

CS FOR SENATE BILL NO. 128(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/2/07

Referred: 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. Failure to enter into the database the date and amount of alcoholic**
23 **beverages shipped to the purchaser as required by this subsection is a class B**
24 **misdemeanor.**

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

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

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

29 **(2) in response to a written order, ship alcohol to a purchaser at an**
30 **address other than the address where the purchaser resides or, if the purchaser**
31 **resides in a municipality or established village that has adopted a local option**

1 **under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2) for which a community**
 2 **delivery site has been designated under AS 04.11.491(f), to an address other than**
 3 **that community delivery site except as provided by AS 04.11.491(f)(1) and (2).**

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

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

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

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

20 (A) more than one restaurant or eating place license for each
 21 1,500 population or fraction of that population; or

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

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

29 (A) more than one restaurant or eating place license for each
 30 1,500 population or fraction of that population; or

31 (B) more than one license of each other type, including licenses

1 that have been issued under (d) or (e) of this section, for each 3,000 population
 2 or fraction of that population excluding the population of those established
 3 villages that have adopted a local option under AS 04.11.491(b)(1), (3), or (4),
 4 and excluding the population of incorporated cities located within the
 5 organized borough.

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

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

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

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

23 (1) "BRING" MEANS TO CARRY OR CONVEY OR TO ATTEMPT
 24 OR SOLICIT TO CARRY OR CONVEY;

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

29 (3) "TRANSPORT" MEANS TO SHIP BY ANY METHOD, AND
 30 INCLUDES DELIVERING OR TRANSFERRING OR ATTEMPTING OR
 31 SOLICITING TO DELIVER OR TRANSFER AN ALCOHOLIC BEVERAGE TO

1 BE SHIPPED TO, DELIVERED TO, OR LEFT OR HELD FOR PICK UP BY ANY
2 PERSON.]

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

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

8 (c) In this section,

9 (1) "bring" means to carry or convey or to attempt or solicit to carry or
10 convey;

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

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

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

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

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

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

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

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

1 with the intent to use the material or equipment to create an alcoholic beverage.

2 * **Sec. 11.** AS 04.16.180(a) is amended to read:

3 (a) Except as provided in AS 04.11.015, **04.11.150(g)**, AS 04.16.025,
4 04.16.050, 04.16.051, 04.16.200 - 04.16.210, and AS 04.21.065, a person who violates
5 a provision of this title or a regulation adopted by the board is guilty, upon conviction,
6 of a class A misdemeanor. Each violation is a separate offense.

7 * **Sec. 12.** AS 04.16.200(e) is amended to read:

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

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

14 (2) guilty of a class C felony if the quantity of alcoholic beverages is
15 10 and one-half liters or more of distilled spirits, 24 liters or more of wine, or 12
16 gallons or more of malt beverages.

17 * **Sec. 13.** AS 04.16.200 is amended by adding a new subsection to read:

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

20 * **Sec. 14.** AS 04.16.220(a) is amended to read:

21 (a) The following are subject to forfeiture:

22 (1) alcoholic beverages manufactured, sold, offered for sale, possessed
23 for sale, or bartered or exchanged for goods and services in this state in violation of
24 AS 04.11.010; alcoholic beverages possessed, stocked, warehoused, or otherwise
25 stored in violation of AS 04.21.060; alcoholic beverages sold or offered for sale in
26 violation of a local option adopted under AS 04.11.491; alcoholic beverages
27 transported into the state and sold to persons not licensed under this chapter in
28 violation of AS 04.16.170(b); alcoholic beverages transported in violation of
29 AS 04.16.125;

30 (2) materials and equipment used in the manufacture, sale, offering for
31 sale, possession for sale, or barter or exchange of alcoholic beverages for goods and

1 services in this state in violation of AS 04.11.010; materials and equipment used in the
 2 stocking, warehousing, or storage of alcoholic beverages in violation of AS 04.21.060;
 3 materials and equipment used in the sale or offering for sale of an alcoholic beverage
 4 in an area in violation of a local option adopted under AS 04.11.491;

5 (3) aircraft, vehicles, or vessels used to transport or facilitate the
 6 transportation of

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

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

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

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

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

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

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

23 * **Sec. 15.** AS 04.16.220(i) is amended to read:

24 (i) Upon conviction for a violation of AS 04.11.010 or 04.11.499(a)
 25 [04.11.499], if an aircraft, vehicle, or watercraft is subject to forfeiture under (a) of
 26 this section, the court shall, subject to remission to innocent parties under this section,

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

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

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

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

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

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

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

7 ALCOHOLIC BEVERAGE DELIVERY SITE PILOT PROJECT. (a) The Alcoholic
8 Beverage Control Board established by AS 04.06.010 shall, if requested by the local
9 governing body of Bethel, establish a site in Bethel and, if requested by the local governing
10 body of Kotzebue, establish a site in Kotzebue for delivery of alcoholic beverages. The
11 delivery sites shall be operated as sites designated under AS 04.11.491(f) are operated. Each
12 site shall, if established, begin operation on July 1, 2008, and shall continue in operation as
13 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
14 community. However, each site shall stop operation on June 30, 2011, regardless of whether a
15 local option is in effect in each community on that date.

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

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

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

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

27 * **Sec. 18.** Section 16 of this Act is repealed.

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

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

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