

CS FOR SENATE BILL NO. 45(FIN) am H
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Amended: 5/12/18

Offered: 4/12/17

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to an exemption from the regulation of construction contractors;**
2 **relating to distillery licenses; relating to the renewal of a license involving alcoholic**
3 **beverages; relating to the renewal and transfer of ownership of a beverage dispensary**
4 **license or restaurant or eating place license; and relating to issuance of an outdoor**
5 **recreation lodge license in a local option area."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
8 to read:

9 LEGISLATIVE INTENT. It is the intent of the legislature that the exemptions listed
10 in AS 08.18.161, as amended by sec. 11 of this Act, be construed broadly to allow individuals
11 the freedom and ability to construct and sell their own homes based on their own discretion.

12 * **Sec. 2.** AS 04.11.170 is amended by adding new subsections to read:

13 (f) The holder of a distillery license may combine the distillery's product

1 under (d) and (e) of this section with other ingredients, including mixers, liquids, or
2 garnishes, that are not alcoholic beverages.

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

5 * **Sec. 3.** AS 04.11.295(a) is amended to read:

6 (a) An applicant for the issuance or transfer of a license or a conditional
7 contractor's permit under this title shall submit to the board, with the application, the
8 applicant's fingerprints and the fees required by the Department of Public Safety under
9 AS 12.62.160 for criminal justice information and a national criminal history record
10 check. **Except as provided under (c) of this section, the** [THE] board may require an
11 applicant for renewal of a license or a conditional contractor's permit under this title to
12 submit fingerprints and pay **the required** fees [AS REQUIRED BY THIS
13 SUBSECTION]. The board shall submit the fingerprints to the Department of Public
14 Safety to obtain a report of criminal justice information under AS 12.62 and a national
15 criminal history record check under AS 12.62.400. The Department of Public Safety
16 may submit the fingerprints to the Federal Bureau of Investigation for a national
17 criminal history record check. The board shall use the information obtained under this
18 section in its determination of an applicant's qualification for issuance, transfer, or
19 renewal of a license or a conditional contractor's permit.

20 * **Sec. 4.** AS 04.11.295 is amended by adding a new subsection to read:

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

26 * **Sec. 5.** AS 04.11.330(a) is amended to read:

27 (a) An application requesting renewal of a license shall be denied if
28 (1) the board finds, after review of all relevant information, that
29 renewal of the license would not be in the best interests of the public;
30 (2) the license has been revoked for any cause;
31 (3) the applicant has not operated the licensed premises for at least **240**

1 **hours** [30 EIGHT-HOUR DAYS] during each of the two preceding calendar years,
 2 unless the board determines that the licensed premises are under construction or
 3 cannot be operated through no fault of the applicant;

4 (4) the board finds that issuance of an existing license under
 5 AS 04.11.400(d) has not encouraged tourist trade;

6 (5) the requirements of AS 04.11.420 - 04.11.450 relating to zoning,
 7 ownership of the license, and financing of the licensee have not been met;

8 (6) renewal of the license would violate the restrictions pertaining to
 9 the particular license under this title or the license has been operated in violation of a
 10 condition or restriction imposed by the board;

11 (7) renewal of the license is prohibited under this title as a result of an
 12 election conducted under AS 04.11.507;

13 (8) the application has not been completed in accordance with
 14 AS 04.11.270; or

15 (9) the license was issued under AS 04.11.400(g), and the board finds
 16 that the public convenience does not require renewal.

17 * **Sec. 6.** AS 04.11.360 is amended to read:

18 **Sec. 04.11.360. Denial of transfer of a license to another person.** An
 19 application requesting approval of a transfer of a license to another person under this
 20 title shall be denied if

21 (1) the board finds, after review of all relevant information, that
 22 transfer of a license to another person would not be in the best interests of the public;

23 (2) the application has not been completed in accordance with
 24 AS 04.11.280;

25 (3) the application contains false statements of material fact;

26 (4) the transferor has not paid all debts or taxes arising from the
 27 conduct of the business licensed under this title unless

28 (A) the transferor gives security for the payment of the debts or
 29 taxes satisfactory to the creditor or taxing authority; or

30 (B) the transfer is under a promise given as collateral by the
 31 transferor to the transferee in the course of an earlier transfer of the license

1 under which promise the transferor is obliged to transfer the license back to the
2 transferee in the event of default in payment for property conveyed as part of
3 the earlier transfer of the license;

4 (5) transfer of the license to another person would result in violation of
5 the provisions of this title relating to identity of licensees and financing of licensees;

6 (6) transfer of the license to another person would violate the
7 restrictions pertaining to the particular license under this title;

8 (7) transfer of the license to another person is prohibited under the
9 provisions of this title as a result of an election conducted under AS 04.11.507;

10 (8) the prospective transferee does not have the qualifications required
11 under this title of an original applicant; **however, an application may not be denied**
12 **because a prospective transferee under AS 04.11.400(d)(2) does not have the**
13 **qualifications required under AS 04.11.400(d)(1);**

14 (9) the license was issued under AS 04.11.100(f) or 04.11.400(g);
15 however, this paragraph does not apply to a beverage dispensary license issued before
16 June 6, 1985, under former AS 04.11.400(j) if the transfer does not involve a change
17 in location; or

18 (10) the license was issued under AS 04.11.135, unless the transferor is
19 also applying to transfer the beverage dispensary license required under AS 04.11.135
20 to the same transferee.

21 * **Sec. 7.** AS 04.11.400(d) is amended to read:

22 (d) The board may approve

23 **(1)** the issuance [OR TRANSFER OF OWNERSHIP] of a **new**
24 beverage dispensary or restaurant or eating place license without regard to (a) of this
25 section if it appears that the issuance [OR TRANSFER] will encourage the tourist
26 trade by encouraging the construction or improvement of

27 **(A)** [(1)] a hotel, motel, resort, or similar business relating to
28 the tourist trade with a dining facility or having kitchen facilities in a majority
29 of its rental rooms and at least a minimum number of rental rooms required
30 according to the population of the [ESTABLISHED VILLAGE,] incorporated
31 city, unified municipality, or population area established under (a) of this

1 section in which the facility will be located, as follows:

2 (i) [(A)] 10 rental rooms if the population is less than
3 1,501;

4 (ii) [(B)] 20 rental rooms if the population is 1,501 -
5 2,500;

6 (iii) [(C)] 25 rental rooms if the population is 2,501 -
7 5,000;

8 (iv) [(D)] 30 rental rooms if the population is 5,001 -
9 15,000;

10 (v) [(E)] 35 rental rooms if the population is 15,001 -
11 25,000;

12 (vi) [(F)] 40 rental rooms if the population is 25,001 -
13 50,000; and

14 (vii) [(G)] 50 rental rooms if the population is greater
15 than 50,000; or

16 (B) [(2)] an airport terminal; **and**

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

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

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

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

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

28 * **Sec. 8.** AS 04.11.491(a) is amended to read:

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

31 (1) the sale of alcoholic beverages;

1 (2) the sale of alcoholic beverages except by one or more of the
2 following listed on the ballot:

3 (A) a restaurant or eating place licensee;

4 (B) a beverage dispensary licensee;

5 (C) a package store licensee;

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

9 (E) a winery licensee; [OR]

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

12 **(G) an outdoor recreation lodge licensee;**

13 (3) the sale of alcoholic beverages except on premises operated by the
14 municipality and under a type of licensed premises listed on the ballot, that may
15 include one or more of the following:

16 (A) a restaurant or eating place license;

17 (B) a beverage dispensary license; or

18 (C) a package store license;

19 (4) the sale and importation of alcoholic beverages; or

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

21 * **Sec. 9.** AS 04.11.491(b) is amended to read:

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

24 (1) the sale of alcoholic beverages;

25 (2) the sale of alcoholic beverages except by one or more of the
26 following listed on the ballot:

27 (A) a restaurant or eating place licensee;

28 (B) a beverage dispensary licensee;

29 (C) a package store licensee;

30 (D) a caterer holding a permit under AS 04.11.230 to sell
31 alcoholic beverages at a site within the established village who is also licensed

1 under a beverage dispensary license for premises outside of the established
2 village;

3 (E) a winery licensee; [OR]

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

6 **(G) an outdoor recreation lodge licensee;**

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

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

9 * **Sec. 10.** AS 08.18.116 is amended by adding a new subsection to read:

10 (b) If an owner files a notice of the advertisement of a structure for sale or the
11 sale of a structure during the period of construction or for two years after the period of
12 construction begins under AS 08.18.161(11), the department shall investigate and take
13 appropriate action under this chapter if the notice and circumstances indicate that the
14 owner is operating a business for which the owner is required to register as a
15 contractor under this chapter.

16 * **Sec. 11.** AS 08.18.161 is amended to read:

17 **Sec. 08.18.161. Exemptions.** To the extent that this chapter governs
18 contractors, this chapter does not apply to

19 (1) an authorized representative of the United States government, the
20 State of Alaska, or a political subdivision or agency of the state;

21 (2) an officer of a court when acting within the scope of office;

22 (3) a public utility operating under the regulations of the Regulatory
23 Commission of Alaska in construction, maintenance, or development work incidental
24 to its own business;

25 (4) a construction, repair, or operation incidental to the discovering or
26 producing of petroleum or gas, or the drilling, testing, abandoning, or other operation
27 of a petroleum or gas well or a surface or underground mine or mineral deposit when
28 performed by an owner or lessee;

29 (5) the sale or installation of finished products, materials, or articles of
30 merchandise that are not actually fabricated into and do not become a permanent,
31 fixed part of a structure;

1 (6) construction, alteration, or repair of personal property;

2 (7) a person who only furnished materials, supplies, or equipment
3 without fabricating them into, or consuming them in the performance of, the work of
4 the contractor;

5 (8) [REPEALED

6 (9)] an owner who contracts for a project with a registered contractor;

7 **(9)** [(10)] a person working on **an existing structure on** that person's
8 own property, whether occupied by the person or not, and a person working on that
9 person's own **existing** residence, whether owned by the person or not;

10 **(10)** [(11)] an owner or tenant of commercial property who uses the
11 owner's or tenant's own employees to do maintenance, repair, and alteration work **on**
12 **[UPON]** that property;

13 **(11)** [(12)] an owner who acts as the owner's own contractor and in
14 doing so **performs the work independently or** hires workers **or** [ON AN HOURLY
15 BASIS, HIRES] subcontractors, purchases materials, and, as such, sees to the paying
16 for all labor, subcontractors, and materials; in this case, the owner shall be limited to
17 construction of one home, duplex, triplex, four-plex, or commercial building every
18 two years; **an owner who advertises the structure under construction for sale or**
19 **sells the structure during the period of construction or within two years after the**
20 **period of construction begins shall file, on forms provided by the department, a**
21 **notice indicating that the owner is not engaged in a business for which the owner**
22 **is required to register as a contractor under this chapter; for the purposes of this**
23 **paragraph, construction begins on the date that is the earlier of when the owner**

24 **(A) begins the actual construction work; or**

25 **(B) enters into an agreement with another person for the**
26 **other person to provide labor, to act as a subcontractor, or to provide**
27 **materials for the construction;**

28 **(12)** [(13)] a person performing construction work incidental to
29 farming, dairying, agriculture, horticulture, stock or poultry raising, mining, logging,
30 fishing, clearing, or other work **on** [UPON] the land in rural districts for fire
31 prevention purposes, or access road building, unless the person is a licensee.

1 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 APPLICABILITY. (a) Section 2 of this Act applies to conduct by a holder of a
4 distillery license occurring before, on, or after the effective date of this Act.

5 (b) AS 04.11.491(a)(2), as amended by sec. 8 of this Act, and AS 04.11.491(b)(2), as
6 amended by sec. 9 of this Act, apply to outdoor recreation lodge licenses issued before, on, or
7 after the effective date of this Act.

8 (c) Sections 10 and 11 of this Act apply to construction begun under
9 AS 08.18.161(11), as amended by sec. 11 of this Act, on or after the effective date of this Act.