

**SENATE BILL NO. 128**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

**BY SENATOR OLSON**

**Introduced: 3/19/07**

**Referred: Community and Regional Affairs, Judiciary, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

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

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

6 **\* Section 1.** AS 04.06.095 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). Information in the database is  
12 available only to (1) a package store licensee, agent, or employee to consult before  
13 shipping alcohol to a purchaser in a restricted area as provided in AS 04.11.150(g); (2)  
14 a law enforcement officer; (3) a probation or parole officer; and (4) the board. Except

1 as otherwise specifically provided in this section, the information contained in the  
2 database is confidential and is not subject to inspection or copying under  
3 AS 40.25.110 - 40.25.220.

4 \* **Sec. 2.** AS 04.11.150(g) is amended to read:

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

21 \* **Sec. 3.** AS 04.11.150(h) is amended to read:

22 (h) A package store licensee, agent, or employee may not  
23 **(1) divide or combine shipments of alcoholic beverages so as to**  
24 **circumvent the limitation imposed under (g) of this section; or**  
25 **(2) in response to a written order, ship alcohol to a purchaser at an**  
26 **address other than the address where the purchaser resides or, if the purchaser**  
27 **resides in a municipality or established village that has adopted a local option**  
28 **under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2) for which a community**  
29 **delivery site has been designated under AS 04.11.491(f), to an address other than**  
30 **that community delivery site except as provided by AS 04.11.491(f)(1) and (2).**

31 \* **Sec. 4.** AS 04.11.499 is amended to read:

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

11                           (1) "BRING" MEANS TO CARRY OR CONVEY OR TO ATTEMPT  
 12 OR SOLICIT TO CARRY OR CONVEY;

13                           (2) "SEND" MEANS TO CAUSE TO BE TAKEN OR  
 14 DISTRIBUTED OR TO ATTEMPT OR SOLICIT TO CAUSE TO BE TAKEN OR  
 15 DISTRIBUTED, AND INCLUDES USE OF THE UNITED STATES POSTAL  
 16 SERVICE;

17                           (3) "TRANSPORT" MEANS TO SHIP BY ANY METHOD, AND  
 18 INCLUDES DELIVERING OR TRANSFERRING OR ATTEMPTING OR  
 19 SOLICITING TO DELIVER OR TRANSFER AN ALCOHOLIC BEVERAGE TO  
 20 BE SHIPPED TO, DELIVERED TO, OR LEFT OR HELD FOR PICK UP BY ANY  
 21 PERSON.]

22 \* **Sec. 5.** AS 04.11.499 is amended by adding new subsections to read:

23                           (b) A person who resides in a municipality or established village that has  
 24 adopted a local option under AS 04.11.491(a) or (b) may not purchase alcohol from  
 25 another person who has sent, transported, or brought an alcoholic beverage into the  
 26 municipality or established village in violation of the local option.

27                           (c) In this section,

28   (1) "bring" means to carry or convey or to attempt or solicit to carry or  
 29 convey;

30   (2) "send" means to cause to be taken or distributed or to attempt or  
 31 solicit to cause to be taken or distributed, and includes use of the United States Postal

1 Service;

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

5 \* **Sec. 6.** AS 04.11.507(f) is amended to read:

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

11 \* **Sec. 7.** AS 04.16.020 is amended by adding a new subsection to read:

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

15 \* **Sec. 8.** AS 04.16 is amended by adding a new section to read:

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

21 \* **Sec. 9.** AS 04.16.200(e) is amended to read:

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

25 (1) guilty of a class A misdemeanor if the quantity of alcoholic  
26 beverages is less than 10 and one-half liters of distilled spirits, 24 liters of wine, or 12  
27 gallons of malt beverages; or

28 (2) guilty of a class C felony if the quantity of alcoholic beverages is  
29 10 and one-half liters or more of distilled spirits, 24 liters or more of wine, or 12  
30 gallons or more of malt beverages.

31 \* **Sec. 10.** AS 04.16.200 is amended by adding a new subsection to read:

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

3 \* **Sec. 11.** AS 04.16.220(a) is amended to read:

4 (a) The following are subject to forfeiture:

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

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

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

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

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

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

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

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

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

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

6 \* **Sec. 12.** 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(a)** [04.11.499], AS 04.16.125, AS 04.21.060, or AS 04.11.501 or an  
 10 ordinance adopted 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. 13.** AS 04.16.220(g) is amended to read:

14 (g) It is no defense in an in rem forfeiture proceeding brought under (d)(2) of  
 15 this section that a criminal proceeding is pending or has resulted in conviction or  
 16 acquittal of a person charged with violating AS 04.11.010, **04.11.499(a)** [04.11.499],  
 17 or AS 04.21.060.

18 \* **Sec. 14.** AS 04.16.220(i) is amended to read:

19 (i) Upon conviction for a violation of AS 04.11.010 or **04.11.499(a)**  
 20 [04.11.499], if an aircraft, vehicle, or watercraft is subject to forfeiture under (a) of  
 21 this section, the court shall, subject to remission to innocent parties under this section,

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

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

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

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

27 (C) the defendant has a prior conviction for violating  
 28 AS 04.11.010 or **04.11.499(a)** [04.11.499]; or

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

31 \* **Sec. 15.** AS 12.30.023(a) is amended to read:

1 (a) In determining the conditions of release under AS 12.30.020 in cases  
2 involving a violation of AS 04.11.010, 04.11.499(a) [04.11.499], AS 11.71, or  
3 AS 11.73, the court shall consider the conditions specified in AS 12.30.020 and the  
4 following conditions and impose one or more conditions it considers reasonably  
5 necessary to protect the public safety and security, including ordering the defendant

6 (1) to obey all laws;

7 (2) to submit to a search of the defendant's person, personal property,  
8 residence, vehicle, or any vehicle over which the defendant has control, for the  
9 presence of alcoholic beverages or illegal drugs and drug paraphernalia by a peace  
10 officer who has reasonable suspicion that the defendant is violating the terms of the  
11 defendant's bail release by possessing alcoholic beverages or illegal drugs and drug  
12 paraphernalia;

13 (3) in

14 (A) controlled substances offenses, to enroll in a random drug  
15 testing program, at the defendant's expense, to detect the presence of an illegal  
16 drug, with testing to occur not less than once a week, and with the results being  
17 submitted to the court and the district attorney's office;

18 (B) alcoholic beverage offenses, to submit to a breath test when  
19 requested by a law enforcement officer;

20 (4) to not have on the defendant's person, in the defendant's residence,  
21 or in any vehicle over which the defendant has control, any alcoholic beverages,  
22 controlled substances, or related paraphernalia;

23 (5) to not use, manufacture, possess, handle, purchase, give, or  
24 administer any controlled substance or alcoholic beverage;

25 (6) to not associate with persons involved in using, manufacturing,  
26 growing, or distributing controlled substances or alcoholic beverages;

27 (7) to not enter or remain in places where controlled substances or  
28 alcoholic beverages are being used, manufactured, grown, or distributed;

29 (8) to not be physically present, within a two-block area of, or within a  
30 designated area near, the location at which the offense occurred or at other designated  
31 locations, unless the defendant actually resides within that area;

1 (9) to not use or possess a paging device, wireless telephone  
 2 [CELLULAR PHONE], or other portable communicative device on the defendant's  
 3 person, in any vehicle over which the defendant has control, or in the defendant's  
 4 residence;

5 (10) to be physically inside the defendant's residence, or in the  
 6 residence of the defendant's third-party custodian, between time periods set by the  
 7 court, except as otherwise required by employment, education, counseling, or  
 8 treatment and as specifically authorized by the court;

9 (11) to not

10 (A) have a firearm in the defendant's possession or control, in  
 11 any vehicle over which the defendant has control, or in the defendant's  
 12 residence;

13 (B) possess a knife, other than an ordinary pocket knife, on the  
 14 defendant's person;

15 (12) to engage in any conduct or to refrain from any conduct that the  
 16 court considers reasonably necessary to protect the public.

17 \* **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to  
 18 read:

19 ALCOHOLIC BEVERAGE DELIVERY SITE PILOT PROJECT. (a) The Alcoholic  
 20 Beverage Control Board established by AS 04.06.010 shall, if requested by the local  
 21 governing body of Bethel, establish a site in Bethel and, if requested by the local governing  
 22 body of Kotzebue, establish a site in Kotzebue for delivery of alcoholic beverages. The  
 23 delivery sites shall be operated as sites designated under AS 04.11.491(f) are operated. Each  
 24 site shall, if established, begin operation on July 1, 2008, and shall continue in operation as  
 25 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  
 26 community. However, each site shall stop operation on June 30, 2011, regardless of whether a  
 27 local option is in effect in each community on that date.

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

31 (c) The delivery site established in Kotzebue under (a) of this section shall serve as

1 the delivery site under AS 04.11.494 for Kotzebue and shall be established after consultation  
2 with public, private, and nonprofit agencies in Kotzebue.

3 \* **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to  
4 read:

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

8 \* **Sec. 18.** Section 16 of this Act is repealed.

9 \* **Sec. 19.** Section 2 of this Act takes effect July 1, 2008.

10 \* **Sec. 20.** Section 18 of this Act takes effect June 30, 2011.

11 \* **Sec. 21.** Except as provided in secs. 19 and 20 of this Act, this Act takes effect  
12 immediately under AS 01.10.070(c).