

bers of the charter commission. If the first question receives a majority of the votes of the qualified voters voting thereon at such election, the 9 candidates for the charter commission receiving the highest number of votes shall forthwith organize as a charter commission, but if the first question receives less than a majority of the votes of the qualified voters voting thereon at such election no charter commission shall be deemed to have been elected.

Sec. 4. Preparation of Charter. The charter commission shall within one year after the result of the election is declared, prepare and propose a charter for the government of such city. The charter so prepared shall be signed by a majority of the charter commissioners and filed in the office of the clerk of the city council of said city. The city council of said city shall, within 15 days after such filing, cause such charter to be published once in a newspaper of general circulation within such city and all the editions thereof issued during the day of publication. In the event there is no newspaper published in the city, the city council shall post copies of the proposed charter in at least 3 conspicuous places and shall otherwise have copies available for the electors at the office of the city clerk.

Sec. 5. Charter Election. Such charter shall be submitted to the qualified voters of the city at either a special or general election according to a date to be fixed by the charter commission, not less than 30 days nor more than 90 days from the completion of the publication of such charter as above provided.

Section 6. Charter Adoption. If a majority of the qualified voters voting thereon at such general or special elec-

tion shall vote in favor of such proposed charter, it shall be deemed to be ratified, and it shall become the organic law of such city. Two copies of the charter so ratified and approved shall be filed with the Secretary of State, one copy filed with the recorder in the district in which such city is located, and one copy filed in the archives of the city. Thereafter the courts shall take judicial notice of the provisions of such charter.

Sec. 7. Amendment to Charter. The charter of any city shall be amended in the manner provided in the charter. If a majority of the qualified voters voting on any such amendment vote in favor thereof, it shall be deemed ratified.

Sec. 8. Calculation of Percentage of Voters Required. The percentages of the qualified voters herein required for the petition to form a charter commission shall be calculated upon the total vote cast in the city at the last preceding general state election. The election laws of such city shall, so far as applicable, govern all elections held under the authority of this Act.

Sec. 9. Existing Charter Commissions: Valid. Any city of the first class which shall have by ordinance established a charter commission, appointed its members, and the members of the charter commission shall have met and organized, all prior to the effective date on this Act, shall be deemed to have created a charter commission in conformity with this Act, and any charter prepared by said charter commission and adopted by the qualified voters of the city as in this Act prescribed, shall be a valid charter.

Sec. 10. Effective Date. This Act shall take effect immediately upon its passage and approval or upon its becoming law without such approval.

Approved May 8, 1959

CHAPTER 197

AN ACT

Amending and re-enacting existing laws relating to intoxicating liquors, and providing an effective date.

(S.B. 129)

Be it enacted by the Legislature of the State of Alaska:

Section 1. Sections 35-4-1 through 35-4-6 inclusive, ACLA 1949, as repealed by

Chapter 43, SLA 1953, and as re-enacted, amended and new subsections added by Chapter 131, SLA 1957, and as further amended by Chapter 64, SLA 1959, are hereby amended to read as follows:

Sec. 35-4-1. Creation of Board and Office of Director.

(A) There is hereby established an Alcoholic Beverage Control Board in the Department of Revenue consisting of three members appointed for overlapping three-year terms; and the Board is hereby vested with the duties, powers, and responsibilities involved in the control of alcoholic beverages, including the promulgation of rules and regulations and the hearing of appeals from the action of officers and employees charged with enforcing the alcoholic beverage control laws, rules, and regulations. The functions and authority heretofore performed and exercised by the Board of Liquor Control are hereby transferred to the Alcoholic Beverage Control Board. The Board shall be appointed by the Governor and confirmed by the legislature. No member of the Board shall hold any other office, either elective or appointive, under the State or Federal Governments. One member of the Board shall be actively engaged in the alcoholic beverage industry. No two members of the Board shall be engaged in the same business, occupation or profession. Two members shall constitute a quorum for the conduct of business.

(B) The Governor shall appoint a Director, subject to confirmation by the legislature, who shall be the executive officer of the Board, and whose duty it shall be to enforce such rules and regulations as are promulgated

by the Board. He shall issue all licenses provided for under this Act.

Sec. 35-4-2. Duties: Rules and Regulations. It shall be the duty of the Board to prescribe rules and regulations consistent with this Act governing the manufacture, barter, sale, and possession of intoxicating liquors in the State of Alaska and to prescribe application fees.

Sec. 35-4-3. Powers, Authority and

Control.

(A) The Board is to have full power, authority and control over the manufacture, barter, sale and possession of intoxicating liquors in the State of Alaska, as provided herein.

(B) The Board shall review all applications made under this Act for licenses and shall cause to be issued, reissued, revoked, transferred or suspended all licenses coming within the purview of this Act. Such licenses shall be issued, reissued, revoked, transferred or suspended as the Board deems in the best interests of the public; provided, however, that the denial of any license be made in writing with the reason therefor set forth.

The Director shall not be a member of the Board but shall have the right to cast tie-breaking votes only.

(C) The Board shall have the power to hold public hearings on applications for licenses when any such applications are protested, and to require an applicant to answer any pertinent questions.

(D) The Board shall have power to appoint such agents, assistants, clerks and stenographic employees as it deems necessary in giving effect to this Act.

(E) The Board is hereby granted authority to promulgate necessary rules and regulations to effectuate and carry out the purpose of this Act, and such rules and regulations shall have the full force and effect of law.

(F) The Administrative Procedures Act shall apply to all procedures under this Act.

Sec. 35-4-4. Delegation. The Board may delegate to the Director any duty imposed herein except its power to make rules and regulations.

Sec. 35-4-5. Providing for Local Option Elections. The Board is hereby authorized and directed to provide a system for the holding of local option elections in the State of Alaska, as provided for in Section 35-4-17 herein, and to prescribe the rules and regulations for the holding of elections and the

canvassing of the votes thereof.

Sec. 35-4-6. Violation of Board's Rules and Regulations a Misdemeanor: Penalty. Any person, firm, or corporation, who shall violate any of the rules or regulations prescribed by the said Board governing the manufacture, sale, barter, and possession of intoxicating liquors in the State of Alaska, or the qualifications of those engaging in the manufacture, sale, barter, and possession of such liquors in the said State, or the payment of license fees and excise taxes therefor, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 35-4-20 herein.

Sec. 2. Sections 35-4-11 through 35-4-23 inclusive, ACLA 1949, as amended by Chapters 83 and 99 SLA 1949, as amended by Chapters 16 and 54 SLA 1951, as amended by Chapters 36, 114, 116 and 131 SLA 1953, as amended by Chapters 115 and 131 SLA 1955, as amended by Chapter 131 SLA 1957, and as amended by Chapter 62, SLA 1959 are hereby amended and certain subsections added to read as follows:

Sec. 35-4-11. Liquor Manufacture and Traffic Controlled by Act: What Included in Term "Intoxicating Liquor". No person, firm, corporation, organization, or company shall manufacture, sell, offer for sale or possess for sale or barter, traffic in, barter or exchange for goods in this State, any intoxicating liquor without first procuring an appropriate license as hereinafter provided; but this shall not apply to sales made by a person under provisions of law requiring him to sell personal property. Whenever the term "intoxicating liquor" is used in this Act it shall be deemed to include whiskey, brandy, rum, gin, wine, ale, porter, beer, and all other spirituous, vinous, malt and other fermented or distilled liquors intended for human consumption and containing more than 1% alcohol by volume.

Sec. 35-4-12. Licenses: Issuance. The licenses provided for in this Act shall be issued by the Director.

Sec. 35-4-13. Application for License: Consent of Citizens: Proceedings and

Hearings on Application: Posting License. Transfer of License. Refund of Fees. Unless otherwise provided, no application for a new license shall be approved for any location outside an incorporated town and not licensed at the time of application where the total of licensed premises in the aggregate at one time would exceed one license of each type for each 1,500 population or fraction thereof, within a radius of five miles of the proposed location nor shall any application for a new license be approved for any location within an incorporated city and not licensed at the time of application where the total of licensed premises in the aggregate at one time would exceed one license of each type for each 1,500 population or fraction thereof within such city; save and except that no licensee holding a license shall be denied a renewal of said license for another location where, because of the termination of the licensee's lease on the location or because of condemnation or substantial destruction of the premises by fire or other cause, it becomes necessary to relocate, or where public convenience is better served by said transfer; provided, however, that in the event said licensee is so deprived of his licensed location his application for another acceptable location must be made within three months of the time when the relocation becomes necessary, provided, however, that no licensee shall operate any beverage dispensary or retail liquor store in any area of an incorporated city where said city's zoning regulations prohibit the sale of intoxicating liquors therein, without the approval of the city council. In no event shall a license be transferred out of the election district for the House of Representatives within which it was granted or into an area that exceeds one license of each type for each 1,500 population or fraction thereof. Provided, however, that licenses already issued at the time of the enactment of this Act shall be renewed irrespective of such ratio, unless the application shall be denied for reason other than that contained in this section. Provided, however, that no person shall own or have an interest in more than three Beverage Dispensary Licenses. Pro-

vided further, that the Board may, in its discretion approve the issuance or transfer of a license into an area outside an incorporated municipality without regard to the quota provisions of this section where it appears that such issuance or transfer will encourage the construction or improvement of a hotel, motel, resort or similar business related to the tourist trade where such hotel, motel, resort or similar business related to the tourist trade has a minimum accommodation of ten rooms.

Provided, however, that any application for a transfer, renewal or new license coming from within an incorporated town shall have attached to the application in lieu of the consent required in Subsection (5) of Section 35-4-14 herein, a recommendation of the city council of said incorporated town and shall be forwarded to the Board, in addition to a list of at least five references from within the corporate boundaries of said town, as to the integrity of the applicant and the desirability of the issuing of a license for the premises mentioned therein. Such recommendation shall be binding on the Board unless the Board after a hearing as herein provided shall determine that the city council acted in a capricious or arbitrary manner, and sets forth in writing its findings in what respects the council was acting capriciously or arbitrarily. A failure of the city council to act upon applications for licenses within thirty days of receipt of any such application shall be considered a default and shall subject the city to the penalty of losing its right to a refund as herein provided. At the time set for the hearing, the Board shall consider the application and any protests that may be filed against the same, and shall also hear the applicant or others appearing in connection with the matter, and give its judgment in regard to the application. If the application is rejected the fee accompanying the same shall be returned less the sum of Twenty-Five Dollars. The licensee shall cause the license to be posted in a conspicuous position in his place of business, so that anyone entering the premises may easily read it. No license issued under

the provisions of this Act shall be transferred except after first securing the consent of the Board. No refund of license fees will be allowed after the issuance of license.

Sec. 35-4-14. Filing, Form and Contents of Application: False Statements in Application. All applicants for new licenses mentioned herein shall file with the Director an application in writing, signed and sworn to by the applicant, giving his name and address, and, if a corporation, executed by the duly authorized officers thereof, containing the following:

- (1) Kind of license desired;
- (2) A description of the place for which the license is desired, giving address by street and number, or other information, so that the location can be definitely determined;
- (3) A statement of the citizenship or corporate qualifications of the applicant;
- (4) The necessary license fee;
- (5) Together with the consent of a majority of the citizens over the age of twenty-one years, residing within one mile of the place where the intoxicating liquor or liquors are to be manufactured, bartered, sold and exchanged, or bartered, sold and exchanged; provided, however, that as pertaining to applicants for licenses outside the corporate boundaries of an incorporated town, said consent shall not be required for a reissuance of said license. If any false material statement is made in any part of such application the applicant or applicants shall be deemed guilty of perjury and upon conviction thereof shall be subject to the penalty provided by law for the crime of perjury.

Should it appear to the Board that any of the statements above enumerated and required in the application are untrue at the time of application for such license such application may be denied.

Should it appear to the Board after the granting of such license that any of the statements above enumerated and required to be made in the appli-

cation are untrue, the Board may forthwith enter an order revoking such license and all license moneys deposited by the applicant shall be thereby forfeited to the State, and it shall be the duty of all peace officers in their respective Divisions, Districts, Towns or settlements to investigate and report to the Board any violation of any of the provisions of this Act.

Sec. 35-4-15. Restrictions on Sale or Disposition of Liquor: Minors and Intoxicated Persons: Election Days: Near Churches and Schools: Licensee's Premises and Inspection thereof: Licenses: Seizure and Sale of Contraband Liquor.

(1) Sale to Minors or Intoxicated Persons: Classification of Premises. It shall be unlawful to give, barter or sell any intoxicating liquors, including beer and wine, to any person under the age of twenty-one years or to any intoxicated person, and it shall be unlawful for any licensee to permit the giving, selling, bartering or drinking of any intoxicating liquor within the premises covered by any license to or by either of the forbidden classes, nor shall such licensee permit the drinking of hard or distilled liquors by any person upon the premises covered by his license, unless the same is permitted under the classification of his license.

(2) Suspension or Revocation of License. The drinking of intoxicating liquors by, or the presence of any of the forbidden classes on the premises covered by any license issued hereunder, shall be cause for suspension or revocation of any such license and the burden of determining the age shall be on the licensee.

(3) Sales on Election Day. It shall be unlawful to give, barter, sell, or in any licensed premises dispose of any intoxicating liquor, including beer and wine, upon any day on which any General, Special, or Primary Election is held in the State at large, until the polls have been closed on such day, or to so dispose of liquor in any municipality or other political subdivision thereof when an election is being held therein until the polls have been closed on such day.

(4) Presence of Minors on Premises. It shall be unlawful to permit any person under the age of twenty-one years to enter any licensed premises authorized herein unless the said minor is accompanied by his parent, guardian or spouse who has attained the age of twenty-one years.

(5) Proximity to School or Church. No beverage dispensary license or package liquor store license shall be issued for the sale of any intoxicating liquor in any building within two hundred feet of any school ground or church building measured by the shortest direct line from such school ground or church building in which religious services are conducted, within any corporate municipality, nor within two hundred (200) feet of any school ground or church building where such school ground or church building is located outside the corporate limits of a municipality. No license shall be issued for use in any building within two miles of any college or university. Provided, however, that a license may be reissued or transferred from one licensee to another, for the sale of intoxicating liquor in any building in which such sale was authorized by law on the effective date of this Act.

When a license for the sale of intoxicating liquor in any building within two hundred (200) feet of a school ground or church building in which religious services are conducted, is forfeited, lapses or is transferred to other premises, no license for the sale of intoxicating liquor at the prior licensed location shall thereafter be issued; provided, however, said location may be relicensed in the event of the removal of either cause of restriction.

(6) Premises to be Accessible for Inspection. The premises of licensees under this Act shall be easily accessible for inspection by all peace officers charged with the enforcement of the provisions of this Act, including members of the Board, the Director or his agent, during all regular hours of the transaction of business upon said premises.

(7) Stock Confined to Licensed

Premises: Sale from Carrier or Boat. It shall be unlawful for any licensee under this Act to carry for sale any stock of intoxicating liquors in the State except on the premises indicated on his license. Provided however, that stocks of beer carried in a delivery truck for the purpose of sale by a licensed wholesaler to others licensed under this Act and for the purpose of delivery to their licensed premises shall not be subject to the provisions of this subsection.

(8) License Requirements. All licensees under the provisions of this Act selling to the general public shall be charged with the knowledge that the wholesaler, distiller, importer, brewer or bottler from whom they purchased intoxicating liquors is properly licensed to sell the same under the provisions of this Act.

(9) Seizure and Sale of Shipments to Unlicensed Persons. Any intoxicating liquors shipped into the State of Alaska for purposes of sale other than to licensees hereunder shall be deemed contraband and subject to confiscation by the State and any intoxicating liquors so seized shall be sold under the orders of the Board and the proceeds thereof deposited with the State Treasurer and covered into the General Fund; provided, however, that the provisions of this Section shall not apply to sacramental wines, alcohol or liquors used for industrial purposes, pharmaceutical or medicinal purposes or any other liquors used for filling the prescriptions of physicians.

(10) Duration of Licenses. All licenses in effect at the time of the passage of this Act shall remain in effect for the term specified thereon, and licenses issued under this Act, except for lesser periods authorized, shall be issued for the calendar year ending December 31.

(11) Purchase by Minors. It shall be unlawful for any person under the age of twenty-one years to solicit the purchase of or in any other way to attempt to purchase or otherwise secure any intoxicating liquors, including beer and wine. Any person violating the provisions of this subsection

shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 35-4-20 herein.

(12) Any person who influences or attempts to influence the sale, giving or serving of intoxicating liquor, including beer and wine to a person under twenty-one years of age, by misrepresenting the age of such person, or who shall order, request, receive, or procure intoxicating liquor from any licensee, employee, or other person, for the purpose of selling, giving, or serving the same to a person under twenty-one years of age, shall be guilty of a misdemeanor.

(13) Any person under the age of twenty-one years who shall enter any licensed premises where intoxicating liquor is sold and who shall offer or present to any licensee or his employee a fraudulent or false certificate of birth or other written evidence of age, which is not actually his or her own, or who shall otherwise misrepresent his or her age, for the purpose of inducing the licensee or his employee to sell, give, serve, or furnish intoxicating liquor contrary to law, shall be guilty of a misdemeanor.

(14) Any licensee or his employee who questions, or has reason to question, whether a person entering upon licensed premises, or ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure the serving or delivery of intoxicating liquor, has attained the age of twenty-one years, shall require such person to sign a statement that he or she is over the age of twenty-one years. Said statement shall be made upon a form to be prepared by and furnished to the licensee by the Board. If a licensee, or his employee, in good faith, secures such a signed statement he shall not be subject to criminal prosecution for violation of the provisions of Subsections (12) and (13) hereof.

(15) Any licensee or his employee, who allows to remain upon licensed premises where intoxicating liquors are sold, any person under the age of twenty-one years not in company of

his or her parent or legal guardian or spouse who has attained the age of twenty-one years or sells, gives, or serves intoxicating liquor to any person under the age of twenty-one years, without having procured the signature of said person upon a statement as herein provided, or who knowingly sells, gives, or serves intoxicating liquor to or allows said person to remain on licensed premises where intoxicating liquor is sold, shall be guilty of a misdemeanor.

Sec. 35-4-16. Qualifications of Licensees.

(A) Residence. No Beverage Dispensary License or Retail license shall be issued to any person or association of persons who have not resided in the State for at least one year prior to the date of the application, or to any corporation which is not qualified to do business in the State.

(B) Interest in Premises. No corporation, wholesaler, owner, officer, or representative of a wholesaler, brewery, winery, bottling works, or distillery shall be permitted to own any interest in any Beverage Dispensary or Retail Liquor Store, nor be permitted to finance directly, or indirectly, any license-holder in procuring quarters, or supplying equipment, furnishings, stock or inventory in order to conduct such business.

(C) Non-Resident Distiller, Brewer or Wholesaler. Any distiller, brewer or wholesaler, whose plant or principal place of business is outside of the State, but whose products are sold directly, by any one of the foregoing, in the State, shall be required to obtain a Wholesale License for the sale of his products in the State, and a separate license shall be required for each wholesale distributing point within the State. Any distiller, brewer, or wholesaler, not resident in the State, selling intoxicating liquors in the State, shall designate a principal place of business, or headquarters, in the State, where all records shall be located and appoint an agent upon whom process can be had, and shall also obtain a license or licenses under the provisions of this Act.

(D) Financial Interest: Personal Superintendence. No person or persons, other than the licensee, shall have any direct or indirect financial interest in the business for which the license is issued. The licensee shall be solely responsible for the lawful conduct of the business licensed hereunder except as hereinafter provided.

Sec. 35-4-17. Local Option: Election: Residents' Consent to License in Incorporated Cities and Towns: Disposition of Funds.

(A) Election in Incorporated Towns. Whenever thirty-five per cent (35%) of the total number of voters at the last general municipal election held in any incorporated city or town shall petition the City Council so to do, the City Council shall cause to be placed upon a separate ballot at the next municipal election in such incorporated city or town the following question: "For the sale of intoxicating liquors....." (yes or no). It shall be the duty of the regular election officers to canvass the said ballots and to report the results thereof to the City Clerk, who shall cause the results to be published. If, upon receipt of the certificate of election, the City Clerk finds that a majority of the voters are against the sale of intoxicating liquor in said incorporated city or town, notice thereof shall be forwarded to the Board and all applications for licenses within the said city or town shall thereafter be denied and no further licenses shall be issued therein for a period of one year, nor shall the Board issue a new beverage dispensary or retail license for premises located within five (5) miles of said city or town, provided, however, if a majority of the voters at a subsequent election conducted for the purpose and in accordance with the provision hereof favor the sale of intoxicating liquor in said city or town the Board shall upon application issue the number and type and license to the same or other premises within said city or town as were in existence on the date of last election, at which a majority of the voters prohibited the sale of intoxicating liquor; priority shall be given those applicants who were licensees

and whose licenses were not reissued by reason of the last election conducted under the provisions of this Act, said license shall be issued irrespective of any resulting restriction which arose subsequent to the prohibiting election.

No license shall be suspended under the provisions of this section during the year for which it was issued except for cause.

(B) Consent of Residents Outside of Incorporated Cities or Towns. No new license for the sale of intoxicating liquor shall be issued under this Act in areas outside of incorporated cities or towns unless a petition having signatures of a majority of the bona fide residents residing within one mile of the place where intoxicating liquor is to be sold, and over the age of twenty-one years, is filed with the Board asking that a license be issued within the said area; provided, however, that such petition shall not be required for a re-issuance of said license.

(C) Disposition of Funds. All moneys collected or due the State for licenses under the provisions of this Act shall be deposited with the State Treasurer and covered into the General Fund; all such moneys derived from the licenses issued excluding wholesale licenses within the incorporated cities shall be refunded semi-annually to said incorporated cities; provided, however, that in the event of the failure of the officers of said incorporated cities to actively enforce all of the ordinances of said incorporated cities, the law of the United States, the laws of the State of Alaska and those regulations relative to the manufacture and sale of intoxicating liquors in the State of Alaska, the Treasurer may deny said refund and no further moneys will be paid to said incorporated cities until the enforcement of such laws and regulations is actively resumed within such municipalities.

Sec. 35-4-18. Municipal Regulations. Incorporated municipalities may, by ordinance duly enacted, provide such rules and regulations governing the

barter, sale and possession of intoxicating liquor within such municipalities as may be deemed necessary to the orderly conduct of the business of selling intoxicating liquor; provided, however, that such ordinance or ordinances shall not be inconsistent with this Act or the rules and regulations promulgated hereunder, nor shall any municipality impose additional taxes.

Sec. 35-4-19. Duration and Transfer of Licenses. No license shall be issued for a greater period than one year; and no licenses shall be transferred by the licensee to any other person except with the written consent of the Board, but authority for the same may issue upon application thereto in writing.

Sec. 35-4-20. Violation of Act a Misdemeanor: Penalty. A violation of any of the provisions of this Act shall be deemed a misdemeanor, and upon conviction thereof shall be punished by imprisonment of not more than one year, or by a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00), each violation to be considered a separate offense.

Provided, further, that upon conviction of a licensee, the commissioner, magistrate, District Judge, or other judge having jurisdiction, as the case may be, shall send a notification thereof together with the certified transcript of the proceedings to the Board which shall, upon the direction of a majority of the members of the Board, suspend said license as hereinafter provided for the first and second violations and shall revoke the license and may upon a third violation forfeit the bond.

First Violation: The license of the premises involved may be suspended for not less than 10 nor more than forty-five (45) days;

Second Violation: The license of the premises involved may be suspended for a period of not less than 30 days nor more than ninety (90) days.

Sec. 35-4-21. Classification of Licenses: Rights and Duties of Licensees: Amounts of Fees. The following li-

censes shall upon direction of the board be issued by the Director:

(A) A Beverage Dispensary License gives to the holder thereof the right to sell for cash or serve on the premises beer, wine and hard liquors for consumption on the premises only. The Beverage Dispensary License Fee shall be Five Hundred Dollars (\$500.00) in all towns, villages, settlements, and places not exceeding fifteen hundred persons and One Thousand Dollars (\$1,000.00) in all towns, villages and incorporated cities having a population in excess of fifteen hundred persons. The population shall be determined at the time of filing application. Each applicant for a beverage dispensary license shall file with the application a bond either in cash or executed by a surety company, to be approved by the Board. The condition of such bond or undertaking shall be, that the applicant or applicants are the sole owners of the business sought to be licensed and that no other persons are financially interested either directly or indirectly therein and that the applicant or applicants will conduct said business in accordance with the existing applicable laws pertaining to intoxicating liquor in Alaska. Such bond shall be in the penal sum of Twenty-five Hundred Dollars (\$2,500.00). Upon revocation of license, said bond may be forfeited and covered into the State General Fund.

All employees serving intoxicating liquor in an establishment operating under a Beverage Dispensary license shall be male citizens of the United States, over the age of 21 years and of good moral character. Provided, however, that female citizens over the age of 21 years of good moral character regularly employed as waitresses in an establishment operating under a Beverage Dispensary license may serve intoxicating liquor if such establishment; (1) regularly serves meals as a major and substantial part of its business, (2) applies for and receives a permit to employ females from the Board of Liquor Control. The serving of sandwiches, burgers, hot-dogs, snacks or similar food items shall not qualify an establishment to employ females under this proviso. Any such

employee of such place violating the provisions of this Act shall be equally guilty with the holder of the license and shall be punished accordingly.

(B) A Restaurant License shall give to the holder thereof the right to sell beer and wine in a restaurant with meals furnished in good faith to patrons. The Restaurant License Fee shall be Three Hundred Dollars (\$300.00).

(C) A Road House License shall give to the holder thereof the right to sell beer and wine in a road house which is located not less than 18 miles from the corporate limits of a city and which serves food to the traveling public. The Road House License Fee shall be One Hundred Fifty (\$150.00) Dollars.

(D) A Club License shall give to clubs, fraternal organizations, and patriotic organizations, that have a State or National Charter, and which have been so incorporated and active for a period of two years or more, the right to sell intoxicating liquors to their members and their families only in their club rooms. The Club License Fee shall be Four Hundred (\$400.00) Dollars.

(E) A Bottling Works License shall give to the holder thereof the right to operate a Bottling Works where beer and wine may be bottled and sold, but no sale of beer or wine shall be made to a consumer or in less quantities than five wine gallons. The Bottling Works License Fee shall be One Hundred Dollars (\$100.00).

(F) A Brewery License shall give to the holder thereof the right to operate a Brewery where beer is manufactured, brewed, prepared, bottled or barreled for sale; but no sale shall be made to a consumer or in less quantities than five wine gallons. The Brewery License Fee shall be One Hundred Dollars (\$100.00).

(G) A Retail License shall give to the holder thereof the right to sell for cash in his establishment intoxicating liquors, including beer and wine, in the original packages and wine in bulk. All liquor requiring Internal

Revenue strip stamps shall have such stamps intact upon the packages. The consumption of any intoxicating liquor on premises licensed under this provision is prohibited. Sales under a Retail License shall be limited to less than five wine gallons to any one person in any one sale. The Retail License Fee shall be Six Hundred Dollars (\$600.00), provided, however, that any retail liquor store which shall have gross sales amounting to less than Twenty Thousand Dollars (\$20,000.00) in any calendar year from the sale of intoxicating liquors, including beer and wine, the retail license fee shall be Three Hundred Dollars (\$300.00).

(H) (1) A General Wholesale License shall give to the holder thereof the right to sell intoxicating liquors, including malt beverages and wines, in the original package, and wine in bulk, in quantities of not less than five wine gallons to holders of licenses under this Act, but not to the consumer. All liquor requiring Internal Revenue strip stamps must have such stamps intact on the package. A Wholesale License shall be required for each distributing point. The General Wholesale License Fee schedule shall be as follows:

Upon the total amount of business transacted during any year: \$500.00 as a minimum license fee, to accompany the application, and in payment of the fee for the first \$50,000.00 of business transacted, and in addition thereto, on the business transacted during any year, above \$50,000 and not over

- \$75,000 a fee of \$ 250.00
- above \$75,000 and not over
- \$100,000 a fee of \$ 500.00
- above \$100,000 and not over
- \$125,000 a fee of \$ 750.00
- above \$125,000 and not over
- \$150,000 a fee of \$1000.00
- above \$150,000 and not over
- \$175,000 a fee of \$1250.00
- above \$175,000 and not over
- \$200,000 a fee of \$1500.00
- above \$200,000 and not over
- \$250,000 a fee of \$2000.00
- above \$250,000 and not over
- \$300,000 a fee of \$2500.00
- above \$300,000 and not over

- \$350,000 a fee of \$3000.00
- above \$350,000 and not over
- \$400,000 a fee of \$3500.00
- above \$400,000 and not over
- \$500,000 a fee of \$4500.00
- above \$500,000 a fee of \$5000.00

(2) A Wholesale Malt Beverage and Wine License shall give to the holder thereof the right to sell malt beverages and wine in the original packages and malt beverages and wine in bulk in quantities of not less than five wine gallons to holders of licenses under these regulations but not to the consumer. Malt Beverages and Wine License Fee shall be as follows:

On the total amount of business transacted in any year: \$100.00 as a minimum license fee, to accompany the application, and in payment of the fee for the first \$10,000.00 of business transacted, and, in addition thereto, on the business transacted during any year, above \$10,000 and not over

- \$25,000 a fee of \$ 150.00
- above \$25,000 and not over
- \$50,000 a fee of \$ 500.00
- above \$50,000 and not over
- \$75,000 a fee of \$ 750.00
- above \$75,000 and not over
- \$100,000 a fee of \$ 1000.00
- above \$100,000 and not over
- \$150,000 a fee of \$ 1500.00
- above \$150,000 and not over
- \$200,000 a fee of \$ 2000.00
- above \$200,000 and not over
- \$300,000 a fee of \$ 3000.00
- above \$300,000 and not over
- \$400,000 a fee of \$ 4000.00
- above \$400,000 a fee of \$ 5000.00

(I) A Distillery License shall give to the holder thereof the right to operate a Distillery where intoxicating liquors are distilled, prepared, bottled or barreled for sale, but no sale shall be made in less quantities than five wine gallons, and no sale shall be made in the State except to licensees under the provisions of this Act and not to the consumer. The Distillery License Fee shall be One Hundred Dollars (\$100.00).

(J) A Common Carrier Dispensary License shall give to the holder thereof the right to sell intoxicating liquors

for consumption aboard a boat, an aircraft licensed hereunder or a railroad buffet car while in transit only. Provided, however, that no Common Carrier Dispensary License shall be issued for any boat or vessel of less than 250 gross tons, United States Custom House measurement. The Common Carrier Dispensary License Fee shall be Two Hundred and Fifty Dollars (\$250.00) for each such vessel, or buffet car so licensed.

(K) A Retail Stock Sale License shall give to the holder thereof the right to sell in bulk quantities, of not less than five wine gallons per sale, but not to the consumer, the entire stock of a former retail liquor store, where the owner thereof is desirous of closing out or terminating the business of the store. Such license shall issue only when the owner does not have a retail license, but not where he has been deprived of a retail license because of a violation of this Act, or a violation of any other law of the State of Alaska. Such license shall issue for a period of ninety days only for each store so closing out, and shall not be renewable. The Retail Stock Sale License Fee shall be One Hundred Dollars (\$100.00).

Sec. 35-4-22. General Provisions.

(A) All applications for licenses under this Act shall be made to the Board. All licenses issued hereunder, except as hereinafter limited, shall be for the period from 12:01 A.M. January 1, until 12:00 Midnight, December 31 of the calendar year.

(B) Prior to the issuance of any new license, a true copy of the application for license shall be posted by the applicant at the location of the premises, at the nearest Post Office and at one other conspicuous location in the area, for a period of ten days prior to the filing of said application, and proof of such posting shall accompany the application on a form to be provided by the Board.

(C) Upon application a license may be reissued each year, prior to the termination of the existing license, upon payment of the applicable fees,

save and except in case of a conviction as provided in Section 35-4-20 hereof.

Each such application for a reissuance of license shall contain all of the information required of a new license, except that there shall be no proof of posting required. Each such application for reissuance shall further contain a statement of convictions of the applicant of Federal or State law or regulation covering the sale of intoxicating liquors during the term of the preceding license. No license shall be reissued which has not been exercised or active at least thirty days during the preceding year.

(D) Any license may be transferred to a new location to be operated by a qualified transferee subject to the limitation contained in Section 35-4-13, herein. Each application for a transfer of a license to a new location shall contain such information as may be required by the Board and shall be accompanied by proof of posting of application as required in Subsection (B), herein. The transferee of any license shall have all of the qualifications required under this Act for a new license. No license shall be issued, reissued or transferred, unless the application therefor contains all the information required hereunder, nor shall any application be granted which contains any false statements of material fact.

(E) Any resident of an area outside an incorporated town who desires to protest the issuance of a license in the voting area in which he resides, shall serve upon the applicant and the Board a written statement of the reasons for his protest. Upon the receipt of protest the Board may give notice and hold a hearing, in the voting precinct from which such application originated, at which all persons interested may be heard. If at such hearing it shall appear that the majority of the citizens over the age of 21 years, and who reside within two miles of the place for which a license is sought, object to the issuance of such license, the Board shall refuse to issue the same.

(F) The Director may issue any license provided in this Act for any

continuous six-month period upon application and the payment of one-half of the yearly license fee as provided herein.

(G) In the event any person operating a business as sole licensee under any license authorized by this Act, should die, the Executor or Administrator of his estate shall, within ninety days of the death of the licensee or before December 31 of the year for which the license was issued, whichever date shall first occur, make application to the Board for transfer of the license. If no such application is made within the time set forth herein the license shall be forfeited and deemed void. The Executor or Administrator may continue to operate the business until the transfer is approved and completed or until the license is deemed forfeited as set out above. The Board, in its discretion, may extend said time on petition of said Executor or Administrator. During the period in which licensed premises or any business license hereunder may be subject to control of any Executor or Administrator, he shall be personally responsible for the conduct of said business or licensed premises.

(H) Any action relating to the administrative duties imposed by this Act shall be subject to review by the Board at the instance of any aggrieved party. Any action or decision by the Board relating to the issuance, reissuance, suspension or revocation of licenses under this Act shall be subject to review.

(I) Any application fee prescribed by the Board as provided in Sec. 35-4-2 shall be in addition to any other fee charged under this Act and shall be deposited in the State Treasury and withdrawn therefrom on voucher approved by the Board to be used for the purpose of administering the provisions of this Act.

(J) No licenses for the sale of intoxicating liquor shall be issued under this Act in any area, which is fifty miles or more from the incorporated boundaries of a city, town, public utility district or school district, unless a petition having the signatures of two-

thirds of the bona fide residents, twenty-one years of age or over, residing within a radius of five miles of the nearest United States post office station, is filed with the Board asking that licenses be issued within said area; provided, however, that should there be two or more such post office stations within the vicinity of the place where intoxicating liquor is to be sold, the nearest such station to such place shall constitute the point of beginning; provided, further, however, that such a petition shall not be required for a reissuance of any such licenses granted pursuant to this Subsection; provided, further, however, that if no such post office station exists within a radius of five miles of the place where intoxicating liquor is to be sold then Section 35-4-17 (B), herein, shall apply.

(K) The business premises occupied by a holder of a retail license issued under this Act shall not be connected by a door, opening or any other means of passage to any other retail business establishment, except those licensed under this Act.

(L) All licenses issued for the year 1959 under the provisions of Chapter 131, SLA 1957, shall be deemed to have been issued under the provisions of this Act, and the issuance of all said licenses is hereby ratified and confirmed except as to those licenses with regard to which a challenge is pending on the date of this Act before the Board or any court of competent jurisdiction.

(M) The City Council of any incorporated town may with the approval of the Board by ordinance increase the number of licenses authorized under Section 35-4-13 of this Act.

Sec. 35-4-23. Provisional License: Affidavit and Payment of Fees. The Director shall issue only a provisional license upon the payment of the minimum fees for the licenses mentioned in Section 35-4-21 (H) (1) (2) herein and not later than February 15th of each year following that for which any license has been issued to a licensee, said licensee shall make an affidavit or affidavits showing the amount of business done during the preceding

year under his respective license or licenses and the locations and establishments from which such business was done, which shall be filed with the Board. The licensee shall pay to the Board the license fees accrued during such preceding year at the time of filing such affidavit or affidavits. Unless such affidavit or affidavits are so filed and fee paid, any licenses outstanding in the name of such applicant which have been issued under the laws in effect at the time of passage of this Act shall be forthwith cancelled by order of said Board. The failure to file the affidavit or affidavits or the cancellation of any existing license

shall not relieve any licensee from paying the fees as prescribed herein.

Sec. 3. If any provision hereof or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 4. **Effective Date.** This Act shall take effect upon its passage and approval or upon becoming law without such approval.

Became law without signature May 8, 1959

CHAPTER 198

AN ACT

Relating to securities; prohibiting fraudulent practices in relation thereto; requiring registration of broker-dealers, agents, and investment advisers; and declaring an effective date.

(J.C.S.S.B. 24)

Be it enacted by the Legislature of the State of Alaska:

Part I

Fraudulent and Other Prohibited Practices

Section 101. **Sales and Purchases.** It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly.

(1) to employ any device, scheme, or artifice to defraud,

(2) to make any untrue statement of a material fact or to omit to state a material fact the omission of which would make any statement made misleading, or

(3) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

Sec. 102. **Advisory Activities.**

(a) It is unlawful for any person who receives any consideration from another person primarily for advising the other

person as to the value of securities or their purchase or sale, whether through the issuance of analyses or reports or otherwise,

(1) to employ any device, scheme, or artifice to defraud the other person, or

(2) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon the other person.

(b) It is unlawful for any investment adviser to enter into, extend, or renew any investment advisory contract unless it provides in writing

(1) that the investment adviser shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client;

(2) that no assignment of the contract may be made by the investment adviser without the consent of the other party to the contract; and

(3) that the investment adviser, if a partnership, shall notify the other