

**SENATE BILL NO. 284**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

**BY SENATOR THERRIAULT**

**Introduced: 2/13/06**

**Referred: Judiciary, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to sentencing for the commission of a felony while under the influence**  
2 **of alcohol."**

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

4 **\* Section 1.** AS 11.56 is amended by adding a new section to read:

5 **Sec. 11.56.768. Consumption of alcoholic beverage in violation of**  
6 **sentence.** (a) A person commits the crime of consumption of alcoholic beverage in  
7 violation of sentence if the person consumes an alcoholic beverage in violation of an  
8 order imposed under AS 12.55.015(a)(13).

9 (b) In a prosecution under this section, it is an affirmative defense that the  
10 alcoholic beverage was provided by, and consumed under the direction of, a health  
11 care professional as part of medical treatment of the defendant.

12 (c) Except as provided in (d) of this section, consumption of alcoholic  
13 beverage in violation of sentence is a class A misdemeanor.

14 (d) Consumption of alcoholic beverage is a class C felony if the defendant has

1           been previously convicted of violating this section.

2   \* **Sec. 2.** AS 12.55.015(a) is amended to read:

3           (a) Except as limited by AS 12.55.125 - 12.55.175, the court, in imposing  
4 sentence on a defendant convicted of an offense, may singly or in combination

5                   (1) impose a

6                           (A) fine when authorized by law and as provided in  
7 AS 12.55.035; or

8                           (B) day fine when authorized by law and as provided in  
9 AS 12.55.036 if the court does not impose a term of periodic or continuous  
10 imprisonment or place the defendant on probation;

11                   (2) order the defendant to be placed on probation under conditions  
12 specified by the court that may include provision for active supervision;

13                           (3) impose a definite term of periodic imprisonment;

14                           (4) impose a definite term of continuous imprisonment;

15                           (5) order the defendant to make restitution under AS 12.55.045;

16                           (6) order the defendant to carry out a continuous or periodic program  
17 of community work under AS 12.55.055;

18                           (7) suspend execution of all or a portion of the sentence imposed under  
19 AS 12.55.080;

20                           (8) suspend imposition of sentence under AS 12.55.085;

21                           (9) order the forfeiture to the commissioner of public safety or a  
22 municipal law enforcement agency of a deadly weapon that was in the actual  
23 possession of or used by the defendant during the commission of an offense described  
24 in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;

25                           (10) order the defendant, while incarcerated, to participate in or  
26 comply with the treatment plan of a rehabilitation program that is related to the  
27 defendant's offense or to the defendant's rehabilitation if the program is made available  
28 to the defendant by the Department of Corrections;

29                           (11) order the forfeiture to the state of a motor vehicle, weapon,  
30 electronic communication device, or money or other valuables, used in or obtained  
31 through an offense that was committed for the benefit of, at the direction of, or in

1 association with a criminal street gang;

2 (12) order the defendant to have no contact, either directly or  
3 indirectly, with a victim or witness of the offense until the defendant is  
4 unconditionally discharged;

5 **(13) if the court finds by clear and convincing evidence that the**  
6 **defendant's conduct constituting the offense was substantially influenced by the**  
7 **consumption of an alcoholic beverage, order the defendant convicted of a felony**  
8 **under AS 11.41 to refrain from consuming alcoholic beverages for the lifetime of**  
9 **the defendant, including during the term of any sentence, and as a condition of**  
10 **probation, suspended sentence, and suspended imposition of sentence.**

11 \* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to  
12 read:

13 APPLICABILITY. This Act applies to offenses committed on or after the effective  
14 date of this Act.