

prescribe, except that such exclusion ordinance shall not become effective until approved by a majority of the qualified electors in the area to be excluded, as well as by a majority of the qualified electors in the remaining portion of such public utility district at a special election held in like manner as is provided for franchise elections, in Section 49-2-21, ACLA, 1949, as amended; Provided, that when any portion of a public utility district is thus dissolved, all property located in the excluded area shall remain liable for and subject to the lien of any outstanding bonded indebtedness, accrued assessments or taxes of such district and all property in such excluded area owned by such district shall be and remain the property of the district; Provided, that the excluded territory shall not be liable for any taxes levied after

the date of exclusion, except for payment of any liability for the principal, interest and charges on bonded indebtedness subject to lien as aforesaid.

Fourth: When any territory of a public utility district is annexed to a city, that territory is automatically excluded from the public utility district from and after the date that the annexation order or ordinance shall take effect; Provided, that no order of annexation shall be made until all indebtedness owing by the district shall have been paid or secured to the bondholders and creditors of such district in a manner found satisfactory by the Commissioner.

Sec. 6. An emergency is hereby declared to exist and this Act shall be in full force and effect from and after the date of its passage and approval.

Approved March 29, 1957

## CHAPTER 131

### AN ACT

For licensure and regulation of the intoxicating liquor industry, providing for the Board of Liquor Control; a Beverage License Advisory Board; and providing penalties; providing for appeals; re-enacting and amending Sections 35-4-1 through 35-4-6 inclusive ACLA 1949, as repealed by Chapter 43, SLA 1953, and amending Sections 35-4-11 through 23 inclusive ACLA 1949, as amended by Chapters 83 and 99 SLA 1949, and as amended by Chapters 16 and 54 SLA 1951, and as amended by Chapters 36, 114, 116 and 131 SLA 1953, and as amended by Chapters 115 and 131 SLA 1955; adding new subsections and declaring an emergency.

(J. C. S. for C. S. for H. B. 49)

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

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

pealed by Chapter 43, SLA 1953 are hereby re-enacted, amended and new subsections added to read as follows:

**Sec. 35-4-1. Creation: Members.**

There is hereby created a Board of Liquor Control, hereinafter referred to as the "Board", to be composed of the Governor, the Attorney General, the Treasurer, the Director of Finance and the Territorial Highway Engineer, all executive officials of the Territory of Alaska.

**Sec. 35-4-2. Duties: Rules and Regulations, Etc.** It shall be the duty of the Board to prescribe rules and regulations to govern the manufacture, barter, sale, and possession of intoxicating liquors in the Territory 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 Territory of Alaska, as provided for herein.

(B) The Board shall review all applications made under this Act for licenses and upon its direction the Territorial Tax Commissioner shall issue, renew, revoke, transfer, or suspend licenses coming within the purview of this Act. Such licenses shall be issued, renewed, 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.

(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 questions it deems pertinent;

(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 Board shall appoint advisory boards in each judicial division which shall consider all applications for initial licensing, renewals, or transfers of beverage licenses within their respective judicial division as well as complaints relating thereto and shall make recommendations to the Board; provided, however, such advisory boards shall have no authority to review any applications pertaining to the issuance, renewal, revocation, transfer or suspension of any beverage license originating in any incorporated city.

Each advisory board shall consist of five members appointed as follows: one shall be appointed by the Governor; one shall be appointed by the Attorney General; one shall be appointed by the Highway Engineer; one shall be appointed by the Treasurer and one shall be appointed by the Director of Finance. Each appointee shall be a resident of the division from which he is appointed. The advisory board may hold such hearings as may

be directed and in the manner prescribed by the Board, or they may meet on the call of their chairman. The advisory boards' findings and conclusions shall not be binding on the Board but shall be considered in the Board's deliberations. No expenses or obligations of any nature shall be incurred by the advisory board, except with the written consent of the Board.

**Sec. 35-4-4. Investigator.** The Board may appoint an investigator whose duty it shall be to investigate, for the Board, alleged violations of the laws, rules and regulations respecting the manufacture and/or sale of intoxicating liquor within the Territory of Alaska.

**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 Territory 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 Territory of Alaska, or the qualifications of those engaging in the manufacture, sale, barter, and possession of such liquors in the said Territory, 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 65-2-4 Alaska Compiled Laws Annotated, 1949.

**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, and as amended by Chapters 115 and 131 SLA 1955 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 Territory, 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 Tax Commissioner in compliance with the order of the Board.

**Sec. 35-4-13. Application for License: Consent of Citizens: Proceedings and Hearings on Application: Posting License. Transfer of License: Refund of Fees.** No application for a 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 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 1500 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. In no event shall a license be transferred out of the Judicial Division within which it was granted. 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.

Provided, however, that any application for a 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 and considered by 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. 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, which shall be final. 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 licenses mentioned herein shall file with the Tax Commissioner 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 renewal 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 application 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 Territory, and it shall be the duty of the United States Marshals and their deputies, and United States Attorneys and their assistants, and all chiefs of police and other 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 intoxi-

cating 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 Territory 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 Beverage Dispensary 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 municipal officers, United States Attorneys, Assistant United States Attorneys, United States Marshals, Deputy Marshals and all other officers charged with the enforcement of the provisions of this Act, including members of the Board, during all regular hours of the transaction of busi-

ness 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 Territory except on the premises indicated on his license.

(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 Territory of Alaska for purposes of sale other than to licensees hereunder shall be deemed contraband and subject to confiscation by the Territory and any intoxicating liquors so seized shall be sold under the orders of the District Court and the proceeds thereof deposited with the Territorial 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 is-

sued 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 premise 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 a licensed premise, 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 Territorial Tax Commissioner. 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 Sections 12 and 13 hereof.

(45) Any licensee or his employee, who allows to remain upon a 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 a 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 Territory 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 Territory.

(B) **Interest in Premises.** No corporation, wholesaler, owner, officer, or representative of a 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 licensee 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 Territory, but whose products are sold directly, by anyone of the foregoing, in the Territory, shall be required to obtain a Wholesale License for the sale of his products in the Territory, and a separate license shall be required for each wholesale distributing point within the Territory. Any distiller, brewer or wholesaler, not resident in the Territory, selling intoxicating liquors in the Territory, shall designate a principal place of business, or headquarters, in the Territory, where all records shall be located and appoint an agent upon whom process can be had, and shall also obtain a license 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 percent (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 premise 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 re-nued 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.

(B) **Consent of Residents Outside of Incorporated Cities or Towns.** No licenses for the sale of intoxicating liquor shall be issued under this Act in precincts 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 licenses be issued within the said precinct; provided, however, that such petition shall not be required for a renewal of said license.

(C) **Disposition of Funds.** All moneys collected or due the Territory for licenses under the provisions of this Act shall be deposited with the Territorial 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 Territory of Alaska and those regulations relative to the manufacture and sale of intoxicating liquors in the Territory 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 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 as above provided, the commissioner, magistrate, or District Judge, as the case may be, shall send a notification thereof together with the certified transcript of the proceedings to the Territorial Tax Commissioner who shall, upon the direction of a majority of the members of the Board, suspend, or revoke the license of the premises involved as follows:

**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;

**Third Violation:** The license shall be revoked; the bond shall be forfeited.

**Sec. 35-4-21. Classification of Licenses: Rights and Duties of Licensees: Amounts of Fees.** The following licenses shall upon direction of the Board, be issued by the Territorial Tax Commissioner:

(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 ex-

ceeding 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 Territorial Tax Commissioner. 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 (\$2500.00). Upon revocation of license, said bond shall be forfeited and covered into the Territorial General Fund.

All employees serving intoxicating liquor in a Beverage Dispensary shall be male citizens of the United States, over the age of 21 years and of good moral character. 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 and Fifty (\$150.00) Dollars.

(D) A Club License shall give to clubs, fraternal organizations, and patriotic organizations, that have a Territorial 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 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 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).

(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<br>\$75,000 .....   | a fee of \$ 250.00 |
| above \$75,000 and not over<br>\$100,000 .....  | a fee of \$ 500.00 |
| above \$100,000 and not over<br>\$125,000 ..... | a fee of \$ 750.00 |
| above \$125,000 and not over<br>\$150,000 ..... | a fee of \$1000.00 |
| above \$150,000 and not over<br>\$175,000 ..... | a fee of \$1250.00 |

|   |                    |
|---|--------------------|
| above \$175,000 and not over<br>\$200,000 ..... | a fee of \$1500.00 |
| above \$200,000 and not over<br>\$250,000 ..... | a fee of \$2000.00 |
| above \$250,000 and not over<br>\$300,000 ..... | a fee of \$2500.00 |
| above \$300,000 and not over<br>\$350,000 ..... | a fee of \$3000.00 |
| above \$350,000 and not over<br>\$400,000 ..... | a fee of \$3500.00 |
| above \$400,000 and not over<br>\$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<br>\$25,000 .....   | a fee of \$ 150.00 |
| above \$25,000 and not over<br>\$50,000 .....   | a fee of \$ 500.00 |
| above \$50,000 and not over<br>\$75,000 .....   | a fee of \$ 750.00 |
| above \$75,000 and not over<br>\$100,00 .....   | a fee of \$1000.00 |
| above \$100,000 and not over<br>\$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 Territory 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 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 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 there 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 Territory 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 Territorial Tax Commissioner or his authorized deputy who shall refer them to the advisory board in the division concerned unless otherwise provided. 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) Each application for a renewal of license shall contain all of the information required of a new license, except that there shall be no proof of posting required. Each application for renewal shall further contain a statement of convictions, if any, of the applicant of Federal or Territorial law or regulation

covering the sale of intoxicating liquors during the term of the preceding license. No license shall be renewed 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. 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, renewed 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 precinct 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 or delegate the advisory board to hold such a hearing at which all persons interested may be heard. If at such hearing it shall appear that the majority of the citizens in attendance and over the age of 21 years, who reside within two miles of the place, for which a license is sought, object to the issuance of such license, the

Board may refuse to issue the same.

(F) An application for a license authorized under this Act made before the first day of July, shall be accompanied by the full amount of the license fee as provided herein, except that a license may, upon request of the applicant and approval of the Board, be issued for any designated continuous period of six months during any calendar year, and the fee therefor shall be one-half that prescribed for a calendar year.

(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, shall 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 by the Territorial Tax Commissioner 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, renewal, suspension or revocation of licenses under this Act shall be final.

(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 Territorial Treasury and withdrawn therefrom on voucher approved by the Director of Finance 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 renewal 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.

Sec. 35-4-23. **Provisional License: Affidavit and Payment of Fees.** The Tax Commissioner 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 showing the amount of business done during the preceding year under his respective license and the locations and establishments from which such business was done, which shall be filed with the Tax Commissioner. The licensee shall pay to said Tax Commissioner the license fees accrued during such preceding year at the time of filing such affidavit. Unless such affidavit is 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 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. An emergency is hereby

declared to exist and this Act shall be in full force and effect from and after the date of its passage and approval.

Approved March 29, 1957

## CHAPTER 132

### AN ACT

To abolish the death penalty as punishment for the commission of any crime; repealing Sections 66-16-43, 66-16-44, ACLA 1949; amending Sections 65-2-1, 65-2-2, 65-4-1, 65-4-2 and 66-16-41, ACLA 1949.

(H. B. 99)

**Be it enacted by the Legislature of the Territory of Alaska:**

Section 1. The death penalty is, and shall hereafter, be abolished as punishment in Alaska for the commission of any crime.

Sec. 2. Sec. 65-2-1, ACLA 1949, is hereby amended to read as follows:

Sec. 65-2-1. **"Crime" Defined.** That a crime or public offense is an act or omission forbidden by law, and punishable, upon conviction, by any of the following punishments:

First. Imprisonment;

Second. Fine;

Third. Removal from office;

Fourth. Disqualification to hold and enjoy any office of honor, trust, or profit.

Sec. 3. Sec. 65-2-2, ACLA 1949, is hereby amended to read as follows:

Sec. 65-2-2. **Division of Crimes: "Felonies" and "Misdemeanors" Defined.** That crimes are divided into felonies and misdemeanors. A felony is a crime which is or

may be punishable by imprisonment in the penitentiary. Every other crime is a misdemeanor.

Sec. 4. Sec. 65-4-1, ACLA 1949, is hereby amended to read as follows:

Sec. 65-4-1. **First Degree Murder.** That whoever, being of sound memory and discretion, purposely, and either of deliberate and premeditated malice or by means of poison, or in perpetrating or in attempting to perpetrate, any rape, arson, robbery, or burglary, kills another, is guilty of murder in the first degree, and shall be sentenced to imprisonment at hard labor for life or for any term of years.

Sec. 5. Sec. 65-4-2, ACLA 1949, is hereby amended to read as follows:

Sec. 65-4-2. **Obstructing or Injuring Railroad or Aircraft.** That whoever maliciously places an obstruction upon a railroad or street railroad, or displaces or injures anything appertaining thereto, or does any other act with intent to endanger the passage of any locomotive or car, and thereby occasions the death of