

**AMENDMENT**

OFFERED IN THE HOUSE  
TO: HB 98

BY REPRESENTATIVE GARA

Page 1, line 1, following both occurrences of "consuming":

Insert "or in possession or control"

Page 1, following line 3:

Insert a new bill section to read:

**"\* Section 1.** AS 04.16.050(b) is amended to read:

(b) A person who violates (a) of this section and who has not been previously convicted or received a suspended imposition of sentence under (1) of this subsection is guilty of minor consuming or in possession or control. **Minor consuming or in possession or control is a violation.** Upon conviction in the district court, the court

(1) may grant a suspended imposition of sentence under AS 12.55.085 and place the person on probation for up to one year if the person has not been convicted of a violation of this section previously; among the conditions of probation, the court shall, with the consent of a community diversion panel, refer the person to the panel, and require the person to comply with conditions set by the panel, including counseling, education, treatment, community work, and payment of fees; in this paragraph, "community diversion panel" means a youth court or other group selected by the court to serve as a sentencing option for a person convicted under this section; or

(2) shall impose a fine of at least \$200 but not more than \$600, shall require the person to attend alcohol information school if the school is available, and shall place the person on probation for up to one year under (e) of this section; the court may suspend a portion of the fine imposed under this paragraph that exceeds

1       \$200 if the person is required to pay for education or treatment required under (e) of  
2       this section."

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4       Page 1, line 4:

5       Delete "**Section 1**"

6       Insert "**Sec. 2**"

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8       Renumber the following bill sections accordingly.

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10      Page 1, line 9, following "section.":

11           Insert "**Repeat minor consuming or in possession or control is a violation.**"

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13      Page 2, following line 15:

14           Insert new bill sections to read:

15      "\* **Sec. 4.** AS 04.16.050(*l*) is amended by adding a new paragraph to read:

16                       (4) "violation" has the meaning given in AS 11.81.900 and the  
17           penalties that are provided in this section.

18      \* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to  
19      read:

20           LEGISLATIVE RECOGNITION OF EFFECT OF DEFINITION. The legislature  
21      recognizes that

22                       (1) the definition of "violation" in AS 11.81.900(b)(63) provides that persons  
23      charged with a violation are not entitled to counsel or a trial by jury; and

24                       (2) notwithstanding the definition of "violation" in AS 11.81.900(b)(63),  
25      persons charged with a first offense minor consuming or in possession or control or with  
26      repeat minor consuming or in possession or control under AS 04.16.050 are entitled to  
27      counsel and a trial by jury under the decision of the Alaska Court of Appeals in State v.  
28      Auliye, 57 P.3d 711 (Alaska App. 2002)."

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30      Renumber the following bill section accordingly.