

TITLE 4. ALCOHOLIC BEVERAGES.

Chapter 05. THE ALCOHOLIC BEVERAGE CONTROL BOARD.

[Repealed, § 12 ch 131 SLA 1980. For current law, see AS 04.06.]

Chapter 06. ALCOHOLIC BEVERAGE CONTROL BOARD.

Sec. 04.06.010. Establishment of board.

There is established in the Department of Commerce, Community, and Economic Development the Alcoholic Beverage Control Board as a regulatory and quasi-judicial agency. The Board is in the Department of Commerce, Community, and Economic Development, but for administrative purposes only.

Sec. 04.06.020. Appointment and qualifications.

(a) The board consists of five members appointed by the governor and confirmed by a majority of the members of the legislature in joint session. A member of the board may not hold any other state or federal office, either elective or appointive.

(b) Except as provided in (c) of this section, at the time of appointment or reappointment, one member of the board shall be actively engaged in the public safety sector, one member of the board shall represent the general public, one member of the board shall have resided in a rural area within the previous five years, and two members of the board shall be actively engaged in the alcoholic beverage industry.

(c) A member of the board may not hold a wholesale alcoholic beverage license or be an officer, agent, or employee of a wholesale alcoholic beverage enterprise. Not more than two members of the board may be engaged in the same business, occupation, or profession. A board member actively engaged in the public safety sector, from a rural area, or representing the general public may not have, or have an immediate family member who has, a financial interest in a business for which a license is issued. A board member representing the general public may not be affiliated with the public safety sector or the public health sector.

(d) In this section,

- (1) "immediate family member" means a spouse, child, or parent;
- (2) "public health sector" means a profession that primarily has the responsibility to protect the safety and improve the health of communities through education, policy making, and research for disease and injury prevention;
- (3) "public safety sector" means a peace officer, a municipal or state prosecutor, a former judicial officer, or a profession that primarily has the authority to provide for the welfare and protection of the general public through the enforcement of municipal, state, or federal laws;

(4) “rural area” means a community with a population of 7,000 or less that is not connected by road or rail to Anchorage or Fairbanks or with a population of 2,000 or less that is connected by road or rail to Anchorage or Fairbanks; in this paragraph,

(A) “community” means a city as that term is defined in AS 29.71.800, and an established village that is located in a borough or the unorganized borough;

(B) “population” means the population of a community as determined under AS 29.60.860(c).

Sec. 04.06.030. Terms of office; chair.

(a) Members of the board shall be appointed for overlapping terms of three years.

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

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

(d) A member who has served all or part of three successive terms on the board may not be reappointed to the board unless three years have elapsed since the person has last served on the board.

Sec. 04.06.040. Per diem and expenses.

Members of the board do not receive a salary, but are entitled to per diem and travel expenses authorized by law for other boards and commissions.

Sec. 04.06.050. Meetings.

The board shall meet at the call of the chair. The board shall also meet at least once each year in each judicial district of the state to study this title and to modify existing board regulations in light of statewide and local problems.

Sec. 04.06.060. Quorum and majority.

Three members of the board constitute a quorum for the conduct of business, except that a majority of the whole membership of the board must approve all applications for new licenses, and all renewals, transfers, suspensions, and revocations of existing licenses.

Sec. 04.06.070. Appointment and removal of director.

The governor shall appoint a director to serve as the executive officer of the board and the Marijuana Control Board created under AS 17.38.080. The director may be removed by a majority vote of the full membership of the board and a majority vote of the full membership of the Marijuana Control Board. The governor may remove the director for misconduct, misfeasance, or malfeasance in office. The governor may not remove the director unless the director is given a copy of the charges and afforded an opportunity to be publicly heard, in person or by counsel, in defense against the charges upon at least 10 days notice. If the director is removed for cause, the governor shall file with the lieutenant governor a complete statement of all charges made against the director and the findings based on the charges, together with a complete record of any hearing.

Sec. 04.06.075. Authority of director.

(a) The director shall enforce this title and regulations adopted by the board.

(b) The director is not a member of the board and may not vote on a matter before the board.

Sec. 04.06.080. Delegation of authority.

The director shall issue, renew, transfer, suspend, or revoke all licenses and permits at the direction of the board. However, notwithstanding AS 04.11.070, the board may delegate authority to the director to temporarily grant or deny the issuance, renewal, or transfer of licenses and permits. The director's temporary grant or denial of the issuance, renewal, or transfer of a license or permit is not binding on the board. The board may delegate to the director any duty imposed by this title except its power to propose and adopt regulations.

Sec. 04.06.090. Powers and duties.

(a) The board shall control the manufacture, barter, possession, and sale of alcoholic beverages in the state. The board is vested with the powers, duties, and responsibilities necessary for the control of alcoholic beverages, including the power to propose and adopt regulations and to hear appeals from actions of the director, and from actions of officers and employees charged with enforcing the alcoholic beverage control laws and the regulations of the board.

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

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

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

(e) The board shall promptly notify all licensees and municipalities of major changes to this title and to regulations adopted under this title. However, if changes only affect specific classifications of licenses and permits, the board need only notify those licensees and municipalities directly affected by the changes. Current copies of this title and current copies of the regulations adopted under it shall be made available at all offices in the state of the Department of Commerce, Community, and Economic Development and the detachment headquarters and posts maintained by the division of Alaska state troopers in the Department of Public Safety.

Sec. 04.06.095. Statewide database.

The board, after consulting with package store licensees, shall create and maintain a statewide database that contains a monthly record of the alcohol purchased by, and shipped to, a person

who resides in a municipality or established village that has restricted the sale of alcoholic beverages under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2). Except as otherwise specifically provided in this section, the information contained in the database is confidential and is not subject to inspection or copying under AS 40.25.110 — 40.25.220. Information in the database shall be purged one year after entry unless it is needed for criminal investigation or prosecution. Information in the database is available only to

- (1) a package store licensee, agent, or employee to consult before shipping alcohol to a purchaser in a restricted area as provided in AS 04.11.150(g);
- (2) a law enforcement officer;
- (3) a probation or parole officer;
- (4) the board; and
- (5) the person who is the subject of the information; the board shall adopt regulations concerning access by a person to information contained in the database of the purchases by, and shipments to, that person.

Sec. 04.06.100. Regulations.

(a) The board shall adopt regulations governing the manufacture, barter, sale, consumption, and possession of alcoholic beverages in the state that are consistent with this title and necessary to carry out the purpose of this title in a manner that will protect the public health, safety, and welfare. The regulations shall be adopted in accordance with AS 44.62 (Administrative Procedure Act).

(b) The subjects covered by regulations adopted under (a) of this section may include the following matters:

- (1) employment, conduct, and duties of the director and of regular and contractual employees of the board;
- (2) procedures for the issuance, denial, renewal, transfer, revocation, and suspension of licenses and permits;
- (3) terms and conditions of licenses and permits issued;
- (4) fees for licenses and permits issued for which fees are not prescribed by statute;
- (5) conduct of regular and special meetings of the board;
- (6) delegation to the director of routine administrative functions and powers;
- (7) the temporary granting or denial of issuance, transfer, and renewal of licenses;
- (8) manner of giving any notice required by law or regulation when not provided for by statute;
- (9) requirements relating to the qualifications of licensees, the conditions upon which a license may be issued, the accommodations of licensed premises, and board inspection of those premises;

- (10) making of reports by wholesalers;
- (11) purchase of fidelity bonds by the state for the director and the employees of the board;
- (12) prohibition of possession of alcoholic beverages by drunken persons and by minors;
- (13) required reports from corporations licensed under this title, including reports of stock ownership and transfers and changes of officers and directors;
- (14) creation of classifications of licenses or permits not provided for in this title;
- (15) establishment and collection of fees to be paid on application for a license or permit;
- (16) required reports from partnerships and limited partnerships licensed under this title, including reports of transferred interests of 10 percent or more;
- (17) required reports from limited liability organizations licensed under this title, including reports of the transfer of a member's interest if the transfer equals 10 percent or more of the ownership of the limited liability organization and any change of managers.

Sec. 04.06.110. Peace officer powers.

The director and the persons employed for the administration and enforcement of this title may, with the concurrence of the commissioner of public safety, exercise the powers of peace officers when those powers are specifically granted by the board. Powers granted by the board under this section may be exercised only when necessary for the enforcement of the criminally punishable provisions of this title, regulations of the board, and other criminally punishable laws and regulations, including investigation of violations of laws against prostitution and sex trafficking described in AS 11.66.100 — 11.66.135 and laws against gambling, promoting gambling, and related offenses described in AS 11.66.200 — 11.66.280. Unless authorized by a search warrant described in AS 12.35, nothing in this section authorizes the use of metal keys, magnetic card keys, or identification cards to access private clubs.

Chapter 10. LICENSING.

[Repealed, § 12 ch 131 SLA 1980. For current law, see AS 04.11.]

Chapter 11. LICENSING.

Article 1. LICENSING AND REPORTING REQUIREMENTS.

Sec. 04.11.010. License or permit required; presumption concerning possession for sale.

(a) Except as provided in AS 04.11.020, a person may not knowingly manufacture, sell, offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage unless under license or permit issued under this title.

(b) Except as provided in this subsection, a person may not solicit or receive orders for the delivery of an alcoholic beverage in an area that has adopted a local option under AS 04.11.491. If the area has adopted a local option under AS 04.11.491(a)(1), (2), or (3), or (b)(1) or (2), a package store licensee outside of that local option area may receive orders as provided under AS 04.11.150 but may not solicit in that area or receive orders through an agent or employee in that area. This subsection does not apply to a package store licensee who operates a package store in an area that has adopted a local option under AS 04.11.491(a)(2)(C) or (3)(C) or (b)(2)(C). A person who violates this subsection is punishable upon conviction as provided under AS 04.16.200(a) or (b).

(c) Unless a municipality or established village has adopted a more restrictive local option under AS 04.11.491(g), in a criminal prosecution for possession of alcoholic beverages for sale in violation of (a) of this section, the fact that a person

(1) possessed more than 10 1/2 liters of distilled spirits or 24 liters or more of wine, or either a half-keg of malt beverages or 12 gallons or more of malt beverages in individual containers in an area where the sale of alcoholic beverages is restricted or prohibited under AS 04.11.491 creates a presumption that the person possessed the alcoholic beverages for sale;

(2) sends, transports, or brings more than 10 1/2 liters of distilled spirits or 24 liters or more of wine, or either a half-keg of malt beverages or 12 gallons or more of malt beverages in individual containers to an area where the sale of alcoholic beverages is restricted or prohibited under AS 04.11.491 creates a presumption that the person sent, transported, or brought the alcoholic beverages for sale in the area.

(d) In this section,

(1) "bring" has the meaning given in AS 04.11.499;

(2) "send" has the meaning given in AS 04.11.499;

(3) "transport" has the meaning given in AS 04.11.499.

Sec. 04.11.015. Purchase from nonlicensee prohibited.

(a) A person may not purchase alcoholic beverages from a person who is not a licensee, permittee, or an agent or employee of a licensee or permittee.

(b) A person who violates this section is guilty of a violation.

Sec. 04.11.020. Exceptions: License or permit not required.

(a) A license or permit is not required to authorize sales made by a person under a judgment and decree of foreclosure, under the bankruptcy law of the United States, or under order of the board or a court under AS 04.16.220.

(b) A license or permit is not required to serve alcoholic beverages in exchange for valuable contributions at a private gathering of a bona fide group of co-workers or of a professional, social, or fraternal organization if equal contributions are made by all in attendance and only the amount required to purchase the alcoholic beverages is contributed. All other applicable

provisions of this title and regulations under this title shall be observed at these private gatherings.

Sec. 04.11.030. Death of licensee.

(a) The executor or administrator of the estate of a person who was operating a business as a sole licensee under a license authorized by this title may continue to operate the licensed business until an application for transfer of a license to another person is approved or until the license is forfeited under (b) of this section.

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

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

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

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

Sec. 04.11.040. Board approval of transfers.

(a) A license issued under this title may not be transferred to another person except with the written consent of the board.

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

(c) A person may not receive or transfer controlling interest in a liquor license issued to a partnership, including a limited partnership, a limited liability organization, or a corporation under this title, except with the written consent of the board.

Sec. 04.11.045. Reports required of limited liability organizations.

(a) A limited liability organization licensed under this title shall report to the board when a member of the limited liability organization transfers 10 percent or more of the ownership of the organization and shall report a change of managers.

(b) The report to the board shall be made in writing in duplicate and shall be sent within 10 days after the change in member interest or manager.

Sec. 04.11.050. Reports required of corporations.

(a) A corporation issued a license under this title shall report to the board when 10 percent or more of its corporate stock is transferred and shall also report any change in its corporate officers or in the membership of its board of directors.

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

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

Sec. 04.11.055. Reports required of partnerships.

(a) A partnership, including a limited partnership, issued a license under this title shall report to the board when a partnership interest of 10 percent or more is transferred and shall report a change of general partners.

(b) The report to the board shall be made in writing in duplicate and shall be sent within 10 days after the change in interest or change of general partners.

Sec. 04.11.060. Nonresident distiller, brewer, winery, or wholesaler.

A distiller, brewer, winery, or wholesaler whose plant or principal place of business is outside the state may not sell products directly to licensees in the state without

- (1) obtaining a general wholesale license under AS 04.11.160(a) for each wholesale distributing point in the state;
- (2) appointing an agent upon whom process can be served; and
- (3) obtaining other applicable licenses under the provisions of this title.

Sec. 04.11.070. Power limited to the board.

Only the board may issue, renew, transfer, relocate, suspend, or revoke a license under this title.

Article 2. LICENSES AND PERMITS.

Sec. 04.11.080. Types of licenses and permits.

Licenses and permits issued under this title are as follows:

- (1) beverage dispensary license;
- (2) duplicate beverage dispensary license for additional rooms;
- (3) restaurant or eating place license;
- (4) club license;

- (5) bottling works license;
- (6) brewery license;
- (7) package store license;
- (8) general wholesale license;
- (9) wholesale malt beverage and wine license;
- (10) distillery license;
- (11) common carrier dispensary license;
- (12) retail stock sale license;
- (13) recreational site license;
- (14) pub license;
- (15) winery license;
- (16) caterer's permit;
- (17) special events permit;
- (18) conditional contractor's permit;
- (19) brewpub license;
- (20) golf course license;
- (21) outdoor recreation lodge license;
- (22) destination resort license.

Sec. 04.11.090. Beverage dispensary license.

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

(b) The biennial beverage dispensary license fee is \$2,500.

(c) *[Repealed, § 69 ch 101 SLA 1995.]*

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

(e) A holder of a beverage dispensary license may not maintain upon the licensed premises more than one room in which there is regularly maintained a fixed counter or service bar at which alcoholic beverages are sold or served to members of the public for consumption unless the licensee is issued by the board, after investigation, a duplicate of the original license for each of the rooms. The holder of the beverage dispensary license shall pay to the board with each application for a duplicate license an amount equal to the fee payable for the original beverage dispensary license under (b) of this section. If the licensed premises are located

within a municipality, a duplicate beverage dispensary license may not be issued unless approved by the council or assembly, as appropriate.

(f) The area designated as the licensed premises under a beverage dispensary license issued to a bowling alley may include the concourse or lane areas of the bowling alley. Notwithstanding AS 04.16.049, the board may, upon application, authorize access by persons under 21 years of age to the concourse or lane areas designated part of the bowling alley's licensed premises during hours when no alcoholic beverages are being sold, served, or consumed.

(g) A holder of a beverage dispensary license issued to a hotel, motel, resort, or similar business that caters to the traveling public may stock alcoholic beverages in guest rooms, for sale and consumption in the guest room only, if authorized by the board. Alcoholic beverages stocked under this subsection shall be stocked by an employee who is 21 years of age or older, may not be supplied or resupplied during hours that the sale of alcoholic beverages is prohibited as provided under AS 04.16.010(a) and (d), and shall be stored in a refrigerated unit using a key or combination lock system within the guest room. A key lock system shall be designed to prevent the removal of the key unless the refrigerated unit is locked. Except for the licensee, or an agent or employee of the licensee, a key or combination enabling a person to obtain alcoholic beverages stocked in a guest room may only be provided to a guest who occupies the room and who is 21 years of age or older. The board shall issue a permit to each licensee authorized to stock alcoholic beverages under this subsection and may by regulation impose an administrative fee for the cost of issuing the permit.

Sec. 04.11.100. Restaurant or eating place license.

(a) A restaurant or eating place license authorizes a restaurant or eating place to sell beer and wine for consumption only on the licensed premises.

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

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

(d) The biennial fee for a restaurant or eating place license is \$600.

(e) A license may be renewed under this section only if the licensee provides evidence to the board's satisfaction that gross receipts from the sale of food upon the licensed premises constitute no less than 50 percent of the gross receipts of the licensed premises for each of the two preceding calendar years.

(f) Notwithstanding the provisions of (b) of this section, upon written application and approval of the local governing body, the board may renew a restaurant or eating place license and exempt the licensee from the requirements of (b) of this section if the license was issued under the provisions of this subsection before October 1, 1996. The board may not

(1) renew a license as provided under this subsection if

(A) the renewal would result in more than one exempt restaurant or eating place license for every 10 restaurant or eating place licenses allowed under the provisions of AS 04.11.400(a)(2) or (3);

(B) the premises would be located in a building having a public entrance within 200 feet of the boundary line of a school or a church building in which religious services are being regularly conducted; for purposes of this subparagraph, the 200-foot prohibition is measured from the outer boundary line of the school or the public entrance of the church building by the shortest pedestrian route to the nearest public entrance of the restaurant or eating place; or

(2) transfer an exempt license issued under this subsection to another person.

(g) A restaurant or eating place licensee

(1) operating under a license issued under (f) of this section shall offer a full-service menu of food items available to the public during all times that beer or wine is served or consumed; the menu must be approved by the board;

(2) may only provide entertainment on the licensed premises between the hours of 3:00 p.m. and 11:00 p.m. unless approved by the director after written request by the licensee for a specific occasion; in this paragraph, "entertainment" includes dancing, karaoke, live performances, or similar activities, but does not include recorded or broadcast performances without live participation.

Sec. 04.11.110. Club license.

(a) A club license authorizes a club or organization to sell alcoholic beverages for consumption only on the licensed premises.

(b) A club license may only be issued to a club, fraternal organization, patriotic organization, or social organization that has been (1) chartered by a state or national organization for a period of two consecutive years before application for a license under this section; or (2) chartered by a national organization and the national organization has maintained a chartered club or organization within the state for a period of at least 20 years. The organization licensed under this section must be operated for social, recreational, political, benevolent, or athletic purposes and not for profit. A club license may only be issued to an organization if none of the income from the sale of alcoholic beverages is distributed to its members, directors, or officers. Soliciting of public patronage of the club premises except as approved by the board is a violation of this section.

(c) The biennial club license fee is \$1,200.

(d) Alcoholic beverages sold under a club license may be purchased only by (1) members of the club and their families, (2) widows or widowers of deceased members who have been accorded club privileges, and (3) military personnel on active duty, and their accompanying spouses, who are extended the privilege by patriotic organizations. Alcoholic beverages may be purchased only in the portion of the club rooms that are part of the licensed premises.

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

(f) Alcoholic beverages purchased by a club or organization licensed under this section may not be used or consumed off the licensed premises of the club or organization by any person, including club members and employees unless used or consumed at social, recreational, benevolent, or athletic functions of the club or organization and the use or consumption is approved by the board.

(g) Access by persons under 21 years of age to

(1) a club's licensed premises is permitted when alcoholic beverages are not present; and

(2) the premises of a patriotic organization licensed as a club under this section is permitted when alcoholic beverages are present, if the person is a guest of a member of the club, or the spouse accompanying a guest, and the guest possesses a valid active duty military or armed forces identification card issued by the United States Department of Defense or the United States Department of Homeland Security.

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

Sec. 04.11.115. Golf course license.

(a) A golf course license authorizes the licensee to sell beer and wine on licensed premises located on a golf course.

(b) A license may be issued only if

(1) an application is approved by the local governing body and the board;

(2) the applicant does not hold a beverage dispensary license or a restaurant or eating place license; this paragraph does not apply to an applicant who holds a beverage dispensary license or a restaurant or eating place license if the license was acquired by transfer from a licensee under AS 04.11.280.

(c) The biennial license fee is \$400. The license fee and application fee must accompany the application for the license. An application must include a drawing of the golf course. A sample minimum food menu must accompany the application.

(d) Food similar to that listed in the sample menu must be available during times when beer and wine are sold, served, and consumed on the licensed premises.

(e) A golf course license may not be transferred or relocated.

(f) In this section,

(1) "golf course" means a course, having at least nine holes and covering at least 2,950 yards, that is open to the public; and

(2) "licensed premises" includes buildings located on the golf course or a vending cart designed to carry beverages or food located on the golf course.

Sec. 04.11.120. Bottling works license.

(a) A bottling works license authorizes the holder to operate a bottling works where beer and wine may be bottled and sold.

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

(c) The biennial bottling works license fee is \$500.

Sec. 04.11.130. Brewery license.

(a) A brewery license authorizes the holder to operate a brewery where beer is manufactured and bottled or barreled for sale.

(b) The holder of a brewery license may sell beer in quantities of

(1) not more than five gallons a day to an individual who is present on the licensed premises for consumption off the premises;

(2) more than five gallons a day to a person who is licensed under this title, or in another state or country.

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

(d) The biennial brewery license fee is \$1,000.

(e) Unless prohibited by AS 04.16.030, a holder of a brewery license may sell not more than 36 ounces a day of the brewery's product to a person for consumption on the premises if

(1) the brewery does not allow live entertainment, televisions, pool tables, dart games, dancing, electronic or other games, game tables, or other recreational or gaming opportunities on the premises where the consumption occurs;

(2) the brewery does not provide seats at the counter or bar where the product is served; and

(3) the room where the consumption occurs is not open before 9:00 a.m. and serving of the product ends not later than 8:00 p.m.

Sec. 04.11.135. Brewpub license.

(a) A brewpub license authorizes the holder of a beverage dispensary license to

(1) manufacture on premises licensed under the beverage dispensary license not more than 465,000 gallons of beer in a calendar year;

(2) sell beer manufactured on premises licensed under the beverage dispensary license for consumption on the licensed premises or other licensed premises of the beverage dispensary licensee that are also licensed as a beverage dispensary;

- (3) sell beer manufactured on the premises licensed under the beverage dispensary license in quantities of not more than five gallons a day to an individual who is present on the licensed premises for consumption off the premises;
- (4) provide a small sample of the brewpub's beer manufactured on the premises free of charge unless prohibited by AS 04.16.030;
- (5) sell beer manufactured on the premises licensed under the beverage dispensary license to a person licensed as a wholesaler under AS 04.11.160; sales under this paragraph may not exceed 37,200 gallons in a calendar year, including sales under (6) of this subsection; and
- (6) sell not more than 6,200 gallons in a calendar year of beer manufactured on the premises to a person who is licensed under this title, or in another state or country, if the premises licensed under the beverage dispensary license are located in a community with a population of 75,000 or more.

(b) Except as provided under AS 04.11.360(10), the brewpub license is not transferable, shall remain the property of the state, and is not subject to any form of alienation.

(c) The biennial brewpub license fee is \$500.

(d) Notwithstanding (a) of this section, the holder of a brewpub license who, under the provisions of AS 04.11.450(b), formerly held a brewery license and a restaurant or eating place license and who, under the former brewery license, manufactured beer at a location other than the premises licensed under the former restaurant or eating place license may

- (1) manufacture not more than 465,000 gallons of beer in a calendar year on premises other than the premises licensed under the beverage dispensary license;
- (2) provide a small sample of the manufactured beer free of charge at the location the beer is manufactured unless prohibited by AS 04.16.030; and
- (3) sell the beer authorized to be manufactured under this subsection
 - (A) on the premises licensed under the beverage dispensary license or other licensed premises of the beverage dispensary licensee that are also licensed as a beverage dispensary;
 - (B) to a wholesaler licensed under AS 04.11.160; sales under this subparagraph may not exceed 37,200 gallons in a calendar year, including sales under (D) of this paragraph;
 - (C) to an individual who is present on the premises described under (A) of this paragraph, or where the beer is manufactured, in quantities of not more than five gallons a day for consumption off the premises; and
 - (D) to a person licensed under this title, or in another state or country, if the premises where the beer is manufactured are located in a community with a population of 75,000 or more; sales under this subparagraph may not exceed 6,200 gallons in a calendar year.

(e) Notwithstanding (a) of this section, a brewpub license authorizes the holder of a restaurant or eating place license to (1) manufacture on premises licensed under the restaurant or eating place license not more than 465,000 gallons of beer in a calendar year; (2) sell beer manufactured on premises licensed under the restaurant or eating place license for consumption on the licensed premises; (3) sell beer manufactured on the premises licensed under the restaurant or eating place license in quantities of not more than five gallons a day for consumption off the premises to an individual who is present on the licensed premises; and (4) provide a small sample of the brewpub's beer manufactured on the premises free of charge unless prohibited by AS 04.16.030. A person who holds a brewpub license under this subsection may not hold more than one brewpub license.

Sec. 04.11.140. Winery license.

(a) A winery license authorizes the holder to operate a winery where wine is manufactured and bottled or barreled for sale.

(b) The holder of a winery license may sell wine in quantities of

(1) not more than five gallons

(A) to an individual who is present on the licensed premises; or

(B) by shipping to an individual if the shipment is not to an area that has prohibited the importation or possession of alcoholic beverages under this chapter or to an area that has limited the importation or possession of alcoholic beverages unless the sale complies with the limitation;

(2) more than five gallons to a person who is licensed under this title, or in another state or country.

(c) The holder of a winery license may permit a person to sample small portions of the wine free of charge unless prohibited by AS 04.16.030.

(d) The biennial winery license fee is \$500.

Sec. 04.11.150. Package store license; permit for delivery to social events.

(a) Except as provided under (g), (i), and (j) of this section, a package store license authorizes the licensee to sell alcoholic beverages to a person present on the licensed premises or to a person known to the licensee who makes a written solicitation to that licensee for shipment. A licensee, agent, or employee may only ship alcoholic beverages to the purchaser. Before commencing the practice of shipping alcoholic beverages, and with each subsequent application to renew the license, a licensee shall notify the board in writing of the licensee's intention to ship alcoholic beverages in response to a written solicitation. The package store licensee, agent, or employee shall include written information on fetal alcohol syndrome and fetal alcohol effects resulting from a woman consuming alcohol during pregnancy in a shipment of alcoholic beverages sold in response to a written solicitation.

(b) The biennial package store license fee is \$1,500.

(c) The holder of a package store license may not sell alcoholic beverages unless any stamps required to be affixed to the package by state or federal law are intact on the packages.

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

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

(f) When the holder of a package store license is also a holder of a beverage dispensary license and the package store premises are contained within or are adjacent to the premises of the beverage dispensary and the only public entrance to the package store is by a door or other means within the premises of the beverage dispensary, the board shall determine if additional entrances to the package store are necessary for enforcement purposes, to meet health and fire safety standards, or for the convenience of the public.

(g) If a shipment is to an area that has restricted the sale of alcoholic beverages under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2), a package store licensee, agent, or employee may not ship to a purchaser more than 10 and one-half liters of distilled spirits or 24 liters or more of wine, or either a half-keg of malt beverages or 12 gallons or more of malt beverages in individual containers in a calendar month, or a lower amount of distilled spirits, wine, or malt beverages if the municipality or established village has adopted the lower amount by local option under AS 04.11.491(g). Before shipping alcohol to a purchaser in a restricted area, a package store licensee, agent, or employee shall consult the database maintained by the board under AS 04.06.095 for any alcoholic beverage shipments made to the purchaser during that calendar month by a package store licensee, agent, or employee. A package store licensee, agent, or employee may not ship an amount of alcoholic beverages to a purchaser in a restricted area that, when added to the amount already shipped, exceeds the amount authorized by this subsection. A package store licensee, agent, or employee shall immediately enter into the database the date and the amount of alcoholic beverages shipped to the purchaser. Failure to enter into the database the date and amount of alcoholic beverages shipped to the purchaser as required by this subsection is a class B misdemeanor.

(h) A package store licensee, agent, or employee may not

(1) divide or combine shipments of alcoholic beverages so as to circumvent the limitation imposed under (g) of this section; or

(2) in response to a written order, ship alcohol to a purchaser at an address other than the address where the purchaser resides or, if the purchaser resides in a municipality or established village that has adopted a local option under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2) for which a community delivery site has been designated under AS 04.11.491(f), to an address other than that community delivery site except as provided by AS 04.11.491(f)(1) and (2).

(i) A package store license authorizes the licensee to deliver not more than two bottles of wine or champagne, not more than two bottles of distilled spirits, or not more than 72 ounces of

beer in a gift basket with a floral arrangement to a cruise ship passenger or a hotel guest. The wine, champagne, distilled spirits, or beer for delivery may be purchased from a package store licensee by a florist or gift basket establishment with a state business license that designates the business as a florist or gift basket establishment. The package store licensee shall keep on file a copy of the Alaska business license of a florist or gift basket establishment to which the licensee sells wine, champagne, distilled spirits, or beer for delivery to third persons by the package store. The package store must keep a written record of each delivery made under this subsection for a period of at least one year, including the name of the business purchasing the wine, champagne, distilled spirits, or beer and the name of the person to whom the delivery is made. A delivery under this subsection must be made by the licensee or an employee or agent of the licensee who has completed alcohol server training as required under AS 04.21.025. The board shall issue a permit to each licensee authorized to deliver wine, champagne, distilled spirits, or beer under this subsection and may by regulation impose an administrative fee for the cost of issuing the permit.

(j) A package store license authorizes the licensee to deliver alcoholic beverages between the hours of 8:00 a.m. and 5:00 p.m. to a responsible adult at the location of a wedding or wedding reception or other social event as defined by regulation of the board. A delivery under this subsection may be made only after a sale by written order received from a person present on the licensed premises who makes payment in full at least 48 hours before the delivery. The written order must include the name and address of the purchaser and the date, time, and address of the delivery, as well as the name and address of the responsible adult who will receive the delivery of alcoholic beverages. A delivery authorized under this subsection must be made by the licensee or an employee or agent of the licensee who has completed alcohol server training as required under AS 04.21.025. Delivery may only be made to a responsible adult at the delivery address on the written order. The responsible adult must provide identification and proof of age as defined in AS 04.21.050, and must acknowledge receipt of the alcoholic beverages in writing. The package store licensee shall retain the written order and the responsible adult's written acknowledgment for at least one year after delivery. The board shall issue a permit to each licensee authorized to deliver alcoholic beverages under this subsection and may by regulation impose an administrative fee for the cost of issuing the permit.

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

Sec. 04.11.160. Wholesale licenses.

(a) A general wholesale license authorizes the holder to sell alcoholic beverages in the original package, and wine in bulk, in quantities of not less than five gallons. A holder of a general wholesale license may not sell to a person not licensed under this title, except as provided in AS 04.21.040. A holder of a general wholesale license may not sell alcoholic beverages unless any stamps required to be affixed to the package by state or federal law are intact on the package. A wholesaler must obtain a general wholesale license for each distributing point. The biennial general wholesale license fee is \$2,000, payable at the time of making an original application or an application for renewal. In addition, the following annual fees shall be paid by a holder of a general wholesale license:

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

(b) A wholesale malt beverage and wine license authorizes the holder to sell malt beverages and wine in the original packages in quantities of not less than five gallons. The holder of a wholesale malt beverage and wine license may not sell to a person not licensed under this title except as provided in AS 04.21.040. The biennial wholesale malt beverage and wine license fee is \$400, payable at the time of making an original application or application for renewal. In addition, the following annual fees shall be paid by a holder of a wholesale malt beverage and wine license:

Total Business Transacted During Calendar Year	Annual Fee
over \$20,000 and not over \$50,000	\$ 300
over \$50,000 and not over \$100,000	\$ 1,000
over \$100,000 and not over \$150,000	\$ 1,500
over \$150,000 and not over \$200,000	\$ 2,000
over \$200,000 and not over \$400,000	\$ 4,000
over \$400,000 and not over \$600,000	\$ 6,000
over \$600,000 and not over \$800,000	\$ 8,000
over \$800,000	\$10,000.

(c) No later than February 28 of each year, the licensee shall file with the board an affidavit showing the total business transacted during the preceding calendar year under the license and the location of the licensed premises at which the business was transacted. At the time of filing the affidavit, the licensee shall pay the additional annual fees accrued under (a) and (b) of this section during the preceding calendar year.

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

(e) A person who applies for issuance or renewal of a license under this section shall file, on forms provided by the board, the following information regarding each product line of alcoholic beverages that the person intends to purchase, offer for sale, or sell: (1) the supplier of the product line; (2) the full and correct brand names in the product line; (3) the name of the distiller, brewer, vintner, or importer of the product line; and (4) a certification by the distiller, brewer, vintner, or importer of the product line that the person is the primary source of supply

for the product line. In addition to the fees imposed under (a) and (b) of this section, a person filing under this subsection shall pay a biennial filing fee as follows:

- 1 to 25 suppliers\$ 500
- 26 to 50 suppliers\$1,000
- 51 to 75 suppliers\$1,500
- over 75 suppliers\$2,000

In this subsection, “distiller, brewer, vintner, or importer” includes an exclusive agent of the distiller, brewer, vintner, or importer if the agent’s name appears on the label of the brand approved by the Alcohol and Tobacco Tax and Trade Bureau.

(f) A person licensed under this section shall notify the board within 10 days of a change in a primary source of supply designation required under (e) of this section.

(g) In this section, “total business transacted” means the total value of business transacted by the wholesale business, including the excise tax imposed by AS 43.60.010.

Sec. 04.11.170. Distillery license.

(a) A distillery license authorizes the holder to operate a distillery where alcoholic beverages are distilled and bottled or barreled for sale.

(b) A distillery license authorizes the holder to sell alcoholic beverages in

- (1) quantities of not more than one gallon a day to a person who is present on the licensed premises for consumption off the premises;
- (2) any amount to a person who is licensed under this title or in another state or country.

(c) The biennial distillery license fee is \$1,000.

(d) The holder of a distillery license may permit a person to sample small portions of the distillery’s product free of charge unless prohibited by AS 04.16.030.

(e) Unless prohibited by AS 04.16.030, a holder of a distillery license may sell not more than three ounces a day of the distillery’s product to a person for consumption on the premises if

- (1) the distillery does not allow live entertainment, televisions, pool tables, dart games, dancing, electronic or other games, game tables, or other recreational or gaming opportunities on the premises where the consumption occurs;
- (2) the distillery does not provide seats at the counter or bar where the product is served; and
- (3) the room where the consumption occurs is not open before 9:00 a.m. and serving of the product ends not later than 8:00 p.m.

(f) The holder of a distillery license may combine the distillery’s product under (d) and (e) of this section with other ingredients, including mixers, liquids, or garnishes, that are not alcoholic beverages.

(g) In this section, "distillery's product" means an alcoholic beverage distilled on the licensed premises.

Sec. 04.11.180. Common carrier dispensary license.

(a) A common carrier dispensary license authorizes the holder to sell alcoholic beverages for consumption aboard a vehicle, boat, or train licensed by a state or federal agency for passenger travel, or aboard aircraft operated by an airline licensed by a state or federal agency for passenger travel.

(b) Except for a common carrier that is an airline, a common carrier shall obtain a license for each vehicle, boat, or train in which alcoholic beverages are served. After obtaining an initial license for the first vehicle, boat, or train, the common carrier may obtain additional licenses for additional vehicles, boats, or trains upon making a written request identifying the vehicle, boat, or train in the manner prescribed by the board, and paying the biennial fee for additional licensed premises as required by (c) of this section.

(c) Except as provided for airlines under (d) of this section, the biennial fee for a common carrier dispensary license is \$1,000 for each of the first 10 licenses a common carrier holds and \$100 for each additional license issued to the common carrier after the first 10 licenses.

(d) The biennial fee for a common carrier dispensary license issued to an airline is the fee specified under (c) of this section for each aircraft in which alcoholic beverages are served or \$2,000 for each community served by the airline. An airline shall specify the fee applicable to the license at the time of the airline's application for issuance or renewal of the license.

(e) Upon request of the common carrier and payment of the proportionate prorated applicable fee, the board shall change the license period of a license for a vehicle, boat, or train to allow registration to occur in the biennial period of the balance of the licensee's common carrier licenses.

Sec. 04.11.190. Community liquor license.

[Repealed, § 69 ch 101 SLA 1995.]

Sec. 04.11.200. Retail stock sale license.

(a) A retail stock sale license authorizes the holder to sell the remaining stock of a package liquor store when the owner wishes to close out or terminate the business of the store.

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

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

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

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

Sec. 04.11.210. Recreational site license.

(a) The holder of a recreational site license may sell beer and wine at a recreational site during and one hour before and after a recreational event that is not a school event, for consumption on designated areas at the site.

(b) The biennial fee for a recreational site license is \$800.

(c) In this section, "recreational site" includes a location where baseball games, car races, hockey games, dog sled racing events, or curling matches are regularly held during a season.

(d) The board may not deny an application for renewal of a license issued under this section or an application to transfer a license issued under this section to another person solely because the board determines that the licensed premises is not a "recreational site" as defined under (c) of this section if the applicant

(1) held a license under this section or received a transferred license under this section that was valid at any time between January 1, 2018, and March 31, 2019 or holds a license that was initially issued under (e) of this section; and

(2) operates the license under the same conditions required at the time of initial licensure.

(e) The board may not deny an application for issuance of a new license under this section solely because the board determines that the licensed premises is not a "recreational site" as defined in (c) of this section if the applicant filed an application for a new license under this section between October 1, 2018, and the effective date of this Act [5/15/19].

Sec. 04.11.220. Pub license.

(a) A pub license authorizes the holder to sell beer and wine for consumption only at a designated premises located on the campus of an accredited college or university.

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

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

(d) The biennial fee for a pub license is \$800.

(e) In this section, an "accredited college or university" means a college or university accredited by the Northwest Commission on Colleges and Universities.

Sec. 04.11.225. Outdoor recreation lodge license.

(a) An outdoor recreation lodge license authorizes the holder to sell alcoholic beverages to a registered overnight guest or off-duty staff of the lodge for consumption on the licensed premises or in conjunction with purchased outdoor recreation activities provided by the licensee. An outdoor recreation lodge license may not be transferred.

(b) The biennial fee for an outdoor recreation lodge license is \$1,250.

(c) In this section, “outdoor recreation lodge” means a licensed business that provides overnight accommodations and meals, is primarily involved in offering opportunities for persons to engage in outdoor recreation activities, and has a minimum of two guest rooms.

Sec. 04.11.230. Caterer’s permit.

(a) A caterer’s permit authorizes the holder of a beverage dispensary license to sell or dispense alcoholic beverages at conventions, picnics, social gatherings, sporting events, or similar affairs held off the holder’s licensed premises. The permit may only be issued for designated premises for a specific occasion and for a limited period of time.

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

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

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

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

Sec. 04.11.240. Special events permit.

(a) A special events permit authorizes the holder to sell or dispense beer or wine for consumption at designated premises for a specific occasion and limited period of time. Only nonprofit fraternal, civic, or patriotic organizations active for a period of at least two years before application and incorporated under AS 10.20 are eligible for a special events permit, and only if all profits derived from the sale of beer or wine are paid to the organization and not to an individual.

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

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

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

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

Sec. 04.11.250. Conditional contractor's permit.

- (a) A conditional contractor's permit authorizes the holder to sell beer or wine for consumption only on designated premises for two years from the date of issuance of the permit at construction sites that are located outside a city and inside the boundaries of a military or naval reservation.
- (b) An applicant for a conditional contractor's permit must obtain and file with the board written permission from the commanding officer of the military or naval reservation and the prime contractor of the remotely situated project for the conduct of the activities authorized by the permit. A conditional contractor's permit may be renewed biennially upon reapplication for a permit and may be revoked or suspended at the discretion of the commanding officer or the prime contractor.
- (c) A conditional contractor's permit may not be transferred and is not valid after the completion of the holder's contract or the closing of the military or naval reservation.
- (d) The biennial conditional contractor's permit fee is \$1,200.

Sec. 04.11.255. Destination resort license.

- (a) A destination resort license authorizes the holder to sell alcoholic beverages at a destination resort for consumption on the licensed premises in conjunction with the visitor activities provided by the licensee to cruise ship passengers and staff and other visitors while the cruise ship is in port at this resort. A destination resort license may not be transferred.
- (b) The biennial fee for a destination resort license is \$1,250.
- (c) For purposes of this section, the term "destination resort" means a business that owns a site of at least 20 acres that is used principally as a destination for cruise ships and other vessels that carry a minimum of 50 passengers and that does not provide overnight lodging on its premises for visitors.

Article 3. APPLICATION FOR LICENSE OR PERMIT.

Sec. 04.11.260. Application for new license or permit.

- (a) An applicant for a new license or permit shall file with the director a written application, signed and sworn to by the applicant, giving the applicant's name and address. If the applicant is a corporation, the application shall be executed by the authorized officers of the corporation. If the applicant is a partnership, including a limited partnership, the application shall be executed by an authorized general partner. The application must include
 - (1) the type of license or permit desired;
 - (2) a description of the premises for which the license or permit is desired, giving the address by street and number, or other information, so that the location of the premises can be definitely determined;

- (3) the license fee;
- (4) the duration of the license or permit desired;
- (5) any other information required by the board.

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

(c) An applicant for a new license or permit must include with the application

- (1) proof that notice required by AS 04.11.310 has been given;
- (2) any petitions required to be secured under AS 04.11.460 before a license may be issued;
- (3) evidence of any approval by public authorities required to be obtained under AS 04.11.090(e), 04.11.220(c), 04.11.230(b), 04.11.240(b), or 04.11.250(b), before a license or permit may be issued.

(d) A partnership, including a limited partnership, that applies for a license or permit shall provide information required by the board including the names and addresses of all general partners and all partners with an interest of 10 percent or more.

(e) A limited liability organization that applies for a license or permit shall provide information required by the board, including the names and addresses of all members with an ownership interest of 10 percent or more and the names and addresses of all managers.

Sec. 04.11.270. Application for renewal of license or permit.

(a) An application for renewal of a license or renewal of a conditional contractor's permit must include

- (1) the information required for a new license or permit under AS 04.11.260 except that proof of notice under AS 04.11.310 is not required; and
- (2) a list of all convictions of the applicant of violations of this title, a regulation adopted under this title, or an ordinance adopted under AS 04.21.010, that occurred in the preceding two calendar years.

(b) A license shall be renewed as follows:

- (1) on or before November 1, the director shall mail a renewal application to each licensee whose license, unless renewed, will expire on December 31 of that year; the application shall be mailed to the licensee at the licensed premises or at a mailing address furnished by the licensee;
- (2) the licensee shall submit the completed renewal application and the biennial license fee to the director before January 1;
- (3) a renewal application filed after December 31 is delinquent and must be accompanied by a \$500 penalty fee;

(4) if December 31 falls on a weekend or a state holiday, the deadline is extended to the first business day following December 31.

Sec. 04.11.280. Application for transfer of a license to another person.

(a) An application for transfer of a license to another person must contain the same information about the transferee as is required of an applicant for a new license under AS 04.11.260 and must include other information required by the board.

(b) An application for the transfer of a license to another person must be accompanied by a statement, under oath, executed by the transferor, listing all debts of the business and all taxes due by the business. The board shall promptly inform each listed creditor of the application and the amount shown as owed to that creditor.

Sec. 04.11.290. Application for transfer of license location.

An application for a transfer of a license to a new location must contain the information required by the board and must be accompanied by proof that the notice required in AS 04.11.310 has been given and by any petitions required to be secured under AS 04.11.460 before a license may be transferred.

Sec. 04.11.295. Criminal justice information and records.

(a) An applicant for the issuance or transfer of a license or a conditional contractor's permit under this title shall submit to the board, with the application, the applicant's fingerprints and the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check. Except as provided under (c) of this section, the board may require an applicant for renewal of a license or a conditional contractor's permit under this title to submit fingerprints and pay the required fees. The board shall submit the fingerprints to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400. The Department of Public Safety may submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The board shall use the information obtained under this section in its determination of an applicant's qualification for issuance, transfer, or renewal of a license or a conditional contractor's permit.

(b) In this section,

(1) "applicant" means all individuals whose names and addresses are required to be provided with an application for a new license or permit under AS 04.11.260;

(2) "criminal justice information" has the meaning given in AS 12.62.900.

(c) For renewal of a license or conditional contractor's permit held by a corporation that is required by federal law to file periodic reports with the United States Securities Exchange Commission, the board may require submission of fingerprints and payment of the required fees of not more than three individuals who are officers of the corporation.

Sec. 04.11.300. State trooper investigation.

The state troopers shall assist the director in the investigation of applicants for new licenses and applicants for the transfer of existing licenses before the applications are considered by the board.

Sec. 04.11.310. Notice of application.

(a) Before a new license is issued, or transfer of location or transfer of a license to another person is approved, the applicant must post a copy of the application for 10 days at the location of the proposed licensed premises and at any additional locations designated by the board. The board may require the applicant (1) to provide a copy of the application to newspapers, radio and television stations for public service announcement or (2) to provide paid notice of the application once each week for three successive weeks in a newspaper or by radio. The notice required in this subsection must be in more than one language when the board decides it is necessary.

(b) Upon receipt of an application for the issuance, renewal, relocation, or transfer of ownership of a license for premises or proposed premises that are located within one-half mile of the boundary of a community council established by municipal charter or ordinance, the board shall

(1) immediately provide written notice of the application to

(A) the community council; and

(B) any nonprofit community organization that has requested notification in writing; and

(2) at least 10 days before the date set for board action on the application provide written notice of the proposed action and the time and place for a hearing to

(A) the community council; and

(B) any nonprofit community organization that has requested notification in writing.

Article 4. DENIAL, SUSPENSION, OR REVOCATION OF LICENSES AND PERMITS.

Sec. 04.11.320. Denial of new licenses and permits.

(a) An application requesting issuance of a new license shall be denied if

(1) the board finds, after review of all relevant information, that issuance of the license would not be in the best interests of the public;

(2) issuance of the license is prohibited by AS 04.11.410, relating to location of premises near churches and schools;

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

- (4) issuance of the license would violate the restrictions pertaining to the particular license imposed under this title;
- (5) issuance of the license is prohibited under this title as a result of an election conducted under AS 04.11.507;
- (6) the requirements of AS 04.11.420 — 04.11.450 relating to zoning, ownership and location of the license, and the identity and financing of a licensee have not been met;
- (7) issuance of the license is prohibited under AS 04.11.400(a) or prohibition of issuance of the license is found necessary under AS 04.11.400(b);
- (8) the application contains false statements of material fact;
- (9) the license is sought for the sale of alcoholic beverages in a first or second class city where there are no licensed premises at the time of application unless a majority of the voters have voted not to approve a local option to restrict or prohibit the sale of alcoholic beverages under AS 04.11.491, have voted to approve a local option to allow the type of premises under AS 04.11.491(a)(2) or (3), or have voted to remove a restriction or prohibition on the sale of alcoholic beverages under AS 04.11.495; or
- (10) the license is sought for the sale of alcoholic beverages in an established village where there are no licensed premises at the time of application unless a majority of the voters have voted not to approve a local option to restrict or prohibit the sale of alcoholic beverages under AS 04.11.491, have voted to approve a local option to allow the type of premises under AS 04.11.491(b)(2), or have voted to remove a restriction or prohibition on the sale of alcoholic beverages under AS 04.11.495.

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

- (1) the board finds, after review of all relevant information, that issuance of the permit would not be in the best interests of the public;
- (2) the board finds that any of the statements made in the application are untrue;
- (3) the application has not been completed in accordance with AS 04.11.260; or
- (4) the permit is sought for the sale of alcoholic beverages in a first or second class city or established village where there are no licensed premises at the time of application unless a majority of the voters have voted not to approve a local option to restrict or prohibit the sale of alcoholic beverages under AS 04.11.491, have voted to approve a local option to allow the type of permit under AS 04.11.491(a)(2) or (b)(2), or have voted to remove a restriction or prohibition on the sale of alcoholic beverages under AS 04.11.495.

Sec. 04.11.330. Denial of license or permit renewal.

(a) An application requesting renewal of a license shall be denied if

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

- (2) the license has been revoked for any cause;
- (3) the applicant has not operated the licensed premises for at least 240 hours during each of the two preceding calendar years, unless the board determines that the licensed premises are under construction or cannot be operated through no fault of the applicant;
- (4) the board finds that issuance of an existing license under AS 04.11.400(d) has not encouraged tourist trade;
- (5) the requirements of AS 04.11.420 — 04.11.450 relating to zoning, ownership of the license, and financing of the licensee have not been met;
- (6) renewal of the license would violate the restrictions pertaining to the particular license under this title or the license has been operated in violation of a condition or restriction imposed by the board;
- (7) renewal of the license is prohibited under this title as a result of an election conducted under AS 04.11.507;
- (8) the application has not been completed in accordance with AS 04.11.270; or
- (9) the license was issued under AS 04.11.400(g), and the board finds that the public convenience does not require renewal.

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

(c) An application requesting renewal of a conditional contractor's permit shall be denied if

- (1) the board finds, after review of all relevant information, that issuance of the permit would not be in the best interests of the public;
- (2) the application has not been completed in accordance with AS 04.11.270.

(d) Notwithstanding (a)(3) of this section, a recreational site license issued under AS 04.11.210 may be renewed if the license was exercised at least once during each of the two preceding calendar years.

Sec. 04.11.340. Denial of request for relocation.

An application requesting approval for the relocation of licensed premises shall be denied if

- (1) the board finds, after review of all relevant information, that relocation of the license would not be in the best interests of the public;
- (2) the relocation is prohibited under AS 04.11.400(a) or (b);
- (3) the license would be relocated out of the established village, incorporated city, unified municipality, or population area established under AS 04.11.400(a) within which it is located;

- (4) transfer of ownership is to be made concurrently with the relocation of the licensed premises and a ground for denial of the transfer of ownership under AS 04.11.360 is presented;
- (5) the application has not been completed in accordance with AS 04.11.290;
- (6) relocation of the license would result in violation of a local zoning law;
- (7) relocation of the license would violate the restrictions pertaining to the particular license imposed by this title;
- (8) relocation of the license is prohibited under this title as a result of an election conducted under AS 04.11.507; or
- (9) the license was issued under AS 04.11.400(d), (e), or (g).

Sec. 04.11.360. Denial of transfer of a license to another person.

An application requesting approval of a transfer of a license to another person under this title shall be denied if

- (1) the board finds, after review of all relevant information, that transfer of a license to another person would not be in the best interests of the public;
- (2) the application has not been completed in accordance with AS 04.11.280;
- (3) the application contains false statements of material fact;
- (4) the transferor has not paid all debts or taxes arising from the conduct of the business licensed under this title unless
 - (A) the transferor gives security for the payment of the debts or taxes satisfactory to the creditor or taxing authority; or
 - (B) the transfer is under a promise given as collateral by the transferor to the transferee in the course of an earlier transfer of the license under which promise the transferor is obliged to transfer the license back to the transferee in the event of default in payment for property conveyed as part of the earlier transfer of the license;
- (5) transfer of the license to another person would result in violation of the provisions of this title relating to identity of licensees and financing of licensees;
- (6) transfer of the license to another person would violate the restrictions pertaining to the particular license under this title;
- (7) transfer of the license to another person is prohibited under the provisions of this title as a result of an election conducted under AS 04.11.507;
- (8) the prospective transferee does not have the qualifications required under this title of an original applicant; however, an application may not be denied because a prospective transferee under AS 04.11.400(d)(2) does not have the qualifications required under AS 04.11.400(d)(1);

- (9) the license was issued under AS 04.11.100(f) or 04.11.400(g); however, this paragraph does not apply to a beverage dispensary license issued before June 6, 1985, under former AS 04.11.400(j) if the transfer does not involve a change in location; or
- (10) the license was issued under AS 04.11.135, unless the transferor is also applying to transfer the beverage dispensary license required under AS 04.11.135 to the same transferee.

Sec. 04.11.365. Licensed premises in multi-unit residential housing developments owned or financed by the Alaska Housing Finance Corporation.

For premises located in a multi-unit residential housing development owned or financed by the Alaska Housing Finance Corporation, the board may issue a new license under AS 04.11.320, renew a license under AS 04.11.330, or approve a request for relocation under AS 04.11.340 if the Alaska Housing Finance Corporation authorizes the use under AS 18.56.230 and

- (1) the license is for a restaurant or eating place under AS 04.11.100; or
- (2) the premises are designated by the board as a restaurant under AS 04.16.049.

Sec. 04.11.370. Suspension and revocation of licenses and permits.

(a) A license or permit shall be suspended or revoked if the board finds

- (1) misrepresentation of a material fact on an application made under this title or a regulation adopted under this title;
- (2) continuation of the manufacture, sale, or service of alcoholic beverages by the licensee or permittee would be contrary to the best interests of the public;
- (3) failure on the part of the licensee to correct a defect that constitutes a violation of this title, a condition or restriction imposed by the board, a regulation adopted under this title, or other laws after receipt of notice issued by the board or its agent;
- (4) conviction of a licensee of a violation of this title, a regulation adopted under this title, or an ordinance adopted under AS 04.21.010;
- (5) conviction of an agent or employee of a licensee of a violation of this title, a regulation adopted under this title, or an ordinance adopted under AS 04.21.010, if the licensee is found by the board to have either knowingly allowed the violation or to have recklessly or with criminal negligence failed to act in accordance with the duty prescribed under AS 04.21.030 with the result that the agent or employee violates a law, regulation, or ordinance;
- (6) failure of the licensee to comply with the public health, fire, or safety laws and regulations in the state;
- (7) use of the licensed premises as a resort for illegal possessors or users of narcotics, prostitutes, or sex traffickers; in addition to any other legally competent evidence, the character of the premises may be proved by the general reputation of the premises in the community as a resort for illegal possessors or users of narcotics, prostitutes, or sex traffickers;

- (8) occurrence of illegal gambling within the limits of the licensed premises;
- (9) the licensee permitted a public offense involving moral turpitude to occur on the licensed premises;
- (10) violation by a licensee of this title, a condition or restriction imposed by the board, a regulation adopted under this title, or an ordinance adopted under AS 04.21.010; or
- (11) violation by an agent or employee of a licensee of a provision of this title, a condition or restriction imposed by the board, a regulation adopted under this title, or an ordinance adopted under AS 04.21.010, if the licensee is found by the board to have either knowingly allowed the violation or to have recklessly or with criminal negligence failed to act in accordance with the duty prescribed under AS 04.21.030 with the result that the agent or employee violates the law, condition or restriction, regulation, or ordinance.

(b) If the board finds that a licensee or permittee has been convicted of a violation of a criminal law related to gambling under AS 11.66.200 — 11.66.280, the board shall suspend the license or permit for a period of at least six months if the offense is the person's first conviction or violation and shall revoke the license or permit if the offense is the person's second or subsequent conviction or violation.

(c) If the board receives notice from the Department of Revenue that a licensee or permittee has violated a provision of AS 05.15 related to gambling, the board

- (1) may suspend the license or permit; and
- (2) shall suspend the license or permit for a period of at least 30 days if the offense is the person's second or subsequent violation of AS 05.15 related to gambling.

Article 5. RESTRICTIONS ON ISSUANCE AND TRANSFER OF LICENSES.

Sec. 04.11.390. Residence requirements.

[Repealed, § 19 ch 74 SLA 1999.]

Sec. 04.11.395. Board imposed conditions or restrictions.

The board may, in the best interests of the public, impose conditions or restrictions on a license or permit issued under this chapter.

Sec. 04.11.400. Population limitations.

(a) Except as provided in (d) — (k) of this section, a new license may not be issued and the board may prohibit relocation of an existing license

(1) outside an established village, incorporated city, unified municipality, or organized borough if, after the issuance or relocation, there would be

(A) more than one restaurant or eating place license for each 1,500 population or fraction of that population, or

(B) more than one license of each other type, including licenses that have been issued under (d) or (e) of this section, for each 3,000 population or fraction of that population, in a radius of five miles of the licensed premises, excluding the populations of established villages, incorporated cities, unified municipalities, and organized boroughs that are wholly or partly included within the radius;

(2) inside an established village, incorporated city, or unified municipality if, after the issuance or relocation, there would be inside the established village, incorporated city, or unified municipality

(A) more than one restaurant or eating place license for each 1,500 population or fraction of that population; or

(B) more than one license of each other type, including licenses that have been issued under (d) or (e) of this section, for each 3,000 population or fraction of that population;

(3) inside an organized borough but outside an established village or incorporated city located within the borough if, after the issuance or relocation, there would be inside the borough, but outside the established villages and incorporated cities located within the borough,

(A) more than one restaurant or eating place license for each 1,500 population or fraction of that population; or

(B) more than one license of each other type, including licenses that have been issued under (d) or (e) of this section, for each 3,000 population or fraction of that population excluding the population of those established villages that have adopted a local option under AS 04.11.491(b)(1), (3), or (4), and excluding the population of incorporated cities located within the organized borough.

(b) If the radius described in (a)(1) of this section encompasses all of an established village, incorporated city, or unified municipality and the population resident inside and outside the established village, incorporated city, or unified municipality but inside the radius described in (a)(1) of the section is less than 3,000, the board may deny the issuance or relocation of the license.

(c) *[Repealed, § 88 ch 74 SLA 1985.]*

(d) The board may approve

(1) the issuance of a new beverage dispensary or restaurant or eating place license without regard to (a) of this section if it appears that the issuance will encourage the tourist trade by encouraging the construction or improvement of

(A) a hotel, motel, resort, or similar business relating to the tourist trade with a dining facility or having kitchen facilities in a majority of its rental rooms and at least a minimum number of rental rooms required according to the population of the incorporated city, unified municipality, or population area established under (a) of this section in which the facility will be located, as follows:

- (i) 10 rental rooms if the population is less than 1,501;
- (ii) 20 rental rooms if the population is 1,501 — 2,500;
- (iii) 25 rental rooms if the population is 2,501 — 5,000;
- (iv) 30 rental rooms if the population is 5,001 — 15,000;
- (v) 35 rental rooms if the population is 15,001 — 25,000;
- (vi) 40 rental rooms if the population is 25,001 — 50,000; and
- (vii) 50 rental rooms if the population is greater than 50,000; or

(B) an airport terminal; and

(2) the renewal or transfer of ownership of a beverage dispensary or restaurant or eating place license issued under (1) of this subsection if the

(A) holder of the license operates a hotel, motel, resort, or similar business relating to the tourist trade that

(i) has a dining facility on the licensed premises or kitchen facilities in a majority of its rental rooms; and

(ii) maintains at least the minimum number of rental rooms that the hotel, motel, resort, or similar business had at the time of initial licensure or that were required at the time of initial licensure; or

(B) licensed premises are located inside an airport terminal.

(e) The board may approve the issuance or transfer of ownership of a restaurant or eating place license without regard to (a) of this section if

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

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

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

(f) An application requesting a transfer of location of licensed premises limited under (a) or (b) of this section shall be granted without regard to (a) of this section if the new location is less than one mile from the original location and

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

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

(A) termination of a lease or rental agreement;

(B) condemnation of the premises;

(C) the substantial destruction of the premises by any cause.

(g) The board may approve the issuance or transfer of ownership of a restaurant or eating place license in a municipality without regard to (a) of this section if the board finds that issuance or transfer of the license is necessary for the public convenience.

(h) Except as provided in (f) of this section, within an incorporated city, unified municipality or an organized borough, a new club license may be issued, and the relocation of an existing club license may be approved by the board if

(1) the issuance or relocation of club licenses under the population limitation contained in (2) of this subsection has been approved by resolution adopted by the incorporated city, unified municipality, or organized borough within which the club license is to be issued or relocated; and

(2) after issuance or relocation there would not be, inside the incorporated city or unified municipality, or inside the organized borough but outside the incorporated cities located within the borough, more than one club license for each 1,500 population or fraction of 1,500 population.

(i) This section does not apply to a golf course license issued under AS 04.11.115.

(j) The board may approve the issuance of an outdoor recreation lodge license without regard to (a) of this section if it appears that the issuance will encourage the tourist trade by encouraging the construction or improvement of a business relating to the tourist trade and the business meets the requirements for issuance of the license under AS 04.11.225.

(k) The board may allow the relocation of an existing beverage dispensary license under AS 04.11.090 to a restaurant, eating place, or hotel, motel, resort, or similar business that contains a restaurant or eating place, in a borough with a population of 60,000 or more if the governing body of the borough approves the relocation. However, if the relocation of the license is into or within an incorporated city in the borough, the board may not approve the relocation unless the governing bodies of both the borough and the incorporated city approve the relocation. The board may allow not more than three relocations in a borough under this subsection each decade. In this subsection, "decade" means each 10-year period beginning April 1 in a year ending in zero.

(l) In (a)(1) of this section, "population" includes only those persons residing inside the radius not later than the date the application is received by the board and not earlier than 60 days before the application is received by the board.

(m) In (a)(2) and (3) of this section, "population" includes only those persons residing inside the established village, incorporated city, unified municipality, or organized borough as of December 31 of the year preceding the date of application.

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

Sec. 04.11.410. Restriction of location near churches and schools.

(a) A beverage dispensary or package store license may not be issued and the location of an existing license may not be transferred if the licensed premises would be located in a building

the public entrance of which is within 200 feet of a school ground or a church building in which religious services are regularly conducted, measured by the shortest pedestrian route from the outer boundaries of the school ground or the public entrance of the church building. However, a license issued before the presence of either cause of restriction within 200 feet of the licensed premises may be renewed or transferred to a person notwithstanding this subsection.

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

Sec. 04.11.420. Zoning limitations.

(a) A person may not be issued a license or permit in a municipality if a zoning regulation or ordinance prohibits the sale or consumption of alcoholic beverages unless a variance of the regulation or ordinance has been approved.

(b) The municipality shall inform the board of zoning regulations or ordinances that prohibit the sale or consumption of alcoholic beverages.

Sec. 04.11.430. Person and location.

(a) Each license shall be issued to a specific individual or individuals, to a partnership, including a limited partnership, to a limited liability organization, or to a corporation. If the license is issued to a corporation or a limited liability organization, the registered agent of the corporation or limited liability organization must be an individual resident of the state.

(b) Except for a license authorizing the sale of alcoholic beverages on a common carrier, a specific location shall be indicated on the license or permit as the licensed premises, the principal address of which shall be indicated on the license or permit. The mailing address of a licensee or, if the licensee is a corporation, the address of the registered office of the corporation must be kept current and on file in the main office of the board.

Sec. 04.11.450. Prohibited financial interest.

(a) A person other than a licensee may not have a direct or indirect financial interest in the business for which a license is issued.

(b) A person who is a representative or owner of a wholesale business, brewery, winery, bottling works, or distillery may not be issued, solely or together with others, a beverage dispensary license, a restaurant or eating place license, or package store license. A holder of a beverage dispensary license may be issued a brewpub license, subject to the provisions of AS 04.11.135. The prohibition against issuance of a restaurant or eating place license imposed under this subsection does not apply to a restaurant or eating place license issued on or before October 1, 1996 or a restaurant or eating place license issued under an application for a restaurant or eating place license approved on or before October 1, 1996.

(c) A license may not be leased by a licensee to another person, partnership, limited liability organization, or corporation.

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

(e) A holder of either a general wholesale license or a wholesale malt beverage and wine license may not be employed by or act as the agent or employee of the holder of a beverage dispensary or package store license.

(f) In this section, “direct or indirect financial interest” means holding a legal or equitable interest in the operation of a business licensed under this title. However, credit extended by a distiller, a brewery, or a winery to a wholesaler, or credit extended by a wholesaler to persons licensed under this title, or a consulting fee received from a person licensed under this title, is not considered a financial interest in a business licensed under this title.

Sec. 04.11.460. Prior public approval.

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

(b) A license may not be issued in an area that is 50 miles or more from the boundaries of a municipality unless a petition asking that the license be issued within the area containing the signatures of two-thirds of the permanent residents residing within a radius of five miles of the United States post office station nearest to the proposed licensed premises, is filed with the board. If there are two or more United States post office stations in the vicinity of the proposed licensed premises, the nearest to the premises constitutes the point of beginning under this subsection. If there is no United States post office station within a radius of five miles of the proposed licensed premises, the applicant must obtain the signatures of two-thirds of the permanent residents residing within a five mile radius of the proposed licensed premises. A petition is not required for the renewal of a license issued in accordance with this subsection unless specifically required by the board.

(c) In this section, “permanent resident” means a person 21 years of age or older who has established a permanent place of abode.

Article 6. PROCEDURES FOR PUBLIC INFLUENCE.

Sec. 04.11.470. Objection.

A person may object to an application for issuance, renewal, transfer of location, or transfer to another person of a license, or for issuance of a permit, by serving upon the applicant and the board the reasons for the objection. The board shall consider the objections and testimony received at a hearing conducted under AS 04.11.510(b)(2) when it considers the application. An objection and the record of a hearing conducted under AS 04.11.510(b)(2) shall be retained as part of the board’s permanent record of its review of the application.

Sec. 04.11.480. Protest.

(a) A local governing body may protest the issuance, renewal, relocation, or transfer to another person of a license by sending the board and the applicant a protest and the reasons for the protest within 60 days of receipt from the board of notice of filing of the application. A protest received after the 60-day period may not be accepted by the board, and in no event may a protest cause the board to reconsider an approved renewal, relocation, or transfer. The local governing body may protest the continued operation of a license during the second year of the biennial license period by sending the board and the licensee a protest and the reasons for the protest by January 31 of the second year of the license. The procedures for action on a protest of continued operation of a license are the same as the procedures for action on a protest of a renewal application. The board shall consider a protest and testimony received at a hearing conducted under AS 04.11.510(b)(2) or (4) when it considers the application or continued operation, and the protest and the record of the hearing conducted under AS 04.11.510(b)(2) or (4) shall be kept as part of the board's permanent record of its review. If an application or continued operation is protested, the board shall deny the application or continued operation unless the board finds that the protest is arbitrary, capricious, and unreasonable.

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

(c) A local governing body may recommend that a license be issued, renewed, relocated, or transferred with conditions. The board shall consider recommended conditions and testimony received at a hearing conducted under AS 04.11.510(b)(2) or (4) when it considers the application or continued operation, and the recommended conditions and the record of the hearing conducted under AS 04.11.510(b)(2) or (4) shall be kept as part of the board's permanent record of its review. If the local governing body recommends conditions, the board shall impose the recommended conditions unless the board finds that the recommended conditions are arbitrary, capricious, or unreasonable. If a condition recommended by a local governing body is imposed on a licensee, the local governing body shall assume responsibility for monitoring compliance with the condition, except as otherwise provided by the board.

(d) In addition to the right to protest under (a) of this section, a local governing body may notify the board that the local governing body has determined that a licensee has violated a provision of this title or a condition imposed on the licensee by the board. Unless the board finds that the local governing body's determination is arbitrary, capricious, or unreasonable, the board shall prepare the determination as an accusation against the licensee under AS 44.62.360 and conduct proceedings to resolve the matter as described under AS 04.11.510(c).

Sec. 04.11.490. Prohibition of the sale of alcoholic beverages.

[Repealed, § 69 ch 101 SLA 1995.]

Sec. 04.11.491. Local options.

(a) If a majority of the persons voting on the question vote to approve the option, a municipality shall adopt a local option to prohibit

- (1) the sale of alcoholic beverages;
- (2) the sale of alcoholic beverages except by one or more of the following listed on the ballot:
 - (A) a restaurant or eating place licensee;
 - (B) a beverage dispensary licensee;
 - (C) a package store licensee;
 - (D) a caterer holding a permit under AS 04.11.230 to sell alcoholic beverages at a site within the municipality who is also licensed under a beverage dispensary license for premises outside of the municipality;
 - (E) a winery licensee;
 - (F) a winery licensee, except that sales may occur only to a person licensed under this title or in another state or country; or
 - (G) an outdoor recreation lodge licensee;
- (3) the sale of alcoholic beverages except on premises operated by the municipality and under a type of licensed premises listed on the ballot, that may include one or more of the following:
 - (A) a restaurant or eating place license;
 - (B) a beverage dispensary license; or
 - (C) a package store license;
- (4) the sale and importation of alcoholic beverages; or
- (5) the sale, importation, and possession of alcoholic beverages.

(b) If a majority of the persons voting on the question vote to approve the option, an established village shall exercise a local option to prohibit

- (1) the sale of alcoholic beverages;
- (2) the sale of alcoholic beverages except by one or more of the following listed on the ballot:
 - (A) a restaurant or eating place licensee;
 - (B) a beverage dispensary licensee;
 - (C) a package store licensee;

(D) a caterer holding a permit under AS 04.11.230 to sell alcoholic beverages at a site within the established village who is also licensed under a beverage dispensary license for premises outside of the established village;

(E) a winery licensee;

(F) a winery licensee, except that sales may occur only to a person licensed under this title or in another state or country; or

(G) an outdoor recreation lodge licensee;

(3) the sale and importation of alcoholic beverages; or

(4) the sale, importation, and possession of alcoholic beverages.

(c) A ballot question to adopt a local option under this section must at least contain language substantially similar to: “Shall (name of municipality or village) adopt a local option to prohibit (local option under (a) or (b) of this section)? (yes or no).”

(d) The ballot for an election on the option set out in (a)(2)(A), (a)(3)(A), or (b)(2)(A) of this section must include a summary explanation of the authority to sell alcoholic beverages given to a restaurant or eating place under AS 04.11.100(a). The ballot for an election on the option set out in (a)(2)(B) or (D), (a)(3)(B), or (b)(2)(B) or (D) of this section must include a statement that a beverage dispensary license is commonly known as a “bar” and a summary explanation of the authority to sell alcoholic beverages given to a beverage dispensary licensee under AS 04.11.090(a). The ballot for an election on the option set out in (a)(2)(C), (a)(3)(C), or (b)(2)(C) of this section must include a statement that a package store license is commonly known as a “liquor store” and a summary explanation of the authority to sell alcoholic beverages given to a package store licensee under AS 04.11.150(a).

(e) If a municipality dissolves under AS 29.06.450(a) or (b), a local option adopted by the municipality under (a) of this section shall continue in effect as the corresponding local option under (b) of this section for an established village having the same perimeter as the previous boundaries of the municipality. A license for premises operated by the municipality under AS 04.11.505 expires when the municipality dissolves.

(f) A municipality or established village that has adopted a local option under (a)(1), (2), or (3) or (b)(1) or (2) of this section may designate a site for the delivery of alcoholic beverages to individuals in the area or a site for a person to bring alcoholic beverages if the alcoholic beverages are imported into the area. This subsection does not apply to the delivery or importation of

(1) one liter or less of distilled spirits, two liters or less of wine, or one gallon or less of malt beverages; or

(2) alcoholic beverages to a premises licensed under (a)(2) — (3) or (b)(2) of this section.

(g) If a municipality or established village has adopted a local option under (a)(1), (2), (3), or (4), or (b)(1), (2), or (3) of this section, the municipality or established village, as part of the local option question or questions placed before the voters, may

- (1) adopt an amount of alcoholic beverages that may be imported that is less than the amounts set out in AS 04.11.150(g);
- (2) adopt an amount of alcoholic beverages that would give rise to a presumption that the person possessed the alcoholic beverages for sale; the amounts adopted under this paragraph may be lower than those set out in AS 04.11.010(c);
- (3) opt to not apply a class C felony to violations of AS 04.16.051 that apply solely by reason of the municipality or established village adopting a local option under this section.

Sec. 04.11.492. Community liquor license; complete prohibition on sales.

[Repealed, § 69 ch 101 SLA 1995.]

Sec. 04.11.493. Change of local option.

(a) If a majority of persons voting on the question vote to approve a different local option, a municipality or established village shall change a local option previously adopted under AS 04.11.491 to the different approved option.

(b) A ballot question to change a local option under this section must at least contain language substantially similar to: "Shall (name of municipality or village) change the local option currently in effect, that prohibits (current local option under AS 04.11.491), and adopt in its place a local option to prohibit (proposed local option under AS 04.11.491)? (yes or no)."

Sec. 04.11.494. Operation of delivery sites.

[Repealed, § 15 ch 63 SLA 2001 as amended by § 1 ch 28 SLA 2004.]

Sec. 04.11.495. Removal of local option.

(a) If a majority of the persons voting on the question vote to remove the option, a municipality or established village shall remove a local option previously adopted under AS 04.11.491. The option is repealed effective the first day of the month following certification of the results of the election.

(b) A ballot question to remove a local option under this section must at least contain language substantially similar to: "Shall (name of municipality or village) remove the local option currently in effect, that prohibits (current local option under AS 04.11.491), so that there is no longer any local option in effect? (yes or no)."

(c) When issuing a license in the area that has removed a local option, the board shall give priority to an applicant who was formerly licensed and whose license was not renewed because of the results of the previous local option election. However, an applicant described in this subsection does not have a legal right to a license and the board is not required to approve the application.

Sec. 04.11.496. Prohibition of sale and importation of alcoholic beverages.

[Repealed, § 69 ch 101 SLA 1995.]

Sec. 04.11.497. Effect on licenses of prohibition of sale.

If a majority of voters vote to prohibit the sale of alcoholic beverages under AS 04.11.491(a)(1), (a)(4) or (5), (b)(1), or (b)(3) or (4), the board may not issue, renew, or transfer, between persons or locations, a license for premises located within the boundaries of the municipality and in unincorporated areas within five miles of the boundaries of the municipality or within the perimeter of the established village. A license that may not be renewed because of a local option election held under this section is void 90 days after the results of the election are certified. A license that expires during the 90 days after the results of a local option election are certified may be extended, until it is void under this section, by payment of a prorated portion of the biennial license fee.

Sec. 04.11.498. Prohibition of possession of alcoholic beverages.

[Repealed, § 69 ch 101 SLA 1995.]

Sec. 04.11.499. Prohibition of importation or purchase after election.

(a) If a majority of the voters vote to prohibit the importation of alcoholic beverages under AS 04.11.491(a)(4) or (5) or (b)(3) or (4), a person, beginning on the first day of the month following certification of the results of the election, may not knowingly send, transport, or bring an alcoholic beverage into the municipality or established village, unless the alcoholic beverage is sacramental wine to be used for bona fide religious purposes based on tenets or teachings of a church or religious body, is limited in quantity to the amount necessary for religious purposes, and is dispensed only for religious purposes by a person authorized by the church or religious body to dispense the sacramental wine.

(b) A person who resides in a municipality or established village that has adopted a local option under AS 04.11.491(a) or (b) may not purchase alcohol from another person who has sent, transported, or brought an alcoholic beverage into the municipality or established village in violation of the local option.

(c) In this section,

- (1) "bring" means to carry or convey or to attempt or solicit to carry or convey;
- (2) "send" means to cause to be taken or distributed or to attempt or solicit to cause to be taken or distributed, and includes use of the United States Postal Service;
- (3) "transport" means to ship by any method, and includes delivering or transferring or attempting or soliciting to deliver or transfer an alcoholic beverage to be shipped to, delivered to, or left or held for pickup by any person.

Sec. 04.11.500. Prohibition of the sale of alcoholic beverages except by selected licenses.

[Repealed, § 69 ch 101 SLA 1995.]

Sec. 04.11.501. Prohibition of possession after election.

(a) If a majority of the voters vote to prohibit the possession of alcoholic beverages under AS 04.11.491(a)(5) or (b)(4), a person may not knowingly possess an alcoholic beverage in the municipality or established village, unless the alcoholic beverage is sacramental wine to be used

for bona fide religious purposes based on tenets or teachings of a church or religious body, is limited in quantity to the amount necessary for religious purposes, and is dispensed only for religious purposes, by a person recognized by the church or religious body as authorized to dispense the wine.

(b) If there are licensed premises within the municipality or established village, the prohibition on possession is effective beginning 90 days after the results of the election are certified. If there are no licensed premises within the municipality or established village, the prohibition on possession is effective beginning 60 days after the results of the election are certified.

(c) Upon the adoption by a municipality of a local option under AS 04.11.491(a)(5), an ordinance is adopted containing the provisions of this section.

(d) In this section, “possession” means having physical possession of or exercising dominion or control over an alcoholic beverage, but does not include having an alcoholic beverage within the digestive system of a person.

Sec. 04.11.502. Procedure for local option elections.

[Repealed, § 69 ch 101 SLA 1995.]

Sec. 04.11.503. Effect on licenses of restriction on sale.

If a majority of the voters vote under AS 04.11.491(a)(2) or (b)(2) to prohibit sale of alcoholic beverages except by the type or types of licensees or permit holders listed on the ballot, the board may not issue, renew, or transfer between persons or locations a license for premises located within the boundaries of the municipality and in unincorporated areas within five miles of the boundaries of the municipality or within the perimeter of the established village, except the type or types of licenses listed on the ballot. A license in effect within the boundaries of the municipality or perimeter of the established village, and in unincorporated areas within five miles of the boundaries of the municipality, except the type of license listed on the ballot, is void 90 days after the results of the election are certified. A license that expires during the 90 days after the results of a local option election are certified may be extended, until it is void under this section, by payment of a prorated portion of the biennial license fee.

Sec. 04.11.504. Reinstatement of licenses.

[Repealed, § 69 ch 101 SLA 1995.]

Sec. 04.11.505. Licensing after prohibition on sale except in premises operated by municipality.

(a) If a majority of the voters vote under AS 04.11.491(a)(3) to prohibit the sale of alcoholic beverages except on premises operated by the municipality, the board may not issue, renew, or transfer between persons or locations a license for premises located within the boundaries of a municipality and in unincorporated areas within five miles of the boundaries of the municipality, with the exception of the type of license listed on the ballot and operated under a license held by the municipality. A license in effect is void 90 days after the results of the election are certified. A license that expires during the 90 days after the results of a local option

election are certified may be extended, until it is void under this subsection, by payment of a prorated portion of the biennial license fee.

(b) The local governing body of a municipality shall apply for a license to operate the type of licensed premises listed on the ballot under AS 04.11.491(a)(3) and approved by a majority of the voters. The municipality shall operate the premises subject to the conditions and fees applicable to the type of license. Nothing in this section precludes a municipality from applying to be a licensee under other provisions of this title.

Sec. 04.11.506. Notice of the results of a local option election.

[Repealed, § 69 ch 101 SLA 1995.]

Sec. 04.11.507. Procedure for local option elections.

(a) Elections to adopt a local option under AS 04.11.491, change a local option under AS 04.11.493, or remove a local option under AS 04.11.495, shall be conducted as required in this section.

(b) Upon receipt of a petition of a number of registered voters equal to 35 percent or more of the number of votes cast at the last regular municipal election, the local governing body of a municipality shall place upon a separate ballot at the next regular election, or at a special election, whichever local option, change in local option, or removal of local option constitutes the subject of the petition. The local governing body shall conduct the election under the election ordinance of the municipality.

(c) Upon receipt of a petition of 35 percent or more of the registered voters residing within an established village, the lieutenant governor shall place upon a separate ballot at a special election the local option, change in local option, or removal of local option that constitutes the subject of the petition. The lieutenant governor shall conduct the election under AS 15.

(d) A petition filed with the local governing body of a municipality under (b) of this section, that places on the ballot the option set out in AS 04.11.491(a)(5), constitutes a proposed ordinance of the municipality.

(e) AS 29.26.110 — 29.26.160 apply to a petition under (b) of this section in a general law municipality except the

(1) number of required signatures is determined under (b) of this section rather than under AS 29.26.130;

(2) application filed under AS 29.26.110 must at least contain language substantially similar to the questions set out under AS 04.11.491 — 04.11.495 rather than containing an ordinance or resolution;

(3) petition must at least contain language substantially similar to the questions set out under AS 04.11.491 — 04.11.495 rather than material required under AS 29.26.120(a)(1) and (2).

(f) Notwithstanding any other provisions of law, an election under (b) or (c) of this section to remove a local option or to change to a less restrictive option than the local option previously

adopted under AS 04.11.491 may not be conducted during the first 24 months after the local option was adopted or more than once in a 36-month period.

(g) Notwithstanding AS 29.26.140(a), after a petition has been certified as sufficient to meet the requirements of (b) or (c) of this section, another petition may not be filed or certified until after the question presented in the first petition has been voted on. Only one local option question may be presented in an election.

Sec. 04.11.508. Establishment of perimeter of established village.

(a) Except as provided under (b) and (c) of this section, for purposes of AS 04.11.491, 04.11.497, and 04.11.503, the perimeter of an established village is a circle around the established village that includes an area within a five-mile radius of the post office of the established village. If the established village does not have a post office, the perimeter of an established village is a circle around the established village that includes an area within a five-mile radius of another site selected by the local governing body or by the board if the established village does not have a local governing body.

(b) If the perimeter of an established village determined under (a) of this section includes any area that is

(1) within a municipality

(A) that has adopted a local option, the local option adopted by the municipality applies in the overlapping area;

(B) the local option adopted by the established village does not apply in the overlapping area;

(2) within the perimeter of another established village and, if the other established village has

(A) also adopted a local option under AS 04.11.491, the local option of the established village that is less restrictive applies in the overlapping area;

(B) not adopted a local option under AS 04.11.491, the local option does not apply in the overlapping area.

(c) If the board determines that the perimeter of an established village as provided under (a) and (b) of this section does not accurately reflect the perimeter of the established village, the board may establish the perimeter of the established village and the areas of overlapping perimeter described under (b) of this section for purposes of applying a local option selected under this chapter.

Sec. 04.11.509. Notice of the results of a local option election.

(a) If a majority of the voters vote to prohibit, change, or remove a local option under AS 04.11.491 — 04.11.495, the clerk of the municipality, or, if the election is in an established village, the lieutenant governor shall notify the board of the results of the election immediately after the results are certified. The board shall immediately notify the Department of Law and the Department of Public Safety of the results of the election.

(b) If a majority of the voters vote to prohibit the importation or possession of alcoholic beverages under AS 04.11.491(a)(4) or (5) or (b)(3) or (4), the following actions in addition to those prescribed in (a) of this section shall be taken before the date the prohibition becomes effective:

- (1) the board shall notify, by certified mail, all package store licensees who sell alcoholic beverages in response to a written solicitation of the local option; and
- (2) the municipality or established village shall post public notice of the prohibition in a central location in the municipality or village.

Article 7. BOARD PROCEDURES.

Sec. 04.11.510. Procedure for action on license applications, suspensions, and revocations.

(a) Unless a legal action relating to the license, applicant, or premises to be licensed is pending, the board shall decide whether to grant or deny an application within 90 days of receipt of the application at the main office of the board. However, the decision may not be made before the time allowed for protest under AS 04.11.480 has elapsed, unless waived by the municipality.

(b) The board may review an application for the issuance, renewal, transfer of location, or transfer to another person of a license without affording the applicant notice or hearing, except

- (1) if an application is denied, the notice of denial shall be furnished the applicant immediately in writing stating the reason for the denial in clear and concise language; the notice of denial must inform the applicant that the applicant is entitled to an informal conference with either the director or the board, and that, if not satisfied by the informal conference, the applicant is then entitled to a formal hearing conducted by the office of administrative hearings (AS 44.64.010); if the applicant requests a formal hearing, the office of administrative hearings shall adhere to AS 44.62.330 — 44.62.630 (Administrative Procedure Act); all interested persons may be heard at the hearing and unless waived by the applicant and the board, the formal hearing shall be held in the area for which the application is requested;
- (2) the board may, on its own initiative or in response to an objection or protest, hold a hearing to ascertain the reaction of the public or a local governing body to an application if a hearing is not required under this subsection; the board shall send notice of a hearing conducted under this paragraph 20 days in advance of the hearing to each community council established within the municipality and to each nonprofit community organization entitled to notification under AS 04.11.310(b);
- (3) if a petition containing the signatures of 35 percent of the adult residents having a permanent place of abode outside of but within two miles of an incorporated city or an established village is filed with the board, the board shall hold a public hearing on the question of whether the issuance, renewal, or transfer of the license in the city or village would be in the public interest;

(4) if a protest to the issuance, renewal, transfer of location or transfer to another person of a license made by a local governing body is based on a question of law, the board shall hold a public hearing.

(c) Unless the grounds for the suspension or revocation are under AS 04.11.370(a)(4), board proceedings to suspend or revoke a license shall be conducted in accordance with AS 44.62.330 — 44.62.630 (Administrative Procedure Act), except that the licensee is entitled to an opportunity to informally confer with the director or the board within 10 days after the accusation is served upon the licensee. Notice of the opportunity for an informal conference shall be served upon the licensee along with the accusation. If an informal conference is requested, the running of the period of time specified in AS 44.62.380 for filing a notice of defense is tolled from the date of receipt of the request for the conference until the day following the date of the conference unless extended by the board. After the conference, the licensee, if not satisfied by the results of the conference, may obtain a hearing by filing a notice of defense as provided in AS 44.62.390. If the grounds for suspension or revocation are under AS 04.11.370(a)(4), the licensee is not entitled to notice and hearing under AS 44.62.330 — 44.62.630 on the merits of the suspension or revocation. However, the board shall afford the licensee notice and hearing on the issue of what administrative sanction to impose under AS 04.16.180.

(d) *[Repealed, § 69 ch 101 SLA 1995.]*

Sec. 04.11.520. Notice to local governing body.

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

Sec. 04.11.525. Notice to community council and others.

On receipt of an application for the issuance, renewal, relocation, or transfer of the ownership of a license, the board shall provide written notice under AS 04.11.310(b).

Sec. 04.11.530. Consideration of reports.

A license may not be suspended or revoked under AS 04.11.370(a)(4) or (5) unless the board considers the reports prepared by arresting and investigating officers and the sentencing report sent to the board under AS 12.55.025(b).

Sec. 04.11.535. Suspension and revocation based on acts of employees.

(a) If, in a proceeding to suspend or revoke a license under AS 04.11.370(a)(5), the board finds that a sentencing report sent to the board under AS 12.55.025(b) or a report prepared by the investigating or arresting officers in connection with the violation, contains information that if uncontradicted or unexplained would provide a ground for suspension or revocation under AS 04.11.370(a)(5), the licensee has the burden of proof to establish that the licensee neither knowingly allowed the violation nor recklessly or with criminal negligence failed to act in accordance with the duty prescribed under AS 04.21.030.

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

Sec. 04.11.537. Application of precedent.

[Repealed, §4 ch 38 SLA 2018]

Article 8. EXPIRATION OF LICENSES.

Sec. 04.11.540. License renewal and expiration.

Notwithstanding AS 04.11.680, an application for renewal of a license issued for the two calendar years ending December 31 or of a seasonal license issued for parts of those calendar years may be submitted up until the next February 28. If a complete application for renewal has not been filed by February 28 or the required fees and the penalty fees have not been paid by that date, the license expires at 12:00 midnight February 28. A new license may not be issued to the holder of an expired license for the same premises except on proof satisfactory to the board of good cause for the failure to file and pay.

Sec. 04.11.550. Notice of expiration.

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

Article 9. MISCELLANEOUS PROVISIONS.

Sec. 04.11.560. Appeals.

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

(b) A decision by the board relating to the issuance, renewal, transfer, relocation, suspension, or revocation of a license under this title may be appealed to the superior court under AS 44.62.560.

Sec. 04.11.570. Refund and forfeiture of fees.

(a) If an application for a license is denied, the board shall refund the license fee less the application fee.

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

(c) If a license is revoked on grounds that statements made in the application are untrue, the license fee paid by the applicant is forfeited to the state.

Sec. 04.11.575. Civil fine.

(a) Except as provided in (c) of this section, the board may, in addition to any other penalties imposed under this title, impose a civil fine upon a licensee that the board determines, at a proceeding under AS 04.11.510(c), has violated a provision of this title, a regulation adopted under this title, or an ordinance adopted in accordance with AS 04.21.010.

(b) The board shall by regulation adopt a schedule of fines that a licensee may be required to pay under this section. A fine may not exceed the greater of

(1) \$50,000; or

(2) an amount that is three times the monetary gain realized by the licensee as a result of the violation.

(c) If the board is proceeding under AS 04.11.370(a)(4), the board may not impose a civil fine exceeding the amount specified under AS 12.55.035 applicable to the offense for which the licensee was convicted, or with the licensee's consent, the limit imposed under (b) of this section.

Sec. 04.11.580. Surrender or destruction of license.

(a) A license issued under this title shall, if the board so directs, be surrendered on demand to a peace officer, agent, or officer of the board.

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

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

Sec. 04.11.590. Disposition of money.

(a) Money collected from licenses and civil fines under this title shall be transferred by the board to the Department of Commerce, Community, and Economic Development and deposited in the general fund.

(b) A fee prescribed by the board in addition to fees authorized under this title shall be transferred to the Department of Commerce, Community, and Economic Development and deposited in the general fund.

(c) The annual estimated balance in the account maintained by the commissioner of administration under AS 37.05.142 may be used by the legislature to make appropriations to the Department of Commerce, Community, and Economic Development to carry out the purposes of AS 04.06.

Sec. 04.11.610. Refund to municipalities.

(a) Biennial license fees, excluding annual wholesale fees and biennial wholesale license fees, collected within a municipality shall be refunded semi-annually to the municipality.

(b) If the officers of a municipality fail to actively enforce local ordinances, laws of the United States and the state, and the regulations relating to the manufacture and sale of alcoholic beverages in the state, the commissioner of commerce, community, and economic development may deny the refund provided for under (a) of this section until the board finds the enforcement of the ordinances, laws, and regulations is resumed.

(c) The Department of Commerce, Community, and Economic Development shall recover any amounts erroneously refunded under (a) of this section. The Department of Commerce, Community, and Economic Development shall schedule repayments of erroneously refunded amounts over a sufficient period of time to minimize financial hardship to the municipality involved.

Sec. 04.11.630. Accessibility of license and licensed premises to inspection.

(a) A licensee shall, upon request, make the licensed premises and places authorized for storage under AS 04.21.060 available for inspection by officers charged with the enforcement of this title, including members of the board and the director or an employee of the director, during all regular business hours.

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

Sec. 04.11.660. License a privilege.

(a) A license issued under this title is a personal privilege, not a property right.

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

Sec. 04.11.670. Foreclosure.

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

Sec. 04.11.680. Duration of licenses and permits.

(a) Upon application and payment of one-half of the biennial fee, the board may issue a seasonal license under this title that is effective for the intervals stated on the license. A seasonal license may not be effective for more than 12 months in a two-year period. Otherwise, all licenses issued under this title other than a retail stock sale license are effective for the two calendar years ending December 31, unless a shorter period is prescribed by the board or by law.

(b) A permit issued under this title shall be for the period prescribed by the board. The period shall be clearly designated on the permit.

Sec. 04.11.690. Discouragement of monopolies.

(a) In a general sense, it is against the public interest that the issuance, renewal, or transfer of licenses issued under this title will create, or assist in the creation of, a monopoly.

(b) The board may submit proposals to the governor and the legislature addressed to the discouragement of the creation of monopolies.

(c) The board may not by regulation adopt a definition of a monopoly.

Sec. 04.11.700. Renumbered as AS 04.21.055.

Chapter 15. REGULATION OF SALES AND DISTRIBUTION.

[Repealed, § 12 ch 131 SLA 1980. For current law concerning the subject matter generally, see AS 04.16.]

Chapter 16. REGULATION OF SALES AND DISTRIBUTION.

Article 1. PROHIBITED ACTS.

Sec. 04.16.010. Hours of sale and presence on licensed premises (standard closing hours).

(a) A person may not sell, offer for sale, give, furnish, deliver, or consume an alcoholic beverage on premises licensed under this title between the hours of 5:00 a.m. and 8:00 a.m. each day.

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

(c) A licensee, an agent, or employee may not permit a person to enter and a person may not enter premises licensed under this title between the hours of 5:00 a.m. and 8:00 a.m. each day. This subsection does not apply to common carriers or to an employee of the licensee who is on the premises to prepare for the next day's business. A person may enter or remain on the premises of a bona fide restaurant or eating place licensed under this title to consume food or nonalcoholic beverages.

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

Sec. 04.16.015. Pricing and marketing of alcoholic beverages.

(a) On premises where alcoholic beverages are sold by the drink, a licensee or a licensee's agent or employee may not

(1) offer or deliver, as a marketing device to the general public, free alcoholic beverages to a patron;

(2) deliver an alcoholic beverage to a person already possessing two or more;

(3) sell, offer to sell, or deliver alcoholic beverages to a person or group of persons at a price less than the price regularly charged for the beverages during the same calendar week, except at private functions not open to the general public;

(4) sell, offer to sell, or deliver an unlimited number of alcoholic beverages to a person or group of persons during a set period of time for a fixed price;

(5) sell, offer to sell, or deliver alcoholic beverages to a person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the general public;

(6) encourage or permit an organized game or contest on the licensed premises that involves drinking alcoholic beverages or the awarding of alcoholic beverages as prizes.

(b) A licensee or a licensee's agent or employee may not advertise or promote in any way, either on or off the premises, a practice prohibited under (a) of this section.

(c) This section may not be construed as prohibiting a licensee or a licensee's agent or employee from offering free food or entertainment at any time, from serving wine by the bottle or carafe or beer by the pitcher with or without meals, or from including an alcoholic beverage as part of a meal package.

(d) Notwithstanding (a) and (b) of this section, a licensee or a licensee's agent or employee when acting as a caterer may offer or deliver free alcoholic beverages to a political, charitable, or educational group or organization.

Sec. 04.16.020. Solicitation of alcoholic beverages; purchase on behalf of another.

(a) A person may not pay or receive from another a salary, percentage, or commission to solicit or encourage a patron of licensed premises to purchase alcoholic or other beverages for a person other than the patron.

(b) A licensee, an agent, or employee may not knowingly permit a person to loiter within or about premises licensed under this title for the purpose of begging or soliciting a patron or visitor to purchase alcoholic or other beverages for the person who is begging or soliciting.

(c) A person may not purchase alcohol by written order on behalf of another person who resides in a municipality or established village that has adopted a local option under AS 04.11.491(a)(5) or (b)(4).

Sec. 04.16.025. Illegal presence on premises involving alcoholic beverages.

(a) A person may not knowingly enter or remain on premises

(1) in which alcoholic beverages are manufactured, sold, offered for sale, possessed for sale or barter, trafficked in, or bartered in violation of

(A) AS 04.11.010; or

(B) a municipal ordinance adopted under AS 04.21.010(a) or (b); or

(2) licensed under this title during hours in which the person's presence on the premises is a violation of a municipal ordinance adopted under authority of AS 04.16.010(d)

providing for hours of closure that are outside the hours of closure prescribed by AS 04.16.010(c).

(b) A person who violates this section is guilty of a violation.

Sec. 04.16.030. Prohibited conduct relating to drunken persons.

(a) A licensee, an agent, or employee may not with criminal negligence

- (1) sell, give, or barter alcoholic beverages to a drunken person;
- (2) allow another person to sell, give, or barter an alcoholic beverage to a drunken person within licensed premises;
- (3) allow a drunken person to enter and remain within licensed premises or to consume an alcoholic beverage within licensed premises;
- (4) permit a drunken person to sell or serve alcoholic beverages.

(b) A person receiving compensation for transporting alcoholic beverages may not knowingly deliver alcoholic beverages to a drunken person.

Sec. 04.16.035. Possession of ingredients for homebrew in certain areas.

A person residing in an area that has adopted a local option to prohibit the sale, importation, and possession of alcoholic beverages under AS 04.11.491(a)(5) or (b)(4) may not possess sugar, artificial sugar, malt, yeast, or any other material or equipment with the intent to use the material or equipment to create an alcoholic beverage.

Sec. 04.16.040. Access of drunken persons to licensed premises.

A drunken person may not knowingly enter or remain on premises licensed under this title.

Sec. 04.16.045. Obligation to enforce restrictions in licensed premises.

A licensee, an agent, or employee may not permit the consumption of alcoholic beverages by any person within licensed premises unless it is permitted by the license.

Sec. 04.16.047. Access of persons with restriction on purchasing alcohol.

(a) A person who is restricted from purchasing alcohol under AS 04.16.160 may not knowingly enter or remain in premises licensed under this title to obtain or consume alcohol.

(b) A licensee may bring a civil action against a person who violates this section if the violation occurs on the premises of that licensee. If judgment is entered in favor of the licensee, the court shall award civil damages in the amount of \$1,000 and award reasonable costs and reasonable attorney fees allowed under the Alaska Rules of Civil Procedure.

(c) Nothing in this section or AS 04.16.160 creates a duty or imposes an obligation on a licensee to physically check the identification of any person entering licensed premises.

Sec. 04.16.049. Access of persons under the age of 21 to licensed premises.

(a) A person under 21 years of age may not knowingly enter or remain in premises licensed under this title unless

- (1) accompanied by a parent, guardian, or spouse who has attained 21 years of age;
- (2) the person is at least 16 years of age, the premises are designated by the board as a restaurant for the purposes of this section, and the person enters and remains only for dining;
- (3) the person is under 16 years of age, is accompanied by a person over 21 years of age, the parent or guardian of the underaged person consents, the premises are designated by the board as a restaurant for the purposes of this section, and the person enters and remains only for dining;
- (4) the person is permitted on the premises under a club license issued under AS 04.11.110(g); or
- (5) otherwise provided under (c), (d), or (g) of this section.

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

(c) Notwithstanding any other provision in this section, a person 16 or 17 years of age may enter and remain within the licensed premises of a hotel, golf course, or restaurant or eating place in the course of employment if (1) the employment does not involve the serving, mixing, delivering, or dispensing of alcoholic beverages; (2) the person has the written consent of a parent or guardian; and (3) an exemption from the prohibition of AS 23.10.355 is granted by the Department of Labor and Workforce Development. The board, with the approval of the governing body having jurisdiction and at the licensee's request, shall designate which premises are hotels, golf courses, restaurants, or eating places for the purposes of this subsection.

(d) Notwithstanding any other provision in this section, a person 18, 19, or 20 years of age may be employed within the licensed premises of a hotel, golf course, or restaurant or eating place, may enter and remain within those premises for the purpose of employment, but may not, in the course of employment, sell, serve, deliver, or dispense alcoholic beverages.

(e) A licensee may bring a civil action against a person who violates this section if the violation occurs on the premises of that licensee. If judgment is entered in favor of the licensee, the court shall award civil damages in the amount of \$1,500 and award reasonable costs and reasonable attorney fees allowed under the Alaska Rules of Civil Procedure.

(f) A person under 21 years of age does not violate this section if the person enters or remains on premises licensed under this title at the request of a peace officer, if the peace officer accompanies, supervises, or otherwise observes the person's entry or remaining on premises, and the purpose for the entry or remaining on premises is to assist in the enforcement of this section.

(g) Notwithstanding any other provision in this section, a person under 21 years of age may be present on licensed premises on a golf course for the purpose of playing golf or attending golf-related activities if the person

(1) is at least 16 years of age; or

(2) is under 16 years of age and

(A) the person is accompanied by a person who is at least 21 years of age; and

(B) a parent or guardian of the underaged person consents.

(h) A person under 21 years of age who knowingly enters or remains on premises licensed under this title except as allowed in this section commits the offense of unauthorized presence by a person under 21 years of age on licensed premises.

(i) Unauthorized presence by a person under 21 years of age on licensed premises is a violation, punishable by a fine of \$500. The violation must be charged and filed with the court as a separate case and may not be combined or joined with any other minor offense or criminal charge in one action at the time of filing. A court may reduce the fine to \$50 for a person who has not more than one previous violation or to \$250 for a person who has two or more previous violations if the person provides the court, not later than six months after a judgment of conviction is entered, with proof of completion of

(1) an alcohol safety action program or a juvenile alcohol safety action program developed, designated, or approved by the Department of Health and Social Services under AS 47.37; or

(2) a community diversion panel.

Sec. 04.16.050. Possession, control, or consumption by persons under 21 years of age.

(a) A person under 21 years of age may not knowingly consume, possess, or control alcoholic beverages except those furnished to persons under AS 04.16.051(b).

(b) A person under 21 years of age who knowingly consumes, possesses, or controls an alcoholic beverage other than an alcoholic beverage furnished under AS 04.16.051(b) commits the offense of minor consuming or in possession or control.

(c) Minor consuming or in possession or control is a violation, punishable by a fine of \$500. The violation must be charged and filed with the court as a separate case and may not be combined or joined with any other minor offense or criminal charge in one action at the time of filing. A court may reduce the fine to \$50 for a person who has not more than one previous violation or to \$250 for a person who has two or more previous violations if the person provides the court, not later than six months after a judgment of conviction is entered, with proof of completion of

(1) an alcohol safety action program or a juvenile alcohol safety action program developed, designated, or approved by the Department of Health and Social Services under AS 47.37; or

(2) a community diversion panel.

Sec. 04.16.051. Furnishing or delivery of alcoholic beverages to persons under the age of 21.

(a) A person may not furnish or deliver an alcoholic beverage to a person under the age of 21 years. This subsection does not apply to a licensee or an agent or employee of a licensee while working on licensed premises.

(b) This section does not prohibit the furnishing or delivery of an alcoholic beverage

(1) by a parent to the parent's child, by a guardian to the guardian's ward, or by a person to the legal spouse of that person if the furnishing or delivery occurs off licensed premises; or

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

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

(d) A person acting with criminal negligence who violates this section is guilty of a class C felony if

(1) within the five years preceding the violation, the person has been previously convicted under

(A) this section; or

(B) a law or ordinance of this or another jurisdiction with elements substantially similar to this section;

(2) the person who receives the alcoholic beverage negligently causes serious physical injury to or the death of another person while under the influence of the alcoholic beverage received in violation of this section; in this paragraph,

(A) "negligently" means acting with civil negligence; and

(B) "serious physical injury" has the meaning given in AS 11.81.900; or

(3) the violation occurs within the boundaries of a municipality or the perimeter of an established village that has adopted a local option under AS 04.11.491 and has not opted out of applying a class C felony to violations of this section under AS 04.11.491(g).

Sec. 04.16.052. Furnishing of alcoholic beverages to persons under the age of 21 by licensees.

A licensee or an agent or employee of the licensee may not with criminal negligence

(1) allow another person to sell, barter, or give an alcoholic beverage to a person under the age of 21 years within licensed premises;

(2) allow a person under the age of 21 years to enter and remain within licensed premises except as provided in AS 04.16.049;

(3) allow a person under the age of 21 years to consume an alcoholic beverage within licensed premises;

(4) allow a person under the age of 21 years to sell or serve alcoholic beverages;

(5) while working on licensed premises, furnish or deliver alcoholic beverages to a person under the age of 21 years.

Sec. 04.16.055. Room rental for purposes of consuming alcoholic beverages.

A person may not rent a room in a hotel, motel, resort, or similar business for the purpose of providing alcoholic beverages to a person under the age of 21 years.

Sec. 04.16.057. Permitting minor to illegally possess liquor in dwelling.

(a) Except as provided by AS 04.16.051, a person who is physically in possession and exercising dominion and control over a dwelling may not knowingly permit a person under 21 years of age to possess an alcoholic beverage in the dwelling.

(b) A person who violates this section is guilty of a violation and shall be punished as provided in AS 12.55.

Sec. 04.16.059. Aggravated penalties for certain violations involving a person under 21 years of age and committed by a sex offender or child kidnapper.

(a) Notwithstanding AS 04.16.051, 04.16.055, 04.16.057, and 04.16.180, the penalty for a violation of AS 04.16.051, 04.16.055, or 04.16.057 that involved a person under 21 years of age and that was committed by a person who is required to register as a sex offender or child kidnapper under AS 12.63 is as follows:

(1) if the underlying offense is a violation, a sex offender or child kidnapper committing the offense is guilty of a class B misdemeanor and shall be punished as provided in AS 12.55;

(2) if the underlying offense is a class A misdemeanor, a sex offender or child kidnapper committing the offense is guilty of a class C felony and shall be punished as provided in AS 12.55;

(3) if the underlying offense is a class C felony, a sex offender or child kidnapper committing the offense is guilty of a class B felony and shall be punished as provided in AS 12.55.

(b) In this section, "sex offender or child kidnapper" has the meaning given in AS 12.63.100.

Sec. 04.16.060. Purchase by or delivery to persons under the age of 21.

(a) A person under the age of 21 years may not purchase alcoholic beverages or solicit another to purchase alcoholic beverages for the person under the age of 21.

(b) A person may not influence the sale, gift, or service of an alcoholic beverage to a person under the age of 21 years, by misrepresenting the age of that person.

(c) A person may not order or receive an alcoholic beverage from a licensee, an agent or employee of the licensee, or another person, for the purpose of selling, giving, or serving it to a person under the age of 21 years.

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

(e) A person under the age of 21 who is seeking to enter and remain in a licensed premises under AS 04.16.049(a)(2) or (3) may not misrepresent the person's age or having obtained the consent of the parent or guardian required by that section.

(f) A person does not violate this section if the person performs an act proscribed under this section, the person performs that act at the request of a peace officer, the peace officer accompanies, supervises, or otherwise observes the person's act, and the purpose of the act is to assist in the enforcement of this section.

Sec. 04.16.065. Civil penalty for violations of AS 04.16.060.

(a) A person who has attained 18 years of age, or an emancipated minor, who violates AS 04.16.060 is, in addition to any criminal penalty provided by law, liable in a civil action to the licensee for a penalty of \$1,500 plus costs and reasonable attorney fees.

(b) A person, having legal custody of an unemancipated minor who solicits another person to violate AS 04.16.060, is liable in a civil action for a penalty of \$1,000, plus costs and reasonable attorney fees, to the licensee from whom the other person purchased, ordered, or received an alcoholic beverage in violation of AS 04.16.060.

(c) It is a condition precedent to maintaining an action under this section that the owner or seller of the merchandise send by first class mail to the defendant at the defendant's last known address 15 days or more before the action is commenced a notice demanding the relief authorized. The board may adopt regulations prescribing the form of this notice. It is not a condition precedent to maintaining an action under this section that the person who violated AS 04.16.060 or solicited a violation was charged or convicted under any statute or ordinance.

(d) In this section, "emancipated minor" means a minor whose disabilities have been removed for general purposes under AS 09.55.590.

Sec. 04.16.070. Sales on election day.

(a) A person may not sell, barter, give, consume, or dispose of alcoholic beverages within licensed premises

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

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

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

Sec. 04.16.080. Sales or consumption at school events.

A person may not sell or consume alcoholic beverages during a school event at the site of the event.

Sec. 04.16.090. Prohibition of bottle clubs.

(a) A person may not maintain a place in which alcohol beverages are received or kept, or to which alcoholic beverages are brought, for consumption by members of the public or by members of a club, corporation, or association, unless the person is authorized to do so under this title.

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

(c) For the purposes of this section, “consideration” includes but is not limited to cover charge, the sale of food, ice, mixers, or other liquids used with alcoholic beverage drinks, or the furnishing of glassware or other containers for use in the consumption of alcoholic beverages.

Sec. 04.16.100. Restriction on size of containers.

A person may not sell alcoholic beverages in 1/6 gallon or 1/10 gallon containers, nor may a person sell alcoholic beverages in a container deceptively similar in appearance to a container of a different volume.

Sec. 04.16.110. Sale of certain alcoholic beverages prohibited.

A person may not sell an alcoholic beverage if it

- (1) is intended for human consumption and is in powdered form; or
- (2) contains more than 76 percent alcohol by volume.

Sec. 04.16.120. Removal or introduction of alcoholic beverages.

(a) A person may not remove from licensed premises alcoholic beverages that have been sold or furnished for consumption only on the premises.

(b) Except as provided in this subsection, a person may not bring an alcoholic beverage into licensed premises for use or consumption by oneself or another person on the premises unless that person is a licensee, an agent, employee, or common carrier in the regular course of employment. With the permission of the licensee, a person may bring wine into premises licensed as a beverage dispensary or a restaurant or eating place for consumption by the person while eating food served at a table on the licensed premises. The beverage dispensary or restaurant or eating place may charge a corkage fee for serving wine supplied by a customer.

(c) Notwithstanding (a) of this section, a person may remove from licensed premises the unconsumed portion of one or more bottles of wine that were partially consumed with a meal

if (1) the original or a similar type of cork is reinserted in each bottle by the licensee and the cork can only be removed by a corkscrew or other similar device, or (2) each bottle is sealed or packaged by the licensee in a manner set by the board. Notwithstanding another provision of law, each bottle of wine that is recorked, sealed, or packaged as provided in this subsection is not an open container if the cork reinserted by the licensee or the seal made by the licensee has not been disturbed.

Sec. 04.16.125. Alcoholic beverages transported by common carrier.

(a) A person may not use a common carrier to transport alcoholic beverages into an area that has restricted the sale of alcoholic beverages under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2) unless

(1) the shipping container holding the alcoholic beverages is clearly labeled as containing alcoholic beverages with letters that contrast in color to the shipping container and that are at least two inches in height; and

(2) an itemized invoice showing the quantity and purchase value of distilled spirits, of wine, and of malt beverages is attached to the outside of the shipping container.

(b) This section does not apply to

(1) a person transporting not more than

(A) two liters of wine;

(B) one gallon of malt beverages; or

(C) one liter of distilled spirits; or

(2) the transportation of alcoholic beverages for use on premises allowed under AS 04.11.491(a)(2) — (3) or (b)(2) or for use under a permit allowed under AS 04.11.491(a)(2).

(c) In this section,

(1) “common carrier” means a motor vehicle, watercraft, aircraft, or railroad car available for public hire to transport freight or passengers;

(2) “transport” has the meaning given in AS 04.11.499.

Sec. 04.16.130. Stock confined to licensed premises.

(a) Unless authorized under AS 04.21.060, a licensee may not store before sale any alcoholic beverages elsewhere than on the premises indicated on the license.

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

Sec. 04.16.140. Sale or consumption of alcoholic beverages in a warehouse.

Alcoholic beverages may not be sold or consumed on premises approved for storage under AS 04.21.060.

Sec. 04.16.150. Licensee responsible for violations.

A licensee may neither knowingly allow agents or employees to violate this title or regulations adopted under this title nor recklessly or with criminal negligence fail to act in accordance with the duty prescribed under AS 04.21.030 with the result that an agent or employee of the licensee violates a law or regulation.

Sec. 04.16.160. Restriction on purchasing alcoholic beverages.

(a) Except as otherwise provided by law, a person who is 21 years of age or older may not purchase alcoholic beverages if the person has been ordered to refrain from consuming alcoholic beverages under AS 12.55.015(a)(13) or as part of a sentence for conviction of a crime under AS 28.35.030, 28.35.032, or a similar municipal ordinance, as a condition of probation or parole from a conviction under AS 28.35.030, 28.35.032, or a similar municipal ordinance, or as a condition of probation or parole for any other crime. The restriction on purchasing alcoholic beverages applies during the period that the person is required to refrain from consuming alcoholic beverages under the sentence or condition of probation or parole.

(b) A court imposing a restriction on a person under (a) of this section, and the Department of Corrections, shall notify the person that an identification card issued under AS 18.65.310 must list the restriction imposed for the period of the person's probation or parole.

Sec. 04.16.170. Source of alcoholic beverages.

(a) Alcoholic beverages for consumption by the purchaser may not be sold unless obtained from a person licensed under this title.

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

Sec. 04.16.172. Restrictions on purchase and sale of alcoholic beverages.

A person licensed under AS 04.11.090, 04.11.100, 04.11.110, or 04.11.150 may not purchase, sell, or offer for sale an alcoholic beverage unless the alcoholic beverage being purchased, sold, or offered for sale was obtained from a person licensed under

- (1) AS 04.11.160 as a primary source of supply for the alcoholic beverage being purchased, sold, or offered for sale;
 - (2) AS 04.11.150 and the alcoholic beverage being purchased, sold, or offered for sale was obtained from a person licensed under AS 04.11.160 as a primary source of supply;
- or
- (3) AS 04.11.130, 04.11.140, or 04.11.170.

Sec. 04.16.175. Furnishing alcoholic beverages in aid of gambling enterprise.

(a) An agent or employee of a gambling enterprise may not furnish an alcoholic beverage to a player.

(b) In this section, “gambling enterprise” and “player” have the meanings given them in AS 11.66.280.

Article 2. PENALTIES AND FORFEITURES.

Sec. 04.16.180. Penalties for violation.

(a) Except as provided in AS 04.11.015, 04.11.150(g), AS 04.16.025, 04.16.050, 04.16.051, 04.16.200 — 04.16.210, and AS 04.21.065, a person who violates a provision of this title or a regulation adopted by the board is guilty, upon conviction, of a class A misdemeanor. Each violation is a separate offense.

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

(1) on first conviction the license of the premises involved may not be revoked, but may be suspended for not more than 45 days;

(2) on second conviction the license of the premises involved may not be revoked, but may be suspended for not more than 90 days;

(3) on third conviction the license of the premises involved may be suspended or revoked.

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

(d) In addition to other penalties provided in this chapter, the court may require a person convicted of an offense under this chapter who was less than 21 years of age at the time the person committed the offense to pay for and enroll in a juvenile alcohol safety action program if one is available.

(e) In this section, the terms “second conviction” and “third conviction” include only convictions for violations that occur within five years of the first conviction. The terms refer to the cumulative number of convictions of a licensee of any combination of violations of the provisions of this title, regulations adopted under this title, or ordinances adopted under AS 04.21.010. The terms “second conviction” and “third conviction” include a conviction of the agent or employee of a licensee of a violation of a law, regulation, or ordinance if the conviction constitutes a ground for suspension or revocation under AS 04.11.370(a)(5).

Sec. 04.16.200. Penalties for violations of AS 04.11.010 and 04.11.499.

(a) Except as provided under (b) of this section, a person who violates AS 04.11.010 is, upon conviction, guilty of a class A misdemeanor.

(b) A person who violates AS 04.11.010 in an area that has adopted a local option under AS 04.11.491 is, upon conviction, guilty of a class C felony.

(c) It is an affirmative defense to a prosecution under (a) of this section that no profit was involved in the solicitation or receipt of an order for the delivery of an alcoholic beverage. However, the affirmative defense created under this subsection is not available in a prosecution of a person charged with selling or offering for sale alcoholic beverages to a person under 21 years of age.

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

(e) A person who sends, transports, or brings alcoholic beverages into a municipality or established village in violation of AS 04.11.499(a) is, upon conviction,

(1) except as provided in (3) of this subsection, guilty of a class A misdemeanor if the quantity of alcoholic beverages is less than 10 and one-half liters of distilled spirits or 24 liters of wine, or either a half-keg of malt beverages or 12 gallons of malt beverages in individual containers;

(2) guilty of a class C felony if the quantity of alcoholic beverages is 10 and one-half liters or more of distilled spirits or 24 liters or more of wine, or either a half-keg of malt beverages or 12 gallons or more of malt beverages in individual containers; or

(3) guilty of a class C felony if the quantity of alcoholic beverages is less than 10 and one-half liters of distilled spirits or 24 liters of wine, or either a half-keg of malt beverages or 12 gallons of malt beverages in individual containers and the person has been previously convicted under this subsection or (b) of this section two or more times within 15 years of the date of the present offense.

(f) A person who purchases alcohol in violation of AS 04.11.499(b) is guilty of a class A misdemeanor.

(g) Upon conviction of a class A misdemeanor under (e)(1) of this section, the court

(1) shall impose a minimum sentence of imprisonment of

(A) not less than 72 consecutive hours and a fine of not less than \$1,500 if the person has not been previously convicted;

(B) not less than 20 days and a fine of not less than \$3,000 if the person has been previously convicted once;

(C) not less than 60 days and a fine of not less than \$4,000 if the person has been previously convicted twice and is not subject to punishment under (h) of this section;

(D) not less than 120 days and a fine of not less than \$5,000 if the person has been previously convicted three times and is not subject to punishment under (h) of this section;

(E) not less than 240 days and a fine of not less than \$6,000 if the person has been previously convicted four times and is not subject to punishment under (h) of this section;

(F) not less than 360 days and a fine of not less than \$7,000 if the person has been previously convicted more than four times and is not subject to punishment under (h) of this section;

(2) may not

(A) suspend execution of sentence or grant probation except on the condition that the person

(i) serve the minimum imprisonment under (1) of this subsection; and

(ii) pay the minimum fine required under (1) of this subsection; or

(B) suspend imposition of sentence.

(h) Upon conviction of a class C felony under (b) or (e)(2) or (3) of this section, the court

(1) shall impose a fine of not less than \$10,000 and a minimum sentence of imprisonment of

(A) 120 days if the person has not been previously convicted;

(B) 240 days if the person has been previously convicted once;

(C) 360 days if the person has been previously convicted two or more times;

(2) may not

(A) suspend execution of sentence or grant probation except on the condition that the person

(i) serve the minimum imprisonment under (1) of this subsection; and

(ii) pay the minimum fine required under (1) of this subsection; or

(B) suspend imposition of sentence.

(i) In (g) of this section, “previously convicted” means having been convicted, within the 15 years preceding the date of the present offense, of an offense under (b) or (e) of this section or a law or ordinance of another jurisdiction having elements similar to those offenses.

(j) In (h) of this section, “previously convicted” means having been convicted, within the 15 years preceding the date of the present offense, of a felony offense under (b) or (e) of this section or a law or ordinance of another jurisdiction having elements similar to those felony offenses.

(k) The court shall consider the date of a previous conviction as occurring on the date that sentence is imposed for the prior offense.

Sec. 04.16.205. Penalties for violations of AS 04.11.501 and related ordinances.

(a) A person who possesses alcoholic beverages in a municipality or established village in violation of AS 04.11.501 or an ordinance adopted under AS 04.11.501 may, upon conviction, be punished by a fine not to exceed \$1,000 and shall forfeit the seized alcoholic beverages. When a peace officer stops or contacts a person concerning a violation of AS 04.11.501 or an ordinance adopted under AS 04.11.501, the peace officer shall seize the alcoholic beverages and may issue a citation to the person as provided in AS 12.25.175 — 12.25.230.

(b) If a person cited for a violation of AS 04.11.501 or an ordinance adopted under AS 04.11.501 for which a bail amount has been established under (c) of this section does not contest the citation, the person may, within 30 days after the date the citation is issued,

(1) mail or personally deliver to the clerk of the court in which the citation is filed by the peace officer the amount of bail indicated on the citation and a copy of the citation indicating that the right to an appearance is waived, a plea of no contest is entered, and the bail and all alcoholic beverages seized are forfeited; or

(2) perform community work in lieu of payment of the fine or a portion of the fine as provided in (d) of this section.

(c) The supreme court shall establish by rule or order a schedule of bail amounts that may be forfeited without a court appearance for a violation of AS 04.11.501 or an ordinance adopted under AS 04.11.501. In establishing the bail schedule the supreme court may consider the quantity of alcoholic beverages possessed and the number of prior violations of the person cited. Before establishing or amending the schedule of bail amounts required by this subsection, the supreme court shall appoint and consult with an advisory committee consisting of the following seven persons: one superior court judge, one magistrate from each judicial district in the state, a representative of the Department of Law, and a representative of the Public Defender Agency. The maximum bail amount may not exceed \$1,000, and the issuing officer shall write on the citation the amount of bail applicable to the violation.

(d) Community work shall be performed at the direction of the local governing body of the municipality or the local governing body of the established village. In the absence of a local governing body for an established village, community work shall be performed at the direction of the body that has traditionally performed public functions on behalf of the entire community. The value of community work in lieu of a fine is \$5.00 per hour. When the community work is completed, the person cited for the violation shall mail or personally deliver to the clerk of the court in which the citation is filed by the peace officer

(1) a form, prescribed by the administrative director of the Alaska Court System, indicating completion of the community work; and

(2) a copy of the citation, indicating that the right to an appearance is waived, a plea of no contest is entered, and that the bail is forfeited or community work has been performed and that all alcoholic beverages seized are forfeited.

(e) When bail has been forfeited or proof of performance of community work under this section has been filed with the court, a judgment shall be entered. Forfeiture of bail or filing proof of

performance of community work and forfeiture of all seized items is a complete satisfaction for the violation. The clerk of court accepting the bail or the form indicating performance of community work shall provide the offender with a receipt stating that fact, if requested.

(f) A person cited under this section is guilty of failure to obey a citation under AS 12.25.230 if the person fails to pay the fine, appear in court as required, or provide proof of performance to the court as specified in (d)(1) of this section.

(g) Notwithstanding other provisions of law, if a person cited for a violation of AS 04.11.501 or an ordinance adopted under AS 04.11.501 for which a bail amount has been established under (c) of this section appears in court and is found guilty, the penalty that is imposed for the offense may not exceed the bail amount for that offense established under (c) of this section.

(h) A violation of AS 04.11.501 or an ordinance adopted under AS 04.11.501 may not be considered a criminal offense and may not result in imprisonment, nor is a fine imposed for a violation considered criminal punishment. A person cited for a violation does not have a right to a jury trial or court appointed counsel.

(i) *[Repealed, § 60 ch 29 SLA 2010.]*

(j) *[Repealed, § 60 ch 29 SLA 2010.]*

Sec. 04.16.210. Penalty for making false statement.

If a false statement is made in an application under AS 04.11.260 — 04.11.290, the applicant is guilty of perjury and, upon conviction, is subject to the penalty provided by law for the crime of perjury under AS 11.56.200.

Sec. 04.16.220. Forfeitures and seizures.

(a) The following are subject to forfeiture:

(1) alcoholic beverages manufactured, sold, offered for sale, possessed for sale, or bartered or exchanged for goods and services in this state in violation of AS 04.11.010; alcoholic beverages possessed, stocked, warehoused, or otherwise stored in violation of AS 04.21.060; alcoholic beverages sold or offered for sale in violation of a local option adopted under AS 04.11.491; alcoholic beverages transported into the state and sold to persons not licensed under this chapter in violation of AS 04.16.170(b); alcoholic beverages transported in violation of AS 04.16.125;

(2) materials and equipment used in the manufacture, sale, offering for sale, possession for sale, or barter or exchange of alcoholic beverages for goods and services in this state in violation of AS 04.11.010; materials and equipment used in the stocking, warehousing, or storage of alcoholic beverages in violation of AS 04.21.060; materials and equipment used in the sale or offering for sale of an alcoholic beverage in an area in violation of a local option adopted under AS 04.11.491;

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

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

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

(C) alcoholic beverages imported into a municipality or established village in violation of AS 04.11.499(a);

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

(5) alcoholic beverages, materials, or equipment used in violation of AS 04.16.175;

(6) money, securities, negotiable instruments, or other things of value used in financial transactions or items of value purchased from the proceeds derived from activity prohibited under AS 04.11.010 or in violation of a local option adopted under AS 04.11.491;

(7) a firearm used in furtherance of a violation of this title.

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

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

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

(3) there is probable cause to believe that the property is subject to forfeiture under (a) of this section; except for alcoholic beverages possessed on violation of AS 04.11.501 or an ordinance adopted under AS 04.11.501, property seized under this paragraph may not be held over 48 hours or until an order of forfeiture is issued by the court, whichever is earlier.

(c) Within 30 days after a seizure under this section, the Department of Public Safety shall make reasonable efforts to ascertain the identity and whereabouts of any person holding an interest or an assignee of a person holding an interest in the property seized, including a right to possession, lien, mortgage, or conditional sales contract. The Department of Public Safety shall notify the person ascertained to have an interest in property seized of the impending forfeiture, and, before forfeiture, the Department of Law shall publish, once a week for four consecutive calendar weeks, a notice of the impending forfeiture in a newspaper of general circulation in the judicial district in which the seizure was made or, if no newspaper is published in that judicial district, in a newspaper published in the state and distributed in that judicial district. Upon service or publication of notice of commencement of a forfeiture action under this section, a person claiming an interest in the property shall file, within 30 days after the service

or publication, a notice of claim setting out the nature of the interest, the date it was acquired, the consideration paid, and an answer to the state's allegations. If a claim and answer is not filed within the time specified, the property described in the state's allegation must be ordered forfeited to the state without further proceedings or showings. Questions of fact or law raised by a notice of forfeiture action and answer of a claimant in an action commenced under this section must be determined by the court sitting without a jury. This proceeding may be held in abeyance until conclusion of any pending criminal charges against the claimant under this title.

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

(1) upon conviction of a person for a violation of AS 04.11.010, 04.11.499, AS 04.16.125, AS 04.21.060, or AS 04.11.501 or an ordinance adopted under AS 04.11.501; or

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

(e) The owner of property subject to forfeiture under (a) or (i) of this section is entitled to relief from the forfeiture in the nature of remission of the forfeiture if, in an action under (d) of this section, the owner shows that the owner

(1) was not a party to the violation;

(2) had no actual knowledge or reasonable cause to believe that the property was used or was to be used in violation of the law; and

(3) had no actual knowledge or reasonable cause to believe that the person committing the violation had

(A) a criminal record for violating this title; or

(B) committed other violations of this title.

(f) A person other than the owner holding, or the assignee of, a lien, mortgage, conditional sales contract on, or the right to possession to property subject to forfeiture under (a) or (i) of this section is entitled to relief from the forfeiture in the nature of remission of the forfeiture if, in an action under (d) of this section, the person shows that the person

(1) was not a party to the violation subjecting the property to forfeiture;

(2) had no actual knowledge or reasonable cause to believe that the property was to be used in violation of the law; and

(3) had no actual knowledge or reasonable cause to believe that the person committing the violation had

(A) a criminal record for violating this title; or

(B) committed other violations of this title.

(g) It is no defense in an in rem forfeiture proceeding brought under (d)(2) of this section that a criminal proceeding is pending or has resulted in conviction or acquittal of a person charged with violating AS 04.11.010, 04.11.499, or AS 04.21.060.

(h) Alcoholic beverages forfeited under (d) of this section shall be placed in the custody of a peace officer of the state and destroyed no later than 30 days after forfeiture. All other property forfeited under this section shall be placed in the custody of the commissioner of public safety for disposition according to an order entered by the court. The court shall order destroyed any property forfeited under this section that is harmful to the public and shall order any property forfeited under this section that was seized in a municipality to be transferred to the municipality in which the property was seized. Other property shall be ordered sold and the proceeds used for payment of expenses of the proceedings for forfeiture and sale, including expenses of seizure, custody, and court costs. The remainder of the proceeds shall be deposited in the general fund.

(i) Upon conviction for a violation of AS 04.11.010 or 04.11.499(a), if an aircraft, vehicle, or watercraft is subject to forfeiture under (a) of this section, the court shall, subject to remission to innocent parties under this section,

(1) order the forfeiture of an aircraft to the state;

(2) order the forfeiture of a vehicle or watercraft if

(A) the defendant has a prior felony conviction for a violation of AS 11.41 or a similar law in another jurisdiction;

(B) the defendant is on felony probation or parole;

(C) the defendant has a prior conviction for violating AS 04.11.010 or 04.11.499(a); or

(D) the quantity of alcohol transported in violation of this title was twice the presumptive amounts in AS 04.11.010(c).

(j) Notwithstanding (i) of this section, a court is not required to order the forfeiture of a vehicle or watercraft if the court determines that

(1) the vehicle or watercraft is the sole means of transportation for a family residing in a village;

(2) the court may impose conditions that will prevent the defendant's use of the vehicle or watercraft; and

(3) either

(A) a member of the family would be entitled to remission under this section if the family member were an owner of or held a security interest in the vehicle or watercraft; or

(B) if a member of the family would not be entitled to remission, the family member was unable as a practical matter to stop the violation making the vehicle or watercraft subject to forfeiture.

(k) When forfeiting property under (a), (d), or (i) of this section, a court may award to a municipal law enforcement agency that participated in the arrest or conviction of the defendant, the seizure of property, or the identification of property for seizure, (1) the property

if the property is worth \$5,000 or less and is not money or some other thing that is divisible, or (2) up to 75 percent of the property or the value of the property if the property is worth more than \$5,000 or is money or some other thing that is divisible. In determining the percentage a municipal law enforcement agency may receive under this subsection, the court shall consider the municipal law enforcement agency's total involvement in the case relative to the involvement of the state.

(l) In this section, "village" means a community of fewer than 1,000 persons located off the interconnected state road system.

Chapter 20. GENERAL PROVISIONS.

[Repealed, § 12 ch 131 SLA 1980. For current law, see AS 04.21.]

Chapter 21. GENERAL PROVISIONS.

Sec. 04.21.010. Municipal regulation and taxation.

(a) A municipality may adopt ordinances governing the importation, barter, sale, and consumption of alcoholic beverages within the municipality and may ban possession of alcoholic beverages under AS 04.11.491(a)(5). An ordinance adopted under this section may not be inconsistent with this title or regulations adopted under this title. In a municipality that has adopted a local option under AS 04.11.491(a)(1), (2), or (3), an ordinance is not inconsistent with this title if it limits

- (1) the monthly amounts of alcoholic beverages a person may import into the municipality;
- (2) the percent of alcohol by volume that an alcoholic beverage may contain; a limit imposed under this paragraph may not be less than 40 nor more than 76 percent alcohol by volume; or
- (3) the type of alcoholic beverage container that may be possessed in the municipality.

(b) After the adoption of a local option under AS 04.11.491(a), a municipality may adopt an ordinance making the sale, importation, or possession of alcoholic beverages a misdemeanor to the extent prohibited under the local option. The ordinance may not be inconsistent with this title or the regulations adopted under this title.

(c) A municipality may not impose taxes on alcoholic beverages except a

- (1) property tax on alcoholic beverage inventories;
- (2) sales tax on alcoholic beverage sales if sales taxes are imposed on other sales within the municipality;
- (3) sales tax on alcoholic beverage sales that was in effect before July 1, 1985; and
- (4) sales and use tax on alcoholic beverages if the sale of alcoholic beverages within the municipality has been prohibited under AS 04.11.491(a)(1), (4), or (5).

(d) At least 10 days before the date set for municipal action on an application for the issuance, renewal, relocation, or transfer of ownership of a proposed license, the municipality shall provide written notice of the proposed action and the time and place for a hearing to a community council that

(1) is established by municipal charter or ordinance to advise the municipal governing body; and

(2) has jurisdiction over the area affected by the proposed action.

Sec. 04.21.015. Private manufacture of alcoholic beverages.

(a) Except as provided in (b) of this section, the provisions of this title do not apply to the private manufacture of alcoholic beverages.

(b) This section does not apply to AS 04.16.050, 04.16.051, 04.16.080; AS 04.21.010, 04.21.020; alcoholic beverages manufactured in a quantity that exceeds the limit imposed on private manufacture under federal law; or an area that has adopted a local option law under AS 04.11.491.

Sec. 04.21.020. Civil liability of persons providing alcoholic beverages.

(a) Except as provided under (b) and (d) of this section, a person who provides alcoholic beverages to another person may not be held civilly liable for injuries resulting from the intoxication of that person unless the person who provides the alcoholic beverages holds a license authorized under AS 04.11.080 — 04.11.220 or is an agent or employee of such a licensee and

(1) the alcoholic beverages are provided to a person under the age of 21 years in violation of AS 04.16.051, unless the licensee, agent, or employee secures in good faith from the person a signed statement, liquor identification card, or driver's license meeting the requirements of AS 04.21.050(a) and (b), that indicates that the person is 21 years of age or older; or

(2) the alcoholic beverages are provided to a drunken person in violation of AS 04.16.030.

(b) A person who sells or barters an alcoholic beverage to another person in violation of AS 04.11.010 is strictly liable (1) to the recipient or another person for civil damages if, while under the influence of the alcoholic beverage, the person receiving the alcoholic beverage engages in conduct that results in civil damages and the recipient's being under the influence of the alcoholic beverage substantially contributes to the civil damages; and (2) for the cost to the state or a political subdivision of the state to criminally prosecute a person who receives an alcoholic beverage from a person who violates AS 04.11.010 if the prosecution results from the violation of AS 04.11.010 described in this subsection.

(c) In an action under (b) or (d) of this section, it is not a defense that the person receiving the alcoholic beverage voluntarily consumed the alcoholic beverage or that the person receiving the alcoholic beverage was voluntarily under the influence of the alcoholic beverage.

(d) A person who knowingly furnishes or delivers an alcoholic beverage to a person under 21 years of age in violation of AS 04.16.051 is civilly liable to the recipient or another person for civil damages if, while under the influence of the alcoholic beverage, the person receiving the alcoholic beverage engages in conduct that results in civil damages and the recipient's being under the influence of the alcoholic beverage substantially contributes to the civil damages.

(e) In this section, "civil damages" includes damages for personal injury, death, or injury to property of a person, including the state or a political subdivision of the state.

Sec. 04.21.025. Alcohol server education course.

(a) As a condition of issuance or renewal of a license and selling alcoholic beverages under a license, the board shall require a licensee who sells or serves alcoholic beverages and a licensee's agents and employees who sell or serve alcoholic beverages or check the identification of a patron to complete an alcohol server education course approved by the board, if the license is for a

- (1) beverage dispensary;
- (2) restaurant or eating place;
- (3) club;
- (4) package store;
- (5) recreational site;
- (6) pub;
- (7) distillery;
- (8) conditional contractor.

(b) The subjects that are included in an approved alcohol server education course shall be determined under regulations adopted by the board. In approving alcohol server education courses, the board shall consider the needs of both urban and rural licensees regarding access to an approved alcohol server education course. A licensee, agent, or employee who sells or serves alcoholic beverages shall keep the card described in (c) of this section or other proof acceptable to the board of successful completion of an approved alcohol server education course on the licensed premises during working hours.

(c) A licensee, agent, or employee shall complete the course required under (a) of this section and pass a written test demonstrating an understanding of the course subjects not more than 30 days after being licensed or employed. The course provider shall issue a card to each individual who completes the course and passes the written test. A card issued under this subsection is valid for three years from the date of issue. A licensee, agent, or employee may renew a card issued under this section; to renew the card, the licensee, agent, or employee must pass a written test demonstrating an understanding of the course subjects.

(d) The board shall review an approved alcohol server education course at least once every three years.

(e) A person licensed as a common carrier dispensary shall train agents and employees who sell or serve alcoholic beverages or who check the identification of a patron on provisions of state law regarding sale of alcoholic beverages, including AS 04.16.015, 04.16.020, 04.16.030, 04.16.051, 04.16.052, 04.16.120, 04.16.125, AS 04.21.030, and 04.21.050. The training must include the subjects of the effects of alcohol consumption, identifying a drunken person, determining valid identification, intervention to prevent unlawful alcohol consumption, and penalties for unlawful acts by agents and employees of licensees. A common carrier licensee shall, once every three years, provide the board with a description of its training program including the subjects taught, teaching method, and testing required.

Sec. 04.21.030. Responsibility of licensees, agents, and employees.

The licensee has a duty to exercise that degree of care that a reasonable person would observe to ensure that a business under the person's control is lawfully conducted. This duty of the licensee includes, but is not limited

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

(2) to ensuring the compliance of the premises with public health, fire, and safety codes and ordinances of the state or municipality having jurisdiction.

Sec. 04.21.035. Responsibility of partners of a limited liability partnership or foreign limited liability partnership.

Notwithstanding any other provision of AS 32.06, a partner of a limited liability partnership or a foreign limited liability partnership holding a license under this title is not relieved of the obligation or the liability otherwise imposed upon a holder of a liquor license under this title solely because the license is held by a limited liability partnership or a foreign limited liability partnership.

Sec. 04.21.040. Sales on federal reservations.

(a) A wholesaler of alcoholic beverages may sell alcoholic beverages to a person who does not have a license under this title who has a fixed place of business on land in the state maintained by the United States government as a military or naval reservation, a national park, or other federal reservation. A sale may be made under this section only if the purchaser is a ship's service store, officers club, officers mess, post exchange, or similar organization. The wholesaler may deliver alcoholic beverages only to persons specified and at places designated in a written order issued by the federal organization for which the purchase is made. A licensee making sales and deliveries under this section shall keep the original order attached to the copy of the invoice on file at the premises of the licensee.

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

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

Sec. 04.21.050. Proof of age and of not being restricted from purchasing alcoholic beverages.

(a) If a licensee or an agent or employee of the licensee questions or has reason to question whether a person entering licensed premises, or ordering, purchasing, attempting to purchase, or otherwise procuring or attempting to procure alcoholic beverages,

(1) has attained the age of 21 years or is entering without consent in violation of AS 04.16.049(a)(3) and has not attained the age of 16 years, that licensee, agent, or employee shall require the person to furnish proof of age acceptable under (b) of this section or proof of consent in a form determined by the board; if the person questioned does not furnish proof of age acceptable under (b) of this section, or if a licensee, agent, or employee questions or has reason to question the validity of the proof of age furnished, the licensee, employee, or agent shall require the person to sign a statement that the person is over the age of 21 or 16 years, as appropriate; this statement shall be made on a form prepared by and furnished to the licensee by the board;

(2) is restricted from purchasing alcoholic beverages under AS 04.16.160, the licensee, agent, or employee may, but has no duty or obligation to, require the person to furnish proof acceptable under (b) of this section that the person is not restricted from purchasing alcoholic beverages or require the person to sign a statement that the person is not restricted from purchasing alcoholic beverages under AS 04.16.160; this statement shall be made on a form prepared by and furnished to the licensee by the board.

(b) Except as provided in AS 04.16.160, a valid driver's license or a valid identification card is acceptable as proof of age or that the person is not restricted from purchasing alcoholic beverages when used for identification in the purchase of alcoholic beverages and for securing entry to and remaining on premises where alcoholic beverages are sold if the license or identification card is made of or encased in plastic and contains a photograph of the licensee or card holder and a statement of age or date of birth. A licensee, agent, or employee may elect to not accept a passport, military identification card, or other identification as proof that the person is not restricted from purchasing alcoholic beverages and may require the person to furnish a valid driver's license or state identification card or otherwise furnish proof that the person is not a resident of this state.

(c) A licensee, or an agent or employee of the licensee, may not be charged for a violation of AS 04.16.047 — 04.16.052 if a signed statement as provided in (a) of this section is secured in good faith, or a valid driver's license or identification card is presented indicating that the owner and possessor of the presented driver's license or identification card is 21 or 16 years of age or over or is not restricted from purchasing alcoholic beverages, as appropriate.

Sec. 04.21.055. Refusal of service.

A licensee, an agent, or employee may refuse to sell, give, or serve alcoholic beverages to a person if the licensee, agent, or employee reasonably believes that the consumption of alcohol by that person may result in serious harm to that person or to others.

Sec. 04.21.060. Warehousing of alcoholic beverages.

A licensee may stock, warehouse, or otherwise store alcoholic beverages in a place elsewhere than premises indicated on the license if

- (1) the premises to be used for storage are inspected and approved by the board before their use;
- (2) the use of the premises for storage is authorized by local zoning ordinances; and
- (3) the premises are accessible for inspection as provided in AS 04.11.630.

Sec. 04.21.065. Posting of warning signs.

(a) A holder of one of the following types of licenses or permits shall post on the licensed or designated premises three separate warning signs as described in (b) of this section:

- (1) beverage dispensary license;
- (2) restaurant or eating place license;
- (3) club license;
- (4) brewery license; this paragraph applies only to a brewery that permits a person to sample portions of the brewery's product;
- (5) package store license;
- (6) common carrier dispensary license;
- (7) recreational site license;
- (8) pub license;
- (9) winery license; this paragraph applies only to a winery that permits a person to sample portions of the winery's product;
- (10) distillery license; this paragraph applies only to a distillery that permits a person to sample portions of the distillery's product;
- (11) caterer's permit;
- (12) special events permit;
- (13) conditional contractor's permit;
- (14) another license or permit issued by the board authorizing consumption of alcoholic beverages.

(b) The warning signs required by (a) of this section must be at least 11 inches by 14 inches, and the lettering must be at least one-half inch high and in contrasting colors. The first sign must

read, "WARNING: Drinking alcoholic beverages such as beer, wine, wine coolers, and distilled spirits or smoking cigarettes during pregnancy can cause birth defects." The second sign must read, "WARNING: A person who provides alcoholic beverages to a person under 21 years of age, if convicted under AS 04.16.051, could be imprisoned for up to five years and fined up to \$50,000." The third sign must read, "WARNING: An unaccompanied person under 21 years of age who enters these premises in violation of law may, under AS 04.16.049(e), be civilly liable for damages of \$1,500." The license or permit holder shall display the first and second signs in a manner that would make them conspicuous to a person who will be purchasing or consuming alcoholic beverages or smoking cigarettes on the licensed or designated premises and shall conspicuously display the third sign at each door through which customers enter the licensed premises.

(c) The board shall furnish a sign required under this section to a person who requests it with the intention of displaying it.

(d) A peace officer may issue a citation for a violation of this section. The provisions of AS 12.25.175 — 12.25.230 apply to the issuance of a citation under this subsection.

(e) An employee of the board designated by the board to enforce this section may issue a citation for a violation of this section regardless of whether the violation was committed in the employee's presence. A citation issued under this subsection must be in the same form and shall be processed in the same manner as a citation issued by a peace officer under (d) of this section. An employee of the board may not arrest a person for a violation of this section.

(f) A holder of a license or permit who violates this section is guilty of a violation as defined in AS 11.81.900(b) and upon conviction is punishable by a fine of not less than \$20 nor more than \$300. Each day a violation continues after a citation for the violation has been issued constitutes a separate violation.

(g) The supreme court shall establish a schedule of bail amounts for violations of this section. The bail amount may not exceed the maximum fine that may be imposed for the violation under (f) of this section. The bail amount for a violation must appear on the citation.

(h) If a person cited for a violation under this section does not contest the citation, the person may, on or before the 30th day after the date of the citation, mail or personally deliver to the clerk of the court in which the citation is filed

(1) the amount of bail indicated on the citation for the violation; and

(2) a copy of the citation indicating that the right to an appearance is waived, a plea of no contest is entered, and the bail is forfeited.

(i) When bail has been forfeited under (h) of this section, a judgment of conviction shall be entered. Forfeiture of bail is a complete satisfaction for the violation. The clerk of the court accepting the bail shall provide the violator with a receipt stating that fact if requested.

(j) A person cited under this section is guilty of failure to obey a citation under AS 12.25.230 if the person fails to pay the bail amount established under (g) of this section or to appear in court as required.

(k) The board or any affected party may institute an action in the superior court to enjoin repeated violations of this section.

(l) Notwithstanding AS 04.11.370, the board is not required to suspend or revoke a license or permit for a violation of this section; however, the board may consider a violation of this section when determining under AS 04.11.370(a)(2) whether continuation of activities authorized under a license or permit would be in the best interests of the public.

Sec. 04.21.070. Enforcement.

Peace officers shall investigate and report to the board violations of this title.

Sec. 04.21.078. Court records of persons under 21 years of age.

The Alaska Court System may not publish on a publicly available website the court records of a violation of AS 04.16.049 or 04.16.050, or a similar ordinance of a municipality, if the violation was charged separately and was not joined with any other minor offense or criminal charge at the time of filing.

Sec. 04.21.080. Definitions.

(a) In this title,

(1) a person acts with “criminal negligence” with respect to a result or to a circumstance described by a provision of law defining an offense when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation;

(2) a person acts “knowingly” with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the person’s conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had the person not been intoxicated acts knowingly with respect to that conduct or circumstance;

(3) a person acts “recklessly” with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had the person not been intoxicated acts recklessly with respect to that risk.

(b) In this title,

- (1) "alcoholic beverage" means a spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that is intended for human consumption as a beverage and that contains one-half of one percent or more of alcohol by volume, whether produced commercially or privately; however, in an area that has adopted a local option under AS 04.11.491, "alcoholic beverage" means a spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that is intended for human consumption as a beverage by the person who possesses or attempts to possess it and that contains alcohol in any amount if the liquid is produced privately, or that contains one-half of one percent or more of alcohol by volume, if the liquid is produced commercially;
- (2) "board" means the Alcoholic Beverage Control Board;
- (3) "bottling" means to put into a bottle, can, or other container;
- (4) "community diversion panel" means a youth court or other group serving as a sentencing option for a person convicted under this title;
- (5) "community work" means and is limited to work on projects designed to reduce or eliminate environmental damage, protect the public health, or improve public land, forests, parks, roads, highways, facilities, or education; community work may not confer a private benefit on a person except as may be incidental to the public benefit;
- (6) "designated premises" means any or all designated portions of a building or structure, rooms or enclosures in the building or structure, or real estate leased, used, controlled, or operated by a licensee for the purpose for which the permit is issued by the board at the location of the site for which the permit is issued;
- (7) "director" means the director of the Alcoholic Beverage Control Board;
- (8) "distributing point" means a location where alcoholic beverages are distributed from a warehouse;
- (9) "drunken person" means a person whose physical or mental conduct is substantially impaired as a result of the introduction of an alcoholic beverage into the person's body and who exhibits those plain and easily observed or discovered outward manifestations of behavior commonly known to be produced by the overconsumption of alcoholic beverages;
- (10) "established village" means an area that does not contain any part of an incorporated city or another established village and that is
 - (A) an unincorporated community that is in the unorganized borough and that has 25 or more permanent residents; or
 - (B) an unincorporated community that is in an organized borough, has 25 or more permanent residents, and
 - (i) is on a road system and is located more than 50 miles outside the boundary limits of a unified municipality, or

(ii) is not on a road system and is located more than 15 miles outside the boundary limits of a unified municipality;

(11) “foreign limited liability company” has the meaning given in AS 10.50.990;

(12) “foreign limited liability partnership” has the meaning given in AS 32.06;

(13) “half-keg” means a keg designed to be a bulk container for, and containing not more than, 15 1/2 gallons of malt beverages;

(14) “juvenile alcohol safety action program” means

(A) a juvenile alcohol safety action program developed and implemented or approved by the Department of Health and Social Services under AS 47.37;

(B) any other alcohol education or treatment program approved by the Department of Health and Social Services under AS 47.37 if a program described in (A) of this paragraph is not available in the community in which the person resides; or

(C) a program or counseling approved by the court if a program or treatment described in (A) of this paragraph is not available in the community where the person resides;

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

(16) “limited liability company” means an organization under AS 10.50;

(17) “limited liability organization” means a limited liability company, a foreign limited liability company, a limited liability partnership, or a foreign limited liability partnership;

(18) “limited liability partnership” has the meaning given in AS 32.06;

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

(20) “manufacture” means the creation of alcoholic content by use of fermentation with natural or artificial sugar or yeast or distillation.