

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 13, 2006

3:27 p.m.

MEMBERS PRESENT

Representative Tom Anderson, Chair
Representative Pete Kott
Representative Gabrielle LeDoux
Representative Bob Lynn
Representative Harry Crawford
Representative David Guttenberg

MEMBERS ABSENT

Representative Norman Rokeberg

COMMITTEE CALENDAR

HOUSE BILL NO. 382

"An Act relating to recorking, sealing, or packaging of wine served with a meal and removal of recorked, sealed, or packaged wine from licensed premises."

- MOVED HB 382 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 382

SHORT TITLE: RECORKING WINE SERVED WITH A MEAL

SPONSOR(S): REPRESENTATIVE(S) RAMRAS

01/20/06	(H)	READ THE FIRST TIME - REFERRALS
01/20/06	(H)	EDT, L&C
02/06/06	(H)	EDT AT 5:00 PM CAPITOL 120
02/06/06	(H)	Moved Out of Committee
02/06/06	(H)	MINUTE(EDT)
02/08/06	(H)	EDT RPT 5DP
02/08/06	(H)	DP: COGHILL, LYNN, CRAWFORD, NEUMAN, RAMRAS
02/13/06	(H)	L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

REPRESENTATIVE JAY RAMRAS
Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Spoke as the sponsor of HB 382.

DOUGLAS "DOUG" GRIFFIN, Director
Alcoholic Beverage Control Board
Anchorage, Alaska

POSITION STATEMENT: Testified on HB 382.

ACTION NARRATIVE

CHAIR TOM ANDERSON called the House Labor and Commerce Standing Committee meeting to order at [3:27:55 PM](#). Representatives Anderson, Lynn, Crawford, and Guttenberg were present at the call to order. Representatives Ledoux and Kott arrived as the meeting was in progress.

HB 382-RECORKING WINE SERVED WITH A MEAL

[3:28:29 PM](#)

CHAIR ANDERSON announced that the only order of business would be HOUSE BILL NO. 382, "An Act relating to recorking, sealing, or packaging of wine served with a meal and removal of recorked, sealed, or packaged wine from licensed premises."

[3:28:33 PM](#)

REPRESENTATIVE JAY RAMRAS, Alaska State Legislature, sponsor of HB 382, began by relating that he and Representative Guttenberg attended various meetings this interim that addressed a rash of alcohol-related fatalities. This legislation, he opined, speaks to the ability to make Alaska's roads safer, without limiting or prohibiting commerce, and does so without a fiscal note. Representative Ramras explained that currently patrons to a restaurant can take any food leftovers with them. However, any alcoholic leftovers must be left in the restaurant due to the state's open container law. He suggested that the aforementioned causes restaurant patrons to consume the balance of the table wine rather than surrendering its value. As a result, the blood alcohol concentration (BAC) of those patrons is higher than it need be. Therefore, HB 382 would allow patrons to recork wine bottles in such a way that it would require a corking instrument to remove the cork. Thirty-three states currently allow wine recorking. HB 382 has a zero fiscal note.

[3:32:00 PM](#)

CHAIR ANDERSON asked if the Cabaret Restaurant & Retailers Association (CHARR) supports the legislation.

REPRESENTATIVE RAMRAS replied that he has received mixed signals. He stated that there is a proprietary nature between beverage store dispensary licensees and package store licensees, adding that not allowing people to recork often means that they'll drink more than they would otherwise.

[3:33:16 PM](#)

CHAIR ANDERSON related his understanding that both restaurants and package stores are members of these organizations, adding that some restaurants and bars support the legislation, although some liquor stores may not.

REPRESENTATIVE RAMRAS confirmed that this is correct, and shared that some package stores are concerned that restaurants will sell wine at a cheaper price and thus patrons will purchase wine at the restaurant. He informed the committee that he has a conflict of interest, as he owns two beverage dispensary licenses and two restaurant licenses, however that brings a wealth of knowledge to the issue. He opined that adopting a responsible recorking program would result in [better] public safety.

CHAIR ANDERSON recalled taking a cruise during which the policy was to recork unfinished wine and hold it for later use, which, he opined, resulted in less drinking.

[3:36:29 PM](#)

REPRESENTATIVE LYNN asked how the cost for recorking compares to that of a "doggy bag" for food.

REPRESENTATIVE RAMRAS answered that recorking apparatuses range between \$23-\$39, and bags of corks can also be purchased. He opined that there is a smaller selection of house wines by the glass, and therefore recorking would allow people to experiment with a more expensive wine. This may result in the consumer looking for that wine in a package store, which would benefit the consumer as well as public safety.

REPRESENTATIVE LYNN surmised then that the cost of recorking would be di minimis.

REPRESENTATIVE RAMRAS agreed.

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CHAIR ANDERSON declared that he was unable to see a negative. He opined that if one purchases a bottle of expensive wine and is able to take it home if unable to finish it, that individual would be more likely to patronize the restaurant again.

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REPRESENTATIVE GUTTENBERG noted that there is no mention of the number of bottles [a person can recork and take home], and inquired as to the intent.

REPRESENTATIVE RAMRAS replied that there is no limit as long as the bottle is recorked in such a way that it would require a corking instrument to reopen it, adding that whatever restrictions are applied by the Alcohol Beverage Control Board (ABC Board) are "fine." Posing a situation involving the purchase of a "high-end" wine, he explained that being required to leave a portion of the wine either encourages over consumption, or inhibits commerce. He reiterated an earlier statement that recorking increases public safety, benefits sales for the restaurant and allows the consumer to retain his/her entire purchase.

[3:42:25 PM](#)

CHAIR ANDERSON commented that the markup price in restaurants would prohibit patrons from merely going to a restaurant to purchase wine, and therefore would not inhibit liquor store sales.

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REPRESENTATIVE RAMRAS, in response to questions from Representative Guttenberg, explained that it's a violation of the open container law to have open wine in a vehicle or any unlicensed premises. He stated that the ABC Board would regulate and establish standards for recorking a bottle of wine in a restaurant, adding that it is not the intent of the legislation to encourage violations of the open container law. He informed the committee that he has not had conversations with the ABC Board regarding this legislation.

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REPRESENTATIVE KOTT asked if part of techniques in alcohol management (TAM) training would include recorking.

REPRESENTATIVE RAMRAS replied that it is his understanding that the ABC Board would include this in its training program.

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REPRESENTATIVE KOTT inquired as to why this legislation only applies to eating establishments.

REPRESENTATIVE RAMRAS replied that this is an oversight.

[3:48:19 PM](#)

REPRESENTATIVE LEDOUX asked if anyone ever enters a bar and orders a bottle of liquor, and if so, why not have a similar view to recorking liquor.

REPRESENTATIVE RAMRAS replied that the legislation only refers to wine because liquor would lead to a "slippery slope." He mentioned that if the ABC Board recommended that some restrictions apply to non-eating establishments, he would be comfortable having [such intent] inserted through regulation.

REPRESENTATIVE KOTT commented that he doesn't believe that this can be done through regulation if statute specifies "eating establishment." He asked if the sponsor would be willing to amend the bill to include bars.

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CHAIR ANDERSON agreed that including liquor would cause a slippery slope because bars may charge similar or a little over liquor store prices and thus the bar could become a package store in essence. Furthermore, including liquor stores would open the door to taking anything home, including beer.

REPRESENTATIVE RAMRAS expressed interest in how the director [of the ABC Board] would approach this issue, and pointed out that page 1, line 6, states that the wine be "partially consumed with a meal".

CHAIR ANDERSON questioned who would purchase more bottles of wine in a restaurant at a higher price.

REPRESENTATIVE LEDOUX again inquired as to the difference in applying this to liquor.

REPRESENTATIVE RAMRAS reiterated that the legislation only refers to wine and is all he intended to address.

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REPRESENTATIVE CRAWFORD pointed out the difference in recorking wine versus screwing the cap back onto a bottle of liquor and stated that a bottle of liquor would be much easier to open while driving.

[3:53:41 PM](#)

REPRESENTATIVE KOTT commented that he is not aware if other states recork distilled spirits.

REPRESENTATIVE RAMRAS pointed out that AS 04.16.120(b) currently allows for a corking fee which enables a person to bring his/her own wine to a restaurant for a fee of about \$15, adding that this is a good precedent to follow.

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REPRESENTATIVE LEDOUX asked if under current law, a person who brings his/her own wine and does not finish it would be able to take it when he/she leaves.

REPRESENTATIVE RAMRAS replied no, because it would be in violation of the open container law.

[3:57:40 PM](#)

DOUGLAS "DOUG" GRIFFIN, Director, Alcoholic Beverage Control Board ("ABC Board"), stated that the board has not taken a position on recorking. He concurred that the more narrowly focused the legislation is, the better. The benefits, he opined, include individuals not consuming more alcohol than advisable while allowing commerce to continue. He acknowledged that the open container law is addressed in the legislation. However, some wines are changing to screw tops instead of corks and this will require some work from the ABC Board to find a good sealing mechanism. Such a mechanism might be something as simple as special tape or placing the bottle in a bag and stapling the top closed so that a police officer would be able to tell if the container has been tampered with. He agreed that

the legislation should not include spirits. Moreover, the legislation should draw a clear line between restaurants, package stores, and bars that serve meals. In regard to the corkage fee, he commented that if a licensee does not want to do this, that licensee has the right not to. He added that the ABC Board tries to keep licensees up to date with the requirements and would include the recorking in the TAM training. Mr. Griffin commented that it is not the ABC Board's intent to create a bigger problem.

[4:06:04 PM](#)

REPRESENTATIVE CRAWFORD asked if screw top bottles can be recorked with a new cork.

MR. GRIFFIN answered that this may be a solution, although the screw top bottles don't have the lip that a corked bottle does. He reiterated the possibility of taping or bagging, adding that the ABC Board could look to the 33 states that allow recorking for guidance.

REPRESENTATIVE RAMRAS commented that there is sufficient latitude for the ABC Board to address those wine bottles with screw tops that are "recorked."

[4:08:45 PM](#)

REPRESENTATIVE LYNN stated his support for the narrow focus of the legislation, and inquired as to what happens if wine is recorked and taken to a recreational vehicle (RV).

CHAIR ANDERSON opined that open containers are not allowed in the cab, but there is no prohibition regarding the back of an RV or bus.

MR. GRIFFIN answered that a person can consume in the living quarters, behind the driver's seat [of an RV or bus].

[4:10:23 PM](#)

CHAIR ANDERSON, upon determining no one else wished to testify, closed public testimony for HB 382.

[4:10:31 PM](#)

REPRESENTATIVE KOTT moved that the committee adopt Amendment 1 as follows:

Page 1, line 1 and lines 6-7; Delete "with a meal"

REPRESENTATIVE KOTT explained that Amendment 1 would eliminate the need to define a "meal."

REPRESENTATIVE LYNN objected for discussion purposes.

REPRESENTATIVE RAMRAS commented that he does not take issue with it, but inquired as to ABC Board's view.

MR. GRIFFIN stated his preference to leave in the language, but agreed that it would need to be defined. He added that he would be fine with whatever the sponsor would prefer.

[4:13:38 PM](#)

CHAIR ANDERSON inquired about the regulatory process for [changes] to codified statute and asked if this can be delineated in regulations.

MR. GRIFFIN answered that regulations are not always passed for statute changes. In fact, regulations weren't adopted for the corkage law. He explained that this is determined case-by-case, and is a judgment call made by the ABC Board and legal counsel.

CHAIR ANDERSON expressed his agreement with Amendment 1.

[4:15:52 PM](#)

REPRESENTATIVE GUTTENBERG asked if "wine" is defined and if the removal of "with a meal" would have made a difference during the ABC Boards deliberations regarding this legislation.

MR. GRIFFIN replied that wine is clearly defined, and that it would be speculation on his part as to how the ABC Board would approach the legislation with the adoption of Amendment 1.

REPRESENTATIVE LYNN maintained his objection to Amendment 1.

[4:18:03 PM](#)

REPRESENTATIVE RAMRAS expressed ambivalence to the adoption of Amendment 1.

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A roll call vote was taken. Representatives Crawford, LeDoux, and Kott voted in favor of Amendment 1. Representatives Guttenberg, Lynn, and Anderson voted against it. Therefore, Amendment 1 failed by a vote of 3-3.

[4:19:47 PM](#)

REPRESENTATIVE CRAWFORD moved to report HB 382 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, it was so ordered.

[4:19:58 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at [4:20:11 PM](#).