

CS FOR HOUSE BILL NO. 232(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 5/10/07

Referred: Finance

Sponsor(s): REPRESENTATIVES MEYER, Salmon, Ramras, Dahlstrom

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the sale, offer for sale, distribution, manufacture, possession, and**
2 **purchase of, or barter or traffic in, alcoholic beverages; relating to a state database for**
3 **records of certain purchases of alcoholic beverages; relating to procedures for local**
4 **option elections for control of alcoholic beverages; and providing for an effective date."**

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

6 *** Section 1.** AS 04.06 is amended by adding a new section to read:

7 **Sec. 04.06.095. Statewide database.** The board, after consulting with package
8 store licensees, shall create and maintain a statewide database that contains a monthly
9 record of the alcohol purchases by, and shipments made to, a person who resides in a
10 municipality or established village that has restricted the sale of alcoholic beverages
11 under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2). Except as otherwise specifically
12 provided in this section, the information contained in the database is confidential and
13 is not subject to inspection or copying under AS 40.25.110 - 40.25.220. Information in
14 the database is available only to

1 (1) a package store licensee, agent, or employee to consult before
2 shipping alcohol to a purchaser in a restricted area as provided in AS 04.11.150(g);

3 (2) a law enforcement officer;

4 (3) a probation or parole officer; and

5 (4) the board.

6 * **Sec. 2.** AS 04.11.010(a) is amended to read:

7 (a) Except as provided in AS 04.11.020, a person may not **knowingly**
8 manufacture, sell, offer for sale, possess for sale or barter, traffic in, or barter an
9 alcoholic beverage unless under license or permit issued under this title.

10 * **Sec. 3.** AS 04.11.150(g) is amended to read:

11 (g) If a shipment is to an area that has restricted the sale of alcoholic
12 beverages under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2), a package store
13 licensee, agent, or employee may not ship to a purchaser more than 10 and one-half
14 liters of distilled spirits, 24 liters or more of wine, or 12 gallons or more of malt
15 beverages in a calendar month, or a lower amount of distilled spirits, wine, or malt
16 beverages if the municipality or established village has adopted the lower amount by
17 local option under AS 04.11.491(g). **Before shipping alcohol to a purchaser in a**
18 **restricted area, a package store licensee, agent, or employee shall consult the**
19 **database maintained by the board under AS 04.06.095 for any alcoholic beverage**
20 **shipments made to the purchaser during that calendar month by a package store**
21 **licensee, agent, or employee. A package store licensee, agent, or employee may**
22 **not ship an amount of alcoholic beverages to a purchaser in a restricted area**
23 **that, when added to the amount already shipped, exceeds the amount authorized**
24 **by this subsection. A package store licensee, agent, or employee shall immediately**
25 **enter into the database the date and the amount of alcoholic beverages shipped to**
26 **the purchaser.**

27 * **Sec. 4.** AS 04.11.150(h) is amended to read:

28 (h) A package store licensee, agent, or employee may not

29 **(1)** divide or combine shipments of alcoholic beverages so as to
30 circumvent the limitation imposed under (g) of this section; **or**

31 **(2)** in response to a written order, ship alcohol to a purchaser at an

1 address other than the address where the purchaser resides or, if the purchaser
 2 resides in a municipality or established village that has adopted a local option
 3 under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2) for which a community
 4 delivery site has been designated under AS 04.11.491(f), to an address other than
 5 that community delivery site except as provided by AS 04.11.491(f)(1) and (2).

6 * **Sec. 5.** AS 04.11.499 is amended to read:

7 **Sec. 04.11.499. Prohibition of importation after election.** If a majority of the
 8 voters vote to prohibit the importation of alcoholic beverages under
 9 AS 04.11.491(a)(4) or (5) or (b)(3) or (4), a person, beginning on the first day of the
 10 month following certification of the results of the election, may not knowingly send,
 11 transport, or bring an alcoholic beverage into the municipality or established village,
 12 unless the alcoholic beverage is sacramental wine to be used for bona fide religious
 13 purposes based on tenets or teachings of a church or religious body, is limited in
 14 quantity to the amount necessary for religious purposes, and is dispensed only for
 15 religious purposes by a person authorized by the church or religious body to dispense
 16 the sacramental wine. [IN THIS SECTION,

17 (1) "BRING" MEANS TO CARRY OR CONVEY OR TO ATTEMPT
 18 OR SOLICIT TO CARRY OR CONVEY;

19 (2) "SEND" MEANS TO CAUSE TO BE TAKEN OR
 20 DISTRIBUTED OR TO ATTEMPT OR SOLICIT TO CAUSE TO BE TAKEN OR
 21 DISTRIBUTED, AND INCLUDES USE OF THE UNITED STATES POSTAL
 22 SERVICE;

23 (3) "TRANSPORT" MEANS TO SHIP BY ANY METHOD, AND
 24 INCLUDES DELIVERING OR TRANSFERRING OR ATTEMPTING OR
 25 SOLICITING TO DELIVER OR TRANSFER AN ALCOHOLIC BEVERAGE TO
 26 BE SHIPPED TO, DELIVERED TO, OR LEFT OR HELD FOR PICK UP BY ANY
 27 PERSON.]

28 * **Sec. 6.** AS 04.11.499 is amended by adding new subsections to read:

29 (b) A person who resides in a municipality or established village that has
 30 adopted a local option under AS 04.11.491(a) or (b) may not purchase alcohol from
 31 another person who has sent, transported, or brought an alcoholic beverage into the

1 municipality or established village in violation of the local option.

2 (c) In this section,

3 (1) "bring" means to carry or convey or to attempt or solicit to carry or
4 convey;

5 (2) "send" means to cause to be taken or distributed or to attempt or
6 solicit to cause to be taken or distributed, and includes use of the United States Postal
7 Service;

8 (3) "transport" means to ship by any method, and includes delivering
9 or transferring or attempting or soliciting to deliver or transfer an alcoholic beverage
10 to be shipped to, delivered to, or left or held for pickup by any person.

11 * **Sec. 7.** AS 04.11.507(f) is amended to read:

12 (f) Notwithstanding any other provisions of law, an election under (b) or (c) of
13 this section to remove a local option or to change to a less restrictive option than the
14 local option previously adopted under AS 04.11.491 may not be conducted during the
15 first 24 [12] months after the local option was adopted or more than once in a 36-
16 month [AN 18-MONTH] period.

17 * **Sec. 8.** AS 04.16.020 is amended by adding a new subsection to read:

18 (c) A person may not purchase alcohol by written order on behalf of another
19 person who resides in a municipality or established village that has adopted a local
20 option under AS 04.11.491(a)(5) or (b)(4).

21 * **Sec. 9.** AS 04.16 is amended by adding a new section to read:

22 **Sec. 04.16.035. Possession of ingredients for homebrew in certain areas.** A
23 person residing in an area that has adopted a local option to prohibit the sale,
24 importation, and possession of alcoholic beverages under AS 04.11.491(a)(5) or (b)(4)
25 may not possess sugar, artificial sugar, malt, yeast, or any other material or equipment
26 with the intent to use the material or equipment to create an alcoholic beverage.

27 * **Sec. 10.** AS 04.16.200(e) is amended to read:

28 (e) A person who sends, transports, or brings alcoholic beverages into a
29 municipality or established village in violation of AS 04.11.499(a) [AS 04.11.499] is,
30 upon conviction,

31 (1) guilty of a class A misdemeanor if the quantity of alcoholic

1 beverages is less than 10 and one-half liters of distilled spirits, 24 liters of wine, or 12
2 gallons of malt beverages; or

3 (2) guilty of a class C felony if the quantity of alcoholic beverages is
4 10 and one-half liters or more of distilled spirits, 24 liters or more of wine, or 12
5 gallons or more of malt beverages.

6 * **Sec. 11.** AS 04.16.200 is amended by adding a new subsection to read:

7 (f) A person who purchases alcohol in violation of AS 04.11.499(b) is guilty
8 of a class A misdemeanor.

9 * **Sec. 12.** AS 04.16.220(a) is amended to read:

10 (a) The following are subject to forfeiture:

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

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

25 (3) aircraft, vehicles, or vessels used to transport or facilitate the
26 transportation of

27 (A) alcoholic beverages manufactured, sold, offered for sale,
28 possessed for sale, or bartered or exchanged for goods and services in this state
29 in violation of AS 04.11.010;

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

1 (C) alcoholic beverages imported into a municipality or
2 established village in violation of AS 04.11.499(a) [AS 04.11.499];

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

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

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

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

12 * **Sec. 13.** AS 04.16.220(i) is amended to read:

13 (i) Upon conviction for a violation of AS 04.11.010 or 04.11.499(a)
14 [04.11.499], if an aircraft, vehicle, or watercraft is subject to forfeiture under (a) of
15 this section, the court shall, subject to remission to innocent parties under this section,

16 (1) order the forfeiture of an aircraft to the state;

17 (2) order the forfeiture of a vehicle or watercraft if

18 (A) the defendant has a prior felony conviction for a violation
19 of AS 11.41 or a similar law in another jurisdiction;

20 (B) the defendant is on felony probation or parole;

21 (C) the defendant has a prior conviction for violating
22 AS 04.11.010 or 04.11.499(a) [04.11.499]; or

23 (D) the quantity of alcohol transported in violation of this title
24 was twice the presumptive amounts in AS 04.11.010(c).

25 * **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 ALCOHOLIC BEVERAGE DELIVERY SITE PILOT PROJECT. (a) The Alcoholic
28 Beverage Control Board established by AS 04.06.010 shall, if requested by the local
29 governing body of Bethel, establish a site in Bethel and, if requested by the local governing
30 body of Kotzebue, establish a site in Kotzebue for delivery of alcoholic beverages. The
31 delivery sites shall be operated as sites designated under AS 04.11.491(f) are operated. Each

1 site shall, if established, begin operation on July 1, 2008, and shall continue in operation as
2 long as a local option under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2) is in effect in each
3 community. However, each site shall stop operation on June 30, 2011, regardless of whether a
4 local option is in effect in each community on that date.

5 (b) The delivery site established in Bethel under (a) of this section shall serve as the
6 delivery site under AS 04.11.494 for Bethel and shall be established after consultation with
7 public, private, and nonprofit agencies in Bethel.

8 (c) The delivery site established in Kotzebue under (a) of this section shall serve as
9 the delivery site under AS 04.11.494 for Kotzebue and shall be established after consultation
10 with public, private, and nonprofit agencies in Kotzebue.

11 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 REVISOR'S INSTRUCTIONS. The revisor of statutes is instructed to change the
14 heading of AS 04.11.499 from "Prohibition of importation after election" to "Prohibition of
15 importation or purchase after election."

16 * **Sec. 16.** Section 14 of this Act is repealed.

17 * **Sec. 17.** Section 3 of this Act takes effect July 1, 2008.

18 * **Sec. 18.** Section 16 of this Act takes effect June 30, 2011.

19 * **Sec. 19.** Except as provided in secs. 17 and 18 of this Act, this Act takes effect
20 immediately under AS 01.10.070(c).