

COMMITTEE REPORT  
SENATE

FURTHER:

Date \_\_\_\_\_

Mr. President

The Committee on \_\_\_\_\_ considered \_\_\_\_\_

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for \_\_\_\_\_
- new title \_\_\_\_\_
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

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Chairman

Chairman recommendation

Offered: 5/1/85  
Referred: Finance

1 IN THE SENATE

BY SACKETT

2

SENATE CONCURRENT RESOLUTION NO. 23

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

Relating to a legislative committee to

6

study local option elections.

7

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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WHEREAS there is an ever increasing need to find solutions to problems

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associated with alcohol abuse in the state; and

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BE IT RESOLVED by the Alaska State Legislature that under Uniform

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consisting of three members of the senate appointed by the president of the

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take testimony and collect data on the subject of local option elections on

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FURTHER RESOLVED that before the committee dissolves on the 10th day

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of the Second Session of the Fourteenth Legislature, it submit a written

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report to the legislature that addresses the merits of and makes recommen-

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dations concerning these local option elections.

## ANALYSIS FOR SENATE CONCURRENT RESOLUTION 23

Relating to a legislative committee to study local option elections

This resolution would establish a joint special committee in the Legislature on local option laws. It would be composed of three members from the Senate (appointed by the President) and three members in the House (appointed by the Speaker).

The Committee would hold public hearings in rural communities to take testimony and collect data about local option elections to ban the possession of alcoholic beverages within the community.

This would be a temporary interim committee and would cease to exist on the 10th day of the second session. However, before the Committee went out of existence, it would be required to submit a written report to the Legislature that addressed the merits of local option elections. In addition, they could also make recommendations.

CW

# Alaska State Legislature

SENATOR

**John C. Sackett**

CO-CHAIRMAN  
SENATE FINANCE COMMITTEE



**Senate**

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MEMBER  
LABOR & COMMERCE COMMITTEE  
BUDGET & AUDIT COMMITTEE  
SENATE ADVISORY COUNCIL  
COMMITTEE ON COMMITTEES

## MEMORANDUM

Date: May 2, 1985

To: Members, Senate Finance

From: Senator John Sackett *JS*

Subj: SCR-23, local option study

SCR-23 (and a companion resolution in the House by Representative Binkley, HCR-35) would permit the appointment of a joint special committee composed of three members from each body to hold hearings on local option laws relating to alcohol.

Many rural communities have opted to ban the importation of alcohol. Some communities have expressed an interest in also banning the possession of alcohol. Presently, even though the importation of alcohol is illegal, personal possession is not, and in some cases has resulted in making it very difficult for law enforcement personnel to effectively control alcohol use within city limits.

The Department of Law advises that prior to consideration of legislation permitting local communities to exercise the local option law to ban possession of alcohol it would be advisable to take public testimony to lay the groundwork for justification of such legislation. Such justification would give the Department of Law legal resources to defend in court any legislation that might be enacted and subsequently challenged.

SCR-23 calls for the special committee to dissolve on the 10th day of the Second Session of the 14th Legislature and submit a report of their findings by that date.

378

ALCOHOL LOCAL OPTION LAWS - A FIFTH OPTION

A Position Paper

by

Representative John Binkley  
Yukon-Kuskokwim Delta

February 1985

## ALASKA'S LOCAL OPTION LAWS - A FIFTH OPTION

In 1980 the Alaska Legislature amended Title 4 of the Alaska Statutes to provide for local option elections in rural villages controlling alcohol. The statute provides for four options:

- prohibition of sale
- prohibition of sale and importation
- restricted license by type
- restricted sales through community stores

Since passage of the statutes, a number of villages have elected to use the State law local option to prohibit sale and importation into the villages. By and large, these efforts have not been as successful as proponents of the legislation envisioned. As reported in one study, proponents of local option efforts feel generally that the law is bereft with "loopholes" and does not result in a "dry village" which is sought. See, Lonner & Duff Village Alcohol Control and the Local Option Law: A Report to the Alaska Legislature (1983). Additionally, this study pointed to a need for cooperation of external agencies and village people for the local option to be effective. Finally, the study indicated a need to internalize the law-making function implied in the local option process by involving local institutions.

in which State authorities decline to prosecute for lack of evidence, despite villagers' observations that an apparent violation has occurred. From the village perspective, such declination is perceived as a lack of official support for the law, or the presence of corruption in the State system of law enforcement. Repeated declination or apparent erratic enforcement erodes general support for the law and destroys local willingness to testify against or report violators.

In contrast, an option banning possession is more readily provable; i.e., either the alcohol is present or it is not. The more complex proof, required to sustain a charge of importation, would not be necessary, and a more uniform enforcement effort would be achieved. Such a ban would remove the apparent "loopholes" which exist, and more accurately reflect the apparent perceptions of villagers as to what the law is and ought to be.

The original proposal to authorize the prohibition of possession raised a number of concerns over the constitutionality of the legislation. These concerns are based upon the decision in Ravin v. State, 537 P.2d 494 (Alaska 1975) in which the Supreme Court struck down legislation prohibiting possession of marijuana as an unjustified infringement upon the right to privacy guaranteed under Alaska's Constitution. Many critics suggested wrongly that a ban on possession in general was unconstitutional under Ravin. That decision, however, rested upon the Court's finding that the State failed to prove marijuana a significant danger to the public health or safety. The Court in

violence, and child neglect/abuse in rural areas are directly related to alcohol. There is no question that there is a direct correlation between access and use of alcohol and violence in the villages. The Court in Harrison noted, under such conditions, the constitutionality of prohibiting possession is clearly permissible.

To adopt such legislation, however, the Legislature should hold hearings which:

- (1) address the level of alcohol related incidents of suicide, violent assaults, murders, rapes, domestic violence and child abuse/neglect, and
- (2) document the correlation of alcohol and the above statistics, and
- (3) attest to local support for such options.

State agencies, especially the Department of Public Safety should be requested to supply this information. After considering such legislation, the Legislature should either make specific findings in a legislative report or in the legislation itself that a direct correlation exists between possession/access to alcohol and such health and safety problems. Such a finding would greatly aid the defense of local options addressing possession from constitutional attack.

### An Option to Define Community in Established Villages

Under current law, a local option in an established village applies within five miles of the village site. Road villages and villages within five (5) miles of an existing city present a particular problem. Adoption of a local option, while generally supported, is considered to infringe upon close neighboring communities, which may be suspicious of attempts to impose external controls. In these cases, an option allowing an established village to adopt a boundary up to a five (5) mile radius may be more appropriate in order to adjust the option to local geographic conditions.

### Authorize Cooperation in Enforcement of Federal Indian Liquor Laws

Several Villages have elected to use the Federal Indian Liquor Laws (18 U.S.C. 1161) rather than State local option laws. The primary difference between the two sets of laws is that the federal options allow more flexibility and must rely primarily upon local enforcement. The federal laws are more flexible, since the village must draft its own ordinance, which is then approved and published in the Federal Register. This allows greater flexibility in control options. Additionally, the village must provide initial enforcement. Federal prosecutions occur only if the villages fail to collect a fine or otherwise effectively enforce the ordinance. In this sense, external enforcement is designed as a back-up only to local control.

and external enforcement efforts. Finally, the strengthened local option laws will pass constitutional muster if supported by data indicating a correlation between the presence of alcohol and health and safety. This correlation should be easily demonstrable given the high incidence of alcohol-related causes in rural violence.

Scr 23

CV

STATE OF ALASKA

MEMBER  
FINANCE COMMITTEE  
SPECIAL COMMITTEE ON FISHERIES



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REPRESENTATIVE JOHNE BINKLEY

MEMORANDUM

Re: Position Paper - Local Option in Controlling Alcohol  
From: Representative John Binkley *John Binkley*  
Date: April 1985

Alcohol abuse is the number one health and safety problem in the State today and has been for several years. There is no question that alcohol abuse is directly related to higher incidence of violent behavior such as assaults, murder, rapes, domestic violence, and our tragic record of child abuse and neglect.

Title 4 of the state law was amended in 1980 to provide local option elections in rural villages. It presently provides four options:

- prohibition of sale of alcohol
- prohibition of sale and importation
- restriction of license by type
- restriction of sales through community stores

I am considering proposing a fifth option that will help close the loopholes which are still resulting in alcohol abuse in the villages. This option would allow local control of the problem by banning or limiting possession of alcohol. Villagers could then choose to either ban alcohol from their village, or to limit the amount of alcohol a person could possess.

Prior to drafting such legislation I have asked the Governor to appoint a committee consisting of three members of the Senate and three members of the House of Representatives to hold public hearings in rural communities and to take testimony and collect information about the question of allowing local communities to hold local option elections on banning possession of alcohol in a given community.

The attached proposal looks at the local control options in more detail. Legislation will be introduced next session; however, I am requesting co-sponsors and support for the attached resolution to be introduced soon.

If you have any questions or suggestion on this issue I would be most happy to hear from you.

Offered: 5/1/85  
Referred: Finance

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