

HOUSE CS FOR CS FOR SENATE BILL NO. 128(FIN) am H

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 5/16/07

Offered: 5/16/07

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 purchased by, and shipped 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 shall be purged one year after entry unless it is needed for criminal

1 investigation or prosecution. Information in the database is available only to

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

4 (2) a law enforcement officer;

5 (3) a probation or parole officer; and

6 (4) the board.

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

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

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

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

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

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

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

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

9 * **Sec. 5.** AS 04.11 is amended by adding a new section to read:

10 **Sec. 04.11.260. Destination resort license.** (a) A destination resort license
11 authorizes the holder to sell alcoholic beverages at a destination resort for
12 consumption on the licensed premises in conjunction with the visitor activities
13 provided by the licensee to cruise ship passengers and staff and other visitors while the
14 cruise ship is in port at this resort. A destination resort license may not be transferred.

15 (b) The biennial fee for a destination resort license is \$1,250.

16 (c) For purposes of this section, the term "destination resort" means a business
17 that owns a site of at least 20 acres that is used principally as a destination for cruise
18 ships and other vessels that carry a minimum of 50 passengers and that does not
19 provide overnight lodging on its premises for visitors.

20 * **Sec. 6.** AS 04.11.400(a) is amended to read:

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

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

1 radius;

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

5 (A) more than one restaurant or eating place license for each
6 1,500 population or fraction of that population; or

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

10 (3) inside an organized borough but outside an established village or
11 incorporated city located within the borough [,] if, after the issuance or relocation
12 there would be inside the borough, but outside the established villages and
13 incorporated cities located within the borough,

14 (A) more than one restaurant or eating place license for each
15 1,500 population or fraction of that population; or

16 (B) more than one license of each other type, including licenses
17 that have been issued under (d) or (e) of this section, for each 3,000 population
18 or fraction of that population excluding the population of those established
19 villages that have adopted a local option under AS 04.11.491(b)(1), (3), or (4),
20 and excluding the population of incorporated cities located within the
21 organized borough.

22 * **Sec. 7.** AS 04.11.400 is amended by adding a new subsection to read:

23 (n) The board may allow the relocation of an existing beverage dispensary
24 license under AS 04.11.090 to a restaurant, eating place, or hotel, motel, resort, or
25 similar business that contains a restaurant or eating place, in a borough with a
26 population of 60,000 or more if the governing body of the borough approves the
27 relocation. However, if the relocation of the license is into or within an incorporated
28 city in the borough, the board may not approve the relocation unless the governing
29 bodies of both the borough and the incorporated city approve the relocation. The board
30 may allow not more than three relocations in a borough under this subsection each
31 decade. In this subsection, "decade" means each 10-year period beginning April 1 in a

1 year ending in zero.

2 * **Sec. 8.** AS 04.11.499 is amended to read:

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

13 (1) "BRING" MEANS TO CARRY OR CONVEY OR TO ATTEMPT
14 OR SOLICIT TO CARRY OR CONVEY;

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

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

24 * **Sec. 9.** AS 04.11.499 is amended by adding new subsections to read:

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

29 (c) In this section,

30 (1) "bring" means to carry or convey or to attempt or solicit to carry or
31 convey;

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

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

7 * **Sec. 10.** AS 04.11.507(f) is amended to read:

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

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

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

17 * **Sec. 12.** AS 04.16 is amended by adding a new section to read:

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

23 * **Sec. 13.** AS 04.16.180(a) is amended to read:

24 (a) Except as provided in AS 04.11.015, 04.11.150(g), AS 04.16.025,
 25 04.16.050, 04.16.051, 04.16.200 - 04.16.210, and AS 04.21.065, a person who violates
 26 a provision of this title or a regulation adopted by the board is guilty, upon conviction,
 27 of a class A misdemeanor. Each violation is a separate offense.

28 * **Sec. 14.** AS 04.16.200(e) is amended to read:

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

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

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

7 * **Sec. 15.** AS 04.16.200 is amended by adding a new subsection to read:

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

10 * **Sec. 16.** AS 04.16.220(a) is amended to read:

11 (a) The following are subject to forfeiture:

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

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

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

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

31 (B) property stocked, warehoused, or otherwise stored in

1 violation of AS 04.21.060;

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

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

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

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

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

13 * **Sec. 17.** AS 04.16.220(i) is amended to read:

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

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

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

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

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

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

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

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

28 ALCOHOLIC BEVERAGE DELIVERY SITE PILOT PROJECT. (a) The Alcoholic
29 Beverage Control Board established by AS 04.06.010 shall, if requested by the local
30 governing body of Bethel, establish a site in Bethel and, if requested by the local governing
31 body of Kotzebue, establish a site in Kotzebue for delivery of alcoholic beverages. The

1 delivery sites shall be operated as sites designated under AS 04.11.491(f) are operated. Each
2 site shall, if established, begin operation on July 1, 2008, and shall continue in operation as
3 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
4 community. However, each site shall stop operation on June 30, 2011, regardless of whether a
5 local option is in effect in each community on that date.

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

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

12 * **Sec. 19.** The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 **TRANSITIONAL PROVISION.** For purposes of the limitation on relocation of
15 licenses under AS 04.11.400(n), enacted by sec. 7 of this Act, the first "decade" shall extend
16 from the effective date of sec. 8 of this Act through March 31, 2010.

17 * **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

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

22 * **Sec. 21.** Section 18 of this Act is repealed.

23 * **Sec. 22.** Section 3 of this Act takes effect July 1, 2008.

24 * **Sec. 23.** Section 21 of this Act takes effect June 30, 2011.

25 * **Sec. 24.** Except as provided in secs. 22 and 23 of this Act, this Act takes effect
26 immediately under AS 01.10.070(c).