

LEG. FINANCE - BILLS 1979 - 1980 1316
CSSSB 239am cont. 1316

1 11.010;

2 (2) the sale or offer for sale was made to a person under 19
3 years of age; or

4 (3) the quantity of alcoholic beverages sold or offered for
5 sale is 12 liters or more of distilled spirits, 24 liters or more of
6 wine, or 45 liters or more of malt beverages.

7 (c) It is an affirmative defense to a prosecution under (a) of
8 this section that no profit was involved in the solicitation or receipt
9 of an order for the delivery of an alcoholic beverage.

10 (d) Upon conviction of a person of a violation under (a) of this
11 section, the court shall impose a minimum sentence of imprisonment of
12 not less than 10 consecutive days. The execution of the sentence may
13 not be suspended and probation or parole may not be granted until the
14 minimum imprisonment provided in this subsection has been served.
15 Imposition of sentence may not be suspended except upon the condition
16 that the defendant be imprisoned for no less than the minimum period
17 provided in this subsection.

18 (e) A person who possesses alcoholic beverages in violation of
19 AS 04.11.494(b) and 04.11.500(b) is, upon conviction, guilty of a class B
20 misdemeanor.

21 (f) A person who sends, transports, or brings alcoholic beverages
22 into a city or established village in violation of AS 04.11.496 or
23 04.11.498 is, upon conviction,

24 (1) guilty of a class A misdemeanor if the quantity imported
25 is less than 12 liters of distilled spirits, 24 liters of wine, or 45
26 liters of malt beverages; or

27 (2) guilty of a class C felony if the quantity imported is 12
28 liters or more of distilled spirits, 24 liters or more of wine, or 45
29 liters or more of malt beverages.

1 Sec. 04.16.210. PENALTY FOR MAKING FALSE STATEMENT. If a false
2 statement is made in an application under AS 04.11.260, the applicant is
3 guilty of perjury and, upon conviction, is subject to the penalty pro-
4 vided by law for the crime of perjury under AS 11.56.200.

5 Sec. 04.16.220. FORFEITURES. (a) The following are subject to
6 forfeiture:

7 (1) alcoholic beverages manufactured, sold, offered for sale
8 or possessed for sale, bartered or exchanged for goods and services in
9 this state in violation of AS 04.11.010; alcoholic beverages stocked,
10 warehoused, or otherwise stored in violation of AS 04.21.060; alcoholic
11 beverages sold or offered for sale in an area where the results of a
12 local option election have, under AS 04.11.490 - 04.11.502, prohibited
13 the board from issuing, renewing, or transferring any licenses or permits
14 under this title in the area; alcoholic beverages transported into the
15 state and sold to persons not licensed under this chapter in violation
16 of AS 04.16.170(b);

17 (2) materials and equipment used in the manufacture, sale,
18 offering for sale, possession for sale, barter or exchange of alcoholic
19 beverages for goods and services in this state in violation of AS 04.11.-
20 010; materials and equipment used in the stocking, warehousing, or
21 storage of alcoholic beverages in violation of AS 04.21.060; materials
22 and equipment used in the sale or offering for sale of an alcoholic
23 beverage in an area where the results of a local option election have,
24 under AS 04.11.490 - 04.11.502, prohibited the board from issuing,
25 renewing, or transferring any licenses or permits under this title in
26 the area;

27 (3) aircraft, vehicles, or vessels used to transport, or
28 facilitate the transportation of

29 (A) alcoholic beverages manufactured, sold, offered for

1 sale or possessed for sale, bartered or exchanged for goods and
2 services in this state in violation of AS 04.11.010;

3 (B) property stocked, warehoused, or otherwise stored in
4 violation of AS 04.21.060;

5 (C) alcoholic beverages imported or possessed in a city
6 or established village in violation of AS 04.11.494(b) and 04.11.-
7 500(b);

8 (D) alcoholic beverages transported or imported into a
9 city or established village in violation of AS 04.11.496 and
10 04.11.498;

11 (4) alcoholic beverages found on licensed premises which do
12 not bear federal excise stamps if excise stamps are required under
13 federal law;

14 (5) alcoholic beverages, materials or equipment used in
15 violation of AS 04.16.175.

16 (b) Property subject to forfeiture under this section may be
17 actually or constructively seized under an order issued by the superior
18 court upon a showing of probable cause that the property is subject to
19 forfeiture under this section. Constructive seizure is effected upon
20 posting a signed notice of seizure on the item to be forfeited, stating
21 the violation and the date and place of seizure. Seizure without a
22 court order may be made if

23 (1) the seizure is incident to a valid arrest or search;

24 (2) the property subject to seizure is the subject of a prior
25 judgment in favor of the state; or

26 (3) there is probable cause to believe that the property is
27 subject to forfeiture under (a) of this section; property seized under
28 this paragraph may not be held over 48 hours or until an order of for-
29 feiture is issued by the court, whichever is earlier.

1 (c) Within 30 days of a seizure under this section the Department
2 of Public Safety shall make reasonable efforts to ascertain the identity
3 and whereabouts of any person holding an interest or an assignee of a
4 person holding an interest in the property seized, including a right to
5 possession, a lien, mortgage, or conditional sales contract. The Depart-
6 ment of Public Safety shall notify the person ascertained to have an
7 interest in property seized of the impending forfeiture, and before
8 forfeiture the Department of Law shall publish, once a week for four
9 consecutive calendar weeks, a notice of the impending forfeiture in a
10 newspaper of general circulation in the judicial district in which the
11 seizure was made, or if no newspaper is published in that judicial
12 district, in a newspaper published in the state and distributed in that
13 judicial district.

14 (d) Property subject to forfeiture under (a) of this section may
15 be forfeited

16 (1) upon conviction of a person under AS 04.11.010, 04.11.-
17 494(b), 04.11.496(b), 04.11.498(b), 04.11.500(b), or AS 04.21.060;

18 (2) upon judgment by the superior court in a proceeding in
19 rem that the property was used in a manner subjecting it to forfeiture
20 under (a) of this section.

21 (e) The owner of property subject to forfeiture under (a) of this
22 section is entitled to relief from the forfeiture in the nature of
23 remission of the forfeiture if in an action under (d) of this section
24 the owner shows that he was not a party to the violation and had no
25 actual knowledge that the property was used or was to be used in viola-
26 tion of the law

27 (f) A person, other than the owner, holding or the assignee of a
28 lien, mortgage, conditional sales contract on, or the right to posses-
29 sion to property subject to forfeiture under (a) of this section is

1 entitled to relief from the forfeiture in the nature of remission of the
2 forfeiture if in an action under (d) of this section the person shows
3 that he was not a party to the violation subjecting the property to
4 forfeiture and had no actual knowledge that the property was used or was
5 to be used in violation of the law.

6 (g) It is no defense in an in rem forfeiture proceeding brought
7 under (d)(2) of this section that a criminal proceeding is pending or
8 has resulted in conviction or acquittal of a person charged with violat-
9 ing AS 04.11.010, 04.11.494(b), 04.11.496(b), 04.11.498(b), 04.11.500(b),
10 or AS 04.21.060.

11 (h) Property forfeited under this section shall be placed in the
12 custody of the commissioner of public safety for disposition according
13 to an order entered by the court. The court shall order destroyed any
14 property forfeited under this section which is harmful to the public.
15 Other property shall be ordered sold and the proceeds used for payment
16 of expenses of the proceedings for forfeiture and sale, including ex-
17 penses of seizure, custody and court costs. The remainder of the pro-
18 ceeds shall be deposited in the general fund.

19 * Sec. 4. AS 04 is amended by adding a new chapter to read:

20 CHAPTER 21. GENERAL PROVISIONS.

21 Sec. 04.21.010. MUNICIPAL REGULATION. (a) A municipality may
22 adopt an ordinance or ordinances governing the barter, sale, consumption,
23 and possession of alcoholic beverages within the municipality as neces-
24 sary for the orderly conduct of the business of selling alcoholic
25 beverages within the municipality.

26 (b) If, as a result of an election held in accordance with AS 04.-
27 11.504 within a first or second class city, the board is prohibited from
28 issuing, renewing, or transferring between holders or locations a license
29 within the city or the possession or importation of alcoholic beverages

1 is prohibited within the city, the city may adopt an ordinance making
2 the sale, possession, or importation of alcoholic beverages a mis-
3 demeanor, whether the sale, possession, or importation is under a license
4 or otherwise. The ordinance may not be inconsistent with this title or
5 the regulations adopted under this title.

6 (c) A municipality may not impose taxes on alcoholic beverages
7 except (1) property taxes on alcoholic beverage inventories and (2)
8 sales taxes on alcoholic beverage sales.

9 Sec. 04.21.030. RESPONSIBILITY OF LICENSEES, AGENTS AND EMPLOYEES.
10 The licensee has a duty to exercise that degree of care which a reason-
11 able person would observe to insure that a business under his control is
12 lawfully conducted. This duty of the licensee includes, but is not
13 limited to,

14 (1) insuring the compliance by agents or employees with this
15 title and regulations adopted under this title, including acting with
16 reasonable diligence to determine that his agents or employees are
17 advised of the provisions of this title and the regulations adopted
18 under this title, either by securing the agent's or employee's written
19 acknowledgement of posted instructions or otherwise; and

20 (2) insuring the compliance of the premises with public
21 health, fire, and safety codes and ordinances of the state or munici-
22 pality having jurisdiction.

23 Sec. 04.21.040. SALES ON FEDERAL RESERVATIONS. (a) A wholesaler
24 of alcoholic beverages may sell alcoholic beverages to a person who does
25 not have a license under this title who has a fixed place of business on
26 land in the state maintained by the United States government as a mili-
27 tary or naval reservation, a national park, or other federal reserva-
28 tion. A sale may be made under this section only if the purchaser is a
29 ship's service store, officers club, officers mess, post exchange, or

1 similar organization. The wholesaler may deliver alcoholic beverages
2 only to persons specified and at places designated in a written order
3 issued by the federal organization for which the purchase is made. A
4 licensee making sales and deliveries under this section shall keep the
5 original order attached to the copy of the invoice on file at his prem-
6 ises.

7 (b) Alcoholic beverages received on federal reservations under
8 this section may not be removed for resale or public use outside the
9 federal reservation.

10 (c) A wholesaler who sells alcoholic beverages on a federal reser-
11 vation under this section shall pay the state excise tax imposed by
12 AS 43.60.010 on the alcoholic beverages sold and may subsequently claim
13 credit for the excise taxes paid if the sale is made to an organization
14 which is an instrumentality of the federal government.

15 Sec. 04.21.050. PROOF OF AGE. (a) If a licensee, or an agent or
16 employee of the licensee questions or has reason to question whether a
17 person entering a licensed premises, or ordering, purchasing, attempting
18 to purchase, or otherwise procuring or attempting to procure alcoholic
19 beverages has attained the age of 19 years, that licensee, agent, or
20 employee shall require the person to furnish proof of age acceptable
21 under (b) of this section. If the person questioned does not furnish
22 proof of age acceptable under (b) of this section, or if a licensee,
23 agent, or employee questions or has reason to question the validity of
24 the proof of age furnished, the licensee, employee or agent shall re-
25 quire the person to sign a statement that he is over the age of 19
26 years. This statement shall be made upon a form prepared by and furn-
27 ished to the licensee by the board.

28 (b) A valid driver's license or a valid identification card is
29 acceptable as proof of age when used for identification in the purchase

1 of alcoholic beverages and for securing entry to and remaining on
2 premises where alcoholic beverages are sold if the license or identi-
3 fication card is made of or encased in plastic and contains a photo-
4 graph of the license or card holder and a statement of his age or date
5 of birth.

6 (c) A licensee, or an agent or employee of the licensee, may not
7 be charged for a violation of AS 04.16.051 - 04.16.052 if a signed
8 statement as provided in (b) of this section is secured in good faith,
9 or a valid driver's license or identification card is presented indi-
10 cating that the owner and possessor of the presented driver's license or
11 identification card is 19 years of age or over.

12 Sec. 04.21.060. WAREHOUSING OF ALCOHOLIC BEVERAGES. A licensee
13 may stock, warehouse, or otherwise store alcoholic beverages in a place
14 elsewhere than premises indicated on his license if

15 (1) the premises to be used for storage are inspected and
16 approved by the board before their use;

17 (2) the use of the premises for storage is authorized by
18 local zoning ordinances; and

19 (3) the premises are accessible for inspection as provided in
20 AS 04.11.630.

21 Sec. 04.21.070. ENFORCEMENT. Peace officers shall investigate and
22 report to the board violations of this title.

23 Sec. 04.21.080. DEFINITIONS. (a) In this title

24 (1) a person acts with "criminal negligence" with respect to
25 a result or to a circumstance described by a provision of law defining
26 an offense when he fails to perceive a substantial and unjustifiable
27 risk that the result will occur or that the circumstance exists; the
28 risk must be of such a nature and degree that the failure to perceive it
29 constitutes a gross deviation from the standard of care that a reason-

1 able person would observe in the situation;

2 (2) a person acts "knowingly" with respect to conduct or to a
3 circumstance described by a provision of law defining an offense when he
4 is aware that his conduct is of that nature or that the circumstance
5 exists; when knowledge of the existence of a particular fact is an
6 element of an offense, that knowledge is established if a person is
7 aware of a substantial probability of its existence, unless he actually
8 believes it does not exist; a person who is unaware of conduct or a
9 circumstance of which he would have been aware had he not been intoxi-
10 cated acts knowingly with respect to that conduct or circumstance;

11 (3) a person acts "recklessly" with respect to a result or to
12 a circumstance described by a provision of law defining an offense when
13 he is aware of and consciously disregards a substantial and unjusti-
14 fiable risk that the result will occur or that the circumstance exists;
15 the risk must be of such a nature and degree that disregard of it con-
16 stitutes a gross deviation from the standard of conduct that a reason-
17 able person would observe in the situation; a person who is unaware of a
18 risk of which he would have been aware had he not been intoxicated acts
19 recklessly with respect to that risk.

20 (b) In this title

21 (1) "alcoholic beverage" includes, but is not limited to,
22 whiskey, brandy, rum, gin, wine, ale, porter, beer, and all other spiri-
23 tuous, vinous, malt and other fermented or distilled liquors intended for
24 human consumption and containing more than one percent alcohol by
25 volume;

26 (2) "board" means the Alcoholic Beverage Control Board;

27 (3) "bottling" means to put into a bottle, can, or other con-
28 tainer;

29 (4) "designated premises" means any or all designated por-

1 tions of a building or structure, rooms or enclosures in the building or
2 structure, or real estate leased, used, controlled, or operated by a
3 licensee for the purpose for which the permit is issued by the board at
4 the location of the site for which the permit is issued;

5 (5) "director" means the director of the Alcoholic Beverage
6 Control Board;

7 (6) "distributing point" means a location where alcoholic
8 beverages are distributed from a warehouse;

9 (7) "established village" means an unincorporated area that

10 (A) is within the circumference of a circle described by
11 drawing a five-mile radius around a post office station;

12 (B) has 25 or more permanent residents;

13 (8) "intoxicated person" means a person whose physical or
14 mental conduct is substantially impaired as a result of the introduction
15 of an alcoholic beverage into his body and who exhibits those plain and
16 easily observed or discovered outward manifestations of behavior commonly
17 known to be produced by the use of alcoholic beverages;

18 (9) "licensed premises" means any or all designated portions
19 of a building or structure, rooms or enclosures in the building or
20 structure, or real estate leased, used, controlled, or operated by a
21 licensee in the conduct of business for which he is licensed by the
22 board at the specific address for which the license is issued;

23 (10) "local governing body" means, as appropriate, a city
24 council, a borough assembly, or a traditional village council, but does
25 not include a corporation established under the Alaska Native Claims
26 Settlement Act;

27 (11) "municipality" means an incorporated city, an organized
28 borough, or a unified municipality established under AS 29.68.

29 * Sec. 5. AS 09.35.087 is amended to read:

1 Sec. 09.35.087. EXEMPTION FOR LIQUOR LICENSES. In addition to the
2 exemptions set out in AS 09.35.080 and 09.35.085, the liquor license of
3 a judgment debtor is exempt from attachment, garnishment, and execution.

4 * Sec. 6. AS 09.65 is amended by adding a new section to read:

5 Sec. 09.65.097. CIVIL LIABILITY OF PERSONS PROVIDING ALCOHOLIC
6 BEVERAGES. A person who provides alcoholic beverages to another person
7 may not be held civilly liable for injuries resulting from the intoxica-
8 tion of that person unless

9 (1) the person who provides the alcoholic beverages holds a
10 license authorized under AS 04.11.080 - 04.11.220, or is an agent or
11 employee of such a licensee; and

12 (2) the alcoholic beverages are provided to a person under
13 the age of 19 years in violation of AS 04.16.051, unless the licensee,
14 agent, or employee secures in good faith from the person a signed state-
15 ment, liquor identification card, or driver's license meeting the re-
16 quirements of AS 04.21.050(a) and 04.21.050(b), which indicates that the
17 person is 19 years of age or older; or

18 (3) the alcoholic beverages are provided to an intoxicated
19 person in violation of AS 04.16.030.

20 * Sec. 7. AS 12.55.025(a) is amended to read:

21 (a) When imposing a sentence of imprisonment exceeding 90 [180]
22 days or upon a conviction of a violation of AS 04, a regulation adopted
23 under AS 04, or an ordinance adopted in conformity with AS 04.21.010,
24 the court, shall prepare, as a part of the record, a sentencing report
25 which includes the following:

26 (1) a verbatim record of the sentencing hearing and any other
27 in-court sentencing procedures;

28 (2) findings on material issues of fact and on factual ques-
29 tions required to be determined as a prerequisite to the selection of

1 the sentence imposed;

2 (3) a clear statement of the terms of the sentence imposed;
3 and

4 (4) recommendations as to the place of confinement or the
5 manner of treatment.

6 * Sec. 8. AS 12.55.025(b) is repealed and re-enacted to read:

7 (b) The sentencing report required under (a) of this section shall
8 be furnished within 30 days after imposition of sentence to the Depart-
9 ment of Law, the defendant, the division of corrections, the state Board
10 of Parole if the defendant will be eligible for parole, and to the Alco-
11 holic Beverage Control Board if the defendant is to be sentenced for a
12 conviction of a violation of AS 04, a regulation adopted under AS 04, or
13 an ordinance adopted under AS 04.21.010.

14 * Sec. 9. AS 29.33.090 is amended by adding a new subsection to read:

15 (e) A zoning ordinance adopted or amended under (a) of this sec-
16 tion may not preclude an activity authorized under a license or permit
17 issued under AS 04 if the activity was licensed or permitted by the
18 Alcoholic Beverage Control Board before the adoption of the zoning
19 ordinance or zoning ordinance amendment.

20 * Sec. 10. AS 39.25.110 is amended by adding a new paragraph to read:

21 (23) officers, agents, and employees of the Alcoholic Beverage
22 Control Board granted limited peace officer powers by the Alcoholic
23 Beverage Control Board under AS 04.06.110.

24 * Sec. 11. AS 04.05, AS 04.10, AS 04.15, AS 04.20, and AS 44.62.330(17)
25 are repealed.

26 * Sec. 12. Notwithstanding AS 04.06, members of the Alcoholic Beverage
27 Control Board serving on the board on the effective date of this Act continue
28 in office until the expiration of their terms.

29 * Sec. 13. Sections 7 and 8 of this Act take effect January 1, 1981.

1 * Sec. 14. Sections 1 - 5 and secs. 9 - 14 of this Act take effect on the
2 effective date of an Act amending AS 44.66.010(a)(1) to continue the existence
3 of the Alcoholic Beverage Control Board beyond June 30, 1979.

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Original sponsor: Rules Committee (for Title 4
Code Revision Committee)

Offered: 4/2/80
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 239 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to alcoholic beverages; and providing
7 for an effective date."

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

9 * Section 1. AS 04 is amended by adding a new chapter to read:

10 CHAPTER 06. ALCOHOLIC BEVERAGE CONTROL BOARD.

11 Sec. 04.06.010. ESTABLISHMENT OF BOARD. The Alcoholic Beverage
12 Control Board is established as a regulatory and quasi-judicial agency.
13 The board is in the Department of Revenue, but for administrative pur-
14 poses only.

15 Sec. 04.06.020. APPOINTMENT AND QUALIFICATIONS. The board con-
16 sists of five members appointed by the governor and confirmed by a
17 majority of the members of the legislature in joint session. A member
18 of the board may not hold any other state or federal office, either
19 elective or appointive. Two members of the board shall be persons
20 actively engaged in the alcoholic beverage industry, except that no
21 member may hold a wholesale license or be an officer, agent, or employee
22 of a wholesale alcoholic beverage enterprise. No three members of the
23 board may be engaged in the same business, occupation, or profession.

24 Sec. 04.06.030. TERMS OF OFFICE. (a) Members of the board shall
25 be appointed for overlapping terms of three years.

26 (b) A vacancy occurring in the membership of the board shall be
27 filled within 30 days by appointment of the governor for the unexpired
28 portion of the vacated term.

29 (c) The board shall select a chairman from among its members.

1 Sec. 04.06.040. PER DIEM AND EXPENSES. Members of the board
2 receive no salary, but are entitled to per diem and travel expenses
3 authorized by law for other boards and commissions.

4 Sec. 04.06.050. MEETINGS. The board shall meet at the call of the
5 chairman. The board shall also meet at least once each year in each
6 judicial district of the state to study this title and to modify exist-
7 ing board regulations in light of statewide and local problems.

8 Sec. 04.06.060. QUORUM AND MAJORITY. Three members of the board
9 constitute a quorum for the conduct of business, except that a majority
10 of the whole membership of the board must approve all applications for
11 new licenses, and all renewals, transfers, suspensions and revocations
12 of existing licences. If a majority of the board is present and voting,
13 the director, with the consent of the members present, may cast a tie-
14 breaking vote.

15 Sec. 04.06.070. APPOINTMENT AND REMOVAL OF DIRECTOR. The governor
16 shall appoint a director to serve as the executive officer of the board.
17 The board may remove the director at its pleasure, and the governor may
18 remove the director for misconduct, misfeasance or malfeasance in
19 office. The governor may not remove the director unless the director is
20 given a copy of the charges against him and afforded an opportunity to
21 be publicly heard, in person or by counsel, in his own defense upon at
22 least 10 days notice. If the director is removed for cause, the
23 governor shall file with the lieutenant governor a complete statement of
24 all charges made against the director and the findings based on the
25 charges, together with a complete record of any hearing.

26 Sec. 04.06.075. AUTHORITY OF DIRECTOR. The director shall enforce
27 this title and regulations adopted by the board.

28 Sec. 04.06.080. DELEGATION OF AUTHORITY. The director shall
29 issue, renew, transfer, suspend, or revoke all licenses and permits at

1 the direction of the board. However, notwithstanding AS 04.11.070, the
2 board may delegate authority to the director to temporarily grant or
3 deny the issuance, renewal, or transfer, of licenses and permits. The
4 director's temporary grant or denial of the issuance, renewal, or trans-
5 fer of a license or permit is not binding on the board. The board may
6 delegate to the director any duty imposed by this title except its power
7 to propose and adopt regulations.

8 Sec. 04.06.090. POWERS AND DUTIES. (a) The board shall control
9 the manufacture, barter, sale, consumption, and possession of alcoholic
10 beverages in the state. The board is vested with the powers, duties,
11 and responsibilities necessary for the control of alcoholic beverages,
12 including the power to propose and adopt regulations and to hear appeals
13 from actions of the director, and from actions of officers and employees
14 charged with enforcing the alcoholic beverage control laws and the
15 regulations of the board.

16 (b) The board shall review all applications for licenses made
17 under this title and may order the director to issue, renew, revoke,
18 transfer or suspend licenses and permits authorized under this title.

19 (c) When considering an application, the board may reduce the area
20 to be designated the licensed premises below the area applied for when,
21 in the judgment of the board, a reduction in area is necessary to insure
22 control over the sale and consumption of alcoholic beverages on the
23 premises or is otherwise in the best interests of the public.

24 (d) The board may employ, directly or through contracts with other
25 departments and agencies of the state, enforcement agents and staff it
26 considers necessary to carry out the purposes of this title. The
27 salaries of personnel of the board in the exempt service shall be set by
28 the Department of Administration.

29 (e) The board shall promptly notify all licensees and municipali-

1 ties of major changes to this title and to regulations adopted under
2 this title. However, if changes only affect specific classifications of
3 licenses and permits, the board need only notify those licensees and
4 municipalities directly affected by the changes. Current copies of this
5 title and current copies of the regulations adopted under it shall be
6 made available at all offices of the Department of Revenue and the
7 detachment headquarters and posts maintained by the division of Alaska
8 state troopers, Department of Public Safety, in the state.

9 Sec. 04.06.100. REGULATIONS. (a) The board shall adopt regula-
10 tions governing the manufacture, barter, sale, consumption, and posses-
11 sion of alcoholic beverages in the state which are consistent with this
12 title and necessary to carry out the purpose of this title in a manner
13 that will protect the public health, safety, and welfare. The regula-
14 tions shall be adopted in accordance with the Administrative Procedure
15 Act (AS 44.62).

16 (b) The subjects covered by regulations adopted under (a) of this
17 section may include, but are not limited to, the following matters:

18 (1) employment, conduct, and duties of the director and of
19 regular and contractual employees of the board;

20 (2) procedures for the issuance, denial, renewal, transfer,
21 revocation, and suspension of licenses and permits;

22 (3) terms and conditions of licenses and permits issued;

23 (4) fees for licenses and permits issued for which no fees
24 are prescribed by statute;

25 (5) conduct of regular and special meetings of the board;

26 (6) delegation to the director of routine administrative
27 functions and powers;

28 (7) the temporary granting or denial of issuance, transfer,
29 and renewal of licenses;

1 (8) manner of giving any notice required by law or regulation
2 when not provided for by statute;

3 (9) requirements relating to the qualifications of licensees,
4 the conditions upon which a license may be issued, the accommodations of
5 licensed premises, and board inspection of those premises;

6 (10) making of reports by wholesalers;

7 (11) purchase of fidelity bonds by the state for the director
8 and the employees of the board;

9 (12) prohibition of possession of alcoholic beverages by
10 intoxicated persons and by minors;

11 (13) required reports from corporations licensed under this
12 title, including reports of stock ownership and transfers and changes of
13 officers and directors;

14 (14) creation of classifications of licenses or permits not
15 provided for in this title;

16 (15) establishment and collection of fees to be paid on appli-
17 cation for a license or permit.

18 Sec. 04.06.110. PEACE OFFICER POWERS. The director and the per-
19 sons employed for the administration and enforcement of this title may
20 exercise the powers of peace officers when those powers are specifically
21 granted by the board. Powers granted by the board under this section
22 may be exercised only when necessary for the enforcement of the crimi-
23 nally punishable provisions of this title, regulations of the board, and
24 other criminally punishable laws and regulations governing the manu-
25 facture, barter, sale, consumption, and possession of alcoholic bever-
26 ages in the state.

27 * Sec. 2. AS 04 is amended by adding a new chapter to read:

28 CHAPTER 11. LICENSING.

29 ARTICLE 1. LICENSING AND REPORTING REQUIREMENTS.

1 Sec. 04.11.010. LICENSE OR PERMIT REQUIRED. (a) Except as pro-
2 vided in AS 04.11.020, a person may not manufacture, sell, offer for
3 sale, possess for sale or barter, traffic in, or barter an alcoholic
4 beverage unless under license or permit issued under this title.

5 (b) A person may not solicit or receive orders for the delivery of
6 an alcoholic beverage in an area where the results of a local option
7 election have, under AS 04.11.490, prohibited the board from issuing,
8 renewing or transferring any licenses or permits under this title,
9 unless the person is licensed under this title and the order is actually
10 received by that person from the purchaser of the alcoholic beverage. A
11 person who violates this subsection is punishable upon conviction under
12 AS 04.16.200(a) or (b).

13 Sec. 04.11.020. EXCEPTIONS: LICENSE OR PERMIT NOT REQUIRED. (a)
14 A license or permit is not required to authorize sales made by a person
15 under a judgment and decree of foreclosure, under the bankruptcy law of
16 the United States (11 U.S.C. 1101 et seq), or under order of the board
17 or a court under AS 04.16.220.

18 (b) A license or permit is not required to serve alcoholic bever-
19 ages in exchange for valuable contributions at a private gathering of a
20 bona fide group of co-workers or of a professional, social, or fraternal
21 organization if equal contributions are made by all in attendance and
22 only the amount required to purchase the alcoholic beverages is contri-
23 buted. All other applicable provisions of this title and regulations
24 under this title shall be observed at these private gatherings.

25 Sec. 04.11.030. DEATH OF LICENSEE. (a) The executor or adminis-
26 trator of the estate of a person who was operating a business as a sole
27 licensee under a license authorized by this title may continue to oper-
28 ate the licensed business until an application for transfer of a license
29 to another person is approved or until the license is forfeited under

1 (b) of this section.

2 (b) If an application for the transfer of ownership of a license
3 from the deceased licensee is not made within 90 days of the death of
4 the licensee or within an additional 90 days if an application for
5 transfer of ownership made by the executor is denied, or no petition is
6 made to the board for an extension of time under (c) of this section
7 within that time, the license shall be forfeited.

8 (c) The board may extend the time limits in (b) of this section on
9 petition of the executor or administrator.

10 (d) This section does not authorize the transfer of a liquor
11 license by an administrator or executor to the estate of a decedent.

12 (e) The board may transfer a license to an executor or adminis-
13 trator only in the executor's or administrator's individual capacity.

14 Sec. 04.11.040. BOARD APPROVAL OF TRANSFERS. (a) A license
15 issued under this title may not be transferred to another person except
16 with the written consent of the board.

17 (b) A license or permit issued under this title may not be trans-
18 ferred to a new location except with the written consent of the board.

19 (c) A person may not receive or transfer controlling interest in a
20 liquor license issued to a corporation under this title except with the
21 written consent of the board.

22 Sec. 04.11.050. REPORTS REQUIRED OF CORPORATIONS. (a) A corpora-
23 tion issued a license under this title shall report to the board when 10
24 per cent or more of its corporate stock is transferred and shall also
25 report any change in its corporate officers or in the membership of its
26 board of directors.

27 (b) The report to the board shall be made in writing in duplicate
28 and must be sent within 10 days after the transfer of the stock or the
29 change in officers or directors.

1 (c) This section does not apply to a corporation whose stock is
2 listed on a stock exchange, a corporation which is required by law to
3 file periodic reports with the United States Securities Exchange Commis-
4 sion, or to a bank, trust company, financial institution, or title
5 company to which a license is issued in a fiduciary capacity.

6 Sec. 04.11.060. NONRESIDENT DISTILLER, BREWER, WINERY OR WHOLE-
7 SALER. A distiller, brewer, winery or wholesaler whose plant or prin-
8 cipal place of business is outside the state may not sell products
9 directly to licensees in the state without

10 (1) obtaining a general wholesale license under AS 04.11.-
11 160(a) for each wholesale distributing point in the state;

12 (2) appointing an agent upon whom process can be served; and

13 (3) obtaining other applicable licenses under the provisions
14 of this title.

15 Sec. 04.11.070. POWER LIMITED TO THE BOARD. Only the board may
16 issue, renew, transfer, suspend, or revoke a license under this title.

17 ARTICLE 2. LICENSES AND PERMITS.

18 Sec. 04.11.080. TYPES OF LICENSES AND PERMITS. Licenses and
19 permits issued under this title are as follows:

20 (1) beverage dispensary license;

21 (2) duplicate beverage dispensary license for additional
22 rooms;

23 (3) restaurant or eating place license;

24 (4) club license;

25 (5) bottling works license;

26 (6) brewery license;

27 (7) package store license;

28 (8) general wholesale license;

29 (9) wholesale malt beverage and wine license;

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- (10) distillery license;
- (11) common carrier dispensary license;
- (12) retail stock sale license;
- (13) recreational site license;
- (14) community liquor license;
- (15) pub license;
- (16) winery license;
- (17) caterer's permit;
- (18) special events permit;
- (19) conditional contractor's permit.

Sec. 04.11.090. BEVERAGE DISPENSARY LICENSE. (a) A beverage dispensary license authorizes the holder to sell or serve on the licensed premises alcoholic beverages for consumption on the licensed premises only.

(b) The annual beverage dispensary license fee is \$1,250.

(c) An applicant for a beverage dispensary license must file with the application a cash bond or a surety bond executed by a surety company approved by the board. The bond shall be in the sum of \$2,500. Upon revocation of the license under AS 04.11.370(4), the bond shall be forfeited and the amount deposited in the general fund of the state.

(d) The area designated as the licensed premises under a beverage dispensary license issued to a hotel, motel, resort or similar business which caters to the traveling public as a substantial part of its business may include the dining room, banquet room, guests' rooms, and other public areas approved by the board.

(e) A holder of a beverage dispensary license may not maintain upon the licensed premises more than one room in which there is regularly maintained a fixed counter or service bar at which alcoholic beverages are sold or served to members of the public for consumption

1 unless he is issued by the board, after investigation, a duplicate of
2 the original license for each of the rooms. The holder of the beverage
3 dispensary license shall pay to the board with each application for a
4 duplicate license an amount equal to the fee payable for the original
5 beverage dispensary license under (b) of this section. If the licensed
6 premises are located within a municipality, a duplicate beverage dis-
7 pensary license may not be issued unless approved by the council or
8 assembly, as appropriate.

9 (f) The area designated as the licensed premises under a beverage
10 dispensary license issued to a bowling alley may include the concourse
11 or lane areas of the bowling alley. Notwithstanding AS 04.16.049, the
12 board may, upon application, authorize access by persons under 19 years
13 of age to the concourse or lane areas designated part of the bowling
14 alley's licensed premises during hours when no alcoholic beverages are
15 being sold, served, or consumed.

16 Sec. 04.11.100. RESTAURANT OR EATING PLACE LICENSE. (a) A res-
17 taurant or eating place license authorizes a restaurant or eating place
18 to sell beer and wine for consumption only on the licensed premises.

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

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

26 (d) The annual fee for a restaurant or eating place license is
27 \$300.

28 Sec. 04.11.110. CLUB LICENSE. (a) A club license authorizes a
29 club or organization to sell alcoholic beverages for consumption only on

1 the licensed premises.

2 (b) A club license may only be issued to a club, fraternal organi-
3 zation, patriotic organization, or social organization chartered by a
4 state or national organization for a period of two consecutive years
5 before application for a license under this section. The organization
6 licensed under this section must be operated for social, recreational,
7 political, benevolent or athletic purposes and not for profit. A club
8 license may only be issued to an organization if none of the income
9 from the sale of alcoholic beverages is distributed to its members,
10 directors, or officers. Soliciting of public patronage of the club
11 premises except as approved by the board is a violation of this section.

12 (c) The annual club license fee is \$600.

13 (d) Alcoholic beverages sold under a club license may be purchased
14 only by (1) members of the club and their families, (2) widows or
15 widowers of deceased members who have been accorded club privileges, and
16 (3) military personnel in uniform on active duty who are extended the
17 privilege by patriotic organizations upon special occasions. Alcoholic
18 beverages may be purchased only in the portion of the club rooms which
19 are part of the licensed premises.

20 (e) Guests who enter the club premises on the invitation of a
21 member and in the company of the member may be served but not sold
22 alcoholic beverages. A guest must leave the premises immediately upon
23 the departure of the member who extended the invitation to enter.

24 (f) Alcoholic beverages purchased by a club or organization li-
25 censed under this section may not be used or consumed off the licensed
26 premises of the club or organization by any person, including club
27 members and employees.

28 (g) Notwithstanding AS 04.16.049, the board may authorize access
29 by persons under 19 years of age to a club's licensed premises during

1 hours when no alcoholic beverages are sold, served or consumed.

2 (h) In this section, "member" means a holder of paid-up membership
3 entitling the holder to all voting rights and privileges of membership
4 under the constitution or bylaws of the club or organization.

5 Sec. 04.11.120. BOTTLING WORKS LICENSE. (a) A bottling works
6 license authorizes the holder to operate a bottling works where beer and
7 wine may be bottled and sold.

8 (b) A sale under a bottling works license may be made only to a
9 person licensed under this title and only in quantities of more than
10 five wine gallons.

11 (c) The annual bottling works license fee is \$250.

12 Sec. 04.11.130. BREWERY LICENSE. (a) A brewery license autho-
13 rizes the holder to operate a brewery where beer is manufactured and
14 bottled or barreled for sale.

15 (b) A brewery license authorizes the holder to sell beer in
16 quantities of more than five wine gallons to persons licensed to sell
17 beer under this title.

18 (c) The holder of a brewery license may permit a person to sample
19 small portions of the brewery's product free of charge unless prohibited
20 by AS 04.16.030.

21 (d) The annual brewery license fee is \$500.

22 Sec. 04.11.140. WINERY LICENSE. (a) A winery license authorizes
23 the holder to operate a winery where wine is manufactured and bottled or
24 barreled for sale.

25 (b) A winery license authorizes the holder to sell wine to persons
26 licensed under this title in quantities of more than five wine gallons.

27 (c) The holder of a winery license may permit a person to sample
28 small portions of the wine on the premises free of charge unless pro-
29 hibited by AS 04.16.030.

1 (d) The annual winery license fee is \$250.

2 Sec. 04.11.150. PACKAGE STORE LICENSE. (a) A package store
3 license authorizes the holder to sell alcoholic beverages to a person in
4 response to a verbal solicitation for purchase received from the person
5 present on the licensed premises or in response to a written sollicita-
6 tion made by a person known to the licensee for a purchase to be re-
7 ceived by the person making the solicitation.

8 (b) The annual package store license fee is \$750.

9 (c) The holder of a package store license may not sell alcoholic
10 beverages requiring Internal Revenue strip stamps unless the stamps are
11 intact on the packages.

12 (d) The consumption of alcoholic beverages on premises licensed
13 under this section is prohibited.

14 (e) The business premises occupied by a holder of a package store
15 license may not be connected by a door, opening, or other means of
16 passage intended for the access of the general public to an adjacent
17 retail business not licensed under this title.

18 (f) When the holder of a package store license is also a holder of
19 a beverage dispensary license and the package store premises are con-
20 tained within or are adjacent to the premises of the beverage dispensary
21 and the only public entrance to the package store is by a door or other
22 means within the premises of the beverage dispensary, the board shall
23 determine if additional entrances to the package store are necessary for
24 enforcement purposes, to meet health and fire safety standards, or for
25 the convenience of the public.

26 (g) "Business premises" means that part of the licensed premises
27 to which the public has access.

28 Sec. 04.11.160. WHOLESALE LICENSES. (a) A general wholesale
29 license authorizes the holder to sell alcoholic beverages in the origi-

1 nal package, and wine in bulk, in quantities of not less than five
 2 gallons. A holder of a general wholesale license may not sell to a
 3 person not licensed under this title, except as provided in AS 04.21.-
 4 040. A holder of a general wholesale license may not sell alcoholic
 5 beverages requiring Internal Revenue strip stamps unless the alcoholic
 6 beverages have the stamps intact on the package. A wholesaler must
 7 obtain a general wholesale license for each distributing point. The
 8 annual general wholesale license fee is \$1,000 for the first \$100,000 of
 9 business transacted, payable at the time of making an original applica-
 10 tion or an application for renewal. In addition, the following annual
 11 fees shall be paid by a holder of a general wholesale license:

Business Transacted During Year	Fee
over \$100,000 and not over \$150,000	\$ 500
over \$150,000 and not over \$200,000	\$ 1,000
over \$200,000 and not over \$250,000	\$ 1,500
over \$250,000 and not over \$300,000	\$ 2,000
over \$300,000 and not over \$350,000	\$ 2,500
over \$350,000 and not over \$400,000	\$ 3,000
over \$400,000 and not over \$500,000	\$ 4,000
over \$500,000 and not over \$600,000	\$ 5,000
over \$600,000 and not over \$700,000	\$ 6,000
over \$700,000 and not over \$800,000	\$ 7,000
over \$800,000 and not over \$1,000,000	\$ 9,000
over \$1,000,000	\$10,000

25 (b) A wholesale malt beverage and wine license authorizes the
 26 holder to sell malt beverages and wine in the original packages in
 27 quantities of not less than five wine gallons. The holder of a whole-
 28 sale malt beverage and wine license may not sell to a person not
 29 licensed under this title except as provided in AS 04.21.040. The

1 annual wholesale malt beverage and wine license fee is \$200 for the
2 first \$20,000 of business transacted during a year, payable at the time
3 of making an original application or application for renewal. In addi-
4 tion, the following annual fees shall be paid by a holder of a wholesale
5 malt beverage and wine license:

6 Business Transacted During Year	7 Fee
8 over \$20,000 and not over \$50,000	9 \$ 300
10 over \$50,000 and not over \$100,000	11 \$ 1,000
12 over \$100,000 and not over \$150,000	13 \$ 1,500
14 over \$150,000 and not over \$200,000	15 \$ 2,000
16 over \$200,000 and not over \$400,000	17 \$ 4,000
18 over \$400,000 and not over \$600,000	19 \$ 6,000
20 over \$600,000 and not over \$800,000	21 \$ 8,000
22 over \$800,000	23 \$10,000

24 (c) In this section, the "total business transacted" means the
25 total value of business transacted by the wholesale business, including
26 the excise tax imposed by AS 43.60.010.

27 (d) No later than February 28 of each year following that for
28 which a license has been issued under this section, the licensee shall
29 file with the board an affidavit showing the total amount of business
transacted during the preceding year under his license and the location
of the licensed premises at which the business was transacted. At the
time of filing the affidavit, the licensee shall pay the license fees
accrued under (a) and (b) of this section during the preceding year.

(e) Failure to file an affidavit under (d) of this section or the
expiration of a license under AS 04.11.540 does not relieve a licensee
from paying the prescribed fees.

(f) For the purposes of this section, "distributing point" means a
location where alcohol is distributed from a warehouse.

1 Sec. 04.11.170. DISTILLERY LICENSE. (a) A distillery license
2 authorizes the holder to operate a distillery where alcoholic beverages
3 are distilled and bottled or barreled for sale.

4 (b) A distillery license authorizes the holder to sell alcoholic
5 beverages to persons licensed under this chapter in quantities of more
6 than five gallons.

7 (c) The annual distillery license fee is \$500.

8 Sec. 04.11.180. COMMON CARRIER DISPENSARY LICENSE. (a) A common
9 carrier dispensary license authorizes the holder to sell alcoholic
10 beverages for consumption aboard a vehicle, boat, aircraft, or railroad
11 buffet car licensed by a state or federal agency for passenger travel.

12 (b) The annual fee for a common carrier dispensary license is \$350
13 for each vehicle, boat, aircraft, or railroad buffet car in which al-
14 coholic beverages are served.

15 Sec. 04.11.190. COMMUNITY LIQUOR LICENSE. (a) A community liquor
16 license authorizes a city to sell alcoholic beverages to the same extent
17 authorized under a beverage dispensary or package store license, or
18 both, subject to the same requirements regarding conditions and payment
19 of fees applying to those licenses.

20 (b) A city that has within its boundaries privately owned premises
21 licensed as a beverage dispensary or a package store before June 1,
22 1970, and operated continuously since the date of licensure is not eli-
23 gible for a community liquor license.

24 (c) A city which has within its boundaries privately owned
25 premises licensed as a beverage dispensary or package store after
26 June 1, 1970, and operated continuously since the date of licensure is
27 eligible for a community liquor license which does not duplicate the
28 privately owned beverage dispensary or package store license.

29 (d) A city council shall apply for a community liquor license

1 whenever the majority of the voters at a local option election favors
2 the issuance of a community liquor license. Unless prohibited by the
3 results of an earlier local option election, a city council may also
4 apply on its own motion for a community liquor license.

5 Sec. 04.11.200. RETAIL STOCK SALE LICENSE. (a) A retail stock
6 sale license authorizes the holder to sell the remaining stock of a
7 package liquor store when the owner wishes to close out or terminate the
8 business of the store.

9 (b) A sale by a holder of a retail stock sale license may only be
10 in quantities of five wine gallons or more per sale and may only be to
11 persons licensed under this chapter.

12 (c) The retail stock sale license shall be issued for a period of
13 90 days from the expiration or forfeiture of the package store license
14 and is not renewable.

15 (d) The retail stock sale license shall be issued only if the
16 owner of the package store business does not have a current package
17 store license. However, if the owner had a package store license which
18 was suspended or revoked, the retail stock sale license may not be
19 issued.

20 (e) The retail stock sale license fee is \$100.

21 Sec. 04.11.210. RECREATIONAL SITE LICENSE. (a) The holder of a
22 recreational site license may sell beer and wine at a recreational site
23 during and one hour before and after a recreational event which is not a
24 school event, for consumption on designated areas at the site.

25 (b) The annual fee for a recreational site license is \$400.

26 (c) In this section, "recreational site" means, but is not limited
27 to, a location where baseball games, car races, hockey games, dog sled
28 racing events, or curling matches are regularly held during a season.

29 Sec. 04.11.220. PUB LICENSE. (a) A pub license authorizes the

1 holder to sell beer and wine for consumption only at a designated pre-
2 mises located on the campus of an accredited college or university.

3 (b) Only one pub license may be issued or renewed for each college
4 or university campus in the state.

5 (c) A pub license may not be issued or renewed without the written
6 approval of the governing body of the college or university.

7 (d) The annual fee for a pub license is \$400.

8 (e) In this section, an "accredited college or university" means a
9 college or university accredited by the Northwest Association of Sec-
10 ndary and Higher Schools.

11 Sec. 04.11.230. CATERER'S PERMIT. (a) A caterer's permit autho-
12 rizes the holder of a beverage dispensary license to sell or dispense
13 alcoholic beverages at conventions, picnics, social gatherings, sporting
14 events, or similar affairs held off the holder's licensed premises. The
15 permit may only be issued for designated premises for a specific occa-
16 sion and for a limited period of time.

17 (b) The written approval of a law enforcement agency having
18 jurisdiction over the site of the occasion for which the permit is
19 sought must be obtained and accompany the application.

20 (c) A caterer's permit may not be transferred or renewed.

21 (d) A caterer's permit must be surrendered to the board, its
22 agent, or the law enforcement agency approving the permit within 48
23 hours of its expiration time. Failure to surrender the permit is cause,
24 in the discretion of the board, for denial of applications for permits
25 made in the future by the permittee.

26 (e) The fee for a caterer's permit is \$50 and shall accompany the
27 application for a permit.

28 Sec. 04.11.240. SPECIAL EVENTS PERMIT. (a) A special events
29 permit authorizes the holder to sell or dispense beer or wine for con-

1 sumption at designated premises for a specific occasion and limited
2 period of time. Only nonprofit fraternal, civic, or patriotic organiza-
3 tions active for a period of at least two years before application and
4 incorporated under AS 10.20 are eligible for a special events permit,
5 and only if all profits derived from the sale of beer or wine are paid
6 to the organization and not to an individual.

7 (b) An application for a special events permit must be received in
8 the main office of the board at least 10 days before the date for which
9 the permit is requested. The application must be signed by both the
10 president and secretary of the organization applying for the permit. A
11 sworn affidavit showing the length of time the organization has been in
12 existence must accompany the application, together with a certified copy
13 of the resolution of the board of directors authorizing the application.
14 The written approval of the law enforcement agency having jurisdiction
15 over the designated premises of the occasion for which the permit is
16 sought must also be obtained and accompany the application.

17 (c) The special events permit must be surrendered to the board,
18 its agent, or the law enforcement agency approving the permit, within 48
19 hours of its expiration time. Failure to surrender the permit is cause,
20 in the discretion of the board, for denial of applications for permits
21 made in the future by the organization. No more than five special
22 events permits may be granted to an organization, including its auxili-
23 ary, in any one calendar year.

24 (d) A special events permit may not be transferred or renewed.

25 (e) The fee for a special events permit is \$50 a day.

26 Sec. 04.11.250. CONDITIONAL CONTRACTOR'S PERMIT. (a) A condi-
27 tional contractor's permit authorizes the holder to sell beer or wine
28 for consumption and sale only on designated premises for one year from
29 the date of issuance of the permit at construction sites which are

1 located outside a city and inside the boundaries of a military or naval
2 reservation.

3 (b) An applicant for a conditional contractor's permit must obtain
4 and file with the board written permission from the commanding officer
5 of the military or naval reservation and the prime contractor of the
6 remotely situated project for the conduct of the activities authorized
7 by the permit. A conditional contractor's permit may be renewed annu-
8 ally upon reapplication for a permit and may be revoked or suspended at
9 the discretion of the commanding officer or the prime contractor.

10 (c) A conditional contractor's permit may not be transferred and
11 is not valid after the completion of the holder's contract or the clos-
12 ing of the military or naval reservation.

13 (d) The annual conditional contractor's permit fee is \$600.

14 ARTICLE 3. APPLICATION FOR LICENSE OR PERMIT.

15 Sec. 04.11.260. APPLICATION FOR NEW LICENSE OR PERMIT. (a) An
16 applicant for a new license or permit shall file with the director a
17 written application, signed and sworn to by the applicant, giving his
18 name and address. If the applicant is a corporation, the application
19 shall be executed by the authorized officers of the corporator. The
20 application shall include:

- 21 (1) the type of license or permit desired;
- 22 (2) a description of the premises for which the license or
23 permit is desired, giving the address by street and number, or other
24 information, so that the location of the premises can be definitely
25 determined;
- 26 (3) a statement of the residency of the applicant;
- 27 (4) the license fee;
- 28 (5) the duration of the license or permit desired;
- 29 (6) any other information required by the board.

1 (b) A corporation applying for a license or permit shall provide
2 the names and addresses of the president, vice-president, secretary,
3 managing officer, and all stockholders who own 10 percent or more of
4 the stock in the corporation, together with any other information re-
5 quired by the board.

6 (c) An applicant for a new license or permit must include with his
7 application

8 (1) proof that notice required by AS 04.11.310 has been
9 given;

10 (2) any petitions required to be secured under AS 04.11.460
11 before a license may be issued;

12 (3) evidence of any approval by public authorities required
13 to be obtained under AS 04.11.090(e), 04.11.220(c), 04.11.230(b), 04.-
14 11.240(b), or 04.11.250(b), before a license may be issued.

15 Sec. 04.11.270. APPLICATION FOR RENEWAL OF LICENSE OR PERMIT. (a)
16 Each application for renewal of a license or renewal of a conditional
17 contractor's permit shall include:

18 (1) the information required for a new license under AS 04.-
19 11.260 except that proof of notice under AS 04.11.310 is not required;
20 and

21 (2) a list of all convictions of the applicant of violations
22 of this title, a regulation adopted under this title, or an ordinance
23 adopted under AS 04.21.010, which occurred in the preceding year.

24 (b) A license shall be renewed as follows:

25 (1) On or before November 1 of each year, the director shall
26 mail an application to renew the license to each licensee at his li-
27 censed premises or at a mailing address furnished by the licensee.

28 (2) An application to renew a license may be filed on or
29 before December 31 and shall be accompanied by the annual fee required

1 for the license. An application to renew the license may be filed after
2 December 31 and on or before February 28 if accompanied by the annual
3 fee for the license, plus a penalty equal to the annual fee or \$100,
4 whichever is less.

5 Sec. 04.11.280. APPLICATION FOR TRANSFER OF A LICENSE TO ANOTHER
6 PERSON. (a) An application for transfer of a license to another person
7 shall contain the same information about the transferee as is required
8 of an applicant for a new license under AS 04.11.260 and shall include
9 other information required by the board.

10 (b) An application for the transfer of a license to another person
11 shall be accompanied by a statement, under oath, executed by the trans-
12 feror, listing all debts of the business and all taxes due by the busi-
13 ness. The board shall promptly inform each listed creditor of the
14 application and the amount shown as owed to that creditor.

15 Sec. 04.11.290. APPLICATION FOR TRANSFER OF LICENSE LOCATION. An
16 application for a transfer of a license to a new location shall contain
17 the information required by the board and shall be accompanied by proof
18 that the notice required in AS 04.11.310 has been given and by any peti-
19 tions required to be secured under AS 04.11.460 before a license may be
20 transferred.

21 Sec. 04.11.300. STATE TROOPER INVESTIGATION. The state troopers
22 shall assist the director in the investigation of applicants for new
23 licenses and applicants for the transfer of existing licenses before the
24 applications are considered by the board.

25 Sec. 04.11.310. NOTICE OF APPLICATION. Before a new license is
26 issued, or transfer of location or transfer of a license to another
27 person is approved, the applicant must post a copy of the application
28 for 10 days at the location of the proposed licensed premises and at any
29 additional locations designated by the board. The board may require the

1 applicant (1) to provide a copy of the application to newspapers, radio
2 and television stations for public service announcement or (2) to pro-
3 vide paid notice of the application for not exceeding 30 days in a news-
4 paper, or by radio or television. The notice required in this subsec-
5 tion shall be in more than one language when the board decides it is
6 necessary.

7 ARTICLE 4. DENIAL, SUSPENSION, OR REVOCATION
8 OF LICENSES AND PERMITS.

9 Sec. 04.11.320. DENIAL OF NEW LICENSES AND PERMITS. (a) An
10 application requesting issuance of a new license shall be denied if

11 (1) the board finds, after review of all relevant informa-
12 tion, that issuance of the license would not be in the best interests of
13 the public;

14 (2) issuance of the license is prohibited by AS 04.11.390,
15 relating to residency, or AS 04.11.410, relating to location of premises
16 near churches and schools;

17 (3) the application has not been completed in accordance with
18 AS 04.11.260;

19 (4) issuing the license would violate the restrictions per-
20 taining to the particular license imposed under this title;

21 (5) issuance of the license is prohibited under this title as
22 a result of an election conducted in accordance with AS 04.11.490 or
23 04.11.500;

24 (6) the requirements of AS 04.11.420 - 04.11.450 relating to
25 zoning, ownership and location of the license, and the identity and
26 financing of a licensee have not been met;

27 (7) the authority sought under the license would duplicate
28 authority already granted under a community liquor license unless the
29 new license is to become effective after the termination of the com-

1 munity liquor license;

2 (8) issuance of the license is prohibited under AS 04.11.-
3 400(a) or prohibition of issuance is found necessary under AS 04.11.-
4 400(f);

5 (9) the application contains false statements of material
6 fact;

7 (10) the license is sought for the sale of alcoholic beverages
8 in an incorporated city in which, on June 19, 1976, there was no li-
9 censed premises, unless a local option election on the sale of alcoholic
10 beverages in the city is conducted as provided in AS 04.11.490(a).

11 (b) An application requesting issuance of a new permit shall be
12 denied if

13 (1) the board finds, after review of all relevant informa-
14 tion, that issuance of the permit would not be in the best interests of
15 the public;

16 (2) the board finds that any of the statements made in the
17 application are untrue;

18 (3) the application has not been completed in accordance with
19 AS 04.11.260;

20 (4) the permit is sought for the sale of alcoholic beverages
21 in an incorporated city in which, on June 19, 1976, there was no
22 licensed premises, unless a local option election on the sale of alco-
23 holic beverages in the city is conducted as provided in AS 04.11.490(a).

24 Sec. 04.11.330. DENIAL OF LICENSE OR PERMIT RENEWAL. (a) An
25 application requesting renewal of a license shall be denied if

26 (1) the board finds, after review of all relevant informa-
27 tion, that renewal of the license would not be in the best interests of
28 the public;

29 (2) the license has been revoked for any cause;

1 (3) the applicant has not operated the licensed premises for
2 at least 30 eight-hour days during the immediately preceding calendar
3 year, unless the board determines that the licensed premises are under
4 construction or cannot be operated through no fault of the applicant;

5 (4) the board finds that issuance of an existing license
6 issued under AS 04.11.400(g) has not encouraged tourist trade;

7 (5) the requirements of AS 04.11.420 - 04.11.450 relating to
8 zoning, ownership of the license, and financing of the licensee have not
9 been met;

10 (6) renewal of the license would violate the restrictions
11 pertaining to the particular license under this title;

12 (7) renewal of the license is prohibited under this title as
13 a result of an election conducted in accordance with AS 04.11.490 or
14 04.11.500;

15 (8) the application has not been completed in accordance with
16 AS 04.11.270.

17 (b) An application for renewal of a license may be denied if the
18 applicant is delinquent in the payment of taxes if the tax liability
19 arises in whole or in part out of the licensed business.

20 (c) An application requesting renewal of a conditional contrac-
21 tor's permit shall be denied if

22 (1) the board finds, after review of all relevant informa-
23 tion, that issuance of the permit would not be in the best interests of
24 the public;

25 (2) the application has not been completed in accordance with
26 AS 04.11.270.

27 Sec. 04.11.340. DENIAL OF TRANSFER OF LOCATION. An application
28 requesting approval of a transfer of location of licensed premises shall
29 be denied if

1 (1) the board finds, after review of all relevant informa-
2 tion, that transfer of location of the license would not be in the best
3 interests of the public;

4 (2) the transfer of location of the license is prohibited
5 under AS 04.11.400(a) or prohibition of transfer is found necessary
6 under AS 04.11.400(f);

7 (3) the license would be transferred out of the election
8 district within which it was originally issued, unless the election
9 district into which the license would be transferred is within the
10 incorporated city, organized borough or unified municipality within
11 which the license was originally issued;

12 (4) transfer of ownership is to be made concurrently with the
13 transfer of the location of the licensed premises and a ground for
14 denial of the transfer of ownership under AS 04.11.360 is presented;

15 (5) the application has not been completed in accordance with
16 AS 04.11.290;

17 (6) transfer of location of the license would result in
18 violation of a local zoning law;

19 (7) transfer of location of the license would violate the
20 restrictions pertaining to the particular license imposed by this title;

21 (8) transfer of location of the license is prohibited under
22 this title as a result of an election conducted in accordance with
23 AS 04.11.490 or 04.11.500.

24 Sec. 04.11.360. DENIAL OF TRANSFER OF A LICENSE TO ANOTHER PERSON.
25 An application requesting approval of a transfer of a license to another
26 person under this title shall be denied if

27 (1) the board finds, after review of all relevant informa-
28 tion, that transfer of a license to another person would not be in the
29 best interests of the public;

1 (2) the application has not been completed in accordance with
2 AS 04.11.280;

3 (3) the application contains false statements of material
4 fact;

5 (4) the transferor has not paid all debts or taxes arising
6 from the conduct of the business licensed under this title unless

7 (A) he gives security for the payment of the debts or
8 taxes satisfactory to the creditor or taxing authority; or

9 (B) the transfer is pursuant to a promise given as
10 collateral by the transferor to the transferee in the course of an
11 earlier transfer of the license under which promise the transferor
12 is obliged to transfer the license back to the transferee in the
13 event of default in payment for property conveyed as part of the
14 earlier transfer of the license;

15 (5) transfer of the license to another person would result in
16 violation of the provisions of this title relating to identity of li-
17 censees and financing of licensees;

18 (6) transfer of the license to another person would violate
19 the restrictions pertaining to the particular license under this title;

20 (7) transfer of the license to another person is prohibited
21 under the provisions of this title as a result of an election conducted
22 in accordance with AS 04.11.490 or 04.11.500;

23 (8) the prospective transferee does not have the qualifica-
24 tions required under this title of an original applicant.

25 Sec. 04.11.370. SUSPENSION AND REVOCATION OF LICENSES AND PERMITS.

26 A license or permit shall be suspended or revoked if the board finds
27 that one or more of the following grounds exists:

28 (1) misrepresentation of a material fact on an application
29 for a license or permit;

1 (2) continuation of activities authorized under a license or
2 permit would be contrary to the best interests of the public;

3 (3) failure on the part of the licensee to correct objection-
4 able conditions within a prescribed time after receipt of notice issued
5 by the board or its agent;

6 (4) conviction of a licensee of a violation of a provision of
7 this title, a regulation adopted under this title, or an ordinance
8 adopted under AS 04.21.010;

9 (5) conviction of the agent or employee of a licensee of a
10 violation of this title, a regulation adopted under this title, or an
11 ordinance adopted under AS 04.21.010, if the licensee is found by the
12 board to have either knowingly allowed the violation or to have reck-
13 lessly or with criminal negligence failed to act in accordance with the
14 duty prescribed under AS 04.21.030 with the result that an agent or
15 employee violates a law, regulation, or ordinance;

16 (6) failure of the licensee to comply with the laws and
17 regulations pertaining to public health in the state;

18 (7) use of the licensed premises as a resort for illegal
19 possessors or users of narcotics, prostitutes, pimps, or panderers; in
20 addition to any other legally competent evidence, the character of the
21 premises may be proved by the general reputation of the premises in the
22 community as a resort for illegal possessors or users of narcotics,
23 prostitutes, pimps, or panderers;

24 (8) occurrence of illegal gambling within the limits of the
25 licensed premises;

26 (9) occurrence of any public offense involving moral turpi-
27 tude on the licensed premises;

28 (10) violation by a licensee of this title, a regulation
29 adopted under this title, or an ordinance adopted under AS 04.21.010;

1 (11) violation by an agent or employee of a licensee of a
2 provision of this title, a regulation adopted under this title, or an
3 ordinance adopted under AS 04.21.010, if the licensee is found by the
4 board to have either knowingly allowed the violation or to have reck-
5 lessly or with criminal negligence failed to act in accordance with the
6 duty prescribed under AS 04.21.030 with the result that the agent or
7 employee violates the law, regulation, or ordinance.

8 ARTICLE 5. RESTRICTIONS ON ISSUANCE AND TRANSFER OF LICENSES.

9 Sec. 04.11.390. RESIDENCE. A beverage dispensary license or
10 package store license may not be issued to a person or association of
11 persons who have not resided in the state for at least one year before
12 the date of application. A beverage dispensary license or package store
13 license may not be issued to either a domestic corporation which has not
14 been issued a certificate of incorporation or a foreign corporation
15 which has not been issued a certificate of authority to transact busi-
16 ness in the state at least one year before the date of the application.

17 Sec. 04.11.400. POPULATION LIMITATIONS. (a) Except as provided
18 in (g) and (h) of this section, a new license may not be issued or an
19 existing license transferred to a new location

20 (1) outside an incorporated city, a unified municipality, or
21 an established village if after the issuance or transfer there would be
22 more than one license of each type for each 1,500 population or fraction
23 of 1,500 population, including licenses which have been issued under (g)
24 or (h) of this section, in a radius of five miles of the licensed prem-
25 ises or location of premises sought to be licensed;

26 (2) inside an established village, an incorporated city, or a
27 unified municipality if after the issuance or transfer there would be
28 more than one license of each type for each 1,500 population or fraction
29 of 1,500 population, including licenses which have been issued under (g)

1 or (h) of this section, inside the boundaries of the village, city or
2 unified municipality.

3 (b) If the application is for a license outside of an established
4 village, incorporated city, or unified municipality and the radius
5 described in (a)(1) of this section encompasses all of the established
6 village, incorporated city, or unified municipality and the population
7 resident inside and outside the village, city, or municipality but
8 inside the radius described in (a)(1) of this section is less than
9 1,500, the board may deny the issuance or transfer of the license.

10 (c) In this section "unified municipality" means a unified muni-
11 cipality established under AS 29.68.

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

15 (e) In (a)(1) of this section, "population" includes only those
16 persons residing inside the radius but outside of an established
17 village, an incorporated city, or a unified municipality as of
18 December 31 of the year preceding the date of application.

19 (f) In (a)(2) of this section, "population" includes only those
20 persons residing inside an established village, an incorporated city, or
21 a unified municipality as of December 31 of the year preceding the date
22 of application.

23 (g) The board may, in its discretion, approve the issuance or
24 transfer of location of a beverage dispensary or restaurant or eating
25 place license without regard to (a) of this section if it appears that
26 the issuance or transfer will encourage the tourist trade by encouraging
27 the construction or improvement of

28 (1) a hotel, motel, resort, or similar business relating to
29 the tourist trade having

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- (A) a minimum of 10 rental rooms, and
- (B) a dining facility, which requirement may be waived if most of the rental rooms have kitchen facilities; or

(2) an airport terminal.

(h) A restaurant or eating place license may be issued or transferred notwithstanding (a) of this section if

(1) the premises of the restaurant or eating place are more than 18 miles from the corporate limits of a city or unified municipality;

(2) the premises will serve food to the traveling public; and

(3) the board finds that the public convenience will be served by the issuance or transfer.

(i) An application requesting a transfer of location of licensed premises shall be granted notwithstanding (a) of this section if the new location is less than one mile from the original location and

(1) no ground for denial exists under AS 04.11.340(1) or (3);

and

(2) relocation of the licensed premises is necessary due to

(A) termination of a lease or rental agreement;

(B) condemnation of the premises;

(C) the substantial destruction of the premises by any

cause.

Sec. 04.11.410. RESTRICTION OF LOCATION NEAR CHURCHES AND SCHOOLS.

(a) A beverage dispensary or package store license may not be issued or renewed nor may the location of an existing license be transferred if the licensed premises would be located in a building the public entrance of which is within 200 feet of a school ground or church building, measured by the shortest pedestrian route from the outer boundaries of the school ground or the public entrance of a church building in which

1 religious services are regularly conducted. However, a license issued
2 before April 25, 1960 may be renewed or transferred to a person notwith-
3 standing this subsection.

4 (b) If a beverage dispensary or package store license for premises
5 located within 200 feet of a school ground or church building in which
6 religious services are regularly conducted is revoked, expires or is
7 transferred to another location, a beverage dispensary or package store
8 license may not be issued or transferred to the formerly licensed
9 premises.

10 Sec. 04.11.420. ZONING LIMITATIONS. (a) A person may not be
11 issued a license or permit in a municipality if a zoning regulation or
12 ordinance prohibits the sale or consumption of alcoholic beverages
13 unless a variance of the regulation or ordinance has been approved.

14 (b) The municipality shall inform the board of zoning regulations
15 or ordinances which prohibit the sale or consumption of alcoholic bever-
16 ages.

17 Sec. 04.11.430. PERSON AND LOCATION. Each license shall be issued
18 to a specific individual or individuals or to a corporation. If the
19 license is issued to a corporation, the registered agent of the
20 corporation must be an individual resident of the state. Except for a
21 license authorizing the sale of alcoholic beverages on a common carrier,
22 a specific location shall be indicated on the license or permit as the
23 licensed premises, the principal address of which shall be indicated on
24 the license or permit. The mailing address of a licensee or, if the
25 licensee is a corporation, the address of the registered office of the
26 corporation must be kept current and on file in the main office of the
27 board.

28 Sec. 04.11.450. PROHIBITED FINANCIAL INTEREST. (a) No person
29 other than a licensee may have a direct or indirect financial interest

1 in the business for which the license is issued.

2 (b) A person who is a representative or owner of a wholesale
3 business, brewery, winery, bottling works, or distillery may not be
4 issued, solely or together with others, a beverage dispensary license or
5 package store license.

6 (c) In this section, "direct or indirect financial interest" means
7 holding a legal or equitable interest in the operation of a business
8 licensed under this title. However, credit extended by a distiller, a
9 brewery or a winery to a wholesaler, or credit extended by a wholesaler
10 to persons licensed under this title, is not considered a financial
11 interest in a business licensed under this title.

12 (d) A license may not be leased by a licensee to another person or
13 corporation.

14 (e) For the purposes of this section, a lessor under a graduated
15 or percentage lease-rent agreement involving premises licensed under
16 this title does not hold a financial interest in the business.

17 Sec. 04.11.460. PRIOR PUBLIC APPROVAL. (a) A new license or the
18 transfer of location of an existing license may not be approved by the
19 board in an area outside but within 50 miles of the boundaries of a
20 municipality unless a petition asking that the license be issued or
21 transferred within the area containing signatures of a majority of the
22 permanent residents residing within one mile of the proposed premises is
23 filed with the board.

24 (b) A license may not be issued in an area which is 50 miles or
25 more from the boundaries of a municipality unless a petition asking that
26 the license be issued within the area containing the signatures of
27 two-thirds of the permanent residents residing within a radius of five
28 miles of the United States post office station nearest to the proposed
29 licensed premises, is filed with the board. A petition is not required

1 for the renewal of a license issued in accordance with this subsection
2 unless specifically required by the board. If

3 (1) there are two or more United States post office stations
4 in the vicinity of the proposed licensed premises, the nearest to the
5 premises constitutes the point of beginning under this subsection;

6 (2) there is no United States post office station within a
7 radius of five miles of the proposed licensed premises, the applicant
8 must obtain the signatures of two-thirds of the permanent residents
9 residing within a five mile radius of the proposed licensed premises.

10 (c) For the purposes of this section, "permanent resident" means a
11 person 19 years of age or older who has established a permanent place of
12 abode.

13 ARTICLE 6. PROCEDURES FOR PUBLIC INFLUENCE.

14 Sec. 04.11.470. OBJECTION. A person may object to an application
15 for issuance, renewal, transfer of location, or transfer to another
16 person of a license, or for issuance of a permit by serving upon the
17 applicant and the board the reasons for the objection. The board shall
18 consider the objections and testimony received at a hearing conducted
19 under AS 04.11.510(b)(2) when it considers the application, and the
20 objection and the record of the hearing conducted under AS 04.11.510-
21 (b)(2) shall be retained as part of the board's permanent record of its
22 review of the application.

23 Sec. 04.11.480. PROTEST. (a) If a local governing body wishes to
24 protest the issuance, renewal, transfer of location or transfer to
25 another person of a license, it shall furnish the board and the appli-
26 cant with a protest within 30 days of receipt from the board of notice
27 of filing of the application. The board shall consider a protest and
28 testimony received at a hearing conducted under AS 04.11.510(b)(2) or
29 (4) when it considers the application, and the protest and the record of

1 the hearing conducted under AS 04.11.510(b)(2) or (4) shall be retained
2 as part of the board's permanent record of its review of the applica-
3 tion.

4 (b) If the permanent residents residing outside of but within two
5 miles of an incorporated city or an established village wish to protest
6 the issuance, renewal, or transfer of a license within the city or
7 village, they shall file with the board a petition meeting the require-
8 ments of AS 04.11.510(b)(3) requesting a public hearing within 30 days
9 of the posting of notice required under AS 04.11.310, or by December 31
10 of the year application is made for renewal of a license. The board
11 shall consider testimony received at a hearing conducted under AS 04.-
12 11.510(b)(3) when it considers the application, and the record of a
13 hearing conducted under AS 04.11.510(b)(3) shall be retained as part of
14 the board's permanent record of its review of the application.

15 Sec. 04.11.490. LOCAL OPTION ELECTION. (a) A local governing
16 body shall, whenever 35 percent of the total number of voters at the
17 last general municipal election petition the local governing body to do
18 so, place upon a separate ballot at the next municipal election
19 whichever of the following questions is the subject of the petition:

20 (1) "Should the sale of alcoholic beverages in (name
21 of municipality) be prohibited?" (yes or no);

22 (2) "Should the sale of alcoholic beverages be prohibited in
23 (name of city) unless sold by a (either a beverage dispen-
24 sary or a package store operated under a community liquor license)?"
25 (yes or no);

26 (3) "Should the sale of alcoholic beverages be allowed in
27(name of city) if sold by (either a beverage
28 dispensary or a package store operated under a community liquor
29 license)?" (yes or no);

1 (4) "Should the sale of alcoholic beverages be prohibited by
2 (either a beverage dispensary or a package store, or both)
3 in(name of city) unless under a community liquor license?"
4 (yes or no);

5 (5) "Should the sale of alcoholic beverages be prohibited in
6 (name of municipality) except if sold under a restaurant or
7 eating place license?" (yes or no).

8 (b) The lieutenant governor shall conduct the election, canvass
9 the ballots, and publish the results.

10 (c) When the lieutenant governor certifies that a majority of
11 those voting on (a)(1), (2), (3), (4) or (5) of this section have voted
12 "yes" on any of the questions, the lieutenant governor shall immediately
13 notify the board and the local governing body.

14 (d) When the lieutenant governor certifies to the board that a
15 majority of those voting are in favor of the question in (a)(1) of this
16 section, the board may not issue, renew, or transfer the location of any
17 license or permit provided for under this title within the municipality.

18 (e) When the lieutenant governor certifies to the board that a
19 majority of those voting are in favor of the question in (a)(2) of this
20 section, the board may not issue, renew, or transfer the location of a
21 license other than a community liquor license, or issue a permit within
22 the city. However, the board may consider the city's application for a
23 community liquor license and, if statutory requirements are met, may
24 issue the license.

25 (f) When the lieutenant governor certifies to the board that a
26 majority of those voting are in favor of the question in (a)(3) of this
27 section, the board may issue a community liquor license to a city which
28 previously prohibited the sale of alcoholic beverages if all statutory
29 requirements are met.

1 (g) When the lieutenant governor certifies to the board that a
2 majority of those voting are in favor of the question in (a)(4) of this
3 section, the board may not renew, transfer the location of, or issue in
4 the city the type of license prohibited by the results of the election.
5 However, the board may consider an application for a community liquor
6 license authorizing a city to sell alcoholic beverages as specified in
7 the question placed on the ballot under (a)(4) of this section. If
8 statutory requirements are met, the board may issue the community liquor
9 license.

10 (h) If the lieutenant governor certifies to the board that a
11 majority of those voting are in favor of the question in (a)(5) of this
12 section, the board may not issue, renew, or transfer the location of a
13 license or a permit other than a restaurant or eating place license in
14 the city.

15 (i) If the lieutenant governor certifies that a majority of those
16 voting are in favor of a question in (a)(1), (2), (3), (4) or (5) of
17 this section, licenses and permits which may not be renewed are void as
18 of midnight December 31 of the year the election occurred. The results
19 of an election held under this section may not result in the suspension
20 of a license during the year for which it was issued.

21 (j) After receipt of notification under (d), (e), (f), (g) or (h)
22 of this section, the board may not issue a new beverage dispensary or
23 package store license in an unincorporated area outside but within five
24 miles of the recognized boundaries of the area in which the election was
25 held, and the board may not renew or transfer the location of an exist-
26 ing beverage dispensary or package store license within that radius if
27 the board considers such action would not be in the best interests of
28 the public.

29 (k) If, after an election under this section prohibiting the sale

1 of alcoholic beverages, a majority of the voters in a subsequent elec-
2 tion conducted in accordance with (a) of this section favors the sale of
3 alcoholic beverages by private persons under one or more of the type of
4 license terminated as a result of the previous election, the board shall
5 consider all applications for licenses and may issue the number of
6 licenses of each type favored by the voters in the subsequent election
7 and which were terminated by the voters in the previous election.
8 Licenses may be issued for premises previously licensed or for other
9 premises. However, if the local governing body requests that fewer
10 licenses of a particular type be issued than would otherwise be issued
11 if the provisions prescribing the ratio of population to licensed
12 premises in AS 04.11.400(a) are applied, only the number of licenses
13 of that particular type requested by the local governing body may be
14 issued by the board. Priority shall be given applicants who were
15 formerly licensees and whose licenses were not renewed because of the
16 results of the previous election. However, these applicants have no
17 legal right to a license and the board is not required to approve the
18 application.

19 Sec. 04.11.500. LOCAL OPTION ELECTION IN UNINCORPORATED AREAS.

20 (a) When 35 percent or more of the residents who are 19 years of age
21 or older (1) having a permanent place of abode within an established
22 village where a licensed premises is situated or is to be situated and
23 (2) having a permanent place of abode within two miles of any point on
24 the circumference of the circle comprising the boundaries of that
25 village petition the board to do so, the board shall provide for a
26 special election conducted by the lieutenant governor.

27 (b) All persons eligible to sign the petition may vote in the
28 election.

29 (c) If at the election the majority of the adult residents eli-

1 gible to vote in the election under both (a)(1) and (2) of this section
2 object to the sale of alcoholic beverages, the board may not issue,
3 renew or transfer the location of a license in, into, or within the area
4 determined under this section.

5 ARTICLE 7. BOARD PROCEDURES.

6 Sec. 04.11.510. PROCEDURE FOR ACTION ON LICENSE APPLICATIONS,
7 SUSPENSIONS, AND REVOCATIONS. (a) Unless a legal action relating to
8 the license, applicant or premises to be licensed is pending, the board
9 shall decide whether to grant or deny an application within 90 days of
10 receipt of the application at the main office of the board. However,
11 the decision may not be made before the 30 days allowed for protest
12 under AS 04.11.480 have elapsed unless received by the municipality.

13 (b) The board may review an application for the issuance, renewal,
14 transfer of location, or transfer to another person, of a license with-
15 out affording the applicant notice or hearing, except

16 (1) if an application is denied, the notice of denial shall
17 be furnished the applicant immediately in writing stating the reason for
18 the denial in clear and concise language; the notice of denial shall
19 inform the applicant that he is entitled to an informal conference with
20 either the director or the board, and that, if not satisfied by the
21 informal conference, he is then entitled to a formal hearing before the
22 board; if the applicant requests a formal hearing, the board shall
23 adhere to AS 44.62.330 - 44.62.630; all interested persons may be heard
24 at the hearing and unless waived by the applicant and the board, the
25 formal hearing shall be held in the area for which the application is
26 requested;

27 (2) the board may, on its own initiative or in response to an
28 objection or protest, hold a hearing to ascertain the reaction of the
29 public or a local governing body to an application of a hearing is not

1 required under (1), (3), or (4) or this subsection;

2 (3) if a petition containing the signatures of 35 percent of
3 the adult residents having a permanent place of abode outside of but
4 within two miles of an incorporated city or an established village is
5 filed with the board, the board shall hold a public hearing on the
6 question of whether the issuance, renewal, or transfer of the license in
7 the city or village would be in the public interest;

8 (4) if a protest to the issuance, renewal, transfer of loca-
9 tion or transfer to another person of a license made by a local govern-
10 ing body is based on a question of law, the board shall hold a public
11 hearing.

12 (c) Unless the grounds for the suspension or revocation are under
13 AS 04.11.370(4), board proceedings to suspend or revoke a license shall
14 be conducted in accordance with AS 44.62.330 - 44.62.630 (Administrative
15 Procedure Act), except that the licensee is entitled to an opportunity
16 to informally confer with the director or the board within 10 days after
17 the accusation is served upon him. Notice of the opportunity for an
18 informal conference shall be served upon the licensee along with the
19 accusation. If an informal conference is requested, the running of the
20 period of time specified in AS 44.62.380 for filing a notice of defense
21 is tolled from the date of receipt of the request for the conference
22 until the day following the date of the conference unless extended by
23 the board. After the conference, the licensee, if not satisfied by the
24 results of the conference, may obtain a hearing by filing a notice of
25 defense as provided in AS 44.62.390. If the grounds for suspension or
26 revocation are under AS 04.11.370(4), the licensee is not entitled to
27 notice and hearing under AS 44.62.330 - 44.62.630 on the merits of the
28 suspension or revocation. However, the board shall afford the licensee
29 notice and hearing on the issue of what administrative sanction to

1 impose under AS 04.16.180.

2 Sec. 04.11.520. NOTICE. After receipt of an application from
3 within (1) an established village, (2) an incorporated city, (3) an
4 organized borough, or (4) a unified municipality, the board shall trans-
5 mit written notice to the local governing body within 10 days so that
6 the local governing body may protest under AS 04.11.480.

7 Sec. 04.11.530. CONSIDERATION OF REPORTS. A license may not be
8 suspended or revoked under AS 04.11.370(4) or (5) unless the board takes
9 into consideration the reports prepared by arresting and investigating
10 officers and the sentencing report sent to the board under AS 12.55.-
11 025(b).

12 Sec. 04.11.535. SUSPENSION AND REVOCATION BASED ON ACTS OF EM-
13 PLOYEES. (a) If, in a proceeding to suspend or revoke a license under
14 AS 04.11.370(5), the board finds that a sentencing report sent to the
15 board under AS 12.55.025(b), or reports prepared by the investigating or
16 arresting officers in connection with the violation, contain information
17 which if uncontradicted or unexplained would provide a basis for sus-
18 pension or revocation under AS 04.11.370(5), the licensee has the burden
19 of proof to establish that he neither knowingly allowed the violation
20 nor recklessly or with criminal negligence failed to act in accordance
21 with the duty prescribed under AS 04.21.030, thereby resulting in the
22 unlawful action.

23 (b) If the board suspends or revokes a license on grounds that a
24 licensee knowingly allowed or recklessly or with criminal negligence
25 failed to act in accordance with the duty prescribed under AS 04.21.030
26 resulting in unlawful action of an agent or employee, the board shall
27 file a criminal complaint charging the licensee with violation of AS
28 04.16.150.

29 Sec. 04.11.537. APPLICATION OF PRECEDENT. In determining whether

1 issuance, renewal, transfer, suspension, or revocation of a license is
2 in the best interests of the public, the board need not conform to or
3 distinguish its decision from any action it has taken in the past on
4 applications presenting similar facts, but may instead base its decision
5 only on the particular facts before it.

6 ARTICLE 8. EXPIRATION OF LICENSES.

7 Sec. 04.11.540. LICENSE RENEWAL AND EXPIRATION. Notwithstanding
8 AS 04.11.680, an application for renewal of a license issued for the
9 calendar year ending December 31 or issued for a six-month period ending
10 in the previous year may be submitted up until the next February 28 but
11 the authority granted under the license may not be exercised until the
12 license is renewed. If the application for renewal and applicable
13 affidavits have not been filed by February 28 or the required fees and
14 the penalty fees have not been paid by that date, the license expires at
15 12:00 midnight February 28. A new license may not be issued to the
16 holder of an expired license for the same premises except on proof
17 satisfactory to the board of good cause for the failure to file and pay.

18 Sec. 04.11.550. NOTICE OF EXPIRATION. On or before February 15,
19 the director shall mail a notice of expiration to each licensee who has
20 not either (1) filed an application to renew his license, along with any
21 applicable affidavits and all fees due, or (2) notified the director of
22 his intent not to do so. Failure of the director to mail this notice of
23 expiration does not waive the requirement that the application for
24 renewal be filed by February 28.

25 ARTICLE 9. MISCELLANEOUS PROVISIONS.

26 Sec. 04.11.560. APPEALS. (a) An action of an officer, employee
27 or agent of the board relating to the administration or enforcement of
28 this title may be appealed to the board by the aggrieved party.

29 (b) A decision by the board relating to the issuance, renewal,

1 transfer, suspension, or revocation of a license under this title may be
2 appealed to the superior court under AS 44.62.560.

3 Sec. 04.11.570. REFUND AND FORFEITURE OF FEES. (a) If an appli-
4 cation for a license is denied, the board shall refund the license fee
5 less the application fee.

6 (b) A license fee may not be refunded after the license has been
7 issued unless the board determines it has erred in the issuance through
8 no fault of the applicant.

9 (c) If a license is revoked on grounds that statements made in the
10 application are untrue, the license fee paid by the applicant is for-
11 feited to the state.

12 Sec. 04.11.580. SURRENDER OR DESTRUCTION OF LICENSE. (a) A
13 license issued under this title shall, if the board so directs, be sur-
14 rendered on demand to a peace officer, agent, or officer of the board.

15 (b) The licensee shall surrender his current license to the board
16 within 10 days after the loss or vacation of his licensed premises.

17 (c) If the license is destroyed, the licensee shall so notify the
18 board.

19 Sec. 04.11.590. DISPOSITION OF FUNDS. (a) Money collected from
20 licenses under this title shall be transferred by the board to the
21 Department of Revenue and deposited in the general fund.

22 (b) A fee prescribed by the board in addition to fees authorized
23 under this title shall be transferred to the Department of Revenue and
24 deposited in the general fund.

25 Sec. 04.11.610. REFUND TO MUNICIPALITIES. (a) Annual license
26 fees, excluding annual wholesale license fees, collected within a mu-
27 nicipality shall be refunded semi-annually to the municipality.

28 (b) If the officers of a municipality fail to actively enforce
29 local ordinances, laws of the United States and the state, and the

1 regulations relating to the manufacture and sale of alcoholic beverages
2 in the state, the commissioner of revenue may deny the refund provided
3 for under (a) of this section until the board finds the enforcement of
4 the ordinances, laws and regulations is resumed.

5 (c) The Department of Revenue shall recover any amounts errone-
6 ously refunded under (a) of this section. The Department of Revenue
7 shall schedule repayments of erroneously refunded amounts over a suffi-
8 cient period of time to minimize financial hardship to the municipality
9 involved.

10 Sec. 04.11.630. ACCESSIBILITY OF LICENSE AND LICENSED PREMISES TO
11 INSPECTION. (a) A licensee shall, upon request, make his licensed pre-
12 mises and places authorized for storage under AS 04.21.060 available for
13 inspection by officers charged with the enforcement of this title,
14 including members of the board and the director or his employee, during
15 all regular business hours.

16 (b) A license issued under this title shall be posted within the
17 licensed premises so as to be easily available for inspection upon
18 request by a peace officer or other person during regular business
19 hours.

20 Sec. 04.11.660. LICENSE A PRIVILEGE. (a) A license issued under
21 this title is a personal privilege, not a property right.

22 (b) The privilege conferred upon the licensee is personal in
23 nature and affords protection to the licensee only.

24 Sec. 04.11.670. FORECLOSURE. A license issued under this title is
25 not subject to foreclosure, and may not be used as collateral to secure
26 a debt. However, if a license is transferred to another person, the
27 transferor may secure payment for real and personal property conveyed to
28 the transferee upon the promise of the transferee to transfer the
29 license back to the transferor upon default in payment.

1 Sec. 04.11.680. DURATION OF LICENSES AND PERMITS. (a) Upon
2 application and payment of one-half of the annual fees, the board may
3 issue a license for a continuous six-month period. Otherwise, all
4 licenses issued under this title other than a retail stock sale license
5 shall be issued for the calendar year ending December 31, unless a
6 shorter period is prescribed by the board.

7 (b) A permit issued under this title shall be for the period
8 prescribed by the board, which period shall be clearly designated on the
9 permit.

10 Sec. 04.11.690. DISCOURAGEMENT OF MONOPOLIES. (a) In a general
11 sense, it is against the public interest that the issuance, renewal or
12 transfer of licenses issued under this title will create, or assist in
13 the creation of, a monopoly.

14 (b) The board may submit proposals to the governor and the legis-
15 lature addressed to the discouragement of the creation of monopolies.

16 (c) The board may not by regulation adopt a definition of a mono-
17 poly.

18 * Sec. 3. AS 04 is amended by adding a new chapter to read:

19 CHAPTER 16. REGULATION OF SALES AND DISTRIBUTION.

20 ARTICLE 1. PROHIBITED ACTS.

21 Sec. 04.16.010. HOURS OF SALE AND PRESENCE ON LICENSED PREMISES
22 (STANDARD CLOSING HOURS). (a) A person may not sell, offer for sale,
23 give, furnish, deliver or consume an alcoholic beverage on premises
24 licensed under this title between the hours of 5:00 a.m. and 8:00 a.m.
25 each day.

26 (b) A licensee, his agent, or employee may not permit a person to
27 consume alcoholic beverages on the licensed premises between the hours
28 of 5:00 a.m. and 8:00 a.m. each day.

29 (c) A licensee, his agent, or employee may not permit a person to

1 and a person may not enter premises licensed under this title between
2 the hours of 5:00 a.m. and 8:00 a.m. each day. This subsection does not
3 apply to common carriers, as defined in AS 42.10.420(2), or to an em-
4 ployee of the licensee who is on the premises to prepare for the next
5 day's business or to persons remaining on the premises of a restaurant
6 or eating place licensed under this title to consume food or nonalco-
7 holic beverages.

8 (d) A municipality may provide for additional hours of closure
9 under AS 04.21.010.

10 Sec. 04.16.020. SOLICITATION OF ALCOHOLIC BEVERAGES. (a) A
11 person may not pay or receive from another a salary, percentage or
12 commission to solicit or encourage a patron of licensed premises to
13 purchase alcoholic or other beverages for consumption by a person other
14 than the patron.

15 (b) A licensee, his agent, or employee may not knowingly permit a
16 person to loiter within or about premises licensed under this title for
17 the purpose of begging or soliciting a patron or visitor to purchase
18 alcoholic or other beverages for the person who is begging or solicit-
19 ing.

20 Sec. 04.16.030. SALE OR DISPOSITION OF ALCOHOLIC BEVERAGES TO
21 DRUNKEN PERSONS. A licensee, his agent, or employee may not with cri-
22 minal negligence

23 (1) sell, give, or barter alcoholic beverages to a drunken
24 person;

25 (2) allow another person to sell, give, or barter an alco-
26 holic beverage to a drunken person within a licensed premises;

27 (3) allow a drunken person to enter and remain within li-
28 censed premises or to consume an alcoholic beverage within a licensed
29 premises;

1 (4) permit a drunken person to sell or serve alcoholic bever-
2 ages.

3 Sec. 04.16.040. ACCESS OF DRUNKEN PERSONS TO LICENSED PREMISES. A
4 drunken person may not knowingly enter or remain on premises licensed
5 under this title.

6 Sec. 04.16.041. OBLIGATION TO ENFORCE RESTRICTIONS IN LICENSED
7 PREMISES. A licensee, his agent or employee may not permit the consump-
8 tion of alcoholic beverages by any person within licensed premises
9 unless it is permitted by the license.

10 Sec. 04.16.049. ACCESS OF PERSONS UNDER THE AGE OF 19 TO LICENSED
11 PREMISES. (a) A person under the age of 19 years may not knowingly
12 enter or remain in premises licensed under this title unless

13 (1) accompanied by a parent, guardian or spouse who has at-
14 tained the age of 19 years;

15 (2) accompanied by a person over the age of 19 years and with
16 the consent of the person's parent or guardian if the premises are
17 licensed as a restaurant or eating place and the persons enter and
18 remain only for dining.

19 (b) Notwithstanding (a) of this section, a licensee, his agent, or
20 employee may refuse entry to a person under the age of 19 years to that
21 part of licensed premises in which alcoholic beverages are sold, served
22 or consumed, may refuse service to a person under the age of 19 years,
23 or may require a person under the age of 19 years to leave the portion
24 of the licensed premises in which alcoholic beverages are sold, served,
25 or consumed.

26 (c) Notwithstanding this section, a person between 16 and 19 years
27 of age may enter and remain within the licensed premises of a hotel,
28 restaurant, or eating place in the course of his employment if (1) the
29 employment does not involve the serving, mixing, delivering, or dis-

1 pensing of alcoholic beverages; (2) the person has the written consent
2 of a parent or guardian; and (3) an exemption from the prohibition of
3 AS 23.10.355 is granted by the Department of Labor. The board, with the
4 approval of the governing body having jurisdiction and at the licensee's
5 request, shall designate which premises are hotels, restaurants or
6 eating places for the purposes of this subsection.

7 Sec. 04.16.050. POSSESSION OR CONSUMPTION BY PERSONS UNDER THE AGE
8 OF 19. A person under the age of 19 years may not knowingly consume,
9 possess, or control alcoholic beverages except those furnished persons
10 under AS 04.16.01 (b).

11 Sec. 04.16.051. FURNISHING OF ALCOHOLIC BEVERAGES TO PERSONS UNDER
12 THE AGE OF 19. (a) No person may furnish an alcoholic beverage to a
13 person under the age of 19 years.

14 (b) This section does not prohibit the furnishing of an alcoholic
15 beverage

16 (1) by a parent to his child, by a guardian to his ward, or
17 by a spouse to his or her legal spouse if the furnishing occurs off
18 licensed premises; or

19 (2) by a licensed physician or nurse to a patient in the
20 course of administering medical treatment.

21 (c) Acts unlawful under AS 11.51.130 are not made legal by (b) of
22 this section.

23 Sec. 04.16.052. FURNISHING OF ALCOHOLIC BEVERAGES TO PERSONS UNDER
24 THE AGE OF 19 BY LICENSEES. A licensee, his agent, or employee may not
25 with criminal negligence

26 (1) allow another person to sell, barter, or give an alco-
27 holic beverage to a person under the age of 19 years within a licensed
28 premises;

29 (2) allow a person under the age of 19 years to enter and

1 remain within licensed premises except as provided in AS 04.16.049(c);

2 (3) allow a person under the age of 19 years to consume an
3 alcoholic beverage within a licensed premises;

4 (4) allow a person under the age of 19 years to sell or serve
5 alcoholic beverages.

6 Sec. 04.16.060. PURCHASE BY PERSONS UNDER THE AGE OF 19. (a) A
7 person under the age of 19 years may not purchase alcoholic beverages or
8 solicit another to purchase alcoholic beverages on his behalf.

9 (b) A person may not influence the sale, gift, or service of an
10 alcoholic beverage to a person under the age of 19 years, by misrepre-
11 senting the age of that person.

12 (c) A person may not order or receive an alcoholic beverage from a
13 licensee, his agent, employee, or another person, for the purpose of
14 selling, giving, or serving it to a person under the age of 19 years.

15 (d) A person under the age of 19 years may not enter licensed
16 premises where alcoholic beverages are sold and offer or present to a
17 licensee, his agent, or employee a birth certificate or other written
18 evidence of age, which is fraudulent or false or which is not actually
19 his own, or otherwise misrepresent his age, for the purpose of inducing
20 the licensee, his agent, or employee to sell, give, serve, or furnish
21 alcoholic beverages contrary to law.

22 (e) A person who has attained the age of 19 years accompanying a
23 person under the age of 19 who is seeking to enter and remain in a
24 licensed premises under AS 04.16.049(a)(2) may not misrepresent having
25 obtained the consent of the parent or guardian of the person under the
26 age of 19 years.

27 Sec. 04.16.070. SALES ON ELECTION DAY. (a) It is unlawful to
28 sell, barter, give, consume, or dispose of alcoholic beverages within
29 licensed premises

1 (1) in the state on a day on which a statewide special,
2 primary, or general election is held for the purpose of voting for a
3 candidate for public office, until the polls have closed;

4 (2) in a municipality on a day on which a local option elec-
5 tion or an election is held for the purpose of voting for a candidate
6 for public office, until the polls are closed.

7 (b) The governing body of a municipality may provide by ordinance
8 that the provisions of this section do not apply in a municipality.

9 Sec. 04.16.080. SALES OR CONSUMPTION AT SCHOOL EVENTS. It is
10 unlawful to sell or consume alcoholic beverages during a school event at
11 the site of the event.

12 Sec. 04.16.090. PROHIBITION OF BOTTLE CLUBS. (a) A person may
13 not maintain a place in which alcoholic beverages are received or kept,
14 or to which alcoholic beverages are brought, for consumption by members
15 of the public or by members of a club, corporation, or association,
16 unless the person is authorized to do so under this title.

17 (b) A person may not maintain, operate, or lease premises for the
18 purpose of providing, for a consideration, a place for drinking alco-
19 holic beverages by members of the public or other persons, unless the
20 person is authorized to do so under this title.

21 (c) For the purposes of this section, "consideration" includes but
22 is not limited to cover charge, the sale of food, ice, mixers, or other
23 liquids used with alcoholic beverage drinks, or the furnishing of glass-
24 ware or other containers for use in the consumption of alcoholic bever-
25 ages.

26 Sec. 04.16.100. RESTRICTION ON SIZE OF CONTAINERS. A person may
27 not sell alcoholic beverages in 1/6 gallon or 1/10 gallon containers,
28 nor may a person sell alcoholic beverages in a container deceptively
29 similar in appearance to a container of a different volume. This

1 section does not apply to 1/10 gallon or 1/6 gallon containers sold in
2 the state before August 15, 1962.

3 Sec. 04.16.110. SALE OF POWDERED ALCOHOL PROHIBITED. No substance
4 having alcoholic content and intended for human consumption may be sold
5 in the state unless in liquid form.

6 Sec. 04.16.120. REMOVAL OR INTRODUCTION OF ALCOHOLIC BEVERAGES.
7 (a) A person may not remove from a licensed premises alcoholic bever-
8 ages which have been sold or furnished for consumption only on the
9 premises.

10 (b) A person may not bring an alcoholic beverage into licensed
11 premises for use or consumption by himself or another person on the
12 premises unless that person is a licensee, his agent, employee, or
13 common carrier in the regular course of employment.

14 Sec. 04.16.130. STOCK CONFINED TO LICENSED PREMISES. (a) Unless
15 authorized under AS 04.21.060, a licensee may not store before sale any
16 alcoholic beverages elsewhere than on the premises indicated on his
17 license.

18 (b) This section does not apply to stocks of beer carried on a
19 delivery truck by a licensed wholesaler if carried for the purpose of
20 sale and delivery to persons licensed under this title in quantities of
21 not less than 10 wine gallons for each sale.

22 Sec. 04.16.140. SALE OR CONSUMPTION OF ALCOHOLIC BEVERAGES IN A
23 WAREHOUSE. Alcoholic beverages may not be sold or consumed on premises
24 approved for storage under AS 04.21.060.

25 Sec. 04.16.150. LICENSEE RESPONSIBLE FOR VIOLATIONS. A licensee
26 may neither knowingly allow his agents or employees to violate this
27 title or regulations adopted under this title nor recklessly or with
28 criminal negligence fail to act in accordance with the duty prescribed
29 under AS 04.21.030 with the result that an agent or employee of the

1 licensee violates a law or regulation.

2 Sec. 04.16.170. SOURCE OF ALCOHOLIC BEVERAGES. (a) Alcoholic
3 beverages for consumption by the purchaser may not be sold unless ob-
4 tained from a person licensed under this title.

5 (b) A person transporting alcoholic beverages into the state may
6 not sell those alcoholic beverages to a person not licensed under this
7 title, unless the alcoholic beverages are used for religious, industrial
8 pharmaceutical, or medical purposes.

9 Sec. 04.16.175. FURNISHING ALCOHOLIC BEVERAGES IN AID OF GAMBLING
10 ENTERPRISE. An agent or employee of a gambling enterprise as defined by
11 AS 11.66.280(4) may not furnish an alcoholic beverage to a player as
12 defined by AS 11.66.280(6).

13 ARTICLE 2. PENALTIES AND FORFEITURES.

14 Sec. 04.16.180. PENALTIES FOR VIOLATION. (a) Except as provided
15 in AS 04.16.200 - 04.16.210, a person who violates a provision of this
16 title or a regulation adopted by the board is guilty upon conviction of
17 a class A misdemeanor. Each violation is a separate offense.

18 (b) A suspension or revocation of a license ordered by the board
19 under AS 04.11.370(4) and (5) shall be as follows:

20 (1) On first conviction: the license of the premises involved
21 may not be revoked, but may be suspended for not more than 45 days.

22 (2) On second conviction: the license of the premises in-
23 volved may not be revoked, but may be suspended for not more than 90
24 days.

25 (3) On third conviction: the license of the premises involved
26 may be suspended or revoked.

27 (c) In this section, the terms "second conviction" and "third
28 conviction" include only convictions for violations which occur within
29 five years of the first conviction. The terms refer to the cumulative

1 number of convictions of a licensee of any combination of violations of
2 the provisions of this title, regulations adopted under this title, or
3 ordinances adopted under AS 04.21.010. The terms "second conviction"
4 and "third conviction" include a conviction of the agent or employee of
5 a licensee of a violation of a law, regulation, or ordinance if the
6 conviction constitutes a ground for suspension or revocation under
7 AS 04.11.370(5).

8 (d) This section does not affect the authority of the board to
9 suspend or revoke a license when the board determines that continuance
10 of activities under a license would not be in the best interests of the
11 public.

12 Sec. 04.16.200. UNLICENSED PERSONS. (a) A person who violates
13 AS 04.11.010 is upon conviction guilty of a class A misdemeanor.

14 (b) A person who violates AS 04.11.010 in an area where the re-
15 sults of a local option election have, under AS 04.11.490(d), prohibited
16 the board from issuing, renewing or transferring any licenses or permits
17 under this title in the area is upon conviction guilty of a class C
18 felony, if

19 (1) he has previously been convicted of a violation of
20 AS 04.11.010;

21 (2) he has engaged in conduct demonstrating an intent to sell
22 or offer for sale alcoholic beverages to more than one person; or

23 (3) the sale or offer for sale was made to a person under 19
24 years of age.

25 (c) It is an affirmative defense to a prosecution under this
26 section that no profit was involved in the solicitation or receipt of an
27 order for the delivery of an alcoholic beverage.

28 (d) For a conviction under (a) of this section for a violation of
29 AS 04.11.010 in an area where the results of a local option election

1 have, under AS 04.11.490(d), prohibited the board from issuing, renewing
2 or transferring any licenses or permits under this title in the area,
3 the court shall impose a minimum sentence of imprisonment of not less
4 than 10 consecutive days. The execution of the sentence may not be
5 suspended and probation or parole may not be granted until the minimum
6 imprisonment provided in this subsection has been served. Imposition of
7 sentence may not be suspended except upon the condition that the defen-
8 dant be imprisoned for no less than the minimum period provided in this
9 subsection.

10 Sec. 04.16.210. PENALTY FOR MAKING FALSE STATEMENT. If a false
11 statement is made in an application under AS 04.11.260, the applicant is
12 guilty of perjury and, upon conviction, is subject to the penalty pro-
13 vided by law for the crime of perjury under AS 11.56.200.

14 Sec. 04.16.220. FORFEITURES. (a) The following are subject to
15 forfeiture:

16 (1) alcoholic beverages manufactured, sold, offered for sale
17 or possessed for sale, bartered or exchanged for goods and services in
18 this state in violation of AS 04.11.010; alcoholic beverages stocked,
19 warehoused, or otherwise stored in violation of AS 04.21.060; alcoholic
20 beverages sold or offered for sale in an area where a local option
21 election has made the sale illegal; alcoholic beverages transported into
22 the state and sold to persons not licensed under this chapter in viola-
23 tion of AS 04.16.170(b);

24 (2) materials and equipment used in the manufacture, sale,
25 possession for sale, barter or exchange of alcoholic beverages for goods
26 and services in this state in violation of AS 04.11.010; materials and
27 equipment used in the stocking, warehousing, or storage of alcoholic
28 beverages in violation of AS 04.21.060; materials and equipment used in
29 the sale or offering for sale of an alcoholic beverage in an area where

1 a local option election has made the sale illegal;

2 (3) aircraft, vehicles, or vessels used to transport, or
3 facilitate the transportation of

4 (A) alcoholic beverages manufactured, sold, offered for
5 sale or possessed for sale, bartered or exchanged for goods and
6 services in this state in violation of AS 04.11.010;

7 (B) property stocked, warehoused, or otherwise stored in
8 violation of AS 04.21.060;

9 (C) alcoholic beverages sold or offered for sale in an
10 area where a local option election has made these sales illegal;

11 (4) alcoholic beverages found on licensed premises which do
12 not bear federal excise stamps if excise stamps are required under
13 federal law;

14 (5) alcoholic beverages, materials or equipment used in
15 violation of AS 04.16.175.

16 (b) Property subject to forfeiture under this section may be
17 actually or constructively seized under an order issued by the superior
18 court upon a showing of probable cause that the property is subject to
19 forfeiture under this section. Constructive seizure is effected upon
20 posting a signed notice of seizure on the item to be forfeited, stating
21 the violation and the date and place of seizure. Seizure without a
22 court order may be made if

23 (1) the seizure is incident to a valid arrest or search;

24 (2) the property subject to seizure is the subject of a prior
25 judgment in favor of the state; or

26 (3) there is probable cause to believe that the property is
27 subject to forfeiture under (a) of this section; property seized under
28 this paragraph may not be held over 48 hours or until an order of for-
29 feiture is issued by the court, whichever is earlier.

1 (c) Within 30 days of a seizure under this section the Department
2 of Public Safety shall make reasonable efforts to ascertain the identity
3 and whereabouts of any person holding an interest or an assignee of a
4 person holding an interest in the property seized, including a right to
5 possession, a lien, mortgage, or conditional sales contract. The
6 Department of Public Safety shall notify the person ascertained to have
7 an interest in property seized of the impending forfeiture, and before
8 forfeiture the Department of Law shall publish, once a week for four
9 consecutive calendar weeks, a notice of the impending forfeiture in a
10 newspaper of general circulation in the judicial district in which the
11 seizure was made, or if no newspaper is published in that judicial
12 district, in a newspaper published in the state and distributed in that
13 judicial district.

14 (d) Property subject to forfeiture under (a) of this section may
15 be forfeited

16 (1) upon conviction of a person under AS 04.11.010, AS 04.-
17 16.190 or AS 04.21.060;

18 (2) upon judgment by the superior court in a proceeding in
19 rem that the property was used in a manner subjecting it to forfeiture
20 under (a) of this section.

21 (e) The owner of property subject to forfeiture under (a) of this
22 section is entitled to relief from the forfeiture in the nature of
23 remission of the forfeiture if in an action under (d) of this section
24 the owner shows that he was not a party to the violation and had no
25 actual knowledge that the property was used or was to be used in viola-
26 tion of the law.

27 (f) A person, other than the owner, holding or the assignee of a
28 lien, mortgage, conditional sales contract on, or the right to posses-
29 sion to property subject to forfeiture under (a) of this section is

1 entitled to relief from the forfeiture in the nature of remission of the
2 forfeiture if in an action under (d) of this section the person shows
3 that he was not a party to the violation subjecting the property to
4 forfeiture and had no actual knowledge that the property was used or was
5 to be used in violation of the law.

6 (g) It is no defense in an in rem forfeiture action brought by the
7 Department of Law under (d)(2) of this section that a criminal proceed-
8 ing is pending or has resulted in conviction or acquittal of a person
9 charged with violating AS 04.11.010, AS 04.16.190, or AS 04.21.060.

10 (h) Property forfeited under this section shall be placed in the
11 custody of the commissioner of public safety for disposition according
12 to an order entered by the court. The court shall order destroyed any
13 property forfeited under this section which is harmful to the public.
14 Other property shall be ordered sold and the proceeds used for payment
15 of expenses of the proceedings for forfeiture and sale, including
16 expenses of seizure, custody and court costs. The remainder of the
17 proceeds shall be deposited in the general fund.

18 * Sec. 4. AS 04 is amended by adding a new chapter to read:

19 CHAPTER 21. GENERAL PROVISIONS.

20 Sec. 04.21.010. MUNICIPAL REGULATION. (a) A municipality may
21 adopt those ordinances governing the sale, barter, consumption, and
22 possession of alcoholic beverages within its boundaries which are neces-
23 sary to the orderly conduct of the business of selling alcoholic bever-
24 ages. The ordinance must be consistent with this title and the regu-
25 lations adopted under this title.

26 (b) A municipality may impose no taxes on alcoholic beverages
27 except (1) property taxes on alcoholic beverage inventories and (2)
28 sales taxes on alcoholic beverage sales if levied on other property or
29 sales within the municipality.

1 Sec. 04.21.020. LIMITATION ON CIVIL LIABILITY. A licensee, or the
2 employee or agent of a licensee, who furnishes an alcoholic beverage to
3 an individual on premises licensed under this title may not be held
4 civilly liable for injuries resulting from the intoxication of that
5 individual unless the furnishing of alcoholic beverages occurred in
6 violation of AS 04.16.030, 04.16.051, or 04.16.052.

7 Sec. 04.21.030. RESPONSIBILITY OF LICENSEES, AGENTS AND EMPLOYEES.
8 The licensee has a duty to exercise that degree of care which a reason-
9 able person would observe to insure that a business under his control is
10 lawfully conducted. This duty of the licensee includes, but is not
11 limited to,

12 (1) insuring the compliance by agents or employees with this
13 title and regulations adopted under this title, including acting with
14 reasonable diligence to determine that his agents or employees are
15 advised of the provisions of this title and the regulations adopted
16 under this title, either by securing the agent's or employee's written
17 acknowledgement of posted instructions or otherwise; and

18 (2) insuring the compliance of the premises with public
19 health, fire, and safety codes and ordinances of the state or munici-
20 pality having jurisdiction.

21 Sec. 04.21.040. SALES ON FEDERAL RESERVATIONS. (a) A wholesaler
22 of alcoholic beverages may sell alcoholic beverages to a person who does
23 not have a license under this title who has a fixed place of business on
24 land in the state maintained by the United States government as a mili-
25 tary or naval reservation, a national park, or other federal reserva-
26 tion. A sale may be made under this section only if the purchaser is a
27 ship's service store, officers club, officers mess, post exchange, or
28 similar organization. The wholesaler may deliver alcoholic beverages
29 only to persons specified and at places designated in a written order

1 issued by the federal organization for which the purchase is made. A
2 licensee making sales and deliveries under this section shall keep the
3 original order attached to the copy of the invoice on file at his prem-
4 ises.

5 (b) Alcoholic beverages received on federal reservations under
6 this section may not be removed for use outside the federal reservation.

7 (c) A wholesaler who sells alcoholic beverages on a federal reser-
8 vation under this section shall pay the state excise tax imposed by
9 AS 43.60.010 on the alcoholic beverages sold and may subsequently claim
10 credit for the excise taxes paid if the sale is made to an organization
11 which is an instrumentality of the federal government.

12 Sec. 04.21.050. PROOF OF AGE. (a) If a licensee, or an agent or
13 employee of the licensee questions or has reason to question whether a
14 person entering a licensed premises, or ordering, purchasing, attempting
15 to purchase, or otherwise procuring or attempting to procure alcoholic
16 beverages has attained the age of 19 years, that licensee, agent, or
17 employee shall require the person to furnish proof of age acceptable
18 under (b) of this section. If the person questioned does not furnish
19 proof of age acceptable under (b) of this section, or if a licensee,
20 agent, or employee questions or has reason to question the validity of
21 the proof of age furnished, the licensee, employee or agent shall re-
22 quire the person to sign a statement that he is over the age of 19
23 years. This statement shall be made upon a form prepared by and furn-
24 ished to the licensee by the board.

25 (b) A valid driver's license or a valid identification card is
26 acceptable as proof of age when used for identification in the purchase
27 of alcoholic beverages and for securing entry to and remaining on pre-
28 mises where alcoholic beverages are sold if the license or identifica-
29 tion card is made of or encased in plastic and contains a photograph of

1 the license or card holder and a statement of his age or date of birth.

2 (c) A licensee, or an agent or employee of the licensee, may not
3 be charged for a violation of AS 04.16.051 - 04.16.052 if a signed
4 statement as provided in (b) of this section is secured in good faith,
5 or a valid driver's license or identification card is presented indi-
6 cating that the owner and possessor of the presented driver's license or
7 identification card is 19 years of age or over.

8 Sec. 04.21.060. WAREHOUSING OF ALCOHOLIC BEVERAGES. A licensee
9 may stock, warehouse, or otherwise store alcoholic beverages in a place
10 elsewhere than premises indicated on his license if

11 (1) the premises to be used for storage are inspected and
12 approved by the board before their use;

13 (2) the use of the premises for storage is authorized by
14 local zoning ordinances; and

15 (3) the premises are accessible for inspection as provided in
16 AS 04.11.630.

17 Sec. 04.21.070. ENFORCEMENT. Peace officers shall investigate and
18 report to the board violations of this title.

19 Sec. 04.21.080. DEFINITIONS. (a) In this title

20 (1) a person acts with "criminal negligence" with respect to
21 a result or to a circumstance described by a provision of law defining
22 an offense when he fails to perceive a substantial and unjustifiable
23 risk that the result will occur or that the circumstance exists; the
24 risk must be of such a nature and degree that the failure to perceive it
25 constitutes a gross deviation from the standard of care that a reason-
26 able person would observe in the situation;

27 (2) a person acts "knowingly" with respect to conduct or to a
28 circumstance described by a provision of law defining an offense when he
29 is aware that his conduct is of that nature or that the circumstance

1 exists; when knowledge of the existence of a particular fact is an
2 element of an offense, that knowledge is established if a person is
3 aware of a substantial probability of its existence, unless he actually
4 believes it does not exist; a person who is unaware of conduct or a
5 circumstance of which he would have been aware had he not been intoxi-
6 cated acts knowingly with respect to that conduct or circumstance;

7 (3) a person acts "recklessly" with respect to a result or to
8 a circumstance described by a provision of law defining an offense when
9 he is aware of and consciously disregards a substantial and unjusti-
10 fiable risk that the result will occur or that the circumstance exists;
11 the risk must be of such a nature and degree that disregard of it con-
12 stitutes a gross deviation from the standard of conduct that a reason-
13 able person would observe in the situation; a person who is unaware of a
14 risk of which he would have been aware had he not been intoxicated acts
15 recklessly with respect to that risk.

16 (b) In this title

17 (1) "alcoholic beverage" includes, but is not limited to,
18 whiskey, brandy, rum, gin, wine, ale, porter, beer, and all other spiri-
19 tous, vinous, malt and other fermented or distilled liquors intended for
20 human consumption and containing more than one per cent alcohol by
21 volume;

22 (2) "board" means the Alcoholic Beverage Control Board;

23 (3) "designated premises" means any or all designated por-
24 tions of a building or structure, rooms or enclosures in the building or
25 structure, or real estate leased, used, controlled, or operated by a
26 licensee for the purpose for which the permit is issued by the board at
27 the location of the site for which the permit is issued;

28 (4) "director" means the director of the Alcoholic Beverage
29 Control Board;

1 (5) "drunken person" means a person whose physical or mental
2 conduct is substantially impaired as a result of the introduction of an
3 alcoholic beverage into his body and who exhibits those plain and easily
4 observed or discovered outward manifestations of behavior commonly known
5 to be produced by the use of alcoholic beverages;

6 (6) "established village" means an unincorporated area that

7 (A) is within the circumference of a circle described by
8 drawing a one-mile radius around the licensed premises or premises
9 sought to be licensed under this title; and

10 (B) has 25 or more permanent residents;

11 (7) "licensed premises" means any or all designated portions
12 of a building or structure, rooms or enclosures in the building or
13 structure, or real estate leased, used, controlled, or operated by a
14 licensee in the conduct of business for which he is licensed by the
15 board at the specific address for which the license is issued;

16 (8) "local governing body" means, as appropriate, a city
17 council, a borough assembly, or a traditional village council, but does
18 not include a corporation established under the Alaska Native Claims
19 Settlement Act;

20 (9) "municipality" means an incorporated city, an organized
21 borough, or a unified municipality established under AS 29.68.

22 * Sec. 5. AS 09.35.087 is amended to read:

23 Sec. 09.35.087. EXEMPTION FOR LIQUOR LICENSES. In addition to the
24 exemptions set out in AS 09.35.080 and 09.35.085, the liquor license of
25 a judgment debtor is exempt from attachment, garnishment, and execution.

26 * Sec. 6. AS 12.55.025(a) is amended to read:

27 (a) When imposing a sentence of imprisonment exceeding 180 days
28 or upon a conviction of a violation of AS 04, a regulation adopted
29 under AS 04, or an ordinance adopted in conformity with AS 04.21.010,

1 the court, shall prepare, as a part of the record, a sentencing report
2 which includes the following:

3 (1) a verbatim record of the sentencing hearing and any other
4 in-court sentencing procedures;

5 (2) findings on material issues of fact and on factual ques-
6 tions required to be determined as a prerequisite to the selection of
7 the sentence imposed;

8 (3) a clear statement of the terms of the sentence imposed;
9 and

10 (4) recommendations as to the place of confinement or the
11 manner of treatment.

12 * Sec. 7. AS 12.55.025(b) is repealed and re-enacted to read:

13 (b) The sentencing report required under (a) of this section shall
14 be furnished within 30 days after imposition of sentence to the Depart-
15 ment of Law, the defendant, the division of corrections, the state Board
16 of Parole if the defendant will be eligible for parole, and to the Alco-
17 holic Beverage Control Board if the defendant is to be sentenced for a
18 conviction of a violation of AS 04, a regulation adopted under AS 04, or
19 an ordinance adopted under AS 04.21.010.

20 * Sec. 8. AS 29.33.090 is amended by adding a new subsection to read:

21 (e) A zoning ordinance adopted or amended under (a) of this sec-
22 tion may not preclude an activity authorized under a license or permit
23 issued under AS 04 if the activity was licensed or permitted by the
24 Alcoholic Beverage Control Board before the adoption of the zoning
25 ordinance or zoning ordinance amendment.

26 * Sec. 9. AS 39.25.110 is amended by adding a new paragraph to read:

27 (22) officers, agents, and employees of the Alcoholic Beverage
28 Control Board granted limited peace officer powers by the Alcoholic
29 Beverage Control Board under AS 04.06.110.

1 * Sec. 10. AS 04.05, AS 04.10, AS 04.15, AS 04.20, and AS 44.62.330(17)
2 are repealed.

3 * Sec. 11. Notwithstanding AS 04.06, members of the Alcoholic Beverage
4 Control Board on the effective date of this Act continue in office until the
5 expiration of their terms.

6 * Sec. 12. Sections 6 and 7 of this Act take effect January 1, 1981.

7 * Sec. 13. Sections 1 - 5 and secs. 8 - 11 of this Act take effect
8 July 1, 1980.

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Introduced: 1/14/80
Referred: Judiciary and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE TITLE 4
CODE REVISION COMMITTEE

1 IN THE SENATE

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 239

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to alcoholic beverages; and providing
7 for an effective date."

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

9 * Section 1. AS 04 is amended by adding a new chapter to read:

10 CHAPTER 06. ALCOHOLIC BEVERAGE CONTROL BOARD.

11 Sec. 04.06.010. ESTABLISHMENT OF BOARD. The Alcoholic Beverage
12 Control Board is established as a regulatory and quasi-judicial agency.
13 The board is in the Department of Revenue, but for administrative pur-
14 poses only.

15 Sec. 04.06.020. APPOINTMENT AND QUALIFICATIONS. The board con-
16 sists of five members appointed by the governor and confirmed by a
17 majority of the members of the legislature in joint session. A member
18 of the board may not hold any other state or federal office, either
19 elective or appointive. Two members of the board shall be persons
20 actively engaged in the alcoholic beverage industry, except that no
21 member may hold a wholesale license or be an officer, agent, or employee
22 of a wholesale alcoholic beverage enterprise. Three members of the
23 board may not be engaged in the same business, occupation, or profes-
24 sion.

25 Sec. 04.06.030. TERMS OF OFFICE. (a) Members of the board shall
26 be appointed for overlapping terms of three years.

27 (b) A vacancy occurring in the membership of the board shall be
28 filled within 30 days by appointment of the governor for the unexpired
29 portion of the vacated term.

1 (c) The board shall select a chairman from among its members.

2 Sec. 04.06.040. PER DIEM AND EXPENSES. Members of the board
3 receive no salary, but are entitled to per diem and travel expenses
4 authorized by law for other boards and commissions.

5 Sec. 04.06.050. MEETINGS. The board shall meet at the call of the
6 chairman. The board shall also meet at least once each year in each
7 judicial district of the state to study this title and to modify exist-
8 ing board regulations in light of statewide and local problems.

9 Sec. 04.06.060. QUORUM AND MAJORITY. Three members of the board
10 constitute a quorum for the conduct of business, except that a majority
11 of the whole membership of the board must approve all applications for
12 new licenses, and all renewals, transfers, suspensions and revocations
13 of existing licences. If a majority of the board is present and voting,
14 the director, with the consent of the members present, may cast a
15 tie-breaking vote.

16 Sec. 04.06.070. APPOINTMENT AND REMOVAL OF DIRECTOR. The governor
17 shall appoint a director to serve as the executive officer of the board.
18 The board may remove the director at its pleasure, and the governor may
19 remove the director for misconduct, misfeasance or malfeasance in
20 office. The governor may not remove the director unless the director is
21 given a copy of the charges against him and afforded an opportunity to
22 be publicly heard in person or by counsel in his own defense upon at
23 least 10 days notice. If the director is removed for cause, the
24 governor shall file with the lieutenant governor a complete statement of
25 all charges made against the director and the findings based on the
26 charges, together with a complete record of the hearing.

27 Sec. 04.06.075. AUTHORITY OF DIRECTOR. The director shall enforce
28 this title and regulations adopted by the board.

29 Sec. 04.06.080. DELEGATION OF AUTHORITY. The director shall

1 issue, renew, transfer, suspend, or revoke all licenses and permits at
2 the direction of the board. However, the board may delegate authority
3 to the director to temporarily grant or deny the issuance, renewal, or
4 transfer, of licenses and permits. The director's temporary grant or
5 denial of the issuance, renewal, or transfer of a license or permit is
6 not binding on the board. The board may delegate to the director any
7 duty imposed by this title except its power to propose and adopt regula-
8 tions.

9 Sec. 04.06.090. POWERS AND DUTIES. (a) The board shall control
10 the manufacture, barter, sale, consumption, and possession of alcoholic
11 beverages in the state. The board is vested with the powers, duties,
12 and responsibilities necessary for the control of alcoholic beverages,
13 including the power to propose and adopt regulations and to hear appeals
14 from actions of the director, and from actions of officers and employees
15 charged with enforcing the alcoholic beverage control laws and the
16 regulations of the board.

17 (b) The board shall review all applications for licenses made
18 under this title and may order the director to issue, renew, revoke,
19 transfer or suspend licenses and permits authorized under this title.

20 (c) In granting an application, the board may reduce the area to
21 be designated the licensed premises below the area applied for when, in
22 the judgment of the board, a reduction in area is necessary to insure
23 control over the sale and consumption of alcoholic beverages on the
24 premises or is otherwise in the best interests of the public.

25 (d) The board may employ, directly or through contracts with other
26 departments and agencies of the state, enforcement agents and staff it
27 considers necessary to carry out the purposes of this title. The
28 salaries of personnel of the board in the exempt service shall be set by
29 the Department of Administration.

1 (e) The board shall promptly notify all licensees and municipali-
2 ties of major changes to this title and to regulations adopted under
3 this title. However, if changes only affect specific classifications of
4 licenses and permits, the board need only notify those licensees and
5 municipalities directly affected by the changes. Current copies of this
6 title and current copies of the regulations adopted under it shall be
7 made available at all offices of the Department of Revenue and the
8 Department of Public Safety in the state.

9 Sec. 04.06.100. REGULATIONS. (a) The board shall adopt regula-
10 tions governing the manufacture, barter, sale, consumption, and posses-
11 sion of alcoholic beverages in the state which are consistent with this
12 title and necessary to carry out the purpose of this title in a manner
13 that will protect the public health, safety, and welfare. The regula-
14 tions shall be adopted in accordance with the Administrative Procedure
15 Act (AS 44.62).

16 (b) The subjects covered by regulations adopted under (a) of this
17 section may include, but are not limited to, the following matters:

18 (1) employment, conduct, and duties of the director and of
19 regular and contractual employees of the board;

20 (2) procedures for the issuance, denial, renewal, transfer,
21 revocation, and suspension of licenses and permits;

22 (3) terms and conditions of licenses and permits issued;

23 (4) fees for licenses and permits issued for which no fees
24 are prescribed by statute;

25 (5) conduct of regular and special meetings of the board;

26 (6) delegation to the director of routine administrative
27 functions and powers, including the temporary granting or denial of
28 issuance, transfer, and renewal of licenses;

29 (7) manner of giving any notice required by law or regulation

1 when not provided for by statute;

2 (8) requirements relating to the qualifications of licensees,
3 the conditions upon which a license may be issued, the accommodations of
4 licensed premises, and board inspection of those premises;

5 (9) making of reports by wholesalers;

6 (10) purchase of fidelity bonds by the state for the director
7 and the employees of the board;

8 (11) prohibition of possession of alcoholic beverages by
9 intoxicated persons and by minors;

10 (12) required reports from corporations licensed under this
11 title, including reports of stock ownership and transfers and changes of
12 officers and directors;

13 (13) creation of classifications of licenses or permits not
14 provided for in this title;

15 (14) establishment and collection of fees to be paid on appli-
16 cation for a license or permit.

17 Sec. 04.06.110. PEACE OFFICER POWERS. The director and the per-
18 sons employed for the administration and enforcement of this title may
19 exercise the powers of peace officers when those powers are specifically
20 granted by the board. Powers granted by the board under this section
21 may be exercised only when necessary for the enforcement of the crimi-
22 nally punishable provisions of this title, regulations of the board,
23 other criminally punishable laws, and regulations governing the manu-
24 facture, barter, sale, consumption, and possession of alcoholic bever-
25 ages in the state.

26 * Sec. 2. AS 04 is amended by adding a new chapter to read:

27 CHAPTER 11. LICENSING.

28 ARTICLE 1. LICENSING AND REPORTING REQUIREMENTS.

29 Sec. 04.11.010. LICENSE OR PERMIT REQUIRED. Except as provided in

1 AS 04.11.020, a person may not manufacture, sell, offer for sale, pos-
2 sess for sale or barter, traffic in, barter or exchange for goods or
3 services in this state, an alcoholic beverage unless under license or
4 permit issued under this title.

5 Sec. 04.11.020. EXCEPTIONS: LICENSE OR PERMIT NOT REQUIRED. (a)
6 A license or permit is not required to authorize sales made by a person
7 under a judgment and decree of foreclosure, under the bankruptcy law of
8 the United States (11 U.S.C. 1101 et seq), or under order of the board
9 or a court under AS 04.16.220.

10 (b) A license or permit is not required to serve alcoholic bever-
11 ages in exchange for valuable contributions at a private gathering of a
12 bona fide group of co-workers or of a professional, social, or fraternal
13 organization if equal contributions are made by all in attendance and
14 only the amount required to purchase the alcoholic beverages is contri-
15 buted. All other applicable provisions of this title and regulations
16 under this title shall be observed at these private gatherings.

17 Sec. 04.11.030. DEATH OF LICENSEE. (a) The executor or adminis-
18 trator of the estate of a person who was operating a business as a sole
19 licensee under a license authorized by this title may continue to oper-
20 ate the licensed business until an application for transfer of a license
21 to another person is approved or until the license is forfeited under
22 (b) of this section.

23 (b) If an application for the transfer of ownership of a license
24 from the deceased licensee is not made within 90 days of the death of
25 the licensee or within an additional 90 days if an application for
26 transfer of ownership made by the executor is denied, or no petition is
27 made to the board for an extension of time under (c) of this section
28 within that time, the license shall be forfeited.

29 (c) The board may extend the time limits in (b) of this section or

1 petition of the executor or administrator.

2 (d) This section does not authorize the transfer of a liquor
3 license by an administrator or executor to the estate of a decedent.

4 (e) The board may transfer a license to an executor or adminis-
5 trator only in the executor's or administrator's individual capacity.

6 Sec. 04.11.040. BOARD APPROVAL OF TRANSFERS. (a) A license
7 issued under this title may not be transferred to another person except
8 with the written consent of the board.

9 (b) A license or permit issued under this title may not be trans-
10 ferred to a new location except with the written consent of the board.

11 (c) A person may not receive or transfer controlling interest in a
12 liquor license issued to a corporation under this title except with the
13 written consent of the board.

14 Sec. 04.11.050. REPORTS REQUIRED OF CORPORATIONS. (a) A corpora-
15 tion issued a license under this title shall report to the board when 10
16 per cent or more of its corporate stock is transferred and shall also
17 report any change in its corporate officers or in the membership of its
18 board of directors.

19 (b) The report to the board shall be made in writing in duplicate
20 and must be sent within 10 days after the transfer of the stock or the
21 change in officers or directors.

22 (c) This section does not apply to a corporation whose stock is
23 listed on a stock exchange, a corporation which is required by law to
24 file periodic reports with the United States Securities Exchange Commis-
25 sion, or to a bank, trust company, financial institution, or title
26 company to which a license is issued in a fiduciary capacity.

27 Sec. 04.11.060. NONRESIDENT DISTILLER, BREWER, WINERY OR WHOLE-
28 SALER. A distiller, brewer, winery or wholesaler whose plant or prin-
29 cipal place of business is outside the state may not sell products

1 directly to licensees in the state without

2 (1) obtaining a general wholesale license under AS 04.11.-
3 160(a) for each wholesale distributing point in the state;

4 (2) appointing an agent upon whom process can be served; and

5 (3) obtaining other applicable licenses under the provisions
6 of this title.

7 Sec. 04.11.070. POWER LIMITED TO THE BOARD. Only the board may
8 issue, renew, transfer, suspend, or revoke a license under this title.

9 ARTICLE 2. LICENSES AND PERMITS.

10 Sec. 04.11.080. TYPES OF LICENSES AND PERMITS. Licenses and
11 permits issued under this title are as follows:

12 (1) beverage dispensary license;

13 (2) duplicate beverage dispensary license for additional
14 rooms;

15 (3) restaurant or eating place license;

16 (4) club license;

17 (5) bottling works license;

18 (6) brewery license;

19 (7) package store license;

20 (8) general wholesale license;

21 (9) wholesale malt beverage and wine license;

22 (10) distillery license;

23 (11) common carrier dispensary license;

24 (12) retail stock sale license;

25 (13) recreational site license;

26 (14) community liquor license;

27 (15) pub license;

28 (16) winery license;

29 (17) caterer's permit;