

**CS FOR SENATE BILL NO. 235(CRA)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 2/15/08

Referred: Judiciary, Finance

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to shipping, sending, transporting, or bringing alcohol to a local option**  
2 **area and providing alcohol to others in the local option area, including penalties for**  
3 **violations; relating to when a conviction occurs for certain purposes relating to alcoholic**  
4 **beverage licenses; relating to manslaughter as a direct result of ingestion of alcoholic**  
5 **beverages brought in violation of a local option prohibition; relating to reports of the**  
6 **court concerning certain alcohol violations by minors; making conforming amendments;**  
7 **and providing for an effective date."**

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

9 **\* Section 1.** AS 04.11.150(h) is amended to read:

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

11 (1) divide or combine shipments of alcoholic beverages so as to  
12 circumvent the limitation imposed under (g) of this section; [OR]

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

6 **(3) ship alcohol in a plastic container to a person who resides in a**  
 7 **municipality or established village that has adopted a local option under**  
 8 **AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2), unless the shipment is to a**  
 9 **community delivery site designated under AS 04.11.491(f).**

10 \* **Sec. 2.** AS 04.16.180(c) is amended to read:

11 (c) In this section, the terms "second conviction" and "third conviction"  
 12 include only convictions for violations that occur within five years of the first  
 13 conviction. The terms refer to the cumulative number of convictions of a licensee of  
 14 any combination of violations of the provisions of this title, regulations adopted under  
 15 this title, or ordinances adopted under AS 04.21.010. The terms "second conviction"  
 16 and "third conviction" include a conviction of the agent or employee of a licensee of a  
 17 violation of a law, regulation, or ordinance if the conviction constitutes a ground for  
 18 suspension or revocation under AS 04.11.370(a)(5). **A conviction occurs on the date**  
 19 **that sentence is imposed for the offense.**

20 \* **Sec. 3.** AS 04.16.200(e) is amended to read:

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

23 (1) **except as provided in (3) of this subsection,** guilty of a class A  
 24 misdemeanor if the quantity of alcoholic beverages is less than 10 and one-half liters  
 25 of distilled spirits, 24 liters of wine, or 12 gallons of malt beverages; [OR]

26 (2) guilty of a class C felony if the quantity of alcoholic beverages is  
 27 10 and one-half liters or more of distilled spirits, 24 liters or more of wine, or 12  
 28 gallons or more of malt beverages; or

29 **(3) guilty of a class C felony if the quantity of alcoholic beverages**  
 30 **is less than 10 and one-half liters of distilled spirits, 24 liters of wine, or 12 gallons**  
 31 **of malt beverages and the person has been previously convicted under this**

1 **subsection or (b) of this section two or more times within 10 years of the date of**  
 2 **the present offense.**

3 \* **Sec. 4.** AS 04.16.200 is amended by adding new subsections to read:

4 (g) Upon conviction of a class A misdemeanor under (e)(1) of this section, the  
 5 court

6 (1) shall impose a minimum sentence of imprisonment of

7 (A) not less than 72 consecutive hours and a fine of not less  
 8 than \$1,500 if the person has not been previously convicted;

9 (B) not less than 20 days and a fine of not less than \$3,000 if  
 10 the person has been previously convicted once;

11 (C) not less than 60 days and a fine of not less than \$4,000 if  
 12 the person has been previously convicted twice and is not subject to  
 13 punishment under (h) of this section;

14 (D) not less than 120 days and a fine of not less than \$5,000 if  
 15 the person has been previously convicted three times and is not subject to  
 16 punishment under (h) of this section;

17 (E) not less than 240 days and a fine of not less than \$6,000 if  
 18 the person has been previously convicted four times and is not subject to  
 19 punishment under (h) of this section;

20 (F) not less than 360 days and a fine of not less than \$7,000 if  
 21 the person has been previously convicted more than four times and is not  
 22 subject to punishment under (h) of this section;

23 (2) may not

24 (A) suspend execution of sentence or grant probation except on  
 25 the condition that the person

26 (i) serve the minimum imprisonment under (1) of this  
 27 subsection; and

28 (ii) pay the minimum fine required under (1) of this  
 29 subsection; or

30 (B) suspend imposition of sentence.

31 (h) Upon conviction of a class C felony under (b) or (e)(2) or (3) of this

1 section, the court

2 (1) shall impose a fine of not less than \$10,000 and a minimum  
3 sentence of imprisonment of

4 (A) 120 days if the person has been previously convicted twice;

5 (B) 240 days if the person has been convicted three times;

6 (C) 360 days if the person has been previously convicted four  
7 or more times;

8 (2) may not

9 (A) suspend execution of sentence or grant probation except on  
10 the condition that the person

11 (i) serve the minimum imprisonment under (1) of this  
12 subsection; and

13 (ii) pay the minimum fine required under (1) of this  
14 subsection; or

15 (B) suspend imposition of sentence.

16 (i) The court shall consider the date of a previous conviction as occurring on  
17 the date that sentence is imposed for the prior offense.

18 \* **Sec. 5.** AS 11.41.120(a) is amended to read:

19 (a) A person commits the crime of manslaughter if the person

20 (1) intentionally, knowingly, or recklessly causes the death of another  
21 person under circumstances not amounting to murder in the first or second degree;

22 (2) intentionally aids another person to commit suicide; [OR]

23 (3) knowingly manufactures or delivers a controlled substance in  
24 violation of AS 11.71.010 - 11.71.030 or 11.71.040(a)(1) for schedule IVA controlled  
25 substances, and a person dies as a direct result of ingestion of the controlled substance;  
26 the death is a result that does not require a culpable mental state; **or**

27 **(4) violates AS 04.11.010 in an area that the person knows has**  
28 **adopted a local option under AS 04.11.491, and a person dies as a direct result of**  
29 **ingestion of the alcoholic beverage brought in violation of the local option; the**  
30 **death is a result that does not require a culpable mental state** [IN THIS  
31 PARAGRAPH, "INGESTION" MEANS VOLUNTARILY OR INVOLUNTARILY

1 TAKING A SUBSTANCE INTO THE BODY IN ANY MANNER].

2 \* **Sec. 6.** AS 11.41.120 is amended by adding a new subsection to read:

3 (c) In this section, "ingestion" means voluntarily or involuntarily taking a  
4 substance into the body in any manner.

5 \* **Sec. 7.** AS 28.15.191(a) is amended to read:

6 (a) A court that convicts a person of an offense under this title or a regulation  
7 adopted under this title, or another law or regulation of this state, or a municipal  
8 ordinance that regulates the driving of vehicles, **or a violation of AS 04.16.050** shall  
9 forward a record of the conviction to the department within five working days. A  
10 conviction of a standing or parking offense need not be reported.

11 \* **Sec. 8.** AS 28.35.028(a) is amended to read:

12 (a) Notwithstanding another provision of law, with the consent of the state and  
13 the defendant, the court may elect to proceed in a criminal case under **AS 04.16.200(b)**  
14 **or (e)**, AS 28.35.030, or 28.35.032, including the case of a defendant charged with  
15 violating the terms of probation, under the procedure provided in this section and  
16 order the defendant to complete a court-ordered treatment program. The state may not  
17 consent to a referral under this subsection unless the state has consulted with the  
18 victim and explained the process and consequences of the referral to the victim. A  
19 court may not elect to proceed under this section if the defendant has previously  
20 participated in a court-ordered treatment program under this section two or more  
21 times.

22 \* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to  
23 read:

24 APPLICABILITY. (a) Sections 1, 5, and 6 of this Act apply to offenses committed on  
25 or after the effective date of this Act.

26 (b) Section 2 of this Act applies to convictions occurring before, on, or after the  
27 effective date of this Act.

28 (d) Sections 3 and 4 of this Act apply to offenses committed on or after the effective  
29 date of this Act. Any references in those sections to previous convictions include previous  
30 convictions occurring before, on, or after the effective date of this Act.

31 (e) Sections 7 and 8 of this Act apply to actions taken by a court on or after the

- 1 effective date of this Act, regardless of whether the offense occurred before, on, or after the
- 2 effective date of this Act.
- 3 \* **Sec. 10.** This Act takes effect July 1, 2008.