

SENATE CS FOR CS FOR HOUSE BILL NO. 98(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/9/10

Referred: Rules

Sponsor(s): REPRESENTATIVE RAMRAS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to minor consuming and repeat minor consuming; relating to penalties
2 for violations of limitations on possessing, sending, shipping, transporting, or bringing
3 alcoholic beverages to, soliciting or receiving orders for delivery of alcoholic beverages
4 to, and the manufacture, sale, offer for sale, barter, traffic, or possession of alcoholic
5 beverages in, a local option area; and providing for an effective date."

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

7 * **Section 1.** AS 04.11.010(c) is amended to read:

8 (c) Unless a municipality or established village has adopted a more restrictive
9 local option under AS 04.11.491(g), in a criminal prosecution for possession of
10 alcoholic beverages for sale in violation of (a) of this section, the fact that a person

11 (1) possessed more than 10 1/2 liters of distilled spirits or [,] 24 liters
12 or more of wine, or either a half-keg of malt beverages or 12 gallons or more of
13 malt beverages in individual containers in an area where the sale of alcoholic

1 beverages is restricted or prohibited under AS 04.11.491 creates a presumption that
2 the person possessed the alcoholic beverages for sale;

3 (2) sends, transports, or brings more than 10 1/2 liters of distilled
4 spirits or [,] 24 liters or more of wine, or either a half-keg of malt beverages or 12
5 gallons or more of malt beverages in individual containers to an area where the sale
6 of alcoholic beverages is restricted or prohibited under AS 04.11.491 creates a
7 presumption that the person sent, transported, or brought the alcoholic beverages for
8 sale in the area.

9 * **Sec. 2.** AS 04.11.150(g) is amended to read:

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

28 * **Sec. 3.** AS 04.16.050(b) is amended to read:

29 (b) A person who violates (a) of this section and who has not been previously
30 convicted or received a suspended imposition of sentence under (1) of this subsection
31 is guilty of minor consuming or in possession or control. Minor consuming or in

1 **possession or control is not a misdemeanor.** Upon conviction in the district court,
 2 the court

3 (1) may grant a suspended imposition of sentence under AS 12.55.085
 4 and place the person on probation for up to one year if the person has not been
 5 convicted of a violation of this section previously; among the conditions of probation,
 6 the court shall, with the consent of a community diversion panel, refer the person to
 7 the panel, and require the person to comply with conditions set by the panel, including
 8 counseling, education, treatment, community work, and payment of fees; in this
 9 paragraph, "community diversion panel" means a youth court or other group selected
 10 by the court to serve as a sentencing option for a person convicted under this section;
 11 or

12 (2) shall impose a fine of at least \$200 but not more than \$600, shall
 13 require the person to attend alcohol information school if the school is available, and
 14 shall place the person on probation for up to one year under (e) of this section; the
 15 court may suspend a portion of the fine imposed under this paragraph that exceeds
 16 \$200 if the person is required to pay for education or treatment required under (e) of
 17 this section.

18 * **Sec. 4.** AS 04.16.050(c) is amended to read:

19 (c) A person is guilty of repeat minor consuming or in possession or control if
 20 the person was **previously granted a suspended imposition of sentence** [PLACED
 21 ON PROBATION] under (b)(1) of this section, **has a prior conviction under (b)(2)**
 22 **of this section,** or has been previously convicted once, and the person violates (a) of
 23 this section. **Repeat minor consuming or in possession or control is not a**
 24 **misdemeanor.** Upon conviction in the district court, the court shall

25 (1) impose a fine of \$1,000 and require at least 48 hours of community
 26 work;

27 (2) revoke the person's driver's license for three months;

28 (3) take possession of the person's driver's license; and

29 (4) suspend up to \$500 of the fine and place the person on probation
 30 for up to one year under (e) of this section.

31 * **Sec. 5.** AS 04.16.050(d) is amended to read:

1 (d) A person is guilty of habitual minor consuming or in possession or control
 2 if the person **has a prior conviction** [WAS PLACED ON PROBATION] under (c) of
 3 this section, or has been previously convicted **two or more times** [TWICE], and the
 4 person violates (a) of this section. Habitual minor consuming or in possession or
 5 control is a class B misdemeanor. Upon conviction, the court may impose an
 6 appropriate period of imprisonment and fine and place the person on probation under
 7 (e) of this section for one year, or until the person is 21 years of age, whichever is
 8 later, and shall

9 (1) impose at least 96 hours of community work;

10 (2) revoke the person's driver's license for six months;

11 (3) within five working days, notify the agency responsible for the
 12 administration of motor vehicle laws of the revocation; and

13 (4) take possession of the person's driver's license.

14 * **Sec. 6.** AS 04.16.200(e) is amended to read:

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

17 (1) except as provided in (3) of this subsection, guilty of a class A
 18 misdemeanor if the quantity of alcoholic beverages is less than 10 and one-half liters
 19 of distilled spirits **or** [,] 24 liters of wine, or **either a half-keg of malt beverages or**
 20 12 gallons of malt beverages **in individual containers**;

21 (2) guilty of a class C felony if the quantity of alcoholic beverages is
 22 10 and one-half liters or more of distilled spirits **or** [,] 24 liters or more of wine, or
 23 **either a half-keg of malt beverages or** 12 gallons or more of malt beverages **in**
 24 **individual containers**; or

25 (3) guilty of a class C felony if the quantity of alcoholic beverages is
 26 less than 10 and one-half liters of distilled spirits **or** [,] 24 liters of wine, or **either a**
 27 **half-keg of malt beverages or** 12 gallons of malt beverages **in individual containers**
 28 and the person has been previously convicted under this subsection or (b) of this
 29 section two or more times within 15 years of the date of the present offense.

30 * **Sec. 7.** AS 04.16.200(h) is amended to read:

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 **not** been previously convicted
5 [ONCE];

6 (B) 240 days if the person has been previously convicted **once**
7 [TWO TIMES];

8 (C) 360 days if the person has been previously convicted **two**
9 [THREE] or more times;

10 (2) may not

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

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

15 (ii) pay the minimum fine required under (1) of this
16 subsection; or

17 (B) suspend imposition of sentence.

18 * **Sec. 8.** AS 04.21.080 is amended by adding a new paragraph to read:

19 (18) "half-keg" means a keg designed to be a bulk container for, and
20 containing not more than, 15 1/2 gallons of malt beverages.

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

23 APPLICABILITY. AS 04.11.010(c), as amended by sec. 1 of this Act, and
24 AS 04.16.200(h), as amended by sec. 7 of this Act, apply to an offense occurring on or after
25 the effective date of this Act. References to previous convictions in sec. 7 of this Act apply to
26 convictions occurring before, on, or after the effective date of this Act.

27 * **Sec. 10.** This Act takes effect immediately under AS 01.10.070(c).