 2 beer in a calendar year; (2) sell beer manufactured on premises licensed under the  
 3 restaurant or eating place license for consumption on the licensed premises; (3) sell  
 4 beer manufactured on the premises licensed under the restaurant or eating place  
 5 license in quantities of not more than five gallons a [PER] day for consumption off  
 6 the premises to an individual who is present on the licensed premises; and (4) provide  
 7 a small sample of the brewpub's beer manufactured on the premises free of charge  
 8 unless prohibited by AS 04.16.030. A person who holds a brewpub license under this  
 9 subsection may not hold more than one brewpub license.

10 \* Sec. 6. AS 04.11.140(b) is amended to read:

11 (b) The holder of a winery license may sell wine in quantities of

12 (1) less than five gallons

13 (A) to an individual who is present on the licensed premises; or

14 (B) by shipping to an individual if the shipment is not to an

15 area that has prohibited the importation or possession of alcoholic

16 beverages under this chapter or to an area that has limited the

17 importation or possession of alcoholic beverages unless the sale complies

18 with the limitation;

19 (2) more than five gallons to a person who is licensed under this title,

20 or in another state or country.

Insert to CS "W"  
 page 4 following line 13

SENATE FINANCE COMMITTEE  
5/6 / 2006 COMMITTEE ACTION

Bill Number	HB 240		
Amendment	CS "W"		
Motion	adopt		
<u>Motion by</u>			
<u>Objection by</u>			
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Dyson	✓		
Senator Hoffman			
Senator Olson	✓		
Senator Stedman			✓
Senator Bunde			✓
Co-Chair Wilken	✓		
Co-Chair Green			✓
<u>Tally</u>			
Yea	3		
Nay	3		
Absent	1		
<b>MOTION</b>	<b>Failed</b>		

# Alaska State Legislature



## House of Representatives House Judiciary Committee

State Capitol, Room 120  
Juneau, Alaska 99801-1182  
(907) 465-4990

### Sponsor Statement HB 240

#### "An Act relating to brewery and brew pub licensing"

The Brewers Guild of Alaska represents six breweries and five brewpubs operating in the state of Alaska. We are a growing industry that employs hundreds of Alaskans. The Brewers Guild is united in this bill in an effort to foster more equitable competition with breweries and brewpubs from outside of Alaska, while not harming small breweries in Alaska. In the State of Alaska, brewpubs and brewery licenses are exclusive licenses with different competitive markets, although the regular citizen sees no difference in these entities. Both Brewpubs and Brewery Licensees benefit from this bill, but if any of the core content is changed, then there will be an inequitable competitive landscape for either the breweries or the brewpubs.

Brewpubs are legally restricted to sell to consumers for consumption on their licensed premises and, with limitations, to consumers for off-premise consumption and to all other licensees through a distributor. Breweries are legally restricted to sell their product for off-site consumption whether to consumers, wholesalers or other licensees; breweries are also allowed to provide free samples of their product. The proposed legislation is a compromise between these licensees in order to improve the competitive environments of brewpubs and breweries, while not creating a significant impact on the competitive environments of other interested licensees, such as dispensary license owners and distributors.

This legislation increases the amount of beer a brewpub can produce (often referred to as the "production cap") from 150,000 gallons to 465,000 gallons. This cap is based upon the typical industry definition of the top level of production of a "microbrewery." In addition, this legislation increases the amount of beer a brewpub can sell to a licensed wholesaler from 15,000 gallons to 37,000 gallons. Outside brewpubs do not have a cap on the amount of beer they can sell in Alaska.

Current law allows breweries to provide free samples of their products. This legislation allows breweries to also charge for samples as is now common in tasting rooms in other states. Although there have been concerns voiced that this allows breweries to act as "taverns", this legislation includes restrictions that will differentiate the tasting rooms from the "tavern" concept, such as limited on-premise sales of only their beer, restricted hours of operation and a well-defined environment. The sale of samples allows breweries to help defray the costs of on-premise sampling while still providing the promotional and educational aspects of product sampling.

Finally, this legislation allows brewpubs in Anchorage and Fairbanks to self-distribute up to 200 barrels of beer per year. Under current law, brewpubs are required to use a wholesaler to distribute any beer off-premise. However, sales at this level are not necessarily profitable for the wholesaler, so it is difficult for a brewpub to initially get its product to the market. This change could potentially eliminate a competitive advantage to breweries in smaller communities in our state, thus the limitation of a population of 75,000 has been put in place to not harm the smallest of breweries.

The Brewers Guild is in support of this bill in its entirety.

**Finance Office**  
3401 Denali St., 202-A  
Anchorage, Alaska  
99503



**Gary J. Klopfer**  
Member Manager/Owner  
Phone: (907) 561-2274  
Fax: (907) 563-9354

March 28, 2006

House Labor & Commerce Committee Members

Re: HB 240 – Brewery & Brewpub Licensing

Dear Committee Members:

I am writing this letter in support of HB 240 and asking for your support of this bill.

Our fledgling brewing industry in Alaska has gone through many changes in the last ten years and this new legislation will continue to support our industry. As an industry, we employ hundreds of Alaskans, we pay ten of thousands of dollars in taxes, we buy millions of dollars in suppliers from Alaskan vendors and we have spent millions of dollars in construction and renovation costs for our establishments in Alaska. We have accomplished this in just the last ten years and I might add without any state subsidies or hand outs! All we ask for our industry is to be treated fairly and equitably considering our financial impact on the communities where we live.

As an industry, we formed the Brewers Guild of Alaska (BGA), to work together (breweries and brewpubs) on issues that we feel are in our best interest and in the interest of the citizens and the economy of Alaska. The BGA wholeheartedly supports this bill and I hope that you will support it also.

Thank you for your time and if you have any questions, please call me or email me at [gjklopfer@msn.com](mailto:gjklopfer@msn.com).

Sincerely,

*Gary J. Klopfer*



**Craig Johnson**

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**From:** Ben Millstein/KODIAK ISLAND BREWING CO [bmills@ak.net]  
**Sent:** Tuesday, March 28, 2006 2:00 PM  
**To:** Craig Johnson  
**Subject:** HB 240

Greetings to all interested persons,

As a member of the Brewer's Guild of Alaska running the Kodiak Island Brewing Company, LLC. I would like to express my support for HB240. The Guild has worked long and hard to arrive at a bill that we can all support, and that we believe addresses the concerns of businesses outside our guild. What we propose is in no way unusual when other state laws are examined. Please support this bill, and feel free to call me if you have any questions about it.

Thank you,

Ben Millstein  
Manager,  
Kodiak Island Brewing Co. LLC