

**HOUSE CS FOR SENATE BILL NO. 210(RLS)**  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

**BY THE HOUSE RULES COMMITTEE**

**Offered: 4/3/06**

**Referred: Rules**

**Sponsor(s): SENATORS THERRIAULT, Hoffman**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the manufacture and transportation of alcoholic beverages; relating**  
2 **to relocation of existing licenses within a borough; relating to forfeitures of property for**  
3 **violations of alcoholic beverage laws; and relating to violations of alcoholic beverage**  
4 **laws."**

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

6 **\* Section 1.** AS 04.11.010(c) is amended to read:

7 (c) Unless a municipality or established village has adopted a more restrictive  
8 local option under AS 04.11.491(g), in a criminal prosecution for possession of  
9 alcoholic beverages for sale in violation of (a) of this section, the fact that a person

10 (1) possessed more than **10 1/2** [12] liters of distilled spirits, 24 liters  
11 or more of wine, or 12 gallons or more of malt beverages in an area where the sale of  
12 alcoholic beverages is restricted or prohibited under AS 04.11.491 creates a  
13 presumption that the person possessed the alcoholic beverages for sale;

14 (2) sends, transports, or brings more than **10 1/2** [12] liters of distilled

1 spirits, 24 liters or more of wine, or 12 gallons or more of malt beverages to an area  
 2 where the sale of alcoholic beverages is restricted or prohibited under AS 04.11.491  
 3 creates a presumption that the person sent, transported, or brought the alcoholic  
 4 beverages for sale in the area.

5 \* **Sec. 2.** AS 04.11.400(a) is amended to read:

6 (a) Except as provided in (d) - (h), (k), [AND] (l), and (n) of this section, a  
 7 new license may not be issued and the board may prohibit relocation of an existing  
 8 license

9 (1) outside an established village, incorporated city, unified  
 10 municipality, or organized borough if after the issuance or relocation there would be  
 11 (A) more than one restaurant or eating place license for each 1,500 population or  
 12 fraction of that population, or (B) more than one license of each other type, including  
 13 licenses that have been issued under (d) or (e) of this section, for each 3,000  
 14 population or fraction of that population, in a radius of five miles of the licensed  
 15 premises, excluding the populations of established villages, incorporated cities, unified  
 16 municipalities, and organized boroughs that are wholly or partly included within the  
 17 radius;

18 (2) inside an established village, incorporated city, or unified  
 19 municipality if after the issuance or relocation there would be inside the established  
 20 village, incorporated city, or unified municipality

21 (A) more than one restaurant or eating place license for each  
 22 1,500 population or fraction of that population; or

23 (B) more than one license of each other type, including licenses  
 24 that have been issued under (d) or (e) of this section, for each 3,000 population  
 25 or fraction of that population;

26 (3) inside an organized borough but outside an established village or  
 27 incorporated city located within the borough, if after the issuance or relocation there  
 28 would be inside the borough, but outside the established villages and incorporated  
 29 cities located within the borough,

30 (A) more than one restaurant or eating place license for each  
 31 1,500 population or fraction of that population; or

1 (B) more than one license of each other type, including licenses  
 2 that have been issued under (d) or (e) of this section, for each 3,000 population  
 3 or fraction of that population excluding the population of those established  
 4 villages that have adopted a local option under AS 04.11.491(b)(1), (3), or (4),  
 5 and excluding the population of incorporated cities located within the  
 6 organized borough.

7 \* **Sec. 3.** AS 04.11.400 is amended by adding a new subsection to read:

8 (n) Without regard to (a) of this section, the board may allow the relocation of  
 9 a license within a borough, including within an incorporated city within a borough, if  
 10 the governing body of the borough approves of the relocation and, if the license is  
 11 being relocated into or within an incorporated city, the governing body of the  
 12 incorporated city approves of the relocation.

13 \* **Sec. 4.** AS 04.16.220(a) is amended to read:

14 (a) The following are subject to forfeiture:

15 (1) alcoholic beverages manufactured, sold, offered for sale, [OR]  
 16 possessed for sale, or bartered or exchanged for goods and services in this state in  
 17 violation of AS 04.11.010; alcoholic beverages possessed, stocked, warehoused, or  
 18 otherwise stored in violation of AS 04.21.060; alcoholic beverages sold [,] or offered  
 19 for sale in violation of a local option adopted under AS 04.11.491; alcoholic beverages  
 20 transported into the state and sold to persons not licensed under this chapter in  
 21 violation of AS 04.16.170(b); **alcoholic beverages transported in violation of**  
 22 **AS 04.16.125;**

23 (2) materials and equipment used in the manufacture, sale, offering for  
 24 sale, possession for sale, or barter or exchange of alcoholic beverages for goods and  
 25 services in this state in violation of AS 04.11.010; materials and equipment used in the  
 26 stocking, warehousing, or storage of alcoholic beverages in violation of AS 04.21.060;  
 27 materials and equipment used in the sale or offering for sale of an alcoholic beverage  
 28 in an area in violation of a local option adopted under AS 04.11.491;

29 (3) aircraft, vehicles, or vessels used to transport [,] or facilitate the  
 30 transportation of

31 (A) alcoholic beverages manufactured, sold, offered for sale,

1 [OR] possessed for sale, or bartered or exchanged for goods and services in  
2 this state in violation of AS 04.11.010;

3 (B) property stocked, warehoused, or otherwise stored in  
4 violation of AS 04.21.060;

5 (C) alcoholic beverages imported into a municipality or  
6 established village in violation of AS 04.11.499;

7 (4) alcoholic beverages found on licensed premises that do not bear  
8 federal excise stamps if excise stamps are required under federal law;

9 (5) alcoholic beverages, materials, or equipment used in violation of  
10 AS 04.16.175;

11 (6) money, securities, negotiable instruments, or other things of value  
12 used in financial transactions or items of value purchased from the proceeds  
13 derived from activity prohibited under AS 04.11.010 or in violation of a local option  
14 adopted under AS 04.11.491.

15 \* **Sec. 5.** AS 04.16.220(c) is amended to read:

16 (c) Within 30 days after [OF] a seizure under this section, the Department of  
17 Public Safety shall make reasonable efforts to ascertain the identity and whereabouts  
18 of any person holding an interest or an assignee of a person holding an interest in the  
19 property seized, including a right to possession, [A] lien, mortgage, or conditional  
20 sales contract. The Department of Public Safety shall notify the person ascertained to  
21 have an interest in property seized of the impending forfeiture, and, before forfeiture,  
22 the Department of Law shall publish, once a week for four consecutive calendar  
23 weeks, a notice of the impending forfeiture in a newspaper of general circulation in the  
24 judicial district in which the seizure was made [,] or, if no newspaper is published in  
25 that judicial district, in a newspaper published in the state and distributed in that  
26 judicial district. Upon service or publication of notice of commencement of a  
27 forfeiture action under this section, a person claiming an interest in the property  
28 shall file, within 30 days after the service or publication, a notice of claim setting  
29 out the nature of the interest, the date it was acquired, the consideration paid,  
30 and an answer to the state's allegations. If a claim and answer is not filed within  
31 the time specified, the property described in the state's allegation must be

1 **ordered forfeited to the state without further proceedings or showings. Questions**  
2 **of fact or law raised by a notice of forfeiture action and answer of a claimant in**  
3 **an action commenced under this section must be determined by the court sitting**  
4 **without a jury. This proceeding may be held in abeyance until conclusion of any**  
5 **pending criminal charges against the claimant under this title.**

6 \* **Sec. 6.** AS 04.16.220(d) is amended to read:

7 (d) Property subject to forfeiture under (a) of this section may be forfeited

8 (1) upon conviction of a person for a violation of AS 04.11.010,  
9 04.11.499, **AS 04.16.125**, AS 04.21.060, or AS 04.11.501 or an ordinance adopted  
10 under AS 04.11.501; or

11 (2) upon judgment by the superior court in a proceeding in rem that the  
12 property was used in a manner subjecting it to forfeiture under (a) of this section.

13 \* **Sec. 7.** AS 04.21.080(b) is amended by adding a new paragraph to read:

14 (17) "manufacture" means the creation of alcoholic content by use of  
15 fermentation with natural or artificial sugar or yeast or distillation.