

SENATE BILL NO. 378

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY SENATOR SHULTZ

Introduced: 1/31/92

Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the sentencing of felony offenders whose offense was substantially
2 influenced by consumption of alcohol."

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

4 * Section 1. AS 12.55.015(a) is amended to read:

5 (a) Except as limited by AS 12.55.125 - 12.55.175, the court, in imposing sentence on
6 a defendant convicted of an offense, may singly or in combination

7 (1) impose a fine when authorized by law and as provided in AS 12.55.035;

8 (2) order the defendant to be placed on probation under conditions specified by
9 the court that may include provision for active supervision;

10 (3) impose a definite term of periodic imprisonment;

11 (4) impose a definite term of continuous imprisonment;

12 (5) order the defendant to make restitution under AS 12.55.045;

13 (6) order the defendant to carry out a continuous or periodic program of
14 community work under AS 12.55.055;

1 (7) suspend execution of all or a portion of the sentence imposed under
2 AS 12.55.080;

3 (8) suspend imposition of sentence under AS 12.55.085;

4 (9) order the forfeiture to the commissioner of public safety of a deadly weapon
5 that was in the actual possession of or used by the defendant during the commission of an
6 offense described in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;

7 (10) order the defendant, while incarcerated, to participate in or comply with the
8 treatment plan of a rehabilitation program that is related to the defendant's offense or to the
9 defendant's rehabilitation [,] if the program is made available to the defendant by the Department
10 of Corrections;

11 (11) prohibit a defendant from consuming alcoholic beverages as provided
12 in AS 12.55.077.

13 * Sec. 2. AS 12.55 is amended by adding a new section to read:

14 Sec. 12.55.077. ALCOHOL RELATED FELONY OFFENSES. (a) When imposing
15 sentence on a defendant convicted of a felony offense, the court may order that the defendant

16 (1) be prohibited from consuming alcoholic beverages as a condition of probation,
17 suspended sentence, or suspended imposition of sentence if the court determines by clear and
18 convincing evidence that the defendant's conduct constituting the offense was substantially
19 influenced by the consumption of an alcoholic beverage;

20 (2) be permanently prohibited from consuming alcoholic beverages if the court
21 determines by clear and convincing evidence that

22 (A) the defendant's conduct constituting the offense was substantially
23 influenced by the consumption of an alcoholic beverage;

24 (B) the defendant has repeatedly and frequently used alcoholic beverages;
25 and

26 (C) the defendant has engaged in a pattern of conduct while under the
27 influence of alcoholic beverages that constitutes a serious threat to the safety or well-
28 being of others.

29 (b) When imposing sentence on a defendant convicted of a felony offense under
30 AS 11.41, the court shall order that the defendant be permanently prohibited from consuming
31 alcoholic beverages if the court determines by clear and convincing evidence that

1 (1) the defendant's conduct constituting the offense was substantially influenced
2 by the consumption of an alcoholic beverage;

3 (2) the defendant has repeatedly and frequently used alcoholic beverages; and

4 (3) the defendant has engaged in a pattern of conduct while under the influence
5 of alcoholic beverages that constitutes a serious threat to the safety or well-being of others.

6 (c) A court order under (a) or (b) of this section does not apply to

7 (1) alcoholic substances furnished by a licensed physician or nurse as part of
8 medical treatment; or

9 (2) wine used in a bona fide religious ceremony, limited in quantity to the amount
10 necessary for the ceremony.

11 (d) A sentence imposed under (a) or (b) of this section is in addition to any other penalty
12 authorized by law.

13 (e) A defendant convicted of consuming alcohol in violation of a sentence imposed under
14 this section, other than a violation of a condition of probation, suspended sentence, or suspended
15 imposition of sentence, is guilty of a class A misdemeanor. A defendant convicted of consuming
16 alcohol in violation of a sentence imposed under this section who has been previously convicted
17 of violating this section is guilty of a class C felony.