Overview of Senate Bill 9
Alcoholic Beverage Control (ABC) Board
April 28, 2021
Why Alcohol Control? Why Title 4?

• Since repeal of Prohibition in 1933, each state is responsible for regulating alcohol manufacture, distribution and sales in its jurisdiction.

• Alcohol is not like other commodities:
  – Intoxicating substance, not appropriate for children
  – Economic incentives to encourage drinking
  – Has social and public costs: law enforcement, health impacts, violence & assaults, driving under influence (DUI)
  – Licensing regulates the market: ensures oversight of alcohol sales; compliance with laws such as no selling to minors; can address bad operators by revoking license.

• Decades of state and federal law say: it is in the public interest to regulate alcohol, with a responsible industry and reasonable enforcement.
Nine Years of Work

More than 120 stakeholders and staff spent over 16,000 hours (and counting) to craft Title 4 recommendations for proposed legislation.
Diverse Stakeholders

- ABC Board, AMCO (staff)
- Public Safety and Law Enforcement
- Industry
  - Manufacturers
  - Wholesalers
  - Retailers
- Public Health
  - Recover Alaska
  - Department of Health and Social Services
  - Alaska Mental Health Trust Authority
  - Rasmuson Foundation
- Community Advocates
- Local Governments
Title 4 Review: Funding Partners

The following organizations provided grant funding since 2012 to support the Title 4 Review project:

- Recover Alaska
- Trust
  - Alaska Mental Health Trust Authority
- Mat-Su Health Foundation
- Rasmussen Foundation

The alcohol industry has also invested in this process to date, including a portion of the support contract to provide education & expert testimony on legislation.
Goals of Title 4 Review Process

A comprehensive, systems-level review, and a series of compromises to make Title 4 work better for everyone.

Promote a fair business climate and protect public health and safety.

1. Create **rational regulation** for all tiers of the state’s alcohol industry.
2. **Limit youth access** to alcohol, while ensuring youth are not criminalized.
3. Promote **responsible alcohol use** and reduce the harms of overconsumption.

Make Title 4 a clear and consistent legal framework.

1. Increase swiftness, proportionality and consistency of **penalties**.
2. Increase **local law enforcement** of Title 4.
3. Increase **licensee accountability** before the ABC Board for Title 4 violations.
Categories of Recommendations

1. Alcohol Licenses, Permits and Trade Practices
2. Role and Functions of the ABC Board and Staff
3. Underage Drinking and Youth Access to Alcohol
4. Regulation of Internet Sales of Alcohol
5. Technical or Administrative Law Changes
6. Local Option Communities*

* Note: Local Option recommendations are documented in the report, but not included in SB 9. More comprehensive discussion of Local Option laws is needed in the future.

Note: all section references current to SB 9 ver. A, 2-12-21
Key Concepts in Title 4

- **The 3 tier system**: separation of manufacturers, wholesalers and retailers to regulate the market

- **Licenses and permits**:
  - **License**: allows a business to sell, serve, distribute and/or manufacture alcohol for 2 years.
  - **Permit**: time-limited alcohol sales or service, by a licensee or non-licensed organization.

- **Proposed new concept**: Endorsements on licenses to expand premises or allowed activities

- **Population limits**: regulates number of licenses available in each community by type
The 3-Tier System

Alcohol must be manufactured, distributed and sold to the public by different businesses.

This was designed post-Prohibition to prevent monopolies, and shapes the market today.
Alaska’s Liquor License System: Proposed Changes

Alaska’s license system is based on the 3-tier system of alcohol regulation: separate entities manufacture, distribute, and sell alcohol to the public.

See Title 4 Review Report, Appendix for full graphic
Alaska’s Liquor License System: Proposed Changes

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Proposed: More Retail Options for Manufacturers

Brewery

*Manufacturer Sampling Endorsement for small free samples*

Retail

**Product-specific Manufacturer Retail License**
- Same as existing retail operations for Breweries
- Limited sales volume
- Limited hours

**Obtain existing retail licenses**
Operate a regular retail license, with no production or sales limit

- BDL
- REPL
- Package Store

*The Brewery license used as an example. The same system applies for wineries and distilleries.*

*Section 13, 04.09.310, .320, .330; Sections 59 – 61, 04.11.450*
Proposed: Endorsements on Licenses

Add **endorsements** to existing licenses, giving businesses more flexibility without creating more situation-specific license types.

Endorsements would allow sampling on premises, multiple bar rooms, deliveries by package stores, etc.

*Section 13, 04.09.400; endorsements defined in 04.09.410 - .520*
Proposed: Options for Multiple Bar (Beverage Dispensary) Locations

- To operate two or more bar rooms in a beverage dispensary (BDL), a multiple fixed counter endorsement would be required. This would replace the duplicate license.
- Larger establishments like hotels and resorts could have additional bar locations in separate buildings on the property.

### Multiple Fixed Counter
- One room with fixed bar per additional endorsement
- Must be on same (connected) licensed premises

### Hotel or Motel
- Can serve in multiple rooms, including banquet rooms
- Hotel rooms can be stocked with alcohol for purchase
- Must be on same or adjacent property to main premises

### Large Resort
- Can serve at multiple buildings within resort property
- Hotel rooms can be stocked with alcohol for purchase
- Property must be 10+ acres, offer outdoor recreation & lodging

*Section 10, 04.09.200, .420, .430, .440*
Proposed: Limited Free Samples for Package Stores

- In current Title 4, Package Stores cannot allow any consumption on premises.
- The bill would allow small free samples, with a Package Store Sampling Endorsement.
- Ounce limits defined as: “Any combination of products, not to exceed the alcohol equivalent of any single product type.”

<table>
<thead>
<tr>
<th>12 oz.</th>
<th>6 oz.</th>
<th>1.5 oz.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beer</td>
<td>Wine, Mead *</td>
<td>Spirits</td>
</tr>
<tr>
<td>Cider *</td>
<td>Sake</td>
<td></td>
</tr>
</tbody>
</table>

* Cider and mead limits depend on alcohol content: products below 8.5% ABV have a higher sales limit.

Section 13, 04.09.490
Proposed: Standardize Permits

• Unlike licenses, permits are typically issued for single events, on or off licensed premises.
• Define all permit types in statute, not just in regulation
• Fee for all permits is $50 per event day
• Most permits listed are already in statute or regulation
• Some new permits proposed: music festivals, live events, tasting events at package stores

Section 13, 04.09.600; permits defined in 04.09.610 - .690
Proposed: Package Store Tasting Event Permit

- Allows a package store to host a special tasting event on its own premises, with onsite consumption of alcohol for those attending event.
- The event may be in the store or another area of their property, such as a special event space. It may not be held in an offsite location.
- Licensees can only offer products in their inventory.

Hosting license

- Event may last up to 4 hours, and must end by 9 p.m.
- Must also serve food
- Each license can host 6 events per year in the same community as the license is located
N-3. Expand Package Store Shipping Order Options

• Allow orders under a Package Store Shipping endorsement to be received in formats other than a written order from a known customer.

• This allows online ordering from in-state package stores, including customers in Local Option areas.

• Existing requirements in AS 04.11.150(a) for ID, shipping and delivery still apply. Package stores would still be required to report all orders to Local Option areas in Written Order Database.

Section 13, 04.09.460; 04.09.750 for common carrier rules
Population Limits: *Current Title 4*
(AS 04.11.400)

Population limits determine how many of each license type may be issued in each community.

Bars, Package Stores, etc. = \[ \frac{1}{3,000} \]

Restaurants: 1 per 1,500 residents.

All other license types (bars, package stores, golf courses, breweries, etc.): 1 per 3,000 residents.

Some licenses are exempt from population limits: bars located in hotels or airports, restaurants issued for public convenience, and licenses that serve tourists.
Population Limits: *Current Title 4*
(AS 04.11.400)

- Some license types are exempt from population limits: most exempt license types are designed to serve tourists and travelers, such as hotels or outdoor recreation lodges.
- They can be issued if other qualifications are met (ex: minimum number of hotel rooms).

![Diagram showing license and exempt license icons within Borough and City of Alaskaville.]
Proposed: Population Limits
Apply to Retail Licenses Only

• Apply population limitations on the number of licenses only to retail-tier licenses.
• Wholesale licenses, manufacturer licenses who do not directly serve the public, some licenses designed to serve tourists, and Winery Direct Shipment License would be exempt from limits.

Section 49, 04.11.400(a); Section 51, 04.11.400(i)
Proposed: Convert Public Convenience Licenses and Applications

Existing Public Convenience licenses would be converted to regular Restaurant or Eating Place Licenses (REPLs).

Applications that have been completed as of the bill’s signing date would be converted to applications for regular REPLs, and could be approved by the ABC Board outside the existing population limits.

Sections 167-169, Transition
Proposed: Local Government Petition for Additional Alcohol Licenses
(Proposed AS 04.11.405)

MUNICIPALITY PREPARES PETITION
 to ABC Board for more alcohol licenses

ABC BOARD CONSIDERS
 PETITION
 and how many new licenses to grant in the community

NO
City may petition again with revised application.

YES
New licenses available to apply for.

Application must include:
• Number of licenses requested
• Evidence of planning authority
• Number of existing licenses in the municipality

Sections 53-55, 04.11.405
Proposed: Option to Relocate Some Licenses from a Borough to a City

(AS 04.11.400)

- Current Title 4 allows relocation of a bar (BDL) from a borough to a city within that borough.
- The bill proposes also allowing relocation of package stores.

Section 52, 04.11.400(k)
Proposed Seasonal REPL Tourism

• Seasonal restaurant license
• Available in smaller communities (< 40,000 pop.)
• Same operating requirements and privileges as full-year restaurants (REPL)
• Number of licenses per community determined by formula:

\[
\text{5-year average of annual visitors / months in season} = \text{Average monthly visitor population} \\
(\text{Residents + average monthly visitors}) / 1,500 = \text{Available Seasonal REP Tourism licenses}
\]

• Season defined as up to 6 months per year, in any combination
  – Example: May through September + 1 winter month

Section 13, 04.09.360
Proposed: Regulate Trade Practices

Some trade practices are illegal in federal law: practices of alcohol manufacturers and wholesalers to compel retailers’ buying decisions, or stopping them from buying competitors’ products.

Proposed: add equivalent sections to Title 4, protect retailers and allow for state enforcement.

**Tied house**

Partial ownership of retail license by a manufacturer, to control what products are sold or exclude competitors. Does not apply to 100% manufacturer-owned licenses.

**Commercial bribery**

Supplier pays bonus or provides merchandise in exchange for exclusive arrangement or agreement not to purchase other products.

**Exclusive outlet**

Agreement between supplier and retailer to exclude other retailers or suppliers.

**Consignment sales**

Supplier and retailer make deals to take back unsold products.

*Section 88, 04.16.017*
RB-4. ABC Board as Key Partner for Alcohol Education Efforts

• The ABC Board and AMCO would work with other agencies and organizations to develop a coordinated education plan about responsible alcohol use and applicable laws.

• Coordinate with Department of Health and Social Services and other agencies tasked with alcohol-related education.

Section 5, 04.06.075; Section 9, 04.06.090
P-2. ABC Board Advisory Opinion on Proposed Legislation

• Enable the ABC Board to issue a formal advisory opinion on any proposed legislation regarding Title 4.
• This would include potential creation of a new license type in statute.
F-1. Adjust License Fees to Reflect Current ABC Budgetary Needs

• Update license fees according to privileges and administrative costs of each, and collect sufficient revenue to cover the ABC Board’s required activities:
  – Administration of licenses & permits
  – Education about Title 4 and related regulations
  – Enforcement of Title 4 and related regulations
• ABC Board required to review license fees at least every 5 years.
• See Appendix, Table 2 of the Title 4 Review report for current license fees and proposed changes.

Section 8, 04.06.090; License fees throughout Section 13
Tracking Alcohol Orders in Local Option Areas: Current Title 4

Residents in Local Option communities that allow importation of alcohol may order a limited amount of alcohol each month for personal and non-commercial use.

Sections 10-12 & 16, 04.06.095; existing monthly limits defined in AS 04.11.010
Proposed: Publish Community-Level Data from Local Option Order Database

- In current Title 4, all data in the Local Option order database is private, and deleted after 1 year.
- The bill would keep individual order information private, but retain aggregate data for 10 years and allow the ABC Board to publish annual total sales volume by region or community.
- This valuable information would be available to communities and law enforcement to understand the flow of alcohol into Local Option communities via legal sales.

Keep community level data

Protect individual order data

ABC Board publishes annual data reports

10 years

Sections 10-12, 04.06.095
Proposed: Regulate Internet Alcohol Sales

- Alaska does not limit online sales of alcohol. Orders from out of state businesses are not subject to Alaska’s alcohol excise tax, and the state cannot track how much alcohol is ordered each year.

- The bill would create a Winery Direct Shipment License and allow online alcohol sales only from U.S. wineries and Alaska package stores.

Alaska customer orders wine online from winery

Winery Direct Shipment Licensee verifies:
- Is customer 21 or older?
- Is customer in a non-Local Option area?
- Is order within limit for personal use?
  6 cases per sale
  12 cases per year

Common carrier receives, transports and delivers order

Carrier verifies customer is 21+, delivers package in person

Section 13, 04.09.370; Section 90, 04.16.022; Section 159, 43.60.060
Proposed: Regulate Internet Alcohol Sales

- Common carriers must be approved by the ABC board to transport and deliver alcohol to consumers throughout the state.
- Carriers must demonstrate that they have policies and train employees to properly handle shipments of alcohol.

**Carrier maintains policies:**
- Safe alcohol handling
- Delivery to adult, age 21+
- Delivery in-person only

**ABC board reviews and approves carrier for alcohol transport and delivery**

**ABC board publishes list of approved carriers**

Section 13, 04.09.750
RB-6. Revise Title 4 Penalties

• Review penalties for all Title 4 sections, and revise as needed to make penalties proportionate to the offense, and more consistently enforced.

• Retain existing Misdemeanor and Felony charges for serious offenses, particularly those causing harm to children.

• Ensure that the ABC Board, and licensee, is informed about Title 4 convictions: require court to send records to AMCO, and AMCO to send to the licensee.

• ABC Board retains authority to impose conditions or additional penalties, including suspending or revoking license.

• See Appendix, Table 3 in Title 4 Review Report for table of all current penalties and proposed changes.

*Defined throughout; most prohibited acts defined in chapters 11 + 16*
Proposed: Licensee Penalties for Overserving an Adult or Serving a Minor

(AS 04.16.030 and AS 04.16.052)

- In current Title 4, a licensee or employee who knowingly overserves an intoxicated adult or who serves alcohol to a minor is guilty of a Class A Misdemeanor.

- The bill would change the penalty for both statutes to a Minor Offense, with a $500 fine.

- In addition to the penalty to the person who commits the violation, the owner of the license would receive an administrative (non-criminal) penalty of $250. This alerts the owner that a violation occurred, holds them immediately accountable and encourages future compliance.

Employee serves a minor

Employee receives ticket and $500 fine from law enforcement

Licensee receives $250 administrative from ABC Board

Section 92, 04.16.030; Section 104, 04.16.052; Sections 127 - 129, 04.16.180
Effective Dates

• Some sections are effective immediately:
  – Replacement of public convenience licenses
    • Seasonal REPL Tourism
    • Cities’ petition process for more REPL licenses
  – Repeal of public convenience statute
  – Some changes, for renewal of existing licenses

• The rest of the bill goes into effect January 1, 2023. It allows the ABC Board to write regulations in anticipation of the changes, send new applications and collect new fees before 2023 renewals.
Proposed: Convert Existing Licenses

Bars (BDLs) with Duplicate Licenses would have Multiple Fixed Counter Endorsements.

Beverage Dispensary (BDL) with 3 Duplicate Licenses

BDL with 3 Multiple Fixed Counter Endorsements

Package Stores that fill growlers, ship orders and other activities would have new endorsements.

Package Store

Package Store with Endorsements

Sections 167 – 169, Transition
Additional Slides

*These slides will not be covered in the meeting, but are provided for reference on other topics relevant to SB 9.*
### Proposed: Manufacturer Sales Limits by Product Type

<table>
<thead>
<tr>
<th></th>
<th>Brewery Retail</th>
<th>Winery Retail</th>
<th>Distillery Retail</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Onsite Sales</strong></td>
<td>36 oz. Beer * Equivalent: 3 cans</td>
<td>18 oz. Wine or Mead * Equivalent: 3 glasses</td>
<td>3 oz. Spirits * Equivalent: 3 pours (1 oz. each)</td>
</tr>
<tr>
<td></td>
<td>18 oz. Sake</td>
<td>36 oz. Cider *</td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Offsite Sales</strong></td>
<td>5.167 Gallons Beer or Sake * Equivalent of 1/6 barrel “pony keg,” or 10 growlers</td>
<td>5.167 Gallons Wine, Cider or Mead * Equivalent: 24 bottles (2 cases) or 10 growlers</td>
<td>3.75 Liters Spirits * Equivalent: 5 standard bottles</td>
</tr>
</tbody>
</table>

* Cider and mead limits for onsite sales depend on alcohol content: products below 8.5% ABV have a higher sales limit.

*Section 13, 04.09.320, .330, .340*
Proposed Endorsements

• R-7A | Bowling Alley Endorsement
• R-7B | Package Store Shipping Endorsement
• R-7C | Package Store Delivery Endorsement
• R-7D | Package Store Re-Packaging Endorsement
• [R-1] Multiple Fixed Counter Endorsement
• [R-1] Hotel/Motel Endorsement
• [R-1] Large Resort Endorsement
• [R-3] Package Store Sampling Endorsement
• [M-1] Brewery Repackaging Endorsement

Section 13, 04.09.410 - .520
 Proposed Permits

• R-7F | Beverage Dispensary Caterer’s Permit (AS 04.11.230; 3 AAC 304.685)
• R-7G | Restaurant Caterer’s Dining Permit (3 AAC 304.680)
• R-7H | Club Caterer’s Permit (3 AAC 304.690)
• R-7I | Nonprofit Event Permit (AS 04.11.240)
• R-7J | Art Exhibit Permit (3 AAC 304.697)
• R-7K | Alcoholic Beverage Auction Permit (3 AAC 304.699)
• R-7L | Inventory Resale Permit (Retail Stock Sale License, AS 04.11.200)
• R-7M | Package Store Tasting Event Permit (proposed)
• [Amended] Music Festival Permit (proposed)
• [Amended] Live Music & Entertainment Permit (proposed)

Section 13, 04.09.600; permits defined in 04.09.610 - .690
Proposed: More Accountability for License Fees Allocated to Local Governments

- Current Title 4 allows for local governments to receive an allocation equal to the license fees collected in their area, intended for enforcement of Title 4 and related ordinances.
- Reporting on these activities is required, but not defined in statute. Some jurisdictions report regularly, while others do not.
- The bill includes better reporting and prevention about use of these funds, and requiring reports about education activities as well as enforcement.

New and renewing license applications

allocated to local government for education and enforcement; requires report of activities

allocated to ABC board (AMCO) budget

Report

Section 81, 04.11.610
Proposed: Revise Penalties for Lesser Offenses

- In current law, almost all violations of Title 4 are Class A misdemeanors.
- When penalties are set high across the board and perceived to be too strict for most offenses, law enforcement is less likely to issue citations and courts are less likely to pursue those cases.
- In the bill, many penalties would become minor offenses. Serious violations, such as selling alcohol without a license, allowing gambling on the premises, or perjury on a license application would remain misdemeanors or felonies, as they are today.

<table>
<thead>
<tr>
<th>Minor Offense (Violation)</th>
<th>Class A Misdemeanor</th>
<th>Class C Felony</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to $500 fine (most are $250)</td>
<td>Up to $10,000 fine</td>
<td>Up to $50,000 fine</td>
</tr>
<tr>
<td>Community work service</td>
<td>Up to 1 year in prison</td>
<td>Up to 5 years in prison</td>
</tr>
<tr>
<td>Does not require court appearance</td>
<td>10 years probation</td>
<td>10 years probation</td>
</tr>
<tr>
<td></td>
<td>Requires court appearance</td>
<td>Requires court appearance</td>
</tr>
</tbody>
</table>

Example: Failure to post required warning signs, noncompliance with a permit requirement

Example: Selling alcohol without a license, knowingly allowing underage sales by employees

Example: Perjury on state license application (Class B), importing large amount of alcohol into local option area

Defined throughout; most prohibited acts defined in chapters 11 + 16
Proposed: Require Keg Registration

- Reduces adults’ incentive to legally purchase alcohol and supply an underage drinking party.
- Kegs tagged with the purchaser’s contact information can be tracked if confiscated at an underage party or other situation where minors are given access to alcohol.
- A person, not a licensee, possessing an untagged keg containing alcohol could be fined.
- Modeled on existing Anchorage and Juneau ordinances.

Licensee sells keg, tags with purchaser information

Party with responsible adults

Keg returned to licensee, tag removed

Party with underage drinkers

Ticket to keg purchaser for furnishing alcohol to minors

Section 134, 04.21.012
Convert Existing Applications

Applications that have been completed as of January 1, 2021 would be converted to the equivalent application(s) in the new licensing system.

Brewery License

Application

Brewery Manufacturer & Brewery Retail Licenses

The Brewery license used as an example. The same system applies for wineries and distilleries.

Sections 167 – 169, Transition