

**CS FOR SENATE BILL NO. 128(CRA)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 3/28/07

Referred: Judiciary, Finance

Sponsor(s): SENATOR OLSON

**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 purchases of alcoholic beverages; relating to**  
3 **the relocation of a license to sell 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 04.11.150(g) is amended to read:

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

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

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

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

27 **(2) in response to a written order, ship alcohol to a purchaser at an**  
28 **address other than the address where the purchaser resides or, if the purchaser**  
29 **resides in a municipality or established village that has adopted a local option**  
30 **under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2) for which a community**  
31 **delivery site has been designated under AS 04.11.491(f), to an address other than**

1 **that community delivery site except as provided by AS 04.11.491(f)(1) and (2).**

2 \* **Sec. 4.** AS 04.11.400(a) is amended to read:

3 (a) Except as provided in (d) - (h), (k), [AND] (l), and (n) of this section, a  
4 new license may not be issued and the board may prohibit relocation of an existing  
5 license

6 (1) outside an established village, incorporated city, unified  
7 municipality, or organized borough if, after the issuance or relocation, there would be  
8 (A) more than one restaurant or eating place license for each 1,500 population or  
9 fraction of that population, or (B) more than one license of each other type, including  
10 licenses that have been issued under (d) or (e) of this section, for each 3,000  
11 population or fraction of that population, in a radius of five miles of the licensed  
12 premises, excluding the populations of established villages, incorporated cities, unified  
13 municipalities, and organized boroughs that are wholly or partly included within the  
14 radius;

15 (2) inside an established village, incorporated city, or unified  
16 municipality if, after the issuance or relocation, there would be inside the established  
17 village, incorporated city, or unified municipality

18 (A) more than one restaurant or eating place license for each  
19 1,500 population or fraction of that population; or

20 (B) more than one license of each other type, including licenses  
21 that have been issued under (d) or (e) of this section, for each 3,000 population  
22 or fraction of that population;

23 (3) inside an organized borough but outside an established village or  
24 incorporated city located within the borough [,] if, after the issuance or relocation  
25 there would be inside the borough, but outside the established villages and  
26 incorporated cities located within the borough,

27 (A) more than one restaurant or eating place license for each  
28 1,500 population or fraction of that population; or

29 (B) more than one license of each other type, including licenses  
30 that have been issued under (d) or (e) of this section, for each 3,000 population  
31 or fraction of that population excluding the population of those established

1 villages that have adopted a local option under AS 04.11.491(b)(1), (3), or (4),  
 2 and excluding the population of incorporated cities located within the  
 3 organized borough.

4 \* **Sec. 5.** AS 04.11.400 is amended by adding a new subsection to read:

5 (n) The board may allow the relocation of an existing license within an  
 6 organized borough if the governing body of the borough approves the relocation. The  
 7 board may allow the relocation of a license into or within an incorporated city in an  
 8 organized borough if the governing bodies of the borough and incorporated city both  
 9 approve the relocation.

10 \* **Sec. 6.** AS 04.11.499 is amended to read:

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

21 (1) "BRING" MEANS TO CARRY OR CONVEY OR TO ATTEMPT  
 22 OR SOLICIT TO CARRY OR CONVEY;

23 (2) "SEND" MEANS TO CAUSE TO BE TAKEN OR  
 24 DISTRIBUTED OR TO ATTEMPT OR SOLICIT TO CAUSE TO BE TAKEN OR  
 25 DISTRIBUTED, AND INCLUDES USE OF THE UNITED STATES POSTAL  
 26 SERVICE;

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

1 \* **Sec. 7.** AS 04.11.499 is amended by adding new subsections to read:

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

6 (c) In this section,

7 (1) "bring" means to carry or convey or to attempt or solicit to carry or  
8 convey;

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

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

15 \* **Sec. 8.** AS 04.11.507(f) is amended to read:

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

21 \* **Sec. 9.** AS 04.16.020 is amended by adding a new subsection to read:

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

25 \* **Sec. 10.** AS 04.16 is amended by adding a new section to read:

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

31 \* **Sec. 11.** AS 04.16.200(e) is amended to read:

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

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

7 (2) guilty of a class C felony if the quantity of alcoholic beverages is  
 8 10 and one-half liters or more of distilled spirits, 24 liters or more of wine, or 12  
 9 gallons or more of malt beverages.

10 \* **Sec. 12.** AS 04.16.200 is amended by adding a new subsection to read:

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

13 \* **Sec. 13.** AS 04.16.220(a) is amended to read:

14 (a) The following are subject to forfeiture:

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

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

29 (3) aircraft, vehicles, or vessels used to transport or facilitate the  
 30 transportation of

31 (A) alcoholic beverages manufactured, sold, offered for sale,

1 possessed for sale, or bartered or exchanged for goods and services in this state  
2 in violation of AS 04.11.010;

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

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

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

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

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

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

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

17 (i) Upon conviction for a violation of AS 04.11.010 or 04.11.499(a)  
18 [04.11.499], if an aircraft, vehicle, or watercraft is subject to forfeiture under (a) of  
19 this section, the court shall, subject to remission to innocent parties under this section,

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

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

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

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

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

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

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

31 **ALCOHOLIC BEVERAGE DELIVERY SITE PILOT PROJECT.** (a) The Alcoholic

1 Beverage Control Board established by AS 04.06.010 shall, if requested by the local  
2 governing body of Bethel, establish a site in Bethel and, if requested by the local governing  
3 body of Kotzebue, establish a site in Kotzebue for delivery of alcoholic beverages. The  
4 delivery sites shall be operated as sites designated under AS 04.11.491(f) are operated. Each  
5 site shall, if established, begin operation on July 1, 2008, and shall continue in operation as  
6 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  
7 community. However, each site shall stop operation on June 30, 2011, regardless of whether a  
8 local option is in effect in each community on that date.

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

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

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

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

20 \* **Sec. 17.** Section 15 of this Act is repealed.

21 \* **Sec. 18.** Section 2 of this Act takes effect July 1, 2008.

22 \* **Sec. 19.** Section 17 of this Act takes effect June 30, 2011.

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