

CS FOR SENATE BILL NO. 85(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/7/09

Referred: Finance

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to penalties for violations of limitations on possessing, sending,**
2 **shipping, transporting, or bringing alcoholic beverages to, soliciting or receiving orders**
3 **for delivery of alcoholic beverages to, and the manufacture, sale, offer for sale, barter,**
4 **traffic, or possession of alcoholic beverages in, a local option area; relating to minor**
5 **consuming or in possession or control of alcoholic beverages; relating to civil penalties**
6 **for liquor licensees whose agents or employees furnish alcoholic beverages to a person**
7 **under 21 years of age; and providing for an effective date."**

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

9 *** Section 1.** AS 04.11.575 is amended by adding a new subsection to read:

10 (d) In addition to other penalties imposed by law, if an agent or employee of a
11 licensee is convicted of a violation of AS 04.16.052(5) occurring on the licensed
12 premises of the licensee, the board shall, for a first conviction, issue a written warning
13 to the licensee. The warning must include a description of civil fines for second and

1 subsequent convictions. The board shall impose a civil fine of \$1,000 on the licensee
 2 for the second and subsequent conviction of an agent or employee of the licensee for
 3 violation of AS 04.16.052(5) occurring on the licensed premises of the licensee. In
 4 imposing a civil fine under this subsection, second and subsequent convictions include
 5 the cumulative number of convictions of all agents or employees of a licensee that are
 6 committed on the premises of the licensee that occur within 10 years after the first
 7 conviction. A conviction occurs on the date that sentence is imposed for the offense. A
 8 hearing under AS 44.62.330 - 44.62.630 (Administrative Procedure Act) to issue a
 9 warning or impose a fine under this section shall be limited to the following questions:

10 (1) was an agent or employee of the licensee convicted by plea or
 11 judicial finding of a violation of AS 04.16.052(5);

12 (2) did the violation of AS 04.16.052(5) by the agent or employee of
 13 the licensee occur on the licensed premises of the licensee; and

14 (3) if the hearing is to consider imposition of a fine, did the violation
 15 of AS 04.16.052(5) occur within 10 years after a conviction for a prior violation of
 16 AS 04.16.052(5).

17 * **Sec. 2.** AS 04.16.050(c) is amended to read:

18 (c) A person is guilty of repeat minor consuming or in possession or control if
 19 the person was **previously granted a suspended imposition of sentence** [PLACED
 20 ON PROBATION] under (b)(1) of this section, **has a prior conviction under (b)(2)**
 21 **of this section**, or has been previously convicted once, and the person violates (a) of
 22 this section. Upon conviction in the district court, the court shall

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

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

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

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

29 * **Sec. 3.** AS 04.16.050(d) is amended to read:

30 (d) A person is guilty of habitual minor consuming or in possession or control
 31 if the person **has a prior conviction** [WAS PLACED ON PROBATION] under (c) of

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

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

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

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

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

12 * **Sec. 4.** AS 04.16.200(h) is amended to read:

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

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

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

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

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

23 (2) may not

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

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

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

30 (B) suspend imposition of sentence.

31 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 APPLICABILITY. (a) AS 04.11.575(d), added by sec. 1 of this Act, applies to
3 offenses committed on or after the effective date of this Act.

4 (b) AS 04.16.050(c), as amended by sec. 2 of this Act, and AS 04.16.050(d), as
5 amended by sec. 3 of this Act, apply to probation ordered for offenses occurring before, on, or
6 after the effective date of this Act. References to prior or previous suspended impositions of
7 sentences or convictions include suspended impositions of sentences and convictions
8 occurring before, on, or after the effective date of this Act.

9 (c) AS 04.16.200(h), as amended by sec. 4 of this Act, applies to an offense occurring
10 on or after the effective date of this Act. References to previous convictions in sec. 4 of this
11 Act apply to convictions occurring before, on, or after the effective date of this Act.

12 * **Sec. 6.** This Act takes effect immediately under AS 01.10.070(c).