

SCOMM

#52:4

Original sponsor: Rules Committee by request

1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 700 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to regulation of alcoholic beverages
7 and enactment of municipal ordinances."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that
10 (1) abuse of alcohol seriously interferes with the rights and
11 privileges of the people of the state;
12 (2) the public health, safety, and welfare does in fact suffer
13 when alcohol abuse is not controlled;
14 (3) prohibition of alcohol in rural areas of the state is an
15 effective tool for controlling the abuse of alcohol;
16 (4) serious crimes and a wide variety of other social problems
17 could be prevented if the possession of alcohol were prohibited;
18 (5) there is a strong and unmistakable correlation between
19 alcohol consumption and poor health, fetal damage, suicide, domestic vio-
20 lence, and crime;
21 (6) the dangers resulting from alcohol abuse are particularly
22 acute in rural areas of the state because the communities are small, iso-
23 lated, without adequate law enforcement, without adequate health care
24 facilities, and populated by people who are closely related and interdepen-
25 dent;
26 (7) in communities that have chosen to ban the sale and importa-
27 tion of alcohol, most drinking takes place in private homes;
28 (8) the economic cost of alcohol abuse is high, and cannot be
29 afforded by the state or small rural communities; and

1 (9) a fine in the amount of \$1,000 or 200 hours of community
2 work, is not so severe a penalty as to indicate criminality in either rural
3 or urban Alaska communities.

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

5 Sec. 04.11.498. PROHIBITION OF POSSESSION OF ALCOHOLIC BEVER-
6 AGES. (a) The following question, appearing alone, may be placed
7 before the voters of a municipality or an established village in
8 accordance with AS 04.11.502: "Shall the possession of alcoholic
9 beverages be prohibited in (name of municipality or vil-
10 lage)? (yes or no)."

11 (b) If a majority of the voters of an established village vote
12 "yes" on the question set out in (a) of this section, and the sale of
13 alcoholic beverages, or the sale and importation of alcoholic bever-
14 ages, has been previously prohibited in the established village in
15 accordance with AS 04.11.490 or 04.11.494, a person, beginning on the
16 first day of the month following certification of the results of the
17 election, may not knowingly possess an alcoholic beverage in the
18 established village, unless the alcoholic beverage is wine to be used
19 for bona fide religious purposes based on tenets or teachings of a
20 church or religious body, is limited in quantity to the amount neces-
21 sary for religious purposes, and is dispensed only for religious
22 purposes, by a person recognized by the church or religious body as
23 authorized to dispense the wine. The board shall be notified immedi-
24 ately after certification of the results of the election and there-
25 after may not issue, renew, or transfer between holders or locations a
26 license for licensed premises located within the perimeter of the
27 established village as defined in AS 04.21.080(b)(8).

28 (c) If a majority of the voters of an established village vote
29 "yes" on the question set out in (a) of this section and the sale of

1 alcoholic beverages, or the sale and importation of alcoholic bever-
2 ages, has not been previously prohibited in the established village in
3 accordance with AS 04.11.490 or 04.11.494, and a person, beginning 90
4 days after certification of the results of the election, may not
5 knowingly possess an alcoholic beverage in the established village,
6 unless the person is licensed by the board or the alcoholic beverage
7 is 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
9 amount necessary for religious purposes, and is dispensed only for
10 religious purposes by a person by the church or religious body as
11 authorized to dispense the wine. The board shall be notified immedi-
12 ately after certification of the results of the election and there-
13 after may not issue, renew, or transfer between holders or locations a
14 license for licensed premises located within the perimeter of the
15 established village as defined in AS 04.21.080(b)(8). Licenses that
16 may not be renewed because of a local option election held under this
17 section are void 90 days after the results of the election are cer-
18 tified. A license that will expire during the 90 days after the
19 results of a local option election under this section are certified
20 may be extended until it is void under this section, by payment of a
21 prorated portion of the annual license fee.

22 (d) If a majority of the voters of a municipality vote "yes" on
23 the question set out in (a) of this section, and the sale of alcoholic
24 beverages, or the sale and importation of alcoholic beverages, has
25 been previously prohibited in the municipality in accordance with
26 AS 04.11.490 or 04.11.494, an ordinance is adopted that becomes effec-
27 tive beginning on the first day of the month following certification
28 of the results of the election, and a person may not knowingly possess
29 an alcoholic beverage in the municipality, unless the alcoholic

1 beverage is wine to be used for bona fide religious purposes based on
2 tenets or teachings of a church or religious body, is limited in
3 quantity to the amount necessary for religious purposes, and is dis-
4 pensed only for religious purposes, by a person recognized by the
5 church or religious body as authorized to dispense the wine. The
6 board shall be notified immediately after certification of the results
7 of the election and thereafter may not issue, renew, or transfer
8 between holders or locations a license for licensed premises located
9 within the boundaries of the municipality and within unincorporated
10 areas within five miles of the boundaries of the municipality.

11 (e) If the majority of the voters of a municipality vote "yes"
12 on the question set out in (a) of this section and the sale of alco-
13 holic beverages, or the sale and importation of alcoholic beverages,
14 has not been previously prohibited in the municipality in accordance
15 with AS 04.11.490 or 04.11.494, and an ordinance is adopted that
16 becomes effective beginning 90 days after certification of the results
17 of the election, and a person may not knowingly possess an alcoholic
18 beverage in the municipality, unless the alcoholic beverage is wine to
19 be used for bona fide religious purposes based on tenets or teachings
20 of a church or religious body, is limited in quantity to the amount
21 necessary for religious purposes, and is dispensed only for religious
22 purposes by a person recognized by the church or religious body as
23 authorized to dispense the wine. The board shall be notified immedi-
24 ately after the adoption of the ordinance and thereafter may not
25 issue, renew, or transfer between holders or locations a license for
26 licensed premises located within the boundaries of the municipality
27 and within unincorporated areas within five miles of the boundaries of
28 the municipality. Licenses that may not be renewed because of a local
29 option election held under this section are void 90 days after the

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

5 (f) If a majority of the voters vote "no" on the question set
6 out in (a) of this section or vote "yes" on the questions set out in
7 AS 04.11.492 or 04.11.500 in an election conducted in accordance with
8 AS 04.11.502 after an election in which the voters voted "yes" on the
9 question set out in (a) of this section, the prohibition on the pos-
10 session of alcoholic beverages is removed effective 90 days after the
11 results of the election are certified except as those prohibitions
12 continue to be imposed in accordance with the results of the subse-
13 quent election.

14 (g) For the purposes of this section, "possession" means having
15 physical possession of or exercising dominion or control over alco-
16 holic beverages, but does not include having alcoholic beverages
17 within the digestive system of a person.

18 * Sec. 3. AS 04.11.502 is amended by adding a new subsection to read:

19 (c) A petition filed with the local governing body of a munic-
20 ipality in accordance with (a) of this section, which places on the
21 ballot the question set out in AS 04.11.498, shall constitute a pro-
22 posed ordinance of the municipality.

23 * Sec. 4. AS 04.16 is amended by adding a new section to read:

24 Sec. 04.16.205. PENALTY FOR VIOLATING BAN ON POSSESSION OF
25 ALCOHOLIC BEVERAGES. (a) A person who possesses alcoholic beverages
26 in a municipality or established village in violation of AS 04.11.498
27 or an ordinance adopted under AS 04.11.498 may, upon conviction, be
28 punished by a fine not to exceed \$1,000. When a peace officer stops
29 or contacts a person concerning a violation of AS 04.11.498 or an

1 ordinance enacted under AS 04.11.498, the peace officer may, in the
2 officer's discretion, issue a citation to the person as provided in
3 AS 12.25.180.

4 (b) A person cited for a violation of AS 04.11.498 or an ordi-
5 nance adopted under AS 04.11.498 for which a bail amount has been
6 established under (c) of this section may, within 30 days after the
7 date the citation is issued

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

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

15 (c) The supreme court shall establish by rule or order a sched-
16 ule of bail amounts that may be forfeited without a court appearance
17 for a violation of AS 04.11.498 or an ordinance adopted under AS 04.-
18 11.498. In establishing the bail schedule the supreme court may
19 consider the quantity of alcoholic beverages possessed and the number
20 of prior violations of the person cited. Before establishing or
21 amending the schedule of bail amounts required by this subsection, the
22 supreme court shall appoint and consult with an advisory committee
23 consisting of the following seven persons: one superior court judge,
24 one magistrate from each judicial district in the state, a representa-
25 tive of the Department of Law, and a representative of the Public
26 Defender Agency. The maximum bail amount may not exceed \$1,000, and
27 the issuing officer shall write on the citation the amount of bail
28 applicable to the violation.

29 (d) Community work shall be performed at the direction of the

1 governing body of the municipality or the governing body of the estab-
2 lished village. The value of community work in lieu of a fine is
3 \$5.00 per hour. When the community work is completed, the person
4 cited for the violation shall mail or personally deliver to the clerk
5 of the court in which the citation is filed by the peace officer

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

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

13 (e) When bail has been forfeited or proof of performance of
14 community work under this section has been filed with the court, a
15 judgment shall be entered. Forfeiture of bail or filing proof of
16 performance of community work and forfeiture of all seized items is a
17 complete satisfaction for the violation. The clerk of court accepting
18 the bail or the form indicating performance of community work shall
19 provide the offender with a receipt stating that fact, if requested.

20 (f) If the person fails to pay the bail amount established under
21 (c) of this section, or fails to provide proof of performance as spec-
22 ified in (d)(1) of this section to the court, the citation is con-
23 sidered a summons.

24 (g) Notwithstanding other provisions of law, if a person cited
25 for a violation of AS 04.11.498 or an ordinance adopted under AS 04.-
26 11.498 for which a bail amount has been established under (c) of this
27 section appears in court and is found guilty, the penalty that is
28 imposed for the offense may not exceed the bail amount for that of-
29 fense established under (c) of this section.

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

6 (i) The commissioner of public safety shall prescribe and pro-
7 vide a suitable standard citation form that is in a form necessary to
8 identify the offender, to identify the offense, and to meet the needs
9 of public safety and administration of justice.

10 (j) A municipality shall adopt a citation form that is equiva-
11 lent to that prescribed by the commissioner under (i) of this section.

12 * Sec. 5. AS 04.16.220(a) is amended to read:

13 (a) The following are subject to forfeiture:

14 (1) alcoholic beverages manufactured, sold, offered for
15 sale or possessed for sale, bartered or exchanged for goods and ser-
16 vices in this state in violation of AS 04.11.010; alcoholic beverages
17 stocked, warehoused, or otherwise stored in violation of AS 04.21.060;
18 alcoholic beverages possessed, sold or offered for sale in an area
19 where the results of a local option election have, under AS 04.11.-
20 490 - 04.11.500, prohibited the possession of alcoholic beverages or
21 prohibited the board from issuing, renewing, or transferring one or
22 more licenses or permits under this title in the area; alcoholic
23 beverages transported into the state and sold to persons not licensed
24 under this chapter in violation of AS 04.16.170(b);

25 (2) materials and equipment used in the manufacture, sale,
26 offering for sale, possession for sale, barter or exchange of alco-
27 holic beverages for goods and services in this state in violation of
28 AS 04.11.010; materials and equipment used in the stocking, warehous-
29 ing, or storage of alcoholic beverages in violation of AS 04.21.060;

1 materials and equipment used in the sale or offering for sale of an
2 alcoholic beverage in an area where the results of a local option
3 election have, under AS 04.11.490 - 04.11.500, prohibited the board
4 from issuing, renewing, or transferring one or more licenses or per-
5 mits under this title in the area;

6 (3) aircraft, vehicles, or vessels used to transport, or
7 facilitate the transportation of

8 (A) alcoholic beverages manufactured, sold, offered
9 for sale or possessed for sale, bartered or exchanged for goods
10 and services in this state in violation of AS 04.11.010;

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

13 (C) alcoholic beverages imported into a municipality
14 or established village in violation of AS 04.11.496;

15 (4) alcoholic beverages found on licensed premises that
16 [WHICH] do not bear federal excise stamps if excise stamps are re-
17 quired under federal law;

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

20 * Sec. 6. AS 04.16.220(b) is amended to read:

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

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

29 (2) the property subject to seizure is the subject of a

1 prior judgment in favor of the state; or

2 (3) there is probable cause to believe that the property is
3 subject to forfeiture under (a) of this section; except for alcoholic
4 beverages possessed in violation of AS 04.11.498 or an ordinance
5 adopted under AS 04.11.498, property seized under this paragraph may
6 not be held over 48 hours or until an order of forfeiture is issued by
7 the court, whichever is earlier.

8 * Sec. 7. AS 04.16.220(d) is amended to read:

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

11 (1) upon conviction of a person under AS 04.11.010, 04.11.-
12 496(b), or AS 04.21.060 or upon entry of judgment under AS 04.11.498
13 or an ordinance adopted under AS 04.11.498;

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

17 * Sec. 8. AS 04.16.220(h) is amended to read:

18 (h) Alcoholic beverages forfeited under (d) of this section
19 shall be placed in the custody of a peace officer of the state and
20 destroyed no earlier than 30 days after forfeiture. All other prop-
21 erty [PROPERTY] forfeited under this section shall be placed in the
22 custody of the commissioner of public safety for disposition according
23 to an order entered by the court. The court shall order destroyed any
24 property forfeited under this section that [WHICH] is harmful to the
25 public. Other property shall be ordered sold and the proceeds used
26 for payment of expenses of the proceedings for forfeiture and sale,
27 including expenses of seizure, custody and court costs. The remainder
28 of the proceeds shall be deposited in the general fund.

29 * Sec. 9. AS 04.21.010(a) is amended to read:

1 (a) A municipality may adopt ordinances governing the barter,
2 sale, and consumption of alcoholic beverages within the municipality
3 as necessary for the orderly conduct of the business of selling alco-
4 holic beverages within the municipality and may ban possession of
5 alcoholic beverages under AS 04.11.498(d) or (e). An ordinance adopt-
6 ed under this section may not be inconsistent with this title or
7 regulations adopted under this title.

8 * Sec. 10. AS 04.21.080(b)(1) is repealed and reenacted to read:

9 (1) "alcoholic beverage" means spirituous, vinous, malt or
10 other fermented or distilled liquids, whatever the origin, that are
11 intended for human consumption as a beverage and that contain alcohol,
12 whether produced commercially or privately;

13 * Sec. 11. AS 04.21.080(b) is amended by adding a new paragraph to
14 read:

15 (12) "community work" means and is limited to work on
16 projects designed to reduce or eliminate environmental damage, protect
17 the public health, or improve public land, forests, parks, roads,
18 highways, facilities, or education; community work may not confer a
19 private benefit on a person except as may be incidental to the public
20 benefit.

21 * Sec. 12. AS 29.10.200 is amended by adding a new paragraph to read:

22 (47) AS 29.20.270(e) (ordinance veto by mayor).

23 * Sec. 13. AS 29.20.270(a) is amended to read:

24 (a) Except as provided in (c), [AND] (d) and (e) of this sec-
25 tion, the mayor may veto an ordinance, resolution, motion, or other
26 action of the governing body and may strike or reduce appropriation
27 items.

28 * Sec. 14. AS 29.20.270 is amended by adding a new subsection to read:

29 (e) The veto does not extend to an ordinance adopted under

1 AS 04.11.498. This subsection applies to home rule and general law
2 municipalities.

3 * Sec. 15. AS 29.25.020 is amended by adding a new subsection to read:
4

5 (d) This section does not apply to an ordinance proposed under
6 AS 04.11.502(c).

7 * Sec. 16. AS 29.25.070 is amended by adding a new subsection to read:

8 (d) This section does not apply to an ordinance adopted under
9 AS 04.11.498(d) or (e).

10 * Sec. 17. AS 29.35.080(a) is amended to read:

11 (a) A municipality may regulate the possession, barter, sale,
12 importation, and consumption of alcoholic beverages in accordance with
13 AS 04.11.480 - 04.11.506 and AS 04.21.010.

**HOUSE
COMMITTEE REPORT**

(11)

Date referred: 4/17/86

(Judiciary waived 4/17)

FURTHER REFERRALS:

DATE: 4-23-86

The FINANCE Committee has considered HB 700

"An Act relating to regulation of alcoholic beverages and enactment of municipal ordinances."

and recommends:

- ☐ do pass
- ☐ do not pass
- ☐ do pass with attached amendment(s)
- ☐ no recommendation

☒ replace with CSSH 700 (FIN) ☒ same title
☐ new title

and recommends do pass

☐ further referral to the _____ Committee

and attaches: ☐ letter of intent
☐ first fiscal note
☒ ~~new~~ fiscal note 4/17/86 19.9
☐ zero fiscal note

SIGNING DO PASS:

[Signature]
[Signature]
Mike Symanski
[Signature]
Ronald L. Jarry
Pat Pourchet
[Signature]
[Signature]
Dolene P. Riley
[Signature]

SIGNING OTHER RECOMMENDATIONS:

[Signature]
Chairman

A M E N D M E N T

Offered in the HOUSE

By Binkley

TO: CSSSHB 700(C&RA)

Page 1, line 27, delete "and"

Page 1, line 29, following "communities", delete "." and insert "; and"

Page 1, after line 29, insert a new paragraph to read:

"(9) a fine in the amount of \$1,000 or 200 hours of community work, is not so severe a penalty as to indicate criminality in either rural or urban Alaska communities."

Offered: 4/16/80
Referred: Judiciary and Finance

Original sponsor: Rules Committee

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

1 IN THE HOUSE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 700 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to regulation of alcoholic beverages
7 and enactment of municipal ordinances."

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

9 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that

10 (1) abuse of alcohol seriously interferes with the rights and
11 privileges of the people of the state;

12 (2) the public health, safety, and welfare does in fact suffer
13 when alcohol abuse is not controlled;

14 (3) prohibition of alcohol in rural areas of the state is an
15 effective tool for controlling the abuse of alcohol;

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17 could be prevented if the possession of alcohol were prohibited;

18 (5) there is a strong and unmistakable correlation between
19 alcohol consumption and poor health, fetal damage, suicide, domestic vio-
20 lence, and crime;

21 (6) the dangers resulting from alcohol abuse are particularly
22 acute in rural areas of the state because the communities are small, iso-
23 lated, without adequate law enforcement, without adequate health care
24 facilities, and populated by people who are closely related and interdepen-
25 dent;

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27 tion of alcohol, most drinking takes place in private homes; and

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29 afforded by the state or small rural communities.

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3 AGES. (a) The following question, appearing alone, may be placed
4 before the voters of a municipality or an established village in
5 accordance with AS 04.11.502: "Shall the possession of alcoholic
6 beverages be prohibited in (name of municipality or vil-
7 lage)? (yes or no)."

8 (b) If a majority of the voters of an established village vote
9 "yes" on the question set out in (a) of this section, and the sale of
10 alcoholic beverages, or the sale and importation of alcoholic bever-
11 ages, has been previously prohibited in the established village in
12 accordance with AS 04.11.490 or 04.11.494, a person, beginning on the
13 first day of the month following certification of the results of the
14 election, may not knowingly possess an alcoholic beverage in the
15 established village, unless the alcoholic beverage is wine to be used
16 for bona fide religious purposes based on tenets or teachings of a
17 church or religious body, is limited in quantity to the amount neces-
18 sary for religious purposes, and is dispensed only for religious
19 purposes, by a person recognized by the church or religious body as
20 authorized to dispense the wine. The board shall be notified immedi-
21 ately after certification of the results of the election and there-
22 after may not issue, renew, or transfer between holders or locations a
23 license for licensed premises located within the perimeter of the
24 established village as defined in AS 04.21.080(b)(8).

25 (c) If a majority of the voters of an established village vote
26 "yes" on the question set out in (a) of this section and the sale of
27 alcoholic beverages, or the sale and importation of alcoholic bever-
28 ages, has not been previously prohibited in the established village in
29 accordance with AS 04.11.490 or 04.11.494, and a person, beginning 90

1 days after certification of the results of the election, may not
2 knowingly possess an alcoholic beverage in the established village,
3 unless the person is licensed by the board or the alcoholic beverage
4 is wine to be used for bona fide religious purposes based on tenets or
5 teachings of a church or religious body, is limited in quantity to the
6 amount necessary for religious purposes, and is dispensed only for
7 religious purposes by a person by the church or religious body as
8 authorized to dispense the wine. The board shall be notified immedi-
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13 may not be renewed because of a local option election held under this
14 section are void 90 days after the results of the election are cer-
15 tified. A license that will expire during the 90 days after the
16 results of a local option election under this section are certified
17 may be extended until it is void under this section, by payment of a
18 prorated portion of the annual license fee.

19 (d) If a majority of the voters of a municipality vote "yes" on
20 the question set out in (a) of this section, and the sale of alcoholic
21 beverages, or the sale and importation of alcoholic beverages, has
22 been previously prohibited in the municipality in accordance with
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4 of the election and thereafter may not issue, renew, or transfer
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7 areas within five miles of the boundaries of the municipality.

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21 ately after the adoption of the ordinance and thereafter may not
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24 and within unincorporated areas within five miles of the boundaries of
25 the municipality. Licenses that may not be renewed because of a local
26 option election held under this section are void 90 days after the
27 results of the election are certified. A license that will expire
28 during the 90 days after the results of a local option election under
29 this section are certified may be extended, until it is void under

1 this section, by payment of a prorated portion of the annual fee.

2 (f) If a majority of the voters vote "no" on the question set
3 out in (a) of this section or vote "yes" on the questions set out in
4 AS 04.11.492 or 04.11.500 in an election conducted in accordance with
5 AS 04.11.502 after an election in which the voters voted "yes" on the
6 question set out in (a) of this section, the prohibition on the pos-
7 session of alcoholic beverages is removed effective 90 days after the
8 results of the election are certified except as those prohibitions
9 continue to be imposed in accordance with the results of the subse-
10 quent election.

11 (g) For the purposes of this section, "possession" means having
12 physical possession of or exercising dominion or control over alco-
13 holic beverages, but does not include having alcoholic beverages
14 within the digestive system of a person.

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17 ipality in accordance with (a) of this section, which places on the
18 ballot the question set out in AS 04.11.498, shall constitute a pro-
19 posed ordinance of the municipality.

20 * Sec. 4. AS 04.16 is amended by adding a new section to read:

21 Sec. 04.16.205. PENALTY FOR VIOLATING BAN ON POSSESSION OF
22 ALCOHOLIC BEVERAGES. (a) A person who possesses alcoholic beverages
23 in a municipality or established village in violation of AS 04.11.498
24 or an ordinance adopted under AS 04.11.498 may, upon conviction, be
25 punished by a fine not to exceed \$1,000. When a peace officer stops
26 or contacts a person concerning a violation of AS 04.11.498 or an
27 ordinance enacted under AS 04.11.498, the peace officer may, in the
28 officer's discretion, issue a citation to the person as provided in
29 AS 12.25.180.

1 (b) A person cited for a violation of AS 04.11.498 or an ordi-
2 nance adopted under AS 04.11.498 for which a bail amount has been
3 established under (c) of this section may, within 30 days after the
4 date the citation is issued

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

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

12 (c) The supreme court shall establish by rule or order a sched-
13 ule of bail amounts that may be forfeited without a court appearance
14 for a violation of AS 04.11.498 or an ordinance adopted under AS 04.-
15 11.498. In establishing the bail schedule the supreme court may
16 consider the quantity of alcoholic beverages possessed and the number
17 of prior violations of the person cited. Before establishing or
18 amending the schedule of bail amounts required by this subsection, the
19 supreme court shall appoint and consult with an advisory committee
20 consisting of the following seven persons: one superior court judge,
21 one magistrate from each judicial district in the state, a representa-
22 tive of the Department of Law, and a representative of the Public
23 Defender Agency. The maximum bail amount may not exceed \$1,000, and
24 the issuing officer shall write on the citation the amount of bail
25 applicable to the violation.

26 (d) Community work shall be performed at the direction of the
27 governing body of the municipality or the governing body of the estab-
28 lished village. The value of community work in lieu of a fine is
29 \$5.00 per hour. When the community work is completed, the person

1 cited for the violation shall mail or personally deliver to the clerk
2 of the court in which the citation is filed by the peace officer

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

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

10 (e) When bail has been forfeited or proof of performance of
11 community work under this section has been filed with the court, a
12 judgment shall be entered. Forfeiture of bail or filing proof of
13 performance of community work and forfeiture of all seized items is a
14 complete satisfaction for the violation. The clerk of court accepting
15 the bail or the form indicating performance of community work shall
16 provide the offender with a receipt stating that fact, if requested.

17 (f) If the person fails to pay the bail amount established under
18 (c) of this section, or fails to provide proof of performance as spec-
19 ified in (d)(1) of this section to the court, the citation is con-
20 sidered a summons.

21 (g) Notwithstanding other provisions of law, if a person cited
22 for a violation of AS 04.11.498 or an ordinance adopted under AS 04.-
23 11.498 for which a bail amount has been established under (c) of this
24 section appears in court and is found guilty, the penalty that is
25 imposed for the offense may not exceed the bail amount for that of-
26 fense established under (c) of this section.

27 (h) A violation of AS 04.11.498 or an ordinance adopted under
28 AS 04.11.498 may not be considered a criminal offense and may not
29 result in imprisonment, nor is a fine imposed for a violation

1 considered criminal punishment. A person cited for a violation does
2 not have a right to a jury trial or court appointed counsel.

3 (i) The commissioner of public safety shall prescribe and pro-
4 vide a suitable standard citation form that is in a form necessary to
5 identify the offender, to identify the offense, and to meet the needs
6 of public safety and administration of justice.

7 (j) A municipality shall adopt a citation form that is equiva-
8 lent to that prescribed by the commissioner under (i) of this section.

9 * Sec. 5. AS 04.16.220(a) is amended to read:

10 (a) The following are subject to forfeiture:

11 (1) alcoholic beverages manufactured, sold, offered for
12 sale or possessed for sale, bartered or exchanged for goods and ser-
13 vices in this state in violation of AS 04.11.010; alcoholic beverages
14 stocked, warehoused, or otherwise stored in violation of AS 04.21.060;
15 alcoholic beverages possessed, sold or offered for sale in an area
16 where the results of a local option election have, under AS 04.11.-
17 490 - 04.11.500, prohibited the possession of alcoholic beverages or
18 prohibited the board from issuing, renewing, or transferring one or
19 more licenses or permits under this title in the area; alcoholic
20 beverages transported into the state and sold to persons not licensed
21 under this chapter in violation of AS 04.16.170(b);

22 (2) materials and equipment used in the manufacture, sale,
23 offering for sale, possession for sale, barter or exchange of alco-
24 holic beverages for goods and services in this state in violation of
25 AS 04.11.010; materials and equipment used in the stocking, warehous-
26 ing, or storage of alcoholic beverages in violation of AS 04.21.060;
27 materials and equipment used in the sale or offering for sale of an
28 alcoholic beverage in an area where the results of a local option
29 election have, under AS 04.11.490 - 04.11.500, prohibited the board

1 from issuing, renewing, or transferring one or more licenses or per-
2 mits under this title in the area;

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

5 (A) alcoholic beverages manufactured, sold, offered
6 for sale or possessed for sale, bartered or exchanged for goods
7 and services in this state in violation of AS 04.11.010;

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

10 (C) alcoholic beverages imported into a municipality
11 or established village in violation of AS 04.11.496;

12 (4) alcoholic beverages found on licensed premises that
13 [WHICH] do not bear federal excise stamps if excise stamps are re-
14 quired under federal law;

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

17 * Sec. 6. AS 04.16.220(b) is amended to read:

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

1 beverages possessed in violation of AS 04.11.498 or an ordinance
2 adopted under AS 04.11.498, property seized under this paragraph may
3 not be held over 48 hours or until an order of forfeiture is issued by
4 the court, whichever is earlier.

5 * Sec. 7. AS 04.16.220(d) is amended to read:

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

8 (1) upon conviction of a person under AS 04.11.010, 04.11.-
9 496(b), or AS 04.21.060 or upon entry of judgment under AS 04.11.498
10 or an ordinance adopted under AS 04.11.498;

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

14 * Sec. 8. AS 04.16.220(h) is amended to read:

15 (h) Alcoholic beverages forfeited under (d) of this section
16 shall be placed in the custody of a peace officer of the state and
17 destroyed no earlier than 30 days after forfeiture. All other prop-
18 erty [PROPERTY] forfeited under this section shall be placed in the
19 custody of the commissioner of public safety for disposition according
20 to an order entered by the court. The court shall order destroyed any
21 property forfeited under this section that [WHICH] is harmful to the
22 public. Other property shall be ordered sold and the proceeds used
23 for payment of expenses of the proceedings for forfeiture and sale,
24 including expenses of seizure, custody and court costs. The remainder
25 of the proceeds shall be deposited in the general fund.

26 * Sec. 9. AS 04.21.010(a) is amended to read:

27 (a) A municipality may adopt ordinances governing the barter,
28 sale, and consumption of alcoholic beverages within the municipality
29 as necessary for the orderly conduct of the business of selling

1 alcoholic beverages within the municipality and may ban possession of
2 alcoholic beverages under AS 04.11.498(d) or (e). An ordinance adopt-
3 ed under this section may not be inconsistent with this title or
4 regulations adopted under this title.

5 * Sec. 10. AS 04.21.080(b)(1) is repealed and reenacted to read:
6 (1) "alcoholic beverage" means spirituous, vinous, malt or
7 other fermented or distilled liquids, whatever the origin, that are
8 intended for human consumption as a beverage and that contain alcohol,
9 whether produced commercially or privately;

10 * Sec. 11. AS 04.21.080(b) is amended by adding a new paragraph to
11 read:
12 (12) "community work" means and is limited to work on
13 projects designed to reduce or eliminate environmental damage, protect
14 the public health, or improve public land, forests, parks, roads,
15 highways, facilities, or education; community work may not confer a
16 private benefit on a person except as may be incidental to the public
17 benefit.

18 * Sec. 12. AS 29.10.200 is amended by adding a new paragraph to read:
19 (47) AS 29.20.270(e) (ordinance veto by mayor).

20 * Sec. 13. AS 29.20.270(a) is amended to read:
21 (a) Except as provided in (c), [AND] (d) and (e) of this sec-
22 tion, the mayor may veto an ordinance, resolution, motion, or other
23 action of the governing body and may strike or reduce appropriation
24 items.

25 * Sec. 14. AS 29.20.270 is amended by adding a new subsection to read:
26 (e) The veto does not extend to an ordinance adopted under
27 AS 04.11.498. This subsection applies to home rule and general law
28 municipalities.

29 * Sec. 15. AS 29.25.020 is amended by adding a new subsection to read:

1 (d) This section does not apply to an ordinance proposed under
2 ALS 04.11.502(c).

3 * Sec. 16. AS 29.25.070 is amended by adding a new subsection to read:

4 (d) This section does not apply to an ordinance adopted under
5 AS 04.11.498(d) or (e).

6 * Sec. 17. AS 29.35.080(a) is amended to read:

7 (a) A municipality may regulate the possession, barter, sale,
8 importation, and consumption of alcoholic beverages in accordance with
9 AS 04.11.480 - 04.11.506 and AS 04.21.010.

Sectional Analysis

Committee Substitute for Sponsor Substitute Bill for House Bill 700

"An Act relating to regulation of alcoholic beverages and enactment of municipal ordinances."

SECTION 1: Sets forth in Legislative Findings the specific reasons for amending the existing local option law.

SECTION 2: Provides established villages and municipalities the authority to hold elections to ban possession of alcohol, as an addition to the options for regulating alcohol allowed under current law. Following an election, alcoholic beverages would be banned by city ordinance in municipalities and by state statute in established villages. Excludes from the definition of possession "alcoholic beverages within the digestive system of a person."

SECTION 3: Specifies that a petition for local option election constitutes a proposed ordinance of a municipality.

SECTION 4: Sets penalty for possession of alcohol in violation of law as a maximum \$1,000 fine, for which community work, supervised by the governing body of the community, may be substituted at the option of the offender. Authorizes the Supreme Court to set a bail forfeiture schedule after consultation with an advisory committee. Mandates that the Commissioner of the Department of Public Safety develop a uniform citation form, which must be adopted by municipalities. Allows appearance on a citation to be waived, a plea of no contest to be entered, and bail and all alcoholic beverages seized to be forfeited. Specifies that possession of alcohol in violation of the law is not a criminal offense, and does not give rise to the right to jury trial or to court-appointed counsel.

SECTION 5: Provides that alcoholic beverages possessed in violation of a ban is subject to forfeiture.

SECTION 6: Provides an exception to the requirement that a court hearing be held within 48 hours of seizure of property subject to forfeiture for alcoholic beverages possessed in violation of a community ban on alcohol. This section does not change Alaska law

relating to search and seizure, rather it recognizes that alcohol possessed in violation of a ban is contraband and that a court hearing to consider the propriety of its seizure would have no purpose.

SECTION 7: Specifies that forfeiture may occur at the point when judgment has been entered on a citation.

SECTION 8: Requires that alcoholic beverages forfeited under the law be destroyed no earlier than 30 days after forfeiture.

SECTION 9: Authorizes municipalities to adopt ordinances banning possession of alcohol as set forth in Section 2 of CSSSHB700.

SECTION 10: Clarifies that the definition of alcoholic beverage includes privately produced beverages containing alcohol.

SECTION 11: Conforms Title 29 with Sections 2 and 9.

SECTION 12: Conforms Title 29 with Sections 2 and 9.

SECTION 13: Conforms Title 29 with Sections 2 and 9.

SECTION 14: Conforms Title 29 with Sections 2 and 9.

SECTION 15: Conforms Title 29 with Sections 2 and 9.

SECTION 16: Conforms Title 29 with Sections 2 and 9.

Alaska State Legislature

CHAIR
REPRESENTATIVE JOHNE BINKLEY

MEMBERS
SENATOR JOHN SACKETT
SENATOR EDNA DEVRIES
SENATOR VIC FISCHER
REPRESENTATIVE KATIE HURLEY
REPRESENTATIVE JOHN SUND

COUNSEL TO THE COMMITTEE
LAURIE H. OTTO



LOCAL OPTION COMMITTEE OFFICE
P.O. BOX 1672
BETHEL, AK 99559
(907) 543-3573

IN SESSION
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4737

Joint Special Committee On Local Option Laws

MEMORANDUM

TO: Mike Ford
Legislative Legal Counsel

FROM: Representative Johne Binkley, Chairman
Joint Special Committee on Local Option Laws

DATE: April 16, 1986

RE: Amendment to CSSSHB 700 - Local Option Legislation

This is to request the following amendment to CSSSHB 700, for consideration by the House Finance Committee.

Section 1. Legislative Findings. Add a new number (9) to read:

(9) a fine in the amount of \$1,000, or 200 hours of community work, is not so severe a penalty as to indicate criminality in either rural or urban Alaska communities.

**HOUSE
COMMITTEE REPORT**

(7)

Date referred: 4/4/86

JUDICIARY

FURTHER REFERRALS:

FINANCE

DATE: 4-14-86

The COMMUNITY AND
REGIONAL AFFAIRS Committee has considered SSHB 700

"An Act relating to regulation of alcoholic beverages and enactment of municipal ordinances."

and recommends:

☒ do pass

☐ do not pass

☐ do pass with attached amendment(s)

☐ no recommendation

☐ replace with CS SSHB 700 (C12A) ☒ same title

☐ new title

and recommends _____

☐ further referral to the _____ Committee

and attaches: ☐ letter of intent
☐ first fiscal note
☐ new fiscal note
☐ zero fiscal note

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Roll E. Bell

Wesley L. Humberg

F. Kay Wallis

John Kopman

Peter Joe

Peter Joe

Chairman

Introduced: 4/4/86
Referred: Community & Regional
Affairs, Judiciary and Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 700

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to regulation of alcoholic beverages
7 and enactment of municipal ordinances."

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

9 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that

10 (1) abuse of alcohol seriously interferes with the rights and
11 privileges of the people of the state;

12 (2) the public health, safety, and welfare does in fact suffer
13 when alcohol abuse is not controlled;

14 (3) prohibition of alcohol in rural areas of the state is an
15 effective tool for controlling the abuse of alcohol;

16 (4) serious crimes and a wide variety of other social problems
17 could be prevented if the possession of alcohol were prohibited;

18 (5) there is a strong and unmistakable correlation between
19 alcohol consumption and poor health, fetal damage, suicide, domestic vio-
20 lence, and crime;

21 (6) the dangers resulting from alcohol abuse are particularly
22 acute in rural areas of the state because the communities are small,
23 isolated, without adequate law enforcement, without adequate health care
24 facilities, and populated by people who are closely related and interdepen-
25 dent;

26 (7) in communities that have chosen to ban the sale and importa-
27 tion of alcohol, most drinking takes place in private homes; and

28 (8) the economic cost of alcohol abuse is high, and cannot be
29 afforded by the state or small rural communities.

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

2 Sec. 04.11.498. PROHIBITION OF POSSESSION OF ALCOHOLIC BEVER-
3 AGES. (a) The following question, appearing alone, may be placed
4 before the voters of a municipality or an established village in
5 accordance with AS 04.11.502: "Shall the possession of alcoholic
6 beverages be prohibited in (name of municipality or vil-
7 lage)? (yes or no)."

8 (b) If a majority of the voters of an established village vote
9 "yes" on the question set out in (a) of this section, a person, begin-
10 ning on the first day of the month following certification of the
11 results of the election, may not knowingly possess an alcoholic
12 beverage in the established village, unless the alcoholic beverage is
13 sacramental wine to be used for bona fide religious purposes based on
14 tenets or teachings of a church or religious body, is limited in
15 quantity to the amount necessary for religious purposes, and is dis-
16 pensed only for religious purposes by a person authorized by the
17 church or religious body to dispense the sacramental wine. The board
18 shall be notified immediately after certification of the results of
19 the election and thereafter may not issue, renew, or transfer between
20 holders or locations a license for licensed premises located within
21 the perimeter of the established village. Licenses that may not be
22 renewed because of a local option election held under this section are
23 void on the first day of the month following certification of the
24 election.

25 (c) If a majority of the voters of a municipality vote "yes" on
26 the question set out in (a) of this section, an ordinance is adopted
27 that becomes effective beginning on the first day of the month follow-
28 ing certification of the results of the election, and a person may not
29 knowingly possess an alcoholic beverage in the municipality, unless

Introduced: 4/4/86
Referred: Community & Regional
Affairs, Judiciary and Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 700

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to regulation of alcoholic beverages
7 and enactment of municipal ordinances."

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

9 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that

10 (1) abuse of alcohol seriously interferes with the rights and
11 privileges of the people of the state;

12 (2) the public health, safety, and welfare does in fact suffer
13 when alcohol abuse is not controlled;

14 (3) prohibition of alcohol in rural areas of the state is an
15 effective tool for controlling the abuse of alcohol;

16 (4) serious crimes and a wide variety of other social problems
17 could be prevented if the possession of alcohol were prohibited;

18 (5) there is a strong and unmistakable correlation between
19 alcohol consumption and poor health, fetal damage, suicide, domestic vio-
20 lence, and crime;

21 (6) the dangers resulting from alcohol abuse are particularly
22 acute in rural areas of the state because the communities are small,
23 isolated, without adequate law enforcement, without adequate health care
24 facilities, and populated by people who are closely related and interdepen-
25 dent;

26 (7) in communities that have chosen to ban the sale and importa-
27 tion of alcohol, most drinking takes place in private homes; and

28 (8) the economic cost of alcohol abuse is high, and cannot be
29 afforded by the state or small rural communities.

1 the alcoholic beverage is sacramental wine to be used for bona fide
2 religious purposes based on tenets or teachings of a church or reli-
3 gious body, is limited in quantity to the amount necessary for reli-
4 gious purposes, and is dispensed only for religious purposes by a
5 person authorized by the church or religious body to dispense the
6 sacramental wine. The board shall be notified immediately after the
7 adoption of the ordinance and thereafter may not issue, renew, or
8 transfer between holders or locations a license for licensed premises
9 located within the boundaries of the municipality and within unincor-
10 porated areas within five miles of the boundaries of the municipality.
11 Licenses that may not be renewed because of a local option election
12 held under this section are void on the first day of the month follow-
13 ing certification of the election.

14 (d) If a majority of the voters vote "no" on the question set
15 out in (a) of this section or vote "yes" on the questions set out in
16 AS 04.11.492 or 04.11.500 in an election conducted in accordance with
17 AS 04.11.502 after an election in which the voters voted "yes" on the
18 question set out in (a) of this section, the prohibition on the pos-
19 session of alcoholic beverages is removed effective 90 days after the
20 results of the election are certified except as those prohibitions
21 continue to be imposed in accordance with the results of the subse-
22 quent election.

23 (e) For the purposes of this section, "possession" means having
24 physical possession of or exercising dominion or control over alco-
25 holic beverages, but does not include having alcoholic beverages
26 within the digestive system of a person.

27 * Sec. 3. AS 04.11.502 is amended by adding a new subsection to read:

28 (c) A petition filed with the local governing body of a munic-
29 ipality in accordance with (a) of this section, which places on the

1 ballot the question set out in AS 04.11.498, shall constitute a pro-
2 posed ordinance of the municipality.

3 * Sec. 4. AS 04.16 is amended by adding a new section to read:

4 Sec. 04.16.205. PENALTY FOR VIOLATING BAN ON POSSESSION OF
5 ALCOHOLIC BEVERAGES. (a) A person who possesses alcoholic beverages
6 in a municipality or established village in violation of AS 04.11.498
7 or an ordinance adopted under AS 04.11.498 may, upon conviction, be
8 punished by a fine not to exceed \$1,000. When a peace officer stops
9 or contacts a person concerning a violation of AS 04.11.498 or an
10 ordinance enacted under AS 04.11.498, the peace officer may, in the
11 officer's discretion, issue a citation to the person as provided in
12 AS 12.25.180.

13 (b) A person cited for a violation of AS 04.11.498 or an ordi-
14 nance adopted under AS 04.11.498 for which a bail amount has been
15 established under (c) of this section may, within 30 days after the
16 date of the citation

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

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

24 (c) The supreme court shall establish by rule or order a sched-
25 ule of bail amounts that may be forfeited without a court appearance
26 for a violation of AS 04.11.498 or an ordinance adopted under AS 04.-
27 11.498. In establishing the bail schedule the supreme court may
28 consider the quantity of alcoholic beverages possessed and the number
29 of prior violations of the person cited. The maximum bail amount may

not exceed \$1,000, and if a citation is issued that may be disposed of without court appearance, the issuing officer shall write on the citation the amount of bail applicable to the violation.

(d) Community work shall be performed at the direction of the governing body of the municipality or the village council of the established village. The value of community work in lieu of a fine is \$5.00 per hour. When the community work is completed, the person cited for the violation shall mail or personally deliver to the clerk of the court in which the citation is filed by the peace officer

(1) a form, prescribed by the board, indicating completion of the community work; and

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

(e) When bail has been forfeited or community work performed under this section, a judgment of conviction shall be entered. Forfeiture of bail or performance of community work and forfeiture of all seized items is a complete satisfaction for the violation. The clerk of court accepting the bail or the form indicating performance of community work shall provide the offender with a receipt stating that fact.

(f) If the person fails to pay the bail amount established under (c) of this section or to perform community work as provided in (d) of this section, the citation is considered a summons.

(g) Notwithstanding other provisions of law, if a person cited for a violation of AS 04.11.498 or an ordinance adopted under AS 04.-11.498 for which a bail amount has been established under (c) of this section appears in court and is found guilty, the penalty that is

1 imposed for the offense may not exceed the bail amount for that
2 offense established under (c) of this section.

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

8 * Sec. 5. AS 04.16.220(a) is amended to read:

9 (a) The following are subject to forfeiture:

10 (1) alcoholic beverages manufactured, sold, offered for
11 sale or possessed for sale, bartered or exchanged for goods and ser-
12 vices in this state in violation of AS 04.11.010; alcoholic beverages
13 stocked, warehoused, or otherwise stored in violation of AS 04.21.060;
14 alcoholic beverages possessed, sold or offered for sale in an area
15 where the results of a local option election have, under AS 04.11.-
16 490 - 04.11.500, prohibited the possession of alcoholic beverages or
17 prohibited the board from issuing, renewing, or transferring one or
18 more licenses or permits under this title in the area; alcoholic
19 beverages transported into the state and sold to persons not licensed
20 under this chapter in violation of AS 04.16.170(b);

21 (2) materials and equipment used in the manufacture, sale,
22 offering for sale, possession for sale, barter or exchange of alco-
23 holic beverages for goods and services in this state in violation of
24 AS 04.11.010; materials and equipment used in the stocking, warehous-
25 ing, or storage of alcoholic beverages in violation of AS 04.21.060;
26 materials and equipment used in the sale or offering for sale of an
27 alcoholic beverage in an area where the results of a local option
28 election have, under AS 04.11.490 - 04.11.500, prohibited the board
29 from issuing, renewing, or transferring one or more licenses or

1 permits under this title in the area;

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

4 (A) alcoholic beverages manufactured, sold, offered
5 for sale or possessed for sale, bartered or exchanged for goods
6 and services in this state in violation of AS 04.11.010;

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

9 (C) alcoholic beverages imported into a municipality
10 or established village in violation of AS 04.11.496;

11 (D) alcoholic beverages possessed in violation of
12 AS 04.11.498 or an ordinance adopted under AS 04.11.498;

13 (4) alcoholic beverages found on licensed premises that
14 [WHICH] do not bear federal excise stamps if excise stamps are re-
15 quired under federal law;

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

18 * Sec. 6. AS 04.16.220(b) is amended to read:

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

26 (1) the seizure is incident to a valid arrest, [OR] search,
27 or a citation issued under AS 04.11.498 or an ordinance adopted under
28 AS 04.11.498;

29 (2) the property subject to seizure is the subject of a

1 prior judgment in favor of the state; or

2 (3) there is probable cause to believe that the property is
3 subject to forfeiture under (a) of this section; property seized under
4 this paragraph may not be held over 48 hours or until an order of
5 forfeiture is issued by the court, whichever is earlier.

6 * Sec. 7. AS 04.16.220(d) is amended to read:

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

9 (1) upon conviction of a person under AS 04.11.010, 04.11.-
10 496(b), 04.11.498, or AS 04.21.060;

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

14 * Sec. 8. AS 04.16.220(h) is amended to read:

15 (h) Alcoholic beverages forfeited under (d) of this section
16 shall be placed in the custody of a peace officer of the state and
17 destroyed not later than 30 days after forfeiture. All other property
18 [PROPERTY] forfeited under this section shall be placed in the custody
19 of the commissioner of public safety for disposition according to an
20 order entered by the court. The court shall order destroyed any
21 property forfeited under this section that [WHICH] is harmful to the
22 public. Other property shall be ordered sold and the proceeds used
23 for payment of expenses of the proceedings for forfeiture and sale,
24 including expenses of seizure, custody and court costs. The remainder
25 of the proceeds shall be deposited in the general fund.

26 * Sec. 9. AS 04.21.010(a) is amended to read:

27 (a) A municipality may adopt ordinances governing the barter,
28 sale, and consumption of alcoholic beverages within the municipality
29 as necessary for the orderly conduct of the business of selling

1 alcoholic beverages within the municipality and may ban possession of
2 alcoholic beverages under AS 04.11.498(c). An ordinance adopted under
3 this section may not be inconsistent with this title or regulations
4 adopted under this title.

5 * Sec. 10. AS 04.21.080(b)(1) is repealed and reenacted to read:

6 (1) "alcoholic beverage" means spirituous, vinous, malt or
7 other fermented or distilled liquids, whatever the origin, that are
8 intended for human consumption and that contain alcohol, whether
9 produced commercially or privately;

10 * Sec. 11. AS 29.10.200 is amended by adding a new paragraph to read:

11 (47) AS 29.20.270(e) (ordinance veto by mayor).

12 * Sec. 12. AS 29.20.270(a) is amended to read:

13 (a) Except as provided in (c), [AND] (d) and (e) of this sec-
14 tion, the mayor may veto an ordinance, resolution, motion, or other
15 action of the governing body and may strike or reduce appropriation
16 items.

17 * Sec. 13. AS 29.20.270 is amended by adding a new subsection to read:

18 (e) The veto does not extend to an ordinance adopted under
19 AS 04.11.498. This subsection applies to home rule and general law
20 municipalities.

21 * Sec. 14. AS 29.25.020 is amended by adding a new subsection to read:

22 (d) This section does not apply to an ordinance proposed under
23 AS 04.11.502(c).

24 * Sec. 15. AS 29.25.070 is amended by adding a new subsection to read:

25 (d) This section does not apply to an ordinance adopted under
26 AS 04.11.498(c).

27 * Sec. 16. AS 29.35.080(a) is amended to read:

28 (a) A municipality may regulate the possession, barter, sale,
29 importation, and consumption of alcoholic beverages in accordance with

1 AS 04.11.480 - 04.11.506 and AS 04.21.010.

Ford
4/1/86✓

1 IN THE HOUSE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 700
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to regulation of alcoholic beverages
7 and enactment of municipal ordinances."

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

9 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that

10 (1) abuse of alcohol seriously interferes with the rights and
11 privileges of the people of the state;

12 (2) the public health, safety, and welfare does in fact suffer
13 when alcohol abuse is not controlled;

14 (3) prohibition of alcohol in rural areas of the state is an
15 effective tool for controlling the abuse of alcohol;

16 (4) serious crimes and a wide variety of other social problems
17 could be prevented if the possession of alcohol were prohibited;

18 (5) there is a strong and unmistakable correlation between
19 alcohol consumption and poor health, fetal damage, suicide, domestic vio-
20 lence, and crime;

21 (6) the dangers resulting from alcohol abuse are particularly
22 acute in rural areas of the state because the communities are small,
23 isolated, without adequate law enforcement, without adequate health care
24 facilities, and populated by people who are closely related and interdepen-
25 dent;

26 (7) in communities that have chosen to ban the sale and importa-
27 tion of alcohol, most drinking takes place in private homes; and

28 (8) the economic cost of alcohol abuse is high, and cannot be
29 afforded by the state or small rural communities.

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

2 Sec. 04.11.498. PROHIBITION OF POSSESSION OF ALCOHOLIC BEVER-
3 AGES. (a) The following question, appearing alone, may be placed
4 before the voters of a municipality or an established village in
5 accordance with AS 04.11.502: "Shall the possession of alcoholic
6 beverages be prohibited in (name of municipality or vil-
7 lage)? (yes or no)."

8 (b) If a majority of the voters of an established village vote
9 "yes" on the question set out in (a) of this section, a person, begin-
10 ning on the first day of the month following certification of the
11 results of the election, may not knowingly possess an alcoholic
12 beverage in the established village, unless the alcoholic beverage is
13 sacramental wine to be used for bona fide religious purposes based on
14 tenets or teachings of a church or religious body, is limited in
15 quantity to the amount necessary for religious purposes, and is dis-
16 pensed only for religious purposes by a person authorized by the
17 church or religious body to dispense the sacramental wine. The board
18 shall be notified immediately after certification of the results of
19 the election and thereafter may not issue, renew, or transfer between
20 holders or locations a license for licensed premises located within
21 the perimeter of the established village. Licenses that may not be
22 renewed because of a local option election held under this section are
23 void on the first day of the month following certification of the
24 election.

25 (c) If a majority of the voters of a municipality vote "yes" on
26 the question set out in (a) of this section, an ordinance is adopted
27 that becomes effective beginning on the first day of the month follow-
28 ing certification of the results of the election, and a person may not
29 knowingly possess an alcoholic beverage in the municipality, unless

1 the alcoholic beverage is sacramental wine to be used for bona fide
2 religious purposes based on tenets or teachings of a church or reli-
3 gious body, is limited in quantity to the amount necessary for reli-
4 gious purposes, and is dispensed only for religious purposes by a
5 person authorized by the church or religious body to dispense the
6 sacramental wine. The board shall be notified immediately after the
7 adoption of the ordinance and thereafter may not issue, renew, or
8 transfer between holders or locations a license for licensed premises
9 located within the boundaries of the municipality and within unincor-
10 porated areas within five miles of the boundaries of the municipality.
11 Licenses that may not be renewed because of a local option election
12 held under this section are void on the first day of the month follow-
13 ing certification of the election.

14 (d) If a majority of the voters vote "no" on the question set
15 out in (a) of this section or vote "yes" on the questions set out in
16 AS 04.11.492 or 04.11.500 in an election conducted in accordance with
17 AS 04.11.502 after an election in which the voters voted "yes" on the
18 question set out in (a) of this section, the prohibition on the pos-
19 session of alcoholic beverages is removed effective 90 days after the
20 results of the election are certified except as those prohibitions
21 continue to be imposed in accordance with the results of the subse-
22 quent election.

23 (e) For the purposes of this section, "possession" means having
24 physical possession of or exercising dominion or control over alco-
25 holic beverages, but does not include having alcoholic beverages
26 within the digestive system of a person.

27 * Sec. 3. AS 04.11.502 is amended by adding a new subsection to read:

28 (c) A petition filed with the local governing body of a munic-
29 ipality in accordance with (a) of this section, which places on the

1 ballot the question set out in AS 04.11.498, shall constitute a pro-
2 posed ordinance of the municipality.

3 * Sec. 4. AS 04.16 is amended by adding a new section to read:

4 Sec. 04.16.205. PENALTY FOR VIOLATING BAN ON POSSESSION OF
5 ALCOHOLIC BEVERAGES. (a) A person who possesses alcoholic beverages
6 in a municipality or established village in violation of AS 04.11.498
7 or an ordinance adopted under AS 04.11.498 may, upon conviction, be
8 punished by a fine not to exceed \$1,000. When a peace officer stops
9 or contacts a person concerning a violation of AS 04.11.498 or an
10 ordinance enacted under AS 04.11.498, the peace officer may, in the
11 officer's discretion, issue a citation to the person as provided in
12 AS 12.25.180.

13 (b) A person cited for a violation of AS 04.11.498 or an ordi-
14 nance adopted under AS 04.11.498 for which a bail amount has been
15 established under (c) of this section may, within 30 days after the
16 date of the citation

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

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

24 (c) The supreme court shall establish by rule or order a sched-
25 ule of bail amounts that may be forfeited without a court appearance
26 for a violation of AS 04.11.498 or an ordinance adopted under AS 04.-
27 11.498. In establishing the bail schedule the supreme court may
28 consider the quantity of alcoholic beverages possessed and the number
29 of prior violations of the person cited. The maximum bail amount may

1 not exceed \$1,000, and if a citation is issued that may be disposed of
2 without court appearance, the issuing officer shall write on the
3 citation the amount of bail applicable to the violation.

4 (d) Community work shall be performed at the direction of the
5 governing body of the municipality or the village council of the
6 established village. The value of community work in lieu of a fine is
7 \$5.00 per hour. When the community work is completed, the person
8 cited for the violation shall mail or personally deliver to the clerk
9 of the court in which the citation is filed by the peace officer

10 (1) a form, prescribed by the board, indicating completion
11 of the community work; and

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

16 (e) When bail has been forfeited or community work performed
17 under this section, a judgment of conviction shall be entered. For-
18 feiture of bail or performance of community work and forfeiture of all
19 seized items is a complete satisfaction for the violation. The clerk
20 of court accepting the bail or the form indicating performance of
21 community work shall provide the offender with a receipt stating that
22 fact.

23 (f) If the person fails to pay the bail amount established under
24 (c) of this section or to perform community work as provided in (d) of
25 this section, the citation is considered a summons.

26 (g) Notwithstanding other provisions of law, if a person cited
27 for a violation of AS 04.11.498 or an ordinance adopted under AS 04.-
28 11.498 for which a bail amount has been established under (c) of this
29 section appears in court and is found guilty, the penalty that is

1 imposed for the offense may not exceed the bail amount for that
2 offense established under (c) of this section.

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

8 * Sec. 5. AS 04.16.220(a) is amended to read:

9 (a) The following are subject to forfeiture:

10 (1) alcoholic beverages manufactured, sold, offered for
11 sale or possessed for sale, bartered or exchanged for goods and ser-
12 vices in this state in violation of AS 04.11.010; alcoholic beverages
13 stocked, warehoused, or otherwise stored in violation of AS 04.21.060;
14 alcoholic beverages possessed, sold or offered for sale in an area
15 where the results of a local option election have, under AS 04.11.-
16 490 - 04.11.500, prohibited the possession of alcoholic beverages or
17 prohibited the board from issuing, renewing, or transferring one or
18 more licenses or permits under this title in the area; alcoholic
19 beverages transported into the state and sold to persons not licensed
20 under this chapter in violation of AS 04.16.170(b);

21 (2) materials and equipment used in the manufacture, sale,
22 offering for sale, possession for sale, barter or exchange of alco-
23 holic beverages for goods and services in this state in violation of
24 AS 04.11.010; materials and equipment used in the stocking, warehous-
25 ing, or storage of alcoholic beverages in violation of AS 04.21.060;
26 materials and equipment used in the sale or offering for sale of an
27 alcoholic beverage in an area where the results of a local option
28 election have, under AS 04.11.490 - 04.11.500, prohibited the board
29 from issuing, renewing, or transferring one or more licenses or

1 permits under this title in the area;

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

4 (A) alcoholic beverages manufactured, sold, offered
5 for sale or possessed for sale, bartered or exchanged for goods
6 and services in this state in violation of AS 04.11.010;

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

9 (C) alcoholic beverages imported into a municipality
10 or established village in violation of AS 04.11.496;

11 (D) alcoholic beverages possessed in violation of
12 AS 04.11.498 or an ordinance adopted under AS 04.11.498;

13 (4) alcoholic beverages found on licensed premises that
14 [WHICH] do not bear federal excise stamps if excise stamps are re-
15 quired under federal law;

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

18 * Sec. 6. AS 04.16.220(b) is amended to read:

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

26 (1) the seizure is incident to a valid arrest, [OR] search,
27 or a citation issued under AS 04.11.498 or an ordinance adopted under
28 AS 04.11.498;

29 (2) the property subject to seizure is the subject of a

1 prior judgment in favor of the state; or

2 (3) there is probable cause to believe that the property is
3 subject to forfeiture under (a) of this section; property seized under
4 this paragraph may not be held over 48 hours or until an order of
5 forfeiture is issued by the court, whichever is earlier.

6 * Sec. 7. AS 04.16.220(d) is amended to read:

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

9 (1) upon conviction of a person under AS 04.11.010, 04.11.-
10 496(b), 04.11.498, or AS 04.21.060;

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

14 * Sec. 8. AS 04.16.220(h) is amended to read:

15 (h) Alcoholic beverages forfeited under (d) of this section
16 shall be placed in the custody of a peace officer of the state and
17 destroyed not later than 30 days after forfeiture. All other property
18 [PROPERTY] forfeited under this section shall be placed in the custody
19 of the commissioner of public safety for disposition according to an
20 order entered by the court. The court shall order destroyed any
21 property forfeited under this section that [WHICH] is harmful to the
22 public. Other property shall be ordered sold and the proceeds used
23 for payment of expenses of the proceedings for forfeiture and sale,
24 including expenses of seizure, custody and court costs. The remainder
25 of the proceeds shall be deposited in the general fund.

26 * Sec. 9. AS 04.21.010(a) is amended to read:

27 (a) A municipality may adopt ordinances governing the barter,
28 sale, and consumption of alcoholic beverages within the municipality
29 as necessary for the orderly conduct of the business of selling

1 alcoholic beverages within the municipality and may ban possession of
2 alcoholic beverages under AS 04.11.498(c). An ordinance adopted under
3 this section may not be inconsistent with this title or regulations
4 adopted under this title.

5 * Sec. 10. AS 04.21.080(b)(1) is repealed and reenacted to read:

6 (1) "alcoholic beverage" means spirituous, vinous, malt or
7 other fermented or distilled liquids, whatever the origin, that are
8 intended for human consumption and that contain alcohol, whether
9 produced commercially or privately;

10 * Sec. 11. AS 29.10.200 is amended by adding a new paragraph to read:

11 (47) AS 29.20.270(e) (ordinance veto by mayor).

12 * Sec. 12. AS 29.20.270(a) is amended to read:

13 (a) Except as provided in (c), [AND] (d) and (e) of this sec-
14 tion, the mayor may veto an ordinance, resolution, motion, or other
15 action of the governing body and may strike or reduce appropriation
16 items.

17 * Sec. 13. AS 29.20.270 is amended by adding a new subsection to read:

18 (e) The veto does not extend to an ordinance adopted under
19 AS 04.11.498. This subsection applies to home rule and general law
20 municipalities.

21 * Sec. 14. AS 29.25.020 is amended by adding a new subsection to read:

22 (d) This section does not apply to an ordinance proposed under
23 AS 04.11.502(c).

24 * Sec. 15. AS 29.25.070 is amended by adding a new subsection to read:

25 (d) This section does not apply to an ordinance adopted under
26 AS 04.11.498(c).

27 * Sec. 16. AS 29.35.080(a) is amended to read:

28 (a) A municipality may regulate the possession, barter, sale,
29 importation, and consumption of alcoholic beverages in accordance with

1 AS 04.11.480 - 04.11.506 and AS 04.21.010.
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MEMORANDUM

TO: Mike Ford
Legislative Legal Counsel

FROM: Representative John Binkley, Chairman
Joint Special Committee on Local Option Laws

DATE: March 26, 1986

RE: Amendment to HB 700 - Local Option Legislation

This is to request the following three amendments to House Bill 700, prepared in Work Draft form.

Section 1. Legislative Findings. Add a new number (7) taken from Finding Number Ten of the Committee's report, and specifically the statement that "In communities which have chosen to ban the sale and importation of alcohol, most drinking takes place in private homes." Existing number (7) would move to (8).

New section following Section 5. Amending AS 04.16.220(b). Add to authority for seizure without a court order the authority to seize if the seizure is made incident to a citation issued under the new statutory authority.

Section 8. Amending AS 04.21.080(b)(1) Definitions. Change the definition of "alcoholic beverage" to mean "...spiritous, vinous, malt or other fermented or distilled liquids, whatever the origin, that are intended for human consumption and that contain alcohol, whether produced commercially or privately."

It is my understanding that you have discussed these changes with Laurie Otto, counsel to the Committee. I feel it will be helpful to have these changes incorporated in the text of the bill as it proceeds for consideration by committee members.

If you have further questions, please call my offices or Laurie directly.

BY THE RULES COMMITTEE BY
REQUEST OF ~~THE JOINT SPECIAL~~
~~COMMITTEE ON LOCAL OPTION LAWS~~

1 IN THE HOUSE

2 HOUSE BILL NO. 700

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to regulation of alcoholic beverages
7 and enactment of municipal ordinances."

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

9 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that

10 (1) abuse of alcohol seriously interferes with the rights and
11 privileges of the people of the state;

12 (2) the public health, safety, and welfare does in fact suffer
13 when alcohol abuse is not controlled;

14 (3) prohibition of alcohol in rural areas of the state is an
15 effective tool for controlling the abuse of alcohol;

16 (4) serious crimes and a wide variety of other social problems
17 could be prevented if the possession of alcohol were prohibited;

18 (5) there is a strong and unmistakable correlation between
19 alcohol consumption and poor health, fetal damage, suicide, domestic
20 violence, and crime;

21 (6) the dangers resulting from alcohol abuse are particularly
22 acute in rural areas of the state because the communities are small,
23 isolated, without adequate law enforcement, without adequate health care
24 facilities, and populated by people who are closely related and interdepen-
25 dent; and

26 (7) the economic cost of alcohol abuse is high, and cannot be
27 afforded by the state or small rural communities.

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

29 Sec. 04.11.498. PROHIBITION OF POSSESSION OF ALCOHOLIC

1 BEVERAGES. (a) The following question, appearing alone, may be
2 placed before the voters of a municipality or an established village
3 in accordance with AS 04.11.502: "Shall the possession of alcoholic
4 beverages be prohibited in (name of municipality or vil-
5 lage)? (yes or no)."

6 (b) If a majority of the voters of an established village vote
7 "yes" on the question set out in (a) of this section, a person, begin-
8 ning on the first day of the month following certification of the
9 results of the election, may not knowingly possess an alcoholic
10 beverage in the established village, unless the alcoholic beverage is
11 sacramental wine to be used for bona fide religious purposes based on
12 tenets or teachings of a church or religious body, is limited in
13 quantity to the amount necessary for religious purposes, and is dis-
14 pensed only for religious purposes by a person authorized by the
15 church or religious body to dispense the sacramental wine. The board
16 shall be notified immediately after certification of the results of
17 the election and thereafter may not issue, renew, or transfer between
18 holders or locations a license for licensed premises located within
19 the perimeter of the established village. Licenses that may not be
20 renewed because of a local option election held under this section are
21 void on the first day of the month following certification of the
22 election.

23 (c) If a majority of the voters of a municipality vote "yes" on
24 the question set out in (a) of this section, an ordinance is adopted
25 that becomes effective beginning on the first day of the month follow-
26 ing certification of the results of the election, and a person may not
27 knowingly possess an alcoholic beverage in the municipality, unless
28 the alcoholic beverage is sacramental wine to be used for bona fide
29 religious purposes based on tenets or teachings of a church or

1 religious body, is limited in quantity to the amount necessary for
2 religious purposes, and is dispensed only for religious purposes by a
3 person authorized by the church or religious body to dispense the
4 sacramental wine. The board shall be notified immediately after the
5 adoption of the ordinance and thereafter may not issue, renew, or
6 transfer between holders or locations a license for licensed premises
7 located within the boundaries of the municipality and within unincor-
8 porated areas within five miles of the boundaries of the municipality.
9 Licenses that may not be renewed because of a local option election
10 held under this section are void on the first day of the month follow-
11 ing certification of the election.

12 (d) If a majority of the voters vote "no" on the question set
13 out in (a) of this section or vote "yes" on the questions set out in
14 AS 04.11.492 or 04.11.500 in an election conducted in accordance with
15 AS 04.11.502 after an election in which the voters voted "yes" on the
16 question set out in (a) of this section, the prohibition on the pos-
17 session of alcoholic beverages is removed effective 90 days after the
18 results of the election are certified except as those prohibitions
19 continue to be imposed in accordance with the results of the subse-
20 quent election.

21 (e) For the purposes of this section, "possession" means having
22 physical possession of or exercising dominion or control over alco-
23 holic beverages, but does not include having alcoholic beverages
24 within the digestive system of a person.

25 * Sec. 3. AS 04.11.502 is amended by adding a new subsection to read:

26 (c) A petition filed with the local governing body of a munic-
27 ipality in accordance with (a) of this section, which places on the
28 ballot the question set out in AS 04.11.498, shall constitute a pro-
29 posed ordinance of the municipality.

1 * Sec. 4. AS 04.16 is amended by adding a new section to read:

2 Sec. 04.16.205. PENALTY FOR VIOLATING BAN ON POSSESSION OF
3 ALCOHOLIC BEVERAGES. (a) A person who possesses alcoholic beverages
4 in a municipality or established village in violation of AS 04.11.498
5 or an ordinance adopted under AS 04.11.498 may, upon conviction, be
6 punished by a fine not to exceed \$1,000. When a peace officer stops
7 or contacts a person concerning a violation of AS 04.11.498 or an
8 ordinance enacted under AS 04.11.498, the peace officer may, in the
9 officer's discretion, issue a citation to the person as provided in
10 AS 12.25.180.

11 (b) A person cited for a violation of AS 04.11.498 or an ordi-
12 nance adopted under AS 04.11.498 for which a bail amount has been
13 established under (c) of this section may, within 30 days after the
14 date of the citation

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

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

22 (c) The supreme court shall establish by rule or order a sched-
23 ule of bail amounts that may be forfeited without a court appearance
24 for a violation of AS 04.11.498 or an ordinance adopted under AS 04.-
25 11.498. In establishing the bail schedule the supreme court may
26 consider the quantity of alcoholic beverages possessed and the number
27 of prior violations of the person cited. The maximum bail amount may
28 not exceed \$1,000, and if a citation is issued that may be disposed of
29 without court appearance, the issuing officer shall write on the

1 citation the amount of bail applicable to the violation.

2 (d) Community work shall be performed at the direction of the
3 governing body of the municipality or the village council of the
4 established village. The value of community work in lieu of a fine is
5 \$5.00 per hour. When the community work is completed, the person
6 cited for the violation shall mail or personally deliver to the clerk
7 of the court in which the citation is filed by the peace officer

8 (1) a form, prescribed by the board, indicating completion
9 of the community work; and

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

14 (e) When bail has been forfeited or community work performed
15 under this section, a judgment of conviction shall be entered. For-
16 feiture of bail or performance of community work and forfeiture of all
17 seized items is a complete satisfaction for the violation. The clerk
18 of court accepting the bail or the form indicating performance of
19 community work shall provide the offender with a receipt stating that
20 fact.

21 (f) If the person fails to pay the bail amount established under
22 (c) of this section or to perform community work as provided in (d) of
23 this section, the citation is considered a summons.

24 (g) Notwithstanding other provisions of law, if a person cited
25 for a violation of AS 04.11.498 or an ordinance adopted under AS 04.-
26 11.498 for which a bail amount has been established under (c) of this
27 section appears in court and is found guilty, the penalty that is
28 imposed for the offense may not exceed the bail amount for that
29 offense established under (c) of this section.

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

6 * Sec. 5. AS 04.16.220(a) is amended to read:

7 (a) The following are subject to forfeiture:

8 (1) alcoholic beverages manufactured, sold, offered for
9 sale or possessed for sale, bartered or exchanged for goods and ser-
10 vices in this state in violation of AS 04.11.010; alcoholic beverages
11 stocked, warehoused, or otherwise stored in violation of AS 04.21.060;
12 alcoholic beverages possessed, sold or offered for sale in an area
13 where the results of a local option election have, under AS 04.11.-
14 490 - 04.11.500, prohibited the possession of alcoholic beverages or
15 prohibited the board from issuing, renewing, or transferring one or
16 more licenses or permits under this title in the area; alcoholic
17 beverages transported into the state and sold to persons not licensed
18 under this chapter in violation of AS 04.16.170(b);

19 (2) materials and equipment used in the manufacture, sale,
20 offering for sale, possession for sale, barter or exchange of alco-
21 holic beverages for goods and services in this state in violation of
22 AS 04.11.010; materials and equipment used in the stocking, warehous-
23 ing, 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
25 alcoholic beverage in an area where the results of a local option
26 election have, under AS 04.11.490 - 04.11.500, prohibited the board
27 from issuing, renewing, or transferring one or more licenses or per-
28 mits under this title in the area;

29 (3) aircraft, vehicles, or vessels used to transport, or

1 facilitate the transportation of

2 (A) alcoholic beverages manufactured, sold, offered
3 for sale or possessed for sale, bartered or exchanged for goods
4 and services in this state in violation of AS 04.11.010;

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

7 (C) alcoholic beverages imported into a municipality
8 or established village in violation of AS 04.11.496;

9 (D) alcoholic beverages possessed in violation of
10 AS 04.11.498 or an ordinance adopted under AS 04.11.498;

11 (4) alcoholic beverages found on licensed premises that
12 [WHICH] do not bear federal excise stamps if excise stamps are re-
13 quired under federal law;

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

16 * Sec. 6. AS 04.16.220(d) is amended to read:

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

19 (1) upon conviction of a person under AS 04.11.010, 04.11.-
20 496(b), 04.11.498, or AS 04.21.060;

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

24 * Sec. 7. AS 04.16.220(h) is amended to read:

25 (h) Alcoholic beverages forfeited under (d) of this section
26 shall be placed in the custody of a peace officer of the state and
27 destroyed not later than 30 days after forfeiture. All other property
28 [PROPERTY] forfeited under this section shall be placed in the custody
29 of the commissioner of public safety for disposition according to an

1 order entered by the court. The court shall order destroyed any
2 property forfeited under this section that [WHICH] is harmful to the
3 public. Other property shall be ordered sold and the proceeds used
4 for payment of expenses of the proceedings for forfeiture and sale,
5 including expenses of seizure, custody and court costs. The remainder
6 of the proceeds shall be deposited in the general fund.

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

8 (a) A municipality may adopt ordinances governing the barter,
9 sale, and consumption of alcoholic beverages within the municipality
10 as necessary for the orderly conduct of the business of selling alco-
11 holic beverages within the municipality and may ban possession of
12 alcoholic beverages under AS 04.11.498(c). An ordinance adopted under
13 this section may not be inconsistent with this title or regulations
14 adopted under this title.

15 * Sec. 9. AS 04.21.080(b)(1) is repealed and reenacted to read:

16 (1) "alcoholic beverage" means spirituous, vinous, malt or
17 other fermented or distilled liquids, whatever the origin, that are
18 intended for human consumption and that contain more than one percent
19 alcohol by volume, whether produced commercially or privately;

20 * Sec. 10. AS 29.10.200 is amended by adding a new paragraph to read:

21 (47) AS 29.20.270(e) (ordinance veto by mayor).

22 * Sec. 11. AS 29.20.270(a) is amended to read:

23 (a) Except as provided in (c), [AND] (d) and (e) of this sec-
24 tion, the mayor may veto an ordinance, resolution, motion, or other
25 action of the governing body and may strike or reduce appropriation
26 items.

27 * Sec. 12. AS 29.20.270 is amended by adding a new subsection to read:

28 (e) The veto does not extend to an ordinance adopted under
29 AS 04.11.498. This subsection applies to home rule and general law

1 municipalities.

2 * Sec. 13. AS 29.25.020 is amended by adding a new subsection to read:

3 (d) This section does not apply to an ordinance proposed under
4 AS 04.11.502(c).

5 * Sec. 14. AS 29.25.070 is amended by adding a new subsection to read:

6 (d) This section does not apply to an ordinance adopted under
7 AS 04.11.498(c).

8 * Sec. 15. AS 29.35.080(a) is amended to read:

9 (a) A municipality may regulate the possession, barter, sale,
10 importation, and consumption of alcoholic beverages in accordance with
11 AS 04.11.480 - 04.11.506 and AS 04.21.010.

14-1943
Ford
3/19/86

BY THE RULES COMMITTEE BY
REQUEST OF THE JOINT SPECIAL
COMMITTEE ON LOCAL OPTION LAWS

1 IN THE HOUSE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to regulation of alcoholic beverages
7 and enactment of municipal ordinances."

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

9 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that

10 (1) abuse of alcohol seriously interferes with the rights and
11 privileges of the people of the state;

12 (2) the public health, safety, and welfare does in fact suffer
13 when alcohol abuse is not controlled;

14 (3) prohibition of alcohol in rural areas of the state is an
15 effective tool for controlling the abuse of alcohol;

16 (4) serious crimes and a wide variety of other social problems
17 could be prevented if the possession of alcohol were prohibited;

18 (5) there is a strong and unmistakable correlation between
19 alcohol consumption and poor health, fetal damage, suicide, domestic
20 violence, and crime;

21 (6) the dangers resulting from alcohol abuse are particularly
22 acute in rural areas of the state because the communities are small,
23 isolated, without adequate law enforcement, without adequate health care
24 facilities, and populated by people who are closely related and interdepen-
25 dent; and

26 (7) the economic cost of alcohol abuse is high, and cannot be
27 afforded by the state or small rural communities.

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

29 Sec. 04.11.498. PROHIBITION OF POSSESSION OF ALCOHOLIC

1 BEVERAGES. (a) The following question, appearing alone, may be
2 placed before the voters of a municipality or an established village
3 in accordance with AS 04.11.502: "Shall the possession of alcoholic
4 beverages be prohibited in (name of municipality or vil-
5 lage)? (yes or no)."

6 (b) If a majority of the voters of an established village vote
7 "yes" on the question set out in (a) of this section, a person, begin-
8 ning on the first day of the month following certification of the
9 results of the election, may not knowingly possess an alcoholic
10 beverage in the established village, unless the alcoholic beverage is
11 sacramental wine to be used for bona fide religious purposes based on
12 tenets or teachings of a church or religious body, is limited in
13 quantity to the amount necessary for religious purposes, and is dis-
14 pensed only for religious purposes by a person authorized by the
15 church or religious body to dispense the sacramental wine. The board
16 shall be notified immediately after certification of the results of
17 the election and thereafter may not issue, renew, or transfer between
18 holders or locations a license for licensed premises located within
19 the perimeter of the established village. Licenses that may not be
20 renewed because of a local option election held under this section are
21 void on the first day of the month following certification of the
22 election.

23 (c) If a majority of the voters of a municipality vote "yes" on
24 the question set out in (a) of this section, an ordinance is adopted
25 that becomes effective beginning on the first day of the month follow-
26 ing certification of the results of the election, and a person may not
27 knowingly possess an alcoholic beverage in the municipality, unless
28 the alcoholic beverage is sacramental wine to be used for bona fide
29 religious purposes based on tenets or teachings of a church or

1 religious body, is limited in quantity to the amount necessary for
2 religious purposes, and is dispensed only for religious purposes by a
3 person authorized by the church or religious body to dispense the
4 sacramental wine. The board shall be notified immediately after the
5 adoption of the ordinance and thereafter may not issue, renew, or
6 transfer between holders or locations a license for licensed premises
7 located within the boundaries of the municipality and within unincor-
8 porated areas within five miles of the boundaries of the municipality.
9 Licenses that may not be renewed because of a local option election
10 held under this section are void on the first day of the month follow-
11 ing certification of the election.

12 (d) If a majority of the voters vote "no" on the question set
13 out in (a) of this section or vote "yes" on the questions set out in
14 AS 04.11.492 or 04.11.500 in an election conducted in accordance with
15 AS 04.11.502 after an election in which the voters voted "yes" on the
16 question set out in (a) of this section, the prohibition on the pos-
17 session of alcoholic beverages is removed effective 90 days after the
18 results of the election are certified except as those prohibitions
19 continue to be imposed in accordance with the results of the subse-
20 quent election.

21 (e) For the purposes of this section, "possession" means having
22 physical possession of or exercising dominion or control over alco-
23 holic beverages, but does not include having alcoholic beverages
24 within the digestive system of a person.

25 * Sec. 3. AS 04.11.502 is amended by adding a new subsection to read:

26 (c) A petition filed with the local governing body of a munic-
27 ipality in accordance with (a) of this section, which places on the
28 ballot the question set out in AS 04.11.498, shall constitute a pro-
29 posed ordinance of the municipality.

1 * Sec. 4. AS 04.16 is amended by adding a new section to read:

2 Sec. 04.16.205. PENALTY FOR VIOLATING BAN ON POSSESSION OF
3 ALCOHOLIC BEVERAGES. (a) A person who possesses alcoholic beverages
4 in a municipality or established village in violation of AS 04.11.498
5 or an ordinance adopted under AS 04.11.498 may, upon conviction, be
6 punished by a fine not to exceed \$1,000. When a peace officer stops
7 or contacts a person concerning a violation of AS 04.11.498 or an
8 ordinance enacted under AS 04.11.498, the peace officer may, in the
9 officer's discretion, issue a citation to the person as provided in
10 AS 12.25.180.

11 (b) A person cited for a violation of AS 04.11.498 or an ordi-
12 nance adopted under AS 04.11.498 for which a bail amount has been
13 established under (c) of this section may, within 30 days after the
14 date of the citation

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

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

22 (c) The supreme court shall establish by rule or order a sched-
23 ule of bail amounts that may be forfeited without a court appearance
24 for a violation of AS 04.11.498 or an ordinance adopted under AS 04.-
25 11.498. In establishing the bail schedule the supreme court may
26 consider the quantity of alcoholic beverages possessed and the number
27 of prior violations of the person cited. The maximum bail amount may
28 not exceed \$1,000, and if a citation is issued that may be disposed of
29 without court appearance, the issuing officer shall write on the

1 citation the amount of bail applicable to the violation.

2 (d) Community work shall be performed at the direction of the
3 governing body of the municipality or the village council of the
4 established village. The value of community work in lieu of a fine is
5 \$5.00 per hour. When the community work is completed, the person
6 cited for the violation shall mail or personally deliver to the clerk
7 of the court in which the citation is filed by the peace officer

8 (1) a form, prescribed by the board, indicating completion
9 of the community work; and

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

14 (e) When bail has been forfeited or community work performed
15 under this section, a judgment of conviction shall be entered. For-
16 feiture of bail or performance of community work and forfeiture of all
17 seized items is a complete satisfaction for the violation. The clerk
18 of court accepting the bail or the form indicating performance of
19 community work shall provide the offender with a receipt stating that
20 fact.

21 (f) If the person fails to pay the bail amount established under
22 (c) of this section or to perform community work as provided in (d) of
23 this section, the citation is considered a summons.

24 (g) Notwithstanding other provisions of law, if a person cited
25 for a violation of AS 04.11.498 or an ordinance adopted under AS 04.-
26 11.498 for which a bail amount has been established under (c) of this
27 section appears in court and is found guilty, the penalty that is
28 imposed for the offense may not exceed the bail amount for that
29 offense established under (c) of this section.

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

6 * Sec. 5. AS 04.16.220(a) is amended to read:

7 (a) The following are subject to forfeiture:

8 (1) alcoholic beverages manufactured, sold, offered for
9 sale or possessed for sale, bartered or exchanged for goods and ser-
10 vices in this state in violation of AS 04.11.010; alcoholic beverages
11 stocked, warehoused, or otherwise stored in violation of AS 04.21.060;
12 alcoholic beverages possessed, sold or offered for sale in an area
13 where the results of a local option election have, under AS 04.11.-
14 490 - 04.11.500, prohibited the possession of alcoholic beverages or
15 prohibited the board from issuing, renewing, or transferring one or
16 more licenses or permits under this title in the area; alcoholic
17 beverages transported into the state and sold to persons not licensed
18 under this chapter in violation of AS 04.16.170(b);

19 (2) materials and equipment used in the manufacture, sale,
20 offering for sale, possession for sale, barter or exchange of alco-
21 holic beverages for goods and services in this state in violation of
22 AS 04.11.010; materials and equipment used in the stocking, warehous-
23 ing, 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
25 alcoholic beverage in an area where the results of a local option
26 election have, under AS 04.11.490 - 04.11.500, prohibited the board
27 from issuing, renewing, or transferring one or more licenses or per-
28 mits under this title in the area;

29 (3) aircraft, vehicles, or vessels used to transport, or

1 facilitate the transportation of

2 (A) alcoholic beverages manufactured, sold, offered
3 for sale or possessed for sale, bartered or exchanged for goods
4 and services in this state in violation of AS 04.11.010;

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

7 (C) alcoholic beverages imported into a municipality
8 or established village in violation of AS 04.11.496;

9 (D) alcoholic beverages possessed in violation of
10 AS 04.11.498 or an ordinance adopted under AS 04.11.498;

11 (4) alcoholic beverages found on licensed premises that
12 [WHICH] do not bear federal excise stamps if excise stamps are re-
13 quired under federal law;

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

16 * Sec. 6. AS 04.16.220(h) is amended to read:

17 (h) Property forfeited under this section shall be placed in the
18 custody of the commissioner of public safety for disposition according
19 to an order entered by the court. The court shall order destroyed all
20 alcoholic beverages [ANY PROPERTY] forfeited under this section and
21 any other property that [WHICH] is harmful to the public. Other
22 property shall be ordered sold and the proceeds used for payment of
23 expenses of the proceedings for forfeiture and sale, including ex-
24 penses of seizure, custody and court costs. The remainder of the
25 proceeds shall be deposited in the general fund.

26 * Sec. 7. AS 04.21.010(a) is amended to read:

27 (a) A municipality may adopt ordinances governing the barter,
28 sale, and consumption of alcoholic beverages within the municipality
29 as necessary for the orderly conduct of the business of selling

*equipment
home brew*

1 alcoholic beverages within the municipality and may ban possession of
2 alcoholic beverages under AS 04.11.498(c). An ordinance adopted under
3 this section may not be inconsistent with this title or regulations
4 adopted under this title.

5 * Sec. 8. AS 04.21.080(b)(1) is repealed and reenacted to read:

6 (1) "alcoholic beverage" means spirituous, vinous, malt or
7 other fermented or distilled liquids, whatever the origin, that are
8 intended for use as a beverage and that contain more than one percent
9 alcohol by volume, whether produced commercially or privately;

10 * Sec. 9. AS 29.10.200 is amended by adding a new paragraph to read:

11 (47) AS 29.20.270(e) (ordinance veto by mayor).

12 * Sec. 10. AS 29.20.270(a) is amended to read:

13 (a) Except as provided in (c), [AND] (d) and (e) of this sec-
14 tion, the mayor may veto an ordinance, resolution, motion, or other
15 action of the governing body and may strike or reduce appropriation
16 items.

17 * Sec. 11. AS 29.20.270 is amended by adding a new subsection to read:

18 (e) The veto does not extend to an ordinance adopted under
19 AS 04.11.498. This subsection applies to home rule and general law
20 municipalities.

21 * Sec. 12. AS 29.25.020 is amended by adding a new subsection to read:

22 (d) This section does not apply to an ordinance proposed under
23 AS 04.11.502(c).

24 * Sec. 13. AS 29.25.070 is amended by adding a new subsection to read:

25 (d) This section does not apply to an ordinance adopted under
26 AS 04.11.498(c).

27 * Sec. 14. AS 29.35.080(a) is amended to read:

28 (a) A municipality may regulate the possession, barter, sale,
29 importation, and consumption of alcoholic beverages in accordance with

1 AS 04.11.480 - 04.11.506 and AS 04.21.010.
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3/4/86

1 IN THE HOUSE

BY THE JOINT SPECIAL COMMITTEE
ON LOCAL OPTION LAWS

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to regulation of alcoholic beverages
7 and enactment of municipal ordinances."

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

9 * Section 1. AS 04.11 is amended by adding a new section to read:

10 Sec. 04.11.498. PROHIBITION OF POSSESSION OF ALCOHOLIC BEVER-
11 AGES. (a) The following question, appearing alone, may be placed
12 before the voters of a municipality or an established village in
13 accordance with AS 04.11.502: "Shall the possession of alcoholic
14 beverages be prohibited in (name of municipality or vil-
15 lage)? (yes or no)."

16 (b) If a majority of the voters of an established village vote
17 "yes" on the question set out in (a) of this section, a person, begin-
18 ning on the first day of the month following certification of the
19 results of the election, may not knowingly possess an alcoholic
20 beverage in the established village, unless the alcoholic beverage is
21 sacramental wine to be used for bona fide religious purposes based on
22 tenets or teachings of a church or religious body, is limited in
23 quantity to the amount necessary for religious purposes, and is dis-
24 pensed only for religious purposes by a person authorized by the
25 church or religious body to dispense the sacramental wine. The board
26 shall be notified immediately after certification of the results of
27 the election and thereafter may not issue, renew, or transfer between
28 holders or locations a license for licensed premises located within
29 the perimeter of the established village. Licenses that may not be

1 renewed because of a local option election held under this section are
2 void on the first day of the month following certification of the
3 election.

4 (c) If a majority of the voters of a municipality vote "yes" on
5 the question set out in (a) of this section, an ordinance is adopted
6 that becomes effective beginning on the first day of the month follow-
7 ing certification of the results of the election, and a person may not
8 knowingly possess an alcoholic beverage in the municipality, unless
9 the alcoholic beverage is sacramental wine to be used for bona fide
10 religious purposes based on tenets or teachings of a church or reli-
11 gious body, is limited in quantity to the amount necessary for reli-
12 gious purposes, and is dispensed only for religious purposes by a
13 person authorized by the church or religious body to dispense the
14 sacramental wine. The board shall be notified immediately after the
15 enactment of the ordinance and thereafter may not issue, renew, or
16 transfer between holders or locations a license for licensed premises
17 located within the boundaries of the municipality and within unincor-
18 porated areas within five miles of the boundaries of the municipality.
19 Licenses that may not be renewed because of a local option election
20 held under this section are void on the first day of the month follow-
21 ing certification of the election.

22 (d) If a majority of the voters vote "no" on the question set
23 out in (a) of this section or vote "yes" on the questions set out in
24 AS 04.11.492 or 04.11.500 in an election conducted in accordance with
25 AS 04.11.502 after an election in which the voters voted "yes" on the
26 question set out in (a) of this section, the prohibition on the pos-
27 session of alcoholic beverages is removed effective 90 days after the
28 results of the election are certified except as those prohibitions
29 continue to be imposed in accordance with the results of the

1 subsequent election.

2 (e) For the purposes of this section, "possession" means having
3 physical possession or exercising dominion or control over alcoholic
4 beverages, but does not include containing alcoholic beverages within
5 the digestive system of a person.

6 * Sec. 2. AS 04.11.502 is amended by adding a new subsection to read:

7 (c) A petition filed with the local governing body of a munic-
8 ipality in accordance with (a) of this section, that places on the
9 ballot the question set out in AS 04.11.498, shall constitute a pro-
10 posed ordinance of the municipality.

11 * Sec. 3. AS 04.16 is amended by adding a new section to read:

12 Sec. 04.16.205. PENALTY FOR VIOLATING BAN ON POSSESSION OF
13 ALCOHOLIC BEVERAGES. (a) A person who possesses alcoholic beverages
14 in a municipality or established village in violation of AS 04.11.498
15 may, upon conviction, be punished by a fine not to exceed \$1,000.
16 When a peace officer stops or contacts a person concerning a violation
17 of AS 04.11.498 or an ordinance enacted under AS 04.11.498, the peace
18 officer may, in the officer's discretion, issue a citation to the
19 person as provided in AS 12.25.180.

20 (b) A person cited for a violation of AS 04.11.498 for which a
21 bail amount has been established under (c) of this section may, within
22 30 days after the date of the citation

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

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

1 (c) The supreme court shall establish by rule or order a sched-
2 ule of bail amounts that may be forfeited without a court appearance
3 for a violation of AS 04.11.498. In establishing the bail schedule
4 the supreme court may consider the quantity of alcoholic beverages
5 possessed and the number of prior violations of the person cited. The
6 maximum bail amount may not exceed \$1,000, and if a citation is issued
7 that may be disposed of without court appearance, the issuing officer
8 shall write on the citation the amount of bail applicable to the
9 violation.

10 (d) Community work shall be performed at the direction of the
11 governing body of the municipality or the village council of the
12 established village. The value of community work in lieu of a fine is
13 \$5.00 per hour. When the community work is completed, the person
14 cited for the violation shall mail or personally deliver to the clerk
15 of the court in which the citation is filed by the peace officer

16 (1) a form, prescribed by the board, indicating completion
17 of the community work; and

18 (2) a copy of the citation, indicating that the right to an
19 appearance is waived, a plea of no contest is entered, and that the
20 bail is forfeited or community work has been performed.

21 (e) When bail has been forfeited or community work performed
22 under this section, a judgment of conviction shall be entered. For-
23 feiture of bail and all seized items or performance of community work
24 is a complete satisfaction for the violation. The clerk of court
25 accepting the bail or the form indicating performance of community
26 work shall provide the offender with a receipt stating that fact.

27 (f) If the person fails to pay the bail amount established under
28 (c) of this section or to perform community work as provided in (d) of
29 this section, the citation is considered a summons.

1 (g) Notwithstanding other provisions of law, if a person cited
2 for a violation of AS 04.11.498 for which a bail amount has been
3 established under (c) of this section appears in court and is found
4 guilty, the penalty that is imposed for the offense may not exceed the
5 bail amount for that offense established under (c) of this section.

6 * Sec. 4. AS 04.16.220(a) is amended to read:

7 (a) The following are subject to forfeiture:

8 (1) alcoholic beverages manufactured, sold, offered for
9 sale or possessed for sale, bartered or exchanged for goods and ser-
10 vices in this state in violation of AS 04.11.010; alcoholic beverages
11 stocked, warehoused, or otherwise stored in violation of AS 04.21.060;
12 alcoholic beverages possessed, sold or offered for sale in an area
13 where the results of a local option election have, under AS 04.11.-
14 490 - 04.11.500, prohibited the possession of alcoholic beverages or
15 prohibited the board from issuing, renewing, or transferring one or
16 more licenses or permits under this title in the area; alcoholic
17 beverages transported into the state and sold to persons not licensed
18 under this chapter in violation of AS 04.16.170(b);

19 (2) materials and equipment used in the manufacture, sale,
20 offering for sale, possession for sale, barter or exchange of alco-
21 holic beverages for goods and services in this state in violation of
22 AS 04.11.010; materials and equipment used in the stocking, warehous-
23 ing, 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
25 alcoholic beverage in an area where the results of a local option
26 election have, under AS 04.11.490 - 04.11.500, prohibited the board
27 from issuing, renewing, or transferring one or more licenses or per-
28 mits under this title in the area;

29 (3) aircraft, vehicles, or vessels used to transport, or

1 facilitate the transportation of

2 (A) alcoholic beverages manufactured, sold, offered
3 for sale or possessed for sale, bartered or exchanged for goods
4 and services in this state in violation of AS 04.11.010;

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

7 (C) alcoholic beverages imported into a municipality
8 or established village in violation of AS 04.11.496;

9 (D) alcoholic beverages possessed in violation of
10 AS 04.11.498;

11 (4) alcoholic beverages found on licensed premises that
12 [WHICH] do not bear federal excise stamps if excise stamps are re-
13 quired under federal law;

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

16 * Sec. 5. AS 04.21.010(a) is amended to read:

17 (a) A municipality may adopt ordinances governing the barter,
18 sale, and consumption of alcoholic beverages within the municipality
19 as necessary for the orderly conduct of the business of selling alco-
20 holic beverages within the municipality and may ban possession of
21 alcoholic beverages under AS 04.11.498(c). An ordinance adopted under
22 this section may not be inconsistent with this title or regulations
23 adopted under this title.

24 * Sec. 6. AS 04.21.080(b)(1) is repealed and reenacted to read:

25 (1) "alcoholic beverage" means spirituous, vinous, malt or
26 other fermented or distilled liquids, whatever the origin, that are
27 intended or capable of use as a beverage and that contain more than
28 one percent alcohol by volume, whether produced commercially or pri-
29 vately;

1 * Sec. 7. AS 29.10.200 is amended by adding a new paragraph to read:

2 (47) AS 29.20.270(e) (ordinance veto by mayor).

3 * Sec. 8. AS 29.20.270(a) is amended to read:

4 (a) Except as provided in (c), [AND] (d) and (e) of this sec-
5 tion, the mayor may veto an ordinance, resolution, motion, or other
6 action of the governing body and may strike or reduce appropriation
7 items.

8 * Sec. 9. AS 29.20.270 is amended by adding a new subsection to read:

9 (e) The veto does not extend to an ordinance adopted under
10 AS 04.11.498. This subsection applies to home rule and general law
11 municipalities.

12 * Sec. 10. AS 29.25.020 is amended by adding a new subsection to read:

13 (d) This section does not apply to an ordinance proposed under
14 AS 04.11.502(c).

15 * Sec. 11. AS 29.25.070 is amended by adding a new subsection to read:

16 (d) This section does not apply to an ordinance adopted under
17 AS 04.11.498(c).

18 * Sec. 12. AS 29.35.080(a) is amended to read:

19 (a) A municipality may regulate the possession, barter, sale,
20 importation, and consumption of alcoholic beverages in accordance with
21 AS 04.11.480 - 04.11.506 and AS 04.21.010.
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29

WORK ORDER REQUEST FORM

N14 - 1943

KEYWORDS: alcohol

ASSIGNED TO Ford

REQUEST FOR: BILL ☒ RESOLUTION ☐ RESEARCH ☐ OTHER ☐

SUBJECT Local Option

REQUESTED FOR JSpLO BY Laurie Otto EXT.

* DELIVER TO Rep. Binkley TAKEN BY Ford

INSTRUCTIONS, EXPLANATIONS Use HB 659 but add:

- 1) Define "alcoholic beverage" to include "home brew"
- 2) Provide for election banning possession - will establish an ordinance for municipalities.
- 3) Allow substitution of community work on a dollar for dollar basis, for fine, at option of defendant.
- 4) Allow forfeiture of fine - similar to fish and game law.

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED ☐

AUTHORIZED TO CONFER WITH

RETURN

TO REQUESTER

APPROVED: TaC Director, Legal Services

REVIEWED

IN 7/27/86 DUE

TYPED - Draft DATE

Final DATE

PROOFED DELIVERED

SPECIAL INSTRUCTIONS TO TYPIST/PROOFREADER

DRAFT ☒

FINAL ☐

WORK ORDER REQUEST FORM

N14-1511

KEYWORDS: alcohol

ASSIGNED TO Ford

the

municipalities

REQUEST FOR: BILL ☒ RESOLUTION ☐ RESEARCH ☐ OTHER ☐

SUBJECT Local Option

REQUESTED FOR Rep. Binkley BY Rep. Binkley EXT. 4117

* DELIVER TO Rep. Binkley Cap. 501 TAKEN BY Binkley

INSTRUCTIONS, EXPLANATIONS _____

Draft bill relative to local option, per attached.

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED ☐

AUTHORIZED TO CONFER WITH _____

RETURN _____

_____ TO REQUESTER

APPROVED: 4/17 Director, Legal Services

REVIEWED _____

IN 7/1/61 DUE _____

TYPED - Draft _____ DATE _____

Final _____ DATE _____

PROOFED _____ DELIVERED _____

SPECIAL INSTRUCTIONS TO TYPIST/PROOFREADER

DRAFT ☐

FINAL ☐

STATE OF ALASKA

MEMBER
FINANCE COMMITTEE
SPECIAL COMMITTEE ON FISHERIES



POUCH V
JUNEAU ALASKA 99811
(907) 485-4737
PO BOX 1065
BETHEL ALASKA 99559
(907) 543-2922

REPRESENTATIVE JOHNE BINKLEY

February 5, 1986

Tamara Cook, Director
Division of Legal Services
Legislative Affairs Agency
P. O. Box Y
Juneau, Alaska 99811

Re: Legislative Drafting Request
Joint Special Committee on Local Option Laws

Dear Ms. Cook:

After having held hearings throughout the State of Alaska, and after having considered the testimony presented during the hearings, the Joint Special Committee on Local Option Laws has decided that legislation amending Alaska's local option laws should be introduced this year. On behalf of the Committee I am requesting that you assist us by drafting legislation as outlined in this letter. Please contact me as soon as possible to discuss the timetable on this drafting request.

The general purpose of the proposed amendments to Title 4 is to allow communities to ban possession of alcohol, in addition to the options which are already available under present law for regulating alcohol. Although at this time the Committee is asking only for assistance in drafting statutory amendments, you should be aware that specific legislative findings will be added to the bill before final passage of the legislation is sought. The findings will set forth the reasons the Committee believes that such legislation is necessary to protect the public health, safety, and welfare.

The Committee has received legal counsel throughout the hearing process from Laurie H. Otto, P. O. Box 1672, Bethel, Alaska 99559, telephone number 543-3573. Ms. Otto is currently in the process of drafting a Committee request. Please feel free to contact her at any time.

Proposal: Local Option Legislation Allowing a Ban on Alcohol

Title 4 should be amended by adding a new section which allows both incorporated municipalities and established villages as defined in A.S. 04.21.080(b)(8) to ban possession of alcohol. Although both types of communities would be able to ban possession of alcohol, the procedure for passing and implementing the ban would be different for incorporated municipalities and established villages.

Incorporated Municipalities

The statute would allow the following question to be placed on the ballot: "Should the possession of alcohol be banned in _____?" The procedure to be followed for holding an election would be that specified in A.S. 04.11.502. However, if the majority of voters in the community elected to ban possession of alcohol, the result would be creation of a municipal ordinance, as opposed to making the state statute apply to the local community, as is the case with the existing alcohol options allowed under Title 4 of the Alaska Statutes.

The statute would spell out the permissible penalty for violations of the ordinance. Communities adopting an ordinance banning possession of alcohol would not be allowed to deviate from either the language of the ordinance, which would be set forth in the statute, or from the permissible penalty, which would also be set forth in the statute. The penalty for violating the ordinance would be a quasi-criminal fine of no greater than \$1,000, with authorization for a bail forfeiture schedule to be set by the Supreme Court. The Supreme Court could take into consideration the quantity of alcohol possessed, as well as the number of prior convictions for violating the statute, in setting the bail forfeiture schedule.

Community service would be able to be substituted for the fine or bail at the discretion of the person cited for violating the law, with one hour of community service being equal to \$5.00 of fine or bail. Community service work is to be completed under the direction and supervision of the city council. The statute should require the Alcohol Beverage Control Board to designate, by regulation, the form to be used by the city council for reporting completion of community service work to the court. Either the bail, or a form confirming completion of the appropriate amount of community service work, should be posted with the court within 30 days of the date of the citation for those violator who wish to forfeit bail.

In addition to the changes to Title 4, A.S. 29.35.080(a) should be amended to give communities the authority to adopt ordinances consistent with, and by following the procedures set forth in, this statute.

Established Villages

The statute would allow the following question to be placed on the ballot: "Should the possession of alcohol be banned in _____?" The procedure to be followed for holding an election would be that specified in A.S. 04.11.502. If the majority of voters in the community elected to ban possession of alcohol, it would trigger the applicability of a state statute making possession of alcohol a quasi-criminal violation.

The penalty for violating the statute would be a fine of no greater than \$1,000, with authorization for a bail forfeiture schedule to be set by the Supreme Court. The Supreme Court could take into consideration the quantity of alcohol possessed, as well as the number of prior convictions for violating the statute, in setting the bail forfeiture schedule.

Community service would be able to be substituted for the fine or bail at the discretion of the person cited for violating the law, with one hour of community service being equal to \$5.00 of fine or bail. Community service work is to be completed under the direction and supervision of the village council. The statute should require the Alcohol Beverage control board to designate, by regulation, the form to be used by the village council for reporting completion of community service work, should be posted with the court within 30 days of the date of the citation for those violators who wish to forfeit bail.

General Provisions

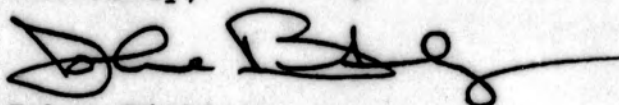
The statute would include a definition of "alcoholic beverage" that includes home brew. The definition of "possession" should specifically exclude an interpretation of possession under which an intoxicated person could be charged with possession of alcohol purely on the basis of having alcohol within his blood stream.

Confiscation of the alcoholic beverage from the violator would be permitted. If a person either forfeits bail, or is otherwise convicted of violating the ordinance or statute, the alcoholic beverage is also forfeited to either the state or the municipality and must be destroyed.

Ms. Tamara Cook
February 5, 1986
Page 4

Thank you for your assistance with this drafting question. As I indicated earlier, if you have any questions about the content of the request, please contact Ms. Otto in Bethel.

Sincerely,

A handwritten signature in black ink, appearing to read "John Binkley", with a long horizontal flourish extending to the right.

Johne Binkley
Representative
Yukon-Kuskokwim Delta

cc: Senator Sackett
Senator DeVries
Senator Fischer
Representative Hurley
Representative Sund