

SENATE BILL NO. 85

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/26/09

Referred: Community and Regional Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to limitations on possessing, sending, shipping, transporting, or
2 bringing alcoholic beverages to a local option area and to penalties for violations of those
3 limitations; relating to probation for minor consuming or in possession or control of
4 alcoholic beverages; relating to civil fines for liquor licensees whose agents or employees
5 furnish alcoholic beverages to a person under 21 years of age; and providing for an
6 effective date."

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

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

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

12 (1) possessed more than three [10 1/2] liters of distilled spirits, 12 [24]
13 liters or more of wine, or six [12] gallons or more of malt beverages in an area where

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

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

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

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

26 * **Sec. 3.** AS 04.11.575 is amended by adding new subsections to read:

27 (d) If an agent or employee of a licensee is convicted of a violation of
28 AS 04.16.052(a)(5) occurring on the licensed premises of the licensee, the board shall,
29 for a first conviction, in addition to other penalties imposed by law, issue a warning to
30 the licensee. The warning shall include a description of civil fines for second and
31 subsequent convictions. The board shall impose a civil fine of \$1,000 on the licensee

1 for the second and subsequent convictions of an agent or employee of the licensee for
 2 violation of AS 04.16.052(a)(5) occurring on the licensed premises of the licensee. In
 3 imposing a civil fine under this subsection, convictions include the convictions of all
 4 agents or employees of a licensee that are committed on the premises of the licensee.

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

6 (c) A person is guilty of repeat minor consuming or in possession or control if
 7 the person was placed on probation under **(b)** [(b)(1)] of this section or has been
 8 previously convicted once, and the person violates (a) of this section. Upon conviction
 9 in the district court, the court shall

- 10 (1) impose a fine of \$1,000 and require at least 48 hours of community
 11 work;
 12 (2) revoke the person's driver's license for three months;
 13 (3) take possession of the person's drivers' license; and
 14 (4) suspend up to \$500 of the fine and place the person on probation
 15 for up to one year under (e) of this section.

16 * **Sec. 5.** AS 04.16.050(e) is amended to read:

17 (e) The court shall **order** [PLACE] a person sentenced **and placed on**
 18 **probation** under **(b)** [(b)(2)], (c), or (d) of this section **to** [ON] probation for the
 19 appropriate period. The person may not refuse probation. The court may require the
 20 person to pay for and enroll in a juvenile alcohol safety action program, if one is
 21 available. The court shall impose the following conditions of probation:

- 22 (1) the person shall pay for and successfully complete any education or
 23 treatment recommended;
 24 (2) the person may not consume inhalants or possess or consume
 25 controlled substances or alcoholic beverages, except as provided in AS 04.16.051(b);
 26 (3) the person shall timely complete any community work ordered, as
 27 provided in (f) of this section; and
 28 (4) other conditions the court considers appropriate.

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

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

1 (1) except as provided in (3) of this subsection, guilty of a class A
 2 misdemeanor if the quantity of alcoholic beverages is less than **three** [10 AND ONE-
 3 HALF] liters of distilled spirits, **12** [24] liters of wine, or **six** [12] gallons of malt
 4 beverages;

5 (2) guilty of a class C felony if the quantity of alcoholic beverages is
 6 **three** [10 AND ONE-HALF] liters or more of distilled spirits, **12** [24] liters or more
 7 of wine, or **six** [12] gallons or more of malt beverages; or

8 (3) guilty of a class C felony if the quantity of alcoholic beverages is
 9 less than **three** [10 AND ONE-HALF] liters of distilled spirits, **12** [24] liters of wine,
 10 or **six** [12] gallons of malt beverages and the person has been previously convicted
 11 under this subsection or (b) of this section two or more times within 15 years of the
 12 date of the present offense.

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

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

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

18 (A) 120 days if the person has **not** been previously convicted
 19 [ONCE];

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

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

24 (2) may not

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

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

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

31 (B) suspend imposition of sentence.

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

3 APPLICABILITY. (a) The presumptions established in sec. 1 of this Act apply to
4 conduct occurring on or after the effective date of this Act.

5 (b) Sections 2, 6, and 7 of this Act apply to an offense occurring on or after the
6 effective date of the applicable section of this Act. References to previous convictions in secs.
7 6 and 7 of this Act apply to convictions occurring before, on, or after the effective date of this
8 Act.

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

11 (d) Sections 4 and 5 of this Act apply to probation ordered for offenses occurring
12 before, on, or after the effective date of this Act.

13 * **Sec. 9.** This Act takes effect July 1, 2009.