

CS FOR SENATE BILL NO. 372(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/25/94
Referred: Finance

Sponsor(s): SENATE JUDICIARY COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to community local options for control of alcoholic beverages;
2 relating to the control of alcoholic beverages; relating to the definition of
3 'alcoholic beverage'; relating to purchase, sale, and taxation of alcoholic beverages;
4 relating to alcohol server education courses; and providing for an effective date."

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

6 * Section 1. AS 04.11.010(b) is amended to read:

7 (b) A person may not solicit or receive orders for the delivery of an alcoholic
8 beverage in an area that has adopted a local option under AS 04.11.491. If the
9 area has adopted a local option under AS 04.11.491(a)(1), (2), or (3), or (b)(1) or
10 (2), a package store licensee outside of that local option area may receive orders
11 as provided under AS 04.11.150 but may not solicit in that area or receive orders
12 through an agent or employee in that area. This subsection does not apply to a
13 package store licensee who operates a package store in an area that has adopted
14 a local option under AS 04.11.491(a)(2)(C) or (3)(C) or (b)(2)(C) [WHERE THE

1 RESULTS OF A LOCAL OPTION ELECTION HAVE, UNDER AS 04.11.490 -
2 04.11.500, PROHIBITED THE BOARD FROM ISSUING, RENEWING OR
3 TRANSFERRING ONE OR MORE TYPES OF LICENSES OR PERMITS UNDER
4 THIS TITLE, UNLESS THE PERSON IS LICENSED UNDER THIS TITLE AND
5 THE ORDER IS ACTUALLY RECEIVED BY THAT PERSON FROM THE
6 PURCHASER OF THE ALCOHOLIC BEVERAGE]. A person who violates this
7 subsection is punishable upon conviction as provided under AS 04.16.200(a) or (b).

8 * Sec. 2. AS 04.11.010(c) is amended to read:

9 (c) In a criminal prosecution for possession of alcoholic beverages for sale in
10 violation of (a) of this section, the fact that a person possessed more than 12 liters of
11 distilled spirits, 24 liters or more of wine, or 12 gallons [45 LITERS] or more of malt
12 beverages in an area where the sale of alcoholic beverages is restricted or prohibited
13 under AS 04.11.491 [AS 04.11.490, 04.11.492, 04.11.496, OR 04.11.500] creates a
14 presumption that the person possessed the alcoholic beverages for sale.

15 * Sec. 3. AS 04.11.110(d) is amended to read:

16 (d) Alcoholic beverages sold under a club license may be purchased only by
17 (1) members of the club and their families, (2) widows or widowers of deceased
18 members who have been given [ACCORDED] club privileges, and (3) military
19 personnel [IN UNIFORM] on active duty who are extended the privilege by patriotic
20 organizations upon special occasions. Alcoholic beverages may be purchased only in
21 the portion of the club rooms that are [PART OF THE] licensed premises.

22 * Sec. 4. AS 04.11.135(b) is amended to read:

23 (b) Except as provided under AS 04.11.360(10) [AS 04.11.360(12)], the
24 brewpub license is not transferable, shall remain the property of the state, and is not
25 subject to any form of alienation.

26 * Sec. 5. AS 04.11.150(a) is repealed and reenacted to read:

27 (a) Except as provided under (h) of this section, a package store license
28 authorizes the licensee to sell alcoholic beverages to a person present on the licensed
29 premises or to a person known to the licensee who makes a written solicitation to that
30 licensee for shipment. A licensee, agent, or employee may only ship alcoholic
31 beverages to the person who is purchasing the alcoholic beverages being shipped.

1 Before commencing the practice of shipping alcoholic beverages, and with a
2 subsequent application to renew the license, a licensee shall notify the board in writing
3 of the licensee's intention to ship alcoholic beverages in response to a written
4 solicitation. The package store licensee, agent, or employee shall include written
5 information on fetal alcohol syndrome and fetal alcohol effects resulting from a woman
6 consuming alcohol during pregnancy in a shipment of alcoholic beverages sold in
7 response to a written solicitation.

8 * Sec. 6. AS 04.11.150(h) is repealed and reenacted to read:

9 (h) 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

12 (1) more than 12 liters of distilled spirits, 24 liters or more of wine, or
13 12 gallons or more of malt beverages in a calendar month; or

14 (2) an alcoholic beverage that contains more than 75 percent alcohol
15 by volume.

16 * Sec. 7. AS 04.11.160 is amended by adding new subsections to read:

17 (f) A person who applies for issuance or renewal of a license under this
18 section shall file, on forms provided by the board, the following information regarding
19 each brand of alcoholic beverage that the person intends to purchase, offer for sale, or
20 sell: (1) the full and correct brand or trade name; (2) the nature and type of the brand;
21 (3) the name of the distiller, brewer, vintner, or importer of the brand; and (4) a
22 certification by the distiller, brewer, vintner, or importer of the brand that the person
23 is a primary source of supply for the brand. In addition to the fees imposed under (a)
24 and (b) of this section, a person filing under this subsection shall pay a biennial filing
25 fee of \$50 for each brand of alcoholic beverage the person intends to purchase, offer
26 for sale, or sell. In this subsection, "distiller, brewer, vintner, or importer" includes
27 an exclusive agent of the distiller, brewer, vintner, or importer if the agent's name
28 appears on the label of the brand approved by the Federal Bureau of Alcohol, Tobacco
29 and Firearms.

30 (g) A person licensed under this section shall notify the board within 10 days
31 of a change in a primary source of supply designation required under (f) of this

1 section.

2 * Sec. 8. AS 04.16 is amended by adding a new section to read:

3 Sec. 04.16.172. RESTRICTIONS ON PURCHASE AND SALE OF
4 ALCOHOLIC BEVERAGES. A person licensed under AS 04.11.090, 04.11.100,
5 04.11.110, or 04.11.150 may not purchase, sell, or offer for sale an alcoholic beverage
6 unless the alcoholic beverage being purchased, sold, or offered for sale was obtained
7 from a person licensed under

8 (1) AS 04.11.160 as a primary source of supply for the alcoholic
9 beverage being purchased, sold, or offered for sale; or

10 (2) AS 04.11.130, 04.11.140, or 04.11.170.

11 * Sec. 9. AS 04.11.270(b) is amended to read:

12 (b) A license shall be renewed as follows:

13 (1) on or before November 1 [OF EACH YEAR], the director shall
14 mail a renewal application to each licensee whose license, unless renewed, will expire
15 on December 31 of that year; the application shall be mailed to the licensee at the
16 licensed premises or at a mailing address furnished by the licensee;

17 (2) the licensee shall submit the completed renewal application and the
18 biennial license fee to the director before January 1 [ON OR BEFORE
19 DECEMBER 31];

20 (3) a renewal application filed after December 31 is delinquent and
21 must be accompanied by a \$500 [\$200] penalty fee;

22 (4) if December 31 falls on a weekend or a state holiday, the deadline
23 is extended to the first business day following December 31.

24 * Sec. 10. AS 04.11.320 is amended to read:

25 Sec. 04.11.320. DENIAL OF NEW LICENSES AND PERMITS. (a) An
26 application requesting issuance of a new license shall be denied if

27 (1) the board finds, after review of all relevant information, that
28 issuance of the license would not be in the best interests of the public;

29 (2) issuance of the license is prohibited by AS 04.11.390, relating to
30 residency, or AS 04.11.410, relating to location of premises near churches and schools;

31 (3) the application has not been completed in accordance with

1 AS 04.11.260;

2 (4) issuance of the license would violate the restrictions pertaining to
3 the particular license imposed under this title;

4 (5) issuance of the license is prohibited under this title as a result of
5 an election conducted under AS 04.11.507 [IN ACCORDANCE WITH
6 AS 04.11.502];

7 (6) the requirements of AS 04.11.420 - 04.11.450 relating to zoning,
8 ownership and location of the license, and the identity and financing of a licensee have
9 not been met;

10 (7) [THE LICENSED PREMISES ARE TO BE LOCATED IN A
11 MUNICIPALITY, THE TYPE OF LICENSE SOUGHT IS A BEVERAGE
12 DISPENSARY OR PACKAGE STORE LICENSE, AND THAT TYPE OF LICENSE
13 IS ALREADY IN EFFECT IN THE MUNICIPALITY UNDER A COMMUNITY
14 LIQUOR LICENSE, UNLESS THE NEW LICENSE IS TO BECOME EFFECTIVE
15 AFTER THE COMMUNITY LIQUOR LICENSE IS NO LONGER EFFECTIVE,
16 WHETHER AS THE RESULT OF A LOCAL OPTION ELECTION OR
17 OTHERWISE;

18 (8) THE AUTHORITY SOUGHT IS AUTHORITY TO OPERATE A
19 BEVERAGE DISPENSARY OR PACKAGE STORE UNDER A COMMUNITY
20 LIQUOR LICENSE FOR PREMISES TO BE LOCATED IN A MUNICIPALITY
21 WHERE THE AUTHORITY SOUGHT IS ALREADY HELD BY A PRIVATE
22 LICENSEE UNDER A BEVERAGE DISPENSARY OR PACKAGE STORE
23 LICENSE, UNLESS THE COMMUNITY LIQUOR LICENSE IS TO BECOME
24 EFFECTIVE AFTER THE PRIVATELY HELD LICENSE IS NO LONGER
25 EFFECTIVE, WHETHER AS THE RESULT OF A LOCAL OPTION ELECTION OR
26 OTHERWISE;

27 (9)] issuance of the license is prohibited under AS 04.11.400(a) or
28 prohibition of issuance of the license is found necessary under AS 04.11.400(b);

29 ~~(8)~~ [(10)] the application contains false statements of material fact;

30 ~~(9)~~ [(11)] the license is sought for the sale of alcoholic beverages in a
31 first or second class city where [IN WHICH] there are no licensed premises at the

1 time of application unless a majority of the voters have voted not to approve [IN] a
2 local option to restrict or prohibit the sale of alcoholic beverages under
3 AS 04.11.491, have voted to approve a local option to allow the type of premises
4 under AS 04.11.491(a)(2) or (3), or have voted to remove a restriction or
5 prohibition on the sale of alcoholic beverages under AS 04.11.495 [ELECTION
6 CONDUCTED IN ACCORDANCE WITH AS 04.11.502 HAVE VOTED "NO" ON
7 THE QUESTION SET OUT IN AS 04.11.490, OR HAVE VOTED "YES" ON A
8 QUESTION SET OUT IN AS 04.11.492 OR 04.11.500]; or

9 (10) [(12)] the license is sought for the sale of alcoholic beverages in
10 an established village where [IN WHICH] there are no licensed premises at the time
11 of application unless a majority of the voters have voted not to approve [IN] a local
12 option to restrict or prohibit the sale of alcoholic beverages under AS 04.11.491,
13 have voted to approve a local option to allow the type of premises under
14 AS 04.11.491(b)(2), or have voted to remove a restriction or prohibition on the
15 sale of alcoholic beverages under AS 04.11.495 [ELECTION CONDUCTED IN
16 ACCORDANCE WITH AS 04.11.502 HAVE VOTED "NO" ON THE QUESTION
17 SET OUT IN AS 04.11.490 OR HAVE VOTED "YES" ON THE QUESTION SET
18 OUT IN AS 04.11.500].

19 (b) An application requesting issuance of a new permit shall be denied if

20 (1) the board finds, after review of all relevant information, that
21 issuance of the permit would not be in the best interests of the public;

22 (2) the board finds that any of the statements made in the application
23 are untrue;

24 (3) the application has not been completed in accordance with
25 AS 04.11.260; or

26 (4) the permit is sought for the sale of alcoholic beverages in a first or
27 second class city or established village where [IN WHICH] there are no licensed
28 premises at the time of application unless a majority of the voters have voted not to
29 approve [IN] a local option to restrict or prohibit the sale of alcoholic beverages
30 under AS 04.11.491, have voted to approve a local option to allow the type of
31 permit under AS 04.11.491(a)(2) or (b)(2), or have voted to remove a restriction

1 or prohibition on the sale of alcoholic beverages under AS 04.11.495 [ELECTION
2 CONDUCTED IN ACCORDANCE WITH AS 04.11.502 HAVE VOTED "NO" ON
3 THE QUESTION SET OUT IN AS 04.11.490].

4 * Sec. 11. AS 04.11.330(a) is amended to read:

5 (a) An application requesting renewal of a license shall be denied if

6 (1) the board finds, after review of all relevant information, that
7 renewal of the license would not be in the best interests of the public;

8 (2) the license has been revoked for any cause;

9 (3) the applicant has not operated the licensed premises for at least 30
10 eight-hour days during each of the two preceding calendar years, unless the board
11 determines that the licensed premises are under construction or cannot be operated
12 through no fault of the applicant;

13 (4) the board finds that issuance of an existing license under
14 AS 04.11.400(g) has not encouraged tourist trade;

15 (5) the requirements of AS 04.11.420 - 04.11.450 relating to zoning,
16 ownership of the license, and financing of the licensee have not been met;

17 (6) renewal of the license would violate the conditions or restrictions
18 pertaining to the particular license under this title;

19 (7) renewal of the license is prohibited under this title as a result of an
20 election conducted under AS 04.11.507 [IN ACCORDANCE WITH AS 04.11.502];

21 (8) the application has not been completed in accordance with
22 AS 04.11.270; or

23 (9) the license was issued under AS 04.11.400(j), and the board finds
24 that the public convenience does not require renewal.

25 * Sec. 12. AS 04.11.340 is amended to read:

26 Sec. 04.11.340. DENIAL OF REQUEST FOR RELOCATION. An application
27 requesting approval for the relocation of licensed premises shall be denied if

28 (1) the board finds, after review of all relevant information, that
29 relocation of the license would not be in the best interests of the public;

30 (2) the relocation is prohibited under AS 04.11.400(a) or (b);

31 (3) the license would be relocated out of the established village,

1 incorporated city, unified municipality, or population area established under
2 AS 04.11.400(a) within which it is located;

3 (4) transfer of ownership is to be made concurrently with the relocation
4 of the licensed premises and a ground for denial of the transfer of ownership under
5 AS 04.11.360 is presented;

6 (5) the application has not been completed in accordance with
7 AS 04.11.290;

8 (6) relocation of the license would result in violation of a local zoning
9 law;

10 (7) relocation of the license would violate the restrictions pertaining to
11 the particular license imposed by this title;

12 (8) relocation of the license is prohibited under this title as a result of
13 an election conducted under AS 04.11.507 [IN ACCORDANCE WITH
14 AS 04.11.502]; or

15 (9) [THE LICENSED PREMISES ARE TO BE LOCATED IN A
16 MUNICIPALITY, THE TYPE OF LICENSE SOUGHT TO BE RELOCATED IS A
17 BEVERAGE DISPENSARY OR PACKAGE STORE LICENSE, AND THAT TYPE
18 OF LICENSE IS ALREADY IN EFFECT IN THE MUNICIPALITY UNDER A
19 COMMUNITY LIQUOR LICENSE, UNLESS THE RELOCATION IS TO BECOME
20 EFFECTIVE AFTER THE COMMUNITY LIQUOR LICENSE IS NO LONGER
21 EFFECTIVE, WHETHER AS THE RESULT OF A LOCAL OPTION ELECTION OR
22 OTHERWISE;

23 (10)] the license was issued under AS 04.11.400(g), (h), or (j).

24 * Sec. 13. AS 04.11.360 is amended to read:

25 Sec. 04.11.360. DENIAL OF TRANSFER OF A LICENSE TO ANOTHER
26 PERSON. An application requesting approval of a transfer of a license to another
27 person under this title shall be denied if

28 (1) the board finds, after review of all relevant information, that transfer
29 of a license to another person would not be in the best interests of the public;

30 (2) the application has not been completed in accordance with
31 AS 04.11.280;

- 1 (3) the application contains false statements of material fact;
- 2 (4) the transferor has not paid all debts or taxes arising from the
- 3 conduct of the business licensed under this title unless
- 4 (A) the transferor gives security for the payment of the debts
- 5 or taxes satisfactory to the creditor or taxing authority; or
- 6 (B) the transfer is pursuant to a promise given as collateral by
- 7 the transferor to the transferee in the course of an earlier transfer of the license
- 8 under which promise the transferor is obliged to transfer the license back to the
- 9 transferee in the event of default in payment for property conveyed as part of
- 10 the earlier transfer of the license;
- 11 (5) transfer of the license to another person would result in violation
- 12 of the provisions of this title relating to identity of licensees and financing of licensees;
- 13 (6) transfer of the license to another person would violate the
- 14 restrictions pertaining to the particular license under this title;
- 15 (7) transfer of the license to another person is prohibited under the
- 16 provisions of this title as a result of an election conducted under AS 04.11.507 [IN
- 17 ACCORDANCE WITH AS 04.11.502];
- 18 (8) the prospective transferee does not have the qualifications required
- 19 under this title of an original applicant;
- 20 (9) [THE LICENSED PREMISES ARE LOCATED IN A
- 21 MUNICIPALITY, THE TYPE OF LICENSE SOUGHT TO BE TRANSFERRED IS
- 22 A BEVERAGE DISPENSARY OR PACKAGE STORE LICENSE, AND THAT TYPE
- 23 OF LICENSE IS ALREADY IN EFFECT IN THE MUNICIPALITY UNDER A
- 24 COMMUNITY LIQUOR LICENSE, UNLESS THE TRANSFER IS TO BECOME
- 25 EFFECTIVE AFTER THE COMMUNITY LIQUOR LICENSE IS NO LONGER
- 26 EFFECTIVE, WHETHER AS THE RESULT OF A LOCAL OPTION ELECTION OR
- 27 OTHERWISE;
- 28 (10) THE AUTHORITY SOUGHT IS AUTHORITY TO OPERATE
- 29 A BEVERAGE DISPENSARY OR PACKAGE STORE UNDER A COMMUNITY
- 30 LIQUOR LICENSE FOR PREMISES TO BE LOCATED IN A MUNICIPALITY
- 31 WHERE THE AUTHORITY SOUGHT IS ALREADY HELD BY A PRIVATE

1 LICENSEE UNDER A BEVERAGE DISPENSARY OR PACKAGE STORE
2 LICENSE, UNLESS THE TRANSFER IS TO BECOME EFFECTIVE AFTER THE
3 PRIVATELY HELD LICENSE IS NO LONGER EFFECTIVE, WHETHER AS THE
4 RESULT OF A LOCAL OPTION ELECTION OR OTHERWISE;

5 (11)] the license was issued under AS 04.11.400(j); or

6 (10) [(12)] the license was issued under AS 04.11.135, unless the
7 transferor is also applying to transfer the beverage dispensary license required under
8 AS 04.11.135 to the same transferee.

9 * Sec. 14. AS 04.11.370 is amended to read:

10 Sec. 04.11.370. SUSPENSION AND REVOCATION OF LICENSES AND
11 PERMITS. A license or permit shall be suspended or revoked if the board finds
12 [THAT ONE OR MORE OF THE FOLLOWING GROUNDS EXISTS:]

13 (1) misrepresentation of a material fact on an application made under
14 this title or a regulation adopted under this title [FOR A LICENSE OR PERMIT];

15 (2) continuation of the manufacture, sale, or service of alcoholic
16 beverages by the licensee [ACTIVITIES AUTHORIZED UNDER A LICENSE OR
17 PERMIT] would be contrary to the best interests of the public;

18 (3) failure on the part of the licensee to correct a defect [DEFECTS]
19 that constitutes a violation [CONSTITUTE VIOLATIONS] of this title, a condition
20 or restriction imposed under AS 04.11.395, a regulation [REGULATIONS] adopted
21 under this title, or other laws [WITHIN A PRESCRIBED TIME] after receipt of notice
22 issued by the board or its agent;

23 (4) conviction of a licensee of a violation of [A PROVISION OF] this
24 title, a regulation adopted under this title, or an ordinance adopted under AS 04.21.010;

25 (5) conviction of an [THE] agent or employee of a licensee of a
26 violation of this title, a regulation adopted under this title, or an ordinance adopted
27 under AS 04.21.010, if the licensee is found by the board to have either knowingly
28 allowed the violation or to have recklessly or with criminal negligence failed to act in
29 accordance with the duty prescribed under AS 04.21.030 with the result that the [AN]
30 agent or employee violates a law, regulation, or ordinance;

31 (6) failure of the licensee to comply with the public health, fire, or

1 safety laws and regulations [PERTAINING TO PUBLIC HEALTH] in the state;

2 (7) use of the licensed premises as a resort for illegal possessors or
3 users of narcotics, prostitutes, or promoters of prostitution; in addition to any other
4 legally competent evidence, the character of the premises may be proved by the
5 general reputation of the premises in the community as a resort for illegal possessors
6 or users of narcotics, prostitutes, or promoters of prostitution;

7 (8) occurrence of illegal gambling within the limits of the licensed
8 premises;

9 (9) the licensee permitted a [PERMITTING ANY] public offense
10 involving moral turpitude to occur on the licensed premises;

11 (10) violation by a licensee of this title, a condition or restriction
12 imposed under AS 04.11.395, a regulation adopted under this title, or an ordinance
13 adopted under AS 04.21.010; or

14 (11) violation by an agent or employee of a licensee of a provision of
15 this title, a condition or restriction imposed under AS 04.11.395, a regulation
16 adopted under this title, or an ordinance adopted under AS 04.21.010, if the licensee
17 is found by the board to have either knowingly allowed the violation or to have
18 recklessly or with criminal negligence failed to act in accordance with the duty
19 prescribed under AS 04.21.030 with the result that the agent or employee violates the
20 law, condition or restriction, regulation, or ordinance.

21 * Sec. 15. AS 04.11 is amended by adding a new section to read:

22 Sec. 04.11.395. BOARD IMPOSED CONDITIONS OR RESTRICTIONS.

23 The board may, in the best interests of the public, impose conditions or restrictions on
24 a license or permit issued under this chapter.

25 * Sec. 16. AS 04.11.400(a) is amended to read:

26 (a) Except as provided in (g), (h), (i), (j), and (k) of this section, a new license
27 may not be issued and the board may prohibit relocation of an existing license

28 (1) outside an established village, incorporated city, unified
29 municipality, or organized borough if after the issuance or relocation there would be
30 more than one restaurant or eating place license for each 1,500 population or fraction
31 of that [1,500] population; or more than one license of each other type, including

1 licenses that have been issued under (g) or (h) of this section, for each 3,000
2 population or fraction of that [3,000] population; in a radius of five miles of the
3 licensed premises [OR LOCATION OF PREMISES SOUGHT TO BE LICENSED],
4 excluding the populations of established villages, incorporated cities, unified
5 municipalities, and organized boroughs that are wholly or partly included within the
6 radius;

7 (2) inside an established village, incorporated city, or unified
8 municipality if after the issuance or relocation there would be inside the established
9 village, incorporated city, or unified municipality

10 (A) more than one restaurant or eating place license for each
11 1,500 population or fraction of that [1,500] population; or

12 (B) more than one license of each other type, including licenses
13 that have been issued under (g) or (h) of this section, for each 3,000 population
14 or fraction of that [3,000] population [INSIDE THE ESTABLISHED
15 VILLAGE, INCORPORATED CITY, OR UNIFIED MUNICIPALITY];

16 (3) inside an organized borough but outside an established village or
17 incorporated city located within the borough, if after the issuance or relocation there
18 would be inside the borough, but outside the established villages and incorporated
19 cities located within the borough, more than one restaurant or eating place license for
20 each 1,500 population or fraction of that [1,500] population; or more than one license
21 of each other type, including licenses that have been issued under (g) or (h) of this
22 section, for each 3,000 population or fraction of that [3,000] population [INSIDE THE
23 BOROUGH,] excluding the population of those established villages that have adopted
24 a local option under AS 04.11.491(b)(1), (3), or (4) [CONDUCTED AN ELECTION
25 ON A QUESTION SET OUT IN AS 04.11.490, 04.11.496, OR 04.11.500], and
26 excluding the population of incorporated cities located within the organized borough.

27 * Sec. 17. AS 04.11.480(a) is amended to read:

28 (a) A [IF A] local governing body may [WISHES TO] protest the issuance,
29 renewal, relocation, [TRANSFER OF LOCATION] or transfer to another person of
30 a license by sending [, IT SHALL FURNISH] the board and the applicant [WITH] a
31 protest and the reasons for the protest within 30 days of receipt from the board of

1 notice of filing of the application. The local governing body may protest the
2 continued operation of a license during the second year of the biennial license
3 period by sending the board and the licensee a protest and the reasons for the
4 protest by January 31 of the second year of the license. The procedures for
5 action on a protest of continued operation of a license are the same as the
6 procedures for action on a protest of a renewal application. The board shall
7 consider a protest and testimony received at a hearing conducted under
8 AS 04.11.510(b)(2) or (b)(4) when it considers the application or continued
9 operation, and the protest and the record of the hearing conducted under
10 AS 04.11.510(b)(2) or (b)(4) shall be kept [RETAINED] as part of the board's
11 permanent record of its review [OF THE APPLICATION]. If an application or
12 continued operation is protested, the board shall deny [MAY NOT APPROVE] the
13 application or continued operation unless the board finds that the protest is arbitrary,
14 capricious, and unreasonable.

15 * Sec. 18. AS 04.11 is amended by adding a new section to read:

16 Sec. 04.11.491. LOCAL OPTIONS. (a) If a majority of the persons voting
17 on the question vote to approve the option, a municipality shall adopt a local option
18 to prohibit

19 (1) the sale of alcoholic beverages;

20 (2) the sale of alcoholic beverages except by one or more of the
21 following listed on the ballot:

22 (A) a restaurant or eating place licensee;

23 (B) a beverage dispensary licensee;

24 (C) a package store licensee; or

25 (D) a caterer holding a permit under AS 04.11.230 to sell
26 alcoholic beverages at a site within the municipality who is also licensed under
27 a beverage dispensary license for premises outside of the municipality;

28 (3) the sale of alcoholic beverages except on premises operated by the
29 municipality and under a type of licensed premises listed on the ballot, that may
30 include one or more of the following:

31 (A) a restaurant or eating place licensee;

- 1 (B) a beverage dispensary license; or
2 (C) a package store license;
3 (4) the sale and importation of alcoholic beverages; or
4 (5) the sale, importation, and possession of alcoholic beverages.
- 5 (b) If a majority of the persons voting on the question vote to approve the
6 option, an established village shall exercise a local option to prohibit
7 (1) the sale of alcoholic beverages;
8 (2) the sale of alcoholic beverages except by one or more of the
9 following listed on the ballot:
10 (A) a restaurant or eating place licensee;
11 (B) a beverage dispensary licensee;
12 (C) a package store licensee; or
13 (D) a caterer holding a permit under AS 04.11.230 to sell
14 alcoholic beverages at a site within the established village who is also licensed
15 under a beverage dispensary license for premises outside of the established
16 village;
17 (3) the sale and importation of alcoholic beverages; or
18 (4) the sale, importation, and possession of alcoholic beverages.
- 19 (c) A ballot question to adopt a local option under this section must at least
20 contain language substantially similar to: "Shall (name of municipality or village)
21 adopt a local option to prohibit (local option under (a) or (b) of this section)? (yes or
22 no)."
- 23 (d) The ballot for an election on the option set out in (a)(2)(A), (a)(3)(A), or
24 (b)(2)(A) of this section must include an explanation of the authority to sell alcoholic
25 beverages given to a restaurant or eating place. The ballot for an election on the
26 option set out in (a)(2)(B) or (D), (a)(3)(B), or (b)(2)(B) or (D) of this section must
27 include a statement that a beverage dispensary license is commonly known as a "bar"
28 and an explanation of the authority to sell alcoholic beverages given to a beverage
29 dispensary licensee. The ballot for an election on the option set out in (a)(2)(C),
30 (a)(3)(C), or (b)(2)(C) of this section must include a statement that a package store
31 license is commonly known as a "liquor store" and an explanation of the authority to

1 sell alcoholic beverages given to a package store licensee.

2 (e) If a municipality dissolves under AS 29.06.450(a) or (b), a local option
3 adopted by the municipality under (a) of this section shall continue in effect as the
4 corresponding local option under (b) of this section for an established village having
5 the same perimeter as the previous boundaries of the municipality. A license for
6 premises operated by the municipality under AS 04.11.505 expires when the
7 municipality dissolves.

8 (f) A municipality or established village that has adopted a local option under
9 (a)(1), (2), or (3) or (b)(1) or (2) of this section may designate a site for the delivery
10 of alcoholic beverages to individuals in the area or a site for a person to bring
11 alcoholic beverages if the alcoholic beverages are imported into the area. This
12 subsection does not apply to the delivery or importation of

13 (1) one liter or less of distilled spirits, two liters or less of wine, or one
14 gallon or less of malt beverages; or

15 (2) alcoholic beverages to a premises licensed under (a)(2) - (3) or
16 (b)(2) of this section.

17 * Sec. 19. AS 04.11 is amended by adding new sections to read:

18 Sec. 04.11.493. CHANGE OF LOCAL OPTION. (a) If a majority of persons
19 voting on the question vote to approve a different local option, a municipality or
20 established village shall change a local option previously adopted under AS 04.11.491
21 to the different approved option.

22 (b) A ballot question to change a local option under this section must at least
23 contain language substantially similar to: "Shall (name of municipality or village)
24 change the local option currently in effect, that prohibits (current local option under
25 AS 04.11.491), and adopt in its place a local option to prohibit (proposed local option
26 under AS 04.11.491)? (yes or no)."

27 Sec. 04.11.495. REMOVAL OF LOCAL OPTION. (a) If a majority of the
28 persons voting on the question vote to remove the option, a municipality or established
29 village shall remove a local option previously adopted under AS 04.11.491. The
30 option is repealed effective the first day of the month following certification of the
31 results of the election.

1 (b) A ballot question to remove a local option under this section must at least
2 contain language substantially similar to: "Shall (name of municipality or village)
3 remove the local option currently in effect, that prohibits (current local option under
4 AS 04.11.491), so that there is no longer any local option in effect? (yes or no)."

5 (c) When issuing a license in the area that has removed a local option, the
6 board shall give priority to an applicant who was formerly licensed and whose license
7 was not renewed because of the results of the previous local option election. However,
8 an applicant described in this subsection does not have a legal right to a license and
9 the board is not required to approve the application.

10 * Sec. 20. AS 04.11 is amended by adding a new section to read:

11 Sec. 04.11.497. EFFECT ON LICENSES OF PROHIBITION OF SALE. If
12 a majority of voters vote to prohibit the sale of alcoholic beverages under
13 AS 04.11.491(a)(1), (a)(4) or (5), (b)(1), or (b)(3) or (4), the board may not issue,
14 renew, or transfer, between persons or locations, a license for premises located within
15 the boundaries of the municipality and in unincorporated areas within five miles of the
16 boundaries of the municipality or within the perimeter of the established village. A
17 license that may not be renewed because of a local option election held under this
18 section is void 90 days after the results of the election are certified. A license that
19 expires during the 90 days after the results of a local option election are certified may
20 be extended, until it is void under this section, by payment of a prorated portion of the
21 biennial license fee.

22 * Sec. 21. AS 04.11 is amended by adding a new section to read:

23 Sec. 04.11.499. PROHIBITION OF IMPORTATION AFTER ELECTION. If
24 a majority of the voters vote to prohibit the importation of alcoholic beverages under
25 AS 04.11.491(a)(4) or (5) or (b)(3) or (4), a person, beginning on the first day of the
26 month following certification of the results of the election, may not knowingly send,
27 transport, or bring an alcoholic beverage into the municipality or established village,
28 unless the alcoholic beverage is sacramental wine to be used for bona fide religious
29 purposes based on tenets or teachings of a church or religious body, is limited in
30 quantity to the amount necessary for religious purposes, and is dispensed only for
31 religious purposes by a person authorized by the church or religious body to dispense

1 the sacramental wine.

2 * Sec. 22. AS 04.11 is amended by adding a new section to read:

3 Sec. 04.11.501. PROHIBITION OF POSSESSION AFTER ELECTION. (a)

4 If a majority of the voters vote to prohibit the possession of alcoholic beverages under
5 AS 04.11.491(a)(5) or (b)(4), a person may not knowingly possess an alcoholic
6 beverage in the municipality or established village, unless the alcoholic beverage is
7 sacramental wine to be used for bona fide religious purposes based on tenets or
8 teachings of a church or religious body, is limited in quantity to the amount necessary
9 for religious purposes, and is dispensed only for religious purposes, by a person
10 recognized by the church or religious body as authorized to dispense the wine.

11 (b) If there are licensed premises within the municipality or established village,
12 the prohibition on possession is effective beginning 90 days after the results of the
13 election are certified. If there are no licensed premises within the municipality or
14 established village, the prohibition on possession is effective beginning 60 days after
15 the results of the election are certified.

16 (c) Upon the adoption by a municipality of a local option under
17 AS 04.11.491(a)(5), an ordinance is adopted containing the provisions of this section.

18 (d) In this section, "possession" means having physical possession of or
19 exercising dominion or control over an alcoholic beverage, but does not include having
20 an alcoholic beverage within the digestive system of a person.

21 * Sec. 23. AS 04.11 is amended by adding a new section to read:

22 Sec. 04.11.503. EFFECT ON LICENSES OF RESTRICTION ON SALE. If
23 a majority of the voters vote under AS 04.11.491(a)(2) or (b)(2) to prohibit sale of
24 alcoholic beverages except by the type or types of licensees or permit holders listed
25 on the ballot, the board may not issue, renew, or transfer between persons or locations
26 a license for premises located within the boundaries of the municipality and in
27 unincorporated areas within five miles of the boundaries of the municipality or within
28 the perimeter of the established village, except the type or types of licenses listed on
29 the ballot. A license in effect within the boundaries of the municipality or perimeter
30 of the established village, and in unincorporated areas within five miles of the
31 boundaries of the municipality, except the type of license listed on the ballot, are void

1 90 days after the results of the election are certified. A license that expires during the
2 90 days after the results of a local option election are certified may be extended, until
3 it is void under this section, by payment of a prorated portion of the biennial license
4 fee.

5 * Sec. 24. AS 04.11 is amended by adding a new section to read:

6 Sec. 04.11.505. LICENSING AFTER PROHIBITION ON SALE EXCEPT IN
7 PREMISES OPERATED BY MUNICIPALITY. (a) If a majority of the voters vote
8 under AS 04.11.491(a)(3) to prohibit the sale of alcoholic beverages except on
9 premises operated by the municipality, the board may not issue, renew, or transfer
10 between persons or locations a license for premises located within the boundaries of
11 a municipality and in unincorporated areas within five miles of the boundaries of the
12 municipality, with the exception of the type of license listed on the ballot and operated
13 under a license held by the municipality. A license in effect is void 90 days after the
14 results of the election are certified. A license that expires during the 90 days after the
15 results of a local option election are certified may be extended, until it is void under
16 this subsection, by payment of a prorated portion of the biennial license fee.

17 (b) The local governing body of a municipality shall apply for a license to
18 operate the type of licensed premises listed on the ballot under AS 04.11.491(a)(3) and
19 approved by a majority of the voters. The municipality shall operate the premises
20 subject to the conditions and fees applicable to the type of license. Nothing in this
21 section precludes a municipality from applying to be a licensee under other provisions
22 of this title.

23 * Sec. 25. AS 04.11 is amended by adding new sections to read:

24 Sec. 04.11.507. PROCEDURE FOR LOCAL OPTION ELECTIONS. (a)
25 Elections to adopt a local option under AS 04.11.491, change a local option under
26 AS 04.11.493, or remove a local option under AS 04.11.495, shall be conducted as
27 required in this section.

28 (b) Upon receipt of a petition of a number of registered voters equal to 35
29 percent or more of the number of votes cast at the last regular municipal election, the
30 local governing body of a municipality shall place upon a separate ballot at the next
31 regular election, or at a special election, whichever local option, change in local option,

1 or removal of local option constitutes the subject of the petition. The local governing
2 body shall conduct the election under the election ordinance of the municipality.

3 (c) Upon receipt of a petition of 35 percent or more of the registered voters
4 residing within an established village, the lieutenant governor shall place upon a
5 separate ballot at a special election the local option, change in local option, or removal
6 of local option that constitutes the subject of the petition. The lieutenant governor
7 shall conduct the election under AS 15.

8 (d) A petition filed with the local governing body of a municipality under (b)
9 of this section, that places on the ballot the option set out in AS 04.11.491(a)(5),
10 constitutes a proposed ordinance of the municipality.

11 (e) AS 29.26.110 - 29.26.160 apply to a petition under (b) of this section in
12 a general law municipality except the

13 (1) number of required signatures is determined under (b) of this
14 section rather than under AS 29.26.130;

15 (2) application filed under AS 29.26.110 must at least contain language
16 substantially similar to the questions set out under AS 04.11.491 - 04.11.495 rather
17 than containing an ordinance or resolution;

18 (3) petition must at least contain language substantially similar to the
19 questions set out under AS 04.11.491 - 04.11.495 rather than material required under
20 AS 29.26.120(a)(1) and (2).

21 (f) Notwithstanding any other provisions of law, an election under (b) or (c)
22 of this section to remove a local option or to change to a less restrictive option than
23 the local option previously adopted under AS 04.11.491 may not be conducted during
24 the first 12 months after the local option was adopted or more than once in a 12-month
25 period.

26 Sec. 04.11.509. NOTICE OF THE RESULTS OF A LOCAL OPTION
27 ELECTION. (a) If a majority of the voters vote to prohibit, change, or remove a
28 local option under AS 04.11.491 - 04.11.495, the clerk of the municipality, or, if the
29 election is in an established village, the lieutenant governor shall notify the board of
30 the results of the election immediately after the results are certified. The board shall
31 immediately notify the Department of Law and the Department of Public Safety of the

1 results of the election.

2 (b) If a majority of the voters vote to prohibit the importation or possession
3 of alcoholic beverages under AS 04.11.491(a)(4) or (5) or (b)(3) or (4), the following
4 actions in addition to those prescribed in (a) of this section shall be taken before the
5 date the prohibition becomes effective:

6 (1) the board shall notify, by certified mail, all package store licensees
7 who sell alcoholic beverages in response to a written solicitation of the local option;
8 and

9 (2) the municipality or established village shall post public notice of
10 the prohibition in a central location in the municipality or village.

11 * Sec. 26. AS 04.11.540 is amended to read:

12 Sec. 04.11.540. LICENSE RENEWAL AND EXPIRATION. Notwithstanding
13 AS 04.11.680, an application for renewal of a license issued for the two calendar years
14 [YEAR] ending December 31 or of a seasonal license issued for parts of those
15 calendar years [A SIX-MONTH PERIOD ENDING IN THE PREVIOUS YEAR] may
16 be submitted up until the next February 28 [, BUT THE AUTHORITY GRANTED
17 UNDER THE LICENSE MAY NOT BE EXERCISED UNTIL THE LICENSE IS
18 RENEWED]. If a complete [THE] application for renewal has [AND APPLICABLE
19 AFFIDAVITS HAVE] not been filed by February 28 or the required fees and the
20 penalty fees have not been paid by that date, the license expires at 12:00 midnight
21 February 28. A new license may not be issued to the holder of an expired license for
22 the same premises except on proof satisfactory to the board of good cause for the
23 failure to file and pay.

24 * Sec. 27. AS 04.11.680(a) is amended to read:

25 (a) Upon application and payment of one-half [ONE-QUARTER] of the
26 biennial fee, the board may issue a seasonal license under this title that will be
27 effective for a continuous six-month period in each of the biennial calendar years.
28 Otherwise, all licenses issued under this title other than a retail stock sale license are
29 effective for the two calendar years ending December 31, unless a shorter period is
30 prescribed by the board or by law.

31 * Sec. 28. AS 04.16.110 is repealed and reenacted to read:

1 Sec. 04.16.110. SALE OF CERTAIN ALCOHOLIC BEVERAGES
2 PROHIBITED. A person may not sell an alcoholic beverage if it

3 (1) is not in liquid form; or

4 (2) contains more than 75 percent alcohol by volume.

5 * Sec. 29. AS 04.16.125(a) is amended to read:

6 (a) A person may not use a common carrier to transport alcoholic beverages
7 into an area that has restricted the sale of alcoholic beverages under
8 AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2) [AS 04.11.490, 04.11.492, OR
9 04.11.500] unless

10 (1) the shipping container holding the alcoholic beverages is clearly
11 labeled as containing alcoholic beverages with letters that contrast in color to the
12 shipping container and that are at least two inches in height; and

13 (2) an itemized invoice showing the quantity and purchase value of
14 distilled spirits, of wine, and of malt [THE ALCOHOLIC] beverages is attached to
15 the outside of the shipping container.

16 * Sec. 30. AS 04.16.125(b) is amended to read:

17 (b) This section does not apply to

18 (1) a person transporting not more than

19 (A) two liters of wine;

20 (B) one gallon of [OR] malt beverages; [,] or

21 (C) [NOT MORE THAN] one liter of distilled spirits; or

22 (2) the transportation of alcoholic beverages for use on premises
23 allowed under AS 04.11.491(a)(2) - (3) or (b)(2) or for use under a permit allowed
24 under AS 04.11.491(a)(2).

25 * Sec. 31. AS 04.16.200(b) is amended to read:

26 (b) A person who violates AS 04.11.010 in an area that has adopted
27 [WHERE THE RESULTS OF] a local option under AS 04.11.491 [ELECTION
28 HAVE, UNDER AS 04.11.490 - 04.11.500, PROHIBITED THE BOARD FROM
29 ISSUING, RENEWING, OR TRANSFERRING ONE OR MORE TYPES OF
30 LICENSES OR PERMITS UNDER THIS TITLE IN THE AREA] is, upon conviction,
31 guilty of a class C felony.

1 * Sec. 32. AS 04.16.200(e) is amended to read:

2 (e) A person who sends, transports, or brings alcoholic beverages into a
3 municipality or established village in violation of AS 04.11.499 [AS 04.11.496] is,
4 upon conviction,

5 (1) guilty of a class A misdemeanor if the quantity imported is less
6 than 12 liters of distilled spirits, 24 liters of wine, or 12 gallons [45 LITERS] of malt
7 beverages; or

8 (2) guilty of a class C felony if the quantity imported is 12 liters or
9 more of distilled spirits, 24 liters or more of wine, or 12 gallons [45 LITERS] or more
10 of malt beverages.

11 * Sec. 33. AS 04.16.205(a) is amended to read:

12 (a) A person who possesses alcoholic beverages in a municipality or
13 established village in violation of AS 04.11.501 [AS 04.11.498] or an ordinance
14 adopted under AS 04.11.501 [AS 04.11.498] may, upon conviction, be punished by a
15 fine not to exceed \$1,000. When a peace officer stops or contacts a person concerning
16 a violation of AS 04.11.501 [AS 04.11.498] or an ordinance adopted [ENACTED]
17 under AS 04.11.501 [AS 04.11.498], the peace officer may [, IN THE OFFICER'S
18 DISCRETION,] issue a citation to the person as provided in AS 12.25.180.

19 * Sec. 34. AS 04.16.205(b) is amended to read:

20 (b) A person cited for a violation of AS 04.11.501 [AS 04.11.498] or an
21 ordinance adopted under AS 04.11.501 [AS 04.11.498] for which a bail amount has
22 been established under (c) of this section may, within 30 days after the date the
23 citation is issued.

24 (1) mail or personally deliver to the clerk of the court in which the
25 citation is filed by the peace officer the amount of bail indicated on the citation and
26 a copy of the citation indicating that the right to an appearance is waived, a plea of no
27 contest is entered and the bail and all alcoholic beverages seized are forfeited; or

28 (2) perform community work in lieu of payment of the fine or a portion
29 of the fine as provided in (d) of this section.

30 * Sec. 35. AS 04.16.205(c) is amended to read:

31 (c) The supreme court shall establish by rule or order a schedule of bail

1 amounts that may be forfeited without a court appearance for a violation of
2 AS 04.11.501 [AS 04.11.498] or an ordinance adopted under AS 04.11.501
3 [AS 04.11.498]. In establishing the bail schedule the supreme court may consider the
4 quantity of alcoholic beverages possessed and the number of prior violations of the
5 person cited. Before establishing or amending the schedule of bail amounts required
6 by this subsection. the supreme court shall appoint and consult with an advisory
7 committee consisting of the following seven persons: one superior court judge, one
8 magistrate from each judicial district in the state, a representative of the Department
9 of Law, and a representative of the Public Defender Agency. The maximum bail
10 amount may not exceed \$1,000, and the issuing officer shall write on the citation the
11 amount of bail applicable to the violation.

12 * Sec. 36. AS 04.16.205(d) is amended to read:

13 (d) Community work shall be performed at the direction of the local governing
14 body of the municipality or the local governing body of the established village. In the
15 absence of a local governing body for an established village, community work
16 shall be performed at the direction of the body that has traditionally performed
17 public functions on behalf of the entire community. The value of community work
18 in lieu of a fine is \$5.00 per hour. When the community work is completed, the
19 person cited for the violation shall mail or personally deliver to the clerk of the court
20 in which the citation is filed by the peace officer

21 (1) a form, prescribed by the administrative director of the Alaska
22 Court System, indicating completion of the community work; and

23 (2) a copy of the citation, indicating that the right to an appearance is
24 waived, a plea of no contest is entered, and that the bail is forfeited or community
25 work has been performed and that all alcoholic beverages seized are forfeited.

26 * Sec. 37. AS 04.16.205(g) is amended to read:

27 (g) Notwithstanding other provisions of law, if a person cited for a violation
28 of AS 04.11.501 [AS 04.11.498] or an ordinance adopted under AS 04.11.501
29 [AS 04.11.498] for which a bail amount has been established under (c) of this section
30 appears in court and is found guilty, the penalty that is imposed for the offense may
31 not exceed the bail amount for that offense established under (c) of this section.

1 * Sec. 38. AS 04.16.205(h) is amended to read:

2 (h) A violation of AS 04.11.501 [AS 04.11.498] or an ordinance adopted under
3 AS 04.11.501 [AS 04.11.498] may not be considered a criminal offense and may not
4 result in imprisonment, nor is a fine imposed for a violation considered criminal
5 punishment. A person cited for a violation does not have a right to a jury trial or
6 court appointed counsel.

7 * Sec. 39. AS 04.16.220(a) is amended to read:

8 (a) The following are subject to forfeiture:

9 (1) alcoholic beverages manufactured, sold, offered for sale or
10 possessed for sale, bartered or exchanged for goods and services in this state in
11 violation of AS 04.11.010; alcoholic beverages possessed, stocked, warehoused, or
12 otherwise stored in violation of AS 04.21.060; alcoholic beverages sold or offered for
13 sale in violation [IN AN AREA WHERE THE RESULTS] of a local option adopted
14 under AS 04.11.491 [ELECTION HAVE, UNDER AS 04.11.490 - 04.11.500,
15 PROHIBITED THE POSSESSION OF ALCOHOLIC BEVERAGES OR
16 PROHIBITED THE BOARD FROM ISSUING, RENEWING, OR TRANSFERRING
17 ONE OR MORE LICENSES OR PERMITS UNDER THIS TITLE IN THE AREA];
18 alcoholic beverages transported into the state and sold to persons not licensed under
19 this chapter in violation of AS 04.16.170(b);

20 (2) materials and equipment used in the manufacture, sale, offering for
21 sale, possession for sale, barter or exchange of alcoholic beverages for goods and
22 services in this state in violation of AS 04.11.010; materials and equipment used in the
23 stocking, warehousing, or storage of alcoholic beverages in violation of AS 04.21.060;
24 materials and equipment used in the sale or offering for sale of an alcoholic beverage
25 in an area in violation [WHERE THE RESULTS] of a local option under
26 AS 04.11.491 [ELECTION HAVE, UNDER AS 04.11.490 - 04.11.500, PROHIBITED
27 THE BOARD FROM ISSUING, RENEWING, OR TRANSFERRING ONE OR
28 MORE LICENSES OR PERMITS UNDER THIS TITLE IN THE AREA];

29 (3) aircraft, vehicles, or vessels used to transport, or facilitate the
30 transportation of

31 (A) alcoholic beverages manufactured, sold, offered for sale or

1 possessed for sale, bartered or exchanged for goods and services in this state
2 in violation of AS 04.11.010;

3 (B) property stocked, warehoused, or otherwise stored in
4 violation of AS 04.21.060;

5 (C) alcoholic beverages imported into a municipality or
6 established village in violation of AS 04.11.499 [AS 04.11.496];

7 (4) alcoholic beverages found on licensed premises that do not bear
8 federal excise stamps if excise stamps are required under federal law;

9 (5) alcoholic beverages, materials or equipment used in violation of
10 AS 04.16.175.

11 * Sec. 40. AS 04.16.220(b) is amended to read:

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

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

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

21 (3) there is probable cause to believe that the property is subject to
22 forfeiture under (a) of this section; except for alcoholic beverages possessed on
23 violation of AS 04.11.501 [AS 04.11.498] or an ordinance adopted under AS 04.11.501
24 [AS 04.11.498], property seized under this paragraph may not be held over 48 hours
25 or until an order of forfeiture is issued by the court, whichever is earlier.

26 * Sec. 41. AS 04.16.220(d) is amended to read:

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

28 (1) upon conviction of a person for a violation of [UNDER]
29 AS 04.11.010, 04.11.499, [04.11.496(b), OR] AS 04.21.060, or AS 04.11.501 [UPON
30 ENTRY OF JUDGMENT UNDER AS 04.11.498] or an ordinance adopted under
31 AS 04.11.501 [AS 04.11.498]; or

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

3 * Sec. 42. AS 04.16.220(g) is amended to read:

4 (g) It is no defense in an in rem forfeiture proceeding brought under (d)(2) of
5 this section that a criminal proceeding is pending or has resulted in conviction or
6 acquittal of a person charged with violating AS 04.11.010, 04.11.499 [04.11.496(b)],
7 or AS 04.21.060.

8 * Sec. 43. AS 04.21.010(a) is amended to read:

9 (a) A municipality may adopt ordinances governing the importation, barter,
10 sale, and consumption of alcoholic beverages within the municipality and may ban
11 possession of alcoholic beverages under AS 04.11.491(a)(5) [AS 04.11.498(d) OR (e)].
12 An ordinance adopted under this section may not be inconsistent with this title or
13 regulations adopted under this title. An ordinance that limits the monthly amounts
14 of alcoholic beverages a person may import into a municipality that has adopted
15 a local option under AS 04.11.491(a)(1), (2), or (3) is not inconsistent with this
16 title.

17 * Sec. 44. AS 04.21.010(b) is amended to read:

18 (b) After the adoption of a local option under AS 04.11.491(a), a [IF, AS A
19 RESULT OF AN ELECTION HELD IN ACCORDANCE WITH AS 04.11.502 IN A
20 MUNICIPALITY, THE BOARD IS PROHIBITED FROM ISSUING, RENEWING,
21 OR TRANSFERRING A LICENSE BETWEEN HOLDERS OR LOCATIONS OR IF
22 THE IMPORTATION OF ALCOHOLIC BEVERAGES IS PROHIBITED IN THE
23 MUNICIPALITY, THE] municipality may adopt an ordinance making the sale, [OR]
24 importation, or possession of alcoholic beverages a misdemeanor to the extent
25 prohibited under the local option. The ordinance may not be inconsistent with this
26 title or the regulations adopted under this title.

27 * Sec. 45. AS 04.21.010(c) is amended to read:

28 (c) A municipality may not impose taxes on alcoholic beverages except a
29 (1) [PROPERTY TAX ON ALCOHOLIC BEVERAGE
30 INVENTORIES;
31 (2)] sales tax on alcoholic beverage sales if a general sales tax is

1 [TAXES ARE] imposed on other sales within the municipality;

2 (2) [(3)] sales tax on alcoholic beverage sales that was in effect before
3 July 1, 1985; and

4 (3) [(4)] sales and use tax on alcoholic beverages if the sale of
5 alcoholic beverages within the municipality has been prohibited under
6 AS 04.11.491(a)(1), (4), or (5) [AS 04.11.490].

7 * Sec. 46. AS 04.21.015(b) is amended to read:

8 (b) This section does not apply to AS 04.16.050, 04.16.051, 04.16.080;
9 AS 04.21.010, 04.21.020; alcoholic beverages manufactured in a quantity that exceeds
10 the limit imposed on private manufacture under federal law; or an area that has
11 adopted a local option law under AS 04.11.491 [AS 04.11.490 - 04.11.500].

12 * Sec. 47. AS 04.21.025(a) is amended to read:

13 (a) As a condition of issuance or renewal of a license and selling alcoholic
14 beverages under a license, the board shall require a licensee who sells or serves
15 alcoholic beverages and a licensee's agents and employees who sell or serve alcoholic
16 beverages to complete an alcohol server education course approved by the board, if the
17 license is for a

18 (1) beverage dispensary;

19 (2) restaurant or eating place;

20 (3) club;

21 (4) package store;

22 (5) [COMMON CARRIER DISPENSARY;

23 (6)] recreational site;

24 (6) [(7)] community;

25 (7) [(8)] pub;

26 (8) [(9)] conditional contractor.

27 * Sec. 48. AS 04.21.025 is amended by adding a new subsection to read:

28 (e) A person licensed as a common carrier dispensary shall train agents and
29 employees who sell or serve alcoholic beverages on provisions of state law regarding
30 sale of alcoholic beverages, including AS 04.16.015, 04.16.020, 04.16.030, 04.16.051,
31 04.16.052, 04.16.120, 04.16.125, AS 04.21.030, and 04.21.050. The training must

1 include the subjects of the effects of alcohol consumption, identifying a drunken
2 person, determining valid identification, intervention to prevent unlawful alcohol
3 consumption, and penalties for unlawful acts by agents and employees of licensees.
4 A common carrier licensee shall, once every three years, provide the board with a
5 description of its training program including the subjects taught, teaching method, and
6 testing required.

7 * Sec. 49. AS 04.21.080(b)(1) is amended to read:

8 (1) "alcoholic beverage" means a spirituous, vinous, malt or other
9 fermented or distilled liquid, whatever the origin, that is intended for human
10 consumption as a beverage and that contains one-half of one percent or more of
11 alcohol by volume, whether produced commercially or privately; however, in an area
12 that has adopted a local option under AS 04.11.491 [LOCAL-OPTION
13 PROHIBITION UNDER AS 04.11.490 - 04.11.500], "alcoholic beverage" means a
14 spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that
15 is intended for human consumption as a beverage by the person who possesses or
16 attempts to possess it and that contains alcohol in any amount if the liquid is
17 produced privately, or that contains one-half of one percent or more of alcohol by
18 volume, if the liquid is produced commercially;

19 * Sec. 50. AS 04.21.080(b)(9) is amended to read:

20 (9) "established village" means an area not containing any part of
21 an incorporated city or another established village, that has a perimeter no more
22 than 10 miles in diameter clearly designated on a map by the local governing
23 body or the board in the absence of a local governing body, and that is

24 (A) an unincorporated community that is in the unorganized
25 borough and that has 25 or more permanent residents; or

26 (B) an unincorporated community that is in an organized
27 borough, has 25 or more permanent residents, and

28 (i) is on a road system and is located more than 50
29 miles outside the boundary limits of a unified municipality, or

30 (ii) is not on a road system and is located more than 15
31 miles outside the boundary limits of a unified municipality;

1 * Sec. 51. AS 15.07.064(g) is amended to read:

2 (g) In this section, "established village" means an unincorporated
3 community that is in

4 (A) the unorganized borough and that has 25 or more
5 permanent residents; or

6 (B) an organized borough, has 25 or more permanent
7 residents, and

8 (i) is on a road system and is located more than 50
9 miles outside the boundary limits of a unified municipality, or

10 (ii) is not on a road system and is located more than
11 15 miles outside the boundary limits of a unified municipality

12 [HAS THE MEANING GIVEN IN AS 04.21.080].

13 * Sec. 52. AS 18.65.085(a) is amended to read:

14 (a) There is established in the Department of Public Safety, division of state
15 troopers, a narcotic drugs and alcohol enforcement unit for the purpose of investigating
16 and combating the illicit sale and distribution of narcotic drugs and alcoholic beverages
17 in the state. Enforcement of the alcoholic beverage control laws shall focus primarily
18 on the investigation, apprehension, and conviction of persons who violate
19 AS 04.11.010 by selling, importing, or possessing alcoholic beverages in violation of
20 a local option [AN ORDINANCE] adopted by a municipality or established village
21 under AS 04.11.491 [AS 04.11.490 - 04.11.500].

22 * Sec. 53. AS 18.65.085(c) is amended to read:

23 (c) The Department of Public Safety may establish and administer a reward
24 program, and provide grants to municipalities, established villages, and, at the request
25 of a municipality or established village, to a nonprofit association that administers a
26 village public safety officer program, for reward programs leading to the apprehension
27 and conviction of persons who violate AS 04.11.010 by selling, importing, or
28 possessing alcoholic beverages in violation of a local option [AN ORDINANCE]
29 adopted by a municipality or established village under AS 04.11.491 [AS 04.11.490
30 - 04.11.500].

31 * Sec. 54. AS 29.20.270(e) is amended to read:

1 (e) The veto does not extend to an ordinance adopted under AS 04.11.501
2 [AS 04.11.498]. This subsection applies to home rule and general law municipalities.

3 * Sec. 55. AS 29.25.020(d) is amended to read:

4 (d) This section does not apply to an ordinance proposed under
5 AS 04.11.507(d) [AS 04.11.502(c)].

6 * Sec. 56. AS 29.25.070(d) is amended to read:

7 (d) This section does not apply to an ordinance adopted under AS 04.11.501(c)
8 [AS 04.11.498(d) OR (e)].

9 * Sec. 57. AS 29.35.080(a) is amended to read:

10 (a) A municipality may regulate the possession, barter, sale, importation, and
11 consumption of alcoholic beverages under AS 04.11.480 - 04.11.509 [IN
12 ACCORDANCE WITH AS 04.11.480 - 04.11.506] and AS 04.21.010.

13 * Sec. 58. AS 29.45.010 is amended by adding a new subsection to read:

14 (d) A municipality may not levy a property tax on alcoholic beverages.

15 * Sec. 59. AS 43.60.010(a) is amended to read:

16 (a) Every brewer, distiller, bottler, jobber, retailer, wholesaler, or manufacturer
17 who sells alcoholic beverages in the state or who consigns shipments of alcoholic
18 beverages into the state, whether or not the alcoholic beverages are brewed, distilled,
19 bottled, or manufactured in the state, shall pay on all malt beverages with an [(
20 alcoholic content of one percent or more by volume {})], wines, and hard or distilled
21 alcoholic beverages, the following taxes:

22 (1) malt beverages at the rate of 42 [35] cents a gallon or fraction of
23 a gallon;

24 (2) wine or other beverages of 21 percent alcohol by volume or less,
25 at the rate of \$1.02 [85 CENTS] a gallon or fraction of a gallon; and

26 (3) other beverages having a content of more than 21 percent alcohol
27 by volume at the rate of \$6.72 [\$5.60] a gallon.

28 * Sec. 60. AS 47.37.045(e) is amended to read:

29 (e) In this section,

30 (1) "established village" means an unincorporated community that
31 is in

1 (A) the unorganized borough and that has 25 or more
2 permanent residents; or

3 (B) an organized borough, has 25 or more permanent
4 residents, and

5 (i) is on a road system and is located more than 50
6 miles outside the boundary limits of a unified municipality, or

7 (ii) is not on a road system and is located more than
8 15 miles outside the boundary limits of a unified municipality
9 [HAS THE MEANING GIVEN IN AS 04.21.080(b)];

10 (2) "local governing body" has the meaning given in AS 04.21.080(b);

11 (3) "nonprofit organization" means an organization that qualifies for
12 exemption from taxation under 26 U.S.C. 501(c)(3) or (4) (Internal Revenue Code).

13 * Sec. 61. AS 04.11.190, 04.11.490, 04.11.492, 04.11.496, 04.11.498, 04.11.500, 04.11.502,
14 04.11.504, 04.11.506, and 04.11.510(d) are repealed.

15 * Sec. 62. TRANSITION: LOCAL OPTIONS EARLIER ADOPTED. Notwithstanding
16 the provisions of this Act, local options adopted by an area under AS 04.11.490, 04.11.492,
17 04.11.496, 04.11.498, or 04.11.500 or previous local option laws before the effective date of
18 this Act shall continue in effect until changed under AS 04.11.493 or removed under
19 AS 04.11.495. References in this Act to local option elections conducted under AS 04.11.491,
20 04.11.493, 04.11.495, 04.11.497, 04.11.499, 04.11.501, 04.11.503, 04.11.505, and 04.11.507
21 are to be interpreted to include local option elections conducted under AS 04.11.490,
22 04.11.492, 04.11.496, 04.11.498, 04.11.500, or 04.11.502 or previous local option laws in
23 effect before the effective date of this Act.

24 * Sec. 63. TRANSITION: COMMUNITY LIQUOR LICENSES. A community liquor
25 license issued under AS 04.11.190 before the effective date of this Act to operate a beverage
26 dispensary shall continue as a beverage dispensary license under AS 04.11.090. A community
27 liquor license issued under AS 04.11.190 before the effective date of this Act to operate a
28 package store shall continue as a package store license under AS 04.11.150.

29 * Sec. 64. TRANSITION. A person licensed under AS 04.11.160 on the effective date of
30 this section shall submit the information required under AS 04.11.160(f), added by sec. 7 of
31 this Act, by September 30, 1994.

1 * Sec. 65. This Act takes effect July 1, 1994.