



# LAWS OF ALASKA

1973

Source

Chapter No.

CSHB 382

53

## AN ACT

Making corrective amendments in the Alaska Statutes as recommended by the revisor of statutes.

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

\* Section 1. AS 04.10.040(a) is amended to read:

(a) The holder of a beverage dispensary license may sell for cash or serve on the premises beer, wine and hard liquors for consumption on the premises only. The beverage dispensary license fee is \$500 in all unincorporated communities and incorporated cities having a population not exceeding 1,500 persons and \$1,000 in all unincorporated communities and incorporated cities having a population in excess of 1,500 persons. The population shall be determined at the time of filing the application. Each applicant for a beverage dispensary license shall file with the application a cash bond or a surety bond executed by a surety company approved by the board. The condition of the bond or undertaking shall be that the applicant or applicants are the sole owners of the business to be licensed, and that no other person is financially interested directly or indirectly, and that the applicant or applicants will conduct the business in accordance with the applicable laws pertaining to intoxicating liquor in the state. The bond shall be in the penal sum of \$2,500. Upon revocation of the license, the bond may be forfeited and the amount deposited into the general fund of the state.

\* Sec. 2. AS 04.10.210(1) is amended to read:

(1) outside an incorporated city 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;

- \* Sec. 3. AS 04.10.270 is amended to read:

Sec. 04.10.270. HEARING ON PROTEST OF LOCAL GOVERNING BODY. An application for a transfer, renewal or new license coming from within a municipality shall be transmitted directly to the board and need not bear a recommendation of the governing body of the municipality. Upon deciding to approve an application, the board shall transmit written notice of its intent to approve the transfer, renewal or new license requested 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. If the local governing body wishes to protest approval, it shall furnish the board with a notice of protest within 30 days of receipt of the board notice of intent to approve the application. Upon receipt of a protest by the local governing body, the board may not take final action on the application until it has provided for a hearing on the protest in accordance with the requirements of the Administrative Procedure Act (AS 44.62).

- \* Sec. 4. AS 04.10.300 is amended to read:

Sec. 04.10.300. PROTEST OF ISSUANCE. A resident of an area outside an incorporated city 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 the protest, the board may give notice and hold a hearing, in the voting precinct in which the protestant resides, at which all persons interested may be heard. If at the hearing it appears that the majority of the citizens over the age of 19 years, residing within two miles of the place for which a license is sought, object to the issuance of the license, the board shall refuse to issue the license.

- \* Sec. 5. AS 04.10.310 is amended to read:

Sec. 04.10.310. PUBLIC APPROVAL FOR LICENSES IN REMOTE AREAS. No license for the sale of intoxicating liquor may be issued in any area, which is 50 miles or more from the incorporated boundaries of a municipality, unless a petition containing the signatures of two-thirds of the bona fide residents, 19 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 a license be issued within the area. If there are two or more United States post office stations within the vicinity of the place where intoxicating liquor is to be sold, the nearest station to such place constitutes the point of beginning. A petition is not necessary for a reissuance of any license granted under this section. If no post office station exists within a radius of five miles of the place where intoxicating liquor is to be sold then sec. 440 of this chapter applies.

- \* Sec. 6. AS 04.10.430 is amended to read:

Sec. 04.10.430. ELECTION IN INCORPORATED CITIES. (a) Whenever 35 per cent of the total number of voters at the

last general municipal election held in an incorporated city petition the city council to do so the city council shall place upon a separate ballot at the next municipal election the following question: "For the sale of intoxicating liquors....." (yes or no). The regular election officers shall canvass the ballots and report the results to the city clerk, who shall publish the results. 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 the incorporated city, notice thereof shall be forwarded to the board and applications for licenses within the city shall thereafter be denied and no further licenses shall be issued in the city for a period of one year, nor may the board issue a new beverage dispensary or retail license for premises located within five miles of the city. If a majority of the voters at a subsequent election conducted for the purpose and in accordance with these provisions favor the sale of intoxicating liquor in the city, the board shall, upon application, issue the number and type and license to the same or other premises within the city 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 title. The board shall issue the license notwithstanding any resulting restriction which arose subsequent to the prohibiting election.

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

(c) If the petition for a local option election is for a community liquor license under sec. 139 of this chapter, the board is precluded from issuing additional new licenses of any other type within the boundaries of the city opting for the community liquor license. This section does not affect the provisions of sec. 260 of this chapter, or liquor licenses issued before September 10, 1972.

\* Sec. 7. AS 04.10.440 is amended to read:

Sec. 04.10.440. CONSENT OF RESIDENTS OUTSIDE INCORPORATED CITIES. No new license for the sale of intoxicating liquor may be issued under this title in areas outside incorporated cities unless a petition containing 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 19 years, is filed with the board asking that a license be issued within the said area. The board may not require the petition for a reissuance of the license.

\* Sec. 8. AS 04.15.010 is amended to read:

Sec. 04.15.010. HOURS OF SALE. No person may consume, sell, offer for sale, give, furnish or deliver from an authorized licensee any intoxicating liquor on any licensed premises inside the state between the hours of 5:00 a.m. and 8:00 a.m. each day of the week. Municipalities may

provide for additional closing hours under sec. 70 of this chapter.

\* Sec. 9. AS 04.15.020(e) is amended to read:

(e) Churches and schools. The board shall not issue a beverage dispensary license or package liquor store license for the sale of intoxicating liquor in any building in which the public entrance is within 200 feet of a school ground or church building measured by the shortest pedestrian route from the outer boundaries of the school ground or public entrance of a church building in which religious services are conducted, within or outside any municipality. A license may be reissued or transferred from one licensee to another, for the sale of intoxicating liquor in a building in which that sale was authorized by law on April 25, 1960. When a license for the sale of intoxicating liquor in a building within 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. However, the location may be relicensed in the event of the removal of either cause of the restriction.

\* Sec. 10. AS 04.15.070(a) is amended to read:

(a) A municipality may by ordinance provide rules and regulations governing the barter, sale and possession of intoxicating liquor within the municipality necessary to the orderly conduct of the business of selling intoxicating liquor. The ordinance may not be inconsistent with this title or the rules and regulations promulgated under this title. No municipality may impose taxes other than property taxes on liquor inventories and sales taxes on liquor sales when these taxes are levied on other property and sales within the municipality.

\* Sec. 11. AS 08.80.480(6) is repealed.

\* Sec. 12. AS 10.05.708(a) is amended to read:

(a) A domestic or foreign corporation which is required by law to file articles of incorporation with the department, except corporations organized under ch. 20 of this title and foreign corporations organized under the laws of the United States or the laws of a state or territory of the United States or the laws of a foreign country for the same purposes as those allowed under ch. 20 of this title, shall pay to the commissioner,

(1) if the authorized capital stock of the corporation is \$100,000 or less, a filing fee of \$25;

(2) if the authorized capital stock of the corporation exceeds \$100,000, the fee set forth in (1) of this subsection plus an additional fee of 10 cents for each \$1,000, or fraction of \$1,000, of authorized capital stock above \$100,000;

(3) if the authorized capital stock exceeds \$1,000,000, the fees set forth in (1) and (2) of this

subsection plus an additional fee of \$10 for each \$1,000,000, or fraction of \$1,000,000, of authorized capital stock over \$1,000,000.

- \* Sec. 13. AS 10.05.711(a) is amended to read:

(a) A domestic or foreign corporation, except corporations organized under ch. 20 of this title and foreign corporations organized under the laws of the United States or the laws of a state or territory of the United States or the laws of a foreign country for the same purposes as those allowed under ch. 20 of this title, filing amendatory or supplemental articles of incorporation, or certificates of increase or decrease of capital stock with the department, shall pay to the commissioner

(1) for filing amendatory or supplemental articles which do not increase capital stock, or for filing a certificate of decrease of capital stock, a fee of \$10;

(2) for filing amendatory or supplemental articles which increase the capital stock, or for filing a certificate of increase of capital stock, a fee of \$10, plus

(A) a further fee of 10 cents per \$1,000 or fraction of \$1,000 of authorized increase of capital stock above \$100,000 and less than \$1,000,000;

(B) a further fee of \$10 per \$1,000,000 of authorized increase over \$1,000,000.

- \* Sec. 14. AS 10.05.723 is amended to read:

Sec. 10.05.723. ATTORNEY GENERAL TO INSTITUTE SUITS TO COMPEL PAYMENT. The attorney general may institute suits in the name of the state to enforce the payment of the annual corporation tax. Corporations organized under ch. 20 of this title and foreign corporations organized under the laws of the United States or the laws of a state or territory of the United States or the laws of a foreign country for the same purposes as those allowed under ch. 20 of this title are exempt from the payment of the annual corporation tax.

- \* Sec. 15. AS 11.05.010 is amended to read:

Sec. 11.05.010. PUNISHMENT FOR MISDEMEANORS. Whenever an act is declared to be a misdemeanor, and no punishment is prescribed, the person, upon conviction, is punishable by imprisonment for not more than one year, or by a fine of not more than \$500.

- \* Sec. 16. AS 12.55.030 is repealed.

- \* Sec. 17. AS 13.16.705(a) is amended to read:

(a) Until December 18, 1991, stock in a corporation organized under the laws of Alaska pursuant to the Alaska Native Claims Settlement Act (P.L. 92-203; 85 Stat. 688; 43 U.S.C. 1601 et seq.) which is inalienable under that Act is not subject to probate. Upon the death of the

holder, if the stock does not pass by the testamentary disposition clause on the stock certificate, properly executed, it passes by will or intestate succession. In such a case, the determination of the person entitled to the stock shall be made by the appropriate regional corporation on the basis of an affidavit, furnished to it and to the corporation which issued the stock, showing the right of the person entitled to the stock to receive it and to have a new certificate issued to him. The affidavit, accepted in good faith by a corporation, has the same effect as an affidavit under sec. 685 of this chapter, and the person entitled to the stock, if the affidavit is not accepted, has the remedy set out in sec. 685 of this chapter. In case of dispute as to the person entitled to receive the stock, a person claiming ownership may bring an independent action in the superior court.

- \* Sec. 18. AS 13.16.705(f) is amended to read:

(f) Where appropriate, terms used in this section have the meanings set out in AS 13.06.050. In this section "stock" includes membership in a corporation organized under AS 10.20 and inchoate rights to stock.

- \* Sec. 19. AS 14.07.055 is repealed.

- \* Sec. 20. AS 14.08.130 is amended to read:

Sec. 14.08.130. COMPENSATION AND EXPENSES OF TEXTBOOK COMMITTEE AND BOARD MEMBERS. (a) Each member of the board of directors, and each member of the State Schools Textbook Committee (AS 14.07.050), shall receive travel expenses and the same per diem allowed by law to a member of a state commission.

(b) Per diem and travel expenses of the members shall be paid from funds appropriated for the operation of the schools.

- \* Sec. 21. AS 14.14.020 is amended to read:

Sec. 14.14.020. BOND REQUIRED. Before the officer responsible for custody of, investment, or management of school district money enters upon the duties of office, the district, or the municipality if the treasury is centralized, shall obtain a bond with sufficient sureties in an amount equal to the money that may come into the officer's official custody, but not to exceed \$50,000. The bond shall be conditioned on the officer's honest and faithful disbursement and accounting of all money that may come into his official custody. The bond shall be filed with the clerk of the school board. This section does not apply to an officer who has been bonded under AS 29.23.520.

- \* Sec. 22. AS 14.14.050(d) is amended to read:

(d) The school board shall not make the audit if an audit which satisfies the requirements of this section and which is filed and posted as required by this section, is made according to AS 29.48.220.

- \* Sec. 23. AS 14.14.170(d) is amended to read:

(d) The date of election for advisory school board members is the same as that for regular municipal elections in the second class city having the largest population in the area served by the board or, if there is no second class city within the area, on an annual election date for such elections fixed by regulation of the board of directors for state-operated schools.

\* Sec. 24. AS 14.14.170(e) is amended to read:

(e) Elections under (c) and (d) of this section shall be conducted upon such notice and otherwise substantially in the same manner as regular municipal elections which are held within the largest second class city in the area served by the board. If there is no second class city within the area, elections shall be conducted upon at least 10 days published or posted public notice of the election and of the question or nominees to be voted on and under general rules for the elections as may be promulgated by regulation of the board of directors for state-operated schools. Elections relating to advisory school boards shall be supervised by the director of state-operated schools but shall be administered within second class cities as part of the regular municipal election.

\* Sec. 25. AS 14.17.210(c)(1) is amended to read:

(1) "state school" means a school operated by the Department of Education or State-Operated School System and entirely financed by state money; and

\* Sec. 26. AS 14.25.180(c) is amended to read:

(c) In making investments the commissioner of revenue shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital. However, no more than 50 per cent of the retirement fund may be invested at any given time in corporate stocks and bonds, nor may more than five per cent of the voting stock of any corporation be owned. Stocks eligible for purchase are restricted to stocks which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Federal Securities and Exchange Commission.

\* Sec. 27. AS 14.56.240 is amended to read:

Sec. 14.56.240. "RURAL COMMUNITY" DEFINED. In secs. 200 - 230 of this chapter, "rural community" means any community except a first class city of over 2,000 population.

\* Sec. 28. AS 16.20.030(b) is amended to read:

(b) The following described state-owned lands and adjacent state waters, excluding existing and applied-for highway, pipelines and railway rights-of-way as of May 20, 1971, are established as the Potter Point State Game

Refuge: All lands and waters south and west of and adjacent to the toe of the bluff which extends from Campbell Point southeasterly to Potter Creek.

- \* Sec. 29. AS 18.60.590(a) is amended to read:

(a) The department may by regulation adopt amendments to the 1971 National Electrical Code as approved and issued by the American Standards Association.

- \* Sec. 30. AS 19.30.241(2) is amended to read:

(2) "home rule city" means a city as defined in AS 29.08.010;

- \* Sec. 31. AS 21.57.110(b) is amended to read:

(b) All claims shall be paid, in accordance with AS 21.89.030, to the order of the claimant to whom payment of the claim is due under the policy provisions, or upon direction of the claimant to one specified.

- \* Sec. 32. AS 23.40.030 is amended to read:

Sec. 23.40.030. DEFINITION OF LABOR ORGANIZATION. For the purpose of secs. 20 - 40 of this chapter "labor organization" includes an organization constituted wholly or partly to bargain collectively or deal with employers, including the state and its political subdivisions, concerning grievances, terms, or conditions of employment or other mutual aid or protection in connection with employees.

- \* Sec. 33. AS 24.05.080 is amended to read:

Sec. 24.05.080. TERMS. The term of each member of the legislature begins on the third Monday in January following election. The term of representatives is two years, and the term of senators is four years. One-half of the senators shall be elected every two years.

- \* Sec. 34. AS 24.05.085 is amended to read:

Sec. 24.05.085. RESIGNATION. A member resigns by submitting his resignation in writing to the presiding officer of the house to which he was elected or appointed, with information copies to the governor and the executive director of the Legislative Affairs Agency for appropriate administrative action. The resignation is effective on the date specified in the resignation or 10 days after the date of mailing the resignation, whichever is later. The resignation may be withdrawn during this period.

- \* Sec. 35. AS 24.05.200 is amended to read:

Sec. 24.05.200. ADMINISTRATIVE SERVICES PROVIDED BY LEGISLATIVE COUNCIL. All administrative services necessary to the operation of the legislature during and between sessions are provided by the legislative council. These services include procurement, storage, and maintenance of all supplies and equipment; interim control of legislative space; fiscal and personnel services except for the legislative budget and audit committee; supervision of

duplicating, distributing and mailing services; and budget preparation.

- \* Sec. 36. AS 24.20.040 is amended to read:

Sec. 24.20.040. VACANCIES. When a vacancy occurs in the appointive membership of the council the presiding officer of the house incurring the vacancy shall fill the vacancy within 30 days. If the office of the president of the senate or speaker of the house of representatives becomes vacant and a vacancy occurs among the appointed members of the council, the remaining council members from the house incurring the vacancy shall appoint a new member. A legislator appointed to fill a vacancy shall be a member of the same political party as the member vacating the seat, when possible.

- \* Sec. 37. AS 24.35.010(a) is amended to read:

(a) When the governor has signed a bill or allowed it to become law without his signature, and when he has signed or noted resolutions, his office is to deliver the original enrolled copy of each law or resolution to the executive director of the Legislative Affairs Agency. The director shall sign for each bill and resolution and when it has been photographed for duplication it shall be returned on receipt to the office of the governor.

- \* Sec. 38. AS 24.35.020(a) is amended to read:

(a) The Department of Administration is responsible for making official distribution of the Alaska Statutes to state agencies. Distribution shall be made on the basis of written requests and justifications submitted by the executive officer of each agency to the Legislative Affairs Agency and approved by the executive director of the Legislative Affairs Agency. A legislator is entitled to receive one set of the statutes for his personal use, and this entitlement is restricted to the one set issued during a member's entire legislative service. The commissioner of administration may deposit one set of the statutes in each free public library within the state. The right of sale to persons and organizations remains exclusively with the publisher.

- \* Sec. 39. AS 24.40.030 is repealed.

- \* Sec. 40. AS 24.50.040 is amended to read:

Sec. 24.50.040. ESSAY CONTEST. Before his departure from the state capital, each legislative guest shall prepare and submit to the director of the Legislative Affairs Agency a paper of not less than 1,000 words entitled "The Legislature Should.....". Each paper shall be examined and judged as to content by the governor, the president of the senate, the speaker of the house of representatives, the minority leader of the senate and the minority leader of the house. The author of the paper determined best by majority vote shall receive a one-year scholarship to the University of Alaska.

- \* Sec. 41. AS 28.15.040(d) is amended to read:

(d) The department may issue a special operator's permit to a person who is at least 14 years of age with the consent of his parents or guardians for the purpose of operating a motor scooter or motor bicycle upon the highways. This permit shall be issued upon application and payment of the prescribed fee and is valid for the same period of time as an operator's license. The permit is not valid in a city or borough which by ordinance prohibits operation of a motor scooter or motor bicycle by a person under the age of 16 years. A borough may adopt the ordinance on a non-areawide basis only, unless the power to adopt it on an areawide basis is acquired under AS 29.33.-250 - 29.33.290.

\* Sec. 42. AS 28.20.350 is repealed.

\* Sec. 43. AS 29.13.100(3) is amended to read:

(3) AS 29.23.020 - 29.23.050 (borough assembly representation)

\* Sec. 44. AS 29.48.035(a)(18) is amended to read:

(18) air pollution control as provided in AS 46.03.140 - 46.03.240;

\* Sec. 45. AS 29.53.060(a) is amended to read:

(a) The assessor shall assess property at its full and true value as of January 1 of the assessment year, except as provided in this section and secs. 30, 35 and 160 of this chapter. The full and true value is the estimated price which the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels.

\* Sec. 46. AS 36.10.120(3) is repealed.

\* Sec. 47. AS 38.35.260 is amended to read:

Sec. 38.35.260. SHORT TITLE. This chapter may be cited as the Alaska Right-of-Way Leasing Act.

\* Sec. 48. AS 43.18.430 is amended to read:

Sec. 43.18.430. POWER OF MUNICIPALITY. A municipality may own, maintain and employ a facility constructed under secs. 400 - 460 of this chapter. The exercise of this power on an areawide basis is at the option of the borough and is not subject to the restrictions on acquiring additional areawide powers in AS 29.33.250 - 29.33.290.

\* Sec. 49. AS 43.55.010(b) is amended to read:

(b) Payment of the tax is in lieu of all ad valorem taxes now or hereafter imposed by the state or any of its political subdivisions upon

(1) property rights attached to or inherent in the right to produce oil or gas,

- (2) producing oil or gas leases,
- (3) [deleted]
- (4) oil and gas produced in the state upon which gross production taxes are paid, and
- (5) an investment in property described in this section.

\* Sec. 50. AS 44.19.496 is amended to read:

Sec. 44.19.496. EXECUTIVE DIRECTOR. The commission shall appoint, subject to approval by the governor, an executive director who shall be a member of the partially exempt service as set out in AS 39.25.120. The executive director shall serve as the executive officer of the commission in the accomplishment of its functions. He serves at the direction and at the pleasure of the governor.

\* Sec. 51. AS 45.60.016(c) is amended to read:

(c) For good cause, a district court or the superior court may vary the order of priority set out in (b) of this section or appoint another suitable person as custodian, and, for good cause, the superior court may establish a guardianship under AS 13.26 for a minor.

\* Sec. 52. AS 46.03.210(a) is amended to read:

(a) A municipality with a population in excess of 1,000 may, within five years from August 5, 1969, establish and administer within its jurisdiction an air pollution control program. Organized boroughs may establish an air pollution control program on an areawide basis, and the exercise of powers with respect to the program is not subject to the restrictions on acquiring additional areawide powers specified in AS 29.33.250 - 29.33.290. Local programs shall

(1) provide by ordinance for requirements compatible with those imposed by the provisions of secs. 140 and 170 of this chapter and applicable regulations;

(2) provide for the enforcement of the requirements imposed through appropriate administrative and judicial processes;

(3) provide for a local administrative organization, staff, and other resources necessary to effectively carry out the purposes of the program; and

(4) be approved by the department as being satisfactory to meet the requirements of secs. 140 - 170 of this chapter and the applicable regulations.

\* Sec. 53. AS 46.07.080(2) is amended to read:

(2) "village" means an unincorporated community which has between 25 and 600 people residing within a two-mile radius, or a second class city.