

Original sponsors: Ferguson, Ray,  
Colletta, et al

Offered: 5/28/80  
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2

HOUSE CS FOR SENATE BILL NO. 365

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to local option and establishing  
penalties for violations of liquor laws."

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

9

\* Section 1. AS 04.10 is amended by adding new sections to read:

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Sec. 04.10.431. PROHIBITION OF THE SALE OF INTOXICATING LIQUOR.

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(a) The following question, alone or with the questions set out in  
AS 04.10.435 and 04.10.436, may be placed before the voters of a first  
or second class city or an established village in accordance with  
AS 04.10.438: "Shall the sale of intoxicating liquor in .....(name of  
city or village) be prohibited? (yes or no)".

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(b) If a majority of the voters vote "yes" on the question set out  
in (a) of this section, the board shall be notified immediately after  
certification of the results of the election and thereafter may not  
issue, renew, or transfer between holders or locations a license for  
licensed premises located within the boundaries or perimeter of a city  
or an established village or in an unincorporated area outside of but  
within five miles of the boundaries of a city. As of midnight on the  
date the results of the election are certified, licenses in effect  
within the boundaries or perimeter of a city or an established village,  
and in an unincorporated area outside of but within five miles of the  
boundaries of a city, are void. However, if a retail license is voided  
under this subsection, the holder of the voided retail license shall be  
issued, upon application, a retail stock sale license without the pay-  
ment of the retail stock sale license fee if he fulfills all other

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1 requirements for the issuance of a retail stock sale license.

2 (c) If a majority of the voters vote "no" on the question set out  
3 in (a) of this section or vote "yes" on a question set out in AS 04.10.-  
4 432 or 04.10.437 in an election conducted in accordance with AS 04.10.-  
5 438 after an election in which the voters voted "yes" on the question  
6 set out in (a) of this section, the board shall be notified immediately  
7 after certification of the results of the election. Thereafter, the  
8 prohibitions imposed under (b) of this section on the issuance, renewal,  
9 or transfer of licenses between holders and location as a result of the  
10 earlier election in which the voters voted "yes" on the question set out  
11 in (a) of this section are removed.

12 Sec. 04.10.432. COMMUNITY HELD LICENSE. (a) The following ques-  
13 tion, alone or with the questions set out in AS 04.10.435 and 04.10.436,  
14 may be placed before the voters of a first or second class city in  
15 accordance with AS 04.10.438: "Shall the sale of intoxicating liquor be  
16 prohibited in .....(name of city) unless sold under a .....(either a  
17 beverage dispensary or retail store, or both) license held by the city?  
18 (yes or no)"

19 (b) If a majority of the voters vote "yes" on the question set out  
20 in (a) of this section, the board shall be notified immediately after  
21 certification of the results of the election and thereafter may not  
22 issue, renew, or transfer between holders or locations a license for  
23 licensed premises located within the boundaries of a city or in an  
24 unincorporated area outside of but within five miles of the boundaries  
25 of a city, with the exception of beverage dispensary or retail licenses  
26 held by the city. As of midnight on the date the results of the elec-  
27 tion are certified, licenses in effect within the boundaries of a city  
28 and in an unincorporated area outside of but within five miles of the  
29 boundaries of a city are void. However, if a retail license is voided

1 under this subsection, the holder of the voided retail license shall be  
2 issued, upon application, a retail stock sale license without payment of  
3 the retail stock sale license fee if he fulfills all other requirements  
4 for the issuance of a retail stock sale license.

5 (c) If a majority of the voters vote "yes" on the question set out  
6 in (a) of this section, the city council of the city shall apply for a  
7 beverage dispensary or retail license, or both, depending on the terms  
8 of the question.

9 (d) If a majority of the voters vote "no" on the question set out  
10 in (a) of this section or vote "yes" on a question set out in AS 04.10.-  
11 431, 04.10.433, 04.10.434, or 04.10.437 in an election conducted in  
12 accordance with AS 04.10.438 after an election in which the voters voted  
13 "yes" on the question set out in (a) of this section, the board shall be  
14 notified immediately after a certification of the results of the elec-  
15 tion. As of midnight on the date the results of the election are certi-  
16 fied, a beverage dispensary or retail license held by a city is void and  
17 thereafter the prohibitions imposed under (b) of this section on the  
18 issuance, renewal, or transfer of licenses between holders and locations  
19 as a result of the earlier election are removed. If a retail license is  
20 voided under this subsection, the holder of the voided retail license  
21 shall be issued, upon application, a retail stock sale license without  
22 payment of the retail stock sale licensee fee if he fulfills all other  
23 requirements for the issuance of a retail stock sale license.

24 Sec. 04.10.433. PROHIBITION OF POSSESSION AND IMPORTATION OF  
25 INTOXICATING LIQUOR. (a) The following question may be placed before  
26 the voters of a first or second class city or an established village in  
27 accordance with AS 04.10.438: "Shall the possession and importation of  
28 intoxicating liquor be prohibited in .....(name of city or village)?  
29 (yes or no)"

1 (b) If a majority of the voters vote "yes" on the question set out  
2 in (a) of this section, a person, beginning on the first day of the  
3 month following certification of the results of the election, may not  
4 possess intoxicating liquor in the city or established village or  
5 knowingly send, transport, or bring intoxicating liquor into the city or  
6 established village. The board shall be notified immediately after  
7 certification of the results of the election and thereafter may not  
8 issue, renew, or transfer between holders or locations a license for  
9 licensed premises located within the boundaries or perimeter of a city  
10 or established village or in an unincorporated area outside of but  
11 within five miles of the boundaries of the city. As of midnight on the  
12 date the results of the election are certified, licenses in effect  
13 within the boundaries of a city and in an unincorporated area outside of  
14 but within five miles of the boundaries of a city are void. However, if  
15 a retail license is voided under this subsection, the holder of the  
16 voided retail license shall be issued, upon application, a retail stock  
17 sale license without the payment of the retail stock sale license fee if  
18 he fulfills all other requirements for the issuance of a retail stock  
19 sale license.

20 (c) If a majority of the voters vote "no" on the question set out  
21 in (a) of this section or vote "yes" on the questions set out in AS 04.-  
22 10.432 or 04.10.435 - 04.10.437 in an election conducted in accordance  
23 with AS 04.10.438 after an election in which the voters voted "yes" on  
24 the question set out in (a) of this section, the prohibition on the  
25 possession and importation of intoxicating liquor and the prohibition on  
26 the issuance, renewal, or transfers of licenses between holders and  
27 locations, imposed as a result of the earlier election in which the  
28 voters voted "yes" on the question set out in (a) of this section are  
29 removed effective on the first day of the month following certification

1 of the results of the election.

2 Sec. 04.10.434. PROHIBITION OF IMPORTATION OF INTOXICATING LIQUOR.

3 (a) The following question may be placed before the voters of a first  
4 or second class city or an established village in accordance with AS 04.-  
5 10.438: "Shall the importation of intoxicating liquor into .....(name  
6 of city or village) be prohibited? (yes or no)"

7 (b) If a majority of the voters vote "yes" on the question set out  
8 in (a) of this section, a person may not knowingly send, transport, or  
9 bring intoxicating liquor into the city or established village, beginning  
10 on the first day of the month following certification of the results of  
11 the election. The board shall be notified immediately after certifica-  
12 tion of the results of the election and thereafter may not issue, renew,  
13 or transfer between holders or locations a license for licensed premises  
14 located within the boundaries or perimeter of the city or established  
15 village or in an unincorporated area outside of but within five miles of  
16 the boundaries the city. However, if a retail license may not be re-  
17 newed under this subsection, the holder of the voided retail license  
18 shall be issued, upon application, a retail stock sale license without  
19 the payment of the retail stock sale license fee if he fulfills all  
20 other requirements for the issuance of a retail stock sale license.

21 (c) If a majority of the voters vote "no" on the question set out  
22 in (a) of this section or vote "yes" on the question set out in AS 04.-  
23 10.432, 04.10.435 or 04.10.437, in an election conducted in accordance  
24 with AS 04.10.438 after an election in which the voter voted "yes" on  
25 the question set out in (a) of this section, the prohibition on impor-  
26 tation of intoxicating liquor and the prohibition on the issuance,  
27 renewal, or transfer of licenses between holders and locations, imposed  
28 as a result of the earlier election are removed effective the first day  
29 of the month following certification of the results of the election.

1           Sec. 04.10.435. PROHIBITION OF IMPORTATION OF INTOXICATING LIQUOR  
2 EXCEPT DURING HOLIDAY PERIODS. (a) The following question, alone or  
3 with the question set out under AS 04.10.436 if the same holiday periods  
4 are listed on the ballot, or with one of the questions set out in AS 04.-  
5 10.431, 04.10.432, or 04.10.436 if the same holiday periods are listed  
6 on the ballot, or under AS 04.10.437, may be placed before the voters of  
7 a first or second class city or an established village in accordance  
8 with AS 04.10.438: "Shall the importation of intoxicating liquor into  
9 .....(name of city or village) be prohibited, except during .....  
10 (listing of holiday periods during which the importation of intoxicating  
11 liquors would be permitted if the measure passes)? (yes or no)"

12           (b) If a majority of the voters vote "yes" on the question set out  
13 in (a) of this section, a person, except during the holiday periods  
14 listed in the question, may not knowingly send, transport, or bring  
15 intoxicating liquor into the city or established village, beginning on  
16 the first day of the month following certification of the results of the  
17 election. The board shall be notified immediately after certification  
18 of the results of the election and thereafter may not issue, renew, or  
19 transfer between holders or locations a license for licensed premises  
20 located within the boundaries or perimeter of a city or established  
21 village, or in an unincorporated area outside of but within five miles  
22 of the boundaries of a city, unless the duration of the license is  
23 limited to those periods listed on the ballot.

24           (c) If a majority of the voters vote "no" on the question set out  
25 in (a) of this section or vote "yes" on the question set out in AS 04.-  
26 10.433, 04.10.434, or 04.10.435 if different holiday periods are listed,  
27 in an election conducted in accordance with AS 04.10.438 after an elec-  
28 tion in which the voters voted "yes" on the question set out in (a) of  
29 this section, the prohibition on importation of intoxicating liquor and

1 the prohibition on the issuance, renewal, or transfer of licenses be-  
2 tween holders and locations imposed as a result of the earlier election  
3 is removed effective on the first day of the month following certifica-  
4 tion of the results of the election.

5 Sec. 04.10.436. PROHIBITION OF POSSESSION AND IMPORTATION OF  
6 INTOXICATING LIQUOR EXCEPT DURING HOLIDAY PERIODS. (a) The following  
7 question, alone or with the questions set out under either AS 04.10.432  
8 or 04.10.437, and AS 04.10.435 if the same holiday periods are listed on  
9 the ballot, may be placed before the voters of a first or second class  
10 city or an established village in accordance with AS 04.10.438: "Shall  
11 the possession and importation of intoxicating liquor be prohibited in  
12 .....(name of city or village), except during ..... (listing of holiday  
13 periods during which the possession and importation of intoxicating  
14 liquors would be permitted if the measure passes)? (yes or no)"

15 (b) If a majority of the voters vote "yes" on the question set out  
16 in (a) of this section, a person, except during the holiday periods  
17 listed on the ballot, may not possess intoxicating liquor in the city or  
18 established village or knowingly send, transport, or bring intoxicating  
19 liquor into the city or established village, beginning on the first day  
20 of the month following certification of the results of the election.  
21 The board shall be notified immediately after certification of the  
22 results of the election and thereafter may not issue, renew, or transfer  
23 between holders or location a license for licensed premises located  
24 within the boundaries or perimeter of a city or established village, or  
25 in an unincorporated area outside of but within five miles of the boun-  
26 daries of a city, unless the duration of the license is limited to the  
27 holiday periods listed on the ballot. Beginning on the first day of the  
28 month following certification of the results of the election, licenses  
29 in effect within the boundaries or perimeter of the city or established

1 village, and in an unincorporated area outside but within five miles of  
2 the boundaries of a city are effective only during the holiday periods  
3 listed on the ballot. However, if a retail license is voided under this  
4 subsection, the holder of the voided retail license shall be issued,  
5 upon application, a retail stock sale license without payment of the  
6 retail stock sale license fee if he fulfills all other requirements for  
7 the issuance of a retail stock sale license.

8 (c) If a majority of the voters vote "no" on the question set out  
9 in (a) of this section or vote "yes" on the question set out in AS 04.-  
10 10.433, 04.10.434, or 04.10.435, and 04.10.436 if different holiday  
11 periods are listed on the ballot in an election conducted in accordance  
12 with AS 04.10.438 after an election in which the voters voted "yes" on  
13 the question set out in (a) of this section, the prohibition on posses-  
14 sion and importation of intoxicating liquor and the prohibition on the  
15 issuance, renewal, or transfer of licenses between holders and locations  
16 imposed as a result of the earlier election are removed effective on the  
17 first day of the month following certification of the results of the  
18 election.

19 Sec. 04.10.437. PROHIBITION OF THE SALE OF INTOXICATING LIQUOR  
20 EXCEPT BY SELECTED LICENSES. (a) The following question, alone or with  
21 the questions set out in AS 04.10.435 and 04.10.436, may be placed  
22 before the voters of a first or second class city or an established  
23 village in accordance with AS 04.10.438: "Shall the sale of intoxicating  
24 liquor be prohibited in .....(name of city or village) except by .....  
25 (listing of the types of licenses which premises would be exempted from  
26 the prohibition on the sale of liquor if the measure passes)? (yes or  
27 no)"

28 (b) If a majority of the voters vote "yes" on the question set out  
29 in (a) of this section, the board shall be notified immediately after

1 certification of the results of the election and thereafter may not  
2 issue, renew, or transfer between holders or locations a license for  
3 licensed premises located within the boundaries or perimeter of a city  
4 or established village, or in an unincorporated area outside of but  
5 within five miles of the boundaries of the city, except those types of  
6 licenses listed on the ballot. As of midnight on the date the results  
7 of the election are certified, licenses in effect within the boundaries  
8 or perimeter of the city or established village, and in an unincorporated  
9 area outside of but within five miles of the boundaries of a city,  
10 except those types of licenses listed on the ballot, are void. However,  
11 if a retail license is voided under this subsection, the holder of the  
12 voided retail license shall be issued, upon application, a retail stock  
13 sale license without the payment of the retail stock sale license fee if  
14 he fulfills all other requirements for the issuance of a retail stock  
15 sale license.

16 (c) If a majority of the voters vote "no" on the question set out  
17 in (a) of this section or vote "yes" on the questions set out in AS 04.-  
18 10.431 - 04.10.434 or 04.10.437 if different types of licenses are  
19 listed on the ballot in an election conducted in accordance with AS 04.-  
20 10.438 after an election in which the voters voted "yes" on the question  
21 set out in (a) of this section, the board shall be notified immediately  
22 after certification of the results of the election. As of midnight on  
23 the date the results of the election are certified, licenses in effect  
24 in the city or established village which were excepted from the prohib-  
25 ition on sale in accordance with the results of the earlier election are  
26 void. Thereafter the board may not issue, renew, or transfer between  
27 holders or locations a license for licensed premises located within the  
28 boundaries or perimeter of the city or established village, or in an  
29 unincorporated area outside of but within five miles of the boundaries

1 of a city, except a license which may be issued to a first or second  
2 class city or to one of the types of licenses listed on the ballot as a  
3 result of a majority of the voters voting "yes" on the question set out  
4 in AS 04.10.432 or this section.

5 Sec. 04.10.438. PROCEDURE FOR LOCAL OPTION ELECTIONS. (a) The  
6 city council of a first or second class city, whenever a number of  
7 registered voters equal to at least 35 percent of the number of votes  
8 cast at the last regular city election petition the city council to do  
9 so, shall place upon a separate ballot at the next regular election  
10 whichever question or combination of questions set out in AS 04.10.431 -  
11 04.10.437 constitute the subject of the petition. The votes shall be  
12 canvassed in accordance with election ordinances adopted under AS 29.28.-  
13 010 and the vote certified.

14 (b) The lieutenant governor, whenever 35 percent of the registered  
15 voters residing within an established village petition the lieutenant  
16 governor to do so, shall place upon a separate ballot at a special  
17 election that question or combination of questions set out in AS 04.10.-  
18 431, or 04.10.433 - 04.10.437 which constitutes the subject of the  
19 petition. The lieutenant governor shall conduct the election in the  
20 general manner prescribed by the Alaska Election Code (AS 15.05 -  
21 15.60).

22 Sec. 04.10.439. REINSTATEMENT OF LICENSES. If a prohibition  
23 imposed on the issuance, renewal, or transfer of licenses between  
24 holders and locations under AS 04.10.431 - 04.10.437 is removed by a  
25 vote of "no" on a question for which the majority of the people voted  
26 "yes" in an earlier election, the board shall, upon application, issue  
27 the same number and type of licenses which were in effect in the city or  
28 established village on the date of certification of the earlier elec-  
29 tion. If the prohibition imposed on issuance, renewal, or transfer of

1 licenses between holders and locations is removed by a "yes" vote on a  
2 question set out in AS 04.10.431 - 04.10.437, the board may issue the  
3 types of licenses specified in the question presented to the voters in  
4 the subsequent election. Licenses may be issued for the same or other  
5 premises within the city or established village which were licensed on  
6 the date of certification of the earlier election. In issuing licenses,  
7 the board shall accord priority to those applicants who held licenses  
8 which were voided on the date of certification of the earlier election.  
9 The director of the board shall notify persons who held licenses in the  
10 city or village on the date of certification of the earlier election of  
11 their priority under this section.

12 Sec. 04.10.441. NOTICE OF THE RESULTS OF A LOCAL OPTION ELECTION.

13 (a) If a majority of the voters vote "yes" on a question set out in  
14 AS 04.10.431 - 04.10.437, the board shall immediately notify the Depart-  
15 ment of Law and the Department of Public Safety of the results of the  
16 election.

17 (b) If a majority of the voters vote "yes" on a question set out  
18 in AS 04.10.433 - 04.10.436, the following actions, in addition to those  
19 prescribed in (a) of this section, shall be undertaken before the date  
20 the prohibition on importation or possession becomes effective:

21 (1) the board shall notify by registered mail all licensees  
22 of the prohibition;

23 (2) the first or second class city or established village  
24 shall post notice of the prohibition in the city or village.

25 \* Sec. 2. AS 04.10 is amended by adding a new section to read:

26 Sec. 04.10.185. COMMUNITY HELD LICENSE. (a) A beverage dispen-  
27 sary or retail license may not be issued or transferred between holders  
28 and locations if the license sought is for premises to be located in a  
29 first or second class city where the type of license sought is already

1 held in the name of the city, unless the license sought is to become  
2 effective after the license held by the city is no longer effective,  
3 either as the result of a local option election or otherwise.

4 (b) A beverage dispensary or retail license may not be issued or  
5 transferred between locations or holders if the license sought to be  
6 issued or transferred is to be held in the name of a first or second  
7 class city, in a city where the type of license sought is already held  
8 by a private licensee, unless the license sought is to become effective  
9 after the city held license is not longer effective, either as the  
10 result of a local option election or otherwise.

11 \* Sec. 3. AS 04.10 is amended by adding a new section to article 3 to  
12 read:

13 Sec. 04.10.315. LOCAL OPTION ELECTION REQUIRED IN DRY AREAS. (a)  
14 The board may not issue a license for a premises to be located in a  
15 first or second class city in which there are no licensed premises on  
16 the effective date of this Act unless a majority of voters in a local  
17 option election conducted in accordance with AS 04.10.438 have voted  
18 "no" on the question set out in AS 04.10.431, or have voted "yes" on a  
19 question set out in AS 04.10.432 or 04.10.437.

20 (b) The board may not issue a license for a premises to be located  
21 in an established village in which there are no licensed premises on the  
22 effective date of this Act unless a majority of the voters in a local  
23 option election conducted in accordance with AS 04.10.438 have voted  
24 "no" on the question set out in AS 04.10.431, or have voted "yes" on the  
25 question set out in AS 04.10.437.

26 \* Sec. 4. AS 04.10.320(a) is amended to read:

27 (a) All licenses issued under this title, except for lesser periods  
28 authorized or required as a result of a local option election held on a  
29 question set out in AS 04.10.435 and AS 04.10.436, shall be issued for

1 the calendar year ending December 31.

2 \* Sec. 5. AS 04.15.070(a) is amended to read:

3 (a) A municipality may by ordinance provide rules and regulations  
4 governing the barter, sale and possession of intoxicating liquor within  
5 the municipality necessary to the orderly conduct of the business of  
6 selling intoxicating liquor. If, as a result of an election held in  
7 accordance with AS 04.10.438 within a first or second class city, the  
8 board is prohibited from issuing, renewing, or transferring between  
9 holders or locations a license within the city or the possession or  
10 importation of intoxicating liquor is prohibited within the city, the  
11 city may adopt an ordinance making the sale, possession, or importation  
12 of intoxicating liquor a misdemeanor, whether the sale, possession, or  
13 importation is under a license or otherwise. [WHEN, UNDER A LOCAL  
14 OPTION ELECTION, THE CITY CLERK FINDS THE MAJORITY OF THE VOTERS ARE  
15 AGAINST THE SALE OF INTOXICATING LIQUOR, THE MUNICIPALITY, BY ORDINANCE,  
16 MAY MAKE THE SALE OF INTOXICATING LIQUOR WITHIN THE MUNICIPALITY A  
17 MISDEMEANOR WHETHER THE SALE IS MADE PURSUANT TO LICENSE OR OTHERWISE.]  
18 The ordinance may not be inconsistent with this title or the [RULES AND]  
19 regulations adopted [PROMULGATED] under this title. A [NO] municipality  
20 may not impose taxes other than property taxes on liquor inventories and  
21 sales taxes on liquor sales when these taxes are levied on other property  
22 and sales within the municipality.

23 \* Sec. 6. AS 04.15 is amended by adding a new section to read:

24 Sec. 04.15.095. PENALTIES FOR UNLAWFUL SALE, POSSESSION, AND  
25 IMPORTATION. (a) A person who violates AS 04.10.010 is, upon convic-  
26 tion, guilty of a class A misdemeanor.

27 (b) A person who violates AS 04.10.010 in an area where the re-  
28 sults of a local option election have, under AS 04.10.431 - 04.10.437,  
29 prohibited the board from issuing, renewing or transferring any licenses

1 or permits under this title in the area is upon conviction guilty of a  
2 class C felony, if

3 (1) he has previously been convicted of a violation of AS 04.-  
4 10.010;

5 (2) the sale or offer for sale was made to a person under 19  
6 years of age; or

7 (3) the quantity of intoxicating liquor sold or offered for  
8 sale is 12 liters or more of distilled spirits, 24 liters or more of  
9 wine, or 45 liters or more of malt beverages.

10 (c) A person who possesses intoxicating liquor in violation of  
11 AS 04.10.433(b) and 04.10.436(b) is, upon conviction, guilty of a  
12 class B misdemeanor.

13 (d) A person who sends, transports, or brings intoxicating liquor  
14 into a city or established village in violation of AS 04.10.434 or  
15 04.10.435, is, upon conviction,

16 (1) guilty of a class A misdemeanor if the quantity imported  
17 is less than 12 liters of distilled spirits, 24 liters of wine, or 45  
18 liters of malt beverages;

19 (2) guilty of a class C felony if the quantity possessed is  
20 12 liters or more of distilled spirits, 24 liters or more of wine, or 45  
21 liters or more of malt beverages; or

22 (3) guilty of a class C felony if he has previously been  
23 convicted of a violation of AS 04.10.434 or 04.10.435.

24 \* Sec. 7. AS 04.15.100(a) is amended to read:

25 (a) Except as provided in AS 04.15.095, a [A] person who violates  
26 any provision of this title other than AS 04.15.080 is guilty of a  
27 misdemeanor, and upon conviction is punishable by imprisonment of not  
28 more than one year, or by a fine of not more than \$500. Each violation  
29 is a separate offense.

1 \* Sec. 8. AS 04.15 is amended by adding a new section to read:

2 Sec. 04.15.115. SEIZURE, FORFEITURE, AND SALE OF CONVEYANCE. (a)

3 An aircraft, vehicle, or vessel is subject to forfeiture if used to  
4 transport or facilitate the transportation of

5 (1) intoxicating liquor manufactured, sold, offered for sale,  
6 possessed for sale, trafficked in, bartered, or exchanged for goods in  
7 violation of AS 04.10.010 in a first or second class city or established  
8 village where the results of an election held in accordance with AS 04.-  
9 10.438 on a question set out in AS 04.10.431 - 04.10.437 have prohibited  
10 the board from issuing, renewing, or transferring between holders or  
11 locations the type of license which would authorize the manufacture,  
12 sale, offering for sale, possession for sale, trafficking, barter, or  
13 exchange of intoxicating liquor;

14 (2) intoxicating liquor imported or possessed in a city or  
15 established village in violation of AS 04.10.433(b) and 04.10.436(b); or

16 (3) intoxicating liquor transported or imported into a city  
17 or established village in violation of AS 04.10.434(b) and 04.10.435(b).

18 (b) Property subject to forfeiture under this section may be  
19 actually or constructively seized under an order issued by the superior  
20 court upon a showing of probable cause that the property is subject to  
21 forfeiture under this section. Constructive seizure is effected upon  
22 posting a signed notice of seizure on the item to be forfeited, stating  
23 the violation and the date and place of seizure. Seizure without a  
24 court order may be made if

25 (1) the seizure is incident to a valid arrest or search;

26 (2) the property subject to seizure is the subject of a prior  
27 judgment in favor of the state; or

28 (3) there is probable cause to believe that the property is  
29 subject to forfeiture under (a) of this section; property seized under

1 this paragraph may not be held over 48 hours or until an order of for-  
2 feiture is issued by the court, whichever is earlier.

3 (c) Within 30 days of a seizure under this section the Department  
4 of Public Safety shall make reasonable efforts to ascertain the identity  
5 and whereabouts of any person holding an interest or an assignee of a  
6 person holding an interest in the property seized, including a right to  
7 possession, a lien, mortgage, or conditional sales contract. The De-  
8 partment of Public Safety shall notify the person ascertained to have an  
9 interest in property seized of the impending forfeiture, and before  
10 forfeiture the Department of Law shall publish, once a week for four  
11 consecutive calendar weeks, a notice of the impending forfeiture in a  
12 newspaper of general circulation in the judicial district in which the  
13 seizure was made, or if no newspaper is published in that judicial  
14 district, in a newspaper published in the state and distributed in that  
15 judicial district.

16 (d) Property subject to forfeiture under (a) of this section may  
17 be forfeited

18 (1) upon conviction of a person under AS 04.10.010, 04.10.-  
19 433(b), 04.10.434(b), 04.10.435(b), or 04.10.436(b);

20 (2) upon judgment by the superior court in a proceeding in  
21 rem that the property was used in a manner subjecting it to forfeiture  
22 under (a) of this section.

23 (e) The owner of property subject to forfeiture under (a) of this  
24 section is entitled to relief from the forfeiture in the nature of  
25 remission of the forfeiture if in an action under (d) of this section  
26 the owner shows that he was not a party to the violation and had no  
27 actual knowledge that the property was used or was to be used in viola-  
28 tion of the law.

29 (f) A person, other than the owner, holding or the assignee of a

1       lien, mortgage, conditional sales contract on, or the right to possess-  
2       ion to property subject to forfeiture under (a) of this section is  
3       entitled to relief from the forfeiture in the nature of remission of the  
4       forfeiture if in an action under (d) of this section the person shows  
5       that he was not a party to the violation subjecting the property to  
6       forfeiture and had no actual knowledge that the property was used or was  
7       to be used in violation of the law.

8       (g) It is no defense in an in rem forfeiture action brought by the  
9       Department of Law under (d)(2) of this section that a criminal proceed-  
10      ing is pending or has resulted in conviction or acquittal of a person  
11      charged with violating AS 04.10.010, 04.10.433(b), 04.10.434(b), 04.10.-  
12      435(b), or 04.10.436(b).

13      (h) Property forfeited under this section shall be placed in the  
14      custody of the commissioner of public safety for disposition according  
15      to an order entered by the court. The court shall order destroyed any  
16      property forfeited under this section which is harmful to the public.  
17      Other property shall be ordered sold and the proceeds used for payment  
18      of expenses of the proceedings for forfeiture and sale, including ex-  
19      penses of seizure, custody and court costs. The remainder of the pro-  
20      ceeds shall be deposited in the general fund.

21      \* Sec. 9. AS 04.20.010 is amended to read:

22              Sec. 04.20.010. INTOXICATING LIQUOR DEFINED. As used in this  
23      title,

24              (1) "intoxicating liquor" includes whiskey, brandy, rum, gin,  
25      wine, ale, porter, beer and all other spirituous, vinous, malt and other  
26      fermented or distilled liquors intended for human consumption and con-  
27      taining more than one percent alcohol by volume;

28              (2) "board" means the Alcoholic Beverage Control Board;

29              (3) "established village" means an unincorporated area that

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(A) is within the perimeter of a circle described by  
drawing a five-mile radius around a post office station; and  
(B) has 25 or more permanent residents.

\* Sec. 10. AS 04.10.139, 04.10.300(b), 04.10.300(d), 04.10.430, and  
AS 04.15.110 are repealed.