

SB

365

(9)

COMMITTEE REPORT

2/4/80

HOUSE

FURTHER:

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had SB 365am

"An Act imposing penalties on persons who deal in intoxicating liquors without a license; and providing for an effective date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Charles H. ...

CHAIRMAN

2 HCS for SENATE BILL NO. 365 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act imposing penalties on persons who deal in

7 intoxicating liquors without a license; ~~and providing~~
8 *providing for the prohibition of possession AND importation of alcoholic*

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA: *the forfeiture of conveyances*

*Section 1. AS 04.10.430 is repealed and re-enacted to read:

Sec. 04.10.430.

ELECTION IN CITIES. (a) If 35 percent of the

total number of voters in the last regular municipal election held in

a city petition the governing body to do so, it shall place on the
ballot at the next regular municipal election the following questions:

(1) Should the sale of alcoholic beverages be permitted
within this city? YES [-]

NO []

(2) *Should* ~~If you favor~~ the sale of alcoholic beverages within
this city, ~~should the sale~~ be permitted under privately-owned
licenses or only under a community-run license? Check only one.

PRIVATELY-OWNED []

COMMUNITY-RUN []

(3) If you voted for a community-run license in question
(2), which type of license would you favor? ~~Check only one.~~

PACKAGE STORE []

TAVERN []

BOTH []

(4) Should the possession of alcoholic beverages be prohibited
within this city? YES ()

NO ()

(5) Should the importation of alcoholic beverages into this city
be prohibited? YES ()

NO ()

(6) Should the importation of alcoholic beverages into this
city only be permitted during the following holiday periods:

from Decmeber ~~25~~²³ to January 1, from July 3 to July 4, and from
the fourth Thursday in November (known as Thanksgiving Day) to the

following day? YES ()

NO ()

16 (b) The city election officials shall canvass the ballots cast
17 on questions and certify the election results to the board.

18 (c) If a majority of the votes cast on question (1) opposes
19 the sale of alcoholic beverages within the city, no licenses may
20 be issued, renewed or transferred within the city, and a new license
21 for a beverage dispensary or retail package store may not be issued
22 within five miles of the city. The expiration date of licenses in
23 effect within the city is coterminous with the date of election
24 certification. However, a licensee within the city is entitled to
25 retail stock permits, as authorized in AS 04.11.145(1) but without pay-
26 ment of the permit fee and irrespective of the type of license he holds.

27 (d) If a majority of the votes cast on question (1) favors the
28 sale of alcoholic beverages within the city, licenses may be issued,
29 renewed or transferred within the city or five miles of it in

1 accordance with the provisions of this title.

2 (e) If a majority of the votes cast on question (2) favors the
3 sale of alcoholic beverages only under a community-run license, no
4 licenses may be issued, renewed or transferred within the city, ^{except that} but a
5 community liquor license may be issued for a retail package store or
6 beverage dispensary, or both, as authorized by the voters at the
7 *? election. However, a license already issued within the city on Septem-
8 ? ber 10, 1972 and thereafter continuously renewed may be renewed or its
9 ownership transferred within the city irrespective of the restriction
10 of this subsection. The duration of other licenses within the city is
11 coterminous with the date of election certification; however, holders of
12 retail package store licenses within the city are entitled to retail
13 stock sales permits, as authorized in AS 04. ^{10. 140} ~~11.145(1)~~ and without pay-

3

(f) ~~6~~ If, upon receipt of certification of the results of a vote on the proposition set out in (a)(⁴~~1~~) of this section, the city clerk finds that a majority of the voters is against the possession of intoxicating liquor in the city, a person may not possess intoxicating liquor in the city ~~for one year~~, beginning on the first day of the month following certification of the results of the election.

(g) If, upon receipt of certification of the results of a vote on the proposition set out in (a)(⁵~~1~~) of this section, the city clerk finds that a majority of the voters is against the importation of intoxicating

liquor into the city, a person may not knowingly transport or import intoxicating liquor into the city, or receive or possess intoxicating liquor transported or imported into the city, ~~for one year~~, beginning on the first day of the month following certification of the results of the election.

(h) If a majority of the votes cast on question (6) favors the importation of alcoholic beverages into the city only during the specified holiday periods, a person may not import alcoholic beverages into the city except during those specified holiday periods beginning on the first day of the month following the certification of the results of the election.

(I) ~~3~~ If, following an election prohibiting or limiting the sale of alcoholic beverages within the city under (a) of this section, a majority of the voters at a subsequent regular municipal election under (a) of this section authorize the sale of alcoholic beverages under private licenses, the director upon application may issue only the same number and type of licenses to the same or other premises within the city as were in effect on the date of certification of the previous election. Those applicants who were licensees and whose licenses were not continued by reason of the previous election have priority in license issuance over other applicants. A license shall be issued to a prior licensee notwithstanding a resulting restriction, ~~whether under AS 04.01.050 or otherwise~~ which arose subsequent to the election.

(J) ~~199~~ If, upon receipt of certification of the results of a vote in a subsequent election on the proposition set out in (a)⁽⁴⁾~~(7)~~ of this section at an election held under this section, the city clerk finds that a majority of the voters favors the possession of intoxicating liquor, the prohibition on possession terminates on the first day of the month following certification of the results of the election.

(K) ~~200~~ If, upon receipt of certification of the results of a vote in a subsequent election on the proposition set out in (a)⁽⁵⁾~~(8)~~ of this section at an election held under this section, the city clerk finds that a majority of the voters favors the importation of intoxicating liquor, the prohibition of importation terminates on the first day of the month following certification of the results of the election.

(1) If, upon receipt of certification of the results of a vote in a subsequent election on the proposition set out in (a)(6) of this section at an election held under this section, the city clerk finds that a majority of the voters is opposed to limiting importation of alcoholic beverages during the specified holiday periods, the prohibition of importation terminates on the first day of the month following certification of the results of the election,



(m) ~~11~~ A license may not be suspended under this section during the year for which it was issued except for cause.

*Section 2. Amend Title 4 to add a new section to read:

Sec. 04.10.435.

LOCAL OPTION ELECTION MANDATORY IN CERTAIN

CITIES. No new license for the sale of alcoholic beverages may be issued within a city in which there is no licensed premises on

the effective date of this Act, unless a local option election under sec. 010 of this chapter is first conducted and sale authorized by the voters.

* Sec. 3. AS 04.15.110 is repealed and re-enacted to read:

Sec. 04.15.110. SALE, POSSESSION, AND IMPORTATION IN VIOLATION OF LOCAL OPTION. (a) A person who unlawfully sells or offers for sale an intoxicating liquor in an area where the local option election has made these activities illegal is, upon conviction,

CLASS A

(1) guilty of a^A misdemeanor if the quantity sold or offered for sale is less than 12 liters of distilled spirits, 24 liters of wine, or 45 liters of malt beverages; or

CLASS C

(2) guilty of a^A felony if the quantity sold or offered for sale is 12 liters or more of distilled spirits, 24 liters or more of wine, or 45 liters or more of malt beverages.

(b) A person who unlawfully possesses an intoxicating liquor in a community where a local option election has prohibited that activity is, upon conviction, guilty of a^A misdemeanor.

CLASS B

(c) A person who unlawfully imports an intoxicating liquor in a community where a local option election has prohibited that activity is, upon conviction,

CLASS A

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

CLASS C

(2) guilty of a^A felony if the quantity possessed is 12 liters or more of distilled spirits, 24 liters or more of wine, or 45 liters or more of malt beverages.

* Section 4. AS 04.15 is amended by adding a new section to read:

Sec. 04.15.095. PENALTIES FOR VIOLATIONS BY UNLICENSED PERSONS. A person who violates AS 04.10.010 is, upon conviction, guilty of

(1) a ^{CLASS A} misdemeanor, ~~and punishable by imprisonment for not more than one year, or by a fine of not more than \$5,000, or by both,~~

(2) a ^{CLASS C} felony ~~and punishable by imprisonment for not more than five years, or by a fine of not more than \$30,000, or by both,~~ if, in addition to the manufacture, sale, offer for sale, possession for sale, trafficking in, barter, or exchange for goods,

(A) the prohibited conduct involved a sale, barter, or exchange to a person under the age of 19 years, or

~~(B) the person had previously been convicted under this section.~~

* Sec. 5. AS 04.15.100(a) is amended to read:

(a) A person who violates any provision of this title other than ~~AS 04.15.100~~ ^{OR AS 04.15.110} ~~or AS 04.15.080~~, is guilty of a misdemeanor, and upon conviction is punishable by imprisonment of not more than one year, or by a fine of not more than \$500. Each violation is a separate offense.

*Section 6 Title 4 is amended by adding the following ~~sections~~ ^{Sections}
to read:

Sec. 04.15.115

SEIZURE, FORFEITURE AND SALE OF CONVEYANCE.

(a) A conveyance used, or intended for use, to transport or in any manner to facilitate the transportation, sale, receipt, possession or concealment of an alcoholic beverage sold in an area where a local option election has made its sale ^{possession, or importation} illegal may be seized when the seizure is incident to an arrest or a search under a search warrant.

(b) Upon conviction of the offender or upon judgment of the court having jurisdiction that a conveyance was used or intended for use to transport or in any manner to facilitate the transportation, sale, receipt, possession or concealment of an alcoholic beverage sold in an area where a local option election has made its sale, ^{possession} ^{importation} illegal, it is forfeited and shall be disposed of to the community in the local option area most directly affected by the sale or to the state, as directed by the court. If the conveyance is sold for the benefit of the state, the proceeds of the sale shall be transmitted to the proper state officer for deposit in the general fund. If not ordered disposed of by the court, a seized conveyance shall be returned after completion of the case and payment of the fine, if any.

(c) No conveyance used as a regularly-scheduled common carrier in the transaction of business as a common carrier is forfeited under

this section unless the owner or other person legally in charge of the conveyance consented to or had knowledge or reason to know of the illegal conduct.

(d) No conveyance is forfeited under this section because of conduct of a person, other than the owner, having unlawful possession of it.

Sec. 04.15.120.

APPEARANCE BY PERSON HAVING INTEREST IN

CONVEYANCE. A person holding a lien, mortgage, or conditional sales contract on a conveyance seized under sec. 050 of this chapter may appear before the court in the proceeding involving the forfeiture to petition for remittance or mitigation of the forfeiture. The court shall remit or mitigate the forfeiture if it finds that the petitioner has an interest in the conveyance which he acquired in good faith and without knowledge or reason to believe that the conveyance was being used or would be used in the transportation of an illegally sold alcoholic beverage.

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

file copy
JAY S. HAMMOND, GOVERNOR

POUCH 5
JUNEAU, ALASKA 99811

May 28, 1980

The Honorable Charles H. Parr
Chairman
House Judiciary Committee
Room 124 - Capitol Building
Juneau, Alaska 99811

Dear Mr. Chairman:

Re: House Committee Substitute for Senate Bill 365

House Committee Substitute for Senate Bill 365, an Act relating to alcoholic beverages, has passed in the Senate and has been referred to the House Judiciary Committee.

For the consideration of the House Judiciary Committee, I am enclosing a copy of a Fiscal Note prepared by Pat Sharrock, Director, Alcoholic Beverage Control Board, Anchorage concerning the proposed legislation.

Sincerely,



R. D. Stevenson
Special Assistant

cc: The Honorable Russ Meekins
Chairman
House Finance Committee

The Honorable John Sackett
Chairman
Senate Finance Committee

Joseph K. Donohue
Deputy Commissioner, Taxation
Department of Revenue

Patrick Sharrock, Director
Alcoholic Beverage Control Board
Department of Revenue

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HCSSB 365
 Title Relating to local options and penalties for violation of liquor law
 Requested by House Judiciary Committee Date _____

Original sponsor: Senator Ray, Title 4 Code Revision Committee

II. FISCAL DETAIL

Agency Affected Department of Revenue
 Program Category Affected Consumer Protection
 BRU, Program, or Subprogram(s) Affected Alcoholic Beverage Control Board
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE May 28, 1980 PREPARED BY Patrick L. Sharrock, Director
 AGENCY Alcoholic Beverage Control Board
 Original: Legislative Finance PHONE Anchorage 277-8638
 cc: Budget and Management Juneau 465-2300
 Prime Sponsor (First Legislator Named)

file copy

I. REQUEST

Bill/Resolution No. HOUSE CS FOR SENATE BILL NO 365
Title "An Act relating to local option and establishing penalties for
Requested by House Judiciary Committee Date May 28, 1980

violation of liquor laws."

II. FISCAL DETAIL

Agency Affected Department of Law
Program Category Affected Administration of Justice
BRU, Program, or Subprogram(s) Affected Prosecution

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This fiscal note should be read in conjunction with our comments provided in the fiscal note to SB 239. We originally provided a fiscal note for SB 365 on January 29, 1980. Since that date, the bill has been revised to provide for additional prohibitions concerning possession and transportation of intoxicating liquors. These new provisions will have a fiscal impact on prosecution activities which are detailed in our fiscal note to SB 239.

Richard I. Pegues

IV. DATE May 29, 1980

PREPARED BY Richard I. Pegues, Admin. Officer
AGENCY Department of Law
PHONE 465-3695

Original: Leg. Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

III. ANALYSIS (cont'd)

of Title 4. This strengthening of the local option penalties, found in Sec. 04.16.200(e)(f), has a valuable social purpose, but, it is one which will have a price. The major impact of this change will be felt in the Bethel judicial services area where the majority of communities having local option ordinances are located. This area is currently served by two attorneys, one bilingual paralegal and one secretary. The addition of new cases and an increase in the severity of cases will place a substantial new burden on the Bethel Office. This burden will be felt particularly by the single support staff person. Although the attorneys and the paralegal should be able to cope with this change in Title 4, at least until the full impact of the change is felt by the end of FY 81, there will be immediate impact on available clerical services. For this reason we are requesting the addition of a clerk/typist III at Bethel to handle the additional services which will be required by this part.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House CS for CS for Sponsor Substitute for Senate Bill No. 239
 Title "An Act relating to Alcoholic beverages; and providing for an effective date."
 Requested by House Judiciary Committee Date May 28, 1980

II. FISCAL DETAIL

Agency Affected Department of Law
 Program Category Affected Administration of Justice
 BRU, Program, or Subprogram(s) Affected Prosecution

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES		23.4	25.3	27.3	29.5	31.9
200 TRAVEL						
300 CONTRACTUAL		3.3	3.6	3.9	4.2	4.5
400 COMMODITIES		.5	.5	.6	.6	.7
500 EQUIPMENT		1.3				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		28.5	29.4	31.8	34.3	37.1

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND		28.5	29.4	31.8	34.3	37.1
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME		1.0	1.0	1.0	1.0	1.0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

There are two parts of this act which will have substantial impact on prosecution activities. The first is Sec. 04.16.040 which provides a misdemeanor penalty for an intoxicated person to knowingly enter or remain on premises licensed under Title 4. The extent to which this provision may be enforced is unknown. The impact, however, could be felt statewide and would be substantial if a program of selective enforcement were adopted as a local policy matter. Because the extent to which this provision may be enforced is unknown, the fiscal impact cannot be calculated at this time. The second part having an impact is that which provides for both misdemeanor and felony penalties for the possession and transportation of alcoholic beverages within local jurisdictions which have prohibited the sale and distribution of alcoholic beverages under the local option provisions

IV. DATE May 29, 1980 PREPARED BY Richard I. Pegues Admin. Officer
 AGENCY Department of Law
 PHONE 465-3695

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 365
 Title An Act imposing penalties on persons who deal in intoxicating liquors without a license
 Requested by Senator Sackett Date 1/28/80

II. FISCAL DETAIL

Agency Affected Department of Law
 Program Category Affected Administration of Justice
 BRU, Program, or Subprogram(s) Affected Prosecution
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)
EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This bill, which increases penalties on persons who deal in intoxicating liquors without a license, can be effectively enforced by state prosecutors without additional staffing, provided the Governor's FY81 budget recommendations are adopted. These recommendations concentrate prosecution efforts at the trial level and increase prosecution services in rural areas of the state. This bill is very similar to that portion of the Governor's proposed legislation consolidating and revising the laws relating to drug abuse which deals with intoxicating liquors. Both measures have the full endorsement of the Department of Law.

Richard I. Pegues

IV. DATE January 29, 1980 PREPARED BY Richard I. Pegues, Admin. Officer
 AGENCY Law
 PHONE 465-3695
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Guthrie
5-23-80 ✓

Original sponsors: Ferguson, Ray,
Colletta, et al

House
BY THE JUDICIARY COMMITTEE

1 IN THE SENATE

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
7 certain penalties for violations of liquor laws."

8 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:

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

~~or together with the questions authorized under AS 04.10.435 and AS 04.10.436~~

11 (a) The following question, appearing singly, may be placed before the
12 voters of a first or second class city or an established village in
13 accordance with AS 04.10.438: "Shall the sale of intoxicating liquor in
14(name of city or village) be prohibited? (yes or no)"

15 (b) If a majority of the voters vote "yes" on the question author-
16 ized in (a) of this section, the board shall be notified immediately
17 after certification of the results of the election and thereafter may
18 not issue, renew, or transfer between holders or locations a license for
19 licensed premises located within the boundaries of a city, the perimeter
20 of an established village, or in an unincorporated area outside of but
21 within five miles of the boundaries of a city or the perimeter of an
22 established village. As of midnight on the date the results of the
23 election are certified, licenses in effect within the boundaries of a
24 city, the perimeter of an established village, or in an unincorporated
25 area outside of but within five miles of the boundaries of a city or the
26 perimeter of an established village are void. However, if a retail
27 license is voided under this subsection, the holder of the voided retail
28 license shall be issued, upon application, a retail stock sale license
29 without the payment of the retail stock sale license fee if he fulfills

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

2 (c) If a majority of the voters vote "no" on the question author-
3 ized in (a) of this section or vote "yes" on a question authorized in
4 AS 04.10.432 or 04.10.437 in an election conducted in accordance with
5 AS 04.10.438 after an election in which the voters voted "yes" on the
6 question authorized in (a) of this section, the board shall be notified
7 immediately after certification of the results of the election. There-
8 after, the prohibitions imposed under (b) of this section on the issu-
9 ance, renewal, or transfer of licenses between holders and location as a
10 result of the earlier election in which the voters voted "yes" on the
11 question authorized in (a) of this section are removed.

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

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

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 author-
6 ized in (a) of this section, the city council of the city shall apply
7 for a beverage dispensary or retail liquor store license, or both,
8 depending on the terms of the question.

9 (d) If a majority of the voters vote "no" on the question author-
10 ized in (a) of this section or vote "yes" on a question authorized in
11 AS 04.10.431 or 04.10.433, ~~X~~ 04.10.⁴³⁴~~433~~ or 04.10.437 in an election con-
12 ducted in accordance with AS 04.10.438 after an election in which the
13 voters voted "yes" on the question authorized in (a) of this section,
14 the board shall be notified immediately after a certification of the
15 results of the election. As of midnight on the date the results of the
16 election are certified, a beverage dispensary or retail license held by
17 a city is void and thereafter the prohibitions imposed under (b) of this
18 section on the issuance, renewal, or transfer of licenses between
19 holders and locations as a result of the earlier election are removed.

20 Sec. 04.10.433. PROHIBITION OF POSSESSION AND IMPORTATION OF
21 INTOXICATING LIQUOR. (a) The following question, appearing singly, may
22 be placed before the voters of a first or second class city or an estab-
23 lished village in accordance with AS 04.10.438: "Shall the possession
24 and importation of intoxicating liquor be prohibited in(name of
25 city or village)? (yes or no)"

26 (b) If a majority of the voters vote "yes" on the question author-
27 ized in (a) of this section, a person, beginning on the first day of the
28 month following certification of the results of the election, may not
29 possess intoxicating liquor in the city or knowingly send, transport,

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

15 (c) If a majority of the voters vote "no" on the question author-
16 ized in (a) of this section or vote "yes" on the questions authorized in
17 AS 04.10.432 or 04.10.435 - 04.10.437 in an election conducted in ac-
18 cordance with AS 04.10.438 after an election in which the voters voted
19 "yes" on the question authorized in (a) of this section, the prohibition
20 on the possession and importation of intoxicating liquor imposed as a
21 result of the earlier election in which the voters voted "yes" on the
22 question authorized in (a) of this section is removed effective on the
23 first day of the month following certification of the results of the
24 election.

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

26 (a) The following question, appearing singly, may be placed before the
27 voters of a first or second class city or an established village in
28 accordance with AS 04.10.438: "Shall the importation of intoxicating
29 liquor into(name of city or village) be prohibited? (yes or no)"

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

21 (c) If a majority of the voters vote "no" on the question author-
22 ized in (a) of this section or vote "yes" on the question authorized in
23 AS 04.10.432, 04.10.435 or 04.10.437, in an election conducted in accor-
24 dance with AS 04.10.438 after an election in which the voter voted "yes
25 on the question authorized in (a) of this section, the prohibition on
26 importation of intoxicating liquor imposed as a result of the earlier
27 election is removed effective the first day of the month following
28 certification of the results of the election.

29 Sec. 04.10.435. PROHIBITION OF IMPORTATION OF INTOXICATING LIQUOR

1 EXCEPT DURING HOLIDAY PERIODS. (a) The following question, singly or
2 ~~the question authorized under AS 04.10.431, if the same holiday periods are authorized, or~~
3 ~~04.10.436 if the same holiday periods are listed on the ballot, or under~~
4 AS 04.10.437, may be placed before the voters of a first or second class
5 city or an established village in accordance with AS 04.10.438: "Shall
6 the importation of intoxicating liquor into(name of city or vil-
7 lage) be prohibited, except during(listing of holiday periods
8 during which the importation of intoxicating liquors would be permitted
9 if the measure passes)? (yes or no)"

10 (b) If a majority of the voters vote "yes" on the question author-
11 ized in (a) of this section, a person, except during the holiday periods
12 listed in the question, may not knowingly send, transport, or bring
13 intoxicating liquor into the city or village, or receive or possess
14 intoxicating liquor sent, transported, or brought into the city or
15 village beginning on the first day of the month following certification
16 of the results of the election. The board shall be notified immediately
17 after certification of the results of the election and thereafter may
18 not issue, renew, or transfer between holders or locations a license for
19 licensed premises located within the boundaries or perimeter of a city
20 or village, as well as an unincorporated area outside of but within five
21 miles of the boundaries or perimeter of a city or village. As of mid-
22 night on the date the results of the election are certified, license in
23 effect within the boundaries or perimeter of the city or village, as
24 well as in an unincorporated area outside of but within five miles of
25 the boundaries or perimeter of a city or village are void. However, if
26 a retail license is voided under this subsection, the holder of the
27 voided retail license shall be issued, upon application, a retail stock
28 sale license without the payment of the retail stock sale license fee if
29 he fulfills all other requirements for the issuance of a retail stock

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sale license.

(c) If a majority of the voters vote "no" on the question authorized in (a) of this section or vote "yes" on the question authorized in AS 04.10.433, 04.10.434, or 04.10.435 if different holiday periods are listed, in an election conducted in accordance with AS 04.10.438 after an election in which the voters voted "yes" on the question authorized in (a) of this section, the prohibition on importation imposed as a result of the earlier election is removed effective on the first day of the month following certification of the results of the election.

Sec. 04.10.436. PROHIBITION OF POSSESSION AND IMPORTATION OF INTOXICATING LIQUOR EXCEPT DURING HOLIDAY PERIODS. (a) The following question, singly or together with questions authorized under ^{either} AS 04.10.432 ~~and~~ ^{or} 04.10.437 if the same holiday periods are listed on the ballot, 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 possession and importation of intoxicating liquor be prohibited in(name of city or village), except during(listing of holiday periods during which the possession of intoxicating liquors would be permitted if the measure passes)? (yes or no)"

(b) If a majority of the voters vote "yes" on the question authorized in (a) of this section, a person, except during the holiday periods listed in the question, may not possess intoxicating liquor in the city or village or knowingly send, transport, or bring intoxicating liquor into the city or village, beginning on the first day of the month following certification of the results of the election. 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 location a license for licensed premises located within the boundaries or perimeter of a city or village, as well as in an unincorporated area

1 outside of but within five miles of the boundaries or perimeter of a
2 city or village. As of midnight on the date the results of the election
3 are certified, licenses in effect within the boundaries or perimeter of
4 the city or village, as well as an unincorporated area outside but
5 within five miles of the boundaries or perimeter of a city or village
6 are void. However, if a retail license is voided under this subsection,
7 the holder of the voided retail license shall be issued, upon appli-
8 cation, a retail stock sale license without payment of the retail stock
9 sale license fee if he fulfills all other requirements for the issuance
10 of a retail stock sale license.

11 (c) If a majority of the voters vote "no" on the question author-
12 ized in (a) of this section or vote "yes" on the question authorized in
13 ~~AS 04.10.434 or AS 04.10.435 and AS 04.10.436 if different holiday periods are listed on the~~
AS 04.10.438 ^{ballot} in an election conducted in accordance with AS 04.10.438
14 after an election in which the voters voted "yes" on the question autho-
15 rized in (a) of this section, the prohibition on possession or importa-
16 tion imposed as a result of the earlier election is removed effective on
17 the 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, appearing
21 ~~or together with the questions authorized under AS 04.10.435 and AS 04.10.436~~
singly, may be placed before the voters of a first or second class city
22 or an established village in accordance with AS 04.10.438: "Shall the
23 sale of intoxicating liquor be prohibited in(name of city or
24 village) except by(listing of the types of licenses which premises
25 would be exempted from the prohibition on the sale of liquor if the
26 measure passes)? (yes or no)"

27 (b) If a majority of the voters vote "yes" on the question author-
28 ized in (a) of this section, the board shall be notified immediately
29 after certification of the results of the election and thereafter may

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

15 (c) If a majority of the voters vote "no" on the question author-
16 ized in (a) of this section or vote "yes" on the questions authorized in
17 AS 04.10.431 - 04.10.436 ^{434 or AS 04.10.437 if different licenses are listed} in an election conducted in accordance with
18 AS 04.10.438 after an election in which the voters voted "yes" on the
19 question authorized in (a) of this section, the board shall be notified
20 immediately after certification of the results of the election. As of
21 midnight on the date the results of the election are certified, licenses
22 in effect in the city or village which were excepted from the prohib-
23 ition on sale in accordance with the results of the earlier election are
24 void and thereafter the board may not issue, renew, or transfer between
25 holders or locations a license for licensed premises located within the
26 boundaries or perimeter of the city or village, or in an unincorporated
27 area outside of but within five miles of the boundaries or perimeter of
28 a city or village, unless issued to a first or second class city under
29 AS 04.10.432.

1 Sec. 04.10.438. PROCEDURE FOR LOCAL OPTION ELECTIONS. (a) The
2 city council of a first or second class city, whenever a number of
3 registered voters equal to at least 35 percent of the number of votes
4 cast at the last regular city election petition the city council to do
5 so, shall place upon a separate ballot at the next regular election
6 whichever question or combination of questions authorized under AS 04.-
7 10.431 - 04.10.437 constitute the subject of the petition. The votes
8 shall be canvassed in accordance with election ordinances adopted under
9 AS 29.28.010 and the vote certified.

10 (b) The lieutenant governor, whenever 35 percent of the registered
11 voters residing within an established village petition the lieutenant
12 governor to do so, shall place upon a separate ballot at a special
13 election that question or combination of questions authorized under
14 AS 04.10.431, or 04.10.433 - 04.10.437 which constitutes the subject of
15 the petition. The lieutenant governor shall conduct the election in the
16 general manner prescribed by the Alaska Election Code (AS 15.05 - 15.60).

17 Sec. 04.10.439. REINSTATEMENT OF LICENSES. If a prohibition
18 imposed on the issuance, renewal, or transfer of licenses between holders
19 and locations under AS 04.10.431 - 04.10.437 is removed by a vote of
20 "no" on a question for which the majority of the people voted "yes" in
21 an earlier election, the board shall, upon application, issue the same
22 number and type of licenses which were in effect in the city on the date
23 of certification of the earlier election. If the prohibition imposed on
24 issuance, renewal, or transfer of licenses between holders and locations
25 is removed by a "yes" vote on a question authorized under AS 04.10.431 -
26 04.10.437, the board may issue the types of licenses specified in the
27 question presented to the voters in the subsequent election. Licenses
28 shall be issued for the same or other premises within the city or village
29 which were licensed on the date of certification of the earlier election

1 In issuing licenses, the board shall accord priority to those applicants
2 who held licenses which were voided on the date of certification of the
3 earlier election. The director of the board shall notify persons who
4 held licenses in the city or village on the date of certification of the
5 earlier election of their priority under this section.

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

7 (a) If a majority of the voters vote "yes" on a question authorized
8 under AS 04.10.431 - 04.10.437, the board shall immediately notify the
9 Department of Law and the Department of Public Safety of the results of
10 the election.

11 (b) If a majority of the voters vote "yes" on a question author-
12 ized under AS 04.10.433 - 04.10.436, the following actions, in addition
13 to those prescribed in (a) of this section, shall be undertaken before
14 the date the prohibition on importation or possession becomes effective:

15 (1) the board shall notify by registered mail all licensees
16 of the prohibition;

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

19 * Sec. 2. AS 04.10 is amended by adding a new section to article 3 to
20 read:

21 Sec. 04.10.315. LOCAL OPTION ELECTION REQUIRED IN DRY AREAS. (a)
22 The board may not issue a license for a premises to be located in a
23 first or second class city in which there are no licensed premises on
24 the effective date of this Act unless a majority of voters in a local
25 option election conducted in accordance with AS 04.10.438 have voted
26 "no" on the question authorized in AS 04.10.431, or have voted "yes" on
27 a question authorized in AS 04.10.432 or 04.10.437.

28 (b) The board may not issue a license for a premises to be located
29 in an established village in which there are no licensed premises on the

1 effective date of this Act unless a majority of the voters in a local
2 option election conducted in accordance with AS 04.10.438 have voted
3 "no" on the question authorized in AS 04.10.431, or have voted "yes" on
4 the question authorized in AS 04.10.437.

5 * Sec. 3. AS 04.15.070(a) is amended to read:

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

26 * Sec. 4. AS 04.15 is amended by adding a new section to read:

27 Sec. 04.15.095. PENALTIES FOR UNLAWFUL SALE, POSSESSION, AND
28 IMPORTATION. (a) A person who violates AS 04.10.010 is upon conviction
29 guilty of a class A misdemeanor.

1 (b) A person who violates AS 04.10.010 in an area where the result
2 of a local option election have, under AS 04.10.431 - 04.10.437, pro-
3 hibited the board from issuing, renewing or transferring any licenses or
4 permits under this title in the area is upon conviction guilty of a
5 class C felony, if

6 (1) he has previously been convicted of a violation of AS 04.
7 10.010;

8 (2) the sale or offer for sale was made to a person under 19
9 years of age and the quantity of intoxicating liquor manufactured, sold,
10 offered for sale, possessed for sale, trafficked in, bartered, or ex-
11 changed for goods is 12 liters or more of distilled spirits, 24 liters
12 or more of wine, or 45 liters or more of malt beverages.

13 (c) A person who possesses intoxicating liquor in violation of
14 AS 04.10.433(b) and 04.10.436(b) is, upon conviction, guilty of a class
15 misdemeanor.

16 (d) A person who transports or imports intoxicating liquor into a
17 city or village in violation of AS 04.10.434 or 04.10.435, or receives
18 or possesses intoxicating liquor transported or imported into the city
19 or village in violation of AS 04.10.434 or 04.10.435 is, upon conviction

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

23 (2) guilty of a class C felony if the quantity possessed is
24 12 liters or more of distilled spirits, 24 liters or more of wine, or 45
25 liters or more of malt beverages.

26 * Sec. 5. AS 04.15.100(a) is amended to read:

27 (a) Except as provided in AS 04.15.095, a [A] person who violates
28 any provision of this title other than AS 04.15.080 is guilty of a
29 misdemeanor, and upon conviction is punishable by imprisonment of not

1 more than one year, or by a fine of not more than \$500. Each violation
2 is a separate offense.

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

4 Sec. 04.15.115. SEIZURE, FORFEITURE, AND SALE OF CONVEYANCE. (a)
5 An aircraft, vehicle, or vessel is subject to forfeiture if used to
6 transport or facilitate the transportation of

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

14 (2) intoxicating liquor possessed in a city or village in
15 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 village in violation of AS 04.10.434 and 04.10.435.

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 Depart-
8 ment 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, 04.10.435, 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, 04.10.435,
12 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. 7. 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) "established village" means an unincorporated area that

29 (A) is within the perimeter of a circle described by

1 drawing a five-mile radius around a post office station; and

2 (B) has 25 or more permanent residents.

3 * Sec. 8. AS 04.10.110, 04.10.139, 04.10.300(b), 04.10.300(d), and 04.10.
4 430 are repealed.

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Original sponsors: Ferguson, Ray,
Colletta, et al

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
7 penalties for violations of liquor laws."

8 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:

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

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

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

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 incoxicating 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) i. 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 conviction,
26 guilty of a class A misdemeanor.

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

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

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

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