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NO.

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STATE OF ALASKA
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
STATE MEDICAL BOARD
POUCH D
JUNEAU, ALASKA 99811

Sir: VERIFICATION OF LICENSURE

I am applying for a certificate to practice medicine and surgery in the State of Alaska. The State Medical Board requires that this form be completed by each jurisdiction in which I hold or have held licenses. Please complete the form and return it to me at the address below. Thank you.

Name _____

Address _____

PLEASE DO NOT DETACH
.....

State of _____

Name of Licensee _____

Graduate of _____

License No. _____ issued effective _____

By reciprocity/endorsement _____ by examination _____

License is current _____ lapsed _____

Has the applicant's license ever been suspended or revoked? _____ If so, for what reason?

Derogatory information, if any _____

Comments, if any _____

[BOARD SEAL]

Signed _____

Title _____

State Board _____

Date _____

STATE OF ALASKA
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
STATE MEDICAL BOARD
POUCH D
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Comments, if any _____

Signed _____

Title _____

State Board _____

Date _____

[BOARD SEAL]

Board or
Commission

Appointee

Term

STATE MEDICAL BOARD

AS 08.64 - 7 members; 4 year term; serves until new member is appointed and qualified

Jeffrey A. Partnow
SR 3, Box 31473
Fairbanks, Alaska 99701

November 6, 1980

Thomas J. Harrison, MD
3500 LaTouch, Suite 250
Anchorage, Alaska 99501
333-4513 (home)
277-4151 (work)

July 8, 1980

Thomas Stengl, MD
Box 1059
Auke Bay, Alaska 99821
586-7466 (work)
789-0805 (home)

January 12, 1980

Hilbert J. Herrickson, MD (Chairman)
3612 N. Tongass Ave.
Ketchikan, Alaska 99901
225-5858 (home)
225-5146 (work)

April 21, 1982

Winthrop Fish, MD
1249 Bannister
Anchorage, Alaska 99504

April 21, 1981

Mrs. Janette Adasiak
108 6th Street
Juneau, AK
586-6273 (Home)

Hugh Gellert
Box 386 E. SRA
Anchorage, Alaska 99507
344-3240 (home)
272-4922 (work)

January 19, 1981

STATE BOARDS OF MEDICAL EXAMINERS

ALABAMA	P.O. Box 946 Montgomery 36102	ILLINOIS	628 E. Adams Street Springfield 62786
ALASKA	Dept. of Commerce Div. of Occupational Licensing, Pouch D Juneau 99801	INDIANA	1375 West 16th Street Indianapolis 46202
ARIZONA	810 W. Bethany Home Road Phoenix 85103	IOWA	910 Insurance Exchange Bldg. 505 Fifth Street Des Moines 50309
ARKANSAS	P.O. Box 102 Harrisburg 72432	KANSAS	292 New Brotherhood Bldg. Kansas City 66101
CALIFORNIA	Room 434 1020 N Street Sacramento 95814	KENTUCKY	3532 Ephraim McDowell Drive Louisville 40205
CANAL ZONE	Health Director Balboa Heights 00101	LOUISIANA	621 Hibernia Bank Bldg. New Orleans 70112
COLORADO	715 Republic Bldg. 1612 Tremont Place Denver 80202	MAINE	222 Main Street Waterville 04901
CONNECTICUT	79 Elm Street Hartford 06115	MARYLAND	201 W. Preston St., 5th floor Baltimore 21201
DELAWARE	Room 233 Jesse S. Cooper Bldg. Dover 19901	MASSACHUSETTS	151 1/2 Leverell Saltonstall Bldg. 100 Cambridge Street Boston 02202
D. C.	Dept. of Economic Dev. Room 114 614 H Street, N.W. Washington 20001	MICHIGAN	1033 S. Washington Street Lansing 48926
FLORIDA	901 Los Olas Bldg. 305 S. Andrews Ave. Fort Lauderdale 33301	MINNESOTA	203 Minn. State Bank Bldg. 200 S. Robert Street St. Paul 55107
GEORGIA	116 Pryor Street, S.W. Atlanta 30303	MISSISSIPPI	P.O. Box 1700 Jackson 39205
GUAM	Guam Memorial Hospital P.O. Box AX Marianas Islands Agana 96910	MISSOURI	P.O. Box 4 Jefferson City 65101
HAWAII	P.O. Box 3469 Honolulu 96801	MONTANA	LaLonde Building Helena 59601
IDAHO	407 W. Bannock Street Boise 83702	NEBRASKA	Lincoln Bldg., 2nd floor 1003 O Street Lincoln 68508
		NEVADA	1281 Terminal Way, #211 Reno 89502
		NEW HAMPSHIRE	61 S. Spring Street Concord 03301

NEW JERSEY	28 W. State Street Trenton 08625	VIRGIN ISLANDS	Charlotte Amalie St. Thomas 00801
NEW MEXICO	210 E. March St., Ste 10 Santa Fe 87501	VIRGINIA	200 Professional Bldg. Portsmouth 23704
NEW YORK	99 Washington Avenue Albany 12210	WASHINGTON	P.O. Box 649 Olympia 98504
NORTH CAROLINA	Suite 214 222 N. Person Street Raleigh 27601	✓ WEST VIRGINIA	State Office Building 1800 Washington St. Charleston 25305
NORTH DAKOTA	P.O. Box 1198 Bismark 58501	WISCONSIN	201 E. Washington Ave. Madison 53702
OHIO	21 West Broad Street Columbus 43215	WYOMING	State Office Building Cheyenne 82002
OKLAHOMA	730 United Founders Tower Oklahoma City 73112		
OREGON ✓	1002 Loyalty Bldg. 317 S. W. Alder Portland 97204		
PENNSYLVANIA	P.O. Box 2649 Harrisburg 17120		
PUERTO RICO	P.O. Box 3271 San Juan 00904		
RHODE ISLAND	104 Health Dept. Bldg. 75 Davis Street Providence 02908		
SOUTH CAROLINA	1315 Blanding Street Columbia 29201		
SOUTH DAKOTA	711 North Lake Avenue Sioux Falls 57104		
TENNESSEE ✓	1826 Clinch Avenue, S.W. Knoxville 37916		
TEXAS	900 Southwest Tower 211 E. 7th Street Austin 78701		
UTAH	330 East Fourth South Salt Lake City 84111		
VERMONT	2 Park Street Barre 05641		

STATE OF ALASKA
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
STATE MEDICAL BOARD
POUCH D
JUNEAU, ALASKA 99311

PROCEDURE FOR OBTAINING A LICENSE TO PRACTICE PODIATRY IN THE STATE OF ALASKA

GENERAL INSTRUCTIONS: All copies of documents must be certified by a Notary Public to be true copies of the original documents. Copies no larger than 8 1/2" by 11" are preferred. Your application and supporting credentials will be returned if they are not complete and in proper form. Non-citizens must have permanent resident status in the United States. All applicants for licensure must be interviewed by a member of the Medical Board prior to licensure. (List of Board members is enclosed.) If you have previously received a temporary permit, your interview for the permit may serve as your interview for permanent licensure. If you have previously received a locum tenens permit and decide to apply for permanent licensure, your interview for the permit may serve as your interview for permanent licensure at the discretion of the Board member who issued your permit.

LICENSURE BY ENDORSEMENT: The State Medical Board may waive their written examination and license you by endorsement if you are a Diplomate of the National Board of Podiatry Examiners. The following items must be on file:

1. Completed application - including items 1 through 33.
2. Certified copy of your medical school diploma.
3. An original or certified copy of your score report from N.L.P.E.
4. Verification of the status of your license in all states, territories or provinces in which you hold or have held licenses. Three forms are enclosed.
5. Fee: \$125 - includes a nonrefundable \$25 application fee and \$100 endorsement fee.

LICENSURE BY EXAMINATION: Applications for examination must be complete and on file 40 days in advance of the examination date. The following items must be on file:

1. Completed application - including items 1 through 33
2. Certified copy of your medical school diploma
3. Verification of the status of your license in all states, territories or provinces in which you hold or have held licenses. Three forms are enclosed.
4. Fee: \$150 - includes a nonrefundable \$25 application fee and \$125 examination fee.

TEMPORARY PERMIT: Any member of the Medical Board may issue you a temporary permit providing you intend to apply for permanent licensure by examination or endorsement. Temporary permits are issued as a courtesy to allow you to practice while you are completing your application for permanent licensure. Board members interview all candidates for temporary licensure and require that the following be submitted.

1. Certified copy of your medical school diploma.
2. Fee: \$25 - cannot be credited toward fees for permanent licensure.

PLEASE NOTE: (1) If you are applying for examination your permit will remain valid until the results of the first examination for which you are scheduled are available. (2) If you are applying for endorsement your permit will remain valid for eight months or until the Board meets to consider your application, whichever occurs first.

LOCOM TENENS PERMIT: Any member of the Medical Board may issue you a locum tenens permit which will allow you to provide temporary coverage for a podiatrist licensed in Alaska. Board members interview all candidates for such permits and require that the following be submitted:

1. Certified copy of your medical school diploma.
3. Certified evidence of current licensure in a state or territory of the U.S. or province of Canada. Evidence of current licensure must be in the form of a renewal certificate of the like unless your original certificate has just been issued and you have not been required to renew it.
4. Fee: \$25

PLEASE NOTE: Your locum tenens permit will remain valid for 120 consecutive days. If circumstances warrant the Board may grant an extension. Obtaining a locum tenens permit does not obligate you to apply for permanent licensure.

GENERAL INFORMATION: Upon receipt of your application this office will request clearance from the Drug Enforcement Administration. This review takes approximately a month, and as a result it will be to your advantage to submit your application well in advance of the date you intend to start practicing to ensure that this office had adequate time to request the review. If any part of your application is incomplete at the time you intend to start practicing, it will be necessary for you to apply for a temporary permit. The Board will not review your application until all necessary information has been received. DO NOT SUBMIT YOUR APPLICATION UNTIL IT IS COMPLETE. Once your application is complete and you have been interviewed and recommended for licensure by a member of the Board your file will be ready for Board review at their next scheduled meeting. Meetings are held every 3 - 4 months.

Once your license has been issued it must be filed with the Clerk of the Superior Court in the judicial district in which you intend to practice. Should you move to another district it must again be filed as above.

All permanent licenses must be renewed by December 31 of even-numbered years. Initial licensing fees are not related to renewal fees, and your license will remain valid only until the renewal following issuance. Notification of the necessity to renew will be mailed to each licensee approximately 30 days before the renewal date. Failure to receive a renewal notice is not considered an excuse for nonrenewal. A license which is not renewed by the due date lapses. In order to reinstate a license which remains lapsed for more than 60 days, a \$10 penalty fee must be submitted along with the renewal fee. Fees are as follows: \$100 - active renewal; \$25 - inactive, out of state renewal. You must reside and practice outside Alaska to be eligible for inactive renewal. If you practice in state intermittently you must renew on an active basis. Should you renew on an inactive basis and subsequently come to Alaska to practice, you must activate your license by payment of a \$75 fee.

PLEASE NOTE: It is illegal to practice on a lapsed license. It is your responsibility to keep this office advised of your current address at all times to enable us to send renewal notices to you.

STATE OF ALASKA
 DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
 DIVISION OF OCCUPATIONAL LICENSING
 Pouch "D"
 Juneau, Alaska 99811

STATE MEDICAL BOARD

I HEREBY APPLY for a license to practice podiatry in the State of Alaska by EXAMINATION (), by ENDORSEMENT ().

THIS APPLICATION MUST BE COMPLETED IN FULL. If any section does not apply, please write N/A in the space provided. TYPE OR PRINT ALL INFORMATION.

1. Name in full _____ S.S. No. _____
2. Mailing address _____ Zip Code _____
3. Residence address _____ Zip Code _____
4. Place of birth _____ Date of birth _____ Age _____
 Are you a citizen of the U. S.? Yes (), No (). If yes, by birth _____, by naturalization _____. If no, what is your status? _____

5. PREMEDICAL EDUCATION

Name of School	Location	Month	Year	Month	Year
_____	_____	From _____	_____	to _____	_____
_____	_____	From _____	_____	to _____	_____
_____	_____	From _____	_____	to _____	_____

Did you receive a degree from any of the above mentioned colleges or universities? Yes (), No (). If so, give name of institution _____, title of degree _____ date of degree _____

6. MEDICAL EDUCATION

Name of School	Location	Month	Year	Month	Year
_____	_____	From _____	_____	to _____	_____
_____	_____	From _____	_____	to _____	_____
_____	_____	From _____	_____	to _____	_____

Graduated from _____ Exact date on diploma _____

7. List all states, territories and foreign countries in which you hold or have held licenses _____
8. Are you currently applying for a license to practice medicine and surgery in any other state? Yes (), No (). If so, give details _____
9. Do you have a specialty? _____

1. Where did you complete your internship? (Give name and address of hospital and period of service) _____

2. Where did you complete your residency? (Give name and address of hospital and period of service) _____

3. Have you ever served as a staff member in any hospital? Yes (), No (). If so, give name and address of hospital and period of service _____

4. To what county, district or state medical societies have you belonged? (If you have never been a member of a society, indicate reasons below. If you are or have been a member of a society, #33 must be completed.)

Name _____ Address _____
Name _____ Address _____
Name _____ Address _____

5. Do you hold a license in any of the other healing arts? Yes (), No ().

6. Have you ever taken the Alaska Medical Board Examination? Yes (), No (). If so, give details _____

7. Have you ever served in the Armed Forces? Yes (), No (). If so, Date of commission _____ Date of discharge _____

8. Are you suffering from any ailment communicable to others? Yes (), No ().

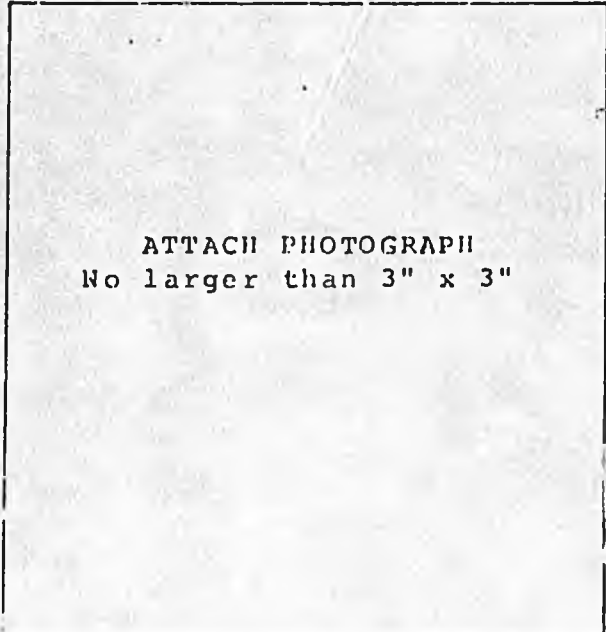
If any of the following answers are yes, explain fully in a signed affidavit.

	YES	NO
9. Have you ever been called before any state board for interrogation concerning any violation of the Podiatry Practice Act or unethical conduct?.....	()	()
10. Have you ever been denied a certificate by, or the privilege of taking an examination before any State Medical Board?.....	()	()
11. Have you ever had a license to practice medicine revoked or suspended?.....	()	()
12. Have you ever been charged or convicted of a violation of a U.S. or State Statute, excluding minor traffic violations?.....	()	()
13. Have you ever been addicted to or excessively used alcohol, narcotics, barbiturates or habit-forming drugs?.....	()	()
14. Are you now or have you ever been emotionally or mentally ill?....	()	()
15. Have you ever been treated for mental or emotional illness, drug addiction or inebriety?.....	()	()
16. Have you ever applied for and been denied a Narcotic Tax Stamp?...	()	()
17. Have you ever surrendered your Narcotic Tax Stamp?.....	()	()
18. Have you ever been charged with or convicted of a violation of any Federal or State Narcotic laws?.....	()	()
19. Have you ever made an offer to compromise in connection with the Harrison Narcotic Law or any Narcotic Law?.....	()	()

20. If you are currently residing outside Alaska, when do you anticipate establishing your practice in the State? _____

21. Have you decided upon a location for your practice? Yes (), No (). If so, where? _____

I HEREBY CERTIFY that the information contained in this application is true and correct to the best of my knowledge. I further certify that the credentials supplied by me are true and correct and that the photograph which appears below is a true likeness of myself taken within the past sixty days. I understand that any false information or falsification of credentials may result in failure to obtain a license to practice Podiatry in the State of Alaska.



Signature of applicant

SUBSCRIBED AND SWORN before me, a Notary Public, in and for the State of _____

_____ this _____ day of _____, 19 _____.

Notary Public

My Commission expires

NOTARY SEAL

31. CERTIFICATE OF MORAL CHARACTER

THIS CERTIFIES that I have been personally acquainted with _____ for _____ years and that I know him to be of good moral character, not addicted to the use of habit-forming drugs or intemperance, and I recommend him to the Board of Medical Examiners, State of Alaska, as being entirely worthy to be licensed to practice Podiatry in Alaska pursuant to law.

Name _____

Address _____

SUBSCRIBED AND SWORN before me, a Notary Public, in and for the State of _____, this _____ day of _____, 19 _____.

Notary Public

NOTARY SEAL

My Commission expires

32. CERTIFICATE OF DEAN OF PODIATRY SCHOOL - I HEREBY CERTIFY that the degree, Doctor of Podiatry, was conferred upon _____, dated _____ by _____ School of Podiatry.

Signature of Dean

SCHOOL SEAL

Date _____

33. CERTIFICATE OF ETHICAL AND MORAL CHARACTER FROM PRESIDENT OR SECRETARY OF COUNTY, DISTRICT OR STATE MEDICAL SOCIETY.

I HEREBY CERTIFY that Dr. _____ of _____ is or has been a member in good standing of the _____ medical society and that he is an ethical practitioner and of good moral character.

SOCIETY SEAL
(If society has no seal, notarization must be completed.)

President or Secretary
Address _____

SUBSCRIBED AND SWORN: before me, a Notary Public, in and for the State of _____, this _____ day of _____, 19____.

NOTARY SEAL

Notary Public
My Commission expires _____

STATE OF ALASKA
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
STATE MEDICAL BOARD
POUCH D
JUNEAU, ALASKA 99811

VERIFICATION OF LICENSURE

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Comments, if any _____

Signed _____

State Board _____

Date _____

[BOARD SEAL]

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STATE MEDICAL BOARD
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Comments, if any _____

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Title _____

State Board _____

Date _____

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Comments, if any _____

Signed _____

Title _____

State Board _____

Date _____

[BOARD SEAL]

*Section 1. AS 08.64.270(c) is amended to read:

(a) The board may issue a temporary permit to an applicant who meets the requirements of § 200 [OR] , 205 or 209 of this chapter.

*Section 2. AS 08.64.250 is amended to read:

Sec. 08.64.250. LICENSURE BY ENDORSEMENT. The board may waive the examination requirement and license by endorsement if the physician or podiatry applicant meets the requirements of § 200 or 209 of this chapter, pays the required fee and has

(1) an active license from a board of medical examiners established under the laws of a state or territory of the United States or a province of Canada issued after thorough examination; or

(2) passed an examination given by the National Board of Medical Examiners or the Federation of State Medical Boards of the United States or , in the case of a podiatry applicant , the National Board of Podiatry Examiners.

*Section 3. AS 08.64.360 is amended to read:

Sec. 08.64.360. PENALTY FOR PRACTICING WITHOUT A LICENSE OR IN VIOLATION OF CHAPTER. (a) Except for a physician assistant and a physician-trained mobile intensive care paramedic under § 170 of this chapter, a person practicing medicine or osteopathy in the state without obtaining and filing an appropriate license is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 [\$50] nor more than \$500 [\$100], or by imprisonment for not less than 10 days nor more than 90 days, or by both.

Evidence that the defendant has failed to file a license with the clerk of the court is prima facie evidence that the defendant is not licensed. Each day of illegal practice is a separate offense.

(b) Any person , who practices or attempts to practice , or who holds himself out as practicing any system or mode of treating the sick or afflicted in this state , or who diagnoses , treats , operates for , or prescribes for any ailment , blemish , deformity , disease , disfigurement , disorder , injury or other mental or physical condition of any person , without having at the time of so doing a valid unrevoked or suspended license , authorization or certificate as provided in this chapter , or without being authorized to perform such acts pursuant to a license , authorization or certificate obtained in accordance with some other provision of law , is guilty of a misdemeanor .

*Section 4. AS 08.64.390(3)(G) is amended to read:

(3)(G) violating the principles of medical ethics of the American Medical Association , excepting that association's prohibitions against advertising , and of the Alaska State Medical Association.

*Section 5. AS 08.64.380(5) is amended to read:

(5) "department" means the Department of Commerce and Economic Development.

ROUGH DRAFT

-2-

Diskette LEG

September 14, 1979/cw

Job M .

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Amended

(b) Any person , who practices or attempts to practice , or who holds himself out as practicing any system or mode of treating the sick or afflicted in this state , or who diagnoses , treats , operates for , or prescribes for any ailment , blemish , deformity , disease , disfigurement , disorder , injury or other mental or physical condition of any person , without having at the time of so doing a valid unrevoked or suspended license , authorization or certificate as provided in this chapter , or without being authorized to perform such acts pursuant to a license , authorization or certificate obtained in accordance with some other provision of law , is guilty of a misdemeanor .

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ROUGH DRAFT

-2-

Diskette LEG

September 14, 1979/cw

Job M .

ALCOHOL
BEV. CON.
BOARD

A PERFORMANCE REVIEW
OF THE
ALCOHOLIC BEVERAGE CONTROL BOARD

November 3, 1978

A PERFORMANCE REVIEW
OF THE
ALCOHOLIC BEVERAGE CONTROL BOARD

November 3, 1978

Commissioner of the Department
of Revenue
Deputy Commissioner of the
Department of Revenue
Acting Deputy Commissioner of
the Department of Revenue

Sterling Gallagher

John R. Messenger

Pete Bushre

Members of the
Alcoholic Beverage Control Board

Chairman
Member
Member
Member
Member

Timothy G. Middleton
Elvin Elkins
Albert P. Adams
Robert J. Gonze
John Kohler

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

FINANCE DIVISION
POUCH WF—STATE CAPITOL

JUNEAU, ALASKA 99811

November 3, 1978

Members of the
Legislative Budget and Audit Committee:

In accordance with the intent of Title 24 and 44 of the
Alaska Statutes, the attached report is submitted for
your review.

A PERFORMANCE REVIEW
OF THE
ALCOHOLIC BEVERAGE CONTROL BOARD

November 3, 1978



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

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PURPOSE AND SCOPE OF THE REVIEW

Purpose

In accordance with the provisions of Alaska Statutes 24.20.271(1) and 44.66.050 (sunset legislation), a review of the Alcoholic Beverage Control Board was conducted to determine whether there is a demonstrated need to continue liquor regulation in its present form. To determine that need we reviewed Board activities to see if the Board has been operating in an efficient and effective manner.

AS 44.66.010(1) specifies that the Alcoholic Beverage Control Board will terminate on June 30, 1979 but will continue until June 30 of the following year for the purpose of concluding its affairs. This report shall be considered during the legislative oversight function in determining whether the Board should be allowed to terminate, be reestablished in its present form or be reestablished in a modified form.

Scope

The major areas reviewed were the Board's program, licensing, enforcement, administration and affirmative action functions. Our review consisted of analyzing and evaluating the following:

- (1) Applicable statutes and regulations;
- (2) Questionnaires sent to Board members;
- (3) Interviews with, and questionnaires to, ABC Board employees;
- (4) Interviews with and reports by the consulting attorney for the Alaska Code Revision Commission;
- (5) Tests of records and documents of the Alcoholic Beverage Control Board;
- (6) Tests of records and documents of the Office of the Governor on appointments to the ABC Board;
- (7) Questionnaires to Alaska law enforcement agencies;
- (8) Questionnaires to 1978 Alaska Municipal League Members;
- (9) Questionnaires to 206 current licensees of the Alcoholic Beverage Control Board;
- (10) Correspondence with the Commissioners of the Departments of Public Safety and Commerce and Economic Development;

- (11) A review of studies and major Alaska Supreme Court decisions concerning the Board;
- (12) Observation of two ABC Board meetings;
- (13) Observation of meetings with the Attorney General's Office, District Attorney's Office, and the Alaska Code Revision Commission; and
- (14) Complaints filed with the Ombudsman's Office.

Scope Constraints

This review was hampered by the following constraint: The Alcoholic Beverage Control Board had not adequately collected, recorded and maintained files and/or statistics on enforcement activity of the Board prior to October 1977.

ORGANIZATION AND FUNCTION

In 1933 the Territorial Legislature created the Board of Liquor Control with full power, authority and control to prescribe (1) rules and regulations to govern the manufacture, barter, sale and possession of intoxicating liquors, (2) qualifications of those engaged in that business, and (3) license fees and excise taxes. The present Alcoholic Beverage Control Board (hereinafter referred to as the ABC Board or the Board) was established in 1959, and the same broad powers and duties conferred on the Board of Liquor Control were transferred to the new ABC Board at that time.

Members are appointed for three-year terms by the Governor and serve at his pleasure subject to confirmation by the Legislature. Membership is limited by statute to five persons (two liquor industry representatives, three non-industry representatives). A director, also appointed by the Governor, serves as executive officer and is responsible for enforcement of Title 4 liquor laws and rules and regulations developed by the Board. Although he is not a member of the Board, the director may cast a tie-breaking vote.

Under Title 4 of the Alaska Statutes the ABC Board is charged with the general duties, powers and responsibilities involved in the control of alcoholic beverages, including the promulgation of rules and regulations and the hearing of appeals. Its authority is mostly discretionary. Provisions of AS 04.05.030 direct the Board to issue, reissue, revoke, transfer or suspend liquor licenses in accordance with what the Board considers to be the public's best interests. Concerning its general powers of regulation AS 04.05.030 states:

"The Board may control the manufacture, barter, sale and possession of intoxicating liquors in the State, and may adopt necessary rules and regulations in a manner that will protect the public health, safety and welfare."

Title 4 prescribes the types of licenses, fees and specific activities allowed under each license classification (see schedule of license types and fees in Appendix B). Fees are payable at the time of application and are not reduced or prorated in any way for periods less than the statutory calendar year. To renew an already existing liquor license the application must be filed (and the corresponding fees paid) on or before February 28.

The staff of the ABC Board is divided into three major functions: administration, licensing and enforcement. A brief description of the services provided by those functions follows:

Administration. The director of the ABC Board provides all administrative support needed by the Board including overseeing all staff functions, preparing budget documents, and directing the preparation and implementation of administrative and public hearings, and directing special enforcement investigations.

Licensing. The licensing staff currently consists of three full-time employees responsible for issuing and receiving application forms, maintaining records and files for all licenses, collecting fees, issuing all licenses and permits authorized by the Board, and answering inquiries from the general public on routine licensing matters.

Enforcement. The ABC Board currently employs five investigators; three operating from the Anchorage central office and two operating from the Fairbanks field office. Services provided include (1) routine surveillance and inspections of licensed premises, (2) investigations to obtain information to be used in criminal and civil proceedings and investigations into suspected licensing violations, and (3) assisting the licensing staff in handling inquiries from the general public.

REPORT CONCLUSION

Policy Issues

This review contains policy issues raised as a result of our evaluation of various Board practices. The final policy decisions affecting these practices are not within the scope of this review but require legislative consideration. In debating these decisions, the legislative oversight committees should take into consideration the findings and alternatives presented in this report, so that the potential impact of the policy changes can be evaluated.

Report Conclusion

In our opinion, the Alcoholic Beverage Control Board should continue to regulate and license those persons engaged in the liquor industry. Title 4 of the Alaska Statutes established the Alcoholic Beverage Control Board to control the manufacture, barter, sale and possession of intoxicating liquors to protect the public's health, safety and welfare. Because of the growing body of knowledge on the potential dangers of alcohol and its attendant social and economic costs, we concur that the public need for this type of regulation continues to exist.

However, certain changes need to be implemented for the ABC Board to more effectively execute its mandated responsibilities. Enforcement responsibilities of the Board should be transferred to a special investigative unit within the Department of Public Safety. This shift in responsibility would correct the existing deficiencies in ABC Board enforcement. The three elements of ABC enforcement, routine inspections, investigations and licensing assistance, are deficient in the following ways:

- Routine Inspections:
- they are not performed on a regular, timely basis,
 - ratings assigned are not based on a uniform set of standards,
 - ABC inspections duplicate, to a large extent, Division of Public Health inspections, and
 - discrepancies noted during these inspections are seldom followed up.
- Investigations:
- documentation on enforcement activity is not accurate and not maintained in a current manner,

- the Notice of Violation procedures are ineffective because they are not issued in sufficient quantity, do not always result from original ABC work, are not always followed up, and carry no penalty,
- ABC enforcement officers do not have sufficient authority.

Licensing Assistance: - ABC enforcement staff spend approximately 15% of their time assisting the licensing staff, when 100% of their time should be devoted to enforcement efforts.

A transfer of responsibility would remove the State from a position of potential liability which results since the ABC enforcement officers are not commissioned, and are not employed by a "police agency", yet act as agents of the State (see Recommendation No. 1).

If enforcement responsibilities are transferred to the Department of Public Safety, the ABC Board will be left with five full-time employees: two administrative staff members and three licensing staff members. A transfer of the licensing responsibilities to the Department of Commerce and Economic Development, Division of Occupational Licensing would eliminate the need for the administrative positions and would result in an annual savings to the State of approximately \$54,000 (see Recommendation No. 2).

Our review of the licensing function revealed the following. Renewals of liquor licenses currently take longer to process than new issuances because of all licenses being renewed at the same time and conflicting statutory requirements. Public notice requirements under AS 04.10.270 have hindered the Board from automatically renewing licenses as provided under AS 04.10.350. The need for public notice for license renewals should be reviewed as municipalities and boroughs have used it only as a tax collection service for unpaid local taxes (see Recommendation No. 5).

We also noted that the need for the \$2,500 cash or surety bond required for a beverage dispensary license is obsolete. The requirement was established by a 1939 amendment as a penal sum to be forfeited upon revocation. Its penal impact has diminished in the 39 years since it was established and a forfeiture has not been imposed by the Board in at least five years (see Recommendation No. 6).

We also reviewed Board activity, composition and appointments and found the following. The ABC Board currently spends the majority of its meeting time in routine issuances, transfers, and renewals of unprotested licenses. The Board should adopt a regulation delegating the authority to the Director of the Division of Occupational Licensing to perform those routine administrative functions as authorized by AS 04.05.040. This action would result in (1) the need for fewer meetings, (2) reduction in processing time of unprotested applications, and (3) more economical and efficient use of existing funds and manpower (see Recommendation No. 3).

Alcoholic beverage industry representation on the ABC Board should be reduced from the required two members to one member. This action would eliminate the possibility of an industry quorum when the minimum number of members needed for a quorum attend a meeting, and two of those three members are industry representatives. This situation could introduce an unfavorable bias into the Board's actions and its ability to act in the public's best interests (see Recommendation No. 4).

A review of Board appointment activity performed by the Office of the Governor pointed out two problem areas: (1) vacant ABC Board seats have not been filled in a timely manner, and (2) have not been staggered. The establishment of a talent pool by the Office of the Governor for all Board appointments would allow for the immediate appointment of Board members when terms expire or a position is vacated (see Recommendation No. 7).

In conclusion, the Alcoholic Beverage Control Board should analyze and evaluate the purpose of the Board and take the necessary actions needed to perform and fulfill its responsibilities to the public.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

Enforcement responsibilities for the Alcoholic Beverage Control Board should be transferred to a special ABC enforcement unit within the Department of Public Safety.

The enforcement staff for the Alcoholic Beverage Control Board is currently responsible for:

- A. Routine surveillance and inspection of licensed premises,
- B. Investigations to obtain information to be used in criminal and civil proceedings and investigations into suspected licensing violations, and
- C. Assisting the licensing staff by handling inquiries from the general public on regulations, procedures and licensing requirements.

We reviewed these three functions and noted the following deficiencies in each:

A. Routine Surveillance and Inspection

1. Licensed premise inspection reports are prepared subjectively.

The ABC Board developed the check-off list to be used in routine inspections as recommended in a previous Legislative Audit report. The licensed premise is evaluated in 9 categories (e.g. exterior, interior, overall appearance, etc.) and rated as excellent, good, satisfactory or unacceptable. However, no uniform written standards have been developed to explain the specific requirements necessary to receive a given rating.

No written standards have been developed in conjunction with the check-off list used in routine inspections and, therefore, each report reflects the subjective judgment of the inspector preparing it. For standardized reports to be useful and fair they must be prepared uniformly and objectively which can only occur when each report is based on an accepted common set of standards.

2. Licensed premises are not being inspected on a regular or timely basis.

The ABC Board has not adopted a policy on frequency of routine inspections needed to assure compliance with licensing regulations, or established a procedure for assuring that all licensed premises receive inspections in a timely manner

We reviewed a random sample of 100 license files which excluded initial inspections and licenses issued in 1978, to determine frequency of routine inspections and found the following:

<u>Time last routine inspection performed</u>	<u>No. of Licenses</u>
a. within the last 6 months	13
b. 6 months to one year ago	16
c. one year to two years ago	31
d. over two years ago	3
e. never	<u>37</u>
<u>Total</u>	<u>100</u>

As can be noted above 71% of the licenses in our sample had not been inspected in the last year.

3. The enforcement staff of the Alcoholic Beverage Control Board does not follow-up on unacceptable ratings given or discrepancies noted during routine inspections.

Our review of the 100 files noted in 2 above disclosed five which contained unacceptable ratings. There was no evidence of any following action taken on those cases in the files. ABC management indicated the cause to be a lax attitude towards follow-up.

4. One of the primary purposes of ABC's routine inspections is to verify conformance with sanitary requirements also inspected by the Department of Health and Social Services, Division of Public Health - an obvious duplication of effort.

The Department of Health and Social Services is mandated by AS 18.35.120 with the enforcement of these requirements by means including but not limited to periodic inspections. There is, therefore, no obvious need for this duty to also be performed by the enforcement staff of the Alcoholic Beverage Control Board.

B. Investigations

1. There is insufficient managerial control over documentation of enforcement activity of the ABC Board.

A review of the license files and enforcement files maintained by the ABC revealed that neither is accurate as to amount or type of investigation activity or maintained in a current manner.

We attempted to locate and review all Notices of Violation and criminal complaints reported as issued in the October 1977 through July 1978 monthly activity reports, and found the following:

- a. of the 56 Notices of Violations reported as issued only 38 (68%) could be located, and
- b. of the 13 criminal complaints reported as issued only 6 (46%) could be located.

This lack of control over enforcement documentation has two serious effects. The major effect is limitation of the ABC Board's effectiveness in protecting the public's health, safety and welfare by assessing penalties against violators of the ABC laws and regulations. The Board cannot adequately accomplish this goal without accurate, timely information on the nature and type of violations occurring on licensed premises. Where penalties for violations increase with number of offenses it becomes important that the information their decisions are based on be accurate.

The secondary effect is the loss to management of an effective measurement tool of the staff's performance level. For performance reports, such as the ABC Board's monthly activity report, to be useful, the information contained in them must be accurate and properly supported.

2. Notices of Violation issued by ABC enforcement staff have limited effectiveness in reducing the number of violations occurring.
 - a. Notices of violation are not issued in sufficient quantity to provide a meaningful deterrent to violations. As noted in the previous findings we were only able to verify 38 Notices of Violation being issued in a nine-month period by five full-time enforcement staff members. This is an average of less than one enforcement action per month per individual.
 - b. These Notices of Violation which have been issued are not necessarily the result of original investigative work by ABC enforcement staff. Of the 38 Notices of Violation located in our test period, 24 (63%) resulted from copies of arrest reports sent to ABC by local law enforcement agencies. These notices then required a minimum amount of effort on the part of ABC and served only to duplicate the work of the local law enforcement agency.
 - c. ABC enforcement staff does not provide adequate follow-up on Notices of Violation. Of the 38 Notices located in our test period only 3 (8%) resulted in further action--two leading to criminal complaints being filed and one leading to a formal letter of accusation. There was no evidence available to indicate any follow-up action being taken on the balance of the cases or any indication that the violations were ever corrected.
 - d. Notices of Violation carry no penalty, either singly or based on an accumulation of them.

As may be seen by the findings listed above the Notices of Violation system employed by the Alcoholic Beverage Control Board serves only to notify the licensee of a violation and carries no threat of subsequent action by the enforcement staff or by the Board. This system is an ineffective method of enforcement and has only

limited effectiveness in deterring violations from occurring.

3. ABC enforcement officers do not have sufficient authority to enforce liquor law violations.

At present, penalties (suspension or revocation of a license) are only assessed against licensees for violations of liquor laws as a result of convictions for those violations. Thus, the most effective enforcement effort that could be used by the ABC Board would be any effort that led to a conviction. Without minimum police powers, (i.e. powers of arrest, search and seizure authority, right to carry weapons) however, any effort to accumulate sufficient evidence to lead to a criminal conviction is severely hindered.

The amount of authority of the present enforcement staff has been under debate for several years. ABC regulation 15 AAC 20.060 gave the director and all persons employed by the Board for the administration and enforcement of Title 4 all the powers of peace officers. However, an informal opinion rendered by the Attorney General's office stated that because peace officer status was not specifically given in Title 4, agents of the ABC Board could not be considered peace officers.

The reaction to this situation by ABC administration has been a verbal directive to enforcement staff to not exercise any police powers on their own, but to coordinate all enforcement efforts with local law enforcement agents. This enforcement approach has obvious practical limitations. Local law enforcement agents cannot accompany ABC agents on all investigative work. Therefore, when ABC agents are working without the assistance of a commissioned police officer and encounter a violation in progress, they are powerless to take immediate action. Any action that might be taken could place the ABC agent in personal danger and the State in a position of liability because of the confusion over this agent's legal authority.

C. Assistance to Licensing Staff

1. ABC enforcement staff spend approximately 15% of their time assisting the licensing staff.

Included in the description of duties for an ABC Investigator is the duty of assisting the licensing staff by handling inquiries from the

general public on regulations, procedures and licensing requirements. Because enforcement staff is required to have specialized training in law enforcement or investigative work, their time should be spent exclusively on those duties, rather than on licensing duties which require a lesser degree of specialization.

In addition to the underutilization of specialized staff, another problem arises from enforcement staff advising licensees on licensing issues. This is the natural reluctance that would develop on the part of the licensee to question an enforcement agent on what might be a violation or problem.

Summary

The Alcoholic Beverage Control Board has been ineffective in its mandated responsibility of enforcement of ABC laws and regulations. Routine inspections are not made on a regular or timely basis. When they are performed, the ratings assigned are not based on a uniform, objective set of standards and duplicate, to a large extent, the inspections being performed by the Department of Health and Social Services, Division of Public Health. Additionally, when discrepancies are noted during these inspections, they are seldom followed up.

Investigations leading to Notices of Violation are ineffective as Notices of Violation carry no penalty or threat of subsequent action by enforcement staff or by the Board. The most effective enforcement effort that could be employed by the staff is that effort which leads to convictions. The enforcement staff has been able to accomplish this goal to a limited extent, but could be much more effective if given sufficient authority. Finally, specially trained enforcement staff should not be used for routine, administrative tasks such as licensing assistance.

To correct these deficiencies, we recommend that the enforcement responsibilities of the Alcoholic Beverage Control Board be transferred to the Department of Public Safety. A special ABC investigative unit should be established within that Department with the dual responsibilities of (a) investigations of ABC law violations, and (b) sharing of their specialized knowledge of ABC laws with other law enforcement agents through an organized training program.

There is support for this recommendation by the Commissioner of the Department of Public Safety, Richard L. Burton, ABC enforcement officers, and other law enforcement agents. The Commissioner concurred that ABC enforcement officers should

be replaced by state troopers. He also pointed out that because non-commissioned enforcement agents are not employed by a "police agency" they do not have to meet the licensing certification requirement for police officers, yet they act as agents of the State thereby placing the taxpayers of the State in a liability situation.

The responses to our questionnaire to the Alaska law enforcement agencies (Appendix C) supported our finding that ABC enforcement as organized is ineffective, and that there is a need for greater enforcement activity. Several respondents volunteered the suggestion that a transfer of enforcement staff to Public Safety would help accomplish that goal. Transferring the enforcement staff would provide continuing managerial control, proper training and supervision, and insulate the officers from possible Board influence. An organizational change such as this would also logically result in increased cooperation between ABC enforcement agents and other law enforcement agents by equalizing their professional status and clarifying their role in liquor law enforcement.

The alternative to this recommendation, retention of the Alcoholic Beverage Control Board enforcement section under the Department of Revenue, should only be considered in conjunction with the following recommendations: (1) ABC enforcement agents should be commissioned as special police officers with full police powers and authority to effectively enforce the alcoholic beverage control laws, and (2) responsibility for routine inspections to fulfill initial license requirements should be transferred to local law enforcement agencies, and (3) all other routine surveillance inspection activities should be curtailed. We believe, however, that this is a weak alternative to our primary recommendation as the effectiveness of the enforcement staff will always be limited while under the control of a non-enforcement oriented management.

Recommendation No. 2

The Alcoholic Beverage Control Board should be placed under the administrative control of the Department of Commerce and Economic Development, with administrative and licensing responsibilities transferred to the Division of Occupational Licensing.

The Alcoholic Beverage Control Board is the only regulatory Board now operating under the administrative control of the Department of Revenue. The support staff for the Board provides three types of services: administrative, licensing and enforcement. The licensing staff of the ABC Board provides the following services: issues and receives application forms; collects license fees; maintains records and files for all licenses; notifies applicants of acceptance or rejection; issues, renews and transfers licenses and permits; and answers general inquiries on licensing procedures.

These services are the same as the services being provided to the 21 regulatory boards under the administrative control of the Department of Commerce and Economic Development by the Division of Occupational Licensing.

If Recommendation No. 1, transfer of enforcement responsibilities to Department of Public Safety, is implemented, the ABC Board will be left with five full-time employees, three licensing staff members and two administrative staff members. The need for two full-time administrative staff members to oversee three licensing staff members at an annual cost to the State of approximately \$54,000 is not justified. We therefore recommend transfer of the licensing responsibilities to Department of Commerce and Economic Development, Division of Occupational Licensing and elimination of the two administrative positions.

Recommendation No. 3

The Alcoholic Beverage Control Board should adopt a regulation delegating authority to the director of the Division of Occupational Licensing for the routine issuance, transfer and renewal of unprotested licenses.

During our review we noted that the majority of issues discussed at ABC Board meetings during our audit period, (January 1, 1974 to June 30, 1978) were the routine issuance, transfer and renewal of unprotested licenses. The Board automatically issues a new license, or a transfer or renewal of an existing license, if it meets the following criteria:

(1) the local governing body does not protest the issuance of the license, and (2) there are not grounds for denial of the license based on state statutes or regulations.

The power of Alcoholic Beverage Control Board, as defined by AS 04.05.040, specifically includes "...providing for the delegation to the director of routine administrative functions and powers, including the issuance, transfer and renewal of licenses and permits where there is no contest or protest".

Effecting this delegation of power would logically produce the following results: (1) The need for fewer meetings. The Board currently meets an average of eleven times per year, but is only mandated to meet four times per year. (2) A reduction in processing time of all uncontested, routine applications, and (3) More economical and efficient use of existing funds and manpower.

The Board is currently revising the alcoholic beverage control regulations and is considering this delegation of authority in that process. We recommend that the regulation be adopted and implemented as soon as possible.

Recommendation No. 4

No two members of the Alcoholic Beverage Control Board should be engaged in the same business, occupation or profession.

A 1970 amendment to AS 04.05.010 increased ABC Board membership from three to five members and correspondingly increased the number of industry representatives from one to two. That amendment also changed the number of members necessary to comprise a quorum for the conduct of business from two to three. It is evident from these changes that the legislature wished to retain the alcoholic beverage industry representation on the Board in a minority position.

What has occurred, however, is the creation of a situation where just the opposite can occur. When the minimum number of members necessary for a quorum attend a meeting, and two of those three members are engaged in the alcoholic beverage industry, then Board business can be conducted by an industry majority.

A review of 48 meetings held during the period of January 1, 1974 to June 30, 1978 shows that this situation did occur a minimum of 5 times.

There are several alternatives available to correct this situation. One alternative is elimination of industry representation from the Board and allowing for the creation of a non-voting advisory group of industry representatives.

However, although this would be an uncompensated group, the State would be responsible for travel expenses and per diem for more individuals and may be undesirable from a purely economic viewpoint.

A second alternative is a statutory increase in the number of members necessary to constitute a quorum. However, whereas the ABC Board is a voluntary board serving without compensation except for travel and per diem, it would be unreasonable to expect all members to attend all meetings. A review of attendance at the 48 meetings from 1/1/74 to 6/30/78 supports this theory as full Board membership was in attendance for only 16 (33%) of those meetings.

The third alternative to the current situation is to amend AS 04.05.010 so that no two members of the ABC Board have similar interests or background and be in the same business, occupation or profession. This would retain the necessary input from the liquor industry while not affording an opportunity for imbalance in decision-making. This alternative was also supported by the Analysis of Alcohol Problems

Project, Dennis Kelso, Ph.D., Project Director in Working Papers: Descriptive Analysis of the Impact of Alcoholism and Alcohol Abuse in Alaska, 1975.

Recommendation No. 5

Renewals of licenses should be made in a timely manner.

A review of 99 renewals indicated that the average processing time is 70 days, ten days longer than the average processing time for new applications. We were able to determine two major causes of this delay. One is due solely to volume for although the application process for renewal of licenses is almost identical for the application process for new licenses, all alcoholic beverage licenses are renewed at the same time each year, thus causing a large backlog for several months each year.

The second cause for the delay results from conflicting statutory requirements for renewing licenses. AS 04.10.270 requires the Board to transmit written notice of its intent to approve the renewal of a license to the local governing body (city or borough), allowing it 30 days in which to protest its issuance. However, AS 04.10.350 requires the Board to renew licenses automatically if the fee is paid except in the case of conviction of the licensee or protest of a license that is outside a municipality.

ABC licensing staff estimated that of the approximately 1300 licenses renewed in 1978 only 50 were protested by local governing bodies and most, if not all of those protests, were for non-payment of local property taxes. The need for causing the processing delay of all applications to accomplish this tax collection service should be reviewed for its merits. If found to be without merit, AS 04.10.270 should be amended to exclude renewals from the section.

If found to be of merit, however, the following alternative should be considered to reduce processing delays: blanket notification to municipalities or boroughs prior to the renewal period of the ABC Board's intent to renew all liquor licenses in their jurisdiction subject to receipt of application and fees. This would allow the protest period to run concurrent with, rather than subsequent to, the renewal period, thus allowing for automatic renewal unless a protest has been received.

Recommendation No. 6

The requirement for a \$2500 cash or surety bond for a beverage dispensary license should be eliminated from AS 04.10.040.

The requirement of a cash or surety bond in the amount of \$2500 for beverage dispensary license was established by a 1939 amendment to the Laws of Alaska. At that time beverage dispensary licenses had no economic value and the amount of the bond was established as a penal sum to be forfeited upon revocation of a license.

Since 1939, however, beverage dispensary licenses have gained economic value in areas where the quota for that type of license has been reached. Thus, the revocation of a beverage dispensary license is a financially penalizing action in its own right. Additionally, with the rate of economic growth experienced in Alaska in the last 39 years it is obvious that \$2500 no longer has the penal impact it did in 1939.

A review of the ABC Board records disclosed no evidence of the Board requiring forfeiture of the bond in the past five years. The bond requirement does, however, create additional work for the licensing staff and occasional delays in the application process. The need for this cash or surety bond requirement has become obsolete.

Recommendation No. 7

The Office of the Governor should keep appointments of members of the Alcoholic Beverage Control Board current and stagger them as required by AS 39.05.060.

During our review of ABC Board appointments during the period of January 1, 1974 to June 30, 1978, we noted the following exception. The ABC Board was allowed to operate without a five-member complement as required by law during the following periods:

1. February 1, 1974 through February 27, 1974: one vacancy for 27 days.
2. March 14, 1974 through March 23, 1975: one vacancy for 336 days, two vacancies for 35 days, three vacancies for 4 days. Total time period: 375 days.
3. November 20, 1976 through January 17, 1977: one vacancy for 59 days.
4. February 1, 1978 through February 8, 1978: three vacancies for 8 days.

As a result of these vacancies, the ABC Board was not in compliance with AS 04.05.010 which created it. Additionally, the ratio of public representation to industry representation established by AS 04.05.010 was upset allowing a possible unfavorable bias to enter into the Board's decision-making process.

Per AS 39.05.060, initial appointments were to be made for one, two, three, four and five years and each vacancy occurring during a term of office is filled in the same manner as the original appointment and is made for the balance of the unexpired term. During our review, however, we noted that there are currently three ABC Board members whose terms expire on the same day: January 31, 1981. This is an obvious violation of the intent of AS 39.05.060.

We recommend that the Office of the Governor appoint new members or reappoint current members to vacant ABC Board seats in a timely manner and stagger appointment terms as required by AS 39.05.060.

We further recommend that the Office of the Governor consider establishing a talent pool for Board appointments. The concept of a talent pool is to have a list of persons available and desiring to serve as a Board member. Many sources exist in the State to establish such a pool. Liquor industry associations could be requested to provide a list of members who would like to serve as the industry representative on the Board. Retired citizens offer an excellent pool of potential talent for public member appointments and should be contacted for possible inclusion in the talent pool.

An established talent pool, updated at reasonable intervals, would allow for immediate appointment of Board members when terms expire or a position is vacated.

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analysis indicated both positive and negative attainments of the ABC Board and how its activities relate to the public need factors defined by AS 44.66.050. This analysis is not intended to be comprehensive in nature. It has been limited by the scope of our review and the constraints placed on this review as mentioned in the scope section of this report.

I. The extent to which the board, commission or program has operated in the public interest.

Public protection gained through licensing to control liquor manufacture and traffic has been adequately provided by the ABC Board. However, the Board is also charged with enforcement of the alcoholic beverage control laws, rules, and regulations and, as previously documented in this report, has not demonstrated any effectiveness in this area. Thus, the Board has not met one of its statutory responsibilities in protecting public health, safety, and welfare (see Recommendation No. 1).

II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personal matters.

The operation of the ABC Board has been impeded by current statutes. The Legislature acknowledged in Senate Concurrent Resolution No. 88 (1978) that the laws in Title 4 are in serious disarray as a result of patchwork amending over several decades. Those laws are currently under review for revision by a joint interim committee of the Legislative Council and by the Alaska Code Revision Commission.

III. The extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest.

There was no evidence available of any activity on the part of the current ABC Board to recommend statutory changes.

- IV. The extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

The ABC Board has met an average of eleven times a year, at least once in each of the four judicial districts. Each meeting has been adequately advertised and open to all interested persons. The staff of the ABC Board is located in both Anchorage and Fairbanks and is available to answer inquiries of the general public during all normal business hours. We believe this has provided an adequate forum for allowing public input on Board regulations and decisions.

- V. The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

As noted above, the Board has provided an adequate forum for obtaining public input in general. The Board is currently in the process of rewriting its regulations which have not been revised since 1963. We cannot, therefore, draw any conclusions on the extent of public participation in the process.

- VI. The efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved.

The majority of complainants of ABC Board decisions requesting hearings under the Administrative Procedures Act in the past year have dropped their request for those hearings. Delays in holding a hearing under that Act have resulted primarily from delays in appointing hearing officers by the Office of the Governor.

The ABC Board also has the authority to hold its own hearings on protests which it has begun exercising with greater frequency. Hearings held in this manner have been accomplished in a timely manner because of the frequency of regular Board meetings.

- VII. The extent to which a board or commission which regulated entry into an occupation or profession has presented qualified applicants to serve the public.

Our review of licensing activity of the ABC Board to determine whether all statutory qualifications of licensees were being met revealed no exceptions. The Board has therefore, presented qualified applicants to serve the public.

- VIII. The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.

No material discrepancies were noted during our review of the ABC Board affirmative action program. Additionally, our survey of current licensees of the ABC Board elicited only one complaint on discriminatory practices of the Board which was found to be without grounds.

- IX. The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Please refer to the previous section, Findings and Recommendations.

APPENDIXES

APPENDIX A

ALCOHOLIC BEVERAGE CONTROL BOARD
REVENUES COMPARED WITH EXPENDITURES

Fiscal Year 1978

(UNAUDITED) ¹

Revenue (See Schedule 1 and Note 1)	\$1,006,275
Expenditures	<u>345,441</u>
Excess of Revenue Over Expenditures	<u>\$ 660,834</u>

Schedule 1
Collected Revenues

<u>Types of License</u>	<u>Number Issued</u>	<u>Total Collected</u>
Liquor license application	-	\$ 76,250
Pub	1	300
Brewery	1	100
Distillery	-0-	-0-
Beverage Dispensary	590	490,625
Club	53	21,300
Common Carrier	60	14,900
Restaurant	114	35,850
Roadhouse	19	3,050
Retail	424	255,350
Retail stock sale	1	100
Wholesale general	18	71,250
Wholesale malt beverage	7	16,350

Miscellaneous ²	<u>9</u>	\$ <u>20,850</u>
<u>Total</u>	<u>1297</u>	<u>\$1,006,275</u>

Note 1

This revenue/expenditure comparison was prepared from available records and discussions with ABC Board personnel. The records were not audited by us and accordingly we do not express an opinion on the ABC Board Revenues Compared with Expenditures.

Note 2

Includes recreational-site licenses and a conditional contractor's permit.

APPENDIX B

ALCOHOLIC BEVERAGE CONTROL BOARD
DESCRIPTION OF LICENSE TYPES

<u>Type</u>	<u>Description</u>	<u>Annual Fee</u>
Filing Fee	For each license application.	\$ 50
Pub	To sell beer and wine on campus.	300
Brewery	To operate brewery where beer is mfg., or bottled for sale.	100
Distillery	To operate distillery where intox. liquor is mfg. or bottled for sale.	100
Beverage Dispensary	To sell or serve on premises beer, wine & hard liquor for consumption on the premises only.	500 (Unincorp. comm. pop less than 1500) 1000 (population greater 1500)
Club	Right to sell intox. liquor to club members & families in club rooms.	200 (sales less \$5000) 400 (sales greater \$5000)
Common Carrier	To sell liquor on a boat, aircraft, or railroad buffet car.	250 (per vessel, aircraft, or railroad car)
Restaurant	To sell beer & wine in a restaurant with meals.	300
Roadhouse	Licensed premises not less than 18 miles from Corp. city limits and serves food, may sell beer and wine.	150

Retail	To sell in establishment intox. liquor in orig. packages & wine in bulk.	\$600 (sales greater \$20,000) 300 (sales less \$20,000)
Retail Stock Sale	To sell bulk quantities, but not to consumer, the entire stock of former retail store.	100 (90 days only)
General Wholesale	To sell liquor in original pkgs. to holders of licenses, not to consumer.	500 (plus \$250-\$5000 based on sales)
Wholesale Malt Bev. & Wine	To sell malt bev. & wine in original pkgs. to holders of licenses, not to consumer.	100 (plus \$50-\$4950 based on sales)

Misc. permits & fees:

Caterer's	Right to sell intox. beverages at conventions, picnics, social gatherings, sporting events, or similar affair where the premises are not otherwise licensed.	25
Special Events	To give non-profit organ. right to sell beer at retail for consumption on designated premises for a specific occasion & limited time period.	25 (per day)
Conditional Contractor's:	Right to sell beer on specified premises located within boundaries of military reservation or in remote area as designated by Board.	300 (annual)
Duplicate Bev. Disp.	For holders of Bev. Disp. licenses who have on a specified premise more than one room in which there is regularly maintained a fixed counter or bar where beverages are served.	(an amount equal to the original license fee).

APPENDIX C

QUESTIONNAIRE SENT TO STATE OF
ALASKA LAW ENFORCEMENT AGENCIES

Please answer the following questions as completely as possible.

1. Are you aware of the existence of the Alcoholic Beverage Control Board, its operation and its role in the enforcement of ABC laws, rules and regulations?

Number of respondents commenting

26	Yes
2	Enforcement role is not well known
1	Aware of Board but have never seen any enforcement
1	Not aware of its role in enforcement
<u>30</u>	

2. Do you feel that the enforcement staff of the ABC Board complements, duplicates or conflicts with the efforts of your law enforcement personnel? (if you can cite specific instances please do so.)

Number of respondents commenting

8	None of the above, not enough involvement so as to make a difference.
7	No
5	Conflicts
3	Complements
3	It should complement
1	Duplicates
4	Other
<u>31</u>	

3. Are you notified when an ABC Inspector/Enforcement Officer is operating within your jurisdiction? Do you accompany him on his inspections and/or enforcement activities?

Number of respondents commenting - Part I

11	No
7	Yes
6	Never see any ABC investigators
5	Occasionally, sometimes
<u>2</u>	Other
<u>31</u>	

Number of respondents commenting - Part II

10	No
5	Yes
2	Seldom or occasionally
1	Only transport prisoners
<u>1</u>	Only when requested
<u>19</u>	

4. Do you have any cooperative working agreements with the ABC Board such as sharing information, notifying them of arrests made on licensed premises, etc.?

Number of respondents commenting

11	No
11	ABC sent copies of liquor related arrests and reports
4	Only on a rare occasion, small amount
3	ABC is notified but no response comes back
2	Yes
<u>1</u>	Not any more
<u>32</u>	

5. What evidence exists demonstrating that the absence of the Board would result in less effective enforcement of alcoholic beverage control laws or be detrimental to the public's best interest in any other manner?

Number of respondents commenting

13	None, no effect
3	Enforcement should be under Public Safety
3	Board may suspend or revoke the license
2	Little effect
2	Provides needed control
6	Other
<u>29</u>	

6. Are there any existing alcoholic beverage control laws you believe are obsolete, vague, unduly restrictive and/or inadequate?

Number of respondents commenting

16	Yes
9	No
3	Inadequate because of the lack of enforcement
1	Not generally
<u>29</u>	

7. What changes could be made to these laws or to the present system of enforcing them which would enable your agency to better serve the public?

Number of respondents commenting

8	More enforcement is necessary
7	Complete code revision needed.
4	Reduce hours bars can be open
4	Place enforcement under Public Safety
4	Impose stronger penalties.
3	Licensee should bear responsibility for minor on premises.
3	Minors should not be allowed in non-food premises
2	Investigators should be better trained
2	None
<u>5</u>	Other
<u>42</u>	

8. Any additional comments.

Number of respondents commenting

7	Laws and enforcement are inadequate or not effective
3	Take politics out of the ABC Board
3	Enforcement section is a joke, a paper tiger
3	Transfer enforcement to Public Safety
3	Enforcement staff is too small to be effective
2	Board has been cooperative
1	Eliminate present ABC enforcement but retain the issuance of licenses.
1	Rewrite liquor laws and do away with the Board

1 Board should not have any liquor industry representatives

1 Enforcement staff should work more closely with local police.

1
26 More restrictive liquor laws are needed

Note 1

Number of questionnaires sent to law enforcement agencies	56
Number of law enforcement agencies who responded	30
Response rate	54%

Note 2

Number of respondents comments does not always equal 30 as some respondents had more than one comment and some had no comments.

APPENDIX D

QUESTIONNAIRE SENT TO 1978
ALASKA MUNICIPAL LEAGUE MEMBERS

1. Is your city or borough given adequate notice by the ABC Board of proposed issuances of new licenses and/or transfers of existing licenses?

Yes 77% No 23%

2. Has the city or borough ever protested the issuance of a new or renewal license or the transfer of a license?

Yes 29% No 71%

If yes, what criteria does the city or borough use to protest a license?

3. Have all protests lodged by the city or borough resulted in a hearing by the Board or by a hearing officer appointed by the Governor?

Yes 40% No 60%

4. Is the current system of notification/protest/hearing adequate in allowing local government input into the licensing process?

Yes 27% No 73%

If no, should local governing bodies be

100% more involved in the licensing process?

-0- less involved in the licensing process?

Please explain.

5. Should the quota for beverage dispensary licenses be
- | | |
|--|------------|
| a. increased (to more than 1500 people per license)? | <u>8%</u> |
| b. decreased (to less than 1500 people per license)? | <u>8%</u> |
| c. eliminated? | <u>42%</u> |
| d. kept the same? | <u>42%</u> |

6. Should the local governing body have the authority to increase or decrease the quota within its jurisdiction?

Yes 75% No 25%

Please explain.

7. Are there any existing alcoholic beverage control laws you believe are obsolete, vague, unduly restrictive and/or inadequate?

Number of respondents commenting

6 Yes
 1 No
 7 No response

8. What changes could be made to these laws which would enable your local governing body to better serve its constituency?

Number of respondents commenting

2 More municipal control
 1 None
 1 Population quotas increased
 1 Eliminate restrictive licenses - ex. beer & wine only
 1 Bootlegging penalties should be stricter
 8 No response

- 9a. What do you feel the responsibility of state government should be in controlling the manufacture and sale of alcoholic beverages?

Number of respondents commenting

2	Regulate in areas not incorporated
2	Licensing
1	Minimal
1	None
1	Assist local governments
1	Total control
7	No response

- b. What do you feel the responsibility of local government should be in controlling the manufacture and sale of alcoholic beverages?

Number of respondents commenting

3	Establish rules more restrictive than the state
2	None
1	Enforce fire, health and building codes
1	Minimal
1	Allow for the voice of the community to be heard
1	Total control
5	No response

10. Do you feel that abolishing the ABC Board would have an impact on your community? On the State?

Number of respondents commenting

10 Yes

1 Abolish the Board would help

3 No response

11. Additional comments:

Note 1

Number of questionnaires sent to Municipal League Members 46

Number of Municipal League Members who responded 14

Response rate 30%

APPENDIX E

QUESTIONNAIRE SENT TO CURRENT LICENSEES
OF THE ALCOHOLIC BEVERAGE CONTROL BOARD

% Responses
(see Note 1)

Yes No Opinion

1. Do you believe that the Alcoholic Beverage Control Board has operated in the public's best interest? 81% 10% 9%

Comments: _____

2. Do you believe that Alaska's requirements for obtaining alcoholic beverage licenses are adequate and effective in ensuring that the public is protected? 89% 7% 4%

Comments: _____

3. Do you believe that the ABC Board's procedures for processing the following types of applications are adequate:

a. new applications?	76%	14%	10%
b. transfers of ownership?	65%	25%	10%
c. transfers of location?	71%	17%	12%
d. renewals?	75%	19%	6%

Please comment on specific problems you have encountered with the application process. _____

4. Are you aware of any discriminatory practices involving licensing of minority groups? 5% 90% 5%

5. Do you believe that the population quota (one type of license per 1500 people) should be

a. increased (to more than 1500 people per license)	3%
b. decreased (to less than 1500 people per license)	9%
c. eliminated?	20%
d. kept the same?	68%

Please explain. _____

% Responses
(see Note 1)

No
Yes No Opinion

6. Do you believe that routine inspections of your licensed premises serve a useful purpose to

- a. the licensee? 66% 26% 8%
- b. the public? 73% 23% 4%

Comments: _____

7. When was the last time your licensed premise received a routine inspection by an ABC Board Investigator?

- a. within the past 6 months? 42%
- b. within the past year? 28%
- c. within the past 2 years? 6%
- d. over two years ago? 12%
- e. never? 12%

8. Have you ever been notified of a violation occurring on your licensed premise by an ABC Board Investigator?

10% 90% -0-

Comments: _____

9. If yes, was the violation clearly explained?

100% -0- -0-

Comments: _____

10. Was there any follow-up by the ABC Board to make sure the violation had been corrected?

66% 17% 17%

Comments: _____

11. Do you believe that the current penalties prescribed by the ABC Board against licensees for convictions are

- a. too harsh 13%
- b. fair 80%
- c. too lenient 7%

Comments: _____

% Responses
(see Note 1)

Yes No Opinion

12. Would any of the following help prevent alcoholic beverage control law violations from occurring:
- a. mandatory license suspension and/or fine for each conviction? 24% 50% 26%
 - b. mandatory license revocation after a set number of convictions? 68% 17% 15%
 - c. commissioning the ABC Board Investigators as special police officers? 11% 67% 22%

Comments: _____

13. Are you aware of any discriminatory practices of the ABC Board in suspending or revoking licenses? 2% 95% 3%

Comments: _____

14. Are you aware of any licensed premise in Alaska that has allowed violations to occur and has not had any action taken against it by the ABC Board, local police or State Troopers? 10% 81% 9%

Comments: _____

15. Are there any existing alcoholic beverage control laws you believe are obsolete, vague, unduly restrictive and/or inadequate? 26% 44% 30%

Please explain. _____

16. Do you have any complaints concerning the service provided by the support staff of the Alcoholic Beverage Control Board? 12% 81% 7%

Please explain. _____

17. Additional Comments:

Note 1

Number of questionnaires sent to current licensees	206
Number of current licensees who responded	59
Response rate	29%

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH S - JUNE 1979

February 6, 1979

Mr. Gerald Wilkerson
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, AK 99811

Dear Mr. Wilkerson:

This letter responds to the preliminary report as a result of your sunset review of the Alcoholic Beverage Control Board. My response to each finding follows:

Recommendation No. 1

Enforcement responsibilities for the Alcoholic Beverage Control Board should be transferred to a special ABC enforcement unit within the Department of Public Safety.

We disagree.

You might find this disagreement ironic in view of the fact that I proposed moving the Alcoholic Beverage Control function to the Department of Public Safety four years ago. When I first became Commissioner I wanted to concentrate the department's efforts in taxation and treasury matters. Accordingly, I proposed transferring the Motor Vehicle Division and the Alcoholic Beverage Control Board to the Department of Public Safety. Although the Legislature accepted our proposal with regard to the Motor Vehicle Division it rejected our proposed transfer of the Alcoholic Beverage Control Board.

Since that time I have come to believe that it is not as important which agency a particular division resides in as it is how it functions. In particular, I believe that if there are problems in the enforcement area, those

problems should be dealt with directly rather than with the superficial answer of transferring between agencies. I also think that splitting the division between two agencies would be disastrous and would lead to confusion, lack of communication and direction. All parts of the Alcoholic Beverage Control program must be coordinated and work together.

Again, as I have said, it is far less important which agency is responsible for the program as is the commitment by the particular agency to make the program work. I believe that the Department of Revenue has the commitment to making the ABC program work well and to solve its problems. To solve problems in the enforcement area we have been working on several fronts. First of all we have been seeking additional enforcement staff to increase our enforcement effort and have had some success. We have been working to get our enforcement staff properly trained and have been able to secure investigator training at the State Trooper Academy for several of our enforcement officers. We have also been working on establishing uniform enforcement procedures and regulations. Our first step in that direction was the adoption of a procedures manual, and we are now near completion of a comprehensive set of regulations on all phases of Alcoholic Beverage Control including enforcement related topics. We will continue our efforts in obtaining adequate staffing and training for the staff and uniform rules of conduct which will be followed by the enforcement staff. In particular in our regulation effort we are attempting for the first time to set out in specific terms the rules of substantive conduct for licensees and their licensed premises. When we are finished we hope to have a full explanation as to what conduct is prohibited, what is needed to prove a violation and what penalty will be assessed for a particular violation. With these comprehensive rules our enforcement efforts will be many times more successful. Although the enforcement program still needs improvement I believe it has come a long way in just the last couple of years.

The thrust of this recommendation seems to be aimed at criminal enforcement, which is why I assume you are most concerned that the enforcement officers carry weapons and have the power of arrest. Criminal enforcement, however, is only one aspect of the total enforcement program. Only a portion of the violations rise to the level of criminal behavior. Most violations are of a civil nature and demand civil action in the form of license suspension, revocation, premises closure, or other monetary penalty. Enforcement officers must be able to deal in the full range

of enforcement activities whether civil or criminal. In all areas they should be equipped to put together the necessary evidence and documentation to insure compliance with the law, but you certainly don't need to carry weapons to have a successful enforcement program. If criminal behavior is present the enforcement officers should work closely with the local police and the state troopers as they have in the past. Several criminal complaints have been filed in the past year through the coordinated work of our enforcement officers and police agencies. We should not forget however the important area of civil enforcement and enforcement officers must be trained and motivated in this enforcement area as well.

In summary, I believe that problems in the enforcement area should be dealt with directly through adequate funding, training and uniform procedures, all of which we have been working towards. I do not believe that transferring the enforcement program to a police agency is the answer, and I believe that substantial progress is being made to upgrade our enforcement program.

Recommendation No. 2

The Alcoholic Beverage Control Board should be placed under the administrative control of the Department of Commerce and Economic Development with administrative and licensing responsibilities transferred to the Division of Occupational Licensing.

We disagree.

As I mentioned in response to Recommendation No. 1, nothing is to be gained from transferring Alcoholic Beverage Control to another agency. I also think it would be especially bad to separate licensing, administration and enforcement because a total coordinated approach is needed for Alcoholic Beverage Control. Enforcement, licensing and administration and Board activity depend upon each other and separation between agencies would make this coordination difficult.

With regard to your recommendation for separating the enforcement functions from the rest of the ABC program, I am particularly puzzled by the statement in the report that the enforcement officers should be insulated from the influence of the board. I do not understand this statement since it is the board which the Legislature has given the authority and policy making power for Alcoholic Beverage Control. They should not only influence enforcement efforts, they should direct

enforcement efforts through their enforcement policy decisions. Enforcement officers, as any of the staff, should be accountable to the board for their actions in following or not following board policy.

Recommendation No. 3

The Alcoholic Beverage Control Board should adopt a regulation delegating authority to the director for the routine issuance, transfer and renewal of unprotested licenses.

We agree. As you mentioned the board is considering a regulation which will do this very thing. We made this suggestion to the board several months ago in our regulation effort and they agreed that it made sense. Just this one change will help to insure that the board is able to conduct its true function as the body which sets basic policy through the adoption of regulations and insures that its policy is being correctly carried out by making the final decision in appeals of actions taken by the staff. This action will streamline the licensing program tremendously.

In making this delegation, however, we want to make sure that there are careful checks and controls to avoid abuses and insure that the board's public policy is being carried out.

Recommendation No. 4

No two members of the Alcoholic Beverage Control Board should be engaged in the same business, occupation or profession.

We agree.

Recommendation No. 5

Renewals of licenses should be made in a timely manner.

We agree with the statement that renewals should be made in a timely manner. We disagree, however, with your assumptions and your conclusions regarding municipal input during the renewal process. In summary, we believe that there are efficiencies which could be made to shorten the renewal process but we don't think that full and deliberate municipal comment should be sacrificed simply for the sake of efficiency.

First, it should be noted that the notice of renewal requirement to municipalities is not a tax collection service. It provides an annual review by the public and municipal officials at the municipal level of liquor establishments within their boundaries with the right to protest a renewal if the municipality believes it would not be in the public interest. There are several reasons other than the nonpayment of taxes

for a municipality to protest the renewal of a license including the health, safety and general welfare of its citizens.

I believe the public interest of allowing full and deliberate review and input by the public and municipal officials in renewing licenses, far outweighs shortened renewal time.

Recommendation No. 6

The requirement for a \$2,500 cash or surety bond for a beverage dispensary license should be eliminated from AS 04.15.090.

We disagree that the penal bond for a beverage dispensary license should be eliminated but believe instead that it should be increased and applied to all other licenses.

Although in some areas of the state the quota of licenses has been reached so that licenses have become valuable in their right, other areas of the state have not reached that point.

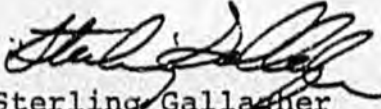
In addition, a cash or surety bond provides a form of security to satisfy any claims that the state may have against a licensee. We agree, however, that because of inflation \$2,500 may be unrealistically low today. Therefore we believe that it should be raised to \$10,000 and perhaps applied to all licensees.

Recommendation No. 7

The Office of the Governor should keep appointments of members of the Alcoholic Beverage Control current and stagger them as required by AS 39.05.060.

We understand that the Governor's Office has already responded to this recommendation and therefore no further comment is necessary.

Sincerely,


Sterling Gallagher
Commissioner

February 6, 1979

Mr. Gerald Wilkerson, Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, Alaska 99801

Dear Mr. Wilkerson:

This letter is to be in response to your preliminary "Performance Review of the Alcoholic Beverage Control Board", dated November 3, 1978. Please also consider my letter of November 13, 1978 as a response as well, where applicable.

I could only agree with the statements concerning routine inspections, as I have no evidence to the contrary. I cannot, as Board Member, conduct the kind of review to determine if such inspections are made except to ask about specific cases.

Your comments about Notices of Violation have been made several times by me at Board meetings. They may have a "limited" utility in getting the attention of a licensee, otherwise they have no teeth. Due process probably dictates that such "Notices" absent a conviction could not be used in a future disciplinary action. However, they could be the basis of whether or not to take action on a license, if they are subsequent to the latest renewal. The same goes for information transmitted by a local police unit. If the local police observes illegal activity it should prosecute and if possible obtain a conviction - not merely forward information to the ABC Board staff.

Yes, enforcement staff should spend their time in enforcement, not assisting the licensing staff. Given the size of the staff and the need often to answer questions quickly, I think 15% is not unreasonable as a factor of time spent by enforcement.

The major deficiency is that the ABC investigator has limited authority. As I understand it, the Department of Revenue does not support the idea that an investigator should have police officer authority, despite my efforts at persuasion. This problem would be cured by transfer to the Department of Public Safety. However, this alone may not be sufficient to take care of the deficiencies you have

Mr. Gerald Wilkerson, Legislative Auditor
February 6, 1979
Page Two

noted. I am sure that greater manpower is necessary to adequately regulate and police 1,300 establishments. The Department of Public Safety would be foolish to accept this responsibility without making a very strong pitch for more than five personnel. I have said before I am neither enthusiastic of the transfer nor firmly in opposition. Perhaps such a change would be dramatic enough to accomplish a useful purpose, simply because it is a change.

Obviously, an alternative is a bigger and better trained staff with greater authority and better cooperation with local and state police.

Recommendation #2 is really part of #1. The two together raise serious and legitimate questions as to the current administrative structure. The Board is appointed by the Governor with certain powers over regulation of the liquor industry. The staff is hired by the Department of Revenue (including the Director) with no voice from the Board. The Board presumably has some authority over the staff, yet there little real authority, and the Board, because of its part-time status can not really supervise closely.

Yet, historically, control and regulation of liquor was deemed important enough to establish an independent agency with nothing else to do.

Recommendation #3 is now and has been a part of the regulations in the adoption process. These have been needed for several years, as the ones in existence are often poorly written, vague or out of date. This project is one we have been working since I came on the Board two years ago. We did get additional money in the budget to pay for it. This must be the number one priority for the Board. Included in regulations adopted should be the standards you earlier referred to. Regulations can also give the public notice as to what is required for licensure or protest.

The next priority must be a complete re-write of Title 4. Title 4 creates many many problems just in its own interpretation. Piecemeal amendments must stop until this is accomplished. I urged this to a luncheon meeting of the Senate Alcoholism Committee chaired by Senator Colletta in November, 1977. I am delighted the project is underway.

Mr. Gerald Wilkerson, Legislative Auditor
February 6, 1979
Page Three

Recommendation #4 is not really that important. See my response of November 13, 1978 for a complete response. This change would have no real impact and is probably going to raise emotions unnecessarily. The text suggests "industry" domination of the Board is possible. I suspect on only a very few issues, if any, has there been an "industry" position.

Recommendation #5 is hard to argue with - but I don't think we ought to remove the notice to the local government, so it can protest. However, we should find a way to speed up renewals. Perhaps by delegating renewals and licenses issuances to the Director we could speed up the process. Also, as in all municipal protests, there should be a clear protest set forth with specific reasons, not necessarily including non-payment of taxes. (As an aside, we should also review the merits of requiring creditors be satisfied prior to transfer.)

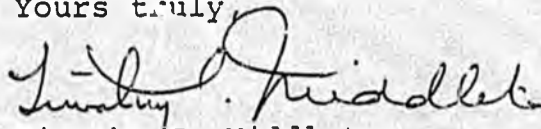
Recommendations #6 and #7, are meritorious.

An area of specific concern to me is the so called hotel-motel license exception to the population quota. This section could result in the elimination of the small neighborhood bar.

In summary, the number one priority of the legislature should be a complete and sensible re-write of Title 4, the other suggestions will not be of much use unless that is accomplished. Indeed, if only your suggestions are adopted, the problem of enforcement of ABC laws will be exacerbated, because there will be a feeling the problem is solved. The priority of the Board should be adoption of a comprehensive set of regulations.

Thank you for an opportunity to comment on your report.

Yours truly,


Timothy G. Middleton

TGM/lh

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

FINANCE DIVISION
POUCH WF—STATE CAPITOL

JUNEAU, ALASKA 99811

November 3, 1978

SUMMARY OF: A Performance Review of the Alcoholic Beverage Control Board.

PURPOSE OF THE REVIEW

In accordance with the provisions of Alaska Statutes 24.20.271(1) and 44.66.050 (sunset legislation), a review of the Alcoholic Beverage Control Board was conducted to determine whether there is a demonstrated need to continue liquor regulation in its present form. To determine that need we reviewed Board activities to see if the Board has been operating in an efficient and effective manner. The major areas reviewed were the Board's program, licensing, enforcement, administration and affirmative action functions.

REPORT CONCLUSION

In our opinion, the Alcoholic Beverage Control Board should continue to regulate and license those persons engaged in the liquor industry. Because of the growing body of knowledge on the potential dangers of alcohol and its attendant social and economic costs, we concur that the public need for this type of regulation continues to exist.

However, certain changes need to be implemented for the ABC Board to more effectively execute its mandated responsibilities. Enforcement responsibilities of the Board should be transferred to a special investigative unit within the Department of Public Safety. This transfer would eliminate the deficiencies in the ABC enforcement operation which render it ineffective and would provide continuing managerial control, proper training and supervision, and insulate the enforcement staff from possible Board influence.

The transfer of enforcement responsibilities to the Department of Public Safety would reduce the ABC staff to a size too small to justify maintaining a separate agency. We therefore recommend that the Alcoholic Beverage Control Board be placed under the administrative control of the Department of Commerce and Economic Development.

Administrative and licensing responsibilities of the Board should be transferred to that Department's Division of Occupational Licensing with authority for routine issuances, transfers and renewals of unprotested licenses delegated by the Board to the Director of the Division.

Other possible amendments to Title 4 which would improve the efficiency of the licensing function are: (1) removal of the requirement for public notice to local governing bodies on renewals of liquor licenses in AS 04.10.270 which is used primarily as a tax collection service for unpaid local taxes, and (2) removal of the requirement for the \$2,500 surety or cash bond in AS 04.10.040 which has become obsolete since its enactment in 1939.

Liquor industry representation on the Alcoholic Beverage Control Board should be limited to one member to eliminate the possibility of an industry majority comprising a quorum of the Board and conducting its business. Appointments of all members of the Board when terms expire or positions are vacated should be made by the Office of the Governor in a timely manner and terms should be properly staggered as required by AS 39.05.060.

In conclusion, the Alcoholic Beverage Control Board should analyze and evaluate its purpose and methods and take the necessary actions needed to perform and fulfill its responsibilities to the public.

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

FINANCE DIVISION
POUCH WF—STATE CAPITOL

JUNEAU, ALASKA 99811

December 29, 1978

SUMMARY OF: A Review of the Alaska Industrial Development Authority.

PURPOSE OF THE REVIEW

In accordance with the provision of Title 24 and 44.61.200 of the Alaska Statutes, a review of the Alaska Industrial Development Authority (AIDA) was conducted to determine if the financial statements for the fiscal year ended June 30, 1978 are fairly presented.

FINANCIAL STATEMENTS

It is our opinion that the financial statements present fairly the financial position and results of operations for the year ended June 30, 1978.

STATE OF ALASKA

DEPARTMENT OF REVENUE

ALCOHOLIC BEVERAGE CONTROL BOARD

JAY S. HAMMOND, GOVERNOR

201 E. 9TH AVE.
ANCHORAGE, AK. 99501

May 9, 1979

The Alcoholic Beverage Control Board has written new regulations for public hearing and review. As an interested party a copy of the proposed regulations are enclosed for your review. A copy of the notice of public hearing is also enclosed. Please note page 3 and 4 of the notice for new topics not previously covered by regulation.

Your comments will be welcome and appreciated. If you have any questions, please do not hesitate to contact this office.

Sincerely,



Patrick L. Sharrock
Director

PLS:vk
Enc.

PROPOSED REGULATIONS
OF
THE ALCOHOLIC BEVERAGE CONTROL BOARD

May 1, 1979

[Proposed comprehensive set of regulations to replace all present regulations in Title 15, Chapter 20 of the Alaska Administrative Code and to implement and clarify Title 4 of the Alaska Statutes titled "Alcoholic Beverages"]

PROPOSED REGULATIONS

(These proposed regulations are subject to revision by the Alcoholic Beverage Control Board.)

Title 15. Revenue

Chapter 20. Alcoholic Beverage Control Board

ARTICLE I.

ADMINISTRATION

Section

- 10. Offices
- 20. Staff
- 30. Delegation of Authority
- 40. Public Meetings
- 50. Information Bulletins

Sec. 10. Offices

(a) The central office of the Alcoholic Beverage Control Board shall be at Anchorage, Alaska. All applications, petitions, protests and other correspondence and communications of a formal nature shall be submitted in writing, upon prescribed forms if appropriate, to the board at its central office, and shall not be considered properly or timely filed unless and until received there.

(b) The board may maintain such other field offices as the board deems appropriate, and copies of relevant statutes, regulations, prescribed forms and other directives or instructions as may be necessary and appropriate will be made available at such offices as well as the central office.

Sec. 20. Staff

(a) The director of the board is responsible for the management of the board's offices and the administration of the board's functions. The director shall enforce the statutes relating to alcoholic beverages and the rules and regulations promulgated by the board. The director shall issue all licenses provided for by law.

(b) The director shall employ and supervise such clerical and investigative personnel as necessary and appropriate to the administration of the board functions and office management, and shall prescribe their duties and authority.

Sec. 30. Delegation of Authority

(a) All duties, powers and authorities of the board, except those specifically retained by the board in subparagraph (b), are delegated to the director, including without limitation the power and authority to approve or deny applications for new licenses or permits and for renewals, transfers, or relocations of existing licenses; to issue licenses and permits; and to prescribe the forms of applications, reports and other documents necessary and proper to the administration of board functions.

(b) The board retains the power and authority to adopt rules and regulations; to issue policy directives; to prescribe the fees to be paid for licenses and permits where no fees are prescribed by statute or regulation; to hear and adjudicate administrative appeals from the decisions of the director approving or denying applications for new licenses or permits and for renewals, transfers or relocations of existing licenses; and to hear and adjudicate administrative proceedings for the suspension or revocation of a license.

Sec. 40. Public Meetings

(a) The board shall meet at least once each year in each of the four judicial districts of the state, as it determines, and shall conduct public meetings from time to time at the call of the director. All meetings of the board are open to the public except as otherwise provided in accordance with law, and the director shall give reasonable public notice of the board's meetings.

(b) To the extent and in the manner that the efficient conduct of business will allow, the board will receive public comment upon items of agenda business and other issues of public interest as it relates to alcoholic beverages, including the conduct of business by licensees and the compliance by licensees and others with the statutes and regulations relating to alcoholic beverages. Public comment may also be submitted to the board in writing by any person at any time.

(c) The notice and right to be heard provided for in this section is not an administrative remedy for persons interested in or aggrieved by board action.

Sec. 50. Information Bulletins

From time to time as it deems necessary and appropriate the board may issue to licensees, municipalities and the public and maintain as official records, information bulletins regarding matters of importance with respect to the statutes and regulations relating to alcoholic beverages and the board's policies and procedures relating thereto. Information bulletins do not have the force and effect of law but rather are intended to be of guidance and assistance to licensees and the public in their dealings with the board regarding the statutes and regulations relating to alcoholic beverages.

ARTICLE II.

LICENSING

Section

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Sec. 10. Applications

(a) All applications for new licenses and for renewals, transfers and relocations of existing licenses shall be upon forms prescribed by the director.

(b) Any application which is incomplete or in any respect insufficient shall be returned to the applicant, together with whatever fee, if any, was tendered with the application.

(c) An application fee is required for all applications submitted to the board in accordance with the fee schedule adopted by the board which shall be available at each board office. Except for renewal applications, the license fee is not required to be submitted until the application is granted.

Sec. 20. Petitions

(a) When required by statute or regulation, a petition is a necessary part of an application for a new license, and for renewal, transfer or relocation of an existing license, and an application submitted without the required petition is insufficient. All petitions must be submitted upon a form prescribed by the director, which shall be available at all board offices. Petition signatures are invalid unless obtained within the 90-day period immediately preceding the submission of the application. Once a petition has been filed with the board, the petition is considered finalized.

(b) Persons signing petitions relating to licenses must be 19 years of age or older. In addition, the person must be a permanent resident of the geographical area relevant to the petition and must have been so for 30 days immediately prior to signing.

Sec. 30. Public Notice

(a) At least 30 days before filing an application for a new license or for transfer or relocation of an existing license, an applicant must commence public notice, which shall be bilingual when necessary, as determined by the director. Notice shall be given in a form prescribed by the director.

(b) Notice shall be given by posting, for a period of at least 10 days, a true copy of the application at the location of the proposed premises, at the post office nearest to the proposed location, and at one other conspicuous location in the area of the proposed premises; and by an announcement published once a week for three consecutive weeks in a newspaper of general circulation in the area, or broadcast between the hours of 8:00 A. M. and 8:00 P. M. twice a week for three consecutive weeks by a radio or television station serving the area.

(c) Proof of posting and of publication shall be made by affidavit which must be attached to the application.

(d) The application must be filed with the board within 60 days of commencement of the publication of the notice.

Sec. 40. Public Comment

Any person who is a resident of Alaska may submit written comment to the board regarding an application for a new license or for renewal, transfer or relocation of an existing license, which will be considered in determining whether to approve or deny the application.

Sec. 50. Protests

(a) Any interested person who is a resident of Alaska may protest the approval or denial of an application for a new license or for the renewal, transfer or relocation of an existing license and invoke a formal hearing prior to a final decision by the board in accordance with the adjudication procedures of Article VI of these regulations.

(b) Within 30 days of receipt of the notice of intent to approve from the director, a municipality may protest the approval of an application and invoke a formal decision-making proceeding in accordance with the adjudication procedures of Article VI of these regulations. It will then be the protesting municipality's responsibility to prosecute the case at this hearing. In the event the protesting municipality does not prevail at the hearing, the board in its discretion may approve the application.

(c) If for any reason the governing body requires more than 30 days for consideration of the issue as set forth in (b) above, it may request an extension of time from the director.

Sec. 60. Action Upon Application

(a) The director shall approve or deny applications as appropriate in accordance with law and these regulations.

(b) The director may conduct an informal public hearing, at his discretion, before taking final action upon an application.

(c) Before taking final action upon an application within a municipality, the director shall transmit written notice of the intent to approve the application to the city governing body if the application is for premises within an incorporated city, or to the borough assembly if the application is for premises within the area of an organized borough outside the boundaries of an incorporated city.

(d) The director may not take final action upon an application until at least 30 days after transmitting notice to a municipality.

(e) Notice to a municipality of the director's intent to approve an application does not vest in the applicant any right to the approval of the application and is without prejudice to the director's right to deny the application.

(f) Upon receipt of a formal protest of an application in accordance with the adjudication procedures of Article VI of these regulations, the director may not take final action upon the application.

(g) Upon denial of an application, the director shall notify the applicant in writing^A the reasons for the denial and inform the applicant of the right to an administrative appeal.

(h) At any time prior to making a final decision regarding a license, the director may reconsider and may reverse his previous decision.

Sec. 70. Issuance of Licenses

Upon approval of an application for a new license or the renewal, transfer, or relocation of an existing license, and upon payment of the prescribed license fee, and upon receipt by the board of necessary public health and public safety approvals, and upon inspection by an enforcement agent of the board, the director shall issue an appropriate license.

Sec. 80. Grounds for Denial of Application

The following, without limitation, are grounds for denial of an application for new license or for transfer or relocation of an existing license:

(1) Granting the application would be contrary to the public interest;

(2) Denial of the application is required by law or regulation;

(3) The application contains a false statement of material fact.