

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

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

**BY THE SENATE JUDICIARY COMMITTEE**

**Offered: 3/27/08**

**Referred: 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**  
2 **option area and providing alcohol to others in the local option area, including penalties**  
3 **for violations; relating to when a conviction occurs for certain purposes relating to**  
4 **alcoholic beverages; relating to furnishing alcohol to a minor and to civil penalties for**  
5 **licensees whose agents or employees furnish alcohol to a minor; relating to reports of**  
6 **the court concerning certain alcohol violations by minors; and providing for an**  
7 **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  
 4 has 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  
 15 under this title, or ordinances adopted under AS 04.21.010. The terms "second  
 16 conviction" and "third conviction" include a conviction of the agent or employee of a  
 17 licensee of a violation of a law, regulation, or ordinance if the conviction constitutes  
 18 a ground for suspension or revocation under AS 04.11.370(a)(5). **A conviction**  
 19 **occurs on the date that sentence is imposed for the offense.**

20 \* **Sec. 3.** AS 04.16.180 is amended by adding a new subsection to read:

21 (e) If an agent or employee of a licensee is convicted of a violation of  
 22 AS 04.16.051 occurring on the licensed premises of the licensee, the board shall  
 23 impose a civil fine of \$1,000 on the licensee for each conviction of an employee or  
 24 agent.

25 \* **Sec. 4.** AS 04.16.200(e) is amended to read:

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

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

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

4 **(3) guilty of a class C felony if the quantity of alcoholic beverages**  
 5 **is less than 10 and one-half liters of distilled spirits, 24 liters of wine, or 12**  
 6 **gallons of malt beverages and the person has been previously convicted under**  
 7 **this subsection or (b) of this section two or more times within 10 years of the**  
 8 **date of the present offense.**

9 \* **Sec. 5.** AS 04.16.200 is amended by adding new subsections to read:

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

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

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

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

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

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

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

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

29 (2) may not

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

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

3 (ii) pay the minimum fine required under (1) of this  
4 subsection; or

5 (B) suspend imposition of sentence.

6 (h) Upon conviction of a class C felony under (b) or (e)(2) or (3) of this  
7 section, the court

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

10 (A) 120 days if the person has been previously convicted  
11 once;

12 (B) 240 days if the person has been previously convicted two  
13 times;

14 (C) 360 days if the person has been previously convicted  
15 three or more times;

16 (2) may not

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

19 (i) serve the minimum imprisonment under (1) of this  
20 subsection; and

21 (ii) pay the minimum fine required under (1) of this  
22 subsection; or

23 (B) suspend imposition of sentence.

24 (i) In (g) of this section, "previously convicted" means having been  
25 convicted, within the 10 years preceding the date of the present offense, of an  
26 offense under (b) or (e) of this section or a law or ordinance of another jurisdiction  
27 having elements similar to those offenses.

28 (j) In (h) of this section, "previously convicted" means having been  
29 convicted, within the 10 years preceding the date of the present offense, of a felony  
30 offense under (b) or (e) of this section or a law or ordinance of another jurisdiction  
31 having elements similar to those felony offenses.

1 (k) The court shall consider the date of a previous conviction as occurring on  
2 the date that sentence is imposed for the prior offense.

3 \* **Sec. 6.** AS 28.15.191(a) is amended to read:

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

9 \* **Sec. 7.** AS 28.35.028(a) is amended to read:

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

20 \* **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to  
21 read:

22 APPLICABILITY. (a) Section 1 of this Act applies to offenses committed on or after  
23 the effective date of this Act.

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

26 (c) Section 3 of this Act applies to offenses committed on or after the effective date  
27 of this Act.

28 (d) Sections 4 and 5 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 6 and 7 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. 9.** This Act takes effect July 1, 2008.