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To: Terry

From: Rick

Re: SB 346

The question presented is ~~will~~ will the inactment of SB 346 emasculate the Uniform Alcoholism and Intoxication Treatment Act as indicated in the note to AS 47.37.250.

Answer: No

Reason: The note^{at 47.37.250} was the result of Peter v. State. The facts in Peter are that ~~the~~ State Trooper Sage arrested Peter after observing Peter in an intoxicated condition on a highway. Peter was brought to jail rather than his home. Later that night a burglary was reported and Trooper Sage recognized some of the missing items as having been taken from Peter as the result of a search incident to his arrest.

The question was did AS 47.37 impliedly repeal 13 AAC 02.175(c) which would mean Peter's arrest was illegal.

The court will find an implied repealer if a later act covers the whole subject of the earlier one and is clearly intended as a substitute. 13 AAC 02.175(c) provided "[a] person may not be upon or along a highway under the influence of an intoxicating liquor." ~~The~~ 13 AAC 10.115 defined highway to include public subdivision and the entire width between

property lines. The court ~~was~~ said that these two taken together were nothing more "than a law prohibiting public drunkenness in the guise of a traffic regulation" and hence should be impliedly repealed by AS 47.37.

SB 346 is not as ~~broad~~ all encompassing as 13 AAC.02.175(c) because ~~it~~ it is limited to the "traveled portion of a highway" and "so as to be a hazard to the motoring public." In other words SB 346 is not a bill imposing penalties for public drunkenness

Introduced: 4/3/75
Referred: Health, Education
and Social Services

1 IN THE SENATE

BY RAY, MILLER AND HUBER

2 SENATE BILL NO. 346

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the applicability of the Uniform
7 Alcoholism and Intoxication Treatment Act."

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

9 * Section 1. AS 47.37.250(a) is amended to read:

10 (a) Nothing in this chapter affects a statute, ordinance, or
11 regulation relating to (1) drunken driving, driving under the influence
12 of alcohol, or other similar offenses involving alcohol and the opera-
13 tion of a vehicle, aircraft, boat, machinery, or other equipment, [OR]
14 (2) the sale, purchase, dispensation, possession, or use of alcoholic
15 beverages at specified times and places or by a particular class of
16 persons, including prohibitions against drinking intoxicating beverages
17 in specified public places, or (3) being upon the traveled portion of
18 a highway while intoxicated, [so as to be a hazard] to the motoring
19 public.

21 *Uniform Act causes ambiguities with different specific
22 legal prohibitions in certain pages*

23 *needed for # 345*