

# LEGAL SERVICES

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## MEMORANDUM

October 20, 2009

**SUBJECT:** Requiring Alcohol Education and Assessment for Minors in Civil Actions Brought by Licensees (Work Order No. 26-LS0895\R)

**TO:** Senator Kevin Meyer  
Attn: Christine Marasigan

**FROM:** Gerald P. Luckhaupt   
Legislative Counsel

You have requested that mandatory alcohol education be required for persons subject to civil suits by licensees under AS 04.16.049(e) and 04.16.065(a). These civil suits are brought by licensees against persons under the age of 21 who attempt to use fake ids or otherwise access premises or purchase alcohol when they are underage. These civil suits are lawsuits between two private parties and do not involve the state or other prosecuting authority and criminal and other penalties may not be imposed. Imposition of criminal sanctions including attendance at alcohol education<sup>1</sup> is inappropriate and unavailable to civil litigants. I do not see how one civil litigant can be authorized to impose a potential criminal sanction on the other civil litigant.

What I did do is provide that a court may require a person under the age of 21 to participate in a juvenile alcohol action safety program whenever the person is convicted of an offense under AS 04.16. Currently we only require this for minor in possession under AS 04.16.050. While this does not directly satisfy your request it does allow alcohol education programs to be required of minors when they are prosecuted and convicted of offenses under AS 04.16.049 and 04.16.065 and other offenses under AS 04.16.

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Enclosure

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<sup>1</sup> I assume by this you mean a juvenile alcohol safety action program as is currently required for minor in possession convictions under AS 04.16.050.