

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

February 5, 2008

8:03 a.m.

MEMBERS PRESENT

Representative Anna Fairclough, Co-Chair
Representative Gabrielle LeDoux, Co-Chair
Representative Mark Neuman
Representative Kurt Olson
Representative Sharon Cissna
Representative Woodie Salmon

MEMBERS ABSENT

Representative Nancy Dahlstrom

COMMITTEE CALENDAR

HOUSE BILL NO. 327

"An Act relating to shipping, sending, transporting, or bringing alcohol to a local option area and providing alcohol to others in the local option area, including penalties for violations; relating to furnishing alcohol to a minor and to civil penalties for licensees whose agents or employees furnish alcohol to a minor; relating to manslaughter as a direct result of ingestion of alcoholic beverages brought in violation of a local option prohibition; relating to reports of the court concerning certain alcohol violations by minors; making conforming amendments; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 327

SHORT TITLE: ALCOHOL: LOCAL OPTION/LICENSING/MINORS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/17/08	(H)	READ THE FIRST TIME - REFERRALS
01/17/08	(H)	CRA, JUD, FIN
01/31/08	(H)	CRA AT 8:00 AM BARNES 124
01/31/08	(H)	<Bill Hearing Postponed to 02/05/08>
02/05/08	(H)	CRA AT 8:00 AM BARNES 124

WITNESS REGISTER

TALIS COLBERG, Attorney General
Department of Law
Juneau, Alaska

POSITION STATEMENT: Presented HB 327, on behalf of the administration.

ANNE CARPENETI, Assistant Attorney General
Department of Law
Juneau, Alaska

POSITION STATEMENT: During hearing of HB 327, answered questions.

DOUGLAS GRIFFIN, Director
Alcoholic Beverage Control Board ("ABC Board")
Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: During hearing of HB 327, answered questions.

DIANE CASTO, Section Manager
Prevention and Early Intervention Section
Division of Behavioral Health
Department of Health and Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 327.

SUSAN MCLEAN, Chief Assistant Attorney General
Legal Services Section
Criminal Division
Department of Law
Anchorage, Alaska

POSITION STATEMENT: During hearing of HB 327, related her observations with regard to the impact of alcohol in Western Alaska.

WALTER EVANS, Chief Probation Officer
Northern Region
Probation Services
Division of Juvenile Justice
Department of Health and Social Services
Fairbanks, Alaska

POSITION STATEMENT: During hearing of HB 327, related his experience with minors consuming.

ACTION NARRATIVE

CO-CHAIR GABRIELLE LEDOUX called the House Community and Regional Affairs Standing Committee meeting to order at [8:03:24 AM](#). Representatives LeDoux, Fairclough, Neuman, and Olson were present at the call to order. Representatives Cissna and Salmon arrived as the meeting was in progress.

HB 327-ALCOHOL: LOCAL OPTION/LICENSING/MINORS

[8:03:49 AM](#)

CO-CHAIR LEDOUX announced that the only order of business would be HOUSE BILL NO. 327, "An Act relating to shipping, sending, transporting, or bringing alcohol to a local option area and providing alcohol to others in the local option area, including penalties for violations; relating to furnishing alcohol to a minor and to civil penalties for licensees whose agents or employees furnish alcohol to a minor; relating to manslaughter as a direct result of ingestion of alcoholic beverages brought in violation of a local option prohibition; relating to reports of the court concerning certain alcohol violations by minors; making conforming amendments; and providing for an effective date."

[8:04:21 AM](#)

TALIS COLBERG, Attorney General, Department of Law, began by relating that HB 327 is the product of many groups. This legislation, he explained, prohibits a licensee from sending alcohol in plastic bottles to a local option community. Plastic bottles conceal the noise of glass bottles, and therefore plastic bottles make it easier to smuggle alcohol into a community that has decided not to have alcohol. He informed the committee that HB 327 is supported by recommendations from the hearings from the Rural Justice and Law Commission as well as local law enforcement groups. This legislation also imposes civil penalties on licensees whose employees are convicted for furnishing alcohol to minors. The legislation has an escalating scale of penalties in which the licensee would pay a civil penalty of \$500 for the first conviction; \$1,000 penalty and suspension of license for 7 days for the second offense within 5 years; and a \$2,000 civil fine and suspension of license for 30 days for a third conviction within 5 years. Under HB 327, the third conviction for bootlegging small amounts within a 10-year period would result in a class C felony, which is an increase from current law that provides for a class A misdemeanor for

bootlegging small amounts and a class C felony for bootlegging larger amounts. The proposed legislation also adopts mandatory minimum penalties for bootlegging that are the same as mandatory minimum penalties for drunk driving, save the look-back provision for bootlegging is for 10 years. Furthermore, the legislation considers a person convicted of bootlegging eligible for therapeutic court. The legislation also allows an individual who causes the death of another due to that individual bootlegging alcohol in a local option area to be prosecuted for manslaughter. This is similar to legislation the legislature adopted for the sale of methamphetamines that directly caused another person's death.

[8:07:29 AM](#)

CO-CHAIR LEDOUX related her belief that those who import/export alcohol in glass bottles would wrap them in order to avoid breakage.

ATTORNEY GENERAL COLBERG said that no matter how the alcohol is transported, there is likely to be an effort to conceal and protect it. However, he opined that it's easier to transport alcohol in plastic than glass.

[8:08:43 AM](#)

REPRESENTATIVE NEUMAN directed attention to the sponsor statement, which specifies that the legislation would create further incentive to train licensees. However, he related his understanding that licensees already go through a fairly extensive training program.

ATTORNEY GENERAL COLBERG said that the premise of that provision is based on the experience with tobacco. He mentioned a chart that illustrates that when there's a serious enforcement effort to punish those who haven't done a good job of training, there's a significant decrease in the number of offenses. In the case of tobacco, the penalty and the ability to enforce it seems to have a beneficial impact that can be statistically illustrated.

[8:09:58 AM](#)

REPRESENTATIVE NEUMAN opined that liquor store employees already receive fairly extensive training to judge the age of an individual and to understand the laws concerning alcohol.

ATTORNEY GENERAL COLBERG noted his agreement. He related his observation that more establishments are carding everyone served. The aforementioned, he opined, is one of the results of the law and the knowledge that someone faces the consequences of not following the law. Furthermore, it seems increasingly apparent that the penalty attached to the training results in employers ensuring [that employees receive training].

[8:11:30 AM](#)

REPRESENTATIVE NEUMAN pointed out that upon a second offense, there are civil fines and the license is suspended for seven days and then for thirty days on the third offense. The aforementioned is for offenses during a five-year period. He opined that even with training, there will be mistakes. This legislation places the onus on the employer, who provided the training required by state law. Representative Neuman expressed concern with infringing on the owner's business in this manner.

ATTORNEY GENERAL COLBERG said that Representative Neuman has valid concerns and this is a judgment call for the committee with regard to how to hold an owner accountable for the actions of his/her employees. Pointing again to documentation on tobacco, Attorney General Colberg acknowledged that although [training] never completely eliminates offenses, the consequences to offenses dramatically reduces the problem.

[8:15:13 AM](#)

REPRESENTATIVE NEUMAN asked if Attorney General Colberg would consider a different approach because it seems that the penalties in HB 327 are a bit severe for business owners. He said he would be willing to speak with Attorney General Colberg later regarding a different approach.

[8:15:54 AM](#)

CO-CHAIR FAIRCLOUGH related that the first offense doesn't appear to be a meaningful civil fine, and therefore she offered to work with the administration to develop a more meaningful penalty for a first-time offense. She then related that the future success of a business is reduced when it's closed for five days and thus a second offense could put some out of business. Although Co-Chair Fairclough said she appreciated the comparison of alcohol to tobacco, she pointed out that the difference is that in the case of the tobacco endorsement a particular product is removed, the availability of which impacts

only a particular revenue stream in an establishment. She questioned whether a meaningful civil fine could be utilized rather than business closures. Co-Chair Fairclough then directed attention to the use of the language "municipality or established village" on page 2, line 9, and asked if it covers second class cities and the various types of boroughs.

[8:18:28 AM](#)

ANNE CARPENETI, Assistant Attorney General, Department of Law, explained that the language "municipality or established village" is used in the local option statutes, which is used when describing local option communities. With regard to the same language being used on page 5, line 5, Ms. Carpeneti confirmed that it's current law and is used to refer to the entities that adopt local options.

[8:19:19 AM](#)

CO-CHAIR FAIRCLOUGH then directed attention to page 4, line 24, through page 5, line 6. She recalled that one of the issues with the tobacco laws has been in regard to the need for a meaningful hearing prior to applying penalties and allowing for response. The [legislation] appears to limit the information that can be brought forward. She questioned whether the legislation provides an appropriate manner in which a licensee can respond to the actions of an agent or the court.

MS. CARPENETI informed the committee that a similar procedure was recently upheld by the Alaska Supreme Court for tobacco enforcement. The issue, she noted, was a due process claim. The court found that it was an adequate procedure for a licensee to litigate the closure [of the business].

CO-CHAIR FAIRCLOUGH recalled legislation that attempted to modify the appeals process in order to provide a meaningful dialogue between the courts and the licensee. Although the courts upheld the case, she said she wasn't certain that the licensees are pursuing the matter further.

MS. CARPENETI offered to obtain information on the matter.

[8:21:20 AM](#)

REPRESENTATIVE CISSNA mentioned the costs of alcohol and the damage it has done. She characterized mind-altering drugs as poison, and pointed out that any other mind-altering drug is

heavily regulated. She acknowledged that alcohol is part of Alaska and the costs of alcohol tend to be ignored as is the related family crisis. Representative Cissna then inquired as to how get this [legislation] passed. She further inquired as to whether the administration is really ready to deal with [alcohol]. The only way, she opined, to do so is to lay out the costs of the very protected alcohol industry.

ATTORNEY GENERAL COLBERG acknowledged that in Alaska there is clearly a correlation between crime and alcohol and substance abuse. The local option attempts to address the problem in locations where it's significantly worse. This legislation, he noted, also attempts to address minor use of alcohol. Attorney General Colberg noted that due to his position he has an increased opportunity to visit rural communities where alcohol is a very significant problem, particularly in areas with minimal law enforcement. As pointed out by Representative Salmon last year, laws aren't meaningful if law enforcement isn't present. He noted that the administration, through the Village Public Safety Officer (VPSO) Task Force, is trying to address [an increased] presence of law enforcement in order to make laws more meaningful. He then expressed the need to interdict the problem before it gets to minors. This legislation is a fairly broad-based effort to address these problems because clearly the current system isn't working, as evidenced by the grim statistics associated with alcohol and drug abuse in Alaska.

[8:28:14 AM](#)

REPRESENTATIVE NEUMAN turned attention to the mandatory manslaughter provisions in HB 327. He posed a situation in which a minor steals alcohol from his father's cabinet and drives into a damp community and his friend drinks it and dies from alcohol poisoning. Under the provisions of HB 327, would the minor who stole the alcohol from his father be convicted of mandatory manslaughter provisions, he asked.

ATTORNEY GENERAL COLBERG replied no, the provision merely opens the penalty up to manslaughter. He explained that the provision is trying to address one who is classified in the category of a bootlegger. Bootlegging is fairly prevalent in rural Alaska and the downside for bootlegging isn't very significant for bootleggers. Therefore, HB 327 attempts to hold bootleggers responsible for the consequences of performing illegal activities in a community with a local option.

[8:30:41 AM](#)

REPRESENTATIVE NEUMAN, referring to Section 8(1) on page 7, related his understanding that the language of HB 327 would result in the [minor who stole the alcohol in his previous example] being charged with manslaughter [if his friend died from alcohol consumption].

MS. CARPENETI pointed out that the language to which Representative Neuman referred is current law. This legislation adds paragraph (4) on page 7, lines 13-16, which is specific to manslaughter in terms of illegal bootlegging of alcohol and that alcohol causing the death of another directly.

ATTORNEY GENERAL COLBERG added that absent any change in law, what Representative Neuman described could be prosecuted [as manslaughter] because a reckless activity that leads to the death of another could still arguably be manslaughter. In further response to Representative Neuman, Attorney General Colberg confirmed that HB 327 expands the law such that [punishment of manslaughter] includes bootlegging in a local option community.

[8:33:00 AM](#)

REPRESENTATIVE NEUMAN, referring to the sectional analysis, inquired as to how one can ensure that employees are trained and able to avoid furnishing alcohol to minors.

ATTORNEY GENERAL COLBERG replied that it would require someone to specifically monitor this particular activity. He opined that if the consequences to one's livelihood and business are more dire, one may be more willing to be directly involved or assign someone to monitor activities.

MS. CARPENETI noted that she represents the Alcoholic Beverage Control Board ("ABC Board") and thus is familiar with the laws and requirements for training. Current law doesn't require a person who serves alcohol to have training for the first 30 days of employment, which is an example of a situation in which a licensee might be more cautious and ensure that employees are trained prior to serving alcohol. Ms. Carpeneti clarified that an employee serving alcohol has to obtain training after 30 days of employment.

[8:35:18 AM](#)

REPRESENTATIVE SALMON asked if HB 327 would result in the prosecution of more bootleggers.

ATTORNEY GENERAL COLBERG answered that's the hope.

[8:35:51 AM](#)

REPRESENTATIVE SALMON highlighted the lack of law enforcement in rural areas. He inquired as to how the state can enforce a law such as that proposed in HB 327. He noted that he has known bootleggers who have been bootlegging for 40 years.

ATTORNEY GENERAL COLBERG recalled that Representative Salmon raised the same valid point last year during discussions of the Rural Justice and Law Commission recommendations related to bootlegging. He opined that it's likely that the Village Public Safety Officer Task Force will make recommendations regarding increasing manpower through the regional corporations and the state's Department of Public Safety. These recommendations will likely suggest more of a law enforcement presence in rural Alaska in order to provide more meaningful enforcement of the laws.

[8:37:25 AM](#)

CO-CHAIR FAIRCLOUGH asked if there was any discussion regarding an endorsement for a screening process such that businesses would be eligible to distribute to distribution centers or local option communities. She pointed out that she's referring to an endorsement that's similar to the tobacco stamp.

MS. CARPENETI specified that she didn't participate in the minor drinking group.

CO-CHAIR FAIRCLOUGH surmised that [the legislation] attempts to strengthen the law, but it seems that a scattered approach is being taken such that businesses will have to train many employees. She suggested a single-shot approach in which only particular vendors are allowed to sale to distribution [centers], which would allow for more specific training for those communities with a local option. She asked if that runs awry with other laws.

MS. CARPENETI deferred to Mr. Griffin, Alcoholic Beverage Control Board ("ABC Board"). She noted that not many businesses ship alcohol in response to a written order from a local option community. She reminded the committee that last year the

legislature passed a law that required such businesses to participate in a database in order to provide information as to which business sent how much and to whom in what local option area.

8:39:46 AM

DOUGLAS GRIFFIN, Director, Alcoholic Beverage Control Board ("ABC Board"), Department of Public Safety, reminded the committee that due to the enactment of SB 128, a database related to the sale of alcohol is being established. Currently, 19 package stores are registered with the ABC Board. He remarked that an endorsement, as suggested by Co-Chair Fairclough, may be appropriate because it would provide more formality to the process. Package stores that wish to engage in the written order process are required to notify the ABC Board so that the board can keep the package stores up-to-date with regard to changes in the local option and to the conviction list for bootlegging. He opined that the aforementioned relationship will become stronger as the database comes online. Furthermore, a new position was created with the enactment of SB 128 and thus more training will be provided. One of the benefits of the implementation of the database is that it will strengthen the board's relationship with package stores that do sell by written order, he suggested. Since some of the package stores may not be in total compliance with all aspects of the program, the hope is to tighten that compliance with this written order process.

8:43:01 AM

REPRESENTATIVE NEUMAN asked if less package stores ship alcohol because of the database requirement included in SB 128.

MR. GRIFFIN related his sense that some of the 19 package stores currently on the list may decide not to ship alcohol by written order due to the hassle of the database requirement. Furthermore, he suggested that probably not all 19 package stores actively ship to rural Alaska. In fact, the bulk of written orders are probably performed by four to five package stores in the state.

REPRESENTATIVE NEUMAN related his understanding that any package store in Alaska that wants to ship alcohol within the state, must have a computer to be connected to the state's database.

MR. GRIFFIN specified that the database will go into effect by July 1, 2008. He noted that the law required the ABC Board to

have consultations with the package stores, which has been done. Presently, package stores don't have to have a computer, and thus the paper records are to be kept for a year. Therefore, the hope is that the database, with its list of those to whom the package store can't sell alcohol, will make things easier for package stores. He explained that the list will likely utilize a unique identifier and thus help reduce identification problems. Mr. Griffin related that the goal of the database was to prevent bootleggers who were gaming the system and ordering more than allowable from multiple package stores.

8:48:23 AM

REPRESENTATIVE NEUMAN surmised then that HB 327 would require use of a computer by package stores.

MR. GRIFFIN specified that the legislation, SB 128, requiring the use of computers for the database passed last year. The legislation, HB 327, before the committee today doesn't address [the use of computers].

8:48:59 AM

REPRESENTATIVE SALMON inquired as to how one determines whether the individual ordering the alcohol is of a legal age to do so.

MR. GRIFFIN explained that when an account is setup for a written order some sort of government-issued identification has to be provided to the package store. The written order is literally a handwritten letter so that signatures can be compared to the signature that originally setup the account.

8:50:55 AM

CO-CHAIR LEDOUX, referring to Section 8 paragraph (4) on page 7, recalled that Attorney General Colberg said that the language didn't refer to a mandatory manslaughter charge.

MS. CARPENETI explained that whenever a crime is allegedly committed the police investigate and send the information to the district attorney, who evaluates the facts based upon the law and what the district attorney believes can be proven beyond a reasonable doubt. Ms. Carpeneti said:

Whether you would be choosing manslaughter if there's the death of a person, you would evaluate the facts based on all of our homicide laws and fit whether the

facts could be proven to that particular level of crime. But there's no mandate that says that a person under these particular circumstances ... must be charged with manslaughter under any of the various theories of manslaughter in our current law or this proposed additional one.

8:52:30 AM

CO-CHAIR LEDOUX posed a situation in which an underage teenager steals alcohol from her father and gives it to her underage boyfriend, who dies from alcohol poisoning. She inquired as why manslaughter would be chosen in one instance but not another.

MS. CARPENETI pointed out that in the aforementioned situation the underage teenager who took the alcohol from her father wouldn't be charged at all since she's a juvenile, but the Juvenile Justice System would review whether to file an accusation. The same process would be followed in the adult system. She reminded the committee that prosecutors exercise discretion with regard to what he/she considers the just charge in relation to how the facts fit into the law. In further response to Co-Chair LeDoux, Ms. Carpeneti specified that in Alaska an individual remains a juvenile until the age of 18.

8:55:32 AM

DIANE CASTO, Section Manager, Prevention and Early Intervention Section, Division of Behavioral Health, Department of Health and Social Services (DHSS), began by relating that DHSS believes HB 327 is very important and supports HB 327. Ms. Casto noted that she also manages the tobacco control program, and therefore can respond to some of the earlier questions regarding tobacco laws. The department, she related, believes alcohol is a huge problem in Alaska, particularly in Alaska's youth. As a national issue, the problem of underage drinking has gained much attention over the last few years. In 2002 the National Research Council and Institute of Medicine were tasked with developing a national strategy to reduce underage drinking. The aforementioned resulted in the production of the "Reducing Underage Drinking: A Collective Responsibility" in 2004, which became the foundation for much of the work that states are doing now in regard to developing state plans to reduce underage drinking. Also in 2004 Congress established the federal Interagency Coordinating Committee to reduce and prevent underage drinking and in 2005 Alaska followed suit with the establishment of the Alaska Interagency Coordinating Committee on the Prevention of

Underage Drinking. The Alaska Interagency Coordinating Committee on the Prevention of Underage Drinking prepared the "Plan to Reduce & Prevent Underage Drinking", which is currently available for public comment. As part of Alaska's plan, in March [DHSS] will host a series of 26 town hall meetings across the state in order to obtain community insight. Ms. Casto highlighted that throughout all these reports and committees, the consistent [finding] is that one of the most effective strategies to prevent and reduce underage drinking is to limit and reduce access to alcohol for youth as well as changing the attitude related to underage alcohol use. Alcohol is the number one drug of choice for youth and is the most damaging and deadly of drugs; it causes more accidents and death. She then highlighted the high rates of suicide among youth in Alaska. The suicide rates in Alaska for ages 15-24 are significantly higher than the rate of suicide among the entire population. Furthermore, in the nation youth have the lowest rates of suicide while they have the highest rates in Alaska. Moreover, almost 40 percent of all suicides are associated with alcohol in Alaska, she related.

[9:00:25 AM](#)

MS. CASTO reminded the committee that every two years Alaska participates in the Centers for Disease Control's Youth Risk Behavior Survey (YRBS). In the 2007 YRBS, there are small but significant reductions in the categories related to alcohol use among youth. However, still 73.6 percent of the students in grades 9-12 reported having at least one drink of alcohol on 1 or more days in the past 30 days. Ms. Casto then related a study regarding the rates of lifetime dependence on alcohol, which has found lifetime dependence on alcohol declines from more than 40 percent when drinking begins at age 14 or younger to 10 percent if drinking begins after age 20. In Alaska, 20.4 percent of students reported having their first drink of alcohol prior to age 13. Therefore, approximately 40 percent of those youth will become dependent on alcohol in their lifetime. She related that 9.7 percent of high school students reported drinking and driving at least once in the past 30 days, which is a small decrease from 11.3 percent a couple of years ago.

[9:02:43 AM](#)

MS. CASTO turned to the portions of HB 327 that address minor consuming, which are the provisions to: increase penalties for those who sell alcohol to minors, develop a database that has a more consistent tracking system with DMV, and access to alcohol

in damp/dry communities. She noted that the department supports those provisions.

[9:04:07 AM](#)

MS. CASTO then addressed the issues related to the comparisons of alcohol and tobacco penalties. She recalled mention of the changes in tobacco laws due to the Holiday case, which the state lost. The Holiday case related to due process and said that existing laws didn't afford the owner/retailer due process when his/her clerk was charged with selling tobacco to a minor. Therefore, SB 84 included provisions to ensure that penalties with due process was fair but firm. Alaska has the most stringent laws related to tobacco. In fact, Alaska is the only state with a mandatory fine for the first offense. In 2002 when the laws increased the penalties for those who sell tobacco to minors, the rates dropped significantly. She then highlighted that currently there are three investigators for tobacco but only one for alcohol. Often tobacco enforcement officers work with the alcohol enforcement officer and they have discovered that the same youth who have been denied tobacco products can purchase alcohol. She opined that the aforementioned is due to the leniency of the laws related to the sale of alcohol to minors. Ms. Casto then recalled the court case involving Tesoro, referred to by Ms. Carpeneti, in which the court upheld that due process was provided. Therefore, there are some differences of opinion on the matter. One of the major differences between tobacco and alcohol penalties is that for tobacco there is a ceiling and floor for the fines, and therefore there is always some penalty. However, for alcohol under current law only the clerk is given a fine and faces potential jail time. In discussions with those who enforce the law, Ms. Casto related her understanding that no fine is imposed but rather a probationary action occurs and no penalty exists for the first offense [of selling to a minor].

[9:07:46 AM](#)

REPRESENTATIVE CISSNA opined that if there were enough enforcement officers for alcohol, then it's more likely that the necessary enforcement would occur. She likened it to the situation with the lack of VPSOs in rural Alaska.

MS. CASTO noted her agreement. She related her belief that part of the success with tobacco is due to the ability to keep a consistent group of enforcement officers. She then noted that tobacco is different in that federal tobacco law mandates that

all states receiving a federal substance abuse, prevention, and treatment block grant have to maintain a 20 percent or less sell rate or a portion of those block grant dollars is lost. Therefore, there's further incentive to maintain a healthy team for tobacco.

9:10:05 AM

MS. CASTO concluded her testimony by emphasizing that the critical difference [between alcohol and tobacco] is that [for alcohol] there's not a concrete penalty for a first offense of selling to a minor. Furthermore, currently in alcohol only clerks are cited for infractions. With tobacco, the business owners [face penalty for the actions of their employees], and thus they have a stronger commitment to set the appropriate example and not sell tobacco to minors.

9:12:05 AM

SUSAN MCLEAN, Chief Assistant Attorney General, Legal Services Section, Criminal Division, Department of Law, informed the committee that she has been a prosecutor in Alaska and has prosecuted cases throughout the state. She said today she would relate her observations with regard to how very different Western Alaska is in terms of how alcohol impacts the communities in the region. There is no place in Alaska with more violent crime than Western Alaska, she related. Having been the district attorney in Bethel, Ms. McLean opined that the communities in Western Alaska have every reason to be dry. Sadly, most of the cases with more tragic results involve crimes committed by young people against family members while other family members witness.

MS. MCLEAN noted that she returned to work for DOL two years ago to start a rural prosecution program, the purpose of which is to provide assistance to primarily Western Alaska and areas in Alaska in which the attorneys are so overwhelmed that they need outside help. In that capacity, Ms. McLean reviewed the cases in Bethel that she was assigned and recalled that most often the person who committed the crime doesn't remember what he/she has done. Therefore, she opined that clearly the bootlegger who brings alcohol into a damp/dry community for the third time should face the deterrent of a felony crime. The typical situation is that a bootlegger purchases a small bottle of alcohol for under \$10 and sells that bottle for a significantly higher price, \$150-\$200, which illustrates the tremendous profit motive in bootlegging.

9:17:24 AM

MS. MCLEAN then turned to the earlier hypothetical situation in which a teenager takes alcohol from a parent and goes into a dry area and provides it to someone who subsequently dies. With regard to that situation, Ms. McLean said she didn't believe that teenager could be charged with mandatory manslaughter because the person who provided the alcohol would've had to violate AS 04.11.010, which relates to the sale or barter of alcohol. A person is not presumed to have provided alcohol for sale or barter unless what was provided is more than 10.5 liters. Therefore, the aforementioned example lacks the element of sale or barter and thus she didn't believe the teenager could be charged with a crime.

9:18:59 AM

WALTER EVANS, Chief Probation Officer, Northern Region, Probation Services, Division of Juvenile Justice, Department of Health and Social Services, provided the following testimony:

I'd like to thank you for taking up this bill and giving serious attention to the issue of alcohol, particularly in our rural areas. By now, I'm sure you're all familiar with the impact that alcohol abuse is having on rural Alaska and Alaska's kids. I witnessed this impact myself during the seven years I spent as a juvenile probation officer serving Bethel and the many villages on the Yukon Kuskokwim Delta. During that time I witnessed first hand the way alcohol makes young people, who are already impulsive ..., even more impulsive and indifferent to the effects of their behavior on others. When they drink, their ability to control their own actions is reduced and their understanding and the consequences of their actions becomes blurred. Our rural staff estimate that between 50 and 80 percent of all crimes we see by juveniles involved alcohol in some way, whether they are intoxicated when they commit the crime or they commit the crime to get alcohol or money to buy alcohol. The cause and effect is clear: the more readily alcohol is available to young people, the more likely they are to commit crimes. The more we can limit the access to alcohol by youth, the more we can hopefully limit the crimes they commit because they're intoxicated or addicted. This bill does a lot of

different things to keep alcohol out of the hands of young people, but probably the most useful thing, from our perspective in Juvenile Justice, is in seeking to establish a tracking mechanism for minor consuming cases. Currently, when an individual is cited for underage drinking or possession, the justice system has a difficult time establishing the number of times the youth has been cited previously or whether compliance with education or treatment requirements from an earlier case was achieved. This bill lays the ground work for an improved system of tracking minor consuming offenses, hopefully resulting in a coordinated approach across agencies working with these youth to monitor and report on the outcomes associated with the minor consuming offense.

[9:21:57 AM](#)

CO-CHAIR LEDOUX, upon determining no one else wished to testify, closed public testimony.

[9:22:05 AM](#)

CO-CHAIR FAIRCLOUGH expressed the desire to set HB 327 aside and have the administration review the civil penalties.

CO-CHAIR LEDOUX clarified that she didn't intend to report HB 327 from committee today.

[9:22:29 AM](#)

REPRESENTATIVE OLSON requested more information from the Department of Corrections in relation to its indeterminate fiscal note. He suggested that perhaps a hypothetical fiscal note could be drafted in terms of the various classes of crimes.

[9:23:01 AM](#)

REPRESENTATIVE CISSNA opined that the sooner disincentives are in place and the tougher they are the better. In fact, a more costly first penalty for the offense is more effective in successfully changing behavior.

[HB 327 was held over.]

[9:24:29 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at [9:24:36 AM](#) [stated as 8:22 p.m.].