

Introduced: 4/17/69
Referred: Health, Welfare
& Education and Judiciary

1 IN THE HOUSE

BY SACKETT

2 HOUSE BILL NO. 393

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to drunkenness."

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

8 * Section 1. AS 11.45.030 is amended to read:

9 Sec. 11.45.030. DISORDERLY CONDUCT AND DISTURBANCE OF THE PEACE.

10 A person who (1) uses obscene or profane language in a public place
11 or private house or place to the disturbance or annoyance of another;
12 (2) makes a loud noise or is guilty of tumultuous conduct in a public
13 place or private house to the disturbance or annoyance of another, or
14 is otherwise guilty of disorderly conduct to the disturbance or annoy-
15 ance of another; (3) is drunk to the extent that he constitutes a
16 danger to himself or another [IN A PRIVATE HOUSE OR PLACE TO THE ANNOY-
17 ANCE OF ANOTHER, OR IS DRUNK IN A BOAT, TRAIN, PASSENGER COACH, OR
18 OTHER VEHICLE COMMONLY USED FOR THE TRANSPORTATION OF PASSENGERS OR
19 IN OR ABOUT A DEPOT, PLATFORM, WHARF OR WAITING ROOM, OR ON A PUBLIC
20 STREET, OR AT A PUBLIC GATHERING OR IN A HOTEL LOBBY, STORE, CARD ROOM,
21 DANCE HALL, THEATRE, LIQUOR DISPENSARY, OR OTHER PUBLIC PLACE]; or (4)
22 drinks intoxicating liquor in or about a depot, platform, wharf or
23 waiting room, or upon a public street, or at a public gathering, hotel
24 lobby, dance hall, theatre, or other public place not permitted under
25 license to dispense intoxicating liquor, is, upon conviction, guilty
26 of a misdemeanor, and is punishable by a fine of not more than \$300, or
27 by imprisonment in a jail for not more than six months, or by both.

28 * Sec. 2. AS 12.80 is amended by adding a new section to read:

29 Sec. 12.80.040. TREATMENT OF ALCOHOLICS AND PROBLEM DRINKERS.

1 (a) When a person is chargeable with drunkenness or with unlawfully
2 drinking intoxicating liquor in a public place, whether under state
3 law or local ordinance (home rule or otherwise), a peace officer shall
4 either

5 (1) issue a verbal or written warning;

6 (2) issue a written citation containing a notice to answer
7 the charge against the person;

8 (3) if reasonably possible, and in the best interests of the
9 person and the public, take the person home, with or without issuing a
10 warning or citation;

11 (4) if in the best interests of the person and the public,
12 take the person into protective custody and release him when he is able
13 to safely leave this custody (but in no event holding him for more than
14 12 hours), without arraignment and without the filing of an information
15 or complaint against him; or

16 (5) if the person has been dealt with under this subsection
17 six or more times within the past 12 months and handling under (4) of
18 this subsection does not reasonably appear to adequately protect the
19 public interest, arrest him and hold him for arraignment in the district
20 court unless sooner released on his own recognizance or under bail.

21 (b) Except for (a)(5) of this section, none of the actions listed
22 in (a) of this section constitutes an arrest, and temporary delay or
23 detention without being charged is not an unlawful detention or other
24 violation of rights under AS 12.25 or AS 12.30. However, a person
25 detained under (a)(4) or (a)(5) of this section has the right to im-
26 mediately telephone or otherwise communicate with his attorney and any
27 relative or friend, and any attorney licensed to practice law in Alaska
28 has the right, at the request of the detained person or any of his
29 relatives or friends, to immediately visit the detained person.

1 (c) A person arrested under (a)(5) of this section shall, if
2 reasonably possible, be given a medical examination by a physician or
3 public health nurse.

4 (d) When, at any time after arrest and before trial, the judge
5 or prosecuting attorney has reasonable cause to believe that a person
6 charged with drunkenness or with unlawfully drinking intoxicating
7 liquor in a public place, whether under state law or local ordinance
8 (home rule or otherwise), is an alcoholic as defined in AS 47.30.500,
9 the charge may be dropped and the case dismissed.

10 (e) When, at the trial of a person charged with drunkenness or
11 with unlawfully drinking intoxicating liquor in a public place, whether
12 under state law or local ordinance (home rule or otherwise), the person
13 is found guilty as charged but the judge finds that the person is an
14 alcoholic, as defined in AS 47.30.500, the judge shall either dismiss
15 the case or commit the person to the custody of the Department of Health
16 and Welfare for rehabilitative treatment for not more than six months,
17 instead of imposing a fine or imprisonment.

18 * Sec. 3. AS 47.30.480 is amended to read:

19 Sec. 47.30.480. JUDICIAL NOTICE. The [SUPERIOR] courts of this
20 state shall [MAY] take judicial notice of the fact that an alcoholic is
21 suffering from an illness and is in need of proper medical, advisory
22 or rehabilitative treatment.

23 * Sec. 4. It is the intent of this Act to provide for dealing with the
24 problems of alcohol drinking and alcoholism primarily as social, psycho-
25 logical and medical matters rather than as criminal matters. It is believed
26 that in handling either the alcoholic or the occasional drunk an arrest is
27 rarely necessary and in the long run is, in fact, detrimental to the general
28 public welfare.

29