

SB

51-4

HOUSE COMMITTEE REPORT

(11)

Date referred: 3/17/88

FURTHER REFERRALS:

DATE: 3-28-88

The Finance Committee has considered CSSB 51(R1s)

"An Act increasing the penalty for certain unlicensed manufacture, sale, possession, or barter of alcoholic beverages."

RECOMMENDS:

- replace with H CS CS SB 51 (JUD) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published 2/3/88
- zero with analysis

SIGNING DO PASS:

Adams Al Adams

Purchot Pat Purchot

Larson Ronald J. Larson

Goll Peter Goll

SWACK Charles Swack

Boyer Mark Boyer

Rieger Alvin Rieger

Frank Frank

Wallis Kay Wallis

Brown Fay Brown

Davis Mike Davis

SIGNING OTHER RECOMMENDATIONS:

Al Adams

Chairman's signature

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HCSGSSB 51 (JUD)

PUBLISH DATE: House: 2-3-88

FISCAL NOTE

REQUEST:

Revision Date: 1/25/88 Agency Affected: ABC Board
 Title: Increasing the penalty for certain unlic.'d manuf., sale, possession... alcoholic bev. BRU: _____
 Sponsor: Sen. Binkley Components: operating
 Requestor: Senate Rules

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Royce Weller *RW* Phone: 465-2300
 Division: Commissioner's Office Date: 1/25/88
 Approved by Commissioner: Hugh Malone *HWM* Date: 1/25/88
 Agency: Revenue

Distribution (by preparer) :

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

FISCAL NOTE

REQUEST:

Revision Date: January 22, 1988.
Title: "An Act increasing the penalty...
unlicensed...alcoholic beverages."
Sponsor: Sen. Binkley
Requestor: Senate Rules

Agency Affected: Department of Law
BRU: Prosecution
Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach 2 separate page if necessary)

Please see attached analysis.

Prepared by: Richard I. Pegues, Director
Division: Administrative Services
Approved by Commissioner: Grace Berg Schaible, Atty. Gen.
Agency: Department of Law

Phone: 465-3672
Date: January 22, 1988
Date: January 22, 1988

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

J)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 51

This bill amends AS 04.16.200(b) by reclassifying the illegal sale of alcoholic beverages from a class A misdemeanor to a class C felony.

A total of 45 such violations were referred to the department last year for prosecution. About one-half of those reported violations occurred in the Bethel service area.

Although this change will require some additional work on our part, preparing these cases for grand jury, this addition does not warrant fiscal note costs because of the small number of cases involved. Our estimate assumes that the same enforcement pattern will continue. However, if police agencies substantially increase their enforcement activities, because of the increased penalties available for felons, it may be necessary to request increased appropriation at a later time. In any event, the department will not be able to respond to a marked increase in this area at this time due to the serious budget shortfalls it now faces.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Corrections
 Title: "An Act increasing the penalty for BRU: _____
barter of alcoholic beverages, manufacture, sale, possession or
 Sponsor: Sen. Binkley Components: _____
 Requestor: Sen. Binkley

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Susan E. Knighton, Director Phone: 465-3376
 Division: Administrative Services Date: 2-2-88
 Approved by Commissioner: Susan Humphrey-Barnett Date: 2-2-88
 Agency: Department of Corrections

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

FISCAL NOTE

REQUEST

Revision Date: _____
Title: "An Act increasing the penalty for certain unlicensed manufacture..."
Sponsor: Senator Binkley
Requestor: Senate Rules

Agency Affected: Public Safety
BRU: Alaska State Troopers
Components: Detachments & CIB
Narcotics

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

JKP
1/25/88 Prepared by: Francis C. Allan
Division: Alaska State Troopers

Phone: 269-5691
Date: _____

Approved by Commissioner: *Arthur Engstrom*
Agency: Public Safety

Date: 1-25-88

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Original sponsor: Binkley

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 HOUSE CS FOR CS FOR SENATE BILL NO. 51 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act increasing the penalty for certain unlicensed
7 manufacture, sale, possession, or barter of alcoholic
8 beverages."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 04.16.200(a) is amended to read:
11 (a) Except as provided under (b) of this section, a [A] person
12 who violates AS 04.11.010 is, upon conviction, guilty of a class A
13 misdemeanor.
14 * Sec. 2. AS 04.16.200(b) is repealed and reenacted to read:
15 (b) A person who violates AS 04.11.010 in an area where the
16 results of a local option election have, under AS 04.11.490 - 04.11.-
17 500, prohibited the board from issuing, renewing, or transferring one
18 or more types of licenses or permits under this title in the area is,
19 upon conviction, guilty of a class C felony.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HCSCSSB 51 (JUD)

PUBLISH DATE: House: 2-3-88

FISCAL NOTE

REQUEST:

Revision Date: 1/25/88 Agency Affected: ABC Board
 Title: Increasing the penalty for certain unlic. 'd manif., sale, possession...alcoholic bev. BRU: _____
 Sponsor: Sen. Binkley Components: operating
 Requestor: Senate Rules

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Royce Weller *RW* Phone: 465-2300
 Division: Commissioner's Office Date: 1/25/88
 Approved by Commissioner: Hugh Malone *RW for* Date: 1/25/88
 Agency: Revenue

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

3/16/88
14 (500)
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FISCAL NOTE

REQUEST:

Revision Date: 03/15/88
Title: "An Act increasing the penalty
for certain unlicensed manufacture, sale
possession, or barter of alcoholic
beverages."
Sponsor: Senator Binkley
Requestor: Rules Committee

Agency Affected: Revenue
BRU: ABC Board

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Patrick L. Sharrock, Director Phone: 277-8638
Division: Alcoholic Beverage Control Division Date: 03/15/88

Approved by Commissioner: Hugh Malone Date: 03/15/88
Agency: Department of Revenue

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Hugh Malone
RECEIVED
MAR 16 1988

LEGISLATIVE FINANCE

1988

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Corrections
 Title: An Act increasing the penalty for BRU: _____
unlicensed manufacture, sale, possession or
barter of alcoholic beverages
 Sponsor: Sen. Binkley Components: _____
 Requestor: Sen. Binkley

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Susan E. Knighton, Director Phone: 465-3376
 Division: Administrative Services Date: 2-2-88
 Approved by Commissioner: Susan Humphrey-Barnett Date: 2-2-88
 Agency: Department of Corrections

Distribution (by preparer):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

FISCAL NOTE

REQUEST

Revision Date: _____ Agency Affected: Public Safety
 Title: "An Act increasing the penalty for certain unlicensed manufacture..." BRU: Alaska State Troopers
 Sponsor: Senator Binkley Components: Detachments & CIB
 Requestor: Senate Rules Narcotics

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: Francis C. Allan Phone: 269-5691
 Division: Alaska State Troopers Date: _____

Approved by Commissioner: Arthur Engler Date: 1-25-88
 Agency: Public Safety

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Senator Johne Binkley

Alaska State Senate

P.O. Box V • Juneau, Alaska 99811 • (907) 465-4985



Finance Committee
Co-Chairman

MEMORANDUM

March 16, 1988

TO: Representative John Sund, Chairman
House Judiciary Committee

FROM: Senator Johne Binkley

RE: Senate Bill 51 - "An Act relating to alcohol."

Bootlegging in communities where there is a restriction on alcohol is a serious crime. Communities that have adopted a local option law recognize how serious alcohol problems are and how devastating these problems are to their community. Community police and public safety officers work very hard and at great expense to apprehend and convict bootleggers. Under current law, most offenders are charged with a Class A Misdemeanor. The District Attorney in Bethel estimates that two dozen misdemeanor cases are referred to his department each year and two or three felony cases. This bill would raise the penalty for bootlegging in a local option area to a Class C Felony.

Current Law

Under current law the person would be charged with the misdemeanor offense unless the following circumstances were present:

- *the person had been previously convicted of bootlegging
- *the sale was made to a minor
- *the quantity of the sale was of a specified amount
 - 12 liters or more of distilled spirits
(a little more than 17 quarts)
 - 24 liters or more of wine
(about 6½ gallons)
 - 45 liters or more of malt beverages
(approximately six cases)

If any of the above circumstances have occurred the person is charged with the felony offense.

Penalties

A Class A Misdemeanor carries a maximum jail term of one year and a fine of up to \$1,000. Typical sentences in the Bethel courts are 30-90 days with a fine double the value of the alcohol involved.

A Class C Felony carries a maximum jail term of five years and a fine of up to \$5,000 (for the first conviction). A second "Class C Felony" charge also carries a two year presumptive term.

Communities in my district feel strongly that the stiffer penalty will be a greater deterrent to the bootlegger. Under present law when the bootlegger is caught and charged with the Class A Misdemeanor, he is educated in how the legal system works; he learns to improve his system, and how not to get caught. Bootlegging in a local option community is a serious crime. By increasing the penalties to the more serious Class C Felony charge we will send a clear message to those who would break the law that lawbreaking will not be tolerated.

BILL NO: SB 51

DATE: 1/26/87

TITLE: "An Act relating to alcohol."

CONTACT: Maj. Walter J. Gilmour
Acting Director



POSITION PAPER / DEPARTMENT OF PUBLIC SAFETY

The Division of Alaska State Troopers supports passage of this legislation.

This legislation changes the current statute to reflect a concern over continuing violations over local option laws by making violators subject to a class C felony, regardless of previous convictions or age of the perpetrator.

Although no additional enforcement effort is anticipated as a result of the passage of this legislation, it will provide a stronger disincentive to violate the local option elections.


WILLIAM R. NIX
Acting Commissioner

Northwest Arctic Borough School District
BOX 51
KOTZEBUE, ALASKA 99752
(907) 442-3472

NOATAK
KIVALINA
KOTZEBUE
DEERING
BUCKLAND

MANA
AASLER
KOBUK
SI-UNGNAK
SELAWIK
NOORVik

Matthew
F-11
A

February 10, 1988

Representative Johnny Ellis, Co-Chairman
House Health, Education and Social Services Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Ellis:

The Northwest Arctic Borough School District would like to go on record in support of CS for Senate Bill 51 which was introduced by Senator Binkley and has just recently passed the Senate.

As you are aware alcohol abuse is one of the major problems facing the citizens of rural Alaska. Leaders in rural Alaska have been combating this problem for many years. This is evident by the number of villages and towns that have implemented the local option laws outlawing the sale, importation and/or possession of alcoholic beverages. This effort of outlawing the sale of alcoholic beverages has only been marginally successful due to the readily available source of alcohol from the local bootleggers. The recent crackdown on bootleggers in Bethel indicates the extent of the problem.

Abuse of alcohol not only affects the individuals in the villages but the schools as well. Children who come from families where alcohol abuse is present do not succeed as well in school as children who come from families where alcohol abuse is not present. This is due in part to lack of sleep, concern about their families, lack of self esteem, and a general disinterest in school.

By having the first offense of illegal sale of alcohol a misdemeanor there is no deterrent to keep individuals from becoming bootleggers. Upon a conviction for a first offense the guilty individuals are released and put back on the street to continue their operation. We feel that changing the law to increase the penalty for the first offense to a felony will greatly assist in stopping the supply of alcohol into villages and towns that have banned the sale, importation, and/or possession.

As your committee address' this bill I hope they will keep in mind the devastating effects that alcohol abuse has on the quality of life in rural Alaska.

If you would like to discuss the school district's position on this bill please feel free to contact me at your convenience.

Sincerely yours,

Gerald B. Covey
Gerald B. Covey
Superintendent

cc: Representative Al Adams, Chairman
House Finance Committee



Bethel Police Department

P. O. BOX 388 : BETHEL, ALASKA 99559

April 1, 1987

Senator John Binkley
P.O. Box V
Juneau, Alaska 99811

REF: Senate Bill 51

Dear Senator Binkley:

Sale of Liquor Without a License, commonly called "bootlegging", is a very serious problem for the Yukon-Kuskokwim region. Bootlegging certainly plays a major role in criminal activity and life-threatening situations in this area.

In 1985, Bethel police officers responded to approximately 11,000 calls for assistance. These calls ranged from curfew violations to homicides. I can safely say that approximately 95% of the crime-related calls and investigations were alcohol-related. Approximately 1,100 people were incarcerated at the state jail in Bethel for "protective custody" during this same period, simply for being incapacitated by alcohol in a public place.

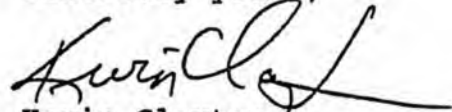
The question is always asked, "where does all the alcohol come from-Bethel's supposed to be a dry town"? Well, the answer to that question is simple, the majority of alcohol involved in criminal activity as well as care for protective custodies is bootleg liquor. Unfortunately, the penalty for selling liquor without a license is certainly no deterrent. The money made (and to be made) bootlegging far outweighs the cost to the bootlegger of a misdemeanor conviction. In studying the sentencing for bootleggers, one learns quickly that a misdemeanor is more of an inconvenience than punishment. Bootlegging is a "business" for many people in this small town, and a lucrative one, at that. The misdemeanor penalty for bootlegging makes it extremely frustrating for the police officers who are required to spend many man-hours and considerable funds developing and producing strong, prosecutable S.O.L.W.O.L. cases, and for the District Attorney who must also spend considerable time and money taking the case to court, the end result usually being a minor fine and a possible day or two in jail, or in some cases, an "SIS" (Suspended Imposition of Sentence). An SIS means that the second time around, when the conviction should result in a felony, the defendant is again only facing a misdemeanor because the first offense has been forgiven.

PAGE 2

I feel that a misdemeanor conviction for a first time bootlegger is not at all a sufficient deterrent. I strongly support Senate Bill 51, and Senator Binkley's efforts to help reduce this criminal activity.

If there are any further questions, please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Kevin Clayton".

Kevin Clayton
Chief of Police



3

Native elders 'declare war' on alcohol and drug use

By KATHI BERRY
Staff Writer

The elders of the Athabascan Nation have "declared war" on all those who are associated with alcohol and drug abuse, according to a resolution passed after the Tanana Chiefs Conference last week.

"The use of alcohol and drugs offers nothing to our Native villages but broken spirits, broken families, pain, grief, suffering and death," the resolution says.

The two-page document was passed unanimously by the delegates representing 43 villages on the TCC board, according to Will Mayo, TCC program director.

A similar resolution to ban alcohol and drugs from the villages was passed by board members of Doyon, Ltd., but taken back later for reconsideration.

"Philosophically, we are in agreement with the resolution, but at least one board member wants to make some changes," said Morris Thompson, president. "We can only speculate that he wants to make the wording stronger in some areas."

The resolution adopted by TCC

was drawn up by Denakkanaage, an advocacy group for Native elders. In the document, the elders ask village councils and village courts within TCC to "strongly consider the use of traditional Native justice mechanisms and banish bootleggers and drug pushers from the villages."

Banishment of bootleggers is the next step after villages adopt the state's local option law to make alcohol consumption illegal, Mayo said.

"As it is, the state law lacks teeth," he said. "People are beginning to despair that they will never be able to do anything through the state law. At times, it seems non-enforceable."

Villagers have to stage a "sting" operation before they can get enough proof to get a bootlegger arrested, Mayo said.

"Then, very often, the bootlegger gets a light penalty in court and comes right back to the village again," he said. "It's not a very strong deterrent to him or others who who want to set up illegal sales."

Villages would all have different



WILL MAYO
"Law lacks teeth"

ways of enforcing traditional banishment, Mayo said.

"This could work if everyone in the village got behind it and decided to oust the guy," he said. "Bootleggers are not people who fly around with a plane load of booze. These are people who live in the community. They are everyone's cousin."

Through the resolution, the elders also ask that a comprehensive (See ALCOHOL, Back Page)

ALCOHOL

(Continued from page 1)

sive alcohol and drug prevention program be set up in each village and that each school incorporate a comprehensive drug prevention course in their curriculum.

They further resolved that no alcohol will be served at any TCC function "as an example to our children and to each other," and that any TCC employee with a drug or alcohol problem will be given the option to receive treatment or be immediately terminated from employment.

Some of the impetus for the resolution came from the movie, "The Honor of All," shown during the convention. The movie tells the story of one couple who worked against threats, hatred and violence to turn a Canadian village with a near 100 percent alcoholism rate into a town that is now 95 percent sober.

"The movie helped, but to attribute the resolution to it is an oversimplification," Mayo said. "Native elders have been fighting this all along. They are sick of seeing their grandchildren die and the neglect, domestic violence and the sorrow that alcoholism brings."

APR 03 05 10:53 LUU - FAIRBANKS

John

2-29-88

Dear Sir,

wed appreciate your support of the
felony bootleg bill. Our local bootlegger says
he will cease business if the bill passes. Since
we've been unable to interest troopers in our
situation, this just might be the break our
town needs.

thank you.

Gracie Young

Paul Young

port alexander 19836

How ABOUT
THIS CLASSIE !!
Dick E

alty had not been before the court. *Frontier Saloon, Inc. v. ABC Bd.*, Sup. Ct. Op. No. 1062 (File No. 1984), 524 P.2d 657 (1974).

The outcome in one proceeding could not result in the subsequent deprivation of rights that had not been litigated or subject to deprivation in the prior proceeding. *Frontier Saloon, Inc. v. ABC Bd.*, Sup. Ct. Op. No. 1062 (File No. 1984), 524 P.2d 657 (1974).

Sentence under former law affirmed. — See *Williams v. State*, Sup. Ct. Op. No. 1939 (File No. 4263), 600 P.2d 741 (1979); *Hampton v. State*, Sup. Ct. Op. No. 2283 (File No. 4711), 623 P.2d 318 (1981).

Cited in *M.O.W. v. State*, Ct. App. Op. No. 95 (File No. 4846), 645 P.2d 1229 (1982).

Collateral references. — 45 Am. Jur. 2d, *Intoxicating Liquors*, §§ 416-426.

48 C.J.S., *Intoxicating Liquors*, §§ 289-296.

Right of one charged with unlawful sale of intoxicating liquor to be informed of name or identity of purchaser before trial. 5 ALR 409.

Criminal responsibility of purchaser of liquor sold in violation of law. 5 ALR 786; 74 ALR 1110; 131 ALR 1322.

Revocation of license in exercise of police power. 124 ALR 541.

Revocation of liquor license of one person as ground for refusal of license to another. 153 ALR 836.

Sec. 04.16.200. Unlicensed persons. (a) A person who violates AS 04.11.010 is, upon conviction, guilty of a class A misdemeanor.

(b) A person who violates AS 04.11.010 in an area where the results of a local option election have, under AS 04.11.490 — 04.11.500, prohibited the board from issuing, renewing, or transferring one or more types of licenses or permits under this title in the area is, upon conviction, guilty of a class C felony, if

(1) the person has previously been convicted of a violation of AS 04.11.010;

(2) the sale or offer for sale was made to a person under 21 years of age; or

(3) the quantity of alcoholic beverages sold or offered for sale is 12 liters or more of distilled spirits, 24 liters or more of wine, or 45 liters or more of malt beverages.

(c) It is an affirmative defense to a prosecution under (a) of this section that no profit was involved in the solicitation or receipt of an order for the delivery of an alcoholic beverage. However, the affirmative defense created under this subsection is not available in a prosecution of a person charged with selling or offering for sale alcoholic beverages to a person under 21 years of age.

(d) Upon conviction of a person of a violation under (a) of this section, the court shall impose a minimum sentence of imprisonment of not less than 10 consecutive days. The execution of the sentence may not be suspended and probation or parole may not be granted until the minimum imprisonment provided in this subsection has been served. Imposition of sentence may not be suspended except upon the condition that the defendant be imprisoned for no less than the minimum period provided in this subsection.

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

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

(2) guilty of a class C felony if the quantity imported is 12 liters or more of distilled spirits, 24 liters or more of wine, or 45 liters or more of malt beverages. (§ 3 ch 131 SLA 1980; am §§ 12, 13 ch 109 SLA 1983)

Effect of amendments. — The 1983 amendment substituted "21 years of age" for "19 years of age" in paragraph (2) of subsection (b) and in subsection (c).

NOTES TO DECISIONS

This section does not violate equal protection. — Penalties based upon quantity and type of alcoholic beverage do not violate equal protection. *Harrison v. State*, Ct. App. Op. No. 400 (File No. 7407), 687 P.2d 332 (1984).

Or due process. — Restriction of the defense of lack of profit to misdemeanor prosecutions under subsection (a) of this section does not constitute a violation of due process; the section treats all persons charged with felonies alike and, therefore, fairly. *Harrison v. State*, Ct. App. Op. No. 400 (File No. 7407), 687 P.2d 332 (1984).

Statutory distinction between a misdemeanor and a felon based solely on the type and quantity of alcoholic beverages imported does not violate due process; the greater the volume of alcoholic beverages imported, the greater the potential for abuse, whether importation is for sale or personal use. *Harrison v. State*, Ct. App. Op. No. 400 (File No. 7407), 687 P.2d 332 (1984).

This section is substantive offense, and an essential element of a conviction under paragraph (b)(1) of this section is a defendant's prior conviction under AS 04.11.010. *Morgan v. State*, Ct. App. Op. No. 244 (File No. 6805), 661 P.2d 1102 (1983).

Were courts to construe subsection (b) of this section as merely a sentence enhancement provision, the state would be able to convict a defendant of a felony while completely circumventing both the grand jury and the trial jury on the issues of whether the alleged offense occurred in a local option area, whether it involved a sale or an offer to sell to a minor, whether it in-

involved a sale or an offer to sell a substantial quantity of specific beverages, and/or whether the accused had a prior AS 04.11.010 conviction. *Morgan v. State*, Ct. App. Op. No. 244 (File No. 6805), 661 P.2d 1102 (1983).

Conviction and sentence affirmed. — See *Azzarella v. State*, Ct. App. Op. No. 490 (File No. 7050), P.2d (1985).

Sentence modification. — A trial judge who sentenced a worst offender to two maximum consecutive terms of one year for conviction of one count of selling alcoholic beverages without a license and one count of possession of alcoholic beverages for sale in a local option area, with 275 days of the first sentence suspended, was clearly mistaken in imposing consecutively the unsuspended portion of the offender's jail term for selling alcoholic beverages without a license, where the judge specifically commented at sentencing that the chances for the offender's rehabilitation seemed good and that there was no reason to believe the offender would be inclined to resume a criminal lifestyle. In order to impose consecutive sentences that exceed the maximum sentence for the single most serious count, the sentencing court must expressly find that the full term of imprisonment is necessary for the protection of the public. *Peruaki v. State*, Ct. App. Op. No. 568 (File No. A-956), 711 P.2d 573 (1985).

Jail sentence inappropriate. — Where an air taxi operator flew passengers who had alcoholic beverages into a village where importation of alcoholic beverages is unlawful, a jail sentence was not appropriate where the misdemeanor

Original sponsor: Binkley

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 HOUSE CS FOR CS FOR SENATE BILL NO. 51 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act increasing the penalty for certain unlicensed
7 manufacture, sale, possession, or barter of alcoholic
8 beverages."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 04.16.200(a) is amended to read:
11 (a) Except as provided under (b) of this section, a [A] person
12 who violates AS 04.11.010 is, upon conviction, guilty of a class A
13 misdemeanor.
14 * Sec. 2. AS 04.16.200(b) is repealed and reenacted to read:
15 (b) A person who violates AS 04.11.010 in an area where the
16 results of a local option election have, under AS 04.11.490 - 04.11.-
17 500, prohibited the board from issuing, renewing, or transferring one
18 or more types of licenses or permits under this title in the area is,
19 upon conviction, guilty of a class C felony.

Original sponsor: Binkley

1 IN THE SENATE BY THE RULES COMMITTEE
2 CS FOR SENATE BILL NO. 51 (Rules)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act increasing the penalty for certain unlicensed
7 manufacture, sale, possession, or barter of alcoholic
8 beverages."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 04.16.200(b) is repealed and reenacted to read:
11 (b) A person who violates AS 04.11.010 in an area where the
12 results of a local option election have, under AS 04.11.490 - 04.11.-
13 500, prohibited the board from issuing, renewing, or transferring one
14 or more types of licenses or permits under this title in the area is,
15 upon conviction, guilty of a class C felony.

Introduced: 1/19/87
Referred: State Affairs, Health, Education
and Social Services, Judiciary
and Finance

5-0155A

1 IN THE SENATE

BY BINKLEY

2

SENATE BILL NO. 51

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to alcohol."

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

8 * Section 1. AS 04.16.200(b) is repealed and reenacted to read:

9 (b) A person who violates AS 04.11.010 in an area where the
10 results of a local option election have, under AS 04.11.490 - 04.11.-
11 500, prohibited the board from issuing, renewing, or transferring one
12 or more types of licenses or permits under this title in the area is,
13 upon conviction, guilty of a class C felony.