

HOUSE FINANCE COMMITTEE  
May 16, 2007  
9:26 a.m.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [9:26:18 AM](#).

MEMBERS PRESENT

Representative Mike Chenault, Co-Chair  
Representative Kevin Meyer, Co-Chair  
Representative Bill Stoltze, Vice-Chair  
Representative Harry Crawford  
Representative Richard Foster  
Representative Les Gara  
Representative Mike Hawker  
Representative Reggie Joule  
Representative Mike Kelly  
Representative Mary Nelson  
Representative Bill Thomas, Jr.

MEMBERS ABSENT

None

ALSO PRESENT

Ginny Austerman, Staff, Senator Donny Olson; Anne Carpeneti, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law; Suzanne Cunningham, Staff, Representative Meyer; Lauren Rice, Legislative Liaison, Department of Public Safety, Talis Colberg, Attorney General, Department of Law

PRESENT VIA TELECONFERENCE

Douglas Griffin, Director, Alcoholic Beverage Control Board, Department of Public Safety; Diane Keller, Mayor, Wasilla; Casey Reynolds, Economic Development Planner, Wasilla

SUMMARY

CSSB 128(FIN)"An Act relating to the sale, distribution, and purchase of alcoholic beverages; relating to a state database for records of certain purchases of alcoholic beverages; relating to the relocation of a license to sell alcoholic beverages; relating to procedures for local option elections for control of alcoholic beverages; and providing for an effective date."

HCS CSSB 128 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with fiscal note #2 by Department of Public Safety, and with zero fiscal note #3 by the Department of Law.

[9:26:44 AM](#)

CS FOR SENATE BILL NO. 128(FIN)

"An Act relating to the sale, distribution, and purchase of alcoholic beverages; relating to a state database for records of certain purchases of alcoholic beverages; relating to the relocation of a license to sell alcoholic beverages; relating to procedures for local option elections for control of alcoholic beverages; and providing for an effective date."

GINNY AUSTERMAN, STAFF, SENATOR DONNY OLSON, explained that SB 128 was drafted at the urging of the Alaska Rural Justice and Law Enforcement Commission. She continued:

This legislation is an integral part of the effort to regulate the sale, distribution, purchase and shipment of alcoholic beverages into damp local option communities within the State of Alaska. It puts in place a requirement for the Alcoholic Beverage Control Board to create and maintain a database that contains up to date information related to written orders for alcohol shipped to the writer of the order. The package store licensee must consult the database prior to filling each order.

Currently, AS 04.11.150(g) regulates the amounts of alcoholic beverages to residents of Local Option Areas, SB 128 requires that the package store licensee, agent, or employee access the database to determine the amounts of alcoholic beverages already ordered by an individual. It also requires that the date and amount of the new order be immediately added to the database. This database will adversely impact the importation and sale of alcoholic beverages into rural Alaskan communities by bootleggers. The information in the database will be accessible only to package stores and law enforcement none of the information would be available to the public.

Senate Bill 128 also contains a provision relative to the transfer of liquor licenses between an organized borough and communities in that borough. Many communities across the state have used their allotment of liquor licenses, while their borough has not, or vice versa. Alcoholic beverage licenses may now be transferred within a borough upon approval of the

governing bodies of both the borough and the incorporated city.

[9:28:55 AM](#)

Ms. Austerman explained:

Sections 1 and 2 speak to the requirement of the ABC Board to create and maintain a database to keep track of written orders for alcohol from persons residing in damp local option communities; clearly states to whom information in the database is available; they describe, in detail the steps for licensee's to record and review information in the database; and make failure to comply with the requirements a class B misdemeanor.

Section 3 limits the shipping of alcohol in response to a written order to the address of the person ordering the alcohol unless that person lives in an area where there is a community delivery site.

Sections 4 & 5 allow for the relocation of existing liquor licenses within a borough. Such relocation of licenses is limited to not more than three in each decade. "Decade" means each 10 year period beginning April 1 in a year ending in zero.

Sections 6, 7, 11, 12, and 13 prohibit transport, importation, purchase, or resale of alcohol in violation of the local option, and change such offenses from a class C felony to a class A misdemeanor. These sections also include conforming amendments for the new provisions in sections 7 and 12 and 13.

Section 8 extends the period after a local option has been adopted from 12 to 24 months before an election may be held to remove the option or change the option to a less restrictive alternative. It also provides for an election to remove or make the option less restrictive, once in a 36 month period. Currently that period is 18months.

[9:30:23 AM](#)

Section 9 prohibits a person from purchasing alcohol by written order on behalf of another person who resides in a local option community, and makes the violation a class A misdemeanor.

Section 10 prohibits a person in a dry local option area from possessing ingredients or equipment with the intention of making home brew. This violation would also be a class A misdemeanor.

Sections 14 and 15 amend forfeiture provisions for violations of AS 04.11.499 to include the alcohol purchased from a bootlegger in violation of the community's local option. Forfeiture of an airplane or other vehicle is not allowed.

Section 16 allows the ABC Board to establish pilot alcohol delivery sites in Bethel and Kotzebue at the request of those communities. Once opened, the sites would operate for a period of three years.

Sections 17 - 22 include instructions to the revisor of statutes and effective dates.

Representative Joule asked if the state would operate this program in Bethel and Kotzebue. Ms. Austerman replied that the state will handle it the same way it is currently being handled in Nome.

[9:32:14 AM](#)

ANNE CARPENETI, ASSISTANT ATTORNEY GENERAL, LEGAL SERVICES SECTION-JUNEAU, CRIMINAL DIVISION, DEPARTMENT OF LAW, said her understanding is that the pilot project would be operated by the state and then taken over by the municipal government.

Representative Joule thought the model of the program in Barrow was a good one. He spoke of a delivery site serving a very useful purpose. He mentioned a problem with lag time before the program is implemented because the communities would end up being "dry" by default. Ms. Carpeneti explained that first the local municipalities need to ask the ABC Board to establish delivery sites. A delivery site would not be imposed, but requested. Representative Joule understood that it was optional.

[9:34:24 AM](#)

CASEY REYNOLDS, ECONOMIC DEVELOPMENT PLANNER, WASILLA, addressed Section 5, which was at their request, regarding relocation of liquor licenses. The population inside city boundaries is smaller than the area serviced, and liquor licenses are allocated based on population. Because of that, it is difficult to attract and develop restaurants because liquor licenses can't be obtained. This legislation is a way to remedy that problem. It is Wasilla's intent to have the relocation of an existing beverage dispensary license apply only to restaurants, not bars or liquor stores. It also provides for using existing liquor licenses more effectively. The ABC Board supports this section. It has been restricted so that it is allowed only three times every ten years. Co-Chair Meyer agreed with that limitation.

[9:37:19 AM](#)

Representative Joule wondered if the fiscal note for the bill was included in the budget. Co-Chair Meyer said he would address that later.

DOUGLAS GRIFFIN, DIRECTOR, ALCOHOLIC BEVERAGE CONTROL BOARD, DEPARTMENT OF PUBLIC SAFETY, related that no money was budgeted for this item. He thought it could be a pending budget issue. He concurred with Mr. Reynolds comments.

TALIS COLBERG, ATTORNEY GENERAL, DEPARTMENT OF LAW, related that he is also co-chair of the Rural Justice Commission, which is where SB 128 had its genesis. He commented that the bill would be helpful toward alleviating problems with alcohol in "dry" and "damp" villages. It was the unanimous recommendation of the Commission. He testified in support of the bill.

[9:41:18 AM](#)

Co-Chair Meyer MOVED to ADOPT Amendment #1:

Page 1, line 9  
After "and"  
Delete "shipments"  
Insert "shipped"

Representative Hawker OBJECTED.

SUZANNE CUNNINGHAM, STAFF, REPRESENTATIVE MEYER, explained that Amendment #1 should read, "Delete 'shipments made'".

[9:42:02 AM](#)

Representative Hawker MOVED to ADOPT a Conceptual Amendment to Amendment 1, to have line 3 say, Delete "shipments made". There being NO OBJECTION, it was so ordered.

Ms. Cunningham continued that the amendment clarifies that the database will contain monthly information of alcohol that is purchased and shipped to a person who resides in a municipality or established village that has restricted the sale of alcoholic beverages.

Representative Hawker WITHDREW his objection. There being NO OBJECTION, Amendment #1 was adopted, as amended.

[9:42:57 AM](#)

Co-Chair Meyer MOVED to ADOPT Amendment #2:

Insert new section:

AS 04.11.010 (a) is amended to read:

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

Renumber remaining sections accordingly.

Representative Hawker OBJECTED.

Ms. Cunningham explained that the purpose of Amendment #2 relates to an amendment that was added in the House Judiciary Committee to the House companion bill. It clarifies a statute and inserts a culpability provision.

Co-Chair Meyer said it was discussed in the Judiciary Committee.

Representative Hawker WITHDREW his objection to Amendment #2. There being NO OBJECTION, it was so ordered.

[9:44:38 AM](#)

Ms. Cunningham clarified that the Conference Committee accepted a report that did include the Department of Public Safety statewide support ABC Board fiscal note for \$317.5 thousand in general funds.

Representative Foster wondered if the user could pay for this instead of the state.

[9:46:15 AM](#)

LAUREN RICE, LEGISLATIVE LIAISON, DEPARTMENT OF PUBLIC SAFETY, reported that it has not been clarified who would pay for the distribution centers.

Mr. Griffin reported that the ABC Board could establish surcharges, through regulation, at the delivery sites. He referred to Barrow as an example of the way it could work.

Co-Chair Meyer mentioned fiscal notes #2 and #3.

[9:48:54 AM](#)

Representative Hawker voiced concern about the creation of the database, which includes every person in a village. It is a legal transaction, and a state database is inappropriate and violates privacy and individual rights. He spoke strongly against the policy.

[9:51:24 AM](#)

Representative Nelson thought those arguments applied to the methamphetamine database. She related a personal experience. She maintained that her rights have to be waived for the well-being of a community. There is a limit to how much alcohol can be imported into the two communities. She agreed with the database in order to help the community.

Representative Joule suggested expunging the database after two years. Representative Nelson thought DNA collection was much more invasive and those records are expunged after a period of time.

[9:54:37 AM](#)

Representative Hawker agreed with concerns about DNA collection, but saw a difference between that situation and the database in this legislation because there is probable cause involving DNA collection and the data will be purged. He maintained that the database for alcohol purchasing violates the privacy of the innocent majority. He wished there could be another way.

[9:56:29 AM](#)

Representative Thomas related a personal experience with having to register for the purchase of allergy medication. He concurred with Representative Hawker's thoughts.

Representative Thomas reported that his pending amendment would allow a destination point in Hoonah for cruise ship customers to buy alcohol. It would not be open to the public.

[9:58:39 AM](#)

Representative Foster MOVED to REPORT HCS CSSB 128 (FIN) out of Committee with individual recommendations and the accompanying fiscal notes.

HCS CSSB 128 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with fiscal note #2 by Department of Public Safety, and with zero fiscal note #3 by the Department of Law.

[10:00:36 AM](#)

At-ease.

Co-Chair Meyer recessed the meeting to the call of the chair.

[12:10:11 PM](#)

Co-Chair Meyer brought the meeting back to order.

ADJOURNMENT

The meeting was adjourned at 12:10 PM.