

SENATE BILL NO. 210 am H

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY SENATORS THERRIAULT, Hoffman

REPRESENTATIVE Lynn

Amended: 4/10/06

Offered: 1/9/06

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the manufacture and transportation of alcoholic beverages; relating
2 to forfeitures of property for violations of alcoholic beverage laws; and relating to
3 violations of alcoholic beverage laws."

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

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

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

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

13 (2) sends, transports, or brings more than 10 1/2 [12] liters of distilled
14 spirits, 24 liters or more of wine, or 12 gallons or more of malt beverages to an area

1 where the sale of alcoholic beverages is restricted or prohibited under AS 04.11.491
 2 creates a presumption that the person sent, transported, or brought the alcoholic
 3 beverages for sale in the area.

4 * **Sec. 2.** AS 04.16.220(a) is amended to read:

5 (a) The following are subject to forfeiture:

6 (1) alcoholic beverages manufactured, sold, offered for sale, [OR]
 7 possessed for sale, **or** bartered or exchanged for goods and services in this state in
 8 violation of AS 04.11.010; alcoholic beverages possessed, stocked, warehoused, or
 9 otherwise stored in violation of AS 04.21.060; alcoholic beverages sold [,] or offered
 10 for sale in violation of a local option adopted under AS 04.11.491; alcoholic beverages
 11 transported into the state and sold to persons not licensed under this chapter in
 12 violation of AS 04.16.170(b); **alcoholic beverages transported in violation of**
 13 **AS 04.16.125;**

14 (2) materials and equipment used in the manufacture, sale, offering for
 15 sale, possession for sale, **or** barter or exchange of alcoholic beverages for goods and
 16 services in this state in violation of AS 04.11.010; materials and equipment used in the
 17 stocking, warehousing, or storage of alcoholic beverages in violation of AS 04.21.060;
 18 materials and equipment used in the sale or offering for sale of an alcoholic beverage
 19 in an area in violation of a local option adopted under AS 04.11.491;

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

22 (A) alcoholic beverages manufactured, sold, offered for sale,
 23 [OR] possessed for sale, **or** bartered or exchanged for goods and services in
 24 this state in violation of AS 04.11.010;

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

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

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

31 (5) alcoholic beverages, materials, or equipment used in violation of

1 AS 04.16.175;

2 (6) money, securities, negotiable instruments, or other things of value
3 used in financial transactions or items of value purchased from the proceeds
4 derived from activity prohibited under AS 04.11.010 or in violation of a local option
5 adopted under AS 04.11.491;

6 (7) a firearm used in furtherance of a violation of this title.

7 * **Sec. 3.** AS 04.16.220(c) is amended to read:

8 (c) Within 30 days after [OF] a seizure under this section, the Department of
9 Public Safety shall make reasonable efforts to ascertain the identity and whereabouts
10 of any person holding an interest or an assignee of a person holding an interest in the
11 property seized, including a right to possession, [A] lien, mortgage, or conditional
12 sales contract. The Department of Public Safety shall notify the person ascertained to
13 have an interest in property seized of the impending forfeiture, and, before forfeiture,
14 the Department of Law shall publish, once a week for four consecutive calendar
15 weeks, a notice of the impending forfeiture in a newspaper of general circulation in the
16 judicial district in which the seizure was made [,] or, if no newspaper is published in
17 that judicial district, in a newspaper published in the state and distributed in that
18 judicial district. Upon service or publication of notice of commencement of a
19 forfeiture action under this section, a person claiming an interest in the property
20 shall file, within 30 days after the service or publication, a notice of claim setting
21 out the nature of the interest, the date it was acquired, the consideration paid,
22 and an answer to the state's allegations. If a claim and answer is not filed within
23 the time specified, the property described in the state's allegation must be
24 ordered forfeited to the state without further proceedings or showings. Questions
25 of fact or law raised by a notice of forfeiture action and answer of a claimant in
26 an action commenced under this section must be determined by the court sitting
27 without a jury. This proceeding may be held in abeyance until conclusion of any
28 pending criminal charges against the claimant under this title.

29 * **Sec. 4.** AS 04.16.220(d) is amended to read:

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

31 (1) upon conviction of a person for a violation of AS 04.11.010,

1 04.11.499, **AS 04.16.125**, AS 04.21.060, or AS 04.11.501 or an ordinance adopted
2 under AS 04.11.501; or

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

5 * **Sec. 5.** AS 04.21.080(b) is amended by adding a new paragraph to read:

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