

## SENATE BILL 85

### Sectional Analysis

**Section 1** addresses the amount of alcohol that a person may possess in or send to a damp community, the possession or sending of which would create a rebuttable presumption that it was for the purpose of illegal sale of the alcohol. A damp community is one that has elected to allow possession but not the sale of alcohol in their community.

Current law provides that a person may possess in or send to a damp community 10 ½ liters (or 14 fifths) of distilled spirits; 24 liters (or 32 bottles) of wine; and 12 gallons (about 21 - 12 ounce six packs) of malt beverages each calendar month before giving rise to the rebuttable presumption that the possession or transporting is for the illegal sale of the alcohol.

Section 1 of Senate Bill 85 reduces the amounts that give rise to the rebuttable presumption to three liters (or four fifths) of distilled spirits; 12 liters (or 16 bottles) of wine; and six gallons (about 11 - 12 ounce six packs). A person could possess or transport these amounts each month without giving rise to the rebuttable presumption.

**Section 2** amends the law that requires package store liquor licensees who send alcohol to persons living in damp communities to check a statewide database before sending alcohol to a person. The licensee may not send alcohol if the person has already received the amount of alcohol that gives rise to the rebuttable presumptions described in Section 1. Section 2 amends the law to conform to the changes in the presumptive amounts described in Section 1.

**Section 3** adopts civil penalties for liquor licensees whose agents or employees are convicted of furnishing alcohol to a minor on the licensee's premises. Under current law there are no certain legal consequences for the owner of a bar or liquor store if an employee sells alcohol to a minor. The bill requires Alaska Alcoholic Beverage Control Board to send a warning letter to the licensee the first time the licensee's agent or employee is convicted of furnishing alcohol to a minor on his or her premises. For a second or subsequent conviction by an agent or employee, the ABC board would impose a civil fine of \$1,000.

**Sections 4 and 5** correct a minor error in legislation adopted last year that reduced the probation period for minors convicted of consuming alcohol. The law addressing minor consuming in Alaska places progressive penalties on minors who consume alcohol. These sections clarify that the penalties imposed for second and third

convictions will be imposed on all minors who have the requisite prior conviction or convictions.

**Section 6** addresses the penalties for bootlegging, that hinge on the amount of alcohol illegally transported into a local option community. Under current law a bootlegger commits a class A misdemeanor (maximum term of incarceration one year) if the amount of alcohol illegally transported is less than 10 ½ liters of distilled spirits, 24 liters of wine, or 12 gallons of malt liquor. The bill would reduce the amount that delineates a class A misdemeanor to less than three liters of distilled spirits, 12 liters of wine, and six gallons of malt liquor.

Section 6 makes conforming changes for felony bootlegging. Bootlegging more than the amounts described above would be a class C felony. A third conviction of bootlegging the lower amounts within 15 years of the two prior convictions is also a class C felony.

**Section 7** corrects a provision in legislation enacted last year that intended to adopt mandatory minimum penalties for bootlegging that are similar to the mandatory minimum penalties for drunk driving. Because the definition of prior conviction for bootlegging is different from that for drunk driving, the legislation did not adopt a mandatory minimum for the first time conviction of felony bootlegging. Senate Bill 85 amends the penalties for felony bootlegging so that the penalties are the same as those for felony drunk driving.

**Sections 8 and 9** include applicability and effective date provisions.